

Mandatory death penalty is unconstitutional: Supreme Court

The Supreme Court has ruled that mandatory death penalty for an offender under the Arms Act was unconstitutional as it violated fundamental rights guaranteed to a citizen.

A bench of Justices Asok Kumar Ganguly (since retd) and J S Khehar said Section 27(3) of the Arms Act, which imposed mandatory death penalty, was also "ultra vires and void" as it restricts the powers of the court in awarding sentences to an accused in such cases.

"A law which is not consistent with notions of fairness while it imposes an irreversible penalty like death penalty is repugnant to the concept of right and reason," the bench said.

"All these concepts of 'due process' and the concept of a just, fair and reasonable law has been read by this court into the guarantee under Articles 14 and 21 of the Constitution.

"Therefore, the provision of Section 27(3) of the Act is violative of Article 14 (equality before law) and 21 (liberty) of the Constitution," Justice Ganguly, writing the judgement, said.

The apex court passed the appeal while dismissing a Punjab government appeal challenging the acquittal of Dalbir Singh, a CRPF constable charged with indiscriminately firing at his superiors with a rifle over a service row in 1993.

He was charged with murder (Section 302IPC) and various offences under the Arms Act.

Section 27(3) mandates that "whoever uses any prohibited arms or prohibited ammunition or acts in contravention of Section 7 and if such use or act results in the death of any other person then that person guilty of such use or acting in contravention of Section 7 shall be punishable with death."

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