

Indian Constitution

The Supreme Court of India

Supreme Court of India came into existence on 26th January, 1950 and is located on Tilak Marg, New Delhi.

Composition

- The Supreme Court of India comprises **the Chief Justice and 31 other Judges appointed by the President of India.**

Qualifications

- The Supreme Court Judges retire upon attaining the **age of 65 years.**
- In order to be appointed as a Judge of the Supreme Court, a person must be a **citizen of India**
- and must have been, for at least **five years, a Judge of a High Court or of two or more such Courts in succession,**
- **Or an Advocate of a High Court or of two or more such Courts in succession for at least 10 years** or
- He or She must be, in the opinion of the President, **a distinguished jurist.**

Removal

A Judge of the Supreme Court cannot be removed from office except by an order of the President passed after an address in each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of members present and voting, and presented to the President in the same Session for such removal on the ground of proved misbehaviour or incapacity. (**Impeachment**)

A person who has been a Judge of the Supreme Court is debarred from practising in any court of law or before any other authority in India.

The proceedings of the Supreme Court are conducted in English only. Supreme Court Rules, 1966 are framed under Article 145 of the Constitution to regulate the practice and procedure of the Supreme Court.

Jurisdiction of the Supreme Court (Powers and functions)

The Supreme Court has **original, appellate and advisory jurisdiction.**

original jurisdiction extends to

- any dispute between the Government of India and one or more States or between the Government of India and any State or States on one side and one or more States on the other or between two or more States,
- if and insofar as the dispute involves any question (whether of law or of fact) on which the existence or extent of a legal right depends. In addition.
- Article 32 of the Constitution gives an extensive original jurisdiction to the Supreme Court in regard to enforcement of Fundamental Rights.
- It is empowered to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari to enforce them. The Supreme Court has been conferred with power to direct transfer of any civil or criminal case from one State High Court to another State High Court or from a Court subordinate to another State High Court.
- The Supreme Court, if satisfied that cases involving the same or substantially the same questions of law are pending before it and one or more High Courts or before two or more High Courts and that such questions are substantial questions of general importance, may withdraw a case or cases pending before the High Court or High Courts and dispose of all such cases itself. Under the Arbitration and Conciliation Act, 1996.
- International Commercial Arbitration can also be initiated in the Supreme Court.

The appellate jurisdiction of the Supreme Court

- can be invoked by a certificate granted by the High Court concerned under Article 132(1), 133(1) or 134 of the Constitution in respect of
- any judgement, decree or final order of a High Court in both civil and criminal cases, involving substantial questions of law as to the interpretation of the Constitution.
- Appeals also lie to the Supreme Court in civil matters if the High

Court concerned certifies :

- (a) that the case involves a substantial question of law of general importance, and
- (b) that, in the opinion of the High Court, the said question needs to be decided by the Supreme Court.
- In criminal cases, an appeal lies to the Supreme Court if the High Court
 - (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or
 - (b) has withdrawn for trial before itself any case from any Court subordinate to its authority and has in such trial convicted the accused and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or
 - (c) certified that the case is a fit one for appeal to the Supreme Court. Parliament is authorised to confer on the Supreme Court any further powers to entertain and hear appeals from any judgement, final order or sentence in a criminal proceeding of a High Court.
- The Supreme Court has also a very wide appellate jurisdiction over all Courts and Tribunals in India in as much as it may, in its discretion, grant special leave to appeal under Article 136 of the Constitution from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or Tribunal in the territory of India.

The Supreme Court has special advisory jurisdiction in matters

- Which may specifically be referred to it by the President of India under Article 143 of the Constitution.
- Election Petitions under Part III of the Presidential and Vice Presidential Elections Act, 1952 are also filed directly in the Supreme Court.

Under Articles 129 and 142 of the Constitution the Supreme Court has been vested with power to punish for **Contempt of Court** including the power to punish for contempt of itself. In case of contempt other than the contempt referred to in Rule 2, Part-I of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, the Court may take action (a) Suo motu, or (b) on a petition made by Attorney General, or Solicitor General, or (c) on a petition made by any person, and in the case of a criminal contempt with the consent in writing of the Attorney General or the Solicitor General.

Under Order XL of the Supreme Court Rules the Supreme Court may **review its judgment** or order but no application for review is to be entertained in a civil proceeding except on the grounds mentioned in Order XLVII, Rule 1 of the Code of Civil Procedure and in a criminal proceeding except on the ground of an error apparent on the face of the record.

PUBLIC INTEREST LITIGATION

filing a Writ Petition at the Filing Counter of the Court or by addressing a letter to Hon'ble the Chief Justice of India highlighting the question of public importance for invoking this jurisdiction. Such concept is popularly known as 'Public Interest Litigation' and several matters of public importance have become landmark cases..

PROVISION OF LEGAL AID

If a person belongs to the poor section of the society having annual income of less than Rs. 18,000/- or belongs to Scheduled Caste or Scheduled Tribe, a victim of natural calamity, is a woman or a child or a mentally ill or otherwise disabled person or an industrial workman, or is in custody including custody in protective home, he/she is entitled to get free legal aid from the Supreme Court Legal Aid Committee.

Persons belonging to middle income group i.e. with income above Rs. 18,000/- but under Rs. 1,20,000/- per annum are eligible to get legal aid from the Supreme Court Middle Income Group Society, on nominal payments.

AMICUS CURIAE

If a petition is received from the jail or in any other criminal matter if the accused is unrepresented then an Advocate is appointed as amicus curiae by the Court to defend and argue the case of the accused. In civil matters also the Court can appoint an Advocate as amicus curiae if it thinks it necessary in case of an unrepresented party; the Court can also appoint amicus curiae in any matter of general public importance or in which the interest of the public at large is involved.

Court of Record

The judgment, proceedings, and acts of the supreme court are recorded for permanent memory and testimony and these records can be produced before any court because they have evidentiary value and they cannot be questioned.

HIGH COURTS

The High Court stands at the head of a **State's judicial administration**. There are **24 High Courts** in the country, three having jurisdiction over more than one State. Among the Union Territories Delhi alone has a High Court of its own. Other six Union Territories come under the jurisdiction of different State High Courts.

Each High Court comprises of a Chief Justice and such other Judges as the President may, from time to time, appoint.

The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the State.

The procedure for appointing other Judges is the same except that the Chief Justice of the High Court concerned is also consulted.

They hold office until the age of 62 years and are removable in the same manner as a Judge of the Supreme Court.

To be eligible for appointment as a Judge one must be a citizen of India and have held a judicial office in India for ten years or must have practised as an Advocate of a High Court or two or more such Courts in succession for a similar period.

Powers and functions

- Each High Court has power to issue to any person within its jurisdiction directions, orders, or writs including writs which are in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for enforcement of Fundamental Rights and for any other purpose.
- Each High Court has powers of superintendence over all Courts within its jurisdiction. It can call for returns from such Courts, make and issue general rules and prescribe forms to regulate their practice and proceedings and determine the manner and form in

which book entries and accounts shall be kept.

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