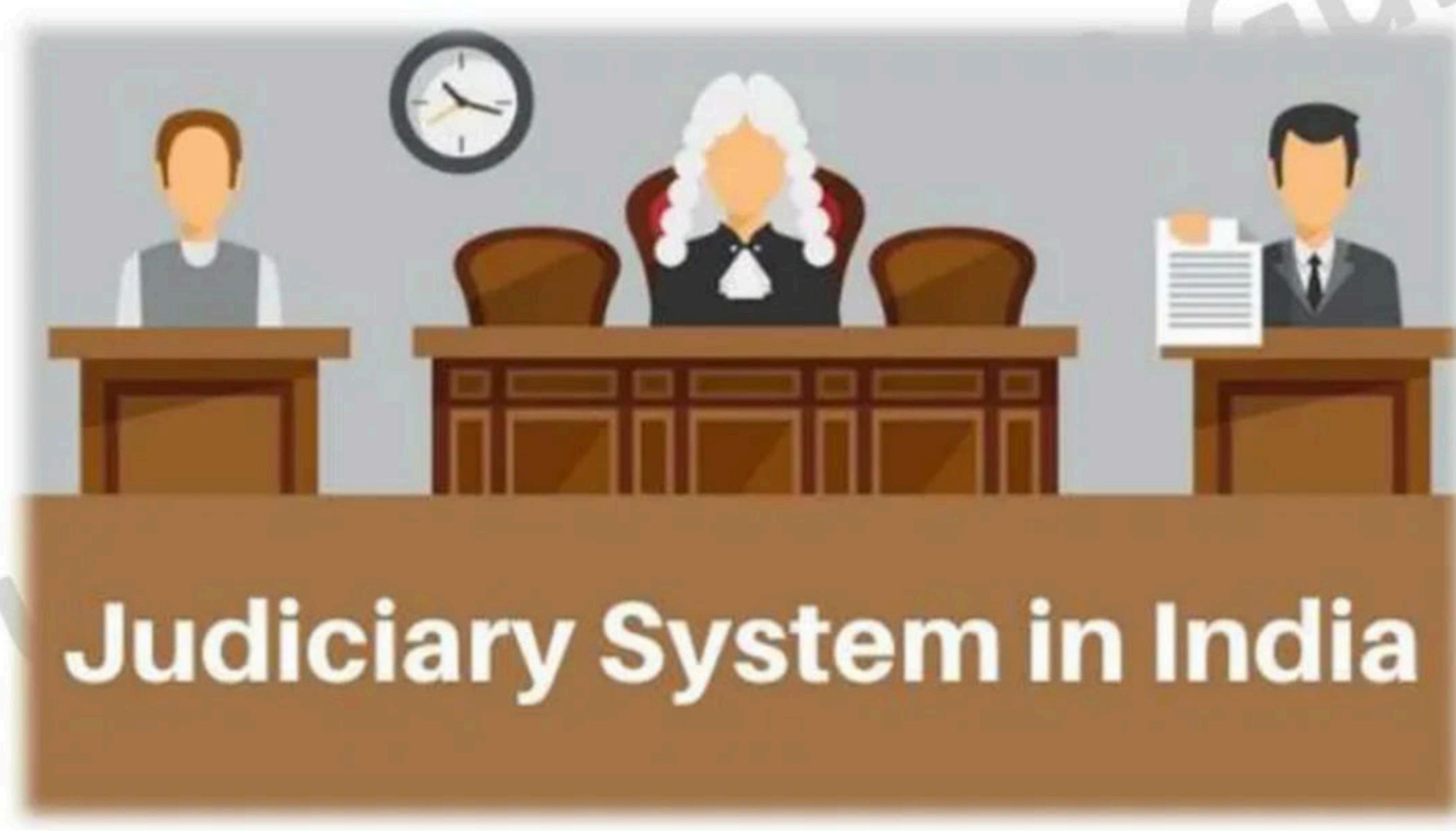


Polity - IX

Complete Course on Polity for SSC, PCS & Railways

Judiciary System (न्यायपालिका प्रणाली)



Judiciary System in India

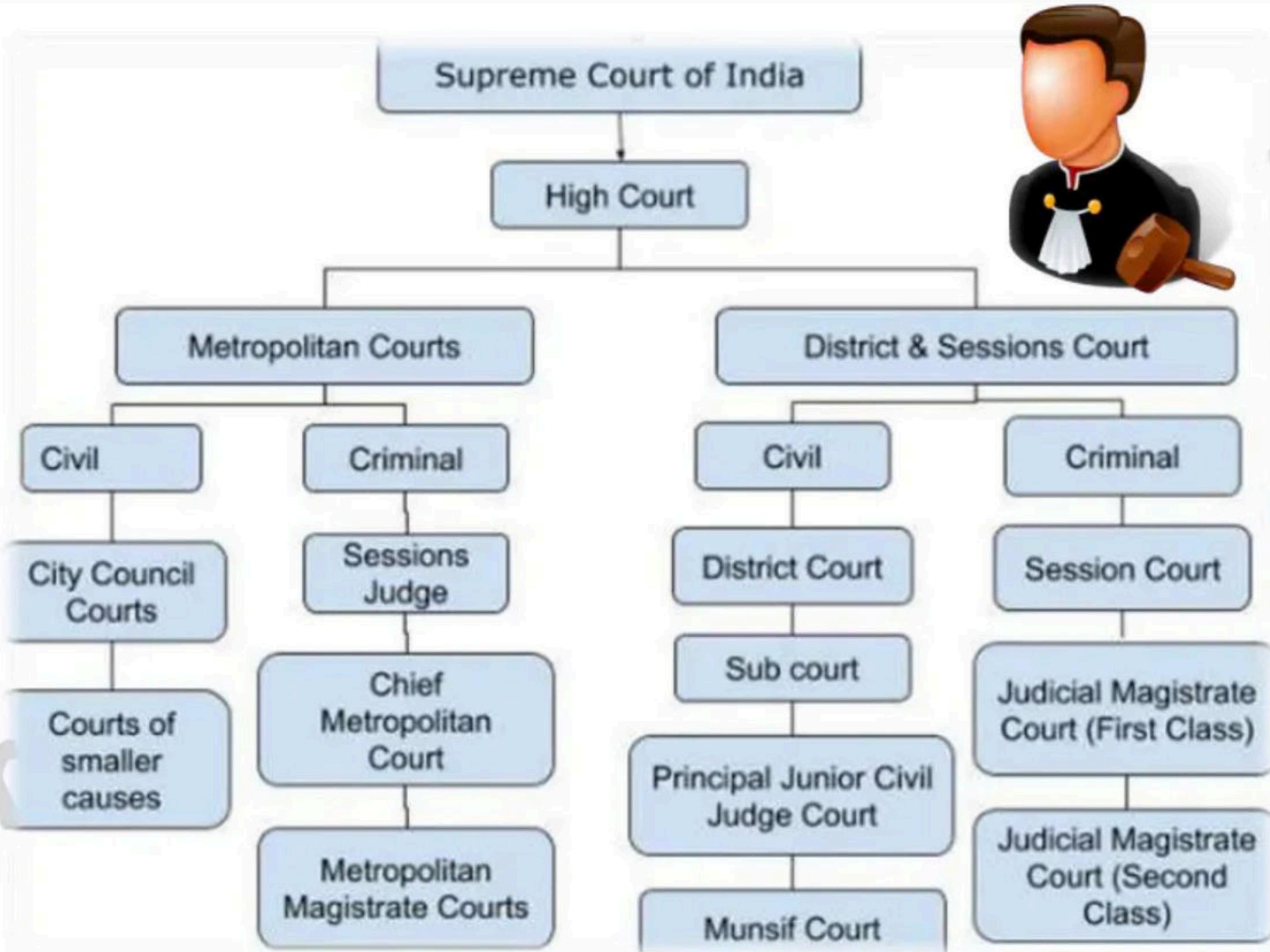


Indian Judiciary

Supreme Court

High Courts

District Courts



Var



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SUPREME COURT (Article- 124)

- ▶ Firstly established in Calcutta in 1774 (regulating act 1773)
- ▶ After then established in Delhi in 1935 (governer of India act 1935)
- ▶ Supreme court judges are appointed by the President of India.
- ▶ Total no. Of Judges:

33+1= 34 (1 Chief justice of India)

- ▶ Retirement age: 65 Years
- ▶ Removal Process: Impeachment
He/She can remove by impeachment only.





Qualifications to become a Judge of Supreme court

- ▶ He/She must be the Citizen of India.
- ▶ Practice of at least 5 years as a Judge.
OR
- ▶ Practice of at least 10 years as a lawyer.
- ▶ He/ She must be a Jurist in the eyes of President.



Note:

He/She can be appointed as any member of any committee, But can not practice after retirement.



POWERS OF SUPREME COURT

- ▶ **Original jurisdiction**
- ▶ **Appealing jurisdiction**
- ▶ **Writ jurisdiction**
- ▶ **Reviewing jurisdiction**
- ▶ **Court of record**
- ▶ **Advisory jurisdiction**



High Court (उच्च न्यायालय)

HIGH COURT (Article- 214)

- ▶ There is only one Supreme court in India but many High courts.
- ▶ Total no. Of High courts in India: 24
- ▶ One high court can monitor multiple states.
- ▶ Total no. Of Judges: N/A
- ▶ There shall be a Chief Justice in High court.
- ▶ All judges are appointed by the President of India.



न्यायालय द्वारा जारी रिट के प्रकार



1. बंदी प्रत्यक्षीकरण (**Habeas Corpus**)
2. परमाणेश रिट (**Mandamus**)
3. प्रतिषेध रिट (**Prohibition**)
4. उत्प्रेषण लेख (**Writ of Certiorari**)
5. अधिकार पृच्छा (**Quo Warranto**)

Habeas Corpus (बंदी प्रत्यक्षीकरण)

- ✓ यह रिट (writ) उस अधिकारी (authority) के विरुद्ध दायर किया जाता है जो किसी व्यक्ति को बंदी बनाकर (detained) रखता है। इस रिट (writ) को जारी करके कैद करने वाले अधिकारी को यह निर्देश दिया जाता है कि वह गिरफ्तार व्यक्ति को न्यायालय (court) में पेश करे।
- ✓ The Supreme Court or High Court can issue this writ against both private and public authorities.
- ✓ Habeas Corpus can not be issued in the following cases:
 - ✓ When detention is lawful
 - ✓ When the proceeding is for contempt of a legislature or a court
 - ✓ Detention is outside the jurisdiction of the court



Mandamus (परमादेश रिट)

- ✓ Unlike Habeas Corpus, Mandamus cannot be issued against a private individual
- ✓ Mandamus can not be issued in the following cases:
 - ✓ To enforce departmental instruction that does not possess statutory force
 - ✓ To order someone to work when the kind of work is discretionary and not mandatory
 - ✓ Mandamus can't be issued against the Indian President or State Governors
 - ✓ Against the Chief Justice of a High Court acting in a judicial capacity



Prohibition (प्रतिषेध रिट)

- ✓ यह रिट (writ) किसी उच्चतर न्यायालय द्वारा अधीनस्थ न्यायालयों के विरुद्ध जारी की जाती है। इस रिट (writ) को जारी करके अधीनस्थ न्यायालयों की अपनी अधिकारिता के बाहर कार्य करने से रोका जाता है। इस रिट के द्वारा अधीनस्थ न्यायालय को किसी मामले में तुरंत कार्रवाई करने तथा की गई कार्रवाई की सूचना उपलब्ध कराने का आदेश दिया जाता है।
- ✓ Writ of Prohibition can only be issued against judicial and quasi-judicial authorities.
- ✓ It can't be issued against administrative authorities, legislative bodies and private individuals or bodies.



Certiorari (उत्प्रेषण लेख)

- ✓ यह रिट (writ) भी अधीनस्थ न्यायालयों (sub-ordinate courts) के विरुद्ध जारी किया जाता है। इस रिट (writ) को जारी करके अधीनस्थ न्यायालयों को यह निर्देश दिया जाता है कि वे अपने पास संचित मुकदमे के निर्णय लेने के लिए उस मुकदमे को वरिष्ठ न्यायालय अथवा उच्चतर न्यायालय को भेजें। उत्प्रेषण लेख का मतलब उच्चतर न्यायालय द्वारा अधीनस्थ न्यायालय में चल रहे किसी मुकदमे के प्रलेख (documents) की समीक्षा (review) मात्र है।
- ✓ **Before 1991:** The writ of Certiorari used to be issued only against judicial and quasi-judicial authorities and not against administrative authorities
- ✓ **After 1991:** The Supreme Court ruled that the certiorari can be issued even against administrative authorities affecting the rights of individuals
- ✓ It cannot be issued against legislative bodies and private individuals or bodies.

Quo Warranto (अधिकार पूछा)

- ✓ उस व्यक्ति के विरुद्ध जारी किया जाता है जो किसी ऐसे लोक पद (public post) को धारण करता है जिसे धारण करने का अधिकार उसे प्राप्त नहीं है
- ✓ **Quo-Warranto can be issued only when the substantive public office of a permanent character created by a statute or by the Constitution is involved**
- ✓ **It can't be issued against private or ministerial office**



Supreme Court VS High Court

- ✓ Article 32 & 226
- ✓ Only in Fundamental Rights & Fundamental Rights + Legal Rights
- ✓ Before 1950, only the High Courts of Calcutta, Bombay and Madras had the power to issue the writs (Fact)



**Summons
Case**

VS

**Warrant
Case**



Judge

Magistrate



WHAT IS THE DIFFERENCE?

IPC

- भारतीय दंड संहिता को Indian Penal Code, भारतीय दंड विधान और उद्ध में ताज इरात-ए-हिन्द भी कहते हैं जो कि 1860 में बना था। आपने फिल्मों में देखा होगा कि कोर्ट में जज जब सूजा सुनाते हैं तो कहते हैं कि ताज इरात-ए-हिन्द द्रुफा 302 के तहत मौत की सजा दी जाती है। ये और कुछ नहीं बल्कि भारतीय दंड संहिता ही होती है और द्रुफा का मतलब धारा या Section से होता है।
- IPC में कुल मिलाकर 511 धाराएं और 23 chapters हैं।



CrPC

- ✓ CrPC को Code of Criminal Procedure और हिन्दी में दण्ड प्रक्रिया संहिता कहते हैं. यह कानून सन 1973 में पारित हुआ और 1 अप्रैल 1974 से लाग हुआ था. किसी भी प्रकार के अपराध होने के बाद दो तरह की प्रक्रियाएं होती हैं जिसे पुलिस किसी अपराधी की जांच करने के लिए अपनाती है. एक प्रक्रिया प्राइवेट के संबंध में और दूसरी आरोपी के संबंध में होती है. इन्हीं प्रक्रियाओं के बारे में CrPC में बताया गया है. दण्ड प्रक्रिया संहिता को मशीनरी के रूप में भी वर्णित किया जा सकता है जो मुख्य आपराधिक कानून (IPC) के लिए एक तंत्र प्रदान करता है. प्रक्रियाओं का विवरण इस प्रकार है:
 - ✓ - अपराध की जांच (Investigation of crime)
 - ✓ - संदिग्धों के प्रति बरताव (Treatment of the suspects)
 - ✓ - साक्ष्य संग्रह प्रक्रिया (Evidence collection process)
 - ✓ - यह निर्धारित करना कि अपराधी दोषी है या नहीं (Conclusion)

Authorities of Indian Supreme Court

- ▶ It is limited till Union Judiciary.
- ▶ Public rights & Criminal matters included in appealing jurisdiction.
- ▶ You can appeal in any case (accept Defence matters)
- ▶ It works like an advisor.
- ▶ It protects fundamental rights.
- ▶ The powers and authorities of Supreme Court can be expand by Parliament.
- ▶ It monitors all High courts.



Authorities of American Supreme Court

- ▶ It has authorities for Union , military as well as ambassy.
- ▶ It has appealing jurisdiction authority only for Executive matters
- ▶ It doesn't have advisory power.
- ▶ It protect rights of civilians.
- ▶ Its power can not exceed it is already specified by Constitution.
- ▶ Because of Dual monitoring system it doesn't have monitoring or controlling powers over high court.



- Article No.125
 - Subject matter:-Salaries, etc.,of Judges
 - Article No.126
 - Subject matter:-Appointment of acting Chief Justice
 - Article No. 127
 - Subject matter:-Appointment of ad hoc Judges
-
- Article No. 128
 - Subject matter:-Attendance of retired Judges at sittings of the Supreme Court
 - Article No. 129
 - Subject matter:-Supreme Court to be a court of record
 - Article No. 130
 - Subject matter:-Seat of Supreme Court
-
- Article No.131
 - Subject matter:-Original jurisdiction of the Supreme Court
 - Article No.131A
 - Subject matter:-Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central Laws (Repealed)

- Article No.132
- Subject matter:-Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases
- Article No.133
- Subject matter:-Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters
- Article No.134
- Subject matter:-Appellate jurisdiction of Supreme Court in regard to criminal matters
- Article No. 134A
- Subject matter:- Certificate for appeal to the Supreme Court
- Article No.135
- Subject matter:-Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court
- Article No.136
- Subject matter:-Special leave to appeal by the Supreme Court

- Article No.137
- Subject matter:-Review of judgments or orders by the Supreme Court
- Article No.138
- Subject matter:-Enlargement of the jurisdiction of the Supreme Court
- Article No.139
- Subject matter:-Conferment on the Supreme Court of powers to issue certain writs
- Article No.139A
- Subject matter:-Transfer of certain cases



Varun (Guru)

POWERS OF SUPREME COURT

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$30+1= 31$ (1 Chief justice of India)

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IMPORTANT ARTICLES IN JUDICIARY OF INDIA

- ▶ Article 126: Appointment of CJI
- ▶ Article 127: Appointment of ad hoc Judges
- ▶ Article 130: Seat of Supreme court
- ▶ Article 139A: Transfer of certain cases

IMPORTANT ARTICLES IN JUDICIARY OF INDIA

- ▶ Article 143: President can take advise from Supreme court.
- ▶ Article 215: Court of record of High court
- ▶ Article 217: Appointment and conditions of the office of a Judge of High court
- ▶ Article 222: Transfer of a High court judge from one to another court

Questions:

- ▶ Which high court monitors maximum states?
- ▶ Which high court has Maximum no. Of Judges?
- ▶ Which high court contains Maximum no. Of benches?

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CONSTITUTIONAL BODIES

1. UPSC
2. PSC
3. Attorney General
4. Election Commission
5. CAG

UPSC (Union public service commission)

- Article 315
- Chairman:
- There shall be one chairman and other members of UPSC.
- These all are appointed by President of India.
- The chairman can be removed by President only.

Note: The chairman of UPSC is not eligible for any other employment/ And other members of UPSC are only eligible for UPSC office or State PSC office.

-
- Office term: 6 Years or 65 years
 - UPSC indirectly submit their report in Parliament. (Mediator: President)

FUNCTIONS OF UPSC:

- Because of constitutional body there is a responsibility of UPSC is to recruit some constitutional services like IAS, IPS, IRS, CDS,NDA, IFS etc.

State PSC (Public service commission)

- Article- 315
- According to Indian constitution there shall be a state PSC in every state of India.

Chairman:

- There shall be a Chairman of every State PSC and other will be the members of State PSC.

Office term: 6 Years or 62 years

- Chairman is members of State PSC will be appointed by Governor of State but they will be removed by President only.

Responsibilities :

- State PSC will be responsible for to recruit constitutional examinations of state like PCS, RO , ARO etc.
- After the recruitment process , State PSC has to submit all reports to the Governer of State.

Office Filler:

- Chairman or members will give their resignation to Governor of State.
 - If chairman resigned, then Governor can direct appoint any of the members to Chairman designation.
 - It can be done by seniority wise or potential wise.
- 

Attorney General

- Article – 76
- According to Indian constitution article 76, there shall be an Attorney General of India.
- He/ She is also known as First Law officer.
- He/ She is directly appointed by President of India.

**Note: Behalf of government's top lawyer,
his salary can not decided by Parliament.**

- He/ She can be removed by only President of India.

Responsibility & Powers:

- He is a legal adviser of government of India.
- He can give advice to government for any national or international issue.
- He holds his post by the pleasure of President.

- He can attend any Court of India like Supreme Court, High courts, District Courts. But he can not make decision.
- He can attend any session of Parliament but can not vote.

ELECTION COMMISSION

- Article-374
- According to Indian constitution there shall be an Election Commission of India which is a constitutional body.
- There will be three members of Election Commission.
- One of them will be a Chief Election Commissioner.

Office Term: 6 Years or 65 years

- All members will be directly appointed by President of India.
- All will be removed by President of India only.
- The removal process of Chief election commissioner is Impeachment.
- In State election commission the responsibilities of Governor will be similar as President.
- State election commission members will be appointed by Governor of State.

- **Responsibilities:**
- Election Commission's responsibility is to successfully conduct all national level elections like Loksabha Elections, President elections, Vice president elections etc.
- State election commission's responsibility is to successfully conduct all local elections like Zila panchayat, Village panchayat, Municipal elections etc.

CAG (Comptroller and Auditor General of India)

- Article- 148
- He is the Auditor General of India.
- He is directly appointed by President of India.
- The removal process of CAG is an Impeachment.
- He works under pure Constitutional body.

Office term: 6 Years or 65 years

- **Responsibilities:**
- He has direct rights to control and monitor over Financial matters for Central & States both.
- After auditing of Financial bills and Financial issues, he submits their report to President, and then President passes this report in front of Parliament.
- **For the matters revenue between Union and States, Indian Constitution allows a Finance Commission under Article 280.**

תודה Dankie Gracias
Спасибо شکر Merci Takk
Köszönjük Terima kasih
Grazie Dziękujemy Dekojame
Ďakujeme Vielen Dank Paldies
Kiitos Täname teid 谢谢
Thank You Tak
感謝您 Obrigado Teşekkür Ederiz
Σας ευχαριστούμε 감사합니다
Bedankt Děkujeme vám
ありがとうございます Tack