



CHAPTER 6

The High Courts and Subordinate Courts

Syllabus

- (a) **The High Courts:** Composition, qualifications of judges, appointment; Jurisdiction and functions: Original, Appellate, Revisory, Judicial Review and Court of Record. Enforcement of Fundamental Rights and Writs.
- (c) **Subordinate Courts:** Distinction between Court of the District Judge and Sessions Court.
- Lok Adalats:** meaning and advantages.

THE HIGH COURTS

The Constitution of India provides for a High Court for each State. Parliament may, however, establish a common High Court for two or more States/Union Territories. This depends on the area and the population to which a High Court has to serve and the amount of work it has to handle. There are 25 High Courts in India, including those having jurisdiction over more than one State. Among the Union Territories, only Delhi has a High Court of its own.

Composition

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

Besides, the President has the power to appoint:

- additional judges for a temporary period not exceeding two years, for the clearance of arrears of work in a High Court;
- an acting Judge, when a permanent Judge (other than the Chief Justice) is

temporarily absent or unable to perform his/her duties or is appointed to act temporarily as Chief Justice. The acting Judge holds office until the permanent Judge resumes his/her office.

Qualifications

According to the Constitution, a person shall be qualified for appointment as a Judge of a High Court under the following conditions:

- Should be a citizen of India.
- Should not be over 62 years.
- Has held a judicial office in the territory of India for at least ten years;

or

Has been an advocate of a High Court for at least ten years.

The qualification "He/She should have been a distinguished Jurist", which was added by the 42nd Amendment Act (1976), was omitted by the 44th Amendment Act (1978).

Appointment of Judges

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

Other Judges of a High Court are appointed by the President. The President shall consult the Chief Justice of India, the Governor of the State and the Chief Justice of the High Court in the matter of appointment of a Judge to the High Court.

Conditions of Service

Service conditions of the judges of High Courts ensure that the High Courts are independent

in carrying out their work from the Legislative and the Executive wings of the government.

A. Retirement, Removal and Transfer

1. A Judge of a High Court enjoys security of tenure and can remain in office till he/she has attained the age of 62 years. Neither an additional nor an acting Judge can hold office beyond the age of 62 years.

A judge of a High Court can be removed by the President on the ground of "proved misbehaviour or incapacity" on an address of each House of Parliament. Such an address (request) should be supported by a majority of the total membership of the House and by two-thirds of the members present and voting. This procedure is known as *impeachment* and is the same as that for a judge of the Supreme Court. In August 2011, Justice Soumitra Sen of the Calcutta High Court became the first Judge in India's history against whom an 'impeachment motion' was passed in the Rajya Sabha. Justice Sen was charged with misappropriation of public funds. However, Justice Sen escaped impeachment as Lok Sabha dropped the proceedings against him when he resigned from his post as Calcutta High Court Judge.

2. The President can transfer any Judge from one High Court to another only if the following conditions are fulfilled:

- (i) orders for transfer can be issued after consulting the Chief Justice of India,
- (ii) the Chief Justice of India's recommendation must be made in consultation with four senior-most judges of the Supreme Court,
- (iii) the views of the Chief Justices of the High Courts – one from which the transfer is taking place and another to which the transfer is to be effected must also be obtained, and
- (iv) when a judge has been transferred, he/she shall be entitled to compensatory allowance in addition to his/her salary.

B. Salaries and Emoluments of Judges

The Chief Justice of a High Court and other Judges of the High Court are paid a monthly

salary, as decided by the Parliament. They are entitled to a rent-free accommodation and other allowances. After retirement, they get a pension. The salaries and allowances of the Judges cannot be changed to their disadvantage during the course of their service except during the period of a Financial Emergency. The salaries and allowances of the Judges of a High Court are charged on the Consolidated Fund of the State. So these cannot be voted upon by the State Legislature.

C. Restrictions on Practice

A Judge who has worked as a permanent Judge of a High Court can practise after his retirement only in the Supreme Court or in those High Courts where he/she has not served as a judge. He/She is prohibited from practising in other courts or judicial tribunals.

D. Other Conditions

- (i) A Judge may resign his/her office by writing, under his/her hand, addressed to the President.
- (ii) The office of a Judge of a High Court shall be vacant when he/she is appointed by the President to be a Judge of the Supreme Court or when he/she is transferred to any other High Court.

POWERS AND JURISDICTION OF HIGH COURT

The jurisdiction of a High Court of a State extends to the territorial limits of that State. If there is a common High Court for two or more States or Union Territories then the jurisdiction of such a court extends to the territorial limits of the States or the Union Territories.

Original Jurisdiction

High Courts have original jurisdiction, that is, the power to hear and decide cases at the first instance. It has original jurisdiction in the following cases:

- (i) It has original jurisdiction over matters relating to State revenue and its collection.
- (ii) Cases regarding wills, divorce, marriage, company law and contempt of court

The High Courts*

SL No.	Name of the High Court	Seat of the Court	Territorial Jurisdiction
1.	Allahabad	Prayagraj (Bench at Lucknow)	Uttar Pradesh
2.	Andhra Pradesh	Amaravati	Andhra Pradesh
3.	Bombay (Mumbai)	Mumbai (Benches at Nagpur, Panaji and Aurangabad)	Maharashtra, Dadra & Nagar Haveli and Daman and Diu and Goa,
4.	Calcutta (Kolkata)	Kolkata (Bench at Port Blair and Jalpaiguri)	West Bengal, Andaman and Nicobar Islands
5.	Chhattisgarh	Bilaspur	Chhattisgarh
6.	Delhi	New Delhi	National Capital Territory of Delhi
7.	Guwahati	Guwahati (Bench at Kohima, Aizawl and Itanagar)	Assam, Nagaland, Mizoram, Arunachal Pradesh
8.	Gujarat	Sola (Ahmedabad)	Gujarat
9.	Himachal Pradesh	Shimla	Himachal Pradesh
10.	Jammu & Kashmir and Ladakh	Srinagar, Jammu	Jammu & Kashmir and Ladakh
11.	Jharkhand	Ranchi	Jharkhand
12.	Karnataka	Bengaluru (Benches at Dharwad and Gulbarga)	Karnataka
13.	Kerala	Kochi	Kerala and Lakshadweep
14.	Madhya Pradesh	Jabalpur (Benches at Gwalior and Indore)	Madhya Pradesh
15.	Madras	Chennai (Bench at Madurai)	Tamil Nadu, Puducherry
16.	Manipur	Imphal	Manipur
17.	Meghalaya	Shillong	Meghalaya
18.	Odisha	Cuttack	Odisha
19.	Patna	Patna	Bihar
20.	Punjab and Haryana	Chandigarh	Punjab, Haryana, Chandigarh
21.	Rajasthan	Jodhpur (Bench at Jaipur)	Rajasthan
22.	Sikkim	Gangtok	Sikkim
23.	Telangana	Hyderabad	Telangana
24.	Tripura	Agartala	Tripura
25.	Uttarakhand	Nainital	Uttarakhand

* Source: www.sci.gov.in

may be referred or brought before the High Court directly.

(iii) Every High Court has the power to interpret the Constitution. This power is known as the power of *Judicial Review*.

(iv) Along with the Supreme Court, it enjoys original jurisdiction for the enforcement of Fundamental Rights guaranteed by the Constitution. It can also issue writs for the enforcement of Fundamental Rights.

(v) The High Court has original jurisdiction in cases such as, election petitions challenging the election of the Members of Parliament or a member of the State Legislative Assembly or other local bodies.

Appellate Jurisdiction

Appellate Jurisdiction of High Court means that the High Court has the power to accept appeals against the decisions of District Courts, in civil as well as criminal matters.

Civil Cases

Only those civil cases which are decided by the District Courts under the jurisdiction of the High Court concerned, can be brought to the High Court by an appeal. Appeals can be brought to the High Court:

- (i) in matters concerning land revenue, and
- (ii) in cases where a blatant injustice has been committed by any Tribunal. In such cases, the High Court may quash the order of the Tribunals.

Criminal Cases

In criminal cases appellate jurisdiction consists of appeals:

- (i) Against the judgement of a Sessions Judge or an Additional Sessions Judge, where the sentence of imprisonment exceeds seven years.
- (ii) Against the judgements of an Assistant Sessions Judge, the Chief Metropolitan Magistrate or other Judicial Magistrates, where the sentence of imprisonment exceeds four years.
- (iii) Against the State, when the order of acquittal is passed by a Sessions Judge.
- (iv) A sentence of death must be confirmed by the High Court before it can be carried out.

Advisory Jurisdiction

The High Courts can advise any government department, legislature or the Governor, if they seek it, on constitutional as well as on other matters of law. Their advice is not binding on the agency seeking such advice.

Revisory Jurisdiction

Revisory Jurisdiction means that the High Court can call for the record of a case which has been decided by a subordinate court. This is done because the High Court feels that the Subordinate Court has exercised a jurisdiction not vested in it or the latter has not followed proper procedure. Therefore, the High Court can review the case and take appropriate action on it. This is known as the *Revisory Jurisdiction* of the High Court.

A Public Interest Litigation (PIL) can be filed directly in the Supreme Court under Article 32 or in a High Court under Article 226. A PIL can be initiated by simply writing a letter to a judge. The court may then choose to convert the letter into a formal PIL to address issues of public concern. Sometimes a court takes action on its own initiative, such as converting a newspaper report into a PIL, as seen in several famous cases like the Delhi Air Pollution Case. A PIL is a tool for Judicial review of the courts. It aims at ensuring justice to all. Any citizen/agency who is capable can file petitions on behalf of those who cannot or do not have the means to do so.

A revisory jurisdiction is applicable in the following cases:

- injustice or an error of law apparent on the face of the record.
- violation of the principles of natural justice.
- arbitrary authority leading to wrong judgements.
- flagrant error in procedure.

Judicial Review

Like the Supreme Court, the High Court has the power of Judicial Review. If any law, executive order or any ordinance passed by the State Legislature or any other authority infringes the Fundamental Rights or contravenes any provision of the Constitution, the High Court can declare it 'null and void'. The High Court may withdraw a constitutional case from a Subordinate Court and deal with it or send it back with its directions.

The 42nd Amendment Act, 1976, introduced provisions, where the power of the High Court to judge the constitutionality of a State law was withdrawn during the Emergency. But with the repeal of certain parts of the 42nd Amendment, the High Courts regained their powers of considering the Constitutional validity of any State law or executive order or ordinance.

Court of Record

The High Court is a "Court of Record" like the Supreme Court. It means:

- (i) Its judgements and orders are preserved as a record to be referred to by its courts in future cases. They can be produced as precedents. The law laid down by the High Court is binding on all subordinate courts in the State concerned. But it does not bind the other High Courts, although it is of great significance and can be produced in support of an argument.
- (ii) The High Court can punish anyone who commits a contempt of its orders.

FUNCTIONS OF THE HIGH COURT

Settlement of Disputes

Original: The High Court has original jurisdiction to settle disputes relating to State revenue and its collection; to hear directly cases related to will, divorce, marriage, company law and contempt of Court; to interpret the Constitution; for enforcement of Fundamental Rights; and petitions related to the election of the MPs, MLAs and other local bodies.

On Appeal: The High Court has the power to accept appeals against the decisions of District Courts in both the civil and criminal cases as discussed earlier in the chapter.

Enforcement of Fundamental Rights

(Power to Issue Writs)

All the High Courts are empowered to issue 'writs'. A writ is an order from a judicial authority asking a person to perform some act or refrain from performing an act. The writs that are issued are *Habeas Corpus*, *Mandamus*, *Prohibition*, *Quo Warranto* and *Certiorari*. These writs are greatly instrumental in the protection of Fundamental Rights of the citizens. The nature and scope of these Writs has been explained in the previous chapter, which deals with the jurisdiction of the Supreme Court.

*OTHER FUNCTIONS

1. High Court's Power of Superintendence

The Constitution provides for superintendence of every High Court over all courts and tribunals

throughout the territories under its jurisdiction. Under this power the High Court may:

- (i) call for returns from such courts;
- (ii) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;
- (iii) prescribe forms in which books, entries, and accounts shall be kept by officers of such courts; and
- (iv) settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein.

However, such powers of the High Court do not extend to any court or tribunal constituted by or under any law relating to the Armed Forces.

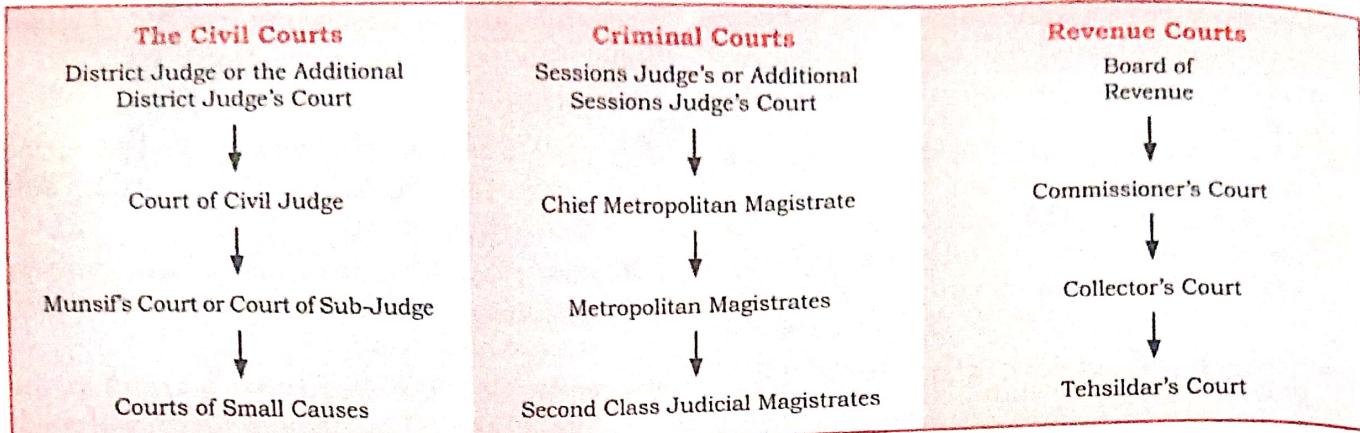
2. Administrative Functions

As the head of the State Judiciary, the High Court has administrative control over the subordinate judiciary in the State in respect of certain matters, besides its appellate and supervisory jurisdiction over them. Such powers include control over District Judges, Judges of the City Civil Courts, Metropolitan Magistrates and members of the judicial service of the State.

1. The appointment, posting and promotion of District Judges shall be made by the Governor in consultation with the Judges of the High Court.
2. The High Court and the State Public Service Commission are consulted by the Governor in appointing persons to the judicial service of the State.
3. High Court's control over lower courts extends to matters such as:
 - (i) recall of District Judges who are on deputation,
 - (ii) transfer of District Judges, and
 - (iii) promotions and confirmations of persons belonging to the judicial service of the State and holding a post, inferior to the post of District Judge.

INDEPENDENCE OF THE HIGH COURT

The independence of the High Courts in carrying out their work is ensured by providing security



Subordinate Courts

of tenure and security of pay and allowances to the Judges. (For details refer to the heading *Conditions of Service* in this Chapter).

Besides, the independence of High Courts is ensured by undertaking the following measures:

- (i) Full control over its procedure of work and establishment.
- (ii) The High Court can punish a person for contempt of court if its authority is lowered.
- (iii) No discussion in the State Legislature on the conduct of High Court Judges.
- (iv) Prohibition on practice after retirement for Judges.

SUBORDINATE COURTS

Structure and Composition

Subordinate Courts are the courts, which function at the district level and below. Therefore, all the courts in India except the Supreme Court and the High Courts, are subordinate courts.

The organisation and structure of the Subordinate Courts are generally uniform throughout the country. For the purpose of judicial administration every State is divided into a number of districts, each under the jurisdiction of a District Judge. Every district has *Civil Courts*, *Criminal Courts* and *Courts of Revenue*.

Civil Courts

Civil courts exercise jurisdiction in the cases related to land, property and money transactions; arbitration; guardianship; marriages; divorce;

and cases involving a Will. These courts are graded in the following manner:

1. The Court of the District Judge

It is the principal or the highest court of the district. It decides both civil and criminal cases. When a judge decides civil cases he/she is called the *District Judge* and when he/she decides criminal cases he/she is called the *Sessions Judge*. In some districts Additional Judges are appointed by the Governor in consultation with the Chief Justice of the High Court of the concerned State.

In order to be a District Judge or an Additional Judge a person should be an advocate of seven years' standing or an official in the Judicial Service of the Union or the State Public Service Commission.

Usually, the District Judge also acts as a Deputy Commissioner and District Collector. In that capacity, he/she maintains law and order as well as supervises the collection of revenue and taxes from the district. Thus, he/she possesses administrative power in addition to his judicial power.

2. Court of Civil Judge

The next cadre is designated as Civil Judge. This post is sometimes combined with the post of Chief Judicial Magistrate and can try cases punishable with imprisonment for seven years and fine.

3. Munsif's Courts

A Munsif is authorised to deal with civil cases involving not more than ₹ 20,000. Appeals

against their decisions lie with the Civil Judge who is the next higher authority.

There are several civil courts working under the District Judge such as the Court of the Subordinate Civil Judge (First Class), the Court of Sub-Judge (also known as a Munsif) and Courts of small causes.

4. Courts of Small Causes

These petty courts are headed by the junior-most Magistrates and have jurisdiction in cases where the value of the subject matter is small. There can be no appeal against their decisions.

The value of suits are fixed by the State Government from time to time.

Term of Office

The District Judge and the Additional District Judge are appointed by the Governor in consultation with the Judges of High Court of the concerned State. Except the District Judge and the Additional District Judge, all other judges are appointed through competitive examinations held by State Public Service Commission.

The rules regarding the transfer, leave and conditions of service of the District Judge and Additional District Judge are formulated by the High Court.

Administrative Control: The District Judge exercises administrative control over all Civil Courts in the district. The civil courts have no jurisdiction to try matters pertaining

to agricultural land. Such cases are heard by the Revenue Courts.

Appeals: Appeals from the decree or order of a court lie in the next higher court. Therefore, an appeal from the decree or order of the Small Cause Court lies to the court of Sub-Judge or Munsif. Appeals from orders of the Sub-Judge lie to the Court of the Civil Judge (First Class). The appeals from the orders and judgements of the District Courts and the Additional District Courts lie to the High Court.

Criminal Courts

Criminal Courts exercise jurisdiction in cases related to murder, robbery, theft, assault, etc.

Classification of Criminal Courts

According to the Code of Criminal Procedure (1973) in every state there shall be criminal courts of the following classes:

- (i) Courts of Sessions;
- (ii) Judicial Magistrates of the First Class and in any Metropolitan area Metropolitan Magistrates;
- (iii) Judicial Magistrates of the Second Class;
- (iv) Executive Magistrates.

Sessions Court: It is the highest criminal court of the district. Usually it is presided over by the District Judge, who is called the District and Sessions Judge. The Sessions Court deals with cases concerning more serious offences such as robbery, dacoity and murder. The

DIFFERENCES BETWEEN COURT OF THE DISTRICT JUDGE AND SESSIONS COURT

Court of the District Judge	Sessions Court
1. It is the highest civil court of the district.	1. It is highest criminal court of the district.
2. It is presided over by a District Judge.	2. It is presided over by a Sessions Judge.
3. The District Judge and the Additional District Judges are appointed by the Governor in consultation with the Chief Justice of the High Court of the concerned State.	3. The Sessions Judge and the Additional Sessions Judges are appointed by the Governor in consultation with the Chief Justice of the High Court of the concerned State.
4. The District Judge decides civil cases related to land, property, money transactions, arbitration, guardianship, marriage, divorce and will.	4. The Sessions Judge decides criminal cases like murders, theft, dacoity, pick-pocketing, etc.
5. The District Judge acts as a Deputy Commissioner and District Collector and in this capacity he/she maintains law and order and supervises the collection of revenue and taxes in the district.	5. The Sessions Judge does not perform any administrative functions.

Sessions or Additional Sessions Judge alone can award death sentences or life imprisonment. It is mandatory that a sentence of death must be confirmed by the High Court before it is carried out irrespective of whether an appeal is made to the High Court or not.

Court of Chief Metropolitan Magistrate or Chief Judicial Magistrate: These Magistrates deal with less serious offences and they cannot pass a sentence of death or of imprisonment for life. They can pass a sentence of imprisonment only up to seven years.

Court of the First Class Magistrates: These Magistrates take up less serious cases and can award imprisonment up to three years or a fine of ₹ 5,000 or both. They can hear appeals against the decisions of lower courts.

Court of the Second Class Magistrates: These Magistrates deal with comparatively, less serious criminal cases and can sentence a person to imprisonment for not more than two years or impose a fine of ₹ 1,000 or both.

Appeals

As the Indian judicial system is a single integrated system of courts, appeals can be made in higher courts against orders of lower courts. The Sessions Judge hears appeals against the judgement of the Chief Metropolitan Magistrate or Chief Judicial Magistrate. Appeals against judgement of Sessions Courts are permitted to the High Court.

*COURTS OF REVENUE

These Courts deal with cases relating to the maintenance of land records and the assessment and collection of land revenue.

1. Board of Revenue: is the highest authority in the field of revenue in a State. Working directly under the High Court, it hears appeals against the decisions of the Lower Courts of Revenue that come under its jurisdiction.

2. Commissioner's Court: with the aid of generally three to four Deputy Commissioners looks after the assessment and collection of revenues of all districts in a particular division.

3. Collector's Court: generally headed by the Deputy Commissioner of the District, helps the revenue department in the process of assessment and collection of revenue in addition

to his/her original duties as the administrator of the district. He/She hears first appeals against the decision of the Tehsildar.

4. Tehsildar's Court: A Tehsildar is responsible for the collection of the revenue and property taxes as assessed by the Naib Tehsildars.

5. Naib Tehsildar's Court: This is the lowest court. Naib Tehsildars hear cases relating to the assessment of the land revenue and property taxes from farmers. Appeals against their assessments can be taken to the Tehsildar.

LOK ADALATS

Lok Adalat means 'People's Court'. It is an alternative dispute redressal mechanism where disputes/cases pending in the court of law or at pre-litigation stage are settled amicably. On the recommendation of Justice P.N. Bhagwati, Lok Adalats were set up by Legal Services Authorities Act, 1987 as a legal forum to provide legal aid and quick justice to those who are not in a position to engage lawyers or bear the expenses of legal proceedings. There is no court fee payable when a matter is filed in a Lok Adalat. The Legal Services Authorities Act, (1987) provides that State or district authorities shall organise Lok Adalats from time to time. All decisions of the Lok Adalats shall be deemed to be decrees of a Civil Court and shall be binding on the parties to the dispute. Main condition of the Lok Adalat is that both parties in a dispute should agree for a settlement.

Voluntary organisations organise such courts in places like factories, farms, commercial complexes and neighbourhood of the litigants to settle disputes in a spirit of harmony and



■ Logo of Lok Adalat

compromise. Cases are settled informally and cordially with the involvement of conflicting parties. Lok Adalats also resolve cases which have not yet gone to any court.

The Lok Adalats serve the following purposes:

- (i) to provide legal aid and quick justice to those who are not in a position to engage lawyers;
- (ii) to relieve the courts of heavy backlog of cases; and
- (iii) to eliminate high costs and delays in imparting justice.

Types of Lok Adalats

National Lok Adalat: National Lok Adalats are held at regular intervals where on a single day Lok Adalats are held throughout the country, in all the courts right from the Supreme Court till the Taluk Level. Here cases are disposed off in huge numbers. From February 2015, National Lok Adalats are being held on a specific subject matter every month.

Permanent Lok Adalat: Permanent Lok Adalats are organised under Section 22-B of the Legal Services Authorities Act, 1987. These adalats have been set up as permanent bodies with a Chairman and two members for providing compulsory pre-litigative mechanism for conciliation and settlement of cases like criminal compoundable offences, traffic challans, revenue cases, bank recovery cases, motor accident claims, cheque dishonour cases, labour disputes, matrimonial disputes, land acquisition cases, consumer matters and other civil cases. Here, even if the parties fail to reach a settlement, the Permanent Lok Adalats have the jurisdiction to decide the dispute, provided, the dispute does not relate to any offence. Further, the Award of the Permanent Lok Adalat is final and binding on all the parties.

Mobile Lok Adalats: These adalats are organised in various parts of the country in Multi-utility Vans which travel from one location to another to resolve petty cases and to spread legal awareness among the people.

Working of Lok Adalats

Judges, law graduates, public workers or social workers inform the litigants about their rights



Lok Adalat

and duties. The judges of the Lok Adalats are actually conciliators. These Adalats are assisted by Legal Aid Committees and Social Action Groups which advise the people about legal matters and help them to solve the cases by mutual participation. Thus, they try to bring compromise or agreement between the parties.

The first Lok Adalat was held at Junagarh in Gujarat on March 14, 1982. The modern ideology of Lok Adalat was proposed and implemented by Justice P.N. Bhagwati, former Chief Justice of India. The National Legal Services Authority (NALSA) and other legal services institutions conduct Lok Adalats. The Member Secretary of the State Legal Services Authority organises Lok Adalats. Each bench includes a sitting or retired judge of the High Court or a sitting or retired judicial officer. The bench may also include a member of the legal profession or a social worker.

Advantages of Lok Adalats

- (i) Lok Adalats play an important role in the settlement of family feuds, disputes between the neighbours and minor cases of assault and injury by settling the disputes through compromise. Since the Lok Adalats work in the spirit of compromise and understanding, both the parties feel satisfied.
- (ii) Lok Adalats deliver fast and inexpensive justice. Any person can move Lok Adalat by an application on a plain paper or using the format available with Legal Service Authorities and expect speedy justice.

- (iii) The Lok Adalats reduce the workload of other courts enabling them to deal with more serious matters. This reduces delays in higher courts.
- (iv) Lok Adalats promote social justice by providing legal aid to weaker sections of society.

Scope of Lok Adalats

The system of Lok Adalats has now become so popular that various government departments like the Telephone Department, Traffic and the Electricity Boards have begun to hold Lok Adalats solving hundreds of cases in a single day.

It is the need of the hour that Lok Adalats are organised more frequently and their jurisdiction is expanded. There are lakhs of cases pending in different courts all over India. These courts can play important role in the settlement of family feuds, disputes between the neighbours and minor cases of assault and injury. Weaker

sections of society cannot afford the delay or the costs involved in court procedures. The institution of Lok Adalat tends to promote social justice as in Delhi where permanent Lok Adalats have already been set up for settlement of all pending disputes concerning Delhi Development Authority, Mahanagar Telephone Nigam, Municipal Corporation and National Insurance Co. Ltd.

Family Courts

The Family Courts Act (1984) was enacted to secure speedy settlement of disputes relating to marriage and family affairs. The Act provides that Family Courts would be setup in cities having a population of more than 10 lakh. However, based on the recommendation made by the Parliamentary Committee on Empowerment of Women, all the State Governments/UT Administrations have been asked to set-up one Family Court in each district of the Country.

CHAPTER AT A GLANCE

High Court — the head of the judicial hierarchy of a state. There are 25 High Courts in India.

Composition: Each High Court consists of a Chief Justice and such other judges as the President may determine from time to time.

Appointment of Judges

- The Chief Justice of a High Court is appointed by the President of India in consultation with the Chief Justice of the Supreme Court and the Governor of the concerned State.
- Other Judges of a High Court are appointed by the President in consultation with the Chief Justice of India, the Governor of the State and the Chief Justice of that High Court.

Qualifications for Appointment as a Judge: (i) be a citizen of India; (ii) have held a judicial office for at least 10 years; or (iii) have been an advocate of a High Court or Courts for at least 10 years.

Conditions of Service: The judges of the High Court can hold office till the age of 62 years. A judge of a High Court can be removed by the President on grounds of proved misbehaviour or incapacity if the Parliament passes a resolution with a special majority to that effect.

Powers and Jurisdiction of High Court

- *original jurisdiction* over those cases in which the High Court has authority to hear and decide cases at the first instance.
- *appellate jurisdiction* to accept appeals against the decisions of District Courts, in civil as well as criminal matters.
- advise any government department, legislature or the Governor, if they seek it, on matters of law.
- *Revisory Jurisdiction* can call for the record of a case which has been decided by a subordinate court.
- *Judicial Review* — can declare any provision of the Constitution as null and void if it infringes the Fundamental Rights or contravenes any provision of the Constitution.
- is a *Court of Record* like the Supreme Court.

Functions of High Court

- High Courts have original as well as appellate jurisdiction in the settlement of disputes.
- High Courts can issue writs (*Habeas Corpus, Mandamus, Quo Warranto, Prohibition and Certiorari*) for the enforcement of Fundamental Rights.

Subordinate Courts:

- (i) **Civil Courts** exercise jurisdiction in the cases related to land, property and money transactions, arbitration, guardianship, marriages, divorce and cases involving a Will. These include: (i) The Court of the District Judge; (ii) The Court of Civil Judge; (iii) A Munsif's Court; (iv) Court of Small Causes.
- (ii) **Criminal Courts** exercise jurisdiction in cases related to murder, robbery, theft, assault, etc. The Criminal Courts can be classified as: (i) Courts of Sessions; (ii) Judicial Magistrates of the First Class and in any Metropolitan area Metropolitan Magistrates; (iii) Judicial Magistrates of the Second Class; and (iv) Executive Magistrates.

(iii) Courts of Revenue.

Lok Adalats

- Lok Adalats or 'People's Courts' were set up by Legal Services Authorities Act, 1987 as a legal forum for speedy disposal of cases. These courts eliminate high costs and delays in imparting justice.

EXERCISES

I. Multiple-Choice Questions

1. What is the maximum age in order to be qualified for appointment as a Judge in High court?
- P: He/She should not be over 62 years of age.
Q: He/She has been an advocate of a High Court for at least ten years.
R: He/She should have been distinguished Jurist.
S: He/She has held a judicial office in the territory of India for at least five years.
- (a) 62 years (b) 68 years (c) 65 years (d) 60 years
2. In order to be qualified as a Judge of a High court, the individual must have held a judicial office in the territory of India or has been an advocate of a High court for at least
- P: 15 years (b) 10 years (c) 5 years (d) 12 years
3. Purab wants to be a High Court judge. Which of the following qualifications does he need?
- P: He/She should not be over 62 years of age.
Q: He/She has been an advocate of a High Court for at least ten years.
R: He/She should have been distinguished Jurist.
S: He/She has held a judicial office in the territory of India for at least five years.
- (a) P and R (b) R and S (c) P and Q (d) P and S
4. Identify the statements about the High Court Judges which are correct.
- P: A judge of a High Court cannot be removed from office on any ground.
Q: A Judge who has worked as a permanent Judge of a High Court cannot practise in any Court after his/her retirement.
R: The salaries and allowances of the Judges of a High Court cannot be changed to their disadvantage during the course of their service.
S: A Judge of a High Court may resign his/her office by writing, addressed to the President of India.
- (a) P and Q (b) R and S
(c) Q and R (d) P and R

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- 5.** Every High court has the power to interpret the Constitution. This power is known as
(a) Judicial Review (b) Constitutional Review
(c) High Court Review (d) Interpretation Review
- 6.** _____ of High court means that the power to accept appeals against decisions of District courts, in civil as well as criminal matters.
(a) Revisory jurisdiction (b) Judicial jurisdiction
(c) Appellate jurisdiction (d) Advisory jurisdiction
- 7.** _____ Jurisdiction means that the High court can call for the record of a case which has been decided by a subordinate court:
(a) Advisory (b) Appellate (c) Confirmatory (d) Revisory
- 8.** All _____ are empowered to issue writs.
(a) High Courts (b) District courts
(c) Members of Parliament (d) Ministers of the Cabinet
- 9.** Which of the following statements about the functions of the High Court are correct?
P: Unlike the Supreme Court, the High Court is not a Court of Record.
Q: The High Court can advise any government departure if they seek advice from them on matters of law.
R: The High Court have the power of Judicial Review.
S: The High Court cannot issue writs.
(a) Q and R (b) P and S
(c) P and Q (d) R and S
- 10.** Ramana is a judge in the Munif court. He is authorised to deal with civil cases involving not more than _____.
(a) ₹15,000 (b) ₹20,000 (c) ₹30,000 (d) ₹50,000
- 11.** When a judge decides Civil cases, he/she is called _____ and when he/she decides criminal cases, he/she is called _____.
(a) Sessions Judge; District Judge (b) District Judge; Sessions Judge
(c) Magistrate; District Judge (d) Magistrate; Sessions Judge
- 12.** Identify the statements about the Court of the District Judge which are correct.
P: It is the highest civil court of the district.
Q: The District Judge is appointed by the Chief Justice of the Supreme Court of India.
R: The District Judge decides both civil and criminal cases.
S: The District Judge acts as a Deputy Commissioner and District Collector.
(a) P and Q (b) P and R
(c) P and S (d) R and S
- 13.** First class Magistrate can award imprisonment up to _____ years and/or a fine of ₹ _____.
(a) 4 years ; ₹20,000 (b) 3 years ; ₹10,000
(c) 3 years; ₹5,000 (d) 2 years; ₹5,000

14. Second class Magistrate can award imprisonment for not more than _____ years or impose a fine of ₹ _____ or both.

- (a) 1 year; ₹1,000
- (b) 2 years; ₹5,000
- (c) 1 year ; ₹2,000
- (d) 2 years; ₹1,000

15. Lok Adalat means

- (a) District Court
- (b) People's Court
- (c) High Court
- (d) Supreme Court

16. Suppose the autorickshaw driver, who daily takes you to school, was issued a number of traffic violation challans and had to pay a fine of five thousand rupees. He pleaded for reducing the fine but was not shown any mercy. To which court he would go to get speedy redressal of his grievance?

- (a) Lok Adalat
- (b) Sessions Court
- (c) High Court
- (d) Supreme Court

17. Read the excerpt given below and answer the question that follow:

From the 29th of July to the 3rd of August 2024, the Supreme Court is organising a special Lok Adalat. This is part of a series of activities which the Supreme Court is observing, to commemorate the 75th year since the establishment of the Supreme Court. Most significantly, we are all as judges, as people, dedicated to the institution of justice concerned about the large backlog of cases.

— The Chief Justice of India, video message announcing the Special Lok Adalat

Which of the following is true about the Lok Adalat?

- (i) Saves money
- (ii) Reduces burden on other courts
- (iii) Works on compromise
- (iv) Speedy justice
- (a) All of them
- (b) (i) and (ii)
- (c) (i), (ii) and (iii)
- (d) (ii) and (iv)

18. Court A aims to provide a simplified and efficient mechanism for dispute resolution. It is designed to address a range of issues such as civil, petty criminal, family, property, labour, bank loan, revenue, forest, motor accident claims, and challan or e-challan cases. Identify Court A.

- (a) High Court
- (b) Sessions Court
- (c) Lok Adalat
- (d) All of the above

19. Select the option that shows the correct relationship between Statements I and II.

- (I) A District Judge possesses administrative power in addition to judicial power.
- (II) A Sessions Judge does not perform any administrative powers.

- (a) (I) is true, but (II) is false
- (b) (I) is false, but (II) is true
- (c) Both (I) and (II) are true, but (II) is not the correct explanation of (I)
- (d) Both (I) and (II) are false.

20. Select the option that shows the correct relationship between Statements I and II.

- (I) The Lok Adalats provide legal aid and quick justice to those who cannot afford to engage lawyers.
- (II) The Lok Adalats restrict social justice by providing legal aid to weaker sections of society only.

- (a) (I) is true, but (II) is false
- (b) (I) is false, but (II) is true
- (c) Both (I) and (II) are true, but (II) is not the correct explanation of (I)
- (d) Both (I) and (II) are false.

II. Short Answer Questions

1. Name two High Courts of India whose jurisdiction extends to more than two States.
2. What is the composition of a High Court?
3. Who administers the Oath of office to the High Court Judges? By whom is the Chief Justice of a High Court appointed?
4. Who can remove a Judge of the High Court? On what grounds can a Judge of the High Court be removed from office?
5. Who decides the salaries and allowances of the Judges of the High Court? How is the security of salaries and service conditions ensured by the Constitution?
6. How does the High Court protect the Fundamental Rights of individuals? What is meant by Revisory Jurisdiction of the High Courts?
7. Read the excerpt given below and answer the question that follows:

Over 1.14 Crore Cases Settled in Lok Adalats

Among the cases settled were criminal compoundable offences, traffic challans, revenue cases, bank recovery cases, motor accident claims, cheque dishonour cases, labour disputes, matrimonial disputes (excluding divorce cases), land acquisition cases, IPR or consumer matters, and other civil cases. — The Deccan Herald September, 2024

With reference to the above news, state which advantage of the court is being highlighted?

8. Mention two types of Subordinate Courts in a State.
9. What is meant by the term Civil Cases? Which type of cases are known as Criminal Cases?
10. Which is the highest Civil Court in a District? Name the highest Criminal Court in a district.
11. Who is the highest Judicial Official at the district level for civil and criminal cases? How are the District Judges in a State appointed?
12. Differentiate between Sessions Court and Court of the District Judge.

III. Structured Questions

1. A High Court consists of a Chief Justice and other judges whose number the Parliament may fix from time to time. As regards the composition of the High Court, answer the following questions:
 - (a) How are the Chief Justice and other Judges of the High Court appointed?
 - (b) State three qualifications for appointment as a Judge of the High Court.
 - (c) Mention two ways in which the Constitution ensures the independence and impartiality of the High Courts.
2. With reference to the powers of the High Court, briefly describe the following:
 - (a) What is meant by the Original Jurisdiction of the High Court? Mention two types of cases in which the High Court exercises Original Jurisdiction.

- (b) Mention two types of cases in which the High Court exercises Appellate Jurisdiction.
(c) How does the High Court control the power of the Legislature and the Executive?

3. *PIL in Bombay High Court seeks to protect Kolhapuri chappals' GI from 'exploitation'.*

- (a) What is a PIL? Which jurisdiction does it enable?
(b) How does the High Court act as a protector of Fundamental Rights?
(c) What do we mean when we say that the High Court is a 'Court of Record'?

4. With reference to the jurisdiction of High Courts, write short notes on:

- (a) Revisory Jurisdiction of High Courts.
(b) Its power to issue Writs.
(c) Custodian of the Constitution.

5. Study the picture and answer the following questions:

- (a) Identify the court whose logo is given in the picture on the right. How do these courts function?
(b) What are the advantages of resolution of disputes through such courts?
(c) Do you think that these courts play an important role as an alternative dispute resolution mechanism? Give your reasons.



IV. Higher Order Thinking Skills (HOTS)

1. Do you think the system of appeals makes the judicial system more just and reliable, but at the sometime causes delays.
2. Why is it important to have both the High Court and Subordinate Courts in Indian Judicial System?

