

# Introduction to Politics

**Judiciary**

# Supreme Court of India

## Composition and Appointment

The Supreme Court of India is the country's highest judicial court. It is the final court of appeal in the country.

In 1950, there were 7 Judges and one Chief Justice. Currently there are 34 Judges including Chief Justice of India.

**Chief Justice-** The senior most Judge of the Supreme Court is appointed the Chief Justice. The Union Minister of Law, Justice and Company Affairs would, at the appropriate time, seek the recommendation of the outgoing Chief Justice of India for the appointment of the next Chief Justice of India. Whenever there is any doubt about the fitness of the senior most Judge to hold the office of the Chief Justice of India, consultation with other Judges would be made for appointment of the next Chief Justice of India.

After receipt of the recommendation of the Chief Justice of India, the Union Minister of Law, Justice and Company Affairs will put up the recommendation to the Prime Minister who will advise the President in the matter of appointment.

# Supreme Court of India

## Appointment and Tenure of Judges

**Judges of the Supreme Court-** Whenever a vacancy is expected to arise in the office of a Judge of the Supreme Court, the Chief Justice of India will initiate proposal and forward his recommendation to the Union Minister of Law, Justice and Company Affairs to fill up the vacancy. The opinion of the Chief Justice of India for appointment of a Judge of the Supreme Court should be formed in consultation with a collegium of the four senior most Judges of the Supreme Court. If the successor Chief Justice of India is not one of the four senior most Judges, he would be made part of the collegium as he should have a hand in selection of Judges who will function during his term as Chief Justice of India.

### Qualification-

He/she should be citizen of India

he/she has been a judge of one or more High Courts, for at least 5 years, or

he/she has been an advocate in one or more High Courts for at least 10 years, or

he/she is in the opinion of the President, a distinguished jurist.

**Tenure-** till the age of 65

# Supreme Court of India

## Jurisdiction

The Supreme Court has original, appellate and advisory jurisdiction.

Its exclusive 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.

Articles 132 and 133 provide for the appellate jurisdiction of the Supreme Court. The Supreme Court can entertain an appeal against a High Court's "*judgment, decree or final order*" provided that the High Court certifies that the matter involves a "*substantial question of law*".

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.

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.

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.



# Supreme Court of India

## Original Jurisdiction

Its exclusive 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 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 for 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 High Court to another High Court or from a Court subordinate to another High 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, the Supreme Court may withdraw a case or cases pending before the High Court or High Courts and dispose of all such cases itself.

# Supreme Court of India

## Jurisdiction

The appellate jurisdiction of the Supreme Court can be invoked by a certificate granted by the High Court in respect of any judgement, decree or final order of a High Court in both civil and criminal cases, involving substantial question 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 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 certified that the case is a fit one for appeal to the Supreme Court.

# Supreme Court of India

## Advisory Jurisdiction and Judicial Review

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.

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.

**Judicial Review-** Judicial review is the power held by the Indian Judiciary to ascertain whether a law or decision passed by the Legislative/Executive/Administrative arms of the government adheres to the constitutional principles or not. If proved unconstitutional, the Supreme Court or High Courts reserve the right to declare it as null and void.



# Supreme Court of India

## Court of Record

**Court of Record-** Article 129 of the Constitution of India declares Supreme Court to be a court of record. The judgment, proceedings, and act of 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.

**Public Interest Litigation-** In India, a writ petition may be moved not only by an aggrieved individual but also by a public-spirited individual or group of persons in matters in which interest of the public at large is involved. The Court can be moved either by filing a writ petition or by addressing a letter to the Chief Justice of India highlighting the question of public importance for invoking this jurisdiction.

On several occasions, the Supreme Court has treated letters, telegrams, postcards, and news reports as writ petitions. Such a concept is popularly known as 'Public Interest Litigation' (PIL). This judicial innovation of the PIL system is unique to the Supreme Court of India.



# Supreme Court of India

## Legal Aid

- If a person belongs to the poor section of the society having annual income of less than Rs. 5,00,000/- 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.
- The aid so granted by the Committee includes cost of preparation of the matter and all applications connected therewith, in addition to providing an Advocate for preparing and arguing the case. Any person desirous of availing legal service through the Committee has to make an application to the Secretary and hand over all necessary documents concerning his case to it. The Committee after ascertaining the eligibility of the person provides necessary legal aid to him/her.
- Persons belonging to the middle income group i.e. with income above Rs. 60,000/- but under Rs. 7,50,000/- per annum are also eligible to get legal aid from the Supreme Court Middle Income Group Society on nominal payments. The Supreme Court also has a Mediation Centre which mediates and resolves matters that are referred to it by the Court.

# Supreme Court of India

## Independent Judiciary

- Security of Tenure until the age of 65 years.
- The jurisdiction can not be decreased.
- The conduct of any judge can not be discussed in legislature.
- Special majority is required in legislature to pass impeachment motion against any Judge on the grounds of misbehaviour and proved incapacity.
- Separate Judicial service free from executive control.
- The expenses on Supreme Court are charged on the Consolidated Fund of India.