

CHAPTER – 8

THE JUDICIARY



We learn about the following in this chapter,

- The responsibilities and functions of the Supreme Court and the High Courts, Uniform Judiciary System.
- Functions of the various levels of subordinate courts.
- Nature and responsibilities of the Lok Adalats.

We have a common judicial system for the entire country unlike the American judicial system where there are separate courts for the Centre and the States. Our judiciary is independent of the Legislature and the Executive. The High Courts, Subordinate Courts and District Courts function under the Supreme Court. The Constitution, various Acts, conventions and precedents of cases are the basis for judicial judgments. The Supreme Court is the highest court of law. Its judgment is final.

Supreme Court :

The Supreme Court came into existence by an Act of Parliament on January 28, 1950. It is in New Delhi.

The President appoints the Chief Justice and the other judges of the Supreme Court. At present, there are 31 judges including the Chief Justice.

The qualifications of a Supreme Court judge are:

1. Should be a citizen of India.
2. Should have served as a High Court Judge for at least five years, or should have been an advocate of the High Court for at least ten years.
3. Should be a distinguished jurist.



Supreme Court, New Delhi

The age of retirement of the Chief Justice of the Supreme Court is 65 years, whereas the age of retirement of the other judges is 62 years. However, they can resign earlier. If the judges are found guilty while discharging their duties, they can be removed from office by the President supported by a specified majority vote of both the Houses of Parliament. After their resignation or retirement, the judges cannot practise law in any court in India. Their salaries and allowances are decided by an Act of Parliament.

Functions and powers

Original Powers : Resolving the disputes between the Union and the States, and between the States; Safeguarding the Fundamental Rights of citizens; Interpreting the provisions of the Constitution and Enquires the Habeas Corpus also.

Appellate Powers : Citizens may file cases in the Supreme court against the judgements given in the lower courts. The Supreme Court may accept such appeals and issue judgments in these matters. It may also give special directions to the citizens to file such appeals.

Advisory Powers : The Supreme Court may advise the President when he seeks its opinion on important public issues. The President may consult the Supreme Court for advice on matters related to agreements and contracts.

In addition to the above-mentioned functions, the Supreme Court serves as a Court of Records, Chief Advisor to the Centre and States, and has the power to issue special writs.

High Court

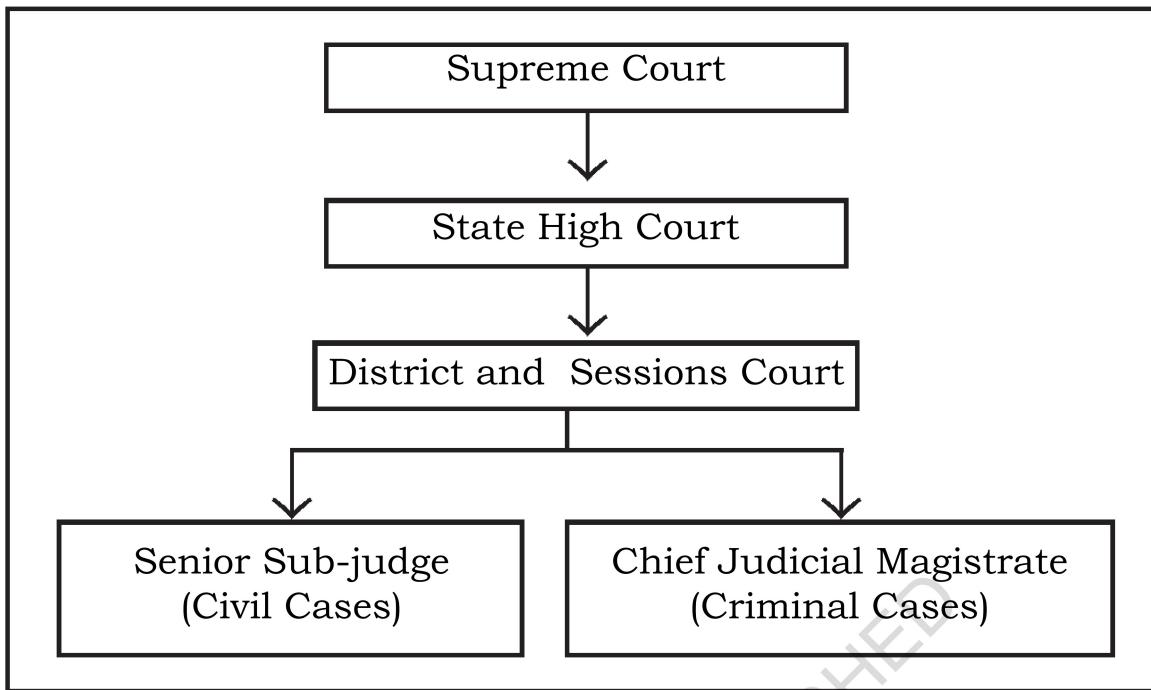
The Constitution provides for a High Court in every State. Sometimes there is one High Court for two or more States. The High Court consists of the Chief Justice and other judges. The number of judges varies from State to State.



High Court

Do you know this?

1. *The British established three High Courts in India for the first time in Calcutta, Bombay and Madras in 1862. At present, there are 21 High Courts in India.*
2. *There is one High Court for the States of Punjab and Haryana. Similarly, there is one High Court in Guwahati in Assam state, Assam, Manipur, Meghalaya, Tripura, Nagaland, Mizoram and Arunachal Pradesh.*
3. *In Karnataka along with the high court at Bangalore. There is a court Established in Dharwad and Gulbarga.*



The qualifications of a High Court judge are :

1. Should be a citizen of India.
2. Should have served as a judiciary officer in a Judicial office or worked as an advocate of the High Court for ten years.
3. Should be an eminent jurist.

The age of retirement of High Court judges is 62 years. Their salary is decided by an Act of the Parliament. The constitutional Amendment Act 15 of 1963 raised the retirement age from 60 to 62. The Union Cabinet approved this and implemented it on 31 July 2010.

Functions of the High Court :

The High Court has power over the whole State. Its functions are :

1. To take up civil and criminal disputes, marital relationships, contempt of court etc.
2. To admit appeals in civil and criminal cases from the subordinate courts.
3. To direct transfer of cases from the lower courts to the High

Court; to supervise the working of the subordinate courts; to admit writ petitions to safeguard the Fundamental Rights and other legal rights of citizens.

Subordinate Courts

The Conference of Courts that was held in 1948 urged for independence to subordinate courts. As a result, specifications about the structure and scope of the subordinate courts have been included in the Constitution. Though subordinate courts differ from State to State, their main features remain the same. Courts have been classified into two kinds, namely:

1. Civil Courts
2. Criminal Courts

Civil Court : Every district has a civil court, and the District Judge is its Chief Judge. The Governor appoints the Chief Judge in consultation with the judges of the High Court. The Chief Judge should have served as an advocate in any court of the State for a period of seven years. The other judges are selected through a competitive examination.

Activity

Visit a civil court and observe the Arguments. Discuss with your teacher.

Civil courts settle disputes related to civil matters like property, land, monetary transactions, marriage, divorce and others. They also hear appeals from lower courts. The District Judge exercises control over all the civil courts in the district.

These subordinate courts are under the District Court :

1. Court of Subordinate Judges
2. Court of Additional Subordinate Judges
3. Court of Munsiffs
4. Court of Additional Munsiffs

Criminal Court or Magistrate Court : Criminal courts came into existence from 1st April, 1974. They are also known as

District Magistrate courts. They function under the High Court. The highest criminal court at the district level is the Sessions court. The District Judge performs the function of a judge of this court too. The court takes up crimes like murder, robbery, dacoity etc. It has the powers to issue death sentences and also life imprisonment sentences. However, such sentences will have to be ratified by the High Court. Similarly, an appeal may be made to the High Court against the judgements given by the criminal court.

There are other criminal courts functioning under criminal court:

Chief Magistrate Court: This court does not have the powers to pass death sentences or life imprisonment sentences. However, it can impose seven years' punishment.

First Grade Magistrate Court: This court has greater powers and can impose punishment upto 3 years or fine upto Rs.5000/-, or impose both. Moreover, it can admit appeals against judgments from lower Magisterial courts.

Second Grade Magistrate Court: This court has the power to impose punishment upto 2 years or a fine of Rs.1000/- or both.

Third Grade Magistrate Court: This court has the power only to impose one month's imprisonment or fine of Rs.50/- or both. Neither the Second Class nor the Third Class Magisterial Courts can admit appeals against judgments of any other court.

Thus, both the District and the Sessions courts are one and the same, with the same Judge passing judgments in both. When the court takes up a civil matter, it is called District Court, and when it takes up a criminal matter, it is called Sessions Court.

Revenue Courts : There are Revenue courts in every district. They take up cases related to land tax, land records etc. Revenue Courts comprise the following courts:

Tahasildar Court : The Tahasildar Court is the lowest court among the Revenue courts and the Tahasildar is its judge. This court is also known as Taluk Magistrate Court.

District Subdivisional Officer's Court: The Assistant Commissioner is the judge in this court. This court takes up appeals against the decisions and judgments of Tahsildar courts.

District Land Tax Court or District Magistrate Court: Existing in every district, this court takes up appeals against the judgments given by the Tahsildar court or the District Subdivisional Officer's court. The Deputy Commissioner is its judge.

Commissioner's Court: This court takes up appeals against the judgments of the district magistrate courts. The Divisional Officer is its judge.

Do you know this?

Karnataka has been divided into four divisions for administrative convenience : 1. Bengaluru 2. Mysuru 3. Kalaburagi 4. Belagavi

Land Tax Board: This is the highest court dealing with land tax cases. It has the power to take up appeals against the judgments of the lower land tax courts. The Land Tax Secretary is its Head, and the court functions under the supervision of the High Court.

People's Courts (Lok Adalat)

In India, the legal procedure is time-consuming and expensive. As an alternative, the Government has set up other forms of legal institutions which function faster and are less expensive. These institutions came into existence in 1985. One of them is Lok Adalat. It takes up cases from parties which mutually agree to settle the cases amicably.

Lok Adalats are established only in some states like Gujarat, New Delhi, Karnataka and a few others. Some judges of the Supreme Courts, social workers and young law graduates are the founding members of these courts. Cases which have not yet been disposed off by the other courts or the High Court can be settled by the Lok Adalats. The functioning of the Lok Adalats has drawn appreciation from people, mainly due to three features :

1. It lays stress on compromise.

2. It is fast and cheap.
3. It reduces the judicial burden on other courts.

Lok Adalats take up cases relating to vehicle accidents, land possession, banking, marriage and alimony, labourers' problems etc. These courts are established by either the District Law Authority or the Taluk Law Authority. There are two mediators in it, one in government service and the other a social volunteer.

The judgements given by the Lok Adalats are final and binding on both the parties, and appeals cannot be filed against them. These judgements enjoy the same respect that judgements of civil courts do.

EXERCISES

I. Fill in the blanks with suitable words.

1. The Supreme Court came into existence on _____.
2. The State Advocate General is appointed by the _____.
3. Criminal courts came into existence on _____.
4. The lowest land tax court is the _____.

II. Answer the following questions.

1. How are the judges of the Supreme Court appointed and what are their qualifications?
2. What are the functions of the High Court?
3. Which are the subordinate courts under the Civil Courts?
4. What was the purpose of establishing Lok Adalats? When did they come into existence?

III. Activities :

1. Meet an advocate in your town and learn more about the Supreme Court.
2. Visit the subordinate courts in your area. Watch what happens there. Prepare a brief report on your experience.

IV. Project :

1. Collect reports of High Court judgments from newspapers and prepare an album.