

those who scandalize (or lower the authority of) any court; punishing those who interfere in due course of judicial proceedings; and punishing those who obstruct the administration of justice. In exercise of contempt jurisdiction, courts have the power to enforce compliance of judicial orders, and also, the power to punish for contempt. In a significant case a seven-judge Bench of Supreme court initiated *suo moto* contempt proceedings against a high court judge for the first time and imposed a punishment of six months in exercise of its powers under Article 129 of the Constitution and the Contempt of Courts Act, 1971.³³ Besides this the Supreme Court is empowered under Article 137 of the Constitution of India, 1950 to review its own judgments/orders. The fundamental right to life under Article 21 of the Constitution, viewed in the light of irreversibility of a death sentence, mandate that oral hearing be given at the review stage in death sentence cases in open court, and not by circulation.

Further as laid down by the Supreme Court in the case of *Rupa Ashok Hurra v Ashok Hurra*,³⁴ even after dismissal of a review petition under Article 137 of the Constitution, Supreme Court, may entertain a curative petition and reconsider its judgment/order, in exercise of its inherent powers in order to prevent abuse of its process, to cure gross miscarriage of justice and such a petition can be filed only if a Senior Advocate certifies that it meets the requirements of this case. Such a petition is to be first circulated, in chambers, before a Bench comprising of three senior-most judges and such serving judges who were members of the Bench which passed the judgment/order, subject matter of the petition.

Election Petitions under Part III of the Presidential and Vice-Presidential Elections Act, 1952 are also filed directly in the Supreme Court.

The jurisdiction of the Supreme Court, as outlined in the foregoing pages, was curtailed by the 42nd Amendment of the Constitution (1976), in several ways. But some of these changes have been recoiled by the Janata Government, by repealing them by the 43rd Amendment Act, 1977, so that the reader need not bother about them. The provisions so repealed are Articles 32A, 144A.

But there are several other provisions which were introduced by the 42nd Amendment Act, 1976, but the Janata Government failed to dislodge them, owing to the opposition of the Congress Party in the *Rajya Sabha*. These are —

(i) *Article 323A — 323B*. The intent of these two new Articles was to take away the jurisdiction of the Supreme Court under Article 32 over orders and decisions of Administrative Tribunals. These Articles could, however, be implemented only by legislation which Mrs Gandhi's first Government had no time to undertake.

Article 323A has been implemented by the Administrative Tribunals Act, 1985 [see, further, under chapter 30, *post*].

But subsequently, the position turned out to be otherwise as the Supreme Court declared the Articles 323A, clause 2(d) and 323B, clauses 3(d) and also the "exclusion of jurisdiction" clauses in all the legislations enacted in pursuance of these Articles, unconstitutional to the extent they excluded the jurisdiction of the high courts and the Supreme Court under Articles 226/227 and 32.³⁵

(ii) *Article 368(4) — (5)*. These two clauses were inserted in Article 368 with a view to preventing the Supreme Court from invalidating any Constitution Amendment Act on the theory of "basic features of Constitution" or anything of that nature.

Curiously, however, these clauses have been emasculated by the Supreme Court itself, striking them down on the ground that they are violative of two "basic features"