



Supreme Court of India

GURINDER PAL SINGH
PGGCG-42, CHANDIGARH





Appointment of Judges

- President to appoint - Consult Judges
- Appt. of Chief Justice of India
Mr. A.N.Ray controversy in 1973
- S.P.Gupta v. Union of India (1982)
- SCAORA v. Union of India (1993)
- Reference to Supreme Court under Art. 143 (1999)



39th Chief Justice of India

Justice

Altamas Kabir

**(Office Tenure-29 Sep 2012 to
18 July 2013)**



Qualification for Appt. as Judge

- Citizen of India

AND

- High Court Judge for at least 5 years

OR

High Court Advocate for at least 10 years

OR

Distinguished Jurist



Impeachment of a Judge

- **Grounds:** Proved Misbehaviour or Incapacity
- **Procedure:**
 - A Motion addressed to the President signed by 100 members of Loksabha or 50 members of Rajyasabha
 - Investigation by Judges' Inquiry Committee
 - Motion carried in each House by majority of the total membership and by a majority of at least two thirds members present and voting
 - President's order for removal of the Judge



Independence of Judges



- **Appointment** of Judges after Consulting Judges
- **Removal** by Special Majority: Very difficult
- **Salaries** and Pensions cannot be varied to their disadvantage
- **Salaries** charged on the Consolidated Fund of India
- **Discussion** of the conduct of Judges forbidden in Parliament
- After retirement **prohibition to plead** in Court
- Power to punish for its **Contempt**



Jurisdiction

- Original Jurisdiction - Art. 131
- Writ Jurisdiction
- Appellate Jurisdiction: Civil
- Appellate Jurisdiction: Criminal
- Special Leave to Appeal - Art. 136
- Advisory Jurisdiction
- Review
- Court of Record
- Laying down Precedent
- Complete Justice: Art. 142



Original Jurisdiction



Dispute between:

1. Govt. of India and any State
2. Govt. of India and any State on one side and any other State on other side
3. Two or more States *inter se*



Subject matter of Dispute:

Any question of Law or Fact on which existence or extent of legal right depends.



Exceptions:

1. Pre-Constitution Treaties, Agreements
2. Inter-State Water disputes



Writ Jurisdiction: Art. 32

- Habeas Corpus
- Mandamus
- Prohibition
- Certiorari
- Quo Warranto





Habeas Corpus

- To have a body
- Object: To set free a person illegally detained
- Producing Body in Court Necessary?
- Petition by friend/Relative also. Locus Standi liberalised
- Writ addressed to:
 - Government
 - An Official
 - Private Person
- For disobedience : Contempt of Court





Mandamus

- Mandamus = A Command
- Order to do something: demands some activity
- Command to perform Public or Quasi-public duty
- Writ available against:
 - Government
 - Public Servant
 - Judicial Body
- Writ not available against
 - President of India
 - Governor
 - Private Individual



Prohibition

Order to stay a judicial Proceeding

When?

- Excess of Jurisdiction

- No Jurisdiction

During pendency of proceeding (Prevention)

To whom?

- Judicial Authority

- Quasi-judicial Authority

- Public Servant having duty to act judicially

Not to Administrative Authority



Certiorari

- To whom: Judicial or Quasi-Judicial Authority
- Object: To quash order or decision (Cure)
- When?
 - Court or Tribunal acts without jurisdiction
 - Principles of Natural Justice not followed:
 - Bias: Personal, Pecuniary
 - *Audi Alteram Partem*
 - Speaking Order
 - Decision obtained by Fraud, Collusion, Corruption
 - Error of Law apparent on the face of record



Quo Warranto

- Quo Warranto = What authority?
- Court inquires into legality of claim to Public Office
- Court ousts incumbent if claim not well founded
- Object: To prevent usurpation of Public Office (Constitutional or Statutory)
- When?
 - Disqualified for the post
 - Procedure not followed
 - Irregular appointment
- Locus standi liberal



Appellate Jurisdiction – Civil

From Judgment, Final Order, Decree, Sentence of High Court

Constitutional Question involved:

- Substantial question of Law as to the Interpretation of the Constitution

And

- Certificate of the High Court

No Constitutional Question involved:

- Substantial Question of Law of general importance

And

- In the opinion of the High Court the said question needs to be decided by the Supreme Court

And

- Certificate of the High Court



Appellate Jurisdiction – Criminal

■ As of right:

- HC on appeal reverses an order of Acquittal and sentences to death.
- HC withdraws a case to itself from subordinate court and sentences to death.
- HC enlargement of Cr. App. Juris. Act, 1970

■ On Certificate of the High Court

- High Court certifies a criminal case as fit one for appeal to the Supreme Court.
- Substantial question of law as to the interpretation of the Constitution + Cert. of HC



Special Leave to Appeal (SLP) Art. 136

- Discretionary power
- Unfettered power
- From : Any judgment, decree, order, sentence, determination in any cause or matter
Passed or made by any Court or Tribunal
- Exception: Judgment of court of the Armed Forces
- When?
 - In exceptional cases
 - Illegality, Irregularity, Error of Law
 - Miscarriage of Justice
 - Principles of Natural Justice violated



Advisory Jurisdiction – 1

Art. 143

- President may refer to Supreme Court for opinion
- Question of Law or Fact:
 - Which has arisen or likely to arise
 - And of great public importance
- Court **may** after 'Hearing' report to the President
- Court **Shall** after 'Hearing' report
- Judges to hear: Minimum 5
- No litigation – Opinion not binding on the Govt.



Advisory Jurisdiction – 2

Art. 143

- In re Delhi Laws Act case (1951)
- In re Kerala Education Bill (1958)
- In re Berubari Union (1960)
- Keshav Singh's case (1965)
- The Special Courts reference (1978)
- Cauvery Water Disputes Tribunal (1992)
- Ismail Faruqui v. Union of India (Ram Janma Bhumi case) (1994)
- Judges' Appt. and Transfer reference (1999)



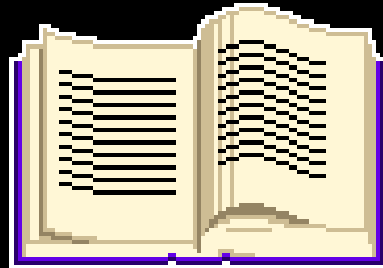
Review

- To review any judgment pronounced or order made
- Subject to Law passed by Parliament
- When?
 - Discovery of new important matters of evidence
 - Mistake or error on the face of the record
 - Any other sufficient reason
- Review is exceptional phenomenon
Only where a grave and glaring error



Court of Record

📖 Power to punish for Contempt of itself





Miscellaneous

- Transfer of Cases, Appeals from one High Court to another
- Withdrawal of cases from High Court
- Precedent: Law declared by Supreme Court binding on all courts. (Art. 141)
- Art. 142: Doing complete justice
- Rule making power
- Interpretation of the Constitution
- Power of Judicial Review (Invalidating laws and executive actions)



The End

