



# State High Courts in India

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# Agenda

- Overview of Indian Judicial System
- Composition of High Court
- Qualifications and Term of High Court Judges
- Appointment of High Court Judges
- Independence of Judiciary from Control of Executive and Legislative
- Powers and Jurisdiction of High Court
- Court of Record
- Writs



# Overview of Indian Judicial System

- India has an independent and integrated judicial system.
- The judicial system is unified for the entire country.
- Supreme Court is the apex judicial body in India.
- At state level, the apex judicial body is High Court and further below are Subordinate Courts



# State High Courts in India

- Constitution of India (Article 214) provides for a High Court in every state which works under the Supreme Court of India.
- In certain cases, one High Court serves more than one state. For example, Punjab and Haryana High Court serves the state of Punjab and Haryana.
- There a total of 25 High Courts in India(2019).
- Three High Courts in India serve more than one state.



# Composition of High Court

- Each state has one High Court
- Every High Court comprises of a Chief Justice and other Judges appointed by the President.
- There is no fixed number of Judges for High Court. This varies from Court to Court and from State to State.
- The President may also appoint an Additional Judge in a High Court for two years.



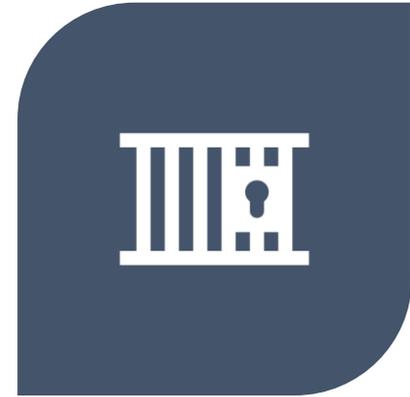
# Qualifications to be appointed as a High Court Judge



MUST BE A CITIZEN OF INDIA



HAS BEEN FOR AT LEAST 5 YEARS A  
JUDGE OF ONE OR OF TWO OR  
MORE HIGH COURTS



HE HAS BEEN FOR AT LEAST 10  
YEARS AN ADVOCATE OF ONE OR  
OF TWO OR MORE HIGH COURT

# Appointment of High Court Judges

- Judges are appointed by the President of India.
- The President appoints the Chief Justice of a High Court after consultation with the Chief Justice of India and the Governor of the State.



# Tenure of High Court Judges

- A judge of a High Court retires at the age of 62 years.
- He may also resign from his office at any time by submitting his/her resignation to The President of India



# Removal of High Court Judges

- The President may remove a judge of a High Court on the ground of “proved misbehaviour” or “incapacity.”
- Approval of the 2/3<sup>rd</sup> majority of both the houses is also needed to go ahead with *impeachment* of HC Judge.

# Salaries of High Court Judges

- Salaries of High Court Judges cannot be changed by Legislative or Executive.
- They can only be changed in case of a Financial Emergency.
- They are also provided housing benefits and other perks.
- The salaries for Judges are paid out of Consolidated Fund of The State.



# Transfer of High Court Judges

- The President of India can transfer Judge from one High Court to Another only if :
  1. It is done in consultation with the Chief Justice of India.
  2. It is done in consultation with 4 Senior most Supreme Court Judges.
  3. It is approved by Chief Justice of High Court 'from' where transfer is taking place and also by the Chief Justice of High Court 'to' where the transfer is taking place.
  4. The High Court Judge being transferred is eligible to additional perks and allowances because of the transfer.

# Prohibition of Practice after Judges' Retirement In the High Courts

- High Court Judges are not allowed to practice law after retirement in the high court.
- This is done to avoid scenarios where High Court Judges give any partial treatment to future employer(s).
- This also avoids the scenario where they can exert influence on former colleagues to sway decisions in their favour.

# Powers and Jurisdiction of High Court

- The High Courts have been given three primary types of powers or Jurisdictions:
  1. Original
  2. Appellate
  3. Administrative
- In addition to this, High Courts also have Revisory Jurisdiction and the Power of Judicial Review.

# Original Jurisdiction

- Under the original jurisdiction, a High Court has the power to issue direction or orders-
  - including writs to any person,
  - authority and any government within its jurisdiction
  - against the violation of the Fundamental Rights of the citizens.
  - election petitions

# Limited Original Jurisdiction

- It has limited original jurisdiction in cases relating to admiralty, will, divorce, marriage, company laws and contempt of Court.

# Appellate Jurisdiction for Civil Cases

- In civil cases: an appeal can be made to the High Court against a district court's decision.
- An appeal can also be made from the subordinate court directly, if the dispute involves a value higher than Rs. 5000/- or on a question of fact or law.

# Appellate Jurisdiction for Criminal Cases

- In criminal cases: it extends to cases decided by Sessions and Additional Sessions Judges.
  - If the sessions judge has awarded an imprisonment for 7 year or more.
  - If the sessions judge has awarded capital punishment.

# Appellate Jurisdiction for Constitutional Cases

- The jurisdiction of the High Court extends to all cases under the State or federal laws.
- In constitutional cases: if the High Court certifies that a case involves a substantial question of law.

# Administrative Jurisdiction

- It superintends and controls all the subordinate courts.
- It can ask for details of proceedings from subordinate courts.
- It issues rules regarding the working of the subordinate courts.
- It can transfer any case from one court to another and can also transfer the case to itself and decide the same.
- It can enquire into the records or other connected documents of any subordinate court.
- It can appoint its administration staff and determine their salaries and allowances, and conditions of service.

# Revisory Jurisdiction

- High Court is empowered to review any judgement of order made by Sub-Ordinate court.
- This is done in case of blatant injustice, error of law, wrong judgements and flagrant error in procedure.

# Power of Judicial Review

- High Courts have the power of judicial review and to declare any law null and void.
- They have the power to declare any law or ordinance unconstitutional if it is found to be against the spirit and provisions of The Indian Constitution.

# High Court – Guardian of Fundamental Rights

- In case of any fundamental rights violation, an individual can directly petition High Court.
- High Court has the power to issue the following writs for the enforcement of the Fundamental rights.
  1. Habeas Corpus
  2. Mandamus
  3. Writ of Prohibition
  4. Writ of Certiorari
  5. Quo-Warranto

# Habeas Corpus

- "Habeas Corpus" is a Latin term which literally means "you may have the body."
- The writ is issued to produce a person who has been detained , whether in prison or in private custody, before a court and to release him if such detention is found illegal.

# Writ of Mandamus

- Mandamus is a Latin word, which means "We Command".
- Mandamus is an order from the Supreme Court or High Court to a lower court or tribunal or public authority to perform a public or statutory duty.
- This writ of command is issued by the Supreme Court or High court when any government, court, corporation or any public authority has to do a public duty but fails to do so.

# Writ of Prohibition

- The Writ of prohibition means to forbid or to stop and it is popularly known as 'Stay Order'. This writ is issued when a lower court or a body tries to transgress the limits or powers vested in it. The writ of prohibition is issued by any High Court or the Supreme Court to any inferior court, or quasi judicial body prohibiting the latter from continuing the proceedings in a particular case, where it has no jurisdiction to try. After the issue of this writ, proceedings in the lower court etc. come to a stop.
- Difference between Prohibition and Certiorari:
  1. While the writ of prohibition is available during the pendency of proceedings, the writ of certiorari can be resorted to only after the order or decision has been announced.
  2. Both the writs are issued against legal bodies.

# Writ of Certiorari

- Literally, Certiorari means to be certified. The writ of certiorari can be issued by the Supreme Court or any High Court for quashing the order already passed by an inferior court, tribunal or quasi judicial authority.
- There are several conditions necessary for the issue of writ of certiorari:
  1. There should be court, tribunal or an officer having legal authority to determine the question with a duty to act judicially.
  2. Such a court, tribunal or officer must have passed an order acting without jurisdiction or in excess of the judicial authority vested by law in such court, tribunal or officer.
  3. The order could also be against the principles of natural justice or the order could contain an error of judgment in appreciating the facts of the case.

# Writ of Quo-Warranto

- The word Quo-Warranto literally means "by what warrants?" or "what is your authority"? It is a writ issued with a view to restrain a person from holding a public office to which he is not entitled. The writ requires the concerned person to explain to the Court by what authority he holds the office. If a person has usurped a public office, the Court may direct him not to carry out any activities in the office or may announce the office to be vacant. Thus High Court may issue a writ of quo-warranto if a person holds an office beyond his retirement age.
- Conditions for issue of Quo-Warranto
  1. The office must be public and it must be created by a statute or by the constitution itself.
  2. The office must be a substantive one and not merely the function or employment of a servant at the will and during the pleasure of another.
  3. There must have been a contravention of the constitution or a statute or statutory instrument, in appointing such person to that office.

# Different Writs

1. Habeas Corpus : "Habeas Corpus" is a Latin term which literally means "you may have the body."
2. Mandamus : Mandamus is a Latin word, which means "We Command."
3. Writ of Prohibition : The Writ of prohibition means to forbid or to stop and it is popularly known as 'Stay Order'
4. Writ of Certiorari : Literally, Certiorari means to be certified. The writ of certiorari can be issued by the Supreme Court or any High Court for quashing the order already passed by an inferior court, tribunal or quasi judicial authority.
5. Quo-Warranto : The word Quo-Warranto literally means "by what warrants?" or "what is your authority"?

# Court of Record

- High Court is a 'Court of Record' as all its Judgements are recorded for evidence and testimony.
- These judgements serve as precedents for Sub-Ordinate courts for reference in similar cases.
- High Court records cannot be questioned when they are presented before Sub-Ordinate Courts.



Thank You

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