

# INDIAN POLITY BY-SUJEET BAJPAI SIR



Whether a Bill is a Money Bill or not is certified by the and his decision is conclusive. 1/85

No Veto

धन विधेयक पर अंतिम निर्णय किसका होता है ?

(a) President

- (b) Chairman of Rajya Sabha
- (c) Speaker of Lok Sabha
  - (d) Chairman of Public Accounts Committee

Power 5



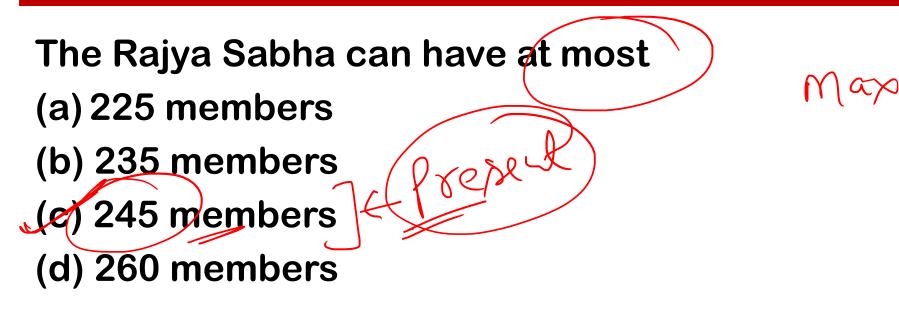
- Consider the following two statements A and B about the 'Question Hour Session of the Parliament and choose the correct answer:
- A. The members of Parliament seek information about the working of the government.
- B. It is a mechanism through which the executive controls the legislature.



संसद के 'प्रश्नकाल सत्र' के सम्बन्ध में A और B दोनों कथनों पर विचार कीजिए और निम्नलिखित विकल्पों में सही सही विकल्प का चयन कीजिए:

 A. सांसद सरकार के कामकाज के बारे में जानकारी प्राप्त करते हैं।
B. यह एक ऐसी व्यवस्था है जिसमें कार्यकारिणी विधायिका को नियंत्रित करती है







Which one of the following statements is not true about the Parliament of India?

- (a) The Parliament in our system has immense powers because it is the representative of the people.
- (b) In the matters dealing with finances, the government does not require Parliament's approval.
- (c) The Parliament while in session, begins with a question hour.
- (d) The Parliament consists of the President, the Rajya Sabha and the Lok Sabha.



Federalism refers to :

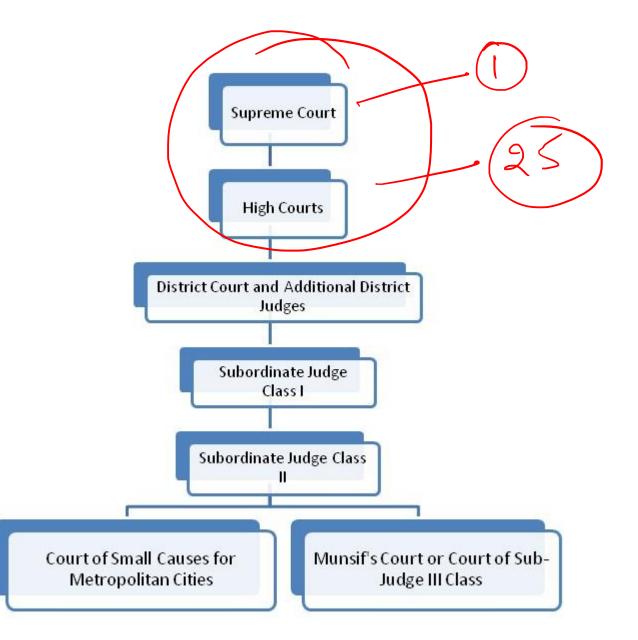
- (a) existence of more than one level of government in the country
- (b) Federation of States to run the country
- (c) only the Central Government has the right to make laws
- (d) Judiciary is the highest authority in the country





## **Judiciary System in India**









# The Supreme Court of India was inaugurated on January 28, 1950.

- It succeeded the Federal Court of India, established under the Government of India Act of 1935.
- However, the jurisdiction of the Supreme Court is greater than that of its predecessor.
- This is because, the Supreme Court has replaced the British Privy Council as the highest court of appeal.



भारत के सर्वोच्च न्यायालय का उद्घाटन 28 जनवरी, 1950 को किया गया था।

यह भारत के संघीय न्यायालय, 1935 के भारत सरकार अधिनियम के तहत स्थापित सफल रहा।

हालांकि, सुप्रीम कोर्ट का क्षेत्राधिकार अपने पूर्ववर्ती की तुलना में अधिक है। इसकी वजह यह है कि सुप्रीम कोर्ट ने ब्रिटिश प्रिवी काउंसिल को सर्वोच्च अपील अदालत के रूप में बदल दिया है ।



124.	Establishment and Constitution of Supreme Court	
<u>× 124A.</u>	National Judicial Appointments Commission	- Repear
124B.	Functions of Commission	Coul
124C.	Power of Parliament to make law	
125.	Salaries, etc., of Judges	
126.	Appointment of <u>acting</u> Chief Justice	
127.	Appointment of <i>ad hoc</i> Judges	
128.	Attendance of retired Judges at sittings of the Supreme Court	-





130.

131

Supreme Court to be a court of record

Seat of Supreme Court

Original jurisdiction of the Supreme Court



Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central Laws (Repealed)



133.

Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases

Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters



134.	Appellate jurisdiction of Supreme Court in regard to criminal matters
134A.	Certificate for appeal to the Supreme Court
135.	Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court
136.	Special leave to appeal by the Supreme Court
137.	Review of judgments or orders by the Supreme Court
138.	Enlargement of the jurisdiction of the Supreme Court



139.	Conferment on the Supreme Court of powers to issue certain writs	
139A.	Transfer of certain cases	
140.	Ancillary powers of Supreme Court	
141.	Law declared by Supreme Court to be binding on all courts	
142.	Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.	
143.	Power of President to consult Supreme Court	



144.	Civil and judicial authorities to act in aid of the Supreme Court	Federal Court
144A.	Special provisions as to disposal of questions relat- ing to constitutional validity of laws (Repealed)	I St I CS
145.	Rules of court, etc.	
146.	Officers and servants and the expenses of the Supreme Court	1 M. Gwyer
147.	Interpretation	



• There are currently 32 judges (including the Chief Justice of India) and maximum possible strength is 34.

34=) 1+33

Sept - 2020)

• Originally, the strength of the Supreme Court was fixed at eight (one chief justice and seven other judges).

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#### **Appointment of Judges**

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- The judges of the Supreme Court are appointed by the president.
- The chief justice is appointed by the president after consultation with such judges of the Supreme Court and high courts as he deems necessary.



### न्यायाधीशों की नियुक्ति

### सुप्रीम कोर्ट के जजों की नियुक्ति राष्ट्रपति द्वारा की जाती है।

मुख्य न्यायाधीश की नियुक्ति राष्ट्रपति द्वारा उच्चतम न्यायालय और उच्च न्यायालयों के ऐसे न्यायाधीशों के साथ परामर्श के बाद की जाती है जैसा कि वह आवश्यक समझे ।



The other judges are appointed by president after consultation with the chief justice and such other judges of the Supreme Court and the high courts as he deems necessary.

अन्य न्यायाधीशों की नियुक्ति राष्ट्रपति दवारा मुख्य न्यायाधीश और उच्चतम न्यायालय और उच्च न्यायालयों के ऐसे अन्य न्यायाधीशों के साथ परामर्श के बाद की जाती है जैसा कि वह आवश्यक समझे ।



- The consultation with the chief justice is obligatory in the case of appointment of a judge other than Chief justice.
- **Controversy over Consultation** The Supreme Court has given different interpretation of the word 'consultation' in the above provision.
- In the First Judges case (1982), the Court held that consultation does not mean concurrence and it only implies exchange of views.



मुख्य न्यायाधीश के अलावा अन्य न्यायाधीश की नियुक्ति के मामले में मुख्य न्यायाधीश के साथ परामर्श वाजिब है।

परामर्श पर विवाद उच्चतम न्यायालय ने उपर्युक्त प्रावधान में परामर्श शब्द की अलग-अलग व्याख्या की है।

पहले न्यायाधीशों के मामले (1982) में न्यायालय ने कहा कि परामर्श का अर्थ सहमति नहीं है और इसका तात्पर्य केवल विचारों के आदान-प्रदान से है।



But, in the Second Judges case (1993), the Court reversed its earlier ruling and changed the meaning of the word consultation to concurrence.

Hence, it ruled that the advice tendered by the Chief Justice of India is binding on the President in the matters of appointment of the judges of the Supreme Court.



लेकिन, दूसरे न्यायाधीशों के मामले (1993) में न्यायालय ने अपने पहले के फैसले को उलट दिया और सहमति के लिए परामर्श शब्द का अर्थ बदल दिया।

इसलिए, इसने यह व्यवस्था दी कि भारत के मुख्य न्यायाधीश द्वारा दी गई सलाह उच्चतम न्यायालय के न्यायाधीशों की नियुक्ति के मामलों में राष्ट्रपति के लिए बाध्यकारी है ।



But, the Chief Justice would tender his advice on the matter after consulting two of his seniormost colleagues.

Similarly, in the Third Judges case (1998), the Court opined that the consultation process to be adopted by the Chief justice of India requires 'consultation of plurality judges'.



लेकिन, मुख्य न्यायाधीश अपने दो वरिष्ठतम सहयोगियों से परामर्श करने के बाद इस मामले पर अपनी सलाह देंगे ।

इसी प्रकार, तृतीय न्यायाधीशों के मामले (1998) में न्यायालय ने यह राय दी कि भारत के मुख्य न्यायाधीश दवारा अपनाई जाने वाली परामर्श प्रक्रिया में बहुलता न्यायाधीशों के परामर्श की आवश्यकता है।



The sole opinion of the chief justice of India does not constitute the consultation process.

He should consult a collegium of four seniormost judges of the Supreme Court and even if two judges give an adverse opinion, he should not send the recommendation to the government.

भारत के मुख्य न्यायाधीश की एकमात्र राय परामर्श प्रक्रिया का गठन नहीं करती है।

उन्हें सुप्रीम कोर्ट के चार वरिष्ठतम न्यायाधीशों के कॉलेजियम से सलाह लेनी चाहिए और अगर दो जज प्रतिकृल राय देते हैं तो भी उन्हें सिफारिश सरकार को नहीं भेजनी चाहिए।



#### National Judicial Appointments Commission

The 99th Constitutional Amendment Act of 2014 and the National Judicial Appointments Commission Act of 2014 have replaced the collegium system of appointing judges to the Supreme Court and High Courts with a new body called the National Judicial Appointments Commission (NJAC).



### राष्ट्रीय न्यायिक नियुक्ति आयोग

2014 के 99 वें संविधान संशोधन अधिनियम और 2014 के राष्ट्रीय न्यायिक नियुक्ति आयोग अधिनियम ने न्यायाधीशों की नियुक्ति की कॉलेजियम प्रणाली को राष्ट्रीय न्यायिक नियुक्ति आयोग (एनजेएसी) नामक एक नई संस्था के साथ उच्चतम न्यायालय और उच्च न्यायालयों में बदल दिया है।



However, in 2015, the Supreme Court has declared both the 99th Constitutional Amendment as well as the NJAC Act as unconstitutional and void.

Consequently, the earlier collegium system became operative again.

हालांकि 2015 में सुप्रीम कोर्ट ने 99वें संविधान संशोधन के साथ-साथ एनजेएसी एक्ट दोनों को असंवैधानिक और शून्य घोषित कर दिया है। नतीजतन पहले की कोलेजियम व्यवस्था फिर से ऑपरेटिव हो गई।



This verdict was delivered by the Supreme Court in the Fourth Judges case (2015).

The court opined that the new system (i.e., NJAC) would affect the independence of the judiciary.

यह फैसला सुप्रीम कोर्ट ने चौथे जजों के मामले (2015) में दिया था। कोर्ट ने राय दी कि नई व्यवस्था (यानी एनजेएसी) से न्यायपालिका की स्वतंत्रता प्रभावित होगी।







**Qualifications of Judges** 

- A person to be appointed as a judge of the Supreme Court should have the following qualifications:
- 1. He should be a citizen of India,
- 2. (a) He should have been a judge of a High Court (or high courts in succession) for five years; or
- (b) He should have been an advocate of a High Court (or High Courts in succession) for ten years;



न्यायाधीशों की योग्यता उच्चतम न्यायालय के न्यायाधीश के रूप में नियुक्त किए जाने वाले व्यक्ति के पास निम्नलिखित योग्यताएं होनी चाहिए:

 वह भारत का नागरिक होना चाहिए।
(क) उन्हें पांच वर्षों तक उच्च न्यायालय (या उत्तराधिकार में उच्च न्यायालयों) का न्यायाधीश होना चाहिए था; या
(ख) उन्हें दस वर्षों तक उच्च न्यायालय (या उत्तराधिकार में उच्च न्यायालयों) का अधिवक्ता होना चाहिए था;



or (c) He should be a distinguished jurist in the opinion of the president.

(NO Judge

From the above, it is clear that the Constitution has not prescribed a minimum age for appointment as a judge of the Supreme Court.

या (ग) राष्ट्रपति की राय में उन्हें एक प्रतिष्ठित न्यायविद) होना चाहिए । ऊपर से यह स्पष्ट है कि संविधान में सुप्रीम कोर्ट के न्यायाधीश के रूप में नियुक्ति के लिए न्यूनतम आयु निर्धारित नहीं की गई है।



#### **Tenure of Judges**

The Constitution has not fixed the tenure of a judge of the Supreme Court.

However, it makes the following three provisions in this regard:

1. He holds office until he attains the age of 65 years. Any question regarding his age is to be determined by such authority and in such manner as provided by Parliament.



न्यायाधीशों का कार्यकाल संविधान ने सुप्रीम कोर्ट के किसी जज का कार्यकाल तय नहीं किया है। हालांकि, यह इस संबंध में निम्नलिखित तीन प्रावधान करता है:

 वह तब तक पद धारण करता है जब तक कि वह 65 वर्ष की आयु प्राप्त नहीं कर ले। उनकी आयु के संबंध में कोई भी प्रश्न ऐसे प्राधिकारी द्वारा और संसद द्वारा प्रदान किए गए इस प्रकार से निर्धारित किया जाना है।



He can resign his office by writing to the president.
He can be removed from his office by the President on the recommendation of the Parliament.

 वह राष्ट्रपति को पत्र लिखकर अपने पद से इस्तीफा दे सकते हैं।
संसद की सिफारिश पर राष्ट्रपति द्वारा उन्हें उनके पद से हटाया जा सकता है।



Removal motion singed by the 100 members(in case of Lok Sabha) or 50 members (in case of Rajya Sabha) is to be submitted to the Speaker/Chairman.

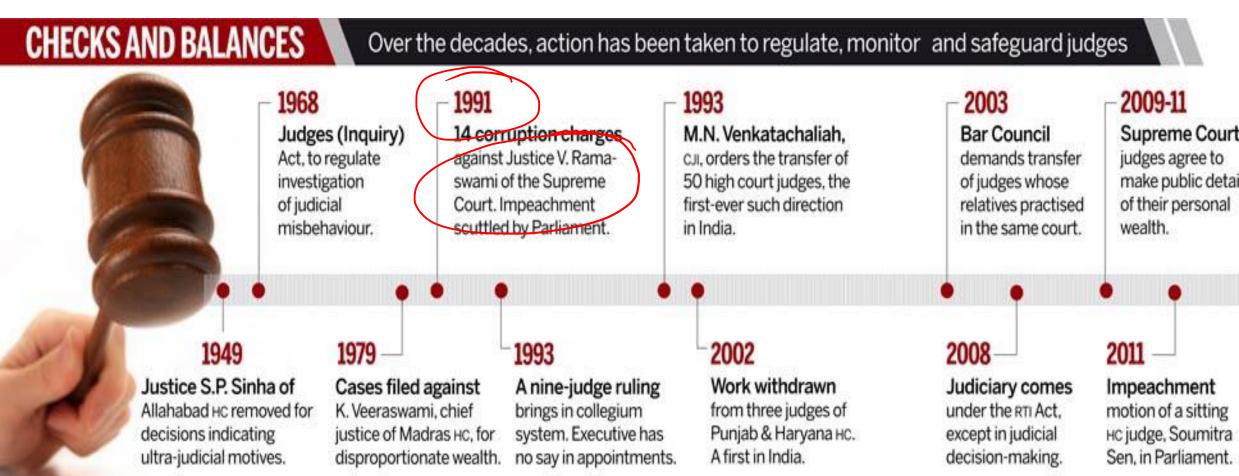
> The President signs on it and the judge is removed from the post.

Passed motion sent to the President



motion must be passed by the both houses by special majority



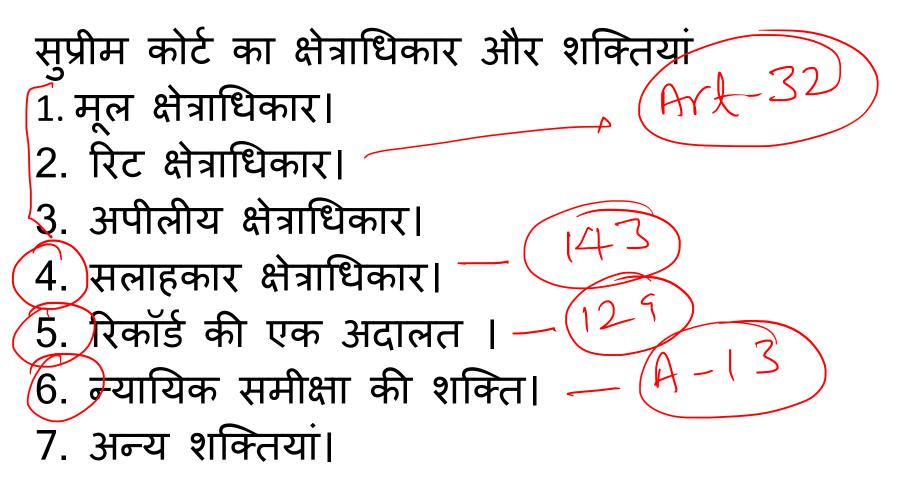




# Jurisdiction and Powers of Supreme Court

- 1. Original Jurisdiction. -
- 2. Writ Jurisdiction.
- 3. Appellate Jurisdiction. <
- 4. Advisory Jurisdiction.
- 5. A Court of Record.
- 6. Power of Judicial Review.
- 7. Other Powers.







# **1. Original Jurisdiction**

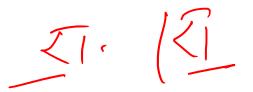
As a federal court, the Supreme Court decides the disputes between different units of the Indian Federation. More elaborately, any dispute between:

(a) the Centre and one or more states; or —



(b) the Centre and any state or states on one side and one or more states on the other; or

(c) between two or more states.





- In 1961, the first suit, under the original jurisdiction of the Supreme Court, was brought by West Bengal against the Centre.
- The State Government challenged the Constitutional validity of the Coal Bearing Areas (Acquisition and Development) Act, 1957, passed by the Parliament.
- However, the Supreme Court dismissed the suit by upholding the validity of the Act.



# 2. Writ Jurisdiction

The Constitution has constituted the Supreme Court as the guarantor and defender of the fundamental rights of the citizens.

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However, the writ jurisdiction of the Supreme Court is not exclusive.

The high courts are also empowered to issue writs for the enforcement of the Fundamental Rights.

It means, when the Fundamental Rights of a citizen are violated, the aggrieved party has the option of moving either the high court or the Supreme Court directly.



There is also a difference between the writ jurisdiction of the Supreme Court and that of the high court.

The Supreme Court can issue writs only for the enforcement of the Fundamental Rights and not for other purposes.



The high court, on the other hand, can issue writs not only for the enforcement of the fundamental rights but also for other purposes. It means that the writ jurisdiction of the high court is wider than that of the Supreme Court.



#### 3. Appellate Jurisdiction

As mentioned earlier, the Supreme Court has not only succeeded the Federal Court of India but also replaced the British Privy Council as the highest court of appeal.

The Supreme Court is primarily a court of appeal and hears appeals against the judgements of the lower courts.



- It enjoys a wide appellate jurisdiction which can be classified under four heads:
- (a)Appeals in constitutional matters.
- (b) Appeals in civil matters.
- (c) Appeals in criminal matters.
- (d) Appeals by special leave.



# Appeal by Special Leave (Article 136)

The Supreme Court is authorised to grant in its discretion special leave to appeal from any judgement in any matter passed by any court or tribunal in the country (except military tribunal and court martial).



## 4. Advisory Jurisdiction

The Constitution (Article 143) authorises the president to seek the opinion of the Supreme Court in the two categories of matters:

(a)On any question of law or fact of public importance which has arisen or which is likely to arise.

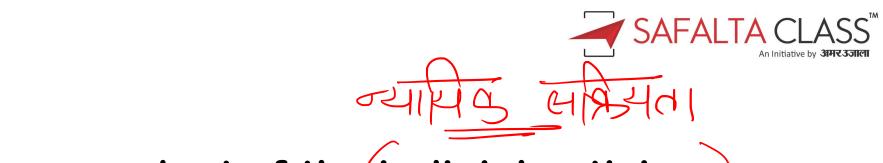
(b) On any dispute arising out of any preconstitution treaty, agreement, covenant, engagement, sanador other similar instruments



- In the first case, the Supreme Court may tender or may refuse to tender its opinion to the president. But, in the second case, the Supreme Court 'must' tender its opinion to the president.
- In both the cases, the opinion expressed by the Supreme Court is only advisory and not a judicial pronouncement.
- Hence, it is not binding on the president; he may follow or may not follow the opinion.







In India, the PIL is a product of the judicial activism role of the Supreme Court.

It was introduced in the early 1980s. Justice V.R. Krishna Iyer and Justice P.N. Bhogwati



# **Meaning of PIL**

The introduction of PIL in India was facilitated by the relaxation of the traditional rule of 'locus standi'.

According to this rule, only that person whose rights are infringed alone can move the court for the remedies, whereas, the PIL is an exception to this traditional rule.





Justice Fathima Beevi became the first female judge who was appointed to the Supreme Court of India in 1989.



Justice Indu Malhotra, who took oath as a judge of the Supreme Court on April 27, has been in the news for being the first woman advocate to be directly elevated to the Supreme Court from the Bar.



She is the seventh woman judge of the Supreme Court, after Justice M. Fathima Beevi, Justice Sujata V. Manohar, Justice Ruma Pal, Justice Gyan Sudha Misra, Justice Ranjana Prakash Desai and Justice R. Banumati.







Articles 214 to 231 in Part VI of the Constitution deal with the organisation, independence, jurisdiction, powers, procedures and so on of the high courts.



The institution of high court originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras.

In 1866, a fourth high court was established at Allahabad.

There are 25 High Courts in India. Candidates can find the list of High Courts in India at the linked article.



List of High Courts in India			
Year	Name	Territorial Jurisdiction	Seat & Bench
1862	Bombay	Maharashtra Dadra & Nagar Haveli Goa Daman Diu	Seat: Mumbai Bench: Panaji, Aurangabad, and Nagpur
1862	Kolkata	West Bengal Andaman & Nicobar islands	Seat: Kolkata Bench: Port Blair
1862	Madras	Tamil Nadu Pondicherry	Seat: Chennai Bench: Madurai



1866	Allahabad	Uttar Pradesh	Seat: Allahabad Bench: Lucknow
1884	Karnataka	Karnataka	Seat: Bengaluru Bench: Dharwad and Gulbarga
1916	Patna	Bihar	Patna
1928	Jammu & Kashmir	Jammu & Kashmir	Srinagar and Jammu



Assam	
1948   Guwahati   Nagaland   Seat: Guwahati     1948   Mizoram   Bench: Kohima, Aizawl, and Imagen and Im	tanagar
1949 Odisha Odisha Cuttack	
1949 Rajasthan Rajasthan Bench: Jaipur	
1956 Madhya Pradesh Madhya Pradesh Bench: Gwalior and Indore	
1958 Kerala Kerala & Lakshadweep Ernakulam	
1960 Gujarat Gujarat Ahmedabad	
1966 Delhi Delhi	



1971	Himachal Pradesh	Himachal Pradesh	Shimla
1975	Punjab & Haryana	Punjab, Haryana & Chandigarh	Chandigarh
1975	Sikkim	Sikkim	Gangtok
2000	Chattisgarh	Chattisgarh	Bilaspur
2000	Uttarakhand	Uttarakhand	Nainital
2000	Jharkhand	Jharkhand	Ranchi



2013	Tripura	Tripura	Agartala
2013	Manipur	Manipur	Imphal
2013	Meghalaya	Meghalaya	Shillong
2019	Telangana	Telangana	Hyderabad
2019	Andhra Pradesh	Andhra Pradesh	Amravati



The Constitution of India provides for a high court for each state, but the Seventh Amendment Act of 1956 authorised the Parliament to establish a common high court for two or more states or for two or more states and a union territory.

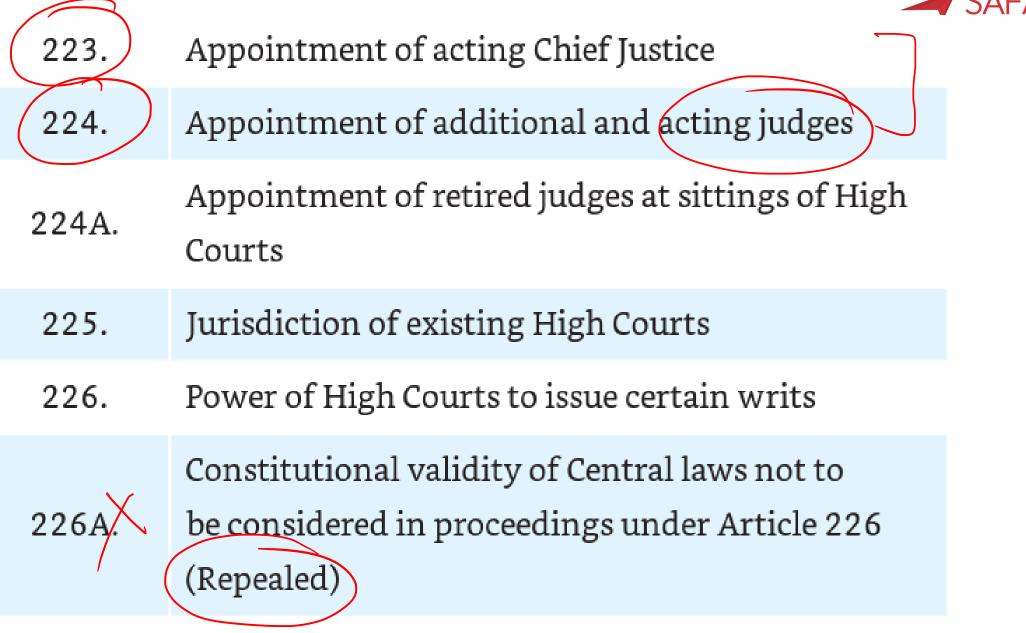






217.	Appointment and conditions of the office of a Judge of a High Court
218.	Application of certain provisions relating to Supreme Court to High Courts
219.	Oath or affirmation by judges of High Courts
220.	Restriction on practice after being a permanent judge
221.	Salaries etc., of judges
222.	Transfer of a judge from one High Court to another







227. Power of superintendence over all courts by the High Court

228. Transfer of certain cases to High Court

Special provisions as to disposal of questions relating to constitutional validity of state laws (Repealed)

229. Officers and servants and the expenses of High Courts

230. Extension of jurisdiction of High Courts to union territories



#### **Jurisdiction and Powers of High Court**

At present, a high court enjoys the following jurisdiction and powers:

- 1. Original jurisdiction.
- 2. Writ jurisdiction.



- 3. Appellate jurisdiction.
- 4. Supervisory jurisdiction.
- 5. Control over subordinate courts.
- 6. A court of record.
- 7. Power of judicial review.



### **1. Original Jurisdiction**

It means the power of a high court to hear disputes in the first instance, not by way of appeal. It extends to the following:

(a) Matters of admirality, will, marriage, divorce, company laws and contempt of court



- (b) Disputes relating to the election of members \_\_\_\_\_ of Parliament and state legislatures.
- (c) Regarding revenue matter or an act ordered or done in revenue collection.
- (d) Enforcement of fundamental rights of citizens.



#### NOTE:

# In the Chandra Kumar case (1997), the

Supreme Court ruled that the writ jurisdiction of both the high court and the Supreme Court constitute a part of the basic structure of the Constitution.

Hence, it cannot be ousted or excluded even by way of an amendment to the Constitution.



Appointment of Judges The judges of a high court are appointed by the President. The chief justice is appointed by the President after consultation with the chief justice of India and the governor of the state concerned.



For appointment of other judges, the chief justice of the concerned high court is also consulted. In case of a common high court for two or more states, the governors of all the states concerned are consulted by the president.



#### **Qualifications of Judges**

- A person to be appointed as a judge of a high court, should have the following qualifications:
- 1. He should be a citizen of India.
- 2. (a) He should have held a judicial office in the territory of India for ten years; or
- (b) He should have been an advocate of a high court (or high courts in succession) for ten years.



# **Subordinate Courts**



#### Articles 233 to 237 in Part VI



## National Legal Services Authority

#### Article 39A of the Constitution of India provides for free legal aid to the poor and weaker sections of the society and ensures justice for all



Articles 14 and 22(1) of the Constitution also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on the basis of equal opportunity to all.



In the year 1987, the Legal Services Authorities Act was enacted by the Parliament which came into force on 9th November, 1995 to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of the society on the basis of equal opportunity.



#### Lok Adalats

Lok Adalat is a forum where the cases (or disputes) which are pending in a court or which are at pre-litigation stage (not yet brought before a court) are compromised or settled in an amicable manner.



- The Supreme Court has explained the meaning of the institution of Lok Adalat in the following way:
- The 'Lok Adalat' is an old form of adjudicating system prevailed in ancient India and it's validity has not been taken away even in the modern days too.
- The word 'Lok Adalat' means 'People's Court'. This system is based on Gandhian principles.

The first Lok Adalat camp in the postindependence era was organized organized in Gujarat in 1982. This initiative proved very successful in the settlement of disputes.

The award by the Lok Adalat is binding on the parties and it has the status of a decree of a civil court and it is non-appealable, which does not cause the delay in the settlement of disputes finally.

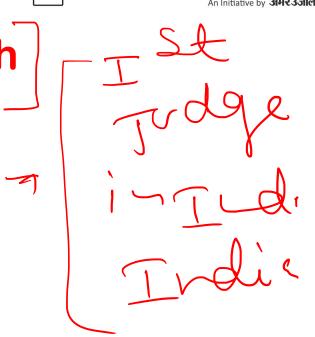
ΔΕΔΙΤ





#### Justice Anna Chandy: The First Female High Court Judge Of India \_\_\_\_\_







It is also contested that she is most likely the second woman in the world to become a high court judge after USA's Florence Allen who was appointed as a judge in 1922.





HC की पहली <u>(</u>], SAFALTA CLASS + H1-



Leila Seth (20 October 1930 – 5 May 2017) was the first woman judge on the Delhi High Court and she became the first woman to become Chief Justice of a state High Court on 5 August 1991.