Subject Name: Constitution Law
Topic Name: Jurisdiction of Supreme Court of India

Table of Content:-

Introduction..... 1
Court of Record..... 2
Original Jurisdiction..... 2
Appellate Jurisdiction..... 3
Appeal By Special Leave..... 4
Review..... 5
Advisory Jurisdiction..... 5
Inherent Powers..... 6

Introduction

Embedded within the intricate fabric of India's constitutional framework lies the majestic institution known as the Supreme Court. Endowed with formidable powers and responsibilities, it stands as the pinnacle of justice in the nation's legal hierarchy. Central to its function is the dual role it assumes: as a court of record and as the ultimate arbiter of law.

In its capacity as a court of record, the Supreme Court meticulously documents its proceedings, actions, and rulings, ensuring their enduring authenticity and admissibility as evidence. This designation not only underscores the court's pivotal role in shaping legal precedent but also signifies its commitment to transparency and accountability. Yet, with this authority comes the solemn duty to uphold the sanctity of the law and to wield its powers judiciously, as exemplified by its ability to penalise contemptuous behaviour when the public interest demands.

Moreover, the Supreme Court exercises a distinctive jurisdiction, both original and appellate, that reflects its paramount position within India's judicial landscape. Its exclusive original jurisdiction extends to disputes of paramount significance, such as those between the Union and State governments, while its appellate jurisdiction encompasses a broad spectrum of civil, criminal, and constitutional matters, offering the final bastion of justice for aggrieved parties.

At the heart of its appellate jurisdiction lies Article 136, which confers upon the Supreme Court the discretionary power to grant special leave to appeal, thereby ensuring that justice is not only done but is manifestly seen to be done. This extraordinary authority, wielded sparingly and with utmost caution, epitomises the court's role as the guardian of justice and the protector of individual rights.

Furthermore, the Supreme Court's advisory jurisdiction under Article 143 bestows upon it a unique responsibility to offer guidance on matters of profound public importance, at the behest of the

President. While its opinions are advisory in nature, they carry significant weight and serve as a beacon of legal clarity in times of uncertainty.

Inherent within its constitutional mandate are the inherent powers conferred by Article 142, which empower the Supreme Court to take measures necessary to ensure complete justice. This expansive authority underscores the court's adaptability and its capacity to evolve legal principles that serve the ever-changing needs of society.

The Supreme Court stands as a bastion of justice, embodying the principles of equity, fairness, and constitutionalism. Its steadfast commitment to upholding the rule of law ensures that it remains not just a symbol of justice but the very embodiment of it in the fabric of India's democratic ethos.

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Court of Record

Art. 129 stipulates that the Supreme Court holds the status of a 'court of record' and is endowed with all the powers associated with such a designation. As the apex judicial body of the nation, its proceedings, actions, and rulings are meticulously documented for perpetual reference and as admissible evidence to elucidate the law when required.

Being a court of record signifies that its records carry indisputable authenticity and can be admitted as evidence without challenge in any court, as established in the case of **Daphtary v Gupta (AIR 1971 SC 1132).**

Furthermore, the designation as a court of record also entails the authority to penalise itself for contempt. However, this authority is wielded judiciously and only in compelling circumstances where the public interest necessitates, as evidenced in the case of **Hira Lal v State of U.P. (AIR 1954 SC 743)**.

It's crucial to note that legitimate and constructive criticism of the court and its operations is not hindered by this designation. Fair and reasoned critique of judicial actions, undertaken in the interest of the public good, does not amount to contempt.

Original Jurisdiction

Original Exclusive Jurisdiction refers to the authority to initially hear and resolve a dispute. The Supreme Court possesses an 'exclusive' original jurisdiction, encompassing disputes such as those between the Government of India and one or more States, between different States, or between the Government of India and one or more States versus other States. Additionally, these disputes must pertain to questions, whether legal or factual, upon which the existence or scope of a legal right hinges, as delineated in Article 131.

However, this jurisdiction does not extend to disputes arising from treaties, agreements, covenants, or other instruments in effect prior to the Constitution's commencement, or those expressly excluding the jurisdiction of the Supreme Court, as stated in the proviso of Article 131.

Article 131 commences with a proviso stipulating its applicability "Subject to the provisions of this Constitution," indicating that its jurisdiction is subject to other constitutional provisions. Moreover, parliamentary legislation may further exclude the Supreme Court's jurisdiction in specific matters, such as interstate water disputes, matters referred to the Finance Commission, and certain financial adjustments between the Union and the States.

Private individuals cannot bring suits against the Government of India in the Supreme Court under its original jurisdiction, except in cases of fundamental rights violations. Similarly, states cannot seek recovery of damages against the Government of India under Article 131 for ordinary commercial disputes.

Furthermore, disputes brought before the Supreme Court must involve questions crucial to the existence or extent of a legal right, excluding matters of a purely political nature.

In the case cited, it was affirmed that the term "State" in Article 131 encompasses State Governments as well. The dispute arose from a directive issued by the Government of India regarding the dissolution of Legislative Assemblies in Congress-ruled States following the party's defeat in the 1977 Lok Sabha elections. The court held that disputes between the Central and State Governments concerning legal rights, such as the exercise of power under Article 356 regarding State Legislatures, fall within the ambit of Article 131.

Appellate Jurisdiction

The Supreme Court holds the ultimate appellate authority in the nation, with its appellate jurisdiction extending to civil, criminal, and constitutional matters as outlined in Articles 132-135.

According to Article 132, an appeal can be made to the Supreme Court from any final judgement, decree, or order of a High Court within the territory of India, across civil, criminal, or other proceedings, provided the High Court certifies under Article 134A that the case involves a substantial question of law pertaining to the interpretation of the Constitution. Upon such certification, any party involved in the case may appeal to the Supreme Court on the grounds that such a question has been erroneously decided.

In civil matters, an appeal lies with the Supreme Court from a judgement, decree, or final order of a High Court if the High Court certifies under Article 134A that a substantial question of law of general importance is involved and deems it necessary for the Supreme Court to adjudicate on the matter, as stated in Article 133. Therefore, the High Court must provide both a certificate of appeal fitness to the Supreme Court and express the opinion that the case warrants Supreme Court adjudication.

Regarding criminal cases, an appeal to the Supreme Court is permitted from a High Court's judgement, decree, or final order if the High Court, on appeal, has reversed an order of acquittal and awarded a death sentence, or if it has transferred a case from a subordinate court for its trial and convicted the accused with a death sentence, among other specified cases outlined in Article 134(1). In the first two scenarios, an appeal can be made to the Supreme Court without the need for the High Court's certification; the accused can appeal independently.

The term "acquittal" in Article 134(1)(a) is not confined to complete acquittal but also includes instances where the accused has been acquitted of murder charges but convicted of a lesser offence, as clarified in Tarachand v State of Maharashtra (AIR 1962 SC 130).

Under Article 134(1)(c), an appeal against a High Court's decision can be filed before the Supreme Court if the High Court certifies under Article 134A that the case is suitable for Supreme Court appeal. However, such appeals are subject to Supreme Court rules and conditions stipulated by the High Court.

The grant of a certificate by the High Court for criminal appeals to the Supreme Court is contingent upon whether the case involves a substantial question of law necessitating urgent Supreme Court consideration and whether injustice would befall the accused without Supreme Court intervention. Therefore, a certificate cannot be issued by the High Court solely on factual grounds.

The High Court may grant the certificate under Article 134A either suo moto or upon the oral application of the aggrieved party, with an obligation to decide on the certificate immediately after passing the judgement, decree, final order, or sentence.

Article 135 mandates that the Supreme Court shall exercise the jurisdiction of the erstwhile Federal Court under any existing law if Articles 133 and 134 do not apply to the case and if the case falls within the jurisdiction that the Federal Court was empowered to entertain.

Appeal By Special Leave

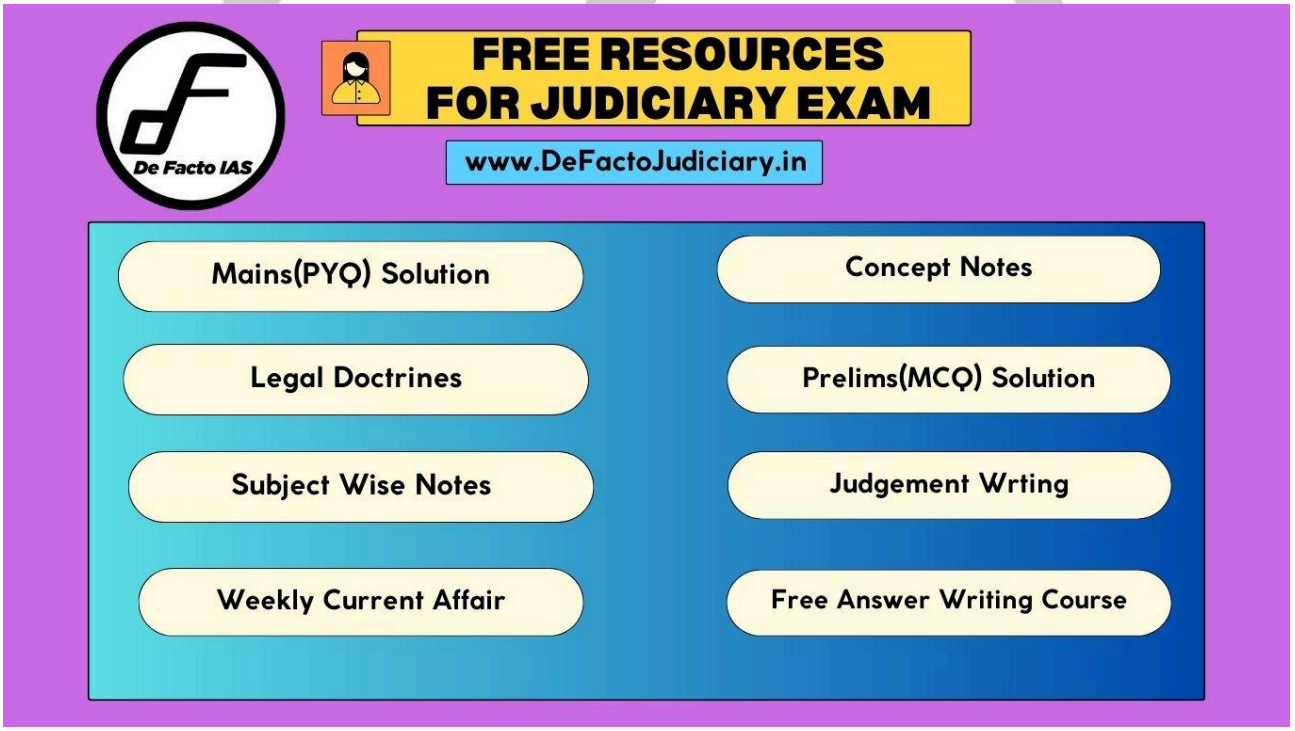
Article 136 empowers the Supreme Court to grant special leave to appeal from any judgement, decree, determination, sentence, or order made by any court or tribunal within the territory of India. This grant of special leave, commonly referred to as a 'Special Leave Petition' (SLP), provides the Supreme Court with broad discretionary powers, surpassing those of the High Courts under Article 134. The Supreme Court may exercise this discretion to grant special leave against judgments of any court or tribunal, except military courts, across civil, criminal, or revenue matters.

However, the Supreme Court has articulated that it will only grant special leave in cases where a "gross miscarriage of justice" has occurred, such as a disregard for legal process or the violation of principles of natural justice, or where the lower court or tribunal has erred in law. In instances where the judgement of the lower court shocks the conscience and undermines the sense of justice, the Supreme Court will intervene.

Article 136 confers upon the Supreme Court a wide discretionary authority, akin to a residual or reserve power, which cannot be exhaustively defined. This extraordinary jurisdiction, exercised outside the purview of ordinary law, must be exercised judiciously and sparingly.

The Constitution deliberately refrains from imposing limitations on the exercise of this jurisdiction, entrusting the Apex Court with implicit trust and faith. However, the Supreme Court has imposed a self-limitation by discouraging parties from directly approaching it under Article 136 instead of first seeking recourse through the High Court under Article 226.

In appeals under Article 136, the Supreme Court refrains from interfering with concurrent findings of fact unless it is demonstrated that the finding is devoid of evidence, perverse, based on inadmissible evidence, or has overlooked vital evidence. Additionally, the Supreme Court does not permit appellants to introduce new pleas for the first time during such appeals.



In instances where the State fails to appeal against an acquittal by the High Court, private parties are permitted to file appeals under Article 136 against the acquittal order, as affirmed in **Ramakant Rai v Madan Rai (AIR 2004 SC 77)**. It's essential to distinguish the appellate power under Article 136 from the ordinary appellate power exercised by appellate courts or tribunals.

Importantly, the jurisdiction conferred by Article 136 cannot be curtailed or revoked by any legislation subordinate to the Constitution. Moreover, for an appeal to be maintainable under Article

136, the order must be judicial or quasi-judicial in nature, emanating from a court or tribunal within the territory of India, and not merely executive or administrative.

Review

Article 137 provides the Supreme Court's authority to review its own judgments and orders, albeit subject to parliamentary legislation and Rules framed by the Apex Court under Article 145.
Hence, the power of review is not inherently vested but must be expressly conferred by law, whether specifically or implicitly.

According to the Rules, a review petition must be submitted before the same Bench that rendered the judgement subject to review. These Rules stipulate that the Court may review its judgments based on the grounds specified in **Order 47, Rule 1** of the Civil Procedure Code, 1908, which include the discovery of new and significant matter or evidence, the identification of any mistake or error evident on the record, or any other valid and substantial reason.

Advisory Jurisdiction

Article 143 of the Constitution grants the Supreme Court advisory jurisdiction. The President has the authority to seek the Court's opinion on any question of law or fact of public importance that has arisen or is likely to arise, and on which he deems it necessary to obtain such an opinion. Upon such reference, the Supreme Court, after conducting hearings as it deems appropriate, may report its opinion to the President.

The President's power under Article 143 is discretionary, and the Court cannot compel the President to exercise this power. It is solely the President's prerogative to determine the questions to be referred to the Supreme Court. The opinion rendered by the Court is advisory in nature and may be followed or disregarded by the President. The first such reference occurred in the **Re Delhi Laws case (1951) SCR 747**. Notably, while advisory jurisdiction is absent in the constitutions of the USA and Australia, it exists in Canada. Additionally, a Governor cannot seek advice from a High Court.

Furthermore, the Supreme Court is not obligated to respond to a reference made by the President and retains discretion in this matter. However, for significant reasons, it may decline to express an opinion on the question posed. Although the advisory opinion of the Court commands great respect, it is not legally binding on all courts since it does not constitute law as defined in Article 141 **(Re Kerala Education Bill Case AIR 1958 SC 956)**.

Nonetheless, in the Re Special Courts Bill case (AIR 1979 SC 448), the Court clarified that its views under Article 143 are binding on all courts. The Court recommended that the reference be specific rather than vague and general, or else the courts would not be obligated to respond. The Supreme Court has rendered advisory opinions on crucial issues such as the Cauvery dispute, Ayodhya dispute, and the appointment and transfer of judges.

Additionally, the President may seek the Supreme Court's opinion on any treaty, agreement, covenant, engagement, sanad, or similar instrument executed before the Constitution's

commencement and still in effect thereafter. In matters excluded from the Supreme Court's original jurisdiction, the Court is obliged to provide its opinion. Article 143(2) specifies: "The President may, notwithstanding anything in the proviso to Article 131, refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion, and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon."

Inherent Powers

Article 142(1) grants the Supreme Court the authority to pass decrees or orders deemed necessary to ensure complete justice in matters before it. These decrees and orders are enforceable throughout India, as prescribed by Parliament. Until Parliament provides such provisions, the President determines the manner of enforcement.

However, inherent powers under Article 142 cannot be invoked if alternative remedies, such as review, are available and have already been utilised. These inherent powers are specifically intended to rectify orders when no other remedies are accessible.

The scope of power under Article 142 is extensive, allowing the Court to formulate legal principles to serve the ends of justice. The objective of this Article is to empower the court to establish legal doctrines, issue directives, or make orders deemed necessary to ensure complete justice.

As stated in **E.S.P. Rajaram v Union of India (AIR 2001 SC 581),** this provision imposes no limitations on the circumstances or causes in which the power may be exercised, and its exercise is left entirely to the Court's discretion. However, this power cannot override express legal provisions and should not be exercised when there is no legal basis for an action.

Subject to any laws enacted by Parliament, Article 142(2) grants the Supreme Court the power to make any order necessary to secure the attendance of individuals, the discovery or production of documents, or the investigation or punishment of contempt of court, across the entirety of India.

Additionally, to ensure compliance with the Supreme Court's directives and decisions, all authorities, both civil and judicial, throughout India are subordinated to the authority of the Supreme Court. These authorities are mandated to "act in aid of the Supreme Court," as stipulated in Article 144.