AILET

Article 32 of Indian Constitution: Everything to Know for CLAT

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CLAT, in its Current Affairs and Legal Reasoning sections, sometimes asks legal terms and concepts. Newspapers are a great source for covering these concepts. You might have read about writs under Article 32 of Indian Constitution. Here is everything you need to know about it for CLAT.

Article 32 of Indian Constitution has granted the Supreme Court and the High Courts, the power to issue writs to protect the fundamental rights of the citizens. These writs were borrowed from the English Law, where they were called 'Prerogative Writs'. The Supreme Court can utilise this power under Article 32 of the Constitution, while the High Courts can do that through Article 226.

Fun fact: BR Ambedkar had called Article 32, the 'Heart and Soul of the Indian Constitution'.

What are Writs?

Writs are written orders, obtained from the Supreme Court or the High Court, which gives out commands to a person/authority to do an act or abstain from doing something. While citizens can approach the Supreme Court for the same only in matters where their fundamental rights have been infringed, they can approach the High Courts for matters other than the infringement of fundamental rights too.

Writs were originally introduced through the Regulating Act, 1773, which had established the Supreme Court at Calcutta. This Act had also established the other High Courts and these courts also had analogous power to issue writs.

What are the different kinds of Writs under Article 32 of Indian Constitution?

There are 5 types of writs under the Constitution. These are as follows:

1. Habeas Corpus:

The Latin meaning of the term ‘Habeas Corpus’ is ‘You may have the body’. The intended purpose of this writ is to release a person who has been detained unlawfully, in prison or in private custody.

The court can direct the person or authority who has detained another person, to bring the body of the prisoner before the court to examine and determine the validity, jurisdiction or justification for such detention. So, this right protects the fundamental right of a citizen against unlawful detention.

2. Mandamus:

The meaning of the term ‘Mandamus’ is ‘We command’. The intended purpose of this writ is to secure the performance of public duties by lower courts, tribunals, or public authorities.

This writ can be used by the courts to order a public official who has failed to perform his duties to complete his work. This writ cannot be issued against a private person and thus, can only be issued against the State or the people who hold a public office.

3. Prohibition:

The meaning of this term ‘Prohibition’ is the ‘Act of stopping something.’ The intended purpose of this writ is to prohibit or stop an inferior court from continuing the proceedings in a case where it has no jurisdiction.

This writ can only be issued against Judicial and Quasi-Judicial authorities. So, unlike Mandamus, which directs activity, Prohibition directs inactivity.

4. Certiorari:

The meaning of this term ‘Certiorari’ is ‘To be certified’. The intended purpose of this writ is to quash an order originally passed by an inferior court or tribunal.

This is done on grounds of either an oversight or error of law, lack or excess jurisdiction, etc. So, it cures the mistakes of the judiciary. It is thus, a *curative writ*.

5. Quo Warranto:

The meaning of this term ‘Quo Warranto’ is ‘What is your authority’. The intended purpose of this writ is to restrain someone from holding a public office, to which he is not entitled.

So, the legality of a person's claim to an office can be called into question through this. It isn't compulsory that only a person who suffers can file this writ, anyone can.

Make sure that you don't confuse these writs with each other, I know I did!

One tip to remember them, is to read about them at regular intervals. This is very important from a Law Entrance perspective. Questions may be asked directly. Go through this article when you seem to have forgotten it.

Keep **reading newspapers**, and keep an eye out for mentions of these writs.

All the best!