AILET

Legal Aptitude: Constitutional Law: Indian Judicial System

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Introduction

The Indian Judicial System comprises of the **Supreme Court of India at its helm**, followed by the **High Court of different states or a group of states and union territories**, followed by the **lower courts at districts, tehsils** and so on.

Albeit India adopted a federal system of government after independence but the courts followed an integrated structure of judiciary whereby courts follow a hierarchical pattern.

All the legal cases unless writ petitions or special leave petitions or an original jurisdiction of the high court all cases are initiated at the lowest level and are taken to the higher levels by the way of an appeal if required.

The **decision of the higher courts is binding on the lower/subordinate courts**.

Thus a **decision by the Supreme/Apex Court is binding on all the courts** in India whereas the **decisions of the High Court of a particular jurisdiction is binding on all subordinate courts of the same state** and **have persuasive value** for the high court and subordinate courts in the other states.

A decision by a larger bench [given by more number of judges] is binding on the smaller bench. To the uninitiated, a **bench is always constituted with an odd number of judges**.

A bench of two or three judges is called a **division bench** and a bench of three or five judges is called **full bench**. A bench of five or seven judges is called a **constitutional bench**.

The largest constitutional bench of the Supreme Court comprising of **13 judges** was constituted in the case of *Keshva Nanda Bharti vs State of Kerala.* The seniority of the judges follows a similar pattern, implying a similar fashion in judicial control.

The Supreme Court of India

The Apex Court came into existence on **January 28, 1950**. It was established by Part V, Chapter IV of the Constitution of India. It is the guardian court and the highest court of appeal.

It is the last resort of any litigant. It draws its jurisdiction and composition from **Articles 124-147** .

The Supreme Court has 34 judges including the Chief Justice of India. All the justices are appointed by the president in consultation with the Supreme Court.

However, in case of appointing a judge other than the Chief Justice, the President is mandated to consult with the Chief Justice. The judge of this court does not have a mandated term but they must retire after attaining the age of **65 years**.

The judges can only be removed from the office after following a process for **impeachment**. Until now *no judge of Supreme Court has been impeached*.

Though the constitution is silent on the appointment of the Chief Justice, it is customary since the establishment of the court to appoint the senior-most judges as the chief justice.

This convention was flouted only once in 1973 when **Justice Ajit Nath Ray** was appointed surpassing his three senior brother justices.

It is a federal court vested with original, appellate and advisory jurisdiction. In its original jurisdiction, the court undertakes to resolve disputes relating to the union and the states, between the states as dictated in Article 141 of the constitution.

The court shall as stated in Article 32 also hear cases involving a violation of fundamental rights and issue writs wherever required.

However, this does not empower the court to deal with any dispute arising out of any treaty, covenants, agreement executed before its commencement, such disputes fall under its advisory jurisdiction.

In its appellate jurisdiction, the court entertains appeals from the decisions of the high court or tribunals.

An appeal shall lie from the decision of a high court in a civil case if the case involves a **substantial question of law** of general importance that needs to be clarified by the apex court.

Similarly, as per **Article 134,** an appeal in a criminal case can be entertained as a matter if right especially in the cases of awarding a death sentence by a lower court.

An appeal can also be made to the apex court if the decision of the high court involves a substantial question of law requiring an interpretation of the constitution. Appeals to the court may also arise in the form of special leave petition under **Article 136**.

Under its advisory jurisdiction, the court gives its opinion on the matters of constitutional importance that are referred to it by the president. Notably, the court is not duty-bound to opine on all such mandates and the president likewise is not bound to abide by the advice of the court.

Additionally, the Supreme Court is also a **court of record** under **Article 129** and as such all its legal decisions are recognized as precedents. It has the power to inter alia punish for its contempt and is the corollary of being the court of record.

The High Court

Under **Part VI, Chapter V** of the Constitution of India, each state is allowed to have a high court, however, there are states that have culminated high courts wherein the court has jurisdiction over more than one state and union territory.

Presently India has **24 high courts**. The high courts can have additional benches apart from its primary seat. These are the topmost court for any state or union territory over which they exercise jurisdiction.

The high court much like the Supreme Court has a Chief Justice but is allowed to have as many judges as required who serve until attaining the **age of 62**.

The President in consultation with the Governor, Chief Justices of India and the High Court concerned makes the appointment. Unlike the judges at the apex court, the justices of the high court are liable to be transferred to other high courts.

The high court is vested with **original as well as appellate jurisdictions**. It shall hear appeals arising from the subordinate courts and tribunals.

They are empowered to superintend over all subordinate courts except the military courts. High courts are also empowered to issue writs, are a court of records and are further mandated with authority to appoint its own officials and other internal affairs.

District Courts

District courts in India are established for one or more district of a state depending upon its population, number of cases etc. They are subordinate court to the high court of their state which administers its functioning.

The court of the sessions or a district judge is the highest court in a district having original jurisdiction in addition to the high court. Whilst dealing with criminal matters it is referred to as a **sessions court** deriving its jurisdiction from the **Code of Criminal Procedure**.

The courts have different **territorial** and **pecuniary** jurisdiction. It also exercises appellate jurisdiction for appeals arising from the subordinate courts. The appeals from the district courts lie before high courts.

A sessions judge can also preside over civil matters and is then called district judge. He is the highest judge in the district and can have any number of additional judges who have equivalent jurisdiction as the district judge.

District judges are appointed by the state governments in consultation with the high court of the said state. They are also elevated from the subordinate judges.

Tribunals

Tribunals are **administrative bodies** that are vested with the powers of a court but lie outside the purview of the ordinary judicial system. Tribunals have been **delegated with judicial powers** to lessen legal complexities and aim towards a speedy resolution of justice and promote the rights of an individual.

Tribunals are the creation of statutes and their jurisdiction is limited to the disputes concerning the legislation only. The tribunals came into existence with the *aim to reduce the pendency of the cases and lower the burden of the judiciary.*

It is neither an exclusive judicial nor an administrative body and hence is called a quasi-judicial body. The tribunals are allowed to device their own procedure and are not bound by the procedural rules.

They are **not bound by the precedents** or by the principle of res judicata. It is not necessary for the tribunal to have trained judicial members. Most tribunals have a mix of technical experts and judicial members.

Appeals from tribunals lie before the high court or Supreme Court according to the statute in question. Competition Commission of India, State and Central Electricity Commissions, National Company Law Tribunal, Income Tax Tribunal etc are some examples.

Lok Adalat

Lok Adalats are formed under the **Legal Services Authority Act, 1987** with an aim to establish permanent Lok adalats with a focus on a friendly compromise of legal disputes.

Lok adalats exercise jurisdiction over all matters barring criminal cases where compromise isn't possible. These adalats can accept disputes even before they are filed.

The judgment from this forum is applicable to both parties and is binding. No appeal lies from the decision of the Lok adalat.

By

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