BLOGS

# Writ Jurisdiction of the Supreme Court of India

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## Writ Jurisdiction of the Supreme Court

The writ jurisdiction of the Supreme Court of India is a cornerstone of the Indian constitutional framework, designed to protect the fundamental rights of individuals and uphold the rule of law. Under **Article 32 of the Constitution**, the Supreme Court is empowered to issue writs for the enforcement of fundamental rights. This power is central to the Court's role as the guardian of the Constitution and the protector of civil liberties.

## Constitutional Basis

Article 32 of the Indian Constitution guarantees the right to constitutional remedies, allowing individuals to approach the Supreme Court directly when their fundamental rights are violated. Dr. B.R. Ambedkar, one of the principal architects of the Indian Constitution, described Article 32 as the "heart and soul" of the Constitution, underscoring its significance. This Article not only empowers the Supreme Court to issue writs but also makes the right to constitutional remedies itself a fundamental right.

## Types of Writs

***The Supreme Court can issue five types of writs under Article 32:***

1. Habeas Corpus: This writ is used to secure the release of a person who has been unlawfully detained. It compels the detaining authority to present the detained person before the Court to justify the detention. If the detention is found to be illegal, the Court orders the release of the person.

2. Mandamus: This writ is issued to direct a public authority or a government official to perform a mandatory duty that they have failed to fulfill. It cannot be issued to compel the performance of a discretionary duty but is used to enforce the performance of public or statutory duties.
3. Prohibition: This writ is issued by a superior court to a lower court or tribunal to prevent it from exceeding its jurisdiction or acting contrary to the principles of natural justice. It is essentially a preventive measure, stopping the proceedings before they culminate into a decision.
4. Certiorari: Similar to prohibition, this writ is issued to quash the order or decision of a lower court or tribunal that has acted without jurisdiction, beyond its jurisdiction, or in violation of the principles of natural justice. While prohibition is preventive, certiorari is corrective.
5. Quo Warranto: This writ is issued to challenge the legality of a person's claim to a public office. It seeks to prevent illegal usurpation of public office by inquiring into the authority by which the person holds the office.

## Scope and Limitations

The writ jurisdiction of the Supreme Court is extensive but not without limitations. The Supreme Court exercises this jurisdiction only for the enforcement of fundamental rights enumerated in Part III of the Constitution. Other legal rights or issues cannot be the basis for invoking writ jurisdiction under **Article 32**, although they might be addressed under **Article 226** by High Courts, which has a broader writ jurisdiction.

**Preventive and Protective Nature**: The writs serve both preventive and protective functions. For instance, habeas corpus protects individual liberty by preventing unlawful detention, while mandamus ensures that public duties are performed.

**Limitations and Conditions**: The writ jurisdiction is subject to certain conditions. For example, the principle of res judicata, which prevents the same issue from being litigated multiple times, can apply to writ petitions. Additionally, the writs of prohibition and certiorari require that there be no adequate alternative legal remedy available.

## Landmark Cases on Writ Jurisdiction of Supreme Court

**Rudal Shah v. State of Bihar**

Rudal Shah was acquitted by the Court of Sessions, Muzaffarpur, Bihar, on June 3, 1968, yet he was not released from jail until October 16, 1982. This prolonged illegal detention was a blatant violation of his fundamental rights, particularly Article 21, which guarantees the right to life and personal liberty. Rudal Shah filed a writ petition under Article 32 of the Constitution seeking his release and compensation for his unlawful detention.

The Court held that the prolonged detention of Rudal Shah without any legal justification was a clear violation of his fundamental rights under Article 21. The right to life and personal liberty enshrined in Article 21 is paramount, and any infringement upon this right must be met with stringent judicial scrutiny.

The Court took a significant step in awarding compensation for the violation of fundamental rights. It held that the power of the Supreme Court under Article 32 to issue writs for the enforcement of fundamental rights included the power to award monetary compensation for the infringement of those rights. The Court awarded Rudal Shah compensation of Rs. 30,000 as an interim measure, acknowledging the severe violation of his rights and the suffering he endured due to unlawful detention.

**Bandhua Mukti Morcha v. Union of India**

Bandhua Mukti Morcha v. Union of India is a landmark case that profoundly influenced the interpretation of fundamental rights and the use of writ petitions under Article 32. This case was initiated by Bandhua Mukti Morcha (Bonded Labor Liberation Front), a non-governmental organization, to address the issue of bonded laborers in the stone quarries of Faridabad, Haryana.

Bandhua Mukti Morcha filed a writ petition under Article 32 of the Indian Constitution, alleging that a large number of laborers working in the stone quarries of Faridabad were kept in bondage and were subjected to inhuman and exploitative conditions in violation of their fundamental rights guaranteed under Articles 21 (right to life and personal liberty) and 23 (prohibition of traffic in human beings and forced labor).

The petition was based on a letter written by the organization to Justice P.N. Bhagwati, which was treated as a writ petition by the Supreme Court. The letter described the horrific conditions under which the laborers worked, including the lack of basic amenities, health care, and education, and the exploitative practices of the quarry owners who forced the laborers into a state of perpetual bondage.

The Court held that it could entertain a writ petition based on a letter under Article 32. This innovative approach allowed the Court to address issues of public interest and human rights violations even when formal petitions were not filed, thereby broadening access to justice.

The Court found that the conditions under which the laborers were working in the stone quarries were inhuman and exploitative, amounting to a clear violation of Articles 21 and 23. The right to life under Article 21 includes the right to live with dignity, and the bonded laborers' conditions were a stark violation of this right.

**A.K. Gopalan v. State of Madras**

A.K. Gopalan was detained under the Preventive Detention Act, 1950, on the grounds of being a threat to public order. He filed a writ petition under Article 32 of the Indian Constitution, challenging the constitutional validity of his detention on the grounds that it violated his fundamental rights under Article 19 (freedom of speech and expression) and Article 21 (protection of life and personal liberty).

The Supreme Court upheld the constitutional validity of preventive detention under the Preventive Detention Act, 1950 and held that preventive detention, as provided for in the Act, was not inconsistent with the Constitution. The Court emphasized that the phrase "procedure established by law" in Article 21 meant that as long as there was a law authorizing preventive detention, and that law was valid, the detention could not be challenged on the ground of violation of Article 21.

The judgment underscored the limitations of the Supreme Court's writ jurisdiction, particularly in cases of preventive detention. It established that the Court would not easily intervene to strike down laws authorizing preventive detention unless they were patently unconstitutional.

## Conclusion

The writ jurisdiction of the Supreme Court of India is a powerful mechanism for the protection of fundamental rights and the enforcement of constitutional provisions. It reflects the dynamic and evolving nature of constitutional law in India, where the judiciary plays a crucial role in maintaining the balance of power and ensuring justice. By issuing writs like habeas corpus, mandamus, prohibition, certiorari, and quo warranto, the Supreme Court ensures that the rule of law prevails and that the rights of individuals are safeguarded against unlawful actions.

## Read More: 5 types of Writs