NOTES

Writs Under the Indian Constitution: The Citizen's Most Powerful Legal Weapon

shruti chauhan · 14 Aug 2026

Imagine the police pick someone up and hold them for days without telling anyone why or a government department simply refuses to do its job, ignoring the law it's bound to follow. Or a person who was never legally entitled to a public post continues to sit in that chair, drawing a government salary. In each of these situations, an ordinary citizen has one of the fastest, most direct legal remedies the Constitution offers which is called as **writ**.

Writs are what make Fundamental Rights more than just words on paper. Without a fast, effective way to enforce them, Part III of the Constitution would be a wish list. With writs, it becomes something a citizen can actually walk into court and use sometimes within hours, not years.

This guide breaks down every writ in the Indian Constitution, where the power comes from, how each one actually works, and the landmark cases that shaped them in plain language, whether you're a law student, an exam aspirant, or simply a citizen who wants to know their rights.

What is a Writ?

A writ is a formal, written order issued by a court, directing a person, authority, or the State to do something or to stop doing something. The concept originates from English common law, where the King's courts issued "prerogative writs" to control the actions of public officials and inferior courts.

India borrowed this idea and gave it constitutional backing. Under the **Indian Constitution**, writs are extraordinary remedies, meaning they exist outside the ordinary hierarchy of civil suits and appeals, designed specifically to protect rights quickly and directly.

Where Does the Power to Issue Writs Come From?

Two Articles give Indian courts the power to issue writs:

- Article 32 gives the Supreme Court the power to issue writs for the enforcement of Fundamental Rights specifically. Dr. B.R. Ambedkar called Article 32 “the heart and soul of the Constitution,” because without it, Fundamental Rights would have no direct enforcement mechanism.
- Article 226 gives every High Court the power to issue writs not just for Fundamental Rights, but for the enforcement of any legal right, making it actually wider in scope than Article 32, even though the Supreme Court sits above the High Courts in the judicial hierarchy.

Article 32 v. Article 226

This is a subtle but important point that confuses a lot of students : **Article 226 is broader in scope, but Article 32 is a Fundamental Right in itself.** Because Article 32 is itself listed in Part III, a citizen can approach the Supreme Court directly whenever a Fundamental Right is at stake no need to first exhaust remedies elsewhere. Article 226, by contrast, is a constitutional power given to High Courts, but approaching a High Court isn’t itself a Fundamental Right.

The Five Types of Writs

Article 32(2) and Article 226 both authorise five specific kinds of writs. Each has a distinct purpose, and each is best understood through the cases that defined it.

1. Habeas Corpus – “You May Have the Body”

What it does: Habeas Corpus is used to produce a person who has been unlawfully detained before the court, so the court can examine whether the detention is legal. If it isn’t, the court orders immediate release.

This is the writ most people have heard of, because it’s the one most directly tied to personal liberty. It can be filed by the detained person themselves, or critically by literally any other person on their behalf, since someone who is illegally detained often has no way to approach a court themselves.

Landmark case: ***ADM Jabalpur v. Shivkant Shukla (1976),*** during the Emergency, the Supreme Court controversially held that the right to move a court for Habeas Corpus could itself be suspended during an Emergency. This decision was widely criticised as one of the darkest moments in Indian judicial history and was effectively overruled decades later in ***K.S.***

Puttaswamy v. Union of India (2017), which reaffirmed personal liberty as inalienable even during an Emergency.

2. Mandamus – "We Command"

Mandamus is a command issued to a public official, public body, corporation, or government to perform a duty that the law requires them to perform, but which they have failed or refused to do.

Mandamus cannot be issued against a private individual (unless they're carrying out a public duty), and it cannot be used to compel someone to do something discretionary, only a duty that is clearly mandatory under law. It also generally isn't available against the President, the Governor, or against a State Legislature for its legislative functions.

Landmark case: ***Sharda v. Dharmpal (2003)*** and, more foundationally, the way Mandamus has been used repeatedly to compel authorities to perform statutory duties from releasing withheld pension benefits to enforcing pollution-control obligations, most famously in the long-running *M.C. Mehta v. Union of India* line of environmental litigation, where the Court has repeatedly directed authorities to act on their statutory environmental duties.

3. Prohibition – "To Forbid"/ "To Prohibit"

Prohibition is issued by a higher court to a lower court or tribunal, stopping it from continuing proceedings in a case where it has no jurisdiction, or where it's about to exceed its jurisdiction.

Think of it as a "stop" order as it's preventive, issued before the lower court or tribunal passes its final order, unlike Certiorari, which acts after the fact.

Key feature: Prohibition can only be issued against judicial or quasi-judicial bodies and not against administrative or legislative authorities, and not against purely private bodies.

4. Certiorari – "To Be Certified"

What it does: Certiorari is issued by a higher court to quash an order already passed by a lower court, tribunal, or quasi-judicial authority that has acted without jurisdiction, in excess of its jurisdiction, or in violation of natural justice.

If Prohibition is a "stop" order issued before the fact, Certiorari is a "cancel" order issued after the fact.

Landmark case: ***A.K. Kraipak v. Union of India (1969)*** – this case significantly expanded the scope of Certiorari by holding that principles of natural justice apply not just to judicial and quasi-judicial functions, but even to certain administrative decisions that affect a person's rights, blurring what had earlier been a rigid distinction.

5. Quo Warranto – "By What Authority"

Quo Warranto is used to question the legal authority of a person holding a public office, asking them to demonstrate under what authority they occupy that position. If they cannot show valid legal authority, the court can remove them from that office.

This writ exists to prevent someone from illegally occupying a public office and unlike the other writs, it doesn't necessarily require the petitioner to have any personal interest in the matter, since it concerns the public interest in ensuring only legally qualified people hold public office.

Landmark case: ***University of Mysore v. C.D. Govinda Rao (1965)*** – the Supreme Court clarified the conditions under which Quo Warranto can be issued: the office must be a public office created by the Constitution or a statute, and the holder must be shown to lack the eligibility required by law to hold it.

Who Can Writs Be Issued Against?

A common misconception is that writs can only be issued against the government. That's not entirely accurate:

- Habeas Corpus can be issued against any person or authority whether public or private who has unlawfully detained someone.
- Mandamus, Prohibition, Certiorari, and Quo Warranto are traditionally issued against public authorities, statutory bodies, or bodies performing a public function though courts have increasingly extended writ jurisdiction to private bodies performing public duties, such as certain private universities or organisations carrying out state-like functions.

Limitations on Writ Jurisdiction

Writs are powerful, but not unlimited. Courts have developed several self-imposed restraints:

- Alternative remedy: If an equally effective alternative legal remedy exists, courts may decline to entertain a writ petition, especially under Article 226, though this is a matter of discretion, not an absolute bar.
- Delay and laches: Unreasonable delay in approaching the court can be grounds for refusing relief.
- Disputed facts: Writ courts generally avoid areas involving detailed factual disputes better suited to a full civil trial.
- Locus standi: Traditionally, only an aggrieved person could file a writ petition though this has been significantly relaxed through the growth of Public Interest Litigation (PIL), allowing any public-spirited citizen to approach the court on behalf of those who cannot do so themselves.

Why Writs Matter Beyond the Courtroom?

Writs are the reason Fundamental Rights in India aren't just aspirational. When a State fails to protect free speech, illegally detains a journalist, or lets an unqualified person sit in a constitutional post, it's the writ jurisdiction not a lengthy civil suit that citizens turn to first.

The expansion of PIL through the 1980s, largely driven by liberalised standing rules under Article 32 and Article 226, turned writs into one of the most powerful tools for social justice litigation anywhere in the world used to secure everything from prisoners' rights to environmental protection to the right to food.