

HIGH COURT-UPSC MAINS

HIGH COURTS

STATE JUDICIARY: The State Judiciary consists of a High Court and a system of subordinate courts. The process of constituting High Courts were established at Calcutta, Bombay and Madras. In the course of time, other High Courts also came to be established. The constitution builds the structure of the High Courts, on the pre-existing foundations. The Constitution provides that there shall be a High Court in each State (Article 214) but Parliament has the power to establish a common High Court for two or more States (Article 231). At present, there are in all 24 High Courts for 28 States and 7 Union Territories. In 2013, three new High Courts, namely Meghalaya, Manipur and Tripura were added.

Strength of a High Court: A High Court consists of the Chief Judges and such other Judges as the President may from time to time deem it necessary to appoint (Article 216). In this way, the number of Judges in a High Court unlike that of the Supreme Court is flexible and it can be determined by the President from time to time keeping in view the amount of work before a High Court.

Appointment of High Court Judges

While appointing a Judge of a High Court, the President shall consult the Chief Justice of India, the Governor of the State and the Chief Justice of that High Court in the matter of appointment of a Judge other than the Chief Justice.

Due to the combined effect of the decision of the Supreme Court in 1993 and 1998 with regard to appointment of a High Court Judge, following is the present position:

The process of the appointment of the Judges of the High Courts is an integrated “participatory consultative process”, where, all the constitutional functionaries must perform this duty collectively.

Initiation of the proposal for appointment in the case of a High Court must invariably be made by the Chief Justice of that High Court.

The Third Judges Case, 1998 established that a collegiums of Judges comprising the Chief Justice of India and two senior most Judges of the Supreme Court, giving fair importance to the opinion of the Chief Justice of the concerned High Court Should make a recommendation as to appointment to the President. In addition, other Judges of the High Court and the views of the other Judges of the Supreme Court who are conversant with the High Court concerned can also be consulted. All these views should be expressed in writing and be conveyed to the President along with the recommendation of the collegiums.

In the event of conflicting opinions by the constitutional functionaries, the opinion of the collegiums would have supremacy.

No appointment of any Judge of a High Court can be made unless it is in conformity with the opinion of the Chief Justice of India.

Transfer of a Judges from one High Court to another: The Constitution, under Article 222 empowers the President, after consultation with the chief Justice of India to transfer a Judge from one High Court to another. The Third Judges Cases, 1998 established that in case of the transfer of High Court judges, the Chief justice of India should consult, in addition to the collegiums of four senior most judges of the SC, the Chief Justice of the two High Courts (one from which the judges is being transferred and other receiving him). The opinion provided by the Chief Justice shall have primary and is binding on the President. A Judge of a High Court can be transferred without his consent.

Appointment of acting Chief Justice: When the Office of the Chief Justice of a High Court is vacant or when any such Chief Justice, by reason of absence or otherwise, is unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Appointment of Additional and Acting Judges

In this context, the President may appoint,

1. Additional Judges – duty qualified persons as additional Judges for a period not exceeding 2 years, when it appears to the President that because of temporary increase in the business of High Court or arrears of work, the number of Judges should be increased (Article 224(1)).

2. Acting Judge- an acting judge can be appointed when any Judge, other than the Chief Justice, is unable to perform his duties due to absence or otherwise, or when a permanent Judge of the High Court is appointed as its acting Chief Justice. An acting judge holds office until the permanent Judge resumes his duties (Article 224 (2)).

But neither an additional nor an acting Judge can hold office beyond the age of 62 years.

Appointment of retired Judges: The Chief Justice of a High Court may, with the prior consent of the President, request a retired High Court Judge to sit and act as a Judge of the High Court for a temporary period.

Tenure of Judges

Once appointed, a permanent Judge of a High Court holds office until the age of 62 years. Any dispute relating to the age of a Judge of a High Court is decided by the President in consultation with the Chief Justice of India, which shall be final. He can resign from his office by writing to the President. He vacates his office when he is appointed as the judge of the SC or when he is transferred to another High Court. A judge does not hold office during the pleasure of the President. He can be removed from his office by the President on the recommendations of the Parliament, for proved misbehaviour and incapacity only, in the manner provided for the removal of a judge of the Supreme Court (Discussed in the previous

chapter). The Constitution (One Hundred and Fourteenth (Amendment) Bill 2010, seeks to raise the retirement age of every judge of a High Court including additional and acting judges to 65 years from the present 62 years. The bill has been introduced in Lok Sabha in 2010 and it still pending.

Salaries: A Judge of a High Court gets a salary of Rs. 80,000 per month while the Chief Justice gets Rs. 90,000 per month. He is also entitled to such allowance and rights in respect of leave of absence and pension as Parliament may determine from time to time from time to time. But this cannot be altered to the disadvantage of a Judge after his appointment (Article 221).

Oath: Before entering upon his office, a person appointed as a High Court Judge is to make and subscribe an oath or affirmation before the Governor of the State (Article 219).

Qualifications for appointment as a Judge of High Court

A person to be qualified for appointment as a Judge of a High Court

- a. must be a citizen of India and
- b. must have held a judicial office in the territory of India for at least 10 years; or
- c. must have been an advocate of a High Court or two or more such Courts in succession for at least 10 years.

Independence of Judges of the High Court

The Constitution seeks to secure the independence of Judges of the High Courts in the following ways:

1. The appointment of Judges of the High Court is made by the President in consultation with Chief Justice of India and two senior-most judges of the Supreme Court. The proposal is initiated by the concerned High Court alone. This is to ensure that the appointment is made on the basis of merit only.
2. The judges are allowed and expected to work without fear or favour with no interference of executive. Being a court of record, the high Court can utilize the power of Contempt of court and dissuade attempts to influence the judges.
3. The judges have been granted the security of tenure. A judge does not hold office during the pleasure of the President. A Judge of a High Court can be removed only by the President on an address of both Houses of Parliament, passed by not less than two-thirds of the members present and voting and by a majority of the House on the ground of proved misbehaviour or incapacity only.
4. After retirement, a Judge of a High Court cannot plead in a Court or before any authority in India except in the Supreme Court and a High Court other than the High Court in which he had held office.
5. The salaries and allowances payable to Judges of High Courts are charged on the Consolidated Funds of State concerned and are not subject to vote in the Legislature. They

cannot be changed to their disadvantage after appointment except during a Financial emergency.

6. The conduct of the Judges of the High Courts cannot be discussed in Parliament, except on a motion for the removal of a Judge.

JURISDICTION AND POWERS OF THE HIGH COURTS

I. Territorial Jurisdiction: The jurisdiction of a High Court is coterminous with territorial boundaries of the state. But if the Parliament creates a High Court for two or more states (e.g. Chandigarh High Court) or extends its jurisdiction to a Union Territory (e.g. Bombay High court's jurisdiction extends to Dadra, Div and Daman), its jurisdiction stretches over such territories. The Constitution refrains from exhaustively marking the jurisdiction of the High Courts and powers and other of administrative matters of the High Courts.

II. Original Jurisdiction: The High Courts of Presidency Towns (Bombay, Madras and Calcutta) have both original and appellate jurisdiction, while the other High Courts have mostly appellate jurisdiction. Only in matter of admiralty, probate, matrimonial and contempt of Courts cases the other High Courts Have original jurisdiction. Earlier the Presidency High Courts had original jurisdiction in civil and criminal cases. But the Criminal Procedure Code, 1973 has completely taken away the original criminal jurisdiction from all the High Courts. Now, the original jurisdiction lies only in civil matters, that too above a certain defined value.

III. Appellate Jurisdiction: As courts of appeal, all High Courts entertain appeals in civil and criminal cases from their subordinate courts as well as from their original side. In some High Courts provision is made for intra-court appeal. Appeals lie from the decision of a single judge to Division bench of the same High Court. However, the High Courts have no jurisdiction over tribunals established under the law relating to the armed forces of the country.

IV. Writ Jurisdiction: Under Article 226 of the Constitution, the High Courts are given powers of issuing direction, order or writs for the enforcement of Fundamental Rights and for any other purpose. The power of High Court to issue writs for the enforcement of Fundamental Right is concurrent i.e. parallel to the same power of Supreme Court under Article 32. However, there is some difference between overall writ jurisdiction of Supreme Court and High Courts. Under Art.32 the Supreme Court can issue writs only where a fundamental right has been infringed, while High Courts can issue writs for enforcement of Fundamental Rights as well as for any other purpose i.e. ordinary legal rights of the citizen. Thus, the jurisdiction of High Courts under Art.226 is wider than that of the Supreme Court under Art.32.

Also, the remedy provided under Art.226 is not a Fundamental Right of any person, hence High Courts have discretionary Jurisdiction i.e. the High Courts may or may not exercise the writ jurisdiction to grant a relief to the aggrieved citizen. Obviously, such discretion is to be

exercised judiciously and not arbitrarily. However, a citizen can alternatively appeal to the High Court for enforcement of his ordinary legal rights or otherwise under the supervisory jurisdiction granted to the High Court over sub-ordinate courts, under Art.227. Coming back to discretion, the Supreme Courts are bound to issue writs under Art. 32 as we already know it. Third thing, the territorial jurisdiction of the High Courts is limited to the extent granted to it by the Parliament, which is generally limited to one or combination of states and Union Territories. On the other hand, the territorial jurisdiction the Supreme Court extends to the whole India.

V. Administrative and Supervisory functions of the High Courts: Every High Court has been ensured a complete control over the members of its staff, as per Article 229. Under this Article, the Chief Justice of a High Court is empowered to appoint officers and servants of the Court. He is also authorized to regulate the conditions of service of the staff and he has the power to dismiss any such member from the services of the Court. A High Court stands at the apex of the judicial system in a State. Under Article 227, a High Court has the right of superintendence and control over all the subordinate courts in all the matter of judicial and administrative nature.

Court of Record for Subordinate courts: Subordinate Courts are bound to follow the decision of the High Courts. Its proceedings and decisions are referred to in all future cases. It has the power to punish for contempt of itself and subordinate courts. It can also examine the records of its subordinate courts.

Superintendence

Every High Court has the power of superintendence over all courts and tribunals, functioning within its territorial jurisdiction, except those dealing with the Armed Forces. The High Court controls and supervises the working of courts subordinate to it and frames rules and regulations for the transactions of their business. In exercise of this power, the High Court may.

1. call for returns from such courts;
2. make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;
3. prescribe forms in which books and accounts shall be kept by the officers of any such courts; and
4. transfer cases from one court to another.

Further, under Article 235, the High Court can also make rules and regulations relating to the appointment, demotion and leave of absence for the officer of the subordinate courts.

RELATIONSHIP BETWEEN THE SUPREME COURT AND HIGH COURT

The High Court is not a court subordinate to the Supreme Court. Both are Courts of Records. The High court exercise power of superintendence over subordinate courts and tribunals.

Supreme Court has no such powers. The High Courts have much larger jurisdiction than Supreme Court in respect of the writs but the Supreme Court remains the Courts of appeal for the judgements and other order of High Courts. Overall, under hierarchical structure of Indian judiciary, Supreme Courts stands at apex and High Court is just vertically below it. “If the Supreme Courts and the High Courts both were to be thought of as brothers in the administration of justice, the High Court has larger jurisdiction but the Supreme Court still remains the elder brother. There are a few provisions which give an edge, and assign a superior place in the hierarchy, to Supreme Court over High Courts. So far as the appellate jurisdiction is concerned, in all civil and criminal matters, the Supreme Court is the highest and the ultimate court of appeal. It is the final interpreter of the law. Under Article 139-A, the Supreme Court may transfer any case pending before one High Court to another High Court or may withdraw the case to itself. Under Article 141 the law declared by the Supreme Court shall be binding on all Courts, including High Courts, within the territory of India. Under Article 144 all authorities, civil and judicial, in the territory of India – and that would include High Court as well – shall act in aid of the Supreme Courts”.

High Courts in India

As per the Constitution of India, Articles 214-231 deals with the provisions of the High Courts in India. At present, we have 24 high courts in the country, which includes 3 common high courts. Article 217 deals with the appointment of judges. However, there is also a procedure for removal of Judges of the High Court.

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High Court

According to the Indian Constitution, Articles 214-231 deals with the provisions of High Courts in India. It provides for separate high courts for separate states but according to 7th constitutional amendment act the same high court can be the court for more than one state. At present, we have 21 high courts in the country, which includes 3 common high courts.

Constitution and composition of High courts

Every high court consists of a Chief Justice and a number of judges, who are determined by the President from time to time. Article 217 deals with the appointment of judges and states that every judge of high court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the state.

Jurisdiction and powers of High Court

The powers and jurisdiction of High Court can be classified under following heads:

- 1) **Original Jurisdiction-** it means that applicant can directly go to High Court and not by means of appeals. This power is used in the following matters –
 - Disputes arising out of relating to members of Parliament and state legislative assembly

- Relating to marriage, law, admiralty divorce, contempt of court etc
- Enforcement of fundamental rights (Supreme Court also has this power)
- Cases transferred from other court to itself which involves a question of law.

2) **Writ Jurisdiction-** Article 226 states that High Court shall have power throughout the territories in relation to which it exercises jurisdiction to issue to any person or authority including in appropriate cases, any government, within those territories directions, orders, or writs.

3) **Appellate Jurisdiction-**

It is said that the high court is the primary court of appeal i.e. it has power to hear the appeals against the judgment of the subordinate courts within its territories. This power can be classified in to 2 categories-Civil jurisdiction and Criminal jurisdiction

In civil cases its jurisdiction includes to the orders and judgments of the district courts, additional district courts and other subordinate courts.

In criminal cases its jurisdiction includes judgments relating to sessions courts and additional sessions court. These cases should be involving imprisonment for more than 7 years, confirmation of any death sentence awarded by session court before execution

4) **Power of Superintendence –**

The High Court has this power over all courts and tribunals except those dealing with the armed forces functioning in the state. Hence in the exercise of this power it may –

- Call for return from such courts
- May issue general rules and prescribe forms for regulating the practice and proceedings of such courts
- Prescribe the form in which books and accounts are being kept by the officers of any court
- Settle fees payable to the sheriff clerks, officers and legal practitioners

The constitution does not place any restriction on this power of superintendence over the subordinate courts, it is not only by means of appeal by the person, it can be suo motto. It is of the nature of revision as it verifies the earlier judgments. In this regard it is considered as a special function as the Supreme Court has no similar power vis a vis the High Court.

5) **Control over Subordinate Courts –**

This is an extension of the above supervisory and appellate jurisdiction. It states that the High Court can with draw a case pending before any subordinate court, if it involves the substantial question of law. The case can be disposed of itself or solve the question of law and return back to the same court. In the second case the opinion tendered by High court would be binding on the subordinate court. It also deals with matters pertaining to posting promotion, grant of leave, transfer and discipline of the members there in. In this regard it appoints officers and servants to be made by Chief Justice or such other judge of High Court as the Chief Justice may direct.

6) **Court of Record –** It involves recording of judgments, proceedings and acts of high courts to be recorded for the perpetual memory. These records cannot be further questioned in any court. Based on this record it has power to punish for the contempt of court either with simple imprisonment or with fine or both.

7) **Judicial Review –**

This power of High Court includes the power to examine the constitutionality of legislative and executive orders of both central and state government. It is to be noted that the word judicial review is nowhere mentioned in our constitution but the Article 13 and 226 explicitly provide High Court with this power.

8) Extension of jurisdiction of High Court to Union Territories –

Parliament by law may extend the jurisdiction of a High Court to or exclude the jurisdiction of a high court from any union territory.

Procedure for removal of Judges:

The judge's enquiry act governs the removal or impeachment of judges of High Court.

Hence the grounds for removal are

- Proved misbehaviour
- Incapacity

He is removed by the President as per the removal order passed by each house of the parliament by a special majority i.e. a majority of the total membership of the house and a majority of not less than two thirds of members present and voting. A detailed procedure followed is as follows:

1. The initial removal motion to be signed by 100 members in Lok Sabha or by 50 members of Rajya Sabha and be presented to the speaker/ chairman of the house.
2. The speaker has the option of either accepting or rejecting the motion
3. If it is accepted a committee would be constituted to investigate the matter
4. The committee so constituted consists of chief justice or judge of Supreme Court, chief justice of high court and a distinguished jurist.
5. If the committee ascertains the guilty of the judge then the houses take up the issue.
6. If the motion is passed in each house of the parliament by a special majority then the it is later presented to the President for his assent.
7. The President then passes order for removal of judge. The judge is considered removed from that day. (In fact no judge has been removed till now)

Transfer of a judge from one high court to another (Article 222) – according to it the President may after consultation with the chief justice of India transfer a judge from one High Court to any High Court. Also when a judge has been or is so transferred he shall during the period he serves, after the commencement of the constitution act as a judge of the other high court, so shall be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and until so determined such compensatory allowance as the President may by order fix.

Later on in 1977 in K Ashok Reddy case ruled that there requires judicial review in case of arbitrary transfer of judges. Hence as to locus standi only the judge who is transferred can challenge it.

Appointment of acting Chief Justice (Article 223) - when the office of Chief Justice of a High Court is vacant or when any such Chief Justice by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the court as the President may appoint for the purposes.

However, appointments of persons other than district judges to the judicial service of a state shall be made by the Governor of the state in accordance with rules made by him after

consultation with the state public service commission and with the high court exercising jurisdiction in relation to such state.

Chapter 33: HIGH COURT

- THERE shall be a High Court in each State [Art. 214] but Parliament The High Court of has the power to **establish a common High Court for two or more States. The High Court stands at the head of the Judiciary in the State.**
- Every High Court shall consist of a Chief Justice and such other Constitution of **Judges as the President of India may from time to time appoint**
- **Participatory Consultative Process** : A nine-Judge Bench of the Supreme Court has held that **(1) the process of the appointment of the Judges of the High Courts is an integrated 'participatory consultative process'** for selecting the best and most suitable persons available for appointment; and all the constitutional functionaries must perform this duty collectively with a view primarily to reach an agreed decision, subserving the constitutional purpose, so that the occasion of primacy does not arise.
- **Initiation of the proposal for appointment in the case of High Court must invariably be made by the Chief Justice of that High Court.**
- In the event of conflicting opinions by the constitutional functionaries, the opinion of the judiciary '**symbolised by the view of the Chief Justice of India**' formed by him in consultation with two senior most Judges of the Supreme Court who come from that State, would have supremacy.
- No appointment of any Judge of a High Court can be made unless it is in conformity with the **opinion of the Chief Justice of India.**
In exceptional cases alone, for stated strong cogent reasons, disclosed to the Chief Justice of India, indicating that the recommendee is not suitable for appointment, that the **appointment recommended by the Chief Justice of India not be made.**
- However, if the stated reasons are not accepted by the **CJI and the other Judges of the Supreme Court**, consulted by him in the matter, on reiteration of the recommendation by the CJI, **the appointment should be made as a healthy convention.**

Control of the Union over High courts

- As Sir Alladi Krishnaswami explained in the Constituent Assembly, while ensuring the independence of the Judiciary, the Constitution placed the High Courts under the control of the Union in certain important matters, **In order to keep them outside the range of 'provincial politics'**.
- **Thus, even though the High Court stands at the head of the State Judiciary, it is not.**
- So sharply separated from the federal Government as the highest Court of an American State (called the State Supreme Court) is.
- **The control of the Union over a High Court in India is exercised in the following matters:**
- Appointment (Art. 217), transfer from one High Court to another [Art. 222) and removal Art. 217(1), and determination of dispute as to age [Art. 217(3)]. of Judges of High Courts.

- Now the power to transfer of the High Court Judges remains no more a method of control over the High Court by the Union Government as the Supreme Court has prescribed a procedure for the purpose in a Reference made by the President of India in exercise of his powers under Art. 143.
- The Supreme Court opined that the Chief Justice of India should obtain the views of the Chief justice of the High Court from which the proposed transfer is to be effected as also that of the Chief Justice of the High Court to which the transfer is to be effected
- The Chief Justice of India should also take into account the views of one or more Supreme Court Judges who are in position to provide material which would assist in the process of deciding whether or not a proposed transfer should take place.
- These views should be expressed in writing and should be considered by CJI and the four senior most Judges of the Supreme Court.
- These views and those of each of the four senior most Judges should be conveyed to the Govt. of India with the proposal of transfer.
- What applies to the transfer of Judges of a H.C. applies as well to the transfer of the Chief Justice of a High as a CJ. of another H.C. except that in this case, only the views of one or more knowledgeable Judges need be taken into account
- These factors, including the response of the High Court Chief Justice or the Judge proposed to be transferred, to the proposal to transfer him, should be placed before the collegium-the CJI and his first four Judges-to be taken into account by it before reaching a final conclusion on the proposal.
- Unless the decision to transfer has been taken in the manner aforesaid, it is not decisive and does not bind the Govt of India and shall be subject to judicial review.
- (b) The constitution and organisation of High Courts and the power to establish a common High Court for two or more States and to extend the jurisdiction of a High Court to, or to exclude its jurisdiction from, a Union Territory, are all exclusive powers of the Union Parliament
- It should be pointed out in the present context that there are some provisions introduced into the original Constitution by subsequent amendments, which affect the independence of High Court Judges as compared with Supreme Court Judges;
- (a) Art. 224 was introduced by substitution, in 1956. to provide for the appointment of additional Judges to meet 'any temporary increase in the business of a High Court'.
- An additional Judge, so appointed, holds office for two years, but he may be made permanent at the end of that term.
- There is no such corresponding provision for the Supreme Court.
- It was introduced in the case of the High Courts because of the problem of arrears of work, which was expected to disappear in the near future.
- Now that the problem of arrears has become a standing problem which is being met by the addition of more Judges.
- There is no particular reason why the make-shift device of additional appointment should continue.

- The inherent vice of this latter device is that It keeps an additional Judge on probation and under the tutelage of the Chief Justice as well as the Government as to whether he would get a permanent appointment at the end of two years.
- **So far as the judicial power of a High Court Judge is concerned, he ranks as an equal to every other member of a Bench and is not expected**, according to any principle relating to the administration of justice, to 'agree' with the Chief Justice or any other senior member of a Bench where his learning, conscience or wisdom dictates otherwise or to stay his hands where the merits of a case require a judgment against the Government
- **The fear of losing his job on the expiry of two years obviously acts as an inarticulate** obsession upon an additional Judge.
- Similarly. Cl(3) was inserted in Art. 217 in 1963. giving the President, in consultation with the Chief Justice of India, the final power to determine the age of High Court Judge, if any question is raised by anybody in that behalf.
- By the same amendment of 1963 (15th Amendment), Cl.(2A) was inserted in Art. 124, laying down that a similar question as to the age of a Supreme Court Judge shall be determined in such manner as Parliament may by law provide.
- **A High Court Judge's position has thus become not only unnecessarily inferior to that of a Supreme Court Judge** but even to that of a subordinate judicial Officer, because any administrative determination of the latter's age is open to challenge in a Court of law, but in the case of a High Court Judge, It is made 'final' by the Constitution itself.
- There is apparently, no impelling reason why a provision similar to Cl. (2A) to **Art. 12. shall not be Introduced in Art. 217, in place of Cl. (3), in question.**
- Another agency of control over High Court Judges is the provision in Art. 221(1) for their transfer from one High Court to another, which has been given a momentum by transferring as many as **50 Judges at a time.**
- In order that the power of the President to order such transfer is not used as a punitive measure, the Supreme Court has laid down that while no consent of the Judge concerned would be required, **the President would not be competent to exercise the power except on the recommendation of the Chief Justice of India.**

Public interest litigation

- Following English and American decisions, our Supreme Court has admitted exceptions from the strict rules relating to affidavit locus standi and the like in the case of a class of litigations, classified as '**public interest litigation**' (PIL) i.e., **where the public in general are interested in the vindication of some right Or the enforcement of some public duty.**
- **The High Courts also have started following this practice in their jurisdiction under Art. 226**, and the Supreme Court has approved this practice, observing that where public interest is undermined by an arbitrary and perverse executive action, it would be the duty of the High Court to issue a writ
- The Court must satisfy itself that the party bringing the PIL is litigating bona fide for public good.
- It should not be merely a cloak for attaining private ends of a third party or of the party bringing the petition.

- The court can examine the previous records of public service rendered by the litigant.
- An advocate filed a writ petition against the State or Its '**instrumentalities seeking not only compensation to a victim of rape committed by its employees (the railway employees)** but also so many other reliefs including, eradication of anti-social and criminal activities at the railway stations.
- **The Supreme Court held that the petition was in the nature of a PIL and the advocate could bring in the same for which no personal injury or loss is an essential element.**

Control over Subordinate Courts

- As the head of the Judiciary in the State, the High Court has got an administrative control over the subordinate judiciary in the State in respect of certain matters, besides its appellate and supervisory Jurisdiction over them.
- The Subordinate Courts include District Judges, Judges of the City Civil Courts as well as the Metropolitan Magistrates and members of the judicial service of the State.
- The control over the Judges of these Subordinate Courts is exercised by the High Courts in the following matters-
- (a) The High Court is to be consulted by the Governor in the matter of appointing, posting and promoting District Judges [Art. 233].
- (b) The High Court is consulted, along with the State Public Service Commission, by the Governor in appointing persons (other than District Judges) to the Judicial service of the State [Art. 234].
- (c) The control over district courts and courts subordinate thereto, including the posting and promotion of, and the grant of leave , transfers of, disciplinary control over including inquiries, suspension and punishment, and compulsory retirement of, persons belonging to the judicial service and holding any post inferior to the post of a district judge is vested In High Court
- Control over the subordinate courts is the collective and individual responsibility of the High Court.

High Court:

High court occupies top position in the judicial administration of the state. Parliament can have common high court for two or more states or states and UT's. [Ex: Bombay HC over Daman Diu and dadra nagar haveli, Calcutta HC over A&N islands, Kerala HC over Lakshadweep islands and madras HC over Puducherry].

Only Delhi is a union territory that has a HC. HC has a chief justice and other judges as the president may deem necessary to appoint. **Constitution doesn't determine strength of HC but leaves it to the President.**

Appointment of Judges:

The President appoints chief justice of high court after consulting CJI and governor of the state or states [in case of common high court]. For other judges of that court chief justice of that high court is also consulted.

Qualification for judges of HC:

1. Citizen of India
 2. A) should have held a judicial office in India for 10 years
- OR
- 2 B) should have been an advocate of HC for 10 years in succession.

Tenure:

He can be a judge of the high court till he reaches 62 years of age. He can be removed by president on recommendation of parliament. He can resign by writing to the president.

Removal of judges [Act of Parliament]:

Grounds for removal are proven misbehaviour or incapacity.

A motion support removal must be supported by 100 LS / 50 RS members. The presiding officer may or may not admit it. If admitted an inquiry committee of Chief justice of India or a Supreme Court judge; A Chief justice of high court and distinguished jurist checks if judge is guilty; if the committee finds the judge guilty then parliament can pass a motion by special majority in both houses. An address supported by this motion must be presented to the president on the same day. Then by a presidential order the judge can be removed.

President can transfer the judge of a HC after consultation with chief justice of India.

Acting Chief Justice:

The president can appoint a HC judge as acting chief justice in case the vacancy of office of chief justice OR C.J is temporarily absent or unable to perform his duties.

Additional or Acting judges:

President can appoint additional judges for a period of two years if additional work load is seen or to clear arrears. The appointees should be duly qualified. For acting judges the president can appoint duly qualified people till the judge is temporarily absent or unable to perform his duty.

Retired judges: The chief justice may with previous consent of president and the person concerned

Appoint a retired judge [of the same HC or other HC] as judge of the HC. Though such a person enjoys all privileges and powers he isn't considered as a judge of the HC.

Independence of HC:

1. President appoints judges only after consultation with other judges. Executive interference is minimum.
2. Security of tenure and protection against arbitrary removal
3. Expense charged on consolidated fund
4. Ban on practise after retirement
5. Jurisdiction as specified can't be changed for HC and SC by any legislature. But jurisdiction with respect to other matters can be changed by both.
6. Power to punish for contempt
7. Conduct of judges can't be discussed

Jurisdiction of High Court:

Original jurisdiction

1. Four HC's of Bombay, madras, Calcutta and Delhi have original jurisdiction over civil cases of higher value.
2. Revenue matters
3. Elections disputes related of parliament and state legislatures.
4. Enforcing fundamental rights
5. Cases involving interpretation of constitution.

Writ jurisdiction:

The HC can issue writs to any person, organisation or authority for enforcement of fundamental rights as well as for any other purpose. Hence it is wider than the writ jurisdiction of SC.

Appellate jurisdiction:

It is a court of appeal for civil, criminal cases of subordinate courts. The appellate jurisdiction extends to even tribunal orders.

Supervisory jurisdiction:

High courts have wide supervisory jurisdiction over all courts and tribunals in its territorial jurisdiction. Also it has judicial as well as administrative superintendence. It can take suo moto cognisance.

It is a court of record; it has power of judicial review.