

## Constitution of the Supreme Court:

Parliament has the power to make laws regulating the constitution organization, jurisdiction and powers of the Supreme Court consists of the chief justice of India and not more than twenty five other judges.

### Art (124)

Besides, the chief justice of India has the power with the previous consent of the president. to request a retired supreme court judge to act as a judge of the supreme court for the temporary period. Similarly a high court for a temporary period if there is a lack of quorum of a permanent judge.

### Art (127 - 128)

Every judge of Supreme Court shall be appointed by the President (Appointments of judges) every judge of Supreme Court shall be appointed by the President of India. The president shall be appointed by the President of India. The President shall in this matter, take or consult other persons beside taken the advice of his Ministers. In the matter of appointment of chief justice of India he shall consult such Judges of the Supreme Court and of the high Court, as they deem necessary. A nine judge – Bench of the Supreme Court has laid down the senior most – judges of the Supreme court considered fit to hold the office should be appointed to the office of Chief justice of India and in the case of appointment of the other judges of the supreme court, consultation with chief justice of India, in addition to the above is obligatory Art (124)(1). Consultation would generally mean concurrence. The above provision thus, modifier the mode of appointment of judges by the Executive – by providing that the Executive should consult members of judiciary itself. Who are well qualified to give their opinion in this matter?

### Qualification:

A person shall not be qualified for appointment as a judge of the Supreme Court unless he is (a) a citizen of India, and (b) either (i) a distinguished jurist or (ii) has been a High Court judge for at least 5 years. Or (iii) has been an Advocate of high court (or two or more such courts in Succession) for at least 10 years.

### Impeachment:

The combined effect of article (124)(4) and the judges (inquiry) Act, 1968. Is that of the following procedure is to be observed for removal of judge. This is commonly known as impeachment.

- (1) A motion addressed to President signed at least 100 members of Lok Sabha or 50 members Rajya Sabha is delivered to the speaker or the Chairman.
- (2) The motion is to be investigated by a committee of three, (2 judges of Supreme Court and distinguished jurist).
- (3) If the committee finds the judge quality of misbehavior or that he suffers from incapacity the motion together with the report of the committee is taken up for consideration in the house where the motion is pending.
- (4) If the motion is passed in each house by majority of the total membership of the house and by a majority of not less than 2/3 of the house present and voting the address is presented to the president.
- (5) The judge will be removed after the president gives his order for removal on the said address.

### Salaries:

A judge of the Supreme Court gets a salary of Rs 30, 000 per mensem, and the use of official residence free of rent. The Salary of Chief justice is Rs 33, 000.

### Original Jurisdiction:

The original Jurisdiction of the Supreme Court is dealt with in art (131) of the constitution. The functions of the Supreme Court under Art (131) are purely of a federal character and are confined to disputes between the govt. of India and any of the states of the union. The Government of India and any states on one side and any other state or states on

the other side, or between two or more states inter se. in short, the are disputes between different units of the federation which will be with in the exclusive original jurisdiction of the Supreme court . The original jurisdiction of the Supreme Court will be exclusive. Which means that no other court in India shall have the power to enlertain any such suit? On the other hand, Supreme Court in its original jurisdiction will not be entitled to entertain any suit where both the parties are not units of the federation. If any suit brought either against the state or the government of India by a private citizen that will not lie within the original jurisdiction of the Supreme Court but will be brought in the ordinary courts under the ordinary law.

**Appellate Jurisdiction of Supreme Court:**

The Supreme Court is the highest court of Appeal form all courts in the territory of India. The jurisdiction of the judicial committee of the Privy Council to hear appeals form India having been abolished on the eye of the constitution. The appellate jurisdiction of the Supreme Court may be divided under 3 heads.

- (i) Cases involving interpretation of the constitution – Civil, Criminal or otherwise.
- (ii) Civil case, irrespective of nay constitutional question.
- (iii)Criminal cases, irrespective of any constitutional question.

Apart from appeals to the Supreme Court by special leave of that court under Art 136, an appeal lies to the Supreme Court form any judgement, decree final order in the civil proceeding of the high court in two classes of cases.

Prior to the constitution, there was no court of criminal appear over the high courts. If was only in a limited sphere that the privy council entertained appeals in criminal cases form the high courts by special leave but there was no appeal as a right Art 134, of the constitution for the first time provides for an appeal to the supreme court form any judgement of the high court, as of right, in tow specified classes of cases.

(a) Where the high court has on a appeal reversed an order of acquittal of a accused person and sentenced him to death.

(b) Where the high court has withdrawn for trial before itself any case form any subordinate to its authority and has in such trail concreted the occurred and sentenced him to death.

**Advisory jurisdiction of Supreme Court:**

In addition to original and appellate jurisdiction the supreme court of India bossiness advisory jurisdiction also. This means that the President of India can refer any matter that is of public importance or that which involves interpretation of constitution to Supreme Court for advice on such matters and the President is not bound to accept such a device. What then is the utility is two fold. In the first place, it allows the government to seek, legal opinion on a matter of importance before taking action on it. This may prevent unnecessary litigations later. Secondly in the light of the advisory of the Supreme Court, the government can make suitable changes in its actions or legislations.

**Judicial Activism:**

The chief instrument through which judicial activism has flourished in India is public Interest bligaton (PIL). Or social Action litigation (SAL). In the norma course of law, an individual can approachthe courts only, if he /she has been personally aggrieved. That is to say, a person whose rights have been violated . or who is involved in a dispute could move the court of law. This concept underwent a change around 1979, in 1979. The court set the trend when it decided to hear a case where the case was filed not by the agrecieved persons but by other on their behalf. As this case involved a consideration of an issue of public interest. It and such other cases come to be known as public interest litigations. Around the same time, the Supreme Court also took up the case about rights of prisoners. This opened the gates for large number of cases where public spirited citizens and voluntary organizations sought judicial intervention for protection of existing rights, betterment of life conditions of poor protection

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of the environment, and many other issues in the interest of public (PIL) has become the most important vehicle of judicial activism.

Jurisdiction of Supreme Court:

