

ARTICLE 1

Supreme Court of India



The Indian Judicial System has the Supreme Court of India at its helm, which at present is located only in the capital city of Delhi, without any benches in any part of the nation, and is presided by the Chief Justice of India.

The Supreme Court of India has many Benches for the litigation, and this apex court is not only the final court of permissible Appeal, but also deals with interstate matters, and matters comprising of more than one state, and the matters between the Union Government and any one or more states, as the matters on its original side. The President of India can always seek consultation and guidance including the opinion of the apex court and its judges. This court also has powers to punish anybody for its own contempt.

The largest bench of the Supreme Court of India is called the Constitution Bench and comprises of 5 or 7 judges, depending on the importance attached of the matters before it, as well as the work load of the court.

The apex court comprises only of various benches comprising of the Divisional benches of 2 and 3 judges, and the Full benches of 3 or 5 judges.

The Appeals to this court are allowed from the High Court, only after the matter is deemed to be important enough on the point of law or on the subject of the constitution of the nation, and is certified as such by the relevant High Court.

In the absence of any certificate from the High Court, a person may, with the leave of the apex court, appeal to this court, by filing a Special Leave Petition before the court.

A person or body may also file a Writ against the violation of Fundamental Rights granted under the Constitution of India, with the permission of the apex court.

Certain writs are allowed to be instituted in the apex court directly, against the orders of the Courts of the Court Martial, and the Central Administrative Tribunals.

ARTICLE-2

The Judicial System

India, the largest representative democracy of the world, possesses a well-structured & independent judiciary. The three-tiered system of Indian judiciary comprises of Supreme Court (New Delhi) at its helm, high courts standing at the head of state judicial system followed by district and sessions court in the judicial districts, into which the states are divided. The lower rung of the system then comprises of courts of civil (munsifs, sub-judges civil judge) & criminal (first & second class judicial magistrate) jurisdiction.

The Supreme Court

The apex court of the country enjoys original, appellate & advisory jurisdiction. The extensive original jurisdiction of the court ranges from matters like enforcement of fundamental rights (enumerated in the constitution), to disputes between the states as well as between the union & the states, the appellate jurisdiction of the apex court can be invoked through a certificate of leave of the high court or by special leave granted by the supreme court in respect of any judgement, order or decree from high court. Writs (mandamus, certiorari etc.) can be filed by any person against the violation of fundamental rights or against the orders of administrative tribunals.

The High Court

Working under the direct guidance & supervision of the Supreme Court, the High Courts are generally the last court of regular appeal. The High Courts of Mumbai, Chennai, Kolkata & Delhi enjoy original jurisdiction beyond a certain financial limit (For instance, Rs.20 lakhs & above in case of Delhi). Besides, for invoking writ jurisdiction, the High Courts can be approached for enforcement of other rights. It has the power to supervise the subordinate courts falling within its territorial jurisdiction. In certain cases, High Courts also has original jurisdiction, for expeditious remedy.

The Subordinate Courts

This segment of the Indian judicial system comprises of (a) District Courts, empowered to hear appeals from courts of original civil jurisdiction besides having original civil jurisdiction under many enactments (b) Sessions Court, are courts of criminal jurisdiction, having the similar scope of powers. The courts of specific original jurisdiction are courts of Civil judges, of Judicial Magistrates; Small Causes courts & Courts of Metropolitan Magistrates.

Quasi - Judicial System

This appendage to the Indian judicial system is a recent & sincere attempt on the part of the government to expedite the judicial process through dilution of procedural formalities & avoidance of litigation. Tribunals form an indispensable part of this system, which are appointed by the government and comprise of judges & experts on the particular field, for which the tribunal has been constituted. Industrial tribunals, pertaining primarily to labour disputes, may be taken as an instance.

Alternative Dispute Resolution

The advent of Alternative Dispute Resolution system in India, which comprises of methods like Arbitration, Conciliation & Negotiation, has simplified the concept & procedure of justice delivery system in India. In consonance of the UNCITRAL agreement, Parliament came out with a central act (Arbitration & Conciliation Act, 1996) to consolidate the law relating to domestic arbitration, international commercial arbitration & enforcement of foreign arbitral awards as also to define the law relating to conciliation & matters connected therewith.

Arbitration may be defined as a private determination of controversial issues by a third neutral party (arbitral tribunal), who is empowered to make a binding award. Conciliation refers to a voluntary process in which an impartial third party helps the parties in reaching a mutually satisfactory & agreed settlement of the dispute. Negotiation is carried on with the same objective in mind, with a voluntary negotiation on the part of the parties.

The process of arbitration may be initiated by a reference to the court of law of the matter in dispute, if there is specific arbitration agreement to that effect or the parties straightway going in for arbitration proceedings, on their own. The arbitral tribunal would comprise of members in odd numbers, which are appointed by the parties. Appointment of arbitrator may be challenged on grounds of partiality & doubts over his independence. The jurisdiction of the arbitral tribunal is conditioned by the arbitration agreement itself. The arbitral award is binding on the parties, unless recourse is taken for setting it aside. The statute also elaborates upon the procedure of enforcement of foreign arbitral awards & conditions in which they are binding.