

Lesson 12

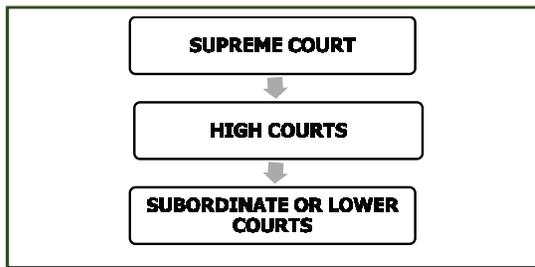
Supreme Court of India

Summary –

Judiciary is the third organ of the government has an important role. It settles the disputes, interprets laws, protects fundamental rights, and acts as guardian of the Constitution. India has a single unified and integrated judicial system and that the Supreme Court is the highest court in India.

Single Unified & Integrated Judicial System –

- ✚ Our judiciary system is single unified integrated for the whole country.
- ✚ The Supreme Court stands at the top with High Courts at the State level, below the High Courts and several District Courts which deal with civil cases and the Session Courts which decide criminal cases.



The Supreme Court- is the highest judicial authority of India.

- ✚ One Chief Justice & 25 other judges.
- ✚ Chief Justice and other judges are appointed by the President of India.
- ✚ If there is vacancy or a likely vacancy in the Supreme Court

The Chief Justice and four their senior judges recommend the names of the persons to be appointed as judges of the Supreme Court.

- ✚ Collegium of Court has the power of selection of judges.
- ✚ President performs the formality of appointing the nominee of the Supreme Court judges after the Law Ministry recommends names to him.

Qualifications, Tenure & Removal of Judges –

- ✚ She/he is a citizen of India and if She/he fulfils one of the following conditions:
 - a) She/he has been for at least five years a Judge of as High Court or two or more than two such courts or
 - b) She/he has been for at least ten years an advocate of a High Court or of two or more than two such courts or
 - c) She/he is, in the opinion of the President a distinguished jurist.

Court of Record–

- ✚ All its judgments are cited as precedent in all courts of the country.
- ✚ It has the force of law and are binding on all lower Courts.

Jurisdiction of Supreme Court

- Three types of jurisdictions - Original, Appellate & Advisory.

Original Jurisdiction- certain cases which fall within the exclusive jurisdiction of the Supreme Court. such cases cannot be initiated in any other court.

The cases or disputes that come under the original jurisdiction –

- (a)** Disputes between the Government of India on the one side and one or more States on the other side, **(b)** Disputes between the Government of India and one or more States on one side and one or more States on the other side, **(c)** Disputes between two or more States.
- It has the power to issue directions or writs for the enforcement of Fundamental Rights.
- Cases under Public Interests Litigation (PIL) can also be heard directly.

Appellate Jurisdiction– The power of a superior court to hear & decide appeals against the judgment of a lower court.

✚ The appeals can be filled in civil, criminal & constitutional cases.

(i) Appeals in Civil Cases-

Disputes relating to property, marriage, money contract and service etc are called civil cases.

(ii) Appeals in Criminal Cases -

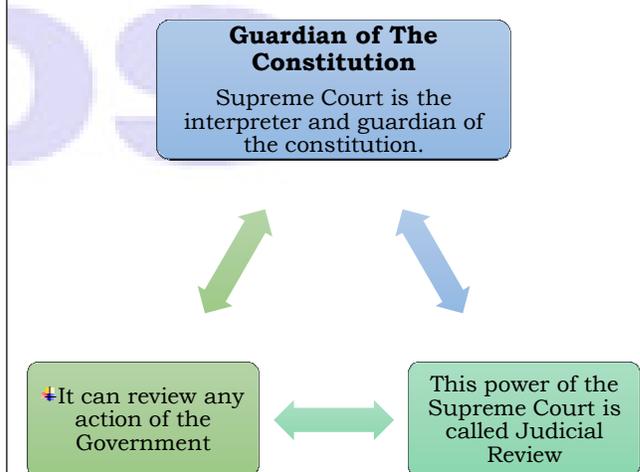
appeal may brought to the supreme court against a high court decision in a criminal case in several situations.

(iii) Appeals in Constitutional

Cases - It is a case arising out of different interpretations of Constitution mainly regarding the fundamental rights.

Advisory Jurisdiction–

Under advisory jurisdiction the President of India may refer any question of law or public importance to Supreme Court for its advice, but the Supreme Court is not bound to give advice and the president is not bound either to accept.



Protector of Fundamental Rights-

- ✚ The Supreme Court has concurrent right with the High Courts to issue directions orders and writs for enforcement of fundamental rights.

Review of Its Own Judgment-

- ✚ If the Supreme Court discovers that there are some new facts or evidence or if it is satisfied that some mistake or error took place in its previous decision it has the power to review the case and alter its previous decisions.

Judicial Review-

- ✚ It is a process through which judiciary examines whether a law enacted by a legislature, or an action of the executive is in accordance with the Constitution or not.

Public Interest Litigation (PIL) -

The people who are not directly involved in the case may bring to the notice of the Court matters of public interest.

- ✚ It is the privilege of the Court to entertain the application for public interest litigation (PIL).
- ✚ The concept of PIL was introduced by Justice P.N. Bhagwati.
- ✚ The Supreme Court based on letters received from journalist's lawyers and social workers & even based on newspaper reports has taken up several matters of public interest.

- ✚ A person can approach the Court through a letter.
- ✚ If the Supreme Court believes that the matter is of public interest it can consider the letter to be a petition and direct the hearing of the matter so that public interest may be protected.

Evaluate yourself -

1. Discuss the structure of the Supreme Court of India. and its appellate and advisory jurisdictions.
2. Write down the meaning and importance of public interest litigation in your own words.
3. List down the cases falls under the appellate and advisory jurisdictions of the court.