

**Exercises****Multiple Choice Questions**

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|---------|---------|---------|---------|---------|
| 1. (c)  | 2. (d)  | 3. (d)  | 4. (b)  | 5. (d)  |
| 6. (c)  | 7. (c)  | 8. (b)  | 9. (d)  | 10. (a) |
| 11. (c) | 12. (b) | 13. (d) | 14. (b) | 15. (b) |
| 16. (b) | 17. (a) | 18. (d) |         |         |

**Short-Answer Questions**

1. Who is at present the Chief Justice of India?

**Ans.** N.V. Ramana

2. Which is the highest judicial court in India?

**Ans.** The Supreme Court of India.

3. How is the Chief Justice of India appointed?

**Ans.** The Chief Justice of India is appointed by the President. Generally the seniormost judge of the Supreme Court is appointed as the Chief Justice of India.

4. What are the necessary qualifications that a person should have to become a Judge of the Supreme Court?

**Ans. Qualifications of the Judges**

To become a Judge or the Chief Justice of the Supreme Court, a person should possess the following qualifications :

- (i) He must be a citizen of India.
- (ii) He must have worked as a Judge in any of the High Courts continuously for not less than five years.

Or

He must have been an advocate of a High Court for at least 10 years' standing.

Or

He should be a distinguished jurist in the opinion of the President.

5. What is the term of office of a Judge of the Supreme Court?

**Ans.** The judges of the Supreme Court are appointed to work till they attain 65 years of age.

6. How can a judge of the Supreme Court be removed from office?

**Ans.** A Judge of the Supreme Court shall not be removed from office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such a removal on the ground of proved misbehaviour or incapacity.

7. Which is the highest court of appeal in India?

**Ans.** The Supreme Court of India.

8. Mention two types of cases in which the Supreme Court exercises original jurisdiction.

**Ans. Centre-State Disputes :** All disputes between the Centre on the one hand and a State on the other, fall within the original jurisdiction of the Supreme Court.

**Disputes between two or more States :** Disputes between two or more States also make a case for original jurisdiction of the Supreme Court.

9. Mention any one power of the Supreme Court which is not enjoyed by other courts.

**Ans. Interpretation of the Constitution :** All cases where interpretation of the Constitution is required can be directly filed in the Supreme Court. The Supreme Court has the power of judicature to review and to decide whether a law passed by the legislature is *ultra vires*.

10. What is the advisory role of the Supreme Court of India?

**Ans.** Another very important function of the Supreme Court of India is its obligation to advise on constitutional as well as other matters of law, to any Government department, legislature, the President or the Council of Ministers,



whoever seeks it. It should be kept in mind that the advice rendered by the Supreme Court shall in no way be binding on its seeker.

**11.** What happens if either the Parliament or a State Legislature passes law that is against the Constitution?

**Ans.** If the Parliament or a State Legislature passes law that is against the Constitution, the Supreme Court can declare that law as unconstitutional. Thus, it is the custodian of the Constitution.

**12.** What do you understand by the term Judicial Review?

**Ans.** Under judicial review the Supreme Court can declare null and void any laws passed by the Parliament or a state legislature or union executive or state executive if it feels they violate the provisions of the Constitution.

**13.** What are the advisory functions of the Supreme Court?

**Ans.** Another very important function of the Supreme Court of India is its obligation to advise on constitutional as well as other matters of law, to any Government department, legislature, the President or the Council of Ministers, whoever seeks it. It should be kept in mind that the advice rendered by the Supreme Court shall in no way be binding on its seeker.

**14.** Mention one way in which the Supreme Court has been made independent of the influence of the Executive.

**Ans.** A Judge of the Supreme Court shall not be removed from office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such a removal on the ground of proved misbehaviour or incapacity.

**15.** Why should the Judiciary be separated from the Executive?

**Ans.** For a successful federal democracy, it is most essential that the courts of law should be independent to administer

justice and to interpret the Constitution and the different laws passed by various legislatures from time to time. For such reasons, the Executive should not be able to influence the judges in the course of their discharge of duties as a judge.

### **Structured Essay-Type Questions**

1. With reference to the Supreme Court of India, explain the following :

- (a) Discuss the composition of the Supreme Court.
- (b) What are the qualifications of the judges of the Supreme Court.

**Ans.** (a) The Supreme Court of India consists of a Chief Justice and some other Judges, the number of which may be fixed by the Parliament from time to time. At present it consists of the Chief Justice and 33 other judges, i.e. total 34 judges.

(b) **Qualifications of the Judges**

To become a Judge or the Chief Justice of the Supreme Court, a person should possess the following qualifications :

- (1) He must be a citizen of India.
- (2) He must have worked as a Judge in any of the High Courts continuously for not less than five years.

Or

He must have been an advocate of a High Court for at least 10 years' standing.

Or

He should be a distinguished jurist in the opinion of the President.

2. The Supreme Court enjoys vast powers in the judicial field. In this connection discuss the following :

- (a) In what way is the Supreme Court the guardian of Fundamental Rights?
- (b) Original jurisdiction of the Supreme Court.



(c) Appellate powers of the Supreme Court.

**Ans. (a) Fundamental Rights :** Cases relating to infringement, abridgement or denial of Fundamental Rights guaranteed by the Constitution, can originally be brought before the Supreme Court.

Regarding all the above disputes, the Supreme Court has the exclusive jurisdiction.

(b) (i) **Centre-State Disputes :** All disputes between the Centre on the one hand and a State on the other, fall within the original jurisdiction of the Supreme Court.

(ii) **Disputes between Two or More States :** Disputes between two or more States also make a case for original jurisdiction of the Supreme Court.

(iii) All cases involving interpretation of the Constitution can be directly filed in the Supreme Court.

(iv) Cases regarding denial or infringement of Fundamental Rights can directly be filed in the Supreme Court.

(c) **Appellate Jurisdiction :** The Supreme Court is the highest court of law in the country. As such, it has powers to grant special leave to appeal against the judgement delivered by any court in the country. The cases that can be brought before the Supreme Court only through an appeal, and form the Appellate Jurisdiction of the Court are as under :

**Criminal Cases :**

(i) A criminal suit, where a person is acquitted by the Session Court but awarded capital punishment by the High Court, can be brought, on appeal, to the Supreme Court.

(ii) An appeal can be made to the Supreme Court where a High Court withdraws a criminal case from a lower court, convicts a person and awards capital punishment.

- (iii) A case where a High Court itself certifies that it involves a substantial point of law and calls for the interpretation of the Constitution.

**Civil Suits :** Any civil suit where a High Court itself certifies that a substantial point of law is involved and interpretation of the Constitution is required.

3. For a successful federal structure, the independence of the Judiciary is quite necessary. In this connection, describe the part played by the following :

- (a) Security of service of the judges.
- (b) Security of Pay and Allowances of the judges.

**Ans. (a) Security of Service :** Security of service is always the most important factor in deciding the behaviour of any government servant. It is more so in the case of judges who have at times to give some bitter decisions in the interest of justice. If a judge is afraid of his services being terminated on the whim of an administrator or an agency, he will always like to please that person or agency by fair or foul means with the result that he will become partial in discharging his duties. To safeguard the judges of the Supreme Court and those of the High Courts from any such embarrassment, it has been provided in the Constitution that the judges to these courts shall be appointed by the President but cannot be removed from office by him. Only in the event of a gross misbehaviour, acting against the provisions of the Constitution, corruption or misuse of office can a Judge be removed from service by means of impeachment by the Parliament.

- (b) **Security of Pay and Allowances :** In order to make a Judge desist from accepting bribes or falling a prey to such other financial implications, it is necessary that he should be paid very adequately and be ensured that no decision of the executive shall reduce it.

The Constitution has ensured independence of



judiciary (i) by providing that the expenditure in respect of the salaries and allowances of the judges shall be charged on the Consolidated Fund of India (ii) by specifying that the salaries and allowances payable to the judges, or their pension shall not be varied by Parliament to their disadvantage after their appointment, except under a proclamation of financial emergency.

4. How does the Supreme Court act as :

- (a) Custodian of the Constitution
- (b) Guardian of the Fundamental Rights

**Ans.** (a) It is the duty of the Supreme Court to uphold the sanctity of the Constitution. It can review a Central or State law to establish its legality or otherwise. If the Parliament or any state legislature passes any law that is against the Constitution, the Supreme Court can declare that law as unconstitutional or null and void. It had declared the ordinances regarding the 'Nationalisation of Banks' and 'Abolition of the Privy Purses' of the erstwhile princes as null and void.

The 42nd Amendment Act 1976 had taken away the amendments of the Constitution, under Article 368, beyond the review of the Supreme Court. The same Amendment vide Article 131-A had restricted the power of the Supreme Court to declare as unconstitutional any Central law and those laws where the Centre was a party. But with the repeal of certain parts of the 42nd Amendment, the Supreme Court has regained its original power as the custodian of the Constitution. The Supreme Court has been equipped with this power of judicial review to check the arbitrary power of the executive.

- (b) **Fundamental Rights** : Cases relating to infringement, abridgement or denial of Fundamental Rights guaranteed by the Constitution, can originally be brought before the Supreme Court.

Regarding all the above disputes, the Supreme Court has the exclusive jurisdiction. It has the power to issue writs for enforcement of the Fundamental Rights.

5. Explain the following writs :

- (a) Habeas Corpus                      (b) Mandamus
- (c) Prohibition                        (d) Certiorari
- (e) Quo-Warranto

**Ans. (a) Habeas Corpus :** It means 'to have a body'. By issuing such a writ, the court can get the body of any person released if it has been unlawfully captured by any person or a group of persons or by the State. The writ is thus a great safeguard for the personal freedom of a citizen.

(b) **Mandamus :** It literally means 'we command'. This writ is thus a sort of command from a superior court to a subordinate court or an administrative authority in case they refuse to exercise their jurisdiction and fail to perform their duty.

(c) **Prohibition :** Such a type of writ is an order from a superior court—the Supreme Court or a High Court—to an inferior court to stop proceedings in a case which it, in the opinion of the higher court, might be contemplating to do in excess of its jurisdiction.

(d) **Certiorari :** The writ is issued by the superior court to the judicial or quasi-judicial authorities in order to quash its order or decision. The difference between Prohibition and Certiorari is that while the former is issued when certain proceedings are still going on, the latter is issued only when the order has already been passed.

(e) **Quo Warranto :** Such a type of writ is issued by a court to a public servant to enquire into the legality of his holding a public office and to oust him if his claim is not well-founded. Then this writ prevents an unlawful claimant from holding a superior public office.