

Chapter 5. The State Judiciary (The High Court)

Very Short Questions

Question 1: How many High Courts are there in India?

Answer: There are 18 High Courts in India at present.

Question 2: Who appoints the Chief Justice of a High Court?

Answer: The President appoints the Chief Justice of a High Court on the advice of the Chief Justice of Supreme Court and the Governor of the concerned State.

Question 3: Who determines the strength of the Judges of a High Court?

Answer: The President determines the strength of the Judges of a High Court.

Question 4: How are the other Judges of High Court appointed?

Answer: The other Judges of the High Court are appointed by the President of India after the consultation with the Chief Justice of High Court and the Governor of the State concerned.

Question 5: Can a Senior Advocate of a High Court become a Judge of a High Court?

Answer: Yes, a Senior Advocate of a High Court can become a Judge of a High Court if he has worked in a High Court in India for continuously ten years.

Question 6: What is the number of the Judges of a High Court?

Answer: There is no fixed number of Judges for a High Court.

Question 7: What is the age of retirement of a Judge of a High Court?

Answer: The Judge of a High Court retires at the age of 62 years.

Question 8: Name the Union Territory, which has a High Court of its own.

Answer: Delhi has a High Court of its own.

Question 9: Where is the seat of Rajasthan High Court?

Answer: The seat of the Rajasthan High Court is at Jodhpur and bench at Jaipur.

Question 10: Where are the salaries of the Judges charged?

Answer: The salaries of the Judges are charged on the Consolidated Fund of the State.

Question 11: Who determines the pension, leave, etc., of the Judges?

Answer: The Parliament determines the pension, leave, etc., of the Judges.

Question 12: Who administers an oath of office to the Chief Justice and the Judges of a High Court?

Answer: The Governor administers the oath of office to the Chief Justice and the Judges of a High Court.

Question 13: How many Judges can the President appoint?

Answer: The President may appoint as many Judges as he deems necessary.

Question 14: Which is the competent authority that can alter the Constitution or organization of the High Court?

Answer: The Parliament can alter the Constitution or organisation of the High Court.

Question 15: Who can transfer the Judges of a High Court?

Answer: The President can transfer the Judges of a High Court to another, with his consent.

Question 16: What is the relationship of all the High Courts with the Supreme Court?

Answer: All the High Courts are directly under the Supreme Court, since all of them are a part of a single Judiciary.

Question 17: Which Courts have Original Jurisdiction in all civil and criminal cases?

Answer: The Presidency High Courts have Original Jurisdiction in almost all civil and criminal cases.

Question 18: Explain whether the High Court can declare any Central law to be constitutionally invalid.

Answer: No, the High Court cannot declare any Central law to be constitutionally invalid.

Question 19: What is meant by every High Court is a court of record?

Answer: Because its judgement and orders are preserved as record to be produced in any court as precedent.

Question 20: Name the Tribunal over which the High Court do not have the Power of Superintendence.

Answer: Armed Forces.

Question 21: In which two ways the Constitution has ensured the independence of the High Courts?

Or

Mention two Constitutional provisions that ensure the independence and impartiality of the High Courts.

Answer: (i) By Security of Service, and (ii) Security of pay and allowances.

Question 22: Name the courts that are empowered to issue writs for the enforcement of Fundamental Rights.

Answer: The Supreme Court and the High Court are empowered to issue writs for the enforcement of Government Rights.

Question 23: Name the write issued by the High Court, which provides a remedy for a person who has been unlawfully detained in prison.

Answer: Habeas Corpus.

Short Questions – I

Question 1: How are the Judges of a High Court appointed?

Answer: The Chief Justice of High Court is appointed by the President under his own hand and seal while appointing the Chief Justice, the President consults the Chief Justice of Supreme Court and the Governor of the State concerned. In case of the appointment of other judges, the President consults the Chief Justice of concerned High court and the Governor of the concerned state.

Question 2: Name the States which are served by the Guwahati High Court.

Or

Name the High Court which has jurisdiction over several States? Also mention the name of such States.

Answer: Guwahati High Court has the jurisdiction over seven States. They are:
(i) Arunachal Pradesh, (ii) Assam, (iii) Meghalaya, (iv) Mizoram,
(v) Manipur, (vi) Tripura, (vii) Nagaland.

Question 3: Mention, how the High Court keeps control over the Legislature and the Executive?

Answer: Like the Supreme Court, a High Court also acts as a Guardian of the Constitution. If it finds any Law, executive order or any ordinance to be inconsistent with the provisions of the Constitution, it can declare it null and void. Thus it controls both the Legislature and the Executive.

Question 4: What is 'Revisional Jurisdiction'?

Answer: The High Court may call for the record of any case which has been decided by a subordinate court, if a High Court is of the opinion that a case pending in a court, involves a substantial question of law as to the interpretation of the Constitution and the determination of which is necessary for the disposal of the case.

Question 5: Mention any two administrative functions of a High Court.

Or

Mention one of the administrative function of High court.

Answer: (i) The High Court is empowered to frame rules and regulations for Subordinate Courts.

(ii) The High Court has power to issue order to its Subordinate Courts in the interest of better judicial service of the people.

Question 6: How does the High Court protect the Fundamental Rights of individuals?

Answer: The High Court protects the Fundamental Rights from being eroded, infringed upon or abridged by any individual or a group of individuals or the State itself by issuing different writs like Habeas Corpus to the offending parties.

Question 7: What is the 'Appellate Jurisdiction' of the High Court?

Answer: In the 'Appellate Jurisdiction' the High Court takes up both civil and criminal cases. It also extends to take up civil cases tried by District Judge and criminal cases decided by Sessions or Additional Sessions Judges.

Question 8: Why the Judge of High Court cannot practice law in the same Court after his retirement?

Answer: The Judge of a High Court cannot practice law in the same court after his retirement so that the former colleagues and associates do not get influenced by his/her presence while making decisions. He can practice in the Supreme Court or any other Court in which he has not been a Judge (in other State).

Short Questions – II

Question 1: Many provisions of the Constitution are intended to secure independence and impartiality of the High Courts. In this context explain the significance of each of the following provisions:

(i) Security of Tenure. (ii) Salaries and allowances of the Judges.

Answer: (i) Security of Tenure: A Judge can remain in office till he has attained the age of 62 years. He: can be removed by the President on the ground of proved misbehaviour or incapacity on an address of each House of Parliament. Such an address (request) should be supported by a majority of the total membership of the House and by two-thirds of the members present and voting.

(ii) Salaries and allowances of the Judges: Judges salaries, allowances, etc., shall

not be varied to their disadvantage during their term of office. Moreover, they are charged on the Consolidated Fund of the State and are not subject to vote of the Legislature. The salaries of the Judges cannot be reduced except during periods of financial emergency.

Question 2: State the term of office of the Judges of the High Court. Explain when and how the Judges can be removed from office.

Answer: A Judge of a High Court shall hold office until they attain the age of sixty-two or they themselves resign their office. Neither an additional nor an acting Judge can hold office beyond the age of sixty-two years.

A Judge of High Court cannot be removed from office except by an order of the president on the ground of proved misbehaviour or incapacity. Such an order is 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 2/3rd of the members of the House present and voting for such a removal.

Question 3: Mention three cases in which the High Court enjoys Original Jurisdiction.

Answer: The Original Jurisdiction extends to those cases which High Court has authority to hear and decide in the first instance.

(i) The cases regarding wills, divorce, marriage Admiralty, Company Law and Contempt of Court can be taken up by the High Court directly.

(ii) The cases involving the violation of Fundamental Rights and other rights can be directly initiated in the High Courts. The High Court has the power to issue various Writs for the enforcement of these rights.

(iii) The Constitutional cases could be taken up under the Original Jurisdiction of the High Court. Every High Court has the power to interpret the Constitution. This is known as the power of Judicial Review.

Question 4: The Constitution of India provides that there shall be a High Court in each State. With reference to the Jurisdiction of High Courts, write short notes on the following:

(i) Power to issue Writs, (ii) Court of Record.

Answer: (i) Power to issue Orders or Writs: All the High Courts have the power to issue Writs to a person or an official. The Writs comprise the writs of Habeas Corpus, Mandamus, Prohibition, Quo Warranto, and Certiorari. These Writs are issued to protect the Fundamental Rights or for any other purpose.

(ii) The Court of Record: All the proceedings and decisions of the High Court are kept as records for future references. The Subordinate Courts of the High Court itself decide similar cases in future in the light of the judgments passed by the High Courts of different States.

Long Questions

Question 1: Explain the composition of a High Court. State the qualifications required to become a Judge in the High Court.

Answer: The Constitution provides for a High Court for each State. Parliament may, however, establish a common High Court for two or more States/Union Territories. This depends on the area and the population to which a High Court has to serve and the amount of work it has to handle.

Composition: Each High Court consists of a Chief Justice and such other Judges as the President of India may appoint from time to time.

Besides, the President has the power to appoint:

(i) Additional Judges for a temporary period not exceeding two years, for the clearance of arrears of work in a High Court;

(ii) an acting Judge when a permanent Judge (other than the Chief Justice) is temporarily absent or unable to perform his duties or is appointed to act temporarily as Chief Justice. The acting Judge holds office until the permanent Judge resumes his office.

Qualifications: According to the Constitution, a person shall be qualified for appointment as a Judge of a High Court under the following conditions:

(i) He should be a citizen of India.

(ii) He should not be over 62 years.

(iii) He has held a judicial office in the territory of India for at least ten years.

Or

He has been an advocate of a High Court for at least ten years.

Question 2: Explain any four conditions of service of a Judge of a High Court.

Answer: The conditions of service of the Judges are as follows:

(i) Every Judge of a High Court shall hold office until he attains the age of 62 years. He may resign from his office at anytime by submitting his resignation to the President.

(ii) After retirements a Judge of the High Court can plead only in the Supreme Court He can't do the legal practice in other courts or indicial tribunals.

(iii) The allowances and pension of a Judge of High Court can not be varied to his disadvantage after this appointment.

(iv) He can be removed from office by the President on the ground of proven misbehaviour or incapacity.

Question 3: Under which jurisdiction can a High Court accept an appeal against the decision of the district court?

Answer: Under Appellate Judgement (both civil and criminal) the High Courts can accept appeals against the decisions of the lower courts. In civil cases the High Courts hear the appeals against the decisions of District Judges. In Criminal cases Appellate jurisdiction consists of appeals:

(i) Against the judgment of a Sessions Judge or an Additional Sessions Judge, where the sentence of imprisonment exceeds seven years.

(ii) Against the judgements of Assistant Sessions Judge, the Chief Metropolitan Magistrate or: other Judicial Magistrates, where the sentence of imprisonment exceeds four years.

Also, the High Courts have the following powers with respect to appeals: (a) A sentence of death must be confirmed by the High Court before it can be carried out; and (b) Appeals

by the State also lie to the High Court, when the order of acquittal is passed by a Sessions judge.

Question 4: In the context of the High Court, discuss the power of superintendence.

Answer: Power of Superintendence: The High Court enjoys the power of Superintendent over all Courts within their territorial jurisdiction. In this regard the High Court exercises the following powers:

- (i) Detailed report as the working of the Courts can be called for.
- (ii) Rules can be formed for regulating the practice and proceeding of the Courts.
- (iii) The appointment, posting and promotion of District Judges shall be made by the Governor in consultation with the High Court.
- (iv) The High Court can prescribe form in which book, entries and account shall be kept by the Court.

Question 5: Discuss the norms governing the appointment and transfer of a Judge.

Answer: Discretion of the Executive and that of the Chief Justice of India has been reduced in Appointments and Transfers of Judges: The President can transfer any Judge from one High Court to another. But it requires these conditions to be fulfilled. First, orders for transfer can be issued after consulting the Chief Justice of India. Second, the Chief Justice of India's recommendation must be made in consultation with four senior most Judges of the Supreme Court. Third, the views of the Chief Justices of the High Courts—one from which the transfer is taking place and another to which the transfer is to be effected must also be obtained. Fourth, when a Judge has been transferred, he shall be entitled to compensatory allowance in addition to his salary.