

Chapter 4. The Union Judiciary (The Supreme Court)

Very Short Questions

Question 1: Name the highest judicial tribunal in India.

Answer: The highest judicial tribunal in India is the Supreme Court.

Question 2: Which body has the final authority to interpret the Constitution?

Answer: The Supreme Court has the final authority to interpret the Constitution.

Question 3: How many Judges are there in the Supreme Court?

Answer: The Supreme Court consists of a Chief Justice and not more than 25 other Judges.

Question 4: Who appoints the Judges of the Supreme Court?

Answer: The President appoints the Judges of the Supreme Court on the advice of the Chief Justice of Supreme Court.

Question 5: Who determines the strength of the Supreme Court?

Answer: The Parliament determines the strength of the Supreme Court.

Question 6: Who can increase the number of Judges of the Supreme Court?

Answer: The number of Judges of the Supreme Court can be increased by the Parliament of India.

Question 7: Mention the term of a Judge of the Supreme Court.

Answer: A Judge of Supreme Court continues in office till he attains the age of sixty-five years.

Question 8: Who appoints the administrative staff of the Supreme Court?

Answer: The President appoints the administrative staff of the Supreme Court on the advice of other members of judiciary.

Question 9: Under what circumstances can the salaries and allowances of the Judges of the Supreme Court be reduced?

Answer: The salaries and allowances of the Judges of the Supreme Court can be reduced during periods of financial emergency.

Question 10: If the President of India considers that a question of law may be referred to the Supreme Court, under which jurisdiction will the Supreme Court express its opinion in the matter?

Answer: Advisory Jurisdiction.

Question 11: Of which Constitutional system is the independent Judiciary a characteristic?

Answer: The independent Judiciary is a characteristic of the federal system.

Question 12: Why should the Judiciary be separated from the Executive?

Answer: The Judiciary should be separated from the Executive because it should be free to impart impartial justice without any differentiation among people.

Question 13: Jurisdiction of the Supreme Court can be divided into how many categories? Name them.

Answer: Jurisdiction of the Supreme Court can be divided into three categories. They are:

(i) Original Jurisdiction, (ii) Appellate Jurisdiction, (iii) Advisory Jurisdiction.

Question 14: Appellate Jurisdiction of Supreme Court can be divided into how many groups? Name them.

Answer: Appellate Jurisdiction of Supreme Court can be divided into three groups. They are:

(i) Appeal in Constitutional Cases, (ii) Appeal in Civil Matters, (iii) Appeal in Criminal Cases.

Question 15: What is the advisory role of the Supreme Court of India?

Or

What is meant by advisory Jurisdiction of the Supreme Court?

Answer: Under advisory role, the President can seek the opinion of the Supreme Court on any question of law or fact of public importance.

Question 16: Name any one Writ issued by the Courts for the enforcement of Fundamental Rights.

Answer: Habeas Corpus.

Question 17: Why is the Supreme Court said to be the guardian of the Constitution?

Answer: The Supreme Court is known as the guardian of the Constitution as it can issue writs for the enforcement of Fundamental Rights.

Question 18: Mention any one power of the Supreme Court, which is not enjoyed by other courts.

Answer: One power of the Supreme Court, which is not enjoyed by other Courts, is that only Supreme Court has the right to revise its earlier decisions.

Question 19: What happens if either the Parliament or a State Legislature passes any law that is against the Constitution?

Answer: If either the Parliament or a State Legislature passes any law that is against the Constitution, the Supreme Court can declare that law as unconstitutional.

Short Questions – I

Question 1: Who appoints the Chief Justice of the Supreme Court?

Answer: The President appoints the Chief Justice of the Supreme Court with the consultation of Judges of the Supreme Court and Chief Justice of the High Courts whom he may think fit.

Question 2: Mention the salary and allowances of the Chief Justice and the other Judges of the Supreme Court.

Answer: The Chief Justice of India and other Judges of the Supreme Court are entitled to a nominal monthly salary. They are also entitled to rent-free residential accommodation, other allowances and amenities.

In order to become a Judge of the Supreme Court, a person must possess the following qualifications:

1. He/She must be a citizen of India.
2. He/She should have worked as a Judge in any of the High Court continuously for not less than five years.
3. He/She should have or have been an advocate of a High Court for at least 10 years.
4. He/She must be a distinguished Jurist.

Question 3: Discuss about the manner of appointment of Judges of the the Supreme Court.

Answer: The Judges of Supreme Court are appointed by the President by warrant under his hand and seal after consultation with such Judges of Supreme Court and High Courts as he deems necessary.

Question 4: Why there is need for an independent Judiciary in India?

Answer: An independent Judiciary is an essential part of a federal system. As such, disputes regarding the interpretation of the Constitution and the division of powers between centre and the states necessitate an impartial Judiciary.

Question 5: What is understood by a 'Single Integrated Judicial System' as provided in the Indian Constitution?

Answer: In a 'Single Integrated Judicial System' provided in the Indian Constitution, the Supreme Court of India is the Apex Court of India and administers both Union and State law. Below the Supreme Court are the High Courts in each State or group of States followed by Subordinate Courts.

Question 6: Mention three circumstances in which the office of the Judge of the Supreme Court falls vacant.

Answer: The circumstances in which the office of the Judge of the Supreme Court falls vacant are:

- (i) He can be removed on grounds of 'Proved Misbehaviour' or 'Incapacity'.
- (ii) A Judge may resign himself on the grounds of health, or may retire from his office.

Question 7: Why is the Supreme Court described as a 'Court of Record'?

Answer: The Supreme Court is a Court of Record. A 'Court of Record' is a Court whose judgements are recorded for evidence and testimony which are duly printed for the future references in the Court as well as for the use of lawyers in their pleadings.

Question 8: What do you understand by the term 'Judicial Review'?

Answer: The Judicial Review means that the Supreme Court can reject the laws passed by the Legislature and the orders issued by the Executive and declare them void, if they are not in accordance with the provisions of the Constitution.

Short Questions – II

Question 1: Explain the term of office and removal of Judges of the Supreme Court.

Answer: Term of office and removal of Judges: A Judge of the Supreme Court continues in office until he attains the age of 65. However, Article 124 (2) provides that a Judge may resign by writing under his hand addressed to the President.

A Judge of the Supreme Court may be removed from office on the grounds of proved misbehaviour and incapacity by the president by an order issued after an address has been presented to him by the Parliament. Such an address must be supported by a majority of not less than two-thirds of the members present and voting in each House of Parliament.

Question 2: Mention the ways in which the Supreme Court has been made independent of the influence of the Executive.

Or

Mention two ways by which the Constitution ensures independence of the Judges of the Supreme Court?

Answer:

1. The Judges are although appointed by the President but he cannot remove them.
2. Security of Tenure.
3. Security of Salaries and service conditions.

4. The Judges are free to announce their decisions and decrees in the Court Chamber.
5. Can punish for the Contempt of Court.
6. Forbids the discussion of the conduct of a Judge of the Supreme Court in Parliament.
7. The Judges are not allowed to practice after retirement.

Question 3: The meaning of Independence of the Judiciary and the need to do so.

Answer: Meaning of Judiciary: By Independence of Judiciary means its independence from the control of the executive and the legislature. This also means a fair, impartial, fearless and honest judiciary. An independent judiciary alone can do Justice. The Supreme Court and the High Courts administer justice not only between citizen's but between 'Citizens' and 'State'. Thus the Independence of Judges is essential for the functioning of a democratic constitution.

Question 4: What is Appellate Jurisdiction? Mention any two types of cases over which the Supreme Court has Appellate Jurisdiction.

Or
In the extensive Jurisdiction of the Supreme Court state the difference between the Original Jurisdiction and the Appellate Jurisdiction. Mention two functions that come under Original Jurisdiction.

Answer: A Court of Appeal is one which may change the decision or reduce the sentence passed by the lower Courts. The Supreme Court is the final Court of Appeal. An appeal lies to the Supreme Court from any judgement or final order of a High Court in the following conditions:

(i) If the High Court certifies that the case involves a substantial question of law of general importance and (ii) that the question needs to be decided by the Supreme Court. An appeal in criminal matters also lies to Supreme Court.

Question 5: How does supreme court play the Guardian of the Fundamental Rights?

Answer: The Fundamental Rights are guaranteed by the Constitution against the action of both the Executive as well as Legislature. Any act of the Executive or of the Legislature which takes away or abridges any of these fundamental rights shall be unconstitutional and the Court is empowered to declare it as void. Article 32(1) guarantees for the enforcement of the Fundamental Rights, Article 32(2) lays down that the Supreme Court has the power to issue directions or orders or writs like habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of Fundamental Rights. The Supreme Court is thus the protector, and guardian of the Fundamental Rights guaranteed under the Constitution.

Question 6: What is meant by Court of Record.

Answer: Court of Record: The Constitution makes the Supreme Court a Court of Record. A Court of Records is a Court whose judicial decisions can be cited as judicial precedents before other Courts. The truth of these decisions cannot be questioned in any court. They are binding upon other Courts. The acts and proceedings of a Court of Record

are recorded for perpetual memory and testimony. As a Court of Record, the Supreme Court has the power to punish for contempt's of its authority.

Question 7: The Supreme Court is the Guardian of the Fundamental Rights. In this connection explain the following units which its can issue:

(i) Habeas Corpus (ii) Mandamus.

Answer: (i) Habeas Corpus: It literally means to "have his body". Habeas Corpus implies that the Supreme Court might issue an order upon a person to produce a prisoner, whom the person has kept in confinement, before the Court so that the Court may ascertain whether the detention of the prisoner has been made strictly in accordance with law or not. The Court thereby can either set him free or bring about his speedy trial.

(ii) Mandamus: It literally means "We command". This writ is a sort of command from the Supreme Court to a Subordinate Court or an administrative authority in case they fail to exercise their jurisdiction and fail to perform their duty.

Question 8: Name any two writs issued by the courts for the enforcement of Fundamental Rights.

Answer: (i) Certiorari: It is an order by the Supreme Court to the judicial or quasi-judicial authorities to quash its order or decision. Prohibition is issued when certain proceedings are still going on. Certiorari is issued only when the order has already been passed.

(ii) Quo-warranto: This writ prevents an unlawful claimant from holding a superior public office. The Court issues a writ to a public servant to enquire into the legality of his holding a public office and ousts him if his claim is not well founded.

Question 9: How does Supreme Court act as: Custodian of the Constitution?

Answer: As the custodian of the Constitution, the Supreme Court has been equipped with the power of judicial review to check the arbitrary power of the Executive. Supreme Court can review the laws passed by the Legislature and the orders issued by the Executive and declare them void, if they are not in accordance with the provisions of the Constitution. In India, Parliament and State Legislature can exercise their powers subject to the limitations, imposed by the Constitution. The Constitution has imposed definite limitations upon each of the organs, and it is for the Courts to decide whether any of the Constitutional limitations has been transgressed or not. No organ of the Government, whether Union or State can violate the provisions of the Constitution.

Question 10: Why the Judges of the Supreme Court are prohibited to practice after retirement?

Answer: Prohibition of practice after retirement: The Judges of the Supreme Court and High Court receive good pensions but they are not permitted to practice as Lawyers after their retirement. This restriction has been laid down so that the Judges do not feel obliged during their tenure as Judges to any prospective employers. On the other hand, they could influence their former colleagues in the judiciary if they are allowed to practice.

Long Questions

Question 1: Discuss the composition of the Supreme Court of India.

Answer: Composition of the Supreme Court: The Supreme Court consists of a Chief Justice and 25 other Judges or as decided by the Parliament. The Judges of Supreme Court are appointed by the President by warrant under his hand and seal after consultation with such Judges of Supreme Court and High Courts as he deems necessary. Every Judge of the Supreme Court shall hold office till he attains the age of 65 years. During his office, a Judge may be removed by the Parliament or resign from his office by submitting his resignation to the President. The Chief Justice of the Supreme Court with the prior consent of the President may appoint ad hoc Judges for the time being, if quorum of Judges is not available to hold the sessions of the Court. The qualifications required to become a Supreme Court Judge are:

(i) He must be a citizen of India.

(ii) He should have worked as a judge of High Court continuously for at least five years.

Or

He should have been for 10 years an advocate of two or more High Courts.

Or

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

Question 2: Discuss the manner in which the constitution seeks to maintain the Independence of the Judges of Supreme Court.

Answer: The Independence of the Judges of the Supreme Court is ensured by the Constitution in following ways:

(i) Security of Service: The judges of Supreme Court cannot be removed from office until they complete 65 years of age or they have been removed by the Parliament.

(ii) Emoluments not Subject to Reduction: Emoluments of judges cannot be reduced during their tenure until there is a financial emergency in the country.

(iii) No discussion in Legislature on the Conduct of Judge: This discussion is held only when the house wants to remove the judge, otherwise the discussion about the conduct of any judge cannot be held in any legislature.

(iv) Freedom to Announce Decisions and Decrees: The judges have freedom to decide cases without any danger to their person, property or fame.

Question 3: Explain the Appellate Jurisdiction of the Supreme Court.

Answer: The cases which come to the Supreme Court to appeal from the decision or order of High Court or a Tribunal in India come under as 'Appellate Jurisdiction'. Appellate Jurisdiction covers three types of cases:

(i) Constitutional Cases: An appeal can lie to the Supreme Court from any judgment or order of a High Court, whether in civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution.

(ii) Civil Cases: If the High Court certifies that the case involves a substantial question of law

and the said questions needs to be decided by the Supreme Court then an appeal can lie to the Supreme Court.

(iii) Criminal Cases: An appeal can lie to the Supreme Court against the judgment of a High Court in criminal cases if:

(a) The High Court has reversed the judgment of Lower Court and converted the acquittal into death sentence; or

(b) The High Court has reversed the judgment of the Subordinate Court and converted capital punishment into acquittal, or

(c) The High Court gives certificate that case (criminal) is fit to be sent for appeal to the Supreme Court.

The Supreme Court has the power to grant special leave to appeal against any judgment or order of any court or tribunal.

Question 4: What is meant by Judicial Review and Original Jurisdiction?

Answer: The Judicial Review refers to the power of the Supreme Court to declare null and void those laws of the legislature and those orders of the executive which go against the provisions of the constitution. The power of Judicial review is an implied power under Art-13 as it is not explicitly mentioned in the constitution. The court can not initiate suo moto the proceedings of judicial review. It has to be brought before the court by the affected party.

The Original Jurisdiction extends to those cases which Supreme Court has authority to hear and decide in the first instance. The Supreme Court in its Original Jurisdiction entertains suits in the following cases:

(i) A dispute between the Government of India and one or more States.

(ii) Disputes between two or more States.

(iii) A Dispute between the Union and any State on the one side and other States on the other.

Also, in cases involving the violation of Fundamental Rights, the Supreme Court enjoys Original Jurisdiction.

Question 5: With reference to the Independence and Impartiality of the Supreme Court, explain the role of each of the following factors:

(i) No discussion with respect to the conduct of any Judge.

(ii) Power to punish for contempt of itself.

Answer: (i) No discussion with respect to the Conduct of any Judge: No discussion shall take place in Parliament with respect to the conduct of any Judge in the discharge of his duties, except when a motion for his removal is under consideration. The conduct of a Judge cannot ordinarily be a subject-matter of discussion inside legislature.

(ii) Punishment for the Contempt of Court: Genuine criticism of a judgment is allowed, but nothing should be done to lower the authority or dignity of the Court. The Supreme Court has the power to punish for contempt of itself.

Question 6: What is the procedure for the removal of a Supreme Court Judge.

Or

Explain the impeachment procedure for the removal of Judges.

Answer: A Judge can be impeached on grounds of proven misbehaviour or incapacity. The process involves a motion being passed by a special majority of each House of Parliament.

(i) A motion addressed to the President which has been signed by atleast 100 members of the Lok Sabha or 50 of the Rajya Sabha is given to the chairman or Speaker.

(ii) It is then investigated by a committee of 2 Supreme Court Judges and a distinguished jurist.

(iii) If the motion is found acceptable then it is given to the initiating House for consideration.

(iv) It is prospected to the President after it has been passed by two third majority of each house.

(v) The judge will be removed after the President gives the order for his removal.