

SUPREME COURT AND HIGH COURT



Supreme Court

- Art 124-147
- Part V

Art 124

- 1 Strength of judges
- 2 President appoints every judge of SC

Originally: Constitution decision on SC strength = 1 + 7 → 8 judges
 At present: 32 judges
 *Maximum possible strength is 34 judges

Appointment

Max age

Appointment

Chief Justice of India

- Appointed by President

Other judges

- Recommendation of CJI is mandatory
- Max age: 65 yrs
- There is no minimum age for the appointment of judges

1 Collegium System

Group of judges whose recommendation President takes while appointing a judge/Chief Justice of SC/Chief Justice of HC

Nowhere mentioned in Constitution

- Argument between Parliament and judges
- Case: Judges Case (total: 4 cases)

- 1 President must take recommendation from CJI of India (not his sole decision) — 1982
- 2 Recommendation of CJI + 2 more judges — 1993
- 3 Recommendation of CJI + 4 more judges — 1998

Art 124

- Resignation in return to President
- Judges to be removed in manner provided in clause (4)

3 Qualification

- 5 yrs — Judge of any High Court
 - OR
 - 10 yrs — Advocate of any HC
 - He should be a distinguished jurist in the opinion of President
- } Citizen of India

4 Removal of a judge

- Removal by President, on the basis of resolution passed by Parliament

Judges Inquiry Act, 1968

· Lok Sabha: 100 members

· Rajya Sabha: 50 members

Then presented to Presiding Officer

3 membered commission

→ If passed, then removal of judges can happen on the basis of Special Majority

Removal on grounds of:

- Proved misbehaviour
- Incapacity

5 They take oath before the President

6 They cannot do private practice once has been placed as a judge of Supreme Court

Art 125

- Salaries: Determined by Parliament
- Law on privileges and salaries: Determined by President

Art 126

- Appointment of acting Chief Justice

Art 127

- Appointment of Ad Hoc Judges

Difference

Vacancy

Chief Justice

- When his seat is not there (vacant)

The President may appoint acting Chief Justice

Ad Hoc

- When the office/judge is absent

→ CJJ, after taking advice from the President may appoint some Ad Hoc Judges from High Court



Art 128

- Attendance of retired judges at sittings of SC

On advice of President

Art 129

- Supreme Court to be court of record

Art 130

- Seat of Supreme Court

Constitution declares Delhi as a seat of SC

→ If CJI wants to declare any other seat of SC, other than Delhi, it has to take President's permission

Art 131

- Original jurisdiction of SC → Also exclusive (No other court can deal)

Directly approach essay not necessarily by the way of appeal

Disputes

- Between GOI and one or more states
- Between GOI and any state or state one side or one or more state on other side
- Between two or more state

Art 132

- Appellate jurisdiction of SC by way of appeal from HC in certain case

In Constitutional matters

Art 133

- Appellate jurisdiction of SC in civil matters (property, marriage, divorce)

Art 135

- Jurisdiction and powers of federal court under existing law to be exercisable by the Supreme Court

Art 136

- Special leave to appeal by SC

Not a privilege

A person can approach SC if no proper justice granted in lower court



Art 137

- Review of judgements or orders by SC

SC has power to review his own orders
or bench of judges

Art 138

- Parliament by law can enlarge the jurisdiction of SC

Art 139

- SC can issue writs on cases of violation of Fundamental Rights and in cases when wants to issue writs, other than that, must permission of parliament

Art 140

- Ancillary powers of SC

Can support or help Legislature to
make law better

Art 141

- Law declared by SC to be binding on all courts

Art 142

- Enforcement of decree and orders of SC

Violation of separation of power → not strict in India

eg: in Bhopal Gas Tragedy,
December 3, 1984, which was
caused due to Methylisocyanate
(Company: Union Carbide)

- * Judicial Activism: The exercise of the power of judicial review to set aside government acts

SC used Art 142 and passed certain
decree

Art 143

- Power of President to consult SC

Advisory jurisdiction

President can go to SC:

- If pre-constitutional matter → SC advice is mandatory, but not binding on President
- If matter of general importance → SC advice is not binding

Art 144

- Civil and judicial authorities to act on aid of SC

TRICK

- **SC:** Art 124 — SC
ne
- **S:** Art 125 — Salaries
- **A:** Art 126 — Acting judges
- **A:** Art 127 — Ad Hoc term
- **R:** Art 128 — Retired judges attendance
- **C:** Art 129 — Court of record
ko
- **Seat:** Art 130 — Delhi as a seat of SC
- **Offer:** Art 131 — Original jurisdiction
ka
- **Art 140:** Ancillary powers
- **Art 141:** Binding Law
- **Art 142:** Complete jurisdiction
- **Art 143:** Advisory

High Court

- Part VI
- Art 214-237

Art 214

- Establishment of High Court

Art 215

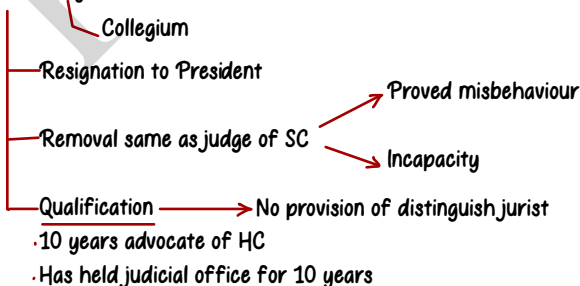
- HC to be court of record

Art 216

- Constitution of HC → One Chief judge, and other such judges as Parliament may decide

Art 217

- Appointment of judges → Done by President's consultation, such other judges as President may feel necessary





Art 218

- Application of certain provision (provisions, both in SC and HC)

Art 219

- Oath and affirmation → Governor

Art 220

- Restriction on practice after being a permanent judge

Art 221

- Salaries → Consolidated Fund of States
(Pension → Consolidated Fund of India)

Art 222

- Transfer of judges → by President after consultation with CJI

Art 223

- Appointment of acting Chief judges

Art 225

→ Jurisdiction

- Original → Election of dispute MPs/MLAs by HC
- Appellate
- Writ
- Governor does not need advice

Art 226

- Writ jurisdiction of HC (wider than SC → HC can issue writs on legal + Fundamental Rights)

└ HC may refuse to issue writ, but SC cannot

Art 227

- Power of jurisdiction over all other courts

Art 228 ✗

Art 229 ✗

Art 230

- Extension of jurisdiction of HC to Union Territories → Power of Parliament

Andaman and Nicobar — Calcutta HC

Lakshadweep — Kochi (Kerala HC)

Dadra/Daman — Maharashtra HC

Puducherry — Madras HC (Tamil Nadu)



Art 234

- Establishment of common HC for two or more states (7th CA)
- eg: Maharashtra and Goa has a common HC → Maharashtra

Art 233

- Appointment of distinct judges

By Governor after consulting HC

Art 234

- Recruitment of persons, other than judges

* Inaugural session of Supreme Court: 28 January 1950

TRICK

- N: ✗
- H: 214 — Estd. of HC
- R: 215 — Court of record
- C: 216 — Constitution
- A: 217 — Appointment
- A: 218 — Application of certain power
- O: 219 — Oath
- R: 220 — Restriction
- E: ✗
- S: 221 — Salary
- T: 222 — Transfer