

Legal Remedies

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INTRO

- Right and remedy cannot be dissociated from each other
- *Locus standi* asks the question whether the petitioner is entitled to invoke the jurisdiction of the Court.
- As a general rule, in order to have *locus standi* to file a writ petition, the petitioner need not be an 'aggrieved person'
- The Law of Limitation does not apply to writ proceedings
- Inordinate delay in making the motion for a writ will be a good ground for refusing to exercise the discretion
- The above rule does not apply to the writs of HC/QW

Habeas Corpus

- What is the main object of the writ of Habeas Corpus? It is not to punish the detaining authority.
- Writ of Habeas Corpus is available against private detention
- The arrest becomes unlawful if a person who is arrested is not produced before the Magistrate within 24 hours of his arrest and he will be entitled to be released on the writ of Habeas Corpus (**Exc-PD**)
- Even during Emergency, a writ of habeas corpus for the enforcement of fundamental rights guaranteed under Article 21 is maintainable
- The Habeas Corpus writ can be issued directing the Prison authorities to provide necessary amenities to prisoners or to protect them from inhuman treatment.

Mandamus

- Mandamus means a command
- Mandamus is issued where a public or statutory duty is imposed upon the officer concerned and there is a failure on the part of the officer to discharge the statutory duty or obligation
- A licensing officer is under a duty to issue a license to an applicant who fulfils all the conditions laid down for the issue of such license. But despite the fulfillment of the conditions if the officer or the authority concerned refuses or fails to issue the license the aggrieved has a right to seek the remedy through a writ of mandamus
- A writ of mandamus cannot be granted to enforce an obligation arising out of contract
- If a function is discretionary, there will be no Mandamus

Certiorari/Prohibition

- The writ of Certiorari/Prohibition is issued to a judicial or quasi-judicial body on the following grounds:
 1. Where there is a want or excess of jurisdiction
 2. Where there is a violation of procedure or disregard of principles of natural justice
 3. Where there is an error of law apparent on the face of the record but not error of a fact

There is no difference in principle between Certiorari and Prohibition except in respect of timing of the remedy; one before and while the other after the decision

CERTIORARIFIED MANDAMUS

- Whereas Mandamus compels, certiorari corrects
- In a given case, however, mandamus and certiorari may be combined. By issuing certiorari, a decision can be quashed and simultaneously by issuing mandamus certain directions can also be given. This is known as “*certiorarified mandamus*”
- In spite of statutory provision for renewal of permit for three years if the renewal is granted only for one year, the court not only can quash that order (certiorari) but also direct the authority to renew permit for three years (mandamus)

Continuing Mandamus

- Continuing Mandamus: - In an appropriate case, however, the court may feel that mere issuance of mandamus may not serve the purpose unless there is monitoring by the court. In such cases, instead of disposing the matter and issuing final direction, the court may issue interim directions from time-to-time and require the authority to implement them. This is technically known as “continuing mandamus”

Quo Warranto

- Quo Warranto literally means 'what is your authority'
- By the writ of Quo Warranto, a holder of an office is called upon to show to the court under what authority he holds the office
- Does the writ of Quo warranto protect a citizen from being deprived of public office to which he may have a right? Yes
- Is writ of Quo warranto maintainable even at the instance of a private person even though he is not personally aggrieved or interested in the matter? Yes

Punishment

- Rigorous= hard labour(such as grinding the corn, digging earth, drawing water, cutting fire-wood)
- **COMMUNITY SERVICE**
- **Two sentences may run consecutively or concurrently**
- **Ram Rahim= The punishment for both the offences (10 years each for raping 2 girls) will run consecutively, i.e., one after the other. The godman was also sentenced to four years in jail for criminal intimidation, the term for which will run concurrently (at the same time) with the 20-year-sentence.**
- **With respect to imprisonment for life, is there a difference between “imprisonment for life” and “imprisonment for life which shall mean the remainder of that person’s natural life//remit/commute**

Two Wrongs

- If one act constitutes two civil wrongs ,the wrongdoer would be liable for only one civil wrong
- If one act constitutes a crime and a civil wrong, the wrongdoer would be liable for crime as well as civil wrong
- If one act constitutes two crimes, say a crime under IPC as well as a crime under Dowry Prohibition Act, in such a case the wrongdoer would be liable for both the crimes and can be punished for both the crimes

5 points (Article 20[1])

- 1. Civil laws can be retrospective but not criminal**
- 2. If an act is not an offence today ,it cannot become later with retrospective effect.**
- 3. If today for an offence if the punishment is 3 years imprisonment, it cannot be enhanced with retrospective effect.**
- 4. The prohibition(just for conviction and sentence only)does not apply in respect of trial (Trial can be by a special court constituted after the commission of the offence)**
- 5. The accused can take advantage of the beneficial provisions**

Sarla Mudgal v. India (1995)

- Interpreting S. 494, I.P.C., the Supreme Court ruled in 1995 in Sarla Mudgal v. India that the second marriage of a Hindu husband after conversion to Islam without having his first marriage dissolved according to the law, would be invalid and the husband would be guilty of the offence under S. 494, I.P.C

Protection against Double Jeopardy – Clause (2)

- Article 20(2) of our Constitution says that “***no person shall be prosecuted and punished for the same offence more than once***”. This clause embodies the common law rule of *nemo debet vis vexari* which means that ***no man should be put twice in peril for the same offence***.
- ***Under the American and the British Constitution the protection against double jeopardy is given for the second prosecution for the same offence irrespective of whether an accused was acquitted or convicted in the first trial.***

Section 337 BNSS, 2023

- **S.337 BNSS:-** However, according to the principle of **autrefois convict or autrefois acquit embodied in S.337 BNSS, an accused cannot be tried again whether punished or acquitted and thus entitled to the same protection available in USA or England.**

BOTH PROCEEDINGS TO BE JUDICIAL PROCEEDINGS

- **If either the 1st Proceeding or the 2nd Proceeding is not a judicial proceeding then the protection of Art.20(20) does not apply**

ESSENTIALS FOR THE APPLICATION OF DOUBLE JEOPARDY RULE (Art.20(2))

- **The person must be accused of an ‘offence’.** The word ‘offence’ as defined in General Clauses Act means ‘any act or omission made punishable by law for the time being in force.’
- The proceeding or the prosecution must have taken place before a **“court” or “judicial tribunal”**
(Proceeding/decision/Judgement must be of judicial character)
- The ‘offence’ must be the same for which he was prosecuted in the previous proceedings.

Maqbool Husain v. State of Bombay(1953)

- In *Maqbool Husain v. State of Bombay*, **the appellant brought some gold into India. He did not declare that he had brought gold with him to the customs authorities at the airport. The customs authorities confiscated the gold under the Sea Customs Act. He was later on charged for having committed an offence under the Foreign Exchange Regulations Act.** The appellant contended that second prosecution was in violation of Article 20(2) as it was for the same offence, i.e., for importing gold in contravention of Government notification for which he had already been prosecuted and punished as his gold had been confiscated by the customs authorities. **The Court held that the Sea Custom Authorities were not a court or judicial tribunal and the adjudging of confiscation under the Sea Customs Act did not constitute a judgement of judicial character necessary to take the plea of the double jeopardy. Hence the prosecution under the Foreign Exchange Regulation Act is not barred.**

DUTYFREE GOLD/CUSTOMS DUTY

- Duty-Free Gold Limit for **Male Passengers**
- A male passenger can bring **20 grams** (maximum value of Rs. 50,000) of gold without paying any customs duty from Dubai to India. He can carry gold coins or bars within this limit to be exempt from customs duty in India. However, customs duty must be paid on the extra grams if the gold exceeds 20 grams or the Rs. 50,000 limit. Passengers must produce the gold purchase invoices with the price, purity and date at Indian customs for verification. The custom duty rates on excess gold are as follows:
 - Custom duty rate of 3% when the gold quantity is 20 grams to 50 grams
 - Custom duty rate of 6% when the gold quantity is 50 grams to 100 grams
 - Custom duty rate is 10% when the gold quantity is over 100 grams
- Duty-Free Gold Limit for **Female Passengers**
- For female passengers, the duty-free gold limit from Dubai is **40 grams** (maximum value of Rs. 1 lakh). Females can bring back gold in the form of jewellery, bars, or coins while returning from Dubai for their personal use. Any amount beyond this limit will attract customs duty. Passengers must also produce proper documentation of gold purchase at Indian customs for verification. The custom duty rates on excess gold are as follows:
 - Custom duty rate of 3% when the gold quantity is 40 grams to 100 grams
 - Custom duty rate of 6% when the gold quantity is 100 grams to 200 grams
 - Custom duty rate is 10% when the gold quantity is over 200 grams

Venkataraman v. Union of India(1954)

- In *Venkataraman v. Union of India*, **the appellant was dismissed from service as a result of an inquiry under the Public Service Enquiry Act, 1960, after the proceedings were held before the Enquiry Commissioner. Later on, he was prosecuted for having committed the offence under Indian Penal Code and the Prevention of Corruption Act.** The Court held that the **proceedings taken against the appellant before the Enquiry Commissioner did not amount to a prosecution for an offence. The enquiry held by the Commissioner was in the nature of fact finding to advise the Government for disciplinary action against the appellant. It cannot be said that the person has been prosecuted.** Hence, the second prosecution of the appellant was held not to attract the application of the double jeopardy protection guaranteed by Article 20(2).

PUNISHMENT IS NOT FOR THE SAME OFFENCE

- Article 20(2) *will have no application where punishment is not for the same offence. Thus if the offences are distinct the rule of double jeopardy will not apply.* Thus, where a person was prosecuted and punished under Sea Customs Act; and was later on prosecuted under the Indian Penal Code for criminal conspiracy, it was held that second prosecution was not barred since it was not for the same offence.

Jitendra Panchal v. Intel Officer N.C.B.(2009)

- In *Jitendra Panchal v. Intelligence Officer N.C.B.*, the offence for which the accused was tried and convicted in a foreign country, USA was in respect of a charge of conspiracy to possess a controlled substance (Hashish) with the intention of distributing the same punishable under USA law. The offence for which he was being tried in India was relating to the importation of the contraband article from foreign country from Nepal to India and exporting the same for sale in the USA and for which he is now being tried in India. The offences are distinct and separate and do not, therefore, attract the provisions of Article 20(2) of the Constitution.

Parole & Furlough

- ***Furlough is to be granted periodically*** under the rules irrespective of any particular reason merely with a view to enabling the prisoner to have family association and keep up family and social ties and avoid ill-effect of continuous prison life
- **Parole**, by contrast is **given to a prisoner for a specific reason**, such as a death in the family or a wedding of a blood relative
- It is not necessary to **state reasons while releasing the prisoner on furlough** but in case of **parole**, reasons have to be indicated. Again, release on furlough cannot be said to be an absolute right of the prisoner
- ***Furlough is treated as a period spent in prison.*** But as against this, the period spent on parole is not counted as remission of sentence

Permanent Parole/Probation & Admonition

- **Permanent Parole=Release after serving a part of the sentence, usually 1/3rd**
- **Probation= the release of an offender from detention, subject to a period of good behaviour under supervision (not more than 3 years)**
- **Probation is a period of time during which a person who has committed a crime has to obey the law and be supervised by a probation officer, rather than being sent to prison**
- **The Probation of Offenders Act lays down that probation officers to be appointed who would be responsible to give a pre-sentence report to the magistrate and also supervise the accused during the period of his probation**
- **Probation=committed an offence not punishable with death or imprisonment for life**
- **Probation=>7years/No previous conviction/ execute bond(True/false)**
- ***Admonition* means censure (condemnation)= not more than 2 years imprisonment**

Preventive Detention

- **Article 22 does not expressly authorize Preventive Detention**
- **Preventive detention law is not operative in USA
Preventive detention is resorted to in England only during war time**
- **Safeguards against PD Laws=**
 - 1)Communication of grounds of detention to the detenué/**
 - 2)D's Right of Representation/**
 - 3)Review by Advisory Board**

Preventive Detention

- **In case of preventive detention the person is arrested by police and taken to Judicial Custody**
- **A person preventively detained need not be produced before a Judicial Magistrate within 24 hours**
- **A preventively detained detenu can approach the SC/HC invoking Article 32/226**
- **The preventive detenu has no right to be represented before Advisory Board through a lawyer**

Specific Relief Act, 1963

- Specific relief refers to a legal remedy provided by courts to enforce a specific obligation or obtain a specific performance from a party in a civil dispute. It is a **discretionary remedy** granted by the court and is aimed at ensuring justice in cases **where monetary compensation is not an adequate solution**. The Specific Relief Act, 1963, is Indian legislation that governs the principles and procedures for granting specific relief. It defines the various forms of specific relief and lays down the conditions under which such relief can be granted.
- The scope of specific relief covers various areas, including contracts, property disputes, trusts, torts, and intellectual property.

Limitations of Specific Relief

- A. Adequacy of Damages:** Specific relief may not be granted if monetary damages would be an adequate remedy for the aggrieved party.
- B. Personal Services:** Specific performance of personal services is generally not enforceable by the court.
- C. Continuous Supervision:** Specific relief requiring continuous supervision may not be feasible for the court to enforce.
- D. Discretion of the Court:** The court has the discretion to deny specific relief if it deems it inappropriate or unjust in a particular case.

Contracts that cannot be specifically enforced

- When there is a non-performance for the act, and money is adequate compensation.
- A contract that is full of many details and its nature is personal to the parties, these cannot be specifically enforced.
- The contract requires continuous work for which the court cannot supervise.

Substituted Performance (Section 20):

- The concept of Substituted Performance was introduced in the Specific Relief Act, 1963 through the **2018 amendment**, specifically under Section 20. This provision allows an aggrieved party to arrange for the performance of a contract through a third party or by their own agency if the party in breach fails to perform after being given a notice of at least thirty days. The cost and expenses of such substituted performance can be recovered from the party in breach. This amendment aims to provide a practical alternative to waiting for court-ordered specific performance, which can often be time-consuming. It empowers the non-breaching party to take proactive steps to fulfill the contract's objectives while still preserving their right to claim compensation. However, once the aggrieved party opts for substituted performance, they cannot seek specific performance from the court, though they retain the right to claim compensation for the breach. This provision is particularly useful in time-sensitive contracts or where the aggrieved party cannot afford delays in performance.

RECOVERING POSSESSION OF PROPERTY

- Section 5: **Right to Specific Immovable Property**: Section 5 states that a person who has been dispossessed or wrongfully kept out of the property can file a suit to recover possession.
- Section 6: **Suit by Person Dispossessed**: Section 6 deals with suits filed by a person who has been dispossessed of immovable property without their consent.
- The dispossession must be without the consent of the person suing.
- Section 6 sub-clause (2) explains that no suit can be brought by a person after the **expiry of 6 months from the date of dispossession**.
- Section 6 sub-clause (2) also explains that no suit by a person **can be brought against the government**.

Approaching the problem of dispossession of Immoveable Property under SRA & under BNSS, 2023:

- However, the BNSS of 2023 introduces a more efficient alternative under Section 164. This BNSS remedy is generally preferred due to its speed and cost-effectiveness. To utilize this option, one must approach an Executive Magistrate, typically a Sub-Divisional Magistrate who is often an IAS Officer, within **two months of dispossession**. Failure to act within this timeframe results in the loss of this expedited remedy. This provision underscores the importance of swift action in property disputes and provides a streamlined process for addressing dispossession issues, highlighting the law's evolving approach to property rights protection.

SECTION 164 OF THE BNSS, 2023

- Briefly, section 164 of the BNSS, 2023, deals with disputes concerning the possession of immovable property. This section empowers an Executive Magistrate to intervene in cases where there is a **likelihood of a breach of peace arising from such disputes**.
When a Magistrate receives information about a potential dispute over property possession, they can issue an order requiring the parties involved to submit written statements of their respective claims. The Magistrate then conducts an inquiry to determine which party was in possession of the property at the date of the order, or if they were dispossessed within two months prior to the order. The primary focus under Section 164 is not on the title of the property, but on maintaining public peace by resolving possession disputes.

- **Contracts Which Can Be Specifically Enforced:**

Contracts related to immovable property:

- The Specific Relief Act, 1963, places significant emphasis on contracts related to immovable property due to their unique nature and the substantial interests often involved. Under the Act, specific performance is a favored remedy for breaches involving immovable property, as monetary compensation is often deemed insufficient to address the loss incurred. **Immovable properties are considered unique**, and their value cannot always be measured purely in financial terms. When a contract concerning the **sale, lease, or transfer of immovable property is breached, the aggrieved party can seek specific performance**, compelling the defaulting party to fulfill their contractual obligations. The 2018 amendment to the Act further strengthened this provision by **making specific performance the rule rather than the exception in property contracts.**

Contracts for the sale of goods that are not easily available in the market:

- The Specific Relief Act, 1963 (SRA) recognizes the distinct situation of contracts for the sale of goods that are not easily available in the market. Monetary damages might be an inadequate remedy for a buyer who contracted to purchase such unique goods. Imagine a scenario where a contract involves a **rare painting or a limited-edition collectible**. If the seller breaches the contract, simply receiving financial compensation wouldn't guarantee the buyer access to that specific item elsewhere. Some more examples of such goods might include **antiques, custom-made machinery, or rare collectibles**.

Recovery of the possession of movable property

Section 8 of the Specific Relief Act, 1963 explains that when a person is in the possession of the article to which he is not the owner, shall be compelled to deliver such article to the person who will have its immediate possession in following cases:

1. When the article is held by the defendant as the trustee of a person who has the immediate possession.
2. When compensation in money is not an adequate relief.
3. When it is difficult to ascertain actual damage caused to the person.
4. When the possession of the article has been wrongfully transferred from the person so entitled.

Specific Performance of contracts

- **Specific performance= Exact fulfilment of obligations under a contract**
- **No Specific performance= there exists a standard for ascertaining the actual damage/compensation in money affords adequate remedy.**
- **No Specific performance=an ordinary article of commerce and easily obtainable in the market**
- **No specific performance= marriage or personal contracts**
- When the damages or loss occurred due to the non-performance of the contract cannot be ascertained.
- When money as compensation is not an adequate relief due to the non-performance of the contact.

Rectification of Instruments:

- The Specific Relief Act, 1963 (SRA) addresses situations where written contracts or other instruments (legal documents) don't accurately reflect the parties' true intentions. Section 26 of the Act empowers courts to grant a remedy known as "rectification of instruments." This process allows the court **to correct any mistakes or errors within the document to ensure it accurately reflects the agreement between the parties. Rectification is typically granted in cases of either mutual mistake (both parties made an error) or fraud by one party.** The mistake can be clerical (e.g., a typo in the property address) or a more fundamental misunderstanding of the terms. Either party involved in the contract can initiate a lawsuit seeking rectification. The court will then analyze evidence to determine the parties' true intentions and the nature of the mistake. Once granted, the court rectifies the instrument by ordering the necessary corrections. The rectified document then becomes the binding agreement between the parties.

Rescission of Contracts

- Rescission of Contracts, addressed in sections 27-30 of the Specific Relief Act, 1963, provides a mechanism for cancelling or annulling a contract, effectively restoring the parties to their pre-contractual positions. Section 27 outlines when a person may seek rescission, including cases of **fraud, misrepresentation, or where the contract is void or voidable against the plaintiff**. Section 28 specifies circumstances where rescission cannot be granted, such as when the contract has been confirmed by the plaintiff or when third-party rights have intervened. Section 29 allows for partial rescission in cases where some parts of the contract are separable. Section 30 empowers the court to require the party seeking rescission to restore any benefit received under the contract to the other party. The court has discretion in granting rescission, considering factors like the conduct of the parties, the nature of the contract, and the potential for restitution.

Declaratory Decrees

- Declaratory Decrees, addressed in Sections 34-35 of the Specific Relief Act, 1963, provide a unique form of relief where the court declares the legal character of a relationship between parties or the legal status of a person or property, without ordering any specific action. Section 34 empowers any person entitled to a legal character, or to any right as to property, to seek a declaration of such character or right from the court. This can be particularly useful in clarifying legal rights, titles, or status in situations of uncertainty. Section 35 restricts the granting of mere declarations where the plaintiff can seek further relief but has not done so. The Act specifies that declaratory decrees are binding only on the parties to the suit, their representatives, and those claiming through them. These decrees do not provide for direct enforcement but can be used as the basis for further legal action if necessary. For example, a person may seek a declaratory decree from the Court declaring that one Ms. B, is his wife.
- **The distinction between a declaratory order and other judicial order lies in the fact that while the latter is enforceable, the former is not**

Preventive Relief

- Preventive relief, as outlined in Sections 36 to 42 of the Specific Relief Act, 1963, focuses on preventing harm or injury to a party rather than providing a remedy after the fact. Section 36 defines an injunction as a specific order to do or refrain from doing a particular act. The Act categorizes injunctions into two types: **temporary (interim relief during the pendency of proceedings) and perpetual (final relief granted after the hearing)**. Section 37 outlines the grounds for granting a temporary injunction, which include preventing the dispossession of property, restraining injury to property rights, and preventing the breach of contract or other injury. Sections 38-41 detail specific cases where perpetual injunctions may be granted, such as to prevent the breach of an obligation, to prevent the invasion of the plaintiff's right, or to compel the performance of certain duties. Section 42 provides guidelines for granting **mandatory injunctions, which require the performance of a specific act.**
- **Prohibitory=Prohibit (not to do)**
- **Mandatory=To Do**

INJUNCTION

- **An injunction is an order of a court addressed to a party to proceedings before it, requiring it to refrain from doing, or to do, a particular act**
- **Injunction lies both against State as well as private individuals but Mandamus lies only against the State**
- **Subordinate courts can issue an injunction but not mandamus**
- **Prohibitory injunction prohibits or directs the defendant not to do sth, whereas mandatory injunction mandates or directs to do something**

DAMAGES

- **Nominal damages are name sake damages**
- **General damages cover the loss directly and necessarily incurred by the breach of contract**
- **Special damages (also called “consequential damages”) cover any loss incurred by the breach of contract because of special circumstances or conditions that are not ordinarily predictable. These are actual losses caused by the breach, but not in a direct and immediate way. To obtain damages for this type of loss, the non-breaching party must prove that the breaching party knew of the special circumstances or requirements at the time the contract was made**
- **Punitive damages (also called “exemplary damages”) are awarded to punish or make an example of a wrongdoer**



- *The portfolio of a junior bureaucrat, who is posted in the Telangana CM's office, is a mystery. She used to be posted in a district earlier. But things changed all of a sudden after the elections. The lady is present at every meeting and seen in almost every official photograph sent out by the CMO. But what she does exactly is a puzzle. She makes a fashion statement with her lovely saris and serves as "eye candy" at meetings, admit leading party politicians. In fact, it's this bureaucrat who calls up other officials in the CMO and asks them to come for meetings. She knows exactly what time the CM will arrive and leave the office. The lovely lady, known for her ethnic style, recently stunned all by appearing in a trendy trouser and frilly top at a fashion show. And for once, she wasn't sitting in an official meeting. But this appearance too made for a great photo op."*



LIMITATION ACT

- it is in the public interest to have an end to litigation
- law helps those who are vigilant about their rights, not those who neglect them.

Definition of "Applicant"

- “Applicant” includes—
 - (i) a petitioner;
 - (ii) any person from or through whom an applicant derives his right to apply;
 - (iii) any person whose estate is represented by the applicant as executor, administrator, or other representative;
- “application” includes a petition;

Definitions

- “tort” means a civil wrong which is not exclusively the breach of a contract or the breach of a trust
- **Easement:** An easement is a right that does not come from a contract. It allows a person to take and use part of someone else’s land. It includes the soil or anything growing on it, for their own benefit.
- “good faith” —nothing shall be deemed to be done in good faith which is not done with due care and attention
- “suit” does not include an appeal or an application
- **Period of limitation:** “Period of limitation” refers to the time limit set by the Schedule for filing a lawsuit, appeal, or application. “Prescribed period” means the time limit calculated according to the rules in this Act.
- **Promissory note:** A document where the maker agrees to pay a specified sum of money to another person at a set time, on demand, or at sight.
- **Trustee:** This does not include a benamidar, a mortgagee who stays in possession after the mortgage is satisfied, or a person in wrongful possession without title.

Adverse Possession

- Private property= 20
- Government Property =30 years
- The Prohibition of **Benami Property Transactions Act, 1988** was used to seize a 4,000 square yard property in Jubilee Hills, Hyderabad in January 2025. The property was found to be held in the name of a benami holder, while the actual owner was identified as a businessman.

Limitation Period

- On a bill of exchange or promissory note payable at a fixed time after date.
- Three years.
- When the bill or note falls due.

Condonation of delay

- Condonation of delay means extending the time limit in certain cases if there is a valid reason for the delay. Section 5 of the Act allows for the extension of the prescribed period if the appellant or applicant can show a valid reason for not filing the appeal or application on time. If they can convince the court, the appeal or application can be accepted after the deadline.
- If an application is made under any provision of Order XXI of the Code of Civil Procedure, 1908, and the applicant or appellant has been misled by any order, practice, or judgement of the High Court, this can be considered a sufficient cause for the delay. However, if a party cannot provide a valid reason for the delay, the court will reject the application, suit, or appeal.

Sufficient cause

- Sufficient cause means there should be adequate reasons for the court to believe that the applicant was prevented from proceeding with the application in court.
- The Supreme Court also established certain principles while deciding case:
 1. A person who files an appeal late does not gain any advantage from the delay.
 2. The reasons for the delay must be explained in a realistic manner.
 3. Delaying a case does not help the person filing it; in fact, it can put their case at chance of dismissal.
 4. The judiciary is respected not for its power to legalise injustice on technical grounds but for its ability to remove injustice.

Effect of acknowledgement in writing

Under Section 18, if there is an acknowledgement of liability concerning any property or right, a new limitation period will start from the date the acknowledgement was signed. It includes:

- Under Section 18(1), if a person acknowledges in writing that they owe something like property or a right before the time limit for filing a lawsuit expires, this acknowledgment must be signed by that person or someone who has the authority to do so on their behalf. Once this acknowledgment is made, the time limit for filing a lawsuit starts over from the date the acknowledgment was signed.

APPOINTMENT OF JUDGES

- The appointment of judges today rests de facto with the Judges themselves and the role of Executive at the Central and State Levels is marginal
- For the appointment of a SC Judge, the CJI should consult “ a collegium of 4 senior most judges of the SC and if two judges give adverse opinion, the CJI should not send the recommendation to the Government
- In regard to the appointment of Judges of the HCs, the collegium should consist of the CJI and any other two senior most Judges of the SC
- In regard to transfer of HC Judge, in addition to the collegium of 4 judges ,the CJI is required to consult CJs of the 2 HCs(one from which the Judge is being transferred and the other receiving him

Original Jurisdiction

- Supreme Court, under its Original Jurisdiction, adjudicates in matters concerning disputes between the Centre and the States, and also between or among individual States.
- Can the Supreme Court review its own judgements?
- Can a High Court adjudicate in a dispute between two States?
- If two Supreme Court Benches give two conflicting opinions on a point of Law, how do we decide the binding nature of the Judgment? [For instance, a Supreme Court full bench of 9 Judges (5:4) or Supreme Court full bench of 7 Judges by(7:0)]

EXCLUSIVE ADVISORY JURISDICTION

- The Supreme Court has an exclusive advisory jurisdiction also. Who can ask for such advice, and is the advice binding on him?
- If a question of law or fact is referred under Article clause(1) of Article 143, the Supreme Court is not bound to answer a reference
- However, if a dispute is referred under Article clause(2) of Article 143, the Supreme Court is bound to answer a reference
- Is the view expressed by Supreme Court U/A 143 binding on all Courts in India?

SPECIAL LEAVE TO APPEAL

- The Supreme Court may, in its discretion, grant special leave to appeal from any judgement of any Court other than military Courts. Correct?
- The Supreme Court may grant special leave to appeal even from an interlocutory order(True/False)

Articles 141 & 142

- Which Article provides that the Law declared by the Supreme Court to be binding on all Courts? Is there a similar provision with respect to the law declared by High Courts?
- Can the Supreme Court in exercise of its jurisdiction pass such decrees or orders as is necessary for doing complete justice in the matter pending before it? If so, which provision empowers the Supreme Court to do so?
- The court should not sit on judgment of a valid law on questions on necessity, wisdom and desirability

High Court

- Courts entitled to entertain constitutional matters=SC/HCs
- On the criminal side, the appellate courts are only Supreme Court, High Court and Sessions Court
- Has a High Court supervisory control over tribunals within its territory?
- Does the interpretation (ruling) of a High Court on a point of law mean anything for courts not subordinate to that particular High Court?(2009/13/18)

High Court

- Judicial decisions of the higher courts crystallize the law and sometimes act as a precedent if the area is unoccupied for lack of legislation
- How can the ruling of a High Court be overruled or nullified?
- The view taken by High Court can be overruled by a larger bench of the same High Court or overruled by the Supreme Court or modified by legislation by the competent legislature
- Has there been any occasion in India, where a Supreme Court Judge or High Court Judge is removed?
- Who has superintendence and control over the subordinate judiciary?

DECISIONS OF THE COURTS

- The decisions of the criminal courts are not binding on the civil courts
- The decisions of the civil courts are binding on the criminal courts
- The expression “public servant” in Section 6(1)(c) and (2) of the Prevention of Corruption Act includes Judges of the SC and the HC
- The office of Chief Justice of India comes under RTI Act

Lawyers

- Lawyers are not officers of the Court
- Lawyers are subordinate to the Court and are subject to the disciplinary control of the Courts
- Lawyers serving as ministers can practice in courts
- MP / MLA is a full-time employee of the government
- Can a judge of Supreme Court practice after retirement in India?

Judicial Review

- The term “ Judicial Review” consists of two words. The key word is “Review” which used as noun, ***means looking over something again; judging again; reconsideration; reassessment; critical examination.***
- ***Judicial review of legislation***
- ***Judicial review of constitutional amendments***
- ***Judicial review of executive actions***

GROUNDNS FOR THE EXERCISE OF THE POWER OF JUDICIALREVIEW

1. The administrative *action is contrary to law.*
2. *Non-compliance* with the mandatory *procedural requirements.*
3. Where the act complained of is *violative of* *Fundamental* Rights
4. Where the *authority imposes a condition patently unrelated to or inconsistent with the purpose or policy* of the statutes.

FOUNDATIONS FOR THE EXERCISE OF THE POWER OF JUDICIAL REVIEW

5. That the *decision is outrageous and has been taken in defiance of logic or of accepted moral standards* that *no sensible person could have arrived at such a decision. (Wednesbury Principle)*
 6. Failure to exercise discretion; or
 7. Excess or abuse of discretion.
- A decision will be said to be unreasonable in the Wednesbury sense if
 1. *it is based on wholly irrelevant material or wholly irrelevant consideration,*
 2. *it has ignored a very relevant material which it should have taken into consideration, or*
 3. *it is so absurd that no sensible person could ever have reached to it.*

Failure to Exercise Discretion

- **The main object of conferring discretionary power on an administrative authority is that the authority itself must exercise the said power. If there is failure to exercise discretion on the part of that authority the action will be bad.**

Such type of flaw may arise in the following circumstances:

- a) Sub-delegation;
- b) Imposing fetters on discretion by self-imposed rules of policy;
- c) Acting under dictation;
- d) Non-application of mind

Excess or Abuse of Discretion

- Excess or abuse of discretion may be inferred from the following circumstances:
 - a) Absence of power;**
 - b) Exceeding jurisdiction;**
 - c) Irrelevant considerations;**
 - d) Mala fide;**
 - e) Improper purpose: Collateral purpose;**
 - f) Colourable exercise of power;**
 - g) Non-observance of natural justice**

Armed Forces Tribunal (AFT)

- The Supreme Court has held that an appeal against the Armed Forces Tribunal (AFT) order could be filed with the apex court and the high courts should not entertain such petitions.
- The Armed Forces Tribunal Act, 2007, has been enacted to provide for adjudication or trial by AFT of disputes and complaints with respect to commission, appointments, enrolment and conditions of service in respect of person's subject to the Army Act, the Navy Act, 1957 and the Air Force Act, 1950, and also to provide for appeals arising out of orders, findings or sentences of court martial held under the said Acts