

WRITS

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HISTORY OF WRITS IN INDIA

- ◉ First issued by the Supreme Court at Calcutta
- ◉ Later by SCs of Bombay and Madras
- ◉ Since 1861 – by High Courts
- ◉ Since-1937- Federal court of India
- ◉ By the Privy Council

WRITS UNDER INDIAN CONSTITUTION

- ◉ *Ubi jus ibi remedium*
- ◉ *Granted by SC of India u/a 32*
- ◉ *Granted by HC s u/a 226*
- ◉ *Purpose of Writ Jurisdiction u/a 32 – enforcement of f.rts*
- ◉ *Purpose of Writ Jurisdiction u/a 226 – enforcement of f.rts & other purposes*

NATURE OF WRIT JURISDICTION

- ◉ Discretionary
- ◉ Guiding Factors for exercising discretion -
 - ◉ 1.Locus Standi
 - ◉ 2.Alternative relief,
 - ◉ 3.Res Judicata,
 - ◉ 4.Questions of fact ,and ;
 - ◉ 5.Laches

LOCUS STANDI

- ◉ Who can apply?
- ◉ Traditional rule-Only aggrieved party
- ◉ Liberal rule – any public Spirited person/citizen
- ◉ PII/SAL- evolution and institutionalization

KINDS WRITS

- ◉ Habeas Corpus
- ◉ Quo Warranto
- ◉ Mandamus
- ◉ Certiorari
- ◉ Prohibition

HABEAS CORPUS

- ◉ Meaning - You (shall) have the body
- ◉ Purpose - To seek relief from the unlawful detention of him or herself, or of another person
- ◉ To protect the individual from harming him or herself, or from being harmed by the judicial system.
- ◉ For safeguarding of individual freedom against arbitrary state action which violates f.rts u/a 19,21 &22 of Constitution.
- ◉ Res judicata – not applicable
- ◉ Cannot be suspended even during Emergency [Art.359]

QUO WARRANTO

- ◉ By what warrant?
- ◉ Requires the person to whom it is directed to show what authority he has for exercising some right or power (or "franchise") he claims to hold.
- ◉ Invoked in case of Public offices

MANDAMUS

- ⦿ means "we command" in Latin
- ⦿ "issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly"
- ⦿ an order from a superior court to any government, subordinate court, corporation or public authority to do or forbear from doing some specific act which that body is obliged under law to do or refrain from doing, as the case may be, and which is in the nature of public duty and in certain cases of a statutory duty

CERTIORARI

- ◎ Latin *certiorare*, ("to search").
- ◎ currently means an order by a higher court directing a lower court, tribunal, or public authority to send the record in a given case for review.

PROHIBITION

- ⦿ is an official legal document drafted and issued by a supreme court or superior court to a judge presiding over a suit in an inferior court
- ⦿ used to prevent an inferior court from exceeding its jurisdiction or acting contrary to the rules of natural justice
- ⦿ may be issued both in cases where there is an excess of jurisdiction and where there is absence of jurisdiction.
- ⦿ Prohibition and certiorari lie only against judicial and quasi-judicial bodies. They do not lie against public authority in an executive or administrative capacity nor a legislative body.

CONCLUSION

- ◉ Writs – mostly invoked against State
- ◉ Powerful orders having immediate effect
- ◉ Issued when PILs are filed
- ◉ Major work of H.C.s lies in exercising writ jurisdiction

CONCLUSION

Thank you for your Attention