

LL.M. II SEMESTER
SUBJECT : CONSTITUTIONAL LAW OF INDIA II
CODE : L-2001

TOPIC: JURISDICTION OF SUPREME COURT OF INDIA

Part V, Chapter IV

The Supreme Court of India is the highest Judicial Court and final court of appeal under the Constitution of India. It succeeded the federal Court of India, established under the Government of India Act, 1935. However, the Jurisdiction of the Supreme Court is greater than Federal Court.

Supreme Court is the final interpreter and guardian of the Constitution.

Jurisdiction of Supreme Court

1- Court of Record (Art. 129) – Court of record is a court whose records are admitted to be of evidentiary value and they are not to be questioned when they are produced before the court. Supreme Court has also power to punish for its contempt.

- Delhi Judicial Service Association v/s State of Gujrat AIR 1991 SC 2177
- In Re Vinay Chandra Mishra (1995)
- Supreme Court Bar Association v/s Union of India (1998)
- Subrat Roy v/s Union of India (2014)

2- Original Jurisdiction (Art. 131) – The Supreme Court has original jurisdiction in any dispute:-

- between the Government of India and one or more States;
- between the Government of India and any State or States on one side and one or more other States on the other;
- between two or more States.

❖ **Constitutional remedies (Article 32)**

3- Appellate Jurisdiction

Appeal in Constitutional matters - Under Art. 132(1) an appeal shall lie to the Supreme Court from any judgement, decree or final order of a High Court whether in civil, criminal or other proceedings, if the High court certifies under Art. 134-A that

the case involves a substantial question of law as to the interpretation of this Constitution. Where such a certificate is given any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided.

Appeal in Civil Cases (Article 133) (read with section 109 C.P.C.) – Article 133 provides that an appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding to a High Court only if the High Court certifies (under Article 134-A)

- that the case involves a substantial question of law of general importance, and
- that in the opinion of the High court the said question needs to be decided by the Supreme Court.

- Union of India v/s Hafiz Mohd. AIR (1975)

- Narayan Rao v/s Ishwar Lal 1956

Appeal in Criminal Cases (Article 134) (read with section 374 Cr.P.C. – According to Article 134 an appeal lies to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High court in the following two ways:-

1- without a certificate of High Court,

2- with a certificate of the High Court.

1- **Without a Certificate – Article 134(a), (b)** – An appeal lies to the Supreme Court without the certificate of the High Court if the High Court:-

- has on appeal reversed an order of acquittal of an accused person and sentenced him to death;
- has withdrawn for trial before itself any case from any court subordinate to its authority and has been such trial convicted the accused person and sentenced him to death.

But if the High Court has reversed the order of conviction and has ordered the acquittal of an accused, no appeal would lie to the Supreme Court.

2- **With a Certificate – Article 134(c)** – Under clause (c) an appeal lies to the Supreme Court if the High Court certifies under Article 134-A that it is a fit case for appeal to the Supreme Court.

- Sate of U.P. v/s Rajnath (1983)

- Siddheshwar v/s State of West Bangal (1958)
- Janak Singh v/s State of U.P. (1972)

Certificate for Appeal to Supreme Court – Article 134-A

“Every High Court, passing or making a judgment, decree, final order of sentence referred to in clause (1) of Article 132 or 134-

- may, if it deems fit so to do, own motion, and
- shall if an oral application is made, by or on behalf of the party aggrieved immediately after the passing or making of such judgment, decree, final order or sentence,

determine as soon as may be after such passing or making, the question whether certificate of the nature referred to in clause (1) Articles 132, 133 or sub-clause (c) of clause (1) of Article 134, may be given in respect of that case.”

Appeal by special leave – Article 136 – Under Article 136 the Supreme Court is authorised to grant in its discretion special leave to appeal from (a) any judgment decree, determination, sentence or order, (b) in any case or matter, (c) passed or made by any Court or tribunal in the territory of India. The only exception to this power of the Supreme Court is with regard to any judgment, etc. of any court or tribunal constituted by or under any law relating to the Armed Forces.

- Union Carbide Corp. v/s Union of India (1991)
- Delhi Judicial Service Association v/s State of Gujrat (1991)
- Ganga Kumar Srivastava v/s State of Bihar (2005)
- **Review of Judgements or orders by the Supreme Court (Art. 137)**
- **Law declared by Supreme Court to be binding on all courts (Article-141)**
- **Enforcement of decree & order of Supreme Court (Article-142)**
- **Power of president to consult Supreme Court (Article-143)**
- **[Advisory Jurisdiction]**
- **In Re Education Bill (1958)**

- **In Re presidential Reference (1993)**
- **Kavery Water Dispute Tribunal (1992)**
- **Special Reference No. 2002 (2003)**

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