

# **CONSTITUTIONAL STATUS OF TRIAL JUDICIARY**

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# **District Judiciary**

## **Promise to Secure Justice to All**

- The Preamble of the Constitution of India promises to secure justice – social, economic and political to all its citizens.
- The district judiciary at grass root level has a decisive and meaningful role in securing timely and quality justice through rule of law.

# **Trial Judiciary**

- Trial Judiciary is interpretation and enforcement of rule of law in Civil and Criminal Trials.
- Provides a fair and impartial forum to uphold the rights of litigants/accused/victims/witnesses to ensure Justice is upheld.
- Trial Judiciary comprises of Judges and Court Staff who assist in the Administration of Justice.
- The Bar is also an important component in this process.
- Trial Judiciary plays a crucial role in maintaining the integrity of the Indian Legal System and in upholding the principles of Justice and Equality

# **Role of Constitution in Trial Judiciary in India**

- Constitution of India plays a crucial role in the functioning of the trial judiciary.
- It provides the framework within which the trial judiciary operates and ensures that its independence is protected.
- It is through the Constitution that the judiciary is able to assert its authority and protect the rights of citizens.

# **Article 233 of Indian Constitution**

- Appointment of District Judges.
- The Governor of the State, in consultation with the High Court, appoints persons who have been practicing law for at least seven years as District Judges.
- District judges play a crucial role in trial judiciary.

# **Article 233A of Indian Constitution Twentieth Amendment, 1966**

- Validation of
  - Appointments
  - JudgmentsOf and By District Judges before the Amendment.

# **Article 234 of Indian Constitution**

- Appointments of Civil Judges (Junior Division).
- By the Governor
- After consultation with
  - Public Service Commission
  - High Court

# **Article 235 of Indian Constitution**

Control over District Judiciary by High Courts

- Posting
- Promotion
- Grant of Leave

Right of Appeal under law regulating conditions of Service



# **Article 236 of Indian Constitution**

- Inclusive definition of expression “District Judge”
- Meaning of expression “Judicial Service”

# **Article 237 of Indian Constitution**

- Application of provisions to any class of Magistrates.
- Subject to exceptions and modifications.

# Role of Technology in the Trial Judiciary

- Revolutionize trial judiciary
- More efficient and effective.
- e-filing systems
- Saves time and resources
- Reduces the risk of errors or lost paperwork.
- Use of video conferencing technology for remote hearings
- Especially useful in cases where witnesses or experts are located far away from the court.
- *Technology has the potential to transform trial judiciary in India to provide access and speedy to justice for all.*

# Judicial Activism

- Tendency of judges to interpret the law to modulate it to the expectation of society.
- A departure from the traditional role of judges, which is to interpret the law as it is written and apply it impartially.
- Judges take an active role in shaping public policy and addressing social issues.
- Environmental protection, Education reforms, Women's rights.
- *Some see this as a positive development, as it allows the judiciary to act as a check on the other branches of government and ensure that the rights of citizens are protected.*
- *Others, however, argue that it undermines the separation of powers and encroaches on the domain of the legislative and executive branches.*

# Judicial Sovereignty

- Power of the judiciary to interpret and enforce the law independently, without interference from other branches of government.
- A fundamental principle that ensures rule of law and protects the rights of citizens.
- *The significance of judicial sovereignty in India cannot be overstated. It provides a check on the power of the executive and legislative branches, ensuring that they do not overstep their Constitutional limits. It also guarantees the impartiality and fairness of the legal system, which is essential for upholding the principles of justice.*

# Independence of Judiciary

- Crucial in ensuring judicial sovereignty
- Allows judges to make decisions without fear of retribution
- Essential to maintaining the rule of law.
- *An independent judiciary is necessary to prevent abuse of power by the executive and legislative branches of government. Judges must be able to interpret laws and make decisions based solely on the merits of a case. The judiciary acts as a check on the other branches of government, ensuring that they do not overstep their Constitutional bounds.*

# Judicial Review

- Judicial review is a process by which courts examine the actions of the legislative and executive branches of government to ensure they are in accordance with the Constitution.
- The power of judicial review is vested in the High Courts and the Supreme Court.
- *The concept of judicial review is closely linked to the idea of judicial sovereignty, as it allows the judiciary to act as a check on the other branches of government and ensure that they do not exceed their Constitutional authority.*

# **Mandate to follow the Constitution under Article 375**

- Article 375 of the Indian Constitution mandates that all persons are equal before the law and are entitled to equal protection under the law. This includes the right to fair trial, which is essential to ensuring justice in the legal system.
- The mandate to follow Article 375 is crucial to uphold judicial sovereignty. It ensures that judiciary remains independent and impartial, free from external pressures and influences.



# **Mandate to act in aid of the Supreme Court under Article 144**

- Article 144 of the Indian Constitution confers a duty on all civil and judicial authorities to act in aid of the Supreme Court. This means that the Supreme Court has the power to issue orders to any authority in the country, including the executive and legislative branches, to ensure that its orders are carried out.
- This mandate is crucial in maintaining the independence and authority of the Supreme Court, and in ensuring that its decisions are respected and enforced throughout the country. It also serves as a check on the power of other branches of government, preventing them from overstepping their Constitutional bounds.

# Case Laws

- **Ram Lallan v State of UP, 2012(111) AIC 372 (372,373) (All-DB)** If a direction has been laid down by the High Court, it is binding and ought to be complied by all the authorities concerned whether executive or judicial.
- **V K Jain v. High Court of Delhi, (2008) 17 SCC 538** Duty of Judges of Superior Courts is to ensure that independence of district judiciary is not compromised and every judicial officer has the freedom to give expression to his own opinion.

- **T N Godavarman Thirumulpad v. Union of India, (2006) 10 SCC 486** When the matter is pending before the Supreme Court, issuing notice by any authority to persons against whom there is already an order of stay of proceedings amounts to violation of Art.144.
- **Jasbir Singh v. State of Punjab, (2006) 8 SCC 294** Independence of judiciary has been considered as part of basic structure of the Constitution as postulated not just from the executive but all other sources of pressure.

- **K.H. Siraj v. High Court of Kerala, (2006) 6 SCC 395** The High Court is vested with power to see that the high traditions and standards of judiciary are maintained by selection of proper persons in district judiciary.
- **Tirupathi Balaji Developers (P) Ltd vs State of Bihar, (2004) 5 SCC 1** The very existence of appellate jurisdiction obliges the lower jurisdiction to render assistance to the higher jurisdiction to enable the exercise of appellate jurisdiction fully and effectively.

**All India Judges' Assn. v. Union of India,  
(2002) 4 SCC 247**

- ❖ District Judiciary is the foundation of the edifice of the judicial system and should be as strong as possible.
- ❖ Judicial service is not service in the sense of employment and judges are not employees. They exercise sovereign judicial power of the state at whatever level they may be.
- ❖ The members of other services are not at par with members of judiciary, either constitutionally or functionally.

**Delhi Bar Assn. v. Union of India, (2002) 10 SCC 159** For a judicial officer the attributes are integrity, honesty, basic knowledge of law and robust common sense.

- **State of Bihar v. Bal Mukund Sah, (2000) 4 SCC 640**
  - ❖ Article 233 is a complete code for the purpose of appointment of District Judges. Consultation with High Court is an inevitable feature of Art.233.
  - ❖ Art.234 is not subject to laws made by the legislature which means that the legislature cannot make any law regulating the appointment of officers of district judiciary.
  - ❖ The legislature cannot bypass the High Court and provide reservation in judicial appointments
- **Yoginath D. Bagde v. State of Maharashtra, (1999) 7 SCC 739** The High Court has a duty to protect district judiciary from unscrupulous litigants and lawyers.

- **SP Gupta V Union of India (1981) Supp SCC 87** Independence of judiciary is part of the basic structure of the Constitution.
- **Baradakanta Mishra v. High Court of Orissa, (1976) 3 SCC 327** 'Control' under Art.235 includes general superintendence of the working of the district courts and disciplinary control over the presiding judges .
- **State of Assam v. S.N. Sen, (1971) 2 SCC 889**  
The power to confirm and promote judicial officers other than District Judges is vested exclusively in the High Court under Art.235 and any rule vesting it in the Governor shall be void.

- **Chandra Mohan V. State of UP (1967) 1 SCR 77**
  - ❖ The appointment of a judge would become invalid where High Court is not consulted at all.
  - ❖ A duty is enjoined on the governor to make the appointment of District Judges in consultation with High Court which is the appropriate authority to give advice to him.
- **Ram Saran Tewari v. Raj Bahadur Varma, 1961 SCC OnLine All 227** All courts are independent and no court can claim jurisdiction or authority of any kind over another without statutory authority. No court can claim appellate or revisional jurisdiction without statutory authority. Similarly, no Court can claim that another is subservient to it without statutory authority.



Thank You!!!