

THE SUPREME COURT – THE MOST POWERFUL PUBLIC INSTITUTION OF INDIA

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ABSTRACT:

The Supreme Court of India is the highest judicial court of India. It is regarded as the most powerful public institution of the country. The laws passed by the Supreme Court have to be followed by all courts within the boundaries of India, the governments, the various government bodies and citizens of the country. The court has been given the authority to pass any law that is in the interest of the nation or in the interest of the citizens of the country. Thus, there was an excellent opportunity to research about the Supreme Court of India, the various duties that it performs and its rights. The research objectives were exploration of the history of the Supreme Court and exploration of the rights and duties of it, landmark judgments passed and future of it. This study aims to refine the knowledge existing on the topic of research. So it took an applied or refining research approach. The data required for the research was collected from secondary sources likes books, journals, magazines, e – magazines etc.

The Supreme Court initially had its seat at the Chamber of Princes in the parliament building where the previous Federal Court of India sat from 1937 to 1950. The first Chief Justice of India was H. J. Kania. In 1958, the Supreme Court moved to its present premises.

Article 137 of the Constitution of India lays down provision for the power of the Supreme Court to review its own judgments. Under Articles 129 and 142 of the Constitution, the Supreme Court has been vested with power to punish anyone for contempt of any court in India including itself. The Supreme Court countered these amendments in 1967 when it ruled in *Golaknath v. State of Punjab* that the parliament did not have the power to abrogate fundamental rights, including the provisions on private property. The Supreme Court is considered responsible for the growth and development of India by enforcing laws as per the demands of the country. So its future is bright. There are no signs of this apex court getting weaker.

Key Words: Supreme Court, jurisdiction, rights, duties.

INTRODUCTION:

The Supreme Court of India is the highest judicial court of India. In other words, it is called the apex court. It also has the power of judicial review. Supreme Court consists of the Chief Justice of India and a maximum of thirty four judges. In India, the Supreme Court is regarded as the most powerful public institution of the country. It has the power to make original, appellate and advisory jurisdictions. Since the Supreme Court is directly under the Constitution, so it takes up the appeals primarily against the High Courts located at the various states of the Union and other lower level courts and tribunals.

It is one of the duties of the Supreme Court to protect the fundamental rights of the citizens. It also has to settle the disputes between the various governments in India. The laws passed by the Supreme Court have to be followed by all courts within the boundaries of India, the governments, the various government bodies and citizens of the country. Article 142 of the Indian Constitution tells us that it is the duty of the President of India to enforce the decrees of the Supreme Court. The court has been given the authority to pass any law that is in the interest of the nation or in the interest of the citizens of the country.

Thus, there was an excellent opportunity to research about the Supreme Court of India, the various duties that it performs and its rights.

LITERATURE REVIEW:

Chandra ET all (2018), wrote that the Indian Supreme Court has been called “the most powerful court in the world” for its wide jurisdiction, its expansive understanding of its own powers, and the billion plus people under its authority. Yet scholars and policy makers have a very uneven picture of the court’s functioning: deep knowledge about the more visible, “high-profile” cases but very little about more mundane, but far more numerous and potentially equally important, decisions.

Hubbard ET all (2017) was of the opinion that the consensus among scholars is that the Indian Supreme Court no longer acts as a court for the common person. Contrary to this view, the authors argued that the Court is still a court of the people in certain ways. They analyzed by party and case type all cases decided by the Supreme Court from 2010 to 2014 under its special leave petition jurisdiction, and published in the case reporter Supreme Court Cases. The Court exercises significant discretion when deciding whether or not to admit cases pursuant to this appellate jurisdiction. However, they did not have information about the parties and types of

cases that seek and are granted admission. To overcome this gap, they used the hit rate analysis method for deducing whether or not the Court grants easier access at the admissions stage to certain parties and case types. They found that the Court favors for admission individuals over the government in civil cases and defendants over the prosecution in criminal cases. It also favors cases that involve constitutional challenges over cases that don't.

RESEARCH OBJECTIVES:

The research objectives were framed as follows:

- Exploration of the history of the Supreme Court
- Exploration of the rights and duties of it, landmark judgments passed and future of it.

RESEARCH METHODOLOGY:

A thorough review of literatures available on the topic and related topics revealed that prior researches have been pursued on this topic. So this study is not a first of its kind. It has its roots in prior researches pursued on the topic or related topics. So it would be wrong to call this an example of basic or fundamental research. This study aims to refine the knowledge existing on the topic of research. So it took an applied or refining research approach.

DATA:

The data required for the research was collected from secondary sources like books, journals, magazines, e – magazines etc.

ANALYSIS & CONCLUSIONS:

- **History of the Supreme Court of India:**

In 1861, the Indian High Courts Act, 1861 was enacted to create high courts for various provinces and abolished supreme courts at Calcutta, Madras and Bombay and also the sadar adalats in presidency towns which had acted as the highest courts in their respective regions. These new high courts had the distinction of being the highest courts for all cases till the creation of the Federal Court of India under the Government of India Act 1935. The Federal Court had jurisdiction to solve disputes between provinces and federal states and hear appeals against judgments of the high courts. The first CJI of India was H. J. Kania.

The Supreme Court of India came into being on 28 January, 1950. It replaced both the Federal Court of India and the Judicial Committee of the Privy Council which were

then at the apex of the Indian court system. The first proceedings and inauguration, however, took place on 28 January, 1950 at 9:45 a.m., when the judges took their seats.

The Supreme Court initially had its seat at the Chamber of Princes in the parliament building where the previous Federal Court of India sat from 1937 to 1950. The first Chief Justice of India was H. J. Kania. In 1958, the Supreme Court moved to its present premises. Originally, the Constitution of India envisaged a supreme court with a chief justice and seven judges; leaving it to the parliament to increase this number. In formative years, the Supreme Court met from 10 to 12 in the morning and then 2 to 4 in the afternoon for 28 days in a month.

- **Rights and Duties of the Supreme Court:**

Article 137 of the Constitution of India lays down provision for the power of the Supreme Court to review its own judgments. As per this Article, subject to the provisions of any law made by parliament or any rules made under Article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it. Supreme Court can nullify any decision of parliament and government on the basis of violation of basic features. It can overrule the impeachment process of the President and Judges which is passed by the parliament on the basis of constitutional validity or basic features.

Under Order XL of the Supreme Court Rules, that have been framed under its powers under Article 145 of the constitution, the supreme court may review its judgment or order but no application for review is to be entertained in a civil proceeding except on the grounds mentioned in Order XLVII, Rule 1 of the Code of Civil Procedure.

Under Articles 129 and 142 of the Constitution, the Supreme Court has been vested with power to punish anyone for contempt of any court in India including itself. The Supreme Court performed an unprecedented action when it directed a sitting minister of state in Maharashtra government, Swaroop Singh Naik, to be jailed for 1 month on a charge of contempt of court on 12 May, 2006.

The Constitution of India under Article 145 empowers the Supreme Court to frame its own rules for regulating the practice and procedure of the court as and when required (with the approval of the president). Accordingly, "Supreme Court Rules, 1950" were framed. The 1950 Rules were replaced by the Supreme Court Rules, 1966. In 2014,

Supreme Court notified the Supreme Court Rules, 2013 replacing the 1966 Rules effective from 19 August, 2015.

In the year 2010, the Supreme Court filed an appeal before itself challenging the judgment of the Delhi High Court holding that the office of the Chief Justice of India came under the ambit of the RTI Act and was liable to reveal information under it. Though the Supreme Court is in favor of bringing CJI office under RTI Act, in 13-11-2019 the Chief Justice of India Office was brought under RTI Act by a majority judgment.

- **Landmark Judgments Passed:**

After some of the courts overturned state laws for redistributing land from zamindar (landlord) estates on the ground that the laws violated the zamindars' fundamental rights, the parliament passed the 1st amendment to the constitution in 1951, followed by the 4th amendment in 1955, to uphold its authority to redistribute land. The Supreme Court countered these amendments in 1967 when it ruled in *Golaknath v. State of Punjab* that the parliament did not have the power to abrogate fundamental rights, including the provisions on private property. The 25th amendment to the constitution in 1971 curtailed the right of a citizen to property as a fundamental right and gave authority to the government to infringe private property, which led to a furor amongst the zamindars.

The independence of the judiciary was severely curtailed during the Indian Emergency (1975–1977) of Indira Gandhi. The constitutional rights of imprisoned persons were restricted under preventive detention laws passed by parliament. In the case of *Shiva Kant Shukla (Additional District Magistrate of Jabalpur v. Shiv Kant Shukla)*, popularly known as the Habeas Corpus case, a bench of five senior-most judges of the supreme court ruled in favor of the state's right to unrestricted powers of detention during the emergency. Justices A.N. Ray, P. N. Bhagwati, Y. V. Chandrachud and M.H. Beg, stated in the majority decision: (under the declaration of emergency) no person has any locus to move any writ petition under Article 226 before a High Court for Habeas Corpus or any other writ or order or direction to challenge the legality of an order of detention.

The only dissenting opinion was from Justice H. R. Khanna, who stated: Detention without trial is an anathema to all those who love personal liberty... A dissent is an appeal

to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting judge believes the court to have been betrayed

Among the important pronouncements of the Supreme Court post 2000 is the Coelho case of I.R. Coelho v. State of Tamil Nadu (Judgment of 11 January, 2007). A unanimous bench of 9 judges reaffirmed the basic structure doctrine. It held that a constitutional amendment which entails violation of any fundamental rights which the court regards as forming part of the basic structure of the constitution, then the same can be struck down depending upon its impact and consequences. The judgment clearly imposes further limitations on the constituent power of Parliament with respect to the principles underlying certain fundamental rights. The judgment in Coelho has in effect restored the decision in Golak Nath regarding non-amenability of the constitution on account of infraction of fundamental rights, contrary to the judgment in the Kesavananda Bharati case.

- **Future of the Supreme Court:**

India is a country that follows the “Rule of Law”. The Supreme Court is its primary law enforcing agency. It is one of the most powerful legal bodies in the world. The Supreme Court is considered responsible for the growth and development of India by enforcing laws as per the demands of the country. So its future is bright. There are no signs of this apex court getting weaker.

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