

# Judiciary | Important PYQ Topics

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## INTRODUCTION

- The Indian constitution has established an **integrated judicial system** with the Supreme Court at the top and the high court below it.
  - Below the HC, there is a hierarchy of subordinate courts. This single system of courts, adopted from the **Government of India Act of 1935**, enforces both central laws as well as the state laws.
- **Chapter IV under Part V of the constitution** (Union) deals with the Union Judiciary. The constitution and jurisdiction of the Supreme Court is stated in detail from **articles 124-147**.

## SUPREME COURT

- The CJI and judges of the SC are **appointed by the President**.
- The **consultation with the Chief Justice is obligatory** in the case of appointment of a judge other than the Chief Justice.
- **Collegium System:**
  - **First judges case (1982):** The court held that consultation **does not mean concurrence** and it only implies exchange of views.
  - **Second judges case (1993):** Changed the meaning of the word consultation to concurrence. Ruled that the advice tendered by the CJI is **binding on the President** in matters of appointment of SC judges; any such advice would be tendered after CJI **consults with two of his most senior-judges**.
  - **Third judges case (1998):** The consultation process to be employed should consult a collegium of **four senior-most judges** before making a recommendation to the President.
- **Qualification of judges:**
  - He should be a **citizen of India**.
  - He should have been a **judge of a high court for five years**; or should have been an **advocate of a high court for ten years**.
  - He should be a **distinguished jurist in the opinion of the President**.
- **Tenure of judges:**
  - He holds office until he attains the age of **65 years**.
  - He can **resign his office by writing to the President**.
  - He can be **removed from his office by the President on the recommendation of the Parliament**.

- **Jurisdiction:**
  - **Original jurisdiction:** all such cases begin or originate in the Supreme Court, only:
    - Disputes between the Government of India on the one side and one or more States on the other side.
    - Disputes between the Government of India and one or more States on one side and one or more States on the other side.
    - Disputes between two or more States.
  - **Appellate jurisdiction:** It appears to appeal against the judgement of lower courts. It enjoys a wide appellate jurisdiction.
  - **Advisory jurisdiction:** The Constitution under **Article 143** authorises the President to seek the opinion of the Supreme Court in the two categories of matters.

## HIGH COURT

- **Appointment of judges:**
  - Appointed by the **President of India**.
  - The Chief justice of a high court is appointed after **consultation with the CJI and Governor** of the state concerned.
  - In case of appointment of other judges to the high court, CJI should consult a collegium of **two senior-most judges of the SC** before recommending a name.
- **Qualification of judges:**
  - He should be a **citizen of India**.
  - He should have **held a judicial office in the territory of India for ten years** or he should have been **an advocate of a high court for ten years**.
- **Tenure of judges:**
  - Until he attains the **age of 62 years**.
  - He can **resign from office by writing to the President**.
  - Can be removed from his office by the President on the **recommendation of the Parliament**.
- **Jurisdiction:**
  - **The Constitution does not contain detailed provisions** with regard to jurisdiction and powers of a high court.
  - It only lays down that the jurisdiction and powers of a high court are to be the same as immediately before the commencement of the constitution with one addition- **High court has been given jurisdiction over revenue matters**.

## SUBORDINATE COURTS

- Articles **233 to 237 in Part VI** of the constitution make the following provisions to regulate the organisation of subordinate courts:
  - **Appointment of District judges:** The appointments are made by the governor in consultation with the high court.
- **Qualification of District judges:**
  - He should not already be in the service of the central or the state government
  - He should have been an advocate or a pleader for seven years.
  - He should be recommended by the High Court for appointment.
- **Appointment of other judges:** They are made by the governor after consultation with the state public service commission and the high court.
- **Control over subordinate courts:** It is vested with the concerned state high court.
- The organisation, jurisdiction and nomenclature of the subordinate judiciary is **laid down by the states.**

## JUDICIAL REVIEW AND ACTIVISM

- **Judicial review** is the power of Judiciary to review any act or order of Legislative and Executive wings and to pronounce upon the constitutional validity when challenged by the affected person. **Articles 13, 32, 136, 142 and 147.**
  - It is generally considered as a basic structure of independent judiciary (**Indira Gandhi vs. Raj Narain case**).
- **Judicial activism:** a philosophy of judicial decision making whereby judges allow their personal views regarding a public policy instead of constitutionalism.

## PYQs

**Q. The power of the Supreme Court of India to decide disputes between the Centre and the States falls under its**

- a) Advisory jurisdiction
- b) Appellate jurisdiction
- c) Original jurisdiction**
- d) Constitutional jurisdiction

**Q. What is meant by 'Judicial Activism'? Evaluate its role in the context of the functioning of Indian Polity.**