

## **Quadrant II - Notes**

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### **Role and Functions of the Supreme Court**

Supreme Court is the highest judicial court in India.

It upholds the rule of law and also guarantees and protects citizens' rights and liberties as given in the Constitution.

Therefore, the Supreme Court is also known as the Guardian of the Constitution.

- It takes up appeals against the verdicts of the High Courts, other courts and tribunals.
- It settles disputes between various government authorities, between state governments, and between the centre and any state government.
- It also hears matters which the President refers to it, in its advisory role.
- The SC can also take up cases suo moto (on its own).
- The law that SC declares is binding on all the courts in India and on the Union as well as the state governments.

Supreme Court in India has three types of jurisdictions

- ❖ Original
- ❖ Appellate
- ❖ Advisory

As provided in Articles 131, 133 – 136 and 143 respectively of the Indian Constitution.

**A) Original Jurisdiction:** The following are the original jurisdiction of the SC:

**I)** As per article 131 of the Constitution, the SC functions as original jurisdiction over matters where the disputes are either between the Central government and the state government or between two or more state governments.

**II)** As per article 139 of the Constitution, the SC have the power to issue writs, order, or direction.

**III)** As per section 32 of the Constitution, the SC also has the authority to enforce Fundamental Rights.

**IV)** As per Article 139A of the Constitution, the SC on its discretion or at the advice of the Attorney General of India can take up the cases during the pendency of the matter from the high courts if the same issue is to be disposed of by the SC that is related to the question of law. And it can also transfer the pending cases, appeal or other proceedings to give justice from one HC to another HC.

**B) Appellate Jurisdiction:** As per article 132, 133, 134 of the Constitution, the SC has appellate jurisdiction in matters that are related to civil, criminal, or Constitution. Also, as per article 136, the SC has the power to issue special leave that is being by

any tribunal courts in India but this does not apply to Army courts.

**C) Advisory Jurisdiction:** As per article 143 of the Constitution, the SC can advise the President of India that is related to the question of law, and the nature of the matter is associated with the public importance. And the President can also seek opinion in the matters that are related to Article 131 of the Constitution.

### **Role and functions of the Supreme Court**

**1. Administration of justice:** The chief function of the judiciary is to apply the law to specific cases or in settling disputes. When a dispute is brought before the courts it 'determines the facts' involved through evidence presented by the contestants. The law then proceeds to decide what law is applicable to the case and applies it. If someone is found guilty of violating the law in the course of the trial, the court will impose a penalty on the guilty person.

**2. Creation of judge-case law:** In many cases, the judges are not able to, or find it difficult to select the appropriate law for application. In such cases, the judges decide what the appropriate law is on the basis of their wisdom and common sense. In doing so, judges have built up a great body of 'judge-made law' or 'case law.' As per the doctrine of 'stare decisis', the previous decisions of judges are generally regarded as binding on later judges in similar cases.

**3. Guardian of the Constitution:** The highest court in India, the SC, acts as the guardian of the Constitution. The conflicts of jurisdiction between the central government and the state governments or between the legislature and the executive are decided by the court. Any law or executive order which violates

any provision of the constitution is declared unconstitutional or null and void by the judiciary. This is called 'judicial review.' Judicial review has the merit of guaranteeing the fundamental rights of individuals and ensuring a balance between the union and the units in a federal state

**4. Protector of Fundamental Rights:** The judiciary ensures that people's rights are not trampled upon by the State or any other agency. The superior courts enforce Fundamental Rights by issuing writs

**5. Supervisory functions:** The higher courts also perform the function of supervising the subordinate courts in India.

**6. Advisory functions:** The SC in India performs an advisory function as well. It can give its advisory opinions on constitutional questions. This is done in the absence of disputes and when the executive so desires.

**7. Administrative functions:** Some functions of the courts are non-judicial or administrative in nature. The courts may grant certain licenses, administer the estates (property) of deceased persons and appoint receivers. They register marriages, appoint guardians of minor children and lunatics.

**8. Special role in a federation:** In a federal system like India's, the judiciary also performs the important task of settling disputes between the centre and states. It also acts as an arbiter of disputes between states

**9. Conducting judicial enquiries:** Judges normally are called to head commissions that enquire into cases of errors or omissions on the part of public servants

**10. Court of record-**The supreme court is a court of record. In Indian constitution article 129 makes the Supreme Court the 'court of record. The law which is declared by the supreme

court becomes binding on all courts within India and also by union and state governments. It protects citizens' constitutional rights and addresses conflicts between different government agencies as well as the central government vs. state governments or state governments vs. another state government in the country.

### **Conclusion**

The Supreme Court is the highest appealing body in our jurisdiction, with its establishment, justice is being proclaimed by the citizens of India. The powers that are vested upon the SC are to ensure the fair trial in matters that are about the Constitution of India; hence it also protects the world's largest democratic state.