

BPSC PATHSHALA

BPSC Mains General Studies – Indian Polity

General Studies Paper-II

Section I: Indian Polity

Topic: Constitution and Rights

Structured Notes for BPSC Mains Examination

Prepared for serious aspirants focusing on **concept clarity, cultural understanding and answer writing preparation.**

These notes cover important topics of Constitution and Rights relevant for **BPSC Mains GS Paper-II.**

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LESSON 1: CONSTITUTION AND RIGHTS

Topics covered under this lesson

1. Constitutional Provisions & Structure

- 1.1 Characteristics of Indian Constitution
- 1.2 Characteristic of federal structure of Indian constitution
- 1.3 The concept of separation of power
- 1.4 Provision of amendment in Indian constitution
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1. Constitutional Provisions & Structure

1.1 Characteristics of Indian Constitution

Indian constitution, one of the utmost admired constitutions in the world was enacted after 'ransacking' all the known constitutions of the world at that time. This constitution that we have enacted has stood the test of times. Though provisions were borrowed from other constitutions, the constitution of India has several salient features that distinguish it from constitution of other countries

Some of its salient features are discussed below:

1. Longthiest written constitution

- Constitution can be classified into written constitution such as that of America or unwritten constitution such as that UK.
- The constitution of India is a written constitution which happens to be the lengthiest written constitution in the world.
- The factors that have contributed to this phenomenon are: geographical factors (vastness of country and diversity), Historical factors (Influence of Gol, 1935), Single constitution for both centre and state and dominance of legal luminaries.

2. Drawn from various sources

- It has borrowed most of its provisions from the constitution of various other countries as well as from the Government of India act, 1935. Ex: structural part from Gol, 1935, independence of judiciary from USA, Fundamental Rights from USA etc.
- Though it is borrowed, the Indian constitution-makers made sure the borrowed features were made suitable to Indian conditions. For example, though we borrowed **cabinet** form of governance from **UK**, the cabinet is not all-supreme as in the case of UK.

3. Preamble of the constitution

- The Preamble consists of the ideals, objectives and basic principles of the Constitution.
- The salient features of the Constitution have developed directly and indirectly from these objectives which flow from the Preamble.
- It asserts India to be a Sovereign Socialist Secular Democratic Republic and a welfare state committed to secure justice, liberty and equality for the people and for promoting fraternity, dignity the individual, and unity and integrity of the nation.
- The Preamble is the nature of Indian state and the objectives it is committed to secure for the people.

4. Democratic system

- The authority of the government rests upon the sovereignty of the people. The people enjoy equal political rights.
- Free fair and regular elections are held for electing governments.

5. India is a republic

- The Preamble of the Indian constitution declares India to be a Republic.
- India is not ruled by a monarch or a nominated head of state. India has an elected head of state (President of India) who wields power for a fixed term of 5 years.
- After every 5 years, the people of India indirectly elect their President.

6. Union of states

- Article 1 of the Constitution declares, that “India that is Bharat is a Union of States.”

7. Fundamental Rights and duties:

- The Constitution of India grants and guarantees Fundamental Rights to its citizens.
- The constitution of India confirms the basic principle that every individual is permitted to enjoy certain basic rights and part III of the Constitution deals with those rights which are known as fundamental right.
- The Six FR include- Right to Equality; Right to Freedom; Right Against Exploitation; Right to Freedom of Religion; Cultural and Educational Rights and Right to Constitutional Remedies (Art. 32).
- The fundamental rights are justiciable and are not absolute. Reasonable constraints can be imposed keeping in view the security-requirements of the state.

8. Directive Principles of State Policy:

- A unique aspect of the Constitution is that it comprises of a chapter in the **Directive Principles of State Policy**.
- These principles are in the nature of directives to the government to implement them to maintain **social and economic democracy** in the country.

9. Parliamentary System:

- The Constituent Assembly decided to adopt Parliamentary form of government both for the Centre and for the states.
- In Indian parliamentary system, distinction is made between **nominal** and **real** executive head.
- The **Council of Ministers** is responsible before the **Lok Sabha**, The lower house of union parliament. There are close relations between executive and legislature.

10. Federal structure of government:

- A federal state is a state where a country is divided into smaller regions and the government is functioning at two levels
- The Indian Constitution has envisaged a federal structure for India considering the geographical vastness and the diversity of languages, region, religions, castes, etc.

- Written Constitution, supremacy of the Constitution, division of powers between Union and States, bicameral Legislature, independent Judiciary, etc. are the features of Indian federation.

11. Universal adult franchise

- All men and women above the age of 18 years enjoy an equal right to vote.
- All registered voters get the opportunity to vote in elections.

12. Single integrated State with Single Citizenship

- India is the single Independent and Sovereign integrated state.
- All citizens enjoy a common uniform citizenship.
- They are entitled to equal rights and freedoms, and equal protection of the state.

13. Integrated Judicial system

- The Constitution provides for a single integrated judicial system common for the Union and the states.
- The Supreme Court of India works at the apex level, High Courts at the state level and other courts work under the High Courts.

14. Independent Judiciary

- Independence judiciary is necessary to secure the philosophical foundations of the rule of law and democracy
- Firstly, the Constitution makers created a separate Judiciary independent of Legislature and Executive.
- Secondly, the Constitution has ensured complete independence of Judiciary in the matters of administration and finances.

15. Amending the Constitution of India:

- Amending the Constitution of India is the procedure of making modifications to the nation's fundamental law or supreme law.
- This procedure guarantees the sanctity of the Constitution of India and keeps a check on uninformed power of the Parliament of India.

16. Judicial Review:

- The judiciary has significant position in Indian Constitution and it is also made independent of the legislature and the executive.
- The Supreme Court of India stands at the peak of single integrated judicial system
- It operates as defender of **fundamental rights** of Indian citizens and **guardian of the Constitution**.

17. Basic Structure doctrine:

- The basic structure doctrine is an Indian judicial norm that the Constitution of India has certain basic features that cannot be changed or destroyed through amendments by the parliament.
- The basic features of the Constitution have not been openly defined by the Judiciary.
- At least, 20 features have been described as “basic” or “essential” by the Courts in numerous cases, and have been incorporated in the basic structure.
- In **Indira Gandhi v. Raj Narayan** case and also in the **Minerva Mills case**, it was witnessed that the claim of any particular feature of the Constitution to be a “basic” feature would be determined by the Court in each case that comes before it.

18. Secularism

- In no other country of the world so many religions co-exist as in India. In view of such diversity the Constitution guarantees complete freedom of religion to all.
- The citizens of our country are free to follow any religion and they enjoy equal rights without any distinction of caste, creed, religion or sex.
- The State does not discriminate against anyone on the ground of his religion, nor can the State compel anybody to pay taxes for the support of any particular religion.
- Everybody is equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
- The Constitution regards religion as a private affair of individuals and prohibits the State from interfering with it. The Constitution also grants various cultural rights to minorities.

19. Independent bodies

- Constitution has setup various independent bodies and vested them with powers to ensure the constitutional provisions. Ex: **Election Commission, CAG, Finance Commission**.
- These institutions have been provided with security of tenure, fixed service conditions etc to ensure that they are not susceptible to the whims of either the legislature or the executive.

20. Emergency provisions

- Indian constitution contains elaborate provisions to deal with those challenges that pose a threat to the country's **security and unity**.

21. Three-tier government

- Through **73rd and 74th** amendment act, we have rural and urban local bodies as an additional constitutional tier of the government structure.
- This section fulfils the dream of Gandhi ji to see a self-functioning village in India

LESSON 2: EXECUTIVE AND PARLIAMENT

Topics covered under this lesson

1. President of India

- 1.1 President of India: Power
- 1.2 Constitutional position of President of India
- 1.3 Veto power of President of India
- 1.4 Ordinance power of President and Governor
- 1.5 Pardoning power of President of India

2. Governor of State

- 2.1 Governor of state: Power
- 2.2 Constitutional position of Governor

3. Parliament & Parliamentary Control

- 3.1 Functional role of Indian Parliament
- 3.2 Parliamentary privilege
- 3.3 Sovereignty of Parliament
- 3.4 No Confidence motion

4. Forms & Comparative Government

- 4.1 Presidential form of government
- 4.2 Comparison of Indian and American vice president

1. President of India

1.1 President of India: Power

The office of **the President of India** has been envisaged by the **Constitution of India** as the constitutional head of the Indian State. Despite being only, a **nominal head** of the Executive, the President of India plays a significant role in Indian polity through his/her diverse executive, legislative, and judicial powers.

About President of India

The President of India is **the highest office of the land** under the constitutional framework of India. The office of the President of India has been envisaged as:

- The **head of the Indian State**,
- The **first citizen of India**,
- The **Titular or nominal or de jure head** of the **Union Executive**, and
- The **Commander-in-Chief** of the **Indian Armed Forces**.

Powers and Functions of the President of India

The powers and the functions of the office of the President of India are described in detail in the sections that follow.

Executive Powers of President of India

The executive powers and functions of the President of India are as follows:

- All executive actions of the Government of India are formally taken in his/her name.
- He/she can make rules specifying the manner in which the orders and other instruments made and executed in his/her name shall be authenticated.
- He/she can make rules for more convenient transactions of business of the Union government and allocation of the said business among the ministers.
- He/she appoints the Prime Minister and the other ministers. They hold office during his/her pleasure.
- He/she appoints the Governors of States, the Attorney General of India, the Comptroller and Auditor General of India, the Chief Election Commissioner and other Election Commissioners, the Chairman and Members of the Union Public Service Commission, the Chairman and Members of the Finance Commission, and so on.
- He/she can seek any information relating to the administration of affairs of the Union, and proposals for legislation from the Prime Minister.
- He/she can require the Prime Minister to submit, for consideration of the Council of Ministers, any matter on which a decision has been taken by a minister but, which has not been considered by the Council.
- He/she can appoint a commission to investigate the conditions of backward classes.
- He/she can appoint an Inter-State Council to promote Centre-State and Inter-State cooperation.

- He/she directly administers the Union Territories through administrators appointed by him/her.
- He/she can declare any area as a Scheduled area and has powers with respect to the administration of Scheduled areas and tribal areas.

Legislative Powers of President of India

The President of India, as an integral part of the Parliament of India, wields the following Legislative Powers:

- He/she can summon or prorogue the Parliament and dissolve the Lok Sabha.
- He/she can also summon a joint sitting of both the Houses of Parliament, which is presided over by the Speaker of the Lok Sabha.
- He/she can address the Parliament at the commencement of the first session after each general election and the first session of each year.
- He/she can send messages to the Houses of Parliament, whether with respect to a bill pending in the Parliament or otherwise.
- He/she can appoint any member of the Lok Sabha and Rajya Sabha to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker (in case of Lok Sabha), Chairman and the Deputy Chairman (in case of Rajya Sabha) falls vacant.
- He/she nominates 12 members of the Rajya Sabha from amongst persons having special knowledge or practical experience in **literature, science, art, and social service**.
- He/she decides on questions as to disqualifications of members of the Parliament in consultation with the **Election Commission of India**.
- His/her prior recommendation or permission is needed to introduce certain types of bills in the Parliament, including:
 - a bill involving expenditure from the Consolidated Fund of India,
 - a bill for the alteration of boundaries of states or the creation of a new state,
 - a money bill,
 - a bill that imposes or varies any tax or duty in which states are interested,
 - a bill that varies the meaning of the expression 'agricultural income' as defined for the purposes of the enactments relating to Indian income tax,
 - a bill that affects the principles on which sums of money are or may be distributable to States,
 - a bill that imposes any surcharge on any specified tax or duty for the purpose of the Centre.
- Certain types of bills can be introduced in a State Legislature only with the previous sanction of the President. For example, a state bill imposing restrictions on the freedom of trade, commerce, and intercourse with that State or within that State.
- When a bill is sent to the President after it has been passed by the Parliament, he/she can:
 - give his/her assent to the bill,
 - withhold his/her assent to the bill,

- return the bill (if it is not a money bill) for reconsideration by the Parliament. However, if the bill is passed again by the Parliament, with or without amendments, the President has to give his/ her assent to the bill.
- When a bill passed by a State Legislature is reserved by the Governor for consideration by the President, the President can:
 - give his/her assent to the bill,
 - withhold his/her assent to the bill,
 - direct the Governor to return the bill (if it is not a money bill) for reconsideration by the State Legislature.
- It should be noted here that it is not obligatory for the President to give his/her assent even if the bill is again passed by the State Legislature and sent again to him/her for his/her consideration.
- He/she can promulgate ordinances when the Parliament is not in session. These ordinances must be approved by the Parliament within six weeks from its reassembly. He/she can also withdraw an ordinance at any time.
- He/she lays the reports of the Comptroller and Auditor General, Union Public Service Commission, Finance Commission, and others, before the Parliament.
- He/she can make regulations for the peace, progress, and good government of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman, Diu and Ladakh. In the case of Puducherry also, the President can legislate by making regulations but only when the assembly is suspended or dissolved.

Financial Powers of President of India

The financial powers and functions of the President are listed below:

- Money bills can be introduced in the Parliament only with his prior recommendation.
- He/she causes to be laid before the Parliament the Annual Financial Statement (i.e. the Union Budget).
- No demand for a grant can be made except on his recommendation.
- He/she can make advances out of the Contingency Fund of India to meet any unforeseen expenditure.
- He/she constitutes a Finance Commission every five years to recommend the distribution of revenues between the Centre and the States.

Judicial Powers of President of India

The judicial powers and functions of the President of India are:

- He/she appoints the Chief Justice and the judges of the Supreme Court and High Courts.
- He/she can seek advice from the Supreme Court on any question of law or fact. The advice tendered by the Supreme Court is not binding on the President.
- He can grant pardon, reprieve, respite, and remission of punishment, or suspend remit, or commute the sentence of any person convicted of any offense:

- in all cases where the punishment or sentence is by a court-martial,
- in all cases where punishment or sentence is for an offence against a Union Law,
- in all cases where the sentence is a sentence of death.

Diplomatic Powers of President of India

The diplomatic powers and functions of the President are:

- The international treaties and agreements are negotiated and concluded on behalf of the President. However, they are subject to the approval of Parliament.
- He represents India in international forums and affairs and sends and receives diplomats like ambassadors, high commissioners, and so on.

Military Powers of President of India

The military powers and functions of the President are as follows:

- He/she is the Supreme Commander of the Defense Forces of India.
- He/she appoints the Chiefs of the Army, Navy, and Air Force.
- He/she can declare war or conclude peace, subject to the approval of Parliament.

Emergency Powers of President of India

The President is empowered to declare the 3 types of emergencies:

- National Emergency under Article 352,
- President's Rule under Articles 356 and 365, and
- Financial Emergency under Article 360.

Veto Power of President of India

Article 111 and **Article 201** of the Constitution grant the President of India w.r.t a **bill passed by the Parliament** and the **State Legislatures** respectively the following types of Veto Powers:

- **Absolute Veto** – It refers to the power of the President to withhold his assent to a bill presented to it.
- **Suspensive Veto** – It refers to the power of the President to return a bill (if it is not a Money Bill) for reconsideration by the Parliament or the concerned State Legislature.
- **Pocket Veto** – It refers to the power of the President to neither ratify nor reject nor return the bill but simply keep the bill pending for an indefinite period.

Ordinance Making Power of the President

Article 123 of the Constitution empowers the President to promulgate ordinances during the recess of Parliament.

Pardoning Power of President of India

Article 72 of the Indian Constitution empowers the President to grant pardon/commutation/remission/respice/reprieve to persons who have been tried and convicted of any offence in all cases where the.

- punishment or sentence is for an offence against a Union Law
- punishment or sentence is by a court martial (military court)
- a sentence is a sentence of death.

Conclusion

The **President of India**, as the **highest constitutional authority** of the nation, occupies a pivotal position in the democratic framework of the country. Despite being only, a nominal head of the Executive, the President of India plays a significant role in Indian polity. Through his diverse functions, he ensures the smooth functioning of and coordination among the three wings of the Union government.

LESSON 3: JUDICIARY & EMERGENCY

Topics covered under this lesson

1. Higher Judiciary

- 1.1 Power and jurisdiction of High Court
- 1.2 Power and jurisdiction of Supreme Court

2. Judicial Process & Access to Justice

- 2.1 Public interest litigation (PIL)
- 2.2 Lok Adalat

3. Judicial Behaviour & Reforms

- 3.1 Judicial activism vs Judicial restraint
- 3.2 Judicial reforms

4. Emergency Provisions

- 4.1 National Emergency (Article 352)
- 4.2 President rule in Indian states (Article 356)
- 4.3 Financial Emergency (Article 360)

1.1 Power and jurisdiction of Supreme Court

The **Supreme Court of India** is the **highest judicial court** and the final court of appeal under the Constitution of India, the highest constitutional court, with the power of **judicial review**. India is a federal State and has a **single and unified judicial system** with **three tier structure**, i.e. Supreme Court, High Courts and Subordinate Courts. After India attained independence in 1947, the Constitution of India came into being on **26 January 1950**. The **Supreme Court of India** also came into existence and its first sitting was held on 28 January 1950. The law declared by the Supreme Court is **binding on all Courts** within the territory of India.

Constitutional Provisions of Supreme Court

- The Indian constitution provides for a provision of Supreme Court under **Part V (The Union)** and **Chapter 6 (The Union Judiciary)**.
- **Articles 124 to 147 in Part V** of the Constitution deal with the organisation, independence, jurisdiction, powers and procedures of the Supreme Court.
- The Indian constitution under **Article 124(1)** states that there shall be a Supreme Court of India constituting of a Chief Justice of India (CJI) and, until Parliament by law prescribes a larger number, of not more than seven other Judges.
- The Jurisdiction of the Supreme Court of India can broadly be categorised into **original jurisdiction, appellate jurisdiction and advisory jurisdiction**. However, there are other multiple powers of the Supreme Court.

Organisational Structure of the Supreme Court

Supreme Court (Number of Judges) Bill of 2019 has added four new judges to strength. It increased the judicial strength from 31 to 34, including the CJI. Originally, the strength of the Supreme Court was fixed at eight (one chief justice and seven other judges). The Parliament is authorised to regulate the number of judges in supreme court.

Appointment of Judges

The **judges of the Supreme Court** are appointed by the **President**. The CJI is appointed by the President after **consultation with such judges of the Supreme Court** and high courts as he deems necessary.

The other judges are appointed by the President after **consultation** with the CJI and such other judges of the Supreme Court and the high courts as he deems necessary. The consultation with the chief justice is **obligatory** in the case of appointment of a judge other than Chief justice.

Appointment of Chief Justice From 1950 to 1973

The practice has been to appoint the senior most judge of the Supreme Court as the chief justice of India. This established convention was violated in 1973 when **A N Ray** was appointed as the **Chief Justice of India by superseding three senior judges**. Again in 1977, M U Beg was appointed as the chief justice of India by superseding the then senior-most judge. This discretion of the government was curtailed by the Supreme Court in

the **Second Judges Case (1993)**, in which the Supreme Court ruled that **the senior most judge of the Supreme Court should alone be appointed to the office of the Chief Justice of India**.

Controversy over Consultation and Evolution of Collegium system

The Supreme Court has given different interpretations of the word 'consultation' in the above-mentioned provisions.

- In the **First Judges case (1982)**, the Court held that consultation does not mean concurrence and it only implies exchange of views.
- In the **Second Judges case (1993)**, the Court reversed its earlier ruling and changed the meaning of the word consultation to **concurrence**.
- In the **Third Judges case (1998)**, the Court opined that the consultation process to be adopted by the **Chief Justice of India** requires '**consultation of plurality judges**'. The sole opinion of the CJI does not constitute the consultation process. He should consult a **collegium of four senior most judges of the Supreme Court** and even if two judges give an adverse opinion, he should not send the recommendation to the government. The court held that **the recommendation made by the chief justice of India** without complying with the norms and requirements of the consultation process are not binding on the government.

Collegium System

- Collegium system was born through "**third judges' case**" and it is in practice since 1998. It is used for appointments and transfers of judges in High courts and Supreme Courts.
- There is no mention of the Collegium either in the original Constitution of India or in successive amendments
- The SC collegium is headed **by the CJI (Chief Justice of India) and comprises four other senior most judges** of the court.
- A HC collegium is led by its Chief Justice and four other senior most judges of that court.
- Names recommended **for appointment by a HC collegium reaches the government only after approval by the CJI** and the SC collegium.
- Judges of the higher judiciary are appointed only through the collegium system and the government has a role only after names have been decided by the collegium.
- Through the **99th Constitutional Amendment Act, 2014 the National Judicial Commission Act (NJAC)** was established to replace the collegium system for the appointment of judges.
- However, the Supreme Court **upheld the collegium system and struck down the NJAC as unconstitutional** on the grounds that the involvement of **Political Executive** in judicial appointment was **against the "Principles of Basic Structure"**. I.e. the "**Independence of Judiciary**".

Qualifications Required for the Appointment of Judges

A person to be appointed as a judge of the Supreme Court should have the following qualifications:

- He should be a **citizen of India**.
- He should have been a **judge of a High Court** (or high courts in succession) **for five years**; or
- He should have been an advocate of a High Court (or High Courts in succession) for ten years; or
- He should be a **distinguished jurist in the opinion of the president**.

Removal of Judges

- A judge of the Supreme Court can be removed from his office by an **order of the President**. The President can issue the removal order only after an address by Parliament has been presented to him in the same session for such removal.
- The address must be supported by a **special majority** of each House of Parliament (ie, a majority of the total membership of that House and a majority of not less than **two-thirds of the members** of that House present and voting). The grounds of removal are two—**proved misbehaviour or incapacity**.
- **The Judges Enquiry Act (1968)** regulates the procedure relating to the removal of a judge of the Supreme Court by the process of impeachment:
- **No judge of the Supreme Court has been impeached** so far. Impeachment motions of Justice V Ramaswami (1991–1993) and the Justice Dipak Misra (2017-18) were defeated in the Parliament.

Why is it Important for the SC to be Independent?

- The Supreme Court is a **federal court, the highest court of appeal, the guarantor of the fundamental rights of the citizens and guardian of the Constitution**. Therefore, its independence becomes very essential for the effective discharge of the duties assigned to it. It should be free from the encroachments, pressures and interferences of the executive (council of ministers) and the Legislature (Parliament). It should be allowed to do justice without fear or favour.
- The Constitution has made the following provisions to **safeguard and ensure the independent and impartial** functioning of the Supreme Court:
 - Mode of appointment
 - Security of tenure
 - Fixed service conditions
 - Expenses charged on the consolidated fund
 - Conduct of judges cannot be discussed
 - Ban on practice after retirement
 - Power to punish for its contempt
 - Freedom to appoint its staff
 - Its jurisdiction cannot be curtailed

- Separation from Executive

Jurisdiction and Powers of Supreme Court

Original Jurisdiction?

As a Federal court, the Supreme Court decides disputes between different units of the Indian Federation. More elaborately, any dispute between: the Centre and one or more states; or the Centre and any state or states on one side and one or more states on the other; or between two or more states.

- In the above federal disputes, the Supreme Court has **exclusive original jurisdiction**.
- Further, this jurisdiction of the Supreme Court **does not extend** to the following:
 - A dispute arising out of any pre-Constitution treaty, agreement, covenant, engagement, sanad or another similar instrument.
 - A dispute arising out of any treaty, agreement, etc which specifically provides that the said jurisdiction does not extend to such a dispute.
 - Inter-state water disputes.
 - Matters referred to the Finance Commission.
 - Adjustment of certain expenses and pensions between the Centre and the states.
 - Ordinary dispute of Commercial nature between the Centre and the states.
 - Recovery of damages by a state against the Centre.

Writ Jurisdiction

The Supreme Court is empowered to issue writs, including **habeas corpus, mandamus, prohibition, quo-warranto and certiorari** for the enforcement of the fundamental rights of an aggrieved citizen.

- In this regard, the Supreme Court has **original jurisdiction** in the sense that an aggrieved citizen can go directly to the Supreme Court, not necessarily by way of appeal.
- However, the writ jurisdiction of the Supreme Court is not exclusive. The High Courts are also empowered to issue writs for the enforcement of the Fundamental Rights.

Appellate Jurisdiction

The Supreme Court is primarily a court of appeal and hears appeals against the judgements of the lower courts. It enjoys a wide appellate jurisdiction which can be classified under four heads:

- Appeals in constitutional matters
- Appeals in civil matters
- Appeals in criminal matters
- Appeals by special leave

Advisory Jurisdiction

The Constitution **under Article 143** authorises the President to seek the opinion of the Supreme Court in the two categories of matters:

- On any question of law or fact of public importance which has arisen or which is likely to arise.
- On any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, sanad or other similar instruments.

Court of Record

As a Court of Record, the Supreme Court has two powers:

- The judgements, proceedings and acts of the Supreme Court are recorded for perpetual memory and testimony. These records are admitted to be of evidentiary value and cannot be questioned when produced before any court.
- They are **recognised as legal precedents and legal references**.
- It has power to **punish for contempt of court**, either with simple imprisonment for a term up to six months or with fine up to 2,000 or with both.

Power of Judicial Review

Judicial review is the power of the Supreme Court to examine the constitutionality of legislative enactments and executive orders of both the Central and state governments.

- On examination, if they are found to be **violative of the Constitution (ultra-vires)**, they can be declared as **illegal, unconstitutional and invalid (null and void)** by the Supreme Court. Consequently, they cannot be enforced by the Government.

Recent issues in Supreme Court

Master of Roster: It refers to the privilege of the Chief Justice to constitute Benches to hear cases.

- The controversy has emerged in the Supreme Court over **absolute power of Chief Justice** on the judicial administration.
- The SC has upheld a number of times that “the Chief Justice is the master of the roster and he alone has the prerogative to constitute the Benches of the Court and allocate cases to the Benches so constituted.”
- Be it the Chief Justice of India or Chief Justice of any high court it is he or she who heads the **administrative** side. This includes allocation of matters before a judge as well.
- So, no Judge can take up the matter on his own, unless allocated by the Chief Justice of India.

LESSON 4: POLITICS, ELECTIONS & GOVERNANCE

Topics covered under this lesson

1. Local Governance & Decentralisation

- 1.1 Panchayati Raj (73rd constitutional amendment)
- 1.2 Salient features of 73rd constitutional amendment act

2. Political System & Political Processes

- 2.1 Characteristic of Indian Political system
- 2.2 Anti Defection law in India
- 2.3 Pressure group in India
- 2.4 Effect of regional parties in Indian Political System

3. Elections & Electoral Integrity

- 3.1 Electoral reforms
- 3.2 Electoral bonds
- 3.3 Model code of conduct
- 3.4 Decriminalization of politics
- 3.5 One nation one election
- 3.6 The Chief Election Commissioner act 2023"

4. Governance & Administrative Reforms

- 4.1 Citizens' grievances redressal system in India
- 4.2 Good governance
- 4.3 Right to Information Act (RTI)
- 4.4 E-Governance
- 4.5 Police reforms

5. Society, Caste & Regional Issues

- 5.1 Caste politics in context of India
- 5.2 Influence of caste in Bihar political system
- 5.3 Special status for the state of Bihar
- 5.4 Liquor ban in the state of Bihar

6. Foreign Policy & Diplomacy

- 6.1 Principle of India Foreign Policy
- 6.2 Soft power foreign diplomacy of India

1. Local Governance & Decentralisation

1.1 Panchayati Raj (73rd constitutional amendment)

Panchayati Raj Institution (PRI) is a system of **rural local self-government** in India. Local Self Government is the management of local affairs by such local bodies who have been **elected by the local people**.

PRI was constitutionalized through the **73rd Constitutional Amendment Act, 1992** to build democracy at the grass roots level and was entrusted with the task of rural development in the country.

Evolution of Panchayati Raj in India: Post-Independence Phase

Constitutional Position after 1947

- After Independence, the Indian Constitution did not make Panchayati Raj compulsory.
- Article 40 (Directive Principles) asked states to organise village panchayats, but it was not legally binding.
- Due to this, no uniform Panchayati Raj structure developed across India.
- B.R. Ambedkar opposed giving strong constitutional status, fearing village-level caste dominance.

Community Development Experiments (1950s)

- Community Development Programme (1952) and National Extension Service (1953) aimed at rural development through people's participation.
- Inspired by the Etawah Project of Albert Mayer.
- These programmes failed due to: Bureaucratic control, Lack of people's participation and Weak role of village panchayats

Committee Era & Democratic Decentralisation

- **Balwant Rai Mehta Committee (1957)** identified lack of people's participation as the main problem. Recommended three-tier system: Gram Panchayat – village level, Panchayat Samiti – block level and Zilla Parishad – district level
- First implemented in Rajasthan (1959) and Andhra Pradesh (1959).

Strengthening Phase (1977–1991)

- Ashok Mehta Committee recommended a two-tier system with district as the key unit.
- Later committees like G.V.K. Rao and L.M. Singhvi stressed: Regular elections, financial powers and Constitutional status

Constitutional Status Achieved (1992–93)

- Under P.V. Narasimha Rao, 73rd Constitutional Amendment Act, 1992 was passed and came into force on 24 April 1993.

- Made Panchayati Raj: Constitutionally mandatory, Democratic and Uniform across India

In simple terms: Panchayati Raj moved from *advice* to *constitutional guarantee*, giving villages real power in governance.

Reforms in Panchayati Raj Institutions since Inception

Since the **73rd and 74th** Constitutional Amendments (1992–93), Panchayati Raj Institutions (PRIs) have created a third tier of government at the grassroots level. Around 2.5 lakh PRIs and over 30 lakh elected representatives now function across India. One-third reservation for women and SC/STs has transformed political participation. India today has about 14 lakh elected women representatives, the highest in the world. Studies show that women-led panchayats invest more in drinking water, sanitation, and local public goods, and encourage women to report crimes.

At the same time, governance outcomes remain uneven due to limited devolution of powers and capacity gaps. Still, reforms continue. States have strengthened legal safeguards for devolution, and successive Finance Commissions have increased funding. The 15th Finance Commission further enhanced grants to local bodies. **On 24 April 2022**, India marked **National Panchayati Raj Day**, highlighting reforms like **SWAMITVA**, which gives villages digital property records—similar to giving farmers legal “land passports” to unlock development.

Challenges associated with the PRI System

1. Lack of Effective Devolution

- Local government is a state subject in the Constitution, and consequently, the devolution of power and authority to panchayats has been left to the discretion of states.
- Some of the important subjects like fuel and fodder, non-conventional energy sources, rural electrification including distribution of electricity, non-formal education, small scale industries including food processing industries, technical training, and vocational education have not been devolved in certain states.

2. Insufficient Grants/Funds

- Despite the constitutional empowerment, the local bodies face problems of **inadequate finance** to carry out various activities assigned to them.
- Transfers made through the State Finance Commissions are also meagre in most States.
- In most of the states, most of the GPs are found reluctant to raise their own source of revenue (OSR). Only a few GPs are able to generate OSR in the form of tax or non-tax revenue by renting shops, house tax and clean water fee.

3. Issue of Sarpanch Pati

- On the Panchayati Raj Day in 2015, the Prime Minister called for an end to 'Sarpanch Pati culture'. But it is still very much prevalent in the society, mainly due to gender biases, women illiteracy and patriarchal society.

4. Infrastructural Challenges

- Some of the GPs do not have their own building and they share space with schools, Anganwadi centre and other places. Some have their own building but without basic facilities like toilets, drinking water, and electricity connection.
- While GPs have internet connections, they are not functional in many cases. For any data entry purposes, panchayat officials have to visit Block Development offices which delay the work.

5. Lack of Support Staff

- The Standing Committee on Rural Development (Chair: Dr. P Venugopal) in July 2018 observed that there is severe lack of support staff and personnel in panchayats, such as secretary, junior engineers, computer operators, and data entry operators. This affects their functioning and delivery of services by them.

6. Lack of Convergence of Various Government Programmes

- There is a clear lack of convergence of various development programmes of the Centre and state governments.
- For example, roads in two different patches are constructed utilising two different sources of funding (e.g. Fourteenth Finance Commission and MPLAD), but it is difficult to find one large activity with funding from multiple sources.
- Different guidelines by different departments are cited as a major constraint for lack of convergence of activities.

Strengthening Panchayati Raj Institutions: Key Reform Measures

Effective functioning of Panchayati Raj Institutions (PRIs) requires implementing the recommendations of the **Second Administrative Reforms Commission (2nd ARC)**. It stressed **genuine fiscal federalism**, meaning local bodies should have financial freedom along with responsibility. A clear division of functions among **state, district, and village levels** was recommended to avoid overlap and confusion. This is like assigning fixed roles in a team—everyone knows their job and performs better.

The 2nd ARC also suggested **outsourcing selected services** to public or private agencies where suitable, to improve efficiency. For capacity building, it recommended **networked training systems** linking institutes of finance, rural development, and disaster management. To ensure transparency, **district-level audit committees** should monitor finances, internal controls, and legal compliance, strengthening accountability at the grassroots level.

Way Forward

- The need of the hour is to bring about a holistic change in the lives of beneficiaries among the villagers by uplifting their socioeconomic and health status through effective linkages through community, governmental and other developmental agencies.
- Government should take remedial action in the interest of democracy, social inclusion and cooperative federalism.
- People's demands for the sustainable decentralisation and advocacy should focus on a decentralisation agenda. The framework needs to be evolved to accommodate the demand for decentralisation.
- It is important to have **clarity in the assignment of functions** and the local governments should have **clear and independent sources of finance**.