

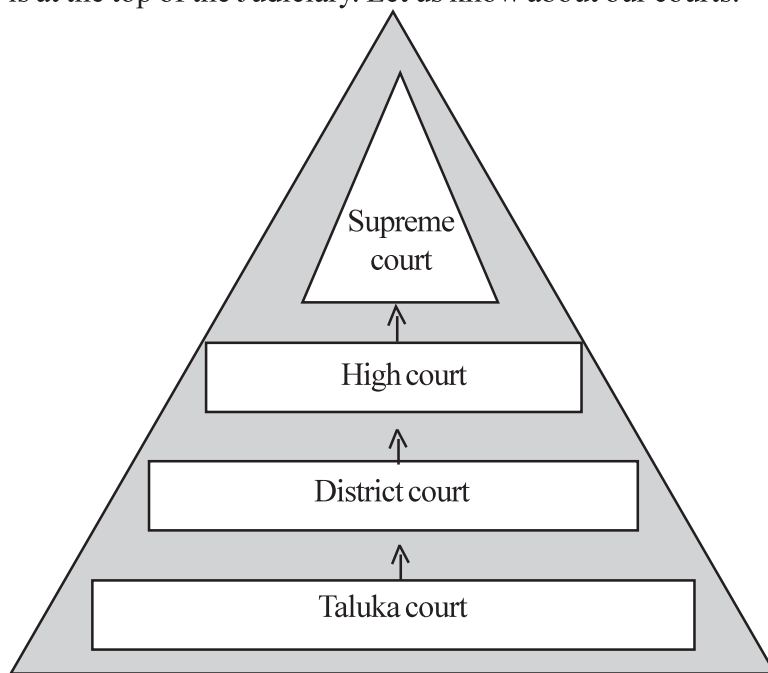


India is a democratic country. In order to run the administration of the country in an appropriate way, laws have been formed in accordance with certain principles and ideals. When a person breaks a law, it becomes an offence. When a person commits a crime, s/he is depriving someone of his/her rights. Justice is required at such time and the task of providing justice is carried out by the Judiciary. Thus the Judiciary holds a prominent place.

### Structure of the Judiciary

The Indian Judiciary administers Justice in case of both civil and criminal matters. Civil matters include complaints about the ownership of house, land or other properties while criminal matters include complaints about theft, loot, murder, combating etc.

In order to administer justice to the citizens of India, Taluka Courts, District Courts, High Courts and Supreme Court have been established. There exists a uniform judicial system in India. The Supreme Court is at the top of the Judiciary. Let us know about our courts.



**India's Judiciary**

### Subordinate Courts :

The High Court operates below Supreme Court and the Taluka and District courts are subordinate to the High Court.

### Taluka Court :

Courts located in taluka place are also known as Taluka Courts. The court of the Civil Judge is the lowest court where cases involving rupees upto the limit of 25 lakh are taken for hearing. The court of the Judicial Magistrate is the lowest court for criminal matters where criminal cases are taken for hearing. The Judicial Magistrate has the power to impose sentence upto three years and a fine upto ₹ 10, 000. One can file an appeal

in the district court against the verdict given by the Judicial Magistrate.

### District Court :

Each district has both Civil as well as Criminal Courts. The institutional structure and the functions of all the subordinate or lower courts in our country are more or less similar. All subordinate courts function under the supervision of the High Court. The court of the District and Sessions Judge is the highest court in each district. It is the principal court of civil jurisdiction. The District Court also has a status of sessions. The District Judge is appointed by the State Governor in consultation with the High Court.

### Powers and Functions :

In taluka and district courts, both the accused and the complainant are made present. They put their sides of the case before the judge through their lawyers. After listening to both the parties, the judge gives the verdict. In the district court, when the judge is dealing with civil cases, he is known as the District Judge and when he is dealing with criminal cases, he is recognised as the Sessions Judge. The District and Sessions

Judge has power to give punishment for 10 years or more including life-imprisonment and capital punishment. In metro cities, along with City Civil and Sessions Courts, there are Labour Courts also. Cases of labour disputes are heard and resolved in these courts. Chief Judicial Magistrate, Additional Chief Judicial Magistrate and Metropolitan Magistrate have the power to impose sentence of 7 years or more and a fine of any amount of money. Appeal can be filed in the High Court against the judgement of the subordinate court.

### Know This

- A pair of word commonly uttered in the court is 'Bar and Bench'. Bar is related to advocates while Bench is related to judge. The council of advocates is known as Bar. The Bar Council gives certificate to advocate to practice in the court and regulates his/her professional behaviour. If any advocate is found doing wrong, complaint is made in the Bar Council and the Bar Council takes action against him/her. Bigger mistake can result in cancellation of the certificate. The judges working together are known as Bench.

### The High Court

The High Court of Gujarat is located in Ahmedabad. All High Courts of India have fixed jurisdiction. In the judiciary, all High Courts enjoy equal importance. The High Courts are the links connecting subordinate courts and the Supreme Court. The High Courts enjoy the similar status and dignity at state level as the Supreme Court enjoys at the central level. The High Court is the highest court at state level and it administers justice by interpreting the law. Generally, each state has a High Court, but in some of the eastern states there is one High Court for two or more states.

The High Court consists of one Chief Justice and other judges who are appointed by the President from time to time. The Chief Justice of the High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the respective state. Other judges are also appointed by the President in consultation with the Chief Justice of the High Court. All High Courts do not have equal number of judges.



High Court of Gujarat

Before assuming the position, the person appointed as a judge makes and subscribes before the Governor or the person nominated by him, an oath or affirmation and signs up. English is the official language for all the high courts. Presence of the complainant and the accused is not required in the High Court. Lawyers of both



the parties make arguments. If needed, accused or the complainants are brought to the court. The jurisdiction of the High Court is inclusive of original jurisdiction, disputed jurisdiction and administrative jurisdiction.

#### **Powers and Functions :**

- The High Court holds hearing for civil, criminal and revenue related cases and administers justice.
- According to the article 226 of the Indian Constitution, the High Court has the power to issue orders in relation to the protection of human rights.
- The High Court hears the appeals filed against the judgement passed by the subordinate courts.
- It can ask for reports from all the subordinate courts of the state.
- It can make and modify general rules for all the subordinate courts. Appeal can be filed in the Supreme Court against the order of the High Court.

#### **The Supreme Court**

The Supreme Court of our nation, located in Delhi, is placed on the top of the hierarchy of the courts. It came into existence on 28<sup>th</sup> January, 1950. The Chief Justice and other judges of the Supreme Court are appointed by the President. Appointment of the Chief Justice takes place generally on the basis of seniority. Appointments of other judges of the Supreme Court are done on the basis of duration of their service. Before assuming the office, each judge of the Supreme Court takes the oath before the President for being faithful and to protect the Constitution of India.

The Supreme Court has the power to enforce fundamental rights. Any individual or institution can appeal for justice in the Supreme Court.



**Supreme Court - Delhi**

#### **Dismissal from the Post :**

A specific procedure is followed for the removal of a judge of the Supreme Court. This procedure takes place only when the misbehaviour or incapacity of a judge is proved. The motion needs to be passed in both the Houses with two-third majority and on the basis of this motion the President removes the judge in question. This procedure is also known as Impeachment.



## Powers and Functions of the Supreme Court :

- The Supreme Court hears all kinds of appeals against the judgement given by its subordinate courts including the High Court.
- The Supreme Court hears the appeals against the judgement made in relation to interpretation of the Indian Constitution.
- The Supreme Court has the power to penalize anyone for contempt of any Indian court including itself and for contempt of law.
- The Supreme Court has the authority to review the judgements made earlier by itself.
- The Supreme Court has the right to resolve the dispute related to the election of the President or the Vice-President.
- The Supreme Court has the power to dismiss any step / order / decision taken by the Executive which is not compatible with the Constitution meant for the upkeep of civil rights. However, as an exception, no appeal can be made in the Supreme Court against the judgement given by the Military Court under the martial law.

The Supreme Court consists of Chief Justice and other judges who help him/her. In the Supreme Court, lawyers of both the parties make arguments and the accused and / or the complainant are presented only if it is needed. All disputes are heard by either the Chief justice or by other judges and the justice is administered. No appeal can be made against the judgement of the Supreme Court. The judgement passed by the Supreme Court is obligatory to all subordinate courts.

### Court of Records

The Supreme Court is the court of records for the whole nation as the high courts are courts of records for states. The judgements given for the subordinate courts are considered as permanent documents and these judgements are acceptable to lower courts. These judgements are also used as a reference in the judgements made by the High Court and other lower courts and their rules and regulations are binding on all subordinate courts.

### The Independence of the Judiciary

A picture of the Goddess of Justice or Lady Justice is given here. Her attributes are a blindfold, a balance and a sword. The first two symbols indicate that the Lady Justice weighs justice without any favour or a feeling of like or dislike. The sword in her hand indicates that if a person is proved as a culprit, s/he must be punished. These symbols are pointers for the judiciary. Specific provisions have been made in our Constitution for judges to administer justice impartially and fearlessly. If there is a misbehaviour or incapacity of a judge of the High Court or the Supreme Court and is proved, then s/he can be removed from his/her position by passing the motion with two-third majority in both the Houses. Though this process is very tough, the Constitution has thus protected the independence of the Judiciary. Our Judiciary is totally institutionalised and it functions in accordance with the law and not according to the autocracy of any one, no matter how influential s/he is.



**The Lady Justice**

### Need for a Judiciary

The Indian Judiciary has accepted in principle that unless proved, no person can be considered as a culprit. The justice system of India ensures that no innocent person is punished and at the same time no



culprit escapes from the grip of the law. Escape of culprits is dangerous for the society and if such things happen, people will not have trust in the Judiciary. Moreover the escaped culprits will have no fear of the law and they will be tempted to commit more crimes. So Judiciary is necessary.

- Our Judiciary acts as the protector-guardian of the Constitution.
- The Judiciary determines the limit of the authority for the central and state governments.
- Our courts act as a protector of fundamental rights of the citizens.
- The Judiciary is independent and is free from the influence of the government or the administrative machinery.
- The Judiciary administers justice impartially and in accordance with the law without any improper influence.

Thus the Judiciary is equal to all without any discrimination.

### Public Interest Litigation - PIL

The prime aim of the Judiciary is to ensure justice to people of all classes. For issues related to public interest, any person or institution can file an appeal in the court. PIL has played a great role in making the Judiciary people oriented. However, if any PIL is found unnecessary and improper, the court can punish the petitioner. The High Court is authorized to do so in order to prevent misuse of PIL. Sometimes, the court itself files a petition in relation to the matter of public interest. This is known as SUO MOTO.

### Lok Adalat (People's Court)

The number of cases disposed off is much less than the number of cases filed in the courts every day, resulting in backlog of cases. In order to reduce this backlog, Lok Adalat is held by the Department of Law. The Gujarat State Legal Service Authority, High Court of Gujarat has established permanent Lok Adalat in certain districts of Gujarat. No fee is required in these courts to file a case or for any other proceedings.

#### Aim / Objective :

The Lok Adalat or People's Courts are functioning in order to make the judicial process speedy and inexpensive. The major aim of the Lok Adalat is to avoid delay in providing justice and to reach to an amicable compromise which is acceptable to both the parties involved.

#### Benefits of Lok Adalat :

- Through Lok Adalat many cases have resulted in speedy and agreeable settlement.
- Both money and time of the citizens and the court are saved.
- It saves citizens from the legal complexities.

#### Know This

- The first Lok Adalat was experimented in Gujarat.

### First Information Report - F. I. R.

When there is an offence, the victim first lodges a complaint with the local police station. Sometimes the police themselves take note of it. Such information, being obtained for the first time is called as First Information Report.

When the information is recorded, the police take up the investigation of the case. The police initiate

the search for the culprit/s and a charge sheet is prepared after collecting evidences against the culprit/s. In this process of justice, F.I.R. becomes an important document. Oral complaint can also be lodged at the police station to get F.I.R. recorded. Generally the police cannot refuse to note the F.I.R.

### Judicial Judgements and the Indian System

The Constitution of India has protected the autonomy of the Judiciary. As a result, the Supreme Court and the High Courts of different states have protected the civil rights by giving momentous judgements and have contributed towards the formation of a judicious social system.

In a much debated case of Mr. Keshvanand Bharti versus the Government of Kerala, the Constitutional Bench of the Supreme Court had delivered a landmark judgement, in which the power of the Parliament, on the basis of majority, in influencing fundamental rights of citizens was discussed in detail.

Similarly, while delivering the justice in the case of Justice Puttaswami versus the Union of India, the Supreme Court held that the fundamental right to privacy is guaranteed under the Constitution of India.

The scheme of mid-day-meal currently operational in our primary schools is also based on a verdict of the court.

#### Activity

Make a report by collecting the cuttings of the newspapers which include details of the important judgements given by the courts in recent time.

#### Exercise

#### 1. Answer the following questions in one sentence :

- (1) Which matters are included in a criminal case ?
- (2) Who is known as Sessions Judge ?
- (3) Which court stands at the top of all the courts ?

#### 2. Answer the following questions :

- (1) Write a note on the powers and functions of the High Court.
- (2) State the benefits of the Lok Adalat.

#### 3. Fill in the blanks :

- (1) The Lady Justice holds ..... and ..... in her hands.
- (2) An appeal can be made in ..... against the judgment of the High Court.
- (3) The High Court of Gujarat is located in ..... .
- (4) The Supreme Court of our nation is located in ..... .

#### Activity

- Organize a programme of mock court in your school.
- Organize a visit to a nearby police station.

