



**SNS COLLEGE OF ENGINEERING
DEPARTMENT OF ECE
UNIT - I
INDIAN CONSTITUTION**



Right to constitutional remedies





Right to constitutional remedies



- Article 32 is known as the “spirit of the constitution and exceptionally heart of it” by Dr. Ambedkar. Preeminent Court has included it in fundamental structure regulation. Further, it is clarified that privilege to move to Supreme Court can’t be suspended with the exception of generally given by the Constitution. This suggests this privilege suspended amid a national crisis under article 359.
- Article 32 makes the Supreme Court the safeguard and underwriter of the major rights. Further, the capacity to issue writs goes under the original jurisdiction of the Apex Court. This implies an individual may approach SC straightforwardly for a cure as opposed to by appeal.
- Article 32 can be used only to get a remedy for fundamental rights enshrined in Article 12-35. It isn’t there for some other legal right for which diverse laws are accessible.



What is WRIT?



- A precept in writing, couched in the form of a letter, running in the name of the king, president, or state, issuing from a court of justice, and sealed with its seal, addressed to a sheriff or other officer of the law, or directly to the person whose action the court desires to command, either as the commencement of a suit or other proceeding or as incidental to its progress, and requiring the performance of a specified act, or giving authority and commission to have it done. For the names and description of various particular writs, see the following titles.
- In old English law. An Instrument in the form of a letter; a letter or letters of attorney. This is a very ancient sense of the word.
- In the old books, “writ” is used as equivalent to “action;” hence writs are sometimes divided into real, personal, and mixed.
- In Scotch law. Writing; an instrument in writing, as a deed, bond, contract, etc.



Types of WRIT



Habeas Corpus:

Meaning: This writ is in the nature of an order calling upon the person who has detained another to produce the latter before the Court, in order to let the Court, know on what ground he has been confined and to set him free if there is no legal justification for the confinement.

Mandamus

Meaning: “A writ issued by a court to compel performance of a particular act by lower court or a governmental officer or body, to correct a prior action or failure to act.” It is used for enforcement of various rights of the public or to compel the public statutory authorities to discharge their duties and to act within the bounds. It may be used to do justice when there is wrongful exercise of power or a refusal to perform duties.

Prohibition

Meaning: A writ of prohibition, also known as a ‘stay order’, is issued to a lower court or a body to stop acting beyond its powers.



Types of WRIT



Certiorari

Meaning: The writ of certiorari issued to quash a decision after the decision is taken by a lower tribunal while prohibition is issuable before the proceedings are completed. The law has always been, that a writ of certiorari is issued against the acts or proceedings of a judicial or quasi-judicial body conferred with power to determine question affecting the rights of subjects and obliged to act judicially.

Quo Warranto

Meaning: The writ of Quo Warranto (by what warrant) is issued to inquire about the legality of a claim by a person or authority to act in a public office, which he or she is not entitled to. The writ of Quo Warranto is a mode of judicial control in the sense that the proceedings review the actions of the administrative authority which appointed the person.