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## **Constitution of India Art 32 - Remedies for enforcement of rights conferred by this Part**

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

### SYNOPSIS

### **Cited in Sankaranarayanan 2017**

Nature of—The jurisdiction conferred on the Supreme Court by Article 32 is an important and integral part of the basic structure of the Constitution, *Fertilizer Corporation Kamgar (Union) v. Union of India*, (1981) 1 SCC 568.

Maintainability—A petition under Article 32 assailing a final judgment or order of Supreme Court, after dismissal of review petition is not maintainable, *Rupa Ashok Hurra v. Ashok Hurra*, (2002) 4 SCC 388.

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Applicability—Article 32 guarantees right to constitutional remedy and relates only to enforcement of rights conferred by Part III of the Constitution, and unless a question of enforcement of fundamental rights arises, Article 32 does not apply, *Ramdas Athawael (5) v. Union of India*, (2010) 4 SCC 1.

Scope—The scope of the remedy in Article 32 is clearly narrow in that it is restricted solely to enforcement of fundamental rights conferred by Part III of the Constitution, *Nain Sukh Das v State of U.P.*, AIR 1953 SC 384.

Judicial Review—Is not concerned with the decision but the decision making process, *dwarkadas Marjatia and Sons. V. Board of Trustees of the Port of Bombay*, (1989) 3 SCC 293.

Illegal Detention—Compensation for illegal detention can be granted under Article 32 without affecting his right to sue for damages, *Rudul Sah v. State of Bihar*, (1983) 4 SCC 141, 147, 148.

Enforceability—Rights under Article 32 and 17, 23 and 24 are enforceable against any private person also, *PUDR v. Union of India*, (1982) 3 SCC 235: (1989) 4 SCC 286.

Policy Matters—Unless the action is unconstitutional or ultra vires or arbitrary, irrational or in abuse of power, Supreme Court will not interfere with the policy matters, *W.B. Housing Board v. Brijendra*, (1997) 6 SCC 207.

Justice—Access to human justice is the essence of Article 32, *prem Shankar Shukla v. Delhi Administration*, (1980) 3 SCC 526: 1980 SCC (Cri) 815.

Public Interest Litigation—Even a letter can be treated as a writ petition if in the nature of Public Interest Litigation, *State of H.P.*

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 v. A parent of student, Bandhua Mukti Morcha v. Union of India, (1985) 3 SCC 169. See also Sheela Barse v. Union of India, (1984) 3 SCC 161 and (1988) 4 SCC 226.

Litigation undertaken for the purpose of redressing public injury, enforcing public duty, protecting social, collective, “diffused” rights and interests or vindicating public interest, any citizen who is acting bona fide and who has sufficient interest, has to be accorded standing, S.P. Gupta v. Union of India, 1981 Supp SCC 87.

A public interest litigation cannot be entertained where the stand taken was contrary to the stand taken by those who are affected by any action, Rameshwer Prasad (VI) v. Union of India, (2006) 2 SCC 1.

Interpretation/Construction—The interpretation of Article 32 should be guided not by any verbal or formalistic canons of construction but by the paramount object and purpose for which this article has been enacted and its interpretation must receive light from the Preamble, the Fundamental Rights and the Directive Principles, Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161, 185, 186. See also Sheela Barse v. Union of India, (1988) 4 SCC 226.

Compensation—Compensation can be granted under public law by the Supreme Court and by the High Court in addition to private law remedy for tortious action and punishment to wrongdoer under criminal law, D.K. Basu v. State of W.B., (1997) 1 SCC 416: 1997 SCC (Cri) 92.

Power of Supreme Court—Article 32 confers widest amplitude of power on the Supreme Court in the matter of granting relief. It has power to issue “direction or orders or writs”, and there is no

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specific indication, no express language, limiting, or circumscribing that power. Yet, the power is limited by its very nature, in that it is the power which pertains to the judicial organ of the State, *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161. See also *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

Mandamus—Mandamus normally is not issued to Government for making law, *Saurabh Chaudri v. Union of India*, (2003) 11 SCC 146.

Transfer of cases—The provisions of Articles 32, 136 and 142 are wide enough to empower Supreme Court to direct transfer of civil or criminal case from the State of Jammu and Kashmir outside the State and vice versa. *Anita Kushwaha v. Pushap Sudan*, (2016) 8 SCC 509: (2016) 4 SCC (Civ) 80: (2016) 2 SCC (L&S) 463.