

A Few Minutes Series

Subject - Polity

Date - 04th March 2023

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Types of Writs

	Supreme Court	High Court
Applicable on	Supreme Court can issue writs only for the enforcement of fundamental rights.	High Courts can issue writs not only for the enforcement of Fundamental Rights but also for any other purpose.
Extent	The Supreme Court can issue writs against a person or government throughout the territory of India.	High Courts can issue writs against a person residing or against a government or authority located within its territorial jurisdiction only or outside its territorial jurisdiction only if the cause of

		action arises within its territorial jurisdiction.
Refusal	A remedy under Article 32 is in itself a Fundamental Right and hence, the Supreme Court may not refuse to exercise its writ jurisdiction.	Remedy under Article 226 is discretionary and hence, a high court may refuse to exercise its writ jurisdiction.

Habeas Corpus- 'To have the body of'

- Ordered by the court to a person who has detained another person, to produce the body of the latter before it to examine the cause and legality of detention.
- It can be issued against both public authorities as well as private individuals.
- It is not issued where the (a) detention is lawful, (b) the proceeding is for contempt of a legislature or a court, (c) detention is by a competent court, and (d) detention is outside the jurisdiction of the court.

Mandamus- 'We Command'

- It is a command issued by the court to a public official asking him to perform his official duties that he has failed or refused to perform.
- It can also be issued against any public body, a corporation, an inferior court, a tribunal or government for the same purpose.
- It cannot be issued (a) against a private individual or body; (b) to enforce departmental instruction that does not possess statutory force; (c) when the duty is discretionary and not mandatory; (d) to enforce a contractual obligation; (e) against the president of India or the state governors; and (f) against the chief justice of a high court acting in judicial capacity.

Prohibition- 'To forbid'

- It is issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction or usurping a jurisdiction that it does not possess.
- Can be issued only against judicial and quasi-judicial authorities.
- It is not available against administrative authorities, legislative bodies, and private individuals or bodies.

Certiorari- 'To be Certified/ informed'

- It is issued by a higher court to a lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of the latter in a case on grounds of excess of jurisdiction or lack of jurisdiction or error of law.
- It can be issued against judicial, quasi-judicial authorities and administrative authorities (since 1991).

- It is also not available against legislative bodies and private individuals or bodies.

Prohibition = Preventive

Certiorari = Prevention plus Curative

Quo-Warranto- 'By what authority'

- It is issued by the court to enquire into the legality of claim of a person to a public office.
- It can be issued only in case of a substantive public office of a permanent character created by a statute or by the Constitution.
- It cannot be issued in cases of ministerial office or private office. Unlike the other four writs, this can be sought by any interested person and not necessarily by the aggrieved person.

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