

SUPREME COURT OF INDIA

Advocate - On - Record Examination, December 2004

**Paper I - Practice and Procedure**

Time: 3 Hours

Total Marks: 100

Notes:

1. Answer any five questions.
2. All questions carry marks indicated.

**1.** (a) What are the powers of a Single Judge under the Supreme Court Rules?

- (b) What are the rules relating to transfer of criminal proceedings under Section 406, Criminal Procedure Code, 1973?
- (c) Mention briefly the rules relating to election petitions concerning Presidential and Vice Presidential Elections.

(20 Marks)

**2.** Discuss the review jurisdiction of the Supreme Court and the procedure for filing review/ petitions. Is there any difference in the scope of review jurisdiction in criminal cases and in civil cases?

(20 Marks)

**3.** (a) Discuss the scope of Article 143 of the Constitution dealing with 'Power of the President to consult Supreme Court'.

- (b) Is the Supreme Court bound to answer the questions referred to it or can the Supreme Court return the reference without answering the questions referred?
- (c) Are the answers given by the Supreme Court binding on the Government/President?
- (d) If the question referred to the Supreme Court has been the subject matter of a decision of the Supreme Court by a bench of three Hon'ble Judges in an adversarial proceeding can the Supreme Court reconsider the correctness thereof in the Presidential Reference?

(20 Marks)

**4.** (a) What are the grounds for Review in

- (i) Civil Cases
- (ii) Criminal Cases
- (iii) Public Interest Litigation

(20 Marks)

**5.** Elucidate from the provisions of the Constitution, the Supreme Court Rules, statutory provisions, if any, and the Civil Procedure Code as to how the Supreme Court orders and decrees can be enforced and executed.

(20 Marks)

**6.** Discuss the doctrines of res judicata and merger in relation to a non speaking order of the Court dismissing in limine a Special Leave Petition.

(20 Marks)

**7.** Discuss, with reference to some recent decisions, the powers of the Supreme Court to punish for contempt of Court. When does the Court tend to condone or ignore contemptuous acts and conduct?

(20 Marks)

**8.** What is the scope of Article 141 of the Constitution of India? In this context, cite case law.

(20 Marks)

SUPREME COURT OF INDIA

Advocate - On - Record Examination, June 2005

PAPER-I Practice and Procedure

Time : Three Hours

Total Marks 100.

INSTRUCTIONS

- 1) Answers should not be unduly long — brevity and clarity are expected.
- 2) Answer any five questions out of questions number 1-8 each of which carry 16 marks. Question 9 is compulsory and carries 20 marks.
- 3) Legibility is expected. Marks would be deducted if the handwriting is illegible.

**Questions**

- 1) Discuss briefly the difference between a curative petition and a review petition.
- 2) “The Supreme Court is not necessarily bound by its earlier opinions”. Discuss. What is the procedure to be followed by a smaller bench when it differs from the view taken by larger bench.?
- 3) “A case is an authority for what it decides, not for what may seem to logically flow therefrom. Discuss the doctrine of precedent in the context of the aforesaid proposition.
- 4) Do the principles of res judicata apply in relation to a finding in an interlocutory order? Discuss with reference to decided cases.
- 5) What is the doctrine of merger? 'When does the judgment of a court merge with an order passed by the Supreme Court in exercise of its jurisdiction under Article 136 of the Constitution?
- 6)
  - a) What are the settled principles of law that govern the transfer of criminal cases from one State to another?
  - b) Is there any difference between the principles that govern the exercise of power by the Supreme Court under section 25 of the Code of Civil Procedure, and article 139A of the Constitution?

- 7) The Constitution bars judicial remedies under Article 226 and Article 32 in relation to “water disputes”. Discuss.
- 8) The responsibility of a lawyer who files public interest litigation is far higher than that of a lawyer who files an ordinary case. This flows from the difference between adversarial litigation and public interest litigation. Discuss.
- 9) Write short notes on any four of the following (20 marks)
- a) Powers of a single Judge of the Supreme Court
  - b) Exemption from surrender.
  - c) Restoration of a petition, dismissed for default.
  - d) Rules regarding Plaints under Article 131.
  - e) Transfer of cases under section 406 of the Criminal Procedure Code.
  - f) Article 145(3) of the Constitution
  - g) Period of limitation for filing a petition under Article 136 and condonation of delay
  - h) Rules regarding applications under Article 32.

SUPREME COURT OF INDIA  
Advocate-on-Record Examination - June 2006

Paper –I- PRACTICE AND PROCEDURE

Time : Three hours

Total Marks: 100

INSTRUCTIONS

1. Answer any five questions.
2. All questions carry equal marks.

Questions

- 1) What is Business in Chambers under Part I Order VI of the Supreme Court Rules, 1966? What changes have been brought about from 1.3.2006 with relation to exercising of the powers of the Court by the (1) Registrar and (2) a Single Judge sitting in Chambers?
- 2) What is a petition of Habeas-Corpus under Article 32 of the Constitution? It has to be heard by a division Court of how many Judges? What Court fee is payable in such petitions under Article 32 of the Constitution arising out of criminal proceedings or proceedings connected with such petitions?
- 3) Explain how Presidential and Vice Presidential elections can be called in question? What is the minimum number of electors who must join together as petitioners? It has to be heard by a Bench of the Court consisting of how many Judges? How the petition can be withdrawn?

- 4) What is the difference between “Advocate”, “Advocate-on-Record” and “Senior Advocate”? Write a note on their qualifications to practice, duties, limitations and inter relationship, if any.
- 5) Discuss scope of Articles 141 and 142 of the Constitution of India and compare their width.
- 6) Write short notes on:
- a) Appeals on Certificate by High Court.
  - b) Appeals by Special Leave.
  - c) Appeals and Applications by indigent persons.
  - d) Statutory Regular Appeals.
- 7) Discuss the following:
- a) Scope of Article 143 of the Constitution dealing with the power of the President to consult the Supreme Court of India.
  - b) Power of the Supreme Court in dealing with such reference.
  - c) Binding nature of the opinions rendered therein by the Supreme Court.
- 8) In what circumstances can the parties be excused from compliance with the Supreme Court Rules 1966 - Part X Chapter XLVII?

IN THE SUPREME COURT OF INDIA  
Advocates-on-Record Examination - June 2007  
PAPER -1 PRACTICE AND PROCEDURE

Time: Three hours

Total Marks: 100

INSTRUCTIONS

1. Clarity, brevity and legibility are expected in answers. Marks will be deducted for illegible writing.
2. Answers should always be supported by brief reasons and, preferably, by case law and/ or the underlying principle.
3. Answer eight questions in all out of eleven. Questions 1.2.3. and 4 are compulsory. Of the remaining questions, answer any four questions.
4. Question 1 to 4 carry 15 marks each. The rest of the questions carry 10 marks each.

QUESTIONS

Q. 1. (i) Discuss the provisions in the Constitution relating to 'substantial question of law as to the interpretation of the Constitution'. (8 marks)

(ii) Discuss the distinctions between and state the features of 'substantial question of law as to the interpretation of the Constitution', 'substantial question of law' and 'question of law.' (7 marks)

Q. 2. (i) Section 11 of the Inter-State River Waters Disputes Act, 1956, bars the jurisdiction of all courts, including the Supreme Court, in water disputes between States. Can a Section in an Act take away, and if so, state the reasons for the same, from the constitutional jurisdiction of the Supreme Court under Article 131, Article 32 and Article 136 the subject of water disputes? (5 marks)

**(ii)** Can Article 136 be invoked against an interim award of a Water Disputes Tribunal and if so, on what grounds? (5 marks)

**(iii)** Can a Presidential Reference be made under Article 143 in respect of a legislation passed by a State with respect to the waters of an interstate river, which legislation prejudicially affects the rights of another State to the said waters? (5 marks)

Q. 3. (i) Does a High Court judgment or order merge in an order made on a Petition for Special Leave under Article 136? Give reasons. (3 marks)

**(ii)** Does a summary dismissal by a non-speaking order of a Petition for Special Leave against a judgment or order of the High Court amount to approval or affirmance thereof? Give reasons. (3 marks)

**(iii)** While the Petition for Special leave is pending or after it has been dismissed by the Supreme Court, is it open to the High court to review its own judgment or order? Give reasons. (3 marks)

**(iv)** Does a non-speaking order dismissing a Petition for Special Leave constitute *res-judicata*? Give reasons. (3 marks)

**(v)** What is the difference between the doctrines of *stare decisis* and *res judicata* as regards the binding nature of judgments. Give reasons. (3 marks)

Q. 4. (i) What/Which are the courts and tribunals excluded, by the Constitution from the purview of the power of the Supreme Court to grant special leave under Article 136 against the decision of any court or tribunal in the territory of India? (3 marks)

**(ii)** Which are the classes of persons whose fundamental rights may constitutionally be restricted or modified and for what purpose? (3 marks)

**(iii)** What is the effect on fundamental rights when martial law is in force in any area? (3 marks)



(iv) What is martial law and what is a Court-martial? Which provisions of the Constitution refer to them? ( 3 marks)

(v) What is the effect on enforceability of all or any of the fundamental rights guaranteed by Part III by virtue of Articles 358 and 359 of the Constitution when an Emergency is proclaimed under Article 352? ( 3 marks)

Q.5. (i) Does the Constitution expressly or impliedly empower the Supreme Court to overrule its own decisions? Is the power to overrule traceable to Article 137 read with Order XL (Review) of the Rules or Articles 141, 129, 142 read with Order VII Rule 2 (Reference to larger Benches)? Give reasons. (5 marks)

(ii) Is the Supreme Court included in "all courts" in Article 141 which provides that the law declared by the Supreme Court shall be binding on all courts? Why adherence to precedents is considered important in our system of administration of justice? (5 marks)

Q. 6. (i) Discuss the nature of disputes that may be entertained under Article 131 and those that may not be so entertained. Can such a suit be heard and decided by a bench of less than five Hon'ble Judges? Is there a period of limitation prescribed for suits under Article 131 under the Constitution, the Limitation Act, 1961, or the Supreme Court Rules 1966? Give reasons for your answer. (5 marks)

(ii) Discuss the provisions of the Constitution and the Rules relating to execution of decrees of the Supreme Court and the duty of civil and judicial authorities to act in aid of the Supreme Court. Are the Armed Forces under such, a duty? (5 marks)

Q. 7. (i) Does a petition under Article 32 lie to challenge a judicial order of the Supreme Court or High Court? Does a second review petition lie? Is an interim order of stay amenable to the review jurisdiction or it can be recalled or vacated upon an I.A. filed for the purpose? Give reasons. (5 marks)

**(ii)** What are the grounds and requirements of a curative petition which may be filed "in the rarest of rare" cases for relief *ex debito justitiae*? (5 marks)

Q. 8. (i) What are the grounds of review in civil and criminal matters? (3 marks)

**(ii)** What is the practice when a Two Judges Bench differs from a decision rendered by another Bench of Two, Three or Five Judges? (2 marks)

**(iii)** State the grounds on which a party may move the Court and the procedure to be followed:

**(a)** if an appeal is dismissed in default of appearance;

**(b)** if an appeal is heard *ex parte* and judgment is pronounced;

**(c)** if an appeal is dismissed after hearing both sides;

**(d)** if a review petition has been dismissed either by circulation or hearing. (5 marks for (iii)(a) to (d))

Q. 9. State briefly the salient features of any *two* of the following:

**(i)** Rules regarding Plaints under Article 131. (5 marks)

**(ii)** Rules regarding Applications under Article 139 A (1) and (2) (5 marks)

**(iii)** Rules regarding Appeals under the Advocates Act, 1961. (5 marks)

**(iv)** Rules regarding transfer of criminal proceedings under Section 406, Criminal Procedure Code, 1973. (5 marks)

Q. 10. Are the Rules, or any of them, framed under Article 145 subject to any law that may be made by Parliament; are they subject to approval of the President or the Chief Justice; and are they open to challenge on the ground of violation of fundamental rights including the fundamental right under Article 32? Give reasons. (5 marks)

(ii) Are the C.P.C. and Cr.P.C. applicable to proceedings in the Supreme Court under the civil appellate or criminal appellate jurisdiction or the original civil and writ jurisdiction? Give reasons. (5 marks)

Q. 11. (i) What are the powers of a learned Single Judge of the Supreme Court under the Rules? (7 marks)

(ii) An interlocutory application is filed in a matter required by Article 145(3) to be heard and decided by a Bench of not less than five Judges. Must such I.A. be placed for orders before the Five Judges Bench? Can an IA for interim relief be filed in a Presidential reference under Article 143? Give reasons. (3 marks)

IN THE SUPREME COURT OF INDIA

Advocate-on-Record-Examination 2008

PAPER-1 PRACTICE AND PROCEDURE

Time: Three hours

Total Marks: 100

INSTRUCTIONS

1. Answer five questions in all. Questions 1 and 2 are compulsory. Out of questions 3 to 7, answer any three questions.
2. All questions carry equal marks of 20 each. Where a question is divided into sub-questions, the marks allotted to each sub-question are clearly indicated.
3. Clarity, brevity and legibility are expected, of course!

QUESTIONS

Q.1. *Discuss* the concept of a “curative petition,” the situations in which you will advise a client to file such a petition and the procedural safeguards that you will observe if you were to file such a petition. (20 marks)

Q.2. (a) Mahadev, a tenant of Hariprasad suffered a decree for eviction, which was upheld by the appellate forum and the High Court in revision. Impressed by a substantial question of law of general public importance raised by him, the Supreme Court granted special leave after issuing notice to Hariprasad to show cause why special leave should not be granted, and granted stay of dispossession. This was in the year 2005. When the appeal comes up for final hearing in 2008, the Respondent-landlord’s counsel is not able to give a plausible reply to the legal contentions raised by the Appellant-tenant. Sensing that she is not likely to be able to persuade the Court, she adopts a different approach and enumerates four circumstances which, according to her, do not warrant interference by the Supreme Court under Article 136 of the Constitution. The tenant’s counsel, in rejoinder, contends that once special leave has been granted, and that too after notice, it is not open to the landlord to contend that it is not a fit case for interference under Article 136. *State your considered view.* (10 marks)

**b)** Ranganathan, a Deputy Secretary in the Government of India was dismissed from service after an enquiry for alleged acts of misconduct. He challenged the order of dismissal before the Central Administrative Tribunal, Principal Bench, New Delhi, on these grounds: (i) Mala fides (ii) "No evidence" (iii) Breach of the rules of natural justice. The Tribunal rejected contentions (i) and (ii) but accepted contention (iii) and quashed the order of dismissal, with full consequential benefits. In view of the long passage of time, the Tribunal did not consider it appropriate to give liberty to the Government to hold a fresh enquiry. The Union of India filed a writ petition in the Delhi High Court, which was dismissed at the admission stage itself. The Union of India challenges the order of the High Court by way of a special leave petition on which notice is issued. In replying to the notice, Ranganathan wants to contend that his dismissal is bad in law also because (i) the disciplinary action is actuated by mala fides and (ii) it is a case of "no evidence." *Advise him.* (10 marks)

Q.3. *Discuss* the scope and extent of powers of the Supreme Court under Article 142 of the Constitution (20 marks)

Q. 4. *Explain* the powers of the Supreme Court to transfer cases under (i) Article 139 A of the Constitution (ii) Section 25 CPC. (iii) Section 406 Cr.P.C.

(20 marks)

Q- 5. (a) Answer with a "Yes" or "No."

- (i) Is the Supreme Court bound to answer a Reference under Article 143 of the Constitution? (2 marks)
- (ii) Can the Supreme Court pass interim orders in a Reference under Article 143 of the Constitution? (2 marks)
- (iii) Does the Supreme Court have power under Article 136 of the Constitution to interfere with concurrent findings of fact? (2 marks)
- (iv) Is the existence of alternative remedy a bar for the Supreme Court to entertain a petition under Article 32 of the Constitution? (2 marks)
- (v) An appeal to the Supreme Court under Section 38 of the Advocates Act is an appeal on law and facts. (2 marks)

(b) *Summarize* the principles laid down by the Supreme court in the case of Kunhyamed v. State of Kerala 2000 (6) SCC 359 with regard to merger, in the

context of the exercise of powers by the Supreme Court under Article 136.

(10 marks)

Q. 6. (a) "A tenant who gives an undertaking to the High Court to vacate the premises cannot approach the Supreme Court under Article 136." *Discuss.* (10 marks)

(b) Priti, a medical student is served with an order dated 15.1.2008 of the University College of Medical Sciences asking her to discontinue her studies on the ground that her Caste certificate has been found to be fake by the Scrutiny Committee. She files a writ petition (WP (Civil) No. 3943 of 2008) in the Delhi High Court, which dismisses the writ petition on 14.5.2008 after issuing notice and hearing the respondents. Priti wishes to file a special leave petition in the Supreme Court. *Draft a prayer for interim relief, with appropriate grounds.* (5 marks)

(c) *Draft an affidavit of urgency in Priti's Special Leave Petition in order to have the petition heard during the summer vacation.* (5 marks)

Q. 7. *State briefly* the salient features of the Rules regarding:

(a) Plaints under Article 131 of the Constitution (5 marks)

(b) Petition for Review (5 marks)

(c) Powers of a Single Judge. (5 marks)

(d) Proceedings for Contempt of the Supreme Court (5 marks)

SUPREME COURT OF INDIA  
ADVOCATE-ON-RECORD EXAMINATION, JUNE 2010  
PAPER -1 PRACTICE AND PROCEDURE

Time: Three Hours

Total Marks: 100

Instructions

- A. Questions 1 and 2 are compulsory. Answer any three of the remaining questions.
- B. All Questions carry equal marks. Where a Question has more than one part, marks allocated to each part are indicated alongside.
- C. Candidates are expected to support their Answers with brief reasons and with reference to applicable case law and the underlying principle.

**QUESTIONS**

- (1) What are the responsibilities of an Advocate-on-Record in respect of a case filed by him/her? Discuss with reference to recent case law.

*(20 marks)*

- (2) (i) Ramesh, a tenant, has filed a Special Leave Petition against an order of eviction and has also obtained a stay of the said order. However, the building is then served with a demolition notice by the Municipal Corporation on the ground of its violating statutory provisions. Ramesh suspects that officials of the Corporation have acted at the behest of the landlord. Advise him.

- (i) What application(s) would have to be moved by Ramesh to seek relief? Draft the prayer(s) only of such application(s).

*(10 marks each = 20 marks)*

- (3) (i) Discuss the concept of stare decisis in the context of whether the Supreme Court is bound by its own decisions. What is the source of the power of the Supreme Court to overrule its own decisions?

- (ii) A two-judge bench hearing a case feels that an earlier decision of a coordinate bench requires reconsideration. What is the procedure to be followed? Would the procedure change if the earlier decision was by a three-judge bench, or a five-judge bench?

*(10 marks each - 20 marks)*

(4) (i) "The Supreme Court does not generally interfere with interim orders passed by the courts below": *Discuss*. What are the exceptions to this general rule?

(ii) In the context of interim orders, what is the difference between an "application for recall", an "application for review", an "application for clarification" and an "application for modification"? Under what circumstances are each of these applications entertained? Are these applications mutually exclusive?

*(10 marks each = 20 marks)*

(5) While hearing public interest petitions, the Supreme Court is often required to determine questions of fact. What procedure(s) does the Court follow in such situations? In your opinion, are there any lacunae in such procedure(s)? Suggest measures for improvement.

*(20 marks)*

(6) What is the meaning of "question of law", "substantial question of law", and "substantial question of law as to the interpretation of the Constitution"?

*(20 marks)*

(7) What is the meaning of a "curative petition"? What are the circumstances in which such petitions can be entertained by the Supreme Court? What is the procedure to file such a petition?

*(20 marks)*

(8) Write Short Notes on any four of the following:

(i) Powers of a Single Judge

(ii) Powers of a Registrar

(iii) Difference between "intervention" and "impleadment"

(iv) Transfer of cases under Article 139A of the Constitution

(v) Transfer of cases under Section 25 of the Code of Civil Procedure

(vi) Transfer of cases under Section 406 of the Code of Criminal Procedure

*(5 marks each 20 marks)*