

Sabarimala review hearing

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Manifest pedagogy

Judiciary as a topic is highly relevant this year with its activism and some very important judgements it gave this year. Triple Talaq, Adultery , Sabarimala temple entry etc.. The article written above is based on the terms and procedures in the working of Judiciary.

In news

Sabarimala review hearing

Placing it in the syllabus

- Separation of powers between various organs dispute redressal mechanisms and institutions.
- Structure, organization and functioning of the Executive and the Judiciary Ministries and Departments of the Government; pressure groups and formal/informal associations and their role in the Polity.

Static dimensions

1. Review Petition as a concept and its importance
2. Original judgement on Sabarimala

Current dimensions

1. Open and Closed hearing

Content

What Is review hearing?

A reconsideration; second view or examination; **revision**; consideration for purposes of correction. Review is to be filed by the aggrieved in the same court where the order or decree is passed. It is a discretionary right of the court and not statutory right.

In India, a binding decision of the Supreme Court/ High Court can be reviewed in Review Petition. The parties aggrieved on any order of the Supreme Court on any apparent error can file a review petition. Taking into consideration the principle of **stare decisis**, courts generally do not unsettle a decision, without a strong case. This provision regarding review is an exemption to the legal principle of stare decisis

Rules followed in the review petition

1. The Court may review its judgment or order, but no application for review will be entertained in a civil proceeding except on the ground mentioned in Order XLVII, rule I of the Code, and in a criminal proceeding except on the ground of an error apparent on the face of the record.
2. An application for review shall be by a petition, and **shall be filed within thirty days from the date of the judgment or order sought to be reviewed**. It shall set out clearly the grounds for review. It is also recommended that the petition should be circulated without oral arguments to the same bench of judges that delivered the judgment (or order) sought to be reviewed.
3. Unless otherwise ordered by the Court an application for review shall be disposed of by circulation without any oral arguments, but the petitioner may supplement his petition by additional written arguments. The Court may either dismiss the petition or direct notice to the opposite party. An application for review shall as far as practicable be circulated to the same Judge or Bench of Judges that delivered the judgment or order sought to be reviewed.

4. Where on an application for review the Court reverses or modifies its former decision in the case on the ground of mistake of law or fact, the Court, may, if it thinks fit in the interests of justice to do so, direct the **refund** to the petitioner of the court-fee paid on the application in whole or in part, as it may think fit.
5. Where an application for review of any judgment and order has been made and disposed of, no further application for review shall be entertained in the same matter.
6. Furthermore, even after dismissal of a review petition, the SC may consider a curative petition in order to prevent abuse of its process and to cure gross miscarriage of justice.
7. Under the Supreme Court rules, review petitions against the main judgment are usually decided by the judges sitting in their chambers during the lunch break between 1Pm and 2Pm.

Constitutional provisions

- Article 137 of the constitution enables the Supreme Court to review its own judgments, subject to the provisions of any law made by Parliament. This power is exercisable under rules made by the court under article 145. The review will lie in the Supreme Court on the following grounds:
 1. Discovery of new important matters of evidence;
 2. Mistake or error on the face of the record; and
 3. Any other sufficient reason.
- Article 137 of the Constitution is a special power with the Supreme Court to review any judgment pronounced or order made by it. An order passed in a criminal case can be reviewed and set aside only if there are errors apparent on the record.

What is open court hearing?

Common law requires a trial in open court; “open court” means a court to which the public has a right to be admitted. This term may mean either a court that has been formally convened and declared open for the transaction of its proper judicial business or a court that is freely open to spectators.

Advantages of open court Hearing:

- It helps the lawyer concerned to put across the points in a more effective manner.
- An open court hearing furthers the interest of justice and it would assist the judges in their decision-making in a given case.
- Allowing review petitions to be heard in open court signifies that the court wants to give sufficient opportunity to the petitioners to make out their case before the fate of the matter is eventually decided.
- It would allow the lawyers to make oral arguments and this would be especially beneficial for the review petitioners who were not parties in the earlier case.

Some important cases in which open hearing was held:

1. Recently Supreme Court allowed open court hearing of Review Petitions.
2. Aarushi's murder case.