

Special Leave Petition (SLP)

August 22, 2020

With the courts getting over crowded with SLPs in recent times, the real purpose of Article 136 is not served. It is in the interest of justice that certain measures need to be taken to reduce the burden of cases on courts without either trampling upon the jurisdiction and power of the courts and the rights of the person to natural justice.

Placing it in syllabus Polity-Judiciary

Dimensions

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- Importance
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Content

What is it?

- Under **Article 136**, the Constitution of India gives power to the Supreme Court to grant **special permission or leave to an aggrieved party to appeal against an order passed in any of the lower courts or tribunals in India.**
- It is **not an appeal but a petition** filed for an appeal.
- So after an SLP is filed, the Supreme Court may hear the matter and if it deems fit, it may grant the 'leave' and convert that petition into an 'appeal'.
- Any aggrieved party can file an SLP against the judgment or order of refusal of grant of certificate.
- This leave is granted when the case involves a **question of law.**

Mere errors of fact, mis-appreciation of evidence or findings

of fact arrived at wrongly are not grounds of appeal before the Supreme Court.

When can it be filed?

- It can be filed against any judgment or decree or order of any high court /tribunal in the territory of India, or
- It can be filed in case a high court refuses to grant the certificate of fitness for appeal to the Supreme Court of India.

The Supreme Court can rescind or revoke the earlier judgement, modify it or allow it. The Court can also send the case back to the relevant lower court for fresh adjudication. Appeals are regulated by the **Constitution of India and Supreme Court Rules, 2013.**

Time limit:

- It can be filed against any judgment of a high court within **90 days** from the date of judgment, or
- It can be filed within **60 days** against the order of a high court refusing to grant the certificate of fitness for appeal to the Supreme Court.

Importance

- The extraordinary jurisdiction for granting special leave is conferred upon SC under Article 136 so that it could interfere whenever it found that law was not correctly enunciated by the lower courts or tribunals and it was necessary to pronounce the correct law on the subject.
- It is **not just restricted to appeals against judgments, decrees and final orders** of the High court but it can also be granted against the judgments of lower courts.
- The **judgments, decrees or orders do not have to be final in nature** and appeals are allowed even against

interlocutory and interim judgments and they may be from cases or matters of either criminal or civil nature or otherwise.

- The **article 136 is fluid and flexible** compared to articles 132-135 which deals with appeals.
- There may not be any law which limits the jurisdiction of the Supreme Court when it comes to article 136.

Importance

- Though High Courts are usually meant to be the final courts of appeal, SLPs are now being **treated as the last round of appeal.**
- According to reports, **SLPs comprise about 60-70% of the Supreme Court's docket**, out of which only 10-20% of such cases raise important questions of law.
- As a vast number of SLPs are filed and rejected on several procedural, technical and substantive reasons, the **delay caused to the court is detrimental to the health of the institution of judiciary.**
- Even at the SLP admission stage (when the Court decides whether to hear the case) 40 percent of the Court's time is consumed.
- Wastage of Court's time leads to **unnecessary delay in conclusions.****Reasons for increase in SLPs:**
 - failure of the court to lay down substantial and strict guidelines regarding filing of SLPs;
 - the lack of faith within the judiciary of achieving speedy justice through formation and implementation of guidelines;
 - delay of justice
 - inefficiency in dealing with the cases at hand.

SolutionsThe **Supreme Court Rules, 2013 could be amended to provide for a structure of pre-hearing of SLPs** where every SLP must be accompanied by an application for oral hearing which must be decided first by the Court.

A **cadre of judicial research assistants** made up of qualified lawyers should be created who go through each SLP and cull out the important questions of law as envisioned in Article 136.

The Court may or may not allow applications for oral hearings based on whether such questions of law merit its attention. **Only such SLPs in which oral hearing is permitted should be listed for hearing.**

Even in cases of statutory appeals, and appeals where leave is granted in SLPs, the Court should **do away with the system of filing reply to the appeals and rejoinders to such replies.** Every case can be decided based on records of the subordinate courts. Only such appeals should be granted detailed hearings where the judges require clarifications.

A system needs to be devised where cases are not listed before the court unless all the documents are filed within **strict timelines** and every procedural requirement complied with.

Apart from fresh cases, only a limited number of cases which are ripe for arguments can be posted. This will ensure that courtrooms are not crowded.

Mould your thought Analyse the role of Special Leave petition (SLP) in Indian judiciary.