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## 5 Types Of Writs In Indian Constitution

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Both the Supreme Court and High Courts have a lot of powers to provide justice and all those powers are provided by The Indian Constitution. And to issue the writs, is one of the most important powers. A writ is a command given by the court to a person or a authority or both to act or not to act in a particular way. And as the writs are the commands given by the courts, they are essential parts of the judicial power of the courts.

### What Are Writs?

**What do the writs mean?** Writs are nothing but the written orders that are given by either the Supreme Court or the High Court. These written orders commands constitutional remedies for the Indian citizens against the violation of their rights or fundamental rights.

According to Article 32 of the Indian Constitution, Supreme Court of India can issue writs whereas according to Article 226 of the Indian Constitution, High Courts can issue writs.

### Types of Writs:

#### 1. Habeas Corpus:

Literal meaning of Habeas Corpus is 'to have the body of'. This type of writ is used when unlawful detention has occurred to enforce the fundamental right of individual liberty. When this writ is issued, a person or a authority who has arrested a another person has to bring that another person before the court.

#### Rules for Habeas Corpus:

- The applicant should be in a custody of other,
- Family members can file an application or stranger can also file application in public interest,
- Formal or Informal application can be filed,
- Same application cannot be made successively to different judges of same court,
- All or part of formalities and procedures should not be followed by police while making the arrest, etc.

**Example:** Himesh was making threats to Hina, so father of Hina, who is a police officer arrested Himesh and imprisoned him. Hina's father didn't filed FIR and did not follow the procedure to arrest Himesh. So Himesh is wrongfully detained. Hrithik who is a brother of Himesh filed an application in the respective court and by issuing the writ of Habeas Corpus, court set Himesh free.

#### 2. Mandamus:

Literal meaning of Mandamus is 'we command.' This type of writ is used when a public official or public body or corporation or lower court or tribunal or even the government has not done the needed duty or refused to do. After this writ is issued, the duty needs to be resumed.

#### Grounds for Mandamus:

- Petitioner must have a right recognized by law
- Infringement of the right must be done,

- c. Petitioner must demand the authority to perform the duty and non-performance of the duty must be present,
- d. Other remedy must be absent,
- e. Petitioner must prove that a duty is owed to him and authority has not performed the duty,
- f. The non-performed duty must be mandatory duty, etc.

**Example:** Apeksha has a right to live life with dignity. And Electricity board has a duty to provide her electricity but the board intentionally didn't provide her with the electricity and refused to do the duty. Apeksha filed a suit and by issuing the writ of Mandamus, court ordered the board to supply the electricity to Apeksha.

### 3. Prohibition:

Literal meaning of Prohibition is 'to forbid.' This type of writ is used when a court which is in lower position i.e., the lower court exceeds its jurisdiction or un pursue a jurisdiction which is not possessed by it.

#### Rules of Prohibition:

- a. Lower court or tribunal should overstep its jurisdiction,
- b. Lower court or tribunal goes against law,
- c. If lower court or tribunal partly acting in jurisdiction and partly outside the jurisdiction, Prohibition will be issued against the act which is partly outside the jurisdiction,
- d. Proceeding must be pending in the lower court or tribunal,
- e. Application should be made against judicial or quasi-judicial body only, etc.

**Example:** Sameer and Shahid made a contract in which Shahid decided to sell his land to Sameer for 2 cr. Rupees. And Sameer failed to pay the amount on time, so Shahid brought a suit in the Pune District Court. But the contract was made in Thane, both lived in Mumbai and Land was in Aurangabad. So, the Pune district court has no jurisdiction over the case. And High court, by issuing the writ of Prohibition, can order the Pune District Court to forbid the pending suit.

### 4. Certiorari:

Literal meaning of Certiorari is 'to be certified' or 'to be informed.' This type of writ is used when a transfer of case which is pending in the lower courts or the order given by lower courts in a case needs to be quashed. This writ is issued on the basis of an excess of jurisdiction or lack of jurisdiction or error of law. After this writ is issued, mistakes in the judiciary are cured.

#### Grounds of Certiorari:

- a. Overstepping or abuse or absence of jurisdiction should be present by lower courts,
- b. Violation of principles of natural justice can be present,
- c. Some error of law can be present, etc.

#### Conditions of Certiorari:

- a. The body or person should have legal authority.
- b. Authority should be related questions affecting the rights of people,
- c. Body or person has a duty to act judicial while functioning,
- d. Person or body has acted in excess of their jurisdiction or legal authority, etc.

**Example:** There is a case in District Court, and the court lacks jurisdiction to hear such matters. But the District Court Judge hears the case and renders his ruling, and Jennie who was affected by the order passed, makes a petition in the High Court. As a result of the power to issue Writs, the High Court will issue a writ of Certiorari on the District Court's order, and the District Court's order will be quashed.

### 5. Quo-Warranto:

Literal meaning of Quo-Warranto is 'by what authority or warrant.' This type of writ is used when an illegal usurpation of a public office by a person is done. After this writ is issued, the legality of a claim of a person to office is enquired.

#### Conditions of Quo-Warranto:

- a. Office which is wrongfully assumed by private person should be a public office,
- b. Office should be created by constitution or other statute,
- c. Duties of office should be public duties,
- d. Office should be permanent,

- e. Application should be made against a person who is in possession of office and uses the office,
- f. Office should not be of private nature, etc.

**Example:** Sanjana is a private citizen. She has no qualifications that are required for the post of RTO officer. Although, assumes such office. Here a Writ of Quo Warranto can be issued against Sanjana to call into question her authority on which she has taken the control of the office RTO officer.

**Conclusion:**

There are five types of Writs which are Habeas Corpus, Mandamus, Certiorari, Quo Warranto and Prohibition and all these writs are an effective method of enforcing the rights of the people and to compel the authorities to fulfil the duties which are bound to perform under the law.

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