75th Anniversary of Supreme Court- Part I

Why in news?

Recently Chief Justice of India DY Chandrachud addressed a unique ceremonial bench as the country's highest court turned 75 years.

What is the history of Supreme Court?

- **Regulating Act 1773-** Supreme Court was established at Calcutta (1774) comprising one chief justice and three other judges.

  Sir Elijah Impey was the first Chief Justice of the Supreme Court of Calcutta.

- The Supreme Courts at Madras and Bombay were established by King George III in 1800 and 1823 respectively.
- **Act of 1823**- The newly established Supreme Courts at Madras and Bombay would have the power to administer, carry out duties, and hold powers of the same magnitude as the Supreme Court at Fort William in Calcutta.
- **Indian High Court 1861**- High Courts were established in three Presidency towns of Calcutta, Madras and Bombay which provided unification in judicial system.
- **Government of India Act 1935-** The creation of the Federal Court of India under this Act, reduced the High Courts distinction as highest courts for all.

  It is a single system of Courts which establishes both Centre laws and State laws.

- **Post-independence**- The Supreme Court of India was inaugurated on January 28, 1950 which succeeded the Federal Court of India.

What are the Constitutional provisions provided for the Supreme Court?

Articles 124 to 147 in Part V of the Constitution deal with the organisation, independence, jurisdiction, powers, and procedures and so on of the Supreme Court.

- **Composition-** *Article 124* deals with composition, at present 34 judges are present in the Supreme Court.
- **Qualifications-** The Constitution has not prescribed a minimum age for appointment

as a judge of Supreme Court.
    - He should be a citizen of India.
    - He should have been a judge of a High Court (or high courts in succession) for five years; or He should have been an advocate of a High Court (or High Courts in succession) for ten years; or
    - He should be a distinguished jurist in the opinion of the president.
- **Appointment-** The judges of the Supreme Court are appointed by the president.
- **Chief Justice of India**- She/ He is appointed by the president after consultation with such judges of the Supreme Court and high courts as he deems necessary.
- **Other judges of the Supreme Court**- They are appointed by president after consultation with the chief justice and such other judges of the Supreme Court and the high courts as he deems necessary.

The consultation with the chief justice is obligatory in the case of appointment of a judge other than Chief justice.

- **Collegium system**- The system of consulting judges and Chief Justice while appointing judges were replaced by National Judicial Appointments Commission (NJAC) and 99th Constitutional Amendment Act of 2014.

Both were declared unconstitutional and void by the Supreme Court as it affects the independence of judiciary.

- **Fixed service conditions**- The salaries, allowances, privileges, leave and pension of the judges of the Supreme Court are determined from time to time by the Parliament.
- They cannot be changed to their disadvantage after their appointment except during a financial emergency.
- **Security of tenure-** They can be removed from office by the ***President*** only in the manner and on the grounds mentioned in the Constitution.
- **Removal**-The *Judges Enquiry Act (1968)* regulates the procedure relating to the removal of a judge of the Supreme Court by the process of impeachment.
- **Seat of Supreme Court**- The Constitution declares ***Delhi*** as the seat of the Supreme Court. It also authorises the Chief Justice of India to appoint other place or places as seat of the Supreme Court only with the approval of the President.
- **Jurisdiction**- The Constitution has conferred a very extensive jurisdiction and vast powers on the Supreme Court.

Classification of jurisdiction	About
Original	Between the Centre and one or more states.
	Between the Centre and any State or States on one side and one or more other States on the other side.
	Between two or more States.

Writ	The Supreme Court is empowered to issue writs including habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of the fundamental rights of an aggrieved citizen.
Appellate	The Supreme Court is primarily a court of appeal and hears appeals against the judgements of the lower courts.
Advisory	• It gives the power to president to seek the opinion of Supreme Court on any question of law or fact of public importance. • The President can seek the opinion of Supreme Court on any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, sanad or other similar instruments
Court of Record	• The judgements, proceedings and acts of the Supreme Court are recorded for perpetual memory and testimony. • It has the power to punish for contempt of court
Judicial Review	• It is the power to examine the constitutionality of legislative enactments and executive orders of both the Central and state governments. • They can be declared as illegal, unconstitutional and invalid (null and void) by the Supreme Court.
Constitutional interpretation	• The Supreme Court is the ultimate interpreter of the Constitution. • It can give final version to the spirit and content of the provisions of the constitution and the verbiage used in the constitution
Election of President and Vice President	• Disputes regarding the election of President and Vice President is dealt by Supreme Court. • It has the original, exclusive and final authority.
Union Public Service Commission	It enquires into the conduct and behaviour of the chairman and members of the Union Public Service Commission on a reference made by the president.
Power to review	• It has power to review its own judgement or order. Thus, it is not bound by its previous decision and can depart from it in the interest of justice or community welfare. • For example, in the Kesavananda Bharati case (1973), the Supreme Court departed from its previous judgement in the Golak Nath case (1967)
Cases in High Court	• It is authorised to withdraw the cases pending before the high courts and dispose them by itself. • It can also transfer a case or appeal pending before one high court to another high court.
Decree and order of Supreme Court	• Its law is binding on all courts in India. • Its decree or order is enforceable throughout the country. • All authorities (civil and judicial) in the country should act in aid of the Supreme Court
Judicial superintendence	• Supreme Court has the power of judicial superintendence and control over all the courts and tribunals functioning in the entire territory of the country.

To know about Part II- Click here

References

1. Indian Express- 75th anniversary Supreme Court
2. The Hindu- PM addresses 75th anniversary celebrations of the Supreme Court
3. SCI- History of Supreme Court of India

