

“Justice consists not in being neutral between right and wrong; but in finding out the right and upholding it, wherever found, against the wrong”

Judicial Review is the power of courts to pronounce upon the constitutionality of legislative and executive acts of the government which fall within their normal jurisdiction. In simple terms, judicial review refers to supervising the exercise of power by the judiciary of other government coordinating bodies with a view to ensure that they remain within limits set by constitution on their powers. The term judicial doctrine refers to principle of rule of law and separation of powers. Judicial review mainly states that the ultimate power rests with the court.

## **WHAT IS JUDICIAL REVIEW**

Judicial Review is nothing but “a court proceeding in which a judge reviews the lawfulness of a decision or action made by a public body.” It has its origin in the theory of limited government and in the theory of two laws viz., an ordinary law and a supreme law. The three main grounds of judicial review are illegality, procedural unfairness and rationality. A decision can be overturned on the ground of illegality if the decision maker didn't have the legal power to make that decision. Judicial review is the reassessment of the legality of actions or decisions made by those in position of public authority or bodies.

## **WHY IS JUDICIAL REVIEW IMPORTANT?**

Judicial review is important as it is essential to maintain the supremacy of the constitution. It helps in the proper functioning of the government of a country by checking the illegal means like misuse of power by the legislature and executive. All the organs and structures of government are to ensure that people have proper welfare in a country such as protecting their rights. The main duty of Judicial Review is to guarantee people their fundamental rights which are engraved in part III of the constitution. The power of the judiciary is high; it has the right to consider the law passed by other organs of government such as legislature and executive as void if it is creating conflict to the constitution. This power is given to the Supreme Court of India by article 32 of the Indian constitution; this power is also vested with the high court according to article 226 of the constitution.

## **WHAT IS SUBJECT MATTER OF JUDICIAL REVIEW**

The subject matter of every judicial review is a decision made by a person in power or it can even be the failure of that person to make decision. Nonetheless, it is important to note that in judicial review it is always the legality of the decision that is explored by the courts. Legality is the most important concept when it comes to the organs of government. The legality of the decision taken is often explored by the courts. The action or decision in question is brought before a judge in court proceedings where the lawfulness of the decision is tested. The main purpose of judicial review is to ensure that the public authorities don't misuse their power. Judicial review is not a process of appeal and must only be used when all other avenues of resolution have failed. This must be recognized by any individual who seeks to apply for such review. The main variance between judicial review and judicial appeal is that judicial review deals with legality of decision under examination of the courts whereas the appeals process delves into the value of the decision under scrutiny.

## **DOCTRINE OF JUDICIAL REVIEW**

We must always keep in mind that courts too have certain limits and but it is often very late when they realize their limits. Courts must realize that there is no shortage of problems in and before the country, which courts cannot solve. What persists today is the firm belief that courts cannot interfere with government policy as a matter of routine. It is judicial activism and that doesn't mean judicial adventurism. Judges should never turn out to be judicial activists as it is sometimes useful for the adjunct to democracy. What we understand today is what we see or read from medias or if you are a lawyer or judge carrying out your duties. The real essence of judicial review is still hidden and it has a wide range of connotations. Life is all about having rights and performing duties not harming or aiming at others. Courts are put up to ensure that people's rights are enjoyed properly and that no one is hurt. Article 21 of the constitution of India reads as follow "No person shall be deprived of his life or personal liberty except according to procedure established by law". Today in the world countries, there are large number of groups which are being subjected to exploitation, injustice and even violence. In this climate of conflict and injustice, judges have to play a positive role and they cannot content themselves by invoking the doctrine of self-restraint and passive interpretation.

Unlike other countries the judges in India are fortunate enough to hold most potent judicial power in their hands, namely the power of judicial review. It is the role of the judiciary to play vital role in preventing illegal means, misuse of power and exploitation. India is a country which follows 'unity in diversity', it has a written document through which it prospers, it follows secularism in large scale and considers everyone equal through the eyes of law. The three organs of government plays vital role in all these areas of prosperity.

## **SOCIETY & ABSENCE OF JUDICIAL REVIEW**

India is a country which has a well drafted constitution which functions for the needs of its people and their society. The constitution will be rendered unenforceable without the judicial review. If federal officials violated the constitution, the only recourse would be in the political process, a process unlikely to offer little protection to those whose rights have been violated.

The power of judicial review plays an essential role in ensuring that each branch of government recognizes the limits of its own power. If there is no organization as such to control the government then it may use the powers assigned to it according to their own wish. At times judicial review can be controversial because one side always loses.

Article III of the constitution sets forth the purpose of the court system. The absence of judicial review in simple terms results in Judicial activism. If there was absence of judicial review things would have gone out of control from the hands of the bureaucracy and other authorities. Hence, judicial review plays a vital role in the development of a country. It ensures that everything and anything is legalized and not corrupted in nature, for this the court has to be vigilant about the daily ventures.

## **CONCLUSION**

“A legislative act contrary to the constitution is not law”

A State is formed for the welfare of people, it is for the population to live that state was formed. Population lives in particular territories which has a head like the Chief Ministers assigned to each State. Judiciary plays a key role in the functioning of one or another country; while the legislature frames laws, executive executes laws and it is the

judiciary which interprets laws. Along with all these we have the concept of judicial review which plays a very important role as protector for safeguarding the rights of people.

For the better development of a country it is necessary to ensure that the rights of people are guaranteed and enforced well, in order to grant rights to every citizen in a country, here the courts play a major role especially the superior courts to test whether the action taken by any state or government is legal. It is the duty of the court's inherent power to determine whether the action taken is lawful or not and to grant appropriate relief to the actions that are found to be illegal. Judiciary is the most important body among the three; without judiciary the framed and executed laws have no value as they aren't enforceable. It is the judiciary the third organ of government that stays vigilant and helps in the development of a country because it is based on the judiciary's interpretation that a particular law will be enforced or withdrawn. Here comes the role of the judicial review as well. As said earlier there is no shortage of problems in a country, therefore the judiciary must be awake to resolve any issues of concern brought into its forefront and come up with solutions that can resolve the problem and at the same time find a solution. Crimes exist in all corners of society, no matter even during these pandemic stricken days, there is no shortage for crimes, it is always based on the court how things turn out in normalcy. The courts must always stay vigilant to tackle issues and bring peace in the country where judicial review again has a pivotal role to play. Therefore, judiciary as well as judicial review are the core concepts mandatory for the legal functioning and administration of a country.