

## UPSC Civil Services Examination

### UPSC Preparation

#### Topic – Article 12 of the Indian Constitution

In the provisions of Fundamental Rights for the Indian Citizens, the term ‘State’ has been used in a wide concept. To provide clarity to the term, Article 12 of the Indian Constitution defines it. This article will briefly mention the significance of Article 12 and latest developments related to it, holding importance for the Indian Polity syllabus (GS-II) of the [IAS Exam](#).

#### Part III of the Indian Constitution & Article 12

Aspirants should know what comes under Part III of the Constitution to clearly understand Article 12.

Part III of the Indian Constitution deals with [Fundamental Rights](#). Since Fundamental Rights provide for security of citizens’ sets of rights in relation with speech, expression, religion, against exploitation, education, language, culture and constitutional remedies; the term ‘State’ has been used in a wider context to include all such agencies, actions of whose can challenged in the Supreme Court if they violate the any of these fundamental rights. And that definition is given in the Article 12 of the Indian Constitution.

#### Definition of ‘State’ under Article 12

Article 12 defines ‘State’ as:

1. Legislative and Executive Organs of the Union Government:
  1. Indian Government
  2. Indian Parliament - Lok Sabha, Rajya Sabha
2. Legislative and Executive organs of the State Government
  1. State Governments
  2. State Legislature - Legislative Assembly, Legislative Council of State
3. All local authorities
  1. Municipalities - Municipal Corporations, Nagar Pallikas, Nagar Panchayats
  2. Panchayats - Zila Panchayats, Mandal Panchayats, Gram Pachayats
  3. District Boards
  4. Improvement Trusts, etc.
4. Statutory and Non-Statutory Authorities
  1. Statutory Authorities Examples:
    1. National Human Rights Commission
    2. National Commission for Women
    3. National Law Commission
    4. National Green Tribunal
    5. National Consumer Disputes Redressal Commission
    6. Armed Forces Tribunal
  2. Non Statutory Authorities Examples

1. Central Bureau of Investigation
2. Central Vigilance Commission
3. Lokpal and Lokayuktas

**Note:**

- The definition in Article 12 is only for the purpose of application of the provisions contained in Part III.
- Even if a party is not mentioned as ‘State’ under Article 12, in cases, where such a party has a public duty to perform or where such a party’s acts are supported by the State or public officials; a writ under Article 226 may lie against it on non-constitutional grounds or on grounds of contravention of some provision of the Constitution outside Part III.

**Article 12 & ‘Other Authorities’**

The ‘Other Authorities’ mentioned under Article 12 means all such authorities that lie within the territory of India and are controlled by the government of India through its acts and amendments.

1. Ujjain Bai v. State of U.P - Supreme Court observed that Article 12 winds up the list of authorities falling within the definition by referring to “other authorities” within the territory of India which cannot, obviously, be read as ‘of or as the same kind’ with either the Government or the Legislature or Local authorities
2. R.D Shetty v. Airport Authority of India - Five points were mentioned by Justice P.N. Bhagwati to understand if the ‘body’ in news is instrumental to be called as the ‘State’ under Article 12 or not:
  - The ‘Body’ can be called as ‘State’ if its entire shared capital is held by the Government of India
  - Such other authorities have governmental functional character
  - The absolute control of such authorities lie with the government
  - Such authorities which have an element of command or authority
  - The authorities discharging public service

**Quick Facts about Article 12**

There are some recurring doubts that aspirants might have while preparing for [UPSC 2020](#) and we are answering them in the table below:

Facts about Article 12 for UPSC	
What does Article 12 of the Constitution mean?	It means to defined the term, ‘State’ which is widely used in Part-III of the Constitution while mentioning Fundamental Rights of the Indian Citizen
Is Article 12 a fundamental right?	Article 12 in itself is a not a fundamental right technically, but it defines the term ‘State’ for the Fundamental Rights that are entailed in the Article 14-35
Is Judiciary a State under Article 12?	<p>There is no explicit mention of Judiciary (Supreme Courts, High Court or State/District Courts) as a ‘State’ in Article 12. However, the organs of judiciary cannot make rules that are in itself violative of the Fundamental Rights.</p> <ul style="list-style-type: none"> <li>• Rupa Ashok Hurra v. Ashok Hurra Case - SC reaffirmed that Fundamental</li> </ul>

Rights cannot be violated by any judicial proceedings and that Superior Courts of Justice do not fall under the ambit of Article 12.

Article 13 of the Indian Constitution mentions that the State to not make any law that violates the provisions under Part III

## Issues in News Related with Article 12 of the Indian Constitution

1. The debate whether BCCI should be included under the ambit of the Article 12 of the Indian Constitution and shall be termed as the 'State.'
  1. In its 275th report, the Law Commission of India (Advisory Body to the Ministry of Law and Justice) has asked the Government to treat BCCI as an agency of the state under Article 12.
2. In a recent petition to the Supreme Court demanding an introduction of a uniform financial assistance policy for the lawyers in the emergencies, names of agencies like Bar Council of India and the State Bar Councils came to surface. Aspirants should know that these agencies are the creation of the statute and fall under the categories of "other authorities" within the meaning of Article 12 of the Indian Constitution.
3. Sanjaya Bahel v. Union of India & Others case

The case dealt with the issue of the immunity enjoyed by United Nations Organizations (UNO) under the United Nations (Immunities and Privileges) Act, 1947. Delhi High Court, in May 2019, declared that UNO is not a 'State' defined under Article 12 of the Indian Constitution.