

Curative Petition

A curative petition is a petition which requests the court to review its own decision even after a review petition is dismissed.

The issue of curative petition gained prominence during the Nirbhaya Case when two of the convicts filed the same petition against the Supreme Court's decision after the mercy and review petition had been rejected.

This article will give further details about the Curative Petition, which will be of immense use in the Polity segment of the IAS Exam.

Background of Curative Petition

The first known instance of a curative petition was during the Rupa Ashok Hurra vs Ashok Hurra case in 2002. The question arose whether the aggrieved party was entitled to any relief regarding the final judgement of the Supreme Court.

It was then decided that in order to prevent the misuse of its process and prevent any incident of a miscarriage of justice, the Supreme Court would reconsider its judgement within the limits of its power. Thus the term 'curative petition' was derived.

Procedure of a Curative Petition

A curative petition is supported by Article 137 of the Constitution of India. As per the article, in matters of law and regulations made under Article 145, the Supreme Court has the power to review any judgements or orders made by it. A curative petition needs to be made within 30 days from the date of the judgement passed.

- A petitioner can file a curative petition only if the review petition has been dismissed.
- It is also required from the petitioner to state or assert specifically the grounds on which the review petition was undertaken and that it was dismissed by circulation, which is in turn certified by a senior advocate.
- A curative petition is entertained if it has been established that there has been a violation of the principles of natural justice. Additional grounds of considering the petition is that he/she was not heard by the court when passing the judgement.
- The curative petition is circulated to a Bench consisting of the three senior-most judges, and the judges who had passed the original sentence if possible. When and only a majority of the judges decided that the matter needs a hearing, can the petition be listed before the same Bench.
- Should a request for an open-court hearing be made, then such a hearing is allowed, but a curative petition is usually decided by judges in the chamber.

- If the petition lacks any grounds for reasonable consideration then the court could impose “exemplary costs” on the petitioner.

Frequently Asked Questions Related to Curative Petitions

What is the difference between a Review Petition and a Curative Petition?

The main difference between the review petition and curative petition is the fact that review petition is inherently provided in the constitution of India whereas the emergence of the curative petition is in relation with the interpretation of the review petition by the Supreme Court which is enshrined in article 137.

What was the Rupa Ashok Hurra vs Ashok Hurra case?

The Rupa Ashok Hurra vs Ashok Hurra case of 2002 was a case of a matrimonial discord. In the case, the validity regarding the decree of a divorce was heard by the Supreme Court following the withdrawal of consent by Rupa Ashok Hurra despite earlier giving her consent for mutual divorce.