

Review Petition v/s Curative Petition v/s Mercy Petition

Review petition, curative petition and Mercy petitions are the instruments available to an aggrieved party, to seek justice, on different stages of his or her petition. All these options are applicable post delivery of the judgement in a court of law.

In this article we shall be discussing different circumstances, institutions, to which they can be filed, along with various perspectives of the constitutional mandates for rights of a citizenry seeking justice.. Further, this article covers other important dimensions, keeping in mind the demands of the preliminary as well as Main examination of the UPSC IAS Exam.

Why In News

In the recent past, various supreme court judgements have evoked diverse responses from the parties, going ahead to review petitions.

While Vodafone Idea, Bharti Airtel in recent past have has filed a review petition in Supreme Court on the AGR verdict, calling for correction of "arithmetic errors" in the computation of AGR dues, real estate company Supertech Ltd sought to file review petition against the Supreme Court order to demolish its twin 40-storey towers in Noida. The supreme court also agreed to review its Sabarimala Judgement.

It must be noted that the Supreme Court decisions are final and binding; reviews are rare, and meant for correction of grave errors.

What is a review petition and when can it be filed?

- A judgment of the Supreme Court becomes the law of the land, according to the Constitution. It is final because it provides certainty for deciding future cases.
- However, the Constitution itself gives, under Article 137, the Supreme Court the power to review any of its judgments or orders.
- This departure from the Supreme Court's final authority is entertained under specific, narrow grounds.
- So, when a review takes place, the law is that it is allowed not to take fresh stock of the case but to correct grave errors that have resulted in the miscarriage of justice.
- The court has the power to review its rulings to correct a "patent error" and not "minor mistakes of inconsequential import".
- In a 1975 ruling, Justice Krishna Iyer said a review can be accepted "only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility".

What are the grounds to seek review of an SC verdict?

- In a 2013 ruling, the Supreme Court itself laid down three grounds for seeking a review of a verdict it has delivered - the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the petitioner or could not be

produced by him; mistake or error apparent on the face of the record; or any other sufficient reason.

- In subsequent rulings, the court specified that “any sufficient reason” means a reason that is analogous to the other two grounds.
- In another 2013 ruling, **Union of India v. Sandur Manganese & Iron Ores Ltd**, the court laid down nine principles on when a review is maintainable.
- The court opined, “A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.”
- It added that the mere possibility of two views on the subject cannot be a ground for review.

Who can file the review petition?

- As per the Civil Procedure Code and the Supreme Court Rules, any person aggrieved by a ruling can seek a review.
- It is not necessary that only parties to a case can seek a review of the judgment.
- The court is not bound to entertain every review petition filed before it.
- It exercises discretion to allow a review petition only in case of valid grounds for seeking the review.

What is the procedure used by the court to consider a review petition?

- Rules framed by the Supreme Court in 1996, mandates filing of a review petition within 30 days of the date of judgment or order.
- While a judgment is the final decision in a case, an order is an interim ruling that is subject to its final verdict.
- In certain circumstances, the court can condone a delay in filing the review petition if the petitioner can establish strong reasons that justify the delay.
- The rules state that review petitions would ordinarily be entertained without oral arguments by lawyers
- It is heard through circulation by the judges in their chambers.
- Review petitions are also heard, as far as practicable, by the same combination of judges who delivered the order or judgment that is sought to be reviewed.
- If a judge has retired or is unavailable, a replacement is made keeping in mind the seniority of judges.
- In exceptional cases, the court allows an oral hearing.
- In a 2014 case, the Supreme Court held that review petitions in all death penalty cases will be heard in open court by a Bench of three judges.

What happens when a review petition fails?

- As the court of last resort, the Supreme Court's verdict cannot result in a miscarriage of justice.
- In **Roopa Hurra v Ashok Hurra (2002)**, the court itself evolved the concept of a curative petition, which can be heard after a review is dismissed to prevent abuse of its process
- A curative petition is also entertained on very narrow grounds like a review petition, and is generally not granted an oral hearing

What is a Curative Petition

- A curative petition is the final and last option available to the people for seeking justice in the framework of the judiciary.
- It ensures justice as enshrined and promised by the Constitution of India after the review plea is dismissed or exhausted.
- It presents one of the final opportunities to be heard by the unheard..

The Supreme Court held that only in the rarest of the rare cases, where very strong reasons are present for the court to look into the matter again.

Take a look at this interesting article on curative petition for more details and a threadbare discussion..

What is a Mercy Petition

- In the Indian Judicial System, Mercy Petition is the last resort.
- When a person has lost all the remedies available to him/her under all the prevailing laws and exhausted all the Constitutional remedies he/ she can file a Mercy Petition.
- It can be filed either before the President of India under Article 72 of the Indian Constitution or the Governor of the state under Article 161 of the Indian Constitution.
- Once applied, the petition of the individual will be treated with mercy not on the legality of the case.

What are the Constitutional Provisions and Powers of the President

Article 72 of the Constitution of India

- The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—
 - (a) in all cases where the punishment or sentence is by a Court Martial;
 - (b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;
 - (c) in all cases where the sentence is a sentence of death.
- Thus, Article 72 empowers the President to grant pardons, and to suspend, remit or commute sentences in certain cases.
- Power to grant pardon is not discretionary, acting in consultation with the council of ministers.

Powers of the Governor

Article 161 of the Constitution of India

- The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends Under the provision of Article 161 of the Indian Constitution, Governor of the State has the power to reprieve, respite or remit punishment of any person convicted of any offence
- The constitution does not grant the power to pardon death sentences to the Governor.

Important Case

- In the Case of **Dhananjay Chatterjee v State of West Bengal, 1994**, the Supreme Court held that "The power under Articles 72 and 161 of the Constitution can be exercised by the Central and State Governments, not by the President or Governor on their own".

Conclusion

The process of delivering justice in the Indian system of judiciary is very detailed and rests on the principle that no innocent person suffers from any prejudice. Therefore, the highest court of the land gives a patient hearing to the minutest details and even after the verdict opens its door for course correction in case of any lapse, discovery of crucial facts or on merits to ensure justice. While some have used this liberal approach to get one last hearing, others have explored the procedure to delay justice being given to the affected parties. However, the beacon of justice and spirit of equality before law and equal protection of law, rights of individuals have always been protected and assigned highest priority by the court. That has made the judiciary stand tall, a hallmark to the constitutional mechanism adopted by the founding fathers of the constitution.