

Subordinate Judiciary – Indian Polity Notes

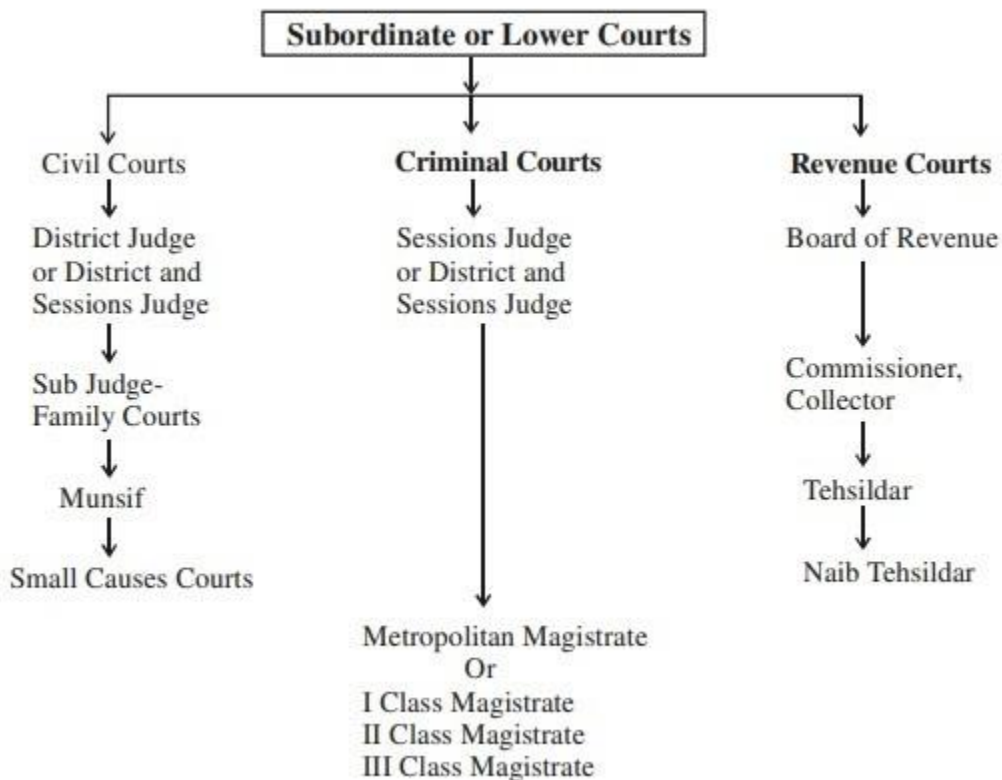
In the judicial organisation of every state, the High Court is the apex body. Below the High Court, there are other courts that constitute the subordinate judiciary. The jurisdiction and nomenclature of subordinate courts in the various States of the country are different. At present, there are three or more tiers of civil and criminal courts below the High Court.

Subordinate Courts or Lower Courts

The subordinate courts are so-called because of their subordination to the state high court. In each district of India, there are various types of subordinate or lower courts. They are:

1. Civil courts,
2. Criminal courts and
3. Revenue courts.

These Courts hear civil cases, criminal cases and revenue cases, respectively.



Source - NIOS

Civil Courts

- Civil cases pertain to disputes between two or more persons regarding property, breach of agreement or contract, divorce or landlord-tenant disputes.
- Civil Courts settle these disputes. They do not award any punishment for violation of law, which is not involved in civil cases.
- The disputes relating to property, succession, ownership and other such rights come under the jurisdiction of Civil Courts, which dispose of these cases in accordance with the Civil Procedure Code.

Criminal Courts

- Criminal cases are related to the violation of laws.
- These cases involve theft, dacoity, rape, pickpocketing, physical assault, murder, etc. These cases are filed in the lower court by the police, on behalf of the state, against the accused.

- In such cases the accused, if found guilty, is awarded punishment like fine, imprisonment or even death sentence.
- These cases are disposed of by the Criminal Courts in accordance with the Criminal Procedure Code and Indian Penal Code.

Revenue Courts

- Revenue courts deal with cases of land revenue in the State.
- The highest revenue court in the district is the Board of Revenue.
- Under it are the Courts of Commissioners, Collectors, Tehsildars and Assistant Tehsildars.
- The Board of Revenue hears the final appeals against all the lower revenue courts under it.

Structure and Jurisdiction of Subordinate Courts

- The organisational structure, jurisdiction and nomenclature of the subordinate judiciary are laid down by the states.
- Hence, they differ slightly from state to state.
- Generally, there are three tiers of civil and criminal courts below the high court.
- The district judge is the highest judicial authority in the district. He possesses original and appellate jurisdiction in both civil and criminal matters.
- In other words, the district judge is also the **sessions judge**.
- When he deals with civil cases, he is known as a district judge and when he deals with criminal cases, he is known as a sessions judge.
- The sessions judge has the power to impose any sentence, including life imprisonment and capital punishment (death sentence).
- However, a capital punishment passed by him is subject to confirmation by the High Court, whether there is an appeal or not.
- In some states, Panchayat Courts try petty civil and criminal cases. They are variously known as Nyaya Panchayat, Gram Kutchery, Adalati Panchayat, Panchayat Adalat and so on.

Constitutional Provisions - Subordinate Courts

Articles 233 to 237 in **Part VI** of the Indian Constitution has provisions to regulate the organisation of subordinate courts and to ensure their independence from the executive.

Articles related to Subordinate Courts	
Article No.	Subject Matter
Article 233	Appointment of district judges
Article 233A	Validation of appointments of, and judgements, etc., delivered by certain district judges
Article 234	Recruitment of persons other than district judges to the judicial service
Article 235	Control over subordinate courts
Article 236	Interpretation
Article 237	Application of the provisions of this chapter to a certain class or classes of Magistrates

The **20th Amendment Act of 1966** added a new **Article - 233A**, which retrospectively validated the appointment of certain district judges as well as the judgements delivered by them.

Appointment of District Judges

- The judges of subordinate courts are appointed by the Governor in consultation with the Chief Justice of the High Court of the concerned State.
- **Qualifications of district judge:**
 - He should not already be in the service of the Central or the state government.
 - He should have been an advocate or a pleader for seven years.
 - He should be recommended by the high court for appointment.

Appointment of Other Judges

- The appointment of persons (other than district judges) to the judicial service of a state are made by the governor of the state after consultation with the State Public Service Commission and the high court.
- In practice, the State Public Service Commission conducts a competitive examination for recruitment to the judicial service of the state.

Control over Subordinate Courts

- The control over district courts and other subordinate courts including posting, promotion and leave of persons belonging to the judicial service of a state and holding any post inferior to the post of district judge is vested in the high court.

Interpretation

- The expression 'district judge' includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions judge.
- The expression 'judicial service' means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of the district judge.

Application of the above Provisions to Certain Magistrates

- The Governor may direct that the above-mentioned provisions relating to persons in the state judicial service would apply to any class or classes of magistrates in the state.

Challenges

- The infrastructural development of Courts needs urgent attention.
- Inadequacy of infrastructure facilities in District and Subordinate courts has remained a major bottleneck in the judicial system, largely contributing to the accumulation of arrears.
- Judicial infrastructure is a crucial component, which had been ignored for a long time, especially in respect of Subordinate Courts. It is the responsibility of both the Central Government and State Governments to treat this as an area of prime concern to improve justice delivery.
- The shortage of judicial personnel at Subordinate Courts is also a matter of concern.
- Some major reasons leading to the high pendency of cases in Subordinate Courts are:
 - Poor Judge population ratio,
 - Prolonged and costly litigation caused by procedures and lawyers interests,
 - Poor infrastructure,
 - Shortage of judicial personnel,
 - Weak alternate dispute resolution mechanisms and so on.

Way Ahead

- The National Mission for Justice Delivery and Legal Reforms, which is formed to deal with the dual need of addressing the issues of delays and arrears in the Indian judicial system as well enforcing better accountability, including setting and monitoring of performance and enhancement of capacity through training at various levels can go a long way in reducing the problem of high pendency of cases, which is a major problem faced by the Subordinate Judiciary.
- The Committee feels that regular conducting of morning/evening, holiday courts, Lok Adalats, alternative dispute redressal mechanisms etc. wherever feasible can help in reducing the concern of pendency of cases in Subordinate Judiciary.

