CHAPTER-1

INTRODUCTION

Judicial Review basically is an aspect of judicial power of the state which is exercised by the courts to regulate the validity of a rule of law or an action of any agency of the state. In the legal system of modern democracies, it has very wide connotations, for example - the judiciary of India plays a very significant role as a protector of the constitutional values that the founding fathers have given to us. They try to undo the harm that is being done by the legislature and the executive. Judiciary also try to provide every citizen what has been promised by Constitution. All this is possible because of the power of judicial review.

Judicial review is a result of two fundamental features of Indian constitution. India is lucky enough to have a constitution in which the fundamental rights are preserved. This has arranged an independent judiciary as the guardian of the constitution and defender of the citizen's liberties against the forces of oppression.

Judicial Review is the power of judiciary, which is classified in two parts, as the first is the separation of powers between legislature, executive and Judiciary and the Second one is two level system of law with the constitution as the Supreme law and other legislation being the ordinary law. The exercise of each of these powers is a function of the Legislature, the executive and the Judiciary as a separate organ of the State. Deriving their powers from the Constitution, the legislatures in India enact statutes. There is the two-fold limitation on the validity of the statues. The Legislatures must have the competence to enact them. Secondly, they must not conflict with the constitution. They would be invalid to the extent of their repugnancy with the constitution. 'Judicial Review' stands for something which is done by a court to examine the validity or correctness of the action of some other agency. Thus, Judicial Review indicates review of legislative actions to check its constitutional validity or its correctness. Under the constitution of India the Government is responsible to the parliament but the parliament, the president and the judiciaries are responsible to the constitution. All of them can exercise such powers as are given to them by the constitution. The court has to examine whether all the subordinate authorities of the constitution have exercised their powers within the

framework of the constitution. This is the way in which the constitution has enabled the courts to determine the state legislature by examining whether they are in accordance with the constitution.

Role of the Supreme Court of India and the supremacy of the constitution:

In the constitution of India, the scope of judicial review has been widened. Unlike the U.S.A., in the constitution of India has made clear provision for judicial review. The scope of judicial review is shown in many articles of the constitution, like- 13, 32,131-136,143, 226 and 246 etc. That's why the concept of judicial review is directly rooted in Indian Constitution and in this shows that it is on a more solid than it is in U.S.A.

Judicial review in India is based on the assumption that the constitution is the supreme law of the land and all the governmental organs, which owe their origin to the constitution and derives their powers from its provisions, must function within the framework of the constitution. Under the Indian constitution there is a specific provision in Article 13(2) that "the state shall not make any law which takes away the rights conferred by Part III of the constitution that consist fundamental rights and any law made in contravention of this clause shall, to the extent of the contravention, be void". The courts in India are thus under a constitutional duty to interpret the constitution and declare the law as unconstitutional if found to be contrary to any constitutional provisions. It can be appreciated that the protection of the judicial review is crucially inter-connected with that of protection of Fundamental Rights, for depriving the court of its power of judicial review would be tantamount to making Fundamental Rights non-enforceable ***'a mere paper provision'*** as they will become rights without remedy. The following cases vividly demonstrate the nature, extent and importance of the role played by the Supreme Court of the Indian Union in protecting the supremacy of the constitution.

The Principle of Judicial Review in India for the first time highlighted in case of ***Emperor Vs Burah*** at the time of Privy Council. Supreme Court was established through the act of 1935, after Independence federal Court became the Supreme Court of India. Supreme Court of India is the guarantor and protector of the constitution. In the Indian constitution there is an express provision for judicial review, and in this sense, it is on a more solid footing then it is in America.

Judicial Review in India: Meaning and Constitutional Basis

Judicial review is the power exerted by the courts of a country to examine the actions of legislative, executive and administrative arms of government and to ensure that such action conforms to the provisions of the constitution. ***Khanna J*** has observed that- in the fundamenrtal Rights' case Judicial Review is an integral part of our constitutional system and a power has been vested in the High Courts and the Supreme Court to decide about the constitutional validity of the provisions of the statutes. If the provisions of the statutes are found to be violative of any of the articles of the constitution which is the touchstone for the validity of all laws the Supreme Court and High counts are empowered to strike down the said provisions.

Edward S. Corwin (2013) has said that- the judicial review is the power and duty of the courts to disallow all legislative or executive acts of either the central or the state government, which in the courts opinion transgresses the constitution. ***Zurcher*** also has the similar view that- legislatures are prohibited by a written constitution or are in excess of powers granted by it and if so to declare them void and no effect.

Philosophy of Judicial Review-

Lord Acton has said that – ***"Power corrupts absolute and absolute power corrupts absolutely"*** which ultimately resulted into tyranny. When ***Montesquieu*** gave his concept of separation of powers and it was about the check and balance on the power of the governmental organs on each other. He was intended to put a limit on absolute and uncontrolled power in any organ of the government. Indirectly Montesquieu has talked about the limitation on the use of absolute power by the governmental organs.

The concept of Judicial Review has the origin in the theory of limited government and in the theory of two laws by Locke, the father of liberalism. As he has talked about the constitutional democracy, which means that- all legislative authorities derive their power from the supreme law of the land, that is Constitution. It clarifies that Constitution as a supreme law which constitutes the source of all governmental organs. Any law which is made by legislative authorities' contravenes with the constitutional law has no validity.

Comparison between Indian and American Judiciary in Context of Judicial Review-

In America Supreme Court or Judiciary assumed a power that grew more and more formidable in due course. The U.S. court has been called ***third 'Chamber'*** because it can upset decisions of the two chambers of congress. U.S. court has wide power of Judicial Review. In India there is an express provision for judicial review and in this sense it is on a more solid footing than it is in America. ***Patanjali Shastri C.J.*** in the ***State of Madras Vs. V.G. Row,*** (A.I.R. 1952 S.C. 196) observed, "Our constitution express provisions for judicial review of legislation so as to its conformity with the constitution unlike in America where the Supreme Court has assumed intensive powers of reviewing legislative acts under cover of the widely interpreted 'due process clause in the fifth and fourteenth amendments. If then, the courts in the country face up to such important and none too such important and none too easy task, it is not out of any desire tilt at legislative authority and a crusaders spirit, but in discharge of duty plainly laid upon them by the constitution. This is especially true as regards the fundamental rights as to which the court has been assigned the role of sentinel on the queue".

But while the basis of Judicial Review of legislative acts is far more secure under our constitution and its potentialities are much more limited as compared to that in U.S.A. This is due to the details provisions of the Indian constitution and the easy method of its amendment in contradistinction to the American's constitution's vague and general phraseology and the rigid method of its amendment. Thus under the power of Judicial Review the highest court of the Nation can test all pre constitution and post constitution or future laws and declares them unconstitutional in case they contravene any of the PART-III of the constitution.

Judicial Review under the Constitution of India:

There are several specific provisions in the Indian constitution guaranteeing judicial review of legislation such as Article 13, 32, (131-136), 137, 143, 226, 145, 246, 251, 254 and 372.

Article 13: Article 13 specifically declares that any law which contravenes any of the provisions of the PART-III of fundamental right shall be void. But even in the absence of

the provision for the judicial review, the courts would have been able to invalidate a law which contravened any constitutional provision, for such power of judicial review follows from the very nature of constitutional law. In ***A.K. Goplan V. state of Madras***, Kania C.J. pointed out then it was only by way of abundant action that the framers of our constitution inserted the specific provision in Article 13. He observed: "In India it is the constitution that is supreme and that a statute law to be valid, must be in all its conformity with the constitutional, requirement and it is for the judiciary to decide whether any enactment is constitutional or not & High Court are".

Supreme Court and High Courts are the guarantor and protector of the constitution, under Article 32 and 226:

"If I asked to name any particular article in the constitution as the most important article without which this constitution would be a nullity. I could not refer to any other article except this one. As It is the very soul of the constitution and the very heart of it" (Dr. Amabedkar).

Art. 32 and 226 Judicial Review: Basic features of constitution cannot be curtailed by act of parliament and constitutional provision- In landmark Judgment in ***"State of W.B.V. Committee***" for protection of Democratic Rights west Bengal".

Art 32 (1) consist the right to move to the Supreme Court for the enforcement of the fundamental rights conferred by part-III of the constitution clause (2) of the Article 32 confers power on the Supreme Court to issue appropriate directions or orders or writs as - habeas corpus, mandamus, prohibition quo- warranto of any of the rights conferred by PART-III. These same powers are excercisable by the High Court in the States.

Article 257 and 254 says that in the case of contradiction between union and states laws, the state Laws shall be void. Article 245 is about the powers of both Parliament and State Legislature's relations.

The constitutional validity of a law can be challenged on the ground that the Subject matter of the legislation.

(a) Is not within the competence of the legislature which has passed it,

(b) Is repugnant to the provisions of the constitution, or

(c) It infringes one of the fundamental rights.

The basic function of the court is to adjudicate (Articles 131-136) disputes:

(1) Among the states and the Union,

(2) While so adjudicating, the courts may require to interpret the provision of the constitution and the laws, and the interpretation given by the Supreme Court becomes the law privileged by all courts of the land.

Writ Jurisdiction of the Courts:

In the case of violation of the fundamental rights in Part III of the Indian Constitution special remedies have been provided. According to Article 32 (2) of the Constitution the Supreme Court has the power to issue directions or orders or writs including writs in the nature of habeas corpus, mandamus , prohibition, quo warranto , and certiorari , which ever may be appropriate, for the enforcement of any of the fundamental right. As well, according to Article 226 every High Court shall have the similar jurisdiction for the enforcement of the fundamental rights and also for the enforcement of any other purpose throughout the territory in relating to which it exercises its jurisdiction.

There are two main differences between writ jurisdiction under Articles 32 and 226. Firstly, the right to move the Supreme Court under Article 32 is itself a fundamental right and thus, in such condition ordinarily the Supreme Court cannot refuse to grant this remedy.[1] However, the right to move the High Court under Article 226 is not itself a fundamental right. The remedy provided in Article 226 is a discretionary remedy and cannot be claimed as a matter of right. Secondly, the remedy provided under Article 32 is available only for the enforcement of the fundamental right guaranteed by part III of the Constitution while the remedy provided under Article 226 is available for the enforcement of the fundamental rights and also for the enforcement of any other purpose. Thus, the writ jurisdiction of the High Court is wider than of the Supreme Court.[2] Article 226 (4) makes it clear that the power inferred on the High Court by Article 226 shall not be in contravention of the power inferred on the Supreme Court by Article 32 (2).[3]

In a landmark decision of ***L. Chandra Kumar v. Union of India***,[4] the Supreme Court held that the power of judiciary over legislative action vested in the High Courts under Article

226 of the Constitution is basic feature of the Constitution and therefore it cannot be ousted or excluded even by way of a Constitutional Amendment. Accordingly, the Supreme Court declared Clause (2)(d) of Article 323-A and Clause(3)(d) of Article 32 3-B[5] as unconstitutional to the extent that they excluded the jurisdiction of the High Courts over the Service Tribunals established under the ***Administrative Tribunal Act, 1988***. The Court made it clear that while the jurisdiction of the High Courts cannot be ousted these tribunals will continue to function and perform a supplemental role in discharging the powers conferred by Articles 226, 227 and 32 of the Constitution. The tribunals are competent to test the validity of statutory provisions and rules. The result of the decision is that now it will not be possible for a person to move the Supreme Court directly from a decision of a tribunal, without first going to the concerned High Court. In this respect, the aggrieved person has got another remedy by way of a writ-petition before the concerned High Court. Thus, what was earlier two-tier litigation has now become three-tier litigation.[6]

The remedies of violation of fundamental rights should be sought within a reasonable time. Laches or unreasonable or unexplained delay in instituting writ petition entail refusal to issue a writ.[7] Nevertheless, delay is no bar to writ of quo warranto.[8] In ***D.R.L.R.C. v. Dt. Board,***[9] refusal for delay was described as a rule of practice. Writs in the Indian legal system are as follows:

Habeas Corpus-

Habeas Corpus is a prerogative writ by which a person, who is confined or detained by any authority or person, can apply to the Court and the Court may issue an order to produce the person, so confined and detained, before the Court. However, it is the duty of the Court to set free an individual when once the Court comes to the conclusion that there has been violation of the constitutional provisions.

In view of Article 21 of the Indian Constitution, the constitutionality of the very statute under which the person has been arrested or detained can be challenged in the proceedings of habeas corpus.[10] Thus the question for a Court, deciding a habeas corpus case, is whether the person is lawfully detained. If the Court holds that he is illegally detained, it will have to issue the writ of habeas corpus as it is a fundamental right guaranteed to a citizen of India under the Constitution.

It should also be noted that the Constitution of India has narrowed down the scope for the issue of the writ of habeas corpus by empowering the Legislatures to enact laws under Schedule VI,[11] like the ***Preventive Detention Act***, etc.

Quo Warranto -

Quo warranto is a prerogative writ to prevent a person who has wrongfully usurped an office from continuing in that office. This writ calls upon the holder of the office to show the court under what authority he holds that office. In India the writ of *quo warranto* has been used for two purposes, namely in cases of (a) usurpations of a public office, which is filled by appointment (b) election to a public office, including office in a public corporation. In ***G.D. Karkare v. T.L. Shevde***[12]*,* it was held that this writ will lie regarding a public office of a substantial nature. However, in ***Jamalpur Arya Samaj v. Dr. D. Ram,***[13] it was held that the writ will not be issued against offices or private nature.

Ordinarily the power under Article 226 is exercisable for the enforcement of a right or performance of a duty at the instance of the person who has been personally affected. However, an application for the writ of quo warranto challenging the legality of an appointment to an office of a public nature is maintainable at the instance of any private person, although he is not personally interested or aggrieved in the matter. In ***G.D. Karkare v. T.L. Shevde,***[14] the ***Nagpur High Court*** has reiterated this principle.

Mandamus-

The prerogative writ of mandamus can be issued for the enforcement of fundamental rights and for the redress of any injury of a substantial nature arisen due to some illegality or due to contravention of any other provision of the Constitution when an applicant whose rights are infringed applies for it. The object of the writ of mandamus is only to compel any public authority, including administrative and local bodies to act. This writ will not be issued to correct an error or irregularity in the judgment of a court, which could be corrected by appeal or revision,[15] where effective and convenient remedy is provided by the statute that created the right which is infringed;[16] where the aggrieved party would get an adequate remedy by an ordinary action[17] in the civil court. The writ of mandamus will not be granted against some persons as follows: (a) The President or the Governor of a State for the exercise and performance of the powers and duties of his

office, (b) Against the Legislature,[18] (c) Against persons who are not holders of public offices,[19] (d) Against an inferior or ministerial officer who is obeying the orders of his higher authority.[20]

Prohibition

Prohibition is a prerogative writ, issued by a superior court to an inferior court, directing the inferior court not to exceed from the limits of its jurisdiction in the performance of its judicial duties.[21]

Prohibition is a prerogative writ, issued by a superior court to an inferior court, directing the inferior court not to exceed from the limits of its jurisdiction in the performance of its judicial duties.[22] Under the Constitution of India, the Supreme Court and all High Courts are given powers to issue the writ of prohibition. This writ issues out of the High Court to prevent an inferior court or tribunal, judicial or quasi-judicial, from exceeding its jurisdiction or acting contrary to the rules of natural justice, e.g., to prevent a judge from hearing a case in which he is personally interested.[23] Writ of prohibition will issue to prevent the tribunal from proceeding further when the inferior court or tribunal proceeds to act- (a) without[24] or in excess of jurisdiction,[25] (b) in violation of the rules of natural justice,[26] (c) under a law which is itself ultra vires or unconstitutional,[27] and (d) in contravention of fundamental rights.[28]

Certiorari-

Certiorari is a prerogative writ whereby the superior courts restrict the lower courts and courts of special jurisdiction from exceeding their function as prescribed by law. Under the constitutional provisions the writ of *certiorari* can be issued by the Supreme Court and all High Courts for mainly two purposes: in the first instance for the enforcement of fundamental rights and in the second instance for the redress of any injury of a substantial nature.

In ***T.C. Basappa v. Nagappa,***[29] Justice ***Mukherjee*** said, that this is one of the fundamental principles in context of the issuing of a writ of certiorari is that the writ can be take only to remove or adjudicate on the validity of judicial acts." In ***Praboth Verma v. Uttar Pradesh,***[30] the Supreme Court has emphasized that a writ in the nature of certiorari is a wholly inappropriate relief to ask for when the constitutional validity of a

legislative measure is being challenged. In such a case, the proper relief to ask for would be a declaration that a particular law is unconstitutional and void. If a consequential relief is thought necessary, a writ of mandamus may be issued restraining the state from enforcing or giving effect to the provisions of the law in question.

Both the writ of prohibition and certiorari are available against the same class of persons, namely authorities exercising judicial or quasi-judicial powers. They are issued practically on the similar grounds of ***"defect of jurisdiction"*** and violation of fundamental rights or unconstitutionality. The main difference between the two is that certiorari is issued to quash a decision after the decision is taken by a lower tribunal while prohibition is issuable before the proceedings are completed. The object of prohibition is prevention rather than cure. For example, the High Court can issue prohibition to restrain a tribunal from acting under an unconstitutional law. However, if the tribunal has already given its decision then certiorari is the proper remedy in such a situation. It may be that in a proceeding before an inferior body, the High Court may have to issue both prohibition and certiorari, prohibition to prohibit the body from proceeding further, and certiorari to quash what has already been done by it.[31]

Statement of Problem-

The Glorious Revolution of 1688 ushered in the era of legislative supremacy according to which the laws enacted by parliament shall have supremacy and no individual or institution shall have the authority to review the laws of Parliament. From this time onwards the scope of judicial Review was abandoned in respect of legislative actions and its scope was restricted to the review of administrative actions only. In respect of judicial action however the review power in English legal system is confined to such of the matters which are covered by due process and call for the issue of a prerogative Writ or order from the Court. But in India this is not the case. The Courts continue to review every form of State action, be it legislative, administrative or judicial action. Further in the sphere of legislative action, the courts put their shackles of review whether the rule is a constitutional amendment, a statute, order, ordinance, regulation or anything else.

These are the some kinds of problems which will be try to solve by researcher related to their research work:

- Whether the power of judicial review of Courts are consistent with the idea of constitutional democracy established in India.
- Whether the exercise of power of judicial review by courts in India has been within the permissible limit under the constitution of India.
- Whether the exercise of power of judicial review by courts resulted in to nourishment of parliamentary democracy in India

In short, the courts have to exercise their power of judicial review for the purpose of upholding the rule of law, the sovereignty of the Republic and the principles of socialism, human rights and good governance.

Literature Review-

1. **J. B. Thapar (1893)** has said that- "the great task of Judicial Review is not, and cannot, indeed, be confined to the 'annulment of legislative direction, or to fixing the outside border of reasonable legislative action'".
2. **J Frankfurter (1940)** defined "Judicial Review, itself a limitation on popular government, is a fundamental part of our constitutional system".
3. **S. N. Mukherjee (1951**) recommended that- "reasonable be removed as a qualification for restrictions on the other freedoms, apparently believing that if none of the freedoms were so protected, consistency in the article would preclude Judicial Review of restrictions on speech".
4. **Patanjali Shastri C.J. (1952)** observed, "Our constitution express provisions for judicial review of legislation so as to its conformity with the constitution unlike in America where the Supreme Court has assumed intensive powers of reviewing legislative acts under cover of the widely interpreted 'due process clause in the fifth and fourteenth amendments. If then, the courts in the country face up to such important and none too such important and none too easy task, it is not out of any desire tilt at legislative authority and a crusaders spirit, but in discharge of duty plainly laid upon them by the constitution. This is especially true as regards the fundamental rights as to which the court has been assigned the role of sentinel on the queue".
5. **M. P. Jain (1963)** has said that- "the validity of legislation is not determined by the degree of invasion into the fields assigned to the other legislature, once it is found,

that a law falls within a permitted field, any incidental encroachment by it on a forbidden field does not affect the competence of the legislative to enact the law".

6. **A. T. Thomas (1966)** defines that- "Judicial Review affirms as well as negates; it is both a power- releasing and power- breaking function".
7. **Gurram Ramchandra Rao (1968)** has quoted that- "Judicial Review is the concept of accountability in any republican democracy, and this basic theme has to be recommended by everybody exercising public power irrespective of the extra expressed expositions in India".

8. **V.S. Deshpande (1975)** considered that- India has a written constitution and Supreme Court of India's Act as the guardian of the constitution. That's why, judicial review of legislation acquired great importance. A legislation can be nullified by the court if it is inconsistent with the constitution and according to him, judicial review of legislation has two aspects that one is foundational course of study and its objective in nature and concerned with the exercise of the judicial function and its connection with the legislative function and other aspects of the philosophy of constitution as different point of view.
9. **V. S. Shekhawat (1994)** has defined that **-"**Judicial Review is an important component of the Indian constitutional system, meant to protect the ramparts of various freedoms. It also performs the cardinal function of preventing encroachments into each other's sphere of authority in the case of institutions".
10. **Justice J.N. Bhagwati (1994)** has defined that- "the judges in India have fortunately most potent judicial power in their hands namely-the power of Judicial Review. The Judiciary has to play vital and important role not only in perceiving the remedying abuse and misuse of power but also eliminating, exploiting and injustice".

11. **Dawn (2009)** reveals that –"the Judicial Review is the process whereby an apex court interprets a law and determines its' Constitutional status. If the judiciary finds that a given piece of legislation is in conflict with any provision of the constitution, it may strike down the same".

12. **Amartya Sen (2009)** says, the justification for protecting fundamental is not on the assumption that they are higher rights, but the protection is the best way to promote a just and tolerant society.

13. **Sunny Jindal (2010)** has defined that- "for ensuring social justice and for safeguarding the fundamental rights of citizens and arbitrary power of legislative and administrative power of judicial review is must".

14. **Sameer Sharma (2011)** has concluded that- "apex court referred that no doubt legislature cannot over rule a decision of the court or render at ineffective. It can only change the law or alter the law according to the limitations of the constitution. However the judiciary as the guardian of the constitution and it is the duty of the court to review the competence of law enacting power of the judiciary".

15. **Sanjay S. Bang (2012)** said that- "Constitution is the supreme law of the land and this is the big responsibility of Judiciary to maintain the spirit of the constitution by the use of power of Judicial Review".

16. **Edward S. Corwin (2013)** has said that- the judicial review is the power and duty of the courts to disallow all legislative or executive acts of either the central or the state government, which in the courts opinion transgresses the constitution[6].

Hypothesis-

1. Judicial Review power of the court is essential for functional constitutional democracy. There is no inconsistency between the judicial review power and the constitutional democracy. The judicial review makes the elected government accountable to the constitution and the rights of the people.

2. The court's power of judicial review is based on the constitutional provisions however the court's exercise of the power of judicial review has not always been same. In the post emergency period, the court became more assertive in defending the fundamental rights of the peoples by exercising this inherent power of the judicial review.

3. The Court's intervention through the judicial review power has increased the credibility of the independent judiciary in India, that is the *sine qua non for the constitutional democracy.*

Objectives of the Study:

1. To study the nature and constitutional basis of judicial review in India.
2. To study the effect of judicial review on the implementation and enforcement of fundamental rights in India.
3. To study the changing contour of judicial review in India.

Research Methodology:

This research work is a qualitative, analytical and descriptive work. The researcher will undertake doctrinal analytical study of the judicial review in India by examining various landmark judgements. It will be supported by Secondary sources such as official government and other Judicial documents, reports, Judicial cases, books, articles, journals and newspapers, readings, seminars, lectures, documents and reports released by different national or international organizational bodies relevant to the research on the related issue.

References

[1] Ramesh Thaper v. ChamanLal,AIR 1976 SC 1654.

[2] Tirupati Balaji Developers Private Ltd. v. State of Bihar, AIR 2004 SC 2351.

[3] D.,D. Basu, Article 32 supra note 414, pp. 121-24.

[4] AIR 1997 SC 1125.

[5] Ins. By the Constitution (42nd Amendment Act), 1976, sec. 46 (w.e.f. 3-1-1977).

[6] Pandey, supra note 416, pp. 528.

[7] Trilok Chand v. Munshi, AIR 1970 SC 898; Ramachandra v. State, AIR 1974 SC 259, 265; Bhaskar v. State Andhra Pradesh, (1993) 24 ATC 842.

[8] Kashinath v. Speaker, (1993) 2 SCC 703, paragraphs 34-36.

[9] (1992) 2 SCC 598.

[10] Gopalan v. State of Madra s, AIR 1950, SC 27; Ram Narayan v. State of Delhi, AIR 1953 SC 277: (1953) SCR 652.

[11] The Constitution of India, Schedule VII, list I, Entry 9; List III, Entry 3.

[12] AIR 1952 Nag 330; see also Hamid Hassan v. Banwari Lal Ray, AIR 1947 PC 90.

[13] AIR 1954 Pat 297.

[14] AIR 1952 Nag 330; also see Biman Chandra v. Governor of West Bengal, AIR 1952 Cal 799.

[15] Vishwanath v. Second Additional District Judge, AIR 1951 Nag 6.

[16] K.S. Rashid & Son v. I.T.I. Commission , 1954 SCR 738; Veerappa Pillai v. Raman & Raman Ltd., AIR 1952 SC192: 1952 SCR 583.

[17] Moti Lal v. State of U.P., AIR 1951 All 257, 265 FB.

[18] Chotey Lal v. State of U.P., AIR 1951 All 228.

[19] Laxman v. Rajpramukh , AIR 1953 MB 54.

[20] Babul Chandra, Re, AIR 1952 Pat 309, 311.

[21] Babul Chandra, Re, AIR 1952 Pat 309, 311.

[22] Shrirur Mutt v. Commissioner, AIR Mad 613, 617.

[23] Shantaram D. Salri v. M.M. Chudama, AIR 1954 Bom 361.

[24] East India Commercial Co. v. Collector of Customs, AIR 1962 SC 1893.

[25] Sewpujanrai V. Collector of Customs, AIR 1957 SC 845, 855.

[26] Manak Lal v. DrPrem Chand Singhvi, AIR 1957 SC 425, 431.

[27] Sales Tax Officer v. BudhPrakash, AIR 1954 SC 459: (1955) 1 SCR 243.

[28] Bidi Supply Co. v. Union of India, 1956 SCR 267, 277-B.

[29] AIR 1954 SC 440.

[30] AIR 1985 SC 167: (1984) 4 SCC 251.

[31] Pandey, Jai Narayan, (1997),Constitution of India, Allahabad Central Law agencyp.397, pp. 427.