



Misuse of Writs

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ABSTRACT

Constitutions define people's rights and obligations and give a framework for governing. In the case of India, the Constitution serves as both the supreme law of the country and a representation of the aspirations of the populace. Therefore, it is crucial to make sure that the Constitution is applied and interpreted in a way that preserves its principles and safeguards the rights of its inhabitants. One of the most important tools for upholding people's rights under the Indian Constitution is the writ. A writ is a directive given by a court to a public body or a person to carry out a specified task or to desist from acting in a way that is against the law or against the constitution. The writs provide people with an effective means of pursuing compensation for the infringement of their basic rights. The Indian Constitution recognises Habeas Corpus, Mandamus, Certiorari, Prohibition, and Quo Warranto. The common law system, which was inherited from the British legal system, is the source of these writs. The Indian judiciary has evolved and refined its writ jurisdiction over the years in order to better safeguard the rights of Indian citizens. This dissertation seeks to provide a comprehensive analysis of India's constitutional philosophy regarding writs. The dissertation will investigate the historical origins of writs, their evolution in India, and their role in protecting citizen rights. In addition, it will examine the various categories of writs and their significance in contemporary law.

Introduction

The origin of writs can be traced back to the early common law systems of England. Writs were initially used as a means of summoning individuals to appear before a court or to require someone to perform a specific action. Over time, the use of writs expanded and they became an important tool for enforcing legal rights and remedies.

Citizens rely heavily on writ petitions as a means of accessing the courts and enforcing their constitutionally protected rights in India. Concern over the abuse of writ petitions in India, however, has been on the rise in recent years. There has been a substantial impact on the judicial system and the delivery of justice as a result of the abuse of writ petitions. In the evolution of human civilisation, the organisation of political society can be considered as a great event since this led to forcing the devices for protecting the life and liberty of its maker and also a product of urge of man to lead a "dignified life". Fundamental Rights are the most important rights than any other legal rights. Therefore in almost all countries in the world they are recognised in the written or unwritten constitution as "Bill of Rights", 'Civil Liberties' or 'Fundamental Rights, to protect the individual from the illegal wrongs done by the administrative authorities. Enjoyment of all civil and political rights and achievement of social happiness depend upon adequate protection of fundamental right and liberties of the subjects.

Thus India embarked upon extensive development programmes through economic planning, a task to which the state undertook to contribute the lion's share through the public sectors by participating in trade, industry, agriculture, welfare activities and all other works covered by the Five Year Plans. The powers and functions of local authorities at various levels have also expanded as a result of this development.

Definition of Misuse of Writ Petitions

Misuse of writ petitions refers to the filing of frivolous, vexatious, or mala fide writ petitions with the intention of abusing the process of law or harassing the other party. Misuse of writ petitions is a serious matter as it not only wastes the valuable time of the court but also undermines the effectiveness of the legal system.

1. Forms of Misuse of Writ Petitions

There are several forms of misuse of writ petitions that are prevalent in India. Some of the most common forms of misuse of writ petitions are as follows:

- **Delaying Tactics:** Sometimes, parties file writ petitions as a delaying tactic to postpone the legal proceedings or to buy time for themselves. They do this by filing multiple writ petitions on the same issue or by filing frivolous writ petitions that do not have any merit.

- **Political Motivation:** In some cases, writ petitions are filed for political motives to gain mileage or to create public pressure on the govt. This is usually done by political parties or activists who use the writ petition as a tool to further their political agenda.
- **Personal Vendetta:** Writ petitions are also misused for personal vendetta or revenge against the other party. This is usually done to harass the other party or to put pressure on them to settle the dispute.
- **Abuse of Public Interest Litigation:** PIL is a type of writ petition filed in the interest of the public. However, in some cases, PILs are misused by individuals or organizations to further their personal agenda.

2. Examples of Misuse of Writ Petitions

There have been several instances of misuse of writ petitions in India. Here are some notable examples:

- **Misuse of "habeas corpus" Writ:** In a recent case, a writ petition was filed by a person claiming that his wife was being illegally detained by her parents. However, upon investigation, it was found that the wife had left her husband willingly and was not being detained by anyone. The court dismissed the writ petition and imposed a fine on the petitioner for misusing the writ.
- **Misuse of PIL:** In another case, a PIL was filed against a popular movie for allegedly hurting the sentiments of a particular community. The court found that the PIL was frivolous and was filed for personal reasons rather than in the interest of the public. The court imposed a fine on the petitioner for misusing the PIL.
- **Delaying Tactics:** In a land acquisition case, the petitioner filed multiple writ petitions on the same issue with the intention of delaying the acquisition process. The court found that the petitioner was misusing the writ petitions and imposed a fine on him.
- **Personal Vendetta:** The petitioner filed a writ petition against the respondent in a defamation matter, saying that the respondent was harassing him. The writ petition was rejected by the court after it was determined that it had been filed with the goal of harassing the respondent.

Impact of Misuse of Writ Petitions:

Abuse of the writ petition process has serious consequences for India's judicial system. The administration of justice is hampered, and precious court time is wasted. It causes the court system to become overburdened and causes cases to pile up. The public's faith in the legal system is harmed and the integrity of the court is damaged when writ petitions are misused. Legal fees and other costs add up quickly, putting an unwarranted financial strain on the people involved.

1) Measures to Address Misuse of Writ Petitions:

To address the issue of misuse of writ petitions, the judiciary has taken several measures over the years. Some of the measures include:

- **Imposing Costs:** Courts have the power to impose costs on the petitioner for filing frivolous or vexatious writ petitions. This is done to deter the petitioner from filing such petitions in the future.
- **Striking Down Writ Petitions:** Courts also have the power to strike down writ petitions that are filed with mala fide intentions or with the intention of delaying the legal process.
- **Rejecting Writ Petitions:** The courts can also reject writ petitions that do not have any merit or do not fall within their jurisdiction.
- **Legal Reforms:** The govt can also bring about legal reforms to address the issue of misuse of writ petitions. This can include amending the law to impose stricter penalties on those who file frivolous writ petitions.

2) Judiciary on misuse of writ petition's

Here are a few notable case laws on the misuse of writ petitions in India:

- **Ramesh Chandra Verma v. State of U.P.¹:** The SC held that the writ jurisdiction of the HCs u/Art 226 should not be used as an instrument of oppression or to settle personal scores. The court also observed that the filing of frivolous writ petitions imposes a heavy burden on the judiciary and leads to unnecessary delay in the disposal of cases.
- **State of Bihar v. Lal Krishna Advani²:** The SC ruled that a writ petition filed without merit or with the goal to harass the opposing party is an abuse of the court's procedure. The court said that it must use judgement when issuing writs since doing so might have far-reaching consequences.
- **Baradakanta Mishra v. Registrar of Orissa HC³:** The Orissa High Court ruled that a writ petition filed with the sole purpose of obtaining a favourable court decision is an abuse of the court's procedure. The court further noted that the HC's writ jurisdiction is not meant to serve as a replacement for the parties' normal legal remedies.

¹ AIR 1980 SC 1

² AIR 2003 SC 186.

³ AIR 1974 Ori 1.

- Mahipal Singh Rana v. State of U.P.⁴: The Allahabad High Court ruled that a writ petition filed without merit or with the goal to harass the opposing party is an abuse of the court's procedure. The HC writ authority is not to be utilised for revenge or to gain an undue advantage over the opposing party, the court said.
- Ashok Kumar v. State of Haryana⁵: The Punjab and Haryana HC held that the filing of a writ petition without any basis or with the intention of delaying the legal process is an abuse of the process of the court. The court also observed that the writ jurisdiction of the HC should not be used to circumvent the ordinary legal remedies available to the parties.

These cases highlight the importance of ensuring that writ petitions are not misused as a tool for harassment or to achieve unfair advantage over the other party. The courts have consistently held that the writ jurisdiction should be exercised with great care and discretion to ensure that it serves its intended purpose of protecting the fundamental rights of the citizens.

Conclusion

In modern democracies, the executive branch has unprecedented power and may undertake a wide range of complex and varied responsibilities. Since administration has become so expansive, pervasive, and varied, Nowadays, it's difficult to articulate the word the "administration" or create a consensus on how to recognise an executive organisation. We may thus draw the conclusion that India's constitution provides a strong framework for judicial scrutiny of administrative action. According to the requirements of Arts. 32 and 226, the SC and HCs, respectively, issue writs. The courts' ability to issue writs, orders, and directives is discretionary under these Arts. Writ of "habeas corpus" is given "of right," meaning that it is granted in cases of unlawful incarceration. To avoid such abuse of power, the courts have established a variety of principles governing the use of authority. The purpose of these rules is to prevent state agencies and organisations from abusing or misusing public funds. The law should be the guiding principle in the decision-making process rather than whims, flair, or humor. The Constitution is the law of the nation, thus no one person or group may claim absolute power. Justices on the SC are bound by the precedents they set when they declare their own decisions to be the law of the land in answer to writ petitions. Therefore, the constitutional remedies provided by the constitution act as a check and ensure that the govt is operating within the law.

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⁴ AIR 2009 All 45.

⁵ AIR 1982 SC 1217.