

6. Curative Petition

Prelims Syllabus: Judiciary

Mains Level: GS-II Structure, organization and functioning of the Executive and the Judiciary

Ministries and Departments of the Government; pressure groups and formal/informal associations and their role in the Polity.

Context:

- Curative Petition is often mentioned in news regarding various cases of Supreme Court.

Origin:

- The concept of the curative petition was first evolved by the Supreme Court of India in Rupa Ashok Hurra vs. Ashok Hurra and another case (2002) on the question whether an aggrieved person is entitled to any relief against the final judgement/order of the Supreme Court, even **after the Dismissal of a Review Petition.**

What is their objective?

- Its objectives are two folds - avoid miscarriage of justice and to prevent abuse of process.

Is there Any Constitutional Backing?

- The concept of the curative petition is supported by **Article 137 of the Indian Constitution.**
- It provides that in the matter of laws and rules made under **Article 145**, the Supreme Court has the power to review any judgement pronounced (or order made) by it.
- Such a petition needs to be filed **within 30 days from the date of judgement** or order.

What is the Procedure?

- A curative petition may be filed after a review plea against the final conviction is dismissed.
- It can be entertained if the petitioner establishes that there was a violation of the principles of natural justice, and that he was not heard by the court before passing an order.
- It must be rare rather than regular.
- A curative petition must be first circulated to a Bench of the three senior-most judges, and the judges who passed the concerned judgment, if available. Only when a majority of the judges conclude that the matter needs hearing should it be listed before the same Bench.
- The Bench at any stage of consideration of the curative petition can ask a senior counsel to assist it as amicus curiae (Friend of the court).

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- A curative petition is usually decided by judges in the chamber unless a specific request for an open-court hearing is allowed.

What are the grounds for Rejection?

- In the event of the Bench holding at any stage that the petition is without any merit, it may impose a penalty on the petitioner.

