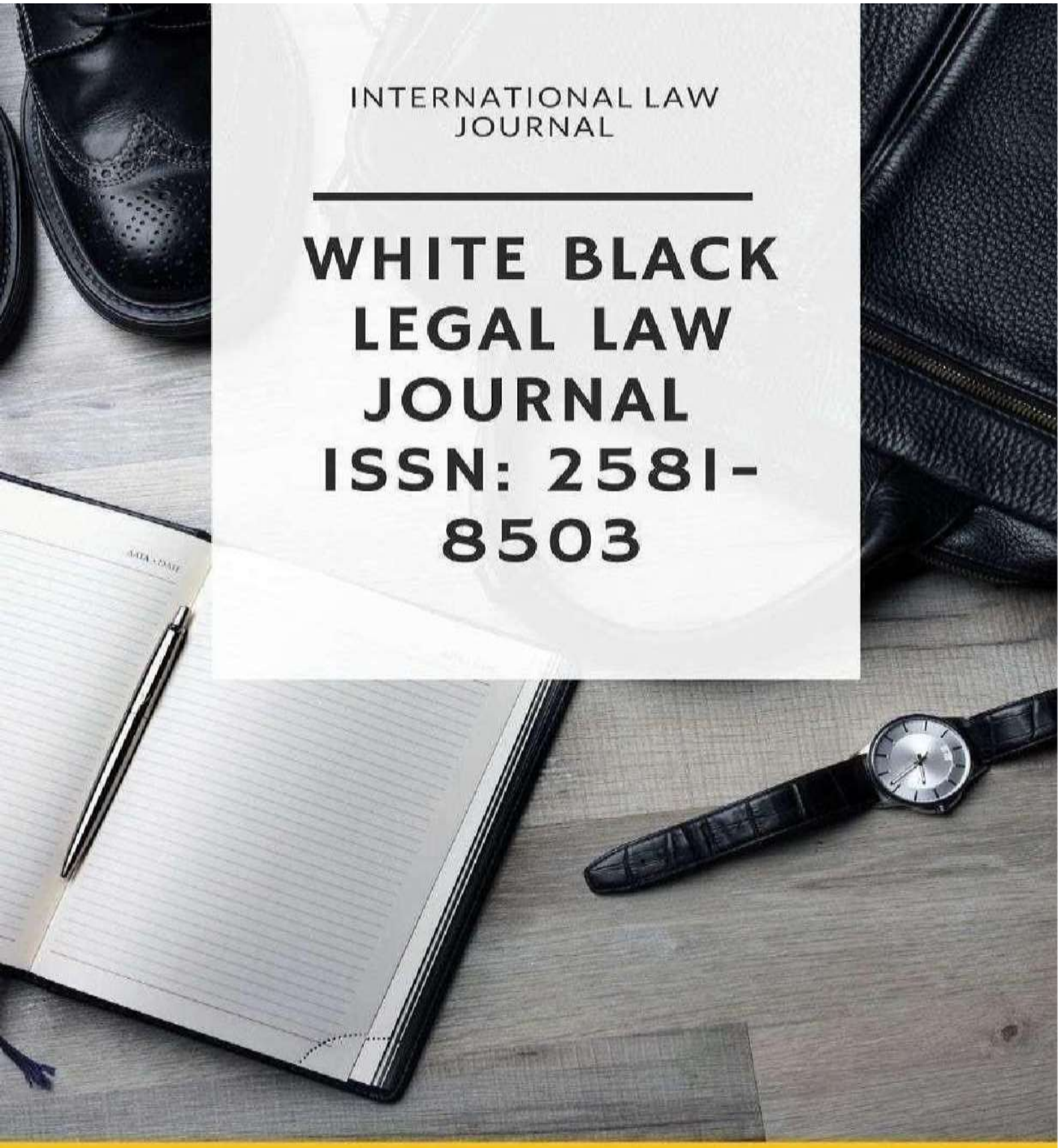

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ADMINSTRATION OF JUSTICE IN CONSTITUTIONAL BENCH CASES

AUTHORED BY - NIHARIKAPRADHAN
L.L.M ONE YEAR
The Indian Law Institute (Deemed University)

SUBMITTED TO - PROF, DR ANURAG DEEP

INTRODUCTION

A bench of the Supreme Court with five or more judges is known as a Constitution Bench. These seats are not a normal peculiarity. The majority of Supreme Court cases are heard and decided by a bench of two or three judges (called a Division Bench). Constitutional benches are a rare exception, and they are only used in one or more of the following situations:
According to Article 145(3) of the Constitution, which mandates that such matters be heard by a bench of not less than five judges, the case involves a substantial legal question regarding the interpretation of the Constitution;[1]

In accordance with Article 143 [2]of the Constitution, the Indian President has sought the Supreme Court's opinion on a factual or legal issue [again, see Article 145(3)];
The Supreme Court's three-judge benches have issued contradictory rulings on the same legal issue, necessitating a more comprehensive decision;
A later three-judge bench of the Supreme Court questions whether a decision made by a previous three-judge bench of the Court was correct and decides to refer the case to a larger bench for a new decision. At the moment, Constitution Benches are established on an as-needed basis. The concept of a Constitution Bench is simple: Rarely, it is formed to resolve significant issues of fact or legal and/or constitutional interpretation.

Due to the fact that the only way to overturn a Constitution Bench verdict is to first persuade a subsequent five-judge Supreme Court bench that the view previously taken was incorrect, have

[1] ARTICLE 145(3) constitution of India.
[2] Article 143 constitution of India.

the matter referred to a larger bench of seven judges, and then persuade that bench of seven judges to overrule the previous judgment of the Constitution Bench, it is also abundantly clear in the majority of cases that the pronouncement of a Constitution Bench is unlikely to be disturbed or overruled for a long time Therefore, it would not be an exaggeration to say that Constitution Benches have a great deal of authority and responsibility to set the course that the law will follow for a significant amount of time to come.

In fact, being a good judge on the country's highest constitutional court is all about being able to do this job well. A Supreme Court Judge is not appointed solely to rule on trivial issues like whether a landlord's petition against his tenant was filed within the statute of limitations, how much money Messers Goons & Co. should pay Messer's Irrelevant & Co. for using their property without permission, and so on. Tragically by far most of cases under the watchful eye of our adjudicators end up being this unremarkable, and further, that they are recorded solely after a High Court has proactively given a judgment regarding this situation to the best of its legal capacity (leaving little degree for the High Court's impedance).

However, when a person is chosen to serve as a judge on the Supreme Court, it is expected that they will be able to resolve larger, more intricate issues of legal and constitutional significance and that they will do a good job.[3]

JANHIT ABHIYAN V UNION OF INDIA

FACTS:

The Constitution (103rd) Amendment Act of 2019 was questioned in the current case. In the January 2019 amendment approved by Parliament, economic reservation in employment and education was proposed to be provided by inserting clause (6) into Articles 15 and 16. The state was able to make special provisions for the advancement of economically disadvantaged citizens under Article 15(6), such as reservations for educational institutions.

ISSUES:

- Reservations for a specific segment of society cannot be based solely on economic criteria, which violates the constitution's fundamental structure.

[3] Lokendra Malik, "Appointment of 'Distinguished Jurist' as Judges in the Supreme Court of India: A Squandered Constitutional Mandate", 62 JILI (2020) 168.

- Inexplicably discriminatory, the exclusion of Socially and Educationally Backward Classes (SEBCs), also known as SCs, STs, and OBCs, from these special provisions for EWS is against the constitution's fundamental structure.
- The 10% upper limit on reservation for EWS directly violates the 50% cap on reservation, which goes against the constitution's ethos and jurisprudence on reservation, violates the Equality Code, and thus again violates the fundamental structure of the constitution.

INTERPRETATION:

it was first filled In 18 Jan 2019 and subsequently various petition was filled under different petitioners every matter was connected with the civil writ petition no: 55 of 2019. Because the issues and question of laws was same. On 05 august 2018, this matter was referred to 3 judges bench and with all the collective cases it was heard and than also it referred to higher benches which is constitutional bench. But if we see the trend than from 2019 to 2020 it has taken 1 year gap but does not resolve the essential question which is pertaining to the case but after 2 year on 07 November 2022, it has solve the essential question of laws [4]. in recent trend there are 4 years time taken for deciding a case of civil writ petition was never seen before some important cases which holds important questions of law has taken place takes a time of 15 years for deciding whether it is not infringing Any constitutional provision or interpretate a new undermine definitions from it. And this a landmark performance of supreme court judges to produce a judgement in a small tenure .the work of judges is not to create burden on the court but to dispose off the case and give relevant solution to the problem of the case related . according to the justice Benjamin N Cardozo "it is when the colour do not match, when the reference index fail, when there is no decisive precedent , that the serious business of the judge begins". [5]The judges work is not to match with the similar fact and issues but to resolve the complexities of law with there knowledge and skills. supreme court should act as an actual guardian and not just for the mere formality only. a Constitution bench can be formed when a two-judge bench and later a three-judge bench deliver conflicting judgements on the same issue. [6]But here no judgement has been a dissenting judgement but it is referred to higher judges if we see the trend from 2018 it was seen that every case was declined to pass any relief and

[4] Ashutosh Mishra, "evolving role of the doctrine of basic structure in contemporary times" , RGNLU student research review (RSRR).
[5] Benjamin N. Cardozo, THE NATURE OF THEJUDICIAL PROCESS,334
[6] *Janhit Abhiyan* v *Union Of India, 5 August, 2020.*

transfer it to civil writ petition, delay the pronouncement every time, from every other petition there was one application of change implementation which was clubbed with this petition[7]. There was the trend of pendency to dispose off the case with the relevant and appropriate relief. It creates the burden on different high court due to pendency and they are not having the authority to solve such kind of complexities, so they were entertained but they were put under stay[8].

M SIDDIQ (D) THRLRS V MANAT SURESH DAS

FACTS:

According to the Ramayana, it was believed that Shri Ram Janmabhoomi, also known as Lord Ram, was born in Ayodhya. Hindus also held the belief that Ram's birthplace contained an ancient temple. However, the first Mughal Emperor Babur demolished the temple in 1528 and constructed the Babri Masjid mosque there. Following that, the kar savaks demolished it in 1992. Hindus and Muslims are at odds because of the construction and deconstruction of religious structures. Both groups claim that the disputed location belongs to their religious denomination.

ISSUE:

1) Whether or not suit 3, 4, and 5 or any one of them is prohibited by the 1908 limitation Act?
2) Does the Ram Janmabhoomi constitute a legal entity?
3) Does the temple lie beneath the questionable structure? If so, does existence grant Hindu parties title?[9]

INTERPRETATION:

It is a civil appeal case and its first filled in 2010 and has essentially important perspective of law to be dealt adequately according to my findings in case of Bir Singh v Delhi Jal board [10]and others has taken time of 6yrs approximately from the date of its filling and in the case of public interest litigation v union of India, I analyse the huge gap as this case is depicting the journey from criminal to civil appeal and the gap of 11 years has being noted for deciding case

[7]Rajnish Jindal, Amit rajAgarwal, "delays and pendency of court cases in India – an analysis", PJAEE, 18(8) (2021).
[9] *M.Siddiq (D) Thr. Lrs*. v*Mahant Suresh Das* on 26 February, 2019.
[10] *Bir Singh* v *Delhi Jal Board*. on 30 August, 2018.

and giving its judgement. So captured different trend has being observed specifically for the cases of civil appeal cases one of the most famous case KS puttaswamy [11]case which was first filled in 2012 and it has being decided in 2018. Observing this trend there is an uncalculated and no estimation is fixed for such kind of the cases how much time taken by constitutional bench.

With this analysis, "we must come to see with the distinguish jurist of yesterday, that justice too delayed is justice to denied". According to martin Luther king jr[12]. these analysis and quotes fit with this findings / analysis it is the judge who should work speedily to resolve the questions of laws which create less pendency/ delays in the court of law and keeping this in consideration upon the view point given by athur von Mehran from the quotation I quote "Indian society will not understand nor enjoy such contribution that of the judicial process could make to the solution with great complexities". From the researcher point of view on the analysis of data, there are matters of civil appeal in large number but it does not go always to the constitutional bench but rather create, in total 64,000appeal cases are pending in supreme court in which 18,016 are appeal cases which are civil in nature. In a large majority of pending cases it may not be necessary to write a detailed judgment particularly if the appeal is to be dismissed. At the conclusion of the hearing, the Court generally should pronounce its judgment by a short order dictated in the open court. Only in cases where the question of law involved is of general importance a detailed judgment may be delivered asearly as possible after conclusion of hearing asearly as possible after conclusion of hearing.[13]

INDIAN YOUNG LAWYER ASSOCIATION V ***STATE OF KERALA***,

FACTS:

The Indian Young Lawyers Association brought the case to the Hon'ble Supreme Court of India via public interest litigation (PIL) in 2006. The "Entry of Women in Sabarimala Temple" aspect of the case is crucial. The petitioners raised a number of issues in which they argued that the restrictions on women's entry into the temple are unconstitutional because they violate Articles 14, 15, 17, 25, and 26 of the Indian Constitution. The Sabarimala Temple is in the

[11] *Justice K.S. Puttaswamy and Anr.* v. *Union of India (UOI) and Ors.* (2019) 1 SCC 1.
[12] The Legacy Of Dr. Martin Luther King, Jr., https://www.naacpldf.org/naacp-publications/ldf-blog/legacy-dr-martin-luther-king-jr/#:~:text=%E2%80%9CWe%20must%20come%20to%20see,and%20God%2Dgiven%20rights.%E2%80%9D, (last visited 22nd December 2022).
[13] Over 64,000 appeals pending in Supreme Court, The economic times, Dec 09, 2021.

Pathanamthitta District of Kerala's Periyar Tiger Reserve, in the western ghat mountain ranges. Lord Ayyappa is what makes this temple famous. Because it is a place of worship, it prohibits women between the ages of 10 and 50 who are menstruating from entering.

ISSUES:

- Whether the exclusionary practice, which is based on a biological factor that only affects women, violates Article 14, Article 15, and Article 17 at their core and is protected by "morality" as defined in Articles 25 and 26[6] of the Constitution.
- Is it possible that this restriction goes against the Kerala Hindu Place of Public Worship Act of 1965?
- Does the Sabarimala Temple have a religious bent?
- Is it permissible for a "religious denomination" to prohibit women between the ages of 10 and 50 from entering Hindu places of worship in Kerala under rule 3 (Authorization of Entry)?[14]

INTERPRETATION

it was first filed in 18th August 2006, and it was since this time only hearing takes place than there is the journey from referring to constitutional bench , it took the journey to end is 13 yrs. for a particular trial of writ petition which is in civil nature.

There is no written mandate expressly that the judges has to act expeditiously and to look into the matter in a given time frame.

As we see the time frame which is concerned for my initial finding I trace the earlier trend from 1970 and before 2022 as well the court took an approximate time of 10 – 14 yrs. Before This judgement of economic weaker section, which itself created the history in the constitutional bench to dispose of the matter within 4 years from its filling.

With such peculiar observation “the ascertainment of intention may be at least of the judges trouble in ascribing meaning to the statues.’’ With this line the work of the judges should be appreciated as they are the one who ascertain the true or different meaning from the statues in which they have to interpret the law like for example any article of the constitution which raises

[14] *Indian young lawyer association* v *state of Kerala* (2019)11SCC 1.

an important question of law. The judges act accordingly to the current trend and scenario of the law.[15]

But if we see the recent trend than supreme court is taking serious concern to resolve the matter within 1 year of the filing and chief justice of India also emphasize the importance of district court judges functioning and it should be taken into serious account "District judges are not subordinates; they must change their mindset", so it would resolve the pendency of the cases in the courts.

There work is also important in describing the particular meaning of the law/ statues and not for creating the pendency in the court, fear of irrational inquiry in which they are being threaten by others and sacrificing there work ethics and following colour matching of the case and not going to solve actual question of law pertaining in it. It is not necessarily that the court sets precedent for the similar nature and the supreme court hold the power not to follow the decision on like we see in current trend that dy chandrachud overruled his father y.v chandrachud in case of adultery, article 368 admjabalpur case.

In case of *Tamil nandu medical officer* v *union of India*[16], this case was filled in 2018 and its judgement was delivered its judgement in 2020, so we see that now the judiciary is taking active participation.

PM COLD STORAGE PRIVATE LIMITEDV MONOTRONE LEASING PRIVATE LIMITED

FACTS:

M/s. Pvt. Monotrone Leasing Ltd., also known as the "Financial Creditor," provided M/s with a loan of Rs.25,000,000. Pvt. PM Cold Storage Ltd., which was to be returned to the Financial Creditor within 90 days at a rate of 15% per year and be referred to as the "Corporate Debtor" in this document. That the money was sent through RTGS, that the Corporate Debtor properly acknowledged it in a letter to the Financial Creditor, and that a check for the same amount was also given to the Financial Creditor in exchange for the loan. However, after paying the interest for a few months, the Corporate Debtor defaulted by not repaying the amount within that time

[15] SUMEDA,The Constitution Benches of the Supreme Court, the Hindu , October 14, 2022.
[16]*Tamil nandu medical officer* v *union of India 31 August, 2020.*

frame.

ISSUE:

The Financial Creditor presented a case to the Hon'ble National Company Law Tribunal, Mumbai Bench, in accordance with Section 7 of the IBC. That the same was rejected because the Financial Creditor did not have any evidence regarding the loan application and could not produce the certificate under the Information Utility, so the Adjudicating Authority cannot serve as a Recovery Tribunal. Due to the Financial Creditor's failure to provide evidence regarding how the loan was obtained from the NBFC, the Hon'ble Adjudicating Authority also drew a negative conclusion against the Financial Creditor. The Hon'ble Adjudicating Authority assumed that the Corporate Debtor could not default due to their financial stability, and as a result, the Section 7 petition was denied.[17]

INTERPRETATION

This case filled in the year 2020 and it is a curative petition and from all the analysis, I find out that within 2 years this cases are disposed by constitutional bench. The Indian Constitution's Article 137.When technical difficulties or other concerns about reopening a case prevent reviewing judgments, a curative petition is required to provide a final means of correcting any judgment errors[18]. Yes the curative petition are for reviewing purpose in the judgement if that judgement is harming the party interest at the larger interest but as a researcher I am not able to find out why curative petition cases takes 2 years time for giving or reversing the judgement which was already given. It give certain specification specifically that the cited grounds were taken into account in the review petition and that it was circulated to be rejected.[19] Curative petition does not hold any interpretation or essential question of law which has to be settled by the constitutional bench specifically in my research I have limited my research with limited curative petition case were I found that these cases are disposed off within 2 years from its admission of the case , and whereas curative petition in criminal case According to Article 72 of the Indian Constitution[20], the President has the authority to commute the punishment imposed by the Apex court, also known as the Supreme Court of India. However, the council

[17] Between the Lines, https://www.vaishlaw.com/nclat-the-occurrence-of-a-default-and-not-the-inability-to-pay-debt-is-relevant-for-admitting-or-rejecting-an-application-for-initiation-of-cirp-unde, (last visited 26 October 2022).
[18] ARTICLE 137 CONSTITUTION OF INDIA.
[19]K.N BHAT, "Possibilities for procedural reforms in the administration of justice- supreme court", (1984) 3 SCC J-32.
[20] ARTICLE 72 constitution of India.

of masters must be consulted before making any decision, so pardons cannot be granted at will. There are very less number of curative petition in criminal cases has being admitted by the supreme court mostly they dismissed. The 2002 case *Rupa Ashok Hurra* v. *Anr*. and *Ashok Hurra* [21]over the question of whether an individual who has been wronged can get relief from the Supreme Court's final judgment or order after a review petition is dismissed. In the case of *Navneet Kaur* v. *State of NCT of Delhi*[22], the curative petition, which was filed by Navneet Kaur without Devender Pal Singh against the dismissal of the review petition and prayed for the setting aside of his death sentence on the grounds of the preceding circumstance of delay of 8 years in disposal of mercy petition, was granted. The zenith court for this situation permitted the remedial appeal by driving capital punishment to life detainment on the ground of exorbitant postponement of 8 years in removal of kindness request and on the ground of madness. In a nine-judge Supreme Court bench made a decision in 1966 *Naresh Shridhar Mirajkar and Others,*. v. *State of Maharashtra and Anr,* [23]in which it was determined that a judicial order cannot be challenged as violating a fundamental right, it has taken 5yrs time to resolve the case.[24] A writ petition was filed for the second time in the same case under Article 32 of the Constitution before the Rupa Hurra case's curative petition was initiated. The purpose of the petition was to ask the Supreme Court to reconsider a final judgment and overturn the injustice. In the case *of A.R. Antulay* v. *R.S. Nayak & Anr.*[25], this was done. where the majority of the judges (5:2) decided that a petition under Article 32 or 136 of the Constitution could be used to overturn an earlier decision. Thus, it can be said that the curative petition concept is a Constitutional remedy that was created as a last resort to overturn the Supreme Court's decision on their own as a legal and moral obligation to decide the rarest of cases.

SUKHPAL SINGH KHAIRA* V *THE STATE OF PUNJAB

FACTS:

It was first filled in 2005, For violations of the NDPS Act, the Arms Act, and the Information Technology Act, a FIR was filed against eleven individuals. In the police's charge sheets, the appellants were not named, The prosecution requested the recall of a witness under Section 311 of the Criminal Procedure Code, who in 2017 identified the appellants as the accused. In 2019, the Supreme Court's two-judge bench decided that the case should be heard by a larger bench

[21] *Rupa Ashok Hurra* v. *Anr. and Ashok Hurra,* A.I.R. 2002 S.C. 177.
[22] *Navneet Kaur* v. *State of NCT of Delhi*, 31 March 1947.
[23] *Naresh Shridhar Mirajkar and Others,*. v. *State of Maharashtra and Anr 1967 AIR 1* .
[25] *A.R. Antulay* v. *R.S. Nayak & Anr*

because of the issues.

ISSUE:

- Is it possible for the trial court to summon additional accused under Section 319 of the Criminal Procedure Code when the other co-accused's trial has ended and the judgment of conviction has been issued on the same date before issuing the summoning order?
- Whether the trial court has the authority to summon additional accused under Section 319 of the Criminal Procedure Code when the trial of certain other absconding accused, whose presence is later secured, is ongoing or pending after being split from the main trial?[26]

INTERPRETATION:

This case took the journey of 17 years as it uphold the most crucial and important laws where express mandates were not given Article 136 of the Indian Constitution governs the appellate jurisdiction of the Supreme Court of India. The Supreme Court is authorized by this article to grant leave to appeal against any and all orders made by the various Indian High Courts, including criminal appeals, criminal revision petitions, and so on. A Special Leave Petition can be filed in the Supreme Court of India to contest any criminal court order made by the High Court. Typically, matters are heard for admission within two weeks of the Special Leave Petition's numbering when an appeal is filed and numbered. The aforementioned petition must be submitted within sixty days of the High Court's decision. The Supreme Court has the authority to accept the Special Leave Petition and excuse the delay if it finds sufficient justification for the delay. All parties must be notified and the case must be listed for final disposition if the Court decides to hear it. The Court may postpone the matter for a final hearing on a non-miscellaneous day if it is of the opinion that the case may take longer. Even on a day off, short matters are resolved in the second or third hearing. In most cases, petitions challenging final judgments are heard by the Supreme Court, but in some cases, SLPs are heard even against interim orders. Thousands of Criminal SLPs in India's Supreme Court have been handled by the firm and its lawyers.[27]

[26] *Sukhpal Singh Khaira* v *The State Of Punjab*, https://www.scobserver.in/wp-content/uploads/2022/12/Section-319-amicus.pdf.(last visited 23 december2022).
[27] Arthad Kurlekar, Jaimini Vyas, "Special leave petitions, an impediment to justice: need for structural changes ensures efficient time allocation of the court " , Nirma university law Journal: Volume-3, Issue-2.