



Curative Petition

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Why in News

Recently the two Nirbhaya case convicts have filed Curative petitions in the Supreme Court.

Earlier, the convicts had filed a **mercy petition** and **review petition** which has been rejected.

Key Points

- **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.
- **Objectives:**

It's objectives are twofolds- **avoid miscarriage of justice** and to **prevent abuse of process**.
- **Constitutional Background:**

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.

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

- **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.

Source: TH