



Curative Petition

For Prelims: [Supreme Court of India](#), [Curative Petition](#), [Contempt of Court](#), Article 145 of the Indian Constitution

For Mains: Special Powers of the Supreme Court of India, Curative Petition and its Significance.

Source: IE

Why in News?

In a significant move, the [Supreme Court of India](#) has exercised its "extraordinary powers" through a [curative petition](#) to overturn its previous judgement from 2021.

- This judgement overturns an arbitral award of nearly Rs 8,000 crore that the **Delhi Metro Rail Corporation (DMRC)** was ordered to pay to **Delhi Airport Metro Express Private Limited (DAMEPL)**, led by Reliance Infrastructure Ltd-consortium.

What is Delhi Metro Rail Corporation Ltd. v Delhi Airport Metro Express Pvt. Ltd. Case, 2024?

- **Background:**
 - In 2008, the DMRC partnered with DAMEPL to construct, operate, and maintain the Delhi Airport Metro Express.
 - Disputes led to the termination of the agreement by DAMEPL in 2013, citing safety concerns and operational issues.
 - Legal battles ensued, resulting in an arbitration panel ruling in favour of DAMEPL, ordering DMRC to pay nearly Rs 8,000 crore. However, the Delhi High Court directed DMRC to deposit 75% of the amount in an escrow account. The government appealed, and in 2019, the High Court's decision was overturned in favour of DMRC.
 - DAMEPL then approached the Supreme Court, which initially upheld the arbitral award in 2021.
- **Judgement:**
 - Recent judgement of the **SC ruled in favour of DMRC, citing a "fundamental error" in its previous judgement.**
 - The SC's decision is **significant as it highlights the importance of curative petitions**, provides clarity on legal frameworks for [public-private partnerships](#) in infrastructure projects, and demonstrates the court's willingness to correct errors and ensure justice, even years after a final verdict.

What is a Curative Petition?

- **Definition:** A curative petition is a legal recourse available after the dismissal of a review plea against a final conviction.
 - Constitutionally, a final ruling of the Supreme Court can typically be challenged only through a review petition, and even then, only on narrow procedural grounds.
 - However, the curative petition serves as a sparingly used judicial innovation to **rectify a grave miscarriage of justice.**
- **Objective:** It aims to prevent **miscarriage of justice and deter abuse of the legal process.**
- **Decision Process:** Curative petitions are typically decided by judges in chambers, though **open-court hearings** may be granted upon specific request.
- **Legal Basis:** Principles governing curative petitions were established by the Supreme Court in the case of [Rupa Ashok Hurra Vs Ashok Hurra & another Case, 2002.](#)
- **Criteria for Entertaining a Curative Petition:**
 - **Violation of Natural Justice:** It must be demonstrated that there was a **breach of principles of natural justice**, such as the petitioner not being heard before the court passed an order.
 - **Apprehension of Bias:** It may be admitted if there are grounds to suspect bias on the part of the judge, such as failure to disclose relevant facts.
- **Guidelines for Filing a Curative Petition:**
 - **Certification by Senior Advocate:** The petition must be accompanied by a certification from a senior advocate, highlighting substantial grounds for its consideration.
 - **Initial Review:** It is first circulated to a bench comprising the three senior-most judges, along with the judges who passed the original judgement, if available.
 - **Hearing:** Only if a majority of the judges deem it necessary for a hearing, it is listed for consideration, preferably before the same bench that passed the initial judgement.
- **Role of Amicus Curiae:** The bench may appoint a senior counsel to assist as **amicus curiae at any stage of the consideration of the curative petition.**
- **Cost Implications:** If the bench determines that the petition lacks merit and is vexatious, it may impose exemplary costs on the petitioner.
- **Judicial Discretion:** The Supreme Court emphasises that curative petitions **should be rare and reviewed with caution to maintain the integrity of the judicial process.**

Other Cases Related to Curative Petition:

- **Union of India v Union Carbide Case (Bhopal Gas Tragedy):**
 - The Union Govt. filed a curative petition in 2010 for more compensation for the Bhopal Gas Tragedy victims. In 2023, a 5-judge Bench rejected the petition, stating that the **previously decided compensation was sufficient.**
 - The Bench emphasised that a **curative petition can only be entertained in cases of gross miscarriage of justice, fraud, or suppression of material facts**, none of which were present in this case.
- **Navneet Kaur v State of NCT of Delhi Case, 2014:**
 - This case marked a shift in capital punishment cases. The petitioner, sentenced to death, successfully argued through a curative petition that **mental illness and an unreasonably long wait for a mercy petition** constituted grounds for commuting the sentence to life imprisonment.

What are the Special Powers of the Supreme Court of India?

- **Dispute Resolution:** [Article 131 of the Indian Constitution](#) gives the Supreme Court exclusive original jurisdiction in disputes between the **Government of India and one or more States, or between States themselves**, involving legal rights.
- **Discretionary Jurisdiction:** **Article 136** of the Indian Constitution grants the Supreme Court the power to **grant special leave to appeal** from any judgement, decree, or order made by any court or tribunal in India.
 - This power does **not apply to military tribunals and court-martials.**
- **Advisory Jurisdiction:** The Supreme Court has **advisory jurisdiction under Article 143** of the

Constitution, where the President of India can refer specific matters to the Court for its opinion.

- **Contempt Proceedings:** Under **Articles 129 and 142** of the Constitution, the Supreme Court has the authority to punish for **contempt of court**, including contempt of itself, either **suo motu** or petition by the **Attorney General**, Solicitor General, or any individual.
- **Review and Curative Powers:**
 - Article 145 gives the Supreme Court authority, with the **President's approval, to make rules for regulating the practice and procedure of the Court**, including rules for persons practising before the Court, hearing appeals, enforcing rights, and entertaining appeals.
 - It also includes rules for reviewing judgments, determining costs, granting bail, staying proceedings, and conducting inquiries.

Read more: [Curative Petition](#)

<https://www.drishtijudiciary.com/en>

Drishti Mains Question:

Q. Discuss the role of the Supreme Court in safeguarding the principles of natural justice and evaluate the effectiveness of curative petitions in rectifying judicial errors.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q. With reference to the Indian judiciary, consider the following statements: (2021)

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (c)

Mains

Q. Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to the appointment of judges of higher judiciary in India. (2017)