

FAQs

Curative Petition

Why is this in news?

Recently, the Supreme Court held Prashant Bhushan guilty of **criminal contempt of court** for his tweets against the CJI.

So, here arises a case of remedy of **curative petition** is available to him.

What is Curative Petition?

The concept 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.

Why has the court evolved curative petition?

The court used the Latin maxim “**actus curiae neminem gravabit**”, which means that an act of the court shall prejudice no one. Its objectives are twofold- avoid miscarriage of justice and to prevent abuse of process.

What are related Constitutional provisions for this mechanism?

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.

What is its procedure?

1. A curative petition may be filed after a review plea against the final conviction is dismissed.
2. 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.
3. It must be rare rather than regular.

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4. 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.
5. Only when a majority of the judges conclude that the matter needs hearing should it be listed before the same Bench.
6. 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).
7. A curative petition is usually decided by judges in the chamber unless a specific request for an open-court hearing is allowed.

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