

Power of the supreme court of India to do Complete justice: Article 142 And Doctrine of stare Decisis.

Article 142 of the Indian Constitution empowers the Supreme Court to exercise its discretion in delivering judgments, decrees, orders, and directions in cases where it deems necessary for achieving justice. Here's a brief explanation along with some notable case laws:

- 1. Article 142 Text:** "The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or orders so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe."

2. Explanation: Article 142 grants the Supreme Court the authority to issue orders or decrees to ensure complete justice in any case or matter before it. These orders are binding and enforceable across the entire territory of India.

3. Case Laws:

- **Amitabh Bachchan v. State of UP (1986):** In this case, the Supreme Court used Article 142 to order the release of certain prints of a movie that were seized by the state government. It was seen as a measure to balance the right to free speech and expression with the state's authority.

- **Vineet Narain v. Union of India (1998):** The court utilized Article 142 to issue directives for the establishment of Special Investigating Teams (SITs) to probe corruption cases. This case highlighted the court's power to issue directions in the interest of justice.

- ****State of Punjab v. Rafiq Masih (2014)****: In this case, Article 142 was employed to regularize the services of certain employees who were illegally appointed. The court used its discretion to provide relief to those affected.

Article 142 of the Indian Constitution grants the Supreme Court of India the power to do "complete justice" in cases. While there are numerous cases where Article 142 has been invoked, here are some landmark cases that illustrate the court's use of this provision:

M.C. Mehta v. Union of India (1996)**: In the "Oleum Gas Leak Case," Article 142 was employed to address environmental issues. The court issued orders to prevent pollution and protect the environment, emphasizing the importance of public health and environmental conservation.

Swiss Ribbons Pvt. Ltd. v. Union of India (2019):**

This case was related to the Insolvency and Bankruptcy Code. The Supreme Court used Article 142 to uphold the constitutionality of the code while interpreting and clarifying its provisions.

Bachan Singh v. State of Punjab (1980): In this landmark case on the death penalty, Article 142 was invoked to establish guidelines for the imposition of the death penalty in India. The court used its power to lay down principles for sentencing in capital punishment cases.

1. ****Discretionary Power**:** Article 142 confers discretionary power upon the Supreme Court. It allows the court to exercise its judgment and discretion to ensure that justice is served, even if the existing legal provisions are insufficient or do not provide an adequate remedy.

2. ****Wide Scope****: The scope of Article 142 is quite broad. It enables the Supreme Court to issue orders or directions on a wide range of matters, including civil, criminal, constitutional, and administrative cases.

3. ****Limitations****: While the Supreme Court has the authority to use Article 142, it must exercise this power judiciously and with restraint. The court cannot use it to create laws or provisions that go beyond the constitutional framework.

4. ****Presidential Orders and Parliamentary Laws****: Any decree or order passed by the Supreme Court under Article 142 is enforceable throughout the territory of India. The manner of enforcement may be prescribed by laws made by Parliament or, until such laws are enacted, as prescribed by orders of the President.

5. ****Precedents and Principles of Justice****: When invoking Article 142, the Supreme Court often relies on principles of equity, fairness, and justice. It also considers precedents and legal principles to ensure that its orders are in line with established legal norms.

6. ****Balancing Rights****: The court uses Article 142 to balance conflicting rights and interests, ensuring that justice is done without unduly infringing on individual rights.

In summary, Article 142 empowers the Supreme Court of India to take exceptional measures to ensure complete justice in cases where the regular legal provisions may be inadequate. However, this power is to be exercised carefully and in accordance with established legal principles to maintain the integrity of the judicial system.

Doctrine of stare Decisis –

The doctrine of stare decisis, often referred to as precedent, is a fundamental principle in the legal

system that obligates courts to follow and adhere to prior decisions or precedents when deciding similar cases. This doctrine provides consistency, predictability, and stability to the legal system. Here are some key aspects of the doctrine of stare decisis, along with examples and case laws:

****Key Aspects****:

1. ****Binding and Persuasive Precedents****:

Precedents can be categorized into two types: binding and persuasive. Binding precedents must be followed by lower courts within the same jurisdiction, while persuasive precedents may be considered but are not binding.

2. ****Hierarchy of Courts****: The doctrine operates within the hierarchy of courts. Higher courts' decisions are binding on lower courts within their jurisdiction.

3. **Overruling and Distinguishing**: Courts can overrule their own previous decisions if they believe they were wrongly decided. They can also distinguish cases when they find differences that justify a different outcome.

Examples and Case Laws:

1. **Example of Binding Precedent**:

- *M.C. Mehta v. Union of India (1986)*: In this environmental case, the Supreme Court established the principle of absolute liability for hazardous activities, which became a binding precedent in subsequent environmental cases in India.

2. **Example of Persuasive Precedent**:

- *H.L.A. Hart's "The Concept of Law"*: Although not a court case, legal scholar H.L.A. Hart's work on

the concept of law is often cited as a persuasive precedent in discussions about legal philosophy.

3. **Example of Overruling a Precedent**:

- **Kesavananda Bharati v. State of Kerala (1973)**: The Supreme Court of India overruled its earlier decision in the Golaknath case, asserting that Parliament had the power to amend any part of the Constitution, including fundamental rights. This was a significant shift in constitutional interpretation.

4. **Example of Distinguishing a Precedent**:

- **B.R. Rajam v. B.K. Srinivasan (1997)**: In this case, the Supreme Court distinguished a prior case on the grounds that the facts and circumstances were different, justifying a different legal outcome.

The doctrine of stare decisis plays a crucial role in maintaining consistency and stability in the legal system. However, it is not without exceptions, and

courts may depart from precedent when compelling reasons exist to do so. The application of the doctrine can vary between different legal systems, but it generally serves as an important tool for legal interpretation and decision-making.

The doctrine of stare decisis, or precedent, has both advantages and disadvantages in the legal system. It's important to note that the impact and significance of these pros and cons can vary depending on the specific legal system and its principles. Here are some key advantages and disadvantages of the doctrine of stare decisis:

Advantages:

1. Consistency and Predictability:

- ***Advantage***: Precedent ensures that similar cases are decided similarly, providing consistency in the legal system. This predictability helps individuals and businesses understand their legal rights and obligations.

2. Efficiency and Judicial Economy:

- **Advantage**: Precedent allows courts to rely on established principles, reducing the need to reinvent legal standards for every case. This promotes judicial efficiency and conserves resources.

3. Legal Stability:

- **Advantage**: The doctrine promotes legal stability by discouraging frequent changes in legal interpretations. This stability can be particularly important in areas like contract law and property law.

4. Preventing Arbitrary Decisions:

- **Advantage**: Stare decisis discourages judges from making arbitrary or personal decisions by requiring them to follow established legal principles.

Disadvantages:

1. Rigidity and Inflexibility:

- **Disadvantage**: Overreliance on precedent can lead to rigidity, where outdated or unjust legal rules continue to be followed. This can hinder legal evolution and adaptation to changing societal norms.

2. Injustice and Error Perpetuation:

- **Disadvantage**: Precedent may perpetuate legal errors or injustices if earlier decisions were flawed or biased. Correcting such errors may be difficult due to the binding nature of precedent.

3. Overburdened System:

- **Disadvantage**: The doctrine can result in a backlog of cases as courts meticulously analyze prior decisions. This can slow down the judicial process and delay justice.

4. Stifling Creativity:

- *Disadvantage*: Precedent may discourage judges from developing innovative legal solutions for emerging issues, especially in rapidly changing areas like technology and human rights.

5. **Inconsistent Precedent**:

- *Disadvantage*: Sometimes, courts issue conflicting decisions over time, creating confusion and uncertainty in the law. This inconsistency can undermine the credibility of the legal system.