
JUDICIAL REVIEW AND MANDAMUS: STRENGTHENING THE ENFORCEMENT OF FUNDAMENTAL RIGHTS

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Introduction

The judiciary in India plays a vital role in upholding democracy by preventing government officials from misusing their power and safeguarding the rights of citizens and protection of the Indian Constitution. The Indian Constitution establishes a judiciary that is robust, autonomous, and systematically structured.¹ The authority of judicial review is a constitutional power, as it is the Constitution that grants these powers to the Supreme Court and the High Courts in the States. Articles 32 and 226 grant the Supreme Court and High Courts the authority to take action against a government organisation in cases where a citizen's rights and freedoms are infringed upon. Article 226 of the Indian Constitution empowers the High Court to issue orders and writs to any individual or authority.² The primary objective of granting Article 226 powers to the High Court is to uphold the rule of law within society. When executive authorities exceed their jurisdiction and infringe upon citizens' rights, accountability is essential, as stipulated by Article 226. The Supreme Court possesses authority as outlined in Article 32 of the Constitution.³

Article 32 grants the Supreme Court the authority to issue directions, orders, or writs, as specifically outlined, for the enforcement of fundamental rights. Article 32 is distinctive since the right to approach the Supreme Court under this provision is recognised as a Fundamental Right in itself.⁴

¹ Ali Johar, "Dynamic Framework: India's Constitutional Governance, Separation of powers, and Judicial Activism" 3 *Indian Journal Integrated Research*. L. 1 (2023).

² Rehan Abeyratne and Didon Misri, "Separation of powers and the potential for constitutional dialogue in India" 5 *Journal of International & Comparative Law*, 363 (2018).

³ Juli Sathiyar Kumar, "Judicial Review: Exploring The Role of The Judiciary in Constitutional Interpretating under Article 226 and 32 of Indian Constitution" 4 *International journal of Research Publication and Reviews* 2568 (2024).

⁴ Anmol Arora, "Constitutional Democracy and Limitations of Judicial" 301 (2025).

The term “mandamus” comes from Latin and can be interpreted not only as a “command,” but also as an “order.”⁵ Accordingly, a writ of mandamus commands or orders or directs a person to perform the public duty, which appertains to his office. The objective of this writ is to meet a public duty by guaranteeing that judicial enforcement is effectively implemented.⁶

In order to guarantee the independence of the judicial system, the Constitution of India grants the judiciary the right to carry out judicial reviews. The Indian Constitution takes into consideration the establishment of an independent judiciary by granting it the power to conduct judicial reviews. It ensures that the basic rights of citizens are not violated by the legislative, executive, or administrative authorities, therefore protecting such rights. In addition, the Supreme Court and the High Courts of a number of states have occasionally provided their interpretations of the Constitution. The fact that India has a unified court system is extremely important. There is a single, unified judiciary that is comprised of “the Supreme Court, the High Courts, and the Lower Courts.”⁷ This court has power over all laws, regardless of whether they were approved by the State Legislature or the Parliament. It was in Britain that the system of administrative action that is susceptible to court examination was devised. In accordance with the principle of judicial review, a statute or piece of legislation may be deemed unconstitutional if it violates basic rights, the mandatory requirements of the Constitution, or if it exceeds the jurisdiction of the legislative branch (as stated in Article 246).⁸ A statute that infringes any rights or is extra vires can be deemed invalid by the court even in the absence of that since constitutional law is endowed with the capacity of judicial examination. This is because the court has the authority to examine constitutional law.⁹

Concept of Judicial Review

Judicial review constitutes a fundamental aspect of the rule of law, a core principle enshrined in the Indian Constitution. The Judiciary operates independently and possesses extensive powers to resolve disputes, impose fines and penalties, and, most importantly, interpret the law. The court possesses the authority to examine the actions of other branches or levels of

⁵ Manish Kumar Khunger, “Writ of Mandamus: Legal Imperatives and Doctrinal Limitations” 7 *International Journal of Creative Research Thoughts* 410 (2025).

⁶ Monika Bisht and Munni Padalia, “Safeguarding Environment by Constitutional Provisions in India” 27 *Journal of Acharaya Narendra Dev Research Institute* 135 (2019).

⁷ Paramjit S. Jaswal, *India-Judicial Review in Preventive Detention and Security Law* 71-103 (Brill Nijhoff, 1993).

⁸ Ruparekha Jena and Shreyasi Nath, “Understanding Judicial Review in Administration” 4 *International Journal of Management & Human* 152 (2021).

⁹ Jayashree Dey, “An Analytical Study on Judiciary and Its Judicial Review Power in USA and India” 4 *Indian Journal of Law & Legal Research* . 1 (2022).

government, specifically regarding its power to nullify legislative and executive actions deemed unconstitutional. In the case of *L. Chandra Kumar v. Union of India*,¹⁰ the Hon'ble Supreme Court provided clarity on the concise definition of Judicial Review, stating that, "The definition of judicial review in the American context is, subject to a few modifications, equally applicable to the concept as it is understood in Indian Constitutional Law." Judicial review in India encompasses three main aspects: the review of legislative action, the review of judicial decisions, and the review of administrative action.¹¹ The Hon'ble Supreme Court of India clearly articulated the concept of Judicial Review concerning legislative actions in the *L. Chandra Kumar* case, stating, "The constitutional safeguards that ensure the independence of the Superior Judiciary are not applicable to the judges of the subordinate judiciary or to those tribunals established by ordinary legislation."¹² As a result, judges of this category cannot be regarded as complete and effective substitutes for the superior judiciary in fulfilling the role of constitutional interpretation. Consequently, the authority of judicial review concerning legislative actions, as granted to High Courts under Article 226 and to the Supreme Court under Article 32 of the Constitution, is a fundamental and indispensable aspect of the Constitution, forming part of its basic structure.¹³

In the case of *A.K. Kraipak v. Union of India*,¹⁴ the Court held that to ascertain whether the action of the administrative authority is quasi-judicial or administrative, it is essential to examine the nature of the power conferred, the recipient of that power, the framework governing the power, and the resulting consequences. The judicial review of administrative action serves to uphold constitutional discipline over administrative agencies in the exercise of their powers.¹⁵ Its origins can be traced back to England, where it was adopted in countries following common law. India also adopted the concept of judicial review from England. India established its framework based on English prerogative, following the pattern issued by the court of King's Bench to oversee the proper adherence to law by officials and authorities in

¹⁰ AIR 1997 SC 1125

¹¹ Vedant Singh and Vatsal Chadha, "Judicial Discretion in Balancing Political Objectives and Constitutional Principles: An Examination of Precedents like *State of Rajasthan v. Union of India* in the Context of Indian Federalism" *Social Science Research Network* 16 (2023).

¹² Ayush Johri, "A Study of the Judicial Trend of Fundamental Right to Life and Personal Liberty and Preventive Detention vis-a-vis *Francis Coralie Case*" 4 *Indian Journal & Legal Research*. 45 (2022).

¹³ Usha Antharvedi, "Judicial Review of Administrative Actions and Principles" *Social Science Research Network* 110 (2008); Rahul Shamota, "Judicial Review in India and Constitution" 5 *International Journal Management & Human* (2022).

¹⁴ AIR 1970 SC 150

¹⁵ Prashant Saurabh, "The Judicial Review of Administrative Action: An Analysis" 2 *Indian Journal of Integrated Research*. 1 (2022).

both judicial and non-judicial functions.¹⁶ Judicial Review serves as an effective mechanism for evaluating and addressing arbitrary, unjust, harassing, and unconstitutional laws. Judicial review serves as a fundamental element of constitutionalism, signifying the principle of limited government.¹⁷

The Supreme Court of India, in the case of *Municipal Corporation Gondia vs. Divi Works & Suppliers HUF (2022)*,¹⁸ examined the relevance of the writ of mandamus concerning contractual disputes, specifically focussing on the enforcement of contractual obligations as outlined in Article 226 of the Indian Constitution. The petitioner, Divi Works & Suppliers HUF, requested relief via a writ of mandamus, asking the court to instruct the Municipal Corporation to fulfil a contractual obligation. The Supreme Court has clarified that a writ of mandamus is not applicable for enforcing specific performance of a contract, particularly in situations involving work orders or commercial agreements between private entities and government bodies.

The Court noted that the primary aim of mandamus is to ensure that public authorities fulfil their statutory duties or public obligations, and it is not intended as a remedy for the enforcement of purely contractual rights. The statement highlighted that contractual disputes, encompassing claims regarding specific performance, payment matters, or the execution of agreements, should be resolved through suitable civil proceedings. This includes actions for breach of contract or specific performance in civil courts, rather than through constitutional writ jurisdiction. The Supreme Court, through this ruling, has clarified the separation between public law remedies and private contractual issues. It emphasised that although a public authority may fall under writ jurisdiction in instances of statutory violations or breaches of public duty, this does not extend to disputes related to contractual obligations that do not involve statutory violations. This ruling establishes an important precedent in defining the boundaries of judicial intervention within writ jurisdiction, emphasising that contractual disputes ought to be addressed primarily through civil litigation or arbitration instead of utilising extraordinary constitutional remedies such as mandamus.

The significance of judicial oversight of administrative actions centres on safeguarding legality

¹⁶ Amr Ibn Munir, "The History and Development of the Law of Prerogative Writs under the Pakistani Legal System: A Critical Evaluation" *Social Science Research Network 1* (2024).

¹⁷ Vratika Singh and Dhannjay Singh Pundir, "Judicial Review of Administrative Actions: An Overview" *5 Indian Journal & Legal Research*, 71(2023).

¹⁸ HUF Civil Appeal No. 1538 of 2022.

and the rights of individuals by nullifying the final decisions made by state bodies or public administration.¹⁹ Consequently, numerous states within the European system have established administrative courts as specialised entities for the resolution of administrative disputes. By implementing a judicial control system, citizens' expectations for the protection of their rights can be fulfilled when a party asserts that the administration has engaged in material or procedural violations during the resolution of administrative matters. However, in practice, citizens' expectations are often not fully recognized, as the party does not make efforts to pursue judicial control by filing regular or extraordinary legal remedies at higher levels of the court.²⁰

The judicial review of administrative actions is the most significant development that has taken place. In India, the Constitution contains the doctrine of judicial review, and the subject has the ability to petition both the High Court and the Supreme Court in order to have basic rights that are guaranteed by the Constitution enforced. The regular courts of law have the ability to overturn a decision if it is shown that the executive branch or the government has abused the power that has been placed in them or if the action is not done in good faith. In accordance with Article 13 of the Constitution, all rules, regulations, ordinances, bylaws, notifications, customs, and usages are considered to be "laws." If any of these laws are in conflict with or contrary to any of the provisions of the Constitution, the Supreme Court and the High Courts have the authority to declare them to be beyond the scope of their authority. The purpose of judicial review of administrative action is to safeguard citizens against the misuse of authority by any branch of the state-owned government.²¹ Further, Articles 136 and 142 of the Indian Constitution are essential in the judicial review process and the enforcement of writs, including mandamus. Article 136 empowers the Supreme Court to grant special leave to appeal from any judgement, decree, or order issued by any court or tribunal in India, thereby allowing it to exercise extensive appellate jurisdiction. This enables the Court to take action in situations where a miscarriage of justice could arise, including the failure of authorities to fulfil their public responsibilities.

Article 142 grants the Supreme Court the authority to issue any decree or make orders deemed necessary to ensure complete justice in any case or matter before it. This article emphasises the

¹⁹ S. S. Dhavan, "The Indian judicial system: a historical survey" 1 *High Court of Judicature at Allahabad Commemoration* 82(2022).

²⁰ Mirlinda Batalli, and Islam Pepaj, "Citizens' right To Seek Judicial Review Of Administrative Acts And Its Impact On Governance Reforms" 2 *Corporate Governance and Organizational Behavior Review* 85-94 (2022).

²¹ Sangeeta Mandal, *Judicial review under Indian constitution: its reach and contents* (2014) (PhD diss., University of North Bengal).

Court's authority to issue binding directives, including writs such as mandamus, to uphold adherence to the rule of law. Both articles collectively reinforce the authority of the Constitution by ensuring that public authorities operate within the limits of legality and constitutional obligation.

Evolution of Writ of Mandamus

The Writ of Mandamus, meaning “We Command,” has its origins in English law. Historically, the King of England, as the central authority of the administrative framework, would issue mandamus to his subjects, directing them to carry out the public duties required of them multiple times throughout the day. Tracing the origin of the issuance of mandamus, as a prerogative of the royal court of England, presents a significant challenge, primarily because it has never been regarded as an absolute judicial act, but rather as one of a quasi-judicial nature. Mandamus was employed by the King of England to oversee and manage the police and similar public authorities, ensuring the maintenance of social peace and public order across all levels of the State. Since its inception, mandamus has been utilized to enforce the execution of various public and quasi-public duties that have been unlawfully denied.²² This includes instances related to the restoration of office, the conduct of elections, and the prevention of the dissolution of local municipal bodies and authorities. Therefore, a writ in the nature of mandamus is characterised as a formal command issued in the name of the Crown, originating from the Court of the King’s Bench, directed towards a subordinate court, an inferior tribunal, a corporation, board, or any other individual, mandating the performance of a public duty. A duty may be established by the Constitution (the Supreme Law), a statute, or generally through common law. Mandamus is a term derived from Latin that translates to a “command” or an “order.” A writ of mandamus serves to command or direct an individual to fulfill the public duty associated with their position.²³ In instances where any court, tribunal, authority, board, corporation, or individual tasked with the execution of a public duty neglects to fulfill that obligation, a writ of mandamus may be sought to compel the individual to perform the duty or function as mandated by the supreme law, statute, or common law. In relation to India, the writ of mandamus adheres to the English model. In pre-independent India, the three Supreme Courts, established by their respective charters, possessed the authority to issue a writ of

²² Orby Mootham, *Constitutional Writs in India in Changing Law in Developing Countries* 97-113 (Routledge, 2021).

²³ Mihika Poddar, and Bhavya Nahar, "Continuing Mandamus'-A Judicial Innovation to Bridge the Right-Remedy Gap" 10 *NUJS L. Rev.* 555 (2017).

mandamus within the Presidency towns. The earliest reported case in India regarding the writ of mandamus is *R v. Warren Hastings*.²⁴ In this instance, a mandamus was requested against the Supreme Council of the Governor-General; however, the mandamus was not granted and was therefore denied. Another reported case regarding the writ of mandamus in pre-independent India was that of *Tan Bug Taim v. Collector of Bombay*.²⁵ An order requisitioning immovable property under the Defence of India Rules was deemed ultra-vires, and a mandamus was issued. The Government contended that there was no legal basis for requiring the Collector to refrain from requisitioning and that Section 45 of the Specific Relief Act, 1877, was not applicable in this context. The Court determined that “law” encompassed the Royal Charter, statute, and common law, and that Section 299(1) of the Government of India Act, 1935 pertained to acquisition. That was sufficient to engage Section 45. In another case (*Commissioner of Police, Bombay v. Gordhandas Bhanji*),²⁶ it was determined that the phrase “any law” was sufficiently broad to encompass all types of laws, whether statutory or otherwise.

Writ of Mandamus and Public Authority

The writ of mandamus, a constitutional remedy under Articles 32 and 226 of the Indian Constitution, functions as an effective mechanism to compel public authorities to fulfil their legally mandated responsibilities. Public authorities are anticipated to not only uphold this writ but also to aid in its enforcement, reflecting a commitment to constitutional accountability and the rule of law.

Public officials must adhere to the principles of administrative law, which mandate compliance with statutory duties and the non-arbitrary exercise of authority. A writ of mandamus issued by a competent court obligates public authorities to adhere to the order; non-compliance may result in a finding of contempt of court.²⁷ This mechanism guarantees that public bodies fulfil their legal obligations, particularly when these responsibilities impact fundamental rights or the public interest.²⁸ Judicial bodies have emphasised that public authorities are required to operate as constitutional entities, signifying that their responsibilities must be executed in

²⁴ (1775) 1 ID (OS) 1005

²⁵ AIR 1946 Bom 216

²⁶ AIR 1952 SC 16

²⁷ M.P. Jain, *Indian Constitutional Law* 22 (LexisNexis, 8th edn., 2020).

²⁸ Satyaranjan Purushottam Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 36 (Oxford University Press, 2nd edn., 2002).

alignment with legal standards and principles of justice. In the case of *State of Bihar v. D.N. Ganguly*,²⁹ the Supreme Court underscored the importance of adherence to judicial directives within the writ jurisdiction, noting that failure to comply jeopardises the integrity of constitutional governance.

Furthermore, the function of internal grievance redressal mechanisms and departmental oversight within public institutions is crucial in ensuring adherence to writ compliance. These systems function as a safeguard to facilitate prompt action and avert the escalation of administrative failures to the judicial level. Therefore, although courts commence the mandamus process, the true safeguard and effectiveness of the writ depend on the diligent adherence to legal obligations by public authorities.

In *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani*,³⁰ the Supreme Court issued a significant ruling that broadened the applicability of the writ of mandamus. The matter concerned the personnel of an educational trust who pursued terminal benefits. The Trust contended that, as a private entity, it fell outside the scope of mandamus. The Court dismissed this argument and determined that mandamus could be issued not only against statutory authorities but also against private entities performing public duties. The ruling clarified that when a private institution engages in functions of considerable public significance, such as education, it cannot escape constitutional accountability. This decision greatly expanded the scope of writ jurisdiction by affirming that public obligations cannot be evaded solely based on private status.

In *S.P. Gupta v. Union of India*,³¹ the Supreme Court emphasised the importance of judicial review as an essential tool for ensuring accountability and safeguarding fundamental rights. The judgement, while primarily focused on judicial appointments, highlighted the wider significance of mandamus as a protective measure against arbitrariness. The recognition of citizens' rights, including the ability to utilise public interest litigation to invoke mandamus against state actions, serves to reinforce constitutional governance.

Enforcement of Fundamental Rights and Writ of Mandamus

The Supreme Court of India is granted the authority, under Article 32, to issue a writ of

²⁹ AIR 1958 SC 1018

³⁰ (1989) 2 SCC 691

³¹ (1981) Supp SCC 87

mandamus for the enforcement of fundamental rights. Concurrently, every High Court possesses the power to issue a writ in the nature of mandamus under Article 226 for the enforcement of fundamental rights and for 'any other purpose' within the territories under its jurisdiction. Courts in India have consistently upheld that a writ of mandamus is not an entitlement and is not issued automatically (*ex debito justitiae*). The decision to grant or refuse is at the court's discretion. Courts must deny mandamus unless it is demonstrated that the applicant possesses a clear legal right or that the respondent has a statutory duty, and that no alternative remedy is accessible to the applicant. In the case of *Praga Tools Corporation v. C.A. Imanuel*,³² the Supreme Court of India noted that an order of mandamus is, in essence, a directive issued to an individual, corporation, or subordinate tribunal, compelling them to perform a specific action related to their official responsibilities, which constitutes a public duty. It is not essential for the individual or entity upon whom such public duty is imposed to be a public official or statutory authority. A writ of mandamus can be issued against any public authority, including administrative and local bodies. It applies to any individual who is under a duty, whether imposed by statute or common law, to perform a specific act. To secure a writ or an order in the nature of mandamus, the applicant must demonstrate to the court that they possess a legal right to compel the performance of a legal duty by the party against whom mandamus is sought. This right must be in existence at the time the petition is filed.³³

Except in the event that an accusation of non-compliance with a legal obligation or a public responsibility is lodged, a writ of mandamus will not be granted. In order to demonstrate that there was a distinct and particular demand for the execution of any legal or public obligation that was placed upon the party in question, it is necessary to provide solid proof that the person in question rejected to comply with the demand. When an original piece of legislation passed by the Union or a state goes beyond its legislative orbit and causes harm to private interests, the owner of such interests has the ability to file a mandamus, which instructs the states to refrain from enforcing the law in question "in any way, shape, or form." In the process of attempting to deal with various stages and forms of ultra vires administrative action, whether it be with regard to internment or election, taxes or license fees, evacuee property or the firing of public servants, the task of this writ becomes increasingly burdensome.³⁴

³² (1969) 1 SCC 585

³³ Shivam Goel, "Writ of Mandamus" *Social Science Research Network* 258 (2015).

³⁴ Shyam Prakash Pandey, "Constitutional Provision Of Judicial Review In India: An Evaluation" *Asian Journal of Advances in Research* 291-301 (2020).

In the case of *Union of India & Ors. Vs. K. Pushpavanam & Ors.*,³⁵ the Hon'ble Supreme Court determined that: (i) A writ court is not authorized to instruct the Government to consider the introduction of a specific bill before the House of Legislature within a designated time frame. (ii) The applicant does not possess a vested right to assert that the Law Commission established by the Central Government should be granted constitutional or statutory status. (iii) The decision regarding the appointment of a qualified nodal officer in each department, tasked with documenting the Courts' recommendations and communicating them to the Policy-Makers through periodic reports, rests with the Central Government. The legal principles concerning the authority of the writ court to direct the legislature to enact legislation are firmly established. A Constitutional Court is not empowered to issue a writ of mandamus to compel a legislature to enact legislation on a specific subject in a designated manner. The Court may, at most, document its opinion or recommendation regarding the need to amend the current law or to establish a new law.

It was in the case of *M/S Annapurna Construction Co. vs. State of Uttar Pradesh and Others*³⁶ that the Allahabad High Court provided clarification about the criteria under which mandamus might be awarded in issues pertaining to contractual conflicts. Without unusual circumstances, such as the respondents confessing to overdue dues, the court ruled that writ jurisdiction cannot be utilised to handle contractual issues. This was the conclusion reached by the court. Due to the fact that this decision underscores the fact that mandamus is only admissible in commercial disputes where there is an explicit acknowledgement of debt by the respondent, its utility in contentious contractual conflicts is limited as a result.

In the case of *John Paily and Others vs. the State of Kerala and Others (2021)*,³⁷ the Supreme Court made it clear that a writ of mandamus cannot be issued in order to compel the creation of an adjudicatory body or tribunal. This opinion asserts that the creation of such entities comes within the realm of the executive or legislative branch, and that the court is not able to mandate the construction of such bodies through the use of mandamus. This case has the effect of delineating the bounds of judicial involvement.

In *A.S. Sandhu vs. Union of India & Another*,³⁸ the petitioner contested the deduction of ₹6.5

³⁵ (2018) 13 SCC 240

³⁶ (2021)8 SCC 154.

³⁷ (2021)13 SCC762.

³⁸ 2023 PHHC 111665.

lakh from his gratuity and a 10% reduction in pension, which were imposed without providing him a fair opportunity to present his case. The Court determined that, despite the availability of alternative statutory remedies, the writ petition was permissible under Article 226 due to the disciplinary action's infringement of the principles of natural justice. The Court noted that when a public authority neglects to fulfil a legal obligation or engages in arbitrary actions, the High Court has the authority to issue a writ of mandamus to ensure compliance with the law. The Court, by annulling the contested penalty and mandating the reinstatement of the petitioner's retirement benefits, effectively issued a writ of mandamus, thereby obligating the respondent authorities to fulfil their legal responsibilities and maintain procedural fairness.

In addition, the Supreme Court of India addressed a significant matter concerning the maintainability of writ petitions under Article 226 of the Constitution in the case of *South Indian Bank Ltd. & Others v. Naveen Mathew Philip*,³⁹ particularly in relation to the SARFAESI Act, 2002. The situation emerged when the borrowers, whose loan accounts were designated as non-performing assets (NPAs), sought recourse from the Kerala High Court following the issuance of recovery notices by the bank under Section 13(2) of the SARFAESI Act. The High Court, exercising its writ jurisdiction, considered the petitions and permitted the borrowers to repay their dues in installments, despite the existence and functionality of alternative statutory remedies under the Debt Recovery Tribunal (DRT) and Debt Recovery Appellate Tribunal (DRAT) at that time.

The Supreme Court, while maintaining the specific relief granted in this case, provided significant commentary on the inappropriate application of writ jurisdiction in commercial matters. It highlighted that High Courts ought to avoid considering petitions under Article 226 when there are effective statutory remedies available under the SARFAESI Act. The Court noted that writ petitions should not be employed to circumvent the statutory frameworks established in special laws, especially those concerning financial recovery. Such judicial intervention compromises the legislative purpose behind the establishment of specialised tribunals such as the DRT and DRAT.

The Court has provided a clear clarification regarding the scope of the writ of mandamus in this context. It was determined that mandamus is a prerogative writ that can only be issued when there exists a clear legal right held by the petitioner and a corresponding statutory duty

³⁹ (2022)3 scc 85.

on the part of the respondent that remains unfulfilled. Without the existence of a legal right, and given that a statutory forum such as the DRT is available and capable of providing relief, the High Court ought not to issue a writ of mandamus. The Court emphasised that mandamus cannot be utilised to direct or regulate purely commercial decisions or to enforce one-sided repayment proposals from borrowers that do not stem from a legal entitlement under the statute.

Consequently, the ruling reinforced the notion that the writ of mandamus should not be utilised as an alternative to statutory remedies, particularly in financial matters governed by SARFAESI. This serves as a warning to High Courts regarding judicial overreach in situations where the legislature has established a clear and effective alternative mechanism. This ruling reinforces the discipline surrounding the application of Article 226 and emphasises that writ remedies, including mandamus, should be utilised with caution, especially in the context of commercial and contractual obligations.

In *Seeji Padmanabhan vs. State of Kerala*,⁴⁰ the Kerala High Court examined a writ petition under Article 226, requesting a writ of mandamus to compel the State to fulfil a statutory obligation—specifically, to provide certain mandatory benefits (such as pension or gratuity) to the petitioner, who asserted entitlement in accordance with the law. The Court, referencing *Oriental Bank of Commerce vs. Sunder Lal Jain*⁴¹ and established legal principles, emphasised that a writ of mandamus is applicable solely when there exists a clear, unequivocal, specific, ministerial obligation mandated by law, a lack of any sufficient alternative remedy, and a failure by public authorities to execute that obligation. In accordance with established principles, the Court determined that the petitioner possessed a clear legal right and that no viable alternative remedy was available, thus making mandamus the suitable remedy. The High Court had issued the writ, instructing the State authorities to fulfil their statutory obligations and provide the necessary benefits without any further delay.

Conclusion and Suggestions

The study of judicial review, specifically through the judicial review power of the high courts and the supreme court, shows the importance of judicial review in protecting the constitution and protecting individual rights. Articles 32 and 226 of the Constitution define the powers of judicial review of the Supreme Court and the high courts; thus, the Supreme Court and the high

⁴⁰ W.P.(C)No.46613 of 2024

⁴¹ (2008) 2 SCC 280

courts may act under these provisions to protect constitutional principles and protect individual rights. Within the scope of these provisions, the writ of mandamus developed as one of the main types of judicial remedies because it ensures that all government agencies act according to the law and not act arbitrarily or exceed their authority. Just like the other writs (habeas corpus, certiorari, prohibition, and quo warranto), the writ of mandamus plays an important role in ensuring that the power of the state is exercised legally, responsibly, and transparently.

While strong constitutional remedies are available, challenges persist that hamper the successful enforcement of fundamental rights, showing a gap between judicial decisions and their administrative execution. The judiciary has powers to grant writs that give orders for action, but the efficacy of such remedies is weakened in situations where the implementation is inadequate, delayed, or opposed by the authorities concerned. This loophole indicates that stronger mechanisms for compliance and clearer administrative accountability will be required to ensure that judicial decisions produce real protection for citizens.

The expansion of privatisation has clearly complicated the scope of mandamus, particularly when private entities undertake responsibilities that have substantial public implications. The issue of whether mandamus can be applied to such entities is marked by inconsistency in judicial decisions, leading to uncertainty for individuals pursuing remedies. Consequently, there is an increasing necessity for a more defined and consistent judicial or legislative framework to ascertain when a private entity ought to be regarded as executing a public function. In the absence of such clarity, individuals may persist in encountering challenges in obtaining judicial protection against violations occurring within privatised sectors. Moreover, variations in judicial interpretation among various High Courts have led to ambiguity in the application of writ remedies. A more unified approach through authoritative judicial clarification would minimise contradictions and guarantee that fundamental rights are consistently protected across all jurisdictions.

Another important aspect that needs attention is public awareness. Many people are still not fully aware of their right to directly approach constitutional courts in case of a violation of their fundamental rights. Lack of awareness translates into inadequate utilization of the available remedies, and violations are allowed to continue unchecked. Enhancing community legal literacy, integrating information on writ remedies into civic education, and leveraging digital platforms for community outreach will greatly facilitate access to justice.

The use of new technologies to improve the effectiveness of the writ jurisprudence is possible with the introduction of electronic monitoring systems and compliance reporting systems that allow for transparent compliance by the executive branch as well as for real-time tracking of government compliance with judicial orders.

Therefore, though mandamus remains an important constitutional tool to ensure fundamental rights, its effectiveness in real life depends upon addressing the existing gaps in implementation, interpretation, and public awareness. The courts have played a significant role in bringing about change; nevertheless, more administrative responsiveness, better doctrinal clarity, and more active citizen engagement are needed to enhance the remedy's effectiveness in real terms. With the evolving scheme of governance and increased reliance of citizens on judicial intervention for the protection of their rights, it has become imperative to make writ remedies more effective, accessible, and enforceable. Any improvement in those aspects will ensure that judicial review and mandamus continue to uphold the rule of law and adhere to the constitutional promise of justice, freedom, and equality for all.