
A CRITICAL STUDY ON WRIT OF HABEAS CORPUS

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ABSTRACT

The Constitution of India authorizes a person to approach the Court to seek appropriate remedy for violation of his rights due to arbitrary action of any administrative authority, he may approach the Court for appropriate remedy. Articles 32 and 226 of the Constitution of India empower the Supreme Court and High Courts, respectively, to take necessary actions for the enforcement of the fundamental rights of people. A writ can be defined as an order of the Court directing an individual or authority to do an act or abstain from doing some act. This research paper is concerned with the concept of writ of Habeas Corpus and its application. Habeas Corpus means “to have the body”. It provides protection against arbitrary and unlawful detention of an individual. By virtue of this writ, the Court directs that the person thus detained be brought before it to determine the legitimacy of his custody. If the Court decides that the detention was unlawful, then such person in custody must be released immediately. The writ of habeas corpus has been referred to as a great constitutional privilege or the first safeguard of civil rights since it provides a speedy and effective remedy for unjust detention. The research project further discusses and features of Habeas Corpus. Various case laws have been referred to understand how the writ of habeas corpus has been applied by the courts and if the writ is valid during a national emergency.

Keywords: Writ, Habeas Corpus, Unlawful detention, Constitutional privilege.

INTRODUCTION

Every citizen of India is entitled to a number of fundamental rights under Part III of the Constitution of India, which includes the right to equality, opportunity, protection, liberty, and life—all necessary for a dignified life. Having these essential rights is insufficient on its own. Ensuring the appropriate protection and enforcement of these rights is imperative. Any person whose believes fundamental rights have been violated is entitled to seek redress from the court. The Indian Constitution grants writ jurisdiction under Articles 32 and 226 on the Supreme Court and High Courts, respectively, for the protection and enforcement of these fundamental rights.

Article 32 enshrined under Part III of the Constitution of India provides for "right to constitutional remedies." Under Article 32 the Supreme Court is designated as the protector and guarantor of fundamental rights. According to Article 32(1), a person has the right to approach the Supreme Court to have their fundamental rights enforced in cases where the government or any authority violates any of the rights provided under Part III of the Constitution. Article 32 can only be invoked to enforce fundamental rights which are enshrined under Part III.¹ Enforcement of other rights does not come within the ambit of Article 32. There is no remedy for the protection of rights other than fundamental rights before the Supreme Court.

According to Article 32(3), any court within the local jurisdiction of India may be authorised by law, by the parliament to issue writs, orders, or directions that are guaranteed under Article 32(2). According to Article 32(4) rights granted under Article 32 cannot be suspended unless the constitution specifically provides for such suspension.²

Article 226 of the Constitution, included in Chapter V, is invoked to enforce fundamental rights as well as to prevent other rights from being violated. Under Article 226(1), it provides the High courts with discretionary power to issue directions, orders, or writs to any person, authority, government, or public official in the form of habeas corpus, mandamus, prohibition, quo-warranto, or certiorari for the enforcement of fundamental rights or any other rights under its own local jurisdiction. According to Article 226(2), if the cause of action entirely or partially relates to the jurisdiction of the high court, the concerned high court may still issue directions or

¹ Indian Constitution Article 32

² Legal Services India, <https://www.legalservicesindia.com/article/1885/Constitutional-philosophy-of-Writs:-A-detailed-analysis.html>, last accessed on 28th February 2024.

orders to the government, authority, or person, even if their residence is outside of its local jurisdiction.

Compared to Article 32, Article 226 has a much wider scope. Article 226 grants the High courts the authority to issue orders, directions, or writs for the enforcement of both fundamental rights as well as other rights. The Supreme Court is empowered by Article 32, whereas the High Court is empowered by Article 226. Article 226 also talks about the interim writ orders and also states the mechanism by which the high courts will handle such interim orders. While Article 32 which provides for 'right to constitutional remedies' is a fundamental right, Article 226 is not a fundamental right rather a constitutional right.

WHAT IS WRIT?

A formal legal document or order issued by the Supreme Court or High Court directing an individual, official, or authority to take a certain action or refrain from taking a certain action is known as a writ. Writs are issued by a higher judicial authority or official who has the legal and judicial authority to give such directions to a lower authority or person.³

Writs were first issued as "a written command of the King" by Anglo-Saxon kings, and they subsequently found their way into the English common law system. Later the doctrine of prerogative writs was adopted by the Constitution of India from English common law system.

A writ petition is a remedial measure which is filed when fundamental rights of an individual are violated or they are treated unfairly. The constitution provides remedy against the law and order regulating authority in order to-

- i. safeguard and enforce fundamental rights of people against court orders.
- ii. to give people recourse against the capricious and unlawful conduct of any higher authority or the subordinate court.
- iii. to ensure that public authorities operate effectively.
- iv. to provide the aggrieved party with an alternative in the event that the allegations are upheld by appeals to the appropriate higher authorities within the judicial system.
- v. to guarantee that justice is done and not denied.

³ IPLEADERS, Writ Jurisdiction of Supreme Court, <https://blog.ipleaders.in/writ-jurisdiction-of-supreme>), last accessed on 28th February 2024.

THERE ARE FIVE TYPES OF WRIT:

- a) *HABEAS CORPUS*- means “to have the body”. The Court issues writ of habeas corpus directing a person or an authority that has detained or confined another person to bring that person before the Court and also provide grounds for such detention.
- b) *MANDAMUS*- An order in the form of command, from a higher court to a lower court or any public authority, directing them to perform public duty or abstain from acting in a way that exceeds their power.
- c) *PROHIBITION*- This writ means "stay order," or "to prohibit." The superior court issues writ of prohibition to the subordinate courts or tribunals to prevent them from making decisions in cases over which they lack legal authority.
- d) *CERTIORARI*- means "to certify." This writ can be issued in cases where an order or decision of the court has violated the principle of natural justice or was made by a lower court, tribunal, or quasi-judicial body that is outside of their jurisdiction.
- e) *QUO WARRANTO*- means “by what authority”. This writ is issued to stop a person from usurping the public office to which he is not legally entitled or to inquire a person as to by what authority he is holding a public office.

ORIGIN AND EVOLUTION OF HABEAS CORPUS

The history of Habeas Corpus dates back to the year 1215. King John signed the famous Magna Carta, which reads, "No man shall be arrested or imprisoned...except by the lawful judgement of his peers and by the law of the land," stated under Clause 39. Around 1600, the English courts started actively considering habeas corpus petitions. The initial objective of habeas corpus was to challenge the king's "divine right to imprison people." During that period, there were many additional constables and officials who also detained people for various offences. Habeas corpus subsequently evolved as the King's authority to seek an explanation for the individual whose freedom has been revoked by other authorities.

The United States also adopted the habeas corpus law, which has its roots in Anglo-American jurisprudence. It was James Madison who argued for the enactment of the Bill of Rights, which included Habeas Corpus in 1789. The significance of habeas corpus was further emphasized by Chief Justice Marshall, the fourth Chief Justice of the United States Supreme Court. According to his 1830 ruling the "great object" of the writ of habeas corpus, "is the liberation of those who may be imprisoned without sufficient cause." According to the U.S. Supreme

Court, the "writ of habeas corpus is the fundamental instrument for safeguarding individual against arbitrary and unlawful state action" and therefore needs to be "administered with the initiative and flexibility essential to ensure that miscarriages of justice within its reach are highlighted and corrected."

The history of this unprecedented writ in India begins in 1774, when the English colonists introduced the writ of habeas corpus in Calcutta. The English Supreme Court granted only certain judges the authority to issue writs to the petitioners. The court as a whole did not receive this authority. Subsequently, it was determined that the entire Supreme Court should be empowered the authority to grant writ of habeas corpus, rather than simply a small group of select judges.

The writ was sent to the Mofussil towns by the Supreme Court after 1774. Due to the wide expansion of court's authority, there arose a conflict between the Government and the court. As a result, it was concluded that the court could extend its powers to issue writ to the Mofussils, but only to British-origin subjects. High Courts were ordered to be established and therefore the three Presidency courts at Fort William in Bengal, Bombay, and Madras were established in 1862. The power to issue writs of habeas corpus was passed down to these courts. In the case of *Rex v. Warren Hastings*, Sir Elijah Impey, the Chief Justice of Calcutta at the time, granted habeas corpus for the first time. It was first included in the Code of Criminal Procedure.

CONCEPT OF HABEAS CORPUS

One of the most fundamental and important human rights is the "right to life and personal liberty," which is protected by Article 21 of the Indian Constitution and other Human Rights Conventions. It states that no one shall be deprived of their life or personal liberty unless it is done in accordance to the procedure established by law⁴. "To have the body" is the literal meaning of the Latin term "Habeas Corpus." It serves as a protection against unjustified and unlawful detention of a person. The aim of issuing writ of habeas corpus is to release a prisoner from unjustified custody, that is, to prevent detention lacking valid reason or evidence to support it.

⁴ Article 21: cf Art, XXXI of the Japanese Constitution, 1946, and Art. 40 of the Irish Constitution

GROUNDS FOR ISSUING HABEAS CORPUS

- i. The detention was carried out contrary to the established procedure. For example, the person arrested was not brought before a magistrate within 24 hours of being arrested.⁵
- ii. There was no violation of law committed by the detained person.
- iii. When an authority exercised his power of detention mala fide.
- iv. The law under which such a person is arrested, is void or unconstitutional.

It is an order that the court issues when someone is detained illegally or in a manner that does not comply with Article 22 of the Indian Constitution. The Court by issuing this writ, orders the person or authority that has detained or confined another person to present the detained person before the Court. The detaining authority or official is required by the Court to establish a legitimate reason for the detention of the person and if the authority is unable to do so, the person will be immediately released from the custody. In certain situations, the court may also decide to compensate the person who was detained.

In the case of *Veena Sethi v. State of Bihar*⁶, the court was notified through a letter that some prisoners, who were deemed insane during their trial but later found to be sane, were not released from prison because the state officials did not take any action and as a result the prisoners were forced to spend more 20 to 30 years in the jail. The court ordered their immediate release.

Illustration: X, a police officer, has wrongfully detained Y. Y writes to the High Court regarding the same. The High Court issues a summons to X to produce Y before the court asking the grounds for the detention of Y. If Y fails to provide a valid ground or justification, the court will release Y from such detention.

The writ of habeas corpus is very essential as it provides protection of personal liberty to the citizens and prevents any form of unlawful detention. In the absence of this writ, any person can be unlawfully restrained or detained by any authority or other person and it will be a clear violation of the personal freedom and liberty of the citizens. The aggrieved person will have no remedy left other than suffering in silence.

The detainee or any other person on behalf of the detainee may file the application of writ of

⁵ Indian Constitution Article 22

⁶ AIR 1983 SC 339

habeas corpus. Because it deals with personal liberty of citizens and defends their fundamental rights from arbitrary actions, it is one of the most prominent writs. In the case of *Bhim Singh v. State of Jammu and Kashmir*⁷, the constitutional rights of the petitioner were violated due to his wrongful detention. The petitioner in this case received damages from the Supreme Court. The court ruled in the case of *ADM Jabalpur v. Shivkant Shukla*⁸ that "no one had the right to file any application for habeas corpus or any other writs during the state of emergency" and that detention in a state of emergency could not be challenged.

RULES REGARDING THE WRIT OF HABEAS CORPUS

The following are the rules related to the writ of Habeas Corpus:

1. The applicant must be in custody of another person or authority or official.
2. The detained person and his family members are usually allowed to file an application for habeas corpus but in some cases the court also allows application made by any third party if it is done in public interest.
3. The manner prescribed for filing the writ is uncertain. Therefore, the courts accept both formal and informal applications in respect of the writ. For instance, a writ application can also be made by postcard. In the case of *Sunil Batra v. Delhi Administration*⁹, the Supreme Court had accepted the application made through a letter by a co-convict (a stranger) exposing the inhuman and cruel treatment of prisoners. In this case, the letter was accepted as an application and the writ of habeas corpus was duly issued.
4. A person is not allowed to submit the same writ application successively to many judges of the same court in succession. If an application is denied by one judge, it cannot be filed before another judge in the same court. If it is so done, the principle of res judicata will lead the application to be rejected.
5. This writ shall be applicable in the event when the police make an arrest without following all required formalities and procedures. For instance, Section 56 of the Code of Criminal Procedure, mandates that the arrested individual must appear before a court or the police station officer within 24 hours of the arrest.

⁷ AIR 1986 SC 494

⁸ AIR 1976 SC 1207

⁹ AIR 1980 SC 1579

WHEN WRIT CANNOT BE ISSUED

- Where the detained person or the authority or person against whom the writ is directed are not under the jurisdiction of the court.
- When it is determined that the individual being held there is not being unlawfully detained.
- When the detention of an individual is necessary and intended.
- To secure the release of a person who has been imprisoned by a court on a criminal charge.
- To obstruct a Parliament or court of record from interfering with a proceeding for content.

FEATURES OF HABEAS CORPUS

- The primary function of the writ of habeas corpus is that of an inquiry writ. It is issued by the courts to determine the reason behind a person's detention. As such, it serves as a procedural safeguard against the authority of law enforcement, particularly with regard to their ability to apprehend.
- Furthermore, the court will order the person's immediate release if there are insufficient legal reasons for the arrest.
- The writ of habeas corpus serves as a fundamental instrument for safeguarding a person's freedom against the state's arbitrary and illegal actions. It also functions as a procedural tool that allows judges to examine administrative, judicial, or other governmental limitations on an individual's personal freedom.
- The writ of habeas corpus is a constitutional remedy available to the person who has lost his personal liberty. However, it cannot be used to challenge past illegal detentions.
- The scope of this writ has been expanded by the Supreme Court. The Court can now provide compensation for death as well as for previous unlawful detentions, as done in the *Rudul Shah v. State of Bihar* case¹⁰.

¹⁰ AIR 4 SCC 141 (1983)

CASE LAWS

1. RUDUL SAH v. STATE OF BIHAR¹¹

This case is a landmark judgment which helped in realizing the jurisprudence of state liability. It is considered particularly important as it led to the emergence of compensatory jurisprudence for the violation of fundamental rights under the Constitution. This case was case filed in the Supreme Court under Article 32 of the Indian Constitution as a public interest litigation (PIL). The petition sought to release Rudul Sah from illegal detention, also ancillary relief such as rehabilitation and compensation was given to him.

In 1953, Rudul Sah was arrested on charges of killing his wife. An Additional Sessions Judge had acquitted him in 1968 and ordered his release from custody pending additional orders. However, he remained in jail for more 14 years following his acquittal until 1982 when his predicament was brought to the attention of the public, prompting the filing of a PIL on his behalf. By the time the PIL was scheduled for a court hearing, Rudul Sah had already been released from prison. He did, however, ask the State for ancillary relief, which included payment for his rehabilitation, future medical costs, and damages for his unlawful detention. Together with the 5,000 previously paid, the Court directed the State to pay him with an additional 30,000 rupees as an interim measure.

2. KANU SANYAL v. DISTRICT MAGISTRATE¹²

The petitioner was an active member of the Naxalite organisation. He was placed under detention in Darjeeling's central jail due to a number of offences. A charge sheet was filed against him and some others. As the offences committed by them were of such a nature that could only be tried by a Sessions court and therefore the prisoners were produced before a special magistrate in Vishakhapatnam. The special magistrate issued a special warrant for this reason and the petitioner was sent to jail in Vishakhapatnam until the proceedings completed. As a result, the petitioner filed a suit, claiming that his imprisonment in Darjeeling was unlawful and in violation of Article 22.¹³ He argued that the magistrate in Darjeeling lacked sufficient jurisdiction and, so, was not entitled to try his case. He further asserted that the Prisoner's (Attendance in Courts) Act, 1955, Section 6,¹⁴ which expressly stipulates that an

¹¹ AIR (1983) 4 SCC 141

¹² AIR 1973 SCR 621

¹³ Indian Constitution Article 22.

¹⁴ Prisoner's Attendance in Courts Act, 1955, Sec 6.

officer may refrain from carrying out an order if the accused is pending trial or if only a preliminary investigation has been completed, should have prevented the magistrate in Darjeeling from complying with the special order.

In this decision it was stated that,

- The writ of habeas corpus cannot be issued in case when it becomes apparent that the person's detention is neither unlawful nor without jurisdiction. In such cases it would be utterly pointless since there is no legal basis for requesting a writ when the detention is required and justified.
- The date on which the petition was filed is the date that is to be taken into consideration in the case of a writ petition. The decision was made because the writ petition had to be submitted on the earliest date, which was the date that had to be sought and that would be the date on which it was filed in the court.
- Even in the absence of the detained person in the court, the court may nevertheless hear the Rule Nisi. According to Rule Nisi, a court's order is final unless the person to whom it pertains provides evidence to the contrary.¹⁵ The body of the person who has been detained must be presented before the court upon the issuance of a Rule Nisi. The word "produce" does not imply actual presence. Even if the writ's literal purpose is "to produce the body," ending the unlawful confinement is actually more important. Appearance in court is incidental to the main goal of habeas corpus, which is to protect the man who has been wrongfully imprisoned. It is known as the great writ only for the reason that it protects and safeguards citizens' rights to liberty and restrains the State's tyrannical powers.¹⁶

3. SUNIL BATRA v. DELHI ADMINISTRATION¹⁷

The case is centred on a prisoner's human rights. It draws attention to the appalling conditions found in Indian jails. Sunil Batra was a detainee at Delhi's Tihar Jail. There, he learned about Prem Chand, one of his fellow inmates, who was subjected to cruel torture in exchange for money and was receiving harsh treatment from the jail administration. Using batons, the warden tormented him. During one such occasion, Prem Chand needed to be hospitalised due to heavy bleeding. In order to take action against this inhumane treatment, Sunil Batra wrote a

¹⁵ "Rule nisi" merriamwebster.com, Merriam Webster n. d. Web. 20. Sept. 2015

¹⁶ V.G. Ramachandran, Law of Writs, 368, (6ed, 2006).

¹⁷ AIR 1980 SC 1579.

letter to the judge addressing this issue. After that, this letter was changed into a habeas corpus petition. Here, the Hon'ble Justice Krishna Iyer said that human rights does not end for a prisoner. He is equally entitled for all the rights and respect as a normal person is. If a prisoner is not respected as a person then there is no point to have democracy or a constitution at all. He further says that –

“The finest hour of justice comes when court and counsel constructively collaborate to fashion in the case a relief to the prisoner and fathom deeper to cure the institutional pathology which breeds wrong and defies right.”¹⁸

He goes so far as to declare that a state is doomed if its guards turn against the laws of the land. In light of this, the court fulfils its constitutional role as the state's voice and serves as a reminder to the State of its obligations. It is the responsibility of the judge and the court to guarantee that an individual is treated with a reasonable degree of decency and is not subjected to abuse or torture while imprisoned. Therefore, it was felt that habeas corpus needed to be expanded in order to protect the fundamental rights of those who are imprisoned and to enable even those individuals to benefit from it. The conversion of Sunil Batra's letter into a writ petition has expanded the scope of the writ's applicability. There was no one straight forward method for initiating a writ.¹⁹ Nevertheless, the parties are unable to correspond with the judges once the proceedings have started. In the case of *S.P. Gupta v. Union of India*²⁰, Justice Bhagwati rendered a decision akin to this. In this instance, it was decided that as circumstances are changing, new approaches must be developed to guarantee simple access to the legal system. In order to help individuals who have suffered the most from legal injustices but are unable to approach the court directly due to poverty, writ petitions in the form of letters were permitted to be heard. Thus, it was evident from this instance that this letter fulfilled a number of purposes.

NEELABATI BAHERA v. STATE OF ORISSA²¹

The case of Nilabati Bahera provides yet another illustration of a letter being regarded as a writ petition. In this instance, the police took away the petitioner's son from his house after he committed a theft. His body was discovered on a railway track the following day. Bahera

¹⁸ Sunil Batra v. Delhi Administration, AIR 1980 SC 1579.

¹⁹ V.N. Shukla, Constitution of India, 342, (12ed, 2013).

²⁰ AIR 1982 SC 149.

²¹ AIR 1993 SC 1960

claimed that her son died while in police custody and that the police were totally responsible for it, while the police stated that her son had fled from their custody later that evening. To hide the crime and present it as an accident, they made up the narrative. In a letter to the Supreme Court, the deceased man's mother requested damages for the loss of her son. The letter was converted into a writ petition of habeas corpus by the court, and also issued an inquiry right away. According to the report, Suman, the deceased, passed away as a result of multiple injuries sustained when he was in the police station. Those were not the wounds from a train accident. As a result, it was determined that his death occurred in custody and was not an accident. The court mandated that the perpetrators be charged and that the appropriate measures be implemented.²²

It was emphasized in this particular case that a person cannot be deprived of their basic rights or abused in such a brutal way that they should be killed merely because they have been lawfully confined to jail. In fact, it is the state's responsibility to guarantee a prisoner's rights. In the words of the learned judges:

*“His liberty is in the very nature of things, circumscribed by the very fact of his confinement and therefore his interest in the limited liberty left to him is rather precious.”*²³

WHEN HABEAS CORPUS WAS STRUCK DOWN

There have been moments of highs and lows for the writ of habeas corpus. Where in the above cases, the writ has come out of its way and has expanded its reach, and reached new heights, there are some cases where it had narrowed or rather closed itself. The case of *ADM Jabalpur v. Shukla*²⁴ is one example of this. Both the case and the statute are deemed to be flawed.

ADM JABALPUR v. SHUKLA, 1975

April 28th is considered as a dark day in the history of habeas corpus in India. A presidential order was passed and declared that no one was allowed to file a writ petition in any court to have their fundamental rights upheld. The High Court chose to consider the writ petitions in contravention of the government's directive. The High Court was requested by five Hon'ble judges to disregard any writ petitions submitted during the period of emergency.²⁵ This was

²² V.G. Ramachandran, Law of Writs, 407-08, (6ed, 2006)

²³ Neelabati Bahera v. State of Orissa AIR 1993 SC 1960

²⁴ AIR 1975 SC 1207

²⁵ Jos Peter D'Souza, When the Supreme Court Struck Down the Habeas Corpus, (June, 2001) <http://indiacode.nic.in/coiweb/amend/amend44.html>, last accessed on 29th February, 2024.

applicable even to the state of Jammu & Kashmir. Only Justice Khanna expressed dissent in his opinion.

Where does the judicial discretion go in the event of a presidential order? It was the primary issue that was brought up in this case. Is the declaration of emergency so essential as grant the State ultimate authority, to the extent that it negates the very purpose of allowing freedom to every person in the first place? In fact, the 1978 enactment of the 44th Amendment resulted from this poor judgement. The 44th Amendment of 1978 stipulated that even in times of emergency, the rights to life and personal liberty guaranteed by Article 21 cannot be suspended. Personal liberty has been reinforced in this way, and the writ of habeas corpus continues to be effective in times of emergency.

The right of habeas corpus serves as a check on the ability of the government to limit an individual's freedom. Ensuring the prompt examination of illegal and unconstitutional detentions is its primary goal. In the *State of Maharashtra v. Bhaurao Punjabrao Gawande* case, the Supreme Court clarified the parameters and reach of this writ. The Court stated that because it offers a swift and efficient remedy against wrongful and illegal detention, the writ of habeas corpus has been regarded as a great fundamental right or the first guarantee of civil liberty. By granting this writ, the court orders the body of the person who has been arrested to be brought before it so that it can verify the legality, jurisdiction, or basis for the arrest or detention.

One of the most important features of the writ of habeas corpus is the immediacy with which it must be decided. In this regard, the actions of both the Supreme Court and the High Court of Jammu and Kashmir have been concerning, to put it mildly. Numerous habeas corpus petitions were submitted in the aforementioned forums following the abrogation of Article 370 on August 5, 2019, however the courts have repeatedly postponed these cases, placing the petitioners in a precarious situation.

CONCLUSION

A thorough understanding of the scope and applicability of writ of habeas corpus can be gathered from the aforementioned examples. The integration of this concept within the Indian legal system is fostering justice throughout the nation. As has already been said, the purpose of habeas corpus is to release the person who is unlawfully detained and assist him in getting justice and his freedom back. It is not the same as just producing the body. Everyone whose fundamental rights have been violated has requested it and asked it to be enforced in that

situation. In many ways, habeas corpus has fulfilled its mandate; it has protected innocent persons from wrongful imprisonment and protected convicts from the rage of the jail authorities. For everyone who sincerely wanted the same, it has come to their aid. From *ADM Jabalpur v. Shukla*²⁶ to *Sunil Batra v. Delhi Administration*²⁷, the writ has experienced all of its highs and lows. Although its interpretation has been carefully applied in some cases, it has also been misused in other others. Ultimately, though, the writ has made many promises and has progressed significantly. All that is required is that its purview be expanded further so that it can serve those who seek justice.

²⁶ Sunil Batra v. Delhi Administration, AIR 1980 SC 1579.

²⁷ ADM. Jabalpur v. Shukla, AIR 1975, SC 1207

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