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THE JURISDICTION AND EVOLUTION OF ARTICLE 227 OF THE CONSTITUTION OF INDIA: FROM COLONIAL SUPERINTENDENCE TO CONSTITUTIONAL JUDICIAL SUPERVISION

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I. ABSTRACT

Article 227 of the Constitution of India confers upon every High Court the power of superintendence over all courts and tribunals within its territorial jurisdiction, subject to the constitutional exclusion relating to courts and tribunals constituted under laws concerning the Armed Forces. Although constitutional in form, this jurisdiction has a pre-Constitutional lineage traceable to Section 15 of the Indian High Courts Act, 1861, Section 107 of the Government of India Act, 1915, and Section 224 of the Government of India Act, 1935. A significant constitutional development occurred when Article 227 was enacted without reproducing Section 224(2) of the 1935 Act, which had prohibited High Courts from questioning judgments of inferior courts not otherwise subject to appeal or revision. In Waryam Singh v. Amarnath, the Supreme Court treated this omission as material and recognised that Article 227 restored the High Court's power of judicial superintendence under the earlier statutory framework. The jurisdiction has since evolved through a substantial body of Supreme Court jurisprudence. While Article 227 remains supervisory and cannot be converted into appellate or revisional jurisdiction, it is sufficiently wide to correct jurisdictional errors, perversity, grave dereliction of duty, flagrant violation of law, serious procedural illegality and manifest miscarriage of justice. The post-2002 curtailment of revisional jurisdiction under Section 115 of the Code of Civil Procedure, 1908 has further increased the practical significance of Article 227, particularly in challenges to interlocutory orders. This paper examines the historical genealogy, constitutional design, judicial

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development and contemporary scope of Article 227, and argues that its true character lies in constitutional judicial superintendence: broad in source, restrained in exercise, and directed towards ensuring that subordinate courts and tribunals remain within the limits of lawful authority.

II. KEYWORDS

Article 227, Judicial Superintendence, Statutory Genealogy of Superintendence, Section 115 CPC, Constitutional Judicial Supervision.

III. INTRODUCTION AND RESEARCH PROBLEM

The Indian Constitution does not create the High Courts merely as appellate institutions. The constitutional architecture assigns to them several distinct jurisdictions, including original, appellate, writ and supervisory jurisdictions. Among these, Article 227 occupies a distinctive position. It confers upon the High Court a constitutional power of superintendence over courts and tribunals functioning within its territorial jurisdiction.⁴

The significance of Article 227 lies partly in its historical continuity. The jurisdiction did not emerge suddenly in 1950. Its ancestry can be traced to the statutory framework governing the High Courts established during the colonial period. Section 15 of the Indian High Courts Act, 1861, vested in the High Courts the power of superintendence over courts subject to their appellate jurisdiction and simultaneously empowered them to call for returns, transfer proceedings, frame rules and regulate the practice of subordinate courts.⁵

The substance of this jurisdiction was substantially carried forward by Section 107 of the Government of India Act, 1915.⁶ However, the Government of India Act, 1935 introduced an important qualification. Section 224(2) provided that the provision conferring superintendence upon the High Court could not be construed as conferring

⁴ Constitution of India, art. 227(1).

⁵ *Aidal Singh v. Karan Singh*, AIR 1957 All 414 (FB).

⁶ *Shalini Shyam Shetty v. Rajendra Shankar Patil*, (2010) 8 SCC 329.

jurisdiction to question any judgment of an inferior court which was not otherwise subject to appeal or revision.⁷

The constitutional settlement made a significant departure. Article 227, as originally enacted, retained the basic power of superintendence but did not reproduce the restrictive clause corresponding to Section 224(2). The Constitution also expanded the field of superintendence by expressly including "tribunals" and by replacing the earlier expression concerning courts subject to the High Court's appellate jurisdiction with the wider territorial formulation.⁸

The omission was judicially recognised at an early stage. In *Waryam Singh v. Amarnath*, the Supreme Court expressly traced Article 227 to Section 15 of the High Courts Act, 1861 and Section 107 of the Government of India Act, 1915, and observed that the omission of Section 224(2) restored the power of judicial superintendence.⁹

The central question, therefore, is not merely what Article 227 presently provides. The more fundamental question is: How did the jurisdiction of High Court superintendence evolve from a colonial statutory power into an independent constitutional jurisdiction, and what is the precise extent of that jurisdiction in contemporary Indian law? This paper seeks to answer that question.

A. Research Objectives

The present research is undertaken with the following objectives:

1. To trace the historical genealogy of the jurisdiction of superintendence exercised by the High Courts from Section 15 of the Indian High Courts Act, 1861, through Section 107 of the Government of India Act, 1915, and Section 224 of the Government of India Act, 1935, culminating in Article 227 of the Constitution of India.
2. To examine the nature and scope of Section 15 of the Indian High Courts Act, 1861, and to determine whether the original statutory power of

⁷ Government of India Act, 1935, s. 224(2).

⁸ Constitution of India, art. 227(1).

⁹ *Ibid*

superintendence was confined to administrative supervision or also encompassed judicial supervision.

3. To analyse the development of judicial superintendence under Section 107 of the Government of India Act, 1915, with particular reference to the manner in which Indian courts interpreted and exercised the power.
4. To examine the significance of Section 224 of the Government of India Act, 1935, particularly the restrictive provision contained in Section 224(2), and its effect upon the judicial dimension of the High Court's supervisory jurisdiction.
5. To examine the constitutional transformation brought about by Article 227, including the significance of the omission of the restrictive language corresponding to Section 224(2), the express inclusion of tribunals and the adoption of a territorial formulation.
6. To examine the Constituent Assembly's treatment of the provision corresponding to Article 227, and to assess the extent to which the constitutional text represents a continuation, modification or restoration of the pre-Constitutional jurisdiction of High Court superintendence.
7. To analyse the landmark judicial decisions which have shaped Article 227 jurisprudence, particularly *Waryam Singh v. Amarnath*, *Babhutmal Raichand Oswal v. Laxmibai R. Tarte*, *Chandrasekhar Singh v. Siya Ram Singh*, *Estralla Rubber v. Dass Estate (P) Ltd.*, *State through Special Cell, New Delhi v. Navjot Sandhu*, *Surya Dev Rai v. Ram Chander Rai*, *Shalini Shyam Shetty v. Rajendra Shankar Patil* and *Radhey Shyam v. Chhabi Nath*.
8. To delineate the constitutional distinction between appellate, revisional and supervisory jurisdiction, and to identify the circumstances in which Article 227 may legitimately be invoked without converting it into an appeal or revision in disguise.
9. To examine the relationship between Article 227 and Article 226, particularly after the decision in *Radhey Shyam v. Chhabi Nath*, and to

clarify the appropriate constitutional jurisdiction for challenging judicial orders of civil courts.

10. To examine the relationship between Article 227 and statutory remedies, including Section 115 of the Code of Civil Procedure, 1908, statutory criminal revision and the inherent jurisdiction presently preserved under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
11. To assess the practical impact of the curtailment of Section 115 CPC with effect from 1 July 2002 upon the invocation of Article 227 in civil litigation, particularly in relation to interlocutory orders.
12. To examine the extent to which Article 227 may be invoked against findings of fact, errors of law, procedural irregularities, violations of natural justice and jurisdictional errors, while maintaining the distinction between supervisory and appellate review.
13. To examine the scope of Article 227 over tribunals, including the constitutional exclusion contained in Article 227(4) relating to courts and tribunals constituted under laws concerning the Armed Forces.
14. To identify the contemporary principles governing the exercise of Article 227 jurisdiction, including the requirements of judicial restraint, exceptional circumstances, jurisdictional error, perversity, grave procedural illegality and manifest miscarriage of justice.
15. To develop a coherent doctrinal framework for understanding Article 227 as a constitutional jurisdiction of judicial superintendence which is broad in constitutional source but restrained in judicial exercise.
16. To assess whether the present jurisprudence successfully maintains the constitutional balance between effective supervision of subordinate judicial institutions and preservation of the statutory hierarchy of appeals and remedies.
17. To suggest a principled framework for the future exercise of Article 227 jurisdiction, capable of ensuring effective constitutional supervision

without permitting the jurisdiction to become an unrestricted substitute for appellate or revisional remedies.

B. Research Questions

The present research proceeds upon the following questions:

1. What was the historical source of the High Court's power of superintendence before the Constitution came into force?
2. What was the nature and extent of the power under Section 15 of the Indian High Courts Act, 1861?
3. How was that power continued under Section 107 of the Government of India Act, 1915?
4. What alteration was introduced by Section 224 of the Government of India Act, 1935?
5. What was the constitutional significance of the omission of Section 224(2) from Article 227?
6. Whether Article 227 confers only administrative superintendence or also judicial superintendence?
7. What are the limitations imposed by the Supreme Court upon the exercise of Article 227?
8. How does Article 227 differ from Article 226 and from the statutory/inherent jurisdiction formerly contained in Section 115 CPC and, on the criminal side, Section 482 CrPC?
9. What has been the effect of the curtailment of Section 115 CPC from 1 July 2002 on the practical significance of Article 227?
10. What is the contemporary constitutional position regarding judicial superintendence over subordinate courts and tribunals?

C. Research Hypothesis

The present research proceeds upon the hypothesis that Article 227 of the Constitution of India represents a constitutional continuation and transformation of the pre-Constitutional jurisdiction of High Court superintendence, rather than a wholly new jurisdiction created in 1950.

The research hypothesises that the statutory lineage beginning with Section 15 of the Indian High Courts Act, 1861, continuing through Section 107 of the Government of India Act, 1915, and modified by Section 224 of the Government of India Act, 1935, provides the historical foundation for understanding the constitutional character of Article 227.

The central hypothesis is that the omission from Article 227 of the restrictive provision corresponding to Section 224(2) of the Government of India Act, 1935 was constitutionally significant and enabled the restoration of judicial superintendence which had been recognised under the earlier statutory framework. The subsequent temporary reintroduction of a substantially similar restriction by the Forty-second Constitutional Amendment, followed by its removal through the Forty-fourth Amendment, further supports the proposition that the constitutional scheme ultimately favours a broad power of High Court superintendence.

The research further hypothesises that the constitutional breadth of Article 227 does not imply unrestricted judicial intervention. Rather, the jurisdiction operates within a deliberately maintained distinction between supervision and appeal. The High Court possesses the constitutional authority to correct jurisdictional excesses, failure to exercise jurisdiction, perversity, serious procedural illegality, violation of natural justice and grave miscarriage of justice; however, it ordinarily cannot reassess evidence or substitute its own conclusion merely because another view is possible.

The research also hypothesises that the curtailment of Section 115 CPC with effect from 1 July 2002 has increased the practical significance of Article 227 but has not enlarged its doctrinal character into a general revisional or appellate jurisdiction. The increased invocation of Article 227 in civil litigation therefore creates a continuing need for judicial discipline in distinguishing legitimate constitutional supervision from disguised appellate review.

Finally, the research hypothesises that Article 227 performs a constitutional safety-valve function within India's judicial hierarchy: it protects the legality, jurisdictional discipline and procedural fairness of subordinate courts and tribunals while simultaneously preserving the legislative choices governing appeals, revisions and finality of judicial orders.

Accordingly, the principal hypothesis of this research may be stated as follows:

Article 227 is best understood as a constitutional jurisdiction of judicial superintendence historically rooted in the colonial statutory jurisdiction of the High Courts, constitutionally restored and expanded in 1950, temporarily restricted in 1976 and substantially restored in 1978 – which is broad enough to prevent jurisdictional failure and manifest injustice, yet inherently supervisory and therefore incapable of being legitimately converted into an unrestricted appellate or revisional jurisdiction.

D. Research Methodology

The research adopts a doctrinal and historical methodology. It examines the statutory ancestry of Article 227, constitutional provisions, Constituent Assembly materials and leading decisions of the Supreme Court of India.

Particular emphasis is placed upon the decisions in *Waryam Singh v. Amarnath*, *Chandrasekhar Singh v. Siya Ram Singh*, *State v. Navjot Sandhu*, *Surya Dev Rai v. Ram Chander Rai*, *Shalini Shyam Shetty v. Rajendra Shankar Patil*, *Radhey Shyam v. Chhabi Nath*, *Estralla Rubber v. Dass Estate (P) Ltd.*, and subsequent decisions.

E. Literature Review

The literature concerning Article 227 may broadly be divided into three overlapping fields: historical literature concerning the institutional development of the High Courts; doctrinal literature concerning constitutional and supervisory jurisdiction; and judicial literature represented by the decisions of the Supreme Court and High Courts interpreting the scope of Article 227.

1. Historical Literature

The historical study of Article 227 requires an examination of the statutory instruments through which the High Courts were established and their supervisory

powers developed. The Indian High Courts Act, 1861 constitutes the principal starting point because Section 15 conferred upon the newly established High Courts a power of superintendence over courts subject to their appellate jurisdiction.

The Government of India Act, 1915 subsequently reproduced the essential framework through Section 107. The historical material demonstrates that the power was not merely an administrative mechanism for inspection of subordinate courts. Its judicial dimension gradually emerged through judicial interpretation and practice.

The Government of India Act, 1935 introduced an important qualification through Section 224(2). The statutory restriction upon questioning judgments of inferior courts which were not otherwise subject to appeal or revision represents a significant stage in the evolution of the jurisdiction. Consequently, the history of Article 227 cannot be properly understood without examining the contrast between Sections 107 and 224.

The constitutional history becomes particularly significant because Article 227, as originally enacted, did not reproduce the restrictive language of Section 224(2). The Constituent Assembly debates concerning Draft Article 203 therefore provide an important source for understanding the constitutional design of High Court superintendence.

2. Doctrinal Literature

The doctrinal development of Article 227 has largely taken place through judicial decisions rather than through an extensive body of independent statutory literature. The Supreme Court's decisions have progressively defined the distinction between supervisory jurisdiction and appellate or revisional jurisdiction.

Waryam Singh v. Amarnath occupies a foundational position. The decision established that Article 227 embraces judicial as well as administrative superintendence and connected the constitutional provision with Sections 15 and 107 of the earlier statutory regimes. Its treatment of the omission of Section 224(2) remains central to the historical interpretation of Article 227.

Subsequent decisions, including *Babhutmal Raichand Oswal v. Laxmibai R. Tarte* and *Estralla Rubber v. Dass Estate (P) Ltd.*, developed the principle that supervisory

jurisdiction cannot be used merely to correct every error committed by a subordinate court. These authorities emphasised judicial restraint and the requirement of grave or exceptional circumstances.

The criminal dimension of Article 227 was considered in *Chandrasekhar Singh v. Siya Ram Singh* and subsequently in *State through Special Cell, New Delhi v. Navjot Sandhu*. These decisions demonstrate that the constitutional power is not confined to civil courts, although its exercise remains subject to the same fundamental principle of supervision rather than routine appellate review.

3. Article 226 and Article 227: Doctrinal Debate

A substantial part of the literature and judicial discourse concerns the relationship between Articles 226 and 227. The decision in *Surya Dev Rai v. Ram Chander Rai* contributed significantly to this debate by adopting a comparatively broad formulation of supervisory jurisdiction and examining the relationship between writ and supervisory remedies.

The subsequent three-Judge Bench decision in *Radhey Shyam v. Chhabi Nath* provided an important doctrinal clarification. It rejected the proposition that judicial orders of civil courts could ordinarily be subjected to writ jurisdiction under Article 226 through certiorari and reaffirmed the distinct constitutional character of Article 227.

This line of authority demonstrates that the distinction between Articles 226 and 227 is not merely technical. It concerns the institutional allocation of constitutional jurisdiction between public-law review and judicial superintendence over subordinate courts.

4. Consolidation of Article 227 Principles

Shalini Shyam Shetty v. Rajendra Shankar Patil represents an important consolidation of the jurisprudence. The Supreme Court examined the historical lineage of Article 227 and reiterated that the jurisdiction is intended to keep subordinate courts and tribunals within the bounds of their authority.

The decision is particularly significant because it brings together the historical, constitutional and doctrinal strands of Article 227. It reinforces the principle that the existence of constitutional power does not justify routine intervention and that the High Court must exercise the power sparingly.

5. Section 115 CPC and the Post-2002 Position

Another important strand of the literature concerns the relationship between Article 227 and Section 115 of the Code of Civil Procedure, 1908.

Before the 2002 changes, Section 115 provided a statutory revisional remedy in specified jurisdictional circumstances. The subsequent curtailment of that jurisdiction significantly altered the procedural landscape of civil litigation. This led to increased reliance upon Article 227, particularly against interlocutory orders.

The doctrinal question arising from this development is whether the constitutional jurisdiction has thereby acquired a wider practical scope. The prevailing judicial approach indicates that the reduction of statutory revision does not automatically convert Article 227 into a substitute revisional jurisdiction. The constitutional power remains subject to its own principles of restraint.

This area nevertheless remains important for contemporary research because Article 227 is now frequently invoked in circumstances in which a litigant would historically have considered a revision under Section 115 CPC.

6. Contemporary Literature and the Need for a Coherent Test

The existing judicial literature establishes a broad range of circumstances in which Article 227 intervention may be justified, including jurisdictional error, failure to exercise jurisdiction, perversity, patent disregard of law, serious procedural illegality, violation of natural justice and manifest miscarriage of justice. At the same time, the Supreme Court has repeatedly cautioned against:

- reappreciation of evidence;
- correction of every error of fact or law;
- substitution of the High Court's view for a reasonably possible view;

- routine interference with interlocutory orders; and
- conversion of supervisory proceedings into appeals in disguise.

The existing literature therefore establishes the two essential dimensions of Article 227: constitutional breadth and judicial restraint.

F. Research Gap

Although considerable judicial literature exists on Article 227, the historical and doctrinal developments are frequently examined in isolation. Historical accounts tend to focus upon the colonial statutory provisions, while doctrinal discussions generally commence with the Constitution and the leading Supreme Court decisions.

There is comparatively greater value in examining Article 227 as a continuous constitutional genealogy, beginning with Section 15 of the Indian High Courts Act, 1861, passing through Section 107 of the Government of India Act, 1915, the restrictive regime of Section 224 of the Government of India Act, 1935, the original constitutional formulation of Article 227, its temporary restriction by the Forty-second Amendment and its restoration through the Forty-fourth Amendment.

The present research seeks to address this gap by integrating the historical and doctrinal dimensions into a single analytical framework. It further seeks to explain why Article 227 can simultaneously be described as a wide constitutional power and a narrowly exercised supervisory jurisdiction without treating those propositions as contradictory.

The research therefore contributes to the existing literature by proposing that the modern understanding of Article 227 should be based upon the following continuum: Historical statutory superintendence → constitutional recognition → judicial superintendence → constitutional restriction and restoration → post-2002 procedural significance → contemporary supervisory jurisdiction.

This integrated approach provides a more complete explanation of the constitutional function of Article 227 and its continuing importance within India's judicial hierarchy.

IV. THE ORIGIN OF HIGH COURTS IN INDIA

The modern system of High Courts in India owes its statutory origin to the Indian High Courts Act, 1861. The Act authorised the establishment of High Courts at Calcutta, Madras and Bombay, and the corresponding High Courts were subsequently constituted through Letters Patent.

Thus, although the statutory foundation was laid in 1861, the High Courts themselves came into operation under Letters Patent issued in 1862. The distinction is important: 1861 was the year of the enabling legislation, whereas 1862 marks the establishment and commencement of the first High Courts under the Letters Patent.¹⁰

The creation of these High Courts was accompanied by a significant power: the power of superintendence over subordinate courts.

Section 15 of the Indian High Courts Act, 1861 provided, in substance, that each High Court established under the Act would have superintendence over courts subject to its appellate jurisdiction and would possess consequential powers relating to returns, transfer of suits and appeals, rules of practice and proceedings, forms, records and accounts.¹¹

The provision is important because it demonstrates that the power of superintendence was conceived from the beginning as something more than a mere administrative inspection of subordinate courts.

A. Section 15 Of The Indian High Courts Act, 1861: The First Statutory Ancestor

Section 15 constituted the first major statutory source of the High Court's supervisory authority over subordinate courts. The provision contained two broad dimensions.

First, there was the general power of superintendence.

Secondly, the High Court was given consequential powers to:

1. call for returns;

¹⁰Indian High Courts Act, 1861; Letters Patent establishing the High Courts of Calcutta, Madras and Bombay, 1862. The distinction between the 1861 enabling statute and the 1862 establishment of the High Courts is historically significant.

¹¹Indian High Courts Act, 1861, s. 15; *Aidal Singh v. Karan Singh*, AIR 1957 All 414 (FB).

2. transfer suits or appeals;
3. make general rules;
4. regulate practice and proceedings;
5. prescribe forms;
6. regulate books, entries and accounts; and
7. regulate fees and related matters.¹²

The language of Section 15 subsequently became the foundation for Section 107 of the Government of India Act, 1915.

The historical importance of Section 15 therefore cannot be overstated. Article 227 is not an isolated constitutional creation. It represents the constitutional continuation and transformation of a jurisdiction which had existed for nearly nine decades before the Constitution came into force.

The Supreme Court subsequently recognised this historical continuity in *Waryam Singh*, observing that the material portion of Article 227 substantially reproduced the earlier statutory provisions. Separately, the Allahabad High Court Full Bench in *Aidal Singh v. Karan Singh* examined the statutory language of Section 15 of the Indian High Courts Act, 1861 and its relationship with the later constitutional powers of the High Court.¹³

B. Section 107 Of The Government of India Act, 1915

The Government of India Act, 1915 continued the power of superintendence through Section 107.

Section 107 provided that each High Court had superintendence over all courts for the time being subject to its appellate jurisdiction. It also contained powers concerning

¹² Ibid.

¹³ *Waryam Singh v. Amarnath*, AIR 1954 SC 215; 1954 SCR 565.

returns, transfer of proceedings, rules of practice and proceedings, forms, books and accounts and tables of fees.¹⁴

The significance of Section 107 lies particularly in its judicial interpretation.

The courts came to understand "superintendence" as extending beyond administrative control. Judicial superintendence was recognised as a distinct dimension of the power.

Thus, the High Court could exercise supervisory control where subordinate courts exceeded jurisdiction, failed to exercise jurisdiction vested in them or committed serious errors warranting supervisory intervention.

The jurisprudence under Section 107 consequently became an important foundation for the interpretation of Article 227.

C. The Government of India Act, 1935: The Critical Restriction

The Government of India Act, 1935 continued the power of superintendence through Section 224.

Section 224(1) provided: "*Every High Court shall have superintendence over all Courts in India for the time being subject to its appellate jurisdiction...*"

The provision also preserved the powers to call for returns, make rules, prescribe forms and settle tables of fees.¹⁵

However, Section 224 contained a significant innovation.

Section 224(2) provided: "*Nothing in this Section shall be construed as giving to a High Court any jurisdiction to question any judgment of any inferior Court which is not otherwise subject to appeal or revision.*"

This clause fundamentally altered the legal position. The earlier jurisprudence under Section 107 had recognised judicial superintendence. Section 224(2) placed a statutory

¹⁴Government of India Act, 1915, s. 107. See *Shalini Shyam Shetty v. Rajendra Shankar Patil*, (2010) 8 SCC 329.

¹⁵Government of India Act, 1935, s. 224(1).

restriction upon that power by denying the High Court jurisdiction to question judgments which were not otherwise subject to appeal or revision.

The Supreme Court subsequently described this provision as a significant departure from the earlier position.¹⁶ The historical importance of Section 224(2) is therefore that it represents the constitutional and statutory contest between administrative superintendence and judicial superintendence.

The marginal heading of Section 224 was also changed to "Administrative functions of High Courts", although judicial decisions cautioned against treating a marginal note as controlling the substantive text.¹⁷

D. The Constitutional Transformation: Article 227

Article 227 of the Constitution, as originally enacted, provided: "*Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.*"

The constitutional text introduced two important changes.

First: Tribunals were expressly included the earlier statutory provisions primarily referred to courts. Article 227 expressly included "tribunals". This represented an important expansion of constitutional superintendence.

Secondly: The territorial basis was widened the earlier provisions referred to courts subject to the appellate jurisdiction of the High Court.

Article 227 instead employed the expression: "*throughout the territories in relation to which it exercises jurisdiction.*"

The constitutional language was consequently broader.

Most importantly, Article 227 did not reproduce Section 224(2).

¹⁶Waryam Singh v. Amarnath, AIR 1954 SC 215; 1954 SCR 565.

¹⁷Jodhey v. State, AIR 1952 All 788; Shalini Shyam Shetty v. Rajendra Shankar Patil, (2010) 8 SCC 329.

There was no constitutional equivalent of the provision which stated that the High Court could not question a judgment which was not otherwise subject to appeal or revision.

This omission became the foundation of the Supreme Court's interpretation of Article 227.

E. Was The Omission of Section 224(2) Deliberate?

The historical proposition that Dr. B.R. Ambedkar "deleted" Section 224(2) requires careful qualification. The Constituent Assembly debates establish that the provision corresponding to Article 227 was considered as Draft Article 203. Dr. Ambedkar participated directly in the framing of the provision and moved amendments relating to its marginal heading and the structure of clause (2).¹⁸

The Constituent Assembly ultimately adopted the provision in a form which did not reproduce the restrictive language of Section 224(2) of the Government of India Act, 1935. Therefore, from a scholarly standpoint, it is preferable to state:

The Constitution deliberately omitted the restrictive language contained in Section 224(2) of the Government of India Act, 1935, thereby restoring the broader constitutional power of judicial superintendence which had existed under Section 15 of the High Courts Act, 1861 and Section 107 of the Government of India Act, 1915. It would be unsafe, however, to attribute the omission solely to a particular personal act of Dr. Ambedkar unless supported by a specific amendment record establishing that fact. The significance of the Constituent Assembly process is nevertheless clear: the constitutional text consciously preserved a broad power of High Court superintendence.

F. Waryam Singh v. Amarnath: The Constitutional Foundation

The first landmark decision explaining the scope of Article 227 was Waryam Singh v. Amarnath.¹⁹ The case arose from a dispute involving the Rent Controller and District

¹⁸ Constituent Assembly Debates, Vol. VIII, 15 June 1949, Draft Article 203.

¹⁹ Waryam Singh v. Amarnath, AIR 1954 SC 215; 1954 SCR 565.

Judge in Himachal Pradesh. The question was whether Article 227 conferred merely administrative superintendence or also judicial superintendence.

The Supreme Court rejected the narrower interpretation. The Court observed that the material portion of Article 227 substantially reproduced Section 107 of the Government of India Act, 1915, except that Article 227 extended the power to tribunals.²⁰ The Court further observed that Section 107 had been judicially understood as conferring judicial superintendence.

Most significantly, the Court noted that Section 224(2) of the Government of India Act, 1935 had introduced a restriction which was absent from Article 227.

The Supreme Court held: "*This significant omission has been regarded by all High Courts ... as having restored to the High Court the power of judicial superintendence...*"²¹

Thus, Waryam Singh established three foundational propositions:

1. Article 227 is a constitutional power of superintendence;
2. The power includes judicial as well as administrative superintendence; and
3. The omission of Section 224(2) is constitutionally significant.

At the same time, the Court imposed an important limitation: the power must be exercised "most sparingly" and only in appropriate cases to keep subordinate courts within the bounds of their authority and not merely to correct errors.²²

This dual character breadth of power coupled with restraint in exercise---has remained the central feature of Article 227 jurisprudence.

G. Article 227 is not an Appellate Jurisdiction

The most persistent question concerning Article 227 has been whether the High Court can correct an erroneous decision merely because it considers the subordinate court's conclusion to be wrong.

²⁰ Ibid.

²¹ Ibid.

²² *Waryam Singh* (n 17).

The answer is generally no. Article 227 does not confer appellate jurisdiction.

An appellate court is ordinarily entitled to reconsider questions of fact and law within the limits prescribed by the appellate statute. Article 227, by contrast, is supervisory. The Supreme Court has consistently warned that the High Court must not convert supervisory jurisdiction into appellate jurisdiction.

In *Babhutmal Raichand Oswal v. Laxmibai R. Tarte*, the Court held that Article 227 could not be invoked merely to correct errors of fact which a superior appellate court could correct in exercise of appellate jurisdiction.²³

Similarly, in *Estralla Rubber v. Dass Estate (P) Ltd.*, the Supreme Court held that the High Court does not possess an unlimited prerogative to correct every wrong decision or hardship arising from a decision of a subordinate court.²⁴ The Court explained that interference is justified in cases involving serious dereliction of duty or flagrant violation of fundamental principles of law or justice where failure to interfere would result in grave injustice.²⁵

V. THE THREE CLASSICAL CATEGORIES OF SUPERVISORY INTERVENTION

The Supreme Court jurisprudence has traditionally identified circumstances in which supervisory intervention may be justified.

Broadly stated, Article 227 may be invoked where:

1. The subordinate court assumes jurisdiction which it does not possess: Where a court acts without jurisdiction, the High Court may intervene to prevent the subordinate court from exceeding its lawful authority.
2. The subordinate court fails to exercise jurisdiction vested in it: Where a court possesses jurisdiction but refuses or fails to exercise it, Article 227 may be invoked to ensure that the judicial function is properly discharged.

²³*Babhutmal Raichand Oswal v. Laxmibai R. Tarte*, (1975) 1 SCC 858: AIR 1975 SC 1297.

²⁴*Estralla Rubber v. Dass Estate (P) Ltd.*, (2001) 8 SCC 97: AIR 2001 SC 3295.

²⁵*Ibid.*

3. The jurisdiction is exercised in a manner amounting to excess of jurisdiction: Even where jurisdiction exists, the manner in which it is exercised may be so fundamentally contrary to law that supervisory intervention becomes necessary.

These principles have been repeatedly recognised in the jurisprudence surrounding Article 227.²⁶

A. Chandrasekhar Singh V. Siya Ram Singh: Article 227 on the Criminal Side

Article 227 is not confined to civil proceedings. Its application to criminal proceedings was considered in *Chandrasekhar Singh v. Siya Ram Singh*.²⁷ The dispute concerned proceedings under Section 145 of the Code of Criminal Procedure, 1898. The Magistrate had referred the question of possession to the civil court under Section 146. The civil court returned a finding as to possession. The Magistrate thereafter passed an order in conformity with that finding.

The High Court interfered, taking the view that the civil court had failed to consider certain affidavits. The Supreme Court reversed the High Court.

The Court held that the statutory scheme made the civil court's finding final for the purposes of the old Section 146 and that the Magistrate was required to act in conformity with that finding.²⁸ Importantly, the Supreme Court recognised that the constitutional power under Article 227 could not be curtailed by an ordinary statutory provision. Nevertheless, the Court found no justification for exercising that power in the facts before it.²⁹ The decision illustrates the central limitation of Article 227: The existence of constitutional power does not mean that the High Court must exercise it whenever an error is alleged. The jurisdiction remains discretionary and supervisory.

B. State V. Navjot Sandhu: Article 227 and Criminal Proceedings

²⁶ See *Chandrasekhar Singh v. Siya Ram Singh*, (1979) 3 SCC 118: AIR 1979 SC 1.

²⁷ *Chandrasekhar Singh v. Siya Ram Singh*, (1979) 3 SCC 118: AIR 1979 SC 1. The judgment was delivered on 26 September 1978 and is reported in 1979 SCC.

²⁸ *Ibid*.

²⁹ *Chandrasekhar Singh* (n 25).

The Supreme Court again considered Article 227 in *State through Special Cell, New Delhi v. Navjot Sandhu @ Afshan Guru*.³⁰ The Court reiterated that Article 227 confers judicial as well as administrative superintendence. It emphasised that the jurisdiction extends to keeping subordinate courts and tribunals within the limits of their authority and ensuring that they obey the law.³¹ However, the Court cautioned that the extraordinary jurisdiction should not be exercised routinely.

The High Court cannot assume the role of a trial court and reappreciate evidence as though it were hearing an appeal. The Court consequently reaffirmed the principle that Article 227 cannot be used as a "cloak of an appeal in disguise".³² This principle remains particularly important in criminal proceedings because the High Court may otherwise be tempted to use Article 227 as an alternative to statutory appellate or revisional remedies.

C. Surya Dev Rai V. Ram Chander Rai: The Broader Formulation

One of the most important decisions in the evolution of Article 227 was *Surya Dev Rai v. Ram Chander Rai*.³³ The Supreme Court undertook an extensive examination of the relationship between Articles 226 and 227. The Court observed that the distinction between writ jurisdiction and supervisory jurisdiction had become blurred in practical litigation.

The Court further stated that, while exercising supervisory jurisdiction, the High Court could, in appropriate cases:

1. quash or set aside an impugned order;
2. issue directions to the subordinate court regarding the manner in which proceedings should be continued;
3. direct reconsideration or fresh consideration; and

³⁰ *State through Special Cell, New Delhi v. Navjot Sandhu @ Afshan Guru*, (2003) 6 SCC 641.

³¹ *Navjot Sandhu* (n 28).

³² *Navjot Sandhu* (n 28).

³³ *Surya Dev Rai v. Ram Chander Rai*, (2003) 6 SCC 675.

4. in an appropriate case, substitute its own decision for that of the subordinate court.

This formulation appeared to give Article 227 a considerable corrective dimension.³⁴ However, the subsequent decision in *Radhey Shyam v. Chhabi Nath* materially altered the legal position concerning the use of Article 226 against judicial orders of civil courts.

D. Radhey Shyam V. Chhabi Nath: The Important Correction

In *Radhey Shyam v. Chhabi Nath*, a three-Judge Bench of the Supreme Court considered the relationship between Articles 226 and 227.³⁵ The Court expressly disagreed with the proposition in *Surya Dev Rai* that judicial orders of civil courts could be subjected to writ jurisdiction under Article 226 through certiorari.

The Court held: "*Judicial orders of civil court are not amenable to writ jurisdiction under Article 226 of the Constitution.*"

The Court further held that jurisdiction under Article 227 is distinct from jurisdiction under Article 226.³⁶ The Supreme Court expressly held that judicial orders of civil courts are not amenable to writ jurisdiction under Article 226 and clarified that supervisory jurisdiction under Article 227 is constitutionally distinct. To that extent, the Court disapproved the contrary proposition in *Surya Dev Rai* concerning the maintainability of certiorari under Article 226 against judicial orders of civil courts. This is a critical doctrinal clarification.

The distinction may be stated as follows:

Article 226 confers writ jurisdiction and operates as an original constitutional remedy, including the power to issue traditional writs in appropriate cases. Article 227, by contrast, confers constitutional superintendence over courts and tribunals within the High Court's territorial jurisdiction. It does not itself constitute a writ jurisdiction. After Radhey Shyam v. Chhabi Nath, judicial orders of civil courts are not ordinarily amenable to writ jurisdiction

³⁴ Ibid.

³⁵ *Radhey Shyam v. Chhabi Nath*, (2015) 5 SCC 423.

³⁶ *Radhey Shyam* (n 33).

under Article 226; they are to be examined, where permissible, under the supervisory jurisdiction of Article 227. Article 226 is therefore principally governed by constitutional writ principles, whereas Article 227 is governed by principles of supervisory restraint, jurisdictional discipline and exceptional interference.

The practical consequence is that a petition concerning a judicial order of a civil court is properly understood as invoking Article 227 rather than treating Article 226 as a route for issuing certiorari against the civil court. The practical consequence is that a petition concerning a judicial order of a civil court is properly understood as invoking Article 227 rather than treating Article 226 as a route for issuing certiorari against the civil court.

E. Shalini Shyam Shetty V. Rajendra Shankar Patil: Consolidation of Principles

In *Shalini Shyam Shetty v. Rajendra Shankar Patil*, the Supreme Court undertook a detailed review of the historical and doctrinal development of Article 227.³⁷ The judgment is particularly valuable for historical research because it traces Article 227 back to:

1. Section 15 of the High Courts Act, 1861;
2. Section 107 of the Government of India Act, 1915; and
3. Section 224 of the Government of India Act, 1935.³⁸

The Court again noted the significance of the omission of Section 224(2) from Article 227. The judgment also emphasised that Article 227 is intended to keep subordinate courts and tribunals within the bounds of their authority and that the power must be exercised sparingly.³⁹ The decision remains one of the most useful authorities for understanding the historical continuity and modern limitations of Article 227.

VI. THE 42ND AND 44TH CONSTITUTIONAL AMENDMENTS: A TEMPORARY RESTRICTION

³⁷ *Shalini Shyam Shetty v. Rajendra Shankar Patil*, (2010) 8 SCC 329.

³⁸ *Shalini Shyam Shetty* (n 35).

³⁹ *Ibid.*

The evolution of Article 227 did not end with the original Constitution. The Constitution (Forty-second Amendment) Act, 1976 substantially curtailed the scope of Article 227. By the amendment, Article 227(1) was substituted so as to provide that every High Court would have superintendence over courts subject to its appellate jurisdiction.⁴⁰

More significantly, clause (5) was inserted, providing: "*Nothing in this article shall be construed as giving to a High Court any jurisdiction to question any judgment of any inferior court which is not otherwise subject to appeal or revision.*"

The constitutional amendment thus substantially reproduced the restrictive philosophy of Section 224(2) of the Government of India Act, 1935.

This was a remarkable historical development. The constitutional text which had deliberately omitted the restrictive provision in 1950 was, during the period of the 42nd Amendment, modified so as to reintroduce a similar restriction. However, this position did not remain permanent.

The Constitution (Forty-fourth Amendment) Act, 1978 restored the original breadth of Article 227(1) by substituting the present language: "*Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.*" The Forty-fourth Amendment also omitted clause (5).⁴¹ Thus, the present constitutional position represents, in substance, a restoration of the original constitutional design.

A. Article 227 and Rule-Making Power

Article 227 is not confined to judicial correction of subordinate orders.

Clause (2) expressly empowers the High Court to:

1. call for returns from subordinate courts;
2. make and issue general rules;
3. prescribe forms regulating practice and proceedings; and

⁴⁰ Constitution (Forty-second Amendment) Act, 1976, s. 40. Article 227(1).

⁴¹ Constitution (Forty-fourth Amendment) Act, 1978, s. 31. Clause (1).

4. prescribe forms for books, entries and accounts maintained by officers of subordinate courts.⁴²

These powers demonstrate that Article 227 contains both administrative and judicial dimensions. The provision is therefore not merely a remedial jurisdiction available to litigants. It also constitutes a constitutional source of institutional supervision over the subordinate judiciary.

B. Power to Settle Tables of Fees

Article 227(3) provides that the High Court may settle tables of fees to be allowed to:

1. the sheriff;
2. clerks and officers of subordinate courts; and
3. attorneys, advocates and pleaders practising therein.⁴³

This provision has an important practical significance.

Court fees, professional fees and related charges are not matters entirely disconnected from the constitutional power of superintendence. The Constitution expressly recognises the High Court's institutional role in regulating the procedural and administrative framework within which subordinate courts operate.

However, this power remains subject to the proviso requiring that rules, forms and tables must not be inconsistent with law and must receive the requisite previous approval of the Governor.⁴⁴

C. Article 227 and Civil Proceedings

Article 227 has become particularly important in civil litigation.

Historically, the principal statutory mechanism for High Court revisional intervention in civil cases was Section 115 of the Code of Civil Procedure, 1908.

Section 115 permitted revision in specified jurisdictional situations.

⁴² Constitution of India, art. 227(2).

⁴³ Constitution of India, art. 227(3).

⁴⁴ Ibid.

The High Court could intervene where the subordinate court:

1. exercised jurisdiction not vested in it by law;
2. failed to exercise jurisdiction vested in it; or
3. acted in the exercise of jurisdiction illegally or with material irregularity.

These principles bear substantial resemblance to the classical grounds of supervisory intervention under Article 227.

VII. THE 2002 AMENDMENT TO SECTION 115 CPC AND THE RISE OF ARTICLE 227

The Code of Civil Procedure was substantially amended by the Code of Civil Procedure (Amendment) Act, 1999, as modified by the subsequent amendment legislation, with the amended regime becoming operative from 1 July 2002. The curtailment of revisional jurisdiction under Section 115 created a significant practical development.

A large number of interlocutory orders which might previously have been challenged in revision became difficult to challenge through Section 115. Consequently, litigants increasingly invoked Article 227. This development did not transform Article 227 into a substitute for Section 115.

The constitutional jurisdiction remained subject to its own limitations. The Supreme Court has repeatedly warned that the curtailment of statutory revision does not automatically enlarge Article 227 into an unrestricted appellate or revisional jurisdiction.⁴⁵ Nevertheless, the post-2002 landscape undeniably increased the practical importance of Article 227 in civil litigation.

A. Article 227 and Interlocutory Orders

A significant misconception is that Article 227 cannot be exercised against interlocutory orders. That proposition is incorrect. The Supreme Court has recognised

⁴⁵State through Special Cell, New Delhi v. Navjot Sandhu @ Afshan Guru, (2003) 6 SCC 641; Shalini Shyam Shetty v. Rajendra Shankar Patil, (2010) 8 SCC 329.

that Article 227 may, in an appropriate case, be exercised even against an interlocutory order.⁴⁶ The real question is not whether the order is interlocutory. The real question is whether the circumstances justify the exercise of extraordinary constitutional supervision.

Therefore, an interlocutory order is not immune from Article 227 merely because it is interlocutory. At the same time, the High Court must be particularly cautious because routine interference with interlocutory orders can unnecessarily interrupt the progress of the trial.

B. Article 227 and Errors of Fact

Ordinarily, Article 227 is not a jurisdiction for correcting every factual error. The High Court does not ordinarily reappreciate evidence merely because another view is possible. However, the distinction between an ordinary factual error and a perverse or jurisdictionally material finding is critical.

In *Estralla Rubber*, the Supreme Court recognised that the High Court may interfere where a finding is unsupported by evidence or is so perverse that no reasonable person could have arrived at it.⁴⁷ Thus, the correct proposition is not: "The High Court can never interfere with findings of fact under Article 227." The more accurate proposition is:

"The High Court ordinarily does not reassess facts as an appellate court, but may interfere with factual findings where the finding is perverse, unsupported by evidence, jurisdictionally material, or results in grave miscarriage of justice." This distinction is essential to an accurate understanding of Article 227.

C. Article 227 and Error of Law

A mere error of law is ordinarily insufficient for interference.

However, where the error demonstrates that the subordinate court has:

1. ignored a binding statutory provision;

⁴⁶State through Special Cell, New Delhi v. Navjot Sandhu @ Afshan Guru, (2003) 6 SCC 641.

⁴⁷*Estralla Rubber v. Dass Estate (P) Ltd.*, (2001) 8 SCC 97.

2. acted in patent disregard of law;
3. exercised jurisdiction in a manner contrary to the statute;
4. refused to apply a mandatory legal requirement; or
5. acted in a manner resulting in manifest injustice,

the High Court may exercise supervisory jurisdiction. The phrase "flagrant disregard of law" has repeatedly appeared in the jurisprudence because Article 227 is concerned not merely with the correctness of an isolated conclusion but with the lawful functioning of subordinate judicial institutions.

D. Article 227 and Suo Motu Jurisdiction

Another important characteristic of Article 227 is that its exercise is not necessarily dependent upon the filing of a conventional statutory appeal.

The power of superintendence may be exercised suo motu. This flows naturally from the constitutional character of the jurisdiction.

Article 227 is therefore not merely a private remedy available to an aggrieved litigant. It is also an institutional constitutional responsibility of the High Court to ensure that subordinate courts and tribunals act within lawful bounds.⁴⁸ This aspect distinguishes Article 227 from ordinary statutory remedies.

E. Article 227 and Criminal Jurisdiction

Article 227 extends to criminal courts and tribunals as well. The decision in Chandrasekhar Singh is an early illustration.⁴⁹ The Supreme Court has subsequently recognised the availability of Article 227 on the criminal side, subject to the same limitations of judicial restraint.

The High Court must, however, carefully distinguish between:

1. Article 227;

⁴⁸ Radhey Shyam v. Chhabi Nath, (2015) 5 SCC 423; Shalini Shyam Shetty v. Rajendra Shankar Patil, (2010) 8 SCC 329.

⁴⁹ Chandrasekhar Singh v. Siya Ram Singh, (1979) 3 SCC 118: AIR 1979 SC 1.

2. statutory criminal revision;
3. inherent jurisdiction; and
4. writ jurisdiction under Article 226.

The mere availability of Article 227 does not mean that every criminal order can be challenged under it as a matter of right.

F. Article 227 and Section 482 CrPC / Section 528 BNSS

The distinction between Article 227 and inherent criminal jurisdiction is particularly important. Section 482 of the Code of Criminal Procedure, 1973 preserved the inherent powers of the High Court to:

1. give effect to an order under the Code;
2. prevent abuse of the process of any court; and
3. otherwise secure the ends of justice.

With the coming into force of the Bharatiya Nagarik Suraksha Sanhita, 2023 on 1 July 2024, the corresponding provision is now Section 528 BNSS.⁵⁰ The two jurisdictions have different sources.

Article 227 is constitutional. Section 482 CrPC was statutory in text but preserved inherent jurisdiction; its present successor is Section 528 BNSS. Article 227 is primarily concerned with superintendence over subordinate courts and tribunals. The inherent criminal jurisdiction, by contrast, is principally concerned with preventing abuse of process and securing the ends of justice in criminal proceedings. The Supreme Court has recognised that the two jurisdictions may sometimes overlap in practical operation, but they should not be treated as interchangeable.⁵¹

G. The Armed Forces Exception

Article 227(4) expressly provides that nothing in the Article shall confer upon a High Court power of superintendence over any court or tribunal constituted by or under a

⁵⁰ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 528.

⁵¹ State through Special Cell, New Delhi v. Navjot Sandhu @ Afshan Guru, (2003) 6 SCC 641.

law relating to the Armed Forces.⁵² Thus, while Article 227 extends to tribunals generally, the Constitution itself creates a specific exclusion.

The Armed Forces Tribunal consequently falls outside the ordinary supervisory jurisdiction of the High Court under Article 227 in respect of matters falling within the constitutional exclusion. This is an important limitation upon the otherwise broad territorial language of Article 227.

H. Article 227 and Tribunals

The inclusion of tribunals in Article 227 represents an important constitutional development over the colonial statutory provisions.

Article 227 therefore extends beyond traditional civil and criminal courts. The Supreme Court has recognised that the power of superintendence extends to tribunals functioning within the territorial jurisdiction of the High Court.⁵³ The object is to ensure that tribunals remain within the limits of their statutory authority and comply with law. The power, however, does not convert the High Court into an appellate forum for every tribunal order.

I. The Supervisory Jurisdiction is Wide but not Unlimited

The apparent contradiction in Article 227 jurisprudence can be resolved by recognising two propositions which operate simultaneously:

- 1. Proposition One:** The power is constitutionally wide. It cannot ordinarily be taken away by ordinary legislation because Article 227 is itself a constitutional source of jurisdiction.
- 2. Proposition Two:** The exercise of that power is deliberately narrow. The High Court does not ordinarily interfere merely because it disagrees with the conclusion of the subordinate court. The Supreme Court has repeatedly

⁵² Constitution of India, art. 227(4). The provision expressly excludes courts and tribunals constituted by or under a law relating to the Armed Forces.

⁵³ Waryam Singh v. Amarnath, AIR 1954 SC 215; State through Special Cell v. Navjot Sandhu, (2003) 6 SCC 641.

described Article 227 as a power to be exercised sparingly, cautiously and only in appropriate cases.⁵⁴

The apparent tension between "wide power" and "sparingly exercised" power is therefore not contradictory. The width of jurisdiction concerns the High Court's constitutional authority. The restraint in exercise concerns the circumstances in which that authority should actually be invoked.

J. Article 227 is not a Substitute for Appeal

The doctrine can be stated in a simple proposition:

1. Article 227 is not intended to provide a second appeal where the legislature has not provided one.
2. If two views are reasonably possible and the subordinate court has jurisdiction, the High Court ordinarily should not substitute its own view merely because it prefers the alternative.
3. The constitutional supervisory jurisdiction becomes relevant where the judicial process itself has gone materially wrong.

Thus, Article 227 protects the legality of the judicial process rather than guaranteeing a further opportunity to contest every judicial conclusion.

K. Article 227 and Manifest Miscarriage of Justice

The contemporary jurisprudence demonstrates that the controlling consideration is often whether failure to interfere would result in a manifest miscarriage of justice.

Circumstances may include:

1. absence of jurisdiction;
2. excess of jurisdiction;
3. failure to exercise jurisdiction;

⁵⁴ Waryam Singh v. Amarnath, AIR 1954 SC 215; Estralla Rubber v. Dass Estate (P) Ltd., (2001) 8 SCC 97; Shalini Shyam Shetty v. Rajendra Shankar Patil, (2010) 8 SCC 329.

4. violation of principles of natural justice;
5. refusal to consider material statutory requirements;
6. perversity;
7. findings unsupported by evidence;
8. patent disregard of binding law;
9. serious procedural illegality; or
10. grave dereliction of judicial duty.

The jurisdiction is consequently corrective, but the correction is directed towards preserving lawful judicial administration rather than functioning as an appellate review.

L. Article 227 and Natural Justice

The principles of natural justice occupy a particularly important position within Article 227 jurisdiction.

Where a subordinate court:

1. refuses a meaningful opportunity of hearing;
2. decides a matter without considering material submissions;
3. acts in violation of procedural fairness;
4. proceeds in a manner causing substantial prejudice; or
5. refuses to exercise judicial discretion fairly,

the High Court may exercise supervisory jurisdiction.

Such intervention does not constitute an appellate reappraisal of the merits. It constitutes constitutional supervision to ensure that the subordinate judicial process remains lawful.

M. Article 227 After Radhey Shyam

The jurisprudence after *Radhey Shyam* may be summarised as follows:

1. First, Article 226 and Article 227 are constitutionally distinct.

2. Secondly, judicial orders of civil courts are not subject to writ jurisdiction under Article 226.
3. Thirdly, supervisory jurisdiction under Article 227 remains available.
4. Fourthly, Article 227 cannot be converted into a general appellate jurisdiction.
5. Fifthly, the High Court may interfere only in exceptional circumstances where the subordinate court has acted outside jurisdiction, failed to exercise jurisdiction, acted perversely, or produced manifest miscarriage of justice.

The post-*Radhey Shyam* position has been further clarified by recent Supreme Court decisions. In *K. Valarmathi v. Kumaresan*, the Supreme Court held that Article 227 cannot be used to usurp the original jurisdiction of the court being supervised or to supplant remedies provided under the Code of Civil Procedure. In the specific context of rejection of a plaint, the Court observed that Order VII Rule 11 CPC provides the statutory mechanism for rejection of plaint and that such rejection amounts to a deemed decree appealable under Section 96 CPC. The existence of that appellate remedy was treated as a near-total bar to the exercise of Article 227 supervisory jurisdiction.

Similarly, in *Vinay Raghunath Deshmukh v. Natwarlal Shamji Gada*, the Supreme Court reiterated that the High Court, while exercising Article 227 jurisdiction, cannot review or reassess the material considered by the subordinate court. In that case, interference with an order permitting amendment of pleadings under Order VI Rule 17 CPC was held impermissible because there was no jurisdictional error or statutory bar, and the High Court had effectively entered into the merits of the amendment.

The most direct recent restatement appears in *Nandi Infrastructure Corridor Enterprises Ltd. v. B. Gurappa Naidu*. The Supreme Court reaffirmed that the power of superintendence under Article 227 may be exercised only where there is: first, an unwarranted assumption of jurisdiction not vested in the court or tribunal; secondly, gross abuse of jurisdiction; or thirdly, an unjustifiable refusal to exercise jurisdiction vested in the court or tribunal. The Court further held that the High Court cannot act

as an appellate court, reappreciate evidence, or substitute its own view merely because another interpretation is possible.

These recent authorities do not depart from *Radhey Shyam*. Rather, they sharpen its practical consequences. They confirm that contemporary Article 227 jurisprudence continues to preserve the constitutional availability of supervisory jurisdiction while imposing strict limits on its use as a substitute for appeal, revision, or first-instance adjudication.

VIII. THE CONTEMPORARY TEST

The modern test for exercise of Article 227, particularly after *Radhey Shyam* and the recent decisions in *K. Valarmathi*, *Vinay Raghunath Deshmukh* and *Nandi Infrastructure Corridor Enterprises Ltd.*, may be formulated in the following manner:

1. **Step 1: Identify the constitutional and territorial source of supervision:** The High Court must first examine whether the impugned order has been passed by a court or tribunal falling within the territorial and constitutional scope of Article 227.
2. **Step 2: Identify whether the error is supervisory or merely appellate:** The Court must determine whether the challenge concerns want of jurisdiction, excess of jurisdiction, unjustifiable refusal to exercise jurisdiction, gross abuse of jurisdiction, perversity, grave procedural illegality, violation of natural justice or manifest miscarriage of justice. A mere challenge to the correctness of the decision is insufficient.
3. **Step 3: Examine the statutory remedial structure:** The Court must consider whether the Code of Civil Procedure or any other statute provides an appeal, revision or other efficacious remedy. The existence of a statutory appeal does not constitutionally extinguish Article 227, but after *K. Valarmathi*, it may operate as a near-total bar where entertaining Article 227 would bypass the statutory procedure or destroy a valuable right of appeal.
4. **Step 4: Prevent usurpation of original or appellate jurisdiction:** The High Court must ensure that it does not assume the role of the court of first instance

or an appellate court. Article 227 cannot be used to reject a plaint in substitution of the trial court's Order VII Rule 11 jurisdiction, nor can it be used to reassess evidence or reconsider the merits of an amendment application as though the High Court were hearing an appeal.

5. **Step 5: Apply the three-part supervisory threshold:** Following *Nandi Infrastructure Corridor Enterprises Ltd.*, interference is ordinarily justified only where there is: an unwarranted assumption of jurisdiction not vested in the court or tribunal; gross abuse of jurisdiction; or an unjustifiable refusal to exercise jurisdiction vested in the court or tribunal.
6. **Step 6: Apply the restraint against substitution of views:** If the subordinate court has taken a plausible view within jurisdiction, the High Court should not substitute its own view merely because another interpretation is possible. Interference is justified only where the order suffers from patent jurisdictional error, perversity, flagrant disregard of law or grave miscarriage of justice.

This contemporary test confirms that Article 227 remains a constitutional safety valve rather than an alternative appellate route. The modern jurisprudence therefore strengthens the central thesis of this paper: the jurisdiction is broad in source, but exceptional and disciplined in exercise.

IX. HISTORICAL EVOLUTION IN A SINGLE CHAIN

The evolution of Article 227 may therefore be represented as follows:

Indian High Courts Act, 1861 --- Section 15 → Government of India Act, 1915 --- Section 107 → Government of India Act, 1935 --- Section 224 → Section 224(2) restricts judicial interference → Constitution of India, 1950 --- Article 227 → Section 224(2) not reproduced → Judicial superintendence restored → 42nd Constitutional Amendment, 1976 → Restriction substantially reintroduced → 44th Constitutional Amendment, 1978 → Original breadth restored → Post-2002 curtailment of Section 115 CPC → Greater practical significance of Article 227 → Modern Article 227: broad constitutional power + restrained judicial exercise

This historical chain demonstrates that Article 227 is neither an accidental constitutional provision nor merely an administrative provision. It is the constitutional culmination of a long history of High Court superintendence.

X. CRITICAL ANALYSIS

The evolution of Article 227 reveals an interesting constitutional paradox.

The colonial legislature attempted, through Section 224(2) of the Government of India Act, 1935, to restrict judicial superintendence by preventing High Courts from questioning judgments not otherwise subject to appeal or revision.

The Constitution did not reproduce that limitation. The judicial interpretation in *Waryam Singh* therefore treated Article 227 as restoring the broader power of judicial superintendence.

The Forty-second Amendment temporarily reversed this constitutional development by inserting a provision substantially similar to Section 224(2). The Forty-fourth Amendment then removed that restriction.

The historical trajectory is therefore not linear. It represents a constitutional struggle between two competing conceptions:

1. superintendence as administrative control, and
2. superintendence as constitutional judicial supervision.
3. The constitutional text, as it stands today, favours the latter.

Yet the Supreme Court has simultaneously ensured that judicial superintendence does not become appellate review. This balance is essential.

Without supervisory jurisdiction, subordinate courts and tribunals could theoretically act beyond their lawful limits without an effective constitutional mechanism for immediate correction.

On the other hand, if Article 227 were converted into an unrestricted appellate jurisdiction, the hierarchy of courts, statutory appellate mechanisms and the legislative design governing finality of orders would be undermined. The present jurisprudence attempts to occupy the constitutional middle ground.

XI. ARTICLE 227 AS A CONSTITUTIONAL SAFETY VALVE

Article 227 may appropriately be described as a constitutional safety valve in the Indian judicial system.

It serves at least four functions:

1. **Jurisdictional control:** It prevents subordinate courts and tribunals from exceeding their jurisdiction.
2. **Legal discipline:** It ensures that subordinate judicial bodies act in accordance with law.
3. **Procedural fairness:** It enables correction of serious procedural failures and violations of natural justice.
4. **Institutional supervision:** It enables the High Court to maintain standards of judicial administration and discipline within the subordinate judiciary.

These functions explain why the jurisdiction has survived successive changes in procedural law.

XII. SUGGESTIONS AND RECOMMENDATIONS

The preceding analysis demonstrates that Article 227 occupies a constitutionally important but procedurally sensitive position. In order to preserve its supervisory character and prevent its misuse as a disguised appellate or revisional remedy, the following suggestions may be considered.

First, High Courts may judicially adopt a structured checklist for Article 227 petitions, substantially based on the contemporary test identified in this paper. Before interference, the Court should ordinarily examine: whether the impugned order emanates from a court or tribunal within its territorial and constitutional superintendence; whether the alleged error concerns jurisdiction, perversity, natural justice, grave procedural illegality or manifest miscarriage of justice; whether an efficacious statutory remedy exists; whether interference would merely substitute the High Court's view for a reasonably possible view; and whether non-interference would permit jurisdictional failure or grave injustice.

Secondly, High Court rules of practice may be clarified to maintain the distinction between Articles 226 and 227, particularly after *Radhey Shyam v. Chhabhi Nath*. Petitions challenging judicial orders of civil courts should ordinarily be classified and scrutinised under Article 227, rather than being presented as writ petitions under Article 226. This would promote doctrinal clarity and reduce procedural confusion.

Thirdly, petitions under Article 227 should be required to disclose, at the threshold, the specific jurisdictional or supervisory ground invoked. A general allegation that the subordinate court committed an error should not suffice. The petitioner should identify whether the challenge is based on want of jurisdiction, excess of jurisdiction, refusal to exercise jurisdiction, perversity, violation of natural justice, patent disregard of binding law or manifest miscarriage of justice.

Fourthly, in high-volume civil litigation, procedural safeguards may be introduced to discourage routine challenges to interlocutory orders. Unless the order produces irreversible prejudice or reflects a jurisdictional defect, High Courts should ordinarily avoid interference at an intermediate stage so that trial proceedings are not unnecessarily delayed.

Fifthly, judicial orders under Article 227 should expressly record why the case satisfies the supervisory threshold. Such reasoned threshold scrutiny would preserve the constitutional breadth of Article 227 while ensuring discipline in its exercise.

These measures would not dilute the constitutional power of superintendence. Rather, they would strengthen Article 227 by ensuring that it remains a jurisdiction for correcting jurisdictional failure, grave procedural illegality and manifest injustice, and not a routine substitute for appeal or revision.

XIII. CONCLUSION

Article 227 is the constitutional culmination of a supervisory jurisdiction which existed in Indian High Courts long before the Constitution came into force. Its historical lineage may be traced from Section 15 of the Indian High Courts Act, 1861, to Section 107 of the Government of India Act, 1915, and thereafter to Section 224 of the Government of India Act, 1935.

The decisive historical event occurred in 1935 when Section 224(2) restricted the power of judicial interference. The Constitution adopted a different approach by omitting the restrictive provision corresponding to Section 224(2), expressly including tribunals and adopting a wider territorial formulation. The Supreme Court in *Waryam Singh v. Amarnath* recognised the significance of that omission and held that Article 227 restored judicial superintendence.

The subsequent constitutional history is equally significant. The Forty-second Amendment temporarily restricted Article 227 and substantially reproduced the restrictive philosophy of Section 224(2). The Forty-fourth Amendment later restored the broader constitutional formulation and removed the additional restriction.

The judicial evolution thereafter established an important equilibrium. Article 227 is constitutional, supervisory, judicial as well as administrative, applicable to civil and criminal courts and tribunals, capable of being exercised against interlocutory orders in appropriate cases, capable of being exercised suo motu, and sufficiently wide to correct jurisdictional errors, perversity, grave procedural illegality and manifest miscarriage of justice.

At the same time, Article 227 is not an ordinary appeal, a second appeal, an unrestricted revision, a mechanism for routine correction of factual findings or a substitute for every statutory remedy. The central principle emerging from the jurisprudence is that Article 227 gives the High Court a wide constitutional power of superintendence, but the width of that power does not justify unrestricted interference.

The history of Article 227 therefore reveals a carefully constructed constitutional balance. Its ancestry lies in colonial legislation, its legitimacy lies in the Constitution, and its modern limits have been developed through judicial discipline. The most accurate understanding of Article 227 is consequently neither that it is merely administrative nor that it is appellate. It is a constitutional jurisdiction of judicial superintendence: broad in source, exceptional in exercise, and indispensable to the maintenance of the rule of law within the subordinate judicial system.

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