

Constitutional Indian Law of Writs

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In common law, the writ was simply a written order made by the English Monarch to a specified person to undertake a specified action. Eg: King orders the military chief to arrange the soldiers for battle at a certain place and time. In Early times UK, Canada and Australia had a practice of a Writ of Election.

Writ of Election equivalent to a written order issued by Governor General for House of Representatives, State Governors for State Elections (on behalf of King) to local officials to hold general elections.

Habeas Corpus was initially originated in 1215, in 39th clause of Magna Carta by King John. Habeas Corpus derived from Latin term which means 'that you have the body'. It is used to secure a person who has been detained unlawfully or illegally.

Quo Warranto is issued to the person who holds the public office and on what authority it is entitled to him. The person who files this writ is needed not to be personally suffered.

This writ is filed to test:

The validity of a election of a person in a university syndicate, Mayor in municipal corporation,

Nomination of members to a Legislative Council by Governor, appointment of Chief Minister,

Chief Justice,

Advocate and

Attorney General, University Teachers etc.

Mandamus is an order from the Supreme or High Court to:

Lower or Subordinate courts,

Tribunal

And

Public Authority

Certiorari is issued by a Superior Court to the inferior or subordinate courts, tribunal and other public authorities to submit the record of a proceeding for review, but in general issued by the Supreme or High Court for quashing the order passed by inferior courts or subordinate courts, tribunals or other quasi-judicial authorities.

The writ of prohibition is issued by Supreme or High Court to an inferior court to stop the order passed by them.

The writ of certiorari issued too mostly on similar grounds. The main differences between these two writs are:

Certiorari issued to quash a decision after completion of proceedings, and

Prohibition issued before the completion of proceedings

Judiciary plays a keen role in this.

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