



WRITS ARE TYPICALLY NOT PERMITTED WHEN ALTERNATIVE REMEDIES ARE AVAILABLE

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ABSTRACT

This study examines the complex connection between available alternative remedies and the barriers they create for accessing writ jurisdiction. Writ jurisdiction serves as a powerful legal tool frequently used to defend fundamental rights, but it encounters difficulties when alternative remedies exist for affected parties. The research investigates jurisprudential principles and reviews judicial precedents to clarify circumstances where alternative remedies may obstruct writ invocation. The examination covers both theoretical and practical aspects, weighing administrative efficiency against the necessity to protect individual rights. This research seeks to offer a detailed understanding of how alternative remedies influence writ jurisdiction boundaries, affecting legal approaches and justice accessibility. Furthermore, it addresses possible reforms and jurisprudential advances that could improve coherence within this complex legal framework.

INTRODUCTION

The judiciary stands as one of our democracy's most vital institutions, playing a crucial role in realising the welfare state envisioned by our founding fathers. Through Constitutional Articles 32 and 226, the judiciary has received distinct specialised authority to enforce rights outlined in Part III of the Constitution, along with other legal rights. These powers are commonly known as the court's Writ Jurisdiction. Writ remedies function as prerogative remedies. When utilising this writ jurisdiction, courts may intervene and declare that alternative remedies exist, making writ orders unnecessary until those remedies are exhausted first. Consequently, certain barriers exist when seeking writ jurisdiction.

Keywords: Constitution, Absolute Bar, Writ Jurisdiction, Remedies, Obstacle.

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METHODOLOGY

This research paper has been compiled by the author using articles, journals, and various websites, including EY and SCC Blog. It is structured to provide readers with clear comprehension regarding writ jurisdiction maintainability when alternative remedies are available.

RESEARCH QUESTION

Does an absolute prohibition exist for accessing writ jurisdiction when alternative remedies are available?

OBJECTIVE

This paper aims to critically analyse and explain the complex relationship between alternative remedies and the barriers they create for accessing writ jurisdiction. The study seeks to clarify conceptual foundations and examine judicial interpretations. By pursuing these objectives, this paper aims to contribute to scholarly discussion regarding the nuanced challenges and opportunities presented by alternative remedies in writ jurisdiction contexts, providing comprehensive and insightful analysis for legal academics, practitioners, and policymakers. Article 226 of the Indian Constitution provides High Courts with extensive jurisdiction to issue orders and writs against any individual or entity. Before courts can grant writs or issue orders, petitioning parties must demonstrate that their rights face unlawful violation or threat. High Courts may issue writs and directions to any Government, authority, or person, regardless of location, provided the cause of action partially originates within their jurisdiction. Additionally, High Courts maintain discretion regarding writ issuance for enforcing legal rights beyond fundamental rights. In such cases, courts are not obligated to grant petitions or consider them. The High Court's authority to grant writs also faces several limitations when petitioners can pursue other equally effective alternative remedies. High courts consider multiple factors before exercising extraordinary constitutional jurisdiction. High courts typically deny relief when better remedies exist, directing parties to appropriate forums instead. The alternative remedy requirement serves as a self-imposed guideline rather than a jurisdictional requirement for writ petition consideration. This represents policy, practice, and judgment matters rather than legal requirements. Therefore, writs may be issued in extraordinary circumstances despite available alternative remedies.

DOCTRINE OF EXHAUSTION OF ALTERNATIVE REMEDIES

The judicial convenience rule forms the foundation for the alternative exhaustion doctrine. It states that litigants should approach the nearest forum in the judicial hierarchy and that valuable judicial resources should not be wasted through forum shopping at both lower specialised levels and higher levels. This doctrine becomes essential in modern times, given enormous case backlogs and litigation explosion in courts. Supreme Court decisions in numerous cases led to jurisprudence development supporting this concept.

Union of India v. T.R. Verma: In this case, the Supreme Court declared that "It is well established that when alternative and equally effective remedies are available to litigants, they should be required to pursue those remedies rather than invoke High Court special jurisdiction for prerogative writ issuance." The Court further explained that "When such remedies exist, refusing to interfere in Article 226 petitions represents sound discretion exercise, unless good grounds exist otherwise."¹

Sohan Lal v Union of India: In this case, the Supreme Court determined that whether alternate remedies are equally efficient and adequate represents factual questions requiring case-by-case decisions, with applicants bearing the burden to prove inadequacy. The court made the following observations regarding situations where writ jurisdiction remedies may be refused:

- Where Petitioners may obtain adequate relief through ordinary legal action
- For contract enforcement and compensation
- Where Petitioners have already instituted cases
- Where matters are time-barred

Courts must also consider that the necessary remedies available to petitioners should not be unduly burdensome or lengthy. This may result from various reasons, including delays. The Supreme Court also determined that exhaustion rules need not apply when authority decisions for which alternative relief is sought are known. This may occur because relevant issue decisions are known or remedies have been taken. In such cases, exhaustion usually occurs.

¹ Union of India (UOI) vs. T.R. Varma (18.09.1957 - SC): MANU/SC/0121/1957

Thus, while not binding in nature, it certainly holds persuasive value. In *Veerappa v Ramani*², the Supreme Court held that when statutes create rights and liabilities while prescribing remedies or procedures for enforcement, courts may refuse to entertain writ petitions and direct petitioners to seek statutory remedies only.³

Radha Krishan Industries v. State of H.P.: This case represents a landmark judgment addressing this domain. The Supreme Court summarised various principles related to Article 226's scope, considering the Alternative Remedy exhaustion doctrine.

There are certain emerging legal principles as follows-

Constitutional power to issue writs can be exercised not only for fundamental rights enforcement, but for other purposes as well under Article 226.

High Courts have discretion not to entertain writ petitions. One power restriction involves cases where effective alternative remedies are available to aggrieved persons.

Generally, writ petitions should not be entertained when effective alternate remedies are provided by law, but in appropriate cases, alternate remedies alone do not deprive High Courts of Article 226 Constitutional powers.

Article 226 of the Constitution mandates using specific statutory remedies before discretionary remedies when statutes establish rights and specify procedures or remedies for upholding rights or obligations. This statutory remedy exhaustion rule involves judgment, convenience, and policy matters.

In writ petitions, High Courts may choose not to grant jurisdiction when disputed factual issues exist. However, if High Courts objectively view that the controversial nature requires jurisdiction exercise, such views would not be readily interfered with⁴.

² *Veerappa Pillai vs. Raman and Raman Ltd. and Ors* (17.03.1952 - SC) : MANU/SC/0057/1952

³ *Sohanlal vs. The Union of India (UOI)* (07.03.1957 - SC): MANU/SC/0091/1957

⁴ Civil Appeal No 1155 of 2021

EXCEPTIONS TO THE DOCTRINE OF EXHAUSTION OF ALTERNATIVE REMEDY

This rule is not an 'Absolute Rule of Law' and certain valid exceptions exist where writ petitions are maintainable in High Courts, and in such cases, petitioners should not be relegated to alternative remedies. The Supreme Court in *Whirlpool Corporation v Registrar of Trademarks, Mumbai*⁵ held that under Constitutional Article 226, High Courts have discretion regarding writ petition entertainment, and alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies:

- Writ petitions filed for enforcing any Fundamental Rights protected by the Constitutional Part III
- Natural justice principle violations have occurred
- Orders or proceedings are wholly without jurisdiction, or Act validity is challenged

A similar view was adopted by the Supreme Court in *Harbanslal Sahnia v Indian Oil Corporation Ltd.* The court upheld that alternative remedy availability is not an absolute bar to granting writs under Article 226. In *Rajasthan State Electricity Board v. Union of India*⁶, the apex court observed that "now it represents a well-settled legal principle that alternative remedy availability is not an absolute bar for granting relief in Article 226 Constitutional power exercise". An appeal was filed to the Supreme Court against this decision because the appellants' writ petition was dismissed by the Bombay High Court, and the Railway Claims Tribunal offered better remedies. However, the Supreme Court ruled that High Courts cannot reject writ petitions or order appellants to pursue alternate remedies because respondents had acknowledged liability.⁷

CONCLUSION

In conclusion, effective alternative remedy availability is generally viewed as a barrier preventing high courts from exercising writ jurisdiction. This rule has been established

⁵ *Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and Ors* (26.10.1998 - SC) : MANU/SC/0664/1998

⁶ CIVIL APPEAL NO.7337 OF 2002

⁷ *Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and Ors* (26.10.1998 - SC) : MANU/SC/0664/1998

through various Supreme Court judgments and is based on sound reasoning. The primary rationale behind this rule is that statutory appeal procedures, revisions, or review mechanisms usually indicate legislative intent for those proceedings to be followed first. Allowing writ petitions in such cases would bypass or ignore legally established procedures. Additionally, writ jurisdiction is discretionary and extraordinary. Therefore, it should not be invoked routinely when other remedy options exist. This prevents abuse of the extraordinary discretionary power that high courts possess. It also ensures that appropriate forums address facts and issues, as high courts acting under writ jurisdiction may lack the ability to examine factual accuracy. Simultaneously, it is important to emphasise that this alternative remedy rule is not absolute or inflexible. The effectiveness and adequacy of the provided alternate remedies are also important considerations. Courts retain discretion to entertain writ petitions in certain exceptional cases despite statutory remedies being available to concerned petitioners. Thus, while alternative remedy availability remains an obstacle for writ jurisdiction, it does not impose blanket bans on high court writ jurisdiction if injustice or rights violations exist and alternative remedies are ill-equipped to deliver complete justice. Courts have final discretion based on the circumstances and exigencies of each case.

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