

High Courts — Traps (Trap ✗ / Reality ✓)

A comprehensive guide to common misconceptions about High Courts in India and the constitutional reality behind them.



Basics & Constitutional Status

1. ❌ High Courts are creations of Parliament only.

✅ High Courts are constitutional courts established under the Constitution for each state/region.

2. ❌ There is exactly one High Court per state.

✅ Some High Courts have jurisdiction over multiple states/UTs (e.g., Punjab & Haryana; common historical arrangements exist).

3. ❌ High Courts can be located anywhere by their own choice.

✅ Seat(s) are fixed by law/notification; they normally sit at the state capital or statutory seat(s).

4. ❌ High Courts are subordinate to the Supreme Court only in appeal.

✅ High Courts are independent constitutional courts with original and supervisory powers, but the SC is the final court of appeal.

5. ❌ High Courts were created only after independence.

✅ Pre-independence courts (Presidency & Provincial High Courts) were adapted into the present High Court system.

6. ❌ High Courts cease to exist if a state merges/splits.

✅ Reorganisation requires specific legislative/constitutional action — courts continue until replaced by law.

7. ❌ High Courts can be abolished by an ordinary Act of Parliament.

✅ Abolition or fundamental alteration requires constitutional/statutory procedure and is uncommon.

8. ❌ High Courts are mere administrative bodies.

✅ They are full judicial tribunals exercising judicial power under the Constitution.

9. ❌ High Courts have uniform structures across India.

✅ Structure (benches, divisions, strength) varies by state & statute.

10. ❌ High Courts only hear appeals.

✅ Many High Courts have original civil jurisdiction in some matters and wide writ jurisdiction.

Constitutional Status & Powers

11. ❌ High Courts' powers cannot be altered by law.

✅ Their powers are defined by the Constitution and Parliament/state laws subject to constitutional limits.

12. ❌ High Courts are exempt from judicial oversight.

✅ They are subject to Supreme Court jurisdiction and constitutional constraints.

13. ❌ Only the Supreme Court can issue writs.

✅ High Courts can issue writs (habeas corpus, mandamus, prohibition, quo warranto, certiorari) — a potent constitutional tool.

14. ❌ High Courts can issue writs only for enforcement of Fundamental Rights.

✅ They can issue writs for enforcement of FRs and for other purposes as well.

15. ❌ Writ jurisdiction of HCs is narrower than Article 32.

✅ HC writ jurisdiction is broader in practice (state action + other public law matters).

16. ❌ High Courts have no original civil jurisdiction.

✅ Several HCs (Bombay, Calcutta, Madras, Delhi etc.) possess original civil jurisdiction in specified matters.

17. ❌ High Courts cannot entertain commercial disputes.

✅ They can hear commercial matters as per statute and appeal routes; commercial benches exist in many HCs.

18. ❌ High Courts cannot hear service matters.

✅ Service/disciplinary disputes often come to HCs via statutory appeals or writs.

19. ❌ High Courts have no power to review subordinate court judgments.

✅ They exercise superintendence and revisional powers over subordinate courts.

20. ❌ High Courts can restrain the executive only in limited ways.

✅ High Courts can issue mandamus, injunctions, and stay orders against executive action.

Jurisdiction & Writs



21. **✗ High Courts' writs** are binding only within their state.

✓ **Writs** bind parties within the HC's **jurisdiction** — **jurisdictional** limits apply.



22. **✗ High Courts** cannot grant interim reliefs.

✓ They frequently grant **interim injunctions** and **stay orders** in **public and private suits**.



23. **✗ High Courts** cannot decide **constitutional questions**.

✓ They can and do decide important **constitutional issues**, subject to **Supreme Court review**.



24. **✗ High Courts** cannot quash **administrative acts**.

✓ HC can quash **ultra vires** or illegal **executive acts** via **writs**.



25. **✗ High Courts** are powerless over **tribunals**.

✓ HC can **review tribunal orders** on **jurisdictional** or **constitutional grounds** (limited **ouster clauses** aside).



26. **✗ High Court jurisdiction** ends at state border.

✓ **Jurisdiction** is territorial, but **courts** can exercise **extraterritorial jurisdiction** in specific cases (service, contracts with inter-state implications).



27. **✗ High Courts** lack power to enforce **environmental norms**.

✓ HCs have been active in **environmental protection** using **writ powers** and **PILs**.



28. **✗ HCs** cannot enforce **human rights**.

✓ HCs enforce **human rights** through **writ jurisdiction** and **PIL** routes.



29. **✗ High Courts** manage only **judges** of subordinate **courts**.

✓ HCs exercise general **superintendence** over subordinate **courts** and **tribunals** under their control.



30. **✗ High Courts** cannot transfer cases between subordinate **courts**.

✓ They can transfer cases in the interest of **justice** and for efficiency.

Superintendence & Control

31. ❌ High Courts cannot issue practice directions.

✅ HCs regularly issue practice directions, rules and guidelines for subordinate courts and bar.

32. ❌ High Courts have no role in subordinate courts' appointments.

✅ HCs are involved in selection/recommendations, inspections, and discipline of subordinate judiciary (subject to state rules).

33. ❌ High Courts cannot set precedent binding on lower courts.

✅ HC judgments are binding on subordinate courts within the state unless overruled.

34. ❌ High Courts have no administrative control over district judges.

✅ HCs supervise appointments, postings, and disciplinary control of district judiciary to a considerable extent.

35. ❌ High Courts cannot prescribe court fees and procedure.

✅ HCs influence procedural practice (but procedural statutes are enacted by Legislature).

36. ❌ High Courts cannot suspend subordinate judges.

✅ HCs can initiate inquiries and recommend suspension/discipline through prescribed procedures.

37. ❌ High Courts' superintendence is purely advisory.

✅ It is legal and binding in many administrative aspects of subordinate judiciary.

38. ❌ HCs have no power to create special courts.

✅ They can be instrumental in constituting special courts under statute by directing or recommending as part of judicial administration.

39. ❌ Every High Court must have a Chief Justice and a fixed number of judges.

✅ Strength varies by statute; vacancies and sanctioned strength differ across HCs.

40. ❌ Chief Justice is the only administrative head.

✅ Chief Justice leads administration, but collegial bodies and Registrar General assist in administration.

Composition, Benches & Strength

- 1 41. **✗** All benches of a High Court must be headed by the Chief Justice.
✓ Benches are constituted by the Chief Justice — but not all benches require C.J. to preside.
- 2 42. **✗** Judges sit only singly or as division benches; larger benches never exist.
✓ Full court or larger benches are constituted for important or conflicting questions of law.
- 3 43. **✗** High Court Benches cannot sit outside their principal seat.
✓ Many HCs have permanent or circuit benches at other locations within jurisdiction.
- 4 44. **✗** Judges are appointed to a High Court and cannot be transferred.
✓ Transfers are constitutionally possible (for administrative reasons), subject to consultation.
- 5 45. **✗** High Courts have uniform retirement age nationwide.
✓ HC judges retire at a uniform age (62) — but appointment/tenure rules are constitutionally set.
- 6 46. **✗** Strength of a HC judge bench is only a number; appointment rules are arbitrary.
✓ Sanctioned strength arises from demand, workload and Parliament/State sanction.
- 7 47. **✗** Acting judges are equally remunerated and have identical status always.
✓ Acting or additional judges have temporary status and limited tenure compared to permanent judges.
- 8 48. **✗** High Court strength is fixed by the Chief Justice alone.
✓ Strength is determined by legislation and executive approval following recommendations.
- 9 49. **✗** State governors appoint HC judges.
✓ President appoints HC judges after consultation with the Chief Justice of India, Governor and other relevant members.
- 10 50. **✗** High Court judges are appointed only by state government.
✓ Appointment is a presidential act performed after consultations; state plays a consultative role.

Appointments, Transfers & Collegium

01

51. **✗** There is no role of the Supreme Court/collegium in HC appointments.

✓ The collegium system (judicial recommendation) plays a key role in practice.

03

53. **✗** HC judges are appointed through an open competitive exam.

✓ Judges are appointed from bar (advocates) and subordinate judiciary by nomination/selection, not competitive exam.

05

55. **✗** HC judges can be removed by state legislature.

✓ Removal follows a parliamentary process (impeachment at national level) — a stringent process.

07

57. **✗** HC judge appointments can be made by executive fiat without consultation.

✓ Constitutional practice requires consultation with judiciary leaders; arbitrary appointments would face challenge.

09

59. **✗** Transfer of HC judges cannot be challenged.

✓ Transfers can be challenged when mala fide or arbitrary, though courts are cautious about interfering with internal administration.

02

52. **✗** Governor's concurrence is optional in HC appointments.

✓ Governor is consulted, especially about suitability and local factors; his views are part of the process.

04

54. **✗** HC judges can be transferred only on their request.

✓ Transfer by the President (after consultation) can be made in public interest; consent considerations exist but not absolute veto.

06

56. **✗** Collegium recommendations are publicly transparent by default.

✓ Collegium functioning is opaque, though transparency pressures have grown.

08

58. **✗** High Court can appoint its own judges directly.

✓ Only President can appoint after consultation and recommendation process.

10

60. **✗** Retirement benefits for HC judges are decided by state government arbitrarily.

✓ Remuneration and benefits are governed by law and constitutional safeguards; arbitrary reductions unlawful.

Independence, Security & Conduct

<p>61. ❌ <u>HC judge appointments</u> are uniform in method everywhere.</p> <p>✅ <u>Article</u> practices and <u>collegium</u> dynamics vary; state factors influence process.</p>	<p>62. ❌ <u>HC judges</u> once appointed cannot be promoted/transferred to <u>Supreme Court</u>.</p> <p>✅ Many <u>HC judges</u> are elevated to the <u>Supreme Court</u> by appointment.</p>
<p>63. ❌ Acting <u>judges</u> become permanent by virtue of tenure only.</p> <p>✅ Acting/additional <u>judges</u> require separate appointment/confirmation as permanent <u>judges</u>.</p>	<p>64. ❌ A retired <u>HC judge</u> can resume <u>private practice</u> in the same state's <u>courts</u>.</p> <p>✅ There are restrictions on practice after retirement; norms vary and <u>ethical expectations</u> apply.</p>
<p>65. ❌ <u>High Court judges</u> can be removed easily by state governments.</p> <p>✅ <u>Removal</u> is difficult — akin to <u>SC removal</u> — protecting <u>judicial independence</u>.</p>	<p>66. ❌ <u>High Court judges</u> are susceptible to <u>executive transfers</u> for political reasons freely.</p> <p>✅ Transfers can be made but <u>collegium/consultation norms</u> and <u>judicial review</u> curb <u>arbitrariness</u>.</p>
<p>67. ❌ <u>High Court judges</u> can engage in politics after retirement freely.</p> <p>✅ <u>Judicial propriety</u> discourages post-retirement political engagements; rules and controversies exist.</p>	<p>68. ❌ <u>HC judges' salaries</u> are voted yearly by state assemblies.</p> <p>✅ <u>Remuneration</u> is protected by law and not casually altered to preserve <u>independence</u>.</p>
<p>69. ❌ <u>HC judges</u> can be directed by state <u>executive</u> on case outcomes.</p> <p>✅ Any such direction would violate <u>separation of powers</u> and be <u>unconstitutional</u>.</p>	<p>70. ❌ <u>High Court judges</u> never declare <u>conflicts of interest</u>.</p> <p>✅ <u>Judicial ethics</u> and practice require <u>recusal</u> in <u>conflicts</u>, though practice varies.</p>

Judicial Conduct & Accountability



71. **✗** There is no disciplinary mechanism for HC judges.

✓ Mechanisms (inquiry, references, and parliamentary removal) exist to deal with misconduct.



72. **✗** A judge can be criminally prosecuted without any safeguard.

✓ Prosecution of judges follows strict procedural and constitutional safeguards.



73. **✗** Judges' speeches and conduct outside court are unregulated.

✓ Judges must follow codes of conduct and norms; imprudent public conduct draws scrutiny.



74. **✗** HC judges are appointed for life.

✓ They have fixed retirement age (not life tenure).



75. **✗** HC judges can take part in political rallies post-retirement without controversy.

✓ Such actions often spark debate about judicial propriety and independence.



76. **✗** Judicial independence means absolute immunity from law.

✓ Independence works within constitutional bounds; judges are accountable.



77. **✗** High Courts cannot admit PILs.

✓ HCs receive PILs for public interest matters within their territorial jurisdiction.



78. **✗** HCs cannot exercise discretion in admitting PILs.

✓ HCs exercise judicial discretion and screening for frivolous PILs.



79. **✗** HCs cannot pass structural or policy directions.

✓ High Courts sometimes issue structural remedies or directions (schools, prisons, pollution) using continuing mandamus.



80. **✗** High Courts cannot oversee commissions of inquiry.

✓ HCs can monitor inquiries and even issue directions regarding their constitution and functioning.

Procedure, Evidence & PILs

81. ✗ High Courts cannot direct states to frame policies.

✓ HCs can direct policy framing when constitutional rights or statutory duties are invoked.

82. ✗ Evidence rules are entirely different in HC benches.

✓ Evidence law (Evidence Act, Criminal Procedure) applies uniformly, though High Courts interpret and develop law.

83. ✗ HCs cannot grant compensation in public law matters.

✓ HCs grant compensation for violations (environmental damage, illegal detention).

84. ✗ HCs cannot enforce international law obligations.

✓ HCs can refer to international law for interpretation and to shape domestic norms (not binding but persuasive).

85. ✗ HCs cannot set timelines for state action.

✓ HCs often fix timetables and monitor compliance through periodic reports.

86. ✗ High Courts do not interfere in labour disputes.

✓ Many labour disputes reach HCs by writ or appeal; HCs shape labour jurisprudence.

87. ✗ High Courts lack power to coordinate multi-departmental responses.

✓ HCs coordinate inter-departmental action via directions in public interest cases.

88. ✗ HCs cannot order release of detained persons.

✓ Through habeas corpus, HCs frequently order release or inquiry into detention.

89. ✗ High Courts have no jurisdiction over tribunals.

✓ HCs can superintend and review tribunal actions on jurisdictional grounds and legality.

90. ✗ Tribunals completely oust HC jurisdiction.

✓ Ouster clauses are interpreted narrowly; HCs retain supervisory powers unless clearly barred.

Contemporary & Miscellaneous Traps

91. ✗ High Courts cannot stay tribunal appointments.

✓ HC can examine validity of tribunal appointments and stay actions if unlawful.

92. ✗ HCs are powerless to correct unfair tribunal procedures.

✓ HCs can quash procedurally flawed decisions and ensure natural justice.

93. ✗ HCs cannot exercise supervisory jurisdiction over administrative authorities.

✓ Superintendence includes administrative bodies exercising quasi-judicial functions.

94. ✗ High Courts cannot consolidate conflicting tribunal precedents.

✓ HC can harmonise conflicting orders and set binding precedent.

95. ✗ HCs cannot order reconstitution of tribunals/boards.

✓ HCs can direct reconstitution if statutory requirements or fairness breached.

96. ✗ HCs cannot adjudicate rights under special statutes (tax, service) where tribunals exist.

✓ HCs can question tribunal jurisdictional excesses and Fundamental Rights breaches.

97. ✗ High Courts are immune to RTI and transparency demands.

✓ HCs are subject to transparency norms in administrative functions; judicial records have special considerations.

98. ✗ High Courts are only reactive courts.

✓ They can be proactive — suo motu cognisance, directions, and structural supervision.

99. ✗ High Court decisions outside the state are irrelevant elsewhere.

✓ While not strictly binding outside their state, HC decisions are persuasive and sometimes followed across jurisdictions until SC settles the law.

100. ✗ High Courts are temples of technicalities alone, not instruments of social change.

✓ High Courts often drive social justice, governance reform and rights protection through purposive interpretation and remedies.