

**JOURNAL FOR LAW STUDENTS AND RESEARCHERS****JUDICIARY - UPPER VS. LOWER**

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If any person is given with power on the first hand and such person is not allowed to use that power for the betterment of the society it feels like that there is an outbreak in the society and when the same situation arises in the judiciary it burns the heart of the democracy. The powers which are provided to the upper tier of judiciary that is the Supreme Court and High Court are meant to apply the principle of independent judiciary. But, the independence has its own responsibilities which are not followed by the upper tier of judiciary. Again the upper tier of judiciary with the given provisions are showing their endless powers towards their juniors. It has been observed in many incidences that the lower judiciary has been dominated. Lower judiciary is important for judiciary as a foundation for any house or building. There are numerous facts which can be proved as right when it comes to keeping the lower judiciary in hands of upper judiciary which leads to obstruction of the justice.

I just want to question you that in the sections such as 302 of Indian Penal Code the lower judiciary barely provides bail to a person due to the pressure of upper judiciary and when it comes to the civil grounds, they are also debatable regarding providing the writ jurisdiction to the lower courts along with High Court and Supreme Court. As a matter of fact I want to mention that High Court Judges are in opinion that they are God and no one can stand against them when they do something wrong against the law.

At the time of Independence the maker of our Constitution had an ideology regarding the removal of High Court and Supreme Court Judges. According to the maker, the removal should be done through the Constitutional process along with the help of the Parliamentary process. But now a days it is observed that they had thought that this provides them freedom to do whatever they want but, as a law student and a researcher I think that the base of any case is buried by the political power broker because the process behind the making of the High Court and Supreme Court Judges

is too way related to the President and Prime Minister which show that they can be obliged with a man who appoints them and this can also turn on the lower judiciary.

As Nepotism, is worst way to create success and sometimes decreases the opportunity in any field to excel their dreams and do the work appropriately. In judiciary, the public expect to be not mistrusted because according to the Indian Constitution, judiciary is the only hope for the personal of the society when the government fails to see their interest appropriately. And in many cases the parties do not have enough funds to file the case or after the pro bono work of their attorney's. The public expects that they will attain justice but sometimes due to some citations which are judicial precedent which do not allow lower courts to rule on some matters or to provide some relief to the public. As it is our presumption that every minute of our life have the crucial effect on our life because as we can do many more things which can be productive in the world and as those minutes which we have been wasted or have dedicated in framing of the issues and the statements in any prescribed case and though it cannot be justified as the persons who went to the court for the relief are not able to get the proper relief due to the dictatorship of the upper courts. Due to this judges who are in the lower judiciary are not able to perform their function like they are having the full power to exercise such case. Sometimes this also leads to a mental tension for the victim which affects him emotionally, physically, psychologically, socially and also in the terms of monetary benefits. That too the relief which is been claimed by the victim, when is not provided to them then they are not left with no option other than compromise including spending lots of money for seeking the justice from high court by way of filing the appeal. It is of such a nature that it can be easily disposed of by the lower judiciary. They are many instances when the parties may also suffer from huge loss in their reputation in the society in which they are residing or earning their livelihood. By the means of speech or in a written form many judicial interpreters or researches had wrote about this topic but I would like to bring a special attention to the fact that they always miss the opportunity to evaluate or interpret the actual needs of the lower judiciary and through the medium of this article I would like to say that the positions or the powers enjoyed by the upper judiciary may also be given to the lower judiciary as in the candidates who are been selected as in judicial officer holds a capacity a rational judgment by applying there judicial mind without any of the hurdles which are been created by the upper judiciary. And I also like to appeal the law makers to reinstate the laws and make a law regarding the correct distribution of the power or the decentralization of the power between the lower and upper judiciary. I would like to add a point

which elucidate that upper judiciary should maintain the role of a supporting hand rather than a binding authority and they should not bully them to create the situation of a curse in the society. It would be an adamant step of lower judiciary that they work under their binding authorities but does not allow them to interfere in their powers and jurisdiction. It is not a new topic to be discussing, that a dominant authority always holds a high position when it comes to their subordinate's decision. I really do not want this type of relation between both of them but I want them to be more like a companion in discharging the lawful duties by granting the relief and justice to this society and should sacrifice some of their powers in working with their subordinate authorities and which may lead to the correct formation of any judgment and which will lead to the gateway of a society where they may provide a unambiguous decision for the needy section of the society. As a process of judicial remedies we study how the principles of natural justices are being always superseded by the judiciary of any country. In this context I want to quote a Latin maxim "Delay in justice is no justice" and higher courts is doing the same mentioned above because of the judicial process of our country. It is rightly said that there should be a check on every authority which hold a position whether they are discharging their functions rightly or not. The authority which supervise the lower authorities are also under an obligation to be checked by the laws formulated in India.