

ANSWER KEY & MARKING SCHEME · CBSE CLASS 12

Judiciary

Legal Studies · Chapter 1 · Use this with the Board Paper · Companion to Quick Drill

HOW TO USE

Attempt the Board Paper first (closed-book, full time). Then come here. For 2-mark+ questions, compare your answer to the model. For 3-4 mark questions, also consult the **Topper Templates** below — these show the exact step-by-step structure that scores full marks per CBSE marking-scheme conventions.

MODEL ANSWERS · BOARD PAPER
Section A — Short (2 × 4 = 8 marks)
Q1. What is the retirement age of (a) Supreme Court judge and (b) High Court judge? [2 marks]
Ans: (a) 65 years (Article 124(2)). (b) 62 years (Article 217(1)).

Q2. What is the composition of the Collegium for SC appointment? [2 marks]
Ans: Chief Justice of India + four senior-most Supreme Court judges (total 5).

Q3. Cite the article for SC's writ jurisdiction and the article for HC's writ jurisdiction. [2 marks]
Ans: SC writs — Article 32. HC writs — Article 226 (wider scope).

Q4. Name two tribunals established under Articles 323A or 323B. [2 marks]
Ans: ITAT (Income Tax Appellate Tribunal), CAT (Central Administrative Tribunal), NGT (National Green Tribunal), NCDRC, DRT (any two).

Section B — Medium (3 × 4 = 12 marks)
Q5. Briefly describe the four levels of India's court hierarchy. [3 marks]
Ans: (1) Supreme Court (Article 124) — apex. (2) High Courts (Article 214) — state level, 25 in India. (3) District Courts (Article 233) — district level, civil + sessions. (4) Subordinate Courts — civil judges + magistrates. Tribunals + specialised courts parallel.

Q6. Outline the procedure for removal of a Supreme Court judge under Article 124(4). [3 marks]
Ans: (1) Motion in either House, signed by ≥ 100 LS members OR ≥ 50 RS members. (2) Inquiry committee of SC judge + HC judge + distinguished jurist. (3) 2/3 majority of members present + majority of total in BOTH Houses in same session. (4) President's order. No judge has been successfully removed to date.

Q7. Differentiate between tribunals and regular courts with three points + one example each. [3 marks]
Ans: (1) Procedure: tribunals follow simpler procedures; courts follow formal Code of Civil/Criminal Procedure. (2) Scope: tribunals specialised (tax, environment, consumer); courts general jurisdiction. (3) Composition: tribunals include subject-experts; courts only legal judges. Tribunal example: ITAT. Court example: District Court.

Q8. Explain three sources of judicial review in the Indian Constitution. [3 marks]
Ans: (1) Article 13 — laws violating fundamental rights are void. (2) Article 32 — SC writs for FR enforcement. (3) Article 226 — HC writs, wider than 32. (Article 137 also acceptable — SC reviews own judgements.)

Section C — Long (5 × 2 = 10 marks)
Q9. Explain the Collegium system for appointment of Supreme Court judges. Trace its evolution through the Three Judges Cases and discuss the NJAC controversy. [5 marks]
Ans: Article 124(2): President appoints SC judges in consultation. First Judges Case (1981) — executive primacy. Second Judges Case (1993) — established Collegium (CJI + 4 senior). Third Judges Case (1998) — clarified composition. NJAC (99th Amendment + Act 2014) tried to replace Collegium with executive-led body; struck down in Fourth Judges Case 2015 as violating basic structure (judicial independence). Collegium remains.

Q10. Explain the doctrine of judicial review with special reference to the Kesavananda Bharati case (1973).

Name three elements of the basic structure identified in subsequent jurisprudence. [5 marks]

Ans: Define judicial review — power of SC/HC to strike down laws/orders that violate Constitution. Sources in Articles 13/32/226/137. Kesavananda Bharati 1973: 13-judge bench, 7-6 majority. Held Parliament can amend Constitution but cannot destroy BASIC STRUCTURE. Elements of basic structure: supremacy of Constitution, secular character, separation of powers, federalism, judicial independence, rule of law, free + fair elections (any three).

★ **TOPPER ANSWER TEMPLATES**

3 TEMPLATES · MEMORISE THE FORMAT

★ **TOPPER TEMPLATE — 5 marks: Explain the structure and hierarchy of courts in India.**

Annual

Step 1 [1 mark]	Supreme Court (apex)	The SUPREME COURT OF INDIA, established under Article 124 of the Constitution, sits at the apex of the judicial hierarchy. It comprises the Chief Justice of India and up to 33 other judges (sanctioned strength of 34). Its jurisdiction: ORIGINAL (Article 131 — disputes between Centre and states), APPELLATE (Articles 132-134 — appeals from High Courts), ADVISORY (Article 143 — opinions sought by President), WRIT (Article 32 — enforcement of fundamental rights). The SC is the final court of appeal; its decisions bind all other courts in India.
Step 2 [1 mark]	High Courts (state-level)	Each STATE (or group of states/UTs) has a HIGH COURT, established under Article 214. There are 25 High Courts in India. The HC is the highest court of the state, with composition determined by the President (varies — Allahabad HC has 160 judges, Sikkim HC has 3). Jurisdiction: ORIGINAL (Article 226 — writs for fundamental rights + 'any other purpose'), APPELLATE (over subordinate courts), and SUPERVISORY (Article 227 — supervision over all subordinate courts within its territory). High Courts hear constitutional and statutory matters and are courts of record.
Step 3 [1 mark]	District Courts	Below the High Court, each DISTRICT has DISTRICT COURTS — the highest civil court of the district (District Judge) and Sessions Court (Sessions Judge, hearing criminal matters). The District Judge has both ORIGINAL and APPELLATE jurisdiction over civil cases in the district. District judges are appointed by the Governor in consultation with the High Court (Article 233).
Step 4 [1 mark]	Subordinate + Specialised Courts	Below the District level are SUBORDINATE COURTS — Civil Judges (Senior Division and Junior Division), Munsif Courts, Judicial Magistrates First Class / Second Class for criminal matters. ADDITIONALLY, India has specialised courts: Family Courts (Family Courts Act 1984), Lok Adalats (Legal Services Authorities Act 1987), Fast Track Courts, Commercial Courts. Specialised TRIBUNALS (CAT, ITAT, NGT, etc.) operate parallel to the hierarchy for specific subject-matter areas.
Step 5 [1 mark]	The hierarchy works as appeal-chain	The hierarchy forms an APPEAL CHAIN: Munsif/Magistrate → District Judge → High Court → Supreme Court. A litigant unhappy with a lower court's verdict can appeal upward, subject to monetary or legal thresholds. This appellate structure protects litigants from individual-judge errors and creates uniformity of law across India. The SC's decisions are FINAL and BINDING on all courts below (Article 141).

COMMON LOSS OF MARKS:

- Forgetting one level of the hierarchy (most often Tribunals or Specialised Courts).
- Mixing up Article numbers (124 = SC, 214 = HC, 226 = HC writs, 32 = SC writs).
- Stopping at the names without explaining each court's jurisdiction.

★ **TOPPER TEMPLATE — 5 marks: Explain the appointment of Supreme Court judges through the Collegium system.**

Annual

Step 1 [1 mark]	Constitutional basis — Article 124	ARTICLE 124(2) of the Constitution provides that every SC judge shall be appointed by the PRESIDENT OF INDIA by warrant under his hand and seal after consultation with such judges of the Supreme Court and the High Courts as the President may deem necessary. The Constitution itself does not define the consultation process; this has been clarified through three landmark Supreme Court judgements — known as the Three Judges Cases.
Step 2 [1.5 marks]	Evolution — First → Second → Third Judges Cases	(1) FIRST JUDGES CASE (1981) — President's 'consultation' meant consultation but not concurrence; executive had primacy. (2) SECOND JUDGES CASE (1993) — Court held 'consultation' actually means CONCURRENCE of CJI; established the COLLEGIUM SYSTEM. (3) THIRD JUDGES CASE (1998) — Clarified Collegium composition: CJI + four senior-most SC judges. Together these three judgements transferred judicial-appointment primacy from the executive to the judiciary.
Step 3 [1 mark]	Collegium composition + process	The COLLEGIUM for SC appointments comprises: CHIEF JUSTICE OF INDIA + FOUR SENIOR-MOST SC JUDGES. For HC appointments: CJI + two senior-most SC judges. The Collegium meets, deliberates, and proposes names to the central government. The government may return the file ONCE with reasons; if Collegium reiterates, the government is bound to appoint.
Step 4 [1 mark]	Qualifications for SC judge	Article 124(3): To be appointed an SC judge, a person must be a citizen of India AND must have been (a) a Judge of a High Court for at least 5 years, OR (b) an advocate of a High Court for at least 10 years, OR (c) a distinguished jurist in the opinion of the President. In practice, the bulk of SC judges are HC Chief Justices elevated by the Collegium.
Step 5 [0.5 mark]	NJAC and its striking down	In 2014 Parliament passed the 99th Constitutional Amendment + NATIONAL JUDICIAL APPOINTMENTS COMMISSION Act, replacing the Collegium with a 6-member body including the executive and lay members. In the FOURTH JUDGES CASE (2015) the SC struck this down 4-1 as violating the BASIC STRUCTURE (judicial independence). The Collegium system therefore remains in force, despite continued political criticism.

COMMON LOSS OF MARKS:

- Saying 'the President alone appoints' — wrong; consultation is mandatory.
- Confusing Collegium for SC (CJI + 4) with Collegium for HC (CJI + 2).
- Forgetting Article 124 reference.
- Missing NJAC + 2015 striking down — increasingly asked.

★ **TOPPER TEMPLATE — 5 marks: Explain the doctrine of judicial review with reference to the Kesavananda Bharati case.**

Annual

Step 1 [1 mark]	Define judicial review	JUDICIAL REVIEW is the power of the Supreme Court and High Courts to examine the constitutionality of laws passed by Parliament or state legislatures, and of executive orders issued by central or state governments. If a law or order violates the Constitution, the court can DECLARE IT UNCONSTITUTIONAL and strike it down. Judicial review is a CORE feature of constitutionalism — it ensures that no organ of state can exceed its constitutional limits.
Step 2 [1 mark]	Source in the Indian Constitution	Although the Constitution does not explicitly use the phrase 'judicial review', several provisions empower it: Articles 13 (laws violating fundamental rights are void), 32 (SC's writ jurisdiction for FR enforcement), 226 (HC writ jurisdiction), 131-136 (SC appellate jurisdiction), 137 (review of own judgements), 141 (SC decisions bind all courts), 142 (complete justice power). Together these provisions create a robust review architecture.
Step 3 [1.5 marks]	Kesavananda Bharati case (1973)	KESAVANANDA BHARATI v STATE OF KERALA (1973) — a 13-judge Constitution Bench decision (the largest ever), delivered by 7-6 majority. The case asked: can Parliament amend the Constitution to take away fundamental rights? The Court answered: YES, Parliament has wide amending power UNDER ARTICLE 368, BUT it cannot DESTROY the BASIC STRUCTURE of the Constitution. The court left 'basic structure' undefined but listed elements including: supremacy of Constitution, republican/democratic form, secular character, separation of powers, federalism, unity and integrity, judicial review, rule of law, individual freedom.
Step 4 [1 mark]	Significance and subsequent application	Kesavananda Bharati is the FOUNDATIONAL precedent of Indian constitutional law. It established (1) Parliament is NOT supreme — the Constitution is; (2) basic structure is JUDICIALLY DETERMINABLE; (3) judicial review extends EVEN to constitutional amendments. Subsequent decisions (Indira Nehru Gandhi v Raj Narain 1975, Minerva Mills 1980, S.R. Bommai 1994, NJAC 2015) applied this doctrine to strike down amendments and laws found to damage the basic structure.
Step 5 [0.5 mark]	Limits of judicial review	Judicial review is NOT unlimited. The court does not review (1) political questions (e.g., admission of states), (2) money bills (Article 110), (3) certain matters expressly excluded (Article 31-A, B, C in specific contexts). Also, courts cannot strike down policies just because they are unwise — only because they are UNCONSTITUTIONAL. The line between 'unconstitutional' and 'unwise' is itself drawn by the court — sometimes critically.

COMMON LOSS OF MARKS:

- Treating judicial review as 'court veto over Parliament' — wrong nuance.
- Confusing Kesavananda Bharati with Golak Nath (which it overruled).
- Not naming the 13-judge bench / 7-6 majority — examiners reward precision.
- Missing the basic-structure doctrine entirely — central to this question.

MARKING SCHEME — GENERAL NOTES

- Article numbers must be cited explicitly (124, 214, 226, 32, 141, 143, 323A/B).
- Case names + years required for case-law questions (Kesavananda Bharati 1973, NJAC 2015, etc.).
- Collegium for SC = CJI + 4; Collegium for HC = CJI + 2 — get the numbers right.
- Retirement ages 65/62/60 are frequently tested — memorise.
- For judicial review: define + sources + Kesavananda + basic structure elements — all four parts for full marks.