

## PROJECT REPORT

### Title: Judicial Activism in India

Under the Indian Constitution, the State is under the prime responsibility to ensure justice, liberty, equality and fraternity in the country. State is under the obligation to protect the individuals' fundamental rights and implement the Directive Principles of State Policy. In order to restrain the State from escaping its responsibilities, the Indian Constitution has conferred inherent powers, of reviewing the State's action, on the courts. In this context, the Indian judiciary has been considered as the guardian and protector of the Indian Constitution. Considering its constitutional duty, the Indian judiciary has played an active role, whenever required, in protecting the individuals' fundamental rights against the State's unjust, unreasonable and unfair actions/inactions.

Judicial activism happens when the courts have power to review the State action. Article 13 read with Articles 32 and 226 of the Indian Constitution gives the power of judicial review to the higher judiciary to declare, any legislative, executive or administrative action, void if it is in contravention with the Constitution. The power of judicial review is a basic structure of the Indian Constitution. Article 32 of the Indian Constitution gives right to every individual to move directly to the Supreme Court of India for the enforcement of his or her fundamental right. Article 32 confers power on the Supreme Court to issue any order or writ for the enforcement of any of the fundamental rights. The Supreme Court in Fertilizer Corporation Kamgar Union v. Union Of India held that the power of the Supreme Court under Article 32 is an integral part of the basic structure of the Indian Constitution "because it is meaningless to confer fundamental rights without providing an effective remedy for their enforcement, if and when they are violated." It cannot be suspended even during emergency. An appropriate writ/order under Article 32 for the enforcement of Articles 17, 23 and 24 can be passed against a private individual also.

*Sayanti Halder*

*[Signature]*

**PRINCIPAL**  
Dhirendra Chand Halder College  
P.O. - B. Barua, P.S. - Jangra  
South M Pargana, Pin- 763372