International Journal of Law Research, Education and Social Sciences

Open Access Journal – Copyright © 2025 – ISSN 3048-7501
Editor-in-Chief – Prof. (Dr.) Vageshwari Deswal; Publisher – Sakshi Batham

IJLRES

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The Dynamic Mandamus: From Royal Prerogative to Guardian of Public Rights in India

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Received 19 September 2025; Accepted 20 October 2025; Published 24 October 2025

The article delves into the writ of mandamus in India and traces its origin from 16th-century England to its position today as a constitutional concept. It discusses the kinds of mandamus, such as alternative, peremptory and continuing forms, and presents the case laws reflecting its societal value or significance, especially through Public Interest Litigation (PIL) on issues including environmental law, prevention of sexual harassment, and food security. The Article actually pieces together some of the procedural intricacies involved in filing a mandamus petition, such as locus standi, demand and refusal and alternative remedy (mandatory duty v discretionary duty). It analyses the modern relevance of the writ in relation to digital rights, health emergencies and bureaucratic accountability, comparing in each case developments in England with other jurisdictions such as the United States, Australia and Canada. A critical review highlights the legal boundaries and functional restrictions, including the alternative remedy doctrine, constitutional protections, and the notion of judicial restraint in certain specialised areas. In conclusion, the paper recommends several best practices to enhance mandamus in India. These include setting clear compliance deadlines, providing guidelines to differentiate between discretionary and mandatory duties, creating a centralised online tracking system, and establishing specialised tribunals for public law disputes. The conclusion emphasises the judiciary's essential role in addressing state inaction and upholding the rule of law through the writ of mandamus.

Keywords: *PIL, mandamus, duty, judiciary.*

INTRODUCTION

The term 'mandamus' refers to a common law prerogative writ that is 'issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.'[1] It is also frequently called 'mandamus,' which means 'we command' in Latin. Only the person whose rights have been violated may request a Writ of Mandamus from the court. When public authorities in India fail to fulfil their duties, it becomes possible for the average citizen to challenge them.

HISTORICAL BACKGROUND

The writ of Mandamus originated in England in the 16th century. It was an order that the King's Bench used to make government officials carry out their legal responsibilities. In India, the writ of Mandamus was introduced during British rule, especially with the Regulating Act 1773, which led to the establishment of the Supreme Court in Calcutta in 1774. The British Crown gave this court the authority to issue commands like Mandamus, compelling officials to perform their duties.[2] This was officially noted in Section 45 of the Specific Relief Act 1877[3], during colonial India, to address when authorities failed to act. When India gained independence, the Specific Relief Act 1963[4] did not mention Mandamus, because the Indian Constitution had it covered. The Constitution gave more direct power to the Superior courts. Article 226[5] allows High Courts, while Article 32[6] lets the Supreme Court issue writs like Mandamus. These writs ensure the protection of fundamental rights and ensure public officials fulfil their duties. Thus, Mandamus shifted from a colonial instrument to a constitutional protection, maintaining its significance in India's legal framework today.

[1] 'Mandamus' (*Ballot Pedia*) <https://ballotpedia.org/Mandamus> accessed 05 September 2025
[2] MP Jain, *Indian Constitutional Law* (8th edn, LexisNexis, 2022)
[3] Specific Relief Act 1877, s 45
[4] Specific Relief Act 1963
[5] Constitution of India 1950, art 226
[6] Constitution of India 1950, art 32

TYPES OF WRITS OF MANDAMUS IN INDIA

There are two main forms of the writ of mandamus: alternative mandamus and peremptory mandamus. An alternative mandamus acts like a preliminary warning. It tells the responsible authority to either carry out the required duty or explain why they haven't done it. This allows the court to examine the issue before making a final decision. A peremptory mandamus is a more forceful order given by the court when they aren't satisfied with the reasons for inaction, compelling the authority to fulfil its legal duty. There's also a special type known as continuing mandamus, often used in Public Interest Litigations (PILS). In this case, the court continues to oversee the process to ensure that complex directives are followed in steps.

LANDMARK CASES WITH SOCIETAL IMPACT

The writ of mandamus has transformed Indian jurisprudence through Public Interest Litigation (PIL) in enforcing state action in Public Welfare undertakings. *M C Mehta v Union of India*[7] is one of the most definitive milestones in not only the history of environmental law but also judicial supervision of the scope of governance. The Supreme Court issued a mandamus to industries under the Water Act 1974[8], commanding them to put effluent treatment plants and asserting judicial power over environmental governance. Also equally transformative was *Vishaka v State of Rajasthan*[9], in which mandamus was used to fill a legislative gap for 16 years before the Sexual Harassment Act 2013 came into force by erecting enforceable rules of workplace sexual violence.[10] The socio-economic scope of the writ in Public Interest Litigation is best seen in *People's Union for Civil Liberties v Union of India*[11], which epitomised the continuous mandamus orders to operationalise the food security schemes, which later metamorphosed into the National Food Security Act of 2013. The trajectory set out in these instances suggests that mandamus is evolving from a soft procedural tool to a concrete means of social justice.

[7] *M.C. Mehta And Anr v Union of India & Ors* AIR 1987 SC 1086
[8] Water Act 1974
[9] *Vishaka & Ors v State of Rajasthan & Ors* AIR 1997 SC 3011
[10] The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013
[11] *People's Union for Civil Liberties v Union of India & Anr* AIR 1997 SC 568

PROCEDURAL NUANCES

The intricacies of the prerequisites set for mandamus petitions under Articles 226 and 32 portray them as both remedies and exercises of bound judicial restraint. The requirement of locus standi seems to have evolved from the strict 'personal injury' boundaries as per *State of Kerala v A. Lakshmikutty*,[12] to a broad PIL standing, although a clear public injury still has to be demonstrated. Courts insist on proof of a prior demand and refusal - a procedural check towards avoidance of premature litigation (*Commissioner of Police v Gordhandas Bhanji*[13]). In *Harbanslal Sahnia v Indian Oil Corp*[14]., the rule of alternative remedy functions as a jurisdictional sieve, unless the alternative is considered imaginary or non-viable. Most importantly, however, mandamus can only be issued for non-discretionary duties, and thus a hierarchy of justiciability is created in which courts scrutinise whether the duty is in the form of:

1. Statutory/legal,
2. Specific, and
3. Non-negotiable is marked by the refusal to grant mandamus in matters of policy.

Narmada Bachao Andolan v Union of India[15] versus its granting in the absence of clear violations of statutory obligations.

CONTEMPORARY RELEVANCE

The mandamus has proved uniquely adaptable to the challenges of 21st century governing. The *Anuradha Bhasin v Union of India*[16] judgment recognised internet access as fundamental in Article 19 (1)(a), using mandamus to invalidate arbitrary shutdowns, setting a precedent that has become the bedrock of digital rights litigation. The mandamus orders of the Supreme Court in *Re: Distribution of Essential Supplies*[17], during COVID-19, created a mechanism for monitoring oxygen supply, and *Dr Jacob Puliyel v Union of India*[18] scrutinised vaccine policy arbitrariness. Recent trends have seen mandamus utilised to combat bureaucratic inertia, as in *Bhumika Rana*

[12] *State of Kerala v A. Lakshmikutty & Ors* (1986) 4 SCC 632
[13] *Commissioner of Police v Gordhandas Bhanji* AIR 1952 SC 16
[14] *Harbanslal Sahnia & Anr v Indian Oil Corpn. Ltd. & Ors* AIR 2003 SC 2120
[15] *Narmada Bachao Andolan v Union of India & Ors* AIR 2000 SC 3751
[16] *Anuradha Bhasin v Union of India* 2020 (3) SCC 637
[17] *Re: Distribution of Essential Supplies* WP (C) 03/2021
[18] *Dr. Jacob Puliyel v Union of India & Ors* 2022 SCC OnLine SC 533

v GNCTD[19], where the Delhi High Court insisted on strict timelines for RTI responses. The evolution is evident from environmental and social rights cases in the 1990s and the 2000s, through post-2010 applications concerning health emergencies, to contemporary interventions in digital governance and bureaucratic accountability. Each of these phases has stretched the writ's contours, while maintaining its central role as a check against unlawful inaction.

COMPARATIVE ANALYSIS OF MANDAMUS ACROSS JURISDICTIONS

The scope of the writ of mandamus differs from one jurisdiction to another. In England, the place of origin, mandamus is narrowly confined to the enforcement of public, non-discretionary duties, and it is infrequently employed because of alternatives to it, like judicial review. The United States has a similarly restrictive view under the Administrative Procedure Act 1946, where mandamus may only lie if the duty is 'ministerial' (as in clearly defined without any discretionary leeway) and 'no adequate alternative remedy' exists. This is different from India, whose constitutional provisions (Articles 32 and 226) allow judges wider discretion—mandamus is issued not only for statutory duties but also to enforce policies and even in violation of fundamental rights, which is rare in Western jurisdictions. Both Australia and Canada offer a blended approach by permitting mandamus for administrative inactivity, with the stipulation that other avenues are pursued first.

CRITICAL ANALYSIS OF MANDAMUS: JURISPRUDENTIAL BOUNDARIES AND FUNCTIONAL LIMITATIONS

The Alternative Remedy Doctrine: It is well worth remarking that the presence of an alternative remedy is not tantamount to an unconditional ban on the issuance of the writ of mandamus. The judiciary does possess discretionary powers to award a writ of mandamus if other remedial pathways are undoubtedly impossible to traverse, excessively time-consuming, or are found to have an unaffordable financial cost for the individuals lodging the claims. The doctrine reflects the judiciary's avowed commitment to locating and promoting the cause of justice through legal proceedings rather than technicalities.

[19] *Bhumika Rana v GNCTD* (2023) SCC OnLine Del 1234

Mandamus Relief: Boundaries of Power –

The legal order of mandamus is regulated by several factors of both the Constitution and jurisprudence, which are:

Public Law Domain: The remedy is not applicable in the context of private disputes or the performance of agreements which are of a private character

Nature of Duty: Only the enforcement of ministerial or statutory obligations can be regarded as the purpose of relief by mandamus, while the exercise of the discretionary powers by the government is not subject to compulsion.

Constitutional Immunities –

As per the concept of separation of powers, it is completely impossible that the writ be invoked against:

- The President of India or the State Governors (Article 361).
- The Chief Justice of India or the High Court Chief Justices, in their judicial capacities
- Legislative bodies in their law-making functions.

Electoral Matters: The judiciary has consistently refrained from intervening in electoral processes through mandamus, respecting the autonomy of electoral institutions.

Judicial Restraint in Specialised Domains: In *Chotey Lal v State of Uttar Pradesh & Ors*[20], it was held that mandamus cannot be used to challenge legislative actions, regardless of whether constitutional rights are allegedly violated. Such restraint maintains the fine line between judicial review and legislative authority.

Functional Considerations –

The efficacy of the remedy is further circumscribed by:

- The requirement of a clear legal right and corresponding duty.
- The necessity of prior demand and refusal.

[20] *Chotey Lal v State of Uttar Pradesh & Ors* AIR 1962 All 248

- The prohibition against using mandamus to dictate the manner of exercising discretionary power.

BEST PRACTICES FOR STRENGTHENING MANDAMUS IN INDIA

India should establish clear deadlines for authorities to comply with mandamus orders, such as 30 to 60 days for non-complex directives. To ensure timely compliance, there should be consequences for authorities who fail to meet the established deadlines. The Supreme Court could provide clear guidelines to distinguish between duties that are at the discretion of authorities and those that are mandatory. This would help prevent frivolous petitions. A centralised online system, similar to that in the U.S., should be set up to track mandamus orders and improve transparency in enforcement. To reduce the burden on High Courts and ensure expert scrutiny of administrative inaction, specialised tribunals for public law disputes can be created based on Australia's Administrative Appeals Tribunal model.

CONCLUSION

State inaction is state mischief in a broader sense. Writ of mandamus is the prerogative command of the 'judiciary,' the least powerful (but most banked upon) branch of the state, to cure the 'sleep walking' tendency of the government that, more often than not, pulls the democratic carriage, premised upon the 'rule of law,' into the darkness of State anarchy, where civil, political, legal, and fundamental rights are just black-letters, although written in gold in the State's Suprema Lex. Writs of Mandamus have passed the social floor test and are attempting to gain access through the legal textual gateway, adding to the writ nomenclature like never before due to judicial activism in recent years. This all points to two things: first, the public's mistrust of the positivist view of law has grown as a result of the state's inaction; second, the court has resorted to activism, allowing the realist view of law to show off the much-needed action.