

In on the following  
two points: (i)



**ASSIGN  
BUSTER**

In granting a writ of certiorari the inferior court does not exercise the powers of an Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own view for those of the inferior Tribunal.

The offending order or proceeding, so to say, is put out of the way as one which should not be used to the detriment of any person. The supervision of the superior court exercised through writs of certiorari goes on the following two points: (i) One is the area of inferior jurisdiction and the qualifications and conditions of its exercise; (ii) The other is the observance of law in the course of its exercise. These two heads normally cover all the grounds on which a writ of certiorari can be demanded.

The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior Court or Tribunal, even if they be erroneous. This is on the principle that a court which has jurisdiction over a subject matter has jurisdiction to decide wrong as well as right, and when the Legislature does not choose to confer a right of appeal against that decision. It would be defeating its purpose and policy if a superior court were to re-hear the case on the evidence and substitute its own findings in certiorari. (3) A writ of certiorari may be available in case where a Tribunal is competent to enter upon an enquiry but, in making the enquiry, it acts in flagrant disregard of the rules of procedure. (4) A writ of certiorari may be available in a case where no particular procedure is prescribed, but the

Tribunal violates the principles of natural justice. In other words, where the principles of natural justice have been violated by the inferior court, certiorari will lie to quash the order of such court. (5) Certiorari will be issued for correcting errors of jurisdiction as for example- (a) When an inferior court or tribunal acts with jurisdiction; or (b) When it acts in excess of jurisdiction; or (c) When it fails to exercise it.

**(a) Act without jurisdiction:**

Where the nomination paper of a candidate for election to municipal council is rejected on the ground that he is interested in a subsisting contract with the council, the act of the election officer in rejecting the nomination paper does not amount to usurpation of jurisdiction and therefore certiorari will not lie and the only proper remedy is by way of an election petition.

**(b) Act in excess of jurisdiction:**

There is an excess of jurisdiction when one member of the Board of Revenue hearing the appeal, passes the file to another member who, without hearing, concurs with the first member.

**(c) Failure to exercise jurisdiction:**

The omission of the Board of Revenue to enquire into the existence of pannai lands in regard to the preparation of the Record of Rights amounts to failure to exercise jurisdiction vested in it and the issue of certiorari is justified.

(6) Certiorari will be issued when the Court or Tribunal act illegally in the exercise of its undoubted jurisdiction as- (a) When it decides without giving an opportunity to the parties to be heard; or (b) When it violates the

principles of natural justice. No one can, as a matter of right, claim a writ of the nature of Art. 226. The High Court can in suitable cases refuse to issue a writ even when the subordinate authorities have committed some error in the exercise of jurisdiction. What is necessary is that some manifest injustice must be caused to the person.

(7) By giving a wrong decision with regard to a collateral matter an inferior court cannot give itself jurisdiction which it would not otherwise possess. The decision of the lower court on such collateral matter can be quashed through Certiorari. (8) Fraud and Mala fides of an inferior court will always justify intervention through Certiorari.