

In House Procedure Mechanism for judges

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The unwarranted allegations against the judiciary in recent times is a cause of concern and cannot be ignored. The prestige, independence and the reputation of judiciary is at stake and in this situation it is necessary to reinvent In-house procedure mechanism to bring about accountability in its functioning.

In news: Andhra CM Jagan Mohan Reddy has complained to the CJI against the Supreme Court judge.

Placing it in syllabus: Polity-judiciary

Static dimensions

1. About the Mechanism
2. Flaws in this system
3. Reforms Needed- Judicial Standards and Accountability Bill

Current dimensions

1. In news

Content:

In news:

- The chief minister of Andhra Pradesh, Jagan Mohan Reddy, has written a letter to the CJI of SC, alleging interference in the course of administration of justice by Justice N V Ramana, the senior-most judge after the CJI.
- He has blamed that the justice Ramana is close to the former CM of Andhra Pradesh, Chandrababu Naidu, and has been influencing the sittings of the high court judges

of Andhra Pradesh .

- He has referred to questionable land deals by Naidu in Amaravati before it was declared the site for the new capital of the state and has also alluded to the allotment of land to the two daughters of Justice Ramana.
- Although the CJI has so far not reacted, some state bar associations have passed resolutions against Reddy, describing his letter as a blatant attempt to overawe the judiciary.
- The Supreme Court Bar Association has also passed a resolution condemning Reddy's action in placing the letter in the public domain.
- Recently a bench of the Supreme Court headed by Justice Ramana had delivered a judgment in which he passed directions, including a request to the chief justices of the high courts to head special benches to immediately hear criminal cases against MPs and MLAs, which are pending for decades.
- It had directed that the hearings should proceed on a day-to-day basis.

In House Procedure Mechanism to deal with complaints against Judges:

- In 1997, under CJI J.SVerma, the Full Court passed a resolution that an 'in-house procedure' would be adopted for action against judges for acts of commission or omission that go against accepted values of judicial life.
- Report of the 5 judge committee was adopted in 1999 and the procedure has been adhered to since then.
- According to the In-House procedure, **complaints of misconduct may be filed by any person to CJI or President of India.**
- The CJI is required to determine whether the complaint is either frivolous or serious.

- If the complaint is frivolous or relates to a pending case, no further action will be taken.
- If the CJI finds that the complaint involves serious misconduct or impropriety, he will seek the response of the concerned Judge.
- Based on the response and supporting materials, **if the CJI finds that the complaint needs a deeper probe, he will constitute an inquiry committee.**
- The Committee will **comprise three judges including a Judge of the Supreme Court and two Chief Justices of other High Courts.**
- It may report to CJI that

there is no substance in the allegation made, or,

there is substance in the allegations but the misconduct is not of such serious nature as to warrant removal, or,

the misconduct is serious enough to initiate removal proceedings against the judge.

- If the finding is under category (2) above, the CJI may call and advise the Judge accordingly and direct that the report be placed on record.
- If the finding is under category (3) above, the CJI may ask the judge to resign or seek voluntary retirement.
- If the judge refuses to resign, the CJI may decide to not allocate any judicial work to the judge concerned.
- Further, the CJI may inform the President of India and the Prime Minister of his reasons for the action taken and forward a copy of the inquiry report to them.
- If the **charge is against a Supreme Court judge**, the committee would comprise three Supreme Court judges.
- There is **no separate provision in the in-house procedure to deal with complaints against the CJI.**
- The **nature of inquiry is fact-finding**, where the judge would have his say.
- It is settled law that the inquiry would not be a formal

judicial inquiry.

- The **committee can devise its own procedure consistent with the principles of natural justice.**
- The other processes for investigation of charges against a Supreme Court judge are Sexual harassment guidelines (Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013).
- Under the regulations, the CJI is required to constitute a Gender Sensitisation and Internal Complaints Committee (GSICC).

Article 124(4) of the Constitution of India provides that a judge can be removed only by Parliament on the basis of a motion in either the Lok Sabha or Rajya Sabha.

When a complaint is made against a judge, the chief justice of that court decides whether it is serious or not. If not, it ends there. If yes, it goes to the CJI for further action. If a complaint is against a Supreme Court Judge, it goes directly to the CJI.

Flaws in the system:

- There is **no statutory basis for the procedure.**
- The procedure does not anticipate a separate committee composition for dealing with charges against the CJI.
- While the judge in question is given a right to appear, there are no lawyers or witnesses.
- Usually, the judge is advised to resign or take voluntary retirement, which a judge may or may not accept.
- Though In-house committees have been set up in India a few times, but have led to removal from office only occasionally. (Soumitra Sen being a judge defied the report and its advice in his case).
- In some cases, despite specific applications being made to the CJI to set up the in-house committee, none of these applications were even acknowledged.
- No one knows how many complaints were received by this

in-house mechanism, how many were entertained as there has been no disclosure of any kind.

Reforms needed:

The **Judicial Standards And Accountability Bill 2010** seeks to repeal The Judges (Inquiry) Act 1968 and seeks to establish and put in place credible and expedient mechanisms for investigating into the Individual Complaints for misbehaviour or incapacity of a Judge either of the Supreme Court or the High Court.

- It authorises any person, making an allegation of misbehaviour or incapacity, to make a complaint to the Oversight Committee, who shall refer the same to the appropriate **Security Panel**.
- The Panel on being satisfied that there are sufficient grounds for proceeding against the Judge or otherwise, shall submit a Report to the Oversight Committee within a period of three months.
- This authorization will enable the Panel, in brief, to summon the witnesses and to record their evidence.
- The **Oversight Committee is to constitute an Investigation Committee** to investigate into the Complaints, recommended by the Panel in its Report.
- On the receipt of the Report from the Investigation Committee, the Oversight Committee, upon their satisfaction, may dismiss the Complaint or issue Advisories or Warnings to the Judge.
- When it is satisfied that there has been a prima facie commission of any offence, it may recommend to the Central Government for the prosecution of the Judge.
- Where the Oversight Committee has been satisfied, that charge(s) has been proved and that they are of serious nature warranting the removal, it shall request the Judge to voluntarily resign, and on his failure to do so, advise the President to proceed for the removal of the Judge.

- Upon the admission of the removal Motion by the Speaker or the Chairman, the matter shall be referred to the Oversight Committee for constitution of an Investigation Committee, which shall have to follow the procedure and submit a Report.
- If the Report contains a finding that a Judge is guilty of any Misbehaviour or Incapacity and, if the Motion is adopted by each House of the Parliament, it shall be presented to the President in the same session.
- Thus the Bill authorizes both the Individual Complainants and the Parliament to initiate and accomplish the Disciplinary Actions against the Judges.

Mould your thought:

1. Describe the In House Procedure Mechanism to deal with complaints against Judges. Why is it criticised?

Approach to the answer:

- Write why it is news in short
- Describe the procedure in detail
- Note down the flaws
- Conclude by writing the importance of Judicial Standards And Accountability Bill 2010