

Recusal of Judge

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In news

Recently Justice Lalit recused himself from hearing pleas seeking against Andhra Pradesh CM Jagan Mohan

What is the recusal of a judge?

- Recusal is “removal of oneself as a judge or policymaker in a particular matter, especially because of a conflict of interest”.
- It has been a practice in the Supreme Court that in serious issues like inter-state water disputes, judges from the state concerned do not sit on the bench to decide them.
- The right to recuse is given to the discretion of the judges.
- A judge should ideally recuse from a proceeding in which his impartiality might reasonably be questioned due to the possibility of personal bias or prejudice or if he has been a lawyer or judge in the matter at some stage.

Rules on recusal of a judge

- As of now, **there are no written rules on the recusal of judges** from hearing cases listed before them in constitutional courts.
- It is left to the discretion of a judge.
- The reasons for recusal are not disclosed in an order of the court.
- Some judges orally convey to the lawyers involved in the case their reasons for recusal, many do not.
- Some explain the reasons in their order.
- The decision rests on the conscience of the judge. At times, parties involved raise apprehensions about a possible conflict of interest.

Is it necessary to put reasons on record?

National Judicial Appointments Commission judgment in 2015: in this case Justice (now retired) Kurian Joseph, who was a member of the Constitution Bench, highlighted the need for judges to give reasons for recusal as a measure to build transparency.

He further mentioned that “It is the constitutional duty, as reflected in one’s oath, to be transparent and accountable, and hence, a judge is required to indicate reasons for his recusal from a particular case,”

Implication

A recusal inevitably leads to delay. The case goes back to the Chief Justice, who has to constitute a fresh Bench.