All India Judicial Services

Why in news?

In the inaugural session of Constitution Day celebrations at the Supreme Court, President Droupadi Murmu put forth a proposal for the establishment of an All India Judicial Service examination.

What is All India Judicial Service (AIJS)?

- It is a proposal to create a centralised service for recruiting judges at the level of additional district judges and district judges for all States, similar to the UPSC civil service exam.
- **Article 312-** *42nd Constitutional Amendment*, amended this article to confer power on the Rajya Sabha to initiate the process for setting up an AIJS.
- **Creation of AIJS**- Rajya Sabha passes a resolution by *two-thirds majority* to declare it necessary or expedient in national interest1.
- **Parliament's role**- It makes a law to create one or more all India services, including AIJS, and regulates their recruitment and service conditions.
- **Scope-** AIJS covers posts of district judge and above, as defined in *Article 236*.
- **Centralisation-** It will centralise the recruitment of judges at the level of additional district judges and district judges for all States.

History of AIJS
• **1st Law Commission, 1958**- In its 14th Report on Reform of Judicial Administration recommended creating a separate all-India service for judicial officers. • **42nd Amendment Act, 1976**- It provided for AIJS in Article 312 which empowers the Parliament to create one or more all-India services common to the Union and the States. • **Chief Justices Conferences**- In 1961, 1963, and 1965 favoured the creation of an AIJS. • **Law Commission Report, 1978**- It discussed delays and arrears of cases in the lower courts and proposed the idea of AIJS. • **Parliamentary Standing Committee, 2006-** The Committee on Personnel, Public Grievances, Law and Justice in its 15th Report backed the idea of a pan-Indian judicial service, and also prepared a draft Bill. • **All India Judges Association vs Union of India-** In 1992 the Supreme Court directed the Centre to set up an AIJS. • In a 1993 review of the judgment, however, the court left the Centre at liberty to take the initiative on the issue. • **Centralised recruitment**- In 2017, the Supreme Court took suo moto cognizance of the issue of appointment of district judges, and mooted a "*Central Selection Mechanism*".

What is the present system of selection?

- **Constitutional provision**- Articles 233 and 234 of the Constitution of India deal with the appointment of district judges and place it in the domain of the States.

- **Selection procedure**- It is conducted by the State Public Service Commissions and the concerned High Court, since High Courts exercise jurisdiction over the subordinate judiciary in the State.
- Panels of HC judges interview candidates after the exam and select them for appointment.
- **Provincial Civil Service (Judicial) exam**- It is commonly referred to as the judicial services exam, all judges of the lower judiciary up to the level of district judges are selected through this exam.

Why there is a need of AIJS?

- **Huge backlog**- As of 2021, there are around 5,400 vacant positions in lower judiciary across the nation and pendency of 2.78 crore cases in lower judiciary primarily due to *inordinate delay* in holding regular exams by States.
- **Skilled workforce**- It will give an opportunity for induction of suitably *qualified fresh legal talent* selected through a proper all-India merit selection system.
- **Lack of incentives**- State judicial offerings aren't appealing because of low salaries, rewards, and reimbursement from State governments.
- **Timely recruitment**- It will allow a large number of judges to fill those vacancies in the lower judiciary through a trial across India.
- **Efficiency**- AIJS would attract the best talents in the country and therefore could maintain high standards of judicial administration.
- **Judicial diversity**- It will address the issue of *social inclusion* by enabling suitable representation to marginalized and deprived sections of society through reservation.
- **Improve governance**- AIJS will lead to the appointment of quality judges, this would remove corruption, favouritism etc., and public faith in the judiciary will be restored.

What are the challenges with AIJS?

- **Against federalism**- Several States oppose the idea of a centralised recruitment process for district judges, as encroachment on the powers of States granted by the Constitution.
- **Opposition from High Court**- They perceive it as an encroachment on their autonomy and authority over the subordinate judiciary.
- **One size fits all approach**- States argue that central recruitment would ignore the unique needs of each State, such as language, representation, and reservations for different groups.
- **Language issue**- Judicial business is conducted in regional languages, which could be affected by central recruitment.
- **Underrepresentation**- Reservation based on caste dilutes the representation of rural candidates or linguistic minorities in the state.
- **Separation of powers**- States also fear that central recruitment would give the executive more influence over the appointment of district judges, and reduce the role of High Courts which is against *Article 50*.
- **Structural issues**- Legal experts contend that AIJS would not solve the problems of the lower judiciary, such as vacancies, delays, and quality, this can be solved by increasing pay and promoting lower judges to High Courts.

What lies ahead?

- AIJS should overcome its flaws and become an effective way to fill the judicial vacancies.
- There should be a proper consensus from the States and High Courts on the proposal for setting up AIJS.
- A *meritocratic judiciary* is the want of the hour that is viable with rigorous recruitment process.

References

1. Indian Express- All India Judicial Service proposal
2. PIB- All India Judicial Service

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