Concerns over Judicial Appointments

What is the issue?

The government and the Supreme Court collegium seem to consistently disagree on recommendations for judicial appointments.

What is the recent happening?

- The latest development concerns Jharkhand High Court Chief Justice Aniruddha Bose and Gauhati High Court Chief Justice A.S. Bopanna.
- Both of them were recommended for elevation to the Supreme Court.
- But the government had sought a reconsideration of the two names.
- The collegium has now repeated its recommendations.
- It has emphasised that there is nothing adverse against the two judges in terms of their “conduct, competence and integrity”.
- It has also asserted that there was no reason to agree with the government.
- Under the present procedure, the government is now bound to accept the recommendation.

What is the concern?

- Routinely, some recommendations for High Court appointments, as well as elevation to the Supreme Court, have met with disapproval from the government.
- In such instances, it requires reiteration by the collegium for the names to be cleared.
- This is not always a cause for concern if it is a sign of some serious consultation on the suitability of those recommended.
- However, it becomes a concern when government’s objections suggest an indirect motive to delay the appointment of particular nominees.
- In all, the advisability of retaining the collegium system of appointments is a major issue.
- In terms of process, the huge number of vacancies in the various High Courts and lower courts is another concern.
- As on May 1, 2019 the total number of vacancies in all the High Courts is 396.
- Now, the Supreme Court is keen to fill up the current vacancies.
- It has also recommended two more judges.

- If all these four recommendations go through, the court will have its full complement of 31 judges.

What is the way forward?

- Filling up of the vacancies is a continuous and collaborative process involving the executive and the judiciary.
- The process depends on the relative speed with which the collegium initiates proposals and makes recommendations after internal deliberations.
- The time the government takes to process the names is another determinant factor.
- So there cannot practically be a fixed time frame for this process.
- However, it is time to think of a permanent, independent body to institutionalise the process.
- The proposal for a constitutionally empowered council to make judicial appointments ought to be revived, with adequate safeguards for judiciary's independence.
- In all, it is high time for a systemic and processual overhaul in regards with judicial appointments.

Source: The Hindu