Disciplining the Judge

What is the issue?

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The Supreme Court sentenced Justice C.S.Karnan to six months for contempt.

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What are the issues that have emerged?

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- Justice demands that lawyers, litigants and the general public have utmost confidence and trust in the judges and the courts over which they preside.
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- Courts are the refuge for citizens and individuals for redressal of their rights and to protect them from arbitrary and unlawful actions.
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- Hence, **judges are required to adopt a higher standard of morality** in their behaviour to continue to inspire confidence in seekers of justice — the people at large.
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Is there any need to re-evaluate the selection process?

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- Clearly, the selection process omitted effective consideration of his fitness to act as a judge.
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- This failure is not of the collegium alone that recommended him but it appears that no red flags were raised by the agencies that are tasked with background checks and security clearance.
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- Normally, judges of high courts are appointed as additional judges, first, and then as a permanent judge.
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Justice Karnan’s case:

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- In this case, noting his conduct since 2011, Justice Karnan, whose initial appointment was two years ago, **appears to have been unfit even then.**
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- Justice Karnan was appointed as an additional judge in 2009. He was confirmed as a permanent judge in 2011.
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- In the same year, in an unprecedented move, addressing a press conference from his chambers **he claimed caste-based harassment** by his brother judges and wrote to the National Commission for Scheduled Castes.
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- From 2014 onwards, his conduct has kept him in the news; this is completely dissonant with the principle that judges should be heard of through their judgments alone.
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What the Supreme Court says?

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- The Supreme Court, in **SCAORA v. Union case (1993)**, recorded the need for an “independent and impartial judiciary manned by the persons of sterling quality and character, undaunting courage and determination and resolute impartiality and independence who would dispense justice without fear or favour, ill will or affection.”
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- The Sixth Conference of the Chief Justices of Asia and the Pacific adopting the Statement of Principles on Independence of the Judiciary prescribed that “Judges shall uphold the integrity and independence of the Judiciary by avoiding impropriety and the appearance of impropriety in all their activities.”
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What protection has been conferred by the constitution?

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- **Article 217 of the Constitution** provides due protection for the appointment of high court judges and a stringent procedure for the removal of a high court judge.
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- The procedure to be followed for removal is through inquiry by a Parliament-appointed committee. **The Judges Inquiry Act, 1968** regulates the process of removal of judges.
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- Proceedings before the committee appointed under this act are unique in the manner of procedure and safeguards.
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- The mandate of such a committee is to investigate the misbehaviour or incapacity of a judge.
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What is the in-house procedure?

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- The Supreme Court on December 15, 1999 adopted the **Report of the Committee on In-House Procedure to take suitable remedial action against erring judges.**
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- This procedure was created to deal with allegations against a judge pertaining to the discharge of his judicial functions.
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- In Justice Karnan’s case, this in-house procedure appears not to have been resorted to.
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- The in-house procedure provides for the CJI to advise a judge to resign or seek voluntary retirement.
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- If the judge does not resign or retire, the chief justice (of the high court) can be advised not to allocate any judicial work, and the matter brought to the notice of the president and prime minister.
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Source: Indian Express

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