Impeachment of High Court Judge

Why in news?

The Opposition INDIA bloc parties in Rajya Sabha are preparing to give notice to move a motion to impeach Allahabad High Court judge Justice for his remarks at an event organized by the Vishwa Hindu Parishad last week.

Why is the opposition planning to move a motion for impeachment?

- **Allegations of judicial misconduct** – Remarks at the Vishwa Hindu Parishad event were reportedly inflammatory and targeted on minority communities.
- **Breach of judicial code of conduct** – Judges are expected to refrain from making public statements or engaging in activities that could compromise their neutrality or reflect personal biases.
- **Perception of partiality** – Statements favoring specific ideologies can create a perception of bias, especially when the judge is tasked with ruling on matters of public or constitutional significance.
- **Undermining judicial integrity** – When a judge publicly aligns with political or ideological stances, it risks blurring the separation between judiciary and politics.
- The Opposition argues that initiating this process is essential to ensure that judges adhere to the highest ethical standards.

What are the constitutional provisions for high court judges?

- **Establishment and Composition** – Article 214 establishes a ***High Court for each state*** or a group of states.
- ***Article 216*** provides the composition of the High Court, including the Chief Justice and other judges as deemed necessary.
- **Article 217** – Deals with the *appointment, qualifications, conditions of office, and tenure* of High Court judges.
- **Appointment** – The President appoints High Court Judges in consultation with the following:
  - Chief Justice of India,
  - Governor of the State,
  - Chief Justice of the High Court.
- **Qualifications** – Must be an Indian citizen and,
  - Have at least *10 years of experience* as an *advocate of a High Court* of India,
  - Have at least *10 years of experience* as a *judicial officer*.
- **Tenure** – High court judges serve until the age of 62 unless impeached.
- **Removal** – Article 124(4) specifies grounds for removal, including "*proved misbehavior*" or "*incapacity*."
- ***Article 218 applies provisions of Article 124, clauses (4) and (5), to High***

Courts.

- These provisions detail the process for removing a Supreme Court judge, including an inquiry and a two-thirds majority vote in Parliament.
- Article 218 applies equally to High Court and Supreme Court judges.
- **Article 215** – Gives every High Court the ***power to punish for contempt of itself.***
- **Article 50** – States that the state must take steps to separate the judiciary from the executive in the public services of the state.
- **Article 221** – Provides for the salaries and allowances of High Court judges, ensuring they cannot be reduced during their term except during a financial emergency.

What are the roles and responsibilities of a judge?

- **Delivering justice** – A judge must ensure fair and unbiased adjudication based on facts, evidence, and the law.
  - Upholding constitutional morality and the rule of law is a key responsibility.
- **Interpreting and applying laws –** Judges interpret statutory and constitutional provisions to address legal disputes.
  - Their rulings often create precedents, shaping the legal framework of the country.
- **Protecting fundamental rights** – Judges act as custodians of citizens' fundamental rights, often intervening when these rights are violated.
- **Maintaining judicial integrity** – They must conduct themselves in a manner that reinforces public confidence in the judiciary, avoiding controversies or conflicts of interest.

What is the procedure for impeachment of judges?

- While the *Constitution does not use the word 'impeachment'*, it is colloquially used to refer to the proceedings under Article 218 Article 124(4).
- The procedure for removal of judges is elaborated in the ***Judges Inquiry Act, 1968.***
- **Initiation of the motion** – Requires at least 100 members' signatures in Lok Sabha or 50 members in Rajya Sabha.
  - This motion is then submitted to the Speaker (Lok Sabha) or the Chairman (Rajya Sabha).
  - Based on this, he or she may decide to either admit the motion or refuse to admit it.
- **Formation of an inquiry committee** – If the motion is admitted, a three-member committee is constituted by the presiding officer. The committee includes:
  - Chief Justice of India or a Supreme Court judge.
  - A High Court Chief Justice.
  - A distinguished jurist nominated by the Speaker/Chairman.
- **Committee's role** – The committee investigates the allegations and frames charges against the judge.
- If the judge is found guilty, the report is submitted and takes up for debate in the House where the motion is originated and if found not guilty, the process ends.
- **Parliamentary voting** – For removal, both Houses must approve the motion with:
  - ***A majority of the total membership and***

    - ***A two-thirds majority of members present and voting***.
- **Presidential approval** – Following approval by Parliament, the President issues an order for the judge's removal.

What are the instances of impeachment?

- While ***no judge has been successfully impeached*** so far in India's but there are many instance impeachment motions are initiated in the parliament.

Instance	Remarks
Justice V. Ramaswami (1993) – Charged with financial impropriety.	Despite evidence, the motion failed as some MPs abstained from voting, and he retired later.
Justice Soumitra Sen (2011) – Accused of misappropriating funds as a court-appointed receiver.	Resigned after the Rajya Sabha passed the motion but before Lok Sabha debated it.
Justice Gangele (2015) – Alleged to have sexually harassed a woman judge.	Cleared by the inquiry committee.
Justice Pardiwala (2015) – Faced impeachment for controversial remarks on reservations.	Dropped after he expunged the remarks from his judgment.
Justice Nagarjuna (2017) – Accused of victimizing a Dalit judge and financial impropriety	The motion fell short of required signatures as some MPs withdrew their names.
CJI Dipak Misra (2018) – Faced accusations of judicial impropriety and political bias.	The motion was dismissed by the Rajya Sabha Chairman at the preliminary stage.

What lies ahead?

- Ensuring a fair inquiry is critical to balance judicial independence with accountability.
- Strengthen internal ethics committees within the judiciary.
- The controversy highlights the need for judges to remain impartial and avoid engaging in any activity that might cast doubt on their neutrality.

References

1. The Indian Express | Motion to Impeach Allahabad HC Judge
2. PRS | Removal of Judges from Office

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