Internal Rift in Judiciary

Why in news?

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Four senior judges of the Supreme Court held a press conference and publicly accused the Chief Justice of India for his biased decisions.

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What is the convention?

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- The Chief Justice is indeed the master of the roster, a well-settled law reflected in a Constitution Bench judgment in 1998.
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- The convention of the court demands that important cases of public interest or sensitive matters should be first heard by the CJI.
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- If the CJI is not willing for some reason to hear the case, it should be assigned to the next senior-most judge in the Supreme Court.
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- Instead of that, such cases were assigned to certain Benches and eventually given a quiet burial.
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What is the present allegation?

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- The four senior-most judges after the CJI have alleged that the administration of the Supreme Court was not in order.
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- Certain Supreme Court judges arrogated to themselves the “authority to deal with and pronounce upon” cases, over the past months.
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- They also alleged the CJI, Dipak Misra of misusing administrative powers to selectively assign cases to judges of his choice.

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- Notably, certain cases of far-reaching consequences to the nation have been assigned without any rational basis.
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- The senior judges now only question the 'how' and not the 'who' in regards with the administrative power of assigning the cases.
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How did the dissent erupt?

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- **Judges Bribery Case** - The germ that led to the current conflict could be the controversial medical college bribery case. Click here to know more.
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- The case raised charges of judicial corruption and possible conflict of interest if Justice Misra were to hear it.
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- **Fake encounter case** - B.H. Loya was the CBI judge hearing the Sohrabuddin Sheikh's alleged fake encounter case.
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- The senior judges had held a meeting with the CJI expressing their reservations about assignation of a related petition to a particular Bench.
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- The petition was in regard with seeking an independent probe into the mysterious death of CBI judge Loya.
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- The ‘fake encounter’ case involves the BJP president Amit Shah who was an accused but later discharged.
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- The political sensitivity of the matter lead to doubts that judicial allocations could be influenced by external political hand.
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- **Internal efforts for redressal** - The senior judges have earlier collectively addressed their concerns to the CJI through a letter.
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- They have tried the procedural means to persuade the Chief Justice to take remedial measures.
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- **Media** - Having exhausted of the internal options, the judges have now

circulated the letter at the press meet and made it public.
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Is it a breach?

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- The judges have transcended the judicial protocol that sitting judges should not interact with the media.
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- However, this comes as an effort to protect the democracy and the independence of judiciary which are allegedly at stake.
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- The internal rift poses the risk of diminishing the image of the judiciary and thus needs unconventional remedies.
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What is the way forward?

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- The government must stay away from the internal conflict in the judiciary.
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- However, it could disclose its position on the Memorandum of Procedure for judicial appointments and communicate it to the Supreme Court. (Click here to know more).
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- The Chief Justice could convene a meeting of the full court and pay heed to the concerns to try internally resolving the conflict.
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- The unprecedented internal dissension in judiciary is a moment for collective introspection for the nation on democratic institutions.
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Source: The Hindu

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