

Nomination of Ex-CJI to Rajya Sabha

Why in News?

Within five months of his retirement as Chief Justice of India, Justice Ranjan Gogoi has been nominated to the Rajya Sabha by the President of India.

What were the key judgments handled?

- During his tenure, Justice Gogoi presided over and pushed through the exercise of the National Register of Citizens (**NRC**) in Assam.
- Then, there is the **Sabarimala temple review case** in which the Supreme Court (SC) held that excluding menstruating women from entering the temple against constitutional morality.
- He **dismissed review of the Rafale aircraft deal** without dealing with the grounds on which the original judgment had been challenged.
- Shortly before his retirement, he delivered several important verdicts including the **Ayodhya judgment**.
- His judgments left the government pleased, with scarcely any politically-sensitive case being decided against the government's wishes.

What is a forgotten code?

- The **16-point code of conduct** for judges, also called the "Restatement of Values of Judicial Life" is a forgotten code.
- This code was adopted at a Chief Justices Conference in May 1997.
- It states that a judge should practice a degree of aloofness consistent with the dignity of his office.
- It also says that a judge shall not hear and decide a matter in which a member of his family, a close relation or a friend is concerned.

What is the significance of aloofness?

- It is the most essential trait needed from politicians or functionaries of the government.
- Unfortunately, these values seem to have been forgotten by judges who invite politicians to their personal functions.
- It is incumbent on such judges not to hear and decide cases of those politicians who are their personal friends.
- Judges can also interact with functionaries of the government in their official

capacity for official work.

What is the concern?

- This code of conduct also lays the basis of how post-retirement conduct ought to be.
- A judge after a deciding politically sensitive case, soon after retirement gets a plum post such as a Rajya Sabha nomination.
- It would obviously raise serious questions about his or her independence as a judge when he or she had decided those cases.
- Nomination of Justice Gogoi to a Rajya Sabha seat by the government raise serious doubts about the fairness of many critical judgments.

How this nomination should be seen?

- Mr. Gogoi's appointment cannot be seen as a way of ensuring cohesion between the judiciary and the legislature.
- Any attempt to create cohesion between the two wings would necessarily encroach on the judiciary's role as a restraining force on the executive and legislature.
- As for the government, making such an offer to a just-retired CJI is not mere brazenness.
- It indicates an alarming intention to undermine judicial authority so that the elected executive is seen as all-powerful.

Source: The Hindu