Post Retirement Appointment of Judges

Why in news?

Within a month of retiring from the Supreme Court of India, Justice S. Abdul Nazeer's appointment as Governor of Andhra Pradesh has stirred debates on post retirement appointments.

What is the issue?

- Justice Nazeer (retd), was part of the five-judge bench that delivered the November 2019 Ayodhya verdict.
- The former Supreme Court judge also headed the five-judge Constitution bench that upheld the Centre's decision to demonetise Rs 500 and Rs 1000 currency notes in 2016.
- Opposition leaders questioned the appointment of a former Supreme Court judge as a Governor as the move signals that **pre-retirement judgments are influenced by the desire of a post-retirement job.**
- Appointment of Justice P. Sathasivam as Governor of Kerala and Justice Ranjan P. Gogoi as a member of the Rajya Sabha has already stirred the debate.

What is the problem with such appointments?

- Corrupt the judges
- Encourage a culture of sycophancy to get advantage
- Affect the independence of the judiciary
- Makes the public have less faith in the judiciary
- Against the separation of powers
- Undermine the constitutional values of impartiality in the dispensation of justice

> ***Article 50*** *- The State shall take steps to separate the judiciary from the executive in the public services of the State*

What is the need of the hour?

- **Clear demarcation** - The Indian judiciary must distinguish between political favours and other post-retirement employment opportunities.
- There needs to be a demarcation between roles where the presence of a judicial authority is clearly valuable.
- **Role of judicial community** - The judicial community should take a concerted decision of not taking up any appointments upon retirement stemming from political patronage.

- **Cooling period** - A cooling period of about 2 years should be considered a mandatory minimum before a judge agrees to take on any post-retirement adjudicatory role.

  Law Commission had consistently maintained that judges accepting employment under the government after retirement was undesirable as it could affect the independence of the judiciary.

Quick facts

- **Article 224A** - Deals with appointment of **ad-hoc judges** in high courts
- It says that the chief justice of a high court, may, with the consent of the President, request any person who has held the office of a judge of that court or of any other high court, to sit and act as a judge of the high court for that state.
- Ad-hoc judges are appointed for a period of **two to three years.**

References

1. The Hindu | Post-retirement appointments
2. The Hindu | Justice Nazeer among new Governors appointed by President
3. The Hindu | Justice Abdul Nazeer, who was on Ayodhya Bench, retires

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