Removal of Chief Justice of India (CJI)

What is the issue?

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- Opposition parties in the ‘Rajya Sabha’ have moved a “motion to remove” CJI Deepak Mishra.
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- While there are multiple allegations against the CJI, some believe that the current motion could undermine the independence of the judiciary.
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What are the problems that have cropped up in the judiciary?

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- Higher Judiciary in India has been going through a tumultuous time currently with multiple issues plaguing its work.
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- **The problems -** There is an ongoing strain between the government and the judiciary over judicial appointments.
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- 4 senior judges of the ‘SC collegium’ had publicly dissented against the CJI by voicing concerns over CJI’s unilateral allocation of cases to benches.
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- Recently, as many as 6 major parties from the opposition benches had moved a motion for the removal of CJI – thereby accentuating the crisis.
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- **Removal -** Rajya Sabha rules prohibit the revelation of details about the motion before it is admitted and hence exact content is not known.
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- Their main charge against the CJI is speculated to be “the accusations regarding the selective assignment of cases to Benches of his choice”.
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- The aggrieved parties have perceived that the CJI is misusing his discretionary power to distort judicial outcomes in multiple cases.
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- Significantly, even in the midst of all this, CJI had earlier asserted his

position as the ‘master of the roster’ – stressing his prerogative in allocation of cases.
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How valid is the case against CJI’s prerogative to allocate cases?

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- Collegium system was put in place by the Supreme Court to enable a plurality of consultation for judicial appointments (among senior-most judges).
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- Those arguing for a consultative approach for allocating cases have been drawing parallels from this established framework.
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- The counter argument is that, allocation of cases is a routine function and can’t be equated with the process for new appointments.
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- Irrespective of the legal framework, the CJI could’ve averted the crisis by having held informal consultation with his collegium to ease tensions.
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What could be the expected outcome of the removal motion?

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- The opposition parties do not have the numbers in the parliament to secure the removal of CJI, and the motion is merely a symbolic protest.
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- Additionally, it is also wholly within the power of the Rajya Sabha Chairman (Vice-President) to decide whether to admit it or not.
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- If the motion gets admitted, a parliamentary enquire would be constituted, and the report will then be discussed on the floor of the concerned house.
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- If there is any adverse finding, then the removal motion will have to be put to vote and be passes with a $2/3^{rd}$ majority of the present and voting.
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- **Contrasting Views -** Some argue that commissioning a parliamentary enquiry would imperil the independence of the judiciary.
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- But others vouch that the constitution has ingrained such a procedure (with

sufficient checks) to ensure accountability.
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- If admitted, the motion will indeed be a black mark on judiciary's reputation, but if turned down, it would be a case of suppressing opposition's voices.
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- Hence, the Rajya Sabha Chairman will have to weigh both these options and take a nuanced stand on whether to admit or reject the motion.
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Source: The Hindu

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