Removal of High Court Judge

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Why in news?

Justice Yashwant Varma has contended that proceedings for his removal as a High Court judge became infructuous following his resignation and cannot be continued, saying any attempt to remove him from office would be without constitutional foundation.

- **Establishment** – Article 214 establishes a High Court for each state or a group of states.
- **Composition** – 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 218 provides the legal basis for the removal of Judges of the High Court.
- High Court judges can be removed only by an *order of the President* following a special majority in both the Houses of Parliament.
- **Grounds for removal** – Proved misbehaviour or incapacity.
- The Constitution *does not define* the terms 'proved misbehaviour' or 'incapacity.'

Procedure for removal of judges of the Supreme Court/High Court

- **Judges (Inquiry) Act, 1968** – It regulates the procedure for removal of Judges of the SC and HC.
- **Notice of motion** – A removal motion must be signed by at least 100 Lok Sabha MPs (submitted to the Speaker) or 50 Rajya Sabha MPs (submitted to the Chairman) to initiate the removal process.
- **Admission** – The Speaker or Chairman may consult relevant materials/persons and

decide whether to admit or refuse the motion.

- **Inquiry committee** – If admitted, a three-member committee investigates the allegations:
  - Chief Justice of India or a Supreme Court judge
  - Chief Justice of a High Court
  - A distinguished jurist
- **Committee findings** – The committee will function like a trial court, examining the accusations and will advise in favour of or against the judge's removal.
- If it finds the judge guilty, the report goes to Parliament for debate and voting.
- **Parliamentary special majority** – Each House of Parliament must pass the motion in the same session by a special majority with
  - A majority of the total membership of that House, and
  - Majority of not less than two-thirds of the members of that House present and voting.
- **Presidential order** – Once passed by both Houses, an address is presented to the President, who issues the order for removing the judge.

Reference

The Hindu | Removal proceedings against me infructuous after resignation: Justice Varma tells LS Secretariat

