Supreme Court of India Collegium

Syllabus

Prelims*- Polity | Judicial system*

Mains*- GS -II - Governance | Judiciary in India*

Why in News?

The Supreme Court Collegium has officially recommended that Justice Yashwant Varma, who is undergoing in-house investigation into claims of cash hoard discovered on his official premises, be transferred to the Allahabad HC.

- **Collegium System -** It is a system under which appointments and transfers of judges are decided by a forum of the Chief Justice of India and the 4 senior-most judges of the Supreme Court.
- In the original constitution, there is ***no mention of a collegium***.
- **Collegium of the Supreme Court -** Consists of 5 Senior most Judges including the Chief Justice of India.
- They will consider the elevation of Chief Justices/Judges of High Court to Supreme Court, elevation of Judges of High Courts as Chief Justices and elevation of Judges.
- In case of difference of opinion, the majority view will prevail.
- Since Constitution mandates consultation with the Chief Justice of India is necessary for appointments to judiciary, the collegium model evolved.
- **Constitutional Provisions** – According to ***Article 124***, Supreme Court judges are appointed by the President of India in consultation with Chief Justice of India (CJI) and other judges that he deems fit.
- According to ***Article 217***, High Courts judges are appointed by the President in consultation with CJI, Governor of the State and Chief Justice of that court.
- **Evolution of collegium system -** The collegium system has its genesis in a series of 3 judgments that is now clubbed together as the ***3 Judges cases.***
- **Transfer of HC judge -** In case of transfers, President may move a judge from one High Court to another, after consulting the CJI.
- While the transfer of a High Court judge is a collegium decision and separate from any disciplinary inquiry,
    - The SC has underlined that in-house investigations into judicial misconduct fall *solely under the CJI's purview.*
- The CJI, in such matters, seeks a report from the ***Chief Justice of the concerned High Court.***
- The collegium procedures do not govern such inquiries.

Issues in Functioning of collegium system

- **No-transparency in appointments** - It is seen as a closed-door affair with no prescribed norms regarding eligibility criteria, or even the selection procedure.
- There is no public knowledge of how and when a collegium meets, and how it takes its decisions with no official minutes of collegium proceedings.
- **Nepotism and favouritism** - Allegations of nepotism and favouritism are rampant with judges in the collegium recommending their close relatives.
- **Lack of diversity** - The absence of an institutional mechanism to ensure diversity on the Bench in the judiciary is a problem.
- SCs, STs, OBCs and minorities are grossly underrepresented in the collegium picks.
- **Non-filling of vacancies** - Supreme Court judges often talk about the issue of pendency of cases, but still they are inactive in solving the problem.
- **Difference of opinion** - The conflicting opinion within the collegium members is hampering the functioning of the collegium system.
    - Recently, while CJI Lalit wanted to circulate the recommendations for appointment to the Supreme Court, two judges in the Collegium preferred deliberations in person.
- **Issues with certain conventions** - By convention, once a recommendation for the successor to the CJI's office is made, the Collegium ceases to make decisions.
- Given that the CJI is appointed by seniority, many of them have a short tenure and these sorts of convention may slow down decision-making.

Reference

The Indian Express | Collegium system

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