The Collegium's Role

What is the issue?

- The Supreme Court (SC) Collegium has modified its recommendation concerning Justice A.A. Kureshi's appointment.
- This episode creates the image that the Collegium could have succumbed to pressure from the Union government.

What happened?

- **Collegium** - Initially, its resolution was to appoint the senior judge as the Chief Justice of the Madhya Pradesh High Court (HC).
- But now it has modified its resolution and decided to send him to the Tripura High Court.
- **Central government** - Hesitant to elevate the Justice Kureshi, who is from the Gujarat HC, but serving in the Bombay HC on transfer.
- The government didn't act on the recommendation which raised the suspicion that it was blocking his appointment.
- The Collegium modified its decision after considering letters from the Department of Justice and accompanying material.

Why it is unclear whether the controversy has ended?

- It is possible that the Collegium and the Centre have arrived at a compromise.
- Based on this, the government drops its opposition to his appointment as Chief Justice on the condition that he is sent to a smaller HC.
- However, until his appointment as head of the Tripura HC is notified, there will be a lurking doubt on whether the latest resolution is in line with the Centre's approval.
- Under the current procedure,
    1. The Collegium may reconsider a recommendation,
    2. The government is bound to implement the reiterated decision.

What created an image that both the sides are guilty?

- It is acceptable if the Collegium and the government resolve their differences through consultation and correspondence.
- But the **final decision shouldn't be opaque**, mysterious and indicative of

executive pressure.

- It could be said that the Collegium and the government, in the case of lack of transparency are equally guilty.
- If the Law Ministry had a bona-fide objection to Justice Kureshi, it could have disclosed its opinion on his suitability.
- The failure to do so created a public imagination that the ruling party is blocking his elevation because of judicial orders he had passed.
- As for the Collegium, it is unclear why it couldn't have disclosed what the government had wanted in its communications.

How can the credibility deficit be bridged?

- This episode makes a dent in the narrative that the Collegium system is a shield against executive interference in the judicial appointments.
- The two sides can come up with fresh clauses in the existing procedure of appointments under which,
    1. The Collegium's decisions are implemented within a time-frame,
    2. The Government's objections and reservations are made public.
- The Collegium system is in need of urgent remedy to rectify its flaws.

Source: The Hindu

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