

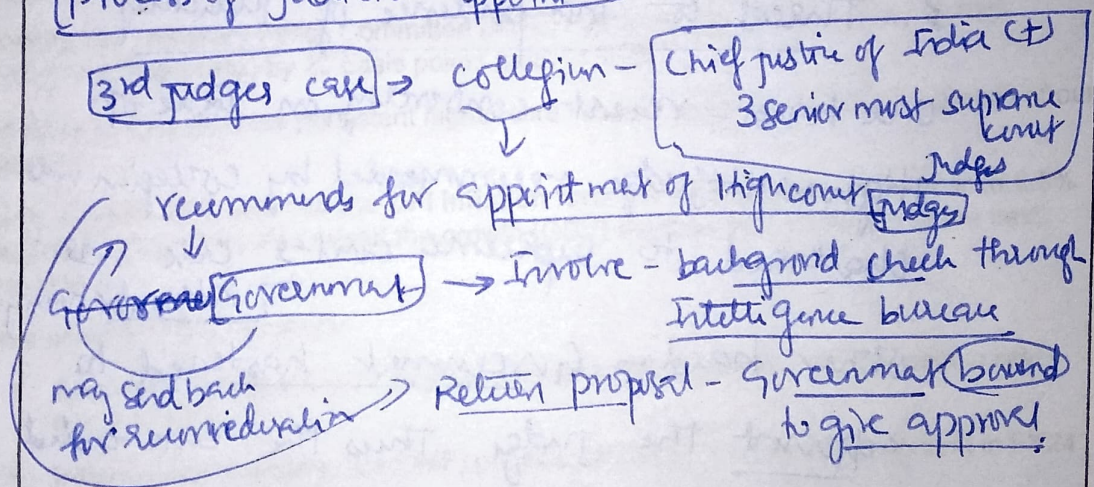
9th Feb 2023

GS-2 Judiciary

1. There is a need for an independent mechanism in judicial appointment that ensures public scrutiny of their suitability. ^{Analysis.}

Recent controversy regarding appointment of Madras High court judges raise question the power of appointment of judges → Judiciary (vs) political executive?

Process of judicial appointment



Issues in Appointment

1. opacity

Judiciary

Selected candidates' name is out to public, only after collegium's decision.

(not before selection process)

Central government

i) Government may withhold certain critical inputs of Intelligence bureau.

ii) Government's discretion.

↓
Rush for appointment

↓
exercise prerogative

2. procedural issue

collegium's decision $\rightarrow$ can be challenged only legally.
It goes to the same judges part of collegium.
Same judiciary $\rightarrow$ performing different roles - against
separation of powers & principles of checks & balance

3. Threat to Independence of Judiciary

one hand - recent controversy on Issue of.
High court judge recommended by collegium was
challenged to supreme court & case was
taken for hearing
other hand $\rightarrow$ Government hastened to
appoint the judge. Thus the case ended.

Best practice

South Africa $\rightarrow$ has Judicial appointment commission

$\downarrow$	$\downarrow$	$\downarrow$
Selection process open to public	can be subjected to judicial review	Free of executive.

Way forward

Similar mechanism is needed in India
also. Combination of independent mechanism,
transparency in selection procedure and free
from Executive, may be the need of hour.