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UNVEILING THE STRUCTURE OF JUDICIAL APPOINTMENTS: EXAMINING COLLEGIUM AND NJAC THROUGH LANDMARK JUDGMENTS

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ABSTRACT

This article explores the Collegium System as an implied constitutional architecture regulating judicial appointments in India and outlines its development through significant judicial decisions. While not explicitly outlined in Constitution, Collegium has evolved via judicial interpretation to maintain judicial independence and uphold principle of separation of powers. In contrast, National Judicial Appointments Commission, that was introduced by 99th Constitutional Amendment, aimed to reform the Mechanism of Judicial Selection by incorporating executive involvement. Nevertheless, Supreme Court declared NJAC unconstitutional for infringing upon the basic structure doctrine. This comparative analysis underscores accountability and democratic oversight, highlighting how different appointment mechanisms influence public trust and judicial integrity.

Keywords- Collegium System, First Judges Case, Second Judges Case, Third Judges Case, Judicial appointments, National Judicial Appointments Commission, Judicial independence, basic structure doctrine.

INTRODUCTION

The judiciary constitutes one of the three essential pillars of governance, playing a vital role in upholding constitutional values. In India, the judicial system follows a hierarchical arrangement, beginning with subordinate courts and ascending to Supreme Court (SC), that stands as the apex judicial authority. While certain states maintain independent High Courts, others share jurisdiction under a common High Court. Viewing the Collegium System as an implied constitutional construct necessitates an examination of its origin, continuity, and impact on principle of separation of powers, especially in context of the NJAC controversy that highlighted tensions among judicial authority and democratic accountability. Approach of judicial appointments is central to constitutional governance, as it directly affects both the autonomy and legitimacy of the judiciary. Although the Constitution prescribes the structure and functions of courts, it remains largely ambiguous regarding the exact appointment procedure, beyond mandating “consultation” with designated constitutional authorities. Introduction of National Judicial Appointments Commission (NJAC), backed by 99th Constitutional Amendment and broad parliamentary support, sought to redefine this framework by increasing

executive and legislative participation. However, SC’s decision to invalidate the NJAC ignited profound constitutional debate. This analysis situates the Collegium System within that broader discourse, assessing its constitutional validity, democratic implications, and continuing relevance. The Collegium, developed through judicial interpretation, governs appointments to SC and High Courts despite its absence from constitutional text, whereas the NJAC represented a formal constitutional attempt to promote transparency and accountability through shared institutional involvement.

EVOLUTIONARY TRAJECTORY

The Indian Constitution and its amendments, does not mention the System of Collegium. Collegium System was created by judicial decisions of “Three Judges Case”. Since only the judiciary is empowered to appoint future judges, having a basic understanding of the collegium system can be somewhat misleading. It means to keep the court separate from political influences. By excluding legislative and executive branches from appointment process, this system proposes for preventing external interference in selection of future judges.

SIGNIFICANT COURT RULINGS AND LEGAL DEVELOPMENTS

1. BALANCING EXECUTIVE AUTHORITY AND JUDICIAL INPUT

The First Judges Case, formally titled *S.P. Gupta v/s Union of India*¹ was decided on 30 December 1981 and marks initial phase in the evolution of Collegium System. Case arose from several writ petitions challenging circular issued by Union Law Minister that sought consent and preferences of High Court judges concerning judicial appointments and transfers. The central concern prior to SC has been whether role assigned to executive in the appointment process was constitutionally valid. A seven-judge bench held that constitutional requirement of “consultation” did not imply “concurrence,” thereby granting primacy to executive and rejecting view that view of Chief Justice of India was mandatory. This interpretation generated considerable discontent within the judiciary, as subsequent appointments were perceived to reflect executive influence, raising concerns that judicial independence was being undermined through politically motivated selections.

¹ AIR 1982 SC 149.

2. JUDICIAL PRIMACY AND THE BIRTH OF THE COLLEGIUM SYSTEM

The Second Judges Case, formally titled *SC Advocates-on-Record Association v/s Union of India*², was decided on 6 October 1993 and marked a decisive shift in constitutional understanding of judicial appointments. During this landmark judgment, SC affirmed that judiciary must play the dominant role in appointment of judges in order to protect its independence from executive and legislative interference. The Constitution Bench held that opinion of Chief Justice of India, formed in consultation with senior judges, will enjoy primacy in appointment process and would prevail over the views of the executive. This interpretation expressly departed from the ruling in First Judges Case, where “consultation” had been construed in a manner that permitted greater executive influence. By recognizing collective judicial decision-making in appointments, the judgment gave institutional shape to Collegium System, under which Chief Justice of India and senior judges jointly suggest nominations for SC and High Courts.

² (1993) 4 SCC 441

3. STRENGTHENING

PROCEDURAL SAFEGUARDS IN JUDICIAL APPOINTMENTS

During Special Reference Case of 1989³ referred as Third Judges' case. In this decision, SC made clear objectives of the Collegium System and laid down structured norms for its operation. It held that Collegium would involve Chief Justice of India and 4 senior-most judges of SC, ensuring collective decision-making in judicial appointments. Court highlighted that Chief Justice must engage in meaningful consultation with a majority of the Collegium members before forwarding any recommendation to the executive. It further ruled that the Union government is not bound to accept a recommendation if it fails to satisfy the prescribed consultative standards and eligibility requirements, as the personal perspective of Chief Justice, without adherence to established process, doesn't possess binding authority.

GENESIS OF THE APPOINTMENT OVERSIGHT BODY

The NJAC Act was approved by president on 31 December 2014, followed by being ratified by sixteen state assemblies. This reform garnered backing from all political parties. Union government claimed that Bill represented the "collective will of the

people." Act became effective on 13 April 2015. The 99th Amendment introduced a new commission for judicial appointment. This amendment revised Articles 124 and 217, relating to selection of judges for SC and the high courts. It eliminated phrase indicating that President would appoint judges following "consultation" with Chief Justice of India. Rather than, President was to appoint judges according to "recommendations" of NJAC.

A new clause, Article 124A, The structure of the six-member NJAC was established: it consists of Chief Justice, 2 other most senior judges of SC, Union Law Minister, 2 "eminent" individuals chosen by panel that includes Chief Justice, Prime Minister, Leader of the Opposition. One of these two eminent individuals is required to come from one of following underrepresented groups: Scheduled Castes, Scheduled Tribes, Other Backward Classes, religious minorities, or women. Any combination of NJAC members can veto a recommendation. Additionally, amendment introduced Articles 124B and 124C, that outlined functions of NJAC and allowed Parliament to enact laws regarding appointment of Chief Justice. Furthermore, NJAC possessed power to propose candidates for the position of Chief Justice of India and Chief Justices of high courts.

³ (1998) 7 SCC 739

Appointment of Chief Justice would occur based on seniority, provided that the individual was considered "fit" for the position. The intention behind this was to restrict the judiciary's authority and include individuals who are not part of judiciary in appointment method.

REVISITING THE COLLEGIUM FRAMEWORK

NJAC was contested in the Supreme Court in case of *Advocates-on-Record-Association and another v/s Union of India*⁴. Court concluded that constitutional amendment permitting executive and legislative involvement in appointment of judges breached the basic structure doctrine because it compromised judiciary's independence. Although government maintained that NJAC would encourage increased openness and responsibility in the appointment procedure the Court stressed that judicial autonomy is indispensable for sustaining public trust and preserving the separation of powers. As a result, the Court declared Articles 124A, 124B, 124C, along with NJAC Act of 2014, unconstitutional, thereby reaffirming that the judiciary must retain the primary authority to select judges.

EXAMINING JUDICIAL APPOINTMENTS: A COMPARATIVE

ANALYSIS OF COLLEGIUM AND NJAC

The Collegium System and the NJAC represent different approaches to appointment of judges in Indian judiciary. Collegium System emphasizes judicial independence by granting the authority of selection primarily to Chief Justice of India and senior judiciary members for positions in the SC and High Courts. Although this protects the autonomy of the judiciary, it has received significant backlash for its insufficient transparency and accountability. On the other hand, NJAC, created via 99th Constitutional Amendment and Articles 124A to 124C, aimed to diversify the appointment mechanism involving executive participation as well as distinguished individuals, thus seeking to improve transparency and democratic legitimacy.

CONCLUSION

Thus, discussion surrounding the Collegium and NJAC highlights the necessity for a judicial appointment system that harmonizes independence, transparency, and inclusivity. The Constitution of India lays down the foundation, but it is the thoughtful balancing of principles and their application that will uphold public trust in the judiciary.

⁴ (2016) 5 SCC 1

Future reforms should preserve the fundamental independence of judges while promoting transparency and responsibility, reminding us that the integrity of justice is enhanced when the process leading to it is fair. Judicial appointments are more than mere constitutional processes they are choices that define the essence of a nation's justice system. The discussions surrounding the Collegium and NJAC illustrate that safeguarding judicial independence and fostering democratic involvement are goals that support each other rather than oppose one another. In the end, the judiciary flourishes when appointments embody integrity, fairness, and compassion, fostering a system in which citizens can have confidence not only in the laws but also in the individuals entrusted with enforcing them.

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