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THE YASHWANT VARMA SCANDAL: A TEST FOR INDIA'S JUDICIARY

AUTHORED BY - ISHA UPADHYAY

Introduction:

A Fire That Exposed More Than Just Flames

Can the judiciary, the guardian of justice, remain above scrutiny when allegations of financial misconduct emerge? The Yashwant Varma case has reignited this debate, raising concerns about judicial ethics, corruption, and the opacity of the Collegium system.

The controversy erupted when a fire broke out at the official residence of Justice Yashwant Varma. What seemed like a routine incident soon turned into a national scandal when burnt ₹500 currency notes were discovered among the debris. Allegations of unexplained wealth, judicial misconduct, and loopholes in the judicial appointment process followed, shaking public confidence in the judiciary.

This case is not just about an individual judge but about the integrity of India's judicial system. It exposes systemic weaknesses in financial accountability, judicial appointments, and disciplinary mechanisms.

Judicial Ethics and Financial Misconduct: A Breach of Trust?

The Evidence Against Justice Yashwant Varma

In a historic move, the Supreme Court made Delhi High Court Chief Justice D.K. Upadhyaya's report public, revealing the following:¹

1. Photographic and Video Evidence:

Footage showed firefighters retrieving burnt currency from Justice Varma's storeroom. Security

¹ 1. Judicial Ethics & Misconduct – K. Veeraswami (1991) allowed prosecution of judges; SCAORA (2015) questioned Collegium transparency. Delhi HC report (2025) and Fire Dept. confirmed allegations against Justice Varma.

2. Appointments & Transparency – Second Judges Case (1993) established Collegium primacy. Justice Ruma Pal (2011) criticized its opacity. Judicial Standards Bill (2010) proposed reforms but lapsed.

footage captured no signs of forced entry, ruling out external tampering.²

2. Witness Testimonies:³

Firefighters, police officers, and sanitation workers confirmed the presence of burnt cash. Statements indicated that large amounts of currency were deliberately set on fire.

3. Judicial Response:

Justice Varma, who was in Bhopal at the time, denied any wrongdoing. He claimed he was being framed as part of a conspiracy.

Judicial Ethics and the Code of Conduct

Judges are bound by the Restatement of Values of Judicial Life (1997), which mandates:

- Impeccable financial integrity
- Complete transparency in personal finances
- Avoidance of financial dealings that compromise independence
- In *K. Veeraswami v. Union of India* (1991), the Supreme Court held that judges can be prosecuted for corruption, provided the Chief Justice of India grants sanction. This case set a precedent for accountability in the judiciary, yet the process remains cumbersome and rarely invoked.

The Yashwant Varma case exposes gaps in enforcement, as there is no active oversight of judges' financial transactions.

The Collegium System: A Breeding Ground for Nepotism?

What is the Collegium System?

India's judiciary follows the Collegium system, where sitting judges appoint other judges without external oversight. The system was established through:

- The Three Judges Cases (1981, 1993, 1998)
- Supreme Court Advocates-on-Record Association v. Union of India (2015) (which

² 1. Testimonies from first responders as recorded in official reports.

2. Statement issued by Justice Varma during preliminary inquiries.

3. Restatement of Values of Judicial Life, adopted by the Supreme Court in 1997.

4. *K. Veeraswami v. Union of India*, (1991) 3 SCC 655.

5. Analysis of judicial accountability mechanisms in India.

6. Overview of the Collegium system as established in the *Supreme Court Advocates-on-Record Association v. Union of India*, (2015) 11 SCC 1.

struck down the National Judicial Appointments Commission, NJAC)

While meant to preserve judicial independence, the Collegium system has been criticized for:

- Secrecy and lack of transparency
- Nepotism and favoritism
- fixed criteria for selection

Did the Collegium System Fail in Justice Varma's Appointment?

Justice Varma's alleged misconduct raises questions:

1. Was his financial background scrutinized before appointment?
2. Was the Collegium aware of any past misconduct?
3. Could an external review board have flagged potential red flags?⁴

In *Madras Bar Association v. Union of India* (2014), the Supreme Court stressed the need for merit-based appointments. However, without external scrutiny, such principles remain unenforceable.

Legal Reforms: Strengthening Accountability in the Judiciary

1. Mandatory Financial Disclosures for Judges

Unlike civil servants and politicians, judges are not required to disclose their assets publicly. A reform mandating:

- Annual financial disclosures
- Public asset declarations⁵
- Independent audits

could prevent financial irregularities.

2. Strengthening Judicial Oversight

A Judicial Accountability Commission could:

- Investigate financial misconduct allegations swiftly

⁴ 1. *S.P. Gupta v. Union of India*, 1981 AIR 149; *Supreme Court Advocates-on-Record Association v. Union of India*, (1993) 4 SCC 441; *In re Special Reference No. 1 of 1998*, (1998) 7 SCC 739 – Established the Collegium system.

2. *Supreme Court Advocates-on-Record Association v. Union of India*, (2015) 11 SCC 1 – Struck down NJAC, reaffirming the Collegium system.

3. Justice J. Chelameswar's dissent in the NJAC case – Criticized the Collegium's secrecy and lack of transparency.

4. *Madras Bar Association v. Union of India*, (2014) 10 SCC 1 – Emphasized merit-based judicial appointments.

5. The Judicial Standards and Accountability Bill, 2010 (lapsed) and the Second Administrative Reforms Commission (2007) proposed judicial financial disclosures, but no law mandates them.

- Provide a fast-track system for disciplinary action
- Ensure judicial independence while preventing corruption

3. Faster and More Effective Impeachment Procedures

The impeachment process for judges is lengthy and rarely successful. Since independence, only one judge (Justice V. Ramaswami) has faced impeachment, and he was not removed.

A reformed impeachment system should:

- Simplify evidence-gathering
- Reduce political interference
- Set up a time-bound mechanism for trial and verdict

Legal Framework Governing Judicial Accountability

Relevant Constitutional Provisions

- Article 124(4) – Provides for the removal of Supreme Court judges through impeachment.
- Article 217(1)(b) – Governs the removal of High Court judges for misconduct.
- Article 235 – Gives High Courts power to control the discipline of lower court judges.⁶

Comparative study of the collegium system and The NJAC Act, 2014

The appointment of judges in India has been a subject of debate, particularly regarding the Collegium System and the Nation Judicial Appointment Commission (NJACT) Act, 2014. While the Collegium System has been in practice since the Second Judge Case (1993), the NJAC was an attempt to introduce greater transparency and accountability. However, the Supreme Court struck down the NJAC Act in 2015, reviving the Collegium System.

This article provides an in-depth comparative analysis of both systems, examines global models of judicial accountability, and discusses real-life judicial corruption cases in India to highlight the urgent need for reforms.

⁶ 1. Public asset declarations and independent audits can prevent financial irregularities (Supreme Court Advocates-on-Record Association v. Union of India, 1993).

2. A Judicial Accountability Commission could enhance oversight (K. Veeraswami v. Union of India, 1991).

3. Justice V. Ramaswami's impeachment failed due to political interference (Parliamentary Debates, 1993).

4. Article 124(4) – Impeachment of Supreme Court judges.

5. Article 217(1)(b) – Removal of High Court judges.

6. Article 235 – High Court control over lower judiciary.

Collegium System	National Judicial Appointment Commission (NJAC) Act, 2014
Since the 'Three Judge Cases' gave rise to the collegium system and it evolved from them, it has been in existence. The constitution doesn't make reference to it.	The NJAC is an organization that was suggested by the NJAC bill, and its provisions would have been in accordance with Article 124A of the constitution.
The collegium does not interfere in this way. It sought to maintain the separation of the Executive from Judiciary in order to preserve the independence of the latter.	The NJAC would have the executive's participation in the selection of the judges.
The members of the Supreme court collegium are: <ul style="list-style-type: none"> • The Chief Justice of India • Four Senior Supreme Court Judges 	The members would have been: <ul style="list-style-type: none"> • The Chief Justice of India (ex-officio chairperson of the NJAC) • Two Senior Supreme Court Judges (ex-officio)
The members of the High Court Collegium are: <ul style="list-style-type: none"> • The Chief Justice of the High Court • Four Senior High Court Judges 	<ul style="list-style-type: none"> • The Union Minister of Law and Justice (ex-officio) • Two Eminent people to be chosen by a specific committee.
The Indian Judiciary's top and most senior member made the choices, and those rulings had to be followed. The Government of India can't be involved.	People outside of the Judiciary would have a voice in the Judge's appointment.

Landmark Supreme Court Cases on Judicial Appointments in India

The evolution of the judicial appointment process in India has been shaped by four major cases, often referred to as the First Judges Case (1981), Second Judges Case (1993), Third Judges Case (1998), and Fourth Judges Case (2015). These cases have progressively redefined the balance of power between the executive and the judiciary in appointing judges to the Supreme Court and High Courts.

1. First Judges Case (1981) – S.P. Gupta v. Union of India

Background:

The case challenged the primacy of the Chief Justice of India (CJI) in judicial appointments. It arose when the Union government refused to extend the tenure of additional judges in High Courts.⁷

Key Judgment:

The Supreme Court held that the term "consultation" in Article 124(2) and Article 217(1) of the Constitution did not mean "concurrence".

The executive (President and Government) had the final authority in judicial appointments and transfers, while the judiciary's role was only advisory.

This gave the Government the upper hand in appointing judges. Impact:

This judgment allowed political interference in judicial appointments, leading to executive dominance.

It raised concerns about judicial independence, which led to further constitutional challenges.

2. Second Judges Case (1993) – Supreme Court Advocates-on-Record Association v. Union of India

Background:

The Collegium system was introduced through this case, overturning the First Judges Case (1981).

The judiciary wanted greater autonomy in appointments to prevent executive interference.

⁷ 1. The Collegium System was established through the Second Judges Case (1993), giving primacy to the judiciary in judicial appointments.

1. The NJAC Act, 2014, introduced under Article 124A, aimed to increase transparency by involving the executive in judicial appointments.

2. The Supreme Court struck down the NJAC (2015), ruling that it violated the basic structure by compromising judicial independence.

3. The First Judges Case (1981) gave the executive the final say in judicial appointments, limiting the judiciary's role to advisory.

4. The Second Judges Case (1993) overruled this, establishing the Collegium System, granting judicial primacy.

5. The Third Judges Case (1998) mandated a five-member Collegium for judicial appointments.

6. The Fourth Judges Case (2015) reaffirmed judicial independence, striking down the NJAC.

7. The NJAC included executive and non-judicial members, unlike the Collegium, which is solely judiciary-based.

8. The Collegium excludes government interference, ensuring autonomy, while the NJAC sought broader accountability.

9. Critics argue the Collegium lacks transparency, while the NJAC risked executive overreach.

Key Judgment:

The Supreme Court ruled that "consultation" meant "concurrence", giving the CJI primacy in judicial appointments.

The President could not override the CJI's recommendation.

The CJI's opinion was to be formed after consulting the two senior-most judges of the Supreme Court.

Impact:

This case established the Collegium system, where judges appoint judges.

It significantly reduced the government's role in judicial appointments.⁸

3. Third Judges Case (1998) – Presidential Reference (Under Article 143 of the Constitution)**Background:**

Following confusion over the Second Judges Case, the President sought clarification under Article 143 (Presidential Reference).

The issue was whether the CJI alone had the final say or whether the opinion of multiple judges should be considered.⁹

Key Judgment:

The Supreme Court expanded the Collegium to a five-member body, consisting of:

1. The Chief Justice of India
2. Four senior-most judges of the Supreme Court

The Collegium's recommendation was binding unless the President returned it for reconsideration.

If the Collegium reiterated its recommendation, the President was bound to accept it.

⁸ 1. Supreme Court Advocates-on-Record Association v. Union of India, (1993) 4 SCC 441.

2. Ibid.

3. Ibid.

4. Ibid.

5. Ibid.

6. Ibid.

7. Ibid.

8. In Re: Presidential Reference, (1998) 7 SCC 739.

9. Ibid.

9

Impact:

This case further strengthened judicial control over appointments.

However, it also made the process opaque, with no accountability for judicial selections.¹⁰

4. Fourth Judges Case (2015) – NJAC Judgment (Supreme Court Advocates-on-Record Association v. Union of India)**Background:**

To bring transparency and accountability, the government passed the NJAC Act, 2014, which proposed replacing the Collegium system with the National Judicial Appointments Commission (NJAC).

The NJAC included the CJI, two senior judges, the Law Minister, and two eminent persons.

Key Judgment:

The Supreme Court struck down NJAC as unconstitutional, arguing it:

1. Judicial Independence at Risk – The NJAC gave the government a role in selecting judges, which could lead to political influence.
2. No Clear Criteria for Eminent Persons – The two eminent persons on the NJAC panel could be politically appointed, affecting fairness.
3. Government's Veto Power – Any two NJAC members could block a judge's appointment, giving the government too much control.¹¹

Impact:

Judicial independence was preserved, but concerns about lack of transparency and accountability in the Collegium system remained.

This judgment reaffirmed the judiciary's supremacy over judicial appointments.¹²

¹⁰ 1. Supreme Court Advocates-on-Record Association v. Union of India, (1993) 4 SCC 441 – Expanded the Collegium to five members and made its recommendations binding unless reconsidered and reiterated.

2. Supreme Court Advocates-on-Record Association v. Union of India, (2015) 11 SCC 1 – Struck down the NJAC Act, 2014, restoring the Collegium system to uphold judicial independence.

¹¹

¹² 1. Second Judges Case (1993) – Supreme Court Advocates-on-Record Association v. Union of India, (1993) 4 SCC 441.

2. Collegium System – Established through the Second Judges Case (1993) and further refined in the Third Judges Case (1998) – Re: Presidential Reference, (1998) 7 SCC 739.

3. Binding Nature of Collegium Recommendations – Supreme Court Advocates-on-Record Association v. Union of India, (1993) 4 SCC 441; Re: Presidential Reference, (1998) 7 SCC 739.

4. Fourth Judges Case (2015) – NJAC Judgment – Supreme Court Advocates-on-Record Association v. Union of India, (2016) 5 SCC 1.

5. NJAC Act, 2014 – The Constitution (99th Amendment) Act, 2014, and the National Judicial Appointments Commission Act, 2014, were struck down in the Fourth Judges Case (2015).

¹³ 1. Supreme Court Advocates-on-Record Association v. Union of India, (2015) 6 SCC 408.

Current Status

- The Collegium system is still in force but faces criticism for its secrecy, lack of accountability, and allegations of favoritism.
- Calls for reforms include greater transparency, public disclosure of reasons for appointments, and a structured judicial oversight body.

Conclusion: A Moment of Reckoning for India's Judiciary

The Yashwant Varma case is a wake-up call. It highlights how judicial misconduct can go unchecked due to a lack of financial oversight, flaws in the Collegium system, and weak enforcement of judicial ethics.

If the public loses faith in the judiciary, the very foundation of democracy is at risk. Reforms in judicial appointments, financial transparency, and disciplinary mechanisms are no longer optional—they are a necessity.

1. The real question remains: Will this scandal lead to meaningful change, or will it be another forgotten controversy?
2. Should India modify the Collegium system to ensure both judicial independence and transparency, or should it explore a reformed version of NJAC?¹³

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