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*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

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*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## **Avinash Kumar**



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **“ANALYSIS OF INDEPENDENCE OF JUDICIARY”**

AUTHORED BY - ANISHA KUMARI

Under supervision of Paras Yadav

First Sem LLM Student, IILM University Greater Noida

## **Abstract**

“The bedrock of our democracy is the rule of law and that means we have to have an independent judiciary, judges who can make decisions independent of the political winds that are condition.”

In independent judiciary is necessary for a free society and a constituent democracy. It ensures the rule of law and realization of human rights and prosperity and stability of the society. The independence of the judiciary is normally assured through the Constitution, but it may also be assured through legislations, conventions and other suitable norms and practices. Following the constitution of United States, almost all constitutions lay down at least the foundation if not the entire edifices of an independent judiciary. The constitutions or the foundational laws on judiciary are, however, only the starting point in the process of securing judicial independence. Ultimately the independence of the judiciary depends on the totality of a favorable environment created and backed by all state organs including the judiciary and the public opinion. The independence of the judiciary also needs to be constantly guarded against unexpected events and the changing social, political, economic.

Independence of judiciary means the other organs of the government; the executive and legislature must not restrain the functioning of the judiciary in such a way that it is unable to do justice. Judges must be able to perform their functions without fear or favors. The purpose of the independence of the judiciary is that judges must be able to decide a dispute before them according to law, uninfluenced by any other factor. Montesquieu, a French Philosopher, propounded the idea of an independent judiciary. He believed in the theory of separation of powers of the three branches of the Government – Legislature, Executive and Judiciary. India has given itself a liberal constitution in the Euro- American traditions, which aims at establishing a free and democratic society. It also aims at prosperity and safety of society. Its makers believed

that such a society could be created through the guarantee of fundamental rights and an independent judiciary to guard and enforce these rights. Therefore, the framers of the Indian Constitution dealt with these two aspects with maximum and identical idealism.

**keywords:** Independence, Judiciary, Law, Legal, Courts, Bias, Principles of Natural Justice, Constitution, Social, Political, Supreme Court, Appointment of Judges, Judgments, UNO, suggestion.

## Introduction

The independence of the judiciary is one of the central elements of India's democratic system. It is a unique feature that separates India from other countries. However, time and again, the independence of the judiciary has been challenged by external or political influence and this has raised some doubts on the provisions mentioned in the principle of separation of powers. Hence, this article talks about some of the recent instances, where the Independence of the Indian Judiciary has been challenged. The Constitution of India guarantees independence to the judiciary. However, protecting judicial autonomy begins with the Constitution governing the court. In the end, the independence of the judiciary rests on the creation and support of an overall favorable environment by all state institutions, including the judiciary and the public. The judiciary's independence must also be continuously protected against unforeseen circumstances and shifting social, political, and economic circumstances; it is too sensitive to be left unprotected.

## Independence of the judiciary

The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary. The judiciary shall decide matters before them impartially, based on facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats, or interferences, direct or indirect, from any quarter or for any reason. The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.

Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals. The principle of the independence of the judiciary entitles requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected. It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

In accordance with the Universal Declaration of Human Rights, members of the judiciary are like other citizens entitled to freedom of expression, belief, association, and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.

### **Meaning of independence with respect to the judiciary**

Even after years of existence, the meaning of the judiciary's independence is still unclear. Our Constitution's Articles 124 to 147 deal with the appointment of Supreme Court judges and Articles 214 to 231 deal with the appointment of judges in the High Courts, but our Constitution only mentions the judiciary's independence; it makes no mention of what such independence truly entails.

Judiciary's independence includes both the independence of the judicial institutions and the independence of the judges who make up its body. However, judicial independence does not mean lack of responsibility or arbitrariness. The country's democratic political system includes the judiciary. As a result, it must answer to the country's citizens, the Constitution, and democratic values. The theory of the separation of powers appears to be the concept's foundation and focal point. Therefore, it largely refers to the judiciary's independence from the executive and legislative branches. Judiciary's independence goes beyond just establishing a separate institution free from the oversight and influence of the government and the legislative branch. The fundamental goal of the judiciary's independence is that judges must be able to resolve a dispute that comes before them in accordance with the law, free from other influences. Because of this, every judge's independence is a component of the judiciary's overall independence.

### **Necessity for independence of judiciary:**

In democratic countries, the judiciary is given a place of great significance. The architects of the Indian Constitution were conscious of the very significant and special role assigned to the judiciary in the scheme of the Constitution. It was envisaged as the organ for protecting the rights of the citizens, guaranteed under the Constitution. There was the recognition that Judges, particularly the judges of the superior courts, who have been given the power of judicial review of administrative and legislative actions, should function without fear or favors and that the judiciary should remain totally independent and fully insulated from any external interference.

It is a function of the courts to uphold the rule of law and to ensure that the government runs according to the law. In a country with a Written Constitution, courts have the additional function of safeguarding the supremacy of the Constitution by interpreting and applying its provisions and keeping all authorities within the constitutional framework. For the maintenance of the rule of law and fair judicial administration, an independent judiciary is of utmost importance.

### **Qualifications**

The next issue which has a direct bearing on the Independence of judiciary is the quality of the person who is asked to serve in the courts. The quality of the judges depends on the conditions necessary for the appointment of judges. Article 124(3) prescribes qualifications of a person who can be appointed as a Judge of the Supreme Court and reads as follows: A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and has been for at least five years a Judge of a High Court or of two or more such courts in succession; or has been for at least ten years an advocate of a High Court or of two or more such courts in succession; or is, in the opinion of the President, a distinguished jurist. The qualification of a High Court judge is set out in Article 217(2) which reads as under: A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and has for at least ten years held a judicial office in the territory of India; or has for at least ten years been an advocate of a High Court or of two or more such courts in succession.

### **Salaries And Allowances:**

The salaries and allowances of the judges is also a factor which makes the judges independent as their salaries and allowances are fixed and are not subject to a vote of the legislature. They are charged on the Consolidated Fund of India in case of Supreme Court Judges and the Consolidated

Fund of State in the case of High Court Judges. Their emoluments cannot be altered to their disadvantage (Article 125 (2)) except in the event of grave financial emergency.

Article 112 (3) (d) (i) of the Constitution required that budget shall contain a provision for payment of salaries and allowances and pensions to Judges of the Supreme Court and Article 202 (3) (d) deals with the salaries and allowances of High Court.

## **Removal Of Judges**

In India, both the Supreme Court and High Court Judges are appointed by the President under Article 124 and 217, and they enjoyed a fixed tenure and are removable under Articles 124(4) and 217 on proved misbehavior or incapacity after an impeachment motion passed by each house supported by a stipulated majority. Their tenure and different processes of removal are also in tune with their independent function. In India a judge may be removed from his office by an order of President. The President can pass or order only when it has been addressed to both Houses of Parliament in the same session. The address must be supported by much of the total membership of that House and by a majority of not less than two thirds of the members of that house present and voting. The Constitution prescribes the procedures for investigating and proof of the misbehavior incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President.

## **Transfer Of Judges**

Article 222(1) empowers the President after consultation with Chief Justice of India transfer a judge from one High Court to another. The Constitution makes provisions for granting compensatory allowances when a judge is transferred from one High Court to another. The power of transfer of a judge is vested with the President is not absolute. He takes into consideration two things: (i) public interest (ii) effective consultation with Chief Justice of India.

## **Power To Punish For Its Contempt**

The rationale behind Contempt of court is that courts must have the power to secure obedience to their judgements, to serve this purpose of administering justice. Contempt of Court can refer to both civil and criminal contempt.

Contempt of Court finds a place in the Indian Constitution under Article 19(2), Article 129 and

Article 215. According to Article 19(2) of the Constitution, contempt of Court' is one of the grounds on which the State can legislate to place reasonable restrictions on freedom of speech. Article 129 of the Constitution of India says that the Supreme Court shall be a 'court of record'. Article 215 grants a similar status to the High Courts.

## **Prohibition On Practice After Retirement**

The Constitution debars the Judges of the Supreme Court from pleading or appearing before any court or tribunal or judicial authority in India after retirement. A retired Judge of the High Court is also prohibited from practising before a court where he had been a Judge. A High Court Judge, however, can after retirement, practice in the Supreme Court or in a High Court in which he had not been a Judge according to Article 220. However, Article 124(7) does not create a bar or disqualification for a Judge of the Supreme Court to offer his candidature for membership or to become a Member of Parliament.

## **Condition Of Service**

Another important point which requires attention for independence of judiciary is the conditions of service. The conditions of service have direct concern with the day-to-day functioning of the judge as well as the security in its diverse dimensions after retirement. By conditions of service here we mean those terms and conditions within which a judge must act during and after his service as a judge.

The conditions of service for Supreme Court Judges, there is The Supreme Court Judges (Conditions of Service) Act, 1958 as amended in 2009 and for the High Court Judges, The High Court Judges (Conditions of Service) Act, 1954 as amended in 2009. These two enactments lay down conditions of service regarding leave, pension, housing facility, conveyance and sumptuary allowance, gratuity, and family pension and after retirement medical facility.

## **Establishment Of Court**

Apart from independence of judges, the other factor which is necessary for the independence of judiciary is the establishment of court. By establishment of court, we mean the administrative set-up of the court. The Constitution of India contains specific provisions for establishment of court. According to the provisions of the Constitution, there shall be officers, servants, and other persons with the courts for administrative work. The Constitution empowers the Chief Justice of India to

make appointments to the administrative staff of the Supreme Court.

Similarly, the Chief Justice of the various High Courts have been empowered to make recruitment to the establishment of the respective High Courts. Not only this, appointments to lower judiciary are also made by the High Court. The persons appointed are under the complete control of courts as far as their services are concerned. At the same, the Constitution also protects the salaries and allowances of the persons those who have joined the administrative services of the court. Their salaries are to be paid from the Consolidated Fund of India. Thus, the provisions of the Constitution provide for the effective and full control of the Chief Justice over the administrative staff of the court. These provisions of the constitution apart from Judges Independence are further in consonance with the philosophy of the independence of the judiciary.

### **Qualifications, selection, and training**

Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status, except that a requirement, that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory.

### **Conditions of service and tenure**

The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law. Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists. Promotion of judges, wherever such a system exists, should be based on objective factors, in particular ability, integrity and experience.

The assignment of cases to judges within the court to which they belong is an internal matter of judicial administration.

### **Professional secrecy and immunity**

The judiciary shall be bound by professional secrecy with regard to their deliberations and to confidential information acquired in the course of their duties other than in public proceedings,

and shall not be compelled to testify on such matters. Without prejudice to any disciplinary procedure or to any right of appeal or to compensation from the State, in accordance with national law, judges should enjoy personal immunity from civil suits for monetary damages for improper acts or omissions in the exercise of their judicial functions.

### **Discipline, suspension and removal**

A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure. The judge shall have the right to a fair hearing. The examination of the matter at its initial stage shall be kept confidential, unless otherwise requested by the judge. Judges shall be subject to suspension or removal only for reasons of incapacity or behaviors that renders them unfit to discharge their duties. All disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct. Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review. This principle may not apply to the decisions of the highest court and those of the legislature in impeachment.

### **Freedom of expression and association**

In accordance with the Universal Declaration of Human Rights, members of the judiciary are like other citizens entitled to freedom of expression, belief, association, and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.

Judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence.

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## **Independence of judiciary in India**

Due to the prolonged British Raj and then a newly formed democracy, there was always a concern on how the judiciary in India should function. Hence, an independent judiciary was the answer to this question. For the prosperity and stability of the country, the rule of law is very important. An independent and impartial judiciary can establish a stable rule of law. Independence of judiciary means, the power of upholding the rule of law, without any fear or external influence, and maintaining effective control over the actions of the government. The independence of the judiciary is part of the basic structure of the Constitution. The independence of the judiciary ensures that the powers of the Parliament, the State legislature, and the Executive, are properly distributed and there is a balance between the demands of the individuals and norms of the society. The legal system does not have any ideology and political interests and is often rendered neutral.

### **Constitutional provisions on an independent judiciary**

Around the world, the independence of the judiciary has been a debate. However, as India has a written Constitution, the independence of the judiciary is mentioned in writing, hence, making this concept even more important.

Independence of the judiciary means that the legal fraternity has all the powers to make their own decisions, without any external influence. The judiciary is not only important in dispensing justice but also, in solving disputes arising between the States. This can only be done if the judiciary is free from all outside pressures.

Judges play one of the most important roles in the legal system. Hence, independence of the judiciary also means independence of the judges. This means that the judges can submit their reports and take decisions without any influence, they are not dependent on the Government, and they are not dependent on any of their superior judicial officers. Part 5 of the Indian Constitution deals with the Union Judiciary. The independence of the judiciary starts with the appointment of the judges in the courts. Article 124 to Article 147 deal with the appointment of the Supreme Court judges and, Article 214 to Article 231 deal with the appointment of judges in the High Courts. Further, the Subordinate courts are mentioned under Article 233 to Article 237 of the Constitution. The highest subordinate court is that of the court of District Judge.

The framers of the Constitution divided the judiciary, legislature, and the executive into three

separate organs, so as to ensure that each organ will perform its roles independently and not interfere with the functioning of the other, and also that this will help in justifying the principles mentioned in the Preamble.

## **Independence of the judiciary and the rule of law**

French theorist Montesquieu contended that a framework in which various authorities exercised legislative, administrative, and judicial authority while all being bound by the rule of law was the best way to avoid despotism. He saw despotism as a looming danger to any government that was not already despotic and the principle of separation of powers refers to this theory. Judicial review is one of the strongest strategies courts use to defend the rule of law. Judicial review refers to the court's authority to assess the legality of both government executive orders and laws established by the legislature. By employing this authority, the court maintains control over the legislative and executive branches.

The case of *Marbury v. Madison* (1803), in which Chief Justice Marshall established that the court had the authority to evaluate legislation adopted by the legislature, can hence be credited for giving birth to the concept of judicial review. However, a lot of academics have criticized this idea for a variety of reasons, including judicial authoritarianism, excessive dependence on judges, being undemocratic, and being a barrier to a strong democracy.

## **Independence of the judiciary: international perspective**

The Basic Principles on the Independence of the Judiciary, which were ratified by the General Assembly in resolutions 40/32 on November 29, 1985, and 40/146 on December 13, 1985, were approved by the 7th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Milan from August 26 to September 6, 1985. The Universal Declaration of Human Rights (Article 10) and the International Covenant on Civil and Political Rights, among other human rights documents, both established the idea of judicial independence (Article 14).

Additionally, there are several UN standards, particularly the Bangalore Principles of Judicial Conduct from 2002 which was accepted by the UN General Assembly.

The United Nations Charter, the Universal Declaration of Human Rights, decisions in disciplinary, suspension or removal proceedings should be subject International Covenant on

Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Organization and Administration of Justice in Every Country, and other basic principles developed to aid the Member States in their task of securing and promoting the independence of the judiciary should be taken into consideration and respected by governments within the framework of their national legislation and practice and brought to the attention of judges, lawyers, members of the executive, and the legislative to an independent Appointment of Judges

## **The Collegium**

According to the First Judges case, the Chief Justice of India's (CJI) proposal for judge appointments and transfers might be rejected for "cogent reasons." For the following 12 years, the executive had priority over the judiciary in making judicial appointments. However, the Supreme Court held in the Second Judges case (and subsequently the Third Judges case, which was a clarification) that the judiciary had supremacy in appointing judges. According to it, the Supreme Court's senior-most judges and the Chief Justice of India will have a major influence on judicial recruitment decisions. Regarding judicial appointments, rules and procedures were established. The executive's position was drastically diminished, and the judiciary now controlled a major function.

## **NJAC**

With the passage of the Constitution (Ninety-ninth Amendment) Act of 2014 as well as the National Judicial Appointments Commission Act of 2014, the NDA government proposed the establishment of the National Judicial Appointments Commission in 2014. The Commission would be made up of the Chief Justice of India, two senior judges, the Law Minister, and "two eminent personalities" chosen by the Prime Minister and Leader of the Opposition. The NJAC Act and Constitution (Ninety-ninth Amendment) Act, 2014 were, however, declared illegal by the Supreme Court in a case brought by the Advocates-on-Record Association as according to them it undermined the separation of powers and intruded on the independence of the judiciary.

## **Relevant rulings where the independence of the Indian Judiciary has been challenged.**

No one is perfect in this world. So, how can a judiciary be perfectly independent? In India too, judicial independence has been challenged in various court rulings. However, before that, to

justify this, in India the Constitution has mentioned provisions for the appointment of judges in the Supreme Court and the High Court, but the final approval while selecting the judges is in consultation with the President of India. A few of these court rulings are:

### **The Rafale deal case.**

In this case, the Indian Government announced a deal with the French Government to purchase 36 Rafale fighter jets from the French company Dassault Aviation in 2015. The deal also included a 50% offset clause which meant that the French company had to invest 50% of the contract value in India by purchasing Indian goods and services. Next year, the company and Reliance Group announced a joint venture. Dassault specified that it wants to invest \$115 million to fulfill its offset obligation partially. Hence, the matter went to the Supreme Court where the litigants' alleged irregularities in the deal. The Court turned down the corruption charges on the grounds that it had less scope for judicial review in defense matters. This decision of the Court proved to be controversial as the government stated that the judgment had some factual errors. The judgment consisted of the CAG (Comptroller and Auditor General) report and the Parliamentary Accounts Committee report which were submitted to the Court by the government and were termed as misinformation. The Court decided to review the petitions on merit, hence closing the controversy.

### **The Bhima Koregaon case**

In 2018, the celebrations for the bicentenary anniversary of the Bhima Koregaon battle were interrupted due to violence leading to the death of a person and several injuries. The police investigated and arrested several activists claiming that inflammatory speeches were made by them eventually leading to the violence. Hence a PIL was filed seeking an investigation by the SIT (Special investigation team) over the Unlawful Activities (Prevention) Act charges against the arrested activists. The litigants alleged that the Mumbai Police were biased in their decision. The case went to the Supreme Court who dismissed the case with a 2:1 majority. While the two judges who were Chief Justice of India Dipak Misra and Justice Khanwilkar were satisfied with the investigation done by the Mumbai Police, Whereas Justice D.Y Chandrachud was not. Justice Chandrachud dissented, alleging that the arrests were made targeting political dissent.

### **Aadhar Act as a money bill case**

In this case, the issue was whether the Aadhar Act in 2016, was passed as a money bill. The court held that it was a money bill again with a majority. Justice A.K Sikri accepted the act as a money

bill and referred to Section 7 of the Act which states that the Aadhar based authentication can be used for benefits or services charged on the Consolidated Fund of India, hence it can be used as a money bill. Whereas Article 110 of the Constitution stated that the money bill can be used only on services related to spending and receiving of money by the Union Government. Hence, the judgment was criticized and Justice Chandrachud who had dissented to the judgment termed it as a fraud on the Indian Constitution.

### **The CBI-Alok Verma case**

In this case, the judgment was delayed. The government had divested the CBI director Alok Verma of all his powers. This needed sanctions from a high-powered committee under the Delhi Special Police Establishment Act. The Supreme Court examined the details of the corruption charges against the CBI director. Later, the Court directed the reinstatement of Verma as the CBI director on the basis of the sanctions of the selected committee. However, the reinstatement was ordered when Mr. Verma had just three weeks left for his tenure. Hence, this raised criticism once again.

### **India's judicial independence at stake**

The above-mentioned court rulings were criticized on the grounds that they had political interests. However, there have been instances where the judges after retirement have enjoyed certain benefits. Former Chief Justice of India Ranjan Gogoi was made a member of the Rajya Sabha after stepping down from the post of CJI. Similar instances in the past have occurred. In 1991, Justice Ranganath Mishra stepped down as the CJI and was later made the Chairman of the National Human Rights Commission. Justice M. Hidayatullah was the Chief Justice of India who retired in 1970. He later became the Vice President of India. There have also been instances where the members of Parliament have become judges. Due to the COVID 19 pandemic, the courts are shut, and all physical hearings are done online. This has made things difficult because there is already a huge pendency of cases. Hence the courts decided to deliver judgments on cases that are very urgent. However, the listing of urgent cases for hearing has been controversial. A petition was filed in the case of Jagdeep Chokkar v Union of India (2020), for the return of the migrant workers who were helpless and stranded amidst the lockdown to their homes. This matter was not heard immediately, whereas a petition filed in the case of Arnab Goswami v Union of India (2020), for quashing the FIRs against him, was heard on the next day. Hence this was controversial as to which case the court found more important. Further, the internet in Jammu and Kashmir was shut down

for nearly 6 months. The Court took a long time to hear this matter. The people in Jammu and Kashmir were deprived of the internet and cut off from the rest of the world. As we have touched on the cases where the court has faced criticism for having political interests, there have been many landmark judgments that were assumed to have political interests, but the judiciary stood strong. In the case of *Indira Gandhi v Raj Narain (1975)*, Raj Narain, an activist challenged the appointment of the then Prime Minister Indira Gandhi on the grounds that it was faulty. This case was just before the emergency was implemented. The Court found out that the appointment of Indira Gandhi was faulty, and she was ordered to leave her office. This judgment proved to be one of the major judgments in the context of judicial independence. However, in recent times, the judiciary has had to face a lot of criticism due to the cases they give more priority to, and the post-retirement stint of the judges. This shows that there is work needed to be done in the functioning of the justice system.

Few suggestions are:

The salaries given to the judges in India are less as compared to the other countries, which makes a strong reason why the judges look for post-retirement jobs. Many times it is seen that highly influential cases are given more priority than the cases which are of a social cause and are really necessary to be heard. The reason this might be happening is the low strength of the judiciary. Increasing the strength of the judiciary can help in solving influential as well as genuinely urgent cases. There is a need to impose a law that ensures that the judges do not get post-retirement jobs. This will ensure a little discipline and reliability in the working of the courts.

Before the concept of the collegium given by the Supreme Court, Article 124 of the Indian Constitution stated unequivocally that the President of India, in concert with the Chief Justice of India, would appoint any judges to the Supreme Court.

This indicates that the constitutional writers themselves thought the appointment of judges required the intervention of the executive. It has been made very obvious that all of the components of a democratic government require the establishment of certain safeguards. The Constitution's framers made a conscious decision to keep the executive involved in the selection of the judiciary in order to prevent any abuse of power by a single branch of government, despite the fact that the entire concept of the separation of powers was created to keep each branch independent of the other. However, collegium governance should also exist with regard to the promotion or transfer of judges in order to protect their judicial independence and allow them to

exercise their judgement freely without interfering with their personal or substantive independence. So, we can say that independence of the judiciary is necessary while not forcing itself on the other wings of the government.

## Conclusion

The work that the justice system does is very difficult. Hence, the judiciary has been given the power of judicial independence which is mentioned in the Constitution of India. The judges do a phenomenal job of administering impartial justice to the people. However, while doing this, there are bound to be people who are not happy with the decision. Hence, this is where the independence of the judiciary is challenged. Now, no one can ever prove whether there is any sort of influence on the justice system in India. However, the above-mentioned case laws and the examples of judges acquiring jobs after retiring from the judiciary, call for some serious reforms in the country's justice delivery system. Conclusion. Courts have always tried to uphold the independence of judiciary and have always said that the independence of the judiciary is a basic feature of the Constitution. Courts have said so because the independence of judiciary is the pre-requisite for the smooth functioning of the Constitution and for a realization of a India practices constitutional governance by rule of law. Be it legislature, executive or judiciary; all are creatures of the Constitution of India, 1950. In this democratic setup, the judiciary is an impartial umpire that resolves disputes within the boundaries laid down by a Written Constitution and distribution of constitutional powers between different organs, namely, Parliament, State Legislatures and Executive. An independent judiciary is expected by every citizen of the country and is not only a fundamental right but is also a part of the basic structure of our Constitution.

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