



KAMARAJ IAS ACADEMY
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Power of Chief Justice of India

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Why in News: in a surprising turn of events, the Court of the Chief Justice of India (CJI) entertained a recall application moved by the Union of India against the judgement in Ritu Chhabria v. Union of India case despite CJI not having any connection with the verdict.

About Chief Justice of India

The Chief justice of India (CJI) is the head of the judiciary of India and the Supreme Court of India and he appointed by the President of India under the Article 124 (2) of the Constitution.

However, the Constitution of India itself does not have any provision for criteria and procedure for appointing the CJI. The closest mention is in Article 126, which deals with the appointment of an acting CJI. In the absence of a constitutional provision, the procedure relies on custom and convention.

The Indian Constitution gives the power of appointing judges to the President. The President can take advice on these appointments from the Union cabinet, judges of the Supreme Court and High Court's and other people as he deems fit.

The wages, allowances, leave and pension of the judges is determined by the Parliament and cannot be altered unless there is a financial emergency.

The additional expenditure of perks of the judges is borne by the state but the CJI and judges are not allowed to continue practice in the courts after retirement.

Powers of CJI

Within the constitutional scheme of things, all judges of the Supreme Court are equal in terms of their judicial powers. However, the CJI enjoys special administrative powers such as constituting Benches and assigning matters and references for reconsideration of a larger Bench.

The CJI is known as the 'Master of the Roster.' This is why he is regarded as 'first amongst equals' in relation to companion judges.

The chief justice of High court is appointed by the president after consultation with the chief justice of India and the governor of the state concerned. The consultation with the chief justice is obligatory in the case of appointment of a judge other than chief justice.

Concerns with 'Master of the Roaster System'

Despite the administrative usefulness of the 'Master of the Roster' system, the many recorded instances of abuse are a cause for concern. Just five years ago, four senior judges of the Supreme Court alleged serious infirmities and irregularities in the administration and assigning of cases for hearing to Benches of the Court.

The powers vested in the CJI by his virtue of being the Master of the Roster are unending. It is impractical to lay any limits on these powers, meant for the smooth administrative functioning of the Court.

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It is imperative that the CJI himself refrains from expanding his powers as Master of the Roster; the practice of constituting Benches and allocating cases should be completely computerised and left out of the hands of the CJI.

The CJI's powers as the Master of the Roster are meant only for administrative decision-making. The order has the effect of enlarging the powers of the CJI on the judicial side and of creating an unprecedented intra-court appellate mechanism within the Supreme Court in total disregard of the established procedure, which is a review petition.

The instant order has also dulled the bright line prohibiting the Court of the CJI from assuming that it is superior to all other Benches.

The Way Ahead

The power to constitute a bench must be shared with at least the next four senior-most judges, when political and sensitive cases are decided.

Judges cannot be divided into senior and junior since all judges are equal, it must be understood that to sustain the confidence of the people in the judiciary, such a convention is warranted.

Any judgment must appear to be the judgment of the court and not of one man or hand-picked men, which needs involvement of several judges.