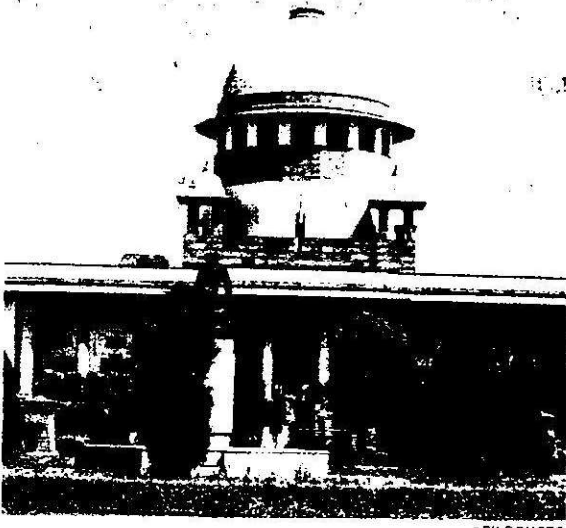


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Jagan vs. judges

What can CJI Bobde do about charges levelled against judges by the Andhra Pradesh Chief Minister?

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The story so far: Andhra Pradesh Chief Minister (CM) Y.S. Jagan Mohan Reddy has stirred a hornet's nest by writing to the Chief Justice of India complaining about Supreme Court judge Justice N.V. Ramana for allegedly influencing posting of cases in the State High Court and alleging that some High Court judges are hostile to his government and are deliberately striking down his regime's decisions and orders. In effect, he has accused many judges of misconduct, corruption and political bias. Such an open conflict between the judiciary and a Chief Minister is without precedent. Questions arise about what can be done about this serious complaint.

How are allegations of misconduct against judges dealt with?

The Constitution protects the independence of judges of the High Courts and the Supreme Court by making them removable only through a long process of impeachment. However, not all forms of misconduct will warrant impeachment. There could be other kinds of impropriety too. There are times when serious complaints of this sort are received, and the Chief Justice of India (CJI) is called upon to examine them. Since 1997, judges have adopted an 'in-house procedure' for inquiring into such charges.

When was the procedure adopted?

After Justice J.S. Verma took over as Chief Justice of India (CJI) in 1997, he circulated among judges a document called 'Restatement of Values of Judicial life'. This was a set of principles containing the essential elements of ideal behaviour for judges. The Full Court passed a resolution that an 'in-house procedure' would be adopted for action against judges for acts of commission or omission that go against these values. A five-judge committee was constituted to come up with a procedure. Its report was adopted on December 15, 1999. It was made public in 2014.

How does the in-house procedure work?

When a complaint is received against a High Court judge, the CJI should decide if it is considered frivolous or if it is "directly related to the merits of a substantive decision in a judicial matter", or it does not involve any serious misconduct or impropriety.

The complaint by Y.S. Jagan Mohan Reddy will have to be examined by the CJI to see if it can be rejected as baseless or if it requires a deeper investigation

If it is serious, the CJI should get the judge's response. He may close the matter if he is satisfied with the response. If a deeper probe is considered necessary, both the complaint and the judge's response, along with the Chief Justice's comments, are recorded for further action. The same procedure holds good if the CJI receives a complaint directly. After

considering the High Court's Chief Justice, the judge involved and the complaint, the CJI, if deemed necessary, forms a three-member committee. The committee should have two Chief Justices from other High Courts and one High Court judge. The inquiry it holds is of the nature of a fact-finding mission and is not a formal judicial inquiry involving examination of witnesses. The judge concerned is entitled to appear before it.

If the case is against a High Court's Chief Justice, the same procedure is followed, but the probe committee comprises a Supreme Court judge and two Chief Justices.

If a Supreme Court judge faces such a charge, the in-house panel will comprise three Supreme Court judges. The in-house procedure does not give any separate provision to deal with complaints against the Chief Justice of India. But in practice, a panel of three other Supreme Court justices is formed.

What happens after the probe is done?

If the committee finds substance in the charges, it can give two kinds of recommendations. One, that the misconduct is serious enough to require removal from office, or that it is not serious enough to warrant removal.

In the former case, the judge concerned will be urged to resign or seek voluntary retirement. If the judge is unwilling to quit, the Chief Justice of the High Court concerned would be asked to withdraw judicial work from him. The President and the Prime Minister will be informed of the situation. This is expected to clear the way for Parliament to begin the process of impeachment. If the misconduct does not warrant removal, the judge would be advised accordingly.

How will the CM's complaint be handled?

The complaint by the Andhra Pradesh Chief Minister will have to be examined by the CJI from the perspective of whether it can be rejected as baseless, or it requires a deeper investigation.

In details annexed to his letter, Mr. Reddy has cited several writ petitions in which adverse orders were passed against his regime. He also accuses the judges concerned of political bias not only against himself, but also in favour of his rival, N. Chandrababu Naidu, the former Chief Minister. Therefore, a key question would be: do the charges pertain merely to the merits of judicial orders, or are they serious enough to warrant a probe?