

**POLITY**

❖ **Collegium**

❖ **CONTEXT:** Union Minister for Law and Justice Kiren Rijju recently said the collegium system of appointments to the higher judiciary needs to be reconsidered in view of the concerns about the process. Rijju's statements reopen a longstanding debate over the process of appointment of judges to the Supreme Court and High Courts of India. An attempt by the government to bring a law that would give the executive a strong say in the appointments was struck down by the Supreme Court several years ago.

❖ **What is collegium?**

- The Supreme Court collegium is a five-member body, which is headed by the incumbent Chief Justice of India (CJI) and comprises the four other senior most judges of the court at that time.
- A High Court collegium is led by the incumbent Chief Justice and four other senior most judges of that court.
- By its very nature, the composition of the collegium keeps changing, and its members serve only for the time they occupy their positions of seniority on the Bench before they retire.

❖ **What collegium ensures?**

❖ **In 1993, the SC held:**

- Collegium was devised to ensure that, **"the opinion of the Chief Justice of India is not merely his individual opinion, but an opinion formed collectively by a body of men at the apex level in the judiciary."** The *raison d'être* for this decision was "the independence of the judiciary, as a part of the basic structure of the Constitution, to secure the 'rule of law', essential for the preservation of the democratic system."

❖ **What is a collegium system and what it does?**

- It is the way by which judges of the Supreme Court and High Courts are appointed and transferred. The collegium system is not rooted in the Constitution or a specific law promulgated by Parliament; it has evolved through judgments of the Supreme Court.
- Judges of the higher judiciary are appointed only through the collegium system, and the government has a role only after names have been decided by the collegium. Names that are recommended for appointment by a High Court collegium reaches the government only after approval by the CJI and the Supreme Court collegium.

❖ **What is the role of government in appointment of judges?**

- The role of the government in this entire process is limited to getting an inquiry conducted by the Intelligence Bureau (IB) if a lawyer is to be elevated as a judge in a High Court or the Supreme Court.
- The government can also raise objections and seek clarifications regarding the collegium's choices, but if the collegium reiterates the same names, the government is bound, under Constitution Bench judgments, to appoint them as judges.
- Sometimes the government delays making the appointments, especially in cases where the government is perceived to be unhappy with one or more judges recommended for appointment by the collegium. Supreme Court judges have sometimes expressed anguish over such delays.

❖ **What are the important Constitutional articles on the appointment of judges in the higher judiciary?**

- **Article 124(2)** says: "Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years. Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted."
- **Article 217** says: "Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court."
- The appointments are made by the President, who is required to hold consultations with "such of the judges of the Supreme Court and of the High Courts" as he may think is needed.
- But the Constitution does not lay down any process for making these appointments.

❖ **How did the collegium system of appointments evolve?**

- The collegium system evolved out of a series of judgments of the Supreme Court that are called the "Judges Cases".
- The collegium came into being through the interpretations of the relevant provisions of the Constitution that the Supreme Court made in these Judges Cases.

❖ **FIRST JUDGES CASE:**

- In '**SP Gupta Vs Union of India**', 1981, the Supreme Court by a majority judgment held that the concept of primacy of the CJI was not really rooted in the Constitution.
- It held that the proposal for appointment to a High Court could emanate from any of the constitutional functionaries mentioned in Article 217, and not necessarily from the Chief Justice of the High Court.
- The Constitution Bench also held that the term "consultation" used in Articles 124 and 217 did not mean "concurrence" – therefore, although the President will consult these functionaries, his decision was not bound to be in concurrence with all of them.
- The judgment in the First Judges Case tilted the balance of power in appointments of judges of High Courts in favour of the executive. This situation prevailed for the next 12 years.

❖ **SECOND JUDGES CASE:**

- In '**The Supreme Court Advocates-on-Record Association Vs Union of India**', 1993, a nine-judge Constitution Bench overturned the decision in '**SP Gupta**', and devised a specific procedure called the '**Collegium System**' for the appointment and transfer of judges in the higher judiciary.
- It was this judgment of the Supreme Court that was sought to be reviewed in the petition filed by the National Lawyers' Campaign for Judicial Transparency and Reforms, and which was turned down by the court in October 2019.
- The judgment in the Second Judges Case underlined that the top court must act in "protecting the integrity and guarding the independence of the judiciary". The majority verdict in the case accorded primacy to the CJI in matters of appointment and transfers, and ruled that the term "consultation" used in the Constitution would not diminish the primary role of the CJI in judicial appointments.
- The role of the CJI is primal in nature because this being a topic within the judicial family, the executive cannot have an equal say in the matter. Here the word 'consultation' would shrink in a mini form. Should the executive have an equal role and be in divergence of many a proposal, germs of indiscipline would grow in the judiciary," the court held in its judgment.
- Ushering in the collegium system, the verdict in the Second Judges Case said that the recommendation should be made by the CJI in consultation with his two seniormost colleagues, and that such recommendation should normally be given effect to by the executive.
- It added that although the executive could ask the collegium to reconsider the matter if it had an objection to the name recommended, if, on reconsideration, the collegium reiterated the recommendation, the executive was bound to make the appointment.

❖ **THIRD JUDGES CASE:**

- **In 1998, then President KR Narayanan issued a Presidential Reference to the Supreme Court under Article 143 of the Constitution (advisory jurisdiction) over the meaning of the term "consultation".** The question was whether "consultation" required consultation with a number of judges in forming the CJI's opinion, or whether the sole opinion of CJI could by itself constitute a "consultation".
- In response, the Supreme Court laid down nine guidelines for the functioning of the coram for appointments and transfers. This has come to be the existing form of the collegium, and has been prevalent ever since.
- In its opinion, the Supreme Court laid down that the recommendation should be made by the CJI and his four senior most colleagues — instead of two, as laid down by the verdict in the Second Judges Case. It also held that Supreme Court judges who hailed from the High Court for which the proposed name came, should also be consulted.
- It was also held that even if two judges gave an adverse opinion, the CJI should not send the recommendation to the government.

❖ **Why has collegium system been criticized?**

- Critics have pointed out that the system is non-transparent, since it does not involve any official mechanism or secretariat. It is seen as a closed-door affair with no prescribed norms regarding eligibility criteria, or even the selection procedure. There is no public knowledge of how and when a collegium meets, and how it takes its decisions. There are no official minutes of collegium proceedings.
- Lawyers too are usually in the dark on whether their names have been considered for elevation as a judge.
- The collegium system of appointment and transfer of judges of the higher judiciary has been debated for long, and sometimes blamed for tussles between the judiciary and the executive, and the slow pace of judicial appointments.

❖ **What are the key points of the debate over collegium?**

- The government of Prime Minister Atal Bihari Vajpayee (1998-2003) had appointed the Justice M N Venkatachaliah Commission to examine whether there was need to change the collegium system.
- The Commission recommended that a National Judicial Appointments Commission (NJAC) should be set up, consisting of the CJI and two seniormost judges of the Supreme Court, the Law Minister of India, and an eminent person from the public, to be chosen by the President in consultation with the CJI.

- The creation of the NJAC was one of the priorities of the present government, and the constitutional amendment and NJAC Act were cleared swiftly by Lok Sabha. Subsequently, a clutch of petitions were filed in the Supreme Court, arguing that the law enacted by Parliament undermines the independence of the judiciary, and is violative of the basic structure of the Constitution.
- In 2015, a five-judge Constitution Bench of the Supreme Court struck down as unconstitutional the constitutional amendment that had sought to create the NJAC, in which a significant role had been envisioned for the executive in appointments to the higher judiciary. The Bench sealed the fate of the proposed system with a 4:1 majority verdict that held that the appointments of judges shall continue to be made by the collegium system, in which the CJI will have “the last word”.
- “There is no question of accepting an alternative procedure, which does not ensure primacy of the judiciary in the matter of selection and appointment of judges to the higher judiciary,” the court said in its majority opinion. Justice J Chelameswar wrote the dissenting verdict, in which he criticised the collegium system, saying that its proceedings were “absolutely opaque and inaccessible both to public and history, barring occasional leaks”.
- On October 17, 2019, the Supreme Court dismissed a plea to review the verdict in the ‘Supreme Court Advocates-on-Record Association and Another vs Union of India’ (Second Judges Case) on grounds of an “inordinate delay of 9,071 days in filing the...petition, for which no satisfactory explanation had been offered”.

### PRELIMS

#### 1. PM-GKAY

- ❖ **CONTEXT:** The government recently announced an extension of the Pradhan Mantri Garib Kalyan Anna Yojana (PM-GKAY) for another three months until December 2022. The decision was taken in the meeting of the Union Cabinet chaired by Prime Minister .
- A total of Rs 3.45 lakh crore had been spent on the six phases of PM-GKAY so far, and another Rs 44,762 crore will be spent on the seventh phase. A total 122 lakh metric tonnes of foodgrains will be distributed to over 80 crore beneficiaries across the country.
- ❖ **What is the PM-GKAY?**
- The PM-GKAY is a scheme under which the government provides free food grains — 5 kg per person per month — to eligible beneficiaries of the National Food Security Act (NFSA), 2013. This is over and above their monthly entitlement under the NFSA.
- The scheme was started as one of the components of the government’s Rs 1.7 lakh crore Covid relief package announced by Finance Minister on March 26, 2020 — two days after the country went into national lockdown following the outbreak.
- ❖ **How much grain has been disbursed so far?**
- In the six phases of the scheme from its inception in early 2020 up to July 2022, the government has allocated 998 lakh metric tonnes (LMT) of foodgrains — including 635.1 LMT of rice and 362.86 LMT of wheat — of which 826 LMT has been lifted by states and Union Territories.
- It is estimated that the government has spent around Rs 3.4 lakh crore on the implementation of all six phases of the PM-GKAY.
- “The Government has spent approximately Rs. 2.60 Lakh Crore so far and another Rs. 80,000 Crore will be spent over the next 6 months till September 2022, taking the total expenditure under PM-GKAY to nearly Rs. 3.40 Lakh Crore.
- ❖ **What are NFSA beneficiaries entitled to?**
- There are two categories of beneficiary households under the NFSA — the Antyodaya Anna Yojana (AAY) households, and the Priority Households (PHs).
- Each AAY household is entitled to 35 kg of food grains every month irrespective of the number of members in the household.
- PHs are entitled to receive food grains according to the number of family members.
- Each member of a PH is entitled to receive 5 kg of food grains every month under the NFSA. So, the bigger a PH family, the greater is the quantity of food grains it gets.
- ❖ **At what rate are food grains provided under the NFSA?**
- NFSA beneficiaries are entitled to receive food grains at highly subsidised rates. Under the food law, rice is provided at Rs 3 per kg, wheat at Rs 2 per kg, and coarse grains at Re 1 per kg.
- ❖ **How many persons are covered under the NFSA?**
- The NFSA, enacted by the UPA government in 2013, aims at ensuring “access to adequate quantity of quality food at affordable prices” to 50 per cent of the urban and 75 per cent of the rural population of the country. The overall national coverage of the NFSA is about 67.5 per cent.

- Section 9 of the NFSA states that the number of persons to be covered in rural and urban areas of a state shall be calculated on the basis of population estimates as per the Census of which the relevant figures have been published.

- The latest published Census figures are from 2011, and based on that about 81.35 crore people can be covered by the NFSA. However, Food Ministry data show that of the accepted figure of 81.35 crore, 98.05 per cent, or 79.77 crore persons, had been identified until July 2022. Thus, even with the ceiling fixed at 81.35 crore, states can still identify and add about 1.58 crore people under the NFSA.

❖ **How is the PM-GKAY different from the NFSA?**

- The NFSA is a right-based scheme under a law of Parliament, while the PM-GKAY is a scheme announced by the executive as a top-up to the entitlements of beneficiaries covered under the NFSA.
- So, only those people who were already getting subsidised foodgrains can get free foodgrains under the PM-GKAY.
- The PM-GKAY provides additional benefits to NFSA beneficiaries, but does not cover additional beneficiaries beyond the accepted limit of 81.35 crore persons under the NFSA.

2. **UAPA tribunal**

❖ **CONTEXT: The Popular Front of India (PFI), declared an “unlawful association” under the Unlawful Activities Prevention Act (UAPA) by the Centre, will now have the option to present its case before a tribunal that must confirm the government notification for the ban to continue.**

❖ **What is a UAPA tribunal?**

- The UAPA provides for a tribunal under a High Court judge to be constituted by the government for its bans to have long-term legal sanctity.
- Orders to declare an organisation as “unlawful” are issued by the Centre under Section 3 of the UAPA. The provision says that “no such notification shall have effect until the tribunal has, by an order made under Section 4, confirmed the declaration made therein and the order is published in the Official Gazette”.
- Thus, a government order would not come into effect until the tribunal has confirmed it.
- However, in exceptional circumstances, the notification can come into effect immediately once the reasons for it are recording in writing. The tribunal can endorse or reject it.

❖ **The procedure**

- According to Section 4 of the UAPA, after the Centre declares an organisation “unlawful”, its notification must reach the tribunal within 30 days to adjudicate “whether or not there is sufficient cause” for the move.
- After this, the tribunal calls upon the association, by notice in writing, to show cause within 30 days why it should not be declared unlawful. Once this is done, the tribunal holds an inquiry and decides the matter within six months.

❖ **Constitution of the tribunal**

- The tribunal consists of only one person, who has to be a High Court judge. If a vacancy (other than a temporary absence) occurs in the Tribunal, the Centre appoints another judge and the proceedings continue from the stage at which the vacancy is filled.
- The Centre is to provide to the tribunal such staff as necessary for the discharge of its functions. All expenses incurred for a tribunal are borne out of the Consolidated Fund of India.

❖ **Its powers**

- The tribunal has power to regulate its own procedure, including the place at which it holds its sittings. Thus, it can hold hearings in different states for allegations pertaining to those states.
- To make inquiries, the tribunal has the same powers as vested in a civil court under the Code of Civil Procedure, 1908. These can be exercised in summoning a witness and examining him on oath; production of any document or other material object producible as evidence; the reception of evidence on affidavits; the requisitioning of any public record from any court or office; and the issuing of any commission for the examination of witnesses.
- All proceeding before the Tribunal are deemed to be judicial proceedings.

❖ **Its record**

- Government notifications, with a few exceptions as in the case of SIMI, have largely been confirmed by the tribunals.
- In case of SIMI, a tribunal had briefly lifted the ban on it in 2008. Almost all extensions of bans too, be it against Zakir Naik, Sikhs for Justice, or the JKLF, have been confirmed.
- Proceedings of the tribunal have been criticised for being somewhat opaque.
- The UAPA permits public non-disclosure of information on bans given the sensitivity involved. It has been said that often, the government gives evidence in sealed cover, leaving no opportunity for an organisation to defend itself.

3. **Very Short Range Air Defence System (VSHORADS) Missile**

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- ❖ **Context: DRDO conducted two successful test flight of Very Short Range Air Defence System (VSHORADS) missile recently.**
- VSHORADS is a Man Portable Air Defence System (MANPAD) designed and developed indigenously by DRDO's Research Centre Imarat (RCI), Hyderabad.
- VSHORADS missile incorporates many novel technologies including miniaturized Reaction Control System (RCS) and integrated avionics.
- The missile is meant for neutralizing low altitude aerial threats at short ranges.
- It is propelled by a dual thrust solid motor.
- VSHORAD is the soldier's last line of defence against enemy combat aircraft and helicopters.

### ANSWER WRITTING

**Q. The revolt of 1857 is also called the Sepoy Mutiny. Considering this statement discuss the reasons for the revolt of 1857 as well as its failure.**

#### Introduction

- The revolt of 1857 was the first expression of organized resistance against the British East India Company.
- It began as a revolt of the sepoys of the British East India Company's army but eventually secured the participation of the masses.

#### Causes of the Revolt

- **Political Cause:** The political causes of the revolt were the British policy of expansion through the Doctrine of Lapse and direct annexation. A large number of Indian rulers and chiefs were dislodged, thus arousing fear in the minds of other ruling families who apprehended a similar fate.
- **Social and Religious Cause:** The rapidly spreading Western Civilisation in India was alarming concerns all over the country. For example, the abolition of practices like sati and female infanticide, and the legislation legalizing widow remarriage, were believed as threats to the established social structure.
  - Introducing western methods of education was directly challenging the orthodoxy for Hindus as well as Muslims.
  - Even the introduction of the railways and telegraph was viewed with suspicion.
- **Economic Cause:** In rural areas, peasants and zamindars were infuriated by the heavy taxes on land and the stringent methods of revenue collection followed by the Company.
- **Military Causes:** The Revolt of 1857 began as a sepoy mutiny. Indian sepoys formed more than 87% of the British troops in India but were considered inferior to British soldiers. An Indian sepoy was paid less than a European sepoy of the same rank.
- **Immediate Cause:** A rumour spread that the cartridges of the new enfield rifles were greased with the fat of cows and pigs. Before loading these rifles the sepoys had to bite off the paper on the cartridges. Both Hindu and Muslim sepoys refused to use them.

#### Reasons for the Failure of the Revolt

- **Limited uprising:** Although the revolt was fairly widespread, a large part of the country remained unaffected by it. The revolt was mainly confined to the Doab region. The large princely states, Hyderabad, Mysore, Travancore, and Kashmir, as well as the smaller ones of Rajputana, did not join the rebellion.
- **No effective leadership:** The rebels lacked an effective leader. Although Nana Saheb, Tantia Tope and Rani Lakshmi Bai were brave leaders, they could not offer effective leadership to the movement as a whole.
- **Limited resources:** The rebels lacked resources in terms of men and money. The English, on the other hand, received a steady supply of men, money and arms in India.
- **No participation of the middle class:** The English educated middle class, the rich merchants, traders and zamindars of Bengal helped the British to suppress the revolt.

#### Conclusion

The revolt of 1857 was an unprecedented event in the history of British rule in India. It united, though in a limited way, many sections of Indian society for a common cause. Though the revolt failed to achieve the desired goal, it sowed the seeds of Indian nationalism

### MCQs

1. Which of the statements is/are not true with respect to appointment of judges?
  - a) **Second Judges Case revolved around the term "consultation" in the appointment of judges.**
  - b) Justice M N Venkatachaliah Commission was appointed to examine whether there was need to change the collegium system.
  - c) The judgment in the First Judges Case tilted the balance of power in appointments of judges of High Courts in favour of the executive.
  - d) The collegium system is not rooted in the Constitution or a specific law promulgated by Parliament.
2. Consider the following statements, with respect to Unlawful Activities Prevention Act (UAPA) Tribunal:
  1. It consists of only one person, who has to be a High Court judge.
  2. To make inquiries, it has the same powers as vested in a civil court

Which of the statements given above is/are correct?

- a) 1 only  
b) 2 only  
c) **Both 1 and 2**  
d) Neither 1 nor 2
3. With reference to the National Food Security Act, which of the following statement is/are correct?  
I. It will cover up to 75 percent rural and 50 percent urban population.  
II. Special focus on nutritional support to women and children.  
III. Eldest woman of above 18 years of age will be head of household.  
Select the correct answer using the codes given below :  
a) I and II are correct  
b) II and III are correct  
c) **I, II and III are correct**  
d) None of these
4. Consider the following statements about Unlawful Activities (Prevention) Act (UAPA)  
1. Passed in 2004, the law aims at effective prevention of unlawful activities associations in India.  
2. Recently, Central government banned Popular Front of India (PFI) under this Act.  
3. It has life imprisonment but not death penalty as highest punishment  
Which of the above statements is/are correct?  
a) 1 and 2 only  
b) 2 and 3 only  
c) 1 only  
d) **3 only**
5. Consider the following statements regarding Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY):  
1. It is a free food grain distribution scheme of Department of Food and Public Distribution under the Ministry of Consumer Affairs.  
2. The scheme aims to feed the poorest citizens of India by providing grain through the Public Distribution System (PDS).  
3. Eligible beneficiaries of the scheme include all the priority households, that is, ration card holders and those identified by the Antyodaya Anna Yojana (AAY) scheme.  
Which of the above statement/s is/are correct?  
a) 1 only  
b) 2 and 3 only  
c) 1 and 3 only  
d) **1, 2 and 3**
6. Recently Lt General Anil Chauhan (Retired) has been appointed as the new Chief of Defence Staff(CDS), with reference to CDS consider the following statements.  
1. The first proposal for a CDS came from the 2000 Kargil Review Committee (KRC).  
2. He functions as the Permanent Chairman of the Chiefs of Staff Committee.  
3. He functions as the Military Advisor to the Nuclear Command Authority.  
Which of the above statements is/are correct?  
a) 1 only                      b) 1 and 2 only                      c) 2 and 3 only                      **d) 1, 2 and 3**
7. In the context of UNSC reform, which among the following countries is NOT a member of 'Uniting for Consensus' group, informally known as the 'Coffee Club'?  
a) **Brazil**                      b) Italy                      c) Argentina                      d) South Korea
8. Sapta Kosi High Dam is a multipurpose project proposed to be constructed on the Sapta kosi River to control flood in which region?  
a) **south-east Nepal and northern Bihar**  
b) North west UP and South west Nepal  
c) Uttarakhand  
d) Western Uttarakhand and Eastern Himachal
9. According to the recent data released by Government which of the following country is the top destination in 2021  
a) USA                      **b) UAE**                      c) UK                      d) Australia
10. Which of the following country recently announced plans to manufacture its Carl-Gustaf M4 weapon system in India.  
a) **Sweden**                      b) Japan                      c) Israel                      d) USA