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National Judicial Appointment Committee (NJAC) – a case study of Judicial independence

It is argued that the appointment of judges should be with congruence between judiciary and executive. same was the philosophy of the constitution. however, over time judiciary vested the control of appointment out of the hands of executive (2nd and 3rd judges case). In this context the National Judicial Appointment Committee was established through 99th constitutional amendment act. This article aims to analyze the case of NJAC about what happened and what should have happened.

Supreme Court Advocates on Record Association (SCAoRA) case/Fourth Judges case:

Supreme Court held the NJAC as ultra vires to constitution on 4:1 judgement. One judge objected to the understanding that the judiciary is the only constitutional organ protecting the liberties of the people.

Issues judiciary pointed in NJAC:

- Power of veto to any two persons including 2 eminent persons is plain “obnoxious.”
- Participation of the Prime Minister and Leader of Opposition in the selection of these “eminent persons.”
- Participation of law minister in the NJAC.

Analysis (Justice A. P. Shah, former Chief Justice Delhi HC):

- Lawyers like Prashant Bhushan and Ram Jethmalani has praised the judgement, while other jurists such as KTS Tulsi has opposed it.
- Though there were some legitimate concerns but striking down the whole Act was not warranted. They could have interpreted it according to the needs. For example, it could have read that the veto is meant for judicial persons only – both in NJAC and appointment committee for eminent persons.
- They should have given heed to the will of the people.
- To say that neither the political class nor civil society can have a say in judicial appointments is against the system of checks and balances, which is also a part of the basic structure of the Constitution.
- The executive, with vast administrative machinery under its control, is capable of making enormous and valuable contribution to the selection process.

Suggestions for NJAC judgement:

- The Court has announced for ‘consequential hearings’ to tackle deficiencies in the collegium. The government can use this venture to introduce the best elements of NJAC with the best elements of the collegium system.

- The Court has held that independence of the judiciary and the primacy of the judiciary in the appointments process is basic structure — not the collegium system. Thus the possibility of establishing another Commission is still there, which will comply with the principles set out in the judgment.

Improvement in collegium system:

- Clear selection rules and guidelines.
- Consultative body, which could include distinguished jurists, leading lawyers etc from outside the collegium, to assist the collegium in scrutinizing potential candidates.
- Provisional selections should be published to enable any material or adverse information to surface. Strict timelines for the entire process from shortlisting to recommendations.

Remarks:

- Parliamentary Standing Committee report in its recent report has accused the Supreme Court of distorting the original constitutional mandate and recommended that the original constitutional position on judicial appointments be brought back.
- Dr. B.R. Ambedkar, had also said that “after all, the Chief Justice is a man with all the failings which we as common people have”.

Procedure for appointment of CJI:

Memorandum of Procedure of Appointment of Supreme Court Judges provides following procedure:-

- It says “appointment to the office of the Chief Justice of India should be of the senior most Judge of the Supreme Court considered fit to hold the office”.

- The process begins with the Union Law Minister seeking the recommendation of the outgoing CJI about the next appointment at the appropriate time. The Memorandum does not elaborate or specify a timeline.
- After receipt of the recommendation for CJI office, the Union Minister of Law will put up the recommendation to the Prime Minister who will advise the President in the matter of appointment.

Thus it is evident from above discussion that judiciary has taken control out of the hands of executive, belying the constitutional mandate and asserting that judiciary is supreme, even over parliament. So keeping over discussion in mind, there is need of mechanism to ensure that not only executive but also civil society has a say in the appointment.

Vikas gupta

SSLV-D1/EOS-02 Mission

SSLV-D1/EOS-02 Mission

- ISRO launched its first Small Satellite Launch Vehicle (SSLV-D1) from Sriharikota.
- It launched Earth Observation Satellite-EOS-02 and a co-passenger student satellite ‘Azaadi SAT’ into low earth orbit (LEO).
- However, after a successful lift-off at initial stage and separation of its three stages, the rocket placed satellites into 356 km x 76 km elliptical orbit instead of the designated 356 km circular orbit, making satellites no longer usable.

Small Satellite Launch Vehicle (SSLV)

- ISRO developed SSLV is a rocket to launch satellites weighing less than 500kg in Low Earth Orbit and 300 kg to Sun Synchronous Orbit (SSO).
- It is a 3 stage Launch Vehicle configured with three Solid Propulsion Stages and liquid propulsion-based Velocity Trimming Module (VTM) as a terminal stage.
- SSLV is configured with three solid stages 87 t, 7.7 t and 4.5 t.
- SSLV is capable of launching Mini, Micro, or Nanosatellites (10 to 500 kg mass)
- It is the smallest vehicle at 110-ton mass at ISRO.
- It will take only 72 hours to integrate, unlike the 70 days taken now for a launch vehicle. Only six people will be required to do the job, instead of 60 people.
- The other features include: it will reduce the cost of launch missions (is likely to cost a fourth of the current PSLV), shift the burden of commercial launch from PSLV, Launch on demand feasibility, etc.

TYPES OF ORBITS

NEO (Near Earth Orbit)

- It lies at a height of about 400 km above the surface of earth.
- It is the orbit closest to the earth, therefore the satellite orbiting in NEO has to overcome greater gravitational force of the earth.
- Usually experimental satellites are launched in the NEO.

LEO (Low Earth Orbit)

- It lies at a height of about 900 km above the surface of earth.
- Here both experimental and operational satellites are launched. E.g. Remote Sensing Satellite etc.

GSO (Geostationary Orbit)

- It lies at a height of 36,000 km above the equator of the earth.
- It orbits around the earth with a period equal to earth's average rotational period of 23 hours 56 min. 4.09 sec.
- Communication satellites and broadcast satellites operate in this orbit.
- Satellites like GSAT series etc.

Sun-synchronous Orbit (SSO)

- SSO is also called a heliosynchronous orbit .
- SSO is a particular kind of polar orbit. Satellites in SSO, traveling over the polar regions, are synchronous with the Sun.
- The SSO satellites rotate w.r.t earth from north to south.
- Altitude range :- 200- 1000 km.
- It is a nearly polar orbit around a planet, in which the satellite passes over any given point of the planet's surface at the same local mean solar time.
- More technically, it is an orbit arranged so that it processes through one complete revolution each year, so it always maintains the same relationship with the Sun.

Anoop