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Judicial Accountability Debate Deepens After Justice Yashwant Varma Case Highlights Constitutional Gaps in Judges' Removal Process

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Recent Developments:

- The **Inquiry Committee Report** against former **Allahabad High Court** and **Delhi High Court** judge **Justice Yashwant Varma** is scheduled to be laid before **Parliament** during the **Monsoon Session, 2026**.
- The case has reignited debate on **judicial accountability**, **judicial independence**, the **constitutional power of judges to resign at will**, and the limitations of the **Judges (Inquiry) Act, 1968**.
- The controversy has also drawn attention to administrative inconsistencies after **Justice Varma's** name continued to appear in the list of sitting judges despite his resignation.

Background of the Case:

Origin of the Controversy:

- The case originated in **March 2025** after **partially burnt currency notes** were reportedly discovered in an outhouse attached to the official residence of **Justice Yashwant Varma**.
- Acting under the **Judges (Inquiry) Act, 1968**, the **Speaker of the Lok Sabha** constituted an **Inquiry Committee** to investigate allegations of **proved misbehaviour**.
- Before completion of the inquiry, **Justice Varma** tendered his resignation on **9 April 2026**.
- The **Inquiry Committee** completed its investigation, and its report is now scheduled to be placed before both Houses of Parliament.

Constitutional Framework Governing Resignation of Judges:

Power to Resign at Will:

- The **Constitution of India** permits certain **constitutional functionaries** to resign voluntarily by submitting a written resignation to the designated constitutional authority.
- The resignation becomes effective **without requiring formal acceptance**, unless the Constitution expressly provides otherwise.
- Constitutional authorities enjoying this power include:
 - **President of India, Vice-President of India, Governor.**
 - **Judges of the Supreme Court and High Courts.**
 - **Speaker and Deputy Speaker of the Lok Sabha and State Legislative Assemblies.**
 - **Deputy Chairman of the Rajya Sabha, Chairman and Deputy Chairman of State Legislative Councils.**
 - **Members of the Union and State Public Service Commissions.**

Constitutional Purpose:

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- The power protects **judicial independence** by ensuring that judges cannot be compelled to continue in office against their will.
- The provision prevents any constitutional authority from exercising indirect control over judges through acceptance or rejection of resignations.
- The mechanism reinforces the broader principle of **independence of the judiciary**, which forms part of the **Basic Structure Doctrine**.

Relevant Constitutional Provisions:

Judges of the Supreme Court:

- **Article 124(2)(a)** provides that a **Supreme Court Judge** may resign by writing addressed to the **President of India**.

Judges of the High Courts:

- **Article 217(1)(a)** provides that a **High Court Judge** may resign by writing addressed to the **President of India**.

Removal of Judges:

- **Article 124(4)** provides that a **Supreme Court Judge** may be removed only on grounds of **proved misbehaviour** or **incapacity** through a **special majority** of Parliament.
- **Article 124(5)** empowers Parliament to enact a law regulating the procedure for investigation and removal of judges.
- **Article 218** extends these removal provisions to **High Court Judges**.

Judges (Inquiry) Act, 1968:

Purpose of the Act:

- The Act prescribes the statutory procedure for investigating allegations against judges of the **Supreme Court** and **High Courts**.
- The Act operationalises **Articles 124(5)** and **218** of the Constitution.

Removal Procedure:

- A removal motion may be initiated by the required number of **Members of Parliament**.
- The **Speaker of the Lok Sabha** or the **Chairman of the Rajya Sabha** may admit the motion.
- A **three-member Inquiry Committee** is constituted comprising:
 - A **Judge of the Supreme Court**.
 - A **Chief Justice of a High Court**.
 - An **eminent jurist**.
- If the Committee finds **proved misbehaviour** or **incapacity**, Parliament may consider the removal motion.
- Removal requires adoption by **each House of Parliament** through a **special majority**, followed by an order of the **President of India**.

Judicial Interpretation on Resignation:

Union of India v. Gopal Chandra Misra (1978):

- A **Constitution Bench** of the **Supreme Court** held that resignation by a judge becomes effective **automatically** upon submission unless a future effective date is specified.

- The Court clarified that acceptance by the **President** is **not a constitutional requirement**.
- The judgment recognised the principle of **ex proprio vigore**, meaning that resignation operates by its own force without any external approval.

Administrative Issue Highlighted by the Case:

Continuation of Name in Official Records:

- Even after resignation, **Justice Varma's** name reportedly continued to appear on the websites of the **Allahabad High Court** and the **Department of Justice**.
- Since resignation took effect immediately upon submission, continued inclusion of his name in the list of sitting judges represented an administrative inconsistency rather than a constitutional requirement.
- The incident highlights the need for timely updating of official judicial records.

Effect of Resignation on Removal Proceedings:

Inquiry Committee Report:

- Resignation does **not invalidate** the inquiry already conducted into the judge's conduct.
- The **Inquiry Committee Report** may still be formally laid before Parliament because the statutory inquiry has already concluded.
- Publication of the report serves the objective of **institutional transparency** and **public accountability**.

Removal Proceedings:

- Once a judge resigns, he or she no longer occupies judicial office.
- Parliament cannot proceed with a motion seeking removal from an office that has already been vacated.
- Consequently, the removal motion lapses even if the Inquiry Committee establishes **proved misbehaviour**.

Judicial Accountability Loophole:

Existing Constitutional Gap:

- A judge facing removal proceedings may resign before Parliament completes the impeachment process.
- Such resignation effectively terminates the removal mechanism.
- The present framework does not provide any mechanism for Parliament to continue deliberations solely for fixing institutional accountability.
- The situation may reduce public confidence in judicial disciplinary mechanisms while leaving findings of misconduct without constitutional consequences.

Suggested Constitutional Reforms:

Proposals by Legal Experts:

- A constitutional amendment may provide that resignation submitted during pending removal proceedings shall require formal acceptance.
- To preserve **judicial independence**, the authority to accept such resignation may vest in the **Chief Justice of India** rather than the Executive.
- Parliament may be empowered to discuss the **Inquiry Committee Report** even after resignation of the concerned judge.
- Any reform should emerge through **constitutional amendment** instead of judicial or executive interpretation to preserve the **Rule of Law**.

Significance for Indian Constitutional Governance:

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Judicial Independence, Judicial Accountability:

- Judicial independence remains indispensable for maintaining constitutional democracy.
- Judicial accountability is equally essential for preserving institutional credibility.
- Constitutional design must maintain an appropriate balance between independence and accountability.

Parliamentary Oversight:

- The case highlights Parliament's constitutional role in removal of judges.
- It also exposes limitations in the present impeachment framework where resignation interrupts parliamentary scrutiny.

Transparency, Public Confidence:

- Transparent disciplinary mechanisms strengthen citizens' confidence in constitutional institutions.
- Public disclosure of completed inquiries enhances institutional legitimacy while respecting due process.

Related Constitutional Principles:

Basic Structure Doctrine:

- **Judicial Independence** forms an integral component of the **Basic Structure** of the Constitution.
- Parliament cannot dilute this principle even through constitutional amendment, as held in **Kesavananda Bharati v. State of Kerala (1973)**.

Separation of Powers:

- Judicial accountability mechanisms must preserve the constitutional balance among the **Legislature**, **Executive**, and **Judiciary**.
- Excessive executive control over judicial tenure may undermine institutional independence.

UPSC Value Addition:

Important Constitutional Articles:

- **Article 124** — Appointment, resignation and removal of **Supreme Court Judges**.
- **Article 217** — Appointment and resignation of **High Court Judges**.
- **Article 218** — Application of removal provisions to **High Court Judges**.
- **Article 121** — Restricts discussion regarding conduct of judges in Parliament except during removal proceedings.
- **Article 211** — Restricts discussion regarding conduct of High Court and Supreme Court judges in State Legislatures.

Important Acts:

- **Judges (Inquiry) Act, 1968.**
- **Judges (Protection) Act, 1985.**

Important Judgments:

- **Union of India v. Gopal Chandra Misra (1978).**
- **Kesavananda Bharati v. State of Kerala (1973).**
- **Supreme Court Advocates-on-Record Association v. Union of India (Second Judges Case, 1993).**
- **In re Presidential Reference (Third Judges Case, 1998)**