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Recusal of Judges: Meaning, Process and Issues in Indian Judiciary

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The concept of judicial recusal came into focus after a Delhi High Court judge refused to step aside from hearing a high-profile case, highlighting debates around judicial impartiality and discretion.

What is Recusal of Judges?

Recusal refers to the voluntary withdrawal of a judge from hearing a case due to a possible conflict of interest or apprehension of bias. It ensures that justice is delivered in a fair and impartial manner and that there is no perception of prejudice in judicial decision-making.

Constitutional and Legal Basis

The concept of recusal is rooted in the principle of natural justice, particularly the maxim:

“Nemo Judex in Causa Sua” (no one should be a judge in their own cause)

“Justice must not only be done but must also be seen to be done”

Although the Constitution of India does not explicitly provide rules for recusal, the practice has evolved through judicial precedents and ethical norms.

Grounds for Recusal

A judge may recuse in situations such as:

Financial interest (e.g., holding shares in a company involved in the case)

Personal relationships with parties or lawyers

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Prior involvement in the same case at a lower court level

Any circumstance leading to a reasonable apprehension of bias in the mind of litigants

Process of Recusal in India

There is no codified procedure for recusal in India. The process generally involves:

Decision taken by the judge's own conscience and discretion

Sometimes initiated through a request by parties or lawyers

If a judge recuses, the case is reassigned by the Chief Justice to another bench

Judges may or may not record reasons for recusal

Judicial Principles and Case Laws

In *Ranjit Thakur v. Union of India* (1987), the Supreme Court held that the test is the reasonable likelihood of bias, not actual bias.

The Restatement of Values of Judicial Life (1999) provides ethical guidance, such as avoiding cases involving personal interest.

Can a Judge Refuse to Recuse?

Yes. The decision to recuse or not rests solely with the judge.

Even when parties request recusal, judges may refuse if:

Allegations are baseless or speculative

No real conflict of interest exists

This reflects the principle of judicial independence.

Significance of Recusal

Ensures fair trial and due process

Maintains public confidence in judiciary

Upholds judicial integrity and independence

Prevents bias and conflict of interest

Challenges and Concerns

Lack of clear guidelines leads to inconsistency

Possibility of "bench hunting" (seeking favourable judges)

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Non-disclosure of reasons reduces transparency

Balancing judicial independence vs accountability

Conclusion

Recusal is a vital judicial practice ensuring fairness, impartiality, and trust in the legal system. However, the absence of a formal framework calls for clear guidelines to balance transparency with judicial independence, making it a significant topic for governance and judicial reforms.