

Assessing the role of CJI

Why in news?

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A five-judge Constitution Bench of the Supreme Court led by the CJI, has recently held that the Chief Justice has the sole prerogative to determine which Bench of judges hear which cases.

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What is the tussle?

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- The case essentially involves settling a matter relating to a medical college barred from admitting new students for particular courses.

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- The allegations are that some people had taken bribes by using the names of senior judges for securing a favourable judgement.

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- Accordingly, the CBI, earlier in its FIR, has named several persons, including former Orissa High Court judge as accused.

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- Notably, there were allegations against the Chief Justice of India as well.

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- In an SC hearing, a two judge bench ordered that the case be heard by a 5 judge Constitution bench of the senior-most judges of the SC.

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- However, the following day, a 5 judge constitution bench headed by the CJI over ruled this order.

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- It also ruled that "no judge can take up a matter on his/her own, unless allocated by the CJI, as he is the master of the roster (the list of judges and cases handled).

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- This has indeed highlighted the administrative impropriety and a tussle within the top judiciary on the authority of constituting a bench.

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What is the concern?

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- **Authority** - The Chief Justice, reasserting his own administrative powers of allocating Benches largely undermines the moral authority of the position.
- The CJI being part of the hearing (where the scandal allegedly implicates a judgment the CJI wrote, even though he has not been named in the FIR) is contentious.
- This possible conflict of interest certainly leaves scope for doubting the process of justice delivery itself in the case.
- Also, making the CJI the master of the roster certainly weakens the larger public significance of the role.
- **Corruption** - The judiciary has failed to find a mechanism to deal with allegations of corruption within its ranks.
- The challenge lies in ensuring that the anti-corruption measures taken do not undermine the independence of the judiciary.

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What is the way forward?

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- An independent investigation is necessary into this case where the personal probity of individuals in the judiciary is in doubt.
- But besides, the Court cannot stand on formality and sacrifice substantive justice for a mere conception of prerogative power.
- The convention based, cardinal principle that the Chief Justice of India is the master of the roster must be re-examined.
- Balancing the task with another judge would not undermine the CJI's role but would only be mindful of the changing demands of accountability.

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Source: The Hindu

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