

Contempt of Court against a Sitting Judge

Why in news?

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Justice CS Karnan did not appear before the Supreme Court (SC) in a contempt case against him.

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What is the issue?

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- Judge CS Karnan has on multiple occasions stated that he was a victim of caste bias as he was a Dalit and had accused the Madras HC chief justice of harassing him.

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- Subsequently when he was transferred, Karnan himself "stayed" the order of the SC, advising the CJI not to interfere in his "jurisdiction"

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- He later accepted his transfer.

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- He also wrote to the PM, the law minister and the CJI, accusing several sitting and retired judges of corruption.

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- This action had prompted the court to issue a **contempt notice for alleged judicial indiscipline.**

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- This is the first time that a constitutional court has initiated contempt of court proceedings against a judge of the SC or HC.

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- The SC asked Justice CS Karnan to appear before it in person for explanation. But the Judge chose not to appear before the SC.

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What are the constitutional provisions?

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- **Contempt of court - Article 129 and Article 215** empowers the Supreme Court and the High Courts respectively, to punish people for their contempt.

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- Article 129, states that “The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself”.

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- The power of contempt is often invoked **to ensure compliance with the orders given by the courts** and in their execution, and for punishing those who are responsible for the lapses in the manner of compliance.

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- Contempt jurisdiction is exercised **to uphold the dignity of the judicial system** which includes within itself the dignity of courts and tribunals as well and **to ensure the majesty of judicial institutions** so that it may not be lowered.

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- **Removal of Judge-** A judge of a high court can be removed in the same manner and on the same grounds as a judge of the Supreme Court as mentioned in Article 124 i.e by an order of the President. The President can issue the removal order only after an address by the Parliament has been presented to him in the same session for such removal.

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- The address must be supported by a special majority of each House of Parliament i.e., a majority of the total membership of that House and majority of not less than two-thirds of the members of that House present and voting.

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- The grounds of removal are proved misbehaviour or incapacity.

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- **Transfer of Judges** - According to **Article 222**, The President can transfer a judge from one high court to another after consulting the CJI.

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- The CJI should consult, in addition to the collegium of four seniormost judges of the Supreme Court, the chief justice of the two high courts (one from which the judge is being transferred and the other receiving him).

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- The Supreme Court also ruled that the transfer of high court judges could be resorted to only as an exceptional measure and only in public interest and not by way of punishment.

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- The transfer of judges is subjected to judicial review but only the judge who is transferred can challenge it.

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Source: Hindustan Times

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