

## Nomination of Ex-CJI to Rajya Sabha

### Why in News?

Within five months of his retirement as Chief Justice of India, Justice Ranjan Gogoi has been nominated to the Rajya Sabha by the President of India.

### What were the key judgments handled?

- During his tenure, Justice Gogoi presided over and pushed through the exercise of the National Register of Citizens (**NRC**) in Assam.
- Then, there is the **Sabarimala temple review case** in which the Supreme Court (SC) held that excluding menstruating women from entering the temple against constitutional morality.
- He **dismissed review of the Rafale aircraft deal** without dealing with the grounds on which the original judgment had been challenged.
- Shortly before his retirement, he delivered several important verdicts including the **Ayodhya judgment**.
- His judgments left the government pleased, with scarcely any politically-sensitive case being decided against the government's wishes.

### What is a forgotten code?

- The **16-point code of conduct** for judges, also called the "Restatement of Values of Judicial Life" is a forgotten code.
- This code was adopted at a Chief Justices Conference in May 1997.
- It states that a judge should practice a degree of aloofness consistent with the dignity of his office.
- It also says that a judge shall not hear and decide a matter in which a member of his family, a close relation or a friend is concerned.

### What is the significance of aloofness?

- It is the most essential trait needed from politicians or functionaries of the government.
- Unfortunately, these values seem to have been forgotten by judges who invite politicians to their personal functions.
- It is incumbent on such judges not to hear and decide cases of those politicians who are their personal friends.
- Judges can also interact with functionaries of the government in their official

capacity for official work.

### **What is the concern?**

- This code of conduct also lays the basis of how post-retirement conduct ought to be.
- A judge after a deciding politically sensitive case, soon after retirement gets a plum post such as a Rajya Sabha nomination.
- It would obviously raise serious questions about his or her independence as a judge when he or she had decided those cases.
- Nomination of Justice Gogoi to a Rajya Sabha seat by the government raise serious doubts about the fairness of many critical judgments.

### **How this nomination should be seen?**

- Mr. Gogoi's appointment cannot be seen as a way of ensuring cohesion between the judiciary and the legislature.
- Any attempt to create cohesion between the two wings would necessarily encroach on the judiciary's role as a restraining force on the executive and legislature.
- As for the government, making such an offer to a just-retired CJI is not mere brazenness.
- It indicates an alarming intention to undermine judicial authority so that the elected executive is seen as all-powerful.

**Source: The Hindu**