

16th Feb. 2023

[952] - polity.

1. Do you think post-retirement appointments are threat to Independence of judiciary? comment.

Recently a retired supreme court judge has been appointed as a governor of Andhra Pradesh. sparked controversy over independence of judiciary

concern.

Former minister highlighted - "A pre-retirement judgements are influenced by post-retirement benefits"

Problems with post-retirement appointments

1. Article 50 of Directive principles - State must take efforts to separate executive from judiciary. This separation of powers has been violated, affecting basic structure doctrine.
2. Independence of judiciary is off threatened.
eg: Even Law Commission highlighted this.
3. undermining. constitutional value of 'Impartiality'
4. Public faith in judiciary will be lowered with such kind of appointments
5. Encourages culture of 'Sycophancy'
(favoring others to get due advantage)

6. creating a sense of corruption in the judge!

Past Instances

This is not a new thing. In past such kind of appointments has been made.

eg: Appointment as Rajya Sabha member. etc.

Issue is the intended objective for which they are appointed have not been met.

eg: Former chief justice of India - appointed as Rajya Sabha member. - proclaimed to bridge gap between legislature & judiciary, but his presence in parliamentary proceedings is not so effective.

Way forward.

clear demarcation of role between political & non-political
↳ post retirement appointment has to be made. clear visibility of judicial role is required. mandatory cooling off period of 2 years is needed. judicial community must take role to uphold such appointment of political patronage. on whole, the government must respect separation of powers and judiciary must maintain its independence.