Removal of Chief Justice of India (CJI)

What is the issue?

- Opposition parties in the ‘Rajya Sabha’ have moved a “motion to remove” CJI Deepak Mishra.
- While there are multiple allegations against the CJI, some believe that the current motion could undermine the independence of the judiciary.

What are the problems that have cropped up in the judiciary?

- Higher Judiciary in India has been going through a tumultuous time currently with multiple issues plaguing its work.
- The problems - There is an ongoing strain between the government and the judiciary over judicial appointments.
- 4 senior judges of the ‘SC collegium’ had publicly dissented against the CJI by voicing concerns over CJI’s unilateral allocation of cases to benches.
- Recently, as many as 6 major parties from the opposition benches had moved a motion for the removal of CJI - thereby accentuating the crisis.
- Removal - Rajya Sabha rules prohibit the revelation of details about the motion before it is admitted and hence exact content is not known.
- Their main charge against the CJI is speculated to be “the accusations regarding the selective assignment of cases to Benches of his choice”.
- The aggrieved parties have perceived that the CJI is misusing his discretionary power to distort judicial outcomes in multiple cases.
- Significantly, even in the midst of all this, CJI had earlier asserted his
position as the ‘master of the roster’ – stressing his prerogative in allocation of cases.


**How valid is the case against CJI’s prerogative to allocate cases?**


- Collegium system was put in place by the Supreme Court to enable a plurality of consultation for judicial appointments (among senior-most judges).
- Those arguing for a consultative approach for allocating cases have been drawing parallels from this established framework.
- The counter argument is that, allocation of cases is a routine function and can’t be equated with the process for new appointments.
- Irrespective of the legal framework, the CJI could’ve averted the crisis by having held informal consultation with his collegium to ease tensions.


**What could be the expected outcome of the removal motion?**


- The opposition parties do not have the numbers in the parliament to secure the removal of CJI, and the motion is merely a symbolic protest.
- Additionally, it is also wholly within the power of the Rajya Sabha Chairman (Vice-President) to decide whether to admit it or not.
- If the motion gets admitted, a parliamentary enquire would be constituted, and the report will then be discussed on the floor of the concerned house.
- If there is any adverse finding, then the removal motion will have to be put to vote and be passes with a 2/3rd majority of the present and voting.
- **Contrasting Views** - Some argue that commissioning a parliamentary enquiry would imperil the independence of the judiciary.
- But others vouch that the constitution has ingrained such a procedure (with
sufficient checks) to ensure accountability.

- If admitted, the motion will indeed be a black mark on judiciary’s reputation, but if turned down, it would be a case of suppressing opposition’s voices.
- Hence, the Rajya Sabha Chairman will have to weigh both these options and take a nuanced stand on whether to admit or reject the motion.

Source: The Hindu