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Topics Covered

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- Presidential Opinion vs Federal Structure
- India's Dependence on Oil Imports and Rupee Stability

NJAC and Collegium system

Will consider plea to revive NJAC, end Collegium system of judicial appointments: CJI

The Hindu Bureau
NEW DELHI

Chief Justice of India Surya Kant on Wednesday orally said the Supreme Court would consider a plea seeking to revive the National Judicial Appointments Commission (NJAC) and bring an end to the Collegium system of judicial appointments to the constitutional courts.

The plea, which arraigns the Chief Justice of India and even the Supreme Court Collegium as respondents along with the Union government and a clutch of parties, submitted that the striking down of the NJAC by the court was a "great wrong because it meant substitution of the will of the people by the opinion of the four judges".

The oral mentioning of the application was made by advocate Mathews J. Ne-

History revisited

1993: Collegium system of judicial appointments **came into existence** by virtue of a Constitution Bench judgment

2014: The National Judicial Appointments Commission Act, 2014 and the Constitution (99th Amendment) Act, 2014 came into existence **to substitute** the Collegium system

2015: A Bench declared the 99th Constitutional Amendment Act and the NJAC Act unconstitutional, **reviving the Collegium system**



dumpara, who has sought permission to argue the case in-person.

Struck down in 2015

The NJAC, which briefly gave the Centre an equal role along with the judiciary in the appointment of judges to constitutional

courts, was struck down as unconstitutional in 2015.

The plea urged the 2015 judgment to be rendered *void ab initio* as it revived the Collegium system, which was a "synonym for nepotism and favouritism".

"Since the Collegium came into existence, appointments to higher judiciary have been a 'riddle wrapped in a mystery, inside an enigma' to borrow an expression from Winston Churchill. There has been no transparency whatsoever, at all. Even within the judiciary there has been lamentation. Parliament which represents the will of the people, in exercise of its constituent power, had enacted 99th Constitutional Amendment Act and the NJAC Act. However, the enactments were 'quashed and set aside' by this court, reducing Parliament to an inferior tribunal," it said.

Context of the Plea:

- The Chief Justice of India, Surya Kant, orally stated that the Supreme Court would consider a plea to revive the **National Judicial Appointments Commission (NJAC)** and end the Collegium system of judicial appointments to constitutional courts.
- The plea challenges the **2015 judgment** that declared the NJAC Act and 99th Constitutional Amendment unconstitutional, reviving the Collegium system.

History of Judicial Appointments in India:

- **1993:** The **Collegium system** was established through a Constitutional Bench judgment to oversee the appointment of judges in the higher judiciary.
- **2014:** The **NJAC Act** was introduced to replace the Collegium system, giving the executive an equal role in judicial appointments, but this was struck down by the Supreme Court in 2015.

The NJAC's Striking Down:

- The NJAC was **struck down in 2015** by the Supreme Court, which held that the law was unconstitutional because it diluted the independence of the judiciary. This decision restored the Collegium system, which is solely managed by the judiciary.

Plea for Revival of NJAC:

- The plea, filed by an advocate, argues that the **striking down of the NJAC** was a “great wrong” and that it undermined the will of the people as expressed through the **99th Constitutional Amendment**.
- The petition calls for the **2015 judgment** to be declared void ab initio (invalid from the start) as it revives the **Collegium system**, which the petition describes as a system of **nepotism and favoritism**.

Criticism of the Collegium System:

- The petition claims that the **Collegium system** has led to a lack of transparency and accountability in judicial appointments. It is described as “**a riddle wrapped in a mystery**”, with no clear criteria for selecting judges.
- The plea argues that **Parliament**, representing the will of the people, had enacted the **99th Constitutional Amendment** and the **NJAC Act**, but these laws were set aside by the court, reducing **Parliament** to an “inferior tribunal”.
- The NJAC, which briefly gave the **executive** an equal role in judicial appointments, was seen as a mechanism to increase transparency and reduce the perceived insularity of the Collegium system.

COP30 in Belem, Brazil: A Shift Toward Implementation

Fighting the fire
COP30 sought to change the narrative by focusing on implementation

The 30th edition of the Conference of Parties (COP) concluded in Belem, Brazil, a city chosen for its proximity to the Amazon rainforest. The symbolism was high this year: it is 10 years since the Paris Agreement was signed by 195 countries – a pact to ensure that the globe did not heat up beyond 2°C of pre-industrial times and, as far as possible, contain it to 1.5°C. That was a goal easier stated than done: 2024 ended up being the first time that temperatures breached the 1.5°C territory though it will require several more such transgressions for 1.5°C to be the ‘new normal’. In all the years since, COPs have been about systematically getting all countries to move on the path of reorienting their economies away from their fossil fuel hardening; apportioning responsibility – and finance – in ways to actualise these goals, and finally work towards addressing the damage that climate change had already done to societies, livelihoods and ecologies. While there has been success, in that most countries – even the United States – recognise that renewables are the future of energy, it has been challenging for countries to execute the transformation while also growing their economies and keeping their competitive edges sharp. This has led to the formation of the two broad blocs – one led by developed countries and affiliated allies that has pushed for hard targets and road maps to phase out fossil fuels, and the other by developing countries or petro-states who reject such prescription and demand more money and action from the developed countries.

The Brazil COP sought to bring a change in the narrative by stressing ‘implementation’, and reminding the world that multilateralism and ‘win-win’ (coming together) were indispensable to the Paris Agreement. While the absence of the U.S. weakened the developed country blocs, this year saw greater thrust on topics such as ‘adaptation’ and ‘just transition’ – concepts that acknowledge the everyday effects of climate change and stress practical preparatory steps and finance pledges to help countries burnish climate defences. India, which has been one of the prominent voices for developing country coalitions, was welcoming of the Brazil Presidency’s acknowledged moment of concern but did not declare its updated Nationally Determined Contributions (actions on adopting clean energy). The COP’s negotiation process often leaves one wondering about the net gains made, given that pollution, deforestation and climate denialism seem more visible and viable but, as it is often said, this is business’ only opportunity to mitigate a cataclysm of its making.

Introduction

- COP30, held in Belem, Brazil, in 2024, was an important moment for the global fight against climate change. This conference aimed to move beyond promises and focus on taking real action. With the world experiencing more visible effects of climate change, this COP was a chance to push for concrete steps to limit global warming.

Context of COP30

- **The Paris Agreement:** The Paris Agreement was signed 10 years ago to limit global temperature rise to below 2°C, ideally to 1.5°C. However, in 2024, global temperatures crossed the 1.5°C threshold, showing how difficult it is to meet this target.
- **The Amazon Connection:** Belem was chosen for COP30 because of its proximity to the Amazon rainforest, which is crucial for regulating global climate and fighting deforestation.

Main Issues at COP30

Focus on Implementation

- **Why Change the Narrative?:** Previous COPs focused heavily on setting goals, but COP30 shifted its focus to **'implementation'**—actually carrying out the actions needed to address climate change.
- **The Reality of Climate Change:** The conference stressed the immediate need for adaptation measures, acknowledging that climate change is already affecting people's lives, with rising temperatures, floods, droughts, and more.

Challenges in Execution

- **Economic Growth vs. Climate Action:** Many countries, especially developing ones, face the challenge of growing their economies while also cutting down on fossil fuels. This has led to disagreements between developed countries, which push for strict climate actions, and developing countries, which call for more financial support.
- **The Developed vs. Developing Country Divide:** Developed countries want to phase out fossil fuels, while many developing nations, and oil-producing states, resist this due to economic interests. This division often causes delays in negotiations.

Adaptation and Just Transition

- **Adaptation:** COP30 highlighted the importance of **adaptation**—helping communities prepare for and cope with climate change impacts, like extreme weather events.
- **Just Transition:** The concept of a **just transition** emphasizes ensuring that those most affected by climate change and the shift away from fossil fuels are supported, especially in developing countries.

Key Outcomes and Challenges

Progress and Acknowledgment

- **India's Role:** India, a leader in the developing country coalition, appreciated the COP30 presidency's focus on adaptation and just transition but did not announce major new commitments, especially on adopting clean energy.
- **Finance and Support:** The conference emphasized the need for more financial support from developed countries to help developing nations transition to cleaner energy and adapt to climate impacts.

Context: What's Happening

- The Supreme Court of India recently addressed the powers of Governors and the President in the legislative process, particularly the timelines and authority for withholding assent to bills passed by State Legislatures.
- The debate centers around the balance of power between the Union and States, with critics arguing that excessive power for Governors undermines federalism and democracy.

Reasons for Concern

- **Federalism at Risk:** Governors, often appointed by the central government, have the power to delay or withhold assent to bills passed by State Legislatures, potentially undermining the autonomy of States.
- **Impact on Democracy:** If Governors can indefinitely delay legislation, it can thwart the will of the people, as State Legislatures are elected by the people, and Governors are unelected.
- **Judicial Oversight:** While the Supreme Court upheld that Governors have discretion, it emphasized that their actions are subject to judicial review to prevent unreasonable delays.

Potential Impact of the Ruling

- **Centralization of Power:** The ruling could lead to more control by the central government if Governors are allowed to delay or block State legislation, eroding State autonomy and increasing central dominance over State matters.
- **Strained State-Center Relations:** The decision may worsen tensions between oppositionruled States and the central government, leading to more political confrontations, particularly in States with differing ideologies.
- **Judicial Oversight and Constitutional Integrity:** While judicial review remains, the lack of clear timelines for Governor assent could allow ongoing delays, forcing repeated judicial intervention and potentially hindering the legislative process.
- **Inconsistent Governance:** Varying actions by different Governors in approving bills could lead to inconsistent governance, creating stress on State administrations and disrupting uniformity in policy implementation.
- **Uncertainty for Future Legislation:** Ambiguity in gubernatorial powers creates uncertainty for State Governments, discouraging reform proposals and slowing down decision-making processes.

Way Forward: Addressing the Issue

- **Clear Timelines for Assent:** Amend the Constitution to set firm timelines for Governors to act on bills, ensuring timely decisions and reducing unnecessary delays.
- **Strengthening Federalism:** Reinforce federal principles by ensuring Governors do not undermine the autonomy of State Governments and allowing States to govern independently.
- **Reforming the Role of Governors:** Redefine the Governor's role to minimize political interference, ensuring they act within constitutional limits and avoid becoming tools of the central government.
- **Judicial Review for Accountability:** Ensure that judicial review remains an effective tool to address undue delays by Governors, but streamline the process to avoid misuse.



- **Increased Political Cooperation:** Encourage better communication and cooperation between the central and State governments, fostering a more constructive relationship that respects constitutional principles.

India's Dependence on Oil Imports and Rupee Stability



Limited room India must reduce dependence on oil imports to stabilise the rupee

Between late November 2020 and now, the rupee has depreciated about 7%, sliding from roughly ₹83.4 a dollar to about ₹87.2. This is not unprecedented as in 2008, it slid 8%-12% against the dollar. The comparison is instructive because the political and trade backdrops have echoes of that earlier period. In 2008, during the first term of U.S. President Donald Trump, global dollar strength, rising U.S. interest rates and trade tensions pressured emerging market currencies, including the rupee. The RBI used its first longer-term currency swap as a systemic liquidity check. In 2009, it completed a \$5 billion three-year dollar/rupee swap. And in February 2020, it carried out a \$10 billion dollar/rupee buy-sell swap auction to infuse long-term rupee liquidity into the banking system under global stress. Such swaps are a standard tool by central banks to supply liquidity, shore up forex reserves and prevent disorderly currency depreciation when the dollar surges or capital flows reverse. The steep rupee slide in November arises in a context of external pressures – a widening current account deficit, driven partly by higher imports of oil, as a hedge in uncertain times, and exporters scrambling to maintain competitiveness amid high U.S. trade tariffs. In such a hostile global macro-environment, the RBI's mandate is limited: under the floating-but-managed regime, it can only 'smoothen volatility' rather than fix the exchange rate.

Between November last year and now, the RBI sold a net of roughly \$50 billion in forex to stabilise the rupee. Even so, the slide has proceeded, highlighting the external pressures. That said, there is room for cautious optimism. India's foreign exchange reserves are comfortable – close to \$600 billion. On the domestic front, retail inflation has slumped: headline CPI inflation came in at just 0.25% in October 2020, well below the RBI's target band of 2%-6%. This gives the RBI space to tolerate modest currency depreciation without triggering aggressive rate hikes especially as India transitions from cheaper Russian crude to relatively costlier U.S. oil imports. With crude accounting for over a fifth of total imports in FY20, rupee depreciation combined with costlier oil imports could exert upward pressure on inflation. Given this environment, monetary stabilisation alone cannot suffice. The Centre must address India's long-standing vulnerability: heavy dependence on oil. Steps such as faster transport electrification must be treated as strategic imperatives and pursued with urgency. These must be done with a well thought-out trade policy, as opposed to a raft of bilateral trade deals that India has focused on, in the hope that these would diversify trade routes. If anything, trade agreements with Japan, the UK and ASEAN have tilted the trade balance against India.

Reasons for Concern: India's Vulnerability

- **Dependence on Oil Imports:** Oil imports account for over 20% of India's total imports in FY25. As the rupee weakens, the cost of importing oil (priced in dollars) rises, creating inflationary pressure, especially as India shifts from cheaper Russian crude to pricier U.S. oil.
- **Current-Account Deficit:** The growing deficit, fueled by higher imports of gold and oil, further strains the rupee. Gold acts as a safe-haven asset but adds to the import bill, weakening the currency.
- **External Shocks and U.S. Policies:** The strengthening U.S. dollar, rising U.S. interest rates, and global trade tensions contribute to capital outflows from emerging markets, exacerbating the rupee's depreciation.

The Way Forward: Reducing Oil Dependency and Strategic Policy Actions

- **Diversifying Energy Sources:** Reducing oil imports through a shift to electric vehicles and renewable energy should be prioritized. This would mitigate the impact of oil price volatility on the rupee and the economy.
- **Trade Policy Reforms:** India must pursue a more balanced and sustainable trade policy that strengthens exports and reduces trade imbalances, rather than relying solely on bilateral agreements.
- **Encouraging Domestic Oil Production:** Increasing domestic oil production would help reduce reliance on imports and provide a more stable supply, insulating India from global oil price fluctuations.
- **Strategic Reserve and Hedging:** India should invest in strategic oil reserves and explore hedging mechanisms to protect against future oil price volatility and stabilize import costs.

