

**25– 10 – 2024**

**News:** Justice Sanjiv Khanna appointed next CJI, to take oath on Nov. 11

- In exercise of the powers conferred by **Clause (2) of Article 124** of the Constitution of India, the President is pleased to appoint Shri Justice Sanjiv Khanna, Judge of the Supreme Court, to be the Chief Justice of India with effect from November 11, 2024.
- The **newly appointed chief justice will serve term till May 2025 until he turns 65.**

## **Supreme Court**

- Articles 124 to 147 of Indian Constitution speak about the Supreme Court, its composition, CJI and powers, roles and duties of Supreme Court.
- At present, there are **33 judges in the Supreme Court of India excluding the Chief Justice** of India.
- The **number of judges in Supreme Court is decided by Parliament** from time to time. However, **Parliament does not possess the power to reduce the number of judges.**
- **President appoints the CJI by a warrant under his hand and seal** with consultation of necessary judges.

- President with consultation of CJI & necessary judges appoints Puisne judges.
- Currently, Collegium is the appointing body of Judges. Collegium consists of CJI and four senior most judges of Supreme Court. Its decisions are binding on government on a resend, but the time limit is not fixed for the government to act upon the decision which makes the appointment of judiciary a time consuming process.
- The CJI, Judges and the Comptroller and Auditor General of India subscribes to oath before the president of India, with the same sentences used.
- Enlargement of jurisdiction of Supreme Court and High Courts and union public service commission are the powers of parliament whereas State legislature has got the power to enlarge the jurisdiction of State Public Service Commission.
- In matters in the Union List, Parliament and in any other matter Parliament in concurrence with Government of India and the Government of any State can enlarge the powers and jurisdiction of the Supreme Court.
- An important thing to note down is that Parliament cannot curtail the jurisdiction and powers of the Supreme Court.
- Supreme Court in Shri T.S.R. Subramanian Vs Union of India Case, 2013 mandated the constitution of Civil Services Board.

- If there is a **conflict among two or more judgements** of the Supreme Court of India then, a **judgement given by larger bench of Supreme Court prevails over the other.**
- Recently, the Chief Justice of India (CJI) launched an **Artificial Intelligence (AI) based portal Supreme Court Portal for Assistance in Court's Efficiency (SUPACE)** in the judicial system aimed at assisting judges with legal research.
- The power to declare a particular entry as Residuary Entry is vested with Supreme Court.

### **Qualifications necessary**

- Citizen of India who have been a judge in a High Courts (or High Courts in succession) for 5 years; or have been an advocate for 10 years in High Court or High Courts in succession or a distinguished jurist in the opinion of President.

### **Terms**

- He holds office until he attains the age of **65 years**. Any question regarding his age is to be determined by **such authority and in such manner as provided by Parliament.**

## Remuneration

- Salary of Judges in Supreme Court is charged out of Consolidated Fund of India.

## Removal of Judges

- He can be removed by President only after passing a Removal motion with Special majority (Majority by both 50% of total house and 2/3<sup>rd</sup> of present & voting members).
- No judges have ever removed off his post till-date. However there are four instances where such motion has put to vote in Parliament.

## Powers

- Original jurisdiction;
- Original and Exclusive jurisdiction;
- Appellate jurisdiction; and
- Advisory jurisdiction
- As per article 142, the Supreme Court may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India. Supreme Court had earlier opined that – “Justice is a

virtue which transcends all barriers. Neither the rules of procedure nor technicalities of law can stand in its way."

- But the apex court is not eligible to impose a sentence less than the minimum sentence prescribed to a crime.
- Removal of UPSC chairman and members in the grounds of misbehavior requires the opinion of Supreme Court, which is binding on the removing authority (President).
- Removal of members of **Information commission by President (or State Information Commission by Governor)**, can be done after **consulting the Supreme Court only on the grounds of proven misbehavior or incapacity.**

### **Seat of Supreme Court**

- Article 130 of the Constitution **declares Delhi as the seat of the Supreme Court.** It also **authorises the CJI to appoint other place** or places as seat of the Supreme Court.
- He can take decision in this regard only with the **approval of the President.**
- This provision is only optional and not compulsory. This means that no court can give any direction either to the President or to the Chief Justice to appoint any other place as the seat of the Supreme Court.

## Acting Chief Justice

- The President can appoint a judge of the Supreme Court as an acting Chief Justice of India when: the office of Chief Justice of India is vacant; or the Chief Justice of India is temporarily absent; or the Chief Justice of India is unable to perform the duties of his office.
- President also appoints an acting judge of a High Court, when the judge of that High Court unable to perform the duties of his office due to absence or any other reason; or appointed to act temporarily as chief justice of that High Court.
- An acting judge holds office until the permanent judge resumes his office.
- Article 128 says that at any time, the chief justice of India can request a retired judge of the Supreme Court or a retired judge of a high court (who is duly qualified for appointment as a judge of the Supreme Court) to act as a judge of the Supreme Court for a temporary period. He can do so only with the previous consent of the president and also of the person to be so appointed.
- Article 146 says that the Chief Justice of India can appoint officers and servants of the Supreme Court without any interference from the executive. He can also prescribe their conditions of service.

- The assignment of cases is done by CJIA as per the Supreme Court Rules. Although, the Supreme Court Rules are framed by the Supreme Court in exercise of powers under Article 145 of the Constitution.
- Supreme Court hears only those petitions or appeal which are in English.
- All doubts and disputes in connection with the election of the President and Vice-President are inquired into and decided by the Supreme Court whose decision is final.
- Under Article 71 of the Constitution read with Part III of the Presidential and Vice-Presidential Elections Act, 1952, shall be posted before a bench of five Judges (constitutional bench).
- The election of a person as President or Vice-President cannot be challenged on the ground that the Electoral College was incomplete (i.e., existence of any vacancy among the members of Electoral College).
- If the election of a person as President or Vice – President is declared void by the Supreme Court, acts done by him before the date of such declaration of the Supreme Court are not invalidated (i.e., they continue to remain in force).
- CJI will be acting as the Vice-President, if the President is to resign where the post of Vice President is vacant.

- If posts of both President and Vice – President is vacant, CJI will discharge the functions of President. If CJI is also vacant, the Senior-most Judge of Supreme Court will discharge the function of President.