

1. EXPLAIN THE GROUNDS AND PROCESS OF REMOVAL OF JUDGES OF HIGHER JUDICIARY IN INDIA. DO YOU AGREE WITH THE VIEW THAT THIS PROCESS IS TOO CUMBERSOME TO REALLY REMOVE IMPROPER JUDGES FROM OFFICE? CRITICALLY DISCUSS.

The constitution mentions two grounds for the removal of judges of Supreme Court and High court, they are proved misbehavior and incapacity. Judges can be removed by the order of the President after an address to this has been made to him in this regard. The Judges Enquiry act 1968 outlines the procedure for the removal of judges:

A motion for the removal signed by 100 members in case of Lok Sabha or 50 members in case of Rajya Sabha must be presented to speaker/chairman of the house.

Speaker/chairman may admit or refuse to admit the motion.

If admitted the speaker/chairman would constitute a 3 member committee to investigate the charges.

The committee should consist of Chief justice/Judge of Supreme Court, Chief justice of a high court and a distinguished jurist.

If the committee finds the judge guilty, then the House would take up the motion for consideration.

The motion must be passed with special majority of 2/3rd of members present and voting.

Then the motion would be placed before the President who would pass the order of removal.

Judicial independence and integrity is vital for the success of democracy. Therefore constitution makers with utmost importance carefully drafted the provisions to ensure judicial independence and supremacy is not compromised. The complicated process of removal of judges was manifestation of this. It is interesting that no judge has been impeached in the independent India.

But this doesn't mean there are no instances of misbehavior or incapacity on the part of Judges. A classical example of this is the impeachment proceedings in case of Justice Ramaswamy which got stalled due to political considerations.

In case of Justice Dinakaran, the proceedings came to a standstill due to his resignation after the investigation committee upheld the charges against him. In 2015, a group of 58 MPs moved an impeachment notice against Justice J. B. Pardiwala of the Gujarat High Court, however, it was withdrawn after the judge removed his objectionable wordings on reservation.

The proceedings in case of Justice Soumitra Sen came to halt after he tendered his resignation when the removal motion was passed by Rajyasabha. The disruption in the removal of the judges, even after the enquiry held them guilty is due to the cumbersome process.