



## Ethical Implications of Judge Resigning for Politics

**For Prelims:** Ethical Implications of Resignation of a Sitting Judge, [Chief Justice of India \(CJI\)](#), Article 217 of the Constitution, Collegium System.

**For Mains:** Ethical Implications of Resignation of a Sitting Judge, Evolution of the Collegium System and its Criticism.

[Source: IE](#)

### Why in News?

Recently, the former Calcutta High Court judge has resigned and joined a political party, sparking a conversation on the **propriety of such a move by a judge**.

- The concerns raised by the Judge's resignation from the judiciary to join politics have significant **ethical implications that affect the perception of judicial propriety**, impartiality, and the integrity of the judiciary.

### Note

In 1967, former [Chief Justice of India \(CJI\) Koka Subba Rao](#) resigned three months before he was to retire to contest the presidential election as the Opposition candidate.

- Supreme Court Justice Baharul Islam resigned **six weeks before retirement in 1983 to contest the Lok Sabha polls**.

### What are the Ethical Concerns Related to the Resignation of a Judge for Politics?

- **Judicial Impartiality:**
  - Judges are expected to remain neutral and make decisions based solely on the facts and the law, without being influenced by **personal biases or external pressures**.
  - The sitting judge's decision to join a political party after being involved in controversies raises questions about his impartiality **while presiding over cases involving political matters**.
  - This undermines public confidence in the judiciary's ability to dispense justice fairly.
- **Judicial Independence:**
  - Judicial independence is crucial for **maintaining the rule of law and democracy**.
  - Judges must be free from interference or influence from any outside parties, including political entities.
  - The decision of the judge to align himself with a political party shortly after his

resignation/retirement calls **into question the independence of his previous judicial decisions** and raises concerns about the influence of political considerations on the judiciary's functioning.

- **Conflict of Interest:**
  - Judges are expected to **avoid conflicts of interest and maintain the integrity** of the judicial process.
  - His involvement in political activities, particularly after making controversial statements and rulings while on the bench, raises concerns about potential conflicts of interest.
- **Public Trust and Confidence:**
  - The judiciary relies on public trust and confidence to fulfill its role in society. When judges engage in actions that undermine the perception of judicial integrity and impartiality, it erodes public trust in the entire judicial system.
  - Justice's transition from the judiciary to active involvement in politics may lead to scepticism and cynicism among the public regarding the judiciary's independence and integrity.
- **Issue of Post-Retirement Appointments:**
  - Over the years, some retired judges have accepted government posts after retirement. This practice blurs the **clear demarcation between the judiciary and the executive**.

## What is Restatement of Values of Judicial Life 1997?

- The Supreme Court of India adopted the **Restatement of Values of Judicial Life in 1997**, outlining ethical **standards and principles for judges**. Some key points from the Restatement include:
  - **Impartiality:** Justice must not only be done but also be seen to be done. Judges' behaviour should reaffirm people's faith in the judiciary's impartiality.
  - **Avoiding Conflicts:** Judges should avoid close associations with individual members of the Bar, refrain from hearing cases involving family members who are lawyers, and not enter public debates on political matters.
  - **Financial Benefits:** Judges should **not seek financial benefits** unless clearly available and should not speculate in shares or engage in trade or business.
  - **Public Gaze:** Judges must always be conscious that they are under public scrutiny, and their actions should benefit the high office they occupy.

## Post-Retirement Assignments for Judges:

- While the Indian Constitution doesn't explicitly prohibit judges from taking up post-retirement assignments, there have been suggestions for implementing a **cooling-off period to mitigate potential conflicts** of interest.
- **Former CJI R M Lodha** recommended a **cooling-off period of at least 2 years**.
  - Officials who retire from sensitive positions are barred from accepting any other appointment for some time, normally two years.
  - These cooling-off periods in **posts are premised on the snapping off of the nexus between previous incumbency** and new appointment by the interposition of a sufficient time gap.
- **International Practices:** Comparatively, in the United States, Supreme Court justices do not retire but **hold their positions for life to prevent conflicts of interest**.
  - In the **United Kingdom**, while there is no law preventing judges from taking post-retirement jobs, **no judge has done so**, reflecting a different approach to the issue of post-retirement roles.

## What can be Done to Address Judges Taking Post Retirement Jobs?

- **Implement a Cooling-Off Period:**
  - Similar to the suggestion of former Chief Justice R M Lodha, there should be a **mandatory cooling-off period** between a judge's retirement and their eligibility for any post-

retirement assignment.

- This period would help mitigate potential conflicts of interest and ensure impartiality.

▪ **Recommendations of Law Commission:**

- The recommendations of the **14<sup>th</sup> Law Commission Report, 1958**, highlighted this concern and advocated for a system that **ensures financial security to the judges without compromising independence.**

▪ **Enhance Judicial Ethics and Standards:**

- Strengthening the **ethical guidelines and standards for judges**, both during their tenure and post-retirement, **can help maintain the integrity** and impartiality of the judiciary. Judges should be encouraged to prioritise public trust and confidence in the judiciary over personal interests.

▪ **Increase Transparency:**

- There should be greater transparency in the process of appointing retired judges to post-retirement positions.
- This includes disclosing the criteria for selection, ensuring open competition for these roles, and making public the reasons behind each appointment.



## Conclusion

- The decision of the former judge of Calcutta HC to resign from the judiciary and enter politics raises significant ethical concerns regarding judicial impartiality, independence, conflicts of interest, public trust, and professional responsibility.
- These concerns have far-reaching implications for the integrity and credibility of the judiciary, highlighting the importance of upholding ethical standards in the administration of justice.

## **Prelims**

**Q. With reference to the Indian judiciary, consider the following statements: (2021)**

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (c)**

## **Mains**

**Q. Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to the appointment of judges of higher judiciary in India. (2017)**

PDF Reference URL: <https://www.drishtiias.com/printpdf/ethical-implications-of-judge-resigning-for-politics>

