



Asset Declaration of Judges

For Prelims: [Right to Information](#), [High Courts](#), [Secretary](#), [Supreme Court](#), [Comptroller and Auditor General \(CAG\)](#), [Council of Ministers](#), [Parliamentary Committee](#), [Lok Sabha](#), [Chief Justice of India \(CJI\)](#).

For Mains: Need of transparency in judicial system to strengthen public faith in its functioning.

[Source: IE](#)

Why in News?

Recently, a [Right to Information](#) reply showed that **details of assets of only 13%** of the total High Court judges are available in the public domain.

- Details of assets include **movable and immovable assets** of the judges, their spouses, and dependents, investments in shares, mutual funds, fixed deposits, and liabilities like bank loans.

What are the Key Facts Regarding Asset Declaration by Judges?

- **Low Rate of Declarations:** Of the **749 judges** posted across **25 High Courts in India**, only **98 judges** (approximately **13%**) have made their assets available in the public domain. This is a **strikingly low figure**, despite the push for transparency.
- **Concentration of Asset Declarations:** **80% of the declarations** come from just three High Courts of **Kerala High Court, Punjab and Haryana High Court** and **Delhi High Court**.
- **Supreme Court's Partial Disclosure:** The Supreme Court released the names of **27 of its 33 judges** who had declared their assets to the Chief Justice of India, but **asset details were not disclosed**.
- **Varied Responses:** The **Allahabad** and **Bombay High Courts** stated that the asset declarations are not covered under the **RTI Act, 2005** as "information."
 - The **Gujarat High Court** expressed that there is **no public interest** in disclosing judges' personal information.
 - The **Andhra Pradesh High Court** and **Telangana High Court** labelled asset declarations as **confidential**, and said they cannot be posted online.

What are the Provisions for Declaration of Assets by Judges?

- **All India Services (Conduct) Rules, 1968:** The government draws a **comparison** between **judges and civil servants**, as Judges' salaries are **set in relation to the salaries of civil servants**, especially those at the **Secretary level** in the Government of India.
 - **Rule 16(1) of the rules** mandates that every person who is a member of the service **must submit a return of their assets and liabilities** which should apply to judges too.
- **Restatement of Values of Judicial Life 1997:** In 1997, the [Supreme Court](#) adopted

certain **judicial standards** which stated that **every judge** should make a declaration of all assets in the form of **real estate or investment** held in their names, in the name of their spouses or any other person dependent on them, to the **Chief Justice**.

- **2009 Resolution:** In 2009, the Supreme Court resolved to declare the **judges' assets** on its official website adding that it was **"purely on a voluntary basis"**.
 - In the same year, a resolution was passed by the **Delhi High Court** stating that all the judges have agreed to make their **assets public**.
- **Constitutional Authorities:** Other constitutional authorities, such as the **Comptroller and Auditor General (CAG)** and **Council of Ministers**, are already declaring their assets and making them publicly available.
 - This sets a precedent for **judges** to also disclose their assets **regularly and publicly**.
- **Committee Recommendations:** The **Parliamentary Committee on Personnel, Public Grievances, and Law and Justice** recommended legislation for the **mandatory disclosure** of assets and liabilities of judges of the Supreme Court and High Courts.
- **Judicial Standards and Accountability Bill:** A bill titled "**The Judicial Standards and Accountability Bill, 2010**" was prepared to address the need for judicial transparency, including **mandatory asset declarations by judges**.
 - The bill, however, lapsed following the dissolution of the **15th Lok Sabha**, and was never reintroduced.

What is the Need for the Declaration of Assets by Judges?

- **Public Trust and Accountability:** Judges regularly review **legislation, government policies**, and decisions related to awarding tenders, which makes it essential for them to ensure **transparency** regarding their assets.
 - If a **minister** responsible for a tender must disclose their assets, the **judge reviewing** the minister's decisions **should do the same**.
- **Strengthening Public Confidence:** The **declaration of assets** by judges will help to bolster **public trust** in the judicial system as it demonstrates their commitment to fairness and impartiality.
- **Transparency:** SC has ruled that the **Office of the Chief Justice of India (CJI)** is a '**public authority**' under the **Right to Information (RTI) Act, 2005** and subject to the provisions of **RTI Act, 2005**. Asset declaration is a progressive move towards **greater transparency** in the judiciary.
- **Importance of Perception:** In public life, **how people perceive** actions and decisions can significantly **influence opinions and trust**. The judiciary must be perceived to be **transparent** and beyond reproach.
 - The article emphasises that **maintaining secrecy** around judges' assets may **undermine** the **public's trust** in the judiciary.

What Practices do Developed Countries Follow Regarding Judges' Asset Declarations?

- **United States:** Under the **Ethics in Government Act, 1978** federal judges must disclose the **source and amount of income**.
 - Judges must also disclose the **source, description, and value of gifts** for which the aggregate value is more than a certain minimal amount.
- **South Korea:** Under the **Public Services Ethics Act, 1993** all high-ranking public officials including **judges and their spouses** must disclose their ownership of **real property, intangible property, and shares in non-public business entities**.
- **Philippines:** **Anti-Graft and Corrupt Practices Act, 1960** requires public officials to disclose their assets in the **form of a declaration**.
- **Russia:** **Anti-corruption laws** require mandatory **asset and income control of judges** and members of their families and **judge-position applicants**.

What Concerns are Related to Declaration of Assets by Judges?

- **Privacy and Security:** Public disclosure may expose judges and their families to **risks like harassment or extortion**, raising concerns about their safety and privacy.
- **Misuse of Information:** Asset details could be misused for **political or personal motives**, leading to unwarranted scrutiny or pressure on judges.
- **Judicial Independence:** Some argue that mandatory asset declarations may **undermine judicial independence** by subjecting judges to external influences or public criticism.
- **Voluntary Nature:** Since asset disclosure is voluntary in India, **inconsistencies in the practice** could lead to a perception of unequal transparency.
- **Perceived Public Pressure:** Judges might feel **compelled to conform to public opinion** on financial matters, potentially affecting their impartiality in cases involving financial or economic issues.

Way Forward

- **Enact Legislation:** In August 2023, a Parliamentary Standing Committee released a report titled '**Judicial Processes and their Reform**', recommending that legislation be enacted to require judges of the Supreme Court and High Courts **to submit annual property returns to the appropriate authority**.
- **Establish Clear Protocols:** The Supreme Court should establish **clear protocols** for asset declaration, including **timelines, formats, and specific information** to be disclosed.
- **Annual Public Reports:** The judiciary could publish **annual reports** summarising the asset declarations, similar to how other constitutional authorities operate.
- **Balance Privacy and Accountability:** The framework for asset declaration should find a balance between **maintaining** the privacy of **judges** and ensuring **public accountability**.

Drishti Mains Question:

Discuss the importance of mandatory asset declarations by judges in India.

UPSC Civil Services Examination Previous Year Question (PYQ)

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)

Q. With reference to the Constitution of India, consider the following statements: (2019)

1. No High Court shall have the jurisdiction to declare any central law to be constitutionally invalid.

2. An amendment to the Constitution of India cannot be called into question by the Supreme Court of India.

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: (d)

Mains

Q. Constitutional Morality' is rooted in the Constitution itself and is founded on its essential facets. Explain the doctrine of 'Constitutional Morality' with the help of relevant judicial decisions. **(2021)**

Q. Judicial Legislation is antithetical to the doctrine of separation of powers as envisaged in the Indian Constitution. In this context justify the filing of large number of public interest petitions praying for issuing guidelines to executive authorities. **(2020)**

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