



Court Vacations

For Prelims: Court vacations, Vacation Bench, Supreme Court, CJI, Pendency.

For Mains: Vacation Bench and Related Issues.

Why in News?

Recently, the [Chief Justice of India \(CJI\)](#) has said that the Supreme Court will not have a vacation bench when it breaks for its annual winter vacation.

- While this judicial schedule has its origins in colonial practices, it has come **under criticism for quite some time now.**

What are Court Vacations?

▪ About:

- The [Supreme Court](#) has **193 working days a year for its judicial functioning**, while the **High Court's function for approximately 210 days**, and **trial courts for 245 days.**
- High Courts have the **power to structure their calendars according to the service rules.**
- The Supreme Court takes two long vacations each year, the summer and winter breaks, but is **technically not fully closed during these periods.**

▪ Vacation Bench:

- A Vacation Bench of the Supreme Court is a **special bench constituted by the CJI.**
- Litigants can still approach the Supreme Court and, if the court decides that the plea is an **"urgent matter", the Vacation Bench hears the case on its merits.**
- Cases such as bail, eviction, etc. **often find precedence in listing before vacation benches.**
 - It is **not uncommon for courts to hear important cases during vacation.**
 - **In 2015**, a five-judge Bench of the Supreme Court heard the challenge to the constitutional amendment setting up the [National Judicial Appointments Commission \(NJAC\)](#) during the summer vacation.
 - **In 2017**, a Constitution Bench held a six-day hearing in the case challenging the practice of triple talaq during summer vacation.

▪ Legal Provisions:

- **Under Rule 6 of Order II of The Supreme Court rules, 2013**, the CJI has nominated the **Division Benches for hearing of urgent miscellaneous matters** and regular hearing matters during the summer vacation for the period.
- The rule reads that **CJI may appoint one or more Judges to hear during summer vacation or winter holidays all matters** of an urgent nature which under these rules may be heard by a Judge sitting singly.
- And, whenever necessary, he **may likewise appoint a Division Court for the hearing of urgent cases** during the vacation which require to be heard by a Bench of Judges.

What are the Issues with Court Vacations?

- **Not Convenient for Justice Seekers:**
 - The long vacation which the courts obtain is not very convenient for justice-seekers.
- **Not good Optics in Light of Pendency:**
 - Extended frequent vacations are not good optics, especially in the light of mounting pendency of cases and the **slow pace of judicial proceedings**.
 - For an ordinary litigant, the **vacation means further unavoidable delays** in listing cases.
- **Incongruous with European Practices:**
 - The summer break perhaps began because **European judges of the Federal Court of India found Indian summers too hot** — and took the winter break for Christmas.

Way Forward

- The issue cannot be resolved **until a “new system” on the appointment of judges is evolved**
- In 2000, the Justice Malimath Committee, set up to recommend reforms in the criminal justice system, suggested that the **period of vacation should be reduced by 21 days**, keeping in mind the long pendency of cases. It suggested that the Supreme Court work for 206 days, and High Courts for 231 days every year.
- In its 230th report, the **Law Commission of India** in 2009 called for reform in this system, considering the staggering arrears, vacations in the higher judiciary **must be curtailed by at least 10 to 15 days** and the court working hours should be extended by at least half an hour.
- In 2014, when the Supreme Court notified its new Rules, it said that the period of **summer vacation shall not exceed seven weeks** from the earlier 10-week period.

UPSC Civil Services Examination, Previous Year Question (PYQ)

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)

Exp:

- As per Article 128 of Indian Constitution, the Chief Justice of India may at any time, with the previous consent of the President, request any person to sit and act as a Judge of the Supreme Court with the following qualifications:
 - Who has held the office of a Judge of the Supreme Court. Hence, statement 1 is correct.
 - Who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court.
- Being a Court of Record, the High Court can review its own judgments under Article 226 of the Constitution of India. Similarly, under Article 137, the Supreme Court shall have the power to review any judgment pronounced or order made by it. Hence, statement 2 is correct.
- **Therefore, option C is the correct answer.**

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