Mains Practice Question

Q. The judiciary's credibility, its finality, rests not just on justice being done, but on its being seen to be done. Discuss (150 words)

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Approach:

- Highlight the recent issue which raised the question on judicial credibility.
- Highlight the prevailing provisions to ensure independence and lacunas in that.
- Highlight how such lacunas can subvert credibility and also some measure to overcome them.

Introduction

- Recently ex-Chief Justice of India was nominated to Rajya Sabha which raised the issue of independence and credibility of Judiciary, i.e, judges accepting post retirement posts and chances of furthering a particular political ideology in past in his/her official capacity.

Body

- Judiciary's independence and credibility have been ensured by Indian Constitution in form of:
    - Rigorous removal process of a sitting judge
    - Fixed terms of conditions and pay of office
    - No adverse criticism allowed during official duties without due evidence
- Apart from this, conventions have been developed whereby judges would not accept any political positions post retirement. There is no provision with regards to this in Indian Constitution.
- Judiciary's independence is not only judged from the acts of its members during their official capacity which are to be bound under specific laws and regulations but also from actions in non-official capacity, for example a judge accepting post of Governor post retirement in 2014, which is generally a political appointee.
- This can erode the confidence in the institution where personnels are seen to be bound for limited time and capacity, thus increasing chances of partisanship in dispensing justice.

Conclusion

- Hence, to further enhance the independence there is need for regulating the acts of judicial members in non-official capacity also, for example mandatory cooling off period post-retirement.

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