Removal of Allahabad High Court Judge

Why in News?

Recently, **fifty-five MPs of the [Rajya Sabha](#)** have **submitted a motion, for removing a Allahabad High Court Judge**, Justice Shekhar Kumar Yadav, to **[Chairman](#) of the [Rajya Sabha.](#)**

Key Points

- **Procedure for Removal of Judges:**
  - Under **[Articles 124 and 218](#)**, Judges of **the [Supreme Court](#)** and **[High Courts](#)** can be removed by the President on grounds of **"proved misbehaviour" or "incapacity."**
  - **Removal requires a motion** passed by **both Houses of Parliament** with:
    - A majority of the total membership of the House.
    - A **[special majority](#)** of not less than two-thirds of the members present and voting in the same session.
  - The terms "proved misbehaviour" and "incapacity" are not defined in the Constitution.
    - **Misbehaviour** includes **wilful misconduct, corruption, lack of integrity, or moral turpitude,** as interpreted by the Supreme Court.
    - **Incapacity** refers to **physical or mental conditions preventing judicial functions.**
- **Procedure Under the Judges (Inquiry) Act, 1968:**
  - **Notice of Motion:**
    - Requires signatures of **at least 50 Rajya Sabha members or 100 [Lok Sabha](#) members.**
    - The Chairman or **[Speaker](#)** decides whether to admit the motion after consultation.
  - **Inquiry Committee:**
    - If the motion is admitted, a **three-member committee** is formed, including judges and a distinguished jurist.
    - The committee investigates the charges:
      - If the **judge is absolved, the motion is dropped.**
      - If **guilty, the committee's report is sent to [Parliament](#) for a vote.**
  - **Parliamentary Approval:**
    - **Both Houses must pass the motion with a special majority** for the **[President](#)** to remove the judge.
- **Current Issue:**
  - Justice Yadav made communally charged remarks at an event organized by the **Vishwa Hindu Parishad,** stating the country should be run by the wishes of the majority.
  - The **[Reinstatement of Values of Judicial Life (1997)](#)** requires judges to maintain **impartiality** and avoid actions unbecoming of their office.
  - Although the **Judges (Inquiry) Bill, 2006** (not passed) defined misbehaviour to include code violations, it also proposed minor disciplinary measures like warnings or censure for lesser misconduct.
- **Stringent Removal Process:**
  - The process ensures **[judicial independence](#)** but often results in no action against judges even when guilty.
  - The **Blackstone's Ratio principle** is better to let the guilty escape than punish the innocent, and applies to judges' removal to uphold independence.