



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.

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