

JUDICIARY'S IN HOUSE INQUIRY: POLITY

NEWS: How is an in-house inquiry conducted?

WHAT'S IN THE NEWS?

The **Indian Constitution** outlines the **removal** of judges through impeachment based on **misbehavior** or **incapacity**, with Parliament having the final say. The **in-house inquiry mechanism**, established in 1999, allows the judiciary to self-regulate and address allegations of misconduct without requiring impeachment.

Removal of Judges under the Indian Constitution

Provisions for Removal of Judges

- **Article 124(4) (Supreme Court Judges):**
 - **Article 124(4)** of the Indian Constitution outlines the process for the **removal of judges** from the **Supreme Court (SC)**. It specifies that a judge can be removed by **Parliament** on two grounds:
 - **Proven misbehavior**
 - **Incapacity**
 - **Article 218:**
 - Similarly, **Article 218** deals with the **removal of High Court (HC)** judges under the same grounds of **misbehavior** or **incapacity**.

Impeachment Process

- **Impeachment Procedure:**
 - A **motion** for the removal of a judge must be introduced in **both the Lok Sabha and Rajya Sabha**.
 - The motion requires **two-thirds majority** of those **present and voting** in both Houses, meaning more than **50% of the total membership** of each House.
 - This is referred to as a **special majority**, and it is **not a simple majority** of all members.
- **Presidential Approval:**
 - If the motion is passed by both Houses, it is then sent to the **President**, who issues the final order for the judge's **removal**.
 - **No Supreme Court Judge** has ever been **impeached** so far, though the process is constitutionally established.

Judiciary's In-House Inquiry

- **In-House Inquiry Committee:**
 - The **Supreme Court** has an **internal mechanism** to deal with allegations of judicial misconduct, known as the **in-house inquiry**.
 - The **in-house inquiry** is typically conducted by a **three-member committee**, which includes:
 - **Chief Justice of the Punjab & Haryana High Court**
 - **Chief Justice of the Himachal Pradesh High Court**
 - **A Justice from the Karnataka High Court**
 - This process is designed to address issues of **judicial misconduct** without necessarily requiring the **impeachment procedure**.
- **Importance of In-House Inquiry:**
 - The **in-house procedure** allows the judiciary to independently address allegations of misconduct, maintaining its own **accountability** and ensuring that it is not solely dependent on the legislative process for removing judges.
 - This process is seen as a way to ensure that the judiciary can **self-regulate** and handle issues internally, without requiring outside intervention from Parliament.

Historical Background and Development of the In-House Inquiry Mechanism

- **1995 - Ravichandran Iyer Case:**
 - In the **1995** case of **Ravichandran Iyer vs. Justice A.M. Bhattacharjee**, the **Supreme Court** noted a gap between **proven misbehavior** that would warrant impeachment and **conduct inconsistent with the judicial office** that may not necessarily require impeachment. This highlighted the need for an **alternative process** for dealing with judicial misconduct.
- **1997 - Formation of the Committee:**
 - In **1997**, the **Supreme Court** constituted a **five-member committee** to address this gap and to devise an **internal procedure** for handling allegations of **judicial misconduct**.
 - This committee's role was to ensure that serious **allegations of misconduct** against judges could be examined internally before proceeding with any drastic measures like impeachment.
- **1999 - Adoption of Recommendations:**

- In **1999**, the **Supreme Court** adopted the recommendations of the **five-member committee**, formalizing an **in-house inquiry** mechanism.
- This allowed the **Chief Justice of India (CJI)** or the **Chief Justice of a High Court** to **initiate an inquiry** into allegations of **serious misconduct** against a judge.
- The **in-house inquiry mechanism** thus provides an alternative to impeachment, ensuring a **timely and less disruptive process** for addressing allegations of judicial misconduct.

Step	Description
Complaint Received	<ul style="list-style-type: none"> • A complaint against a judge can be received by the Chief Justice of a High Court (HC), Chief Justice of India (CJI), or President of India. • If the complaint is received by the Chief Justice of HC or the President, it is forwarded to the CJI for further examination.
Scrutiny by CJI	<ul style="list-style-type: none"> • CJI reviews the complaint. If found to be baseless, it can be dismissed at this stage. • If needed, the CJI can request a preliminary report from the concerned HC Chief Justice to assess the validity of the complaint.
Formation of Inquiry Committee and Committee Investigation	<ul style="list-style-type: none"> • If a detailed probe is required, the CJI constitutes a three-member inquiry committee, consisting of two HC Chief Justices and one HC judge. • The committee conducts an investigation while ensuring natural justice, which includes allowing the accused judge to present their defence.
Submission of Inquiry Report	<ul style="list-style-type: none"> • After completing the inquiry, the committee submits its report to the CJI. • The report must clarify: i) whether the allegations have any substance. ii). if the allegations are serious enough to warrant removal proceedings.
Possible Outcomes	Based on the report, the CJI takes further action: i) If the allegations lack substance, the case is closed. ii) If the misconduct is minor, the CJI may "advise" the judge, and the report is placed on record. iii) If the misconduct is serious, the judge is asked to resign or retire.
Refusal to Resign	If the judge refuses to step down, the CJI instructs the HC Chief Justice not to assign any judicial work to the judge.
Further Action (If Needed)	If necessary, the matter may escalate toward formal impeachment under constitutional provisions.

Key Aspects of the In-House Inquiry Mechanism

- **Non-Dependence on Impeachment:**
 - The **in-house procedure** provides an important **alternative to the impeachment process**, which is often a lengthy and complex procedure.
 - This self-regulatory system ensures that the judiciary can act swiftly and independently when dealing with matters related to judicial misconduct.
- **Confidentiality and Sensitivity:**
 - The **in-house inquiry** process is **confidential**, and it ensures that the allegations are properly investigated before any public actions are taken.
 - This helps maintain the **dignity** of the judicial office while addressing concerns about accountability and transparency.

Conclusion

- **Judicial Accountability:** The introduction of an **in-house inquiry mechanism** has proven to be an essential tool for addressing allegations of **judicial misconduct** within the judiciary itself. It strengthens **judicial accountability** without resorting to the complex and rare impeachment process.
- **Need for Reform:** While the **in-house inquiry** process has been useful, there is a continuing **need for reforms** to ensure greater **transparency** and **efficiency** in addressing allegations of judicial misconduct, while also maintaining the independence of the judiciary.

Source: <https://www.thehindu.com/news/national/how-is-an-in-house-inquiry-conducted-explained/article69373009.ece>