

ALL INDIA JUDGES ASSOCIATION V. UNION OF INDIA (2015): NJAC CASE

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INTRODUCTION

The case arose from the enactment of the National Judicial Appointments Commission (NJAC) Act in 2014 by the Indian Parliament. This Act aimed to replace the existing collegium system of judicial appointments with a commission comprising members from the judiciary, executive, and civil society. The change was driven by concerns about transparency and accountability in the collegium system.

BACKGROUND

The case All India Judges Association v. Union of India stemmed from longstanding debates and criticisms surrounding the process of judicial appointments in India.¹ Historically, judicial appointments to the higher judiciary were predominantly managed through the collegium system, where a group of senior judges of the Supreme Court recommended appointments and transfers. Over time, this system faced criticism for its lack of transparency and accountability, with calls for reforms to involve other stakeholders in the appointment process. In response to these concerns, the Indian Parliament passed the National Judicial Appointments Commission (NJAC) Act in 2014, seeking to replace the collegium system with a new commission comprising judicial and non-judicial members. The NJAC Act aimed to introduce a more inclusive and transparent mechanism for judicial appointments. However, several petitions challenging the constitutionality of the NJAC Act were filed, leading to the Supreme Court's scrutiny of the legislation. On October 16, 2015, the Supreme Court rendered its decision, striking down the NJAC Act and upholding the collegium system. The Court's ruling emphasized the constitutional principles of judicial independence and the separation of powers, marking a significant affirmation of the judiciary's autonomy in matters of judicial appointments.²

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¹ All India Judges Association, 'About Us' <https://allindiajudges.org/about-us>

² The Hindu, 'Supreme Court verdict on NJAC and Collegium system' (16 October 2015) <https://www.thehindu.com/news/national/Supreme-Court-verdict-on-NJAC-and-Collegium-system/article60384480.ece>

FACTS OF THE CASE

All India Judges Association v. Union of India was a landmark legal dispute concerning the method of judicial appointments in India and the broader issue of judicial independence. The case revolved around the introduction of the National Judicial Appointments Commission (NJAC) Act in 2014 by the Indian government. This legislation aimed to replace the existing collegium system, where judges themselves primarily decide on judicial appointments, with a new commission comprising members from the judiciary, government, and civil society.

The NJAC Act was intended to enhance transparency and inclusivity in the appointment process. However, critics, including judges and legal experts, argued that the NJAC posed a threat to judicial independence. They contended that involving non-judicial members, particularly from the executive and civil society, could lead to political interference in judicial appointments. This, in turn, could compromise the impartiality and integrity of the judiciary, which plays a crucial role as a check on governmental actions and protector of citizens' rights.

The Supreme Court of India was tasked with determining the constitutionality of the NJAC Act. On October 16, 2015, the Court delivered a landmark judgment striking down the NJAC Act.³ The Court ruled that the Act violated the basic structure of the Constitution. It emphasized that principles like judicial independence are foundational to the Constitution and cannot be altered by ordinary laws or amendments.

The Court's decision reaffirmed the collegium system as the method for judicial appointments, where senior judges have a pivotal role in recommending appointments and transfers. Despite criticisms of the collegium system, the Court highlighted its role in ensuring judicial primacy and protecting the judiciary from undue external influences.

All India Judges Association v. Union of India sparked extensive discussions on the separation of powers between the judiciary, executive, and legislature in India. It underscored the judiciary's vital responsibility as the guardian of the Constitution and defender of fundamental rights. The case continues to shape ongoing debates on judicial reforms and the principles that uphold the independence and integrity of the judiciary in India.

³ Shukla, Abhinav, 'The National Judicial Appointments Commission: A Critique' (SSRN, 19 July 2016) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2827793#:~:text=On%20October%2016%2C%202015%2C%20the%20Supreme%20Court%20of,holding%20the%20National%20Judicial%20Appointments%20Commission%20%28NJAC%29%20unconstitutional.

LEGAL ISSUES

1. Judicial Independence: The main issue before the Supreme Court was whether the NJAC Act undermined the independence of the judiciary, a core constitutional principle.

2. Separation of Powers: Another critical issue was the constitutional balance of powers between the judiciary, executive, and legislature, specifically concerning appointments to the judiciary.

CONTENTIONS ON BEHALF OF THE PETITIONERS

In the case *All India Judges Association v. Union of India*, the central dispute centred on contrasting views presented by the petitioners and the Union of India regarding the legality of the National Judicial Appointments Commission (NJAC) Act. The petitioners, including the All India Judges Association, argued vehemently that the NJAC Act and its accompanying Ninety-ninth Amendment to the Constitution posed a serious threat to judicial independence. They contended that involving members from the executive and civil society in judicial appointments would compromise the judiciary's autonomy and impartiality, which they deemed essential for upholding the rule of law. Drawing upon the basic structure doctrine, they asserted that judicial independence represents a foundational principle of the Constitution that must be safeguarded from legislative interference. Additionally, while acknowledging flaws in the existing collegium system for judicial appointments, the petitioners underscored its critical role in shielding the judiciary from external pressures.

CONTENTION OF THE RESPONDENTS

In contrast, the Union of India defended the NJAC Act as a necessary reform aimed at addressing perceived shortcomings in the collegium system. They argued that the collegium system lacked transparency and accountability, necessitating a more inclusive and participatory approach to judicial appointments. The government maintained that Parliament possessed the constitutional authority to enact the NJAC Act and the associated constitutional amendment, asserting that these reforms were within its legislative mandate. They justified the composition of the NJAC, which included representatives from the judiciary, executive, and civil society, as a means to diversify perspectives in the appointment process and promote transparency and democratic principles. Thus, the case underscored a fundamental clash between the imperative

to preserve judicial independence and the pursuit of reforms aimed at enhancing accountability and inclusivity in India's judicial appointment procedures.

DECISION OF THE COURT

On October 16, 2015, the Supreme Court, in a 4-1 decision⁴, invalidated the NJAC Act as unconstitutional. The Court ruled that the Act violated the basic structure doctrine of the Constitution.

KEY POINTS OF THE DECISION

Basic Structure Doctrine: The Court reaffirmed that principles like judicial independence are inherent to the Constitution's basic structure and cannot be altered by amendments. Any law contradicting these principles can be struck down.

Judicial Independence: The judgment emphasized that judicial independence is crucial for upholding the rule of law and protecting citizens' rights. It upheld the collegium system as it ensures judicial primacy in appointments and shields the judiciary from undue influence.

Role of the Judiciary: The Court reiterated its duty to uphold constitutional values and maintain the judiciary's impartiality and integrity, particularly in matters as critical as judicial appointments.

SIGNIFICANCE OF THE DECISION

The case reaffirmed that judicial independence is fundamental to democracy and must be safeguarded. It prompted discussions on reforming the collegium system to enhance transparency and accountability while preserving judicial independence. Moreover, the case illustrated the judiciary's role in interpreting the Constitution and ensuring the separation of powers, influencing debates on governance and institutional integrity.

COURT'S REASONING (MAJORITY JUDGMENT)

The Supreme Court ruled that the NJAC Act violated the basic structure doctrine of the Constitution. This doctrine, established in cases like *Kesavananda Bharati v. State of Kerala*

⁴ Live Law, 'NJAC Unconstitutional: Constitution Bench [4:1]' (26 October 2015) <https://www.livelaw.in/njac-unconstitutional-constitution-bench-41-2/>

(1973),⁵ asserts that certain core aspects of the Constitution cannot be amended by Parliament, including judicial independence. Judicial independence was identified as a crucial element of the basic structure. The Court stressed that for the judiciary to effectively perform its role as a check on government actions and protector of rights, it must remain insulated from undue influence by the executive and legislative branches.

According to the Court, the composition of the NJAC, which included members of the executive (including the Law Minister) and civil society, posed a significant threat to judicial independence. The involvement of executive members raised concerns about potential interference in judicial appointments and transfers, potentially compromising the impartiality and integrity of the judiciary. In contrast, the collegium system, despite its flaws, allows judges to play a central role in recommending appointments and transfers, thereby reducing external influences, and ensuring judicial autonomy.

While acknowledging broad parliamentary support for the Constitution (Ninety-ninth Amendment) Act, 2014 that introduced the NJAC, the Supreme Court reiterated that constitutional amendments must adhere to the basic structure doctrine. The Court emphasized the necessity of judicial primacy in appointments to uphold judicial independence. Any mechanism that undermines this primacy and allows substantial executive or political influence over judicial appointments would violate the constitutional framework and the principle of separation of powers.

The judgment underscored the judiciary's role as the guardian of the Constitution. It emphasized that the judiciary is responsible for upholding constitutional values and ensuring that all laws, including constitutional amendments, adhere to the core principles and values enshrined in the Constitution. By striking down the NJAC Act, the Court asserted its authority to review legislative actions and uphold constitutional principles, particularly those concerning judicial independence and the separation of powers.

While affirming the collegium system for judicial appointments, the Court acknowledged criticisms regarding transparency and accountability within the collegium⁶. The judgment

⁵ SCC Online Blog, 'Kesavananda Bharati v State of Kerala: An Analysis' (24 April 2023) <https://www.sconline.com/blog/post/2023/04/24/kesavananda-bharati-vs-state-of-kerala/>

⁶ The Hindu, 'Explained: Why is the NJAC verdict at the centre of the impasse over appointment of judges?' (22 February 2023) <https://www.thehindu.com/news/national/explained-why-is-the-njac-verdict-at-the-centre-of-the-impasse-over-appointment-of-judges/article66227448.ece>

prompted discussions on reforms within the collegium system aimed at addressing these concerns while preserving judicial independence and integrity.

In conclusion, the Supreme Court's decision in *All India Judges Association v. Union of India* was rooted in the principle that judicial independence is an integral part of the Constitution's basic structure. It emphasized that any mechanism for judicial appointments must reinforce this independence. The NJAC Act was struck down because it did not meet this constitutional standard, thereby reaffirming the judiciary's role in safeguarding its autonomy and integrity against potential encroachments by other branches of government.

OPINION OF JUSTICE J.S. KHEHAR (MINORITY JUDGEMENT)

In the case, *All India Judges Association v. Union of India*, Justice J.S. Khehar presented a dissenting opinion that differed from the majority's decision to strike down the National Judicial Appointments Commission (NJAC) Act.⁷ Justice Khehar argued that the NJAC Act was a legitimate attempt by Parliament to reform the process of judicial appointments. He believed that Parliament, as the representative body of the people, had the authority to enact laws regarding judicial appointments, as long as they adhered to the basic structure of the Constitution. Justice Khehar emphasized that the NJAC Act aimed to bring more transparency and accountability to judicial appointments by involving members from the judiciary, executive, and civil society in the decision-making process. He saw this as a balanced approach that respected the roles of different branches of government while promoting democratic principles. Additionally, Justice Khehar defended the constitutionality of the accompanying amendment, asserting Parliament's right to amend the Constitution unless it violated fundamental constitutional principles. His dissent expressed a belief in the NJAC Act's potential to address shortcomings in the existing collegium system and improve the overall fairness and inclusivity of judicial appointments in India.

CONCLUSION

The judgment in *All India Judges Association v. Union of India* stands out as a crucial turning point in Indian constitutional law, marking a significant milestone in discussions surrounding judicial independence and the procedures for appointing judges. It underscores the judiciary's

⁷ The Hindu, 'NJAC verdict: Why Justice Khehar did not recuse' (16 October 2015) <https://www.thehindu.com/news/national/NJAC-verdict-Why-Justice-Khehar-did-not-recuse/article60271439.ece>

critical role as the guardian of constitutional principles, particularly evident in its decision to strike down the National Judicial Appointments Commission (NJAC) Act while upholding the existing collegium system. This ruling underscores the judiciary's responsibility to uphold fundamental constitutional values, including the autonomy necessary for fair adjudication and protecting citizens' rights from undue external influence.

Beyond addressing immediate concerns about the NJAC Act, the case has sparked broader debates on governance and institutional integrity. It highlights the delicate balance among the executive, legislative, and judicial branches of government, stressing that while reforms may be necessary, they must not compromise the foundational principles of the Constitution. The Court's emphasis on enhancing transparency and accountability within the collegium system signals a call for thoughtful reforms aimed at strengthening these aspects without undermining the judiciary's essential independence. Moreover, the *All India Judges Association v. Union of India* continues to shape ongoing discussions on judicial autonomy and its interaction with other branches of government. It emphasizes the judiciary's proactive role in interpreting and safeguarding the Constitution, establishing clear boundaries on legislative actions that could impact judicial independence. This landmark decision has informed subsequent deliberations on judicial reforms, prompting efforts to address criticisms of the collegium system while preserving its core functions.

In essence, this judgment reflects a commitment to reinforcing democratic institutions by ensuring a resilient and independent judiciary. It serves as a reminder of the judiciary's duty to uphold constitutional values amidst evolving challenges, thereby playing a crucial role in shaping the trajectory of India's legal and governance frameworks.