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Q2

Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to appointment of judges of higher judiciary in India.

UPSC Civil Services Mains 2017 · GS II · 10 marks · Executive and Judiciary

Structure, organization and functioning of the Executive and the Judiciary - Ministries and Departments of the Government; pressure groups and formal/informal associations and their role in the Polity.

Core demand of the question

- Critically examine the Supreme Court's judgment on the **National Judicial Appointments Commission Act, 2014**, with reference to appointment of judges of the higher judiciary
- Show the 99th Amendment, the collegium cases, and what the **2015** ruling settled and left open

Revision summary

The **Second and Third Judges Cases** made the collegium the method of appointing Supreme Court and High Court judges.

The 99th **Amendment and the NJAC Act, 2014**, tried to share that power with the Law Minister and two eminent persons.

SCAORA (2015) struck both down as damaging basic-structure judicial primacy, with Justice Chelameswar dissenting.

The Court asked for a better Memorandum of Procedure; that transparency work is still unfinished.

Independence of appointment was protected; openness of appointment was not delivered by the judgment alone.

Flow diagram

Collegium Second and Third Judges Cases -> 99th Amendment and NJAC Act 2014

99th Amendment and NJAC Act 2014 -> SCAORA 2015 struck down

SCAORA 2015 struck down -> Judicial primacy restored

SCAORA 2015 struck down -> Memorandum of Procedure pending

Judicial primacy restored -> Independent higher judiciary

Conclusion

- Finalise a Memorandum of Procedure with written reasons, eligibility criteria and a timeline for filling High Court vacancies.
- Keep judicial primacy, but add a secretariat and limited non-judge inputs on integrity and diversity, without a political veto of the 2014 kind.

The 2015 judgment saved judicial primacy in appointments and struck down the NJAC and the 99th Amendment as a threat to independence. It did not cure the collegium's secrecy. Higher-judiciary appointment in India still needs a transparent, judge-led process, not a return to executive veto dressed as a commission.

Facts & figures

Constitution (99th Amendment) Act, 2014

Inserted Articles 124A to 124C to create the National Judicial Appointments Commission; struck down in 2015.

NJAC Act, 2014

Statutory procedure for the Commission, including a two-member veto; fell with the amendment.

SCAORA v. Union of India (2015)

Five-judge Bench restored the collegium and held the NJAC and the 99th Amendment unconstitutional.

Second and Third Judges Cases

1993 and 1998 rulings that established judicial primacy and the collegium for appointment and transfer.

Article 50

Directive Principle requiring separation of the judiciary from the executive in the public services of the State.

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