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## CURRENT AFFAIRS



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# Recusal of Judges

## Context:

Recently, two Supreme court judges have recused themselves from hearing cases relating to West Bengal.

About:

## Recusal:

- It is the act of abstaining from participation in an official action such as a legal proceeding due to a conflict of interest of the presiding court official or administrative officer.

## Reason for Recusal:

- When there is a conflict of interest, a judge can withdraw from hearing a case to prevent creating a perception that he carried a bias while deciding the case.
- The conflict of interest can be in many ways such as:
  - Having a prior or personal association with a party involved in the case.
  - Appeared for one of the parties involved in a case.
  - Exparte communications with lawyers or non-lawyers.
  - An appeal is filed in the SC against a judgement of a High Court (HC) that may have been delivered by the SC judge when he was in the HC.

- In a matter of a company in which he holds shares unless he has disclosed his interest and there is no objection to it.
- The practice stems from the cardinal principle of due process of law that nobody can be a judge in her own case.
- Any interest or conflict of interest would be a ground to withdraw from a case since a judge has a duty to act fair.

## **Decision & Process of Recusal:**

- The decision to recuse generally comes from the judge himself as it rests on the conscience and discretion of the judge to disclose any potential conflict of interest.
- Some judges orally convey to the lawyers involved in the case their reasons for recusal, many do not. Some explain the reasons in their order.
- In some circumstances, lawyers or parties in the case bring it up before the judge. Once a request is made for recusal, the decision to recuse or not rests with the judge.
- While there are some instances where judges have recused even if they do not see a conflict but only because such an apprehension was cast, there have also been several cases where judges have refused to withdraw from a case.
- If a judge recuses, the case is listed before the Chief Justice for allotment to a fresh Bench.

### **Rule for Recusal:**

- There are no formal rules governing recusals, although several SC judgments have dealt with the issue.
- In *Ranjit Thakur v Union of India* (1987), the SC held that the test of the likelihood of bias is the reasonableness of the apprehension in the mind of the party.
- The judge needs to look at the mind of the party before him, and decide that he is biased or not.

### **Concerns:**

1. Undermining Judicial Independence:
  - It allows litigants to cherry-pick a bench of their choice, which impairs judicial fairness.
  - Also, the purpose of recusal in these cases undermines both independence and impartiality of the judges.
2. Different Interpretations:

- As there are no rules to determine when the judges could recuse themselves in these cases, there are different interpretations of the same situation.
3. Delays the Process:
- Some requests for recusal are made with the intent to intimidate the court or to get better of an 'inconvenient' judge or to obfuscate the issues or to cause obstruction and delay the proceedings or in any other way frustrate or obstruct the course of justice.

### Way Forward

- Recusals should not be used as a tool to maneuver justice, as a means to pick benches of a party's choice, and as an instrument to evade judicial work.
- Judicial officers must resist all manner of pressure, regardless of where it comes from and if they deviate, the independence of the judiciary would be undermined, and in turn, the Constitution itself.
- Therefore a rule that determines the procedure for recusal on part of judges should be made at the earliest.

## Great Barrier Reef

### Context:

Recently, the UNESCO World Heritage Committee has recommended that the Australia's Great Barrier Reef should be added to a list of "in danger" World heritage sites.

Placement on the "in-danger list" is not considered a sanction.

Some nations have their sites added to gain international attention and help to save them.

### About:

#### Reason behind this Move:

- It was recommended to add to the list because of the impact of climate change.

- Despite Reef 2050, the coral reef ecosystem has suffered three major bleaching events since 2015 due to severe marine heatwaves.
- The Reef 2050 Long-Term Sustainability Plan is the Australian and Queensland Government's overarching framework for protecting and managing the Great Barrier Reef by 2050.
- When corals face stress by changes in conditions such as temperature, light, or nutrients, they expel the symbiotic algae zooxanthellae living in their tissues, causing them to turn completely white. This phenomenon is called coral bleaching.
- Marine heatwave is an event of anomalous warm sea surface temperatures (SST) from several days to years.

### **Repercussions of adding Barrier reef to a list of "in danger World heritage sites"**

- It prompted environmental groups to take aim at the Australian government's reluctance to take stronger climate action.
- Australia, which is one of the world's largest carbon emitters per capita, has remained reluctant to commit to stronger climate action and has cited jobs as a major reason to back the country's fossil fuel industries.
- It has not updated its climate goals since 2015.

### **About Great Barrier Reef:**

- It is the world's most extensive and spectacular coral reef ecosystem composed of over 2,900 individual reefs and 900 islands.
- The reef is located in the Coral Sea (North-East Coast), off the coast of Queensland, Australia.
- It can be seen from outer space and is the world's biggest single structure made by living organisms.
- This reef structure is composed of and built by billions of tiny organisms, known as coral polyps.
- They are made up of genetically identical organisms called polyps, which are tiny, soft-bodied organisms. At their base is a hard, protective limestone skeleton called a calicle, which forms the structure of coral reefs.
- These polyps have microscopic algae called zooxanthellae living within their tissues. The corals and algae have a mutualistic (symbiotic) relationship.
- It was selected as a World Heritage Site in 1981.

### **Initiatives to Protect Corals:**

A number of global initiatives are being taken to address the issues, like:

- International Coral Reef Initiative
- Global Coral Reef Monitoring Network (GCRMN)
- Global Coral Reef Alliance (GCRA)
- The Global Coral Reef R&D Accelerator Platform
- Similarly, the Ministry of Environment and Forests and Climate Change (MoEF&CC), India has included the studies on coral reefs under the Coastal Zone Studies (CZS).
- In India, the Zoological Survey of India(ZSI), with help from Gujarat's forest department, is attempting a process to restore coral reefs using "bio rock" or mineral accretion technology.
- National Coastal Mission Programme, to protect and sustain coral reefs in the country

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