



**Date – 29 August 2022**

## **Appointment of CJI**

**News:** Appointment of Justice Ramana as 49th CJI and successor of Justice UU Lalit.

**GS Paper 2:** Structure, Organization and Functioning of the Judiciary; Appointment to various Constitutional Posts.

### **Who appoints the Chief Justice of India (CJI)?**

- The Chief Justice of India and the other judges of the Supreme Court are appointed by the President under **clause (2) of Article 124 of the Indian Constitution.**
- Article 124 mentioned that appointment by the President is to be done **“after consultation”** with judges of the Supreme Court, as the President may “deem necessary”.
- **Article 217**, which deals with the appointment of High Court judges, says the President should consult the CJI, Governor, and Chief Justice of the High Court concerned.
- The **tenure of a CJI** is until they attain the age of **65 years**, while **High Court judges retire at 62 years.**

### **Who can become the Chief Justice of India?**

Apart from **being an Indian citizen**, the person must

- (a) have been for at least five years a Judge of a High Court or of two or more such Courts in succession or
- (b) have been for at least ten years an advocate of a High Court or of two or more such Courts in succession, or
- (c) be, in the opinion of the President, a distinguished jurist.

### **What is the system followed for recommending and appointing judges?**

- While appointment of judges, the collegium system is followed, the Collegium system consists of five senior most judges of the Supreme Court and the High Courts.
- The government gets a background inquiry done by the Intelligence Bureau (IB) at times from the names first suggested for appointment by the collegium. While the government can also raise objections, usually the collegium's will prevails.
- However, it is to be noted that the term "collegium" is not mentioned in the constitution, which only speaks of consultation by the President.
- In the last few years, the common understanding was that the independence of the judiciary from the executive was to be guarded in matters of appointments.
- **Usual convention** is that the senior most judge of the court after the chief justice (in terms of the years served) is recommended as the successor. This convention was memorably discarded by former Prime Minister Indira Gandhi, who appointed Justice AN Ray as CJI in 1973 over his seniors for a CJI more favorable to her regime.

### **What are the government's Memorandum of procedure for the appointment of Supreme Court Judges?**

- **According to the government's Memorandum of procedure** for the appointment of Supreme Court Judges, seniority is to be the norm. It says the Union Minister of Law, Justice and Company Affairs seeks the recommendation of the outgoing Chief Justice of India for the appointment of the next CJI.
- After the collegium's recommendations are finalized and received from the CJI, the Law Minister will put up the recommendation to the Prime Minister who will advise the President on the matter of appointment.

## What were the various cases leading to the current system of appointment?

- **First Judges Case(1981):** In this case it was held that recommendation made by the CJI to the President can be refused for **“cogent reasons”**. This meant the President or the executive would be in a more influential position in deciding appointments.
- **Second Judges Case (1993):** SC introduced the Collegium system, holding that **“consultation” really meant “concurrence”**. It added that it was not the CJI’s individual opinion, but an institutional opinion formed in consultation with the two senior-most judges in the SC.
- **Third Judges Case(1998):** Now, the SC expanded the collegium in which decisions are to be taken by a majority of the five senior most judges.

## What is the procedure for removal of CJI?

- **The constitution states:** “A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting”, with the address in the same session presented to the President for removal on one of the two grounds – proved misbehavior or incapacity.
- While the **Constitution does not use the word ‘impeachment’**, it is colloquially used to refer to the proceedings under Article 124 (for the removal of a Supreme Court judge) and Article 218 (for the removal of a High Court judge).

## What are the various steps for removal of judges from office?

The **procedure for removal of judges is elaborated in the Judges Inquiry Act, 1968**. The Act sets out the following steps for removal from office:

- Under the Act, an impeachment motion may originate in either House of Parliament. To initiate proceedings: (i) at least **100 members of Lok Sabha** may give a signed notice to the Speaker, or (ii) at least **50 members of Rajya Sabha** may give a signed notice to the Chairman. The Speaker or Chairman may consult individuals and examine relevant material related to the notice. Based on this, he or she may decide to either admit the motion or refuse to admit it.

- If the motion is admitted, the Speaker or Chairman (who receives it) will constitute a **three-member committee** to investigate the complaint. It will comprise: (i) a Supreme Court judge; (ii) Chief Justice of a High Court; and (iii) a distinguished jurist. The committee will frame charges based on which the investigation will be conducted. A copy of the charges will be forwarded to the judge who can present a written defence.
- After concluding its investigation, the Committee will submit its report to the Speaker or Chairman, who will then lay the report before the relevant House of Parliament. If the report records a finding of **misbehaviour or incapacity**, the motion for removal will be taken up for consideration and debated.
- The motion for removal is required to be adopted by each House of Parliament by: (i) a majority of the total membership of that House; and (ii) a majority of at least two-thirds of the members of that House present and voting. If the motion is adopted by this **special majority**, the motion will be sent to the other House for adoption.
- Once the motion is adopted in both Houses, it is sent to the **President**, will issue an order for the removal of the judge.





# Aadhaar-Voter ID linkage

**News:** Reports have surfaced online of instances where block level officers have asked individuals to link their Aadhaar with their Voter IDs, failing which their Voter IDs could be canceled.

**GS Paper 2:** Government Policies and Interventions for Development in various sectors and Issues arising out of their Design and Implementation; E-governance- applications, models, successes, limitations, and potential.



**What are the recent amendments in Representation of the People Act, 1950?**

**Election Laws (Amendment) Act, 2021** passed in parliament to amend the Representation of the People Act, 1950.

- **Section 23(4) was inserted in the Representation of the People Act, 1950.** It states that the electoral registration officer may “for the purpose of establishing the identity of any person” or “for the purposes of authentication of entries in electoral roll of more than one constituency or more than once in the same constituency” for citizens already enrolled, require them to furnish their Aadhaar numbers.
- Changes in the **Registration of Electors Rules, 1960**. Rule 26B was added to provide that “every person whose name is listed in the roll may intimate his Aadhar number to the registration officer”.
- **Form 6B provides the format** in which Aadhaar information may be submitted to the electoral registration officer. Form 6B provides the voter to either submit their Aadhaar number or any other listed document. However, the element of choice that has been incorporated in the amendments seem to be negated or at the very least thrown into confusion.

## What are the reasons behind linking voter IDs with Aadhaar?

- **Coverage of Aadhaar exceeds that of any other officially valid document** such as driver's license, ration cards, PAN cards etc that are mostly applied for specific purposes. At the end of 2021, 99.7% of the adult Indian population had an Aadhaar card.
- **Due to Biometric authentication** Aadhaar based authentication and verification is more reliable, quicker and cost efficient.
- Linkage of voter IDs with Aadhaar will clean up the electoral rolls by weeding out duplicate entries, bogus voters and making the electoral process more credible.
- As per the government, linkage of Aadhaar with voter IDs will assist in ensuring that only one Voter ID is issued per citizen of India.
- **Streamline electoral rolls and the process of registration of migrated voters** without duplication in the rolls and to curb the menace of multiple enrolment of the same person in different places.
- The changes in the Election laws will allow the Electoral Registration Officers to seek Aadhaar of individuals who wish to register as voters and from individuals who are already registered as voters to establish the identity of the voter.
- **Digital and remote voting process** as a voter being able to vote from different locations across the country or abroad, even while they are traveling.

## What are various concerns associated with linking voter IDs with Aadhaar?

- **Confusion throughout Election Laws (Amendment) Act, 2021** whether the linkage of the Aadhaar with Voter ID is optional or not made the choices complicated. Rule 26B of Registration of Electors Rules, 1960 provide assurances by both the government and the EC that linkage of the Aadhaar with Voter ID is optional while on the other hand Form 6B provides the format of submission of Aadhaar information where the option to submit other listed documents is exercisable only if the voter is "not able to furnish their Aadhaar number because they do not have an Aadhaar number".
- Already there are **several discrepancies and errors** are widespread across various government schemes linked with Aadhaar. As per

the **Unique Identification Authority of India in 2018**, Aadhaar based biometric authentication had a 12% error rate.

- **Constitutional violation as Supreme Court in Lal Babu Hussein case (1995)**, had held that the Right to vote cannot be disallowed by insisting only on four proofs of identity — voters can rely on any other proof of identity and obtain the right to vote.
- **May turn into futile exercise:** As Aadhaar is only a proof of residence and not a proof of citizenship. Therefore, verifying voter identity against this will only help in tackling duplication but will not remove voters who are not citizens of India from the electoral rolls.
- Violations to an individual's right to privacy granted under **Puttaswamy Judgment (Aadhaar Card judgment)**: It needs to be considered whether requiring an Aadhaar holder to mandatorily provide Aadhaar for authentication or verification would not be considered violative of their informational autonomy (right to privacy) which would allow them to decide which official document they want to use for verification and authentication.
- Linkage may help in creating voter profiles based on age, location, religion, etc which may be used to influence the voting process. Since, there are inadequate data protection laws, this will also mean that the party in power may be able to access, misuse the data and manipulate the results. Voter profiling will also lead to possibilities of data weaponization which in turn shall mean disaster for democratic processes.
- **Reports of Coercions** despite clarifications from various government authorities that the linking of Aadhaar with the voter identity card is “voluntary”, there have been instances of people being warned by booth-level officers that their voter ID would be canceled if it is not linked to their Aadhaar number.
- Linkage may lead to selective disenfranchisement of a certain class of voters who opposes to a particular political ideology. **For example:** Recently, Aadhaar-linkage with voter identity cards in the Assembly elections in Telangana and Andhra Pradesh led to the arbitrary deletion of eligible voters on a large scale.

## Way Forward:

- **Enable prior consent mechanism** by providing control, rights, and options to the citizens to define the usage of their personal data by government agencies, in context to all linked ids and define robust policies which will use the personal data precisely in proportion to the welfare needs of the population.
- Proper data protection law that clearly defines the jurisdiction of legislature, executive and judiciary.
- ECI should limit itself to utilizing existing proofs for voter authentication and Aadhaar declaration should remain voluntary.
- Government should clarify through correction in Form 6B that the linking is not mandatory and expedites the enactment of a data protection legislation that allays concerns of unauthorized processing of personal data held by the government.

**Sharad**

## The Panchayats (Extension to the Scheduled Areas) Act (PESA Act).

**News:** Aam Aadmi Party (AAP) promised “strict implementation” of The Panchayats (Extension to the Scheduled Areas) Act (PESA Act).

**GS Paper 2:** Government Policies and Interventions for Development in various sectors and Issues arising out of their Design and Implementation; Mechanisms, Laws, Institutions and Bodies constituted for the Protection and Betterment of these Vulnerable Sections.



## History of PESA

- To promote local self-governance in rural India, the **73rd constitutional amendment** was made in 1992. Through this amendment, a three-tier



Panchayati Raj Institution was made into a law. However, its application to the **scheduled and tribal areas under Article 243(M)** was restricted.

- After the **Bhuria Committee recommendations in 1995**, Panchayat Extension to Scheduled Areas (PESA) Act 1996 came into existence for ensuring tribal self-rule for people living in scheduled areas of India.

### **What is The Panchayats (Extension to the Scheduled Areas) Act (PESA Act)?**

- The PESA Act was enacted in 1996 “to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas”. (Other than Panchayats, Part IX, comprising Articles 243-243ZT of the Constitution, contains provisions relating to Municipalities and Cooperative Societies.)
- Under the PESA Act, **Scheduled Areas are those referred to in Article 244(1)**, which says that the provisions of the **Fifth Schedule** shall apply to the Scheduled Areas and Scheduled Tribes in states other than Assam, Meghalaya, Tripura, and Mizoram.
- The **Fifth Schedule** provides for a range of special provisions for these areas.

### **What are the salient features of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA)?**

- Legislation on Panchayats shall be in conformity with the customary law, social and religious practices and traditional management practices of community resources.
- Habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs; and shall have a separate Gram Sabha.
- Every Gram Sabha to safeguard and preserve the traditions and customs of people, their cultural identity, community resources and the customary mode of dispute resolution.
- The Gram Sabhas have roles and responsibilities in approving all development works in the village, identifying beneficiaries, issuing certificates of utilization of funds; powers to control institutions and functionaries in all social sectors and local plans.

## **What are the powers and functions of Gram Sabha or Panchayats under the PESA Act?**

**Gram Sabhas or Panchayats** at appropriate level shall have following powers

- To Manage minor water bodies
- Power of mandatory consultation in matters of land acquisition.
- Resettlement and rehabilitation and prospecting licenses/mining leases for minor minerals
- Power to prevent alienation of land and restore alienated land.
- Regulate and restrict sale/consumption of liquor.
- Manage village markets, control money lending to STs.
- Ownership of minor forest produce.

## **How is the PESA Act, 1996 supposed to work?**

- The PESA Act was enacted to ensure **self-governance through Gram Sabhas (village assemblies)** for people living in the Scheduled Areas.
- It recognises the right of tribal communities, who are residents of the Scheduled Areas, to govern themselves through their own systems of self-government, and also acknowledges their traditional rights over natural resources.
- In pursuance of this objective, the Act empowers **Gram Sabhas to play a key role in approving development plans and controlling all social sectors.** This includes the processes and personnel who implement policies, exercising control over minor (non-timber) forest resources, minor water bodies and minor minerals, managing local markets, preventing land alienation and regulating intoxicants among other things.
- State governments are expected to amend their respective Panchayati Raj Acts without making any law that would be inconsistent with the mandate of PESA.

**Sharad**

# **An Estimate of the period of N. V Ramana as the Chief Justice of India**

**Context:** Justice N. V Ramana was the 4th CJI who retired in the last days. He was the second CJI from Andhra Pradesh. His period has been the period of many benchmark judgments. Hence His period, after his retirement should be estimated

## **Introduction :**

After the K. Subbarao, N. V Ramana was the CJI from Andhra Pradesh. He was appointed as a judge in 2000 in the High court ( NDA was in government ) and in the supreme court in Feb 2014 (At the time of the UPA government)

One of the most striking flaws of the leadership of Justice Ramana was exposed in his farewell comment where he accepted and acknowledged and even apologized for the breakdown of the listing and posting of cases speaks to a far deeper institutional malaise

Judiciary is the most significant pillar of democracy. If the public loses all its hope, the public sees towards Judiciary with high hope. Therefore, the responsibility and accountability of the Judiciary increase more in comparison to other institutions of the democracy

## **Evaluation of Justice Ramana**

When Justice Ramana took charge as the CJI, SC was considerably weakened as an institution. After the nomination of Rajya Sabha member of Ranjan Gogoi, ex CJI, the judiciary as an institution had become weak and incredible up to a certain extent. After the appointment of Ramana, he once successfully brought back the lost prestige and credibility of the Judiciary. Orders on bail under UAPA, fixing the gap in dowry death law, medical assistance to Siddhique Kappan and powerful speeches on the criticism, and dissent in a democracy are important elements through which he successfully brought back the prestige of CJI and Judiciary

But in some manner his judicial contribution was disappointing. His order keeping the sedition law was most disappointing. His ignorance of constitutional questions that were political minefields like a case of electoral bonds, dilution of article 370, the constitutional validity of citizenship, the Hijab ban in school, and reservation for EWS was the big drawback of his administration. Because these were the most important subject for the Indian democracy and these should be listed and resolved on urgent bases. The hearing on Pegasus was also a big and important issue for democracy. How only very limited parts of the pegasus committee's report were revealed continues the troubling trend of secrecy and opaqueness in fact-finding in such a manner. This is a big failure of the Judiciary. For the last few days, the debate on the freebies is going on. Justice Ramna, in his tenure, could not give any decision on this also.

### **Bright Spot in administration**

The period of Justice Raman would be remembered as a good administrator. Before his appointment, there was a deadlock of collegium recommendations. He resolved these deals lock. Justice Rama also ended up ensuring that India will have its first CJI. The failure to elevate Justice Akil Kureshi to the Supreme court despite his seniority, performance, and reputation and the decision to transfer Justice Sahib Banerji from being the Chief justice of the Madras High court to the Meghalaya High court needed an answer that never come

### **Conclusion**

Since Judiciary is also a democratic institution so the functioning of the Judiciary should be also elevated on the ground of its efficiency and partiality. However, the decisions of the Judiciary should not be criticized because it would hamper the credibility and the prestige of the Judiciary but They should be evaluated. As per the above discussion, the period of NV Ramana would be remembered in history for this better administration, but simultaneously this period would also be remembered for ignoring the most important issues for Indian democracy.

**Anshul**



# PIN Code@50 years

**News:** Postal Service's PIN Code Turns 50

**GS Paper 2:** Government Policies and Interventions for Development in various sectors and Issues arising out of their Design and Implementation.

**GS Paper3:** Science and Technology- Developments and their Applications and Effects in Everyday Life.



## What is a Postal Index Number (PIN)?

- Postal Index Number (PIN) is a **six-digit code (PIN) code** introduced by India Post on August 15, 1972.
- It is an **alpha-numeric or numeric number** that is included in the postal address for easy identification of the sorting-district and the addressee's delivery post office.
- The postal code, known with different names in different countries viz. postcode, zip code, etc. The Universal Postal Union says that 160 countries of the world have so far introduced postal codes.

## What is the history of the Postal Code?

- The codes were introduced nationwide in Germany in 1944, Singapore (1950), Argentina (1958), the U.S. (1963), Switzerland (1964), India (1972), and the U.K. (1974).
- Introduction of sorting machines in the West in the 1960s also necessitated the introduction of codes since the machines could not read the addressee's post office easily if described in writing.

### What are the effects of Postal Code?

- Postal Index Number (PIN) gave **unique identity to all physical addresses** of the country in terms of the delivery jurisdiction of the post offices.
- PIN code helped in **bypassing inaccurate addressing** and **ensured accurate and fast delivery** by post offices.
- Post code **revolutionized the system of manual postal sorting** as the sorters are not required to keep in memory the locations of thousands of post offices.
- With the introduction of computerized billing by utility service providers and the launching of KYC norms by banks, where providing complete and accurate addresses is mandatory, the proportion of PIN-coded mails in India improved.

### What are the current issues faced by PIN Code?

- **Even after five decades, a substantial volume of mail in India is not PIN coded.** Government's effort to educate the citizens to write the PIN code of the addressee on the mail. succeeded to a very small extent.
- **Delay in processing at the sorting centers** as in cities such as Delhi and Kolkata, where sorting work is done by machines, mails without PIN code must be coded separately before they are put to the sorting machine.
- **With the revolution of mobile telephony** in the last two decades Personal mail has almost vanished .Major volumes in the Postal system are documents and e-commerce parcels where there is stiff competition from the couriers.
- **Manual Beat sorting at the post office delays the process:** The PIN code helps in taking a piece of mail to the addressee's post office. The delivery jurisdiction of the post office is normally divided into beats and there is a postman assigned to each beat.

### Way Forward:

- **Integrating the beat code with the six-digit PIN code:** The PIN code in that case will not only identify the addressee's post office but also the concerned beat. If the post office makes the mobile number of the

delivery person of the beat available, citizens may even leave instructions to him regarding his convenience to take delivery.

- **Change in Method of Beat-sorting:** Beat -sorting currently done at the level of the post office, can be done in the circle hub, if the beat code is integrated with the PIN code.
- **Utilization of new machinery** such as letter sorting machines, flat sorting machines (handling packets) and parcel sorting machines
- **Making the concept of sorting-district redundant** as with the dwindling volume of personal mail, it is not impossible to sort all incoming mail and shipments at one circle or regional hub.
- **Centralize the parcel delivery centers and mechanize the beat** as the logistic system associated in processing of e-commerce articles is intrinsically different from that of handling personal mails. A postman used to go to his beat in a bicycle along with a hundred mail pieces for delivery. But he needs a vehicle for delivery of fewer e-commerce parcels.
- **Rationalization of PIN codes** as the system of postal code that was introduced 50 years back may not be operationally relevant in the new role of a post office.
- Before rationalizing the PIN code, one thing that needs to be kept in mind is that though the code was originally designed to help postal operations, today it is used by couriers, e-commerce players and various other service providers as a means of locational identification of a person

YOJNA IAS

**Sharad**