

**1. What are the recent issues regarding the appointment of senior judges in the judiciary? What are your views on the current mechanism of judicial appointments? Discuss.**

**Approach**

Candidates can start the answer with highlighting recent exchange of words between executive and judiciary and then write about issues and share the views on existing system.

**Introduction**

Latest statement from executive calling the collegium system of judicial appointments “opaque” and “not accountable” has revived the debate on judicial appointments. Remarks coming from both sides, has lit up the headlines in the last few days.

**Body**

Issues regarding appointment at higher judiciary:

- The Centre reportedly sent back 20 files to the collegium for reconsideration, expressing strong reservations about those recommendations.
- According to sources, 11 of the 20 cases were fresh cases, while the other nine were reiterations made by the top court collegium.

Concerns related to collegium System for the Appointment of Judges:

- Incentive for dissent lost: The collegium system has created a hierarchy amongst judges, with its members wielding much greater influence than other judges.
- Ignored constitution: Constitution certainly favours what may be called a “wider deliberative and consultative process” in the appointment of judges. There is great merit in this provision.
- Monopolized process: Wisdom cannot be the monopoly of a few chosen ones in the apex court. This omission is a violation of an express provision of the Constitution.
- No reforms were made after the fourth judges’ case: After striking down the NJAC, the court did nothing to amend the NJAC Act or add safeguards to it that would have made it constitutionally valid. Instead, the court reverted to the old Collegium-based appointments mechanism.
- Non-transparency and opaque: (No official procedure for selection + lack of a written manual for functioning + selective publication of records of meetings+ no eligibility criteria of judges) = bring opacity in collegium’s functioning.
- Ignores judicial guidelines: Inconsistent with the view of the SC in the Second Judge’s case, 1993, where it laid that, seniority amongst Judges in their HC and

on all India, basis is significant and should be given due consideration while making appointments of Judges to the SC.

- Promotes nepotism: Sons and nephews of previous judges or senior lawyers tend to be popular choices for judicial roles. Thus, it encourages mediocrity in the judiciary by excluding talented ones.
- No seat in the collegium for any non-judge: neither from the executive, the Bar or anywhere else who could question the collegium.
- Delaying: However, it becomes a concern when government's objections suggest an indirect motive to delay the appointment of particular nominees.

### Way forward

- The NJAC needs to be amended to make sure that the judiciary retains independence in its decisions and re-introduced in some form or the other.
- A written manual should be released by the Supreme Court which should be followed during appointments and records of all meetings should be in the public domain.
- Apart from reforming the collegium system, the quality of judges can also be improved through the implementation of All India Judicial Services (AIJS).
- We do have highly eminent judges in our high courts and their opinion in the appointment of Supreme Court judges must count.
- Thus, India needs to restore the credibility of the higher judiciary by making the process of appointing judges transparent and democratic.

**Qn-2. What ways does the lack of inter ministerial coordination affect the governance quality ?is there mechanism in place to deal with the issue ? examine.**

### Approach-

In this question candidates need to write about ways in which lack of inter ministerial coordination affect governance quality .in second part of answer write about mechanism by which this issue will be solved .

### Introduction-

Coordination is the mechanism through which policies, strategies, plans, peoples, systems, and tools are brought together to achieve a particular goal. Government services are often cross-sectional, interlinked and complementary particularly in the areas of agriculture, education, trade, and mining. One particular service or service provider functioning improperly will affect the entire system

### Body -

Governance is a collaborative effort that requires disconnectedness between the government and various institutions of civil society, as well as within the various

departments of the government. Absence of the latter has plagued administration for a long time.

- The penchant of departments to work in silos, and the absence of a holistic outlook has led to failure in regularly sharing information between different arms of the government. This can cause the following problems:
- Delay in decision making leading to a reactive rather than proactive government. (cross border attacks despite credible information warning so )
- Duplication of effort (multiple department and govt schemes working on same lines, eg Ministry of Panchayat Raj and District Rural Development Agencies). These government initiatives are costly where the blame of problem is put on another department. Such attitude leads to loss of faith in governance and ineffective policy management for benefits of people.
- Wastage of resources (multiple agencies, middle heavy bureaucracy) .
- Failure to institutionalize expertise (Investigative agencies deal with different crimes and doesn't share info, opposition to National Counter Terrorism Centre etc)
- Capacity building efforts are often duplicated and/or inconsistently applied across ministries. One state employee may receive two or three similar training while another employee receives none.
- Delay in delivery: There is overlapping of procedures like clearances, approvals etc. which takes time and delays delivery of services. Confusion regarding jurisdiction is considered an important bottleneck in enforcement agencies.

Mechanism to deal with the issue -

- Problems today are multidimensional in nature (Eg swach bharat has MoRD, MoWR and MoUD involved) that require collaboration to succeed. Poor coordination is a major obstacle to the effective administration of government services. The steps like
- PARIVESH –for single clearance of projects related to the environment,
- PRAGATI (Pro-Active Governance And Timely Implementation)- a unique integrating and interactive platform.
- The platform is aimed at addressing common man's grievances, and simultaneously monitoring and reviewing important programmes and projects of the Government of India as well as projects flagged by State Governments.
- PRAKASH (Power Rail Koyla Availability through Supply Harmony), with a view to improving coordination between the power, coal and railway ministries to ensure coal supplies to power plants.
- Information sharing mechanisms, that ensure two way communication as a matter of routine rather than the norm are required. This will greatly help governance as ,
- It will ensure more transparency as information will be accessible from any point.
- It will bring more participative governance where every advice from various ministry would be looked after.
- sharing of information reduces delay in implementation of projects.
- It will reduce red tapism and corruption.
- It will lead to more effective implementation of government initiatives.

- It will ensure a sense of team work and co-operation among ministries.

### Conclusion -

Poor coordination is a major obstacle to the effective administration of government services. The steps like PARIVESH, PRAGATI, PRAKASH, for single clearance of projects related to the environment are stepped in the right direction.

**Q-3 What are your thoughts on the ongoing protests against the vizhinjam port? In order to reconcile national interests with those of the locals, what recommendations would you make ?**

### Approach -

In this question candidates need to write about why protests are happening on vizhinjam port, what are demands of locals and give recommendations to reconcile national interests with those of locals.

### Introduction-

Fisher-folk have been protesting against the project for the past four months, alleging that its construction is causing massive sea erosion, taking away their livelihood and dwellings.

### Body -

The Vizhinjam Port project was first conceived in 1991, to be developed in a public-private partnership. Adani was the sole bidder for the project and the contract was signed in 2015.

- Work started in December 2015 and the first phase of the port was expected to be completed by December 2019, but has been delayed owing to protests, shortage of stones for the breakwater and the Covid-19 pandemic.
- For four months, fishermen in the region have been protesting against its construction. They state that the construction of the port will result in widespread sea erosion, and destroy their houses and livelihoods.
- The agitators have been alleging the unscientific construction of groyne, the artificial sea walls as part of the upcoming port, was one of the reasons for the increasing coastal erosion.
- Their seven-point demands are:
  - Conduct an impact study and shelve the project till the report is out.
  - Rehabilitation of families who lost their homes to sea rage.
  - Compensation for loved ones in fishing accidents.
  - Financial aid to fisherfolk on days weather warnings are issued.
  - Subsidise kerosene.
  - A mechanism to dredge the Muthalappozhi fishing harbour in Anchuthengu.
  - Effective steps to mitigate coastal erosion.

## IASBABA'S TLP 2023 (PHASE – 1) – DAY 10 SYNOPSIS

- Earlier this year, the government passed two orders to build 750-square-foot flats to rehabilitate those living in the Valiyathura godowns and give them Rs 5,500 as rent, till their new homes are ready, said the ports minister's office.

Recommendation to reconcile national interests with those of locals -

- While several government reports have claimed that there will be no environmental impact of the port, owing to the protests the Kerala government in October also constituted a four-member expert committee to study the impact of the project on coastal erosion.
- The government would also consider the outcome from the high court before deciding further action. The agitators had given an assurance at the high court that they would not obstruct the construction.
- The government also instituted a committee headed by the Chief Secretary to monitor the environmental and social impact of the port in real-time.
- The government also remained ambivalent about whether it would accommodate the VAC's nominee on the panel constituted to conduct a social, environmental, and livelihood impact study.
- The port falls just 10 nautical miles from the international shipping line, very close to the East-West shipping axis and is well-positioned to capture more business from other maritime hubs like Sri Lanka, Dubai and Singapore. It also promises huge economic growth for the state.
- The proposed port has a natural depth of 18 metres, which can bring in large vessels and in effect, bigger consignments. The port is to have 30 berths, and will be able to handle giant "megamax" container ships.
- The Adani Group has said the ultramodern port, located close to major international shipping routes, will boost India's economy and halting it will have big impact on keralas reputation .
- Its location is also of strategic importance, the project's supporters have claimed. The port is expected to compete with Colombo, Singapore, and Dubai for a share of trans-shipment traffic.
- According to the Vizhinjam International Seaport website, the port's advantages are "availability of a 20m contour within one nautical mile from the coast; minimal littoral drift along the coast, hardly any maintenance dredging required; links to national/regional road, rail network; and proximity to international shipping routes."
- The CAG had said that the standard concession period for PPP projects was 30 years, but the Vizhinjam project concessionaire had been given an extra 10 years, which would allow it to reap an additional revenue of Rs 29,127 crore.

### Conclusion

Vizhinjam port will not only work as port to handle transshipment traffic but it will give India upper hand strategically and will contribute enormously to India's economy.