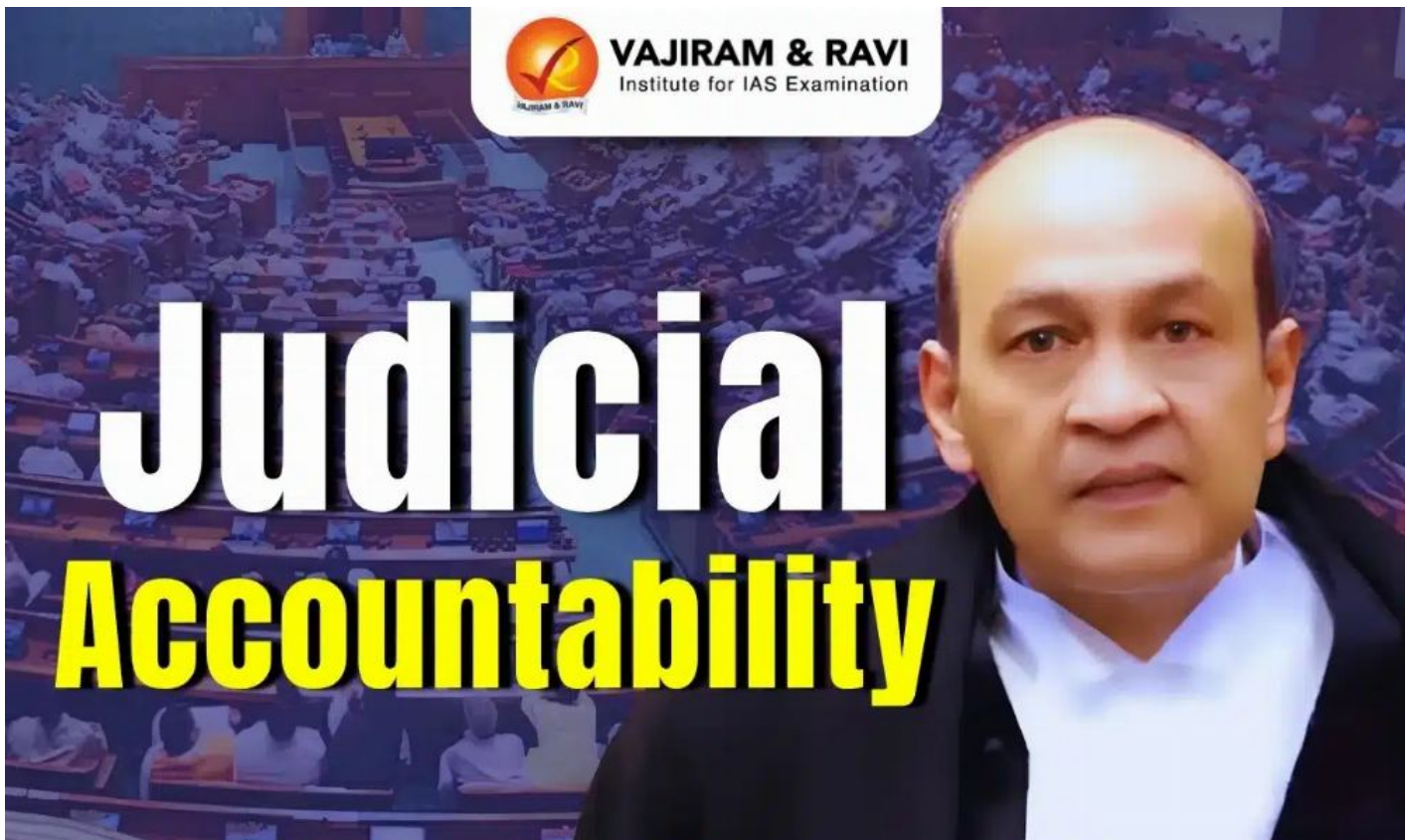


# Judicial Yashwant Varma Resignation Case - Judicial Accountability and the Power to Resign

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## Judicial Accountability Latest News

- The report of the Inquiry Committee against former Allahabad and Delhi High Court judge Yashwant Varma is set to be taken up in Parliament, raising key questions about judicial accountability, the power to resign at will, and gaps in the constitutional framework.

## Background of the Case

- The Yashwant Varma case originated in March 2025 with the discovery of partially burnt currency notes in an outhouse at his official residence. This led to the following developments:
  - The Speaker of the Lok Sabha appointed a committee under the **Judges (Inquiry) Act, 1968** to investigate charges of misbehaviour.
  - Justice Varma resigned on April 9, 2026, before the inquiry proceedings could be concluded.
  - The committee's report is set to be tabled in Parliament during the ongoing Monsoon Session.

- The case has generated significant public and legal interest regarding judicial accountability.

## Constitutional Framework for Judicial Resignation

### • The “Power to Resign at Will”

- The Constitution vests 13 constitutional functionaries with the power to resign at will, without their resignation being subject to acceptance by any authority.
- They may resign merely by writing under their hand, addressed to a specified authority. The offices with this power include:
  - The President
  - The Vice-President
  - The Deputy Chairman of the Rajya Sabha
  - The Speaker and Deputy Speaker of the Lok Sabha
  - A judge of the Supreme Court
  - A judge of the High Courts
  - The Governor
  - The Speaker and Deputy Speaker of a State Assembly
  - The Chairman and Deputy Chairman of a State Legislative Council
  - A member of the Public Service Commissions

### • Purpose of the Power

- The power to resign at will is an essential safeguard for judicial independence.
- It protects incumbents from being forced to work under coercion by any authority, ensuring that judges can leave office without fear of retaliation.

### • Contrast with Legislators

- Members of Parliament: subject to acceptance by the Speaker of the Lok Sabha or the Chairman of the Rajya Sabha under Article 101(3)(b).
- Members of State Legislatures: subject to acceptance by the Speaker or the Chairman under Article 190(3)(b).

## Supreme Court Ruling

- A five-judge Constitution Bench of the Supreme Court in **Union of India vs Gopal Chandra Misra (1978)** **unanimously reaffirmed the power of Supreme Court and High Court judges to resign at will**. The court held that:
  - The effectiveness of the resignation does not depend upon acceptance by the President.
  - The resignation acts *ex proprio vigore* (automatically without requiring any external action).
- Since 2017, at least 12 High Court judges have resigned, and Justice Dalveer Bhandari resigned from the Supreme Court in 2012 to join the International Court of Justice.
- Publicly available data suggests these resignations have been handled in compliance with the law.

## News Summary

- Three months after his resignation, Justice Yashwant Varma continues to be listed as a sitting judge by:

- The Allahabad High Court
- The Department of Justice of the Union government
- This has created confusion about whether his resignation has taken effect or remains subject to acceptance by the President.
- Justice Varma's resignation took effect automatically on April 9, 2026, when he submitted his written resignation. No acceptance by the President is required.
- Hence, describing him as a sitting judge after that date in the Department of Justice's list or on the Allahabad High Court's website is clearly wrong.
- There is no justification for retaining his name in lists of sitting judges for over three months.

## **Do the Proceedings Survive the Resignation?**

- The Inquiry Committee's report pertains to Justice Varma's conduct prior to his resignation. Therefore:
  - The resignation does not affect the laying of the report before both Houses.
  - The report will be made public as there is a statutory duty to do so.
- The public has a legitimate right to know whether the Committee found any proved misbehaviour on the part of a sitting judge of a constitutional court.

## **What Happens if He is Found Guilty of the Charges?**

- If the report finds Justice Varma not guilty of the charges, the matter ends there. However, even if the report finds him guilty:
  - The motion for his removal can no longer be moved.
  - Having resigned, Justice Varma does not hold the office of a judge and cannot be removed from it.
  - Under Section 6 of the Judges (Inquiry) Act, the report is to be discussed by Parliament along with the motion.
- Since the motion lapses and cannot be discussed, the report too cannot be discussed by Parliament under the Act.

## **The Accountability Loophole**

- There is a genuine concern that the framework for judicial accountability through removal proceedings under the Judges (Inquiry) Act, 1968, suffers from a significant loophole.
- Judges may resign at will before Parliament takes up the motion for their removal. This effectively halts the entire process.
- It allows judges facing serious charges to evade accountability by simply resigning.
- The public interest in knowing the outcome of proceedings against sitting judges is compromised.

## **Proposed Constitutional Amendment**

- Legal experts suggest that this loophole is best addressed by amending the Constitution rather than by executive or judicial interpretation.
- The proposed amendment could include the following provisions:

- The resignation of a judge facing removal proceedings should be subject to acceptance during their pendency.
- To safeguard judicial independence, the power to accept the resignation should vest in the Chief Justice of India rather than in the President.
- Parliament should be empowered to discuss the report submitted by the Inquiry Committee despite the judge's resignation.
- Interpreting inadvertent silences in the Constitution or the Act to suit the concerns of Parliament or the Executive would be against the rule of law.

## Significance and Implications

### • For Judicial Independence

- The power to resign at will remains crucial for protecting judges from coercion.
- Any reform must carefully balance accountability with independence.
- Vesting acceptance power in the Chief Justice of India, rather than the executive, would preserve independence.

### • For Judicial Accountability

- The current framework allows accused judges to escape scrutiny by resigning.
- Public confidence in the judiciary requires transparent accountability mechanisms.
- Completed inquiries should be publicly disclosed even if the judge has resigned.

### • For Constitutional Governance

- Highlights the need for periodic review of constitutional provisions.
- Emphasises the importance of clarity in administrative procedures.
- Underscores the role of Parliament in exercising oversight over the judiciary.

### • For Public Trust

- The case tests the credibility of judicial institutions.
- Transparency in handling such matters is essential for maintaining public confidence.
- Media and civil society scrutiny play a critical role.

**Source: TH**

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