

News

Supreme Court Justice Ujjal Bhuyan: Judge transfers are an internal matter of the judiciary; the government cannot influence them.



He saw it as extremely concerning when collegium resolutions themselves state that a transfer was undertaken at the government's request.

Judge Ujjal Bhuyan of the Supreme Court stated on Saturday that judicial transfers are only intended to improve the administration of justice and that the government should not be involved in the process.

During a lecture at the ILS Law College in Pune, Justice Bhuyan stated,

"A judge's transfer is always intended to improve the administration of justice." It is a judicial internal issue. The government cannot influence that.

Any deviation from this norm undermines judicial independence and negates the goal of shielding the judiciary from extraneous influence, Justice Bhuyan said.

As part of the Principal GV Pandit Memorial Lecture series, Justice Bhuyan was giving a talk on **"Constitutional Morality and Democratic Governance."**

The Supreme Court justice said in his speech that it is quite concerning when collegium resolutions themselves document that a transfer was undertaken at the government's request.

"It reveals a striking intrusion into what is constitutionally supposed to be an independent process when the collegium itself records that the transfer of a High Court judge was being made at the request of the government," he stated.

This, he claimed, amounts to an admission of governmental control in a procedure that was intended to be free from such meddling.

Justice Bhuyan described it as **"very unfortunate"** and stated, **"It reflects a clear admission of the government influencing collegium decisions—the very thing the collegium system sought to prevent."**

The integrity of the collegium system, which was developed to avoid political and governmental interference in judicial nominations and transfers, is undermined by such revelations, according to the judge.

When the collegium documents that a judge was transferred at the government's request, it exposes a

In reference to his own legal career, Justice Bhuyan stated that he had been transferred twice: first from the Guahati High Court to the Bombay High Court, and then from the Bombay to the Telangana High Court. He continued by emphasizing that transfers shouldn't be seen

as punishing.

"I was transferred twice, and both times it was to my advantage. That's a whole other story. However, a judge's transfer is always necessary to improve the administration of justice.

He reaffirmed that the judiciary alone has the authority to decide on judge transfers and postings.

Judge Bhuyan also defended the collegium system of judicial nominations, dating its development to a time when undue government influence in judicial appointments had generated grave concerns. The transfer of a judge is always for the better administration of justice.

"The collegium system was the need of the hour because political influence and interference play a disproportionate role in the appointment of judges," he stated.

Justice Bhuyan acknowledged concerns that the collegium system lacked accountability and transparency, but he maintained that it is still better than alternatives that would give the government more control over judicial nominations.

"I'm not claiming the collegium system is flawless. However, it is currently a far better choice than the available alternatives," he continued.

Given the problem of political influence, the collegium system was urgently needed.

Justice Ujjal Bhuyan Bhuyan further noted that preventing external or physical attacks is not a major part of safeguarding the judiciary.

"A platoon of CRPF is not necessary to protect the courts. There will be no physical attacks on the courts. In this sense, he stated, "Many believe that the greatest threat to the judiciary's independence comes from within."

He cautioned that even if courts continued to operate, the institution would be undermined by a loss of confidence.

There will be judges present. There will be courts. However, the soul and heart will vanish," he said.

Many believe that Justice Ujjal Bhuyan poses the greatest threat to the judiciary's independence.

Justice Bhuyan emphasized that constitutional courts exist to defend rights and liberties even when doing so is unpopular, thus connecting judicial independence to the idea of constitutional morality.

Citing important rulings like Kesavananda Bharati, SR Bommai, Navtej Singh Johar, and the Indian Young Lawyers Association, he continued by saying that constitutional morality must take precedence over popular or majoritarian viewpoints.