

UNDERMINING AUTONOMY: THE HINDU EDITORIAL ON JUDICIAL ENDORSEMENT OF A TENURE EXTENSION SYSTEM

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

To enjoy additional benefits

CONNECT WITH US

July 13, 2023 12:20 am | Updated 12:29 am IST

COMMENTS

SHARE

READ LATER

The Supreme Court's verdict [upholding statutory amendments made in 2021](#) to allow multiple extensions of service to heads of investigative agencies is a setback to the cause of protecting their institutional independence. While the part of the judgment quashing the two one-year extensions given to the Director of Enforcement, S.K. Mishra, may be welcomed, the rest of it is a free pass to the government to undermine the autonomy of these agencies. The Court has asked Mr. Mishra to step down on July 31. In 2021, it had directed the government not to grant any extension to him beyond November that year. It has now ruled that even though Parliament can remove the basis for any judgment through legislation, it cannot nullify a court direction. Mr. Mishra was appointed for a two-year term in 2018, but in 2020, the original appointment was retrospectively amended to make it a three-year tenure. He was given two annual extensions in 2021 and 2022, despite crossing the age of superannuation. The government ignored the Court's earlier observation that such extension should be given to those who have attained superannuation only in "rare and exceptional cases". However, the larger import of the latest judgment is that it endorses the changes enabling annual extensions to the CBI and ED Directors until they complete five years in that office.

The heads of the CBI and ED have an assured term of two years regardless of superannuation, and the introduction of a power to extend it to five years means an officer may get up to three annual extensions. As the petitioners who challenged the extension given to Mr. Mishra, as well as the Court-appointed amicus curiae, argued, piecemeal extensions undermine the independence of the office, and encourage a carrot-and-stick policy to make Directors toe the government's line. The Court has rejected, without much justification, their contention that the 2021 changes to the Central Vigilance Commission Act, the Delhi Special Police Establishment Act and the Fundamental Rules go against the spirit of earlier judgments that mandated fixed tenures to the CBI and ED heads only to insulate them from extraneous pressures. The finding that the amendments do not violate any fundamental rights is quite surprising, as allowing the government to have Directors who can pick and choose what cases to investigate based on political instructions certainly offends the rights of citizens to equal treatment and impartial investigation. At a time when there is a cloud of suspicion over the misuse of government agencies against political opponents, the Court's endorsement of a tenure extension system designed to undermine their independence is not conducive to the rule of law.

COMMENTS

SHARE

[judiciary \(system of justice\)](#) / [law enforcement](#) / [laws](#) / [politics](#)

BACK TO TOP

Comments have to be in English, and in full sentences. They cannot be abusive or personal. Please abide by our [community guidelines](#) for posting your comments.

We have migrated to a new commenting platform. If you are already a registered user of The Hindu and logged in, you may continue to engage with our articles. If you do not have an account please register and login to post comments. Users can access their older comments by logging into their accounts on Vuukle.

END

Downloaded from **crackIAS.com**

© **Zuccess App** by crackIAS.com

CrackIAS