

Impeachment saga: The biggest loser is the office of the Chief Justice of India

That the vice-president would reject the notice of motion of impeachment of the Chief Justice of India was a given. Not that there was any threat of an impeachment even if he had sanctioned it; the Opposition does not have the numbers. Still, the notice was an end in itself, not the means to one.

The vice-president has the powers to reject the notice. The admission of such notices happen at his discretion, and there can be no talk of him exceeding his powers. The rejection is on the grounds that the charges laid out in the notice do not constitute the proven misconduct, which can be one of the two grounds for the removal of a judge. The other is incapacity. The vice-president, who says he consulted constitutional and legal experts, including former secretary generals of the Lok Sabha and former chief justices of India, saw no grounds for the notice to be admitted. The CJI is free to allocate cases as “master of the roster”, he indicated, citing the Supreme Court’s own judgment to this effect. And with there being no “proven misconduct” or “incapacity”, his logic went, there is no constitutional basis for the notice to be admitted.

Could he have done things differently? For instance, should the vice-president have said that despite there being no basis, he was admitting the motion, which would entail the creation of a three-member panel to probe the charges laid out in the notice? That’s a tough question to answer, especially because even the admission of the notice could be seen as there being some merit to the charges (and also as a victory for the Opposition). Should the CJI have restricted his judicial duties in the meantime? That’s an equally tough question to answer.

As several legal luminaries have pointed out, while the current process of allocation of cases in the top court may be less than perfect (much like the current process of selecting judges is), an impeachment motion against the CJI isn’t the way to address the issue. They have also pointed out that the vice-president had to decide on the notice quickly because it involved the credibility of the Chief Justice of India and, by extension, the Supreme Court.

The rejection doesn’t mean the end of the story, though. With the Congress deciding to contest the vice-president’s rejection of the notice in the Supreme Court, the issue is only likely to become messier. There are no winners in this. The biggest loser is the highest judicial office in the land, which has now been well and truly politicised.

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