

NEWS

Sitting Gujarat HC judge does U-turn on remarks in Hardik Patel case [Read Order]

Aditya AK

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Justice JB Pardiwala of the Gujarat High Court has found himself in the dock for his strong remarks against reservations in the Hardik Patel case reports [The Hindu](#).

On December 2, Justice Pardiwala pronounced judgment in Hardik Patel's challenge to the sedition charges levelled against him. The sitting judge faces impeachment proceedings after describing reservation as an "amoeboid monster" which along with corruption, is responsible for the "destruction of the country".

The judgment states,

"It is very shameful for any citizen of this country to ask for reservation after 65 years of independence. When our Constitution was framed, it was understood that the reservation would remain for a period of 10 years, but unfortunately, it has continued even after 65 years of independence."

However, the judge has since directed that this paragraph be deleted from the judgment. Responding to a "note for speaking to minutes" filed by the Gujarat government, the court held that.

"Kamal Trivedi...the Advocate General appearing for the State submitted that paragraph 62 in the judgement was not relevant or necessary for the purpose of deciding the main matter, and in such circumstances, paragraph 62 may be deleted..."

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But this was not before 58 members of the Rajya Sabha filed a motion of impeachment against the judge.

Under the Judges Inquiry Act, 1968 (the Act), an impeachment motion requires the assent of at least 50 members of the Upper House.

“If notice is given of a motion for presenting an address to the President praying for the removal of a Judge signed...

...in the case of a notice given in the Council of States, by not less, then fifty members of that Council, then, the Speaker or, as the case may be, the Chairman may, after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him either admit the motion or refuse to admit the same.”

Though, the first step has been completed, it remains to be seen whether the Chairman of the Rajya Sabha will admit the motion. If he does, then he is bound to constitute a three-member Committee for looking into the charges against the judge. Under Section 3(2) of the Act, the Committee shall comprise of a Supreme Court judge, a Chief Justice of a High Court and a distinguished jurist in the mind of the Chairman.

The Committee is then required to frame charges against the judge, who will be afforded the opportunity to make a defence through a written statement. After this, the Committee may amend the charges and the judge will once again be allowed to issue a written statement. Post this procedure, the Committee will draft a report, which will be presented to the Chairman, who will then take the report up for consideration in the Upper House.

The next step is following the procedure under Article 124(4) of the Constitution. The provision states,

“A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-third of the members

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Recently, there was another impeachment motion against a sitting High Court judge; Justice Gangele of the Madhya Pradesh High Court was facing charges of sexual harassment. In that matter, the [3-judge Committee](#) did not find sufficient evidence to indict the judge. The aggrieved petitioner then approached the Supreme Court, which refused to intervene.

It will be interesting to see whether the proceedings progress after the deletion of the comments from the judgement.

Hardik-Patel-v-Gujarat.pdf


Preview

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Hardik Patel

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