

Bill No. 103 of 2020

THE CONSTITUTION (AMENDMENT) BILL, 2020

By

SHRI P. P. CHAUDHARY, M.P.

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BILL

*further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2020.

Short title.

2. In article 124, after clause (7), the following clauses shall be inserted, namely:—

Amendment  
of article 124.

5           "(8) The Chief Justice of India shall not be eligible for further office either under the Government of India or under the Government of any State or in any Public Sector Undertaking after he has ceased to hold his office.

10           (9) A Judge of the Supreme Court shall not be eligible for further office either under the Government of India or under the Government of any State or in any Public Sector Undertaking after he has ceased to hold his office."

## STATEMENT OF OBJECTS AND REASONS

Independence of judiciary is an essential attribute of rule of law, which is a basic feature of the Constitution. Judiciary must be free from all pressures including the pressures from executive as well as psychological pressure on the Judges related to their appointment after retirement. The Judges are required to ensure the independence and impartiality of judiciary by keeping themselves free from any allurements of employment under the Government after their retirement. The Constitution nowhere restricts or prohibits retired Judges of the Hon'ble Supreme Court and the Hon'ble High Courts to hold further office either under the Government of India or under any of the State Government after they ceased to hold office.

The Constitution of India, specifically prohibits the Chairman of Union Public Service Commission and its Members, the Chairmen and the members of State Public Service Commissions for further employment after their retirement, either under the Government of India or under the Government of the State.

Likewise article 148(4) of the Constitution provides that the Comptroller and Auditor General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

The Chief Justice and Judges of the Supreme Court, the Comptroller and Auditor General of India, the Chairman of Union Public Service Commission, the Chairman of the Union Public Service Commission, the Chairmen and members of the State Public Service Commissions are constitutional functionaries and they should be kept free from all kinds of allurements or employment under the Government after cessation of their respective offices. It is presumed that reappointment of Judges, after cessation of office would have effect of undermining the independence and fairness of judiciary.

In the present scenario, the Chief Justice and Judges are getting handsome salary, other amenities, perks and post retirement benefits. The Chief Justice and Judges of the Supreme Court are adjudicating rights of citizens which have been jeopardized by the Government. The Judges are coming in contact with the Government on every step. As such need of the moment is to introduce similar provisions in the Constitution for prohibiting the Chief Justice and the Judges of the Supreme Court from holding any employment under the Government of India or under the Government of State after their retirement.

Hence this Bill.

NEW DELHI;  
January 28, 2020.

P.P. CHAUDHARY

ANNEXURE

[EXTRACT FROM THE CONSTITUTION OF INDIA]

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124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges. Establishment and constitution of Supreme Court.

(2) \* \* \* \* \*

(3) \* \* \* \* \*

(4) \* \* \* \* \*

(5) \* \* \* \* \*

(6) \* \* \* \* \*

(7) \* \* \* \* \*

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*(Shri P.P. Chaudhary, M.P.)*

MGIPMRND—157LS(S3)—16.07.2020.