

Bill No. 318 of 2019

THE CONSTITUTION (AMENDMENT) BILL, 2019

By

SHRI RAJENDRA AGRAWAL, M.P.

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BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2019.

Short title.

2. After article 123 of the Constitution, the following article shall be inserted below the heading "CHAPTER IV.—THE UNION JUDICIARY", namely:—

Insertion of
new article
123A.

5 "123A. None of the articles *viz.* 124, 127, 128, 217, 222, 224A and 231, as amended,
and new articles 124A, 124B and 124C, as inserted, by the Constitution (Ninety-Ninth
Amendment) Act, 2014 shall be deemed to be void, or ever to have become void, on the
ground that the said articles are inconsistent with, or takes away, the independence of
judiciary, and, notwithstanding any judgment, decree or order of any court, each of the
10 said article shall, subject to power of Parliament to omit or amend them, continue in
force and shall be deemed always to be in force from the 13th day of April, 2015."

Validation.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India contains provisions for the appointment of Judges of the Supreme Court and High Courts including the transfer of Judges from one High Court to another High Court. The Supreme Court in the matter of the Supreme Court Advocates-on-Record Association Vs. Union of India in the year 1993, and in its Advisory Opinion in 1998 in the Third Judges case, had interpreted clause (2) of article 124 and clause (1) of article 217 of the Constitution with respect to the meaning of "consultation" as "concurrence".

The National Judicial Appointments Commission Bill, 2019 provides for the time frame to initiate the process of filling up of vacancies in the Supreme Court and High Courts and the procedure for selection of Chief Justice of India, Chief Justices of High Courts and Judges of the Supreme Court and High Courts. It further provides that if two members of National Judicial Appointments Commission do not agree, then the Commission shall not make such recommendation. It also provides that the President may, if necessary, require the Commission to reconsider the recommendation. However, if the Commission makes unanimous recommendations on such reconsideration, then the President shall make the appointment accordingly.

The Bill, therefore, seeks to insert a new article 123A to the Constitution with a view to validate the Constitution (Ninty-ninth Amendment) Act, 2014 thereby providing for National Judicial Appointments Commission for the appointment of Judges in the Supreme Court and High Courts, enables participation of judiciary, executive and eminent persons and ensures greater transparency, accountability and objectivity in the appointment of the Judges in the Supreme Court and High Courts.

Hence, this Bill.

NEW DELHI;
October 25, 2019.

RAJENDRA AGRAWAL

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further to amend the Constitution of India.

(Shri Rajendra Agrawal, M.P.)