

**GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
DEPARTMENT OF JUSTICE**

**RAJYA SABHA  
UNSTARRED QUESTION No. 1873**

**ANSWERED ON 16.03.2023**

**Representation of marginalized sections in the higher judiciary**

**1873 SHRI MASTHAN RAO BEEDA:**

**Will the Minister of LAW AND JUSTICE be pleased to state:**

- (a) whether Government has planned to set up the Indian Judicial Service (IJS) as an All India Service to fill the vacancies in the higher judiciary and give representation to marginalized sections of the society therein ;
- (b) if so, the details and status thereof and if not, the reasons therefor; and
- (c) the details of other steps taken, if any, by Government to ensure representation of marginalized sections of the society in higher judiciary and if no steps taken, the reasons therefor ?

**ANSWER**

**MINISTER OF LAW AND JUSTICE**

**(SHRI KIREN RIJJU)**

(a) to (c): Appointment of Judges of the Supreme Court and High Courts is made under Articles 124, 217 and 224 of the Constitution of India, which do not provide for reservation for any caste or class of persons. However, the Government has been requesting the Chief Justices of High Courts that while sending proposals for appointment of Judges, due consideration be given to suitable candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes, Minorities and Women to ensure social diversity in appointment of Judges in High Courts. As per Memorandum of Procedure for appointment of Judges in the Supreme Court and High Courts, the Government appoints only those persons who are recommended by the Supreme Court Collegium.

Article 312 of the Constitution provides for the establishment of All India Judicial Service (AIJS), which shall not include any post inferior to that of a District Judge. The constitutional provision enables creation of the AIJS at District Judiciary. In Government's view, a properly framed All India Judicial Service, with entry at District Judge level, is important to strengthen overall justice delivery

system. This will give an opportunity for induction of suitably qualified fresh legal talent selected through a proper all-India merit selection system as well as address the issue of social inclusion by enabling suitable representation to marginalized and deprived sections of society.

A comprehensive proposal was formulated for the constitution of an All India Judicial Service (AIJS) and the same was approved by the Committee of Secretaries in November, 2012. Besides attracting some of the best talent in the country, it may also facilitate inclusion of competent persons from marginalized sections and women in the judiciary. The proposal was included as an agenda item in the Conference of Chief Ministers and Chief Justices of the High Courts held in April, 2013 and it was decided that the issue needs further deliberation and consideration.

The views of the State Governments and High Courts were sought on the proposal. There was divergence of opinion among the State Governments and among the High Courts on the constitution of All India Judicial Service. While some State Governments and High Courts favoured the proposal, some were not in favour of creation of All India Judicial Service while some others wanted changes in the proposal formulated by the Central Government.

The matter regarding creation of a Judicial Service Commission to help the recruitment to the post of district judges and review of selection process of judges/ judicial officers at all level was also included in the agenda for the Chief Justices Conference, which was held on 03<sup>rd</sup> and 04<sup>th</sup> April, 2015, wherein it was resolved to leave it open to the respective High Courts to evolve appropriate methods within the existing system to fill up the vacancies for appointment of District judges expeditiously. The proposal for constitution of All India Judicial Service with views from the High Courts and State Governments received thereon was also included in the agenda for the Joint Conference of Chief Ministers and Chief Justices of High Courts held on 05<sup>th</sup> April, 2015.

The proposal of setting up of an All India Judicial Service was again discussed on points of eligibility, age, selection criteria, qualification, reservations etc. in a meeting chaired by Minister of Law and Justice on 16<sup>th</sup> January 2017 in the presence of Minister of State for Law and Justice, Attorney General for India, Solicitor General of India, Secretaries of Department of Justice, Department of Legal Affairs and Legislative Department. Setting up AIJS was also deliberated in a meeting of the Parliamentary Consultative Committee in March, 2017 and the Parliamentary Committee on the Welfare of SCs/STs on 22.02.2021.

In view of the existing divergence of opinion amongst the major stakeholders, at present, there is no consensus on the proposal for setting up an All India Judicial Service.

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