

GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
DEPARTMENT OF JUSTICE
RAJYA SABHA
STARRED QUESTION NO. 110
ANSWERED ON 01.08.2024

VACANCIES OF JUDGES IN COURTS OF KERALA

*110. SHRI SANDOSH KUMAR P:

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

- (a) the number of vacancies of Judges in the High Court of Kerala, District Courts and Sub-ordinate Courts as of 31st March, 2024;
- (b) whether Government has taken any steps to fill the vacant posts in the judiciary in Kerala;
- (c) if so, the details thereof; and
- (d) if not, the reasons therefor?

ANSWER

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF LAW AND JUSTICE; AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS

(SHRI ARJUN RAM MEGHWAL)

(a) to (d): A Statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO PARTS (a) TO (d) OF RAJYA SABHA STARRED QUESTION NO. *110 FOR ANSWER ON 01.08.2024 REGARDING 'VACANCIES OF JUDGES IN COURTS OF KERALA.

(a): The Status of vacancies of Judges in Kerala is as under:

S. No.	Name of Court	Vacancy as on 31.03.2024
1	High Court	06
2	District and Subordinate Courts	55*

*Excludes 3 non – judicial deputation posts in the cadre of District and Sessions Judge based on the new policy of High Court restricting deputation to such posts.

(b) to (d): The Judges of High Courts are appointed under Article 217 and 224 of the Constitution of India and according to the procedure laid down in the Memorandum of Procedure (MoP) prepared in 1998 pursuant to Supreme Court Judgement of October 6, 1993 (Second Judges case) read with their Advisory Opinion of October 28, 1998 (Third Judges case).

As per the MoP, the responsibility for initiation of proposals for appointment of Judges in the High Court vests with the Chief Justice of the concerned High Court, in consultation with two senior-most puisne Judges of the High Court. For appointments of judge to the High Court, under the MoP, the views of concerned State Government is also obtained. The recommendations also have to be considered in the light of such other reports as may be available to the Government in respect of the names under consideration. The recommendations of the High Court Collegium, the State Government and the Government of India are then forwarded to the Supreme Court Collegium (SCC) for advice. Only those persons are appointed as Judge of High Courts whose names have been recommended by the SCC.

Appointment of Judges in Supreme Court and High Courts is a continuous, integrated and collaborative process between the Executive and the Judiciary. It requires consultation and approval from various constitutional authorities both at State and Central level. While every effort is made to fill up the existing vacancies expeditiously, vacancies of Judges in High Courts do keep on arising on account of retirement, resignation or elevation of Judges and also due to increase in the strength of Judges.

The filling up of vacant positions in the District Courts of the country is the responsibility of the High Courts and State Governments concerned. As per the Constitutional framework, in exercise of powers conferred under proviso to Article 309 read with Articles 233 and 234 of the Constitution, the respective State Government in consultation with the High Court frames the rules and regulations regarding the issues of appointment and recruitment of Judicial Officers in the respective State Judicial Service. In some States, the respective High Court

undertakes the recruitment process, whereas in other States, the High Court does it in consultation with the State Public Service Commission. The Hon'ble Supreme Court vide judicial order passed in January 2007 in the Malik Mazhar Sultan case, has stipulated certain timelines which are to be followed by the States and the respective High Courts for initiating the recruitment process of judges in subordinate courts.
