

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF JUSTICE

RAJYA SABHA
UNSTARRED QUESTION NO. 3786

ANSWERED ON 03.04.2025

GOVERNMENT'S VIEW ON NJAC

3786. DR. SASMIT PATRA:

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

- (a) Government's view relating to the National Judicial Appointments Committee (NJAC);
- (b) whether Government would again consider bringing in the NJAC legislation; and
- (c) if not, whether Government is willing to work with the Supreme Court to reform the Collegium in line with the Court's view in its judgment delivered while striking down the NJAC?

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 (c): In order to replace the Collegium system of appointments of Judges of the Supreme Court and High Courts with a more broad-based, transparent, accountable appointment mechanism and to bring greater objectivity in the system, the Constitution (Ninety-Ninth Amendment) Act, 2014 and the National Judicial Appointments Commission Act, 2014 were brought into effect on 13.04.2015. However, both the Acts were challenged in the Supreme Court. The Supreme Court vide its Judgment dated 16.10.2015 declared both the Acts as unconstitutional and void. The Collegium system as existing prior to the enforcement of the Constitution (Ninety-Ninth Amendment) Act, 2014 was declared to be operative.

The Supreme Court vide order dated 16.12.2015 in the WP(C) 13 of 2015 directed that the existing Memoranda of Procedure (MoPs) be finalized by supplementing them in consultation with the Supreme Court Collegium (SCC) taking into consideration eligibility criteria, transparency, establishment of secretariat and mechanism to deal with complaints.

Accordingly, certain changes were proposed to the existing MoPs and the draft MoPs were forwarded to the Chief Justice of India vide letter dated 22.03.2016.

The responses from the SCC were received on 25.05.2016 and 01.07.2016. The comments in response to the views of SCC were conveyed to the Chief Justice of India on 03.08.2016. The SCC provided their comments on the draft MoP on 13.03.2017. Subsequently, the Supreme Court in judgement dated 04.07.2017 in Suo-Motu Contempt proceedings against a Judge of the Calcutta High Court inter-alia highlighted the need to revisit the process of selection of judges. The views of the Government on points raised therein were conveyed to the Secretary General, Supreme Court vide letter dated 11.07.2017. The Supreme Court in WP(C) 1236 of 2019 order dated 20.04.2021 laid down fresh criteria for appointment of retired judges. Accordingly, the views of the Government on supplementing Para 24 of existing MoP which provides for the appointment of retired judges at the sitting of High Courts were also communicated to the Chief Justice of India vide letter dated 18.08.2021. The Chief Justice of India was requested to look into various issues related to the MoP vide letter dated 06.01.2023.

A Supreme Court Bench vide its order dated 30.01.2025 has partially amended the aforesaid judgment dated 20.04.2021 in WP(C) 1236 of 2019 and has, inter-alia, directed that each High Court may take recourse to Article 224A of the Constitution of India for appointment of ad-hoc Judges, between 2 and 5 in number but not exceeding 10% of the sanctioned strength of the High Court.
