

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
DEPARTMENT OF JUSTICE

RAJYA SABHA  
UNSTARRED QUESTION NO. 3309  
ANSWERED ON 21/08/2025

**SYSTEM FOR APPOINTMENT OF JUDGES**

3309 **DR. M. THAMBIDURAI:**

Will the Minister of *Law and Justice* be pleased to state:

- (a) whether Government is aware that by way of collegium system, the judges are appointing judges in this country, which is not supported by the Constitution of India;
- (b) if so, the details thereof;
- (c) whether it is a fact that there are demands that this system must be changed to have quality of judges;
- (d) if so, the details thereof;
- (e) the alternative mechanism that Government proposes to have instead of the Collegium system of appointment of judges; and
- (f) the action taken by Government in this regard?

**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 (f): Appointments of judges in the Supreme Court and High Courts are governed by Articles 124, 217 and 224 of the Constitution. The procedure for appointment of Judges of the Supreme Court and High Courts is laid down in the Memorandum of Procedure (MoP) prepared in 1998 pursuant to the Supreme Court Judgment of October 6, 1993 (Second Judges case) read with their Advisory Opinion of October 28, 1998 (Third Judges case). As per the MoP, initiation of proposal for appointment of Judges in the Supreme Court vests with the Chief Justice of India and initiation of proposal for appointment of Judges in the High Courts vests with the Chief Justice of the concerned High Court. Only those persons are appointed as Judges of High Courts and the Supreme Court who are recommended by the Supreme Court Collegium (SCC).

Appointment of the Judges of the Constitutional 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.

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 Judgment 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.

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