

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF JUSTICE

LOK SABHA
UNSTARRED QUESTION NO. 3570

TO BE ANSWERED ON WEDNESDAY, THE 08.08.2018

Collegium System

3570. DR. SHASHI THAROOR:
SHRI MULLAPPALLY RAMACHANDRAN

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

(a) the total number of recommendations from the collegium of the Supreme Court for appointment of judges to the higher judiciary, which is still pending with the Government since May, 2014 including the names of the persons recommended and the corresponding date of such recommendations;

(b) whether any of the names were sent back to the collegium for reconsideration and if so, out of such names sent back for reconsideration, the number which were reiterated by the Supreme Court collegium including the name of such persons and the dates on which the collegium reiterated their recommendation;

(c) whether the Government is taking steps to dispose off all pending recommendations for appointment to the higher judiciary, in a time bound manner, if so, the details thereof and if not, the reasons therefor; and

d) whether the Government is considering any change in the Collegium System on appointment of judges in higher courts of the country?

ANSWER
MINISTER OF STATE FOR LAW AND JUSTICE AND CORPORATE
AFFAIRS
(SHRI P.P. CHAUDHARY)

(a) to (d): Filling up of vacancies in the High Courts is a continuous and collaborative process of the Judiciary and Executive involving various Constitutional Authorities. Hence, the precise time frame for filling up the post of Judges of Supreme Court and High Courts cannot be indicated.

No recommendations of the Supreme Court Collegium for the year 2014 is pending with the Government of India. For the year 2015, the Supreme Court Collegium has conveyed on 1st August, 2018 for remitting two names recommended by the Allahabad High Court back to the Chief Justice of Allahabad High Court.

The Collegium System of appointment of Judges of the Supreme Court and High Courts ceased to exist consequent upon the coming into force of the Constitution (Ninety-Ninth Amendment) Act, 2014 and the National Judicial Appointments Commission Act, 2014 w.e.f. 13.04.2015. The Constitution validity of both the Acts was challenged in the Supreme Court. During the period when the relevant case was pending, only those Additional Judges whose terms were expiring were given extension of service.

The Supreme Court of India vide order dated 16.10.2015 struck down both the Acts as unconstitutional and void and the Collegium System as existing prior to the enforcement of both the Acts was declared to be operative.

Subsequently, the Supreme Court of India vide order dated 16.12.2015 regarding improvement in the “Collegium System”, directed the Government to finalize the existing Memorandum of Procedure (MoP) by supplementing it in consultation with the Supreme Court Collegium, taking into consideration factors such as eligibility criteria, transparency, establishment of secretariat and mechanism to deal with complaints.

As the process of finalizing the supplementation of the existing Memorandum of Procedure (MoP) was likely to take some time, at the initiative of the Government, the matter of continuing the appointment process was taken up with Supreme Court, and appointments of Judges in the Supreme Court and the High Courts are being made in accordance with the existing MoP.

The details of the appointments made in the Supreme Court and High Courts are given below:-

Position on Appointments in Supreme Court & High Courts			
	2016	2017	2018
Judges appointed in the Supreme Court	04	05	04
Appointment of Chief Justices	14	08	15
Judges appointed in the High Courts	126	115	36
Additional Judges made Permanent in High Courts	131	31	70

At present, 143 names recommended by the High Court Collegium have been submitted and pending with the Supreme Court Collegium. Further, 5 names recommended by Supreme Court Collegium have been referred back by the Government to Supreme Court for reconsideration and 27 proposals including those names reiterated by Supreme Court Collegium are under various stages of processing with the Government, as per the procedure prescribed in the MoP.
