

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
DEPARTMENT OF JUSTICE

**LOK SABHA**  
**STARRED QUESTION NO. 206**

**TO BE ANSWERED ON WEDNESDAY, THE 26.12.2018**

**National Judicial Commission**

†\*206. SHRI ASHOK MAHADEORAO NETE:

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

- a) whether the Government proposes to constitute a National Judicial Commission and provide representation to the persons belonging to the Scheduled Castes and Scheduled Tribes therein;
- b) if so, the details thereof and if not, the reasons therefor;
- c) the details of the requests received by the Government in this regard from the peoples representatives and other organizations so far; and
- d) the action taken/proposed to be taken by the Government in this regard?

**ANSWER**

**MINISTER OF LAW AND JUSTICE AND ELECTRONICS AND  
INFORMATION TECHNOLOGY**

**(SHRI RAVI SHANKAR PRASAD)**

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

**Statement referred to in reply to Parts (a) to (d) of Lok Sabha Starred Question No. 206 due for answer on 26.12.2018 regarding “National Judicial Commission”**

(a) to (d): There is no proposal to constitute National Judicial Commission. In order to replace the Collegium System of appointments of Judges in Higher Judiciary and to make it more broad based, transparent, accountable and objective, the Government enacted the Constitution (Ninety ninth Amendment) Act, 2014 and National Judicial Appointments Commission Act, 2014 w.e.f. 13.04.2015.

It was proposed that the National Judicial Appointments Commission, *inter-alia* would consist of two eminent persons to be nominated by the Committee consisting of the Prime Minister, the Chief Justice of India and the leader of Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of single largest Opposition Party in the House of the People.

With a view to ensure the inclusiveness of composition of the National Judicial Appointments Commission, it was provided that one of the eminent persons would be nominated from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities and Women.

The constitutional validity of both the Acts was challenged in the Supreme Court. The Supreme Court vide 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. Hence the National Judicial Appointments Commission could not be set up.

Appointment of Judges of the Supreme Court and High Courts is made under Articles 124 and 217 of the Constitution of India respectively. These Articles do not provide for reservation for any caste or class of persons. The Government has, however been requesting the Chief Justices of the 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 the Benches of the High Courts.

So far as Subordinate Judiciary is concerned, under Article 235 of the Constitution of India, the administrative control over the members of district and subordinate judiciary in the States vest with the concerned High Court. Further 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, promotion, reservations etc. of Judicial Officers in the State Judicial Service. Therefore, Central Government has no role in this regard.

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