

**GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
DEPARTMENT OF JUSTICE**

**LOK SABHA**

**UNSTARRED QUESTION NO. 546**

**TO BE ANSWERED ON FRIDAY, THE 09.12.2022**

**Memorandum of Procedure for Appointment of Judges**

**546. SHRI A.K.P. CHINRAJ:  
SHRI SADASHIV KISAN LOKHANDE:**

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

- (a) the status of Memorandum of Procedure (MoP) for recruitment of judges in High Courts and Supreme Court of India and the matter of dispute between the Government and the judiciary regarding MoP;
- (b) the changes desired by the judiciary in MoP and the constraints of the Government in implementing these changes;
- (c) whether the Government has received any letter from Supreme Court/Collegium with regard to change of timeline in appointment of High Court Judges in line with Judge of supreme court in M/s PLR Projects Pvt. Ltd. vs. Mahanadi Coalfield Ltd. and Ors. [transfer petition (civil) no: 2419 of 2019] and if so, the details thereof; and
- (d) whether the Government has any proposal to amend the MoP for appointment of Judges of High Court in line with Judgement of Supreme Court in the above mentioned petition, if so, the details thereof?

**ANSWER  
MINISTER OF LAW AND JUSTICE  
(SHRI KIREN RIJJU)**

(a) to (d): Appointment of Judges in the High Courts is an administrative matter between the Executive and the Judiciary. As per the existing Memorandum of Procedure for appointment of Judges of the High Courts, the Chief Justice of the High Court

concerned is required to initiate the proposal for filling up the vacancy six months prior to the occurrence of the vacancies.

Hon'ble Supreme Court while hearing WP(C) 13 of 2015 in NJAC matter issued detailed Order on 16.12.2015 on supplementing the Memorandum of Procedure (MoP). In para 10 of the ibid Order, it was laid down that Government of India may finalize the Memorandum of Procedure by supplementing it in consultation with the Chief Justice of India taking into consideration eligibility criteria, transparency, establishment of secretariat and mechanism to deal with complaints. The Chief Justice of India will take a decision based on the unanimous view of the Collegium comprising of four senior most puisne Judges of the Supreme Court.

The Government of India after due deliberations, proposed changes in the existing MoP and the draft MoP's were sent to the Hon'ble Chief Justice of India vide letter dated 22.03.2016. The response of the Chief Justice of India thereon was received on 25.05.2016 and 01.07.2016. The views of the Government were conveyed to the Chief Justice of India on 03.08.2016. The inputs on the MoP of the Supreme Court Collegium was received from Chief Justice of India vide letter dated 13.03.2017. In another judgment dated 04.07.2017 of Supreme Court in a "suo moto" contempt proceeding against a Judge of the Calcutta High Court, the Supreme Court has underlined the need to revisit the process of selection and appointment of Judges to the Constitutional Courts. The Government of India has conveyed the need to make improvement on the draft MoP to the Secretary General of the Supreme Court vide letter dated 11.07.2017.

The Supreme Court has prescribed additional timelines to be followed by constitutional authorities in the matter of processing of appointments of Judges to the High Courts vide its order dated 20.04.2021 in M/s PLR Projects Pvt Ltd. vs Mahanadi Coalfield Ltd. and Ors [transfer petition (civil) no: 2419 of 2019]. However, these timelines are not yet a part of MoP. Supreme Court in a separate judgement dated 20.04.2021 in WP(C) 1236 of 2019 on the matter of appointment of retired judges at sittings of High Courts under Article 224A of the Constitution of India, has laid down fresh criterion for their appointment. After detailed deliberation, Government has

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submitted its views to the Chief Justice of India on 18.08.2021 to supplement para 24 of existing MoP which provides for the appointment of retired judges at the sitting of High Courts under Article 224A. No separate letter has been received from the Supreme Court/Collegium with regard to change of timeline in appointment of High Court Judges

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