

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

**LOK SABHA
STARRED QUESTION NO.*199**

TO BE ANSWERED ON FRIDAY, THE 15.12.2023

Delay in Approval of Recommendations of High Courts Collegium

***199. SHRI VINAYAK RAUT:**

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

- (a) whether the Government has taken cognizance of the pending recommendations of High Courts collegiums for the appointment of Judges during the last 10 months;
- (b) if so, the details of the steps taken to expedite the process for speedy implementation along with reason(s) for the delay in the procedure;
- (c) whether the Government has taken measures to prevent the loss of talent in judiciary due to delay in approval of collegium recommendations;
- (d) if so, the details of the remedial measures taken/proposed in this regard; and
- (e) if not, whether the Government has taken measures to compensate the appointees for this delay and if so, the details thereof?

ANSWER

**MINISTER OF STATE (INDEPENDENT CHARGE) OF THE
MINISTRY OF LAW AND JUSTICE; MINISTER OF STATE IN THE
MINISTRY OF PARLIAMENTARY AFFAIRS; AND MINISTER OF
STATE IN THE MINISTRY OF CULTURE**

(SHRI ARJUN RAM MEGHWAL)

(a) to (e): A statement is laid on the Table of the House.

Statement referred to in reply to parts (a) to (e) of Lok Sabha Starred Question No. 199 due for answer on 15.12.2023 regarding “Delay in approval of Recommendations of High Courts Collegium”.

(a) to (e):As on 01.01.2023, 171 proposals received from High Court Collegiums were at different stages of processing. During the calendar year 2023, 122 fresh proposals were received. Out of the total 293 proposals for consideration during the current calendar year, 110 Judges have been appointed and 60 recommendations were remitted to the High Courts on the advice of the SCC. As on 12.12.2023, 123 proposals are at various stages of processing. Out of these 123 proposals, 81 proposals are at various stages of processing in the Government.42 proposals are under consideration with the SCC. Recommendations are yet to be received from High Court Collegiums in respect of the remaining 201 vacancies.

Judges of the Supreme Court and High Courts are appointed under Article 124, 217 and 224 of the Constitution of India and according to the procedure 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 MoP, initiation of proposal for appointment of Judges in the High Courts vests with the Chief Justice of the concerned High Court. All the names recommended by High Court Collegium are sent with the views of the Government to the Supreme Court Collegium (SCC) for advice. The Government appoints only those persons which are recommended by the SCC.

In order to make the Collegium system of appointments of Judges of the Supreme Court and High Courts more broad-based, transparent, accountable and bringing objectivity in the system, the Government brought into force the Constitution (Ninety-Ninth Amendment) Act, 2014 and the National Judicial Appointments Commission Act, 2014 w.e.f. 13.04.2015. However, both the Acts

were 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.

Subsequently, the Supreme Court vide order dated 16.12.2015 directed the Government to finalize the existing MoP by supplementing it in consultation with the SCC taking into consideration eligibility criteria, transparency, establishment of secretariat and mechanism to deal with complaints. The Government of India after due deliberations, proposed changes in the existing MoP and the draft MoPs were sent to the Hon'ble Chief Justice of India vide letter dated 22.03.2016. Responses of SCC were received on 25.05.2016 and 01.07.2016 and comments thereon were conveyed to the Chief Justice of India on 03.08.2016. The SCC provided their comments on the views of the Government on draft MoP on 13.03.2017. The stand of Government with suggestions to resolve issues involved in appointment of Judges was conveyed to the Supreme Court vide letter dated 11.07.2017. In its recent communication dated 06.01.2023 to the Chief Justice of India, the Government has emphasized the need to finalize the MoP in view of various judicial pronouncements and to consider various suggestions sent by the Government from time to time for making the system of appointment of judges to the Constitutional Courts more transparent, fair, representative and accountable.

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. While it is of utmost importance that the appointments are made expeditiously, at the same time it is also important to ensure that only the most suitable candidates are appointed as Judges in the High Courts under the collaborative process.
