

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

**LOK SABHA
STARRED QUESTION NO. 191**

TO BE ANSWERED ON FRIDAY, THE 10.12.2021

All India Judicial Services

***191. SHRI BIDYUT BARAN MAHATO:
ADV. ADOOR PRAKASH:**

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

- (a) whether it is true that Union Government is considering the revival of proposed All India Judicial Services(AIJS) to recruit judges on the lines of Civil Services;
- (b) if so, the details and outlines thereof;
- (c) whether the Government is working to reach a general consensus with various State Governments in this regard and if so, the details thereof; and
- (d) whether the Government is facing any opposition from some State Governments and High Courts and if so, the details thereof and the steps being taken by the Government to reach consensus in this regard?

ANSWER

MINISTER OF LAW AND JUSTICE

(SHRI KIREN RIJJU)

(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. * 191 due for answer on 10.12.2021 regarding “All India Judicial Services”

In Government's view, a properly framed All India Judicial Service is important to strengthen overall justice delivery system. This will give an opportunity for induction of suitably qualified fresh legal talent selected through a proper all-India merit selection system as well as address the issue of social inclusion by enabling suitable representation to marginalized and deprived sections of society.

A comprehensive proposal was formulated for the constitution of an All India Judicial Service (AIJS) and the same was approved by the Committee of Secretaries in November, 2012. Besides attracting some of the best talent in the country, it may also facilitate inclusion of competent persons from marginalized sections and women in the judiciary. The proposal was included as an agenda item in the Conference of Chief Ministers and Chief Justices of the High Courts held in April, 2013 and it was decided that the issue needs further deliberation and consideration.

The views of the State Governments and High Courts were sought on the proposal. There was divergence of opinion among the State Governments and among the High Courts on the constitution of All India Judicial Service. While some State Governments and High Courts favoured the proposal, some were not in favour of creation of All India Judicial Service while some others wanted changes in the proposal formulated by the Central Government. So far as the states are concerned 02 States are in favour of constitution of AIJS, 08 States are not in favour, 05 States want changes in the proposal and the response is awaited from 13 States (**ANNEXURE-I**). As far as High Courts are concerned 02 High Courts are in favour of constitution of AIJS, 13 are not in favour, 06 want changes in the proposal and 02 are yet to give their response. (**ANNEXURE-II**)

The matter regarding creation of a Judicial Service Commission to help the recruitment to the post of district judges and review of selection process of judges/ judicial officers at all level was also included in the agenda for the Chief Justices Conference, which was held on 03rd and 04th April, 2015, wherein it was resolved to leave it open to the respective High Courts to evolve appropriate methods within the existing system to fill up the vacancies for appointment of District judges expeditiously. The proposal for constitution of All India Judicial Service with views from the High Courts and State Governments received thereon was included in the agenda for the Joint Conference of Chief Ministers and Chief Justices of High Courts held on 05th April, 2015. However, no progress was made on the subject.

The proposal of setting up of an All India Judicial service was again discussed on points of eligibility, age, selection criteria, qualification, reservations etc. in a meeting chaired by Minister of Law and Justice on 16th January 2017 in the presence of Minister of State for Law and Justice, Attorney General for India, Solicitor General of India, Secretaries of Department of Justice, Legal affairs and Legislative Department. Setting up AIJS was also deliberated in a meeting of the Parliamentary Consultative Committee in March, 2017 and the Parliamentary Committee on the Welfare of SCs/STs on 22.02.2021.

In view of the existing divergence of opinion amongst the stakeholders, the Government is engaged in a consultative process with the stakeholders to arrive at a common ground.

ANNEXURE-I

A. Response of State Governments regarding Constitution of AIJS

States in favour of constitution of AIJS	
(i) Haryana (proposal seems to be justified) (ii) Mizoram	2
States, which are NOT in favour of constitution of AIJS	
(i) Arunachal Pradesh (ii) Himachal Pradesh (iii) Karnataka (iv) Madhya Pradesh (v) Maharashtra (vi) Meghalaya (vii) Nagaland (viii) Punjab	8
States, which want changes in the proposal	
(i) Bihar (wants major changes) (ii) Chhattisgarh (only 15% vacancies of ADJ to be filled through AIJS) (iii) Manipur (wants certain changes) (iv) Orissa (wants changes in the proposals) (v) Uttarakhand	5
States, which are yet to respond on constitution of AIJS.	

(i) Gujarat	13
(ii) Jharkhand	
(iii) Rajasthan	
(iv) Tamil Nadu	
(v) Assam	
(vi) Andhra Pradesh	
(vii) Kerala	
(viii) Uttar Pradesh	
(ix) West Bengal	
(x) Telangana	
(xi) Goa	
(xii) Sikkim	
(xiii) Tripura	
Total	28

Views / responses of the State Governments on the proposal formulated by the Central Government for creation of All India Judicial Service (AIJS)

Sr. No.	Name of the State	Comments
States in favour of constitution of AIJS		
1.	Haryana	The proposal for creation of All India Judicial Service (AIJS) seems to be justified.
2.	Mizoram	Government of Mizoram supports creation of AIJS on the lines of IAS, IPS and other Central Services.
States NOT in favour of constitution of AIJS		
1.	Arunachal Pradesh	State is of the view that considering the fact that the Arunachal Pradesh is purely a tribal state with its own peculiar and distinct tribal customs and ethos and the modes of rendering justice varies from tribes to tribes, the proposition of having a common judicial services would not be the right proposition and would create chaos and instability in their administration of justice.
2.	Himachal Pradesh	Keeping in view the ground realities, it will not be appropriate to have All India Judicial Service. As such, the State of Himachal Pradesh is not in favour of the creation of an All India Judicial Service.
3.	Karnataka	Government of Karnataka is not agreeable for creation of All India Judicial Service.
4.	Madhya Pradesh	The State Government had earlier forwarded the comments of M.P. High Court. The High Court is not in favour of formation of All India Judicial Service.
5.	Maharashtra	The State Government does not agree with the proposal of Central Government. They want recruitment to be done at JMFC level.
6.	Meghalaya	State Government is of the opinion that formation of AIJS is

		not <u>desirable</u> .
7.	Nagaland	Nagaland Judicial Officers are recruited by the High Court. Hence, they cannot be at par with the IAS / IPS. The State Government of Nagaland has reservation for creation of All India Judicial Service (AIJS).
8.	Punjab	The State Government does not favour creation of AIJS
States which want changes in the proposal		
1.	Bihar	State Government is open to creation of AIJS but wants major changes in the proposal formulated by Central Government.
2.	Chhattisgarh	State Government of Chhattisgarh wants only 15% of vacancies at level of Additional District Judge and above from the Bar to be filled up through AIJS.
3.	Manipur	State Government is open to AIJS but wants certain changes in the proposal formulated by Central Government.
4.	Orissa	The State Governments wants changes in the proposal. They are insisting on minimum experience of ten years and upper age limit of forty years.
5.	Uttarakhand	State Government agrees with the views of High Court of Uttarakhand that changes are required in the proposal formulated by Central Government.
States which are yet to respond on constitution of AIJS.		
1.	Gujarat	No response received.
2.	Jharkhand	No response received.
3.	Rajasthan	No response received.
4.	Tamil Nadu	No response received.
5.	Assam	No response received.
6.	Andhra Pradesh	No response received.
7.	Kerala	No response received.

8.	Uttar Pradesh	No response received.
9.	West Bengal	No response received.
10.	Telangana	No response received.
11.	Goa	No response received.
12.	Tripura	No response received.
13.	Sikkim	No response received.

ANNEXURE-II

B. Response of High Courts regarding Constitution of AIJS

High Courts in favour of constitution of AIJS	
(i) Sikkim	2
(ii) Tripura	
High Courts, which are NOT in favour of constitution of AIJS	
(i) Andhra Pradesh	13
(ii) Bombay	
(iii) Delhi	
(iv) Gujarat	
(v) Karnataka	
(vi) Kerala	
(vii) Madras	
(viii) Patna	
(ix) Punjab and Haryana	
(x) Calcutta	
(xi) Jharkhand	
(xii) Rajasthan	
(xiii) Odisha	
High Courts, which want changes in the proposal	
(i) Allahabad (changes in age & qualifications)	6
(ii) Chhattisgarh (15% of total vacancies from the Bar)	

<p>(iii) Himachal Pradesh (selection in consonance with recommendations of Shetty Commission)</p> <p>(iv) Meghalaya (Officers of AIJS are given option for elevation to High Courts of three States)</p> <p>(v) Uttarakhand (Changes in age, induction level, recruitment body, qualifications, allocation to States, Quota, Training)</p> <p>(vi) Manipur (Subject to allocation of cadre and language).</p>	
<p>High Courts, which are yet to give response</p>	
<p>(i) Gauhati</p> <p>(ii) Madhya Pradesh</p>	<p>2</p>
<p>Total</p>	<p>23</p>

Views / responses of the High Courts on the proposal formulated by the Central Government for creation of All India Judicial Service (AIJS)

Sr. No.	Name of the High Court	Comments / vies of the High Court
High Courts in favor of AIJS		
1.	Sikkim	Sikkim High Court concurs with proposal and also the features suggested by the Central Government.
2.	Tripura	High Court of Tripura is in favour of All India Judicial Service.
High Courts NOT in favor of AIJS		
1.	Andhra Pradesh	Majority of Hon'ble Judges of Andhra Pradesh High Court have not accepted the proposal for creation of All India Judicial Service (AIJS)
2.	Bombay	The issue of formation of All India Judicial Service was placed before full Court meeting on 20.09.2014, when it was decided NOT to recommend formation of an All India Judicial Service.
3.	Delhi	Delhi High Court has reservation about AIJS.
4.	Gujarat	Gujarat High Court is not in favour of AIJS.
5.	Karnataka	Karnataka High Court is not agreeable for creation of All India Judicial Service.
6.	Kerala	The Full Court expressed its concern with regard to proficiency in local language, which the candidate should possess while discharging their duties. The Full Court further opined that after posting, the officers shall be under the control of concerned High Court under Article 235 of the Constitution of India and for selection, the qualification as required under Article 233 (2) shall continue to operate.
7.	Madras	Madras High Court is not in favour of All India Judicial Service

8.	Patna	The Hon'ble High Court is of the opinion that the Judicial Service is not comparable with that of Civil Services. The Court, therefore, does not favour the formation of All India Judicial Services as proposed.
9.	Punjab and Haryana	The constitution of All India Judicial Service will seriously erode the federal structure contemplated by the Constitution. The constitution of 'All India Judicial Service' with power of disciplinary action by the President (Central Government) completely oust the control and supervision of the District Courts vested with High Court under Article 235 of the Constitution.
10.	Calcutta	High Court of Calcutta vide letter dated 24.06.2020 has stated that the Constitutional Scheme does not permit such a service and the same would be opposed to the principle of federalism as enshrined in the Constitution of India.
11.	Jharkhand	Jharkhand High Court is not in favour of AIJS.
12.	Rajasthan	Rajasthan High Court is not in favour of AIJS
13.	Orissa	Orissa High Court is not in favour of AIJS
High Courts which want changes in the proposal		
1.	Allahabad	Allahabad High Court has suggested changes with regard to the age and qualifications for AIJS. Further, it has proposed that the High Court in whose jurisdiction, the officers of All India Judicial Service are posted should exercise complete control over the officer as per Article 235 of the Constitution of India.
2.	Chhattisgarh	There may be All India Higher Judicial Services to the extent of 15% of the total vacancy from the Bar.
3.	Himachal Pradesh	The High Court agrees in principle to entrust the selection of 25% direct recruits to the Higher Judicial Service being made by the National Commission on all India basis in consonance with the recommendations of the Shetty Commission.
4.	Meghalaya	Meghalaya High Court is open to All India Judicial Service provided that the officers of the Service are given option for

		elevation to the High Courts of three States.
5.	Uttarakhand	High Court of Uttarakhand has made suggestions for changes in age induction level, recruitment body, qualifications, allocations to States, Quota, training, court language <i>etc.</i>
6.	Manipur	Implementation of All India Judicial Service has to be subject to settlement of certain issues, like allocation of cadre and language <i>etc.</i>
High Courts which are yet to give response		
1.	Gauhati	No response received.
2.	Madhya Pradesh	High Court of M.P. has intimated vide letter dated 16.09.2014 that the matter will be placed before full Court.