

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

LOK SABHA

UNSTARRED QUESTION NO. 3268

TO BE ANSWERED ON FRIDAY, THE 17.12.2021

Collegium Recommendation for Appointment of Judges

3268. SHRI ASADUDDIN OWAISI:

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

- (a) whether the Government is withholding any names recommended by the Collegium for appointment of judges at Supreme Court and High Courts, if so, the reasons therefor;
- (b) whether the Collegium has reiterated any of its recommendation in last three years, if so, the details thereof and the respective actions taken by the Centre on such re-iteration;
- (c) whether the Collegium has asked any justification from the Government for withholding recommended names, if so, the details of such a query and the response by the Government; and
- (d) whether the Government is planning to formulate a new memorandum of procedure for appointment of judges, if so, the details thereof?

ANSWER

MINISTER OF LAW AND JUSTICE

(SHRI KIREN RIJIJU)

(a) to (d) : Judges of the Supreme Court of India and High Courts are appointed as per 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

Supreme Court vests with the Chief Justice of India, while 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. Government however appoints only those persons as Judges of High Courts who are recommended by SCC.

During the period 14.12.2018 to 13.12.2021 SCC has reiterated 32 proposals, out of which Government has appointed 9 recommendees as High Court Judges and 23 proposals are under various stages of processing with the Government.

The Supreme Court while hearing WP(C) 13 of 2015 in NJAC matter issued detailed Order on 16.12.2015 on supplementing the 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. 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 supplementation of Memorandum of Procedure (MoP) is under finalization by the Government in consultation with the Supreme Court Collegium. The Department of Justice has conveyed the stand of the Government vide letter dated 11.07.2017 of Secretary (Justice) to Secretary General, Supreme Court of India.
