

REPORT NO

144



PARLIAMENT OF INDIA
RAJYA SABHA

**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON
PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE**

ONE HUNDRED FORTY FOURTH REPORT

ON

**ACTION TAKEN ON ONE HUNDRED THIRTY THIRD REPORT OF THE
COMMITTEE
ON THE SUBJECT "JUDICIAL PROCESSES AND THEIR REFORMS"**

**PERTAINING TO
THE DEPARTMENT OF JUSTICE
(MINISTRY OF LAW & JUSTICE)**

(Presented to the Rajya Sabha on 7th February, 2024)

(Laid on the Table of the Lok Sabha on 7th February, 2024)



**Rajya Sabha Secretariat, New Delhi
February, 2024 / Magha, 1945 (Saka)**

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COMPOSITION OF THE COMMITTEE
(Re-constituted w.e.f. 13th September, 2023)

1. Shri Sushil Kumar Modi — *Chairman*

RAJYA SABHA

2. Shrimati Vandana Chavan
3. Shri Mahesh Jethmalani
4. Shri Kanakamedala Ravindra Kumar
5. Shri Sanjay Raut
6. Shri Sukhendu Sekhar Ray
7. Shri K. R. Suresh Reddy
8. Shrimati Darshana Singh
9. Shri Vivek K. Tankha
10. Shri P. Wilson

LOK SABHA

11. Shri Manickam Tagore B.
12. Shri Kalyan Banerjee
13. Shri Pradan Baruah
14. Shri Venkatesh Netha Borlakunta
15. Shri Vinod Chavda
16. Shrimati Veena Devi
17. Shri Jasbir Singh Gill
18. Shri Choudhury Mohan Jatua
19. Shri Raghu Rama Krishna Raju Kanumuru
20. Shri Jyotirmay Singh Mahato
21. Shri Malook Nagar
22. Dr. Ramesh Pokhriyal "Nishank"
23. Shri Suresh Kumar Pujari
24. Shri A. Raja
25. Shri Omprakash Bhupalsingh *alias* Pavan Rajenimbalkar
26. Shri Upendra Singh Rawat
27. Shrimati Sandhya Ray
28. Shri Kuldeep Rai Sharma
29. Shri Mahendra Singh Solanky
30. Shri Rajan Baburao Vichare
31. *Vacant*

SECRETARIAT

1. Shri P.Narayanan, Director
2. Smt. Indira Chaturvedi Vaidya, Additional Director
3. Shri Sunil Tripathi, Under Secretary
4. Ms. Chinmayee Chakravarty, Assistant Committee Officer

INTRODUCTION

I, the Chairman of the Department related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, having been authorized by the Committee to present the Report on its behalf, do hereby present this One Hundred Forty Fourth (144th) on Action Taken on One Hundred and Thirty Third (133rd) Report of the Committee on "Judicial Processes and their Reforms" pertaining to the Ministry of Law & Justice.

2. The One Hundred and Thirty Third Report of the Department related Parliamentary Standing Committee on Personnel, Public Grievances and Pensions, Law and Justice was presented to Rajya Sabha on 07th August, 2023 and laid on the Table of Lok Sabha on the 07th August, 2023.

3. The Ministry of Personnel, Public Grievances & Pensions, furnished their Action Taken Replies on the One Hundred and Thirty Third Report of the Committee on 08th November, 2023. The Committee considered the draft One Hundred Forty Fourth Report (144th) and adopted the same in its meeting held on 6th February, 2024.

4. For the facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

New Delhi
7th February, 2024

SUSHIL KUMAR MODI
Chairman,
Department-related Parliamentary Standing
Committee on Personnel, Public Grievances,
Law and Justice

ACRONYMS

AOR	Advocates on Record
CCR	Case Clearance Rate
CJI	Chief Justice of India
COPILOT	Committee on Papers laid on the Table
DOJ	Department of Justice
HC	High Court
MOP	Memorandum of Procedure
NCRWC	The National Commission to Review the Working of the Constitution
NJDG	The National Judicial Data Grid
OBCs	Other Backward Castes
RTI	Right to Information
SC/SCI	Supreme Court of India
SCC	Supreme Court Collegium
SCs	Scheduled Castes
STs	Scheduled Tribes

REPORT

This Action Taken Report of the Committee deals with the action taken by the Ministry of Law & Justice on the recommendations / observations of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice in its One Hundred and Thirty Third (133rd) Report on "Judicial Processes and their Reforms", which was presented to the Rajya Sabha on 07th August, 2023 and laid on the Table of the Lok Sabha on the 07th August, 2023.

2. The Committee had made 22 recommendations/observations in its 133rd Report. Replies of the Department thereto have been categorized and scrutinized under four chapters on the basis of satisfaction of the Committee. These replies have been categorized as follows:

Chapter – I: Recommendations/observations (5) which have been accepted by the Department, i.e. in respect of paras 21, 22, 30, 31 and 32 of the Report. The Committee is pleased to note that the Department has accepted those recommendations.

Chapter – II: Recommendations/observations (3) which the Committee does not desire to pursue in view of the replies given by the Department, i.e. in respect of paras 47, 48 and 68 of the Report. The Committee is satisfied with the explanations advanced by the Department and does not wish to pursue those as of now.

Chapter – III: Recommendations/observations (12) in respect of which Committee has not accepted the replies of the Department, i.e. with regard to paras 12, 13, 14, 15, 16, 17, 49, 61, 66, 67, 70 and 71 of the Report. The Committee does not accept the reasons given by the Department and reiterates the same.

Chapter – IV: Recommendations/observations (2) in respect of which final replies of the Government have not been received. The Committee expresses its deep concern that it did not receive the replies from the Government in respect of Committee's recommendations *vide* Para Nos. 79 and 82.

4. The details of the ATR have been discussed in the respective Chapters in the succeeding pages. For reference purpose, para numbers of the original report (i.e. of 133rd Report) have been mentioned at the end of each recommendation/observation.

CHAPTER I

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

RECOMMENDATION/OBSERVATION

FEASIBILITY OF REGIONAL BENCHES OF SUPREME COURT

1.1 The Committee feels that the demand for having regional benches of the Supreme Court of India is about 'access to justice,' which is a fundamental right under the Constitution. There has been a long-standing demand for having regional benches of the Highest Court in the country for taking justice to the doorstep of the common citizen. The regional benches may also be seen as a solution to the overflowing caseload of the judiciary and to reduce the litigation cost to the common man. (Para 30 of the report)

1.2 The Delhi-centric Supreme Court causes a big hurdle for those litigants who are coming from far-flung areas of the country. First, there is a language problem for them, and then finding lawyers, the cost of litigation, travel, and staying in Delhi makes justice very costly. (Para 31 of the report)

1.3 This Committee has also been recommending for a long time on establishment of regional benches of the Supreme Court in the Country. The Committee still holds the view that the Supreme Court of India may invoke Article 130 of the Constitution for establishing its regional benches at four or five locations in the Country. The interpretation of Constitution and Constitutional matters may be dealt at Delhi and the regional benches may decide appellate matters. However, the appellate benches may not be made as another layer of the judiciary by treating their decisions as final. (Para 32 of the report)

Action Taken on para 1.1 to 1.3:

1.4 As per Article 130 of the Constitution of India, the Supreme Court shall sit in Delhi or such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

The matter of regional benches of the Supreme Court has been referred for the opinion of the Attorney General on two occasions. The then Learned Attorney General for India, Shri G.E. Vahanvati, vide his letter dated 21st January, 2010 intimated that in his opinion, the issue of regional benches of the Supreme Court is impermissible. Constitutional amendments of this kind are simply unacceptable for various reasons. Further, the then Learned Attorney General for India, Shri Mukul Rohatgi, vide letter dated 31st March 2016, opined that the Court sitting in Regional Benches would impair the unity, integrity, importance and majesty of the Supreme Court and the Supreme Court ought not to sit in the regional Benches for the aforesaid reasons and also for additional reason that there would be immense conflict of views which may become difficult to resolve entailing time and expenditure of litigants. The issue of territorial jurisdiction was also flagged. The Supreme Court has been consistently rejecting the proposal for setting up of the Benches of Supreme Court at a place outside Delhi.

In Writ Petition WP(C) No. 36/2016 on establishment of National Court of Appeal, the Supreme Court vide its judgment dated 13.07.2016 deemed it proper to refer the aforementioned issue to Constitutional Bench for authoritative pronouncement. The matter is sub-judice in the Supreme Court.

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The matter is sub-judice in the Supreme Court.

RECOMMENDATION/OBSERVATION

PREPARATION AND PUBLICATION OF ANNUAL REPORTS BY THE SUPREME COURT AND HIGH COURTS

1.5 The Committee notes that the preparation and publication of the Annual Report is like an appraisal of what that institution has done over the past year. There is no harm if each Court also, at the beginning of every year, takes stock of work that it had transacted last year. After all, Courts are also public institutions, and the preparation and publication of the Annual Report will highlight the work of the Judiciary and make it accessible to the public. The

Supreme Court is already publishing its Annual Report also depicting the work done by all High Courts of the Country. (Para 21 of the report)

1.6 For High Courts, only some of them are publishing their Annual Report on their own volition, the others need to do the same. Accordingly, the Committee recommends the Department of Justice to approach the Supreme Court of India requesting them to issue necessary directions to all the High Courts to prepare and publish their Annual Reports regularly, on their respective websites. In this regard, the Supreme Court may suggest the items to be included in the Annual Report, so that there is uniformity in the Report to be prepared by different High Courts. (Para 22 of the report)

Action taken on para No.1.5 and 1.6:

1.7 The Committee appreciated the elaborate Annual Report prepared by the Orissa High Court and suggested adoption of format developed by Orissa High Court by all High Courts.

Chief Justice of India, Supreme Court of India and all Hon'ble Chief Justices of High Courts have already been requested on 19.6.2023 to consider the aspect of uniform publication of Annual Reports by all the High Courts in the fixed periodicity of time and disseminate the same through their websites for knowledge of public on the lines of Orissa High Court so that this small initiative will go a long way to foster better understanding and more appreciation amongst the general public of the judicial initiatives.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DOES NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES GIVEN BY THE GOVERNMENT

RECOMMENDATION/OBSERVATION

EXPLORING THE POSSIBILITIES OF INCREASING THE RETIREMENT AGE OF HIGH COURT AND SUPREME COURT JUDGES

2.1 In view of the above observations the Committee feels that the age of retirement of judges needs to be increased in sync with the increase in the longevity and advancement in medical sciences leading to improved health of the population. The Committee accordingly, recommends that relevant Articles of the Constitution of India need to be amended and the age of retirement of Judges of the Supreme Court and High Courts may be increased appropriately.

(Para 47)

Action Taken on para 2.1:

2.2(a) Constitutional position – Clause (1) of Article 124 of the Constitution provides that a Judge of the Supreme Court shall hold office until he attains the age of 65 years and Clause (1) of Article 217 of the Constitution of India provides that every Judge of a High Court shall hold office until he attains the age of sixty-two years. Clause (3) of Article 224 of the Constitution provides that no person appointed as an Additional or Acting Judge of a High Court shall hold office after attaining the age of sixty-two years.

2.2(b) Revision of retirement age of High Court Judges - The retirement age of High Court Judges, which was fixed at 60 years in the beginning, was revised to 62 years w.e.f. 5.10.1963 by the Constitution (Fifteenth Amendment) Act, 1963 pursuant to the increase in the retirement age of Central Government employees from 55 to 58 years w.e.f. 1.12.1962 on the recommendations of the Second Central Pay Commission, mainly relying upon increase in life expectancy in India.

2.2(c) Resolution passed by Chief Justices' Conference in 2002 - In the Chief Justices' Conference held in September, 2002 at New Delhi, a resolution was passed on raising the age of retirement of High Court Judges.

2.2(d) Recommendations of the Parliamentary Standing Committee - Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice has recommended in its 39th Report presented to the Rajya Sabha on 29.04.2010 for increase in the retirement age of Judges of High Courts from 62 to 65 to be at par with the retirement age of Judges of the Supreme Court.

2.3 Earlier proposal to enhance the age of retirement of High Court Judges

2.3(a) Government introduced 'The Constitution (one Hundred and Fourteenth Amendment) Bill, 2010', which provided for increasing the retirement age of the Judges of High Courts from 62 to 65 years in the Lok Sabha on 25.08.2010. The Bill was referred to the parliamentary Standing Committee for examination. The Committee in its 44th Report on the Bill recommended that the Bill in its present form be passed without delay.

The Bill was taken up for discussion in the Lok Sabha on 28.12.2011. However, the discussion remained inconclusive due to adjournment of the Winter Session of the Parliament and could not be taken up for further discussion in the subsequent Sessions. The Bill lapsed with the dissolution of the 15th Lok Sabha.

Increase in life expectancy, improved health standards, need for utilization of the knowledge, experience and wisdom of High Court Judges etc. were some of the reasons put forward in support of increasing the retirement age of Judges.

2.3(b) The then Chief Justice of India also proposed increasing the retirement age of High Court Judges on June 21, 2019. However, as of now the Government has no proposal to increase the retirement age of Judges, Additional and Acting Judges of the High Courts. Any requirement for increasing the retirement age of High Court Judges in the future will be considered by the Government at an appropriate time in consultation with the various stake holders. Therefore, the Government does not feel the need to increase the retirement age of the High Court Judges as proposed by the Bill.

2.4 Stand of Government on the proposal:

2.4(a) The increase in age of retirement of High Court would bring parity in the retirement of Judges of the High Courts and Supreme Court and would reduce

attraction among High Court Judges for getting elevated to Supreme Court. The probable consequence of enhancing the age of High Court Judges could be that many High Court Judges may prefer to remain in High Courts being their Parent High Court either as Judge or as Chief Justices, in case the retirement ages of the Supreme Court and High Court Judges is the same. Further, bringing parity in the retirement age of the Supreme Court and High Court Judges may result in consequential demand for increase in retirement age of the Supreme Court Judges. Many retired Judges of High Courts are appointed as members of Tribunals. Increase in retirement age to 65 may deprive the tribunals of having Presiding Officer/Judicial Members from retired High Court Judges.

2.4(b) Also it would be appropriate if the increase in retirement age is considered along with other measures to ensure transparency and accountability in the appointments to the Higher Judiciary and a concerted effort is made to fill up the existing vacancies.

2.4(c) It may lead to a situation where there will be no regular vacancies for the post of High Court Judges for the enhanced years of service and the authorities would totally be deprived of the opportunity to recruit deserving and meritorious candidates from feeder channel i.e. JOs, Advocates.

2.4(d) Enhancement of age of retirement might extend benefit in terms of extended years of service in certain non-deserving cases and lead to non-performing and under-performing judges to continue.

2.4(e) There will be no limit to it and in future, there may efforts to increase the age further. Besides this, other public agencies i.e. Tribunals, Commissions, etc. may also follow suit starting a chain reaction.

RECOMMENDATION/OBSERVATION

2.5. However, while increasing the age of retirement for judges, the performance of Judges may be reassessed based on their health conditions, quality of judgements, number of judgments delivered etc. For this, a system of appraisal may be devised and put in place, by the Supreme Court collegium, before any judge is recommended for enhancement of their tenure. (Para 48)

Action Taken on para 2.5:

2.6 Linking performance evaluation to the issue of increase in retirement age may not be practical and may not actually bring out the desired results. This will result in empowering the SCC for the evaluation of the Judges at the time of giving extensions on individual basis and will further erode the powers of Parliament and empower judiciary through the SCC to take decision on the enhancement of age. This step may also result in undue favouritism and make the judges susceptible to pressures, thus impinging on their performance as impartial judges. Besides, this would create avoidable burden on the limited manpower resources in the judiciary and the executive, who are involved in the appointment process.

RECOMMENDATION/OBSERVATION

VACATIONS IN THE SUPREME COURT AND HIGH COURTS

2.7 With regard to High Courts, the pendency is humongous. More than 60 lakh cases are pending as on date, which is a reason for deep concern. Though it is also a grim fact that almost all the High Courts have a very high level of vacancies. As on 31.12.2022, overall vacancies in the High Courts stood at 30% of the sanctioned strength and in many of them had vacancies ranging from 40 - 50%. Thus vacations are not the only cause of high pendency in the higher judiciary. (Para 68)

Action Taken on para 2.7:

2.8 As on 01.11.2023 against the sanctioned strength of 1114, 782 Judges are working leaving vacancy of 332 Judges to be filled. At present, 114 proposals of the High Court are at various stages of processing between the Government and the Supreme Court Collegium. Further recommendations from High Court Collegium are yet to be received in respect of the remaining 218 vacancies of the High Courts.

Judges of various High Courts are appointed under Article 217 and 224 of the Constitution of India and 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 High Courts vests with the Chief Justice of the concerned High Court.

Chief Justice of the High Court is required to initiate the proposal to fill up the vacancy of a High Court Judge six months prior to the occurrence of vacancy. Government appoints only those persons as Judges of High Courts who are recommended by Supreme Court Collegium (SCC).

Filling up of vacancies in High 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 the State and Centre level. At regular intervals, Government receives names recommended by the Supreme Court Collegium for appointment as Judges in various High Courts, which are processed for necessary approval as per the provisions of Memorandum of Procedure. While every effort is made to fill up the existing vacancies expeditiously, vacancies of Judges in High Courts do keep on arising on account of retirement, resignation or elevation of Judges and also due to increase in the strength of Judges.

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH THE COMMITTEE DOES NOT ACCEPT THE REASONS GIVEN BY THE GOVERNMENT AND REITERATES ITS RECOMMENDATION

RECOMMENDATION/OBSERVATION

SOCIAL DIVERSITY IN APPOINTMENT OF JUDGES IN THE SUPREME COURT AND HIGH COURTS

3.1 As per the data provided by the Government on the social status of the Judges of the High Courts and otherwise also, it can be seen that our higher judiciary suffers from a 'diversity deficit'. The representation of SCs, STs, OBCs, Women, and Minorities in the higher judiciary is far below the desired levels and does not reflect the social diversity of the country. In recent years there has been a declining trend in representation from all the marginalized sections of Indian society. (Para 12)

3.2 Though there is no provision for reservation in the judicial appointments at High Courts and Supreme Court level, the Committee feels that adequate representation of various sections of Indian society will further strengthen the trust, credibility, and acceptability of the Judiciary among the citizens. (Para 13)

3.3 The Hon'ble Supreme Court of India itself, in its judgment dated 06.10.1993 in the Supreme Court Advocates-on-Record Assn. v. Union of India (Second Judges Case) has inter-alia recorded the following:

“...Along with other factors, such as, proper representation of all sections of the people from all parts of the country, legitimate expectation of the suitable and equally meritorious Judges to be considered in their turn is a relevant factor for due consideration while making the choice of the most suitable and meritorious amongst them, the outweighing consideration being merit, to select the best available for the apex court.” (Para 14)

3.4 Further, the Government has informed that the need for ensuring adequate representation has also been acknowledged by the Supreme Court

Collegium, which while sending their comments on the draft MoP vide CJI's letter dated March 2017 agreed to the following provision:

“Merit and integrity shall be the prime criteria for appointment of a judge in the High Court. As far as possible, representation shall be given to women and marginalized sections of society. However, in case of judicial officers, due weightage shall also be given to their inter-se seniority.” (Para 15)

3.5 Thus the Committee is of the view that while making recommendations for appointments to the Higher Judiciary, both the Supreme Court and the High Court's Collegiums should recommend an adequate number of women and candidates from the marginalized sections of the society including minorities. This provision should be clearly mentioned in the Memoranda of Procedure (MoP), which is presently under finalization. (Para 16)

3.6 Further, as of now, data related to the social status of High Court judges are available from 2018 onwards, the Committee recommends the Department of Justice find ways and means to collect such data in respect of all judges presently serving in the Supreme Court and High Courts. For doing this, if required, necessary amendments may be brought in the respective Acts/service rules of the judges. (Para 17)

Action Taken

3.7 Appointment of Judges of the Supreme Court and High Courts is made under Articles 124, 217 and 224 of the Constitution of India, which do not provide for reservation for any caste or class of persons.

In present system of appointment of Judges to the constitutional courts through the Collegium system, the onus to provide social diversity and representation to all sections of the society including SC/ST/OBC/Women/Minorities primarily falls on the Judiciary. As per MOP, initiation of a proposal for appointment of Judges in the Supreme Court vests with the Chief Justice of India, while initiation of a 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 appoints only those as recommended by the High Court Collegium/Supreme Court Collegium.

The Memorandum of Procedure was under finalization by the Government in consultation with the Supreme Court Collegium in view of Supreme Court judgment of WP(C) 13 of 2015 in NJAC matter vide Order dated 16-12-2015 on supplementing the Memorandum of Procedure (MoP). In the draft MoP for appointment of judges in the High Court, it was agreed by the Supreme Court that “Merit and integrity shall be the prime criteria for appointment of a judge in the High Court. As far as possible, representation shall be given to women and marginalized sections of society. However, in case of judicial officers, due weightage shall also be given to their inter-se seniority.”

The Supreme Court vide its order dated 4.07.2017 in *Suo Motu* Contempt Petition (Civil) No.1 of 2017 in case of one of the Judges of Calcutta High Court *inter alia* highlights the need to revisit the process of selection and appointment of Judges of the Constitutional Courts factoring in the need for social diversity. The Government of India conveyed the need to make improvement on the draft MoP to the Secretary General of 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. The views of the Supreme Court on draft MoP are awaited.

The Proforma for seeking information on recommendee Judges for elevation to the High Courts, as prescribed by the Supreme Court for all the High Courts was revised in July 2017. As a result, data is available since the year 2018. The veracity of the data has not been cross-checked as no caste certificate is being sought at the time of appointment. However, class/category-wise data in respect of the remaining judges who are presently serving in the Supreme Court and High Courts is being sought from the judiciary and there appears no need to altering/amending the service rules of the judges for the purpose.

In last one year, i.e. from 31st October, 2022 to 8th November, 2023, the number of judges appointed, belonging to different category i.e. from SC, ST, OBC, Unreserved and Women, are given below:-

Sl. No.	Category	No. of Judges Appointed
1.	Unreserved	81
2.	SC	5

3.	ST	5
4.	OBC	20
5.	Minority	8 (04Jain, 2 Christian, 1 Muslim and 1 Zoroastrian)
6.	Women	22
	Total	141

In the present system of appointments, the judiciary initiates the proposals to appoint the Judges in the High Courts and Supreme Courts and the onus of addressing the issue rests with the Judiciary. However, the Government is committed to social diversity in the appointment of Judges in the Higher Judiciary. The Hon'ble Minister of Law & Justice has been requesting the Chief Justices of 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 appointment of Judges in High Courts.

Further observation of the Committee:

3.8 The Committee observes that the views/ comments on draft Memoranda of Procedure (MoP) of the Supreme Court are still awaited. Whenever it is finalized, the Government may factor in the aspect of social diversity into it. The Committee desires that the Ministry may pursue the Supreme Court to send its views on the MoP at the earliest.

3.9 The Committee also notes that the class/category-wise data in respect of the judges who are presently serving in the Supreme Court and High Courts is available from the year 2017. For the remaining judges who are presently serving in the Supreme Court and High Courts, data has been sought from the judiciary by the Ministry. This process may be expedited with judiciary and it may be forwarded to the Committee for examination as and when such an exercise is completed.

RECOMMENDATION/OBSERVATION

EXPLORING THE POSSIBILITIES OF INCREASING THE RETIREMENT AGE OF HIGH COURT AND SUPREME COURT JUDGES

3.10 Many stakeholders had also raised objections to the post-retirement assignments given to judges, and the Committee is accordingly, of the view that with the increase in the age of retirement of judges, the practice of post-retirement assignments to judges of Supreme Court and High Courts in bodies/institutions financed from public exchequer may be reassessed to ensure their impartiality. (Para 49)

Action Taken

3.11 Appointments of retired Supreme Court Judges to various Constitutional posts, Commissions, Tribunals etc. are made by different Ministries/Departments as per relevant rules laid down by the respective appointing authority. Some of these bodies require expertise and experience possessed by the Judges of the Supreme Court /High Courts.

Further observation of the Committee:

3.12 Though the Committee takes cognizance of the stand of the Committee regarding appointments of retired Supreme Court Judges to various Constitutional posts, Commissions, Tribunals etc. made by different Ministries/Departments as per relevant rules laid down by the respective appointing authority, nevertheless the Committee suggests that the entire gamut of issues related to such appointments of retired judges may be comprehensively studied again and relooked upon by the Ministry.

RECOMMENDATION/OBSERVATION

VACATIONS IN THE SUPREME COURT AND HIGH COURTS

3.13 During the deliberations on this issue, most of the members were of the opinion that the need of the hour is an efficient judiciary that is not only committed to meeting the needs and interests of the citizens but also communicates this commitment by modifying its practices to suit the needs of

the country. The judiciary, therefore, needs to be sensitized from shutting down courts en masse for a couple of months a year. (Para 61)

3.14 The demand for doing away with vacations in the Courts emanates primarily due to two factors, one is the huge pendency of cases in our courts, and the other is the inconvenience faced by the litigants during the vacations of the courts. A common man holds a perception that despite having such huge pendency of cases their judges go on long vacations. Further during the vacations, the litigants have to suffer a lot despite having a handful of vacation courts/benches. (Para 66)

3.15 Though in this connection it may be noted that for the past few years, the pendency in the Supreme Court has remained static and in the year 2022 the disposal of cases was more than the number of cases instituted in that year. Thus it can be seen that as far as the disposal of cases is concerned, the performance of our Supreme Court is quite good. The problem lies with the legacy arrears of about 35000. (Para 67)

3.16 From the foregoing discussion it can be seen that vacations in the Judiciary are not the only factor for pendency. For reducing pendency there is a need to have a multipronged strategy. However, at the same time, it is an undeniable fact that vacations in the judiciary are a 'colonial legacy' and with entire court going on vacation *en masse* causes deep inconvenience to the litigants. (Para 70)

3.17. In this scenario, the Committee is of the view that the suggestion of the former Chief Justice of India Shri RM Lodha on court vacations, that instead of all the judges going on vacation, all at one time, individual judges should take their leave at different times through the year so that the courts are constantly open and there are always benches present to hear cases, should be considered by the Judiciary. (Para 71)

Action taken on para Nos. 3.13 to 3.17:

As a part of the recommendations of the 133rd Report, the Parliamentary Standing Committee has endorsed the suggestion of former Chief Justice of India Shri R.M. Lodha on Court vacations, who opined that instead of all the judges going on vacations, all at one time, individual judges should take their leave at different

times through the year, so that the courts are constantly open and are always present to hear cases, which should be considered by Judiciary. Since the vacations for the Supreme Court and various High Courts are prescribed as per the rules framed by the respective courts for which they have been empowered under the provisions of the Constitution, the recommendations of the Hon'ble Committee has been sent by the Department of Justice to the Supreme Court of India and the Registrar Generals of the State High Courts after due approval of the Hon'ble MoS (I/C), Law & Justice. Their response is awaited.

Further observation of the Committee

3.18 The Department may take up the issue with the Supreme Court of India and the Registrar Generals of the State High Courts to forward their response on the recommendations of the Committee regarding staggered vacation by individual judges at different times of the year, at the earliest, so that the issue of vacation can be settled for once and all. Once this issue is finalized, the Courts will have more days at its disposal, which will enable it to reduce the pendency and mitigate the inconvenience presently being faced by the litigants, to a large extent.

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT HAVE NOT BEEN RECEIVED:

RECOMMENDATION/OBSERVATION

MANDATORY DECLARATION OF ASSETS BY THE JUDGES OF THE SUPREME COURT AND HIGH COURTS

4.1 As a general practice, all constitutional functionaries and government servants must file annual returns of their assets and liabilities. The Supreme Court has gone to the extent of holding that the public has a right to know the assets of those standing for elections as MPs or MLAs. When so, it belies logic that Judges don't need to disclose their assets and liabilities. Anybody holding public office and drawing a salary from the exchequer should mandatorily furnish annual returns of their property. (Para 79 of the report)

4.2 Declaration of assets by the Judges of the Higher Judiciary will only bring more trust and credibility into the system. As the last resolution of the Supreme Court on the declaration of assets by Judges on a voluntary basis is not complied with, the Committee recommends the Government to bring about appropriate legislation to make it mandatory for Judges of the higher judiciary (Supreme Court and High Courts) to furnish their property returns on an annual basis to the appropriate authority. (Para 82 of the report)

Action taken on para No.4.0 and 4.1:

4.3 Based on the recommendations made by the Parliamentary Standing Committee, this Department is proposing to frame Rules under the High Court Judges Act, 1954 and Supreme Court Judges Act, 1958 to lay down a procedure for making statutory provisions in the Rules for Declaration of Assets by the Judges of the Supreme Court and High Court Judges on their initial appointment and thereafter every year by the due date. Consultation with the Registry of the Supreme Court has since been initiated, soliciting their views in the matter. Their response, however, is awaited.

Further observation of the Committee:

4.4 The Department may fastrack the consultation process with the Registry of the Supreme Court for making statutory provisions in the Rules for Declaration of Assets by the Judges of the Supreme Court and High Court Judges on their initial appointment and apprise the Committee of the same.

MINUTES

VII SEVENTH MEETING

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 1.00 PM on Tuesday, 06.02.2024, in Committee Room No.4, Block 'A', Parliament House Annexe Extension Building, New Delhi.

MEMBERS PRESENT

- i. **Shri Sushil Kumar Modi** - *Chairman*

Rajya Sabha

- ii. Shrimati Vandana Chavan
iii. Shri Mahesh Jethmalani
iv. Shri Kanakamedala Ravindra Kumar
v. Shri Sanjay Raut
vi. Shri Sukhendu Sekhar Ray
vii. Shri K.R.Suresh Reddy
viii. Shrimati Darshana Singh
ix. Shri Vivek K.Tankha

Lok Sabha

- x. Shri Malook Nagar
xi. Shri Raghu Rama Krishna Raju Kanumuru
xii. Shri Suresh Kumar Pujari
xiii. Shri A.Raja
xiv. Shri Omprakash Bhupalsingh *alias* Pavan Rajenimbalkar
xv. Shri Rajan Baburao Vichare

SECRETARIAT

1. Shri P. Narayanan, Director
2. Smt.Indira Chaturvedi Vaidya, Additional Director
3. Shri Abhyuday Singh Shekhawat, OSD to the Vice-President of India
4. Shri Sunil Tripathi, Under Secretary
5. Shri Prabhakar Singh, Under Secretary

2. At the outset, the Chairman welcomed all the Members to the meeting of the Committee and apprised them about the agenda of the meeting, i.e. consideration and adoption of the following draft reports of the Committee:

- i. * * *
- ii. * * *
- iii. * * *
- iv. 144th Report on Action Taken on 133rd Report of the Committee on the subject "Judicial Processes and their Reforms" pertaining to the Department of Justice (Ministry of Law and Justice).

3. The Committee unanimously adopted all the draft Reports and decided to present those Reports to both Houses of Parliament on 07th February, 2024. The Committee authorized Shri Vivek K. Tankha and, in his absence, Shri P. Wilson to present the Reports in Rajya Sabha and Shri Raghu Rama Krishna Raju Kanumuru and, in his absence, Shri Malook Nagar to lay the reports in Lok Sabha.

5. The meeting adjourned at 2.15 PM.

New Delhi
6th February, 2024

P. NARAYANAN
DIRECTOR

**pertains to other matters*