

SC Strength Expanded - Ordinance Raises Judges' Number to 37

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SC Strength Expanded Latest News

- The President of India has promulgated the Supreme Court (Number of Judges) Amendment Ordinance, 2026 to increase the sanctioned strength of judges in the Supreme Court **from 33 to 37**, excluding the Chief Justice of India (CJI).
- Consequently, the total strength of the apex court, including the CJI, will rise from 34 to 38 judges.
- The ordinance amends Section 2 of the Supreme Court (Number of Judges) **Act, 1956**, and was issued under **Article 123** of the Constitution after the Union Cabinet approved the proposal earlier this month.

Ordinance-Making Power of the President

- **Constitutional provision:** Article **123** empowers the President to promulgate ordinances when Parliament is not in session and immediate legislative action is required.
- **Features:**

- Ordinances have the **same force and effect** as a law passed by Parliament.
- They are executive-legislative instruments meant for temporary and urgent circumstances, not routine governance.
- They are subject to Parliamentary approval; **judicial review**; and Constitutional limitations.
- **Temporary nature:**
 - The ordinance must be laid before both Houses of Parliament when they reconvene.
 - Will cease to operate if not approved **within six weeks** of reassembly.
 - Can also lapse if both Houses disapprove it, or may be withdrawn earlier by the President.
- **Judicial position:**
 - The SC established that ordinances are open to **judicial review** in the landmark cases of **R.C. Cooper** v. Union of India (1970), A.K. Roy v. Union of India (1982), and Krishna Kumar Singh v. State of Bihar (2017).
 - In cases such as **D.C. Wadhwa** v. State of Bihar (1987), it criticised repeated re-promulgation of ordinances, calling it a misuse of constitutional power.
- **Real power:** The Union Cabinet is the **driving force** behind this legislative process.

Need to Increase the Strength of the SC

- **Rising pendency:** The judge-to-case ratio has become unsustainable, especially with rapidly rising appeals and special leave petitions (SLPs). **For example,**
 - Pendency has crossed 93,000 cases;
 - Post-COVID surge in e-filing has significantly increased case inflow;
 - Increasing constitutional litigation, PILs, commercial disputes, and service matters have added to the burden.
- **Need for faster justice delivery:**
 - Judicial delays weaken rule of law, hinder enforcement of Fundamental Rights, and reduce **public trust** in institutions.
 - The expansion aims to reduce delays in hearings and judgments; improve disposal rates; enable more Constitution and specialised benches; and strengthen citizens' access to timely justice.
- **Complexity in governance:** Modern governance has expanded the Court's responsibilities as a result of –
 - Federal disputes;
 - Electoral matters;
 - Digital privacy and technology-related litigation;
 - Environmental and climate justice cases; and
 - Economic and regulatory disputes.

Other Reforms Needed in the Judiciary

- **Strengthening the entire judicial pyramid:** Merely increasing SC judges is insufficient unless subordinate courts and High Courts are also strengthened.
- **Key reforms needed:**

- **Fill vacancies promptly:** Large vacancies persist in High Courts and subordinate judiciary. Timely appointments through the collegium and government coordination are essential.
- **Establish an All India Judicial Service (Article 312):** This could improve recruitment quality and uniformity in lower judiciary.
- **Limit routine appeals to the SC:** The SC should increasingly focus on constitutional and national importance cases rather than functioning as a regular appellate court.
- **Strengthen Alternative Dispute Resolution (ADR):** Promote mediation, arbitration, and Lok Adalats to reduce litigation pressure.
- **Expand judicial infrastructure:** More courtrooms, staff, digital infrastructure, and research assistance are needed.
- **Institutionalise technology:** AI-assisted case management; e-courts; virtual hearings; and intelligent scheduling systems.
- **National court management systems:** Scientific case allocation and timeline-based disposal mechanisms can improve efficiency.
- **Separate constitution benches:** Permanent Constitution Benches could ensure quicker resolution of major constitutional matters.

Conclusion

- The decision to increase the sanctioned strength of the SC marks an **important institutional response** to India's deepening judicial pendency crisis.
- While adding judges may provide immediate relief and improve disposal capacity, the larger challenge lies in comprehensive judicial reforms across all levels of the justice delivery system.

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