

What is the Supreme Court Collegium?

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About Supreme Court Collegium:

- **What is it?**
 - **It is a system** under which **appointments and transfers of judges are decided by a forum of the Chief Justice of India and the four senior-most judges** of the Supreme Court.
 - It has **no place in the Indian Constitution**.
- **What does the Constitution actually prescribe?**
 - **Article 124 deals with the appointment of Supreme Court judges.** It says the appointment should be **made by the President after consultation with such judges of the High Courts and the Supreme Court as the President may deem necessary.** The **CJI is to be consulted in all appointments, except his or her own.**
 - **Article 217 deals with the appointment of High Court judges.** It says a judge should be **appointed by the President after consultation with the CJI and the Governor of the state.** The **Chief Justice of the High Court** concerned **too should be consulted.**
- **Evolution of Collegium system:**

- Since **Constitution mandates consultation with the CJI** is necessary for appointments to judiciary, the collegium model evolved.
 - It **has its genesis in** a series of three judgments that is now clubbed together as **the Three Judges Cases**.
 - **First Judges Case (1982):**
 - **SC held that “consultation” of judges does not mean concurrence.**
 - Hence, it **gave the primacy in appointment** of judges to **the Executive**.
 - **Second Judges Case (1993):**
 - Court **reversed its earlier ruling by changing the meaning of “consultation” to concurrence.**
 - With this, the **advice tendered by CJI became binding**. However, **the CJI would have to take into account the views of two of his senior most colleagues.**
 - **Third Judges Case (1998):**
 - Court **gave primacy to the opinion of CJI** in the matter of appointment of Judges.
 - **However, Chief Justice must consult four seniormost judges** of SC.
 - **Opinion of all members** of the collegium **should be in writing.**
 - **Even if two judges** in the collegium **give an adverse opinion** of a person for appointment as the SC judge, **the CJI should not send the recommendation to the government.**
 - These three cases **established that the collegium** headed by the Chief Justice of India will **have primacy in the appointment of judges to the higher judiciary.**
 - This collegium **makes recommendations to the government for appointment of judges to the SC and of Chief Justices of High Courts, and the transfers of HC judges.**
 - **In case of difference of opinion, the majority view will prevail.**
 - **Executive role:**
 - **Judges of the higher judiciary** are thus **appointed only through the collegium system**, and the **government has a role only after names have been decided** by the collegiums.
 - The government’s role is **limited to getting an inquiry conducted by the Intelligence Bureau (IB) if a lawyer is to be elevated as a judge in a High Court or the Supreme Court.**
 - The **government can also raise objections and seek clarifications** regarding the collegium’s choices, **but if the collegium reiterates the same names, the government is bound to appoint them.**
 - **Procedure for appointment of Judges to High Courts:**
 - For appointments or elevations to the high courts, the **HC collegium (The HC Chief Justice + 2 senior-most judges)** makes the recommendation to the state government.
 - The **State Government sends the names to the Centre with its input.**
 - The **Centre gives the names to the Intelligence Bureau (IB)** to conduct background checks.
 - The **IB then sends its report to the Supreme Court Collegium (CJI + 2 Senior-most judges).**
 - The **SC Collegium goes through the IB report and recommends** the names **to the Centre for appointment.**
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Q1) What is the Intelligence Bureau (IB)?

It is India's internal intelligence agency, responsible for gathering intelligence within the country's borders to address and counter various threats to national security. The IB operates under the Ministry of Home Affairs, which oversees the agency's functioning and activities. The IB works closely with other Indian intelligence and law enforcement agencies, such as the Research and Analysis Wing (RAW) and the Central Bureau of Investigation (CBI), to coordinate efforts in protecting the nation's security and maintaining internal stability.

Source: [SC Collegium recommends elevation of four advocates as judges to 3 HCs](#)

Source: <https://vajiramandravi.com/current-affairs/what-is-the-supreme-court-collegium/>

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