

Supreme Court Seeks Government's Response on Judicial Appointment Delays

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Why in News?

The Supreme Court, led by Chief Justice D.Y. Chandrachud, asked the government to provide a detailed report on the status of judicial appointments that had been reiterated by the Collegium but not yet cleared by the government.

The court emphasized that the Collegium is not a “search committee” and holds a critical role in the constitutional framework, implying that the government should not have absolute discretion in accepting or rejecting recommendations.

The court was hearing a **Public Interest Litigation (PIL)** seeking a fixed timeline for the government to notify judicial appointments recommended by the Collegium. Additionally, a contempt plea was brought by the Jharkhand government, alleging delays in clearing the transfer of Himachal Pradesh High Court Chief Justice M.S. Ramachandra Rao to the Jharkhand High Court.

Collegium System

- **Background - Article 124 and 217 of Indian constitution and controversy over word "Consultation"**
- **Article 124(2)** of Indian Constitution deals with the appointment of Judges of Supreme Court. As per this article:
 - Every judge of SC is to be appointed by the President.
 - President will consult such judges of the SC and of the HCs in the States as the President may deem necessary.
 - CJI shall always be consulted in case of the appointment of judge other than the Chief Justice of SC.
- **Article 217** of Indian Constitution covers the appointment and conditions of a High Court Judge.
 - It says that every Judge of a High Court shall be **appointed by the President** by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State.
- The constitutional provision gave the CJI and other judges the status of consultant and left the decision of appointment to the executives.
- This has been interpreted by the SC in a different way ultimately leading to the evolution of Collegium system.
- **Evolution - The current collegium system has evolved over a period of time through the judicial pronouncements. These cases have been mentioned as below:**
- **First Judges Case (1982)**
 - SC held that consultation does not mean concurrence.
 - Gave Primacy to Executive.
- **Second Judges Case (1993)**
 - Court reversed its earlier ruling by changing the meaning of consultation to concurrence.
 - Advice tendered by CJI is binding.
 - CJI would 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.
 - If the majority of the collegium is against the appointment of a particular person that person shall **not be appointed**.

Role & responsibilities of Collegium System

- **Appointment of Judges**

- **Supreme Court Judges:** The Collegium for appointing SC judges consists of the Chief Justice of India (CJI) and the four senior-most judges of the Supreme Court.
- **High Court Judges:** For High Court appointments, the Collegium consists of the CJI and two senior-most judges of the Supreme Court.
 - The **names recommended** by the Collegium are sent to the government for approval. The government can either accept or return the recommendations for reconsideration.
 - As per convention, the government is obliged to accept the collegium's recommendation for appointment of judges if the decision has been reiterated.
- **Transfer of Judges**
 - The Collegium also plays a key role in the transfer of judges between different High Courts.
 - This ensures the independence of the judiciary and prevents judges from developing local biases.
- **Role in Maintaining Judicial Independence**
 - The primary goal of the Collegium system is to ensure that judicial appointments remain independent of political or executive influence.
 - By vesting the power of appointment within the judiciary itself, it seeks to maintain the independence and integrity of the courts.

Collegium system: a tug of war

- The judiciary and the executive keep clashing over the collegium system for appointment of judges in higher judiciary.
- The Centre terms this system to be opaque and non-transparent and retired and current chief justices and judges of the SC holds it as the best system.
- The delays in appointments and transfers, particularly when recommendations are pending approval from the government, have caused friction between the judiciary and the executive.

Q.1. What is the Supreme Court's concern regarding judicial appointments?

The Supreme Court expressed concerns over the government's delays in clearing appointments recommended by the Collegium, stating that it undermines the constitutional framework. It asked for a detailed report on pending appointments within a week.

Q.2. Why is the Collegium system significant for judicial appointments?

The Collegium system ensures judicial independence by allowing judges to be appointed through recommendations from within the judiciary. It prevents political influence in the process, preserving the integrity of judicial appointments in India.

Source: Collegium not search panel, give report on status of pending names, SC tells Govt | [The Hindu](#) | Constitution of India

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