

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

RAJYA SABHA

**UNSTARRED QUESTION NO. 273
TO BE ANSWERED ON THURSDAY, 03.02.2022**

Transparency in collegium system for appointment of Judges

273. SHRI Y.S. CHOWDARY:

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

- (a) whether there was a demand from within the judiciary and parliamentarians and from other legal experts to change the collegium system for appointment of judges, to bring transparency and accountability in the system;
- (b) if so, the details thereof;
- (c) steps being taken by Government to bring transparency in the appointment of judges in consultation with the top court;
- (d) whether Government had written to the Judiciary, Chief Justices of all High Courts to include names of members from the reserved categories while recommending names; and
- (e) if so, the details/present status thereof?

ANSWER

MINISTER OF LAW AND JUSTICE

(SHRI KIREN RIJIJU)

(a) to (c): In order to change the Collegium system of appointments of Judges of the Supreme Court and High Courts and to make it more broad-based and transparent, the Government brought into force the Constitution (Ninety-Ninth Amendment) Act, 2014 and the National Judicial Appointments Commission Act, 2014 w.e.f. 13.04.2015. However, both the

Acts were challenged in the Supreme Court. The Supreme Court vide Judgment dated 16.10.2015 declared both the Acts as unconstitutional and void. The Collegium system as existing prior to the enforcement of the Constitution (Ninety-Ninth Amendment) Act, 2014 was declared to be operative.

Subsequently, the Supreme Court vide order dated 16.12.2015 directed the Government to finalize the existing MoP by supplementing it in consultation with the Supreme Court Collegium taking into consideration eligibility criteria, transparency, establishment of secretariat and mechanism to deal with complaints. The Government of India after due deliberations, proposed changes in the existing MoP and the draft MoPs were sent to the Hon'ble Chief Justice of India vide letter dated 22.03.2016. Responses of Supreme Court Collegium (SCC) were received on 25.05.2016 and 01.07.2016. The comments of Government, in response to the views of SCC were conveyed to the Chief Justice of India on 03.08.2016. The SCC provided their comments on the views of the Government on draft MoP on 13.03.2017. The stand of Government on the issue was conveyed to the Secretary General of the Supreme Court vide letter dated 11.07.2017 of Secretary (Justice). The MoP is under finalization by the Government in consultation with the SCC.

(d) & (e): Appointment of Judges of the High Courts is made under Articles 217 and 224 of the Constitution of India. These Articles do not provide for reservation for any caste or class of persons. The Government has, however, been requesting the Chief Justices of the 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.
