

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

LOK SABHA

UNSTARRED QUESTION NO. 3823

TO BE ANSWERED ON FRIDAY, THE 11.08.2023

Representation of States in Bench of Supreme Court

3823.SHRI RAVIKUMAR D.:

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

- (a) the steps taken by the Government to ensure that all States have proportional representation on the Bench of the Supreme Court;
- (b) whether the Government is set to maintain social diversity in higher judiciary, if so, the action taken so far in this regard; and
- (c) whether the Government has taken any action over the demand of Tamil language to be made an official language in Madras High Court as well as its Madurai bench, if so, the details thereof and if not, the reasons therefor?

ANSWER

**MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF LAW AND JUSTICE; MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS; AND MINISTER OF STATE IN THE MINISTRY OF CULTURE
(SHRI ARJUN RAM MEGHWAL)**

(a) to (c): 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. Further, the procedure for appointment of Judges of the Supreme Court and High Courts is laid down in the Memorandum of Procedure prepared in 1998 pursuant to the Supreme Court Judgement of October 6, 1993 (Second Judges case) read with their Advisory Opinion of October 28, 1998 (Third Judges case). It has been laid down in the Second Judges Case that while marking appointment in the Supreme Court 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 marking the choice of the most suitable and meritorious amongst them.

As per MoP, initiation of proposal for appointment of Judges in the Supreme Court vests with the Chief Justice of India, while initiation of proposal for appointment of Judges in the High Courts vests with the Chief Justice of the concerned High Court. Government appoints only those persons as Judges of the Supreme Court and High Courts who are recommended by Supreme Court Collegium (SCC).

However, the Government 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.

Article 348(1) of the Constitution of India provides that all proceedings in the Supreme Court and in every High Court shall be in English language until Parliament by law otherwise provides.

Article 348 (2) provides that the Governor of the State may, with the previous consent of the President, authorize the use of the Hindi language or any other language used for any official purpose of the State, in the proceedings of the High Court having its principal seat in that State provided that decrees, judgments or orders passed by such High Courts shall be in English. The Official Language Act, 1963 reiterates this and provides under Section 7 that the use of Hindi or official language of a State in addition to the English language may be authorized, with the consent of the President of India, by the Governor of the State for the purpose of judgments, decrees etc. made by the High Court for that State. No law has been made in this regard by the Parliament so far. Therefore, English continues to be the language for all the proceedings of the Supreme Court.

The 18th Law Commission of India in its 216th Report on “Non-Feasibility of Introduction of Hindi as Compulsory Language in the Supreme Court of India” (2008) has, after detailed discussions with all stake-holders, inter-alia, recommended that the higher judiciary should not be subjected to any kind of even persuasive change in the present societal context. The Government has accepted the stand of the Commission.

The use of Hindi has been authorized long back in the proceedings as well in the judgments, decrees or orders in the High Courts of the States of Rajasthan, Madhya Pradesh, Uttar Pradesh and Bihar. Government of India had received proposals from the Government of Tamil Nadu, Gujarat and Chhattisgarh to permit use of Tamil, Gujarati and Hindi in the proceedings of the Madras High Court, Gujarat High Court and Chhattisgarh High Court respectively. The advice of the Chief Justice of India was sought on these proposals as per a decision taken in 1965. The Chief Justice of India vide his letter dated 16.10.2012 intimated in a meeting held on 11.10.2012, the Full Court that after due deliberations, decided not to accept the proposals and has reiterated the earlier similar Resolutions of the Full Court of the Supreme Court adopted on 07.05.1997 and 15.10.1999. The Government has abided by the decision of the Supreme Court.

Based on another request from the Government of Tamil Nadu, the Government requested the Chief Justice of India to review the earlier decisions in this regard to provide greater flexibility for the use of Hindi and regional languages in High Courts vide D.O. letter dated 04.07.2014 and convey the consent of the Supreme Court of India.

Hon'ble the Chief Justice of India vide his D.O. letter dated 18.01.2016 conveyed that the Full Court, after extensive deliberations disapproved the proposals and reiterated the Resolution which was adopted on 07.05.1997, on 15.12.1999 and on 11.10.2012.
