

Statement

Conclusions arrived at by the majority judgement dt. 6. 10. 1993 of the Supreme Court of India.

(1) The process of appointment of Judges to the Supreme Court and the High Courts is an integrated 'participatory consultative process' for selecting the best and most suitable persons available for appointment; and all the constitutional functionaries must perform this duty collectively with a view primarily to reach an agreed decision, subserving the constitutional purpose, so that the occasion of primacy does not arise.

(2) Initiation of the proposal for appointment in the case of the Supreme Court must be by the Chief Justice of India, and in the case of a High Court by the Chief Justice of that High Court; and for transfer of a Judge/Chief Justice of a High Court, the proposal has to be initiated by the Chief Justice of India. This is the manner in which proposals for appointments to the Supreme Court and the High Courts as well as for the transfers of Judges/Chief Justices of the High Courts must invariably be made.

(3) In the event of conflicting opinions by the constitutional functionaries, the opinion of the judiciary 'symbolised' by the view of the Chief Justice of India, and formed in the manner indicated, has primacy.

(4) No appointment of a Judge to the Supreme court or a High Court can be made, unless it is in conformity with the opinion of the Chief Justice of India.

(5) In exceptional cases alone, for stated strong cogent reasons, disclosed to the Chief Justice of India, indicating that the recommendee is not suitable for appointment, that appointment recommended by the Chief Justice of India may not be made. However, if the stated reasons are not accepted by the Chief Justice of India and the other Judges of the Supreme Court who have been consulted in the matter, on reiteration of the recommendation by the Chief Justice of India, the appointment should be made as a healthy convention.

(6) Appointment to the office of the Chief Justice of India should be of the seniormost Judge of the Supreme Court considered fit to hold the office.

(7) The opinion of the Chief Justice of India has not mere primacy, but is determinative in the matter of transfers of High Court Judges/Chief Justices.

(8) Consent of the transferred Judge/Chief Justice is not required for either the first or any subsequent transfer from one High Court to another.

(9) Any transfer made on the recommendation of the Chief Justice of India is not to be deemed to be punitive, and such transfer is not justiciable on any ground.

(10) In making all appointments and transfers, the norms indicated must be followed. However, the same do not confer any justiciable right on any one.

(11) Only limited judicial review on the grounds specified earlier is available in matters of appointments and transfers.

(12) The initial appointment of a Judge can be made to a High Court other than that for which the proposal was initiated.

(13) Fixation of Judge-strength in the High Courts is justiciable, but only to the extent and in the manner indicated.

Capital Coal Investment

5408. SHRI RAVINDRA KUMAR PANDEY: Will the Minister of COAL be pleased to state:

(a) whether capital reserve in coal companies is increasing due to the excess capital investment being made therein;

(b) the total capital investment made during each of the last three years;

(c) the total loss incurred as a result thereof;

(d) whether the Government have reviewed the working of those companies which are incurring loss due to excess capital investment; and

(e) if so, the outcome thereof?

THE MINISTER OF STATE OF THE MINISTRY OF COAL (SHRIMATI KANTI SINGH): (a) There is no capital reserve in Coal India Limited (CIL).

(b) Total capital investment made in CIL during 1993-94, 1994-95 and 1995-96 were Rs. 1687.92 crores, Rs. 1604.56 crores and Rs. 1503. 63 crores respectively.

(c) to (e) Do not arise in view of reply to part (a) of the question.

Modernisation of Textiles Mills

5409. SHRI K.P. SINGH DEO: Will the Minister of TEXTILES be pleased to state:

(a) whether the Government have a proposal to Modernise and Expand some Textile Mills during the Ninth Plan;

(b) if so, the textile mills identified further modernisation and expansion during that plan period;

(c) the total amount of investment proposed to be made for the expansion and the modernisation of textile mills; and

(d) the details thereof?

THE MINISTER OF TEXTILES (SHRI R.L. JALAPPA): (a) to (d) A proposal is under formulation to facilitate modernisation, through technological upgradation, of the textile industry. The intended objective is to improve production and productivity of the Indian textile industry to make it more competitive, including in the export market. Details of a Technology Upgradation Fund for textiles and jute industries are being worked out in this regard.