

**GOVERNMENT OF INDIA  
LAW AND JUSTICE  
LOK SABHA**

STARRED QUESTION NO:321  
ANSWERED ON:25.08.2011  
COMPULSORY RETIREMENT OF JUDGES  
Singh Shri Bhupendra

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

- (a) the details of the institutionalized mechanism in place to inquire into cases of alleged misconduct, irregularities and corruption charges levelled against judges of various courts in the country;
- (b) whether suggestions have been received from various quarters including the Law Commission to amend/review the aforesaid mechanism/statute in this regard;
- (c) if so, the details thereof alongwith the follow-up action taken thereon;
- (d) the number of judges compulsorily retired as well as dismissed on account of misconduct, during the last three years;
- (e) whether instances of compulsorily retired/dismissed judges undertaking practice in various courts have been reported; and
- (f) if so, the reaction of the Government thereon?

**Answer**

MINISTER OF LAW & JUSTICE (SHRI SALMAN KHURSHID)

(a) to (f) A statement is laid on the Table of the House.

Statement referred to in reply to parts (a) to (f) of Lok Sabha Starred Question No.321 for answer on 25.08.2011

The Judges of the Supreme Court and the High Courts can be removed on the ground of proved misbehavior or incapacity only by following the process of impeachment as provided under Articles 124 and 217 of the Constitution respectively and after following the procedure prescribed under the Judges (Inquiry) Act, 1968.

As regards mechanism to deal with cases of misconduct etc of District and subordinate courts, the administrative control over such courts vests with the respective High Courts under article 235 of the Constitution.

The issue of judicial accountability in the higher judiciary was discussed at the Conference of Chief Justices held in 1990 and on the basis of the broad consensus emerging out of the deliberations, the Chief Justice of India summed up the position as follows:

"The Chief Justice of the High Court has the competence to receive complaints against the conduct of the Judges of his court and when he receives any he would look into it for finding out if it deserves to be closely looked into. Where he is satisfied that the matter requires to be examined, he shall have facts ascertained in such manner as he considers appropriate keeping the nature of allegations in view and if he is of the opinion that the matter is such that it should be reported to the Chief Justice of India, he shall do so. The Chief Justice of India shall act in a similar manner in regard to complaints relating to conduct of Judges of the Supreme Court and in regard to conduct of Chief Justices of the High Courts. On the basis of the facts ascertained, the Chief Justice of the High Court or the Supreme Court, as the case may be, shall take such appropriate action as may be considered proper, keeping the interests of the judiciary as the paramount consideration."

The Government had prepared Judges (Inquiry) Bill, 2005 to devise a suitable legislative frame work to deal with complaints against Judges of Supreme Court and High Courts and to repeal the Judges (Inquiry) Act, 1968. The draft Bill was sent to Law Commission of India for examination and report. The Commission in its 195th Report examined the draft Judges (Inquiry) Bill, 2005. Based on the recommendations of the Law Commission, the Judges (Inquiry) Bill, 2006 was introduced in the Lok Sabha on 19.12.2006. The Bill was referred to the Department related Parliamentary Standing Committee based on whose suggestions a new Bill titled "The Judges

(Inquiry) Amendment Bill, 2008" was drafted which sought to retain the Judges (Inquiry) Act, 1968 and amend its provisions by adding a Chapter. It was decided to withdraw the Judges (Inquiry) Bill, 2006 and introduce this new Bill. This could not be done due to dissolution of the 14th Lok Sabha. Based on the attempts made so far and various suggestions received, a revised and comprehensive "The Judicial Standards and Accountability Bill, 2010" which incorporates a mechanism for enquiring into complaints against the Judges of the Supreme Court and High Courts, lays down judicial standards and requires Judges to declare their assets and liabilities has been introduced in the Lok Sabha on 01.12.2010.

There is no Constitutional provision for compulsory retirement and dismissal of judges of higher judiciary. Information regarding dismissal and compulsory retirement of judges of District/subordinate courts is not maintained by the Central Government as it is the concern of respective High Courts and State Governments.