

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

STARRED QUESTION NO:169
ANSWERED ON:11.08.2011
APPOINTMENT AND RESERVATION OF JUDGES
Reddy Shri Anantha Venkatarami;Verma Smt. Usha

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

- (a) whether the Government has received suggestions from the Law Commission of India regarding appointment of judges in higher Courts;
- (b) if so, the details thereof alongwith the steps taken by the Government to implement the suggestions;
- (c) whether the Government is considering to make a provision of reservation for women/SCs/STs/OBCs/minority communities in the judiciary; and
- (d) if so, the details thereof?

Answer

MINISTER OF LAW AND JUSTICE (SHRI SALMAN KHURSHID)

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

Statement referred to in reply to parts (a) to (d) of the Lok Sabha Starred Question No.169 for answer on 11.08.2011

The Law Commission in its 214th Report (2008) has analyzed in detail the appointment procedure of judges in the higher judiciary and has observed that the delicate balance of power between the executive and the judiciary has been upset by the Judge's case in 1993 and advisory opinion in 1998. The Commission had suggested two alternatives for changing the procedure :-

(i) an entire reconsideration of I, II & III judges cases - S.P. Gupta Vs UOI reported in AIR 1982 Supreme Court 149, Supreme Court Advocate on Record Association Vs UOI reported in 1993(4) SCC 441 and Special Reference 1 of 1998 reported in 1998(7) SCC 739, in order to bring about clarity, consistency and transparency, in the process of appointment of Supreme Court and High Court Judges.

(ii) A law may be passed restoring the primacy of the Chief Justice of India and the power of the executive to make the appointments.

In order to formulate a viable proposition to address the issues concerning appointment of Judges of the Supreme Court and High Courts, various options are being examined. However, no specific proposal has been finalized.

The constitution does not provide for any reservation for women/SCs/STs/OBCs/minority communities in the higher judiciary. There is no proposal to amend this constitutional provision.