

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

UNSTARRED QUESTION NO:476  
ANSWERED ON:15.03.2012  
COMPLAINTS AGAINST JUDGES  
Dhurve Jyoti;Naranbhai Shri Kachhadia

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

(a) the details of the complaints received against the judges of Supreme Court and High Courts during the last three years till date; and

(b) the details of the major recommendations made by the Law commissions regarding the investigation of the complaints made against such judges?

**Answer**

MINISTER OF LAW AND JUSTICE (SHRI SALMAN KHURSHID)

(a) As per the 'in-house mechanism' of the higher judiciary, the Chief Justice of India is competent to receive complaints against the conduct of the Judges of the Supreme Court and the Chief Justices of the High Court. Similarly, the Chief Justices of the High Courts are competent to receive complaints against the conduct of the Judges of their Courts. In view of this, the Central Government do not maintain records of such complaints and it has no mechanism to monitor the action taken on the same.

(b): The Government had prepared Judges (Inquiry) Bill, 2005 to devise a suitable legislative framework to deal with complaints against Judges of the 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 Law Commission of India in its 195th Report has made wide ranging and comprehensive recommendations on this. The major recommendations regarding the investigation of the complaints are inter-alia as under:-

(i) Investigation / inquiry by the Judicial Council by way of a complaint procedure in addition to a reference procedure, is not an infringement of the Parliamentary process contained in Art 124(4). It does not amount to impermissible delegation and is valid.

(ii) The view that Section 22 of the Bill of 2005 which permits the Judicial Council itself to conduct an investigation or appoint a Committee comprising its Members to conduct the investigation, is constitutionally valid.

(iii) When the Judicial Council investigates into allegations against a Supreme Court Judge (in the complaint or reference procedures) or against the Chief Justice of India (in a reference procedure), it should not include the two senior most Chief Justices of the High Courts. Instead, the Judicial Council should comprise the Chief Justice of India and four senior most Judges of the Supreme Court,

(iv) Following provisions be inserted in the Bill of 2005 by way of a separate section:

'(1) Any person who makes a complaint which is either frivolous or vexatious or is not in good faith, against a Judge with intent to cause harassment to the Judge against whom the complaint is filed, shall be punishable.

(2) When any offence under subsection (1) is committed, the Judicial Council may take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure specified for summary trials under the Code of Criminal Procedure, 1973 and if such offender is found guilty of committing the offence, sentence him to imprisonment for a term which may extend to one year and also to fine which may extend to rupees twenty five thousand.'

(v) There should be a provision in the Bill of 2005 that every complainant and every person including a witness and a lawyer who participates in the investigation and inquiry, whether or not he seeks confidentiality about his name, must undertake to the Judicial Council that he shall not reveal his own name, name of the Judge complained against, the contents of the complaint or any of the documents or proceedings to anybody else including the media without the prior written approval of the Judicial Council. It will be for the Judicial Council to decide when and to what extent the contents of the complaint shall be disclosed to the public. It must be made clear that this is notwithstanding anything contained in the Right to Information Act 2005. Once the enquiry is completed before the Judicial Council, if 'minor measures' are imposed on a complaint procedure, the same can be published by the Judicial Council with the qualification that in the case of 'private censure or admonition', the name of the complainant and of the Judge concerned shall not be published. In the case of recommendation for removal since the report is to be submitted to the Speaker/Chairman, it will be for the Speaker/Chairman to decide when such report can be published.