

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

STARRED QUESTION NO:122  
ANSWERED ON:14.08.2013  
NATIONAL JUDICIAL APPOINTMENTS COMMISSION  
Premajibhai Dr. Solanki Kiritbhai;Singh Shri Mahabali

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

- (a) the existing mechanism for regulating appointment of judges of the Supreme Court and the High Courts of India;
- (b) whether the Government proposes to set up a National Judicial Appointments Commission;
- (c) if so, the details thereof along with the reasons therefor and the time by which the said commission is likely to be set up;
- (d) whether all stakeholders and higher judiciary have been consulted in the matter and if so, the reaction thereto; and
- (e) whether the Government proposes to initiate a recruitment drive for appointment of judges in fast track courts and if so, the details thereof?

**Answer**

MINISTER OF THE STATE IN THE MINISTRY OF LAW AND JUSTICE AND COMMUNICATIONS & INFORMATION TECHNOLOGY  
(SHRI KAPIL SIBAL)

(a) to (e) A Statement is laid on the Table of the House.

Statement referred to in reply to parts (a) to (e) of the Lok Sabha Starred Question No.122 to be answered on 14.08.2013 regarding 'National Judicial Appointments Commission'.

(a) The Judges of the Supreme Court are appointed by the President under Article 124 (2) of the Constitution while the Judges of the High Courts are appointed under Article 217 (1) of the Constitution. The appointment of Judges is made as per the procedure laid down in the Memorandum of Procedure for Appointment of Judges of Supreme Court and High Courts prepared in 1998 pursuant to the Supreme Court Judgement of October 6, 1993 read with their Advisory Opinion of October 28, 1998.

Judges to the Supreme Court are appointed by a collegium system comprising the Chief Justice of India, along with four senior-most judges of the apex court. The appointment of Judges to the High Court is initiated by the Chief Justice of the concerned High Court in consultation with two senior most judges of that High Court and in further consultation with the Chief Minister and the Governor. The recommendations received are referred to the Chief Justice of India, who in turn consults two senior most judges in the Supreme Court and consultee judges who have experience in that High Court. The recommendations of the Chief Justice of India are forwarded to the Minister for Law and Justice for the approval of the Prime Minister and the President.

(b) There is a proposal to establish a Judicial Appointments Commission. However, no decision has been taken by the Government so far.

(c)& (d) Recommendations have been made in the past by the National Commission to Review the Working of the Constitution (2002), and Administrative Reforms Commission (2007-08) and the Law Commission of India (214th Report-2008). Representations have also been made by various agencies and expert bodies to review/change the present procedure of appointment of judges of the Supreme Court of India and the High Courts. Based on the suggestions received, consultations have been held with retired Judges of the Higher Judiciary, who advocated the setting up of a Judicial Appointments Commission to select eligible and meritorious candidates for appointment as High Court Judges.

(e) Recruitment of judges in the subordinate judiciary including Fast Track Courts (FTCs) rests with the respective State Government. FTCs were set-up to handle long pending cases on the recommendation of 11th Finance Commission which provided grants to the States to cover full cost of the FTCs from 2000-01 to 2004-05. After the term of 11th Finance Commission was over, Government continued to provide financial support for FTCs till 31st March 2011. States were free to meet additional expenditure in excess of the grant provided by the Central Government. The Central scheme of grant to States for FTCs was discontinued after 31.03.2011.

However, in pursuance of the judgement of Supreme Court in Brij Mohan Lal case, 10% additional positions of judges (about 1800) are required to be created at district/subordinate level. The Chief Ministers have been requested to make use of these additional positions of judges, to be funded on a matching basis by the Central Government and the State Governments, for trial of rape cases. An amount of upto Rs. 80 crore per annum upto 31/03/2015 has been approved for the purpose from the 13th Finance Commission Award.

