

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

UNSTARRED QUESTION NO:1955  
ANSWERED ON:04.12.2014  
APPOINTMENT OF JUDGES  
Adityanath Shri Yogi

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

- (a) the procedure adopted by the Government in appointment of Judges in High Courts and Supreme Court;
- (b) whether the Government proposes to bring more transparency in such appointment;
- (c) if so, the details thereof along with the time by which it is likely to be implemented; and
- (d) if not, the other steps taken/proposed to be taken in this regard?

**Answer**

MINISTER OF LAW AND JUSTICE(SHRI D.V. SADANANDA GOWDA)

(a): Every Judge of the Supreme Court and the High Courts shall be appointed by the President by Warrant under his hand and seal under Articles 124 and 217 of the Constitution of India respectively. Pursuant to the Supreme Court Judgment of October 6, 1993 read with their Advisory Opinion of October 28, 1998, the process of initiation of proposal for appointment of a Judge of a High Court rests with the Chief Justice of the concerned High Court and for appointment of a Judge in the Supreme Court, rests with the Chief Justice of India.

Briefly, in the case of appointment of Judges in the Supreme Court, the Chief Justice of India (CJI) will initiate the proposal and forward his recommendation to the Union Minister of Law and Justice (MU). The opinion of the CJI should be formed in consultation with the collegium of four senior-most puisne Judges of the Supreme Court. After receipt of the recommendation of the CJI, the MLJ will put up the recommendations to the Prime Minister who will advise the President in the matter of appointment.

In the case of High Court Judges, the Chief Justice of High Court initiates proposals for appointment of Permanent/ Additional Judges in consultation with two senior-most colleagues, which constitutes the High Court Collegium. The proposals are sent by the Chief Justice of the High Court to the Chief Minister of the State with a copy to Governor of the State, Union Minister of Law and Justice and the Chief Justice of India. The Union Minister of law and Justice considers the recommendations in the light of such other reports as may be available to the Government in respect of the names under consideration. After receipt of the views/comments of the Governor/Chief Minister of the concerned State, the proposals are then referred by the Union Minister of Law & Justice to the CJI for advice. The CJI, in consultation with the two senior-most Judges of the Supreme Court, forms the opinion with regard to the recommendations for appointment as a Judge of the High Court. The CJI takes into account the views of those Judges in the Supreme Court who are conversant with the affairs of that High Court. Thereafter the Union Minister of Law & Justice then puts up the recommendations of the CJI to the Prime Minister, who advise the President in the matter of appointment.

(b) to (d): Based on the Law Commission Report No.214 (2008) and the recommendations contained in various other Reports, views of eminent jurists and other stakeholders, the existing system of appointment of Judges in the Supreme Court and High Courts is proposed to be changed. The Parliament has passed the Constitution (One Hundred and Twenty First Amendment) Bill, 2014, and the accompanying National Judicial Appointments Commission Bill, 2014 for making amendments to the Constitution for establishing a National Judicial Appointments Commission (NJAC) for appointment of Judges of Supreme Court and High Courts. The National Judicial Appointments Commission would be chaired by the Chief Justice of India, its membership would include two senior most Judges of the Supreme Court, the Union Minister of Law and Justice, two eminent persons to be nominated by a committee of the Prime Minister of India, the Chief Justice of India, and the Leader of the Opposition in the House of the People, or if there is no Leader of the Opposition, then the Leader of the single largest Opposition Party in the House of the People. With a view to ensuring that the composition of the National Judicial Appointments Commission is inclusive, the Bill provides that one of the eminent persons shall be nominated from amongst persons belonging to the Scheduled Caste, the Scheduled Tribes, other Backward Classes, Minorities or Women. The Bills would be sent to the President after the Constitution (One Hundred and Twenty First Amendment) Bill, 2014 is ratified by not less than one half of the States.