

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

STARRED QUESTION NO:188
ANSWERED ON:21.07.2014
TRANSPARENCY IN APPOINTMENT OF JUDGES
Adityanath Shri Yogi;Venugopal Shri K. C.

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

- (a) whether the Government is satisfied with the existing mechanism in place for appointment of judges in Supreme Court of India and High Courts and if so, the details thereof;
- (b) whether suggestions have been received from various quarters for structural changes in the present system for appointment of judges in the Supreme Court of India and the High Courts; and
- (c) if so, the details thereof and the time by which these changes are likely to be made?

Answer

MINISTER OF LAW AND JUSTICE AND COMMUNICATIONS & INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD)

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

Statement referred to in reply to parts (a) to (c) of the Lok Sabha Starred Question No. 188 to be answered on 21.07.2013 regarding 'Transparency in Appointment of Judges'.

(a) to (c) : The appointment of Judges to High Courts and Supreme Court is based on a 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. Recommendations have been made in the past by the National Commission to Review the Working of the Constitution (2002), 2nd Administrative Reforms Commission (2007-08) and the Law Commission of India (214th Report-2008) for changing the existing procedure for appointment of Judges to the Supreme Court and High Courts. Representations have also been made by various agencies and expert bodies to review/change the present procedure of appointment of judges.

Based on the suggestions received, the Government had introduced two bills titled the 'Constitution (One Hundred and Twentieth Amendment) Bill, 2013' and the 'Judicial Appointments Commission Bill, 2013' in the Rajya Sabha to change the existing system for appointment and transfer of Judges in the Supreme Court and High Courts by establishing a Judicial Appointments Commission (JAC).

The objective of the Bills is to broaden the process of appointment, and make it more participatory to ensure greater transparency and objectivity in the appointments to the higher judiciary. The Bills proposed that the JAC would be headed by the Chief Justice of India (CJI) and would consist of two other Judges of the Supreme Court next to the CJI in seniority, Union Minister in charge of Law and Justice and two eminent persons to be nominated by Collegium consisting of the Prime Minister, CJI and the Leader of Opposition in the House of People. One of such eminent person shall be nominated by rotation from amongst the persons belonging to the Scheduled Castes, Scheduled Tribes, Other Backward Classes, and Minorities.

The 'Constitution (One Hundred and Twentieth Amendment) Bill, 2013', which was an enabling legislation for JAC, was passed by the Rajya Sabha on 5th September, 2013 as the 'Constitution (Ninety Ninth Amendment) Bill, 2013'. However, 'The Judicial Appointments Commission Bill, 2013' was referred to the Department-Related Parliamentary Standing Committee (PSC) on Personnel, Public Grievances, Law and Justice for examination.

The Parliamentary Standing Committee presented its report on the Judicial Appointments Commission, Bill, 2013 on 9th December, 2013 to Parliament. After examining the report, necessary amendments were made in the Constitution (One Hundred and Twentieth Amendment) Bill and the Judicial Appointments Commission Bill, 2013. However, the Bills could not be considered in the last Session of the Parliament. The Constitution (One Hundred and Twentieth Amendment) Bill has lapsed consequent to the dissolution of the 15th Lok Sabha. The 'Judicial Appointments Commission Bill, 2013' is pending in the Rajya Sabha. The Government is seeking the views of various political parties and eminent Jurists on the proposal for setting up of a 'Judicial Appointments Commission'.