

APPOINTMENT OF PERSONS OF YOUNGER AGE AS JUDGES OF THE SUPREME COURT

*126. SHRI CHANDRA SHEKHAR:
SHRI A. G. KULKARNI : †
SHRI KRISHAN KANT:
SHRI KOTA PUNNAIAH :
SHRI BRAHMANANDA
PANDA:
DR. Z. A. AHMAD:

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

(a) whether there is any proposal under Government's consideration to appoint suitable persons of younger age as judges in the Supreme Court; and

(b) if so, by when a final decision is likely to be taken in this regard?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI NITIRAJ SINGH CHAUDHURY): (a) Appointments to the Supreme Court have to be made on the basis of merit and suitability. It is not, therefore, practicable to consider only persons of younger age for such appointments.

(b) Does not arise.

SHRI J. P. YADAV: What about philosophy?

SHRI A. G. KULKARNI: While congratulating the Government for the step taken to change the basis of succession to the post of Chief Justice of the Supreme Court may I know whether the Law Commission has advised that there should be a longer duration for the Chief Justice so that he can effectively interpret the laws made by Parliament? In this connection it is not only younger age but it is also the younger spirit and the capacity to understand in the present context the entire political set-up that is important.

† The question was actually asked on the floor of the House by Shri A. G. Kulkarni.

In view of this, may I know whether the Government will rationalise . . .

SHRI LOKANATH MISRA: Mr. Kulkarni is old in age but young in spirit.

SHRI A. G. KULKARNI: He is asking me.

MR. CHAIRMAN: He is not asking you. You are not putting the question.

SHRI A. G. KULKARNI: I am asking the question.

MR. CHAIRMAN: I will stop you if you keep on repeating.

SHRI A. G. KULKARNI: May I know, in view of this, whether the Government will rationalise the procedure and whether such a system will go into the State High Courts also? It is very necessary that the State High Courts should follow the same system.

SHRI NIT RAJ SINGH CHAUDHURY: The Law Commission did recommend that the Supreme Court Judges in our country have to retire on a very early and on a meagre pension. These cases, however, should not in our view prevent the Supreme Court Bench from being enriched by recruiting very distinguished members of the Bar, if care is taken to invite them on the Bench at an age when they will have a fairly long tenure on the Bench. They suggested that a Judge should be able to have a tenure of office of at least ten years. A similar recommendation was made with respect to the High Courts. The Government considered every aspect and decided that the lower limit of 5 years would be realistic and, therefore, the recommendation that it should be ten years or more was not accepted by the Government. A lower limit was accepted by the Government.

SHRI A. G. KULKARNI: May I know Sir, whether the same logic will be applicable to the State High Courts? In view of this, may I know whether the Bar Council is at present showing immaturity of

thinking in giving notice to the Ministers particularly and what is the reaction of the Government to the action taken by the Bar Association as regards the notices issued to them without showing any cause as to why they should be debarred?

SHRI NITI RAJ SINGH CHAUDHURY: This is a personal matter and Government hardly comes into the picture

SHRI NAGESHWAR PRASAD SHAHI: On a point of order, that question is irrelevant.

(Interruption)

MR. CHAIRMAN: The question has already been answered.

SHRI A. G. KULKARNI: The Bar Association should show maturity.

SHRI KRISHAN KANT: May I know from the hon. Minister whether the Government has considered the question of appointment of Supreme Court Judges from two angles? The present change of society is very fast because of the advance made in science and technology. Even the science which we learnt in the intermediate has become out of date. In the same way, social changes have taken place and mass awakening has taken place. Those Judges who have been interpreting laws for the last twenty years are getting out of date. Because of that, a new age limit, a younger age limit is one of the essentials for High Court Judges and Supreme Court Judges. May I know what is the present age group of the Supreme Court Judges and what is the present age group of High Court Judges? Would the Government agree with what President Roosevelt said? He said Besides age, I shall be failing in my duty if I appoint Judges on the Supreme Court Bench people who are not sound in national policies.

SHRI NITI RAJ SINGH CHAUDHURY: The question relates to the Supreme Court and, therefore, I have information regarding the Supreme Court with me. The period for which persons who have come to the Supreme Court and who have served the Supreme Court varies from 3 years to 12 years.

SHRI KRISHAN KANT: What is the present age group of the Supreme Court Judges and the High Court Judges?

SHRI NITI RAJ SINGH CHAUDHURY: I will just give you. The persons serving in the Supreme Court were born between 1909 to 1920. They were born during that period.

SHRI KRISHAN KANT: I asked whether you agree with the two postulates. One is the age group and the other is the new change in the social system and the time that it will take. What are the Government's views on this?

SHRI NITI RAJ SINGH CHAUDHURY: The last appointment made in the Supreme Court go to show that the Government is trying to find out persons of age round about fifty who have merit and are suitable for appointment to the Supreme Court.

DR. Z. A. AHMAD: In view of the fact that accumulation of age does not go side by side with accumulation of wisdom—in fact, it is to the contrary, and very often

SHRI T. N. SINGH: What about you?

DR. Z. A. AHMAD: There are a few honourable exceptions like Chairman. After some age, people become senile like our friends there. Anyhow, I would like to know whether it would be advisable for you to reduce the age of the Supreme Court Judges from 65 to 60

SHRI C. D. PANDE: Young men, 55 years.

DR. Z. A. AHMAD: You can be like a * * * all the time.

SHRI C. D. PANDE: What is it? You are, I am not.

MR. CHAIRMAN: I do not want all this.

* * * Expunged as ordered by the Chair.

SHRI C. D. PANDE: What is this? It is irrelevant.

MR. CHAIRMAN: MR. Pande, you are unnecessarily interrupting him.

SHRI C. D. PANDE: Sir, you do not give me protection.

MR. CHAIRMAN: You interrupted him first.

SHRI C. D. PANDE: At what age, I asked.

DR. Z. A. AHMAD: I am not provoking him at all.

MR. CHAIRMAN: I have expunged the objectionable word. Please finish your question, Dr. Ahmad.

DR. Z. A. AHMAD: I am asking whether it is advisable or not advisable to reduce the age of Supreme Court Judges from 65 to 60. That is a proposal, that is my suggestion. Are Government prepared to consider that question?

SHRI NITI RAJ SINGH CHAUDHURY: This being a suggestion, no reply is necessary.

श्री सीताराम केसरी सभापति जी, मैं विधि मंत्री महोदय से यह आश्वासन चाहूंगा कि जजेज की बढ़ाली में चाहे सुप्रीम कोर्ट का या हाई कोर्ट का हो उसमें क्या एजुकेशनलिस्ट या जो प्रोफेसर है चोटी के उनकी नियुक्ति की ओर ध्यान देगे ?

श्री नीतिराज सिंह चौधरी सविधान के अंतर्गत यह आवश्यक है सुप्रीम कोर्ट के लिए कि या तो वह पांच वर्ष तक हाई कोर्ट में जज रहे हो या दस वर्ष तक उन्होंने वकालत की हो, इस सीमा के अन्दर जो आयेगा—ऐसे प्रोफेसर हो जिन्होंने वकालत की हो और प्रोफेसर बाद में हो गये हो—और उनमें योग्यता है ता आ सकते हैं अन्यथा नहीं।

श्री लोकनाथ मिश्र मिस्टर कुमारमंगलम क्वालिफाई करने है क्या ?

श्री सभापति : आप बीच में मवाल कैसे पूछने है ?

SHRI PAPI REDDI: Is there any proposal before the Government to appoint suitable Harijans as Supreme Court Judge?

SHRI NITI RAJ SINGH CHAUDHURY: If they possess the requisite qualifications and if they are suitable, they would certainly be appointed.

DR. M. R. VYAS: There are a number of cases before the various courts in the country, which are held up for lack of knowledge by the Judges in that particular subject. For example, there is the patent law. There are many cases before the courts pending, cases pertaining to the patent law but they are not dealt with fastness and properly because the judges lack knowledge in that. Will this also be examined along with the age question?

SHRI NITI RAJ SINGH CHAUDHURY: I do not have information as to what types of cases there are. I have the total number. Therefore it is difficult for me to say what types of cases are being dealt with and whether they are really pending because the Judges do not have that particular knowledge.

श्री जगदम्बी प्रसाद यादव श्रीमन्' मैं मंत्री जी से जानना चाहता हूँ, अभी जजेज के बारे में आपके मित्र श्रीमान कुमारमंगलम साहब ने . . .

श्री सभापति आप मवाल पूछिए, Do not refer to individuals.

श्री जगदम्बी प्रसाद यादव मवाल ही पूछ रहा हूँ . . .

श्री सभापति सुप्रीम कोर्ट के जजेज का मवाल है, मिस्टर कुमारमंगलम का मवाल नहीं है।

श्री जगदम्बी प्रसाद यादव कि क्या जजेज का अपाइन्टमेंट, मॉशल फिलाभाफी जो सरकारी दलों को फिट करे, यह नितान्त आवश्यक है उसके लिए और क्या इसी आधार पर अब जजेज का अपाइन्टमेंट होगा ? इसमें आपका क्या विचार है ?

श्री नीतिराज सिंह चौधरी ये नियुक्तिया सविधान के आर्टिकल 124 के अनुसार होती है और उसी के अनुसार होगी।

श्री जगदम्बी प्रसाद यादव श्रीमान, कुमारमंगलम साहब ने उसके बारे में साफ साफ शब्दों में कहा है।

श्री सभापति वह मालूम है। सबको पता है।

श्री जगदम्बी प्रसाद यादव कि अजैज की वह मोशल फिलामफी हो जो सरकार को सूट करे। तो उनके इस कथन पर आपका क्या विचार है ?

MR. CHAIRMAN: Please sit down. Mr. Banarsi Das.

श्री बनारसी दास क्या श्रीमान, कृपा करके बतलायेंगे कि न्यायाधीशों को निष्पक्ष काम करने के लिए हम बान की व्यवस्था करेंगे कि रिटायर होने के बाद उनको किसी सरकारी नौकरी या किसी कमीशन या किसी ग्रामाडनमेंट पर, जिसमें वेतन मिले, नहीं नियुक्त किया जायगा ?

SHRI NITI RAJ SINGH CHAUDHURY: Sir, it does not arise out of this question. It is a suggestion.

MR. CHAIRMAN : Next question.

SHRI N. H. KUMBHARE: Sir, there are two Scheduled Caste Judges, one in the Bombay High Court and the other in the Mysore High Court. There are three vacancies in the Supreme Court.

MR. CHAIRMAN: No, please, I do not allow it.

SHRI N. H. KUMBHARE: Will the Government appoint at least one of these judges to the Supreme Court?

MR. CHAIRMAN: No, please. Next question.

GANGA BASIN COMMISSION

127. SHRI KRISHNA KANT : †
SHRI CHANDRA SHEKHAR:
SHRI KOTA PUNNAIAH:

The question was actually asked on the floor of the House by Shri Krishna Kant.

SHRI BRAHMANANDA PANDA:

SHRI A. G. KULKARNI:

DR. Z. A. AHMAD:

SHRI J. P. YADAV:

Will the Minister of IRRIGATION AND POWER be pleased to state.

(a) whether the Ganga Basin Commission has started functioning;

(b) if so, the aims and objects of the commission; and

(c) the programmes formulated by the commission?

THE DUPTY MINISTER IN THE MINISTRY OF IRRIGATION AND POWER (SHRI BALGOVIND VERMA): (a) to (c) A statement is laid on the Table of the House.

STATEMENT

(a) to (c) The Ganga Flood Control Commission with headquarters at Patna has been functioning since August, 1972. The Commission has been set up with the primary objective of preparing an integrated plan to tackle the flood, erosion and drainage problems in the Ganga basin and arranging its implementation through the agency of the concerned State Governments. The other important functions of the Commission are:

(1) to ensure the implementation of works to proper standards and their maintenance;

(2) to assess the performance of flood control measures in the basin;

(3) Examination of the adequacy of waterways of road and railway bridges in the basin;

(4) to review the flood forecasting and warning arrangements in the basin and propose extension and improvement.

The immediate works programmed by the Commission are :

(1) Formulation of an outline plan of flood control in the Ganga basin based