

Law Commission's recommendation for appointment of Judges

1220. SHRI DEVENDER GOUD T.: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that courts in the country require 70,000 Judges to clear the pending cases;

(b) the number of proposals pending with the Ministry for appointment of Judges in High Courts;

(c) whether it is a fact that the Law Commission has recommended for having 44,000 Judges to effectively tackle the number of pending cases, but the country has just 18,000 judges as of now; and

(d) if so, the reasons for not implementing recommendations of the Law Commission?

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI P. P. CHAUDHARY): (a) to (d) The matter relating to the appointment of Judges/Judicial Officers in District and Subordinate Courts falls within the domain of State Governments and the High Courts. However, in the case of *Imtiyaz Ahmed versus State of Uttar Pradesh* and others, the Supreme Court had asked the Law Commission of India to evolve a method for scientific assessment of the number of additional courts to clear the backlog of cases. In 245th report (2014), the Law Commission has observed that filing of cases *per capita* varies substantially across geographic units as filings are associated with economic and social conditions of the population. As such the Law Commission did not consider the judge population ratio to be a scientific criterion for determining the adequacy of the judge strength in the country. The Law Commission found that in the absence of complete and scientific approach to data collection across various High Courts in the country, the "Rate of Disposal" method to calculate the number of additional judges required to clear the backlog of cases as well as to ensure that new backlog is not created, is more pragmatic and useful. In May, 2014, the Supreme Court asked the State Governments and the High Courts to file their response to the recommendations made by the Law Commission. In August 2014, the Supreme Court asked the National Court Management System Committee (NCMS) to examine the recommendations made by the Law Commission and to furnish their recommendations in this regard. NCMS submitted its report to the Supreme Court in March, 2016. It has, *inter alia*, observed that in the long term, the judge strength of the subordinate courts will have to be assessed by a scientific method to determine the total number of "Judicial Hours" required for disposing

of the case load of each court. In the interim, the Committee has proposed a “weighted” disposal approach—disposal weighted by the nature and complexity of cases in local conditions. The matter is sub-judice before the Supreme Court, at present. As per the direction of the Hon’ble Supreme Court in its Order dated 02.01.2017, the Department of Justice has forwarded a copy of interim report of the NCMS Committee to all State Governments and High Courts to enable them to take follow up action to determine the required Judges Strength of district judiciary based on the NCMS report. As per the Supreme Court, the sanctioned strength and working strength of Judges and Judicial Officers of District and Subordinate Courts is 21,374 and 16,528 respectively as on 30.09.2016.

At present 201 proposals for appointment of Judges in High Courts are at various stages of processing.

Filling up of posts of Judges in Patna High Court

†1221. SHRI RAM NATH THAKUR: Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) the number of posts of Judges vacant in Patna High Court;
- (b) since when these posts are lying vacant;
- (c) by when these vacancies would be filled up;
- (d) whether there is a rule to start the process of filling the vacant posts six months before the date on which they fall vacant; and
- (e) whether these processes are being followed?

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI P. P. CHAUDHARY): (a) to (e) As on 1.3.2017 there were 23 posts of Judges lying vacant in Patna High Court. These vacancies have arisen during the period July, 2013 to February, 2017. While every effort is made to fill up the existing vacancies expeditiously, vacancies keep on arising on account of retirement, resignation or elevation of Judges and increase in the Judge strength of High Courts. Filling up of vacancies in High Courts is a continuous and collaborative process of the Judiciary and the Executive. It requires consultation and approval from various Constitutional Authorities. Hence, the time frame for filling up of the vacancies cannot be indicated. During 2016, 6 new Judges were appointed in the Patna High Court.

As per the Memorandum of Procedure (MoP) for appointment and transfer of Chief Justices and Judges of High Courts, when a permanent vacancy is expected to

† Original notice of the question was received in Hindi.