

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF JUSTICE

RAJYA SABHA
UNSTARRED QUESTION NO. 599
ANSWERED ON 07.12.2023

Vacancies in courts

599. DR. JOHN BRITTAS:

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

- (a) sanctioned strength and vacancies of judges in High Courts and the Supreme Court, as on date;
- (b) number of proposals for appointments in High Courts which are pending with the Supreme Court Collegium and Government, as on date;
- (c) split up details thereof and reasons for delay;
- (d) vacancies in the Supreme Court which are yet to be recommended by the Collegium to Government or pending with Government;
- (e) number of Collegium proposals for appointment to High Courts and the Supreme Court returned by Government during last five years and reasons therefor; and
- (f) number of returned proposals concurred with by the Collegium?

ANSWER

MINISTER OF STATE (INDEPENDENT CHARGE) FOR MINISTRY OF LAW AND JUSTICE; MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS; MINISTER OF STATE FOR THE MINISTRY OF CULTURE

(SHRI ARJUN RAM MEGHWAL)

(a) to (f): As on 04.12.2023, against the sanctioned strength of 34 Judges (including Chief Justice of India), 34 Judges are working and there is no vacancy of Judges in the Supreme Court. As regards the High Courts, against the sanctioned strength of 1114 Judges, 790 Judges are working and 324 post of Judges are vacant in the various High Courts.

As on 01.01.2023, 171 proposals received from High Court Collegiums were at different stages of processing. During the calendar year 2023, 121 fresh proposals were received. Out of the total 292 proposals for consideration during the current calendar year, 110 Judges have been appointed and 60 recommendations were remitted to the High Courts

on the advice of the SCC. As on 04.12.2023, 122 proposals are at various stages of processing.

Out of these 122 proposals, 87 proposals were sent to the Supreme Court Collegium (SCC) for seeking advice against which the SCC has provided advice on 45 proposals which are at various stages of processing in the Government. 42 proposals are under consideration with the SCC. 35 fresh proposals received recently are being processed for seeking the advice of the SCC. Recommendations are yet to be received from High Court Collegiums in respect of the remaining 198 vacancies.

Appointment of the Judges of the Constitutional Courts is a continuous, integrated and collaborative process between the Executive and the Judiciary. It requires consultation and approval from various constitutional authorities both at state and central level.

Judges of the Supreme Court and High Courts are appointed under Article 124, 217 and 224 of the Constitution of India and according to the procedure laid down in the Memorandum of Procedure (MoP) prepared in 1998 pursuant to the Supreme Court Judgment of October 6, 1993 (Second Judges case) read with their Advisory Opinion of October 28, 1998 (Third Judges case).

As per existing Memorandum of Procedure on appointment of High Court Judges, the proposal is initiated by the Chief Justice of the High Court in consultation with two senior most puisne Judges of the High Court. The views of State Constitutional Authorities on the proposals are also obtained. The Union Minister of Law & 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. The complete material is then forwarded to the Chief Justice of India for his advice. Accordingly, the Government sends all proposals received from the High Court Collegiums to the Supreme Court Collegium (SCC) for advice.

Proposals received from Supreme Court Collegium are sent back with the observations by the Government only in cases where some new information regarding the recommendee has been received in the interim or there are certain issue or facts, which require the reconsideration by the SCC. Cases are also sent back to the SCC with the requisite information, where the SCC has sought some additional information or raised a query. This is a continuous and collaborative process. The Government finally return back to the High Courts only those proposals, where the SCC has decided to remit the recommendations. Only those persons are appointed as Judges of the Supreme Court and High Courts whose names have been recommended by the SCC.