Decision on Appointment of SC Judge

Why in news?

\n\n

Union government has cleared the elevation of Justice K.M. Joseph to the Supreme Court. Click here to know more on the issue

\n\n

How is a Supreme Court judge appointed?

\n\n

\n
- The Chief Justice of India and the Judges of the Supreme Court are appointed by the President under clause (2) of Article 124 of the Constitution.
\n
- Whenever a vacancy is expected to arise in the office of a Judge of the Supreme Court, the Chief Justice of India will initiate proposal.
\n
- The recommendation will be forwarded to the Union Minister of Law, Justice and Company Affairs to fill up the vacancy.
\n
- The opinion of the Chief Justice of India for appointment of a Judge of the Supreme Court should be formed in consultation with a collegium of the four senior-most Judges of the Supreme Court.
\n

\n\n

What happened in the appointment of K.M Joseph?

\n\n

\n
- K.M Joseph was the chief justice of Uttarakhand high court.
\n
- The five member collegium earlier recommended K.M Joseph for elevation to the SC, and it was reiterated again.
\n
- Union government has made unusual delay in first responding to the Collegium’s recommendation, and later it took more time for reconsideration

of the proposal.
\n
- This had created stand-offs between judiciary and executive, and within the judiciary.
\n

\n\n

What were the concerns with Government’s move?

\n\n

\n
- Union government explained the delay was due to invocation of the seniority or diversity norms in appointments to the higher judiciary.
\n
- It made an issue of K.M. Joseph's relative lack of seniority among the Chief Justices of the various high courts.
\n
- It also said that his elevation would give excessive representation to Kerala, as he belongs to the state.
\n
- Union government has been splitting recommended lists and selectively approving proposals from the collegium, while holding back or returning some names.
\n
- Even in its adherence to the norm that reiteration of a recommendation is binding, the government has not been consistent.
\n

\n\n

What is the way forward?

\n\n

\n
- The Centre had no option but to elevate the Uttarakhand High Court Chief Justice once the collegium reiterated its original recommendation after the Law Ministry returned his name.
\n
- But it will require more outreach by the government to assuage the anxieties expressed by senior judges in letters written to the CJI.
\n
- Given this past turbulence, the government will be watched carefully for the role it plays or doesn’t play in the future in the next big transition in the Supreme Court.
\n

\n\n

\n\n

Source: Indian Express, The Hindu

\n