

Delay in Judicial Appointments

Why in news?

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The Supreme Court recently questioned the centre on the delay in finalising a Memorandum of Procedure (MoP) for judicial appointments.

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What is the case?

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- **Petition** - The court was hearing a petition which:

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- i. questions the delay in the finalisation of MoP for judicial appointments in the higher judiciary.
- ii. raises the issue of delay in the appointment of regular Chief Justices in high courts despite the earlier recommendation of the Supreme Court.

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- Apparently, the delay in evolving a fresh procedure is being a cause for the delay in the appointment process.

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- **Collegium** - It is to be noted that the appointments process is not stopped but is only going on in a slow pace.

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- The collegium system is in place whereby the recommendations of the Collegium are being processed and cleared by the Centre.

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- The Collegium comprises of CJI and a forum of four senior-most judges of the SC.

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- It recommends on appointments and transfers of judges.

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What was the court's directive?

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- Earlier in 2015, a constitution bench struck down the government's National Judicial Appointments Commission (NJAC) law.

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- The court's rationale was that the NJAC law gave politicians an equal say in judicial appointments to constitutional courts.
- But the court directed the government to supplement the existing MoP in consultation with the collegium.
- This is to have a mechanism so that appointments of regular Chief Justices of high courts are not unduly delayed as in the current collegium system.
- And also to ensure that the process of appointment started well in advance to prevent piling up of vacancies.

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What is the recent concern?

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- Even though no time limit was fixed by the Court, the undue delay in finalising the MoP is getting to be a cause of concern.
- The vacancies in the high courts have continued to increase while the pace of appointing new judges remains sluggish.
- Also, nearly seven of the 24 high courts have been without regular Chief Justices for months.
- The Court stressed that the timely arrangement of Acting Chief Justices in high courts should not continue for more than a month.

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- The delay is perceivably due to the lack of consensus between the Collegium and the government on some significant aspects of the new MoP.
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- Beyond all these, a fresh and transparent appointments process is vital to institutional reform.
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- A consensus on the procedure is essential in protecting the public interest.
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Source: The Hindu

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