Judicial appointments - Memorandum of Procedure (MoP)

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Why in news?

The Supreme Court Bar Association (SCBA) urging the finalisation of the Memorandum of Procedure (MoP) for appointment of judges to the Supreme Court and High Courts.

> ***Fourth Judges Case (2015)*** *– The SC struck down the National Judicial Appointments Commission (NJAC) Act and the 99th Constitutional Amendment, which executive a final say in the appointment of judges in HC and the SC, which revived the collegium system.*

- The MoP for appointing judges to the Supreme Court and High Courts is a crucial ***agreement*** between the ***Indian judiciary and the executive***.
- The MoP governs the collegium system, a ***judicial innovation*** not explicitly written into the Constitution.
- It contains a ***set of guidelines*** for making appointments to the Supreme Court and High Court.
- For High Courts, proposals for appointments are initiated by the *Chief Justice of the High Court*, sent to the Supreme Court Collegium (SCC) for recommendations, and then approved by the President.
- For transfers, the Chief Justice of India (CJI) leads the consultation with senior Supreme Court judges and considers views from relevant Chief Justices and personal factors of the judge being transferred.
- **Proposed reforms in the MoP –**
    - **Establishment of Permanent secretariats –** To be set up in every High Court and in the Supreme Court to maintain data on candidates and vacancies, and to ensure institutional memory.
    - **Implementing Transparent application-based process** - Replacing the informal system with a formal, open application process so that every deserving candidate, including from the Supreme Court Bar, can be considered.
    - **Publishing eligibility Criteria** - Codification of verifiable eligibility benchmarks such as years of practice, reported judgments, academic contributions, and pro bono work, against which candidates must be assessed.
    - **Creating grievance redressal mechanism –** To address complaint process to address grievances and uphold integrity in appointments.

Collegium System
• In the original constitution, there is ***no mention*** of a collegium. • It involves a "collegium" of senior judges, with the Supreme Court's collegium consisting of the Chief Justice of India (CJI) and 4 senior-most judges, while High Court collegiums are led by their respective Chief Justices and 2 senior-most judges. • **Supreme Court –** According to ***Article 124***, Supreme Court judges are appointed by the President of India in consultation with Chief Justice of India (CJI) and other judges that he deems fit. • **High Court -** According to ***Article 217,*** High Courts judges are appointed by the President in consultation with CJI, Governor of the State and Chief Justice of that court.

References

1. The Hindu | MoP for judicial appointments
2. Economic Times| MoP for judicial appointments
3. Department of Justice | MoP for judicial appointments