SC on Delay in Judges Appointments

Why in news?

The Supreme Court recently said that 213 names recommended for appointment to various High Courts are pending with the government.

What are the court's observations and directions?

- Data show that 38% of all sanctioned posts for High Court judges are lying vacant as of December 1, 2019.
- The High Courts of some States including Andhra Pradesh and Rajasthan are functioning at below half their actual capacity.
- The court has fixed a time period of 6 months to appoint as judges at least those whose names the SC collegium, the HCs and the Government have agreed upon.

What is the procedure?

- Prior to the names reaching the PM and President for final approval, there are time periods specified.
- This is the case at each level of the appointment process of judges to the higher judiciary.
- The Memorandum of Procedure states that appointments should be initiated at least 6 months before a vacancy arises.
- Also, 6 weeks of time is then specified for the State to send the recommendation to the Union Law Minister.
- After this, the brief is to be sent to the SC collegium in 4 weeks.
- Once the collegium clears the names, the Law Ministry has to put up the recommendation to the Prime Minister in 3 weeks.
- The PM will in turn advise the President.
- Thereafter no time limit is prescribed and the process, seemingly, comes to a standstill.

What is the significance?

- The Supreme Court decided to strike down the government's move to set up a National Judicial Appointments Commission as unconstitutional in 2015.
- [The NJAC would have been responsible for appointments and transfers to the higher judiciary in place of the Supreme Court collegium.]

- Since then, reports of delays in appointments have become increasingly commonplace.
- The Supreme Court recently condemned the government for not acting on another set of nominations on which the government had sent back objections.
- The court said that if the collegium reiterates the names, the government has no option but to appoint the judges.
- In this backdrop, the equation between the court and the Union Government has been strained.
- Vacancies in the higher judiciary threaten every aspect of the justice delivery system.
- However, it is mostly the courts that take the blame for any shortfall in justice.
- Given all these, the Supreme Court's recommendation now of a time limit to the appointments is welcome.

Source: The Hindu

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