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## **ANALYSIS OF THE PROCEDURE OF APPOINTMENT OF JUDGES IN HIGHER JUDICIARY IN INDIA**

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Prof. (Dr.) Mukesh Garg, Department of Law, Ch. Devi Lal University, Sirsa (Haryana)

Dr. Naresh Lata Singla, Assistant Professor, Department of Law, Ch. Devi Lal University, Sirsa (Haryana)

### **ABSTRACT**

The higher judiciary occupies a central position in upholding the Rule of Law and ensuring constitutional governance in India. Judicial independence, impartiality and integrity constitute the cornerstone of a credible justice delivery system and are essential for sustaining public confidence in democratic institutions. The Rule of Law requires judges to adjudicate without arbitrariness, fear, favour or external influence, while maintaining conduct that remains beyond reproach. As guardians of the Constitution and protectors of fundamental rights, judges function as public trustees whose integrity underpins democratic legitimacy and institutional credibility. The appointment of individuals lacking probity to the higher judiciary poses a serious threat to judicial independence and increases the risk of favoritism, nepotism and erosion of public trust in the administration of justice. Articles 124(2) and 217 of the Constitution of India provide the constitutional framework for the appointment of judges to the Supreme Court and the High Courts respectively, with the collegium system playing a decisive role in this process. This research paper critically examines the constitutional provisions and the existing mechanism of judicial appointments, with particular emphasis on identifying institutional and procedural deficiencies. The study underscores the urgent need for greater transparency, accountability and objective criteria in the appointment process to ensure that only individuals of proven integrity, competence, and independence are elevated to the higher judiciary. The research adopts a doctrinal methodology, drawing upon constitutional provisions, judicial pronouncements and authoritative scholarly literature.

**Keywords:** Higher Judiciary, Appointment, Rule of Law, Integrity, Ethics.

## 1.1. Introduction:

The judiciary bears the primary responsibility of delivering justice and upholding the Rule of Law in a democratic society. It is for this reason that courts are often described as the temples of justice. While the legislature enacts laws, their meaning, scope, and practical application are ultimately determined through judicial interpretation.<sup>1</sup> In numerous instances, judges are required to exercise discretion where statutory provisions are ambiguous, inadequate, or silent. In such situations, judges rely upon constitutional principles, judicial wisdom, and reasoned judgment, thereby contributing to the development of judge-made law or case law, which has become an integral part of the Indian legal system.<sup>2</sup> Judges of the higher judiciary play a decisive role in the administration of justice, constitutional interpretation and the protection of fundamental rights. Given the nature and gravity of their functions, a person occupying judicial office must possess exceptional qualities. Integrity, moral character, independence and impartiality are indispensable attributes of a judge, as the very foundation of justice rests upon the principle that decisions must be free from biasness, personal interest or external influence. A competent judge embodies impartiality, integrity, independence, legal acumen and a sound judicial temperament—qualities that ensure fairness in adjudication and reinforce public confidence in the justice delivery system. Hence, a right person should be appointed as the judicial officer in higher judiciary so that he may perform his duties and function to establish rule of law in the country and establish the faith of the people in the administration of justice. The appointment of an unsuitable or ethically compromised individual to the higher judiciary poses a serious threat to the Rule of Law and undermines public faith in judicial institutions. The Supreme Court has repeatedly emphasized the necessity of unimpeachable conduct by judicial officers. In *Daya Shankar v. High Court of Allahabad*<sup>3</sup>, the Supreme Court opined that “Judicial officers cannot have two standards, one in the court and another outside the court. They must have only one standard of rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy”. Hence, high moral standard is required for appointment of a judicial officer. And if any process of removal of judge of the higher judiciary is initiated it shakes the faith of the people in justice delivery mechanism. So, it is necessary to be appointed a right person as a judge for the Supreme Court and the High courts. The framers of the Indian Constitution, were concerned about the potential

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<sup>1</sup> <https://www.lloydlawcollege.edu.in/blog/role-of-judiciary-in-india.html> visited on 02.02.2026.

<sup>2</sup> <https://byjus.com/free-ias-prep/indian-judiciary/> visited on 04.02.2026.

<sup>3</sup> (1987) 3 SCC 1.

for executive overreach in the appointments. They sought to create a balanced system of Judicial appointment to ensure judicial independence. Article 124(2) and Article 217 of the Constitution of India are aimed at balancing the powers of executive and judiciary in safeguarding judicial appointments. Subsequent judicial pronouncements in the First, Second, and Third Judges' Cases significantly reshaped this framework, culminating in the establishment of the collegium system, which vested primacy in the judiciary for appointments to the higher judiciary, thereby minimizing executive interference. Despite these developments, concerns regarding transparency, accountability, and objectivity in judicial appointments continue to persist.<sup>4</sup> Against this backdrop, the present research paper undertakes a critical study of the constitutional procedure for the appointment of judges to the Supreme Court and the High Courts. It seeks to analyze existing lacunae and procedural shortcomings in the appointment mechanism and to offer constructive suggestions for reform, with the objective of strengthening judicial integrity, independence, and public confidence in the administration of justice.

## **1.2 Appointment of the Judges for Higher Courts and the Constitutional Provisions:**

The Constitution of India, 1950 prescribes the procedure for the appointment of judges to the Supreme Court and the High Courts. Articles 124 and 217 lay down the constitutional framework governing the appointment and qualifications of judges of the Supreme Court and the High Courts respectively. Although the Constitution does not expressly provide for the collegium system, it has emerged through judicial interpretation and now plays a decisive role in the appointment of judges to the higher judiciary. Under the collegium system, appointments to the Supreme Court and the High Courts are primarily initiated and recommended by senior judges of the higher judiciary themselves, with the objective of safeguarding judicial independence from executive interference.

### **1.2.1 Article 124 of the Constitution of India, 1950:**

Article 124 of the Constitution of India provides for the establishment and composition of the Supreme Court of India. It stipulates that there shall be a Supreme Court consisting of the Chief Justice of India and such number of other judges, not exceeding thirty-three, as Parliament may from time to time prescribe by law. The provision empowers Parliament to

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<sup>4</sup> <https://forumias.com/blog/collegium-system-and-the-njac-the-issue-of-judicial-appointments/> visited on 10.02.2026.

increase the sanctioned strength of judges in the Supreme Court in accordance with the needs of justice and the growing workload of the Court.<sup>5</sup> It also outlines the procedure and process of the appointment of judges for the Supreme Court. It provides that every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years. It also provides that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted.<sup>6</sup>

### **1.2.1.1 Qualifications for the Appointment of Judge of the Supreme Court:**

Article 124 (3) of the Constitution of India provides the qualifications for the appointment of a Judge of the Supreme Court of India. A person to be selected as a judge for the Supreme Court must have the following requirements:

- i) He must be a citizen of India.
- ii) He should have been the judge of any High Court or more than one High Courts for a period of minimum five years.<sup>7</sup>
- iii) An Advocate can also be appointed as judge of the Supreme Court if he has been an advocate of any High Court or more than one High Courts for a period of minimum ten years.<sup>8</sup>
- iv) The person who will be appointed as judge of the Supreme Court must be a distinguished jurist in the opinion of the President.<sup>9</sup>

### **1.2.2 Article 217 of the Constitution of India, 1950:**

The procedure and process of the appointment of judges for the High Courts in India is governed under this Article. It provides that every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of

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<sup>5</sup> Article 124 (1) of the Constitution of India, 1950.

<sup>6</sup> Article 124 (2) of the Constitution of India, 1950.

<sup>7</sup> Article 124 (3)(a) of the Constitution of India, 1950.

<sup>8</sup> Article 124 (3)(b) of the Constitution of India, 1950.

<sup>9</sup> Article 124 (3)(b) of the Constitution of India, 1950.

India, the Governor of the State and in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court.<sup>10</sup>

### **1.2.2.1 Qualifications for the Appointment of Judge of the High Court:**

Article 217(2) of the Constitution of India provides the qualifications for the appointment of a judge of the High Court in India.

- i) He must be a citizen of India.
- ii) He must have held a judicial office in the territory of India for a minimum of 10 years;<sup>11</sup> Or
- iii) He must have been an advocate of a High Court or two or more High Courts in succession for at least 10 years<sup>12</sup>.
- iv) He must be less than 62 years of age as this is the retirement age and no minimum age is prescribed under this Article for the appointment of a High Court judge.

In *R. Poornima & Ors. v. Union of India & Ors. India*<sup>13</sup> the Supreme Court of India clarified that directly recruited District Judges cannot club their prior experience as advocates with their judicial service to meet the 10-year eligibility requirement for elevation to the High Court. The three judge bench of S.A. Bobde, A.S. Bopanna and V. Ramasubramanian, JJ dismissed the claim of certain District Judges to club their services rendered as advocates with the service rendered by them as judicial officers, for determining their eligibility for elevation as High Court judges. They ruled that the two eligibility conditions under Article 217 (2) (a) and (b) i.e. ten years of judicial service or ten years of advocacy are alternatives and cannot be combined to meet the minimum qualification to elevate as the judge of the High Court. However, in case of appointment of district judge, the Supreme Court of India in the case of *Rejanish K.V. v. K. Deepa & Others*, Civil Appeal No. 3947 of 2020 decided on October 9, 2025 held that in-service judicial officers who had previously completed seven years of practice

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<sup>10</sup> Article 217 (1) of the Constitution of India, 1950.

<sup>11</sup> Article 217 (2)(a) of the Constitution of India, 1950.

<sup>12</sup> Article 217 (2)(b) of the Constitution of India, 1950.

<sup>13</sup> 2020 SCC OnLine SC 714, decided on 04.09.2020.

as advocates are eligible to apply for direct recruitment to the post of District Judge under the quota reserved for the Bar. This judgment effectively allows the clubbing of combined experience as an advocate and a judicial officer for the purpose of eligibility for direct recruitment to the post of District Judge<sup>14</sup>. But this case is not effective for the appointment of judges for the higher judiciary.

### **1.2.3 Collegium System for the appointment of Judges for Higher Judiciary:**

On September 15, 2025, a three-member Supreme Court Collegium, comprising the Chief Justice of India along with Justice Surya Kant and Justice Vikram Nath, passed five separate resolutions in a meeting recommending appointments of judges to five different High Courts. This instance clearly reflects the central and decisive role presently played by the collegium system in the appointment of judges to the Supreme Court and the High Courts in India.<sup>15</sup> So, in practice, the collegium system has become the dominant mechanism governing judicial appointments to the higher judiciary. However, it is significant to note that this system finds no explicit mention in the text of the Constitution of India. The Constitution envisages consultation in judicial appointments under Articles 124 and 217, but it does not prescribe the collegium as an institutional framework. The collegium system is, instead, a product of judicial interpretation and has evolved through a series of landmark judgments of the Supreme Court, commonly known as the First, Second, and Third Judges' Cases. Through these decisions, the meaning of "consultation" was expanded to confer primacy upon the judiciary in the appointment process, thereby substantially limiting executive discretion.

#### **1.2.3.1 Collegium System- Evolution, Importance and Analysis:**

Although the collegium system finds no explicit place in the Constitution of India, it has come to play a highly effective and decisive role in the appointment of judges to the higher judiciary. It is a unique and extra-constitutional mechanism under which judges themselves recommend names for appointment, resulting in a system where judges, in effect, appoint judges. The collegium system was authoritatively established by a nine-judge Bench of the Supreme Court of India in *Supreme Court Advocates-on-Record Association v. Union of India* (W.P. (C) No. 1303 of 1987), decided on 6 October 1993. Through this landmark judgment,

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<sup>14</sup> <https://indiankanoon.org/doc/2601695/> visited on 19.01.2026.

<sup>15</sup> <https://www.thehindu.com/news/national/supreme-court-collegium-recommends-appointment-confirmation-of-judges-in-five-high-courts/article70055743.ece> visited on 19.01.2026.

commonly referred to as the Second Judges' Case, the Supreme Court interpreted the constitutional requirement of "consultation" under Articles 124 and 217 to confer primacy upon the judiciary in matters of judicial appointments, thereby significantly curtailing executive discretion in the appointment process. The case *S.P. Gupta v. Union of India & Anr.*<sup>16</sup> which is popularly known as First Judges' Transfer Case is the foundation of the Collegium System and subsequently, in 1993, the Second Judges Case solidified the implementation of this system across the nation. In First Judges' Transfer Case, Justice Bhagwati proposed the establishment of a collegium to recommend candidate names to the President for appointing judges in the Supreme Court and High Courts. Conversely, Justice Pathak and Tulzapurkar emphasized the importance and supremacy of the Chief Justice of India's opinion and advice over others. It was unanimously agreed that 'consultation' meant comprehensive and effective deliberation, requiring constitutional functionaries to base their decisions on complete and identical facts.<sup>17</sup> In this case, a constitutional bench comprising seven learned judges opined that the term "consultation" as enshrined in the Constitution does not connote "concurrence" and that the final authority in the appointment of judges' vests with the Union Government rather than the Chief Justice of India or in other words the advice of the CJI was not binding on the President.<sup>18</sup> But, the decision of the first judges transfer case that "consultation" did not mean "concurrence" was fundamentally altered in Second Judges' Case where nine-judge bench overruled the previous decision and held that "consultation" would, in fact, mean "concurrence". This made the CJI's advice binding on the President. The decision in Second Judges Case was further clarified in the Third Judges' Case in 1998 which is the Supreme Court of India (*In Re: Appointment & Transfer of Judges*), Special Reference Case 1 of 1998 decided on 28.10.1998<sup>19</sup>, in which the questions were posed by Shri K.R. Narayanan, President of India dated 23.07.1998 regarding appointment of Judges and the Supreme Court answered that:

- i) the expression "consultation with the Chief Justice of India" in Articles 217(1) of the Constitution of India requires consultation with a plurality of Judges in the formation of the opinion of the Chief Justice of India. The sole, individual opinion of the Chief Justice of Indian does not constitute "consultation" within the meaning

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<sup>16</sup> AIR 1982 SC 149.

<sup>17</sup> 1982(2) SCR 365.

<sup>18</sup> <https://lawctopus.com/clatalogue/clat-ug/appointment-of-judges-in-india-analysis-of-the-4-judges-case/> visited on 24.01.2026.

<sup>19</sup> *In Re Presidential Reference*, AIR 1999 SC 1.

of the said Articles.

- ii) The Chief Justice of India must make a recommendation to appoint a Judge of the Supreme Court in consultation with the four seniormost puisne Judges of the Supreme Court. Insofar as an appointment to the High Court is concerned, the recommendation must be made in consultation with two seniormost puisne Judges of the Supreme Court.
- iii) The Chief Justice of India is not entitled to act solely in his individual capacity, without consultation with other Judges of the Supreme Court, in respect of materials and information conveyed by the Government of India for non-appointment of a judge recommended for appointment.
- iv) “Strong cogent reasons” do not have to be recorded as justification for a departure from the order of seniority, in respect of each senior Judge who has been passed over. What has to be recorded is the positive reason for the recommendation.

The Fourth Judges case i.e. Supreme Court Advocates-on-Record Association Vs Union of India<sup>20</sup> is also a landmark judgement in the evolution of this collegium system. It was decided on October 16, 2015. In this case the 99<sup>th</sup> Constitutional Amendment Act, 2014 which established the National Judicial Appointment Commission (NJAC) was declared as unconstitutional and this case reaffirmed the collegium system for judicial appointments and transfers by a five- judge bench with 4:1 majority. The National Judicial Appointments Commission Act, 2014 established the National Judicial Appointments Commission (NJAC). It provided for the procedure to be followed by the NJAC for recommending persons for appointment as Chief Justice of India and other Judges of the Supreme Court (SC), and Chief Justice and other Judges of High Courts (HC).<sup>21</sup> The Act provided for a transparent and broad-based process of selection of judges of the Supreme Court and the High Courts replacing the Collegium system.<sup>22</sup> According to the Act, the National Judicial Appointments Commission was to consist of six members i.e.:

1. Chief Justice of India (CJI) – Chairperson (ex-officio)

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<sup>20</sup> (2016) 5 SCC 1.

<sup>21</sup> <https://prsindia.org/billtrack/the-national-judicial-appointments-commission-bill-2014> visited on 26.01.2026.

<sup>22</sup> <https://www.pib.gov.in/newsite/printrelease.aspx?relid=118224&reg=3&lang=2> visited on 30.01.2026.

2. Two senior-most judges of the Supreme Court next to CJI
3. Union Minister in charge of Law and Justice
4. Two eminent persons, nominated by the committee consisting of the Prime Minister, the Chief Justice of India and the Leader of Opposition in the House of the People or where there is no such Leader of opposition, then, the Leader of largest opposition party in the Lok Sabha.

It was also provided that one of the eminent persons had to be nominated from amongst the persons belonging to the SC/ST/OBC/minorities or women and nomination would be for a period of three years and would not be eligible for renomination.

But the fourth judges case declared the National Judicial Appointments Commission as unconstitutional and null and void.

#### **1.2.3.2 Effect of Collegium System:**

The Collegium is the body responsible for the appointment of Judges at High Courts and the Supreme Court. India is perhaps the only major constitutional democracy where judicial appointments are effectively controlled by the judiciary itself through an extra-constitutional collegium system.”<sup>23</sup> There is increased criticism that the Collegium system is not transparent. Without proper information, it becomes hard to judge how independent the Collegium really is. In the process of judicial appointments, concerns are occasionally expressed that relatives of sitting or retired judges are recommended by the collegium. Certain individuals in the higher judiciary have family connections that are publicly known, which has led to debates on transparency, institutional perception, and the need to ensure that merit remains the sole criterion for elevation. Like; i) Justice Sanjiv Khanna (Chief Justice of India) is nephew of former Supreme Court Judge Hans Raj Khanna who is son of former Delhi High Court Judge Dev Raj Khanna. ii) Justice B.V. Nagarathna (Supreme Court Judge) is daughter of former Chief Justice of India E.S. Venkataramiah. iii) Justice Sudhanshu Dhulia (Supreme Court Judge) is son of K.C. Dhulia, former Judge of Allahabad High Court. iv) Justice Dipankar Datta (Supreme Court Judge) is son of former Calcutta High Court Judge Salil Kumar Datta and also related by marriage to former Supreme Court Justice Amitava Roy. v) Justice

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<sup>23</sup> <https://www.scobserver.in/journal/on-clarity-in-the-collegium/> visited on 30.01.2026.

Pankaj Mithal (Supreme Court Judge) is son of Justice Narendra Nath Mithal, former Allahabad High Court Judge. vi) Justice N. Kotiswar Singh (Supreme Court Judge) is son of the late N. Ibotombi Singh, former Gauhati High Court Judge. vii) Advocate Sushil Manohar Ghodeswar was appointed as a Judge of the Bombay High Court and he is the son of former Acting Chief Justice of the Maharashtra High Court, Justice Manohar Ghodeswar. But mere familial relationship does not imply nepotism. However, repeated instances naturally invite public scrutiny, especially in a system where appointments are largely insulated from external oversight. From time to time, concerns are raised alleging nepotism in the process. On 12<sup>th</sup> March, 2018 a news item appeared in the Times of India, as ‘Allahabad HC judgeship list: It’s all in the family’ when a list of 33 senior advocates recommended by the Allahabad High Court collegium for judgeship in the country’s largest high court stoked a controversy with at least one-third of them allegedly related to sitting and retired judges of the Supreme Court and the Allahabad HC. The law ministry received several complaints from the Allahabad and Lucknow bar against the recommendations.<sup>24</sup> Around 50% of the judges of high courts and 33% judges in the Supreme Court are family members of those in “higher echelons of judiciary”, claims a research done by a Mumbai-based lawyer.<sup>25</sup> To erase this perception of lineage trumping merit or a judicial officer getting priority over first-generation lawyers in getting recommended for appointment as high court judges, one of the collegium judges recently mooted the idea of instructing high court collegiums not to recommend lawyers or judicial officers whose parents or close relatives were/are judges of Supreme Court or high courts, for appointment as high court judges.<sup>26</sup> However, during the period between late 2022 and mid-2025, under Chief Justices D.Y. Chandrachud and Sanjiv Khanna, the published resolutions were more detailed, explaining selection parameters, referencing Intelligence Bureau reports and recording the Government’s suspect reasons for rejecting names, creating a new expectation of accountability. But recently in Justice B.R. Gavai’s tenure as CJI, the unexplained elevation of the judge in the face of a strong dissent in the collegium has further eroded the court’s credibility.<sup>27</sup> The controversy surrounding the elevation of Justice Vipul M. Pancholi to the Supreme Court arose mainly due to serious objections recorded within the Supreme Court

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<sup>24</sup> <https://timesofindia.indiatimes.com/india/allahabad-hc-judgeship-list-its-all-in-the-family/articleshow/63261443.cms> visited on 31.01.2026.

<sup>25</sup> <https://www.hindustantimes.com/india/50-hc-judges-related-to-senior-judicial-members-report/story-S8RP2Ir9cEuIN4NewFvML.html> visited on 04.02.2026.

<sup>26</sup> [https://timesofindia.indiatimes.com/india/in-a-first-sc-collegium-starts-interacting-with-lawyers-backed-for-hc-judgeship/articleshow/116780474.cms?utm\\_source=chatgpt.com](https://timesofindia.indiatimes.com/india/in-a-first-sc-collegium-starts-interacting-with-lawyers-backed-for-hc-judgeship/articleshow/116780474.cms?utm_source=chatgpt.com) visited on 10.02.2026

<sup>27</sup> <https://www.scobserver.in/journal/what-the-justice-pancholi-elevation-reveals-about-the-supreme-court/> visited on 25.12.2025.

Collegium itself. Justice B.V. Nagarathna, a member of the Collegium, formally opposed the recommendation for Justice Pancholi's elevation. Despite her dissent, the recommendation was approved by a 4–1 majority. Justice Nagarathna pointed out that Justice Pancholi was far down the all-India seniority list of High Court judges, with many more senior judges available. She questioned why his name was considered ahead of them. The dissent highlighted concerns about regional imbalance, noting that judges from certain High Courts particularly Gujarat were already well represented in the Supreme Court, and that his elevation could further skew representation. In this system no doubt there is lack of transparency and might be oversight of fairness and accountability.

The Supreme Court Bar Association (SCBA) has written to Chief Justice of India B.R. Gavai and Law Minister Arjun Ram Meghwal flagging the urgent need to usher in a “transparent and equitable framework” for appointment of judges in the top court and High Courts. SCBA highlighted the immediate requirement to finalise the Memorandum of Procedure (MoP) for appointment of judges, a task pending since the National Judicial Appointments Commission (NJAC) law was struck down as unconstitutional in 2015. The SCBA has sought “urgent and comprehensive correction” of the “structural flaws” in the Collegium mechanism while ensuring that judicial independence is maintained intact. The SCBA has held the Collegium system responsible for the troubling underrepresentation of women and candidates from diverse backgrounds on the Benches of constitutional courts across the country. Proposing reforms in the MoP, the SCBA said permanent secretariats be set up in every High Court and in the Supreme Court to maintain data on candidates and vacancies, and to ensure institutional memory. It has also recommended the setting up of a robust complaints’ mechanism to address grievances and verifiable and objective eligibility criteria, which have to be codified and published, to guide the judicial appointments.<sup>28</sup>

Amid continuing criticism of the Collegium system, the government informed the Rajya Sabha on 5<sup>th</sup> February, 2026 that the process to revise the Memorandum of Procedure (MOP) for appointment of judges in higher judiciary is under consideration and further steps in this regard will be taken only after it is complete. Replying to supplementaries during the Question Hour, Minister of State for Law and Justice Arjun Ram Meghwal said consultations

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<sup>28</sup> <https://www.thehindu.com/news/national/supreme-court-lawyers-want-corrections-made-to-collegium-system/article70089187.ece> visited on 09.02.2026.

are underway on setting up the All-India judicial service and in what form it should be brought in.<sup>29</sup>

### 1.3 Appointment of Judges in Higher Courts in some other Countries:

Researcher also studied the procedure of appointment of Judges for higher courts in some other countries. In England the process of selecting Justices of the United Kingdom Supreme Court is overseen by an independent selection commission. The selection commission must have at least five members. The Lord Chancellor convenes an independent selection commission. The vacancy is advertised. Applications are sought from a wide range of candidates, including those who are not currently full-time judges, and those who will increase the diversity of the UKSC. Applicants are invited to submit a personal statement, examples of their previous work, and details of independent assessors. Applicants are shortlisted based on merit and then interviewed by the selection commission. The selection commission submits a report to the Lord Chancellor stating who has been selected to fill the vacancy. On receiving the report, the Lord Chancellor is required to consult the First Minister in Scotland, the First Minister for Wales, the Northern Ireland Judicial Appointments Commission and senior judges. If the selection commission's selection is accepted, the Lord Chancellor notifies the Prime Minister of the name of the successful applicant who, in turn, notifies. The Prime Minister's Office announces the appointment.<sup>30</sup>

In Israel, Supreme Court justices are appointed by the President of Israel, from names submitted by the Judicial Selection Committee, which is composed of nine members: three Supreme Court Judges (including the President of the Supreme Court), two cabinet ministers (one of them being the Minister of Justice), two Knesset members, and two representatives of the Israel Bar Association. Appointing Supreme Court justices requires a majority of 7 of the 9 committee members, or two less than the number present at the meeting.<sup>31</sup>

In South Africa, Judges are appointed in terms of section 174 of the Constitution of the Republic of South Africa, 1996. Section 178 of the Constitution provides for the establishment and composition of the Judicial Service Commission chaired by the Chief Justice. The

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<sup>29</sup> <https://theprint.in/india/process-to-revise-mop-on-judicial-appointments-under-consideration-govt/2846644/> visited on 08.02.2026.

<sup>30</sup> <https://supremecourt.uk/appointments-of-justices#the-selection-and-appointment-process> visited on 02.11.2025.

<sup>31</sup> [https://en.wikipedia.org/wiki/Supreme\\_Court\\_of\\_Israel#Further\\_hearing](https://en.wikipedia.org/wiki/Supreme_Court_of_Israel#Further_hearing) visited on 23.11.2025.

Commission is mandated, amongst others, to interview and recommend candidates for appointment as Judges by the President.<sup>32</sup>

#### **1.4 Removal of Judges of Higher Courts:**

In India, judges of the Supreme Court and High Courts enjoy strong constitutional protection to ensure judicial independence. They can only be removed by a process of impeachment for proven misbehavior or incapacity as given under Article 124 (4) in case of removal of Supreme Court Judges and under Article 217 (1) (b) in case of removal of Judges of High Courts.<sup>33</sup> The removal of judges of the Supreme Court and the High Courts is regulated by the Judges (Inquiry) Act, 1968, which provides a detailed mechanism for inquiry into allegations of misconduct or incapacity. However, the very initiation of such allegations tends to undermine public faith in the judiciary. Therefore, ensuring the appointment of individuals with unimpeachable integrity and high moral character at the entry stage is crucial, as it minimizes the possibility of removal proceedings and preserves the dignity and authority of the judicial institution.

#### **1.5 Conclusion and Suggestions:**

While the Constitution prescribes qualifications regarding experience for appointment as judges of the Supreme Court and High Courts, it remains silent on the question of minimum age. In the opinion of the researcher, this constitutional silence warrants reconsideration. Introducing a minimum age of 55 years would strengthen the quality of judicial appointments by ensuring that judges have sufficient professional exposure, constitutional insight and seasoned judgment before assuming such high constitutional offices. Judicial independence encompasses freedom from influence or interference by the executive and the legislature. Judges must be able to decide cases impartially, without pressure from political authorities, powerful individuals or public opinion. In the existing collegium system, newly appointed judges are often aware of the judges who recommended their elevation to the High Courts or the Supreme Court. This awareness may create a possibility—real or perceived—of influence or pressure, thereby affecting decisional independence. From the researcher's perspective,

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<sup>32</sup> <https://www.judiciary.org.za/index.php/documents/publications/category/55-judiciary-publications?download=4319:the-procedure-for-the-selection-of-candidates-for-appointment-as-judges> visited on 09.02.2026.

<sup>33</sup> <https://vajiramandravi.com/upsc-exam/constitutionally-guaranteed-judicial-independence-is-a-prerequisite-of-democracy/> visited on 20.12.2025.

judicial independence would be better safeguarded if a newly appointed judge does not know the identity of those who recommended or supported their appointment. Such anonymity in the selection process could reduce the likelihood of bias, obligation or indirect influence. Furthermore, the researcher suggests that appointments to the higher judiciary should be preceded by psychological evaluation and integrity assessment mechanisms should be incorporated to test the temperament, decision-making capacity and ethical standards of candidates before their appointment as judges of the High Courts or the Supreme Court.