



SC Collegium Recommends Rajasthan HC Judges

Why in News?

The [Supreme Court Collegium](#) has recommended the **appointment of judges to the Rajasthan High Court**.

Key Points

- **High Court Judges:**
 - **Procedure:** The appointment of judges to the High Courts follows a procedure based on the collegium system, which was established through various landmark cases, such as the [Second Judges Case \(1993\)](#) and further clarified in the [Third Judges Case \(1998\)](#).
 - The **collegium system empowers the judiciary to recommend appointments** and transfers of judges to the Supreme Court and High Courts, with the government having a limited role.
 - After the Third Judges Case (1998), the central government and the SC formalised High Court judge appointments through a **Memorandum of Procedure (MoP)**.
 - **Appointment of High Court Judges:**
 - For High Court appointments, the collegium comprises the [Chief Justice of India \(CJI\)](#) and the 2 senior most judges of the Supreme Court.
 - This collegium would form an opinion on a person to be recommended for appointment to the High Court, **taking into account the views of the Chief Justice of the concerned High Court**, senior Judges of the High Court, and Judges of the Supreme Court conversant with the affairs of that High Court.
 - **Memorandum of Procedure (MoP) for Appointment of High Court Judge:**
 - **High Court Collegium Recommendation:** The Chief Justice of the High Court, in consultation with the 2 senior most judges of that court, recommends names for appointment.
 - **State-Level Review:** The recommendations are sent to the Chief Minister and Governor for their views, though they **do not have the power to reject the recommendation**.
 - **Central Government Process:** The Governor forwards the recommendations to the Union Minister of Law and Justice, who conducts a background check.
 - **Supreme Court Collegium Review:** The recommendations are then sent to the CJI, who consults the Supreme Court collegium. If approved, the names are sent to the President for final approval.
 - The **government's role is limited to delaying appointments or raising concerns**, but it cannot overrule the collegium's recommendations.
- **Collegium System:**
 - It is the system of **appointment and transfer** of judges (SC and HC) that has evolved through **judgments of the SC**, and **not by an Act of Parliament** or by a provision of the Constitution.

Appointment	Consultation
Appointment of Judge of Supreme Court	4 Senior most Judges of the Supreme Court
Appointment of Judge of High Court	2 Senior most Judges of the Supreme Court
Transfer of Judge of High Court	4 Senior most judges of the Supreme Court along with the judges of the two High Courts.





Collegium System



- System of appointment and transfer of judges
- Evolved through judgments of the Supreme Court, and not by an Act of Parliament

Constitutional Provisions Related to Appointment of Judges

- **Articles 124 (2) and 217**- Appointment of judges to the Supreme Court and High Courts
 - **President makes appointments after consulting with "such judges of the Supreme Court and of the High Courts"** as s/he may deem necessary.
- But the Constitution **does not lay down any process** for making these appointments.

Evolution of the System

First Judges Case (1981)

- SC held that in the appointment of a judge of the SC or the HC, the word **"consultation"** in Article **124 (2)** and in Article **217** of the Constitution does not mean "concurrence"
- Gave the **executive primacy** over the judiciary in judicial appointments

Second Judges Case (1993)

- SC overruled the First Judges Case
- Gave birth to the **Collegium System (Primacy to the Judiciary)**
- Collegium included the Chief Justice of India and the **2** most senior judges of the SC

Third Judges Case (1998)

- SC expanded the Collegium to include the CJI and the **4** most-senior judges of the court after the CJI

Current Structure



Supreme Court Collegium: CJI and the **4** senior-most judges of the SC



High Court Collegium: CJI and **2** senior most judges of the SC

Criticism

- Opaqueness
- Scope for Nepotism
- Exclusion of Executive
- No Predetermined Procedure of Appointment

National Judicial Appointments Commission (NJAC)

- It was an **attempt to replace the Collegium System**. It prescribed the procedure to be followed by the Commission to appoint judges
- NJAC was established by the **99th Constitutional Amendment Act, 2014**
- But the **NJAC Act was termed unconstitutional** and was struck down, citing it as having affected the independence of the judiciary



Drishti IAS



PDF Refernece URL: <https://www.drishtiiias.com/printpdf/sc-collegium-recommends-rajasthan-hc-judges>

