

Decision on Appointment of SC Judge

Why in news?

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Union government has cleared the elevation of Justice K.M. Joseph to the Supreme Court. Click [here](#) to know more on the issue

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How is a Supreme Court judge appointed?

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- The Chief Justice of India and the Judges of the Supreme Court are appointed by the President under clause (2) of Article 124 of the Constitution.

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- Whenever a vacancy is expected to arise in the office of a Judge of the Supreme Court, the Chief Justice of India will initiate proposal.

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- The recommendation will be forwarded to the Union Minister of Law, Justice and Company Affairs to fill up the vacancy.

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- The opinion of the Chief Justice of India for appointment of a Judge of the Supreme Court should be formed in consultation with a collegium of the four senior-most Judges of the Supreme Court.

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What happened in the appointment of K.M Joseph?

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- K.M Joseph was the chief justice of Uttarakhand high court.

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- The five member collegium earlier recommended K.M Joseph for elevation to the SC, and it was reiterated again.

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- Union government has made unusual delay in first responding to the Collegium's recommendation, and later it took more time for reconsideration

of the proposal.

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- This had created stand-offs between judiciary and executive, and within the judiciary.

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What were the concerns with Government's move?

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- Union government explained the delay was due to invocation of the seniority or diversity norms in appointments to the higher judiciary.
- It made an issue of K.M. Joseph's relative lack of seniority among the Chief Justices of the various high courts.
- It also said that his elevation would give excessive representation to Kerala, as he belongs to the state.
- Union government has been splitting recommended lists and selectively approving proposals from the collegium, while holding back or returning some names.
- Even in its adherence to the norm that reiteration of a recommendation is binding, the government has not been consistent.

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What is the way forward?

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- The Centre had no option but to elevate the Uttarakhand High Court Chief Justice once the collegium reiterated its original recommendation after the Law Ministry returned his name.
- But it will require more outreach by the government to assuage the anxieties expressed by senior judges in letters written to the CJI.
- Given this past turbulence, the government will be watched carefully for the role it plays or doesn't play in the future in the next big transition in the Supreme Court.

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Source: Indian Express, The Hindu

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