

## Politics in Judicial Appointments

### What is the issue?

\n\n

\n

- The Union government has taken a stand against the elevation Chief Justice of Uttarakhand High Court K.M. Joseph on seemingly silly grounds.

\n

- This raises suspicion that the government's stand is politically motivated, an approach that could prove dangerous for judiciary's independence.

\n

\n\n

### What were the stated reasons for turning down the appointment?

\n\n

\n

- The government has given out two broad reasons for freezing the elevation of Justice K.M. Joseph to the Supreme Court.

\n

- **Seniority** - Government has stated that Justice Joseph is too junior in the all-India list of High court judges, and 11 Chief Justices ranked above him.

\n

- But seniority is not the sole consideration while elevating a High Court judge to the apex court and multiple other factors are factored in.

\n

- In fact, there have been multiple instances where senior judges have been overlooked in favour of a more deserving candidate of outstanding merit.

\n

- **Proportionality** - It has been asserted that there are regional imbalances in the Supreme Court as Kerala is disproportionately better represented.

\n

- Kerala already has 1 judge in the Supreme Court and it has been stated that a 2<sup>nd</sup> judge from there would make the region over-represented.

\n

- This is again a false notion as Kerala has in the past had as many as 3 judges in the apex court and other regions like Maharashtra are also over-represented.

- \n
- While it is desirable that regional imbalances are not glaring, this is not a valid ground in the current case, as the situation is not overly skewed.
- \n

\n\n

### **What are the suspicions?**

\n\n

- \n
- Justice Joseph in his capacity as a Chief Justice of the Uttarakhand High Court had delivered a verdict that lifted president's rule in Uttarakhand.
- \n
- This restored the Congress government headed by "Harish Rawat", which was earlier suspended on seemingly frivolous grounds.
- \n
- Some suspect that this had annoyed the Modi government and it is now extracting its vengeance by denying Justice Joseph his deserved promotion.
- \n
- Such an action could be a disaster to judiciary's independent functioning and might lead to rampant politicisation of jurists.
- \n
- The fact that Justice Joseph's career seems impeccable thus far only adds fuel to the suspicion that the current episode has been triggered due to politics.
- \n

\n\n

### **What is the way ahead?**

\n\n

- \n
- **Present Case** - Silly factor should not be made to shoot down the candidature of a person otherwise qualified and validly recommended.
- \n
- As the collegium has already vouched strongly for Mr. Joseph's credentials, it is likely that his name would be recommended again.
- \n
- Convention mandates the union government to accept the names that are recommended again (despite their objections).
- \n
- Hence, it would be prudent for the government clear Justice Joseph's appointment (if recommended again) and put an end to the controversy.
- \n

- **Overall** - There is a strong perception, that the government is much too slow when it comes to approving judicial appointments.  
\n
- A conflict between the judiciary and the executive over particular appointments is not in the public interest.  
\n
- To evolve a sustained solution, the government needs to finalise the “Memorandum of Procedure” (MoP) for appointments, which is long overdue.  
\n

\n\n

\n\n

**Source: The Hindu**

\n\n

\n

