

SC Judges Appointment - Concerns

What is the issue?

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- The government recently sent back the SC collegium's recommendation on judges appointment.
- It has raised concerns on the propriety of the Centre to hold back names from the collegium's list.

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What is the ongoing tussle?

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- The SC collegium recommended a list of names to be elevated as Judges of SC.
- Justice K.M. Joseph and senior advocate Indu Malhotra were recommended together.
- Justice K M Joseph is currently the Chief Justice of Uttarakhand High Court.
- The government however approved only Indu Malhotra's name.
- It however returned Justice K.M. Joseph's name for reconsideration.
- This too was done more than 3 months after the Collegium had approved them.
- The collegium recently decided to reiterate its recommendation to elevate Justice K M Joseph as SC judge.
- **When reiterated** unanimously, **the Centre is bound to act** on the collegium resolution.
- This is as per the law laid down by the SC in the Third Judges Case of 1998.

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What are the concerns?

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- **Power** - The government's decision to send back the collegium's recommendation was unprecedented.

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- It is suspected to have been influenced by some political considerations. Click [here](#) to know more.

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- The executive power of the Centre holding back names from the collegium's list needs a reassessment.

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- **Seniority** - The Centre has selectively approved some names from a batch of recommendations.

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- It could make a difference to the seniority of the judges concerned.

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- Notably, seniority is the sole consideration for appointment of the Chief Justice as well as membership of the collegium.

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- **Delay** - Justice K M Joseph's name would only be part of the collegium's next set of recommendations.

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- This would include proposals to elevate the Chief Justices of some more high courts.

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- The collegium seems to address the Centre's concern on fair representation to all high courts.

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- However, it remains a concern why collegium did not send its reiteration to the Centre immediately.

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What lies ahead?

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- The unanimous reiteration of the collegium may end the current controversy.

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- However, the larger issue of differences between the judiciary and the executive needs attention.
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- In a judge-recommended system of appointments differences over particular candidates cannot be avoided.
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- But it should be possible for the two sides to minimise these differences and act expeditiously.
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- The onus is more on the government of the day.
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- It should resist from blocking the appointment of anyone whom the judges themselves have found fit and deserving.
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- The present consultative process in appointments should not be hampered by executive stubbornness.
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Source: The Hindu, Indian Express

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