

## **SC on Delay in Judges Appointments**

### **Why in news?**

The Supreme Court recently said that 213 names recommended for appointment to various High Courts are pending with the government.

### **What are the court's observations and directions?**

- Data show that 38% of all sanctioned posts for High Court judges are lying vacant as of December 1, 2019.
- The High Courts of some States including Andhra Pradesh and Rajasthan are functioning at below half their actual capacity.
- The court has fixed a time period of 6 months to appoint as judges at least those whose names the SC collegium, the HCs and the Government have agreed upon.

### **What is the procedure?**

- Prior to the names reaching the PM and President for final approval, there are time periods specified.
- This is the case at each level of the appointment process of judges to the higher judiciary.
- The Memorandum of Procedure states that appointments should be initiated at least 6 months before a vacancy arises.
- Also, 6 weeks of time is then specified for the State to send the recommendation to the Union Law Minister.
- After this, the brief is to be sent to the SC collegium in 4 weeks.
- Once the collegium clears the names, the Law Ministry has to put up the recommendation to the Prime Minister in 3 weeks.
- The PM will in turn advise the President.
- Thereafter no time limit is prescribed and the process, seemingly, comes to a standstill.

### **What is the significance?**

- The Supreme Court decided to strike down the government's move to set up a National Judicial Appointments Commission as unconstitutional in 2015.
- [The NJAC would have been responsible for appointments and transfers to the higher judiciary in place of the Supreme Court collegium.]

- Since then, reports of delays in appointments have become increasingly commonplace.
- The Supreme Court recently condemned the government for not acting on another set of nominations on which the government had sent back objections.
- The court said that if the collegium reiterates the names, the government has no option but to appoint the judges.
- In this backdrop, the equation between the court and the Union Government has been strained.
- Vacancies in the higher judiciary threaten every aspect of the justice delivery system.
- However, it is mostly the courts that take the blame for any shortfall in justice.
- Given all these, the Supreme Court's recommendation now of a time limit to the appointments is welcome.

**Source: The Hindu**

