

## **Finalisation causes inordinate delay in filling posts of judges**

Chennai: The standoff between the government and the judiciary over finalisation of the Memorandum of Procedure (MoP), which guides appointment of judges to the higher judiciary, has led to an inordinate delay in filling the post of judges, resulting in increase of backlog of cases, putting the litigant public to great difficulty.

After striking down the National Judicial Appointments Commission Act and the Amendment last year, the Supreme Court had agreed on framing of the MoP by the Union government in consultation with the collegium.

After a long delay, the Centre had finalised the proposed MoP and sent it to the collegium in March this year.

However, Chief Justice of India T.S. Thakur had sent back the MoP on May 25, with a point-by-point rejection of the Centre's proposal.

The Union government has now referred the matter to Attorney General Mukul Rohatgi.

The Union government seems to be in no hurry to send a response to the Supreme Court, though it may further delay filling vacancies in high courts.

The collegium had disapproved of many rules including the one where the government reserved the right to reject any recommendation on the grounds of "national interest" and another on the involvement of the Attorney General in suggesting a list of suitable candidates.

India has a total sanctioned strength of 21,598 judges (as on December 31, 2015). This figure includes 31 Supreme Court judges and 1,065 high court judges. As in April 2016, there were 6 vacancies in the Supreme Court and 432 vacancies in the various high courts.

Five high courts were functioning with over 50 per cent vacancy. Allahabad high court has 79 judges as against sanctioned strength of 160, the high court of Andhra Pradesh and Telangana has 25 as against 61. Karnataka has 29 as against 62, Chhattisgarh has 8 as against 22 and Madras HC has 37 as against 75.

The SC has a pendency of around 60,000 cases and high courts have 45 lakh cases.

Reacting to the row over finalising the MoP between the Centre and the judiciary, senior advocate A. Sirajudeen said, “When the names are recommended by the collegium in the high court, Supreme Court used to prune the list. Most of us did not know the reason for which some names were not approved. As Justice Ruma Pal rightly stated, the reason for either accepting or rejecting any particular name as judges is a mystery and anything could play either positive or negative role. Only these factors prompted the Central government to bring NJAC Act, 2015. But, the fear of political interference in the appointment process influenced the Supreme Court to strike down the Act. At the same time, the apex court felt that the present system is not fool proof and it required improvements. As a result of this, the Central government initiated the process to draft the Memorandum of Procedure.

Even this MoP is being shuttled between the Supreme Court and the Central government, which has resulted in holding back the entire appointment process. Unless the Central government and the judiciary resolve the issue at the earliest, the litigant public will not be able to get speedy justice”.