

Hindustan Times

Govt alone can't be blamed for judicial vacancies in HCs: Govt to SC

Attorney General Mukul Rohatgi told the Supreme Court on Wednesday that the government alone can't be blamed for judicial vacancies as many posts have been lying vacant for over five years even as Chief Justice of India TS Thakur asked the Centre to show urgency in the matter.

“The present dispensation cannot be held responsible for those (older ones) vacancies,” Attorney General Mukul Rohatgi told a bench headed by Chief Justice Thakur.

The Attorney General – who submitted a sealed cover report to the court on the status of recommendations for appointments made so far by different high court collegiums -- insisted that there was no logjam in appointment and transfers of high courts judges.

Rohatgi said the high courts had themselves initiated the process for filling up the vacancies late. As per rules, it ought to have moved the files at least six months in advance before the actual vacancy arises. However, it hasn't been done, the AG pointed out.

“There is no blame game. There is no logjam in the system. It's like a race, if you start in time, you will reach in time. The High Courts, by and large, were pretty much delayed in starting the race. The process to fill up five-year...six-year-old vacancies has been started late,” Rohatgi said.

The CJI said once the names had been cleared by the collegium, the Centre ought to show urgency by approving the names.

“But finally the names are sent to us (by high court). We (collegiums) then send it to you (government). Thereafter, there should not be any delay. It should not get stuck”, Justice Thakur told the AG.

The bench fixed September 30 for further hearing after Rohatgi sought two more weeks to update it.

The government and the judiciary have been at loggerheads with the CJI repeatedly pointing out that delay in judicial appointments was making it difficult for courts to function.

There are more than 450 vacancies in 24 high courts which have over four million pending cases. CJI Thakur – who broke down earlier this year while talking about the problem – had also expressed disappointment over Prime Minister Narendra Modi not mentioning the issue in his independence day speech from the ramparts of the Red Fort.

On August 12, the SC had attacked the NDA government for delaying appointment of judges in HCs, saying it had virtually led to closure of courts. Justice Thakur's strong outburst had left the government in deep embarrassment as Rohatgi urged the court not to take up the issue on the judicial side. Judicial appointments are generally handled by the SC collegium on the administrative side.

The CJI made the remarks when a petition complaining about vacancies in the HCs came up for hearing. The bench had threatened to withdraw work from HC judges whose transfers have been recommended but the government has not issued a formal notification.

As promised, Rohatgi came back with the progress report. "There is progress. Only issue seems to be Allahabad (high court). Chhattisgarh, it is done. Kerala it is done (appointments are being cleared)," he said.

Though the bench appreciated Rohatgi's stand, it reminded him that the Allahabad high court collegium had cleared the names more than nine months ago. The Centre had recently approved the names.

Even with regard to vacancies in other HCs, the CJI said once the names have been cleared by the collegium, the Centre ought to show urgency by approving the names.

"But finally the names are sent to us (by high court). We (collegiums) then send it to you (government). Thereafter, there should not be any delay. It should not get stuck," Justice Thakur told the AG.