

# **The Times of India**

## **High Courts have delayed appointment of judges, says government**

NEW DELHI: Refuting Chief Justice of India T S Thakur's charge that the government sat over recommendations and created an unacceptable "logjam in high court judges' appointments", the Centre has put the blame on the high courts. The Union government told the Supreme Court on Wednesday that the large number of judicial vacancies was the result of the high courts' failure to initiate the selection process on time.

The Centre said that there was no logjam in the process for appointment of judges and, in the next two weeks, more names recommended by the CJI-headed SC collegium would be cleared for various HCs. The SC will examine the progress on September 30.

At present, 45% of the sanctioned judicial posts in HCs are vacant. This had led a CJI-headed bench to warn attorney general Mukul Rohatgi on August 12, "Work on framing of memorandum of procedure for appointment of judges cannot be allowed to hijack the appointment of judges to HCs. There are 478 vacancies in HCs... HCs have four million cases pending. The entire system has collapsed."

On Wednesday, he submitted documents in sealed cover on judges' appointments to the CJI-headed bench. Abandoning his usual belligerence, Rohatgi told the bench, "There is no logjam. The documents will prove it. Please go through them carefully. There are instances where a high court has initiated process to recommend names for filling a vacancy which had arisen as far back as 2007."

The SC's Constitution benches, while wresting from the executive the power to select judges for the higher judiciary through two judgments in the 1990s, had said that the HCs should ideally initiate the process to fill up a vacancy six months before it arose.

In this backdrop, the AG said, "Appointment of judges to the HCs is like a race. If you start in time, you reach in time. By and large, the HCs have pretty much delayed in commencing the process to fill the vacancies. There are instances where the process was commenced five to six years after the post fell vacant."

The bench headed by the CJI said, "We appreciate that the delay was caused because of the hearing on the validity of National Judicial Appointments Commission (which went on for months, completely stalling the appointment process). But if a name is recommended by the collegium after such an arduous process, there should be no delay on the part of the government."

The AG said the documents submitted explained the reasons which caused the present situation. "Rest assured, there will be no delay in processing the collegium's recommendations," he said.

On August 12, the SC had given a chronological list of proposals sent by the collegium recommending 74 names for appointment and said, "Nothing is moving on appointment of judges to HCs for the last eight months... It is becoming increasingly difficult. We cannot ignore it any more."

Responding to that, the AG said, "Most of the recommendations have been cleared. More names will be cleared in the coming two weeks."

The CJI said he had recently been to Chhattisgarh HC, which had eight judges against a sanctioned strength of 21. The AG said only three names were recommended by the collegium, which were cleared.