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‘Are CJIs following rules in appointment of judges?’

SC Seeks Details Of All Appointments Since 1999

TIMES NEWS NETWORK

New Delhi: In an action that could open a Pandora's box, the Supreme Court on Monday sought data from the Centre to scrutinise whether the Chief Justices of India have followed legal procedure in appointment of additional judges to various high courts since 1999 and their confirmation.

Adopting the principle ‘be you ever so high, the law is above you’, a Bench comprising Justices Arijit Pasayat and D K Jain sought the following data from the Centre:

The Union of India shall file an affidavit indicating as to how many additional judges were made permanent after January 1, 1999

In how many cases, the additional judges were made permanent because of the recommendation of the CJI alone

In how many cases, the additional judges were made permanent with the recommendation of the collegium of judges and the reason for the departure, if any. The Bench's query to the Centre came on a petition by former law minister and senior advocate Shanti Bhushan, who has questioned Justice Ashok Kumar's appointment as a permanent judge of the Madras High Court during the tenure of Chief Justice of India K G Balakrishnan (first reported by TOI on February 24), allegedly without following the norms laid down by the apex court.

Though not unprecedented, the apex court has so far only twice examined the appointment of judges to high courts and had once quashed the appointment of one K N Srivastava in 1992.

Appearing for petitioner, senior advocate Anil Divan was visibly discomfited while raising the issue of impropriety by the head of the judiciary, but went on to say that there should be accountability in each sphere of governance in a democracy.

He said the guidelines laid down by the apex court in 1998 on judges' appointment was patently violated in the case of Justice Kumar, who was first made an additional judge in the Madras HC in April 2003.

His term as an additional judge was extended from time to time as the collegium — comprising the then CJI and two senior judges (CJI R C Lahoti, Justice Y K Sabharwal and Justice Ruma Pal) — refused to make him a permanent judge allegedly because of

adverse reports.

“On February 2/3, 2007, Justice Kumar was appointed permanent judge of the Madras High Court disregarding the law laid down in the 1998 judgment of the apex court. The opinion of the CJI was not formed in the manner required because the CJI neither consulted the two senior-most judges of the Supreme Court nor other Supreme Court judges who were conversant with the affairs of the HC concerned,” the petitioner said.

“The air requires to be cleared. All files and records be called for and scrutinised as was done in the case of K N Srivastava in 1992 before invalidating his appointment as also in the case of S P Gupta in 1981,” the petition pleaded.