



THE BAR COUNCIL OF TAMILNADU & PUDUCHERRY

HIGH COURT CAMPUS, CHENNAI - 600 104.

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06.01.2025

To:

The Hon'ble Chief Justice,

High Court of Madras,

Chennai.

Hon'ble Chief Justice,

1. The Bar Council of Tamil Nadu and Puducherry, through this representation, wishes to address an issue of seminal importance on behalf of the entire legal fraternity regarding the recommendation of names for elevation as the Judges of the Hon'ble High Court of Madras.
2. The Bar Council of Tamil Nadu and Puducherry being a statutory body has a solemn duty to protect the interest of the members of the Bar, with nearly 1,40,000 lawyers enrolled with the State Bar Council, a lakh and odd lawyers are actively practising before this Hon'ble Court and all these lawyers hail from various sections of the Society with different societal backgrounds and each lawyer possess high level of legal acumen in the field of law.

3. The request which the Bar Council intends to highlight in this representation is pertaining to the recommendations of the names for elevation as the Judges of the Hon'ble High Court of Madras, where the request of the bar is that, the recommendations of names may include the names of lawyers from various classes and sects of society, where adequate representation is required to be provided to the communities which are not predominant.
4. This request finds its importance as in the present situation the requirement of the Hon'ble Judges strength in the Hon'ble High Court of Madras would increase in view of the upcoming superannuations. At present the Hon'ble High court of Madras holds a Judges strength of 66 judges and the sanctioned strength is of 75 Judges. In the present year, few Hon'ble Judges are attaining the age of superannuation and therefore large number of vacancies are going to arise in the Hon'ble High Court of Madras, hence it is high time that the vacancies to the post of the Hon'ble Judges in the Hon'ble High Court of Madras has to be filled to attain speedy and uninterrupted administration of Justice to the litigants and the public-at-large.

5. In such circumstances, the Bar and the Legal fraternity in entirety is raising a request that while recommending the names of lawyers and judicial officers for elevation to the post of Hon'ble Judge of this Hon'ble Court, the Hon'ble Collegium of this Hon'ble Court may take into consideration all the eligible and suitable aspirants for elevation as the Judges of this Hon'ble Court and while considering the request and plea of the entire legal fraternity, it is important that such recommendations made by this Hon'ble Collegium may include all sections of advocates who have well trained legal mind from different sects of society, so that the essential balance of social security is maintained.
6. The Judiciary is one of the three pillars of the democracy and it is the judiciary that balances the society and keeps the principle of checks and balances active in a democracy, without this check and balance a democracy will not function efficiently. To make a democracy work, it is the necessary for all the three pillars to work with a co-ordination and mutual check on each other and to attain this the judiciary becomes an essential part. Hence, the representation of all the sects of communities becomes an essential and while recommending the names for consideration before the Hon'ble Collegium of Hon'ble Supreme Court of India, it is essential that all sections of the society including women may be considered based on the integrity, legal learning, wisdom, patience, temper and resilience.

7. It is one of the characteristics of democratic set-up that all sections of society irrespective of their caste, creed and religion are eligible and suitable for the appointment/elevation and they have right to be considered if they satisfy the necessary eligibility criteria enshrined under the Constitution, therefore, the Bar at large is making this request that at the time of making recommendation, this Hon'ble Collegium may consider all the eligible advocates suitable for elevation from diverse sections of society including the minority to ensure that wide representation is seen in the Bench.

8. The present issue which this letter highlights has been already dealt by the Hon'ble Supreme Court of India, in the case of ***“Registrar General, High Court of Madras – Vs- R.Gandhi and others” (cited as 2014 11 SCC 547)***, where a similar issue was raised regarding the selection to the office of the Hon'ble Judges of the Hon'ble High Court and a question was raised regarding the suitability and eligibility in the process of elevation. One of the main contentions raised in the case cited supra was that the lawyers of all sects of the society must be taken into consideration at the time of making recommendations for elevation. The crux of the arguments raised before the Hon'ble Apex Court was that certain segments of the Society were not adequately represented in the higher judiciary which would lead to an imbalance in the society and bench.

9. The Hon'ble Supreme Court while deciding the issue, **observed that suitability cannot be a subject matter of judicial review, but in the course of appointments there cannot be any exclusivity from any isolated group or from any pre-dominated group and diversity should be maintained in the appointments by making judicial appointments considering the individuals legal acumen coupled with qualitative personality as guiding factors.** The Hon'ble Supreme Court through the words of His Lordship Dr.B.S.Chauhan.J (as he then was) had observed as follows:-

“Appointments, cannot be exclusively made from any isolated group nor should it be pre-dominated by representing a narrow group. Diversity therefore in judicial appointments to pick up the best legally trained minds coupled with a qualitative personality, are the guiding factors that deserved to be observed uninfluenced by mere considerations of individual opinions. It is for this reason that collective consultative process as enunciated in the aforesaid decisions has been held to be an inbuilt mechanism against any arbitrariness”.

Therefore, on behalf of the entire legal fraternity we humbly request the Hon'ble Chief Justice and the Hon'ble Collegium Judges to consider the names of the candidates hailing from different sections of the society including minorities based on their individual legal acumen, integrity and wisdom while recommending the names for elevation as the Judges of this Hon'ble High Court before the Hon'ble Collegium for its consideration and they may be provided with adequate representation to ensure socio-economic justice and social diversity in the Higher Judiciary.

**SENIOR ADVOCATE
VICE CHAIRMAN
BAR COUNCIL OF INDIA**

**VICE-CHAIRMAN
BAR COUNCIL OF TAMILNADU
AND PUDUCHERRY**

**CHAIRMAN
BAR COUNCIL OF
TAMILNADU AND
PUDUCHERRY**

Copy To:

- 1. The Hon'ble Chief Justice of India,**
Supreme Court of India,
New Delhi.
- 2. Hon'ble Mr. Justice Bhushan Ramkrishna Gavai,**
Judge,
Supreme Court of India,
New Delhi.
- 3. Hon'ble Mr. Justice Surya Kant,**
Judge,
Supreme Court of India,
New Delhi.

4. Hon'ble Mr. Justice M.M. Sundresh,
Judge,
Supreme Court of India,
New Delhi.

5. Hon'ble Mr. Justice Mahadevan,
Judge,
Supreme Court of India,
New Delhi.