



SUPREME COURT BAR ASSOCIATION (Regd.)

SUPREME COURT OF INDIA, TILAK MARG, NEW DELHI-110001 (INDIA)

12.09.2025

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Hon'ble Mr. Justice Bhushan Ramkrishna Gavai
The Chief Justice of India
Supreme Court of India
New Delhi - 110001

Subject: Urgent need to finalize the Memorandum of Procedure (MoP) and institute a transparent, merit-driven, and equitable framework for appointment of Judges to the Hon'ble Supreme Court and Hon'ble High Courts.

Dear Sir,

The Bar is deeply committed to strengthening the integrity and efficacy of our judiciary. It is in this spirit that I write to you today to submit, for your kind consideration, the urgent necessity of instituting a transparent and equitable framework for judicial appointments.

Entrusted power demands accountability; self-assumed power demands even greater accountability. As the ultimate protector of constitutional liberties, the judiciary must be bold, fearless, and uncompromisingly independent. Such a judiciary, however, cannot emerge unless the process of its own elevation is rooted in transparency and merit.

The prevailing Collegium mechanism, while designed to preserve judicial independence, has inadvertently created significant challenges. Its structural flaws demand urgent and comprehensive correction.

First, it arbitrarily ignores the vast talent pool within the Supreme Court Bar for elevation to their respective home state High Courts. These practitioners, whose exposure to national jurisprudence should be viewed as a superior qualification, are being systematically overlooked. This not only wastes valuable judicial talent but also undermines the core principle of merit-based selection.

Second, the current framework has entrenched a troubling under-representation of women and those from diverse backgrounds. This is not an abstract concern but a reality borne out by hard data. As of February 2024, women constituted merely 9.5% of the sanctioned strength in High Courts and a stark 2.94% in the Supreme Court. This is a glaring indictment of systemic exclusion, where the tyranny of a



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presumed meritocracy masks a deeper reliance on informal networks and patronage.

Third, the system often ignores briefing lawyers and juniors – the unseen architects of courtroom success who possess strong analytical skills and do the foundational preparation. While arguing counsels have persuasive skills, briefing counsels should be seen as natural contenders for judicial elevation. To elevate only the visible face is to perpetuate a flawed understanding of competence, reducing the process to a mere spectacle of a show of faces rather than a substantive evaluation of merit.

In *Supreme Court Advocates-on-Record Assn. v. Union of India* (2016) 5 SCC 1, this Hon'ble Court provided a clear reform blueprint, giving an opportunity to revise the Memorandum of Procedure (MoP). These directions are not only aspirational; they are actionable. The judiciary, in consultation with the Government, must finalize the MoP without further delay. Any delay is indefensible.

Based on the mandate of this Hon'ble Court, I suggest the following changes be embedded into the MoP:

- 1. Permanent and Independent Secretariat:** An independent Secretariat should be established in each High Court and the Supreme Court to manage candidate data, maintain records of vacancies, and ensure institutional memory, thereby facilitating timely appointments.
- 2. Transparent Application-Based Process:** The current informal system must be replaced with a formal process where applications are invited publicly. This ensures every deserving candidate, including those from the Supreme Court Bar, is considered on demonstrable merit through a structured mechanism.
- 3. Published Objective Criteria:** Verifiable and objective eligibility criteria – such as minimum age, years of practice, reported judgments, and pro bono work – must be codified and published. All selections must be weighed against these transparent benchmarks.
- 4. Accountability Mechanism:** A robust complaints mechanism must be instituted to address grievances and uphold the integrity of the selection process.

The path forward does not require reinvention, but revival. A few years ago, a comprehensive legislative proposal, the "Facilitation of Appointment of Judges Act," was meticulously drafted and submitted



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to the Law Minister. That blueprint, which contains a structured approach to these reforms, should be considered as we move forward.

This framework is not a radical overhaul but a necessary institutional support system designed to strengthen, not supplant, the Collegium. A good and decisive judge clears dockets, while a judge lacking knowledge of the law stalls justice. Elevation must no longer be a function of proximity or visibility; it must be a reflection of merit, integrity, and constitutional fidelity.

A similar representation is being submitted to the Hon'ble Minister for Law & Justice to ensure a concerted effort from all stakeholders. The Bar stands ready to assist in every possible way and looks to the leadership of this Hon'ble Court to finalize the MoP and institutionalize these vital reforms.

Under your able leadership, and in collaboration with the Hon'ble members of the Collegium, I remain hopeful that the finalization of the Memorandum of Procedure will mark a path-breaking initiative in restoring public confidence in the process of judicial appointments.

Yours sincerely,

[VIKAS SINGH]

CC:

1. Hon'ble Mr. Justice Surya Kant
2. Hon'ble Mr. Justice Vikam Nath
3. Hon'ble Mr. Justice J.K. Maheshwari
4. Hon'ble Ms. Justice B.V. Nagarathna