

## Towards transparency — on judicial appointments

The Supreme Court collegium's decision to disclose the reasons for its recommendations marks a historic and welcome departure from the entrenched culture of secrecy surrounding judicial appointments. The collegium, comprising the Chief Justice of India and four senior judges, has said it would indicate the reasons behind decisions on the initial appointment of candidates to High Court benches, their confirmation as permanent judges and elevation as High Court Chief Justices and to the Supreme Court, and transfer of judges and Chief Justices from one High Court to another. This means there will now be some material available in the public domain to indicate why additional judges are confirmed and why judges are transferred or elevated. A certain degree of discretion is necessary and inevitable as in many cases the reasons will pertain to sitting judges. At the same time, it would become meaningless if these disclosures fail to provide a window of understanding into the mind of the collegium. It is important to strike the right balance between full disclosure and opaqueness. The collegium has suggested as much, albeit obliquely, when it says the resolution was intended "to ensure transparency, yet maintain confidentiality in the Collegium system". It is to be hoped that this balancing of transparency and confidentiality will augur well for the judiciary. The [introduction of transparency](#) acquires salience in the light of the resignation of Justice Jayant M. Patel of the Karnataka High Court after he was transferred to the Allahabad High Court as a puisne judge, despite his being senior enough to be a High Court Chief Justice.

Going by the decisions disclosed so far with regard to the elevation of district judges, it is clear that quality of judgments, the opinion of Supreme Court judges conversant with the affairs of the high court concerned, and reports of the Intelligence Bureau together form the basis of an initial appointment being recommended. While district judges of sufficient seniority and in the relevant age group are readily available for consideration, there may be some unease about how certain advocates and not others come to be considered. Given the perception that family members and former colleagues of judges are more likely to be appointed high court judges, it is essential that a system to widen the zone of consideration is put in place. There are 387 vacancies in the various High Courts as on October 1. The mammoth task of filling these vacancies would be better served if a revised Memorandum of Procedure for appointments is agreed upon soon. A screening system, along with a permanent secretariat for the collegium, would be ideal for the task. The introduction of transparency should be backed by a continuous process of addressing perceived shortcomings. The present disclosure norm is a commendable beginning.

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