

SC questions Centre on judicial posts

The decision to give the job to the government was an aftermath of the same Constitution Bench's historic decision, in October 2015, to strike down the government's National Judicial Appointments Commission (NJAC) law. The NJAC law had given politicians an equal say in judicial appointments to constitutional courts. Justice Goel was one of the five judges on the Constitution Bench.

“Even though no time limit was fixed by this Court for finalisation of the MoP, the issue cannot linger on for an indefinite period. The order of this Court is dated December 16, 2015, thus more than one year and ten months have already gone by... We need to consider the prayer that there should be no further delay in finalisation of MoP in larger public interest,” Justice Goel’s Bench noted in a three-page order while issuing notice to the Centre.

Now, with this three-page order, the Supreme Court has brought this prolonged gridlock between the Collegium and the Centre out in the open.

Advocate’s plea

The hearing before Justice Goel's Bench was on the basis of a petition filed by advocate R.P. Luthra, which besides questioning the delay in the finalisation of MoP, also raised the issue of delay in the appointment of regular Chief Justices in high courts despite the recommendation of the Supreme Court.

Justice Goel observed that there was substance in Mr. Luthra's submissions about the undue delay in the appointment of regular Chief Justices in high courts. “We also find substance in the submission that the MoP must provide for a mechanism so that appointments of regular Chief Justices of high courts are not unduly delayed. The court noted that the process of appointment should start well in advance to prevent piling up of vacancies.

Judicial vacancies continue to be a formidable problem across the 24 high courts. Out of an approved total strength of 1079 high court judges, there are 387 vacancies as of October 1, 2017.

Referring to the contempt proceedings against former Madras High Court judge, C.S. Karnan, the Bench referred to the judgment in the case that had suggested re-visiting the judicial appointments process and the need for an alternative to impeachment of an erring judge.

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