

JUDICIARY SHOULD NOT ACT AS A SUPER-LEGISLATURE, SAYS CENTRE

Relevant for: Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

A “distressed” government has taken a leaf from former United States President Franklin D. Roosevelt’s speech to indicate that the judiciary ought not to act as a “super-legislature” by entertaining a challenge to the Tribunal Reforms Act by Rajya Sabha member Jairam Ramesh.

The Union Government, in an affidavit in the Supreme Court, said it was “confused” why the judiciary thinks that the law made by Parliament and implemented by the executive is an attack on judicial independence.

Some of the provisions of the Act under challenge include the reduction of the tenure of chairpersons and members of key tribunals from five years to four. The Act mandates their minimum age for appointment be 50 years.

The new law said the Appointments Committee of the Cabinet (ACC), headed by the Prime Minister, may “preferably” make the appointment within three months of the recommendation by the Search-cum-Selection Committee (SCSC).

The law said that the recommendations of SCSC to the ACC should be of only one single name per vacant post with waitlist available.

The affidavit said each one of these issues is purely one of policy.

‘Exclusive right’

The government said it was the “exclusive right” of Parliament and the executive to frame policy and execute it.

The affidavit said it is significant that the separation of powers entrusts to Parliament and the executive the exclusive jurisdiction to decide as to what would be the best policy.

How can duration of tenure of a chairperson or members affect the independence of judiciary, the government asked.

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