

SUPREME COURT OF INDIA

This relates to the proposal for appointment of the following six Advocates as Judges of the Calcutta High Court:

1. Shri Piush Chaturvedi
2. Smt. Shampa Sarkar
3. Shri Sabyasachi Chaudhury
4. Shri Ravi Krishan Kapur
5. Shri Arindam Mukherjee
6. Shri Sakya Sen.

The above recommendation has been unanimously made by the then Chief Justice of the Calcutta High Court on 3rd November, 2016 in consultation with his two senior-most colleagues.

The Chief Minister and the Governor of the State of West Bengal have concurred with the proposal for elevation of all the above-named recommendees.

In order to ascertain suitability of the above-named recommendees for elevation to the High Court, we have consulted our colleague who, among the sitting Judges in the Supreme Court, alone is conversant with the affairs of the Calcutta High Court. A copy of letter of opinion of our consultee-colleague received in this regard is placed below.

Intelligence Bureau has reported, *inter alia*, that all the above-named recommendees enjoy good personal and professional image and that nothing adverse has come to notice against their integrity.

As regards Shri Piush Chaturvedi (mentioned at Sl. No. 1 above) his average professional income is well below the prescribed minimum professional income limit. As he does not qualify the income criterion, the proposal for his elevation to the High Court does not inspire confidence and is, therefore, rejected.

As regards Shri Sabyasachi Chaudhury and Shri Sakya Sen (mentioned at Sl. No.3 and 6 above), both appear to have been recommended by the High Court Collegium considering their ability and performance in the Court and the shortage of Judges from the Bar, though on the date of recommendation they were below the prescribed minimum age limit of 45 years. Shri Sabyasachi Chaudhury has completed 45 years of age and hence we recommend his name for elevation. In the case of Shri Sakya Sen, we approve his name for elevation in relaxation of the age criterion.

We have taken note of the observations of the Department of Justice raising the issue of non-receipt of undertaking by the father of Shri Ravi Krishan Kapur (mentioned at Sl. No.4 above), who is a practicing advocate in the Calcutta High Court in terms of Annexure I (i). As per record, this practice of requiring an undertaking from a practicing relation of a recommendee is based on mere administrative instructions and is not a mandatory requirement. In our view, such an undertaking need not be insisted upon from the recommendees. We have also taken note of the observation relating to less number of reported / unreported judgments of Shri Arindam Mukherjee (mentioned at Sl. No.5 above). In our view, number of reported / unreported judgments is just one of the factors and not the only factor to determine suitability of a recommendee for purpose of elevation.

Considering the material on record, including the views of our consultee-colleague, and the report of the Intelligence Bureau, the Collegium finds that (1) Smt. Shampa Sarkar, S/Shri (2) Sabyasachi Chaudhury, (3) Ravi Krishan Kapur, (4) Arindam Mukherjee, and (5) Sakya Sen, Advocates are suitable for being appointed as Judges of the Calcutta High Court.

In view of the above, the Collegium resolves to recommend that (1) Smt. Shampa Sarkar, S/Shri (2) Sabyasachi Chaudhury, (3) Ravi Krishan Kapur, (4) Arindam Mukherjee, and (5) Sakya Sen, Advocates be appointed as Judges of the Calcutta High Court. Their *inter se* seniority be fixed as per the existing practice.

(Dipak Misra) C.J.I.

(J. Chelameswar), J.

(Ranjan Gogoi), J.

December 4, 2017.

