

ADVOCATE'S ASSOCIATION OF BOMBAY HIGH COURT AT AURANGABAD.

High Court Building, Jalna Road, CIDCO, Aurangabad-431 001.
E-mail : advabhc1981aurangabad@gmail.com

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01-07-2022 to 31-12-2022

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Rakesh C. Bramhankar

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Prinkya P. Shinde

Mob.: 8888402490

Ref. No.: 5830

Date: 09/07/2022

To,
The Hon'ble Minister of Law and Justice,
Government of India,
New Delhi.

**Subject: Appointment of Judges at the
Bombay High Court.**

- 1] Judiciary is the branch of Government involved in dispensation of justice by interpreting and applying the laws. It is also known as the guardian of law as the Constitution empowers it to do so.
- 2] The Indian Judiciary has been able to distance itself from two other branches of the Government in its functioning and at the same time maintain its independence.
- 3] Today, Indian Judiciary is facing many challenges and undergoing upheavals, the chief reasons being pendency of cases mainly due to delay in appointment of judges.
- 4] We often hear bickerings between the Executive and Judiciary with as much curiosity as pain. Both, the Central Government and the Supreme Court of India accuse each other for delay in appointments of High Court and Supreme Court judges. Whatever may be the reasons, the citizens and the general public are ultimate victims as they do not get speedy justice.

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5] The litigants do not know what the exact problem is and who are responsible for inordinate delay in appointment of High Court and Supreme Court judges. However, we must always remember that, when legitimate ways of dispute resolution become inaccessible or unavailable, it marks the beginning of the journey towards anarchy.

6] It may not be out of context to remind the anguish in this regard expressed by the Hon'ble Supreme Court through various judicial pronouncements. The Hon'ble Supreme Court in **Supreme Court Advocates-on-Record Association v. Union of India** reported in (1993) 4 SCC 441 has observed that, in order to cope up with the increase in the business of the High Court and arrears of cases, emergent steps were needed to be taken by all to fulfill the object and purpose for which constitutional provision was brought in place. The Hon'ble Supreme Court further held that, enormous delay in appointment of judges of the High Court not only frustrate the purpose and object for which Article 224(1) was brought into Constitution but belies the hope and trust of the litigants, who comes to the High Court seeking justice and earlier disposal of their cases. The Supreme Court further held in categorical terms that, the process of appointment must be initiated at least one month prior to the

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date of an anticipated vacancy. Unfortunately, it still remains a far cry.

7] In the first instance, names are not forwarded by the High Court in time. Secondly, once names are forwarded, they remain pending at the Executive level for an unduly long time, before they are sent to the Collegium of the Supreme Court for approval along with the inputs of the Executive.

8] Thirdly, even after the clearance of the names by the Supreme Court Collegium, these remain pending at the level of Executive.

9] All this results in inordinate delay. Sometimes, it takes more than one year to complete the process from the date of forwarding the names till appointments. There are instances, where time consumed is much more than one year even.

10] Another issue is regarding the members of the Bar, whose names are recommended for elevation to the High Court. Their fate hangs in balance for indefinite time, giving rise to unnecessary conjectural debates. It leads to unpleasant situations, which can be avoided.

11] The Hon'ble Supreme Court has in *Lok Prahari through its General Secretary, S.N. Shukla v. Union of India* and others (2021) SCC Online SC 333 held that, the requirement that, the recommendations should be made six

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months in advance by the Chief Justice of the High Court emanates from the concept that, the said period should be required to complete the process in case of regular appointment of a judge under Articles 217 or 224 of the Constitution of India.

12] It is, therefore, in the interest of all the stakeholders, including the Judiciary, that definite time lines are drawn for each stage of the process so that, the process of appointment is accomplished within a time bound manner.

13] The Collegium of the Bombay High Court had recommended several names of the advocates for elevation of High Court judges in 2021 and again in 2022. The Supreme Court Collegium in its meeting held on 19th March, 2021 approved the following names of the advocates for elevation as judges of the Bombay High Court:

- a. Smt. Aruna S. Pai
- b. Shri. Shailesh P. Brahme
- c. Shri. Kamal R. Khata
- d. Ms. Sharmila U. Deshmukh
- e. Ms. Amira Abdul Razaq
- f. Shri. Sandeep V. Marne
- g. Shri. Sandeep H. Parikh
- h. Shri. Somasekhar Sundaresan
- i. Shri. Mahendra M. Nerlikar

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14] Similarly, the Supreme Court Collegium approved the following names of advocates for elevation as Judges of the Bombay High Court in its meeting held on 16th February, 2022:

- j. Shri. Kishore Chandrakant Sant
- k. Shri. Valmiki Menezes SA
- l. Smt. Sharmila Uttamrao Deshmukh
- m. Shri. Arun Ramnath Pednekar
- n. Shri. Sandeep Vishnupant Marne,
- o. Smt. Gauri Vinod Godse
- p. Shri. Rajesh Shantaram Patil
- q. Shri. Arif Saleh Doctor, and
- r. Shri. Somasekhar Sundaresan.

15] We are given to understand that; the High Court Collegium has sent one more list of twelve advocates with necessary recommendations for their elevation as High Court judges. However, it is not known whether the Supreme Court Collegium has cleared the said list and has recommended their names for elevation as High Court judges.

16] The following charts showing the pendency of cases, institution and disposal of cases in the Bombay High Court and its benches would display, how grave and critical is the situation, which needs immediate attention:

PENDING CASES

Reg. No. F-949

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BENCH	CIVIL	CRIMINAL	TOTAL
Principal Bench, Appellate Side	137398	67027	204425
Principal Bench, Original Side	103485		103485
Bench at Nagpur	63187	10742	73939
Bench at Goa	5254	568	5822
Bench at Aurangabad	180440	22540	202980

YEAR-2022

BENCH	INSTITUTION	DISPOSAL
Principal Bench, Appellate Side	25894	17747
Principal Bench, Original Side	16797	9354
Bench at Nagpur	2611	1634
Bench at Goa	780	750
Bench at Aurangabad	25765	16297

17] Today, the Bombay High Court has a working strength of 55 judges (46 permanent judges and 9 additional judges) as against the approved strength of 94 judges (71 permanents and 23 additional judges). At least three judges of the Bombay High Court are transferred either as Chief Justices of Himachal Pradesh and Rajasthan or a Judge of Patna High Court as against two judges transferred to from other High

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Courts namely, the Hon'ble the Chief Justice of Bombay High Court and the Hon'ble Shri. Justice Dhiraj Singh Thakur.

18] Bare perusal of the sanctioned strength, working strength and vacancies either in the Supreme Court or the High Courts in India shows that the Bombay High Court is worst hit due to delay in appointment of judges. Never in the past, the working strength of the judges in the Bombay High Court has fallen so low that its administration is crippled.

19] There are two vacancies in the Supreme Court and 381 vacancies of High Court judges as on 01.07.2022. The situation is extremely grim, alarming and if continued any further, it would threaten the very survival of the higher judiciary in India. It is not possible to reverse the situation unless immediate steps are taken by the Central Government under your stewardship.

20] The President of India appointed judicial officers as Judges of the Bombay High Court on 24.06.2021. However, no one knows what happened to the names of the Advocates recommended along with judicial officers for their elevation as judges of the Bombay High Court. The Government of India has put the issue on a backburner and is delaying the decision. As a result, 19 possible judicial appointments remain in suspended animation, in some cases, for more than a year and in other cases for several months.

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21] The larger picture is that, the delay in administration of justice not only affects the litigants, but hinders the socio-economic development of the nation.

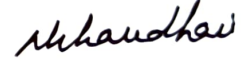
22] It is high time that the High Court Bar either at its Principal Seat at Mumbai or benches at Aurangabad, Goa and Nagpur initiate protest against the delay in appointing High Court Judges, unless, the Central Government acts upon the recommendations received from the Supreme Court Collegium appropriately, at the earliest.

24] We look forward to an immediate and prompt action in the matter.

Yours faithfully,



Adv. Suhas P. Urgunde
Secretary



Adv. Nitin L. Choudhari
President

Copies to:

1. His Excellency, the Hon'ble President of India, New Delhi.
2. The Hon'ble the Chief Justice of India, New Delhi.
3. The Hon'ble Prime Minister of India, New Delhi.
4. The Hon'ble the Chief Justice of the Bombay High Court, Mumbai.