

**GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF JUSTICE**

**LOK SABHA
UNSTARRED QUESTION NO. 2273
TO BE ANSWERED ON FRIDAY, THE 12TH DECEMBER, 2025**

RECOMMENDATION OF COLLEGIUM OF MADRAS HIGH COURT

2273. Km. Sudha R. :

Will the Minister of **Law and Justice** be pleased to state:

- (a) whether the Madras High Court has recommended any list of candidates, either from service judges or from the Bar, for appointment as judge of the court;
- (b) if so, whether the High Court collegium has been duly convened and approval obtained as per rules;
- (c) whether Justice J. Nisha Banu is still a part of collegium of Madras High Court;
- (d) if so, whether she has signed in the list of recommended names, if not, the reasons therefor; and
- (e) whether any request has been received from Justice J. Nisha Banu to reconsider her transfer to Kerala High Court, if so, the stand of the Government in this regard?

ANSWER

**MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF LAW
AND JUSTICE; AND MINISTER OF STATE IN THE MINISTRY OF
PARLIAMENTARY AFFAIRS**

(SHRI ARJUN RAM MEGHWAL)

(a) to (e): Recommendations are received from time to time from various High Courts including the Madras High Court, for appointment of Judges depending upon vacancies. Appointment of Judges of the High Courts is made under Articles 217 and 224 of the Constitution of India. The procedure for appointment of Judges of the Supreme Court and High Courts is laid down in the Memorandum of Procedure (MoP) prepared in 1998 pursuant to the Supreme Court Judgment of October 6, 1993 (Second Judges case) read with their Advisory Opinion of October 28, 1998 (Third Judges case). In the Presidential reference made under Article 143 of the Constitution, the Supreme Court in its Advisory Opinion dated October 28, 1998 in *Third (III) Judges Case inter alia* stated that “*In matters relating to appointments in the High Courts..... The opinion of the Chief Justice of the High Court must be formed after ascertaining the views of at least the two seniormost Judges of the High Court.*”

With regard to making recommendation for appointment of a Judge in the High Courts, the MoP *inter alia* stipulates that “..Before forwarding his recommendation, the Chief Justice must consult two of his seniormost colleagues on the Bench regarding the suitability of the names proposed...”

Article 222 of the Constitution stipulates that the President may, after consultation with the Chief Justice of India, transfer a Judge from one High Court to any other High Court. As per the Memorandum of Procedure (MoP) for appointment and transfer of High Court Judges, the proposal for transfer of High Court Judges is initiated by the Chief Justice of India in consultation with four senior most puisne Judges of the Supreme Court.

The MoP further provides that the opinion of the Chief Justice of India in this regard is determinative. The Chief Justice of India is also expected to take into account the views of the Chief Justice of High Court from which the Judge is to be transferred, as also the Chief Justice of the High Court to which the transfer is to be effected, besides taking into account the views of one or more Supreme Court Judges who are in position to offer views. The personal factors relating to the concerned Judge, including the Chief Justice, and his response to the proposal, including his preference of places, should invariably be taken into account by the Chief Justice of India and the first four puisne Judges of the Supreme Court before arriving at conclusion on the proposal. All transfers are to be made in public interest i.e. for promoting better administration of justice throughout the country.

The transfer of Smt. Justice J. Nisha Banu, Judge, Madras High Court to be a Judge of the Kerala High Court was notified on 14.10.2025. Article 217 (1) (c) of the Constitution of India states that “*the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.*”
