

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

RAJYA SABHA

UNSTARRED QUESTION NO. 582

TO BE ANSWERED ON THURSDAY, THE 21.07.2022

Indian Judicial Service

582. SHRI JOSE K. MANI:

Will the Minister of **LAW AND JUSTICE** be pleased to state:

- (a) whether there are any proposals to constitute an Indian Judicial Service, if so, details thereof;
- (b) whether an Indian Judicial Service be constituted for making appointments to the posts of district judge and above;
- (c) whether Law Secretary of States and the Law Secretary of the Union Government are appointed from among the District Judges and would it not militate against the principles of separation of powers of executive from judiciary; and
- (d) whether a commission be appointed for rationalization of Indian Legal Services and for the examination of creation of Indian Judicial Service?

ANSWER

MINISTER OF LAW AND JUSTICE

(SHRI KIREN RIJJU)

(a) and (b): In Government's view, a properly framed All India Judicial Service is important to strengthen overall justice delivery system. This will give an opportunity for induction of suitably qualified fresh legal talent selected through a proper all-India merit selection system as well as address the issue of social inclusion by enabling suitable representation to marginalized and deprived sections of society.

A comprehensive proposal was formulated for the constitution of an All India Judicial Service (AIJS) and the same was approved by the Committee of Secretaries in November, 2012. Besides attracting some of the best talent in the country, it may also facilitate inclusion of competent persons from marginalized sections and women in the judiciary. The proposal was included as an agenda item in the Conference of Chief Ministers and Chief Justices of the High Courts held in April, 2013 and it was decided that the issue needs further deliberation and consideration.

The views of the State Governments and High Courts were sought on the proposal. There was divergence of opinion among the State Governments and among the High Courts on the constitution of All India Judicial Service. While some State Governments and High Courts favoured the proposal, some were not in favour of creation of All India Judicial Service while some others wanted changes in the proposal formulated by the Central Government.

The matter regarding creation of a Judicial Service Commission to help the recruitment to the post of district judges and review of selection process of judges/ judicial officers at all level was also included in the agenda for the Chief Justices Conference, which was held on 03rd and 04th April, 2015, wherein it was resolved to leave it open to the respective High Courts to evolve appropriate methods within the existing system to fill up the vacancies for appointment of District judges expeditiously. The proposal for constitution of All India Judicial Service with views from the High Courts and State Governments received thereon was included in the agenda for the Joint Conference of Chief Ministers and Chief Justices of High Courts held on 05th April, 2015. However, no progress was made on the subject.

The proposal of setting up of an All India Judicial service was again discussed on points of eligibility, age, selection criteria, qualification, reservations etc. in a meeting chaired by Minister of Law and Justice on 16th January 2017 in the presence of Minister of State for Law and Justice, Attorney General for India,

Solicitor General of India, Secretaries of Department of Justice, Legal affairs and Legislative Department. Setting up AIJS was also deliberated in a meeting of the Parliamentary Consultative Committee in March, 2017 and the Parliamentary Committee on the Welfare of SCs/STs on 22.02.2021. In view of lack of consensus, at present, there is no proposal to bring All India Judicial Services.

(c) and (d): The post of Law Secretary is an *ex cadre* post and is not governed by Indian Legal Service Rules. A District Judge is not barred from being appointed as Secretary in the Department of Legal Affairs or Law Secretary in the State Governments. The officer while functioning as Law Secretary, has no judicial duties to perform which would militate against the principles of separation of powers. The Department of Legal Affairs, being the Cadre Controlling Authority of Indian Legal Service, reviews the Indian Legal Service Rules periodically in consultation with stakeholders, Department of Personnel & Training and Union Public Service Commission. Thus, appointment of separate commission is not required for rationalization of Indian Legal Services.
