

SUPREME COURT OF INDIA

Re: Filling up vacancies of Judges in the Supreme Court.

Against the sanctioned strength of 31 Judges, the Supreme Court of India is presently functioning with 27 Judges, leaving 04 clear vacancies.

Two of these vacancies would be filled up in terms of the recommendation made by this Collegium on 12th April, 2019 for appointment of two Judges in the Supreme Court, which, however, having been referred back is pending consideration before this Collegium.

The Collegium extensively deliberated and discussed names of Chief Justices and senior puisne High Court Judges eligible for appointment as Judges of the Supreme Court.

The Collegium considers that the following two persons are deserving and suitable in all respects for being appointed as Judges of the Supreme Court of India:

1. Mr. Justice Bhushan Ramkrishna Gavai, Judge, Bombay High Court, and
2. Mr. Justice Surya Kant, Chief Justice, Himachal Pradesh High Court (PHC: Punjab & Haryana).

In terms of the Memorandum of Procedure, we have consulted our colleagues, whose opinion is considered to be significant in adjudging the suitability of the above-named recommendees for elevation to the Supreme Court. Copies of letters of opinion of our colleagues received in this regard are placed below.

While recommending the names of Mr. Justice Bhushan Ramkrishna Gavai and Mr. Justice Surya Kant, the Collegium has

taken into consideration combined seniority on all-India basis of Chief Justices and senior puisne Judges of High Courts, apart from their competence, conduct and integrity. The Collegium has also kept in mind the desirability of giving due representation on the Bench of the Supreme Court, as far as possible, to all the High Courts as well as to all sections of the society including those belonging to SC/ST/OBC categories, women and minorities. We are also conscious of the fact that some High Courts have remained unrepresented in the Supreme Court.

The Collegium, therefore, recommends that Mr. Justice Bhushan Ramkrishna Gavai and Mr. Justice Surya Kant, be appointed as Judges in the Supreme Court of India.

Mr. Justice Bhushan Ramkrishna Gavai was appointed as a Judge of the Bombay High Court on 14th November, 2003 and has been functioning there since then. He stands at Sl. No.8 in the combined seniority of High Court Judges on all-India basis. The Collegium while recommending his name has duly considered Mr. Justice Gavai's position (Sl.No.4) in the seniority of Judges hailing from Bombay High Court. His recommendation, in no way, is to be misconstrued to mean that three senior-most Judges from Bombay High Court (two of whom are serving as Chief Justices) are less suitable than Mr. Justice Gavai. On his appointment, the Supreme Court Bench will have a Judge belonging to Scheduled Caste category after about a decade.

Mr. Justice Surya Kant was appointed as a Judge of the Punjab & Haryana High Court on 9th January, 2004 and was elevated as Chief Justice of Himachal Pradesh High Court on 5th October, 2018. Mr. Justice Surya Kant stands at Sl. No.11 in the combined seniority of High Court Judges on all-India basis. In the seniority of Judges hailing from Punjab & Haryana, Mr. Justice Surya Kant stands at Sl. No.2 and is already functioning as Chief Justice since 5th October, 2018. While recommending his name, the Collegium is

conscious of the fact that on appointment of Mr. Justice Surya Kant there will be two Judges on the Bench of the Supreme Court from the Punjab & Haryana High Court, which has the distinction of being the common High Court for two large States, and is the third largest High Court in the country.

In view of the foregoing, the Collegium resolves to recommend that appointments be made in the following order:

1. Mr. Justice Bhushan Ramkrishna Gavai, and
2. Mr. Justice Surya Kant.

(Ranjan Gogoi), CJI.

(S.A. Bobde), J.

(N.V. Ramana), J.

(Arun Mishra), J.

(R.F. Nariman), J.

New Delhi,
May 08, 2019.

