

Collegium system to be scrapped?

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New Delhi, June 02, 2010 The judiciary may no longer have monopoly over the appointment of judges of high courts and the Supreme Court.

The Centre is getting ready for a constitutional amendment to change the system of appointments to the higher judiciary in which, since 1993, the executive does not have any meaningful say.

"There are two ways to solve this problem. One is to file a petition in the Supreme Court seeking review of its 1993 and 1998 judgments that established the collegium (a panel of top SC judges) system of appointments. The other is to go for a constitutional amendment. We will take the legislative route," Law Minister M. Veerappa Moily told HT on Wednesday.

"Everybody agrees that the collegium system has failed and it needed to be changed," Moily said referring to the reports of the Law Commission and Parliamentary Standing Committee on Law and Justice that advocated a change.

He said the amendment bill will be separate from the Judges Standards and Accountability Bill, 2010.

Successive governments have been criticising the collegium system but it's for the first time that the Centre has said it will bring in a constitutional amendment to change the collegium system. The BCI, too, had demanded it be scrapped.

Under Article 124(2) and Article 217(1) of the Constitution, judges of the Supreme Court and those of a high court respectively have to be appointed by the President after "consultation" with the CJI. The Government was not bound by the CJI's recommendation.

But in 1993, the SC introduced the collegium system and effectively took over the primacy in appointments. Then, five years later, a nine-judge Constitution Bench ruled that the "consultation" must be effective and the CJI's opinion shall have primacy in the matter.

Under the present system, the government is bound by the names recommended by the collegium. If the government does not agree, it can only return it once and if the collegium reiterates it, the government is bound by it.

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