

# PM for executive inputs in judge appointments

4 Jul 2007, 0216 hrs IST, Manoj Mitta , TNN

<http://timesofindia.indiatimes.com/articleshow/2173085.cms>

NEW DELHI: Prime Minister Manmohan Singh is learnt to have asked law minister H R Bharadwaj not to desist from giving the executive's inputs on judicial appointments recommended by collegiums — the panels of senior judges of high courts and Supreme Court.

This communication from the PM came as a noting in the file on the appointment of a judge for Gauhati high court, which Singh has sent back to the law ministry. He drew attention to the ministry's failure to caution the SC collegium against clearing Manipur's advocate general Asok Potsangbam as a judge of the high court in the light of serious findings against him by Intelligence Bureau (IB).

Reviving the spirit of checks and balances, prime minister's intervention signaled that even after the judiciary wrested "primacy" in 1993 in selecting candidates for judges, the executive was required to play the role of an "effective consultee," as envisaged by the very judgment that had tilted the balance between the organs.

The IB inquiry is a necessary part of the elaborate and secretive process of selecting HC judges. The antecedents of the candidates are checked by the agency after the justice department receives recommendations from the HC collegium. That is how IB is reported to have unearthed a slew of issues that put a question mark over Potsangbam's integrity or suitability.

There are two possible reasons why the PM has intervened in this case. Since he is a Rajya Sabha member from Assam and has had first-hand experience of dealing with the prolonged agitation in Manipur against the Armed Forces Special Powers Act, Singh may be that much more sensitive to the need to ensure proper appointments to the Gauhati HC.

A more compelling reason could well have been President Abdul Kalam's recent record of returning the file every time the judiciary sought to make controversial appointments (Justice Vijender Jain as chief justice of the Punjab and Haryana HC, Justice Jagdish Bhalla as chief justice of the Kerala HC and Justice S L Bhayana as judge of the Delhi HC).

Manmohan Singh might have wanted to avoid the embarrassment of President Kalam scoring another moral point in his last days in office.

Though an IB report is not binding on the SC collegium, it can't be shrugged off either. But as the justice department steered clear of commenting on the IB report against Potsangbam, the SC collegium headed by Chief Justice K G Balakrishnan approved his candidature without addressing on record any of the issues raised against him.

Once the SC collegium clears a name, what is left is normally a formality: the file is sent to the PMO en route to the President for him to sign the warrant of appointment.

It's at that stage that Manmohan Singh decided to return the file to Bharadwaj in order to obtain the SC collegium's comments on the IB findings against Potsangbam.

[manoj.mitta@timesgroup.com](mailto:manoj.mitta@timesgroup.com)