

LOK SABHA

SYNOPSIS OF DEBATES
(Proceedings other than Questions & Answers)

Tuesday, December 7, 2021 / Agrahayana 16, 1943 (Saka)

***MATTERS UNDER RULE 377**

- 1. SHRI VISHNU DAYAL RAM** laid a statement regarding need to rename Singrauli-Patna Express as Shri Banshidhar Express.
- 2. SHRI PRATAPRAO PATIL CHIKHLIKAR** laid a statement regarding need to bring Nanded Railway Division under Central Railway Zone.
- 3. SHRI ARJUNLAL MEENA** laid a statement regarding need to give impetus to implementation of Pradhan Mantri Awas Yojana (Grameen) in Rajasthan particularly in Udaipur Parliamentary Constituency in the State.
- 4. DR. JAYANTA KUMAR ROY** laid a statement regarding alleged irregularities in MGNREGA implementation in West Bengal.
- 5. SHRI CHHEDI PASWAN** laid a statement regarding need to take remedial measures to prevent land erosion caused by Sone River in Bihar.
- 6. SHRI NITESH GANGA DEB** laid a statement regarding setting up of a Software Technology Park of India (STPI) at Sambalpur, Odisha.
- 7. SHRI KRIPANATH MALLAH** laid a statement regarding opening of two new Kendriya Vidyalayas at Hailakandi and Ram Krishnanagar in Karimganj Parliamentary Constituency.
- 8. DR. SUKANTA MAJUMDAR** laid a statement regarding construction of a Grand War Memorial at Hilli to commemorate the sacrifices of soldier during the liberation of Bangladesh in 1971.
- 9. SHRI NARANBHAI B. KACHHADIYA** laid a statement regarding need to

* Laid on the Table as directed by the Chair.

provide funds for railway projects in Amreli Parliamentary Constituency, Gujarat.

10. **SHRI JANARDAN SINGH SIGRIWAL** laid a statement regarding need to observe the birthday of Dr. Rajendra Prasad, the first President of India, as 'Medha Diwas'.
11. **SHRI BENNY BEHANAN** laid a statement regarding development of Sabari Rail Project.
12. **SHRI RAJMOHAN UNNITHAN** laid a statement regarding provision of clinical rotation facilities for Indian students pursuing MBBS professional degree in China.
13. **SHRI A. RAJA** laid a statement regarding development of a film city in Udhagamandalam.
14. **SHRI A.K.P. CHINRAJ** laid a statement regarding problems faced in Railway booking in train No. 02652 & 06020.
15. **SHRI RAGHU RAMA KRISHNA RAJU** laid a statement regarding creation of a National Judicial Infrastructure Authority.
16. **SHRI KHALILUR RAHAMAN** laid a statement regarding permanent solution to stop the erosion caused by Ganga river in Murshidabad district.
17. **SHRI GAJANAN KIRTIKAR** laid a statement regarding change in the code word VT on all aircrafts of country.
18. **SHRI RAMSHIROMANI VERMA** laid a statement regarding need to construct an underpass at Katahari railway station in Ambedkarnagar, Uttar Pradesh.
19. **SHRI P.R. NATARAJAN** laid a statement regarding policy to control the price of cotton yarn and increase cotton production.

THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) AMENDMENT BILL, 2021

THE MINISTER OF LAW AND JUSTICE (SHRI KIREN RIJJU) moved that the Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, be taken into consideration.

Dr. SHASHI THAROOR *initiating said*: This Bill seeks to bring clarity on pension benefits admissible to the Supreme Court and the High Court Judges from the first day of the month of completion of the specified age and not from the first day of his

entering the age specified therein. My party supports this measure. However, there are a lot of issues which could have usefully been addressed in the Bill as they are of far greater significance for the democratic foundation of our nation. As of November, 2021, there is a shortfall of 41 per cent of the total strength of High Court Judges. By implication, the huge shortfall of judges in various High Courts lead to disastrous consequences for those seeking justice as this leads to inordinate pendency of cases. Between the year 2010 and 2020, pendency across all courts has grown by 2.8 per cent annually. The grim numbers clearly indicate that even if no new cases were to be filed starting from today, the time taken by the Courts to dispose of just the currently pending cases at the current disposal rate, would be 1.3 years for the Supreme Court and 3 years for each of the High Court and not to mention even longer for the subordinate court. Besides, it is common knowledge that reduction in the number of new cases is highly unlikely. Internationally, the standard retirement age for judges in the countries like Denmark, Belgium, Ireland, Australia is around 70. In other top courts, such as the Supreme Court of the United States and in constitutional courts in Austria and Greece, Judges are appointed for life. The judge population ratio in Asia is among the lowest in the world. Given that it seems imperative to look at the conditions of service of our Judges, increase their retirement age in order to fill vacancies for longer and at the same time to reduce pendency. Besides, information and interactions between people and courts must also be enhanced to strengthen the Indian legal system and enable the citizens of the country to avail themselves of the best judicial benefits. Democracy and the Rule of Law are interlinked and mutually reinforcing. This aspect must reign high in our minds. In the recent past we have come to witness that decision have been made one after the another which go beyond the questions of separation of powers between the executive and the judiciary. So many examples are there to substantiate a conclusion in the House. The conditions of the service have a serious bearing on the lack of separation for the Executive, for the Judiciary and thereby have a palpable effect on the conduct of our judiciary in delivering justice to the common citizen of India. The judiciary's complicity in the Government's actions have been manifested in the all examples that I gave. The culpable involvement of the Electoral Bonds Scheme is a venture which has undermined the transparency of our electoral processes and the very foundation of our democracy. It is clear that when the court fails to hear a case against the Government, it is effectively deciding by default in favour of the Government. That is the concern that we should all have. So, we will need to separate the powers and roles of the Legislature, the Judiciary and the Executive to truly build a new India. This requires a clear separation of powers in order to ensure both efficiency and democracy. By ensuring the status and conditions of services of our judges, we are giving them the opportunity to increase their productivity

and exercise true judicial independence. Moreover, the true success of our efforts today will only come if the Government proposes a larger Bill to increase the age of retirement of judges, fill vacancies, reduce pendency of cases, eliminate post-retirement appointments in Government.

SHRI P. P. CHAUDHARY: I would like to say that so far as the salary part and pension part is concerned, this hon. August House always supports it. It is a fact that the remuneration part of the judges is concerned, it is less compared to the other countries. That is the reason that even after the retirement or superannuation, they get the employment elsewhere. So far as the conditions of services are concerned, the Parliament is competent to lay down the conditions of service of the High Court and Supreme Court judges. As far as independence of judiciary is concerned I would like to say that not only the salaries of the judges are protected, the tenure is also protected. So, we can say that the independence of judiciary is secured by the Constitution of India. Similarly, when we come to the judicial reforms, it is not limited only for dealing with the vacancies and other issues. It is also related to the conditions of service and appointment of judges. Moreover, in the First Judges Case the word 'consultation' appearing in Article 124 of the Constitution of India was defined that consultation means that no primacy can be given to the Chief Justice of India and apart from this, it stated that consultation does not mean concurrence. Then Article 143 of the Constitution of India provides for seeking the opinion of the Supreme Court. Whenever the opinion of the Supreme Court is sought by the President of India while exercising the power under Article 143 of the Constitution of India, then that opinion can be binding on the Government as it. Keeping in view these facts, in 1998 the system of Collegium was created and the judges required to be appointed on the basis of the recommendation of the Collegium. However, it shows that the procedure adopted by the Collegium of the High Court and the Supreme Court is not fool-proof and they do not have any mechanism to know the antecedents of the candidates. On 16th December, 2015 a 5-Member Constitutional Bench made scathing comments on the opacity of the present collegium system and recommended changes in the collegium system making it more transparent and accountable. So, I request the Government to revisit the collegium system in view of Article 124. The spirit and object of Article 124 is required to be restored. According to the 1993 judgement, in the area of legal acumen, the Judiciary's opinion should be dominant, and in the area of antecedents, the Executive's opinion should be dominant. So far as the appointment of Judges in the Supreme Court of India and the High Courts is concerned, both the words 'consultation' and 'opinion' are required to be defined under Article 366. If these words are defined under Article 366, then in my opinion there is no need to bring in anything else. Now, so far as the subordinate judiciary appointment is concerned, this is within the domain of the

State Government. The number of sanctioned posts is around 25,000. About less than 20,000 posts are filled and about 5000 posts are lying vacant in the subordinate courts. That is the responsibility of the High Court and the respective State Government. It cannot be a responsibility of the Central Government. So far as creating the All-India Judicial Service is concerned, initially its mention came in 1958 and subsequently in 1978. The Standing Committee also recommended in its report in 2006 for creation of an all-India Judicial Services. My suggestion is, for that purpose, an exam can be conducted at all-India level and after examination, the High Court can interview them and they can make the appointment. We can go further for creating an All-India Judicial Service. This move will enable us to attract more talented people and those people can be further appointed in High Court and Supreme Court. Finally, I would like to say that in Article 312 the amendment was made for creating an All-India Judicial Service. There will be uniformity and unity by creating these services and it will help in reducing the arrears and we will have talented people. I also request the hon. Minister to see whether the word 'consultation' can be defined. The word 'consultation' was not defined in the Constitution under Article 366. If the Parliament can define it, then the whole problem can be solved.

SHRI DAYANIDHI MARAN: The Bill seeks to amend High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958. The major contention here is whether the additional benefits mentioned in the Bill will apply from the first day of the 80th year or on the completion of the 80th year. In this respect, two judgements were contradicting each other. One said, completion of 79, you should start it. Another judgement said, no, the first month after completing, beginning of the 80th. I think the Government has rightly come forward to iron out the differences and make it clear in saying that the first month after completing the year will take. It is the duty of the State to ensure that a retired judge who enter the odd term of his life is adequately looked after. Moreover, the ruling Government is trying to threaten the present judiciary system through us. Are you planning to bring a Bill? I am speaking like a common man that you are influencing the judiciary. You are requested not to intervene and unnecessary rock the judiciary system in which people believe that justice is being delivered. There has been a difference between the age of retirement of judges in the High Court and in the Supreme Court. You should enact a law to bring about uniformity in this regard. All judges should have the retirement age of 65 years. An act of any Justice Department of the Government should be pure or should look pure to the common man. There are two instances which were created by your Government where a Chief Justice has become a Governor and another Chief Justice has become a Rajya Sabha Member. I

want to ask from which service will they be getting the pension? Will they be getting judge's pension or will they be getting the Governor's pension or will they be getting the Rajya Sabha pension? You should bring clarity about it.

SHRI KALYAN BANERJEE: I rise to support the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2021. Independence of judiciary is indispensable in a democratic system of governance. An independent judiciary is required to maintain the balance between the interests of individuals and society. Justice delayed, is often said, is justice denied. In India though, justice is often indefinitely kept pending. The result is that there are 4.5 crore pending cases across all courts in India as on September 15, 2021. Today, our justice delivery system is facing multiple challenges. Two of them are stark and need immediate attention, namely, appointment of Judges and managing the humongous number of pending cases. Thus, pendency is a long-standing issue across the Indian judiciary. Pendency of cases for long periods has resulted in large number of undertrials in India's prisons. In the High Courts, 37 per cent of the total sanctioned posts of Judges are vacant. Majority of the vacancies are in Kolkata, which are 32 out of the sanctioned strength of 72. Judiciary is failing in keeping the promise of speedy trial. For several decades now, the courts have never been able to function with full strength resulting in huge vacancies of Judges. The hon. Chief Justice says that we want more women judges in the judiciary. I have given three names of the women lawyers whose names have been recommended but their cases have not been cleared. I will request the Central Government, please do not violate the court orders. The collegiums have said that one cannot qualify to be a judge unless he is 45 years of age. As a result of this, the good lawyers are being deprived of becoming judges and the country is being deprived of getting good judges. I would request the collegiums not to insist on the age of 45 years.

SHRI ARVIND SAWANT: The matter relating to the salary, service condition and pension of teachers, professors and judiciary should be decided as soon as possible. If the teachers are unhappy then we cannot create new good generation. I welcome the urgency shown by the Government in bringing this Bill but you will have the blessings of the entire country if you will show the same urgency for EPF pension. Today, 4.60 crore cases are pending in the country and 5545 posts are vacant in the Courts. How we will get justice in this situation? 70,038 cases in Supreme Court, 58,79,285 cases in High Courts and 4 crore 94 lakh 4 thousand 405 cases are pending in the lower courts. How will the poor get justice? Our state of Maharashtra has border issue in Borgaon, Karwar, Nipani, Bhalki and Bidar. We filed a petition in the Supreme Court and our case is pending there for years together. However, nobody takes any notice of it in this august

House. Why is there discrimination in renaming Bombay as Mumbai? I feel highly concerned that when people would loose their trust in the judiciary then it will also impact our democracy adversely. Just a little while ago, empirical data was being mentioned. Yesterday also, the Hon. Supreme Court asked to bring empirical data then only the issue relating to reservations for OBCs will be decided. Maharashtra Government recommended for appointment of 12 nominated Members about 8 to 10 months ago. Now almost one year has been completed but their appointments have not yet been cleared. Is it not an affront against the Supreme Court? I support this Bill and I would also request that the same sensitivity should be shown about the issue of EPF pension.

SHRIMATI VANGA GEETHA VISWANATH: A salary hike for those sitting at the helm of our justice delivery system is a welcome move and I support it. I have a few suggestions to make. Representation of women is less in higher judiciary. The representation of women in the Supreme Court and High Court is just nine per cent and eleven per cent respectively. The total number of SCs and STs in the Supreme Court never crossed ten per cent. I urge upon the Government to take necessary steps to promote higher representation of women and minority groups in our higher judiciary by introducing appropriate reservation policy. There is a strong need to replace the collegium system with a system similar to the National Judicial Appointments Commission whereby members outside the judiciary are also included in the process of making judicial appointments. I urge upon the Government to take necessary steps for setting up all India Judicial Service, which will ensure uniformity in the functioning of the lower judiciary across the States.

SHRI MAHABALI SINGH: When the judges retire, they get associated with some institutions. The MPs and MLAs also get pension even after loosing the election and when such MPs and MLAs are appointed in some boards or institutions, they are not entitled for pension. Similarly, if a judge gets salary from some institution, he should not be entitled for pension. Several hon. Members have talked about the collegium system of the Supreme Court and High Courts. Collegium system is neither as per our constitution nor is it something passed by the House. This is an office of the Supreme Court. I wholeheartedly support this Bill.

SHRI PINAKI MISRA: I am little surprised that none of my predecessor speakers have expressed any concern about the wording of this Bill. The wording stipulates additional quantum of pension or family pension for Supreme Court Judges, High Court Judges, and their families upto a certain age. The Guwahati High Court and the Madhya Pradesh High Court gave a verdict. The Government now wants to bring a

validating Act to ensure that Parliament nullifies the Guwahati High Court and the Madhya Pradesh High Court Judgments. The Supreme Court dismissed the Union Government's appeal. The Parliament cannot nullify a mandamus by an enactment. It would be impermissible legislative exercise. The lawyers who are earning handsome amounts in private practice do not want to become High Court Judges. This House has passed the last NJAC, the National Judicial Appointment Commission, unanimously. There is no harm in us going back with a fresh piece of legislation and with a fresh NJAC in order to cure one or two of the defects which the Supreme Court felt. There are 4 crore cases in the lower courts. What is the rule of law if there are going to be 4 crore cases in the Trial Courts, 56.7 lakh cases in the High Courts, and almost 70,000 cases in the Supreme Court? The High Court is a constitutional court under our system. The Government is reducing the status of constitutional courts to subservient courts, which are constantly looking for approval from the Supreme Court. Therefore, please have all the Judges retire at the age of 67 years. I would like to urge the hon. Law Minister to kindly reconsider this piece of legislation. It is because I find this legislation absolutely unconstitutional.

SHRI SHYAM SINGH YADAV: The pension which the retired Judges get is half or one third of their salary. I would like to request to the Government to enhance the slab of pension of the retired Judges. The Government is very much active in so many cases. I would like to urge upon the Government to show activeness in reducing unemployment, dearness and all other issues of development. People started raising fingers on hon. Judges also. The Government should do something that the belief on them continued as earlier. Judiciary is the only department on which public have full faith and trust. There is a need to protect judiciary.

SHRI MOHAMMED FAIZAL P.P.: There is no doubt that we should give Judges benefits to the possible extent for the kind of service the judges of the Supreme Court and High Court do to the nation. But, at the same time, the Government should also think of the proportionate pendency of the cases and the vacancies as of now in the country. In view of the pendency of cases, the justice in our country is delayed. Our Constitution also says that justice delayed is justice denied. There are lakhs and lakhs of cases pending for want of justice in the Supreme court, the High Courts and the subordinate courts. This is an alarming situation that the Government of India should take a call.

SHRI KODIKUNNIL SURESH: Under the Acts, all retired judges of the Supreme Court and High Court and their family members are entitled to pension or family pension. There are four crore plus pending cases across all courts in India. These

figures further reveal that cases that are more than 3-5 years old form the largest number of cases that are pending. Therefore, the judiciary must make sure that justice is not denied or delayed to the poorest even when it is ensuring its perks and emoluments. I want to express the feelings about having representation of Scheduled Castes and Scheduled Tribes in the judiciary. The fact is that in the 70 years of its existence, India's Supreme Court has seen only eight women Judges and one Dalit Chief Justice of India. This is the testament to the reality that the composition of our Judiciary is not representative of our population. I demand once again that the Government should implement the reservation policy in judicial appointments in India so that the dalits will get an opportunity in representing themselves in the highest forum of justice. Among the SCs and STs, there are eminent lawyers, senior advocates but why is the Collegium not considering the SCs and STs advocates for nomination as the Judges of the Supreme Court and the High Courts. It is very unfortunate. Are our Judges fair and transparent is a question that merits a discussion? Will the Dalits and marginalised get timely and fair justice? Will the pendency of cases ever be reduced so that people do not have to spend a lifetime in courts waiting for judgments? These are the questions that the Parliament must ask while deciding on the salary and pension of the judges. Indian judicial infrastructure has not kept pace with the huge number of litigations instituted every year. We have to start from the basic that includes infrastructure development, dispensation of cases with effective speed and reduction in pendency. These matters are to be addressed, as the hon. Chief Justice has pointed out, by means of a single institution or agency, the National Judicial Infrastructure Authority of India, which will take control of the budgeting and infrastructure development of subordinate courts in the country. The judicial system while deliberating on salaries and pensions must also ensure that justice is served on time.

SHRI RAJENDRA AGARWAL: Generally the number of pending cases in the whole country is really very high. Of these, 41 percent cases are exclusively in High Courts, which are more than five years old, 21 percent cases which are more than ten years old. Even after setting up the fast track courts, special courts and tribunals, it is taking a long time to get rid of the problem of pendency. As regards crime, if justice is not delivered in time, then the crime increases and the courage of the criminal increases at each level. Today around five lakh prisoners are lodged in various jails inside the country. Two-thirds of these prisoners are those who have been in jails for longer than the maximum punishment that would have been awarded to them for their crimes. Somewhere there is weakness or some deficiency in the delivery system of the judicial system. In view of the population of Uttar Pradesh, there is shortage of High Court benches. There should be more High Court benches in Uttar Pradesh. The 230th report of

the Law Commission also said that there is a need to set up more benches in large states like Uttar Pradesh so that the availability of justice can be accelerated. Apart from Allahabad High Court and Lucknow Bench three more Benches can be set up in Gorakhpur, Meerut and Agra. I request that taking cognizance of this demand, the entire judicial system should be reviewed.

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UTPAL KUMAR SINGH
Secretary General

** Supplement covering rest of the proceedings is being issued separately.

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NOTE: It is the verbatim Debates of the Lok Sabha and not the Synopsis that should be considered authoritative.

English and Hindi versions of Synopsis of Debates are also available at <http://loksabha.nic.in>.

LOK SABHA

SUPPLEMENT TO SYNOPSIS OF DEBATES
(Proceedings other than Questions & Answers)

Tuesday, December 7, 2021 / Agrahayana 16, 1943 (Saka)

**THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND
CONDITIONS OF SERVICE) AMENDMENT BILL, 2021**

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SHRI HASNAIN MASOODI: It was under Baba Saheb Ambedkar's guidance that on 17th October, 1949 special status was granted to the erstwhile State of Jammu and Kashmir. This House, on 7th August 1952 approved the Delhi Agreement of 1952. This House also took a decision on 5th August, 2019. I am mindful of the ambit and spirit of Article 3. I am also mindful of sweep of Article 356. The State of Jammu and Kashmir was denuded of its special status. I am mindful of the spirit, ethics, and morality of the Constitution. The hon. Members have voiced their concerns about alarming, monstrous pendency of cases before the courts. I would like to remind the House that whatever is pending before different courts is not the only pendency. There is the pendency that has never seen the door of the court because most of the people live with the grievance. They live with the insult that is heaped on them. They live with the injury to which they are subjected, because they do not have enough resources to go to the court of law. The percentage of GDP that is spent on the Judiciary is 0.7%. The number of Judges as well as the number of courts should be increased to dispose of the pendency of court cases. The pendency can be dealt through empowerment of the system and provision of resources to it. Unless we make the vacancy filling up system an efficient mechanism and we set a benchmark and timeframe everywhere, we will not be able to fill up the vacancies. The effort must be to empower and strengthen the Judiciary and we must provide sufficient resources, manpower, modern-day gadgets, networking system and

** The business transacted before this in the House has already been included in the Synopsis (Main).

internet facility, etc., across the country. You should make judicial service attractive so that you can attract talent. We should revise the salaries and give attractive terms and make the service conditions much better.

SHRI E.T. MOHAMMED BASHEER: I fully agree with the contents of the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill 2021. Justice V. R. Krishna Iyer made an appeal to the Parliament in the following words and I quote:

“Parliament should wake up and implement Glasnost and Perestroika in Judiciary. In the name of Independence, we cannot have judicial absolutism and tyranny.”

Presently, the Fundamental Rights are under attack and the Judiciary is bound to intervene in such cases but it shows helplessness. Yesterday, we had a very big discussion on the Nagaland incident. Everybody including the Chief Ministers of Nagaland and Meghalaya are talking about AFSPA. I strongly appeal that this kind of draconian laws should be scrapped. The courts are taking talkative silence in the case of human rights violations. As far as the appointment of the Judges is concerned, I am of the view that nowhere in the world, appointments of the Judges are done by themselves. In order to provide social justice, due participation should be given to the deprived sections in the appointment of Judges. This principle of natural justice and reservation should be adhered strictly in the Judiciary.

SHRIMATI APARUPA PODDAR: The High Court and Supreme Court Judges (Salaries and Conditions of Services) Amendment Bill, 2021, that we are discussing today, is a small amendment Bill and the Statement of Objects and Reasons states that it has been brought to provide clarity regarding interpretation of additional quantum of pension to Judges covered under this Bill. The Bill is small but the issues surrounding the Judiciary today are extremely worrying. A proposal has been received from the Chief Justice of India for setting up of National Judicial Infrastructure Authority of India for making arrangements for adequate infrastructure for the courts. I would like to seek a clarity on this point from the hon. Minister. My next point is about setting up of Gram Nayalayas. The pace of setting up of the Gram Nayalayas has been very slow. I would like to request the Government to conduct a third-party evaluation and make a proposal to re-launch the scheme with revised guidelines for its effective implementation. The people to Judges ratio in the country is not very appreciable. While in other countries, this ratio is about 50 to 70 Judges per million, in India it is only 20 Judges per million people.

SHRI HANUMAN BENIWAL: A large number of vacant posts of Judges should be filled up in various High Courts, District and Subordinate Courts of the country.

Arrangements should be made to dispose of pending cases and improve the judicial process and ensure justice to the common man in accordance with the spirit of the Constitution. Reservation in recruitment of judges should be ensured and the process of appointment should be made fair and transparent.

Suitable candidates belonging to SCs, STs, OBCs, minorities and women should be given due consideration for appointment of Judges in Honorable High Courts. There is not a single judge from my community and other backward sections including OBC, Jat-Gurjar, Yadav, Meghwal and Meena. Let this be considered by the Parliament of the country, the Prime Minister and the Law Minister. I demand a High Court bench in Agra for speedy justice. A new bench of the High Court should be set up in Udaipur.

SHRI N.K. PREMACHANDRAN: In my opinion, giving benefits to the retired judge at the fag end of their life is not fair. I would like to speak about some points about separation of powers. Power tends to corrupt, and absolute power corrupts absolutely. The President of India is the executive head of India and also has the legislative powers when he summons the House. Separation of powers in a rigid manner is not possible as far as the modern Government is concerned. The Indian perspective of separation of powers is the harmonious balancing of powers among the various organs of the Government. The functions and powers of the three organs are well defined and demarcated. The Indian Judiciary's Landmark judgements for our judicial reform have played a very important and significant role in strengthening the democratic system of our country. Parliament is the will of the people. So the Legislature is accountable to the people. The executive is accountable to the people of India through the Parliament. The Parliament or the legislature is directly accountable to the people of India, because they are being directly elected by the people and they have to go back to the electorate for subsequent elections. So the accountability of the judiciary has to be earmarked. The National Judicial Appointment Commission Bill should be brought back and it should be passed by the house. The Government should have the political courage and political will to pass that legislation again and constitute the National Judicial Appointment Commission. Judicial reform is the need of the hour. So I appeal to the Government to come out with a comprehensive legislation so as to implement judicial reforms in our country.

SHRI LAVU SRIKRISHNA DEVARAYALU: Everybody is ready to support this Bill except for the fact that whether this House can actually pass the National Judicial

Appointment Commission Bill again. My first point is regarding the cooling off period which many Members have mentioned. How can the Judiciary not have it? My second point is regarding the system of Collegium. There should be transparency in the Collegium. This Parliament passed the National Judicial Appointment Commission Act. I hope that Bill would again see the light of the day under the leadership of the hon. Minister.

***DR. D. RAVIKUMAR:** The Law Commission headed by Justice Setalvad in its 14th Report had stated that the Retired Judges should not occupy or hold any posts. That recommendation has not yet been accepted by the Union Government. There is an accusation that by allowing such post retirement appointments of Judges of High and Supreme Courts, the Government controls the Judiciary indirectly. The Government should take a clear stand on this aspect. There should not be any intervention from the Government in the affairs of the Judiciary either directly or indirectly so as to protect the freedom of the judiciary. Collegium system in the Judiciary should be reviewed.

SHRI BALUBHAU ALIAS SURESH NARAYAN DHANORKAR: I rise to express my views on The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2021. The Bill is to further amend the High Court Judges (Salaries and Conditions of Service) Act, 1956 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958. Amendment to the sections 16(B) and 17(b) has been proposed through this Bill. The Bill seeks to remove many doubts. In this Bill, the pension entitlement has been deemed from the first day of that month, in which he/she completes the age specified in the first column, not from the first day of his/her entry. I would also like to mention that a large number of cases are pending in the Supreme Court, the High Courts and the lower courts today and the posts of judges and their associate staff are also lying vacant in large numbers. There is a need for concrete initiatives in this direction. Some steps have been taken in this regard, but they are inadequate. All these matters should be seriously considered to decide the manner in which the poor can get justice promptly. There should be a system of early disposal of cases using revolutionary IT and communication technologies.

SHRI SURESH PUJARI: We have been trying for the last 50 years to get the High Court in Cuttack bifurcated into Eastern part of Odisha and Southern part of Odisha, but no action has been taken in this regard so far. The Jaswant Commission, the Union Government and the Chief Minister also agreed to set up a Permanent Bench of

* Original in Tamil.

the High Court in Western Odisha. A Permanent Bench of Odisha High Court should be set up in Western Odisha.

KUNWAR DANISH ALI: The demand of the High Court Bench in Western Uttar Pradesh is a long pending demand. That demand should be fulfilled. A man from Western UP walks 800 km from Saharanpur to Allahabad to seek justice from the High Court. More than 50 lakh cases are pending in the High Courts and more than four crore cases are pending in the Lower Courts. In the last few days, it has been seen that SC, ST, OBC minorities are not getting the desired representation, the government does not clear the file keeping it pending for several months to a year. Important cases of undertrials of UAPA, and other cases, which are pending with the Constitution Bench, depend on the government's will. If the government does not want to take up the issue it goes pending in the Honorable Supreme Court. The courts are not closed. Many times it has also been seen in the clippings that big lawyers join online hearing in what condition. The poor are not getting justice in higher Judiciary. The poor man cannot afford it.

SHRI THOMAS CHAZHIKADAN: I had the impression that this is just to clarify the effective date on which the revised pension is to be provided to the retired judges. I have a doubt whether it was necessary for the Government to bring in such a Bill because we should always appreciate that the services of judicial officers, especially in the High Courts and in the Supreme Court, are very good. Coming to the insufficient judicial infrastructure, we have a majestic building for the Supreme Court and most of the High Courts have very big buildings. Every year the number of cases instituted are much more than the number of cases disposed of. This results in piling up of the undisposed cases in every court. Important cases, relating to the fundamental rights of the citizens, have been pending for years and even decades.

SHRI M. BADRUDDIN AJMAL: The pension of the judges should be increased, and adequate facility should be provided to all the staff of the court so that they do not have to look for any other job after retirement and sell their conscience with anyone. There are about lakhs of cases pending in the High Courts. There are about 4.5 crore cases pending in the lower courts. There is a need to look into this whole matter today. Efforts should be made to dispose of the cases as quickly as possible. The number of judges should be increased. Today, there is a shortage of judges everywhere. There is a need to increase the number of judges in the Supreme Court, High Court and Lower Courts, so that the cases are disposed of quickly.

***DR. THOL THIRUMAAVALAVAN:** The number of the Judges in the Hon. High Courts and Hon. Supreme Court should be increased. A reservation policy should be adopted while appointing Judges for the Hon. High courts, Hon Supreme Court and other Courts. I urge that a separate legislation should be brought to ensure reservation for SCs, STs, OBCs, Women and Disabled persons as regards appointments of Judges. I request that a Bench of Hon. Supreme Court should be set in the southern part of this country, particularly in Hyderabad. As collegium system is undemocratic, it should be discarded and a more transparent and democratic system should be evolved.

SHRI ARUN SAO: This Bill has been brought to clarify the eligibility of Judges of the Supreme Court and High Courts to receive an additional quantum of pension or family pension on attaining a certain age. On the recommendation of the Sixth Central Pay Commission, the Central Government provided additional amount of pension to the retired civil servants through the memorandum dated 2/9/2008 of the Department of Pension and Pensioners' Welfare. The same provision was made for the judges of the High Court as well. The Central Government also issued a clarification in this regard on 3/10/2008. This amendment bill was brought in to remove the disparity and ambiguity in the intention of the Central Government and the Central Government's clarification on 3/10/2008, and the orders passed by the Guwahati High Court, Madhya Pradesh High Court and subsequently by the Supreme Court. As a result of this amendment, there will be equality in grant of additional quantum of pension to pensioners and family pensioners and ambiguity will be removed. The delay in the cases in the courts has become very high. Hon'ble Minister is requested to make radical changes in the justice system and provide affordable justice to the people of the country. High Court has been established in the parliamentary constituency of Bilaspur, Chhattisgarh. If all the tribunals are also established in Bilaspur, then Bilaspur will become a centre of justice with all facilities.

SHRI ADHIR RANJAN CHOWDHURY: The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2021 are clarificatory amendments to clearly state when retired judges or their families in the case of a Judge's death are entitled to additional quantum of pension in accordance with the scales as mentioned under the respective Parent Acts. An institutional mechanism to have a permanent pay matrix should be explored so far as the salaries and other issues with the judicial system are concerned. It is because we have to have an independent judiciary. There must be some system of fixing the accountability of judges. There is no provision for registering an FIR against a Judge for taking bribe, without taking the permission of the Chief Justice of India. There is huge pendency of cases in courts. To tackle the issue

* Original in Tamil.

of lack of transparency, RTI Act should be given due priority in our judicial system so that the common people can have the information about the functioning of the Judiciary. Hardship of the undertrials is a well-known. Hundreds of poor, common man and innocent people have been languishing for years together inside the jails because they have been implicated in unbailable cases like the Narcotic Drugs and Psychotropic Substances (NDPS) Act. A number of cases under the NDPS Act are slapped against those innocent political workers. We should have any mechanism in the judicial system which can provide any kind of succour to those poor and innocent victims of our country. The infrastructure is pathetic in courts. The courts do not have air conditioners. There is no room to even store records. They do not have high-speed internet to upload daily data. The system needs to be revisited and the shortage of Judges and court staff is causing huge pendency. No one is taking care of new research in judiciary at the district level. The salary is not at par with the 7th Pay Commission. Security of trial court judges also needs to be whipped up. Transparency in policy for transparent posting is urgently required.

Utpal Kumar Singh
Secretary General

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NOTE: It is the verbatim Debate of the Lok Sabha and not the Synopsis that should be considered authoritative.

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