

Turbulent Winter Session ends a day early

Both Houses of Parliament adjourned *sine die* after passing 18 Bills

The session saw a security breach, suspension of 146 MPs, and the disqualification of Mahua Moitra

55 starred questions answered and 265 matters taken up under Rule 377 in LS, says Speaker

The Hindu Bureau
NEW DELHI

The Lok Sabha and the Rajya Sabha were adjourned *sine die* a day in advance after what is being termed as the frostiest Winter Session of relations between treasury and Opposition benches in India's history. The session saw a security breach in the Lok Sabha, the suspension of 146 MPs, and the disqualification of Trinamool Congress MP Mahua Moitra from the Lower House.

The session, held against the backdrop of the results of the Assembly elections in five States, was expected to be stormy, with Ms. Moitra's disqualification on December 8, following the adoption of a report by the Ethics Committee of the Lok Sabha.

But barely had the sparks dimmed that the Lok Sabha witnessed a security breach, with two persons entering and set-

ting off coloured gas canisters on December 13, 22 years to the day terrorists had attacked the old Parliament House.

While the incident fortunately did not lead to any casualties, Speaker Om Birla did not agree to the Opposition's demand for a statement by Union Home Minister Amit Shah, and as Opposition MPs protested, carrying placards into the Well of the House, a series of suspensions began, with several MPs referred to the Privileges Committee.

Suspensions galore

While Mr. Birla, in a letter to the MPs, said the suspensions were the result of placards being carried, and "unruly" behaviour, the protests continued, as did the suspensions.

Since last Thursday, 146 MPs have been suspended from both Houses, with three of them suspended for the duration of the session. This saw 99 out of the 139 INDIA bloc MPs sus-

pending in the Lok Sabha, and 46 out of 97 of them suspended in the Rajya Sabha. A protest march by all suspended MPs also took place outside Parliament on the last day of the session, with Congress president Mallikarjun Kharge leading it.

In his valedictory remarks, Mr. Birla said that the Lok Sabha had recorded 74% productivity in the winter session over 14 sittings, and that the House had worked for 61 hours and 50 minutes. He said a total of 18 Bills, including the Bharatiya Nyaya Sanhita 2023, Bharatiya Nagarik Suraksha (Second) Sanhita, and the Bharatiya Sakshya (Second) Sanhita – to replace the Indian Penal Code, the Code of Criminal Procedure, the Indian Evidence Act, respectively – were passed in the Lok Sabha.

Lok Sabha passes Bill on CEC, EC appointment

NEW DELHI The Lok Sabha on Thursday passed the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023 amid the scarce presence of Opposition members in the House. » PAGE 4

Criminal law reform Bills get nod in RS

NEW DELHI Rajya Sabha cleared the Bharatiya Nyaya (Second) Sanhita, Bharatiya Nagarik Suraksha (Second) Sanhita and the Bharatiya Sakshya (Second) Bills, replacing the Indian Penal Code-1860, the Code of Criminal Procedure Act-1898 and Indian Evidence Act of 1872. » PAGE 4

Rajya Sabha passes Telecom Bill, 2023

NEW DELHI The Rajya Sabha on Thursday passed the Telecommunications Bill, 2023. Members of the Biju Janata Dal and YSR Congress Party expressed concern about clauses allowing the Union government to intercept private communications. » PAGE 4



Raising objection: Opposition MPs address media after a march at Vijay Chowk in New Delhi on Thursday. SHASHI SHEKHAR KASHYAP

The legislation will result in a massive change in the legal system of the country. The Bills were also passed in the Rajya Sabha on Thursday.

The contentious Telecommunications Bill, which provides for the government to temporarily take control of telecom services in the interest of national security, and provides a non-auction route for the allocation of satel-

lite spectrum, was passed by both Houses, as was the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill that seeks to establish a mechanism to appoint the Chief Election Commissioner and Election Commissioners.

Mr. Birla said that 55 starred questions had been answered orally during the

session, and a total number of 265 matters were taken up under Rule 377. As many as 1,930 papers were laid on the Table of the House, the Speaker added.

Mr. Dhankhar said in his valedictory remarks in the Rajya Sabha that 17 Bills had been passed during the session, and the three Bills on the criminal justice system had unshackled the colonial legacy of criminal jurisprudence.

T.N. Minister, wife jailed for three years, fined ₹50 lakh each in wealth case

Mohamed Imrannullah S.
CHENNAI

The Madras High Court on Thursday sentenced Tamil Nadu Minister K. Ponmudy and his wife P. Visalakshi to three years of simple imprisonment in a disproportionate assets case in which they were convicted on Tuesday after the reversal of their 2016 acquittal by a trial court.

Justice G. Jayachandran also imposed a fine of ₹50 lakh each on both the convicts, ordering a further jail sentence of six more months if they fail to pay the fine amount imposed, in view of the gravity of the offence of corruption.

The judge, however, granted 30 days' time for the couple to surrender before the special court for the Prevention of Corruption Act (PCA) cases in Vilupuram. This gives them time to approach the Supreme Court with an appeal challenging their convictions and sentences.

"In case the accused persons fail to surrender on or before January 22, 2024, the trial court shall secure the accused by executing a warrant," the judge wrote.

'Approach High Court'

When senior counsel N.R. Elango pleaded for more time for the convicts to surrender, the judge said that they could approach the High Court once again and seek an extension if they faced difficulties in appealing to the top court within 30 days.

Initially, Justice Jaya-



In trouble: K. Ponmudy coming out of the Madras High Court campus following the verdict on Thursday. B. JOTHIRAMALINGAM

Rajakannappan gets Higher Education post

Dennis S. Jesudasan
CHENNAI

The Tamil Nadu government on Thursday re-designated Minister for Backward Classes Welfare R.S. Rajakannappan as Minister for Higher

Education and Backward Classes Welfare. An official statement from the Raj Bhavan said that Governor R.N. Ravi has re-allocated the portfolio to Mr. Rajakannappan on the recommendation of Chief Minister M.K. Stalin.

chandran said that he would suspend the sentence for 30 days, but since that procedure would require an application for suspension to be filed by the convicts and thereby make it a time-consuming process, he granted the alternative remedy of 30 days' time to surrender.

Justice Jayachandran also dismissed any concerns about the fact that he had, in 2013, signed a file related to this case while he was serving as a Law Secretary

to the State government.

The judge had, on Tuesday, allowed a 2017 appeal filed by the Directorate of Vigilance and Anti Corruption (DVAC) and set aside the April 2016 acquittal order passed by the special court. He then directed the convicts to appear before him on Thursday to decide their sentence.

Though the couple were given the option of appearing through a video call, they chose to appear in person.

Bengaluru airport wins award at UNESCO's 2023 Prix Versailles

The Hindu Bureau
BENGALURU

Terminal 2 (T2) of Kempegowda International Airport (KIA) in Bengaluru has been recognised as one of the world's most beautiful airports and awarded the special prize for interiors at the UNESCO's 2023 Prix Versailles.

The World Judges Panel for Prix Versailles 2023, chaired by renowned fashion designer Elie Saab, announced the latest architectural projects to win a World Title, according to the Bangalore International Airport Limited, which operates KIA.

The Prix Versailles focuses on intelligent sustainability as a cultural



Showcasing heritage: T2 has been designed as a tribute to the 'Garden City' of Bengaluru. K. MURALI KUMAR

driver, acknowledging innovation, creativity, reflection of local heritage, and values of social interaction.

T2, also known as the Terminal in a Garden, was inaugurated on November 11, 2022.

Parliament clears laws to repeal IPC, CrPC, Evidence Act

The Hindu Bureau

NEW DELHI

The Rajya Sabha on Thursday passed the Bharatiya Nyaya (Second) Sanhita Bill, the Bharatiya Nagarik Suraksha (Second) Sanhita Bill, and the Bharatiya Sakshya (Second) Bill, which will replace the Indian Penal Code, 1860; the Code of Criminal Procedure, 1898; and the Indian Evidence Act, 1872; respectively. The Lok Sabha had passed the Bills on Wednesday.

Hailing the passage of the Bills as historic, Chairman Jagdeep Dhankhar said the Bills would replace the colonial-era criminal justice system. The Opposition members boycotted the proceedings demanding a statement from Home Minister Amit Shah on the Parliament security breach. The Bills were passed unanimously in their absence.

Mr. Shah said the Bills would mark a new beginning in the history of the country's criminal justice system. He said the Bills would form the base of making the country's justice system the most modern in the world.



Amit Shah

Mr. Shah said the criminal justice system was being governed by the three laws brought by the British after the 1857 struggle for freedom.

He said that for the first time, the justice system would be based on laws framed and passed by Indians. From FIR to judgment, all processes would be online and the new laws had tried to accommodate the changes in technology in the process of administration and policing, he said.

Mr. Shah said a victim would get justice within three years. He said the new Bills had defined all forms of terrorism and that perpetrators of organised crime would be punished. He said the post of director of prosecutions would be made compulsory in every district.

Lok Sabha passes Bill on appointment of poll panel chief

The Hindu Bureau
NEW DELHI

The Lok Sabha on Thursday passed the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023 amid the scarce presence of Opposition members in the House.

The Bill had been passed by the Rajya Sabha on December 12.

Speaking during a debate before the passage of the Bill, Law Minister Arjun Ram Meghwal said the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991 did not have a clause related to the appointment of CEC and other ECs.

Search, selection panel

Mr. Meghwal said the names of the commissioners were so far decided by the government, but from now on a search and selection committee will overlook the process. He also asserted that this was in line with the Supreme Court's directions, adding that the committee men-



Arjun Ram Meghwal

tioned in its judgment was a "stop-gap" arrangement.

Earlier in March this year, the Supreme Court had ruled that the selection panel should comprise the Prime Minister, the LoP in the Lok Sabha, and the Chief Justice of India. The court had said the order would hold good until a law was made by Parliament.

The selection committee, which would be headed by the Prime Minister and comprise a Union Minister nominated by the Prime Minister, and the leader of the Opposition (LoP) in the Lok Sabha, will select members of the Election Commission.

A vacancy will arise in the poll panel when Election Commissioner Anup Chandra Pandey demits office on February 14 next year.

RS passes Telecom Bill amid empty Opposition benches

Concerned about interception clause, YSR Congress says safeguards needed to prevent misuse; BJD says State's role should have been clarified; BJP MP plays devil's advocate after Opposition boycott

The Hindu Bureau
NEW DELHI

Amid empty Opposition benches, the Rajya Sabha on Thursday passed the Telecommunications Bill, 2023. MPs from the Biju Janata Dal (BJD) and the YSR Congress Party expressed concern about clauses allowing the Union government to intercept private communications. In the absence of any other adversarial voices, BJP MP Sushil Modi took it upon himself to point out the Opposition's various criticisms of the legislation, even while defending it.

Mr. Modi, who was the second speaker, said the Opposition had often criticised the clauses that allow the government to temporarily take control of telecom services in the interest of national security, and that provide a non-auction route for the allocation of satellite spectrum. Defending the two clauses, he said that the 26/11 tragedy and several natural calamities have proven that they are



Union Minister Ashwini Vaishnaw speaks in the Rajya Sabha during the Winter Session of Parliament in New Delhi on Thursday. ANI

needed. The "non-auction route" for the allocation of satellite spectrum is also essential for national security, he said.

The Lok Sabha passed the Bill on Wednesday. The legislation allows the government to retain its powers to intercept communications, by allowing the tapping of phone connections pursuant to orders issued by an authorised Union or State government official, "if satisfied that it is necessary or expedient to do so, in the interest of the sovereignty and integrity of India, defence and security of the State, friendly relations with fo-

reign States, public order, or for preventing incitement to the commission of any offence". Around 5,000 such interception orders were issued each month in 2015, the then-Information Technology Minister Ravi Shankar Prasad had told Parliament; no subsequent statistics have been revealed.

Sasmit Patra of the BJD welcomed the Bill but said that it should have elaborated the role of the States regarding interception and search. Since many border States face the direct brunt of cross-border terrorism, they should be kept in the loop, he said. S. Niranjana

Reddy of the YSR Congress Party said that though the Bill does not provide for any judicial oversight, its rules should be clearly defined to guard the provision against any misuse.

Short debate

The debate came to a close within an hour. At its conclusion, Union Minister Ashwini Vaishnaw applauded the progress made by the country in the sector. "In the last nine and a half years, India's telecom sector has emerged from a very difficult period marred by scams to become a sunrise sector," he said.

He said that during the same period, the number of telecom towers had increased from six lakh in 2014 to 25 lakh at present, while the number of Internet broadband users had grown from 1.5 crore to 85 crore. Under the leadership of Prime Minister Narendra Modi, India has executed the world's fastest rollout of 5G technology, with most equipment manufactured indigenously, Mr. Vaishnaw said.

Under new law, doctors face two years of imprisonment for death due to negligence

Vijaita Singh

NEW DELHI

Contrary to what Union Home Minister Amit Shah told the Lok Sabha on Wednesday, the amended Bharatiya Nyaya (Second) Sanhita Bill, 2023 (BNSS) does not provide a blanket exemption to doctors in cases of death due to negligence; instead, it prescribes a maximum two-year imprisonment in such cases, slightly lower than the punishment for other cases.

The amended Section 106 (1) of the Sanhita says: "Whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be lia-



New changes: Currently, under Section 304A, the punishment for causing death is two years imprisonment and a fine or both. ANI

ble to fine." It further explains that for the purposes of this sub-section, "registered medical practitioner" means a medical practitioner who possesses any medical qualification recognised under the National Medical Commission Act, 2019 and whose name has been entered in the National Medical Register or a State Medical Register under that Act.

The section was amended to include the clause on medical practitioners.

Replying to the debate on the three criminal laws in the Lok Sabha on Wednesday, Mr. Shah said: "If someone died due to medical negligence by doctors it was treated as culpable homicide not amounting to murder. I am bringing

an amendment today. Doctors have been exempted from punishment [under this section]. The Indian Medical Association had requested us [for the exemption]." On Thursday, when the three criminal law Bills were discussed in the Rajya Sabha, Mr. Shah did not mention the exemption for doctors.

Currently, under Section 304A of the Indian Penal Code, the punishment for causing death by negligence is two years imprisonment and a fine or both. The BNSS, which will replace the IPC, increases the punishment for such acts to five years but specifies that doctors will still get the lower punishment of two years of jail time if convicted.

India receives price bids for 26 Rafale jets, 3 submarines

Ministry sets up committee to benchmark submarine deal, after which the commercial bid will be opened; the first of the new submarines, with integrated indigenous features, to arrive in 2031

Dinakar Peri
NEW DELHI

India has received price bids from France for the purchase of 26 Rafale-M carrier-based fighters as well as three additional Scorpene-class conventional submarines.

While the Rafale-M is being processed through an inter-governmental agreement, the submarine deal is a follow-on to the earlier contract with Naval Group, under which Mazagon Dockyard Shipbuilders Limited (MDL), Mumbai manufactured six submarines in India. The Defence Ministry has already set up a committee to arrive at the benchmark price for the submarine deal, sources said.

Letter of Acceptance

In response to India's request, France submitted a Letter of Acceptance earlier this week, outlining the pricing and other details of its offer for 26 Rafale-M jets which are meant to operate from the Navy's two aircraft carriers, sources confirmed. Meanwhile, MDL



Aiming high: The Indian Air Force operates 36 Rafale jets customised for Indian requirements. FILE PHOTO

has submitted its commercial offer for three more Scorpene-class submarines to the Indian Navy on December 11, it has been learnt.

For the Scorpene deal, Defence Ministry has formed a costing committee for internal benchmarking of the deal value and the commercial offer from MDL would be opened after the internal benchmarking is complete, sources stated.

While the formal procurement process has now commenced for the Rafale deal following receipt of the bid, it is not yet clear if a costing committee would be set up. The price and

other terms of purchase will be negotiated with the French Government after taking into account all relevant aspects, including "comparative procurement price of similar aircraft by other countries," the Defence Ministry had stated earlier.

On July 13, as Prime Minister Narendra Modi was enroute to Paris, the Defence Acquisition Council chaired by Defence Minister Rajnath Singh accorded its Acceptance of Necessity (AoN) for the procurement of the 26 Rafale-M fighters and three additional Scorpene-class diesel-electric submarines from France.

The deal includes 22 single-seater Rafale-M fighters and four twin-seater Rafale trainers (which are not carrier compatible).

Filling the gaps

The 26 jets are meant to fill the gap in the numbers till the indigenous Twin Engine Deck-Based Fighter, still under development, is inducted into service.

The Navy currently operates two aircraft carriers, the *INS Vikramaditya* and the indigenously built *INS Vikrant*.

As reported by *The Hindu* earlier, both the contracts are expected to be concluded by end-2024 and delivery of the submarines is likely to begin in 2031. The major difference between the existing Scorpene-class and the new ones is their integrated combat system (ICS), sources explained.

The earlier submarines had systems from France, while the new ones will have indigenous ICS, with significant localised solutions provided by Bharat Electronics Limited in collaboration with French suppliers, a source said.

WHO prequalifies a malaria vaccine by Serum Institute

Bindu Shajan Perappadan
NEW DELHI

The World Health Organization (WHO) on Thursday added the R21/Matrix-M malaria vaccine, developed by Oxford University and manufactured by Serum Institute of India, to its list of prequalified vaccines.

In October 2023, the WHO had recommended its use for the prevention of malaria in children.

The R21 vaccine is the second malaria vaccine prequalified by WHO.

"The prequalification means larger access to vaccines as a key tool to prevent malaria in children, with it being a prerequisite for vaccine procurement by UNICEF and funding support for deployment by Gavi, the Vaccine Alliance," WHO said in its statement.

It added that both vaccines have been shown to be safe and effective in clinical

The R21 vaccine is the second malaria vaccine prequalified by the WHO

ical trials, for preventing malaria in children.

Malaria, a mosquito-borne disease, places a particularly high burden on children in the African region, where nearly half a million children die from the disease each year. In 2022, there were an estimated 249 million malaria cases in the world, and 6,08,000 malaria deaths across 85 countries.

Rogério Gaspar, director of WHO's Department of Regulation and Prequalification, said: "Achieving WHO vaccine prequalification ensures that vaccines used in global immunization programmes are safe and effective within their conditions of use in the targeted health systems."

Staying alert

India must sustain focus on genome sequencing for novel variants

The rapidly increasing spread of the JN.1 variant across the globe has led to the prevalence of this variant, a descendent of the BA.2.86 Omicron lineage, reaching over 27%, marking an eight-fold increase in just a month. First identified in Luxembourg in late August this year, the JN.1 variant has also become the dominant variant in a few countries. The variant is very likely to become the dominant strain globally. Compared with the parent lineage BA.2.86, the JN.1 variant carries an additional mutation (L455S) in the spike protein, which enhances its immune evasion significantly. Like other Omicron sublineages, the JN.1 variant too has high transmissibility. The winter season in the northern hemisphere will thus make it easier for the virus to spread. Despite increased immune escape capability and transmissibility, no major outbreak has been reported so far. Prompted by the presence of the JN.1 variant in most countries and its rapidly increasing spread, the World Health Organization classified JN.1 as a separate variant of interest a couple of days ago; JN.1 was previously tracked as part of BA.2.86 but now accounts for "vast majority" of the BA.2.86 lineage. Based on available limited evidence, the global health body has noted that JN.1 is not associated with increased disease severity compared with other circulating variants. Evidence from countries that have reported a surge in cases and hospitalisations driven by the JN.1 variant does not suggest higher fatality.

Though the first COVID-19 case caused by the JN.1 variant was detected in Kerala during routine surveillance, Goa has reported the greatest number of cases so far - 19. India has so far reported 21 JN.1 cases in all. All the 21 cases have been clinically mild, requiring home isolation. In the last fortnight, India has registered a sharp increase in the number of COVID-19 cases. While universal masking should surely not be made mandatory at this point in time, it is highly desirable that high-risk individuals mask up especially in poorly ventilated closed spaces as COVID-19 deaths in people with comorbidities are still being reported in India. In a welcome move, all patients with influenza-like illness (ILI) and severe acute respiratory infections (SARI) are being tested for COVID-19, and positive cases are sequenced as part of the revised surveillance guidelines. Likewise, there should be sustained focus on genome sequencing for novel variants. Finally, India should learn from past mistakes and refrain from shaming States that report more cases and/or novel variants. States that have better surveillance and display greater integrity in testing and reporting are bound to register more cases. Public health should neither be communalised nor politicised.

Revision sans vision

New laws have positive features, but
bring no path-breaking change

Law-making in the absence of a significant number of Opposition members does not reflect well on the legislature. The three Bills that replace the body of criminal laws in India were passed by Parliament in its ongoing session in the absence of more than 140 members. Even though the revised versions of the Bharatiya Nyaya Sanhita (BNS, which will replace the IPC), the Bharatiya Nagarik Suraksha Sanhita (which will replace the CrPC) and the Bharatiya Sakshya Bill (instead of the Evidence Act) were introduced after scrutiny by a Parliamentary Standing Committee, they still required legislative deliberations in the full chambers, given their implications for the entire country. Many concerns that the Bills gave rise to could not be raised in Parliament as a result. A conspicuous aspect of the new codes is that barring reordering of the sections, much of the language and contents of the original laws have been retained. However, Union Home Minister Amit Shah's claim that the colonial imprint of the IPC, CrPC and the Evidence Act has been replaced by a purely Indian legal framework may not be correct, as the new codes do not envisage any path-breaking change in the way the country is policed, crimes are investigated and protracted trials are conducted.

The improvements in the BNS include the removal of the outdated sedition section, as exciting disaffection against the government or bringing it into hatred and contempt is no more an offence, and the introduction of mob lynching (including hate crimes such as causing death or grievous hurt on the ground of a person's race, caste, community, sex, language or place of birth) as a separate offence. Another positive feature is the government ignoring the panel's recommendation to bring back adultery, struck down by the Supreme Court, as a gender-neutral offence. However, it is questionable whether 'terrorism' should have been included in the general penal law when it is punishable under special legislation. Grave charges such as terrorism should not be lightly invoked. On the procedural side, some welcome features are the provision for FIRs to be registered by a police officer irrespective of where an offence took place and the boost sought to be given to use of forensics in investigation and videography of searches and seizures. A significant failure lies in not clarifying whether the new criminal procedure allows police custody beyond the 15-day limit, or it is just a provision that allows the 15-day period to spread across any days within the first 40 or 60 days of a person's arrest. Revisions in law cannot be made without a vision for a legal framework that addresses all the inadequacies of the criminal justice system.

Should an All-India Judicial Service be created?

PARLEY

Recently, President Droupadi Murmu suggested that an All-India Judicial Service (AIJS) will help diversify the judiciary. In the same way that the Union Public Service Commission conducts a central recruitment exam and assigns successful candidates to cadres, the recruitment of judges of the district judiciary is being proposed to be made central, following which they will be assigned to the States. This idea has been discussed in the past and has also been a part of the Union government's official policy for years. However, there has been no consensus on the proposal either from the High Courts or the State governments. Should an AIJS be created? Alok Prasanna Kumar and Bharat Chugh discuss the question in a conversation moderated by Aaratrika Bhaumik. Edited excerpts:

The India Justice Report (IJR) 2022 shows that only 35% of subordinate court judges are women. No State has been able to meet the quotas for Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) categories in the subordinate judiciary. Is an AIJS the solution to this?

Alok Prasanna Kumar: All the States have been doing better over the years if you see Vidhi's data in the context of the representation of women in the subordinate judiciary. It might take some more time for the SC, ST, and OBC communities to get that level of representation, or at least proportionate to their populations. But the key barrier is the entrance exam; preparing for it is time-consuming. The requirement of seven years of practice to become a district judge also poses a problem because law as a profession is already very difficult if you do not have connections; it is doubly so if you are from an underprivileged community. Many High Courts also place requirements – that you have to have appeared in 'x' number of cases or had an active practice of 'y' number of years. This automatically raises barriers to entry, especially for women and other excluded classes.

Bharat Chugh: The State governments and High Courts which conduct the various exams have been doing their bit for affirmative action. From personal experience, I can say that for the last few years, the number of women who have joined the judicial services has been higher than the number of men. There is one point where an AIJS may help – different States provide for different patterns of reservations. I think some amount of rationalisation can help.

Since cases in the district courts are argued



AIJS is a proposed centralized recruitment system for judges at the level of additional district judges and district judges across States. SUSHIL KUMAR VERMA

in regional languages, do you think a central recruitment exam will act as an impediment for candidates who are not well-versed in the regional language? A contrarian perspective is that civil servants overcome this barrier through intensive language training.

BC: Not only are cases argued in the regional language, but there is vast documentation in the regional language. Therefore, an understanding of the regional language and the dialect of the people giving evidence is important. Sometimes, even customs play an important role in judicial decision-making. Intensive language training would take an enormous amount of effort. At the end of the day, we are deciding lives here and the smallest mistake in understanding the issues or the evidence may be irreparable. The need to understand a language is greater in our case than in the case of bureaucrats.

APK: I think implicit in this assumption is that the Indian Administrative Service has been a wonderful institution. But the way it is structured, the way it recruits and promotes people... I am not sure that is a model we want to replicate in the judiciary. I would rather have people with local knowledge serve local needs.

According to the data released this year by the Law Ministry, 5,388 posts of judicial officers are lying vacant in the district judiciary. Do you think a centralised service could tackle the issue of judicial vacancies?

APK: Judicial vacancies, as a percentage of the total number of judges, is 20-25%. Vacancies in the All India Services (AIS) are also 20-22%. In fact, as per the data of the Union government, of 4 million civilian central posts, 1 million are vacant. There isn't anything inherently superior in a centralised system that will make it necessarily more efficient in filling up the



There are multiple issues with our district judiciary and almost none of them will really be addressed by an All India Judicial Service

ALOK KUMAR PRASANNA

vacancies. The problem has been the ability to conduct these exams in a timely manner.

BC: We have seen the number of vacancies in the AIS as well. I don't see how this can be a solution. The AIJS attempts to induct lawyers between 35 to 45 years to the cadre of district judges. There is a problem. A 35-45-year-old practising lawyer who has spent 15-20 years in the profession is likely to be well-established in their State with a steady stream of briefs. If they make it an all-India service, which is again transferable, they may not like to leave their State and family. If the idea was to have a big talent pool, we will be losing out on that as well.

Mr. Chugh, do you think a national service for judges will be an attractive proposition for young lawyers? Additionally, what will be their career progression, since the number of district judges elevated to the High Courts is much lower than those from the Bar?

BC: I don't think a law student or a young lawyer who wants to be a judge is particularly bothered about whether they are serving an all-India service or a State service. More often than not, if there is a prestigious State service, the inclination would always be to join it and be closer to the family. Apart from metros, positions elsewhere in the country are problematic in terms of access to basic facilities. We have seen women judges not having access to even a toilet in some States. It is also time to look at a better pay structure. A successful lawyer on the private side makes in one appearance or a day what a trial court judge makes in a month. This needs to be borne in mind if we are to attract the best talent out there. Lastly, regarding prospects, we have seen that High Court and Supreme Court appointments have been from the Bar. For a young civil judge to enter the system is difficult. There are only a handful of examples of district judges who have made it to the Supreme Court.

Mr. Alok, a common rebuttal to the creation of an AIJS is that it is an affront to federalism. If it were to be implemented, how can we ensure that State governments and High Courts have a say in the recruitment process?

APK: It will be very difficult. The High Courts

will perhaps determine transfer postings and have some form of disciplinary control. But it is a sub-optimal solution – why should the High Courts accept it? Today, they are in control of everything starting from recruitment to the eventual promotion or transfer of that particular civil judge. The State governments will have even less control. They will just be paying their salaries. The problem is that we assume that if the Centre does it, it will be a good job. There are problems in the system, but they do not require an overturning of everything. I am suspicious of the parts of the Constitution that were introduced in the 42nd Amendment. It was done in controversial circumstances by a government that had no legitimacy. Almost the entire Opposition was put in jail while passing this amendment.

At present, the independence of the district judges from the State governments is guaranteed by the fact that the High Courts play a significant role in their appointment, transfer, and removal. If the AIJS were to be created, how can we ensure that there is judicial independence?

BC: That is the biggest problem. I could pass a lot of decisions back in the day because I knew that even the Governor or the Chief Minister of the State could not take any action if my decision was to be unsympathetic to the government. This is all the more important because the government is the biggest litigant before the courts. It is problematic if the litigant were to decide who is to be appointed as a judge and for what considerations. The present system has worked well and the AIJS doesn't seem to be the better alternative. The way the 42nd Amendment was introduced was constitutionally suspect. All of this has possibly not been challenged because the AIJS never got implemented. But arguably, it is violative of the basic structure of the Constitution.

APK: There are multiple issues with our district judiciary and almost none of them will really be addressed by an AIJS. The need of the hour is to ensure that there is a smooth career path for those who enter the district judiciary to the High Courts and the Supreme Court. I think the real pressing need is that the areas outside the metros have a serious lack of infrastructure. The judges need to be supported so that they think that they are as much constitutional court judges as the Chief Justice of India.



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Sanjay becomes the new president as Brij Bhushan loyalists sweep polls

WFI ELECTIONS

Uthra Ganesan
NEW DELHI

The much-delayed elections to the Wrestling Federation of India were finally held on Thursday, with the results and responses on expected lines as the supporters of former president Brij Bhushan Sharan Singh swept into power with a thumping majority.

Sanjay Kumar Singh from Uttar Pradesh was elected president with 40 votes against seven for former Commonwealth Games gold medalist Anita Sheoran as 13 of the 15 posts to which elections were held were won by the loyalists of former president Brij Bhushan. The results meant that Brij Bhushan continues to hold sway over the sport – the newly elected president made Brij Bhushan's residence his first port of call after his victory.

Even the two posts that went to the rivals – senior vice-president Devender Kadian and secretary-general Prem Chand Lochab of RSPB – were called "our people" by Sanjay who spoke at length at how the new federation would work.

"We will try to hold nationals in age-group competitions and National camps to make sure the year is not wasted. Other than that, those wrestlers who want to play will be on the mat, those who want to do politics will be replied to in the political arena," was all Sanjay Kumar said over the din of hundreds of supporters who thronged the Indian Olympic Association office all day.

Posing with Sanjay – their association goes back decades – at his residence,



The extreme step: Sakshi, unable to hide her disappointment and tears, decided to retire from wrestling. SHASHI SHEKHAR KASHYAP

Brij Bhushan declared that the elections had been held as per everyone's wishes.

"No one from my family or relatives contested. Those who participated and won were decided by federation officials and elections were held as per the constitution and approved norms and guidelines. The result proves what people in wrestling want across the country," he said.

Less than a kilometre away, the three wrestlers who were the face of the protests against Brij Bhushan – Vinesh Phogat, Sakshi Malik and Bajrang Punia – held a press conference expressing their disappointment that abruptly ended in Sakshi declaring her decision to quit the sport, dropping her wrestling shoes on the table and leaving in tears.

"It took us years to gather courage for the protest but we all know the result today. The government's commitment also has not been fulfilled, we wanted a woman president but today not one woman has been elected, which proves women have never had any role in Indian

wrestling. "We thank everyone who supported us through the protests but if the president now is someone close to Brij Bhushan, then I give up wrestling on this stage today," Sakshi announced.

"We were fighting against the harassment of women wrestlers. Many were saying we were finished but we were also active wrestlers and winning medals for the country... you can see our records in the last few years.

"I don't think we will get justice. Initially there were 15-20 complainants, that's gone down to six now and they are trying to break them also. But we still have faith in the judiciary," Bajrang hoped while Vinesh shrugged that their worst fears had come true.

"They were saying from the start that they will win. We know their power and position but it is sad that such people are getting such positions in the country.

"Sanjay Singh is closer to Brij Bhushan than even his own son. I feel sad that we could not bring any improvement in Indian wrestling. From roads to mats to closed doors, we told

everyone what was happening but still people who harass women are being elected. I don't know how to get justice in our country," she wondered.

The elections had earlier been scheduled for August 12 before a last-minute stay halted the process, vacated by the Supreme Court on November 28. "We were confident our supporters will win because of the work we have done for Indian wrestling. But now I am not involved anymore.

"They can always consult me if needed but I will only request the new federation to hold at least the cadet and junior Nationals before December 31. I hope the new federation does even better than us," said Brij Bhushan.

The elected members:

President: Sanjay Kumar Singh;

Senior vice-president:

Devender Kadian;

Vice-presidents: Karitar Singh,

Asit Kumar Saha, N. Phoney, Jai

Prakash; **Secretary-general:**

Prem Chand Lochab; **Treasurer:**

Satyaj Pal Singh Deswal; **Joint**

secretaries: B.G. Shetty, R.K.

Purushotham; **Executive**

members: Prashant Rai, Rajnish

Kumar, M. Loganathan, N. Khatsil,

Ummad Singh.

Gukesh wins on tie-break, is frontrunner for FIDE Circuit Candidates berth

Arjun finishes joint-first but is pipped to the post by the narrowest of margins and will now have to claim the World Rapid to secure his spot

CHESS

Sports Bureau CHENNAI

D. Gukesh drew with P. Harikrishna in the seventh and final round and won the Chennai Grand Masters Chess Championship on tie-break at The Leela Palace hotel here on Thursday.

Gukesh finished joint-first with Arjun Erigaisi, who beat Hungary's Sanan Sjugirov. The Sonneborn-Berger score was employed as the tie-break and Gukesh (13.75) edged Arjun (13.50) to the title.

Gukesh has surpassed

Anish Giri in the FIDE Circuit leaderboard and has thus become the frontrunner for the FIDE Circuit Candidates spot.

Anish needs to finish in the top-three in the World Rapid or win the World Blitz, and Arjun has to win the World Rapid to overtake Gukesh and secure the FIDE Circuit Candidates spot.

Gukesh said he had decided to play safe after securing back-to-back wins over Alexandr Predke (Serbia) and Sjugirov in the fourth and fifth rounds.

"The last couple of rounds, I was in safe mode. I knew that tied for first would be enough for (topping) the (FIDE) Circuit.

Two wins were quite nice, and I was like, 'Now, I should just not do anything stupid and just play it safe.' So, yes, honestly, I was just playing for a draw in the last two games," he said on the commentary.

"When you are fighting in every game, accidents can happen.

"It's not that I'm scared of it, but the stakes were just too high, and I didn't want to take any chances," he added.

The results (seventh round): P. Harikrishna (4) drew with D. Gukesh (4.5); Arjun Erigaisi bt Sanan Sjugirov (Hun, 2.5); Alexandr Predke (Srb, 1.5) lost to Parham Maghsoodloo (Irn, 3.5); Pavel Eljanov (Ukr, 4) drew with Levon Aronian (USA, 3.5).



Fruitful outing: Arjun, Gukesh and Harikrishna pose with their spoils. SPECIAL ARRANGEMENT