

EVA STALIN IAS ACADEMY – BEST IAS COACHING IN CHENNAI

12/24, Muthurangan Muthali St, West Tambaram, Chennai - 600045

<https://www.evastalinasacademy.in/>

Contact Number – +91-8678969915, +91-9940332851

EDITORIAL ANALYSIS → 30 JULY 2022 → THE HINDU:

SC COLLEGIUM:

- **How Did the Collegium System Develop?**
- Instead of being established by a law passed by parliament or a clause in the constitution, the system for the appointment and transfer of judges has developed as a result of Supreme Court decisions.
- **Changes to the System:**
- **1981's First Judges Case:**
- It stated that "cogent reasons" may be given for rejecting the "primacy" of the CJI's (Chief Justice of India) recommendation on judicial appointments and transfers.
- For the ensuing 12 years, the Executive would have priority over the Judiciary in making judicial nominations.
- **The SC established the Collegium system in the Second Judges Case (1993),** ruling that "consultation" actually meant "concurrence."
- It was further stated that this was not the CJI's personal opinion, but rather an institutional judgement developed after consultation with the SC's two most senior judges.
- **Third Judges Case (1998):** The Collegium was increased to five members, with the Chief Justice of India and his four most senior colleagues, on the President's recommendation (Article 143) of the SC.
- **Who Is the Collegium Head?**

EVA STALIN IAS ACADEMY – BEST IAS COACHING IN CHENNAI

12/24, Muthurangan Muthali St, West Tambaram, Chennai - 600045

<https://www.evastalinasacademy.in/>

Contact Number – +91-8678969915, +91-9940332851

- The SC collegium, which consists of the four senior-most judges of the court, is led by the CJI (Chief Justice of India).
- Only the collegium system is used to nominate judges of the higher judiciary, and the government only becomes involved once the collegium has chosen names.
- **What are the Judicial Appointments Processes?**
- The CJI and the other SC judges are chosen by the President of India.
- The outgoing CJI proposes his successor as far as the CJI is concerned.
- Since the supersession issue of the 1970s, seniority has been the sole determining factor in practise.
- **For SC Judges:** The suggestion is started by the CJI for the SC's other judges.
- The CJI contacts the other members of the Collegium as well as the senior-most judge of the court who is a member of the High Court where the suggested individual is a member.
- The consultees must submit their written comments, which should be included in the file.
- The recommendation is forwarded by the Collegium to the Law Minister, who then transmits it to the Prime Minister for the President's guidance.
- **For the High Courts Chief Justice:**
- According to the practise of having Chief Justices from outside the individual States, the Chief Justice of the High Court is appointed.
- The Collegium makes the decision on the promotion.
- A Collegium made up of the CJI and the two most senior judges makes recommendations for High Court judges.
- However, the suggestion was started by the departing Chief Justice of the relevant High Court after consulting with two of her most senior colleagues.
- The Chief Minister receives the recommendation and recommends the Governor to forward it on to the Union Law Minister.
- **Issues Associated with the Collegium System:**
- Lack of transparency and opacity.
- Potential for nepotism

EVA STALIN IAS ACADEMY – BEST IAS COACHING IN CHENNAI

12/24, Muthurangan Muthali St, West Tambaram, Chennai - 600045

<https://www.evastalinasacademy.in/>

Contact Number – +91-8678969915, +91-9940332851

- Involvement in public disputes.
- Overlooks a number of promising young judges and attorneys.
- **What were the Appointment System Reform Efforts?**
- The court invalidated the attempt of the Government of India to replace Collegium System with a "National Judicial Appointments Commission" (via the 89th Amendment Act of 2014) in 2015 on the grounds that it endangered the independence of the judiciary.
- **Way ahead:**
- There is no time limit for the process of filling vacancies because it involves both the executive and the judicial branches and is ongoing. But now is the moment to consider creating a long-lasting, independent organisation to institutionalise the procedure with sufficient safeguards to protect the judiciary's independence and guarantee judicial supremacy but not judicial exclusivity.
- It should guarantee independence, show diversity, exhibit professionalism and honesty, and reflect those values.



ES

IAS ACADEMY