STUDY NOTES · BASIC CONCEPT

What is the Collegium System?

Polity & Governance

27 Oct 2026

What?

The Collegium System is the system through which judges of the Supreme Court and High Courts in India recommend the appointment and transfer of judges. It gives senior judges of the higher judiciary a leading role in judicial appointments.

Important: The Collegium System is not explicitly mentioned in the Constitution of India. It evolved through Supreme Court judgments.

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Composition of the Collegium

Appointment concerned	Composition
Supreme Court judges	Chief Justice of India (CJI) + four senior-most Supreme Court judges
High Court judges	CJI + two senior-most Supreme Court judges, as part of the Supreme Court Collegium process
High Court recommendations	Initially made by the High Court Collegium, comprising the Chief Justice of that High Court and its two senior-most judges

How did the system evolve?

The Collegium System developed through three important Supreme Court judgments, commonly known as the Three Judges Cases.

Case	Year	Significance
First Judges Case	1981	Gave primacy to the executive in judicial appointments.
Second Judges Case	1993	Established the primacy of the judiciary and introduced the Collegium System.
Third Judges Case	1998	Clarified and expanded the Collegium's composition and consultation process.

Constitutional provisions

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The Constitution does not expressly provide for a Collegium. However, the system operates through judicial interpretation of these provisions:

1. Article 124: Appointment of Supreme Court judges.
2. Article 217: Appointment of High Court judges.
3. Article 222: Transfer of High Court judges.
4. Article 223: Appointment of an Acting Chief Justice of a High Court.

Advantages and criticisms

Advantages	Criticisms
Protects judicial independence from direct political influence.	The selection process lacks sufficient transparency.
Reduces the risk of politically motivated appointments.	Concerns about favouritism and lack of publicly stated criteria.

Advantages	Criticisms
Gives experienced judges a central role in evaluating candidates.	Limited external accountability and diversity in selection.

What about the NJAC?

In 2014, Parliament passed the 99th Constitutional Amendment and the National Judicial Appointments Commission (NJAC) Act to replace the Collegium System with a broader appointment body.

In 2015, the Supreme Court struck down the 99th Constitutional Amendment and the NJAC Act, holding that they violated the Constitution's basic structure by undermining judicial independence. Consequently, the Collegium System continued.

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UPSC Prelims: Key facts to remember

1. The Collegium System is not explicitly mentioned in the Constitution.
2. It evolved through the Three Judges Cases of 1981, 1993 and 1998.
3. Article 124 concerns Supreme Court judges; Article 217 concerns High Court judges.
4. The President formally appoints judges, while the Collegium plays the leading role in recommending candidates.
5. The NJAC was struck down by the Supreme Court in 2015.