

News

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Chief Justice of India BR Gavai stated on Friday that the Supreme Court is not above the High Court and that the Supreme Court Collegium cannot prescribe to the High Court Collegiums how they should select persons who are suggested for High Court judgeships.

Speaking at a Supreme Court Bar Association (SCBA) Independence Day event, CJI BR Gavai said that when it comes to selecting candidates for High Court judges, the High Courts

make the initial decision.

"The High Court is not superior to the Supreme Court. The constitutional courts are the Supreme Court and the High Courts. Furthermore, they are not better nor worse than one another in terms of the constitutional framework. As a result, the High Court Collegium must answer the first call. All we do is suggest candidates to the High Court Collegium and ask them to take them into consideration. And the names only reach the Supreme Court after they are satisfied," CJI Gavai stated.

In response to some of the issues raised by SCBA President Vikas Singh, the CJI made the remark.

In his remarks today, Singh claimed that the attorneys nominated to High Court judicial positions are sometimes the only ones that the judges observe debating before them. Briefing counsel and even attorneys who appear before the Supreme Court may therefore be passed over for promotion to the Bench.

In order to promote openness in the selection of judges, he argued for the establishment of a database containing the names of applicants deemed qualified for judicial positions.

He went on to say that in order for Supreme Court attorneys to be routinely considered for promotion to High Court judges, their names ought to be included in this database as well.

"Insofar as the demand made by Mr. Vikas Singh is concerned that the lawyers who only argue (**before High Courts**) are being recommended, ultimately, even the Supreme Court Collegium cannot dictate the High Court Collegium to recommend the names."

The CJI did point out, nonetheless, that the Supreme Court Collegium has had some success in suggesting that Supreme Court attorneys be appointed to High Court justices.

In addition to having their names referred to several High Courts, some of the applicants who are currently practicing here have previously been appointed throughout the years, thanks to my senior colleagues and I. Additionally, we are now suggesting a few additional names," he stated.

He also supported the custom of meeting applicants in person before to their appointment as judges.

We began the habit of communicating with the candidates with former CJI Sanjiv Khanna. We can determine how fit they would be to contribute to society after interacting with them for ten to fifteen minutes or thirty minutes," he stated.

He asked the audience to remember the sacrifices made by Indian independence fighters and said that judges and attorneys have an obligation to respect the Indian Constitution and acknowledge that no cause is too little to be taken seriously.

"You must understand that no cause is too little to be worthy of your attention as legal experts. For one person, what could seem like a small argument or a trifling complaint could actually be a question of life, dignity, or existence. Every case you take on and every argument you make strengthens our country's moral and social foundation. This obligation takes on a greater meaning for judges. We must endeavor to interpret the principles of the Constitution in a way that goes beyond the language of the law and is more purposeful. He stated that we must interpret the law in a way that upholds the rule of law, protects the rights of the weak, and increases freedom.

CJI Gavai promised that a permanent flag post on the Supreme Court grounds will be completed by the end of November this year in response to SCBA President Vikas Singh's request.

SCBA President Vikas Singh recalled in his remarks that he had previously recommended enacting legislation to govern the collegium system.

In order to guarantee that the finest candidates from the system are taken into consideration for judicial elevation, the plan was to establish a secretariat for judges to keep track of the names of individuals qualified for nomination as future judges.

"Unfortunately, it did not see the light of day," he said.

Although the NJAC ruling mentioned a Memorandum of Procedure to expedite judge selections, Singh said, it hasn't been discussed in a number of years.

He said he hoped the issue of bringing openness to the nomination of judges will be taken up shortly.