

LEGAL_AWARENESS FROM 2020 10 EMAIL DATED 15 08 2021 TO CJI REGARDING RECOMMENDATION FOR APPOINTMENT OF JUDGES IN HIGH COURTS BY SUPREME COURT BAR ASSOCIATION

To

Hon'ble Chief Justice of India

Copy to

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Subject- CONFLICT OF INTEREST/INDEPENDENCE OF JUDICIARY

Recommendation for appointment of judges in High Courts by Supreme Court Bar Association (SCBA) as reported in Odiya Newspaper PRAMEYA Cuttack Edition dated 14 08 2021 in Page 15

Respected Sir

With due respect I want to draw your kind attention regarding the above mentioned matter.

It is pertinent to mention that the SCBA is recommending the names of advocate who are its member to be appointed as Judges of different High Courts to the Collegium.

As reported in media the advocates who are defending the Odisha State Govt in Supreme Court for long time in different cases are suggested to the Collegium for Judgeship in Orissa High Court.

It is obvious that the Hon'ble Judges assist the Hon'ble Chief Justice during hearing of PILs which is mostly against the State and if the advocates who have defended the state and now turned to be Judges leads to conflict of interest and question mark on the independence of judiciary.

It is also pertinent to mention that the single judge bench also hears Writ Petition where state may be the opposite party.

There is a thin dividing line between the Govt Advocate and the Ruling Party which can be easily crossed and there is chance of miscarriage of justice and independence of judiciary is at stake if the advocates acting on behalf of state govts become Judges of the same state.

As revealed under RTI the guidelines of Hon'ble Supreme Court are violated in discretionary quota allotment of Odisha state govt; there is need for more precautions to be followed for preservation of Constitution of India as the cadre officers and others have flouted all the rules possible beyond reasonable doubt. Please refer to WP(C) 1096 of 2013 filed in Hon'ble Supreme Court and WP(C) 9095 of 2014 and CMAPL 298 of 2015 filed in Hon'ble Orissa High Court in this matter.

Under the circumstances it is necessary that independence of judiciary needs to be protected at any cost and is the primary issue than the appointment of advocates as judges in the same state defending the same state having its brief is secondary and it is also violation of Advocate's Act which prevents appearance for the opposite party in any case.

It is ironical if an advocate is barred to have any legal relation with the opposite party of the client and it is a misconduct as far as Advocate's Act and can be dragged to disciplinary committee of state bar councils then how an advocate is above the Advocate's Act and become a Judge in the same state giving scope for absolute conflict of interest and miscarriage of justice needs for thorough perusal of legal luminaries.

If it is absolute necessity of appointment of advocates who are member of SCBA as Judges then it is requested that they should be appointed as Judges in other states with whom they have no link and are absolutely neutral in delivering justice which is the primary precondition of the constitution.

It is also suggested that the advocates turned to be judges will never be transferred to the same state during their tenure in the interest of justice so that it will appear that independence of judiciary is still prevailing in letter and spirit.

When people of India still put the Judges next to God and look forward with soulful eyes to get relief when all the doors are closed this much pain, effort, sacrifice the advocates should take if they really aspire to become Judge.

After all it is all about justice delivery system and it should always appear like that and anybody related to this system should be beyond any doubt and question mark on its credibility when it is related to High Courts and Supreme Court.

Thanking you

Yours faithfully

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