

Topic: Transfer Of High Court Judges Under Article 222

Name of the Case: Re Presidential Reference, AIR 1999 SC 1(final case on the issue) [check three judge case on Appointment of Judges]

Bench: Justice S. Bharucha, Justice M Mukherjee, Justice S. Majmudar, Justice S.V. Manohar, Justice G. Nanavati, Justice S.S. Ahmad, Justice K. Venkataswami, Justice B. Kirpal and Justice G. Pattanaik

Judgment: The Supreme Court has further elucidated its ruling in Supreme Court advocates on the transfer of a High Court judge. The court has stated that before recommending the transfer of a judge from one High Court to another as a judge, Chief Justice of India must consult a plurality of judges. He must take into account the views Chief Justice of the High Court from which the judges are to be transferred, any judge of Supreme Court whose opinion may have significance in the case, the Chief Justice of High Court the transfer is to be affected.

All these views are to be expressed in writing and should be considered by a collegium consisting of the Chief Justice and four senior most puisne judges of the Supreme Court. The collegium should consider the response of the judges to be transferred. This view and those of the four senior most judges should be conveyed to the Government of India along with the proposal for transfer. Unless the decision to transfer has been taken in manner aforesaid, it is not decisive and does not bind the Government of India.

Because of all the safeguards mentioned above, judicial review in case of transfer of High Court judges, according to the court, would be limited to a case where transfer of judges has been made or recommended without obtaining the view and reaching the decision in the manner aforesaid.
