

In the Collegium system, the Chief Justice of India (CJI) and a panel comprising four senior-most judges of the Supreme Court recommend appointments and transfers of judges. The collegium system evolved after three landmark judgments of the Supreme Court, popularly known as the “three judges cases” that comprised the first, second and the third judges cases.

The **first judges case** was the SP Gupta case. It was decided on December 30, 1981 that the President, with sensible reasons, could reject judges’ names recommended by the CJI. This shifted more power on the executive from the judiciary in the appointments process.

In the **second judges case**, a nine-judge bench of the Supreme Court overturned the verdict of the first judges case by creating a Collegium system. The majority verdict delivered by Justice J.S. Verma in the Supreme Court Advocates on Record Association Vs Union of India case on October 6, 1993, stated that the CJI should be entrusted with the primary role of appointments of judges. However, the three judges ruling in this case could not reach a consensus on the exact role of the CJI in the process, leading to a lot of confusion in the appointment and transfer of judges for years.

The final judgement in the series, the **third judges case** (October 28, 1998) made things clearer after the President’s request to the Supreme Court for a clarity. In this case, the Supreme Court came up with nine guidelines that the Collegium system should follow to function effectively. This case established the supremacy of the judiciary in the appointment and transfer of judges.

WHAT IS NJAC?

NJAC or the National Judicial Appointments Commission is a constitutional body proposed to replace the existing Collegium system of appointing judges. The NJAC proposed a transparent and broad-based process of selection of judges of the Supreme Court and High Courts. The judges of the Supreme Court and High Courts were to be selected by the NJAC commission, whose members were drawn from the judiciary, legislature and civil society.

The NJAC was established by amending the Constitution (99th Amendment) Act, 2014, passed by the Lok Sabha and the Rajya Sabha in August 2014. Alongside, the Parliament also passed the National Judicial Appointments Commission Act, 2014, to regulate the functions of NJAC. The State legislatures of 16 states ratified both the Bills and the President gave his assent on December 31, 2014. The NJAC Act and the Constitutional Amendment Act came into force from April 13, 2015.

Constitution of the NJAC

The NJAC will consist of six people: the Chief Justice of India (CJI), two senior-most judges of the Supreme Court, the Law Minister, and two “eminent persons”. These eminent persons would be nominated for a three-year term by a committee consisting of the CJI, the Prime Minister, and the Leader of the Opposition in the Lok Sabha. One eminent person had to be nominated from among the Scheduled Castes, Scheduled Tribes, OBCs, minorities or women. These eminent persons were not eligible for re-nomination.