consulted by him in the matter, on reiteration of the recommendation by the CJI, the appointment should be made as a healthy convention.

Subsequently, the President of India in exercise of his powers under Article 143 made a Reference[4] to the Supreme Court relating to the consultation between the CJI and his brother judges in matters of appointments of the high court judges, but not as a review or reconsideration of the *Supreme Court Advocates case* (*Second Judges case*) above. The SC opined that "consultation with the CJI" implies consultation with a plurality of judges in the formation of opinion. His sole opinion does not constitute consultation. Only a *collegium* comprising the CJI and two senior-most judges of the SC, as was in the *Second Judges case* above, should make the recommendation. The *collegium* in making its decision should take into account the opinion of the CJ of the high court concerned which "would be entitled to the greatest weight," the views of the other judges of the high court who may be consulted and the views of the other judges of the SC "who are conversant with the affairs of the high court concerned." The views of the judges of the SC who were puisne judges of the high court or CJ, thereof, will also be obtained irrespective of the fact that the HC is not their parent HC and they were transferred there. All these views should be expressed in writing and be conveyed to the Government of India alongwith the recommendation of the *collegium*. The recommendations made by the CJI without complying with the norms and requirements of the consultation process, as afore stated, are not binding upon the Government of India.

The Union of India is the ultimate authority to approve the recommendations for appointment as a judge. The view that without consultation with the collegium the opinion of CJI is not legal, can not be sustained. If the factors which render an additional judge unsuitable for appointment as a permanent judge exist, it would not only be improper but also undesirable to continue him as Additional Judge.[4A]

NJAC declared Unconstitutional.— After creation of the National Judicial Appointment Commission under Article 124A *vide* the Constitutional (Ninety Ninth Amendment) Act, 2014[4B] and the National Judicial Appointment Commission Act, 2014,[4C] (w.e.f. 13-4-2015), the prevailing practice of "collegium system" with regard to the appointment of the Supreme Court and high court was bought to an end. (See chapter 22). Accordingly, Articles 217, 222, 224, 224A and 231 were also amended as under:

> In article 217 of the Constitution, in clause (1), for the portion beginning with the words "after consultation", and ending with the words "the High Court", the words, figures and letter "on the recommendation of the National Judicial Appointments Commission referred to in article 124A" shall be substituted.
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> In article 222 of the Constitution, in clause (1), for the words "after consultation with the Chief Justice of India", the words, figures and letter "on the recommendation of the National Judicial Appointments Commission referred to in article 124A" shall be substituted.
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> In article 224 of the Constitution,—(*a*) in clause (1), for the words "the President may appoint", the words "the President may, in consultation with the National Judicial Appointments Commission, appoint" shall be substituted; (*b*) in clause (2), for the words "the President may appoint", the words "the President may, in consultation with the National Judicial Appointments Commission, appoint" shall be substituted.
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> In article 224A of the Constitution, for the words "the Chief Justice of a High Court for any State may at any time, with the previous consent of the President", the words "the National Judicial Appointments Commission on a reference made to it by the Chief Justice of a High Court for any State, may with the previous consent of the President" shall be substituted.
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> In article 231 of the Constitution, in clause (2), sub-clause (*a*) shall be omitted.