

2. *Supreme Court Advocates-on-Record Association v UOI*, AIR 1994 SC 268, pp 685, 688, 692, 693 : (1993) 4 SCC 441 (nine-judge Bench). Pursuant to public interest petitions filed by the Supreme Court Advocates-On-Recorded Association seeking relief of filling up of vacancies, a bench of nine judges over-ruled the judgment in *SP Gupta v UOI*, AIR 1982 SC 149 (1981) which had upheld the primacy of the executive in the appointment of judges in the superior courts. Later, in *Re Special Reference No 1 of 1998*, AIR 1999 SC 1, the court has, with a view to making consultation more informed, transparent and meaningful, held that the Chief Justice of India must consult four senior most judges in the selection process.
 3. *Constituent Assembly Debates*, vol 8, 258. But there is no such safeguard in the case of appointment of a Chief Justice, and when AN Ray J, was appointed Chief Justice, after superseding three senior judges — Hedge, Grover and Shelat, there was an uproar in which the Supreme Court Bar Association joined, that the senior judges had been superseded solely because their judgment in *Keshavananda's* case (AIR 1973 SC 1461 : (1973) 4 SCC 225) had been unfavourable to the Government.
- Again, in January 1977 instead of HR Khanna J the senior most Judge MU Beg J was made the Chief Justice of India. Justice Khanna resigned just as the three judges had done a few years back. It was said the supersession was because of his dissenting judgment in *ADM v Shukla*, AIR 1976 SC 1207 : (1976) 2 SCC 521.
- After the judgment referred to in fn 2 above viz *Supreme Court Advocates-on-Record Association v UOI*, (1993) 4 SCC 441, pp 685, 688, 692, 693, it appears that discretion of the executive has been curtailed.
4. *Re Special Reference No 1 of 1998*, (1998) 7 SCC 739. The Bench expressed its optimistic view that the successive CJs shall henceforth act in accordance with the *Second Judges case* and the opinion in the instant reference.
 - 4A. The Constitutional (Ninety Ninth Amendment) Act, 2014 as published in the Gazette of India, Extra Ordinary Part II dated 31 December 2014 which was held invalid by the Supreme Court.
 - 4B. National Judicial Appointment Commission Act, 2014 (No 40 of 2014) as published in the Gazette of India, Extra Ordinary Part II dated 31 December 2014 which was held invalid by the Supreme Court.
 5. *Re Reference under Article 317(1) of the Constitution of India*, (2009) 1 SCC 337, p 345 : [2009] 2 Mad LJ 1055.
 6. The salaries of judges of the Supreme Court and the high courts has been enhanced *vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 (10 of 2018) (w.r.e.f. 1-1-2016).
 7. But, curiously, there is no bar against a retired judge from being appointed to any office under the Government [as there is in the case of the Comptroller and Auditor-General: Article 148(4)]; and the expectation of such employment after retirement indirectly detracts from the independence of the judges from executive influence. In fact, retired judges have been appointed to hold offices such as that of Governor, Ambassador and the like, apart from membership of numerous Commissions or Boards.
 8. *Attorney-General of India*, (1956) SCR 8; AK Aiyar, *The Constitution and Fundamental Rights*, 1955, p 15.
 9. *Aruna Ramchandra Shanbang v UOI*, AIR 2011 SC 1290, p 1326 : (2011) 4 SCC 454.
 10. *Pyare Mohan Lal v State of Jharkhand*, AIR 2010 SC 3753 : (2010) 10 SCC 693, p 704.
 11. *Vide* Author's *Constitutional Law of India*, Prentice-Hall of India, 1991, pp 168 *et seq*.
 12. *Yomeshbahi P Bhatt v State of Gujarat*, (2011) 6 SCC 312, p 315.
 13. *Madan Kishore v Major Sudhir Sewal*, (2008) 8 SCC 744, p 752 : (2008) (12 Scale 20).
 14. *AK Gopalan v State of Madras*, AIR 1950 SC 27 : (1950) SCR 88 p 100; *Reference Under Article 143*, AIR 1965 SC 745, p 762.
 15. *Vide* Author's *Constitutional Law of India*, Prentice-Hall of India, 1991, p 270.
 16. Article 131, *proviso*, as amended by the Constitution (Seventh Amendment) Act, 1956.
 17. *State of West Bengal v UOI*, AIR 1963 SC 1241 : (1964) 1 SCR 371.
 - 17A. *See UP State Spinning Co Ltd v RS Pandey*, (2005) 8 SCC 264 : (2005) JT 12 SC 242 : (2006) 1 LLJ 254; *State of Uttar Pradesh v Mohammad Nooh*, AIR 1958 SC 86 : (1958) 1 SCR 595 : (1958) SCJ 242; *Harbanslal Sahnia v Indian Oil Corporation Ltd*, AIR 2003 SC 2120 : (2003) AIR SCW 126 : (2003) 2 SCC 107; *Shrimanth Balasaheb Patil v Hon'ble Speaker, Karnataka Legislative Assembly*, (2020) 2 SCC 595 : (2020) SCC OnLine SC 1454 : (2020) 1 Mad LJ 335.