

# Did NJAC question the independence of judiciary & thus was quashed?

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The Supreme Court of India has recently declared the 99th Constitutional Amendment as unconstitutional which introduced the National Judicial Appointments Commission (NJAC) for appointment of judges. The NJAC was a proposed body which would have been responsible for the appointment and transfer of judges to the higher judiciary in India. The

Commission was established by amending the Constitution of India through the 99th constitution amendment passed by the Lok Sabha on August 13, 2014.

The amendment was quashed mainly because of the reason that the commission questioned the independence of judiciary.

As argued, the commission was said to be a way to wrest control over the process of selection of judges by the government. This was because of the members who comprised the commission. The Commission would have consisted of six persons, namely Chief Justice of India, two other senior judges of the Supreme Court, the Union Law Minister and two eminent persons. The two eminent persons would have been nominated by a committee consisting of the Chief Justice of India, the Prime Minister of India and the Leader of Opposition in Lok Sabha.

The inclusion of 'two eminent people' in the commission was one of the main reasons behind such a ruling. On October 16, the constitutional bench gave a ruling with a majority of 4:1 and ordered to continue with the old system of selection of judges i.e. the Collegium System.

Initially the power of selection of judges to the apex court and the high court was with the government, with consultation with the Chief Justice of India.

The concept of collegium system evolved with the 'three judges cases' in the years 1981, 1993 and 1998 respectively. Through all the three cases the apex court clarifying the independence of judiciary as one of the basic feature of the constitution effectively ordered the judicial appointments to the high court and Supreme Court would be made by a collegiums of five or three senior judges of the supreme court. Collegium system is a good system of appointing judges as it brings independence to judiciary. But it is also argued that it is a non-transparent and a nepotistic manner of appointing judges.

It is safe to say that the decision made by the Supreme Court to continue with the collegium system with some improvements in it, would turn out to be good because it will help in the independence of judiciary and it will not have politically favoured judges by the elected party that can hamper the idea of natural justice.