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# 16th, August, 2022

## Today's Topic Covered

- **Sushil Kukreja and Virender Singh were sworn in as the Judges of the Himachal Pradesh High Court here today.**
- **The Chamba handkerchief with Mahatma Gandhi's portrait made in Chamba will soon increase the glory in South Africa.**



***Topic: Appointment of Judges of the Himachal Pradesh High Court***

## ***Importance: Himachal HPAS Prelims and Mains***

### ***What is the news?***

- Sushil Kukreja and Virender Singh were sworn in as the Judges of the Himachal Pradesh High Court here today.
- Governor Rajendra Vishwanath Arlekar administered the oath of office to the newly appointed judges, at Raj Bhawan in a simple but an impressive ceremony. Chief Minister Jai Ram Thakur and Chief Justice of Himachal Pradesh High Court Justice Amjad Ahtesham Sayed were also present on the occasion.



***Lets understand the appointment of Judges of the High Court:***

## ***Appointment of HC Judges:***

- Article 217 of the Constitution: It states that the Judge of a High Court shall be appointed by the President in consultation with the Chief Justice of India (CJI), the Governor of the State.
- Where there is an appointment of a judge other than the Chief Justice, the Chief Justice of the High Court shall be consulted.

Consultation Process: High Court judges are recommended by a Collegium comprising the CJI and two senior-most judges.

The proposal, however, is initiated by the relevant Chief Justice of the High Court in consultation with two of its senior colleagues.

- The recommendation goes to the chief minister, who advises the governor to send the proposal to the minister for union rights.
- The Chief Justice of the High Court is appointed in accordance with the policy of having chief justices from outside the respective states.
- The Collegium takes the call on the elevation.

***Ad hoc judges:*** The appointment of retired judges was provided for in the Constitution by virtue of Article 224A.

Under the Article, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of judge of that court or of any other High Court to sit and act as a judge of the High Court for that State.

- Recently, the Supreme Court requested the appointment of retired judges to combat the dependency of cases before the High Courts.
- It orally outlined prospective guidelines for the appointment and functioning of an ad-hoc judge.

## ***Collegium System:***

- It is the system of appointment and transfer of judges that has evolved through the judgments of the SC, and not by an Act of Parliament or by a provision of the Constitution.

### ***TRANSFER OF A JUDGE (INCLUDING CHIEF JUSTICE) FROM ONE HIGH COURT TO ANOTHER HIGH COURT:***

***1) Article 222 of the Constitution*** makes provision for the transfer of a Judge (including Chief Justice) from one High Court to any other High Court. The initiation of the proposal for the transfer of a Judge should be made by the Chief Justice of India whose opinion in this regard is determinative. Consent of a Judge for his first or subsequent transfer would not be required. All transfers are to be made in public interest that is for promoting better administration of justice throughout the country.

2) In the formation of his opinion for the transfer of a Judge, other than the Chief Justice, the Chief Justice of India is expected to take into account the views of the Chief Justice of the High Court from which the Judge is to be transferred, as also the Chief Justice of the High Court to which the transfer is to be effected. The Chief Justice of India should also take into account the views of one or more Supreme Court Judges who are in a position to offer his/their views which would assist in the process of deciding whether or not a proposed transfer should take place.

3) In the case of transfer of a Chief Justice, only the views of one or more knowledgeable Supreme Court Judges need to be taken into account.



4) The views on the proposed transfer of a Judge or a Chief Justice of a High Court should be expressed in writing and should be considered by the Chief Justice of India and the four seniormost Judges of the Supreme Court. The personal factors relating to the concerned Judge, including the Chief Justice, and his response to the proposal, including his preference of places, should invariably be taken into account by the Chief Justice of India and the first four puisne Judges of the Supreme Court before arriving at conclusion on the proposal.

5) The proposal for transfer of the Judge, including the Chief Justice should be referred to the Government of India alongwith the views of all those consulted in this regard.

6) After the recommendation of a transfer is received from the Chief Justice of India, the Union Minister of Law, Justice and Company Affairs would submit the recommendation alongwith relevant papers to the Prime Minister who will then advise the President as to the transfer of the Judge concerned. After the President approves the transfer, the Secretary to the Government of India in the Department of Justice will inform the Chief Justice of the High Courts and the Chief Ministers of concerned States and will announce the transfer and issue the necessary notification in the Gazette of India.

7) Transfer of Judge to or from Jammu & Kashmir High Court shall be made in accordance with clause (1) of Article 222 of the Constitution of India read with Article 222 (1A) of the Constitution (Application to Jammu & Kashmir) order, 1954. Therefore, when it is proposed to transfer a Judge from or to the Jammu & Kashmir High Court, the Minister of Law and Justice in the Central Government will consult the Governor (Chief Minister) of Jammu & Kashmir for his views before putting up the relevant papers to the Prime Minister for advising the President. In case there is a difference of opinion, the Union Minister of Law, Justice and Company Affairs will consult the Chief Justice of India again before

putting up the papers to the Prime Minister for advising the President on the matter of Transfer. On approval of the President, the transfer will be announced in the usual manner.



### ***Some Important Points:***

1) When a permanent vacancy is expected to arise in any year in the office of a Judge, the Chief Justice will as early as possible but at least 6 months before the date of occurrence of the vacancy, communicate to the Chief Minister of the State his views as to the persons to be selected for appointment. Full details of the persons recommended, in the format given in Annexure-I should invariably be sent. Before forwarding his recommendation, the Chief Justice must consult two of his seniormost colleagues on the Bench regarding the suitability of the names proposed. All consultation must be in writing and these opinions must be sent to the Chief Minister along with the recommendations.

2) The proposal for appointment of a Judge of a High Court shall be initiated by the Chief Justice of the High Court. However, if the Chief Minister desires to recommend the name of any person he should forward the same to the Chief Justice for his consideration. Since the Governor is bound by the advice of the Chief Minister heading the Council of Ministers,

a copy of the Chief Justice's proposal, with full set of papers, should simultaneously be sent to the Governor to avoid delay. Similarly, a copy thereof may also be endorsed to the Chief Justice of India and the Union Minister of Law, Justice and Company Affairs to expedite consideration. The Governor as advised by the Chief Minister should forward his recommendation along with the entire set of papers to the Union Minister of Law, Justice and Company Affairs as early as possible but not later than six weeks from the date of receipt of the proposal from the Chief Justice of the High Court. If the comments are not received within the said time frame, it should be presumed by the Union Minister of Law, Justice and Company Affairs that the Governor (i.e. Chief Minister) has nothing to add to the proposal and proceed accordingly.

*(Source: HP Government & DEPARTMENT OF JUSTICE)*

## ***Topic: Chamba handkerchief with Mahatma Gandhi's portrait***

***Importance: Himachal HPAS Prelims and Mains***

### ***What is the news?***

- The Chamba handkerchief with Mahatma Gandhi's portrait made in Chamba will soon increase the glory in South Africa.
- The prepared handkerchief was released on the Amrit Mahotsav of Independence.



### ***Where the Program was organized and who organized it?***

- A program was organized by ***Not on Map Organization*** at Bhuri Singh Museum regarding The Amrit Mahotsav of Independence.

### ***How this will be sent to South Africa?***

- The process of sending Chamba handkerchief to South Africa has started on behalf of the Not On Map organization.
- After the handkerchief is sent from Chamba, Sundara Reddy, a member of the institution in South Africa, will receive it, after which the process of installing it will be done.

*(Source: Amar Ujala)*

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