



Justice Nagratna Expresses Dissent Over Justice Pancholi's Appointment in SC Collegium

30.08.2025

Why in discussion?

Justice Nagarathna dissents on Pancholi's elevation to Supreme Court by Collegium

Justice B V Nagarathna, one of the five judges in the Collegium, has recorded a dissent in recommending Justice Pancholi, citing his overall seniority and regional representation. Justice Pancholi currently ranks 57th in the All-India List of Seniority of High Court judges.

Key Points:

- Supreme Court judge B.V. Nagratna strongly opposed the Collegium's recommendation to appoint Patna High Court Chief Justice Vipul Manubhai Pancholi to the Supreme Court.
- She stated, *"This appointment could prove detrimental to the judiciary."*
- Justice Pancholi, if appointed to the Supreme Court, could become Chief Justice of India (CJI) in October 2031.



Dissent Expressed Earlier:

- According to sources, Justice Nagratna had already expressed her dissent in May 2025 regarding this proposal.
- At that time, Justice Pancholi's name was being discussed for the first time. Later, Justice N.V. Anjaria was appointed to the Supreme Court before Justice Pancholi.
- Three months later, when Justice Pancholi's name came up again, Justice Nagratna formally recorded her dissent.

Collegium Meeting and Majority Decision:

- On 25 August, under the chairmanship of CJI B.R. Gavai, the Collegium sent the names of Bombay High Court Chief Justice Alok Aradhe and Justice Pancholi to the Centre for appointment as Supreme Court judges.
- The five-member Collegium included:
 - Chief Justice B. R. Gavai
 - Justice Suryakant
 - Justice Vikram Nath
 - Justice J.K. Maheshwari
 - Justice B.V. Nagratna
- Justice Pancholi's appointment was approved by a 4–1 majority, with Justice Nagratna dissenting.

Reasons for Justice Nagratna's Dissent

Justice Nagratna cited the following reasons for her dissent:

Issue of Overall Seniority

- Justice Pancholi is ranked 57th in the all-India seniority list of High Court judges.
- According to the Collegium's traditional approach, seniority is often considered a primary criterion for judicial appointments.

Issue of Regional Representation

- Justice Nagratna expressed concern about the possibility of over-representation from the Gujarat High Court.
- If Pancholi were appointed, the Supreme Court would have three judges from Gujarat High Court:
 - Justice J.B. Pardiwala
 - Justice N.V. Anjaria
 - Justice Pancholi
- Currently, the sanctioned strength of judges in Gujarat High Court is only 52, while other High Courts have higher strength:
 - Allahabad – 160
 - Bombay – 94
 - Punjab & Haryana – 85
- Despite these differences, representation from these larger High Courts in the Supreme Court remains the same.

Traditional Criteria in Collegium Decisions

The Supreme Court has regularly emphasized three factors in its selection:

1. Combined seniority of High Court judges
2. Principle of regional representation
3. Merit and integrity
 - Historically, seniority is sometimes partially overlooked for candidates with a strong likelihood of becoming Chief Justice.
 - However, maintaining regional balance is also considered important by the Collegium.

Scenario of Seniority and Regional Balance

Concerns about Seniority

- In May, when Justice Pancholi's candidacy was first discussed, two Collegium judges had raised objections regarding his lack of seniority.
- Justice Anjaria had already been appointed to the Supreme Court.

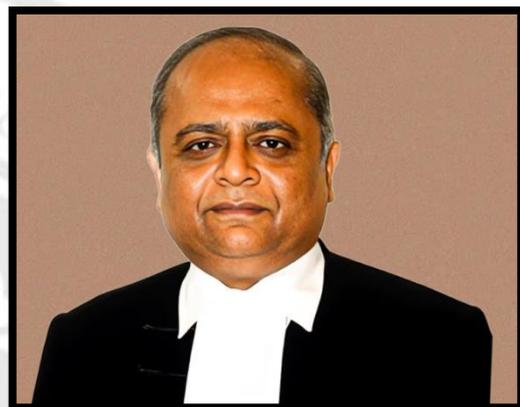
Challenge of Regional Representation

- The sanctioned strength of judges in the Supreme Court is 34.
- Justice Nagratna's concern was that Gujarat High Court would become over-represented compared to other High Courts.

High Court	Sanctioned Strength	Supreme Court Judges
Gujarat	52	3
Allahabad	160	3
Bombay	94	3
Punjab & Haryana	85	3
Madras	75	2
Calcutta	72	2

Justice Vipul Manubhai Pancholi

- Born on 28 May 1968 in Ahmedabad, Gujarat.
- Completed B.Sc in Electronics from St. Xavier's College.
- Started practicing law at the Gujarat High Court in 1991.
- Also served as a Government Advocate at the Gujarat High Court.
- Appointed as a Judge of the Gujarat High Court.
- Took charge as a Judge of the Patna High Court on 24 July 2023.
- Became the second senior-most judge at the Patna High Court.
- In 2025, appointed as the Chief Justice of the Patna High Court by the President.



Judicial Appointments in the Indian Constitution

Article 124:

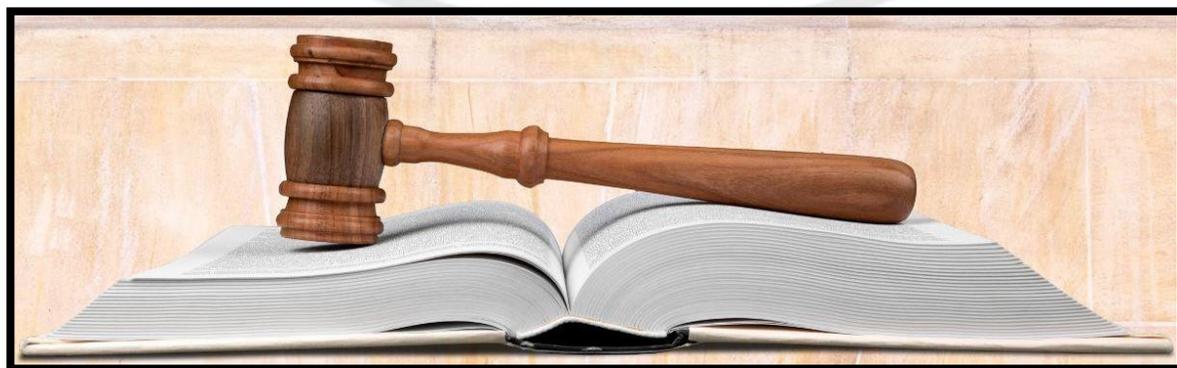
- It deals with the appointment of judges of the **Supreme Court**.
- Judges are to be appointed by the **President** in consultation with the judges of the **High Courts and the Supreme Court**.
- Except for the appointment of the **Chief Justice of India (CJI)**, consultation with the CJI is mandatory for all other appointments.

Article 217:

- It deals with the appointment of judges of the **High Courts**.
- Judges are to be appointed by the **President** after consultation with the **CJI** and the **Governor** of the respective state.
- Consultation with the **Chief Justice of the respective High Court** is also required.

Collegium System

- It is a system for the **appointment and transfer of judges** in the Supreme Court and High Courts.
- The system has evolved through **Supreme Court judgments**.



Development of the Collegium System:

First Judges Case, 1981:

- In this case, the **primacy of the Chief Justice's recommendation** for judicial appointments and transfers could be rejected with valid reasons.
- Later, it was considered that this gave **primacy to the executive over the judiciary**.



Second Judges Case, 1993:

- With the establishment of the **Collegium system**, the Supreme Court stated that 'consultation' meant '**concurrence**'.
- The consultation was to include **two senior judges of the Supreme Court**.

Third Judges Case, 1998:

- The President referred a **Presidential Reference**.
- Subsequently, the Supreme Court expanded the collegium to a **five-member body**.
- The collegium consists of the **Chief Justice of India and four senior judges** of the Supreme Court.

Other Points:

- To make judicial appointments **more transparent**, the central government had created the **National Judicial Appointments Commission (NJAC)**.
- This commission was established under the **99th Constitutional Amendment Act, 2014**.
- It was challenged in the **Supreme Court**.
- In **2015**, the Supreme Court **declared it unconstitutional**, considering it as **interference in judicial affairs**.

Question: Which of the following statements is/are correct?

1. Article 217 of the Constitution relates to the appointment of judges of the High Court.
2. The Collegium system is only related to the appointment of Supreme Court judges.

Select the correct answer using the code given below:

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2