

SUPREME COURT OF INDIA

This file relates to the proposal for appointment of one Advocate and four Judicial Officers, whose names are mentioned below, as Judges of the Madhya Pradesh High Court:

ADVOCATE:

1. Shri Sanjay Dwivedi.

JUDICIAL OFFICERS:

2. Shri Akhil Kumar Shrivastava,
3. Shri Brij Kishore Shrivastava,
4. Shri Rajendra Kumar Shrivastava, and
5. Shri Mohd. Fahim Anwar.

The above recommendation was made by the then Chief Justice of the Madhya Pradesh High Court on 18th July, 2017, in consultation with his two senior-most colleagues.

The Chief Minister and the Governor for the State of Madhya Pradesh have conveyed their concurrence with the proposal for appointment of the above-named recommendees.

In order to ascertain suitability of the above-named recommendees for elevation to the High Court, we have consulted our colleagues who are conversant with the affairs of the Madhya Pradesh High Court. Copies of letters of opinion of our consultee-colleagues are placed below.

As per the existing guidelines issued by the Government of India on 24th September 2004, "a Judicial Officer will be eligible for being considered for elevation as a Judge of the High Court if he is or was within the prescribed age limit of 58-1/2 years on the date of occurrence of the vacancy against which he is being considered, irrespective of when the Collegium recommends him for elevation as a Judge of the High Court."

As per record, as on date, S/Shri Akhil Kumar Shrivastava (R-2), Brij Kishore Shrivastava (R-3), and Mohd. Fahim Anwar (R-5), Judicial Officers have crossed the aforesaid prescribed age limit, but, since they all were well within the prescribed age limit of 58-1/2 years on the dates of occurrence of vacancies against which their names are being considered, their names can be considered for elevation.

For purpose of assessing merit and suitability of the above-named recommendees for elevation to the High Court, we have carefully scrutinized the material placed in the file which includes the views of the Chief Minister and the Governor for the State of Madhya Pradesh, report/s of the Intelligence Bureau, report of the Judgment Evaluation Committee, as well as the observations made by the Department of Justice in the file. Apart from this, we invited all the recommendees with a view to have an interaction with them. On the basis of interaction and having regard to all relevant factors, the Collegium is of the considered view that (1) Shri Sanjay Dwivedi, Advocate & S/Shri (2) Akhil Kumar Shrivastava, (3) Brij Kishore Shrivastava, (4) Rajendra Kumar Shrivastava, and (5) Mohd. Fahim Anwar, Judicial Officers are suitable for being appointed as Judges of the Madhya Pradesh High Court.

While considering the above proposal relating to Judicial Officers, we have also taken note of the fact that the above proposal involves non-recommendation of five senior Judicial Officers. In this regard, we have gone through Minutes dated 18th July, 2017 of the High Court Collegium, which has duly recorded reasons for not recommending names of these Judicial Officers. We are, thus, in agreement with the justification given by the High Court Collegium in its Minutes for not recommending the names of five senior Judicial Officers.

We have taken note of a complaint making allegations against one of the above-named recommendees. We do not see any merit in the aforesaid complaint as the allegations made therein are frivolous or without any substance. In our considered view, the said complaint deserves to be ignored.

In view of the above, the Collegium resolves to recommend that (1) Shri Sanjay Dwivedi, Advocate & S/Shri (2) Akhil Kumar Shrivastava, (3) Brij Kishore Shrivastava, (4) Rajendra Kumar Shrivastava, and (5) Mohd. Fahim Anwar, Judicial Officers, be appointed as Judges of the Madhya Pradesh High Court. Their *inter se* seniority be fixed as per the existing practice.

(Dipak Misra), C.J.I.

(J. Chelameswar), J.

(Ranjan Gogoi), J.

March 26, 2018.

