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Judges' elevation should not be individual decision, HC Collegium must decide collectively: Supreme Court

The SC said: "It is well-settled that the Supreme Court has the final say in appeal over the High Court Collegium. It is a participatory process where each of the Constitutional functionaries have a role to play."

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Why banks are witnessing a slowdown in bank deposit growth

Written by [Ananthakrishnan G](#) Follow

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The Supreme Court bench said that it was not looking into the “suitability” of the petitioners for elevation. (Express file photo by Amit Mehra)

The Supreme Court Friday ruled that a High Court Chief Justice cannot individually reconsider a recommendation for a judge’s elevation and that this is something that can only be done by the High Court Collegium acting collectively.

A bench of Justices Hrishikesh Roy and P K Mishra said this while directing the Himachal Pradesh High Court Collegium to again consider for elevation District Judges Chirag Bhanu Singh and Arvind Malhotra, who were passed over for promotion to High Court judgeship.

Singh and Malhotra were recommended by the then High Court Collegium on December 6, 2022 for elevation as judges of the H

July 12, 2023, the Supreme Court Collegium deferred the decision until July 4, 2024, the SC resolved that the proposal for their reconsideration to the High Court Chief Justice. In

the Minister for Law and Justice urged the HC Chief Justice that fresh recommendations be sent for the two officers against the available service quota vacancies in the HC.

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challenged by Dhara and Manjula before the SC. They argued that if the other two recommended persons are considered for appointment ahead of them, it would amount to ignoring their seniority and unblemished service.

In reply to the SC notice, the HC Registrar General said the January 4 resolution of the SC Collegium “was never received by the Chief Justice of the High Court”. It said that the HC CJ had written to the Chief Justice of India on December 11, 2023 seeking guidance on whether the Collegium of the Supreme Court needed further inputs about the suitability of the two officers for elevation as HC judges. It added that on March 6, 2024, the Chief Justice of the HC “individually addressed a letter to the Supreme Court Collegium on the suitability of the petitioners”.

Allowing their writ petition challenging the recommendation of new names, the SC said: “...there was no collective consultation and deliberations by the members of the High Court Collegium. The decision of the Chief Justice of the High Court, on the suitability of the two petitioners as conveyed in his letter dated 6th March 2024, appears to be an individual decision. The same therefore stands vitiated both procedurally and substantially.”

The SC said: “It is well-settled that the Supreme Court Collegium does not sit in appeal over the High Court Collegium. It is a participatory process where each of the Constitutional functionaries have a role to play. In our opinion, the language therein by itself cannot be understood as permitting the Chief Justice of the High Court to act on his own, in matters of recommendation or even reconsideration, for elevation to the High Court bench.”

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The bench said that it was not looking into the “suitability” of the petitioners for elevation.

The court added it “is mindful of the limited scope of interference in such matters. But this appears to be a case where there was no collective consultation amongst the three Constitutional functionaries of the High Court i.e. the Chief Justice and the two senior-most companion judges. The absence of the element of plurality, in the process of reconsideration as directed by the Supreme Court Collegium, is clearly discernible”.



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The ruling also said that “there is also a need to provide information in matters involving appointment of judges necessary to ensure fairness and accountability, it must be carefully balanced with the need to maintain confidentiality”.

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