

Important Vocab for the Editorial

1. **pro tem** (adverb) – temporarily, for the time being, for the moment.
2. **ad hoc** (adjective) – emergency, makeshift, temporary, provisional; impromptu.
3. **rope in** (phrasal verb) – persuade, convince, urge (someone to take part in an activity).
4. **backlog** (noun) – accumulation, logjam, pile-up/excess.
5. **at the cost of** (phrase) – at the loss of, at the expense of; disadvantage, downside, drawback.
6. **invoke** (verb) – cite, refer to, adduce.
7. **dormant** (adjective) – inactive, passive, inoperative.
8. **provision** (noun) – clause, (legal) term, requirement, condition.
9. **clear the way** (phrase) – make a space, make room; remove an obstruction/obstacle/hindrance.
10. **mounting** (adjective) – increasing, growing, rising, escalating.
11. **arrears** (noun) – pending/outstanding cases.
12. **indictment** (noun) – a formal charge, accusation, allegation (of a serious misconduct/wrongdoing).
13. **extraordinary** (adjective) – unusual, uncommon, rare.
14. **lie with** (verb) – be the responsibility; the fault of a person.
15. **collegium** (noun) – The collegium system is the one in which the Chief Justice of India and a forum of four senior-most judges of the Supreme Court recommend appointments & transfers of judges. There is no mention of the collegium in the Constitution of India.
16. **tardiness** (noun) – belatedness, unpunctuality, lateness/delay.
17. **Article 224A of the Constitution** (noun) – Article 224A enables a Chief Justice of a High Court, with the previous consent of the President, to request a former High Court judge to “sit and act as a judge” of the High Court to hear cases.
18. **consent** (noun) – agreement, assent, approval.
19. **bench** (noun) – a court of law with a number of judges.
20. **make clear** (phrase) – explain, clarify, elucidate.
21. **recourse to** (noun) – resort to, make use of, use, avail oneself of, utilize, employ.
22. **in respect of** (phrase) – with respect to; concerning, regarding.
23. **pendency** (noun) – something pending; something remaining undecided.

24. **quite** (adverb as submodifier) – to a certain extent; fairly, reasonably.
25. **concerning** (adjective) – worrying, alarming, bothersome.
26. **account for** (phrasal verb) – constitute, comprise, form, represent.
27. **correlation** (noun) – connection, link, relation.
28. **relatively** (adverb) – comparatively, proportionately, somewhat, to a certain extent/degree.
29. **stand at** (verb) – be at a particular level.
30. **sparingly** (adverb) – in small quantities; barely, meagrely.
31. **dispose of** (verb) – get rid of, do away with, discard.
32. **endeavour** (noun) – activity, pursuit, exercise, undertaking; aim/effort.
33. **come with** (phrasal verb) – be associated with an event; exist/develop as a result of something; accompany.
34. **trigger point** (noun) – something (a particular situation) that causes an event.
35. **go beyond** (phrasal verb) – to go past something, exceed, surpass.
36. **institution** (noun) – initiation, commencement, starting.
37. **Memorandum of Procedure (MoP)** (noun) – a guideline for the selection of high court judges.
38. **expedite** (verb) – speed up, accelerate, hurry/hasten, step up, quicken.
39. **tenure** (noun) – term, time, period.
40. **transitory** (adjective) – temporary, brief, short, short-lived.
41. **constrain** (verb) – restrict, control, check, restrain.
42. **give up** (phrasal verb) – stop, discontinue, abandon, renounce, forgo.
43. **propensity** (noun) – tendency, inclination, predisposition, readiness.
44. **hold back** (phrasal verb) – stop, discontinue, withhold; restrict, restrain, block.
45. **judiciary** (noun) – judges.
46. **the judiciary** (noun) – a branch of government in which judicial power is vested.
47. **expertise** (noun) – proficiency, skill, knowledge, command.
48. **hint** (noun) – trace, indication, sign, implication.
49. **favouritism** (noun) – prejudice, partiality; unfairness, one-sidedness.

Judges pro tem: On appointment of ad hoc judges in High Courts

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Roping in retired HC judges to clear backlog should not be at cost of regular appointments

The Supreme Court's decision to invoke a "dormant provision" in the Constitution to clear the way for appointment of retired judges as ad hoc judges to clear the mounting arrears in the various High Courts is an indictment of the extraordinary delay in filling up judicial vacancies. Whether the fault lies with the Collegium system or the Centre's tardiness, there is little doubt that the unacceptable delay in the appointment process in recent times has caused huge vacancies in the High Courts. Therefore, it is definitely not unwelcome that the Court has chosen to activate Article 224A of the Constitution, which provides for appointment of *ad hoc* judges in the High Courts based on their consent. A Bench headed by CJI S.A. Bobde has made it clear that "the challenge of mounting arrears and existing vacancies requires recourse to Article 224A". The numbers both in respect of pendency of cases and vacancies in the High Courts are quite concerning — a backlog of over 57 lakh cases, and a vacancy level of 40%. Five High Courts account for 54% of these cases. Interestingly, official data suggest that there need not be a correlation between the number of vacancies and the large backlog. The Madras High Court has 5.8 lakh cases against a relatively low level of vacancy at 7%. As many as 44% of the posts in the Calcutta High Court are vacant, but the cases in arrears stand at 2.7 lakh.

As the provision has been utilised only sparingly in the past, and for the limited purpose of disposing of particular kinds of cases, the endeavour to

appoint *ad hoc* judges will have to come with some guidelines. The Court has made a beginning by directing that the trigger point for such an appointment will be when the vacancies go beyond 20% of the sanctioned strength, or when more than 10% of the backlog of pending cases are over five years old; when cases in a particular category are pending for over five years, or when the rate of disposal is slower than the rate of institution of fresh cases. The Bench has ruled that the current Memorandum of Procedure be also followed for appointing *ad hoc* judges, a process initiated by the Chief Justice of a High Court, with a suggested tenure of two to three years. The Court has clarified that this is a “transitory methodology” and does not constrain the regular appointment process. The government, which did not oppose the proposal, but wanted the vacancies to be filled up first, would do well to expedite the regular appointment process from its end, and give up its propensity to hold back some recommendations selectively. As for the judiciary, it should ensure that only retired judges with experience and expertise are offered the temporary positions, and there is no hint of favouritism.

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