**Common Cause makes submissions for Collegium improvement**

 November 16, 2015

NEW DELHI: Common Cause, in consultation with Vidhi Centre of Legal Policy and Inclusive Media for Change has put forth suggestions for improvement of the Collegium System for appointment of judges to the Supreme Court and the High Courts.

The consultation was attended by representatives from several reputed civil society organisations including the Association for Democratic Reforms (ADR), National Campaign for Peoples’ right to Information (NCPRI), PRS legislative Research, School for Democracy, Satark Nagrik Sangathan, Mazdoor Kisan Shakti Sangathan, and Commonwealth Human Rights Initiative (CHRI).

Earlier on October 17, ruling that the primacy of the judiciary in judges’ appointments was embedded in the basic structure of the Constitution, the apex court had declared unconstitutional an amendment to validate the National Judicial Appointments Commission (NJAC) Act. After striking down the NJAC, the apex court had sought suggestions from public and civil society to improve the Collegium system.

The suggestions to improve the system by Common Cause and others after a brainstorming seminar mostly adhered to four broad issues - transparency in appointment of judges, their eligibility for the high office, establishment of a permanent secretariat to assist the collegium and a mechanism to address complaints against the elite panel.

Pitching for transparency in the appointment process, participants suggested that the Collegium must adopt and publicise an unambiguous Conflict of Interest Policy for persons being considered for judgeship and for members of the Collegium itself. The elite panel should also open itself for public scrutiny and to RTI compliance.

The candidates’ bio-data and assets (of self and immediate family) should be in public domain. Ample opportunity should be provided for public consultation on short-listed candidates. To check cronyism, the participants in the seminar pitched for making two retired Chief Justices of the Supreme Court advisory Collegium members.

On the issue of eligibility for the high office, legal scholarship, quality of judgements written, efficiency, records of public service (amicus curie), social sensitivity and involvement in land mark cases should be taken into account, especially for Constitutional matters. A judge must never be appointed to a High Court where (s) he had practiced, besides there is a need for more stringent guidelines for Intelligence Bureau’s background checks.

The bench should look diverse and should reflect adequate balance of gender, minorities and disadvantaged groups of the society.

To assist the Collegium in its day to day work, there should be a permanent secretariat. A judge of the Supreme Court (not in the Collegium) should be made in-charge of the administration of the Secretariat as a member.

The secretariat, under the apex court, will assist the Collegium in obtaining relevant information of candidates, prepare time frames for appointment, maintain minutes of meetings of the Collegium and be responsible for releasing information to the public.

The secretariat must not become a sinecure for retired bureaucrats. Instead District Court judges may be appointed as Registrars to supervise the day to day functioning of the Collegium as is the practice in the Supreme Court Registry.

The Collegium should open itself to complaints and scrutiny against its decisions of selecting and ejecting candidates based on its recommendations. An ombudsman should be appointed for transparency and efficiency (with clearly spelt out authority and answerability, independent of CJI and the Collegium).