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Supreme Court Judges to Increase to 38 — Constitutional and Judicial Backlog Context

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Supreme Court Judges to Increase to 38 — Constitutional and Judicial Backlog Context

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WHY IN NEWS

The **Union Cabinet** approved the **Supreme Court (Number of Judges) Amendment Bill 2026** on **May 6, 2026**, proposing to increase the sanctioned strength of Supreme Court judges from **34 (33 judges + CJI)** to **38 (37 judges + CJI)**. The bill requires passage through both Houses of Parliament with a simple majority and Presidential assent.

KEY FACTS — SUPREME COURT STRENGTH

PARAMETER	DETAIL
New sanctioned strength	38 total (37 judges + CJI)
Previous strength (since last amendment)	34 total (33 judges + CJI)
Original strength (1956)	11 total (10 + CJI)
Constitutional authority	Article 124(1) — Parliament may by law prescribe a greater number of judges
Amendment procedure	Simple majority in both Houses + Presidential assent
All SC expenditure	Charged to Consolidated Fund of India (not subject to Parliament vote)

Historical Expansion

YEAR	TOTAL JUDGES (INCL. CJI)
1950 (original)	8
1956	11
1960	14
1977	18
1986	26
2008 (last increase)	34
2026 (proposed)	38

CONSTITUTIONAL PROVISIONS — SUPREME COURT

ARTICLE	PROVISION
Article 124	Establishment and constitution of the Supreme Court; appointment of judges
Article 124(1)	Parliament may by law prescribe a number greater than [the original]; basis for strength increase
Article 124(2)	Judges appointed by President after consultation with other judges (SC + HCs); Collegium system evolved through cases
Article 124(3)	Qualifications: HC judge for 5 years OR advocate of HC for 10 years OR distinguished jurist
Article 124(4)	Removal of judge only by impeachment — address of each House (special majority: 2/3 of members present + majority of total membership) + Presidential order
Article 125	Salaries charged to Consolidated Fund of India
Article 126	Acting Chief Justice
Article 127	Ad hoc judges
Article 128	Retired judges may sit
Article 129	SC is a Court of Record
Article 131	Original jurisdiction (inter-state + Centre-State disputes)
Article 132	Appellate jurisdiction (constitutional matters)
Article 136	Special Leave Petition (SLP) — widest appellate power
Article 137	Review jurisdiction
Article 141	Law declared by SC is binding on all courts in India
Article 143	Advisory jurisdiction (Presidential Reference)
Article 145	SC may make rules for regulating practice and procedure

THE COLLEGIUM SYSTEM

The SC Collegium (evolved through three judges cases) governs judicial appointments:

CASE	YEAR	SIGNIFICANCE
S.P. Gupta vs Union of India	1981	“First Judges Case” — executive primacy in appointments
Supreme Court Advocates-on-Record vs Union of India	1993	“Second Judges Case” — Collegium system established; CJI’s opinion has primacy
Special Reference No. 1 of 1998	1998	“Third Judges Case” — Collegium = CJI + 4 senior-most judges
NJAC judgment	2015	SC struck down National Judicial Appointments Commission (99th Amendment) as unconstitutional

Current Collegium (SC): CJI + 4 senior-most judges of the SC.

WHY THE INCREASE IS NEEDED

ISSUE	DATA
Pending cases in SC	~92,000+ cases (as of December 2025)
Average pendency	Civil appeals: 5–10 years
Sanctioned vs working strength	Often 3–6 vacancies exist, further reducing effective capacity
Admission hearing burden	~30% of SC’s time spent on admission hearings for SLPs
Constitutional bench deficit	5-judge constitution benches rarely sit due to bench allocation constraints

The Law Commission of India has recommended increasing the SC’s strength multiple times; the 2026 amendment partially addresses this.

UPSC RELEVANCE

PAPER	ANGLE
GS2 — Polity	Supreme Court — Article 124, composition, appointment, jurisdiction
GS2 — Governance	Judicial pendency, judicial reforms, Collegium system
GS2 — Polity	NJAC (struck down), judicial independence, separation of powers

Mains Keywords: Article 124(1), Supreme Court (Number of Judges) Amendment, Collegium system, judicial pendency, NJAC, SLP Article 136, simple majority, Consolidated Fund of India, impeachment of judges

Prelims Facts Corner

ITEM	FACT
New SC strength	38 total (37 judges + CJI)
Previous strength	34 (33 + CJI); since 2008
Constitutional authority	Article 124(1)
Amendment procedure	Simple majority in both Houses + Presidential assent
Original strength (1950)	8 total
All SC expenditure	Charged to Consolidated Fund of India
Collegium (SC)	CJI + 4 senior-most SC judges
Removal of SC judge	Impeachment — special majority in both Houses + Presidential order
SC as Court of Record	Article 129
Law binding on all courts	Article 141
SLP	Article 136 — Special Leave Petition
Advisory jurisdiction	Article 143 (Presidential Reference)

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