B.R.GAVAI
Former Chief Justice of India

Dated 27th November, 2026

To,

Smt. Draupadi Murmu
Hon'ble President of India
Rashtrapati Bhawan
New Delhi 110004

Respected Rashtrapatiji,

I write to you as a concerned citizen who also happened to be former Chief Justice of India. I have had the opportunity to be a part and a head of the collegium whose working is now questionable.

I do not write lightly, nor write in anger. I write with a sense of responsibility to highlight to your good office a worrying trend that has emerged and requires immediate remedial measures by all stakeholders.

When I was a part of the collegium and was Chief Justice of India, I always followed the principles of diversity and inclusion.

Adequate representation was ensured to different sections of the society including those belonging to forward section of the society and also to the marginalized section of the society including scheduled casts, tribes, other backward classes, minorities and women, while considering candidates for recommendation for elevation to High court and Supreme Court collegium of which I was a part and later headed it.

However, in the recent past disturbing events have unfolded, showing complete disregard to principles of merit and inclusivity. Candidates belonging to one particular section of the society are being favoured for recommendation/elevation to the exclusion of everyone else including marginalized communities including scheduled casts, tribes, other backward classes, minorities, women and even persons from forward sections of the society who are not from a particular community.

I may not be misunderstood as being opposed to any section of the society in so far as the candidate belonging to forward section are duly considered and my endeavor has always been to strike balance between all the sections.

However, now there compelling circumstances which support the perception that increasingly recommendations are being made with a focus on appeasing and rewarding a single community.

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Traditionally, the Supreme Court draws overwhelmingly from the High Courts. As per the parliamentary record, in March 2025, the Union Law Minister informed the Rajya Sabha that of the 715 High Court judges appointed since 2018, only 22 belonged to the Scheduled Castes, 16 to the Scheduled Tribes, 89 to the Other Backward Classes and 37 to the minorities. Roughly three of every four came from the general category. The Law Ministry itself told a parliamentary committee that this showed an "inequitable representation of backward and minority communities" in the higher judiciary. For appointments between January 2021 and January 2026, the reported share of the forward communities is close to 80 per cent. The Other Backward Classes, perhaps 40 to 50 per cent of our people, have received under 14 per cent. Within that pool, one community has been preferred at the Apex Court. Caste is not recorded for Supreme Court appointments, and that silence is itself part of the problem. A community that is under 5 percent of the country's population has had over 40 percent representation in the supreme court which has risen manifold in the recent past. While I admit that this is not something new and that is precisely why it is increasingly becoming unforgivable.

Professor George Gadbois's study of the Court's first four decades found that a community, then about one-nineteenth of the population, held over a third of all Supreme Court judgeships between 1950 and 1989. Seventy-five years into the Republic, the profile of the Court has barely moved. Each of us bears some share of that failure, and I say so plainly. It is because I know how such patterns persist, through familiarity, through networks, and through unexamined ideas of who "looks like" a Supreme Court judge, that I can no longer stay silent.

Even in the case of recent recommendation of transfer from one high court to another high court there is a perception that merit has been ignored and other similar factors have weighed in. A chief justice who was transferred from one high court to another smaller high court and thereafter from that high court to one of the smallest High Court of the country, has now been rewarded, for being from a particular community, by transfer to a prominent High Court. At the same time, a meritorious and hard-working chief justice of a High Court has been transferred to a smaller High Court to make way for him. It is not only demoralizing for such a meritorious chief justice but also has has chilling effect on all hard-working judges including persons belonging to marginalized sections of the society. I have chosen to highlight this incident only as an illustration since in the first case I was a part of the collegium which recommended his transfer from a High Court to a smaller High Court and was heading the collegium when his transfer was recommended from a smaller High Court to one of the smallest High Courts. Both these decisions were made taking into consideration various factors. In the second case, I was heading the collegium which unanimously recommended his appointment as the Chief Justice of the prestigious High Court taking into consideration his merits. It therefore raises several unanswered questions as to how a judge transferred multiple times on punitive considerations has for no obvious reasons is now being recommended to be Chief Justice of a much bigger and prominent High Court.

I am aware of the factors that prevailed at the relevant time with the collegium for recommending such an appointment/ transfer. However, on account of propriety and judicial disciple I refrain from divulging these reasons. In another instance, a judge was transferred from his parent high court to another high court on punitive consideration and was subsequently rewarded by appointment as Chief Justice of a large and a prominent High Court.

The constitution vests the appointment of judges of Supreme Court in you under Article 124(2). The judicial gloss placed on that Article in past several decades have collegium recommendation decisive. It has not made the collegium unaccountable, nor it has relieved your high office of the President of the Republic of India of its duty to preserve protect and defend the constitution.

Therefore, I am constrained to voice my dissent and disappointment as evidently appointments and transfers are being done in complete disregard to ethos of diversity, inclusion and merits taking into consideration other irrelevant factors.

I have not hesitation in acknowledging that the executive is an equal stakeholder in the matters of appointment and transfer of judges in constitutional courts. In fact, parliament as well as the executive has always been proactive in promoting diversity and inclusivity. Many times in the past, both legislature and executive has requested the collegium of the Supreme Court and the various high courts to include names from marginalized sections of the society so as to restore the balance in representation of all communities in constitutional courts. This duty as discussed above is a shared one and it is imperative that all stakeholders continue to perform this duty that they owe to the constitution.

At the end, I earnestly request you to acknowledge the issue at hand and intervene in the matter as you may deem appropriate to ensure all are reminded of constitutional duty of equal representation in one of the most significant pillar of Indian democracy.

With respectful regards,

(B.R.Gavai)
Former Chief Justice of India

1. Shri Narendra Modi, Prime Minister of India
2. Shri Arjun Ram Meghwal, Ministry of Law and Justice and Minister of State in the Ministry of Parliamentary Affairs