

tages do not permit them to be established. My question is in connection with this. Orissa, for instance, which is the richest in resources, is very backward in terms of per *capita* income. Steel units should be established in Orissa also. But my question is in terms of cost. What is the unit investment cost in a new steel factory and what is the unit steel investment cost when we try to expand an already established unit, as in the case of IISCO and Durgapur, they are trying to expand their present capacity?

SHRI DINESH GOSWAMI: So, far as the two steel plants are concerned, our assessment is that it will require an investment of Rs. 2500 crores. The first phase is for one million tonnes and from that the hon. Member can find out the per unit investment. He is a letter mathematician than me.

So far as the modernization is concerned, the amounts vary for both the plants. For Rourkela second phase, we have received the tenders. Nothing has been finalised for Durgapur also. For Burnpur also, it has not been finalised. Till that is finalised, it is not possible to give even the projected unit investment cost. But so far as Durgapur is concerned, I will give the figures to the hon. Member.

SHRIMATI GEETA MUKHERJEE: Sir, my question No. 172 relates to Burnpur. It may kindly be clubbed with this question.

MR. SPEAKER: You could have raised it in the beginning, not now.

SHRIMATI GEETA MUKHERJEE: I did not know that the Minister would mention about Burnpur also.

MR. SPEAKER: Shri Loknath Choudhury.

SHRI LOKANATH CHOUDHARY: Since there will be shortage of steel to the extent of two million tonnes, I would like to know whether the Government feels that the two steel plants, one in Karnataka and the other in Orissa will be sufficient to meet the

needs in the 8th Plan.

Secondly, I would like to know whether the Orissa Government has examined and found that the steel industry in the coastal site would involve less cost of production due to the import of coal from other countries. If so, will the Government propose to change the site from Daitari to Pradeep in view of the less cost of production?

SHRI DINESH GOSWAMI: Before I respond to this question, I would like to give one information in answer to the previous question. The average cost per installed tonne of capacity of a new steel plant is Rs. 25000 to Rs. 30000 and for modernization, it is Rs. 12000 to Rs. 15000 per tonne.

I share the anxiety of the hon. Member from Orissa that a steel plant should be set up in Orissa. You also, Sir, come from Orissa and you have also pleaded for it. The hon. Chief Minister of Orissa is after me; the hon. Chief Minister of Karnataka is after me. I would plead with this House that you raise your voice so that the Planning Commission is compelled by the voice of this House to include it in the 8th Plan. Nobody will be more happy than me if they are included in the 8th Plan.

Appointment of Chief Justice of India and Supreme Court Judges

*165. SHRI GUMAN MAL LODHA: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether Government propose to adopt the principle of making senior most Supreme Court Judge as the Chief Justice;

(b) whether the senior most Chief Justice of the High Courts is to be considered first for elevation to Supreme Court; and

(c) the number of senior most Chief Justice of the High Courts who have been superseded in the matter of appointment of Supreme Court Judges since December, 1989?

THE MINISTER OF STEEL AND MINES AND MINISTER OF LAW AND JUSTICE (SHRI DINESH GOSWAMI): (a) to (c). The appointment of Judge in the Supreme Court, including the Chief Justice of India, is made in terms of Article 124(2) of the Constitution of India.

The Government appoints the Chief Justice of India and other Judges of the Supreme Court after taking into consideration all aspects relevant to their suitability, including the relative seniority of the Judge concerned. Since these appointments are by selection, supersession is not involved.

SHRI GUMAN MAL LODHA: Mr. Speaker, Sir, in the past whenever the senior-most judges have been superseded like Justice Grover, Justice Hegde, Justice Shelat—by the then Government—by appointing Justice Ray and superseding Justice Khanna by appointing Justice Beg, is it not a fact that the entire country's judiciary, the Bar, the statesmen, the politicians have all protested against that? Would the hon. Minister give an assurance that there would be no supersession in the matter of appointment of Chief Justices by looking to the past experience? Particularly, because these supersessions had taken place on the grounds which are other than merits, namely political.

SHRI DINESH GOSWAMI: It is true that, normally speaking, the senior-most judge of the Supreme Court has always been made the Chief Justice of the Supreme Court, except on three occasions, i.e. 1964, 1973 and 1977. In 1964, of course, Justice Imam was superseded because of the physical incapacity. In 1973 and 1977—when Mr. A.N. Ray and Mr. M.H. Beg were appointed—there were some controversies. But the seniority of the Judge is always taken into consideration while appointing the Chief Justice of the Supreme Court. And the recommendation of the outgoing Chief Justice is also important. Not only that. When he sends the recommendations, he also consults the other senior Judges of the Supreme Court. After this Government came into

power, one vacancy fell due, when Chief Justice Venkataramaiah retired. We had appointed the senior-most Judge Mr. Sabyasachi Mukherjee as the Chief Justice. But I do not think that a commitment like this can be given, i.e., at all times, the senior-most Judge will be appointed. Obviously, the senior-most Judge will have the strongest claim for being appointed as the Chief Justice. But I do not think I am in a position to give this commitment that the senior-most Judge will be appointed. I can assure this House that in the matter of these appointments, the political considerations will not play any part whatsoever so far as this Government is concerned.

SHRI GUMAN MAL LODHA: Mr. Speaker, Sir, my second supplementary is this. This is regarding second part of the question. While appointing the Judges in the Supreme Court, is it a fact that Justice Mukherjee, Justice Desai and Justice Gokul Krishan who are the senior-most Judges—who are working as Chief Justices in Bombay High Court, Calcutta High Court and Gujarat High Court from 1968-69, respectively—have not been appointed whereas Judges who are of 1979 batch and have retired, were appointed after their retirement? Would the hon. Minister consider that at least in future, this type of supersession—a glaring example of appointments other than merit by ignoring the seniority of the top-most brilliant Judge like Justice Mukherjee, Justice Desai, and Justice Gokul Krishan—would not happen? It is because when the new Government came to power, they have committed for judicial independence and also for curbing nepotism, favouritism, politicking in judiciary. Therefore, it could, never in future, so far as appointment of Judges of the Supreme Court is concerned, fall to such practices of politicking or favouritism as it happened in the past.

SHRI DINESH GOSWAMI: As I said earlier, because this appointment is by selection and not by promotion, strictly the word supersession is not correct. It is also a fact that some of the senior Judges like Justice Chittatosh Mukerjee whose date of

initial appointment is 2.4.1969, or Justice P.D. Desai whose date of initial appointment is 19.2.1970 or even Justice Malimath whose date of initial appointment is 5.3.1970 has not come to the Supreme Court. But the fact remains that seniority cannot be the only consideration. In the matter of appointment to the Supreme Court, even the present the Chief Justice has laid down certain criteria, and according to him seniority, ability and to a certain extent regional balance are also required to be considered for being elevated to the Supreme Court.

So far as I am concerned, I have already made it public that I am giving the highest importance to the recommendations given by the Chief Justices of High Courts, because that reduces the possibility of political interference; and in all my appointments so far, I have always given the highest consideration, I will continue to give the highest consideration to the opinion of the Chief Justice of the Court; but as I said, again in the case of the Chief Justice of the Supreme Court we cannot, as a matter of policy, take up a position that the senior most Judge will be appointed. The seniority should be given due consideration, along with the other considerations.

SHRIGUMAN MALLODHA: One more question, Sir.

MR. SPEAKER: No, no; you have a right to put only two questions. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: I would like to know whether this Government will follow the policy of transfer of Judges from one Court to another, and specially of the appointment of the Chief Justice of a High Court from another High Court. Regarding the importance that this Government is giving to the recommendations of the Chief Justice of a particular High Court, experience shows that the Chief Justice of a particular High Court who does not belong to that Court, but has come by transfer to a particular High Court, is not so well acquainted with the lawyers practising in that

High Court. Obviously, other considerations are coming in; that is our unfortunate experience. Therefore, I would like to know what is the policy of the Government with regard to that. No doubt, importance should be given the recommendations of the Chief Justice of a High Court regarding the Judges. What are the criteria which the Government is going to follow in those cases where different recommendations are there, coming from different sources?

SHRI DINESH GOSWAMI: So far as this policy of a Chief Justice being from an outside State is concerned, I interacted with members both of the Bench and the Bar earlier. I found that there are differences of opinion. There is a very strong opinion in favour of this policy. There are opinions also against this policy. But we have decided not to depart from this policy, and we are following this policy.

You know that we have decided now to set up a National Commission for Judicial Appointments, a Commission which will appoint the Judges of the Supreme Court and the High Courts. We have asked for, and got the opinions of the members of the Bench. I addressed letters to the Chief Justice of the Supreme Court and the Chief Justices of the High Courts, and also to the Bar Associations and the Bar Council. I have got their responses. We have examined these responses. We have formulated certain views on these responses. I hope to come before this Parliament with a Bill for a National Judicial Commission for appointment of Judges. I hope that I will have the support of this House, because I feel that many of these grievances which are often voiced against these appointments will be removed once we appoint such a National Judicial Commission.

SHRIMATI UMA GAJAPATHI RAJU: I would like to draw the attention of the Government to the fact that ladies are being discriminated against in judicial appointments. I do not want to mention names; but 'India Today' has also mentioned this. I would like to know whether the Minister is prepared

to give an assurance in the House that this will not be done, and that character assassination of women will not take place.

SHRI DINESH GOSWAMI: I am aware that the number of ladies I will personally like to see in the Bench is much less than what it is today. I can tell the hon. member that I have addressed letters to the Chief Justices as also State Chief Ministers telling them that while sending recommendations for appointment of judges they should particularly take care to see that suitable persons belonging to the SC&ST, minorities and women are forwarded. My problem is this. If the constitutional functionaries including Chief Justices—by constitutional functionaries I mean Governors, Chief Ministers and the Chief Justices—do not send any recommendations for appointment of a woman judge and if I appoint some woman as judge, then I may be accused of making a political appointment. Therefore, I hope that the constitutional functionaries will send their recommendations accordingly; and I can assure the hon. member that if the recommendation comes from the constitutional functionary, this will get the highest priority, so far as I am concerned. (*Interruptions*)

SHRIMATI GEETA MUKHERJEE: It is necessary. (*Interruptions*)

AN. HON. MEMBER: How many vacancies exist in the Supreme Court as on today?

SHRI DINESH GOSWAMI: In the Supreme Court, when this Government took over, there were four vacancies; and immediately we filled up three vacancies. One vacancy still exists in the Supreme Court.

Vacancies of Judges in J & K High Court

*167. **SHRI PIYARE LAL HANDOO:** Will the Minister of LAW AND JUSTICE be pleased to state:

(a) the sanctioned strength of judges for the High Court of Jammu and Kashmir;

(b) the number of vacancies at present; and

(c) the time by which these posts are likely to be filled up?

THE MINISTER OF STEEL AND MINES AND MINISTER OF LAW AND JUSTICE (SHRI DINESH GOSWAMI): (a) and (b). The sanctioned strength of the Jammu and Kashmir High Court is 7 permanent Judges and there are two vacancies at present.

(c) It is not possible to indicate the time by which these vacancies are likely to be filled up. The State authorities have been asked to send recommendations for making appointments.

SHRI PIYARE LAL HANDOO: I would like to know from the hon. Minister about the two vacancies referred to in the answer. One is caused due to the death of Justice Shah and the other is caused as a result to transfer of Justice Bhatt.

SHRI DINESH GOSWAMI: Actually I do not know how these two vacancies did occur. But I will check up and let you know.

SHRI PIYARE LAL HANDOO: Assuming that it is due to the transfer of Mr. Justice Bhatt from Kashmir to Allahabad, how is it that at the time of transfer, there is no replacement order? You transfer a judge and remain content with that.

SHRI DINESH GOSWAMI: Obviously, this type of vacancies are filled up even by transfer. There may be difficulties for which the vacancies may not be filled up. But this was before actually I took over; and there are some difficulties. But I can tell you that so far as I am concerned, I have written to the constitutional functionaries and I am waiting for their replies. I will fill up vacancies as soon as I get replies both from the Chief Justices and the Governors.