

SUPREME COURT OF INDIA

This file relates to reconsideration of the proposal for appointment of Shri Somasekhar Sundaresan, Advocate as Judge of the Bombay High Court.

On 04 October 2021, the Collegium of Bombay High Court inter alia recommended the name of Shri Somasekhar Sundaresan. On 16 February 2022, the Supreme Court Collegium recommended the name of Shri Somasekhar Sundaresan for appointment as a Judge of the Bombay High Court. On 25 November, 2022, the Government has sought reconsideration of the said recommendation.

The ground on which reconsideration of the candidature of Shri Sundaresan has been sought is that he has aired his views in the social media on several matters which are the subject matter of consideration before the courts.

Having considered the objection to the candidature of Shri Somasekhar Sundaresan, the Collegium is of the view that the views on social media attributed to the candidate, do not furnish any foundation to infer that he is biased. The issues on which opinions have been attributed to the candidate are in the public domain and have been extensively deliberated upon in the print and electronic media. The manner in which the candidate has expressed his views does not justify the inference that he is a “highly biased opinionated person” or that he has been “selectively critical on the social media on the important policies, initiatives and directions of the Government” (as indicated in the objections of Department of Justice) nor is there any material to indicate that the expressions used by the candidate are suggestive of his links with any political party with strong ideological leanings. All citizens have the right to free speech and expression under Article

19(1)(a) of the Constitution. Expression of views by a candidate does not disentitle him to hold a constitutional office so long as the person proposed for judgeship is a person of competence, merit and integrity.

Shri Somasekhar Sundaresan has specialized in commercial law and would be an asset to the Bombay High Court which has a large volume of cases of commercial and securities laws, among other branches. The Department of Justice has adverted to paragraph 175 of the Second Judges Case [(1993) 4 SCC 441] to the effect that the candidate to be selected must possess high integrity, honesty, skill, high order of emotional stability, firmness, serenity, legal soundness, ability and endurance. The candidate fulfills these qualities.

Having regard to the above, the Collegium is of the considered view that Shri Somasekhar Sundaresan deserves to be appointed as Judge of the Bombay High Court. The Collegium, therefore, resolves to reiterate its recommendation dated 16 February 2022 for appointment of Shri Somasekhar Sundaresan, Advocate, as Judge of the Bombay High Court.

(Dhananjaya Y Chandrachud), CJI

(Sanjay Kishan Kaul), J

(K.M. Joseph), J

18 January 2023