



GUYANA NEWS

AG hoping for change to formula for top judicial posts



Anil Nandlall



Pauline Chase

By Stabroek News April 8, 2022

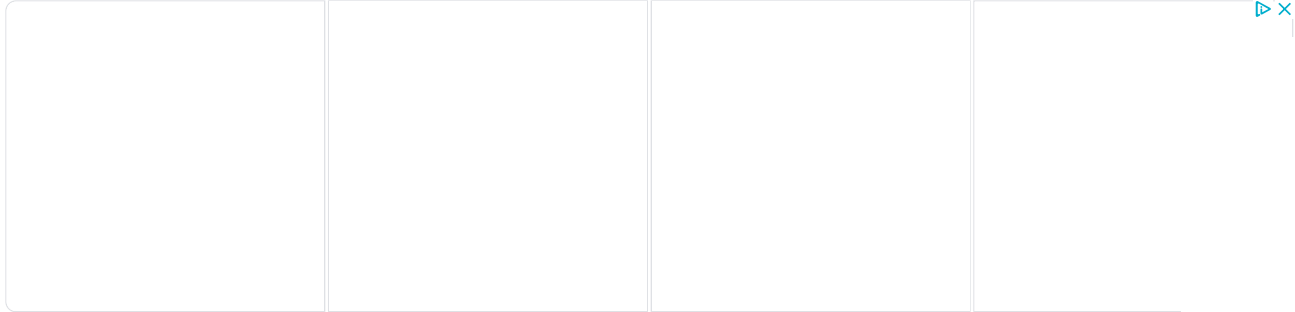


While stating that he is in no way advocating for either the President or Opposition Leader regarding repeated failed attempts over the years by holders of both offices to agree on the substantive appointments of a Chancellor and Chief Justice, Attorney General Anil Nandlall SC says the formula requiring agreement by both has simply not worked.

Describing the formulation as ineffectual, which he noted has only resulted in deadlock for the past 22 years, the AG who is also Minister of Legal Affairs, proposed reform to that requirement of the Constitution.

Nandlall was at the time responding to calls from President of the Guyana Bar Association (GBA), attorney Pauline Chase, who earlier this week, added her voice to the chorus being sung for more than 20 years now, for confirmed appointments of the two top judicial posts.

During an address on Tuesday to a gathering of members of the legal fraternity, the diplomatic corps and other dignitaries, Chase



She echoed years of calls by others for those on whom the duty so falls, "to start the consultative process and put into motion, the machinery to address the correction" of what she described as "this unworkable and failed formula" for making the appointments substantive.

"It is an embarrassing state of affairs which ought to be corrected with alacrity as we have seen in other matters," Chase asserted; while going on to note; "It adversely affects our standing in the world in the Rule of Law Index and as a democratic society."

Later that evening on his weekly Facebook programme, "Issues in the News," Nandlall in support of Chase's call for reform, said that from the inception of the requirement in 2001 requiring agreement between the President and Leader of the Opposition, Guyana has had a 22-year lesson which has taught that the formula does not work.

He underscored that successive presidents through the years have been unable to secure the agreement of any Opposition Leader in support of their nominee to substantively hold the respective posts.

"That is an unfortunate state of affairs," the AG said.

Stating what he said has been a long-held position of his even before assuming the position of Attorney General, Nandlall said he has always propagated that the formula be changed.



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According to him, his research has yielded that with the exception of Guyana, the only other country in the world with such a formula is Pakistan—for the appointment of its Chief Justice—but he said it has also never worked.

“The system simply has not worked...the thing does not work,” Nandlall stressed.

“It makes no sense, putting into law, and worse yet, putting into a Constitution a mechanism that is going to cause deadlock,” the AG said; before adding, “I am not here advocating for either side. All I am doing is stating the facts...by saying that the consultative formula requiring agreement has not worked.”

The Minister of Legal Affairs then expressed the hope that the issue can be addressed by the Law Reform Commission which he said will embark upon a constitutional reform exercise.

“And I hope that we can learn from our current experience...And it should teach us a lesson,” he declared.

Stating that he had no doubt the formula may have been birthed out of the best of intentions, Nandlall posited that there were many organizations and persons “gripped by certain idealisms that do not translate into reality.”

Nandlall said that once the constitutional reform process begins, he hopes it would be guided by real examples and not “fanciful” “impossible” recommendations.



The Constitution mandates consultation between the President and Opposition Leader for confirmation of the country's top two legal posts. The two must agree on the nominees before the substantive appointments can be made.

Article 127 (1) of the states "The Chancellor and the Chief Justice shall each be appointed by the President, acting after obtaining the agreement of the Leader of the Opposition."

Justice Yonette Cummings-Edwards and Justice Roxane George were respectively appointed acting Chancellor of the Judiciary and Chief Justice back in 2017—weeks after the retirement of then acting Chancellor Carl Singh, who was also never confirmed despite having served for 12 years.

Guyana has not had a substantive Chief Justice since Justice Desiree Bernard was elevated to the post of Chancellor in 2001 and no substantive Chancellor since Justice Bernard stepped down from the bench here in 2005.

For 12 years Justice Singh acted as Chancellor, while Justice Ian Chang acted as Chief Justice before Justice George was appointed to act in that capacity.





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