

# News

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**"It has to be read as eligibility and not a mandatory condition," the Supreme Court said, rejecting a plea against Section 20(2)(a).**

*of the BNSS that permits judges to lead State prosecution offices.*

A petition contesting a Bharatiya Nagarik Suraksha Sanhita (BNSS) clause that permits current or former judges to be appointed as heads of prosecution offices under state governments was denied by the Supreme Court on Wednesday.

***The plea was deemed misguided by a bench consisting of Chief Justice of India (CJI) Surya Kant and Justice Joymalya Bagchi. The BNSS's Section 20(2)(a) is contested in the plea. There is no legal foundation for this misguided challenge. The Court ruled that it was dismissed.***

Sessions Judges, Magistrates, and retired judicial officers may be appointed as Directors, Deputy Directors, and Assistant Directors of Prosecution in State-run prosecution offices under Sections 20(2)(a) and 20(2)(b) of the BNSS.

***Advocate Subeesh PS contended in his submission that this setup permits judges to operate within an executive-controlled prosecutorial hierarchy. According to him, this goes against the constitutional principle of separation of powers and undermines judicial independence.***

But Justice Bagchi stated, Word must be interpreted as eligibility rather than a requirement.

Every State must create a Directorate of Prosecution, led by a Director of Prosecution, in accordance with Section 20 of the BNSS.

According to the law, the State Home Department has administrative authority for this Directorate. This Directorate is given authority over all public prosecutors and assistant public prosecutors.

***According to the provisions, judicial officials who are now serving or have retired are qualified to hold top positions within this organization.***

According to the plea, this leads to judges—who are supposed under the constitution to serve as impartial arbitrators—being positioned within an executive framework that oversees investigations, prosecutions, and appeals.

***This, the petitioner argued, weakens the legally required distinction between the government and the judiciary.***