



# **DAILY EDITORIAL ANALYSIS**

**TOPIC**

---

**DISCORD BETWEEN SUPREME  
COURT AND THE CENTRE OVER  
TRIBUNALS**

---

[www.nextias.com](http://www.nextias.com)

## DISCORD BETWEEN SUPREME COURT AND THE CENTRE OVER TRIBUNALS

### Context

- The ongoing friction between the Supreme Court of India and the central government over the administration and reform of tribunals as the Tribunals Reforms Act, 2021 has been repeatedly challenged for allegedly undermining judicial independence.

### About the Tribunal System in India

- Tribunals in India are **quasi-judicial institutions** established to **adjudicate disputes in specific domains** such as taxation, environment, corporate law, and administrative matters.
- They are designed to offer specialized expertise, faster resolution, and reduce the burden on regular courts.
- They are **not bound by strict procedural laws** and are expected to deliver justice more efficiently, unlike traditional courts.
  - ♦ However, they need to **adhere to principles of natural justice**.
- The Supreme Court has ruled that **tribunals** should have the **same level of independence from the executive as the judiciary**.

### Evolution of the Tribunal System in India

- **42nd Amendment, 1976:** Articles 323A and 323B were inserted in the Constitution of India.
  - ♦ **Article 323A:** It empowered Parliament to constitute **administrative Tribunals (both at central and state level)** for adjudication of matters related to recruitment and conditions of service of public servants.
  - ♦ **Article 323B:** It specified certain subjects (such as taxation and land reforms) for which **Parliament or state legislatures** may constitute tribunals by enacting a law.
- The **Supreme Court of India**, in 2010, clarified that the subject matters under Article 323B are not exclusive, and **legislatures are empowered to create tribunals** on any subject matters **under their purview as specified in the Seventh Schedule** of the Constitution.
- **Currently**, tribunals have been created both as substitutes to High Courts and as subordinate to High Courts.
  - ♦ **Tribunals Substitutes to High Courts:** Appeals from the decisions of Tribunals (such as the Securities Appellate Tribunal) lie directly with the Supreme Court.
  - ♦ **Tribunals Subordinate to High Courts:** Appeals such as the **Appellate Board under the Copyright Act, 1957** are heard by the corresponding High Court.

### Types of Tribunals

- India has two broad categories of tribunals:
  - ♦ **Administrative Tribunals:** These include bodies like the Central Administrative Tribunal (CAT), which handles service-related disputes of government employees.
  - ♦ **Sector-Specific Tribunals:** These include:
    - Income Tax Appellate Tribunal (ITAT);
    - National Green Tribunal (NGT);
    - Securities Appellate Tribunal (SAT);
    - Armed Forces Tribunal (AFT);
    - Telecom Disputes Settlement and Appellate Tribunal (TDSAT)
  - ♦ Each tribunal is governed by its own statute and rules, often amended to reflect evolving legal and administrative needs.

**Key Developments in Indian Tribunal System**

- **1941:** Income Tax Appellate Tribunal as the **first Tribunal in India**.
- **1969: First Administrative Reforms Commission (1st ARC)** recommended to set up **Civil Services Tribunals** at the national level and state levels.
- **1974:** The **Sixth Law Commission (1974)**, recommended setting up a separate high-powered tribunal and commission for adjudication of matters in High Courts.
- **1976:** The **Swaran Singh Committee** recommended setting up:
  - ♦ **Administrative tribunals** (both at national level and state level) to adjudicate on matters related to service conditions;
  - ♦ **An all-India Appellate Tribunal** for matters from labour courts and industrial tribunals, and;
  - ♦ Tribunals for deciding matters related to various sectors (such as revenue, land reforms, and essential commodities).
- **2017:** The **Finance Act, 2017** reorganised the tribunal system by merging tribunals based on functional similarity.
- **2021:** The Tribunals Reforms (Rationalisation and Conditions of Service) Bill, 2021 was passed as **Tribunals Reforms Act, 2021**.
  - ♦ It replaced an earlier ordinance and made provisions for abolishing certain tribunals, transferring their functions, and setting terms and conditions for their members.

**Legal Framework**

- The **Tribunals Reforms Act, 2021** consolidated and rationalized several tribunals, aiming to streamline their functioning and reduce redundancy. Key features include:
  - ♦ Uniform terms and conditions for appointment of members;
  - ♦ Fixed tenure and age limits;
  - ♦ Centralized selection committee for appointments;

**Tussle / Discord Over Tribunals in India**

- **Constitutional Validity:** The **Madras Bar Association (MBA)**, in 2021, challenged the **Tribunals Reforms Act, 2021**'s constitutional validity, arguing that Parliament had effectively **re-enacted provisions already struck down** by the Supreme Court.
  - ♦ The petitioners claimed this amounted to '**legislative overruling**' of a judicial verdict, thereby violating the **principle of separation of powers** and threatening judicial independence. The challenge primarily targeted:
    - The **four-year tenure** for tribunal members, and;
    - The **minimum age of 50 years** for appointment.
- **Finance Act, 2017 and Initial Challenge:** The **Finance Act, 2017** gave the Centre extensive powers to frame rules governing tribunals, which were **struck down by Judiciary 2019** for compromising judicial autonomy.
- **Rules and Judicial Recommendations (2020):** The government issued **new rules in 2020**, but they were **again challenged**.
  - ♦ The Supreme Court recommended a **five-year tenure** to safeguard independence, warning that shorter terms would deter capable candidates and heighten executive influence.
- **Ordinance and Judicial Rejection (2021):** The Centre promulgated an **ordinance in 2021**, reinstating the **four-year tenure** and **50-year age limit**, despite the Court's directions.
  - ♦ These provisions were struck down again in **2021** as 'arbitrary and unconstitutional'.

- **Re-Enactment:** Parliament's subsequent enactment of the **Tribunals Reforms Act, 2021**, with identical provisions, was perceived as a **direct challenge to judicial authority**, setting the stage for the current confrontation.

### Dysfunctional Tribunals and Vacancies

- The ongoing dispute has severely affected the functioning of tribunals nationwide. As per **data available**:
  - ♦ **National Company Law Tribunal (NCLT):** 24 of 32 posts vacant;
  - ♦ **Armed Forces Tribunal:** 24 of 34 posts vacant;
  - ♦ **Income Tax Appellate Tribunal:** 18 of 63 judicial posts vacant;
  - ♦ **Railway Claims Tribunal:** 16 of 20 judicial posts vacant;
  - ♦ **Industrial and Labour Tribunals:** Only 13 presiding officers against a sanctioned strength of 22;
- The Supreme Court has repeatedly observed that such delays have rendered several tribunals '**virtually defunct**', undermining the very objective of providing **speedy, specialised justice**.

### Key Arguments

- **Petitioners' Stand:** The **Madras Bar Association** and other petitioners contended that:
  - ♦ A **four-year tenure** undermines independence, making members dependent on the executive for reappointment.
  - ♦ The **50-year minimum age** excludes competent younger professionals and is inconsistent with judicial norms (since High Court judges can be appointed earlier).
  - ♦ The Act effectively **nullifies prior Supreme Court judgments** without addressing constitutional defects.
- **Government's Defence:** The **Union government** argued that:
  - ♦ The provisions represent a **policy decision** within Parliament's domain.
  - ♦ The **age limit** ensures adequate professional maturity.
  - ♦ The **four-year term with reappointment** offers sufficient stability.
  - ♦ It accused the judiciary of **encroaching upon legislative prerogatives**, arguing that the court's repeated interventions breach the **doctrine of separation of powers**.

### Strengthening the Tribunal System in India

- **Ensuring Judicial Independence:** Appointment processes should be transparent and free from executive overreach.
  - ♦ The Supreme Court has emphasized the need for an independent selection committee.
- **Filling Vacancies Promptly:** Streamlining recruitment and reducing bureaucratic delays can restore functionality to key tribunals.
- **Improving Infrastructure:** Investing in digital platforms, physical facilities, and regional benches can make tribunals more accessible.
- **Legislative Clarity:** Laws governing tribunals must align with constitutional principles and judicial precedents to avoid repeated litigation.

### Conclusion

- The clash over the **Tribunals Reforms Act, 2021** epitomises a deeper constitutional struggle between **judicial independence** and **executive control**.
- The judiciary sees in the Act a threat to the autonomy of quasi-judicial bodies, while the government defends its policy prerogatives.

- As the Supreme Court prepares to deliver its verdict, the outcome will likely shape the future balance of power between the **executive and judiciary** — and the functioning of tribunals central to India's justice delivery system.

[Source: TH](#)

### Daily Mains Practice Question

**[Q]** Discuss the challenges in the administration of tribunals in India. Evaluate the effectiveness of the Tribunals Reforms Act, 2021, in addressing these issues.

■■■■

