

Supreme Court-Centre Rift Over Tribunals: What the Dispute Is About

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Tribunals Latest News

- The Supreme Court expressed strong displeasure after the **Centre sought another adjournment** in the case challenging the **Tribunals Reforms Act, 2021**, highlighting ongoing tensions between the judiciary and the government over tribunal control.

Understanding India's Tribunal System

- Tribunals are judicial or quasi-judicial bodies created to handle specific types of disputes that require expertise or faster resolution.
- Their main goals are to reduce the burden on regular courts and to bring technical expertise in areas such as taxation, administration, and corporate law.

Judicial Independence and Supreme Court's Directives

- The Supreme Court has emphasised that **tribunals must enjoy the same independence from the executive as the judiciary**.
- Key aspects of independence include the selection process, composition, and tenure of members.
- The Court recommended that administrative control over tribunals be placed under the Law Ministry, not the ministries they adjudicate against, and later proposed an independent National Tribunals Commission.
 - These reforms, however, have not been implemented.

Constitutional Basis of Tribunals

- Tribunals were formally established through the **42nd Constitutional Amendment (1976)**, which introduced **Articles 323A and 323B**:
 - **Article 323A**: Allows Parliament to create **administrative tribunals** for public service matters.
 - **Article 323B**: Allows Parliament and state legislatures to create tribunals on subjects like **taxation, land reforms, and labour**.
- In **2010**, the Supreme Court clarified that tribunals could also be formed on **other subjects under the Seventh Schedule**.

Tribunals Reforms Act Faces Challenge Over Judicial Independence

- The Tribunals Reforms Act, 2021, has been challenged by the Madras Bar Association (MBA) for allegedly undermining judicial independence and violating the separation of powers.
- Tribunals, which handle specialised cases in areas like taxation, corporate law, and administration, have been affected nationwide by the ongoing case.
- The MBA argued that the Act reintroduced provisions—such as a four-year term for tribunal members and a minimum appointment age of 50—that were part of an earlier ordinance struck down by the Supreme Court in July 2021.
- By re-enacting the same provisions without addressing the legal flaws identified earlier, the petitioners claim Parliament attempted to override a judicial verdict, amounting to “legislative overruling” and weakening the judiciary’s autonomy.

A Long-Running Power Struggle Over Tribunals

- The tussle between the Centre and the Supreme Court over control of tribunals began with the Finance Act of 2017, which gave the government the power to make rules for tribunals.
- However, in 2019, the Supreme Court’s **Rojer Mathew judgment** struck down these rules, saying they weakened judicial independence.

The 2020 Rules and Supreme Court’s Recommendations

- When the Centre issued new tribunal rules in 2020, they were again challenged by the Madras Bar Association (MBA).
- The Supreme Court suggested key changes — including a five-year tenure for tribunal members — to protect independence and attract qualified professionals.

The 2021 Ordinance and Court's Rejection

- In April 2021, the Centre passed an ordinance setting a four-year tenure and a minimum age of 50 years for tribunal appointments.
- By July 2021, the **Supreme Court struck down these provisions as “arbitrary” and against the principle of separation of powers.**

Parliament's Defiant Response

- A month later, Parliament passed the Tribunals Reforms Act, 2021, re-enacting the same struck-down provisions.
- This move reignited the clash between the judiciary and the executive, with critics calling it a direct challenge to judicial authority.

Key Arguments in the Tribunal Reforms Case

- The Madras Bar Association (MBA) argued that the four-year tenure for tribunal members makes them vulnerable to government pressure, as they might act cautiously to secure reappointment.
- They also said the minimum age limit of 50 years unfairly excludes younger, capable lawyers, even though individuals can become High Court judges at a younger age.

Government's Defence: Experience and Policy Autonomy

- The Union government defended the provisions, saying the age limit ensures sufficient experience, and the four-year term with reappointment offers enough job security.
- It argued that the Act represents a policy decision within Parliament's authority, and that by striking down these rules, the judiciary would overstep its powers and violate the principle of separation of powers.

The Fallout: Vacancies Leave Tribunals Struggling to Function

- The ongoing standoff between the Centre and the Supreme Court over tribunal appointments and service rules has caused serious delays in filling vacancies across several key tribunals.
- As of December 2022, government data showed:
 - National Company Law Tribunal (NCLT): 24 vacancies out of 32 posts.
 - Armed Forces Tribunal: 24 vacancies out of 34 posts.
 - Income Tax Appellate Tribunal: 18 of 63 judicial posts vacant.
 - Railway Claims Tribunal: Both vice-chairman (judicial) posts vacant, along with 16 of 20 judicial positions.
 - Labour and Industrial Tribunals: Only 13 presiding officers in place against 22 sanctioned posts.
- The Supreme Court has noted that these persistent delays have made several tribunals **“virtually defunct”**, undermining their very purpose of providing speedy and specialised justice.

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