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TRIBUNALS IN INDIA

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ABSTRACT

The Indian Government is divided into 3 organs - *Executive*, *Legislature* and *Judiciary*. Judiciary is the one responsible for ensuring that laws are being obeyed and adhered to and at the same time punishes for the violations of the same. Judiciary, since the adoption of the Constitution of India has been over-burdened with a mountain of cases. As of June1st, 2020, a total of 3,25,29,012 cases are pending in the sub-ordinate courts of India, out of which 84,767 cases are over 30 years old[1]. Around 48 lakh cases are pending in the High Courts with over 46,000 pending from over 30 years[2]. Procedural delays, expensive litigation, technical procedures are the characteristic features of Indian judiciary. Besides, increasing number as well as complexity of disputes in the wake of changing dynamics of the society and the economy has raised the need and demand for establishing *alternative courts* which help in resolving disputes in a cost effective, speedy and efficient manner. Tribunals have been considered an answer for the same which combine the judicial as well as technical knowledge and experience in a particular field to resolve the disputes arising in the same. As of now, India has tribunals for environment-related, real estate-related, airports-related, telecom-related disputes and many others. But how far Indian judiciary has been able to achieve what it wants to through these Tribunals? Do they actually provide time-bound and speedy justice? Are they a substitute of High Courts? The present paper focuses on the establishment of Tribunals in India, current framework of these tribunals and what are the problems these tribunals are suffering from and how can they be remedied.

INTRODUCTION

The Government of a country divides its working into 3 separate organs, known as the *Executive*, the *Legislature* and the *Judiciary*. The Legislature is entrusted with the task of enacting laws on the social, economic, civil and various other issues which are to be implemented by the Executive. The Judiciary ensures that these laws are followed and the violations of the same are punished.

The Constitution of India provides for an independent and integrated Judiciary with the Supreme Court as the apex court headquartered at New Delhi, then the High Courts for each state and a group of states like in the case of Gauhati High Court, the territorial jurisdiction of which covers the north-eastern states of

[1] Pending Cases in District and Taluka Courts of India, National Judicial Data Grid, (June 1st, 2020, 7:12 pm), https://njdg.ecourts.gov.in/njdgnew/index.php

[2] Pending Cases in High Courts of India, National Judicial Data Grid, (June 1st, 2020, 7:13 pm), https://njdg.ecourts.gov.in/hcnjdg_public/main.php

Arunachal Pradesh, Assam, Mizoram and Nagaland. At the lowest level come the District and the Sub-ordinate Courts at the district level.

Since the Supreme Court and High Courts are established under the constitutional provisions[3], these are considered as *Constitutional Courts.* The High Courts are conferred with the appellate and revisional jurisdiction with regard to the states which are covered under their territorial jurisdiction. Some of the High Courts enjoy original jurisdiction as well. These Courts have been entrusted with the power to issue prerogative writs[4] of *habeas corpus, mandamus, prohibition, quo warranto* and *certiorari* for the protection of not only the Fundamental Rights[5] but other constitutional rights as well. The Supreme Court enjoys original jurisdiction under Article 131 for the disputes between Government of India and one or more States or between two or more states as well as the disputes arising out of election of the President and Vice-President. The Court has been entrusted with the advisory jurisdiction under Article 143 to furnish advice to the President on a particular issue of fact or law or an issue of great public importance. It can issue prerogative writs under Article 32 of the Constitution of India, but only for the protection of the Fundamental Rights given under Part III[6]. It also enjoys a peculiar and special jurisdiction under Article 136 which is the discretion to entertain *Special Leave Petitions* on substantial question of law or on issues of great public importance.

One can easily understand the degree of importance these *constitutional courts* have for the country and the kind and number of cases they have to deal with on a daily basis. As of September 7th, 2019, a total of 44,07,364 cases are pending in the High Courts all over the country. The degree and the kind of jurisdiction conferred on these courts, the complexity of disputes due to socio-economic changes in the society and the economy, the competence of the Judges to deal with these complex and field specific disputes, the working of these courts at a reduced capacity than the sanctioned, increasing vacancy, procedural delays, expensive litigation along with many other factors and parameters have led to the establishment of *alternative courts* for effective and efficient dispensation of justice.

The *alternative courts* suggested for an easy, inexpensive, speedy dispensation of justice are Tribunals.

WHAT ARE TRIBUNALS?

[3] INDIA CONST., art. 124 & 214
[4] INDIA CONST., art. 226 & 227
[5] INDIA CONST., art. 12-35
[6] *Ibid*

The Merriam-Webster Dictionary defines *tribunal* as – *a court or forum of justice.*

Tribunals are basically alternative courts established to deal with the disputes related to a particular field. For example, the environmental courts in the form of *National Green Tribunal* which deals with environmental disputes, violations and cases, *National Company Law Tribunal & National Company Law Appellate Tribunal* which deals with cases related to company law. Tribunals are administrative bodies meant for discharging the quasi-judicial duties. They are neither courts nor executive bodies. In fact, they stand somewhere in between a Court and an administrative body. The enforcement of new rights due to escalating State activities and need to ensure effective and efficient dispensation of justice necessitated the establishment of the tribunals[7].

Though, tribunals have not been specifically defined under any statute, there have been a few cases wherein either the term has been defined or a difference has been drawn between a tribunal and a court. In *Jaswant Sugar Mills Ltd., Meerut v. Lakshmichand*[8], the Supreme Court held that whether an authority which acts judiciously is a Tribunal or a Court depends on a test that whether it is vested with the trappings of a Court like having the authority to decide matter, compelling the attendance of witnesses, following the procedural and evidentiary rules etc. In *Associated Cements Co. Ltd. v. P. N. Sharma*[9], the Supreme Court held that the procedure to be followed by the Courts is expressly prescribed and is to be followed strictly, whereas in case of the Tribunals, the procedure may not be expressly prescribed in the first palace.

Unlike Courts, tribunals are not bound by the procedural laws or the laws of evidence. Tribunals are established under a separate Act of the Parliament or a State Legislature whereas Courts are established under the Constitution. Also, the tribunals specialise in resolving the disputes related to a particular filed such as Debt Recovery Tribunal for the cases regarding debt recovery, Real Estate Appellate Tribunal for all real estate related disputes whereas the courts are meant to resolve all kinds of disputes filed with them.

HISTORY OF TRIBUNAL SYSTEM IN INDIA

Since the adoption of the Constitution of India, the Indian courts were suffering from the chronic disease of over-burden and thus pending cases. The country required alternative courts in the form of Tribunals which could help in resolving the complex and field-specific disputes which requires technical knowledge

[7] KAGZI, M. C. J., THE INDIAN ADMINISTRATIVE LAW, 276 and 279 (3rd ed., Metropolitan Book Co. Pvt. Ltd., Delhi,1973)
[8] Jaswant Sugar Mills, Meert v. Lakshmichand, A.I.R. 1963 S.C. 677
[9] Associated Cements Co. Ltd. v. P. N. Sharma, A.I.R. 1965 S.C. 1595

and at the same time reduce the burden of the Judiciary. The first Tribunal established in the country was *Income Tax Appellate Tribunal*, in the year 1941. Since 1966, there have been constant efforts in the form of various Committees and Law Commission Reports to study and examine the structure and capacity of the existing Judiciary and suggest the establishment of Tribunals.

COMMITTEE RECOMMENDATIONS

ADMINISTRATIVE REFORMS COMMISSION

The Administrative Reforms Commission is a commission set up with the purpose to suggest reform in the public administration system of the country. The 1st ARC was set up in the year 1966 under the Chairmanship of Morarji Desai. The Commission set up a Study Team to examine the possibility of establishing administrative tribunals in different spheres. In its Report submitted in the year 1969, the Study Team recommended the setting up of *Civil Services Tribunal* for acting as a final adjudicatory body for resolving the grievances of the Civil servants who are dismissed, removed or demoted in rank.

WANCHOO COMMITTEE

The Direct Taxes Enquiry Committee, a 5-member committee was appointed under the Chairmanship of Justice K. N. Wanchoo in March, 1970 to delve into the problems of Direct Taxes. The Report submitted in March, 1972 suggested setting up an *Income-Tax Settlement Commission* as an alternative dispute resolution mechanism with main focus on increasing realisation of revenue. It also recommended setting up a *Direct Taxes Settlement Tribunal* to ensure fair, quick and inexpensive decisions.

S. C. CHOKSI COMMITTEE

Direct Tax Laws Committee, under the Chairmanship of Shri S. C. Choksi was aimed to suggest measures to simplify the direct tax laws and improve the administration of the same. The Report of the Committee suggested setting up the *Central Tax Courts* with an all-India jurisdiction to resolve the matters related to direct taxes.

LAW COMMISSION OF INDIA REPORT RECOMMENDATIONS

14TH REPORT

The 14th Law Commission Report titled *Reforms of Judicial Administration* aimed at studying the feasibility of setting up Tribunals in specific areas, was submitted by the 1st Law Commission of independent India under the Chairmanship of Mr. M. C. Setalvad, on September 16th, 1958. The Report which was divided into 2 Volumes suggested setting up of Tribunals as well as Appellate Tribunals at both Centre and State level for Service matters for two reasons- speedy redressal in genuine cases of injustice and the speaking order passed by the Tribunal which would help in summary disposal of the frivolous litigation. It did not endorse the idea of a general system of Administrative Courts. The Report suggested that with the establishment of these Tribunals (if suggestions are accepted), the power of Judicial Review of the Supreme Court and High Courts would not be curtailed.

58TH REPORT

Under the Chairmanship of Justice P. B. Gajendragadkar, the 6th Law Commission gave the Report on *Stature and Jurisdiction of the Higher Judiciary* in the year 1974, which was surprisingly against the establishment of administrative tribunals. The reason behind the rejection of idea of Tribunals for service matters was the requirement of curtailing the supervisory and appellate jurisdiction of the High Courts and the Supreme Court to reduce the arrears of cases in these courts. Since, the same was infeasible, the idea of tribunal system was rejected.

115TH REPORT

The Report titled *Tax Courts* was presented in 1986 by the 11th Law Commission of India under the Chairmanship of Justice D. A. Desai. The Commission studied the vertical hierarchy of Courts and Tribunals involved in tax litigation. The suggestion was to establish a *Central Tax Court* which will eliminate the High Court's jurisdiction with respect to taxation matters.

124TH REPORT

The 11th Law Commission of India presented another report- 124th Report on *The High Court Arrears – a fresh look*, in 1988 recommending the establishment of specialist Tribunals and accordingly curtailing the supervisory and appellate jurisdiction of the High Courts because it would ultimately lead to an almost 45% reduction in the inflow of cases filed with the HCs.

162nd Report

The 15th Law Commission chaired by Justice B. P. Jeevan Reddy presented the 162nd Report, in 1998, titled *Review of functioning of Central Administrative Tribunal, Customs, Excise and Gold (Control) Appellate Tribunal and Income-Tax Appellate Tribunal.* The recommendation was to establish a *National Appellate Administrative Tribunal* which would act as the appellate forum against the decision of Central Administrative Tribunals on substantive questions of law and fact and the decision of the forum would be binding on the CAT. The reason behind this suggestion was the exercise of the judicial review power by the High Courts and a possibility of further appeal by Special Leave Petition[10] by the Supreme Court which was proving to be highly time-consuming and expensive as well. Also, the provisions of the Administrative Tribunals Act, 1985 were being interpreted differently by different High Courts thus leading to confusions.

186TH REPORT

The 17th Law Commission's first report- Report 186th on *Proposal to Constitute Environment Courts* was a watershed in the history of environmental policy in India. The report, presented in 2003, suggested the establishment of Environment Court to reduce the burden and workload of the High Courts and the Supreme Court as well. Since the environmental concerns and violations were growing rapidly, the need of Environment Courts was all the more important and urgent as well. The Courts were proposed to be having original jurisdiction with respect to all the environmental matters as well as the appellate jurisdiction with regard to orders passed by the appropriate authorities under Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act,1981 and Environment (Protection) Act, 1986. As a result of which, the *National Green Tribunal Act, 2010* was enacted under which National Green Tribunal has been established with Principal Bench at New Delhi and Zonal Benches at Pune, Chennai, Kolkata and Bhopal.

[10] INDIA CONST., art. 136

SWARAN SINGH COMMITTEE REPORT

In 1976, the then Prime Minister of India, Smt. Indira Gandhi, set up a committee under the Chairmanship of the then Minister of External Affairs, Shri Swaran Singh to study the Constitution for amendments in the light of experience of almost 3 decades with the Constitution, while *Emergency* was still in operation[11]. The Committee came up with the most controversial of all the Constitutional amendments- *The Constitution (Forty-second Amendment) Act, 1976*, also known as the *mini constitution*, all thanks to the plethora of additions, deletions and changes it sought to make to the Constitution. Although the amendment tried to curtail many of the Supreme Court's powers, push the country towards *Parliamentary Sovereignty* by giving sweeping powers to the Prime Minister's Office and the unrestrained power to the Parliament to amend any part of the Constitution that too without judicial review, transfer many of the powers from the state governments to the central government, but still the amendment was not debated and criticised for all the amendments. Some of the Articles proposed in the Act were genuinely a step towards a better, well aware, well informed and welfare state.

It was the Constitution (Forty-second Amendment) Act, 1976 only which introduced the Fundamental Duties by inserting a new part – Part IVA[12].

Another watershed amendment, in a positive way was the insertion of Part XIVA titled *Tribunals*, by inserting Article 323A and 323B. The main aim behind inserting Part XIVA for the establishment of tribunals was to reduce the arrears as well as the workload of High Courts in the country. The Statement of Objects and Reasons to the Constitution (Forty-second Amendment) Act, 1976 clearly stated that the object behind insertion of these Articles is to set up specialist Tribunals for service matters, revenue matters and several other matters of special importance in the socio-economic development and progress. The Supreme Court's jurisdiction under Article 136 would remain intact but the writ jurisdiction of the High Courts under Article 226 would be modified accordingly.

CONSTITUTIONAL PROVISIONS WITH RESPECT TO TRIBUNALS

The Constitution (Forty-second Amendment) Act, 1976 inserted Article 323A and 323B by adding Part XIVA for setting up Tribunals for service matters as well as for other matters of special importance. Article 323A provides for establishing *Administrative Tribunals* which would deal with matters related to the

[11] INDIA CONST., art. 352
[12] INDIA CONST., art. 51A

recruitment and terms and conditions of service of the persons appointed in the civil services with the Centre or any state. Article 323B on the other hand provides for the establishment of the Tribunals for other matters, by both the Parliament and State Legislatures with respect to the matters mentioned in Clause (2) of the Article. However, it in no way implies that the appropriate Legislature cannot establish Tribunals for the matters not mentioned in Clause (2). The Parliament and State Legislatures can always set up Tribunals with respect to the matters within their legislative competence[13]. That is why, the Supreme Court upheld the establishment of Debt Recovery Tribunal under Recovery of Debts due to Banks and Financial Institutions Act, 1993 even though the subject is not mentioned in either of the Articles[14]. The establishment of the Tribunal was upheld under Entry 45 of List I of Schedule VII which deals with *banking*[15].

Article 323A and 323B are not self-executory. They are mere enabling provisions which empower the Parliament and State Legislatures to establish Tribunals under an Act of the Parliament or State Legislature. Administrative Tribunals under Article 323A can be established under an Act of the Parliament only whereas the tribunals for other matters can be established by both the Parliament as well as State Legislature and that is why in *M. B. Majumdar v. Union of India*[16], the Supreme Court held that Members of Tribunals established under Article 323B cannot be treated at par with the Members of Tribunals established under Article 323A as the Tribunals are governed by different enactments.

The Parliament inserted Article 323A in the Constitution to take the adjudication of the disputes related to recruitment and terms of services of the public services, out of the hands of the Civil Courts and High Courts and put them before a specialised, dedicated and devoted Administrative Tribunal. In *Vatchirkavu Village Panchayat v. Deekshithulu Nori*[17], the Supreme Court clearly expressed the Legislature's intention of establishing Administrative Tribunals for service matters as the time bound Civil Courts gripped with laws of evidence as well as procedural laws, tardy trials, 4-tier appeals, endless revisions and reviews as per Civil Procedure Code was proving to be a huge hindrance for expeditious disposal of cases relating to the services. The Administrative Tribunals are although free from the rules of Code of Civil Procedure and Evidence Act, they have still been vested with the powers of a Civil Court for some of its matters like review of its own decisions as reiterated in *State of West Bengal v. Kamal Sengupta*[18]. Also, they need to adhere to the principles of natural justice because the ultimate aim of all the adjudicating bodies across the

[13] Achinta Kumar Deb Sharma v. State Bank of India, Agartala Bazar Branch, A.I.R. 2005 Gau 161
[14] INDIA CONST., art. 323A & 323B
[15] Union of India v. Delhi High Court Bar Association, A.I.R. 2002 S.C. 1479
[16] M. B. Majumdar v. Union of India, (1990) 4 S.C.C. 501
[17] Vatchirkavu Village Panchayat v. Deekshithulu Nori, 1991 Supp (2) S.C.C. 228
[18] State of West Bengal v. Kamal Sengupta, (2008) 8 S.C.C. 612

country is easy, inexpensive, efficient and speedy disposal of the cases after giving due opportunity to both the parties and giving due weightage to the evidence produced.

JURISDICTION OF THE TRIBUNALS

The Tribunals established under Article 323A and 323B have taken away the jurisdiction of the Civil Courts with respect to the matters for which they are constituted.

The jurisdiction of these tribunals, as specified in *L. Chandra Kumar v. Union of India*[19] is-

1. These tribunals would function as the only court of first instance with respect to the matters for which these have been constituted. For example, all the disputes with respect to Companies Act, 2013 would be filed before the National Company Law Tribunal
2. Any challenge to *vires* of any legislation, except the one under which these Tribunals are established can be decided by these Tribunals which means, if for example, a provision of the National Green Tribunal Act, 2010 is challenged, the National Green Tribunal cannot decide the validity of the provision

In *Chopra v. Union of India*[20], the Supreme Court held that a Tribunal can declare a statute or subordinate legislation to be *unconstitutional* for the violation of Articles 14 and 16.

Sub-clause (d) of Clause (2) of Article 323A and Sub-clause (d) of Clause (3) of Article 323B state:

"exclude the jurisdiction of all courts except the jurisdiction of the Supreme Court under Article 136 with respect to…"

It means, both Article 323A and 323B completely exclude the jurisdiction of all the courts with respect to the matters the tribunals established under these Articles deal with. Thus, it clearly ousts the writ jurisdiction of High Courts under Article 226/227 as well as that of the Supreme Court under Article 32. However, in *L. Chandra Kumar v. Union of India*[21], the Supreme Court, unequivocally declared the two sub-clauses of the respective Articles- Article 323A (2)(d) and Article 323B (3)(d) *unconstitutional.* The Court held that since the writ jurisdiction of both the Supreme Court and High Courts is an inviolable feature of the Constitution, the same cannot be ousted by way of any legal provision or legislation. However, other courts

[19] L. Chandra Kumar v. Union of India, A.I.R. 1997 S.C. 1125
[20] Chopra v. Union of India, (1987) 1 A.T.R. 46 (S.C.)
[21] *supra* note 19

and tribunals can help the Supreme Court and High Courts in the exercise of that jurisdiction by playing a supplementary role, that too constitutionally.

TRIBUNALS – SUBSTITUTE FOR HIGH COURTS?

A major doubt and confusion, since the insertion of Part XIVA in the Constitution has been- *Whether the Tribunals are a substitute to High Courts or not?*

The premise behind the Tribunal system is to ultimately reduce the burden of the High Courts apart from providing for a speedier, timely and less expensive adjudication mechanism. The Tribunals are meant to support the High Courts in the administration of justice. They are in no way meant to be a *substitute* of the High Courts. Even though some of the matters which were earlier in the jurisdiction of the Civil Courts and High Courts have now been transferred to the Tribunals, they are still prone to the judicial review by the Supreme Court under Article 32 and 136 as well as High Court under Article 226/227. Thus, Tribunals cannot be a substitute of the High Courts.

In *S. P. Sampath Kumar v. Union of India*[22], the Supreme Court held the Administrative Tribunals to be a substitute of the High Courts and thus a recommendation was made to amend Section 6(1)(c) of the Administrative Tribunals Act, 1985 which was declared unconstitutional as it provided for the appointment of a Secretary to the Government of India as the Chairman of Tribunal. And it was ultimately amended by the Administrative Tribunals (Amendment) Act, 1986. In another Supreme Court decision of 1987, the Court held that since the Tribunals are a substitute of the High Courts, their judicial review power is extended to decide on the constitutionality of service rules[23].

However, in *R. K. Jain v. Union of India*[24], the Supreme Court held that Tribunals could not be effective substitutes of High Courts under Article 226 and 227.

Ultimately, the Tribunals can just play a supplemental role to help the Supreme Court and High Courts in exercising the power of judicial review as held in *L. Chandra Kumar v. Union of India*[25]. But can never be a substitute for the High Courts.

[22] S. P. Sampath Kumar v. Union of India, A.I.R. 1987 S.C. 386
[23] J. B. Chopra v. Union of India, (1987) 1 S.C.C. 422
[24] R. K. Jain v. Union of India, (1993) 4 S.C.C. 119
[25] *supra* note 19

ADMINISTRATIVE TRIBUNALS ACT, 1985

To exercise the power given to the Parliament under Article 323A for the establishment of Administrative Tribunals for service matters, it enacted *Administrative Tribunals Act, 1985* which came into force on February 27th, 1985. The Statement of Objects and Reasons states that the aim behind this enactment is to provide for an adjudication system for the disputes and matters related with the recruitment and terms of service of the persons appointed in public services with the Centre or any state or any local authority or other authority within the Indian territory or under the control of the Government of India or of any corporation owned or controlled by the Government. The Act is divided into 4 Chapters with 37 Sections.

The Act applies to whole of India and now to the Union Territory of Jammu and Kashmir and Ladakh as well. In fact, on April 29th, 2020, the Central Government issued a notification stating that the employees of the area will now be Central Government employees and their disputes related to service matters will now be decided by the Circuit Bench of Central Administrative Tribunal, at Chandigarh. However, a writ petition was filed against the notification before the Supreme Court[26] stating it to be a violation of right to practice any profession[27], right to equality[28] and denies access to justice[29]. The petition seeking a writ of mandamus stated that geographical remoteness, financial constraints and lack of internet access would make it difficult for the litigants and advocates to approach the Chandigarh Bench which further works with only one member. Besides, the no. of service-related disputes pending from the 2 newly formed UTs is 30,000. The Government responded that the state now being converted into 2 UTs cannot have its own Administrative Tribunal as the same can only be established at the central level or state level. Moreover, the notification does not mean that the no proceedings will take place in J&K. earlier, the CAT Bench used to hold its sittings in J&K. Now the frequency of those sittings will increase is what the Government stated[30]. However, the Act was applicable in the area, since its enactment, with regard to the Central Government employees and others posted in the area[31].

The Act discusses the establishment and constitution of the Administrative Tribunals as well as their Benches along with the jurisdiction conferred on them and the procedure followed in these Tribunals.

The Act is not applicable to certain persons who are:

[26] Asheesh Singh Kotwal & Anr. v. Union of India & Ors.
[27] INDIA CONST., art. 19, cl. (1)(g)
[28] INDIA CONST., art. 14
[29] INDIA CONST., art. 39(A)
[30] Rishita Saxena, *Plea regarding Central Administrative Tribunal in J&K*, LEXLIFE INDIA, (June1st, 2020, 5:52 pm), https://lexlife.in/2020/05/30/plea-regarding-central-administrative-tribunal-in-jk/
[31] Kendriya Vidyalaya Sangathan v. Subhash Sharma, A.I.R. 2002 S.C. 1295

a) any member of the Army, Navy or Air Force or of any other armed forces of the Union
b) any officer or servant of the Supreme Court or of any High Court or the courts sub-ordinate to it.
c) Any person appointed to the Secretarial Staff of the either House of the Parliament, or of State Legislature or a House thereof, or in case of a Union Territory having Legislature, of that Legislature[32].

The Act provides for the establishment of a *Central Administrative Tribunal* for the Union, respective *State Administrative Tribunals* for the States and if two or more states enter into an agreement to have a common Administrative Tribunal for their states, then a *Joint Administrative Tribunal* as well[33]. With regard to the composition of the Tribunal, it shall consist of a *Chairman* and such other *Administrative* and *Judicial Members* as the appropriate Government deem fit to carry out the functions[34]. However, every Bench shall consist of one Judicial and one Administrative Member[35]. Section 6 clarifies that a person can be appointed as the Chairman of a Tribunal under the Act only and only if he is or has been a High Court judge. For appointment as a Judicial Member, a person either must be or must be qualified to be a High Court judge or has held the position of Secretary to the Government of India in the Department of Legal Affairs or the Legislative Department for two years or has held the position of Additional Secretary in such Department of the Government of India for 5 years. The Administrative Members should have held the post of Secretary to the Government of India for a minimum of 2 years or the post of Additional secretary to the Government of India for at least 5 years. The Chairman and Members of the Central Administrative Tribunal are appointed by the President after consultation with the Chief Justice of India whereas the Chairman and Members of a State Administrative Tribunal are appointed by the President with the consultation of the respective state's Governor. The consultation with the Chief Justice of India is not a matter of daily routine or just a formality. The entire rationale behind establishing the Administrative Tribunals is to provide for a speedy, timely and inexpensive dispute resolution. Since an Administrative Tribunal performs judicial functions, the Members need to be afforded judicial independence, free from any kind of interference or influence. And that is why, the Government of India decided that whenever an appointment would be made from the Bar Council of India, the antecedents of the candidate would be checked thoroughly so that a qualified, experienced and a man of integrity is chosen[36].

The term of office shall be 5 years for the Chairman until the age of retirement which is 68 years and 5 years for the Members as well until the retirement age of 65 years. The Chairman or any Member can resign

[32] The Administrative Tribunals Act, 1985, No. 13, Acts of Parliament, Section 2
[33] The Administrative Tribunals Act, 1985, No. 13, Acts of Parliament, Section 4
[34] The Administrative Tribunals Act, 1985, No. 13, Acts of Parliament, Section 5(1)
[35] The Administrative Tribunals Act, 1985, No. 13, Acts of Parliament, Section 5(2)
[36] Union of India v. Kali Dass Batish, A.I.R. 2006 S.C. 789

by a notice in writing addressed to the President. However, none of them could be removed until and unless an order is made by the President for the removal on the ground of proved misbehaviour or incapacity and an inquiry is made by a Supreme Court judge after giving due opportunity of being heard. Section 11 of the Act strictly prohibits the further employment of the Chairman and the Members of these Tribunals with the Government of India or Government of any state.

The jurisdiction of these Tribunals is discussed in Sections 14, 15 and 16 of the Act. The Central Administrative Tribunal have jurisdiction in service matters related to Union civil services and Defence services. State Administrative Tribunals have jurisdiction over the civil services of the State Government or any local authority under its control or territory or any corporation owned or controlled by the State Government whereas a Joint Administrative Tribunal has the jurisdiction corresponding to the jurisdiction of the State Administrative Tribunal of the respective states. Before the establishment of the Tribunals as per this Act, the disputes and cases related to service matters which were pending before the Civil Courts and High Courts shall be transferred to these Tribunals. Thus, basically, the jurisdiction of a Tribunal under ATA, 1985 is three-fold:

a) Suits and proceedings transferred to it under Section 29 which were before the establishment of these Tribunals under the jurisdiction of Civil Courts and High Courts
b) Original jurisdiction under Section 19 to deal with service matters
c) Appellate jurisdiction under Section 29A

Even though the Administrative Tribunals are established under the Administrative Tribunals Act, still the power to establish them flows from Article 323A of the Constitution of India. Thus, these Tribunals cannot delegate the powers to be exercised exclusively by them. Any delegation made by them is *void ab initio* and has no effect[37].

The categorisation, constitution, pattern, entrance exam and its syllabus, qualifications, terms of service etc of the posts and cadres are the domain of the Government for decision. It is the prerogative of the Government. Tribunals just have the jurisdiction to hear the disputes related to the service matters like disciplinary action taken, reduction in the rank, recruitment of the 2nd best candidate etc. It is not in the power of the Tribunals to suggest the Government amendments in the rules of recruitment and terms of service. The same was held by a 2-judge Bench of the Supreme Court in *Surinder Singh v. Union of India*[38].

[37] State of West Bengal v. Subhash Kumar Chatterjee, A.I.R. 2010 S.C. 2927
[38] Surinder Singh v. Union of India, (2007) 11 S.C.C. 599

Section 17 of the Act provides the Tribunals with the power to punish for their own contempt. And for the exercise of this power, the Tribunals shall have the same jurisdiction, powers and authority as that of a High Court and thus, the *Contempt of Court Act, 1971* shall be applicable. The reason behind entrusting these Tribunals with the power to punish for their own contempt was to avoid confusion and doubts as well as keeping in mind the fact that these Tribunals are not *Courts of Record.* The orders punishing the contempt of the Tribunals are appealable only before the Supreme Court in view of the provision of Section 19 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. In *T. Sudhakar Prasad v. Government of Andhra Pradesh and Ors.*[39], the constitutional validity of Section 17 which confers the power on the Tribunals established as per Article 323A of the Constitution, to punish for their own contempt, was discussed at length and ultimately upheld. The Court stated that the contention of Administrative Tribunals being equivalent to courts sub-ordinate to the High Courts and thus losing the jurisdiction to decide the matters of their own contempt and in fact, take recourse of a reference to a High Court or file a complaint under Sections 193, 219 and 228 of the Indian Penal Code, 1860 as provided by Section 30 of the Administrative Tribunals Act, 1985 does not hold good. Furthermore, the contention of Tribunals being sub-ordinate to the High Courts for the purpose of Articles 226/227 of the Constitution of India, the right to appeal before the Supreme Court against the contempt orders of the Tribunal under Section 17 is also absurd. In a way, the Supreme Court criticised its earlier decision in *L. Chandra Kumar v. Union of India*[40] on the point of right of the Tribunals to punish for their own contempt. The Court held that the jurisdiction conferred on the High Courts under article 226/227 cannot be taken away or delegated to any other court or Tribunal by any legislation. However, since the jurisdiction of the High Courts with regard to certain matters has been conferred upon the Tribunals under Article 323A, it in no way implies that the Tribunals are a *substitute* of the High Courts. These Tribunals in fact have been assigned this jurisdiction in a *supplementary role.* Section 17 derives its legality from Article 323A (2)(b) which clearly states that certain jurisdiction, powers, authority along with the power to punish for its own contempt can be conferred on the Administrative Tribunals under a law. The power of the High Courts to punish for their own contempt, given under Article 215 is still intact. The only difference is that since the High Court's jurisdiction with regard to certain matters has now being entrusted with the Tribunals, so correspondingly, the power of the High Courts to punish for their own contempt has also being entrusted with the Tribunals with respect to those matters. However, the power to punish for the contempt, entrusted under Section 17 of the Administrative Tribunals Act, 1985 should be exercised rarely and not as a matter of daily routine[41].

[39] T. Sudhakar Prasad v. Government of Andhra Pradesh & Ors., (2001) 1 S.C.C. 516
[40] *supra* note 19
[41] Suresh Chandra Poddar v. Dhani Ram, A.I.R. 2002 S.C. 439

Section 28 of the Act excludes the jurisdiction of all the courts except the Supreme Court under Article 136 of the Constitution. The exclusion of the jurisdiction humongously effects the judicial review jurisdiction of the High Courts under Article 226/227 as well as that of the Supreme Court under Article 32. In 1993, in a Supreme Court case[42], the Court came heavily upon the Ministry of Information and Broadcasting which invoked the High Court's review jurisdiction under Article 226/227. It held that the Ministry, which is a wing of Union of India would be presumed to know the provisions of ATA, 1985. Also, the High Court should have been careful in realising that it cannot invoke its jurisdiction which is expressly barred under Section 28 of the Administrative Tribunals Act, 1985. Thus, in *L. Chandra Kumar v. Union of India*[43], along with the Article 323A (2)(d) and Article 323B (3)(d), Section 28 of the Act in as much as it *excluded the jurisdiction of all other courts*, was also declared *unconstitutional.* But such tribunals could perform these functions in a supplemental role.

Till date the Act has been amended 3 times- in 1986, 1987 and 2007. The Act has played a key role in adjudication of service disputes and reducing the burden of the higher judiciary as well. In *Kamal Kanti Dutta v. Union of India*[44], the Supreme Court held that if public servants are caught up in expensive and time-consuming litigative process, majority of their time, energy, and resources would be wasted in the courts and they would not be in a better position to work efficiently. The establishment of tribunals dealing exclusively with service matters, all over the country, save a lot of time, effort and resources of both the Public servants as well as the Courts. The advantage of informality along with the immunity from the rules of evidence can pave a way for effective and efficient dispute adjudication system in the field.

POWER OF JUDICIAL REVIEW

The Constitution of India confers the power of judicial review on both the Supreme Court and High Courts. The Supreme Court derives the power from Article 32 and 136 whereas High Courts derive this power from Article 226/227. Whether the Tribunals are prone to the power of judicial review of the Supreme Court and High Courts or not has always been the topic of debate since the insertion of Article 323A and 323B by the Constitution (Forty-second Amendment) Act, 1976 which at the same time ousts the jurisdiction of all the other courts except that of Supreme Court under Article 136. There can be numerous instances where a tribunal does not conform to the principles of natural justice, the decision is unfair or grossly unjust,

[42] H. N. Patro v. Ministry of Information and Broadcasting, 1993 Supp (1) S.C.C. 550
[43] *supra* note 19
[44] Kamal Kanti Dutta v. Union of India, A.I.R. 1980 S.C. 2056

Constitutional provisions are being violated wherein the need of a supervisory jurisdiction over tribunal increases.

In *S. P. Sampath Kumar v. Union of India*[45], the Supreme Court held that the exclusion of the judicial review power of the Supreme Court as well as High Courts by Article 323A (2)(d), Article 323B (3)(d) and Section 28 of the ATA, 1985 except the Supreme Court's jurisdiction under Article 136 can be justified if an equally efficacious institutional mechanism of judicial review is provided for.

In *Tata Cellular v. Union of India*[46], wherein the tender awarded by a public authority was under challenge, the Court held that judicial review in administrative matters is required to check any kind of unfairness in the decision.

The Supreme Court in a case decided in 2010 which challenged the provisions of the Companies Act, 2013 under which the National Company Law Tribunal and National Company Law Appellate Tribunal are established, held that Legislature can enact a law transferring the jurisdiction exercised by courts to a tribunal with respect to certain matters, but cannot transfer the jurisdiction entrusted by the Constitution of India.

In a nutshell, since the power of judicial review entrusted with the Supreme Court and High Courts is a basic feature of the Constitution, no legal or legislation can take it away or modify.

PROBLEMS WITH THE EXISTING TRIBUNAL FRAMEWORK

Since the introduction of Article 323A and 323B in the Constitution, the Tribunals have started gaining prominence. As of now, the Parliament and State Legislatures have set up the following Tribunals:

1. Tribunals under Article 323A – Central Administrative Tribunals
2. Tribunals under Article 323B –
   - Airports Appellate Tribunal (AAT)
   - Airports Economic Regulatory Authority Appellate Tribunal (AERAAT)
   - Appellate Tribunal Benami Transactions (ATBT)
   - Appellate Tribunal for Electricity (APTEL)
   - Appellate Tribunal for Foreign Exchange (ATFE)

[45] *supra* note 19
[46] Tata Cellular v. Union of India, (1994) 6 S.C.C. 651

- Appellate Tribunal for Forfeited Property (NDPS Act) (ATFPNDPS)
- Appellate Tribunal for Forfeited Property (SAFEMA Act) (ATFPSAFEMA)
- Appellate Tribunal for Prevention of Money Laundering (ATFPATPML)
- Armed Forces Tribunal (AFT)
- Authority for Advance Rulings (Central Excise, Customs and Service Tax) (AARCCS)
- Authority for Advance Rulings (Income Tax) (AARIT)
- Cauvery Water Disputes Tribunal (CWDT)
- Central Excise Service Tax Appellate Tribunal (CESTAT)
- Central Sales Tax Appellate Authority (CSTAA)
- Competition Appellate Tribunal (COMPAT)
- Cyber Appellate Tribunal (CyAT)
- Debts Recovery Tribunal (DRT)
- Debts Recovery Appellate Tribunal (DRAT)
- Employees Provident Fund Appellate Tribunal (EPFAT)
- Film Certification Appellate Tribunal (FCAT)
- Income Tax Appellate Tribunal (ITAT)
- Intellectual Property Appellate Board (IPAB)
- Krishna Water Disputes Tribunal II (KWDT II)
- Mahadayi Water Disputes Tribunal (MWDT)
- National Company Law Tribunal (NCLT)
- National Company Law Appellate Tribunal (NCLAT)
- National Consumers Disputes Redressal Commission (NCDRC)
- National Green Tribunal (NGT)
- National Highways Tribunal (NHT)
- Railways Claims Tribunal (RCT)
- Railways Rates Tribunal (RRT)
- Ravi & Beas Water Disputes Tribunal (RBWDT)
- Real Estate Appellate Tribunal (REAT)
- Securities Appellate Tribunal (SAT)
- Telecom Disputes Settlement and Appellate Tribunal (TDSAT)
- Vasandhara Water Disputes Tribunal (VWDT)

This huge list of Tribunals established in conformity with Article 323B clearly specifies the intention of the appropriate Legislature to reduce the burden of the judiciary as much as possible.

However, in general and due to this wide range of Tribunals as well, comes a catena of problems. Some of the major issues being faced by the tribunals are:

1. ***Lack of Independence*** – The tribunal system in India suffers from lack of independence. The Tribunals are dependent on the sponsoring Department or Ministry for all of its resources- financial, manpower, infrastructural etc. Also, the appointments in case of many Tribunals are made with the consultation of the concerned Department or Ministry leading to increased interference and thus decreased independence.
2. ***Dependence on the concerned Ministry*** – The Tribunals in India are under the control and supervision of the concerned Ministry. For example, the Employees Provident Fund Appellate Tribunal is under the administration of the Ministry of Labour and Employment. As discussed in the previous point, the dependence of the tribunals on the concerned Ministry leads to a compromise with the independence of the Tribunal as well as the quality of the Members appointed.

3. ***Bureaucracy*** – Tribunals are related to and under the control of a Central Ministry. For example, Telecom Disputes Settlement and Appellate Tribunal is under Ministry of Communications, National Highways Tribunal comes under Ministry of Road Transport and Highways. When a Tribunal is under the control of a Ministry, its working will be affected by the decisions of the Ministry as well as the bureaucracy.

4. ***Lack of Uniformity in Regulation*** – There is a lack of uniformity with respect to qualifications for appointment, appointment procedure, grounds of removal, retirement age etc. amongst the legislations under which these Tribunals are established.

5. ***Dormant Tribunals*** – Tribunals, in many cases are not established even after years of enactment of laws requiring their establishment. Even if tribunals are established, the actual work takes more years to start.

6. ***Vacancy*** – The Tribunals suffer from the chronic problem of vacancy. There are only a few tribunals which work with the sanctioned limit of Members. Absenteeism is a common phenomenon in the Tribunals. The vacant posts remain vacant for months and some for years as well which badly effects the working of the Tribunals.

7. ***Inadequacy or Incompetent Benches*** – The Tribunal system in India is such that a Tribunal has a Principal Seat at one particular place and Zonal Benches at other places. However, in case of Tribunals of certain matters, either there is an inadequacy of Benches or the Benches are incompetent. The inadequacy of Benches leads to a difficulty in accessibility which is a big problem for a country like India. Incompetency of the Benches is no good for the system either. It is more or less equivalent to not having a Bench.

To reap the advantages of the Tribunal System to the maximum possible extent, the system needs to be revamped to suit the requirements of the society as well as the judiciary.

ATTEMPTS TO REFORM THE EXISTING TRIBUNAL FRAMEWORK

The Tribunals are established to provide for a speedier, timely and less expensive adjudication system. Until and unless the tribunals are freed from the shackles of bureaucracy, interference of the concerned Ministries, plethora of vacant posts, the efficient functioning of the Tribunals cannot be achieved. The Legislature as well as the Judiciary has made constant efforts to improve the tribunal system of the country.

In *L. Chandra Kumar v. Union of India*[47], the Supreme Court urged the continuity of the Administrative Tribunals and avoidance of appointment of Administrative Members in the Tribunals. However, it clarified that it is the Administrative members only who have the specialised knowledge with respect to the matters which are being dealt by the Tribunal. A very important recommendation put forth by the Supreme Court was establishment of a single nodal agency for the administration of all the Tribunals. The agency should be put under the control of Ministry of Law and Justice which would be best suited to supervise it.

With regard to the efforts by the Legislature, the first one was the *74th Parliamentary Standing Committee Report* which analysed the provisions of the Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014. The Bill, was however withdrawn in April, 2017. The recommendations of the Report were:

- Retirement age of both the Chairman and Members to be set uniformly at 70 years
- Tenure of the members should be fixed at 7 years so that they are able to gain expertise in the particular field

[47] *supra* note 19

- Uniform grounds of removal should be enumerated
- Establishment of a National Tribunals Commission to administer all the tribunals as well as to standardise the appointment procedures, terms and conditions of service etc.

Then came the Finance Act, 2017 which in an unprecedented move, merged 8 Tribunals according to functional similarity. With an aim to bring uniformity, the Act amended 19 of the parent statutes under which the Tribunals are established. To standardise the appointment process and terms and conditions of service, the Central government notified the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017. Then came the 272nd Report which was presented by the 21st Law Commission of India in 2017 and was titled *Assessment of Statutory Framework of Tribunals in India.* The focus of the Report was to study the existing tribunal system of the country and suggest improvements in the same. Some of the recommendations were:

- Qualifications of the Tribunal Members to be similar to that of High Court judges
- Standardisation of the conditions of appointments and terms and conditions of service
- Selection Committee to be headed by the Supreme Court or a sitting judge of the Supreme Court or his/her nominee
- Vacancy to be filled in within 6 months before its occurrence
- Establishment of a single nodal agency under Ministry of Law and Justice to monitor all the tribunals

A very recent effort came from the Judiciary in the form of the Supreme Court decision of *Roger Mathew v. South Indian Bank Ltd. and Chief Manager and Ors.*[48] The Supreme Court gave some directions to be implemented by the Central Government for the restructuring of the Tribunal System. The directions given are:

- Establishment of an autonomous oversight body
- Consider drawing members of Tribunal from the offices of the Higher Judicial Service or direct recruitment with appropriate qualifications
- Considering setting up an *All India Tribunal Service* on United Kingdom's pattern

[48] Roger Mathew v. South Indian Bank Ltd. and Chief Manager & Ors., (2018) 16 S.C.C. 341

- Amendment of the scheme wherein the direct appeals to the Supreme Court are checked so that the orders of the Tribunals are subject to the jurisdiction of the High Courts
- Providing for more Benches of the Tribunals at easily accessible places instead of a single Bench at Delhi or elsewhere and in the alternative, designating existing courts as *Special Courts/Tribunals*

There have been numerous attempts towards revamping the entire system. Unfortunately, till date, none of these attempts have been actually implemented.

RECOMMENDATIONS

The entire idea behind the tribunal system was to provide for an adjudication system which is speedy, time effective, less expensive and easily accessible. The focus was to transfer those matters to the tribunals which are of great socio-economic importance in the growth and development and at the same the litigation for which matters proves to be ineffective and inefficient due to procedural delays and heavy expenditure. Part XIVA was inserted in the Constitution of India with this particular aim in mind. Article 323A provides for establishment of Tribunals for service matters in line with the recommendations of the Administrative Reforms Commission's 1969 Report and 14th Law Commission Report as well. Article 323B was added to establish the tribunals for others matters of great importance, enumerated in the Article itself. Some of those matters are- tax, foreign trade, foreign exchange, industrial and labour disputes, land reforms etc. however, the Parliament and State Legislatures can also establish tribunals with regard to the matters in their legislative competence, that is, matters enumerated in the List I, II and III of Schedule VII. The Administrative Tribunals Act, 1985 was enacted to implement the provisions of Article 323A. Tribunals like Income Tax Appellate Tribunal, Competition Appellate Tribunal, Securities Appellate Tribunal, National Green Tribunal are some of the tribunals established under the relevant acts to implement the provisions of Article 323B.

Even though the tribunals have come a long way in reducing the burden of the higher judiciary so that it can focus on the matters of greater public importance and has provided an adjudication system which is less time-consuming, less expensive and comparatively quicker, they still suffer from some problems which act as a huge hindrance in the effective and efficient functioning.

Need of the hour is to improve the tribunal system so that they can function without any interference, with the degree of independence they need for the effective and efficient functioning through qualified and experienced personnel along with requisite infrastructure.

Following are some of the recommendations which can be implemented to improve the overall tribunal system:

1. ***Increasing Independence of the Tribunals*** – The independence of the Tribunals needs to be improved for proper functioning. The Members of the Tribunal should be select objectively without any personal bias by a formal Selection Committee. the participation of the sponsoring Department or Ministry is required to be kept at the minimum level. The lesser the number of Members from the sponsoring Department or Ministry, the better it is because it will ensure that the decisions are not favoured, in any whatsoever way towards the Department or Ministry and are in fact, taken on the basis of principles of natural justice with objectivity and fairness.

2. ***Single Nodal Agency*** – The Tribunals established under the various acts are under the supervision of the respective Department or Ministry. For example, Securities Appellate Tribunal, Competition Appellate Tribunal, National Company Law Tribunal are all under the Ministry of Corporate Affairs. Instead of all the tribunals being under the control of the respective Ministries, a single nodal agency should be established under the control of Ministry of Law and Justice, for the administration of all the tribunals which would help to a great extent in increasing the uniformity and decreasing the bureaucracy.

3. ***Uniformity in Regulation*** – The criteria for qualifications, selection, recruitment of the Members, terms of service, grounds of removal, retirement age etc should be uniform across the Acts governing various Tribunals to ensure uniformity. Report 232nd, presented by 18th Law Commission under the Chairmanship of Justice A. R. Lakshmanan in 2009 recommended a uniform retirement age across all the Tribunals. It recommended the retirement age for Chairman to be 70 years and 65 years for the other Members.

4. ***Number of Judicial and Administrative Members at par*** – The number of Administrative and Judicial Members in the Tribunals should be equal. Judicial Members are required because Tribunals are meant to discharge quasi-judicial functions. Administrative Members, on the other hand provide the necessary expertise in the subject matter of the disputes which are being resolved

by the Tribunals. However, a higher ratio of Administrative Members in the Tribunals, who are generally from the concerned Ministry, leads to higher interference and bureaucracy.

5. ***Vacancy in Tribunals*** –The vacancies in the Tribunals should be filled in as soon as they arise. If a vacancy is going to arise in the near future, for example due to the retirement of a Member, the same should be filled in before the retirement of the current occupant so that the post does not remain vacant for a long time. The Tribunals should work, as much as possible, with the sanctioned limit of Members.

6. ***Adequate Number of Benches*** – Many of the Tribunals in the country are functioning in a much better way as expected. For example, the national Green Tribunal has been able to punish small as well as big business units for environment degradation and violation of environmental laws. Volkswagen was slapped with a fine of Rs. 500 crores for using a cheat device that shows the emission levels within the prescribed limits. However, there are many Tribunals which do not have adequate number of Benches across the country making it inaccessible for many of the aggrieved parties to approach them. Even if the Tribunal has adequate number of Benches, it works at a very low capacity of Members rendering its functioning highly ineffective and inefficient. Thus, adequate number of Benches should be constituted which are easily accessible by the parties that come within the territorial jurisdiction of the Benches.

7. ***No Direct Appeal to Supreme Court*** – No order of any Tribunal should be eligible for direct appeal before the Supreme Court unless the matter is related to the Constitution of India. Such a provision would ensure that the Supreme Court's time is not wasted in trivial matters and at the same time, the jurisdiction of the High Courts is not bypassed in any way whatsoever.

8. ***Penalties for non-establishment of Tribunals*** – The state governments need to realise the importance of Tribunals in the Indian judiciary. If any state government fails to establish the requisite tribunal in its state, the same should be made accountable to the Government of India and be heavily penalised.

CONCLUSION

Access to speedy and cost-effective justice is a right of each and every citizen. The Preamble to the Indian Constitution itself calls for securing equal justice to all the citizens. Article 39A further emphasises this

right in the form of a Directive Principle of State Policy. Further keeping in mind, the burden on the Indian judiciary in general as well as the nature of disputes the higher judiciary is originally supposed to deal with, the tribunal system is the need of the country's judiciary. The unprecedented rate at which the society as well as the economy is growing, the nature and magnitude of disputes will undergo a paradigm shift. Gone are the days when the judiciary can resolve all and every kind of dispute. The need now is not only for judicial members but for technical members as well who understand the intricacies of the field and contribute their technical knowledge and years of experience.

To ensure that justice is not just accessible but provided to all in a speedy, time-bound and inexpensive manner in even the most technical of dispute areas, the tribunal system should be supported, promoted and improved as much as possible. More and more tribunals should be established for the matters which could be handled and resolved by them, thus reducing the burden of the subordinate courts.

REFERENCES

1. Arijeet Ghosh, Diksha Sanyal, Raunaq Chandrashekar, Reshma Sekhar, *Reforming the Tribunals Framework in India: An Interim Report*, VIDHI CENTRE FOR LEGAL POLICY, (June 1st, 2020, 6:31 pm), https://vidhilegalpolicy.in/wp-content/uploads/2019/05/8thJuneFinalDraft.pdf
2. S. Saran & R. Dhivya, *Administrative Tribunals under Indian Constitution*, 120 IJPAM, 1939, 1939-1958, (2018)
3. KAGZI, M. C. J., THE INDIAN ADMINISTRATIVE LAW, 276 and 279 (3rd ed., Metropolitan Book Co. Pvt. Ltd., Delhi,1973)
4. Abhishekh Kumar Jha, *Administrative Tribunals in India: a study in the light of decided cases*, SOCIAL SCIENCE RESEARCH NETWORK, (June 1st, 2020, 6:27 pm)