



Dedicated to the growth of Constitutional Law in India  
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## Theme Document

*Justice delayed is Justice Denied.* While one may contemplate on the correctness of the maxim, it is indisputable that delay in disposal of matters has been one of the most principal concerns of the Indian Judicial System with over 2 crore cases pending in the courts awaiting disposal in accordance with justice, equity and good conscience. Attempts made by the Parliament in furtherance of recommendations of the Law Commission and various other bodies have been trying to reduce the backlog, however, increasingly huge number of disputes are still settled through litigation in India.

The 42<sup>nd</sup> Amendment Act, 1976 brought massive changes to the adjudication of disputes with the introduction of Quasi-Judicial Bodies including Tribunals *set up by the amendment and statutes of the Parliament* to adjudicate upon disputes in specialized areas of law. Article 323A, 323B also provide for establishment of tribunals and the Administrative Tribunals Act, 1985 was enacted to provide effective nature to the same. Before the insertion of these articles, tribunals came under the *purview of the High Court* and the High Court acted as an Appellate Court over these tribunals apart from having Writ Jurisdiction under Articles 226/227 and Supreme Court under Article 32. But after introduction of the amendment, the High Court's role as an Appellate Court and the Writ Jurisdiction under Articles 226, 227, 32 were substituted by the Special Leave Petition to the Supreme Court under Article 136 to be challenged in S. P. Sampath Kumar's case. The court upholding *Judicial Review to be part of Basic Structure* but however, considered Tribunals as an effective institutional mechanism to the High Courts and therefore, upheld its constitutionality. A decade later, the question of superintendence by High Courts over Tribunals again emerged in L. Chandrakumar's case in which the Hon'ble Supreme Court, overruling the S. P. Sampath Kumar's decision, held that Tribunals are supplementary and not substitutes/alternatives of High Courts retaining the power of superintendence and other jurisdiction of the High Court. The Supreme Court also expressed a sad state of affairs over the efficacy of tribunals in India.

The recent amendment to Finance Act, 2017 introduced significant changes to laws dealing with tribunals. In its pursuit to cut costs and save resources, the government decided to wind up eight tribunals and merge them with other existing tribunals. Competition Appellate Tribunal (COMPAT) will be merged with the National Company Law Appellate Tribunal (NCLT). The Cyber Appellate Tribunal and the Airports Economic Regulatory Authority Appellate Tribunal will be merged with the Telecom Disputes Settlement and Appellate Tribunal (TDSAT). Employees Provident Fund, will be subsumed into the Industrial Tribunal. The rationale given for merging the tribunals was improper utilisation of resources by the tribunals. It was observed that most of the tribunals are not functioning to their full capacity due to lack of cases, and therefore must be merged with the other existing tribunals in order to ensure efficiency of the tribunals. The Finance Act also empowers the central government to specify the appointments, tenure, removal, and reappointment of chairpersons and members of tribunals through rules — as against the existing provisions on appointments being specified clearly in the laws establishing these tribunals.

The theme of this year is the **Evolving Landscape of Tribunals in India** and in light of the same we seek to review a constitutional perspective of the Finance Act, 2017 by viewing the reason for establishment of tribunals whether being hampered or fulfilled by the amendment to the Finance Act. Since the goal of the said amendment was pursuit to cut costs and resources, it was categorized under the Finance Act **as a money bill** and therefore beyond the President and Rajya Sabha's discretion and partially beyond judicial review. We seek to invite participants to address questions pertaining to and beginning from the fundamental question of whether merging of tribunals may be carried out in a money bill to the question of constitutional scheme of tribunals in India and whether the High Court should now act as an **Appellate mechanism** in light of loss of the specialized nature of tribunals owing to the merging of tribunals. The following sub-themes may be relevant for your research, however, not exhaustive or limiting in nature

- a) Tracing the Historical Evolution of Tribunals in India
- b) Finance Act, 2017: A Step in the right direction?
- c) Enlargement of Jurisdiction of High Courts vis-à-vis Functioning of Tribunals
- d) An International Perspective of Tribunalization with focus on Indian Experience

***Inter alia*, we look for creative presentation of data and concepts with illustrative methods, definitive concluding remarks and/or solutions/recommendations regarding the Finance Act and/or any other recommendations derived from logical conclusions and/or International Perspective in this light**

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