

Experience and Expertise in Tribunal Appointments - Girija Vaidyanathan Case

What is the issue?

- The recent appointment of former IAS officer, Girija Vaidyanathan, as Expert Member in the Southern Bench of the NGT, was challenged in the Madras High Court.
- In this context, it is imperative to reflect on some of the principles behind the tribunal system.

Why were tribunals established?

- Tribunals function as adjudicatory bodies in specific fields.
- The establishment of tribunals is based on the idea that specialisation and expertise are required to decide complex cases of a technical nature.
- The 'tribunalisation' of justice is thus driven by the recognition that it would be cost-effective, accessible and give scope for utilising expertise in the respective fields.
- Central to this scheme is the principle that the 'experts' appointed to these tribunals should bring in special knowledge and experience.

Is the recent appointment questionable?

- The above criteria came under focus with the appointment of Girija Vaidyanathan as Expert Member of the NGT.
- The Madras High Court initially granted an interim stay on her appointment.
- However, the court recently vacated the interim stay, stating that she holds the necessary qualifications.
- It ruled that she was not ineligible, going by the criteria in the NGT Act.
- She was found to have fulfilled the eligibility requirements by virtue of her administrative experience of nearly 5 years in "dealing with environmental matters".

What does the Act specify?

- The Act spells out two kinds of criteria:
 1. based on qualifications and practical experience
 2. based on administrative experience in the field

- A candidate has to fulfill only one of them.
- For the first, a masters' or a doctorate in science, engineering or technology, with 15 years' experience in the relevant field is needed.
- This includes five years of experience in environment and forests in a national level institution.
- The fields include pollution control, hazardous substance management and forest conservation.

What is the ambiguous provision?

- The administrative experience criterion lacks detail.
- It merely stipulates 15 years' experience.
 - Of this five should have been in "dealing with environmental matters" in either the Centre or the State or any reputed institution.
- Ms. Girija's work as Secretary, Environment and Forests, Tamil Nadu, and Chairperson of the State Pollution Control Board together amounted to only 28 months.
- However, the court accepted the contention that her tenure as Health Secretary should also be considered.
- The court also observed that it is an entirely different matter whether administrative experience in the second criterion should be regarded as equivalent to "the real expertise" indicated in the clause on qualifications.
- The court rightly declined to interfere with the appointment, as the equivalence found in the rules falls under the domain of Parliament.

What is the way forward?

- The relevance and composition of tribunals are under judicial scrutiny.
- The Centre itself has abolished some of the tribunals.
- Given this, the government should spelt out with clarity, the extent to which a bureaucrat's involvement in environmental matters could be regarded as equivalent to expertise.
 - In other words, how far experience can be treated as expertise for tribunal posts.
- It should also show greater urgency in implementing earlier Supreme Court directions to constitute a National Tribunals Commission.
- This will supervise the appointment and functioning of tribunals.

Source: The Hindu



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