

Restructuring the Tribunals System - National Tribunals Commission

What is the issue?

- The Centre has passed the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance 2021.
- With the ordinance being challenged in the Supreme Court, here is an overview on its various elements.

What is the objective?

- Through the ordinance, the Centre has abolished several appellate tribunals and authorities.
- It has transferred their jurisdiction to other existing judicial bodies.
- The tribunals abolished include the Film Certification Appellate Tribunal.

What are the concerns?

- The Ordinance has met with sharp criticism for bypassing the usual legislative process.
- It was also passed without any stakeholder consultation.
- No judicial impact assessment was conducted prior to abolishing the tribunals.
- This goes against the Supreme Court's direction in *Roger Mathew v. South Indian Bank* (2019).
- The Ordinance has incorporated the suggestions made in *Madras Bar Association v. Union of India* (2020).
- This applies to the composition of a search-cum-selection committee and its role in disciplinary proceedings.
- But, the ordinance has also fixed a four-year tenure for Chairpersons and members of tribunals.
- This has disregarded the court's direction for fixing a five-year term.
- Further, the Centre is yet to constitute a National Tribunals Commission (NTC).
- The idea of an NTC was first mooted in *L. Chandra Kumar v. Union of India* (1997), but it has still not been constituted.

What is the NTC and what are its roles and responsibilities?

- The NTC would ideally take on some duties relating to administration and oversight.
- It could set performance standards for the efficiency of tribunals and their own administrative processes.
- Importantly, it could function as an independent recruitment body.
- This is to develop and operationalise the procedure for disciplinary proceedings and appointment of tribunal members.
- Giving the NTC the authority to set members' salaries, allowances, and other service conditions, subject to regulations, would help maintain tribunals' independence.
- Administrative roles of the NTC include providing support services to tribunal members, litigants, and their lawyers.
- For this purpose, it would need to be able to hire and supervise administrative staff.
- It will also have to consolidate, improve, and modernise tribunals' infrastructure.

What is the significance of NTC?

- A key rationale for demanding the NTC is the need for an authority to support uniform administration across all tribunals.
- The NTC could therefore pave the way for the separation of the administrative and judicial functions carried out by various tribunals.
- A 'corporatised' structure of NTC with a Board, a CEO and a Secretariat will allow it to scale up its services.
- It could thus provide requisite administrative support to all tribunals across the country.

Why is legal backing for NTC essential?

- Developing an independent oversight body for accountable governance requires a legal framework that protects its independence and impartiality.
- Where the institutional design is not properly conceived, partisan interests can twist the law to serve political or private interests.
- In India, executive interference in the functioning of tribunals is often seen in matters of appointment and removal of tribunal members.
- It is also evident in provision of finances, infrastructure, personnel and other resources required for day-to-day functioning of the tribunals.
- Therefore, the NTC must be established vide a constitutional amendment.

- Or, it should be backed by a statute that guarantees it functional, operational and financial independence.

What is the way forward?

- As the Finance Ministry has been vested with the responsibility for tribunals until the NTC is constituted, it should come up with a transition plan.
- Establishing the NTC will definitely entail a radical restructuring of the present tribunals system.

Source: The Hindu

