TRIBUNALISATION AND INDEPENDENCE IN ADMINISTRATION OF JUSTICE IN INDIA: A CRITICAL APPRAISAL

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Abstract

The Article explores, analytically, the entire scheme of administration of justice by the tribunals in India in various aspects to ascertain the element of neutrality, fairness and independence in the decisions rendered by them. The paper appreciates the undeniable need for the proliferation of tribunals as specialized adjudicatory bodies in the current phase of time but as the same time is concerned about the manner of administration of them by the government of the day. The researcher identifies a clear conflict of interest in the governmental 'handling' of the tribunals since the government is one of the major litigants before them and as such the factum of the independence of the tribunals in pronouncing the decisions is debatable. Under the existing scheme of tribunal governance, the government has a decisive say in appointing the members of the tribunals, in transferring them as well as renewing their service tenures which casts substantive doubts in the neutrality in the administration of justice by them. The researcher feels that in any system of governance manned by the rule of law, it is imperative that the judicial wing of governance remains independent, neutral and above any suspicion so as to instill public confidence in the justice delivery mechanism. It is, thereby, highlighted in this paper that there lies an urgent need to revamp the existing scheme of management of the tribunals lest the tribunals are perceived as 'governmental departments' by commoners, thus shaking their faith in the administration of justice. The overhauling in the scheme of tribunal management becomes all the more necessary since many of the tribunal orders are vested with a 'finality clause', whereby the constitutional courts do have a 'Limited Access' over their orders. It is important to appreciate that if the tribunals are to be treated as substitutes for the High Courts and even the Supreme Court, they must be properly insulated against all threats and pressures operating upon them in the administration of justice.

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ADMINISTRATION OF JUSTICE AND THE RULE OF LAW

Every system of governance marked by the rule of law necessarily has to have a strong and independent judicial organ in order to ensure effective control over the vast powers exercisable by the various authorities engaged in the running of the affairs of the government. The judicial organ needs to be insulated from every interference in its functioning arriving from any quarter so as to administer justice with even hands and without any fear, favour and prejudice. A word of caution had been consistently sounded by several political philosophers, Aristotle[1], Locke[2] and Montesquieu[3] to the tune that some form[4] of separation of powers is required in any organizational set up in order to prevent absolutism in the scheme of governance.[5]It is with this ideology that the Constitution of India has mandated[6] the State to ensure that the Judiciary is kept separate from the Executive.

EXECUTIVE AUTHORITIES AND ADMINISTRATION OF JUSTICE

It is, however, in the wake of the splurge in the role of the state as a welfare state that a multifold expansion in the functions of the modern day administrative authorities has come to the front. This expansion in the functions of the administrative authorities has increased the interactions of the governmental authorities with the citizens and this, in turn, has multiplied the probability of conflicts between the two. Since the traditional judiciary in India had already been pre-occupied with varied matters pertaining to civil, criminal and miscellaneous jurisdictions, the proposal[7] of creating a different set of adjudicatory bodies to deal with purely administrative matters was mooted.

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[1] See Aristole, Politics, Vol. IV at 14

[2] See The Second Treatise of Civil Government, Chapters 12 and 13

[3] *l'Esprit des Lois (1748), Chapter 12*

[4] *Ibid.*, VIII, 2. According to him, the government tends to become corrupt when people try "to debate for the senate, to execute for the magistrate, and to decide for the judges."

[5] "When the legislative and the executive powers are united in the same person, or in the same body of Magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or the senate should enact tyrannical laws, to execute them in a tyrannical manner. Again there is no liberty if the judicial power be not separated from the legislature and the executive. Were it joined with the legislature, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression." Nugent (Tr.), *The Spirit of the laws*, 151-52 quoted in C.K.Thakker, *Administrative Law* (Eastern Book Company, 1992) at 31.

[6] Article 50 of the Constitution of India

[7]The Central Government set up a Committee under the Chairmanship of Mr. Justice J.C. Shah in 1969. The Committee in its report recommended that an independent Tribunal be established for the purpose of handling service matters pending before the High Courts and the Supreme Court. Further, vide the 124th Report of the

BIRTH OF TRIBUNALS

It was by virtue of the forty second Constitutional amendment[8]that provisions for creation of tribunals were inserted in the Constitution of India.[9] The apparent legislative intent behind such incorporation had been reduction in the workload of the High Courts and the apex court as well as creation of specialized forums to deal with 'technical' issues under conflict. The said amendment empowered the Parliament to create administrative tribunals for twin purposes, the first one being adjudication of the service matters pertaining to the 'government servants',[10] and the second one being adjudication of other species of disputes viz., tax, foreign exchange, labour, industrial disputes[11], etc., Consequently, there was witnessed setting up of various tribunals pertaining to different subject matters in India under either the

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Law Commission of India, it was pressed that in several countries like Australia, Tribunals for the purpose of dealing with Arbitration Tribunals, Workers' Compensation, Pension had been set up, outside the domain of the traditional courts. It is thus that the Law Commission had recommended the establishment of appellate tribunals both at the Centre and at the States in matters of disciplinary and other actions against the government servants. Similarly, the First Administrative Reforms Commission had also pressed for the creation of Civil Services Tribunals to deal with matters of disciplinary actions against the government servants.

[8] Section 46 of the Constitution (42nd Amendment) Act, 1976: The date of bringing about this amendment is, however, to be noted since it falls during the phase of emergency imposed by the Indira Gandhi government, which was bent upon to downsize the power of the judicial organ by adopting different tactics.

[9] Part XIV A, Article 323 A/323B

[10] Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

[11] The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature power to make laws has.

(2) The matters referred to in clause (1) are the following, namely:-

(a) levy, assessment, collection and enforcement of any tax;
(b) foreign exchange, import and export across customs frontiers;
(c) industrial and labor disputes;
(d) land reforms by way of acquisition by the State of any estate as defined in Article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;
(e) ceiling on urban property;
(f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in Article 329 and Article 329A;
(g) production, procurement, supply and distribution of foodstuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;
(h) offences against laws with respect to any of the matters specified in sub-clause (a) to (g) and fees in respect of any of those matters;
(i) any matter incidental to any of the matters specified in sub-clause (a) to (h).

parliamentary legislations or under the state legislations like the Debt Recovery Tribunal[12], Cyber Appellate Tribunal[13], National Green Tribunal[14] to name a few.

WORKING SCHEME OF TRIBUNALS

It is further pertinent to note that the fort second amendment in the Constitution paved the way for such law to be made by the Parliament that would divest all the courts of their jurisdiction over the cases[15] which had been allotted to the tribunals. A necessary implication of the same gets manifest in the fact that the decisions of the tribunals would get almost to a state of finality because of the non-availability of the writ jurisdiction of the High Courts and the Supreme Court of India against their orders. The only constitutional remedy left against the orders of the tribunal, in such a situation, happens to be by way of 'special leave petition'[16] to the Supreme Court of India which is necessarily a discretionary remedy at the hands of the apex court. It is thus that a substitute for the High Courts had been provided by virtue of the forty second constitutional amendment, disarming the Constitutional courts absolutely in matters under the jurisdiction of the tribunals, thus, to be created.

INDEPENDENCE IN THE FUNCTIONING OF TRIBUNALS

The moot question to be examined at this juncture is whether the tribunals, thus created under statutory legislations, happen to be actually instrumental in administering justice with even and fair hands. The fact needs to be digested that all the tribunals, thus created, stand governed and administered by various administrative departments of the respective governments, central or state, whatever may the case be. This results in variable modes of functioning of these tribunals, thereby presenting a picture of non-uniform scheme of administration of justice. Such non uniformity in the administration of justice happens to be non-conducive to the larger interest of the litigating parties. It is pertinent to appraise the fact that the tribunals are 'quasi-judicial' bodies manned by the administrative members

[12] Created under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, Section 3
The Tribunal was set up in order to receive claim applications from Banks/Other Financial Institutions against their defaulting borrowers.

[13] Established under the Information Technology Act, 2000

[14] Established under the National Green Tribunal Act, 2010

[15] Article 323A (2) (d) and 323-B (3) (d) of the Constitution of India: Power to "exclude the jurisdiction of all courts except the jurisdiction of the Supreme Court under Article 136 with respect to all or any of the matters falling within the jurisdiction of the said tribunals."

[16] Article 136 (1), *ibid*: "The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India."

belonging to the government departments and by the judicial members, as well. Such members are appointed by the government for a limited tenure.[17]It is under this circumstance that the factum of the independence of the judges of such tribunals in the process of administering of justice is to be ascertained analytically.

It is amply clear that the Judges manning the High Courts and the Supreme Court of India are insulated sufficiently by the Constitution of India against any threats directed towards them in the process of administration of justice. They enjoy a complete security of tenure[18] and are liable to be removed from their office only on the ground(s) of proved misbehaviour or incapacity.[19] It is further to be appreciated that the functioning of the judges of the Constitutional Courts has been left totally outside the purview of discussions in the Parliament,[20]thus maintaining a substantial distance between the functioning of the Constitutional courts and the Parliament. It is, thus, that a safe and secure working environment is provided to the Judges of the superior judiciary in order to ensure a fair and impartial delivery of justice by them without ant fear, favour or prejudice. However, the presiding officers of the Tribunals lack in such independence in the performance of their functions. Additionally, they also lack the immunities provided to the Judges of the High Courts and the Supreme Court of India in the discharge of their judicial duties.

The 'safe' position accorded to the Judges of the Constitutional Courts has been emphatically reflected by the apex court in *L. Chandra Kumar* v. *Union of India*[21],

[17] See, for illustration, Section 6, National Green Tribunal Act, 2010: Appointment of Chairperson, Judicial Member and Expert Member. Subject to the provisions of section 5, the Chairperson, Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government. The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India. The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed.

[18] Article 124(2) of the Constitution of India: "Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years."

[19] Article 124 (4) of the Constitution of India: "A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two- thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehavior or incapacity."

[20] Article 121 of the Constitution of India: "No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided."

[21] Supra note 17

"The Constitution….contains elaborate provisions dealing with the tenure, salaries, allowances, retirement age of Judges as well as the mechanism for selecting Judges to the superior Courts. The inclusion of such elaborate provisions appears to have been occasioned by the belief that, armed by such provisions, the superior Courts would be insulated from any executive or legislative attempts to interfere with the making of their decisions."[22]

It has further emphatically pointed out, *"The constitutional safeguards which ensure the independence of the Judges of the superior judiciary are not available to the Judges of the subordinate judiciary or to those who man Tribunals created by ordinary legislations."*[23]

It is thus that in the matters of an independent administration of justice, the structuring and functioning of the tribunal's lags in comparison to that of the High Courts. The Tribunals remain dependent on the Government for various aspects of their functioning, thereby, substantially compromising their functional autonomy and 'independence'. It happens to be a matter of fact that various tribunals stand controlled by the executive in matters of appointment, promotion and transfer of their members. The members of the tribunals often happen to be former civil servants; in some cases, the members may even be persons on leave from their previous jobs who are given the 'privilege' of the appointments by the government. It is this government which happens to be a party to litigation before them and in the given system of appointments of the members, a fair administration of justice cannot be reasonably expected out of them. It is pertinently important to visualize that if the tribunals are set to replace or substitute the traditional courts, they need to be provided with the same constitutional immunities as are enjoyed by the courts which they seek to replace. In the absence of this up-gradation, vesting of exclusive jurisdictions in the tribunals definitely hampers a fair and neutral administration of justice.

It is a matter of grave concern that in spite of the shortcomings in the tribunal system in India, both in the jurisprudential and in the administrative aspect, there is witnessed a flourishing growth in the tribunals for various issues and matters. It has been lamented by the noted and seasoned lawyer, Gopal Subramaniam that "[The] Tribunals under the 'pretext of specialisation' are denuding the Courts of their jurisdiction."[24] He has gone on to say,

[22] *Ibid*, para 78 at p. 1149
[23] *Ibid*, para 78 at p. 1149
[24] Gopal Subramaniam, "A New Beginning by the Supreme Court", The Hindu, October, 16, 2015; Available at: http://www.thehindu.com/opinion/op-ed/gopal-subramanium-writes-on-supreme-court-bench-order-on-njac/article7770998.ece Accessed on 07.10.2016

"Tribunals must be abolished and the powers must be restored to courts of competent jurisdiction."[25]The Supreme Court of India has also questioned[26] whether the tribunals as they are functioning in India can be said to be substitutes for the courts in discharging their function of judicial review. The court has, itself, answered the question in negative observing,

> *"They cannot act as substitutes for the High Courts and the Supreme Court which have, under our constitutional set up, been specifically entrusted with such an obligation. Their function, in this respect is only supplementary."*[27]

However, despite the adverse findings against the manner and style of the functioning of the tribunals, it is unfortunate that the current times are witnessing a splurge in the number of tribunals without at all providing them with the required immunities to ensure their independence. The act of the government in creating tribunals without the requisite forethought has been resented by the noted lawyer, Arvind P. Datar also identically. He has remarked to the occasion by stating that "the new millennium has seen a proliferation of tribunals"[28] without understanding the implications of the same in terms of the fairness in administration of justice. The factum of independence of the tribunals in India had been emphatically reflected by the Supreme Court of India in *Union of India* v. *Madras Bar Association*.[29] The Court has stated, therein,

> *"In India, unfortunately tribunals have not achieved fullindependence. The Secretary of the 'sponsoring department' concernedsits in the Selection Committee for appointment. When the tribunals areformed, they are mostly dependent on their sponsoring department forfunding, infrastructure and even space for functioning. The statutesconstituting tribunals routinely provide for members of civil services fromthe sponsoring departments becoming members of the tribunal andcontinuing their lien with their parent cadre."*[30]

JUDICIAL RESPONSE TOWARDS INCREASED TRIBUNALISATION

[25] *Ibid*
[26] *L.Chandra Kumar* v. *Union of India* (1997) 3 SCC 261: *"Whether these Tribunals, as they are functioning at present, can be said to be effective substitutes for the High Courts in discharging the power of judicial review?"*
[27] Ibid, para 93 at p. 1154
[28] See Arvind P. Datar, The Tribunalisation of Justice in India, Acta juridica 288-302 (2006)
[29] (2010) 11 SCC 1
[30] (2010) 11 SCC 1, para 70

The crisis, thus created by the increased reliance on the tribunal system in India has been handled suitably by the Supreme Court of India through various decisions pronounced by it from time to time and the apex court needs to be sincerely acknowledged and appreciated for the same. It was another occasion recently[31] when a Constitution Bench struck down the National Tax Tribunals Act, 2005 in its judgment in *Madras Bar Association* v. *Union of India*[32], hereinafter referred as "NTT case". It is pertinent to mention at this juncture that the National Tax Tribunal had proposed to replace the High Courts as far as their appellate jurisdiction against the Income Tax Appellate Tribunal and the Customs, Excise and Service Tax Appellate Tribunal was concerned. The stand of the apex court in the matter[33]deserves abundant applause in the name of independence of judiciary since it has emphatically ruled that the National Tax Tribunal had been vested with jurisdiction similar to that of the High Courts, but it failed to afford to its members any of the Constitutional protections that were bestowed upon the Judges of the High Courts in terms of functional independence from the executive. The court had further held that the tribunal, thus created, could not offer as much substantive a remedy in a particular matter as could have been granted by the High Courts which had been sought to be replaced by it. The court had, thereby, declared the entire legislation that had created the tribunal to be unconstitutional.

ANOMALIES IN THE WORKING SCHEME OF THE TRIBUNALS

It stands to be an undisputed fact that the existing tribunal system in India suffers with various deficiencies and lacuna. Many of such issues concerned with the functioning of the tribunals had been under judicial scrutiny in various cases from time to time. The contentions having been raised time and again happen to be quite crucial in terms of the independence of the various tribunals in the administration of justice. Some of the key issues pertaining to the implications of unchannelized tribunalisationare being specifically analysed as under.

DIVESTING THE HIGH COURTS OF APPELLATE/REVIEW POWERS

There is no doubt that the tribunals have divested the High Courts of their appellate and review powers. The moot point at this stage is as to whether the legislature can propose, by

[31] 25th of September, 2014

[32] AIR 2015 SC 1571, Available at http://judis.nic.in/supremecourt/imgs1.aspx?filename=41962 Accessed on November, 16, 2016

[33] The controversy in the matter hovered around the point that the National tax Tribunal, by way of its constitution undermined a process of independence and fairness, which happen to be a necessary ingredient of any adjudicatory authority.

any law, to divest the High Courts of their core judicial appellate function by way of creation of specialized bodies[34] and if that is done, the same destroys the basic structure of the Constitution, judicial review being one of the prominent features of it. Further, the transfer of such functions to a quasi-judicial authority, essentially lacking in the necessary ingredients of the constitutional courts seems offensive to the spirit of separation and balance of powers imbibed in the Constitution of India.

GOVERNMENTAL CONTROL OVER TRIBUNALS

Another off shoot of the tribunalisation is the effect of the same on the independence and functional autonomy of judiciary. It happens to be a fact that the routine manner of legislature conferring powers upon the Central government to 'manage' the affairs of the tribunal are actual dampeners to the spirit of independent and fair administration of justice by the tribunals. It is important to note at this juncture that in the NTT case, the petitioners had found Section 5 (5)[35] of the NTT Act, 2005 to be offensive to the functional autonomy and independence of the Tribunal in question since it empowered the Central Government to cause transfers of members from one bench to the other, with the concurrence of the Chairperson of the Tribunal. It had rightly been projected before the apex court in that matter that the Central Government could very well resort to the abuse of such power to harass a sitting Member of the Tribunal which appeared to it to be 'inconvenient' and get such a member replaced by a member with 'readiness' to tow the desired line. The apex court had clearly opined at an earlier point of time in *Union of India* v. *R. Gandhi*[36]that the functioning of the tribunals as well as the matters of their infrastructure and other administrative requirements need to be specifically assigned to the Ministry of Law and Justice. The court had stated that in order to maintain the independence of the tribunals, none of them and none of their members should be dependent upon the parent ministries or the concerned departments for any matter and this happens to be an urgent need of the hour.

APPOINTMENT OF MEMBERS OF TRIBUNALS

[34] Contention raised in *Madras Bar Association* v. *Union of India* AIR 2015 SC 1571

[35] Section 5(5), NTT Act, 2005: "The Central Government may transfer a Member from headquarters of one Bench in one State to the headquarters of another Bench in another State or to the headquarters of any other Bench within a State: Provided that no member shall be transferred without the concurrence of the Chairperson."

[36] (2010) 11 SCC 1

It happens to be an undisputed fact that the manner and mode of the appointment of the members in any body is directly proportional to the independence and credibility in their functioning. As such the members, the presiding officers and the Chairman of the various tribunals should be selected and appointed in an impartial manner and based upon identifiable parameters so as to instill public confidence in the entire scheme of administration of justice by the tribunals. The Supreme Court of India has categorically maintained in *Union of India* v. *R. Gandhi*[37]that the appointments to the tribunals have to be based only on the required expertise, be it legal or technical. It has held, *"The Members of the tribunals, discharging judicial functions, could only be drawn from sources possessed of expertise in law, and competent to discharge judicial functions. Technical Members can be appointed to tribunals where technical expertise is essential for disposal of matters, and not otherwise. Where the adjudicatory process transferred to tribunals, did not involve any specialized skill, knowledge or expertise, a provision for appointment of Technical Members (in addition to, or in substitution of Judicial Members) would constitute a clear case of delusion and encroachment upon the independence of the judiciary, and the rule of law."*[38]

The Court has also categorically held that the service conditions of the members should be conducive to their role as an adjudicator who needs to discharge his duties in an independent and impartial manner. It has maintained that the adequate insulation from any legislative and executive interference must be provided in the process of appointments of the tribunal members as well as in the process to be adopted for their removal and transfers. The court had gone on to state that the qualifications and eligibility of persons to be appointed as members of the tribunal, as prescribed by the legislature must be amenable to review by the Constitutional courts.

In order to appreciate the gravity of the situation, it is significant at this juncture, to delve into the legislative scheme of conferment of powers to the Central government in determining the sitting of benches of the National Tax Tribunal Act, as an illustration. The Central Government had been authorized to notify the territorial jurisdiction for each bench, as well as to determine the constitution of the benches; the government could also cause transfers of Members[39] of one bench to another bench. The situation, as is reflected here, causes a potent conflict of interest since the central government happens to be a litigant or a stakeholder in

[37] (2010) 11 SCC 1
[38] (2010) 11 SCC 1
[39] Section 5(2), (3), (4) and (5) of the NTT Act

every matter that is triable by the NTT. If the government has any sort of administrative control over the judges, this shall definitely impinge upon a free and fair administration of justice at the hands of such Tribunal members. A similar situation of conflict is avoided in the case of the High Courts by granting this power and authority to the Chief Justice.

The Supreme Court of India has, in this context, held categorically in *Union of India* v. *R. Gandhi*[40]

> *"Vesting of the power of determining the jurisdiction, and the postings of different Members, with the Central Government, in our considered view, would undermine the independence and fairness of the Chairperson and the Members of the NTT, as they would always be worried to preserve their jurisdiction based on their preferences/inclinations in terms of work, and conveniences in terms of place of posting. An unsuitable/disadvantageous Chairperson or Member could be easily moved to an insignificant jurisdiction, or to an inconvenient posting. This could be done to chastise him, to accept a position he would not voluntarily accede to."*[41]

CONCLUSION

It is thus that a clear picture emerges about the demerits of the ongoing tribunalisation in India in terms of fair and neutral administration of justice. It is potentially clear that when the tribunals are being seen and are being projected as replacements for the high courts, they must be manned under a scheme which resembles that of the constitutional courts. It is with this comprehension that the statute of the members of the tribunals must match with the judges of the Constitutional courts in terms of manner and mode of appointment[42], security of tenure, transfers and removal in order to facilitate them for a fair administration of justice. Unless such an insulating cover is created around the tribunal members, the very idea of

[40] (2010) 11 SCC 1

[41] (2010) 11 SCC 1, para 81: The Court has categorically stated that *"Allowing the Central Government to participate in the afore-stated administrative functioning of the NTT, in our view, would impinge upon the independence and fairness of the Members of the NTT. For the NTT Act to be valid, the Chairperson and Members of the NTT should be possessed of the same independence and security, as the judges of the jurisdictional High Courts (which the NTT is mandated to substitute)". The Court declared the provisions to be unconstitutional on the ground that they do not "ensure that the alternative adjudicatory authority is totally insulated from all forms of interference, pressure or influence from co-ordinate branches of Government".*

[42] It is pertinent to note that Section 8 of the National tax Tribunal Act empowered the government to re-appoint the Chairperson/Members of the Tribunal for a further period of five years. The power, thus granted, would, by necessary implication, compel the Chairperson/members to decide matters in such a manner that would ensure the probability of their re-appointments.

projecting the tribunals as substitutes of the constitutional courts appears to be a wrongly placed one, the necessary casualty of which shall be reflected in terms of disgruntled litigants suffering owing to non-fair administration of justice. Further, the non-uniformity in the procedure(s) followed by the various tribunals also adds to the agony of the litigants, thereby shaking the faith of the masses in the scheme of administration of justice. The Supreme Court of India had also recommended the unification of all the tribunals in *L. Chandra Kumar* v. *Union of India* holding,

> *"[U]ntil a wholly independent agency for the administration of all such Tribunals can be set up, it is desirable that all such Tribunals should be, as far as possible, under a single nodal ministry which will be in a position to oversee the working of these tribunals……The creation of a single umbrella organization will, in our opinion, remove many of the ills of the present system. Such a supervisory authority must ensure that the independence of the members of all such Tribunals is maintained."*[43]

It is high time that proper legislative mechanism be devised to exercise an active and stringent supervision over all the tribunals functioning in various spheres so as to ensure uniformity and consistency in their functioning and administration of justice. The apprehension of Sir A.V. Dicey about the demerits of tribunalisation, in terms of the maintenance and sustenance of the rule of law, had not been misplaced. It is pertinent to recall that Sir Dicey had insisted on having a unified judiciary and had vehemently criticized the French system of '*Droit Administratiff*'. In the current tribunal system prevalent in India, the very protection of 'unified judiciary' is getting diluted which happens to be offensive to the spirit of the rule of law. It is, therefore, highly imperative that the entire tribunal system be overhauled and the existing lacuna be plugged in to make the system of administration of justice conducive to the interests of the masses.

[43] Supra note 28, *L .Chandra Kumar* v. *Union of India* (1997) 3 SCC 261 Ibid, para 96, p. 1155