

Tribunalising justice for the welfare of society in democratic India

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DESCRIPTION

The word 'Tribunalisation' refers to the increasing establishment of other adjudicatory bodies to decide the cases other than the Judiciary, which could exercise judicial powers. In other words, it is an assignment of adjudicatory functions to the governmental forum which is not a court of law. According to Justinian's 'justice' is a strong and constant will to give every person his due. With this view in mind, the framers of the Constitution have embodied the term 'justice' in the preamble of our Indian Constitution and gave it a supreme place. In common law, judicial functions were primarily performed by the ordinary law courts i.e. Civil and Criminal Courts. In India with the transformation from the Police State into the Welfare State, many technical problems arose for adjudication where the ordinary courts failed to deal with such problems. Most of these traditional courts were overburdened with cases and to overcome these difficulties, the lawmakers had adopted various measures. Among them, one is 'Tribunalisation of Justice', where the special tribunals decide the specific matters with the remedy of appeal to the higher judiciary (the Supreme/ High Courts) excluding the jurisdiction of traditional courts in such matters.

Reasons for Creating Specialized Tribunals

In the twentieth century, social legislatures had demanded alternate adjudicative bodies besides the traditional courts to get speedier, inexpensive, and handy justice for the supervision of welfare schemes. The reasons for creating specialized tribunals were modern social legislatures which required expert knowledge and experience of administration to decide many technical questions. In India, complexities caused by the industrial

revolution and all-around expansion of the governmental activities led to an increase in the problems in the administration and individual citizens due to which it was realized that different adjudicatory machinery was required to deal with the situation. Inconsequent, tribunals came into existence. The main purpose of the Legislature for creating tribunals was to implement certain policies as in the modern age of expertise it became difficult for judges to determine the technical facts. The modern-day Indian nation was born as a Welfare State due to which the pressure on the government was immense. Welfare of the public was the supreme task which required that disputes must be disposed of quickly and cheaply but the vast number of welfare legislation had burdened the traditional courts with more cases than they would able to be managed. Besides this, judicial courts dealt with cases by applying already settled legal principles and adopting objective standards that were not suitable to complex questions that arose in a modern society, which was to be resolved by taking into account the policy consideration and the public interest in which tribunals could play an effectual role. However, it was well-known that judicial proceeding was tardy, rigid, slow as well as costly. Moreover, the formality of the atmosphere in courts was not always conducive to the quick disposal of countless problems which modern administration generates. In many cases what was needed an informal environment, freedom from too highly structured and technical rules of procedure and evidence. It can also be said that dissatisfaction with the over-technical procedure of judicial courts towards social welfare laws led to the transfer of these functions to tribunals. Thus, various tribunals functioning at present were established under the different statutes to function corresponding to judicial Courts.