

Supreme Court strikes down provisions of Tribunal Reforms Act, directs Centre to establish National Tribunal Commission

SC says Centre 'tweaked' same provisions of a struck-down ordinance and reproduced it in Tribunal Reforms Act

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Representational view of the Supreme Court of India | Photo Credit: ANI

The Supreme Court on Wednesday (November 19, 2025) struck down provisions of the Tribunal Reforms Act of 2021, a law designed to alter the tribunal system and give the Union Government a dominant role in appointments and functioning, and even fixing the salaries of chairpersons and members.

“When Parliament designs or alters the tribunal system, it must do so in a manner consistent with the constitutional requirements of independence, impartiality, and effective adjudication. A law that undermines these foundational values, such as by enabling executive control over appointments, curtailing tenure arbitrarily, or weakening institutional autonomy, does not merely offend an ‘abstract principle’, it strikes at the core of the constitutional arrangement,” Chief Justice of India B.R. Gavai, heading a two-judge Bench comprising Justice K. Vinod Chandran, observed.

The Bench directed the Centre to establish the National Tribunal Commission in four months. It held the Commission was sorely needed as an “essential structural safeguard” to ensure independence, transparency, and uniformity in the functioning, appointment procedure, and administration of tribunals.

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Repackaged problematic ordinance

The Chief Justice termed the 2021 law a “repackaged version” of the Tribunal Reforms (Rationalisation and Conditions of Service) Ordinance. The law was enacted just days after the ordinance was struck down by the Supreme Court in a July 2021 judgment.

Justice Chandran separately added that the 2021 Act was “old wine in a new bottle, the wine whets not the judicial palate, but the bottle merely dazzles”.

The Bench said that Parliament had “ignored” the defects that the top court pointed out in the ordinance, and blithely transferred its provisions in a slightly altered form to the 2021 Act.

‘Legislative override’

Chief Justice Gavai concluded the Act was nothing but a “legislative override” of the binding Supreme Court judgment of 2021.

The CJI dismissed the argument of the Union government, represented by Attorney General R. Venkataramani, that Parliament had “discretion to ignore the decisions of the Supreme Court”.

Noting that judicial review of laws is a basic feature of the Constitution, the CJI said that by bringing the 2021 Act, the Parliament and the Centre had brushed aside the supremacy of the Constitution. The Bench quoted B.R. Ambedkar, who said that “if the

executive is honest in working the Constitution, it must act in accordance with the judicial decisions given by the Supreme Court”.

Constitutional requirements

The Bench reminded the Union government that the norms laid down by the Supreme Court regarding tenure, age limits, selection processes, qualifications, and the independence of tribunals from executive control were not merely abstract judicial preferences. They were constitutional requirements distilled from Articles 323-A and 323-B [establishment of tribunals] read with the doctrines of separation of powers, independence of the judiciary, and the guarantee of equality under Article 14.

“The Constitution is what the [Supreme] court says it is, not in the sense of aggrandising judicial authority, but as a necessary corollary of the court’s role as the final arbiter of constitutional meaning... Once the Supreme Court has struck down a provision or issued binding directions after identifying a constitutional defect, the Parliament cannot simply override or contradict that judicial decision by reenacting the very same measure in a different form. What Parliament may legitimately do is to cure the defect identified by the Supreme Court. It cannot merely restate or repackage the invalidated provision,” Chief Justice Gavai pointed out.

‘Sly revival’

The judgment was based on a batch of petitions filed, among others, by the Madras Bar Association and Congress leader Jairam Ramesh. They argued that the Act was a sly revival of the 2021 ordinance.

Mr. Ramesh had argued that the 2021 Act raised a serious threat to judicial independence by giving the government wide powers to make rules on the appointments, service conditions, salaries, etc, of members of crucial tribunals in which the Centre itself was the largest litigant. The petitioners had submitted that the 2021 Act was passed without parliamentary debate amidst ruckus in the House.

The 2021 Act had abolished at least nine specialised tribunals and Appellate Boards. Their functions were shifted to the State High Courts and commercial courts already reeling under a heavy workload. The tribunal system was put in place to relieve the courts, they noted.

‘Respect settled law’

Chief Justice Gavai observed that the government had enacted the 2021 Act, disregarding elaborate pronouncements made by multiple Constitution Benches on the importance of maintaining independence and transparency in the “constitution, composition, qualifications, conditions of service and functioning of tribunals” in the country. In fact, the Attorney General had wanted the case to be referred to a larger Bench even this time.

“Respect for settled law is as essential to good governance as it is to judicial discipline. It ensures that institutional time is spent in advancing justice rather than revisiting questions long resolved,” Chief Justice Gavai underscored.

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