TRIBUNAL INDEPENDENCE BEYOND ADJUDICATION: EVALUATING THE NATIONAL TRIBUNALS COMMISSION UNDER THE TRIBUNALS REFORMS ACT, 2026

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ABSTRACT

The Tribunals Reforms Act, 2026 represents the latest legislative response to a long-running constitutional dispute concerning the independence, administration and functioning of tribunals in India. The Act repeals the Tribunals Reforms Act, 2021 and establishes a National Tribunals Commission (NTC) entrusted with functions relating to tribunal appointments, performance review, disciplinary oversight and the National Tribunals Data Grid. This article argues that the constitutional significance of the 2026 framework lies not merely in the creation of a new coordinating institution, but in whether the institutional architecture of tribunal administration has been sufficiently insulated from executive influence. The article examines the composition and appointment of the NTC, the search-cum-selection mechanism for tribunal members, the role of the Central Government, the Commission's Secretariat, tenure and reappointment, and the relationship between administrative accountability and adjudicatory independence. It situates the 2026 Act within the Supreme Court's tribunal jurisprudence, particularly L. Chandra Kumar v. Union of India, Union of India v. R. Gandhi, Rojer Mathew v. South Indian Bank Ltd., and the 2025 decision in Madras Bar Association v. Union of India. The article concludes that the Act is a substantial structural improvement because it creates a permanent, judicially weighted institutional mechanism; however, the continuing role of the executive in appointments and administration means that institutional independence remains a matter of design and implementation rather than a completed constitutional achievement.

I. INTRODUCTION

Tribunalisation has become an enduring feature of Indian adjudication. Specialist adjudicatory bodies now determine disputes involving taxation, public employment, company law, securities, telecommunications, environmental regulation, debt recovery, consumer protection and several other fields. Their constitutional legitimacy, however, has never depended solely upon expertise or efficiency. Because tribunals perform adjudicatory functions, the institutional conditions under which they are constituted and administered must preserve independence, impartiality and access to justice.

The principal difficulty has been the executive's historical role in determining the composition, tenure, service conditions and administration of tribunals. The Supreme Court has repeatedly held that tribunalisation cannot become a device through which adjudicatory independence is diluted. In L. Chandra Kumar v. Union of India, the Court recognised the centrality of judicial review by constitutional courts. In Union of India v. R. Gandhi and subsequent Madras Bar Association decisions, the Court developed more specific safeguards concerning the composition, appointment and tenure of tribunal members.

The Tribunals Reforms Act, 2021 became the latest flashpoint. In Madras Bar Association v. Union of India, decided on 19 November 2025, the Supreme Court struck down provisions of the 2021 framework and directed the Union to establish a National Tribunals Commission within four months. The Court treated tribunal independence, separation of powers and effective adjudication as constitutional requirements rather than matters of legislative convenience.[1] Parliament responded with the Tribunals Reforms Act, 2026, which repeals the 2021 Act and creates the NTC.

This article does not attempt a general survey of every provision of the 2026 Act. Instead, it asks a narrower question: does the National Tribunals Commission provide sufficient institutional insulation from executive influence to satisfy the constitutional conception of tribunal independence? The argument advanced is that the Act marks a significant movement from fragmented executive administration toward institutionalised tribunal governance, but its success ultimately depends upon how the remaining executive powers are exercised.

[1] Madras Bar Ass'n v. Union of India, 2025 INSC 1330 (Nov. 19, 2025), paras. 142, 151–53.

II. CONSTITUTIONAL FOUNDATIONS OF TRIBUNAL INDEPENDENCE

Tribunals are not constitutionally equivalent to ordinary courts in every respect, but their adjudicatory character places them within the constitutional architecture of justice administration. Articles 323A and 323B expressly contemplate tribunalisation, while Articles 14, 21 and 50, together with the basic-structure doctrine, supply broader principles against which institutional design must be assessed.

The Supreme Court's jurisprudence demonstrates an evolution from accepting tribunals primarily as alternative adjudicatory forums to demanding safeguards that preserve their independence. L. Chandra Kumar held that the power of judicial review vested in the High Courts under Article 226 and in the Supreme Court under Article 32 forms part of the basic structure.[2] Tribunals may therefore supplement, but cannot completely replace, constitutional courts.

In R. Gandhi, the Court emphasised that when legislative functions are transferred from courts to tribunals, the new adjudicatory institution must possess conditions that are comparable in substance to those required for judicial independence.[3] The Court subsequently scrutinised short tenures, executive-dominated selection processes, inadequate judicial representation and service conditions that could make tribunal members dependent upon the executive.

The principle is structural. A tribunal member should not be placed in a position where the authority whose actions the tribunal may have to review can exercise disproportionate influence over the member's appointment, continuation in office, remuneration or administration. Independence therefore has both an adjudicatory dimension, freedom in deciding cases, and an institutional dimension, freedom in the system through which adjudicators are selected, supported and supervised.

III. THE 2025 MADRAS BAR ASSOCIATION JUDGMENT AND THE LEGISLATIVE RESPONSE

The 2025 judgment is the immediate constitutional background to the 2026 Act. The Supreme Court held that provisions of the Tribunals Reforms Act, 2021 reproduced defects that had

[2] L. Chandra Kumar v. Union of India, (1997) 3 S.C.C. 261 (India).
[3] Union of India v. R. Gandhi, President, Madras Bar Ass'n, (2010) 11 S.C.C. 1 (India).

already been identified in earlier tribunal cases. The Court rejected an approach in which previously invalidated arrangements could be reenacted with minor changes without curing the underlying constitutional defect.[4] It emphasised that the standards concerning appointment, tenure, service conditions and executive control were constitutional requirements.

Most importantly for present purposes, the Court directed the Union to establish a National Tribunals Commission. The Court described such a commission as an essential structural safeguard for independence, transparency and uniformity in the appointment, administration and functioning of tribunals.[5] The 2026 legislation therefore should be understood not as an isolated policy choice but as Parliament's institutional response to a constitutional dialogue extending over several decades.

The legislative objective is expressly framed in terms of efficiency, independence, transparency and uniformity. The 2026 Act establishes the NTC and gives it functions that extend beyond appointments. These include selection processes for tribunal vacancies, performance review, oversight of complaints concerning tribunal members and development of a National Tribunals Data Grid.[6] The breadth of these functions is significant because it moves tribunal administration away from a fragmented model in which individual tribunals are governed through separate statutory and executive arrangements.

IV. THE NATIONAL TRIBUNALS COMMISSION: STRUCTURE AND INDEPENDENCE

The NTC consists of a Chairperson, two Judicial Members and two Technical Members. The Chairperson must have been a Supreme Court Judge or a Chief Justice of a High Court. Judicial Members must have been Chief Justices or Judges of High Courts, while Technical Members require substantial experience in specified fields including public administration, finance, law, accountancy, banking, management or technology.[7] This composition gives the Commission a clear judicial majority while retaining technical expertise.

The judicial composition is a major improvement. A tribunal administration body cannot credibly safeguard adjudicatory independence if it is itself dominated by the executive branch.

[4] Madras Bar Ass'n v. Union of India, 2025 INSC 1330 (Nov. 19, 2025), paras. 126–42.
[5] Id. para. 152.
[6] Tribunals Reforms Act, No. 17 of 2026, §§ 3–4, 2026 (India).
[7] Id. § 3(3)-(4).

The presence of three senior judicial members reduces that risk. It also creates an institutional bridge between constitutional courts and specialised tribunals.

Nevertheless, judicial composition does not by itself establish complete independence. Appointments to the NTC are made by the Central Government, although appointments of the Chairperson and Judicial Members require consultation with the Chief Justice of India.[8] Consultation is an important safeguard, but it is not identical to judicial primacy in appointment. The constitutional question is therefore whether the combination of judicial consultation, judicial majority and statutory functions is sufficient to prevent executive dominance in practice.

The issue is especially important because the Commission is intended to become the institutional gatekeeper for the appointment and administration of tribunal members. If the NTC is independent, the architecture may substantially reduce executive influence over tribunals. If the NTC itself becomes administratively dependent upon the executive, the reform may merely relocate the point at which executive influence is exercised.

V. APPOINTMENT OF TRIBUNAL MEMBERS: A SHIFT IN THE BALANCE

The 2026 Act establishes search-cum-selection committees for tribunal appointments. The committee is headed by the NTC Chairperson when a tribunal Chairperson is selected and by a Judicial Member of the Commission when an ordinary member is selected. It also includes a Technical Member, a government secretary nominated by the Central Government, two expert members and the Commission Secretary. The expert members and Commission Secretary do not vote, while the committee Chairperson has a casting vote.[9]

This arrangement is significant because it gives the judicial side institutional control over the decisive stage of selection. The Central Government remains represented, but its representative does not possess an equivalent voting position. For each vacancy, the committee recommends one name and places another on a waiting list, and the Central Government is required to make the appointment within three months.[10]

The structure addresses two recurring weaknesses in tribunal administration: executive

[8] Id. § 5(1) .
[9] Id. § 13(2)-(5)
[10] Id. § 14(5)-(8)

dominance and prolonged vacancies. A selection process that is judicially headed can protect independence, while a statutory time limit can reduce the administrative delay that leaves tribunals without sufficient adjudicatory capacity. This is important because independence without functional capacity is of limited value to litigants.

Yet the appointment model leaves one unresolved question. The Central Government formally makes the appointment. Although the selection committee's structure substantially constrains discretion, the final executive act remains. The constitutional assessment should therefore focus on whether the appointment power is substantive or merely formal. If the government routinely respects the committee's recommendation, the remaining executive role may be compatible with institutional independence. If it becomes a mechanism for rejecting or delaying recommendations, the same provision could generate constitutional tension.

VI. THE SECRETARIAT AND THE PROBLEM OF ADMINISTRATIVE DEPENDENCE

The most under-discussed aspect of the NTC is its Secretariat. The 2026 framework provides for a Secretariat headed by a Secretary of the Central Government.[11] This arrangement presents a subtle institutional issue. A commission may have judicial members and judicially weighted selection committees while still depending upon the executive for its day-to-day administrative machinery.

Administrative support is not equivalent to executive control. Modern adjudicatory institutions necessarily require interaction with the government concerning finance, infrastructure, staffing and public administration. The constitutional concern arises when such dependence becomes capable of influencing adjudicatory or appointment-related functions. The relevant test should therefore be functional rather than formal: whether executive control over resources or personnel can materially affect the Commission's independent discharge of statutory responsibilities.

The NTC would be strengthened if future regulations clearly separate administrative assistance from decision-making authority. Rules concerning staffing, budgetary allocation, data governance, procurement and internal administration should preserve the Commission's ability to perform its core functions without informal executive direction. Institutional independence

[11] Id. § 8(1)-(5)

is most secure when the boundaries are predetermined rather than left to convention.

VII. TENURE, REAPPOINTMENT AND INDEPENDENCE

The Act provides a five-year term, subject to prescribed age limits, for the Chairperson and Members of the NTC and for tribunal leadership and membership under the statutory framework.[12] Longer and predictable tenure is consistent with the Supreme Court's concern that short appointments can create dependence. A member who faces frequent renewal may consciously or unconsciously consider the preferences of the appointing authority.

At the same time, reappointment raises a related concern. If continuation in office depends substantially upon an assessment made by the same institutional actors who participate in appointments, independence can be weakened. The solution is not necessarily to prohibit every possibility of reappointment. Instead, reappointment should be governed by transparent, objective and publicly knowable criteria, with performance assessment directed toward institutional competence rather than case outcomes.

The distinction is crucial. A tribunal member should be accountable for delay, misconduct, persistent administrative failure or breach of professional standards. A member should not be evaluated on whether the government or any litigating party agrees with the member's judicial reasoning. Performance review must therefore be designed so that accountability does not become a proxy for executive supervision.

VIII. ACCOUNTABILITY, DATA AND THE NATIONAL TRIBUNALS DATA GRID

The National Tribunals Data Grid is another important innovation. Centralised data on tribunal functioning can improve transparency concerning vacancies, pendency, disposal, workload and administrative performance.[13] This is particularly valuable in a tribunal system that has historically suffered from fragmented institutional information.

However, data-driven accountability must not be confused with judicial performance measured through crude disposal targets. Adjudication involves cases of different complexity, interlocutory proceedings, evidence-heavy disputes and questions requiring detailed reasoning.

[12] Tribunals Reforms Act, No. 17 of 2026, provisions concerning tenure and age limits, 2026 (India).
[13] Id. §§ 2(f), 4(d).

A system that rewards numerical disposal alone can create pressure inconsistent with decisional quality and independence.

The Data Grid should therefore be used primarily for structural accountability: identifying vacancies, resource shortages, regional disparities, delays attributable to administrative deficiencies and systemic patterns. It should not become a mechanism through which individual adjudicators are informally pressured to increase disposal rates or conform to executive expectations.

IX. HAS THE 2026 ACT ACHIEVED INSTITUTIONAL INDEPENDENCE?

The answer is necessarily qualified. The 2026 Act is a substantial improvement over the fragmented and executive-heavy model that generated repeated constitutional litigation. The NTC introduces permanence, judicial participation, specialised administration and a common institutional framework. The judicial majority in the Commission and the judicially headed search-cum-selection committees are particularly significant safeguards.

Yet independence is not produced merely by statutory labels. Three areas require continuing scrutiny. First, the Central Government retains formal appointment power over the NTC. Second, the Commission's Secretariat is integrated with the Central Government's administrative structure. Third, tribunal members remain within a system involving executive participation in appointments and administration. These features do not automatically render the Act unconstitutional, but they demonstrate that the constitutional question has moved from whether a National Tribunals Commission should exist to how independently it will actually function.

The Supreme Court's 2025 judgment provides the constitutional benchmark. Parliament was required to cure the defects that undermined tribunal independence, not simply rename or rearrange them.[14] The 2026 Act appears to respond materially to that requirement by creating an independent institutional layer rather than leaving each tribunal dependent upon executive departments. Its durability will depend on whether regulations, appointments and administrative practice respect the same constitutional purpose.

[14] Madras Bar Ass'n v. Union of India, 2025 INSC 1330 (Nov. 19, 2025), paras. 132–53.

X. CONCLUSION AND SUGGESTIONS

The Tribunals Reforms Act, 2026 should be viewed as an important stage in India's continuing attempt to reconcile specialised adjudication with constitutional judicial independence. Its central contribution is the institutionalisation of tribunal administration through the National Tribunals Commission. By giving the Commission a judicial majority and responsibility for selection, performance oversight and system-wide data, the Act addresses a structural weakness that could not be solved through isolated amendments to individual tribunal statutes.

Nevertheless, the Act should not be treated as the end of the tribunal-independence debate. First, appointments to the NTC should operate through a transparent process in which the constitutionally required consultation with the Chief Justice of India has meaningful effect. Second, regulations should expressly protect the NTC from administrative interference in selection, disciplinary and performance functions. Third, the Secretariat should have sufficient functional autonomy, including transparent arrangements for staffing and finances. Fourth, reappointment and performance assessment should be based on objective criteria that do not examine the substantive outcomes of judicial decisions. Fifth, the National Tribunals Data Grid should prioritise systemic transparency rather than numerical control of adjudicators.

Ultimately, the legitimacy of the tribunal system depends on more than efficiency. A tribunal may dispose of cases quickly and possess technical expertise, but if litigants perceive that its adjudicators are institutionally dependent upon the executive, public confidence in adjudication is weakened. The 2026 Act makes a serious attempt to prevent that outcome. Its constitutional success, however, will be measured not by the creation of the NTC on paper, but by whether the institution is allowed to exercise its statutory functions with genuine autonomy. Tribunal independence must therefore be understood as an institutional ecosystem covering appointments, tenure, administration, resources, accountability and adjudicatory freedom rather than as a guarantee attached only to the individual tribunal member.

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