

GREEN AND RAW: THE HINDU EDITORIAL ON 'TRIBUNALISATION' OF JUSTICE

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

The establishment of tribunals as adjudicatory bodies in specific fields is based on the idea that specialisation and expertise are required to decide complex cases of a technical nature. The 'tribunalisation' of justice is driven by the recognition that it would be cost-effective, accessible and give scope for utilising expertise in the respective fields. Central to this scheme is the principle that the 'experts' appointed to these tribunals should bring in special knowledge and experience. These criteria came under focus recently when the [appointment of former IAS officer, Girija Vaidyanathan, as Expert Member in the Southern Bench of the NGT](#), was challenged in the Madras High Court. Even though the court initially granted an interim stay on her appointment, it ruled that she was not ineligible, going by the criteria in the NGT Act. She was found to have fulfilled the eligibility requirements by virtue of her administrative experience of nearly five years in "dealing with environmental matters". The Act spells out two kinds of criteria — one based on qualifications and practical experience, and another on administrative experience in the field — and a candidate has to fulfil only one of them. For the first, a masters' or a doctorate in science, engineering or technology, with 15 years' experience in the relevant field, including five in environment and forests in a national level institution, is needed. The fields include pollution control, hazardous substance management and forest conservation.

On the other hand, the administrative experience criterion is shorn of detail, and merely stipulates 15 years' experience, of which five should have been in "dealing with environmental matters" in either the Centre or the State or any reputed institution. Even though Ms. Vaidyanathan's stint as Secretary, Environment and Forests, Tamil Nadu, and Chairperson of the State Pollution Control Board together amounted to only 28 months, the court accepted the contention that her tenure as Health Secretary should also be considered. The court also observed wryly that it is an entirely different matter whether administrative experience in the second criterion should be regarded as equivalent to "the real expertise" indicated in the clause on qualifications. The court rightly declined to interfere with the appointment, as the equivalence found in the rules falls under the domain of Parliament. At a time when the need, relevance and composition of tribunals are under judicial scrutiny, and the Centre itself has abolished some of them, it would be salutary if the government spelt out with clarity, as the court has suggested, the extent to which a bureaucrat's involvement in environmental matters could be regarded as equivalent to expertise. It should also show greater urgency in implementing earlier Supreme Court directions to constitute a National Tribunals Commission to supervise the appointment and functioning of tribunals.

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From the abrogation of the special status of Jammu and Kashmir, to the landmark Ayodhya verdict, 2019 proved to be an eventful year.

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