



THE TRIBUNAL SYSTEM IN INDIA (1996). By S.P. Sathe . N.M. Tripathi Pvt. Ltd Bombay Pp. Xiv + 264. Price Rs. 160.

IN COMMON law judicial functions were primarily performed by civil and criminal courts only. However in the modern world human activities have become so complex and complicated that there is need to have a variety of judicial functions to be performed which do not necessarily fit in within the traditional courts system of civil and criminal laws. Such circumstances in the modern world have necessitated the judicial functions to be performed by a variety of quasi- judicial bodies which are commonly known as “tribunals”. Tribunals are generally created to be specialised bodies manned by specialised persons who may not necessarily be judicial persons. One of the important objects of constituting tribunals is to provide for quick disposal of disputes. The advantage of tribunals is that normally they do not follow rigid procedure of C.P.C. and the Evidence Act. They generally provide for their own procedure or the procedure for trials is provided by the statutes which create them. Tribunals are not within the regular hierarchy of courts and are independent judicial or quasi-judicial bodies to provide justice to the disputant parties. For instance industrial tribunals are expected to resolve disputes between the employer and employees and accident claims tribunals are for providing compensation to the accident victims and their dependents, etc.

In the book under review<sup>1</sup> Sathe points out that there are in all 95 types of tribunals set up under 88 Central statutes.<sup>2</sup> Sathe rightly points that the tribunals have grown rather sporadically and there was heterogeneity in the statutory provisions regarding their composition, procedures, powers and provisions for appeal.<sup>3</sup> This reviewer is of the view that it is bound to be so because the very purpose of creating different tribunals under various statutes is to meet the needs of a variety of disputes in the modern world. In this book the author has tried to factually study the need, object, composition, procedures and powers of all types of tribunals in India and also to clarify the concepts of courts, judicial authority and quasi-judicial authorities in

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1. *The Tribunal System in India* (1996).
  2. *Id.* at 1.
  3. *Ibid.*



the form of tribunals. The author of the book finds that there is still a lot of confusion regarding the meaning of the word tribunal<sup>4</sup>. After having done a survey of all kinds of tribunals the author observes:

Why is a body called tribunal and not court? When to have a tribunal instead of a court? This study undertakes a critical examination of "tribunal" as a concept and tries to suggest criteria which distinguish it from the court on the one hand and quasi-judicial body on the other. It analyses statutory provisions with a view to indemnifying the types of tribunals, their powers, procedures, provisions for appointment of members, provisions for appeal etc.<sup>5</sup>

Tribunals are distinct from courts. They are appointed by the executive or the government for rendering justice as quasi-judicial bodies which are not supposed to be purely courts in order to render quick or speedy disposal of disputes. According to the former Chief Justice of India, Justice Y.V. Chandrachud:

Law is a growing science and with a marked change in the pattern of modern life, those who are not directly concerned with the practice of law are increasingly interested in the impact of law on the day to day life of the common citizen. A large number of Administrative Tribunals have grown over the years and it is a sad comment on the response of the executive, that many of these Tribunals are manned by persons who are ill-equipped to dispense justice through administrative forum.<sup>6</sup>

This reviewer is not in complete agreement with justice Y.V. Chandrachud. The reviewer is of the view that all kinds of tribunals are not merely administrative in nature, many are performing judicial or quasi-judicial functions. Moreover, it is not always true that justice can only be performed or delivered by judicial persons only. Rather the tribunals are over manned by judicial personnel. For instance for resolution of industrial disputes labour courts and tribunals are only manned by judicial persons who are unable to deliver and give quick-speedy disposal of disputes. There is an imperative need that law professors and experts in industrial relations should be appointed in industrial tribunals.

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4. *Id.* Preface.

5. *Id.*

6. *Id.* Forward.



All tribunals are appointed by the government as are the courts. However, while performing judicial functions they are supposed to be independent and impartial while performing their functions. In this context Frank's committee in England very succinctly remarked:

Tribunals are not ordinary courts, but neither are they appendages to government Departments.... We consider that tribunals should properly be regarded as machinery provided by parliament for adjudication rather as a part of the machinery of administration. The essential point is that in all these cases parliament has deliberately provided for a decision outside and independent of the department concerned either as first instance,... or on appeal from a decision of Minister.<sup>7</sup>

The book is written in lucid language. And it is a comprehensive study of all kinds of tribunals in India. The author has given a useful categorisation of tribunals into (i) single member tribunals with judicial chair-person; (ii) the family courts; (iii) single member tribunal without judicial person for instance the commissioner of payments; (iv) multi member tribunals with judicial presidents; (v) administrative tribunals under article 323 A of the Constitution; (vi) grievance redressal system under the Consumer Protection Act 1986; (vii) multi-member tribunals with non-judicial membership; (viii) domestic tribunals; (ix) arbitrators. And he has scholarly tried to compare the nature, functions, powers and procedures of the above categories of tribunals in India.

The author has very rightly pointed out that there seem to be reservations in the minds of many judges and lawyers about the desirability of using tribunals as alternative to the courts. He rightly believes that the creation of tribunals does not jeopardise the independence of judiciary. The tribunals can be very useful alternatives to courts and could facilitate access to justice.<sup>8</sup> This reviewer is of the opinion that given the scenario of the problem of pending cases before the courts in India that the alternative dispute resolution system of arbitration, conciliation and mediation are being advocated and encouraged, justice by tribunals is preferable to the alternative dispute resolution system.

The book has been nicely published in a flawless fashion with a moderate price. The book is highly recommended to the students of administrative law. The researchers in the field of law and administration

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7. *Id.* at 8, *Report of the Committee on Administrative Tribunals and Enquiries* (1969).

8. *Id.* at 221.



should take the advantage of the study to do further research in specified categories of tribunals given by the author in the study. It would certainly be an asset for the libraries of law and administration.

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