Chapter V
PUBLIC CORPORATIONS AND TRIBUNALS

Judicial control may also be exercised through control of public corporations by tribunals set up under the initiating Acts. These tribunals are again subject to further control by the law courts.

Control of Public Corporations by Tribunals

Before assessing the extent of control exercisable over public corporations by tribunals, it is necessary to state briefly the reasons for growth of tribunals and their types with special reference to administrative tribunals in India.

The complexities of modern civilisations, industrialisation of the community, and the abandonment in government of the principles of laissez-faire, have led to ever increasing encroachment by the State on the liberties of the individuals in the interest of the community, although this is not always opposed to the interests of the individual. An important aspect of this expansion of functions of the administration is the power of adjudication by administrative authorities. Normally, the courts are vested with the function of adjudicating upon disputes between two individuals or between

the State and an individual, and the Indian Constitution makes provisions for a well-ordered, and well-regulated, hierarchical judicial system, but it will be wrong to suppose that the courts enjoy a monopoly of the entire business of adjudication. Along with the courts, innumerable administrative bodies have been set up to carry on the function of adjudication in a variety of situations. These bodies, created by legislation, determine a variety of applications, controversies and claims. Sometimes, the task of adjudication is merely incidental to administration; sometimes, it is more than incidental and begins to assume a close resemblance with the work usually entrusted to the judiciary. This tendency of vesting adjudicatory functions in persons, bodies or institutions outside the regular law courts is becoming increasingly pronounced with the passage of time. This development has not yet exhausted its momentum; every day some new adjudicatory body is established for one purpose or the other, and, therefore the system of courts is becoming more and more significant and pervasive with the lapse of time. This trend is not only unique in India, but it has also been manifesting itself in England, the United States and practically in every democratic country.2

The main causes for the evolution of the system of

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adjudication outside the ordinary law courts are practically the same as have led to the emergence of the delegated legislation, viz., extension in governmental operations, activities and responsibilities because of the socio-economic changes which are taking place in the country. Along with the expansion in governmental operations, tax-base has also been widened resulting in the levy of new taxes, and consequently, leading to a vast proliferation of tax-assessing authorities. In such an environment, opportunities for dispute between the administration and individual citizens are considerable. Many of these disputes are comparatively trivial or repetitive and most turn on questions of fact, often of a technical kind. Clearly, if all were referred to the ordinary courts of law, those courts would soon become choked with business. In many of these disputes the point at issue or the individuals grievance is not merely a question of fact or of law; question of policy also have to be considered. The dispute may raise issues of public interest or even of conflicting public interests. Proceedings before the courts are expensive, though not so expensive as is sometimes alleged, and it may be considered in the public interest that a determination should be obtained cheaply. All this leads to entrusting the task of determining disputes to bodies (other than ordinary courts) which can have flexibility of approach.

The question of expertise is also an important factor. A judge is a generalist, while many cases arising out of the modern administrative process require an expert knowledge of particular subjects to which these cases relate. An expert may be in a better position to adjudicate upon such matters rather than a generalist lawyer judge in a regular court.

Some of the reasons, therefore, for entrusting adjudication of certain matters by the legislature to bodies other than the regular law courts are cheapness, accessibility, expedition, flexibility of approach, expertise, freedom from technicality, etc.

Sometimes, the adjudicatory body may be somewhat autonomous, and may not be an integral part of the administrative department vested with the implementation of the law and policy. Such a body may be termed as a "tribunal", but the word "tribunal" has no fixed connotation. In India it has a wide significance and include even a non-autonomous type of body because the word has been used in Article 136 of the Constitution of India, which gives a right to special leave to the Supreme Court from the decision of every court or tribunal, and it has been liberally interpreted by the Supreme Court. But using the term "tribunal" in the strict sense it is found that in Indian administrative law there are only very few bodies of the autonomous character.
There also exists a number of domestic tribunals set up by the statute. These have no direct relation with the administrative department but have regulatory jurisdiction over various professions or interest.\(^4\)

Consequently, in modern legislation where it is anticipated that a dispute may arise between government agencies or between a government agency and a private individual, provision is often made for that dispute to be heard and determined, not by the ordinary courts of law, but before an administrative tribunal.

One learned writer\(^5\) while discussing the system of administrative tribunals in India states thus:

"There are a large number of laws which charge the executive with adjudicatory functions and the authorities so charged are, in the strict sense, administrative tribunals. Administrative Tribunals are agencies created by specific enactments to adjudicate upon controversies that may arise in the course of the implementation of the other substantive provisions of the relevant enactments. Unlike the courts which are part of the traditional judicial system of a country, the jurisdiction of administrative tribunals is not general but


specific. The courts known to Anglo-Saxon jurisprudence would entertain for adjudication suits ranging from a simple claim for recovery of debt to complicated issues of law and facts not excluding the "vires" of legislation. Administrative Tribunals would accept for adjudication only controversies of a specific nature arising under particular enactments excluding from their purview issues regarding the validity or the basic concepts of the relevant enactments, and stipulating as a precondition acceptance of the enactment, though it be under protest. Administrative Tribunals are not bound by the elaborate rules of evidence or procedure that govern the ordinary courts, and they are only required to adhere to the procedure prescribed by the relevant law, and observe the rules of 'natural justice', of ordinary procedure and fairplay.

The same learned writer succinctly points out the relevant reasons for the growth of administrative tribunals to be

(1) the fact that judicial process is slow and expensive;
(2) the none too concealed reluctance of a precedent bound conservative judiciary to look forward instead of backward particularly in matters relating to socio-economic readjustments by legislation resulting in the adoption of legislative devices to exclude their jurisdiction and creation of specialised tribunals;
(3) the growing recognition of the undesirable need for government to intervene and regulate activities in various fields which till recently were believed to be best left to self-regulating social and economic mechanisms.

(4) the increasing recognition by Legislatures that in a dynamic process of change it would hamstrung progress if the Legislatures should endeavour to foresee and provide in detail for all possible situations; and ....

(5) the persistent demand for fair procedure, and reduction of whimsicality arising from the enlargements of the regulatory and adjudicatory powers of the executive and limitation of judicial review.

U. K.

In the U.K. tribunals have been set up for hearing complaints against medical practitioners in the National Health Service, for challenging assessments to income-tax, for determining disputes about the value of land compulsorily acquired for public purposes, for hearing applications for licences to operate aircraft for reward, for appealing against compulsory detention in hospitals on the ground of mental disorder, for determining the rent to be paid for the letting of dwelling accommodation, for determining entitlement to redundancy payments, and for many other matters. 6

India

In India, the administrative tribunals include various industrial tribunals, various compensation tribunals, Tax Appellate Tribunal, Motor Accident Claims Tribunal, the Railway Rates Tribunal, Foreigners Tribunal, Unlawful Activities Tribunal, etc. The quasi-judicial powers are also exercised by various boards e.g. the Copyright Board, the Central Board of Indirect Taxes under the Customs Act, 1962. The same is also true of the various authorities e.g. Chief Settlement Commissioner, the Settlement Commissioners, the Settlement Officers under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, etc.

For the purpose of the present study, we shall confine ourselves only to special tribunals which have been set up by some of the Acts initiating public corporations in India to deal with certain matters connected with that particular corporation.

In the U.K. Parliament set up administrative tribunals to decide claims by present or former employees whose position was injured by nationalisation and also a number of specially constituted arbitration tribunals to determine various types of dispute in matters where nationalisation may have affected private interests of different kinds.

In India, section 25 of the Air Corporations Act provides for a tribunal constituted by the Central Government for determining compensation. Section 17(1) of the Life Insurance Corporation Act empowers the Central Government to constitute, for purposes of the Act, one or more tribunals. The Employees' State Insurance Act provides for two types of tribunals: (a) Employees' Insurance Courts and (b) Special tribunals. The Employees' Insurance Courts are to be established by the State Government for specified local areas to deal with questions and claims specified in section 75. And if any question, or dispute arises in respect of the Employees' special contribution payable or recoverable and there is no Employees' Insurance Court having jurisdiction to try such a question or dispute, special tribunals will be set up by the Central Government to deal with such question or disputes.

The public corporations, as we have seen in the previous chapters, are subject to the general law of the land so far as their rights and liabilities in contract and tort are concerned. They and their officers can be prosecuted for offences which they commit against the criminal law. Here we shall see as to how far and in what way the tribunals, which have been set up by the Acts creating the public corporations in India, exercise their control over them.

9. Section 74(1).
10. Section 73(8).
The Air Corporations Act, 1953 establishes two public corporations, namely, the Air India International and the Indian Airlines. It nationalised the air transport companies carrying on the business of passenger traffic, and vested the business as well as the assets of the nationalised undertakings in the two corporations. The Act constituted a tribunal for the settlement of amounts of compensation to be paid to the companies whose business had been taken over by the corporations.\textsuperscript{11} In the first place, the amount of compensation was determined by the corporation with the approval of the Central Government. If any air company did not accept the compensation, the matter was to be referred to the appropriate tribunal.\textsuperscript{12} The tribunal\textsuperscript{13} comprised of three members, of whom at least one was to be an ex-Judge of the Supreme Court or a High Court or a then existing Judge of a High Court, and one was to be a person having special knowledge of matters relating to the enquiry. The tribunal had the power of a civil court under the Code of Civil Procedure for the purposes of summoning and enforcing attendance of witnesses, examining them on oath; ordering discovery and compelling production of documents; receiving evidence on affidavit; and issuing commissions for the examination of witnesses and documents. Besides, the tribunal

\textsuperscript{11} See section 25 and 26.
\textsuperscript{12} Section 25(3).
\textsuperscript{13} Section 26(1) and (2).
had been given power to decide its own procedure. A tribunal could review its own decision in case of an error found on the face of record or a clerical error. It decided all matters within its competence in accordance with the majority opinion of the members. The decision of the tribunal within its jurisdiction was to be final and not challengeable in any court. There was no provision of appeal against the decision of the tribunal. It is evident from the various provisions relating to the composition of the tribunal and its powers that the tribunal was an autonomous body.

The Life Insurance Corporation Act, 1956, created a tribunal for deciding upon the question of adequacy of compensation to be given to the insurers whose business in life insurance was taken over by the Life Insurance Corporation. Under the Act, there could be one or more tribunals for the purpose of the Act. The composition of the tribunal was similar to that of the tribunal constituted under the Air Corporations Act, 1953. It consisted of three members, one of whom was required to be an ex-Judge of the Supreme Court or a High Court or a then existing Judge of a High Court and the judicial member acted as chairman of the tribunal. The tribunal could choose one or more persons with technical knowledge to assist it in the decision of a matter. It decided all matters within its competence and was invested with the powers of a civil court.

14. Section 26(3)(a) (b) (c) (d) and 26(4).
15. Section 17(1) and (2).
under the Code of Civil Procedure for the purposes of summoning and enforcing attendance of witnesses, examining them on oath, ordering discovery and compelling the production of documents; receiving evidence on affidavit; and issuing commissions for the examination of witnesses and documents. Further the tribunal had the power to regulate its own procedure. The tribunal could review its own decision, if there was any error apparent on the face of the record, and could also rectify any arithmetical or clerical error in its order. The procedure for determining the compensation was the same as in the case of the Air Corporations. The amount of compensation was to be determined by the Corporation with the approval of the Central Government. In case this amount was not acceptable to the insurer, he could have the matter referred to the appropriate tribunal constituted under the Act. Once a reference was made, the tribunal acquired jurisdiction to proceed with the case.

The Employees' State Insurance Act, 1948

The Act creates the Employees' State Insurance Corporation for administering the scheme of health insurance for the benefit of industrial workers. It also provides for establishment of Employees' Insurance Courts by the State Government to decide disputes and adjudicate on claims about

16. Section 17(3)(a) (b) (c) (d) and section 17(4).
17. Section 16(2).
various matters under the statute. Where no such court has been
set up, the Central Government may empower a competent authority
to decide the liability of an employer to pay an extra contribution
for keeping a work place in unhygienic conditions. The
Central Government in superseding the corporation, and the
Employees' Insurance Courts, set up by the State Governments,
and the competent authorities, designated by the Central
Government, are required to act judicially in exercising their
powers under the Act.

Employees' State Insurance Courts

The Court consists of one or more judges from among
persons who were or have been judicial officers, or have been
legal practitioners for five years. The jurisdiction of a civil
court has been barred in the matter falling within the jurisdiction
of the Employees' Insurance Court, but persons contravening
any provision of the Act may be prosecuted in a criminal court.

An Employees' Insurance Court decides for the purposes of the
Act whether a person is an employer and is liable for paying
contribution, and whether a person is, or was, a principal
employer. It also adjudicates upon disputes relating to the
average daily wage of an employee or the rate of wages, the

18. Sections 74 to 83 deal with adjudication of disputes and
claims. See Fuchs-Jagannadham, "Claims Determination and
Hearing Procedure under the Employees' State Insurance Act",
19. Sections 69 and 73 B.
20. Sections 74, 75(3).
contribution payable by an employer, the claim for a benefit, and quantum and duration of any benefit; an order of the Corporation revising a previous order for payment of disablement or dependants benefit, the actuarial present valuation for a periodical payment; and other matters which arise between a principal employer and an immediate employer, between an employee and a principal or an immediate employer, between a principal employer and the Corporation, and the Corporation and any person, in so far as the matter concerns any contribution, benefit or other dues payable or recoverable under the Act. The Employees' Insurance Court also decides upon claims for recovery of contribution from the principal employer; claims by principal employer to recover contribution from immediate employer; claims of the Corporation to recover certain damages from an employer, or right of the Corporation to be indemnified in certain cases; claims for recovery of certain amounts from a negligent or defaulting principal employer; claims of the Corporation for recovery of any benefit received by any person to which he is not entitled, and any other claim for the recovery of any benefit admissible under the Act.21

The proceedings before an Insurance Court commence by an application in the prescribed form. The application is presented to the Insurance Court having jurisdiction over the

21. Section 75(1) (2).
place where the dispute arises. All claims must be made within twelve months from the date on which they become due. The Insurance Court, however, is empowered to relax the period of limitation, but there must be sufficient materials on the record to justify the admission of a time barred petition. An Insurance Court\(^2\) is a civil court for the purpose of section 195 of the Criminal Procedure Code\(^2\), and it has all the powers of a civil court in the matter of summoning and examining witnesses on oath, recording evidence, and directing production of documents. It follows a prescribed procedure and the party before it is entitled to be represented by a legal practitioner, an officer of a registered trade union or with the permission of the court, any other authorised person. An Insurance Court has also the power to award costs at its discretion in a proceeding before it, and its order is enforceable as a decree of a civil court.\(^2\)

The decision of an Insurance Court on a question of fact is final.\(^2\) Any order of the court involving substantial question of law is appealable to the High Court. An appeal to the High Court must be made within sixty days from the date of the Insurance Court's order, but the appellate court may relax this period of limitation for sufficient reasons. The High Court, pending the disposal of an appeal before it, is empowered

\(^{22}\) Employees' State Insurance Act, section 78(1).
\(^{23}\) 1898 (V of 1898).
\(^{24}\) Sections 76, 77, 78, 79.
to stop the payment of benefits in pursuance of the decision of the Insurance Court. An Insurance Court has also power to submit any question of law for the decision of the High Court, and decisions of the High Court are binding on the Insurance Court. An Insurance Court is also subject to the writ and supervisory jurisdictions of the High Courts and the Supreme Court.26

It may also be pointed out here that under the Employees' State Insurance (General) Regulations, 1950, the question whether an employee has become permanently disabled is referred to the appropriate Medical Board for decision. The Board's decision is administrative in nature, but the Regulation provides for an appeal against a decision of the Board to a tribunal constituted by the appropriate State Government and the function of the tribunal is judicial. The tribunal is composed of a single judicial member who is not a judge of the Insurance Court, and he is assisted by assessors from medical profession and trade unions.27 The decision of the tribunal is final, but it is subject to the writ and supervisory jurisdictions of the High Courts and the Supreme Court.

Concluding Remarks

A basic problem connected with the above administrative

26. Sections 81-83.
tribunals is that of fair hearing. In the U.K., this problem was examined by the Franks Committee which pointed out that to achieve a satisfactory standard of working, the tribunals should have fairness, openness and impartiality. In India, even though the tribunals established under the Acts creating the public corporations have the power to regulate their own procedure, this problem has been solved to some extent by vesting in them the powers of civil courts in regard to certain matters.

The Acts creating the tribunals, as we have already seen, states that every tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence. The Employees' State Insurance Act assigns special dignity to the Insurance Courts by providing that the Employees' Insurance Court "shall be deemed to be a Civil Court within the meaning of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898)." Though the Air Corporations Act and the Life Insurance Corporation Act do not contain such clear provisions, the implication appears to be the same.


29. Employees' State Insurance Act, section 78(1), Life Insurance Corporation Act, section 17(3), Air Corporations Act, section 26(3).

30. Employees' State Insurance Act, section 78(1).
Having examined the control of public corporations by tribunals, we may now proceed to deal with the control of these tribunals by the law courts.

**Control of Tribunals by Law Courts**

We have seen in the foregoing analysis that the development of various administrative tribunals has become a modern necessity since that has a distinct advantage over the ordinary courts in that these tribunals ensure cheapness, accessibility, freedom from technicality, expedition and expert knowledge of their particular subject. "The Franks Committee observed that if Parliament left a matter to be decided by a tribunal, instead of leaving it to a minister or to a government department, it must have been to emphasise the fact that tribunals were independent bodies and not parts of a government department and to promote good administration. The Committee said that three characteristics should mark the adjudication by a tribunal, namely, openness, fairness and impartiality. In considering provisions for appeals, the Committee rejected the proposal of Prof. Robson for the establishment of a general administrative Appeal Tribunal. First because such a tribunal would provide appeals from an expert tribunal to a comparatively inexpert body, secondly because the unifying control of the superior courts had firmly established itself and a case was not made out for a change, and lastly because final determination on points of law by tribunals of equal authority would give rise
to two systems of law, "with all the evils attendant on this dichotomy". They rejected a proposal to provide an appeal to the Administrative Division of the High Court on the ground that there also appeals would be from expert tribunals to an inexpert general appellate body. The Committee recommended that appeal on a point of law should lie to the High Court. Most of the recommendations of the Franks Committee were adopted by government (of the U.K.) and embodied in the Tribunals and Enquiries Act, 1958. 31

It should be noted that administrative tribunals in India are not bound by the elaborate rules of evidence or procedure that govern the ordinary courts, and they are only required to adhere to the procedure prescribed by the relevant law and observe the rules of 'natural justice', of ordinary procedure and fairplay. Decisions of administrative tribunals are not reviewable by courts on merits and reviewable only on grounds like (a) lack or excess of jurisdiction (b) failure to adhere to principles of natural justice of fair hearing (c) bias (d) error apparent on the face of the record and (e) failure to observe the prescribed procedure. Judicial opinion is divided whether the courts should intervene if the decision is 'clearly erroneous'. The demand that courts should intervene if the decision is not supported by 'substantial evidence' has not yet

found judicial acceptance. The Supreme Court of India has, however, intervened in cases where they considered that there was no evidence at all (vide the Union of India v. Sri H.C. Goel). As in England, the problem of keeping tribunals efficiently under the control of the ordinary courts has attracted the attention of jurists in India. The Law Commission of India which submitted its Fourteenth Report in 1958, presented the problem in the following words:

"The number of Indian statutes which constitute administrative authorities, purely administrative and quasi-judicial, is legion. Some of these affect valuable rights of the citizen and impose onerous obligations upon parties. These may be broadly classified as our revenue and taxation laws, labour laws and land laws. Some of them provide no right of appeal or revision even to higher administrative authorities. Others confer right of appeal and revision but these lie to the higher administrative authority and not to any judicial authority. It is only in a few cases that we find an ultimate appeal or revision given to a court of law. Finally, in a number of statutes care is taken to exclude in express terms the appearance of lawyers before the administrative bodies and to bar the courts from entertaining any appeal or revision.

It is surprising that duties of customs should be levied on sea and land frontiers under laws which leave not only the determination of the duty but the levy of penalties of confiscation and fine to administrative officers and provide an appeal and revision to superior officers, prescribing no procedure whatever for the hearing of these appeals and revisions. Not infrequently under these Acts, the citizen is subjected to heavy penalties without any opportunity of a review by a judicial authority in matters of a clearly quasi-judicial nature.34

Against the above background we may now deal with the control of tribunals by the law courts.

The modern history of courts' control over tribunals may be said to begin with the setting up of the Supreme Court in Calcutta under the Regulating Act, 1773. Besides, as early as 1793, while stressing the need for uniting revenue functions with certain adjudicatory powers, Cornwallis, in one of his minutes, had also recognised the desirability of devising means to prevent the revenue officers from misusing their powers. The jurisdiction of the Supreme Court being confined to the presidency town, it became necessary to evolve new devices to prevent the "autocrats" from becoming "tyrants". These devices were forged in the form of references, revisions, appeals and alternative suits before civil courts, and even by designating civil courts

to act as tribunals.\textsuperscript{35} In subsequent years legal training and judicial experience came to be required as a condition for appointing a member of a tribunal. After the establishment of High Courts under the High Courts Act, 1861, the sphere of courts' control continued to extend steadily and the present Constitution of India further amplifies this sphere of control.\textsuperscript{36}

The courts contemplated by the Constitution of India are the subordinate courts, the High Courts and the Supreme Court. The subordinate courts include District and Sessions Judges, Additional, Joint or Assistant District and Session Judges and Sub-Judges, munsifs, magistrates of the first and second and third classes and provincial small cause courts. A presidency town has, however, city civil and sessions court, court of small causes, and presidency magistrates. Each State has a High Court with original and appellate jurisdictions. In certain parts of the country there are also Judicial Commissioners who exercise all the powers of a High Court within the area of their jurisdiction. The Supreme Court has both original and appellate powers, and it is the highest court of the land.

The avenues through which the courts extend their control over tribunals, as one learned writer points out, "vary


from the subtle influences arising out of the prescription of tribunal procedures in close conformity with that of the courts and the appointment of a member of the courts as the member of a tribunal to the direct methods of alternative suits, petitions, references, revisions and appeals in courts".

According to the same learned writer, the various methods of control which the courts operate in relation to tribunals may be termed as the "institutional", "constitutional", "general law" and "constitutive law" methods. The "institutional methods" include all the elements of legalism injected into the adjudicatory system of tribunals by prescribing procedural laws approximating to the provisions of the Code of Civil Procedure, by relying upon judges of the courts or the courts themselves for constituting tribunals, or by requiring legal experience and training for members of tribunals. "Constitutional methods" refer to the remedies under the Constitution which a High Court or the Supreme Court is competent to give in relation to matters adjudicated upon by tribunals. "General law methods" include remedies which in a country like England are referred to as equitable or common law remedies. As in this country we have only statutory remedies, a distinction has to be drawn between remedies under such statutes of general application as the Specific Relief Act, 1963, the Criminal Procedure Code, 189837,

the Code of Civil Procedure, 1908, and the remedies contemplated by the statute providing for the constitution of a tribunal, which have been grouped under "constitutive law methods".\textsuperscript{38}

However, here, we shall devote ourselves only to a general discussion of the courts control over tribunals with special reference to those set up by the Acts initiating the public corporations rather than by references to different methods as mentioned above.

To start with, the proceedings of the tribunal must conform to the procedure specified by the statute, otherwise, a higher court can quash them as being invalid. As an instance, mention may be made of a dispute in which the Life Insurance Corporation tribunal was involved. Section 16 of the Life Insurance Corporation Act, 1956, lays down that if the amount of compensation offered to the insurer\textsuperscript{39} is not acceptable to the insurer "he may ..... have the matter referred to the tribunal for decision". In August, 1957, the Andhra Insurance Company Ltd. made an application to the tribunal for an order for re-assessment of the compensation payable to it. The tribunal dismissed the insurer's application and declared that under section 16 of the Act an insurer had no right to approach the tribunal directly for deciding any dispute with the Corporation regarding the

\textsuperscript{38} M.M.Singh, \textit{op. cit.}, p. 220.

\textsuperscript{39} An "insurer" as defined in the Insurance Act, 1938, means an insurer who carries on life insurance business in India (Life Insurance Corporation Act, section 2(6)).
amount of compensation, but had to move the Corporation to make a reference of the dispute to the tribunal. This aspect was examined by the Supreme Court during the hearing of the appeal and in *Hindusthan Ideal Insurance Co. Ltd. v. Life Insurance Corporation of India*\(^{40}\), the Supreme Court stated that "the proceedings before the tribunal were misconceived because the only way in which they could be initiated was by a reference by the Corporation and there was no such reference". All the proceedings before the tribunal were quashed.

The question of the finality of the tribunals' hearing is of considerable significance. The Air Corporations Act states that "the decision of the tribunal on any matter within its jurisdiction shall be final.\(^{41}\) The Life Insurance Corporation Act lays down that "no civil court shall have jurisdiction to entertain or adjudicate upon any matter which a tribunal is empowered to decide or determine".\(^{42}\) A similar provision is embodied in the Employees' State Insurance Act.\(^{43}\)

In *K.S. Venkataraman & Co. v. State of Madras*\(^{44}\), the Supreme Court held that if a statute imposes a liability and creates an effective machinery for deciding questions of law or fact arising in regard to that liability, it may, by

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40. A.I.R. (1963) S.C. 1083 (As the Andhra Insurance Company Ltd. amalgamated with the Hindusthan Ideal Insurance Company Ltd., the latter company was substituted as the appellant).
41. Air Corporations Act, section 26(4).
42. Life Insurance Corporation Act, section 41.
43. Employees' State Insurance Act, section 75(3).
44. (1966) 2 S.C.A. 571.
necessary implication, bar the maintainability of a civil suit in respect of the said liability. The Court held that a statute may also confer exclusive jurisdiction on the authorities constituting the said machinery to decide finally a jurisdictional fact thereby excluding by necessary implication the jurisdiction of a civil court in that regard, but an authority created by a statute cannot question the vires of that statute or any of the provisions thereof whereunder it functions. The Court stated that such an authority must act under the statute and not outside it and if it acts on the basis of a provision of a statute which is ultra vires, to that extent it would be acting outside the statute. Statutes imposing final jurisdiction on tribunals do not, however, affect the powers of the High Courts and the Supreme Court to issue the writ of certiorari and other appropriate writs, orders or directions. The jurisdiction of the Supreme Court to grant special leave under Article 136 of the Constitution is also not in any way affected.

In this connection it is desirable to deal with the power conferred by Article 136 on the Supreme Court.

**Article 136**

Before the inauguration of the present Constitution, the Privy Council was empowered to grant special leave from any civil or criminal matter decided by any court in India. Article
136(1) vests in the Supreme Court overriding and extensive powers of granting special leave to appeal. The extent of this jurisdiction was considered by Mahajan J. in Bharat Bank Ltd. v. Its Employees. He stated that the opening non obstante clause emphasised the fact that the power there conferred overrode the limitations contained in the previous Articles on the court's power to entertain appeals. As the word "final" was not used to qualify the words "orders, judgement, etc.", the court had power in appropriate cases to grant special leave even in respect of interlocutory orders. Whereas the Privy Council could grant special leave to appeal from sentences, judgements, decrees or orders of any court of justice within any British colony or possession abroad, the Supreme Court can grant special leave against orders etc. of any court or tribunal in the territory of India. However, in view of Article 136(2) special leave cannot be given from decisions etc. of tribunals constituted for the Armed Forces.

Discussing the scope of Article 136, Mahajan C.J. said in Dhakeshwari Cotton Mills Ltd. v. C.I.T.:

"It is not possible to define .... the limitations on the exercise of the discretionary jurisdiction vested in this

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47. (1955) 1 S.C.R. 941.
court by ........... Article 136. The limitations, whatever they be, are implicit in the nature and character of the power itself. It being an exceptional and overriding power, naturally it has to be exercised sparingly and with caution and only in special and extra-ordinary situations. Beyond that it is not possible to fetter the exercise of this power by any set formula or rule...... the Constitution having trusted the wisdom and good sense of the Judges of this Court in this matter, that itself is a sufficient safeguard and guarantee that the power will only be used to advance the cause of all justice and that its exercise will be governed by well established principles which govern the exercise of overriding constitutional powers ........... however, when the court reaches the conclusion that a person has been dealt with arbitrarily or that a court or tribunal.......has not given a fair deal to a litigant, then no technical hurdles of any kind like the finality of finding facts or otherwise can stand in the way of the exercise of this power because the whole intent and purpose of this Article is that it is the duty of this court to see that injustice is not perpetuated or perpetrated by decisions of courts and tribunals because certain laws have made the decisions of these courts or tribunal final and conclusive".48

However, it should be noted, that the scope for invoking Article 136(1) is limited. The proposed appeal must

not be against a purely administrative or executive order
and the said determination or order must have been made or passed
by any court or tribunal.\footnote{49} These requisites stipulate that the
act complained against must be quasi-judicial or judicial in
nature and the authority whose act is complained against must
be a tribunal or court.

The Supreme Court of India has entertained many appeals
by special leave under Article 136(1) from tribunals in matters
concerning public corporations. The following appeals against the
order of the Life Insurance Corporation Tribunal, Nagpur may be
given as examples: \textit{Hindusthan Ideal Insurance Co. Ltd. v. Life
Insurance Corporation of India}\footnote{50}, \textit{Neptune Assurance Co. Ltd. v.
Life Insurance Corporation of India and Anr.}\footnote{51}, \textit{National Insurance
Co. Ltd. v. Life Insurance Corporation of India and Anr.}\footnote{52}, \textit{Dr. A. Lakshamanan-
swami Mudaliar & Ors v. Life Insurance Corporation of India and
Anr.}\footnote{53}, \textit{National Insurance Co. Ltd. v. Life Insurance Corporation
of India}\footnote{54}, \textit{The General Assurance Society Ltd. v. The Life
Insurance Corporation of India}\footnote{55} and \textit{Damji Valji Shah and Anr. v.
Life Insurance Corporation of India and Ors.}\footnote{56} There have also

\footnote{49. \textit{Engineering Mazdoor Sabha and Anr. v. Hind Cycles Ltd.,
A.I.R. (1963) S.C. 874.}}
\footnote{50. A.I.R. (1963) S.C. 1083.}
\footnote{51. A.I.R. (1963) S.C. 900.}
\footnote{52. A.I.R. (1963) S.C. 1171.}
\footnote{53. (1963) Supp. 2 S.C.R. 887.}
\footnote{54. A.I.R. (1963) S.C. 1911.}
\footnote{55. (1964) 5 S.C.R. 125.}
\footnote{56. (1965) 3 S.C.R. 665 (vide also Life Insurance Corporation of
by special leave from the order of the Life Insurance Tribunal,
Bombay.}
been appeals by special leave from the Labour Court, Industrial Tribunal, etc. in connection with public corporations e.g.,
P.D. Sharma v. State Bank of India,\footnote{(1968) 3 S.C.R. 91.}
appeal by special leave from the order of the Labour Court, Lucknow (Central);
Nityananda M. Joshi & Ors. v. Life Insurance Corporation of India & Ors.,\footnote{(1970) 1 S.C.R. 396.}
appeals by special leave from the order of the Central Government Labour Court, Bombay; State Bank of India v. Nanak Chand Jain,\footnote{(1964) 5 S.C.R. 621.}
appeal by special leave from the order of the Central Government Labour Court at Delhi; State Bank of India v. R.K. Jain and others,\footnote{A.I.R. (1972) S.C. 136.}
appeal by special leave by the State Bank of India against the award dated April 7, 1967 of the Industrial Tribunal, Chandigarh, setting aside the order of the appellant, discharging the services of the first respondent and directing his reinstatement with full back wages; Damodar Valley Corporation v. Workman,\footnote{A.I.R. (1973) S.C. 2292.}
appeal by special leave where the question for consideration was the correctness of the award of construction allowance to the operational staff.

Though the power of the Supreme Court under Article 136 cannot be defined with exactitude, yet the essential pre-requisites for its interference to correct the decisions of

\footnotesize{57. (1968) 3 S.C.R. 91.  
59. (1964) 5 S.C.R. 621.  
61. A.I.R. (1973) S.C. 2292.}
the tribunals can generally be grouped under the following categories: (1) the tribunal has acted in excess of the jurisdiction conferred on it under the law creating it or fails to exercise apparent jurisdiction; (2) the tribunal has acted illegally; (3) there is an error of law; (4) the tribunal has erroneously applied well accepted principles of jurisprudence; (5) the order of the tribunal is erroneous; (6) the tribunal has acted against the principles of natural justice; or has approached the question in a manner likely to result in injustice, e.g., it has denied a hearing to a party, or has refused to record his evidence, or has acted in an arbitrary or despotic manner or has not given a fair deal to a litigant.

The above categories of grounds when the Supreme Court entertains appeals under Article 136 are merely illustrative and not exhaustive. Generally the main consideration on which the Supreme Court acts under Article 136 is that it is its duty to see that injustice is not perpetrated by the

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tribunals. Hence leave to appeal may be granted when the order of the tribunal in question raises some important questions of law or when the tribunal's decision is unreasonable and is the result of the failure of the tribunal to take into account the necessary relevant facts.

In an appeal under Article 136, the propriety or correctness of the findings of fact by a tribunal are ordinarily not allowed to be challenged; the Supreme Court would not entertain the argument that the findings of fact are erroneous or are based on a misappreciation of the evidence by the tribunal in question. The court's attitude towards these findings is to concern itself with seeing whether a tribunal of reasonable and unbiased men could judicially reach such conclusion. Therefore, the court interferes with such findings only under very special circumstances. It will interfere with findings of fact where there has been an illegality or an irregularity of procedure, or a violation of the principles of natural justice, resulting in an absence of fair trial or a gross miscarriage of justice, or where a tribunal has spoken in two

voices and has given inconsistent and conflicting findings, or where no tribunal could legitimately infer the guilt of the accused from the facts found, or where the findings are vitiating by errors of law, or where the finding is not supported by any legal evidence and is wholly inconsistent with the material produced on the record, or where the findings of fact are based on relevant and irrelevant considerations and it is not possible to say how far the irrelevant consideration had affected the findings or the conclusions are based on pure speculation and are not such as any reasonable mind could judicially reach on the data set out, or when relevant evidence has been ignored or when the tribunal arrives at its decision in effect by considering material which is irrelevant to the inquiry, or bases its decision on material which is partly relevant and partly irrelevant, or bases its decision partly on evidence and partly on conjectures, surmises and suspicions, (then it raises a issue of law and the court can go into this matter). The Supreme Court does not interfere with the exercise of discretion by a tribunal in a matter which falls within its discretion under the relevant law, unless there are some special reasons.

73. Pipraich Sugar Mills Ltd. v. Pipraich Sugar Mills Mazdoor Union, (1956) S.C.R. 872; State of Bombay v. Rasy Mistry, A.I.R. (1960) S.C. 391 (since the findings were faulty and appeared inconsistent the court examined the findings afresh).


for such interference\(^79\) e.g. when a tribunal does not exercise its discretion thinking that it has none.\(^80\)

The Supreme Court would not allow a point to be raised in appeal before it for the first time if the same has neither been raised before the tribunal nor before the High Court.\(^81\)

But if a question, though raised for the first time before the Supreme Court, is a question of law and arises on admitted facts, then the court may permit the same to be argued before it.\(^82\)

However, where the tribunal has not only made some contradictory observations but has also misread the statement of the witness and it wrongly interfered with the management's decision in fixing the hours of work which was fully within the management's competence and was not open to any valid objections, then the conclusions of the tribunal are tainted with serious infirmity. Re-appraisal of the evidence by the Supreme Court for coming to its own independent conclusion on such re-appraisal is justified.\(^83\)

We have discussed the control of tribunals under Article 136 of the Constitution of India. Apart from Article 136,


\(^83\) The Oil and Natural Gas Commission v. The Workmen, A.I.R. (1973) S.C. 968.
the tribunals established by the Acts initiating public
corporations in India are also subject to control under Articles
225 and 227 of the Constitution. It would be advisable to
consider the extent of control under each article separately.

**Article 226**

We have already seen that the High Courts\(^{84}\) could
control the tribunals under Article 226, by issuing directions,
orders or any writs not only for enforcing fundamental rights
but "for any other purpose". This phrase "for any other purpose"
makes the High Courts' control over the tribunals very extensive.
Even the legislature cannot curtail these powers conferred by
the Constitution of India on the Supreme Court and the High
Courts to control the tribunals. Any law which took away or
abridged the powers of the High Courts under Article 226 would
be *ultra vires*, for the power to make laws is subject to the
provisions of the Constitution\(^{85}\) and all the laws in force are
continued by Article 372 "subject to the provisions of this
Constitution". Thus in *Raj Krushna Bose v. Binod Kanungo*\(^{86}\),
the Supreme Court declared:

"Our power to make such an order was not questioned
but it was said that when the legislature states that the orders
of a tribunal under an Act like the one here shall be conclusive

\(^{84}\) See Chapter IV.
\(^{85}\) Article 245.
\(^{86}\) (1954) S.C.R. 913, 918.
and final (S.105) than we should not interfere. It is sufficient to say that the powers conferred on us by Article 136 and on the High Courts under Article 226 cannot be taken away or whittled down by the legislature. So long as these powers remain, our discretion and that of the High Courts is unfettered". 87

In Sangram Singh v. Election Tribunal 88, the same conclusion was affirmed. It was there contended that section 105, Representation of the People Act, 1951, made every order of the tribunal final and conclusive and therefore neither the Supreme Court nor the High Court could transgress the law by trying to correct what it considered an error of law. In repelling the contention Bose J. observed:

"The jurisdiction which Articles 226 and 136 confer entitles the High Courts and this Court to examine the decisions of all tribunals to see whether they have acted illegally. That jurisdiction cannot be taken away by a legislative device that purports to confer power on a tribunal to act illegally by enacting a statute that its illegal acts shall become legal the moment the tribunal choses to say they are legal. The legality of an act or conclusion is something that exists outside and apart from the decision of an inferior tribunal. It is a part of the law of the land which cannot be finally determined or altered by any tribunal of limited jurisdiction". 89

87. at p. 918 per Das J.
88. (1955) 2 S.C.R. 1, 7.
89. Ibid.
It was held in Abdul Majid v. P.R. Nayak\textsuperscript{90} that the powers conferred on the High Court by Article 226 were beyond the challenge of the legislature and could only be taken away or altered by an amendment of the Constitution. This decision was followed in Lt. Sahabzada Ravi Pratap Narain Singh v. State of U.P.\textsuperscript{91} and other decisions all affirm the inviolability of Article 226 by ordinary law.\textsuperscript{92}

**Article 227**

The tribunals created by the initiating Acts setting up public corporations are subject to the superintendence of the High Courts under Article 227 of the Constitution of India also. Article 227(1) states that every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

The history of Article 227 and its scope were examined by the Supreme Court in Waryam Singh v. Amarnath\textsuperscript{93}. Das J. said that:

"The material part of Article 227 substantially reproduces the provisions of S. 107 of the Government of India Act, 1915 except that the power of superintendence has been extended

\textsuperscript{90} A.I.R. (1951) Bom. 440.
\textsuperscript{91} A.I.R. (1952) All. 99.
\textsuperscript{93} (1954) S.C.R. 565.
by the Article also to tribunals.... The preponderance of judicial opinion in India was that S. 107 which was, similar in terms to S. 15 of the High Courts' Act, 1861, gave a power of judicial superintendence to the High Court apart and independently of the provisions of other laws conferring revisional jurisdiction on the High Court .... S. 107 was reproduced in the Government of India Act, 1935, as S. 224 (which), however, introduced sub-sec. (2) which was new, providing that nothing in the section should be construed as giving the High Court any jurisdiction to question any judgement of any inferior court which was not otherwise subject to appeal or revision. The idea presumably was to nullify the effect of the decisions of the different High Courts referred to above. S.224...has been reproduced with certain modifications in Article 227 ..... It is significant to note that sub-sec. (2) to S. 224 ... has been omitted from Article 227. This significant omission has been regarded by all High Courts in India as having restored to the High Court the power of judicial superintendence it had under S. 15 of the High Courts Act, 1861 and S. 107 of the Government of India Act, 1915."94

Das J. further observed that the power conferred by Article 227 "as pointed out by Harris C.J.95 (was) to be exercised most sparingly and only in appropriate cases in order to keep

subordinate courts within the bounds of their authority and not for correcting mere errors." 96

The history of Article 227 suggests that the Constitution-Makers believed that they were restoring to the High Courts the power which had been taken away by S.224(2) of the Government of India Act, 1935. It is difficult to resist the conclusion, as Seervai 97 points out, that the effect of Article 226 was not fully realised, for that Article conferred supervisory jurisdiction of the most extensive kind against any person, body or authority, including, in appropriate cases any government and that the supervisory power restored to the High Courts under Article 227 was by comparison much narrower, it being limited only to courts and tribunals. The existence of the same power in two different Articles has led even the Supreme Court to distinguish them. Hence, in Nagendra Nath Bora v. Commissioner of Hills Division and Appeals, Assam 98, Sinha J. said that:

"The powers of judicial interference under Article 227 . . . with orders of judicial or quasi-judicial nature, are not greater than the powers under Article 226 . . . . Under Article 226, the power of interference may extend to quashing an impugned order on the ground of a mistake apparent on the face of the record. But under Article 227 . . . . the power of interference is limited to seeing that the tribunal functions within the limits

The Supreme Court again observed in Nibaran Chandra Bag v. Mahendra Nath Ghughu, that Article 227 merely conferred a power of superintendence to be used to keep subordinate courts or tribunals within the bounds of their authority and that the power did not justify an interference with concurrent findings of fact.

However, the Supreme Court has stated in numerous cases, that this power of superintendence under Article 227 of the Constitution of India has to be exercised most sparingly and only in appropriate cases, in order to keep the subordinate courts within the bounds of their authority and not for correcting mere errors. The High Courts can undoubtedly exercise such superintendence if it is moved in that behalf by an aggrieved person by means of a proper application; but it can also be exercised suo motu, without any such application. Whenever it is brought to the notice of the High Court that orders passed by tribunals or subordinate courts are illegal and deserve to be set aside, it can exercise its power of superintendence in that behalf in whatever manner the said illegal orders comes to its notice. It is thus obvious that even the finality clause

cannot curtail such power of superintendence.

We may now examine the scope of some remedies through which the courts exercise their control over the tribunals.  

**Quo Warranto**

*Quo warranto*, apart from questioning the election of a person to a public office, may possibly be obtained against any determination of an issue by a tribunal which has been improperly constituted, although so far the issue has been only inconclusively adumbrated in the *Union of Workers, R.S.N.C. and Others v. River Steam Navigation Co. and Others*  

The value of *quasso warranto* is obvious in view of the practice in our country to authorise the established courts to act as tribunals and the principle that the validity of the title of a *de facto* judicial officer cannot be questioned in a proceeding before him or a co-lateral or an appeal proceeding relating to his decisions.  

However, this *de facto* principle is not applicable to tribunals in general as the validity of their constitution may be questioned at any stage of proceedings before them or the courts concerned.  

It appears to be the easiest way to prevent a tribunal from proceeding in a matter by securing *quasso warranto* if its constitution

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103. See also Chapter IV under Methods based on the Constitution and Methods based on Ordinary Law.


is manifestly defective, because in certain cases there may be a statutory exclusion of the right to question the validity of a tribunal's constitution, which does not affect the operation of this remedy under Articles 226 and 32 of the Constitution of India.\footnote{108}

**Habeas Corpus**

In the existing adjudicatory system of tribunals, the use of habeas corpus as an instrument of control is very limited. The writ of habeas corpus may be of use to control the working of tribunals which have been constituted by the State Government under the Defence of India Act, 1963. In normal times, habeas corpus may operate as a method of control in relation to rentor revenue authorities because of the existing practice of conferring upon these authorities the power of arresting and detaining persons in certain circumstances. But in any event, habeas corpus is of very limited application to the working of tribunals, as the general practice in the country is not to confer on tribunals the power to detain a person.

**Mandamus**

Mandamus is appropriate to compel a tribunal to exercise a jurisdiction vested in it by law which it refuses to exercise. Mandamus may prove a more efficient remedy for rectifying the wrong done, or likely to be done, to the petitioner. Mandamus is also of use when the petitioner claims some positive action on

\footnote{108. M.M. Singh, \textit{op. cit.}, p. 234.}
the part of an adjudicatory authority.\textsuperscript{109} Again, where a tribunal does not give a reasoned decision or the reasons given by it is not sufficient to test the legality of its decision, \textit{mandamus} may be more useful than \textit{certiorari}. As it is free from the many technicalities with which they are hedged around in other writs, the writ of \textit{mandamus} has greater flexibility and \textit{manoeuvrability} to confront all situations in which no other remedy is available for exercising control over the tribunals.

\textbf{Certiorari}

\textit{Certiorari} may be issued on any one or more of the following grounds: (1) lack of jurisdiction; (2) error of law on the face of the record; and (3) violation of the rules of natural justice.

In relation to tribunals, a writ of \textit{certiorari} can be issued for correcting errors of jurisdiction committed by tribunals. There are cases where orders are passed by tribunals without jurisdiction, or in excess of it, or as a result of failure to exercise jurisdiction. It can also be issued where the tribunal acts illegally or improperly or in violation of the rules of natural justice. In regard to finding of fact by a tribunal, a writ of \textit{certiorari} can be issued if it is shown that in arriving at such finding, the tribunal had erroneously refused to admit admissible and material evidence or had erroneously admitted inadmissible evidence which has influenced the impugned finding.

Similarly, if a finding of fact is based on no evidence, that would be regarded as error of law which can be corrected by certiorari.\textsuperscript{110}

In short, certiorari is appropriate to quash the decisions of a tribunal which has assumed a jurisdiction it does not possess or where the order contains an error of law apparent on the face of the record.\textsuperscript{111} But the High Court in the exercise of its jurisdiction under Article 226 will not interfere with the exercise of a discretionary power by the inferior tribunal, unless it is arbitrarily exercised, e.g., the granting of adjournment of a proceeding.\textsuperscript{112}

Thus, considering the limitations of the law-fact dichotomy and also keeping in mind that the court of review is always willing to intervene when in its view there is a substantial failure of justice, the writ of certiorari constitutes the corner-stone of the structure of judicial control over tribunals.

Prohibition

Prohibition is appropriate to restrain a tribunal which threatens to assume or assumes a jurisdiction not vested in it, so long as there is something in the proceedings left to prohibit.


Prohibition is concerned with the prevention of usurpation of jurisdiction by the other tribunals. It is, therefore, not concerned with records as such of the tribunals. It is quite different from proceedings by way of appeal, or certiorari. Its function is not the correction of errors committed by inferior tribunals. The writ does not lie on the assumption that a tribunal may exceed its jurisdiction. It is issued when the tribunal has still an opportunity of considering whether any of the matters in controversy between the parties falls within its jurisdiction, or wrongly decides that it has jurisdiction. It is issued in respect of pending proceedings forbidding the tribunal from continuing the proceedings.

In India, prohibition is rapidly losing ground as in any other common law country at least in the arena of public law.

Of the remedies available under general law against the decisions of a tribunal, special mention may be made of actions for injunctions and declaratory decrees under the Specific Relief Act, 1963, and the revisional powers of the High Courts under the Code of Civil Procedure. The proceedings for obtaining injunction or declarations from a civil court are governed by the provisions of the Specific Relief Act and the Code of Civil Procedure. But such proceedings being of a protracted nature,

in relation to tribunals they have fallen into disuse in recent times.

Under the Code of Civil Procedure the revisional power of a High Court is of indirect application to tribunals. An Act like the Payment of Wages Act may provide for an appeal to a civil court against an adjudicatory decision of a tribunal contemplated by it, and may further provide that the decision of the civil court shall be final. In such circumstances the civil court is not deemed to act as a tribunal but as a court, and hence, its decision is revisable by the High Court under section 115 of the Code of Civil Procedure.  

Conclusion

An examination of the above survey reveals that the nature, extent, and intensity of the court's control over tribunals apparently seem to be all pervasive. As in our constitutional system the tribunals and the courts operate as the two wheels of the machinery of justice with the Supreme Court at the apex, justice by tribunals in our country does not appear to present the dangers which are often apprehended in other common law countries. The fact, that the instruments at the disposal of the superior courts are capable of reaching injustice in any form before any adjudicatory forum in the country, seems to be a sufficient guarantee to the fairness, impartiality, objectivity and independence in the trial of a matter by a tribunal. Besides,

our superior courts are constantly vigilant to the possible lapses on the part of tribunals, and they never hesitate to interfere with the decisions of a subordinate court, or a tribunal, once a flagrant violation of justice is established. Given the will and the recognition of the necessity to interfere with any decision of any adjudicatory body in the country, our superior courts never find their armoury empty, and one instrument or the other is always available to strike an unjust decision of a subordinate tribunal or a court. 117

On the whole, the remedies which can be had from the courts in respect of the decisions of tribunals seem to be capable of both intensive and extensive application. They can reach injustice in any form, in any area of justice administered by tribunals. Coupled with the spirit of legalism pervading our Constitution and other institutions of administration of justice in this country, these remedies have in fact proved so effective in certain spheres that justice by tribunals is hardly distinguishable from justice in the courts. The remedies offered by the courts, feels a learned writer, have proved rather more effective and have worked more vigorously than they should have to sustain the distinct and efficient administration of justice.

by tribunals. In fact, in our country, justice by tribunals has become too much like justice in the courts because of the court's zeal to effectively exercise their control over tribunals and thereby assert the outworn creed that justice according to law basically means justice administered by the courts.

Actually, justice by tribunals is complementary to justice in the courts, and so the relationship between these two systems of justice should not be viewed as that between two rivals working at cross-purposes. Both tribunals and courts aim at rendering justice according to law, but, as courts are by their nature suited for adjudicating upon only a particular type of matters and the growth of modern urban industrial civilisation raises a number of issues requiring judicial approach for which the traditional judiciary is not found suitable, the new judiciary has sprung up and is leading a vigorous life.