

Constitutional Validity of National Company Law Tribunal (NCLT) And Role in Dispute Resolution

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Abstract—In view of the increasing complexity and related issue in corporate disputes, NCLT (National Company Law Tribunal) and NCLAT (National Company Appellate law tribunal) have been required to be constituted under Companies Act 2013. This paper examines the constitutional validity and functioning of these tribunals. The research evaluates the compliance of tribunals in light of various judgments and their role as a means to managing conflict resolution based on certain prominent judgements. It analyses the available literature, for defining gaps in knowledge pertaining to shift from CLB (Company Law Board) into NCLT and also identifies practical challenges faced by these tribunals. The study will compare the performance of NCLT with traditional courts and examine how these interact with High Courts to understand where India's corporate legal framework stands.

Index Terms—National Company Law Tribunal, Constitutional Validity of Tribunals, Corporate Dispute Resolution

I. INTRODUCTION

This increased public demand for a variety of goods and services has historically resulted in the formation of new businesses across various sectors. Given the nature of these entities, there needs to be a mechanism in place for their orderly functioning and carrying out any needs that may arise.¹ This type of mechanism often consists in the establishment of a special tribunal or board to resolve disputes and supervise orderly liquidation.²

That way, in a judicial context, the continuity of business operations is ensured and implies safeguards to those who have interests linked to them. Such mechanisms not only enhance legal certainty but also contribute to a more robust and resilient economic environment³. Thus, creating strong tribunals is essential to preserving trust and guaranteeing a steady and open corporate environment⁴.

II. LITERATURE REVIEW

A. *Constitutional Validity of The Establishment of NCLT And Its Role in Dispute Resolution*⁵

- Aditi Yadav

In this article, the author attempts to address whether or not its role within a statutory body like National Company Law Tribunal (NCLT) is demonstrated sound in terms of operational and constitutional aspects based on an overview of NCLT provisions. This paper writing precisely analyses the powers vested with NCLT and how important it is in resolving corporate disputes. Landmark judgments only serve to elevate the discourse, making this article a valuable guide on understanding where the tribunal stands legally.

Research Gap: The article doesn't elaborate upon the reasons for the shift from CLB to NCLT and also fails to give a proper analysis.

¹ Kristin Van Zwieten, 'Corporate Rescue in India: The Influence of the Courts' (2015) 15(1) Journal of Corporate Law Studies.

² Bawri Fashion Pvt. Ltd. v. National Company Law Tribunal, 2021 SCC OnLine Bom 2277.

³ Company Litigation and Jurisdictional Issues: An Incessant Challenge in India, (2017) 2 SCC J-19.

⁴ D&I Taxcon Services (P) Ltd. v. National Company Law Tribunal, 2022 SCC OnLine Cal 116

⁵ Aditi Yadav, Constitutional Validity of the Establishment of NCLT and Its Role in Dispute Resolution, 3 INDIAN J.L. & LEGAL RSCH. 1 (2021).

*B. The constitutional validity of the Establishment of NCLT and Its Role in Dispute Resolution*⁶
- Shubham Paliwal

The paper presents an in-depth analysis of the events resulting into creation of NCLT along with bringing up its part as a dispute resolver. Therefore, this article takes a detailed analysis of the decision in *Madras Bar Association v. Union of India*⁷ shedding some light on why tribunals play an important role in the company litigation landscape.

Research Gap: The article does not delve deep into the practical issues faced by NCLT while trying to adjudicate disputes effectively.

*C. National Company Law Tribunals: Status of constitutional validity and role in dispute resolution in the light of decided cases*⁸
- Abhirami Retheeva

The article discusses the constitutional validity and efficacy of National Company Law Tribunals (NCLTs) in addressing corporate disputes. While the article lacks the statistical data, case laws are used to prove how the NCLT has helped in relieving some burden from the overworked judiciary.

Research Gap: The article does not provide a detailed understanding about the various issues and potential inefficiencies in operational issue of NCLT after 2016.

III. RESEARCH OBJECTIVES

The objective of this study is a critical assessment of the National Company Law Tribunals (NCLTs) in India with particular emphasis on how NCLTs have been faring about addressing corporate disputes and issues confronting them⁹.

1. How NCLTs have been in resolution of corporate disputes as compared to the traditional civil courts, with respect to speed and quality of such resolutions.

2. Examine operational issues such as resource constraints, case backlogs and procedural inconsistencies faced by NCLTs from its inception in 2016.

3. Look at the changing dynamic of High Courts in company law post NCLTs, particularly with respect to cases involving jurisdictional overreach or public interest.

IV. METHODOLOGY

This research utilises a qualitative way of analysis, which considers legal primary and secondary materials together with decisions made by the Supreme Court as well as appellate tribunals¹⁰. Taking into account the constitutional validity and efficacy of NCLT, this study deals with a critical examination by detailed review of case laws, recent amendments in legislation and relevant literature. Comparison to traditional court mechanisms and examination of procedural challenges allow a closer insight into the impact at Tribunal level.

V. CRITIQUE

NCLTs are established under the Companies Act, 2013 aimed at streamlining adjudication process of corporate disputes in India. The NCLTs were supposed to be expert quasi-judicial institutions that could handle the nuances involved in adjudicating complex corporate issues, working as a speedier alternative for resolving cases which would have clogged civil courts over long periods¹¹.

⁶ Shubham Paliwal, *The Constitutional Validity of the Establishment of NCLT and Its Role in Dispute Resolution*, 3 *JUS CORPUS L.J.* 931 (2022).

⁷ *Madras Bar Association v. Union of India*, 2015 AIR SCW 3376.

⁸ Abhirami Retheev, *National Company Law Tribunals: Status of Constitutional Validity and Role in Dispute Resolution in the Light of Decided Cases*, 2 *JUS CORPUS L.J.* 420 (2021).

⁹ Nipun Ninad Naphade, *NCLT's Judicial Inference: A Hurdle to the Commercial Wisdom of Committee of*

Creditors under the IBC, 9 *RGNUL FIN. & MERCANTILE L. REV.* 94 (2022).

¹⁰ Somansh Barbar & Shalini Kumari, *Brief Overview on National Company Law Tribunal*, 5 *INT'L J.L. MGMT. & HUMAN.* 1675 (2022).

¹¹ Pahwa, Navin K. "CORPORATE INSOLVENCY: ITS OPERATIONS AND EMERGING PROBLEMS." *National Law School of India Review*, vol. 30, no. 2, 2018, pp. 111–18. *JSTOR*, <https://www.jstor.org/stable/26743939>.

A. *Effectivity of NCLTs in Corporate Dispute Resolution*

One of the key purposes for which NCLTs were established was to facilitate early resolution of corporate disputes.¹²

The idea behind creating NCLTs was to make them lean by having specialized tribunals which would have expertise and thereby being more efficient than civil courts in resolving corporate issues.¹³ As per empirical data, it is true however that the NCLTs have enhanced the speed of resolution in some cases and most notably being a class action car-oriented matter under Insolvency and Bankruptcy Code (IBC), 2016. But their performance has been uneven.

B. *Challenges Before NCLT*

1. Capacity Constraints

The NCLT has been overburdened by cases across the board and consistently faced issues with capacity constraints, such as a lack of judicial officers and administrative staff. The result has been a slow and labour-intensive response.

2. Case Resolution Uncertainty

Non-disclosure of case disposal rates and time-lines by coupled with a large number of interlocutory applications leads to a vacuum for the litigants, threatening the efficient management of their resources¹⁴.

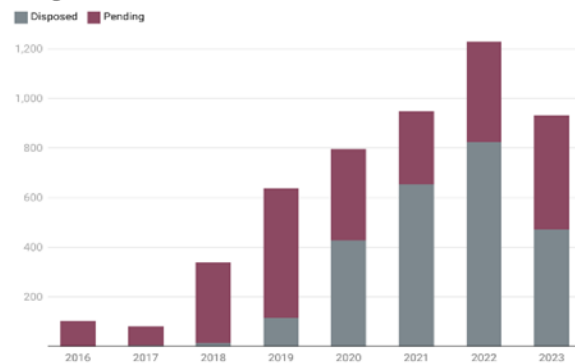
3. Uneven Member Scheduling

A review shows that just 64% of authorized members were actively presenting cases during a recent three-month period. Such unbalanced scheduling causes delays in cases and is operationally inefficient.

4. Transparency Issues

The availability of selective data to the public concerning its performance and its subjective standard application also demonstrate that more detailed statistics should exist for conducting analysis to decide the effectiveness¹⁵.

Closed vs. Ongoing cases by year instituted, | NCLT, Bengaluru zonal bench



Created with Datarwrapper

C. *Role of High Courts after NCLT*

After NCLT has been constituted, civil courts are ousted of jurisdiction to decide company matters and cannot issue restraining orders in Company Law matters. This is supported by Section 430 of the Companies Act, 2013 along with other case laws.

Supplementary Role: The High Courts now function as a supplementary body to the NCLT. It may step in if the NCLT over-stretches its jurisdiction or issues related to public interest or national security. But it is not expected to have a role otherwise so that insolvency procedures are time-bound and effective.

Judicial Oversight: Regardless of statutory remedies, High Courts are nevertheless able to examine NCLT rulings under Articles 226 and 227 of the Constitution, particularly in cases where NCLT orders fall outside the purview of public law.

VI. LEGAL ANALYSIS

A. *Union of India v. R Gandhi*¹⁶

It was a landmark case challenging the constitutional validity of NCLT. The Supreme Court ruled the constitutionality of NCLT and held that Parliament is empowered to create tribunals. It also said that while the Companies Act complemented it, some provisions of this new law required changes in order to conform with constitutional mandates.

B. *Madras Bar Association v. Union of India*¹⁷

<https://www.dakshindia.org/pulling-back-the-curtain-examining-the-nclt-through-data>.

¹⁵ Wajahat Monaf Jilani, The Insolvency and Bankruptcy Code: Challenges and Reforms, 5 RGNUL FIN. & MERCANTILE L. REV. 345 (2018).

¹⁶ Union of India v. R Gandhi, (2010) 1 SCR 460.

¹⁷ Id., 4.

¹² Sajan K. Thomas v. Registrar of Companies Company Law Bhavan, 2019 SCC OnLine Ker 4771.

¹³ Skillstech Services Private Limited v. National Company Law Tribunal, 2021 SCC OnLine Del 3454.

¹⁴ Mutt, S. (2024) *Pulling back the curtain: Examining the NCLT through data*, Daksh. Available at:

The question raised in this case, which has come up before the Supreme Court for consideration is whether or not amendments to Companies Act, 2013 are contrary to its previous judgments. The court said the provisions were consistent with previous guidelines but didn't go far enough, so it ordered additional protections to safeguard wholesome constitutional applications.

C. *Transmission Corporation of Andhra Pradesh Limited vs. Equipment Conductors and Cables Limited*¹⁸

The apex court observed that NCLT judgments ordering liquidation of companies should not be overruled unless there is an apparent contravention of statutory provisions.

VII. CONCLUSION

The National Company Law Tribunal (NCLT) has evolved as an efficient mechanism in the dispute resolution of corporate matters, bringing about some innovative changes to take off unnecessary load from conventional courts and expedite company law adjudication¹⁹. The NCLT was constituted under the Companies Act in 2002 and came into operation only with effect from June, 2016. It initially faced challenges but soon turned into a success.

Establishment of the Tribunal mitigated age-old problems prevailing in respect of judicial delays to provide solutions for corporate disputes. The constitutional validity of the NCLT was reiterated by various key judgments. The Tribunal's power to now adjudicate in a plethora of corporate disputes, highlights the indispensable role played by NCLT²⁰. Despite the improvements, issues such as occasional overlaps with conventional judicial powers and procedural nuances that require further development persist. However, future reforms must seek to advance the cause of procedural clarity and of course ensure that its decisions are in keeping with changing corporate standards and legal norms.

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¹⁸ *Transmission Corporation of Andhra Pradesh Limited vs. Equipment Conductors and Cables Limited*, AIR 2018 SC (SUPP) 1530.

¹⁹ Saarang Kaushik, National Company Law Tribunal (NCLT) under the Indian Company Law Regime, 22 SUPREMO AMICUS [93] (2020).

²⁰ *Towards a Tribunal Services Agency*, (2015) 8 NUJS L Rev 181.