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**EDITORIAL ANALYSIS**

# A Commission on Paper: The Tribunals Reforms Bill 2026 Still Answers to the Executive

 **THE HINDU**

12 August 2026 ·

**POLITY** ·**GS2**

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# A Commission on Paper: The Tribunals Reforms Bill 2026 Still Answers to the Executive

 The Hindu

12 August 2026

GS2



## INTERVIEW ANGLE

*"A Search-cum-Selection Committee filters candidates, but the Central Government appoints, frames the Rules on qualifications and removal, and receives complaints against members through the same ministry the tribunal may have to rule against. If every decisive step still runs through the executive, has tribunal independence actually changed hands, or only its paperwork?"*

Source: [Original editorial](#)

The Hindu

 Every fact web-verified against primary sources

## THE LIFT LINE

*Parliament was ordered to take control away from the executive. It handed the executive a new office to keep exercising it from.*

## WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

This editorial is built from The Hindu's actual, unsigned edit-page text (a roughly 500-word institutional editorial, not a bylined op-ed), and every claim below is marked by where it comes from, so you can see precisely which litigation history and Bill sections the editorial itself cites versus what Ujiyari has added as broader scaffolding. That distinction matters here specifically because the editorial's own case rests on a precise, less commonly known litigation chain, Sampath Kumar, L. Chandra Kumar, Rojer Mathew, the Finance Act 2017, most Mains answers reach instead for the more familiar 2010-2020 Madras Bar Association line, which is real but is not what this editorial argues from.

This is also a clean test of a recurring UPSC theme, the gap between an institution's formal charter and its working independence, the same gap tested through the CBI Director's selection process, the Election Commissioner appointment mechanism and the RBI Governor's operational autonomy.

**GS Paper 2:** Separation of powers between various organs, dispute redressal mechanisms and institutions; statutory, regulatory and quasi-judicial bodies; structure, organisation and functioning of the judiciary.

| CONCEPT                                         | MEANING                                                                                                                              | SOURCE                                                |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| Administrative-capture flaw                     | Tribunals historically administered by the same Ministry whose decisions they may review                                             | From the editorial                                    |
| Sampath Kumar (1987) / L. Chandra Kumar (1997)  | Preserved High Court review of tribunal decisions as part of the basic structure; left administrative capture unresolved             | From the editorial                                    |
| Roger Mathew (2019)                             | First recommended an independent statutory NTC; Justice Deepak Gupta's essential-legislative-function holding                        | From the editorial                                    |
| Finance Act, 2017                               | Expanded executive control over tribunal appointments, the move the editorial says Parliament made instead of following Roger Mathew | From the editorial                                    |
| Section 14 / Section 16 of the 2026 Bill        | Delegate qualifications and service conditions to future Rules; route complaints through the sponsoring Ministry first               | From the editorial                                    |
| Articles 323A and 323B                          | Part XIV-A provisions, inserted by the 42nd Constitutional Amendment Act, 1976, empowering tribunal creation                         | Ujiyari's addition                                    |
| Union of India vs Madras Bar Association (2010) | Laid down the judicial-dominance principle for tribunal appointments                                                                 | Ujiyari's addition; not the case this editorial cites |

## WHAT THE EDITORIAL ARGUES

*(This section reports The Hindu's argument as written in its own unsigned edit-page piece. Verified facts it cites are checked against primary/secondary legal sources where noted.)*

**Why tribunals exist, and the flaw that has outlasted every fix.** The editorial opens by conceding tribunals' purpose: they let specialists settle technical disputes faster than the judiciary could. But a structural flaw has persisted, tribunals have historically been administered by the same Ministries whose decisions the tribunal might have to review. In **S.P. Sampath Kumar (1987)** and **L. Chandra Kumar (1997)**, the Supreme Court held that tribunals' decisions remain subject to High Court review, since judicial review is part of the basic structure, "sensible" rulings, in the editorial's own word, that nonetheless left the administrative-capture problem standing.

**Roger Mathew (2019) as the pivot.** In **Roger Mathew (2019)**, the editorial states, the Court recommended an independent, statutory National Tribunals Commission to oversee tribunal selection and administration (independently confirmed: Justice Deepak Gupta’s concurring opinion in that case held that defining who is qualified to exercise judicial power is an essential legislative function that cannot be delegated to rulemaking, a principle the editorial invokes directly against the 2026 Bill’s Section 14). Parliament, however, moved the opposite way: it “used the **Finance Act 2017** to give the executive more control over appointments and the **Tribunals Reforms Ordinance 2021** to reinstate conditions the Court had rejected.” The editorial calls the Court’s response “the final straw”: in **Madras Bar Association (2025)**, it struck down the re-enacted objectionable provisions, restored the prior framework, and gave the government **four months** to establish the Commission.

**What the 2026 Bill gets right.** The editorial credits the Bill, passed by the **Lok Sabha on 10 August 2026 with no discussion** and by the **Rajya Sabha on 11 August 2026**, with four specific improvements: it restores **five-year terms** for tribunal members, introduces **uniform service conditions**, includes provisions for a **National Tribunals Data Grid**, and does not disrupt appointments already pending.

**What it still gets wrong, named by section number.** The editorial’s central objection is that the Bill “still does not give the NTC enough institutional autonomy,” and makes the case through three specific provisions: **Section 14** leaves qualifications, manner of selection, salaries, allowances and other service conditions of tribunal members to **future executive rules**, which the editorial argues sits against Justice Gupta’s **Roger Mathew** holding even as the Bill “claims consonance” with the 2025 judgment; **Section 3** contains similarly vague language, which “experts have also flagged”; and **Section 16** has a Ministry screen a complaint before it passes to the Commission for inquiry. Structurally, the Centre appoints the Commission’s members and consults the Chief Justice of India only for the Chairperson and judicial members, retaining “substantial influence over its finances and administration.”

**The verdict, in the editorial’s words.** “That is essentially a continuing failure: a commission designed to insulate tribunals from executive control cannot be thus subject to the terms of the executive.” Its prescription is precise: “The government must make the NTC fully independent by forsaking its power to appoint or remove its members at will.”

*Ujiyari’s addition begins below. Nothing past this point should be read as The Hindu’s argument.*

## BACKGROUND THE EDITORIAL ASSUMES

*The following is Ujiyari’s addition, not part of the source editorial. The editorial does not cite Articles 323A/323B, the 42nd Amendment, the exact composition of the Commission or the Search-cum-Selection Committee, or the more commonly cited 2010-2020 Madras Bar Association litigation line; these are the standard exam scaffolding a complete Mains answer needs alongside the editorial’s own, more specific case.*

Tribunals sit outside the ordinary court hierarchy under **Part XIV-A of the Constitution**, comprising **Articles 323A and 323B**, inserted by the **42nd Constitutional Amendment Act, 1976**. Article 323A empowers only Parliament to create administrative tribunals for public-servant service matters; Article 323B

gives both Parliament and State legislatures the power to create tribunals for specified other subjects, including taxation, land reforms and elections.

Alongside the litigation line the editorial actually cites, a separate, more frequently tested line runs through the same underlying dispute: in **Union of India vs Madras Bar Association (2010) 11 SCC 1**, a Constitution Bench laid down the **judicial-dominance principle**, that adjudicatory bodies must be judicially led rather than executive-controlled, a principle the Court applied again in **2014** (striking down the National Tax Tribunal Act, 2005), **2015** (modifying NCLT/NCLAT appointment provisions) and **27 November 2020** (striking down that year's tribunal-member service-condition Rules for diluting judicial involvement). This is real legal history and directly relevant to the same debate, but it is not the specific chain, Sampath Kumar, L. Chandra Kumar, Rojer Mathew, the Finance Act 2017, that this particular editorial builds its argument from.

The 2026 Bill's **National Tribunals Commission** is a five-member body, one Chairperson (a former Supreme Court Judge or High Court Chief Justice), two Judicial Members and two Technical Members, each serving **five years or age 70**, whichever is earlier; newly-appointed tribunal members separately serve **five years or age 67**. A **Search-cum-Selection Committee**, comprising a retired Chief Justice or High Court Judge, a Secretary to the Government of India, a Technical Member of the Commission, and two empanelled domain experts, recommends a primary and an alternate candidate per vacancy, with the Central Government required to appoint within **three months**.

## THE ANALYSIS

**1. The editorial's litigation chain is doing specific argumentative work, not just establishing background.** By starting with Sampath Kumar and L. Chandra Kumar rather than the more commonly cited 2010 Madras Bar Association ruling, the editorial isolates the administrative-capture problem, ministries administering the tribunals that review them, as the flaw those earlier basic-structure rulings left untouched. This is a sharper starting point than the usual "judicial dominance in appointments" framing, because it names a different and arguably more fundamental problem: institutional housing, not just selection procedure.

**2. Rojer Mathew (2019) is the editorial's real pivot, and Section 14 is where it lands the punch.** Citing Justice Deepak Gupta's specific holding, that defining judicial-power qualifications is an essential legislative function, lets the editorial make a precise, falsifiable claim about Section 14 rather than a general complaint about delegated rulemaking. This is the difference between "the Bill delegates too much to Rules" (a common, generic critique) and "the Bill delegates the exact category of decision the Court already said cannot be delegated" (a specific, citable one).

**3. Naming the Finance Act 2017 reframes Parliament's conduct as a pattern, not a one-off.** The editorial's point is not merely that the 2021 Ordinance was struck down, it is that Parliament had already chosen, in 2017, to expand executive control before Rojer Mathew told it not to, and then reinstated rejected

conditions in 2021 after being told not to a second time. Two consecutive moves in the same direction, both later struck down, is stronger evidence of institutional intent than either instance alone.

**4. Sections 3, 14 and 16 target three distinct mechanisms, and conflating them weakens an answer.** Section 14 is about **who decides the rules of eligibility and service**. Section 16 is about **who receives a complaint first**. Section 3's vagueness is a separate drafting concern the editorial notes only briefly. A strong Mains answer keeps these three distinct rather than folding them into one generic "executive control" complaint.

**5. The Bill's genuine credits should not be minimised to make the critique land harder.** Restored five-year terms, uniform service conditions, a public Data Grid, and protection for pending appointments are real, verifiable improvements over the process the 2021 Act and 2020 Rules produced. The editorial itself credits these "inter alia" before making its structural argument, a balance worth preserving in any answer that cites this piece.

## BEYOND THE EDITORIAL

*This section is Ujiyari's addition: further verified context the editorial does not raise.*

**The First Schedule's scope.** The 2026 Act's First Schedule covers **16 tribunals**, including CESTAT, CAT, NGT, NCLAT, NCDRC, TDSAT, ITAT and the DRTs/DRATs, a scale the editorial does not quantify but which is relevant to how many existing appointments and pending matters the Bill's transition provisions actually touch.

**The 2010-2020 litigation line as comparative context.** Where the editorial builds its case from Sampath Kumar (1987), L. Chandra Kumar (1997) and Rojer Mathew (2019), most Prelims and Mains preparation instead encounters the Madras Bar Association line of 2010, 2014, 2015 and 2020. Both chains are legally real and concern the same underlying tension; an answer that cites either accurately is on solid ground, but citing the editorial's specific chain when asked "according to the editorial" is what actually earns credit for having read the source.

## DATA AND INSTITUTIONS VAULT

### PRELIMS-GRADE FACTS, FROM THE EDITORIAL:

S.P. Sampath Kumar (1987) and L. Chandra Kumar (1997): preserved High Court review of tribunal decisions as part of the basic structure

Roger Mathew (2019): recommended an independent statutory NTC; Justice Deepak Gupta held that defining judicial-power qualifications is an essential legislative function, cannot be delegated to rulemaking

Finance Act, 2017: expanded executive control over tribunal appointments; Tribunals Reforms Ordinance, 2021: reinstated conditions the Court had rejected

Madras Bar Association (2025): struck down the re-enacted provisions, holding the 2021 Act “fails to remove the defects identified in prior judgments and instead reenacts them under a new label,” falling afoul of the doctrine of constitutional supremacy; ordered a National Tribunals Commission within four months; also invalidated the 2021 Act’s 50-year minimum age bar and mandated the 5-year tenure now reflected in the 2026 Bill

Tribunals Reforms Bill 2026: passed Lok Sabha 10 August 2026 (no discussion), Rajya Sabha 11 August 2026

Bill’s credited features: restored five-year terms; uniform service conditions; National Tribunals Data Grid; pending appointments protected

Section 14: qualifications, selection, salaries, service conditions left to future executive Rules; Section 3: vague language flagged by experts; Section 16: Ministry screens complaints before NTC inquiry

### PRELIMS-GRADE FACTS, UJIYARI’S ADDITION:

Constitutional basis: Articles 323A and 323B, Part XIV-A, inserted by the 42nd Constitutional Amendment Act, 1976

Union of India vs Madras Bar Association (2010): judicial-dominance principle; reaffirmed 2014, 2015, 27 November 2020

NTC composition: 1 Chairperson + 2 Judicial Members + 2 Technical Members, 5 years or age 70; tribunal members 5 years or age 67

Search-cum-Selection Committee: retired CJ/HC Judge + Secretary to Government of India + a Technical Member + 2 domain experts; Centre must appoint within 3 months

First Schedule covers 16 tribunals (CESTAT, CAT, NGT, NCLAT, NCDRC, TDSAT, ITAT, DRTs/DRATs, State Administrative Tribunals)

Broader judicial-backlog context: 5.06 crore cases pending nationally (end of July 2026), including 64,73,252 in High Courts; average High Court vacancy 33%, subordinate court vacancy 21% (India Justice Report 2025); India has 15 judges per 10 lakh population, against the Law Commission’s 1987 recommendation of 50; the proposed All India Judicial Service (AIJS) under Article 312 is a separate, standing reform proposal for judicial (not tribunal) recruitment



**CROSS-VERIFIED: THIS LITIGATION CHAIN (SAMPATH KUMAR 1987, L. CHANDRA KUMAR 1997, ROGER MATHEW 2019, FINANCE ACT 2017, MADRAS BAR ASSOCIATION 2025) HAS BEEN INDEPENDENTLY CONFIRMED AGAINST A SECOND PRIMARY SOURCE, AN INDIAN EXPRESS “KNOWLEDGE NUGGET” EXPLAINER CITING THE SAME NINE-JUDGMENT SEQUENCE AND THE SAME NOVEMBER 2025 RULING TEXT.**

**WATCH THE TRAP: IF A QUESTION ASKS WHAT “THE EDITORIAL” ARGUES, CITE SAMPATH KUMAR, L. CHANDRA KUMAR, ROGER MATHEW AND THE FINANCE ACT 2017, NOT THE 2010-2020 MADRAS BAR ASSOCIATION LINE, THAT CHAIN IS REAL AND USEFUL BUT IS UJIYARI’S ADDED CONTEXT, NOT THIS PIECE’S OWN CITATIONS.**

## THE DEBATE

**Argument FOR the Bill as genuine, if partial, reform.** Restored five-year tenures, uniform service conditions, a public Data Grid and protected pending appointments are concrete gains the editorial itself credits. Meeting a Supreme Court four-month deadline with a functioning Commission, rather than another struck-down Ordinance, is not nothing given Parliament’s own recent history on this exact question.

**Argument AGAINST treating the Commission as achieved independence.** The editorial’s three specific objections, Section 14’s delegated rulemaking against Justice Gupta’s own Rojer Mathew reasoning, Section 16’s ministry-first complaint screening, and Centre-controlled Commission appointments with only partial CJI consultation, are not stylistic quibbles. They are the exact mechanisms through which the Finance Act 2017 and the 2021 Ordinance previously exercised executive control, repackaged rather than removed.

**Balanced verdict.** The editorial’s own framing is the right one to adopt: credit the Bill’s real procedural gains while insisting that a commission built to check the executive cannot remain structurally dependent on it for appointment, rulemaking and complaint-handling. Whether this becomes a fourth round of litigation depends less on the Bill’s text than on how the Rules under Section 14 are eventually written, and by whom.

## HOW TO THINK ABOUT THIS

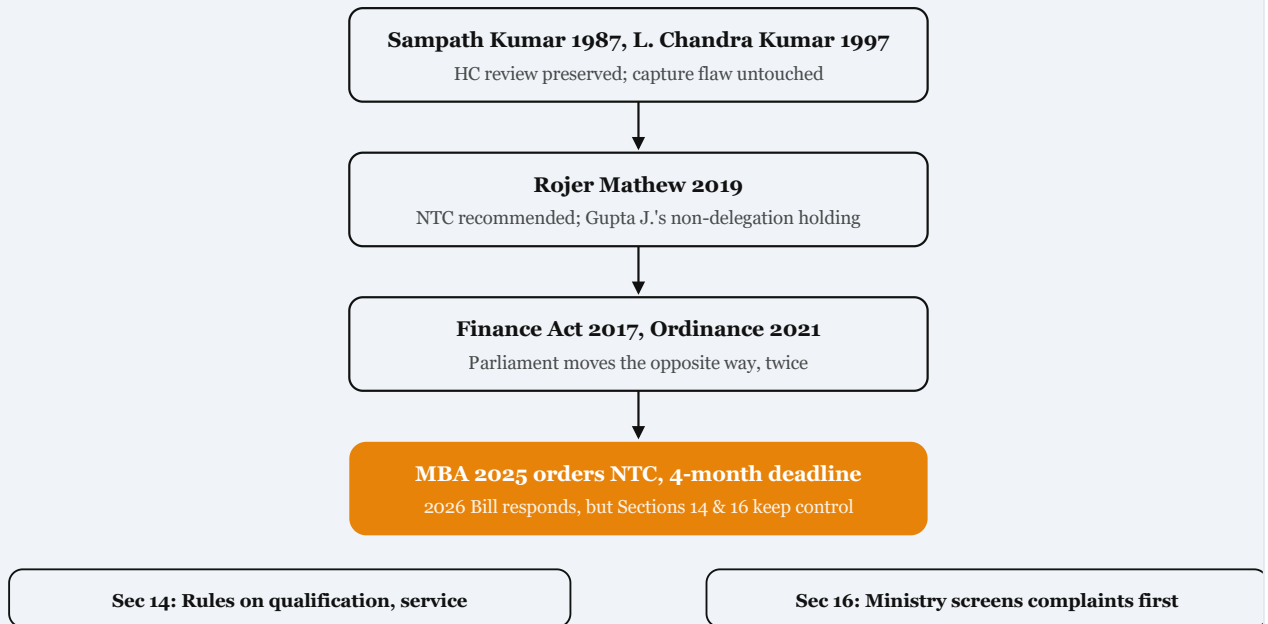
**The transferable pattern: when a reform is credited with “restoring” or “improving” specific procedural terms, check separately whether the decision-making power itself, not just its terms, has moved.** Five-year tenure is a term of service; who appoints, who writes the Rules, and who receives the first complaint are decision-making powers. A reform can improve the first while leaving the second untouched, and the editorial’s own structure, credit the Bill’s terms, then examine Sections 14, 3 and 16 separately, models exactly this distinction.

This pattern recurs well beyond tribunals. The **Chief Election Commissioner and Other Election Commissioners Act, 2023** improved the *transparency* of the selection process while placing a government-majority Selection Committee at its centre. Debates over the **Reserve Bank of India’s operational autonomy** similarly turn less on the RBI Act’s stated independence than on how much monetary and regulatory substance is shaped through executive-issued directions under delegated powers. In each case, the question worth asking is the editorial’s own: which specific clause still routes the decisive power back to the authority the reform was meant to check?



## DIAGRAM-IN-WORDS

The editorial's own chain, not the usual 2010-2020 one



The editorial's own litigation chain, Sampath Kumar and L. Chandra Kumar through Rojer Mathew to Madras Bar Association (2025), shows Parliament twice moving to expand executive control before being overruled; the 2026 Bill responds to that order but keeps two specific levers, Section 14's delegated rulemaking and Section 16's ministry-first complaints, with the executive.

## TAKEAWAY BOX

*A commission was ordered to end executive control of tribunals. It arrived without the one thing that would have ended it: the last word on who sits, how they are judged, and where a complaint against them lands.*

*Sampath Kumar (1987), L. Chandra Kumar (1997); Rojer Mathew (2019), Justice Deepak Gupta's non-delegation holding; Finance Act (2017); Tribunals Reforms Ordinance (2021); Madras Bar Association (2025), 4-month NTC deadline; Bill passed 10-11 August 2026; Sections 3, 14, 16.*

*Articles 323A and 323B, 42nd Amendment (1976); Union of India vs Madras Bar Association (2010) judicial-dominance principle; NTC composition (1 Chair + 2 Judicial + 2 Technical, 5 years/age 70).*

*when an institution created to correct a constitutional violation still leaves the violating authority holding the decisive levers, whose responsibility is it, the drafters, the Parliament that passed it without discussion, or the litigants and courts who must test the Rules all over again?*

*UPSC has tested tribunals directly through Articles 323A and 323B and the 2010-era Madras Bar Association ruling; this editorial supplies a less commonly cited but equally citable litigation chain, useful for demonstrating close reading of a specific source rather than generic recall.*

*"A statute that creates an independent institution while leaving its appointments, rule-making and complaint-handling with the very authority it is meant to check achieves independence in name only." Discuss with reference to the Tribunals Reforms Bill, 2026.*

**Sources:** *The Hindu*, "In the way: On the Tribunal Reforms Bill 2026", PRS Legislative Research

Source: A Commission on Paper: The Tribunals Reforms Bill 2026 Still Answers to the Executive — Ujjyari.com | Free UPSC & State PCS Editorial Analysis

## KEY ARGUMENTS AT A GLANCE

Tribunals exist to let specialists resolve technical disputes faster than the ordinary judiciary, but a structural flaw has persisted for decades, they have historically been administered by the same Ministries whose decisions they may have to review, and the Tribunals Reforms Bill 2026, created to satisfy the Supreme Court's order for a National Tribunals Commission, still does not give that Commission enough institutional autonomy to fix it.



### SUPPORTING

- The flaw is not new: in S.P. Sampath Kumar (1987) and L. Chandra Kumar (1997), the Supreme Court preserved High Court review of tribunal decisions as part of the basic structure, sensible rulings that nonetheless left the deeper administrative-capture problem standing untouched.
- In Rojer Mathew (2019), the Court recommended an independent, statutory National Tribunals Commission, and Justice Deepak Gupta held that defining who is qualified to exercise judicial power is an essential legislative function that cannot be delegated to rulemaking, a principle the 2026 Bill's Section 14 sits uneasily against by leaving qualifications, selection procedure, salaries and other service conditions to future executive Rules.
- Parliament's track record since Rojer Mathew cuts against trust: it used the Finance Act, 2017 to give the executive more control over tribunal appointments and the Tribunals Reforms Ordinance, 2021 to reinstate conditions the Court had already rejected, until the Court struck those provisions down again in Madras Bar Association (2025) and gave the government four months to establish the Commission.
- Under Section 16, a Ministry screens a complaint before it passes to the Commission for inquiry, and the Central Government appoints the Commission's own members while consulting the Chief Justice of India only for the Chairperson and judicial members, so the body built to check the executive remains substantially staffed and gatekept by it.



### COUNTER

To its credit, the Bill restores five-year terms for tribunal members, introduces uniform service conditions, creates a National Tribunals Data Grid, and does not disrupt appointments already pending, genuine procedural improvements over the fragmented machinery it replaces.

**WAY FORWARD**

The editorial's own prescription is narrow and specific: the government must make the National Tribunals Commission fully independent by giving up its power to appoint or remove the Commission's own members at will, since a commission designed to insulate tribunals from executive control cannot itself remain subject to the executive's terms.


**MAINS ANSWER FRAMEWORK**
**QUESTION**

*The Tribunals Reforms Bill, 2026 creates a National Tribunals Commission pursuant to the Supreme Court's directive in Madras Bar Association vs Union of India (2025). Critically examine whether the Bill secures genuine institutional independence for tribunals or merely relocates executive control to new instruments. (250 words)*

**INTRODUCTION**

Tribunals exist to let specialists resolve technical disputes faster than the ordinary courts, but The Hindu's editorial on the Tribunals Reforms Bill, 2026 argues a structural flaw has outlasted every previous fix: tribunals have historically been administered by the same Ministries whose decisions they may review. The 2026 Bill, Parliament's response to the Supreme Court's order in Madras Bar Association (2025) for a National Tribunals Commission (NTC), is credited with real procedural gains but is argued to fall short of genuine institutional independence.

**BODY**

The editorial traces the flaw through a specific litigation history: Sampath Kumar (1987) and L. Chandra Kumar (1997) preserved High Court review of tribunal decisions as part of the basic structure without resolving administrative capture; Rojer Mathew (2019) went further, recommending an independent statutory NTC, with Justice Deepak Gupta holding that defining qualification for judicial power is an essential legislative function Parliament cannot delegate to rulemaking. Parliament's response cut the other way, the Finance Act, 2017 expanded executive control over appointments and the Tribunals Reforms Ordinance, 2021 reinstated conditions the Court had rejected, until Madras Bar Association (2025) struck those provisions down again and set a four-month deadline.

The 2026 Bill meets that deadline and earns real credit, restoring five-year tenures, uniform service conditions, a National Tribunals Data Grid, and protection for pending appointments. But the editorial identifies three specific levers still in executive hands: Section 14 leaves qualifications and service conditions to future Rules the government alone frames, precisely the delegation Justice Gupta's Rojer Mathew reasoning resisted; Section 16 routes complaints through the sponsoring Ministry before the Commission can inquire; and the Centre appoints the Commission's own members, consulting the Chief Justice of India only for the Chairperson and judicial members, not the technical members.

**CONCLUSION**

The editorial's verdict is precise rather than sweeping: a commission created to insulate tribunals from executive control cannot itself be subject to the executive's terms, and the fix it names is equally precise, the government must give up its power to appoint or remove the Commission's own members at will. A Mains answer that credits the Bill's genuine procedural gains while naming these three specific unresolved levers, delegated rulemaking under Section 14, ministry-first complaint screening under Section 16, and

executive control over Commission appointments, tracks the editorial's actual argument more closely than a general "independence achieved or not" verdict would.

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