

Reimagining Justice Delivery in India: Constitutional and Jurisprudential perspectives on Tribunalisation with Special Reference to the Food Safety Appellate Tribunal

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Abstract:

This article critically examines the constitutional and jurisprudential evolution of tribunalisation in India, situating it within the broader transformation of justice delivery mechanisms aimed at addressing judicial delay, procedural inefficiency, and increasing regulatory complexity. Drawing upon constitutional provisions, particularly Articles 14 and 21, and landmark judicial pronouncements, the study argues that tribunalisation represents a constitutionally mediated response to the crisis of access to justice rather than a mere administrative reform. The paper contextualises this development through empirical indicators, including the persistent judicial backlog—exceeding 4 crore pending cases across Indian courts—and structural constraints such as low judge-to-population ratios, which have necessitated alternative adjudicatory forums.

Focusing specifically on the Food Safety Appellate Tribunal (FSAT) established under the Food Safety and Standards Act, 2006, the article evaluates its legal framework, institutional design, and functional performance. It analyses whether the FSAT successfully advances specialised, efficient, and accessible justice in food regulatory disputes while adhering to constitutional safeguards of fairness, independence, and judicial review. The study identifies critical challenges, including limited accessibility, inadequate institutional independence, fragmented jurisdiction, and lack of transparent jurisprudential development.

By integrating doctrinal analysis with emerging empirical insights on tribunal performance, the article argues that while tribunalisation offers a viable pathway for reforming India's justice delivery system, its effectiveness depends on robust institutional design, enhanced accountability, and alignment with rights-based constitutional principles. The paper concludes by proposing reforms to strengthen tribunal independence, improve accessibility, and integrate tribunal mechanisms within a holistic framework for realising substantive rights, particularly the right to safe and adequate food.

Keywords: Tribunalisation of Justice, Food Safety Appellate Tribunal (FSAT), Access to Justice, Judicial Backlog in India, Constitutional Law (Articles 14 & 21), Right to Food, Tribunal Reforms Act, 2021, Regulatory Adjudication

INTRODUCTION

The administration of justice in India has undergone significant transformation in response to increasing litigation, procedural delays, and the growing complexity of regulatory

governance. Traditional court-centric adjudication, though constitutionally entrenched, has often struggled to deliver timely and specialized justice. By 2022, the pendency in India's District and Subordinate Courts had reached a staggering 4.32 crore (43.2 million) cases, marking a 60% increase over the previous decade. Concurrently, High Courts faced a backlog of approximately 53.9 lakh (5.39 million) cases, operating with a judicial vacancy rate of nearly 30%.¹ In this context, the phenomenon of tribunalisation has emerged as a critical institutional response, seeking to supplement and, in certain domains, substitute conventional judicial mechanisms. Conceived as expert-driven, flexible, and efficient forums, tribunals are intended to advance access to justice while preserving the core values of fairness, independence, and accountability embedded in the constitutional framework.

The constitutional legitimacy of tribunalisation in India rests on a delicate balance. On one hand, it is justified by the need to operationalize the mandate of access to justice under Articles 14 and 21 of the Constitution of India. On the other, it raises persistent concerns regarding the dilution of judicial independence, the erosion of separation of powers, and the potential fragmentation of the justice delivery system. The Supreme Court, through a series of landmark decisions, has attempted to reconcile these tensions by articulating principles governing the structure, composition, and functioning of tribunals. Consequently, tribunalisation in India is not merely an administrative reform but a constitutionally mediated process shaped by evolving jurisprudence.²

Within this broader landscape, the Food Safety Appellate Tribunal assumes particular significance. Established under the Food Safety and Standards Act, 2006, it represents a sector-specific adjudicatory body designed to address disputes arising from food safety regulation—an area intimately connected to public health, consumer protection, and regulatory compliance. The tribunal embodies the logic of specialised justice, combining technical expertise with adjudicatory functions. However, its institutional design, functional efficacy, and jurisprudential contributions remain relatively under-explored in academic discourse.

This article seeks to critically examine the constitutional logic and jurisprudential evolution of tribunalisation in India, with a focused inquiry into the role and functioning of the Food Safety Appellate Tribunal. It interrogates whether such tribunals fulfil their intended objectives of efficiency and expertise without compromising constitutional safeguards. By situating the Food Safety Appellate Tribunal within the broader trajectory of tribunal jurisprudence, the study aims to contribute to ongoing debates on the future of justice delivery in India. Ultimately, the article argues that while tribunalisation offers a viable

¹ Data from National Court Management Systems Committee, Supreme Court of India and National Judicial Grid Data. Available at <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2024/11/2024111250.pdf>

² International Journal of Advanced Legal Research (IJALR) Mishra, Ayush. "Revisiting Tribunalisation of Justice in India." *International Journal of Advanced Legal Research*, Sept. 2022, <https://ijalr.in/volume-1/issue-2/revisiting-tribunalisation-of-justice-in-india-by-ayush-mishra/>

pathway towards reform, its success depends on sustained judicial oversight, robust institutional design, and an unwavering commitment to constitutional principles.

A. JURISPRUDENTIAL EVOLUTION OF TRIBUNALS IN INDIA

The evolution of tribunal jurisprudence in India reflects a dynamic interaction between legislative innovation and constitutional adjudication. While tribunals were initially introduced to address systemic challenges such as judicial delays, technical complexity, and mounting case backlogs, their development has been neither linear nor uncontested. Over time, the Supreme Court of India has played a decisive role in shaping this trajectory, ensuring that the growth of tribunalisation remains consistent with constitutional principles rather than merely administrative convenience.

In its early phase, tribunalisation was driven primarily by functional considerations. The incorporation of Part XIV-A into the Constitution through the 42nd Amendment Act, 1976 provided formal constitutional backing for the establishment of specialised tribunals. The objective was to create forums capable of handling technical and sector-specific disputes more efficiently than traditional courts. During this period, tribunals were largely perceived as instruments of administrative efficiency, designed to reduce the burden on the judiciary. Judicial scrutiny of their structure and functioning was relatively limited, and little attention was paid to questions of independence, institutional design, or constitutional implications.

A decisive turning point in this evolution occurred with the landmark judgment in *L. Chandra Kumar v. Union of India*³, where the Supreme Court fundamentally redefined the status of tribunals within the constitutional framework. The Court held that the power of judicial review vested in High Courts and the Supreme Court forms part of the basic structure of the Constitution and cannot be excluded by legislation. This judgment repositioned tribunals as supplemental adjudicatory bodies rather than substitutes for constitutional courts, made their decisions subject to scrutiny under Articles 226 and 227, and reaffirmed the supremacy of the judiciary. It marked a clear shift from a purely functional justification of tribunals to a more constitutionally grounded approach.

Following this, the jurisprudence entered a phase of structural scrutiny, focusing on the independence and institutional design of tribunals. In *Union of India v. R. Gandhi*⁴, the Supreme Court examined the constitutional validity and emphasised that tribunals exercising judicial functions must possess the essential characteristics of courts. These include independence from executive control, adequate judicial representation, security of tenure, and fair and transparent appointment processes. These principles were further reinforced in *Madras Bar Association v. Union of India*⁵, where the Court invalidated provisions that compromised tribunal autonomy. Through these decisions, the judiciary began to actively

³ *L. Chandra Kumar v. Union of India* (1997) 3 SCC 261; AIR 1997 SC 1125

⁴ 2010 11 (SCC) 1

⁵ *Madras Bar Association v. Union of India*, (2014) 10 SCC 1

shape the institutional architecture of tribunals, ensuring their alignment with constitutional norms.

In the subsequent consolidation phase, the Supreme Court has repeatedly intervened to address persistent deficiencies in tribunal functioning, particularly issues relating to executive dominance, lack of uniformity, and procedural inconsistencies. The Court has scrutinised tribunal rules, struck down provisions that undermine independence, and directed reforms aimed at strengthening institutional integrity. This phase reflects an important transformation in the understanding of tribunalisation: it is no longer viewed as a purely legislative or administrative domain but as a constitutionally supervised process. The judiciary has effectively assumed the role of guardian, ensuring that the expansion of specialised adjudicatory mechanisms does not erode fundamental rights or compromise the basic structure of the Constitution.

Despite extensive judicial oversight, contemporary tribunal jurisprudence continues to grapple with significant challenges. Persistent concerns include fragmentation of the justice delivery system, variations in procedural standards across different tribunals, continued executive influence in appointments and administration, and infrastructural as well as capacity constraints⁶. These issues highlight an underlying tension between the promise of specialised, efficient justice and the risk of constitutional dilution. The Supreme Court has acknowledged these concerns and emphasised the need for systemic reforms and greater coherence in tribunal governance. At the same time, certain consistent jurisprudential themes have emerged from this evolution, including the primacy of judicial review, the non-negotiable requirement of institutional independence, the supplementary role of tribunals within the judicial system, and the constitutionalisation of tribunal governance.

Overall, the jurisprudential evolution of tribunals in India demonstrates a gradual but significant shift from functional pragmatism to constitutional accountability. What began as an efficiency-oriented reform has evolved into a complex and carefully regulated legal framework shaped by sustained judicial intervention. The Supreme Court of India has been central to this transformation, ensuring that tribunalisation remains firmly anchored in the rule of law. This evolution assumes particular significance when assessing specialised bodies such as the Food Safety Appellate Tribunal, whose legitimacy ultimately depends not only on statutory design but also on compliance with the constitutional standards articulated through this evolving body of jurisprudence.

B. CONSTITUTIONAL FOUNDATIONS OF TRIBUNALISATION OF JUSTICE IN INDIA

The constitutional logic underpinning tribunalisation in India reflects a careful attempt to reconcile two competing imperatives: the need for efficient, specialised dispute resolution and the preservation of core constitutional principles such as the rule of law, judicial independence, and access to justice. Far from being merely an administrative innovation, tribunalisation derives its legitimacy from constitutional guarantees and has evolved through

⁶ Parliamentary Standing Committee Data on Tribunals

sustained judicial scrutiny. It represents a shift in the architecture of justice delivery while remaining firmly anchored in constitutional norms.

At the heart of this framework lies the expansive interpretation of Articles 14 and 21 of the Constitution of India. Article 14 guarantees equality before the law and equal protection of laws, while Article 21, as judicially interpreted, encompasses the right to life and personal liberty, including the right to a fair, just, and reasonable procedure. The Supreme Court of India has consistently affirmed that access to justice is an integral facet of these guarantees. Tribunalisation is often justified as a mechanism to enhance such access by reducing procedural complexity, ensuring speedy adjudication, and providing subject-matter expertise. In this sense, tribunals are seen as instruments that operationalise substantive equality by making justice more accessible and efficient. However, the constitutional mandate extends beyond mere access. The procedures adopted by tribunals must conform to standards of fairness, reasonableness, and non-arbitrariness, failing which they risk violating both Articles 14 and 21. Thus, while tribunals may adopt flexible procedures compared to traditional courts, such flexibility cannot come at the cost of due process. The constitutional logic therefore demands a careful balance between efficiency and procedural fairness.

Tribunalisation also raises fundamental questions concerning the doctrine of separation of powers, which, though not explicitly codified, forms part of the basic structure of the Constitution. The transfer of adjudicatory functions from courts to tribunals—often staffed partly by members of the executive—creates inherent tensions regarding institutional independence. Judicial independence remains a cornerstone of constitutional governance, ensuring impartial adjudication free from external influence. Tribunals, particularly those functioning under executive control in matters of appointment, tenure, and administration, risk undermining this principle. The constitutional challenge, therefore, lies in designing tribunals that preserve decisional independence while benefiting from administrative efficiency. The Supreme Court of India has repeatedly emphasised that tribunals discharging judicial functions must possess characteristics akin to courts, including independence, security of tenure, and protection from executive interference. Tribunalisation, therefore, cannot be used to dilute judicial power; rather, it must operate as a constitutionally compatible supplement to the judicial system.

The formal constitutional basis for tribunalisation is found in Part XIV-A of the Constitution, introduced by the 42nd Amendment Act, 1976. This Part includes Articles 323-A and 323-B, which empower Parliament and state legislatures to establish tribunals for specific subject matters. Article 323-A provides for administrative tribunals dealing with service matters, while Article 323-B enables the creation of tribunals for a wide range of issues, including taxation, industrial disputes, and land reforms. These provisions reflect a clear constitutional recognition of specialised adjudicatory bodies as part of the justice delivery framework. However, they do not grant tribunals unfettered authority; their functioning remains subject to constitutional limitations, particularly the power of judicial review. Importantly, the constitutional scheme does not envisage tribunals as substitutes for constitutional courts. Instead, they are intended to act as supplemental forums that ease the burden on courts while maintaining adherence to constitutional norms. The placement of Part XIV-A thus

demonstrates a calibrated constitutional approach—authorising tribunalisation while preserving the supremacy of the judiciary.

The legitimacy of tribunalisation in India has been largely shaped through judicial interpretation, with the Supreme Court of India playing a central role in defining its contours. Through a series of landmark decisions, the Court has laid down guiding principles to ensure that tribunals remain constitutionally compliant. In *L. Chandra Kumar v. Union of India*⁷, the Court held that the power of judicial review vested in High Courts and the Supreme Court forms part of the basic structure of the Constitution and cannot be excluded, thereby positioning tribunals as supplemental rather than substitutive adjudicatory bodies. Subsequent decisions such as *Union of India v. R. Gandhi* and *Madras Bar Association v. Union of India*⁸ further elaborated on the institutional safeguards required for tribunals, including judicial dominance in selection processes, security of tenure, independence from executive control, and adherence to judicial standards in decision-making. Through this evolving jurisprudence, the Court has effectively constitutionalised tribunal governance, ensuring that efficiency-driven reforms do not erode fundamental principles.

The constitutional logic of tribunalisation in India is thus neither purely functional nor merely formal; it is a carefully mediated construct shaped by constitutional guarantees and judicial oversight. Articles 14 and 21 provide its normative foundation, the doctrine of separation of powers imposes structural limitations, Part XIV-A offers institutional legitimacy, and judicial interpretation ensures continued accountability. Together, these elements create a coherent framework within which tribunalisation can meaningfully contribute to the reimagining of justice delivery, provided it remains firmly anchored in constitutional values.

C. RIGHT TO FOOD AS A FUNDAMENTAL RIGHT AND TRIBUNAL MECHANISMS IN INDIA

The recognition of the right to food as a fundamental right in India represents a significant expansion of socio-economic rights within constitutional jurisprudence. Although not explicitly enumerated in the Constitution, the right to food has been judicially derived from Article 21, which guarantees the right to life and personal liberty. Through a progressive and purposive interpretation, the Supreme Court of India has transformed Article 21 into a source of substantive entitlements necessary for living with dignity, including access to adequate and nutritious food. This interpretative shift has enabled the movement of food security concerns from the domain of policy discretion into the sphere of enforceable rights.

The right to food gained doctrinal clarity and practical significance through the landmark case of *People's Union for Civil Liberties v. Union of India*⁹, in which the Supreme Court

⁷ *ibid*

⁸ *Ibid*

⁹ (Writ Petition [Civil] No. 196 of 2001)

treated food security as a justiciable entitlement. In this continuing mandamus, the Court issued a series of interim directions that effectively transformed major welfare schemes—such as the Public Distribution System, the Mid-Day Meal Scheme, and the Integrated Child Development Services—into enforceable legal obligations. This jurisprudence established that the right to food is intrinsic to the right to life under Article 21, that the State bears a positive obligation to prevent hunger and malnutrition, and that welfare programmes must be implemented in a rights-based and accountable manner. As a result, the right to food was elevated from a directive principle of state policy to an enforceable fundamental right.

This judicial recognition was subsequently reinforced through statutory institutionalisation, most notably by the enactment of the National Food Security Act, 2013, which provides a comprehensive legal framework to ensure access to subsidised food grains and nutritional support for vulnerable populations. Complementing this framework is the Food Safety and Standards Act, 2006, which addresses the quality and safety of food. Together, these statutes reflect the dual dimension of the right to food: on the one hand, ensuring availability and access through welfare mechanisms, and on the other, safeguarding safety and quality through regulatory oversight. This dual framework necessarily requires effective adjudicatory mechanisms to resolve disputes, enforce compliance, and uphold rights in both dimensions.

Within this institutional landscape, tribunal mechanisms play a crucial role in operationalising the right to food, particularly in its regulatory aspect. The Food Safety Appellate Tribunal, established under the Food Safety and Standards Act, 2006, provides a specialised forum for adjudicating disputes arising from food safety regulation. By addressing technically complex issues relating to food standards, contamination, and compliance, the tribunal contributes to informed and expert decision-making. It also serves as a mechanism for ensuring regulatory accountability by reviewing the actions of food safety authorities, while offering a comparatively efficient alternative to conventional courts. In this way, tribunalisation supports the enforcement of the right to safe food by ensuring that regulatory frameworks are effectively implemented rather than remaining merely aspirational.

The effectiveness of such tribunal mechanisms, however, is closely tied to their adherence to constitutional guarantees under Articles 14 and 21. Access to justice is an essential component of the right to food, as rights without accessible remedies remain largely symbolic.¹⁰ The Supreme Court of India has emphasised that tribunals must uphold principles of natural justice, provide reasoned decisions, and remain accessible to all affected stakeholders. This is particularly important in the context of food safety disputes, which often involve small food business operators, consumers, and broader public health concerns. The legitimacy of tribunal mechanisms, therefore, depends not only on their efficiency but also on their ability to deliver fair and transparent adjudication.

Despite their potential, tribunal mechanisms face significant challenges in advancing the right to food in practice. Limited awareness and accessibility often prevent affected individuals from effectively utilising tribunal remedies, while concerns regarding executive influence

¹⁰ OHCHR (Office of the High Commissioner for Human Rights) "Fact Sheets." *United Nations Human Rights Office of the High Commissioner*, www.ohchr.org/en/publications/fact-sheets

raise questions about institutional independence. Infrastructural and capacity constraints further impede the timely resolution of disputes, and the narrow jurisdiction of bodies like the Food Safety Appellate Tribunal means that broader issues of food entitlement and distribution remain outside their scope. These limitations reveal a gap between the formal recognition of the right to food and its practical realisation on the ground.

In order to bridge this gap, there is a pressing need to integrate constitutional rights with institutional mechanisms more effectively. Strengthening the independence and capacity of tribunals, expanding awareness and accessibility, ensuring coordination between tribunals, courts, and welfare authorities, and embedding a rights-based approach within adjudicatory processes are essential steps in this direction. Such reforms would enable tribunal mechanisms to align more closely with the constitutional vision of social justice and substantive equality.

Ultimately, the evolution of the right to food as a fundamental right underscores the transformative potential of constitutional interpretation in India. However, its realisation depends not only on judicial recognition or legislative enactment but also on the effectiveness of institutional frameworks that give it practical meaning. Tribunalisation, particularly through specialised bodies like the Food Safety Appellate Tribunal, represents an important component of this framework. Its success, however, will depend on its ability to function as an independent, accessible, and rights-oriented forum capable of bridging the gap between legal entitlement and lived reality.

D. TRIBUNALISATION & ROLE OF FOOD SAFETY APPELLATE TRIBUNAL: LEGAL AND INSTITUTIONAL FRAMEWORK

The Food Safety Appellate Tribunal (FSAT) constitutes a key institutional mechanism within India's food regulatory regime, designed to ensure accountability, fairness, and efficiency in the enforcement of food safety laws. Situated within the broader framework of tribunalisation, it reflects the State's effort to create specialised adjudicatory bodies capable of addressing technically complex disputes in a timely and effective manner. In a single reporting year, Food Safety Officers analyzed 1,07,829 food samples. Of these, 28,347 were found nonconforming (5,220 unsafe; 13,394 substandard; 9,733 labeling defects). This massive enforcement drive resulted in 24,195 civil cases launched and 15,532 civil cases decided by Adjudicating Officers, imposing penalties amounting to roughly ₹49.92 crores¹¹.

Statutory Foundation and Legal Basis

The Food Safety Appellate Tribunal derives its authority from the Food Safety and Standards Act, 2006, which consolidates multiple food-related laws into a unified regulatory framework. The Act provides for adjudication of food safety violations by designated adjudicating officers and establishes the Tribunal as an appellate body to review such decisions.

¹¹ FSSAI Annual Report 2020-21 (Published August 2022).

The legislative intent behind this framework is twofold:

- To ensure effective enforcement of food safety standards¹²
- To provide a fair and accessible appellate mechanism for aggrieved parties¹³

Thus, the Tribunal operates as a safeguard against arbitrary or excessive regulatory action.

a. Institutional Structure and Composition

The FSAT is typically constituted at the State level and is presided over by a judicial authority, often a person qualified to be a District Judge. This ensures that legal expertise remains central to its functioning.¹⁴

Its institutional design reflects key features of tribunalisation:

- Quasi-judicial character, combining administrative and judicial functions
- Simplified procedural framework, not strictly bound by the Code of Civil Procedure
- Focus on specialised adjudication, particularly in matters involving scientific and technical evidence

However, its constitutional legitimacy depends on maintaining independence from executive influence, consistent with principles articulated by the Supreme Court of India.

b. Jurisdiction and Powers

The Tribunal exercises appellate jurisdiction over orders passed by adjudicating officers under the Act. Its powers include:

¹² Penal and Adjudicatory Provisions (Sections 50–66, 68–79): The Act distinguishes between compounding of offenses (Sections 75–77) and adjudication by designated officers (Section 68, etc.). Section 72 allows compounding of certain offenses. Section 72 and following empower the Adjudicating Officer (appointed by state governments, usually a senior official) to handle contraventions and impose penalties. The FSSAI and state food authorities thus have a hybrid system of administrative adjudication (civil-esque) and criminal prosecution under the penal provisions.

¹³ Appeals and Tribunal (Sections 84–97): The Act provides appeals against adjudication or compounding orders. Originally, Chapter X and Section 84 provided for a Food Safety Appellate Tribunal (FSAT) to hear appeals against orders of Adjudicating Officers. The exact section numbering has shifted in successive amendments, but as originally enacted, Section 97(5) (now renumbered elsewhere) allowed appeals from Adjudicating Officers' orders to the Tribunal. Appeals from the Tribunal itself could go to the High Court (Article 227 writ) or Supreme Court (special leave petition)

¹⁴ Food Authority and Governance (Sections 4–18, 92–98): The Act establishes the centralized Food Safety and Standards Authority of India (FSSAI) as the primary regulator. The FSSAI's functions include setting science-based safety standards and regulating manufacture, storage, distribution, sale and import of food products. The Authority's composition and functions are detailed in Part III of the Act (e.g. Sections 4–18 describe its structure; Section 31 provides an overriding power). The government also appoints a Food Safety Appellate Tribunal for hearing appeals against orders of food safety officers (Chapter X).

- Reviewing penalties imposed for violations such as misbranding, adulteration, or unsafe food practices
- Examining disputes relating to licensing, registration, and compliance¹⁵
- Assessing the legality, proportionality, and procedural fairness of administrative actions

In performing these functions, the Tribunal not only resolves dispute but also contributes to the development of regulatory standards and legal clarity in food safety law.

d. Procedural Framework and Access to Justice

A central objective of the FSAT is to enhance access to justice in regulatory matters. It achieves this through:

- Less formal procedures compared to traditional courts
- Time-bound adjudication aimed at reducing delays
- Sector-specific expertise, enabling informed decision-making

These features align with the broader constitutional mandate under Articles 14 and 21, which require fairness, reasonableness, and accessibility in legal processes. Nevertheless, accessibility in practice depends on awareness, affordability, and institutional efficiency.

e. Functional Role in Food Governance

The FSAT plays a crucial role in strengthening food governance by:

- Ensuring regulatory accountability of food safety authorities¹⁶
- Providing remedies to food business operators against arbitrary penalties¹⁷
- Protecting consumer interests by upholding safety standards

¹⁵ Licensing, Standards, and Enforcement (Sections 17–51): Chapters IV–IX set up requirements for licensing and registration of food businesses (Section 31) and outline general obligations of producers, such as ensuring food meets prescribed standards, labeling requirements, etc. The Authority (or its officers) may issue directions or lay down requirements via regulations (e.g. Section 16). Chapter IX defines offenses (Section 48 onwards) and penalties: for instance, producing adulterated or unsafe food (Sections 52–55) carries significant fines and imprisonment. Section 52(1)(c) specifically imposes a penalty up to INR 10 lakh (and/or 6 months' imprisonment) if a person manufactures or sells misbranded food. Section 53 deals with sub-standard food, while Section 54 addresses modification of food not in compliance, and Section 55 defines misbranding.

¹⁶ Regulatory Powers (Sections 16, 17, 30, etc.): The FSSAI (through the CEO) has broad powers. Section 16 requires the Authority to perform functions such as laying down standards, accrediting laboratories, training food safety officials, and collecting data. Notably, Section 30 empowers a Food Safety Officer to issue a prohibition order if he has reason to believe a food article is unsafe. Once a prohibition order is issued (e.g. banning manufacture or sale), the article can be seized (Section 31) and disposed of. The government can also forbid use of articles declared unsafe under any law (Section 29). These powers are often exercised in enforcement drives.

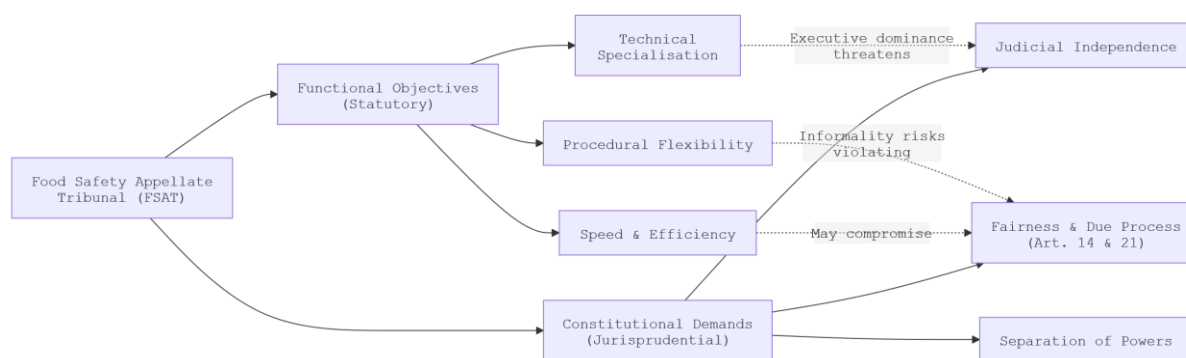
¹⁷FSSAI 2020-21 Annual Report Data (28,347 non conforming samples, 24,195 civil cases launched, ₹49.92 crore in penalties).

- Contributing to consistency in enforcement practices

Its decisions indirectly support the realisation of the right to safe and quality food, which has been recognised as part of the right to life.

The Food Safety Appellate Tribunal represents a critical component of India's regulatory adjudicatory framework. Its legal and institutional design reflects the broader objectives of tribunalisation—efficiency, expertise, and accessibility. However, its effectiveness depends on its ability to function as an independent, well-resourced, and constitutionally compliant body.

As India continues to strengthen its food safety regime and reimagine justice delivery, the role of the FSAT will be pivotal in bridging the gap between regulatory enforcement and constitutional guarantees of fairness, accountability, and access to justice.



E. REASSESSING THE FOOD SAFETY APPELLATE TRIBUNAL: A CRITICAL ANALYSIS OF ITS LEGAL AND INSTITUTIONAL FRAMEWORK

The establishment of the Food Safety Appellate Tribunal (FSAT) under the Food Safety and Standards Act, 2006 reflects a broader commitment to tribunalisation as a means of achieving specialised and efficient justice delivery in regulatory domains. At a normative level, the Tribunal embodies the promise of expeditious adjudication, technical expertise, and accessible dispute resolution. However, a closer examination reveals that its institutional design and functional performance raise significant concerns regarding its ability to meet constitutional expectations. The FSAT, rather than fully realising the transformative potential of tribunalisation, illustrates the tensions between efficiency and fairness, specialisation and independence, and regulatory focus and rights-based justice.

One of the central justifications for tribunalisation lies in its capacity to deliver speedy justice through procedural flexibility. In the case of the FSAT, simplified procedures and the absence of strict adherence to the Code of Civil Procedure are intended to facilitate quicker resolution of disputes. Yet, this emphasis on efficiency introduces a fragile balance with the requirements of due process. The constitutional guarantees under Articles 14 and 21 demand that adjudicatory mechanisms be fair, reasonable, and non-arbitrary. In practice, however, procedural informality may result in inconsistent application of principles of natural justice, particularly in matters involving penalties, licensing, and compliance that directly affect livelihoods and public health. The risk, therefore, is that the pursuit of speed may come at the cost of fairness, thereby undermining the very legitimacy of the tribunal.

The CAG audit highlighted severe infrastructural apathy by State Governments toward FSATs. For instance, in states like Madhya Pradesh, rather than establishing separate, dedicated Appellate Tribunals, the State simply appointed District and Sessions judges as presiding officers in addition to their regular duties. In sampled districts, this led to a 416% increase in appeal cases, resulting in a 59% pendency rate at the tribunal level, defeating the very purpose of an "expeditious" appellate mechanism¹⁸.

A more structural concern arises in relation to the independence of the FSAT. Although conceived as a quasi-judicial body, its institutional location within a regulatory framework dominated by the executive creates an inherent tension with the principle of judicial independence. The Supreme Court of India has consistently emphasised that tribunals exercising judicial functions must be insulated from executive influence, particularly in matters of appointment, tenure, and administration. Nevertheless, the FSAT's dependence on executive mechanisms for its functioning raises doubts about its ability to act as an impartial adjudicator, especially when adjudicating disputes involving state regulatory authorities. This structural vulnerability not only affects decisional independence but also erodes public confidence in the tribunal as a credible forum for dispute resolution.

The limitations of the FSAT are further accentuated by its narrowly defined jurisdiction, which is confined to regulatory disputes under the parent statute. While it effectively addresses issues of compliance, penalties, and licensing, it remains disconnected from broader questions relating to the right to food, such as access, distribution, and nutritional adequacy. This creates a fragmented adjudicatory landscape in which different aspects of food-related rights are addressed by separate institutions with limited coordination. Such fragmentation undermines the holistic realisation of the right to food, as systemic issues often transcend the boundaries of regulatory enforcement. In this sense, the FSAT exemplifies the broader challenge of tribunalisation in India, where specialised forums operate in silos rather than as part of an integrated justice delivery system.

The claim that tribunals enhance access to justice also warrants critical scrutiny in the context of the FSAT. While the Tribunal is designed to be less formal and more accessible than traditional courts, practical barriers continue to limit its reach. Limited awareness of appellate remedies, costs associated with legal representation, and infrastructural constraints restrict access, particularly for small-scale food business operators and marginalised stakeholders. As a result, the FSAT risks becoming a forum primarily utilised by well-resourced entities, thereby reproducing existing inequalities rather than addressing them. This gap between normative design and practical accessibility highlights a fundamental limitation of tribunalisation when not accompanied by broader institutional support.

Another area of concern is the relatively limited contribution of the FSAT to the development of jurisprudence. Unlike more prominent tribunals, its decisions are not consistently reported or widely disseminated, which restricts their influence on legal development and regulatory practice. The absence of a robust body of accessible decisions undermines transparency and

¹⁸ Comptroller and Auditor General of India (CAG) Performance Audit Report on FSSAI (Report No. 14 of 2021).

reduces the tribunal's capacity to shape coherent standards in food safety law. This lack of visibility also weakens accountability, as it becomes difficult to assess the consistency and quality of decision-making.

Although the availability of judicial review provides an important constitutional safeguard, its effectiveness as a corrective mechanism is inherently limited. The principle established in *L. Chandra Kumar v. Union of India* ensures that tribunal decisions remain subject to scrutiny by High Courts. However, reliance on judicial review creates a paradox: if tribunal decisions are frequently challenged, the objective of reducing the burden on courts is defeated. Moreover, access to higher judicial forums may not be feasible for all parties, particularly those with limited resources. Judicial oversight, while necessary, cannot substitute for the need to ensure that tribunals themselves function in a constitutionally compliant manner.

In light of these challenges, it becomes evident that the FSAT requires a reimagined institutional framework that aligns more closely with constitutional principles. Strengthening independence through transparent and judicially guided appointment processes, enhancing accessibility through procedural simplification and outreach, and improving transparency through systematic reporting of decisions are essential steps in this direction. More fundamentally, there is a need to integrate tribunal mechanisms with broader rights-based frameworks to ensure that regulatory adjudication contributes meaningfully to the realisation of substantive rights.

The Food Safety Appellate Tribunal illustrates both the promise and the limitations of tribunalisation in India's justice delivery system. While it offers a specialised forum for resolving regulatory disputes, its structural and functional deficiencies raise critical questions about its effectiveness as an instrument of constitutional justice. The challenge, therefore, lies not merely in expanding tribunal mechanisms but in ensuring that they operate as independent, accessible, and rights-oriented institutions capable of bridging the gap between legal norms and lived realities.

The Tribunals Reforms Act, 2021 though not enacted specifically for food law, this Act (No. 33 of 2021) broadly reorganized India's tribunal system. It aimed to replace multiple sectoral appellate tribunals with High Courts or consolidated appellate bodies, on grounds of efficiency. The Act's schedules list numerous statutes whose tribunal mechanisms were modified. Notably, the Act abolishes nine appellate tribunals (via the Tribunals Reforms Ordinance of 2021 initially), transferring their jurisdiction to High Courts.

The Tribunals Reforms Act famously did *not* explicitly amend the Food Safety Act's tribunal provisions in the initial schedules. For example, Act 34 of 2006 (FSSA) does not appear in the schedules of repealed tribunals in the official Act text (www.indiacode.nic.in). As a result, the Food Safety Appellate Tribunal (FSAT) – originally created under FSSA Chapter X – remains the designated appellate body under the statute.

Moreover, Section 35 of the Tribunals Reforms Act (not necessarily noted explicitly for food law) repealed the earlier Tribunal Reforms Ordinance (2021) once the Act was passed (www.indiacode.nic.in). In summary, the Tribunal Reforms Act illustrates India's effort to fold sectoral tribunals into higher courts. In practical terms, therefore, the legislative

framework for food safety in India comprises the FSSA and its allied Rules/Regulations (which detail many standards, labelling and compositional requirements) and prosecutorial provisions, together with procedural rules for enforcement and appeals (implicitly modified by tribunal reforms). The Act is periodically amended: for example, the Food Safety and Standards (Amendment) Acts of 2011, 2018, and 2020 made tweaks such as increasing penalties and broadening regulatory scope.

F. RETHINKING THE FOOD SAFETY APPELLATE TRIBUNAL: LEGAL AND CONSTITUTIONAL CONSTRAINTS

The Food Safety Appellate Tribunal (FSAT), established under the Food Safety and Standards Act, 2006, represents an important institutional mechanism within India's regulatory framework for ensuring food safety. However, despite its statutory legitimacy, the Tribunal faces a range of legal and constitutional challenges that raise serious concerns about its effectiveness, independence, and alignment with constitutional principles. These challenges are not merely operational but go to the core of its role within the broader justice delivery system.

A primary constitutional concern relates to the *independence of the FSAT*, which is an essential requirement for any adjudicatory body exercising judicial or quasi-judicial functions. The structural positioning of the FSAT within an executive-controlled regulatory framework creates an inherent tension with the doctrine of separation of powers, which forms part of the basic structure of the Constitution. The Supreme Court of India has consistently held that tribunals must be insulated from executive influence, particularly in matters of appointment, tenure, and administration. However, in practice, the FSAT often remains dependent on the executive for its constitution and functioning, thereby raising doubts about its ability to act as an impartial adjudicator, especially in disputes involving state regulatory authorities. This structural vulnerability undermines both institutional credibility and public confidence.

Closely linked to this is the issue of *procedural fairness and due process under Articles 14¹⁹ and 21²⁰* of the Constitution. While tribunalisation is justified on the ground of efficiency and flexibility, such procedural informality must still conform to constitutional standards of fairness, reasonableness, and non-arbitrariness. The FSAT's procedures, which are not strictly bound by the Code of Civil Procedure, may lead to inconsistencies in the application of principles of natural justice. Given that its decisions can have significant consequences for both public health and the livelihoods of food business operators, any dilution of procedural safeguards risks violating constitutional guarantees. The challenge, therefore, lies in ensuring that efficiency does not come at the expense of due process.

¹⁹ Article 14 of the Constitution of India 'The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India'.

²⁰ Article 21 of the Constitution of India 'No person shall be deprived of his life or personal liberty except according to procedure established by law'.

Another significant legal challenge arises from the *fragmented jurisdiction of the FSAT*, which limits its capacity to contribute meaningfully to the broader realisation of the right to food. While the Tribunal adjudicates disputes related to food safety compliance, penalties, and licensing, it does not address wider issues of food access, distribution, or nutritional security, which are governed by other legal and policy frameworks. This creates a disjointed adjudicatory landscape in which different aspects of the right to food are handled by separate institutions with little coordination. Such fragmentation weakens the enforcement of socio-economic rights and highlights the limitations of a narrowly defined regulatory tribunal in addressing systemic issues.

The FSAT also faces challenges in terms of *access to justice*, which is a core component of constitutional governance. Although tribunals are designed to be more accessible than traditional courts, practical barriers often persist. Limited awareness of the Tribunal's existence, costs associated with legal representation, and infrastructural constraints restrict its accessibility, particularly for small food business operators and marginalised stakeholders. This creates a gap between the normative objective of tribunalisation and its actual impact, raising concerns about whether the FSAT truly enhances access to justice or merely replicates existing inequalities within a different institutional form.

Further, the *lack of institutional coherence and uniformity* across states poses a serious legal challenge. Since the FSAT is established at the state level, its functioning varies widely in terms of constitution, infrastructure, and procedural practices. In some states, tribunals are either not fully operational or function irregularly, leading to delays and uncertainty in dispute resolution. This inconsistency undermines the principle of equality before the law under Article 14, as similarly situated parties may experience vastly different adjudicatory outcomes depending on the state in which they operate.

The issue of *limited jurisprudential development and transparency* also affects the FSAT's legal significance. Unlike more prominent tribunals, its decisions are not consistently reported or widely accessible, which restricts the evolution of coherent legal principles in food safety law. The absence of a robust body of precedents reduces predictability in adjudication and limits the Tribunal's contribution to legal development. It also weakens accountability, as the lack of transparency makes it difficult to evaluate the quality and consistency of decision-making.

Although the availability of judicial review provides an important constitutional safeguard, its role in addressing FSAT deficiencies is inherently limited. As established in *L. Chandra Kumar v. Union of India*, tribunal decisions are subject to scrutiny by High Courts. However, reliance on judicial review as a corrective mechanism can undermine the efficiency rationale of tribunalisation and may not be accessible to all parties, particularly those with limited resources. This creates a paradox where the effectiveness of the tribunal is contingent upon recourse to the very court system it was intended to supplement.

In sum, the legal and constitutional challenges confronting the Food Safety Appellate Tribunal reveal deeper structural issues within India's model of tribunalisation. While the FSAT is a valid statutory institution, its limitations in terms of independence, procedural

fairness, accessibility, and institutional coherence raise important questions about its capacity to function as an effective forum for justice. Addressing these challenges requires not only administrative reforms but also a reorientation of tribunal design in line with constitutional principles. Only then can the FSAT meaningfully contribute to a justice delivery system that is both efficient and constitutionally grounded.

G. REIMAGINING TRIBUNALISATION: STRENGTHENING THE FOOD SAFETY APPELLATE TRIBUNAL THROUGH TARGETED REFORMS AND RECOMMENDATIONS

Strengthening the Food Safety Appellate Tribunal (FSAT), established under the Food Safety and Standards Act, 2006, requires a combination of structural, procedural, and constitutional reforms aimed at transforming it into an effective, credible, and rights-oriented adjudicatory body. While the tribunal was conceived as a specialised mechanism to enhance efficiency in food safety regulation, its current limitations highlight the need for a more systemic and integrated reform approach.

A foundational reform lies in *ensuring institutional independence*, which is central to the legitimacy of any adjudicatory body. The FSAT's present dependence on executive authorities for appointments, administration, and infrastructure raises concerns regarding impartiality. Drawing on principles articulated by the Supreme Court of India, reforms must prioritise a transparent and judicially guided appointment process, greater security of tenure for members, and administrative autonomy. Establishing independent selection committees with significant judicial representation would help insulate the tribunal from executive influence and enhance public confidence.

Equally important is the need to *standardise and strengthen institutional design across states*. The decentralised nature of the FSAT has resulted in uneven functioning, with some states lacking fully operational tribunals. A more coherent framework—possibly through model rules or central guidelines—would ensure uniformity in composition, procedure, and functioning. While retaining federal flexibility, a baseline standard for infrastructure, staffing, and operational capacity is essential to uphold the constitutional guarantee of equality before the law.

Another critical area of reform is *enhancing access to justice*. Despite its intended informality, the FSAT remains inaccessible to many stakeholders, particularly small food business operators and consumers. Simplifying procedures, enabling digital filing and virtual hearings, and promoting legal aid mechanisms can significantly reduce barriers. Collaboration with bodies such as the National Legal Services Authority could help extend legal assistance and awareness, ensuring that the tribunal does not become an elite forum accessible only to well-resourced parties.

The *procedural framework of the FSAT* also requires careful recalibration to balance efficiency with due process. While flexibility is necessary, it must not compromise principles of natural justice. Codifying minimum procedural safeguards—such as the right to be heard, reasoned decisions, and transparency in proceedings—would strengthen fairness and

consistency. Developing clear procedural guidelines can also reduce arbitrariness and enhance predictability in adjudication.

Further, there is a need to *expand the tribunal's functional integration within the broader food governance framework*. Currently, the FSAT operates in relative isolation from welfare-oriented mechanisms such as those under the National Food Security Act, 2013. Greater coordination between regulatory bodies, welfare authorities, and adjudicatory forums would allow for a more holistic approach to the right to food. While the tribunal need not assume jurisdiction over entitlement issues, its reasoning can incorporate broader constitutional values such as public health, nutrition, and consumer protection.

Improving *transparency and jurisprudential development* is another essential reform. The systematic publication of tribunal decisions, creation of accessible databases, and encouragement of reasoned and well-articulated judgments would contribute to the development of a coherent body of food safety law. This would not only guide stakeholders but also enhance accountability and consistency in decision-making.

Addressing *capacity and infrastructural constraints* is equally crucial. Adequate funding, trained personnel, and technological support are necessary to ensure timely and effective adjudication. Investment in capacity-building programmes, including training for tribunal members in both legal and scientific aspects of food safety, would further enhance the quality of decision-making.

Finally, there is a broader need to *reconceptualise the FSAT within a rights-based framework*. Rather than functioning solely as a regulatory appellate body, the tribunal should be encouraged to interpret and apply the law in a manner consistent with constitutional values under Articles 14 and 21. Embedding a rights-oriented approach would ensure that adjudication goes beyond technical compliance and contributes to the realisation of the right to safe and adequate food.

Strengthening the Food Safety Appellate Tribunal requires more than incremental administrative changes; it demands a comprehensive reform strategy that addresses structural independence, procedural fairness, accessibility, and institutional coherence. By aligning the tribunal more closely with constitutional principles and the broader goals of food governance, these reforms can transform it into an effective instrument of justice that bridges the gap between regulatory enforcement and the protection of fundamental rights.

CONCLUSION

The trajectory of tribunalisation in India represents a profound paradigm shift in the nation's adjudicatory architecture, necessitated by the staggering judicial backlog and the intricate demands of modern regulatory governance. However, as this study has demonstrated, tribunalisation transcends mere administrative convenience; it is fundamentally a constitutional project. Its legitimacy is inherently tethered to the mandate of access to justice, substantive equality, and the right to life enshrined under Articles 14 and 21 of the Constitution. Over the decades, the Supreme Court of India has played a pivotal role in constitutionalising tribunal governance. Through landmark pronouncements, the judiciary has consistently reaffirmed that while tribunals may supplement the traditional court system to

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foster adjudicatory expediency and specialized expertise, they cannot supplant the constitutional scaffolding of judicial review, separation of powers, and institutional independence.

The critical examination of the Food Safety Appellate Tribunal (FSAT) undertaken in this article serves as a potent microcosm of the broader systemic crises plaguing India's tribunal framework. Conceived under the Food Safety and Standards Act, 2006, the FSAT was envisioned as an agile, expert-driven forum essential for enforcing safety standards and operationalising the regulatory dimensions of the right to food. Yet, the empirical and institutional realities of the FSAT expose a fragile equilibrium between administrative efficiency and constitutional due process. Far from realizing its normative promise, the tribunal's functioning is frequently compromised by systemic infrastructural apathy and severe capacity constraints. Instances of state governments ad-hocly assigning FSAT responsibilities to overburdened District Judges—resulting in skyrocketing appellate pendencies—demonstrate that the structural neglect of these tribunals actively defeats the legislative objective of expeditious justice.

More critically, the current design of the FSAT reveals profound vulnerabilities regarding institutional independence. The tribunal's structural location within a regulatory framework heavily dominated by the executive creates an inherent friction with the core tenets of judicial impartiality. When an adjudicatory body relies on the very executive it is meant to hold accountable for its appointments, finances, and infrastructure, its capacity to act as an independent arbiter is severely undermined. Furthermore, the procedural informality of the FSAT, while theoretically designed to enhance accessibility, frequently risks diluting essential safeguards of natural justice. For marginalized stakeholders and small-scale food business operators, the promise of accessible justice remains largely illusory, obscured by practical barriers, high costs, and institutional opacity.

This research also highlights a significant conceptual fragmentation in India's approach to the right to food. By isolating food safety adjudication within a strictly regulatory tribunal, the current legal framework divorces the enforcement of food standards from the broader socio-economic entitlements of food security and distribution. This siloed jurisdiction impedes the holistic realization of the right to food as a fundamental right under Article 21. Addressing this requires a conceptual shift: tribunals must be reimagined not merely as regulatory enforcement mechanisms, but as rights-oriented forums.

Moving forward, the reimagining of justice delivery in India demands a systemic legislative and institutional overhaul, moving beyond the piecemeal modifications seen in the Tribunal Reforms Act, 2021. To salvage the credibility of the FSAT and allied tribunals, their structural independence must be unequivocally secured through transparent, judicially-led appointment processes, guaranteed security of tenure, and absolute financial autonomy from parent ministries. Concurrently, there must be a concerted effort to codify minimum procedural safeguards and systematically report tribunal jurisprudence, thereby fostering transparency, predictability, and accountability.

Ultimately, tribunalisation in India stands at a critical crossroads. The pursuit of specialized, rapid dispute resolution cannot serve as a pretext for compromising constitutional guarantees. The Food Safety Appellate Tribunal possesses the latent potential to be a vanguard institution in safeguarding public health and consumer rights. However, realizing this potential requires aligning its institutional architecture with the foundational ethos of the Constitution. Only by steadfastly anchoring specialized adjudication in the unyielding principles of institutional independence, procedural fairness, and rights-based justice can India ensure that the promise of tribunalisation translates into genuine access to justice for all.

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