

ABSTRACT

NCLAT/ NCLT IN RESPECT TO ADMIN LAW

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Our country comprises of major and vast laws that are related to company matters from as long as the 1600s². Now, we have a consolidated law which deals with all the related company matters.³ But the formulation of that law has been a struggle⁴ as well. This is so because law relating to companies is very vast. It needs to incorporate the formation of a company, the members under it, its memorandums, its dissolution, while fastening the liabilities and providing remedies. As a result, combining technicalities dealing with corporate with the legal jargons, it becomes a very tedious, and time-consuming job to be done which results in pendency and delay in disposing off of the cases. Earlier, the matter related to company was heard before the Company Law Board. There also existed BIFRA⁵ dealing with cases relating to insolvency, as well as AAIFR⁶. Along with this there existed our Hon'ble High Court which was hearing these matters as well. This resulted in high pendency, repetition of cases and confusion in the society. Which is why, NCLAT and NCLT, sole specialized tribunals dealing explicitly with company related matters were established.

This paper is an attempt to understand their composition and need. The paper also sheds light into what quasi-judicial bodies are and the need for Tribunalisation in India. Further, whether and what is the constitutionality of these tribunals are is also looked at. The last part of the paper looks into analysis of what the current scenario of these tribunals are.

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²East India Company, Joint Stock Company Act, 1857.

³ The Companies Act, 2013.

⁴ Companies Act of 1866 followed by Indian Companies Act, 1913, replaced by Indian Companies Act, 1956, subjected to further amendments.

⁵ Board for Industrial and Financial Reconstruction

⁶The Appellate Authority for Industrial and Financial Reconstruction