Undermining justice

The Government must explain the unusual delay in filling up vacancies in courts, tribunals

It was only a matter of time before the controversy over the Union government delaying judicial appointments hit the headlines again. In recent days, the Supreme Court has voiced concern over the Government's lackadaisical attitude towards the large number of vacancies in High Courts and tribunals. Chief Justice of India N.V. Ramana confronted the Government with a list of 240 vacancies in various tribunals. He asked rather bluntly whether there was a plan to close down some tribunals. Many tribunals lack presiding officers, and recommendations made by selection committees have not been acted upon. The vacancies in High Courts are at a staggering 455, as on August 1. It appears that exhortations from the courts, and even a judicial order from the top court in April – fixing time-frames for the Intelligence Bureau and the Government to process names forwarded by the Collegium for making appointments to the High Courts or returning files and for accepting names reiterated by the judges' body – has not imparted a sense of urgency. A two-judge Bench has noted that the Centre's delay in making appointments to the High Courts is adversely affecting the adjudication of commercial disputes.

The judiciary's concern over the vacancies in the tribunals is quite justified, as the jurisdiction previously exercised by High Courts is now being exercised by the tribunals, and the failure to adjudicate or dispose of disputes in these fields would amount to denial of justice to the parties. The present regime's eagerness to undermine the independent functioning of tribunals is quite apparent. It has been repeatedly framing rules that seek to provide for greater executive control over the tenure, emoluments and conditions of service of those manning the tribunals. If specialisation, domain expertise and relatively quicker adjudication are the reasons for which certain kinds of disputes are being resolved through tribunals, these purposes are lost if these bodies are rendered nearly dysfunctional through a large number of vacancies. To compound the problem, the Union government has been inexplicably reluctant to create a national body for overseeing the work related to the appointment of members on tribunals as well as the appraisal of their functioning. As far as higher judiciary appointments are concerned, there is little to enlighten the public on what is causing the delay. Whether it is a dispute over the undoubtedly problematic memorandum of procedure, or the desire of the executive to subject the Collegium recommendations to its own political scrutiny is not clear. In any case, the delay is causing great harm to India's justice delivery system.