

Fill tribunal vacancies by Sept. 13, SC tells Centre

The court said it had three options: close the tribunals, make the appointments itself or initiate contempt.

Mr. Mehta, who asked and was refused an adjournment by the Bench as soon as the hearing began, showed a screenshot of a letter addressed to him by the Union Finance Ministry on September 6. In this letter, the Ministry said a new law – **Tribunal Reforms Act of 2021** – had come into effect and would “pave the way for filling of vacancies in the tribunals”. The letter promised that “the government will ensure that within next two weeks, a decision on appointments to all the tribunals is taken where the Search-cum-Selection Committees have already given their recommendations to the government”.

‘Astonishing replica’

But Justice Chandrachud said the new Act hosted an “astonishing replica” of provisions expressly struck down by the Supreme Court in multiple recent judgments. “This seems to continue... that when we strike down a law, they bring a replica,” he stated. The legislature could bring in a law which took away the basis of a judgment but could not bring a law simply to contradict a judgment.

The court issued notice and asked the government to reply to a series of petitions, including one by Rajya Sabha member Jairam Ramesh, challenging the legality of the Tribunal Reforms Act, 2021.

Mr. Ramesh, represented by senior advocate A.M. Singhvi, said the **2021 Act abolished nine key tribunals, raised a serious threat to judicial independence by giving the government wide powers regarding appoint-**



ments, service conditions and salaries of members of key tribunals. The Bill was passed without parliamentary debate amid ruckus in the House.

But Justice Rao questioned even the very basis of the assurances given in the Finance Ministry letter, especially the one regarding the 2021 Act being a harbinger to a flurry of tribunal appointments. “The appointments we are talking about here have been pending for over a year-and-a-half. Why were these appointments not made,” he asked.

Justice Chandrachud said the names for appointments had been cleared by the Intelligence Bureau and then by a committee, which also included Supreme Court judges and senior bureaucrats. “Yet, they have not been cleared,” he observed. Companies’ tribunals, riddled with vacancies, were critical to the reconstruction and rehabilitation of the economy of the country, he noted.

The Bench refrained from recording its oral observations in a judicial order. Instead, it gave time to Mr. Mehta to convince the government to make appointments. “I will convey [to the government]...” Mr. Mehta offered.

Chief Justice Ramana said, “No, no, Mr. Mehta... ‘conveying’ is something else... If you don’t want an order from us, you pass the order of appointments... We expect some appointments to be made by Monday.”