

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

MAT/5/2026
(IA NO: CAN/1/2026, CAN/2/2026)

Shri Kanhaya Lal Prasad

Vs.

The Andaman and Nicobar Administration and Others

Mr. Arul Prasanth ... for the appellant

Ms. Babita Das ... for the respondents

January 29, 2026
[SR]
Item No.05

While hearing this appeal, a point of seminal importance has arisen.

The learned Single Judge has relegated the appellant to the Central Administrative Tribunal, Kolkata Bench, Circuit Bench at Port Blair saying that the appellant has an efficacious alternative remedy before the Tribunal.

Today, it is pointed out by the learned counsel appearing in this matter and also other learned counsel, who are present in Court, and whose opinion we invited that all the members of the Central Administrative Tribunal, Kolkata Bench were appointed pursuant to appointment process initiated under the provisions of the Tribunal Reforms Act, 2021. However, by its judgment passed in Madras Bar Association vs. Union of India and another in Writ Petition (C) No.1018 of 2021, on November 19, 2025, the Hon'ble Supreme Court has quashed the relevant provisions of the Tribunal Reforms Act, 2021.

It is opined by the learned advocates present before us that as a result of the aforesaid judgment, the appointment of

the four members of the Central Administrative Tribunal, Kolkata Bench have become irregular and invalid. Therefore, the Tribunal cannot function as of date. The Supreme Court order has granted four months time to the Union of India to establish a National Tribunal Commission.

In this connection, we reproduce the paragraph nos., 142, 152, 153 and 155 of the Madras Bar Association case.

“142. Therefore, the provisions of the Impugned Act cannot be sustained. They violate the constitutional principles of separation of powers and judicial independence, which are firmly embedded in the text, structure, and spirit of the Constitution. The Impugned Act directly contradicts binding judicial pronouncements that have repeatedly clarified the standards governing the appointment, tenure, and functioning of tribunal members. Instead of curing the defects identified by this Court, the Impugned Act merely reproduces, in slightly altered form, the very provisions earlier struck down. This amounts to a legislative override in the strictest sense: an attempt to nullify binding judicial directions without addressing the underlying constitutional infirmities. Such an approach is impermissible under our constitutional scheme. Because the Impugned Act fails to remove the defects identified in prior judgments and instead reenacts them under a new label, it falls afoul of the doctrine of constitutional supremacy. Accordingly, the impugned provisions are struck down as unconstitutional.

152. As consistently directed in the earlier judgments of this Court, the executive bears a constitutional obligation to establish a National Tribunals Commission in accordance with the principles and framework articulated therein. The creation of such a commission is an essential structural safeguard designed to ensure independence,

transparency, and uniformity in the appointment, administration, and functioning of tribunals across the country. The repeated judicial insistence on this body reflects the Court's recognition that piecemeal reforms cannot remedy the systemic deficiencies that have persisted for decades.

153. We grant the Union of India a period of four months from the date of this judgment to establish a National Tribunals Commission. The commission so constituted must adhere to the principles articulated by this Court, particularly concerning independence from executive control, professional expertise, transparent processes, and oversight mechanisms that reinforce public confidence in the system.

155. We also clarify that all appointments of Members and Chairpersons whose selection or recommendation by the Search-cum-Selection Committee was completed before the commencement of the Tribunal Reforms Act, 2021, but whose formal appointment notifications were issued after the Act came into force, shall be protected. Such appointments will continue to be governed by the parent statutes and by the conditions of service as laid down in MBA (IV) and MBA (V), rather than by the truncated tenure and altered service conditions introduced by the Tribunal Reforms Act, 2021.”

Since the issue that arises here will have ramification for all the Administrative Tribunals which come under the purview of the Tribunal Reforms Act, 2021, we deem it appropriate to issue notice to the Registrars of the Central Administrative Tribunal, Principal Bench as also the Kolkata Bench and request them to make it convenient to appear before us either

in person or through learned advocate, whether physically or on virtual mode, and to make appropriate submission on the aforesaid issue along with supporting records as to whether or not the Benches of the Central Administrative Tribunal whose members were appointed pursuant to the provisions of 2021 Reforms Act, can function any further in view of the decision of the Hon'ble Supreme Court in the Madras Bar Association case.

The Registrar, Circuit Bench at Port Blair as well as learned advocate for the appellant are requested to immediately communicate this order to the Registrar of Central Administrative Tribunal, Principal Bench at Delhi and also the Registrar, Central Administrative Tribunal, Kolkata Bench.

Let this matter be listed again on Wednesday (February 04, 2026).

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)