INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 2 | Issue 1 [2024] | Page 192-206

EMERGENCE OF REGULATORS AND THE THEORY OF SEPARATION OF POWER

-Advocate Touseef Hamid[1]

ABSTRACT

The doctrine of separation of power is actually there to prevent the abuse of power within the different organs of the government. Separation of powers is basically a doctrine of constitutional law under which the three branches of government are kept separate, where each branch has separate powers.

Within the context of the doctrine of separation of powers, the courts are duty-bound to ensure that the exercise of power by other branches of government occurs within the constitutional context.

However, a regulatory authority is an autonomous body established by a central or state government with a view to serve the interests of all stakeholders in a society. As the modern state is passing through neo-liberal phase towards reforming public services to accomplish its goals for good governance, the role of Independent Regulatory Authorities becomes very important. But the spread of independent regulators means that more and more aspects of our lives are shaped by decisions made by institutions that are neither popularly elected nor are they under the direct control of elected officials. Obviously, this has important implications for their accountability, responsibility and transparency in the present age of expanding democracy. A way out may be to re-theorise public authority as an office for coordinating and harmonizing diverse interests in a professional way so as to suit the requirements of governance conjointly performed by the state, civil society and market.

[1] LLM Scholar and Practising advocate at High court of Jammu & Kashmir and Ladakh

INTRODUCTION

The principle of the doctrine of separation of power corroborates fairness, impartiality and uprightness in the workings of a government. Although it is not followed in its strict sense yet, most of the democratic countries have adopted its diluted version under their respective constitutions.

The concept of separation of powers refers to a system of government in which the powers are divided among multiple branches of the government, each branch controlling different facets of government. In most of the democratic countries, it is accepted that the three branches are the legislature, the executive and the judiciary. According to this theory, the powers and the functions of these branches must be distinct and separated in a free democracy. These organs work and perform their functions independently without the interference of one into others in order to avoid any kind of conflict. It means that the executive cannot exercise legislative and judicial powers, the legislature cannot exercise executive and judicial powers and the judiciary cannot exercise legislative and executive powers.

However, in the present scenario, administrative law is antithetical to this principle. With the emerging pattern of globalized interdependence, the administrative agencies are not just exercising the administrative functions but also practises quasi-legislative and quasi-judicial powers, thus, violating the principle of separation of powers. As it is a compulsive necessity to delegate the additional legislative and judicial powers to the administrative agencies to establish efficient and adroit governance and to ensure proper enforcement of the laws. The creation of administrative tribunals and delegation legislation took place with the aim to reduce the load of the legislation and judiciary and to expedite the law-making and justice-giving process with expertise. This cannot be achieved with strict implementation of the doctrine of separation of powers. Therefore, the separation of powers acts as a limitation on administrative law.

An Independent Regulatory Authority is a publicly identified official bureau, having the regulatory responsibility of a market and being i) independent from the operators of the sector, ii) independent from other interested parties such as industrial interests and iii) independent from political actors like ministers

Basically, the doctrine of separation of powers does not have rigid applicability. This theory is not operative in its absolute sense now.

The purpose of this study is to analyse the emergence of regulators, and the relationship between working mechanism of regulators and doctrine of separation of power, has the emergence of regulators breached the scope of separation of power.

SEPARATION OF POWERS

The doctrine of separation of powers is actually here the separation is of functions, we can say it is a 'doctrine of functional specialization'[2]. And power in fact 'is a means to an end, and it must be conferred on that authority which can best achieve that end', basically under the doctrine of separation of power there are three arms of every government namely legislative, executive and judicial, where the legislative organ of government makes the laws, the executive organ enforces them and the judiciary applies them in cases where every necessary.

However the relationship between these three organs with each other actually varies from country to country, as some countries in their constitution have opted for strict/rigid separation of power whereas some other countries have opted for the Westminster model under which Parliament is supreme, This model was actually followed by England and allowing Parliament 'to change the law in any way it pleases. No statute can be attacked on the ground that it trespasses on a field reserved to another organ of the State.[3]"The power of judicial review of legislative action was consequently limited to questioning delegated legislation to the extent that the delegation is excessive, beyond the scope of the statute seeking to delegate the power of legislation to the executive, or unreasonable.[4]

However the Indian Constitution provides a third model of separation of powers, In India there is a recognition of legislative, executive, and judicial bodies, it does not expressly vest the different kinds of power in the different organs of the State[5] (except the executive powers in the

[2] Bruce Ackerman, 'The New Separation of Powers' (2000) 113(3) Harvard Law Review 633, 688.
[3] George Paton, *A Textbook of Jurisprudence* (4th edn, Oxford University Press 2004) 332.
[4] *Kruse v Johnson* [1898] 2 QB 91 (HCJ).
[5] *Re Delhi Laws Act 1912* (n 4) [285]: 'the Indian Constitution does not expressly vest the different sets of powers in the different organs of the State.'

President and governors)[6], nor is there any exclusivity in the nature of functions to be performed by them. Unlike Westminster, Parliament in India being limited by a written constitution is not supreme and it does not possess the sovereign character of the British Parliament[7]. In India the Constitution is supreme and legislation contrary to constitutional provisions is void.

But if we look carefully the doctrine of separation of powers, it has not been accepted in India in its strict sense. As the executive is a part of the legislature, It is responsible to the legislature for its actions and also it derives its authority from legislature. India, since it is a parliamentary form of government, therefore it is based upon intimate contact and close coordination among the legislative and executive wings. However, the executive power vests in the President but, in reality he is only a formal head and that, the Real head is the Prime minister along with his Council of Ministers. The reading of Art. 74(1) makes it clear that the executive head has to act in accordance with the aid and advice given by the cabinet.

Generally, the legislature is the repository of the legislative power but, under some specified circumstances President is also empowered to exercise legislative functions. Like while issuing an ordinance, framing rules and regulations relating to Public service matters, formulating law while proclamation of emergency is in force. These were some instances of the executive head becoming the repository of legislative functioning. The president performs judicial functions also.

On the other side, in certain matters Parliament exercises judicial functions too. It can decide the question of breach of its privilege, and in case of impeaching the President; both the houses take active participation and decide the charges Judiciary, in India, too can be seen exercising administrative functions when it supervises aall the subordinate courts below. It has legislative power also which is reflected in formulation of rules regulating their own procedure for the conduct and disposal of cases So, it is quite evident from the constitutional provisions themselves that India, being a parliamentary democracy, does not follow an absolute separation and is, rather based upon fusion of powers, where a close co-ordination amongst the principal organs is unavoidable and the constitutional scheme itself mentions it. The doctrine has, thus, not been awarded a Constitutional status. Thus, every organ of the government is required to

[6] Arts 53 and 154 of the Constitution of India 1950,
[7] *Re Delhi Laws Act 1912* (n 4) [133].

perform all the three types of functions. Also, each organ is, in some form or the other, dependant on the other organ which checks and balances it. The reason for the interdependence can be accorded to the parliamentary form of governance followed in our country. But this does not mean that this doctrine is not followed in India at all.

However in India, except where the constitution has vested power in a body, the principle that one organ should not perform functions which essentially belong to others is followed. This observation was made by the Supreme Court in the re Delhi Laws[8] Act case, wherein, it was held by a majority of 5:2, that, the theory of separation of powers is not part and parcel of our Constitution. But it was also held that except for exceptional circumstances like in Art. 123, Art. 357, it is evident that the constitution intends that the powers of legislation shall be exercised exclusively by the Legislature. As Kania, C.J., observed- Although in the constitution of India there is no express separation of powers, it is clear that a legislature is created by the constitution and detailed provisions are made for making that legislature pass laws.

Moreover, Montesquieu regarding the separation of powers stated that there would be an end of everything, were the same man or same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals. Montesquieu actually tried to explain that the union of the executive and the legislative power would lead to the despotism of the executive, for it could get whatever laws it wanted to have, whenever it wanted them. Similarly, the union of the legislative power and the judiciary would provide no defence for the individual against the state. The importance of the doctrine lies in the fact that it seeks to preserve human liberty by avoiding the concentration of powers in one person or body of persons.

In short, we can say that the purpose underlying the separation doctrine is to nullify governmental authority so as to prevent absolutism and guard against arbitrary and tyrannical powers of the state, and to allocate each function to the institution best suited to discharge it.

[8] AIR 1951 SC 332 [64]

2.1 EMERGENCE OF REGULATORS

As from the above discussion it gets clear that the Indian Constitution had the standard of three branches of government structure, however with time the emergency of 'regulatory agency' had made a huge challenge to the conception of separation of powers as executive functions have been distributed to authorities that are required to function independently of all three organs of governance such as the Election Commission and the Comptroller and Auditor General[9] forming marginal exceptions, and legislative functions have been granted to independent statutory bodies.

However, before going into the ambit of the impact of emergence of regulators on separation of power, I think it is necessary to briefly look at the conceptual meaning of the regulatory State.

The regulators mean an independent body responsible for exercising autonomous authority over some area of human activity in supervisory capacity. Regulators are part of the executive branch of the government that have statutory authority to perform their functions with oversight from the legislative branch. However their actions are also open to judicial review.

Regulators generally deal in the areas of administrative or secondary legislation. The existence of these regulators is justified by the complexity of certain regulatory and supervisory tasks, and the drawbacks of political interference. Even various independent regulators perform investigations or audits.

The main significance for regulators in India was is the prevalent opinion that some kinds of economic decisions need to be insulated from the political process[10]. This is based on the viewpoint among economists that 'economic' decisions should be made 'rationally' without being 'distorted' by political considerations.

If we talk about the origin of the emergence regulators in India it surely came through the transplantation of Anglo-American models by lending agencies like the World Bank and then was

[9] KP Krishnan, Remarks at the Conference to discuss Draft Chapters of this Handbook, 18 July 2014, New Delhi.

[10] Kathryn Hochstetler, 'Civil Society and the Regulatory South: A Commentary' (2012) 6(3) Regulation & Governance 362, 362.

replicated through 'copying'[11]. actually such unelected bodies does play a major role in achieving economic efficiency objectives[12], As it is believed that the economic arrangements of modern times often require a more complex approach than the State was traditionally capable of, sometimes various issues might require a scientific, technical, or economic expertise that sometimes may not be found in the political process or among civil servants and judges who typify the traditional executive and judiciary, respectively.

Moreover, it is also believed that the regulation is not only that the political aspect is, brushed under the carpet, but also that it is implicitly regarded as illegitimate. On the other hand, it should be noted that regulatory bodies are often required to follow procedures allowing for the consultation of the public, or more particularly, those affected by regulation; this can result in a better articulation of public reason and a better informed process of regulation.

When independent regulators are created, the technical aspect is accorded mainly in two ways. First, these structures clearly provide for and incorporate the dimension of sectoral expertise. Secondly, and more importantly, decisions are made independently of the political executive and are therefore more likely to be economically efficient.

In India, legal protection is also safeguarded either through the inherent power of judicial review or through the creation of an appellate tribunal.

Rose-Ackerman points out that court-like procedure are very good at protecting individual rights but are poor at resolving policy issues. She adds that the bureaucracy is best placed to 'balance conflicting interests', though 'not to discover scientific truths or to preserve rights'[13]. In most cases, the task is to 'strike a balance between the obligation of the government to make technically competent policy choices' and the need to 'respond to the concerns of citizens and organised groups'[14].

[11] Dubash and Morgan (n 1) 264.
[12] Dubash and Morgan (n 1) 265.
[13] Susan Rose-Ackerman, 'Law and Regulation' in Keith E Whittington, R Daniel Kelemen, and Gregory A Kaldeira (eds) *The Oxford Handbook of Law and Politics* (Oxford University Press 2008) 582.

[14] Rose-Ackerman (n 19) 584.

However, though the Independent regulators are free from direct political control but they are often required to follow consultative procedures before making regulatory decisions. Depending on the specific procedures, this allows all affected parties to make their views known before decisions are taken. In one sense, this process allows for a deeper and higher-quality participation in decision-making than the processes of the administration, where the political representatives are expected to reflect the views of constituents, and where structured consultation may not take place. So when this happens, independent regulators decision may not only be substantively better but also more 'legitimate' and thus have greater public support[15]. This is the optimistic scenario for independent regulation.

Moreover, India is a country where political corruption is wide spread, it is sometimes thought that an advantage of independent regulators and judicial tribunals would be reduced scope for corruption.

2.2 HOW CONSTITUTIONAL LAW IN INDIA HAS DEALT WITH THE REGULATORY AGENCY?

If we look at the constitutional position of the regulators, it (regulators) surely find their place partly in the Constitution itself, The examples are the Election Commission of India under Article 324 of the Constitution for legislative elections at union and state levels and the presidential and vice-presidential elections; Union and State Public Service Commissions for civil service recruitments under Articles 323 to 315; the Comptroller and Auditor General of India for audit of accounts of both orders of governments under Articles 148 to 151; and the Reserve Bank of India (RBI) under RBI Act, 1934, with subsequent amendments.

Also, Articles 53 and 154 provide that executive authority can be exercised by officers subordinate to the President and the Governor. These Articles also allow Parliament/State legislatures to confer functions on authorities other than the President/Governor and are thus the basic source allowing the creation of independent regulatory agencies. Articles 77/166 provide that the President/Governor shall 'make rules for the more convenient transaction of business and for allocation of work among Ministers.

[15] Dubash (n 18) 51.

These rules provide for the allocation of the work of government between different ministries and departments and they also enable delegation of authority from the Council of Ministers (cabinet) to individual Ministers and to officers subordinate to those Ministers. They specify which kinds of decisions need to come before the cabinet and the procedure in the event of interdepartmental disagreement. Therefore, while all executive action is taken in the name of the President/Governor, actual authority to make those decisions may vest in lower levels of the executive.

Many argue that the power of regulatory bodies to make rules is not found in the Constitution and thus is a grey area and, further, that these regulatory bodies are 'mini-States' combining executive, quasi-judicial, and quasi-legislative powers[16]. However, delegated legislation by the President or Governor is not specified anywhere in the Constitution as a 'legislative' function. Therefore the function of delegated legislation is encompassed within the 'residual' functions, which are executive functions. For that reason, Articles 53 and 154 would cover the function of delegated legislation and allow the delegation of that (executive) function by the legislature to authorities other than the President/Governor, such as independent regulators.

Moreover, under Articles 75(3)/164(2), Ministers of the Union/State government are collectively responsible to Parliament/State legislatures for actions of the executive. Also the Supreme Court has stated that: The Cabinet is responsible to the Legislature for every action in any of the ministries. Similarly, an individual Minister is responsible to the Legislature for every action taken or omitted to be taken in his ministry[17].

This brings the question of the parliamentary accountability of ministers for actions taken by organisations outside the traditional executive. The constitutional requirement of ministerial responsibility has been the basis for the control of the administrative ministry over public sector corporations and undertakings. It has also been the source of a provision (in the special Acts creating regulatory authorities, public corporations, and boards—including the

Reserve Bank—and in the articles of association of 'Government companies', enables the government to issue directions to such organisations. The principle is that since the Minister

[16] KP Krishnan, Remarks at the Conference to discuss draft chapters of this Handbook, 18 July 2014, New Delhi.

[17] *A Sanjeevi Naidu v State of Madras* (1970) 1 SCC 443 [10].

remains accountable to the legislature, a commensurate degree of authority is necessary. No doubt, Ministers and officers in ministries are perceived to have often used this authority to exercise direct control over public undertakings to the detriment of efficiency and public good.

The question of the extent of ministerial accountability for the actions of public undertakings and independent regulators has not yet been tested in court and remains ambiguous. The laws creating some of the new 'independent' regulatory bodies do not incorporate provisions for issuing directions[18], though some of them do, means the creation of independent regulators does reduce the extent of parliamentary accountability. However, parliamentary accountability is not totally absent to the extent that the budgetary appropriations for these bodies do need to be proposed by the ministry and voted by Parliament.

There is a case that had a major influence on institutional design involved the Competition Commission of India. As originally legislated, the selection of the Chairman was to be done by the executive. The procedure was challenged on the grounds that some of the adjudicatory functions of the Commission were judicial functions and the appointment of the head of a judicial forum must necessarily be done through the Chief Justice of India or his nominee. The original Act had wording explicitly stating the proceedings were judicial. Thus the Commission was clearly intended to perform judicial functions. A three-judge bench of the Supreme Court did not go into the substantive issues in detail but did state that 'it might be appropriate' to remove those functions that were of an 'adjudicatory' nature and entrust them to a separate tribunal[19]. This decision, albeit from a small bench and not a binding order, appears to have had a lot of influence on the design of regulatory bodies. The subsequent amendment, the Competition (Amendment) Act 2007, removed any reference to the proceedings being judicial, modified several substantive and procedural provisions, and created an appellate tribunal headed by a judge; this has become almost a template for regulatory design.

So in short we can say that the obvious reason for creating regulators is to secure independence from politics, and for creating special tribunals are twofold: to get quick remedy and to bring in specialised expertise to assist in reaching better decisions than could be reached through a judge.

[18] Eg, Central and State Electricity Regulatory Commissions where the Commission is only mandated to follow the *policy* laid down by the government.

[19] *Brahm Dutt v Union of India* (2005) 2 SCC 431 [6].

2.3 HOW DOES THE AUTONOMOUS/INDEPENDENT BODY, WORK AND DOES NOT FALL UNDER THE AMBIT OF DOCTRINE OF SEPARATION OF POWER?

Though the Indian constitution has based itself upon the doctrine of separation of power, where there is separation amongst three organs of governance, that are independent to each other but at the same time the Indian Constitution has provided for the allocation of powers relating to governance to authorities who are required to be independent of the legislatures and the executive.

Let's take an analysis of few independent regulators:-

I. THE ELECTION COMMISSION

The Election Commission of India is an autonomous constitutional authority responsible for administering Union and State election processes in India. Election Commission of India is a permanent Constitutional Body. The Election Commission was established in accordance with the Constitution on 25th January 1950. The Constitution of India has vested in the Election Commission of India the superintendence, direction and control of the entire process for conduct of elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India.

It was the Government of India Act 1935 under which, the conduct of elections was vested in an executive authority, under the Constitution of India, an autonomous constitutional authority was created under Article 324 for the superintendence, direction, and conduct of elections. This body is called the Election Commission, and is 'totally independent and impartial, and is free from any interference of the executive'[20]. Parliament is empowered to make law as regards matters relating to conduct of election of either Parliament or State legislatures, without affecting the plenary powers of the Election Commission under Article 324[21]. There is also a 'blanket ban on litigative

[20] *Special Reference No 1 of 2012* (n 95) [27].
[21] *Special Reference No 1 of 2012* (n 95) [126] (Pasayat J).

interference during the process of the election, clamped down by Article 329(b) of the Constitution'[22]. The Election Commission is, for the purposes of discharging its functions, invested with executive, quasi-judicial and legislative powers. Article 243K has vested similar powers in the State Election Commissioner in respect of Panchayat elections[23]. These plenary powers include the power of postponing an election if the circumstances warrant[24]. However, in practical terms the independent action of the Election Commission is frequently thwarted by the executive. Although Clause (6) of Article 324 mandates that the President or the Governor of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission, such requests are often sought to be obstructed by governments both in the Centre and States, leading to a deadlock. Also the judiciary has generally upheld the plenary powers of the Election Commission in the resultant litigation.

II. COMPTROLLER AND AUDITOR GENERAL

The Comptroller and Auditor General (CAG) of India is the Constitutional Authority in India, established under Article 148 of the Constitution of India. He is empowered to Audit all receipts and expenditures of the government of India and the State governments, including those of autonomous bodies and corporations substantially financed by the Government. The CAG is also the statutory auditor of Government-owned corporations and conducts supplementary audits of government companies in which the Government has an equity share of at least 51 per cent or subsidiary companies of existing government companies.

BR Ambedkar[25] has described it 'as the most important officer in the Constitution of India' with duties 'far more important than the duties even of the judiciary' by, the Comptroller and Auditor General (CAG) is required: To audit all receipts which are payable into the Consolidated Fund of India and of each State and of each Union Territory having a Legislative Assembly and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on

[22] *Mohinder Singh Gill v Chief Election Commissioner* (1978) 1 SCC 405 [9].
[23] See *West Bengal State Election Commission v State of West Bengal* (2013) 3 Cal LT 110.
[24] *Election Commission of India* (n 100).
[25] *Constituent Assembly Debates*, vol 8 (Lok Sabha Secretariat 1986), 30 May 1949.

the assessment, collection and proper allocation of revenue and are being duly observed and to make for this purpose such examination of the accounts as he thinks fit and report thereon.

However, the CAG is not required to examine expenditures even before they are deployed. So when political parties in their manifestos promised various free gifts to the electorate if they were voted into power, the Supreme Court held that the CAG had no role to play at that juncture[26]. The powers of auditing the receipts and expenditures of the Union and the States are subject to the CAG's independent authority, although the office has not been given the same independence as the judiciary. For one, there is no constitutionally prescribed criterion for the selection of a candidate for appointment as CAG who is appointed by the President on the 'recommendation' of the Prime Minister. Secondly, the Supreme Court has the exclusive powers to appoint its officers and servants[27], while the CAG heads the Indian Audit and Accounts Department but does not have such powers[28]. The conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the CAG are prescribed by rules made by the President after consultation with the CAG[29]. Finally, the independence of the CAG is seriously impaired, as the CAG is not assured of tenure, unlike the judiciary where the age of retirement is provided for in the Constitution.

The CAG also has no power to take action on its own report. All that is constitutionally required is the placing of the report before Parliament[30] or the State Assembly[31], as the case may be. It is therefore possible for the executive commanding a majority to disregard the CAG's objections to unjustified expenditure. Recently, however, on the basis of the adverse report of the CAG, the Supreme Court in the exercise of its powers of judicial review directed an investigation into grant of a unified access service licence with 2G spectrum and ultimately set it aside.

Executive functions have also been constitutionally farmed out to other autonomous bodies, more as facilitating executive functioning rather than as independent centres. For instance, the Union Public Service Commission acts in an advisory capacity to service matters of central civil

[26] *S Subramaniam Balaji v State of Tamil Nadu* (2013) 9 SCC 659.
[27] Constitution of India 1950, art 146.
[28] Constitution of India 1950, art 148(5).
[29] Constitution of India 1950, art 148(5).
[30] Constitution of India 1950, art 151(1).
[31] Constitution of India 1950, art 151(2).

servants, including recruitment and disciplinary matters[32]. While the President is, by Article 320 of the Constitution, required to consult the Public Service Commission, the President is not bound by the advice of the Commission[33].

Similarly, provision has also been made by Article 280 for the appointment by the President of a Finance Commission to make recommendations to the President as to the distribution amongst the Union and the States of the net proceeds of taxes and duties and as to the principles which should govern the grants-in-aid of the revenue of the States out of the Consolidated Fund of India[34]. Courts have rarely interfered with such recommendations[35].

CONCLUSION

Though the Indian Constitution has made its base upon the doctrine of separation of power and does have the standard of three branches of government structure, a constitutional organization of legal powers continues to be generally maintained by the legislature, executive, and judiciary with the recognition of the need for checks and balances to ensure that the constitutional objectives as delineated in the Directive Principles are achieved. But at the same time, Montesquieu's theory of an equal separation of powers has not been accepted in a strict sense by the Constitution, as by conceding the powers of judicial review over legislative and executive action.

However, with the development and with the more complex approach toward things, there arose a need for independent regulators and huge efforts were made by the government of India, to set up independent regulators, which will deal with the specific work in specific areas not only this the regulators surely find their place partly from the Constitution itself, also the judicial decisions, especially in the past twenty years, when judicial decisions have been far-reaching and in some cases have gone to the extent of moving beyond even express provisions of the Constitution.

These administrative regulators agencies are not just exercising executive functions or administrative functions but also practising quasi-legislative and quasi-judicial powers, thus,

[32] Constitution of India 1950, art 320(3).
[33] *AN D'Silva v Union of India* AIR 1962 SC 1130.
[34] *Special Reference No 1 of 1962* AIR 1963 SC 1760.
[35] *Brij Mohan Lal v Union of India* (2012) 6 SCC 502.

violating the principle of separation of powers. The creation of administrative tribunals and delegation legislation took place with the aim of reducing the load of the legislation and judiciary and expediting the law making and justice-giving process with expertise.

However, all the administrative decisions, and thus all decisions of regulators, are subject to judicial review in the High Courts and Supreme Court through their writ jurisdiction provided for in the Constitution. Parliament also has the power to create tribunals under its residuary powers.