



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. IX th Semester

SUBJECT: COMPETITION LAW

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LECTURE 36

TOPIC: COMPOSITION OF THE COMPETITION

APPELLATE TRIBUNAL

By Dr. Aijaj Ahmed Raj

Composition of Appellate Tribunal

53C. The Appellate Tribunal shall consist of a Chairperson and not more than two other members to be appointed by the Central Government.

Qualifications for appointment of Chairperson and Members of Appellate Tribunal

53D. (1) The Chairperson of the Appellate Tribunal shall be a person, who is, or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

(2) A member of the Appellate Tribunal shall be a person of ability, integrity and standing having special knowledge of, and professional experience of not less than twenty-five years in, competition matters including competition law and policy, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs, administration or in any other matter which in the opinion of the Central Government, may be useful to the Appellate Tribunal.

Selection Committee

53E. (1) The Chairperson and members of the Appellate Tribunal shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of –

- (a) the Chief Justice of India or his nominee Chairperson;
- (b) the Secretary in the Ministry of Corporate Affairs..... Member;

(c) the Secretary in the Ministry of Law and Justice Member.

(2) The terms of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed.

Term of office of Chairperson and Members of Appellate Tribunal

53F. The Chairperson or a member of the Appellate Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, and shall be eligible for re-appointment:

Provided that no Chairperson or other member of the Appellate Tribunal shall hold office as such after he has attained, -

(a) in the case of the Chairperson, the age of sixty-eight years;

(b) in the case of any other member of the Appellate Tribunal, the age of sixty-five years.

Terms and conditions of service of chairperson and Members of Appellate Tribunal

53G (1) The salaries and allowances and other terms and conditions of service of the Chairperson and other members of the Appellate Tribunal shall be such as may be prescribed.

(2) The salaries, allowances and other terms and conditions of service of the Chairperson and other members of the Appellate Tribunal shall not be varied to their disadvantage after their appointment.

Vacancies

53H. If, for any reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

Resignation of Chairperson and Members of Appellate Tribunal

53I. The Chairperson or a member of the Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office: Provided that the Chairperson or a member of the Appellate Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

Member of Appellate Tribunal to act as its Chairperson in certain cases

53J. (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the Appellate Tribunal by reason of his death or resignation, the senior-most Member of the Appellate Tribunal shall act as the Chairperson of the Appellate Tribunal until the date on which a new Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the Chairperson of the Appellate Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most member or, as the case may be, such one of the Members of the Appellate Tribunal, as the Central Government may, by notification, authorize in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Removal and suspension of Chairperson and Members of Appellate Tribunal

53K. (1) The Central Government may, in consultation with the Chief Justice of India, remove from office the Chairperson or any other member of the Appellate Tribunal, who-

- (a) has been adjudged an insolvent; or

- (b) has engaged at any time, during his terms of office, in any paid employment;
or
- (c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (d) has become physically or mentally incapable of acting as such Chairperson or other Member of the Appellate Tribunal; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member of the Appellate Tribunal; or
- (f) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), no Chairperson or a Member of the Appellate Tribunal shall be removed from his office on the ground specified in clause (e) or clause (f) of sub-section (1) except by an order made by the Central Government after an inquiry made in this behalf by a Judge of the Supreme Court in which such Chairperson or member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Restriction on employment of Chairperson and other Members of Appellate Tribunal in certain cases

53L. The Chairperson and other members of the Appellate Tribunal shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any enterprise which has been a party to a proceeding before the Appellate Tribunal under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government Company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

Staff of Appellate Tribunal

53M. (1) The Central Government shall provide the Appellate Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence and control of the Chairperson of the Appellate Tribunal.

(3) The salaries and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal shall be such as may be prescribed.

Exercise:

1. Which section of Competition Act provides for appeal to Appellate Tribunal?

- a) 53
- b) 53A
- c) 53B
- d) 53C

2. Period of limitation to institute appeal before competition Appellate Tribunal

- a) 30 days
- b) 60 days
- c) 15 days
- d) 90 days

3. An appeal brought before Appellate Tribunal shall be decided preferably within _____ from date of filing of such appeal. It is stipulated under which section of the competition Act?

- a) 6 months/53 B (5)
- b) 3 months/53B
- c) 2 months/53A
- d) 12 months/53B (4)

4. The Appellate Tribunal shall consist of _____ Chairperson and not more than _____ members to be appointed by Central Government

- a) $\frac{1}{2}$
- b) $\frac{2}{3}$
- c) $\frac{1}{4}$
- d) $\frac{1}{3}$

5. Qualifications for appointment of Chairperson of Appellate Tribunal

- a) Judge of Supreme Court or any High Court
- b) Be or remained a member of Higher Judicial Service
- c) Judge of Supreme Court
- d) Is or has been Judge of Supreme Court or Chief Justice of any high court