

Draft Real Estate (Regulation & Development)

Bill, 2011 Conference

Understanding the Regulations

Regulatory Authority & Appellate Tribunal

Wednesday, 21st December, 2011

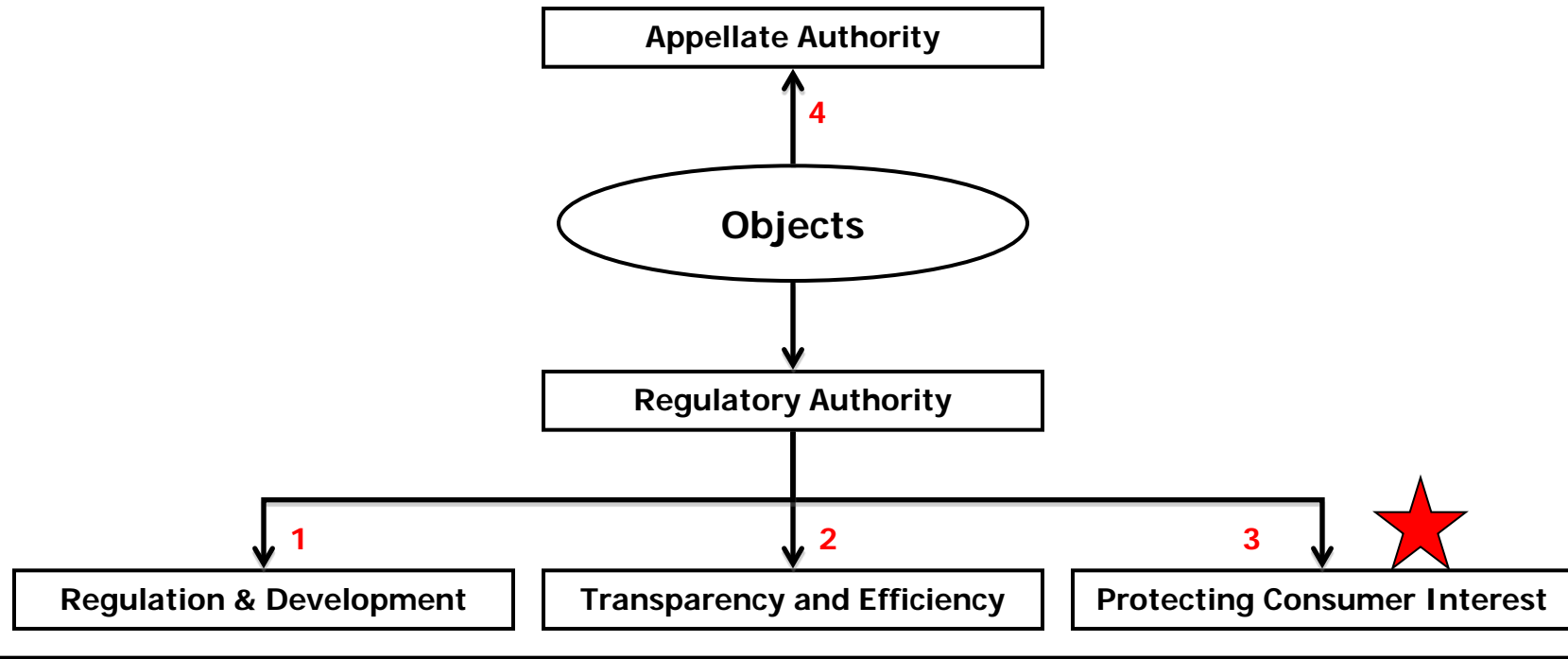
The Hans, New Delhi

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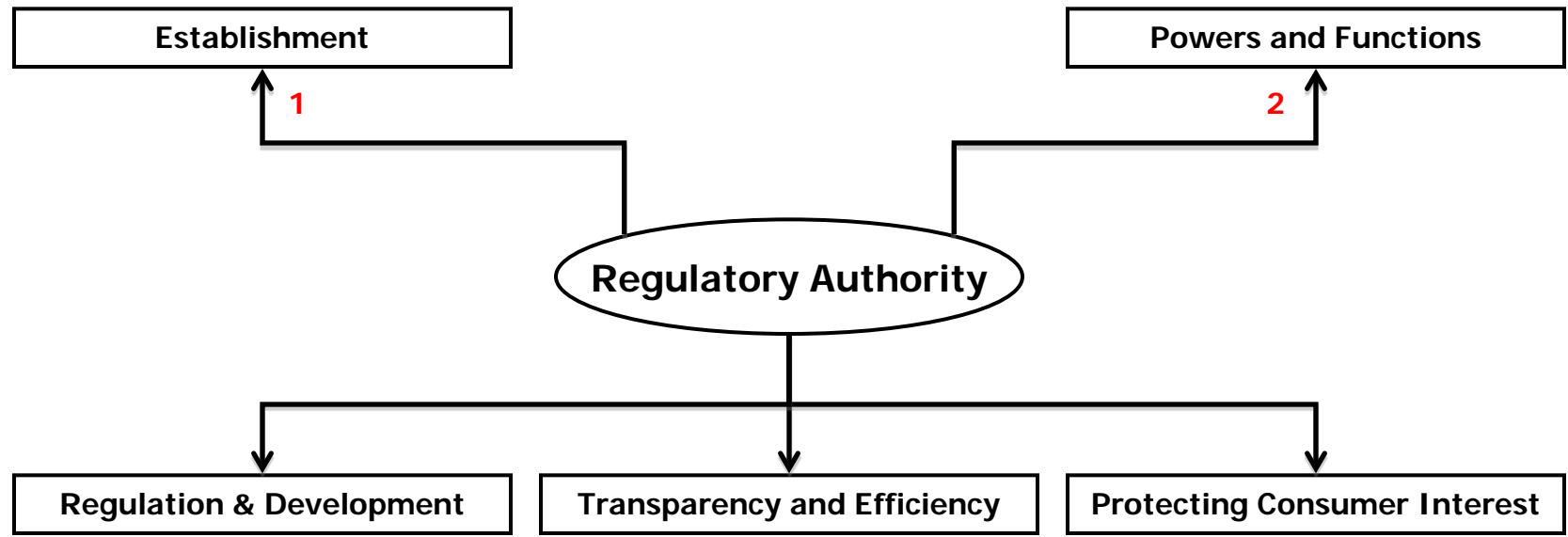
Objects of the Real Estate Bill



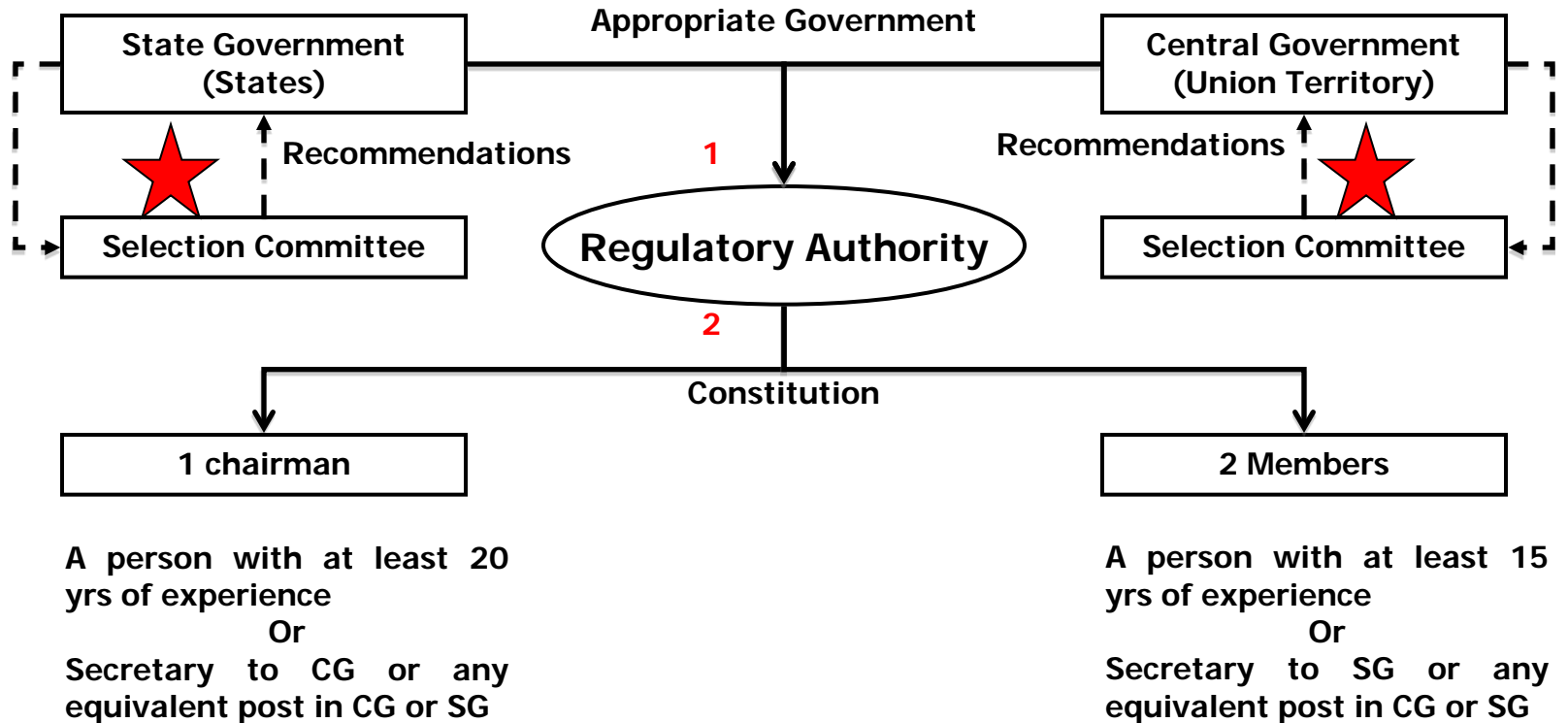
1. For regulation and planned development in the real estate sector.
2. To ensure sale of immovable properties in an efficient and transparent manner.
3. It does not address the concerns/plight of other stakeholders.
4. Establishment of Appellate Tribunal to adjudicate disputes and hear appeals from the decisions or orders of the Regulatory Authority.



Regulatory Authority



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1. RA to be a body corporate, which can sue, be sued, acquire, own, hold, develop or dispose of property, possess a common seal and do such acts as bodies corporate may lawfully do.
Nodal agency to co-ordinate efforts of the Appropriate Govt. regarding development of real estate sector.
 2. To have regulatory, rulemaking and adjudicatory functions and powers.



1. Appropriate Government [(i.e. Central Govt. (CG) or State Govt. (SG)] to appoint Regulatory Authority (RA).
2. Term of Chairman & other members to be of 3 yrs.
Maximum Age for Chairman – 65 yrs
Maximum Age for Member – 65 yrs

Functions of Regulatory Authority

ADJUDICATION

- Settle disputes amongst allottee themselves
- Settle disputes b/w allottee & promoters
- Recovery of Penalties

REGULATORY & RULE MAKING

- Ensure compliance of Directions
- Recommendations
- Advise to Appropriate Govt.
- Making Enquiries

Functions of RA

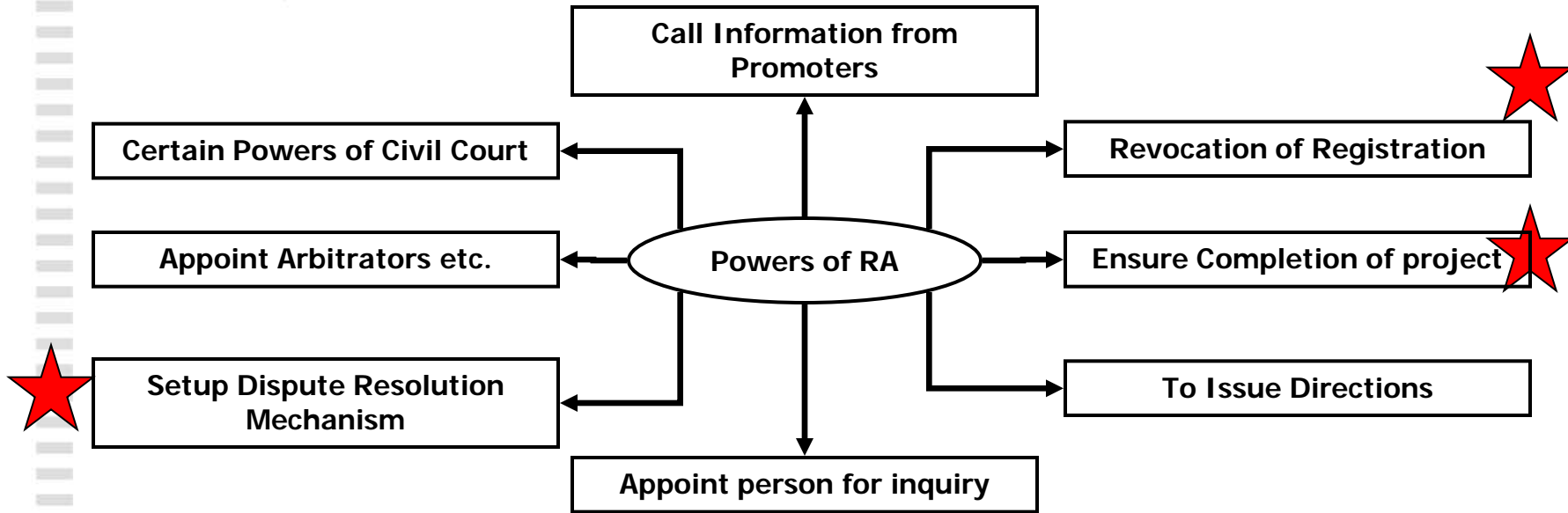
DEVELOPER

- Granting Registration
- Maintain Website
- Ensure compliance of obligations
- Enter names of Defaulter Developers on the website

CONSUMERS

- To fix charges levied on allottee
- Ensure construction of Affordable Housing
- Standardization of construction
- Promote transparent, efficient & competitive real estate sector

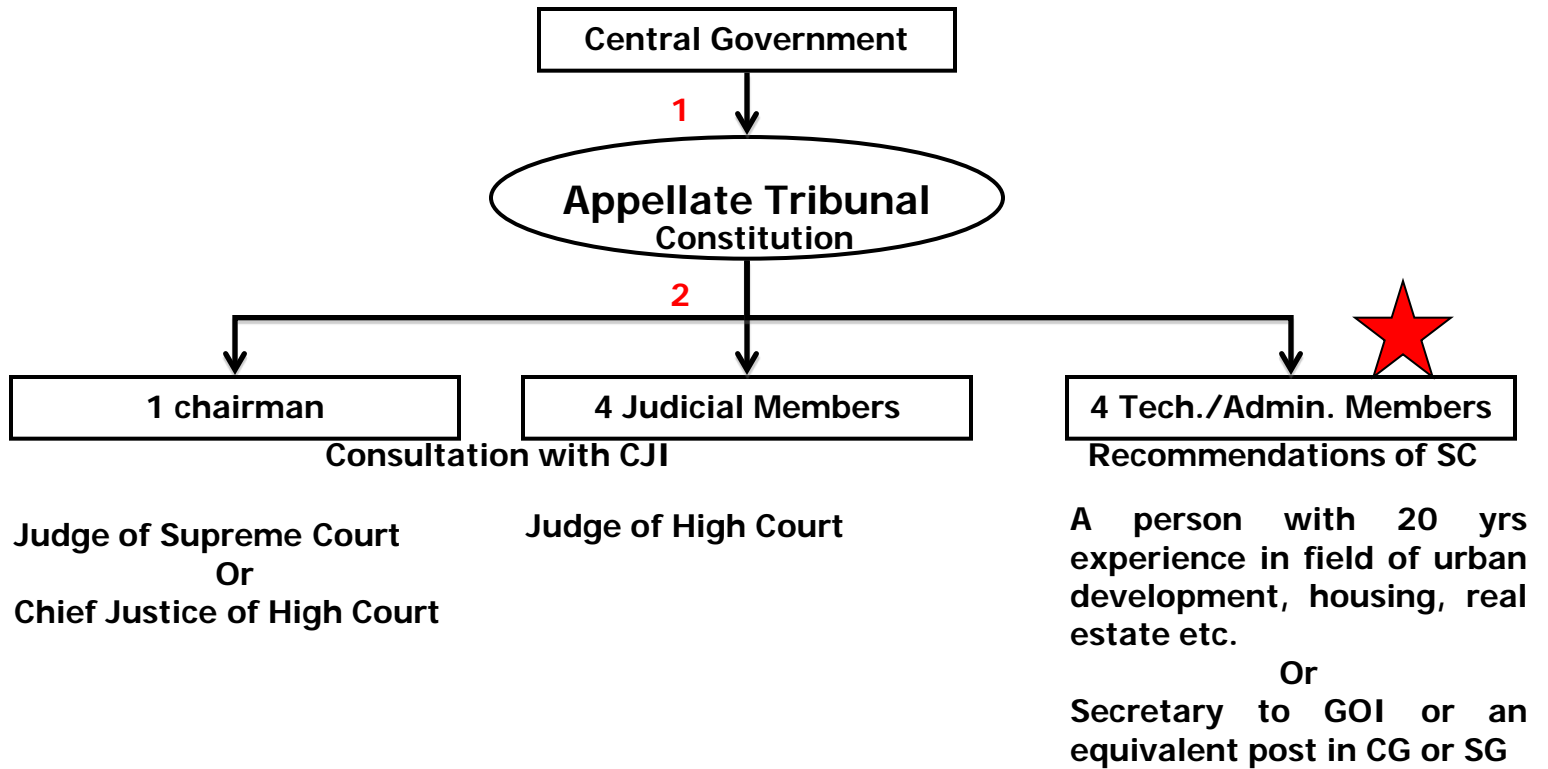
Powers of Regulatory Authority



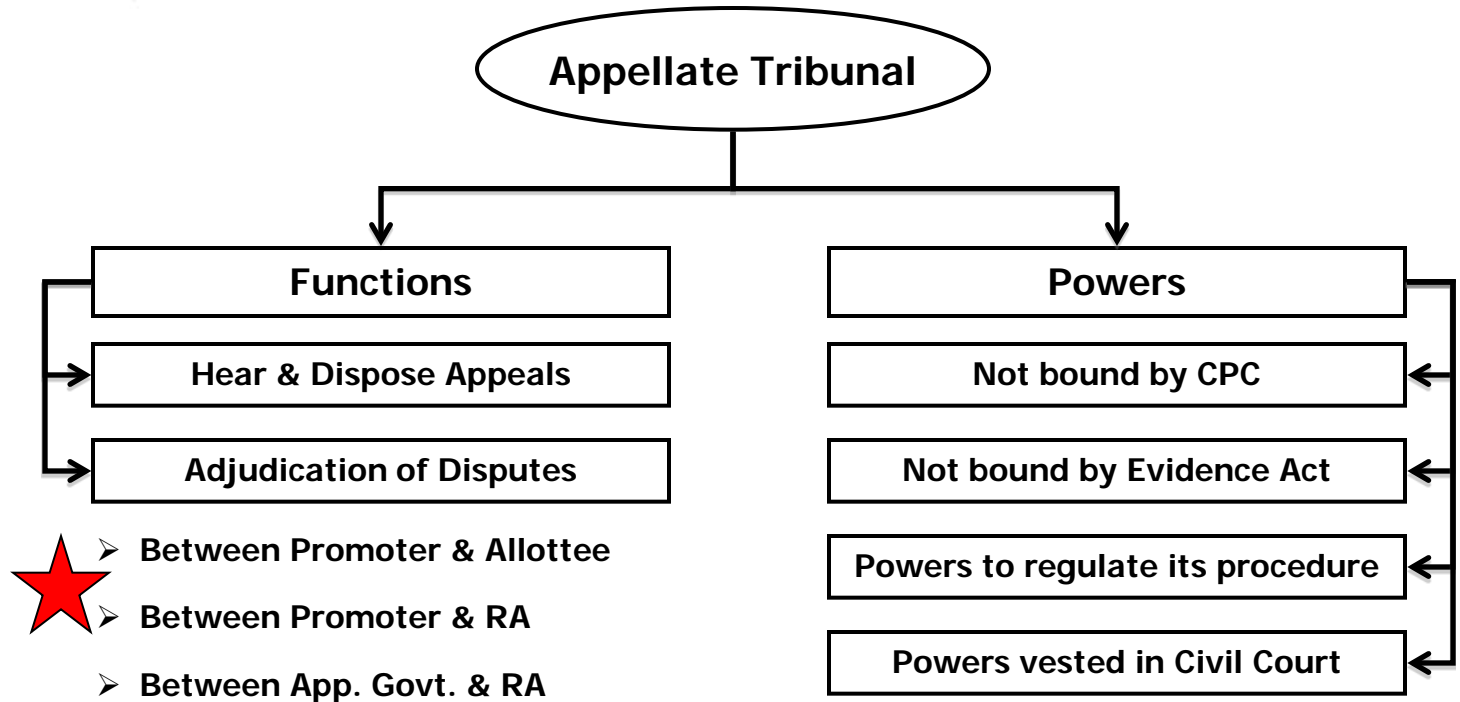
1. RA may call for information from any promoter or appoint any person to make enquiry in relation to the affairs or any promoter, allottee or any authority concerned.
2. RA may suo-moto or on complaint regarding (i) willful default by Promoter, unfair trade practice or on recommendation of competent authority revoke the registration.
3. RA may through competent authority carry out balance construction of project.
4. RA to have power to issue directions for discharge of its functions which is to be binding on all concern.
5. RA may appoint person to make inquiry in relation to the affairs of promoters, allottee or any authority concerned.
6. RA may setup a dispute resolution mechanism for amicable settlement of disputes between promoters and the allottee.
7. RA to have the power to appoint arbitrators, mediators etc., for settlement of disputes.
8. RA to have power of civil court.



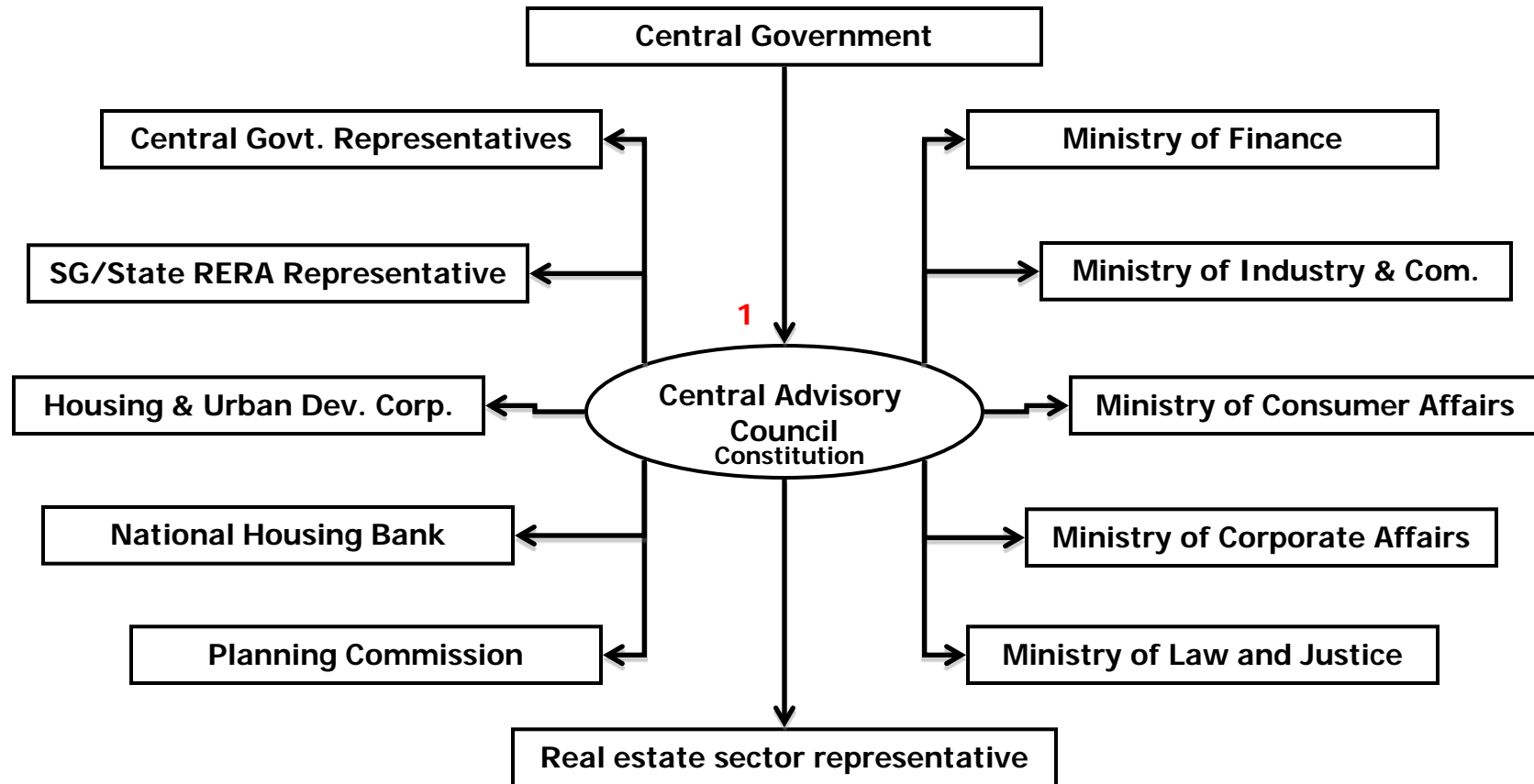
Establishment of Appellate Tribunal



1. Central Government to appoint Appellate Tribunal (AT) .
2. Term of Chairman & other members to be of 3 yrs.
Maximum Age for Chairman – 68 yrs
Maximum Age for Member – 65 yrs
Chairman & Member not to have any interest.

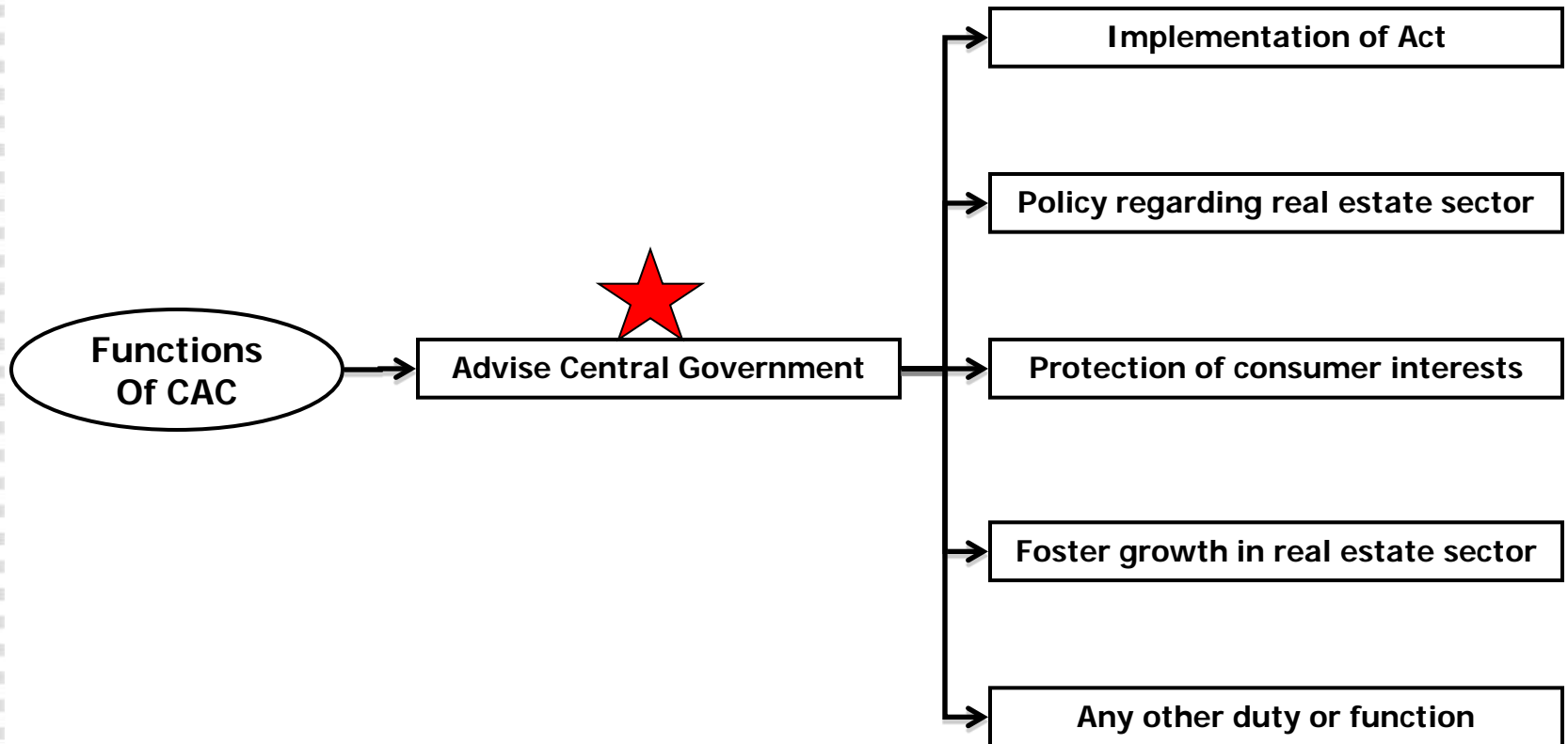


1. Appeal to be preferred to AT against order of RA (within 30 days).
Appeal to be decided by AT within 90 days.
Order of AT to be executed as Decree of civil court.
Appeal against order of AT to be filed within 90 days in the Supreme Court.
No Appeal in case order is made by AT by mutual consent of parties.



1. Central Government to appoint Central Advisory Council.

Functions of Central Advisory Council



Section	Offence	Penalty
50	Contravention of S-3 i.e. failure to obtain registration.	Upto 3 yrs imprisonment or Upto 10% of cost of project or with both.
51	Contravention of any other provision of (other than S-3) or of rules made there under.	Upto 5% of cost of project.
52	Failure to comply with orders or directions of RA.	1 Lakh per day during the period the default continues, upto 5% of cost of project.
53	Failure to comply with orders of AT.	Upto 1 year imprisonment or Upto 10% of cost of project or with both.

THANK YOU