

ROLE OF NATIONAL GREEN TRIBUNAL FOR PROTECTION OF ENVIRONMENT IN INDIA: AN ANALYTICAL STUDY

“Earth provides enough to satisfy every man's needs, but not every man's greed.”

Mahatma Gandhi.

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Abstract

Now a day very serious problems of environmental degradation are found all over the world because society's interaction with nature is so extensive. At the international level first conference had organized by United Nations on Human Environment in 1972 at Stockholm. This conference adopted the action plan called as Stockholm Declaration. This is to be considered the Magna Carta of environmental protection. India is one of the countries which established the National Green Tribunal to deal the environment litigation. The Tribunal is a quasi-judicial body and has civil court jurisdiction. National Green Tribunal was established as per the National Green Tribunal Act, 2010. Before this enactment, there were efforts to establish the National Green Tribunal under the National Green Tribunal Act of 1995 and The National Environment Appellate Authority Act of 1997.

Keywords: Environment pollution, Environment protection, National Green Tribunal, quasi-judicial

1. INTRODUCTION

Now day protection of the environment is very sin qua non. The environment which is a very wide term includes the air, water, and land i.e. biological and non-biological things. The term environment is derived from the French word 'environ' which means surround or encircle. There is a close relationship between a healthy environment and the economic condition of the community at large. The serious problem of environmental pollution is found in developed as well as underdeveloped countries. The different problems relating to the environment such as global warming effects, air pollution, water pollution, soil pollution, noise pollution and conservation of forests, wildlife, and many more issues attract the attention at the global level. Different countries had established their own Green court or Environmental Tribunal to deal with the cases relating to environmental pollution. India is the third country after Australia and New Zealand which established the National Green Tribunal to deal the environment litigation. The Tribunal is a quasi-judicial body and has civil court jurisdiction. The Awards or decision of this court is binding on the parties. It can appealable before the Supreme Court. The first time this court was established as per the National Tribunal Act, 2010. Before this enactment, there were efforts to establish the National Green Tribunal under the National Green Tribunal Act of 1995 and The National Environment Appellate Authority Act of 1997. This is the unique effort taken by India for the speedy disposal of environment-related cases. The origin of this Green Tribunal has found in our Indian Constitution. This is also fundamental law of the land. Article 21 of the Indian Constitution discusses the right to life and personal liberty. The Supreme Court liberally interpreted this Article and quoted that the right to life and personal liberty includes the right to a pollution-free environment.¹

2. HISTORICAL BACKGROUND

The First Global level conference had organized by United Nations on Human Environment in 1972 at Stockholm. India is also one of the participant countries in this conference. This conference adopted the action plan called the Stockholm Declaration 1972. The Stockholm Declaration is to be considered to be the Magna Carta of environmental protection. It was the first occasion when the Principle -1 of the Stockholm Declaration stated that people have “the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being and he bears a solemn responsibility to protect and improve the environment for present and future generation² This conference made a significant

¹. Dr. Upadhyaya J.J.R., Environmental Law: Central Law Agency, Fourth Edition, Allahabad. Page no-3.

². United Nations Environment Program, Declaration of the United Nations Conference on the Human Environment. The United Nations Conference on the Human Environment, Stockholm 1972.

declaration relating to the safeguarding the natural resources and the development of international Environmental law. It provides compensation to the victims and other degradation.

The second United Nations Conference on Environment was organized in 1992 at Rio-De-Janeiro. India is also the signatory party of this conference. It has declared that the signatory parties should make suitable legislation for the protection of the environment. It should be effective access to the public at large to the judicial and administrative proceedings as well as the remedies.³ The Law Commission of India in its 186th report state that a separate Environment Court should be established in each state to deal with the cases relating to environmental degradation. These courts will handle by qualified persons who have scientific knowledge and practical experience in the legal or judicial field. These courts should be accessible to each state litigant. The Environmental court should exercise the original as well as appellate jurisdiction related to the substantial question of law and other statutes.⁴ The same opinion had given by the Supreme Court of India in *M. C. Mehta Vs. Union of India*⁵ In this case popularly known as the Oleum Gas Leak case, Supreme Court held that it would be desirable to have the setting up of environmental courts on a regional basis with a professional judge and two experts drawn from the Ecological science research group. As far as India is concerned ordinary courts are already overburdened and it took much more time to resolve the matters. That's why the National Green Tribunal has established in 2010. The main office in New Delhi and circuit benches were established in Kolkata, Bhopal, Chennai, and Pune. The principal bench and the other four benches are currently working.

3. OBJECTIVES TO ESTABLISH THE GREEN TRIBUNAL IN INDIA

The object of the Act is to give effect to its International obligations arising out of various decisions taken at International Conferences to which India has been a Party and also to implement the Indian apex court's pronouncement that the right to a healthy environment is a part of the right to life under Article- 21 of the Indian Constitution. Following are the objectives for the establishment of the National Green Tribunal.

1. To settle the substantial question of law relating to the environment.
2. To provide a quick remedy in environmental cases and sustainable development with due protection of the environment.
3. To provide the affordable, accessible, and speedy disposal of cases.
4. To reduce the burden of ordinary courts.
5. To provide relief and compensation for damages to persons and property and matters connected therewith.

4. ROLE OF NATIONAL GREEN TRIBUNAL IN PROTECTION OF ENVIRONMENT IN INDIA

The National Green Tribunal has the original as well as appellate jurisdiction. It has the power to hear all civil cases relating to environmental issues and questions that are linked to the implementation of laws listed in Schedule I of the National Green Tribunal Act. These include the following:

- The Water (Prevention and Control of Pollution) Act, 1974
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- The Forest (Conservation) Act, 1980
- The Air (Prevention and Control of Pollution) Act, 1981
- The Environment (Protection) Act, 1986
- The Public Liability Insurance Act, 1991
- The Biological Diversity Act, 2002.

The National Green Tribunal is not bound by the procedure laid down under the Code of Civil Procedure, 1908 but shall be guided by principles of natural justice. The importance of a separate tribunal lies in its role to facilitate sustainable development. National Green Tribunal is responsible for the disposal of applications or appeals finally within 6 months of the filing of the same. Since the establishment of the Tribunal, several matters are solved⁶. This Tribunal has been empowered to adjudicate disputes relating to environmental protection and also has the power to declare as illegal and invalid any administrative action. It is empowered to review the orders passed under all existing environmental protection laws including those involving water, air, forests, and wildlife.

As per Section-15 (1) of the Act, 2010 the Tribunal may by order provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule-I. It is the relief and compensation and restitution of the property and environment that shall be in addition to the relief paid or payable under the Public Liability Insurance Act.

Section- 16(1) of the Act any person aggrieved by an order or decision made on or after commencement of the Act the appellate authority under the seven enactments under the jurisdiction can appeal to it within thirty

³ . Report and principle 13 of Rio-de-Janeiro Conference on Environment and Development, 1992.

⁴ . Law Commission of India, 186th report.

⁵ . AIR 1987.

⁶ . https://perfectmentors.in/articles/national-green-tribunal--role-and-significance_on_22_June_2022,5:30pm

days. Under the Act, the proceedings before the Tribunal shall be deemed to be judicial proceedings. The Act provides for no-fault liability in case of claims involving an accident by authorizing the tribunal and applying the principle of no-fault. The Act also provides for expeditious relief.⁷

5. RECENT JUDGMENTS OF THE NATIONAL GREEN TRIBUNAL

*Harider Dhingra vs. International Recreation & Amusement Ltd. & Ors.*⁸ In this case the issue of illegal drawl of groundwater. An amusement park in Gurgaon, Haryana was responsible for diverting water from the river for its commercial use. The National Green Tribunal approved the committee's recommendations and suggested steps to disconnect the canal supply and mandate the supply of water by increasing the recharge of water.

*M.C.Mehta vs. Union of India & Ors.*⁹ In this case, National Green Tribunal looked into the reports of the supervisory committee to ensure the cleaning of river Ganga's phase I. The National Green Tribunal warned states like Uttar Pradesh, Bihar, West Bengal, and Jharkhand and the National Mission for clean Ganga of compensation for the failure to formulate and implement plans for phase II & phase III.

*Digvijay Singh Applicant versus State of Rajasthan & Ors. Respondents*¹⁰ Tribunal dealt with the remedial action against violation of environmental norms by certain industries and Jodhpur, Pali, and Balotra local bodies. The Tribunal found the said local bodies contributing to the pollution for which their liability was fixed. This matter has been taken up in light of a media report dated 5.3.2022 about the death of 14 persons in the firecrackers unit at Bhagalpur in Bihar. It was mentioned that the number of deaths had gone up to 15 and the number of seriously injured persons was 8. Referring to earlier orders of this Tribunal in respect of such incidents, it was considered necessary that accountability be fixed for loss of human lives and health on account of violation of environmental safety norms. The Tribunal directed the State PCB and District Magistrate, Bhagalpur to bring out all relevant facts and put the identified violators to notice of these proceedings to provide them an opportunity of being heard by the principles of natural justice.

*Shobh Nath Dwivedi Applicant Versus Ram Lakhan Alias Bhindhar Passi & Anr.*¹¹

The present application filed by Shobh Nath Dwivedi resident of Village Sidhora, District Prayagraj, Uttar Pradesh is regarding successive uprooting of trees planted under the Environmental Conservation Campaign in village Sindhora. It constitutes the Joint Committee of DFO, Prayagraj, and District Magistrate, Prayagraj and directs the same to meet within four weeks and undertake site visits, look into the grievances of the applicant and take requisite remedial action by following due process of law.¹²

6. CONCLUSION AND SUGGESTIONS

India is also one of the countries which had established the Environment Tribunal after Australia and New Zealand. India has established this Green Tribunal in 2010. The tribunal is a special fast-track court that is also a quasi-judicial body consisting of an equal number of judicial and subject experts. The purpose of this court is to provide a quick remedy in environmental cases. The ordinary courts are overburdened that's why the special court has been established. The National Green Tribunal has given fast-track judgments in several cases. This Court passed several orders to ban sand mining, against noise pollution in Delhi, preservation of biodiversity in Western Ghats Mountains, wildlife protection in Kaziranga National Park in Assam, and many environmental issues. National Green Tribunal is working quite well and ensuring its mandate to impart justice in environment-related litigations. Although it is unlikely that NGT is a cure for all environmental problems, certainly it is going to provide a lead, in the new forms of environmental dispute resolution. It is expected that the National Green Tribunal is certainly going to benefit the Indian natural landscape to a great extent. While settling the dispute and questions the tribunal has been vested with the power to grant compensation, damages, and relief also for the direct restitution of the environment. The National Green Tribunal has developed faith in society and achieved success in delivering environmental justice. During the disposal of cases and delivery of justice, Green Tribunal is the first body in India to apply the polluter pay principle, the precautionary principle, and the sustainable development principle. The National Green Tribunal has grown in multidisciplinary dimensions and makes a great contribution to the development of the environment at the national and international levels. Still, some improvements are required for litigant satisfaction and sustainable development. Now a day the issues of environmental or climate change are more serious, and the government should give more autonomy in the field of jurisdiction and rule-making power.

⁷ . <https://ijcrt.org/papers/IJCRT1704297.pdf> 23.06.2022 time 5:40 pm

⁸ 2017.

⁹ .2019.

¹⁰ . Municipal Council, Balotra (Erstwhile Municipal Board, Balotra) Original Application No.34 (THC)/2014 (CWP No. 2844/2011) (I.A. No. 131/2022)

¹¹ Original Application No. 381/2022(By Video Conferencing)

¹² . https://greentribunal.gov.in/gen_pdf_test.php?filepath=L25ndF9kb2N1bWVudHMvbmdd0L2Nhc2Vkb2MvanVkZ2VtZW50cy9ERUxISS8yMDlyLTA1LT12LzE2NTM5OTc0NTUxMDAwODAwNzgwNjI5NWZmOGZlYTBkYi5wZGY=

1. National Green Tribunal should have provided more powers in the field of jurisdiction and these power should be subject to judicial review.
2. Other country law which is beneficial and related to the environment should also be included within the ambit of the National Green Tribunal Act 2010.
3. It also needs to apply certain effective systems along with traditional, ones so justice can achieve at the grass-root level.
4. The check and balance method should be improvised to free and fair delivery of justice
5. The Government should Co-operate with the national green tribunal at the center, state, and local levels.
6. Suo-motu jurisdiction must provide to NGT on every step and level to maintain the environmental balance.
7. It needs to identify the experts and institutions for the help of NGT in the matters related to the estimation of compensation, damages, and fine based on complicated matters in cases.