
Role of NGT: A Complete Overview

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Abstract

This makes it simpler for conservation groups to approach and present the relevant facts in front of the Tribunal as well as making it easier for the parties to point out the flaws and any harmful impact a project can have on the environment. This also provides flexibility to the NGT in exercising its functions for the grant of remedies to the concerned person. A person does not even need legal counsel to represent himself in a case before the NGT as he can present the matter himself if acquainted with the facts of the case and if he is adequately informed about the law and procedures. Every decision of the tribunal is binding on all the parties, except in circumstances where the Supreme Court is approached and the order is stayed or reversed. This makes it easier for conservation groups to approach the Tribunal and give the required evidence, as well as for the parties to point out errors and any negative impact a project may have on the environment. The National Green Tribunal was established on October 18, 2010, on the 18th day of the year. It was intended to be a specialized body that would deal with multidisciplinary issues. The tribunals have now evolved into mechanisms that have overcome their initial flaws. The purpose of this article is to examine the National Green Tribunals founding, as well as the jurisprudence and innovations it has brought to light since its beginning.

Keywords: national green tribunal, environment, protection, Judicial remedies, disputes

Introduction

Persons have intrinsic value, and all humans have the capacity to serve others in their instrumental value, according to this ethical view. The word 'environment' comes from the French word 'environer,' which meaning 'to surround or encompass.' It encompasses all natural resources that make up human and animal life's natural habitat. The environment is described in Section 2 of the Environment (Protection) Act of 1986 as the air, water, and land, as well as the interrelationships between these resources and humans, other creatures, and property. India agreed to give administrative and judicial remedies to pollution victims at the United Nations' Rio Conference in 1992.

As a result, a special tribunal known as the National Green Tribunal (NGT) was established. Article 21 of the Indian Constitution, which guarantees freedom of life and liberty, has served as a model for this organization. The judiciary has broadened its

interpretation to ensure that people have access to a healthy environment. The Supreme Court declared in *Subhash Kumar v. State of Bihar*¹ that Article 21 includes the right to clean water and air to support the enjoyment of life.

After an extensive discussion of the views of jurists from various countries, the Supreme Court of India in *A.P. Pollution Control Board vs. M.V. Nayudu*³ referred to the need for establishing Environmental Courts that would benefit from expert advice from environmental scientists/technically qualified persons as part of the judicial process. The "National Environmental Appellate Authority, constituted under the National Environmental Appellate Authority Act, 1997, for the limited purpose of providing a forum to review administrative decisions on Environment Impact Assessment, had very little work," according to the 186th Report of the Law Commission of India on the Proposal to Constitute Environmental Courts, published in September 2003.

Since the year 2000, it appears that no judicial members have been appointed. The National Environmental Tribunal Act of 1995 has yet to be notified, despite the fact that it was enacted eight

years ago. The tribunal established under the Act has yet to be established since it was enacted by Parliament. As a result, these two tribunals are inactive and simply exist on paper." The Commission advocated the creation of environmental courts with judicial members and technical experts in its recommendation.

The National Green Tribunal Bill was introduced in the Indian Parliament on July 29, 2009, after years of deliberation. The bill establishes a Green Tribunal, which will enable effective and timely resolution of matters involving environmental protection and natural resource and forest conservation. "The National Green Tribunal Act is a ground-breaking piece of law that is one-of-a-kind in many aspects. By reducing delays and increasing objectivity, it will add a new dimension to environmental adjudication. The Tribunal is envisioned to be a specialized environmental adjudicatory body with both original and appellate jurisdiction, given its composition and jurisdiction, which includes broad powers to settle environmental disputes and provide relief, compensation, and restitution of the environment," says Dr Abraham P Meachinkara, Advocate, High Court of Kerala.

1. National Green Tribunal

The National Green Tribunal, or NGT, was formed in 2010 by the National Green Tribunal Act. Its headquarters are in Delhi, but it also has offices in Pune, Bhopal, Chennai, and Kolkata. After Australia and New Zealand, India has become the first developing country in the world to establish this specialist environmental tribunal. Its principal goal is to speed up the resolution of environmental issues by lowering the burden of litigation in other Indian courts. It has broad authority and requires that disputes be resolved within six months of filing a petition. According to Section 2 (b) of the Act, the chairperson is appointed along with other judicial members and experts.

A. Origin

India agreed to provide legal and administrative remedies for victims of pollution and other

environmental damage during the United Nations Conference on Environment and Development in Rio de Janeiro in June 1992. This prepared the way for the National Green Tribunal Act, 2010, which was enacted to establish a special tribunal to hear matters involving environmental issues in a timely manner. It is inspired by Article 21 of the Indian Constitution, which guarantees inhabitants of India the right to a healthy environment. The National Green Tribunal Act of 2010 established the National Green Tribunal on October 18, 2010.

b. Scope and Objective

The National Green Tribunal is a specialist body with the appropriate ability to address multi-disciplinary environmental disputes.

The following are the tribunal's primary goals:

- To provide effective and expeditious resolution of cases involving environmental protection;
- To facilitate enforcement of any legal right relating to the environment;
- To provide relief and compensation for damages to persons and property, as well as matters connected with or incidental thereto.

c. Role and Significance

All civil matters involving environmental issues and questions related to the application of laws specified in Schedule I of the NGT Act are heard by the NGT. The following are some of them:

- The Water (Prevention and Control of Pollution) Act, 1974;
- The Water (Prevention and Control of Pollution) Cess Act, 1977;
- 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 NGT will be guided by natural justice principles rather than the procedure outlined in the Code of Civil Procedure, 1908.

The importance of a separate tribunal resides in its ability to promote long-term development. The NGT is in charge of deciding on petitions or appeals within six months of their filing. According to government data, the tribunal has resolved 20,696 cases since its commencement (till October 31, 2017).

The National Green Tribunal "cannot afford to remain a silent spectator when no one comes knocking," the court observed on Thursday as it issued an order giving the body constituted under the National Green Tribunal Act 2010 for environmental protection suo moto powers.

"It is vital for the well-being of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental damage and resultant climate change so that we can leave behind a better environmental legacy for our children, a three-judge bench of Justices AM Khanwilkar, Hrishikesh Roy, and CT Ravikumar said, "It is vital for the well-being of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental degradation and the resulting climate change, so that our children and future generations will have a better environmental legacy.

d. Composition

The tribunal's present sanctioned strength is ten expert members and ten judicial members, while the act allows for up to twenty of each. The Chairman of the Tribunal, who also serves as the tribunal's administrative head, is also a judicial member. A serving or retired Chief Justice of a High Court or a judge of the Supreme Court of India is necessary to chair the tribunal.

Every tribunal bench must have at least one expert and one judicial member. The Tribunal's Principal Place of Sitting is New Delhi, and the other four places of sitting are Bhopal, Pune, Kolkata, and Chennai.

e. The Other Side of it

The National Green Tribunal has to close some loopholes in order to expand its capabilities and relevance to the goals it has set. The tribunal's scope is still restricted, as it now operates through five benches. It is difficult to approach a tribunal located far from one's home because civil courts no longer

accept issues relating to the environment. In addition, the government must maintain its legitimacy as a separate organization.

f. NGT's Methodology

Section 19 of the National Green Tribunal Act of 2010 grants the Tribunal the authority to determine its own proceedings. Furthermore, the Tribunal is not bound by the Code of Civil Procedure, 1908, or the Indian Evidence Act, 1872, and is influenced by natural justice principles. The Tribunal, on the other hand, is given the authority of a civil court to carry out its duties under the Code of Civil Procedure.

g. Procedure

Because applications to the tribunal are intrinsically different from civil litigation or writ petitions, the Tribunal has created its own set of regulations. The Tribunal identifies necessary parties as defined by the statutes listed in Schedule I of the NGT Act, 2010 and orders them to react quickly by email, saving time and money. Every party identified as a respondent in the application is not automatically served with notice.

Letter petitions that bring to light cases of significant environmental damage are heard by the Tribunal. Even in the absence of any representation from the injured party, a valid complaint is noted, and a response is requested via email, which can be filed without the assistance of an advocate.

Further instructions are sent to selected statutory authorities and/or experts identified by the Tribunal, as judged necessary, to investigate claims of environmental damage and submit a "factual and action taken" report. An enforceable order is issued, ordering the responsible authority to take actions such as limiting pollution, recovering compensation, and pursuing legal action.

h. Speedy disposal and increased access to justice

In circumstances where the Tribunal deems it suitable, select members or committees, including those made up of former high court judges, former chief secretaries, or subject area experts, and may be appointed to guarantee timely execution of the Tribunal's orders.

Not only is quick decision-making advantageous to plaintiffs, but it also allows for the prevention of prospective environmental damage rather than compensation for damage already done.

It saves time and allows the Tribunal to make decisions in a timely manner by serving the orders and soliciting comments via email.

Because the Tribunal's regional benches in Chennai, Pune, Bhopal, and Kolkata are short on judicial and expert members, the Principal Bench in New Delhi is considering applications from other jurisdictions via video conference to address the demands of the plaintiffs.

i. Penalty

The act empowers the Green Tribunal to award compensation, and unlike other environmental protection Acts, this one gives the Green Tribunal a lot of power if its orders aren't followed; the penalty can be three years in prison or up to ten crores in fines for individuals, and up to twenty-five crores for companies [Section 26(1)]. The bill's section 27 takes a harsh stance towards corporations. "If it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary, or other officers shall also be deemed guilty of that offence and shall be liable," it states.

This is a laudable provision in the law, and it will, at the very least, instil terror among company executives to pay close attention to their company's environmental performance. Section 27 is, on the other hand, weakened. Further reading reveals that the individual is not liable for punishment if he can show that the crime was committed without his knowledge or that he used all reasonable efforts to prevent it. This merely implies that the company's chief executive must prove his innocence, and the blame will finally rest on subordinate employees.

The law also puts Departments of Governments under the microscope. The bill's section 28 suggests that the department's head be prosecuted. "If the Department of Government fails to comply with any order, award, or decision of the tribunal made under this act, the Head of Department shall be deemed guilty of such failures and shall be liable to be

prosecuted for having committed an offence under this Act and punished accordingly," it states.

2. Recent Developments

The polluter pays principle was applied in the Uttarakhand floods case, and Alaknanda Hydro Power Co. Ltd¹⁹ was ordered to compensate. Due to growing pollution, it was decided in 2015 that all diesel vehicles older than ten years would be prohibited in Delhi-NCR.

The NGT also ordered an interim ban on the use and sale of non-biodegradable plastic bags with a thickness of less than 50 microns in 2017. They were responsible for animal deaths, environmental degradation, and sewage clogs in Delhi. A fine of Rs. 5000 would be imposed on the violators.

Harinder Dhingra v. International Recreation & Amusement Ltd. & Ors, deals with illegal groundwater extraction. Water was diverted from the river for commercial use by an entertainment park in Gurgaon, Haryana. The NGT endorsed the committee's conclusions and proposed that the canal supply be disconnected and that water be treated by boosting water recharge.

In *C. Mehta v. Union of India & Ors*, the National Green Tribunal examined the findings of the supervisory committee charged with ensuring the Phase I cleaning of the Ganga. The NGT issued a warning to states including Uttar Pradesh, Bihar, West Bengal, and Jharkhand, as well as the National Mission for Clean Ganga, for failing to design and implement Phase II and Phase III action plans.

3. Important Landmark Judgements of Ngt

POSCO, a steelmaker, signed a Memorandum of Understanding with the Odisha government in 2012 to establish a steel plant. The NGT suspended the order, which was seen as a bold move in favour of the local communities and woods.

Almitra H. Patel vs. Union of India case, the National Green Tribunal ruled that open burning of rubbish on lands, including landfills, is prohibited - widely recognized as India's single most important landmark case on solid waste management.

The Alaknanda Hydro Power Co. Ltd. was compelled to compensate the petitioner in the Uttarakhand floods case in 2013 — the NGT directly relied on the principle of 'polluter pays' in this case. The NGT ruled in 2015 that all diesel vehicles older than ten years would be prohibited.

The NGT panel levied a penalty of Rs. 5 crore in 2017 after the Art of Living Festival on the Yamuna Food Plain was found to be in violation of environmental regulations.

In 2017, the NGT issued an interim ban in Delhi on plastic bags with a thickness of less than 50 microns because "they were causing animal fatalities, blocking sewers, and damaging the environment."

4. Challenges

The NGT does not have jurisdiction over two major acts: the Wildlife (Protection) Act²⁵ and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act²⁶. This limits the NGT's authority and, at times, makes it difficult for it to function, as the fundamental issue of forest rights is inextricably related to the environment.

The NGT's judgements are being challenged in several High Courts under Article 226 (authority of High Courts to issue certain writs), with many

alleging that a High Court has superiority over the NGT, claiming that "the High Court is a constitutional body, whereas the NGT is a statutory body. "This is one of the Act's flaws since it is unclear what kind of decisions can be appealed, despite the fact that the NGT's rulings can be appealed to the Supreme Court under the NGT Act.

Because of their implications for economic growth and development, NGT decisions have been criticized and questioned. The tribunal has also been chastised for the lack of a formula-based system for assessing compensation. The stakeholders and the government do not completely comply with the NGT's rulings. Its decisions are occasionally cited as being impractical to implement within a specified timeframe. Due to a lack of personnel and financial resources, many cases are still pending, undermining the NGT's stated goal of resolving appeals within six months. The small number of regional benches also impedes the delivery of justice.

5. Analysis & Conclusion

A. Zone Wise Report

GRAND TOTAL INSTITUTION, DISPOSAL AND PENDENCY OF THE CASES OF NGT PRINCIPAL BENCH & ALL ZONAL BENCHES FROM 01/05/2021 TO 30/04/2022

I. INSTITUTIONS:

MONTHS	PB DELHI	SEB CHENNAI	CEZ BHOPAL	WEZ PUNE	EZB KOLKATA
MAY	32	21	7	13	10
JUNE	50	73	46	14	15
JULY	124	50	36	57	33
AUGUST	61	58	35	23	29
SEPTEMBER	45	53	59	27	15
OCTOBER	63	34	14	36	45
NOVENVER	99	36	5	32	29
DECEMBER	164	60	24	30	20

JANUARY	143	50	18	26	30
FEBRUARY	119	38	33	27	30
MARCH	117	46	14	30	121
APRIL	134	36	17	32	51
TOTAL	1151	555	308	347	428

II.DISPOSAL

MONTHS	PB DELHI	SEB CHENNAI	CEZ BHOPAL	WEZ PUNE	EZB KOLKATA
MAY	53	4	4	44	4
JUNE	79	78	30	64	34
JULY	68	45	41	43	35
AUGUST	81	33	20	26	36
SEPTEMBER	57	60	37	30	24
OCTOBER	49	36	17	17	22
NOVENVER	79	37	35	21	20
DECEMBER	113	47	74	13	65
JANUARY	144	68	23	25	34
FEBRUARY	167	62	77	30	37
MARCH	83	54	17	33	29
APRIL	77	58	39	31	53
TOTAL	1050	592	414	377	393

ZONE WISE PENDENCY AS ON 30/04/2022

Bench		PENDENCY
(PB) DELHI		712
(SEB) CHENNAI		487
(CEZ) BHOPAL		82
(WEZ) PUNE		692
(EZB) KOLKATA		388
TOTAL		2361
GRAND TOTAL OF INSTITUTION, DISPOSAL AND PENDENCY OF THE CASES OF NGT PRINCIPAL BENCH AND ALL ZONAL BENCHES FROM THE DATE OF ITS INCEPTION TILL 30.04.2022		
Institution 37766	Disposal 35405	Pendency 2661

To summarize, such a body is critical in limiting actions that are harmful to the environment. It's also a tool that guarantees that the Environmental Impact Assessment process is followed to the letter. The lack of a formula-based system for determining compensation is also a point of contention. Increased power and the elimination of loopholes are two methods for monitoring and revising the importance of the environment and its protection in order to ensure that the conservation objectives are met.

Conclusion

For effective environmental protection and to preserve a balance between India's economic and

developmental growth, the autonomy and scope of the NGT's jurisdiction should be expanded. Recognizing the potential and restrictions provided by this new legal framework will assist decision-makers to make more informed decisions when considering ways to address their context-specific socio-environmental and economic issue as the pressure on tribunals grows. More autonomy and a broader scope for the NGT are required for successful environmental protection that is compatible with human development.

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