

NGT: A BEACON FOR SUSTAINABLE DEVELOPMENT

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ABSTRACT

Ever since the industries expanded and developmental activities started in the country, a large number of environmental issues have also come to the fore. There are many examples where such human activities have caused huge damage to the environment. India is one of the few countries in the world that gives utmost importance to environmental protection and is promoting sustainable development. India has introduced a number of laws which are related to environment and forest protection and conservation. The Green Tribunal (established on 18.10.2010) is another important step for effective and speedy disposal of cases related to environment protection and conservation of forests and other natural resources.

This study briefly deals with the NGT, its composition and its powers. The study also focuses on important decisions of the NGT which resulted in benefits to the environment and society at large.

Keywords: *Developmental Activities; Environmental Issues; Sustainable Development; NGT*

INTRODUCTION

In the present scenario, climate change and environmental protection is one of the most important issues globally. According to the Synthesis Report 2023 of the Sixth Assessment Report (AR6) of the IPCC, the global surface temperature has increased by 1.10 °C from 2011–2020 compared to 1850–1900. In the report, it is clearly shown that human influence has warmed the atmosphere, oceans and land. There have been widespread and rapid changes in the atmosphere, oceans, cryosphere and biosphere.

According to the UNICEF report, India's average temperature has increased by about 0.7 °C during 1901-2018. This rise in temperature is largely due to the warming induced by greenhouse gases (GHGs), which lead to climate change. as per India Meteorological Department, Ministry of Earth Sciences (MoES), Government of India (2021) report, the annual mean land surface air temperature averaged over India during 2021 was 0.44 °C above

the long period average (LPA) based on 1981-2010 period. The 2021 annual rainfall over the country as a whole was 105% of its LPA based on 1961- 2010 period. UNICEF's 2021 report titled 'The climate crisis is a child rights crisis: introducing the Children's Climate Risk Index' (CCRI), presented the first child-focused global climate risk index. India has been ranked 26th out of 163 ranked countries in the report. This implies that children in India are most 'at risk' to the effects of climate change, threatening their health, education and security.

In the 2022 Environment Performance Index (EPI), India ranked 180 out of 180 countries in the ranking, indicating poor performance on various critical environmental issues such as air quality, water quality, biodiversity and habitat protection and climate change. However, the Indian Ministry of Environment, Forest and Climate Change (MoEF&CC) issued a rebuttal to the 2022 EPI report. According to a statement issued by MoEF&CC, it claimed that many of the indicators used in the calculations were

based on unfounded assumptions and unscientific methods.

In 2015, the United Nations adopted the Sustainable Development Goals (SDGs), also known as the Global Goals. The SDGs are a universal call to action to end poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity. These SDGs are based on the premise that development must balance social, economic and environmental sustainability. The Sustainable Development Commission, UK, defined sustainable development as "development that meets the needs of the present, without compromising the ability of future generations to meet their own needs". WHO describes sustainable development as "a broad term to describe policies, projects and investments that deliver benefits today without sacrificing environmental, social and personal health in the future".

The National Green Tribunal (NGT), also known as "Green Court" has been established on 18.10.2010 under the National Green Tribunal Act 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. The study briefly explains the NGT, structure and its power. The study also focuses on significant Judgements by NGT which resulted in huge benefits to the environment and society at large.

THE ESTABLISHMENT OF NGT

In India, the establishment of NGT is not sudden, it came into existence through various recommendations, judgments of cases and reports related to environmental degradation. In the 1986, MC Mehta vs Union of India case, the Supreme Court observed that environmental matters involved the evaluation of scientific data. Setting up of environmental courts on a regional basis requires professional judges and experts, taking into account

the expertise required for such adjudication. In another judgment 'Indian Council for Enviro-Legal Action v. Union of India, 1996', the Supreme Court found that environmental courts with civil and criminal jurisdiction should be set up to deal with environmental issues expeditiously.

The Supreme Court of India in A.P. Pollution Control Board Vs. M.V. Naidu: The 1999 case refers to the need for setting up environmental courts, which would have the benefit of expert advice from environmental scientists/technically qualified persons as a part of the judicial process after detailed discussion of the views of jurists from different countries. The 186th Report of the Law Commission of India on the proposal for setting up of Environment Courts in September 2003 stated that "the National Environmental Appellate Authority constituted under the National Environmental Appellate Authority Act, 1997, for the limited purpose of providing a forum to review the administrative decisions on Environment Impact Assessment, had very little work. It appears that since the year 2000, no judicial member has been appointed. So far as the National Environmental Tribunal Act 1995, is concerned, the legislation is yet to be notified after eight years of enactment. Since it was enacted by Parliament, the tribunal under the Act is yet to be constituted. Thus, these two tribunals are non-functional and exist only on paper". In their recommendation, the commission proposed setting up of environmental courts with judicial members and technical experts.

After years of deliberations, the NGT Bill was introduced in the Indian Parliament on 29 July 2009. The Bill provided for the establishment of Green Tribunals, which would offer effective and speedy redressal of matters relating to environmental protection and conservation of natural resources and forests. NGT was established on October 18, 2010 under the National Green Tribunal Act 2010, but started functioning from July 4, 2011. The Tribunal is a specialized body equipped with the necessary expertise to handle environmental disputes involving multidisciplinary issues. The Principal Bench of the Tribunal is located

at New Delhi and there are Circuit Benches at Chennai, Bhopal, Pune and Kolkata so that it can reach the remotest parts of India. The Principal Bench and the Regional Bench are all functioning at present.

This tribunal can rightly be called 'special' as India is the third country after Australia and New Zealand to have such a system. The National Green Tribunal is India's first dedicated Environment Court, which has a wide jurisdiction not only to deal with violations of environmental laws, but also to award compensation, relief and restoration of ecology as per the 'polluter pays' principle and also powers to enforce the 'precautionary principle'.

The Tribunal consists of a full-time Chairman, Judicial Members and Expert Members. The minimum number of judicial and expert members prescribed in each category is ten and the maximum number in each category is twenty. All these members are required to hold office for five years and are not eligible for reappointment. The Chairperson of the National Green Tribunal (NGT) is appointed by the Central Government of India in consultation with the Chief Justice of India. A selection committee is constituted by the Central Government of India to appoint judicial members and expert members.

POWERS OF NGT

- The NGT Act, 2010 under Section 19 empowers the Tribunal to regulate its own procedure.
- The Tribunal is not bound by procedure under the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872 and is guided by the principles of natural justice.
- However, the Tribunal is vested with the powers of a civil court under the Code of Civil Procedure for the discharge of its functions.
- As per Section 14 of the NGT Act, 2010, the Tribunal shall have jurisdiction over all civil matters where the following seven laws

referred to in Schedule I relating to environment exist:

- ✓ Water (Prevention and Control of Pollution) Act, 1974
- ✓ Water (Prevention and Control of Pollution) Cess Act, 1977
- ✓ Forest (Conservation) Act, 1980
- ✓ Air (Prevention and Control of Pollution) Act, 1981
- ✓ Environment (Protection) Act, 1986
- ✓ Public Liability Insurance Act, 1991
- ✓ Biological Diversity Act, 2002
- It is mandatory for the Tribunal to endeavor to dispose of the applications or appeals finally within 6 months from the date of filing.
- The NGT may, by an order, provide—
 - ✓ Relief and compensation for victims of pollution and other environmental damages;
 - ✓ For restitution of damaged property;
 - ✓ For the restoration of the environment of such area or areas.
- It curbs activities that harm the environment. NGT ensures strict observation of Environment Impact Assessment (EIA) process. EIA is a process used to identify the environmental, social and economic impacts of a project before a decision is made.
- From the date of establishment of the Tribunal, no civil court shall have jurisdiction to entertain any appeal in respect of any matter which the Tribunal is empowered to determine within its appellate jurisdiction, as per section 29(1) of the NGT Act, 2010.
- In 2021, the Supreme Court has declared the status of the NGT as a "unique" forum endowed with Suo Motu powers to take up environmental issues across the country. The court said the NGT need not wait for a "metaphorical Godot" to knock on its portal

to flex its vital forces to save the environment.

Grand total of institution, disposal and pendency of the cases in NGT principal bench and all zonal benches from the date of its inception till 30.04.2023 is as follows:

CASES OF NGT

Figure 1: Cases In NGT

Institution	Disposal	Pending
41181	38933	2248

Source: www.greentribunal.gov.in

Figure 2: Classification of cases filed in National Green Tribunal from 2011 to 2019

Years/ Categories	EC	FC	Pollution	Coastal	Waste Management	MISC	Mining
2011	7	2	6	0	1	0	0
2012	1	1	7	1	5	8	0
2013	25	4	45	12	6	21	1
2014	55	19	96	16	29	53	8
2015	51	21	146	33	33	120	17
2016	97	3	26	21	24	105	1
2017	88	29	172	15	90	3	3
2018	2	5	6	0	1	1	5
2019	22	4	8	1	2	4	3

Source: www.wwfindia.org

Figure 2 data shows that from 2011 to 2019, EC (Environmental Clearance) 348 cases; FC (Forest Conservation) 88 cases; pollution 512 cases; Coastal 99 cases; Waste Management 191 Cases; Miscellaneous 315 cases; And 38 cases of mining were filed in NGT.

SIGNIFICANT JUDGEMENTS AND ORDERS OF THE NGT

- In Almitra H Patel vs Union of India, the tribunal ordered all states and union territories to strictly follow and implement the Solid Waste Management Rules of 2016. After the trial, a complete ban was imposed on open burning of garbage in public places. From waste-to-energy plants,

complete segregation is required, and landfills must be used only for storage of inert waste and must be bio-stable within six months. The most important direction of the tribunal was a complete **ban on open burning of garbage** on public grounds including landfills.

- In Ms. Betty C. Alvares v. State of Goa and others, the Tribunal boldly stated that any person can **file proceedings** relating to an environmental dispute, whether he is a national or a person who is not an Indian citizen.
- NGT judgment on Srinagar Bandh Aapda Sangharsh Samiti and others. V. Alaknanda Hydro Power Company Limited &Ors. One

of these judgments, in which the NGT had relied on the principle of '**polluter pays**' and mandated an individual entity to pay reparations, making them amenable to a code of environmental jurisprudence.

- Several projects that were found to be in violation of the law such as Aranmula Airport, Kerala; Lower Demwe Hydro Power Project and Nyamanjangu in Arunachal Pradesh; mining projects in Goa; And coal mining projects in Chhattisgarh were either **canceled or fresh assessments** were ordered.
- The tribunal observed that concreting and cementing the area around the trees without leaving any space is injurious to the health of the trees and the environment. In 2013, the tribunal had directed that the **concrete surrounding the trees** should be removed within one meter of the tree.
- The NGT vide its order/judgment dated 10.12.2015, in OA No 200 of 2014- M.C. Mehta vs Union of India and ors. has inter-alia directed that as an interim measure, at least 100m from middle of the river would be treated and dealt with as '**Eco sensitive and prohibited zone**'. No activity whether permanent or temporary in nature will be permitted to be carried on in this zone including camping.
- An order dated 15.12.2017, NGT directed that **no construction** would be permitted in the Flood Plain in consonance with the judgement of the Tribunal in the case of Indian Council for Enviro-Legal Action Vs. National Ganga River Basin Authority & Ors.
- In 2014, the tribunal's order **quashed the extraction of coal blocks** in the Hasdeo-Arand forests located in the state of Chhattisgarh.
- In November 2014, the NGT passed a banning order that all petrol **vehicles** more than 15 years of age **cannot ply** in Delhi. An

April 2015 order also directed that all diesel vehicles more than 10 years of age cannot ply in Delhi.

- The Kolkata bench of the tribunal in November 2016 banned construction activities and solid waste and noise pollution in the Sundarbans area, being an eco-sensitive zone to protect wildlife.
- In 2017, the NGT imposed **an interim ban on plastic bags** of less than 50-micron thickness in Delhi because "they were causing death of animals, clogging sewers and harming the environment".
- The Tribunal had ordered an interim ban on 'rat-hole' coal mining in Meghalaya from April 17, 2014. In 2019, the NGT **fined** the Meghalaya Government **Rs. 100 crores** for failing to curb illegal mining.
- In 2020, the NGT **suo motu took up** the Vizag gas leak case. The tribunal imposed an interim fine of Rs 50 crore on LG Polymers India and also sought response from the Center and others for "damage to life, public health and environment".
- In 2022, the Tribunal passed a path-breaking direction to the state to control noise pollution. The NGT held that noise pollution violates the right of others to a peaceful, comfortable and pollution-free life guaranteed by Article 21.
- In November 2022, the National Green Tribunal (NGT) had **taken suo moto** cognizance of a case following a stone quarry collapse in Mizoram and asked officials of various authorities including the Mizoram Pollution Control Board (MPCB).
- In April 2023, in one of its suggestions on ways to curb pollution from the transport sector, the NGT has recommended that hybrid vehicles should be promoted in addition to pure electric vehicles. The tribunal has asked the Central Pollution Control Board (CPCB), all concerned

ministries, departments, states and union territories and other stakeholders to prepare a road map for implementation of the recommendations within three months.

CHALLENGES WITH THE WORKING OF NGT

- As per the NGT Act, the tribunal should consist of 10 members in judicial capacity and 10 members in expert capacity. But the tribunal never worked to its full potential.
- Due to paucity of human and financial resources, the pendency of cases has increased – which undermines the basic objective of NGT to dispose of appeals within 6 months.
- The numbers of benches are limited. New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai are the other four place of sitting of the Tribunal.
- Limited number of regional benches hampers the justice delivery system.
- Expert members are usually experts in a particular area and not the entire area of the environment. Due to which there is a lack of expertise in the functioning of the Tribunal. It is evident that many decisions of the NGT have been challenged in the Supreme Court and set aside. For instance-
 - ✓ The Supreme Court questioned the expertise of the NGT in the matter of Subansiri Hydroelectric Project in Arunachal Pradesh 2019. Furthermore, the court also set aside the ban imposed by the NGT on that project.
 - ✓ In December 2022, The Supreme Court stayed the NGT order imposing an environmental penalty of Rs 3,000 crore on the Rajasthan government for failing to address the huge gap in treatment of solid and liquid waste

generated in the state which resulted in pollution and threatened the health of citizens.

- Absence of formula-based rule for determination of compensation. There is no specific rule to determine compensation for a person who violates a law relating to environment.
- The NGT is not empowered to deal with certain laws that deal with the environment such as the Wildlife (Protection) Act, 1972, the Indian Forest Act, 1927, and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or many others.

CONCLUSION

In the present era, the balance between development and environment is of utmost importance. The National Green Tribunal (NGT), also known as “Green Court” has been established on 18.10.2010 under the National Green Tribunal Act 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. NGT has done well and is doing. The Tribunal has given many such orders, judgments and decisions which have proved to be effective contributors in saving the environment. But many reforms are still needed for effective, accessible and quick solutions to environment related issues. The NGT is faced with several challenges which are coming in the way of its functioning effectively and efficiently.

For sustainable development, there is a need for the state and central government to work together to address these challenges of NGT. The government needs to reform the provisions of the NGT Act. Apart from this, the government will also have to ensure that the vacancies are filled in a time-

bound manner. This will ensure proper functioning of NGT.

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