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Abstract

Role of National Green Tribunal in strengthening of Environmental Justice

India is considered as a great inspiration for the world community towards its great heritage and cultural practices. From ancient time, our country had regular practices to consider and praise the environment in their daily routine life. After Covid-19, we clearly understand the value of environment with its sustainability. Our constitution had also provided the wider connotations for certain articles and included environment as basic right for survival. Our vigilant judiciary focuses on attainment and accessibility of justice among the people. National Green Tribunal established in 2010 also known as an environmental court. Various landmark decisions given by the court and provides new direction with primary motive of establishment of environmental justice. Here, the researcher attempts to assess the role of environmental court and its effectiveness in strengthening and establishing environmental justice.

Keywords – Environmental Justice, National Green Tribunal, Landmark Decisions

Role of National Green Tribunal in strengthening of Environmental Justice

1. Background with Beginning

India has passed significant laws, including the Constitution and court rulings, to safeguard the environment. These laws address societal concerns that have grown as a result of population growth and development's increasing strain on the environment, which has resulted in environmental deterioration. Making sure that pollution and environmental degradation are avoided and that those who commit such acts are held accountable for the costs of repairing the harm done to the environment is the challenge facing Indian courts, the Indian legal system, and the National Green Tribunal, which was established to handle cases pertaining to environmental protection and the conservation of forests and other natural resources in an efficient and timely manner.

India has demonstrated exceptional achievement in environmental protection over the past years by enforcing numerous environmental protection laws. The nation has relied on a number of environmental laws to protect an environment as well as control of pollution for water, air, forest degradation, biodiversity conservation etc. which regulate environmental degradation. Following 2010, the National Green Tribunal significantly contributed to the nation's efforts to curb environmental deterioration. The need to establish special court to deal with environmental issues was felt by the apex court in *M.C Mehta vs. Union of India* case in 1986, the Supreme Court observed that environmental cases involve assessment of scientific data. Setting up of environmental courts on regional basis would require professional judge and experts, keeping in view the expertise required for such adjudication. In another judgement '*Indian Council for Enviro-Legal Action vs. Union of India*, 1996 the Supreme Court observed that Environmental Courts having civil and criminal jurisdiction must be established to deal with the environmental issues in a speedy manner. Supreme Court of India in *A.P. Pollution Control Board vs. M.V. Nayudu* 1999 referred to the need for establishing Environmental Courts which would have the benefit of expert advice from environmental scientists/technically qualified persons, as a part of the judicial process, after an elaborate discussion of the views of jurists of various countries.

The 186th Report of Law Commission of India on the Proposal to Constitute Environmental 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 its recommendation, the Commission proposed for setting up of environmental courts with judicial members and technical experts. After years of deliberation, the National Green Tribunal Bill was introduced in the Indian Parliament on July 29, 2009. The bill provides for the establishment of a Green Tribunal, which will offer effective and fast redressal of cases relating to environmental protection and conservation of natural resources and forests.

2. Brief Overview of Environmental Court

The National Green Tribunal Act primarily aims to provide the National Green Tribunal with the authority to resolve environmental disputes and uphold environmental rights. National Green Tribunal Act aims to offer relief and compensation for environmental damage. In order to conserve the environment, it is essential to establish sustainable practices for the utilization of natural resources. The National Green Tribunal (NGT) plays a significant role in the implementation and enforcement of legislation that pertains to the different components of environment like air, water, forest, sea, land etc. for successful accomplishment these goals, it is essential that it operates efficiently and addresses difficult environmental problems using the best possible judgment.

The NGT is a specialist tribunal with original jurisdiction over all compensation claims pertaining to specific environmental legislation. The Act constituted the Tribunal as a body corporate with perpetual succession, a common seal, and the authority to own, acquire, and dispose of movable and immovable property. The Tribunal's jurisdiction spans the entire nation, and it established circuit benches to adjudicate compensation cases under environmental legislation.

The Constitution of India fundamentally grounds the Act, reflecting the core values of environmental preservation articulated in Articles 21, 47, and 48-A. This Act provides a comprehensive framework for resolving complex issues linked to water, air, and soil pollution, forest degradation and biodiversity conservation by assuring relief and restitution for those negatively impacted by these environmental concerns. The distinguishing feature of the NGT compared to other tribunals is its distinctive capacity to grant expenses and compensation in addition to imposing traditional fines or penalties. This Act grants the NGT the authority to diligently oversee and enforce compliance with its orders, thus strengthening environmental adherence. For issues with significant environmental consequences, the NGT has the authority to send them to the distinguished Delhi High Court or the Supreme Court, whose rulings in such cases are considered definitive and unalterable. The NGT is a progressive and comprehensive strategy for environmental preservation by empowering the tribunal to maintain watchful oversight over many elements of our ecosystem. Rooted in India's constitution, tribunal strengthens the nation's dedication to protecting its natural resources and establishes a robust legal framework to address environmental violations. The NGT aims to establish a balance between human

advancement and environmental health through its commitment to justice, promoting a sustainable and prosperous future for subsequent generations.

The Union of India has granted the National Green Tribunal (NGT) the jurisdiction and power to effectively adjudicate and provide resolutions for disputes that may arise between the Union and one or more states. Tribunal has the authority to resolve conflicts that may arise between the Union and one or more States, as well as between two or more States in context of environment. The Central Pollution Control Board and the respective State Pollution Control Boards entrust the Tribunal with the crucial task of mediating disputes, ensuring harmonious cooperation in matters pertaining to pollution control. The Tribunal bears the significant responsibility of handling applications alleging environmental damage, pursuing appropriate property restitution and compensation for the resulting harm. With its wide array of powers, the tribunal diligently operates in accordance with the provisions set forth in specific environmental laws.

By virtue of its jurisdiction, the Tribunal has the noteworthy capacity to undertake cases through the lens of public interest litigation, ensuring that the greater good is always at the forefront. Tribunal's jurisdiction in terms of its power to exercise judicial functions and adjudicate environmental disputes. These disputes encompass a wide range of issues, including legal matters affecting the general public, conservation of natural resources, protection of the environment, and damage caused by violations of specific environmental laws, among others. The Tribunal also possesses supervisory powers over environmental laws and has the authority to hear appeals against decisions made by the Appellate Authority. The legislative history of the Act highlights the Tribunal's exclusive jurisdiction over civil actions related to environmental law violations, with a specific focus on expediting legal processes. The Tribunal's primary function is to address scientific, technical, and factual questions related to environmental protection, ensuring speedy disposal of environmental cases.

This expedited approach expedites the resolution process, aiming to conclude cases within a standard period of approximately six months. Naturally, this period may be subject to extension, based upon the unique and intricate nature of each particular case. However, the Tribunal remains steadfast in its commitment to meticulously explore the complexities of the environmental issues at hand, undeterred by the potential for extended proceedings. Section 14 of the Act clearly determines the areas of environmental issues and is initiated by the tribunal. This provision

effectively deters actions that may contribute to environmental damage, ensuring accountability for those found responsible. Through this provision, the tribunal actively promotes responsible environmental stewardship and underscores the importance of acting in harmony with the principles of sustainable development.

3. Instances of delivering environmental justice

The Tribunal in **Sanyogita Singh Applicant v. Government Uttar Pradesh State Pollution Control Board** has ruled that land designated as Green Belt cannot be modified for other purposes by halting construction in designated green area and compensate UPPCB with ₹5 lakh for environmental damage. In **Paldan Phunchog v. State of Himachal Pradesh & Ors**, The NGT examined Manali municipal rubbish disposal ordinances. It concluded that local municipalities handle waste. Criminalizing corrupt officials is possible under the Environment Protection Act. The Tribunal relied on Supreme Court rulings. The calculation of environmental compensation and three categories of infractions were covered. The Tribunal punished Manali Municipal Council and stressed punitive reparation as a deterrent. In **Amazon Seller Services Private Limited v. Haryana State Pollution Control Board & Anr**, Tribunal upheld ₹6 lakh environmental compensation for the appellant's sewage treatment plant. Builder poured untreated effluent without environmental permits. The court ordered environmental repair and criminal prosecution. The builder also lacked UPPCB approval. **Devendra Kumar v. State of Himachal Pradesh & Ors**, The Tribunal approved the construction of a village road on forest property, requiring tree clearance and instructing the forest agency to reforest elsewhere during the monsoon. Any person with a grievance could petition the Tribunal for additional directives. **Anand Kumar Dhyani v. PWD & Ors**, The Tribunal found the contractor cut 11 trees illegally during road construction. The Uttar Pradesh Protection of Trees Act, 1976 covers all trees in the state excluding those in forest regions. The Tribunal noted that the 1976 Act requires compensatory plantation for authorized tree fellers but not for illegal ones. The Tribunal ordered the State to modify the 1976 Act and plant two trees for each tree accounted for this monsoon season. **Arjun Singh & Ors v. State of Uttarakhand & Ors**, in response to a letter petition, the Tribunal ordered stone crushers to follow the CPCB's Environmental Guidelines for Stone Crushing Units, 2023. The decision required the stone crushers to stop operations in Dehradun, Uttarakhand, until they received a new Pollution Control Board Consent to Operate (CTO). **Harpal Singh Rana v. Delhi Metro Rail Corporation & Ors**, The Tribunal breached the Delhi Water & Sewer (Tariff & Metering)

Regulations, 2012 by discussing the improper outflow of rainfall from metro pillars into roads, causing water logging and traffic congestion. Based on its prior findings, the Tribunal ordered the DMRC to build a downspout pipe with enough storage depth for rainwater and required all buildings over 100 square meters to have rainwater harvesting systems. The Tribunal also sent copies of its ruling to states, union territories, and pollution control boards to inform them of these metro rail project rules. In **Almitra H Patel v. Union of India**, Mrs. Almitra Patel and others petitioned the Supreme Court for better trash management in India. The National Green Tribunal found over 100,000 tonnes of untreated trash disposed out everyday after the Supreme Court referred the case. The Tribunal ordered governments and residents to follow Solid Waste Management Rules. The Tribunal mandated trash segregation and buffer zones surrounding facilities and landfills with no open rubbish burning. **Srinagar Bandh Aapda Sangharsh Samiti & Anr. v. Alaknanda Hydro Power Co. Ltd. & Ors.** Tribunal examined the accountability of a power utility for the destruction resulting from the 2013 Uttarakhand floods. The petitioners claimed that the first respondent had deposited a substantial quantity of debris during the construction of the Srinagar Hydro Electric Project, Tribunal reviewed power utility liability for 2013 Uttarakhand flood damage. Petitioners stated that the first respondent dumped a lot of debris during Srinagar Hydro Electric Project development, worsening flood damage. The tribunal found that God and the respondent's negligence caused property harm. The tribunal applied "No Fault Liability" under Section 17(3) of the National Green Tribunal Act, 2010, and ordered the electricity corporation to pay damages. This verdict stressed the need of holding polluters accountable and making companies pay for environmental damage. **Samit Mehta vs. Union of India and Others**, The NGT assessed M.V. Rak's sinking's environmental impact. The vessel's submersion caused a dense oil slick and devastation to the marine ecosystem because it carried a lot of coal, fuel oil, and diesel. Tribunal found respondents negligent and failed to do pre-voyage due diligence. The tribunal ordered the respondents to pay considerable environmental reparations to the Indian Ministry of Shipping under the "Polluter Pays" principle. This verdict strengthened commercial enterprises' environmental liability and promoted polluter accountability. **Save Mon Region Federation and Others vs. Union of India and Others**, an appeal challenged environmental approval for a hydroelectric project near the Black-necked Crane's wintering habitat, a Schedule I species under the Wildlife Protection Act of 1972. The project threatened the avian habitat and nearby endangered species. The NGT cancelled the project's environmental approval and ordered a new EAC evaluation. The tribunal ordered the Ministry of Environment and Forest to conduct

independent Black-necked Crane conservation study. This verdict shows the NGT's commitment to endangered species and ecologically sensitive areas.

4. Conclusion

Green court has shown efficient contribution and made successful efforts for strengthening environmental justice. Certain obstacles which hindered its effectivity and they may lead to failures and may affect towards environmental protection. These obstacles are operative in nature with non-avoidable character and judiciary and executive are expected to overcome with these issues and upgrade by fulfilling the functions addressing the nation and protect the environment with fulfilling the need of development. Tribunal faces the issues of recourse constraints and staffing issues. Organizations may struggle to implement Tribunal judgments due to resource and staffing constraints. Experience with Indian public institutions has shown that ambitious initiatives to address people's problems with little resources can fail. The Tribunal has issued several one-line or two-line orders without providing meaningful justice, often using 'again and again' too ambitiously. Some directives ban specified operations based on the technical committee's recommendations. Additionally, the Tribunal lacks knowledgeable members, secretaries, personnel, facilities, and venues to facilitate decision-making. States may hire people to implement environmental degradation regulations, but they may not have enough experience with complex environmental concerns. This can also prevent interested parties from being included in decision-making, leading to self-interest before the tribunal and unrealistic societal development plans that underutilize the National Green Tribunal's services. The Tribunal again confronted environmental regulatory bodies and predecessors during its routine operations. Out of respect for the Supreme Court of India in human rights enforcement cases and the need for a unified and specialized forum to relieve the normal superior court, this Tribunal was created. Thus, the Tribunal's contribution must be compared to other environmental courts. Comparing the Tribunal to other bodies by specific attributes is difficult and unfair. The Tribunal is an exclusive national venue for environmental disputes, conducting fair proceedings using natural justice principles in a rapid, economical, and effective manner. The Tribunal's constitution distinguishes it from other environmental regulating agencies and provides it higher judiciary-like powers. The Tribunal can complement and improve environmental regulating agencies because its methodology and capabilities are unique. State Pollution Control Boards are regulatory authorities with broad implementation powers due to their explicit powers and functions. Public concern has been raised

about their statutory requirements and employee misconduct in polluting. These Boards' policy and planning have been inadequate, and their legislative duty emphasizes planning and vision. We expect environmental protection agencies to plan pollution control creatively. These State Pollution Control Boards' infrastructure requires maintenance, and research, recruitment, and staff training are being neglected. These Boards must activate and employ their authority to enforce pollution control legislation, and any delay will cause a serious situation. These Boards must know they must move from reading statutes to enforcing them. The tribunals' organized interpretation of environmental law makes them consistent in complex environmental issues. In accordance with natural justice, the Supreme Court limits the tribunal's appeals jurisdiction. Failure to perform tasks is due to officers' careless attitude, lack of openness, bureaucratic hurdles, and corruption. The Tribunal struggles to obtain appropriate environmental data, conduct sufficient investigations, and offer sufficient reasoning. The Tribunal lacks institutional engagement with regional environmental agencies and relies significantly on central authorities for financial and administrative support. Technology and financial autonomy are significant concerns for tribunals. Addressing these challenges would help the Tribunal protect local and global environments and resolve environmental complaints. Implementing a unique judicial framework could also streamline litigation and address regulatory issues.

5. Suggestions

The Tribunal is established to effectively adjudicate cases related to environmental protection and natural resource conservation, encompassing the enforcement of legal rights and compensation for damages. The body investigates, hears, and resolves environmental civil cases, exercising suo motu authority to prohibit misconduct when credible evidence is present. Compliance with statutory reporting for projects is obligatory, and non-compliance is considered a criminal offense. Citizen participation is essential for environmental conservation, as all individuals are entitled to a healthy ecosystem. Access to green spaces and information improves community involvement in decision-making, promoting collaboration between landholders and government in environmental planning.

Environmental law governs organizations and is enforced by authorities, necessitating local public participation for conservation and development. The Tribunal has initiated campaigns aimed at educating the public regarding its activities, thereby fostering environmental awareness through

resources in regional languages. The Chairperson initiates public awareness campaigns in collaboration with educational institutions to highlight the importance of conservation. Collaboration improves environmental results, and the Tribunal can gain from engaging with established environmental tribunals and international organizations.

Investments in judicial training for environmental law students and judges are essential for enhancing operations. Legislation must effectively address environmental issues, and collaboration with international tribunals can enhance case processing efficiency. The Tribunal can improve data management by utilizing technology to create a centralized environmental database and online dispute resolution platforms, thereby reducing costs and enhancing access to justice. These strategies can enhance public engagement in conservation initiatives and reinforce environmental justice through the analysis of existing systems.

Enhancing accessibility via regular sessions in varied locations will increase the availability of justice. An adept secretariat comprising multi-disciplinary specialists can effectively manage complex disputes. Revised environmental data and information repositories will enable informed decision-making and enhance collaboration among stakeholders. Expanding the Tribunal's jurisdiction to include mediation programs may alleviate backlogs and facilitate amicable resolutions.

Promoting community involvement in decision-making processes is crucial. Capacity building for local communities enables them to advocate for their environmental rights via training and workshops. Utilizing data analytics will facilitate the identification of risks and the development of targeted solutions. The Tribunal ought to embrace a culture of continuous improvement by systematically reviewing processes for enhancement informed by feedback and audits.

Proper funding is essential for the Tribunal to effectively execute its mandate, enhancing its reach, infrastructure, and technological capabilities. The Tribunal's success depends on robust political will and commitment from all levels of government, which is essential for securing the necessary support and resources for effective environmental protection in India.

6. Pathways to enhance Environmental Justice

The National Green Tribunal (NGT) is recognized for maintaining high standards of justice, with its adherence to the principles of natural justice serving as a key characteristic of its judicial administration. The tribunal has examined various issues pertaining to the environment and forests, conveying to society and offenders its distinct authority to promptly and efficiently tackle environmental matters. The tribunal has issued important rulings aimed at environmental protection. However, its effectiveness could be improved by increasing its presence through regular sessions at Circuit Benches in diverse locations, especially in state capitals, to enhance accessibility and efficacy in this domain. The quality of justice is not solely contingent upon the judiciary's capacity; rather, effective court management is essential. The tribunal must prioritize the quality and prompt resolution of cases to guarantee that justice remains accessible to all individuals consistently. Disseminate information regarding the NGT's activities broadly to ensure that the general public and pertinent departments, including the nodal ministry/department of states and union territories, remain informed. State governments must ensure adequate protection for the NGT by implementing necessary security measures from the DGP whenever the tribunal convenes outside the capital, emphasizing the importance of environmental protection. Numerous citizens have voiced significant criticism and concerns regarding the prompt resolution of cases and public access to justice. The NGT necessitates a proficient secretariat composed of specialists across diverse disciplines to deliver technical and legal assistance. Accessible and updated environmental data and information repositories would enhance its functionality and be available to all parties involved in disputes. Institutional issues must be resolved prior to proceeding with any additional arrangements. Expanding the jurisdiction to include additional regulatory disputes, such as those related to forest rights and biodiversity, would improve its organizational capabilities. The tribunal is presently unable to manage these types of disputes, indicating a necessity for supplementary support and mediation programs to effectively address the issues.

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