

ROLE OF NATIONAL GREEN TRIBUNAL ON ENVIRONMENTAL GOVERNANCE IN INDIA

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ABSTRACT

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

---Mahatma Gandhi,

Currently human society is experiencing unknown abnormalities in the nature and its functioning in governing the global sustenance. The post 2010 period has witnessed the worst hit natural calamities which results in the death and disablement of millions of people and loss of billions worth of properties throughout the world. Even the global warming is in an increasing trend. In India, we face a crisis in agriculture because of resources like land energy and water are becoming scarce. The heavy use of chemical fertilizers and toxic pesticides has ravaged our soil and contaminated our food chain and water supply. The prolonged and unprotected handling of toxic chemicals is also exposing out farmers to multiple health problems. There is a need for paying global attention for bringing back, the adversely affected environment to its natural existence at any cost. It is to be noted that after the establishment of National Green Tribunal, it has settled number of environmental issues, and has got overwhelm response from different corners. As it has been noted, almost all nations, including developing ones, have basic environmental protection laws in place, but an enormous gap exists between the letter of the law and what is actually happening on the ground. Therefore, in this paper, an attempt has been made to highlight different pronouncements of the Green Tribunal in protecting the natural environment.

Keywords: *NGT, Environmental Protection, Governance...*

INTRODUCTION

Concept of Environment:

The term owes its genesis to a French word 'environ', which means encircle, and encompasses within its ambit land, water, flora, fauna, living creatures, forests, and everything above the earth. It can be understood to refer to all components surrounding man which consists of both natural and physical. Physical environment constitutes lithosphere and hydrosphere while the natural environment constitutes living organisms including human being, fauna and flora. It is submitted that Man cannot survive on the earth without plant and animal life. Therefore, environment is the natural system on which we depend i.e. the air we breath, the earth which feeds us, the rivers and seas which give us water, the atmosphere around our planet which makes life possible and all the living things which share with us. The entire range of external influence acting on an organism, both physical and biological forces of nature surrounding an individual is said to be as environment, as per Encyclopaedia Britannica.

It is pertinent to mention that the environment includes water, air, land and the inter-relationships which exist among and between water, air, and land, and human beings, other living creatures, plants, micro-organisms and property, as per the Environment Act. There are number of international efforts have given the necessary impetus to the enactment of national environmental legislations. It is to be noted that the international community has been able to bring into existence and enforcement a plethora of international environmental laws imposing, binding, as well as non-binding international obligations on the members of the international community to take effective preventive, curative and primitive steps for the protection of global environment.

The Constitution of India, as a part of its Directive Principles of State Policy, states that "The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country," and bestows upon the citizens the duty to protect the environment, "it shall be the duty of every citizen of India ... to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures."

While these words might be an integral part of our Constitution, environmental degradation is one of the most visible and threatening reality that we face at the present. After a lot of deliberation for an appropriate environment tribunal which would give exclusive attention to cases related to environmental protection, conservation of forests and other natural resources, The National Green Tribunal, herein after referred to as (NGT) was founded on 18th October, 2010 under the National Green Tribunal Act, 2010. Since its inception in

October 2010, the Tribunal has been successfully upholding its mandate as a 'fast-track Court' for effective and expeditious disposal of cases relating to environmental protection and conservation.

Historical Perspective of the National Green Tribunal Act, 2010:

It is a matter of common knowledge that the Supreme Court of India is overburdened with a large backlog of cases. In order to have effective prevention of environmental pollution, and environmental complaints should be decided expeditiously which is not possible in the present context of judicial administration. Hence, there was an urgent need for an alternative forum to deal with the environmental cases without much delay. In *M.C.Mehta v. Union of India*, the Supreme Court opined that it would be desirable to have the setting-up of environmental courts on the regional basis with professional judges and two experts drawn from the Environmental Science Research Group. It is relevant to mention that to give effect to the exhortations contained in the global Declarations on environment and to provide for a specialized forum for effective and expeditious disposal of cases arising out of enforcement of environmental laws in the country the Parliament of India has enacted the National Green Tribunal Act. It is submitted that the Act confers on the Green Tribunal the power to hear initial complaints as well as the appeals from the decisions of authorities under various environmental laws. There is important salient feature of the Act is that the Green tribunal is enjoined to follow the internationally recognized and national applied in environmental principles of sustainable development i.e. Precautionary Principle and Polluter Pays Principles while issuing any order, decision or award. Various kinds of reliefs are provided under the Act, which says that the Tribunal may, by an Order provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule-I of the Act, which includes accident occurring while handling any hazardous substance. It may also order the restitution of the property damaged and the restitution of the environment for that areas as the Tribunal may think fit.

JURISDICTION OF NGT:

The role of the Tribunal in resolving disputes concerning environmental issues assumes great significance, because of their powerful competing claims and counter claims over the use and management of natural resources. It is pertinent to note that the Green Tribunals have the power to hear all civil cases relating to environmental issues and questions that are linked to the implementation of laws which are listed under Schedule-I of the Green Tribunal Act. It has been empowered to adjudicate disputes relating to environmental protection and also has the power to declare as illegal and invalid any administrative action that contravenes or undermines environmental laws. It is empowered to review the orders passed under all existing environment protection laws including those involving water, air, forests and wildlife.

According to Sec.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 the Schedule I and also for restitution of the property damaged and for restitution of the environment of such area. It is the relief and compensation and restitution of the property and environment shall be in addition to the relief paid or payable under the Public Liability Insurance Act. No application for grant of any compensation or relief or restitution of property or environment under the section shall be entertained by the Tribunal unless it is made within five years from the date on which the cause for such compensation or relief first arose, provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

As per Sec. 16(1) of the Act, any person aggrieved by an order or decision made on or after commencement of the Act, by the appellate authority under the seven enactments under the jurisdiction can appeal to it within thirty days. Under the Act, the proceedings before the Tribunal shall be deemed to be judicial proceedings. It is to be noted that the Act provides for no fault liability in case of claims involving an accident by authorizing the tribunal apply the principle of no fault. The Act also provides for an expeditious relief. It requires the Tribunal to deal with the applications, or as the case may be, an appeal finally within six months from the date of the filing the application, or as the case may be, the appeal after providing the parties an opportunity to be heard.

CONCLUSION

The NGT has acted as an effective deterrent mechanism to address non-implementation of laws and violation of environmental rules and regulations indiscriminately by the polluters and implementing agencies. Though the Act does not provide for a specific provision dealing with the power of judicial review, the Act allows National Green Tribunal to deal with substantial questions of law relating to the environment and their implementation. The tribunal can also deal with the grant and rejection of environmental clearances by Ministry of Environment and Forests. The tribunal and its zonal benches issued a number of directions against the polluter and uphold the environmental law and rights of local community, and also issued directions regarding various environmental litigations with the understanding that the poor and disadvantaged sections of the society pay a heavy price because of environmental degradation and therefore their rights need to be protected.

REFERENCES

- ❖ Encyclopedia Britannica, 1974, at p.758
- ❖ Sec. 2(a) of the Environment Protection Act, 1986
- ❖ Stockholm Conference, 1972, Rio Conference, 1992, Johannesburg Conferences, 2002, Copenhagen Climate Change, 2002.
- ❖ AIR 1987 SC at page 967
- ❖ The said Act came into force on 2-6-2010, and on such date as the Central Government by notification in Official Gazette appoint.
- ❖ Sec. 15(1) of the Green Tribunal Act
- ❖ Water (Prevention and Control of Pollution) Act, 1974, Water (Prevention and Control of Pollution) Cess Act, 1977, the Forest (Conservation) Act, 1980, Air (Prevention and Control of Pollution) Act, 1981, Environment Protection Act, 1986, the Public Liability Insurance Act, 1991, and Biological Diversity Act, 2002.
- ❖ Sec. 15(3) of National Green Tribunal Act, 2010.
- ❖ Water Act, 1974 to Biological Diversity Act, 2002

