

THE ROLE OF THE NATIONAL GREEN TRIBUNAL IN SAFEGUARDING ENVIRONMENT IN INDIA

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Abstract

Since the beginning of the 1990s, there has been a significant increase in environmental legislation worldwide. Environmental law has advanced tremendously since then. The Supreme Court has already argued in support of the establishment of specialized environmental tribunals in a number of decisions. The National Green Tribunal was established on October 18, 2010, and its doors were first opened. It was intended to be a specialty council that dealt with situations that required assistance from a variety of environmental issues. At the moment, the tribunals are completely operational and have remedied their fundamental flaws.

In this research, I will look at the National Green Tribunal's history, as well as the legislation and achievements that came about as a direct result of its work. This study will include a review of the Tribunal's many orders as well as a discussion of the limits that have made fulfilling its job difficult. Environmental courts around the world are focused on resolving environmental issues. India has recently made significant progress toward achieving the effective governance and law enforcement required for the accomplishment of the 2030 Agenda for Sustainable Development.

Keywords: environment, protection, tribunal, justice, sustainable development.

Introduction

For a long time, India's court system has struggled due to an unusually huge number of open cases. Because of the large number of cases still ongoing, it became necessary to establish a distinct environmental court in order to reduce the pressure on the existing courts. Following a lengthy examination, it was determined that the National Green Tribunal was required. There were other factors to consider. The history of the Constitution was the first thing that needed to

be considered. Following the passage of the 42nd Amendment Act, a number of environmental protection provisions were inserted into the Constitution to compensate for the absence of such provisions in the original text.¹

The Constitution has been gradually developing in this direction for some years. The second factor to consider was India's participation in major international conferences and conventions. The 1972 Stockholm Declaration is known as the international “Magna Carta” of the environment. It emphasized the importance of worldwide environmental improvement efforts. This definition is based on the Declaration's emphasis on the need for effective global measures. As a result of this occurrence, the Constitution was amended with Article 48A, and Parliament afterward passed a number of legislative actions. At the United Nations Conference on Environment and Development, India agreed to provide remedies and solutions to those whose lives had been harmed by pollutants and other forms of environmental degradation. In the oleum gas leak case, the nation's highest court emphasized the importance of establishing specialised tribunals to deal with environmental issues and challenges.

P.N. Bhagwati set up professional panels to analyse the degree of the environmental damage caused by the petroleum gas leak. The fundamental defence was that “neutral scientific expertise” should be used to augment informed judgments. The tribunals under consideration would have the necessary knowledge and skills to make successful decisions on environmental protection issues. The National Environmental Tribunal Act of 1995 was enacted to address the need for environmental-related specialized courts; however, it was never implemented. The National Appellate Authority Act of 1997, which followed, has its own set of constraints, including a limited mission and significant unfilled gaps in the composition. Despite the fact that the positions were supposed to be filled, these omissions occurred. The cases of the **AP Pollution Control Board v. Union of India**² and the **Indian Council for Enviro-Legal Action v. Union of India**³ bolstered the concept of establishing environmental courts in India. The court considered that the presence of environmental scientists and other people with technical expertise

¹Sumbal Fatima, National Green Tribunal: A New Dimension of Environmental Jurisprudence, available at www.iosrjournals.org/iosr-jhss/papers/Vol%2022%20Issue11/Version-9/G2211094453.

²AP Pollution Control Board v. Union of India, 1999(2) SCC 718.

³Indian Council for Enviro-Legal Action v. Union of India, 1996 SCC (3) 212

would improve environmental courts since these people could provide guidance to the courts. The need for a separate organization to handle environmental issues evolved as a result of an increase in cases handled by the Indian Judiciary.

In the case of the **Indian Council for Enviro-Legal Action**, the supreme court brought environmental courts to the public's attention. The Court concluded that the establishment of environmental courts would be beneficial because criminal proceedings affecting the Water and Air Act rarely result in a resolution. This could be due to individuals not recognizing the importance of environmental issues, or it could be due to the excessive burden in certain courts.

In 2009, 42 countries decided to establish specialist tribunals to better the enforcement of national environmental laws. Following an examination of environmental courts in New Zealand and India, the decision was made to establish a specialized environmental court in India using the statutes of the Court of New South Wales, which is located in Australia. Additionally, Indian environmental courts were considered before formulating the decision. The Lok Sabha heard a presentation of the bill forming the National Green Tribunal in 2009, which sparked a lot of debate. It attracted numerous objections, most of which focused on the law's limited scope and promotional nature.

The study commissioned by Access Initiative India for an illustration of this examined the topics that could be handled as well as the limited reach of the applicable jurisdiction. These debates in Parliament resulted in significant course corrections. These changes included assuring that appeals against the tribunal's findings may be heard by the supreme court and increasing the tribunal's authority to address potentially contentious themes. In order to comply with and uphold India's duties under the Stockholm Declaration of 1972, the Indian Parliament established the National Green Tribunal Act, as required by Article 253 of the Constitution.

Aims And Objectives

1. To comprehend the country's current environmental laws and to investigate national and international environmental instruments
2. To investigate instances in which other courts alluded to the need for an environmental court.
3. Educate yourself about the environmental protection structure in effect before to the NGT

4. To comprehend the Environmental Protection System that would be implemented following the NGT
5. To compare environmental protection measures prior to and following the NGT in order to better understand the roles and duties of various environmental bodies.

Research Questions

1. How well did the Indian Environmental Safeguarding System address environmental challenges prior to the formation of the NGT?
2. Is it necessary to have specialist technological capabilities to deal with environmental issues?
3. Is the National Green Tribunal required to adhere to the regulations outlined in the Indian Evidence Act?
4. Is the National Green Tribunal a dependable platform for enforcing environmental legislation and protecting the environment?

Hypothesis

The research is based on the hypothesis that the “National Green Tribunal plays a crucial role in Environmental Safeguarding System”.

The Scope of Study

The numerous environmental standards that are already in place could help to handle the multiple environmental concerns. Given that environmental pollution crosses national boundaries, questions about how to successfully protect the environment from contamination are likely to continue for the foreseeable future. Several factors have resulted in numerous revisions to India's environmental policies. Another critical problem is the Green Tribunal's ability to decide whether to take a case on its own, or whether to battle with the High Court. The judiciary, a number of corporations, and other governmental agencies must work together to protect the environment. It is critical that the general public understands the importance of environmental conservation. After reviewing many legal judgments in this research, the researcher realized that the Tribunal had to deal with a variety of technically complex and incredibly complicated environmental issues. Because of the numerous obstacles it faced, the Tribunal frequently used methodologies based on educated assumptions to compute compensation, cost, fine, penalty, and real damage amounts.

As a result, the current research focused on the functions of the Green Tribunal within the context of environmental justice, as well as the gaps that it filled. The study looked into and concentrated, to some extent, on the many problems regarding the validity of the NGT Act and how it was implemented through various judicial judgments.

Methodology

The Doctrinal Research technique was determined to be the most beneficial for developing this research paper. The topic of the study is linked to both the global issue of environmental contamination and the Environmental Justice System. Environmental justice encompasses a wide range of issues and is intertwined with numerous legal systems. The researcher got the information from a variety of primary and secondary sources. The researcher has used a wide range of primary materials, such as case law, statutes, legislation, the Indian Constitution, and international treaties. Furthermore, the researcher gathered information from a variety of secondary sources, such as speeches, books, articles, journals, legal publications, and legal encyclopaedias. All of these sources were relevant to the research issue and were regularly addressed throughout the investigation.

The National Green Tribunal

The National Green Tribunal was established to settle environmental issues in a timely and effective manner. One of the advantages of the National Green Tribunal is how simple it is to file a claim for environmental damage compensation or an appeal against a government decision. Furthermore, the Tribunal is not bound by the procedures outlined in the Code of Civil Procedure; rather, it based its decisions on natural justice. The Indian Evidence Act of 1972 does not apply to the Tribunal, its evidence rules are inapplicable during proceedings. This makes it easier for conservation groups to contact the Tribunal and offer relevant facts. It also makes it easier for stakeholders to raise attention to a project's flaws and its environmental implications. This also makes it easier for project stakeholders to identify project-related issues. The National Green Tribunal is also granted more leeway to carry out its duties in this manner in order to provide the remedy to the affected party. If a person is informed about the relevant facts, the law, and the procedure, they can represent themselves before the NGT without engaging counsel. Unless the verdict is stayed or reversed as a result of a Supreme Court appeal, every tribunal

decision is final and binding on all parties.⁴

The tribunal has created four regional courts around India in addition to its main bench in Delhi. Local benches can be found in Kolkata and Pune. This demonstrates that in the legal system, these benches are not regarded as more essential than the main bench. The tribunal now has original and appellate jurisdiction over seven separate environmental statutes.

The Act mandates the Tribunal to rule on the application within six months of its filing date. When making decisions on disputes based on these principles, the Tribunal must adhere to the Precautionary Principle and the Polluter Pays Principle. It is the only organization of its kind that is required by law to apply the polluter-pays principle. Section 20 is one of the Act's most notable distinguishing features, among many others. As stated in this article, the Tribunal must consider sustainable development while making a decision.

The efforts of the judicial branch have significantly contributed to the development of a comprehensive corpus of environmental legislation. Despite this, policy enforcement is still seen as one of the most vulnerable sectors. The National Green Tribunal was established for a number of reasons, the most important of which were that it should be solely concerned with environmental protection, that it should use all of its authority to reduce environmental damage, and that it should provide redress and compensation for environmental harm. The National Green Tribunal was established to improve environmental enforcement in India. This goal was driven by the country's lack of policy enforcement. In addition to India, other countries have advanced in the establishment of specialist courts focusing on environmental protection.

The National Green Tribunal is a statutory tribunal with a diverse set of competencies. Collaboration of specialists from other disciplines can help to advance environmental conservation and development goals by taking a step back and examining a project from a broader perspective than just the cost-benefit analysis. As of now, the tribunal has the authority to prohibit and declare illegal any administrative action that infringes environmental legislation. This authority was conferred to the tribunal by the Environmental Protection Agency Reorganization Act of 1994. Since its inception, the NGT has made significant progress by

⁴Barnabas A.P.: Study of Rationalization System of Grant-in-aid to Voluntary Organization in Social Welfare, 1985.

taking a more proactive approach to environmental preservation in order to fulfil its goals.⁵

According to Schedule 1 of the National Green Tribunal Act, the National Green Tribunal has the authority to consider any civil dispute involving environmental issues or complaints regarding the legislation stated in Schedule 1. The Act empowers the Tribunal to make judgments where there is a significant environmental concern at stake. Strict safeguards have been put in place in the event that the tribunal's order is violated. This will ensure that the directives are followed and the Tribunal's order is carried out. The NGT is often described as a quasi-judicial body. It is nothing like a conventional courtroom. This means that, unlike courts, the tribunal has the jurisdiction to impose laws on administrative entities. Courts, on the other hand, have the authority to settle any disagreement.

Specialized environmental courts and tribunals are better able to offer inventive responses to environmental difficulties and comprehensive solutions to environmental concerns by taking a more flexible approach to conflict resolution. Academic specialists such as Warnock have lauded the NGT as one of the world's most cutting-edge tribunals, with extraordinary treatments and remedies. Furthermore, Supreme Court Judge Rajan Gogoi stated that the Tribunal, which is widely recognized as one of the world's most prestigious environmental courts, has vast authority. The Tribunal's appointment of technical specialists became one of the most important aspects of its normative structure, and it was critical to the Tribunal's effective execution of its powers.

Significant Orders Of The Tribunal

Since its inception, the National Green Tribunal has steadily increased the number of annual judgments it issues. In 2015, 821 orders were passed, a significant increase from the total of 28 orders placed in 2011. This demonstrates the growing environmental consciousness in India. The NGT is also known for making quick decisions. It has issued directives to several entities, including directives to reduce noise pollution in Delhi, directives to maintain biodiversity in the Western Ghats, directives to safeguard wildlife in Assam, and other directives of a similar sort.⁶ They won when inhabitants of Delhi were ordered to deregister diesel vehicles that had been in

⁵Bhushan, Shashi et.al.: The Situation of the Handicapped in India. Institute of Social Sciences, New Delhi 1988.

⁶Boylan, Esther.: Women And Disability, Zed Books Limited, London & New Jersey, 1991.

operation for more than ten years. This indicated a significant reduction in pollution for Delhi residents. The National Green Tribunal has temporarily halted sanctions against a number of projects in the execution of its authority. Following objections from a number of adjacent municipalities, the National Green Tribunal requested that the Ministry of Environment reconsider and re-evaluate the project's approvals in the case of POSCO. This was carried out in accordance with the Forest Rights Act, which was passed in 2006.

Both big enterprises and the government have come under scrutiny for failing to meet the essential environmental criteria. The Tribunal found in **Adivasi Majdoor Kisan Ekta Sangathan v. Ministry of Environment and Forests**⁷ that the hearing held to approve Jindal Steel and Power's Mining Project's environmental clearance was unconstitutional because it violated natural justice standards. It is critical to ensure that any business that follows NGT recommendations is held accountable for their actions. The Agency must execute the Order in full to ensure compliance with the NGT's criteria.

Because of the NGT's recent assertive and dynamic decision-making, environmental approvals are now easier to get. These developments have benefited the environment. The National Green Tribunal observed the rising pollution levels in Delhi during the hearing of **Vardhaman Kaushik v. Union of India**⁸. It recommended, among other things, that plastic not be burned, that air purifiers and automatic sensors be properly installed, and that a committee develop an action plan.

The National Green Tribunal, which has previously handled environmental concerns on its own, is capable of doing so. Furthermore, these processes have already begun. In their complaint against the State of Himachal Pradesh and Others, the National Green Tribunal stated that the natural environment of Himachal Pradesh was degrading as a result of more cars on the road. The court ordered the implementation of a scientific forestation plan to protect the area's natural resources. The Court also ordered the government to collect fees from car owners and deposit the proceeds in the Green Tax Fund to fund rehabilitation projects. The Tribunal voiced its own concerns regarding dolomite extraction from a tiger reserve in Madhya Pradesh. The Tribunal

⁷Adivasi Majdoor Kisan Ekta Sangathan v. Ministry of Environment and Forests, APPEAL NO. 3/2011

⁸Vardhaman Kaushik v. Union of India, M.A. No. 1146/2018

directed the MoEF and other State Government departments on how to take the necessary procedures. Since its inception in 2010, the Tribunal has effectively completed its task. The National Green Tribunal (NGT) decided to investigate a different matter after reading a report about trees being cut down to make way for a cricket stadium.⁹ The Tribunal issued an interim ruling directing the Forest Department to suspend further tree clearance in the area.

Up to 2014, environmental impact assessments were the subject of around one-third of the Tribunal's cases. Several lawsuits have been filed against the state during the process of awarding environmental licenses, alleging inadequate due diligence. Any draft EIA report for a potential project had to be made public and published in local newspapers. The expert evaluation committees were to obtain written records of public complaints. The EIA's methodology was defective in numerous ways. Locals and campaigners have claimed that the final assessment report failed to address issues raised during public hearings prior to the environmental clearance being issued.

When the National Green Tribunal was established, even the Supreme Court developed the habit of examining its own caseload. In the case of **Bhopal Gas Peedith Mahila Udyog Sangh and Others v. Union of India**¹⁰, the Supreme Court of India agreed to refer all environmental issues to the Tribunal. This decision was made to ensure that these issues are resolved quickly and successfully. The court determined that any procedures begun after the NGT Act went into effect and subject to its substantial provisions would be transferred to the Tribunal and that only new cases might be filed to the Tribunal. This was mentioned in relation to the cases covered by the Act's relevant sections.

In 2015, the Supreme Court referred over 300 cases to the Tribunal for additional review. The green bench worked the hardest to tackle these challenges as quickly as possible. The National Green Tribunal ruled in **Samir Mehta v. Union of India**¹¹ that the word "aggrieved person" extends to both a human and any legal organization. This was done to clarify the definition of the term. The Tribunal concluded that environmental preservation should be focused on societal

⁹Avjit Gupta, Ecology and Development in the Third World, London, 1988.

¹⁰Bhopal Gas Peedith Mahila Udyog Sangh and Others v. Union of India, W.P.(C) No.167 of 2003

¹¹Samir Mehta v. Union of India, MANU/GT/0104/2016

issues rather than a single person's interests. As a result, non-profit organizations and other people who were directly or indirectly harmed by a project are now included in the definition of an “aggrieved person”. The NGT has frequently issued decisions in cases where a party sought to expedite a development project or obtain licenses by ignoring environmental protection standards. In light of this, the NGT has said unequivocally that it is not opposed to economic growth. The Tribunal has concluded that economic growth must be subject to growth-specific legislation in order to proceed within the parameters of sustainable development law.

The Tribunal debated whether the “polluter pays” principle applied in the case of **Krishna Kant Singh v. National Ganga River Basin**¹². The River Ganga was badly polluted, which harmed both the river and the aquatic life that thrived there, such as dolphins, turtles, and other aquatic life. After it was discovered that the Simbhaoli sugar and distillery business was a major polluter in the case, it was forced to pay a sizable sum of money—five crore rupees—to repair several water bodies. The controversial ruling was based on the idea that individuals who pollute should be held accountable for their actions. The settlement was expected to be used by the Uttar Pradesh Pollution Control Board, among other things, to clear the Syana Escape Canal and take further measures to prevent ground water pollution.¹³

The National Green Tribunal is the highest environmental authority in the country. The National Green Tribunal (NGT) imposed punitive penalties in the case of **coco cola Ltd. v. West Bengal Contamination Control Board**¹⁴ in response to water contamination caused by one of the country's largest beverage businesses. The NGT has also imposed a fine of 10,000 rupees on persons found littering in public places, citing municipal solid waste as one of the country's major polluters. The NGT said unequivocally that the polluter was responsible for both the costs connected with reducing the amount of pollution they created as well as the damage their pollution caused to the environment. The West Bengal Pollution Control Board was responsible for determining how much environmental damage had occurred and how much money would be needed to repair it. It's important to remember that circumstances like this, in which the National

¹²Krishna Kant Singh v. National Ganga River Basin, M.A. NO. 879 OF 2013

¹³Arvind Kumar,: Environmental Pollution And Agriculture, Mumbai, APH, 2002.

¹⁴coco cola Ltd. v. West Bengal Contamination Control Board, APPEAL No. 10 of 2011

Green Tribunal granted a government entity the ability to award damages, show that things are starting to change. The Court will no longer be responsible for determining costs; instead, a government body will do so.

The Tribunal ordered Volkswagen to pay a 500 billion rupee fine for using “cheat devices” in diesel vehicles sold in India, which contributed to environmental degradation. The company was forced to pay the money within two months. If pollution occurs, the court rules, the Monitory Body may use the funds to improve air quality in the National Capital Region and other polluted locations. The National Capital Region is one of the country's most polluted locations. The Tribunal's ruling was influenced by the company's considerable nitrogen oxide emissions. The Ministry of Heavy Industries, the CPCB, and the Automotive Research Association were among the organizations that had gathered for the Tribunal. The automaker admitted that the “defeat device” was put in nearly one million diesel-powered vehicles sold in foreign countries. According to the report, Volkswagen vehicles generated around 48,678 tons of nitrogen oxide in the national capital region in 2016. The Tribunal originally requested a sentence of Rs. 171.34 crores.

SUGGESTIONS

- In order to speed the justice process, the National Green Tribunal (NGT) should establish a bench in each state;
- In order to properly implement the NGT's directives, the appropriate agencies must have access to adequate resources, qualified staff, and the necessary power.
- The researcher argues that, while guidelines governing garbage and plastic disposal have already been developed, their implementation has yet to begin, which is a severe concern. In order to raise public awareness, the researcher recommends that a number of significant rulings issued by the National Green Tribunal (NGT), as well as a number of environmental protection directives and guidelines, be made public and highlighted in a variety of media, including radio, television, the internet, SMS, and other similar platforms.
- Regular appointments of the NGT's judicial, expert, and staff positions should be made because delaying member selection will ultimately delay the administration of justice.

- The National Green Tribunal's (NGT) decision will be appealed to the Supreme Court. However, applications disputing the NGT's verdict are routinely filed with the Honourable High Court under Articles 226 and 227 of the Indian Constitution. Articles 226 and 227 of the Indian Constitution vest extraordinary power in the High Courts. Different High Courts have reached different conclusions on this issue. According to the researcher, eliminating this gap is essential for enhancing court administration.

Conclusion

The NGT's own history supports the conclusion that the new Tribunal was not foisted on the legal system against its will. In reality, the suggestion came from the United States Supreme Court. This implies that there will be little conflict between the new judges and other authorities and that the functional judiciary will not block the transition. The Tribunal is overseen by the Supreme Court, which ensures that ecojustice does not violate the ideals of the Constitution or other judges. The NGT will surely open the door for innovative solutions to environmental issues confronting environmental activists and the general public, even if it is not a comprehensive solution to all environmental issues. This is because the NGT is a separate government organization. The National Green Tribunal has issued orders on a wide range of concerns, including pollution, biodiversity conservation, waste management, and trash disposal. It is still unknown whether it will continue to do its duty in the future. Instead of simply imposing a penalty for environmental violations, effective enforcement tactics must be created. This must be kept in mind by the NGT's efforts to properly repair the environment.

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