

Role of National Green Tribunal in Environmental Justice System

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Abstract

The research Article deals with the role of NGT in eradicating all types of pollution in India. The study shows how the NGT has taken decisions in various cases by applying its principles to eradicate all types of pollution. This paper also covers the meaning, structure, powers, The Risk factor Effective tools of environmental justice system: NGT, effects of pollution on human, plant and animal health. The present Article focuses on the journey of Indian Environmental law as per various national and international Conventions. The Researcher also analysed the role of the NGT in Implementation of environmental laws in the country in its true sense. Therefore, the Researcher mainly divided the research Article into two broad Category and compared the Environmental Jurisprudence between Pre-NGT ERA and Post-NGT Era. The Researcher is of the view that the specific authority / body should be constituted at State and District level to protect the interest of the future generation. The future generation also has equal right on the environment. The rights of future generation must be protected by such authority. The future generation is not in position to raise their voice. So, such authority should protect and contest on behalf of future generation before the NGT as well as before the Government. The Researcher suggests that the special authority should be established to protect the right of the future generation. The countries like Israel and Hungary have the special persons who are appointed to protect the right of future generation.

Key Words: National Green Tribunal, Air Pollution, Water Pollution, Soil Pollution, Role of NGT, India

Introduction

***“The earth does not belong to us: we belong to the earth”
-Marlee Martin***

The Marlee Martin rightly said that “we need a Mother Earth for the survival.” This is an alarming time for people of the world to take the tricky problem of Environmental pollution seriously. The National Green Tribunal (NGT) is a specialized body that was formed under the NGT Act, 2010 for effective and expeditious disposal of cases that are related to the protection and conservation of the environment, forests, and other natural resources. India has become the third country in the world after Australia and New Zealand, for setting up a specialized environmental tribunal and also the first developing country to do so. The National Green Tribunal has a total of five places of sittings namely: Bhopal, Pune, New Delhi, Kolkata, and Chennai, amongst which, New Delhi is the Principal place of sitting. National Green Tribunal (NGT) was established on 18th October 2010 under the NGT Act of 2010 as a specialized body for handling any environmental disputes that involve multi-disciplinary issues. It was formed by replacing the National Environment Appellate Authority. It also draws inspiration from Article 21 of the India Constitution which assures to provide a healthy environment to the citizens of India.

Structure of NGT

The National Green Tribunal (NGT) comprises three major bodies namely:

- The Chairperson
- The Judicial Members, and
- The Expert Members.

Also, there should be a minimum of 10 and a maximum of 20 fulltime Judicial as well as Expert members in the NGT. All these members are required to hold the 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 accordance with the Chief Justice of India.

A Selection Committee is formed by the central government of India for the appointment of Judicial Members and Expert Members.¹

Powers of NGT

Over the past few years, the National Green Tribunal (NGT) developed as an important body for regulation of the environment and passing strict orders on issues related to pollution, deforestation, waste management, etc. Some of the major powers of the National Green Tribunal include:

- NGT provides a way for the evolution of environmental jurisprudence through the development of an alternative dispute resolution mechanism.
- It helps in the reduction of the litigation burden on environmental matters in the higher courts.
- NGT provides a faster solution for various environment-related disputes that are less formal and less expensive.
- It curbs environment-damaging activities. NGT ensures the strict observation of the Environment Impact Assessment (EIA) process.
- NGT provides reliefs and compensations for any damages caused to persons and properties.

The National Green Tribunal resolves various civil cases under the following seven laws that are related to the environment. However, since last certain decades various human activities imposed the heavy pressure on natural resources which was the main reason behind the ecological imbalance and destruction and degradation of habitats. The damage which was caused by the human activities to the environment was irreversible whereby human created threat on his own existence. The Indian legislation passed the various environmental laws, government policies and programs to deal with the conservation and sustainable utilization natural of resources and protection of the environment. But the aim of the legislation would not be achieved due to poor Environmental Adjudication system of environmental issue.² The Environmental Justice System was not capable to develop itself to deal with the situation of society. The need arises to develop organizational green structure and a sturdy legal and policy framework and adjudication system for protection of to the victims of the

¹ <https://www.epa.gov/environmentaljustice> (Accessed on Feb 23, 2024).

² National Green Tribunal Act Section-19

pollutants and also to the victims of Industrial Accidents. environment and to deal with the environmental issues in India. It is a necessity to establish the organizational, Systematic structure to deal with the environmental justice and to satisfy the objectives of the Rio de Janeiro summit of United Nations Conference on Environment and Development which was held in June 1992. Our country India participated and agreed at the said conference to provide judicial and administrative remedies. The United Nations conference on Human Environment which held at Stockholm in June 1972 sows the seed of environmental protection concept in India and United Nations conference on Environment and Development which held at Rio de Janeiro in June 1992 sow the seed of the green Court in India. The NGT Act has been passed to implement objectives of the aforesaid conference and to deal with the multi-disciplinary issues relating to Environment.

The NGT is Quasi-Judicial forum which establish to deal with the environmental issues and fully operated with effect from 4 July 2011 in India. The NGT was constituted as a multidisciplinary Tribunal with the Expert's member assistance and established to effective and speedy disposal of cases relating to environmental protection, forest conservation and enforcement of legal rights relating to environmental protection. The "NGT" has the Jurisdiction, powers to deal with the environmental Issues and the Landmark cases adjudicated by the Tribunal from its existence.

The objects of the legislation behind the enactment of this act were to:

- Constitution of Specific Tribunal to deal with the Environmental issues
- Speedy delivery of Environmental Justice
- Save the environment from pollution
- Decrease the Burdon of the regular Courts
- Effective and speedy disposal of cases relating to environmental protection
- Conservation of forests and other natural resources
- Protect the right of upcoming generation
- Enforcement of any legal right relating to environment and
- Deal with the issues which arise from the Industrial accidents like giving relief and compensation for damages to persons and property.

The Tribunal also tried to enhance the availability and quality of environmental

jurisprudence. The NGT succeed in its aim to balance between the protection of the environment and sustainable development. The Tribunal has powers to issue specific mandate to access justice in the matters connected with the environment.

Effective Tool of Environmental Justice System: NGT

The NGT proved as an effective tool to deal with the environmental issues and also encourage genuine participation from the public, various authorities and government.

In the view of the Researcher NGT become an effect tool:

- To Coordinate with various Environmental Authorities.
- To Protect the Environment.
- To Involve Public Participation.
- To Provide transparent process to access the information related Environment.
- To Easy and speedy accessibility of Environmental Justice.³

The Enforcement Mechanism

The NGT played an important role and proved as a strong weapon for the enforcement and development of Environmental Justice system in India. The NGT imposed the strict penalty on violators if he failed to comply with the order of the Tribunal. The NGT many times fixed the time-limit to implement its direction. The Tribunal also issued direction relating to submission of progress report relating to execution of the judgement in time-bound manner. Thus, the NGT succeed to achieve all aims of the legislation behind its enactment. The execution of the orders which are passed the NGT has more impact as compared to orders which are passed by the civil courts. The NGT imposed heavy fine or punishment in case of non-compliance of the order or judgments so that violators will not repeat illegal activities.

The Compensatory Mechanism

The NGT awarded various kinds of reliefs, compensation by considering the damages which caused to the Victims and ecology. The NGT grant the compensation, relief to the persons who were affected by industrial accidents like person who were residing in the vicinity of area of Industry or the workers of Industry. The green Act has the provision relating to compensation to the victims for any loss which occurred from Industrial accident or gas leakage while handling hazardous

³ <http://greentribunal.gov.in/> (Accessed on 24 Feb 2024)

substance. The earlier Environmental Justice System proved as the ineffective because of which victims that were suffered damages in the Bhopal Gas Tragedy could not get proper and timely compensation from the union carbide company.⁴

General Factors Considered By NGT While Dealing With The Environmental Issues

- Issues including violating requirements of statutory clearances.
- Activities with permission but causing environmental harm.
- Violations of clearance conditions and permits.
- Pollution from industrial activities.
- Non-compliance with specified pollution standards.
- Impact on community.

The Risk Factor

The risk aspect is considered by the NGT while dealing with the Environmental issues. So, the NGT is taking into consideration the level of risk which is caused due to violative act at time delivering the judgement.

The NGT considered the risk which:

- Cause to the Ecology and Environment
- Cause to human on large scale
- Cause to human on small scale and etc.

The air and water are the essential needs for the Human Survival and various violative

activities affect them so; it will create serious risk to the Ecology and Environment and questions also arise on human survival. The harmful effect of the pollution is too harsh because it will create the question on the survival of the human, flora, fauna.

The NGT while delivering the Environmental justice impose a penalty and award the compensation by considering the environmental pollution or damage to Ecology from various sources.

The categories of Pollution can be classified as follows:

- The Air Pollution in urban areas due to Vehicular sources.

⁴ <http://en.wikipedia.org> (Accessed on 25 Feb 2024)

- The Air Pollution which was caused by Industrial activities.
- The Air Pollution cause serious risk to the Monuments of India.
- The Water of rivers/waterbodies polluted due to untreated sewage and waste disposal of the Factories causes serious risk to Environment.
- The Groundwater exhaustion due to over-extraction for various purposes cause serious harm to the Environment.
- The Noise Pollution.⁵

The NGT while delivering the Environmental justice also issue various directions which focus on acceptance of various short-term and long-term Policy measures which cause low risk and save the Environment. The NGT imposed the responsibility on shoulder of the polluter to pay the cost of environmental pollution. The NGT also fix the Pollution charge, fee or spot fine for every Violation.

⁵ "Role of National Green Tribunal: Serve to Conserve", Research Paper publication in International Journal of Research and Analytical Reviews(IJRAR)SSSSS

Conclusion

A Research on role of NGT in delivering the environmental justice remains incomplete without studying the circumstances which lead or compel the Government to establish the NGT. The Researcher analysed and focused on the lacunas of Environmental Justice System which prevailed during Pre-NGT era. The Government tried to fill up the lacunas of the prior Environmental Justice System by establishing the NGT.

The Hon'ble Supreme Court while dealing with the environmental cases faced the many problems in Pre-NGT era and therefore, the Hon'ble Apex Court of India directed the Law Commission of India to establish Environment Court or Tribunal. The Researcher, through the present research, studied and examined Indian Environmental Justice System and the measures in the various eras that have been taken for protection of environment. The word "Paryavaran" i.e. Environment is not new term in India. The Researcher is of the view that in India, the importance and worship of environment is being followed since centuries. The Researcher focused on the international instruments which played an important role to develop concept of environment protection in India.

The Parliament of India enacted various laws for the implementation of International Agreements under Article-253 of The Constitution of India. The present thesis focuses on the developing journey of Indian Environmental Jurisprudence as per various national and international outlooks.

The Researcher also analysed the role of the NGT in enforcement of environmental laws in the country in its true spirit. Therefore, the Researcher mainly divided the research thesis into two broad classifications and compared the Environmental Philosophy between Pre-NGT ERA and Post-NGT Era. The Researcher also points out various National measures which are to be taken to protect the Environment. The various kinds of the environmental offences occurred in India and Indian Environmental Justice System was not capable to handle the situation due to various lacunas in Pre-NGT Era. The drastic changes were required in the Indian Environmental Justice System to handle the situation. The Researcher also analysed the changes which came in the Environmental Justice System after enactment of NGT Act. But the key aspect of this study is whether the National Green Tribunal succeeded to achieve the legislative aims behind the enactment of NGT Act.

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