

Role of National Green Tribunal In Protecting Environment In India

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ABSTRACT

The National Green Tribunal Act of 2010 stands as a monumental legislative stride towards environmental justice in India. Envisioned to address the burgeoning environmental challenges and uphold the rights of affected communities, this act not only establishes a specialized forum but also embodies the ethos of public interest litigation. This legislation represents a proactive response to the pressing need for an effective mechanism to adjudicate environmental disputes promptly and affordably. By creating the National Green Tribunal (NGT), the government acknowledged the importance of a dedicated institution equipped with expertise in environmental law and capable of delivering expedited justice. This move has significantly bolstered the environmental governance framework in the country.

Keywords: National Green Tribunal, environment, environmental protection.

Introduction

In accordance with Article 21 of the Indian Constitution, which provides every Indian citizen the right to a healthy environment, the National Green Tribunal was founded in 2010. India is the third nation to implement such a system, after New Zealand and Australia.

The tribunal is a unique fast-track quasi-judicial entity made up of judges and environmental specialists who will guarantee prompt case resolution.

The Law Commission of India recommended the creation of environmental courts in India in its 186th Report from 2003. This recommendation was based on an assessment of the scientific and technical concerns that the courts heard, as well as the judges' inadequate understanding of the scientific and technical facets of environmental challenges.¹

The higher judiciary in India has a backlog of cases and is overburdened with responsibility. One may recognize that efficient resolution of environmental complaints and effective pollution control are necessary, but this is not achievable in the current court administration system. Thus, there was a pressing need for an alternate forum to facilitate the prompt resolution of environmental cases. The Constitutional Courts in India have consistently expressed the necessity for specialized judicial entities to handle complicated environmental issues, which led to the creation of the Environmental Court of India. The Supreme Court's decision highlighting the challenges judges encountered while making environmental decisions served as the impetus for the establishment of Environmental Courts.

In *M. C. Mehta v. Union of India*², the Supreme Court repeatedly affirmed the necessity of creating a 'Environment Court'³ to expedite the resolution of environmental matters. The Indian Parliament subsequently passed the National Environment Appellate Authority Act, 1997⁴ and the National Environment Tribunal Act, 1995. However, the Act itself is a non-starter. They were unable to break through much ice, and there was a growing consensus that laws needed to be created in order to handle environmental matters in a more effective and efficient manner. In the end, the National Green Tribunal Act, 2010 was passed by the Indian Parliament to handle all environmental casework.

Following a thorough examination of the opinions of jurists from various nations, the Supreme Court of India in its ruling referred the necessity for the creation of an environmental court that would benefit from the expert counsel of environmental scientists and technically qualified individuals as a part of the judicial process. The Supreme Court has also stated that it would be preferable to establish "environmental courts on

a regional basis with a professional judge and two experts keeping in view the expertise required for such adjudication" because environmental cases involve the evaluation of scientific evidence.⁷

In the case of *Indian Council for Enviro-Legal Action v. Union of India*⁸, the Supreme Court noted that in order to address environmental issues promptly, an environmental court with both civil and criminal jurisdiction had to be formed.

In the case of *Charanlal Sahu v. Union of India*⁹, the court held that "under the existing civil law damages are determined by the civil Courts, after a long drawn litigation, which destroys the very purpose of awarding damages; therefore, in order to meet the situation, to avoid delay, and to ensure immediate relief to the victims, the law should provide for the constitution of a tribunal regulated by special procedure for determining compensation to victims of industrial disaster or accident, against which an appeal may lie to this Court on the limited basis of legal questions only after depositing the amount determined by the tribunal."

The Land and Environmental Court of New South Wales and the model environmental court established in New Zealand, along with the observations made by the Supreme Court in four rulings—*M.C. Mehta v. Union of India*, *Indian Council for Environmental – Legal Action v. Union of India*, and *A.P. Pollution Control Board v. Nayudu*—were the main sources of guidance for the Law Commission.

The Commission also took into account the mention in the *Nayudu* case of the concept of a "multi-faceted" environmental court that would incorporate judicial, technical, and scientific inputs, as recently proposed by Lord Woolf in England, as well as environmental court laws that are currently in place in Australia, New Zealand, and other nations. The practice of the Environmental Courts in Australia and New Zealand, which have original jurisdiction and serve as appeal courts against orders made under the relevant Water Acts, Air Acts, Noise Acts, and other environmental-related Acts, was also adopted by the report. They are endowed with entire civil court authority. Some even possess criminal court authority.¹⁰

In accordance with Article 253 of the Constitution read in conjunction with Entry 14 of List I of Schedule VII, the Parliament has also endeavored through the Act to fulfill India's obligations towards the Stockholm Declaration of 1972, in which it participated, and the Rio Declaration of 1992, in which it called upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy, as well as to develop national laws regarding liability and compensation for victims of pollution and other environmental damage.

The Act was also a response to the Supreme Court's ruling that, as stated in Article 21 of the Indian Constitution, the right to a healthy environment is a component of the right to life.

Structure

After the aforementioned law was passed, the National Green Tribunal's Principal Bench was founded in New Delhi, the nation's capital, with regional benches located in Pune (the Western Zone Bench), Bhopal (the Central Zone Bench), Chennai (the South Bench), and Kolkata (the Eastern Bench). Every bench has a designated geographic jurisdiction that encompasses multiple States within a certain region. A circuit bench mechanism is also present. The Southern Zone bench, for instance, with its headquarters in Chennai, may elect to hold meetings in Bangalore or Hyderabad.

Zone	Place of Sitting	Territorial Jurisdiction
North	Delhi (Principal Bench)	Uttar Pradesh, Uttarakhand, Punjab, Haryana, Himachal Pradesh, Jammu and Kashmir, National Capital Territory of Delhi and Union Territory of Chandigarh.
West	Pune	Maharashtra, Gujarat, Goa with Union Territories of Daman and Diu and Dadra and Nagar Haveli
Central	Bhopal	Madhya Pradesh, Rajasthan and Chhattisgarh
South	Chennai	Kerala, Tamil Nadu, Andhra Pradesh, Karnataka, Union Territories of Puducherry and Lakshadweep
East	Kolkata	West Bengal, Odisha, Bihar, Jharkhand, Seven Sister States of North-Eastern Regional and Sikkim, Andaman and Nicobar Islands

A retired judge from the Supreme Court with its headquarters located in Delhi serves as the chairperson of the National Green Tribunal. Retired High Court judges make up the other members of the judiciary. The National Green Tribunal will include a minimum of one judicial member and one expert member on each bench. A professional degree and at least 15 years of experience in the field of environmental/forest conservation and allied fields are requirements for expert members.

Procedure for filing an Application or Appeal

It is easy to submit a claim to the National Green Tribunal to request compensation for environmental harm. If the party is dissatisfied with the outcome, they may file an application with the tribunal challenging the government's judgment, an appeal, or an order.

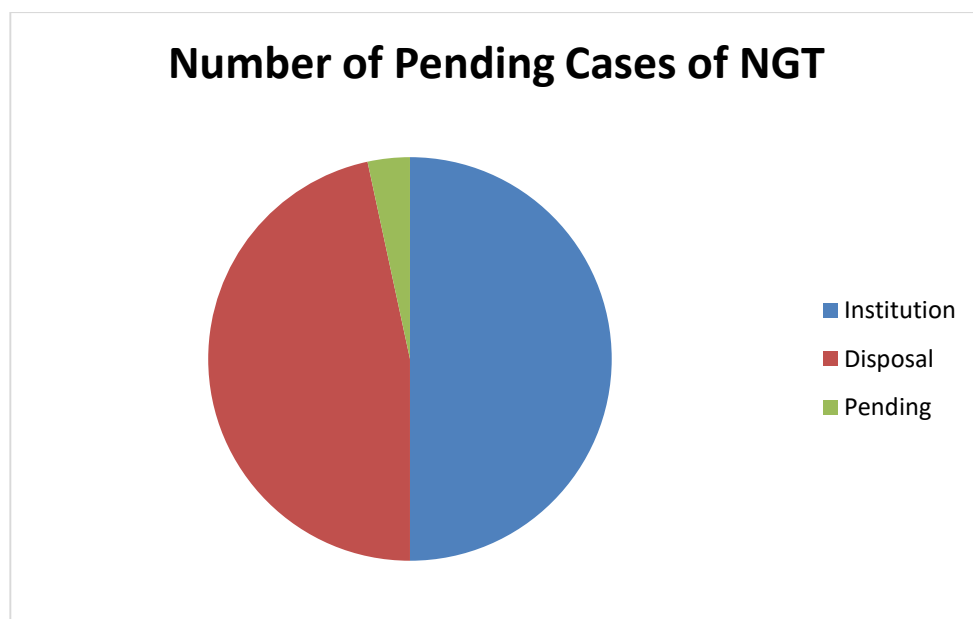
A charge of Rs. 1000/- must be paid in the event that an application or appeal does not include a compensation claim. If compensation is sought, there will be a fee equal to one percent of the requested amount, with a minimum of Rs. 1000.

A claim for Compensation can be made for:

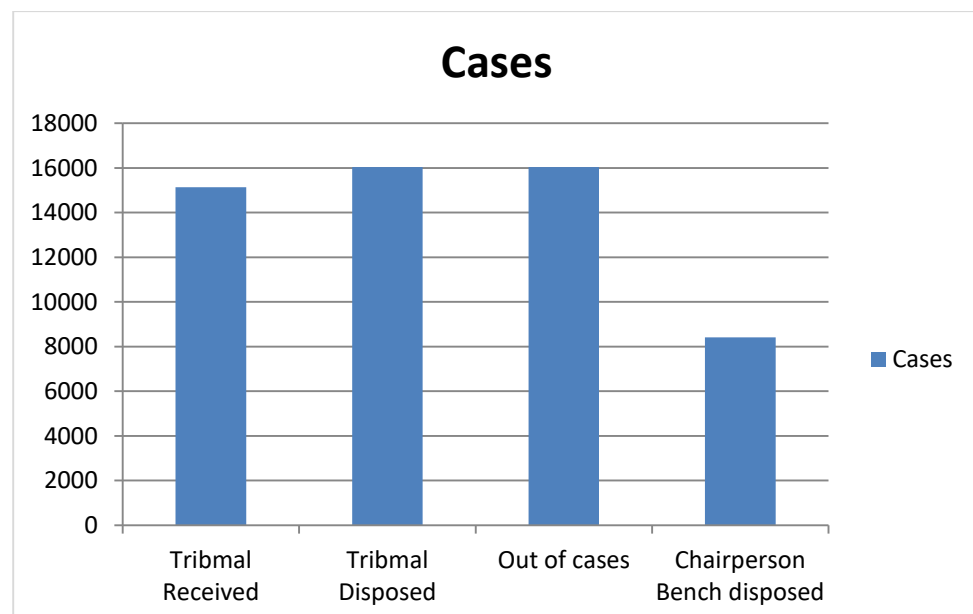
1. Restitution of damaged property;
2. Relief or compensation to victims of pollution and other environmental harm, including incidents involving hazardous substances;
3. Restoration of the environment for areas designated by the National Green Tribunal.

Applications for the grant of any compensation, relief, or restitution of land or environment cannot be considered unless they are submitted within five years after the date the original cause of the compensation or relief occurred.¹¹

Grand Total of institution, disposal and pending of the cases of NGT Principal Bench and all Zonal Benches from the date of its inception till 31.01.2024:



Filing and Disposal of cases in the last five years (July, 2018 to July, 2023)



Tribunal received 15132 new cases and Tribunal disposed of 16042 cases in the last five years filing and disposed in NGT. Law Minister stated in parliament that NGT decided greater number of cases than institution and out of cases 16042, Chairperson bench disposed of 8419 cases.

Jurisdiction of the tribunal

All civil cases pertaining to environmental concerns and matters connected to the application of legislation specified in Schedule I of the NATIONAL GREEN TRIBUNAL Act may be heard by the National Green Tribunal. These included the following:

1. The Water (Prevention and Control of Pollution) Act, 1947;
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3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1991;
6. The Public Liability Insurance Act, 1991;
7. The Biological Diversity Act, 2002;¹²

The purpose of this Act is to grant the Tribunal jurisdiction over all civil cases involving significant environmental questions (such as the enforcement of environmental rights) that result from the implementation of the enactments listed in Schedule I to the Act. It also specifies a six-month window during which the Tribunal must consider applications for the adjudication of disputes under this clause. Additionally, if the Tribunal determines that there was a valid reason why the applicant was unable to file the application within the allotted time, it may permit the application to be completed within an additional sixty days.

According to the statute, a 'substantial question relating to environment' shall include an instance where:

1. There is a direct violation of a specific statutory environmental obligation by a person by which:
 - a) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or
 - b) the gravity of damage to the environment or property is substantial; or
 - c) the damage to public health is broadly measurable;
2. The environmental consequences relate to specific activity or a point source of pollution.

Powers of the Tribunal

The National Green Tribunal may hear challenges to any orders or decisions made by the Government based solely on the laws mentioned the statute, as well as any infractions related to them.

The National Green Tribunal has not been vested with powers to hear any matter relating to:

- Wildlife (Protection) Act, 1972,
- The Indian Forest Act, 1927
- Laws enacted by States relating to Forests, Tree Preservation etc.

Consequently, the National Green Tribunal is not able to hear arguments about particular and important matters pertaining to these laws. To dispute a project, you must file an Original Suit before an appropriate Civil Judge of the Taluka where the project is located, or you may approach the State High Court or the Supreme Court through a Writ Petition (PIL).

Using Latest Technology

The NGT has also adopted the new tactic of using technology to quickly administer environmental justice. For instance, supplying precise locations and information through geo-tagging could aid in the collection of reliable evidence and cut down on pointless applications in environmental litigation. The plan to create a PAN India program for electronic filing will encourage participative processes. To address environmental concerns, the NGT intends to launch a prepared electronic petition that can be submitted from anywhere in India. This will simplify bureaucracy and save costs while broadly reformulating standing. Despite considerable geographical differences, the NGT benches are currently in real time communication with Delhi thanks to the utilization of video-conferencing technologies. It not only gives a private, secure connection but also instantaneous communication throughout India, promoting productive debate amongst benches. It is also suggested that transcription techniques be employed to provide succinct and understandable information for use in arbitration procedures.

Therefore, the expansion and current modifications within the organization have led to changes at the field level, namely in terms of public acceptance and support for the NGT. As a result, the Tribunal benefits from a

mutually beneficial partnership that helps to develop and maintain public confidence in the efficiency of its decision-making process and in the formulation of environmentally sustainable policies that are supported by science.

High Court v. National Green Tribunal

High Courts in several states used to take up significant environmental matters, including suo motu ones through 'Green Benches', prior to the establishment of the National Green Tribunal. While some continue to operate in Tamil Nadu, West Bengal, and Karnataka, others are gradually coming to an end since environmental disputes are now handled by the National Green Tribunal. Environmentalist Subhash Dutta¹³ predicts that the Green Bench won't be operational for some time.

But tensions are rising between the high courts and the National Green Tribunal. The National Green Tribunal Act restricts the appeals process for decisions made by the National Green Tribunal to the Supreme Court, bypassing lower courts. However, the Madras High Court has disapproved of this clause. It has emphasized that the high courts are not subject to the Act's ban on subordinate courts, which prevents them from considering environmental claims. This is so because a high court's jurisdiction under Articles 226 and 227 of the Indian Constitution is a fundamental feature of the document. To put it another way, the court emphasized that appeals from the National Green Tribunal regarding the environment had to first be heard by the high court before being heard by the Supreme Court.

Conclusion

The National Green Tribunal introduces yet another innovative measure by imposing severe penalties on those who disregard the tribunal's orders. This will enable the tribunal's order to be put into effect.

Turning to the Act's negative aspects, the guidelines governing the makeup and content of the selection committee tip the scales in the Central Government's favor. In light of the current Act's repetition of the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997, it is suggested that the legislation be made fully operational in order to give much-needed relief against environmental degradation offenses and complaints.

The current legislation allows the Central Government to meddle in and exert control over the tribunal's operations; this should be avoided to allow the tribunal complete discretion in resolving the procedural issues at hand.

The scholar concluded that the National Green Tribunal (NGT) displays substantial utility in fulfilling the growing needs of environmental preservation and the societal acceptance of environmental legislation after completing a thorough investigation and analysis of the data presented. When it was founded, the intention was to resolve people's complaints about environmental issues. The tribunal has been given the power to settle the issue and answer any queries by awarding relief, damages, and compensation. The tribunal also has the authority to mandate the immediate rehabilitation of the environment. The Indian National Green Tribunal (NGT) has achieved notable success in enforcing environmental justice while also gaining the trust of the public.

In India, the National Green Tribunal (NGT) is the first organization to apply the precautionary principle, the polluter pay idea, and the principle of sustainable development in the course of resolving cases and dispensing justice. In addition to broadening its purview to include other fields, the National Green Tribunal (NGT) has significantly advanced environmental legislation on a national and international scale. As of right now, the National Green Tribunal (NGT) has made impressive strides toward making justice more accessible and reasonably priced. However, there is still opportunity for advancement in terms of raising petitioner satisfaction and encouraging sustainable growth. The issue of environmental or climate change is of great importance, requiring the government to have more jurisdiction and authority to make rules.

The aforementioned circumstance has highlighted the necessity of the public trust theory, which requires the government to act as a trustee for natural resources in order to further the welfare of the general public. Examining the matter further reveals why the National Green Tribunal is regarded as "*Responsive to Environmental Problems*," a quality that is frequently connected to successful environmental courts.

Moreover, one could contend that the tribunal is now dealing with a severe staffing shortfall and an insufficient budget. Additionally, it lacks the necessary tools to handle contemporary concerns about conservation and environmental protection. In order to turn the NGT into a trailblazing organization that offers efficient dispute resolution procedures for environmental issues, these vulnerabilities must be fixed. There is little doubt that the Indian natural landscape would experience major advantages following the successful resolution of these issues.

To properly protect the environment while taking human developmental activities into account, the National Green Tribunal (NGT) needs to have more autonomy and a wider purview. In order to increase the number of judges and experts appointed under the NGT laws, the government needs implement reforms. To guarantee the National Green Tribunal's (NGT) smooth functioning, the government must promptly appoint qualified

candidates to the open official positions within a designated period. Reducing the amount of work that the judiciary has to do while handling environmental cases is the main goal of the National Green Tribunal (NGT). It has been seen, meanwhile, that the NGT has internal issues that jeopardize its stated objective of protecting the environment.

The establishment of the National Green Tribunal (NGT) was motivated by a strong desire to address environmental challenges. Ninety percent of the complaints are adjudicated and then resolved, according to the organization's website. Nevertheless, it is clear from a closer look of the National Green Tribunal's (NGT) mission that it has not yet been fully realized. More jurisdictional and infrastructure-related authority should be given to the National Green Tribunal (NGT), and this authority should be subject to judicial scrutiny. Furthermore, in order to guarantee that justice is achieved at the local level, it is essential to put in place an efficient system in addition to traditional techniques. Establishing a partnership between the federal government, state governments, and local governments is necessary. *Suo motu* jurisdiction must be exercised by the NGT at all stages and levels in order to maintain environmental equilibrium.

To make the most of the National Green Tribunal's (NGT) aid when dealing with complicated cases involving the determination of damages, compensation, and fines, the right experts and organizations must be chosen. The researcher came to the conclusion that the National Green Tribunal Act of 2010's creation of the NGT is a development that is beneficial for the field of environmental litigation. This court can rightfully be described as "special" because India is the third nation, after Australia and New Zealand, to establish a system of justice of this kind. India is thought to have the most sophisticated and active environmental tribunal. Currently, people need to be empowered to actively protect their environment by increasing their knowledge and competence. People won't be able to properly utilize their constitutional right to a healthy environment until after that.

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