

Issues and Challenges before National Green Tribunal (NGT)

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Introduction

Not only Australia & New Zealand, but even India has started with an environmental tribunal known as National Green Tribunal (NGT), being a specialized body created with an intention to talk about the problems of the environment. The problems of the environment are so peculiar and intricate which requires proficiency to find solutions to the environmental problems in a fruitful & instant way which is impossible with India's establishment. It is an accepted procedure to increase a way to fairness in order to perform properly to attain the real goals of the establishment.

Environment is the prime constituent for growth of each and every species. It is the most significant God's presentation to not only humans but even other species as our existence depends on it so it is known to be very crucial. The traditions of India teach us that we as Indians look after the environment and are very well honored in our birthright. We tend to rite each and every feature acting as a base for the existence of the living beings. We even take steps to ensure that the animals are secure, and so are the birds which hold importance as they are chunk of our ideologies from the ancient times. Old books give us minute attributes about the attachment of our idol with the environment and also gives straight directions on how to protect the biological variability. It came into existence on two- thousand and ten, to assist the people, the right to a healthy environment. The Tribunal itself, is in charge to tackle the speedy jettisoning of the environmental cases.

Issues:

1. The NGT puts up many questions with regard to its implementation and being beneficial when it was constructed which leads us to think whether it can give good solutions in solving environmental problems or not?
2. The NGT has adopted a new four D approach to tackle problems by applying -'dismiss, dispose, delegate and de-reserve', to fight for environmental justice.
3. The NGT Act had always anticipated the Tribunal to tackle only major environmental questions, which is the process of releasing cases in the first attempt without providing due reasons is considered as a new initiative taken by the NGT, to curb the right to get environmental justice.
4. Since July two- thousand & eighteen, the Tribunal has released of over seven hundred cases, by making and emphasizing the law and re-directing all problems to the executive authorities, who are the non-payers to diminish the goal of setting up of a Tribunal.
5. This procedure of giving important privileges and tasks to external committees, through parallel building as well as constitution as the National Green Tribunal gives the feeling that the NGT is rescinding its own command on

environmental issues. Such distribution of power has to be inspected.

6. By closing the indemnification through a debate, the NGT has a less authority to merely be an inaccurate body, rather than a court of law which led to a decline in the trust of the people in the court.

CHALLENGES

1. Since the beginning of the NGT Act, the tribunal never worked to its complete potential. While today regular hearings take place in the Principal Bench, due to incomplete vacancies over the four benches of zonal as a result the principal bench have more burden of cases and need to hear the cases through video conferencing.
2. It has failed to achieve the Right to a healthy environment.as it is a part of the Right to Life contemplated in Article 21 of the Constitution.
3. There is a lack of skillfulness in the operations of the Tribunal. This acts as evidence that many decisions of NGT have been objected to and revoked in the Supreme Court. For example, The Supreme Court asked for competence of NGT in the case of the Subansiri Hydropower Project in Arunachal Pradesh 2019. Further, the court also superseded the prohibition levied by NGT on that project.
4. The tribunal did not perform the functions of the excellence and performance of the

judgement function. For instance, the Supreme Court of India held that the NGT absences merits-based review on its judgements in case of Mopa Airport.

5. It has been observed that there is less regional benches of NGT and found that it is located in metropolitan cities. It has been seen that exploitation is mostly in tribal part of dense forest. The tribal people lack of opportunity to file complaint before NGT.
6. Obstacle to Development: Decisions of NGT have also been condemned and objected due to their consequences on economic growth and development.
7. The time limitation clause is very unclear and should be changed. It says that the complaint regarding environmental protection should be filed within six months and this time period can be extended for another six months only in exceptional cases. This provision fails to forecast the possibilities of long-term effects of environmental damage. It does not appreciate that there are certain instances wherein the effect of environmental humiliation takes time. The most relevant example of this can be the harmful effects of the use of radioactive substances. This section needs to be done away with.
8. Pollution is increasing even though the court has taken initiatives to reduce it. The reason behind this is non-cooperation from administration at both i.e., Central and State. It is found that there is disorganization and non-cooperation between Central Pollution Control Board and State Pollution Control Board. Due to this it is a result of delay in executing the NGT order. Owing to the limited powers and manpower of NGT and non-cooperation from government side, it fails to have observance throughout the nation.
9. In case of hearing of any matter under the Wildlife (Protection) Act, the Indian Forest Act it is found that the National Green Tribunal has not been conferred with powers to hear. The enactment has restricted territory of tribunal to "significant question of environment" which is difficult to be determined and impossible on the part of layman whether it is significant or not.

SUGGESTIONS

1. It is necessary that the National Green Tribunal need to take own initiative for smooth conduct of its functioning.
2. There is a requirement of separate self-governing Environmental Protection Authority of India.

3. There is a need to increase regional benches of NGT and on the basis of highest forest cover and huge mineral deposit, there should be new regional benches.
4. Before filing Appeal to Supreme Court or High Court, there must be larger bench of the Tribunal when there is an Appeal against the order of NGT.
5. There is inadequacy on the part of Government that they should complete vacancies as earliest in the National Green Tribunal.
6. To balance the economy and environment there is a need for the Central Government as well as State Government to work together with the NGT. NGT need to explore the organizations and experts who will help them to evaluate damages or compensation or fines on the basis of facts or cases.
7. The term defined under the NGT Act, 2010 i.e. "substantial question relating to environment" should be clearly described with more explanation instead of focusing on individual reasoning.
8. It is provided under the enactment of NGT that Central Government can involve in the procedure of the tribunal which should be prohibited and the NGT should be allowed to take their own decision independently with free hand in the proceedings.
9. There should be good support from both government i.e. Central and State and they need to work in association with NGT to save the environment with healthier, quicker execution of NGT orders.
10. The Cases of Environment should be evaluated judicially.
11. Other environment-related laws must also be included within NGT's scope.
12. NGT should require to take stricter action instead of levying fine only as it was required in case of Art of Living.

CONCLUSION

In the modern day, maintaining a balance between development and the environment is crucial. NGT should not be viewed as a barrier to progress, but rather as a means of achieving sustainable development. The administration must therefore solve all fundamental problems with the NGT as soon as feasible. The NGT Act's requirements need to be revised by the government to include more judges and experts. The administration should look into the vacancies as it is required to fill as earliest without delay which will show that NGT is working in a proper manner.

The current NGT Act was enacted with lofty goals in mind. However, the current legislation falls far short of the true goal of the Act's creation.

Environmental safeguards, enforcement, and compliance. As a result, it can be inferred that the fundamental right to a healthy environment established in Article 21 of the Constitution of India is partially accomplished by the NGT and there is a need for NGT to study more for completing the real goal of the enactment.

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