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**CONTRIBUTION OF NGT IN ENVIRONMENT PROTECTION**- Tanya Kaushal<sup>1</sup>**Abstract**

This research paper elucidates the contribution of NGT in environment protection, in light of its landmark judgements or orders which has brought changes into the environmental provisions as well as contributed towards a better outlook of the environmental problems. Not only, it has contributed towards building a different perspective but also these judgements, cases, orders and recordings are further cited for cases dealing with somewhat same issues or used as precedence. As you read the research paper, it systematically answers the question which will arise in the reader's mind as soon as he/she reads the topic for example :- what is NGT?, what is its background? Or how it came into being?, What are its contributions?, motive of establishing NGT? and many more.

**Synopsis**

“The NGT was established on 18 oct 2010 under the NGT ACT 2010” . “It has been established for effective and speedy disposal of cases related to environmental protection and conservation of forest natural resources wooding enforcement of any legal right relating to the environment and giving relief and compensation for damages to person and property and formatters connected therewith or accidental thereto”. The Tribunal has set objectives which have to be achieved while delivering judgements in any case. To be selected as a member of NGT there are certain

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Essentials which have to be fulfilled by the concerned person. It also has the Limited jurisdiction, that is cases related only to environmental law can be filed in NGT. The need to establish NGT was felt after the Oleum gas leak case, (1987 SCR (1) 819, AIR 1987 965)<sup>2</sup>. The contribution made by NGT is in the form of landmark judgements which have been delivered by it. Some of the cases have been cited in this research paper namely:- vellore citizen's case, Dehradun valley litigation etc.

## Introduction

“The National Green Tribunal (NGT) was set up on October 18, 2010 beneath the ordered act National Green Tribunal Act 2010 for effective and quick transfer of cases, concerning natural security and upkeep of woodlands and other normal assets including requirement of any legitimate right concerning environment and giving help and repayment for harms to people and their property and for things related with it or coincidental”. It is a motorized body prepared with the specified insights to handle the natural debate including multi-dimensional issues. “The Tribunal should not be bound by the approach laid down under the CPC, 1908, but should be guided by standards of right to reasonable judgement”. “The Tribunal's unflinching ward in natural things should give natural equity as soon as conceivable and offer assistance decrease the burden of claims inside the upper courts”. The Tribunal is dispatched to make and try for transfer of applications or offers at last within 6 months of recording of a claim. At first, the NGT is proposed to be found out at five places of sittings and can take after circuit approach for making itself more reachable.<sup>3</sup>

## Objective :-

- “To provide efficacious and immediate disposal of cases concerning environmental protection and maintenance of forests and other natural

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<sup>2</sup> Oleum gas leak case, 1987 SCR (1) 819, AIR 1987 965.

<sup>3</sup><https://greentribunal.gov.in/about-us>, (last visited on May 11, 2020).

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resources including enforcement of any legal right concerning the environment”.

- “Giving comfort and reimbursement for damages to persons and their property”<sup>4</sup>

### **Important Features:-**

- The NGT isn't restricted by the approach emphasised beneath the CPC, 1908, but might be guided by standards of right to reasonable judgement.
- NGT is additionally not restricted by the standards of proof as ordered beneath the “Indian evidence Act”.
- “It'll be moderately less demanding for preservation bunches to state realities and issues some time recently the NGT, counting reflecting specialized blemishes amid an extent, or proposing substitutes that would reduce natural harm which have not been scrutinized . While passing Orders, choices, grants, the NGT will apply the standards of “sustainable development”, the preparatory principle” and so the polluter pays principles”.<sup>5</sup>

### **Members**

- The tribunal will have a full time chairperson, legal individuals and pro members.
- The least number of official and pro individuals recommended is 10 in each category and the most extreme number is 20.
- If essential, the chairperson may summon one individual or more people having specialized information and involvement in a specific case before the tribunal to assist in an identical case..

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<sup>4</sup> National Green Tribunal- History, Features and Challenges, by samriddhi pandey, last visited on may 11, 2020, available at:- <https://www.legalbites.in/national-green-tribunal/>.

<sup>5</sup>National Green Tribunal- History, Features and Challenges, by samriddhi pandey, last visited on may 11, 2020, available at:- <https://www.legalbites.in/national-green-tribunal/>.

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- A judge of the Supreme Court of India or Chief Justice of the High Court are qualified to be Chairperson or legal part of the Tribunal. Indeed an existing or previous judge of the preeminent court is qualified to be named as an official Member.
- A individual is qualified to be a specialized part in the event that he has Master's of Science with a Doctorate degree or Master's of Building or Master's of Innovation and has an encounter of 15 years inside the pertinent field furthermore 5 years common sense encounters inside the field of environment and woodlands amid a presumed National level organization.
- Anybody who is having administrative involvement of 15 years furthermore encounter of 5 years in manoeuvring environment related things inside the Central Government or State government is additionally eligible to be a pro member.<sup>6</sup>

**Jurisdiction :-** As per "Section 14 (1) The NGT has jurisdiction over all civil cases where there is significant address regarding environment (counting execution of any right with respect to environment)", is included and such address arises out of the authorization of the enactments laid out in Plan I of the National Green Tribunal Act 2010. The acts recorded in Plan 1 are:-

- "The Water (Prevention and Control of Pollution) Act";
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- "The Forest (Conservation) Act",
- "The Air (Prevention and Control of Pollution) Act";
- "The Environment (Protection) Act, 1986";
- "The Public Liability Insurance Act, 1991";
- "The Biological Diversity Act, 2002".

"The Tribunal will hear the quarrel arising from the questions referred to in sub-section (I) and settle such quarrels and pass orders thereon".

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<sup>6</sup> National green tribunal, last visited on may 2, 2020, available at :- <http://www.mitrasias.com/national-green-tribunal/>.

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“Appellate jurisdiction under section 16 of the Act. As per Section 15 (1) of the Act, the Tribunal may, by an order, provided”-

- (a) “assistance and reimbursement to the victims of pollution and other environmental crisis arising under the provisions laid out in the Schedule 1” (“including accident occurring while handling any hazardous substance”);
- (b) “for restoration of property damaged”;
- (c) “for restoration of the environment for such areas or areas which the tribunal may think fit”.<sup>7</sup>

### Background

“NGT act, 2010” endorsed to fulfill the long felt requirement of other gatherings to convey speedy and cheap equity, the reasoning of PIL is resounded within the enactment, a welcome heading for the lesson of casualties who are incapable to thump the entryway of the judiciary.<sup>8</sup>

The need to line up special environmental courts was underlined by the supreme court of India during a series of judgements, the primary one being in 1986 within the “Oleum gas leak case”<sup>9</sup>, and by the “law committee of India in its 186th report in 2003”. The court was of the supposition that natural cases raised issues, which required technical information and mastery, quick transfer and standard monitoring, and hence these cases ought to be chosen by special courts with required expertise and Technical assistance.<sup>10</sup>

In order to fulfill the need of particular courts to deal with the natural issues the Parliament passed the “ national environmental Tribunal act 1995”, at that point in 1997 the “national environmental appellate authority Act 1997” was implemented under which the national environment appellate authority was found out. “The

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<sup>7</sup>National Green Tribunal- History, Features and Challenges, by samriddhi pandey, last visited on may 11, 2020, available at:- <https://www.legalbites.in/national-green-tribunal/>.

<sup>8</sup> Role of NGT vis ‘a’ vis environment protection in india, by rishu mala, last visited on may 12, 2020, available at <https://www.slideshare.net/RishuMala/role-of-ngt-in-environment-protection>.

<sup>9</sup> Oleum gas leak case, 1987 SCR (1) 819, AIR 1987 965

<sup>10</sup> Role of NGT vis ‘a’ vis environment protection in india, by rishu mala, last visited on may 12, 2020, available at <https://www.slideshare.net/RishuMala/role-of-ngt-in-environment-protection>.

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national environment Tribunal act 1995” and therefore the “national environment appellate authority Act 1997” which gives for strict obligation for harms caused inadvertently happening while taking care of unsafe substance and to supply relief and reimbursement to the casualties and for hearing requests against order of grant of environmental clearances under the “environmental protection Act 1986”, function till October, 2010 and then in 2010 it got revoked by the present “National Tribunal act 2010”. There were several problems in the functioning of these organizations and were never implemented efficiently due to their Limited direction.<sup>11</sup>

The Government of India presented the “NGT charge 2009, in Lok Sabha on 31st July 2009”; which controls the foundation of a green tribunal. The charge was passed in May 2010, and got to be the “National green tribunal act 2010”, the same was at long last propelled on 19th October 2010. This uncommon Court would influence cases related with natural security and support of characteristic assets and woodlands. The present NGT supplanted the sooner existing National Environment Tribunal and so the national environment appellate authority.<sup>12</sup>

### **Environment protection under constitution of India**

- “Article 21- gives that no one might be dispossessed of his life or individual freedom except consistent with method built up by law”.<sup>13</sup>

Case law:- **Rural Litigation and Entitlement Kendra, Dehradun and Ors. v. State of U.P. and Ors,(1985 AIR 652, 1985 SCR (3) 169)**<sup>14</sup>

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<sup>11</sup> Role of NGT vis ‘a’ vis environment protection in india, by rishu mala, last visited on may 12, 2020, available at :- <https://www.slideshare.net/RishuMala/role-of-ngt-in-environment-protection>.

<sup>12</sup> Role of NGT vis ‘a’ vis environment protection in india, by rishu mala, last visited on may 12, 2020, available at :- <https://www.slideshare.net/RishuMala/role-of-ngt-in-environment-protection>.

<sup>13</sup> Role of NGT vis ‘a’ vis environment protection in india, by rishu mala, last visited on may 12, 2020, available at :- <https://www.slideshare.net/RishuMala/role-of-ngt-in-environment-protection>.

<sup>14</sup> Rural Litigation and Entitlement Kendra, Dehradun and Ors. v. State of U.P. and Ors,1985 AIR 652, 1985 SCR (3) 169.

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**Facts of the case:-**

- “This case is also known as the ‘Dehradun Valley litigation’. In Mussoorie hill range of Himalayas, the activity of quarrying was being carried out. Limestone was taken out by blasting out the hills with dynamite. This also resulted in cave-ins and collapsing because the mines dug deep into the hillsides, which is an illegal practice constitutionally”.
- “Due to lack of foliage, many landslides occurred which killed villagers and destroyed their homes, cattle and fertile lands. In 1961, mining was stated illegal in the state by the state minister of mines. However, quarry operations reopened the mining operations by successfully influencing the chief Minister of the state because of which they got the mining contract for 20 years. This led to corrupt and illegal practices and still there was no implementation of safety rules”.
- “In 1982, eighteen contracts came up for renewal, which were rejected by the State on account of the environmental destruction. However, a mandate was granted by the Allahabad High Court which allowed the applicants to continue mining, giving the reason that economic benefits were greater than the ecological factors”.
- “In 1983, the agricultural Litigation and Entitlement Kendra sent a letter of complaint to the Supreme Court which was against environmental degradation. The Court treated the letter as a writ petition under “article 32”. More than 100 mines joined this and therefore the litigation became complex. The Supreme Court conducted a review of the necessity for mining operations and provided for funding and administrative oversight of reforestation of the region”.

**Judgment**

- “In the Dehradun Valley Litigation case, the Central Government had

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become concerned about the dangerous mining operations within the Valley at an equivalent time when the Supreme Court took up the difficulty. In 1983, the Government of India appointed a Working Group to inspect the limestone quarries in the Dehradun-Mussoorie area. The same individual, D.N. Bhargava, headed both the government's working party and therefore the court's committee came to similar conclusions on the harmful effect of the mines on the ecology. The working party also prepared reports for the court on the few mining operations, which were allowed to stay open. During the course of the litigation, in 1986, Parliament enacted the Environment Protection Act".

- "After this, the Valley was designated as an ecologically fragile area under the Environment Protection Act. In addition, the centre appointed a Doon Valley Board, under the chairmanship of the Minister for Environment and Forests, which was charged with conservation and rejuvenation of the degraded areas in the Valley. The Supreme Court concluded that mining in reserved forests within the Dehradun valley violated the Forest Conservation Act. However, the Forest Conservation Act only prohibits non-forest activities on forest lands that don't have the approval of the Central Government. In addition to ecological integrity and national interests, the Supreme Court was also concerned with the welfare of mine operators and laborers left unemployed by closure of the Dehradun Valley operations. The Court issued the following directions":
- "that mine lessees whose operations were terminated by the court would tend priority for contract in new areas hospitable limestone mining.that the Eco-Task Force of the central department of Environment reclaim and restore the world damaged by mining which

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workers displaced by mine closure”.<sup>1516</sup>

- “Article 48- deals with association of farming and creature cultivation. It coordinates the state to require steps to compose farming and creature cultivation on present day and logical lines. In specific, it ought to take steps for protecting and progressing the breeds and denying the butcher of bovines and Calves and other cattles”.<sup>17</sup>
- “Article 48a- gives that the state should try to protect and make strides in the environment and to defend the timberland and natural life of the country”.<sup>18</sup>
- “Article 51A(g)- gives that it should be the obligation of each citizen of India to watch and make strides in the normal environment counting timberland, lake, streams and natural life and to have sympathy for living creatures”.<sup>19</sup>

**Case law: - Vellore Citizens case, [( 1996) 5 SCC 647]<sup>20</sup>**

1. “This was a request against contamination which was caused by the release of untreated effluent emanated by tanneries and other businesses into rural areas, street sides, conduits and open lands, and into the waterway of Palar which is the source of water supply to the inhabitants of the zone”.
2. “According to the applicant the full surface and subsoil water of stream Palar had been contaminated driving to non accessibility of consumable water to the inhabitants of the world . It was expressed

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<sup>15</sup> Rural Litigation and Entitlement Kendra, Dehradun and Ors. v. State of U.P. and Ors, by risha kulshreshtha, last visited on may 5, 2020, available at :- <http://lawtimesjournal.in/rural-litigation-and-entitlement-kendra-ors-v-state-of-uttar-pradesh-ors-case-summary/>,

<sup>16</sup> Rural Litigation and Entitlement Kendra, Dehradun and Ors. v. State of U.P. and Ors, 1985 AIR 652, 1985 SCR (3) 169.

<sup>17</sup> Role of NGT vis ‘a’ vis environment protection in india, by rishu mala, last visited on may 12, 2020, available at :- <https://www.slideshare.net/RishuMala/role-of-ngt-in-environment-protection>.

<sup>18</sup> Role of NGT vis ‘a’ vis environment protection in india, by rishu mala, last visited on may 12, 2020, available at :- <https://www.slideshare.net/RishuMala/role-of-ngt-in-environment-protection>.

<sup>19</sup> Role of NGT vis ‘a’ vis environment protection in india, by rishu mala, last visited on may 12, 2020, available at :- <https://www.slideshare.net/RishuMala/role-of-ngt-in-environment-protection>.

<sup>20</sup> Vellore Citizens case,( 1996) 5 SCC 647.

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that the tanneries in the address had caused natural corruption inside the zone”.

3. “According to the preliminary study about 35,000 hectares of agrarian land inside the Tanneries Belt, had ended up either somewhat or completely unfit for cultivation. There was evidence that the tanneries and other businesses had been admonished for ten years to control contamination but to no avail”.
4. “The court requested the central Government to constitute an authority and bestow consequently all powers fundamental to influence things . The authority was to implement the prudent principle and so the “polluter pays” principle”.
5. “It would distinguish the families who had endured from the pollution and access remuneration and so the sum to be paid by the polluters to invert the environmental harm. The court required the Madras supreme court to observe the execution of its orders through an extraordinary bench, which was constituted and called a Green Bench”.<sup>21</sup>

### **Landmark NGT judgements ( contribution of NGT )**

Case 1:- **Almitra H. Patel & Ors. vs. Union of India and Ors** , [(1998) 2 SCC 416<sup>22</sup>(Complete prohibition on open burning of waste on lands)

**Facts and Issues:-**.Chosen less than a year prior, this case has been the single greatest landmark case managing the issue of solid waste administration in India.

- In this case, Mrs. Almitra Patel and another had recorded a PIL under Article 32 of the Constitution of India some time recently the Apex Court whereby the Applicant looked for the quick and critical enhancement within the practices that are presently adopted for the way Municipal Strong Squander or waste is

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<sup>21</sup>Vellore Citizens Forum, Petitioner v. Union of India and others, Respondents, last visited on may 5, 2020, available at :- <https://www.ecolex.org/details/court-decision/vellore-citizens-forum-petitioner-v-union-of-india-and-others-respondents-a3c730f0-2fcc-4a83-89f7-891bbfe5e6fc/>,

<sup>22</sup> Almitra H. Patel & Ors. vs. Union of India and Ors, (1998) 2 SCC 416. MANU/GT/0150/2016

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treated in India.

- The Tribunal found that the size of the matter was tremendous since over a lakh tons of crude waste is dumped a day and there's no legitimate treatment of this crude rubbish which is dumped in the fair exterior of the city limits on land, along interstates, lakes, nalas etc. .
- The whole nation created over 133760 MT of squander a day as of 2012-2013 and this rate has been expanding with the passage of time .
- The Tribunal noted the need to change over this squander into a source of control and fuel to be utilized for society's advantage, taking into account the Principles of Circular Economy.

**Judgment:-**

- The Tribunal after having assessed each viewpoint of this issue issued over 25 directions. The Tribunal coordinated each state and UT to execute the Solid Waste Administration Rules, 2016 quickly and get ready an activity plan in terms of the standards within 4 weeks.
- Further, the Tribunal Coordinated the Central Government, state governments, nearby bodies and all citizens to perform their particular commitments under the Rules without any delay. Direction was issued to guarantee appropriate isolation before preparing waste in vitality plants. It commanded the arrangement of buffer zones around plants and landfills as required.
- Absolute segregation has been made required in squandering vitality plants and landfills should be utilized for keeping inactive squander as it were and are subject to bio-stabilization within 6 months. The most imperative course of the Tribunal was a whole denial on open burning of squander on lands, counting at landfills.<sup>2324</sup>

Case 2:- **Samit Mehta vs. Union of India and Ors,**[(1987) 1 SCC 395]<sup>25</sup>(In this case

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<sup>23</sup>Almitra H. Patel & Ors. vs. Union of India and Ors, (1998) 2 SCC 416.MANU/GT/0150/2016

<sup>24</sup> 5 landmark NGT judgements that created history, by sudarshana thapa, last visited on may 5, 2020, available at :- <https://blog.ipleaders.in/ngt-judgments/>.

<sup>25</sup>Samit Mehta vs. Union of India and Ors,(1987) 1 SCC 395.MANU/GT/0150/2016

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‘Polluter Pays’ principle invoked)

**Facts and Issues:-**This case was held to include questions of open significance and importance of natural jurisprudence. In this case, an earthly person recorded applications in reference to the harm caused to the sinking of a ship named M. V. Rak which was carrying colossal sums of coal, warming oil and diesel. As a result of the ship’s sinking on the brink of the coast of south Mumbai, a thick film of oil was shaped on the surface of the sea and large-scale harm was caused to mangroves and marine ecosystems.

**Judgment:-**The Tribunal found that carelessness may be credited to Respondents 5, 6, 7 and 11 and components of malevolence aforethought were to be found. Said respondents hadn’t followed the standards of pre-voyage due tirelessness in spite of having adequate time. The sinking of the transport was the result of the carelessness of the Respondents and maintaining the rule of Polluter Pays, the Tribunal coordinated Respondents 5, 7 and 11 to pay natural emolument to the tune of Rs. 100 crores to the Ministry of Shipping, GOI, which is one among the foremost critical stipend sums ever paid by a individual substance against natural harm done. Further, Respondent 6 was inquired to pay a emolument of Rs. 5 crores.<sup>2627</sup>

Case 3:- **Save Mon Region Federation and Ors. vs. Union of India and Ors.**<sup>28</sup>(Victory for Birds, Massive Hydro Power Project Loses)

**Facts and Issues:-**

- In this case, an offer was recorded by an enterprise named Save Mon Region League nearby a social extremist against the grant of Natural Clearance given to a INR 6,400 crore hydro project. The said venture was arranged on the brink of the wintering location for a winged creature named Black-necked Crane, which may be a Plan I species under the Natural life Assurance Act, 1972 and highlighted within the ‘Threatened Fowls of India’ a writing delivered by the Appellants. Separated from the winged creatures, the zone

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<sup>26</sup> Samit Mehta vs. Union of India and Ors,(1987) 1 SCC 395.MANU/GT/0150/2016

<sup>27</sup> 5 landmark NGT judgements that created history, by sudarshana thapa, last visited on may 5, 2020, available at :- <https://blog.ipleaders.in/ngt-judgments/>.

<sup>28</sup>Save Mon Region Federation and Ors. vs. Union of India and Ors, MANU/GT/0150/2016

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was moreover domestic to a few other imperiled species such as the snow panther, ruddy panda, Arunachal macaque.

**Judgment:-** The Tribunal exceptionally proactively suspended the Natural Clearance allowed to the Project. The Tribunal Directed the EAC to create a new evaluation of the proposition for natural clearance grant and inquired the Service of Environment and Woodland to create a partitioned ponder on the security of the said bird.<sup>2930</sup>

**Conclusion:-** NGT has come so far by giving landmark judgements which has brought an evolutionary change in the field of environmental law it has also changed the functioning of society and the thinking or the perspective of people towards our environment. Earlier, there were no specific initiatives at the national level to protect the environment from getting destroyed but after the establishment of the NGT government, citizens, officials etc have started taking steps to protect and maintain our environment for the present generation and the future generations to come. We can obviously say by looking at the above mentioned facts that the NGT has largely contributed toward the protection and maintenance of the environment and it will continue to do so. But still it needs more necessary changes which will lead to greater height in the achievement of environmental protection. Additionally, To achieve these achievements the jurisdiction of the NGT has played a major role and will continue to play its part because it is a major reason on the basis of which cases are undertaken and brought to a conclusion, which is expected to be in favour of the environment.

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<sup>29</sup> Save Mon Region Federation and Ors. vs. Union of India and Ors:- MANU/GT/0150/2016

<sup>305</sup> landmark NGT judgements that created history, by sudarshana thapa, last visited on may 5, 2020, available at :- <https://blog.ipleaders.in/ngt-judgments/>.

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