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THE ROLE OF NATIONAL GREEN TRIBUNAL IN DELIVERING ENVIRONMENTAL JUSTICE

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ABSTRACT

With the phase of rapid industrial development and technology progress, the nation is confronted with similar environmental challenges as the rest of the world, including multi-dimensional issues like *Climate change, Global warming, Loss of biodiversity, Deforestation, Species extinction and Pollutions of various forms*. In order to deal environmental challenges, the menace of pollutions and to protect and improve environment and to promote sustainable development for present and future generations, a special fast track environmental court, the National Green Tribunals (NGTs) was established in India with objective to effectively and expeditiously resolve the cases related to environmental protection and the conservation of forests and other natural resources and all the environmental disputes that involve multi-disciplines issues.

This article has made an attempt to analyse how far the National Green Tribunal (NGT) has contributed in environment protection, preventing environmental pollutions and in achieving sustainable development goals. Through this paper, a comprehensive analytical study has been made on NGT's role in delivering environmental justice in India. This article also analyses the shortcomings of the National Green Tribunal Act and ends with some suggestive measures for better, efficient and effective function of the National Green Tribunal (NGT) in delivering environmental justice in the country.

Keywords: *Environmental Challenges, Pollutions, Sustainable Development, Precautionary Principle, Polluter Pay Principle, NGT's Role, Environmental Justice.*

INTRODUCTION

The environmental challenges that humanity are facing today are not isolated to a particular region or a country, it is a global issue. The danger of ecological disasters, affects not only a

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part of the world but affects the entire planet. The cumulative scientific data on *acid rain, ozone depletion, climate change, global warming, bio-diversity loss, deforestation, species extinction and pollution* of various kinds, has such global impact which shows that new measures of human restraint and international co-operation are required to address the issues.

Environmental pollution is one of the major challenges that India is facing today as elsewhere in the world, viz, *air pollution, water pollution, land/soil pollution, noise pollution, heat/thermal pollution, radioactive pollution*, etc. As the country develops rapidly in next industrial phase, pollutions levels have reached its peak, leading to serious environment degradation. As per latest report, Pollutions kills more than 8 millions peoples worldwide in 2017. India, the second most largest populated nation in the world, ranked first among the top ten nations in the world where premature death occurred due to pollution with 23,26,771 death, and second in the top ten nations in the world where premature death occurred due to air pollution with 12,40,529 death.³ The World Air Quality Report 2018 by IQAir and Greenpeace revealed that 15 of the 20 most polluted cities globally were in India. Gurugram, was the worst air quality city in the world with an annual average concentrated of PM2.5 at 135.8 micrograms per cubic meter (ug/m³) and Delhi as the most polluted capital city across the world with an average yearly PM2.5 concentration of 113.5 micrograms per cubic meter (ug/m³).⁴ In 2024, India was the fifth-most polluted country in the world, with an average PM2.5 concentration of 50.6 micrograms per cubic meter which is 10 times the World Health Organization's recommended limit.⁵

Some of the major factors contributing to global environmental degradation include *Unsustainable industrial development, Unregulated urbanization, Population explosion, Poverty, Over-exploitation of natural resources, Depletion of traditional resource of energy and raw materials, Industrial waste or emissions, Vehicular pollution*, etc. which adversely affecting natural environment, human health, livelihood and economy of the country.

International efforts to protect and preserve the global environment started with the ***Stockholm Conference***⁶1972, which is considered as the origin of modern era of

³ Pollution and Health Metrics: *Global, Regional and Country Analysis Report 2019* from GAHP (Global Alliance on Health and Pollution) available at: <https://gahp.net> (last visited on 22 July 2022).

⁴ The World Air Quality Report 2018 by IQAir and Greenpeace.

⁵ <https://www.indiascienceandtechnology.gov.in/listingpage/air-pollution-india-status-and-challenges> (Last visited on 27/05/2025).

⁶ The United Nations Conference on Human Environment held from 5th to 16th June 1972 at Stockholm, Sweden.

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‘environmentalism’, which laid down the principles on which the nations should draft policies and legislate laws for protection and improvement of the global environment. Further, the ***Rio-Declaration***⁷ popularly known as *The Earth Summit*’1992 reaffirmed the Stockholm Declaration, which mission was to put the world on a path of *Sustainable Development* which aims at meeting the needs of the present generation without compromising on the ability of the future generation to meet their own needs. The *Brundtland Commission*⁸, the *Kyoto Protocol*⁹, the *Johannesburg Summit*¹⁰, the *Paris Agreement*¹¹, the *Sustainable Development Goals (SDGs)*¹².etc. are some of other important developments which have also taken place in the protection and improvement of the global environment.

The journey from the Stockholm Conference to the Rio Summit led to a recognition of the ‘*Right of all human beings to a healthy and productive life in harmony with nature*’. This recognition has resulted the adoption of various environmental policies and laws in India, which aims to protect and preserve the environment and to promote sustainable development for present and future generations. However, despite of Constitutional mandate to protect and promote the environment and as many as 200 Statutory and other environmental laws in India, the environmental degradation couldn’t stopped completely, which resulted the Judicial intervention through its judicial activism and has played a vital and pro-active role in environmental ;protection.

However, the year 2010 is a milestone in the history of environmental jurisprudence in India as in this year a long dream of Indian judiciary to have a special fast tract environmental court was finally fulfilled by the enactment of the National Green Tribunal Act 2010. Under this act, the National Green Tribunals (NGT) was established with objective to effectively and expeditiously resolve cases related to environmental protection, conservation of forests and other natural resources and all the environmental disputes that involve multi-disciplines

⁷ The United Nations Conference on Environment and Development (UNCED), held from 3rd to 14th June 1992. at Rio-dejanero, Brazil.

⁸ Headed by Gro Harlem Brundtland, the then Prime Minister of Norway.

⁹ Outcome of the United Nations Framework Convention on Climate Change (UNFCCC).

¹⁰ World Summit on Sustainable Development (WSSD) took place from 26th August to 4th September 2002.

¹¹ It is a legally binding International Treaty on Climate Change adopted during the UN Climate Change Conference (COP21) held in Paris on December 12, 2015 by 196 parties to limit Global Warming to well below 2 degree Celsius.

¹² A Global Action Plan adopted by the United Nations in Sustainable Development Summit, New York in Sept’ 2015.

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issues.¹³The Act also seeks to ensure the enforcement of legal rights concerning the environment, giving relief and compensation for damages to individuals, property, and the environment.

BACKGROUND OF THE NATIONAL GREEN TRIBUNALS (NGT)

With the emergence of judicial activism in the 1980s, the Indian Judiciary became more accessible. The Supreme Court, through its path-breaking decisions, initiated a new era in environmental jurisprudence. However, it was soon realized that constitutional courts lacked the expertise to deal with complex matters relating to the environment with multi-dimensional issues. In various landmark cases, the court has directed expert committees if any environmental issue comes before the Court of Law. However, the expert committee's report was not interpreted in technical terms, which is crucial. The Supreme Court in the various landmark cases, namely, *Oleum Gas Leakage Case*¹⁴, *Bichhri Village Case*¹⁵ and *A.P. Pollution Control Board v. M.V. Nayudu*¹⁶, recognized the shortcomings and recommended for establishment of specialized "Environmental Courts" to address all the cases related to environmental in the country.

In the light of Supreme Court decisions in the aforementioned cases, the Law Commission of India in its 186th Report¹⁷, has recommended for the establishment of environmental courts. As a result, the National Green Tribunal Act, 2010 was enacted by the Parliament which came into force on June 2, 2010.¹⁸ Under this Act, the National Green Tribunals (NGT) was constituted on 18th October 2010.¹⁹ with five benches across the country with New Delhi as its Principal Bench and regional benches in Pune (Western Zonal Bench), Bhopal (Central Zonal Bench), Chennai (Southern Zonal Bench) and Kolkata (Eastern Zonal Bench).

The Tribunal aims to ensure effective and expeditious disposal of cases related to environmental protection, forest conservation, and other natural resources, including the enforcement of legal rights concerning the environment and providing relief and compensation for damages to individuals and property, along with related or incidental matters. Justice Lokeshwar Singh Pant, a retired judge of the Supreme Court, was appointed

¹³Annual Report 2011-2012, Ministry of Environment and Forests, Government of India, at p-276.

¹⁴M.C. Mehta v. Union of India AIR 1987 SC 1086.

¹⁵Indian Council for Enviro-Legal Action v. Union of India AIR 1996 SC 1466.

¹⁶(1999) 2 SCC 718.

¹⁷Justice M.Jagannadha Rao was the Chairman of the Law Commission 186th Report.

¹⁸The National Green Tribunal Act 2010 received the assent of the President on 2nd June 2010.

¹⁹The National Green Tribunal is established under Section 3 of the National Green Tribunal Act, 2010.

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as the first Chairman of the NGT. Justice Prakash Srivastava has been serving as the chairman since August 21, 2023.

The Act substitutes the National Environment Tribunal Act of 1995 and the National Environment Appellate Authority Act of 1997. The National Green Tribunal shall consist of a full-time Chairperson and a minimum of 10 (ten) and maximum limit of 20 (twenty) full-time Judicial Members and Expert Members as determined by Central Government by notifications as per need.²⁰

The NGT will have the jurisdiction over all civil matters that involve a substantial question related to the environment (which includes the enforcement of any legal rights pertaining to the environment), if a question arises as a result from implementation of the laws listed in Schedule I of the NGT Act.²¹ These laws consist of the following:

1. The Water (Prevention and Control of Pollution) Act of 1974,
2. The Water (Prevention and Control of Pollution) Cess Act of 1977,
3. The Forest (Conservation) Act of 1980,
4. The Air (Prevention and Control of Pollution) Act 1981,
5. The Environment (Protection) Act of 1986,
6. The Public Liability Insurance Act of 1991,
7. The Biological Diversity Act of 2002.

KEY PROVISIONS OF THE NATIONAL GREEN TRIBUNAL

- The Tribunal has the same powers of a civil court under the Code of Civil Procedure, 1908.²²
- The Tribunal is not bound by the Code of Civil Procedure, 1908. However, the Tribunal is guided by the principles of natural justice.²³
- The Tribunal is also not obligated to follow the evidentiary rules of the Indian Evidence Act, 1872.²⁴ (Now, BSA 2023).
- With the implementation of the National Green Tribunal Act 2010, both the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997 have been repealed. All the pending cases before the National Environment

²⁰ Section 4 of the National Green Tribunal Act 2010,

²¹ Section 14 of the National Green Tribunal Act 2010.

²² Section 19 (4) of the National Green Tribunal Act 2010.

²³ Section 19 (1) of the National Green Tribunal Act 2010.

²⁴ Section 19 (3) of the National Green Tribunal Act 2010.

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Appellate Authority at the time of the National Green Tribunal's formation have been transferred to NGT.

- The Tribunal's jurisdiction in environmental cases aims to deliver speedy environmental justice and minimise the litigation burden on higher courts.
- The Tribunal while passing any orders/decisions/awards shall apply the principles of Sustainable Development, the Precautionary Principle, and the Polluter Pays Principles.²⁵
- The Tribunal is required to strive for the disposal of applications or appeals within a maximum of six months from the date of filing.
- To facilitate access to justice, Pollution control boards and local authorities are empowered to file applications or appeals on behalf of the affected individuals as empowered by the NGT Act.
- Civil courts do not hold the authority to entertain any appeal concerning a matter that falls within the Tribunal's jurisdiction under its appellate jurisdiction.
- Civil courts or other authorities cannot issue injunctions regarding any orders made by the Tribunal.
- Any appeals against the Tribunal's orders shall lie to the Supreme Court.²⁶

ROLE OF NATIONAL GREEN TRIBUNAL IN ENVIRONMENT PROTECTION

The National Green Tribunal has been playing a major and pro-active role and significantly active in safeguarding the environment and preventing pollutions since its formation in 2010. The NGT serves as a specialized fast-track court dedicated to the speedy disposal of civil cases related to environmental issues. This is the first institution of its kind mandated by its founding legislation to implement the '*Precautionary Principle*'²⁷, '*Polluter Pays Principle*'²⁸, and the concept of '*Sustainable Development*'²⁹. The various landmark cases

²⁵Section 20 of the National Green Tribunal Act 2010.

²⁶Section 22 of the National Green Tribunal Act 2010.

²⁷*Precautionary Principle* aims to provide guidance for protecting public health and the environment in the face of uncertain risks, stating that the absence of full scientific certainty shall not be used as a reason to postpone measures where there is a risk of serious or irreversible harm to public health or the environment.

²⁸*The Polluter Pays Principle* is a principle in international environmental law where the polluting party pays for the damage done to the natural environment.

²⁹ The Brundtland Commission Report 1987 in 'Our Common Future,' defines Sustainable Development as, "*Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.*"

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where notable rulings/orders/judgements are delivered by the National Green Tribunal (NGT) in delivering environmental justice are :-

Save Mon Region Federation v. Union of India³⁰ (*Nyam Jang Chhu Hydroelectric Project Case*)

In this case, an appeal was made through an organization called Save Mon Region Federation alongside a social activist challenging the Environmental Clearance granted for a hydro project worth rupees 6,400 crore in Tawang District of Arunachal Pradesh.

The proposed project site is situated near the winter habitat of the Black-necked Crane, which is classified as a Schedule I species under the Wildlife Protection Act of 1972³¹ and is identified in the 'Threatened Birds of India' documentation provided by the Appellants. In addition to these birds, the area is home to several other endangered species such as the snow leopard, red panda, and Arunachal macaque.

The Tribunal in its order, suspended the Environmental Clearance that had been granted for the Project. The Tribunal instructed the Environmental Appraisal Committee (EAC) to conduct a new assessment for the environmental clearance request and asked the Ministry of Environment and Forest to carry out a separate study on the protection of the aforementioned bird.

Kaziranga National Park Case³²

In this case, the petitioner approached the National Green Tribunal, claiming a serious infringement of the 1996 Notification issued by the MoEF&CC³³, which designated a 15 km area around the Numaligarh Refinery adjacent to Kaziranga National Park as a No Development Zone (NDZ) against indiscriminate installation of stone quarries within this NDZ. Kaziranga, located in Assam, has been recognized as a World Heritage Site by the UNESCO³⁴. The Kaziranga National Park is home to One-Horn Rhinoceroses, elephants, and a diverse range of flora and fauna.

Referencing the Supreme Court case of *Indian Council for Enviro-Legal Action v. Union of India*³⁵, the Principal Bench of NGT discovered that within the NDZ, there were 10 stone

³⁰MANU/GT/0029/2013.

³¹Schedule I of the Wildlife Protection Act 1972 Listed endangered animals/birds which are highly protected.

³²O.A No.38/2011.

³³Ministry of Environment, Forest and Climate Change.

³⁴United Nations Educational Scientific and Cultural Organization.

³⁵AIR 1996 SC 1446.

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crusher units, 34 brick kilns, a number of tea factories, and wood-based units operating illegally.

The NGT ordered the removal of all illegal stone crushers, closed down brick kilns functioning within the NDZ, and prohibited the operation of stone crushing units located nearby the NDZ until they have installed the required pollution control equipment to the satisfaction of the Assam Pollution Control Board.

The Tribunal also directed the State Pollution Control Board and other competent authorities to ensure that no tea processing units and boilers using fossil fuels runs within the NDZ.

State of Meghalaya v. Dimasa Students Union³⁶(*Rat-Hole Mining Case*)

In this case, there was an issues related to unregulated coal mining in the State of Meghalaya. The practice of rat-hole mining which involves digging small tunnels to extract coal from thin coal seams located in the hills.

The NGT noticed that the rampant, illegal, unscientific and hazardous mining activity, particularly rat-hole mining is going on in these hill areas for many years. NGT noticed the report of Commissioner appointed by it and viewed that despite the issuance of order dated 17-04-2014 which prohibited rat-hole mining and illegal transport of coal, fresh mining was going on. The Tribunal also pointed out that the State of Meghalaya had introduced a Mining Policy in 2012 that did not address the issues of rat-hole mining. Furthermore, the State Government was directed to formulate and announce a Mining Policy and Guidelines for the State of Meghalaya to tackle all aspects of mining which had not yet materialized.

The National Green Tribunal (NGT) issued a series of directives prohibiting unregulated and illegal mining activities.

The State Government reported has discovering 73 cases of illegal coal transportation in one district. Additionally, 15 more cases of specific violation of NGT orders had already been registered by the State Government. Across all 11 districts in Meghalaya, 308 cases of violations had been recorded, leading to the seizure of 605 trucks and 2,675.63 tonnes of coal.

The NGT's order faced criticism from a small group of locals, primarily coalmine owners, transporters, politicians, and administrators who have illegally profited from this unregulated

³⁶(2019) 8 SCCt 177.

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mining and are eager to get back the things as usual. They appealed to the Hon'ble Supreme Court to quash the NGT's orders to allow mining to resume.

The Supreme Court reaffirmed the NGT's orders to prohibit illegal coal mining and instructed the State of Meghalaya to pay Rs.100 crores to the Central Pollution Control Board from the Meghalaya Environment Protection and Restoration Fund (MEPRF) and to form an Expert Committee to develop a mechanism for the transportation and weighing of unauthorized mined coal.

Samir Mehta vs. Union of India³⁷(*Marine Pollution Case*)

On 12.08.2011, a Ship named M.V.Rak Carrier, loaded with over 60054 metric tons of coal and carrying 290 tonnes of fuel and 50 tonnes of diesel, sank approximately 20 nautical miles off the coast of South Mumbai due to water entering the ballast tanks, which was caused by technical failures. Delta Group International transported the coal for Adani Enterprises Limited. The marine oil spill has led to environmental harm to aquatic life and resulted in marine pollution. Adani Enterprises took no action to address the pollution resulting from the spill. Consequently, the Indian Coast Guard intervened and took measures to mitigate the damage caused, resulting in significant expenses for the Indian Government.

Samir Mehta, an environmentalist, filed a petition under Sections 14³⁸ and 15³⁹ of the National Green Tribunal Act 2010, raised questions about the significance of environmental jurisprudence concerning the pollution created by the sinking of the ship and the oil spill in the waters, contiguous zone, and the Exclusive Economic Zone of the country, as well as the resulting consequences and liabilities.

The Tribunal ruled that it has the jurisdiction to hear the case as India's sovereignty over natural resources extends to the contiguous area and other economic zones under the Maritime Zones Act, 1976. According to this Act, the Central Government has jurisdiction to protect and preserve the marine environment within these zones, and to achieve this end, the Tribunal is empowered to address matters related to marine pollution in the economic zones.

The Tribunal by applying '*Polluter Pay Principles*' held respondents number 5, 7, and 11 (Delta Group International) liable to pay environmental /damages amounting to Rs.100 crores

³⁷O.A.No.24 of 2011, NGT.

³⁸ Section 14 empowers the Tribunal to settle disputes.

³⁹ Section 15 empowers the Tribunal to provide relief, compensation and restitutions.

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to the Ministry of Shipping, Government of India, under Sections 15 & 17⁴⁰ read with Sections 14 & 20⁴¹ of the NGT Act 2010, for causing marine pollution, for the expenses incurred by the Central Government to clear wrecks which may pose dangers to navigation and marine environment.

Regarding the liability of Adani companies, the Tribunal stated that under Section 71 of the Merchant Shipping Act, 1958, even if a party is not the owner of the goods, but has a beneficial interest other than through means of a loan, they are liable to pay monetary damages. Therefore, Adani companies are liable to pay damages amounting to 5 crore rupees to the Ministry of Shipping.

Manoj Mishra v. Delhi Development Authority⁴² (*Art of living case on Yamuna Floodplain*)

The Art of Living Foundation⁴³ in March 2016, organized a three-day cultural event known as the World Cultural Festival, held from March 11 to 13 on the floodplains of the Yamuna River in New Delhi. The banks of the Yamuna are regarded ecologically delicate, but the arrangements for festival's were remarkable. A stage covering seven acres was constructed, which was the main feature and could host 35,000 musicians and dancers. New dust tracks were created, along with 650 transportable lavatories spread across 1,000 acres of land. According to the event organizers, approximately 35 lakh people attended, including over 20,000 international guests.

On February 8, 2016, a petition was filed to the National Green Tribunal, Principal Bench, New Delhi, as Original Application (OA) by Sri Manoj Mishra, a former officer of the Indian Forest Service, against the Delhi Development Authority (DDA). Several other petitions were clubbed with this O.A. and the respondent parties included not only the DDA but also the Art of Living (AOL) Foundation and the Ministry of Environment & Forest and Climate Change. Previously, Mishra had lodged a written complaint against the respondents with the Lieutenant Governor of Delhi on December 11, 2015.

⁴⁰As per Section 17 the Tribunal may apply the Principle of 'No Fault Liability' while passing an order for relief or compensation.

⁴¹ Section 20 empowers Tribunal to apply the principle of *Sustainable Development*, *Precautionary Principle* and the *Polluter Pay Principle* while passing any order, decision or award.

⁴²O.A.No. 65 of 2016, NGT.

⁴³The Art of Living Foundation established in 1981 by Shri Shri Ravi Shankar, is a NGO focused on humanitarian and educational issues.

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The Tribunal held that the preparations for the event had already harmed and degraded the ecologically fragile environment of the Yamuna Floodplains and therefore, it should no longer be permitted to take place, and the organizers should be penalized. The Tribunal ordered a fine of Rs 5 crore and held the Art of Living Foundation responsible for the damages inflicted on the Yamuna floodplains, which fall under the limited jurisdiction of the DDA. The foundation will be required to restore the floodplains (limited to the area that was designated to them) to the condition that existed prior to the event.

While reprimanding the DDA for its failure to fulfill its legal responsibility in protecting the environment, the Tribunal did not impose any additional penalties on the authority, as it was satisfied that the DDA had already committed to developing Biodiversity Parks and improving the environmental condition of the area using their resources.

Notably, in its ruling, the tribunal did not address the organizers' right to host the event, but instead focused on the pollutants that resulted from the event and how this issue should be resolved in accordance with the law.

M.C.Mehta v. University Grant Commission⁴⁴

(Compulsory Environment Education- UGC Case)

The applicant submitted civil writ petition No.860/1991 titled *MC Mehta v. UOI*,⁴⁵ in which the Supreme Court issued several directives to the Central and state Governments to ensure that students in schools, colleges, and all educational institutions nationwide receive mandatory environmental education.

In 2003, the applicant filed another writ petition, alleging that many States had failed to follow these directives, prompting the Supreme Court, through its order dated December 18, 2003, to reaffirm the requirement for compliance by the authorities. The court instructed all States to ensure that educational institutions under their jurisdiction take the necessary actions and implement them starting from the 2004-05 academic year. The court also declared that failure to comply with these directives by any institutions would be regarded as disobedience, warranting disciplinary action against those institutions.

In 2004, the UGC⁴⁶ and the AICTE⁴⁷ informed the Supreme Court that they had developed a syllabus that included environmental science to be introduced in the following academic year with guidelines for incorporation within educational institutions.

⁴⁴O.A No.12 of 2014 NGT.

⁴⁵AIR 1991.

⁴⁶The University Grants Commission.

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However, in present application before the Principal Bench of the NGT argued that environmental science was being taught by teachers who did not meet the qualifications outlined by UGC guidelines. The applicant indicated that teachers specialized in different subjects were tasked with teaching environmental science, which contravened the letter and spirit of judgments and orders issued by the Hon'ble Supreme Court.

The Tribunal concluded that the application lacked any merit, as it was evidently aligned with the constitutional framework and service jurisprudence. The Tribunal indicated that the matter does not raise any substantial question of environmental law when viewed correctly within the context of the NGT Act and the relevant Schedule Acts.

The Tribunal stated that environmental education cannot be brought within the definition of 'Implementation' as provided in Schedule-I of the NGT. The term 'Implementation' when interpreted correctly, does not grant the Tribunal the authority to give directives concerning matters of education in environmental sciences. Additionally, the Tribunal indicated that the applicant's legal rights were not infringed upon and that there were no legal grievances according to the application provided.

The Tribunal indicated that the argument suggesting 'mass education' in section 16(e)⁴⁸ of the Water Act and section 16(f)⁴⁹ of the Air Act would support the applicant's request for such an order was misconceived.

The Tribunal clarified that the programs envisioned under these provisions must focus on the prevention and control of pollution, rather than on the criteria for appointing teachers or the methods for teaching environmental science in educational institutions.

Thus, the Tribunal rejected the application and held that it could not consider such a request since it clearly fell outside the scope of Section 14 in conjunction with Section 18⁵⁰ and Schedule I of the NGT Act. Nevertheless, the Tribunal mentioned that the applicant was free to seek recourse from any court with appropriate jurisdiction.

Vardhaman Kaushik v. Union of India⁵¹ (Delhi Air Pollution Case)

This case represents a unique example where the NGT has adopted a pragmatic 'consultative and deliberative approach' to confront the serious menace of air pollution in Delhi. The

⁴⁷ The All India Council for Technical Education.

⁴⁸ The Centre Pollution Control Board may organize through mass media a comprehensive programme regarding the prevention and control of water pollution.

⁴⁹ The Centre Pollution Control Board may organise through mass media a comprehensive programme regarding the prevention, control or abatement of air pollution.

⁵⁰ As per Section 18 of the NGT Act 2010, an Application or Appeal can be made to Tribunal.

⁵¹ Original Application No. 21/2014.

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Tribunal directed all stakeholders and concerned Departments from the States to attend a chamber meeting held at the NGT. The Tribunal acknowledged that three main factors are responsible for the severe air pollution in NCR Delhi. Viz, (1) dust, (2) open burning of plastics and other materials, including leaves, and (3) emissions from vehicles.⁵²

Recognizing the gravity of the issue, the NGT issued several directives, including the following:

1. No individual shall be allowed to burn plastic, garbage, or any other materials in open spaces. Anyone causing pollution will face liability for compensation under Section 15 of the NGT Act 2010, in line with the '*Polluter Pay Principle*'.
2. The burning of crop remnant in agricultural fields within NCR Delhi shall be strictly forbidden.
3. NCT, Delhi, and DPCC will establish a web portal where individuals can upload photographs and details of locations to report issues to these authorities.
4. Vehicles older than 15 years will be prohibited from operating in Delhi. The Transport Commissioner will ensure that such vehicles are not registered in NCR Delhi.
5. All trucks and vehicles used for construction or transporting construction materials such as cement and sand, etc must be fully covered.
6. The Transport Department must promptly ensure the installation of suitable 'catalytic converters', particularly for diesel vehicles, if not already fitted, to reduce the pollutants released into Delhi's atmosphere.
7. Vehicles are not allowed to park outside designated parking zones. Unauthorized parking is prohibited.
8. Public transport usage will be promoted, and measures should be taken to prevent traffic congestion.
9. The NCR of Delhi, DPCC, and Forest Department must enhance the forest cover and maintain existing green spaces and forests appropriately while ensuring that no degradation occurs.
10. Efforts should be made to raise awareness about environmental education.

The applicant appealed before the Supreme court to modify the above order passed by the NGT in 2014 and 2016,

⁵²P.S.Jaswal&N.Jaswal, Environmental Law 397 (Allahabad Law Agency, Haryana, 4th Ed.2015).

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The Hon'ble Supreme Court rejected the Appeals in exercise of its Appellate jurisdiction under Section 22 of NGT Act and upheld the order of NGT

CONCLUSION

It took over two decades to establish a distinct specialized environmental court, the National Green Tribunal (NGT), to address environmental issues since the initial recommendations made by the judiciary way back in 1986. The preamble of the NGT Act clearly outlines the objective of the Act, which is to effectively and expeditiously resolve cases related to environmental protection and the conservation of forests and other natural resources. Additionally, it seeks to ensure the enforcement of legal rights concerning the environment, giving relief and compensation for damages to individuals, property, and the environment. The Tribunal is an expert specialized entity equipped to handle environmental disputes that involve issues from multi-disciplines.⁵³ The Tribunal comprises of Judicial Members and Expert Members who possess specialized knowledge in the fields of environmental and related sciences.

The analysis of various landmark judgments delivered by the National Green Tribunals highlights India's NGT as a Guardian and true protector of environment in India. In just few years, India's NGT has established itself as an exceptionally effective forum, setting high benchmarks for environmental adjudication. The solid groundwork being established during these period, positions the NGT to achieve significant milestones in conserving and enhancing the nation's biodiversity and natural resources.

The NGT is seen as a powerful adjudicative body that boldly enforces the law against the Union Government, State Governments, Pollution Control Boards, Big corporations, and influential spiritual leaders. Its steadfast and aggressive stance on strictly enforcing environmental laws, along with innovative methods to broaden its jurisdiction, is endearing it to environmentalists while causing concern among powerful stakeholders.

The Tribunal affirming its existence by efficiently resolving cases related to environmental protection and the conservation of forests and other natural resources. Its serious commitment to enhancing biodiversity and creating a healthy environment is clear through its flexible approach, liberal interpretation, and innovative strategies to tackle environmental challenges, thus bringing new dimensions to environmental jurisprudence in India

⁵³Annual Report 2011-2012, Ministry of Environment and Forests, Government of India, at p-276.

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Thus, the National Green Tribunals (NGTs) as a Guardian and Protector plays a vital and pro-active role in environmental protection, prevention of environmental pollutions and promotion of sustainable development and has a remarkable contributions in the development of new environmental jurisprudence in the country. However, there are certain drawbacks in the National Green Tribunal Act itself under which the NGTs are established which need to be addressed.

SUGGESTIVE MEASURES

The National Green Tribunal (NGT) has been playing a pro-active and commendable role in delivering environmental justice right from its establishment. After careful and close analysis and observations of its operation and the trend of its working, it is suggested that the following measures are to be taken for better, efficient and effective functioning of the NGT and for protection and preservation of environment in the country:

1. NGT currently has a limited number of regional benches, viz, Principal Bench in Delhi and only four others regional benches in Bhopal, Pune, Kolkata and Chennai which will not achieve the desired result of the NGT Act, i.e, equitable access to justice.. Therefore, it is suggested that the Government should establish its benches in every state, so that justice access to every part of the country.

2. It is observed that, there is a lack of Judicial Independence and potential for political interference as in each and every clause of the National Green Tribunal Act 2010 with regards to the establishment of the Tribunal the word 'Central Government' reflects that the Tribunal is very much influenced by the Government.

For instance, Section 6 of the NGT Act, 2010 provides that the Chairperson, Judicial Members and Expert Members of Tribunal shall be appointed by the Central Government. The Central Government act might be a prejudice act, because the government changes periodically and they may act according to their whims and fancies. Further, Section 8 stated that the Judicial Member and the Expert Member if wants to resign, by notice in writing under their hand addressed to the Central Government. Thus, once again here, clearly see the dominance of the role of Central Government which comes into the picture, which may be jeopardise the autonomous nature of the very institution of NGT.

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Keeping this in mind, it is suggested that instead of the Central Government, there shall be an 'Independent and Autonomous Body' which would regulate the entire procedure of Appointment as well as Removal of its members.

3. The Clause (2) of the Section 6 adds that, the Chairperson shall be appointed by the Central Government in Consultation with the Chief Justice of India. The word 'Consultation' means to just formally inform, thus the Central Government just informs/consults the Chief Justice but nowhere in the said act, it is mentioned that is the Central Government bound to act according to the view of the Chief Justice of India.

In this context, it is strongly suggested that the word 'on the basis of the recommendation' should be substituted instead of the word 'Consultation', so that the view of the Chief Justice of India becomes binding on the Government concerning the appointments of the Chairperson, Members (Judicial/Non-judicial).

4. It has observed that Section 6(3) of the said act, which states that the Judicial Member and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed, whereas there is no such provision in the said act, stating how will the Selection Committee be formed? Who shall be included in the Selection Committee? What procedure the Selection Committee should follow while selecting the members, etc, Thus, the said act remains silent on such important operative aspects. Therefore, it is suggested that there should be a clear provision for the above issues.

5. The provision of Section 14(1) of the said Act, which states that the tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right pertaining to environment) is involved and issues arising from the implementation of the laws listed in Schedule I. In this regard, the word 'Implementation' can be understood as mandatory in nature, which imposes legal duty on the state, therefore, the states are required to act in compliance with the directives set forth in the environmental laws of Schedule-I.

Hence, it is suggested that word 'Violation' may be used instead the term 'Implementation', so that any state if violates the said provision, cause of action can be initiated by *Suomoto* by the NGT itself.

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6. Another important concern is with regard to the issue of the Limitation Period of the NGT Act, which has emerged as a point of debate because the substances or the matters which causes environment takes time in actually affecting to the people, for e.g. it can be termed as slow poison at the initial stage and one may not be aware of the problems affecting to the public. Only, at the later stage, after few years the problem can be identified to the public and if they move to the tribunal their application may be dismissed on the technical ground of limitation period.

Thus, it is suggested that the rigid approach of limitation period needs to be discarded and here more proactive and judicious approach of case based flexibility should adopted for the NGT, by making the suitable and needful legal amendment in the said Act.

7. The effectiveness and implementation of NGT's order is a major concern. Sometimes NGT order are not always fully complied by the polluter or stakeholder or Government, and some order are not feasible to implement. It has observed that apart from Constitutional mandate to protect and promote the environment, there are more than 200 laws on the subject.

Therefore it is suggested that the Government should take necessary action for strengthening the Enforcement Agency/Mechanism for strict implementation of various environmental legislations and punished the violators.

8. Though the Pollution Control Boards have been doing yeoman service in the country for protection of environment, they need to give special attention for implementation of environmental concerned court judgements (NGT's orders) in their letter and spirit without lapse of time in co-ordination with all concerned departments.

9. It has observed that there is a lack of clear formula for determining compensation which can lead to dispute and uncertainties. Therefore, it is suggested that there should be a clear formula in relating to the fixing of compensation.

10. Local interest groups and NGOs should be encouraged to take active interest in awareness programmes or sensitizing the people about importance of environment and their duty to preserve and protect the same. The National Green Tribunal is a remarkable initiative by the Government in the field of environmental protection. The rightful implementation of the laws and adoption of above suggestive measures would certainly usher the country towards

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the path of sustainable development and guarantee a harmonious relationship between the environment and society.

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