The power and function of National Green Tribunal: Critical analysis of select cases

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ABSTRACT
The National Green Tribunal is a crucial step to provide justice to environment related cases and its instructions are much better than earlier environmental courts and authorities that were present before it. It is a specialised body consist of experts in environmental field to handle environmental disputes. It works on the principle of natural justice. It was created to serve as a watchdog on environmental activities. The paper is to provide the critical understanding and analysis of the functioning of NGT. National Green Tribunal is working to provide environmental justice and helping the situation related to right to good health of citizen under Article 21 of our constitution. NGT has achieved success and establishment in a very short span of time and proved itself as one of the trustful institutions in India. The National Green Tribunal has given judgement on various cases, if anybody tries to provide harm to our environment then NGT has right to give them strict punishment.

Key Words: National Green Tribunal, NGT ACT, Environmental Justice, NGT Judgement

INTRODUCTION
Environment broadly refers to the surrounding that involves all living and non-living things comes including the air which we are breathing, the water which we use for our daily purposes, plants, animals and other living things etc. An environment is in good condition when natural cycle goes side by side without any disturbance. Various countries have established separate Green Tribunal or environmental court to compact with the environmental related cases.

The supreme court of India suggested that there was an urgent need for rapid justice for environmental protection when the cases like Bhopal gas tragedy in the year 1984 happened and gas which was leaked from Shriram food and fertilizers limited in Delhi. So the Supreme Court said to make such tribunal where environmental scientist should be there to sought out environmental cases. After Australia and New Zealand, India is the third country which has specially designed environmental court.

The National Green Tribunal has given their judgement on various cases like the Art of Living programme on Yamuna River in 11-13 March 2016 which was the World Culture festival. The National Green Tribunal is a crucial step to provide justice to environment related cases and its instructions are much better than earlier environmental courts and authorities that were present before it. It is a specialised body consist of experts in environmental field to handle environmental disputes. It works on the principle of natural justice. It was created to serve as a watchdog on environmental activities. The paper is to provide the critical understanding and analysis of the functioning of NGT. National Green Tribunal is working to provide environmental justice and helping the situation related to right to good health of citizen under Article 21 of our constitution. NGT has achieved success and establishment in a very short span of time and proved itself as one of the trustful institutions in India. The National Green Tribunal has given judgement on various cases, if anybody tries to provide harm to our environment then NGT has right to give them strict punishment.

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member of the tribunal solved environment related litigations in a very expeditious way that is why it is called fast-track court. NGT has done lot of things to protect our environment from depletion. NGT ordered that all industrial activities in Delhi which are causing air pollution will not be allowed to carry on their functioning till 14 November 2017. NGT asked NCT (National Capital Territory) Delhi and other authorities to ensure that diesel vehicles more than ten years old and petrol vehicles which are 15 years are not allowed to ply.

NGT also gave their judgement on stubble burning case in Punjab. Stubble burning means intentional setting the straw stubble on fire. It contributes to the atmospheric carbon dioxide. The farmers burns it because they find it cheaper, quicker and easier to burn, enabling them to plant the next crop wheat in time and animals cannot digest it. Due to stubble burning Delhi smog increased, then the Tribunal directed National Thermal Power Cooperation Limited that to convert stubble into fuel so that pollution can be avoided in this way stubble will not get wasted. Awareness is very important if we want to bring change in the thinking of people. The United Nation Conference on the Human Environment, suggested important steps to save and protect our environment. ‘The Stockholm Declaration of 1972’ was the initial planning adopted by environment conference. The second environment ‘Rio Conference of 1992’ frazzled the call for judicial and administrative entrance to the citizens of a nation-state.

The 17th law commission of India suggested that it is very crucial to form environmental courts at State level to solve environment related matters. Before the NGT come into existence, there were two environmental courts were formed. The first was National Environment Tribunal Act of 1995. The second one was National Environmental Appellate Authority Act 1997. The National Environment Tribunal Act was enacted by the parliament on 17th June 1995. Act has failed to fulfil its responsibilities and objectives laid. The National Appellate Authority Act was formally constituted in 1997. But due to lack of experts in the field of environment this court failed.

National Green Tribunal Act:

National Green Tribunal Act is an act of the which includes it is very important to create special tribunal which has ability to handle environment related cases. The National Green Tribunal Bill, 2009 was presented in Lok Sabha on 31st July 2009 and Rajya Sabha on May 5, 2010. The President of India on June 2, 2010 accepted NGT Act 2010.

8. Ibid
The National Green Tribunal draw inspiration from the India’s constitutional condition of Article 21, which assure the citizens of India the right to a vigorous environment. An Act to offer for the organization of a National Green Tribunal for the successful and quick removal of cases relating to environmental fortification and preservation of forests and other natural resources counting enforcement of any lawful right relating to environment and giving assistance and reimbursement for reparation to persons and assets and for matters related there with or subsidiary there to.9

The principles laid in Code of Civil Procedure shall not be guided by the Tribunal rather it should be guided as principles of natural justice. It is obligatory for tribunal to marshal cases within 6 months of filing of the same. NGT gives their judgement on three principles:

- The first principle in which NGT gives their judgement is sustainable development.
- The second principle is polluted base principle.
- The third principle is precautionary principle.10

Review of Literature:

Sahu Geetanjoy and Rosencranz Armin (2012) judged NGT is most progressive environmental authority in India. It is a body which is equipped with environmental experts which solve environmental related cases quickly. It has specialised lawyers. It further said that the quality of judgments is highly dependent on the quality of arguments which is made by the lawyers.11

Gill Gitanjali Nain (2015) examined that there are various environmental problems which are depleting our environment. It also said that “the important of experts is almost important for the decision making process related to environment. The role of experts is essential for the proper legislation of environmental laws. The experts don’t include judicial members but it include the technical members which have specialized scientific knowledge related to environmental studies, ecology etc. The involvement of experts is very important for the proper functioning and implementation of laws and giving punishment and fine to peoples which degrade our environment”.12

Khandare Ms. Jayashree (2015) studied that it is very “important to protect and improve our environment. It defines the power of National Green Tribunal. He defines that the National Green Tribunal can present their cases or policies to Supreme Court only after the recommendation of high court. It means that NGT has to take approval of high court before the implementation of their policies and programmes”.13 He focused on the number of cases which were presented in NGT after its establishment till January 31, 2015 is 7,768 out of this total number of cases which are regulated is 5,167 and number of cases pending is 2,601.

Patra Swapan Kumar and Krishna Venni Venkata (2014) reviewed the National Green Tribunal is a quasi-judicial body. “It consists of same number of judicial and expert which is relates to this

field. He said that for the quick disposal of cases the involvement of both types of professional are atmost important. NGT is working very well to do justice with our environment. It has made various policies; orders related to prevention of bio diversity of Western Ghat Mountain, safeguard of wild life species in Kaziranga National Park (Assam). It is a remedy to all environmental problems.  

Mishra Vinod Shankar (2016) inspected “National Green Tribunal is a specialised body which provides relief and compensation to those who has faced problems due to environmental pollution. If any company creates environmental pollution then NGT has right to fine that company. National Green Tribunal has right to fine any government department if they fails to works according to the order of National Green Tribunal.”

The NGT has the power to deal with all these by itself. It can impose fine up to 10 crore, jail up to three years and for firms it can extend up to twenty five crores.

RESULTS AND DISCUSSION

Cement industry pollution Bilaspur Himachal Pradesh case:

In this case the president of a society under cooperative societies registration act 2006 has approached the tribunal under section 14,15 and 17 of NGT Act2010 with an appeal that tribunal should pass an order to the official respondents to take necessary steps against Associate Cement Company limited which is located in Barmana District Bilaspur state of Himachal Pradesh which is causing air and water pollution. The farmers those were living there showing full cooperation by vacating their valuable lands for the development of plant. But after that they faced serious health problems.

The appeal was submitted to government and the pollution control board the team visited the area inspected the industry. The deputy chairman Bilaspur also conduct meeting of the complaints and Associate Cement Company Limited Barmana to look for the solution to resolve this problem of the local residents as a part of cooperate social responsibility activity. Then they suggested few precautions that industry have to take, i.e. industry provide acoustic measures around the electric motors, machines etc. at the boundary walls, permanent covered, enclose shed for the some of the material lying stacking of the material gypsum ash, cool etc., to provide important measures wall of adequate height along the roadside towards village Barhai to reduce the noise generated from crusher and vehicular movement, to restrict the operation of crusher during night hours, to change


18. National Green Tribunal 2015, Cement industry pollution Bilaspur Himachal Pradesh , Application no.157

the old machines with new machines\textsuperscript{19}.

The appeal was presented in front of Himachal Pradesh Pollution Control Board. Then the board inspected collected samples from people that are living thereby it and found that company did not take important steps as well as the emission was above the prescribed limit. The notice were issued to Associate of Cement Company Limited to control the pollution level and there should be the establishment of electrostatic precipitator, vaccum cleaner, water sprinklers, air pollution control devices to prevent air pollution. After period of one month the unit was again inspected and the inspected team submitted its report to tribunal that how many people faced serious diseases due to manufacturing activity by industry. NGT in their judgement said that industry have to pay fine for polluting our environment and playing with the health of villagers\textsuperscript{20}. The fine shall be paid in the following manner:-

\begin{itemize}
\item Rs. 20 lakhs to the CPCB,
\item Rs. 20 lakhs to the HPPCB
\item Rs.10 lakhs to the Government Hospital at Bilaspur.
\end{itemize}

National Green Tribunal said that respective Boards will use this amount for taking measures for improving environmental and ecological damage that has occurred in the past, around the premise of the industry and would ensure that there is no pollution in future\textsuperscript{21}.

**Water pollution in the river Ganga, particularly between Garh Mukteshwar and Narora case:**

In this case it is very briefly defined that how Ganga river is polluting day by day particularly between Garh Mukteshwar and Narora, dangerous toxic material which are released by the Sambhaoli drain and Gopaliji Dairy into the Sambhaoli drain/Phuldera drain enters into the canal which is called Syana escape joins holy river Ganga. Sambhaoli Sugar Mill which has 3 distilleries in the state of Uttar Pradesh was instructed in 1933. The Syane escape canal and river Ganga is effecting by it. It was also affecting aquatic life\textsuperscript{22}.

Schedule 1 of the Wildlife Protection Act, 1972 includes the highly endangered species of dolphins of Ganga.. More than 9000 tonnes of pesticides and 6 million tonnes of chemical fertilizers are used every year within the basin. The pure water becomes fatty, oily and greasy which is ailing for consumption. The letter was send and the whole situation of pollution by these industries was defined to chairman of Ganga river basin authority by sending letter but they did not do anything then Uttar Pradesh Pollution Control Board was informed \textsuperscript{23}. Then samples were collected from Simbhaoli drain on 7\textsuperscript{th} August, 2013 and report was provided by the said laboratory on 25\textsuperscript{th} August, 2013\textsuperscript{24}.

The tribunal then directed UPPB upholds that there should be constructed separation of water

\begin{thebibliography}{99}
\item 20. Ibid
\item 21. Ibid
\item 22. National Green Tribunal 2014, Water pollution in river Ganga particularly between Garh Mukteshwar and Narora, Application no.299
\item 23. Ibid
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The NGT ordered that these units have to pay fine of Rs. 25 Lakhs within a month and it shall be given to UPPCB which will use this amount for reconstruction of environment and for reconstruct the loss which is facing by Syana canal, ground water and other water bodies. NGT under Section 20 said that for restoration and polluting Ganga river these units have to pay compensation of rupees five crores (5,00,00,000/-) to UPPCB within one month and if these units will not do their work properly in order to protect Ganga then they will have to pay fine of Rs. 1 crore. NGT further ordered that the committee will revisit and if they find that the units is not working according to instructions which is given by NGT to them then these units will demolish the pipeline which is leading to Phuldera drain in two weeks. On 7 July 2017 the Ganga and Yamuna rivers has given status of ‘Living Entities’ by Uttarakhand high court.

The NGT has given the title of ‘Living Entities’ with every right and duties to Ganga and Yamuna so that they can protect these rivers from pollution. To protect Ganga from pollution NGT in 13 July 2017 said that if anybody found dumping waste into the river could be fined Rs.50,000.

Case of noise pollution because of vehicles affecting the health of residents of Panchshila park area, Delhi:

The president of Panchshila cooperative house building society which is recognised as the Resident Welfare Association (RWA) of the area by Delhi Government, an retired IAS and a resident of a house complaint of the of violation of the noise pollution caused by traffic passing on both sides of the outer ring road which divides the area into two, affecting the health of the residents of Panchshilla park area. The people of that area directing the Delhi government PWD/DDA prayed to put up sound pollution control screen on outer ring between the S and N blocks of Panchshilla Park area from the Panchshilla club to metro station.

The NGT ordered on 21 May 2014, the committee experts under the chairmanship of engineer

27. Aggarwal 2017, NGT to impose 50,000 fine for dumping waste in ganga river, Live Mint.13 July, viewed 30 August 2017http://www.livemint.com/Politics/PpHoDzPFs9c7CN3bo3TsxN/NGT-declares-NoDevelopment-Zone-near-Ganga-river.html
29. National Green Tribunal 2014, Water pollution in river Ganga particularly between Garh Mukteshwar and Narora, Application no.299
30. National Green Tribunal 2017, Noise pollution because of vehicles affecting health of Panchshila park area Delhi, Application no.181
member Delhi Development Authority to conduct the site visit on 17 June 2014 near the Panchsheel park but it did not work. Tribunal directed IIT Roorkee to make recommendations for noise abatement with respect to short, medium and long term (Original Application No.181/2017). The report was made by IIT Roorkee on 30th November 2014 which was studying the noise level and traffic on roads connecting Nehru Place to Dhaula Kuan to and fro. It was observed that during day time maximum noise level is observed during 6p:m to 7p:m and minimum value of noise was observed during 6a:m to 7a:m.

In this regard Delhi police had submitted that due to important commercial establishments like Nehru place, Okhala industrial area and Tughlakhabad container depot, the traffic volume and strategic location of this road does not allow diversion of traffic to any other road. Delhi Traffic Police, PCR and Local police were conducted a major joint exercise every night to educate, discipline and punish the violator’s coming on National Highway. It states that banning of horns, reducing the maximum speed of vehicles on this stretch of road, preventing overloading of goods carrier, using double and sound proof glasses in houses and using double door and sound proof glasses in houses should be done. The IIT Roorkee said that noise pollution can be controlled by short term:-minimizing the traffic volume, sound installation of individual houses adjacent to major traffic roads and intersections, noise abatement oriented layout which means windows can be placed in the walls perpendicular to the outer ring road, installing double glazed windows, medium term:-the planting of trees and shrubs along the road on both sides, replacing rough surface with smooth asphalt which is low noise road surface material. Long term:- use of noise-attenuating barriers can be planned to be implemented in long run after analysing their cost benefits ratio ,enforcement of standards should be carried through type testing of new vehicles and silencers should be replaced, noise emission test can be included in pollution Under Control Certificate.

The people of that area said that if DDA works according to the recommendations of IIT Roorkee, then they will not press this matter anymore. The police were ordered that the speed of vehicles should not exceed 30 kms/hour and prevent overloading of vehicles pressure horns were strictly prohibited. PWD was asked to declare the area as ‘’no horn zone’’ and while imposing challan on the violaters in addition to fine of Rs.500/- the violaters were directed to pay Rs.1000/- by invoking the polluter pays principle. It further said that DDA, Delhi government and PWD will give report to the NGT every three months about the progress on the directions issued by this tribunal.

Case of Bhalswa landfill Delhi:

Delhi which is capital of India is facing serious problems related to environment. Bhalswa place which is situated in northwest Delhi is facing environmental pollution problems. The North


32. Ibid

33. National Green Tribunal 2017, Noise pollution because of vehicles affecting health of Panchshila park area Delhi, Application no.181

34. Ibid
Delhi Municipal Cooperation is continually dumping the garbage of whole area at Bhalswa place from so many years ago. The people which are living nearby it are facing lot of health problems\textsuperscript{35}. The waste material is creating soil pollution and water pollution. People of that area were facing lot of problems but nobody is paying any attention at them, nobody was taking any step to find any solution of this problem.

In 2006 when Devender Yadav was elected as MLA of this area, he saw that people are facing lot of problems then he spread awareness among people regarding this by doing protest and he present the case in front of government. But no action is taken by government. Municipal cooperation again throws garbage in that area due to non availability of land. The 40-acre landfill site was declared exhausted in 2006 but municipal cooperation did not find any other solution so they continued to dump garbage at the site\textsuperscript{36}. In landfills garbage from all the area like wood, paper, waste materials from hospital etc. are thrown. This leads to damage in land and the wastes remains there for years and it destroys the soil quality. The industrial waste, factories waste makes soil a bare land in which you cannot grow anything.

In 11 November, 2017 fire broke out at Bhalswa landfill\textsuperscript{37}. The fire breaks out usually due to excessive release of methane gas. Landfill releases various toxic gasses in which methane is most harmful gas. Methane gas is produced during decay of organic matter in a natural manner. It is released from untreated landfills which are 20 times more efficient to trap solar radition thus; it is more effective than carbondioxide. Methane is most flammable gas in landfill\textsuperscript{38}.

Senior official from South Corporation said that compost and waste to energy plant can be installed in Delhi but for this purpose they need land which is not available. Experts from IIT Delhi are working on plan for processing of waste but till that they need land to dump waste material. East and south cooperation have signed an agreement with National Highways Authority of India for utilisation of waste material from landfill for road construction projects, the work will began from November last week. As per LG’s ordered added a senior official from East cooperation that around 70% waste will be utilised and then they will turn these sites into green cover. The NGT said that short term and long term goals should be made for this problem and to protect our environment\textsuperscript{39}.

**Suggestion and Conclusion :**

NGT is a statutory body which works for the protection of environment and it also provides


\textsuperscript{36} Ibid


punishment to those candidates which degrade our environment. There are two types of resources. Renewable resources are those resources which are renewed by nature. For example: oxygen, solar energy, wood etc. Non-renewable resources are those resources of energy which are not renewed by nature. For example: coal, petroleum and natural gas. So, we should use renewable resources of energy and we should use non renewable resources in such a way that the future generation can also use it. After industrial revolution India is developing itself in the industrial sector, they are focussing very much on development and less on to maintain purity of environment.

Every year so many cases come in NGT so it is very important that we should focus on the roots of problem and that is to bring awareness among people. It is very important that NGT should establish such programme by which they can spread awareness and knowledge regarding sustainable development, environmental degradation etc. There are such cases happened in which people from rural area are illiterate people, they are creating environmental pollution by burning crops residue like the case that was happened in Punjab, Haryana stubble burning case. So, it is very important that NGT should frame such policies, programmes in which they should give responsibility to some authorities that they will go to door to door in rural areas and will spread awareness among people. We are human beings so we should love our environment. Education is only thing which separate human beings from animals. To stop environment from degradation people should be aware of it. To stop air pollution highly advanced technology like electrostatic precipitator, cyclone separators, gas control etc. should be installed in industries. The use of old machines in industries and factories should be banned.

The people should use only those vehicles which will create less pollution. Such as LPG Liquefied Petroleum Gas which creates less pollution. These LPG release less carbon dioxide into the environment. To stop water pollution industries and factories should stop releasing their waste material into water. They should use highly advanced machines and technologies like inclinator to stop this pollution. To stop noise pollution it is very important that we should plant more and more trees and should create green blanket along road to reduce noise level instead of cutting more and more trees for fulfilment of our needs. To stop soil pollution two types of dustbin should be provided in every area by government. In Red dustbin people are allowed to throw solid waste material and in yellow dustbin people should be allowed to throw waste material which is in liquid form and everyday one NGT vehicle should come to collect this waste material and send it to industries where waste materials are converted into useful materials by highly advanced machines. Sustainable development is the need of the hour. I have studied cases related to environment so that we can understand that how NGT is functioning and solved these problems quickly. NGT instituted around 23,341 cases, disposed 19,970 cases and it has 3,371 pending cases (Vidhi, 2017). If anyone fails to follow orders of NGT then NGT has right to punish them for three years imprisonment and fine which can extend to ten crore rupees fine. Environmental degradation can be controlled only if people and tribunal will work together so that we can save our environment from degradation. Extend to ten crore rupees fine. Environmental degradation can be controlled only if people and tribunal will work together so that we can save our environment from degradation.

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