

National Green Tribunal Act 2010

- It is a specialised body set up under the National Green Tribunal Act (2010) for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources.
- With the establishment of the NGT, India became the third country in the world to set up a specialised environmental tribunal, only after Australia and New Zealand, and the first developing country to do so.
- NGT is mandated to make disposal of applications or appeals finally within 6 months of filing of the same.
- The NGT has five places of sittings, New Delhi is the Principal place of sitting and Bhopal, Pune, Kolkata and Chennai are the other four.

Structure of NGT

- The Tribunal comprises of the Chairperson, the Judicial Members and Expert Members. They shall hold office for term of five years and are not eligible for reappointment.
- The Chairperson is appointed by the Central Government in consultation with Chief Justice of India (CJI).
- A Selection Committee shall be formed by central government to appoint the Judicial Members and Expert Members.
- There are to be least 10 and maximum 20 full time Judicial members and Expert Members in the tribunal.

Powers & Jurisdiction

- The Tribunal has jurisdiction over all civil cases involving substantial question relating to environment (including enforcement of any legal right relating to environment).
- Being a statutory adjudicatory body like Courts, apart from original jurisdiction side on filing of an application, NGT also has appellate jurisdiction to hear appeal as a Court (Tribunal).

- The Tribunal is not bound by the procedure laid down under the Code of Civil Procedure 1908, but shall be guided by principles of 'natural justice'.
- While passing any order/decision/ award, it shall apply the principles of sustainable development, the precautionary principle and the polluter pays principle.

NGT by an order, can provide :

- relief and compensation to the victims of pollution and other environmental damage (including accident occurring while handling any hazardous substance),
- for restitution of property damaged, and
- for restitution of the environment for such area or areas, as the Tribunal may think fit.
- An order/decision/award of Tribunal is executable as a decree of a civil court.

The NGT Act also provides a procedure for a penalty for non-compliance:

- Imprisonment for a term which may extend to three years,
- Fine which may extend to ten crore rupees, and
- Both fine and imprisonment.
- An appeal against order/decision/ award of the NGT lies to the Supreme Court, generally within ninety days from the date of communication.

The NGT deals with civil cases under the seven laws related to the environment, these include:

- The Water (Prevention and Control of Pollution) Act, 1974,
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- The Forest (Conservation) Act, 1980,
- The Air (Prevention and Control of Pollution) Act, 1981,
- The Environment (Protection) Act, 1986,
- The Public Liability Insurance Act, 1991 and
- The Biological Diversity Act, 2002.

- Any violation pertaining to these laws or any decision taken by the Government under these laws can be challenged before the NGT.

Strengths of NGT

- Over the years NGT has emerged as a critical player in environmental regulation, passing strict orders on issues ranging from pollution to deforestation to waste management.
- NGT offers a path for the evolution of environmental jurisprudence by setting up an alternative dispute resolution mechanism.
- It helps reduce the burden of litigation in the higher courts on environmental matters.
- NGT is less formal, less expensive, and a faster way of resolving environment related disputes.
- It plays a crucial role in curbing environment-damaging activities.
- The Chairperson and members are not eligible for reappointment, hence they are likely to deliver judgements independently, without succumbing to pressure from any quarter.
- The NGT has been instrumental in ensuring that the Environment Impact Assessment process is strictly observed.

Challenges

- Two important acts - Wildlife (Protection) Act, 1972 and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 have been kept out of NGT's jurisdiction. This restricts the jurisdiction area of NGT and at times hampers its functioning as crucial forest rights issue is linked directly to environment.
- The NGT decisions are being challenged in various High Courts under Article 226 (power of High Courts to issue certain writs) with many asserting the superiority of a High Court over the NGT, claiming 'High Court is a constitutional body while NGT is a statutory body'." This is one of the weaknesses of the Act as there is lack of clarity about what kind of decisions can

be challenged; even though according to the NGT Act, its decision can be challenged before the Supreme Court.

- Decisions of NGT have also been criticised and challenged due to their repercussions on economic growth and development.
- The absence of a formula based mechanism in determining the compensation has also brought criticism to the tribunal.
- The decisions given by NGT are not fully complied by the stakeholders or the government. Sometimes its decisions are pointed out not to be feasible to implement within a given timeframe.
- The lack of human and financial resources has led to high pendency of cases - which undermines NGT's very objective of disposal of appeals within 6 months.
- The justice delivery mechanism is also hindered by limited number of regional benches.

Important Landmark Judgements of NGT

- In 2012, POSCO a steelmaker company signed a MoU with the Odisha government to set up steel project. NGT suspended order and this was considered a radical step in favour of the local communities and forests.
- In 2012 Almitra H. Patel vs. Union of India case, NGT gave judgment of complete prohibition on open burning of waste on lands, including landfills – regarded as the single biggest landmark case dealing with the issue of solid waste management in India.
- In 2013 in Uttarakhand floods case, the Alaknanda Hydro Power Co. Ltd. was ordered to compensate to the petitioner – here, the NGT directly relied on the principle of 'polluter pays'.
- In 2015, the NGT ordered that all diesel vehicles over 10 years old will not be permitted to ply in Delhi-NCR.
- In 2017, the Art of Living Festival on Yamuna Flood Plain was declared violating the environmental norms, the NGT panel imposed a penalty of Rs. 5 Crore.
- The NGT, in 2017, imposed an interim ban on plastic bags of less than 50-micron thickness in Delhi because "they were causing animal deaths, clogging sewers and harming the environment".

Conclusion

There is need for more autonomy and widen NGT's scope for effective protection of environment in balance with human developmental activities.