



The Evolution Of Environmental Jurisprudence Through The Judgments Of The National Green Tribunal

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ABSTRACT

This research aims to assess the effectiveness and the deliverance of the Hon'ble National Green Tribunal to enhance environmental sustainability and solutions and to overcome the environmental disputes/ issues/ problems through the review of some major NGT judgments in relation to forest and biodiversity, *Suo Motu* cognizance and Environmental interest litigation. The National Green Tribunal (NGT), established in 2010, has emerged as a pivotal judicial body in India dedicated to the effective and expeditious disposal of cases relating to environmental protection and conservation. NGT provides legal remedy and an exclusive forum to address the issues related to the environment and for the enforcement of laws made for the protection of the environment. The method used in this research work is doctrinal to review the working and deliverance of the NGT based on the various sample cases of NGT, law regulation, and judicial rulings. By analyzing key directives in several environmental areas such as pollution control, forest and biodiversity protection, and environmental impact assessment, this article highlights the NGT's involvement in strengthening the applicability of environmental directives, guidelines, and principles, accountability of the pollution caused, and providing access to environmental justice.

Keywords: National Green Tribunal, Environmental Jurisprudence, Environmental Law, Pollution Control, Forest Protection, Biodiversity, Environmental Impact Assessment, India

INTRODUCTION

Environmental pollution and environmental degradation create a significant hazard to human habitat and ecological integrity. These adverse effects are more or less contributed by growing Industrialization, Urbanization and rising population rates that have exerted pressure on the exploitation of resources as well as ecosystems. Considering this adverse effect, a specialized judicial forum came to existence to address the concerns of the environmental issues and to handle the disputes arising from the pollution, degradation and loss faced due to this, India enacted the National Green Tribunal Act, 2010, leading to the establishment of the NGT. This dedicated forum was envisioned to provide speedy environmental justice, reduce the burden on higher courts, and ensure the rigorous enforcement of environmental laws. Nowadays, the National Green Tribunal is one of the components of the environmental protection system of the Republic of India. They serve the purpose of a special environmental court to create a proper legal framework for environmental litigations as well as protect the environment and its legislation. Over the past decade, the NGT has delivered numerous judgments that have not only resolved specific environmental conflicts but have also significantly contributed to the evolution of environmental jurisprudence in India. Over the past few years, like PIL the concept of EIL (Environmental Interest Litigation) has grown. Consequently, the value and significance of the NGT have substantially increased over time. The Tribunal's proactive stance, particularly its exercise of *suo motu* cognizance in environmental matters, has further enhanced its institutional credibility and reinforced its role as a vigilant guardian of environmental justice. This paper aims to review the key trends and landmark pronouncements of the NGT, analysing its impact on the interpretation and application of environmental laws and principles.

Genesis and Mandate of the National Green Tribunal: The formation of the NGT was an important phase towards understanding the constitutional mandate enshrined in Article 21 (Right to Life) and Article

48A (Protection and improvement of environment and safeguarding of forests and wildlife) of the great Indian Constitution. The NGT Act, 2010, outlines the Tribunal's jurisdiction over '**substantial questions of the environment**', and various environmental legislation mentioned under Schedule I of the NGT Act, 2010. These legislations are the Water (P&CP) Act, 1974; The Water (P&CP) Cess Act, 1977 which was abolished on 1st July, 2017, with the implementation of GST, The Forest (Conservation) Act, 1980, the Air (P&CP) Act, 1981; the Environment (Protection) Act, 1986; The Public Liability Insurance Act, 1991, the Biological Diversity Act, 2002. The Mandate of the NGT is to check the applicability of the sustainable development, the precautionary principle, and the polluter pays principle while adjudicating environmental issues. NGT can also use the provision of the Civil court jurisdiction and power while adjudicating the environmental disputes as per the need of the case.

Over the past few decades, Environmental law in India has significantly increased, mainly because of the escalating environmental issues and pollution, which created the imperative need for enhanced mechanisms to regulate the issue through proposed guidelines and regulations. This process of environmental legislation was initiated in the 1970s. Initially, maximum laws and regulations were made only considering pollution related to the Water (P&CP) Act of 1974 and the Air (P&CP) Act of 1981. The most significant factor in expanding the rights of citizens in India has been PIL, which has helped in environmental justice. Gitanjali Gill's (2012) case has underscored that the judiciary, through Public Interest Litigation (PIL), people and other organizations have been allowed by the courts to seek justice in environmental concerns. This approach of the Supreme Court has made a positive impact in enhancing responsibility in environmental management through the current participatory approach and the expansion of the environmental law front to embrace human rights.

In addition to its statutory jurisdiction, the scope of the National Green Tribunal (NGT) was significantly expanded by the Hon'ble Supreme Court through a landmark judgment (*Municipal Corporation of Greater Mumbai vs. Ankita Sinha & Ors.*, reported in 2021 SCC Online SC 897), wherein it was held that the NGT possesses the authority to take *suo motu* cognizance of environmental issues. This judicial endorsement acted as a power booster for the Tribunal, empowering it to address environmental grievances that have remained unattended or unresolved for extended periods, in addition to newly filed matters. The conferral of *suo motu* powers is particularly impactful for individuals and communities who, due to constraints such as geographical distance, lack of awareness, limited financial resources, or legal knowledge, are unable to directly approach the Tribunal. In this context, the NGT has become more accessible, as it now accepts letters, public complaints, or even news reports from newspapers and live television broadcasts as the basis for initiating proceedings. This development has transformed the NGT into a proactive body capable of intervening in urgent and significant environmental matters, thereby ensuring timely and effective environmental justice. This paper seeks to highlight the positive impact of this judicial development through an analysis of key *suo motu* judgments delivered by the NGT.

Methodology

Critical analysis by using doctrinal research, this work discovers the Jurisdiction and deliverance of the National Green Tribunal (NGT) in the protection and safeguard of the environment in India. Legal provisions of the act and statutes of the NGT Act, 2010, and the environmental laws are analysed in detail. A review of six essential cases of NGT to analyses its jurisdiction and power, strengths and weaknesses in delivering the judgment is assessed. The present work also analyses some sensitive issues which come under forest and biodiversity and EIL (Environmental Interest Litigation) through Tribunal decisions as well as reports. Using this doctrinal approach shall assist in explaining some of the contributions made by the NGT in environmental protection, the limitations and the possibilities for further development.

Environmental Issues and Cases Handled by the NGT

The NGT has the extent to handle various types and a massive number of environmental issues in India, in terms of the execution of environmental legislation and laws, to entertain complaints against violations and influence environmental management. The NGT has supervised numerous significant cases related to many sectors such as Air pollution, Water pollution, deforestation and biodiversity, and industrial waste disposal, among others, either filed by the Applicant or by its own. Below are some of the environmental matters in relation with the Forest and biodiversity, EIL and *Suo Motu* adjudicated by the NGT.

1. Forest and Biodiversity:

• Sachin Mohapatra V/s Bhubaneswar Development Authority, Odisha¹

This case is regarding the Forest and Biodiversity issue. It is from the National Green Tribunal, Eastern Zone Bench, Kolkata. The case involves a dispute over construction activities on Sikharchandi Hills in Khurda, Odisha. The main concerns raised in this case is damage to the environment from construction, including

1 (NGT). (2023). "Judgement in Sachin Mohapatra V/s Bhubaneswar Development Authority, Odisha. [OA No. 65 of 2023 (EZ)]. Retrieved from NGT Orders."

clearing of trees and the loss of biodiversity. The court formed a committee to investigate these concerns. The committee's report detailed the observations made during a site visit, including the extent of land cleared, the nature of the vegetation, and the views of local people and officials.

The Bhubaneswar Development Authority (BDA) and other parties submitted affidavits and responses, addressing the allegations and providing their perspectives on the project, the land status, and the environmental concerns. The court considered the arguments and evidence presented, including the ecological importance of the Sikharchandi Hill and the need for development.

The Tribunal's final decision included directives aimed at balancing development and environmental preservation. These directives cover the scope of construction activities, protection of the temple and its surroundings, and measures for environmental restoration and conservation.

• **Subhash Datta V/s Ministry of Environment, Forest & Climate Change** ²

This case from the National Green Tribunal, Eastern Zone Bench, Kolkata, focuses on allegations concerning the preservation and maintenance of the Indian Botanic Garden in Howrah. The applicant, Applicant, raised concerns about the garden's conservation, including changes to its plant life, water bodies, and infrastructure. The tribunal constituted a Joint Committee to investigate the allegations. The committee's report detailed their findings from a site visit, addressing the applicant's specific concerns.

The Ministry of Environment, Forest and Climate Change, and other respondents submitted affidavits providing their perspectives and responses to the applicant's claims.

The tribunal, after hearing from all parties and reviewing the evidence, dismissed the original application, finding no grounds to issue orders or directions.

2. *Suo Motu* Matters by News Item and Environment Interest Litigation:

Following the confirmation and judicial endorsement by the Hon'ble Supreme Court of India, the National Green Tribunal (NGT) has actively begun exercising its *suo motu* powers to take cognizance of environmental issues of public concern. These issues often come to the Tribunal's attention through reports published in newspapers, articles in reputed magazines, or other credible media sources, depending on the specific facts and circumstances of each case.

• **News Item Titled "Proposed Luxury Hotels in and around Kaziranga threaten wildlife conservation livelihood" appearing in Mongabay dated 31/07/2024**³

This case from the National Green Tribunal, Eastern Zone Bench, Kolkata, originated from a news item reporting that upcoming tourism infrastructure projects in and around the Kaziranga National Park and Tiger Reserve (KNPTR) in Assam could threaten wildlife. The concerns included potential displacement, negative environmental impact, and disruption to wild animal movement, particularly in the Inle Pothar area, described as a traditional haven for elephants. The news article highlighted that the Kaziranga National Park and Tiger Reserve is a UNESCO World Heritage site and home to various wildlife species.

The grievances also pointed out the absence of a declared Eco-Sensitive Zone (ESZ) for KNPTR, raising concerns about the location of the proposed hotel project within the purview of the ESZ.

There is no specific environmental compensation amount imposed by the NGT. Whereas the NGT acknowledged the concerns raised in the news article, but considered them premature at the current stage. The Tribunal noted the Assam government's stand that the Eco-Sensitive Zone for the Kaziranga National Park and Tiger Reserve had been proposed and was under consideration by the Ministry of Environment, Forest and Climate Change. The NGT also acknowledged the State's assertion that no Detailed Project Report (DPR) for the proposed hotels had been submitted and that any proposal would be examined thoroughly, adhering to all relevant rules and regulations. Consequently, the NGT dismissed the Original Application.

• **News item titled "Garbage overflow poses health risks to visually impaired students in W Delhi" appearing in the Millenium Post, dated 30.04.2024** ⁴

This matter was taken up by the National Green Tribunal Principal Bench which is regarding the operation of a garbage collection point (dhalao) next to the Akhil Bhartiya Netrahin Sangh School for visually impaired children in Raghubir Nagar, West Delhi, was causing environmental and health hazards. The school, which provides free education and accommodation to over 100 visually impaired students annually, faced issues due to the dhalao's operation. The Municipal Corporation of Delhi (MCD) failed to take effective action despite repeated complaints from school authorities. The dhalao, operational for over three decades, was being used as a secondary waste storage site in violation of the Solid Waste Management Rules, 2016, causing foul smells

2 (NGT). (2024). "Order in Subhash Datta V/s Ministry of Environment, Forest & Climate Change. [OA No. 65 of 2024(EZ)]. Retrieved from NGT Orders."

3 (NGT). (2024). "Order in *Suo Motu* matter based on the newspaper item. [OA No.175 of 2024 (EZ), earlier OA No. 1049/2024 (PB)]. Retrieved from NGT web orders."

4 (NGT). (2024). "Order in *Suo Motu* matter based on the newspaper item. [OA No.643 of 2024 (PB)]. Retrieved from NGT orders."

and unhygienic conditions that adversely affected the students' health and well-being. The Tribunal noted that this situation potentially violated the students' fundamental right to a clean and pollution-free environment.

The Hon'ble NGT imposed a compensation of 20 Lakhs on the MCD. This amount is to be paid to the school within one month. The compensation is intended to address the environmental harm caused and to uphold the rights of the visually impaired students.

Hon'ble NGT also directed the immediate closure of Dhalao D-5. The MCD was ordered to ensure no open sewage drains or potholes remained near the school premises. The Delhi Pollution Control Committee (DPCC) was instructed to monitor compliance and take further action, including imposing environmental compensation for future violations.

• **“Suo Moto Action on the Newspaper Article Published In Dainik Bhaskar Daily Dated 24th February, 2024 Regarding Illegal Mining At Jaisamand Lake Udaipur Rajasthan vs. State of Rajasthan & Ors.”⁵**

This matter was Suo Motu taken up by the National Green Tribunal Principal Bench regarding the primary grievance of illegal and rampant sand mining activities being carried out by mining mafias in Jaisamand Lake, Udaipur, Rajasthan. The mining activities are occurring in the catchment area of the lake, despite previous directions from the NGT to permanently close such activities. Illegal mining has been reported to have been done up to a level of 20 feet using tractors and dumpers. Concerns exist about the failure of authorities to control these illegal activities, leading to continued environmental damage for commercial benefit.

The NGT directed the recovery of compensation amounting to Rs. 1 lakh per person found involved in illegal mining activities in the catchment area of Jaisamand Lake. In cases of repeated offences, the compensation amount is to be doubled. The recovered compensation is to be deposited with the Divisional Forest Officer for the restoration of the ecology of the area.

The NGT directed the Collector of Udaipur and the State Pollution Control Board to regularly monitor illegal mining and transportation and take necessary actions according to the rules, including prosecution and realization of environmental compensation. The Mining Department is directed to develop a grievance portal for lodging complaints of illegal mining. Round-the-clock checkpoints with police presence and installation of CCTV cameras at strategic points to monitor and prevent illegal sand transportation. Ensuring that funds realized from mining royalties are utilized for the restoration of the ecosystem and installation of CCTV cameras, in consultation with the Collector, Udaipur.

• **OA 892/2022/PB: Prem Mohan Gaur V/s National Highway Authority of India and Ors⁶**

The case involves an Original Application (OA) filed with the National Green Tribunal (NGT) in India concerning alleged environmental violations during a highway construction project. The applicant, Shri Prem Mohan Gaur, raised several grievances like impact on water bodies, Damage to Forest Area, disruption of local infrastructure, and violation of environmental principles related to the National Highway Authority of India's (NHAI) activities in the area of village Kiranj, District Nuh, Haryana.

The environmental compensation imposed on the contractor for cutting of trees the amount is Rs. 58,940 for cutting 241 trees. The applicant has demanded environmental compensation for the damage caused, including the restoration of the pond and forest land, and compensation for the trees cut. The applicant has requested that the value of the trees be assessed according to the Supreme Court's guidelines.

Based on the demand of the Applicant, the NGT acknowledged the environmental concerns raised in the application. NGT directed to investigate the matter; therefore, the NGT constituted a Joint Committee comprising members from the Haryana State Pollution Control Board (HSPCB), the Principal Chief Conservator of Forest (PCCF), and the District Magistrate of Gurugram. The Joint Committee submitted a report detailing their findings on the various grievances. The NGT is considering the Joint Committee's report, the responses of the NHAI, and the applicant's objections to determine further action.

Conclusion

Based on the above-referred cases, it is evident that the National Green Tribunal (NGT) has consistently demonstrated a genuine commitment to addressing environmental issues and resolving them through sustainable and legally sound means. In adjudicating these matters, the NGT has exercised its full statutory authority and enforcement powers. Notably, the Tribunal has not only resolved disputes but has also imposed environmental compensation on defaulting parties in accordance with the 'polluter pays' principle. Through

5 (NGT). (2024). “Order in Suo Motu matter based on the newspaper item. [OA No.54 of 2024 (CZ)]. Retrieved from NGT orders.”

6 (NGT). (2022). “Order in Prem Mohan Gaur V/s National Highway Authority of India and Ors. [OA No.892 of 2022]. Retrieved from NGT Orders.”

its landmark decisions, the NGT has significantly influenced environmental protection in India by shaping policies and practices related to pollution control, deforestation, illegal dumping of solid waste, and the discharge of untreated wastewater, among other critical environmental concerns.

The Tribunal's initiative to admit *suo motu* matters, often triggered by newspaper reports or media articles, has played a vital role in raising public awareness about environmental rights and legal remedies. This proactive stance sends a strong message that environmental violations and illegality will no longer be tolerated. Moreover, the NGT has enhanced access to environmental justice by holding both government authorities and private entities accountable for their actions, while also ensuring the award of compensation to affected communities and for environmental restoration. Despite facing challenges such as enforcement hurdles and resource limitations, the NGT remains a pivotal institution in shaping India's environmental jurisprudence and advancing the country's path toward sustainable development.

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- iii) The Environment (Protection) Act, 1986
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- v) The Biological Diversity Act, 2002
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6. The Solid Waste Management Rules, 2016 (as amended)
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