CHAPTER – VII
NATIONAL GREEN TRIBUNAL, ITS FUNCTIONING AND EFFECTIVENESS VIS-À-VIS NATIONAL GREEN TRIBUNAL ACT, 2010

There is a need for an alternative forum to decide the environmental dispute has been felt by a number of persons outside as well as within India. In the United Kingdom, Lord Wolf pointed out a need for multi-faced multi skilled body, rendering the services provided by the existing court, tribunals and inspectors in the environment field. Such alternative forum would be ‘one stop shop’ which should lead to faster, cheaper and more effective resolution of dispute in environmental matters.\(^1\) Similarly, Sir Robert Carnwath, a judge of the High Court Chancery Division, also argued in favour of a specialized body to hear environmental matters.\(^2\) In India, the need for environmental court was first advocated by Justice P.N. Bhagwati, J (as he then was) in *Oleum Gas Leak Case*\(^3\). The Supreme Court of India pointed out that cases involving issues of environmental pollution, ecological destruction and its conflict over natural resources involved assessment and evolution of scientific data and, therefore, according to the court, there was an urgent need of involvement of experts in the administration of justice.\(^4\) This view was reiterated in *Indian Council for Enviro-Legal Action v. Union of India*.\(^5\)

In the year 1999, Justice Jagannadh Rao in *A.P. Pollution Control Board v. M.V. Naidu* \(^6\) has strongly recommended for establishment of

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\(^3\) *M.C. Mehta v. Union of India*, AIR 1987 SC 965

\(^4\) *Ibid* at 982

\(^5\) (1996)2 SCC 212 & 252

\(^6\) (1999)2 SCC718
environment court. In the follow up case in the year 2001, the Apex court requested the Law Commission of India to examine this question in detail and give the report.

Accordingly, the Law Commission of India in its 186th Report in September 2003, recommended, inter alia, setting up of environmental courts having both original as well as appellate jurisdiction related to environmental laws. This report had noted that the National Environment Appellate Authority (NEAA) constituted under NEAA Act, 1997 and National Environment Tribunal (which was to be constituted under National Environment Tribunal Act, 1995 but this legislation has not yet been notified despite expiry of eight years) are non functional and remain only on paper.

The legislative initiative for constitution of environment courts as an alternative forum goes back to 1989 when it was vehemently advocated by Smt. Maneka Gandhi, the then Union Minister of Environment. She also prepared the concerned Bill but it was really unfortunate that the serious exercise on constitution of environment court did not see the light of the day as the Bill was put in the cold storage.

Ultimately the National Green Tribunal Bill, 2009 was introduced in the Lok Sabha on 31st July 2009. The chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha referred the Bill to the Parliamentary Standing Committee on Science and Technology, Environment and Forests for examination and reports. The Committee held meetings with representative of Ministry of Environment and Forests and also heard the views of eight experts on the subjects including Sunita

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7 See Recommendation made by the Law Commission of India in its 186th Report under the chairmanship of M. Jagannadh Rao as submitted on 23 September 2003, pp. 164-69. Also available at http://lawcommission ofindia.nic.in
Narain, Director, Centre for Science and Environment, Harish Salve and Rajeev Dhawan, Senior Advocates of the Supreme Court of India and Sanjay Upadhyay, Head of the Enviro-Legal Defence Forum. The Committee appreciated the initiative of the Ministry and presented to Parliament 203rd report on National Green Tribunal Bill on 16th November 2009. Thus the National Green Tribunal Act, 2010 is passed by our Parliament and the same has also been notified by the Government of India on 18th October 2010 and on the same day, Justice Lokeshwar Singh Panta, former judge of the Supreme Court of India took charge as chairman of newly constituted National Green Tribunal.

(A) Need for an Alternative Forum in Environmental Matters

When Courts perceived serious threats owing to lack of proper governmental action, it started to seek out new ways of dealing with the problem. Actually Court wanted to seek assistance from experts in the particular field and analyze whether a proposed activity was environmentally benign. Justice P.N. Bhagwati in Oleum Gas Leak Case9 used the method of appointing expert committees for assessing the extent of harm to the environment. It is worthwhile to note that this case was the first case which stressed the need for ‘neutral scientific expertise’ as an essential input to inform judicial decision-making. Setting up of environment courts, on a regional basis with one professional judge and two experts was also suggested.10 The Court began to realize that complex environmental data required more serious attention and skilled manpower for proper appreciation.

9 M.C. Mehta v. Union of India (1986)2 SCC 176, para 22
10 Ibid, para23
Since the decision of *Oleum Gas Leak Case*\textsuperscript{11}, appointment of environmental experts when dealing with disputes has been in vogue. The method of analyzing of data in some cases required many months in most cases. This meant that the courts had to devote more times those cases because the expert’s reports were found to be insufficient in some and contradictory in some others. The time constraints and exclusivity of the nature of disputes prompted setting up of “Green Benches” in various High Courts in our country.\textsuperscript{12}

The Court attempted to create a parallel rule based structure using the machinery of public interest environmental litigation that raises doubts about ordinary courts’ institutional competence and compels the Government to look for alternatives. This was stressed in *A.P. Pollution Control Board v. Prof. M.V. Nayudu I* (*Nayudu I*) which prompted the Law Commission to suggest setting up of ‘environmental courts’ in our country. However, it does not mean that ordinary courts are incapable of handling environmental disputes.

The commission also considered the reference made in the Nayudu I case to the idea of a “multi-faceted” Environmental Court with judicial and technical/scientific inputs as formulated by Lord Woolf in England recently and to Environmental Court legislations\textsuperscript{13} as they exist in Australia, New Zealand and other countries. The report also adopted the practice of the Environmental Courts in Australia and New Zealand which

\textsuperscript{11} *Supra*, note 3.

\textsuperscript{12} A Division Bench of the Supreme Court comprising of Justice Kuldip Singh and S. Saghir Ahmed directed the Chief Justice of Calcutta High Court to constitute a Special Division Bench to hear environment related petition for the first time in country.

\textsuperscript{13} Lord Justice Sir Harry Wolf, the Judiciary environmentally Myopic, (1992) Oxford University, Journal of Environment Law Vol.= 4 A 1
function as appellate Courts against orders passed under the corresponding Water Acts, Air Acts and Noise Acts and various Environment related Acts and also have original jurisdiction. They have all the powers of a Civil Court. Some have even powers of a Criminal Court.

1. Object of the Act:

The Preamble of the Act states the object is to provide for the establishment of a National Green Tribunal (herein referred as NGT) for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

The Tribunal’s dedicated jurisdiction in environmental matters shall provide speedy environmental justice and help reduce the burden of litigation in the higher courts. The Tribunal is mandated to make and endeavor for disposal of applications or appeals finally within 6 months of filing of the same. Initially, the NGT is proposed to be set up at five places of sittings and will follow circuit procedure for making itself more accessible. New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai shall be the other four place of sitting of the Tribunal.

14 Section 18 (3) National Green Tribunal Act, 2010
15 The Weekend Leader, India’s 1st Green Tribunal will soon have regional benches, Last up to 25 September, 2012
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<tr>
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<td>Bhopal</td>
<td>Madhya Pradesh, Rajasthan and Chhattigarah</td>
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<td>West Bengal, Orissa, Bihar, Jharkhand, Seven Sister States of North-Eastern Regional and Sikkam, Andaman and Nicobar Islands</td>
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The Act is also an endeavor of the Parliament under Article 253 of the Constitution read with Entry 14 of List I of Schedule VII to fulfill the obligation of India towards Stockholm Declaration, 1972\(^\text{16}\) in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment and Rio Declaration, 1992\(^\text{17}\) in which India participated, calling upon the States to


provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage.

The act was also a response to implement the apex court’s pronouncement that the right to healthy environment is a part of the right to life under Article 21 of the Indian Constitution.\(^\text{18}\)

2. Why ‘Green’ Tribunal?

Why the Act has been named as National Green Tribunal Act and why not simply as National Environment Tribunal Act? What is the significance or special meaning of the term ‘green’ as given in the title of the Act? No clear answer is available as of now. Merriam Webster’s dictionary defines the term ‘green’ as tending to preserve environmental quality. That suggests and reveals the ultimate aim of the NGT Act.

3. Salient Features of the Act

The Act seeks to establish specialized Green Tribunal\(^\text{19}\) with five benches located at different regions in the country.\(^\text{20}\) 1\(^\text{st}\) jurisdiction to hear a case involving environmental matters is wider than the one conferred on the National Environmental Appellate Authority which has now been replace by the new Act. The Act confers on the Green Tribunal to hear initial complaints\(^\text{21}\) as well as appeals from decisions of authorities under various environmental laws.\(^\text{22}\) The Tribunal, when established, would not be bound to follow the procedure laid down in the Code of Civil Procedure

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\(\text{18}\) Subhash Kumr Vrs. State of Bihar AIR 1992, SC 4200  
\(\text{19}\) Section 3 & 4 of National Green Tribunal Act, 2010  
\(\text{20}\) Times of India 2010  
\(\text{21}\) Section 14-15 of the National Green Tribunal Act , 2010  
\(\text{22}\) Ibid Section 16
Instead, it is allowed to follow the abstract principles of natural justice.\textsuperscript{23} However, the Tribunal will have the powers of a civil court under the Civil Procedure Code 1908.\textsuperscript{24} Its decisions are binding on the parties.\textsuperscript{25} There can be appeals to the Supreme Court against the decisions, orders or awards of the Tribunal.\textsuperscript{26} The Act also ordains that no civil court shall be allowed to entertain cases which Tribunal is competent to hear.\textsuperscript{27} The most salient feature of the Act is that the Green Tribunal is enjoined to follow the internationally recognized and nationally applied environmental ‘Principles of Sustainable Development’, ‘Precautionary Principle’ and ‘Polluter Pays Principle’ while issuing any order, decision or award.\textsuperscript{28} While the Act envisages the conferment of wide jurisdiction on the Green Tribunal, it also, at the same time, seeks to restrict the scope of its jurisdiction only to matters involving substantial, questions, relating environment.\textsuperscript{29} The expression a substantial question has been defined as an instance where there is a direct violation of specific environmental obligation affecting either the community at large other than an individual or group of individuals by its environmental consequence or where the gravity of the damage to the environment or property is substantial or (iii) where the damage to public health is broadly measurable.\textsuperscript{30} It is interesting to note while the right to Article 21 of the constitution is a fundamental right guaranteed to individuals, the Act seeks to deny to the same individuals and groups of individuals the right to question any

\begin{footnotes}
\item[23] Id. Section 19 (i)
\item[24] Id. Section 19 (iv)
\item[25] Id. Section 21
\item[26] Id. Section 22
\item[27] Id. Section 29
\item[28] Id. Section 20
\item[29] Id. Section 14 (i)
\item[30] Id. Section 2 (i) m
\end{footnotes}
environmental consequence that affects them unless it also affects the community at large or public health. However, individuals can approach the court when the damage to the environment or property is substantial. It is submitted that the definition of the expression "substantial question related to environment" as given in the Act which provides for statutory exclusion of individuals may not stand judicial scrutiny, for, the right to healthy environment, in its wide amplitude, subsumes all aspects of environmental degradation.\(^{31}\) Again, it is doubtful whether the jurisdiction of the High Courts which are constitutional courts can be excluded either by ordinary legislation or by a constitutional amendment as their power of judicial review is a part of the basic structure of the Constitution.

4. Establishment and Composition of the Tribunal

The Central government by notification shall establish a tribunal to be known as National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act\(^{32}\). The Tribunal shall consist of a full time chairperson and not less than ten but subject to maximum of twenty full time Judicial and expert members as the Central Government may from time to time notify. This Act has balanced the number of judicial and expert members with the authority to break a deadlock vested with chairperson of the tribunal. The Tribunal is empowered to invite any one or more persons having specialized knowledge and experience in a particular cases before the Tribunal to assist the Tribunal in that case.\(^{33}\)

\(^{31}\) Supra Chapter 2 of the Act

\(^{32}\) Section 3 National Green Tribunal Act, 2010

\(^{33}\) Id. Section 4
5. Appointments of the member of the Tribunal

This Act specifies the qualifications for appointment of Chairperson, Judicial Member and Expert Member. It provides that a person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court and a person who is or has been a Judge of High Court shall also be qualified to be appointed as a Judicial Member and a person shall not be qualified to be appointment as an Expert Member, unless he has a degree in Master of Science-Physical Sciences or Life Sciences with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management and biological diversity management and forest conservation) in a reputed national level institution, or has administrative experience of fifteen years including practical experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.34

The Act also provides for the manner of appointment of the Chairperson, Judicial Member and Expert Member. It provides that the Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India and the Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of the Selection Committee in such manner as may be prescribed21. Justice Swatanter Kumar has been appointed as Chief of the Tribunal he will be assuming the office after 31st December 2012.35

34 Id. Section 5
35 Id. Section 35 (2) (e)
### 6. Chairperson and Members of the National Green Tribunal

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<tr>
<th>Sr. No.</th>
<th>Name</th>
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<tr>
<td>1.</td>
<td>Hon’ble Mr. Justice Swatanter Kumar</td>
<td>Chairperson</td>
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<td>Hon’ble Prof. A.R. Yousuf</td>
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<td>Hon’ble Shri Ranjan Chatterjee</td>
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**Principle Bench, Faridkot House**
Copernicus Marg, New Delhi
Tel. 011-23043501
Fax 011-23043515

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<td>2.</td>
<td>Hon’ble Prof. (Dr.) R. Nagendran</td>
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**Southern Zone Bench, 950/, TNPCB Building, P.H. Road, Arumbakkam, Chennai**
Tel. 044-26264025
Fax 044-26264024

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<td>Hon’ble Shri Salvanarayana Rao</td>
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**Central Zone Bench, State Commission Bhawan, 3rd Floor, Arera Hills, Bhopal – 462011**
Tel. 0755-2575745
Fax 0755-2575680

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The major drawback of this provision is that the composition of the tribunal follows a track, which has failed to yield results. It seems that tribunal is meant to be hub for retired bureaucrats and technocrats. NGT should consist of experts in the relevant field and not the bureaucrats, all earlier attempts in handling the environment problems through NEAA and other bodies have failed. Had such appointees been competent, those Environment department or institutions where they served would have surely been instrumental in protecting the environment, which is clearly not the case and which has led to the necessity of the Tribunal. In fact, the apathy of administrators has ignited the demand for the Tribunal.

The power of appointment is given to the Central Government, it will empower the Government of the day to appoint any one to whom it want to give favour. This is corroborated by the fact that in case of appointment of Chairperson requires prior consultation which Chief Justice of India, how much weight the Central Government gives to advice of Chief Justice of India are unknown.36

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36 S.P. Gupta V. Union of India AIR, 1982 SC 149
7. Tenure of the office of the members

This Act provides that the Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment. Further, if a person who is or has been a Judge of the Supreme Court is appointed as the Chairperson or judicial member, he shall hold officer as such till he attains the age of seventy years, and in case a person who is or has been Chief Justice of a High Court is appointed as the Chairperson or Judicial Member, or in case a person who is or has been a Judge of a High Court is appointed as a Judicial Member he shall hold officer as such till he attains the age of sixty seven years. The Expert Member shall not hold officer after he has attained the age of sixty five years. This Act also makes provision for resignation by the Chairperson, Judicial Member and Expert Member. It provides that the Chairperson, Judicial Member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office.

8. No other Office during the Tenure

The Act declares that the members of the Tribunal shall not hold any other office during their tenure as such. The Act also debars them from accepting any employment, after they cease to hold office, from any person who has been a party to a proceeding before the Tribunal under the Act. However, this bar does not apply to any employment under the Central Government or a State Government or local authority or in any Statutory authority or any corporation established by or under any Central

37 Id. Section 7
38 Id. Section 8
39 Id. Section 3
or State or Provincial Act or a Government Company as defined in Section 617 of the Companies Act. 1956.\textsuperscript{40}

9. Fee

The Act provides that each application under Sections 14 and 15 or appeal under section 16 shall be made to the Tribunal in such form, contain such particulars and shall be accompanied by such documents and such fees as may be prescribed.\textsuperscript{41} A fee of equivalent shall accompany an application or appeal where compensation has been claimed, to one percent of the amount of compensation claimed, subject to a minimum of one thousand rupees.\textsuperscript{42} It may be noted that due to this rule, the person who files claim for compensation would face difficulty. Moreover, it will also discourage economically weaker sections of the society to file a claim for compensation.

National Green Tribunal (Practices and Procedure) Rules, 2011, has exempted\textsuperscript{43} the poor person from the depositing required fee for filing complaint under the Act. One can say that the objective of the Act is to facilitate the filing of complain. To provide justice to marginalized class, it is recommended that there should not be any provision of fee for the representative body or organization who intend to file a complaint.

10. Jurisdiction of the tribunal

This Act confers on the Tribunal, the jurisdiction over all civil cases where a substantial question relating to environment (including

\begin{itemize}
\item \textsuperscript{40} Id. Section 4
\item \textsuperscript{41} Id. Section 18 (i)
\item \textsuperscript{42} Rule 12 National Green Tribunal Practice and Procedure Rule, 2011
\item \textsuperscript{43} Id. It says there shall be no fee for file of application or appeal for claiming compensation by any person who is below of poverty line determined in accordance with the guideline or instructions issue by the central government or the state government from time-to-time in this regard or Indigent person determined in accordance with provision of the CPC, 1908
\end{itemize}
enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I to the Act.\textsuperscript{44} It further provides a time-limit of six months within which the applications for adjudication of dispute under this section shall be entertained by the Tribunal. It also empowers the Tribunal to allow such applications to be filed within a further period not exceeding sixty days, if it is satisfied that the application was prevented by sufficient cause from filing the application within the said period.

The term ‘substantial question relating to environment’ is defined under the act\textsuperscript{45} shall include an instance where:-

(1) There is a direct violation of a specific statutory environmental obligation by a person by which,-

a) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

b) the gravity of damage to the environment or property is substantial; or

c) the damage to public health is broadly measurable;

(2) The environmental consequences relate to a specific activity or a point source of pollution.

The jurisdiction to ‘substantial questions relating to environment’ which only includes instances where the community at large is affected or likely to be affected – but excludes individuals or groups of individuals. It is, therefore, unclear whether this law only seeks to promote class actions. If this is the case, such a structure would be undesirable. Environmental

\textsuperscript{44} Section 14 NGT Act, 2010  
\textsuperscript{45} Id. Section 2 (m)
impact and conflict need not be only limited to the ‘community at large’ but may also affect groups of individuals and individuals – who deserve as much protection – in equal measure as the ‘community at large’ or ‘group of Individuals’, which itself is not defined. This portion of the act should simply be amended, before it heads inevitably towards a Constitutional challenge in the Supreme Court.\footnote{National Green Tribunal Bill, 2009}

This Act also confers upon the Tribunal the appellate jurisdiction\footnote{Sec 16 NGT Act, 2010} against certain orders or decisions or directions under the Water (Prevention and Control of Pollution) Act, 1974; the Water (Prevention and Control of Pollution) Cess Act, 1977; the Forest (Conservation) Act, 1980; the Air (Prevention and Control of Pollution) Act 1981; the Environment (Protection) Act; 1986 and the Biological Diversity Act, 2002.

It further provides a time-limit of thirty days within which the appeals may be filed before the Tribunal. It also empowers the Tribunal to allow such appeals to be filed within a further period not exceeding sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period.\footnote{Id.}

The period of filling the appeal is too short and should be extended to 60 days as often individuals are prevented by unavoidable situation from filling appeal within 30 days.

11. The Judicial Remedy under the Act

The Act provides for various kinds of relief.\footnote{Id. Sec 15} It says that the Tribunal may, by an order, provide relief and compensation to the victims of pollution and other environmental damage arising under the
enactments specified in the Schedule - I to the Act, including accident occurring while handling any hazardous substance. It may also order the restitution of the property damaged and the restitution of the environment for that areas as the Tribunal may think fit.\textsuperscript{50} The relief under this Act is an addition to the relief given under the Public Liability Insurance Act, 1991.\textsuperscript{51}

The Act seeks to discourage delayed applications for relief. If stipulates that no application for the above mentioned categories of relief would be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such relief first arose. However, the Tribunal may allow further sixty days for the application to be filed if it is satisfied that the applicant was prevented by sufficient cause from filing such application.\textsuperscript{52} The Act obligates the claimants under the Act to intimate to the Tribunal about the application filed to, or as the case may be, compensation or relief received from, any other court or authority.\textsuperscript{53} The Act provides for no fault liability in case of claims involving an accident by authorizing the Tribunal to apply the Principle of no fault.\textsuperscript{54} The Act provides for an expeditious relief. It requires the Tribunal to deal with the applications or, as the case may be, appeals, as expeditiously as possible and obligates the Tribunal to endeavor to dispose of the application or, the case may be, an appeal finally within six months from the date of filing the application, or, as the case may be, the appeal, after providing the parties an opportunity to be heard.\textsuperscript{55}

\textsuperscript{50} Id. Sec 15 (1)
\textsuperscript{51} Id. Sec 17 (2)
\textsuperscript{52} Id. Sec 15 (3)
\textsuperscript{53} Id. Sec 15 (5)
\textsuperscript{54} Id. Sec 17 (2)
\textsuperscript{55} Id. Sec 18 (3)
12. Appeal to Supreme Court

Any person aggrieved by any award, decision or order of the Tribunal can appeal to the Supreme Court within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on anyone or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908. It is provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.\(^{56}\)

13. Bar on Jurisdiction of tribunal

This Act provides bar of Jurisdiction of civil courts. It provides that from the date of establishment of the Tribunal, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.\(^{57}\)

It further provides that no civil court shall have jurisdiction to settle or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment which may be adjudicated upon by the Tribunal and no injunction in respect of any action taken or to be taken by or before the Tribunal shall be granted by civil court\(^{58}\).

14. Application of certain Principles

It has been provided under the Act that the tribunal shall apply the principles of sustainable development, the precautionary principle and the polluter pays principle passing any order or decision or award.

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\(^{56}\) Id. Sec 22
\(^{57}\) Id. Sec 29 (1)
\(^{58}\) Id. Sec 29 (2)
These principles have been recognized and established under various International Conferences like Stockholm Conference 1972, Rio Conference 1992 and World Summit on Sustainable Development 2002 (Johannesburg Conference). These principles have been incorporated in India by the Apex Court before the enactment of this act. The case of Indian Council for Enviro Legal Action v. Union of India applied the principle of sustainable development and thus brought it into Indian environmental jurisprudence. Likewise case of Vellore Citizens Welfare Forum v. Union of India applied polluter pays principle and precautionary principle. This NGT act has given those principles statutory recognition.

15. Relief, Compensation and Restitution under the Act

The Act provides for various kinds of relief. It says that the Tribunal may, by an order, provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule-I to the Act, including accident occurring while handling any hazardous substance. It may also order the restitution of the property damaged and the restitution of the environment for that areas as the Tribunal may think fit.

16. Who can file an Application for Relief, Compensation or Settlement of Dispute

This Act provides that an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by the person, who has sustained the injury; or the owner of the property to

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59 Supra Note 18 Principle 1
60 Supra Note 19 Principle 15
61 [1996] 3 SCC 212
62 [1996] 5 SCC 647
63 Sec 15 (1) NGT Act, 2010
64 Id. Sec 18 (2)
which the damage has been caused; or where death has resulted from the environmental damage, by all or any of the legal representations of deceased; or any agent duly authorized by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or any person aggrieved, including any representative body or organization; or by the Central Government or a State Government or a Union Territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a Local Authority or any environmental authority constituted or established under the Environment Protection Act, 1986 or any other law for the time being in force can also move the tribunal.

It also provides that application and appeals shall be dealt with by the Tribunal as expeditiously as possible. Endeavour shall be made to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of its filing, after providing the parties concerned as opportunity to be heard.

It is also provided that an application for grant of any compensation or relief or restitution of property or environment can be sought but it has to be made within a period of five years from the date on which the cause for such compensation or relief first arose. However if the Tribunal is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period can allow the application to be filed within a further period not exceeding sixty days.

It may be pointed out that the even though the Bhopal disaster occurred in the year 1984, yet the fact remains that still new claimants

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65 J.M. Desai V. Roshan Kumar, AIR 1976 SC 578
66 Section 18 (3) NGT Act, 2010
67 Id. Sec 15 (3)
appear every day, in view of long range ramification of MIC. Therefore such victims will find it difficult to approach the National Green Tribunal\textsuperscript{46} or put it simply, a victim, where disease took over ten years to manifest probably, has no chance before this specially created Tribunal.\textsuperscript{68}

17. Compensation and Relief can be Claimed under the Following Heads:-

a) Death;

b) Permanent, Temporary, total or partial disability or other injury or sickness;

c) Loss of wages due to total, partial, permanent or temporary disability;

d) Medical expenses incurred for treatment of injuries or sickness;

e) Damages to private properties

f) Expenses incurred by Government or any local authority in providing relief, aid and rehabilitation to the affected persons;

g) Expenses incurred by the Government for any administrative and legal action of to cope with any harm or damage including compensation for environmental degradation and restoration of the quality of environment;

h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage.

i) Claims on account of any harm. Damage or destruction to the fauna including mulch and draught animals and aquatic fauna;

j) Claim on account of any harm. Damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;

k) Claim including cost of Restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-system;

\textsuperscript{68} Meena Menon How Green in my Tribunal, the Hindu, July 7, 2010
1) Loss and destruction of any property other than private property;
m) Loss of business or employment or both
n) Any other claim arising out of, or connected with any activity of handling of hazardous substances.

18. Miscellaneous Aspects

The decisions of the Tribunal are taken by majority of its members and they are binding on the Parties. The Act declares that the orders, decisions or awards of the Tribunal shall be executable by the Tribunal as decrees of the Court. For this purpose, the Tribunal shall have powers of a Civil Court.

The members of the Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian penal code. They are given immunity from any suit or prosecution or any other legal proceeding for anything done in good faith in pursuance of this Act. The Act also embodies a non-obstante clause which gives overriding effect to this Act. It says that notwithstanding anything in consistent contained in any other law for the time in force or in any instrument having effect by virtue of any law other than this Act, the provisions of this Act shall have effect.

19. Powers and Procedure

This Act lays down the procedure and powers of the Tribunal. It provides that the Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the

69 Id. Sec 21
70 Id. Sec 25 (1)
71 Id. Sec 31
72 Id. Sec 32 (2)
73 Id. Sec 33
principles of natural justice.\textsuperscript{74} It further provides that subject to the provisions of the Act, the Tribunal shall have power to regulate its own procedure\textsuperscript{75}. It also provides that the Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872\textsuperscript{76} and for the purposes of discharging its functions under the present legislation. The Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.\textsuperscript{77}

It provides that the decision of the Tribunal taken by majority of members shall be binding. This Section provides finality of the order of the Tribunal made under the Act.\textsuperscript{78} It provides that where the Tribunal holds that it claim is not maintainable or is false or vexatious, and such claim is disallowed, in whole or part, the Tribunal may, if so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.\textsuperscript{79}

20. Penalty

This Act bestows ample power on the Green Tribunal if its orders are not complied with; to impose penalty which may be either three years prison or up to ten crores and for companies it may extend up to twenty five crores.\textsuperscript{80} The act adopts a tough posture against companies.\textsuperscript{81} If it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager,

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\textsuperscript{74} Id. Sec 18 (2)
\textsuperscript{75} Id. Sec 19 (2)
\textsuperscript{76} Id. Sec 19 (3)
\textsuperscript{77} Id. Sec 19 (4)
\textsuperscript{78} Id. Sec 21
\textsuperscript{79} Id. Sec 23 (1 and 2)
\textsuperscript{80} Id. Sec 26 (1)
\textsuperscript{81} Id. Sec 27 NGT, 2010
secretary or other officer of the company, such director, manager, secretary
or other officers shall also be deemed to be guilty of that offence and shall
be liable to be proceeded against and punished accordingly.

This is a commendable inclusion in the bill and at least it will instill sense of fear among higher officials of company to pay due attention to environmental performance of their company. But the accused can take defense that he did not have the knowledge or he has taken all the due care to prevent the commission of the offence.\textsuperscript{82} Hence, this strong inclusion is diluted.

21. Notable Orders

(i) Yamuna Conservation Zone

On 25 April, 2014, The National Green Tribunal (NGT) said the health of Yamuna will be affected by the proposed recreational facilities on the river. The NGT also recommended the Government to declare a 52 km. stretch of the Yamuna in Delhi and Uttar Pradesh as a conservation zone.

(ii) Coal Block in Chhattisgarh Forest

The National Green Tribunal has cancelled the clearance given by the Union Environment and Forest Minister, Jairam Ramesh, to the Parsa East and Kante-Basan Captive coal block in the Hasdeo-Arand Forest of Chhattisgarh, overruling the statutory Forest Advisory Committee.

The forest clearance was given by Mr. Ramesh in June, 2011, overruling the advice of the Minister’s expert panel on the two blocks for mining by a joint venture between Adani and Rajasthan Raiya Vidyut Utpadan Nigam Limited. The blocks requiring 1,989 hectare of forestland fell in an area that the government has initially barred as it was considered a patchable forest and demarcated as a ‘no-go’ area.

\textsuperscript{82} Id. Proviso to Sec 27
The order is bound to have a more far-reaching impact, with the tribunal holding that, “mere expression of fanciful reason relating to environmental concerns without any basis, scientific study or past experience would not render the advice of FAC – a body of expert – inconsequential. Under the Forest Conservation Act, 1980, the FAC is required to appraise projects that requires forestlands and advise the environment Minister to grant approval or reject the proposals.

But in this case, the NGT noted, the Minister had taken all of one day and relied upon his “understanding and belief” without any “basis either in any authoritative study or experience in the relevant fields.” The Minister, while clearing the coal block had given six reasons for doing so, including that the coal blocks are linked to super-critical thermal power plant, which is imperative to sustain the momentum generated in the XI Plan for increasing power production. These ‘anthropocentric’ considerations, the NGT held, were not valid to evaluate the project.

(iii) Ban on decade old Diesel Vehicles at Delhi NCR

An attempt to minimize air pollution at capital of India and NCR. P.M. 2.5 particles have reached alarming level. As per this order, 10 years old vehicles are not allowed to ply. However, as per Media report, Central Government exploring to appeal against the order at Supreme Court, especially for personal vehicles.

22. Environment Courts in Other Countries

Law Commission in its report included a chapter on functioning of environmental courts in other countries, specifically Australia and New Zealand. We would discuss the features of the environment courts established in these countries.

(i) Australia (New South Wales)

Land and Environment Court Act 1979 established the court in state of New South Wales. The composition of the court is one Chief
Judge and other Judges as may be appointed by the Governor with further appointments of various commissioners with certain qualifications such as special knowledge and experience in administration of local government and town planning, environment planning, environmental science, environmental impact assessment and such other experiences.

The jurisdiction of the court is to any matter which falls under the provision of this act or any other act or a matter that is ancillary to the provision of this act or any other provision of the Act. For the purpose of the Act jurisdiction could be divided into seven categories appellate jurisdiction under the various acts relating to planning and production, appeals under statuettes relating to local government, miscellaneous appeals and applications which are listed in various clauses of the section, land tenure rating and valuation of compensation matters (appeals and references under various acts), proceedings under various act related to environmental planning and protection, and development contract, civil enforcement. Section 20 (2) confers the same civil jurisdiction as Supreme Court.

Section 22 deals with jurisdiction to determine the matter completely and finally to avoid multiplicity of actions while section 23 gives powers to pass orders including interlocutory orders. Courts are not bound to follow rules of evidence, courts can conduct proceedings with
little formality and technicality to settle the matter expeditiously, court can obtain assistance from of any person having professional or any other qualifications relevant to an issue.\textsuperscript{90}

(ii) New Zealand

The Environment Court was established under the Resource Management (Amendment) Act, 1996 by amending the 1991 Act and it replaced the former Planning Tribunal.\textsuperscript{91} The court is an independent specialist court consisting of Environment Judges and Environment Commissioners. They are appointed for a period of five years by Governor on the recommendation of Minister of Justice. In appointing the judges and commissioners a mix of experience and knowledge in commercial, economic affairs, local government, community affairs, environmental science and alternative dispute resolution processes, a large number of cases are solved through mediation and arbitration, The court is not bound by rules of evidence and it is free to establish its own rule of procedure, Person may themselves represent themselves it is not necessary to be represented by a lawyer, An appeal is made to the High Court on question of law only.\textsuperscript{92} The Environment Court hear matters on references on regional district statement and plans and appeals from resource contents; it can make declarations, i.e. interpret the law; and it can enforce the RMA through civil or criminal proceedings.\textsuperscript{93} Local authorities are obliged to make necessary amendments in plans to give effect to the court’s decision, It is the duty of court to avoid, mitigate adverse effects on environment and a general duty to promote sustainable management.

\begin{footnotesize}
\begin{enumerate}
\item Id. Sec 38
\item Environmental Court on Newzealand, Environment Court
\item Environmental Court on Newzealand, Environment Court
\item Environmental Court on Newzealand, Environment Court
\end{enumerate}
\end{footnotesize}
(B) The National Green Tribunal Act, 2010

The National Green Tribunal is an Act of the parliament of India which enables creation of a special tribunal to handle the expeditious disposal of the cases pertaining to environmental issues. It was enacted under Article 21 of Indian Constitution which assures the citizens of India the right to a healthy environment.

The National Green Tribunal Act came into force on 18th October 2010. This Act’s scope is large and encourages institutional development for domestic environmental governance. The National Green Tribunal Act is considered a critical step in capacity development because the Act strengthens the framework of Global Environmental Governance Courts are still overburdened with environmental litigation, including the Green Benches that were specifically created speedy disposal of environmental cases. India remains a small minority, following New Zealand and Australia, to adopt Green Court legislation. The National Green Tribunal Act was enacted to fill the gaps in existing adjudicatory framework. Green court legislation maximizes compliance through the optimal design of optimal enforcement strategies. Existing environmental civil and criminal procedural remedies are primarily injunctive. Criminal prosecution and constitutional remedies are inadequate to manage the complexities of environmental litigation. Challenges also exist because compliance models do not compel deterrence, nor do they impose heavy offense costs. Further, remedies fail to provide adequate relief or compensation for personal or property damages due to environmental violations.

The Act outlines establishment of Tribunals in Chapter II. Sections 4(1) & (2) states that a Tribunal shall have a full time Chairman and a minimum of 10 and maximum of 40 for full time Judicial and Expert Members. The Chairman can invite any skilled person to assist in Tribunal
proceedings. According to Section 4 (3) & (4), the Central Government will specify the seats and territorial jurisdiction through a circuit approach and determine the practice and procedure of the Tribunal.

Complex temporal and spatial ecological dimensions arise in environmental dispute. These dimensions require expert and experienced handling in adjudication proceedings, so only a Supreme Court Judge is eligible for appointment to the Chairman’s position. A High Court judge is also eligible for appointment to a position of the Judicial Member. To qualify as an expert Member requires:

(a) Masters in Science (physical or life sciences) with a Doctorate degree, or a Masters in Engineering or Masters of Technology

i) and possesses at least 15 years of experience in the relevant field, including 5 year practice experience in a forest or environmental field s in a reputed National level institution or

(b) Fifteen years of administrative experience, including five years of environmental matters in the Central, State or national level.

The Central government in consultation with the Chief Justice of India appoints the Chairman, while a selection committee appoints the expert members. Chapter III deals with jurisdiction, powers and proceedings of the National Green Tribunal. The National Green Tribunal Act has original jurisdiction over civil matters that:

(a) Raise a substantial question relating to environment is involved, and

(b) The question arising out of the implementation of enactments specified in Schedule - 194

The National Green Tribunal has the power to order, direct, and settle disputes, provide relief and compensation. The compensation includes restitution of damaged property and damage to the environment. The National Green Tribunal operates a very broad jurisdiction and is a beneficial piece of legislation because a liberal construction encompasses the entire range of environmental laws. The National Green Tribunal Act prescribes for a definitional limitation on a substantial question of law relating to the environment.

The National Green Tribunal Act provides for remedy for direct violation of an environmental obligation at three levels i.e. for violations that affect the community at large, for an incidence of substantial property or environmental damage, or for public health damages. The National Green Tribunal Act also produces statutes for environmental consequences that relate to specific activity or a point source of pollution. The Tribunal exercises appellate jurisdiction on all Schedule I enactments and under order or decision of State governments, Central Pollution Control Boards, State Pollution Control Board, National Biodiversity Authority, State Biodiversity Boards. The National Green Tribunal also exercises its jurisdiction over industrial environmental clearances, forests and other infrastructural, developmental projects.

In terms of The National Green Tribunal Act, an application for relief and compensation has to be made within five years from the initial cause of action and compensation is payable under those persons specified in Schedule II. The National Green Tribunal is free to devise

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95 Death; Permanent, Temporary, total or partial disability or other injury or sickness; loss of wages due to total, partial, permanent or temporary disability; Medical expenses incurred for treatment of injuries or sickness; Damages to private properties; expenses incurred by Government or any local authority in providing relief, aid and rehabilitation to the affected persons; Expenses incurred by the Government for any administrative and legal action of to cope with any harm or damage including compensation for environmental degradation and restoration of the quality of environment; Loss to the Government or local authority arising out of, or connected with, the activity causing any damage. Claims on account of any harm. Damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards; Claim including cost of Restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-system; Loss and destruction of any property other than private property; Loss of business or employment or both; any other claim arising out of, or connected with any activity of handling of hazardous substances.
its own procedures since environmental issues and violations involve complex bio-chemical and ecological processes and the rigidity of Civil Procedure Code and the Indian Evidence Act for collection and recording of evidence may not be suitable for making a just and fair assessment of loss to the environment in such complex proceedings. The National Green Tribunal has the power of a Civil Court in respect of summoning, enforcing attendance, receiving evidence on affidavits, examining on oath, and granting ex parte and interim orders and injunctions. The National Green Tribunal Act integrated strict liability, precautionary and polluter pay as part of Sustainable Development management through \textit{stare decisis}. Civil courts honor The National Green Tribunal orders and award the costs the National Green Tribunal declares appropriate.

Chapter IV addresses penalties that arise from non-compliance with The National Green Tribunal orders. Chapter IV states that delinquency is punishable with a maximum of three years imprisonment or with fine not exceeding Rs. 10 crore ($2.24 Million approx.) and additional fine of Rs. 25,000 ($560 Approx) for every day’s delay. In case of a company, fine may extend upto Rs. 25 crore ($5.6 Million approx.) and Rs.1 lakh ($2243 approx.) per day for continuing offence. The Act also establishes that at the time of commission of offence, the company personnel directly responsible shall be deemed to be guilty. This serves a strong industrial deterrent for environmental noncompliance.

Chapter V bars the civil courts’ jurisdiction over matters that are unique to the tribunal. In these matters, the civil court does not have the authority to grant relief. Civil courts are barred from hearing appeals that are directed to The National Green Tribunal. Business and industry can approach the court about Environmental Impact Assessments that lack clearance. This novel approach seeks to expand the needed science in environmental adjudication.
In exercise of the powers conferred by sub-section (4) of section 4 read with Section 35 of the National Green Tribunal Act, 2010 (19 of 2010), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement:--
   (1) These rules may be called the National Green Tribunal (Practices and Procedure) Rules, 2011.
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:--
   (1) In these rules, unless the context otherwise requires:--
      (a) "Act" means the National Green Tribunal Act, 2010 (19 of 2010)
      (b) "agents" means a person duly authorized by a party to present an application, appeal, written reply, rejoinder or any other document on behalf of such party before the Tribunal;
      (c) "applicant" means person making an application appeal to the Tribunal under section 18;
      (d) "appellant" means person making an appeal to the Tribunal under section 16 read with section 18;
      (e) "Environmental Relief Fund" means the Fund established under section 7 A of the Public Liability Insurance Act, 1991 (6 of 1991);
      (f) "Form" means a form appended to these rules;
(g) "legal practitioner" shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1961);

(h) "legal representative" means a person who in law represents the estate of the deceased person and includes the person or persons in whom the right to receive compensatory benefits vests;

(i) "Registrar" means an officer of the Tribunal appointed under the Act and designated as the Registrar and includes the Deputy Registrar; CD "Registry" means the Registry of the Tribunal;

(j) "section" means a section of the Act;

(k) "transferred case" means the application or appeal or other proceeding which has been transferred to the Tribunal under subsection (5) of section 38;

(l) "Tribunal" means the National Green Tribunal established under section 3;

(3) The words and expression used in these rules but not defined herein and defined in the Act shall have the same meanings, respectively, assigned to them in the Act.

3. Distribution of business amongst the different ordinary place or places of Sittings of Tribunal: -

(1) The Chairperson may constitute a bench of two or more members consisting of at least one Judicial Member and an Expert Member.

(2) The Chairperson shall have the power to decide the distribution of the business of the Tribunal amongst the members of the Tribunal sitting at different places by order
and specify the matters which may be dealt with by each such sitting in accordance with the provisions of clause (d) of subsection (4) of section 4 of the Act.

(3) If any question arises as to whether any matter falls within the purview of the business allocated to a place of sitting, the decision of the Chairperson shall be final.

Explanation: - The expression "matter" includes application for interim relief.

4. Circuit procedure: --

The Chairperson may, by general or special order, decide the cases or class of cases for which circuit procedure may be adopted by the Tribunal under clause (b) of sub-section (4) of section 4 of the Act and may delegate such powers to a Judicial Member as he may deem fit.

5. Minimum number of members who shall hear application or appeal.

(1) The Tribunal shall hear an application or appeal, as the case may be, consisting of at least by a Judicial and an Expert Member.

(2) Where the Chairperson considers it necessary that a particular case or cases be heard and decided by the Tribunal consisting of more than two members he may by order in writing direct that such case or cases, be heard by such members of the Tribunal as may be specified in that order.

6. Sitting at place other than the place where it shall ordinarily sit: -

If at any time the Judicial Member of Tribunal is satisfied that circumstances exist which render it necessary to have its sitting at any place, other than the place at which it ordinarily sits, falling
within its territorial jurisdiction, he may with the previous approval of the Chairperson direct that the sitting shall be held at any such appropriate place.

7. Functions of Registrar: -

(1) The Chairperson may, by general or special order, entrust the following functions to the Registrar, namely:-

(a) to receive all applications, appeals & other documents including transferred applications or appeals;

(b) to decide all questions arising out of the scrutiny of the applications & appeals before they are registered;

(c) to require any application or appeal presented to the Tribunal to be amended for compliance with the provision of the Act or the rules made there under;

(d) subject to the directions of the Tribunal to fix the date of hearings and to Issue notices there for;

(e) to direct any formal amendment of records;

(f) to order grant of copies of documents to parties to the proceeding;

(g) to grant leave to inspect the records of the Tribunal;

(h) to dispose of all matters relating to the service of notices or other processes, application or appeals for the issue of fresh notices and for extending the time for filing such application or appeals, to grant time not exceeding thirty days for filing a reply or rejoinder, if any, and to place the matter before the Tribunal for appropriate orders after the expiry of the aforesaid period;

(i) to requisition or transfer of any records of such suit, claim or other legal proceedings as are transferred to the Tribunal from any court or other authority;
(j) to receive and dispose of application for substitution, except where the substitution would involve setting aside an order of abetment;
(k) to receive and dispose of application by parties for return of documents; and
(l) to call for information and records and to inspect or cause to be inspected the registry of the other place of sittings under general or special orders as may be issued by the Chairperson from time to time.

(3) The official records shall be kept in the custody of the Registrar.

8. Procedure for filing application or appeal.

(1) An application or appeal to the Tribunal under section 18 shall be presented in Form 1 by the applicant or appellant, as the case may be, in person or by an agent or by a duly authorized legal practitioner, to the Registrar or any other officer authorized in writing by the Registrar to receive the same or be sent by registered post with acknowledgement duly addressed to the Registrar of the Tribunal at and sent to concerned place of sitting:

Provided that where the application is for relief and compensation, it shall be made in Form 11.

(2) The application or appeal, as the case may be, under sub-rule (i) shall be presented in triplicate in the following two compilations

a) Compilation No. 1 - application or appeal, as the case may be, along with the impugned order, if any;
b) Compilation No. 2 - all other documents and annexure referred to in the application or appeal, in a paper book form.

(3) Where the number of respondents is more than one, as many extra copies of the application or appeal, in paper-book form as there are respondents together with unused file size envelope bearing the full address of each respondent shall be furnished by the applicant or appellant, as the case may be:

Provided that where the number of respondents is more than five, the Registrar may permit the applicant or appellant, as the case may be, to file the extra copies of the application or appeal, as the case may be, at the time of issue of notice to the respondents.

(4) The applicant or appellant, as the case may be, may attach to, and present with, his application or appeal, as the case may be, a receipt slip in Form III which shall be signed by the Registrar or the officer receiving the application or appeal on behalf of the Registrar in acknowledgement of the receipt of the application or appeal.

(5) Notwithstanding anything contained in sub-rules(1) to (3) the Tribunal may permit more than one person to join together and file a single application or appeal, as the case may be, if it is satisfied, having regard to the cause and the nature of relief prayed for that they have a common interest in the matter:

Provided that such permission may also be granted to an agent representing the person desirous of joining in a single application or appeal provided, however, that the application or appeal shall disclose the class, grade, categories or persons on whose behalf it has been filed: Provided further that at least one affected person joins such an application or appeal.
9. Presentation and scrutiny of application or appeal.

(1) The Registrar, or the officer authorized by him under rule 8, shall endorse on every application or appeal, as the case may be, the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement.

(2) If, on scrutiny, the application or appeal, as the case may be, is found to be in order, it shall be duly registered in a register in Form IV and assigned a serial number.

10. Rectification of defects.

(1) If on scrutiny, any application or pleadings filed in the Tribunal is found to be defective, the Registrar or the authorized officer of the Registry shall notify in Form V on the Notice Board of the Tribunal fixing the time for rectifying the same.

(2) The papers shall be returned to the party or his legal practitioner only after obtaining acknowledgment thereof in the Inward Register.

(3) The Registrar may, for good and sufficient reasons extend the time for rectifying the defects, provided the total period for rectification including the extended period does not exceed thirty days.

(4) If the party or his legal practitioner contests the office objection and the Registrar is not satisfied, the matter shall be placed before the Tribunal for appropriate orders.

(5) If the party or his legal practitioner rectifies the defects and represents the application or appeal or pleading within the time granted, the Registrar on being satisfied may order for its registration and acceptance and numbering as specified in rule 9.
11. **Place of filing application or appeal.**

An application or appeal, as the case may be, shall ordinarily be filed by an applicant or appellant, as the case may be, with the Registrar of the Tribunal at its ordinary place of sitting falling within the jurisdiction, the cause of action, wholly or in part, has arisen.

12. **Fee.**

   (1) An application or appeal where compensation has been claimed shall be accompanied by a fee of equivalent to one percent of the amount of compensation claimed, subject to a minimum of one thousand rupees:

   Provided that where the Tribunal permits a single application or appeal to be filed either by more than one person or by an association of persons, the fee payable shall be equivalent to one per cent of the total amount of compensation claimed.

   Provided further that, there shall be no fee for filing of application or appeal for claiming compensation by any person who is below the poverty line determined in accordance with the guidelines or instructions issued by the Central Government or the State Government from time to time in this regard or indigent person determined in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 2008).

   (2) An application or appeal where no compensation has been claimed shall be accompanied by a fee of one thousand rupees.

   (3) The fee under this rule shall be remitted either in form in from of a crossed demand draft drawn on a nationalized
bank in favor of the Registrar payable at the main branch of that bank at the station where the place of sitting of the Tribunal is situated or remitted through a crossed Indian Postal Order drawn in favor of the Registrar and payable at the Post Office of the station where the sitting of the Tribunal is situated.

13. Contents of application or appeal.

(1) Every application or appeal filed under rule 8 shall set forth concisely under distinct heads the grounds for such application or appeal and such grounds shall be numbered consecutively.

(2) Every application or appeal including any miscellaneous application shall be typed in double space on one side on thick paper of good quality.

(3) It shall not be necessary to present a separate application or appeal to seek an interim order or direction if in original application or appeal the same relief is prayed for.

(4) An applicant or appellant may, subsequent to the filing of an application or appeal under section 18 of the Act, apply for an interim order or direction by way of an application in Form I or Form II, as the case may be.

(5) Every application or appeal, as the case may be shall be accompanied by the following documents, namely:

(a) attested true copy of the order against which the application or appeal, as the case may be, is filed;

(b) copies of the documents relied upon by the applicant or appellant, as the case may be, and referred to in the application or appeal;

(c) an index or the documents.
(6) The documents referred to in sub-rule (5) may be attested by a legal practitioner or by a gazette officer and each document shall be marked serially as Annexure- A1, A2, A3 and so on.

(7) Where an applications or appeal, as the case may be, is filed by any agent, the documents authorizing him to act as such agent shall also be appended to the application or appeal: Provided that where an application or appeal, as the case may be, is filed by a legal practitioner, it shall be accompanied by a duty executed 'Vakalatnama'.

An application or appeal, as the case may be, shall be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another.

15. Service of notice and processes.
(1) Notices to be issued by the Tribunal may be served by any of the following modes
   (a) by hand delivery (dasti) to the party itself or to the authorized agent, as the case may be, through process server;
   (b) by registered post with acknowledgement due;
   (c) through the concerned head of Office of the same Department involved in the proceedings.

(2) Where notice issued by the Tribunal is served by the party himself by hand delivery' (dasti), he shall file in the Registry of the Tribunal, the acknowledgement together with an affidavit of service.

(3) Notwithstanding anything contained in sub-rule (1), the Tribunal may, taking into account the number of respondents and their places of residence or work and other circumstances, direct the notice of the application or appeal, as the case may
be, shall be served upon the respondents in any other manner, including any manner of substituted service, as it appears to the Tribunal just and convenient.

(4) Notwithstanding anything contained in sub-rule (1), the Tribunal, may in its discretion, having regard to the nature of the case, direct the service of the notice on the Standing Counsel, authorized to accept the service, for any Department or Organization of the Central Government or the Stale Government or Union territory, or an authority, a corporation or a body owned or controlled by the Central Government or the State Government or Union territory, as the case may be.

(5) Every notice issued by the Tribunal shall unless otherwise ordered, be accompanied by a copy of the application or appeal, as the case may be, and a copy of the impugned order.

(6) Notwithstanding anything contained in sub-rules (1) to (4), if the Tribunal is satisfied that it is not reasonably practicable to serve notice of application or appeal, as the case may be, upon all the respondents, it may, for reasons to be recorded in writing, direct that the application or appeal, as the case may be, shall be heard notwithstanding that some of the respondents have not been served with notice of the application or appeal:

Provided that no application or appeal, as the case may be, shall be heard unless-

(i) the notice of the application or appeal, as the case may be, has been served on the Central Government or the State Government or Union territory, as the case may be, if such Government is a respondent;
(ii) the notice of the application or appeal, as the case may be, has been served on the authority which passed the order against which the application or appeal has been filed; and

(iii) the Tribunal is satisfied that the interests of the respondents on whom notice of the application or appeal, as the case may be, has not been served are adequately and sufficiently represented by the respondents on whom notice of the application or appeal, as the case may be, has been served.

(7) Every applicant or appellant, as the case may be, shall pay for the service or execution of processes, in respect of an application or appeal where the number of respondents exceeds five, as under.

(a) a sum of five rupees for each respondent in excess of five respondents;

(b) where the service is in such manner as the Tribunal may direct under sub-rule (3) such a sum not exceeding the actual charges incurred in effecting the service as may be determined by the Tribunal.

(8) The fees for the service or execution of process under sub-rule (7) shall be remitted in the manner specified under rule (12) within one week of the date of order determined the fees or within such extended time as the Registrar may permit.

16. Filing of reply and other documents by respondents:--

(1) Each respondent intending to contest the application or appeal, as the case may be, shall file in triplicate the reply to the application or appeal, as the case may be, and the document relied upon in paper book form with the Registry within one
month of the service of notice of the application or appeal on him.

(2) In the reply filed under sub-rule (1), the respondent shall specifically admit, deny or explain the facts stated by the applicant or appellant, as the case may be, in his application or appeal, as the case may be, and may also state such additional facts as may be found necessary for the just decision of the case.

(3) The reply shall be signed and verified as a written statement by the respondent or any other person duly authorized by him in writing in the same manner as provided for in Order VI, rule 15 of the Code of Civil Procedure, 1908 (5 of 1908).

(4) The documents accompanying reply shall also be filed along with the reply and the same shall be marked as RI, R2, R3 and so on.

(5) The respondent shall also serve a copy of the reply along with documents as mentioned in sub-rule (1) on the applicant or appellant, as the case may be, or his legal practitioner, if any, and file proof of such service in the Registry.

(6) The Tribunal may allow filing of the reply after the expiry of the specified period with or without cost.

(7) The Tribunal may permit the parties to amend the pleadings in the same manner as provided under Order 6, Rule 17 of the Code of Civil Procedure, 1908 (5 of 1908)

17. Date and place of hearing: -

The Tribunal shall notify to the parties the date and the place of hearing of the application or appeal in such manner as the Chairperson may by general or special order direct.
18. Calendar of cases:--
   (1) The Tribunal shall draw up a calendar for the hearing of transferred cases and, as far as possible, hear and decide the cases according to the calendar.
   (2) The Tribunal shall have the power to decline an adjournment and also to limit the time for oral arguments.
   (3) Every application or appeal shall be heard and decided finally, as far as possible within six months from the date of filing an application or appeal, as the case may be.

19. Maintenance of diary:--
   (1) The concerned officer of the Tribunal shall maintain legibly a case diary, wherein he shall record the proceedings for each case listed in the daily cause list.
   (2) The matters to be recorded in the diary shall include details as to whether the case is adjourned, or part-heard or heard and disposed of or heard and orders reserved, as the case may be.

20. Action on application for applicant's or appellant's default:--
   (1) Where on the date fixed for hearing of the application or appeal, as the case may be, or on any other date to which such hearing may be adjourned the applicant or appellant, as the case may be, does not appear when the application or appeal, as the case may be, is called for hearing, the Tribunal may in its discretion, either dismiss such application or appeal for default or hear and decide it on merit.
   (2) Where an application or appeal, as the case may be, has been dismissed for default and the applicant or appellant, as the case may be, files an application within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non-appearance when the application
or appeal was called for hearing, the Tribunal shall make an order setting aside the order dismissing the application or appeal, as the case may be, and restore the same:

Provided that where the case was disposed of on merits the decision shall not be reopened except by way of review.

21. Ex-parte hearing and disposal of cases.

(1) Where on the date fixed for hearing the application or appeal, as the case may be, or on any other date to which such hearing may be adjourned, the applicant or appellant, as the case may be, appears and the respondent does not appear when the application or appeal is called for hearing, the Tribunal may, in its discretion adjourn the hearing, or hear and decide such application or appeal ex-parte.

(2) Where an application or appeal, as the case may be, has been heard ex-parte against a respondent or respondents such respondent or respondents may apply within thirty days from the date of the order to the Tribunal for an order to set it aside and if such respondent or respondents Satisfy the Tribunal that the notice was not duly served, or that he or they were prevented by any sufficient cause from appearing when application or appeal was called for hearing, the Tribunal may make an order setting aside the ex-parte order as against him or them upon such terms as it thinks fit., and shall appoint a day for proceeding with such application or appeal:

Provided that where the ex-parte order of the application or appeal is of such nature that it cannot be set
aside as against one respondent only, it may be set aside as against all or any of the other respondents also:

Provided further that the Tribunal shall not set aside ex-parte order of an application or appeal, as the case may be, merely on the ground that it was not served upon a respondent or respondents

22. Application for review.
   (1) No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed.
   (2) A review application shall ordinarily be heard by the Tribunal at the same place of sitting which has passed the order, unless the Chairperson may, for reasons to be recorded in writing, direct it to be heard by Tribunal sitting at any other place.
   (3) Unless otherwise ordered by the Tribunal sitting at the concerned place, a review application shall be disposed of by circulation and the Tribunal may either dismiss the application or direct notice to the opposite party.
   (4) When an application for review of any judgment or order has been made and disposed of, no further application for review shall be entertained.
   (5) No application for review shall be entertained unless it is supported by a duly sworn affidavit indicating therein the source of knowledge, personal or otherwise, and also those which are sworn on the basis of the legal advice.
   (6) The counter affidavit in review application shall also be on a duly sworn affidavit wherever any averment of fact is disputed.
23. Order to be signed and dated.
   (1) Every order of the Tribunal shall be signed and dated by the Members constituting the sitting of the Tribunal, which pronounced the order.
   (2) The order shall be pronounced in open court.
24. Order and directions in certain cases.
   The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice.
25. Publication of orders.
   The Tribunal shall get its decisions or orders reported, to be fit for publication in any authorized legal report or Journal or such of the order of the Tribunal as are deemed fit for publication in any authoritative report or Journal or the press may be released for such publication on such terms and conditions as the Chairperson may specify by general or special order.
26. Dress of the Members and staff of the Tribunal
   The dress for the Members of the Tribunal (including Chairperson) and members of the staff shall be such as the Chairperson may specify.
27. Dress of the parties
   A legal practitioner or, as the case may be, the presenting officer shall appear before the Tribunal in his professional dress as prescribed for appearance before the courts and if there is no such dress, then
   (a) in the case of a male, a suit with a tie or close coat or any other customary dress of sober colour;
28. Communication of order to parties.

(1) Every interim order, granting or refusing or modifying interim relief or final order shall be communicated to the applicant or appellant, as the case may be, and to the concerned respondent either by hand delivery or by Registered Post, free of costs:

Provided that unless ordered otherwise by the Tribunal, a copy of the final order need not be sent to any respondent who has not entered appearance:

(2) The applicant or, as the case may be, the appellant or the respondent who is duly represented by an Advocate or other authorized agent requires a copy of any document, proceeding or order, the same shall be supplied to him on such terms and conditions on payment of such fees or cost as may be fixed by the Chairperson by general or special order.

29. Inspection of records.

(1) The parties to any case or their counsel may be allowed to inspect the record of the case on making an application in Form VI to the Registrar.

(2) Subject to such terms and conditions as may be specified by the Chairperson by a general or special order, a person who is not a party to the proceeding, may also be allowed to inspect the proceeding after obtaining the permission of the Registrar in writing.

(3) The applicant or his Counsel or other authorized representative shall pay such fees or charges as may be specified by the Chairperson by general or special order for the inspection of the records of a case.
30. Working hours of Tribunal.

Except on second Saturday of month, Sundays, and other public holidays, the 'office of the Tribunal shall, subject to any order made by the Chairperson remain open from 9:30 hours to 17:30 hours of a day.

31. Sitting hours of Tribunal.

The sitting hours of the Tribunal shall ordinarily be from 10.30 hours to 13.30 hours and 14:30 hours to 16:30 hours subject to any general or special order made by the Chairperson.

32. Seal and emblem.

(1) The official seal and emblem of the Tribunal shall be such as the Central Government may, in consultation with the Chairperson, specify and the same shall be kept in the custody of the Registrar.

(2) The seal of the Tribunal shall not be affixed to any order, summons or other process save under the authority in writing given by the Tribunal to the Registrar.

(3) The seal of the Tribunal shall not be affixed to any certified copy issued by the Tribunal save under the authority in writing given by the Tribunal to the Registrar.

33. Language of Tribunal.

(1) The language of the Tribunal shall be English:

Provided that the parties to a proceeding before the Tribunal may file documents drawn up in Hindi, if they so desire:

Provided further that-

(a) the Tribunal may, III its discretion permit the use of Hindi III the proceedings;
(b) the Tribunal, hearing the matter may in its discretion direct English translation of pleadings and documents to be filed;
(c) the Tribunal may, in their discretion, make final orders either in Hindi or in English.

(2) Notwithstanding anything contained in sub-rule (1), where a final order is made in Hindi, and authenticated English translation thereof shall simultaneously be prepared and kept on record.

34. Manner of giving notice.
The manner of giving notice under clause (b) of sub-section (1) of section 30 of the Act shall be as follows:-
(a) the notice shall be in writing in Form V; and
(b) the person giving notice shall send a copy of the same,
   (i) to the person concerned against whom the order or award has been passed by the Tribunal or the Central Government or the State Government or Union territory or the Board or Authority or Committee dealing with the matters relating to environment or forests constituted under the Act specified under Schedule I to the Act;
   (ii) to the District Collector of the concerned District where the cause of action has arisen or the property damaged is situated or environmental damage has arisen;
   (iii) to the authority specified under sub-section (3) of section 7 A of the Public Liability Insurance Act, 1991 (6 of 1991).
35. **Manner and the purposes for which amount of compensation or relief or restitution credited to Environment Relief Fund shall be utilized**

(1) The amount by way of compensation or relief to the victim or restitution of property and the environment, ordered by the Tribunal to be paid shall be remitted to the authority, specified under sub-section (3) of section 7 A of the Public Liability Insurance Act, 1991(6 of 1991), within a period of thirty days from the date of order or award or as otherwise ordered by the Tribunal.

(2) In the case of failure to remit the amount by the concerned person, under sub-rule (1), within the time so specified, the District Collector of the concerned district shall file a complaint, before the Court having jurisdiction, under clause (a) of sub-section (1) of section 30 of the Act.

(3) The amount referred to in sub-rule (1), shall be credited to the Environment Relief Fund under section 24 of the Act for utilization under any heads specified in Schedule 11 to the Act.

(4) A separate account shall be created and maintained by the authority referred to in sub-rule (1) for the purpose of receiving and disbursement of the amount pursuant to the order or award of the Tribunal.

36. **Procedure for disbursement of relief or compensation or restitution of property damaged.**

(1) A copy of the award or order or decision of the Tribunal passed under clause (a) or clause (b) of sub-section (1) of section 15 of the Act shall be transmitted to the authority referred to in sub-rule (1) of rule 35 and the District Collector having local jurisdiction for disbursement.
(2) The authority referred to in sub-rule (1) of rule 35 shall transfer the amount so deposited in the Environment Relief Fund to the concerned District Collector within a period of thirty days from the date of deposit.

(3) The District Collector shall arrange to disburse the amount of compensation or relief and restitution of property damaged within a period of thirty days of the receipt of the amount under sub-rule (2'), to the affected persons or victims of pollution or other environmental damages arising under the enactments specified in Schedule-I, under the heads specified in Schedule 11, to the Act.

37. Procedure for disbursement of amount for restitution of environment.

(1) For the purpose of restitution of environment of such area or areas, affected by pollution and other environmental damages arising under the enactments specified in the Schedule-I to the Act, the concerned Department of the State Government dealing with environment and forests shall be the Nodal Agency for execution of projects or scheme or schemes for restoration and remediation of environment in accordance with the direction or award of the Tribunal.

(2) A copy of the award or order or decision of the Tribunal passed under clause(c) of sub-section (1) of section 15 of the Act shall be transmitted to the authority referred to in sub-rule (1) of rule 35 and the Nodal Agency for disbursement.
(3) The authority referred to in sub-rule (1) of rule 35 shall transfer the amount so deposited in the Environment Relief Fund to the concerned Nodal Agency within a period of thirty days from the date of receipt of the order of the Tribunal.

(4) The Nodal Agency shall execute such projects or scheme or schemes by itself or through other Department or authority or agency of the State Government or in such manner as may be directed by the Tribunal.

(5) The projects or scheme or schemes referred to in sub-rule (4) prepared by the Nodal Agency shall commence within a period of one hundred eighty days from the date of the order or award of the Tribunal.

(6) The Nodal Agency or other Department or authority or agency referred to in sub-rule (4) may associate expert agencies, like, the State Pollution Control Board or other technical institutions having expertise in the formulation and execution of project or schemes for restitution of environment, in accordance with the directions of the Tribunal.

The National Green Tribunal is a special fast-track court for speedy disposal of environment-related civil cases. This is the first body of its kind that is required by its parent statute to apply the "polluter pays" principle and the principle of sustainable development. Proper institutional development of National Green Tribunal will significantly affect compliance. However, the probability of detection will remain considerably low in the absence of capacity development. The Judiciary has been the backbone for developing a large body of environmental jurisprudence, even though policy enforcement has been weak. It is hard
to assess this novel legislation due to lack of precedent and application. However, evidence shows that the National Green Tribunal will play a leading role in environmental enforcement and compliance and will become a role model for enactment of similar Tribunals in developing countries.

A National Environment Protection Authority is also to be established shortly to monitor the implementation of environment laws. However, I hope that National Green Tribunal will play a lead role in environmental protection, enforcement and compliance.