

National Green Tribunal – Challenges and Opportunities Thus Far

The National Green Tribunal has been the subject of various accomplishments and yet it continues to face the very challenges it did since its inception on 18th October, 2010, when it was set up to decide all environment-related disputes.

One of the highlights of this month at the Tribunal has been the Founders Day celebration on the completion of its second year.

On a high note, the current number of judgements/orders passed by the National Green Tribunal (NGT) is ninety-one, and still counting. In the month of August, a 3-judge bench of the Supreme Court comprising of ex-chief justice S.H. Kapadia, Justice Swatanter Kumar and Justice A.K. Patnaik had ordered the transfer of all environmental cases to the NGT. However, while this order denotes a positive step forward in building the profile of the NGT, it also presents a challenge. A total number of six members have resigned from the NGT since its inception. In July 2012, judicial members C.V. Ramulu and Amit Talukdar, and expert member Vijai Sharma submitted their resignation. Under the National Green Tribunal Act of 2010, the minimum number of judicial members and expert members should be ten each. This requirement has not been fulfilled and thus the pressure on the NGT increases with amplification in the number of cases. Currently, three judicial members- Justice A.S. Naidu, Justice M. Chockalingam and Justice V.R. Kingaonkar; and three expert members- Dr. G.K. Pandey, Dr. Devendra Kumar Agrawal and Prof. R. Nagendran sit on the panel.

Ex-Chief Justice S.H. Kapadia, who gave the order for transfer of all environmental cases to the NGT, also recommended that Justice Swatanter Kumar head the NGT. Appearing for the Centre, solicitor general R.F. Nariman informed the Supreme Court bench consisting of Justices G.S. Singhvi and S.J. Mukhopadhaya that the Chief Justice S.H. Kapadia's recommendation for appointing sitting judge of Supreme Court Justice Swatanter Kumar as chairperson of the NGT (which was received by the government in August in response to request in April), was placed before the appointing authority on September 17. On 26th September, 2012, the solicitor general stated that such an appointment would take six weeks. There has been no chairman since the relinquishment of this post by Justice Lokeshwar Singh Panta on 31st December, 2011. As of 1st January, 2012, the acting chairperson has been Justice A.S. Naidu.

While the number of members of the NGT has been a source of concern, the Court also saw the non-allocation of accommodation to tribunal chairpersons and members as a persisting problem. The same bench of the Supreme Court asked the attorney general G.E. Vahanvati to specify in six weeks the government's stand on three issues - uniformity in retirement age of chairpersons of tribunals, accommodation to chairpersons and members, and infrastructure. The Court has posted the matter for further hearing on 29th November, 2012.

Another hurdle for the NGT has been the constant challenge to its power as a separate specialized forum. Most recent has been a petition filed by the Madhya Pradesh High Court Bar

Association challenging the constitutional validity of the National Green Tribunal Act, which excluded the jurisdiction of a High Court to entertain writ petitions on environment and forest related matters.

A challenge faced and also overcome by the NGT has been in the mission of the Judges and the Expert Members of the NGT to maintain the precarious balance between the environment and sustainable development. From observing the recent proceedings of this court and reading the various orders/judgments passed by the NGT, the Members of this Tribunal have achieved such a feat in a majority of their cases. For example, in the Lavasa, POSCO, Kaziranga, Jindal Steel, Somepeta case, and so on.

Also, as a specialized body to determine cases relating to the environment, the NGT should not have to be limited in such a manner. It is technically equipped to handle cases even under the Wildlife (Protection) Act, 1972. However, along with an increase in its power to handle cases involving multi-disciplinary issues, the predicament of the lack of human resource needs to be resolved in order for the Tribunal to reach its **envisioned potential**, the basis on which the National Green Tribunal Act was passed.

The initiation of the NGT under the National Green Tribunal Act of 2010 has been an optimistic step in environmental litigation. This court can rightly be called 'special' because India is the third country following Australia and New Zealand to have such a system. We feel that India has the most progressive and active environmental Tribunal. The need of the hour, however, is building capacity and increasing awareness amongst people, enabling them to come forward to protect the environment around them. Locals should be able to enforce their constitutional right to a healthy environment and protect their forests and wildlife.

We look forward to seeing many great things from this Tribunal in the future.