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**VESTED PUBLIC INTEREST LITIGATION JURISDICTION OF THE
NATIONAL GREEN TRIBUNAL**

“We can believe in the future and work to achieve it and preserve it, or we can whirl blindly on, behaving as if one day there will be no children to inherit our legacy. The choice is ours; the earth is in balance.”¹

Abstract:

In India, the ill effects of environmental degradation are increasing on a large scale and due to the same, the Supreme Court and the High Courts are flooded with the litigations related to the issues of environment protection. This has resulted in challenges faced by the courts such as pendency of cases and slow justice delivery and many more. Therefore, need of the hour is the existence of such specialized bodies which can exclusively deal with environmental protection issues. To deal with this situation, we have National Green Tribunal in India.

¹ Al Gore, Earth in the Balance: Ecology and Human Spirit.

This paper is going to deal with the primary understanding of the Tribunal and will further describe the authority of the same. In this paper you will also get a basic idea about Public Interest Litigations (PILs) and the jurisdiction of the NGT relating to the PILs.

Introduction:

India has always been recognized for its flourishing environment and some of the most biodiverse ecozones of the world are covered by India. Along with the bright side of having such rich environmental characteristics, come the problems relating to environment protection. The central government of India passed the National Green Tribunal Act in 2010 (the Act) with the firm objective of establishing a platform which would be efficient enough to facilitate fast and effective disposal of cases pertaining to environment conservation. Accordingly, on October 18, 2010 the National Green Tribunal (NGT) was established under the National Green Tribunal Act, 2010.

National Green Tribunal – an overview:

National Green Tribunal is a specialized body which basically deals with the cases related to environmental protection and forests conservation and other natural resources. It also holds the authority to enforce the legal rights in the environmental sphere along with providing reliefs and compensation to the people and property that has incurred damages because of some environmental issues.

Section 10 of the National Green Tribunal Act, 2010 provides the provision for establishment of tribunal which is to be known as the NGT and will be authorized to settle the environmental disputes. The objective behind the establishment of such tribunal is to reduce the increasing burden of litigations in the higher courts. The composition of the tribunal is clearly described under section 4 of the Act. It states that the tribunal should consist of a full-time chairman who is a retired judge of the Supreme Court, full time judicial members (ranging from 10-20) and full-time expert members (ranging from 10-20). The judicial members of the tribunal are the retired judges of High Courts whereas the expert members are required to have a professional qualification plus expertise in environmental field of minimum 15 years.

The national capital, New Delhi, holds the principal bench of the NGT. The other benches are established in four different regions having specific geographical jurisdiction with each region comprising several states. These four benches are in Pune (covering the western zone), Chennai

(covering the southern zone), Bhopal (covering the central zone) and Kolkata (covering the eastern zone).

Authority/Power of the Tribunal:

The NGT holds civil jurisdiction over all the cases relating to environmental issues and is authorized to settle such disputes and pass orders thereon. The tribunal demand that the application for adjudication of dispute should be made within a time frame of 6 months from the date on which the cause of action first arose. An application made beyond the given time period shall not be entertained by the tribunal but in cases where the tribunal is satisfied that there was a sufficient and reasonable cause behind the delay of application filling, the tribunal can allow the application to be filled within a further period which shall not exceed 60 days.²

The tribunal works on and is guided by the principles of *natural justice* and is not bound to follow the procedures laid down by the *Code of Civil Procedure, 1908* and the provisions laid under the *Indian Evidence Act, 1872*. The tribunal is entitled to regulate its own procedure to settle the disputes and is vested with the powers similar to the civil courts as per the Code of Civil Procedure, 1908.³

In accordance with the Schedule I of the National Green Tribunal Act, the NGT is also authorized to hear cases which are linked to the implementation of laws as mentioned under the following acts:

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991;
7. The Biological Diversity Act, 2002.

Public Interest Litigations and Environment Protection:

As the name itself suggests, Public Interest Litigation (PIL) is a mode of litigation where the cases are filled for promoting and securing public interest at large. Under law, we have the

² Section 14, National Green Tribunal Act, 2010

³ Section 19, Nation Green Tribunal Act, 2010

concept of *locus standi* which states that “*any aggrieved person can approach the courts of law for a remedy.*” Exception to such a rule is Public Interest Litigations where a third party which may itself not have incurred any damage can file a suit before the courts of law in good conscience for insuring larger public interest.

Any statute or act does not comprise the definition of PIL. The same has been interpreted during different case trials by the judges. PILs can be filed to question the conduct of any government authority or in the cases of violation of one’s basic fundamental rights.

Article 21 of the Indian Constitution provides right to life to every person. Since this article has a broader ambit, it also includes right to a clean and healthy environment. The Supreme Court made it crystal clear that any disturbance of the basic environmental elements namely air, water and soil which are necessary for life would be hazardous to life and cannot be polluted.⁴ Therefore, in the issues relating to environmental degradation or when any form of environmental pollution takes place which is likely potential to cause harm to the public at large, one is entitled to reach the courts of law through the medium of PILs, demanding reliefs or compensation for the damage caused.

The role of NGT with respect to PILs:

As per the section 14 of the Nation Tribunal Act, 2010, the NGT has jurisdiction over all civil cases. No civil court is thus entitled to settle any civil dispute⁵ which holds the questions of environmental issues and which comes under the purview of the areas entrusted and empower with the National Green Tribunal. No court has the authority to take cognizance of any offence under the Act unless a complaint is made by the Central Government.⁶ The Act does not provide for any specific provision regarding filing of PILs, but still through interpretation of various sections of the Act it can be infer that the NGT holds exclusive authority in dissolving environmental issue.

“Keeping in view the provisions and scheme of the NGT Act, particularly sections 14, 29, 30 and 37(5), it can be safely be concluded that the environmental issues and matters covered

⁴ M.C. Mehta vs Kamal Nath (1997) 1 SCC 388

⁵ Section 29, National Green Tribunal Act, 2010

⁶ Section 30, National Green Tribunal Act, 2010

under Scheduled 1 of the Act should be instigated and litigated before the National Green Tribunal.”⁷

In the recent times there has been a raise in the level of awareness among people towards the environment and consequently the use of PILs has also been increased. The role of NGT in settling the matters of environmental importance was discussed in the case *Kalia Sethi and others vs. State of Odisha and others, 2017*. The High Court of Odisha here declared that to take cognizance of the offences in cases of violation of environmental laws, the authority lies with the National Green Tribunal.

Conclusion:

With the rapid advancement of the society, people are understanding the importance of sustainable development along with protection of the environment. To keep up with this situation, the Indian judiciary has actively utilized the method of public interest litigation to deal with the causes of environmental protection in many cases. We have already read above that the NGT Act does not exclusively talk about the jurisdiction with respect to PILs but it is clear through different judicial interpretation that in the matters of environment conservation, the NGT holds a preferential status. Supporting the same, the supreme court has said that environmental issues should be dealt by NGT and the Madras high court has also stated that it is not competent to entertain PIL petitions on environment issues since the jurisdiction was vested exclusively with the national green tribunal.

In my opinion, this approach of the Indian judiciary that allows the NGT to exercise its authority to a wider aspect with respect to environmental issues is necessary to avoid any situation which may likely cause conflict between the courts and the NGT. Thus, it is fair to direct that the matters that can be covered under the provisions of the NGT Act should be instituted only before the NGT either in the capacity of original jurisdiction or appellate jurisdiction.

Along with this I feel that there should be an amendment in the NGT Act to add the provisions regarding filing of a PIL in environmental protection matters because due to the absence of the

⁷ Bhopal Gas Peedith Mahila Udyog Sangathan vs Union of India 2012

same, there is a space for confusion to fit in as to whether one should reach the judicial courts with the PILs to access relief in such matter or to reach the National Green Tribunal.



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