

3. National Green Tribunal

Prelims: Environment- Institutions

Mains: GS-III- Conservation, environmental pollution and degradation, environmental impact assessment.

Context:

- ▶▶ Instead of giving financial and administrative support to the NGT, efforts are usually directed towards diluting its powers, defeating the very purpose behind its creation.

Background:

- ▶▶ Taking into account the increasing number of environmental cases across the country and the involvement of multi-disciplinary issues in such cases, the Government of India enacted the National Green Tribunal (NGT) Act in 2010 for the effective and expeditious disposal of cases relating to environmental protection, conservation of forests and other natural resources.

About National Green Tribunal:

- ▶▶ The National Green Tribunal is **Statutory body**, established under the **National Green Tribunal Act 2010**. For effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources 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 there to. It is a **specialized body equipped with the necessary expertise to handle environmental disputes** involving multi-disciplinary issues.
- ▶▶ The **Tribunal shall not be bound by the procedure laid down under the Code of Civil Procedure, 1908, but shall be guided by principles of natural justice.**

Handling Complex Issues:

- ▶▶ To address complex environmental cases, Section 4 of the NGT Act prescribes that the tribunal shall consist of a full-time chairperson and at least 10, but not exceeding 20 judicial and expert members at all times.

Jurisdiction:

- ▶▶ **Section 14, 15 and 16** of the Act state that
 - ❖ The tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment is involved,

- ❖ Provide relief and compensation to the victims of pollution and other environmental damage arising under the environmental acts, and
- ❖ Hear appeal from any person aggrieved by any order or decision related to environmental matters.

Administrative Problems:

- ▶▶ A less obvious but critical aspect of the NGT's efficient functioning, which can significantly impact the decision-making process and access to justice, concerns the administrative support supplied by the Government of India.
- ▶▶ However, from the very beginning, the Government of India has not been enthusiastic to see NGT function as an effective body. In the absence of basic infrastructure facilities and human resources, three judicial members submitted their resignations between 2012-13.
- ▶▶ This led to the intervention of the Supreme Court in 2012 in directing the Union Ministry of Environment, Forest and Climate Change (MoEF&CC) to provide basic facilities so that the NGT members continue in the bench.
- ▶▶ **Section 4 of the NGT Act, 2010**, prescribes that the tribunal shall consist of a full time chairperson and not less than 10 judicial and 10 expert members but subject to maximum of twenty full-time judicial and expert members.
- ▶▶ **Issue:**
 - ❖ In the last nine years, the NGT has never got the minimum strength of ten judicial and ten expert members to address the increasing number of environmental litigations across the country.
 - ❖ Currently, with only four judicial and two expert members, the NGT appears paralysed.
 - ❖ With no indication of appointment of more judicial and expert members from the MoEF&CC, the **four zonal benches have been completely shut over the past one year.**

Opinions of Lawyers:

- ▶▶ Many lawyers practicing in the NGT have expressed their discomfort with the video conference hearing which they feel has put enormous cost and burden on their clients.
- ▶▶ Hearings are adjourned or listed in an unfashionable manner, without giving sufficient time to lawyers and clients to present their matter.
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- ▶▶ Lawyers also complain that they hardly get a chance to mention any new matter via video-conference hearing.
- ▶▶ The great majority of cases are not resolved within the stipulated time-period of six months.

Other Issues:

- ▶▶ The scale and nature of environmental litigation has changed drastically over the years, the government has not shown any seriousness in appointing a variety of expert members to address complex environmental problems ranging from nuclear waste to bio-medical wastes to hazardous wastes.
- ▶▶ For example, out of the 13 expert members appointed between 2010-2018, four are from Indian Forest Service and two are from Indian Administrative Service.
- ▶▶ Complex environmental problems demand special knowledge and expertise.
- ▶▶ In the absence of variety of expert members, decisions, especially those related to the quantum of compensation amount to be paid by the polluter are arrived at without any scientific basis.
- ▶▶ This has **resulted in an increasing number of appeals against the NGT's decisions in the Supreme Court.**
- ▶▶ **Order implementation**
 - ❖ There are also serious challenges as far as implementation of the NGT orders is concerned. For example, Rule 35 (1) of the Act specifies that the compensation amount as ordered by the tribunal should be remitted to the authority of the **Environmental Relief Fund** within a period of 30 days from the date of order or award or as otherwise ordered by the tribunal.
 - ❖ It is observed that the polluters don't abide by this rule.
 - ❖ Second, the NGT orders are increasingly challenged in the Supreme Court, where a heavy penalty has been imposed by the tribunal.
 - ❖ Third, there is **no institutional mechanism to ensure that the environmental regulatory authorities comply with the orders of the tribunal.**
 - ❖ Most of the landmark orders of the NGT related to Ganga water pollution, Delhi air pollution, illegal mining, and solid waste management remain unenforced.

Core Concerns:

- ▶▶ Efforts in India have been directed towards diluting the role and function of the NGT.
- ▶▶ Given the current state of the NGT, it is reasonable to claim that the multiple objectives of access to justice, efficiency, cost-efficiency, and protection of the environment through the NGT Act, have been defeated.

Way Forward:

- ▶▶ The NGT deserves more attention today than what it has been hitherto.
- ▶▶ The Government of India must realise the risk of pending of thousands environmental litigations in zonal benches to its ambitious economic growth target and policy to lure investors.
- ▶▶ The government needs to provide adequate financial and human resources — if it does not want the NGT to wither away.

