

**“Environment Justice and Role of National Green Tribunal in
India: An Analysis”**

A Thesis submitted to the

UPES

For the Award of

Doctor of Philosophy

In

Law

By

Aprajita Singh

Jan 2024

SUPERVISOR

Dr Shikha Dimri



**Department of Law and Social Sciences
School of Law (SOL)
UPES
Dehradun- 248007: Uttarakhand**

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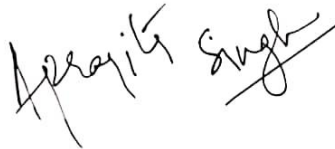


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DECLARATION

I declare that the thesis entitled "Environment Justice and Role of National Green Tribunal in India: An Analysis" has been prepared by me under the guidance of Dr Shikha Dimri, Professor, Department of Law and Management UPES. No part of this thesis has formed the basis for the award of any degree or fellowship previously.

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CERTIFICATE

I certify that Aprajita Singh has prepared his thesis entitled "Environment Justice and Role of National Green Tribunal in India: An Analysis", for the award of PhD degree from the University of Petroleum & Energy Studies, under my guidance. She has carried out the work at the School of Law, UPES.

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Date: 23/1/2024

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ABSTRACT

Due to the globalization of environmental concerns and the internalization of environmental laws, there has been an increase in the development of environmental justice discourse. The discourse on environmental justice often revolves around fairness, protection of the interest of the disadvantaged in developing countries, and environmental governance. Access to justice through an accessible judicial mechanism is an aspect of environmental governance as one of the means to redress environmental justice becomes important. India's environmental justice grew; because of growing judicial realization and appreciation of the connection between human rights and environmental protection.

A discussion on environmental justice discourse calls for looking into the sharing of environmental benefits and burdens. It also calls for the recognition of oppressed individuals and communities in political realms and the procedural dimension of it is focusing on participatory mechanism. The starting point of the development of environmental justice in India happened because of institutional gaps, contradictions in regulations, and inefficiencies in administrative enforcement, which resulted in the Supreme Court being the De Facto caretaker of environmental justice through PIL. Judicial activism provided environmental justice in a public participatory way and through judicial remedies. Eventually, it led to the realization that a specialized environmental court with expert members in the environmental field is the need of the hour. A by-product of various judgments emphasizing the establishment of environmental courts, India became one of the countries to have specialized environmental courts in the era of early environment jurisprudence.

With the establishment of the National Green Tribunal, the institutionalization of the procedural element of environmental justice happened, resulting in the closer realization of principles of environmental democracy that emphasize public

participation, transparency, and accountability. The benefits of such a system are that it provides easy access to justice, more public participation, and transparency in getting environmental justice. They further led to the growth of environmental jurisprudence.

In the context of a rapidly developing emerging economic powerhouse where there are inevitable tensions between ecological, economic, and social considerations in the pursuit of ecological sustainability. However, this ecological, economic, and social consideration, which lies at the heart of economic sustainability and economic justice, is not confined by boundaries. Therefore, an understanding of the concept of environmental justice in the modern context and changing times become important with the role of institutions like the National Green Tribunal and their work. This requires a study of the historical background and reasons for the establishment of the National Green Tribunal. It also requires the study of the procedure and analysis of the National Green Tribunal's judgments and the impact of these judgments on the understanding of environmental justice discourse in the Indian context. It has been almost a decade since the National Green Tribunal has been established and this study focuses specifically on the time between 2015-2020 as a period for the study of the impact of the National green tribunal Judgements. The literature gap exists during this period. It is during this period through the analysis of the judgments it has been investigated the importance of access to justice in promoting sustainability and good governance in environmental matters. The reality of justice is important, so it is perception. It is in this context this thesis tries to analyse the relationship between environment and justice and the role of the National Green Tribunal in achieving the same. The study also analyses the role of judicial structures like the Supreme Court and high court that offered access to environmental justice before the establishment of the National Green Tribunal. The study analyses the historical background working practices and effectiveness of the National Green Tribunal in advancing green jurisprudence in India distinctively. It has looked into the National Green Tribunal's commitment to environmental protection and the welfare of the people and the challenges it faced in the process.

The National Green Tribunal is an interesting case study counting as one of the progressive and newly formed Environmental Courts. As one of the specialized bodies in environmental law, its introspection from access to environmental justice and advancing environmental rule of law environment protection and use of technical and expert members as decision-makers comes into the picture. It's been a decade since National Green Tribunal has been established through the Act which gives it broad trial appellate jurisdiction over the natural resources in existence using the principles of international treaties and recognizing the right to a healthy environment. It was set up with five branches in New Delhi, Bhopal, Pune Kolkata, and Chennai. National Green Tribunal is an active decision-making body that uses a variety of proactive information-gathering techniques including adversarial, Inquisitorial investigative, and collaborative procedures It is in this context this thesis has tried to analyze the relationship between environment and justice and the role of the National Green Tribunal in achieving the same.

The **significance of this research** is that this study will help contribute and fill the gaps that exist. It will help analyse how National Green Tribunal is affecting the system of justice further, it will help us to analyse whether the Judgements of the National Green Tribunal had affected the environment protection and helped in achieving environmental justice. In this way, we would be able to develop the role of specialist courts in achieving environmental justice. Further, it will help us in developing environment jurisprudence by tribunal trying to balance between environment protection and sustainable development. There are various environmental matters across India that come across to National Green tribunal for resolution. From a broader perspective they are all related to environment. However, there is a need to know the predominant areas such as pollution (air, water, soil) environmental clearance, coastal zone management, mining, on which appeals and petitions were made to the tribunal and the judgements were delivered. It helps to understand the area of conflict that comes before the National Green tribunal. In view of the above, very limited studies have been conducted on the functioning and the effectiveness of the NGT. It helps to understand that how the

natural and man-made causes create environmental issues and on which NGT pronounce these judgements. This also helps to identify priority areas in the environment that can be strengthened. Each judgment was carefully examined to determine the details of the parties involved, the main petition of the respondents, and the tribunal's judgement. Based on the core point of the order and the petition of the respondents, the judgements were categorized and grouped according to the environment-related sectors. From 2015 to 2020, the NGT's judgements were counted on the website to monitor their increasing and decreasing trends and benches workload. A disaggregated analysis of case laws will be helpful for micro-level policy formulations for better outcomes and enhancing the nexus between environmental protection and realization of sustainable development goals

The **Research methodology** adopted for the present study is **doctrinal, analytical, and comparative**; involving examination of level and effect of Access to Environment Justice and role of National Green Tribunal and incidental cases as well as for opting analytical methodology to arrive at a complete understanding of the concerned topic. The exploratory method has been adopted to find values of justice as fairness (John Rawls) and in the reduction of injustice (Amartya Sen) which explores in the philosophical discussion, the reasons for and means of justice.

The researcher has also based her study on the method of comprehensive analytical understanding of the scholars of other interfacial disciplines in a similar domain. Evaluation Research has been used to do a critical evaluation of the merits and the demerits of institutions, policies, and approaches.

To fulfill the essential non-doctrinal demands of the topic, secondary data has been used. The research methodology adopted for this research required gathering some resources mostly from secondary data, which is already published by industry and/or by the regulatory agencies. The doctrinal demands of the research have been fulfilled by referring to primary sources of law i.e. Statutes and other policy instruments. This will also cover secondary sources of law including journals, articles, commentaries, textbooks, reference books, internet sources, e-books, and

decided case laws. The researcher has used judgments of the National Green Tribunal decided in the last 5 years(2015-2020) available as primary sources.

The previously mentioned research methodology is adopted because this thesis aims to analyze the role of NGT and access to environmental justice and to examine the efficiency of such laws in curbing non-environment friendly practices and the related challenges incidental to it. In light of this, the thesis has majorly used the deductive method of research, to sum up, the result by concluding the general findings.

The methodology used is quantitative (and qualitative (mixed approach, data includes for quantitative analysis of 135 appeals, orders, and judgments and for qualitative analysis (of 71 appeals, orders, and judgments) of the NGT taken from SCC and Manupatra for the time period 2015-2020).

The scheme of the thesis includes the following chapters-

Ch-1 Introduction: The Introductory chapter lays down the background and sets in the international context of environmental justice discourse along with national responses to it by setting in the background for the statement of the problem along with a brief overview of the research topic.

Ch-2 Idea of Environment Justice and Relation with Environmental Laws:

This chapter traces and analyses theories of justice and its relationship with environmental justice the analysis leads to the conclusion that discourse on environmental justice also revolves around participation and institutional capacity building apart from fair distribution of environmental goods. Here the role of the state's more specific institutions, which are part of the environment, decision-making like the National Green tribunals and Judiciary comes into the picture. They have a role to play as far as recognition of procedural justice and participation is concerned. They also play a crucial role in deciding cases where the fair distribution of environmental goods is concerned. This chapter also discusses changes in the discourse on environmental law from the current scenario to what it was in 70' the '80s. Towards the end it concludes that concern in the earlier stages was to get to

know the nuances right to the environment the possibilities of its expansion with alignment with human rights, in the gradual process now the shift is toward access to environmental justice, Rule of law sustainable development. If one sees the case laws decided by the judiciary in various phases one also observes the way the gradual growth of the right to the environment has happened. New emerging dimensions have emerged which are focusing more on the creation of the institution, which can provide access to justice, help in maintaining the rule of law, and help to realize sustainable development.

Ch-3 Purpose of National Green Tribunal: This chapter traces the institutional development of the National Green Tribunal which has taken place in the backdrop of the growth of the history of environmental justice in India. It throws a light on the development of Indian environmentalism along with the judicial responses. Indian environmentalism in the major part of its development historically has been about social justice. In the 1970s and 1980s, it was about access to natural resources, The Bhopal leak disaster case brought to the forefront issues of industrial risk and safety(Ravi Rajan, 2014) and the failure of the state in providing quick access to environmental justice, which led to the enactment of the Environment Protection Act 1986, which dealt with incidents relating with hazardous activities. Reconciliation of the environment with development is at the heart of the environmental justice discourse. In later on stages with the progressive development of the legislations for better environmental protection simultaneously leading to the creation of the specialized environmental tribunals for providing speedy access to environmental justice and bringing with it the multidisciplinary approach, which is resultant of the culmination of the expert members and judicial members. The creation of the National Green tribunal brought with it the solution to the challenges that courts were facing with the environmental disputes becoming more technical with more industrialization and technological developments. The National Green Tribunal with its establishment ushered in the environmental law context an era of a more progressive forum for the resolution of technical issues in environmental matters and bringing in more plurality of environmental justice. It

was established as an ambitious plan for upholding the right to life and environment protection but since its inception, it has been subjected to lot of criticism for its powers and procedures. But as an institution established after long debates and discussions and carrying forward the direction of the vision of the apex court and the law commission embodying the international law principles, but at the same time catering to the local reality of the country with its positioning at five different seats with its procedure that allows for broader access to environment justice and fair constitution and composition of technical and expert members.

Ch-4 Judicial Activism and Supreme court on Right to environment: This particular chapter tries to look into the role of the Supreme Court and high court over the years concerning the development of the right to a healthy environment with its changing dimensions and at the end the analysis of the recent cases from 2015 to 2020 has been done where it concludes that in recent times fundamental to the outcome of the decisions of the Supreme Court is the quest for environmental governance within a Rule of law paradigm. Environmental governance is founded on the need to promote environmental sustainability as a crucial enabling factor, which ensures the health of our ecosystem.

Ch-5 Case study and Analysis of the National Green Tribunal, Judgements (2015-2020) This chapter provides the scope and functions of the tribunal for environmental justice, which includes the cases it handled during the period 2015-20 and its analysis which helps in establishing the role of tribunal in application of law and innovation in addressing the protection of the environment. These decisions illustrate the National Green Tribunal's dedication to achieving a symbiotic link between development and the environment. The implementation of the philosophy of sustainable development, in conjunction with the adoption of a pragmatic approach, encourages two widely perceived incompatible value systems to operate in harmony. The substantive approach of the NGT includes application of right to healthy environment in environment law discourse, application of international principles within the broader framework of sustainable development approach. The National Green Tribunal is under immense pressure to resolve the

disputes within six months. However, through the National Green Tribunal's democratic approach, it is able to bring about better environmental justice through peaceful ways and bringing in more rule of law by involving concerned stakeholders in remedial action and applying the international law principles like Polluter pay and sustainable development and asking for suggestions in certain cases and imposing penalties against the state wherever they are at default.

Ch-6 Impact of National Green Tribunal: This chapter through the analysis of the judgements for the year 2015-2020 establishes the relationship between social context and the environmental problems arising with violation of the environmental laws and failure of the regulatory bodies or non-compliance of the rules and notification. It also brings to the forefront the issues that social and economic development is resulting into which is creating environmental governance and management problems. In conclusion analysis shows that the NGT has grown from a tribunal with small caseload to the significant size of the case load and further expectation of future growth. The benches are active. The access to environmental justice through tribunal has opened up more with the liberal interpretation of the person aggrieved.

Ch-7 Conclusion and Suggestions The innovation and the creativity done by the supreme court in its recent judicial decisions has been analyzed in the thesis where a gradual shift has been seen in the judicial approach wherein post constitutional amendments it resulted into interpretation of constitutional provisions and fueled by the judicial activism which resulted into development of right to healthy environment as one of the facets of the right to life. Over the time period there has been increase in the environmental laws and institutions and the recent analysis of the cases of the supreme court shows that the interpretation has broadened from developing right to the environment as part of the right to life to the health of the environment is at the center of right to life. Environmental rule of law has emerged as a new dimension to understanding right to life under Art 21 through the recent judicial decisions. Environmental rule of law is fundamental and essential for environmental governance. High courts contribution has been substantial in

development of administration of environment justice but however due to the limited scope of the study the same has not been analyzed in detail. The role of the judiciary changed drastically from the 1980s due to changes in the litigation landscape. Since the inception of the National Green tribunal, it's been more than ten years and the, the impact analysis of its judgements decisions and appeals done in the thesis slightly bends towards the fact that there is a gap as far as the compliance of the environmental rules and regulations are concerned. The approach of the National Green tribunal is win for either of the parties which is a democratic way to achieve environment justice by peaceful means as it involves the stakeholders in remedial action by imposing penalties and applying international principles like sustainable development, polluter Pay and precautionary principle. Over a decade of its establishment with the development and evolving complexity of environmental problems, the National Green Tribunal has been successful in promoting access to environmental justice by bringing a participative approach to resolving disputes and establishing itself as an efficient tribunal with a very little rate of pendency of disputes. An analysis of the National Green Tribunal's role over the last ten years suggests that it has been progressive in its approach towards environmental protection in general and the rights of marginalized people in particular. There are various pros and cons in the context of the specialized tribunals however there is no better solution then tribunals from the point view of operational inefficiencies and other inefficiencies, the analysis done in the thesis bents towards in favor of specialized tribunals in when it comes to environmental protection and achieving environmental justice.

Ch-8 Way forward and Limitation: National Green tribunal is an institutional innovation in the context of the sustainable development goals and tribunal can be seen as an asset for the promotion of the peaceful and inclusive societies for sustainable development by providing access to environment justice with a view to achieve targets of development by way of building participatory, accountable, and transparent and efficient institutions at every level. National Green tribunal is a tool for enhancing capabilities a term put forward by Amartya Sen(Sen, 1999). The

speedy disposal of cases with wide jurisdiction for environmental courts is an experimentation done at institutional level in order to overcome the challenges for achieving substantial justice in India due to considerable resort to judiciary and inherent slow judicial procedures. The National Green Tribunal brings in the inclusiveness in terms of locus standii that provides broadest access to environment justice to individuals and NGOs which are aggrieved by the activities affecting the environment.

.The research has certain **limitations** as the study only considered limited number of the cases for the time period between 2015-20 as provided by national green tribunal. In particular, the study has not considered other judgements spanning from 2015 to 2020 and therefore becomes the major limitation of this study. However, a broader extension by including other judgements may provide robust basis for establishing relationship between national green tribunal and environmental protection.

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Aprajita Singh

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Abbreviations

List of Abbreviations

NGT	National Green Tribunal
NEEAA	National Environmental Appellate Authority
SPCB	State Pollution Control Board
NCT	National Capital Territory
CPCB	Central Pollution Control Board
NAAQS	National Ambient Air Quality Standards
NCAP	National Clean Air Programme
MoEF&CC	Ministry of Environment, Forests & Climate Change
SDMC	South Delhi Municipal Corporation
PIL	Public Interest Litigation
EIA	Environment Impact Assessment
CRZ	Coastal Regulation Zone

List Of Cases

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CHAPTER 1

Introduction

- 1.1 Statement of Problem**
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1.1 Statement of Problem

The growth of environmental justice discourse has witnessed a surge due to the globalization of environmental concerns and the internalization of environmental regulations. The discussion around environmental justice frequently centers on principles of equity, safeguarding the rights and well-being of marginalized populations in developing nations, and effective environmental governance. The importance of environmental governance lies in its role in ensuring access to justice through a judicial process that is easily accessible. This is particularly significant as it provides a tool to address issues related to environmental justice. The concept

of environmental justice in India has experienced significant growth due to an increasing recognition and acknowledgement within the judicial system of the interdependence between human rights and the preservation of the environment.

The intersection of international law has a lot of influence on the growth of domestic environmental law in fact when it comes to the development of the environmental courts this intersection has contributed to the growth of the specialized tribunals in many jurisdictions and more so in respect of developing countries like Bangladesh, Kenya, and India. The fair adjudication process is an essential aspect of environmental justice. A discussion on environmental justice discourse calls for looking into sharing of environmental benefits and burdens

Furthermore, it necessitates the acknowledgment of marginalized individuals and communities within political spheres, with an emphasis on the procedural aspect that centres around participatory mechanisms. The emergence of environmental justice in India can be attributed to the presence of institutional gaps, regulatory contradictions, and administrative enforcement inefficiencies. These factors have led to the Supreme Court assuming the de facto role of safeguarding environmental justice through Public Interest Litigation (PIL). The concept of judicial activism has played a crucial role in ensuring environmental justice by facilitating public participation and utilizing judicial remedies. Ultimately, this has resulted in the recognition that the current circumstances necessitate the establishment of a specialized court dedicated to environmental matters, staffed by individuals with expertise in the field of environmental science. As a result of several judicial decisions emphasizing the development of environmental courts, India emerged as one of the nations that implemented specialized environmental courts during the early period of environmental jurisprudence.

The founding of the National Green Tribunal led to the formalization of the procedural aspect of environmental justice, thereby advancing the implementation of concepts associated with environmental democracy, such as public involvement, openness, and accountability. The advantages associated with the implementation

of such a system encompass enhanced accessibility to justice, increased public engagement, and heightened transparency in the pursuit of environmental justice. Moreover, they had a significant role in fostering the development of environmental jurisprudence.

Within the framework of a swiftly evolving emergent economic force, the presence of unavoidable conflicts between ecological, economic, and social factors arises in the endeavor to achieve ecological sustainability. Nevertheless, the comprehensive evaluation of ecological, economic, and social factors, which constitutes the essence of both economic sustainability and economic justice, transcends geographical limitations. Hence, it is crucial to comprehend the notion of environmental justice within the contemporary setting and evolving circumstances, given the significance of institutions such as the National Green Tribunal and its endeavors. An examination of the historical context and underlying factors that led to the founding of the National Green Tribunal is necessary. Additionally, it necessitates the examination of the methodology and evaluation of the rulings made by the National Green Tribunal, as well as the implications of these rulings on the comprehension of environmental justice discourse within the Indian framework. The establishment of the National Green Tribunal (NGT) occurred almost ten years ago. This study aims to examine the period from 2015 to 2020, with a specific focus on assessing the impact of the judgments delivered by the NGT. During this particular time frame, there is a noticeable absence of relevant publications. During this period, the significance of access to justice in advancing sustainability and good governance in environmental affairs has been examined through the examination of decisions. The significance of justice lies in its objective existence, while its perception holds equal importance. This thesis aims to examine the correlation between the environment and justice within a specific context, while also exploring the role of the National Green Tribunal in facilitating this connection. This study also examines the function of legal institutions such as the Supreme Court and high courts in providing avenues for environmental justice prior to the establishment of the National Green Tribunal. This paper examines the historical context,

operational methods, and efficacy of the National Green Tribunal in promoting environmental jurisprudence in India, with a particular focus on its unique contributions. This analysis examines the dedication of the National Green Tribunal to safeguarding the environment and promoting the well-being of individuals, as well as the obstacles encountered throughout its implementation.

The National Green Tribunal serves as a noteworthy subject of analysis, representing a contemporary and forward-thinking example of Environmental Courts. As an entity that focuses on environmental law, it engages in self-reflection regarding its role in promoting access to environmental justice and furthering the principles of environmental rule of law. This involves the inclusion of technical and expert members in decision-making processes to ensure effective environmental protection and management. The establishment of the National Green Tribunal (NGT) by legislation has marked a decade of its existence. The NGT possesses extensive trial appellate jurisdiction over natural resources, operating within the framework of international treaties and acknowledging the fundamental right to a healthy environment. The establishment comprised of five branches located in New Delhi, Bhopal, Pune, Kolkata, and Chennai. The National Green Tribunal is a dynamic decision-making entity that employs a range of proactive information-gathering methodologies, such as adversarial, inquisitorial investigative, and collaborative methods. This thesis aims to examine the correlation between the environment and justice, as well as the contribution of the National Green Tribunal towards this objective, within the given context.

1.2 Research questions

- 1) What is the relationship between environmental conservation and the institutions of justice including the Supreme Court, high court, and National Green Tribunal?
- 2) What is the role of the National Green tribunal in environmental protection and how the judgments of the National Green Tribunal had affected environmental protection and helped in achieving environmental justice?

3) How National Green Tribunal judgments had led to the growth of environmental jurisprudence.

1.3 Objectives of the study

1) To examine the importance of access to justice in environmental matters promoting sustainability and good governance in sync with intra and inter-generational equity and their interrelationship with economic liberalization, poverty, and developmental measures.

2) To examine the gap between much-needed conservation and the role played by the judiciary (High court and Supreme Court) in achieving it.

3) To evaluate the role of specialized courts like the National Green Tribunal in achieving environmental justice in India.

1.4 Conceptual Framework

It is against this backdrop that the goal-oriented beginning of the research warrants a sufficient understanding of the conceptual and theoretical frameworks. The theoretical framework objectively comprises the material on the concept of environmental justice. Within the concept of environment and justice in between stands, the social classes with ranging aspirations and their aspirations bring these various classes in conflict with the state, thereby making policies on behalf of the state many times are taken as contradictory leading to resistance towards a state where civil and criminal barriers are being crossed by these classes hence it is essential to look that how social movements are launched and what is justice outcome of these movements needs to be understood. History confirms that those classes who were in close association with natural resource boundaries have witnessed conflict during that period which needs to be analysed. An understanding of concepts like social justice and sustainability becomes important to understand the environmentalism of the poor and how it resulted in the utilization of the

resources of the disadvantaged local people and devastated the natural resources. In addition, eventually, it led to the creation of the social class. Hence, the role of the judiciary and the National Green Tribunal in helping and achieving environmental justice for disadvantaged people comes into the picture. Here the researcher aims to bring clarity through the study of primary sources of judgments of the National Green Tribunal that accesses to environmental justice has been strengthened or not through the establishment of specialized courts.

1.5 Literature Review

The available literature has been examined to develop a better understanding of some of the specific components of environmental justice. The review has enabled the determination of the grey areas, which need to be researched to develop a comprehensive understanding of the relationship between Environment justice and the role of the National Green tribunal. There is already literature available on the constitution working and the history merits and demerits of the National Green tribunal.

Books

(Gilio-Whitaker, 2019) Through the unique lens of “Indigenized environmental justice,” Indigenous researcher and activist Dina Gilio-Whitaker explores the fraught history of treaty violations, struggles for food and water security, and protection of sacred sites while highlighting the important leadership of Indigenous women in this centuries-long struggle. *As Long As Grass Grows* gives an accessible history of indigenous resistance to government and corporate incursions on their lands and offers new approaches to environmental justice activism and policy. Throughout 2016, the Standing Rock protest put a national spotlight on Indigenous activists, but it also underscored how little Americans know about the long-time historical tensions between Native peoples and the mainstream environmental

movement. Ultimately, she argues, modern environmentalists must look to the history of Indigenous resistance for wisdom and inspiration in our common fight for a just and sustainable future.

(McIntyre-Mills, 2018) “addresses the social and environmental justice challenge to live sustainably and well. It considers the consequences of our social, economic, and environmental policy and governance decisions for this generation and the next. The book tests out ways to improve representation, accountability, and regeneration. It addresses the need to take into account the ethical implications of policy and governance decisions in the short, medium, and long term based on testing out the implications for self, others, and the environment. This book recognizes the negative impact that humans have had on the Earth’s ecosystem and recommends a less anthropocentric way of looking at policies and governance. The chapters discuss the geologic impact that people have had on the globe, both positive and negative, and bring awareness to the anthropocentric interventions that have influenced life on Earth during the Holocene era. Based on these observations, the authors discuss original ideas and critical reviews on ways to govern those who interpret the world in terms of human values and experience and to conduct an egalitarian lifestyle. These ideas address the growing rise in the size of the ecological footprints of some at the expense of the majority, the growth in unsustainable food choices and of displaced people, and the need for a new sense of relationship with nature and other animals, among other issues. The chapters included in *Balancing Individualism and Collectivism: Social and Environmental Justice* encourage readers to challenge the sustainability agenda of the anthropocentric life. Proposed solutions to these unsustainable actions include structuralized interventions and volunteerism through encouragement and education, with a focus on protecting current and future generations of life through new governmental etiquette and human cognizance.”

(Kashwan, 2004) answers the question “How do societies negotiate the competing agendas of environmental protection and social justice? Why do some countries perform much better than others on this front?”

“Democracy in the Woods addresses these questions by examining land rights conflicts and the fate of forest-dependent peasants in the context of the different forest property regimes in India, Tanzania, and Mexico. These three countries are prominent in the scholarship and policy debates about national forest policies and land conflicts associated with international support for nature conservation. This unique comparative study of national forestland regimes challenges the received wisdom that redistributive policies necessarily undermine the goals of environmental protection. It shows instead that the form that national environmental protection efforts take - either inclusive (as in Mexico) or exclusive (as in Tanzania and, for the most part, in India) - depends on whether dominant political parties are compelled to create structures of political intermediation that channel peasant demands forest and land rights into the policy process. This book offers three different tests of this theory of the political origins of forestland regimes. First, it explains why it took the Indian political elites nearly sixty years to introduce meaningful reforms of the colonial-era forestland regimes. Second, it successfully explains the rather counterintuitive local outcomes of the programs for the formalization of land rights in India, Tanzania, and Mexico. Third, it provides a coherent explanation of why each of these three countries proposes a significantly different distribution of the benefits of forest-based climate change mitigation programs being developed under the auspices of the United Nations. “In its political analysis of the control over and the use of nature, this book opens up new avenues for reflecting on how legacies of the past and international interventions interject into domestic political processes to produce specific configurations of environmental protection and social justice. Democracy in the Woods offers a theoretically rigorous argument about why and in what specific ways politics determine the prospects of a socially just and environmentally secure world.”

(G. Gill, 2017) “This study examines the origins, functioning, and efficacy of the Indian National Green Tribunal (NGT). The book aims to achieve four primary objectives. In order to assess the significance of access to justice in environmental affairs for the promotion of sustainability and good governance, it is necessary to delve into the subject matter. Furthermore, this paper aims to present a comprehensive and evaluative examination of the judicial frameworks that facilitate the attainment of environmental justice in the context of India. Thirdly, this study aims to examine the establishment, operational procedures, and efficacy of the National Green Tribunal (NGT) in promoting a unique kind of environmental law in India. In conclusion, this report aims to show and evaluate the accomplishments and external obstacles encountered by the NGT, which have ultimately led to an increase in utilization and public admiration for the NGT's dedication to safeguarding the environment and prioritizing the well-being of the most impacted individuals.”

(Sandler & Pezzullo, 2007) “discusses that the environmental movement and the environmental justice movement would seem to be natural allies; their relationship over the years has often been characterized by conflict and division. The environmental justice movement has charged the mainstream environmental movement with racism and elitism and has criticized its activist agenda because it values wilderness over people. Environmental justice advocates have called upon environmental organizations to act on environmental injustice and address racism and classism in their hiring and organizational practices, lobbying agenda, and political platforms. This book examines the current relationship between the two movements in both conceptual and practical terms and explores the possibilities for future collaboration. In ten original essays, contributors from a variety of disciplines consider such topics as the relationship between the two movements' ethical commitments and activist goals, instances of successful cooperation in U.S. contexts, and the challenges posed to both movements by globalization and climate change. They examine the possibility and desirability of one unified movement as opposed to two complementary ones using analyses and case studies; these include

a story of asbestos hazards that begins in a Montana mine and ends with the release of asbestos insulation into the air of Manhattan after the collapse of the World Trade Center. This book, part of a necessary rethinking of the relationship between the two movements, shows that effective, mutually beneficial alliances can advance the missions of both.”

(Westra, 2006) “discusses the traditional concept of social justice which is increasingly being challenged by the notion of humankind that spans current and future generations. This book, with a foreword by Roger Brownsword, is the first systematic examination of how the rights of the unborn and future generations are handled in common law and under international legal instruments. It provides comprehensive coverage of the arguments over international legal instruments, key legal cases, and examples including the Convention on the Rights of the Child, industrial disasters; clean water provision, diet, HIV/AIDS, environmental racism, and climate change. Also covered are international agreements and objectives as diverse as the Kyoto Protocol, the Millennium Development Goals, and international trade. The result is the most controversial and thorough examination to date of the subject and the enormous ramifications and challenges it poses to every aspect of international and domestic environmental, human rights, trade, and public health law and policy.”

(Guha, 2000) draws on many years of research in three continents. “He details the major trends, ideas, campaigns, and thinkers within the environmental movement worldwide. Among the thinkers he profiles are John Muir, Mahatma Gandhi, Rachel Carson, and Octavia Hill; among the movements, there Chipko Andolan and the German Greens. *Environmentalism: A Global History* documents the flow of ideas across culture and , how the environmental movement in one country has been invigorated or transformed by infusions from outside. It interprets the different directions taken by different national traditions, and explains why in certain contexts (such as the former Socialist Bloc) the green movement is marked only by its absence.”

(Schlosberg, 2007) “explores what, exactly, is meant by 'justice' in definitions of environmental and ecological justice. It examines how the term is used in both self-described environmental justice movements and theories of environmental and ecological justice. The central argument is that a theory and practice of environmental justice necessarily includes distributive conceptions of justice, but must also embrace notions of justice based on recognition, capabilities, and participation. Throughout, the goal is the development of a broad, multi-faceted, yet integrated notion of justice that can be applied to both relations regarding environmental risks in human populations and relations between human communities and non-human nature.”

(Dobson, 1998) talks about “environmental sustainability and social, or distributive, justice and observes that both are widely regarded as desirable social objectives. However, can we assume that they are compatible with each other? In this path-breaking study, Professor Dobson, a leading expert on environmental politics, analyses the complex relationship between these two pressing objectives. He further observes that environmental sustainability is taken to be a contested idea, and three distinct conceptions of it are described and explored by him in this book. These conceptions are then examined in the context of fundamental distributive questions such as Among whom or what should distribution take place? What should be distributed? What should the principle of distribution be? The author critically examines the claims of the 'environmental justice' and 'sustainable development' movements that social justice and environmental sustainability are points on the same virtuous circle and concludes that radical environmental demands are only incompletely served by couching them in terms of justice.”

(Holifield et al., 2010) “In this cutting-edge volume, leading scholars examine a diverse range of environmental inequalities from around the world and introduce a pluralistic agenda for critical environmental justice research. Spaces of Environmental Justice explores novel theoretical approaches and neglected spaces

of inequality and shows how far the field has moved beyond its original focus on uneven distributions of pollution in the USA.”

“The book also considers the influence of critical geographical and social theory on environmental justice studies. A range of possibilities for future research directions is identified, as are the challenges involved in investigating and pursuing environmental justice at a time of rapid economic and environmental change.”

RESEARCH PAPERS

(G. N. Gill, 2020)

This article provides an account of the life cycle of the National Green Tribunal of India (NGT). The NGT is formally defined as a specialized institution possessing the requisite expertise to address environmental conflicts including a range of disciplines. It serves as a platform that promotes a wider range of perspectives for the attainment of environmental justice. The international and national recognition it receives positions it as a model for developing nations. The theoretical framework informing this paper's investigation of the NGT is based on the change management theories developed by Kurt Lewin and Edgar Schein. This framework enables the examination of various internal and external influences that impact the NGT. The phenomenon of theory and its application being transferred from one discipline to another within the realm of social sciences can be observed in the case of business psychology and management being transmigrated to the field of law. The essay examines the situation at hand, delves into the reasons behind it, and analyzes the steps taken by key stakeholders involved in supporting the NGT. Conversely, it also explores the concerns, challenges, and impacts faced by individuals who are affected by the growth, activities, and increasing popularity of the NGT.

(Tripathi, 2018)

The creation of NGT brought a ray of hope as an adjudicatory body for environmental issues after previous failed efforts. Environmental concern has always been a topic of discussion in India. It was in the election manifesto of the

leading political parties at a particular time. India is known for its rock-solid environmental status. Against this backdrop, the author analyses the status of this institution after seven years of its establishment.

(Warnock, 2017)

The author notes that SECs are unusual and highly complex legal institutions, representative of modern, dynamic forms of adjudication, and they often have powers that we might not expect to find in courts. Against this backdrop, he argues that only by confronting the challenges created by the specialized environmental courts we can lay the foundations for a new theoretical model which would be capable of explaining and accommodating environmental adjudication. To put forward this point he has written about the difficulties faced in New Zealand. And he argues that current literature fails to put forward the legal nature and relative power which might affect wider structures of governance. He further argues that Specialized environmental courts can be seen as ultimate 'modern courts' as they determine public benefits while managing impacts on individual rights –which has huge importance for the economic, socio-cultural, and environmental well-being of nations.

(Shrotria, 2015)

This paper examines the function of India's National Green Tribunal (NGT), which was founded on October 18, 2010, as a specialized environmental court under the National Green Tribunal Act 2010. It commenced operations on July 4, 2011. The NGT was established as a multidisciplinary entity of experts in several fields, in order to efficiently and expeditiously handle issues pertaining to environmental preservation, forest conservation, and the enforcement of legal rights in relation to environmental safeguarding. This article discusses the jurisdiction, powers, and functions of the tribunal responsible for enforcing environmental justice. It also examines the notable cases that have been adjudicated by the tribunal during its four-year existence, the principles that have been applied in these cases, and the accessibility and contribution to environmental jurisprudence through the

innovative application of law. Additionally, the article highlights the tribunal's objectivity in striking a balance between environmental protection and sustainable development. The tribunal, due to its distinct purpose, represents a significant advancement in facilitating access to justice in relation to environmental problems.

(Patra & Krishna, 2015)

This article focuses on the establishment of the National Green Tribunal (NGT) by the Government of India in 2010, as well as the events leading up to its formation and its subsequent developments. Additionally, an analysis of the impact of cases from 2010 to 2013 is provided. The National Green Tribunal (NGT) is a quasi-judicial institution that is only dedicated to handling civil litigations pertaining to environmental matters. Prior to the evolution of the National Green Tribunal (NGT), there were two preceding endeavors made to establish environmental tribunals in India. Two significant acts enacted in the mid-1990s were the National Environment Tribunal Act (NETA) of 1995 and the National Environment Appellate Authority Act (NEAA) of 1997. Nevertheless, the National Green Tribunal (NGT), which serves as the most efficient environmental court, was established in 2010. Since its inception, the National Green Tribunal (NGT) has successfully resolved several environmental concerns and has garnered a significant and positive reception from all stakeholders. The present study undertook an empirical examination of the judgments rendered by the National Green Tribunal (NGT) throughout the period spanning from October 2010 to December 2013. This study examines the influence of Natural Gas Transportation (NGT) on the geographical distribution of disputes. Significant attention is directed towards the resolution of problems pertaining to Coastal Zone management within the purview of the National Green Tribunal (NGT). Despite the numerous restrictions inherent in the National Green Tribunal (NGT) Act and its associated procedures, it might be perceived as a constructive stride towards achieving environmental justice within the context of India.

(G. N. Gill, 2014)

The initial stage in attaining environmental justice objectives involves the assessment of access to environmental justice. This assessment is crucial as it enables the articulation of equity-based principles, ensuring that all affected and interested parties possess legal standing. Additionally, it encompasses the right to appeal or review decisions, the establishment of specialized environmental courts, and the implementation of practical mechanisms for resolving disputes. In the present setting, the dedication of India towards the recently established National Green Tribunal (NGT) holds considerable practical significance. The National Green Tribunal (NGT) is an expedited judicial forum that aims to promote the development of green jurisprudence. It possesses extensive authority and is composed of both judges and experts in the field of environmental research. Section 20 of the National Green Tribunal Act of 2010 stipulates the requirement for the incorporation of fundamental principles derived from international environmental law, specifically those pertaining to sustainable development, the precautionary principle, and the principle of 'polluter pays'. This article discusses the implementation of these principles within the Indian context, acknowledging its global obligations for the safeguarding of the environment. According to Gill (2014),

(Rosencranz & Sahu, 2014)

This article examines the notable rulings issued by different benches of the National Green Tribunal in order to identify the patterns in environmental jurisprudence inside India. Since its formation in 2010, the National Green Tribunal has exerted a significant influence on environmental litigation in India within a relatively little period. In contrast to its predecessor, the National Environment Appellate Authority, the five benches of the current authority possess extensive jurisdiction to judge upon disputes encompassing significant environmental matters. The combination of this authority, along with a high level of technical proficiency, has significantly enhanced the effectiveness of the environmental conservation

framework inside the nation. The Tribunal has demonstrated its efficacy in resolving environmental disputes via multiple judgements.

(Raj, 2014)

The author initiates the discussion by providing a historical context, delving into the establishment of environmental courts in India. In the case of *M.C. Mehta vs Union of India* in 1986, the court placed significant emphasis on the decentralization of environmental courts. The present legal dispute The study had a notable emphasis on the technical and scientific aspects, although it neglected to recognize the prevailing expectations of individuals inside a federal system during that period. In order to enhance institutional accessibility, it was necessary to divest the high courts and civil courts of their jurisdiction in environmental affairs. The establishment of specialized environmental courts in India was inspired by the existence of green courts such as the Land and Environmental Court in New South Wales, Australia, and the New Zealand Environment Court. According to Section 29 of the NGT Act, the authority of civil courts in the country is restricted from both original and appellate proceedings in relation to environmental matters. It is imperative to emphasize that the simple engagement with environmental concerns does not automatically result in the transfer of cases from the high courts to the National Green Tribunal (NGT). Furthermore, it is imperative to refrain from imposing restrictions on accessing the higher court for addressing such issues. In the event that there is no explicit prohibition, the application of the rationale presented in the *Chandra Kumar* case supports the notion that the high courts retain the authority to exercise judicial review, even in matters pertaining to the environment.

(Amirante, 2011)

This paper examines the advantages and disadvantages of implementing green tribunals in the Indian setting, taking into account a comparative analysis. The analysis commences by examining the European and American experience, which has traditionally shown a greater inclination for generic courts and tribunals. This

is then contrasted with current patterns that suggest a notable shift towards a preference for specialized jurisdictions. The subsequent section of the article thoroughly analyzes the case of India within its regional framework, taking into account the necessity of tailoring specialized judicial institutions to align with the country's unique legal culture, constitutional and administrative system, as well as its distinct environmental and developmental requirements. From this standpoint, the concept of "green tribunals" emerges as a highly advantageous mechanism for addressing the escalating demands for environmental preservation and sustainable progress within the Asian region. This is primarily due to their effectiveness and societal acceptance as a means of enforcing a "sustainable legal framework." According to Amirante (2012),

(Bharat H. Desai; Balraj Sidhu, 2010)

The author has conducted a comparative analysis of three environmental courts: The Land and Environment Court of New South Wales, the Environment Court of New Zealand, and the National Green Tribunal of India. These courts are recognized as specialist forums for resolving environmental disputes. The author expands upon and examines in further detail the concept that, as a natural consequence of the activist approach adopted by the higher courts, the focus of justice has transitioned from the conventional individual locus standi to community-centered public interest litigation. The author discusses the establishment of specialist environmental courts in India, attributing their formation to the active involvement of the court during its early phases and highlighting the subsequent obstacles encountered.

(Kala Mulqueeny , Sherielysse Bonifacio, 2010)

In this research paper, the author has emphasized strengthening the capacity of the Asian judges in deciding environmental cases. He sees it as the key part of the improvement as far increasing access to environmental justice in Asia is concerned and for improving environmental law enforcement. He pins points to the fact that in some Asian countries due to the growth of public interest Litigation has resulted

in the growth of judges with interest and expertise in environmental law. It has eventually resulted in the growth of an innovative and expanding body of environmental jurisprudence in some Asian countries. Further, he adds that institutional reforms can result in more effective environmental decision-making and environmental dispute resolution. This can facilitate access to environmental justice and the growth of path-breaking environmental jurisprudence. Supporting the analysis the author puts forward that since 1998 average environmental disputes have increased by 25% till 2005. Finally, the author argues and concludes that senior judges in Asia, as leaders of the legal profession in Asian countries are very important for improving environmental decision making and championing the cause and rule of law system that promotes environmental sustainability.

(186Th Report On Proposal To Constitute Environment Courts.Pdf, 2003)

From the abovementioned literature review, a gap in the literature is discernible. There is no seminal work, which has comprehensively mapped out whether access to justice is strengthened or not by the establishment of specialized courts or National Green tribunals. There is a need to look afresh at the role of specialized courts in understanding the concept of environmental justice. Examine certain issues afresh keeping in mind the recent developments and recent judgments of the National Green Tribunal.

1.6 Research Method

The methodology adopted for the present study is **doctrinal, analytical, and comparative**; involving examination of level and effect of Access to Environment Justice and role of National Green Tribunal and incidental cases as well as for opting analytical methodology to arrive at a complete understanding of the concerned topic. The exploratory method has been adopted to find values of justice as fairness (John Rawls) and in the reduction of injustice (Amartya Sen) which explores in the philosophical discussion, the reasons for and means of justice.

The researcher has also based her study on the method of comprehensive analytical understanding of the scholars of other interfacial disciplines in a similar domain. Evaluation Research has been used to do a critical evaluation of the merits and the demerits of institutions, policies, and approaches.

To fulfill the essential non-doctrinal demands of the topic, secondary data has been used. The research methodology adopted for this research required gathering some resources mostly from secondary data, which is already published by industry and/or by the regulatory agencies. The doctrinal demands of the research have been fulfilled by referring to primary sources of law i.e. Statutes and other policy instruments. This will also cover secondary sources of law including journals, articles, commentaries, textbooks, reference books, internet sources, e-books, and decided case laws. The researcher has used judgments of the National Green Tribunal decided in the last 5 years available as primary sources.

The previously mentioned research methodology is adopted because this thesis aims to analyze the role of NGT and access to environmental justice and to examine the efficiency of such laws in curbing non-environment friendly practices and the related challenges incidental to it. In light of this, the thesis has majorly used the deductive method of research, to sum up, the result by concluding the general findings.

Methodology used is quantitative (and qualitative (mixed approach, data includes for quantitative analysis 135 appeals, orders and judgements and for qualitative analysis (71 appeals, orders and judgements) of the NGT taken from SCC and Manupatra for the time period 2015-2020).

1.7 Hypothesis

The present topic on basis of case studies of the National Green Tribunal, which will constitute the primary source of the thesis, based on studies of primary sources and current literature relationship between environment and justice and the role of the National Green Tribunal in imparting justice will be critically assessed and

hence the hypothesis proposed is **“NGT is a significant legal initiative and the rightful implementation of the law would certainly usher the country towards the harmonious relationship between the environment and society”**

1.8 Significance of Research

This study will help contribute and fill the gaps that exist. It will help analyse how National Green Tribunal is affecting the system of justice further, it will help us to analyse whether the Judgements of the National Green Tribunal had affected the environment protection and helped in achieving environmental justice. In this way, we would be able to develop the role of specialist courts in achieving environmental justice. Further, it will help us in developing environment jurisprudence by tribunal trying to balance between environment protection and sustainable development.

The thesis is divided into 7 chapters, chapters respectively are-

Ch-1 Introduction

Ch-2 Idea of Environment Justice and Relation with environment laws

Ch-3 Purpose of National Green Tribunal

Ch-4 Judicial Activism and Supreme court on right to environment

Ch-5 Case study and Analysis of National Green Tribunal orders, appeals, Judgements (2015-2020)

Ch-6 Impact of National Green Tribunal

Ch-7 Conclusion and Suggestions

Ch-8 Way forward and Limitation

1.9 Limitation of the study and novelty of the outcome

India is confronted with a multitude of environmental issues that are brought before the National Green Tribunal for resolution. From a more comprehensive standpoint, all of these issues are interconnected with the environment. Nevertheless, it is necessary to acquire knowledge regarding the primary domains encompassing pollution (namely air, water, and soil), environmental clearing, coastal zone management, and mining, which have been subject to appeals and petitions presented to the tribunal, resulting in subsequent judgments being rendered. Gaining a comprehensive understanding of the pre-existing conflict landscape that precedes the jurisdiction of the National Green Tribunal is beneficial. Considering the aforementioned, there has been a scarcity of comprehensive research undertaken on the operational mechanisms and efficacy of the NGT. It is important to comprehend the manner in which both natural and anthropogenic factors contribute to the emergence of environmental challenges, as well as the legal pronouncements issued by the National Green Tribunal (NGT) in relation to these matters. Furthermore, this approach aids in the identification of key locations within the ecosystem that can be enhanced or fortified. Every ruling underwent a meticulous examination in order to ascertain the particulars of the parties concerned, the primary petition put out by the respondents, and the decision rendered by the tribunal. The judgments were classified and organized into several areas relating to the environment, based on the central point of the decision and the respondents' petition. Between the years 2015 and 2020, the judgments rendered by the National Green Tribunal (NGT) were systematically recorded on a website in order to track and analyze the patterns of their growth or decline, as well as to assess the workload of the various benches.

The study focused exclusively on a restricted number of cases within the time frame of 2015-2020, as sourced from the National Green Tribunal. The primary weakness of this study is the lack of consideration for additional judgments made between 2015 and 2020. However, a more comprehensive expansion that incorporates other

assessments could offer a solid foundation for creating the relationship between the National Green Tribunal and environmental protection.

CHAPTER -2

IDEA OF ENVIRONMENTAL JUSTICE AND RELATION WITH ENVIRONMENT LAWS

2.1 Introduction

2.2 Theories of Justice and relationship with Environmental Justice

2.3 International Environment Law

- **2.3.1 Historical perspective**
- **2.3.2 The Stockholm Conference (1972)**
- **2.3.3 Journey From Stockholm to Rio conference: A paradigm shift**
- **2.3.4 Our common future**
- **2.3.5 World charter for Nature, 1982**
- **2.3.6 Earth summit –The Rio Declaration on Environment and Development 1992**

2.4 Indian Constitution and International Environment Law.

2.5 Growth of Environmental Courts and Specialized Green Tribunals

2.6 Conclusion

2.1 Introduction

With the evolution of human beings, the problem of environmental protection has always been a huge challenge. Infact the trajectory of evolution of Homo sapiens is marked with the simultaneous need for environment protection. Evolution of

human being resulted in the development of science and technology, which brought about tremendous changes in the human environment. Development of science and technology along with population growth brought about changes in environment and the way environment functions. It shook the balance of human life (Leelakrishnan, 2008) There is a continuous web link between human beings and the environment as human beings are interdependent on nature for their survival in terms of food, shelter, and survival. The wellbeing of human health is dependent on ecological balance. Human growth and developmental activities result in the disturbance of the web link between human beings and environment. The disturbance in the web link requires regulation of human behavior and social transactions. This brings into picture the role of state as a means to maintain balance in the web link between human beings and Environment. The state is a very powerful means to maintain balance of interplay in the web link of Human beings and nature. It plays a very crucial role. The state through its various organ legislature, executive, and the judiciary maintains this web link through policies, legislations, and judgments. In the backdrop to the link between state and ecological balance, the form of the government political institutions plays a very crucial role.

Environmentalism can be seen in two ways the one that belongs to the rich and the other which belongs to the poor. One world where we are seeing our future is a world of automation and machines. The other one is that unless we develop a more humane and inclusive approach toward development it is not possible to have a better future. Hence, it brings to the politics of environmentalism. India is currently progressively becoming more polluted. The air is foul almost in all the cities with a number of vehicles increasing poor public transport system and weak monitoring of polluting factories and poverty (Narain, 2017). Degradation of environment is happening at a rate faster than ever.

Development implies distribution and transformation of resources for the betterment of the social and economically underdeveloped segments of the society. Economic transformation requires exploitation of the natural resources and over exploitation and indiscriminate use results in irreversible environment degradation.

This results in adverse effects on the lifestyles of human beings' plants animals and other living organisms. Development comes at a cost of the environmental degradation and adverse effects on human beings' plants and animals. Balancing both is difficult, as we cannot chose one of them. The balance between clean environment and development requires proper balance between environmental policy and developmental policy. This brings into the picture the role of the judiciary and specialized environmental tribunals created for interpretation and resolving conflicts created due to tussle between the need for clean environment and development at the same time.(Vibhute, 1995)

The unprecedented progress in science and technology has created problems, which has created anomalous conditions for existence of humankind world over. Development in science and technology had resulted in pollution, which has assumed transboundary character. As a consequence of these international declarations/conventions, and treaties are urging the governments of the state to take necessary administrative legal and other measures to contain and control the enormous problem of the environmental degradation of the environment and the natural resources. (Vinod Shankar Mishra, 2002)

India being a participant of these international declarations/conventions has also taken various significant and impactful legislative and executive steps in order to curb and subdue this problem. One of the significant measures in this direction was the creation of a specialized environmental tribunal for providing environmental justice.

Specialized environmental courts are the platforms for access to justice in environmental matters. In the Indian context, the National Green Tribunal, established through the statute of 2010, is the forum for the realization Of Access to Justice in environmental justice since 2011. How far this institution has been successful in achieving its objective of maintaining a harmonious relationship between the environment and the society is an area of study under the thesis. It would be looked through historical background that led to its creation. An

introspection done as to the role of the Supreme Courts and the High Courts before the establishment of National Green Tribunal. The role played by them and the cases that had been decided by National Green Tribunal.

In India, access to environmental justice started with the Supreme Court and High Court exercising their powers through PILS and writ petition. They were known as the green bench at that time. This role by the judiciary at that time by itself was not sufficient to resolve the environmental claims. An expertise gap was required in environmental matters. Hence, because of this in several cases ranging from M.C Mehta to the Indian Council Enviro Legal Action case and even in the 186th law commission report, emphasized repeatedly to resolve this institutional gap with the establishment of specialized tribunal with the subject matter experts. Against this background establishment of the National Green Tribunal took place. It has been more than a decade since the establishment of the National Green Tribunal. In addition, the journey of how far it has been able to achieve what it was established for needs to be looked into with its success and failures and the challenges it faced in its way ahead.

National Green Tribunal although established through the circumstantial impetus through several judgments and the Law commission 186th report. However the background to it was created through the international declarations and institutions like Stockholm 1972, Rio 1992, Johannesburg principles 2002, London bridge statement 2002, Rome symposium 2003 and is currently advancing in new dimensions with other international declarations and institutions in dimensions of achieving environmental rule of law and sustainable development with, Bhurban declaration 2012, Asian Development Bank, United Nations Environment Program (UNEP) 2005, 2015. It emphasizes the fact the specialized courts and tribunals and environmental law and lawyers are the need to achieve the new dimensions of environmental rule of law and sustainable development.

2.2 Theories of justice and relationship with Environmental Justice

India's environmentalism started with the Chipko movement that was about social justice and sustainability. It arose out of the imperative of human survival that was caused due to unregulated economic activities in the 1970s and 1980s. Imperative of human survival is the fundamental issue in the Indian context when one talks about how environmentalism in India started. The Chipko movement is the starting point where development and human survival came in conflict with each other. There was a conflict of the forests lands and animals over setting up of dams as these are habitats on which the survival of tribal people is dependent. This is where the question of social justice comes. As the local communities' resources were devastated, at the cost of commercial exploitation that raised questions as to their survival and that is how environmentalism in India started. These debates and questioning led to what is currently termed sustainable development(Sandler & Pezzullo, 2007).

Consciousness has grown over the years of the close knitted relationship between poverty and environmental pollution. It is broadly accepted that the poorer citizens are more likely suffer the consequences of the environmental pollution than other citizens at national and international levels. It has given rise to environmental poverty law, or environment justice, which seeks legal remedies to the disproportionate environmental abuse suffered by poorer citizens(*Environmental Law and Policy in India*, 2001).

The trio of democracy environment conservation and social justice are often seen in conflict with each other. Environmental change is a complex process. Large-scale environmental change is a complex process requiring priority enactment of polices and at times implementation of one policy over the other. These intersections make environmentalism a highly political process. Its deeply rooted in social fabric and interconnected with social and political inequalities. The discourse on environment justice and climate justice is intertwined around social

justice and political inequalities. Political institutions and processes helps in mediating the link between environment conservation and social justice.(Kashwan, 2017)

There has been an expansion of the theory of justice in the political science context but those changes have rarely been used in the context of environmental justice. Theories of justice since the ages have been based on John Rawl's theory of justice which is based on the distribution of goods in the society and by what principles those goods are distributed in society. Justice is majorly seen in distributional terms from that perspective. Many social movements are based on this theoretical theory of what one gets and what does not get. The theory of justice developed by Amartya Sen and Martha Nussbaum focuses on the capacities that an individual needs to fully function in the life that he has chosen. Capability theory emphasizes the process by which primary goods if they are available can be transformed into fully functional life and what disrupts such a process. Many contemporary theories of justice have a broader point than just the distribution of goods. It refers to the point of theories that includes recognition, participation, and the way people function including its applicability equally to the groups and individuals. One can conclude that contemporary theories of justice have components of procedural and participatory justice.(Schlosberg, 2007)

A lot of development has taken place in the justice theory context but its applicability in environmental justice movements has been very little. Majorly the discussion revolves around environment justice focusses on maldistribution and poor communities getting fewer environmental goods and more environmental bads and less environmental protection. Although some examiners of environmental justice and environmental movements have emphasized procedural justice and participation. The discourse on the justice of environment justice includes all these discourse distributions, recognition, participation, and capabilities. The environmental justice movement's demands explore and represent fair distribution, recognition capabilities, and functioning for individuals and the communities as well. These movements are inclusive. As Brighthouse (2004) claims

in his survey of theories of justice, the “fundamental question is this: how, and to what end, should a just society distribute the various benefits (resources, opportunities, and freedoms) it produces, and the burdens (costs, risks, and unfreedoms) required to maintain it?” The subject of justice, then, is the very basic structure of society; it defines how we distribute various rights, goods, and liberties, and how we define and regulate social and economic equality and inequality.”(Schlosberg, 2007)

Environmentalism and justice share a common ground of “Scarcity” but do very different things with it. Modern environmentalism focuses on decreasing resources. With population increasing and resources, decreasing would eventually result in the decline of resources to each individual. Hence, one can conclude that modern environmentalism takes scarcity as the central organizing concept.

Looking at the idea of distributive justice and modern environmentalism one can say that political environmentalists have distributive questions at the Centre. Rather they have extinction as to the question of environmentalism than the question of sharing. Hence Green politics is about reducing the aggregates and not about distributing the aggregates.(Dobson, 2003)

Sustainable development as a concept has resulted because of the connection between environmental protection and distributive justice. Looking to the overall objective of environment protection in terms of distribution of potential effects on environmental protection environmentalists are interested in distributive justice not just the sake of the fair distribution itself. The WCED report 1987 summarizes the notion of sustainable development. It argues that greater equality would create a more secure environment. Poor and hungry will often destroy the immediate environment to survive and hence poverty pollutes the environment and therefore commission recommended the global and national redistribution of wealth. With the belief that it would lead to environmental sustainability. Poverty also takes the environmental goods away from the poor like clean water and sanitation prone to diseases. The report points to two things first poverty is identified as the cause of

environmental degradation and relative wealth help in determining access to environmental goods. This has given rise to principal political movements one around sustainable development and the other around environmental justice. The Brundtland report confirms that inequality is the planet's main environmental problem.(Dobson, 2003)

Hence, the analysis leads to the conclusion that discourse on environmental justice also revolves around participation and institutional capacity building apart from fair distribution of environmental goods. Here the role of the state more specific institutions, which are part of the environment, decision-making like National Green tribunals and Judiciary comes into the picture. They have a role to play as far as recognition of procedural justice and participation is concerned. They also play a crucial role by deciding cases where the fair distribution of environmental goods is concerned.

2.3 International Environmental Law

Global concern about environment is of recent origin. In the beginning of the twentieth century environment as an issue was not a matter of international environment concern as observed by Caldwell. It is only the second half of the twentieth century that witnessed the international concern for environmental degradation and ecological imbalances. Rachel Carson book Silent Spring published in 1962 brought an environmental movement at the international arena. The book brought to the forefront the adverse effects of the pesticides, which made a public world opinion against use of pesticides, fungicides and rodenticides. In the years to follow, the UNO and its specialized bodies started with the organized programmes and expressed international concern over the environmental degradation and ecological imbalances. It also declared that these issues cannot be tackled at national levels and therefore all national governments should chalk out common global programme to deal with such problems.¹(Kotzé & French, 2018)

2.3.1 Historical perspective

Prior to 1950s, the major issues were transboundary problems but they were viewed as local or regional challenges rather than international at that time. It is only with the continuous population growth and unregulated exploitation of natural resources and increasing demand for better life resulting in development of science and technology started posing serious risk to human life. Problems like effects of water pollution, which are borderless, and without boundary problems made it an international regime problem and likewise. Therefore, international law also started dealing with environmental problems. Initial conventions in the area of environmental law mostly dealt with issues relating to fisheries, birds, seals etc.

It is only after the second war that the nations started forming international organizations dealing with environmental issues. It was the period during which knowledge in the area of relationship between environmental degradation and economic development increased due to the development in science and technology. Along with-it industrial revolution created industrial transboundary problems like acid rain in North America because of industries in Canada. This brought to the attention of the world community of environmental problems first by scientist and then by the inter-governmental meetings. Establishment of UNO in 1945 gave push to the international environmental law. It resulted in many treaties and conventions. In 1970, organization for economic cooperation and development (OCED) also established a committee for environment.

2.3.2 The Stockholm Conference (1972)

Stockholm conference as famously called which was the United Nations Conference on the Human Environment, which took place in Stockholm from 5th to 6th June 1972 was a turning point in the international environmental law. The basic idea behind this conference was to inspire the world community together to look to the common outlook of environment preservation and protection. The

Stockholm conference organized to provide a common outlook and principles that can guide the world community in the preservation and protection of the Environment. The declaration proclaimed regarding the interdependence of man on nature and how well being of human beings in terms of human rights and right to life is dependent on the environment which has been affected by the development of science and technology. Therefore, protection and the improvement of the environment is a major issue, which needs to look into. As it affects the wellbeing of human beings and the economic development of the nations. Hence, the governments of the nations need to come together for this to have a common outlook and principles for the same. The declaration also emphasized the fact that we as a community have reached that point in history where we need to shape our actions with prudent care for their environmental consequences. It also talked about the developed and the developing nations that how underdevelopment is causing problems there and in developed nations industrialization and development are causing problems. The population was another area looked into as a problem. Hence this conference resulted in nations proclaiming that cooperation of national governments and international cooperation is required as environmental problems in the current scenario are such that one needs local government involvement as well as global level involvement as well. Hence, co-operation between nations and international organizations is very essential to protect and preserve the environment.

The principles enunciated in the Stockholm conference regarding the common conviction of the nations were(*United Nations Environment Programme Stockholm Declaration, 1972*)

Principle 1 asserts that individuals possess an inherent entitlement to freedom, equality, and satisfactory living conditions within an environment of sufficient quality that enables a life characterized by dignity and well-being. Furthermore, individuals are entrusted with a serious duty to safeguard and enhance the environment for both current and future generations. The aforementioned statement unequivocally condemns policies that endorse or sustain apartheid,

racial segregation, discrimination, colonialism, and other types of oppression and foreign control, emphasizing the imperative need for their eradication.

Principle 2 emphasizes the imperative to protect the earth's natural resources, encompassing the air, water, land, flora, wildlife, and representative samples of natural ecosystems. This safeguarding is crucial for the well-being of both current and future generations, necessitating meticulous planning and management practices.

Principle 3 emphasizes the imperative of preserving and, when feasible, enhancing the earth's ability to generate essential renewable resources.

Principle 4 asserts that humanity bears a distinct obligation to protect and effectively govern the invaluable natural resources of wildlife and their habitats, which currently face severe threats due to a confluence of detrimental circumstances. Hence, it is imperative to accord significance to the preservation of nature, encompassing wildlife, when formulating strategies for economic progress.

Principle 5 emphasizes the imperative to utilize the finite resources of the planet in a manner that mitigates the risk of their eventual depletion and guarantees equitable distribution of the advantages derived from their utilization among all individuals.

Principle 6 emphasizes the imperative to cease the discharge of poisonous compounds or other substances, as well as the emission of excessive heat, when their quantities or concentrations surpass the environment's ability to neutralize them, in order to prevent the occurrence of severe or irreversible harm to ecosystems. The imperative of providing support to the populations of underdeveloped nations in their righteous fight against environmental pollution is evident.

According to Principle 7, it is imperative for states to undertake every feasible measure to avert the contamination of the oceans by substances that have the potential to pose risks to human health, endanger living resources and marine life,

impair the quality of the environment, or disrupt other lawful activities associated with the utilization of the sea.

Principle 8 emphasizes the crucial role of economic and social growth in establishing a conducive living and working environment for humanity, as well as in fostering the necessary conditions on our planet to enhance the overall quality of life.

Principle 9 emphasizes that environmental challenges resulting from underdevelopment and natural disasters present significant issues that can be effectively addressed through the promotion of rapid development. This can be achieved by facilitating the transfer of substantial financial and technological aid, which would complement the domestic efforts of developing nations and provide timely assistance as needed.

Principle 10 emphasizes the need of price stability and sufficient profits for primary commodities and raw materials in the context of environmental management for developing countries. It underscores the need to consider both economic issues and ecological processes in order to effectively address environmental concerns.

Principle 11 emphasizes the importance of ensuring that the environmental policies implemented by all nations do not impede the current or future development prospects of developing countries. Moreover, these policies should not hinder the achievement of improved living conditions for all individuals. To address any potential economic ramifications arising from the implementation of environmental measures, it is essential for both states and international organizations to collaborate and establish agreements.

Principle 12 emphasizes the importance of allocating resources to protect and enhance the environment, while considering the unique circumstances and specific needs of developing countries. It also highlights the necessity of integrating environmental safeguards into their development plans and providing additional international technical and financial assistance upon their request to support these efforts.

Principle 13 emphasizes the importance of adopting an integrated and coordinated approach to development planning in order to achieve more rational resource management and enhance the environment. This approach ensures that development activities are in harmony with the imperative of safeguarding and enhancing the environment for the well-being of the population.

According to Principle 14, rational planning plays a crucial role in resolving conflicts that may arise between the requirements of development and the imperative to safeguard and enhance the environment.

Principle 15 emphasizes the necessity of incorporating planning strategies in the development of human settlements and urban areas, with the aim of mitigating negative impacts on the environment and maximizing the overall societal, economic, and environmental advantages for all stakeholders involved. In this regard, undertakings that are intended to promote imperialist and racist rule should be relinquished.

According to Principle 16, it is recommended that governments implement demographic policies in regions where high population growth or excessive population concentrations may have detrimental impacts on the environment and hinder development. These policies should be in line with basic human rights and deemed suitable by the respective governments.

According to Principle 17, it is imperative to assign the responsibility of planning, managing, or controlling a nation's natural resources to suitable national organizations in order to improve the overall environmental quality.

Principle 18 emphasizes the imperative of utilizing science and technology to address environmental dangers, mitigate them, and find solutions to environmental challenges. This application of scientific and technological advancements is crucial for promoting economic and social growth, and ultimately serves the collective welfare of humanity.

Principle 19 emphasizes the importance of providing education on environmental matters to both younger individuals and adults, with a particular focus on addressing the needs of underprivileged populations. This educational approach is crucial in expanding the knowledge base necessary for fostering informed perspectives and responsible behavior among individuals, enterprises, and communities. By recognizing the multifaceted nature of the environment and its impact on human well-being, education plays a pivotal role in promoting efforts to safeguard and enhance environmental conditions. It is imperative for the mass media of communications to refrain from exacerbating environmental degradation. Instead, they should actively communicate educational knowledge regarding the necessity of preserving and enhancing the environment, so facilitating comprehensive human development.

Principle 20 emphasizes the imperative of fostering scientific research and development within the realm of environmental issues, encompassing both domestic and international concerns. This promotion is particularly crucial in emerging nations, where the need for such advancements is paramount. In this context, it is imperative to provide support and assistance for the unhindered dissemination of current scientific information and exchange of expertise. This will effectively contribute to the resolution of environmental challenges. Moreover, it is essential to ensure that environmental technologies are accessible to developing nations under favorable conditions that promote their widespread adoption, without imposing an excessive economic burden on these countries.

Principle 21 asserts that states possess the inherent authority, in accordance with the United Nations Charter and international legal principles, to utilize their resources in alignment with their environmental policies. Moreover, states bear the obligation to guarantee that undertakings within their territorial or authoritative purview do not result in detrimental effects on the environment of other states or areas that lie beyond the confines of national jurisdiction.

Principle 22 emphasizes the importance of international cooperation in the advancement of legal frameworks pertaining to the obligation and compensation for individuals affected by pollution and environmental harm resulting from activities conducted under a state's authority or control, extending to places beyond its immediate jurisdiction.

Principle 23 emphasizes the importance of taking into account the agreed-upon criteria of the international community, as well as the national standards that need to be established. It highlights the necessity of considering the prevailing systems of values in each country, and the applicability of standards that may be suitable for advanced countries but could be unsuitable and impose unnecessary social costs on developing nations.

Principle 24 emphasizes the importance of fostering a collaborative approach among nations, regardless of their size or stature, in addressing global environmental concerns and promoting their preservation and enhancement. Effective management of adverse environmental effects resulting from activities conducted in all spheres necessitates cooperation through multilateral or bilateral arrangements or other suitable mechanisms. This cooperation should be conducted in a manner that duly considers the sovereignty and interests of all States.

Principle 25 emphasizes the imperative for states to guarantee the coordinated, efficient, and dynamic involvement of international organizations in the safeguarding and enhancement of the environment.

Principle 26 emphasizes the imperative of safeguarding both humanity and the natural environment against the detrimental consequences associated with nuclear weapons and other forms of mass destruction. States should endeavor to achieve timely consensus, within the appropriate international bodies, regarding the eradication and dismantling of such armaments.

Stockholm declaration has a significant role to play when it comes to environmental law, as it was the starting point where the nations came together. For discussing and realizing that scientific and technological development has resulted in degradation of the environment and the time has come that the world community comes together to find a solution ahead. It also made the nations realize that all actions done at the national level, looked at through the lens of environmental consequences that they cause. Although it was a declaration and a soft law that was non-binding it made the nations realize that environmental degradation is happening which will affect the human rights of individuals to live with freedom, equality, and dignity. It called for the nations to look deeply and to plan the legal framework policies and institutions keeping in mind that the environment needs to be used in such a way that is available for both present and future generations both. Further, it emphasized the fact that a balance has to be maintained between development and environmental consequences of the actions that result in development. In the international context, it was the starting point for the impetus of the growth of environmentalism.

2.3.3 Journey From Stockholm to Rio conference: A paradigm shift

The United Nations Conference on Human Environment (UNCHE), which took place from June 5th to June 16th, 1972, emphasized the necessity of adopting a comprehensive approach to safeguarding the environment. The convening of a preliminary gathering of experts at Founex in 1971 served as a catalyst for the active engagement of numerous wealthy nations in the subsequent Conference. The event was attended by a total of 113 countries. This marked the onset of contemporary recognition and societal consciousness regarding worldwide environmental issues of a political nature. Four significant actions were undertaken, with the initial one being the endorsement of the Stockholm Declaration and its fundamental ideas. A set of twenty-six principles was established with the aim of providing guidance and motivation to individuals worldwide in their efforts to

safeguard and improve the conditions of the human environment. Furthermore, this development resulted in the foundation of the United Nations Environment Program (UNEP), accompanied by the adoption of a comprehensive action plan aimed at the formulation and implementation of environmental policies. Additionally, it resulted in the foundation of the environmental fund institution. The declarations exhibited a greater focus on policy matters rather than normative considerations.

Principle 21 asserts that states possess the inherent authority, as outlined in the United Nations Charter and international legal principles, to utilize their own resources in accordance with their own environmental policies. Additionally, states bear the duty to guarantee that activities conducted within their jurisdiction or under their control do not result in harm to the environment of other states or areas that fall outside the boundaries of national jurisdiction.

Principles two through five underscored the imperative to protect the earth's natural resources for the collective welfare of both current and future generations. Principles 6 and 7 pertain to the domain of pollution control. Principles 8 through 11 acknowledge the fundamental importance of economic and social progress. Principles 12 through 17 delineate policies pertaining to the management of environmental and natural resources. According to Principle 22, it is imperative for states to enhance the development of international law pertaining to liability and compensation in cases of pollution. The aforementioned principles are sometimes referred to as the Magna Carta pertaining to the human environment. This strategy represented a pioneering effort to comprehensively address environmental challenges.

2.3.4 Our common future

The World Commission on the Environment, which was founded by the United Nations General Assembly in 1983, released a report commonly referred to as the Brundtland Report, titled "Our Common Future." The panel was tasked with conducting a comprehensive reassessment of significant environmental and

developmental challenges, with the aim of devising practical remedies that would enable ongoing human advancement while safeguarding the resources for future generations, thus avoiding depletion. The report put up a recommendation for the concept of "sustainable development," which refers to a process that effectively addresses the current needs while ensuring that the ability of future generations to fulfill their own expectations is not compromised. The report recommended that the United Nations convert its findings into a comprehensive plan for promoting sustainable development. It also proposed organizing a conference to assess the progress made in implementing this plan. Additionally, the report suggested establishing subsequent measures to establish performance standards and ensure continued human advancement in accordance with the principles of human necessities and natural principles.

2.3.5 World charter for Nature,1982

The UN General Assembly adopted the world charter for Nature 1982. It consists of 24 principles. The charter recognizes that "Mankind is a part of nature.....and the civilization is rooted in nature, which has shaped human, culture and influenced all artistic and scientific achievements and living in harmony in nature gives men the best opportunities for the development of his creativity and rest and recreation. Therefore, men must acquire the knowledge to maintain and enhance their ability to use natural resources in a manner which ensures the preservation of the species and ecosystem for the benefit of the present and future generations "With this the charter pronounced twenty-four principles to conserve the natural resources. As an implementation measure, the charter provides²that the states shall adopt legal measures, disseminate environmental education, formulate and encourage scientific research, monitor and evaluate conservation policies and methods, implement applicable international legal provisions, ensure participation of people in the formulation of decisions concerning the environment and that each person

² From principle 14 to 24

has to act individually in association with others or through participation in the political process to achieve the objectives and requirements of the charter.

2.3.6 Earth summit –The Rio Declaration on Environment and Development 1992

UN Conference on Environment and Development held at Rio De Janerio from 3-14th June 1992. Delegates of 176 countries attended it. NGOs were allowed to play a major role in preparatory committees. Major differences arose along the North-South divide on issues relating to sovereignty over natural resources, Economic costs, Equitable burden sharing, Funding, Transfer of technology, Deforestation, etc. The outcomes of the conference were the Rio Declaration on environment and development, Agenda 21, the framework convention on climate change, the convention on biological diversity, and the non-legally binding authoritative statement of Principles for a Global Consensus on the Management, Conservation, and Sustainable Development of all Types of Forests. A set of 27 principles finely balancing the priorities between developed and developing states was laid down. It also set out the principal contours of sustainable development. Agenda 21 was a program of action consisting of 40 chapters and it covered many issues such as the alleviation of property, strengthening national and international society's ability to protect the atmosphere, oceans, other waters, mountains, and other areas vulnerable to desertification. It required developed countries to contribute a target of 0.7% of GNP of development assistance by the year 2000 or as soon as possible thereafter. The framework convention on climate change and the convention on biological diversity two created a new regulatory regime for two of the most significant problems the consequence of energy use and large-scale natural resource depletion.

In 1992, the Earth summit in Rio developing countries asked for increased technology transfer. They emphasized the fact that if the developed countries are concerned with the environmental deterioration in developing countries then in such a situation new technologies need to be made available at little or no cost to developing countries. (UNEP, 2012)

Rio declaration that happened in 1992 and saw the participation of a large number of countries and 178 countries adopted the Rio declaration of the Earth summit.(G. Pring et al., 2008) Principle 10 of the Rio declaration emphasized the fact that the handling of the environmental issues can be best done when there is appropriate access to information opportunity to participate in the decision-making process and effective access to a judicial and administrative mechanism for providing redress and remedy to concerned citizens. Environmental governance stands on the pillars of access to information, access to public participation, and access to justice.(G. Pring et al., 2008) In India, the judiciary has responded to access to environmental justice in innovative ways by taking into consideration PILs filed by citizens and opened the door for justice. Implementation of principle 10 of the Rio declaration is still lagging despite 10 years of the Johannesburg. Access to justice means that it allows the citizens to participate meaningfully and are made part of the decision-making process. It also empowers the people to get redress through courts and forums although otherwise, they could have not influenced the legislative process. Development of the environmental law has majorly happened because of the frustration of the public with the government agencies who were failing to protect the environment and industrial accidents like Bhopal, which happened in 1984, killed thousands of people.

2.4 Indian Constitution and International Environment Law.

Since the beginning of the United Nations Organization (UNO), India is its member. India is aligned to the motive of the UNO that environmental problems can be tackled best at global cooperation. Various international conferences have been organized as a means of a common strategy to combat and control the problems of pollution. Many international Agreements and pacts have been signed as a measure to curb environmental issues. The first international conference on environment and development was organized in Stockholm in 1972(June 5-15, 1972)

In the Indian context, Mrs. Indira Gandhi was the first head of the state who was part of this Stockholm conference. She voiced her concern about the degradation of the environment. She pointed out that pollution, population, and poverty are interrelated problems and there must be an integrated approach to deal with them. India was a signatory to the Stockholm declaration and because of the promise made at the conference the parliament passes the 42nd amendment to the constitution in 1976 (*The Constitution (Forty-Second Amendment) Act, 1976*). It incorporated specifically two articles in the form of Fundamental Duties and Directive Principle of State Policy for the protection and improvement of the environment.

PART 4-DIRECTIVE PRINCIPLE OF STATE POLICY (*The Constitution (Forty-Second Amendment) Act, 1976*)

48-A. Protection and improvement of environment and safeguarding of forests and wildlife. —“*The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.*”(*The Constitution (Forty-Second Amendment) Act, 1976*)

Part 4-A — FUNDAMENTAL DUTIES(*The Constitution (Forty-Second Amendment) Act, 1976*)

51-A. Fundamental duties.—“*It shall be the duty of every citizen of India—(g) to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures;*”

Thus, to implement the decisions of the Stockholm conference was within the competence of the parliament so on the one hand, it added articles to the fundamental framework of the country which opened the opportunity for courts to give interpretation to the provisions in a broad way for the environment protection and resulted in the development of rich environmental jurisprudence in India. On the other hand, within its competence passed various laws like the Water (Prevention and Control of Pollution) Act 1974, The Water Prevention and Control

of Cess Act, 1977, And The Air (Prevention and Control of Pollution) Act 1981. The Environment and Protection Act of 1986 was also passed as a consequence of the Stockholm conference.

Thus, it was a promise made by Mrs. Indira Gandhi at Stockholm that was kept with the inclusion of the provisions in the fundamental framework of the country and by the enactment of various laws for the protection and the improvement of the environment.

There was a lack of institutional competence as these provisions were interpreted by regular courts. Environmental issues require a subject matter expert. It was a huge challenge before the court. Because of this over the period ranging from green benches to green judges, various ways were figured to deal with access to environmental justice. However, in its decisions court started pointing out the fact that there is a need for a specialized tribunal with experts in that area. Ranging from the judgments of M.C Mehta to Indian Council for Enviro Legal Action and AP Pollution Control Board court realized the fact that environmental matters require assessment of the scientific data. Hence, setting up a specialized tribunal would help the judicial process. Adoption of environmental rights as a fundamental right in the constitution has been done through the judgments of supreme courts through the interpretation of Art 48 A and 51(a) (g). The constitution of India directly does not incorporate the environmental right as a fundamental right since it is through governmental policies that environmental rights are incorporated and therefore one finds the addition of the DPSP in the constitution. The Indian Supreme Court interpreted the constitutional right to live in a broad way as to secure environmental protection in both its anthropocentric and ecocentric dimensions. This interpretation promoted the status of human rights and initiated a rich environmental jurisprudence in India.

2.5 Growth of environmental courts and Specialized Green Tribunals

In Johannesburg, ten years after the Rio Declaration governments met but it was felt that they were still lagging as far as the implementation of the principle 10 of

the Rio declaration is concerned. Institutional legal and practice reforms were initiated after 2002, which were significant and impactful in 2002.

With the growth of the environmental problems, tribunals and national courts have a greater role to play in expounding and interpretation of the ever-growing body of law and problems in this area. (Bharat H. Desai; Balraj Sidhu, 2010) Access to justice increases the people's ability to seek redress and remedy in environmental matters. Environmental courts and specialized tribunals depend on the legal culture and the specific needs of the country. The growth of the ECTS and tribunals has increased from a handful in the 1970s to over 340 across 41 different countries. Over half of the courts and tribunals have been established since 2004. (G. Pring & Pring, 2016)

The history of the evolution of environmental tribunals is different in different countries and regions. For example in Scandinavia (Sweden, Finland) they were created specifically to deal with water laws later on expanded to include environmental and water laws. . In the case of Australia, they exist in various states. In New South Wales, the land and environment court established in 1979 has been in operation longer than most other tribunals.

There have been specialized environmental courts existing for a long time like in Australia, New Zealand, Scandinavia, and the U.S.A however, a discussion on the NGT in the major developing country becomes of utmost importance. Specialized environmental tribunals are one of the most dramatic establishments of the 21st century. In the 1970s, only a handful number of the ECTS existed and now over 1200 ECTS exist at the national regional level in developed and developing countries and ECTS are dramatically changing the way environmental disputes are resolved. (G. Gill, 2017)

National green tribunals make a very good study established over a decade ago. The authorizing legislation gives it a broad trial, Appellate jurisdiction overall environmental and natural resources law, Review only by the supreme court, Flexibility in its procedure, Strict standards for Judicial appointments, Recognition

of right to a healthy environment, some of the broadest principles on this planet for public participation and access to justice and a mandate to apply international treaties and principles.(G. Gill, 2017) The argument of Gitanjali's work is it shows that how NGT has successfully expanded its openness, procedural flexibility transparency, and progressive judgments with detailed analysis of its numerous cases. Remarkable features of NGT are its decision-making process like judicial and experts members reflecting its multidisciplinary scientific nature of environmental cases. Its judicial members must be former judges or justices of the Supreme Court or High Courts, and the technical experts must be persons from the life sciences, physical sciences, engineering, or technology with 15 years of experience including five years of environmental practice. Her work demonstrates the innovative role of scientific experts as judges in their ability to shape and legitimize NGT decisions. In terms of outreach and public participation, the judges and expert members often go to the site of the dispute and make inspections, analyses, and recommendations. Rather than decide cases simply on legal precedent, the NGT can organize fact-finding commissions and participation groups of other experts, political leaders, advocacy groups, and aggrieved parties to help hammer out workable solutions.

To deal with issues relating to social-economic commercial and natural resources as the need arises tribunals are established as means of dispute settlement, which has advantages over the traditional formal dispute settlement mechanism. In many countries, they are established to deal with specialized areas or issues. The environment is one area where tribunals exist across the jurisdictions. environmental issues have no boundaries, and they affect the global national and regional levels. In the historical context of environmental issues, they can be seen through the prism of policy declarations principles and soft law and treaties. From an international perspective, there is a binding value of these instruments where the states have ratified them and enacted them into national laws.(Kaniaru, 2007)

2.6 Conclusion

The discourse on environmental law in the current scenario has changed from what it was in 70' the '80s. The concern in the earlier stages was to get to know the nuances right to the environment the possibilities of its expansion with alignment with human rights, in the gradual process now the shift is toward access to environmental justice, Rule of law sustainable development. If one sees the case laws decided by, the judiciary in various phases one also observes the way the gradual growth of the right to the environment has happened. New emerging dimensions have emerged which are focusing more on the creation of the institution, which can provide access to justice, help in maintaining the rule of law, and help to realize sustainable development.

CHAPTER-3

PURPOSE OF NATIONAL GREEN TRIBUNAL OF INDIA

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3.1 Introduction

Environmental law is a means of environmental protection through regulation of activities affecting the environment. However, despite being the pillar for the environmental protection, it is still suffering due to poor implementation. In this context the role of courts, national systems for access to justice and their environment responsiveness plays a crucial role as to in the implementation of environmental laws and principle of sustainable development. In this backdrop, the role of tribunals becomes very crucial as to the access to justice, which is a recent

phenomenon of 21st century. Establishment of Specialized tribunal makes access to justice easier for disadvantaged group. (Amirante, 2011)

In 2002 Johannesburg principle on role of law and sustainable development it affirmed that-

“We affirm that an independent Judiciary and judicial process is vital for the implementation, development and enforcement of environmental law, and that members of the Judiciary, as well as those contributing to the judicial process at the national, regional and global levels, are crucial partners for promoting compliance with, and the implementation and enforcement of, international and national environmental law” (WSSD: Johannesburg Principles on the Role of Law and Sustainable Development, 2002)

Good environmental governance is essential for achieving sustainable development. In national and international agreements and judicial decisions, three fundamental pillars of environmental governance that are transparency, inclusiveness and accountability have taken shape of access rights. They are part of national legislations and are the fundamental framework on which environmental legislation currently function.

As Robert Goodin observes: ‘[t]o advocate democracy is to advocate procedures, to advocate environmentalism is to advocate substantive outcomes’(Robert E . Goodin, 1994)If one comes to the Indian context not recognizing the fundamental right to a healthy environment would have been undemocratic. As the step towards environmentalism in the democracy is to develop constitutional competencies and institutional competencies. To achieve the required implementation of the laws these two aspects institutional and constitutional competencies are required to be developed. In India with the 42nd amendment, 1976 constitutional competency was developed with the addition of the Fundamental Duty of citizens and Directive Principle of State Policy.

In order to achieve the 2030 agenda on sustainable development, which is a means to fill in the gap existing in environmental domain in social and economic

dimensions the role of inclusive effective institutions, becomes a subject matter of relevance. In this direction role of tribunals and access to justice becomes important as it helps in achieving rule of law which is a fundamental aspect in achieving sustainable development. Environmental rights can be achieved as a means of strategy in three ways either as general jurisdiction or green benches or as a specialized tribunal. In the Indian context judicial institutions, which are characterized by backlogs delays, it becomes more a matter of study of the institutional success of National Green tribunal in achieving environment justice. In this background, the role of National Green Tribunal in environmental governance comes to the forefront, which is a subject matter of study under the current thesis. The experience in Indian context can be analyzed on the basis of constitutional framework which contains framework for environment protection within the right to life enshrined in Art 21 as fundamental right and Art 48(A) and 51 A (g) and other is interpretation done by the courts of the international principles which are applied as per statute by National Green Tribunal. Because of more flexible procedures adopted by National Green tribunal and change in the composition compared to general courts in terms of expertise members has enhanced its expertise in tackling environment protection issues. On one hand, it has created specialization in tackling environmental issues and on the other hand, whether this specialization has created a monopolization in dealing with environmental matter is an issue to be looked into.

3.2 Reasons for growth of Specialized Environmental Tribunals.

The expansion of the administration with the growth of the concept of welfare state in the early 70's and 80's led to the growth of the administrative bodies and their power. It also led to lot of abuse of power by these administrative bodies. This resulted in growth of the administrative law. In this backdrop of expansion of administration and administrative law, environmental administration was not left untouched. Development with expansion of industries and economy meant exploitation of natural resources, which also demanded better regulation of administration with stringent law to balance development and exploitation of

natural resources. People were also becoming conscious of the threat to the environment. (*Green Courts: The Way Forward?*, 1973)

In the initial stages, remedies dealing with environmental wrongs were seen in very limited sense mostly as private wrong being either criminal or civil in nature. These situations led to multiple remedies. So it was a departure seeing environmental wrongs as private wrong in the sense that environmental issues as understood from its core element dealing with issues of pollution and conservation is against the public at large. There is another problem involved with the environmental problem is that they often involve complex scientific data which at times is a challenge to prove with certainty and creates a challenge before the court to take help of scientific experts.

Lord Woolf, in his Garner lecture to UKELA, on the theme "Are the Judiciary Environmentally Myopic" brought to the forefront that one of the problems with the environmental wrong is that there is no single procedure and agency that can be approached as environmental wrong involves multidisciplinary approach. So if one sees an environmental wrong it can be seen as a culmination of civil wrong, criminal wrong which at times may have scientific or technical aspect, it may also involve failure of the administrative body. Because of this, environmental wrongs involve multidisciplinary approach. (Woolf et al., 1992)

As a response to the growing social welfare activities of the state due to the growth of the administrative power. Tribunals were created to deal with specific administrative issues in a less time-consuming manner. They were seen as supplementary to the judicial branch as the courts were already overburdened. It is in this context that tribunals grew to resolve conflicts with specialized and expert members in areas like taxation etc. and they have been very successful however in the environmental context one still finds the gap that exists concerning its success. Though it has been noted before that almost all nations, including developing ones, have basic environmental protection laws in place, an enormous gap still exists

between the letter of the law and what is actually happening on the ground. (Angstadt, 2010)

The subject matter of environmental adjudication is such that it requires special expertise as it often has scientific and technical aspects, which an expert can best decide rather than a generalist judge with no expertise in environmental aspects. This is one of the chief reasons for the demand of the creation of the specialized tribunal. Secondly, as the regular courts are already overburdened with workload, it would free the regular courts of its workload.

Institutional competence and constitutional competence is essential in order to achieve the required implementation of the laws and institutional competence can be achieved through the establishment of specialized tribunals. Environmental rights have never been historically linked to the conditions of legitimate government. Not constitutionalizing the environment rights would be undemocratic. In order to understand the effectiveness of the environmentally dedicated judicial system one needs to understand the working of such a proposed system and to analyze the benefits of such system.

3.3 Historical Background to National Green tribunal

The intersection of human rights and access to justice being the particular focus is the main reason for the establishment of the National Green Tribunal. Role of judiciary is pertinent as to the institutional development for the environment protection in India. Broadening of judicial decisions since 1970's with directions given in the field of environment protection by means of writs played the crucial role as to the development of institution of National Green Tribunal. It was through the suggestion of apex court that parliament created legislation for environmental courts although there were unsuccessful attempts previously but in 2010 after passing of the National Green Tribunal Act, National Green tribunal came into the picture. It is a subject matter of study under the current thesis with its impact analysis by means of tracing historical background and delving into the functionality part with analysis of its decisions. Tracing the historical background

of National green tribunals not only relates to the judicial decisions given by apex courts and high courts but also on the growth of the environmental administration and administrative law in general.

With the growth of welfare concept of the state. It brought with it the misadministration and in this backdrop the growth of quasi-judicial bodies like tribunals took place. Intersection of growth of administrative law with quasi-judicial body's development also affected the environmental administration. In this background growth of environmental law for better management of environment also happened.

Legislative and the executive organ play a very important role in governance process of the country but in the Indian context, judiciary has played crucial role in environment protection. Supreme Court has actively engaged for almost a decade in various respects for environment protection. In democracy, it is not unusual for courts to play a crucial role in environment protection. However, the involvement of apex court in India is unique as far as development of environmental jurisprudence is concerned through adjudication and interpretation of constitutional provisions is concerned. In the process of its interpretation it has developed new principles institutions and structures and added new dimensions to the environment protection. (Jurisprudence, 2008) Court has delved not only into general interpretation of laws but also in technical aspects when it comes to environment protection in the initial stages. Hence, according to international legal experts Indian courts were seen as pioneer not only in terms of laying down principles but also in terms of developing innovative ways in Justice delivery system. One of the reasons for the courts proactive role in environmental governance has been failure of institutional agencies to fulfill their duty. Proactive role played by the government has to do with upholding rule of law, enforcement of fundamental rights and protection and improvement of the environment. The innovative methods employed by the court for fostering environment protection. The court has gone beyond its traditional function in environmental matters and developed innovative ways to deal with it like entertaining petitions on behalf of inanimate objects, taking

up the matter suo motu against the polluter, expansion of the domain of the litigation broadening of the provisions of the constitutions and application of international principles into domestic environmental problems.(Jurisprudence, 2008) Apart from it also created expert committees to give inputs and monitoring of implementation of judicial decisions, making spot visit at ground level, appointment of amicus curae on behalf of the environment. Indian courts have not only played role in developing new environmental principles but also in application of innovative methods in the environment justice delivery system. There has been dominance of judicial system when it comes to enforcement of environmental rights although the expansion of legislations relating to subject areas of environment protection started in 1980s, which also led to the development vast network of administration in environmental area and issues of implementation, started coming to the forefront.

3.4 Supreme Court on creation of specialized environmental tribunal

Adoption of environmental rights as fundamental right in constitution has been done through the judgments of supreme courts through the interpretation of Art 48 A and 51(a) (g). The constitution of India directly doesn't incorporated the environmental right as fundamental right since it's through governmental policies that environmental rights should be incorporated and as a consequence one finds the addition of the DPSP in the constitution.

If one sees the case laws decided by, the judiciary in various phases one also observes the way the gradual growth of the right to environment has happened. New emerging dimensions has emerged which is focusing more on creation of the institution which can provide access to justice and help in maintaining the rule of law and help to realize sustainable development.

A framework for decision making to create specialized environmental courts in the Indian context resulted from the fact that there were incidents like the Bhopal Leak disaster and oleum leakage and also unhappiness of people from the failure of government agencies to take action in such situations Every country has its unique

legal system, environmental goals, political structure, culture, and socio-economic situation to consider when making decisions as to the creation of the specialized environmental courts. In the Indian context it was because of the different circumstances and at different times. In the cases of **M.C. Mehta Vs. Union of India** (AIR 1987 SC 965), **Indian Council for Enviro-Legal Action Vs. Union of India** (1996 3 SCC 212) and **A.P. Pollution Control Board Vs. Professor M.V. Nayudu** (1992 2 SCC 718) the Indian Supreme perceived that as environmental cases frequently involve assessment of scientific data, setting up environmental courts on a regional basis with a legally qualified judge and two experts would help speed the judicial process.

If one looks into the starting point on the discussion as to the creation of the specialized environmental courts in India it started with the story which started with public interest litigation filed in **M.C Mehta V Union of India (MANU/SC/0291/1986)** raised some pertinent questions concerning the true scope and ambit of Articles 21 and 32 of the Constitution. The doctrines and rules for determining the liability of large enterprises engaged in the manufacture and sale of hazardous products, the base on which damages in case of such liability should be calculated, and whether such large enterprises should be allowed to continue to function in thickly populated areas and if they are permitted so to function, what measures must be taken to reduce to a minimum the hazard to the workmen and the community living in the neighborhood also brought on to the front the questions as to the establishment of the specialized court. These questions raised in this case were also of great importance after the following up of the Bhopal Gas leak Disaster case. On the one matter dealt concerning the Art 21 and liability of enterprises engaged in manufacture and sale of hazardous products, on the other hand, it brought to the forefront the need for creating specialized environmental courts and need of expert and scientific members as in this case the court has to take help of scientific-technical members and depend on various committees to conclude. It was stated in this case

“There is also one other matter to which we should like to draw the attention of the Government of India. We have noticed that in the past few years there is an increasing trend in the number of cases based on environmental pollution and ecological destruction coming up before the Courts. Many such cases concerning the material basis of livelihood of millions of poor people and reaching this Court by way of Public interest litigation. In most of these cases, there is a need for neutral scientific expertise as an essential input to inform judicial decision-making. These cases require expertise at a high level of scientific and technical sophistication. We felt the need for such expertise in this very case and we had to appoint several expert committees to inform the court as to what measures were required to be adopted by the Management of Shriram to safeguard against the hazard or possibility of leaks, explosion, pollution of air and water, etc. and how many of the safety devices against this hazard or possibility existed in the plant and which of them, though necessary, were not installed. We have great difficulty in finding out independent experts who would be able to advise the court on these issues. Since there is at present no independent and competent machinery to generate, gather and make available the necessary scientific and technical information, we had to make an effort on our own to identify experts who would provide reliable scientific and technical input necessary for the decision of the case and this was a difficult and by its very nature, unsatisfactory exercise. It is therefore essential that there should be an independent center with professionally competent and public-spirited experts to provide the needed scientific and technological input. We would in the circumstances urge upon the Government of India to set up an Ecological Sciences Research Group consisting of independent, professionally competent experts in different branches of science and technology, who would act as an information bank for the Court and the Government Departments and generate new information according to the particular requirements of the Court of the concerned Government department. We would also suggest to the Government of India that since cases involving Issues of environmental pollution, ecological destruction, and conflicts over natural resources are increasingly coming up for adjudication and these cases

involve assessment and evolution of scientific and technical data, it might be desirable to set up Environment Courts on a regional basis with one professional Judge and two experts drawn from the Ecological Sciences Research Group keeping in view the nature of the case and the expertise required for its adjudication. There would of-course be a right of appeal to this Court from the decision of the Environment Court.”

In the case of **Indian Council for Enviro-Legal Action and Ors. Vs. Union of India (UOI) and Ors. MANU/SC/1112/1996** It was suggested“*That in the larger interests of the environment, industry, and public, this Court may direct the Government of India to constitute, by proper legislation, environment courts all over the country-which courts alone should be empowered to deal with such case, to give appropriate directions including orders of closure of industries wherever necessary, to make necessary technical and scientific investigations, to suggest remedial measures and to oversee their implementation. Proceedings by way of a writ in this Court under Article 32 or the High Court under Article 226, the learned Counsel submitted, are not appropriate to deal with such matters, involve as they do several disputed questions of fact and technical issues.”*

In the case of **A.P. Pollution Control Board vs. M.V. Nayadu and Ors. MANU/SC/0032/1999** The court discussed at length the Environment Courts/Tribunals, which is the need of the hour due to the problems of complex technology.

The Law Commission of India (186th Report 2003) recommended the establishment of environmental courts in India. This recommendation was based on a review of the technical and scientific problems that came before the courts and the inadequacy of judicial knowledge on the scientific and technical aspects of environmental issues(*LAW COMMISSION OF INDIA ONE HUNDRED EIGHTY-SIXTH REPORT ON*, 2003) The report also noted that National Environmental Appellate authority constituted under NEEAA Act 1997 and National

Environmental tribunals constituted under National Environmental Tribunal Act 1995 are nonfunctional and are there on paper.

If one looks to the development of environmental law, much of the progress of environmental law across the world was driven by public frustration with government agencies that were seen as failing to protect the environment and public health. Industrial accidents like Bhopal in India (1984) raised serious concerns as to the establishment of specialized environmental courts and also the frustration of the people concerning governmental agencies due to the killing of the thousands of poor people and the spraying of DDT in industrialized countries seriously affected wildlife and human health. Civil society groups around the world galvanized to demand new and more stringent environmental laws. Decision-making framework for creating an ECT that can be useful in different legal cultures and political situations. (G. R. Pring & Pring, 2009)

It provides the tools and support necessary to enhance access to environmental justice in countries around the world that, in turn, will advance the principles of environmental protection, sustainable development, and intergenerational equity through the institutions responsible for delivering environmental justice.

3.5 Environmental tribunals in Comparative perspective

The idea of the creation of an environmental tribunal in the Indian context dealing specifically with environmental laws and problems arising from environmental issues, in respect of implementation falling within the wide domain of the environmental laws, comes with inspiration from the other countries, which has established a similar system. Countries like Australia and New Zealand were quoted by the courts in their judgments whenever issues about the establishment of the National Green Tribunal appeared. Either the pathways, which could have been looked into, could be general jurisdictions dealing with environmental cases or through the creation of green benches with judges, having expertise in environmental sciences and the last resort was the creation of the specialized tribunal. Indian parliament took the third option with a specialized tribunal with

expert and technical members as seen as more effective in providing access to environmental justice. The Australian Model was the inspiration being the more pragmatic solution to environmental problems. In current times, India, New Zealand, and Australia are the most developed examples of environmental laws. In this direction to get to the salient features of the National green tribunal, it becomes to delve into the predecessors of the environmental courts of Australia and New Zealand. The first environmental court to be established is the Land and environmental court of New South Wales, which started functioning in 1980. The land and environmental court is an appeal tribunal specialized in several classes of disputes dealing with the environment as per the statute.(Wales, 2011) As far as the composition of the New South Wales environmental court is concerned, it includes the judges and the technical members. Judges for their appointment are required to qualify either they were judges of an inferior court or advocates with experience of 7 years(s-8). The peculiarity of the New South Wales court is the appointment of the commissioners who are the court members having relevant experience and knowledge in the broad area that include local government, town and environment planning, environmental sciences, architecture, and management of natural resources. The term of these commissioners is 7 years with renewal of the time. The jurisdiction of the court of the New South Wales is concerning the enactments for the protection of the environment that can be classified in various categories broadly environment planning, local government, land tenure, civil enforcement environment planning and protection, summary enforcement of environment planning, appeals relating to environmental offenses (S-17-21C). Although s-16 enlarges the scope of the jurisdiction of the court with giving jurisdiction concerning ancillary matters.

The New South Wales court possesses both civil and criminal jurisdiction and it is an appeal tribunal. While the National green tribunal has civil jurisdiction and has original and appellate jurisdiction. New South Wales court has a resemblance to the civil courts likewise created by the Indian parliament consisting of both technical and judicial members (sec-33) and is characterized by the informality of

procedure(S-38)(Wales, 2011). Possibility of conciliation and arbitration procedure is provided under the Act through the convention of commissioner's; mandatory in certain cases of the development applications and consents. The National Green Tribunal Act has excluded the same possibilities.

Differences are existing in the New South Wales Court and the National Green Tribunal but an element of commonality exists as far as the composition of the tribunal is concerned consisting of the lawyers and the technical members. Preston in his work emphasizes the fact that access to justice and public participation has increased because of such tribunals and in fact, they have contributed to the development of the elaborate jurisprudence(Preston, 2012, 2014), which needs to be looked into the National green tribunal context as well.

Along with the Australian counterpart, the main inspiration for the creation of the National Green Tribunal came from the New Zealand court. This court was created after the Enactment of the Resource Management Act of 1996Parliament of New Zealand, Resource Management Amendment Act, , Act No. 160 of 1996.. It was the innovation at the backdrop of the creation of this tribunal for better environmental protection in New Zealand. While the backbone of the tribunal is the Resources Management Act 1991, an act created for comprehensive environment protection covering areas like land water Air, and the exploitation of Natural Resources. As stated in sec – 5 of the Act the purpose of the Act is to promote sustainable management of natural and physical resources.Resource Management Act 1991,

The Act has been frequently amended and is based on the principle of devolution to the local level. The court is a blend of judges and environmental commissioners hence blending the competencies of judges and the expert members. (S-248)

As far as the jurisdiction of the tribunal is concerned, it is over the matters coming under the Resources Management Act and several other enactments concerning environmental subjects. The environmental subject matters falls under following enactments Forests Acts of 1949, Local government act of 1974, The public works

Act of 1981, Transit New Zealand Act of 1989, The Crown Minerals Act of 1991, The Electricity Act of 1992, The Historic Places Act of 1993, The Biosecurity Act of 1993, The Maori Commercial Aquaculture Claim Settlement Act of 2004 and The Public Transport Management Act of 2008. It has the powers of the district court(S-278). As far as the standing of the tribunal is concerned in the judicial system of New Zealand, it stands between district courts and the high courts. The decision of the tribunal is final(s-295). The matter can be referred to the high court by the tribunal suo motu on questions of law(s-287) and by the parties in case of appeal if the matter deals with the question of law. (s-299).As far as the court's power concerning plan and policy statements is concerned it's an appeal tribunal and can ask the local authority to remedy the defects in the plan and can ask for the changes in the policy statements. (s-292-293).The court deals and settles matters, which are administrative, and reviewing local policy decisions.

Despite its limited jurisdiction, the interesting part is the procedure, benches are composed of the judges and the commissioners(s-265) which is similar to the New South Wales Court is the procedure, which is open to the favor of mediation and Alternative Dispute Resolution. (s-267-268). A similar procedure is not provided for in the National Green Tribunal Act. The court is bound by the timely and cost-effective resolution of disputes and can have a hearing even in the localities close to the facts of the dispute if it deems appropriate. (s-269 to 271)

From the comparative perspective, the Common point between the three courts can be concluded as far as the composition is concerned consisting of judges and technical and expert members. The purpose of the creation of these tribunals is to provide speedy and effective resolution of disputes. The backdrop to the creation of the three has been to provide access to justice as they are less bound by procedural problems; and having benches not only as a central institution in Delhi but also on a regional basis as far as the National Green Tribunal is concerned.

Compared to its counterpart there is also a difference among them as the court of New South Wales and New Zealand are more administrative dealing with plans and

policies relating to the environment while the National Green Tribunal has the widest civil jurisdiction when it comes to environmental matters. It is also bound to base its decisions on international principles and the legacy of the Supreme Court, which had developed interlinking between Art 21 and international principles resulting in the development of the jurisprudence, is to be carried forward by the NGT. While basing its decision on international principles and linking it with Art 21 and the backdrop to it is, the broad provisions given by the NGT Act “*substantial question related to the environment*”. In addition, in the Indian context, the challenges of the requirements of the economic and social development is at the forefront.

3.6 Purpose and objectives of National Green tribunal

Looking back to the historical circumstances that led to the creation of the National Green tribunal the apex court as mentioned earlier in most cases has dealt with the creation of the specialized committees, which consisted of the experts, but at the same time, it faced the challenge to provide a high level of scientific competence and the neutrality that is an essential aspect to be possessed by these experts. To deal with such circumstances the court came up with two innovations either the creation of research group in the environmental area consisting of independent professionally competent experts in different branches of science and technology that could provide the court with required scientific information in environmental disputes; on the other hand, it suggested for the creation of the system of the environmental adjudication as regional-based courts with professional judges and expert members because of the nature of the problem and the expertise required for resolution of such disputes.

These suggestions by the court were focusing on the amalgamation of the expert and scientific expertise to guarantee access to environmental justice in environmental matters, which was also repeated several times through its judgments. These judgments are testament to the vision that the court brought to the forefront through its judicial activism. The Supreme Court not only elaborated

the concepts by the advancement of the legal process as it did in the 1970s but also deal with the issue of the unsatisfactory enforcement of laws and the challenge of the administrative machinery. However, the backdrop to these innovations was the idea to balance the environmental concerns with the technological and industrialization progress that was happening at that time and what the future had ahead in terms of progress. Until the 1990s, the court through its judgments was emphasizing the blend of scientific and juridical knowledge.

Thereafter in the mid-1990s, the response of the parliament was coming up with legislation: the National Environment Tribunal Act 1995 and the National Environment Appellate Authority Act 1997, the second legislation having appellate jurisdiction. These legislations were in response to the judicial innovations suggested by the courts during the 1980s and early 1990s. The public liability Insurance Act 1991 was the result of the parliament's response to the hazardous activities incidents happening before this time like the Bhopal Gas tragedy and Shriram Food fertilizer incident. This legislation introduced the notion of absolute liability in matters of hazardous substances and to provide speedy relief to victims of accidents the National Environmental Tribunal Act 1995 was made to provide relief and compensation for damages to a person's property and the environment. The tribunal had limited jurisdiction as it can provide compensation when it came to damages to properties and the environment and for death and injuries. It was innovative in the sense that it brought into the picture appointment of the judicial and technical members as provided in sec 9 and 10. Procedurally had a wider degree of flexibility as it was bound by principles of the natural justice and powers of civil courts as far as the execution was concerned and the appeal could be made to the Supreme Court from its decision.

It could have been the first step towards specialized judicial institutions for environmental matters, but this court was never established, and it was only on papers. Another parliamentary intervention in form of legislation was the National Environment Appellate Authority Act 1997(NEEA). The Environment Protection Act 1986 poor implementation was at the backdrop for the establishment of this

authority, which established with the task of hearing “*appeals concerning restriction of the areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment Protection Act 1986*”(The National Environment Appellate Authority Act , 1997, 2007).Jurisdiction under sec 11 of the act dealt with the appeals against the environmental clearances affecting people, associations, or public authorities. It was done so with the idea of diffusing the workload of the court and to provide the expediency in its process it was not bound by principles of natural justice and could make its own procedural rule as was the case with the National environmental tribunal of 1995.Section 5 of the Act provides for its composition, which consisted of the chairperson, a vice-chairperson, and a max of three additional members possessing professional knowledge or practical experience in areas of conservation, environmental management, law, or planning development. Due to poor implementation of both the statutes the latter being due to its narrower jurisdiction and due to its small life span the Supreme Court intervened regarding the state in the M Y Naydu case, it highlighted the success story of the environmental courts in Australia and New Zealand based on the academic study done by the Cambridge University. The court in this case suggested the setting up of a two-tier environmental court that would be having combined power of judicial review and civil procedure while dealing with environmental matters. Thus, the court invited a law commission for the constitution of environmental courts based on the experience of other countries.

Judicial interventions of court and the corpus of judicial decisions and their analysis lead to the conclusion that judicial awareness in this direction was gradually increasing concerning the environmental law and the consequences because of its lack of proper enforcement and challenges ahead. The expectation put forward by the apex court culminated into the comparative study by the law commission and led to the establishment of a specialized environmental tribunal. There were three options available to the law commission general jurisdiction, green benches as part of tribunals and creation of the specialized green tribunal. The law commission

chose the last option. Although in part and parcel the second model of green benches was already introduced by the apex court and the Calcutta high court before 1995 since the courts were showing an inclination towards the third model, the parliament delves into deep study on the third model.

The early 2000s saw environmental policies at a cross juncture in between the National Environment policy 2006 was introduced which focused on reviewing the institutional capacities at the state and the central level and programs implementation for institutional capacity building. (*National Environment Policy*, 2004) It is in this backdrop the National Green Tribunal Bill³ was presented by the ministry of environment and forest, which integrated the 186th law commission report. It was a bill with the idea of the implementation of Art 48A of the directive principle of state policy as set out in the constitution and the Supreme Court suggestion on the establishment of such tribunals as the demand of that time. The presentation of the bill also drew attention to the backlog of the cases in the ordinary court and the idea of the tribunal being to provide quick and speedy justice in environmental matters. This eventually led to the creation of the National Green Tribunal.

The idea behind creating or improving environmental courts is the desire to improve the third pillar of environmental democracy (G. R. Pring & Pring, 2009) . The National Green Tribunal acts as a great plurality for Environmental Justice. The National Green Tribunal was created with the idea to provide speedy environmental justice in environmental matters. It is in this context it becomes crucial to look into the shift from a judicial forum to a quasi-judicial forum when it comes to dealing with environmental cases. Hence, a run-through history with landmark cases has helped us built insights on this point, the journey that started with the Bhopal Gas leak disaster case, which was decided by a judicial forum and not a quasi-judicial forum.

Governance of the environment is complicated as it affects the rights and interests of people and the environment. Degradation of the environment, polluted air, and water, creation of dams, and clearing of forests. Each of these activities can have consequences, which becomes a subject matter as an environmental issue. Environmental issues can take multi-facets shapes ranging from health impacts, economic consequences, limited access to resources. In certain situations one can get direct remedy from the environmental agencies in other situations one can get remedies under the environmental laws from the judiciary only.

Remedies depend on the type of grievance. For civil Grievances; the main forum, is National Green Tribunal. In case of criminal nature of environmental issues, it can be filed in the criminal court of the magistrate. If there is a violation of fundamental rights under the constitution then Supreme, Court and High Court are the appropriate forum.

The need to set up an environmental court has been highlighted by the court in its various judgments along with the Law Commission of India in its 186th report 2003. The court was of the view that environmental matters are such that they require scientific, technical expertise and speedy disposal. Hence, their adjudication requires a dedicated court with scientific and technical expertise. Before this, there were efforts on the part of the parliament to come up with legislation to deal specifically with environmental issues such as the National Environmental Tribunal Act 1995, which was passed by the parliament but never implemented. In addition, later on, the National Environment Appellate Authority was set up in 1997 but there were several problems with the authority and it has certain limitations such as the only people challenging environmental clearance can approach. Setting up the National Green tribunal resulted in the replacement of the authority.

The National Green Tribunal has been established on 18.10.2010 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 the environment and

giving relief and compensation for damages to persons and property and matters connected therewith or incidental thereto. It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues.

The Tribunal has a dedicated jurisdiction in environmental matters, which provides speedy environmental justice and helps 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 the filing of the same. (*National Green Tribunal Act 2010.Pdf*, 2010)

The tribunal can be approached with cases pertaining to any of the following seven environmental laws:

- The Water (Prevention and Control of Pollution) Act, 1974 [Water Act]
- The Forest (Conservation) Act, 1980
- The Air (Prevention and Control of Pollution) Act, 1981 [Air Act]
- The Environment (Protection) Act, 1986
- The Public Liability Insurance Act, 1991
- The Biological Diversity Act, 2002

3.7 Jurisdiction of the National Green Tribunal

The Tribunal has two types of jurisdiction original, appellate jurisdiction. Original jurisdiction refers to the matter brought for the first time before the judicial authority, and appellate jurisdiction refers to the power to sit in the appeal, which means some authority has issues orders and decisions and in appeal, the tribunal has been approached.

Original Jurisdiction (Sec 14) (*National Green Tribunal Act 2010.Pdf*, 2010)

The tribunal has original jurisdiction over all the civil cases raising the substantial question relating to the environment and which arise out of the implementation of

any of the aforementioned seven statutes which includes the enforcement of any legal right arising from these laws, or if there is a violation of the specific statutory environmental obligation by a person which affects the community at large; or causes substantial damage to the environment or property or causes damage to the public health that is broadly measurable. The environmental consequences could relate to a specific activity or a point source of pollution. Such cases could be brought before the tribunal within six months from the date on which the cause of the action of the dispute arose. After six months a case may be brought within sixty days only if the tribunal is convinced that the person was prevented by reasonable cause to file the case within the stipulated time.

Victims of environmental damage including accidents occurring while handling hazardous wastes can approach the court to seek relief and compensation (section-15). The tribunal can order for restoration of the damaged property and the environment. Any case for relief and compensation has to be brought to the tribunal within five years from the date such cause for such relief and compensation first arose. After that, a grace period of sixty days is given.

Appellate jurisdiction (Section-16)(*National Green Tribunal Act 2010.Pdf*, 2010)

In the exercise of the appellate jurisdiction, the tribunal hears and decides cases in which regulatory approval or consent granted or rejected by the relevant government agency is being challenged. These approvals relate to the seven aforementioned laws. The tribunal has the power to cancel an approval or consent granted if it is found to be illegally obtained. It can issue stop-work notice, stay order, or direct the constitution of the committees of experts to carry out fact-finding or monitor the implementation of its orders. Another set of cases that can be brought under the appellate jurisdiction of the tribunal relating to the consents to establish and operate granted by the state pollution control board under the Water Act and the Air Act to industrial plants. If the consent is granted or denied the aggrieved party has to first approach the appellate authority set up under the Water Act and Air Act. If either party is dissatisfied with the decision of the appellate

authority, it can approach the tribunal. An appeal has to be filed within 30 days from the date on which the order or decision that is being challenged was communicated. Beyond that, another 60 days may be granted by the tribunal if it's convinced that, there was a sufficient cause of the delay in filing.

Exclusive jurisdiction of the tribunal(s-17)(National Green Tribunal Act 2010.Pdf, 2010)

As far as the exclusive jurisdiction of NGT is concerned in cases relating to compensation and relief for environmental damage and those cases, in which the appeals are being filed before the regulatory approvals can be brought only before the tribunal. Such cases cannot be entertained by other courts and in case; they are court need to ask the parties to approach the tribunal for adjudication.

Who can approach the tribunals? (sec-18)(National Green Tribunal Act 2010.Pdf, 2010)

As per the NGT Act, an aggrieved person can file a case before the tribunal-it could be an individual, a company, a firm, an association of person(like NGO) even if it is not registered or incorporated, a trustee, a local authority, a government body(Like the SPCB, etc.).The person need not be directly affected by the project or development in question but could be any person who is interested in protecting and preserving the environment.

The Principal Bench of the Tribunal is situated in New Delhi, with four Zonal Benches in Bhopal, Kolkata, Pune, and Chennai. Cases arising in the states mentioned of the following have to be filed in the Bench mentioned -

1. **Principal bench** -Uttar Pradesh, Uttarakhand, Haryana, Himachal Pradesh, Jammu & Kashmir, Delhi, and Chandigarh
2. **Central bench (Bhopal)**-Madhya Pradesh, Rajasthan, and Chhattisgarh
3. **Eastern bench (Kolkata)**-West Bengal, Odisha, Bihar, Jharkhand, Assam, Nagaland, Mizoram, Arunachal Pradesh, Manipur, Tripura, Meghalaya, Sikkim, and Andaman & Nicobar Islands

4. **Western bench (Pune)**-Maharashtra, Gujarat, Goa, Daman & Diu, Dadra & Nagar Haveli
5. **Southern bench (Chennai)**-Kerala, Tamil Nadu, Karnataka, Andhra Pradesh, Pondicherry, and Lakshadweep

Tribunal's decision

The creation of NGT was done with the idea of expeditious and speedy delivery of justice and the same is required under the Act the tribunal has to decide the case as expeditiously as possible and endeavor to be made to decide the case within six months from the date on which the case is filed. An indicative time limit of six months is given although it takes longer in the complete hearing as requirements of presenting necessary evidence and sometimes the tribunal initiates special investigations into facts, which also takes time.

3.8 Procedures and powers of Tribunal(s-19, S-20)*(National Green Tribunal Act 2010.Pdf, 2010)*

The powers of the tribunal are the same as that of civil court including the power to summon any person to examine witnesses receive evidence on affidavits, review its decisions, etc. It can regulate its procedure and is guided by principles of natural justice.

The Act requires the tribunal to consider the principle of sustainable development, the precautionary principle, and the polluter pay principle while deciding cases and the no-fault liability principle is to be applied in cases involving an accident. Noncompliance with the orders of the tribunal could lead to a fine, imprisonment, or both on the person responsible depending on the facts of the situation. Appeal to Supreme Court is made if any of the parties is not happy with the decision of the tribunal and it can be filed before the Supreme Court of India within 90 days from the date of the tribunal's order later if sufficient cause for delay is shown to the Supreme Court.

3.9 Conclusion

Hence, one concludes that the institutional development of the National Green Tribunal has taken place in the backdrop of the growth of the history of environmental justice in India. Indian environmentalism in the major part of its development historically has been about social justice. In the 1970s and 1980s, it was about access to natural resources, the Bhopal leak disaster case brought to the forefront issues about industrial risk and safety (Ravi Rajan, 2014) and the failure of the state in providing quick access to environmental justice, which led to the enactment of the Environment Protection Act 1986, which dealt with incidents relating with hazardous activities. Reconciliation of the environment with the development is at the heart of the environmental justice discourse. In later on stages with the progressive development of the legislations for better environmental protection simultaneously leading to the creation of the specialized environmental tribunals for providing speedy access to environmental justice and bringing with it the multidisciplinary approach, which is resultant of the culmination of the expert members and judicial members. The creation of the National Green tribunal brought with it the solution to the challenges that courts were facing with the environmental disputes becoming more technical with more industrialization and technological developments. The National Green Tribunal with its establishment ushered in the environmental law context an era of a more progressive forum for the resolution of technical issues in environmental matters and bringing in more plurality of environmental justice. With more than a decade of its establishment, the impact of the National Green Tribunal as an institution is an area to be looked into. It was established as an ambitious plan for upholding the right to life and environment protection but since its inception, it has been subjected to lot of criticism for its powers and procedures. But as an institution established after long debates and discussions and carrying forward the direction of the vision of the apex court and the law commission embodying the international law principles, but at the same time catering to the local reality of the country with its positioning at five

different seats with its procedure that allows for broader access to environment justice and fair constitution and composition of technical and expert members.

CHAPTER 4

Judicial activism and Supreme Court on Right to Environment

4.1 Introduction

4.2 Stockholm and beyond

4.3 Constitutional provisions

4.4 Role of Supreme Court in interpretation of Art 21(Case Laws)

4.5 Recent case Laws (2015-2020)

4.6 Environment rule of Law

4.1 Introduction

Fundamental to the realization of the right to life is the health of the environment as recently stated by the Supreme Court in one of its decisions in 2020. Justice D.Y Chandrachud in his judgment coined the term environmental rule of law, which is fundamental and is essential for environmental governance. Journey, which started in 1972 with Stockholm, resulted in amendments thereafter in the constitution and fueled by judicial activism resulting in the development of the right to a healthy environment as one of the facets of the right to life. There has been a tremendous increase in environmental laws and institutions, which has reduced environmental degradation. However, there exists a gap in the implementation and enforcement of these laws, which can be bridged through the concept of environmental rule of law. Sustainable development is at the center of development keeping in mind the environmental rule of law. This chapter tries to trace the journey from Stockholm until now through various judgments and how the interpretation has broadened from developing right to the environment as part of the right to life to the health of the environment is at the center of right to life. Environmental rule of law as a new dimension to understanding right to life under Art 21.

Environmental problems have been on the rise in India. The problems are of a varied nature. In the constitutional context, majorly the problem comes concerning the duty of the state in fulfilling its obligation as a part of the Directive Principle of State Policy. Another area is the conflict of the right to a healthy environment with other fundamental rights and a correlative duty of the citizens. The fundamental right to a healthy environment has developed through judicial decisions with the use of interpretation of Art 48-A, 51(A)(g), and Art 21 of the constitution. This particular chapter tries to look into the role of the Supreme Court over the years concerning the development of the right to a healthy environment.

4.2 Stockholm declaration and beyond

The story concerning environmental awareness and the role of government started with the Stockholm conference 1972. The United Nations Conference on the Human Environment, held at Stockholm from 5 to 16 June 1972, considered the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment. It was proclaimed at Stockholm that -

The safeguarding and enhancement of the human environment is a significant concern that impacts the welfare of individuals and economic progress globally. It is a pressing aspiration shared by people worldwide and a responsibility incumbent upon all governmental bodies..”(United Nations Environment Programme Stockholm Declaration, 1972)

This point proclaimed the fact that to overcome the environmental problems it is the duty of the government of the nations and the urgent desire of the peoples.

Another point that was proclaimed brings to the notice the plight of the developing countries where the priority is development but such development should be made keeping in mind safeguard and to improve the environment.

The environmental challenges prevalent in underdeveloped nations are mostly attributed to the state of underdevelopment. A significant portion of the global

population persists in living much below the established thresholds necessary for a satisfactory standard of living, lacking sufficient access to nourishment, apparel, housing, education, healthcare, and sanitary facilities. Hence, it is imperative for emerging nations to strategically allocate their resources towards sustainable development, while considering their own goals and the imperative of preserving and enhancing the environment. In order to achieve the same objective, it is imperative for industrialized nations to exert endeavors towards narrowing the disparity that exists between them and emerging nations. Environmental issues in developed nations are typically associated with the processes of industrialization and technological advancement.”(*United Nations Environment Programme Stockholm Declaration, 1972*)

It also called upon the local and national governments to bear the greatest burden for large-scale environmental policy and action within their jurisdictions. It is from here the responsibility comes on to the government to take measures for environmental protection. Looking into principle 1 of the Stockholm conference one can conclude that the insertion of Art 48-A and 51(A)(g) and interpretation of Art 21 is inspired from the decisions and principles discussed over at the Stockholm conference-

Principle 1

*The inherent entitlement of individuals to liberty, parity, and satisfactory living circumstances, within an environment of sufficient quality that enables a life characterized by dignity and prosperity, is a fundamental prerogative. Furthermore, individuals face a grave duty to safeguard and enhance the environment for both current and next generations. Policies that endorse or sustain apartheid, racial segregation, discrimination, colonialism, and other types of oppression and foreign control are subject to condemnation and necessitate eradication.”(*United Nations Environment Programme Stockholm Declaration, 1972*)*

4.3 Constitutional Provisions

As a consequence of the Stockholm Declaration of 1972 and India being one of the parties to it, the Indian Parliament amended the Indian Constitution and added Articles 48A, and Article 51(A)(g) in the constitution as part of the Directive Principle of State Policy and as a Fundamental Duty.

Article [48-A. Protection and improvement of environment and safeguarding of forests and wildlife*(The Constitution (Forty-Second Amendment) Act, 1976)*

48-A. Protection and improvement of environment and safeguarding of forests and wildlife.—The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.*(The Constitution (Forty-Second Amendment) Act, 1976)*

Part 4-A — FUNDAMENTAL DUTIES*(The Constitution (Forty-Second Amendment) Act, 1976)*

51-A. Fundamental duties. —It shall be the duty of every citizen of India—

(g) to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures;

PART 3-FUNDAMENTAL RIGHT

The fundamental nature of the right to life lies in its encompassing significance for all other categories of rights, as it pertains to the fundamental existence of individuals.. (UN Environment, 2019) The right to life is a widely recognized and accepted human right on the international stage. It is enshrined in several prominent international and regional agreements, including Article 3 of the Universal Declaration of Human Rights (UDHR), Article 3 of the International Covenant on Civil and Political Rights (ICCPR), Article 4 of the African Charter on Human and Peoples' Rights (Banjul Charter), Article 4 of the American Convention on Human Rights (ACHR), and Article 2 of the European Convention on Human Rights (European Convention). Comment 6 of the United Nations Human Rights Council (UNHRC) pertains to the right to life, which is seen as an inherently paramount and non-derogable human right that should not be subject to restricted interpretations.

Numerous national and regional courts have invoked the interconnection between environmental preservation and the fundamental right to life. The Indian judiciary holds significant significance, particularly due to its proactive engagement in safeguarding the environment. This is achieved through the broadening of the right to life to encompass environmental concerns and the utilization of non-binding directive principles to interpret and enhance fundamental rights. The Indian Supreme Court has adopted an expansive interpretation of the constitutional right to life in order to ensure the preservation of the environment, taking into account both anthropocentric and ecocentric perspectives. This interpretation advanced the recognition of human rights and catalyzed the development of a robust environmental jurisprudence in India.

4.4 Role of Supreme Court in interpretation of Art 21

In the case of **Rural Litigation and Entitlement Kendra v State of Uttar Pradesh 72 AIR (1985) 2 SCC 431** Two writ petitions were filed before the Supreme Court, invoking Article 32 and 51A(g) of the Constitution, as public interest issues. These petitions sought the intervention of the Court to address the issue of pollution resulting from limestone quarries located in the Mussoorie Hills of the Himalayas. The Court created many inspection committees and subsequently issued orders for the closure of several mines, based on the findings presented in their reports. The Court argued that the responsibility of preserving the environment and maintaining ecological balance is not solely the duty of governments, but also a collective obligation that every citizen must undertake. This obligation is considered a fundamental duty of citizens, as outlined in Article 51A(g) of the Constitution. This marked the initial instance in which the right to a clean environment was articulated inside the Indian legal framework.

In the case of **Abhilasha Textile v Rajkot Municipal Corporation AIR 1988 Guj.** The Corporation has formally notified Abhilasha Textile to discontinue the practice of dumping effluent onto the public road from their premises within a certain timeframe. It has been made clear that failing to comply with this directive will lead

to the closure of the factory. Abhilasha Textile asserts that the cessation of their plant's operations will have an adverse effect on the economic well-being of the local community, primarily attributable to the company's business activities and role as a significant source of employment. Furthermore, the plaintiffs assert that the notification they received did not provide them with a chance to state their case, thereby constituting a violation of the rules of procedural fairness. However, the investigation focused on the presence of a lawful right to participate in commercial activities or trade without oversight, leading to a disturbance to the general public and presenting a potential threat to the well-being of society. As per the provisions stated in Article 19(6), individuals are granted the right to participate in commercial activities or engage in trade, subject to reasonable restrictions in instances when the operation of the business is not regulated in the best interest of the public. According to Article 51A(g) of the Constitution, it is the duty of every citizen to protect and improve the natural environment, as outlined in the provision pertaining to the fundamental responsibilities of citizens. The likelihood of the textile mill owner exhibiting a dedication to environmental preservation by intentionally discharging waste materials from the facility into public thoroughfares and drainage networks is quite low. The fundamental right to participate in business or enterprise is subject to a specific limitation as prescribed by Article 51A (g) of the Constitution.

In the case **Damodhar Rao AIR 1987 AO 171**, The construction of residential homes on a parcel of land formerly designated for a recreational park has been barred by the Andhra Pradesh High Court. During the proceedings, Judge J. Choudhary underscored the imperative of advancing India's environmental legislation by establishing a connection between the matter of environmental preservation and the fundamental right to personal liberty established in Article 21 of the Constitution. (Shrotria, 2015)

In the **M C Mehta v Union of India AIR 1988 SC 1037. 526** In several instances, the petitioners initiated legal proceedings under Article 32 of the Constitution, utilizing the mechanism of public interest litigation, to address the issue of pollution in the

river Ganges. There were statutory provisions in place to mitigate pollution; nevertheless, there was a lack of an effective enforcement mechanism. The ongoing release of effluents or harmful compounds into the river was resulting in disturbances to the surrounding environment. The individuals who initiated the petition were advocates who expressed apprehension regarding the well-being and sustenance of the residents residing in the vicinity of the Ganges river. The petitioner's claim was reasoned by connecting it to the provisions of Article 21 of the Constitution in conjunction with Article 48A and Article 51A, which serve to facilitate the implementation of environmental protection measures. Under the provisions of Article 32, an individual has the ability to actively implement Article 21, which safeguards the right to livelihood. The Mehta instances involved a situation where the contamination of the river posed a significant risk to the individuals who relied on it. In light of the aforementioned circumstances, the court duly implemented the provisions of Article 21, while duly considering the implications of Articles 48 A and 51A (g). The Supreme Court established stringent regulations to oversee firms involved in the perilous manufacturing of poisonous substances. Additionally, the Court mandated the implementation of absolute liability principles and instructed the government to ensure compliance with the legally mandated standards. The significance of Article 48A and 51A(g) of the Constitution was emphasized by the Supreme Court. This particular case demonstrated the enforceability of collective rights by invoking the provisions of Article 21 in conjunction with Articles 48 A and 51A (g). The Mehta case highlighted that, in addition to its role as a water source, the Ganges River holds significant religious significance for the local population. The social action group, advocating for the interests of the community, analyzed Article 25(1) of the constitution, which guarantees the right to profess, practice, and promote religion. They made a connection between this provision and Articles 48 A and 51A(g) to support their argument.

In the **Mukti Sangharsh Movement v State of Maharashtra case**⁴ , The petitioners expressed their concerns on the uncontrolled commercial extraction of sand from the Yerala riverbed, which has resulted in the desertification of around 38,000 hectares of land in the valley. This process has significantly disrupted the ecological equilibrium of the affected area. The present litigation was initiated by a social action organization with a vested interest in the preservation of the environment and the protection of the indigenous ecosystem within the locality. In the majority of instances pursued by petitioners, the objective is to secure the implementation of statutory environmental legislation.

4.5 Recent case Laws (2015-2020)

In the case of **Municipal Corporation of Greater Mumbai V Hiranman Sitaram Deorukhar 2019 SCC 411** court held that area once reserved for a garden in the development plan under statutory provisions could not later be converted to any other use. It would be a violation of rights under Art 21 and 48-A and duty under art 51(A) (g) of the constitution apart from the statutory duty involved. Reservation and preservation of open space are of vital public interest based on the doctrine of public trust. It is the obligation of statutory authorities to act in trusteeship for common properties such as air, open spaces, sea, water, and forests.

In the case of **Arjun Gopal V Union of India, 2019 13 SCC 523** the matter was concerning the conflict between art 19(1) (g), 25 with art 21. The facts were related to the bursting of firecrackers in Delhi during Diwali and other festive seasons resulting in pollution, which results in the violation of the right to health under art 21 of the constitution. Court held that in case of conflict between the right to health under Art 21 and art 25 and art 19(1)(g). Right to health under art 21 will have primacy over other fundamental rights. Therefore, the court accepted the central government direction of restriction on the sale and bursting of firecrackers during Diwali 2018 accepted with detailed directions.

⁴ R.S. Pathak, Human Rights and the Development of the Environment Law in India, Commonwealth Law Bulletin, Vol. 14, 1988, p. 1175.

In the case, **Lal Bahadur V State of U.P 2018 15 SCC 407** court held that modifying master plan and changing green belt to the residential area even after following statutory procedure is violative of Art 21, 48-A and 51(A) (g) of the constitution. Court also held that it is a breach of the Public trust doctrine.

In **M.C Mehta V Union of India 2018 SCC online sc 2122** court held that right to life means not only leading a life with dignity but include within its ambit the right to lead a healthy robust life in a clean atmosphere free from pollution and if there is conflict between health and wealth obviously health will have to be given precedence.

In **Arjun Gopal and others, v Union of India and others 2017 1 SCC 412** was about degrading air quality in the NCR region posing serious health and environmental Hazards. The firecrackers shoot up the pollution level in Diwali and the wedding season. Court held that where there are threats of serious and irreversible damage lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In **Arjun Gopal and Ors.Vs. Union of India (UOI) and Ors. MANU/SC/1652/2016** The Petitioners approached the present Court seeking emergent reliefs concerning the extreme air pollution in the National Capital Region (NCR). The Petitioner sought wide-ranging reliefs against the use of fireworks including firecrackers, prevention of harmful crop burning, dumping of malba, and further steps towards environmental purity. However, the Supreme Court restricted to grant of interim relief in respect of fireworks. The primary contention of the Petitioners was that the use of fireworks in the NCR has posed a serious problem to the inability of the air during Diwali and the wedding season. According to the Petitioners, the problem has reached proportions in the NCR, which are not tolerable and are causing immense harm to peace, well-being, and health both physical and mental. The court was of opinion that there was no serious opposition to the impact of fireworks on the ambient air and the unhealthy effects

of fireworks on it. The opposition was mainly about the total banning of fireworks in all circumstances.

In **Arjun Gopal and Ors. Vs. Union of India (UOI) and Ors. MANU/SC/1141/2017** the present petition filed seeking direction to ban the use of fireworks, sparklers, and minor explosives in any form, during festivals or otherwise. The public interest relief sought in this case was considered by the court from two perspectives: firstly, from preventing air pollution through the bursting of fireworks and secondly, by invoking the provisions of the Explosives Act, 1884 and the Explosives Rules, 2008 framed thereunder for preventing air pollution by restricting the possession and sale of fireworks in the National Capital Region.

In **Arjun Gopal and Ors. Vs. Respondent: Union of India (UOI) and Ors. MANU/SC/1191/2018** Writ Petition was filed on September 24, 2015, on behalf of three infants, who were made Petitioners in the instant writ petition. This petition was filed through their next friends, i.e. their fathers, who were concerned about the health of their children. However, Petitioners claimed that children were much more vulnerable to air pollutants as exposure thereto might affect them in various ways, including aggravation of asthma, coughing, bronchitis, retarded nervous system breakdown, and even cognitive impairment. At the same time, it was emphasized that air pollution hit its nadir during Diwali time because of indiscriminate use of firecrackers, chemical composition whereof increases harmful particulate matters such as PM2.5 or PM10 at alarming level thereby bringing situation of 'emergency'. Petitioners prayed for a direction to official Respondents to take possible measures for checking pollution by striking at causes of pollution, which included seasonal crop burning, indiscriminate dumping of dust/malba and other pollutants, etc. Prayer also included banning the use, in any form, of firecrackers, sparkles, and minor explosives, in any form, during festivals or otherwise. Court held that though the burning of crackers during Diwali was not the only reason for worsening air quality, at the same time, it contributed to air pollution in a significant way. Post-Diwali air pollution in 2017 was less compared to 2016 Diwali, which was a result of lesser fireworks in 2017. This again indicated

a direct causal connection between burning crackers during Diwali and air pollution. Another immediate effect of the burning of crackers was that it resulted in a substantial increase in PM2.5 level, which was a very serious health hazard. This resulted in severe noise pollution as well, which had acute psychological, mental, and even physical affect on animals. The burning of crackers during Diwali is a part of religious practice. Article 25 of the Constitution was subject to Article 21 and if a particular religious practice was threatening the health and lives of people, such practice was not entitled to protection under Article 25. In any case, balancing could be done here as well by allowing practice subject to those conditions which ensure nil or negligible effect on health. The right to health coupled with the right to breathe clean air leaves no manner of doubt that it is important that air pollution deserves to be eliminated and one of the possible methods of reducing it during *Diwali* is by continuing the suspension of licenses for the sale of fireworks and therefore implicitly, prohibiting the bursting of fireworks.

In Jitendra Singh Vs. Ministry of Environment and Ors. MANU/SC/1615/2019
Respondent No. 6 using excavators and other heavy machinery attempted to forcibly take over possession of a common-pond, which had been in use by local villagers for a century. The Appellant approach National Green Tribunal by way of an Original Application under Section 14 of the NGT Act for adjudication of these environmental issues. The Tribunal dismissed the Appellant's grievance against allotment of local ponds to private industrialists. Court held that the action of the Respondent-authorities contravenes their Constitutional obligations. Article 48-A of the Constitution casts a duty on the State to "*endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country*", and Article 51-A(g) expects every citizen to perform his fundamental duty to "protect and improve the natural environment". A perusal of our Constitutional scheme and judicial development of environmental law further shows that all persons have a right to a healthy environment. It would be gainsaid that the State is nothing but a collective embodiment of citizens, and hence the collective duties of citizens can

constructively be imposed on the State. Such an interpretation of the Constitution has also been adopted in *MC Mehta v. Union of India*. **MANU/SC/0586/1988** Court further held Protection of such village-commons is essential to safeguard the fundamental right guaranteed by Article 21 of our Constitution. These common areas are the lifeline of village communities, and often sustain various chores and provide resources necessary for life. Waterbodies, specifically, are an important source of fishery and much needed potable water. Many areas of this country perennially face a water crisis and access to drinking water is woefully inadequate for most Indians. Allowing such invaluable community resources to be taken over by a few is hence grossly illegal.

In **M.C. Mehta Vs. Union of India (UOI) and Ors. MANU/SC/0032/2020** It was noted by this Court that there is a blatant violation of Article 21 of the Constitution i.e., Right to Life by the serious kind of pollution which is being caused by various factors including stubble burning. The stubble burning in October/November comprises approximately 40% of the pollution, but for the remaining period, stubble burning is not the cause of pollution in Delhi and NCR region. It was noted by this Court that various other factors which were responsible for causing pollution for example; Construction and demolition activities, Open dumping of waste/garbage, Unpaved roads/pits, Road dust, Garbage burning, Traffic congestion, Various hot-spots in Delhi and NCR regions were identified as noted in the report. This Court has noted the problem of farmers in stubble burning as a short gap between two crops due to which agriculturists indulge in stubble burning.

In **Hanuman Laxman Aroskar and Ors.Vs. Union of India (UOI) and Ors. MANU/SC/0444/2019** On May 1, 2000, the Indian government officially granted its consent for the establishment of an airport in Mopa, as well as the subsequent discontinuation of civilian operations at the current airport upon the commencement of operations at the new facility. Following that, on July 1, 2010, the previous ruling was amended to permit the ongoing operation of civilian aircraft at Dabolim, even after the establishment of the new airport. The initiation of the land purchase process took place in 2008 in accordance with the Land purchase Act

of 1894. Initially, the projected land size for the implementation of the project was estimated to be 4,500 acres. During the course of project evaluations, the designated land size for the proposed airport was ultimately lowered to 2,271 acres. On 2 July 2018, the State of Goa submitted a Miscellaneous Application to the National Green Tribunal (NGT) requesting authorization for the removal of trees. The National Green Tribunal (NGT) rendered a decision in which it resolved both the appeals and the Miscellaneous Application submitted by the State of Goa. In doing so, the NGT affirmed the Environmental Clearance (EC) while also imposing supplementary measures aimed at protecting the environment. The Court has been apprised of the commencement of tree removal activities on September 3, 2018, with their conclusion occurring on January 14, 2019. Challenging the decision made by the National Green Tribunal (NGT), two appeals have been lodged with this Court. The first appeal has been filed by Hanuman Laxman Aroskar, while the second appeal has been submitted by the Federation of Rainbow Warriors. Acquired knowledge or skills. The legal representatives representing the Appellants argued that the Environmental Impact Assessment (EIA) report, conducted in accordance with the provisions of the 2006 notification, serves as a mechanism for assessing the potential environmental impacts of a proposed activity. The international airport project, which falls under Category 'A', is subject to the second, third, and fourth stages outlined in the 2006 notification, namely scoping, public consultation, and appraisal. Alongside the notification issued in 2006, the Guidance handbook serves as a crucial indicator of the process to be followed prior to the issuance of an EC. The submission of Form 1, which includes comprehensive information about the planned project and the environmental conditions, is a mandatory requirement for the project proponent. The court stated that within a domestic setting, the establishment of environmental governance based on the rule of law is derived from the principles enshrined in our Constitution. The preservation of the right to life, as recognized under Article 21 of the Constitution, is contingent upon the maintenance of environmental health. The guarantee against arbitrary action and the affirmative responsibility of fair treatment under Article 14 of the

Constitution provide the appropriate frameworks for environmental decision making.

Over the last sixty years, the Supreme Court of India has provided a broader context than intended by the framers of the Constitution and interpreted by the earlier judges(Jurisprudence, 2008) Supreme Court of India has often extended the meaning of rights well beyond what some jurists call the 'original intent'

4.6 Environmental Rule of Law

The pursuit of environmental governance within a framework of the Rule of Law is a crucial factor in shaping the rulings of the Supreme Court. The foundation of environmental governance lies in the imperative to advance environmental sustainability as a pivotal facilitator, thereby safeguarding the well-being of our ecosystem.

Following the Stockholm Conference, there has been a substantial proliferation of environmental legislation and organizations worldwide. Numerous instances have demonstrated the efficacy of these laws and organizations in mitigating or reversing environmental damage. Nevertheless, this advancement is also accompanied by an increasing recognition of a substantial disparity in the execution of environmental legislation and its enforcement, observed in both developed and developing nations. The concept of the environmental Rule of law aims to bridge this existing void. The environmental Rule of law serves as a fundamental framework supporting the four pillars of sustainable development, namely economic, social, environmental, and peace. The integration of the Rule of legislation principles into environmental objectives serves as a foundation for the reformation of environmental legislation and governance. The prioritization of the environmental Rule of Law assumes significance, particularly in light of the recognition that the advantages derived from the environmental Rule of Law transcend the confines of the environmental domain. The primary impacts of this phenomenon are primarily observed in the realm of environmental preservation. However, it also serves to bolster the Rule of

Law in a more comprehensive manner, facilitates sustainable economic and social progress, safeguards public health, fosters peace and security through the prevention and resolution of conflicts, and upholds fundamental human and constitutional rights. The Rule of law plays a crucial role in environmental issues as it ensures fairness in the pursuit of Sustainable Development Goals, guarantees equitable access through a rights-based approach, and safeguards environmental and socio-economic rights.."(UNEP 2021 *Global Report on Environmental Rule of Law*, 2020)

CHAPTER-5

Case Study and Analysis of the Judgements of the National Green Tribunal (2015-2020)

4.1 Introduction

4.2 Environmental Administration and Environment justice

4.3 Methodology of Case Study

4.4 Qualitative Case analysis (2015-20)

- **Analysis of cases of 2015-2020**
- **Party analysis**
- **Subject area analysis**
- **Main Area of conflict**
- **Various approaches of the Tribunal in resolving disputes**

4.5 Results and discussion

4.6 Conclusion

4.1 Introduction

The environment is considered one of the most critical factors for the survival of humans. Depriving it of its nutrients and polluting is threatening the well-being of the planet's biological and socio-economy. Industrialization has brought about various economic benefits, such as the increase in population and the development of new infrastructure. However, it has also pushed the environment closer to the limits of tolerance. The environment is considered one of the most critical factors for the survival of humans. **Environmental governance and environmental management** come into picture in such a situation in order to balance the conflicting need of industrialisation in order to increase the quality of life and the need to protect the environment for the present and the future generations. One of the most important functions of **environmental governance is to ensure that the various legislations affecting environmental aspects are interpreted in such a way which results in innovative solutions to the conflicting situations** and conservation of the resources with the development which is often referred to as sustainable development which is done by judiciary and tribunals.

Indian environmentalism opened up the debate about the relationship between economic development and protecting the environment. During the 1970s and 1980s, there were various natural resource conflicts. These included disputes over the siting of dams and the protection of forests. Urbanization and industrial development had limited the opportunities for local communities to access their natural resources. Many people saw their lands being taken over by factories and large trawlers, while others saw their livelihoods being threatened by the exploitation of forests.

The conflict between development and environment is an ongoing debate where one aspect to it is faster economic growth which will result in better livelihood and more job opportunities while the other is the preservation of the forests, lakes, mountains and other dimensions of environment. **Modern environmental governance which includes institutions like specialized tribunals are therefore**

required to look at the environmental issues not only from the perspective of development but also from the lens who are getting affected from it.This has been done through the judiciary by developing **linkages between human rights and the environment** and deciding disputes where conflict in between development and environment is happening looking to both the aspects by creating environmental jurisprudence in the early 1970s and 1980s and onwards through the interpretation of environmental legislations. **Right to healthy environment is a fundamental right under the constitution established through the judicial pronouncements. Judicial cases contribute to the understanding of the society and it shapes the social ,political ,economic and environmental issues.**1980s onwards supreme court creation of specific methodology of Public Interest Litigation broadened **judicial interventions and possibilities of innovative initiatives that impacted the environmental governance in India.**PIL's enabled the doors of access to justice in wider aspects with ordinary people even the poorest of the citizen can approach the court and court getting the jurisdiction over the other branches against maladministration. In this aspect role played by institutionalised actors like NGO'S expanded tremendously for the protection of the environment and for good governance in general.

The **discourse on environmental justice in India reflected the growing recognition of the link between human rights and the protection of the environment.** The various shortcomings in the regulation and enforcement of environmental laws in India have prompted the Supreme Court to play a leading role in the protection of the environment. Through its Public Interest litigation (PIL), the court has promoted environmental justice and later on establishment of National Green Tribunal in 2010 to bring in more access to justice in environmental matters.

4.2 Environmental Administration and Environment justice

Analysis of Dimensions of environment justice can be done narrowly or broadly; however, it is mostly seen in the broader context with its intersection and overlapping with social sciences. It includes within its dimensions theories of justice, environmental governance and environmental laws and policies and management of the environment. The main contents of **environment justice are environmental protection to all without discrimination, meaningful participation and equal involvement in decision-making process.** In this direction Aarhus, convention, emphasizes on public participation, access to information and access to justice in environmental matters. It is the most important document in relation to environment justice. In respect of environmental democracy, it is the only legally binding document that brings the execution of the principle 10 of the Rio declaration. In the Indian context after Bhopal Tragedy, the concept got its recognition, which emphasizes on fair treatment and distributive justice. Procedural justice is an important aspect of environment justice. As far as the environmental administration is concerned in India, there are international legal instruments to which India is signatory, various laws and policies are in place. The Supreme Court has recognized the right to healthy environment for protection and improvement of the environment. The National Green Tribunal of India has played its role through interpretation of international principles for environment protection. **Taking into account the wider applicability and lack of conceptual clarity, the study focuses only on some of the important elements of administration of environmental justice.**

The sheer complexity of cases with ever increasing litigations, the Supreme Court of India decided to establish a special Bench to deal with these matters. This Bench, which met every Friday, was known as the Forest Bench. The concept of this Bench was to deal with the pending cases that were before the High Court and the Supreme Court. However, due to the constraints of time, some of these cases have been pending for decades. In 1995, Parliament passed laws to establish a National Environment Tribunal and a National Appellate Authority. These two bodies were supposed to act as a forum for challenging environmental clearance. However,

these did not go far in terms of their authority and autonomy. The concept of establishing a dedicated and specialised body to deal with the enforcement and protection of environmental laws was clear. This would help lower the burden on the High Court and the Supreme Court. The quality of the time that the tribunal spent on these issues would also increase. On October 18 ,2020 NgT marked its tenth anniversary of its establishment. The complexity of the cases that comes before it is varied in nature as the environmental issues are very varied in nature encompassing forests, wildlife, environment, climate change and coastal protection, is that it gives rise to an equally diverse volume of litigation.

The National Green Tribunal was established in 2010, which has greatly influenced environmental litigation in India. It has five benches and has wide ranging powers. The establishment of the National Green Tribunal has greatly contributed to the country's environmental protection regime. In this chapter various decisions given by the by the various benches of the NGT over the span of five years from 2015 to 2020 has been analysed. The NGT has been regarded as one of the most progressive tribunals in the world. This has allowed India to join a select group of nations that have established such institutions with broad powers. The NGT was established to address the concerns of the society (Krishnadas Rajagopal,2021)

The NGT's composition is remarkable because it features a wide range of experts and judicial members with a unique expertise in the fields of environmental law and the management of the environment. It provides a coherent and effective mechanism to resolve complex issues related to the environment. It also aims to transform the way environmental problem-solving is done by tackling them in a more systematic manner. The failure of enforcement officials to effectively carry out their duties has contributed to the backlog of complaints related to the environment. The NGT's selection and qualifications process ensures that its members are highly qualified and accountable.

With the growing popularity of the specialised tribunals which is the institutional tool for protection for the environment with its environmental jurisprudence created

of sustainable development for the protection of the environment of the present and the future generations. The chapter tries to delve into a single point of assessment of role played by the Supreme Court to the establishment of the national green tribunal in 2010 taking into account sources that led to creation of ngt like international instruments and judicial decisions. The jurisprudence initiated by Ngt; role played by it ngt in implementing environmental statutes. This chapter throws light on the broader phenomenon of the effectiveness of specialized environmental tribunals in achieving environment justice in dealing with environmental cases. It investigates as to general jurisdiction of the Supreme Court in the backdrop the National Green Tribunal. An assessment of the judicial decisions of the National Green tribunal from 2015-20 in the light of the environment justice has been done since it has almost been a decade of its establishment since 2010. It has helped in assessing the effectiveness of the institutional change made by the parliament. At the backdrop of it is the judicial activism done by the supreme court and the high court when it comes to social and environmental rights. The assessment of the corpus of judicial decisions is the functional analysis of the National Green tribunal of the thesis apart from the historical analysis done since its inception. **The background to it how the operation of an institution like National Green Tribunal on the path of environmental judicial activism as played by judiciary in pattern has been effective as far as the environmental justice conceptual development is concerned and the impact it has on the plaintiff and in the constitutional domain has it through its interpretation resulted in better protection of environment justice by means of interpretation of fundamental rights.** Creation of National Green tribunal is one of the most relevant achievements in the constitutional field as it brings about fairer access to justice with its regional benches in the Indian context. Therefore, reaching to a conclusion in terms of functional analysis would be a challenge as it is a subject area of very much relevance.

4.3 Methodology of case study

The category of cases adjudicated by NGT, in the analysis done of the cases from 2015-20, with a sample size of 10 cases from each year for qualitative analysis and 20-25 for quantitative analysis which is also the limitation of the study. The analysis is done with major issue involved, focus on type of parties, environmental legislation involved, environmental principles used, time taken to dispose the case, implementing authorities like central pollution control board, local authorities and court appointed committees. All these aspects have been analysed with reference to each case and then year wise categorisation has been done with respect to the subject matter like solid waste management etc. **Judicial decisions with its interpretation of law affect the trio of economic, social and environmental context. Linkages between human rights and environment resulted into the interpretation and protection of the environment along with the constitutional provisions.**

Therefore the Case analysis of the NGT cases has been done in order to understand the social economic and political context in which such decisions are affecting, economic development has resulted in effect on the environment and it has also affected the social concerns as to the various human rights, development and tussle with environment is the ongoing process where judiciary plays a crucial role as a manager of the environment laws with its interpretation, this also brings to the question of the areas from the case law perspective as to the parties who are approaching the forums ,types of parties ,subject matter and where the violation of the rules is happening.

The intention of the analysis is to focus on a number of key issues. These include the growth and nature of the NGT's caseload over a period of five years and the expansion of the caseload of the principal and regional benches. Questions asked include: who are the plaintiffs in terms of access to environmental justice and who are the defendants? What are the environmental issues that bring plaintiffs to the NGT? And what is the approach of the tribunal.

4.4 Qualitative Case analysis

Case Analysis 2015

In the case of **Bakerao Tukaram Dhemse and Ors.Vs.** Respondent: **The Municipal Corporation, Nasik and Ors. (MANU/GT/0185/2015)**

Issue-shifting of Municipal solid waste management plant from pathardi to some district of Nashik, following of Municipal solid waste rules 2000

Jurisprudence -directions to the National Mineral Management committee for compliance

Not following mandate of Municipal solid waste rules 2000

Failure of the Nasik municipal corporation for the compliance of the Municipal solid waste rules and location of sewage treatment plant, piling of the solid waste at the land site which was causing inconvenience to the people nearby, case filed by a private individual as the dumping site was close to his land and defendant is the municipal corporation. The NGT disposed of the application giving contract to the National Mineral Management Committee to take care of the disposal of the garbage at solid waste management plant and remove the 2/3rd of the garbage that is piled up at the landfill site and no construction work to be carried out in the NM area and the restriction will be applicable for 6 months.

In the case of Appellants: **Chemical Construction Company Pvt. Ltd. Vs.** Respondent: **The Tamil Nadu Pollution Control Board and Ors. (MANU/GT/0111/2015)**

Issue challenging the order of state pollution control board of closure of industry for non-compliance, application of coastal regulation zone.

Time period- Application No. 126 of 2014 (SZ) Decided On: 03.07.2015

The order of the pollution control board was challenged under sec 31 A of the air act and 33A of the water act which directed the closure of the industry as it was operating in mixed residential zone without the consent of the Chennai municipal

development authority and was dealing with steel fabrication and noise pollution produced as a consequence was also beyond limit which was affecting the mosque Madarasa School preaching Quran nearby. The question also involved application CRZ notification 2011 as to the location with the range of high tide and approval of consent from the board and building plan approval not taken from CMDA as engineering and fabrication units are not permitted as per CMDA 2026 Master Plan. The tribunal decided that order passed by the board is valid and CRZ Regulation 2011 does not apply as today and ordered a compensation of 30 lakh based on polluter pay principle to be paid with ministry of environment and forest. within 4 weeks and there after resubmit or apply afresh to the Tamil Nadu pollution Control Board for consent to operate, in which event after having satisfied on acknowledgment of the payment made under 'Polluter Pays', as stated above, the PCB shall consider the application and pass orders on merit and in accordance with law expeditiously in any event within 8 weeks thereafter.

In the case of Appellants: Conservation Action Trust and Ors. Vs. Respondent: Union of India and Ors. (MANU/GT/0178/2015)

Issue-Protection of the mangroves in state of Gujrat which are affected by the saltpan activity

Legislations involved-The Indian Forest Act 1927, Forest Conservation Act 1980, Coastal Regulation Zone, Public Trust doctrine, Sec 15,18 and 14 of NGT Act.

Application dismissed.

Time period- Application No. 35 of 2013 Decided On: 17.10.2015

Bench-NGT western zone bench

Not within the scope of NGT as does not involve the substantial question relating to environment.

The contention raised in the case is about protection of the mangrove forest on the coastline along the state of Gujrat including Navlakhi, Kandla Port, Tuna Bander,

Mundra and Hazira Harbour, with extensive Mangrove cover are affected due to the commercial activities as that would be in violation of coastal Zone Regulation Act 2011. Further the contention is that these mangrove forests are being gradually destroyed for non-forest use and in violation of forest conservation Act as they are reserved forest and also violation of the Indian forest Act. Destruction of the natural resources with the active support of the respondents amount to violation of the public trust doctrine. The mangrove forest are depleting because of the frequent permissions granted by the authority and therefore applicants are seeking direction for the protection and preservation of the mangrove forest which are classified as CRZ 1 under the coastal zone regulation notification 2011 which cannot be used for commercial exploitation.

Tribunal dismissed the above application. The Application does not fall within ambit and scope of Section 15 read with Section 18 of the NGT Act, 2010, inasmuch as neither of the Applicants is affected directly or indirectly by any action or inaction on part of the Respondents. They are not entitled to claim any compensation or relief, which is permissible under Section 15 of the NGT Act, 2010. They are not asking for any adjudication of substantial question relating to environmental dispute under Section 14(1) of the NGT Act, 2010, and, therefore, before adjudication of such a question further dealing with the matter under Ss. 15 and 18 of the NGT Act, 2010, cannot be entertained. the Applicants failed to show that the map of Navlakhi Reserved Forest area, is substantially affected due to alleged conversion activity. Applicants have not sought adjudication of any substantial question relating to environment, as per Section 14(1) of the National Green Tribunal Act, 2010. Unless and until, such a question is decided and the Applicants are found to be the victims of degradation of environment, or otherwise victims of environmental damage or entitled to compensation, it is difficult to switchover to the remedies available under Section 15 of the National Green Tribunal Act, 2010, which are inter-dependent after adjudication of question involved in Section 14(1) read with Section 18 of the National Green Tribunal Act, 2010.

In the case of **Dileep B. Nevatia Vs. Respondent: Union of India and Ors.**
MANU/GT/0176/2015

Issue-challenging coastal regulation zone granted by Ministry of Environment and forest.

Jurisprudence-CRZ regulation 2011, Environment clearance

The appeal filed in the case is challenging CRZ Clearance granted by Ministry of environment and Forest for the construction Mumbai Trans Harbour Sea Link as it would adversely impact coastal ecology of Mumbai and navi Mumbai. The project would also affect the ecologically sensitive area covered by the mangroves and mudflat which support several endangered species of flora and fauna including flamingos etc. The environment clearance was granted but it was not exhausted in the given time period of five years and hence the contention is also that no environment clearance has been taken. The Tribunal by order dated July 24th, 2012 directed the project proponent i.e., MMRDA not to undertake any construction without obtaining fresh environmental clearance from the competent authority and that the Application for grant of the denovo EC be disposed of in consonance with the Law. The Appellant further states that in spite of such specific directions of the Tribunal, the project proponent and MoEF went on proceeding with the project only on the basis of clearance under the CRZ Notification 2011.) Tribunal allowed the Appeal and set aside the impugned order of CRZ clearance, after its suspension period, unless replaced by afresh CRZ clearance, and direct further to remit the matter to MoEF to consider the CRZ clearance application of the project proponent (in question) afresh, as per provisions of the CRZ notification, particularly in view of the issues related to applicability of Environmental Clearance Regulation, 2006, effect on mangroves, flamingos and mudflats, besides other impacts.

Tribunal directed that MoEF shall take decision independently on merits, without influenced by any of the observations made in this order, and such a decision be taken in eight (8) weeks. In the meantime, the CRZ clearance granted to the project by the impugned order stands suspended and kept in abeyance for six (6) months

hereafter. The Appeal is accordingly allowed. The Respondent No. 5 i.e., MMRDA to pay costs of Rs. 20,000/- (Rs. Twenty thousand) to the Appellant and bear its own.

In the case of **Appellants: Himmat Singh Shekhawat Vs. Respondent: State of Rajasthan (MANU/GT/0008/2015)**

The issue is with reference to illegal sand mining in the river bed of Yamuna in violation of environmental clearance norms.

The National Green Tribunal Bar Association initiated Original Application No. 171 of 2013 in accordance with Sections 14 and 15, along with Sections 18(1) and 18(2) of the National Green Tribunal Act, 2010 (referred to as 'the NGT Act'). The application highlighted the pervasive occurrence of unlawful sand mining in the Yamuna riverbed, which contravened legal provisions by neglecting the requirement of obtaining prior Environmental Clearance. The practice of sand mining has had a detrimental impact on the local ecosystem and broader ecological balance of the region. The petition makes reference to multiple instances of widespread illicit sand mining.

The tribunal convened to address the ongoing conflict between State Regulations and Central Notifications. In light of this discussion, it is crucial for us to issue specific directions to establish an interim period. This period will allow for necessary measures to be taken in order to comply with the Judgment of the Hon'ble Supreme Court and to issue the required Notifications. During this period, it is imperative that no State allows the continuation of sand mining or minor mineral extraction on riverbeds or any other location without the relevant individuals receiving Environmental Clearance from the responsible government. We recommend that the Ministry of Environment and Forests release a comprehensive and self-contained Notification pertaining to all minor mineral activities occurring on riverbeds or elsewhere. This measure is required to prevent unneeded misunderstanding, ambiguities, and practical challenges in the enforcement of environmental regulations. In consideration of the ruling by the Supreme Court and

the findings from the relevant cases discussed in the ruling, we hereby instruct the Ministry of Environment and Forest to develop a standardized cluster policy, in collaboration with the States, for the authorization of minor mineral mining activities, along with its corresponding regulatory framework, in compliance with legal provisions.

In the case of Appellants: **Libertina Fernandes Vs.** Respondent: **Goa Coastal Zone Management Authority and Ors. MANU/GT/0048/2015**

The main issues involved is as to the review of the judgement as the material provisions of the NGT and EPA are not complied with. The present Review Application is filed under Section 19(4)(f) of the National Green Tribunal Act, 2010 (for short 'the NGT Act') read with Rule 22 of the National Green Tribunal (Practice and Procedure) Rules, 2011 (for short 'Rules of 2011') praying for review of the above judgment. The review is primarily sought on the ground that material provisions of the Environmental Protection Act, 1986 (for short 'Act of 1986') and the NGT Act had not been brought to the notice of the Tribunal during the course of hearing, resulting in miscarriage of justice. It is also averred in this application that the Review Petitioner stands constrained to change her advocate and file the present petition in view of the extreme emergency, as the respondents are proposing to demolish the structure. The ground for seeking review of this judgment is that Respondent No. 1 has no jurisdiction to direct demolition of the property. Tribunal stand is that the applicant has failed to discharge the onus placed on her and on the other, she has taken incorrect and misleading pleas before the Tribunal. It was obligatory on her to take permission and consent from the concerned authorities before starting any construction. She has miserably failed to comply with the requirements of law. Thus, in our opinion, she cannot claim any equity and her contention has to be rejected. For the afore-stated reasons, we find no merit in this application. The same is dismissed.

In the case of Appellants: **Lokendra Kumar Vs.** Respondent: **State of U.P. MANU/GT/0014/2015**

The primary concern pertains to the practice of brick earth quarrying without obtaining the necessary environmental clearance. The central concern in all of these cases is to the extraction of brick earth in the state of Uttar Pradesh. The prayer in all these instances pertains to the act of extracting brick earth without obtaining environmental clearance. Additionally, it seeks a directive against the respondents to adhere to the instructions outlined by the Ministry of Environment and Forests on May 15, 2012, and June 24, 2013, as well as the order issued by the Honorable Supreme Court on February 27, 2012, in the case of Deepak Kumar v. State of Haryana. In the case of Deepak Kumar v. State of Haryana, the Supreme Court, while addressing the State Governments, issued a directive to promptly establish regulations under Section 15 of the Minor and Mineral and Development Regulation Act, 1957. The Court further mandated that until such rules are formulated, obtaining prior environmental clearance is necessary, even if the land area is less than 5 hectares.

The framing of regulations pertaining to brick earth mining is discussed in Section 15 of the Minor and Mineral Development Regulation Act of 1957. In accordance with the ruling of the esteemed Supreme Court, the Ministry of Environment and Forests (MoEF) has released an official memorandum on 18.05.2012, stipulating that all mining projects involving minor minerals, regardless of lease size, must now obtain environmental clearance prior to their initiation or renewal. As per the applicant's statement, the State has not enacted any regulations in accordance with the directives of the Honorable Supreme Court, nor has it prohibited the excavation of brick earth and included it under the scope of the Environmental Impact Assessment Notification dated 14.09.2006. The applications have been submitted based on the premise that the uncontrolled extraction of brick earth by brick kilns is negatively impacting the local residents. Furthermore, it is important to note that even if the mining operation area is smaller than 5 hectares, quarrying can only commence after getting approval from the State Environment Impact Assessment Authority (SEIAA). The adverse consequences of indiscriminate mining include hindering the natural flow of water during the rainy season and creating stagnant

water due to numerous pits dug by brick kiln owners. This ultimately leads to water scarcity in other regions. To address this issue, it is imperative for the State Government to develop a suitable scheme in accordance with the directives of the Hon'ble Supreme Court. Consequently, any form of soil excavation, whether manual or mechanized, should be prohibited unless authorized by the Competent Authority.

The topic at hand encompasses a range of complex issues that warrant careful examination and analysis.

1) The question at hand pertains to the eligibility of the original petitioners to receive the remedy sought, specifically, the cessation of quarrying brick earth by the respondents without obtaining the necessary environmental clearance.

The inquiry pertains to the conformity of the amendments purportedly implemented by the State of U.P. and Haryana with the directives of the Hon'ble Supreme Court in the case of Deepak Kumar v. State of Haryana and Ors. In the event that these amendments do not align with the aforementioned directives, it is necessary to determine whether they can be disregarded and the States can be instructed to adhere to the directives of the Hon'ble Supreme Court until appropriate amendments are enacted.

Consequently, we assert that the amendments introduced by the State Government of Haryana and U.P. should be disregarded. Despite this, the State of U.P. and Haryana must enact suitable amendments to their mining regulations in alignment with the directives issued by the Hon'ble Supreme Court in the Deepak Kumar case. Until such amendments are made, the final section of the Hon'ble Supreme Court's judgment will remain in effect. With regards to the contempt application about the amendment to the Haryana Legislative and the purported act of disobedience, it is observed that there is a lack of substantial information and specific details provided to justify the invocation of Section 26 of the NGT Act 2010 by this Tribunal. Therefore, the miscellaneous application has been dismissed.

In the case of Appellants: **Maria Filomena Furtado and Ors. Vs. Respondent: Goa Coastal Zone Management Authority and Ors. MANU/GT/0114/2015**

The Issue is with reference to appeal against the order of the Goa Coastal Zone management authority. The environmental legislations involved are Environment Protection Act, Coastal Zone Regulation. Goa Coastal Zone Management Authority (GCZMA) issued directions under Environment (Protection) Act, 1986, in pursuance to order dated December 23, 2013, passed in PIL (WP) No. 94 of 2013, by the Hon'ble High Court of Bombay at Goa.

Taking a stock of forgoing discussion and reasons, tribunal that the impugned order of GCZMA, is illegal, improper and incorrect. It is illegal as regards dismissal of the case put forth by Rabindra Dias and others (Appeal No. 35 of 2014) and is legal one to the extent of part of demolition of boundary wall comprising concrete boulders and retaining wall of mesh. Consequently, the Appeal preferred by Mrs. Maria Furtado and others (Appeal No. 33 of 2014), is dismissed with costs of Rs. 50,000/- payable to Respondent No. 2 Rabindra Dias and Respondent No. 3- Mr. Santana Piedade Afonso, the Appellants in Appeal No. 35 of 2014. Accordingly, the Appeal No. 35 of 2014, is allowed. The impugned order is set aside. Instead of impugned order, we direct that the entire construction of the house property and retaining wall, around the house property, Guest-house, called 'Furtado Guest House' as well all other constructions standing in land Survey Nos. 12/1 to 12/5, within NDZ of Sernabatim village, shall be demolished within period of eight (8) weeks by the Collector, South Goa. Compliance of these directions be reported to this Tribunal within two (2) weeks thereafter. If required, the Collector, may use police force, as per the Law for work of demolition, in case of resistance by Furtado family members or any third party put forth by them for such purpose. Both the Appeals are disposed of accordingly i.e., by allowing Appeal No. 35 of 2014 and dismissing Appeal No. 33 of 2014. Costs as awarded above. All Misc. Applications also stand disposed of in above Appeals as may have been pending.

In the case of Appellants: **Nirma Ltd. Vs. Respondent: Ministry of Environment & Forests Government of India and Ors. MANU/GT/0032/2015. The matter is with reference to environmental clearance.** This is an appeal against order issued by the Ministry of Environment and Forest (MoEF) to revoke the Environment Clearance dated 8th December, 2008 to the cement plant. Plant was to be built near village Padhiyarka Taluka, Mahuva, District Bhavnagar, Gujarat. NGT decided therefore, this Appeal needs to be allowed and is accordingly allowed. The Impugned Order dated 1st December, 2011 issued by respondent No. 1- MoEF is set aside. The effect of the project on the water bodies created by the Samdiyala Bandhara need to be monitored and study undertaken. The applicant- project proponent shall bear the costs incurred by the State Pollution Control Board and CPCB for monitoring and conducting such study.

In the case of Appellants: **Ramdas Janardan Koli and Ors. Vs. Respondent: Secretary, Ministry of Environment and Forests and Ors. MANU/GT/0056/2015**

The issue is with reference to loss of livelihood due to project activities. Traditional fishermen are seeking compensation for loss of livelihood due to project activities of the Respondents. They allege that 1630 families of traditional fishermen have been affected from four such localities of fishermen due to projects undertaken by the Respondent. The claim for compensation and right for rehabilitation, is mainly sought by them as traditional right to catch fishes from the sea area, where now land is being reclaimed. Reclamation and destruction of mangroves alongside of beaches of seashore led to loss of livelihoods for fishermen. They are seeking compensation under Section 15 of the National Green Tribunal Act, 2010, for loss of livelihood due to project activities of the Respondents, as well as implementation of rehabilitation of their families, who are unsettled on account of the projects in question.

NGT direction- The Applicants do recover Rs. 95,19,20,000/- (Rs. Ninety-Five Crores Nineteen Lakhs Twenty Thousand only), which be distributed equally to

1630 (one thousand six hundred thirty) affected and identified fishermen's families as per the Collector's Report, named therein, to the extent of Rs. 5,84,000/- (Rs. Five Lakhs Eighty-Four Thousand) per family within three (3) months by the Respondent compensation amount of to be paid to the to the affected families of the fisherman by the respondents CIDCO, JNPT and ONGC if the amount is not paid within the time period, then it will carry a interest of 12%, till it is realized by concerned fisherman families. Restoration cost of the environmental damage to be borne by the respondents of Rs 50 lakh and shall carry out supervision within 8 months for activities of mangrove plantation ensuring free passage of tidal currents in consultation with MCZMA etc. Respondent to pay cost of Rs 5lakh as litigation cost to the applicants. A compliance report in this behalf be submitted by the collector within 4 months to the tribunal and MCZMA shall submit the compliance of directions issued by them to respondents in two months.

In the case of Appellants: S. Vishnuvarma and Ors. Vs. Respondent: Apollo Distilleries Pvt. Ltd. and Ors. MANU/GT/0167/2015

The main issue is with reference to pollution air and water along with non-compliance with the environmental rules. This Application is filed by the applicants herein praying for passing an order of permanent injunction restraining the 1st respondent company from operating its distillery unit at Billakuppam Village, Gummidipoondi Taluk, Thiruvallur District. M/s. Apollo Distilleries Pvt. Ltd., the 1st respondent company, is functioning within 0.5 km radius from the residential area of their village and produces alcoholic drinks such as beer etc. The village people are confronting with several problems due to the presence of the company as the company is causing air, water and noise pollution. The company emanates an unbearable bad odour due to which the people of the village feel uneasy to breathe. The air pollution is also causing severe health problems like miscarriage, nausea etc., to the pregnant women in and around the village. Sometimes the company generates much noise which would be due to the release of air and this

causes serious hearing problems to the residents as many were not able to recognize any sound for some period even after the noise stops.

Ngt directions

An expert committee did the inspection but couldn't find concrete evidence linking the pollution of the water to the discharge from the unit and hence no definite opinion has been given in that behalf by the Expert committee. However, the only plausible reason that appears to tribunal is as a result of clandestine discharge of the untreated waste either in the past or even at the present the water analysis results gave higher levels of pollutants in the samples taken in the canal at the points located nearest to the unit and downstream. And hence respondent industry has to bear responsibility based on polluter pay principle. Section 20 of the National Green Tribunal Act, 2010 empowers the Tribunal to take into consideration the Principle of Sustainable Development, the Precautionary Principle and Polluter Pays Principle while passing any order or decision or award. However, we restrain imposing any penalty at present as the issue requires further study.

Ngt therefore gave directions –

We direct the Government of Tamil Nadu to carry out sample surveys with the assistance of TNPCB and with the help of the CGWA and get the water samples collected both in the open wells and bore wells and also in the water bodies where surface water is stored/dealt with such as ponds and canals in the vicinity of respondent industry and analyzed at least for a period of 1 year from the date of this judgment covering all the seasons in a year and initiate remedial measures if required to be taken at the cost of the respondent industry. (ii) Secretary, Prohibition and Excise, Government of Tamil Nadu to examine whether there is any depletion of ground water in the vicinity of the factory after the unit started functioning and take action whether to renew the license or not or even if renewed, whether with reduced capacity depending on the position and if found that this water intensive respondent industry is not only responsible for water pollution but also depletion of ground water because of drawing such huge quantity of ground water. Periodic

opinion of the CGWA shall be taken into account whether the unit can be allowed to continuously extract such huge quantity of groundwater in the agricultural zone at the cost of livelihood of villagers who are mainly dependent on agriculture.

Social and economic analysis

No doubt industries are required for Nation's development but it should not be at the cost of the livelihood of the local people and at the cost of the environment. Further, he is directed to examine the issue of reclassification of the site from agriculture use zone into a special and hazardous zone which is supposed to be completed within 60 days from the date of the consent order dated 31.07.2012 issued by the 3rd respondent as per the specific condition imposed in the said consent order. (iii) The Collector, Thiruvallur shall take action to ensure that the respondent company implements the CSR activities in accordance with law.

In the case of **Appellants: Sunil Kumar Chugh and Ors. Vs. Respondent: Secretary, Environment Department, Government of Maharashtra and Ors. MANU/GT/0153/2015**

The issue is with reference to Grant of environment clearance without following imperatives of MOEF, violation of town planning laws and development control regulations.

This is an appeal assailing the grant of Environmental Clearance to a building project of the respondent Mumbai, broadly on two grounds: firstly, having started construction without obtaining Environmental Clearance and in violation of imperatives prescribed by the Ministry of Environment and Forests (MoEF) and secondly, the project had been constructed in violation of Town Planning laws and Development Control Regulations.

NGT considerations -It is evidently clear that the project proponent violated the EC regulations by undertaking construction before the EC was granted and thereby denied the realistic environmental safeguard to be in place. It is also seen that inadequate recreational space and parking space is proposed in the said project.

This begs a pertinent question as to whether EC in question needs to be set aside and the construction which includes rehabilitation component/building comprising of 263 flats, 61 shops, 4 tenements of welfare centre, 4 tenements of Balwadi, society office and Municipal office should be exposed to its logical consequence. In our considered opinion when there is some space left for providing certain safeguards and seek recompense for the violation of EC Regulations, it would be rather harsh to set aside the EC and instead the project proponent needs to be saddled with appropriate measure of compensation and directed to make certain amends in the construction of sale component building, the construction of which has been stopped vide order dated 30th April 2014 to maintain status quo so as to provide adequate parking spaces as required, to avoid spilling over of the vehicles on the public streets and cause congestion of traffic leading to adverse impact on the environment.

NGT directions-

The respondent No. 5 shall pay and remit a sum of Rs. 3 crores to the Authority, specified under sub-section (3) of section 7(A) of the Public Liability Insurance Act, 1991 to be credited to the Environmental Relief Fund within a fortnight.

2. The respondent No. 5 the project proponent shall pay an amount of Rs. 32,63,600/- being market price of the deficient recreational area as on March, 2014 to the Maharashtra Pollution Control Board for incurring expenses on Environmental and ecological rehabilitation within a fortnight.

3. The respondent No. 5 shall make necessary amends in the construction plan of the sale building, get it approved as per law and make available additional parking spaces on adequate number of floors in sale building commencing from 7th floor upwards and within 32 floors so as to make parking space available for both rehab building and sale building by utilizing the floors which otherwise would have been made available to the sale building.

4. Construction of the sale building shall not proceed and no third-party interest by way of sale, transfer, assignment, lease or parting with possession of any portion of

sale building/component in any manner whatsoever shall be made unless the amounts as directed hereinabove are paid and necessary amends to comply with the directions to provide additional parking spaces as aforesaid are made.

5. The appeal thus stand disposed of with cost of Rs. 1,00,000/- (one Lakh)

In the case of Appellants: The Goa Foundation Vs. Respondent: Goa Coastal Zone Management Authority and Ors. MANU/GT/0066/2015

The matter is with respect to appeal to the order passed by Goa coastal Zone Management authority which is being challenged as illegal incorrect and the appellant alleges that decision making authority is MOEF and not the GCZMA and the order passed is illegal on the ground of basic legality however the respondent contend that appeal is barred by time Whether present appeal filed was within time or not - Held, Tribunal had jurisdiction to decide civil cases, where dispute arises, in regard to implementation of enactment specified in Schedule-I, it was also period of limitation given from date on which cause of action for such dispute first arose - It was pertinent to note that, Section 16 of Act deals with Appellate jurisdiction of Tribunal, especially that provides for period of specific days from date on which order or decision or direction or determination was communicated to Appellant to prefer appeal - However, in appeal-memo, Appellant had not described that, he raises any particular dispute relating to environment of legal right, and Application falls within ambit of Section 16 of Act - Therefore, present appeal filed was not within time as prescribed - Appeal dismissed. In the appeal-memo, the Appellant has not described that, he raises any particular dispute relating to environment of legal right, and the Application falls within the ambit of Section 14(1) and therefore, the limitation under Section 14(3) of the NGT Act is applicable. In the result, the preliminary objection is upheld and hence the appeal is held as barred by limitation. The appeal is accordingly dismissed. No costs. 2 3. Considering the fact that prima facie there appears certain material, which indicate violation of CRZ, we grant liberty to the Applicant to file Application or any petition as may be permissible

under the Law to challenge the impugned project/CRZ order non-compliance and for those two (2) weeks the Status quo is continued, as per the statement made by the learned Advocate General. Hence the appeal is barred by time. And prima facie some evidence is there which indicate violation of CRZ and appellant is free to file any petition under any law to challenge CRZ non-compliance.

In the case of **Appellants: V. Sundar Vs. Respondent: Union of India and Ors. MANU/GT/0072/2015**

The issue is with reference to environment clearance certificate granted and appeal barred by limitation of time Held, appeal was filed not only beyond period of prescribed days as per Section 16 Act which could be condoned by Tribunal if Appellant was able to show sufficient cause for delay - Respondents had placed publications made one in English and another in Tamil which clearly indicated that it was publicly notified through publications that project in question had been granted environment clearance - Publications in respect of clearance was also available with website of 3rd Respondent - Thus there were clear notices to public at large to effect that environment clearance was granted to project in question and complete and comprehensive information was available to Appellant - Therefore, delay in filing appeared in present appeal - Appeal dismissed.

In the case of **Appellants: Vanashakti Public Trust and Ors. Vs. Respondent: Maharashtra Pollution Control Board and Ors. MANU/GT/0115/2015**

The case is filed by the public trust under sec 14,15,17 and 18 of the NGT Act for respondents' failure to protect the river particularly Ulhas River. The case is with reference to Ulhas River basin which has major industrial areas which accommodate highly polluting industries including the chemical and textile industries. Applicants claim that these rivers and other water bodies are undergoing severe environmental and ecological damage due to illegal discharge of untreated effluents, sewage and pollutants in violation of environmental Laws. Although a common effluent treatment plant is provided but they are either inadequate or not operated efficiently which results in discharge of large quantity of highly polluting

effluents in the water environment. Further the contention is though the quantity of effluent from industries is less than domestic sewage quantity but the environmental impacts and sensitivity of industrial effluent is far more serious due to various polluting constituents' heavy metals, colors and organics. Notice was sent by regulatory bodies Maharashtra pollution board and central pollution control board time and time again to the offenders. However, no deterrent and effective action was initiated in order to ensure that the water pollution problem is pruned or eliminated. In the present case, it may not be possible to assess exact environmental damage and the cost of restoration thereof in view of the long period of effluent discharges as well untreated waste water discharges involved in the present case and the fact that the statutory Boards empowered to prevent and control pollution have not performed their statutory duties in accordance with the spirit and object of the environmental Acts and jurisprudence. Still, however, industrial units are The industrial sites in question have been identified as significant contributors to extensive environmental pollution in various water bodies, namely Ulhas River, the estuary, and Waldhuni River, as well as the surrounding groundwater. The issue of industrial pollution and its consequential enormity necessitates a thorough examination of the responsibility and obligation of industrial units to provide compensation. Given the significant impact of these units on the environment and their substantial ability for economic development, it is indisputable that they have the responsibility to provide compensation, leaving little room for credible objections or justifications. Determining the precise amount of compensation for environmental damage is challenging due to the extended timeframe involved and the inherent difficulty in scientifically quantifying the extent of damage and the corresponding costs of restoration and restitution at this current stage.

Directions using the Natural Language Generation (NGT) technique

The primary urgent measures that necessitate the attention of regulatory bodies, given the specific circumstances of this case, include the cleansing and elimination of sludge from the Waldhuni River, mitigation of other contaminants present in the

aforementioned drains, prevention of any discharge into the sweet water zone of the Ulhas River, and the management of pollution in the Ulhas River basin.

2) It is indeed accurate that the implementation of such policies necessitates the meticulous coordination of multiple governmental bodies, as well as substantial financial backing. The Tribunal holds the view that the responsibility for doing such a task should be assigned to the Divisional Commissioner, who holds authority over the whole revenue division, and should be supported by all relevant agencies. The Application is partially granted with instructions that are being provided under the authority granted by the provisions of Section 19 and 20 of the NGT Act, 2010, in accordance with the principles of Polluter Pays and Precautionary Principle.

The instructions provided by the Central Pollution Control Board (CPCB) in their letter dated 02-09-2008 must be rigorously implemented by the Maharashtra Pollution Control Board (MPCB) for the Common Effluent Treatment Plants (CETPs) located in Dombivili and Ambarnath. This enforcement will continue until the CETPs are fully operational and in compliance with the prescribed standards. Furthermore, the MPCB is required to submit a comprehensive report to the Tribunal, including significant time series data and observations. The adherence to the directives issued by the pollution control board and the provision of compensation as a means of restitution and restoration expenses. This discourse will explore preventive, corrective, and restorative strategies.

In the case of Appellants: Ajay Kumar Negi and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0112/2015

The primary concern pertains to the acquisition of environmental clearance and forest clearing. This case pertains to the writ petition that was filed in the High Court of Himachal Pradesh regarding the establishment of the Tidong - I Hydro Electric Power project. The Memorandum of Understanding (MOU) was signed between the State of Himachal Pradesh, respondent No. 2, and M/s. Nuziveedu Seeds Power Generation Pvt. Ltd. The corporation was obligated to provide a

Detailed Project Report for the purpose of establishing Techno Economic Viability within a timeframe of eighteen months. The government was responsible for reviewing and processing this report within a maximum duration of 90 days, starting from the date of its submission. Following the approval of the aforementioned Techno Economic Viability study and upon assurance that the necessary regulatory approvals could be secured from the appropriate authorities, a formal Implementation Agreement was to be executed between the Company and the Government. Subsequently, the company was scheduled to initiate its project, which would be granted to the company for a duration of 40 years starting from the date of the project's commercial operation.

Observations of NGt

The tribunal was witnessed. The ease of nature and ecological destruction at this magnitude contrasts with the difficulty and, in many instances, the potential improbability of restoration. As previously observed, significant harm has been incurred, with enormous financial resources allocated to the aforementioned endeavors. Moreover, extensive building efforts, encompassing the process of concretization and the establishment of tunnels, have reached a state of near-completion. Given the prevailing conditions, it would pose a significant challenge for the Tribunal to reach a determination that the Environmental Clearance bestowed upon the project ought to be revoked and the project activity terminated. The evident consequence of this situation would result in a substantial squandering of public funds, while the adverse effects on the environment and ecosystem would continue to endure. Therefore, it is imperative to develop a balanced approach by including the principles of Sustainable Development and the Precautionary Principle. The relevance of the Precautionary Principle in the current scenario has been significantly diminished. A significant portion of the project has already been implemented, resulting in substantial environmental harm. Despite reaching this stage, it is justifiable to invoke the Precautionary Principle in order to proceed with the remaining tasks of the project. This is primarily due to the fact that the project has already become a *fait accompli*, to a considerable degree. The Precautionary

Principle is an anticipatory approach to environmental management, grounded in the notion that in situations where the costs associated with ongoing activities are uncertain but have the potential to be both substantial and irreversible, it is advisable for society to take action prior to the resolution of such ambiguity. The objective is to proactively mitigate significant environmental issues prior to the manifestation of severe repercussions and associated ramifications. An Expert Committee is hereby established. The aforementioned Committee will be required to conduct a visit to the project site and afterwards present a thorough report to the Tribunal within a period of 45 days, commencing from the day on which this judgment is rendered. The Committee will provide a particular evaluation about the sufficiency, or lack thereof, of maintaining a 15% flow of the river as an environmental measure, and determine whether any adjustments are necessary in this regard. The committee's report will ascertain whether the Project Proponent has strictly adhered to the conditions outlined in the Forest Clearance and Environmental Clearance. The report will include updates on progress made in the areas of biodiversity conservation and management plan, compensatory afforestation, establishment of a Musk Deer Farm, and execution of the CAT Plan.

In the case of Appellants: Ambai Taluk Tamirabarani Vivasayigal Nala Sangam Vs. Respondent: Union of India and Ors. MANU/GT/0062/2015

Issues- Environment - No clearance - Grant of quarry lease - Validity thereof - Section 15 of Mines and Minerals (Development and Regulation) Act, 1957

These applications were taken on file of the Tribunal by an order of transfer of the Writ Petition (MD) No. 3274 of 2011 and W.P. (MD).No. 13266 of 2010 of the Hon'ble Madurai Bench of the Madras High Court. The petitioner to the Writ Petitions has filed the same in his capacity as the Secretary of Ambai Taluk Tamirabarani, Vivasayigal Nala Sangam which is registered under Societies Act. Being involved in public activities he filed the Writ Petition in public interest to

protect the Tamirabarani River which plays a vital role in the life and economy of Tirunelveli, Tuticorin and Virudunagar Districts.

Present application filed for seeking quashment of order whereby, mining lease was granted near to river and sanctuary, on ground that it was granted without Environment Clearance (EC) from Ministry of Environment and Forests (MoEF) and it caused loss to environment - Whether quarry lease caused loss to environment and EC was necessary for this project. Held, as per Section 15 of Act, it is within ambit of powers of Central Government to take all necessary steps for protection of environment by preventing and controlling any pollution which may be caused by prospecting mining operations - Obtaining of EC from MoEF was neither required nor mandatory as envisaged under specified Notification - Thus, other question that mining site is within protected area as found in specified Notification would not arise for consideration - Therefore, no illegality in granting quarry lease - Application dismissed.

In the case of Appellants: Arvind V. Aswal and Ors. Vs. Respondent: Arihant Realtors and Ors.

MANU/GT/0076/2015

Issues -Environment clearance

Environment - Commercial project - Grant thereof - Present appeal filed against impugned environment clearance whereby construction of Residential-cum-Commercial project under Slum Rehabilitation Authorities (SRA) scheme was granted. Whether impugned environment clearance could be revoked as it caused environmental damage due to non-availability of fresh air, passage of light and ventilation to residential buildings - Held, as per report of Court Commissioners, 1st Respondent was required to provide specific area but 1st Respondent had paved less area as compared to requisite area - Moreover, 1st Respondent had not provided greenbelt, as required under norms - There was no reason to dislodge objections raised by authority - Authority, categorically recommended that it was necessary to revise parking norms as per concern norms, not only that 1st Respondent did not

submit such revised parking area - However, despite of non-following norms by 1st Respondent, authority granted Environment clearance

NGT directions-It would be harsh to set aside Environment clearance for buildings undertaken by 1st Respondent as they were ready for occupation and many poor people were being accommodated in such buildings - Therefore, Environment clearance proposed would remitted to authority for reconsideration to extent of fixation of parking spaces and greenbelt - Appeal disposed of.

In the case of Appellants: Gram Sarai Vikas Samiti Vs. Respondent: Ministry of Environment, Forest & Climate Change and Ors. MANU/GT/0208/2015

Issue-Order granting Environment Clearance for setting up MSW plant challenged.

The matter pertains to the establishment of a Municipal Solid Waste (MSW) Plant in Sarai village, which is anticipated to result in the contamination of both air and water resources. During the process of obtaining environmental clearance, it was observed that no villager was provided with an opportunity to express their views during the public hearing.

Based on the aforementioned submissions made by the parties, the Tribunal will need to address two issues for examination.

Is the application capable of being maintained in light of the provisions outlined in Section 14 of the NGT Act, 2010?

2. Is the Environmental Clearance issued by the competent body on May 18th, 2015, as claimed by the applicant, subject to potential annulment or alteration?The project is given Environmental Clearance in accordance with the authorized procedure outlined in the EIA Notification of 2006. The aforementioned procedure encompasses four key stages: Screening, Scoping, Public Consultation, and Appraisal. During the Scoping phase, the competent authority assumes full responsibility for conducting a comprehensive exercise, which encompasses site selection.

The argument put up by the knowledgeable legal representative representing the Respondent is that, according to Section 16, it is not possible to file an appeal against the decision to award Environmental Clearance.

Moreover, it is argued that the applicability of section 14 of the NGT Act, 2010 is not applicable in the current case due to the absence of any significant legal issue, therefore, this application should be rejected. The query pertains to the aspect of maintainability as per the provisions outlined in the NGT Act. The respondents argue that the current appeal is not viable according to section 16(h), as the establishment, construction, and operation of a Municipal Solid Waste Plant does not fall within the purview of the provisions outlined in Section 16(h). In our scholarly assessment, we find no validity in this claim. The appealability of both the order granting an Environmental Clearance (EC) and the order rejecting an EC is provided for under section 16(h) of the National Green Tribunal (NGT) Act. Additionally, the terminology "any industry or operations or processes" is sufficiently broad to encompass a Municipal Solid Waste (MSW) Plant.

The aforementioned procedure encompasses four key stages: Screening, Scoping, Public Consultation, and Appraisal. During the Scoping stage, the relevant authority assumes full responsibility for conducting the necessary activities, which include site selection. The public hearing was conducted in adherence to the EIA Notification of 2006, and proper documentation of the proceedings has been diligently upheld. Additionally, the Environmental Impact Assessment was carried out by M/s. Voyage Solutions Private Limited for the purpose of evaluating the potential effects of constructing the composting plant and landfill site. A report was produced and subsequently subjected to a public hearing on March 31, 2013. Therefore, there is a thorough and all-encompassing adherence to the Notification of 2006. The selection of the site was based on the consideration that Haridwar produces a significant amount of municipal solid garbage, ranging from 200-215 metric tons per day, with peak months generating up to 250 metric tons per day. Various regulations were implemented concerning municipal solid trash, hazardous waste, green belt, groundwater protection, and the installation of lining

to prevent seepage. The conditions imposed by the relevant authorities, as stated in the decision dated May 18, 2015, are deemed adequate for mitigating and safeguarding against the potential negative consequences associated with the establishment of the municipal solid waste (MSW) facility at the designated location.

The National Green Tribunal (NGT) conducted a hearing.

There is a general aversion among community members, including both rural and urban residents, towards the establishment of a Municipal Solid Waste (MSW) plant or a dumping site in close proximity to their locality. The combination of limited land availability and a significant rise in municipal solid waste (MSW) generation necessitates the prompt establishment of waste management facilities and sites by relevant authorities. This is crucial in order to safeguard public health and maintain a clean and sustainable environment. Naturally, it is incumbent upon them to undertake all measures in accordance with the Precautionary Principles. The Principles of Sustainable Development necessitate that the authorization of development must be granted with consideration for the well-being of the environment and public health. Based on the aforementioned reasons, we see no validity in these assertions. Therefore, the case with Appeal No. 106 of 2015 is concluded without any specific ruling about the allocation of expenses.

In the case of Appellants: Kallpavalli Vrishka Pempakamdarula Paraspara Sahayaka Sahakara Sangam Ltd. and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0143/2015

Issue-adverse effect of windmills project, afforestation, diversion of forest land, noise pollution, adverse effect on ecology and people.

Applicants- First Applicant is Kallpavalli Vrishka Pempakamdarula Paraspara Sahayaka Sahakara Sangam Ltd. (Kalpavalli Tree growers Mutually aided

Cooperative Society Ltd., a body registered under the Mutually Aided Cooperative Societies Act, 1995, through its President. Second Applicant is Timbaktu Collective, a Society registered under the Indian Society Registration Act, 1860, through the President, and. The third Applicant is a Society for Promotion of Wastelands Development, registered under the Indian Society Registration Act, 1860.

Appeal was filed against diversion of 38.90 hectares of forest land for setting up of the wind power project in Andhra Pradesh. Documents show that Rs. 100.75lakhs has already been paid by respondent No. 5 for compensatory afforestation in addition to the cost of 50% NPV of the forest area for diversion and of lease rent for establishment of the wind power project. Kallpavalli area and to make a report to this Tribunal on the possible adverse effects both long term and short term of the windmills project and what needs to be done to protect the people and ecology of the area. Application filed under Section 15 of the National Green Tribunal Act, 2010.

NGT directions-(i) Respondent No. 5 shall deposit Rs. 50 Lakhs as environmental compensation with the Andhra Pradesh Pollution control Board within one month. The Pollution Control Board in consultation with the State Forest Department shall utilize the amount, only for the restoration of ecology and environment of that area. The compliance report shall be filed before the Tribunal within two months. (ii) Respondent No. 5 shall plant trees of local indigenous species under the guidance of State Forest Department on either side of the road constructed in this area up to the top of the hill where the wind turbines are installed. It is the duty of Respondent No. 5 to maintain these trees. (iii) Respondent No. 5 shall plant trees on the hill top around the wind turbines and shall maintain it as a green area. (iv) Respondent No. 5 shall not cause any plastic material to be scattered either on the top of the hill or on the surrounding area to prevent any pollution caused by the plastic.

In the case of **Appellants: Lokendra Kumar and Ors. Vs. Respondent: State of U.P. and Ors. MANU/GT/0038/2015**

Issue- Quarrying brick earth, environment clearance

The present application has been filed with a prayer concerning the quarrying of brick earth without obtaining environmental clearance, as well as a request for a directive against the respondents to comply with the directions of the Ministry of Environment and Forests (MoEF). The central question is whether the original applicants are entitled to the relief they seek, which is to have the respondents cease quarrying brick earth without obtaining environmental clearance.

It is evident that the Ministry of Environment, Forests, and Climate Change (MoEF) included the excavation of brick earth and soil under the scope of the Environmental Impact Assessment (EIA) Notification 2006 by legislative laws. However, this inclusion was classified as B2 category, which necessitates obtaining an Environmental Clearance (EC), without passing the process of public consultation, among other requirements. The user's text does not provide any information. After conducting an extensive analysis, the core group has released guidelines that take into account the necessity to reassess the definition of minor minerals, establish a minimum lease size to facilitate the adoption of environmentally friendly and scientifically sound mining techniques, determine the lease duration, and apply a strategy that clusters mines together to effectively address and execute Environmental Management Plans (EMP).

The Tribunal, which was established with the specific objective of safeguarding the ecological conditions of the country, cannot remain a passive observer. It is imperative that the Tribunal, even in cases where rules were hastily formulated while matters were pending, instruct the relevant parties to adhere to proper procedural requirements. Simultaneously, the Tribunal should take measures to prevent soil erosion. The amendments introduced by the State Governments of Haryana and Uttar Pradesh should be disregarded. Until the aforementioned states enact suitable amendments to their mining regulations, this Tribunal cannot invoke

Section 26 of the NGT Act 2010 due to the lack of sufficient information and details provided.

Results and discussion for 2015

The concept of environment justice can be analysed in various ways, though it is mainly focused on the intersection of social sciences and justice. This includes the theory of environmental governance and the management of the environment. An analysis of the judgements for the year 2015 establishes the relationship between social context and the environmental problems arising with violation of the environmental laws and failure of the regulatory bodies or non-compliance of the rules and notification. It also brings to the forefront the issues that social and economic development is resulting into which is creating environmental governance and management problems.

In the case of **Bakerao Tukaram Dhemse and Ors.Vs. Respondent: The Municipal Corporation, Nasik and Ors. (MANU/GT/0185/2015)** Parties involved were Municipal corporation and individual living in the area close to sewage treatment plant. The Secondary legislation on municipal solid waste management that is solid waste management rules 2000 is involved in this case however compliance failure on the part of the municipality resulted into inconvenience to the private individual and the people living in the area due to piling up of waste materials. It also brings to the forefront the problem arising of solid waste dumping due to development and environmental management challenges to add to it The way the human population is increasing and the by-products of human consumption are increasing it is resulting into lot of human waste and to deal with it the setting up of the solid waste management is a necessity, but setting up plant would eventually affect the residents of the area and also failure on the part of authorities to properly deal with the situation in terms of STP and heaping of garbage is an area of concern. So, the issue out here basically involves failure of the authorities and also the concern of the villagers which is arising out of the development and its

consequences the tribunal by giving the time period to resolve the issue as the municipal authorities are primarily responsible in such a situation but the fact that high court asked the municipal authority for compliance and then NGt giving time period re-instated what was earlier stated by the high court. The Approach of NgT in this case can be summed as Collaborative approach with National mineral committee to take care of the solid waste management plant and remove the garbage and directive measures no construction for next six months. **In the case of Appellants: Chemical Construction Company Pvt. Ltd. Vs. Respondent: The Tamil Nadu Pollution Control Board and Ors. (MANU/GT/0111/2015)** This case was with regard to the order of the pollution control board for the closure of the industry under the Air and the Water Act as it was operating in mixed residential zone without the consent of the municipal development authority. The case falls within non-compliance of the secondary orders that is coastal Zone Regulation 2011. The secondary legislation involved are Mixed residential and commercial zone rules, CMDA Master plan, CRZ notification 2011. Regulatory body orders and non-compliance with the secondary rules. The parties involved are chemical industry and the pollution board NGT took a Collaborative approach with the pollution control board for the fresh applying to the pollution control board for the consent to operate and to resolve it within 8 weeks. It ordered a compensation of Rs 30 lakh based on polluter pay principle. In the case of **Appellants: Conservation Action Trust and Ors. Vs. Respondent: Union of India and Ors. (MANU/GT/0178/2015)** As a consequence of commercial activity Violation of Public trust doctrine as mangrove forest were destroyed due to frequent permissions granted by the authority. NGT decided that since the applicants not directly affected by the action or inaction of the respondents and not entitled to compensation as per sec 15 of the NGT Act and not asking for adjudication of any substantial question relating to environment under sec 14 and 18 of the NGT Act. Since applicants are not victims of environmental damage hence not entitled to compensation under sec 15 of the NGT Act. In the case of **Dileep B. Nevatia Vs. Respondent: Union of India and Ors. MANU/GT/0176/2015** CRZ clearance being challenged which was

granted by MOEF for the construction of Mumbai Trans Harbour Sea Link affecting coastal ecology of Mumbai and Navi Mumbai affecting the endangered species and flora and fauna. It involves issue of environment clearance which was granted five years ago and later on no further environment clearance was taken at the time of construction and construction went ahead with just coastal regulation clearance. The Ngt approach-MOEF to take decision independent of the tribunal order within 8 weeks and CRZ clearance stands suspended. Mumbai metropolitan Region development authority to pay cost of Rs 20,000. In the case of **Appellants: Himmat Singh Shekhawat Vs. Respondent: State of Rajasthan (MANU/GT/0008/2015)** The issue is with reference to illegal sand mining in the river bed of Yamuna in violation of environmental clearance norms. The matter has been brought within sec 14,15,18 of the NGT Act for illegal sand mining in the river Yamuna was going in violation of law without taking prior environment clearance. The issue arose because of the conflict between state regulations and central notifications and supreme court has previously given judgement in this regard. NGT approach-realizing the conflict arising due to state regulations and central notifications an interim time period given to take appropriate steps for complying with the judgement of the supreme court and to issue notifications in this regard, directing the states to not to carry on any sand mining or mineral extraction on river bed without the concerned person obtaining environment clearance. Further in order to remove confusion, ambiguities and practical difficulties in the implementation of environment laws directing the MOEF issue comprehensive but self-contained notification to formulate uniform cluster policy in consultation with the states for permitting minor mineral mining activity. In the case of Appellants: **Libertina Fernandes Vs. Respondent: Goa Coastal Zone Management Authority and Ors. MANU/GT/0048/2015** it involved Review application for non-compliance with the material provisions of the NGT and EPA Act. Review application filed under sec 19(4)(f) read with rule 22 of the NGT (Practice and procedures Act) 2011. The review is primarily sought on the ground that material provisions of the Environmental Protection Act, 1986 (for short 'Act

of 1986') and the NGT Act had not been brought to the notice of the Tribunal during the course of hearing, resulting in miscarriage of justice. NGT directed that applicant cannot seek equity as she started construction without permission from the authorities and miserably failed to comply with the requirements of law. In the case of Appellants: **Lokendra Kumar Vs. Respondent: State of U.P. MANU/GT/0014/2015** Following of the judgment of the supreme court in creation of rules by state for mining. Brick earth quarrying happening at large scale without environmental clearance and not proper rules for the same. NGT directions-states to make appropriate amendments to the respective rules relating to mining. Tribunal not able to invoke sec 26 of the NGT Act as no materials and particulars given. In the case of Appellants: **Maria Filomena Furtado and Ors. Vs. Respondent: Goa Coastal Zone Management Authority and Ors. MANU/GT/0114/2015** this case involved Appeal against the order of the Goa coastal zone management authority. Matter is with respect to illegal construction; demolition being ordered by the Goa coastal management authority under the directions issued by the supreme court by the PIL filed previously. The GCZM is at fault for dismissing the case put forth by Rabindra Das. NGT approach-demolition of whole structure within 8 weeks by the collector in south Goa and compliance to be reported within 2 weeks thereafter. In the case of Appellants: **Nirma Ltd. Vs. Respondent: Ministry of Environment & Forests Government of India and Ors. MANU/GT/0032/2015**, This case involves appeal against the order of the MOEF for the environment clearance granted for a cement plant which is to be built near a village in Gujrat. Ngt approach-Allowed the appeal and asked a body to do a study of the project on the water bodies and the same needs to be monitored and study undertaken and project proponent to bear the costs incurred by the state pollution control board and cpcb for monitoring and conducting such study. In the case of Appellants: **Ramdas Janardan Koli and Ors. Vs. Respondent: Secretary, Ministry of Environment and Forests and Ors. MANU/GT/0056/2015** the case involved the project activities leading to loss of livelihood to the fisherman due to development of projects around the coastal areas and the fisherman who are dependent on the

coastal areas for livelihood get affected. Development is an important aspect of growth but it also affects the livelihood of people who are traditionally dependent on coastal areas for catching of fish for their livelihood. rehabilitation of their families, who are unsettled on account of the projects in question. Claim is made for compensation with respect to catching fishes which involves right to livelihood and secondly right of rehabilitation. Destruction of mangroves alongside the coastline. NGT Directions-compensation to be paid to the affected families of fisherman and such fisherman to be identified by the respondents CIDCO, JNPT and ONGC within next three months, amount if not paid within this period will carry an interest rate of 12%. Restoration cost to be borne by the respondents for Rs 50 lakhs. Litigation cost to be paid by the respondents of RS 5lakhs.A compliance report to be submitted by the collector within 4 months to the tribunal. In the case of **Appellants: S. Vishnuvarma and Ors. Vs. Respondent: Appollo Distilleries Pvt. Ltd. and Ors. MANU/GT/0167/2015** Analysis-Setting up of a distillery near a village resulting into air, water and noise pollution. As a consequence of this bad odour, health problems like miscarriage nausea and generation of noise resulting into hearing problems. Non compliance of the environment rules. NGT approach-Expert committee set up but could not find the relationship between the discharge of the water and pollution with the industry however based on water analysis and higher level of pollutants in the water sample, the industry is liable to bear responsibility under polluter pay principle and as per sec 20 of the NGT Act empowers the tribunal to take into consideration principles while passing any order or decision. However, no penalty imposed by the tribunal and further ordered government of Tamil nadu along with to carry out sample surveys with the assistance of TNPCB and with the help of the CGWA and get the water samples collected both in the open wells and bore wells and also in the water bodies where surface water is stored/dealt with such as ponds and canals in the vicinity of respondent industry and analyzed at least for a period of 1 year from the date of this judgment covering all the seasons in a year and initiate remedial measures if required to be taken at the cost of the respondent industry. In the case

of **Appellants: Sunil Kumar Chugh and Ors. Vs. Respondent: Secretary, Environment Department, Government of Maharashtra and Ors. MANU/GT/0153/2015** Analysis- The issue is with reference to Grant of environment clearance without following imperatives of MOEF, violation of town planning laws and development control regulations and started construction without environment clearance. NGT approach-The NGT got into the question of whether EC should be set aside resulting into consequences to the building rehabilitation component/building comprising of 263 flats, 61 shops, 4 tenements of welfare center, 4 tenements of Balwadi, society office and Municipal office should be exposed to its logical consequence. Tribunal considered that it would be harsh to set aside EC and the consequences it would have on building and rehabilitation and hence remit a sum of RS 3 crores to the authority under the Public Liability Insurance Act 1991 to be credited with environment relief fund and further amount to be paid for deficit recreational space to the Maharashtra Pollution control board and for restoring the ecology and the environment and make necessary amends in the construction plan of the sale building, get it approved as per law and make available additional parking spaces on adequate number of floors in sale building. In the case of **Appellants: The Goa Foundation Vs. Respondent: Goa Coastal Zone Management Authority and Ors. MANU/GT/0066/2015** Analysis- Issue- Environment - Appeal - Barred by time - Section 16 of National Green Tribunal Act, 2010. In the case of **Appellants: V. Sundar Vs. Respondent: Union of India and Ors. MANU/GT/0072/2015** Analysis-Delay in filing appeal. In the case of **Appellants: Vanashakti Public Trust and Ors. Vs. Respondent: Maharashtra Pollution Control Board and Ors. MANU/GT/0115/2015** Analysis-Maharashtra pollution control board failure to protect river Ulhas as the Ulhas river basin accommodates highly polluting industry including chemical and textile industry, river and water bodies are undergoing environmental and ecological degradation due to discharge of industrial pollutants in violation of environment laws, common effluent treatment plant are there but either they are not adequate or not operating efficiently, environmental impacts and sensitivity of

industrial effluents are far more higher. Notice sent by regulatory bodies but no deterrent effect, not be possible to assess exact environmental damage and the cost of restoration thereof in view of the long period of effluent discharges as well untreated waste water discharges involved in the present case and the fact that the statutory Boards empowered to prevent and control pollution have not performed their statutory duties in accordance with the spirit and object of the environmental Acts and jurisprudence, account of damage to environment because of the long period involved and also for the reason that even scientifically the extent of damage and amounts required for restoration and restitution thereof cannot be determined at this stage now. NGT Approach- Cleaning and removal of sludge from Waldhuni River, close co-ordination of various Government agencies and also, require substantial financial support, with directions which are being issued under the powers conferred under the provisions of Section 19 and 20 of NGT Act, 2010, based on principles of Polluter Pays and Precautionary Principle, Compliance of the directions of the pollution control board and payment of compensation as restitution and restoration costs. preventive, remedial and restoration measures. In the case of **Appellants: Ajay Kumar Negi and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0112/2015** Analysis-The issue is with reference to setting up of the hydroelectric power which involved environment and forest clearance in the process and other statutory clearance and its techno economic viability, extensive damage to the forest and affecting the livelihood of the residents, heavy dumping and damage to the environment and the ecology, violation of environment laws and serious damage to forest wealth. There were procedural and other legal infirmity committed by the authorities concerned by granting the Environmental Clearance and Forest Clearance. Tribunal adopted a sustainable development approach. Tribunal observed substantial damage has been done, huge amount of money has been spent in the project and major construction activity and therefore tribunal is of opinion it would be very difficult to call back the environment clearance granted and project be closed, leading to tremendous wastage of public money, while damage to the nature and ecology will still persist.

Thus, applying the Principle of Sustainable Development and Precautionary Principle, we have to adopt a balanced approach. **In the case of Appellants: Ambai Taluk Tamirabarani Vivasayigal Nala Sangam Vs. Respondent: Union of India and Ors. MANU/GT/0062/2015** Analysis-The issue is with reference to mining lease granted near to a river and sanctuary and that was granted without environment clearance from MOEF and causing loss to environment so the basic questions involved are whether quarry lease cause loss to environment and EC was necessary for this project. Tribunal held as per sec 15 of the Mining act it is within ambit of power of central government to take all necessary steps for protection of environment and obtaining EC from MOEF is neither mandatory as per the notification, no illegality in granting quarry lease. **In the case of Appellants: Arvind V. Aswal and Ors.Vs. Respondent: Arihant Realtors and Ors. MANU/GT/0076/2015** Analysis-Ngt approach mid-way approach as setting aside environment clearance would be harsh and respondents are ready for occupation and many poor people would be accommodated in such buildings, therefore EC remitted to authority for reconsideration to the extent of fixation of parking spaces and greenbelt. **In the case of Appellants: Gram Sarai Vikas Samiti Vs. Respondent: Ministry of Environment, Forest & Climate Change and Ors. MANU/GT/0208/2015** Analysis-order granting environment clearance for setting up of municipal solid waste plant is challenged as it is causing air and water pollution and discomfort to the people living nearby the village. As per sec 14 no substantial question of law is involved and also the present appeal is not maintainable even under section 16(h) as establishment, construction and operation of a Municipal Solid Waste Plant would not fall within the ambit and scope of provisions of Section 16(h). Tribunal held “No community or villager and for that matter anyone, even in urban areas want a MSW plant or a dumping site near their locality. Scarcity of land and rapid increase in generation of MSW makes it absolutely necessary for the concerned authorities to establish such a plant and sites at the earliest to ensure public health, decent and clean environment. Of course, they are duty bound to take all steps on the basis of Precautionary Principles. The

Principles of Sustainable Developments demand that such development has to be permitted in the interest of environment and public health. For these reasons stated above, we do not find any merit in these contentions. Accordingly, the Appeal No. 106 of 2015 is disposed of with no order as to costs.” In the case of **Appellants: Kallpavalli Vrishka Pempakamdarula Paraspara Sahayaka Sahakara Sangam Ltd. and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0143/2015** Analysis-The issue is with respect to adverse effect of windmills project, afforestation, diversion of forest land, noise pollution, adverse effect on ecology and people. Setting up of windmill resulted in diversion of forests in this case although for compensatory afforestation compensation was paid by the respondents. NGT approach-Application filed under sec 15 of the NGT Act and tribunal asked to make a report on the adverse effects both short term and long term of the windmill projects and what need to be done to protect the people and ecology of the area. To deposit Rs 50lakh as environmental compensation to the Andhra Pradesh Pollution control board within one month and pollution board in consultation with the state forest department shall utilize the amount only for the restoration of the ecology and environment of that area, compliance report shall be filed before the tribunal within two months, plantation of trees of local indigenous species under guidance of state forest department, plantation of trees on hill top, no plastic material to be scattered. In the case of **Appellants: Lokendra Kumar and Ors. Vs. Respondent: State of U.P. and Ors. MANU/GT/0038/2015** Analysis-Quarrying brick earth without obtaining environment clearance and hence are the respondents entitled for the remedy to stop quarrying brick earth without environment clearance. There were state amendments in the mining rules which made it B2 category requiring EC without undergoing process of public consultation etc. Hence application dismissed by tribunal as there were no materials and particulars given so as to enable this tribunal to invoke sec 26 of the NGT Act 2010.

Party analysis-plaintiff and defendant

Parties involved are majorly individuals, industries, municipal corporation, pollution control board, NGOs, coastal zone management authority, ministry of environment and forest, non-compliance with the material provisions of the NGT and EPA Act,

Subject area analysis

Solid waste management, violation of air act and water act, forest ,coastal zone regulation clearance, environment clearance with respect to town planning, sand mining in violation of environment clearance, Brick earth quarrying, illegal construction in violation of coastal zone management regulations, environment clearance granted for a cement plant, to loss of livelihood to the fisherman due to development of projects around the coastal areas, Setting up of a distillery near a village resulting into air, water and noise pollution, Grant of environment clearance without following imperatives of MOEF,barred by time, river pollution, setting up of the hydroelectric power which involved environment and forest clearance in the process and other statutory clearance and its techno economic viability, extensive damage to the forest and affecting the livelihood of the residents, heavy dumping and damage to the environment and the ecology, violation of environment laws and serious damage to forest wealth, mining lease near to a river and sanctuary granted without environment clearance, order granting environment clearance for setting up of municipal solid waste plant is challenged as it is causing air and water pollution and discomfort to the people living nearby the village, adverse effect of windmills project, afforestation, diversion of forest land, noise pollution, adverse effect on ecology and people, Quarrying brick earth without obtaining environment clearance

Main issue of conflict

Failure of the Nasik municipal corporation for the compliance of the Municipal solid waste rules and location of sewage treatment plant piling of the solid waste at

the land site which was causing inconvenience to the people⁵, order of the pollution control board was challenged under sec 31 A of the air act and 33A of the water act which directed the closure of the industry as it was operating in mixed residential zone without the consent of the Chennai municipal development authority; the question also involved application CRZ notification 2011⁶, protection of the mangrove forest on the coastline along the state of Gujrat including Navlakhi, Kandla Port, Tuna Bander, Mundra and Hazira Harbour, with extensive Mangrove cover are affected due to the commercial activities as that would be in violation of coastal Zone Regulation Act 2011⁷, challenging CRZ Clearance granted by Ministry of environment and Forest for the construction Mumbai Trans Harbour Sea Link as it would adversely impact coastal ecology of Mumbai and navi Mumbai. The project would also affect the ecologically sensitive area covered by the mangroves and mudflat which support several endangered species of flora and fauna including flamingos etc⁸, illegal sand mining in the river bed of Yamuna in violation of environmental clearance norms⁹, review of the judgement as the material provisions of the NGT and EPA are not complied with¹⁰, main issue is with reference carrying brick earth quarrying without environment clearance¹¹, The Issue is with reference to appeal against the order of the Goa Coastal Zone management authority¹², appeal against the order of the MOEF for the environment clearance granted for a cement plant which is to be built near a village in Gujrat¹³, case involved the project activities leading to loss of livelihood to the fisherman due to development of projects around the coastal areas and the fisherman who are dependent on the coastal areas for livelihood get affected¹⁴, The

⁵ (MANU/GT/0185/2015)

⁶ (MANU/GT/0111/2015)

⁷ (MANU/GT/0178/2015)

⁸ MANU/GT/0176/2015

⁹ MANU/GT/0008/2015

¹⁰ MANU/GT/0048/2015

¹¹ MANU/GT/0014/2015

¹² MANU/GT/0114/2015

¹³ MANU/GT/0032/2015

¹⁴ MANU/GT/0056/2015

main issue is with reference to pollution air and water along with non-compliance with the environmental rules¹⁵,The issue is with reference to Grant of environment clearance without following imperatives of MOEF, violation of town planning laws and development control regulations¹⁶, The matter is with respect to appeal to the order passed by Goa coastal Zone Management authority s which is being challenged as illegal incorrect and the appellant alleges that decision making authority is MOEF and not the GCZMA and the order passed is illegal on the ground of basic legality however the respondent contend that appeal is barred by time¹⁷,The issue is with reference to environment clearance certificate granted and appeal barred by limitation of time¹⁸, The issue is with reference to Ulhas River basin which has major industrial areas which accommodate highly polluting industries including the chemical and textile industries and respondents' failure to protect the river particularly Ulhas River¹⁹, The main issue is related with environment clearance and forest clearance with respect to the setting up of the Tidong - I Hydro Electric Power²⁰, the conflict is with reference to Environment clearance with respect to grant of quarry lease and its validity thereof and involvement of Section 15 of Mines and Minerals (Development and Regulation) Act, 1957²¹,Present appeal filed against impugned environment clearance whereby construction of Residential-cum-Commercial project under Slum Rehabilitation Authorities (SRA) scheme was granted²², Order granting Environment Clearance for setting up MSW plant challenged²³,adverse effect of windmills project, afforestation, diversion of forest land, noise pollution, adverse effect on ecology and people²⁴, application filed with prayer pertaining to quarrying brick earth

¹⁵MANU/GT/0167/2015

¹⁶MANU/GT/0153/2015

¹⁷MANU/GT/0066/2015

¹⁸MANU/GT/0072/2015

¹⁹MANU/GT/0115/2015

²⁰MANU/GT/0112/2015

²¹MANU/GT/0062/2015

²²MANU/GT/0076/2015

²³MANU/GT/0208/2015

²⁴MANU/GT/0143/2015

without obtaining environment clearance and also for direction against Respondents to comply with directions of MoEF²⁵

Environmental legislation involved-

Solid waste management rules 2000, Air Act, water Act, CRZ Notification 2011, EIA Notification 2006, Mines and Minerals (Development and Regulation) Act, 1957, town planning laws and development control regulations,

Analysis of cases on various yardsticks

- **Direction to the government authorities**

In the case of **Bakerao Tukaram Dhemse and Ors.Vs. Respondent: The Municipal Corporation, Nasik and Ors.** The NGT disposed of the application giving contract to the National Mineral Management Committee to take care of the disposal of the garbage at solid waste management plant and remove the 2/3rd of the garbage that is piled up at the landfill site and no construction work to be carried out in the NM area and the restriction will be applicable for 6 months.²⁶ In the case of **Dileep B. Nevatia Vs. Respondent: Union of India and Ors.** Tribunal directed that MoEF shall take decision independently on merits of fresh CRZ Clearance application, without influenced by any of the observations made in this order, and such a decision be taken in eight (8) weeks.²⁷ . **Himmat Singh Shekhawat Vs. Respondent: State of Rajasthan** tribunal directed the Ministry of Environment and Forest to issue comprehensive but self-contained Notification relating to all minor mineral activity on the riverbed or otherwise, to avoid unnecessary confusion, ambiguities and practical difficulties in implementation of the environmental laws and also directed the Ministry of Environment and Forest to formulate a uniform cluster policy in consultation with the States for permitting minor mineral mining activity including, its regulatory regime, in accordance with

²⁵MANU/GT/0038/2015

²⁶MANU/GT/0185/2015

²⁷MANU/GT/0176/2015

law.²⁸ In the case of Appellants: **Lokendra Kumar Vs. Respondent: State of U.P. MANU/GT/0014/2015** NGT directions-states to make appropriate amendments to the respective rules relating to mining. **Maria Filomena Furtado and Ors. Vs. Respondent: Goa Coastal Zone Management Authority and Ors. MANU/GT/0114/2015** demolition of whole structure within 8 weeks by the collector in south Goa and compliance to be reported within 2 weeks thereafter

- **Application of International environment principles**

In the case of Appellants: Chemical Construction Company Pvt. Ltd. Vs. Respondent: The Tamil Nadu Pollution Control Board and Ors. MANU/GT/0048/2015 the issue is with regard to industry running in violation of Air and water Act in mixed residential zone are and the tribunal applying the polluter pay principle ordered a compensation of 30lakh from the polluter industry.²⁹ **Ramdas Janardan Koli and Ors. Vs. Respondent: Secretary, Ministry of Environment and Forests and Ors. MANU/GT/0056/2015** on the basis of polluter pay principle the Applicants recovered Rs. 95,19,20,000/- (Rs. Ninety-Five Crores Nineteen Lakhs Twenty Thousand only), which be distributed equally to 1630 (one thousand six hundred thirty) affected and identified fishermen's families as per the Collector's Report, named therein, to the extent of Rs. 5,84,000/- (Rs. Five Lakhs Eighty-Four Thousand) per family within three (3) months by the Respondent, compensation amount of to be paid to the to the affected families of the fisherman by the respondents CIDCO, JNPT and ONGC if the amount is not paid within the time period, then it will carry a interest of 12%, till it is realized by concerned fisherman families. Restoration cost of the environmental damage to be borne by the respondents of Rs 50 lakh and shall carry out supervision within 8 months for activities of mangrove plantation ensuring free passage of tidal currents in consultation with MCZMA etc. In the case of **Appellants: S. Vishnuvarma and Ors. Vs. Respondent: Appollo Distilleries Pvt. Ltd. and Ors.**

²⁸MANU/GT/0008/2015

MANU/GT/0167/2015 based on water analysis and higher level of pollutants in the water sample, the industry is liable to bear responsibility under polluter pay principle and as per sec 20 of the NGT Act empowers the tribunal to take into consideration principles while passing any order or decision. In the case of **Appellants: Sunil Kumar Chugh and Ors. Vs. Respondent: Secretary, Environment Department, Government of Maharashtra and Ors.**

MANU/GT/0153/2015 based on sustainable development principle Tribunal considered that it would be harsh to set aside EC and the consequences it would have on building and rehabilitation and hence remit a sum of RS 3 crores to the authority under the Public Liability Insurance Act 1991 to be credited with environment relief fund and further amount to be paid for deficit recreational space to the Maharashtra Pollution control board and for restoring the ecology and the environment and make necessary amends in the construction plan of the sale building, get it approved as per law and make available additional parking spaces on adequate number of floors in sale building. . In the case of **Appellants: Vanashakti Public Trust and Ors. Vs. Respondent: Maharashtra Pollution Control Board and Ors.**

MANU/GT/0115/2015 Cleaning and removal of sludge from Waldhuni River, close co-ordination of various Government agencies and also, require substantial financial support, with directions **which** are being issued under the powers conferred under the provisions of Section 19 and 20 of NGT Act, 2010, based on principles of Polluter Pays and Precautionary Principle, Compliance of the directions of the pollution control board and payment of compensation as restitution and restoration costs. preventive, remedial and restoration measures. In the case of **Appellants: Ajay Kumar Negi and Ors. Vs. Respondent: Union of India and Ors.**

MANU/GT/0112/2015 Tribunal adopted a sustainable development approach. Tribunal observed substantial damage has been done, huge amount of money has been spent in the project and major construction activity and therefore tribunal is of opinion it would be very difficult to call back the environment clearance granted and project be closed, leading to tremendous wastage of public money, while damage to the nature and ecology will still persist. Thus, applying

the Principle of Sustainable Development and Precautionary Principle, we have to adopt a balanced approach. **In the case of Appellants: Arvind V. Aswal and Ors. Vs. Respondent: Arihant Realtors and Ors. MANU/GT/0076/2015** National Green Tribunal adopted sustainable development principle as setting aside environment clearance would be harsh and respondents are ready for occupation and many poor people would be accommodated in such buildings, therefore EC remitted to authority for reconsideration to the extent of fixation of parking spaces and greenbelt. **In the case of Appellants: Gram Sarai Vikas Samiti Vs. Respondent: Ministry of Environment, Forest & Climate Change and Ors. MANU/GT/0208/2015** Tribunal held “No community or villager and for that matter anyone, even in urban areas want a MSW plant or a dumping site near their locality. Scarcity of land and rapid increase in generation of MSW makes it absolutely necessary for the concerned authorities to establish such a plant and sites at the earliest to ensure public health, decent and clean environment. Of course, they are duty bound to take all steps on the basis of Precautionary Principles. The Principles of Sustainable Developments demand that such development has to be permitted in the interest of environment and public health. In the case of **Appellants: Kallpavalli Vrishka Pempakamdarula Paraspara Sahayaka Sahakara Sangam Ltd. and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0143/2015** based on polluter pay principle to deposit Rs 50lakh as environmental compensation to the Andhra Pradesh Pollution control board within one month and pollution board in consultation with the state forest department shall utilize the amount only for the restoration of the ecology and environment of that area, compliance report shall be filed before the tribunal within two months, plantation of trees of local indigenous species under guidance of state forest department, plantation of trees on hill top, no plastic material to be scattered.

- **Application of science and law through Creation of expert committees for scientific and technical knowledge**

In the case of **Nirma Ltd. Vs. Respondent: Ministry of Environment & Forests Government of India and Ors. MANU/GT/0032/2015** Allowed the appeal and asked a body to do a study of the project on the water bodies and the same needs to be monitored and study undertaken and project proponent to bear the costs incurred by the state pollution control board and cpcb for monitoring and conducting such study. In the case of **Appellants: S. Vishnuvarma and Ors. Vs. Respondent: Appollo Distilleries Pvt. Ltd. and Ors. MANU/GT/0167/2015** Expert committee set up but could not find the relationship between the discharge of the water and pollution with the industry however based on water analysis and higher level of pollutants in the water sample, the industry is liable to bear responsibility under polluter pay principle and as per sec 20 of the NGT Act empowers the tribunal to take into consideration principles while passing any order or decision. In the case of **Appellants: Kallpavalli Vrishka Pempakamdarula Paraspara Sahayaka Sahakara Sangam Ltd. and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0143/2015** tribunal asked to make a report on the adverse effects both short term and long term of the windmill projects and what need to be done to protect the people and ecology of the area.

Matter not within the scope of NGT Act/Barred by time

In the case of **Appellants: The Goa Foundation Vs. Respondent: Goa Coastal Zone Management Authority and Ors. MANU/GT/0066/2015** Appeal, Barred by time under Section 16 of National Green Tribunal Act, 2010. **In the case of Appellants: V. Sundar Vs. Respondent: Union of India and Ors. MANU/GT/0072/2015** Delay in filing appeal hence dismissed. In the case of **Appellants: Lokendra Kumar and Ors. Vs. Respondent: State of U.P. and Ors. MANU/GT/0038/2015** application dismissed by tribunal as there were no materials and particulars given so as to enable this tribunal to invoke sec 26 of the NGT Act 2010.

The cases involve number of issues ranging from management of solid waste to violation of environmental laws, violation of statutory clearances, violation of

clearances, pollution from industrial activities affecting communities, conflict between fundamental rights at the cost of right to development, damage to the forest, affecting the people living in villages and the ecology.

In terms of the party, it has involvement of individuals, industries, municipal corporation, pollution control board, NGOs, coastal zone management authority, ministry of environment and forest which are major stakeholders as far as the implementation of environment laws and the right to environment or development activity is concerned and the others being affected by the development activities.

Case Analysis for the year 2016

BEFORE THE NATIONAL GREEN TRIBUNALSOUTHERN ZONE BENCH, CHENNAI Application No. 104 of 2013 (SZ) (THC), (W.P. (MD) No. 2079 of 2010), Application No. 111 of 2013 (SZ) (THC), (W.P. (MD) No. 198 of 2011), Application No. 112 of 2013 (SZ) (THC), (W.P. (MD) No. 199 of 2011), Application No. 116 of 2013 (SZ) (THC), (W.P. (MD) No. 8281 of 2011) and Application No. 127 of 2013 (SZ) (THC), (W.P. (MD) No. 3634 of 2012) Decided On: 14.09.2016Appellants: Conservation of Nature Trust and Ors. Vs. Respondent: The District Collector, Kanyakumari District and Ors. (MANU/GT/0118/2016)

The present case involves a collaborative writ petition that has been transferred to the tribunal. The petition pertains to the applicants challenging the environmental clearance issued by the Ministry of Environment, Forest and Climate Change. Specifically, the challenge is in relation to the proposed widening of National Highways NH-47 and NH-47B. The Conservation of Nature Trust and Kanyakumari District Boomi Padhukappu Sanga Koottamaipu, as applicants, have lodged a Public Interest Litigation in the High Court. Their aim is to contest the construction of a road that deviates from Pungarai Hamlet to Kollakudivilai (near Valliyar River). This road is believed to have adverse effects on seven system tanks, numerous natural springs, three temple tanks, and the delicate Valliyar River Valley. The ecological impact is of particular concern as it affects the sensitive and

fragile ecology of Kalkulam Taluk in the Kanyakumari District. As per the assertions made by the applicant, the deviation in question has impacted a total of seven system tanks, multiple natural springs, three temple tanks, and has resulted in an increased cost for the formation of an additional 2 km road. This has led to avoidable financial burden on the public exchequer amounting to a substantial sum of money, as well as the destruction of 140 residential properties, displacement of approximately 200 families, and the destruction of around 500 tombs located within three graveyards. The tanks of varying sizes that comprise the water harvesting system for capturing rainwater for irrigation were established millennia ago. This was in response to the geographical reality that the maximum distance from the Western Ghats to the sea is approximately 35 km, and due to the steep west-east gradient, rainwater flows rapidly and eventually reaches the sea. The purpose of constructing these tanks was to impede the flow of rainwater. Moreover, the proposed deviation of the route from the original permitted alignment may have adverse effects on certain small-scale industries that families rely on for their livelihoods. Additionally, the altered route exhibits a curved shape, which is not conducive to the smooth movement of traffic. Furthermore, given that agriculture serves as the fundamental pillar of Kanyakumari District, the conservation of ponds and rivers assumes paramount importance in replenishing aquifers. Hence, as per the assertions made by the applicant, the proposed deviation is in conflict with principles pertaining to the environment and ecology. The present case, Application No. 116 of 2013 (W.P.(MD) 8281 of 2011), questions the validity of the Environmental Clearance (EC) issued by the Ministry of Environment, Forest and Climate Change (MoEF & CC) on September 9, 2010. This clearance pertains to the proposed expansion of NH 47 from the Kerala-Tamil Nadu border to Kanyakumari, as well as the Nageroil Kavalkinaru Section of NH 47B. The petitioner challenges the EC on similar grounds as those raised against the project by the National Highways Authority of India. Nevertheless, it should be noted that the aforementioned application has been submitted only by the Conservation of Nature Trust. In the present submission, the applicant has elected to highlight an

additional aspect, namely, the alleged non-compliance of the Environmental Clearance (EC) with the provisions outlined in the EIA Notification of 2006.

**2)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Appeal No. 79 of 2014 (M.A. Nos. 694/2014 and 511/2015)
Decided On: 21.12.2016 Appellants: Debadityo Sinha and Ors.Vs.
Respondent: Union of India and Ors. (MANU/GT/0148/2016)**

Parties

Appellants-student environmentalist, journalist, member eco one zone

Respondent-Union of India

Issue-environment clearance in case of the thermal power project

Legislations - EIA Notification, 2006

Parties involved are the appellant No. 1-Debadityo Sinha, alumnus of Banaras Hindu University, holding a Masters in Environment Science and Technology, claims to be an Environmentalist working in the field of protection and conservation of environment individually and as a founder of Vindhya Bachao Abhiyan. The appellant No. 2-Shiv Kumar Upadhyay, states that he is a senior journalist based in Mirzapur and is a co-founder of Vindhya Bachao Abhiyan. The appellant No. 3- Mukesh Kumar states that he is a student of M.Sc. (Tech.) Environmental Science and Technology from Banaras Hindu University at Rajiv Gandhi South Campus of the University in Mirzapur and he is a member of students 'ECO One' organization specifically formed for active involvement of the students and staff members of the campus in conservation measures in the region and respondent is Union of India.

The main issue is with respect to setting up of thermal power project which involves environment clearance and the appellants have obtained the same by suppressing facts to obtain environment clearance which has become main ground of contention in the above case.

According to the appellants, the Project Proponent suppressed facts to obtain Environment Clearance and there have been violations of the provisions of EIA Notification, 2006 from the beginning of process of grant of clearance till the end; and crucial aspects have been over-looked by the Expert Appraisal Committee and MoEF&CC.

Project Proponent revealed that area in question did not fall in any important high quality or scarce resources zone and report disclosed that project site did not fall in any economically viable zone as per regional map - Procedure adopted for publication of notice of public hearing had been duly followed in present case by its advertisement in national daily and local daily

EC Regulations, 2006 lay down a chain of interconnected processes to make a complete mechanism required to assess the potential impacts of the project or activities on the environment made of several components. Every piece of information/data furnished and/or collected at every stage of the process is expected to be wholesome free from any twist or turn in order to truly aid the correct appraisal of the potential impacts of the project. This expectation of law is evident from the checks and balances provided in EC Regulations, 2006.

Cumulatively, therefore, the entire process of consideration and appraisal of the proposal to grant EC is found tainted so as to render it less credit worthy than the one expected by law and as such makes it even more difficult to suggest the safeguards in order to render the project sustainable one.

We, therefore, answer the question raised herein above negatively. In our opinion, it is advisable to go through the entire process of EC afresh before green signal is given to the project. We, therefore, allow this Appeal and pass the following directions: "1. The Appeal is allowed and EC dated 21-08-2014 is set aside. 2. Respondent No. 4 shall not carry out any developmental work at the project site. 3. The respondent No. 4 shall restore the area to its original condition. 4. Work of restoration is stayed for a period of two months." In view of the above directions

Appeal No. 79 of 2014 stands disposed of. M.A. Nos. 694 of 2014 and 511 of 2015 also stand disposed of.

3) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Appeal No. 1 of 2012 (SZ) Decided On: 29.11.2016
Appellants: **G. Sundarrajan Vs. Respondent: Union of India and Ors. (MANU/GT/0164/2016)**

Parties-

Appellants-environmental activist

Respondent-Union of India

Issue-Coastal Regulation zone clearance granted for nuclear power plant

Legislations – EIA Notification

The appellant who is stated to be an environmental activist and trustee of Poovulagin Nanbargal, a public trust, working on issues with respect to Kudankulam Nuclear Power Plant who has also filed writ petitions before the High Court of Madras in W.P. No. 24770 of 2011 etc., batch, challenging the validity of the Environmental Clearance (EC) and commissioning of units 1 and 2 of Kudankulam Nuclear Power Project (KKNPP) and other proceeding before the High Court for a direction against the Government of India to implement 17 recommendations of the Task Force constituted by the NPCIL, the third respondent herein and Atomic Energy Regulatory Board (AERB).

This appeal is directed against the Coastal Regulation Zone (CRZ) Clearance dated 25.7.2012 granted by the Ministry of Environment and Forest (MoEF) for the Kudankulam Nuclear Power Plant Units 3 - 6, sea water intake and outfall at Kudankulam, Tamil Nadu of M/s. Nuclear Power Corporation of India Ltd., (NPCIL).

The comprehensive Environment Impact Assessment (EIA) and Environment Management Plan (EMP) for the project has been carried out by National

Environmental Engineering Research Institute (NEERI). The Environmental Clearance (EC) was granted by MoEF for units 3 and 4 in September 2008 and units 5 and 6 in December 2009.

However, in this appeal, the appellant seeks to quash the CRZ clearance granted in respect of units 3 to 6. According to the appellant, the project was appraised by the Expert Appraisal Committee (EAC) of MoEF dealing with the infrastructure, miscellaneous projects and CRZ between 2011 and 2012. In the EAC there was no detailed scrutiny and it has not considered the relevant factors.

Tribunal held In view of the constitutional position regarding the binding nature of the decision rendered by the Hon'ble Supreme Court by applying the said salutary principle to the facts of the present case, we are of the considered view that the relief claimed by the appellant in this appeal cannot be granted by this Tribunal. Accordingly, the appeal fails and the same is dismissed, however, without any order as to cost.

4)BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Application No. 157 of 2014 (SZ) Decided On: 04.02.2016
Appellants: **G.D. Martin Vs.** Respondent: **The Union of India and Ors.**
MANU/GT/0014/2016

Parties

Appellant -public spirited person

Respondent-Union of India

Legislation -EIA notification 2006, Wetland rules 2010,Environment Protection Act 1986

The present application is submitted by the Applicant, who is described as a Public-Spirited individual with a vested interest in the preservation of the environment.

The appellant, Kochi Metro Rail Ltd. (KMRL), has been alleged to have engaged in the unauthorized reclamation of several acres of paddy land and wetland. The

location in Choornikkara Village where the proposed construction of the Metro Rail Yard and Maintenance Shed is planned is known for its high fertility, making it one of the most agriculturally productive areas in the State of Kerala. The 10th Respondent has engaged in the unlawful act of encroaching upon an area exceeding 300 acres, a significant deviation from the authorized extent, therefore contravening the directives issued by the State Government. The act of infilling streams and the entirety of the region designated as a wetland is in violation of the Wetland Rules, 2010. The building of the Metro Rail Yard at Muttom, Choornikkara Village has not been granted Environmental Clearance (EC) by the 10th Respondent. It is said that Environmental Clearance (EC) is a compulsory requirement for any construction over an area of 20,000 square meters. Consequently, obtaining clearance under the Environmental Impact Assessment (EIA) Notification is necessary for the implementation of this particular project. The 10th Respondent has engaged in the construction of an unauthorized road by reclaiming agricultural lands and wetlands in the area known as Palaathipadam, which is within the geographical boundaries of the 4th and 9th Respondents. The Applicant asserts that the 10th respondent's illegal behavior flagrantly contravenes the law. A land area measuring 23.6061 hectares has been procured for the purpose of creating a Metro Rail Yard and Maintenance Shed as part of the KMRL project. This land has been filled in by the construction agency known as Delhi Metro Rail Corporation (DMRC), which is responsible for carrying out the necessary civil works. The Environmental Impact Assessment (EIA) was conducted by the Kochi Metro Rail Limited (KMRL) in collaboration with a commercial agency.

The Maintenance Yard for the viaduct has been designed by the Kerala Metro Rail Corporation (KMRL), and a site that is deemed most suitable has been selected. The project in question does not encompass any wetland areas, and therefore does not fall within the jurisdiction of the Wetlands Rules, 2010. This is due to the absence of any conversion of wetlands into paddy fields. A property area measuring 50 hectares has been procured for the development of the Metro Rail Yard and Metro Village project. The primary worry of the applicant pertains to the potential

adverse impact of the project on the surrounding ecology, specifically arising from the extensive conversion of paddy fields, which are classified as wetlands.

The Writ Petition was dismissed by the Honorable High Court on June 26, 2014. The petition sought to cease the conversion of paddylands in Kochi city for the purpose of constructing the Maintenance Yard for the Kochi Metro Rail Project, also known as Metro Village. On October 15, 2014, the Honorable Bench issued an Order of status quo, which stipulated that any future actions, such as land filling for the proposed Metro town, must only be conducted after obtaining proper authorization from the statutory authorities in accordance with the Wetland Rules of 2010.

Wetlands serve as hydrological regulators, effectively absorbing precipitation and modulating its discharge, so contributing to the stabilization of groundwater levels and flood management. The implementation of the KMRL project has the potential to significantly modify the current situation, and if left unchecked, it may result in irreversible harm to the environment. The paddy lands that have been acquired for the project are not situated within the designated Ecologically Sensitive Areas as proclaimed under The Environment (Protection) Act of 1986. The purported illicit activity of Kochi Metro Rail Ltd. (KMRL) in the reclamation of several acres of paddy land and wetland, located within the geographical boundaries of the 4th and 11th Respondents, has resulted in significant environmental harm.

The tribunal convened to address the matter of the formation of Metro Village, for which the State Government had already issued a conditional order stating that conversion should only proceed after undertaking an Environmental Impact Assessment (EIA) study and receiving an Environmental Clearance (EC). Therefore, it is premature to go into the merits of the case at this stage. The Applicant retains the option to contest the Environmental Clearance (EC), if and when it is granted, in accordance with the conditions outlined in the NGT Act of 2010. However, in light of the accusation made by the Applicant regarding the conversion of a significant area of paddy fields, we hereby instruct the District

Collector to conduct a collaborative examination with the KMRL project authorities within a period of four weeks from the issuance of this directive. The purpose of this inspection is to ascertain whether the project proponent has exceeded the authorized limit of 23.605 hectares for the conversion of land in order to establish the Metro Rail Yard and Maintenance Shed. Additionally, the inspection will determine if any adjacent government or private land, beyond the aforementioned limit, has been filled with soil and if the Yard has been extended beyond the permissible boundaries. If any violations are discovered, appropriate measures will be taken against the project proponent in accordance with the applicable regulations. Following the aforementioned instructions, the Application is discarded.

5) BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE BENCH, PUNE Application No. 85/2015 (WZ), M.A. Nos. 175/2015 and 8/2016 Decided On: 07.04.2016 Appellants: **Goa Foundation Vs.** Respondent: **Goa State Infrastructure Development Corporation and Ors. MANU/GT/0042/2016**

The present application was submitted on the 9th of August, 2015, in order to request the enforcement of compliance with the provisions outlined in the EIA Notification of 2006 and the CRZ Notification of 2011. The application pertains to the construction of the third bridge across River Mandovi in Goa, which is alleged to be taking place without the requisite Environmental Clearance (EC), environmental studies, environmental management plan, or other necessary environmental safeguards.

The applicant asserts that the building of the bridge has begun without obtaining the necessary environmental clearance as mandated by the Coastal Regulation Zone (CRZ) notification and the Environmental Impact Assessment (EIA) Notification of 2006. This issue is deemed significant in relation to the environment. The legal representative for the Applicant aptly asserts that they do not oppose the construction of the bridge, nor do they seek to halt or dismantle its construction.

Their sole request is to ensure the sufficient protection of the environment, specifically in relation to the intrinsic riverine system, safeguarding of livelihoods, and preservation of mangroves.

The Goa State Infrastructure Development Corporation (GSIDC) is designated as Respondent No. 1 and has been entrusted by the State of Goa, specifically referred to as Respondent No. 4, with the responsibility of carrying out the building of this bridge. Respondent No. 2 and 3 represent the legally mandated bodies established in accordance with the provisions outlined in the Environment (Protection) Act of 1986. These bodies are known as the Goa State Environment Impact Assessment Authority (Goa-SEIAA) and the Goa Coastal Zone Management Authority (GCZMA) respectively. The individual identified as Respondent No. 5 holds the esteemed position of Principal Chief Conservator of Forest in the state of Goa. The Ministry of Road Transport and Highway, a governmental body in India, and the National Highway Authority of India are identified as Respondent Nos. 6 and 8, respectively. On the other hand, M/s. Larsen and Toubro, the contractors responsible for carrying out the project, are referred to as Respondent No.

The applicant contends that the GCZMA has issued the NOC without conducting an assessment of the potential impact of the proposed construction on the river banks and the surrounding riverine region. The applicant argues that the Grant Coastal Zone Management Authority (GCZMA) proceeded to issue the No Objection Certificate (NOC) without possessing a comprehensive construction plan, methodology, and an assessment of potential environmental impacts and protection measures. This decision was likely influenced by the pressure to comply with the demands of a government project. The GCZMA has neglected to account for the cumulative effects of the current bridges, remnants of the collapsed bridge, the presence of mangroves in the vicinity, and the current ecological condition of the river. These factors could have been adequately documented if the Environmental Impact Assessment (EIA) report had been mandated, as suggested by the experts of the GCZMA.

The following issues necessitate judgment in the matter:

Is the Application subject to limitation?

2. Does the construction of the bridge in question need obtaining environmental clearance in accordance with the Environmental Impact Assessment (EIA) Notification of 2006 and/or the Coastal Regulation Zone (CRZ) Notification of 2011?

3. This inquiry pertains to the adoption of appropriate procedures by the GCZMA in awarding the NOC on 4th March 2014, as well as the implementation of essential measures to mitigate potential environmental harm.

Is it necessary for the Tribunal to offer specific directives regarding the adjudication of the aforementioned issues? The Tribunal, in consideration of the aforementioned conclusions, deems it essential to issue the following directives in accordance with the authority granted to it under sections 19 and 20, relying on the precautionary principle.

GSIDC will be required to submit an application for Coastal Regulation Zone (CRZ) clearance in accordance with clause 4.2 of the CRZ Notification 2011. This application should include all relevant information, such as an updated Environmental Impact Assessment (EIA) and CRZ classification. The Goa Coastal Zone Management Authority (GCZMA) will then assess the application and make a decision based solely on its own merits, without being influenced by the findings of any previous orders. This decision should be made within one month of receiving the application.

II) The full process of submitting the application and making a decision on it must be completed within a period of four (4) months from the date of this order. Failure to do so would result in the suspension of construction activity on the bridge until the necessary Coastal Regulation Zone (CRZ) clearance is acquired. The Gulf Coastal Zone Management Authority (GCZMA) is required to provide a compliance report within a period of four (4) months.

III) Meanwhile, the GCZMA will promptly conduct an inspection of the construction activities to verify that the bridge construction does not have any detrimental impact on the coastal environment.

IV) The Goa Coastal Zone Management Authority (GCZMA) will allocate a sum of Rs. 5,00,000/- (five lakhs rupees) to be deposited with the Collector of North Goa. This fund will be utilized for various environmental initiatives, such as raising awareness, protecting coastal areas, and re-planting mangroves. In addition, the GCZMA is obligated to reimburse the Applicant with a sum of Rs. 1,00,000/- (one lakh rupees) as compensation for legal expenses. The aforementioned expenses have to be settled within a period of four (4) weeks.

6)BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Application No. 178 of 2013 (SZ) and WP (MD) No. 3155 of 2007 Decided On: 09.03.2016 Appellants: Industrial Mineral Company Vs. Respondent: Member Secretary, Tamil Nadu State Coastal Zone Management Authority and Ors. MANU/GT/0091/2016

We hold the perspective that if the operations of the Pre-Concentration Plant can be conducted in a secure manner beyond the Coastal Regulation Zone (CRZ) region, it is justifiable to enforce the requirement that the establishment of the Pre-Concentration Plant must occur beyond the CRZ area. Moreover, in cases where these activities are explicitly forbidden by the Coastal Regulation Zone (CRZ) Notification of 1991 and 2011, and the applicant has willingly obtained the Environmental Clearance (EC) issued by the Ministry of Environment and Forests (MoEF), it is not within the applicant's purview to argue for the invalidation of this paragraph.

The Pre-Concentration Plant is classified as an industrial operation. The subject matter does not have a direct correlation with waterfront areas nor does it necessitate the presence of a fore-shore infrastructure. The task has the potential to be accomplished within the terrestrial region located outside the Coastal Regulation

Zone (CRZ). In the case of *S. Jaganath v. Union of India and others*, the esteemed Supreme Court, in its judgment on 11th December 1996, made the following observation: "The primary objective of the Coastal Regulation Zone (CRZ) notification is to ensure the preservation of environmentally sensitive coastal regions and to safeguard the aesthetic attributes and functions of the coastline." The establishment of contemporary shrimp aquaculture facilities directly along coastal areas, involving the construction of ponds and associated infrastructure, inherently poses risks and is likely to result in the deterioration of marine ecology, coastal environments, and the aesthetic value of these coastal regions. Consequently, we possess no reservations in asserting that the shrimp aquaculture sector is not inherently connected to waterfront areas nor does it necessarily require access to fore-shore amenities. The establishment of shrimp culture farms within the restricted zone as defined by the Coastal Regulation Zone (CRZ) notification is not permissible.

The first respondent in this case has issued a directive to the applicant, instructing them to cease the aforementioned activity of operating a Pre-Concentration Plant within the Coastal Regulation Zone (CRZ) area. The directive outlines the violations of the Environmental Clearance (EC) committed by the applicant, which include the extraction of groundwater for the mineral concentration plant within a distance of 200 meters from the High Tide Line, as well as the alteration of natural features, including changes to the landscape. Furthermore, the author contends that these actions are forbidden according to paragraph 3 of the Coastal Regulation Zone (CRZ) Notification, 1991. Additionally, the CRZ Notification, 2011 likewise restricts similar operations within the CRZ region. Activities related to the extraction of rare minerals, such as pre-concentration, mineral separation, and processing, do not necessarily require proximity to a water source and can be situated at a distance from coastal areas.

This application challenges the implementation of condition No. (v) of the Specific Conditions of Environmental Clearance (EC) issued by the Ministry of Environment and Forests (MoEF) of the Government of India on 21.3.2006.

Condition No. (v) stipulates that the Pre-Concentration Plant must be situated outside the Coastal Regulation Zone (CRZ) area. Failure to comply with this condition may result in the dismissal of the application. The applicant has the option to provide any statements, if recommended, to the relevant authorities. These statements will be evaluated by the authorities based on their merits and in compliance with the law.

7) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Application No. 56 of 2012 (SZ) Decided On: 28.10.2016
Appellants: **Janajagrithi Samithi Vs.** Respondent: **Union of India and Ors.**
MANU/GT/0162/2016

The applicant is a registered Society under the Societies Registration Act, 1860. It comprises residents from several villages like Nandikur, Yellur, Santhur, Thenka, Padebettu, Palimar, Nadsal, and other neighboring villages within the Udupi District of Karnataka.

As to the applicant Society, the designated region spanning 115 acres in Survey Nos. 155 and 169 of Nandikur Village is referred to as "Devara Kadu," denoting a "God Forest" or "Sacred Grove." As per the assertions made by the applicant, the entirety of the region, encompassing the trees, possesses distinct characteristics in terms of its natural attributes. It is noteworthy that Devara Kadu is specifically designated for the veneration of Goddess Mahishasura Mardhini Sri Durga Parameshwari, and various religious rituals have been performed at this site for a duration exceeding four centuries. The applicant further asserts that the forested region serves as a habitat for a diverse range of fauna, including peacocks, wild boars, and reptiles, in addition to many types of migrating birds. Furthermore, it is worth noting that the Mulki River Estuary is situated in close proximity to this area. The customary practice necessitates the upkeep of Devara Kadu, as well as the adjacent waterbody, in order to ensure that the forest effectively aids in the

collection of rainwater for the water tank by facilitating the percolation of water into these reservoirs.

According to the provided information, it has been indicated that the Government of Karnataka, identified as the second respondent, transferred the possession of Devara Kadu in Nandikur Village to the Karnataka Industrial Area Development Board (KIADB), referred to as the third respondent, on the 15th of March, 2007. The fifth party involved in wind mill component manufacturing for renewable energy production is currently endeavoring to utilize the Devara Kadu area for non-forest purposes. This involves the establishment of industrial activities that are potentially harmful to the environment, without acquiring the necessary authorization as mandated by the Forest (Conservation) Act of 1980. According to the information provided, the fifth respondent has established a manufacturing facility and acquired land in the Special Economic Zone (SEZ) region.

The applicant expresses concern that the fifth respondent is inclined to approve the request to remove the remaining trees. Additionally, it is believed that the State Expert Appraisal Committee (SEAC) has determined that a "public hearing" is unnecessary, leading the State Environmental Impact Assessment Authority (SEIAA) of Karnataka to potentially grant Environmental Clearance (EC) to the fifth respondent for the purpose of constructing, modernizing, and expanding its manufacturing facilities.

The tribunal was convened. The user's text does not contain any information to rewrite in an academic manner. The Tribunal does not find any significant environmental concerns that need examination, as the State of Karnataka officially designated the area as an industrial zone on April 5, 1995. However, the current application was submitted in the year 2012, which is evidently subject to a statute of limitations. The application filed does not involve any significant environmental concerns. The respondent has raised concerns regarding the cause of action, asserting that it originated in both 1995 and 2008. Furthermore, they argue that the application, filed in 2012, is time-barred.

The respondent cited in the response dated February 27, 2013, has asserted that the application is flawed and is subject to limitation as per Section 14(3) of the National Green Tribunal Act, 2010. This is because the application was not submitted within the specified timeframe outlined in the aforementioned provision.

The application is deemed to be precluded by the statute of limitations, and the Tribunal lacks the authority to prolong the limitation period beyond the allowed threshold as stipulated in the legislation. The user further argued that the Tribunal, which was established under the NGT Act, is obligated to operate within the confines of the legislation. Specifically, Section 14(3) of the NGT Act sets a time restriction of six months from the initial occurrence of the cause of action. The cause of action originated in 2008, and the applicant Society, having engaged in litigation for several years, cannot deny its awareness of this fact. In the event that the six-month period has elapsed, the Tribunal may grant an additional sixty days upon the presentation of a separate application demonstrating sufficient cause. Consequently, the Tribunal lacks the authority to excuse delays beyond this sixty-day extension, and Section 5 of the Limitation Act is inapplicable.

Upon careful examination from many perspectives, it is evident that the applicant does not possess the right to obtain any form of relief as stated in this application. Consequently, the application is deemed unsuccessful and thereafter dismissed.

8)BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE BENCH, PUNE Application No. 92/2016 (WZ) Decided On: 29.11.2016 Appellants: Kashinath Jairam Shetye and Ors.Vs. Respondent: Deltin Carevela and Ors. (MANU/GT/0134/2016)

Issue-environment damage

Application filed for direction to Respondent to remove Hotel from River and for compensation for loss of livelihood to fishermen and damage to environment The questions involved were -Whether Respondent Hotel was violating CRZ norms in

NDZ - Held, it did not appear that there was any fraudulent conduct or any fraud played by Respondent, Location did not violate any of provisions of Notification issued by Ministry of Environment - Applicants have not challenged any of permissions granted by Authorities - Cause of action was dissipated rendering relief sought in application was infructuous - Application disposed of.

The Applicants claiming to be environmentalists have initiated this Application under Section 14, 15, 16 and 17 of the National Green Tribunal Act, 2010 seeking direction to Deltin Caravel (M.V. Royale Flotel) Registration No. KWR-050 to be removed from the Mandovi River and placed outside 12 nautical miles as it is alleged to be running offshore Casino/Flotel/Hotel of Commercial area of 4400 m². They also seek direction to Government and Ministry of Environment and Forest to declare one km buffer zone - Dr. Salim Ali Bird Sanctuary Charao Tiswadi, Goa as per Government guidelines and the Draft Notification dated 03.03.2014 issued in terms of the order of Hon'ble Supreme Court. The third direction sought is against Goa Coastal Zone Management (GCZMA)/Biodiversity Board and Ministry of Environment and Forest to seal the Off Shore Gambling Casino/Flotel/Hotel i.e., Deltin Carevela which is alleged to be violating CRZ norms in NDZ. Last direction is against Goa State Pollution Control Board (GSPCB) to withdraw the consent to operate as the consent was initially taken for one namely Vessel Royale Flotel Registration No. BDR-IV01341 and replaced by Royale Flotel Registration No. KWR-050 alleged to be result of fraud played by Respondent No. 1 on GSPCB. They also seek compensation for loss of livelihood to Fishermen and damage to environment. The Applicants had also sought interim directions against GCZMA to stay commercial activities in NDZ of CRZ by the Vessel Deltin Carevela by M.V. Royale Flotel in buffer zone of Dr. Salim Ali Bird Sanctuary Charao in Mandovi River and also, immediate withdrawal of mooring permission granted by Captain of Ports and summoning of James Braganza and Sharmila Monterio for giving permission in violation of laws. Thus, we do not find that there is any fraudulent conduct or any fraud played by the 1st Respondent. Either way, the averments in the Application itself is that Vessel in respect of which registration

has been granted had a provision for Casino. The Applicants have not disputed this factual aspect but we are satisfied that the location of the Vessel is at location which is beyond the Eco Sensitive Zone specified in the Final Notification dated 24th February, 2015. On this ground the petition fails. The second issue is about grant of permissions to the Vessel by Statutory Authorities viz. Respondent No. 3 - GCZMA, Respondent No. 4 - Forest Department, Respondent No. 5 - Bio Diversity Board, Respondent No. 9 - The Director of River and Navigation Department and the permission granted by Captain of Ports. There is no need to spend time in this issue for the reason except making a reference to those permissions and orders, the Applicants have not challenged any of the consents/permissions granted by the Authorities nor it has questioned the jurisdiction of the Captain of Ports to permit sailing of the Vessel into the Mondovi River to be moored in the present location. Lastly, it is seen that even though the Applicant made allegation about location of the Deltin Carevela in a distance approximate to Dr. Salim Ali Bird Sanctuary allegedly in Eco-Sensitive Zone, by virtue of the order passed by Captain of Ports during the hearing of this matter, the Vessel has been removed from that position in which it was admittedly positioned to a position beyond the Eco-Sensitive Zone covered under both the Notifications referred to above. Therefore, the cause of action is dissipated rendering the relief sought in the Application is infructuous. In the circumstances, we find no merit in the Application.

9) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Appeal No. 37 of 2014 (SZ) Decided On: 15.02.2016
Appellants: **Kayalpatnam Environmental Protection Association Vs.**
Respondent: **Union of India and Ors. (MANU/GT/0024/2016)**

The Appellant, Kayalpatnam Environmental Protection Association (KEPA), is a Society registered under the Tamil Nadu Societies Registration Act, 1975 The Appellants, being aggrieved by the severe pollution caused by Dharangadhara Chemical Works Limited (DCW Ltd.), the 2nd Respondent herein, filed this Appeal challenging the grant of Environmental Clearance (EC) dated 24.02.2014 by the Ministry of Environment, Forests & Climate Change (MoEF&CC), the 1st

Respondent herein, for the construction of a new plant and expansion of the production capacity of existing units of the 2nd Respondent. It is stated in the Appeal that though the public notification of the EC was given on 05.03.2014 it was uploaded on the 1st Respondent's website only on 10.03.2014. Moreover, the URL address given in the public notice was inaccurate which prevented anybody from accessing the documents.

Tribunal held Considering the fact that the industrial unit of the 2nd Respondent, Project Proponent was established almost 6 decades ago in an era when virtually no environmental/pollution laws and regulations were under existence in this country, and bringing in new enactments and enforcement of Environmental/Pollution laws only in the past 4 decades beginning with Water Act, 1974 and also considering the nature of the industry, that the Mercury cell technology was the only choice left which subsequently became obsolete because of the advancement in technology, the whole issue requires a holistic approach and to be looked in a broader prospective. Further, after an elaborate exercise undertaken by the Project Proponent and after a thorough scrutiny and site inspections, the proposal was recommended by the EAC for granting the EC. Moreover, as there is a substantial compliance of the conditions imposed in the EC granted earlier for the existing units of the Project Proponent and suitable steps were taken to mitigate the pollution, we arrive at a conclusion and do not agree with the contentions of the Appellant that there are strong grounds of non-compliance of the safeguards provided under the Environment (Protection) Act, 1986 and procedure prescribed under the EIA Notification, 2006 and therefore, the entire process of granting the impugned EC is vitiated, warranting it to be set aside.

In view of the discussions made, the Tribunal is unable to notice any ground/reason to set aside the EC dated 24.02.2014 granted in favor of the 2nd Respondent by the 1st Respondent. Hence, the appeal stands as dismissed. It is also made clear that the Appellant association is at liberty to initiate necessary proceedings for appropriate reliefs whenever there is any violation of conditions attached to the EC by the 2nd Respondent.

10) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Application No. 100 of 2015 (SZ) Decided On: 25.01.2016
Appellants: **M. Paul Rose and Ors.** Vs. Respondent: **The Secretary to Government, Department of Environment, Forest and Climate Change and Ors. (MANU/GT/0009/2016)**

The first applicant is identified as the Vice President of the Kombuthurai Oor Nala Committee, authorized to submit the application as per the resolution dated 05-04-2015. The second applicant is identified as the Secretary of the Kombuthurai Mangrove Forest Protection Committee, operating under the auspices of the CEDA Trust. This committee has been actively involved in numerous projects related to Tsunami rehabilitation and the promotion of various environmental causes.

The applicants are stated to be aggrieved by the action of 6th respondent Municipality in attempting to setup a municipal land fill facility in Survey. No. 278 Kayalpattinam South village which according to the applicants is in violation of Coastal Regulation Zone Notification, 1991, Municipal Solid Wastes (Management and Handling) Rules, 2000 (MSW Rules), Environmental Impact Assessment (EIA) Notification 2006, Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and other provisions of law and therefore prayed for a permanent injunction restraining the said respondents from establishing/setting up of any composting yard or bio-methanation plant or any solid waste land fill or procuring facility in the said Survey Number and also sought for a direction against respondent Nos. 1 and 11 to initiate appropriate action against 6th and 7th respondents for violating EIA Notification, 2006 and to direct respondent Nos. 1, 8 and 11 to take appropriate action against respondent Nos. 6 and 7 for violating MSW Rules 2000, Water Act 1974, Air Act 1981 and to restore its status quo by demolishing all constructions.

Issues: 1. Whether the proposed Municipal Solid Waste Processing Facility, as suggested by the 6th respondent in S.R. No. 278/1B, necessitates a valid prior Environmental Clearance (EC) under the Environmental Impact Assessment (EIA)

Notification of 2006, in addition to the Authorization under the Municipal Solid Waste (MSW) Rules of 2000, and the Consent to Establish under the Water Act of 1974 and the Air Act of 1981.

2. Has the 6th respondent contravened the provisions of the MSW Rules, 2000, Water Act, 1974, and Air Act, 1981, in formulating the proposal for the Municipal Solid Waste Processing Facility?

Should the project of the 6th respondent be permitted to proceed or not? In this study, we aim to investigate the effects of a particular drug on the behavior of

The tribunal considered the application made by the 6th respondent for authorization under the Municipal Solid Waste (MSW) Rules, 2000, to establish a Municipal Solid Waste Processing Facility on a 4.2-hectare area in S.R. No. 278/1B. Additionally, the 6th respondent applied separately for Consent to Establish a Biomethanation Plant on the remaining 0.3-acre area. However, it is not appropriate to classify this as a Comprehensive Municipal Solid Waste Management Facility (CMSWMF) according to item 7(i) of the MSW Rules. Hence, it is our contention that obtaining prior EC under the specific facts and circumstances of the case is not necessary, and therefore, the 6th respondent has the right to proceed with the program.

When considering the conclusion of this matter, it is important to acknowledge that a public project of this nature is being hindered as a result of internal conflicts among municipal members, including the president. Such actions, which disregard the collective welfare of the populace, should be avoided. The objective of sustainable development is not to undermine any public projects, but rather to ensure a balance with the public interest. This is achieved by incorporating the most advanced technology available within the framework of the project, with the intention of preserving the environment. Under no circumstances may the advancement for societal advantage be restricted. In conducting an investigation of the factual elements of this case, it is pertinent to note that the petitioners have not stated any significant environmental concerns.

11) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Application No. 261 of 2014 (SZ) Decided On: 08.07.2016
Appellants: **Mohammed Kabir and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0088/2016**

Environment - Pollution - Application filed against environmental degradation and pollution caused by Respondent industries - Whether Respondent industries degraded environment of locality - Held, Respondent fish meal and fish oil manufacturing units indulged in negligence, violated pollution control norms thereby causing pollution to adjacent estuary waters by discharging untreated effluents and also caused nuisance and health hazard to nearby residents by emanating mal odour and stench - It was clear violation of notification and authorities failed to appreciate fact and granted NOC and also consent - Unit was existing illegally in violation of CRZ notification 1991 - Operation of unit of Respondent should be stopped and unit might be directed to remove machinery and equipment and vacate site - Direction issued that KSPCB should continue to monitor units - Application disposed. Thus, the above factual position indicates that the respondent fish meal and fish oil manufacturing units indulged in negligence, violated the pollution control norms thereby causing pollution to the adjacent estuary waters by discharging untreated effluents and also caused nuisance and health hazard to the nearby residents by emanating malodour and stench. In spite of repeated notices and directions given by various authorities they did not mend their ways and continued to operate the units in utter disregard of the environmental concerns. It is pertinent to note that the KSPCB itself on several occasions found that the respondent industries have failed to establish the CETP in spite of several directions issued from time to time. And even after installation of CETP it was not properly maintained. We, therefore, feel this answers question No. 3 and it is a fit case to invoke the 'Polluter pays' principle against the respondents for having operated the fish meal and fish oil production units without taking adequate pollution control measures we also make the association of the units i.e. respondent

No. 24 responsible for not operating the CETP properly which lead to causing of pollution and consequent damage to the environment. In respect of unit of the respondent No. 21 which was established for the first time in Sept. 1991 viz. after the CRZ Notification 1991 came into force, it is clear violation of the notification and the authorities failed to appreciate this fact and granted NOC and also Consent. The unit is existing illegally in violation of CRZ Notification 1991. Therefore, we order that the operation of the unit of the respondent No. 21 shall be stopped forthwith and the unit may be directed to remove the machinery and equipment and vacate the site within one month from the date of this judgment and the Port Department shall cancel the lease and resume the land. 47. We direct that the KSPCB shall continue to monitor the units and do not allow them to operate unless the CETP is made to function by meeting all the required standards and all/ oil the individual units install the deodorisers and evaporators and make them fully functional.

Result and analysis for the year 2016

In the case of **Appellants: Conservation of Nature Trust and Ors. Vs. Respondent: The District Collector, Kanyakumari District and Ors. (MANU/GT/0118/2016)** The concerns at hand pertain to the environmental clearance provided by the Ministry of Environment, Forest and Climate Change (MOEF) and the infringement of the Environmental Impact Assessment (EIA) notification of 2006. The issue pertains to the challenge against the environmental clearance granted by the Ministry of Environment and Forests for the expansion of the National Highway. This expansion project has had adverse effects on seven system tanks, multiple natural springs, three temple tanks, and the delicate Valliyar River Valley, thereby impacting the sensitive and fragile ecology of Kalkulam Taluk in the Kanyakumari District. Additionally, the project has resulted in an increased cost of constructing an additional 2 kilometers of road, leading to unnecessary financial burden on the public exchequer amounting to millions of rupees. Furthermore, the project has caused the destruction of 140 houses, displacement of approximately 200 families, and the obliteration of around 500

tombs in three graveyards. Moreover, the small-scale industries, which are the sole source of livelihood for many families, will also be negatively affected. Furthermore, the altered route forms a curve and is not conducive to the smooth flow of traffic when compared to the originally approved alignment. The agricultural sector serves as the fundamental pillar of the Kanyakumari District. In order to replenish groundwater resources, it is imperative to prioritize the conservation of ponds and rivers. Hence, as per the assertions made by the applicant, the proposed deviation is in conflict with principles pertaining to the environment and ecology. The NGT method in this case involved the tribunal's determination that the Environmental Appraisal Committee (EAC) did not conduct a thorough assessment. Consequently, the issue that now requires examination is whether, based on this finding and the specific facts and circumstances of the case, the Environmental Clearance (EC) granted by the Ministry of Environment, Forest and Climate Change (MoEF & CC) should be invalidated. Given that all aspects of the Environmental Clearance (EC) process have been conducted in compliance with the EIA Notification, 2006, with the exception of the "appraisal" phase, it is our considered opinion that rather than completely disregarding the EC, it would be more appropriate to temporarily suspend it for a duration of six months. During this period, the Ministry of Environment, Forest and Climate Change (MoEF & CC) should refer the matter to the Expert Appraisal Committee (EAC) for a reassessment, taking into account the aforementioned facts. Subsequently, the EAC should provide recommendations based on which the Regulatory Authority can issue appropriate final orders. In the case of **Appellants: Debadityo Sinha and Ors. Vs. Respondent: Union of India and Ors. (MANU/GT/0148/2016)** The matter is with respect to environment clearance granted to a thermal power project in non-compliance of EIA Notification 2006 which is basically a means to check sustainability of the project in terms of potential impacts of the project on the environment and ecology, every data provided is scrutinized under the EIA regulation, crucial aspects have been over-looked by the Expert Appraisal Committee and MoEF&CC. NGT approach-go through the entire process of EC

afresh and EC is set aside, respondents not to carry out any developmental project and to restore the area to its original condition. In the case of Appellants: **G. Sundarrajan Vs. Respondent: Union of India and Ors. (MANU/GT/0164/2016)** The matter is with respect to CRZ clearance which has been granted by the appraisal of the expert appraisal committee and contention is that the detailed scrutiny has not been done as relevant factors has not been considered. NGT approach -relief claimed cannot be granted due to the binding nature of the decision of the supreme court on this. In the case of Appellants: **G.D. Martin Vs. Respondent: The Union of India and Ors. MANU/GT/0014/2016**The issue is to the development of a metro rail system, which entails the acquisition of paddy lands and wetlands that are officially designated as wetlands. Additionally, there is a lack of compliance with environmental clearance procedures, as well as the construction of an unauthorized road on paddy fields. The purported illicit activity undertaken by Kochi Metro Rail Ltd. (KMRL) in the reclamation of several acres of paddy land and wetland under its geographical jurisdiction has resulted in significant environmental degradation. Wetlands serve as hydrological regulators by effectively collecting precipitation and modulating its discharge, so contributing to the stabilization of groundwater levels and the management of flood events. The implementation of the KMRL project has the potential to significantly modify the current situation, and if left unchecked, it could result in irreversible harm to the environment. The Writ Petition was dismissed by the Honorable High Court on June 26, 2014. The petition aimed to request a cessation to the conversion of paddylands in Kochi city for the purpose of constructing the Maintenance Yard for the Kochi Metro Rail Project, also known as Metro Village. On October 15, 2014, the Honorable Bench issued an Order of status quo, which stipulated that any future actions, such as land filling for the proposed Metro town, must only be conducted after obtaining proper authorization from the statutory authorities in accordance with the Wetland Rules of 2010. The NGT approach pertains to the formation of Metro Village, for which the State Government has already issued a conditional order stating that conversion should only proceed after performing an

Environmental Impact Assessment (EIA) study and getting an Environmental Clearance (EC). Therefore, it is premature to delve into the merits of the case at this stage. The District Collector will undertake a collaborative examination with the KMRL project authorities within a four-week timeframe from the issuance of this directive. The purpose of this inspection is to ascertain whether the project proponent has exceeded the approved area of 23.605 hectares of paddy lands for the establishment of the Metro Rail Yard and Maintenance Shed. Additionally, the inspection will determine if any adjacent government or private land, beyond the aforementioned 23.605 hectares, has been filled with soil and if the Yard has been extended beyond the legally permissible boundaries. In the event that any violations are identified, appropriate action will be taken against the project proponent in accordance with the relevant provisions. Following the aforementioned instructions, the Application is discarded.. In the case of Appellants: **Goa Foundation Vs. Respondent: Goa State Infrastructure Development Corporation and Ors. MANU/GT/0042/2016** The construction of the third bridge across the River Mandovi in Goa has been purportedly undertaken without the requisite Environmental Clearance (EC), environmental studies, environmental management plan, or other environmental safeguards. The commencement of bridge construction without obtaining the necessary environmental clearances under the Coastal Regulation Zone (CRZ) notification and Environmental Impact Assessment (EIA) Notification of 2006 raises a significant concern pertaining to the environment. The individuals in question do not express opposition to the construction of the bridge, nor do they advocate for its cessation or demolition. Their primary concern lies in ensuring the necessary protection of the environment, namely with regards to the intrinsic riverine system, livelihood preservation, and mangroves. The GCZMA has issued a No Objection Certificate (NOC) without conducting an assessment of the potential impact of the proposed construction on the banks and in the riverine environment. The applicant contends that the GCZMA, lacking a comprehensive construction plan, methodology, and an assessment of potential environmental impacts and safeguard measures, proceeded

to issue the No Objection Certificate (NOC) under the influence of peer pressure associated with handling a government project. The GCZMA has neglected to take into account the collective influence of the current bridges, remnants of the collapsed bridge, the presence of mangroves in the vicinity, and the current ecological condition of the river. These factors could have been adequately documented if the Environmental Impact Assessment (EIA) report had been made mandatory, as suggested by the experts of the GCZMA. The Ngt Approach, in accordance with the authority granted to the Tribunal under sections 19 and 20, has issued the following directives based on the precautionary principle. The Goa State Infrastructure Development Corporation will be required to submit an application for Coastal Regulation Zone (CRZ) clearance in accordance with clause 4.2 of the CRZ Notification 2011. This application must include all necessary information, such as an updated Environmental Impact Assessment (EIA) and CRZ classification. Until the CRZ clearance is obtained, the construction work on the bridge will be temporarily halted. The submission of a compliance report by the GCZMA is required within a period of four (4) months. The Gulf Coastal Zone Management Authority (GCZMA) is urged to promptly conduct an inspection of the ongoing construction activity and take necessary measures to guarantee that the construction of the bridge does not have any detrimental impact on the coastal environment. The Goa Coastal Zone Management Authority (GCZMA) is required to allocate a sum of Rs. 5,00,000/- (five lakhs rupees) to the Collector of North Goa. This fund will be utilized for various environmental initiatives, such as raising awareness, protecting coastal areas, and re-planting mangroves. In addition, the GCZMA is obligated to reimburse the Applicant with a sum of Rs. 1,00,000/- (Rupees one lakh) as compensation for legal expenses. The aforementioned expenses have to be settled within a period of four (4) weeks. In the case of Appellants: **Janajagrithi Samithi Vs. Respondent: Union of India and Ors.** MANU/GT/0162/2016 The applicants are individuals who reside in the Karnataka district and are impacted by the ongoing situation at hand. They are registered as a society under the Society Registration Act of 1860. The matter pertains to the God

Forest, a place known for its diverse fauna population including peacocks, wild boars, reptiles, as well as many types of migratory birds. Additionally, the Mulki River Estuary is situated in close proximity to this forest region. The customary practice necessitates the preservation of Devara Kadu, in conjunction with the adjacent waterbody, in order to ensure that the forest effectively contributes to the water tank's catchment by facilitating the percolation of rainwater into these reservoirs. The appellant contends that the Government of Karnataka transferred the possession of Devara Kadu in Nandikur Village to the Karnataka Industrial Area Development Board (KIADB) on March 15, 2007. The fifth party involved, engaged in the fabrication of wind mill components for renewable energy generation, is making an effort to utilize the Devara Kadu for non-forest purposes. This involves the establishment of industrial activities that have the potential to cause pollution, without acquiring the necessary permit as mandated by the Forest (Conservation) Act of 1980. According to the information provided, the fifth respondent has established a manufacturing facility and acquired land in the Special Economic Zone (SEZ) region. The applicant expresses concern that the respondent may obtain environmental clearance for the building, modernization, and expansion of its manufacturing units. The application is deemed inadmissible due to the constraint of restriction, and the Tribunal lacks the authority to exceed the prescribed time limit as stipulated by the Act. The Tribunal, which was established under the NGT Act, is bound by the provisions of the statute. Specifically, Section 14(3) of the NGT Act sets a limitation period of six months from the date the cause of action first arose. In this case, the cause of action arose in 2008, and the applicant Society cannot deny their knowledge of this fact, as they have been filing cases in various courts for many years. The Tribunal can only grant an additional sixty days beyond the six-month period if sufficient cause is shown, and this can only be done by filing a separate application. Therefore, once the sixty-day period has passed, the Tribunal itself does not have the authority to excuse any further delay, and Section 5 of the Limitation Act does not apply. The applicant is not eligible to receive any relief as stated in this application. Consequently, the application is

deemed unsuccessful and thereafter dismissed.. In the case of **Appellants: Kashinath Jairam Shetye and Ors.Vs. Respondent: Deltin Carevela and Ors. (MANU/GT/0134/2016)** Applicants are environmentalist who have initiated application under sec 14,15,16,17 of the NGT Act 2010 seeking to remove hotel from river and for compensation for loss of livelihood to fisherman and damage to the environment. The question also involves whether hotel was violating CRZ in no development zone (NDZ), Applicants have not challenged any of permissions granted by Authorities that is GCZMA, Forest Department, Bio Diversity Board, The Director of River and Navigation Department and the permission granted by Captain of Ports. NGT approach- Held, it did not appear that there was any fraudulent conduct or any fraud played by Respondent, Location did not violate any of provisions of Notification issued by Ministry of Environment, Cause of action was dissipated rendering relief sought in application was infructuous - Application disposed of. In the case of Appellants: **Kayalpatnam Environmental Protection Association Vs. Respondent: Union of India and Ors. (MANU/GT/0024/2016)** the case is filed by Kayalpatnam Environmental Protection Association (KEPA) which is a Society registered under the Tamil Nadu Societies Registration Act, 1975 being aggrieved by the pollution caused by the chemical industry and also issue of environment clearance with respect to public notification. NGT approach- Project Proponent was established almost 6 decades ago in an era when virtually no environmental/pollution laws and regulations were under existence in this country, and bringing in new enactments and enforcement of Environmental/Pollution laws only in the past 4 decades beginning with Water Act, 1974 and also considering the nature of the industry, that the Mercury cell technology was the only choice left which subsequently became obsolete because of the advancement in technology, the whole issue requires a holistic approach and to be looked in a broader prospective. Further, after an elaborate exercise undertaken by the Project Proponent and after a thorough scrutiny and site inspections, the proposal was recommended by the EAC for granting the EC. Moreover, as there is a substantial compliance of the conditions imposed in the EC granted earlier for the existing

units of the Project Proponent and suitable steps were taken to mitigate the pollution, we arrive at a conclusion and do not agree with the contentions of the Appellant that there are strong grounds of non-compliance of the safeguards provided under the Environment (Protection) Act, 1986 and procedure prescribed under the EIA Notification, 2006. the Tribunal is unable to notice any ground/reason to set aside the EC dated 24.02.2014 granted in favor of the 2nd Respondent by the 1st Respondent. Hence, the appeal stands as dismissed. In the case of Appellants: **M. Paul Rose and Ors.Vs. Respondent: The Secretary to Government, Department of Environment, Forest and Climate Change and Ors. (MANU/GT/0009/2016)** The individuals filing the appeal are the Vice President of the Kombuthurai Oor Nala Committee and the Secretary of the Kombuthurai and Mangrove Forest Protection Committee. These committees operate under the CEDA Trust, which has been involved in numerous projects related to Tsunami rehabilitation and various environmental causes. The appellants are dissatisfied with the actions of the municipality in establishing a municipal landfill facility in Survey No. 278, Kayalpattinam South village. They argue that this establishment violates several legal provisions, including the Coastal Regulation Zone Notification of 1991, the Municipal Solid Wastes (Management and Handling) Rules of 2000, the Environmental Impact Assessment Notification of 2006, the Water (Prevention and Control of Pollution) Act of 1974, the Air (Prevention and Control of Pollution) Act of 1981, and other relevant laws. As a result, they have requested a permanent injunction. The Next Generation Sequencing (NGT) approach- The tribunal noted that the obstruction of a public project, such as the one in question, is purportedly being driven by a private conflict among the municipal members and their president. Engaging in such behavior, which disregards the collective welfare of the populace, is deemed undesirable. The objective of sustainable development is not to undermine any public projects; rather, it should be harmonized with the public interest. This can be achieved by using the most advanced technology in the implementation of the project, with the aim of safeguarding the environment. Under no circumstances may the progress for

societal advantage be restricted. Upon conducting an analysis of the factual circumstances surrounding this case, it is noteworthy to state that the applicants have not identified any significant environmental concerns. Hence, it is our contention that obtaining prior EC under the specific facts and circumstances of the case is not deemed necessary, thereby granting the 6th respondent the right to proceed with the program.. In the case of Appellants: Mohammed Kabir and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0088/2016 The issue is with respect to environment degradation due to the pollution caused by the industry the question involved was whether Respondent industries degraded environment of locality

NGT Approach-Respondent fish meal and fish oil manufacturing units indulged in negligence, violated pollution control norms thereby causing pollution to adjacent estuary waters by discharging untreated effluents and also caused nuisance and health hazard to nearby residents by emanating mal odour and stench - It was clear violation of notification and authorities failed to appreciate fact and granted NOC and also consent - Unit was existing illegally in violation of CRZ notification 1991.Operation of unit of Respondent should be stopped and unit might be directed to remove machinery and equipment and vacate site - Direction issued that KSPCB should continue to monitor units - Application disposed.

Party analysis-plaintiff and defendant

Plaintiff are Conservation of Nature Trust NGO working in the area of environment, student environmentalist, journalist, member eco one zone, public spirited person, environmental activist, environmental action group, Industrial Mineral Company, Society, registered under the Societies Registration Act, 1860, environmentalist, Environmental Protection Association(society), CEDA Trust,

Defendants are district collector, Union of India, State Infrastructure Development Corporation, Coastal Zone Management Authority, industry, Department of Environment, Forest and Climate Change,

Subject area analysis

Environment clearance affecting environment and ecology due to the construction of national highway, setting up of thermal power project which involves environment clearance, Coastal Regulation Zone (CRZ) Clearance granted by the Ministry of Environment and Forest (MoEF) for the Kudankulam Nuclear Power Plant, metro project devastating effect on the local ecosystem due to large scale conversion of paddy fields which come under the category of wetlands ,construction of bridge affecting the river system, mangroves and the livelihood of people, removal of hotel from river and for compensation for loss of livelihood to fisherman and damage to the environment, pollution caused by the chemical industry.

Main area of conflict

The environmental clearance obtained by the Ministry of Environment, Forest and Climate Change for the National Highways project is being contested. The issue is to the environmental clearance that was given to a thermal power plant without adhering to the guidelines outlined in the Environmental Impact Assessment (EIA) Notification of 2006. The issue at hand pertains to the clearance granted by the expert appraisal committee for Coastal Regulation Zone (CRZ). The contention is that a thorough examination was not conducted as certain relevant factors were not taken into consideration. Specifically, the environmental clearance for the construction of a metro rail, which involves the conversion of paddy lands and wetlands classified as wetlands, was not obtained. This raises significant environmental concerns as the construction of the bridge has already commenced without the mandatory environmental clearance under the CRZ notification and the Environmental Impact Assessment (EIA) Notification of 2006. Furthermore, it is argued that the application is time-barred and the Tribunal does not possess the authority to extend the limitation period beyond what is permissible under the relevant legislation. The inquiry pertains to the potential violation of Coastal Regulation Zone (CRZ) regulations by a hotel located within a designated No Development Zone (NDZ). This raises a challenge against the Environmental Clearance (EC) granted by the Ministry of Environment, Forests & Climate Change

(MoEF&CC). The applicants express their discontent with the Municipality's proposal to establish a municipal landfill facility in Survey. No. 278 Kayalpattinam South village. They argue that this initiative violates several regulations, including the Coastal Regulation Zone Notification of 1991, the Municipal Solid Wastes (Management and Handling) Rules of 2000, the Environmental Impact Assessment Notification of 2006, the Water (Prevention and Control of Pollution) Act of 1974, and the Air (Prevention and Control of Pollution) Act of 1981.³⁰

Analysis on cases on various yardsticks

Direction to the government authorities

Application of International environment principles

In the case of **Appellants: Conservation of Nature Trust and Ors. Vs. Respondent: The District Collector, Kanyakumari District and Ors.**³¹After the tribunal determined that the EAC (Expert Appraisal Committee) had not conducted a thorough evaluation, the subsequent matter to be examined is whether, based on this finding and the specific details of the case, the Environmental Clearance (EC) issued by the Ministry of Environment, Forest and Climate Change (MoEF & CC) should be invalidated. The tribunal determined that all aspects of the EC process, as outlined in the EIA Notification of 2006, were conducted appropriately, with the exception of the "appraisal" portion. Rather than completely invalidating the EC, it is recommended that the EC be temporarily suspended for six months. During this period, the Ministry of Environment, Forests, and Climate Change (MoEF & CC) should refer the matter to the Expert Appraisal Committee (EAC) for a reassessment based on the aforementioned facts. The EAC's recommendations will then serve as the basis for the Regulatory Authority to make an appropriate final decision. Therefore, in accordance with the idea of sustainable development, rather than completely disregarding the EC, the Tribunal opted for a sustainable development strategy by temporarily suspending it for a specific period of time in

³⁰ MANU/GT/0009/2016

³¹MANU/GT/0118/2016

order to reassess its effectiveness.. In the case of **Debadityo Sinha and Ors.Vs. Respondent: Union of India and Ors.** ³²tribunal ordered to go through the entire process of EC afresh and EC is set aside taking an environment pro stance and, respondents not to carry out any developmental project and to restore the area to its original condition as per the polluter pay principle. In the case of Appellants: **Goa Foundation Vs. Respondent: Goa State Infrastructure Development Corporation and Ors.** ³³ In accordance with the authority vested in the Tribunal as outlined in sections 19 and 20, the Tribunal has issued the following directives, taking into consideration the precautionary principle. The Goa State Infrastructure Development Corporation will be required to submit an application for Coastal Regulation Zone (CRZ) clearance in accordance with clause 4.2 of the CRZ Notification 2011. This application must include all necessary information, such as an updated Environmental Impact Assessment (EIA) and CRZ classification. Until the CRZ clearance is obtained, the construction work of the bridge will be temporarily halted. The submission of a compliance report by the GCZMA is required within a period of four (4) months. The Gulf Coastal Zone Management Authority (GCZMA) should promptly conduct an inspection of the ongoing construction activity to ascertain that the bridge construction is not causing any detrimental impact on the coastal environment. The Goa Coastal Zone Management Authority (GCZMA) is required to allocate a sum of Rs. 5,00,000/- (five lakhs rupees) to the Collector of North Goa. The designated Collector will be responsible for utilizing this fund for various environmental initiatives, such as raising awareness, safeguarding coastal areas, and undertaking mangrove re-plantation efforts. In addition, the GCZMA is obligated to reimburse the petitioner with a sum of Rs. 1,00,000/- (one lakh rupees) as compensation for legal expenses. The payment for these costs shall be made within a period of four (4) weeks.

In the case of Appellants: **M. Paul Rose and Ors.Vs. Respondent: The Secretary to Government, Department of Environment, Forest and Climate Change and**

³²MANU/GT/0148/2016

³³MANU/GT/0042/2016

Ors. ³⁴ The tribunal noted that the progress of a public project of this nature is being hindered by a private conflict among the municipal members and their president. Such actions, which disregard the collective welfare of the public, are deemed disheartening and should be avoided. The objective of sustainable development is not to undermine any public projects, but rather to ensure a harmonious balance with the public interest. This is achieved by incorporating the most advanced technology available within the framework of the project, with the intention of preserving the environment. Under no circumstances may the progress for societal advantage be restricted.

Application of science and law through Creation of expert committees for scientific and technical knowledge

In the case of **Appellants G.D. Martin Vs. Respondent: The Union of India and Ors.** ³⁵ looking to the fact establishment of Metro Village for which conditional order was already issued by the State Government that conversion shall be taken up only after conducting EIA study and only after obtaining EC, it is premature to go into the merits of the case. In the case of **Kayalpatnam Environmental Protection Association Vs. Respondent: Union of India and Ors.** ³⁶after an elaborate exercise undertaken by the Project Proponent and after a thorough scrutiny and site inspections, the proposal was recommended by the EAC for granting the EC. Moreover, as there is a substantial compliance of the conditions imposed in the EC granted earlier for the existing units of the Project Proponent and suitable steps were taken to mitigate the pollution, we arrive at a conclusion and do not agree with the contentions of the Appellant that there are strong grounds of non-compliance of the safeguards provided under the Environment (Protection) Act, 1986 and procedure prescribed under the EIA Notification, 2006.

Matter not within the scope of NGT Act/Barred by time/

³⁴MANU/GT/0009/2016

³⁵MANU/GT/0014/2016

³⁶MANU/GT/0024/2016

In the case of Appellants: **G. Sundarrajan Vs. Respondent: Union of India and Ors.** ³⁷of tribunal held in view of the constitutional position regarding the binding nature of the decision rendered by the Hon'ble Supreme Court by applying the said salutary principle to the facts of the present case, we are of the considered view that the relief claimed by the appellant in this appeal cannot be granted by this Tribunal. Accordingly, the appeal fails and the same is dismissed. In the case of Appellants: **Janajagrithi Samithi Vs. Respondent: Union of India and Ors.** ³⁸ the application is barred by limitation and the Tribunal has no power to extend the period of limitation beyond the permissible limit under the Act. Tribunal, an entity created under the NGT Act, is to act within the limits of the statute which in fact specifically prescribes period of limitation under Section 14(3) of the NGT Act viz., six months from the date of cause of action first arose. In the case of **Appellants: Kashinath Jairam Shetye and Ors.Vs. Respondent: Deltin Carevela and Ors.** ³⁹ Held, it did not appear that there was any fraudulent conduct or any fraud played by Respondent, Location did not violate any of provisions of Notification issued by Ministry of Environment, Cause of action was dissipated rendering relief sought in application was infructuous - Application disposed of.

Case Analysis for the year 2017

1)BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Appeal No. 22 of 2017 (SZ)Decided On: 06.10.2017 Appellants: A. Iyappan Vs. Respondent: The Chairman, Tamil Nadu State Coastal Zone Management Authority and Ors. MANU/GT/0092/2017

Parties

Appellants-individual

Respondent-Tamil Nadu coastal zone management authority

³⁷MANU/GT/0164/2016

³⁸MANU/GT/0162/2016

³⁹MANU/GT/0134/2016

Issue- granting clearance under Coastal Regulation Zone (CRZ) Notification, 2011 permitting construction of marine/coastal police station

Legislations - CRZ Notification, 2011, CRZ Notification, 1991

One, A. Iyappan, resident of Sadraskuppam, Kalpakkam, Thirukazhukundram Taluk, Kancheepuram District filed this appeal with a prayer to set aside the order dated 3rd November, 2016 passed by respondent No. 2 granting clearance under Coastal Regulation Zone (CRZ) Notification, 2011 permitting construction of marine/coastal police station at S.F. No. 141, Sadurangapattinam Village, Thirukazhukundram, Kancheepuram District.

However, the people protested against the construction and made a detailed representation to the District Collector to stop the construction as the people who belong to fisher community, have been using the site for drying the fish-nets and for holding Masimagam festival etc. In spite of that, construction activity started at the said site viz., in Survey No. 141, 76 Sadurangapattinam Village on 02.10.2015 which is very close and hardly 30 meters away from seashore. Though it was brought to the notice of the Authorities that no such construction is permissible under CRZ Notification, 2011 on the ground that the site is hardly 10 meters away from Olive Ridley Sea Turtle nest and comes under CRZ-I and therefore no construction activity can ever take place as per the provisions in paragraph 3 (xii) of CRZ I under CRZ Notification, 2011, still the construction was taken up. Subsequently, the impugned order dated 03.11.2016 was passed by respondent No. 2. The appellant further contended that if there is a Turtle nesting ground in any area, such area is ecologically sensitive and plays a role in maintaining the integrity of the coast and classified as CRZ-I under paragraph 7 of the CRZ Notification, 2011.

Tribunal held as per the approved CZMP under CRZ Notification, 1991, the vast stretches of Tamil Nadu coast are included under CRZ-I but as stated above, the nesting sites of Olive Ridley Sea Turtles are not uniform and the pattern of nesting

varies from district to district. New CZMP under CRZ Notification, 2011 is yet to be finalized and notified. Considering all the above facts we come to a conclusion that the construction of the marine/coastal police station is not in violation of CRZ Notification, 2011 and we are not inclined to grant the prayer of the appellant for quashing the CRZ Clearance dated 3rd November, 2016. The appeal is dismissed. M.A. No. 61 of 2017 stands closed. No order as to costs.

2)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI Original Application No. 121/2013 (MA No. 1221/2016) Decided On: 12.09.2017 Appellants: **Akash Vashishtha and Ors.Vs.** Respondent: **Union of India and Ors. MANU/GT/0086/2017**

Parties

Appellants-Individuals

Respondent- Ministry of Environment, Forest & Climate Change, Government of India (Respondent No. 1), State of U.P. (Respondent No. 2), Uttam Steel & Associates (Consortium) (Respondent No. 6) and Shiv Nadar University (Respondent No. 7).

Issue- construction affecting the water body and wetlands and surrounding area ,destruction of the rich wildlife habitat and encroachment upon the wetlands and raising construction upon them

Legislations – compliance of environmental norms

This petition has been instituted under Section 14, 15 and 18 of the National Green Tribunal Act, 2010. M/s. Akash Vashistha and Vikrant Tongad are the applicants and have impleaded an array of Respondents, mainly Ministry of Environment, Forest & Climate Change, Government of India (Respondent No. 1), State of U.P. (Respondent No. 2), Uttam Steel & Associates (Consortium) (Respondent No. 6) and Shiv Nadar University (Respondent No. 7). There are a number of prayers,

primarily seeking directions that the Government/Competent Authorities be directed to declare the Beel (Water Body) Akbarpur habitat as a protected area as well as for quashing the Environmental Clearance (EC) granted to the respondents herein. Inter alia, it was also prayed that the wetlands and its surroundings should be protected and no construction should be permitted around those areas. According to the applicant, the private respondents who are, a University and a Builder, had destroyed rich wildlife habitat of the area as well as reclaimed and encroached upon the wetland and even raised constructions there upon. They finally pray for setting up a Monitoring Committee of permanent nature to ensure the compliance of the environmental norms at the Dadri/Beel Akbarpur Wildlife habitat. In order to get to the bottom of the issue, a Special Committee was constituted vide our order dated 21st August, 2013. Shri V.N. Garg, Principal Secretary, Environment and Forests, UP, was the Nodal Officer and had among other members, Advisor MoEF & CC, Chief Wildlife Warden/Principal Chief Conservator of Forests (Wildlife) of U.P., representative of SEIAA and Wildlife Institute of India. The Committee submitted its report on 12th September 2013. The Committee found that there has been no notification declaring these areas as wetland as no proposal in this regard had been received by MoEF & CC from the Government of U.P and field visit.

Tribunal held We, however, agree with the limited prayer (d) & (i) of the applicant and direct U.P. State Forest Department to carry out suitable afforestation for marshy areas. We also direct that a monitoring committee be set up by the Government of U.P. to ensure compliance of environmental norms in the Dadri area to prevent any further encroachment by human beings and constructions. To prevent further encroachment thereon, there should be proper boundary pillars so that the same act as a deterrent against any further illegal encroachments. 2 No domestic sewage should be permitted to flow into the water bodies and any domestic sewage flowing into the Beels should be diverted into the sewerage network or trapped by constructing individual septic tanks by the households, the township and the University, as the case may be. This shall be enforced in consultation with the UP Jal Nigam. Both M/s. HiTech Township and Shiv Nadar

University will give an undertaking to this effect. 30. With these directions, we dispose of the application with no order as to costs. As original application is disposed of, Miscellaneous Application No. 1221/2016 does not survive for consideration.

3) BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI Original Application No. 557/2017 (M.A. Nos. 1120, 1188/2017), Original Application No. 615 of 2017 (M.A. No. 1199/2017), Original Application No. 616 of 2017, (M.A.No. 1197/2017), Original Application No. 624/2017, (M.A. No. 1205/2017), Original Application No. 631 of 2017, (M.A. No. 1210/2017), Original Application No. 633 of 2017, Original Application No. 625/2017, Original Application No. 634 of 2017 (M.A.Nos. 1217, 1218 of 2017), Original Application No. 636/2017 (M.A. Nos. 1229,1230/2017), Original Application Nos. 639, 647 of 2017 (M.A. Nos. 1258, 1259 of 2017), Original Application No. 648 of 2017, (M.A. Nos. 1260, 1261 of 2017) and Original Application No. 326 of 2017 (M.A. No. 584 of 2017) Decided On: 08.12.2017 Appellants: Anjani Kumar and Ors.Vs. Respondent: State of Uttar Pradesh and Ors. MANU/GT/0132/2017

Parties

Appellants- Individual

Respondent- state of Uttar Pradesh

Issue- The issue is with respect to Sand Mining Policy, 2017 and the notice for invitation of E-Tender-cum-E-Auction in respect of various districts like Jhansi, Unnao, Jalaun, Sonbhadra, Fatehpur, Kanpur, Bihar, Gonda for grant of mining lease for excavation of sand and gravel from various rivers passing through the aforesaid districts, issued by the State of UP and notice for e-tender cum e-auction issued in utter violation of provisions of Environment (Protection) Act, 1986, Environment (Protection) Rules, 1986

Legislations – Sand Mining Policy, 2017, Environment (Protection) Act, 1986, Environment (Protection) Rules, 1986

The genesis of this action under Section 14 of the National Green Tribunal Act, 2010 initiated by Ms. Anjali Kumar is the framing of the "Sand Mining Policy dated 14th August, 2017 (Sand Mining Policy) by the State of UP and issuance of notice for invitation of E-tender-cum-E-Auction in respect of various districts like Jhansi, Unnao, Jalaun, Sonbhadra, Fatehpur, Kanpur, Bihar, Gonda for grant of mining lease for excavation of sand and gravel from various rivers passing through the aforesaid districts, issued by the State of UP. The applicant has assailed the aforesaid Sand Mining Policy, 2017 and the notice for invitation of E-Tender-cum-E-Auction on several grounds inter-alia contending that the Sand Mining Policy, 2017 and the notice for e-tender cum e-auction issued in utter violation of provisions of Environment (Protection) Act, 1986, Environment (Protection) Rules, 1986 and Notification dated 14th September, 2016 made by the Central Government under Section 3 of the Environment Protection Act, 1986 read with Rule 5 of the Environment Rules, 1986 and the "Sustainable Sand Mining Management Guidelines, 2016 issued by the Ministry of Environment Forest and Climate Change. The river sand and gravel mining are an important process which has serious and far-reaching adverse impact upon the ecological balance and biological diversity of the flora and fauna existing on the river bank in view of principle of sustainable development. The Following points are formulated for consideration: i) Whether the Sand Mining Policy, 2017 framed by the State of UP is inconsonance and in fulfillment of the directions of the Hon'ble Supreme Court in the case of Deepak Kumar v. State of Haryana & Others. the Sustainable Sand Mining Management Guidelines, 2016 issued by the MoEF. ii) Whether the said Sand Mining Policy requires to be quashed. iii) Whether this Tribunal has jurisdiction to decide issue relating to Sand Mining Policy, 2017 applying the doctrine of segregation and severability. Tribunal held We have already held that we are not concerned in deciding the merit or otherwise of the Mining Policy, 2017 framed by the State of UP and inviting of e-tender and e-auction as it falls beyond

the jurisdiction of this Tribunal. 2. The data collection and declared for preparation of DSR shall take precedent over other data and would form the foundation for providing mining lease in terms of Appendix- x to the Notification dated 15th January, 2016 must be prepared by the statutory authority stated therein i.e., DEIAA prior to awarding of permits for carrying on mining activity in any part of the State of UP. 3. Upon finalization of the DSR in the manner prescribed 21 days notice shall be provided and objections if any file shall be considered in accordance with law. 4. Obtaining of Environmental Clearance shall be a condition precedent to the carrying on of the mining activity/execution of the lease. This be so for the environmental laws afore-referred and even stipulated in the Rule 34(iv) of the Mining Rule, 2017. The State Government and all its agencies and instrumentalities would ensure that the protection and replenishment of natural resources including sand is duly provided for in the mining lease that would be granted by the State Government as required under Appendix-x to the notification dated 15th January, 2016. The State Government and its instrumentalities shall also ensure that the terms and conditions of the Mining Lease would contain all the relevant clauses as stated in Appendix-x and Notification dated 15th January, 2016 for carrying out sustainable mining.

4)BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Application No. 65 of 2013 (SZ)Decided On: 23.08.2017Appellants: J. BarnabasVs.Respondent: The District Collector, Kanyakumari District and Ors. MANU/GT/0079/2017

Parties

Appellants- Individual

Respondent- district collector Kanyakumari district

Issue- illegal construction over a property which affected environment and the validity of an injunction granted.

Legislations – Coastal Regulation zone notification

The matter is with respect to environment getting affected due to construction work and validity of a injunction. Present application filed seeking relief that Second Respondent be directed to initiate proceedings against other Respondents for illegal construction over property and whether Tribunal was right in granting injunction to Respondent on ground that construction was against law - Held, Respondents were found guilty of non-compliance of order of Tribunal and Respondents were found guilty of contempt of court and penalty was imposed upon Respondents ,Construction was in violation of Coastal Regulation Zone (CRZ) Notification and State Coastal Zone Management Authority had rejected proposal after examining report of District Coastal Authority that site was located under No Development Zone CRZ-III - It was for State Authority to examine re-classification while preparing revised CZMP under CRZ Notification .If structure was falling in CRZ - III action might be taken to demolish structure .Otherwise, if it was falling in CRZ - II structure might be allowed to continue - Application disposed off.

5) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Application Nos. 142, 290 and 453 of 2013 (SZ) Decided On: 31.08.2017 Appellants: Joy Kaitharnath and Ors. Vs. Respondent: The Managing Director, The Kerala Minerals and Metals Ltd. and Ors. MANU/GT/0084/2017

Parties

Appellants- General Secretary of State Human Rights Protection Centre,

Respondent- The Managing Director, The Kerala Minerals and Metals Ltd.

Issue- respect to environment getting affected by the hazardous waste, waste generated having radioactive effect on environment.

The application was filed as public interest litigation before the high court of Kerala by the General Secretary of State Human Rights Protection Centre, Thrissur which is stated to be engaged in activities relating to environmental protection, anti-corruption, anti-adulteration and public awareness. After that the writ petition was

transferred to the tribunal. The issue is with respect to environment getting affected by the hazardous waste and the remedy was first asked by way of public interest litigation in the high court of Kerala and now transferred to tribunal, the question involved is whether waste generated by KMML in its unit were hazardous in nature. The tribunal referred to record NEERI and State Pollution Control Board on basis of their analytical report take stand that iron oxide sludge of first Respondent was not hazardous while CPCB took stand that iron oxide sludge of first Respondent was hazardous. The tribunal held Samples collected by NEERI were on basis of composite seasonal sampling method and there was possibility for more representative finding and such reading of characteristics of sludge would be more appropriate - Sample collected by CPCB was against Manual of sampling, analysis and characterization of hazardous waste - As such finding of CPCB had to be rejected and NEERI had to be accepted - So Iron oxide sludge generated by First Respondent was not hazardous in nature - Petition disposed of. Another issue was with respect to radioactive effect on environment. The question was whether waste generated by first Respondent and contents contained therein were radioactive affecting conditions of life of people living. Held, Respondent no. 4 being highly competent authority to decide about radiation level, had concluded that radiation level in waste generated by first Respondent and in various places including back filled areas, storage areas, Titanium Dioxide Pigment Plant were all within limits prescribed by Authority and in fact it was found that when compared to natural background area, radiation level observed on top soil was comparatively less - It had to be necessarily held that sludge generated by first Respondent did not contain any radioactive material and there was no substance in point raised on behalf of applicants that people in area were likely to be affected - There were absolutely no materials produced before Tribunal to show that any persons living in and around area of first Respondent have been affected by radioactive or any other substance having effect of radioactivity - Petition disposed of.

6) BEFORE THE NATIONAL GREEN TRIBUNAL EASTERN ZONE BENCH, KOLKATA Original Application No. 346/2013/PB/9/EZ, M.A. Nos.

1088/2013/EZ, 06/2014/EZ,85/2015/EZ, 828/2016/EZ and Original Application No. 109/2017/EZ Decided On: 16.10.2017 Appellants: **Aabhijeet Sharma and Ors.** Vs. Respondent: **Union of India and Ors.** MANU/GT/0096/2017

Parties

Appellants- social activist

Respondent- Union of India

Issue- to setting up of a hydroelectric project which is affecting rights of riparian tribal people and also the question is for survival of ecology of subansiri river

The petitioner sought remedy for the rights of riparian tribal communities residing downstream of the Subansiri Lower Hydroelectric Project. Additionally, the petitioner aimed to protect the ecological integrity of the Subansiri River, which serves as the habitat for Gangetic dolphins, a species recognized as the national animal. The inquiry pertains to the potential invocation of the precautionary principle by a tribunal when deliberating on environmental matters and their associated repercussions. The tribunal acknowledged that the project was situated in a region classified as highly seismic zone 5, characterized by significant levels of precipitation. If there are repercussions due to blatant stubbornness, may the resulting losses be compensated? The Respondents have implemented all necessary procedures to adhere to the "precautionary principle." Given the environmental concerns raised in the petition regarding the project, as well as the sensitivity surrounding this matter, it would be advisable for both the project proponent and the government to adopt a flexible approach and maintain a willingness to explore all possible options. This would enable the project to be advanced in the best interest of the nation. In accordance with the stipulation outlined in Section 20 of the Act, the tribunal was obligated to adhere to the principles of sustainable development, the precautionary principle, and the polluter pays principle when rendering any order, decision, or award. Given the significance of environmental concerns and their potential ramifications, it would be advisable to invoke the precautionary principle. Additionally, the issue pertains to alterations made to the

dam's structure without conducting an environmental impact assessment, thereby resulting in environmental repercussions. The question at hand is whether the petitioner is eligible for any form of redress. The petitioner has contested the recommendation made by the respondents regarding the structural modifications made to the base of the dam in the Subansiri Lower Hydroelectric Project. The petitioner argues that these changes should not have been implemented without conducting fresh appraisal and environmental impact assessment studies. The question at hand is whether the petitioner is eligible for relief based on the argument that structural alterations were made to the project without conducting any impact assessment studies. In the course of adjudicating OA No. 346/2013/PB/9/EZ, the court extensively addressed the inquiries presented in the application. Considering the terms of reference of the Panel of Experts on Dams (POC), it is evident that the questions raised by the Applicant encompass a wide range of issues related to seismology, dam design, and downstream impact. Therefore, it would be unnecessary for the court to separately consider the reliefs sought in this case. The matter concerning dam design inherently includes the modified width of the dam, which was recommended by the Dam Design Review Panel and subsequently questioned by the Expert Group as a mere structural retrofitting. Consequently, the subject matter of the application is also encompassed within this broader context. Hence, the judgement rendered in OA 346/2013/PB/9/EZ would similarly be relevant and appropriate to the present Application. The application has been disposed of. The Ministry of Forests, Environment and Climate Change (MoEF & CC) will establish a Committee comprising three members who possess expertise in the fields of seismology, geology, hydrology of rivers, and river ecosystem in the Himalayas and the North Eastern region of the country. These members will be chosen from a pool of accomplished experts and scientists, who may either be private individuals or affiliated with reputable institutions that have conducted relevant studies in these areas. The Committee has the potential to consist of specialists from both groups. Given that one member will be chosen from the North Eastern Region. During the execution of its duties, the committee has the option to

conduct visits to the project site and its surrounding area, as well as engage in discussions with two distinct constituent groups: the expert group from Assam and the expert group appointed by the Government of India. The Committee will convene comparable meetings with experts from NHPC and the Applicant or their representatives. The meetings can be conducted either individually with each group or collectively with all groups. The Committee will undertake a comprehensive analysis of the reports from the different Committees, including those submitted by both factions of the POC. The committee will also conduct a technical examination of the alternative plan offered by the applicants and evaluate its feasibility. The applicant and/or their experts may be granted permission to deliver a presentation on their plan. The Committee may additionally consider engaging the expertise of impartial specialists in the field of hydropower projects. This document will serve as a supplementary Term of Reference, which supplements the one mentioned in the preceding instruction. The Committee is authorized to seek input from national and international experts, or both, about matters pertaining to the terms of reference.

7) BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE BENCH, PUNE Appeal No. 38/2014(WZ) Decided On: 14.07.2017 Appellants: Anil M. Khedekar Vs. Respondent: Secretary, Ministry of Environment and Forests and Ors. MANU/GT/0063/2017

Parties

Appellants- Individual

Respondent- Secretary, Ministry of Environment and Forests and Ors.

Issue- environment clearance granted for a construction project which is a redevelopment project of a colony

The individual known as Mr. Anil Khedekar, who is appealing the case, has utilized Section 16 of the National Green Tribunal Act, 2010 to contest the Environmental Clearance (EC) that was issued by the State Level Environmental Impact Assessment Authority, Maharashtra (SEIAA). This challenge pertains to the

construction project of Respondent No. 12, as indicated in the letter dated 10th November, 2014. The subject of inquiry is to a reconstruction initiative targeting a residential settlement located in Poisar Village, Mumbai, specifically identified as CTS No. 837 and 840, commonly referred to as "Samta Nagar." This colony was initially established by the Maharashtra Housing and Area Development Authority (MHADA). The aforementioned colony consists of 160 structures, with a total land area of 213,867 square meters. The environmental permission in question pertains to the proposed expansion of the redevelopment project, which was initially awarded environmental clearance on December 28, 2011. The projected built-up area of the project is 302,876.28 square meters. Upon careful examination of the aforementioned observations in the visit report, it becomes evident that the committee has not adequately addressed the environmental concerns related to a construction project of this magnitude. Specifically, issues pertaining to soil management, development of green areas, establishment of a labor camp, implementation of dust control measures, and mitigation of noise pollution have not been adequately addressed. We hereby express our dissatisfaction with the visit report, which we find to be cryptic. We would like to emphasize that the visit report prepared by the Experts of the State Expert Appraisal Committee (SEAC) does not align with the level of duty entrusted to them as outlined in the Environmental Impact Assessment (EIA) Notification. Hence, it is recommended that the SEAC/SEIAA develop a standardized Visit Report Form for future visits to specific activities. This form should encompass all necessary aspects to be considered by the visiting team, thereby preventing similar incidents from occurring. Nevertheless, it is important to note that the aforementioned deficiencies should not be considered as sufficient grounds to assert that the proceedings of SEAC/SEIAA are arbitrary and unreasonable. This is especially true when the SEAC has taken into account all the concerns raised by the Appellant, and particularly when the matters pertaining to demolition have already been resolved by the Order of the Honorable Apex Court. Hence, we find no validity in the arguments presented by the Appellant questioning the EC. Consequently, the Appeal is unsuccessful and,

as a result, the Appeal is rejected. Based on the aforementioned conversations, we propose to issue the following directives for adherence by the relevant authorities. A committee including the Chief Engineer of MHADA, the Chief Engineer of MCGM, the Director of Environment of the Government of Maharashtra, and the In-charge of the Construction Project at MPCB has been established with the purpose of examining whether the Project Proponent has previously constructed any basement in contravention of the earlier Environmental Clearance (EC). The Committee will conduct a physical examination during the upcoming four weeks, and afterwards submit the findings to the Tribunal within four weeks following the inspection. The Appellant has the freedom to commence legal action for non-compliance with the conditions set by the EC and/or other environmental concerns, as allowed by the law. The appeal with reference number 38/2014 has been dismissed.

8) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Appeal No. 136 of 2016 (SZ)Decided On: 09.02.2017 Appellants: Bhaskaran V.A.Vs. Respondent: The State Environment Impact Assessment Authority and Ors. MANU/GT/0013/2017

Parties

Appellants- Individual

Respondent-The State Environment Impact Assessment Authority and Ors.

Issue- environment clearance granted by state environment impact assessment committee which has been illegally operating without EC for years

It's an appeal against the environment clearance granted by the respondent authority to respondent for proposed expansion of building stone quarry. This appeal is directed against the Environmental Clearance (EC) dated 13.4.2016 granted by the first respondent - State Environment Impact Assessment Authority (SEIAA), Kerala to the fifth respondent for the proposed expansion of building stone quarry in Thiruvaniyoor Village and Panchayat, Kunnathunad Taluk,

Ernakulam District. The question involved is whether EC granted by Respondent authority in favour of Respondent was sustainable in law. Held, any decision taken in meeting becomes operative only after EC was granted - It could not be said that grant of EC was only an administrative order - There was no decision on merit of earlier petition between parties by adjudication and thereof plea of res judicata was not applicable - There was no issue of applicability of any post facto approval in case - There was no scope to hold that there has not been any proper appraisal - There were no materials to interfere with impugned order of EC granted by Respondent authority - Appeal dismissed.

9) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH, CHENNAI Application No. 169 of 2016 (SZ) Decided On: 10.05.2017 Appellants: **D. Swamy Vs. Respondent: The Karnataka State Pollution Control Board and Ors. MANU/GT/0042/2017**

Parties

Appellants- Industry

Respondent- The Karnataka State Pollution Control Board and Ors

Issue- Whether prior EC is required for establishing the Common Bio- Medical Waste Treatment Facility?

Legislations – Water (Prevention & Control of Pollution) Act 1974 and Air (Prevention & Control of Pollution) Act, 1981, EIA Notification, 2006

M/s. GIPS Biotech, respondent No. 3 **applied for Consent to establish a Common Bio-Medical Waste Treatment Facility** in Survey No. 82 and 38/2, Gujjegowdanapura Village, Mysore Taluk and District on 25.02.2012 **under the Water (Prevention & Control of Pollution) Act 1974 and Air (Prevention & Control of Pollution) Act, 1981**. Consent to establish were granted on 24.11.2012. The said **Consent orders were challenged before the Karnataka State Environment Appellate Authority** in Appeal Nos. 48 and 49 of 2012. On 20.04.2013 the appeals were dismissed. Aggrieved by the dismissal, Appeal Nos.

46 and 47 of 2013 were filed before the Tribunal on 29.04.2013. **Those appeals were dismissed on 14.07.2014. Meanwhile, vide Notification dated 17.04.2015, the Ministry of Environment Forests and Climate Change (in short 'MoEF & CC') amended EIA Notification, 2006 by inserting entry 7(da) after entry 7(d) of the Schedule to the Notification providing that Environmental Clearance (EC) under EIA Notification, 2006 is required for establishment of a Common Bio-Medical Waste Treatment Facility (in short 'CBWTF').** This application was then filed under Section 14 of the National Green Tribunal Act, 2010 seeking the following reliefs: "To direct closure of the Common Bio-Medical Waste Treatment Facility run by respondent No. 3 at Survey No. 82 & 38/2 Gujjegowdanapura Village Jayapura Hobli, Mysore Taluk & District including disconnection of electricity on account of noncompliance of the provisions of EIA Notification, 2006 as amended on 30.04.2015 including Item 7(da) to the Schedule therein and also for non-compliance of the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and pass such further or other orders."The following points arise for consideration: "1. Whether prior EC is required for establishing the Common Bio-Medical Waste Treatment Facility? 2. Whether respondent No. 3 is required to obtain prior EC, as the Consent to establish was granted to respondent No. 3 on 24.11.2012 and EIA Notification 2006 as the amended Notification S.O.1142(E) inserting Item 20-01-2021

10) BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE BENCH, PUNE Application No. 63/2015 Decided On: 31.03.2017 Appellants: **Dnyanesh Kisanrao Phadtare Vs. Respondent: Balaji Enterprises and Ors.** **MANU/GT/0031/2017**

Parties

Appellants- Balaji Enterprises and Ors.

Respondent- individual

Issue- environmental degradation and damage due to sand mining

Legislations –environmental clearance

Petition filed against environmental degradation due to sand mining - Whether Petitioner has any locus to file petition - Held, Petitioner grieves that sand mining carried on with suction pumps has caused soil erosion along bank of river and environmental degradation caused thereby has affected his agricultural lands situate along the bank of river - Section 18(2)(b) and (e) of Act entitles Petitioner being aggrieved person due to damage caused to his agricultural lands to initiate action under Section 14 of Act and raise a substantial question relating to environment including enforcement of his legal rights relating to environment. Sand mining activities were known to have severe adverse environmental impacts. Held, Tribunal has considered inspection reports of Revenue Department and has taken a serious note of fact that though revenue department had located presence of mechanical equipment at site to be used for sand mining activities in contravention with environmental clearance (EC) conditions no action of seizure of such machinery was taken - There was a violation of terms and conditions of EC - Respondent No. 1 was found to be not complying with EC conditions - Therefore Respondent No. 1 required to be saddled with notional cost for environmental damages - Petition disposed of

Result and Analysis of cases for the year 2017

In the case of **Appellants: A. Iyappan Vs. Respondent: The Chairman, Tamil Nadu State Coastal Zone Management Authority and Ors. MANU/GT/0092/2017** The issue is with respect to clearance granted under coastal regulation zone notification 2011 permitting construction of marine/coastal police station at S.F. No. 141, Sadurangapattinam Village, Thirukazhukundram, Kancheepuram District but the same was protested by fisher community as they have been using the site for drying the fish-nets and for holding Masimagam festival etc. and the area is also ecologically sensitive area as it is used for turtle nesting and which helps in maintaining the integrity of the coast. NGT approach-tribunal held since the approval of CZMP was under CRZ notification 1991 and the new CZMP

under CRZ is yet to be finalized and notified and in the light of the facts construction of the marine/coastal police station is not in violation of CRZ notification of CRZ notification 2011 and the application stands dismissed. In the case of Appellants: **Akash Vashishtha and Ors.Vs. Respondent: Union of India and Ors. MANU/GT/0086/2017** The matter has been raised by individuals against array of respondents which includes mainly Ministry of Environment, Forest & Climate Change, Government of India, State of U.P., Uttam Steel & Associates (Consortium) and Shiv Nadar University. The prayer is seeking direction that competent authorities to declare the Beel (Water Body) Akbarpur habitat as a protected area as well as for quashing the Environmental Clearance (EC) granted to the respondents herein. Inter alia, it was also prayed that the wetlands and its surroundings should be protected and no construction should be permitted around those areas. NGT directed U.P. State Forest Department to carry out suitable afforestation for marshy areas. Monitoring committee be set up by the Government of U.P. to ensure compliance of environmental norms in the Dadri area to prevent any further encroachment by human beings and constructions. No domestic sewage should be permitted to flow into the water bodies and any domestic sewage flowing into the Beels should be diverted into the sewerage network or trapped by constructing individual septic tanks by the households, the township and the University, as the case may be. In the case of **Appellants: Anjani Kumar and Ors.Vs. Respondent: State of Uttar Pradesh and Ors. MANU/GT/0132/2017** The genesis of the issue is under sec 14 of the NGT Act. The issue is with respect to Sand Mining Policy, 2017 and the notice for invitation of E-Tender-cum-E-Auction in respect of various districts like Jhansi, Unnao, Jalaun, Sonbhadra, Fatehpur, Kanpur, Bihar, Gonda for grant of mining lease for excavation of sand and gravel from various rivers passing through the aforesaid districts, issued by the State of UP. It is contended that Sand Mining Policy, 2017 and the notice for e-tender cum e-auction issued in utter violation of provisions of Environment (Protection) Act, 1986, Environment (Protection) Rules, 1986 and Notification dated 14th September, 2016 made by the Central Government under Section 3 of

the Environment Protection Act, 1986 read with Rule 5 of the Environment Rules, 1986 and the "Sustainable Sand Mining Management Guidelines, 2016 issued by the Ministry of Environment Forest and Climate Change. Jurisprudence -It involves issue of sustainable development as the river sand and gravel mining are an important process which has serious and far-reaching adverse impact upon the ecological balance and biological diversity of the flora and fauna existing on the river bank. NGT Approach-cannot decide the merit of the sand mining policy 2017 framed by state of UP and inviting of e-tender and e-auction as it is outside the jurisdiction of the NGT. Obtaining of Environmental Clearance shall be a condition precedent to the carrying on of the mining activity/execution of the lease. This be so for the environmental laws afore-referred and even stipulated in the Rule 34(iv) of the Mining Rule, 2017.state government and all its agencies and instrumentalities would ensure that the protection and replenishment of natural resources including sand is duly provided for in the mining lease and sustainable mining should be carried out. In the case of **Appellants: J. Barnabas Vs. Respondent: The District Collector, Kanyakumari District and Ors. MANU/GT/0079/2017** The issue is with respect illegal construction over a property which affected environment and the validity of an injunction granted. Construction was in violation of Coastal Regulation Zone (CRZ) Notification and State Coastal Zone Management Authority had rejected proposal after examining report of District Coastal Authority that site was located under No Development Zone CRZ-III. Tribunal held It was for State Authority to examine re-classification while preparing revised CZMP under CRZ Notification - If structure was falling in CRZ - III action might be taken to demolish structure - Otherwise, if it was falling in CRZ - II structure might be allowed to continue. Respondents were found guilty of non-compliance of order of Tribunal - Respondents were found guilty of contempt of court and penalty was imposed upon Respondents. Application disposed off. In the case of **Appellants: Joy Kaitharnath and Ors. Vs. Respondent: The Managing Director, The Kerala Minerals and Metals Ltd. and Ors. MANU/GT/0084/2017** Petition is against KMML unit for the hazardous waste generated which was affecting the

environment. The matter is with respect hazardous waste generated by Kerala Minerals and Metals Ltd (KMML) in its unit. NGT Approach- sample reports were made by the SPCB and NEERI and also CPCB. While the report of SPCB and NEERI said that the sludge was not hazardous, the report of the CPCB said that it was hazardous, tribunal relied on the report of NEERI as the Samples collected by NEERI were on basis of composite seasonal sampling method and there was possibility for more representative finding and such reading of characteristics of sludge would be more appropriate and the application disposed of. In the case of **Appellants: Aabhijeet Sharma and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0096/2017** The issue is with reference to setting up of a hydroelectric project which is affecting rights of riparian tribal people and also the question is for survival of ecology of subansiri river which was also home for gangetic dolphins, national animal and the legal issue is considering environmental issues ,can tribunal invoke precautionary principle. NGT Approach- As per provision of section 20 of Act it was mandatory upon tribunal to apply principles of sustainable development, precautionary principle and polluters pay while passing any order or decision or award - Considering environmental issues and consequence it would be appropriate to invoke precautionary principle - Petition disposed of with directions. In the case of **Appellants: Anil M. Khedekar Vs. Respondent: Secretary, Ministry of Environment and Forests and Ors. MANU/GT/0063/2017** The process entails the utilization of the provisions outlined in section 16 of the National Green Tribunal (NGT) Act to contest the environmental clearance issued by the Maharashtra State Level Environmental Impact Assessment Authority (SEIAA). This clearance pertains to a construction endeavor, specifically a redevelopment initiative targeting a residential settlement located in Poisar Village, Mumbai. The environmental permission in question pertains to the proposed expansion of the redevelopment project, which was initially awarded environmental clearance on December 28, 2011. Based on the analysis of the visit report conducted by SEAC, it is evident that the environmental concerns related to the extensive construction project, namely pertaining to Soil

Management, Green Area Development, labour camp, dust control, noise, and other related matters, have not been addressed. Ngt conveyed its dissatisfaction with the aforementioned report and emphasized that the cryptic nature of the visit reports conducted by SEAC experts does not align with the responsibilities assigned to them under the EIA Notification. In order to prevent similar incidents in the future, it is recommended that the State Expert Appraisal Committee (SEAC) and State Environmental Impact Assessment Authority (SEIAA) develop a standardized Visit Report Form for visits to specific activities. This form should cover all relevant areas of consideration to ensure that all necessary aspects are addressed by the visiting team. The shortcomings mentioned earlier cannot be considered as compelling reasons to conclude that the proceedings of the SEAC/SEIAA are arbitrary and unreasonable. This is especially true considering that the SEAC has taken into account all the concerns raised by the Appellant, and particularly because the issues related to demolition have already been resolved by the Order of the Honorable Apex Court. Therefore, the Appellant's arguments challenging the Environmental Clearance (EC) lack merit, and as a result, the Appeal is unsuccessful and dismissed. We suggest the issuance of the following directions for compliance by the relevant authorities. The Committee of Chief Engineer MHADA, Chief Engineer MCGM, Director Environment Government of Maharashtra, and In-charge Construction Project MPCB have been tasked with the responsibility of verifying whether the Project Proponent has already erected any basement in contravention of the prior Environmental Clearance (EC). The Committee will conduct a physical examination during the upcoming four weeks, and afterwards submit the findings to the Tribunal within four weeks following the inspection. The Appellant has the right to commence legal action in response to non-compliance with the conditions set by the European Commission and/or other environmental concerns, in accordance with applicable legal provisions. In the case of **Appellants: Bhaskaran V.A.Vs. Respondent: The State Environment Impact Assessment Authority and Ors. MANU/GT/0013/2017** The issue is with respect to environment clearance granted by state environment impact assessment

committee to respondent for proposed expansion of stone quarry, According to the appellant the impugned EC was granted for quarry which has been illegally operating without EC for years and even after submission of application for EC on 17.7.2014.NGT Approach- that there are no materials for this Tribunal to interfere with the impugned order of EC granted by the 1st respondent. However, we make it very clear that it shall be the duty of the 5th respondent to follow all the conditions imposed in the EC scrupulously. In the case of Appellants: **D. Swamy Vs. Respondent: The Karnataka State Pollution Control Board and Ors. MANU/GT/0042/2017** Petition was filed against the consent granted for construction of common bio medical waste plant and question involved was whether prior environment clearance is required for establishing common bio medical waste plant .NGT Approach- Held, prior EC required for all new projects or activities listed in notification - Notification did not show that retrospective operation was intended - Prior EC was required for all projects which came into existence before Notification come into force - Common Bio-Medical Waste Treatment Facility run by Respondent could not be directed to be closed for want of EC - Respondent was having a valid consent to operate under Acts and also authorization under Rules - Petition dismissed. In the case of Appellants: **Dnyanesh Kisanrao Phadtare Vs. Respondent: Balaji Enterprises and Ors. MANU/GT/0031/2017** the issue is with respect to environmental degradation caused due to sand mining caused due to sand mining carried out with aid of suction pumps in riverbed.NGT Approach-considered the inspection report of the revenue department and noted that though revenue department had located presence of mechanical equipment at site to be used for sand mining activities in contravention with environmental clearance (EC) conditions no action of seizure of such machinery was taken - There was a violation of terms and conditions of EC - Respondent No. 1 was found to be not complying with EC conditions. Therefore Respondent No. 1 required to be saddled with notional cost for environmental damages

Party analysis-

Appellants – individual, General Secretary of State Human Rights Protection Centre, social activist

Respondents- Tamil Nadu coastal zone management authority, Ministry of Environment, Forest & Climate Change, Government of India (Respondent No. 1), State of U.P. (Respondent No. 2), Uttam Steel & Associates (Consortium) (Respondent No. 6) and Shiv Nadar University (Respondent No. 7), state of Uttar Pradesh, The Managing Director, The Kerala Minerals and Metals Ltd, Union of India, Secretary, Ministry of Environment and Forests and Ors, The State Environment Impact Assessment Authority and Ors., The Karnataka State Pollution Control Board and Ors, Balaji Enterprises and Ors,

Subject area analysis-

clearance granted under coastal regulation zone notification affecting the livelihood of fisherman and ecologically sensitive area used for turtle nesting, granting clearance under Coastal Regulation Zone (CRZ) Notification, 2011 permitting construction of marine/coastal police station, issue is with respect illegal construction over a property which affected environment and the validity of an injunction granted, respect to environment getting affected by the hazardous waste, waste generated having radioactive effect on environment, setting up of a hydroelectric project which is affecting rights of riparian tribal people and also the question is for survival of ecology of subansiri river which was also home for gangetic dolphins, national animal, environment clearance granted for a construction project which is a redevelopment project of a colony, environment clearance granted by state environment impact assessment committee which has been illegally operating without EC for years, Whether prior EC is required for establishing the Common Bio- Medical Waste Treatment Facility, environmental damage and degradation due to sand mining,

Environmental issues –

clearance granted under coastal regulation zone notification 2011 permitting construction of marine/coastal police station at S.F. No. 141, Sadurangapattinam

Village, Thirukazhukundram, Kancheepuram District but the same was protested by fisher community⁴⁰, The prayer is seeking direction that competent authorities to declare the Beel (Water Body) Akbarpur habitat as a protected area as well as for quashing the Environmental Clearance (EC) granted to the respondents herein. Inter alia, it was also prayed that the wetlands and its surroundings should be protected and no construction should be permitted around those areas⁴¹, The issue is with respect to Sand Mining Policy, 2017 and the notice for invitation of E-Tender-cum-E-Auction in respect of various districts like Jhansi, Unnao, Jalaun, Sonbhadra, Fatehpur, Kanpur, Bihar, Gonda for grant of mining lease for excavation of sand and gravel from various rivers passing through the aforesaid districts, issued by the State of UP and notice for e-tender cum e-auction issued in utter violation of provisions of Environment (Protection) Act, 1986, Environment (Protection) Rules, 1986⁴², Construction was in violation of Coastal Regulation Zone (CRZ) Notification and State Coastal Zone Management Authority had rejected proposal after examining report of District Coastal Authority that site was located under No Development Zone CRZ-III⁴³, Petition is against KMML unit for the hazardous waste generated which was affecting the environment⁴⁴, The question involves whether considering environmental issues and consequences tribunal could invoke precautionary principal⁴⁵, challenging the environment clearance granted by the State Level Environmental Impact Assessment Authority, Maharashtra (SEIAA) for the construction project which is a redevelopment project of a colony situated at Poisar Village, Mumbai⁴⁶, appeal is directed against the Environmental Clearance (EC) dated 13.4.2016 granted by the first respondent - State Environment Impact Assessment Authority (SEIAA), Kerala to the fifth respondent for the proposed expansion of building stone quarry in Thiruvaniyoor

⁴⁰MANU/GT/0092/2017

⁴¹MANU/GT/0086/2017

⁴²MANU/GT/0132/2017

⁴³MANU/GT/0079/2017

⁴⁴MANU/GT/0084/2017

⁴⁵MANU/GT/0096/2017

⁴⁶MANU/GT/0063/2017

Village and Panchayat, Kunnathunad Taluk, Ernakulam District⁴⁷, Whether prior EC is required for establishing the Common Bio- Medical Waste Treatment Facility when the requirement of environment clearance for bio medical waste plant has come later on after the consent was granted⁴⁸, environmental degradation caused due to sand mining caused due to sand mining carried out with aid of suction pumps in riverbed⁴⁹

Analysis on cases on various yardsticks

Direction to the govn authorities

In the case of Appellants: **Akash Vashishtha and Ors.Vs. Respondent: Union of India and Ors. MANU/GT/0086/2017** NGT directed U.P. State Forest Department to carry out suitable afforestation for marshy areas. Monitoring committee be set up by the Government of U.P. to ensure compliance of environmental norms in the Dadri area to prevent any further encroachment by human beings and constructions. No domestic sewage should be permitted to flow into the water bodies and any domestic sewage flowing into the Beels should be diverted into the sewerage network or trapped by constructing individual septic tanks by the households, the township and the University, as the case may be. In the case of **Appellants: Anjani Kumar and Ors.Vs. Respondent: State of Uttar Pradesh and Ors. MANU/GT/0132/2017** Tribunal held state government and all its agencies and instrumentalities would ensure that the protection and replenishment of natural resources including sand is duly provided for in the mining lease and sustainable mining should be carried out. In case of **Appellants: Anil M. Khedekar Vs. Respondent: Secretary, Ministry of Environment and Forests and Ors. MANU/GT/0063/2017** The tribunal was witnessed. Upon careful examination of the

⁴⁷MANU/GT/0013/2017

⁴⁸MANU/GT/0042/2017

⁴⁹MANU/GT/0031/2017

aforementioned observations in the visit report, it becomes evident that the committee has not adequately addressed the environmental concerns related to a construction project of this magnitude. Specifically, issues pertaining to soil management, development of green areas, establishment of a labor camp, implementation of dust control measures, and mitigation of noise pollution have not been adequately addressed. We hereby express our dissatisfaction with the visit report, which we find to be cryptic. We emphasize that such a visit report from the Experts of the State Expert Appraisal Committee (SEAC) does not align with the expected level of responsibility as outlined in the Environmental Impact Assessment (EIA) Notification. Hence, we recommend that the SEAC/SEIAA develop a standardized Visit Report form for future visits to specific activities. This form should encompass all necessary aspects for consideration by the visiting team, thereby mitigating the occurrence of similar incidents. In this proposal, we suggest the issuance of the following directions for compliance by the relevant authorities: A committee including the Chief Engineer of MHADA, the Chief Engineer of MCGM, the Director of Environment of the Government of Maharashtra, and the In-charge of the Construction Project at MPCB has been established with the purpose of verifying whether the Project Proponent has already constructed a basement in contravention of the previous Environmental Clearance (EC). The Committee will conduct a physical examination during the upcoming four weeks, and afterwards submit the findings to the Tribunal within four weeks following the inspection.

Application of International environment principles

In the case of Appellants: Anjani Kumar and Ors. Vs. Respondent: State of Uttar Pradesh and Ors. MANU/GT/0132/2017 -It involves application of principle of sustainable development as the river sand and gravel mining are an important process which has serious and far-reaching adverse impact upon the ecological balance and biological diversity of the flora and fauna existing on the river bank. In the case of Appellants: **Aabhijeet Sharma and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0096/2017** But considering environmental issues raised

in petition in respect of project and keeping attendant sensitivity of matter, it would be expedient for project proponent and government to be remain flexible in their approach and keep all options open so that project could be taken forward in national interest. As per provision of section 20 of Act it was mandatory upon tribunal to apply principles of sustainable development, precautionary principle and polluters pay while passing any order or decision or award - Considering environmental issues and consequence it would be appropriate to invoke precautionary principle. In the case of Appellants: **D. Swamy Vs. Respondent: The Karnataka State Pollution Control Board and Ors. MANU/GT/0042/2017** tribunal held Notification did not show that retrospective operation was intended. Prior EC was required for all projects which came into existence before Notification come into force - Common Bio-Medical Waste Treatment Facility run by Respondent could not be directed to be closed for want of EC - Respondent was having a valid consent to operate under Acts and also authorization under Rules - Petition dismissed. In the case of Appellants: **Dnyanesh Kisanrao Phadtare Vs. Respondent: Balaji Enterprises and Ors. MANU/GT/0031/2017** tribunal considered the inspection report of the revenue department and noted that though revenue department had located presence of mechanical equipment at site to be used for sand mining activities in contravention with environmental clearance (EC) conditions no action of seizure of such machinery was taken - There was a violation of terms and conditions of EC - Respondent No. 1 was found to be not complying with EC conditions. Hence based on principle of sustainable development therefore Respondent saddled with notional cost for environmental damages

Application of science and law through Creation of expert committees for scientific and technical knowledge

In the case of Appellants: **Joy Kaitharnath and Ors. Vs. Respondent: The Managing Director, The Kerala Minerals and Metals Ltd. and Ors. MANU/GT/0084/2017** tribunal relied on analytical sample reports made by the SPCB and NEERI and also CPCB however took into consideration report of SPCB and NEERI as as the Samples collected by NEERI were on basis of composite

seasonal sampling method and there was possibility for more representative finding and such reading of characteristics of sludge would be more appropriate and the application disposed of. In the case of Appellants: **Aabhijeet Sharma and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0096/2017** The tribunal convened. The Ministry of Forests, Environment and Climate Change (MoEF & CC) will establish a Committee comprising three members who possess expertise and scientific knowledge in the fields of seismology, geology, hydrology of rivers, and river eco-systems in the Himalayas and the North Eastern region of the country. These members will be chosen from a pool of accomplished experts and scientists, who may either be private individuals or affiliated with reputable institutions that have conducted relevant studies in these areas. The Committee has the potential to consist of individuals who possess expertise from both categories. Assuming that one member will be chosen from the North Eastern Region. To fulfill its responsibilities, the committee has the option to conduct on-site visits to the project site and its surrounding area. Additionally, they may convene meetings with two key stakeholder groups: the expert group from Assam and the expert group appointed by the Government of India. The Committee will convene sessions of a comparable nature with experts from NHPC as well as with the Applicant or their designated representatives. The meetings can be conducted either individually with each group or collectively with all groups. The Committee will undertake a comprehensive examination of the reports generated by the various Committees, including those submitted by both factions of the POC. The committee will also conduct a technical examination of the alternative proposal offered by the applicants and assess its feasibility. The applicant and/or their experts may be granted permission to deliver a presentation on their plan. The Committee may also consider the possibility of engaging the expertise of independent professionals specializing in hydropower projects.

Matter not within the scope of NGT Act/Barred by time/outside the jurisdiction

In the case of Appellants: Anjani Kumar and Ors. Vs. Respondent: State of Uttar Pradesh and Ors. MANU/GT/0132/2017 tribunal cannot decide the merit of the sand mining policy 2017 framed by state of UP and inviting of e-tender and e-auction as it is outside the jurisdiction of the NGT. In the case of **Appellants: Bhaskaran V.A. Vs. Respondent: The State Environment Impact Assessment Authority and Ors. MANU/GT/0013/2017** tribunal held there are no materials for this Tribunal to interfere with the impugned order of EC granted by the 1st respondent.

Analysis of the cases for the year 2018

1) BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE BENCH, PUNE Application No. 122 of 2014 Decided On: 13.02.2018
Appellants: Desmond Jude D'souza and Ors. Vs. Respondent: State of Goa and Ors. MANU/GT/0002/2018 Equivalent Citation: 2018(8) FLT327

Parties

Appellants- Village residents

Respondent- State of Goa

Issue- illegal allowing and hosting of events, musical shows, events of any nature resulting in construction of structure on property resulting in environmental degradation

Legislations – Noise pollution (Regulation Control) Rules 2000 and Solid Waste Management Rule 2016.

The Applicants, residents of village Anjuna are seeking permanent injunction, restraining hosting of 'Sun-Burn' celebration or any such event(s) and conducting, performing any musical shows/events of any nature, erecting/constructing any structure of whatsoever nature in the property bearing Survey No. 206/1 of village Anjuna, Bardez, district North Goa, Goa and for further directions to State of Goa to take action against Respondent-Authorities namely; Goa State Pollution Control

Board (GSPCB), Department of Tourism, Goa, Goa Coastal Zone Management Authority (GCZMA), Sarpanch Anjuna and Administrator of Comunidade for illegally granting permissions/NOCs to such musical event(s). The Applicants are further seeking compensation of Rs. 1 Crore from Respondent-Authorities, corporate bodies and private individuals, arranging such event(s) and restoration of the property to its original position. In view of the aforesaid discussion, it is not the fit case for grant of permanent injunction restraining hosting celebrating, conducting any musical shows or events in the said property and for awarding the compensation as solicited by the applicant. However, it is necessary to have a check on hosting of any show or event in the said property lest if left unbridled it may cause damage to the environment. We, therefore, reject the plea for grant of injunction and awarding of compensation, and pass the following directions: 1. Whenever any such events/festivals are organized, the organizers shall ensure that permission so granted to that effect is widely published and posted on the website at least 15 days in advance. The organizers shall maintain all norms observance to w.r.t Noise pollution (Regulation Control) Rules 2000 and Solid Waste Management Rule 2016. 3 . Goa Pollution Control Board, Goa Coastal Zone Management Authority, Department of Tourism and Local body/Municipalities shall maintain regular vigil and undertake/perform functions as prescribed under their area of jurisdiction as per Law. 4. In case permission is granted for hosting of event or festival in the said area the licensee holding such permission shall strictly abide by all terms and conditions stipulated for grant of such permission and restore the area used back to its original position. Any default in this regard shall make the organizer of such event liable to pay environmental compensation. 5. Thus, the Original Application No. 122 of 2014 stands disposed off accordingly.

**2)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Appeal No. 87/2018 (M.A. Nos. 1741 and 1747/2018) Decided
On: 15.12.2018 Appellants: Vedanta Limited Vs. Respondent: State of Tamil
Nadu and Ors. MANU/GT/0026/2018**

Party analysis-

Appellants – Vedanta Limited (Chemical Industry)

Respondents- State of Tamil Nadu

Primary and secondary legislation involved- Water Act 1974 and Air Act 1981

Issue- appeal from the closure order of industry due to air pollution by the industry by the pollution control board

This is a petition filed under section 16 of the National Green Tribunal (NGT) Act of 2010, challenging the decision made by the Tamil Nadu Pollution Control Board and the government of Tamil Nadu in accordance with the regulations outlined in the Water Act of 1974 and the Air Act of 1981. The appellant operates a copper smelting facility located within the State Industries Promotion Corporation of Tamil Nadu (SIPCOT) industrial complex in Thoothukudi. The company engages in the production of copper cathodes, copper rods, sulphuric acid, and various by-products through the smelting process of copper concentrate, among other activities. The project received approval from the government of Tamil Nadu, and the ministry of environment, forest, and climate change gave environmental clearance. The Tamil Nadu Pollution Control Board (TNPCB) has granted clearance to establish under Section 21 of the Air Act and Section 25 of the Water Act. The Tamil Nadu Pollution Control Board (TNPCB) issued a directive to cease operations of the facility in accordance with Section 31A of the Air Act, citing air pollution stemming from an event that occurred on March 23, 2013. Meanwhile, the Tamil Nadu Pollution Control Board (TNPCB) issued additional directives in accordance with Sections 33A of the Water Act and 31A of the Air Act, stipulating that the facility is prohibited from resuming its production or operations unless it obtains prior approval or renewal from the TNPCB. The TNPCB issued an additional order on May 23, 2018, which mandated the closure and disconnection of power supply. This decision was based on the findings of an inspection conducted on May 18 and 19, 2018, which revealed that the unit was engaged in operations aimed at resuming production.

The NGT approach pertains to the authority granted to the Pollution Control Board under the Water Act and the Air Act, which is intended to serve the purpose for which the Pollution Control Boards were established. The Water Act has been implemented with the objective of facilitating the prevention and management of water contamination. The Pollution Control Boards serve as instrumental entities for the intended goal. The Air Act has been implemented to provide measures for the prevention, control, and reduction of air pollution. The Pollution Control Boards serve as instrumental bodies in achieving these objectives. The statutory mandates pertaining to Consent to Establish and Consent to Operate serve the objective of guaranteeing effective pollution control measures.

The act of shutting down an industry can be likened to the metaphorical demise of a firm, often referred to as 'civil death'. The act of closing a running unit not only leads to the cessation of production, but also carries significant economic, social, and labor implications. Prior to initiating the dissolution of a corporation, it is imperative that the governing body possesses substantial and compelling evidence. The investigation pertaining to the occurrence or occurrence of a violation by the industrial enterprise must be grounded in scientifically sound evidence. It is imperative to establish a clear and direct correlation between the release of gas, the specific origin of the release, and the subsequent consequences it has on both the surrounding air quality and the overall well-being of the public. The aforementioned criteria are essential and must be fulfilled subsequent to the establishment of an order.

The decision made by the Board on March 29, 2013, to close the appellant-company's unit can be seen as more of a punitive measure rather than a preventive action based on the precautionary principle. This decision was made on the grounds that there was excessive emission on March 23, 2013, which resulted in health hazards for individuals residing 6-8 kilometers away from the appellant company's unit. The measure can be characterized as mostly punitive with a partly preventative aspect. Its primary objective is to deter future instances of eye irritation, throat irritation, and suffocation among individuals. Additionally, the implementation of

this measure is influenced by the prior reception of complaints related to these issues. The criteria for implementing punitive measures differ significantly from those necessary for issuing directives in accordance with the precautionary principle.

The Tamil Nadu Contamination Control Board (TNPCB) has referenced the viewpoints of specific experts in its publications pertaining to potential contamination resulting from gypsum waste and copper slag. However, it is important to note that there is currently a lack of scientific data to substantiate these claims. These opinions were formulated by the authors of the aforementioned papers, taking into account the technological capabilities in addressing the issues pertaining to those factories in the period leading up to 1950. The advent of technology has brought about significant changes, particularly in the manufacturing processes employed by industries. As a result, the potential for mitigating the environmental damage caused by by-products has increased considerably. This may be attributed to the utilization of advanced scientific procedures in the production of the primary product. Moreover, there is a lack of empirical data to support the notion that, even under the assumption that specific constituents in the water exceed the established standards, it has resulted in any adverse health effects within the community. Additionally, the environmental degradation stemming from this situation is deemed irreversible and incapable of being remedied. The absence of scientific evidence provided by the government is not a valid basis for denying consent or permanently shutting down an industry. The State Pollution Control Board (SPCB) and Central Pollution Control Board (CPCB) have a responsibility to implement measures aimed at mitigating environmental pollution caused by industrial activities. In situations when these remedial measures are not implemented, it is unlawful and untenable for the SPCB or CPCB to deny consent or order the closure of industries solely on this basis.

During its operation, the Tribunal adheres to the principles that are legally established under Section 20 of the NGT Act, which includes the application of the Precautionary Principle. The complaint raised on behalf of the State of Tamil

Nadu/TNPCB, suggesting that the appointment of such a committee constitutes a delegation of judicial responsibilities, lacks substance in our assessment. The Tribunal possesses the legitimate authority to establish the veracity of factual information through the implementation of an impartial and reputable expert process. According to Section 19 of the National Green Tribunal (NGT) Act, the Tribunal is not obligated to adhere to the procedural rules outlined in the Code of Civil Procedure (C.P.C.), but rather should be guided by the principles of Natural Justice. The Tribunal possesses the authority to govern and oversee its own procedural rules and protocols. The application of rules of evidence under the Evidence Act does not restrict its operation. The Tribunal possesses the powers of a Civil Court in specific circumstances as outlined in Section 19(4). In addition to the aforementioned instructions, it is our perspective that the appellant may, based on the "Precautionary Principle," undertake the following measures in order to prioritize the protection of the environment.

The appellant seeks to establish a specialized and interactive website that includes a participatory Public Forum. This platform will allow stakeholders who have been impacted by environmental issues to submit their grievances. The unit will then address and resolve these grievances within a specified timeframe. The promotion of this website should be extensive, including establishing connections with the websites of the District Administration, TNPCB, and CPCB. These organizations would serve as the supervisory entities responsible for monitoring public issues and ensuring their prompt resolution.

2) ii). The appellant is required to consistently monitor the quality of groundwater, as directed by the Tamil Nadu Pollution Control Board (TNPCB), and ensure that the data is uploaded on the website in a clear and understandable format, as stated in section 70(i) mentioned above. The failure to conduct timely analysis and upload the results may lead to the appellant unit being required to pay an environmental compensation of Rs. 10 Lakhs for each instance of non-compliance. The District Legal Services will be responsible for overseeing the management of a dedicated account for this purpose, ensuring that the funds are utilized for initiatives related

to environmental education and awareness. The appellant party is required to submit a monetary sum of Rs. 2.5 Crores as a symbolic gesture to acknowledge their shortcomings in the Extended Procedures. The issue of liability pertaining to the improper handling of a situation The State Legal Services Authority has entered into an agreement to allocate 3.5 lakhs M.T of Copper Slag on patta lands. This initiative aims to promote environmental awareness in the area and will be carried out by the District Legal Services Authority through the development and implementation of a comprehensive action plan.

The appellant unit is required to provide specific timeframes for achieving effective compliance with the "Conclusions" outlined in the report of the Committee at Sr. No. 4(e), 4(f), and 4(g). These deadlines must be made available on the designated website. The monitoring of progress will be conducted by both the general public through the Public Forum and an oversight group consisting of the District Administration, TNPCB, and CPCB. Failure to comply with or adhere to specified dates would result in an environmental compensation of Rs. 10 lakhs every instance of non-compliance.

The user has provided a single letter "v". The appellant unit is responsible for implementing measures to effectively and environmentally responsibly manage several substances, such as Copper Concentrate, Sulphuric Acid (including any potential leakage), leachate management of Gypsum Pond leachate, and stored Copper Sulphate electrolyte, among others. The District Administration and Appellate unit are responsible for developing off-site and on-site Emergency Plans, respectively. These plans will be made available on the designated website, and frequent mock drills will be conducted to ensure preparedness for environmental emergencies resulting from accidents or incidents.

The fifth point to consider is. Furthermore, it is imperative that a monitoring group consisting of the Tamil Nadu Pollution Control Board (TNPCB), the Central Pollution Control Board (CPCB), and a representative from the District

Administration oversee the proper management of effluents, emissions, and solid waste. This monitoring group should conduct regular inspections and ensure that the collected data is uploaded onto the designated website in a clear and understandable format. This will serve to raise awareness regarding the operational practices and environmental impact of the entity in question.

The Appellant Unit is required to provide a sum of Rs. 100 Crores over a span of three years for the purpose of promoting the well-being of the residents in the designated region. The action plan that has been established for the utilization of the agreed amount must also receive approval from the Ministry of Environment, Forest and Climate Change (MoEF&CC), which will also be responsible for monitoring and ensuring compliance with the plan. The action plan and the progress made in its implementation might also be put on the website for the purpose of distribution.

Therefore, we hereby grant this appeal, overturn the challenged orders, and instruct the TNPCB to issue a new order for the renewal of consent and authorization to manage hazardous substances, taking into consideration the aforementioned conclusion. This should be done while ensuring the implementation of suitable conditions to safeguard the environment in accordance with the law, and must be completed within a period of three weeks from the present date.

In the current situation, the TNPCB has employed an excessively technical approach without considering the intended purpose of the statute. As long as the establishment adheres to the Pollution Control rules and demonstrates a willingness to implement further precautionary measures, the Pollution Control Boards are not justified in arbitrarily shutting down such facilities based on excessively technical grounds, as has occurred in the current situation. It is anticipated that the Tamil Nadu Pollution Control Board (TNPCB) will adopt a more targeted and proficient strategy in carrying out its regulatory duties.

**3)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Appeal No. 58 of 2018 (M.A. Nos. 628 and 629 of 2018) Decided
On: 22.11.2018 Appellants: Nature Club of Rajasthan Vs. Respondent: Union
of India and Ors. MANU/GT/0025/2018**

Party analysis

Appellants – NGO

Respondents- Union of India

Primary and secondary legislation involved- sec 14 and 15 of NGT Act

Issue- distinct cause of action as appeal cannot be filed, beyond statutory time period.

This Appeal has been filed by an NGO namely Nature Club of Rajasthan. The reliefs sought by the Appellant is for issuance of directions to Respondent No. 1 to 5 not to consider grant of EC or lease for mining activity over agriculture land. Further it has been prayed that the Environmental Clearance dated 22nd January, 2018 granted in favour of Respondent No. 6 be quashed and set aside. It has also been prayed that the mining lease dated 30th January, 2018 granted in favour of Respondent No. 6 be also quashed and set aside. The consequential relief sought by the Appellant is to direct Respondent No. 6 to retribute for the damage caused by him to the environment and ecology. 2. Alongwith the Appeal, the Appellant has filed a Misc. Application (629 of 2018) for condonation of delay in filing the Appeal. Respondent No. 2-the State of Rajasthan through Principal Secretary, Mines Department, Respondent No. 3-Director of Mines and Geology Department, Government of Rajasthan and Respondent No. 4-the District Level Environment Impact Assessment Authority, Nagaur, Rajasthan. Reply to the Application for condonation of delay has also been filed by Respondent No. 6, Ujjwal Didel s/o. Bhoraram. It has been averred by the Appellant, in the Misc. Application for condonation of delay, that the Appeal has been filed within the statutory period of 30 days prescribed under Section 16 of the National Green Tribunal Act, 2010, as

the order granting EC to Respondent No. 6 had not been communicated. It has also been submitted by the Appellant that the present matter raises a substantial question relating to environment (under section 14 of the NGT Act)-as to whether mining activities can be carried out on agriculture land and whether the Government authorities can grant lease and EC for the same. It is also submitted that the present Appeal/Application is referable to Section 14 of the NGT Act, 2010 as well the case for which the period of limitation is six months-and it is not a simpliciter challenge to the order of granting EC. 10. Further it is submitted that present matter is also referable to Section 15 of the NGT Act, 2010 as well, to the extent that Respondent No. 6 is liable to provide for restitution of property damaged as well as for the environment in the area. Respondent No. 6 has caused tremendous damage to the environment and ecology of the agricultural areas over which he is carrying on mining activities. Respondent No. 6 is liable to compensate for the said damage under Polluter Pays Principle. The period of limitation for an Application under Section 15 is 5 years. In view of the aforesaid reasons the instant appeal has been filed beyond the statutory period of 30 days, if calculated from the date of EC. The appellant has not at all mentioned the date on which the communication or deemed communication is said to have taken place. Further, the appellant has not given the cause of delay and not explained as to what was the sufficient cause which prevented him from filing the appeal within the prescribed period, as given under Section 16 of the NGT Act. It has been further submitted by the appellant that the present matter raises a substantial question relevant to environment under (Section 14 of the NGT Act) as to whether mining activities can be carried out on agricultural land of the Government and whether Government authorities can grant lease and EC for the same. Further it is submitted that the present appeal/application is referable to Section 14 of the NGT Act 2010 as well, for which the period of limitation is 6 months. It is not a simpliciter challenge to the order of granting EC. It has also been submitted that the present matter is also referable to Section 15 of the NGT Act 2010 to the extent that respondent No. 6 is liable to restitution of property damaged as well as compensate for such damage under polluter pays

principle. The period of limitation for an application under Section 15 is 5 years. It would suffice to say that under Rule 14 of the National Green Tribunal (Practice and Procedure, Rules 2011) an application or appeal has to be based upon a single cause of action. Relief more than one may be sought only in case they are consequently to one another. The aforesaid case of the appellant of challenging the issuance of EC, under Section 14 and Section 15 are not permissible under one appeal as both are to distinct causes of action. Further the same cannot be said to be consequently to one another. An appeal for plural cause of actions is not permissible. 39. We are, therefore, of the considered view that the application of condonation of delay deserves to be rejected. Accordingly, the M.A. No. 628 of 2018 and M.A. No. 629 of 2018 is disposed is dismissed with no order as to cost. Consequently, the Appeal No. 58 of 2018 is dismissed as non-maintainable on the ground of having being filed beyond the prescribed statutory limitation. There shall be no order as to cost.

**4)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 732 of 2017 Decided On: 04.04.2018
Appellants: Shobhit Chauhan Vs. Respondent: Union of India and Ors.
MANU/GT/0006/2018 Equivalent Citation: 2018(8) FLT505**

Party analysis-

Appellants – individual

Respondents- Union of India

Primary and secondary legislation involved- Environment Protection Act 1986 and the purpose of EIA Notification 2006

Issue- environment clearance granted without considering operating merits and demerits of the felling of 1961 trees which shall disturb the ecological balance leading to a negative impact upon the environment as well increased pollution levels for the residents of the peripheral

In this Original Application No. 732/2017 filed by the Applicant it has been alleged that the Environmental Clearance was granted by Respondent No. 1 Ministry of Environment and Forest for construction of International Exhibition cum Conventions Centre in the sub city of Dwarka, New Delhi on 29.08.2017 without considering operating merits and demerits of the felling of 1961 trees which shall disturb the ecological balance leading to a negative impact upon the environment as well increased pollution levels for the residents of the peripheral colonies defeating the objective clause of the Environment (Protection) Act, 1986 and the purpose of the EIA Notification 2006. Environmental clearance was granted for construction of International Exhibition cum Conventions Centre in the sub city of Dwarka, New Delhi. The felling of 1961 trees will disturb the ecological balance leading to a negative impact upon the environment as well as increased pollution levels for the residents of the peripheral colonies. An independent team of the Environment Ministry and Department of Environment-GNCTD should be directed to assess the number and size of tree species and shrubs present on the lands. The government should also consider 'green' and 'environmentally friendly' alternatives to afforestation. A minimum of 1 tree for every 80 sq.m. of land should be planted and maintained. Preference should be given to planting native species. Where trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e., planting of 3 trees for every 1 tree that is cut) shall be done, and maintained. The Original Application No. 732/2017 is dismissed, with no order as to cost. The Project Proponent will ensure that the trees to be planted are at least 6 feet high and over three-year-old. sufficient care will be taken to protect and maintain them.

5)BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE BENCH, PUNE Review Application No. 35 of 2016 in Original Application No. 184 of 2015 Decided On: 08.01.2018 Appellants: Tanaji Balasaheb Gambhire Vs. Respondent: Union of India and Ors. MANU/GT/0001/2018 Equivalent Citation: 2018(8) FLT311

Party analysis-

Appellants – individual

Respondents- Union of India

Primary and secondary legislation involved- Environment Clearance Regulations, 2006

Seeking review of the judgement, original application which was moved to seeking directions to respondents to demolish the illegal structures constructed by Goel Ganga Developers India Pvt Ltd on pune road on account of several infractions of law including environment clearance regulations 2006 and for payment of damages and environmental compensation.

One Tanaji Gambhire, Applicant in Original Application No. 184/2015 is seeking Review of the Judgment and Order dated 27th September 2016 passed in the said Application. 2 . Original Application No. 184/2015 was moved for seeking directions to the Respondents therein to demolish the illegal structures constructed by the Respondent No. 9 M/s. Goel Ganga Developers India Pvt. Ltd. therein at Survey No. 35 to 40 of village Wadgaon Bk. Sinhagad Road, Pune on account of several infractions of Law including Environment Clearance Regulations, 2006, and inter-alia for payment of damages/environmental compensation. The Respondent No. 9-PP shall pay environmental compensation cost of Rs. 190 crores or 5 % (Five percent) of the total cost of project to be assessed by SEAC, whichever is more, for restoration and restitution of environment damage and degradation caused by the project proponent by carrying out the construction activities without the necessary prior environmental clearance within a period of one month. In addition to this, it shall also pay a sum of Rs. 5 crores for contravening mandatory provision of several Environment Laws in carrying out the construction activities in addition to and exceeding limit of the available environment clearance and for not obtaining the consent from the Board." Review Application No. 35/2016 stands disposed off accordingly.

6) BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI Appeal No. 15 of 2017 (M.A. Nos. 772 of 2017, 1581 of 2017),

Appeal No. 16 of 2017 (M.A. Nos. 774 of 2017, 1582 of 2017), Appeal No. 17 of 2017 (M.A. Nos. 776 of 2017, 1583 of 2017) and Appeal No. 18 of 2017 (M.A. Nos. 778 of 2017, 1584 of 2017) Decided On: 25.09.2018 Appellants: Arpit Marbles Pvt. Ltd. Vs. Respondent: Rajasthan Pollution Control Board and Ors. MANU/GT/0029/2018 Equivalent Citation: 2019(9)FLT248.

Party analysis-

Appellants – industry

Respondents- Rajasthan Pollution Control Board and Ors

Primary and secondary legislation involved- Air (Prevention and Control of Pollution) Act, 1981

prevent and control AIR Pollution likely to be caused by your mining act and for the purpose of prevention of perpetual offence being committed by you, the Board refused application for consent to operate."

The issue is with reference to mines and minerals which involves mining leases, the appeal has been filed bcoz of refusal to renew mining lease by the Rajasthan state pollution control board for mining leases of limestone mineral. The issue is whether order refusing renewal of mining leases warrant interference of tribunal. Restrictions imposed by the Hon'ble Supreme Court in the case of WP (C) No. 202 of 1995 in T.N. Godavarman Thirumulpad v. Union of India and others, are not applicable on mining activities on non-forest lands and specifically to those mining leases which are already operational. It is clear from above that the order dated 4.8.2006 in this case that Jamuwa Ramgarh Wildlife Sanctuary in Rajasthan was the basis of the case of Goa Foundation (supra) wherein all the mining activities have been prohibited within 1 km of the boundaries of National Parks and Sanctuaries. It is therefore amply clear that considering the sensitiveness of the National Parks and Sanctuaries no mining activity can be permitted up to 1 km from the boundaries of the National Parks and Sanctuaries anywhere in the country. It is an admitted fact that all the mining leases in all the four Appeals i.e., Appeal No.

15/2017, 16/2017, 17/2017 and 18/2017 are 27-01-2021 situated within 1 km of the Jamuwa Ramgarh Wildlife Sanctuary. Tribunal held that wildlife sanctuary, which is located close to the city of Jaipur, is ecologically extremely sensitive. Therefore, in terms of the orders of the Hon'ble Supreme Court no mining activity can be permitted within 1 km of the boundary of the Jamuwa Ramgarh Wildlife Sanctuary applies here as well and appeal stands dismissed.

7)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI Appeal No. 83 of 2014 Decided On: 14.09.2018 Appellants: Hira Singh Markam and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0030/2018 Equivalent Citation: 2019(9) FLT167

Party analysis

Appellants – individual

Respondents- Union of India

Primary and secondary legislation involved- Forest (Conservation)Act 1980, Scheduled Tribes and other Forest Dwellers (Recognition of Forest Rights) Act, 2006

Issue involved- Forest clearance has been granted for the construction of the Phase I of Dalli Rjhara Rawghat Railway Line; appeal is with respect to forest clearance granted for diversion of additional forest land for non-forest purpose

The appeal is with respect to forest clearance granted for diversion of additional forest land for non-forest purpose. The issue is covered under sec 2 of the forest (conservation)Act 1980. the forest clearance has been granted for the construction of the Phase I of Dalli Rjhara Rawghat Railway Line. The question whether the order of forest clearance in the present case calls for interference. Appellants have requested the tribunal to pass orders quashing the forest clearance granted. The applicants have submitted that the Forest Dept. of Chhattisgarh have not fulfilled

the requirements of official memorandums of the Ministry of Environment and Forest dated 30.7.2009 and 3.8.2009 whereby the settlement of rights under the Scheduled Tribes and other Forest Dwellers (Recognition of Forest Rights) Act, 2006 have to be settled before the proposal for the diversion of the forest under section 2 of the Forest (Conservation) Act, 1980 can be forwarded by the State Government to the Central Government. The contention that forest clearance requires consent of gram Sabha is not applicable in the present facts of the case as the appellants has nowhere contended that the tribals or the forest dwellers in the forest land involved fall in the category of primitive Tribal groups or Pre-Agriculture communities and therefore the proposal of diversion of forest land for construction of this railway line is exempt from the requirements of the consent of gram Sabha. Therefore, there is no requirement of pre settlement of the rights of the Scheduled Tribes or the forest dwellers of the area involved in the project in the forest conservation act 1980. Besides, Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 is not in the Schedule of Acts in the National Green Tribunal Act, 2010. Therefore, this appeal has no merits. Consequently Appeal 83 of 2014 dismissed with no order as to cost.

**8)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 429 of 2017 (Earlier O.A. No. 124 of
2016) Decided On: 24.07.2018 Appellants: Kirti Vardhan Singh Vs.
Respondent: State of Uttar Pradesh MANU/GT/0035/2018**

Party analysis-

Appellants – Individual

Respondents- State of Uttar Pradesh

Issue involved- ban on illegal sand mining

The matter is with respect to ban on illegal sand mining in the district Gonda Uttar Pradesh. The committee was constituted by the tribunal to ascertain the extent of damage to the environment and other incidental issues and the report is a subject

matter of consideration in the present application. As per report, it has been inter-alia found that the illegal mining has resulted in loss of Royalty of Rs. 93,04,45,776/- and quantum of money required for restoration is Rs. 119,41,14,500/-The tribunal found that there is no reason to accept the said report as no objection has been filed.

NGT directions-

State of U.P may take steps in accordance with law for recovering loss caused as expeditiously and as far as possible within six months.

The amount assessed as loss to the environment should be separately earmarked for restoration of the environment.

A report of the action taken and details of the amount spent should be furnished to this tribunal.

Application disposed of.

**9)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 456/2018 (Earlier O.A. No.
146/2014(CZ)) Decided On: 31.07.2018 Appellants: Nityanand Mishra Vs.
Respondent: State of M.P. and Ors. MANU/GT/0031/2018**

Party analysis

Appellants – Individual

Respondents- State of Madhya Pradesh

Issue involved- This application raises a concern for protection of population of Gharials in the context of unregulated sand mining in the area of 200 km stretch of Son River.

The issue is with respect to unregulated sand mining going in the 200 km of stretch of son river which is raising a concern for the protection of population of Gharials. Also, despite various orders passed by tribunal and action taken by state of Madhya

Pradesh there is hardly any achievement on stopping illegal mining and protection of the wild life. Tribunal made observation that despite of action taken by tribunal and report submitted there is finally need strong continuous measures. Hence a committee is formed to prepare an action plan to check to illegal mining, conservation of gharials and turtles and maintenance of minimum ecological flow downstream the Ban Sagar Dam. i. Representative from the Indian Institute of Forest Management, Bhopal, who will be the Convener. ii. Representative from the Wildlife Institute, Dehradun. iii. Representative from the Indian School of Mines, Dhanbad. iv. Nominee from the National Judicial Academy, Bhopal. v. The Collector, District Sidhi. vi. Representative from the MoEF & CC. The Committee may be constituted within two weeks from today and prepare an action plan within one month thereafter. The Committee will also be at liberty to interact with the concerned States or other stakeholders. The applicant and other stakeholders are free to put forward their suggestions for consideration of the Committee. Application is disposed of However, the report submitted by the Committee be put up before the Tribunal for further consideration.

**10)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 916/2018 (Earlier O.A. No. 101/2014)
Decided On: 14.11.2018 Appellants: Sobha Singh and Ors. Vs. Respondent:
State of Punjab and Ors. MANU/GT/0023/2018**

Issue involved- Pollution of the river Sutlej and beas in Jalandhar and Ludhiana district on account of discharge of untreated industrial and municipal pollutants from hazardous waste generating industries

The issue is with reference to pollution of the river Sutlej and beas in Jalandhar and Ludhiana district on account of discharge of untreated industrial and municipal pollutants. There are 1332 hazardous waste generating industries as well as 17 categories of industries highly polluting. As a consequence of these eight districts of Rajasthan were adversely affected apart from Jalandhar and Ludhiana district of Punjab. The failure on the part of the local bodies and the industries to install and

make functional requisite treatment plants. Total of 35 municipal Councils/Nagar Panchayats are discharging sewage with heavy metal and BOD loads in the said rivers. The stand of the Punjab Pollution Control Board and the Punjab Water Supply and Sewerage Board (PWSSB) with regard to installation of the STPs and taking of other steps was taken into consideration in spite of that the water quality did not meet the standards. The committee was required to frame a short-term action plan for three months and a longer plan with three monthly targets with the funds provided by the Ministry of Urban Development, Government of India. The Committee could also consider suggestion from stakeholders and involve volunteers as well as the educational institutions. The committee submitted its interim report highlighting the issue of lack of sewage system, non-availability of STPs and lack of appropriate technology and capacity, lack of waste water treatment, lack of skilled man power, non-sustainable approach in designing of sewage management projects. The sources of industrial pollution in the catchment area of river Sutlej include M/s. National Fertilizers Limited, Nangal, M/s. Punjab Alkali and Chemicals Ltd., Naya Nangal, M/s. Guru Gobind Singh Super Thermal Plant (GGSSTP)/Ropar and M/s. Gujrat Ambuja Ltd. Village Daburji, Ropar at stretch Nangal to Ropar and electroplating industries, dyeing industries, leather complex, Kapurthala Road, Jalandar, Effluent from industries located at Phagwara, effluent from industries located at Phillaur as well as M/s. Pioneer Industries (Distilleries Division) and M/s. Pioneer industries (Gluten Division), Pathankot, M/s. Indian Sucrose, Mukerian and M/s. Chadha Sugar Ltd. The committee also noted that solid waste is not properly handled and is dumped on open sites causing a serious threat to the environment and also choking the flow of the water bodies. Bio-medical waste as well as hazardous waste are not properly managed. There is also illegal mining in the flood plain/river basins. It was noted that sludge generated from STPs was not being pre-treated, STPs were not having stand-by arrangement during maintenance, STPs are by-passing the untreated sewage into drains and do not have adequate capacity, industrial effluents are mixed up with the domestic

sewage resulting in damage to the STPs. All the STPs should be under one authority. Health camps are required to be conducted in the affected areas.

Tribunal judgement-based on the findings of the report of the committee the tribunal concluded that huge damage has been done to the environment particularly the water bodies as well to the inhabitants. Hence based on the estimated damage in monetary terms is not less than Rs 50 crores. Based on the polluter pay principle the State of Punjab is directed to deposit a sum of Rs. 50 crores with the Central Pollution Control Board within one month from today for being spent on restoration of the environment as well for relief to the victims. The State of Punjab is at liberty to prepare an action plan to recover the amount from the erring industries, local bodies, individuals and also the erring officers. Further directed the Secretary, Local Bodies, Punjab, the Municipal Commissioners of Ludhiana and Jalandhar, PWSSB to jointly take responsibility for taking further steps to prevent any further damage and to take remedial steps so that the quality of water in the affected areas of rivers Sutlej and Beas is brought within the prescribed standards within 6 months. The Monitoring Committee constituted by this Tribunal may suggest a mechanism for spending the above amount in proper proportion for restoration of the environment and for public health or other issues in the area. The authorities may initiate prosecution against violators of law in accordance of law and take such other steps may be found appropriate, including closure of polluting industries, disciplinary and penal action against erring officers, etc. Time for furnishing further report is extended till 31.01.2019, as suggested. 21. Put up for further consideration on 22.02.2019.

11)BEFORE THE NATIONAL GREEN TRIBUNAL CENTRAL ZONE BENCH, BHOPAL M.A. Nos. 448/2017, 449/2017, 450/2017, 451/2017, 452/2017 in Original Application No. 90/2017 (CZ) Decided On: 23.03.2018 Appellants: Tikam Singh Vs. Respondent: State of Rajasthan and Ors. MANU/GT/0005/2018 Equivalent Citation: 2018(8) FLT321

Issue involved- Not within the jurisdiction of Ngt

The issue is with reference to illegal transportation of mineral Bajari from the State of Gujarat into the State of Rajasthan whereas the Gujarat Mines and Mineral Concession Rules clearly provides, under Rule, 70, that the mineral Bajari shall not be transported outside the State of Gujarat and the Ravanna issued for the aforesaid would be illegal beyond the territorial limits of Gujarat State. Accordingly, the applicant has sought relief from the respondents to restrain the vehicles carrying Bajri coming from the State of Gujarat and entering the State of Rajasthan. Tribunal held- there is no question relating to environment which can be said to be involved in the present case, much less to say that a substantial question relating to environment. Moreover, there is no question which can be said to arise out of implementation of enactments specified in Schedule I. tribunal held the aforesaid grievances raised by the Applicant does not fall within the purview and scope of Section 14 of the National Green Tribunal Act 2010 nor it can be said to be a dispute where substantial question relating to environment is involved, much less to say, arising out of implementation of the enactments specified in Schedule I. Therefore, in view of aforesaid facts and circumstances, the question raised by the Applicant and the relief sought, do not fall within the jurisdiction of this Tribunal. original application rejected.

Result and Analysis of cases for the year 2018

In the case of **Appellants: Desmond Jude D'souza and Ors. Vs. Respondent: State of Goa and Ors. MANU/GT/0002/2018** The residents of the village arjuna are seeking permanent injunction against hosting of sunburn celebration or any such musical events in the village and further direction to state of goa to take action against authorities Goa state pollution control board, department of tourism goa, Goa coastal zone management authority and other for illegally granting permissions to such musical events and further seeking compensation of Rs 1 crore from authorities ,corporate bodies and private individuals responsible for arranging such events and for the restoration of the property to its original position. Tribunal held it is not the fit case for the grant of the permanent injunction for restraining hosting such celebrations conducting any musical shows or events in the property

and for awarding compensation. However, it is necessary to have check on such events or shows in the property as if left unbridled it may cause damage to the environment. Tribunal rejected the plea for grant of injunction and awarding of compensation but passed following directions-1) any such events are organized; organizers shall ensure that permission so granted should be widely published and posted on the website at least 15days in advance.2) Organizers shall maintain all standards with respect to Noise Pollution (Regulation control) Rules 2000 and solid waste management Rule 2016.3) Goa Pollution Control Board, Goa Coastal Zone Management Authority, Department of Tourism and Local body/Municipalities shall maintain regular vigil and undertake/perform functions as prescribed under their area of jurisdiction as per Law.4)in the case of permission is granted for hosting of event or festival in the said area licensee shall abide by such permission and its terms and condition stipulated for grant of such permission and restore the area to its original position.5)Any default in this regard will make the organizer of such event liable to pay environmental compensation.In the case of **Appellants: Vedanta Limited Vs. Respondent: State of Tamil Nadu and Ors.** ⁵⁰It's an appeal under sec 16 of the NGT Act 2010 which has been raised against the order passed by the Tamil Nadu Pollution control Board and the government of Tamil Nadu under the provisions of Water Act 1974 and Air Act 1981. The TNPCB granted consent to establish sec 21 of Air Act and sec 25 of water Act. TNPCB directed closure of the unit under Section 31A of the Air Act on the ground of air pollution resulting from an incident dated 23.03.2013. In the meanwhile, the TNPCB passed further order under Sections 33A of the Water Act and 31A of the Air Act directing that the unit shall not resume its production/operation without prior approval/renewal from the TNPCB. Further order dated 23.05.2018 was passed by the TNPCB, directing closure and disconnection of power supply on the ground that during the inspection on 18.05.2018 and 19.05.2018, the unit was found to be carrying out its activities to resume production Approach- power conferred on the Pollution Control Board under the Water Act and the Air Act is meant to subserve

⁵⁰ MANU/GT/0026/2018

the object for which the Pollution Control Boards have been set up. The Water Act has been enacted to provide for prevention and control of water pollution. The Pollution Control Boards are machinery for the purpose. Similarly, Air Act has been enacted to provide for prevention, control and abatement of air pollution and the Pollution Control Boards are machinery for the said purpose. The statutory requirements of Consent to Establish and Consent to Operate are for the purpose of ensuring control of pollution. In the case of **Appellants: Nature Club of Rajasthan Vs. Respondent: Union of India and Ors. MANU/GT/0025/2018** issue involves filing of appeal by an NGO namely Nature club of Rajasthan for issuance of directions respondent for grant of EC or mining activity over agriculture land and it has also been filed for environment clearance to be quashed and set aside and mining lease to be set aside. Relief claimed from the respondent is to restitute for the damage caused by him to environment and ecology. Along with this application has been filed for condonation of delay. It has been averred by the Appellant, in the Misc. Application for condonation of delay, that the Appeal has been filed within the statutory period of 30 days prescribed under Section 16 of the National Green Tribunal Act, 2010, as the order granting EC to Respondent No. 6 had not been communicated. It has also been submitted by the Appellant that the present matter raises a substantial question relating to environment (under section 14 of the NGT Act)-as to whether mining activities can be carried out on agriculture land and whether the Government authorities can grant lease and EC for the same. It is also submitted that the present Appeal/Application is referable to Section 14 of the NGT Act, 2010 as well the case for which the period of limitation is six months-and it is not a simpliciter challenge to the order of granting EC. 10. Further it is submitted that present matter is also referable to Section 15 of the NGT Act, 2010 as well, to the extent that Respondent No. 6 is liable to provide for restitution of property damaged as well as for the environment in the area. Respondent No. 6 has caused tremendous damage to the environment and ecology of the agricultural areas over which he is carrying on mining activities. Respondent No. 6 is liable to compensate for the said damage under Polluter Pays Principle. NGT Approach- It

would suffice to say that under Rule 14 of the National Green Tribunal (Practice and Procedure, Rules 2011) an application or appeal has to be based upon a single cause of action. Relief more than one may be sought only in case they are consequentially to one another. The aforesaid case of the appellant of challenging the issuance of EC, under Section 14 and Section 15 are not permissible under one appeal as both are to distinct causes of action. Further the same cannot be said to be consequentially to one another. An appeal for plural cause of actions is not permissible. We are, therefore, of the considered view that the application of condonation of delay deserves to be rejected. Accordingly, the M.A. No. 628 of 2018 and M.A. No. 629 of 2018 is disposed is dismissed with no order as to cost. Consequently, the Appeal No. 58 of 2018 is dismissed as non-maintainable on the ground of having being filed beyond the prescribed statutory limitation. There shall be no order as to cost. In the case of **Appellants: Shobhit Chauhan Vs. Respondent: Union of India and Ors. MANU/GT/0006/2018 Equivalent Citation: 2018(8) FLT505** application has been filed alleging that the environment clearance was granted by the Ministry of environment and forest for construction of international exhibition cum conventions center in Dwarka New Delhi without considering merits and demerits of the felling of 1961 trees which will disturb the ecological balance leading to negative impact upon the environment and increased pollution levels for the residents of the peripheral colonies. It will defeat the objective clause of the Environment Protection Act 1986 and the purpose of EIA Notification 2006. NGT Approach-An independent team of the environment ministry and department of environment GNCTD should be directed to assess the number and size of tree species and shrubs present on the lands. The government should also consider 'green' and 'environmentally friendly' alternatives to afforestation. A minimum of 1 tree for every 80 sq.m. of land should be planted and maintained. Preference should be given to planting native species. Where trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e., planting of 3 trees for every 1 tree that is cut) shall be done, and maintained. Preference should be given to planting native species. Where trees need to be cut, compensatory

plantation in the ratio of 1:3 (i.e., planting of 3 trees for every 1 tree that is cut) shall be done, and maintained. In the case of **Appellants: Tanaji Balasaheb Gambhire Vs. Respondent: Union of India and Ors. MANU/GT/0001/2018** The present application is with respect to environment compensation which has been filed against order whereby Tribunal declined to direct demolition of illegal constructions and imposed trivial amount of environmental compensation against Respondent - Whether compensation awarded for restoration and restitution of environment damage warrant any modification - Held, Tribunal ignored vital material on record while imposing environmental compensation - Nothing concrete had been put forth to demonstrate any flaw in application of concept of Carbon Foot Print for calculating environmental compensation with reasonable amount of exactitude - Therefore, direction with regard to environmental compensation was modified and Respondent was directed to pay environmental compensation at increased amount. The Respondent No. 9-PP shall pay environmental compensation cost of Rs. 190 crores or 5 % (Five percent) of the total cost of project to be assessed by SEAC, whichever is more, for restoration and restitution of environment damage and degradation caused by the project proponent by carrying out the construction activities without the necessary prior environmental clearance within a period of one month. In addition to this, it shall also pay a sum of Rs. 5 crores for contravening mandatory provision of several Environment Laws in carrying out the construction activities in addition to and exceeding limit of the available environment clearance and for not obtaining the consent from the Board." Review Application No. 35/2016 stands disposed off accordingly. In the case of **Appellants: Arpit Marbles Pvt. Ltd. Vs. Respondent: Rajasthan Pollution Control Board and Ors. MANU/GT/0029/2018** Equivalent Citation: 2019(9) FLT248 The issue is with reference to mines and minerals which involves mining leases, the appeal has been filed because of refusal to renew mining lease by the Rajasthan state pollution control board for mining leases of limestone mineral. The issue is whether order refusing renewal of mining leases warrant interference tribunal held that all mining activities are prohibited within 1 km of the boundaries

of the National Park and sanctuaries hence no mining activity can be permitted within 1 km of the boundary of the Jamuwa Ramgarh Wildlife sanctuary-appeal dismissed.

Party analysis

Appellants-village residents, Chemical industry, NGO, individual, marble industry,

Respondents-state of Goa, State of Tamil Nadu, Union of India, Rajasthan pollution control Board, state of Punjab

Subject area analysis- village residents getting affected due to celebration of host of musical and other events causing degradation of property due to construction and noise pollution, closure order of industry due to air pollution by the industry by the pollution control board, Multiple number of causes in an appeal involving environment clearance substantial question involving environment, illegal structures constructed in violation of environment regulations resulting in damage to environment, prevent and control Air Pollution likely to be caused by your mining act around a wildlife sanctuary, appeal is with respect to forest clearance granted for diversion of additional forest land for non-forest purpose, unregulated and illegal sand mining affecting protection of wildlife and Gharials, Pollution of the river Sutlej and beas in Jalandhar and Ludhiana district on account of discharge of untreated industrial and municipal pollutants from hazardous waste generating industries.

Environmental issues- seeking permanent injunction against hosting of sunburn celebration or any such musical events in the village resulting in environment degradation and noise pollution^{51, 52}It's an appeal under sec 16 of the NGT Act 2010 which has been raised against the order passed by the Tamil Nadu Pollution control Board and the government of Tamil Nadu under the provisions of Water Act 1974

⁵¹ MANU/GT/0002/2018

⁵² MANU/GT/0026/2018

and Air Act 1981⁵³, of the appellant of challenging the issuance of EC, under Section 14 and Section 15 are not permissible under one appeal as both are to distinct causes of action⁵⁴,environment clearance granted without considering operating merits and demerits of the felling of 1961 trees which shall disturb the ecological balance leading to a negative impact upon the environment as well increased pollution levels for the residents of the peripheral⁵⁵,review of the judgement, original application which was moved to seeking directions to respondents to demolish the illegal structures constructed by Goel Ganga Developers India Pvt Ltd on pune road on account of several infractions of law including environment clearance regulations 2006 and for payment of damages and environmental compensation⁵⁶, appeal has been filed bcoz of refusal to renew mining lease by the Rajasthan state pollution control board for mining leases of limestone mineral⁵⁷, Forest clearance has been granted for the construction of the Phase I of Dalli Rjhara Rawghat Railway Line⁵⁸, it involves matter with respect to ban on illegal sand mining in the district Gonda and the committee was constituted by the tribunal to ascertain the extent of damage to the environment and other incidental issues and the report is a subject matter of consideration in the present application⁵⁹,The issue is with respect to unregulated sand mining going in the 200 km of stretch of son river which is raising a concern for the protection of population of Gharials⁶⁰, The issue is with reference to pollution of the river Sutlej and beas in Jalandhar and Ludhiana district on account of discharge of untreated industrial and municipal pollutants. There are 1332 hazardous waste generating industries as well as 17 categories of industries highly polluting⁶¹

⁵³ MANU/GT/0026/2018

⁵⁴ MANU/GT/0025/2018

⁵⁵ MANU/GT/0006/2018

⁵⁶ MANU/GT/0001/2018

⁵⁷ MANU/GT/0029/2018

⁵⁸ MANU/GT/0030/2018

⁵⁹ MANU/GT/0035/2018

⁶⁰ MANU/GT/0031/2018

⁶¹ MANU/GT/0023/2018

Analysis on cases on various yardsticks

Direction to the govn authorities

In the case of **Appellants: Desmond Jude D'souza and Ors. Vs. Respondent: State of Goa and Ors. MANU/GT/0002/2018** Tribunal directed Goa Pollution Control Board, Goa Coastal Zone Management Authority, Department of Tourism and Local body/Municipalities shall maintain regular vigil and undertake/perform functions as prescribed under their area of jurisdiction as per law when happening of such celebrations such as sun burn celebration and other musical events. In the case of **Appellants: Vedanta Limited Vs. Respondent: State of Tamil Nadu and Ors. MANU/GT/0026/** held we allow this appeal, set aside the impugned orders and direct the TNPCB to pass fresh order of renewal of consent and authorization to handle hazardous substances, in the light of above finding, subject to appropriate conditions for protection of environment in accordance with law within three weeks from today. In the present case, the TNPCB has adopted hyper technical approach unmindful of object of law. So long as establishment is complying with the Pollution Control norms and is willing to take further precautionary steps, the Pollution Control Boards cannot arbitrarily close such establishments on hyper technicalities, as has been done in the present case. We expect TNPCB to have more focused and professional approach in performing its regulatory functions. In the case of **Appellants: Kirti Vardhan Singh Vs. Respondent: State of Uttar Pradesh MANU/GT/0035/2018** NGT directed 1) State of U.P may take steps in accordance with law for recovering loss caused as expeditiously and as far as possible within six months. In the case of **Appellants: Sobha Singh and Ors. Vs. Respondent: State of Punjab and Ors. MANU/GT/0023/2018** Tribunal directed the Secretary, Local Bodies, Punjab, the Municipal Commissioners of Ludhiana and Jalandhar, PWSSB to jointly take responsibility for taking further steps to prevent any further damage and to take remedial steps so that the quality of water in the affected areas of rivers Sutlej and Beas is brought within the prescribed standards within 6 months. The authorities may initiate prosecution against violators of law in accordance of law and take such other steps may be found

appropriate, including closure of polluting industries, disciplinary and penal action against erring officers, etc.

Application of International environment principles

In the case of **Appellants: Desmond Jude D'souza and Ors. Vs. Respondent: State of Goa and Ors. MANU/GT/0002/2018** tribunal held any default in this regard will make the organizer of such event liable to pay environmental compensation. In the case of **Appellants: Shobhit Chauhan Vs. Respondent: Union of India and Ors. MANU/GT/0006/2018** tribunal based on sustainable development held that **independent** team of the environment ministry and department of environment GNCTD should be directed to assess the number and size of tree species and shrubs present on the lands. The government should also consider 'green' and 'environmentally friendly' alternatives to afforestation. A minimum of 1 tree for every 80 sq.m. of land should be planted and maintained. Preference should be given to planting native species. Where trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e., planting of 3 trees for every 1 tree that is cut) shall be done, and maintained. Preference should be given to planting native species. Where trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e., planting of 3 trees for every 1 tree that is cut) shall be done, and maintained. The Project Proponent will ensure that the trees to be planted are at least 6 feet high and over three-year-old. sufficient care will be taken to protect and maintain them. In the case of **Appellants: Tanaji Balasaheb Gambhire Vs. Respondent: Union of India and Ors. MANU/GT/0001/2018** based on polluter pay principle tribunal held The Respondent No. 9-PP shall pay environmental compensation cost of Rs. 190 crores or 5 % (Five percent) of the total cost of project to be assessed by SEAC, whichever is more, for restoration and restitution of environment damage and degradation caused by the project proponent by carrying out the construction activities without the necessary prior environmental clearance within a period of one month. In addition to this, it shall also pay a sum of Rs. 5 crores for contravening mandatory provision of several Environment Laws in carrying out the construction activities in addition to and exceeding limit of the available

environment clearance and for not obtaining the consent from the Board.” In the case of **Appellants: Arpit Marbles Pvt. Ltd. Vs. Respondent: Rajasthan Pollution Control Board and Ors.** MANU/GT/0029/2018 based on sustainable development principle based on supreme court decision on previous occasion in a similar case tribunal held that all mining activities are prohibited within 1 km of the boundaries of the National Park and sanctuaries hence no mining activity can be permitted within 1 km of the boundary of the Jamuwa Ramgarh Wildlife sanctuary-appeal dismissed. In the case of **Appellants: Kirti Vardhan Singh Vs. Respondent: State of Uttar Pradesh** MANU/GT/0035/2018 tribunal held based on polluter pay principle the amount assessed as loss to the environment should be separately earmarked for restoration of the environment. A report of the action taken and details of the amount spent should be furnished to this tribunal. In the case of **Appellants: Sobha Singh and Ors. Vs. Respondent: State of Punjab and Ors.** MANU/GT/0023/2018 based on the findings of the report of the committee the tribunal concluded that huge damage has been done to the environment particularly the water bodies as well to the inhabitants. Hence based on the estimated damage in monetary terms is not less than Rs 50 crores. Based on the polluter pay principle the State of Punjab is directed to deposit a sum of Rs. 50 crores with the Central Pollution Control Board within one month from today for being spent on restoration of the environment as well for relief to the victims. The State of Punjab is at liberty to prepare an action plan to recover the amount from the erring industries, local bodies, individuals and also the erring officers. Further directed the Secretary, Local Bodies, Punjab, the Municipal Commissioners of Ludhiana and Jalandhar, PWSSB to jointly take responsibility for taking further steps to prevent any further damage and to take remedial steps so that the quality of water in the affected areas of rivers Sutlej and Beas is brought within the prescribed standards within 6 months.

Application of science and law through Creation of expert committees for scientific and technical knowledge

In the case of **Appellants: Nityanand Mishra Vs. Respondent: State of M.P. and Ors. MANU/GT/0031/2018** Tribunal made observation that despite of action taken by tribunal and report submitted there is finally need strong continuous measures. Hence a committee if formed to prepare an action plan to check to illegal mining, conservation of gharials and turtles and maintenance of minimum ecological flow downstream the Ban Sagar Dam. i. Representative from the Indian Institute of Forest Management, Bhopal, who will be the Convener. ii. Representative from the Wildlife Institute, Dehradun. iii. Representative from the Indian School of Mines, Dhanbad. iv. Nominee from the National Judicial Academy, Bhopal. v. The Collector, District Sidhi. vi. Representative from the MoEF & CC. The Committee may be constituted within two weeks from today and prepare an action plan within one month thereafter. The Committee will also be at liberty to interact with the concerned States or other stakeholders. The applicant and other stakeholders are free to put forward their suggestions for consideration of the Committee. In the case of **Appellants: Sobha Singh and Ors. Vs. Respondent: State of Punjab and Ors. MANU/GT/0023/2018** tribunal directed the Monitoring Committee constituted by this Tribunal may suggest a mechanism for spending the above amount in proper proportion for restoration of the environment and for public health or other issues in the area.

Matter not within the scope of NGT Act/Barred by time/outside the jurisdiction

In the case of **Appellants: Nature Club of Rajasthan Vs. Respondent: Union of India and Ors. MANU/GT/0025/2018** Tribunal held It would suffice to say that under Rule 14 of the National Green Tribunal (Practice and Procedure, Rules 2011) an application or appeal has to be based upon a single cause of action. Relief more than one may be sought only in case they are consequentially to one another. The aforesaid case of the appellant of challenging the issuance of EC, under Section 14 and Section 15 are not permissible under one appeal as both are to distinct causes of action. Further the same cannot be said to be consequentially to one another. An appeal for plural cause of actions is not permissible. We are, therefore, of the

considered view that the application of condonation of delay deserves to be rejected. Accordingly, the M.A. No. 628 of 2018 and M.A. No. 629 of 2018 is disposed is dismissed with no order as to cost. Consequently, the Appeal No. 58 of 2018 is dismissed as non-maintainable on the ground of having being filed beyond the prescribed statutory limitation. There shall be no order as to cost. In the case of **Appellants: Hira Singh Markam and Ors. Vs. Respondent: Union of India and Ors.** MANU/GT/0030/2018 Equivalent Citation: 2019(9) FLT167 tribunal held Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 is not in the Schedule of Acts in the National Green Tribunal Act, 2010. Therefore, this appeal has no merits. Consequently Appeal 83 of 2014 dismissed with no order as to cost. In the case of **Appellants: Tikam Singh Vs. Respondent: State of Rajasthan and Ors.** MANU/GT/0005/2018 Equivalent Citation: **2018(8) FLT321** Tribunal held there is no question relating to environment which can be said to be involved in the present case, much less to say that a substantial question relating to environment. Moreover, there is no question which can be said to arise out of implementation of enactments specified in Schedule I. tribunal held the aforesaid grievances raised by the Applicant does not fall within the purview and scope of Section 14 of the National Green Tribunal Act 2010 nor it can be said to be a dispute where substantial question relating to environment is involved, much less to say, arising out of implementation of the enactments specified in Schedule I. Therefore, in view of aforesaid facts and circumstances, the question raised by the Applicant and the relief sought, do not fall within the jurisdiction of this Tribunal. original application rejected.

Case Analysis for The Year 2019

**1)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 13/2014 (WZ) Decided On: 22.05.2019
Appellants: Amit Maru Vs. Respondent: MoEF and Ors.
MANU/GT/0033/2019**

Appellants –Individual

Respondents- Ministry of environment and forest

Primary and secondary legislation involved- CRZ Notification, 1991 CRZ Notifications, 1991 and 2011, the EIA Notification, 1994

Issue involved- land on which the construction has been done falls within CRZ-I area as per the statutory Coastal Zone Management Plan (CZMP) prepared for the city of Mumbai, environment clearance also involved

The issue is with reference to inaction on the part of the environment department government of Maharashtra pointing out massive construction raised by M/s. Windsor Reality Pvt. Limited, in Andheri West, Oshiwara, Mumbai, without obtaining statutory permission of the Maharashtra Coastal Zone Management Authority (MCZMA). Also, the land on which the construction has been done falls within CRZ-I area as per the statutory Coastal Zone Management Plan (CZMP) prepared for the city of Mumbai. The contention of the applicant is that despite the stringent restriction, permission was granted by the Municipal Corporation of Greater Mumbai (MCGM) to raise the construction in the area. Referring to the provisions of the CRZ Notification, 1991 and the clarifications to the CZMP of Maharashtra, it was inter alia contended that no construction could be permitted on the seaward side of the existing roads nor on the seaward side to the existing authorized structures until those areas had been examined by the Chief Secretary, Maharashtra to determine the CRZ-II for categorization of such areas and acknowledged by the Ministry of Environment, Forests and Climate Change (MoEF & CC) as having been taken on record. Tribunal stand we find that the principal question that requires determination in this case is as to whether the area in question falls under CRZ-I or CRZ-II area prepared for the MCGM. The MCGM in its affidavit has unambiguously stated that the disputed area falls outside the purview of both the CRZ-I & CRZ-II. Considering these materials and the categorical stand taken by the MCGM, we cannot but hold that the area does not fall either within CRZ-I or CRZ-II. For the aforesaid reasons, we find that the primary contention raised by the Applicant that the area in question falls within the

CRZ area do not appear to be correct rendering the other contentions of the Applicant redundant. In the result, this original application stands dismissed.

**2)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 64/2014 (WZ) (M.A. No. 105/2014)
Decided On: 27.05.2019 Appellants: Anil Tharthare Vs. Respondent: The
Secretary, Env. Deptt. Govt. of Maharashtra and Ors. MANU/GT/0034/2019**

Appellants –Individual

Respondents- The Secretary, Env. Deptt. Govt. of Maharashtra

Primary and secondary legislation involved- Environment protection Act 1986,

Issue involved- validity of a construction under sec 5 of the Environment protection Act 1986, petition has been filed to stop construction as construction was made without obtaining environment clearance.

The grievance expressed by the applicant in this application is the alleged inaction on the part of the State Level Environment Impact Assessment Authority (SEIAA), Maharashtra to stop illegal construction by M/s. Kalpataru Properties Pvt. Ltd., the Respondent No. 6 without obtaining the Environmental Clearance (EC)

Issues involved are-

- i) Whether there is necessity for seeking EC, in case of such a project where change is sought after initial period, even though life of EC was not specifically mentioned in the original EC?
- ii) Whether project could be delisted only because Project Proponent was found absent, when the meeting was held on 23/24th May, 2013? If so, under which provisions it could be delisted?
- iii) What is the provision regarding grant of EC for an additional/substantial change in the project while considering the appraisal thereof in the process of EC?

Tribunal stand- Considering the facts and circumstances set out above and the fact that none of the ECs had been assailed, it is too late in the day for the Applicant to raise all these questions. Furthermore, the objections raised in this case had also been decided by the SEIAA and rejected by a reasoned order conveyed vide letter dated 27.01.2015. For this reason alone, the further proceedings in the present application, in our considered opinion, would be rendered redundant and the questions raised therein merely academic. In the result, this original application stands dismissed.

**3)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 586/2019 Decided On: 06.12.2019
Appellants: Ashok Goyal Vs. Respondent: State of Maharashtra
MANU/GT/0092/2019**

Appellants –Individual

Respondents- State of Maharashtra

Issue involved- allegation of unauthorized construction in village Malvani and Daravali at Malad (W) Mumbai.

A report was sought from the Maharashtra Coastal Zone Management Authority (MCZMA) and Maharashtra State Pollution Control Board (MSPCB) with reference to the allegation of unauthorized construction in village Malvani and Daravali at Malad (W) Mumbai. 2. Accordingly, report has been filed on 30.09.2019 by the State PCB to the effect that site visit was conducted in the area where construction of wall along the mangroves was found. The above report also shows that there was unauthorized scrap/garbage for which a letter was addressed by MCZMA on 26.09.2019 to the District Collector, Mumbai Suburban Bandra (E), Mumbai, under Section 5 of the Environment (Protection) Act, 1986, directing as follows: - (i) Remove the unauthorized scrap/garbage Deport are present in at the intersection of CRZ I & CRZ II areas at Village Daravai, after due verification. (ii) Appropriate measures/action should be taken so as to stop encroachment of the

slum structures at Ambojwadi area, Malvani. 5. In view of the above let further action be taken, in accordance with law. The application is disposed of.

**4)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 33/2019 (EZ) Decided On: 02.12.2019
Appellants: Human Rights Association of India Vs. Respondent: Principal
Secretary, Port Blair and Ors. MANU/GT/0110/2019**

Appellants – Human Rights Association of India (NGO)

Respondents- Principal Secretary, Port Blair and Ors.

Primary and secondary legislation involved- IPZ, 2019(Island Protection Zone Rules 2019), Environment (Protection) Act, 1986 and environment clearance

Issue involved- stone quarries and stone crushing units are operating in the Andaman and Nicobar Islands without obtaining environmental clearance, consent to operate and without clearance from the CRZ Authorities.

The allegation in this application is that a large number of stone quarries and stone crushing units are operating in the Andaman and Nicobar Islands without obtaining environmental clearance, consent to operate and without clearance from the CRZ Authorities. The specific area mentioned is of South and North-Middle Andaman. A committee consisting of (i) representative of the Regional Office, Ministry of Environment, Forest & Climate Change (MoEF&CC) at Bhubaneswar, (ii) The Member Secretary, National Coastal Zone Management Authority (NCZMA), Chatam Port Blair, (iii) a Senior Scientist/Officer, Central Pollution Control Board (CPCB) Regional Office at Kolkata and (iv) representative of Andaman & Nicobar Islands Pollution Control Committee was formed directed to inspect the area in question and verify as to whether the stone mining/stone crushing units referred to in a table were being operated illegally as alleged. Report showed that large scale of illegalities was committed by the stone crushing and stone mining units. Tribunal took into consideration recommendations given by committee and asked Andaman

& Nicobar Islands Pollution Control Committee for submission report within six months. Matter listed for 3rd feb 2020. Major recommendations were –

1)The CTE and CTO issued by ANPCC may contain information regarding number of crushers installed along with their capacity, type and quantum of products generated from the unit.

2. Environment (Protection) Act, 1986 as per the Ministry's Notification S.O. 141(E) which mandates prior Environmental Clearance for mining of minor minerals where lease area is less than 5 ha. As the renewal of mine lease is under process. Environmental Clearance to be obtained for operation of mines from District environment Impact Assessment Authority (DEIAA)

3. Since IPZ, 2019 has been notified in March, 2019, the jurisdiction of this notification extends to 200 mts land ward side from High Tide Line (HTL) in bigger Islands (More than 1000 sq.km) like South, Middle & North Andaman and 100 mts in smaller Islands (between 100 to 1000 sq. Km) loke Little Andaman and Swaraj Dweep (Havlock). The mining of rock, sand and other substrata minerals is prohibited in this Jurisdiction of IPZ. Hence, the mining of rock/stone may be allowed beyond the Jurisdiction of IPZ. Such mining activities are not allowed in the Islands having area of less than 100 sq. km.

4 . Proper land usage pattern regarding storage of raw material and finished products to be prepared and submitted to Competent Authority for approval.

5. Use of non-commercial land for commercial use may not be allowed. Proper demarcation between commercial and non-commercial land to be maintained.

6. Proper boundary was for the Crushing unit to be constructed and maintained.

7. Dust suppression systems viz., Water sprinkling, and dry fog system, to be installed and maintained at transfer points of belt conveyors/drums. Adequate green belt development along the periphery to be developed.

8. Proper Personal Protective Equipment's (PPEs) to be provided to all workers.

9. Permission for withdrawal of Ground water from competent authority to be obtained and records regarding water withdrawal be maintained.
10. Proper display board containing all the details of the unit viz., Name of the unit, CTO validity, Env. Parameters etc., to be installed and maintained at the main entrance of the unit.
11. The adjacent land of the crusher unit being utilised for storage raw and finished products which might not belong to the said under the land records to be verified by concerned department for the encroachment. Proper demarcation between land of the unit and adjacent land to be maintained.
12. Inside the unit premises, water sprinklers should be mounted to road side to minimize the fugitive emissions due to plying vehicles. Regular water sprinkling to be carried out on the approached road which connects to the unit.
13. The conveyor belts to be installed with proper cover/shed on it to minimize the fugitive emissions during material handling and transportation.
14. The stone dust (sand) to be stored under shed or covered with tarpaulin cover to minimize the fugitive emissions during summer and high wind conditions.
15. The committee also recommends to conduct a study on potentiality of stone availability and amount to be extracted by Expert Institute like CMPDI, Dhanbad, IIT-ISM, Dhanbad, IIT, Kharagpur, etc. Based on the report number of crushers may be limited to the extent of availability of stone. Till such study is done no mining of stone is to be allowed.
16. The unit which have not granted CTO, the decision may be taken as per the Rules and Regulation and the violating units may be dismantled.
17. The Electricity department may explore the possibility of supply of electricity by using once or two D.G. sets instead of using number own D.G. sets in cluster area. So that, the gaseous emissions will be minimized."

5)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI Original Application No. 578/2018 (Earlier O.A. No. 26/2013(SZ) (THC), Original Application No. 579/2018 (Earlier O.A. No. 27/2013 (SZ) (THC), Original Application No. 580/2018 (Earlier O.A. No. 28/2013 (SZ) (THC), Appeal No. 176/2018 (Earlier Appeal No. 51/2012 (SZ) (THC) and Appeal No. 86/2017 (SZ) Decided On: 14.03.2019 Appellants: Janajagrithi Samithi and Ors. Vs. Respondent: The Union of India and Ors. MANU/GT/0021/2019

Appellants – Janajagrithi Samithi (registered Society under the provisions of Societies Registration Act)

Respondents- Union of India

Primary and secondary legislation involved- EIA Notification

Issue involved- appeal against the environment clearance granted for a coal-based power station

The primary concern brought up by the petitioner pertains to a registered Society operating in accordance with the Societies Registration Act. Its membership consists of individuals residing in Nandikur, Yellur, Santhur, Palimar, Padebettu, Nadsal, and other nearby villages within the Udupi District of Karnataka. The Committee has been advocating for the protection of the environment and expressing concerns regarding the establishment of large-scale industries in the region that are highly polluting. These activities pose a threat to the environmentally sensitive Western Ghats and emphasize the urgent need for its conservation. Specifically, the Committee is addressing the manner in which the Ministry of Environment, Forest and Climate Change (MoEF&CC) granted Environment Clearance (EC) to M/s. Nagarjuna Power Corporation Ltd., the fifth respondent, for the construction of a 1000 MW coal-based power station near Padubidri in Udupi, Karnataka. The matter at hand is to the granting of environmental clearance for the project, which has subsequently led to the filing of appeals and petitions. The tribunal determined that the act of extending the

environment clearance by overriding the order of cancellation was deemed unlawful and void. Consequently, any activities undertaken in the pursuit of such expansions are deemed invalid. There is no evidence in the records to indicate that any of the steps outlined in the notification were adhered to. The mandatory procedures outlined in the statutory notification have not been adhered to, including with regards to the initial environmental approval. The earlier expansions that were allowed did not seem to have met the necessary standards. It appears that no public hearings were performed. There existed a significant gap in the processes that resulted in the previous environment clearance being rendered inadequate. The objections voiced by society and the previous indications of multiple breaches were not duly acknowledged by the authorities during the evaluation of the report. The comprehensive environmental clearance, as well as the previous expansions that were granted, were found to be in violation of the relevant notices. Therefore, due to the suspension of the impugned order, the matter has been scheduled for the examination of the interim report and the issuance of instructions for the payment of compensation. The EIA notification is formulated with consideration of the precautionary principle and the notion of sustainable development. The failure to adhere to the prescribed procedures outlined in the Notification suggests that environmental damage has likely occurred. This damage has resulted in negative consequences for the affected population, including health issues, a decline in agricultural productivity, and subsequent impacts on their livelihoods. Additionally, the natural habitats of birds and animals have suffered degradation as a result. Therefore, we hereby invoke the "Polluter Pays" concept as outlined in Section 20 of the National Green Tribunal Act, 2010. Consequently, we find M/s. Udupi Power Corporation Ltd., identified as Respondent No. 5 and the project proponent, responsible for paying Environmental Compensation. The exact amount of compensation will be determined by a Committee of Experts. In anticipation of the aforementioned report, we therefore instruct M/s. Udupi Power Corporation Ltd. to remit an interim Environmental Compensation of 5 crores to the Central Pollution Control Board (CPCB). The determination of interim compensation

would be contingent upon the evaluation of ultimate damages by the Committee of Experts. The specified sum of money will be placed into an account within a timeframe of one month from the present moment.

**6)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 111/2018 and I.A. No. 20/2019 Decided
On: 11.09.2019 Appellants: Kachchh Camel Breeders Association Vs.
Respondent: Union of India and Ors. MANU/GT/0070/2019 Equivalent
Citation: 2020(10) FLT33**

Appellants – NGO

Respondents- Union of India

Primary and secondary legislation involved- Coastal Regulation Zone Notification, 2011, Forest Conservation Act, 1980

Issue involved- blatant violation of the provisions of Coastal Regulation Zone Notification, 2011 (hereinafter known as CRZ Notification) as well as Forest Conservation Act, 1980 by rampant clearing of the mangroves

This Original Application has been filed by the Applicant-Kachchh Camel Breeders Association through Shri Bhikhabhai Rabari, Jangi, Bhachau Taluka, Kachachh District, Gujarat alleging that there has been a blatant violation of the provisions of Coastal Regulation Zone Notification, 2011 (hereinafter known as CRZ Notification) as well as Forest Conservation Act, 1980 by rampant clearing of the mangroves in Nani Chirai and Moti Chirai areas of Bhachau Taluka in the district of Kachchh, Gujarat by the Respondent No. 6-Deen Dayal Port Trust, (DPT). It is alleged that the Respondent No. 6-DPT has cleared the mangroves without obtaining any CRZ clearance as well as forest clearance and that the Coastal Zone, Management Authority and the Forest Department, Gujarat have not taken any concrete action to prevent the indiscriminate destruction of mangroves, despite having information and that the destruction of pristine mangroves habitat is continuing even today unabated. It has also been alleged that the Respondent No.

6-DPT have allotted the areas falling under the CRZ - I which are under their control for extraction of salt etc., which have resulted in destruction of mangroves due to obstructions raised in the creeks without any permission of the Competent Authorities under CRZ Notification, 2011.

Tribunal emphasized on importance of mangroves “Mangroves are special class of trees which grow in estuaries and intertidal regions along the creeks and coasts. Mangrove forests are among the most productive ecosystem on earth and serve many important functions including water filtration, prevention of coastal erosion, carbon storage, and timber and biodiversity protection. They play extremely important role as windbreaks in coasts which protect coasts during cyclones and tsunamis. Because of dense root systems the mangroves trap sediments which help in stabilizing coastlines and prevent erosion from waves and storms. Mangroves are also the nursery grounds for several fish species and other marine fauna. Therefore, mangroves work as system that keeps coastal zones healthy and vibrant. It is because of these extremely important roles that mangroves play it is incumbent upon everyone concerned to conserve and protect the mangroves. Other than Sunderbans and Andaman & Nicobar Islands there are few locations in our country where mangroves thrive and Kachchh Coastline is one such location and, therefore, Gujarat Forest Department and Gujarat Coastal Zone Authorities have special responsibility to conserve and protect the mangroves in Gujarat coastline wherever they occur.

And gave further directions-(i) There shall be no obstruction of any kind in the creeks and free and continuous flow of estuarine water in the creeks will be ensured. (ii) The Forest Department, Government of Gujarat, GCZMA and Revenue Officials will jointly inspect the area to find out the persons who were responsible for obstruction of the creeks and take action in accordance with law including recovery of environmental damage and cost of restoration of mangroves damaged. This may be done within a period of one (1) month from today. (iii) If there has been any activity which is in violation of CRZ Notification, 2011, the GCZMA will immediately take action in accordance with law. (iv) If there has been any activity

in the mangroves area which are in contravention of the Forest (Conservation) Act, 1980 or any other law, the Forest Department will immediately take action in accordance with law. (v) There shall be no salt manufacturing activity in CRZ - 1 area without following the due procedures provided under law/notification. If such activity are found the GCZMA will take action immediately to stop forthwith and initiate appropriate proceedings. (vi) The quantum of damage caused to the mangroves shall be assessed by the GCZMA in accordance with laid down procedures and the same shall be recovered from the persons responsible for the same within a period of one month from today. (vii) The Forest Department, Government of Gujarat will take immediate action to restore the mangroves which are damaged within a period of six (6) months from hence. With the abovementioned directions, this Original Application No. 111/2018 is disposed of.

**7)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Appeal No. 73/2018 (WZ) and Original Application No. 24/2019
(WZ) Decided On: 09.12.2019 Appellants: Kashinath Shetye and Ors. Vs.
Respondent: Jairam Kholkar and Ors. MANU/GT/0090/2019**

Appellants –: Kashinath Shetye and Ors.

Respondents- Jairam Kholkar and Ors.

Primary and secondary legislation involved- Coastal Regulation Zone Notification, 2011,

Issue involved- The case involves violation of the coastal regulation zone notification in raising a new building cutting mangroves and filling the creeks without obtaining necessary environment clearance

The case involves violation of the coastal regulation zone notification in raising a new building cutting mangroves and filling the creeks at adcolna village panchayat Banastarin area Ponda Goa which according to the appellants fall under the CRZ - I and CRZ -III under the CRZ notification without obtaining necessary clearance from the GCZMA. The GCZMA, upon consideration of a site inspection report

carried out by the Expert Members of the GCZMA on 03.08.2018 and, after examination of the documents on record and personal hearing of the parties, passed the impugned order discharging the respondents from the proceedings pertaining to the structures. Tribunal held that there is no error in the impugned order and the appellant has failed to make out any case for tribunal interference and hence order is dismissed with no order to cost.

**8)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 829/2019 Decided On: 03.12.2019
Appellants: Sarvadaman Singh Oberoi Vs. Respondent: Union of India and
Ors. MANU/GT/0111/2019**

Appellants –: Sarvadaman Singh Oberoi

Respondents- Union of India and Ors.

Issue involved- The current case relates to the coastal areas and pollution caused in such areas on account of dumping of sewerage and waste and seeking formulation of an action plan to restore sea water quality along the Indian Coastal Areas.

The current case relates to the coastal areas and pollution caused in such areas on account of dumping of sewerage and waste and seeking formulation of an action plan to restore sea water quality along the Indian Coastal Areas. The reliance has been placed on the report of CPCB “Classification of Indian Coasts and conflicts (1982-86) referring to marine pollution by sewage and other discharge in violation of environmental laws. According to the Applicant, certain coastal areas are critically polluted on account of dumping of sewerage and waste. Over 80% of marine pollution is from land-based sources-industrial, agricultural and urban. Municipal sewage is the main source of pollution. Aquaculture Authority, Government of India has issued guidelines that Aquafarms having area of five hectares and above should have Effluent Treatment System (ETS). Pollution of marine coastline is on gradual increase in the same way as 351 polluted river stretches in the country. Directions of this Tribunal dated 08.04.2019 in O.A. No.

673/2018 dealing with 351 polluted river stretches should be extended to the polluted coastal stretches, doing so can result in reclaiming of substantial water. National Coastal Zone Management Authority (MCZMA) has been constituted on 09.10.2017 but the problem of marine pollution remains untackled which calls for intervention by this Tribunal.

The tribunal also referred to judgment of supreme court on a similar matter tribunal referred that The matter of degradation of environment in coastal areas has been dealt with by the Hon'ble Supreme Court inter-alia in Indian Council for Environment-Legal Action vs. Union of India (UOI) and Ors. MANU/SC/1189/1996: (1996) 5 SCC 281. While considering the issue, it was observed: "With a view to protect the ecological balance in the coastal areas, the then Prime Minister is stated to have written a letter in November, 1981 to the Chief Ministers of coastal States in which she stated as under: "The degradation and mis-utilization of beaches in the coastal States is worrying as the beaches have aesthetic and environmental value as well as other values. They have to be kept clear of all activities at least upto 500 metres from the water at the maximum high tide. If the area is vulnerable to erosion, suitable trees and plants have to be planted on the beaches without marring their beauty. Beaches must be kept free from all kinds of artificial development. Pollution from industrial and town wastes must also be avoided totally."

Tribunal held we direct that all the State PCBs/PCCs of coastal States/UTs may give the relevant information to CPCB within one month from today failing which defaulting Status/UTs will be liable to pay Rs. 10 lakhs per month till compliance.

**9)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 433/2017 (M.A. No. 1261/2018)
Decided On: 13.12.2019 Appellants: Shibani Ghosh Vs. Respondent: Ministry
of Environment, Forest & Climate Change and Ors. MANU/GT/0099/2019**

Appellants –: Shibani Ghosh

Respondents- Ministry of Environment, Forest & Climate Change and Ors.

Primary and secondary legislation involved- Environment (Protection) Act 1986 ,the Air (Prevention and Control of Pollution) Act 1981 ,and the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act 1976 , Merchant Shipping (Control of Pollution by Noxious Liquid Substance in Bulk) Rules 2010, Merchant Shipping (Prevention of Pollution by Harmful Substances carried by Sea in Packaged Form) Rules 2010., Merchant Shipping (Prevention of Pollution by Sewage from Ships) Rules 2010,Merchant Shipping (Prevention of Pollution by Garbage from Ships) Rules 2010,Merchant Shipping (Prevention of Pollution by Oil from Ships) Rules 2010. , Farming of Merchant Shipping (Civil Liability for Oil Pollution Damage) Rules 2008, Merchant Shipping (International Fund for Compensation for Oil Pollution Damage) Rules 2008.

Issue involved- issue of air pollution caused by ships entering into Indian waters due to burning of fuel during transport as well as while waiting in the dock yards/ports.

The petitioner has brought up the matter of air pollution resulting from the combustion of fuel by ships during transportation and when they are stationary in Indian seas. The ship emits several air pollutants, such as particulate matter, sulphur oxides (SOX), nitrogen oxides (NOX), carbon dioxide (CO₂), carbon monoxide (CO), methane (CH₄), nitrous oxide (N₂O), black carbon (BC), and non-methane volatile organic compounds (NMVOC). The emissions from shipping are experiencing a notable increase due to the global rise in trade facilitated by waterborne transportation. Based on the Annual Report 2016-2017 published by the Ministry of Shipping, it is observed that maritime transport accounts for nearly 95% of India's trade in terms of volume and 68% in terms of value. The emissions resulting from shipping activities are seeing a notable upward trend due to the escalating volume of trade facilitated by maritime transportation on a global scale. Based on the Annual Report 2016-2017 published by the Ministry of Shipping, it is evident that a significant proportion of India's trade is facilitated by maritime

transport, accounting for nearly 95% in terms of volume and 68% in terms of value. The regulation of emissions of air pollutants from different sources is governed by the Environment (Protection) Act 1986 (referred to as EP Act), the Air (Prevention and Control of Pollution) Act 1981 (referred to as Air Act), and the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act 1976 (referred to as Territorial Waters Act). Nevertheless, notwithstanding the statutory obligation, the regulations pertaining to ship emissions remain completely unregulated within the framework of these laws. The Central Government, in the exercise of its authority under the Merchant Shipping Act of 1958, has promulgated a range of regulations pertaining to ship-induced pollution, encompassing sewage, rubbish, and oil. One of the regulations that fall under this category is the Merchant Shipping (Control of Pollution by Noxious Liquid Substance in Bulk) Rules of 2010. The subject of discussion is to the regulations known as the Merchant Shipping (Prevention of Pollution by Harmful Substances transported by Sea in Packaged Form) Rules of the year 2010. The subject of discussion pertains to the Merchant Shipping (Prevention of Pollution by Sewage from Ships) Rules of the year 2010. The subject of discussion is the Merchant Shipping (Prevention of Pollution by Garbage from Ships) Rules of 2010. The subject of discussion is to the regulations known as the Merchant Shipping (Prevention of Pollution by Oil from Ships) Rules of the year 2010. The subject under consideration is the Farming of Merchant Shipping (Civil Liability for Oil Pollution Damage) Rules of 2008. The subject of discussion is the Merchant Shipping (International Fund for Compensation for Oil Pollution Damage) Rules of 2008. Nevertheless, regulations pertaining to the emission of air pollutants from maritime vessels have yet to be established.

Issue

The Central Government has failed to fulfill its obligations as stipulated by the Environment (Protection) Act 1986, the Air (Prevention and Control of Pollution) Act 1984, and the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act 1976, through acts of omission and neglect. The

aforementioned lack of action, disregard, or failure has led to a violation of citizens' rights to a healthy environment and is in violation of Articles 14 and 21 in conjunction with Articles 48A and 51A(g) of the Constitution of India. This is due to the fact that air pollution caused by ships not only affects the marine ecology, but also contributes to the pollution burden of India's 6000 km coastal areas and estuaries.

The tribunal concluded that there is a lack of efficient monitoring and regulation of emissions from both Indian and foreign vessels entering the Indian Maritime Zone. This is due to the absence of appropriate laws, which have been under discussion by the legislature for the past seven years.

The tribunal has issued a directive stating that all Indian and foreign vessels entering the Indian Maritime Zone must comply with the applicable provisions of the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, and the respective rules established under these acts. This requirement will remain in effect until the comprehensive Indian Merchant Shipping Rules are implemented.

The regulatory bodies mandated by the Environment (Protection) Act, 1986, Air (Prevention and Control of Pollution) Act, 1981, and their respective regulations, namely the Central Pollution Control Board and the State Pollution Control Boards, are entrusted with the task of overseeing and managing air pollution and other forms of pollution originating from both Indian and foreign vessels within the Indian Maritime Zone.

The Ministry of Shipping and the Director General of Shipping have been instructed to develop a comprehensive set of rules for Merchant Shipping. These rules will cover not only merchant ships, but also fishing vessels that utilize gensests of capacities specified in the various notifications of the Ministry of Environment, Forest, and Climate Change. This directive must be implemented within a one-year timeframe.

The aforementioned instructions have been followed, and as a result, this Original Application No. 433/2017 has been concluded.

**10)BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI Original Application No. 384/2019 (Earlier O.A. No. 156/2015)
Decided On: 11.09.2019 Appellants: Sunita Pandey and Ors. Vs. Respondent:
Union of India and Ors. MANU/GT/0072/2019**

Appellants –: Sunita Pandey

Respondents- Union of India and Ors.

Issue involved- contamination of groundwater due to arsenic and availability of clean drinking water

The issue is with respect of contamination of groundwater due to arsenic and availability of clean drinking water in districts like Bahraich, Ballia, Balrampur, Bareilly, Basti, Bijnor, Chandauli, Ghazipur, Gonda, Gorakhpur, Lakhimpur Kheri, Meerut, Mirzapur, Muradabad, Rai Bareilly, Santkabirnagar, Shahjahanpur, Siddharthnagar, Sant Ravidas Nagar and Unnao and certain other districts in Uttar Pradesh and other similarly affected areas in the country including in Assam, Bihar, Jharkhand, Karnataka, Punjab and West Bengal. The matter has been considered by tribunal for more than three years with the order dated 25/10/2018 and the tribunal has undertaken an extensive review on the subject and noted the gravity of situation shown by high arsenic content leading to serious diseases and environmental damage in several districts of Uttar Pradesh. districts of Uttar Pradesh have been identified to be affected by the problem in the report prepared by the state water resource agency Uttar Pradesh. A team of the Ministry of Environment, Forest and Climate Change (MoEF&CC) found number of deaths from the diseases on account of the problem. The Ministry of Drinking Water and Sanitation also took cognizance and identified mitigation measures. The Ministry of Agriculture also identified certain steps to be taken. The matter was discussed in

the Parliament and a report was submitted on the subject. Uttar Pradesh Jal Nigam identified 310 village hamlets situated in 179 revenue villages of District Ballia and 165 village hamlets situated in 49 revenue villages in District Lakhimpur Kheri, where shallow ground water is found to contain Arsenic in excess of permissible limit of 0.05 mg/L, prescribed for potable water by Bureau of Indian Standards.

Tribunal also noted the report of the NITI Aayog published in June, 2018 on "Water Management Index" to the effect that 70% water in India is contaminated. India is at 120th number out of 122 countries in water quality index. The report mentions that the acute water crisis is being faced by 600 million people. About two lakh people die every year due to inadequate access to safe water. Arsenic is one of major public health concern identified by the WHO. Under the new 2030 Agenda for Sustainable Development, the indicator of "safely managed drinking water services" calls for tracking the population accessing drinking water which is free of faecal contamination and priority chemical contaminants, including arsenic.

Tribunal stand-existing plan of action needs to be relooked as it has quite relaxed timelines and the strategies needs to be redrawn and suitable mechanism because of the urgency in the matter. Concerned states to be pushed harder to reduce the timelines in action plans and consider viable options for the immediate supply of clean drinking water which needs to be monitored by the central government on the war footing enforce Fundamental Right to access potable drinking water which is part of 'Right to Life' under the Indian Constitution. Further compliance report be filed by the Secretary, Ministry of Jal Shakti before the next date.

Result and Analysis for the year 2019

Party analysis-

Appellants – Individual, Human Rights Association of India (NGO), Janajagrithi Samithi (registered Society under the provisions of Societies Registration Act), Environmentalist

Respondents-Ministry of environment and forest, The Secretary, Env. Deptt. Govt. of Maharashtra, state of Maharashtra, Principal Secretary, Port Blair and Ors., Union of India

Subject area analysis- inaction on the part of the environment department government of Maharashtra pointing out massive construction in Mumbai, without obtaining statutory permission of the Maharashtra Coastal Zone Management Authority (MCZMA), the alleged inaction on the part of the State Level Environment Impact Assessment Authority (SEIAA), Maharashtra to stop illegal construction without obtaining the Environmental Clearance (EC), allegation of unauthorized construction in village Malvani and Daravali at Malad (W) Mumbai, stone quarries and stone crushing units are operating without obtaining environmental clearance and consent to operate with clearance from the CRZ Authorities, blatant violation of the provisions of Coastal Regulation Zone Notification, 2011 (hereinafter known as CRZ Notification) as well as Forest Conservation Act, 1980 by rampant clearing of the mangroves, coastal areas and pollution caused in such areas on account of dumping of sewerage and waste, issue of air pollution caused by ships entering into Indian waters due to burning of fuel during transport as well as while waiting in the dock yards/ports, contamination of groundwater due to arsenic and availability of clean drinking water

Environmental issues- land on which the construction has been done falls within CRZ-I area as per the statutory Coastal Zone Management Plan (CZMP) prepared for the city of Mumbai ⁶², - validity of a construction under sec 5 of the Environment protection Act 1986 done without environment clearance ⁶³, A report was sought from the Maharashtra Coastal Zone Management Authority (MCZMA) and Maharashtra State Pollution Control Board (MSPCB) with reference to the allegation of unauthorized construction in village Malvani and Daravali at Malad (W) Mumbai⁶⁴, large number of stone quarries and stone crushing units are

⁶² MANU/GT/0033/2019

⁶³ MANU/GT/0034/2019

⁶⁴ MANU/GT/0092/2019

operating in the Andaman and Nicobar Islands without obtaining environmental clearance, consent to operate and without clearance from the CRZ Authorities⁶⁵, Dayal Port Trust has cleared the mangroves without obtaining any CRZ clearance as well as forest clearance and that the Coastal Zone, Management Authority and the Forest Department, Gujarat have not taken any concrete action to prevent the indiscriminate destruction of mangroves⁶⁶, coastal areas and pollution caused in such areas on account of dumping of sewerage and waste and seeking formulation of an action plan to restore sea water quality along the Indian Coastal Areas⁶⁷, The Central Government has omitted, neglected and failed to discharge its obligations, as mandated under the Environment (Protection) Act 1986, the Air Prevention and Control of Pollution) Act 1984 and the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act 1976⁶⁸, contamination of groundwater due to arsenic and availability of clean drinking water in districts like Bahraich, Ballia, Balrampur, Bareilly, Basti, Bijnor, Chandauli, Ghazipur, Gonda, Gorakhpur, Lakhimpur Kheri, Meerut, Mirzapur, Muradabad, Rai Bareilly, Santkabirnagar, Shahjahanpur, Siddharthnagar, Sant Ravidas Nagar and Unnao and certain other districts in Uttar Pradesh and other similarly affected areas in the country including in Assam, Bihar, Jharkhand, Karnataka, Punjab and West Bengal

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Analysis of cases on various yardsticks

Direction to the government authorities

In the case of **Ashok Goyal Vs. Respondent: State of Maharashtra MANU/GT/0092/2019** The above report also shows that there was unauthorized scrap/garbage for which a letter was addressed by MCZMA on 26.09.2019 to the District Collector, Mumbai Suburban Bandra (E), Mumbai, under Section 5 of the

⁶⁵MANU/GT/0110/2019

⁶⁶MANU/GT/0070/2019

⁶⁷MANU/GT/0111/2019

⁶⁸MANU/GT/0099/2019

⁶⁹MANU/GT/0072/2019

Environment (Protection) Act, 1986, directing as follows: - (i) Remove the unauthorized scrap/garbage Depots are present in at the intersection of CRZ I & CRZ II areas at Village Daravai, after due verification. (ii) Appropriate measures/action should be taken so as to stop encroachment of the slum structures at Ambojwadi area, Malvani. In view of the above let further action be taken, in accordance with law. In the case of **Appellants: Kachchh Camel Breeders Association Vs. Respondent: Union of India and Ors. MANU/GT/0070/2019** Tribunal gave directions to the authorities involved as follows -1)The Forest Department, Government of Gujarat, GCZMA and Revenue Officials will jointly inspect the area to find out the persons who were responsible for obstruction of the creeks and take action in accordance with law including recovery of environmental damage and cost of restoration of mangroves damaged. This may be done within a period of one (1) month from today. (iii) If there has been any activity which is in violation of CRZ Notification, 2011, the GCZMA will immediately take action in accordance with law. (iv) If there has been any activity in the mangroves area which are in contravention of the Forest (Conservation) Act, 1980 or any other law, the Forest Department will immediately take action in accordance with law. (v) There shall be no salt manufacturing activity in CRZ - 1 area without following the due procedures provided under law/notification. If such activity are found the GCZMA will take action immediately to stop forthwith and initiate appropriate proceedings. **In the case of Appellants: Sarvadaman Singh Oberoi Vs. Respondent: Union of India and Ors. MANU/GT/0111/2019** Tribunal held we direct that all the State PCBs/PCCs of coastal States/UTs may give the relevant information to CPCB within one month from today failing which defaulting States/UTs will be liable to pay Rs. 10 lakhs per month till compliance. In the case of **Appellants: Shibani Ghosh Vs. Respondent: Ministry of Environment, Forest & Climate Change and Ors. MANU/GT/0099/2019**. The tribunal has mandated that the Central Pollution Control Board and the State Pollution Control Boards, in accordance with the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, and their respective regulations, shall oversee the regulation

of air pollution and other forms of pollution resulting from both Indian and foreign vessels entering the Indian Maritime Zone. The Ministry of Shipping and the Director General of Shipping have been instructed to develop a comprehensive set of rules for Merchant Shipping. These rules will encompass not only merchant ships, but also fishing vessels that utilize gensets of capacities specified in the various notifications of the Ministry of Environment, Forest and Climate Change. The deadline for the completion of this task is one year from now. In the case of **Appellants: Sunita Pandey and Ors. Vs. Respondent: Union of India and Ors. MANU/GT/0072/2019**

Application of International environment principles

In the case of **Appellants: Janajagrithi Samithi and Ors. Vs. Respondent: The Union of India and Ors. MANU/GT/0021/2019** Tribunal held EIA notification following keeping in view precautionary principle and the principle of sustainable development. The fact that the procedures prescribed in the Notification were not at all followed except few parts of it, leads us to reasonably conclude that there has been damage caused to the environment for which consequences have fallen on the people in terms of health, decline in the agricultural productivity and, therefore, their livelihood, degradation of natural habitat of birds and animals, etc. We thus invoke the "Polluter Pays" principle under Section 20 of the National Green Tribunal Act, 2010 and hold M/s. Udupi Power Corporation Ltd., the Respondent No. 5, project proponent, liable to pay Environmental Compensation which shall be assessed by a Committee of Experts. Awaiting such report, we direct M/s. Udupi Power Corporation Ltd. to pay an interim Environmental Compensation ' 5 crores with the CPCB. The interim compensation would be subject to assessment of final damages by the Committee of Experts. This amount shall be deposited within a period of one month from hence. In the case of **Appellants: Kachchh Camel Breeders Association Vs. Respondent: Union of India and Ors. MANU/GT/0070/2019** based on polluter pay principle the quantum of damage caused to the mangroves shall be assessed by the GCZMA in accordance with laid down procedures and the same shall be recovered from the persons responsible for

the same within a period of one month from today. The Forest Department, Government of Gujarat will take immediate action to restore the mangroves which are damaged within a period of six (6) months from hence.

Application of science and law through Creation of expert committees for scientific and technical knowledge

In the case of **Appellants: Amit Maru Vs. Respondent: MoEF and Ors. MANU/GT/0033/2019** Tribunal stand we find that the principal question that requires determination in this case is as to whether the area in question falls under CRZ-I or CRZ-II area prepared for the MCGM. The MCGM in its affidavit has unambiguously stated that the disputed area falls outside the purview of both the CRZ-I & CRZ-II. Considering these materials and the categorical stand taken by the MCGM, we cannot but hold that the area does not fall either within CRZ-I or CRZ-II. For the aforesaid reasons, we find that the primary contention raised by the Applicant that the area in question falls within the CRZ area do not appear to be correct rendering the other contentions of the Applicant redundant. In the result, this original application stands dismissed. In the case of **Appellants: Human Rights Association of India Vs. Respondent: Principal Secretary, Port Blair and Ors. MANU/GT/0110/2019** A committee consisting of (i) representative of the Regional Office, Ministry of Environment, Forest & Climate Change (MoEF&CC) at Bhubaneswar, (ii) The Member Secretary, National Coastal Zone Management Authority (NCZMA), Chatam Port Blair, (iii) a Senior Scientist/Officer, Central Pollution Control Board (CPCB) Regional Office at Kolkata and (iv) representative of Andaman & Nicobar Islands Pollution Control Committee was formed directed to inspect the area in question and verify as to whether the stone mining/stone crushing units referred to in a table were being operated illegally as alleged. Report showed that large scale of illegalities was committed by the stone crushing and stone mining units. Tribunal took into

consideration recommendations given by committee and asked Andaman & Nicobar Islands Pollution Control Committee for submission report within six months.

Matter not within the scope of NGT Act/Barred by time/outside the jurisdiction

In the case of **Appellants: Anil Tharthare Vs. Respondent: The Secretary, Env. Deptt. Govt. of Maharashtra and Ors. MANU/GT/0034/2019** tribunal held Considering the facts and circumstances set out above and the fact that none of the ECs had been assailed, it is too late in the day for the Applicant to raise all these questions. Furthermore, the objections raised in this case had also been decided by the SEIAA and rejected by a reasoned order. In the case of **Appellants: Kashinath Shetye and Ors. Vs. Respondent: Jairam Kholkar and Ors. MANU/GT/0090/2019** Tribunal held that there is no error in the impugned order and the appellant has failed to make out any case for tribunal interference and hence order is dismissed with no order to cost. In the case of **Appellants: Amit Maru Vs. Respondent: MoEF and Ors. MANU/GT/0033/2019** tribunal held “Considering these materials and the categorical stand taken by the MCGM, we cannot but hold that the area does not fall either within CRZ-I or CRZ-II. For the aforesaid reasons, we find that the primary contention raised by the Applicant that the area in question falls within the CRZ area do not appear to be correct rendering the other contentions of the Applicant redundant. In the result, this original application stands dismissed.”

Case Analysis for the year 2020

1)In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON, NAGIN NANDA, EXPERT MEMBER AND SIDDHANTA DAS, EXPERT MEMBER) T.S. Singh ... Applicant(s); Versus State of Uttar Pradesh ... Respondent(s). Original Application No. 490/2019 (With report dated 30.08.2019) Decided on January 2, 2020 ,Citation (2017) 5 SCC 326 Principal Bench at New Delhi

Appellants –: individual

Respondents- State of Uttar Pradesh

Issue involved- prevention of discharge of untreated sewage into the Sai River at Pratapgarh, Uttar Pradesh, combined issue of river pollution

The issue is with respect to prevention of discharge of untreated sewage into the Sai River at Pratapgarh, Uttar Pradesh. A factual report was submitted from the Uttar Pradesh state pollution control board and UP Jal nigam where it showed that sewage is directly discharged into the river as required by the tribunal as per previous order. With reference to the current issue STP was constructed in the year 2009 at the estimated cost of Rs. 1820.75 crore, out of which cost of STP alone was Rs. 8.50 crore and rest of the cost was for sewer line and other incidental activities. But the sewer line was not constructed, the STP never became operational even though 95% work of the STP was completed in the year 2010 itself and testing was also done. It is undisputed that Sai River is one of the polluted river stretches and the remediation of which has been directed by the tribunal original application no 673/2018. The issue of river pollution has been dealt by the tribunal. In reference to the case of the River Ganga tribunal, it was determined by an order dated 14.05.2019 that the presence of any form of pollution in the River Ganga, which holds national importance for the country, is a subject of great concern. It is imperative for all governing bodies to adopt a rigorous approach and demonstrate an unwavering commitment to the prevention of pollution in the River Ganga. If sewage treatment plants (STPs) are not functioning, it may be advisable to promptly implement bioremediation and/or phytoremediation methods, if they are deemed possible. In order to mitigate the occurrence of procedural delays in contract procedures, it is advisable to establish specifications and rules for conducting such operations. This should be done in collaboration with the Central Pollution Control Board (CPCB), as previously instructed in our directive of November 29, 2018. Performance assurances may be necessary to ensure the timely execution of tasks. It is imperative to ensure the timely and efficient establishment of Sewage Treatment Plants (STPs) and sewage networks to prevent the creation of unused capacities. Performance guarantees can be implemented as a preventive measure

against such defaults. The user's text could be rewritten as follows: "The user's text can be reformulated. Consequently, the confluence of river contamination has prompted the tribunal to give the following directives. The user's text does not provide any information to rewrite in an academic manner.

The Tribunal's order dated 28.08.2019 in O.A. No. 593/2017 directs the complete treatment of sewage to be achieved by 31.03.2020. This includes in-situ remediation and the establishment of Sewage Treatment Plants (STPs). Additionally, all drains and other sources of sewage generation must be connected to the STPs before the specified date.

If this action is not undertaken, the local governing bodies and relevant departments of the States/Union Territories will be held responsible for providing compensation, as previously instructed in the order dated 22.08.2019 pertaining to the river Ganga. The compensation amount is set at Rs. 5 lakhs per month per drain for failure to implement in-situ remediation, and Rs. 5 lakhs per Sewage Treatment Plant (STP) for failure to initiate the establishment of the STP. This directive aligns with the principle of the polluter paying for the environmental damage caused.

In addition to the interim cleanup measures and the planned building of Sewage Treatment Plants (STP), another significant feature involves the establishment of wetlands and biodiversity parks. These initiatives aim to mitigate pollution levels in the receiving water bodies.

Further action to be taken as per directions given above and compliance report be furnished by 28-02-2020

2)In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON, NAGIN NANDA, EXPERT MEMBER AND SIDDHANTA DAS, EXPERT MEMBER) Dal Chand and Others ... Applicant(s); Versus D.P. Panchal & Co. and Others ... Respondent(s). Original Application No. 590/2019 (I.A. No. 530/2019) (With report dated 15.11.2019) Decided on January 2, 2020,Principal bench New Delhi 2020 SCC OnLine NGT 2

Appellants –: Dal Chand and Others

Respondents- chemical industry

Issue involved- pollution caused by the chemical industry, throwing pesticides, chlorinated solvents, petroleum chemicals, mercury PCBs, dioxins and other persisting organic pollutants polluting in environment and causing health hazard.

The issue is with reference to the allegation of the pollution being caused by the Respondent Nos. 1 to 6, D.P. Panchal & Co., Magnum Ventures Ltd., Carevel Medical Systems P. Ltd., P. Ent Labels, Skilltron and Krbi Ltd. in District Ghaziabad. They were throwing chemicals in the form of pesticides, chlorinated solvents, petroleum chemicals, mercury PCBs, dioxins and other persisting organic pollutants polluting in environment and causing health hazard. Hence a factual and an action taken report was sought from the joint committee comprising CPCB, State PCB and District Magistrate, Ghaziabad with reference to the allegation that pollution was being caused by Respondent Nos. 1 to 6. After the inspection the report has been submitted for the units in question by the state PCB.

The observations in the annexed inspection report are as follows: — M/s Magnum Venture Ltd. “1. As per the Analysis report of the sample of treated effluent from the outlet of ETP, values of analyzed parameters are:— pH-7.5, TSS - 96 mg/l, BOD - 25 mg/l, COD - 197 mg/l However, the readings observed in OCEMS during inspection are as follows:— pH-7.97, TSS - 17.18 mg/l, BOD - 8.81 mg/l, COD - 93.22 mg/l The above readings, although within the prescribed norms, indicate that there is difference in the values of parameters measured after analysis in laboratory and values shown in OCEMS.”

Tribunal issued following directions in this regard-

1)The industry may be directed to get the calibration of OCEMS done from recognized institution/government agency and submit the calibration certificate to UPPCB and CPCB.

2. The industry may be directed to maintain good housekeeping in the premises.

3. The industry may be directed to strictly abide by the Charter for Water Recycling and Pollution Prevention in Pulp and Paper Industries.

4. Keeping in view the constraints of the area, the industry may be directed to maximize recycling of treated water in the process.”

Hence tribunal held that in the light of the above findings the State PCB ought to have assessed and recovered compensation on polluter pays principle which has not been done. The same may now be done expeditiously after following due procedure of giving opportunity of being heard to the concerned Units in accordance with law.

And further compliance report be filed on or before 31.03. 2020. Listed for further hearing on 15.04.2020.

3) In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON, NAGIN NANDA, EXPERT MEMBER AND SIDDHANTA DAS, EXPERT MEMBER) Gram Pradhan & Residents of Tapoban ... Applicant(s); Versus State of Uttarakhand ... Respondent(s). Original Application No. 61/2019 (With report dated 07.12.2019) Decided on January 2, 2020, Principal bench New Delhi 2020 SCC OnLine NGT 3

Appellants –: Gram Pradhan & Residents of Tapoban

Respondents- State of Uttarakhand

Issue involved- loss to the inhabitants in the course of construction of barrage by National Thermal Power corporation (NTPC)

The main issue for consideration in the above case is loss to the inhabitants in the course of construction of barrage by National Thermal Power corporation (NTPC) for which the land was taken from them in the year 2005 for the Vaishnugad project in village Tapovan, District Chamoli State of Uttarakhand but no employment was given. Tribunal held NTPC and TDCL to take necessary steps. One of the steps in this direction was the creation of an expert committee comprising Himalayan Forest

Research Institute, Shimla, Central Soil and Water Conservation Research and Training Institute, Dehradun and the SPCB. SPCB will be the nodal agency for coordination and compliance. Compliance report to be furnished to this Tribunal by the SPCB by 31.03. 2020.Matter is for further consideration on 20-04-2020.

4)In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON, NAGIN NANDA, EXPERT MEMBER AND SIDDHANTA DAS, EXPERT MEMBER) Hindon Resorts Pvt. Ltd. and Another ... Applicant(s); Versus Ghaziabad Development Authority and Others ... Respondent(s). Original Application No. 648/2019 (With report dated 10.10.2019) Decided on January 2, 2020 ,2020 SCC OnLine NGT 4

Principal bench New Delhi

Appellants –: Hindon Resorts Pvt.

Respondents- Ghaziabad Development Authority

Issue involved- not properly working of sewage treatment plant resulting into water pollution in Ghaziabad area

The issue is with reference to three STPS at Indirapuram, Ghaziabad which were not working properly resulting in pollution of the area. The plants were being managed by Ghaziabad Development Authority, U.P. Jal Nigam and Ghaziabad Nagar Nigam. The sewage was over flowing due to obstruction and dumping of garbage by scrap dealers on the side lines of the open drains and due to encroachment by high rise complexes and shops. Hence a factual and an action taken report was sought from the CPCB, U.P. State PCB and District Magistrate, Ghaziabad with reference to the above allegation. The report shows startling state of affairs fully acknowledging failure in maintaining the three STPs resulting in huge water pollution for which no remedial action has been taken or even planned showing apathy of the administration. In pursuance of this issue action was taken by the Uttar Pradesh pollution control board-It has been doing regular monitoring of all the STPS and the results of treated water samples has been analyzed by the

board and also shared with Ghaziabad development authority and asked Ghaziabad Nagar Nigam and UP Jal Nigam for necessary action. Also, the control board has imposed an environmental compensation of Rs 35.62.500/- (Thirty-Five Lakhs Sixty-Two Thousand and Five Hundred Only) on Ghaziabad Nagar Nigam and recommended action against Ghaziabad Development Authority for non-performance of STPs between January, 2019 to July, 2019. Besides this, Board has also recommended prosecution against Executive Engineer, Water works division, Jai Nigam and Proprietor, Mis SG Enterprises for violations under Environment (Protection) Act, 1986.

Tribunal held-Based on findings and observations following recommendations has been made-

- 1)UPPCB shall impose further Environment Compensation on M/s Toshibha Water Solution Pvt. Ltd. and Ghaziabad Nagar Nigam for the period of noncompliance.
2. UP Jal Nigam and Ghaziabad Nagar Nigam shall submit their action plan in order to ensure compliance of prescribe norms of UPPCB.
3. UP Jal Nigam shall expedite construction of a separate channel for disposal of treated effluent so that 74 MLD STP may be operated at full capacity.
4. UP Jal Nigam and Ghaziabad Nagar Nigam shall furnish performance guarantee to the satisfaction of the UPPCB with the condition that the amount will be forfeited if the compliance is not made as per timelines submitted in action plan.
5. All sewage treatment plants should install flow meter at inlet and outlet of STPs and maintain proper log book of the flow analytical results etc. Proper sludge handling management need to be placed for final treatment and disposal of sludge.
6. Ghaziabad Nagar Nigam, Ghaziabad Development Authority and UP Jal Nigam shall install Online Water Quality Monitoring System at final outlet of all their STPs and besides monitoring it themselves shall also link it with server of Central and State Board.

7. GDA should ensure scientific disposal of MSW waste conforming to norms of Solid Waste Management Rules, 2016.

8. District Administration should remove illegal encroachment along the drain.

9. GDA should make arrangement for cleaning of drain regularly so that obstruction of flow be avoided.

Compliance report be filed by the Chief Secretary, U.P. The agencies assigned the functions of operating STP be required to furnish appropriate performance guarantees, apart from other action.

5)In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON, DR. NAGIN NANDA, EXPERT MEMBER AND SIDDHANTA DAS, EXPERT MEMBER) Piyush Heights Residents Welfare Association ... Appellant(s); Versus Haryana State Pollution Control Board and Others ... Respondent (s). Appeal No. 114/2019 (I.A. No. 75/2019& I.A No. 76/2019) Decided on January 3, 2020

2020 SCC OnLine NGT 265 Principal bench New Delhi

Appellants –: Residential Welfare Association

Respondents- Haryana State Pollution Control Board

Issue involved- illegal construction M/s Piyush Heights (Piyush Buildwell India Ltd.), Faridabad in violation of violation of various legislations of the environment laws

The issue is with respect to illegal construction M/s Piyush Heights (Piyush Buildwell India Ltd.), Sector-89, Faridabad which has been set up in violation of Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act) and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the unit has failed to respond to the show cause notice. The Consent to Operate (CTO) had expired. Consent to Establish (CTO) had been revoked. Environmental Clearance (EC) had also been revoked by the Ministry of

Environment, Forests and Climate Change (MoEF&CC) vide order dated 03.09.2019. Tribunal held ignoring procedural technicality, we permit the appellant to move the concerned authorities for appropriate modification/clarification, including restoration of EC partially. The MoEF&CC may pass an appropriate order on the application preferably within two weeks. MoEF&CC may decide whether any compensation is liable to be paid for illegal construction in violation of EC condition and whether illegally constructed building is to be demolished or used by Government for any permissible public purpose. The SPCB may also take decision on the application of the appellant expeditiously as per law. The appeal is disposed of.

6)In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON, DR. NAGIN NANDA, EXPERT MEMBER AND SIDDHANTA DAS, EXPERT MEMBER) Manoj Mishra ... Applicant(s); Versus Union of India and Others ... Respondent(s). Original Application No. 06/2012 Decided on January 3, 2020

2020 SCC OnLine NGT 318 Principal Bench at New Delhi

Appellants –: Manoj Mishra

Respondents- Union of India

Issue involved- review the progress of steps for prevention and control of Yamuna in Haryana, Delhi and Uttar Pradesh.

The matter is with respect to review the progress of steps for prevention and control of Yamuna in Haryana, Delhi and Uttar Pradesh. The matter was attended by river Yamuna monitoring committee. The monitoring committee gave presentation on the status of progress in matter. The question arose with respect to the weather drain carrying waste water should merge with river carrying clean water in violation of orders of this Tribunal dated 11.09.2019 in the present matter, prohibiting discharge of waste water into the river, the same being criminal offence under the provisions of the Water Act and further direction that bioremediation and/or phytoremediation

or any other remediation must be done pending permanent solution. In order to reduce the pollution load Rejuvenation methods such as Rootzone treatment, development of wetlands etc. using available space — horizontally or vertically, closest to the source of generation of waste must be adopted. Also, requirement of one authority in Delhi for overall ownership and coordination and execution. Tribunal order required for incidental issues.

7)In the National Green Tribunal (BEFORE K. RAMAKRISHNAN, JUDICIAL MEMBER AND SAIBAL DASGUPTA, EXPERT MEMBER) S. Kannammal ... Applicant; Versus Government of India, Ministry of Environment, Forest & Climate Change, New Delhi and Others ... Respondent(s). Original Application No. 08 of 2017 (SZ) Decided on January 2, 2020

2020 SCC OnLine NGT 322 Southern Zone, Chennai

Appellants –: S. Kannammal

Respondents- Government of India, Ministry of Environment, Forest & Climate Change, New Delhi

Issue involved- illegal mining activities done on the agricultural land which are not having necessary environmental clearance

The matter is with respect to the illegal mining activities done on the agricultural land which are not having necessary environmental clearance or consent from the Tamil Nadu Pollution control board. The quarrying unit is situated close to (within a radius of 300m from school and houses. Mining lease has been given without looking into the evil effects of the quarrying operation in that area they are using high explosives for blasting the stone without following the norms and thereby causing damage to the nearby school, house and hostel. Crusher units are running without applying any pollution control mechanism and in violation of the pollution norms and causing sound as well as air pollution in that area. The alarming situation is that the units are not having any consent to operate and even in respect of one of

the units mining lease had expired long ago and no renewal was granted, but they are continuing their operation, the regulatory authorities are slow in taking action for closing down the industries and the copy of the letter produced for reference only show that they are only trying to take steps to assess environment compensation alone and no show cause notice has been issued for running the unit without getting a necessary consent to operate or renewing the mining lease in case where it expired long ago and that shows the lethargic attitude on the part of Tamil Nadu State Pollution Control Board in not discharging their statutory duty which is vested in them for protecting environment.

Ngt stand -considering the circumstances and constituting a committee consisting of District Collector, Tiruppur, Assistant Director of Mining and Geology Department, Tiruppur and one senior scientist from the Central Pollution Control Board (CPCB) and also a senior officer from State Level Environment Impact Assessment Authority (SEIAA) and * Senior Officer/Senior Scientist of Tamil Nadu State Pollution Control Board (TNPCB) to inspect the quarries in question and submit a factual and action taken report and in case there is any violation, initiate prosecution for violation and assessment of environment compensation and for any damage caused to the neighboring property on account of illegal operation and submit a factual and action taken report within a period of two months to this Tribunal. Matter for consideration of a report on 04.03.2020.

8)In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON, DR. NAGIN NANDA, EXPERT MEMBER AND SIDDHANTA DAS, EXPERT MEMBER) Bhim Singh ... Applicant(s); Versus Uni Product (Pvt. Ltd.) and Others ... Respondent(s). Original Application No. 582/2019 (With report dated 25.11.2019) Decided on January 3, 2020

2020 SCC OnLine NGT 435 Principal Bench at New Delhi

Appellants –: individual

Respondents- carpet making industry

Issue involved- air pollution and extraction of ground water for commercial purposes

The issue is with respect to allegation against Respondent Nos. 1 and 2, M/s Uni Product (Pvt. Ltd.) and M/s Golden Tex Private Limited, who are into business of manufacturing carpets in District Rewari, Haryana and hence generating carpet waste comprising of synthetic material which is burnt, causing air pollution. Another allegation is extraction of ground water for commercial purposes without any valid consent and without following any safeguards for recharge of the groundwater. Tribunal held since the ground water is being extracted without NOC and without any safeguards, the same may be discontinued till NOC is given. This may be ensured by the SPCB. The application is disposed of.

9)In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON, DR. NAGIN NANDA, EXPERT MEMBER AND SIDDHANTA DAS, EXPERT MEMBER) C. Janardana Reddy ... Applicant(s); Versus Jeo Reliance Company ... Respondent(s). Original Application No. 649/2018 (M.A. No. 199/2019) (With report dated 13.11.2019) Decided on January 3, 2020

2020 SCC OnLine NGT 447 Principal Bench at New Delhi

Appellants –: C. Janardana Reddy

Respondents- Jeo Reliance Company

Issue involved- illegal felling of trees for laying underground Optic Fibre line

The matter is with respect to illegal felling of trees in Kurnool District of Andhra Pradesh for laying underground Optic Fibre line from Nannoor to Veldurthy Village by 'JIO-Reliance'. Divisional forest officer was asked to submit factual and action taken report on 1.10.2018 but since no reply was received from M/s Reliance Jio Company, the District Forest Officer, Kurnool in Proceeding no. 3290/2018-H3, dt : 30.10.2019 issued directions to remit an amount of Rs. 2,09,825/- towards NPV for damaging 125 avenue trees and damage caused to the

environment by violating the rules in force, to the Government Head of Account. M/s Laxmi Constructions (engaged by M/s Reliance Jio Company) has remitted an amount of Rs. 2,09,825/- to the Government Head of Account. Further, an offence case has also been registered against M/s. Laxmi Constructions for damaging 125 no. of Avenue trees under section 28 (5) of A.P Water Land and Trees Ac.,2002 and Rules 4 & 5 of Andhra Pradesh (Protection of Trees and Timber in Public Premises) Rules, 1989. Further, action has already been initiated for arresting the accused by name, Sri Gogula Sreenivasulu, S/o G. Pullaiah, R/o Velugodu, of M/s. Laxmi Constructions engaged by M/s Reliance Jio Company and sending to judicial custody.”

Tribunal held looking into the acknowledged violations and magnitude thereof, there is no basis for limiting the amount of compensation to about Rs. 2 lakhs. Having regard to the totality of circumstances, amount is enhanced to Rs. 10 lakhs. The amount may be deposited within one month and may be spent by the Forest Department for restoration of the area. The application stands disposed of in above terms.

10)In the National Green Tribunal (BEFORE ADARSH KUMAR GOEL, CHAIRPERSON AND SHEO KUMAR SINGH, MEMBER (JUDICIAL) AND DR. SATYAWAN SINGH GARBYAL, MEMBER (EXPERT) AND DR. NAGIN NANDA, MEMBER (EXPERT)) Indian Social Responsibility Network, through Santosh Gupta ... Applicant; Versus Ministry of Environment, Forests and Climate Change and Others ... Respondent(s). Original Application No. 249 of 2020 Decided on November 2, 2020

2020 SCC OnLine NGT 858 Principal Bench, New Delhi

Appellants –: NGO

Respondents- Ministry of Environment, Forests and Climate Change

Primary and secondary legislation involved-

Issue involved- Air pollution

and other diseases. There are also expert views on clear nexus of air pollution with Covid-19. With increased air pollution, virus can cause more damage. In view of above, issue notice to the MoEF&CC, CPCB, DPCC, Police Commissioner, Delhi, Governments of Delhi, Haryana, Uttar Pradesh and Rajasthan on the question whether the use of fire crackers may be banned for the period from 07.11.2020 to 30.11.2020 in the interest of public health and environment. We request Shri Raj Panjwani, Senior Advocate along with Ms. Shibhani Ghosh, Amicus to assist the Tribunal as amicus.

Result and Analysis for the year 2020

Party analysis-

Appellants – individual, Gram Pradhan, company,

Respondents- State of Uttarakhand, chemical industries, Ghaziabad development Authority, Haryana State Pollution Control Board, Union of India, Government of India, Ministry of Environment, Forest & Climate Change,

Subject area analysis- combined issue of river pollution, pollution caused by the chemical industry, loss to the inhabitants in the course of construction of barrage by National Thermal Power corporation, water pollution due to the not properly working of the sewage treatment plant, Water pollution in river Yamuna, illegal mining activities done on the agricultural land which are not having necessary environmental clearance, air pollution and extraction of ground water for commercial purposes, air pollution due to bursting of firecrackers

Environmental issues- prevention of discharge of untreated sewage into the Sai River at Pratapgarh, Uttar Pradesh⁷⁰, pollution caused by the chemical industry, throwing pesticides, chlorinated solvents, petroleum chemicals, mercury PCBs, dioxins and other persisting organic pollutants polluting in environment and causing health hazard⁷¹, loss to the inhabitants in the course of construction of

⁷⁰ (2017) 5 SCC 326

⁷¹ 2020 SCC OnLine NGT 2

barrage by National Thermal Power corporation (NTPC) for which the land was taken from them in the year 2005 for the Vaishnugad project in village Tapovan, District Chamoli State of Uttarakhand but no employment was given⁷², issue is with reference to three STPS at Indirapuram, Ghaziabad which were not working properly resulting in pollution of the area, the plants were being managed by Ghaziabad Development Authority, U.P. Jal Nigam and Ghaziabad Nagar Nigam⁷³, issue is with respect to illegal construction M/s Piyush Heights (Piyush Buildwell India Ltd.), Sector-89, Faridabad which has been set up in violation of Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act) and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the unit has failed to respond to the show cause notice⁷⁴, review the progress of steps for prevention and control of Yamuna in Haryana, Delhi and Uttar Pradesh⁷⁵, illegal mining activities done on the agricultural land which are not having necessary environmental clearance or consent from the Tamil Nadu Pollution control board⁷⁶, issue is with respect to allegation against Respondent Nos. 1 and 2, M/s Uni Product (Pvt. Ltd.) and M/s Golden Tex Private Limited, who are into business of manufacturing carpets in District Rewari, Haryana and hence generating carpet waste comprising of synthetic material which is burnt, causing air pollution⁷⁷, application relates to remedial action against pollution by use of fire crackers in NCR during the Diwali time and due to which air quality is unsatisfactory with potential severity of covid 19 pandemic. The application refers to the statement of the union Health minister and the Health Minister of Delhi that during festive season there will be rise of Covid cases due to air pollution⁷⁸

Analysis on cases on various yardsticks

⁷² 2020 SCC OnLine NGT 3

⁷³ 2020 SCC OnLine NGT 4

⁷⁴ 2020 SCC OnLine NGT 265

⁷⁵ 2020 SCC OnLine NGT 318

⁷⁶ 2020 SCC OnLine NGT 322

⁷⁷ 2020 SCC OnLine NGT 435

⁷⁸ 2020 SCC OnLine NGT 858

Direction to the govn authorities

In the case of T.S. Singh ... Applicant(s); Versus State of Uttar Pradesh ... Respondent(s). Original Application No. 490/2019 1.) (With report dated 30.08.2019) Decided on January 2, 2020 tribunal directed the authorities that 100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 at least to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. In the case of **Dal Chand and Others ... Applicant(s); Versus D.P. Panchal & Co. and Others (With report dated 30.08.2019) Decided on January 2, 2020** Tribunal issued following directions in this regard-

- 1)The industry may be directed to get the calibration of OCEMS done from recognized institution/government agency and submit the calibration certificate to UPPCB and CPCB.
2. The industry may be directed to maintain good housekeeping in the premises.
3. The industry may be directed to strictly abide by the Charter for Water Recycling and Pollution Prevention in Pulp and Paper Industries.
4. Keeping in view the constraints of the area, the industry may be directed to maximize recycling of treated water in the process.”

In the case of **Hindon Resorts Pvt. Ltd. and Another ... Applicant(s); Versus Ghaziabad Development Authority and Others ... Respondent(s). Original Application No. 648/2019 (With report dated 10.10.2019) Decided on January 2, 2020** tribunal directed the various administrative bodies with guidelines based on report submitted 1) UPPCB shall impose further Environment Compensation on M/s Toshibha Water Solution Pvt. Ltd. and Ghaziabad Nagar Nigam for the period of noncompliance.

2. UP Jal Nigam and Ghaziabad Nagar Nigam shall submit their action plan in order to ensure compliance of prescribe norms of UPPCB.

3. UP Jal Nigam shall expedite construction of a separate channel for disposal of treated effluent so that 74 MLD STP may be operated at full capacity.
4. UP Jal Nigam and Ghaziabad Nagar Nigam shall furnish performance guarantee to the satisfaction of the UPPCB with the condition that the amount will be forfeited if the compliance is not made as per timelines submitted in action plan.
5. All sewage treatment plants should install flow meter at inlet and outlet of STPs and maintain proper log book of the flow analytical results etc. Proper sludge handling management need to be placed for final treatment and disposal of sludge.
6. Ghaziabad Nagar Nigam, Ghaziabad Development Authority and UP Jal Nigam shall install Online Water Quality Monitoring System at final outlet of all their STPs and besides monitoring it themselves shall also link it with server of Central and State Board.
7. GDA should ensure scientific disposal of MSW waste conforming to norms of Solid Waste Management Rules, 2016.
8. District Administration should remove illegal encroachment along the drain.
9. GDA should make arrangement for cleaning of drain regularly so that obstruction of flow be avoided.

In the case of **Piyush Heights Residents Welfare Association ... Appellant(s); Versus Haryana State Pollution Control Board and Others ... Respondent (s). Appeal No. 114/2019 (I.A. No. 75/2019& I.A No. 76/2019) Decided on January 3, 2020** tribunal permit the appellant to move the concerned authorities for appropriate modification/clarification, including restoration of EC partially. The MoEF&CC may pass an appropriate order on the application preferably within two weeks. MoEF&CC may decide whether any compensation is liable to be paid for illegal construction in violation of EC condition and whether illegally constructed building is to be demolished or used by Government for any permissible public purpose. The SPCB may also take decision on the application of the appellant expeditiously as per law. In the case of **Bhim Singh ... Applicant(s); Versus Uni**

Product (Pvt. Ltd.) and Others Tribunal held since the ground water is being extracted without NOC and without any safeguards, the same may be discontinued till NOC is given. This may be ensured by the SPCB.

In the case of **Indian Social Responsibility Network, through Santosh Gupta ... Applicant; Versus Ministry of Environment, Forests and Climate Change and Others ... Respondent(s). Original Application No. 249 of 2020 Decided on November 2, 2020** tribunal held with increased air pollution; virus can cause more damage. In view of above, issue notice to the MoEF&CC, CPCB, DPCC, Police Commissioner, Delhi, Governments of Delhi, Haryana, Uttar Pradesh and Rajasthan on the question whether the use of fire crackers may be banned for the period from 07.11.2020 to 30.11.2020 in the interest of public health and environment. We request Shri Raj Panjwani, Senior Advocate along with Ms. Shibhani Ghosh, Amicus to assist the Tribunal as amicus.

Application of International environment principles

In the case of **T.S. Singh ... Applicant(s); Versus State of Uttar Pradesh ... Respondent(s). Original Application No. 490/2019 2.)** If the directions of tribunal is not followed regarding remediation and setting up of STP the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e., Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.” (Polluter pay principle) and based on sustainable development principle another aspect is development of wetlands and biodiversity parks for reducing pollution loads on recipient water bodies. In the case of **Dal Chand and Others ... Applicant(s); Versus D.P. Panchal & Co. and Others (With report dated 30.08.2019) Decided on January 2, 2020** tribunal held that in the light of the above findings the State PCB ought to have assessed and recovered compensation on polluter pays principle which has not been done. The same may now be done expeditiously after following due procedure of giving opportunity of being heard to the concerned Units in accordance with law.

In the case of **C. Janardana Reddy ... Applicant(s); Versus Jeo Reliance Company** based on polluter pay principle with respect to illegal felling of trees in Kurnool District of Andhra Pradesh for laying underground Optic Fibre line from Nannoor to Veldurthy Village by 'JIO-Reliance'. Tribunal held looking into the acknowledged violations and magnitude thereof, there is no basis for limiting the amount of compensation to about Rs. 2 lakhs. Having regard to the totality of circumstances, amount is enhanced to Rs. 10 lakhs. The amount may be deposited within one month and may be spent by the Forest Department for restoration of the area.

Application of science and law through Creation of expert committees for scientific and technical knowledge

In the case of **Gram Pradhan & Residents of Tapoban ... Applicant(s); Versus State of Uttarakhand ... Respondent(s). Original Application No. 61/2019 (With report dated 07.12.2019) Decided on January 2, 2020** Tribunal held NTPC and TDCL to take necessary steps. One of the steps in this direction was the creation of an expert committee comprising Himalayan Forest Research Institute, Shimla, Central Soil and Water Conservation Research and Training Institute, Dehradun and the SPCB. In the case of **Manoj Mishra ... Applicant(s); Versus Union of India and Others ... Respondent(s). Original Application No. 06/2012 Decided on January 3, 2020** based on monitoring committee progress report tribunal directed that in order to reduce the pollution load Rejuvenation methods such as Rootzone treatment, development of wetlands etc. using available space — horizontally or vertically, closest to the source of generation of waste must be adopted. Also, requirement of one authority in Delhi for overall ownership and coordination and execution. Tribunal order required for incidental issues. In the case of **S. Kannammal ... Applicant; Versus Government of India, Ministry of Environment, Forest & Climate Change, New Delhi and Others** tribunal created a committee consisting of District Collector, Tiruppur, Assistant Director of Mining and Geology Department, Tiruppur and one senior scientist from the Central Pollution Control Board (CPCB) and also a senior officer from State Level

Environment Impact Assessment Authority (SEIAA) and * Senior Officer/Senior Scientist of Tamil Nadu State Pollution Control Board (TNPCB) to inspect the quarries in question and submit a factual and action taken report and in case there is any violation, initiate prosecution for violation and assessment of environment compensation and for any damage caused to the neighboring property on account of illegal operation.

4.5 Results and discussion

The category of cases adjudicated by the NGT are in the form of:

- 1)Original Applications filed by aggrieved persons relating to substantial environment issues arising under one of the seven legislations within the purview of the Act.
- 2) Original Applications seeking compensation for pollution, environmental damage and restitution of the environment.
- 3)Applications from the implementing authorities, Pollution Control Boards seeking enforcement and legitimacy of conditions imposed on polluters.
- 4)Appeals from industries against the decision of the Pollution Control Boards with respect to consent to operate under the Water Act, 1974 and the Air Act, 1981.21
- 5)Appeals from NGO's/aggrieved persons regarding non-compliance by the project authorities of the conditions imposed under the Environment and Forest Clearance given by the MoEF&CC for development projects; non-compliance with statutory rules and notifications; non-conduction of public hearings; illegal mining; diversion of forest land for non-forestry purposes and inadequacies in the EIA reports.

The National Green Tribunal Act of 2010 urges it to adopt the principles of international law and promote the protection of the environment. It also commits the country to implement decisions taken at the Rio Conference and the Stockholm Conference. Section 20 of the Act provides that the Tribunal should adopt the precautionary, sustainable development, and polluter- pays principles while passing

orders and awards. The Tribunal is required to adopt and implement the principles of the Act in order to provide effective environmental justice in the country. These principles are the basis of the determinative process that the Tribunal uses in carrying out its duties.

The case analysis above gives an insight into the approach of the NGT, as far as the **substantive approach of the tribunal** is concerned it includes the interpretation of the right to the healthy environment within the discourse on environmental law and the application of international principles within the sustainable development approach. This way the tribunal has **developed an environmental jurisprudence** and its practical application by protecting the link between life and healthy environment by keeping human rights within the environment law discourse. In the process of coming to a conclusion on a particular dispute tribunal has taken in depth scrutiny which involves not only law but also technical evaluation and underpinning a decision. Alongside this tribunal includes application of principles of international law together with right to healthy environment, application of international principles like precautionary, polluter pays and sustainable development while passing any order, decision and order which is also a mandate as per the sec 20 of the NGT Act 2010. These principles when combined with the constitutional right to a wholesome environment and thus evolve both national and international interests.

An insight into the cases also brings out that NGT imposed various penalties on various companies and individuals for violating environmental standards. These include failure to comply with environmental clearance conditions, violation of pollution standards, and industrial units operating as collective users that are not following pollution standards. Besides these, other factors such as failure of the regulatory authorities to prevent pollution from sources such as motor vehicles and urban waste discharge have also been cited as contributing factors to the pollution. The National Green Tribunal (NGT) has imposed various penalties on various companies and individuals for violating environmental standards. These include failure to comply with environmental clearance conditions, violation of pollution

standards, and industrial units operating as collective users that are not following pollution standards. Besides these, other factors such as failure of the regulatory authorities to prevent pollution from sources such as motor vehicles and urban waste discharge have also been cited as contributing factors to the pollution. The NGT acts as a bridge between the public and the private sectors when it comes to sustainable development. It has been responsible in overseeing the implementation of the principles of sustainable development, which are aimed at improving the quality of life for the people. However, implementing these principles has been very challenging due to the complexity of the project and the trade-offs involved. Through its decisions one can see that the NGT recognises that development is the core of any society, and it should be done in a balanced manner that is geared toward improving the quality of life for all its citizens. In this way tribunal has done value addition to the environmental jurisprudence through the sustainable development approach and bringing in human rights approach within environmental law discourse. It has brought in the innovative application of law through the interpretation of polluter pay and other principle in protection of the environment and sustainable development. Although Ngt doesn't depend on the legal precedent when it comes to deciding disputes, It rather uses participatory approach through participation of experts, groups, and aggrieved parties. It's not a passive body but rather a proactive body which uses information gathered through various procedures which includes adversarial, inquisitorial, investigative and collaborative procedures. Apart from this methodology **Ngt uses out reach and public participation go to the site of the dispute** and then make inspection then analysis and then recommendation is done. Given the procedural flexibility and multidisciplinary nature of environmental disputes it has done value addition in environmental jurisprudence and innovative application of laws which is bringing in more objectivity and demonstrated through balancing between development and environment protection. Its decision are progressive and NGt with its statutory mandate constitutes an important step in access to justice in environmental matters. Its bringing in access to justice in participatory way.

4.6 Conclusion

This chapter provides the scope and functions of the tribunal for environmental justice, which includes the cases it handled during the period 2015-20 and its analysis which helps in establishing the role of tribunal in application of law and innovation in addressing the protection of the environment.

Indian environmental law has a web of state and central legislations, as well as executive orders. Most of the control over environmental issues is carried out through executive rules or secondary legislation. These secondary legislations often alter the legal obligation of the state. The involvement of individuals and communities in environmental controversies can be regarded as part of the environmental justice movement's broader understanding of the issue. The concept of environment justice has changed with the times, and it now includes issues of fairness, equity, and standing. It also includes the participation of the disadvantaged in decision-making processes. The ability to access justice through a judicial mechanism that provides protection and redress for environmental damage is a vital component of environmental justice. This type of system allows people to hold accountable those responsible for violating their rights. The increasing number of judges who are dedicated to providing an impartial and timely dispute resolution mechanism is a growing trend. This type of system also helps in developing new procedures and techniques that can be used to address environmental issues. The judiciary is additionally a vital part of promoting the rule of law and ensuring that the balance between developmental, social, and environmental considerations is maintained.(G. N. Gill, 2019)

Right to healthy environment is a dimension of environment justice Unfortunately, the right to an environment was not explicitly included in either the Rio Declaration or the World Summit on sustainable development in 2002. This leaves room for debate. Despite the varying requirements **for** the inclusion of the right to an environment in various national constitutions, it has been hegemonic.(G. Gill, 2017) According to the preamble of the Act, the Ngt has been established to carry

out the mandate given under Art 21 of the Constitution. It has been granted wide powers to deal with cases related to the protection of the environment and natural resources. These include the various laws enacted in the past few years such as the Air (Prevention and Control) Act, the Water (Prevention and Control) Act, and the Biological Diversity Act. Over a decade has passed since the National Green Tribunal was established. The establishment of this tribunal has greatly influenced the way environmental litigation in India is conducted. It has brought forth involvement of highly specialised and technical members, which has played a crucial and increased role in the protection of the environment. Through the various resolutions it has been able to make, the tribunal has been able to demonstrate its efficiency. It has also been able to analyse the trends in environmental law.

On the analysis one finds most of the Ngt disputes falls in following categories violating requirements of statutory clearance and permits causing environmental harms, violation of Environmental clearance conditions and permits, Non-compliance with specified pollution standards ,Projects carried out without getting required permissions for environmental and forest clearance, Violation of environmental requirement process, Unauthorized activities that affect the environment, Industrial units operating without permit, Large scale industrial pollution .

On the impact analysis of judgements, decisions and appeal of the tribunal for the year 2015-2020 with a total of 71 judgements, decisions and appeal finds that that there is gap as far as compliance of the environment regulation and rules are concerned at the part of the polluting industries in such situation the tribunal has asked the offending industry to comply with the regulation and pay for compensation based on polluter pay principle in order to restore the environment. Analysing the various remedies that were given by the tribunals, which are applicable to the defaulters, the state, industries and the pollution control boards. The Tribunal has also acted as an investigative agency in some cases. It has also played a consultative role in various cases. The role of the stakeholder in a case of air and river pollution can have broad impacts. For instance, it can affect the

strategies and practices of a municipality. The National Green Tribunal is under immense pressure to resolve the disputes within six months. However, through the National Green Tribunal's democratic approach, it is able to bring about better environmental justice through peaceful ways and bringing in more rule of law by involving concerned stakeholders in remedial action and applying the international law principles like Polluter pay and sustainable development and asking for suggestions in certain cases and imposing penalties against the state wherever they are at default.

The concept of sustainable development is a framework that aims to provide a healthy environment for people. It includes the interpretation of the right to a healthy environment in the context of environmental law. The substantive approach of the NGT includes application of right to healthy environment in environment law discourse, application of international principles within the broader framework of sustainable development approach.

These decisions illustrate the National Green Tribunal's dedication to achieving a symbiotic link between development and the environment. The implementation of the philosophy of sustainable development, in conjunction with the adoption of a pragmatic approach, encourages two widely perceived incompatible value systems to operate in harmony. Never before has the importance of environmental conservation been more apparent than it is right now. The argument and discussion on how to attain and maintain a healthy balance between growth and the environment are also very loud these days. When it comes to the social and economic activities of a rapidly rising country like India, this seeming contrast is blatantly obvious. The judiciary's ingenuity has played a significant part in attempting to resolve this difficulty, and it continues to do so.

CHAPTER -6

IMPACT OF NATIONAL GREEN TRIBUNAL

- 6.1 Introduction**
- 6.2 Analysis of caseload 2015-20**
 - 6.2.1 Analysis of the benches case load 2015-20**
- 6.3 Analysis of the nature of the disputes -2015**
- 6.4 Analysis of nature of disputes for the year 2016**
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- 6.9 A decade of the National Green Tribunal – An analysis**
- 6.10 Conclusion**

6.1 Introduction

This chapter examines and analyzes the data gathered by the author during the period of 2015-2020, as well as the overall case load and bench load from the National Green Tribunal website. The analysis is then compared and correlated with the findings presented by Gitanjali Nain Gill in her book, with the aim of assessing the impact of the tribunal's judgments over the course of its existence for more than a decade. The National Green Tribunal (NGT) is approached with a multitude of environmental issues in India that require resolution. From a more comprehensive standpoint, all of these factors are interconnected with the environment. Nevertheless, it is necessary to acquire knowledge regarding the primary domains encompassing pollution (namely air, water, and soil), environmental clearing, coastal zone management, and mining, which have been subject to appeals and petitions presented to the tribunal, resulting in corresponding judgments being rendered. Gaining an understanding of the preceding conflict area is beneficial in comprehending the context of the Nominal Group Technique (NGT). Given the aforementioned circumstances, there has been a scarcity of research undertaken on the operational mechanisms and efficacy of the NGT. It is imperative to comprehend the manner in which both natural and anthropogenic factors contribute to the emergence of environmental challenges, as well as the role played by the National Green Tribunal (NGT) in delivering verdicts on these matters. This also aids in the identification of priority areas in the environment that can be enhanced. The objective of the analysis is to examine several significant factors, such as the growth and characteristics of the caseload handled by the National Green Tribunal between 2015 and 2020, as well as the increase in caseloads across the primary and regional benches. The process of analysis provides valuable insights into the identities of the plaintiffs and defendants involved in environmental justice cases, as well as the specific environmental

challenges that have led the plaintiffs to seek resolution through the National Green Tribunal.

6.2 Analysis of caseload 2015-20

The following figures and text seek to answer the above questions.

Case load from 2015-20(all benches)

Year	No of reported judgements
2015	17093
2016	19059
2017	25038
2018	11443
2019	8344
2020	8238

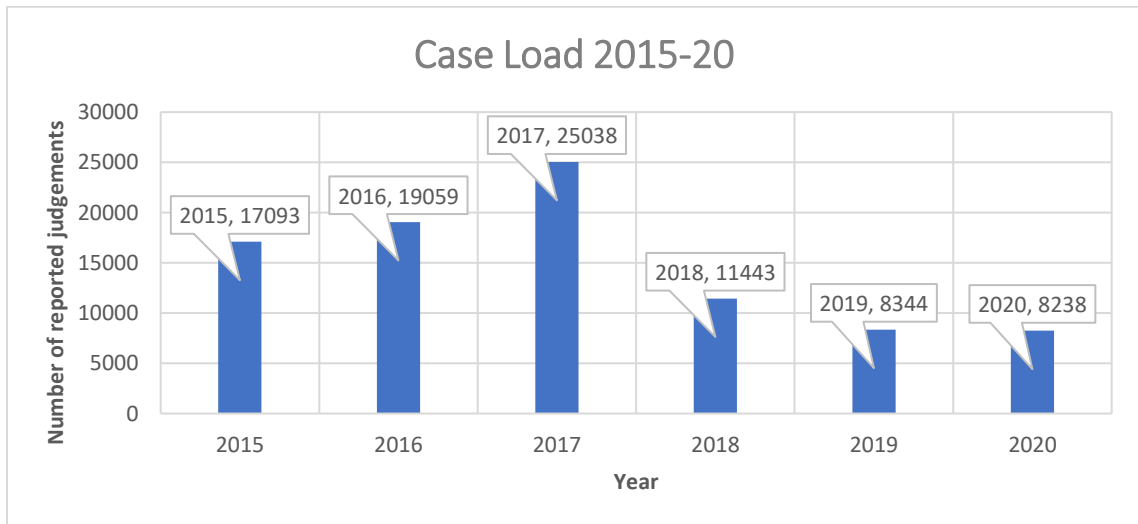


FIGURE 6.1 (case load 2015-2020)

Source-NGT website

Fig 6.1 illustrates the growth of reported judgments from 2015-20, year 2015 reported cases were 17093 which gradually increased to 19059 in 2016 and reached 25038 in 2017 and 2017 saw the maximum case load for the time period between 2015-20. It was due to the retirement of chairperson Justice Swatanter Kumar in December 2017 that reported judgements decreased till the appointment of new chairperson afterwards in 2018 and justice Swatanter Kumar decided maximum cases before his retirement. The minimum number of reported judgements were in the year 2020 due to the covid 19 and tribunals mostly closed and started functioning in online mode in later part of the year 2020.

6.2.1 Analysis of the benches case load 2015-20

Benches (Principal and Regional)

Bench	Number of reported judgements
Principal Bench	51167
Eastern zone Bench	7287
Central zone Bench	9559
Western zone Bench	8430
Southern zone bench	12772

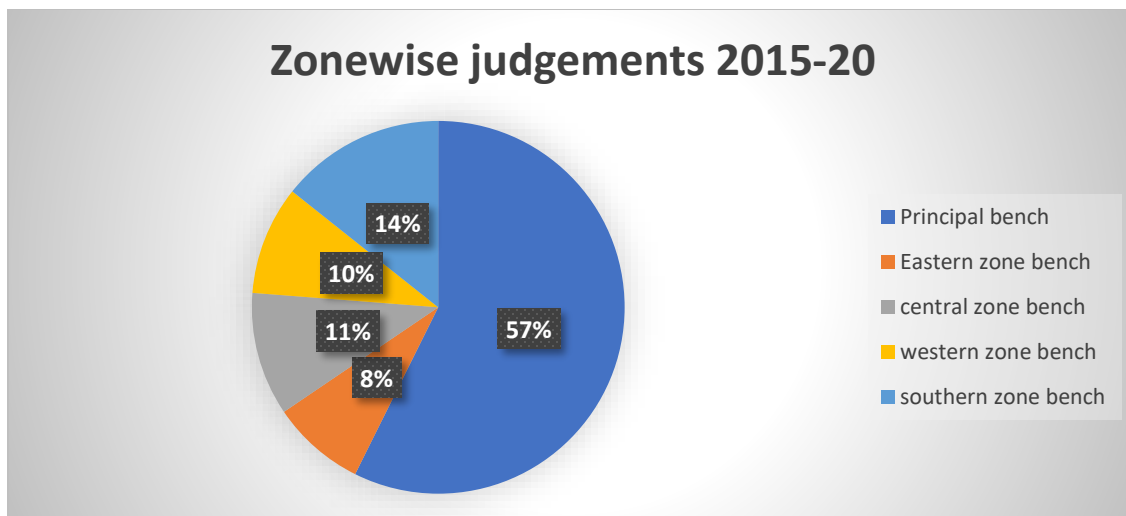


Fig 6.2(Principal and regional Benches)

Source Author

Fig 6.2 represents the zone wise reported judgements for the time period 2015-20. Principal bench is the oldest bench and because of its location in capital city Delhi it has decided reported maximum judgements which is 57% followed by Southern bench with 14% followed by central zone bench with 11% and western zone bench with 10% and eastern zone bench 8%. The western zone bench having less case load can be attributed to the its late establishment and lack of infrastructure issues initially.

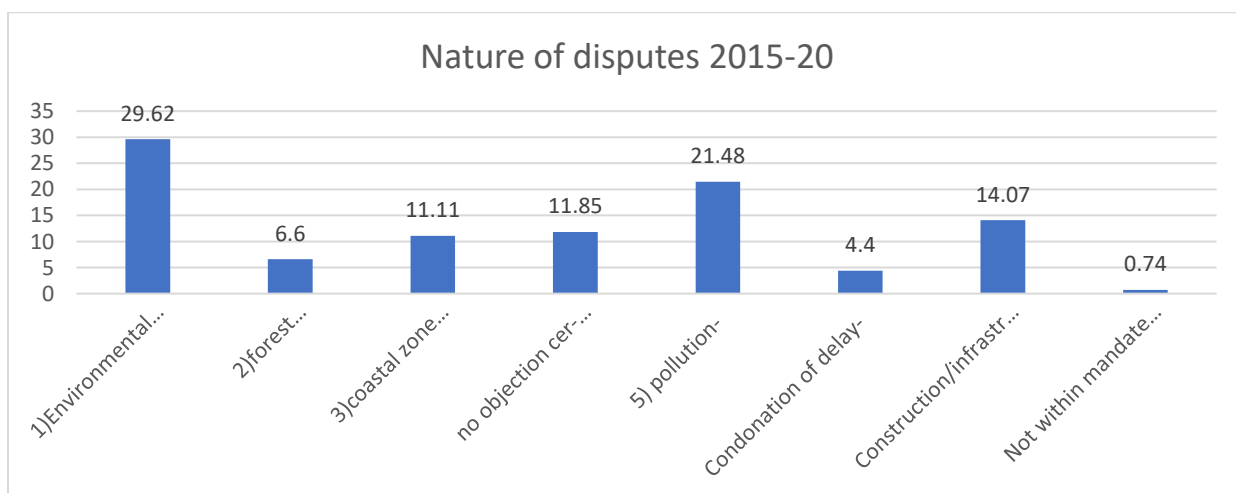


Fig 6.3 Nature of disputes for the year 2015-20

An analysis of the figure as to the nature of the disputes for the year 2015-20 it shows that the maximum number of disputes accounting for 29.62% of the total data analyzed is related with environment clearance, and the purpose of the environment clearance is to assess the impact of the planned project on the environment and the people and minimize the effect of the same. Most of these environment clearances were related with cement plant, mining, commercial projects and municipal solid waste etc. While pollution accounted for the 21.48% of the total data analyzed and they are related with water, Air, Noise soil and environment degradation pollution etc. Next is the construction infrastructure permission activities issues accounting for 14.07% of the total data analyzed and standing next to environment clearance, pollution establishing that population growth has resulted in more requirement of infrastructure for support. While no objection certificates/consent to operate/closure order to operate any industry, enterprise or activity accounts for 11.85% of the total data analyzed while coastal zone management/ecologically sensitive area-issues accounts for 11.11% of the total data analyzed The MoEF has designated certain areas as eco-sensitive zones to protect them from the harmful effects of human activities. These areas are designed to act as shock absorbers for the environment. They are also prohibited from activities such as logging and mining. In addition, the MoEF prohibits the use of hydro-power projects and firewood in these areas. This activity is carried out through the approval of the Environment Ministry. The coastal zone is a region between the land and the sea that needs protection from the excessive growth of human activities. In coastal regions, old industries are strictly prohibited from expanding. The dumping of untreated wastes and effluents into nearby human settlements is also prohibited. While forest clearance accounts for 6.6% of the total data analysed Reserve Forest, protected forest, or any area of government record that is not under the control of the central government are referred to as forest land. Proposals for diversion of such lands for non- forest purposes require the approval

of the central government. Condonation of delay accounts for 4.4% while not within the mandate of the NGT accounts for 0.74% of the total data analyzed.

Figure 5.4 examines nature of disputes for the year out of analysis done of 23 cases for the year 2015. There were environmental clearances 10 cases accounting for 43.47% of data analyzed. The main purpose of the EC is to assess the impact of the planned project on to the environment and the people and try to minimize this impact. For example, 10 cases relating to the environmental clearance were relating to brick kiln activities, cement plant, mining, commercial projects, municipal solid waste plants.

6.3 Analysis of the nature of the disputes -2015

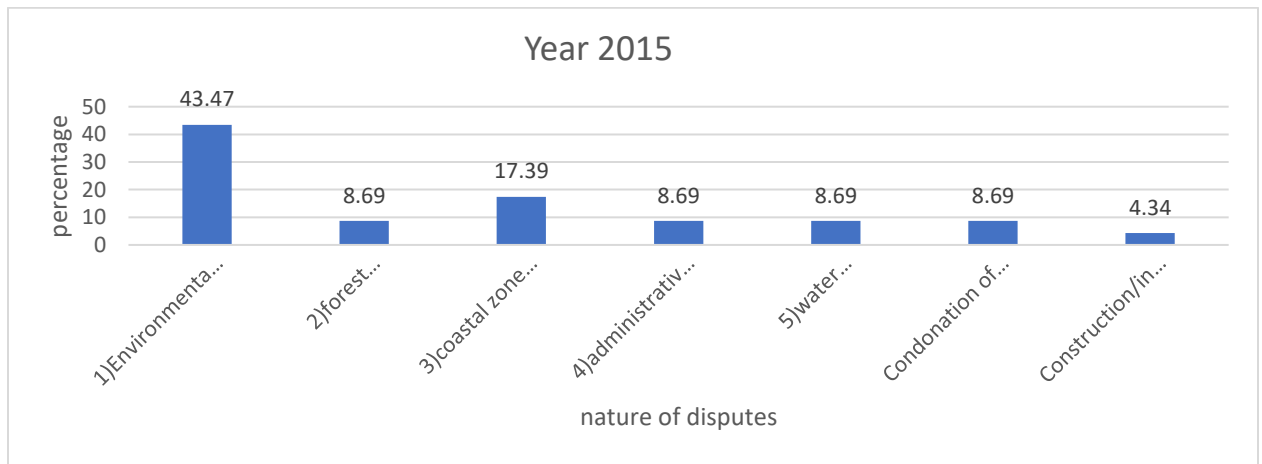


Fig 6.4 Nature of disputes for the year 2015

Source-Author

Cases relating to development in ecologically fragile zones including coastal zone constituted 4 cases which makes to 17.39 % of the total data analyzed. The MoEF has declared eco-sensitive zones around protected areas in order to prevent the damage caused by human activities around these areas. These areas act like shock absorbers for the protected areas. The basic aim of these zones is to regulate activities that are harmful to the environment. Activities related to mining, logging, and industries causing pollution are prohibited in these areas. The MoEF also prohibits the use of firewood and hydro- power projects. This activity is regulated by the Environment Ministry. It involves the use of natural resources and the reduction of trees. The coastal zone is a transitional area between the sea and land. It needs protection and conservation to prevent the excessive growth of anthropogenic activities that threaten the marine environment. Expansion of old industries is strictly not allowed in CRZs. Also, the dumping of untreated waste and effluents into human settlements and industries is also banned.

Forest clearance including tree cutting accounts for 2 cases of the data analysed that makes to 8.69% of the total data analysed. Reserve forest, protected forest, or any area of government record that is not under the control of the central government are referred to as forest land. Proposals for diversion of such lands for non- forest purposes require the approval of the central government. Water air and noise related pollution constitute 2 cases that makes to the 8.69% of the total data analyzed. There are 2 cases relating to the condonation of delay which makes to 8.69% of the total data analyzed. These cases relate to construction works and environmental clearance. These are the cases where the person who filed the claim did not file it before the NGT because it was not in the limitation period. The purpose of this procedure is to provide convenience and justice to the individual. Administrative governance cases account to 2 cases which makes to 8.69% of the total data analysed which includes procedural error and impropriety and failing to observe the principles of the Natural Justice.

6.4 Analysis of nature of disputes for the year 2016

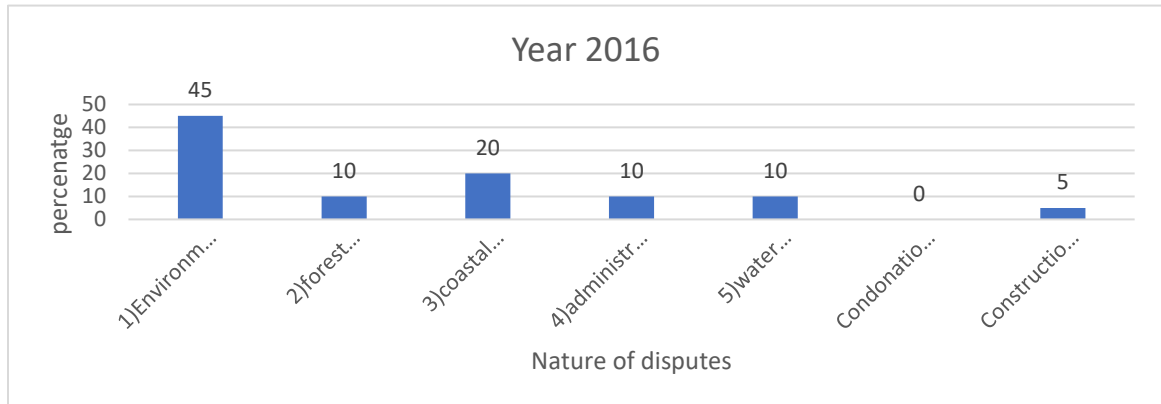


Fig 6.5 Nature of disputes for the year 2016

A random sample of 20 judgements were taken from the Manupatra and SCC online in order to analyse the decisions, orders and appeals and to look for its impact analysis.

Fig 5.5 examines nature of disputes out of analysis done of 20 cases for the year 2016. There were total of 9 cases relating to environmental clearance accounting for 45% of the data analyzed and being the maximum number of disputes coming to the tribunal in this year if one analyzes further the environment clearance issues ranged from- finalisation of EC not within stipulated time of EIA notification 2006, environment clearance for thermal power plant, metro rail station, mineral mining, environment impact assessment and also with respect to coastal zone areas, next in terms of disputes coming in this year is coastal zone regulation clearance accounting to 4 cases making to 20% of the data analyzed which is ranging from issues for nuclear power plant, ecologically sensitive area and coastal zone management, forest clearance, administrative governance and pollution cases constitute 2 cases each in the category making 10% each of the categories, forest clearance issues deals mainly with cutting of the trees and environment impact

assessment, while pollution issues is mainly with water pollution, administrative governance is with reference to permission with regard to water table and no objection certificate ,while construction activities constitute to 5% of the total data analyzed.

6.4.1 Analysis of bench wise case load for the year 2016

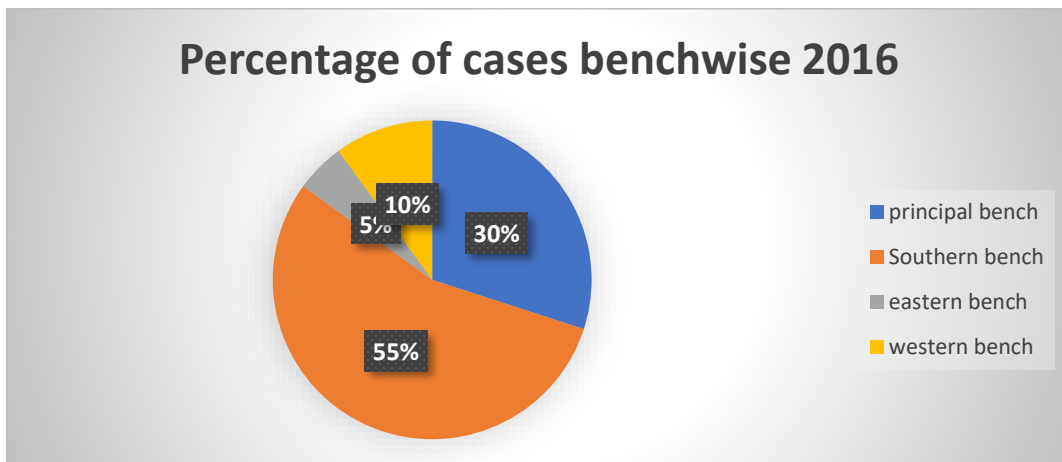


Fig 6.6 percentage of cases bench wise year 2016

As per fig 6.6 its seen that southern zone bench catered to the maximum number of dispute resolution as per data analyzed ,total of 11 cases and constituting to 55 % of the whole data which can be attributed to coastal regulation zone clearance cases and environment clearance around coastal areas which is likely to arise in the southern area more because of its location in coastal area followed by principal zone with total of 6 cases constituting 30% of the total data analyzed because of its prime location is approached more, while western zone bench and eastern zone established later having infrastructure issues can be attributed to the lesser cases making to 10 % and 5% each of the data analyzed.

6.5 Analysis of nature of disputes for the year 2017

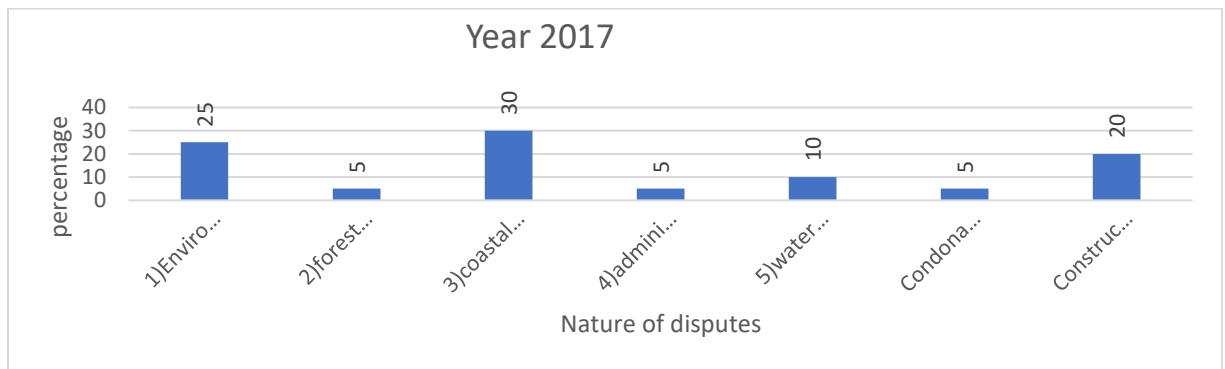


Fig 6.7 Nature of disputes for the year 2017

A random sample of 20 decisions, orders, appeals were taken from the manupatra and SCC online in order to analyse the judgements and to look for its impact analysis.

As per fig 6.7 the nature of disputes for the year 2017, out of total 20 cases ,6 cases related to the coastal zone management and clearance (30%) making to the maximum disputes in this area for year 2017 as well, with 5 cases of environment clearance making to 25% of the total data analyzed, while

construction/infrastructure permission and activities constituted 4 cases making to 20% of the data and pollution cases making it to 2 both dealing with water pollution constituting 10% while forest clearance, administrative governance and condonation of delay making to 1 case each of the total data constituting to 5% each in their respective category.

6.5.1 Analysis of bench wise case load for the year 2017

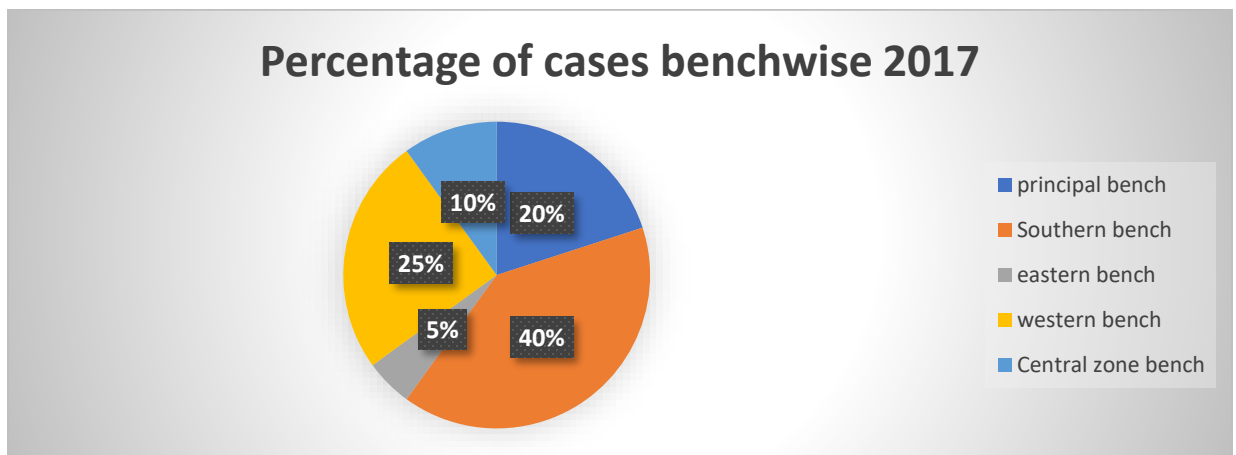


Fig 6.8 percentage of cases bench wise for the year 2017

As per fig 6.8 in the year 2017 as well southern zone catered to the maximum number of disputes of the data analyzed which is 8 cases making to the 40 % of the data which can be attributed to the fact that the number of disputes of coastal zone management is maximum in this year and most of them arisen in southern states hence southern bench, next in terms of percentage is the western zone bench which dealt with total of 5 cases and making it to 25% of the data analyzed and the reason for the same is that most of the disputes arose around Maharashtra and hence as per convenience Pune bench was most approached after southern zone bench ,principal bench which dealt with 4 cases constituting 20% of the data analyzed which can attributed to the fact that it is the oldest bench ,with prime location and better

equipped infrastructure wise, while the eastern zone bench dealt with minimum number of cases that is 1 constituting to 5% of the data analyzed and central zone bench with 2 cases constituting 10% of the data analyzed.

6.5.2 State wise percentage of disputes for the year 2017

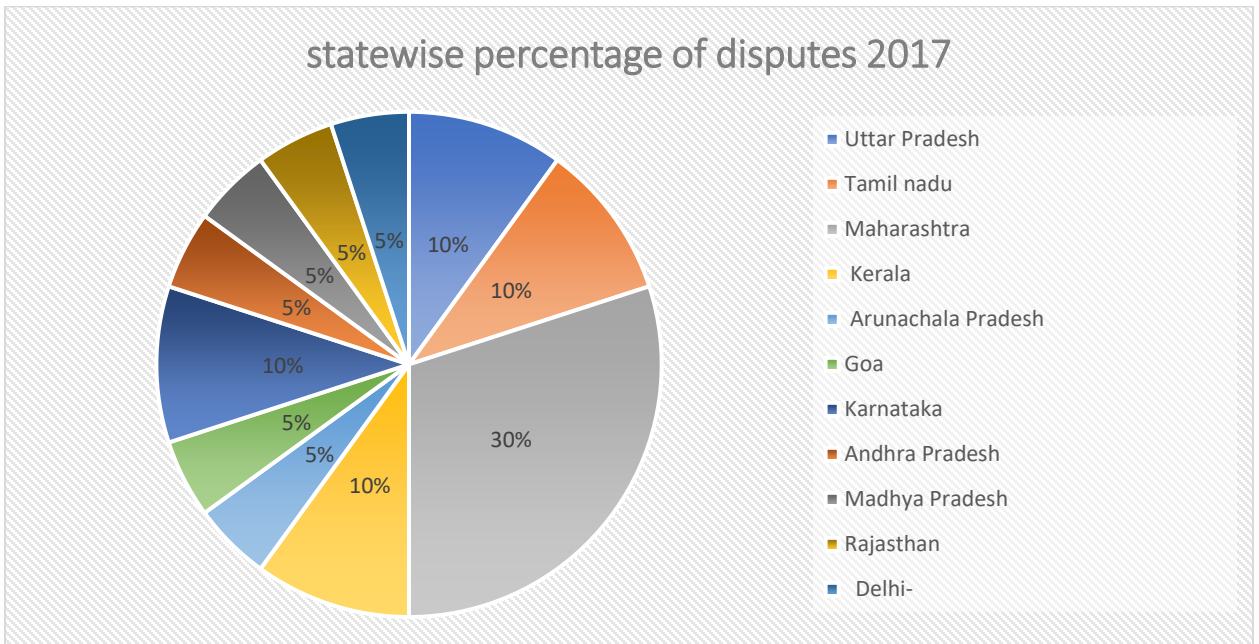


Fig 6.9 State wise distribution of disputes for the year 2017

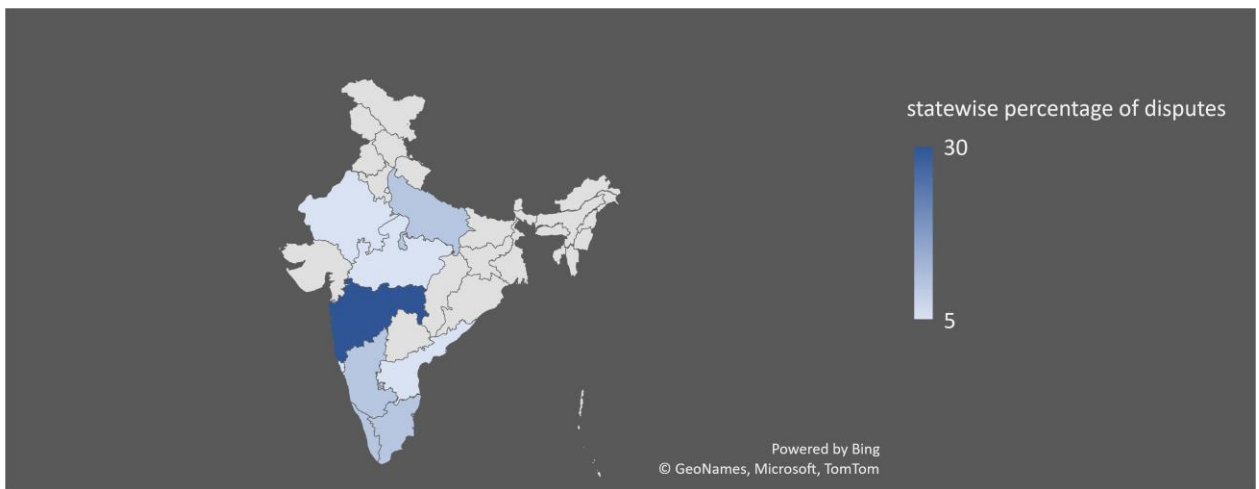


Fig 6.9 on map depiction of disputes for the year 2017

As per analysis of fig 6.9 max number of disputes were from Maharashtra dealing mainly with environment clearance, environment degradation, administrative governance, consent to operate contributing to 30% of the total analyzed with total of 6 cases. Others states where majority of disputes has arisen are Tamil Nadu, Uttar Pradesh, Kerala and Karnataka with 10% each of the total data analyzed. The states where majority of the disputes have arisen are states with most industries, population and development. Other states like Andhra Pradesh, Rajasthan and have 5% each of the total disputes.

6.6 Analysis of nature of disputes for the year 2018

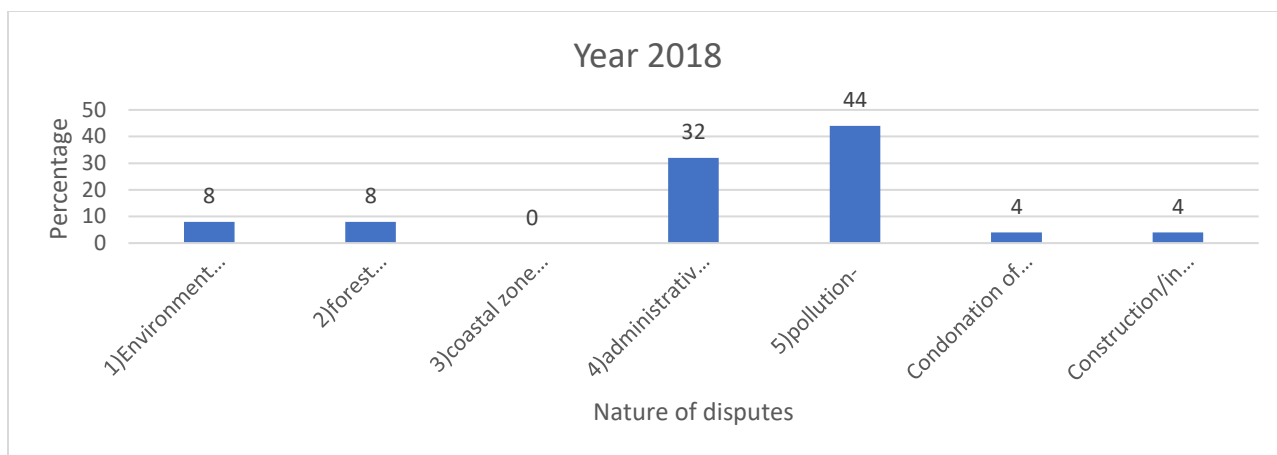


Fig 6.10 Nature of the disputes for the year 2018

A random sample of 25 decisions, orders appeals were taken from the manupatra and SCC online in order to analyze the judgements and to look for its impact analysis.

As per analysis of fig 6.10 pollution related matters were the maximum (11 cases) making it to 44% of the total data analyzed most of this cases related to air pollution (crop burning) , air pollution in scrap market , environment degradation ,noise pollution ,river pollution(Yamuna river and others),while next were the administrative governance issues dealing with consent to operate ,municipal corporation, state pollution control board related making to 8 cases (32%) of the total data analyzed. While environment clearance and forest clearance constituted 2 cases each making it to 8% each of the data analyzed. Cases relating to condonation of delay and construction/infrastructure permission and activities were 1 each making to 4% of the total data analysed. while there were no cases related to coastal zone management as per the data making it to 0%.

6.6.1 Analysis of bench wise case load for the year 2018

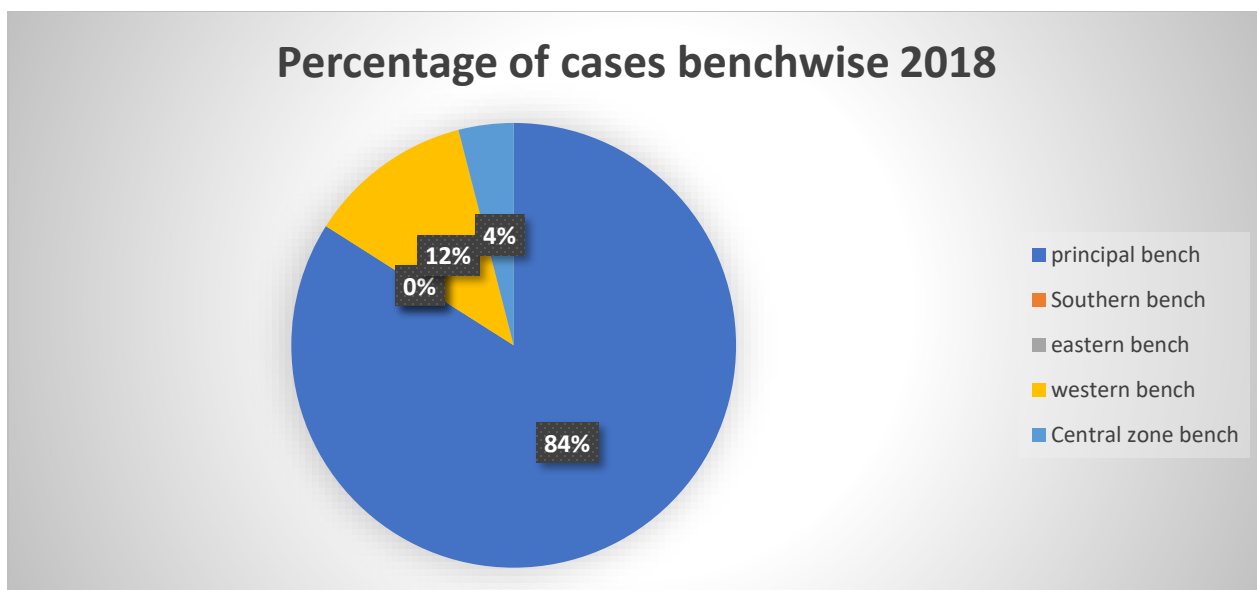


Fig 6.11 percentage of cases bench wise 2018

As per fig 5.11 In the year 2018 maximum number of disputes were catered by the principal zone bench making it to 84% (21 cases) of the total data analyzed, because of its prime location as most of these disputes were from the nearby states like Uttar Pradesh, Rajasthan, Chhattisgarh, Punjab, Delhi, Haryana, Himachal Pradesh etc. While western zone bench (Pune) constituted 12% (3 cases) and most of these disputes were from nearby like Goa. While central zone bench catered to 4% of the cases the total data analyzed. However central and eastern zone bench catered to 0% cases each.

6.6.2 State wise percentage of disputes for the year 2018

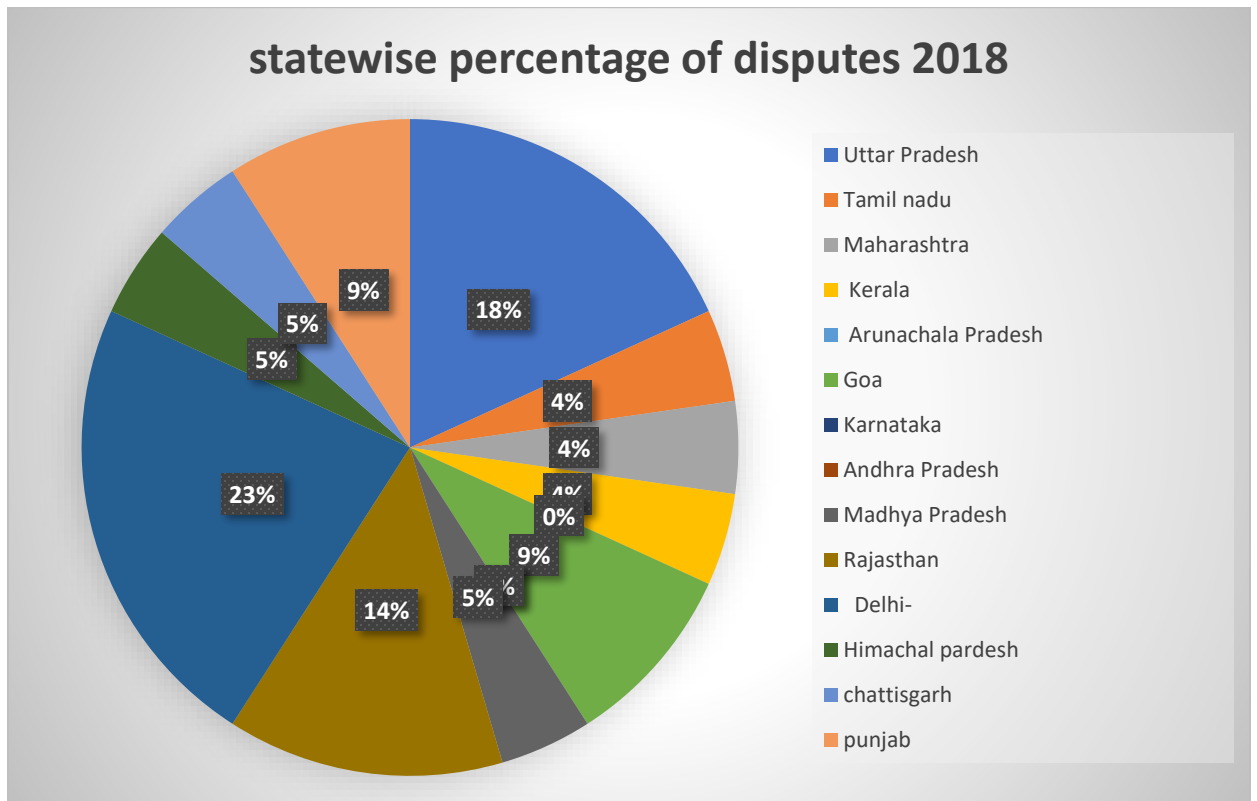
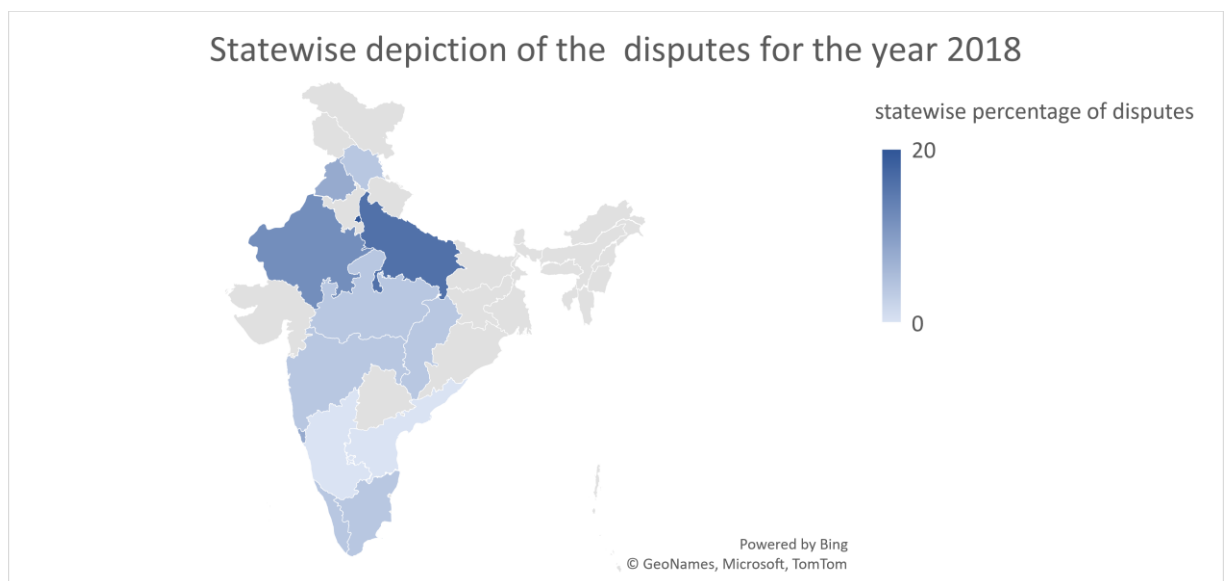


Fig 6.12 state wise distribution of disputes for the year 2018



As per fig 6.12 analysis for the year 2018 shows that the maximum number of disputes arose in Delhi constituting 23% of the total data analyzed and most of these issues were with reference to pollution which and the maximum number of disputes for this year were related with pollution, this also shows that being the capital city the pollution issues are very high as compared to other states for this year, while Uttar Pradesh constituting 18% of the data analyzed and these were mainly related with administrative governance, Yamuna river pollution ,forest clearance with reference to illegal sand mining etc. While Rajasthan constituted 14% of the data analyzed mostly dealing with condonation of delay and administrative governance. While Punjab and Goa were the shared 9% each of the total data analyzed and mostly were related with pollution. Compared with these states other state shared lesser number of disputes.

6.7 Analysis of nature of disputes for the year 2019

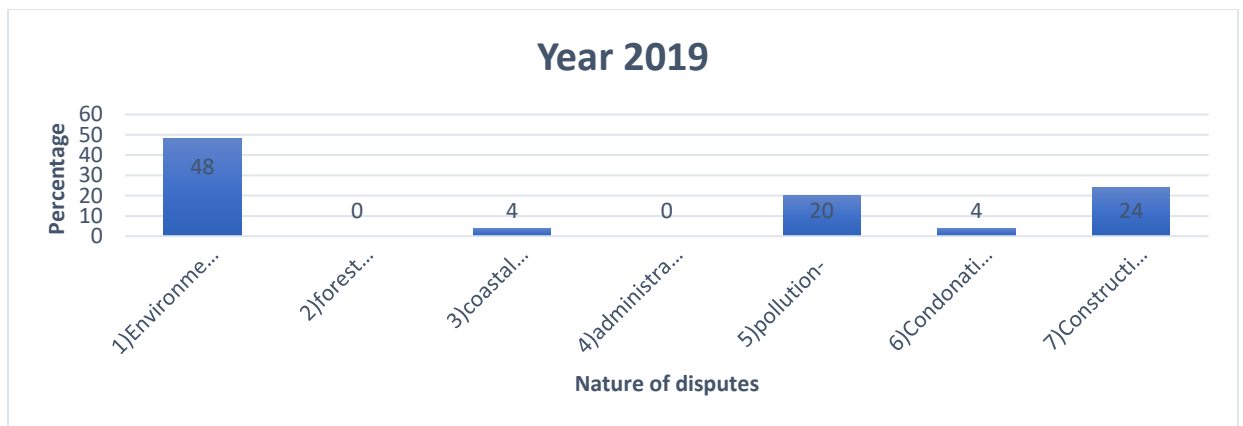


Fig 6.13 Nature of the disputes for the year 2019

A random sample of 25 judgements were taken from the manupatra and SCC online in order to analyze the judgements and to look for its impact analysis.

An analysis of fig 6.13 of the as to the nature of the disputes for the year 2019 shows that the maximum number of disputes were related with environment clearance; total of 12 cases making it to 48% of the data analyzed which were related with environment clearance which mainly dealt with thermal power projects, illegal sand mining, ecologically sensitive zone, limestone mining, environment impact assessment ,mining , while Construction/infrastructure/permission activities made the next in terms of disputes ;total of 6 cases (24%) of the total data analysed, while pollution related cases were 5 making it to 20% of the data analysed while coastal zone regulation and condonation of delay cases were 1 each making it to 4% each of the total data analysed while forest clearance and administrative governance related cases were 0 making it to 0% of the total data analysed.

6.7.1 Analysis of bench wise case load for the year 2019

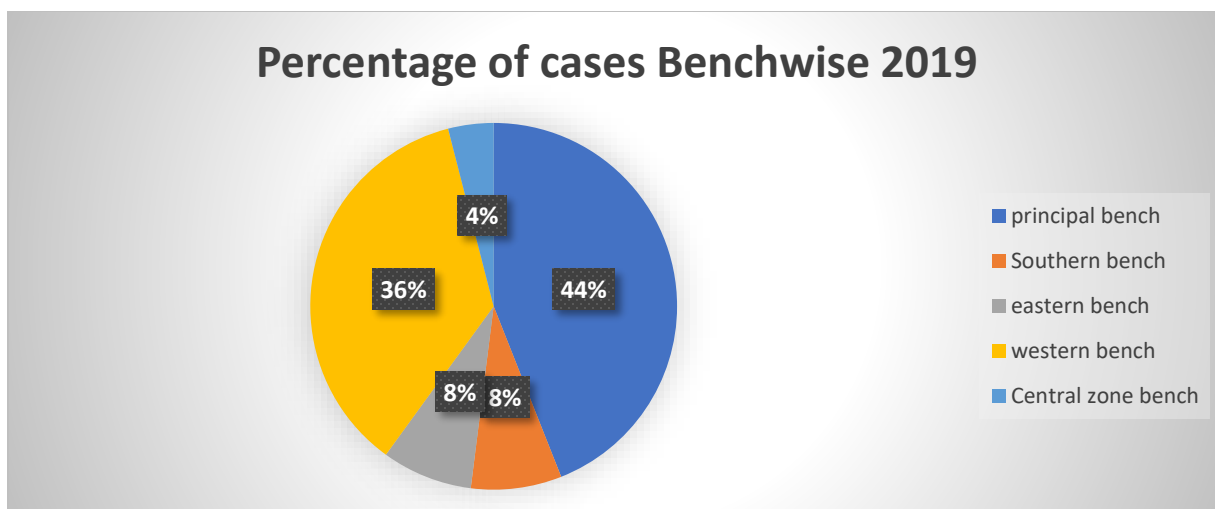


Fig 6.14 percentage of cases bench wise for the year 2019

As per the analysis of the data for the year 2019 Principal bench catered to the maximum number of disputes making it to 44% (11 Cases) of the total data analyzed and these cases were mix related to construction and infrastructure, pollution, coastal regulation zone, condonation of delay. While western zone bench catered next in terms of number of cases (9 cases) making it to 36% of the total data analyzed and were mostly related with mix number of disputes consisting of construction infrastructure, pollution, coastal zone regulation, environment clearance and pollution. While eastern and southern bench dealt with 2 cases each making it to the 8% each of the total data analyzed; related with construction infrastructure permission activities and environment clearance related issues. While central zone bench catered to only 1 case making it to 4% of the total data analyzed.

6.7.2 State wise percentage of disputes for the year 2019

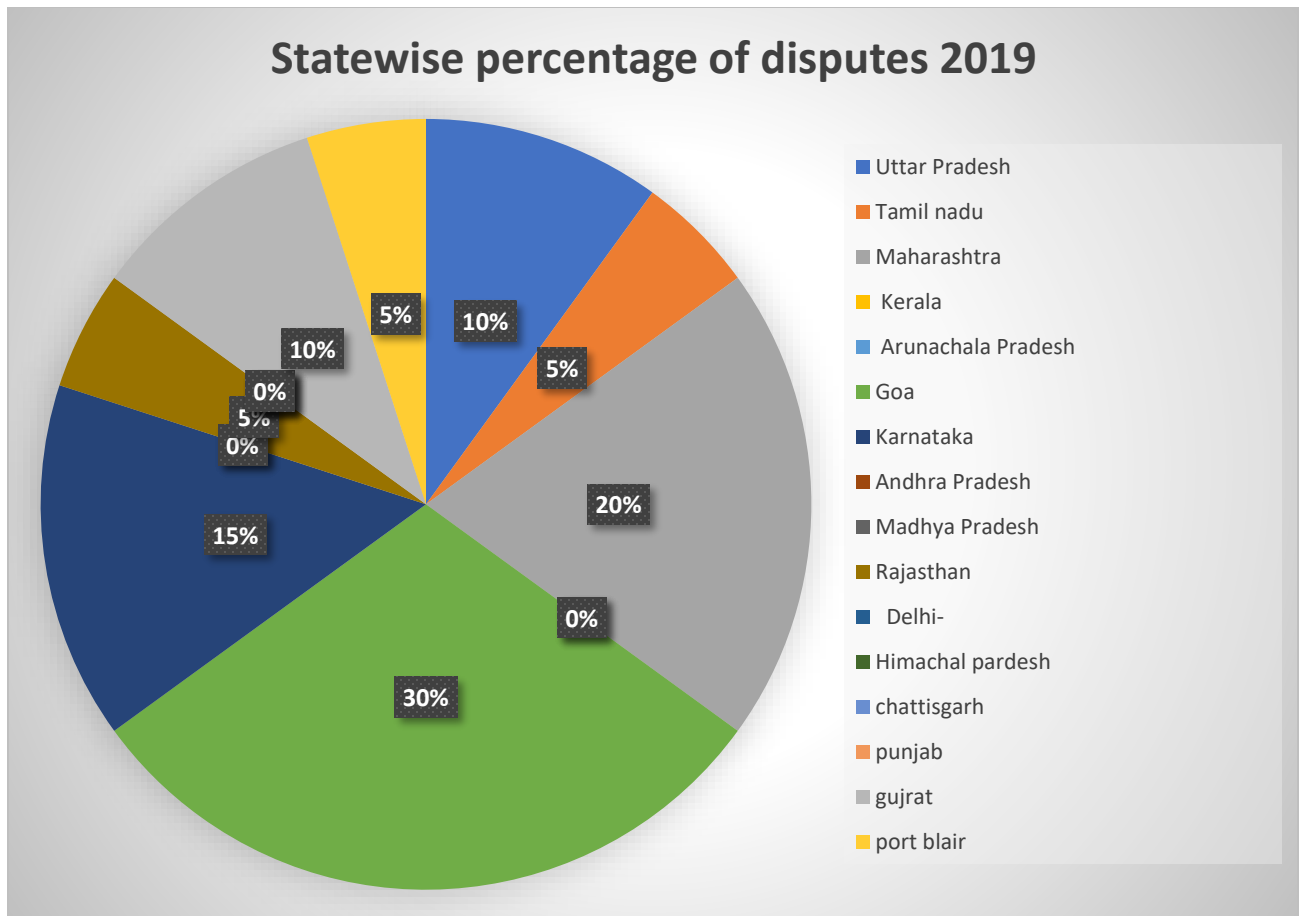
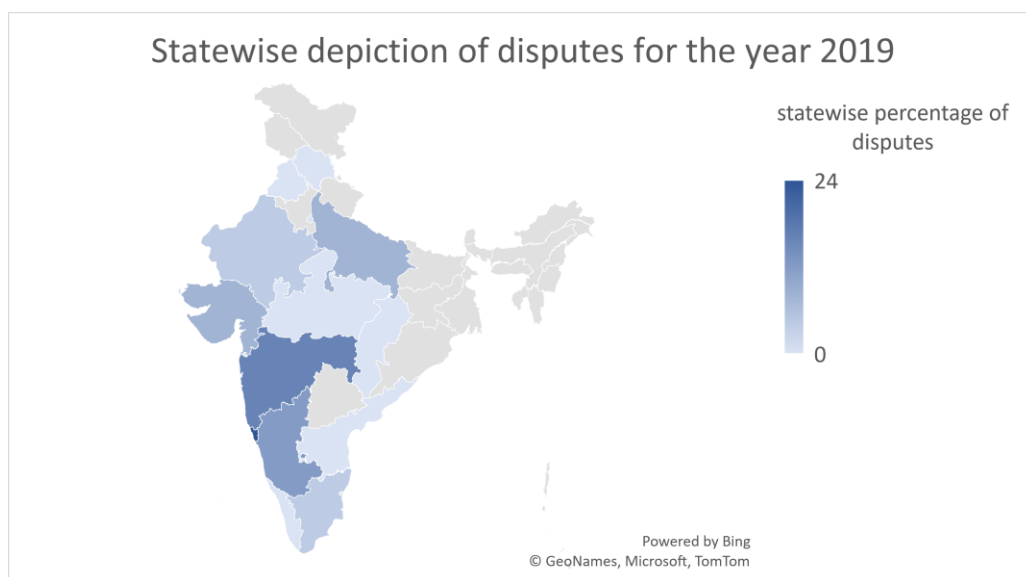


Fig 6.15 State wise distribution of the disputes for the year 2019



As per the analysis of the fig 6.15 in the year 2019 one can see Goa is where maximum number of disputes arose making it to 30% of the total analyzed and next Maharashtra making it to 20% of the total data analyzed these were mostly related with construction and infrastructure permission activities or environment clearance or coastal regulation zone. And next in line are the state of Karnataka (15%), Uttar Pradesh (10%) and Gujrat (10%)

6.8 Analysis of nature of disputes for the year 2020

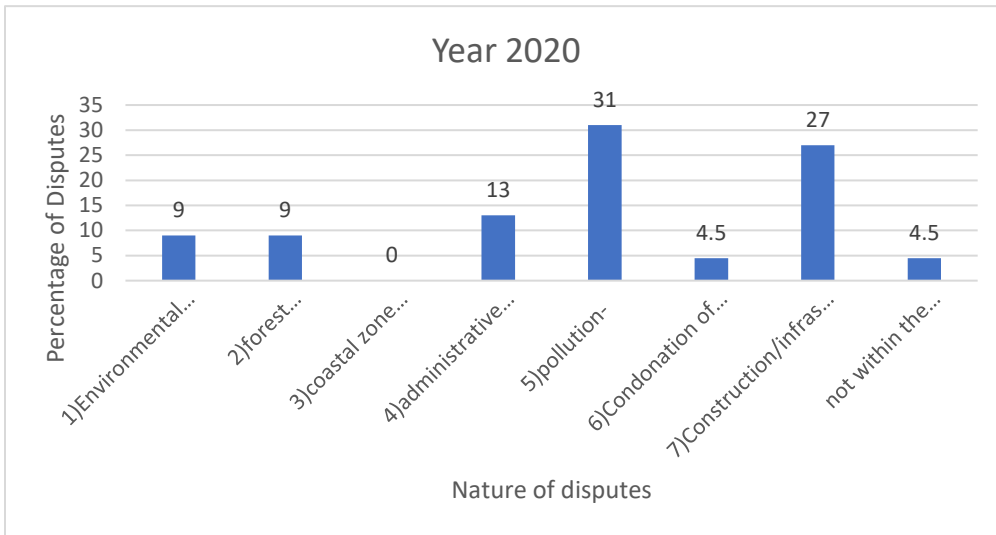


Fig 6.16 Nature of disputes for the year 2020

A random sample of twenty-three reported judgements were taken from the Manupatra in order to analyze the decisions, orders and appeals in order to look for its impact analysis.

As per the analysis of fig 6.16 for the year 2020 one observes that the maximum number of disputes were pollution related cases (7 cases) making it to 31% of the total data analyzed and these were related with river pollution, water pollution and

air pollution while construction /infrastructure/permission activities were next constituting 6 cases making it to 27% of the total data analyzed. While next is the administrative governance issue (3 cases) making it to 13% of the total data analyzed. While environment clearance and forest clearance were 2 cases each making it to 9% each of the total data analyzed. While condonation of delay and not within the mandate of the NGT makes it to 1 case each making it to 4.5% of the total data analyzed.

6.8.1 Analysis of bench wise case load for the year 2020

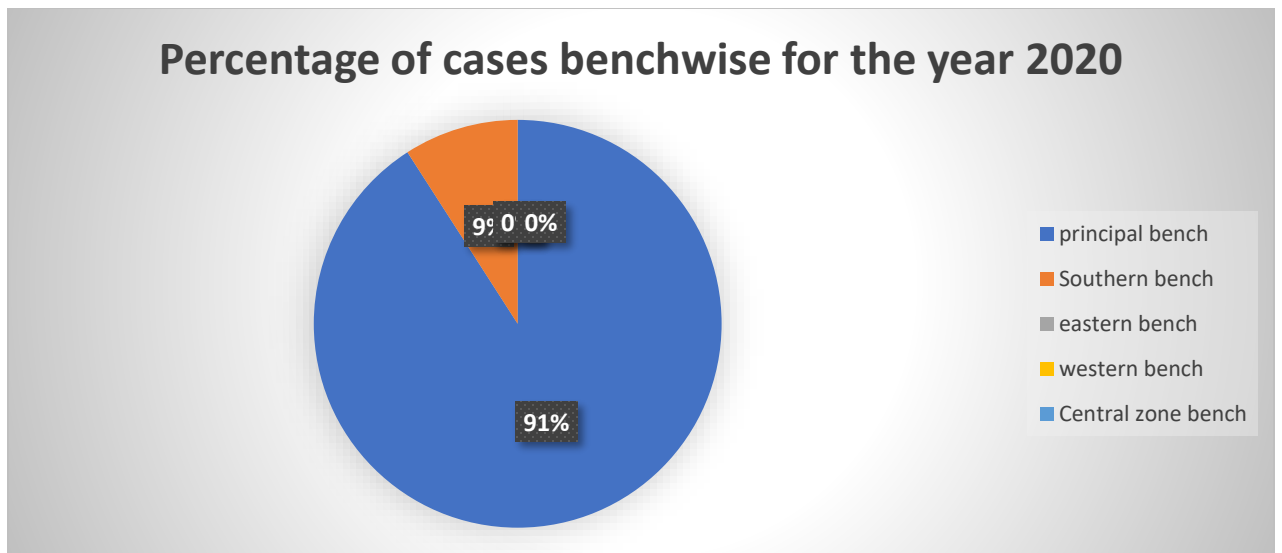


Fig 6.17 percentage of cases bench wise for the year 2020

As per the analysis of the fig 6.17 maximum number of disputes were catered by principal bench (20 cases) making it to 91% of the total data analyzed, while southern bench catered to (2 cases) making it to 9% of the total data analyzed while other bench catered to 0 case each making it to 0% of the total data analyzed.

6.8.2 State wise percentage of disputes for the year 2020

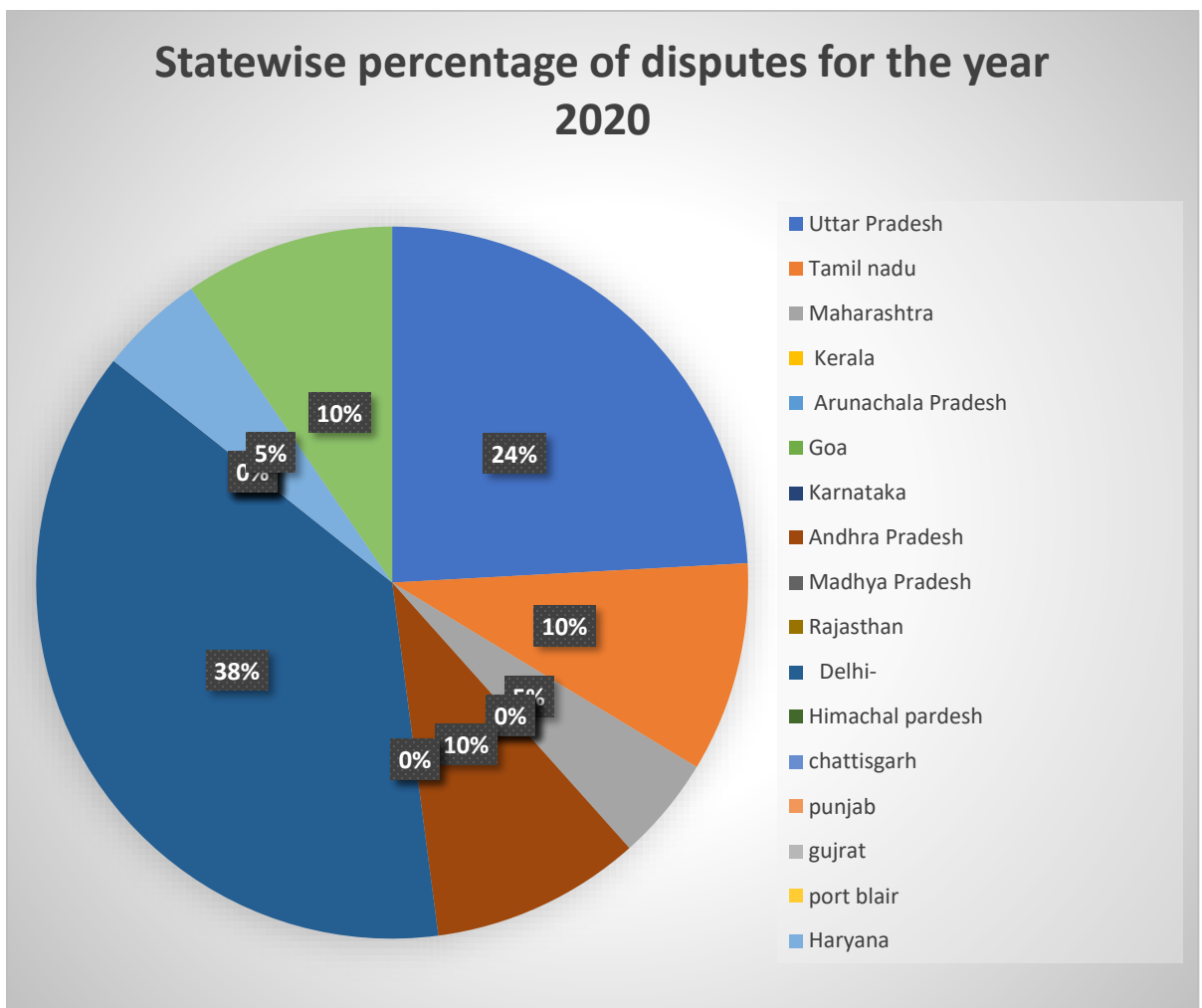
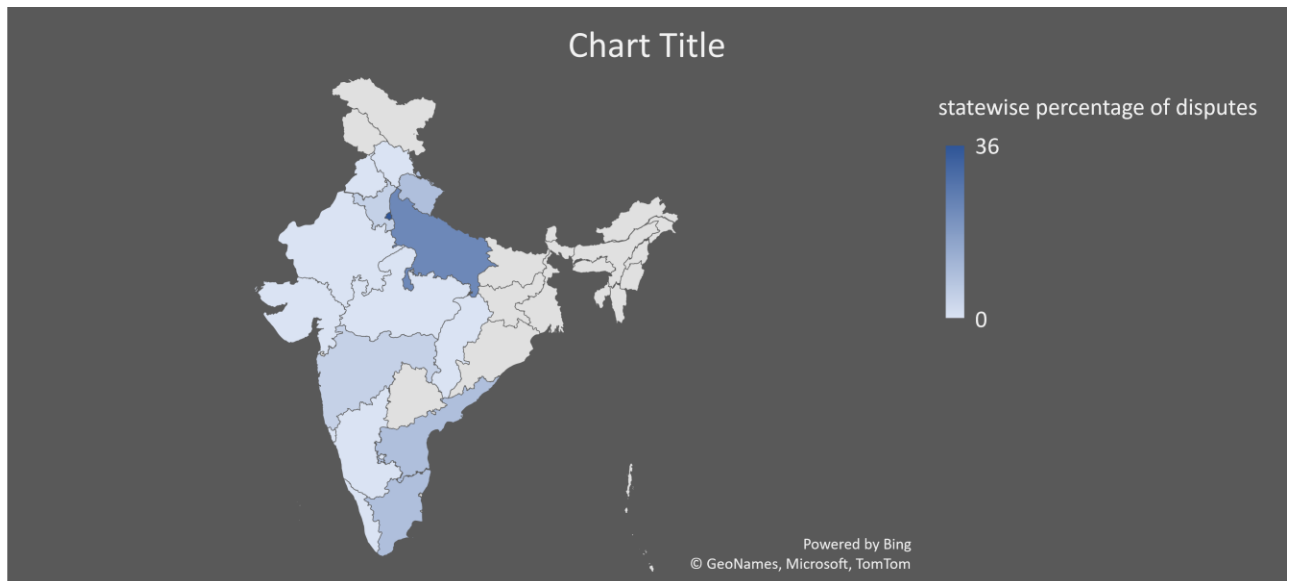


Fig 6.18 state wise percentage of the disputes for the year 2020



As per analysis of fig 6.18 one can see the maximum number of disputes arose in Delhi making it to 38% (8 cases) of the total data analyzed in terms of percentage while Uttar Pradesh making it to 24% (5 cases) of the data analyzed while in state of Tamil Nadu, Andhra Pradesh, Uttarakhand 10% each of the disputes arose while Maharashtra and Haryana contributed 5% each the total disputes analyzed.

On the overall analysis one finds that cases have been continuously increasing from 2015-2017 later on decrease in case happened due to the retirement of the previous chairman till the new chairman was appointed and further due to covid 19 pandemic tribunals being closed the disputes decreased however leaving apart this exceptional situation such as the retirement of the chairman or the covid 19, the cases have been increasing

6.9 A decade of the National Green Tribunal – An analysis

Case load 2011-2015 and 2015-2020

Gitanjali Nain in her book covering the time period of 2011-2015 has concluded that initially the number of cases before the tribunal were less due the initial teething problem and infrastructure issues however there was a stark jump of cases from 2011 to 2015 which shows a jump from 1.6% in 2011 to 40.8% in 2015, which shows NGT showing favors to persons aggrieved seeking to access environment justice. In my work on the overall analysis one finds that cases have been continuously increasing from 2015-2017 later on decrease in case happened due to the retirement of the previous chairman till the new chairman was appointed and further due to covid 19 pandemic tribunals being closed the disputes decreased however leaving apart this exceptional situation such as the retirement of the chairman or the covid 19, the cases have been increasing again establishing that NGT showing favors to persons seeking access to environment justice.

Benches (Principal and Regional)

On the analysis for the year 2011 to 2015 principal bench Delhi being the first bench to be established and the oldest dealt with maximum number of reported judgements contributing to 42% of cases followed by southern bench which is also same for the year 2015-20(Fig 5.2) wherein principal bench dealt with 57% of the reported judgments followed by the southern bench which dealt with 14% of the reported judgement followed by central zone bench(11%) and western zone bench with 10% and eastern zone bench (8%) lowest which is also the bench which dealt minimum number of reported judgments for the time period 2011-15 which can be attributed to the late establishment and infrastructure issues.

Nature of disputes

The nature of the disputes for the time period 2011-15 which came before the tribunal analyzed by Gitanjali Nain Gill has been broadly categorized into the following categories -environment clearances, pollution, no objection certificate/consent to operate/closure order, forest clearance including (tree cutting in urban areas),coastal zone management/ecologically sensitive area/no development zone, administrative governance, constructional/Infrastructural permissions and activities, not within the mandate of NGT ,maximum number of cases were environment clearances making it to 29% of the total data analyzed next was pollution making it to 20.5% of the data analyzed ; similar is the percentage of nature of disputes that came before the tribunal for the time period between 2015-20 maximum number of cases are environmental clearances making it to 29.62% of the total data analyzed and next is pollution making it to 21.48% of the total data analyzed while in this time period a difference is seen in terms of construction/infrastructure disputes constituting 14.07% after environment clearance and pollution while in the time period 2015-20 ;18.4% were consent no objection certificates/consent to operate/closure order to operate any industry, enterprise or activity for time period of 2010-15 in the time period between 2015-20 this category of cases are 11.85%.In the time period between 2010-15 coastal zone management cases were 11.11% while they were 6.6% in 2010-15.Forest clearance making it to 6.6% in 2015-20 while in 2010-20 it was 7.6% and condonation of delay were 9.3% for the time period between 2010-15 while it is 4.4% for the time period between 2015-20.Thus overall in a decade of tribunal establishment the nature of disputes that dominated is environment clearance,pollution,consent orders, construction/infrastructure ,coastal zone management ,condonation of delay and not within the mandate of NGT.

Party analysis

Plaintiff analysis

In an analysis of the plaintiff for the year 2011-15 done by Gitanjali Nain Gill predominant aggrieved party approaching the NGT were NGO'S, Social activist/ and the public-spirited citizens (47.2%), pointing towards the fact that NGT is used as a route in by collective proceedings to seek remedies rather than being driven into expansive plurality of litigation thereby affirming participative justice. Another largest party is industries (32.4%) and then are the persons and communities directly affected (17.7%), Suo motu proceedings (0.8%), government authorities constituted (0.8%), builders or developers were (0.6%), public sector undertakings (0.3%).

While aggrieved party approaching the NGT for the year 2015 individual, Gram Pradhan, company, individuals, industries, municipal corporation, pollution control board, NGOs, for the year 2016 are Conservation of Nature Trust NGO working in the area of environment, student environmentalist, journalist, member eco one zone, public spirited person, environmental activist, environmental action group, Industrial Mineral Company, Society, registered under the Societies Registration Act, 1860, environmentalist, Environmental Protection Association(society), CEDA Trust, in the year 2017 , individual, General Secretary of State Human Rights Protection Centre, social activist while for the year 2018 village residents, Chemical industry, NGO, individual, marble industry, for the year 2019 Individual, Human Rights Association of India (NGO), Janajagrithi Samithi (registered Society under the provisions of Societies Registration Act), Environmentalist, for the year 2020 individual, Gram Pradhan, company, so this again demonstrates towards the participative justice with NGO'S, Social activist and public spirited citizens being the predominant party approaching the tribunal while industries and communities affected fall next in the category.

Defendant analysis

In an analysis of the defendant for the year 2011-15 Gitanjali Nain Gill analysis shows predominant party as defendant were Regulatory agencies comprised of (MoEF, state government, local authorities and pollution control boards), while the

remaining defendants included industry (129 cases, 11.9 per cent); builders/developers (14 cases, 1.2 per cent); public sector undertakings (seven cases, 0.6 per cent); and private individuals/companies (35 cases, 3.1 per cent).

In the analysis for the year 2015-20 following are the defendant approaching the tribunal, For the year 2015- municipal corporation, pollution control board, NGOs, coastal zone management authority, ministry of environment and forest, For the year 2016- district collector, Union of India, State Infrastructure Development Corporation, Coastal Zone Management Authority, industry, Department of Environment, Forest and Climate Change, For the year 2017- Tamil Nadu coastal zone management authority, Ministry of Environment, Forest & Climate Change, Government of India State of U.P. ,Uttam Steel & Associates (Consortium) and Shiv Nadar University state of Uttar Pradesh, The Managing Director, The Kerala Minerals and Metals Ltd, Union of India, Secretary, Ministry of Environment and Forests and Ors, The State Environment Impact Assessment Authority and Ors., The Karnataka State Pollution Control Board and Ors, Balaji Enterprises and Ors, For the year 2018- state of Goa, State of Tamil Nadu, Union of India, Rajasthan pollution control Board, state of Punjab ,For the year 2019- Ministry of environment and forest, The Secretary, Env. Deptt. Govt. of Maharashtra, state of Maharashtra, Principal Secretary, Port Blair and Ors., Union of India, For the year 2020- State of Uttarakhand, chemical industries, Ghaziabad development Authority, Haryana State Pollution Control Board, Union of India, Government of India, Ministry of Environment, Forest & Climate Change, For this time period the predominant parties are regulatory agencies comprising of (MoEF, state government, local authorities and pollution control boards),while the remaining are industries,builers/developers , public sector undertakings and private individuals and companies. Hence for the time period 2015-2020 analysis shows that the predominant parties are again Regulatory agencies consisting of MoEF, state government, local authorities and pollution control boards), while the remaining defendant includes industry builders, public sector undertakings and private individuals /companies.

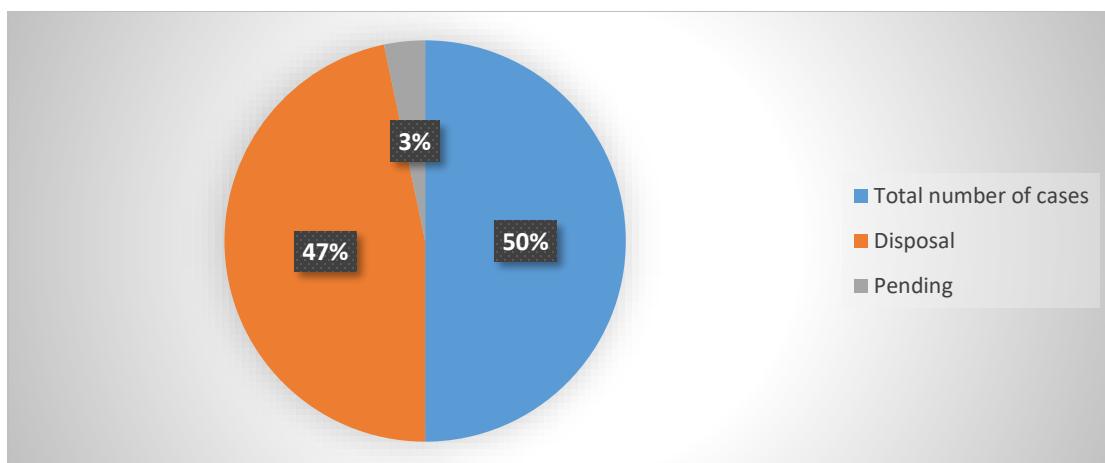


Fig 6.19 Efficiency of NGT in terms of pendency and disposal

Source-NGT website

The examination of the verdicts indicates a rise in the quantity of National Green Tribunal cases, which may be attributed to the expansion of industrialization and development inside a growing nation such as India. The efficacy of the tribunal as an institutional entity can be assessed by analyzing the comprehensive dataset encompassing the total number of cases that have been presented before the tribunal, as well as the disposition of these cases, including those that have been resolved and those that remain outstanding. According to the statistics available on the National Green Tribunal (NGT) website. As of June 30, 2021, the figure presented above, based on the data available on the internet, illustrates the high level of efficiency exhibited by the National Green Tribunal as an institution. The figure depicts a low number of incoming cases, a significant number of cases that have been successfully resolved, and a minimal backlog of pending cases. According to the provisions outlined in the National Green Tribunal Act, the tribunal is entrusted with the responsibility of promptly resolving cases. The establishment of the tribunal was motivated by the objective of expediting the delivery of justice in environmental issues. As stipulated by the Act, the tribunal is obligated to dispose of cases within a timeframe of six months. Furthermore, based on the available statistics, it can be inferred that the Tribunal has effectively fulfilled its goal of expeditiously resolving environmental issues. This is evident

from the remarkably low number of pending cases and the high rate of case disposal, particularly when considering the substantial caseload in the Indian context.

6.10 Conclusion

This analysis offers answers to the question put forward at the beginning of the thesis case growth in the five benches is significant especially in the principal bench in the Delhi and regional bench (Southern bench) in Chennai where there is extraordinary growth, this high workload resulted in the creation of the extra benches both in Delhi and Chennai. The overall rapid growth of the cases suggests that this specialized forum has attracted the attention of the people seeking environment justice. The growing public awareness and confidence in the NGT is likely to produce continuing growth in case load. But however currently there is no suggestion as to the establishment of new benches or appointment of additional judges as per NGT Act. Without expansion of the benches and growing speed of development and population growth and the environmental disputes increasing and overburdened courts there is shadow as to the tribunals current speed, efficiency and access to justice.

The key disputes at the national level are Environment clearance related disputes and pollution related disputes, the whole of the environment related disputed are revolving around these major issues over the decade of the National green tribunal creation. In terms of the plaintiff most active and successful plaintiffs are the NGO'S/Social activist /and public spirited citizens ,which can be related to the fact relaxed locus standi and PIL which has established this group as an experienced body as plaintiffs and hence their regular and successful appearance in all the NGT benches .Affected individuals/communities and individuals are the next category bringing cases before the NGt.It's the relatively low cost of bringing the case with the positive encouragement by the NGT to the Litigants which shows a conscious effort on the part of the tribunal to promote access to the environment justice.

Confidence building in the NGT will result in motivating litigants from these groups who traditionally had little or no access to justice which shows the broad-based people-oriented approach by the NGT. While the principal defendant is regulatory bodies which includes Ministry of environment and forest, state government, local authorities, and pollution control boards. This analysis shows a repeated failure on the part of the regulatory authorities to undertake their statutory environmental duties and social responsibility in regard to the environmental matters.

An analysis of the judgements for the year 2015-2020 establishes the relationship between social context and the environmental problems arising with violation of the environmental laws and failure of the regulatory bodies or non-compliance of the rules and notification. It also brings to the forefront the issues that social and economic development is resulting into which is creating environmental governance and management problems. In conclusion analysis shows that the NGT has grown from a tribunal with small caseload to the significant size of the case load and further expectation of future growth. The benches are active. The access to environment justice through tribunal has opened up more with the liberal interpretation of the person aggrieved.

CHAPTER 7

CONCLUSION AND SUGGESTION

In order to achieve the objectives outlined in the 2030 agenda for sustainable development, a comprehensive program designed to address the social, economic, and environmental dimensions, it has been acknowledged that the establishment of inclusive and effective institutions is crucial. These institutions are seen as necessary components to support the realization of the agenda's vision. Tribunals and access to justice play a crucial role in upholding the rule of law, which is essential for the attainment of sustainable development. In this particular context, the effective adoption of sustainable development principles at the national level, along with the assurance of environmental rights and the establishment of specialized tribunals staffed with both scientific experts and judges, serves a specific objective.

Discourse on environmental justice also revolves around participation and institutional capacity building apart from fair distribution of environmental goods. Here the role of the state's more specific institutions, which are part of the environment, decision-making like the National Green tribunals and Judiciary comes into the picture. They have a role to play as far as recognition of procedural justice and participation is concerned. They also play a crucial role in deciding cases where the fair distribution of environmental goods is concerned.

Administration of environment justice in India can be attributed in the judicial context to the Supreme court, High court and in quasi-judicial context to the

National Green tribunal. Indian environmental legal system significance can be attributed to the higher judiciary which with its creativity has molded the environmental jurisprudence. In the process it moved away from its traditional role and created a number of environmental principles and executed it which has laid a strong foundation for the environmental jurisprudence in India. Innovation done by the judiciary has contributed to the establishment of new institutions concepts and environmental management. Analysis of the administration of environmental justice over the longest time was limited mainly to supreme court and high court. The major reason for the same is the majority of the litigation dealing with environmental aspects has been placed before the supreme court in the form of appeal or writ jurisdiction. The innovation and the creativity done by the supreme court in its recent judicial decisions has been analyzed in the thesis where a gradual shift has been seen in the judicial approach wherein post constitutional amendments it resulted into interpretation of constitutional provisions and fueled by the judicial activism which resulted into development of right to healthy environment as one of the facets of the right to life. Over the time period there has been increase in the environmental laws and institutions and the recent analysis of the cases of the supreme court shows that the interpretation has broadened from developing right to the environment as part of the right to life to the health of the environment is at the center of right to life. Environmental rule of law has emerged as a new dimension to understanding right to life under Art 21 through the recent judicial decisions. Environmental rule of law is fundamental and essential for environmental governance. High courts contribution has been substantial in development of administration of environment justice but however due to the limited scope of the study the same has not been analyzed in detail. The role of the judiciary changed drastically from the 1980s due to changes in the litigation landscape. In the administration of environment justice, the traditional concept of standing and narrow interpretation of the concept of the aggrieved person has created barriers between the court and the common man. The poor illiterate and the under privileged common citizens were not able to avail remedies due to fear and social and

economic deprivation as compared to privileged sections of society. In the furtherance of the constitutional obligations and through the judicial creativity and expansion of the locus standi supreme court developed new jurisprudence of the social action known as the public interest Action. Access to justice is an important element of the administration of environmental justice. Denial of access to justice to common man was due to lack of awareness and resources that has closed the door for them in higher judiciary. It was the development of public interest litigation which remedied denial of access to justice to common man. The development of environmental jurisprudence by the court can be attributed to the grievances brought forward by the public-spirited people in the form of Public Interest Litigation. Most of these environmental litigations in 1980s can be attributed under Art 32 and 226 of the constitution. Expeditious disposal of environmental litigation is a necessity due to the irreversible and emergency nature of the environmental issues. Traditional judicial system due to its procedural and formal requirements as a judicial process proved counterproductive to the administration of the environment justice however PIL brought in more collaborative approach between the court citizens and relaxed the procedural requirements and enable relief. PIL has significantly played a crucial role in the administration of environment justice by overcoming the restraints of the judicial process so as to provide access to environment justice expeditiously to the common law. Equitable distribution of benefits and burdens is the central theme underlying environment justice and courts have played crucial role in the administration of environment justice by balancing benefits and burden in the environmental context. Judicial decisions involve balancing of rights and duties of the parties with reference to principles of law. It involves balancing interests of different parties in judicial decision making.

The National Green tribunal has been the most recent development in the administration of the environment justice established through the National Green Tribunal Act 2010 in furtherance of the international obligations under the Stockholm, Rio declaration. It was through the number of the judgements that time and time again the supreme court has advocated for the establishment of the

specialized tribunal for resolving complex environmental issues. The law commission also submitted its report for the establishment of the specialized tribunal to create environment tribunals for resolving complex environmental matters. National Green Tribunal was established on 18.10.2010 for effective and expeditious disposal of cases relating to environmental protection, conservation of forest and natural resources and enforcement of legal right relating to environment and for giving relief for damages to person and property.

The thesis has tried to delve into the role played by the institution in maintaining harmonious relationship between the environment and the society within more than a decade of its establishment and the same has been looked through by tracing the history since its origin and a look into the historical background which led to its creation and the role of the Supreme courts and the High courts before the National Green Tribunal establishment and role played by them and the randomly selected cases that has been decided by National Green Tribunal from 2015-20 in order to come to the conclusion along with an understanding of theory of environment justice within the broader framework of access to justice, environmental laws and environmental governance.

The research has tried to analyze the idea of environmental justice and relation with environmental laws in chapter two and concludes that the discourse on environmental law in the current scenario has changed from what it was in 70' the '80s. The concern in the earlier stages was to get to know the nuances right to the environment the possibilities of its expansion with alignment with human rights, in the gradual process now the shift is toward access to environmental justice, Rule of law sustainable development. If one sees the case laws decided by the judiciary in various phases one also observes the way the gradual growth of the right to the environment has happened. New emerging dimensions have emerged which are focusing more on the creation of the institution, which can provide access to justice, help in maintaining the rule of law, and help to realize sustainable development. Further in chapter three onto the purpose of the National Green Tribunal it concludes that the institutional development of the National Green Tribunal has

taken place in the backdrop of the growth of the history of environmental justice in India. Indian environmentalism in a major part of its development historically has been about social justice. The National Green Tribunal with its establishment ushered in the environmental law context an era of a more progressive forum for the resolution of technical issues in environmental matters and bringing in more plurality of environmental justice. With more than a decade since its establishment, the impact of the National Green Tribunal as an institution has been looked into. It was established as an ambitious plan for upholding the right to life and environment protection but since its inception, it has been subjected to lot of criticism for its powers and procedures. But as an institution established after long debates and discussions and carrying forward the direction of the vision of the apex court and the law commission embodying the international law principles, but at the same time catering to the local reality of the country with its positioning at five different seats with its procedure that allows for broader access to environment justice and fair constitution and composition of technical and expert members. In chapter four research has analyzed judicial activism and role of supreme court in current time and concludes that fundamental to the outcome of the decisions of the Supreme Court is the quest for environmental governance within a Rule of law paradigm in the current times. Environmental governance is founded on the need to promote environmental sustainability as a crucial enabling factor, which ensures the health of our ecosystem. While chapter five on Case Study And Analysis of The Judgements of The National Green Tribunal (2015-2020) provides the scope and functions of the tribunal for environmental justice, which includes the selected cases it handled during the period 2015-20 and its analysis which helps in establishing the role of tribunal in application of law and innovation in addressing the protection of the environment and concludes that these decisions illustrate the National Green Tribunal's dedication to achieving a symbiotic link between development and the environment. The implementation of the philosophy of sustainable development, in conjunction with the adoption of a pragmatic approach, encourages two widely perceived incompatible value systems to operate in

harmony. In chapter six on the Impact of National Green Tribunal- An analysis of the judgements for the year 2015-2020 establishes the relationship between social context and the environmental problems arising with violation of the environmental laws and failure of the regulatory bodies or non-compliance of the rules and notification. It also brings to the forefront the issues that social and economic development is resulting into which is creating environmental governance and management problems. In analysis it shows that the NGT has grown from a tribunal with small caseload to the significant size of the case load and further expectation of future growth. The benches are active. The access to environmental justice through tribunal has opened up more with the liberal interpretation of the person aggrieved.

There has always been a dimension of comparative analysis when it comes to the functioning of the courts and tribunal in resolution of environmental issues. In order for evaluation of comparative analysis one needs to delve into deeper questions such as does the court has the capacity to make fair judgements where in cases involving complex scientific issues and does process involve a sense of public urgency in order to dispose of the environmental disputes i.e., time for adjudication, and the procedure involved does not create hurdles in the adjudication of environmental law cases. There is a link that can be established with reference to the expeditiousness that is brought with the expert and scientific members in the bench itself then the court appointing experts which is time consuming. This way NGT directly delves into the matter saving precious time, moreover greater weight to judicial activism is brought with expert members on board. Compared with Sweden where it has been noticed that having scientific technical experts as part of decision making reduces the load on the weaker parties such as lawyers and technical people in order to come to a fair equitable and affordable remedies. (*Green Courts: The Way Forward?*, 1973).

(G. R. Pring & Pring, 2009) in his work has emphasized on the fact discussing about the advantages of the specialized court in the comparative perspective in the cases of environmental courts of New South Wales and Australia that specialized

tribunals were created with a means to an end and not an end in itself as such courts would be able to bring in more consistency in decision making ,decrease time in resolution of disputes and result into development of environmental law and policies which has been realized in practice in these countries.

The cost of litigation is also reduced as the court is saved from the cost of appointing expert committee which takes majority of the time of the court and lengthen the judicial process while the specialized tribunals bring efficiency in the environment justice delivery system, coherence and hence less time consuming. As far as expeditiousness is concerned there are a number of factors that contribute to it such as funding, case load, public participation, and support for particular cases. While the courts have to deal with all sorts of cases, NGT has to deal with specific cases that to within the legislature-imposed timelines which brings in swift disposal of cases and hence keeps pendency rate in check.

Environment justice delivery system through specialized tribunals like NGT creates a system of auditing through tribunals as the corporation can no more rely on the delaying tactics due to the legislature-imposed timelines and heightened penalties creates deterrence on the corporations. The wide ambit of Locus Standii is there for general public for approaching the NGT as placed in sec 14 as it enables the tribunal to have jurisdiction over all civil cases raising substantial question relating to the environment and encompassing within it the various enactments with reference to which substantial question relating to environment can be raise hence making locus standdi more wider. The idea is to make environmental justice accessible to the public at large. The objective of the NGT Act is prevention and protection of environment pollution through administration of environment justice via making it easily accessible within the framework of the statute. Making justice accessible to all aggrieved persons is the center point on which rests the idea of environment justice and accessibility principles which brings in better administration of environment justice. The wide connotation of locus standii under environmental issues goes a long way in making sure that justice under environmental laws are more accessible and thus bringing in better enforcement of them.

Since the inception of the tribunal, it's been more than ten years and the, the impact analysis of its judgements decisions and appeals done in the thesis slightly bends towards the fact that there is a gap as far as the compliance of the environmental rules and regulations are concerned. The approach of the National Green tribunal is win for either of the parties which is a democratic way to achieve environment justice by peaceful means as it involves the stakeholders in remedial action by imposing penalties and applying international principles like sustainable development, polluter Pay and precautionary principle.

Majority of the National Green Tribunal disputes falls within violation of statutory clearance, environmental clearance conditions and permits, non-compliance with the pollution standards, projects carried out without getting required permission for environmental and forest Clearance, violation of the environment requirement process, unauthorized activities; like industrial units operating without permits and large scale industrial pollution, major defaulters has been central and the state agencies, central and state governments and companies and individuals next in the line. National Green Tribunal despite being a quasi-judicial body has criticized Ministry of environment and forest on various occasions for its poor decisions and actions and the causes of the marginalized and weaker sections has been taken by civil society before the tribunal from the environmentally irresponsible actions of the government.

The establishment of the National Green Tribunal has been instrumental in advancing the cause of environmental justice. As noted in her works on the tribunal, Gitanjali Nain Gill stated that it has been able to accomplish its mission by providing a fast-track solution to environmental disputes.(G. Gill, 2017) The court has also been able to use various procedural devices and international principles to resolve these issues. The work of the tribunal has also been supported by the Supreme Court, which has been continuously monitoring the development of environmental rights and principles.

Access to justice increases the public's ability to seek redress and remedy for environmental harm. Judicial institutions have responded in innovative ways in the past three decades when it comes to the green justice from supreme court to high court by hearing of public interest litigation and evolving innovative adjudicatory mechanism and the environmental jurisprudence and carrying this legacy further with the National green tribunal established in 2010. At the center of working of these institutions in this direction is ensuring a harmonious relationship between human beings and environment by ensuring environment justice by the interpretation of legislations and laws for environment protection.

The access to justice is one of the main reasons for the establishment of National Green tribunal and inclusion of expert members as one of the main ways to introduce innovation in environmental litigation. The National Green Tribunal's institutional innovation has been acknowledged as an asset for promoting sustainable development. It is also an important part of the development of effective, accountable, and transparent institutions at all levels. This is because it provides access to justice for all and helps build a more peaceful and inclusive society.

The establishment of an environmental court with a wide jurisdiction is a promising institutional experiment that aims to address the various difficulties that can be encountered in achieving substantial justice. In a country that is prone to a heavy reliance on the judiciary, the creation of a specialized environmental court is also a significant step toward addressing the issue of slowness in proceedings. Two factors that are considered when it comes to establishing a specialized environmental court are the inclusiveness of the locus standi before the Tribunal and the involvement of experts in the process. These two factors contribute to the overall effectiveness of the tribunal.

The NGT's body of decisions shows how the judges are able to accept the various complaints that are presented by individuals who are affected by the threat of environmental degradation. This is why the role of non-government organizations

(NGOs) in monitoring the environment has been acknowledged as a vital part of the development of the tribunal's operations. The tribunal upholds the rule of law and protects the rights of individuals to protect the environment.

The Supreme Court's decision-making process has been greatly improved by the use of scientific data in its decisions, which has resulted in faster and more reliable analyses and decisions. This combination of scientific and legal expertise has allowed the court to deliver more effective decisions on environmental issues.

The National Green Tribunal Act has been instrumental in improving the efficiency of the court's decision-making process. It has also allowed it to deliver more effective decisions on environmental issues. Threefold: It has allowed the court to improve its efficiency by allowing it to reduce its backlogs and delays, which are typically caused by the lack of environmental expertise and the judiciary's low yieldingness. It has allowed the court to establish a more consistent and effective approach to addressing the issues related to the environment.

The analysis shows how the National Green Tribunal has successfully expanded its openness, procedural flexibility, transparency, and progressive judgments, with detailed analysis of numerous cases. In terms of outreach and public participation, the judges and expert members often go to the site of the dispute and make inspections, analyses, and recommendations. The NGT's experts and judges regularly visit the site of the dispute to carry out analyses and recommendations. They also organize fact-finding commissions to help find solutions to the disputes. This type of approach allows the tribunal to involve other experts and political leaders.

The National Green Tribunal (NGT) has effectively expanded the scope of environmental justice, enhanced environmental safeguard measures, involved scientists and other non-legal technical specialists as crucial decision-makers, and promoted the enforcement of environmental regulations. In summary, it can be asserted that tribunals have fulfilled several functions, including investigation, consultation, and facilitation of conversation among stakeholders with conflicting

claims. Through these means, tribunals have effectively facilitated access to justice. Therefore, the National Green Tribunal is implementing a democratic approach to resolving disputes, so promoting environmental democracy and facilitating improved access to justice. The tribunal has issued its verdict in the form of remedial measures, which may include issuing directives to those in violation, establishing various committees (such as joint committees, oversight committees, and monitoring committees), conducting audits of pollution boards, providing compensation, establishing task forces to ensure compliance, imposing significant penalties on the state (up to Rs 1 crore), requiring performance guarantees for the implementation of directives, determining environmental compensation using scientific formulas, facilitating compensation payments, conducting joint inspections, requesting data submission, and developing action plans. The tribunal has utilized various directives to fulfill its investigative function and, on other occasions, has assumed a consultative role through engaging with stakeholders and establishing specialist committees. This approach has facilitated dialogue among stakeholders and fostered a participatory approach that may give rise to conflicting claims and positions. The role of stakeholders has significant implications in the contexts of river cleaning and air pollution. Specialized committees facilitate a collaborative approach while simultaneously ensuring the responsibility and liability of the parties engaged in the process. Consequently, the National Green Tribunal has facilitated enhanced accessibility to environmental justice through the adoption of a participatory strategy that engages all stakeholders in the resolution of conflicts. However, the National Green Tribunal (NGT) has encountered obstacles in implementing its decisions. Consequently, several measures have been proposed to enhance compliance with its judgments and improve the efficiency of the institution.

Recommendations

An analysis of the National Green tribunals decisions in last ten year shows that National Green tribunal needs to be stronger and more effective in ensuring that its decisions are implemented hence following recommendations-

- Monitoring committees are one of the ways to ensure that its decisions are implemented.
- Monitoring and implementing agencies need to be made more stronger and more effective.
- Tribunal therefore needs to lay strict conditions for the implementation of the environmental judgements.
- Tribunal needs to identify the executive agency responsible for carrying them out and to ensure the accountability of the agency if it fails to follow directions.
- Implementation of environmental judgements which is basically to ensure stronger implementation of environment laws.
- Post judgement Monitoring
- Alternative dispute resolution mechanism- Alternative dispute resolution when used appropriate tends to produce high settlement rate as well as innovative solutions to problems which result in better outcomes for the parties and for the environment and reducing the number of cases which must have a full hearing. ADR can also increase public participation and access to justice by including interested stakeholders in collaborative decision making or mediation prior to a judicial decision and can reduce costs to the parties and courts.
- Use of technology to gather evidence, e -filing, video conferencing with members, clear and concise information.
- Use of Environment forensics a - necessary scientific procedures in place to determine the responsibility of the various parties involved in an operation or process that has caused environmental damage.

In summary, it can be asserted that the National Green Tribunal faces significant pressure due to its need to resolve disputes within a six-month timeframe and deliver expeditious justice in environmental affairs. The National Green Tribunal's implementation of democratic methods for resolving disputes is contributing to the advancement of environmental democracy and facilitating

improved accessibility to environmental justice. The National Green Tribunal has effectively facilitated access to environmental justice through its participatory approach to dispute resolution, establishing itself as an efficient tribunal with a minimal backlog of cases over the course of more than ten years since its establishment. Likewise, doing a detailed examination of individual case laws can prove beneficial in the implementation of specific policies at a smaller scale, leading to improved results and a stronger connection between environmental preservation and the achievement of sustainable development objectives. A retrospective examination of the National Green Tribunal's performance throughout the past decade indicates a progressive stance in addressing environmental conservation as a whole, with a specific emphasis on safeguarding the rights of underprivileged communities. The National Green Tribunal has not only expressed strong disapproval towards microstructures, but has also raised concerns regarding the compliance of environmental legislation by large business entities as well as the central and state governments.

Specialized tribunals present a range of advantages and disadvantages within their context. However, when considering operational inefficiencies and other related inefficiencies, the analysis conducted in this thesis leans towards supporting the utilization of specialized tribunals for the purposes of environmental protection and the attainment of environmental justice. The National Green Tribunal will persist in its efforts to rectify the inequitable allocation of environmental resources and liabilities, while also safeguarding the rights of marginalized groups, as it has consistently demonstrated in the past.

CHAPTER 8

Way Forward and Limitation

The incorporation of environmental rule of law has become a fundamental aspect of India's evolving environmental jurisprudence, which acknowledged the interconnection between human rights and a sound ecological system as far back as the 1980s. The aforementioned link has received recent validation from the Human Rights Council, which has acknowledged, for the first time, a clean, healthy, and sustainable environment as a fundamental human right (resolution 48/13). The primary elements of the Environmental Rule of Law are identified in the inaugural Global Report on the Environmental Rule of Law by the United Nations Environment Programme (UNEP). These factors encompass equitable and transparent legislation, the availability of legal recourse, and the responsibility and ethical conduct of those responsible for making decisions. The integration of environmental rule of law has emerged as a pivotal element within India's developing environmental jurisprudence, recognizing the intrinsic link between human rights and a robust ecological framework as early as the 1980s. The hyperlink described above has recently been endorsed by the Human Rights Council, which, for the first time, recognizes a pure, healthy, and sustainable environment as an essential human right (resolution 48/13). The primary constituents of the Environmental Rule of Law are delineated in the inaugural Global Report on the Environmental Rule of Law, as published by the United Nations Environment Programme (UNEP). The elements involved in this context include legislation that is both equitable and transparent, the accessibility of legal remedies, and the accountability and ethical behavior of those entrusted with making judgements. (*Environmental Laws: Application and Efficacy in the Context of Business & Human Rights*, 2022).

The discourse on environmental justice often revolves around fairness, protection of the interest of the disadvantaged in developing countries, and environmental governance. The three critical pillars of good environmental governance in all nations include access to information, access to public participation and access to justice. Good environmental governance is fundamental to achieving sustainable development. It is principle 10 of the Rio declaration that lays the foundations for three pillars of good environmental governance transparency, inclusiveness, and accountability. These basic pillars have matured into access rights which can be found in national international agreements and regional laws and judicial decisions.(G. Pring et al., 2008)

The provision of justice is a fundamental component of democratic administration. By promoting outcomes that are fair and impartial, it effectively upholds the principles of justice and equality, therefore bolstering the adherence to legal norms and regulations. The significance of judicial institutions, encompassing courts and specialized tribunals for the resolution of environmental conflicts, is widely recognized in several international instruments. Principle 10 of the Rio Declaration in 1992 enhances access rights by affirming that nations are obligated to ensure the provision of effective access to judicial and administrative processes, as well as redress and remedy, in the context of environmental issues..(G. N. Gill, 2019)

In order to attain environmental justice objectives, the initial step is to ensure accessibility to environmental justice. This can be accomplished by promoting fairness in the interpretation of laws, thereby enabling affected and interested parties to have standing for appeal or review. Additionally, the establishment of specialized environmental tribunals and the implementation of other dispute resolution mechanisms can contribute to this goal.

There has been a substantial rise in the global establishment of new courts and tribunals in recent years. The observed phenomenon can be attributed to a multitude of causes, including the escalating intricacy of environmental legislation and the heightened consciousness of the general populace regarding this matter. In addition,

it is imperative for governments to enhance the provision of efficacious tools and resources that facilitate public engagement in environmental conservation efforts. The concept of "access to justice" can be observed through three fundamental stages. – at the beginning, middle, and end of the adjudication process: (1) access to get to and through the Environmental Courts door; (2) access within the Environmental Courts to proceedings which are fair, efficient, and affordable; and (3) access to enforcement tools and remedies that can carry out the Environmental courts 's decision and provide measurable outcomes for preventing or remedying environmental harm.(G. Pring et al., 2008)

In the present setting, India's dedication to ensuring environmental justice has great importance. Consequently, the role of the Indian Judiciary, specifically the Supreme Court, and the National Green Tribunal takes practical significance in advancing the accessibility of environmental justice. A comprehensive comprehension of environmental justice encompasses active engagement in environmental disputes. The implementation of participatory mechanisms plays a crucial role in addressing issues related to inequality and broader concerns regarding the capabilities and functioning of both people and the wider society.(Schlosberg, 2007). The discourse surrounding environmental justice has undergone significant expansion, encompassing considerations of fairness, equity, and the rights of marginalized populations in developing nations. Additionally, there is a growing emphasis on fostering meaningful participation in the decision-making process as a means to advance environmental governance. The judiciary assumes a prominent role in the interpretation of environmental laws and rules. The judiciary, particularly judges, are essential in facilitating an accessible, equitable, unbiased, prompt, and accountable method for resolving disputes. This entails a comprehensive understanding of specialized knowledge in environmental adjudication as well as the development of inventive environmental procedures and remedies. The judiciary has a crucial role in maintaining a just equilibrium between environmental, social, and developmental concerns through its rulings and interpretations.

The National Green Tribunal represents an institutional advancement within the framework of the sustainable development goals. It can be regarded as a valuable tool for fostering peaceful and inclusive societies that prioritize sustainable development. By facilitating access to environmental justice, the tribunal aims to contribute to the attainment of development targets. This is achieved through the establishment of participatory, accountable, transparent, and efficient institutions at all levels. The National Green Tribunal serves as a mechanism for augmenting capacities. The phrase in question has been proposed by the esteemed economist (Sen, 1999). The speedy disposal of cases with wide jurisdiction for environmental courts is an experimentation done at institutional level in order to overcome the challenges for achieving substantial justice in India due considerable resort to judiciary and inherent slow judicial procedures. NgT brings in the inclusiveness in terms of locus standii that provides broadest access to environment justice to individuals and NGOS which are aggrieved by the activities affecting the environment.

Each nation possesses distinct legal frameworks, environmental objectives, political arrangements, cultural norms, and socio-economic conditions that must be taken into account. Consequently, the recommendations presented aim to enhance accessibility to justice in environmental affairs, thereby bolstering the fundamental tenet of environmental democracy. The 1998 Aarhus Convention serves as an illustration of many access rights, such as the right to access information and the right to participate in public decision-making processes. Environmental democracy refers to a governance framework characterized by transparency, accountability, and meaningful participation of individuals in decision-making processes pertaining to environmental matters. The concept of environmental democracy is widely acknowledged in international law as well as numerous national legal frameworks. It is commonly understood that this concept rests upon three fundamental principles, sometimes referred to as "pillars." These pillars encompass the right to access information, the right to participate in decision-making processes, and the right to seek justice in environmental matters. Access to

environmental justice encompasses three distinct categories of legal matters. The first pertains to the pursuit of legal action against the denial of access rights. The second involves the prevention or rectification of environmentally detrimental actions. Lastly, it involves the enforcement of environmental laws. The primary impetus behind the creation of specialized adjudication bodies can be attributed to two distinct sets of objectives:

1. Case management – to improve the quantity and quality of case handling over that provided by general courts, and
2. Alternate jurisprudence – to expand from the traditional “legalistic” adjudications to a “problem solving” or “therapeutic” or “interdisciplinary” approach

H.W.R Wade underscores the notion that specialized courts are meticulously designed to serve the objectives of certain statutes, necessitating a customized approach for each tribunal. According to Wade (884-886),... The establishment of the National Green Tribunal in India was prompted by challenges encountered by the National Environmental Appellate Authority (NEAA) and the Central Empowered Committee (CEC). These challenges primarily revolved around the absence of technical and scientific members as judges, leading to the Supreme Court and High Court assuming responsibility for resolving environmental issues through the formation of specialized committees comprising subject matter experts. Consequently, the creation of the National Green Tribunal aimed to address these issues and establish an institution that aligns with the legal culture and specific environmental and developmental requirements of the country or region.

The enactment of the National Green Tribunal Act has resulted in improved efficiency and expeditious judicial proceedings for the safeguarding of environmental rights. Prior to its implementation, the environmental justice system was plagued by a backlog of cases, inadequate case management capabilities, and a lack of expertise in environmental matters. However, the establishment of the National Green Tribunal has addressed these issues by introducing expert members

who employ problem-solving methods and apply environmental principles to ensure consistency in decision-making. This institution can be regarded as an innovative and transformative tool that aligns with the goals of sustainable development. By promoting the application of sustainable development principles in various contexts, including efforts to alleviate poverty, the National Green Tribunal contributes to the advancement of sustainable development objectives. However, the highlighted points are to be required to be seen from the perspective of the context of each of the country where different reasons have resulted into social movements in the larger context of the environment protection with specialized tribunals has been created with specific procedures with a gradual movement from green benches to the specialized tribunals. Globally there has been growth in environment law and agencies in the last four decades. The implementation gap has increased thus increasing environmental threats globally.

The integration of scientific, technical, and legal proficiencies can exert a substantial influence on the formulation of environmental policies and legislation. This is due to the fact that it enables policymakers, particularly through the process of adjudication, to provide solutions that are grounded in scientific principles. The National Green Tribunal extends the scope of 'adjudication' beyond the confines of the courtroom by implicitly formulating scientifically justified policies. This is achieved through the utilization of powerful dicta, as examined in several case laws..(G. N. Gill, 2014)

The Research has considered limited number of the cases for the time period between 2015-20 as decided by national green tribunal. In particular, the study has not considered other judgements spanning from 2015 to 2020 and therefore becomes the major limitation of this study. However, a broader extension by including other judgements may provide robust basis for establishing relationship between national green tribunal and environmental protection.

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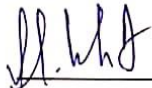
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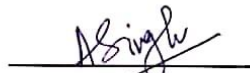
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