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# Proactive Measure Taken by the National Green Tribunal for Disposing the Cases

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## ABSTRACT

*The National Green Tribunal Act of 2010 was enforced on June 2, 2010. The primary objective of enforcing the NGT Act 2010 is to establish the National Green Tribunal to ensure efficient and prompt resolution of cases related to environmental protection and forest conservation, and to provide compensation and relief for damages to affected parties. Following the implementation of the aforementioned Act, the national green tribunal was set up by the central government in 2010. It is responsible for handling Original Applications (OAs) filed against breaches of environmental regulations and appeals against decisions made by Authorities under the Water, Air, EP, and Biodiversity Acts, under Sections 15 and 16 of the Act, respectively.*

*The NGT has the authority to establish its own procedures and is not restricted by the Civil Procedure Code or the rules of evidence under the Evidence Act. It possesses the powers of a Civil Court and its decisions hold the same weight as a civil court decree. Non-compliance with its orders is considered a punishable offense. The NGT operates based on the principles of sustainable development, the precautionary principle, and the polluter pays principle. It is expected to resolve cases promptly, ideally within a six-month timeframe.*

*This research paper delves into the tribunal's efforts to effectively and swiftly resolve cases and also examines its suo moto power and the handling of letter petitions.*

**Keywords:** *Disposal of cases, Administrative and procedural initiatives, Speedy disposal, Old and complex cases, Court management, Case management, Suo Motu, Letter petitions, Biodiversity protection, Waste management, Polluter pays regime.*

## I. INTRODUCTION

The National Green Tribunal, was formed in October 2010 under the National Green Tribunal Act, 2010. The Tribunal was established to provide a system for the prompt and efficient resolution of civil disputes concerning environmental matters, including those related to forests and other natural resources. Its objective is to offer redress and compensation for harm caused to individuals and property due to environmental damage caused by the actions of individuals

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or entities. The Tribunal comprises judicial officers and environmental experts, allowing for a broader and more comprehensive approach to addressing issues from various perspectives. The authority has the ability to create its own procedural rules based on principles of natural justice, and it is not required to follow the procedure outlined in the Code of Civil Procedure, 1908. This legislation was passed by the Indian Parliament because India had pledged to the United Nations that it would create a specialized body with the authority to resolve civil disputes related to environmental issues within a specific timeframe. Moreover, it was pledged that the established forum would be more accessible to those affected by environmental harm, and necessary laws would be enacted to fulfill these commitments. The United Nations began efforts in 1972 to coordinate international actions addressing environmental damage. This demonstrates the recognition at the global level that environmental harm transcends geopolitical boundaries and is not constrained by political language.

The U.N. Conference on the Human Environment convened in Stockholm in June 1972, urging all member states to take relevant measures to safeguard and enhance the human environment. During the U.N. Conference on Environment & Development in Rio de Janeiro in 1992, all member states were urged to ensure effective access to legal and administrative processes, including enacting appropriate laws to guarantee compensation for individuals affected by environmental harm. India found it necessary to establish a specialized body with authority, experience, and expertise in handling environmental matters, leading to the enactment of the Act. Subsequently, the Tribunal was founded in October 2010, with its primary headquarters based in New Delhi.

The Tribunal is made up of Judicial Members and Expert Members, who come together to hear and resolve the issues brought before it. The disputes that the Tribunal can address and resolve must pertain to environmental damage, and the Tribunal has the authority to issue orders for relief, compensation, or restitution. Currently, the Tribunal has five Benches, namely, New Delhi (Principal Bench), Bhopal (Central Zone), Pune (Western Zone), Kolkata (Eastern Zone), and Chennai (Southern Zone).

Over the past five years, the Tribunal has handled 15132 new cases and resolved 16042 cases. According to the Law Minister's statement in Parliament, the NGT has concluded a larger number of cases compared to the institution. Out of 16042, the chairperson's bench resolved 8419 cases.<sup>3</sup>

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<sup>3</sup> NGT's case disposal rate higher than filing rate: Govt, <https://economictimes.indiatimes.com/news/india/ngts-case-disposal-rate-higher-than-filing-rate-govt/articleshow/93215089.cms?from=mdr>

Initiatives for quick resolution of administrative and procedural matters have been put in place. Speedy decisions have been facilitated by administrative measures for court and case management, as well as the implementation of technology, as outlined below.

#### **(A) Use of Video Conferencing for speedy disposal**

There are five benches in the NGT. Over the past five years, some benches were vacant for a significant amount of time, waiting for the selection and appointment of members. To address this issue, even before the pandemic, the NGT utilized video conferencing to hear cases for these unmanned benches.<sup>4</sup> These have continued during and after Corona.<sup>5</sup>

#### **(B) Special initiative for the disposal of five year old and complex cases by a Special Bench.**

A special initiative was initiated to address cases that were over five years old or of a complex nature. A Special Bench led by the Chairperson via video conference took on this task and resolved the cases. It is likely that there are very few cases older than five years pending in the NGT at present. In cases where a stay of proceedings had been granted, the registry informed the relevant court's registry about this. This led to the resolution of long-pending cases, thereby allowing progress on public projects that had been stalled. In total, 275 cases that were older than five years were resolved.

#### **(C) Court and case management**

The practice of case management involved pinpointing issues right from the start, clearly defining the focus and extent of the proceedings, determining the responsible authority and individuals to address non-compliance, and seeking specific information on these narrowed-down matters. Additionally, an important step was to ensure a swift process by not solely relying on biased pleadings but by acquiring an impartial factual report through on-site visits and interactions with stakeholders or by verification from credible and diverse joint committees. These committees, which included statutory regulators and were sometimes headed by former judges, facilitated the rapid and independent establishment of factual positions, leading to speedy resolution.

#### **(D) Zero Adjourment**

Further, a policy of zero adjourment<sup>6</sup> was adopted in Court by limiting the cause list to cases

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<sup>4</sup> [https://greentribunal.gov.in/sites/default/files/office\\_orders/Notice%20dated%2011.04.2022.pdf](https://greentribunal.gov.in/sites/default/files/office_orders/Notice%20dated%2011.04.2022.pdf)

<sup>5</sup> National green tribunal websites- Bird's eye view of NGT performance in the last five years (July, 2018 – July, 2023)

<sup>6</sup> [https://greentribunal.gov.in/sites/default/files/office\\_orders/Office%20Order%20dated%2020th%20February,%202020%20new.pdf](https://greentribunal.gov.in/sites/default/files/office_orders/Office%20Order%20dated%2020th%20February,%202020%20new.pdf)

ready for disposal, deferring others to suitable dates notified in advance to the parties, on the website. However, it was ensured that no case remained unlisted for more than one year for any reason.

The Tribunal employed technology to send notices via email, mandated that all submissions be in electronic format only, and posted the reports on websites for easy access.<sup>7</sup> to all saving time for individual service and individual response.

**(E) Suo Motu interventions to remedy environmental degradation as manifested by online data maintained by statutory regulators**

NGT intervenes through suo motu proceedings when there is evidence of environmental degradation in the records of statutory regulators like CPCB.<sup>8</sup>

- 351 polluted river stretches based on online water quality data maintained by CPCB<sup>9</sup>
- 100 polluted industrial areas based on Comprehensive Environmental Pollution Index (CEPI)<sup>10</sup> compiled by the CPCB
- 134 ‘Non-Attainment’ (air polluted) cities based on online air quality data<sup>11</sup>

Suo motu interventions for compensation and protection of the environment in cases of fatal accidents involving violation of environmental safety norms<sup>12</sup>

**(F) Letter petitions**

Petitions in the form of letters demonstrating significant violations supported by initial evidence justifying intervention were also addressed following the standard procedure. Some cases were monitored for compliance under the directives of the Supreme Court – including river pollution, waste management, unauthorized groundwater extraction, sand mining, protection of eco-sensitive zones, conservation of biodiversity and wildlife, and regulation of sources of air, water, and land pollution. The Tribunal has been monitoring some important issues like

<sup>7</sup> [https://greentribunal.gov.in/sites/default/files/office\\_orders/Office%20Order%2020.2.2020\\_0.pdf](https://greentribunal.gov.in/sites/default/files/office_orders/Office%20Order%2020.2.2020_0.pdf)

<sup>8</sup> [https://greentribunal.gov.in/sites/default/files/office\\_orders/Office%20Order%20dated%2012.06.2021.pdf](https://greentribunal.gov.in/sites/default/files/office_orders/Office%20Order%20dated%2012.06.2021.pdf)

<sup>9</sup> OA No. 673/2018, In re: News item published in “The Hindu” authored by Shri Jacob Koshy titled “More river stretches are now critically polluted: CPCB, order dated 22.02.2021

<sup>10</sup> OA No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels", judgment dated 29.08.2022

<sup>11</sup> OA No. 681/2018, News item published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15" order dated 08.04.2021

1. News item published in the local daily “Economic Times” dated 30.06.2020 titled “Another Gas Leakage at Vizag Factory kills two, critically injures four...”, OA No. 106/2020 decided on 22.12.2020.

2. News item published in the “Indian Express” dated 01.07.2020 titled “Tamil Nadu Neyveli boiler blast: 6 dead, 17 injured”, OA No. 108/2020 decided on 22.12.2020

<sup>12</sup> OA No. 200/2014, M.C. Mehta vs. Union of India & Ors., order dated 22.07.2022 OA No. 6/2012, Nizamuddin West Association vs. Union of India & Ors., orders dated 27.1.2021 and 16.02.2023

rejuvenation of Yamuna and Ganga <sup>13</sup>restoration of hazardous waste sites<sup>14</sup> and some other cases referred to in the later part of this note under orders of Hon'ble Supreme Court. Significant interventions to remedy gaps in waste management – three rounds of interaction with Chief Secretaries of all States/UTs and directions

One of the major interventions is monitoring gaps in solid and liquid waste management (specifically required to be monitored under Supreme Court orders)<sup>15</sup> for which three rounds of interaction were held with the Chief Secretaries of all the States/UTs on days earmarked for the purpose. The content of this aspect was summarized in a decree dated 18.05.2023 in OA No. 606/2018. The compensation amount of Rs. 79234.36 crore was determined based on data provided by the Chief Secretaries for environmental damage due to recognized deficiencies in waste management discharge, involving liquid waste of 26000 MLD, solid waste of 56000 TPD, and 18 crore tonnes of historical waste. This sum of money is required to be held in a restricted account for restoration efforts as per action plans to be supervised by the Chief Secretaries, with further reports to be reviewed by the NGT.

### **(G) Interventions in other thematic areas**

These include illegal sand mining, protection of eco-sensitive zones<sup>16</sup>, including hills, forests, wildlife habitats, coastal areas <sup>17</sup>wildlife protection<sup>18</sup>, violation of statutory norms by thermal power plants<sup>19</sup>, fly ash management<sup>20</sup>, brick kilns<sup>21</sup>, stone crushers<sup>22</sup>, industrial pollution<sup>23</sup>, ground water extraction<sup>24</sup>, rainwater harvesting<sup>25</sup>, treated water reuse, violations of Coastal

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<sup>13</sup> OA No. 804/2017, Rajiv Narayan & Anr. vs. Union of India & Ors., order dated 29.1.2021

<sup>14</sup> Almitra Patel 2.9.2014 WP888/1996, Paryavaran Suraksha, (2017) 5 SCC 326, 32 xiv OA No. 360/2015, National Green Tribunal Bar Association vs. Virender Singh (State of Gujarat), order dated 26.2.2021

<sup>15</sup> Almitra Patel 2.9.2014 WP888/1996, Paryavaran Suraksha, (2017) 5 SCC 326, 32 xiv OA No. 360/2015, National Green Tribunal Bar Association vs. Virender Singh (State of Gujarat), order dated 26.2.2021

<sup>16</sup> OA No. OA 94/2013, Vikrant Kumar Tongad vs. Delhi Metro Rail Corporation Ltd. order dated 17.07.2018

<sup>17</sup> OA No. 462/2018, D. V. Girish vs. Union of India & Ors., order dated 17.03.2021

<sup>18</sup> OA No. 430/2018, M/s Mehdad & Anr. vs. Ministry of Environment, Forests & Climate Change & Ors., order dated 23.7.2018 OA No. 77/2023, AK Shaji vs. Union of India & Anr., order dated 17.02.2023

<sup>19</sup> OA No. 748/2022, In re: news item published in the Newspaper The Hindu dated 02.10.2022 titled "Over 6,000 trees illegally cut for tiger safari project in Corbett Reserve, says FSI report", order dated 21.10.2022

<sup>20</sup> OA No. 117/2014, Shantanu Sharma vs. Union of India & Ors., order dated 18.01.2022

<sup>21</sup> OA No. 1016/2019, Utkarsh Panwar vs. Central Pollution Control Board & Ors., order dated 17.02.2021

<sup>22</sup> OA No. 607/2018, Vinod Kumar Jangra vs. State of Haryana, order dated 26.10.2021

<sup>23</sup> OA No. 10/2021, Sanjay Kumar vs. Union of India & Ors., order dated 7.4.2022

<sup>24</sup> OA No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels", judgment dated 29.08.2022

<sup>25</sup> OA No. 176/2015, Shailesh Singh vs. Hotel Holiday Regency, Moradabad & Ors., order dated 25.2.2022 OA No. 384/2019, Mrs. Sunita Pandey & Anr vs. Union of India & Ors., order dated 1.2.2021

Regulation Zone (CRZ)<sup>26</sup>, noise pollution<sup>27</sup>, forest and illegal tree cuttings<sup>28</sup>, encroachments in flood plains of the rivers and storm water drains<sup>29</sup>, Bio medical waste management electronic and hazardous waste, plastic waste management, preparing/updating People's Biodiversity Registers (PBRs), setting up Biodiversity Management Committees (BMCs), and institutional strengthening. The Tribunal directed the preparation of District Environmental Plans for all Districts and placing progress in execution on websites, action plans for rejuvenation of rivers, for restoring air quality, monitoring of compliance of norms found to be frequently violated and placing the progress on respective websites. Interventions of NGT also include directions for capacity building of regulators such as Pollution Control Boards, addressing gaps in functioning of SEIAA and other statutory regulators by filling of vacant posts by qualified persons, setting up laboratories, online monitoring equipments, introducing training and monitoring mechanism by authorities responsible for ensuring compliance of management norms, action plans for restoration of water quality of polluted rivers, protection and restoration of water bodies and wetlands, air quality of air polluted cities, overseeing of compliance of environmental safety norms, prevention of industrial accidents, casualties due to explosion in fire cracker shops, mishap in collapse of mines, requiring carrying capacity study by experts and permit activities in polluted areas consistent with such capacity, banning fire crackers in air polluted areas beyond laid down threshold in the interest of public health, management of Bio-medical waste arising out of pandemic treatment (Covid-19) etc.

### **(H) Method of application of the polluter pays regime**

The polluter pays principle was utilized by NGT to ensure that past violations do not result in profit, and any recovered compensation must be utilized for environmental restoration. Compensation calculations were based on the principle of restitution, taking into account the cost of restoration and incorporating a deterrent element based on the violators' paying capacity and the nature and extent of the violation. The compensation systems were developed by studying the monetary impact on the environment according to established norms.

## **II. CONCLUSION**

This paper concludes with the observation that a world with a cleaner environment is still an

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<sup>26</sup> OA No. OA 94/2013, Vikrant Kumar Tongad vs. Delhi Metro Rail Corporation Ltd. order dated 17.07.2018 OA No. 59/2012, Vikrant Kumar Tongad vs. Union of India & Ors. order dated 11.09.2019

<sup>27</sup> OA No. 148/2016, Mahesh Chandra Saxena vs. South Delhi Municipal Corporation & Ors., order dated 21.09.2020

<sup>28</sup> OA No. 134/2015(EZ), Bishnu Pada Pakhira vs. Union of India & Ors., order dated 2.5.2022 OA No. 77/2023, AK Shaji vs. Union of India & Anr., order dated 17.02.2023

<sup>29</sup> OA No. 519/2016, Hardeep Singh & Ors. vs. SDMC & Ors., order dated 3.2.2022

aim for the future, and we will have to see what's the contribution of the NGT in making our environment cleaner and better. There have been stances and adopting measures that had led to NGT losing its credibility. In the future, we will have to see if NGT recovers from them and turns out to be even better in making our environment cleaner at the same time proving to stand out from the rest of the authorities.

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