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10 Years of National Green Tribunal

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This article is based on **“The hues in the green tribunal’s resilient journey”** which was published in The Hindu on 19/10/2020. It talks about the benefits and associated challenges with the National Green Tribunal.

The **National Green Tribunal (NGT)** is one of the few dedicated environmental courts in the world. The jurisdiction of NGT has an all-encompassing scope, which covers forests, wildlife, environment, climate change and coastal protection.

Since its inception, the NGT has protected vast acres of forest land, halted polluting construction activities in metros and smaller towns. It has protected the rights of tribal communities and ensured the enforcement of the “polluter pays” principle in letter and spirit.

Within its decade of existence, the NGT has delivered some important judgments and has given a new outlook to environmental jurisprudence in India. However, there are several challenges that act as a roadblock in efficient functioning of the NGT.

Genesis of NGT

- **M.C. Mehta & Anr. Etc vs Union Of India & Ors. Etc (1986) case:** The then Chief Justice of India, Justice P.N. Bhagwati had suggested setting up Environmental Courts because:
 - Due to more cases involving issues of environmental pollution, ecological destruction and conflicts over natural resources.
 - Increasing need for assessment and evolution of scientific and technical data regarding environmental matters.
- **A.P. Pollution Control Board vs Prof. M.V. Nayudu (1999) case:** The Supreme Court in the landmark case, emphasised on the need for a court that was “a combination of a Judge and Technical Experts” with an appeal to the Supreme Court from the Environmental Court.

- **Establishment of NGT:** The NGT was established on 18th October, 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.
 - New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai shall be the other four places of sitting of the Tribunal.
 - The Tribunal is not bound by the procedure laid down under the Code of Civil Procedure, 1908, but shall be guided by principles of natural justice.

Important Judgment Given By NGT

- In the **Almitra H Patel Vs Union of India case**, it directed states to implement Solid Waste Management Rules and prohibited open burning of waste on lands.
- In 2012, NGT suspended the clearance given to the South Korean steel maker, POSCO, to set up a 12 million-tonne steel plant in Odisha.
- In the **Save Mon Federation Vs Union of India case**, the NGT suspended a ₹6,400-crore hydro project, to save the habitat of a bird.
- A December 2016 amendment to EIA 2006 notification — the amendments basically sought to give local authorities powers to grant environmental clearance to builders — was nullified by the NGT, terming it as a “ploy” (by the government) to circumvent the 2006 rules.
- Many Projects which were approved in violation of the law such as an Aranmula Airport, Kerala; Lower Demwe Hydro Power Project and Nyamnjangu in Arunachal Pradesh; mining projects in in Goa; and coal mining projects in Chhattisgarh were either cancelled or fresh assessments were directed.

Benefits of NGT

- **Dedicated Court For Environmental Matters:** NGT ensures enforcement of any legal right relating to the environment and provides relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

Apart from this, the burden on the High Courts and the Supreme Court is also reduced.
- **Allows Specialization:** NGT is staffed with judges and environmental experts. This makes it a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues.

The NGT also employs legal and scientific methods and assessed environment impact assessment reports before deciding the case.
- **Wider Reach:** The quality of time spent on these issues could also be increased as, unlike the Supreme Court, the tribunal could have benches in various States, thereby increasing access to all citizens.

- **Time Bound Disposal of Cases:** The Tribunal is mandated to make an endeavor for disposal of applications or appeals finally within 6 months of filing of the same.

Associated Challenges

- **Limit to Jurisdiction:** Two important acts - **Wildlife (Protection) Act, 1972** and **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006** have been kept out of NGT's jurisdiction.

This restricts the jurisdiction area of NGT and at times hampers its functioning as the crucial forest rights issue is linked directly to the environment.

- **Obstacle to Development:** Decisions of NGT have also been criticised and challenged due to their repercussions on economic growth and development.
- **Looming Vacancies:** NGT only has three judicial and three expert members against the sanctioned strength of 10 each.

The lack of human and financial resources has led to high pendency of cases - which undermines NGT's very objective of disposal of appeals within 6 months.

- **Additional Layer to Judicial Process:** NGT was conceptualised to ease out the burden on the higher courts. However, the Supreme Court in L Chandrakumar case, opined that Tribunals could not be effective substitutes of High Courts under Articles 226 and 227.

This eventually leads to cases reaching the judiciary by way of appeal.

- **Limited Regional Benches:** NGT being located in only big cities spread across India. However, environmental exploitation is also taking place in the tribal areas of dense forest.

Therefore, the justice delivery mechanism is also hindered by a limited number of regional benches.

Way Forward

- **Expansion of Regional Benches:** NGT benches have to expand manifolds. These new regional benches should have been based in a place that has the highest forest cover or large mineral deposit.
- **System of Larger Bench in NGT:** Appeal may be provided against the order of the NGT before a larger Bench of the Tribunal before the matter reaches to the Supreme Court or High Court.
- **Addressing Administrative Inadequacy:** Vacancies in NGT, needs to be filled as soon as possible.
- **Collaborative Approach:** There is a need for the central and state governments to work in collaboration with the NGT for balancing between environment & economy. NGT should also identify institutions and experts who can help it to scientifically estimate environmental damages/compensation/fines on a case-to-case basis.

Conclusion

In the present era, equilibrium between development and environment is of utmost importance.

Therefore, NGT should not be seen as an not been seen as obstacle to development but a way to sustainable development“. Thus, the government must address all underlying issues related to NGT as soon as possible.

Drishti Mains Question

The National Green Tribunal (NGT) has given a new outlook to environmental jurisprudence in India. Critically Analyse.