



# National Green Tribunal (NGT)

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## What is National Green Tribunal (NGT)?

- It is a specialised body set up 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.
- With the establishment of the NGT, India became the third country in the world to set up a specialised environmental tribunal, only after Australia and New Zealand, and the first developing country to do so.
- NGT is mandated to make disposal of applications or appeals finally within 6 months of filing of the same.
- The NGT has five places of sittings, New Delhi is the Principal place of sitting and Bhopal, Pune, Kolkata and Chennai are the other four.

## What is the Structure of NGT?

- The Tribunal comprises of the Chairperson, the Judicial Members and Expert Members. They shall hold office for term of three years or till the age of sixty-five years, whichever is earlier and are not eligible for reappointment.
- The Chairperson is appointed by the Central Government in consultation with Chief Justice of India (CJI).
- A Selection Committee shall be formed by central government to appoint the Judicial Members and Expert Members.
- There are to be least 10 and maximum 20 full time Judicial members and Expert Members in the tribunal.

## What are its Powers & Jurisdiction?

- The Tribunal has jurisdiction over all civil cases involving substantial question relating to environment (including enforcement of any legal right relating to environment).
  - In October 2021, the Supreme Court declared the National Green Tribunal's (NGT) position as a "unique" forum **endowed with suo motu (on its own motion) powers to take up environmental issues** across the country.
    - As per SC, the role of the NGT is not simply adjudicatory in nature; it has to perform equally vital roles that are preventative, ameliorative or remedial in nature.
- Being a statutory adjudicatory body like Courts, apart from original jurisdiction side on filing of an application, NGT also has appellate jurisdiction to hear appeal as a Court (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'.
- While passing any order/decision/ award, it shall apply the principles of sustainable development, the precautionary principle and the polluter pays principle.

- NGT by an order, can provide
  - relief and compensation to the victims of pollution and other environmental damage (including accident occurring while handling any hazardous substance),
  - for restitution of property damaged, and
  - for restitution of the environment for such area or areas, as the Tribunal may think fit.
- An order/decision/award of Tribunal is executable as a decree of a civil court.
- The NGT Act also provides a procedure for a penalty for non compliance:
  - Imprisonment for a term which may extend to three years,
  - Fine which may extend to ten crore rupees, and
  - Both fine and imprisonment.
- An appeal against order/decision/ award of the NGT lies to the Supreme Court, generally within ninety days from the date of communication.
- The NGT deals with civil cases under the seven laws related to the environment, these include:
  - The Water (Prevention and Control of Pollution) Act, 1974,
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  - The Forest (Conservation) Act, 1980,
  - The Air (Prevention and Control of Pollution) Act, 1981,
  - The Environment (Protection) Act, 1986,
  - The Public Liability Insurance Act, 1991 and
  - The Biological Diversity Act, 2002.
- Any violation pertaining to these laws or any decision taken by the Government under these laws can be challenged before the NGT.

### **What are the Strengths of NGT?**

- Over the years NGT has emerged as a critical player in environmental regulation, passing strict orders on issues ranging from pollution to deforestation to waste management.
- NGT offers a path for the evolution of environmental jurisprudence by setting up an alternative dispute resolution mechanism.
- It helps reduce the burden of litigation in the higher courts on environmental matters.
- NGT is less formal, less expensive, and a faster way of resolving environment related disputes.
- It plays a crucial role in curbing environment-damaging activities.
- The Chairperson and members are not eligible for reappointment, hence they are likely to deliver judgements independently, without succumbing to pressure from any quarter.
- The NGT has been instrumental in ensuring that the Environment Impact Assessment process is strictly observed.

### **What are the Challenges Pertaining to the Functioning of NGT?**

- 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 crucial forest rights issue is linked directly to environment.
- The NGT decisions are being challenged in various High Courts under Article 226 (power of High Courts to issue certain writs) with many asserting the superiority of a High Court over the NGT, claiming 'High Court is a constitutional body while NGT is a statutory body.'" This is one of the weaknesses of the Act as there is lack of clarity about what kind of decisions can be challenged; even though according to the NGT Act, its decision can be challenged before the Supreme Court.
- Decisions of NGT have also been criticised and challenged due to their repercussions on economic growth and development.
- The absence of a formula based mechanism in determining the compensation has also brought criticism to the tribunal.
- The decisions given by NGT are not fully complied by the stakeholders or the government. Sometimes its decisions are pointed out not to be feasible to implement within a given timeframe.
- 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.
- The justice delivery mechanism is also hindered by limited number of regional benches.

## What are the Important Landmark Judgements of NGT?

- In 2012, POSCO a South-Korean steelmaker company signed a MoU with the Odisha government to set up steel project.
  - **NGT suspended order** and this was considered a radical step in favour of the local communities and forests.
- In 2012 Almitra H. Patel vs. Union of India case, NGT gave judgment of complete prohibition on open burning of waste on lands, including landfills – regarded as the single biggest landmark case dealing with the issue of solid waste management in India.
- In 2013 in Uttarakhand floods case, the Alaknanda Hydro Power Co. Ltd. was ordered to compensate to the petitioner – here, the NGT directly relied on the principle of ‘polluter pays’.
- In the **Save Mon Federation Vs Union of India case (2013)**, the NGT suspended a ₹6,400-crore hydro project, to save the habitat of a bird.
- In 2015, the NGT ordered that all diesel vehicles over 10 years old will not be permitted to ply in Delhi-NCR.
  
- 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.
- In 2017, the Art of Living Festival on Yamuna Food Plain was declared violating the environmental norms, the NGT panel imposed a penalty of Rs. 5 Crore.
- The NGT, in 2017, imposed an interim ban on plastic bags of less than 50-micron thickness in Delhi because “they were causing animal deaths, clogging sewers and harming the environment”.

## Conclusion

There is need for more autonomy and widen NGT’s scope for effective protection of environment in balance with human developmental activities.

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