

## **All about National Green Tribunal (NGT)**

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### **Q1. What is a NGT?**

Ans. NGT (National Green Tribunal) is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues. It is also said as a specialized forum for effective and speedy disposal of cases pertaining to environment protection and conservation of forests. India is the third country in the world – after Australia and New Zealand – to set up such a body to deal with environmental cases.

### **Q2. Can you tell us how and why did the NGT be established?**

Ans. The National Green Tribunal was established under the National Green Tribunal Act, 2010 (NGT Act). The purpose of the NGT Act is to provide effective and rapid disposal of case related to environmental protection. Although the Law came on June 2, 2010, the Tribunal's first hearing was held only in May 2011. The Tribunal suffered from a serious 'mental problem'. Despite being a body made up of a Law of Parliament, the Supreme Court has to intervene to ensure that the necessary administrative arrangements are made by different branches of government for the Tribunal to become functional.

The need to set up special environmental courts is highlighted by the Supreme Court of India in a series of judgments, the first in 1986 in the case of Oleum Gas Leak, and the Act of the Indian Commission in 186 reports in 2003. The court has the opinion that environmental cases raise issues, requiring technical knowledge and expertise, rapid disposal, and ongoing surveillance, and thus these cases should be to be decided by special courts with the necessary expertise and technical assistance.

Parliament passed the National Environmental Tribunal Act, 1995 but it was never implemented. Subsequently, the National Environment Appellate Authority Act, 1997 was enacted under which the National Environment Appellate Authority was set up. There were several problems in the functioning of the Authority, including its limited mandate and key vacancies that the government did not fill. The Authority functioned till October 2010 and was replaced by the National Green Tribunal.

**Q3. What is NGT ACT?**

The National Green Tribunal (NGT) is a statutory body that was established in 2010 by the National Green Tribunal Act. It was set up to handle cases and speed up the cases related to environmental issues. The Tribunal has a mandate to dispose of applications and petitions within a period of six months.

**Q4. What are the powers of NGT?**

The NGT has the power to hear all civil cases relating to environmental issues and questions that are linked to the implementation of laws listed in Schedule I of the NGT Act. These include the following: The Water (Prevention and Control of Pollution) Act, 1974, The Water (Prevention and Control of Pollution) Cess Act, 1977, 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, The Biological Diversity Act, 2002.

**Q5. Explain the structure and members appointed for NGT?**

The NGT is proposed to be set up at five places of sittings and will follow circuit procedure for making itself more accessible. New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai shall be the other 4 place of sitting of the Tribunal.

- 1) The Chairperson, Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government for a term of 5 years.
- 2) The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India.
- 3) The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of the Selection Committee, in the manner as prescribed in the Rules, notified by MoEF.
- 4) Even existing or retired judge of High Court is qualified to be appointed as a Judicial Member.
- 5) A person is qualified to be an expert member if he has Master of Science with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experiences in the field of environment and forests in a reputed National level institutions. Anyone who has administrative experience of fifteen years including experience of five years in dealing with environment matters in the Central Government

or a State Government or in National or State level institution is also eligible to be an expert member.

- 6) Another important provision included in the law is that the chairperson, if find necessary, may invite any person or more person having specialized knowledge and experience in a particular case before the tribunal to assist the same in that case.
- 7) To avoid conflict of interest, it is included explicitly in the Act that the chairperson, judicial members and expert members of the tribunal shall not hold any other office during their tenure.

#### Q6. How can we know the different benches of NGT?

ZONE	JURISDICTION	PLACE OF Sitting	Started from
<b>East</b>	West Bengal, Orissa, Bihar, Jharkhand, seven sister States of North- Eastern region, Sikkim, Andaman and Nicobar Islands.	Kolkata	May 2014
<b>South</b>	Kerala, Tamil Nadu, Andhra Pradesh, Karnataka, Union Territories of Pondicherry and Lakshadweep	Chennai	November 2012
<b>West</b>	Maharashtra, Gujarat, Goa with Union Territories of Daman and Diu and Dadra and Nagar Haveli	Pune	August 2013
<b>Central</b>	Madhya Pradesh, Rajasthan and Chhattisgarh.	Bhopal	April 2013
<b>North</b>	Uttar Pradesh, Uttarakhand, Punjab, Haryana, (Principal Himachal Pradesh, Jammu and Kashmir, Bench) National Capital Territory of Delhi and Union Territory of Chandigarh.	Delhi (Principal Bench)	July 2010

#### Q7. How to file a complaint in NGT?

For every application / appeal where no claim for compensation is involved, a fee of Rs. 1000/- is to be paid. In case where compensation is being claimed, the fee will be one percent of the amount of compensation subject to a minimum of Rs. 1000/-. A claim for Compensation can be made for: Relief/compensation to the victims of pollution and other environmental damage including accidents involving hazardous substances; Restitution of property damaged;

Restitution of the environment for such areas as determined by the NGT. No application for grant of any compensation or relief or restitution of property or environment shall be entertained unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose.

**Q8. Who can come to NGT?**

Any person, who has sustained the injury; or

- a) The owner of the property to which the damage has been caused; or
- b) Where death has resulted due to environmental problems, then their legal representative of the deceased,
- c) Any agent, or legal representative authorized by such person or the owner of the property,
- d) Any aggrieved person, organization/institution, representative body,
- e) State government, union government, state pollution boards, environmental authorities, etc. Here it is pertinent to note that, any aggrieved person, organization/institution or representative body clause upholds the concept of locus standi.
- f) The person should apply before the court within the period of 6 months from the date of cause of action rises, i.e. the limitation period. But if the court is satisfied that due to some sufficient cause the applicant was not allowed then the court may allow filing application within 60 days.
- g) there has been a provision under section 16 to appeal before the Supreme Court if the person is not satisfied with the judgments of the tribunal within 6 months.

**Q9. Do we have the right to defend our own case in court without a Lawyer?**

Yes. we can argue the matter yourself on condition that you are familiar with the facts and are reasonably well informed about the law and procedures. The language of the NGT is English and some guidelines regarding clothing apply. However, it would be best if a lawyer represents you, because he / she will be better able to challenge and deal with all procedural aspects.

**Q10. Is National Green Tribunal a statutory body or a constitutional body?**

The Green Tribunal is a statutory body under the special Enactment. The retired High Court judge is a presiding officer who has heard cases relating to environmental issues. Other members 2 or 3 appointed by the government that they are sleeping members who are advised to sign as per instruction of the presiding officer.

The selection of NGT members is made by different committees of respected persons and led by a Supreme Court official judge nominated by the Chief Justice of India.

**Q11. What is the penalty for not obeying an NGT order?**

If a proponent project or any authority fails to comply with the instructions contained in an order of the NGT, the penalty may be imprisonment for three years or a fine extension of 10 crores or both. Continual failure can get a fine of twenty five thousand rupees per day.

**Q12. What is the reason for set up National Green tribunals for complaints and cases on environment?**

In 2010, when NGT was established, the government then pointed out India was one of the few countries with a specialized environmental court. Since then, nearly 23,000 cases have been received by NGT.

The purpose of the National Green Tribunal Act 2010 is to have effective disposal of environmental related cases, therefore, reducing the burden of litigation at higher courts.

**Q13. Is the decision of NGT valid?**

The decision of NGT is valid for parties, unless they approach the Supreme Court on appeal and the order of the NGT remains or is reversed. Failure to comply with the Tribunal's orders may lead to the fine or imprisonment of the person responsible.

**Q14. What kinds of decisions can NGT provide, and what is the timeline?**

The Tribunal has the power to cancel an approval or consent granted. It may also issue a stop work notification or a temporary residence order. It can direct the constitution of a committee of experts to carry out the quest for truth or monitor the execution of its orders; and directly concerned government agencies to make affirmative action to prevent or mitigate environmental damage. It can also direct the demolition of unauthorized construction. The Tribunal has the jurisdiction to order payment of compensation to victims of environmental damage or a good restoration of the environment to a government agency for compensation of environmental damage.

The NGT Act requires the Tribunal to hear the cases as fast as possible and strive to decide the case within six months from the date on which the case was filed. Despite this implicit timeline, it often takes all parties heard and permitted to present the required evidence, and sometimes the Tribunal begins special investigations into facts, which may take more time.

**Q15. Any notable order by NGT?**

1. The National Green Tribunal in 2014 has cancelled the clearance given by the environment minister to Parsa East and Kante-Basan captive coal blocks in Hasdeo Arand forests of Chhattisgarh, overruling the statutory Forest Advisory Committee.
2. In a landmark order passed on April 17 2015, the tribunal issued an interim ban on rat-hole coal mining and transportation of the mineral in the Meghalaya. The order came as a bolt from the blue but it was one of the events, which wobbled Meghalaya to the core.

3. Yamuna conservation zone: The NGT said that the health of Yamuna will be affected by the proposed recreational facilities on the river. The NGT also recommended the Government to declare a 52 km stretch of the Yamuna in Delhi and Uttar Pradesh as a conservation zone etc.