

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed

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# **THE ROLE OF NGT AND ITS CONTRIBUTIONS: AN ANALYSIS**

AUTHORED BY - PASUPATHI G K<sup>1</sup> & NAGESHWARI R<sup>2</sup>

## **Abstract**

The need for environmental court emerged due to the industrialization as one of its reasons. The application of environmental principle which will be overwhelming as a thought of industrial development. The established court with the equivalent power of High Court with the codification as to sort out its jurisdiction but the discretion will be created based on the commercialization and the environmental order. This article attempts to enumerate about the constitution of NGT, its composition in addition the wider scope of its jurisdiction. The foresees of its decisions has to be enlisted and its historical verdicts also enlisted with this. The critical analysis which has to be credible of its decision to be structure towards its future perspective will be added towards its paved ways.

Key words: Environmental justice, High Court, jurisdiction, compensation

## **THE ROLE OF NGT AND ITS CONTRIBUTIONS: AN ANALYSIS**

### **Introduction**

The need for an alternative forum for resolving environmental disputes is felt by many outside India and within India. In the UK, Lord Wolff has pointed to the need for a multi-purpose, all-round authority which would provide the services provided by existing courts, tribunals and environmental inspectors. Such an alternative forums will be a “stop store” and will be faster, inexpensive and efficient in environmental disputes. Similarly, Robert Khangwat IR, a judge of the Ministry of High Court Bureau, acting in support of specialized institutions to consider environmental issues.<sup>3</sup> In the case of BHAGWATI, J (as at the time), the Supreme Court in India indicates that the Supreme Court in India includes the evaluation and evolution of

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<sup>3</sup> Sir Robert Carnwath, —Environmental Litigations: A Way through the Maze, 11 J Env'l. L. 3 (1999).

scientific data and scientific data.<sup>4</sup>

According to the court, the judicial administration in the judicial administration was urgently involved in experts. This perspective was confirmed by the Indian Council on the behaviour of Environmental Law. Union of India. In 1999, Justice Jagannadh Rao in the case of *A.P. Pollution Control Board V. M.V. Naidu*<sup>5</sup> strongly recommended the establishment of an environmental tribunal. In a further case in 2001, the Supreme Court had asked the Law Commission of India to look into the issue in detail and submit a report.

Consequently, the Law Commission of India recommended, among other things, the creation of environmental courts having original and appellate jurisdiction over environmental laws in its 186th Report, which was released in September 2003. This document stated that the National Environment Tribunal (which was to be constituted under the National Environment Tribunal Act, 1995 but this legislation has not yet been notified despite expiration of eight years) and the National Environment Appellate Authority (NEAA), which was established under the NEAA Act, 1997, are non-functional and exist only on paper. Smt. Maneka Gandhi, the Union Minister of Environment at the time, vigorously supported the legislative move to establish environment courts as a substitute venue back in 1989. She also drafted the relevant bill, but it was really regrettable that the important discussion on the environmental court's constitution was shelved and the bill was placed in cold storage.

In the end, on July 31, 2009, the National Green Tribunal Bill, 2009 was presented in the Lok Sabha. The Speaker of the Lok Sabha and the Chairman of the Rajya Sabha conferred, and the Bill was referred to the Parliamentary Standing Committee on Science and Technology, Forestry, and Environment for research and documentation.<sup>6</sup> Meetings between the Committee and a Ministry of Environment delegate and forests and also listened to the opinions of eight specialists, among them Sunita Harish Salve, Rajeev, and Narain, the director of the Center for Science and Environment Dhawan, Sanjay Upadhyay, and Senior Advocates of the Indian Supreme Court, head of the Forum for Environmental and Legal Defence. The Committee was pleased with the proposal of the Ministry and delivered the National Green Tribunal's 203rd report to Parliament. Bill on November 16, 2009. Therefore, the 2010 National Green Tribunal

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<sup>4</sup> *M.C. Mehta v. Union of India*, AIR 1987 SC 965.

<sup>5</sup> AIR 1999 SUPREME COURT 812

<sup>6</sup> Rajya Sabha Parliamentary Bulletin, Part-II, dated 14th September 2009.

was adopted. The same thing was notified by our parliament by the Government of India on the same day as October 18, 2010, Lokeshwar Singh Panta, former judge of the Supreme Court of India took charge as chairman of newly constituted National Green Tribunal.

### **An Alternative Environmental Redressal Forum**

Once the Court realized the serious threat posed by the lack of adequate government measures, it began to look for new ways to solve the problem. In fact, the Court wanted to enlist the help of experts in certain fields to carry out their analysis whether a proposed activity was environmentally friendly. Justice P N Bhagwati in the oleum gas leak case used the approach of appointing an expert committee to assess the extent of damage to the environment.<sup>7</sup> Need to be aware that this case was the first case that emphasizes the necessity of “neutral scientific testing” as an important contribution of Notify the judiciary decision. Creating an environmental court based on regional bases. Professional judges and two experts were also provided. Courts have begun to understand that complex environmental data requires additional care. Skilled labour for proper evaluation. Following the oleum gas leak ruling, the appointment of environmental experts became necessary when considering disputes fashionable. The method of analysing of data in some cases required many months in most cases. This meant that the courts had to devote more times those cases because the expert’s reports were found to be insufficient in some and contradictory in some others. The time constraints and exclusivity of the nature of disputes prompted setting up of Green Benches in various High Courts in our country.

The court Environmental lawsuit of public interest that raises doubts about ordinary court forced institutional abilities and the government to find alternatives It was emphasized by the *Pollution Control Board V. Professor M.V. Nayadu*<sup>8</sup> which prompted the legal commission to propose the creation of “surrounding courts” in our country. However, this does not mean that ordinary courts cannot consider environmental disputes. The Committee also examined references made in the Nayudu case to the idea of a "multi-faceted" Environmental Court with jurisdiction and the technical/scientific contributions recently formulated by Lord Woolf in the UK as well as those in Australia, New Zealand and other countries. The report also adopted the practice of the Environment Court in Australia and New Zealand, which acts as a court of appeal against orders made under relevant water, air and noise legislation and various

<sup>7</sup> *M.C. Mehta v. Union of India* (1986)2 SCC 176, para 22.

<sup>8</sup> AIR 1999 SUPREME COURT 812, 1999 (2) SCC 718



Environment related Acts and also have original jurisdiction. They have all the powers of a Civil Court. Some have even powers of a Criminal Court.

### **The National Green Tribunal Act, 2010**

The National Green Tribunal was established on 18.10.2010 in accordance with the National Green Tribunal Act, 2010 for efficient and expeditious disposal of cases, related to the protection of the environment and conservation of forests and other resources, including ensuring the enforcement of all legal rights relating to the environment and providing compensation and redress for damages to persons and property, and in matters related or incidental thereto. It is a specialized body with necessary expertise to consider environmental disputes, including multidisciplinary issues. The court is not bound by the procedure laid down in the Code of Civil Procedure, 1908 and will follow the principles of natural justice.

The Tribunal's specific environmental jurisdiction is intended to enable expeditious environmental justice and help reduce the burden of litigation before higher courts. The Tribunal is tasked with presenting and seeking to finally resolve applications or appeals within 6 months of their submission.<sup>9</sup> Initially, NGT is proposed It will be installed at the location of the meeting and will be created according to the procedure for creating. It is a more affordable price. New Delhi is the main seat of the court, Bhopal, Puna, Calcutta, and Chennai are the remaining part of 4 seats in the court.

### **Object of the Act**

The preamble to the Act states that the objective is to establish a National Green Tribunal (hereinafter referred to as NGT) for efficient and expeditious disposal of matters relating to protection of the environment and conservation of forests and other natural resources, including enforcement of all legal rights in respect of the environment, award of compensation and damages caused against any person or property and any matter connected therewith or incidental thereto.

The Act also constitutes an attempt by Parliament to fulfil the obligations set out in Item 14 of List I of Schedule VII under Article 253 of the Constitution. India follows the Stockholm

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<sup>9</sup> Section 18 (3) National Green Tribunal Act, 2010

Declaration 1972,<sup>10</sup> to which India also acceded, which states that States must take appropriate measures for the protection and improvement of human habitats, and the Rio Declaration of 1992<sup>11</sup>, to which India also acceded, which states that States shall ensure effective access to judicial and administrative procedures; Develop national laws on liability and responsibility, including remedies and remedies; Compensation to victims of pollution and other environmental damage.

The law was also a response to the Supreme Court's ruling that the right to a healthy environment is part of the right to life under Article 21 of the Indian Constitution.<sup>12</sup>

### **Salient Features of the Act**

This law seeks to establish special green courts with five branches in different regions of the country. The new law empowers the Green Tribunal to handle initial complaints and appeals against decisions of authorities under various environmental laws. The Tribunal, when established, would not be bound to follow the procedure laid down in the Code of Civil Procedure 1908. Instead, it is permissible to follow the principles of natural law. However, the court has jurisdiction over a civil court under the Civil Procedure Act 1908. Its decisions are binding on the parties. This Act also provides that no civil court shall try cases in which a competent court has jurisdiction. The green court is expected to follow the nationally recognized environmental principles of sustainable development. The "first action" and "polluter pays principle" when issuing orders, decisions or awards.

While the law proposes to give broad powers to the Green Court, at the same time it tries to limit the scope of its jurisdiction only to matters related to the environment. obligations that affect the whole society but for an individual or a group of individuals due to its environmental consequences, when the damage to the environment or property is high, (iii) can measure the harm to public health.

The Act aims to deny individuals and groups of individuals the right to inquire about any environmental consequence that impacts them, unless it also impacts the community or public health. This is noteworthy, as the right to Article 21 of the constitution is a fundamental right

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<sup>10</sup> Stockholm declaration of United Nations conference on Environment and Development 5-16 June, 1972.

<sup>11</sup> Rio Declaration of United Nations Conference on Environment and Development, June, 3-4, 1992

<sup>12</sup> *Subhash Kumr v. State of Bihar* AIR 1992, SC 4200.

guaranteed to individuals. However, where there has been significant harm to the environment or property, individuals may file a lawsuit. As the right to a healthy environment encompasses all aspects of environmental degradation, it is argued that the definition of “substantial question related to environment” as provided in the Act, which provides for the statutory exclusion of individuals, may not withstand judicial scrutiny.

### **Constitution of the Tribunal**

The Central Government shall notify a tribunal to be called the National Green Court to exercise the power, powers and authority conferred on such court by law. The Court consists of a full-time President and a minimum of ten but a maximum of twenty judges and expert members announced by the Central Government from time to time. This law equalized the number of judicial and expert members with powers to break the deadlock established by the Chief Justice. The court has the power to invite one or more persons with special knowledge and experience in a case to the court to assist the court in that case.

### **Appointments of the Tribunal**

This Act specifies the qualifications for appointment of Chairperson, Judicial Member and Expert Member. It provides that a person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court and a person who is or has been a Judge of High Court shall also be qualified to be appointed as a Judicial Member and a person shall not be qualified to be appointment as an Expert Member, unless he has a degree in Master of Science-Physical Sciences or Life Sciences 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 experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management and biological diversity management and forest conservation) in a reputed national level institution, or has administrative experience of fifteen years including practical experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.

This Act also provides for the appointment of chairman, judicial member and expert member. It is decided that the Chairman will be appointed by the Central Government in consultation

with the Chief Justice of India and the Judicial and Expert Members of the Court appointed on the recommendations of the Selection Committee. can be ordered. Justice Swasentra Kumar has been appointed as Chief Justice and will assume office after December 31, 2012.

### **Chairperson And Members Of The Green Tribunal**

The National Green Court is the place for volunteers and retired technicians. The NGT should have experts in relevant subjects and not bureaucrats, all previous attempts to address environmental issues through NEAA and other bodies have failed. If the appointees are competent, it is true that the environment department or the institutions they worked for will have a role in protecting the environment, which is not certain, and that is why the court was right. In fact, the administrators' indifference prompted the court application.

The power of appointment is given to the central government, this power gives the government time to choose who it wants to please. This is evident because it is not clear how much influence the Central Government has on the recommendations of the Chief Justice of India regarding the appointment of the Chief Justice.

### **Tenure of the Office Members**

This Act provides that the President, Judge Members and Expert Members of the Court shall remain in office for a period of five years from the date of commencement of their duties, but shall not be eligible for re-appointment. In addition, if a person is or has been a judge in the Supreme Court who is appointed as the chief or judicial member shall remain an officer until the age of seventy years, and if appointed a person who is or has been chief of the highest court of the country shall be appointed chief or judge. or if a person who has been a judge of the Supreme Court is appointed as a judicial member, he will continue to hold this position until he reaches the age of sixty-seven years and will continue for five years. This law also determines the resignation of the chairman, the member of the judiciary and the priest. This means that the chairman of the court, the member of the court and the experts can leave their positions by sending a written notice to the central government.

### **Jurisdiction of the Tribunal**

This Act gives the Court jurisdiction over all civil matters relating to any fundamental matter relating to the environment (including the enforcement of statutory

rights relating to the environment), and that matter arises out of the implementation of this Act. The rules are contained in Annex I of the Act. 297 also provides a period of six months in applications to resolve a dispute under this section which must be handled by a tribunal. The Tribunal is also empowered to entertain such applications within a period of more than sixty days, if it is satisfied that the application is precluded for reasonable reasons from being made within that period.

The term substantial question shall include an instance where:

There is a direct violation of a specific statutory environmental obligation by a person by which, a) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or b) the gravity of damage to the environment or property is substantial; or c) the damage to public health is broadly measurable environmental consequences relate to a specific activity or a point source of pollution.

Regulatory authority over “major issues of environmental concern” includes only matters affecting or affecting society at large - but not individuals or groups. Therefore, it is not clear whether the law aims to promote group activity. In that case, creating like this won’t work. Environmental impacts and conflicts should not be limited to “general society”, but affect individual groups and individuals - who need to be protected - as “large communities or groups” of individuals, as in this section of the law is not defined and should only be changed before there will inevitably be a legal challenge in the Supreme Court. The Act also gives jurisdiction of appeal to the Tribunal against any order, decision or order under the Water (Prevention and Control of Pollution) Act, 1974. Water (Prevention and Control of Pollution) Act, 1977; Forest (Conservation) Act, 1980; The Air (Prevention and Control Pollution) Act 1981; Environmental law (conservation); 1986 and the Biological Diversity Act, 2002.

In addition, there is a 30-day deadline to file a complaint with the court. It also gives authority to allow these applications to be submitted within a period not exceeding sixty days, if satisfied that the applicant has prevented himself from submitting the application for any reason.<sup>13</sup> The deadline should be extended to 60 days, as many people avoid completing the complaint within 30 days because it is unavoidable.

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<sup>13</sup> Section 16 of NGT Act 2010.



### **Judicial Remedy under the Act**

This law provides many types of assistance states that the court may by order to those affected by pollution and other environmental damage caused by the laws specified in table-1 to Laws, including accidents that occur when working with hazardous substances. The return of damaged property and environmental restoration of these areas can also be requested at the discretion of the court. Act, 1991.

This Act seeks to prevent late applications for relief. but it is said that the Court shall not apply for the above reliefs unless they are made within five years from the date on which the cause for said relief first arose. However, the Tribunal may grant an additional sixty days to file the application if it is satisfied that the applicant is prevented from making a valid reason to not file such application.

Claimants are required by law to notify the court of any request made to the court or to another authority, if any, compensation or assistance received from the court, or other rights of the Law there is no liability for claims related to the accident by allowing the court to apply the principle of no fault. The tribunal intends to deal with applications, if necessary, appeals, as expeditiously as possible, and directs the tribunal to try to the application, if possible or, appeal within six months. months from the date of submission of the request or, as the case may be, the appeal after giving the parties an opportunity to be heard.

### **Appeal to Supreme Court**

A person who is aggrieved by the judgment, decision or order of the court may appeal to the highest court of the land within ninety days from the date of notification of the judgment, decision, or order of a court, against one or more persons. The issues in Article 100 of the Civil Procedure Act of 1908. It is said that the Supreme Court can hear the appeal after the expiry of ninety days if it is determined that the plaintiff has been prevented appeal.

### **Bar on Jurisdiction of Tribunal**

This Act shall determine the jurisdiction of the civil courts. According to this Act, from the date the Tribunal is constituted, no civil court shall have jurisdiction to hear an appeal on any question which the Tribunal may decide under its appellate jurisdiction.<sup>14</sup> It is also provided

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<sup>14</sup> Section 29 of NGT Act, 2010.

that no civil court shall have jurisdiction or administer any claim relating to the grant of relief, compensation or restitution of damaged property or the environment as determined by the court. There is no decision on it. Respect for all actions taken by or before the tribunal is given by the civil court.

### Notable Orders

- i) Conservation Zone Yamuna The National Green Tribunal (NGT)<sup>15</sup> stated on April 25, 2014, that the planned recreational amenities on the river will have an impact on Yamuna's health. A 52-kilometer section of the Yamuna through Delhi and Uttar Pradesh should be designated as a conservation zone, according to the NGT's recommendation to the government.
- ii) The Chatisgarh Forest Coal Block Overruling the statutory Forest Advisory Committee, the National Green Tribunal has revoked the permission granted to the Parsa East and Kante-Basan Captive coal block in the Hasdeo-Arand Forest in Chatisgarh by Union Environment and Forest Minister Jairam Ramesh. In June 2011, Mr. Ramesh granted the forest clearance, defying the expert panel's recommendation of the Minister on the two blocks for mining by a joint venture between Adani and Rajasthan Raiya Vidyut Utpadan Nigam Limited.<sup>16</sup>

This Block needs 1,989 hectares of forestland to fall in a region that was first forbidden by the government since it was marked as a "no-go" area and thought to be a patchable forest. The tribunal's ruling that the recommendation of the FAC, a group of experts, would not be rendered irrelevant by the simple presentation of imaginative reasoning related to environmental concerns without any basis, scientific research, or prior experience, is likely to have a more extensive effect on the order. The Forest Conservation Act of 1980 mandates that the Forest Advisory Committee (FAC) evaluate projects involving forestlands and recommend to the environment minister whether to approve or reject the plans. However, the NGT observed that in this instance, the Minister had relied only on his understanding and belief in the course of a single

<sup>15</sup> Principal Bench NGT, Delhi, O.A No- 21/2023 dated 16.02.2023, <http://www.indiaenvironmentportal.org.in/files/file/Yamuna-pollution-Haryana-report-NGT-order-Feb16-2023.pdf>

<sup>16</sup> NGT Principal Bench Delhi, O.A No: 59/2024, dated 22/01/2024. [https://greentribunal.gov.in/sites/default/files/news\\_updates/REPORT%20BY%20STATE%20OF%20CHHAT%20TISGARH%20IN%20OA%20NO.%2059%20of%202024%20NEWS%20ITEM%20TITLED%20DEFORESTATION%20FOR%20MINING%20RESUMES%20IN%20HASDEO%20LOCALS%20ACTIVISTS%20ALLEG%20DETENTION%20APPEARING%20IN%20THE%20HINDU%20DATED%2022.12.2023.pdf](https://greentribunal.gov.in/sites/default/files/news_updates/REPORT%20BY%20STATE%20OF%20CHHAT%20TISGARH%20IN%20OA%20NO.%2059%20of%202024%20NEWS%20ITEM%20TITLED%20DEFORESTATION%20FOR%20MINING%20RESUMES%20IN%20HASDEO%20LOCALS%20ACTIVISTS%20ALLEG%20DETENTION%20APPEARING%20IN%20THE%20HINDU%20DATED%2022.12.2023.pdf)

day, without any support from reputable studies or prior experience in the relevant sectors. The Minister gave six reasons for clearing the coal block, one of them being that it is connected to a super-critical thermal power plant, which is necessary to maintain the momentum created by the XI Plan for raising power output. The NGT maintained that these “anthropocentric” factors were invalid for project evaluation.

- iii) Delhi NCR bans diesel vehicles older than ten years<sup>17</sup> an effort to reduce air pollution in the national capital region of India. The amount of 2.5PM (parts per million atom) particles is concerning. This rule prohibits the use of automobiles that are ten years old or older. But according to a media source, the Central Government is considering appealing the ruling to the Supreme Court, particularly with regard to private automobiles.
- iv) Yamuna River Cleanup Charges on family The National Green Tribunal<sup>18</sup> (NGT) mandated that each Delhi family pay a monthly environmental compensation in order to ensure the river is cleaned up. The directive states that the amount of compensation will be directly proportionate to the amount that a certain family pays in property taxes or water taxes, whichever is larger. Households in unapproved colonies that fail to pay their water bill or property tax will be required to pay a sum ranging from 100 to 500 rupees.
- v) Ban on mining and removal of sand from River beds, Sand mining and removal from riverbeds without a license and Union Ministry of Environment and Forests environmental clearance is prohibited nationwide by the National Green Tribunal (NGT).<sup>19</sup>
- vi) Prohibition of burning tires in public The National Green Tribunal (NGT) has prohibited the burning of tires in public spaces, such as on roadways and in the yards of residential buildings. The rule was established in response to organizations burning tires during religious and political protests because it posed a health risk. Toxic smoke from burning tires poses a major risk to the environment.

<sup>17</sup> <http://www.indiaenvironmentportal.org.in/content/order-national-green-tribunal-regarding-ban-polluting-diesel-vehicles-delhi-07042015>

<sup>18</sup>NGT Principal Bench O.A No: 55/2015, 26,37/2016. Dated 06/07/2020. [https://greentribunal.gov.in/gen\\_pdf\\_test.php?filepath=L25ndF9kb2N1bWVudHMvbmd0L2Nhc2Vkb2Mvb3JkZXJzL1BVTkUvMjAyMC0wNy0wNi9jb3VydHMvMS9kYWlseS8xNTk0Nzk3MzM0NTI0NjA2MTczNWYyZWZkMTZiMmI3Yy5wZGY=](https://greentribunal.gov.in/gen_pdf_test.php?filepath=L25ndF9kb2N1bWVudHMvbmd0L2Nhc2Vkb2Mvb3JkZXJzL1BVTkUvMjAyMC0wNy0wNi9jb3VydHMvMS9kYWlseS8xNTk0Nzk3MzM0NTI0NjA2MTczNWYyZWZkMTZiMmI3Yy5wZGY=)

<sup>19</sup> NGT Principal Bench Delhi, O.A No: 248/2022 dated 06/02/2023. [https://greentribunal.gov.in/gen\\_pdf\\_test.php?filepath=L25ndF9kb2N1bWVudHMvbmd0L2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjMtMDItMDYyY291cnRzLzEvZGFpYHkvMTY3NTc2MzY1MjM5NTAwNjQ4MDYzZTIxZmM0ZjJyYjEucGRm](https://greentribunal.gov.in/gen_pdf_test.php?filepath=L25ndF9kb2N1bWVudHMvbmd0L2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjMtMDItMDYyY291cnRzLzEvZGFpYHkvMTY3NTc2MzY1MjM5NTAwNjQ4MDYzZTIxZmM0ZjJyYjEucGRm)

vii) Delhi forbids burning trash and plastic. To reduce air pollution, the National Green Tribunal (NGT) issued an order outlawing the open burning of any form of trash, leaves, plastic debris, and rubber throughout Delhi and the National Capital Region (NCR). According to NGT, around thirty percent of the air pollution in the capital and its suburbs is caused by burning trash and other materials, such as plastic and other materials. According to Section 15 of the National Green Tribunal Act, 2010, the individual who is discovered to be burning or responsible for burning may be required to pay compensation. It also instructed authorities to punish anyone spotted burning such material in public with a fine of five thousand rupees.

### Conclusion

Environmental law has advanced as a result of the NGT's scientific specialists participating in the decision-making process as "constructive science scholars". That environmental jurisprudence solves difficulties unique to its subject by using scientific knowledge alongside legal theories. Experts in policy formulation and implementation may help regulatory bodies fulfill their dual roles as issue solvers and policy makers. As a result, the NGT's authority and operations, combined with the application of a "strong" precautionary principle and the broad application of Article 21 of the Indian Constitution, produce a dynamic decision-making process that fairly considers the environment, public health, and the interests of the general public.<sup>20</sup>

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<sup>20</sup> Courting Environmental Justice: The Adjudicatory Dimensions of NGT, - Nain Gill, Feb 2018, Environmental Law and Management