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EFFECTIVENESS OF ENVIRONMENTAL COURTS IN INDIA

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ABSTRACT :

Human environment refers to the complex relationship between humans and their surroundings that are natural as well as built by humans. The conservation and improvement of human environment is one of the major challenges over the world. In order to protect and enhance the human environment the environmental laws play a vital role. In India in addition to environmental laws the judiciary gives the predominant considerations for the preservations of natural resources and biological diversity. The concept of green courts or environmental courts are not an old one, in 2010 India established special environmental courts under National Green Tribunals Act 2010 as a special court designated as National Green Tribunal (NGT). So, the expert body of the forum makes the tribunal become an indispensable achievement in the area of environmental issues and justice delivering system on environmental matters.

Key word: environment , judiciary, environmental courts, NGT

INTRODUCTION

Human environment refers to the interactions which are between human beings and environment. The conservation and improvement of human environment is one of the major challenges over the world. It consists of both physical environment and biological environment. Physical environment includes land, water and air. Biological environment includes plants, animals and other organisms. These are inter-dependent. The problem of environmental pollution has acquired international dimension and India is no exception to it (Agarwal & of Law, n.d.)

Environmental laws are the pillars of environmental protection, but it still suffers many difficulties due to implementation lacunas. As a result, the organizational set up of the courts and their environmental sensibility, as well as the national mechanism of access to justice, have become crucial issues. While dealing with the environmental issues the environmental laws and the principle of sustainable development are the key element. In order to properly handle ecological conflicts, environmental courts and tribunals have been established in India as a result of the country's growing concern over environmental deterioration. In order to ensure environmental justice, the National Green Tribunal (NGT), which was founded in 2010, is essential. Nevertheless, a number of obstacles prevent India's environmental courts from becoming successful, despite their importance. This essay examines the main issues that Indian environmental courts face and offers some potential fixes.

ROLE OF JUDICIARY

India has wide source of ecosystem and species, it also causes several issues like air pollution, deforestation to water scarcity, biodiversity loss, etc. Indian judiciary being a social institution plays a pivotal role in curbing issues relating environment. Indian judiciary pronounce judgments and principles which are essential for the environmental protection as well as protection of human interest.

The progress and economic stability of a country lies on the industrial development of a country at the same time we want to manage an equilibrium between development and environmental protection. The role of Indian judicial system provides adequate consideration for the same but in some time leads to an adverse impact upon it. In coming years courts fail to manage the balance between environment and social interest. Which leads to the establishment of special courts for environmental issues. As a sequel the National Green Tribunal is established as a special environmental court to handle environmental issues.

ENVIRONMENTAL COURTS

Environmental problems are complex and dynamic in nature. So, the involvement of technical experts in decision making make effective outcomes. The importance of experts lies in the light of certain expectations like 'they have definite regime of truth, they tell us what the world looks like, identify and quantify problems, making analysis and findings based on the help of techniques etc. the expert decision plays a fundamental role in advancing the values and helps to settle the matters undoubtedly. (Amirante, 2012)

STRUCTURE OF NATIONAL GREEN TRIBUNAL (NGT)

National green Tribunal is a quasi-judicial body established under National green Tribunal Act 2010 with the objective of effective and speedy disposal of matters which are relating to environmental protection. It plays a significant role in implementing environmental laws and ensure environmental justice. India become third country in the world to setup special environmental tribunals. Australia and New Zealand are the countries which establish environmental courts before the inception of NGT. The principal place of sitting is New Delhi and its four regional benches in Bhopal, Chennai, Pune, Kolkata.

Composition of national Green Tribunal was consisting of judicial and scientific experts too. They have the right to hold their office for a period of 5 years or at the age of 65 whichever is earlier and they are not eligible for re-appointment. The NGT comprise with following members namely

1. Chairperson: chairperson is the highest official in tribunal, appointed by central Government in consultation with Chief Justice of India. The retired judges of Supreme Court or chief Justice of High Court are eligible for the same.
2. Judicial members: The current or former judges of High Court or Supreme Court are eligible to appoint as a judicial member; they will provide legal opinions and adjudicate the matters in accordance with legal principles.
3. Expert members: scientific and technical experts are including in the forum. They have special knowledge on environmental forensic, pollution control, climate changes and technological advances

National Green Tribunal is the combination of both technical and judicial members; they will collectively strive for the justice to environment. It is special body to regulate the environmental jurisprudence in India. (Sakin, 2024).

CHALLENGES FACED BY ENVIRONMENTAL COURTS IN INDIA

Tribunals are not full courts but they are adjudicatory bodies which are similar to courts in India. The purpose of every tribunal is to provide effective means of justice to aggrieved party and also help to the judiciary reduce the burden on the courts. National Green Tribunal is the environmental court established in India in the year 2010. NGT is an effective mechanism to protect the environment from the pollution and other exploitations against the environment. But the purpose of tribunal becomes not much effective due to many reasons and issues in implementations (Khandare, 2016)

1) Jurisdictional and Legal Constraints

The environmental courts have limited jurisdiction to handle the issues, this is the main obstacles faced by environmental courts. Only cases pertaining to particular environmental legislation can be heard by the NGT. It is not sufficient because the complexity nature of environmental issues. Its lack of jurisdiction over environmental issues originating under other acts, however, leaves legal gaps and reduces its ability to handle some cases effectively.

2) Backlog of Cases

Environmental courts in India face a backlog of cases, just like other judicial organizations. The main reason for the delays in settlement are caused by the increasing number of environmental challenges and the insufficient court infrastructure. In certain cases, this permits constant environmental degradation and negates the goal of delivering prompt environmental justice.

3) Lack of Expert Judges and Technical Staff

Environmental issues are more complex than any other issues, ecology, engineering, and environmental science knowledge are necessary for environmental cases. So, the forum adjudicate environmental issues should comprises with both technical and judicial members. However, the environmental courts frequently lack technical expertise and trained judges, which results in ineffective adjudication. Many cases involve complex scientific evidence, which generalist judges may find challenging to interpret without adequate experts.

4) Limited Enforcement of Judgments

Enforcement of environmental court rulings is still in question even when they support environmental conservation. Because of political will, corruption, a number of government institutions and polluting corporations neglect the orders. As a result, environmental courts' authority is declining and their influence on environmental governance is reduced.

5) Political and Industrial Influence

Government initiatives and influential industrial entities are involved in many environmental issues. Decision-making is commonly influenced by corporate and political pressure, which results in laxer environmental regulations and lighter punishments for violations. This lessens the ability of environmental courts to enforce environmental justice and put at risk of their impartiality.

6) Insufficient Funding and Infrastructure

In India, environmental courts frequently function with little funding and infrastructure. Lacking of fund may cause personnel shortages, old-fashioned technology, and subpar research facilities, which spoils these institutions' ability to handle cases effectively and professionally.

7) Public Awareness and Accessibility Issues

Most of them are unaware about their rights to seek justice in environmental courts, particularly those who live in rural areas. Marginalized populations are incapable to follow the legal remedies for environmental harm due to a lack of public awareness and availability of environmental courts. Furthermore, for those without legal experience, the legal system can be scary and complex.

POSSIBLE SOLUTIONS

To overcome these challenges, the following measures should be considered:

- Increasing Jurisdiction: Environmental courts should have a broader jurisdiction that encompasses all environmental laws.
- Reducing Case Backlogs: To guarantee prompt case resolution, more benches and fast-track procedures are to be implemented.

- **Increasing Expertise:** Adding additional scientists, technical professionals, and environmental specialists can help make better decisions.
- **Increasing Enforcement:** To make sure that court orders are followed, stringent oversight and accountability procedures must be established.
- **Minimizing Political Interference:** Corporate and political influence should be kept out of environmental courts by enacting legal protections.
- **Boosting Infrastructure and Funding:** To increase environmental courts' effectiveness, more funds should be given to them.
- **Raising Public Awareness:** To help people understand their environmental rights, educational campaigns and legal aid programs should be supported.

COMPARATIVE ANALYSIS WITH GLOBAL PRACTICE ON ENVIRONMENTAL COURTS

Environmental courts and tribunals can be found in every nation, there will be no distinction between the establishment of environmental courts and tribunals in poorest or richest country, democratic or non-democratic countries etc. It can be founded in every legal system because policy makers understand the importance of environmental protection and conservation of ecosystems of the nation. Different countries are following their own institutions and procedure for the conservation and protection of environment. Environmental courts and tribunals established by different countries acted like a mechanism to improve the environmental conditions, it's not a final word on environmental conservation. Different countries follow their mechanism and institutions to regulate of environmental issues.

New Zealand

The Resource Management Act 1991 (RMA) created the Environment Court of New Zealand. It is a specialist court to decide cases involving planning and the environment. It has vested with the same jurisdiction as the District Court and is essential to the interpretation and implementation of New Zealand's environmental laws. The Resource Management Act of 1991 is the major law of the land that governs the Environment Court. This Act establishes the Court's authority and duties, allowing it to deal with a broad range of environmental issues.

Environmental courts consist with environment Judges and environment Commissioners. Commissioners those who have experience in subjects including environmental science, local governance, and the Treaty of Waitangi etc. Judges are nominated based on their legal expertise on environmental matters. In order to ensure that legal and technical components of cases are fairly considered, a typical court panel consists of at least one judge and one or more commissioners (Kowalska, 2023).

Powers and Functions

Hearing Appeals: The Environment Court is the venue for appeals by people or groups who disagree with local council decisions on environmental issues, such as resource consents or plan modifications. The Court reexamines these rulings while taking into account all pertinent information.

Direct Referral Applications: In some important or complicated circumstances, applications may be sent straight to the Environment Court, without the need for preliminary council rulings. Proposals of national importance or those that have been approved by the applicant and the council are subject to this procedure.

Enforcement Orders and Declarations: The Court may issue enforcement orders to stop or lessen harmful environmental consequences and make declarations to explain how the RMA should be interpreted or if it applies to certain circumstances.

In addition to that court have the jurisdiction to give directions to council for the amendment of the statement or policy and also power to issue cost, review the contest etc. They have their own procedure and formalities for the enforcement of decisions by court.

Enforcement orders: These compel people or organizations to stop behaviors which are endanger the environment or to take particular steps to repair damage.

Declarations: The Court has the authority to clarify and provide direction for future actions by stating the legal standing or interpretation of environmental regulations.

Cost Awards: To ensure that parties are prudent in bringing cases before the Court, the Court may order parties to pay costs in order to discourage baseless or unsupported claims.

An essential component of environmental governance in New Zealand is the Environment Court, which makes sure that environmental decisions follow the RMA's sustainable management guidelines. Its unique framework enables well-informed and well-rounded decisions that take into account both technical and legal viewpoints. De novo hearings, which the Court can hold, guarantee thorough analyses of environmental disputes. However, the Court's efficacy is also impacted by the strength and clarity of the laws it interprets, as well as the resources at its disposal to carry out its rulings (Birdsong, 2002).

Australia

Australia has a federal system of governments with Australian, six states and two territorial divisions. They much provide predominant considerations for the conservations and protection of environment. So, parliament as well as the states has the power to make environmental laws as if it is needed.

Australia has special environmental courts in states, Australian green courts are known as Land and Environmental Courts (LEC), it is established under the Land and Environment Court Act, 1979. These courts are vested with wide range of powers including environmental development, planning, conservation of natural resources.

Significance of environmental courts in Australia

These are green courts specialized in environmental matters, handling all the aspects of environmental law. these are the bodies equipped with legal aspects of environmental protection. So, the courts are filled with the legal experts. Based on the character of environmental issues, legal experts are not sufficient to solve the issue, so the body must consist with a team of technical experts. For to conclude, the court must contain a legal expert along with scientific experts.

Another notable importance of the green courts in Australia is the jurisdiction which are exercised by the Land and Environmental Courts (LEC) and other state level courts. They will handle wide range of environmental issues like environmental protection, resources management, development etc.

These green courts follow multi proceeding for the delivery of justice. Merits review; judicial review civil enforcement are the few examples for the same. So, the decisions are environmentally friendly at the same time promoting sustainable development. They will provide both online and offline services to the general public to avail the services from the green courts(Vikas Kumar, 2020).

CONCLUSION

The establishment of NGT proves the relevancy of environmental protection in India. It creates an obligation upon every state to protect and preserve the natural environment and resources. Definitely it becomes a milestone in the Indian legal history. One of the significant aspects of the NGT is the acceptance of scientific evidence to find out the merits of the cases which are came Infront of them. So, the justice delivering system become most accurate and precise because of the presence of scientific experts and judicial members as decision making agencies. The eligibility criteria set forth for the constitution of the forum makes some ambiguities in the appointment and all, but the implementation take care of them correctly.

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