

To,

**The Registrar,**

**NGT, Principal Bench, Delhi.**

Subject – Regarding appointments of Judicial Members and Expert Members and to make NGT and all its Benches functional.

Respected Sir,

The NGT is the specialized Court to deal with Environmental issues. Environmental justice was one of the neglected aspects in India, but after 2010 when the NGT came into existence the vacuum to have special court to hear substantial issues, related to environment started getting addressed. Environment law is a distinct legal subject and is of relatively recent development. Separate laws and regulatory procedure deal with water, air, land, noise, nuclear waste, environmental protection, mining, ecological impacts, forest habitat, flora and fauna and other developmental issues that impacted the global environment started coming to the NGT. India as a proud nation has become an important country to recognize the new 'Third Generation' Human Rights which includes hygienic state of Environment. By various verdicts NGT has taken lead in interpreting the inter-connectivity between Human Rights and Environmental Rights. The idea of 'Sustainable Development' became an issue of mainstream discussion because of strong assertive judgment given by NGT.

'The Wire' news portal has recently published an article titled as Ecocide by Design? This article narrates reasons as to why the tribunal has not provided with infrastructure, staff or resources for proper functioning.

**NATIONAL GREEN TRIBUNAL**  
Principal Bench, New Delhi  
Receipt & Issue Branch  
Received

**14 NOV 2018**

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The article narrates that Political apathy in allowing the NGT to function as an effective body started from its inception, but the scale and form of it has intensified in the recent past. First, the UPA-II regime took almost three years to set up the zonal benches and provide the necessary resources, infrastructure, courtrooms and staff. This too was possible due to the intervention of the Supreme Court, which directed the Ministry of Environment, Forests and Climate Change to provide all the facilities and amenities to the judicial and expert members. The apathy continued during the NDA regime. Since May 2014, the NGT has not got the staff it required to resolve the mounting number of environmental litigations. Section 4 of the NGT Act 2010 says that the Tribunal shall consist of a full-time Chairperson and not less than ten judicial and ten expert members, but subject to a minimum of 20 full-time Judicial and Expert Members. And unfortunately presently there are only 6 members. So, even the minimum criteria to appoint Judicial and Expert members are not adhered to.

Due to vacancy of judicial and expert members the Chennai, Kolkata, Bhopal and Pune benches of NGT are completely shut from January 3, 2018. Vacancies have allowed powerful parties to shift the matter to other benches for speedy disposal, but have put a lot of pressure on the lesser privileged to convince the Tribunal not to shift the matter.

Thousands of litigations relating to forest diversion without compliance, compensation to pollution victims and farmers, big investment projects like dams, power plants, mining and metro, Statue Constructions, river pollution, tree cutting, Garbage disposal and processing are pending across

the Benches, without hearing due to non appointment of Judicial Members and Expert Members.

In addition to political disinterest to appoint members to the NGT, there have also been attempts to dilute the power and function of NGT. What the establishment fails to realize is that the NGT is not an obstacle to growth and does not reject projects if all the environmental norms are followed. An analysis of NGT orders from 2011-2017 suggests that the NGT is not stopping projects, rather it gives ample opportunity to the industries to take precautionary measures or asks for a review of the environmental impact assessment report. In most cases, industrial owners come back with the changes suggested and get the project approved.

There are open and shut cases in which industries or mining units operating without clearance have been directed to be closed down. But this cannot be labeled as a hindrance to development. These are questions involving issues of environmental violations and we should not take the law for granted but adhere to it. In fact, the NGT has resolved a majority of the cases within six months in comparison to the delay and time taken by the Supreme Court and High Courts in resolving environmental matters. The pending litigation is gone up to 5000 as per the sources.

The NGT has delivered a number of landmark judgments emphasizing the principles of environmental justice, polluter pays, the precautionary principle and inter and intra-generational equity. Though occasional hiccups have been observed in its orders, like in the Art of Living Foundation case, the contribution of the NGT to environmental governance cannot be ignored. Unfortunately, at present under the name of balancing act many projects are given green signal by the NGT without



sufficient scientific scrutiny. There is an observation that in some cases the issue of bio-diversity has become redundant which is a sign of concern.

The NGT needs to be strengthened to its full potential. The presence of a variety of Expert Members and Judicial Members will make the Tribunal an effective body and can create a win-win situation for all stakeholders to address the goal of sustainable development. The Prime Minister's appeal to investors to come to India, promising that there will be a red carpet welcome; will not convince investors if institutions are not strengthened to perform their statutory duties.

The effectiveness of a democratic regime depends on its interest to promote and support institutions that hold the principles of justice – in this case, environmental and social justice, equity and rights of stakeholders including both pollution-affected victims, and investors to assert their rights within the legal framework.

**The team of 'Lawyers for Earth Justice' demand through this letter that-**

- *All NGT Benches in India shall be made functional immediately by appointing sufficient number of Judges (Judicial Members) and Expert Members.*
- *The present system of hearing through Video Conference (V.C) is a temporary solution which shall not be looked into as a permanent option for appointing Judicial Members and Expert Members at NGT.*
- *Considering the specific composition of NGT role of expert member is very unique. We wish to request to have some*

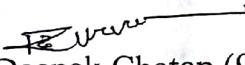

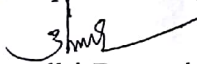

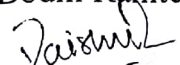
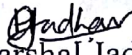

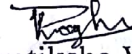
*paragraphs by Expert Members included in final Judgment on substantial issue related to environment in each case.*

- Till the time such temporary Video Conferencing system is in existence please consider listing matters for by easy process.*
- The clients shall not be asked to submit any scanned copies. Specifically for the poor litigants it is economic Burdon. We oppose any process of such extra expenditure which is saddled upon the litigants who are litigating at NGT to secure environmental justice.*

We are aware that administrative decisions can be taken by the Chairperson of NGT but it is authority of the Registrar to inform the Chairperson about such requests related to effective functioning. The group of students is not registered and it is working collectively on ecological-legal issues. For the purpose of any communication contact numbers of some members have been mentioned. Through this application or letter-notice we request you to take due cognizance and inform us about steps taken.

Hope we will be informed immediately of the further action.

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