



**PARLIAMENT OF INDIA
RAJYA SABHA**

203

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON SCIENCE AND TECHNOLOGY,
ENVIRONMENT AND FORESTS**

**TWO HUNDRED AND THIRD REPORT
ON**

THE NATIONAL GREEN TRIBUNAL BILL, 2009

**(PRESENTED TO THE RAJYA SABHA ON 24TH NOVEMBER, 2009)
(LAID ON THE TABLE OF THE LOK SABHA ON 24TH NOVEMBER, 2009)**

**RAJYA SABHA SECRETARIAT
NEW DELHI**

NOVEMBER, 2009/AGRAHAYANA, 1931 (SAKA)



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**COMPOSITION OF THE DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON SCIENCE AND TECHNOLOGY,
ENVIRONMENT AND FORESTS (YEAR 2009)**

1. Dr. T. Subbarami Reddy — *Chairman*

RAJYA SABHA

- **2. Vacant
3. Shri Anil H. Lad
4. Shri Rajiv Pratap Rudy
5. Shri Bhagirathi Majhi
6. Shri Saman Pathak
7. Prof. Ram Gopal Yadav
8. Dr. Ejaz Ali
9. Shri Jabir Husain
10. Dr. Barun Mukherji

LOK SABHA

11. Dr. Mirza Mehboob Beg
12. Shri Udayanraje Bhonsale
13. Shri Ninong Ering
14. Shri A. Ganeshamurthi
15. Shri D.V. Sadananda Gowda
16. Shrimati Kaisar Jahan
17. Dr. Charan Das Mahant
18. Shri Jayaram Pangi
19. Shri C. R. Patil
20. Shrimati Kamla Devi Patle
21. Shri Gajendra Singh Rajukhedi
22. Shri S. S. Ramasubbu
23. Shri Francisco Sardinha
#24. Shri Yashwant Sinha
25. Dr. Rajan Sushant
26. Shri Pradeep Tamta
27. Shri Bibhu Prasad Tarai
28. Shri Mansukhbhai D. Vasava
29. Prof. Ranjan Prasad Yadav
*30. Shri Akhilesh Yadav
31. Vacant

** Prof. Saif-ud-Din Soz ceased to be a Member of the Committee *w.e.f.* 30th October, 2009.

Nominated *w.e.f.* 9th November, 2009.

* Nominated *w.e.f.* 14th October, 2009.

(ii)

SECRETARIAT

Shrimati Agnes Momin George, Joint Secretary

Shri Alok Chatterjee, Director

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Committee Officer

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Science and Technology, Environment and Forests, having been authorized by the Committee to present the Report on its behalf, present this Two Hundred and third Report on The National Green Tribunal Bill, 2009.

2. In the meetings of the Committee held on the 8th, 15th, 26th October and 5th November, 2009 Secretary/representatives of the Ministry of Environment and Forests and various experts/activists in the field of environment tendered oral evidence on the various aspects related to The National Green Tribunal Bill, 2009.

3. The Committee expresses its thanks to the Officers of the Ministry and experts/activists for rendering their valuable views/clarifications sought by the Members of the Committee.

4. In the meeting held on 16th November, 2009 the Committee considered the draft report and adopted the same.

DR. T. SUBBARAMI REDDY

Chairman,

*Department-related Parliamentary Standing
Committee on Science and Technology,
Environment and Forests*

NEW DELHI;

November 16, 2009

REPORT

The Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha in pursuance of Rule 270 (b) of the Rules relating to the Department-related Parliamentary Standing Committees, referred* The National Green Tribunal Bill, 2009 (Annexure-I) as introduced on 31st July, 2009 in Lok Sabha and pending therein, to the Standing Committee on Science and Technology, Environment and Forests for examination and report.

2. The Committee held its first meeting with the representatives of Ministry of Environment and Forests, for a general discussion on the various provisions of the Bill. The Committee also heard the views of eight experts on the subject on 15th and 26th October, 2009 (Names of experts at Annexure-II). The written memoranda containing comments/suggestions on the various provisions of the Bill which were received from five of the experts mentioned above were sent to the Ministry of Environment and Forests for its comments/observations. The Committee adopted the report in its meeting held on 16th November, 2009.

3. Environment has assumed immense importance during the last few years not only because of significant climatic changes that have started manifesting in various forms, but also because of ever-sharpening conflict and contradictions between economic development and conservation and protection of environment. Such conflicts have led to a large number of litigations pending in various courts through out the country.

4. It is in this background, that the need for courts dedicated exclusively to the cause of environment was being felt for long. The Committee had, in its 192 Report on the Functioning of Central Pollution Control Board observed...“it could be very difficult to rein in violators to follow standards and guidelines with the existing judicial and legal setup. Courts are already over-burdened with civil and criminal cases. They could not be expected to spend time to expeditiously take up and dispose off environment related cases. The Committee, therefore, recommends that the Government should setup environmental courts in each and every State and Union Territory to deal exclusively with environmental related matters”.

5. Supreme Court vide its order dated 1st December, 2000 in A.P. Pollution Control Board Vs. M.V. Nayudu, observed — “since most of the statutes dealing with environment are by Parliament, the Law Commission could kindly consider the question of review of the Environmental Laws and the need for constitution of ‘Environmental Courts with experts in Environmental Law, in addition to judicial members in the light of experience in other countries”.

6. Accordingly, the Law Commission in its 186 Report, recommended *inter-alia* setting up of environmental courts having both original and appellate jurisdiction related to environmental laws. This Bill is a step in the direction which aims at establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment.

*Rajya Sabha Parliamentary Bulletin Part II dated the 14th September, 2009.

7. The salient features of the Bill are as under:—

7.1 The Bill proposes a National Green Tribunal, which shall sit at such places as may be notified by the Central Government. The Tribunal shall consist of a full time Chairperson and such other full time Judicial Members and full time Expert Members as the Central Government may from time to time notify. The Expert Members shall be experts in physical and life sciences, engineering and include persons having practical knowledge and administrative experience in environmental matters. Any additional experts, if required, may be invited to assist the tribunal.

7.2 The Chairperson shall be appointed by the Central Government, in consultation with the Chief Justice of the Supreme Court of India. The Judicial Members and Expert Member of the tribunal shall be appointed by the Central Government in the manner prescribed. A person shall not qualify for appointment as Chairperson or Judicial Member of the tribunal unless he is, or has been, a judge of the Supreme Court or Chief Justice of a High Court. The qualifications of Expert Member have also been specified in the Bill.

7.3 Clause 14 of the Bill provides the jurisdiction of the Tribunal to settle disputes. The tribunal shall have jurisdiction over civil cases where a substantial question relating to environment, including enforcement of any legal right relating to environment, is involved. The tribunal shall hear disputes arising out of the environmental laws mentioned in Schedule-I of the Bill. The concept of "substantial question relating to environment" has been defined in the Bill.

7.4 Under Clause-15 of the Bill the Tribunal shall also have the jurisdiction to provide relief, compensation and damage for restitution of the damaged environment. The tribunal shall be competent to provide relief, in addition to what is admissible under the Public Liability Insurance Act, 1991.

7.5 Clause 16 of the Bill provides the Appellate Jurisdiction of the Tribunal. According to the said provisions the Tribunal shall have the appellate jurisdiction against certain orders or decisions or directions under the enactments specified in the Schedule I and III to the Bill.

7.6 In order to ensure access to justice, a provision has been made in Clause 18 of the Bill enabling the Pollution Control Boards or a local authority or any environmental authority to file an application or appeal before the Tribunal, on behalf of the affected person for providing relief with the permission of the Tribunal.

7.7 Clause 19 of the Bill provides that the tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908. It shall not be bound by the procedure laid down by the said Code, but shall be guided by the principles of natural justice.

7.8 Clause 20 of the Bill provides the decision of the Tribunal by majority of members shall be binding. Further, Clause 21 of the Bill provides that every order of the Tribunal shall be final.

7.9 Clause 25 provides for deterrent penalty for non-compliance of the orders/ directions of the Tribunal. Three years term of imprisonment or fine of upto Rs.10 crore has been provided in case of an individual while the maximum fine of Rs.25 crore has been provided if the offence has been committed by a company.

7.10 It has also been provided in Clause 28 of the Bill that no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the tribunal is empowered to determine under its appellate jurisdiction. No injunction shall be granted by any civil court or other authority in respect of any order passed by the tribunal.

7.11 Clause 33 of the Bill provides the Central Government to add or omit, by notification, to the said Schedule I any Act of Parliament, having regard to the objectives of environmental protection and conservation of natural resources.

7.12 The National Environment Tribunal Act, 1995 and the national Environment Appellate Authority Act, 1997, are proposed to be repealed. Notwithstanding such repeal, any thing done under the said Acts shall, be deemed to have been done under the corresponding provisions of the proposed Bill.

8. The Committee in principle welcomes the initiative of the Ministry and makes following observations/recommendations in the context of the Bill:

Observations/Recommendations of the Committee

8.1 The Committee finds that Clause 1(2) of the Bill provides that the National Green Tribunal Act shall come into force on such date or dates as the Central Government may by notification, appoint, and different dates may be appointed for different States.

8.2 When the Committee desired to know the rationale behind such a provision, it was stated that this provision has been taken from National Environment Tribunal Act, 1995. The Committee feels that there is no convincing reason behind such a discretionary provision and, therefore, recommends that this act of far reaching consequences be brought into force in all the States/Union Territories simultaneously.

8.3 Clause 2(1)(m) provides for definition of the terminology – “substantial question relating to environment” which shall include an instance where there is direct violation of statutory environmental obligation by a person by which the community at large other than an *individual or group of individuals* is affected. The Committee enquired from the Ministry as to why is it that even a group of individuals has not been included under the ambit of substantial question relating to environment, particularly, in view of the fact that community is a very vague and broad term? The Ministry contended that the National Green Tribunal is expected to look at major issues of environment. It was further added that as per Clause 14 (1) read with Clause 28 of the Bill, the jurisdiction of civil courts to adjudicate and settle disputes pertaining to the implementation of the acts specified in Schedule 1 has been barred in cases where substantial questions relating to environment is involved and it is in this context that the term has been defined with the reasons given by the Ministry. The Committee feels that there could still be ambiguity in certain cases as to the applicability of concept of substantial question relating to environment which could be decided by the proposed Tribunal and which could also evolve in due course of time by way of judicial interpretation by the higher courts.

8.4 The Committee enquired from the Ministry that the Bill does not specify the number of Judicial and Expert members in the composition of the Tribunal and leaves it to the discretion of the Central Government to decide and notify from time to time. It was informed that the National

Green Tribunal will be a specialized quasi-judicial forum. The settlement of disputes relating to environment is of complex nature. Therefore, a specific cap on the number of Judicial and Expert Members has not been envisaged at this stage. As and when the burden of the cases increases, the Central Government may increase the number of Judicial and Expert Members accordingly. If a fixed number of the Judicial and Expert Members is specified in the Bill, in that event, the strength of the Judicial and Expert Members can be increased only by an amendment in the Act. As per the existing provisions of the Bill, flexibility is available whereby the Central Government may enhance the strength by way of notification.

8.5 The Committee feels that the Ministry of Environment and Forests with such a vast and long experience must have done its ground work to workout the number of environment related cases through out the country and based on that figure should have specified a minimum and maximum number of judicial and expert members that the National Green Tribunal will have in its composition. The Ministry initially contended that it has not fixed the exact number of overall judicial and expert Members at this stage because it is not sure about the quantum and nature of litigations that the National Green Tribunal would handle over a period of time. However, later on, the Ministry gave a rethought over this issue and suggested that they may incorporate the following provision in the Bill:

“The Tribunal shall have not less than 5 and more than 10 judicial members. The expert members shall be not less than 10 and not more than 20.”

8.6 The Committee, however, feels that the suggestion of the Ministry is not very logical and convincing. The Committee fails to understand as to why the number of expert Members of the proposed Tribunal should be double the number of judicial Members. The Committee, therefore, is of the opinion that the number of judicial Members should also be not less than 10 and not more than 20 to have parity with the number of expert Members. It recommends that aforesaid proviso may be included in the Bill at an appropriate place.

8.7 Clause 4(1)(a)(b) and (c) provides for the composition of the Tribunal whereby it is proposed that the Tribunal shall consist of a full-time Chairperson and such number of full-time judicial Members and full time expert members as the Central Government may from time to time notify. With the given composition of the Tribunal it appears that judicial members have been equated with the expert members. This provision, if read with clause 20 of the Bill which says that the decision of the Tribunal by majority of members shall be binding and clause 21 of the Bill which says that every order of the Tribunal under this Act shall be final, appears to be somewhat awkward. The Committee finds that a judicial member who, as provided in clause 5 (1) of the Bill, will be a person who is or has been a judge of the Supreme Court or Chief Justice of a High Court or is or has been a judge of the High Court should not be put at par with the expert members. The Committee, therefore, enquired from the Ministry, as to whether judicial and expert members have been put on equal footing and whether expert members will also have right to vote? The Ministry replied that as per the existing provisions, judicial and expert members have implied equal rights. But to avoid the situation in which 50% of the members take one view and the other 50% of the members take a contrary view and also the situation where the views of expert members may prevail because of their numerical strength, it may be provided — “if

there are differences of opinion among the members hearing a case and the opinions are equally divided, the Chairperson shall have the powers to take a final decision in the matter". The Committee while agreeing to the suggestion of the Ministry also recommends that the Chairperson while constituting a sitting or bench should ensure that the number of expert members in a sitting or bench does not exceed the number of judicial members.

8.8 Clause 4(3) of the Bill provides that the Tribunal shall sit at such place or places as the Central Government may, by notification, specify. The Committee fails to understand as to why in the main body of the Bill, the Ministry has not thought it proper to spell out the number of places where the tribunal shall sit while this number has been specified in the financial memorandum attached with the Bill. When the Committee enquired as to which are those five places where the tribunal would sit and how could those places be selected, the Ministry replied that after the enactment of the proposed National Green Tribunal, the Government proposes to notify the establishment of National Environment Tribunal at five places of sitting initially. It was also informed that these will be located strategically depending upon their accessibility, availability of infrastructure and geographical spread. The Ministry further informed that the locations where tribunal will sit have been kept open to have flexibility and to be decided by the Central Government in accordance with the requirements. The Committee feels that the National Green Tribunal which claims itself to be a mechanism aimed at effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests does not exude much confidence given its infrastructural framework, particularly in view of the geographical vastness of our country. The Committee feels that such a limited spread of National Green Tribunal at five places only may lead to serious constraints of accessibility in the long run, especially to the poor and the tribal people who live in far flung areas of our country. This problem has to be viewed in the light of Clause 14(1), read with Clause 28 whereby the tribunal shall have the exclusive jurisdiction over all civil cases where a substantial question relating to environment is involved. Thus, the poor and the tribal people living in remote areas will be deprived of the opportunity to approach civil courts for redressal of their grievances on substantial question relating to environment. The Ministry has clarified that the Tribunal may undertake a circuit approach for the conduct of its work apart from initial 5 primary places of sitting. This will be in the light of situation being responded to, say in a remote area where the disadvantaged group may have suffered from the environmental adverse impact.

8.9 The Committee is satisfied with the explanation given by the Ministry and recommends that the concept of circuit approach should be clarified in the rules.

8.10 The Committee made repeated efforts to know the overall structure and functioning of the Tribunal that has been envisaged through this Bill — whether there will be a national tribunal, *i.e.* Central Tribunal located at its headquarters with regional tribunals located at five different places; whether there will be a national tribunal, *i.e.* the principal bench with its benches at different places to be known as regional benches; whether the regional benches will have separate set of judicial and expert members; whether the national tribunal *i.e.* the principal bench will have a pool of judicial and expert members which will hold its sittings at different locations based on the number of cases received from there, etc. 10 these searching queries, the Committee was informed that National Green Tribunal is envisaged as a single tier Tribunal which is proposed to sit at 5 places

initially so far as the powers of the Tribunal (primary places of sitting) are concerned, these shall have the same powers irrespective of their location. However, the administrative and financial powers for regulating day-do-day functions are vested with the Chairperson of the Tribunal as provided in Clause 13 of the Bill. Other modalities could be spelt out while framing the rules.

8.11 However, the Committee recommends that geographical jurisdiction of these primary places of sitting of the Tribunal may be defined in the Notification so as to avoid overlap of jurisdiction. The Committee further recommends that while framing rules, provision should be made for the Chairperson of the Tribunal to transfer cases from one place of the sitting to the other in case the need arises.

8.12 The Clause 5(4) of the Bill restricts the Chairperson and other Judicial and Expert Members from accepting any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the proposed Tribunal after they cease to hold office, for a period of one year. The Ministry informed that the restriction on acceptance of employment on the Chairperson, Judicial and Expert Members for accepting any employment has been provided in various statutes. For example, while Section 12 of the Competition Act, 2002, provides a restriction of one year from the date on which the Chairperson or Members cease to hold office, Section 8 of the Insurance Regulatory and Development Authority Act, 1999, provides for bar on future employment of members for a period of two years. It informed further that the Ministry is open to extend this period. The bar on acceptance of employment has been kept to discourage the misuse of position by a Member. At the same time, it has to be ensured that the Judicial and Expert Members may not be put in an unduly disadvantageous position.

8.13 The Committee feels that it would be in the interest of fairness if one year period to bar members of the tribunal from being employed by a company that appeared before them in the tribunal be extended to two years.

8.14 Clause 6(3) of the Bill provides that judicial and expert members of the Tribunal shall be appointed by the Central Government on the recommendations of such selection committee and in such manner as may be prescribed. The Committee enquired from the Ministry as to what would be the composition of the selection committee and who would be its members and what norms would be adopted by the Ministry for selection of members of this committee? The Committee was informed that all this is still to be decided. The composition of the selection committee will be appropriately prescribed under the rules, to ensure transparency and objectivity. **The Committee feels that this is a very important point which needs to be handled carefully and, therefore, recommends that adequate precautions should be taken while framing rules.**

8.15 In the context of Clause 16(e) of the Bill under which National Green Tribunal will have appellate jurisdiction against the orders made by a State or Central Government under the Forest (Conservation) Act, 1980, some experts took objections to this provision in the Bill because it will result in *defacto* dilution of the Forest (Conservation) Act and defeat the very purpose for which the Act was made. They apprised the Committee that presently, when no appeal lies against the rejection of the proposal for diversion of forest land by the Central Government and even the Supreme Court normally does not entertain any appeal against such rejection on the ground that the diversion of forest land is not permissible unless found to be in public interest by the Central

Government, why do we need to open a Pandora Box by allowing appeal through this Bill? Some experts strongly argued in favour of this Clause being retained in the Bill as the Supreme Court which has battled with the Forest (Conservation) Act problems, would be happy and relieved to see that this work has been given to the Tribunal. They were of the view that the Tribunal must have all the powers of enforcement of the Forest (Conservation) Act - The Tribunal must have the power to directly entertain complaints of violations of the Forest (Conservation) Act, it must have the powers to review the decisions of the Governments - State, and Centre and they must also have the power to hear user agency's complaints if they have been wrongly denied permission to work under the Forest (Conservation) Act.

8.16 The Ministry of Environment and Forests are of the view that empowering the National Green Tribunal with this function will result in a refinement of the orders passed under the Forest (Conservation) Act and it will also provide for a forum for grievance redressal. Moreover, the original jurisdiction of the National Green Tribunal under section 14 of the proposed bill will provide a forum for addressing issues like non-compliance with the stipulations of the forest clearances as also enabling the National Green Tribunal to act as a watchdog for acts of omissions in usage of forest land for such purposes.

8.17 The Committee, after weighing the pros and cons of the views, both of the experts as well as of the Ministry, is of the opinion that the appellate jurisdiction of the Tribunal against the Forest (Conservation) Act as provided in Clause 16(e) may be retained.

8.18 The Committee finds that the locus under Clause 18(2)(a) and 18(2)(b) is very limited. It only mentions the person who has sustained injury or is owner of the damaged property. Similarly, Clause 18(2)(e) of the Bill restricts the locus only to any representative body or organisation functioning in the field of environment. The Committee, therefore, is of the view that Clause 18(2)(e) be amended as "any person aggrieved, including any representative body or organisation".

8.19 The Committee was informed that the finality of order of the Tribunal as provided under Clause 21 of this Act takes away the right to appeal of citizens although it has been done with the good intention of bringing out efficiency in the system and for expeditious disposal of cases. Since, the possibility of any institution or authority, making anti-community judgments cannot be totally ruled out and hence citizens must be given an opportunity to go and appeal in the Supreme Court against any order of the Tribunal. The Committee, therefore, recommends that the Ministry may provide an enabling clause for this purpose in this Bill.

8.20 The Clause 28 of the Bill provides that from the date of establishment of the Tribunal, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction. At the same time Clause 29(2) provides that no court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under proposed legislation. The Ministry clarified that Clause 28 of the Bill provides a bar on the Jurisdiction of the Civil Courts to entertain any appeal in respect of the cases which the Tribunal is empowered to determine under its appellate jurisdiction under Clause 16. Similar provision are provided under Section 58 of the Water

(Prevention and Control of Pollution) Act, 1974 and Section 46 of the Air (Prevention and Control of Pollution) Act, 1981. As regards Clause 29(2) of the Bill which provides for cognizance of any offence, meaning thereby an offence related to the non-compliance with the orders of the Tribunal as outlined in Clause 25, the jurisdiction has been conferred on the court of a Metropolitan Magistrate or Judicial Magistrate of the First Class. The two provisions are for different purposes and there is no contradiction between the two clauses. **The Committee is satisfied with the explanation given by the Ministry.**

8.21 India has a strong National legislation in the form of the Wildlife (Protection) Act, 1972, which provides the legal frame work for both '*in-situ*' (National Park/Wildlife Sanctuary) and '*ex-situ*' (zoos) conservation. The various endangered species of Wildlife are scheduled as per their status and accorded protection under the said Act. However, there is a need for protecting the wildlife habitats outside the protected areas and forest lands. The landscapes around protected areas (National Park, Wildlife Sanctuary, Tiger Reserve) are also ecologically significant in the sense they act as wildlife corridors and habitats, which facilitate the movement of wild animals spilling over from the protected areas. The forest areas falling in such landscapes have statutory protection under the Indian Forest Act and Forest (Conservation) Act. However, there is no statutory protection to wildlife habitats which do not have the status of forest land or protected area. This has led to depletion of wildlife on account of habitat shrinkage, at times leading to severe man-wildlife conflicts as well. It is in this background that the Committee enquired from the Ministry whether wildlife could be added to the definition of environment [Clause 2(1) (C)] and Wildlife (Protection) Act, 1972 to Clause 2(2) and Schedule I of the Bill. To this the Ministry replied that the existing definition of environment is borrowed from the definition provided in the Environment (Protection) Act, 1986 is a very comprehensive one which *inter-alia* includes other living creatures, plants, and micro organisms and their inter-relationship with water, air and land. With regard to the addition of Wildlife (Protection) Act, 1972 in the Schedule I to the Bill, the Ministry stated that the tribunal has been consciously provided with a jurisdiction limited to cases of civil nature because criminal adjudication requires a hierarchy of courts and the tribunal system does not fit into the architecture of criminal courts. Most of the violations of the Wildlife Act, 1972 are criminal offences and the Act has specific chapters incorporating provisions for prosecution and trial, seizure and confiscation and the creation of the Wildlife Crime Control Bureau. That is why, Wildlife Act, 1972 has not been kept under the purview of this Bill.

8.22 **The Committee understands that the National Green Tribunal aims at disposal of cases of civil nature relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and not of criminal nature. The Committee, therefore, agrees to the contention of the Ministry.**

8.23 The Committee was informed that the Bill does not mention any contempt powers vested in the Tribunal. Although such powers belong to court of records, it can be given directly as a statutory power. This power is also given to courts under Order 39 2.A. **The Committee, therefore, recommends that contempt of court powers should be given to the National Green Tribunal to enforce their decisions and insertion to this effect may be made in the Bill at appropriate place.**

8.24 The Committee finds that the power to amend Schedule I by including therein any other Act enacted by Parliament having regard to the objective of environmental protection and conservation of natural resources or omitting therefrom any Act already specified therein has been vested in the Central Government *vide* Clause 33(1) of the Bill. And this is to be effected only by a notification issued to that effect. The Committee feels that such an overriding power being vested in the Ministry undermines the supremacy of Parliament. The Committee, therefore, recommends that addition to or deletion of any Act to Schedule I of the Bill may be done only by way of amendment passed by the Parliament and not by the notification, as provided in the Bill as of now. The Committee, therefore, also recommends that Clause 33 (1) of the Bill may accordingly be amended.

8.25 The Committee has been informed that there are certain cardinal principles for good practice standards laid down by Supreme Court through various landmark judgments for protection of environment and conservation of forest and that these principles are supposed to be part of law of the land and form basis in formulation of policies, regulations, enactments, etc. The Committee finds that these principles do not find any mention in the Bill. The Committee, therefore, recommends that the 'principles of sustainable development', 'precautionary principle' and 'polluter pays principle' should be reflected in the Bill at a suitable place. Similarly, the 'principle of no fault liability' in case of an accident as defined in Section 2(1)(a) can also be incorporated at an appropriate place in the Bill.

ANNEXURE

ANNEXURE-I

31 JULY, 2009

AS INTRODUCED IN LOK SABHA

Bill No. 63 of 2009

THE NATIONAL GREEN TRIBUNAL BILL, 2009

ARRANGEMENTS OF CLAUSES

CHAPTER-I

PRELIMINARY

CLAUSES

1. Short title and commencement.
2. Definitions.

CHAPTER-II

ESTABLISHMENT OF THE TRIBUNAL

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4. Composition of Tribunal.
5. Qualifications for appointment of Chairperson, Judicial Member and Expert Member.
6. Appointment of Chairperson, Judicial Member and Expert Member.
7. Term of office and other conditions of service of Chairperson, Judicial Member and Expert Member.
8. Resignation.
9. Salaries, allowances and other terms and conditions of service.
10. Removal and suspension of Chairperson, Judicial Member and Expert Member
11. To act as Chairperson of Tribunal or to discharge his functions in certain circumstances.
12. Staff of Tribunal.
13. Financial and administrative powers of Chairperson.

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JURISDICTION, POWERS AND PROCEEDINGS OF THE TRIBUNAL

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15. Relief, compensation and restitution.
16. Tribunal to have appellate jurisdiction.
17. Liability to pay relief or compensation in certain cases.
18. Application or appeal to Tribunal.
19. Procedure and powers of Tribunal.
20. Decision to be taken by majority.
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24. Execution of award or order of Tribunal.

CHAPTER-IV

PENALTY

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26. Offences by companies.
27. Offences by Government Department.

CHAPTER-V

MISCELLANEOUS

28. Bar of jurisdiction.
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30. Members and staff of Tribunal to be public servants.
31. Protection of action taken in good faith.
32. Act to have overriding effect.
33. Power to amend Schedule I.
34. Power to make rules.
35. Amendment of certain enactments.
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SCHEDULE-I.

SCHEDULE-II.

SCHEDULE-III.

AS INTRODUCED IN THE LOK SABHA

Bill No. 63 of 2009

THE NATIONAL GREEN TRIBUNAL BILL, 2009

A

BILL

to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

AND WHEREAS India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment;

AND WHEREAS decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, calling upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage;

AND WHEREAS in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution;

AND WHEREAS it is considered expedient to implement the decisions taken at the aforesaid conferences and to have a National Green Tribunal in view of the involvement of multi disciplinary issues relating to the environment.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

CHAPTER-I

PRELIMINARY

Short title and
commencement.

1. (1) This Act may be called the National Green Tribunal Act, 2009.

(2) It shall come into force on such date or dates as the Central Government may, by notification, appoint, and different dates may be appointed for different States and any reference in any provision of this Act to the commencement of this Act shall be construed in relation to any State or part thereof as a reference to the coming into force of that provision in that State or part thereof.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “accident” means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance or equipment, or plant, or vehicle resulting in continuous or intermittent or repeated exposure to death, of, or, injury to, any person or damage to any property or environment but does not include an accident by reason only of war or civil disturbance;

(b) “Chairperson” means the Chairperson of the National Green Tribunal;

(c) “environment” includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;

(d) “Expert Member” means a member of the Tribunal who is appointed as such holds qualifications specified in sub-section (2) of section 5 and is not a Judicial Member;

(e) “landling” in relation to any hazardous substance means the manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

29 of 1986.

6 of 1991.

(f) "hazardous substance" means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986, and exceeding such quantity as specified or may be specified by the Central Government under the Public Liability Insurance Act, 1991;

(g) "injury" includes permanent, partial or total disablement or sickness resulting out of an accident;

(h) "Judicial Member" means a member of the Tribunal who is qualified to be appointed as such under sub-section (1) of section 5 and includes the Chairperson;

(i) "notification" means a notification published in the Official Gazette;

(j) "person" includes—

(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) trustee of a trust,

(vii) a local authority, and

(viii) every artificial juridical person, not falling within any of the preceding sub-clauses;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Schedule" means Schedules I, II and III appended to this Act;

(m) "substantial question relating to environment" shall include an instance where,—

(i) 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;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;

(n) "Tribunal" means the National Green Tribunal established under section 3;

(o) "workman" has the meaning assigned to it in the Workmen's Compensation Act, 1923.

8 of 1923.

(2) The words and expressions used in this Act but not defined herein and defined in 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 and the Biological Diversity Act, 2002 and other Acts relating to environment shall have the meaning, respectively, assigned to them in those Acts.

6 of 1974.

36 of 1977.

69 of 1980.

14 of 1981.

29 of 1986.

6 of 1991.

18 of 2003.

CHAPTER-II

ESTABLISHMENT OF THE TRIBUNAL

Establishment
of Tribunal.

3. The Central Government shall, by notification, establish with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

Composition
of Tribunal.

4. (1) The Tribunal shall consist of—

(a) a full time Chairperson;

(b) such number of full time Judicial Members as the Central Government may, from time to time, notify;

(c) such number of full time Expert Members, as the Central Government may, from time to time notify.

(2) The Chairperson of the Tribunal, if considered necessary, invite any one or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

(3) The Tribunal shall sit at such place or places, as the Central Government may, by notification, specify.

(4) The Central Government may, in consultation with the Chairperson of the Tribunal, make rule regulating generally the practices and procedure of the Tribunal including—

(a) rules as to the persons who shall be entitled to appear before the Tribunal;

(b) rules as to the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals;

(c) the minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals.

5. (1) 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:

Qualifications
for appointment
of Chairperson,
Judicial Member
and Expert
Member.

Provided that a person who is or has been a judge of the High Court shall also be qualified to be appointed as a judicial member.

(2) A person shall not be qualified for appointment as an Expert Member, unless he,—

(a) has a degree in Master of Science (in 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

(b) has administrative experience of fifteen years including 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.

(3) The Chairperson, Judicial Member and Expert Member of the Tribunal shall not hold any other office during their tenure as such.

(4) The Chairperson and other Judicial and Expert Members shall not, for a period of one year from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956.

1 of 1956.

Appointment
of
Chairperson,
Judicial
Member and
Expert
Member.

6. (1) Subject to the provisions of section 5, the Chairperson, Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government.

(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 such Selection Committee and in such manner as may be prescribed.

Term of office
and other
conditions of
service of
Chairperson,
Judicial Member
and Expert
Member.

7. The Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment:

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of seventy years.

Provided further that in case a person, who is or has been the Chief Justice of a High Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years.

Provided also that in case a person, who is or has been a Judge of a High Court, has been appointed as Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that no Expert Member shall hold office after he has attained the age of sixty-five years.

Resignation.

8. The Chairperson, Judicial Member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office.

Salaries,
allowances and
other terms
and conditions
of service.

9. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Judicial Member and Expert Member shall be varied to their disadvantage after their appointment.

10. (1) The Central Government may, in consultation with the Chief Justice of India, remove from office of the Chairperson or Judicial Member of the Tribunal, who,—

Removal and suspension of Chairperson, Judicial Member and Expert Member.

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (c) has become physically or mentally incapable; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central Government after an inquiry made by a Judge of the Supreme Court in which such Chairperson or Judicial Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or Judicial Member in respect of whom a reference of conducting an inquiry has been made to the Judge of the Supreme Court under sub-section (2), until the Central Government passes an order on receipt of the report of inquiry made by the Judge of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

(5) The Expert Member may be removed from his office by an order of the Central Government on the grounds specified in sub-section (1) and in accordance with the procedure as may be notified by the Central Government:

Provided that the Expert Member shall not be removed unless he has been given an opportunity of being heard in the matter.

11. In the event of the occurrence of any vacancy in the office of the Chairperson of the Tribunal, by reason of his death, resignation or otherwise, such Judicial Member of the Tribunal as the Central Government may, by notification, authorised in this behalf, shall act as the Chairperson until the date on which a new Chairperson is appointed in accordance with the provisions of this Act.

To act as Chairperson of Tribunal or to discharge his functions in certain circumstances.

Staff of
Tribunal.

12. (1) The Central Government shall determine the nature and categories of the officers and other employees required assist the Tribunal in the discharge of its functions.

(2) The recruitment of the officers and other employees of the Tribunal shall be made by the Chairperson in such manner as may be prescribed.

(3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(4) The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

Financial and
administrative
powers of
Chairperson.

13. The Chairperson of the Tribunal shall exercise such financial and administrative powers as may be vested in him under the rules made by the Central Government:

Provided that the Chairperson may delegate such of his financial and administrative powers, as he may think fit, to any Judicial Member or Expert Member or officer of the Tribunal subject to the condition that the Member or such officer, while exercising such delegated power, continues to act under the direction, control, and supervision of the Chairperson.

CHAPTER III

JURISDICTION, POWERS AND PROCEEDINGS OF THE TRIBUNAL

Tribunal to
settle
disputes.

14. (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

15. (1) The Tribunal may, by an order, provide,—

Relief,
compensation
and restitution.

(a) relief and compensation to the, victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) for restitution of property damaged;

(c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991.

6 of 1991.

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment divide the compensation payable under separate heads specified in Schedule II so as to provide relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, relief received from, any other court or authority.

16. Any person aggrieved by,—

Tribunal to
have appellate
jurisdiction.

(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2009, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974.

(b) an order passed, on or after the commencement of the National Green Tribunal Act, 2009, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974.

(c) directions issued, on or after the commencement of the National Green Tribunal Act, 2009, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974.

(d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2009, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977;

36 of 1977.

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2009, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980;

69 of 1980.

(f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2009, of the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981;

14 of 1981.

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2009, under section 5 of the Environment (Protection) Act, 1986;

29 of 1986.

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2009, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safe guards under the Environment (Protection) Act, 1986;

29 of 1986.

(i) an order made, on or after the commencement of the National Green Tribunal Act, 2009, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986;

29 of 1986.

(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2009, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002,

18 of 2003.

may, within a period of thirty days from the date on which the order or decision or direction is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

17. (1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment mentioned in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the Heads specified in Schedule II, as may be determined by the Tribunal.

Liability to pay relief or compensation in certain cases.

(2) If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operation and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis.

18. (1) Each application under sections 14 and 15 or an appeal under section 16 shall be made to the Tribunal in such form, contain such particulars and shall be accompanied by such documents and such fees as may be prescribed.

Application of appeal to Tribunal.

(2) Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by—

- (a) the person, who has sustained the injury; or
- (b) the owner of the property to which the damage has been caused; or
- (c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or
- (d) any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or
- (e) any representative body or organisation functioning in the field of environment, with permission of the Tribunal; or
- (f) the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 or any other law for the time being in force, with the permission of the Tribunal:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application:

Provided further that the person, the owner, the legal representative, agent, representative body or organisation shall not be entitled to make an application for grant of relief or compensation or settlement of dispute if such person, the owner, the legal representative, agent, representative body or organisation have preferred an appeal under section 16.

(3) The application, or as the case may be, the appeal filed before the Tribunal under this Act shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of filing of the application, or as the case may be, the appeal, after providing the parties concerned an opportunity to be heard.

Procedure and
powers of
Tribunal.

19. (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

5 of 1908.

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.

1 of 1872.

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding its *ex parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;

(j) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;

(k) any other matter which may be prescribed.

45 of 1860.

(5) All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

20. The decision of the Tribunal by majority of members shall be binding.

Decision to be taken by Majority.

21. Every order of the Tribunal under this Act shall be final.

Finality of order.

22. (1) While disposing of an application or an appeal under this Act the Tribunal shall have power to make such order as to costs as it may consider necessary.

Cost.

(2) Where the Tribunal holds that a claim is not maintainable, or is false or vexatious, and such claim is disallowed, in whole or part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.

23. (1) Where any amount by way of compensation or relief is ordered to be paid under any award or order made by the Tribunal on the ground of any damage to environment, that amount shall be remitted to the authority specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991 for being credited to the Environmental Relief Fund established under that section.

Deposit of amount payable for damage to environment.

6 of 1991.

(2) The amount of compensation or relief credited to the Environmental Relief Fund under sub-section (1), may, notwithstanding anything contained in the Public Liability Insurance Act, 1991, be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed.

6 of 1991.

Execution of
award or
order of
Tribunal.

24. (1) An award or order or decision of the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order or award made by it to a civil court having local jurisdiction and such civil court shall execute the order or award as if it were a decree made by that court.

(3) Where the person responsible, for death of, or injury to any person or damage to any property and environment, against whom the award or order is made by the Tribunal, fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint, for prosecution for an offence under this Act or any other law for the time being in force shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.

CHAPTER-IV

PENALTY

Penalty for
failure to
comply with
orders of
Tribunal.

25. (1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:

Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

2 of 1974.

Offences by
companies.

26. (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by the company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

27. (1) Where any Department of the Government fails to comply with any order or on award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Offences by
Government
Department.

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER-V

MISCELLANEOUS

28. (1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

Bar of
Jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment which may be adjudicated upon by the Tribunal; and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment shall be granted by the civil court.

Cognizance of offences.

29. (1) No court shall take cognizance of any offence under this Act except on a complaint made by—

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in such manner as may be prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

(2) No court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Members and staff of Tribunal to be public servants.

30. The Chairperson, the Judicial and Expert Members, officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

31. (1) No suit or other legal proceeding shall lie against the employees of the Central Government or a State Government or any statutory authority, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the Chairperson or, Judicial Member or Expert Members of the Tribunal or any other person authorised by the Chairperson or Judicial Member or the Expert Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Act to have overriding effect.

32. The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to amend Schedule I.

33. (1) The Central Government may, by notification, amend the Schedule by including therein any other Act, enacted by Parliament having regard to the objective of environmental protection and

conservation of natural resources. or omitting therefrom any Act already specified therein and on the date of publication of such notification, such Act shall be deemed to be included in or, as the case may be, omitted from the Schedule I.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

34. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) rules as to the persons who shall be entitled to appear before the Tribunal under clause (a) of sub-section (4) of section 4;

(b) the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals under clause (b) of sub-section (4) section 4;

(c) the minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals under clause (c) of sub-section (4) of section 4;

(d) such selection committee and the manner of appointment of the Judicial Member and Expert Member of the Tribunal under sub-section (3) of section 6;

(e) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) or, the Chairperson, Judicial Member and Expert Member of the Tribunal under section 9;

(f) the procedure for inquiry of the charges against the Chairperson or Judicial Member of the Tribunal under sub-section (4) of section 10;

(g) the recruitment of officers and other employees of the Tribunal under sub-section (2) section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (4) of that section;

(h) the financial and administrative powers to be exercised by the Chairperson of the Tribunal under section 13;

(i) the form of application or appeal, the particulars which it shall contain and the documents to be accompanied by and the fees payable under sub-section (1) of section 18;

(j) any such matter in respect of which the Tribunal shall have powers of a civil court under clause (k) of sub-section (4) of section 19;

(k) the manner and the purposes for which the amount of compensation or relief credited to the Environment Relief Fund shall be utilised under sub-section (2) of section 23;

(l) the manner of giving notice to make a complaint under clause (b) of sub-section (1) of section 29;

(m) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the-session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Amendment of
certain
enactments.

35. The enactments specified in the Schedule III to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Tribunal.

Power to
remove
difficulties.

36. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

27 of 1995.
22 of 1997.

37. (1) The National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997 are hereby repealed (hereinafter referred to as the repealed Act).

Repeal and
Savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act.

22 of 1997.

(3) The National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997, shall, on the establishment of the National Green Tribunal under the National Green Tribunal Act, 2009, stand dissolved.

22 of 1997.

(4) On the dissolution of the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997, the persons appointed as the Chairperson, Vice-chairperson and every other person appointed as Member of the said National Environment Appellate Authority and holding office as such immediately before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2009, shall vacate their respective offices and no such Chairperson, Vice-Chairperson and every other person appointed as Member shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

22 of 1997.

(5) All cases pending before the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997 on or before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2009, shall, on such establishment, stand transferred to the said National Green Tribunal and the National Green Tribunal shall dispose of such cases as if they were cases filed under that Act.

(6) The officers or other employees who have been, immediately before the dissolution of the National Environment Appellate Authority appointed on deputation basis to the National Environment Appellate Authority, shall, on such dissolution, stand reverted to their parent cadre, Ministry or Department, as the case may be.

(7) On the dissolution of the National Environment Appellate Authority, the officers and other employees appointed on contract basis under the National Environment Appellate Authority and holding office as such immediately before such dissolution, shall vacate their

respective offices and such officers and other employees shall be entitled to claim compensation for three months' pay and allowances or pay and allowances for the remaining period of service, whichever is less, for the premature termination of term of their office under their contract of service.

(8) The mention of the particular matters referred to in subsections (2) to (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

SCHEDULE-I

[See sections 14 (I), 15(I) 17(I), 17(2), 19(4)(j) and 33(I)]

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance, Act, 1991;
7. The Biological Diversity Act, 2002.

SCHEDULE-II

[See sections 15(4) and 17(1)]

HEADS UNDER COMPENSATION OR RELIEF FOR DAMAGE MAY BE CLAIMED

- (a) Death;
- (b) Permanent, temporary, total or partial disability or other injury or sickness;
- (c) Loss of wages due to total or partial disability or permanent or temporary disability;
- (d) Medical expenses incurred for treatment of injuries or sickness;
- (e) Damages to private property;
- (f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;
- (g) Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;
- (h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;
- (i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;
- (j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;
- (k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;
- (l) Loss and destruction of any property other than private property;
- (m) Loss of business or employment or both;
- (n) Any other claim arising out of, or connected with, any activity of handling of hazardous substance.

SCHEDULE-III

(See section 35)

AMENDMENT TO CERTAIN ENACTMENTS

PART I

AMENDMENT TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

(6 OF 1974)

After section 33A, the following section shall be inserted, namely:—

Insertion of
new section
33B.

“33B. Any person aggrieved by,—

Appeal to
National
Green
Tribunal.

(a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2009; or

(b) an order passed by the State Government under section 29, on or after the commencement of the National Green Tribunal Act, 2009; or

(c) directions issued under section 33A by a Board, on or after the commencement of the National Green Tribunal Act, 2009,

may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2009, in accordance with the provisions of that Act.”.

PART II

AMENDMENTS TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1977

(36 OF 1977)

1. In section 13; in sub-section (4), for the words “shall be final”, the words, figures and letters “shall, if no appeal has been filed under section 13A, be final” shall be substituted.

Amendment
of section 13.

2. After section 13, the following section shall be inserted, namely:—

Insertion of
new section
13A.

Appeal to
National
Green
Tribunal.

“13A. Any person aggrieved, by an order or decision of the appellate authority made under section 13, on or after the commencement of the National Green Tribunal Act, 2009, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2009, in accordance with the provisions of that Act.”.

PART III

AMENDMENT TO THE FOREST (CONSERVATION) ACT, 1980

(69 OF 1980)

Insertion of
new section
2A.

After section 2, the following section shall be inserted, namely:—

Appeal to
National
Green
Tribunal.

“2A. Any person aggrieved, by an order or decision of the State Government or other authority made under section 2, on or after the commencement of the National Green Tribunal Act, 2009, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2009, in accordance with the provisions of that Act.”.

PART IV

AMENDMENT TO THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

(14 OF 1981)

Insertion of
new section
31B.

After section 31A, the following section shall be inserted, namely:—

Appeal to
National
Green
Tribunal.

“31B. Any person aggrieved by an order or decision of the Appellate Authority under section 31, made on or after the commencement of the National Green Tribunal Act, 2009, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2009, in accordance with the provisions of that Act.”.

PART V

AMENDMENT TO THE ENVIRONMENT (PROTECTION) ACT, 1986

(29 OF 1986)

Insertion of
new section
5A.

After section 5, the following section shall be inserted, namely:—

“5A. Any person aggrieved by any directions issued under section 5, on or after the commencement of the National Green Tribunal Act, 2009, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2009, in accordance with the provisions of that Act.”.

Appeal to
National
Green
Tribunal.

PART VI

AMENDMENTS TO THE BIOLOGICAL DIVERSITY ACT, 2002

(18 OF 2003)

1. In section 52, after the proviso, the following provisos shall be inserted, namely:—

Amendment
of section 52.

“Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2009:

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2009, shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under section 3 of the National Green Tribunal Act, 2009.”.

2. After section 52, the following section shall be inserted, namely:—

Insertion of
new section
52 A.

“52A. Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, on or after the commencement of the National Green Tribunal Act, 2009, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2009, in accordance with the provisions of that Act.”.

Appeal to
National
Green
Tribunal.

STATEMENT OF OBJECTS AND REASONS

The rapid expansion in industrial, infrastructure and transportation sectors and increasing urbanisation in recent years have given rise to new pressures on our natural resources and environment. There is a commensurate increase in environment related litigation pending in various courts and other authorities. The risk to human health and environment arising out of hazardous activities has also become a matter of concern.

2. India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take, appropriate steps for the protection and improvement of the human environment. The United Nations Conference on Environment and Development held at *Rio de Janeiro* in June, 1992, in which India participated, has also called upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy, and to develop National laws regarding liability and compensation for the victims of pollution and other environmental damage.

3. The right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution in the judicial pronouncement in India.

4. The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of its jurisdiction.

5. Taking into account the large number of environmental cases pending in higher courts and the involvement of multidisciplinary issues in such cases, the Supreme Court requested the Law Commission of India

to consider the need for constitution of specialised environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to environmental laws.

6. In view of the foregoing paragraphs, a need has been felt to establish a specialised tribunal to handle the multidisciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment.

7. Accordingly, it has been decided to introduce the National Green Tribunal Bill, 2009 which *inter alia* provide:-

(a) for establishment of the National Green Tribunal which shall consist of a Chairperson and such number of Judicial and Expert Members as the Central Government may notify;

(b) that a person who is or has been a Judge of the Supreme Court or a Chief Justice of a High Court shall be eligible for appointment as the Chairperson or Judicial Member of the Tribunal;

(c) that a person who is or has been a Judge of a High Court shall also be eligible for appointment as a Judicial Member;

(d) that a person who is either an expert in physical sciences or life sciences or engineering, or who has administrative experience in dealing with environmental matters shall be qualified for appointment as an Expert Member;

(e) that the Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in the Schedule I to the Bill and to grant relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I to the Bill and to hear appeals under certain enactments specified in the Schedule III to the Bill;

(f) The repeal of the 'National Environmental Tribunal Act, 1995' and the 'National Environment Appellate Authority Act, 1997'.

8. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;

The 29th July, 2009.

JAIRAM RAMESH.

**PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA**

[Copy of letter F. No. 1 (18)/2003-PL dated the 29th July, 2009 from
Shri Jairam Ramesh, Minister of State for Environment and Forests to the
Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed
National Green Tribunal Bill, 2009, recommends the introduction
and consideration of the Bill in Lok Sabha under clauses (1) and (3) of
article 117 of the Constitution.

NOTES ON CLAUSES

Clause 2.—This clause defines various expressions used in the Bill. It *inter alia* defines expressions “accident”, “Chairperson”, “environment”, “Expert Member”, “hazardous substance”, “injury”, “Judicial Member”, “person”, “substantial question relating to environment”, “Tribunal” and “workman” used in the Bill.

Clause 3.—This clause provides for the establishment of a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under the proposed legislation.

Clause 4.—This clause specifies the composition of the Tribunal. The Tribunal shall consist of a full-time Chairperson, such number of full time Judicial Members and Expert Members as the Central Government may, from time to time, notify. Sub-clause (2) provides that the Chairperson of the Tribunal may, if considered necessary, invite anyone or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case. Sub-clause (3) provides that the Tribunal shall sit at such place or places as the Central Government may, by notification, specify. Sub-clause (4) empowers the Central Government to make rules in consultation with the Chairperson of the Tribunal regulating generally the practices and procedure of the Tribunal including rules as to the persons who shall be entitled to appear before the Tribunal, the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals, and the minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals.

Clause 5.—This clause 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 had been a Judge of High Court shall also be qualified to be appointed as a Judicial Member and a person shall not be qualified for 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. Sub-clause (3) provides that no Chairperson, Judicial Member and Expert Member shall hold any other office during his tenure. Sub-clause (4) restricts the member from accepting any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this Act after they cease to hold office, for a period of one year.

Clause 6.—This clause provides for manner of appointment of the Chairperson, Judicial Member and Expert Member. It provides that the Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India and the Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of the Selection Committee in such manner as may be prescribed.

Clause 7.—This clause provides that the Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment. It also provides Expert Members of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment. It also provides that if a person who is or has been a Judge of the Supreme Court is appointed as the Chairperson, he shall hold office as such till he attains the age of seventy years, and in case a person who is or has been Chief Justice of a High Court is appointed as the Chairperson or Judicial Member, he shall hold office as such till the age of sixty-seven years. In case a person who is or has been a Judge of a High Court is appointed as a Judicial Member, he shall hold office as such till the age of sixty-seven years. The Expert Member shall not hold office after he has attained the age of sixty five years.

Clause 8.—This clause makes provision for resignation by the Chairperson, Judicial Member and Expert Member. It provides that the Chairperson, Judicial Member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office.

Clause 9.—This clause provides that salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal shall be such as may be prescribed. It also provides that the salary and allowances or the other

terms and conditions of service of the Chairperson, Judicial Member and Expert Member shall not be varied to their disadvantage after their appointment.

Clause 10.—This clause lays down the provisions for removal and suspension of Chairperson, Judicial Member and expert Member. Sub-clause (1) provides that the Central Government may, in consultation with the Chief Justice of India, remove from office of the Chairperson or Judicial Member of the Tribunal, who, has been adjudged an insolvent; or has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or has become physically or mentally incapable; or has acquired such financial or other interest as is likely to affect prejudicially his functions; or has so abused his position as to render his continuance in office prejudicial to the public interest. It further provides that Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central Government after an inquiry made by a Judge of the Supreme Court in which such Chairperson or Judicial Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. It also empowers the Central Government to suspend the Chairperson or Judicial Member in respect of whom a reference of conducting an inquiry has been made. It also empowers the Central Government to regulate the procedure for inquiry referred to in sub-clause (2) thereof. It also provides that the Expert Member may be removed from his office by an order of the Central Government on the grounds specified in sub-section (1) after providing him an opportunity of being heard in the matter in accordance with the procedure as may be notified by the Central Government.

Clause 11.—This clause empowers the Central Government to authorise any Judicial Member of the Tribunal to act as the Chairperson in the event of the occurrence of any vacancy in the office of the Chairperson of the Tribunal by reason of his death, resignation or otherwise.

Clause 12.—This clause empowers the Central Government to appoint such officers and other employees as may be necessary for efficient functioning of the Tribunal under the proposed legislation. It also provides that the officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson of the Tribunal. The Central Government is also empowered to make rules providing for laying down the detailed terms and other conditions of service of its officers and employees.

Clause 13.—This clause empowers the Chairperson of the Tribunal to exercise such financial and administrative powers as may be vested in

him under the rules made by the Central Government. It further empowers the Chairperson to delegate such of his financial and administrative powers, as he may think fit, to any Judicial Member or Expert Member or officer of the Tribunal subject to the condition that the Member or such officer, while exercising such delegated power, continues to act under the direction, control and supervision of the Chairperson.

Clause 14.—This clause confers on the Tribunal, the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I to the Bill. It further provides a time-limit of six months within which the applications for adjudication of dispute under this section shall be entertained by the Tribunal. It also empowers the Tribunal to allow such applications to be filed within a further period not exceeding sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period.

Clause 15.—This clause empowers the Tribunal to provide for the relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance), or for restitution of property damaged; or for restitution of the environment for such area or areas. Sub-clause (2) provides that the relief and compensation and restitution of property and environment referred to in sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991. Sub-clause (3) provides a time-limit of five years within which the applications for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal. It also empowers the Tribunal to allow such applications to be filed within a further period not exceeding sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period. Sub-clause (4) provides that the Tribunal may, having regard to the damage to public health, property and environment, divide the compensation payable under separate heads mentioned in Schedule II so as to provide relief to the claimants and for restitution of the damaged property or environment, as it may think fit. Sub-clause (5) imposes a duty on claimant to the Tribunal intimate about the application filed to, or, as the case may be, relief received from, any other court or authority.

Clause 16.—This clause confers upon the Tribunal the appellate jurisdiction against certain orders or decisions or directions under 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 and the Biological Diversity Act, 2002, as specified in the aforesaid clause and Schedule III to the Bill.

It further provides a time-limit of thirty days within which the appeals may be filed before the Tribunal. It also empowers the Tribunal to allow such appeals to be filed within a further period not exceeding sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period.

Clause 17.—This clause makes provision relating to liability to pay relief or compensation in certain cases. It provides that the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II to the Bill, as may be determined by the Tribunal in case where death or injury to any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment mentioned in Schedule I to the Bill. It further empowers the Tribunal that in cases where such death or injury or damage cannot be attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operation and processes, the Tribunal may, apportion the liability for compensation amongst those responsible for such activities, operations and processes on an equitable basis.

Clause 18.—This clause provides that each application under clauses 14 and 15 or appeal under clause 16 made to the Tribunal shall be in such form contain such particulars and shall be accompanied by such documents and such fees as may be prescribed. It further provides that an application for grant of relief or compensation or settlement of dispute may, without prejudice to the provisions contained in clause 16 of the Bill be made to the Tribunal by certain persons specified in said clause 18 or by the Central Government or a State Government or a Union Territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a Local Authority or any environmental authority constituted or established under the Environment Protection Act, 1986 or any other law for the time being in force, with the permission of the Tribunal.

It also provides that application and appeals shall be dealt with by the Tribunal as expeditiously as possible and endeavour shall be made to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of its filing, after providing the parties concerned an opportunity to be heard.

Clause 19.—This clause lays down the procedure and powers of the Tribunal. It provides that the Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice. It further provides that subject to the provisions of the Bill, the Tribunal shall have power to regulate its own procedure. It also provides that the Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872 and for the purposes of discharging its functions under the proposed legislation, the Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the matters enumerated in sub-clause (4). It also provides all proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code and that the Tribunal shall be deemed to be a civil court for the purposes of sections 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Clause 20.—This clause provides that the decision of the Tribunal taken by majority of members shall be binding.

Clause 21.—This clause provides finality of the order of the Tribunal made under the Bill.

Clause 22.—This clause empowers the Tribunal to make an order for costs as it may consider necessary. It provides that where the Tribunal holds that a claim is not maintainable or is false or vexatious, and such claim is disallowed, in whole or part, the Tribunal may, if so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.

Clause 23.—This clause provides that where any amount by way of compensation or relief is ordered to be paid under any award or order made by the Tribunal on the ground of any damage to environment, that amount shall be remitted to the authority specified under sub-section (3) of section 7 A of the Public Liability Insurance Act, 1991 and shall be credited to the Environmental Relief Fund established under that section and such amount may, notwithstanding anything contained in the Public Liability Insurance Act, 1991, be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed.

Clause 24.—This clause lays down the procedure for execution of a ward or order of the Tribunal. It provides that an award or order or decision of the Tribunal shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court. It further empowers the Tribunal that it may

transmit the award or order to the civil court having jurisdiction over the area in which the environmental damage or accident has occurred, and shall execute the order as if it were made by that court. It also provides that if a person fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint for prosecution for an offence under the proposed legislation or any other law for the time being in force shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.

Clause 25.—This clause provides for penalty for failure to comply with the orders of the Tribunal. It provides that whoever, fails to comply with any order or award or decision of the Tribunal, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

It further provides that in case a company, fails to comply with any order or award or decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

It also provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under the Bill shall be deemed to be non-cognizable within the meaning of the said Code.

Clause 26.—This clause contains provisions relating to offences by companies. It provides that where any offence under the proposed legislation has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. It further provides that if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence, he shall not be liable to any punishment. It also provides that if any offence has been committed by company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer

of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Clause 27.—This clause contains provision relating to offences by the Government Departments. It provides that where any Department of the Government fails to comply with any order or award or decision of the Tribunal the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under proposed legislation and punished accordingly. It further provides that if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence, he shall not be liable to any punishment.

It also provides that if any offence has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Clause 28.—This clause provides bar of jurisdiction on civil courts. It provides that from the date of establishment of the Tribunal, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

It further provides that no civil court shall have jurisdiction to settle or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment which may be adjudicated upon by the Tribunal and no injunction in respect of any action taken or to be taken by or before the Tribunal shall be granted by civil court.

Clause 29.—This clause provides that the court shall not take cognizance of any offence under the proposed legislation except on a complaint made by the Central Government or any authority or officer authorised in this behalf by that Government; or any person who has given notice of not less than sixty days in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid. It further provides that any court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall not try any offence punishable under the proposed legislation.

Clause 30.—This clause provides that the Chairperson, the Judicial and Expert Members, officers and other employees of the Tribunal shall

be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 31.—This clause make provision for protection of action taken in good faith. It provides that no suit or other legal proceeding shall lie against the Chairperson or Judicial Member or Expert Members of the Tribunal or any other person authorised by the Chairperson or Judicial Member or the Expert Member or the employees of the Central Government or a State Government or any statutory authority, for anything which is in good faith done or intended to be done in pursuance of the proposed legislation or any rule or order made thereunder.

Clause 32.—This clause gives overriding effect to the provision of the proposed legislation over other laws. It provides that the provisions of the Bill shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the proposed legislation.

Clause 33.—This clause empowers the Central Government to amend the Schedule I by including therein any other Act, enacted by Parliament having regard to the objective of environmental protection and conservation of natural resources, or omitting therefrom any Act already specified therein and on the date of publication of such notification, such Act shall be deemed to be included in or, as the case may be, omitted from the Schedule I.

It further provides that a copy of every notification proposed to be issued under sub-clause (1), shall be laid in draft before each House of Parliament for its approval.

Clause 34.—This clause empowers the Central Government to make rules, by notification in the Official Gazette, for carrying out the provisions of the Bill. It further enumerates the matters for which the Central Government may make rules. It also provides that every rule made by the Central Government shall be laid before each House of Parliament.

Clause 35.— This clause makes certain amendments to the enactments specified in the Schedule III to the Bill in the manner specified therein. It further provides that such amendments shall take effect on the date of establishment of the Tribunal.

Clause 36.—This clause provides for provisions for removal of difficulties. It provides that if any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government, may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of the proposed legislation as may appear to it to be necessary for removing the difficulty. It further provides that such order shall be made within a period of two years from the

commencement of the proposed legislation. It also provides that every order made under this clause shall be laid, as soon as may be after it is made before each House of Parliament.

Clause 37.—This clause provides for repeal of the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997. It further provides that notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of the proposed legislation.

It also provides that the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997, on the establishment of the National Green Tribunal under the National Green Tribunal Act, 2009, shall stand dissolved and all cases pending before it shall be transferred to the National Green Tribunal.

It also makes detailed provisions relating to the vacation of office by the Chairperson, Vice-Chairperson and every other person appointed as Member of the said National Environment Appellate Authority and transfer and reversion of officers and employees of the said National Environment Appellate Tribunal to their parent cadre or Ministry or Department.

Schedule I specifies the seven of enactments under which the Tribunal shall have jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved in relation to settlement of disputes, or award of relief or compensation, etc.

Schedule II specifies the heads under which relief or compensation for environmental damage may be claimed under the provision of the Bill.

Schedule III provides for making certain amendments to the enactments specified therein.

FINANCIAL MEMORANDUM

Clause 3 of the Bill relates to the establishment of the National Green Tribunal. Under sub-clause (3) of Clause 4, the Tribunal shall sit at such place or places, as the Central Government may, by notification, specify. It is proposed that the Central Government shall bear the expenditure on setting up of the Tribunal. The annual recurring and initial non-recurring expenditure on the setting up of the Tribunal and its sitting at five places is to be Rs.18.84 crore and Rs.1.88 crore respectively.

2. The Central Government already has the legal mandate for expenditure towards setting up of a National Environment Tribunal and its benches under the National Environment Tribunal Act, 1995, an Act which is to be repealed in view of the proposed Bill. In addition, the proposed repeal of the National Environment Appellate Authority Act, 1997 and the winding up of the existing Authority will also offset, to an extent, the financial liability involved in the setting up of the proposed Tribunal.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 34 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) enumerates the matters in respect of which such rules may be made. These matters, *inter alia*, include matters (a) rules as to the persons who shall be entitled to appear before the Tribunal under clause (a) of sub-section (4) of section 4; (b) the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals under clause (b) of sub-section (4) of section 4; (c) the minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals under clause (c) of sub-section (4) of section 4; (d) the Selection Committee and the manner of appointment of the Judicial Member and Expert Member of the Tribunal under sub-section (3) of section 6; (e) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal under section 9; (f) the procedure for inquiry of the charges against the Chairperson or Judicial Member of the Tribunal under sub-section (4) of section 10; (g) the recruitment of officers and other employees of the Tribunal under sub-section (2) of section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (4) of that section; (h) the financial and administrative powers to be exercised by the Chairperson of the Tribunal under section 13; (i) the form of application or appeal, particulars which it shall contain and the documents to be accompanied and the fees payable under sub-section (1) of section 18; (j) any such matter in respect of which the Tribunal shall have powers of a civil court under clause (k) of sub-section (4) of section 19; (k) the manner, and the purposes for which the amount of relief and compensation credited to the Environment Relief Fund shall be utilised under sub-section (2) of section 23; (l) the manner of giving notice to make a complaint under clause (b) of sub-section (1) of section 29; (m) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

2. The rules made under clause 34 of the Bill, shall be laid, as soon as they are made, before both the House of Parliament.

3. The matters in respect of which rules may be made are matter of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers, therefore, is of a normal character.

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to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

(Shri Jairam Ramesh, Minister of State for Environment and Forests)

ANNEXURE-II**LIST OF EXPERTS WHOSE ORAL EVIDENCE WAS HEARD ON THE
NATIONAL GREEN TRIBUNAL BILL, 2009**

Sl. No.	List of Experts	Date of hearing
1.	Dr. Rajesh Gopal IFS IGF and Member Secretary, National Tiger Conservation Authority	15th October, 2009
2.	Shri Sanjay Upadhyay Head of the Enviro Legal Defence Forum, A Law firm specializing in cases related to environment and forests	15th October, 2009
3.	Shri P.V. Jayakrishnan, Chairman, Central Empowered Committee	15th October, 2009
4.	Shri M.K. Jiwrajka Member Secretary Central Empowered Committee	15th October, 2009
5.	Ms. Sunita Narain, Director, Centre for Science and Environment,	26th October, 2009
6.	Shri Valmik Thapar, Renowned Environmentalist	26th October, 2009
7.	Shri Harish Salve, Senior Advocate of Supreme Court of India	26th October, 2009
8.	Shri Rajeev Dhawan, Senior Advocate of Supreme Court of India	26th October, 2009

MINUTES

II SECOND MEETING

The Committee met at 3.00 P.M. on Tuesday, the 22nd September, 2009 in Room No. '63', First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

1. Dr. T. Subbarami Reddy — *Chairman*

RAJYA SABHA

2. Shri Anil H. Lad
3. Shri Rajiv Pratap Rudy
4. Shri Bhagirathi Majhi
5. Shri Saman Pathak
6. Prof. Ram Gopal Yadav
7. Dr. Barun Mukherji

LOK SABHA

8. Dr. Mirza Mehboob Beg
9. Shri A. Ganeshamurthi
10. Shri D. V. Sadananda Gowda
11. Dr. Charan Das Mahant
12. Shri Jayaram Pangi
13. Shri C. R. Patil
14. Shri Gajendra Singh Rajukhedi
15. Shri S. S. Ramasubbu
16. Shri Francisco Sardinha
17. Shri Neeraj Shekhar
18. Dr. Rajan Sushant
19. Shri Pradeep Tamta
20. Shri Bibhu Prasad Tarai
21. Shri Mansukhbhai D. Vasava
22. Prof. Ranjan Prasad Yadav

SECRETARIAT

Shrimati Agnes Momin George, Joint Secretary

Shri Alok Chatterjee, Director

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Assistant Director

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2. * * *. Thereafter, he informed the Members of the Committee that "The National Green Tribunal Bill, 2009" has been referred to the Committee by the Hon'ble Chairman, Rajya Sabha, for examination and report within three months. The Committee then decided to hear the views of the Secretary, Ministry of Environment and Forests on the Bill in its meeting to be held on the 8th October, 2009.

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A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 5.30 P.M. to meet again at 3.00 P.M. on 8th October, 2009.

III THIRD MEETING

The Committee met at 3.00 P.M. on Thursday, the 8th October, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Dr. T. Subbarami Reddy — *Chairman*

RAJYA SABHA

2. Shri Rajiv Pratap Rudy
3. Shri Bhagirathi Majhi
4. Shri Saman Pathak
5. Prof. Ram Gopal Yadav
6. Shri Jabir Husain
7. Dr. Barun Mukherji

LOK SABHA

8. Shri Ninong Ering
9. Shri D. V. Sadananda Gowda
10. Dr. Charan Das Mahant
11. Shri Jayaram Pangi
12. Shri S. S. Ramasubbu
13. Shri Francisco Sardinha
14. Shri Neeraj Shekhar
15. Shri Pradeep Tamta
16. Shri Bibhu Prasad Tarai
17. Shri Mansukhbhai D. Vasava
18. Prof. Ranjan Prasad Yadav

SECRETARIAT

Shrimati Agnes Momin George, Joint Secretary

Shri Alok Chatterjee, Director

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Assistant Director

Representatives from the Ministry of Environment and Forests

1. Shri Vijai Sharma, Secretary
2. Shri Bir Singh Parsheera, Special Secretary

3. Shri R.H. Khwaja, Additional Secretary
4. Shri J.M. Mauskar, Additional Secretary
5. Shri S.P. Gautam, Chairman, CPCB
6. Shri Rajiv Gauba, Joint Secretary
7. Dr. Rajneesh Dube, Joint Secretary
8. Dr. G.K. Pandey, Advispr
9. Shri Ansar Ahmeb, Inspector General of Forests
10. Dr. (Mrs.) Nalini Bhat, Advisor
11. Dr. Rashid Hasan, Director
12. Shrimati Saheli Ghosh Roy, Deputy Secretary

2. * * *. Thereafter, he apprised the Members about the importance of the "The National Green Tribunal Bill, 2009" which has been referred to the Committee for examination and report within three months. * * *. The Committee then decided to hear the views of some environment experts and activists in the field of environment on the aforesaid Bill in its meeting to be held on 15th October, 2009.

3. Thereafter, the Chairman welcomed the Secretary and his team of officials of the Ministry of Environment and Forests to the meeting of the Committee and requested the Secretary to highlight the salient features of the aforesaid Bill. He also desired to know the main reasons which have led to the origin of the Bill and the extent to which the Bill would be useful in effective and expeditious disposal of civil cases relating to environment protection and conservation of forests and other natural resources. The Secretary, Ministry of Environment and Forests, then made a visual presentation on the subject. Thereafter, Members sought clarifications on the points that emerged out of the presentation. The Secretary replied to them.

The officials then withdrew.

A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 5.10 P.M. to meet again at 11.00 A.M. on 15th October, 2009.

IV FOURTH MEETING

The Committee met at 11.00 A.M. on Thursday, the 15th October, 2009 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Dr. T. Subbarami Reddy — *Chairman*

RAJYA SABHA

2. Shri Rajiv Pratap Rudy
3. Shri Bhagirathi Majhi
4. Shri Saman Pathak
5. Prof. Ram Gopal Yadav
6. Dr. Ejaz Ali
7. Shri Jabir Husain
8. Dr. Basun Mukherji

LOK SABHA

9. Shri A. Ganeshamurthi
10. Shri D.V. Sadananda Gowda
11. Dr. Charan Das Mahant
12. Shri Jayaram Pangi
13. Shri S. S. Ramasubbu
14. Shri Francisco Sardinha
15. Shri Neeraj Shekhar
16. Dr. Rajan Sushant
17. Shri Pradeep Tamta
18. Shri Bibhu Prasad Tarai

SECRETARIAT

Shrimati Agnes Momin George, Joint Secretary

Shri Alok Chatterjee, Director

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Assistant Director

WITNESS

1. Dr. Rajesh Gopal, Member Secretary, National Tiger Conservation Authority.
2. Shri Sanjay Upadhyay, Head of the Enviro Legal Defence Forum, a law firm specializing in cases related to environment and forests.

3. Shri P.V. Jayakrishnan, Chairman, Central Empowered Committee.
4. Shri M.K. Jiwrajka, Member Secretary, Central Empowered Committee.

Representatives from the Ministry of Environment and Forests

1. Shri Vijai Sharma, Secretary
2. Shri P. J. Dilip Kumar, Director General Forests and Special Secretary
3. Shri R. H. Khwaja, Additional Secretary
4. Shri S. P. Gautam, Chairman, CPCB
5. Dr. Rajneesh Dube, Joint Secretary
6. Dr. (Shrimati) Nalini Bhat, Advisor
7. Shri Ishwar Singh, Additional Director (Law)

2. At the outset, the Chairman welcomed the Members of the Committee, Secretary and his team of officials of the Ministry of Environment and Forests and Dr. Rajesh Gopal, Member Secretary, National Tiger Conservation Authority. Thereafter, he requested Dr. Gopal to express his suggestions and reservations on the various provisions of "The National Green Tribunal Bill, 2009". Dr. Gopal made a presentation on the subject. The Members then sought clarifications on the points arising out of the presentation and the witness and the Secretary of the Ministry replied to them.

The witness then withdrew.

3. The Chairman welcomed Shri Sanjay Upadhyay, Head of the Enviro Legal Defence Forum, a law firm specializing in cases related to environment and forests and requested him to express his views on the Bill. He also desired to know the extent to which the Bill would be useful in effective and expeditious disposal of civil cases relating to environment protection and conservation of forests and other natural resources. Shri Upadhyay made a presentation on the subject. The Members then sought clarifications on the points arising out of the presentation and the witness and the Secretary of the Ministry replied to them.

The witness then withdrew.

4. The Committee, thereafter, adjourned at 1.15 P.M. and re-assembled at 2.15 P.M. to hear the Chairman and Member Secretary of the Central Empowered Committee.

5. The Chairman welcomed Shri P.V. Jayakrishnan, Chairman and Shri M.K. Jiwrajka, Member Secretary of the Central Empowered Committee and requested them to express their suggestions and reservations on the various provisions of the Bill. Shri Jayakrishnan and Shri Jiwrajka made a presentation on the subject. The Members then sought clarifications on the points arising out of the presentation and the witnesses and the Secretary of the Ministry replied to them.

The witnesses and officials then withdrew.

A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 3.50 P.M. to meet again at 11.00 A.M. on 26th October, 2009.

V
FIFTH MEETING

The Committee met at 11.00 A.M. on Monday, the 26th October, 2009 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Dr. T. Subbarami Reddy — *Chairman*

RAJYA SABHA

2. Shri Anil H. Lad
3. Shri Bhagirathi Majhi
4. Shri Jabir Husain
5. Dr. Barun Mukherji

LOK SABHA

6. Shri Ninong Ering
7. Shri A. Ganeshamurthi
8. Shri D.V. Sadananda Gowda
9. Shrimati Kaisar Jahan
10. Dr. Charan Das Mahant
11. Shri Jayaram Pangi
12. Shri C. R. Patil
13. Shrimati Kamla Devi Patle
14. Shri S. S. Ramasubbu
15. Shri Francisco Sardinha
16. Shri Bibhu Prasad Tarai
17. Shri Mansukhbhai D. Vasava
18. Prof. Ranjan Prasad Yadav

SECRETARIAT

Shrimati Agnes Momin George, Joint Secretary

Shri Alok Chatterjee, Director

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Assistant Director

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*** Relates to other matters.

2. * * *
3. * * *
4. The Committee adjourned at 12.40 P.M. to re-assemble at 2.15 P.M. to hear the views of some renowned environmentalists and experts on "The National Green Tribunal Bill, 2009".

WITNESSES

1. Ms. Sunita Narain, Director, Centre for Science and Environment, New Delhi.
2. Shri Valmik Thapar, renowned Environmentalist.
3. Shri Harish Salve, Senior Advocate of Supreme Court of India.
4. Shri Rajeev Dhawan, Senior Advocate of Supreme Court of India.

Representatives from the Ministry of Environment and Forests

1. Shri Vijai Sharma, Secretary
2. Shri P.J. Dilip Kumar, Director General (Forests) and Special Secretary
3. Dr. M.B. Lal, Additional Director General (Wild Life)
4. Dr. P.B. Gangopadhyay, Additional Director General of Forests
5. Shri R.H. Khwaja, Additional Secretary
6. Shri J.M. Mauskar, Additional Secretary
7. Prof. S.P. Gautam, Chairman, CPCB
8. Dr. Rajneesh Dube, Joint Secretary
9. Shri Rajiv Gauba, Joint Secretary
10. Shri Ansar Ahmed, Inspector General of Forests
11. Dr. (Shrimati) Nalini Bhat, Advisor
12. Dr. G.K. Pandey, Advisor
13. Shri Rashid Hasan, Director
14. Shri Ishwar Singh, Additional Director (Law)

5. The Chairman welcomed Ms. Sunita Narain, Director, Centre for Science and Environment, S/Shri Valmik Thapar, renowned Environmentalist, Harish Salve and Rajiv Dhawan, Senior Advocates of Supreme Court of India, Secretary and his team of officials of the Ministry of Environment and Forests and requested them to express their views/suggestions/reservations on the various provisions of "The National Green Tribunal Bill, 2009". Witnesses expressed their views and Members sought clarifications from them which were replied.

The witnesses and officials then withdrew.

A verbatim record of the proceedings was kept.

6. The Committee then adjourned at 4.50 P.M. to meet again at 11.00 A.M. on 5th November, 2009.

VI SIXTH MEETING

The Committee met at 11.00 A.M. on Thursday, the 5th November, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Dr. T. Subbarami Reddy — *Chairman*

RAJYA SABHA

2. Shri Bhagirathi Majhi
3. Shri Saman Pathak
4. Shri Jabir Husain

LOK SABHA

5. Dr. Mirza Mehboob Beg
6. Shri A. Ganeshamurthi
7. Shri Jayaram Pangi
8. Shri C.R. Patil
9. Shrimati Kamla Devi Patle
10. Shri Gajendra Singh Rajukhedi
11. Shri S. S. Ramasubbu
12. Shri Pradeep Tamta
13. Shri Bibhu Prasad Tarai
14. Prof. Ranjan Prasad Yadav

SECRETARIAT

Shrimati Agnes Momin George, Joint Secretary

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Assistant Director

Representatives of the Ministry of Environment and Forests

1. Shri Vijai Sharma, Secretary
2. Shri R.H. Khwaja, Additional Secretary
3. Prof. S.P. Gautam, Chairman, CPCB
4. Dr. Rajneesh Dube, Joint Secretary
5. Dr. (Shrimati) Nalini Bhat, Advisor
6. Shri Rashid Hasan, Director
7. Shri Ishwar Singh, Additional Director (Law)

2. At the outset, the Chairman welcomed the Members of the Committee, Secretary, Ministry of Environment and Forests and his team of officials to the meeting of the Committee. He stated that the Committee has already heard the views of some prominent experts/activists in the field of environment on the various aspects relating to "The National Green Tribunal Bill, 2009" and requested the Secretary to express his views on a number of issues raised by experts, environmentalists and Members of the Committee in this regard. He also requested the Secretary to express his expectations from the Committee on the above Bill. The Secretary, Ministry of Environment and Forests, then made his submission. Thereafter, Members sought clarifications on the points that emerged out of his submission. The Secretary replied to them.

3. Thereafter, the Chairman concluded that the Committee had heard the views of the experts as well as the Secretary, Ministry of Environment and Forests with regard to the above mentioned Bill and will consider the draft report on the Bill in its next meeting scheduled to be held on 16th November, 2009. The Secretariat was directed to take necessary action in this regard.

The officials then withdrew.

A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 12.45 P.M. to meet again on 16th November, 2009.

VII SEVENTH MEETING

The Committee met at 3.00 P.M. on Monday, the 16th November, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Dr. T. Subbarami Reddy — *Chairman*

RAJYA SABHA

2. Shri Bhagirathi Majhi
3. Shri Saman Pathak
4. Shri Jabir Husain

LOK SABHA

5. Dr. Mirza Mehboob Beg
6. Shri Ninong Ering
7. Shri Gajendra Singh Rajukhedi
8. Shri S. S. Ramasubbu
9. Shri Yashwant Sinha
10. Dr. Rajan Sushant
11. Shri Bibhu Prasad Tarai
12. Prof. Ranjan Prasad Yadav

SECRETARIAT

Shrimati Agnes Momin George, Joint Secretary

Shri Alok Chatterjee, Director

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Assistant Director

2. * * *
3. The Committee then took up for consideration its draft 203rd Report on “The National Green Tribunal Bill, 2009”. After thorough discussions the Committee adopted the report with certain additions/modifications as suggested by Members. The Committee authorised the Chairman to approve changes/modifications as suggested by Members.
4. The Committee then adjourned at 4.30 P.M.

*** Relates to other matters.