

Note on Judgments as announced on 10th December 2015

The National Green Tribunal (NGT) disposed of 82% cases filed during the year 2014 within one year of their institution. The Tribunal in **one day pronounced 56 judgments and** disposed of **209 cases**. The judgments pronounced deal with different but very serious and significant environmental issues pertaining to different parts of the country.

Inter alia, the pronounced judgment significantly deals with pollution of river Ganga where the Tribunal has dealt with the complete financing of the said project of cleaning of the River Ganga while also dividing the cleaning of the river Ganga into four segments, i.e. Segment A of Phase-I, from Gomukh to Haridwar; Segment B of Phase-I, from Haridwar to Kanpur; Phase-II from Kanpur to the border of Uttar Pradesh, Phase-III from the Border of Uttar Pradesh to the border of Jharkhand and Phase-IV from the border of Jharkhand to the Bay of Bengal as well as the complete financing of the project. This judgments pronounced by the NGT relates to Segment A of Phase-I and deals with all sources of pollution of River Ganga, i.e. sewerage, trade or industrial effluents, Municipal Solid Wastes (MSWs) and activities on the flooded plain.

The judgment in the case of **Social Action for Forest and Environment vs. Union of India and Ors.** deals with the issue of camping activity in Segment A of Phase-I of the River Ganga. It has been stated that there will be a complete prohibition on any activity, whatsoever, within 100 meters from the middle of the river while 100-500 meter would be a regulated zone and the industries operating in this restricted area have been directed to be closed. There is complete prohibition on throwing of municipal waste and use of plastic in the said area.

Another major judgment titled **Vikrant Kumar Tongad**, relates to agricultural crop burning in some of the States of Northern parts of India. In the said judgment, agricultural burning has been prohibited all over the country, particularly in the States of Haryana, Delhi, Punjab, Rajasthan, Uttar Pradesh etc. The directions in regard to providing assistance for extracting agricultural residue and its utilization as raw material for manufacturing of boards, fuel and other items and obligation of which is placed upon the State Governments to provide mechanical help, transport of agriculture residue upon extraction and identify source of its consumption. This assistance is to be provided free or with different rate of charges depending upon the extent of land holding.

The case titled **Dr. Arvind Gupta vs. Union of India and Ors. And** other related cases, pertained to construction of towers in parks, green areas and residential areas and impact of radiation on public health therefrom. The Tribunal holds that it has no jurisdiction to entertain the application, as the subject matter falls beyond the scope of the acts specified in Schedule A.

In the 100 odd cases titled as **Krishan Kant Singh vs. CETP, Jajmau, Kanpur**, the Tannery Industries in Jajmau, Kanpur have been permitted to operate if they have obtained the consent of the Pollution Control Board but subject to the judgment of the Tribunal that would be passed in relation to the Scheme-B of Phase-I.

In the case of **DSM Sugar Distillery vs. Shailesh Singh and Ors.** A distillery and sugar unit having undertaken remedial measures and having installed anti-pollution devices was permitted to carry on its processes but subject to the condition that they are liable to pay Rs.1 crore Environment Compensation to the UPPCB and Rs. 10 lacs bank guarantee for the damage caused to the environment and its restoration.

In the case of **Indian Council for Enviro-Legal Action**, the Tribunal directed MoEF&CC along with other concerned Ministries/authorities to carry out data based study of the units manufacturing HFC-22 in which the resultant by-product is HFC-23 and also to provide guidelines and frame regulatory regime in relation to the storage, emission and incineration of HFC-23.

In the case of **Gram Sarai Vikas Samiti**, the MSW dumping site and the compost plant at Haridwar stands cleared with the direction to commence at the earliest. The authorities have been prohibited from dumping MSW at Chandi Ghat site which falls on the banks of River Ganga.

In large number of mining cases from the State of Rajasthan and other States titled the **National Green Tribunal Bar Association vs. MoEF & Ors.**, time to obtain environmental clearance in terms of judgment of the Hon'ble Supreme Court in the case of **Deepak Kumar vs. State of Haryana** and the judgment of the NGT in **Himmat Singh Shikhawat vs. State of Rajasthan**, time has been extended to 31st December, 2015 after which all mining operations in these States would stand closed. The persons operating mines without the consent of the Board and requisite Environmental Clearance would not be permitted to continue their operations.

In the case of **Eshan Group of Industries vs. NEPA**, referring to the notification of the MoEF&CC for utilization of fly ash for making of bricks and such other allied products for construction, the Tribunal holds that high content fly ash or ash with high carbon content would not be covered under the Notification and such industries could sell the same in open market. However, they have been directed to change their technology to ensure that the ash, bottom ash, fly ash or the pond ash does not contain high carbon content.

In the case of **Himgiri Zee University vs. Union of India and Ors.**, challenge to EC granted to the MSW plant and composting site has been rejected and it is directed that the plant and site should be developed and made operative expeditiously.

In the case of **Krishankant Singh vs. Triveni Engineering Company**, the industry has been permitted to operate as it had complied with the directions issued by the Board. However, for the pollution caused in the past, environmental compensation of Rs.25 lacs has been imposed upon the industry.

In the case of **Sarv Shikshit vs. State of H.P.**, the Tribunal has not only called upon the cement plant in Himachal, Bilaspur to take all remedial steps to bring its parameters strictly within the specified standards. The Tribunal further not only awarded environmental compensation but even compensation for damage to the public health. Out of a total compensation of Rs. 50 lacs, Rs. 10 lacs was directed to be paid to the government civil hospital at Bilaspur which would be spent on medicines, health care and tests to be conducted on the people who are living in close vicinity of the plant and are suffering from various diseases. A team constituted to establish nexus between pollution generated in the past by the plant and the medical sicknesses suffered by the people.

In the case of **Perma Nand Khanta vs. State of H.P.** the State of H.P. is directed to declare "silence zones" display sign boards. Complete prohibition on horns or other sources of noise within 100 meters of such zones. State of issue notification. State to consider one way traffic in Shimla to avoid air pollution. Cars going on the restricted roads and emitting smoke to pay environment compensation of Rs.500/- on each event.

In the case of **Suo Moto Uttarakhand Human Rights Commission vs. Chief Secretary, Government of Uttarakhand and Ors.** This was a case sent to NGT by Human Rights Commission of Uttarakhand on the apathy of the concern of the State in relation to waste and STPs in District Nainital. Tribunal directed the State to prepare action plan, construct and establish STP on the mouth of the 15 drains, complete mechanism to be provided for collection, segregation and transportation of MSW in district Nainital. State to provide finances directly or through financial institutions in this direction. In the event of default, action to be taken by the Tribunal.