

National Green Tribunal (NGT) Yearly Round-Up 2020

01 January 2020



1. Scientific Disposal of Bio-Medical Waste arising out of COVID-19 treatment

The issue for consideration in [this matter](#) was the remedial action to address the gaps in compliance of the BMW Rules, 2016, as applicable to the disposal of bio-medical waste arising out of handling of COVID-19 disease, so as to ensure protection of environment and public health, in view of potential of such infectious waste adversely affecting public health, concerned workers and professionals etc.

Disposal of COVID-19 waste in general bins so as to be part of municipal waste or unscientific handling sewage and other liquid waste without safeguards can be hazardous. Need was felt to incorporate best practices apart from continued supervision and monitoring, compiling data in an online format, use of electronic /digital manifest system to track and log COVID-19 waste from all sources, preventing its accidental spillage, analyzing the data for strategic planning and the feedback by creating necessary software, to the extent viable.

Need was also felt for creating awareness about the precautions and steps to be taken by all handlers and workers as well as citizens, making a model plan, to be adopted locally by the Panchayat, Sub-division, District and State authorities. NGT directed CPCB to take lead and coordinate with media as well as the concerned Central/State departments.

The Tribunal further directed the Chief Secretary of States/UTs by coordinating the activities of State's concerned departments like of Urban Development, Health, Irrigation & Public Health to closely monitor the scientific storage, transport, handling, management and disposal of COVID-19

waste as its unscientific handling poses a grave threat environment and health of people. At the national level, a high level task team of Ministry of MoEF&CC, Health UD, Jal Shakti, Defence and CPCB was constituted to supervise the handling and scientific disposal of COVID-19 waste in accordance with the guidelines. State Departments of Environment and PCBs/PCCs ensure compliance of Biomedical Waste Management Rules, 2016 and furnish action take report to CPCB and CPCB as directed to take further steps and furnish a consolidated report to this Tribunal of the steps taken and the ground status.

(Case: In Re: Scientific Disposal of Bio-Medical Waste arising out of COVID-19 treatment- Compliance of BMW Rules, 2016, Original Application No. 72/2020 Order dated 23.04.2020)

2. Remedial action for 351 polluted river stretches in India

The proceedings for cleaning of 351 polluted river stretches were initiated on the basis of a news item in 'The Hindu' under the heading "More river stretches are now critically polluted" authored by Jacob Koshy which stated that 351 polluted river stretches have been identified by the Central Pollution Control Board as being critically polluted. The Tribunal had earlier passed directions for preparation for Action Plans for restoration and rejuvenation of the polluted river stretches. The Tribunal also dealt with the requirement of establishment and functioning of requisite ETPs/CETPs/STPs.

The Tribunal while reviewing the progress noted that the States had failed to report reasons for delay in grounding the projects and identifying the officials responsible for delay and directed that all steps proposed in the Action Plans including completion of setting up of STPs and their commissioning be done till 31.03.2021. The Tribunal further directed that monitoring may be done by the Chief Secretaries of all States/UTs at the State Level and by Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB. It further held that violation of mandate of 100% treatment of sewage may be visited with assessment and recovery of compensation and timelines for setting up of pollution control devices may be strictly enforced with compensation. States were further directed to ensure setting up of functional ETPs/ CETPs and STPs expeditiously.

(Case: News item published in "The Hindu" authored by Shri Jacob Koshy titled "More River Stretches are now critically polluted :CPCB" Original Application No. 673/2018, order dated 21.09.2020)

3. Plastic Waste Management

The Tribunal vide its order considered the issue of implementation of Plastic Waste Management Rules 2016 and directions issued by CPCB to implement the thickness norms for carry bags, constitution of squads for vigilance, preventing littering of plastic waste in public places, submission of Annual Reports and Action Plan for management and quantification and characterization and every city and town of all states.

The Tribunal had earlier ordered that national framework for Extended Producers Liability be finalized and enforced within 3 months and report be furnished by the MoEF&CC to the Tribunal. CPCB was also directed to give its report for compensation regime. The Tribunal additionally directed for preparation of an institutional mechanism to ensure that no unregistered plastic manufacturing recycling unit is in operation and no plastic bag of less than 50 microns thickness be manufactured, stocked and sold and used in the cities, special environment squads be set up to oversee that no littering of plastic waste takes place at historical religious and public places and no burning of plastic waste takes place in the open. CPCB was further directed to hold regular meeting with Chairman and

Member Secretaries of all State PCBs to work our enforcement strategies in the interest of public health and protection of environment.

(Case: Central Pollution Control Board v. State of Andaman & Nicobar &Ors., Execution Application No. 13/2019, order dated 10.09.2020)

4. Compliance of Municipal Solid Waste Rules, 2016

NGT considered the status of compliance of orders of the Tribunal on the subject of solid waste management. The Tribunal noted that solid waste management is of Paramount importance for protection of environment. The Tribunal accordingly carried out a massive exercise of interacting with the Chief Secretaries and Administrators of all States and Union Territories to assess the implementation of the Rules in each state with respect to issues such as management of legacy waste, source segregation of waste, door to door collection et al.

In order to achieve the desired result, the Tribunal had earlier directed constitution of Central Monitoring Committee comprising representative from NITI Aayog, Ministry of Water Resources, Urban Development Department, MoEF&CC, NMCG and CPCB representing the Central Government and Chief secretaries representing the States/UTs so that a holistic view can be taken on the issue of Municipal Solid Waste management in the nation. Noting the need for an institutionalized training mechanism involving technical, social and environmental issues the Tribunal directed the CPCB to prepare a program for imparting training on the subject to the concerned officials. CPCB was further directed to explore the possibility of preparation of an Annual Environment Plan for the country giving the status of compliance of environmental norms and gaps, if any.

The Tribunal for each State directed its officials to notify and develop three cities, towns and villages in each State as model cities, towns and villages respectively which shall be fully compliant with on environmental norms within one year. The Chief Secretaries were directed to personally monitor the progress with the assistance of District Magistrates. The Tribunal further directed officials to estimate the value of environmental degradation and the cost of restoration and compensation be planned and recovered from the polluters of environmental restoration and restitution on that basis.

As the statutory timelines were not met, the Tribunal laid down interim compensation for continued failure after 31.03.2020 wherein each Local Body was directed to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. Compensation so collected was to be spent by CPCB for restoration of environment.

(Case: Compliance of Municipal Solid Waste Management Rules, 2016; Original Application No. 606/2018, order dated 28.02.2020 with emphasis on North East region)

5. Management of Hazardous Waste

The matter was taken up by NGT due to alarming situation created by generation and scientific dumping of hazardous waste resulting in serious and irreversible damage to the environment and public health. The Tribunal observed large-scale non-compliance of Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016. Vide its earlier order, the Tribunal had constituted a monitoring committee for management of hazardous waste and the committee submitted its recommendations to the Tribunal.

The Tribunal directed CPCB and all SPCBs, CBIC, DGFT, Port Authorities, Ministry of Shipping, Ministry of Labour and Employment and Department of Labour to comply with the recommendations of the Expert Committee, violation of which would attract environmental compensation to be levied on the defaulting parties. It was further directed to ensure that hazardous waste inventory be updated and verified by way of checks to ensure that the same is credible, reliable and robust in terms of content and scope. 126 sites which were identified as contaminated were directed to be cleared of the hazardous waste within 6 months so that the remediation process may be started. With regard to 195 probable contaminated sites, the Tribunal directed that the assessment may be completed within 6 months and thereafter the waste may be removed within next 6 months from sites. The Tribunal directed that clearance of site by way of disposal of transfer should be strictly as per the HOWM Rules.

(Case: Rajiv Narayan &Anr. v. Union of India &Ors., Original Application No. 804/2017, order dated 07.07.2020)

6. On the issue of Noise Pollution

The subject matter for consideration before the Tribunal was the failure of statutory authorities in Delhi in controlling noise pollution as per the mandate of Noise Pollution (Regulation and Control) Rules, 2000. The grievance of the applicants was that despite the orders of the Tribunal, unsatisfactory state of affairs continued.

The Tribunal had earlier observed with dismay that despite specific directions, requisite equipments for sound monitoring were not procured, monitoring stations were not set up, no satisfactory data about the action taken against by authorities was prepared by the statutory authorities entrusted with the enforcement of law. Accordingly, taking cognizance of report of CPCB that compensation be imposed for violation by using equipments assessed at 10-25% cost of such equipment, the Tribunal had directed CPCB to lay down stringent compensation for tampering with sound limiters also in order to ensure that the same is not resorted to and to revise the compensation for bursting of crackers for different classes of defaulters. The Tribunal had also directed that a dedicated telephone line with recording facility and a dedicated online grievance redressal portal for redressal of noise pollution related grievance be developed by Delhi Police and public awareness in this regard be created. Further, in view of the non-compliance, the Tribunal constituted a monitoring committee to monitor compliance and suggest further measures for compliance, especially for Delhi for enforcement of noise pollution control measures.

(Case: Hardeep Singh &Ors. v. SDMC &Ors., Original Application No. 519/2016, order dated 11.08.2020)

7. Excess wastage of water by use of Reverse Osmosis (RO) process

NGT dealt with the issue of conservation of potable water by preventing its wastage on account of unnecessary use of Reverse Osmosis (RO) systems. It was noted that the use of RO systems results in TDS level below the desirable threshold causing deficiency of calcium and other minerals. Wastage of groundwater by Delhi District Cricket Association in sprinkling RO treated groundwater on cricket ground was also considered by the Tribunal. The Standard of Water Quality Indian Association representing the RO manufacturers stated that although RO ensures availability of pure water, however, it was not disputed that only 20% of the water is recovered and 80% goes waste. The Expert Committee constituted by the Tribunal recommended that RO technology is not required for

places having piped water supplies primarily supplied by Municipal corporations from surface water sources like river, lakes and ponds. Absence of scientific disposal of RO reject water upset the disposal medium which may include land and surface water system or sewerage system.

In view of the above, the Tribunal directed Ministry of Environment, Forest and Climate Change to issue an appropriate notification prohibiting the use of RO where TDS level is less than 500 mg/l and wherever RO is permitted, requirements be laid down for recovery of water to be more than 60%. The notification must also provide for a mechanism for public awareness about the ill-effects of RO released water on public health and for effective enforcement requiring concerned local bodies to display water quality at regular intervals particularly the concentration component by an appropriate mechanism. It was also directed to enforce Extended Producer Responsibility by the manufacturers for disposal of cartridges and membranes requiring the manufacturers to provide proper labeling on the purifier specifying that the unit should be used only if TDS is more than 500g/l.

(Case: Friends through its General Secretary v. Ministry of Water Resources, Original Application. No. 314/2015, order dated 13.07.2020)

8. Air Pollution in Non- Attainment Cities

NGT dealt with the subject of remedial measures to be adopted to enforce the Ambient Air Quality Standards with reference to provisions of the Air Act and Environment Protection Act in cities classified as non-attainment cities based on monitoring of ambient air quality.

The Tribunal observed that the major problem was remediation of legacy waste dump sites in the country, releasing emissions in the ambient air and also causing incidents of fire, further polluting the environment. Accordingly, the Tribunal directed bio-remediation of such dump sites. The Tribunal also directed development of Emergency Response System to be placed in public domain.

The Tribunal directed for installation of Ambient Air Quality Monitoring Stations at remaining 175 stations within six months which would monitor the air quality on all 12 notified parameters under the Air Act. Carrying Capacity and Source Apportionment studies were directed to be undertaken by the State PCBs/PCCs, utilizing the 'consent mechanism'/ 'environmental compensation' fund. The States were directed to take further steps to set up and operate PGRPs expeditiously, within three months. Direction was passed to prepare actions plans for the newly added 20 non-attainment cities.

(Case: News item published in "The Times of India" authored by Shri Vishwa Mohan titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15", Original Application No. 681/2018; order dated 21.08.2020)

9. Compliance of Solid Waste Management Rules at Railway Stations

The Tribunal considered the issue of non-compliance of Plastics Waste and Solid Waste Management Rules, preventing discharge of effluents, management of water at Railway Stations, compartments and tracks and removal of encroachments causing environment degradation. The Tribunal had earlier directed preparation of remedial Action Plan by 30.11.2018 to be notified on website for comments of general public and be finalized before 31.03.2019. The CAG was directed to conduct Performance Audit on or before 30.06.2019 on the issue of solid waste, plastic waste and open defecation along railway tracks.

The Tribunal while reviewing the compliance of the orders directed the CPCB to take into account the process of implementation of Action Plans of Railways for all major stations and evaluate the same and file compliance report with regard to compliance of Section 25 of the Water Act and Section 21 of the Air Act of such railway stations. As per its report, CPCB conducted performance assessment of 36 railway stations and categorized railway stations into red, orange and green categories. Further it was reported that out of 720 total railway stations, only 11 had applied for consent as per the Water Act and Air Act. Accordingly three months' time period was provided to the remaining stations to comply with the norms.

(Case: Saloni Singh & Anr. V. Union of India & Ors., Original Application No. 141/2014, order dated 18.08.2020)

10. Illegal Extraction of Groundwater

The Tribunal considered the issue of contamination of groundwater and illegal extraction of ground water in the areas which are declared to be over exploited, critical exploited and semi critically exploited by Central Ground Water Authority (CGWA). The Tribunal noted the survey stating that globally, 25% of total annual ground water is extracted in India and depletion level is going up continuously. Depletion of groundwater not only creates crisis of drinking water in absence of inadequate surface water being available in certain areas where there may be drought conditions, but also affects e-flow in rivers and can also increase salinity in soil.

Noting the grim situation, the Tribunal vide its earlier order constituted an Expert Committee to look into the steps required to be taken for preventing depletion of groundwater, developing a robust monitoring mechanism to ensure that groundwater is not extracted unauthorizedly and to monitor the conditions laid down for grant of permission for extraction of groundwater. The Tribunal had further directed that since the over exploited areas have been found to be seriously affected by overdrawal of groundwater, regulation of such level for commercial purposes cannot be dispensed with for any industry even in industrial area as availability of water for drinking is first priority.

While assessing the compliance of its earlier order, the Tribunal directed MoJS to ensure requisite manning and efficient functioning of CGWA to ensure sustainable ground water management. It was further directed to ensure a meaningful regulatory regime to ensure water availability and procedure for assessment of individual applications be laid down. The Tribunal prohibited grant of general permission for withdrawal of ground water, particularly to commercial entity without EIA and independent expert evaluation. Water management plans were directed to be prepared for all OCS assessment units expeditiously.

(Case: Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors., Original Application No. 176/2015, order dated 20.07.2020)

11. Enforcement of environmental norms in running restaurants/ hotels/ motels/ banquets etc.

The Tribunal noted the violation of law on the subjects of solid waste management, discharge of effluents, illegal ground water extraction, ground water contamination, emission by illegally operating diesel generators, absence of statutory consents under the Air and Water Act and violation of conditions of consent wherever such consent had been granted, by the restaurants/hotels/motels/banquets in Mahipalpur and Rajokri areas in Delhi. The Tribunal also considered the issue of absence of Rain Water Harvesting System, excess noise pollution, illegal parking and encroachments.

The Tribunal in view of Guidelines prepared by CPCB covering requirement of monitoring mechanism, Action Plan suggested by Urban Development Department for compiling data of functions held on installation of CCTV cameras, GPS system in garbage collection vans, regulating sides of gatherings as per the capacity of areas, fire safety devices steps, control traffic congestion *inter alia* directed that enforcing the requirement of Consent to Establish should be the starting point for commission of the project rather than last in the governance chain. The project proponent at such areas must file their Annual Environment Statement in terms of Rule 14 of the EP Rules. The Tribunal for the director that stringent norms be worked out for controlling and regulating parking of vehicles used by organisms and guests in functions as well as parking of vehicles generally on roads and public spaces at into air pollution. It was further held that use of DG systems must be fitted with noise limiters and data loggers and be operated within soundproof halls within prescribed noise limit without its effect be felt outside. The Tribunal clarified that the owner of the property will be liable for any default. Further time was granted to the concerned State Authorities to comply with the directions of the Tribunal.

(Case: Westend Green Farms Society v. Union of India &Ors, Original Application No. 400/2017, order dated 23.07.2020)

12. Conservation of Biological Diversity

The issue for consideration before the Tribunal was non compliance of provisions of the Biodiversity Act, 2000 and the Biodiversity Rules, 2004. NGT noted that Biodiversity Management Committees have not been constituted as per Section 41 of the Act and People's Biodiversity Registers have not been maintained as required under Rule 22 (6). PBR helps the State and local community to become aware of the valuable resources being harvested in the area which can be utilised for overall social and economic development of the State. Furthermore PBR also help in conservation of traditional practices and knowledge of local community.

In view of serious non compliance for the last 16 years, the Tribunal had earlier directed the Chief Secretaries of all the States to evolve mechanism for monthly meeting to be attended by the Chairman and Member Secretary of State Biodiversity Boards, Secretary of Panchayats Environment and Forest starting from September 2019. States were ordered to be held accountable for default and were be required to deposit a sum of Rupees 10 lakhs per month each from 01.01.2020. MoEF&CC was directed to file a compliance report after collecting necessary data from all the States. The time period for ensuring compliance was extended upto 30.06.2021.

(Case: Chandra Bhal Singh v. Union of India &Ors.,Original Application No. 347/2016, order dated 16.12.2020)

13. Rainwater Harvesting Systems and Utilization of Treated Water

The Tribunal had taken up the matter in the light of news item dated 19.06.2015 in the Hindustan Times highlighting the problem of water quality on account of contamination of groundwater. The Tribunal noted the need for comprehensive groundwater management and plan for covering Rainwater Harvesting Systems. Accordingly, the Tribunal had constituted a monitoring committee to take stock of the actions and prepare time bound action plan to deal with the problem. The committee considered the status of rainwater harvesting systems in schools and colleges in Delhi and found illegal borewells in many schools and water meters reflecting low consumption of water. The need for sealing of illegal borewells was felt. It was however found that parks and gardens were

also having tubewells which were required to be stopped to promote the use of treated water for gardening.

The Tribunal had accordingly earlier directed the Delhi Jal Board to ensure that treated wastewater is mandatorily utilised and prepare an action plan in consultation with local bodies to ensure that Rainwater Harvesting System are installed in all government buildings, group housing societies, and new buildings where occupancy certificate is yet to be issued.

The Tribunal, while appreciating the work done by the Committee directed further monitoring to ensure continued compliance and furnish report. The Tribunal further laid down regime for interim compensation to ensure preservation of ground water table and revival of water bodies.

(Case: News Item Published in "Hindustan Times" dated 19.06.2015 titled "Dirty flows your drinking water" authored by Ritam Halder; Original Application No. 496/2016, order dated 03.02.2020)

14. Clearing of Legacy Waste

The issue for consideration before the Tribunal was the disposal of 'legacy' waste dumped at Bhalswa, Ghazipur and Okhla dumpsites in Delhi where huge garbage has accumulated over the period of time adversely impacting public health and environment, requiring expeditious scientific and environmentally safe disposal as per applicable rules.

Vide order dated 30.05.2019, this Tribunal directed North, East and South Delhi Municipal Corporations to furnish their respective action taken reports. The Commissioners of the said Municipal Corporations were required to remain present in person. As per the report of the CPCB filed on 13.02.2020 it was found that that damage on account of the said legacy waste dump site was Rs. 148.46 crore, on account of damage to the air quality, soil and water quality, climate change and disamenity. The damage was assessed in terms of impact on health due to release of pollutants in air atmosphere, release of leachate into ground /surface water and soil, due to pollution from the landfill site, damage cost associated with climate change due to carbon di-oxide and methane, damage caused due to aesthetics loss, price depreciation due to disamenity cost etc.

Accordingly, in the present matter, the Committee comprising CPCB, NEERI & IIT Delhi carry out similar study as mentioned in Para 18 above to assess the amount of damage to environment on account of dump sites in Delhi within two months. Government of NCT Delhi was directed to set up of an integrated Special Purpose Vehicle (SPV) for scientific management, processing and disposal of legacy waste dump sites at Ghazipur (East Delhi), Bhalswa (North Delhi) and Okhla (South Delhi) headed by Chief Secretary, NCT of Delhi with a nominee of Lt. Governor and Commissioners of concerned Corporations, Secretary Urban Development, Delhi Govt., Shri Manish Singh, IAS (now Director Swachh Bharat, M.P., Bhopal) and Shri Vijay Nehra, IAS, Commissioner, Municipal Corporation, Ahmedabad as members with in specific time lines.

(Case: News item published in "The Times of India" Authored by Jasjeev Gandhiok & Paras Singh Titled "Below mountains of trash lie poison lakes" Original Application No. 519/2019).

15. Menace of Sand Mining

The Tribunal took notice of the remedial action required against illegal sand mining in violation of the directions of Honorable Supreme Court in *Deepak Kumar v. State of Haryana & Ors. (2012) 4 SCC 629*. The Supreme Court had observed that absence of regulation of sand mining was a threat to

biodiversity, could destroy riverine vegetation, cause erosion, pollute water sources badly affecting riparian ecology and damaging ecosystem of rivers, safety of bridges, weakening of river beds, destruction of natural habitats of organisms living on the river beds, affect fish breeding and migration and spell disaster for the conservation of bird species and increase saline water in the rivers.

The Ministry of Environment, Forest and Climate Change issued Sustainable Sand-Mining Management Guidelines 2016, however, it was noticed that the same were not complied with. The Tribunal accordingly considered the issue of revision of Guidelines in the light of directions of the Tribunal and preparation of an effective monitoring mechanism for preventive and remedial measures to be taken in the states of West Bengal, Rajasthan, Gujarat, Karnataka, Maharashtra, Punjab, Uttar Pradesh, Haryana, Madhya Pradesh, Andhra Pradesh, Bihar, Jammu and Kashmir, Goa and Telangana where sand mining is more prevalent as compared to the other states.

The Ministry of Environment, Forest and Climate Change issued "Enforcement and Monitoring Guidelines for Sand Mining, 2020" which were considered by the Tribunal. The Tribunal also considered the approach to be adopted for imposing compensation for ecological loss.

(Case: National Green Tribunal Bar Association v. Virender Singh, Original Application No. 360/2015, order dated 14.10.2020)

16. Preparation of National Environmental Plan, State Environmental Plan and District Environmental Plan

The issue for consideration was compliance of directions of this Tribunal for preparation of District [Environmental Plans](#) in all the States followed by State Environmental Plans and finally National Environment Plan. Such plans it was observed would aid in environment protection.

The Tribunal directed finalize a model action plan at least for one District each in all States/UTs in the next three months. For this purpose, State PCB and concerned District Magistrate were directed to assist the CPCB.

(Case: Shree Nath Sharma v. Union of India & Ors. OA No. 360/ 2018 order dated 19.03.2020)

17. Scientific Disposal of Carcasses

While dealing with the issue of scientific disposal of carcasses, the Tribunal sought a factual and action taken report from the CPCB, PPCB and the District Magistrate, Ludhiana with reference to the allegation of crude and unscientific carcass disposal at Village Ladhawal, District Ludhiana, Punjab. Seeking further report, this Tribunal also directed the CPCB to compile information from all the State PCBs/PCCs about the extent of problem and the remedial action taken/proposed.

The Tribunal constituted a Monitoring Committee for remedial action and recommendations which suggested commissioning of the modern and scientific carcass plant, and thereafter closure of crude and unscientific carcass disposal plants. Punjab Pollution Control Board was directed to take immediate steps to get close these illegal activities from the present location with the help of District Administration.

The CPCB was directed to issue atleast interim Guidelines on the subject by way of Directives to the State PCBs/PCCs considering the studies available and seek action taken reports by way of monitoring. The State PCBs/PCCs were directed to ensure compliance of the directions issued by the

CPCB and compliance reports were to be furnished to the CPCB. The CPCB was directed file a comprehensive compliance report before the Tribunal.

(**Case:** Kulwinder Singh Sandhu & Ors. v. Ram Murti & Ors. OA No. 465/ 2019 order dated 13.05.2020)

18. Utilization of Environment Relief Fund

This application was filed before the Tribunal to highlight the non-utilization of more than Rs. 800 crore meant towards Environment Relief Fund under the Public Liabilities Insurance Act, 1991 (PLI Act, 1991) for victims of accidents in the process of handling hazardous substances.

The Act provides for establishing an environment relief fund under Section 7 A to be vested in the authority specified by the Central Government. The amount is to be utilized in terms of award made by the Collector under Section 7 on any application by the victims. As per Section 6, the source of fund is the insurance premium to be paid by the owner handling any hazardous substance and liability to give relief is created under Section 3 on death or injury to any person or an accident involving hazardous substance. Section 5 provides for publication of an accident by the Collector and to invite applications from the victims. Rules lay down the procedure for giving effect to the Act. A scheme has been notified on 04.11.2008 under Section 7 A. The scheme provides that United India Insurance Company Ltd. shall be the Fund Manager for five years who shall open an account in a nationalized bank and credit the amount of premium received as well as the amount awarded by the National Environment Tribunal (Now NGT). The relief fund is to be operated under para 5 and disbursement is under para 7 of the scheme in favour of the victims on the direction of the Collector. The Act is mentioned in Schedule I to the NGT Act, 2010 being one of the Acts in relation to which substantial questions of environment are to be determined by the NGT. Under Section 24 of the NGT Act, the amount of compensation under order of the Tribunal can be credited to the environment relief fund to be utilised for the victims of accidents of the nature mentioned earlier.

The Tribunal observed that even after 29 years of the enactment of a laudable welfare legislation and inspite of deposit of huge amount meant for the needy victims, the amount remains unutilized to the detriment of the victims for whose benefit the law was enacted. Accordingly, SPCBs and PCCs were directed to ensure that industries required to take policies under PLI Act, 1991 are not granted with Consents under the Water and Air Acts and the Authorization under Environment (Protection) Rules, 1986 till such a policy is obtained. National Legal Service Authority and the State Legal Service Authorities, constituted under the Legal Service Authority Act, 1987, were also requested for assistance to the victims of injustice to access justice to look into the matter and take such action as may be found appropriate at their end.

(**Case:** Gyan Prakash v. Ministry of Environment, Forest and Climate Change, OA No. 86/2020, order dated 20.11.2020)

19. Ban on Fire Crackers

In what may arguable be said to be the most [significant order](#) for the year in view of the enormous pollution in the Capital city and the threat of ongoing pandemic, the Tribunal considered the question of use of fire crackers aggravating the menace of Covid-19 pandemic, posing higher danger to the lives and health of the vulnerable groups.

The Tribunal held that applying the 'Sustainable Development' and 'Precautionary' principles, a case is made out for issuing directions for banning sale and use of fire crackers during November 9 to 30 in areas where air quality is 'poor', 'very poor' and 'severe'. It further directed that only green crackers be sold in areas where the air quality was poor or moderate. The crackers were allowed to be burst only for two hours during the day of the festival. All States/UTs/PCBs/PCCs were directed to initiate special drives to contain air pollution from all sources in view of potential of aggravation of Covid-19.

(Case: Tribunal on its own Motion v. Ministry of Environment, Forest and Climate Change & Ors., Original Application No. 249/2020, order dated 09.11.2020)

20. Chemical Blast at Yashasvi Rasayan

Proceedings in this matter arose out of an incident dated 03.06.2020 at Dahej, District Bharuch, Gujarat. A massive blast took place in a chemical factory run by respondent No.1, Yashyashvi Rasayan Pvt. Ltd. ("The Company"). On account of a fire in the storage tank of the factory, manufacturing several chemicals including Methanol and Xylene which find mentions in the Schedule to the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (The 1989 Rules), eight (08) workers were killed and atleast 50 injured. Bodies of some of the workers inside the factory were charred beyond recognition. The application has been filed by an NGO located at Surat mentioning the above facts based on newspaper reports.

The Tribunal directed the erring Company to deposit an amount of Rs. 25 Crores as interim compensation. The Tribunal also directed the constitution of 6 member fact finding Committee to inspect the site and furnish report on sequence of events, extent of damage to life and environment and steps to be taken for compensation of victims.

(Case: Aryavart Foundation through its President v. Yashyashvi Rasayan Pvt. Ltd. & Anr. Original Application No. 22/2020 (WZ), order dated 08.06.2020)

21. Oil Spill at Baghjan

The issue pertained to another chemical accident wherein there was claim for compensation to the victims and to the environment on account of damage in an incident of oil well blow out on 27.05.2020 at [Baghjan](#) in the Tinsukia District of Assam and other consequential events that followed. Case of the applicants was that Baghjan Oil well set up by the Oil India Limited (OIL) released propane, methane, propylene and other gases causing damage to bamboo groves, tea gardens, banana trees and betel nut trees in the area and also spread into the Dibru-Saikhowa National Park which, records over 40 mammals, 500 species of birds, 104 fish species, 105 butterfly species and 680 types of plants including a wide variety of rare orchids.

The Tribunal vide its order constituted an Expert Committee headed by a former Judge of the Gauhati High Court with seven other members to *inter alia* find out cause of gas leak, ascertain extent of loss and damage caused to human life, wildlife, environment and damage and health hazard caused to the public.

On the principle of absolute liability, the Tribunal also directed deposit of an interim amount of Rs. 25 crores to meet the cost of remediation of the damage to the environment, bio-diversity, human, wildlife and public health subject to final assessment

(Case: Wildlife and Environment Conservation Organization v. Union of India & Ors., Original Application No. 44/2020(EZ), order dated 02.07.2020)

22. Gas Leak at Vizag

[Suo motu](#) proceedings were undertaken by Tribunal pursuant to newspaper report that two persons died and four were injured on account of Benzimidazole gas leakage accident at Sainor Life Sciences factory at Parawada in industrial area on the outskirts of Visakhapatnam on 30.6.2020. The unit was dealing with Benzimidazole and Omerprazole Sulphide gases which are mentioned as hazardous chemicals in Schedule-I to the "Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989" (1989 Rules).

The Tribunal directed constitution of a Committee comprising representatives of CPCB, State PCB, District Magistrate, Visakhapatnam, Prof. Ch V. Rama Chandra Murthy, Andhra University, Vizag and Prof. Pulipati King, Head of Chemical Engineering Department, Andhra University, Vizag to assess final compensation to the victims and for restoration of the environment and suggestions for precautions in future. Interim compensation of Rs. 5 lakhs for each of the four injured was directed to be paid.

(Case: In Re: News item published in the local daily "Economic Times" dated 30.06.2020 titled "Another Gas Leakage at Vizag Factory kills two, critically injures four...", Original Application No. 106/2020 order dated 06.07.2020)

23. The Great Indian Bustard

NGT dealt with the issue of mitigation measures for protection of [Great Indian Bustard \(GIB\)](#) – rare bird and one of the critically endangered species, as per Schedule-I to the Wildlife Protection Act, 1972. Though the Ministry of Environment, Forest and Climate Change (MoEF&CC) had taken up a project called "Habitat Improvement of Great Indian Bustard-An Integrated Approach", it was observed that the wind projects are potential danger to the safety of the bird. Vide order dated 04.04.2019, this Tribunal sought a factual report from the MoEF&CC with regard to the allegation that steps taken are not adequate and there continues to be high mortality of the birds.

The Tribunal passed directions that necessary steps be taken for protecting critically endangered GIBs by installing the diverters on all existing powerlines and undergrounding the new powerlines, as suggested by the six-member Committee of the MoEF&CC, and monitoring of compliance be done, preferably by the Wildlife Institute of India atleast twice in a year.

(Case: Centre for Wildlife and Environment Litigation v. Union of India & Ors., Original Application No. 385/2019, order dated 23.12.2020)

24. Discharge of untreated effluents in Jojari river

The issue for consideration in these proceedings was the discharge of untreated toxic industrial effluent inter alia in *Jojari* River, which is flowing from Jodhpur towards Barmer District, carrying natural flow of water resulting in contamination of ground water. Industrial activities include dyeing of textiles, using chemicals.

The Tribunal observed that serious damage to the environment has taken place which is continuing in violation of basic right to clean environment. Specious plea of the State that it does not have staff is self-confessed failure of governance and Constitutional responsibility of the State. If after 56 years

of enactment of Water Act, prohibiting discharge of effluent or sewage in water bodies, which is criminal offence with minimum prescribed sentence, gross violations are continuing, there is undoubted failure of the State for which lack of staff can be no excuse. The unsatisfactory state of affairs needs to be urgently remedied by stopping polluting activities, taking coercive measures against the erring entities and taking appropriate restorations steps, including supply of drinking water to the affected victims on account of contamination of groundwater by pollution and remediation of the river stretch.

The Tribunal directed constitution of a five-member monitoring Committee prepare a further comprehensive time bound plan to remedy the situation at the earliest, preferably within six months. The Committee was directed to have public consultation particularly through the concerned Panchayats for the surviving grievances, including the supply of drinking water.

Source: <https://www.livelaw.in/columns/national-green-tribunal-ngt-covid-19-important-orders-and-judgments-2020-round-up-167813>