

Standing Committee Report Summary

The National Green Tribunal Bill, 2009

- The Standing Committee on Science & Technology, Environment & Forests submitted its 203rd Report on 'The National Green Tribunal Bill, 2009' on November 24, 2009. The Chairperson was Dr. T. Subbarami Reddy.
- The Bill allows the Tribunal to hear complaints where a "substantial question relating to environment" is involved. A "substantial question" includes an instance where there is direct violation of an environmental law by which the community at large other than an individual or group of individuals is affected. The Committee felt that there could be ambiguity as to the concept of 'substantial question'. The Committee also noted that the definition would remain open to judicial interpretation.
- The Bill does not specify the number of judicial and expert members in the Tribunal. The central government has the power to notify the number from time to time. The Committee suggested that the Ministry specify a minimum and maximum number of judicial and expert members.
- On the advice of the Committee, the Ministry proposed the following provision: "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." The Committee recommended that the number of judicial members should be equal to the number of expert members.
- The Committee recommended that judicial members, should not be treated at par with expert members. It also recommended that in cases where the opinions of the members hearing a case are equally divided, the Chairperson should have the power to take a final decision.
- The Bill provides that the Tribunal shall sit at such place or places as the Central Government may specify. The Financial Memorandum of the Bill states that five benches of the Tribunal shall be established. The Committee observed that such a limited spread of the Tribunal may lead to serious constraints of accessibility. The Ministry clarified that the Tribunal may undertake a circuit approach for its work apart from initial five places of sitting. The Committee recommended that the concept of circuit approach should be clarified in the rules.
- The Committee also recommended that jurisdiction of the benches may be defined to avoid overlap of jurisdiction.
- The Bill restricts the Members of the Tribunal from accepting any employment of any person who has been a party to a proceeding before the Tribunal after they cease to hold office, for a period of one year. The Committee recommended that this bar should be raised to two years. Regarding the Selection Committee which would appoint the members, the Committee recommended that adequate precautions should be taken while framing rules.
- The Committee recommended that the clauses permitting specified persons to apply for grant of relief before the Tribunal should be expanded to cover any aggrieved person, including any representative body or organisation.
- The Bill states that the order of the Tribunal shall be final, and contains no provision for appeal. The Committee recommended that citizens must be given an opportunity to go and appeal in the Supreme Court.
- The Committee observed that the Tribunal did not have powers to enforce its decisions, and recommended that hat contempt of court powers should be given to the Tribunal.
- The Bill gives the central government the power to amend Schedule I to the Bill. Schedule I contains the list of laws over which the Tribunal can exercise jurisdiction. The Committee recommended that any addition to or deletion of Schedule I of the Bill may be done only by way of amendment passed by the Parliament.
- The Committee recommended that certain principles of good practise laid down by the Supreme Court for environmental protection should find mention in the Bill. These cardinal principles include 'principles of sustainable development', 'precautionary principle' and 'polluter pays principle'.

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