

SUMMARY ON 186TH LAW COMMISSION REPORT

National Green Tribunal or the Environmental Court is not a new concept. Different courts in the country have recommended the establishment of Environmental Court to take up the cases related to environmental degradation. In **M.C Mehta vs. Union of India case in 1984**, Supreme Court observed that environmental cases involve assessment of scientific data. Setting up of environmental courts on regional basis would require professional judge and experts, keeping in view the expertise required for such adjudication. In another judgement '**Indian Council for Enviro-Legal Action vs. Union of India, 1994**' the Supreme Court observed that Environmental Courts having civil and criminal jurisdiction must be established to deal with the environmental issues in a speedy manner.

Supreme Court of India in **A.P. Pollution Control Board vs. M.V. Nayudu, 1981** referred to the need for establishing Environmental Courts which would have the benefit of expert advice from environmental scientists/technically qualified persons, as a part of the judicial process, after an elaborate discussion of the views of jurists of various countries.

Matters to be kept in mind before proceeding with recommendations:

(a)The uncertainties of scientific conclusions and the need to provide, not only expert advice from the Bar but also a system of independent expert advice to the Bench itself.

(b)The present inadequacy of the knowledge of Judges on the scientific and technical aspects of environmental issues, such as, whether the levels of pollution in a local area are within permissible limits or whether higher standards of permissible limits of pollution require to be set up.

(c)The need to maintain a proper balance between sustainable development and control/regulation of pollution by industries.

(d)The need to strike a balance between closure of polluting industries and reducing or avoiding unemployment or loss of livelihood.

(e)The need to make a final appellate view at the level of each State on decisions regarding 'environmental impact assessment'.

(f)The need to develop a jurisprudence in this branch of law which is also in accord with scientific technological developments and international treaties, conventions or decisions.

(g)To achieve the objectives of Art. 21, 47, 48A and 21A (g) of the Constitution of India by means of a fair, fast and satisfactory judicial procedure.

Composition of the 'Green' Court:

The Court shall consist of three Judicial Members, who are either (a) sitting or retired Judges of a High Court or (b) experienced Members of the Bar with not less than 10 years standing. 120 In the appointment process, it is proposed to provide preference to those who have had experience in environmental matters as judges or lawyers. The judges will be appointed by the Central Government in

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