An Assessment of Red Tapism to Green Bench

Dr. Monika Brahmbhatt
Assistant Professor
Department of Law
Veer Narmad South Gujarat University
Email - mdbrahmbhatt@vnsgu.ac.in
ORCID - https://orcid.org/0009-0003-6510-5460

Abstract:

Environmental governance in India functions within a comprehensive regulatory framework designed to guarantee environmental protection via administrative monitoring and procedural safeguards. Excessive bureaucratic formality, sometimes referred to as red tape, has frequently led to regulatory delays, fragmented decision-making, and ineffective enforcement of environmental standards. This administrative lethargy has progressively transferred the responsibility of environmental governance to judicial institutions, notably the National Green Tribunal, which has become a crucial entity in rectifying governance deficiencies. This paper evaluates the correlation between bureaucratic obstacles and the increasing influence of the Green Bench inside India's environmental governance structure. It analyses how procedural overload in environmental clearance and regulatory frameworks has led to the judicialization of environmental decision-making. The Tribunal has improved accountability, access to environmental justice, and adherence to environmental norms; nonetheless, its expanding governance role prompts questions about institutional equilibrium and the boundaries of judicial action. The article contends that sustainable environmental governance necessitates administrative reform to diminish bureaucratic obstacles, enhance regulatory capacity, and readjust the National Green Tribunal's position within a balanced law-governance-policy framework.

Introduction:

India's environmental decline is a paradox because it has one of the most extensive systems of environmental regulations among developing countries, but the results are still very bad. Rapid industrialization, infrastructure development, urban growth, and resource extraction have put more stress on the environment and shown that governance systems are not working well. The main problem with these issues is that there is too much bureaucratic formality, which is sometimes called "red tape." This often leads to following procedures instead of protecting the environment in a meaningful way. Because administrative bodies haven't been able to stop environmental damage, people have had to rely more on the courts. The National Green Tribunal (NGT) is now a very important part of environmental governance. This problem is an example of a larger trend called "judicialization," in which legal decisions are used to fix problems with policy and administration instead of executive actions.

This study examines the influence of bureaucratic inefficiency on environmental administration, which has facilitated the rise of the Green Bench as a governance entity, and

evaluates whether this judicial advancement strengthens or weakens India's environmental governance framework.

International Perspective

International experience shows that the relationship between administrative regulation and judicial intervention in environmental governance is mostly affected by how well institutions can do their jobs. In areas with strong and independent environmental regulators, overly formal bureaucratic procedures usually don't require court action. The Environmental Protection Agency is in charge of most environmental governance in the United States. Courts only look at whether the rules are being followed and whether the law is being followed. Judicial deference to administrative expertise has prevented courts from assuming governance responsibilities, notwithstanding the complexities of regulation. The European Union has a strong and proactive system of rules and regulations, led by the European Commission and supported by scientific groups. Judicial involvement is mostly about making sure that member states follow environmental rules, not about making decisions for the government. The United Kingdom takes a careful approach to judicial review of environmental issues, with the Environment Agency and other regulatory bodies in charge. Judicial bodies stress legality and proportionality, which keeps the institutional balance. On the other hand, some countries in the Global South, like Brazil, South Africa, and the Philippines, have similar problems to India, where weak enforcement and bureaucratic stagnation have led to judicial activism as a way to fix things. India's reliance on the National Green Tribunal signifies administrative fragility rather than judicial overreach. Global models show that while judicial intervention may provide short-term relief for problems with governance, long-term environmental protection depends on efficient processes, stronger regulatory bodies, and a new balance between administrative and judicial processes.

Constitutional Perspective

India's constitution sets the standards for environmental regulation and allows the courts to step in when the government fails to do its job. The Constitution does not explicitly delineate environmental rights; however, judicial interpretation has elevated environmental conservation to the status of a constitutional obligation. The Supreme Court's extension of Article 21 to include the right to a clean and healthy environment has made environmental protection a legally enforceable fundamental right. The constitution's recognition of environmental issues has given the courts the power to check the executive branch's lack of action and the ineffectiveness of regulations. When bureaucratic hurdles hinder environmental protection, courts have the constitutional power to intervene to safeguard the right to life. The

Forty-Second Constitutional Amendment added Article 48A, which says that the State must protect and improve the environment. This provision, while non-justiciable, guides statutory interpretation and policy formulation, thereby reinforcing the judiciary's role in holding the executive accountable for deficiencies in environmental governance. Article 51A(g) also makes it a basic duty for people to protect the natural environment. The courts and tribunals have been able to stress collective environmental responsibility and support participatory environmental justice frameworks because they have relied on this principle. The principle of separation of powers is the main constitutional issue in the judicialization of environmental issues. Indian constitutional jurisprudence recognizes that judicial intervention is justified when executive agencies fail to fulfill their constitutional and statutory responsibilities, despite the potential for excessive judicial oversight to interfere with executive functions. Environmental adjudication represents a means of constitutional correction rather than a manifestation of bureaucratic overreach. The establishment of the National Green Tribunal represents a constitutionally sanctioned balance between knowledge-based adjudication and the accessibility of justice. The Tribunal, based on Articles 21, 32, and 226, shows that the Constitution is committed to providing effective environmental solutions within the law. In conclusion, from a constitutional point of view, the judicialization of environmental governance in India is not an exception but a result of constitutional rules and problems with how the government works. For the Constitution to be sustainable, the courts must be able to help and fix problems, and the government must be responsible for protecting the environment.

Legislative Perspective

From a legislative point of view, The laws that protect the environment in India show that Parliament wants to balance the needs of development with the need to protect the environment through a lot of laws. However, even though there are many environmental laws in place, the way they are written often makes things more complicated and less efficient for government workers, which indirectly encourages people to go to court. The Environment (Protection) Act of 1986 is the main law in India that protects the environment. It gives the central government a lot of power to deal with pollution, issue orders, and make rules that are not as strict as the main law. The Act makes it easier for the executive to act quickly, but because it relies on delegated legislation, it has led to more rules, notices, and clearance procedures, which makes the bureaucracy more complicated and the rules more unnecessary. The Water (Prevention and Control of Pollution) Act of 1974, the Air (Prevention and Control of Pollution) Act of 1981, and the Forest (Conservation) Act of 1980 are examples of sector-specific laws that set up regulatory bodies but don't have strong enforcement or accountability

systems. Pollution Control Boards have the legal authority to do their jobs, but they can't because they don't have enough money, political interference, or clear authority. This makes enforcement less effective. The Environmental Impact Assessment (EIA) Notification, which was issued under delegated legislative authority, is an example of how the legislative and executive branches work together, which can lead to too many steps. Frequent changes, approvals that go back in time, and exemptions that aren't required have made environmental protections weaker while also causing delays in the administration, which has led to more lawsuits in courts and tribunals. Parliament passed the National Green Tribunal Act, 2010, to create a specialized court to ensure quick and effective environmental justice. This was done because traditional legal remedies don't work well in current environmental laws. The Act shows that the government is aware of problems with its own administration and is trying to fix them by using expert-led adjudication. The National Green Tribunal's growing role in governance raises concerns among lawmakers about the balance of power in institutions. The absence of clear legal limits on the Tribunal's powers to supervise and make policy has allowed adjudication to overstep its bounds, making it hard to tell the difference between making laws, enforcing them, and judging them. From a legislative point of view, sustainable environmental governance needs changes to the law that make it easier to understand, more clear, and more accountable. This means streamlining the approval process, making enforcement stronger, reducing reliance on overly delegated laws, and giving regulatory bodies more power. If the legislature doesn't change, judicialization will continue to be a replacement for legislation instead of an addition to it.

Legal Precedents

M.C. Mehta v. Union of India (Oleum Gas Leak Case, 1987) - This case was brought because regulatory agencies couldn't stop an industrial disaster. It shows how problems with the bureaucracy led to new ideas in the courts (like absolute liability). This case shows that the idea of judicial intervention is based on the idea that it happens when administrative functions fail.

Indian Council for Enviro-Legal Action v. Union of India (1996) is a clear example of how judicial enforcement can take the place of administrative enforcement. It shows how the Polluter Pays Principle was put into action because regulators didn't do anything. It shows that judicialization is a direct result of bureaucratic obstacles.

In the case of Vellore Citizens' Welfare Forum v. Union of India (1996), Indian law includes basic principles of environmental governance. The judiciary addressed shortcomings in the legislative and executive branches, exemplifying governance through adjudication.

A.P. Pollution Control Board v. Prof. M.V. Nayudu (1999 and 2001) This case criticized the lack of scientific knowledge in making decisions about the environment, which was the main reason for the creation of the National Green Tribunal. The case shows that when government officials are incompetent, there is a need for specialized adjudication.

Lafarge Umiam Mining Pvt. Ltd. v. Union of India (2011) – Here, the flaws in the rules for protecting the environment and cutting down trees were shown. The court focused on mechanical approvals and procedural burdens, which are two of the most important parts of bureaucratic red tape. It agrees with people who are critical of the Environmental Impact Assessment framework.

Bhopal Gas Peedith Mahila Udyog Sangathan v. Union of India (2012) – This case confirmed that the National Green Tribunal was constitutional and that the goal of the law was to clear up the backlog of environmental lawsuits and problems with the way the government works.

Mantri Techzone Pvt. Ltd. v. Forward Foundation (2019) shows the NGT using both restorative and supervisory power, which shows that tribunal-directed governance can fill in gaps in administration.

Ankita Sinha v. Municipal Corporation of Greater Mumbai (2021) – This case confirmed that the NGT has a lot of power, including suo motu authority, and it brings up important questions about the balance of power in institutions and the overreach of the judiciary.

Final Thought

The transition from bureaucratic obstacles to the Green Bench signifies a fundamental shift in India's environmental governance, propelled more by enduring administrative deficiencies than by judicial aspirations. Notwithstanding a comprehensive constitutional and legislative framework, environmental management in India remains hindered by excessive procedural formalism, fragmented institutional authority, and inadequate enforcement capacity. These shortcomings have compromised the efficacy of executive governance and necessitated that judicial institutions take on a progressively pivotal role in environmental decision-making.

The establishment and growth of the National Green Tribunal signify a practical institutional reaction to bureaucratic stagnation and regulatory shortcomings. The Tribunal has markedly improved access to environmental justice, bolstered accountability, and ensured compliance with environmental principles, including sustainable development, precaution, and the polluter pays principle, through specialized, expert-driven, and prompt adjudication. In this

context, the Green Bench has served as a remedial device, addressing governance voids caused by bureaucratic inefficiencies. The increasing judicialization of environmental governance prompts significant questions about institutional equilibrium and democratic accountability. Ongoing judicial oversight, policy-driven directives, and quasi-executive supervision, however successful in the short term, may normalize court-led governance and undermine executive accountability. Environmental protection cannot rely solely on adjudication, nor can judicial intervention serve as a lasting replacement for administrative expertise.

This study asserts that significant reform in environmental governance must tackle the fundamental reasons of bureaucratic inefficiency through legislative simplification, enhancement of administrative capabilities, and regulatory accountability. Efficient clearance procedures, strengthened pollution control agencies, and transparent decision-making are crucial for reinstating administrative authority in environmental regulation. In a reformed framework, the National Green Tribunal should function as a supervisory and remedial body rather than a substitute for governance. Ultimately, successful environmental governance in India necessitates a rebalanced synergy of legislation, administration, and adjudication. To reposition the Green Bench within its constitutionally designated mandate, it is essential to diminish bureaucratic impediments and strengthen institutional accountability, thereby guaranteeing that environmental justice is achieved by competent governance rather than through default judicialization.

Suggestions and Recommendations

A comprehensive reform plan is necessary to tackle the structural challenges of bureaucratic inefficiency and excessive judicialization in India's environmental governance. The subsequent recommendations seek to reestablish institutional equilibrium while enhancing environmental safeguards –

1. **Optimizing Environmental Clearance Processes**

Environmental approval processes must be streamlined to remove superfluous decision-making tiers. A streamlined, time-sensitive clearance system with explicitly delineated duties can mitigate procedural delays while preserving environmental protections. Simplification should prioritize meaningful environmental evaluation over mere adherence to procedural formalities.

2. **Fortifying Regulatory Institutions**

Regulation of Pollution Boards and environmental authorities necessitate improved technical proficiency, financial independence, and protection from political influence. Consistent training, clear appointment procedures, and performance-driven accountability systems are essential to convert these entities from passive regulators into efficient enforcement authorities.

3. **Overhauling the Environmental Impact Assessment Framework**

The EIA framework must be realigned to emphasize scientific rigor and public engagement. Independent expert evaluation panels, substantial stakeholder discussions, and a stringent ban on post-facto approvals are crucial to avert bureaucratic expediency and regulatory capture.

4. **Legislative Justification and Precision**

Environmental statutes ought to be reassessed to mitigate undue dependence on delegated legislation. Explicit statutory criteria, less discretionary exemptions, and established timetables help diminish interpretation ambiguity and administrative caprice that incite litigation.

5. **Reassessing the Function of the National Green Tribunal**

The National Green Tribunal should operate mostly as a specialist adjudicative and supervisory entity rather than a perpetual governance authority. Explicit legislative parameters delineating the boundaries of its policy-oriented and oversight tasks can sustain institutional equilibrium while ensuring judicial efficacy.

6. **Improving Inter-Institutional Collaboration**

Efficient environmental governance necessitates harmonious collaboration among central, state, and local authorities. Digital compliance platforms and linked data-sharing systems help mitigate jurisdictional overlap and enhance regulatory coherence.

7. **Advocating for Preventive and Compliance-Oriented Regulation**

Increased focus should be directed towards preventive regulation, compliance support, and early intervention instead of post-violation litigation. Encouraging adherence through clear disclosure standards and environmental performance evaluations might diminish dependence on legal recourse.

8. **Promoting Public Engagement and Transparency**

Enhancing access to environmental information and participatory decision-making can serve as a democratic counterbalance to bureaucratic stagnation. Informed public participation diminishes administrative opacity and alleviates the strain on judicial institutions.

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