

W.P.No.15112 of 2021

THE HON'BLE CHIEF JUSTICE
and
P.D.AUDIKEVALU, J.

(Made by the Hon'ble Chief Justice)

The Union has been served. It is also necessary that the National Green Tribunal, if not already served, be served at its Principal Bench.

2. The immediate challenge is to an office order of June 12, 2021 issued by the Registrar General of the Principal Bench of the National Green Tribunal to the following effect:

"OFFICE ORDER

As directed, it is hereby ordered that henceforth suo-motu matters having Pan India/Inter-State implications will be listed at the Principal Bench of atleast three Members.

This issues *केसुधमेव जयते* with the approval of the Competent Authority."

3. According to the petitioner, the territorial jurisdictions of the five Benches of the National Green Tribunal have been indicated in the Rules by a notification published by the Union Government on

August 10, 2017. Such notification incorporates a table wherein the States and Union Territories and the relevant Regional National Green Tribunals and the locations of such Tribunals have been indicated.

4. There is also an office order issued by the Registrar General of the National Green Tribunal on February 28, 2020 to the effect that the Central Government had notified the zones, the places of sitting and the territorial jurisdiction of the respective Tribunals by a notification of August 17, 2011. There is some difference between the notification of August 17, 2011 referred to in the order of February 28, 2020 and the notification of August 10, 2017. However, that may not be relevant for the present purpose.

5. What is of importance is that Section 4(3) of the National Green Tribunal Act, 2010 empowers only the Central Government to specify the ordinary places of sitting of the Tribunal and the territorial jurisdiction falling under each such places of sitting. Section 4(4)(c) also permits only the Central Government, in consultation with the Chairperson of the Tribunal, to make rules regulating the practices and procedures of the Tribunal, including the minimum number of members who shall hear the applications and appeals in respect of

any class or classes of applications and appeals.

6. The proviso to Section 4(4) of the Act mandates that the number of Expert Members shall, in hearing an application or an appeal, be equal to the number of Judicial Members hearing such application or appeal. The Rules have been framed by the Central Government in exercise of the powers conferred by Section 4(4) of the Act. The National Green Tribunal (Practices and Procedure) Rules, 2011 have been in force since April, 2011.

7. Rule 5(1) of the said Rules requires the Tribunal to hear an application or appeal by Benches consisting of at least a judicial officer and an Expert Member. There is some latitude permitted in Rule 5(2) of the said Rules which empowers the Chairperson to specify that a case or some cases be heard by Benches of more than two Members.

8. Rule 6 of the said Rules permits a Tribunal to sit at any place other than the place at which it ordinarily sits if the Judicial Member of the Tribunal is satisfied that circumstances exist therefor and the previous approval of the Chairperson of the Tribunal is obtained in

such regard.

9. There appears to be some anomaly. Notwithstanding Rule 5(2) of the said Rules, since the statute has to prevail over the Rules, in view of the proviso to Section 4(4) of the Act, the number of Expert Members and the number of Judicial Members need to be equal. Thus, prima facie, the said Act when read with the Rules, does not permit a Bench consisting an odd number of Members. To such extent, the impugned office order seems to be an anomaly.

10. Further, when territorial jurisdictions have been defined and the places of sitting fixed, it may not be permissible, at least without a Central Government notification in such regard, for even the Principal Bench to take up matters pertaining to any other Bench, notwithstanding the Chairperson ordinarily presiding over the Principal Bench.

11. Indeed, the Chairperson of the National Green Tribunal does not appear to have been conferred any more authority, when dealing with any matter on the judicial side, than any other Judicial Member

heading the Tribunals at the other places of sitting.

12. On a cursory glance of the governing statute, it appears that the National Green Tribunal has jurisdiction to take up civil disputes that substantially involve any question pertaining to the environment and such question arises out of the implementation of the enactments specified in the First Schedule to the Act. Section 14 provides for such authority of the Tribunal to entertain and settle disputes. In addition, Section 15 confers authority on the Tribunal, at each place of sitting, to grant relief, compensation and restitution, when such relief or compensation or restitution is sought. The Tribunal at each of the places of sitting also has appellate jurisdiction, as indicated in Section 16 of the Act, as the designated statutory authority.

सत्यमेव जयते

13. Even when the Tribunal has been conferred the authority to grant relief for compensation or restitution, it is evident from a further reading of Section 15 of the Act that an application in such regard has to be filed. There does not, immediately, appear to be any provision under which the Tribunal may assume suo motu authority.

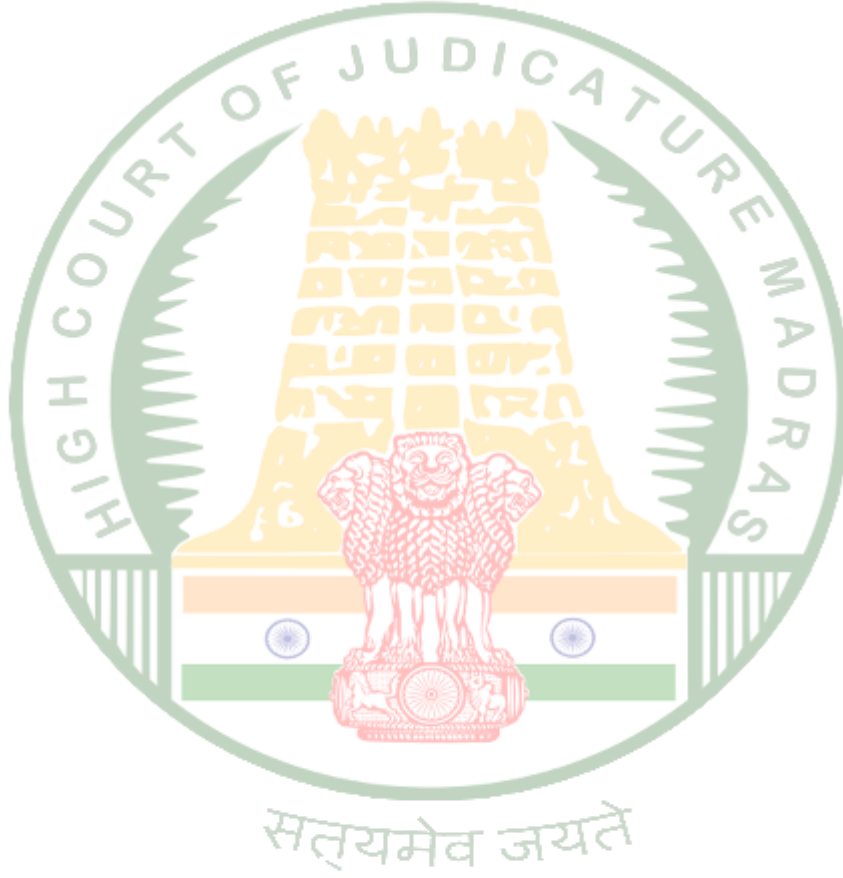
It also does not appear that, as noticed above, in exercise of the judicial authority conferred to Judicial Members by the statute, the Chairperson as a Judicial Member exercises any greater authority than the other Judicial Members. The appeals from orders of all National Green Tribunals may be carried to the Supreme Court, in terms of Section 22 of the Act.

14. In such circumstances, since the impugned office order of June 12, 2021 appears to be contrary to Section 4 of the Act on at least three counts, it is necessary to stay such order pending the disposal of the writ petition.

15. However, in the event the National Green Tribunal seeks to be represented, it will have leave to apply for vacating this order upon due notice to the petitioner herein. Learned Additional Solicitor-General appearing for the Union seeks time for filing a counter-affidavit. Such affidavit be filed by both the National Green Tribunal and the Central Government within four weeks from date. Let the matter appear five weeks hence.

16. List on 07.09.2021.

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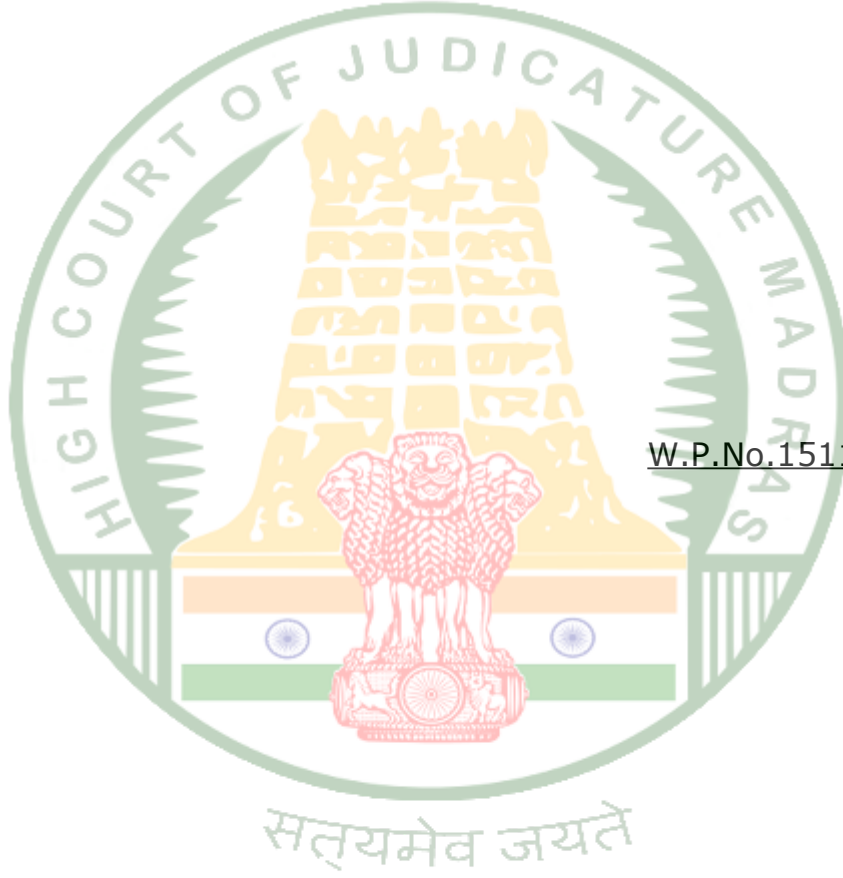
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03.08.2021