

1. Discuss the mandate of the National Green Tribunal (NGT). What are the challenges associated with the efficient functioning of the NGT? Examine.

Introduction

National Green Tribunal was established in 2010 under National Green Tribunal Act, 2010 to dispose of cases having environmental ramification. Its headed by retired judge of supreme court or being chief justice of high court and almost 20 experts and 20 judicial members.

Body

Mandate of NGT

1. To dispose of cases dealing with any environment law violation, conservation of forests and natural resources.
Eg. The NGT has the power to hear all civil cases relating to environmental issues including the following:
 - The Water (Prevention and Control of Pollution) Act, 1974;
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 - The Forest (Conservation) Act, 1980;
 - The Air (Prevention and Control of Pollution) Act, 1981;
 - The Environment (Protection) Act, 1986;
 - The Public Liability Insurance Act, 1991;
 - The Biological Diversity Act, 2002.
2. Recommend penalties and fine.
3. Recommend policies for environment protection.
4. Disposal of applications or appeals finally within 6 months of filing of the application.
5. Enforcement of any legal right relating to environment
6. Giving relief and compensation for damages
7. Has power of civil courts.
8. The Tribunal is not bound by the procedure laid down under the Code of Civil Procedure, 1908, is guided by principles of natural justice.

Challenges

- Administrative problems: A less obvious but critical aspect of the NGT's efficient functioning, which can significantly impact the decision-making process and access to justice, concerns the administrative support supplied by the Government of India. The absence of basic infrastructure facilities and human resources has led to resignations of three judicial members and the intervention of the Supreme Court in 2012.
- Section 4 of the NGT Act, 2010, prescribes that the tribunal shall consist of a full time chairperson and not less than 10 judicial and 10 expert members but subject to maximum of twenty full-time judicial and expert members. But in the last nine years, the NGT has never got the minimum strength of ten

judicial and ten expert members to address the increasing number of environmental litigations across the country.

- Hearings through video conference put enormous cost and burden on clients. Hearings are adjourned or listed in an unfashionable manner, without giving sufficient time to lawyers and clients to present their matter. The great majority of cases are not resolved within the stipulated time-period of six months.
- The act has limited the jurisdiction of tribunal to "substantial question of environment" i.e. situations where 'damage to public health is broadly measurable' or 'significant damage to environment' or relates to 'Point Source of Pollution'. The question related to environment can't left on discretion of an individual especially on subjective assessment whether environment damage is substantial or not.
- NGT Jurisdiction is confined to where community at large is affected by specific form of activity such as pollution. It excludes individual or Group of individuals who deserves as much protection as to Community at Large.
- The qualifications for a technical member are more favorable to bureaucrats (especially retired) and to irrelevant technocrats. The act considers higher degrees in Science, Technology and Administrative experience but no provision for ecologist, sociologist, environmentalist, civil society or NGO, etc.
- The Act is silent on provision that who is liable to pay compensation or cost of damage to public health or environment. The MOEF state that it shall be notified in rules but this substantial concern shall be included in act only not on will of executive.
- The Act doesn't provide jurisdiction to Tribunal over all laws related to environment such as Wildlife Protection Act (1972), Indian Forest Act 1927, Scheduled Tribes (Recognition of Forest Rights Act) 2005 and various other state legislation's.
- NGT though is regular in scheduling hearings, typically with time gaps of two to three weeks between two consecutive hearings. Despite the high percentage of cases being disposed of, there is also an increasing backlog of cases in NGT.
- NGT's critics have also questioned the "lack of environmental finesse" of its expert members. "Usually, the expert members are experts of one particular field and not of environment as a whole. For instance, an expert member who has been working on forests for many years would not be able to comprehend the issues arising out of industrial pollution. Thus, the judgments are vague and not relevant in some cases.
- There are also serious challenges as far as implementation of the NGT orders is concerned. For example, Rule 35 (1) of the Act specifies that the compensation amount as ordered by the tribunal should be remitted to the authority of the Environmental Relief Fund within a period of 30 days from the date of order or award or as otherwise ordered by the tribunal. Invariably, it is observed that the polluters don't abide by this rule. Second, the NGT orders are increasingly challenged in the Supreme Court, where a heavy penalty has been imposed by the tribunal. Third, there is no institutional mechanism to ensure that the environmental regulatory authorities comply with the orders of the tribunal.

Way forward

- Strengthening it by giving more powers and by investing in its infrastructure.
- Judicial review is an important power that must be given to NGT.
- Other environment-related laws must be included within NGT'S ambit.
- NGT also needs to put certain systems in place for transparent decision-making.
- NGT needs to establish principles and criteria to estimate fines, damages and compensation.
- It should also identify institutions and experts who can help it to scientifically estimate environmental damages/compensation/fines on a case-to-case basis.
- NGT must put internal checks and balances for efficient and transparent delivery of justice.
- Suomotu jurisdiction has to be an integral feature of NGT for better and effective functioning.
- There is a need for the central and state governments to work in collaboration with the NGT for an effective outcome.

Conclusion

Countries like New Zealand and Australia, which have specialized environmental courts, quite regularly restructure administrative and financial support for the court to increase efficiency and reduce costs, and in an ideal world, create benefits of true cost-efficiency. The government of India also needs to provide adequate financial and human resources — if it does not want the NGT to wither away.

2. What is the role of the National Commission for Women? What is its constitution? Has it been effective in addressing women issues in India? Critically examine.

Introduction:

Owing to the overwhelmingly patriarchal structure of our society, women have been relegated to a secondary status and have been subject to various legal and social discriminations. The framers of the Constitution recognized the need to remove such inequities, and made special provisions to redress the same. The need was felt for a structure to uphold the rights and implement the provisions of beneficial legislations in an organized and institutionalized manner. The National Commission for Women (NCW) is a statutorily constituted body under the National Commission for Women Act.1990.

Body

Role of the commission

- To examine constitutional and legal safeguards for women.
- To take up cases of violations of the provisions of the constitution or any other laws affecting women and recommend so as to provide legislative remedies.
- To inspect remand home, women's institution where women are kept as prisoners or otherwise take up the concerned authority for remedial action, if necessary.

Constitution of the Commission

1. A Chairperson, committed to the cause of women, to be nominated by the Central Government.
2. five Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry potential of women, women's voluntary organization's (including women activist), administration, economic development, health, education or social welfare; Provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively.
3. a Member-Secretary to be nominated by the Central Government who shall be :-
 - an expert in the field of management, organizational structure or sociological movement, or
 - An officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.

It has been effective in addressing women issues

A number of enquiry commission have been established by the commission under section 8(1) of the act to look into the matters of law and legislation, political empowerment, custodial justice for women, social security, panchayat raj, women and media, development of scheduled tribe woman, development of women of weaker sections, development of women of minority communities, transfer of technology and agriculture for development of women. Among other highlights includes the anti-child marriage agitation in Rajasthan, Uttar Pradesh, Andhra Pradesh, Madhya Pradesh, public hearings on problems of Muslim women, the impact of globalization on women or land-related problems, economic empowerment of tribal women has been successfully organized by commission all over the country.

However, commission fails to do complete justice as the body remains toothless due to following

- The Commission has no concrete legislative powers. It only has the powers to recommend amendments and submit reports which are not binding on state or Union Governments.

- The Commission does not have the power to select its own members. This power is vested with the Union Government and in India's volatile political scenario the Commission may be politicized.
- The Commission is dependent on grants from the Union Government for its financial functioning and this could compromise the independence of the Commission.

Way forward

- The Commission suggested that the chairperson of NCW be given the status of the Union Cabinet Minister and the Members that of Minister of State. This will put more power in the Commission's hands and thus its recommendations will have a greater degree of force.
- The Commission must be granted the power to select its own members. If needed a separate body, selected from within the Commission, should be constituted in order to carry these functions.
- The Commission must be given allocated funds in the Union as well as the State Budgets in order facilitate smooth functioning. Currently funds are only allocated at the Central level and not the state level.

Conclusion

The Objectives, organizational structure and administrative set up of NCW clearly show the relevance of its existence and its significance. It's not only the duty of the state but also it's the duty of the citizens as a whole to look into if such misdeeds in our society are taking place or not. There should be more public awareness and participation for the women oppression so as to make the work of the National Commission for Women more justifiable.

3. What are your views on the level of awareness with regard to consumer disputes jurisprudence in India? Which are some of the statutory and regulatory bodies working in this field? Discuss.

Introduction

Consumer disputes jurisprudence is to ensure fair trade practices; quality of goods and efficient services with information to the consumer with regard to quality, quantity, potency, composition and price for their choice of purchase.

India has enacted the Consumer Protection Act, 1986 for consumer protection. The Consumer Protection Bill, 2015 and the newly enacted Bureau of Indian Standards Act, 2016 are efforts to provide the basis for such upgradation.

Body

My Views on level of awareness with regard to consumer disputes jurisprudence in India

- A substantial number of the rural people in India are living below the poverty line, having a high level of unemployment and poor literacy level and consumer

awareness continues to remain low. Under these circumstances, the sellers or the manufactures, exploit the consumer.

- Rural markets are full of sub-standard goods and duplicity of branded goods is another major problem in rural areas. As there is no check on production and sale of such products in the rural markets, many of these products have become health hazards.
- Services like insurance, banking, and electricity, medical have expanded without any checks and balances and consumers continue to be exploited by the service providers.
- The vulnerable sections are mainly women, children and farmers. It is common to find that farmers are supplied defective seeds, adulterated pesticides and other commodities.
- The expansion of mass media has further given impetus to consumerism in the rural areas. Therefore, now it is widely believed that the fate of the consumers cannot be left to the market forces. Hence there is need for consumer education.

Statutory and regulatory bodies working in the field of consumer disputes jurisprudence in India

- Bureau of Indian Standards (BIS) - It was set up under the Societies Registration Act 1860. It acts as the National Standards Body of India. The mandate of the BIS is to prepare and promote Standards for adoption by Indian industry and Product Certification.
- Central Consumer Protection Authority (CCPA) to promote, protect and enforce the rights of consumers. It has been formed under the Consumer Protection act, 2019.
- Competition Commission of India – to prevent exploitation of consumers due to monopolization etc.
- Banking Ombudsman at RBI – for banking related grievance redressal.
- Food Safety & Standard Standards Authority of India (FSSAI) – for regulation of food items.

Conclusion

There is absence of consumer demand for quality goods and services primarily because of lack of awareness. In short, there is absence of a quality culture in the country. If the quality of Indian products and their conformity with international standards is to be accomplished by Indian producers, the impulse must be generated from the consumers.

4. Do you think the absence of a central planning body like the erstwhile Planning Commission is hurting India? Has the NITI Ayog been effective in realising its objectives? Examine.

Introduction

The NITI Aayog, established in 2015, is one of Indian democracy's youngest institutions. It has been entrusted with the mandate of re-imagining the development agenda by dismantling old-style central planning. The NITI Aayog's precursor, the Planning Commission was established in March 1950 by a Government of India resolution with Prime Minister as Chairperson. Its initial mandate was to establish heavy industries through public investment as a means for achieving rapid industrialization which later included wide ranging powers.

Body

- Planning Commission of India, established right after Independence was responsible for formulating Development Plans for the States and the whole Country. Each State had its own State Planning Board, who would draft their Annual Plans for the next five years on a tentative Basis, consolidate these as a Draft Five Year Plan.
- The Planning commission, with its mandate of centralized planning emerged as a critical instrument for centralizing India's fiscal system.
- Its Plan funds and CSS played an important (though imperfect) role in responding to governance deficits by designing and financing (through plan funds) schemes linked to core public services.
- Moreover, the Planning Commission played a critical coordination function. CSS, linked to Plan funds, were administered by line-departments but the Commission played a critical policy coordination function linking schemes to state plans and determining resource availability.
- Further, the five-year plans and plan allocations, enabled states to broadly predict the quantum of plan funds they were likely to receive, ensuring somewhat predictable expenditure over a five year cycle.
- In the absence of the planning commission, this role has been taken over the Finance Ministry and line departments. As a result, the last five years have arguably witnessed an even greater centralization of schemes.

An internal evaluation in Government revealed that Planning Commission was witnessing policy fatigue necessitating structural changes in central planning process.

The planning exercise that was followed hardly had **any relevance for the market economy**. It did very little to plan and implement public sector investments and its role in public-private partnerships was restrictive. The proliferation of Centrally Sponsored Schemes contributed to **severe distortions in public spending**.

The defective process of planning which came into force since the beginning of the planning in India, is also responsible for the failure of our economic planning. The setting up of the Niti Aayog and the implementation of the recommendations of the 14th finance commission recommendations to enhance fiscal devolution to states marked an important juncture in fiscal federal relations in India.

- 1) An overarching theme of the NITI Aayog was the change in **focus from central planning to cooperative federalism**. Through the NITI Aayog India will

move away from the one size fits all approach and forge a better match between schemes and needs of States.

- 2) The Governing Council of NITI Aayog met very often, 3 sub-groups of Chief Ministers were worked on centrally sponsored schemes (CSS), skill development and Swachh Bharat.

- 3) The NITI Aayog made serious efforts for **Transforming India's developmental agenda**. It sought proposals from all Central Ministries for Accelerated Growth and Inclusion Strategy, Employment Generation, Energy Conservation and Efficiency, Good Governance and Swachh Bharat.



- 4) The NITI Aayog has done an enormous amount of work in a period of 3 years. It started designing strategic policies, fostering cooperative federalism, provided knowledge and innovation support and undertook evaluation/ monitoring of major investments
- 5) Based on their recommendations, the new CSS sharing system was notified and a transparent formula based allocation of resources was reached. The Swachh Bharat cess was levied on all services.
- 6) To promote skill development initiatives, the involvement of States in the Pradhan Mantri Kaushal Vikas Yojana was ensured.
- 7) The Atal Innovation Mission was launched to seed innovations to teach young minds new skills.

Recently, Vijay Kelkar, chairman of the 13th Finance Commission, called for a NITI Aayog 2.0 where he has argued that a restructured NITI Aayog should be given a funding role so that it can help deal with the development experience between states.

Conclusion

NITI Aayog seeks to facilitate and empower the critical requirement of good governance – which is people-centric, participative, collaborative, transparent and policy-driven. In this regard it will be too early to assess its performance in comparison to more than six decades of Planning Commission work which had different approach towards planned development.

5. What is the mandate of the Telecom Regulatory Authority of India (TRAI)? Discuss. How far has it been successful in protecting consumer interests? Examine.

Introduction

The Telecom Regulatory Authority of India (TRAI) is a statutory body set up by the Government of India under section 3 of the Telecom Regulatory Authority of India Act, 1997. It is the regulator of the telecommunications sector in India.

Body

Mandate of TRAI:

- to create and nurture conditions for growth of telecommunications in India to enable the country to have a leading role in the emerging global information society.
- to provide a fair and transparent environment that promotes a level playing field and facilitates fair competition in the market.
- issue orders and directions on various subjects such as tariffs, interconnections, quality of service, Direct To Home (DTH) services and mobile number portability.
- to regulate telecommunication services, adjudicate disputes, dispose appeals and protect the interest of the service providers as well as consumers.
- To establish standards for Quality of Services (QoS) and supervise how service providers share revenue
- To conduct periodical surveys to ensure that telecom service providers are acting in the best interest of consumers and are opening in compliance with universal service obligations.
- Recommend government or the license providers on Efficient management of available spectrum, the introduction of new service provider, Revocation of license for non-compliance, Technological improvements in the services and so on.

TRAI being successful in protecting consumer interests:

TRAI has got the telecom award for balancing the economics of telecom regulators with the interests of consumers. It has taken various measures over the years like

- It has issued the Telecommunication Consumers Education and Protection Fund Regulations, 2007 to enable the service providers to transfer unrefunded money of customers lying with them to Telecommunication Consumers Education and Protection Fund (TCEPF). The income received from the fund is utilised to undertake programs to educate consumers, to conduct studies in the field of telecommunications and holding seminars, workshops etc on the subject of consumer welfare and for educating consumers.
- TRAI has also issued the “Registration of Consumer Organizations Regulations on 21st February 2013, for strengthening the framework for interaction with the consumer organizations.
- Recently, TRAI has introduced 3 mobile Apps and web portal for Voice, Data quality and Tracking.
 - MyCall App: for crowd sourced voice call quality monitoring. It will help users to rate their experience about voice call quality in real time and help TRAI gather customer experience.
 - MySpeed App: enabling it to obtain test-driven data from users in all service areas, without any action by the users.
 - DND 2.0 App (Do Not Disturb) Services App: helping smart phone users to register their mobile number under DND to avoid unsolicited commercial communication/ telemarketing calls/ SMS.
- TRAI recently issued guidelines vis-à-vis DTH subscribers ‘Best fit plan’ could help in bringing down TV bills of consumers.
- TRAI gave recommendations and issued guideline on net neutrality backing a free and open internet ending the discriminatory treatment of content that cherry picked certain consumer base.
- TRAI mandated the mobile operators to compensate the consumers in the event of dropped calls.
- TRAI came up with the option to port the number between networks which has helped the consumers immensely.
- TRAI has conducted hackathons, conferences and seminars to manage the complaints of the telecom subscribers across the country and to improve overall consumer experience.
- TRAI has established a Telecom Consumer Complaints Monitoring System and appellate tribunal to hear the complaints ensuring consumer interests.

However, some of the decisions and the present scenario of the telecom industry has been proven contrary to consumer interests:

- The regulations on DTH subscribers, though has been able to reduce TV bills in big cities has contrarily increased the burden in tier 2- tier 3 cities and villages.
- Perhaps the biggest failure is vis-à-vis the 2G spectrum scam where TRAI was helpless and sidelined which harmed the consumer interests.

- TRAI intervention on tariff wars by capping the number of operators was against free competition and affected the interests of consumers.
- Recently TRAI rules mandating the telecom networks to charge for outgoing calls to different network has added additional burden on consumers.
- TRAI has failed to address larger issues of telecom industry which is struggling for a credible measurement for radio and digital mediums. This in turn has reduced the profitability of the sector which will reduce competition and hurts consumer in the long run.
- The recent ruling of Supreme court for paying dues by the telecom operators has affected investor confidence and eventual losses in telecom industry. This might result in mergers, quitting of players and would result in monopoly situation or increasing tariffs hurting the consumer interests. TRAI has to intervene to address fundamental issues which it has failed.

Conclusion

TRAI's mandate is to ensure fair competition and uphold consumer interest which goes hand in hand. Some of the decisions of TRAI being too consumer centric has indirectly affected their interests. The core issues of the industry including speedy spectrum allocations, steps to make India a global R&D hub etc., has to be taken up by TRAI and recommend measures to address the same.