BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
.....

ORIGINAL APPLICATION NO. 12 OF 2014

In the matter of :

M.C. Mehta
3 A, Ring Road, Lajpat Nagar – IV,
New Delhi – 110 024

.....Applicant

Versus

1. University Grants Commission (UGC)
   (Through its Chairman)
   Bahadur Shah Zafar Marg,
   New Delhi-110 002

2. All India Council for Technical Education
   (Through its Chairman)
   7th Floor, Chanderlok Building, Janpath,
   New Delhi -110 001

3. Ministry of Human Resource Development
   (Through its Secretary)
   Government of India
   Department of Higher Education,
   Shastri Bhawan, New Delhi – 110 001.

4. Principal Secretary to Govt. of Haryana,
   Department of Higher Education,
   New Haryana Civil Secretariat Sector 17-C,
   Chandigarh – 160017

5. Principal Secretary to Govt. of Punjab,
   Department of Education, Mini Secretariat,
   Room NO. 314, 3rd Floor, Sector-9,
   New Haryana Civil Secretariat Sector 17-C,
   Chandigarh – 160009.

6. Secretary (Education) to Govt. of Chandigarh,
   Department of Education, Chandigarh Administration,
   UT Secretariat, Sector 9, 4th Floor,
   Chandigarh- 160009.

7. Principal Secretary to Govt. of National Capital Territory of Delhi,
   Department of Education, Muni Maya Ram Marg, Pitam Pura,
   Near Pitam Pura T.V. Tower, Delhi 110 088.

8. Principal Secretary to Govt. of Goa,
   Department of Education,
   New Secretariat Complex, R.No. 207, 3rd Floor,
   Porvorim, Goa – 403521.

9. Principal Secretary to Govt. of Mizoram,
   Department of Education, New Capital Complex,
   Mizorark Aizawl – 796001.

10. Ministry of Environment and Forests,
    Paryavaran Bhawan,
    CGO Complex, New Delhi.

.....Respondents

Applicant in person:

Mr. M.C. Mehta and Mr. Rahul Shukla, Advocates.

Counsel for Respondents:

Mr. Amitesh Kumar, Advocate for Respondent No.1 & 2.
Mr. B.V. Niren, CGSC, for Respondent No. 3.
Mr. Mohit Bhardwaj and Ms. Anubha Agarwal, Advocates for Respondent No.4.
Mr. Vivek Kumar Tandon, Advocate for Respondent No. 7.
Mr. Gaurav Liberhan, Advocate for Respondent No. 6.
Mr. Snigdha Pandey and Mr. Bansuri Swaraj, Advocates for Respondent No.8.
Mr. Pragyan Sharma and Mr. Heshu Kayina, Advocate for Respondent No. 9.
Mr. Vikas Malhotra and Mr. M.P. Sahay, Advocates for Respondent No. 10

ORDER

PRESENT:
Hon'ble Mr. Justice Swatanter Kumar (Chairperson)
Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)
Hon'ble Dr. D.K. Agrawal (Expert Member)
Hon'ble Mr. A.R. Yousuf (Expert Member)
Hon'ble Dr. R.C.Trivedi (Expert Member)

Dated : July 17, 2014

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

The applicant states that he is a citizen of India and is concerned about the alarming rate at which environmental degradation is taking place in the country. It is the case of the applicant that in the past he had filed various cases in respect of air

and water pollution in the Supreme Court of India for the protection of cultural heritage of the country. The Supreme Court of India, in those cases, has delivered landmark judgments/orders for the protection of environment, people's lives, health and cultural heritage of India.

2. The applicant had instituted a writ petition being Civil Writ Petition No. 860/1991 titled *M.C. Mehta v. Union of India* before the Supreme Court of India which came to be disposed off by the judgment of the Supreme Court of India dated 22nd November, 1991 whereby the Hon'ble Supreme Court gave various directions to the Central and the State Governments for providing compulsory environmental education to the students of schools and colleges throughout the country. *Inter- alia*, but importantly, the Hon'ble Supreme Court of India had issued Direction No. IV in the said judgment. Direction IV of the judgment dated 22nd November, 1991 reads as under:

> **Direction IV.** "We accept on principle that through the medium of education awareness of the environment and its problems related to pollution should be taught as a compulsory subject. Learned Attorney General pointed out to us that the Central Government is associated with education at the higher levels and the University Grant Commission can monitor only the under graduate and the post graduate studies. The rest of it, according to him, is a State Subject. He has agreed that University Grant Commission will take appropriate steps immediately to give effect to what we have said, i.e. requiring the Universities to prescribe a course on environment. They would consider the feasibility of making this a compulsory subject at every level in college education. So far as the education up to the college level is concerned we would require every State Government and every Education Board connected with education up to the matriculation stage or even

> intermediate college to immediately take steps to enforce compulsory education on environment in a graded way. This should be so done that in the next academic year there would be compliance of this requirement. We have not considered it necessary to hear the State Government and the other interest groups as by now there is a general acceptance throughout the world as also in our country that protection of environment and keeping it free of pollution is an indispensable necessity for life to survive on this earth. If that be the situation, everyone must turn immediate attention to the proper care to sustain environment in a decent way."

3. As the above direction had not been complied with, the applicant again filed an IA in the above writ petition upon which the Hon'ble Supreme Court vide its order dated 18th December, 2003 reiterated the direction requiring the authorities to comply with the same. The relevant extract of the order dated 18th December, 2003 reads as under: -

> ".....we direct all the respondents- States and other authorities concerned to take steps to see that all educational institutions under their control implement respective steps taken by them and as reflected in their affidavits fully, starting from the next academic year, viz. 2004-05 at least, if not already implemented. The authorities so concerned shall duly supervise such implementation in every educational institution and non-compliance of the same by any of the institutions should be treated as a disobedience calling for instituting disciplinary action against such institutions."

4. The University Grants Commission (for short 'UGC') on 13th July, 2004 submitted before the Hon'ble Supreme Court that they have prepared a common syllabus and the same is being implemented by various educational institutions. The All India Council of Technical Education on 6th August, 2004 informed the

Supreme Court that it had already prepared a syllabus which includes 'environmental science' and which is being updated and would be introduced from the next academic year. The syllabus pertaining to environmental education has been prescribed and the guidelines have been framed but according to the applicant, the subject is being taught by teachers who are not qualified in terms of the UGC Guidelines. The teachers who have specialized in Sanskrit, Hindi, English, Electronics, Political Science, Sociology, Mathematics, Physical Education, Home Science, Computer Science etc. have been assigned the task of teaching the subject of environmental science; in the most cosmetic way, which is against the letter and spirit of the judgment/orders passed by the Hon'ble Supreme Court of India. It is also averred by the applicant that a number of States like the State of Haryana, Punjab, Goa, Mizoram, Delhi and the Union Territory of Chandigarh amongst others have not complied with the directions of the Supreme Court of India, as afore-noticed. None of these States have taken any steps to appoint qualified teachers who are competent to teach environmental science. The eligible teachers are the ones who have qualified the National Eligibility Test (NET) in Environment Science or Ph.D. in terms of UGC guidelines. The whole purpose of making 'Environment' as a compulsory subject, hence, stands defeated. While referring to some of the States, the applicant makes a particular reference to the States of Haryana and Jammu and Kashmir. The applicant stated that except for holding the meetings, the State Governments have not taken any concrete steps for

compliance or for implementation of the above directions. In fact, they have been exchanging letters on what should or should not be the qualifications of the teachers who would teach the subject of Environment Science.

5. A number of States have been impleaded as respondents in the present application along with the Ministry of Environment and Forests. The applicant submits that the action of the respondent, in not providing environment education properly in the Colleges, Institutes and Universities is against the spirit of the order passed by the Hon'ble Supreme Court of India as well as the affidavit given by the State Governments before the Apex Court. Article 48A of the Constitution provides that the States should endure to protect and improve the environment and safeguard the forests and wildlife of the country. Article 51A(g) of the Constitution imposes as one of the fundamental duties on every citizen to protect and improve the natural environment, including forests, rivers, lakes and wildlife and to have compassion for the living creatures. While referring to these provisions the applicant submits that lack of education in environment science would prejudicially affect the spirit of these Articles and thus, the applicant has been compelled to approach this Tribunal for redressal of his grievances. In this application, the applicant has made the following prayers in paragraph 20 of the application: -

> "Under the facts and circumstances, it is respectfully prayed that the Hon'ble Green Tribunal may be pleased to:-
>
> I. issue direction/directions to the Respondents to ensure that compulsory subject of Environment studies

is taught by the qualified/eligible teachers/Astt professors having specialization in post graduate degree i.e. M.Sc Environmental Science with NET qualified or Ph.D. in terms of UGC guidelines in the State of Haryana and other States and union Territories for providing proper environmental education to the students at Under Graduate and Post Graduate level from Academic Session 2014 in both Government and Private Universities/ colleges in India.
II. take appropriate Action against the Respondents for not implementing the judgments/ orders of the Hon'ble Supreme Court given vide Direction Number IV passed on 22.11.1991 in W.P.(C) No. 860 of 1991 and subsequent orders; and
III. pass such other order/ orders as may be deemed necessary on the facts and circumstances of the case.

And for this, the Applicant as duty bound shall ever pray."

6. Different respondent States, besides taking up the plea of substantial compliance of directions of the judgment of the Hon'ble Supreme Court dated 22nd November, 1991 have primarily taken the preliminary objection with regard to maintainability of this application before the Tribunal. It is contended that on true construction of the provisions of Section 14 read with Section 18 and Schedule I of the National Green Tribunal Act, 2010 (for short 'NGT Act'), this Tribunal has no jurisdiction to entertain and adjudicate the matters raised in the present application. According to the learned counsel, it is a matter which relates to imparting of education and does not raise any substantial question relating to environment and in any case such question does not arise out of the implementation of the enactments specified in Schedule I of the NGT Act. Furthermore, it is also contended that the entire basis of the application is alleged violation of the Order of the Supreme Court dated 22nd November, 1991. The Tribunal can neither initiate

contempt proceedings against violator nor it can be an executing court for the orders passed by the Supreme Court of India.

7. In view of the above, the issue of the maintainability was treated as a 'preliminary issue' by us and arguments were heard on the maintainability of the petition without going into the merits of the writ petition.

8. The applicant responded to this objection by raising a contention that the provisions of Section 14 read with Section 18 of the NGT Act are wide enough to give cause of action to 'any person aggrieved' to file any petition before this Tribunal, in relation to any environmental issue. Education in environmental science, thus, would be within the ambit of these provisions and hence the present petition would be maintainable. Furthermore, according to the applicant Sections 16(2)(e) and 17(1)(e) of the Water (Prevention and Control of Pollution) Act, 1974 (for short 'the Water Act') as well as under Section 16(2)(f) of the Air Act, 1981 (for short 'the Air Act', lays down a statutory function for the Central or the State Board, as the case may be, to organize through mass media, a comprehensive programme regarding the prevention and control of water pollution, organizing the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of water pollution and to organize mass education programmes relating thereto. Thus, the Subject of environmental education, would fall within the compass of these provisions and hence it would be an 'implementation' of the Acts mentioned in Schedule I of the NGT Act. Being a 'person aggrieved' in its wider sense, the

applicant is entitled to maintain the present application. He questions the averment that there is substantial compliance of the directions, as even noticed in the application. He has also contended that in terms of Articles 141 and 142 of the Constitution of India, the orders passed by the Hon'ble Supreme Court of India are law of the land and are to be executed by all Courts and Tribunals. The purpose and object of the provision in question relates to the functions of the respective Boards and for ensuring prevention and control of water pollution. The comprehensive programme through mass media, even if it is deemed to include education as a part of the programme, still the prescription and enforcement of educational qualifications of the teachers who are expected to teach environmental science, cannot be an area that would squarely fall within the dimensions of Section 16 2(e) of the Water Act. The Section elaborately states the functions of the Board, which it is expected to perform in order to promote cleanliness of the wells in the different areas of the State and subject to the provisions of the Act. In the garb of invoking the provisions of the Section 16(2)(e) of the Water Act and Section 16(2)(f) of the Air Act, the applicant cannot require this Tribunal to issue directions to the Board to perform functions or duties or issue directions which, *ex facie,* are beyond the scope of the Section 16 of the respective Acts. Thus, we must dissipate the contention of the Applicant.

9. We have already noticed that we would not be examining any other question of law or even merits of the application and would

confine our discussion to the maintainability of the present application.

10. It is the contention before us that the application squarely touches and falls within the ambit of the expression 'implementation' of the Scheduled Acts as mentioned in Section 14 of the NGT Act. Further, that it relates to the subject of environmental sciences, raising substantial environmental issues and therefore, such an application can be entertained and decided by the Tribunal in accordance with law.

11. This Tribunal is a creation of a statute and has to work within the confines of that statute. If we treat the application as a petition, requiring the Tribunal to enforce, execute or take any other appropriate action for non-compliance or violation of the Direction IV issued by the Hon'ble Supreme Court of India in its judgment dated 22nd November, 1991, then there is no provision in the statute, i.e., the NGT Act, by invocation of which such cognizance could be taken by this Tribunal. It will not be appropriate for the Tribunal either to invoke contempt jurisdiction for violation of the orders passed by the Supreme Court of India or to issue appropriate directions with regard to those orders, as it is for that Court alone to deal with the matters of this kind. This Tribunal, thus, cannot entertain such an application as it would squarely fall beyond the provisions of Section 14 read with Section 18 and Schedule I of the NGT Act.

12. This Tribunal is vested with three different jurisdictions. Firstly, it has the original jurisdiction in terms of Section 14 of the

NGT Act to deal with all civil cases raising a substantial question relating to environment and where such questions arise out of the implementation of the enactments specified in Schedule I of the NGT Act. Secondly, it is vested with appellate jurisdiction against the various orders/directions/decisions as stated in Section 16 (a) to (j) of the NGT Act. Thirdly it has a special jurisdiction in terms of Section 15 to grant relief of compensation and restitution as per the scheme contemplated under that provision. Admittedly, the present application has been filed under Section 14 of the NGT Act. Thus, it must plead and raise the following:

a) It should be a civil case.
b) Where a substantial question relating to environment or enforcement of any legal right relating to environment is involved.
c) Such question arises out of implementation of enactment specified in Schedule I of the NGT Act.

13. Once these three ingredients are satisfied, then Section 14 does not appear to place any restriction on the locus or character of the Applicant who wishes to move an application under Section 14 of the Act. Similarly, Section 15 also does not describe the description of an Applicant who can move the Tribunal for seeking reliefs like compensation, restitution of the property and the environment. In contradistinction thereto, Section 16 restricts the Applicant entitled to file an Appeal to be 'any person aggrieved'. In other words, it is only a person aggrieved who can invoke the jurisdiction of the Tribunal under Section 16 and not any Applicant.

Section 18 deals with the procedure which has to be followed by an applicant or appellant, who prefers to file an application or appeal before the Tribunal. It deals with all the three jurisdictions specified under Section 14, 15 and 16 of the NGT Act. However, Section 18 (2) of the NGT Act provides the details in regard to locus and character of an Applicant who is entitled to move the Tribunal by filing an Application for grant of relief or compensation or settlement of dispute. Section 18(2) has been worded by the legislature with wide amplitude besides covering any person aggrieved and the legal representatives of the various categories. In terms of Section 16, it includes various other persons as described under clauses (a) to (d) and (f) of sub-Section 2 of Section 18. The locus and character of an applicant specified under these provisions has to receive liberal construction and would cover variety of applicants. As far as Section 14 (1) of the NGT Act is concerned, the only restriction that appears to be imposed is that it must satisfy the prerequisites stated in that Section.

14. It is a settled position of law that the Tribunal must keep in its mind and be guided by the statutory provisions of the Act and it may not be appropriate for the Tribunal to take up the subjects which do not squarely fall within the ambit and scope of its jurisdictional provisions. We may refer to a judgment of the Tribunal in the case of *Goa Foundation v. Union of India* 2013(1) All India NGT Reporter, New Delhi, 234, where the Court while dealing with some facets of Tribunal's jurisdiction and the manner in which they should be construed, explained the expression 'substantial

question relating to environment', 'any person aggrieved' and 'dispute.' The following paragraphs can be usefully reproduced at this stage:

> "23.Similarly, 'substantial question relating to environment' also is an inclusive definition and besides what it means, it also includes what has been specified under Section 2(m) of the NGT Act. Inclusive definitions are not exhaustive. One has to, therefore, give them a very wide meaning to make them as comprehensive as the statute permits on the principle of liberal interpretation. This is the very basis of an inclusive definition. Substantial, in terms of the Oxford Dictionary of English, is of considerable importance, strongly built or made, large, real and tangible, rather than imaginary. Substantial is actual or real as opposed to trivial, not serious, unimportant, imaginary or something. Substantial is not the same as unsubstantial i.e. just enough to avoid the *de minimis* principle. In *In re Net Books Agreement* [1962] 1 WLR 1347, it was explained that, the term 'substantial' is not a term that demands a strictly quantitative or proportional assessment. Substantial can also mean more than reasonable. To put it aptly, a substantial question relating to environment must, therefore, be a question which is debatable, not previously settled and must have a material bearing on the case and its issues relating to environment.
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> 24. Section 2(m) of the NGT Act classifies 'substantial question relating to environment' under different heads and states it to include the cases where there is a direct violation of a specific statutory environmental obligation as a result of which the community at large, other than an individual or group of individuals, is affected or is likely to be affected by the environmental consequences; or the gravity of damage to the environment or property is substantial; or the damage to public health is broadly measurable. The other kind of cases are where the environmental consequences relate to a specific activity or a point source of pollution. In other words, where there is a direct violation of a statutory duty or obligation which is likely to affect the community, it will be a substantial question relating to environment covered under Section 14(1) providing jurisdiction to the Tribunal. When we talk about the jurisdiction being inclusive, that would mean that a question which is substantial, debatable and relates to environment, would itself be a class of cases that would squarely fall under Section 14(1) of the NGT Act. Thus, disputes must

relate to implementation of the enactments specified in Schedule I to the NGT Act.

25. The very significant expression that has been used by the legislature in Section 18 is 'any person aggrieved'. Such a person has a right to appeal to the Tribunal against any order, decision or direction issued by the authority concerned. 'Aggrieved person' in common parlance would be a person who has a legal right or a legal cause of action and is affected by such order, decision or direction. The word 'aggrieved person' thus cannot be confined within the bounds of a rigid formula. Its scope and meaning depends upon diverse facts and circumstances of each case, nature and extent of the applicant's interest and the nature and extent of prejudice or injury suffered by him. P. Ramanatha Aiyar's *The Law Lexicon* supra describes this expression as 'when a person is given a right to raise a contest in a certain manner and his contention is negative, he is a person aggrieved' *[Ebrahim Aboodbakar v. Custodian General of Evacue Property,* AIR 1952 SC 319]. It also explains this expression as 'a person who has got a legal grievance i.e. a person wrongfully deprived of anything to which he is legally entitled to and not merely a person who has suffered some sort of disappointment'.

26. Aggrieved is a person who has suffered a legal grievance, against whom a decision has been pronounced or who has been refused something. This expression is very generic in its meaning and has to be construed with reference to the provisions of a statute and facts of a given case. It is not possible to give a meaning or define this expression with exactitude and precision. The Supreme Court, in the case of *Bar Council of Maharashtra v. M.V. Dabholkar and Others* AIR 1976 SC 242 held as under:-

> "27. Where a right of appeal to Courts against an administrative or judicial decision is created by statute the right is invariably con fined to a person aggrieved or a person who claims to be aggrieved. The meaning of the words "a person aggrieved" may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. Normally, one is required to establish that one has been denied or deprived of something to which one is legally entitled in order to make one "a person aggrieved." Again a person is aggrieved if a legal burden is imposed on him. The meaning of the words "a person aggrieved" is sometimes given a restricted meaning in certain statutes which provide remedies for the protection of

private legal rights. The restricted meaning requires denial or deprivation of legal rights. A more liberal approach is required in the back ground of statutes which do not deal with property rights but deal with professional conduct and morality. The role of the Bar Council under the Advocates Act is comparable to the role of a guardian in professional ethics. The words "persons aggrieved" in Sections 37 and38 of the Act are of wide import and should not be subjected to a restricted interpretation of possession or denial of legal rights or burdens or financial interests. The test is whether the words "person aggrieved" include "a person who has a genuine grievance because an order has been made which pre judicially affects his interests." It has, therefore, to be found out whether the Bar Council has a grievance in respect of an order or decision affecting the professional conduct and etiquette.

28. The pre-eminent question is: what are the interests of the Bar Council? The interests of the Bar Council are the maintenance of standards of professional conduct and etiquette. The Bar Council has no personal or pecuniary interest. The Bar Council has the statutory duty and interest to see that the rules laid down by the Bar Council of India in relation to professional conduct and etiquette are upheld and not violated. The Bar Council acts as the sentinel of professional code of conduct and is vitally interested in the rights and privileges of the advocates as well as the purity and dignity of the profession.

40. The point of view stated above rests upon the distinction between the two different capacities of the State Bar Council: an executive capacity, in which it acts as the prosecutor through its Executive Committee, and a quasi-judicial function, which it performs through its Disciplinary Committee. If we can make this distinction, as I think we can, there is no merger between the prosecutor and the Judge here. If one may illustrate from another sphere, when the State itself acts through its executive agencies to prosecute and then through its judicial wing to decide a case, there is no breach of a rule of natural justice. The prosecutor and the Judge could not be said to have the same personality or approach just because both of them represent different aspects or functions of the same State.

44. The short question is as to whether the State Bar Council is a 'person aggrieved' within the meaning of Section 38 so that it has locus standi to

appeal to this Court against a decision of the Disciplinary Tribunal of the Bar Council of India which, it claims, is embarrassingly erroneous and. if left unchallenged, may frustrate the high obligation of maintaining standards of probity and purity and canons of correct professional conduct among the members of the Bar on its rolls.

47. Even in England, so well-known a Parliamentary draftsman as Francis Bennion has recently pleaded in the Manchester Guardian against incomprehensible law forgetting 'that it is fundamentally important in a free society that the law should be readily ascertainable and reasonably clear, and that otherwise it is oppressive and deprives the citizen of one of his basic rights'. It is also needlessly expensive and wasteful. Reed Dickerson, the famous American Draftsman, said: It cost the Government and the public many millions of dollars annually'. The Renton Committee in England, has reported on drafting reform but it is unfortunate that India is unaware of this problem and in a post-Independence statute like the Advocates Act legislators should still get entangled in these drafting mystiques and judges forced to play a linguistic game when the country has an illiterate laity as consumers of law and the rule of law is basic to our Constitutional order."

27. In the case of *Maharaj Singh v. State of Uttar Pradesh* (1977)1 SCC 155, the Supreme Court observed that a legal injury creates a remedial right in the injured person. But the right to a remedy apart, a larger circle of persons can move the court for the protection or defence or enforcement of a civil right or to ward off or claim compensation for a civil wrong, even if they are not proprietarily or personally linked with the cause of action. The nexus between the lis and the plaintiff need not necessarily be personal, although it has to be more than a wayfarer's allergy to an unpalatable episode. Further in the case of *Dr. Duryodhan Sahu and Others v. Jitendra Kumar Mishra and Others* (1998) 7 SCC 270, the Supreme Court, held that although the meaning of the expression 'person aggrieved' may vary according to the context of the statute and the facts of the case, nevertheless normally, a person aggrieved must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something. In *Jasbhai Motibhai Desai v. Roshan Kumar,* AIR 1976 SC 578 the Court held that the expression

'aggrieved person' denotes an elastic, and to an extent, an elusive concept. It stated as follows:

> "It cannot be confined within the bounds of a rigid, exact, and comprehensive definition. At best, its features can be described in a broad tentative manner. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him."

35. The expression 'disputes' arising from the questions referred to in sub-section (1) of Section 14 of the NGT Act, is required to be examined by us to finally deal with and answer the contentions raised by the parties before us. The expression used in sub-section (1) supra is the expression of wide magnitude. The expression 'question' used in sub-section (1) in comparison to the expression 'dispute' used in sub-section (2) of section 14 is of much wider ambit and connotation. The disputes must arise from a question that is substantial and relates to environment. This question will obviously include the disputes referred to in Section 14(2). It is those disputes which would then be settled and decided by the Tribunal. These expressions are inter-connected and dependent upon each other. They cannot be given meaning in isolation or *de hors* to each other. The meaning of the word 'dispute', as stated by the Supreme Court in *Canara Bank v. National Thermal Power Corporation* (2001)1 SCC 43 is "a controversy having both positive and negative aspects. It postulates the assertion of a claim by one party and its denial by the other". The term dispute, again, is a generic term. It necessarily need not always be a result of a legal injury but could cover the entire range between genuine differences of opinion to fierce controversy. Conflicts between parties arising out of any transaction entered between them is covered by the term 'dispute'.

15. The above paragraphs are the precepts to the exercise of proper jurisdiction by the Tribunal. The provisions relating to jurisdiction could be construed liberally so as to achieve the object and purpose of the Act, where a narrower construction is likely to defeat the same. According to the learned counsel appearing for the

applicant, it is the implementation of the statutes stated in Schedule I of the NGT Act that would fully justify entertainment of this application by the Tribunal. It is contended that the word 'implementation' would have to be construed very widely so as to include in its ambit even education in environmental sciences (as a subject), thus, enabling the Tribunal to issue the prayed directions. In his submission, it would be a dispute relatable to environment. We are not able to find any merit in this submission.

16. The expression 'substantial question relating to environment' or 'enforcement of any legal right relating to environment' cannot be interpreted so generically that it would even include the education relating to environment. Furthermore, the expression 'implementation' understood in its correct perspective cannot be extended, so as to empower the Tribunal to issue directions in relation to service matters involving environmental sciences.

17. A phrase of significant importance appearing in Section 14 of the NGT Act is 'arises out of the implementation of enactment specified in Schedule I'. Even in this phrase, the word 'implementation' is of essence. 'Implementation' in common parlance means to take forward a decision or to take steps in furtherance to a decision or a provision of law. It sets into motion, the actions which are contemplated within the provisions of the Act to which reference is made. It is not synonymous to 'execution'. 'Execution' in law, particularly under the Code of Civil Procedure, 1908 is a known and well-defined concept. 'Implementation' in contradistinction thereto is a milder expression but again operates

within the limitations prescribed by the law or the provision in which such expression appears. Concept of 'implementation' cannot travel beyond the framework of law and in that sense it is even similar to 'execution' as it must be executed in conformity to the provisions of the Code of Civil Procedure, 1908. There are some basic similarities between 'implementation' and 'execution' but they differ in scope and enforcement.

18. We may now examine some of the definitions of the word 'implementation': -

> Oxford Dictionary, 3rd ed., 2010, "implementation"- the process of putting a decision or plan into effect; execution.
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> Black's Law Dictionary, 9th ed., 2009, "implementation plan" in relation to environmental law means 'a detailed outline of steps needed to meet environmental quality standards by an established time.'
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> P. Ramanatha Aiyar's The Law Lexicon, 3rd ed., 2012, "implementation'- giving practical effect to.
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> Wharton's Law Lexicon, 15th ed., 2012, "implementing agency"- includes any department of the Central Government or a State Government, a Zilla Parishad, Panchayat at intermediate level, Gram Panchayat or any local authority or Government undertaking or non-governmental organization authorized by the Central Government or the State Government to undertake the implementation of any work taken up under the Scheme.

19. In the case of *Sanjay Gandhi Grih Nirman Sehkari Sansthan, Indore v. State of Madhya Pradesh*, AIR 1991 MP 72, where the High Court was concerned with the expression 'Implementation' appearing in Section 54 of the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973 (for short 'the Adhiniyam'), read in conjunction with Sections 4, 6 and 17(1) of the Land Acquisition Act, 1894. It was contended that the word 'implementation' means

commencement or completion of a decision taken under the Adhiniyam. The Court, after considering the meaning of the expression 'implementation' took the view that 'implementation' has to be construed liberally so as to ensure that the object is achieved and not frustrated. Therefore, the Court held that 'implementation' would mean that the steps under the Scheme have been taken and not that they ought to have been completed within the period of three years under Section 54 of the Adhiniyam so as to make the scheme lapse.

20. One also finds use of the expression 'implement' in the very Preamble of the Environment Protection Act, 1986 where it is stated that 'it is considered necessary further to implement the decisions afore-said' (the decision taken at the United Nations Conference on the Human Environment held at Stockholm in June 1972). List I of the Seventh Schedule of the Constitution of India in terms of Article 246 also uses similar expression in Entry 13. Entry 13 reads as follows: -

> 13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

21. The word 'implementing' as used above clearly indicates that it is a direct reference to the decision taken in the international conferences, etc. and which are sought to be implemented by taking further action thereof. Thus, when we have to construe the word 'implementation' appearing in Section 14 of the NGT Act, with reference to the Acts stated in Schedule I of the said Act, we must confine it to the 'implementation' of the provisions contained under

those Acts and that too with reference to a substantial question relating to environment and not beyond that.

22. We have already stated the ingredients which an applicant invoking the jurisdiction of the Tribunal under Section 14 must satisfy. The contention that the expression 'implementation' should receive narrower interpretation in terms of Section 14 of the NGT Act, would not be in consonance with the settled principles of interpretation. Hence, it is difficult for us to accept this contention advanced on behalf of the applicant.

23. Nexus between the dispute raised before the Tribunal for determination and the environment has to be direct. When the framers of law use the expression 'substantial question relating to environment', it clearly conveys the legislative intent of ensuring that the disputes determinable by the Tribunal have to relate to environment and not allied fields thereto. In the case of *Goa Foundation* (supra), the Tribunal clearly held that the disputes arising for decision or settlement before the Tribunal should arise out of substantial question relating to environment. The violation must be with regard to environment and it is not a generic term used by the Legislature enabling the Tribunal to expand its jurisdiction beyond the true construction of Section 14 of the NGT Act. The character of the proceeding is clearly not in reference to the relief that the Tribunal could grant, but upon the nature of the right violated and the appropriate relief which could be claimed.

24. In the case of *Kehar Singh v. State of Haryana,* 2013 (1) All India NGT Reporter, Delhi 556, the Tribunal held as under:

> The NGT Act is a specific Act with a specific purpose and object, and therefore, the cause of action which is specific to other laws or other objects and does not directly relate to environmental issues would not be 'such dispute' as contemplated under the provisions of the NGT Act. The dispute must essentially be an environmental dispute and must relate to either of the Acts stated in Schedule I to the NGT Act and the 'cause of action' referred to under Sub-section (3) of Section 14 should be the cause of action for 'such dispute' and not alien or foreign to the substantial question of environment. The cause of action must have a nexus to such dispute which relates to the issue of environment/substantial question relating to environment, or any such proceeding, to trigger the prescribed period of limitation. A cause of action, which in its true spirit and substance, does not relate to the issue of environment/substantial question relating to environment arising out of the specified legislations, thus, in law cannot trigger the prescribed period of limitation under Section 14(3) of the NGT Act.

25. Another way in which the present controversy could be viewed is by reading the prayer of the applicant along with contents of the application. The applicant has submitted that firstly in all colleges and institutions, environmental science is not a subject and wherever it has been introduced as a subject, it is not being taught by qualified teachers. This is the substance of the application. It clearly falls within the framework of the constitution and/or service jurisprudence. It does not raise any substantial question of environmental jurisprudence understood in its correct perspective within the provisions of the NGT Act and the Scheduled Acts thereto. The contention that 'mass education' in Section 16(e) of the Water Act and 16 (f) of the Air Act would come to the aid of the applicant for issuance of such a direction, is again misconceived. Organizing through mass media a comprehensive programme regarding the prevention and control of water and air pollution, would not take in its cover the education or service jurisprudence in

relation to environmental science as a subject of education. The programmes contemplated under these provisions must relate to prevention and control of pollution and not what should be the terms and conditions of appointment of teachers and how the environmental science should be taught in an educational institution. An activity for prevention and control of pollution must be discernibly distinguished and understood as such from education and conditions of service of teachers as enumerated under the constitutional provisions or the notifications issued by the UGC or the Universities. The applicant claims that a legal right as envisaged under Section 14 of the NGT Act has accrued in his favour as a result of the Order of the Supreme Court dated 22nd November, 1991 referred supra. There cannot be a dispute to the preposition that the orders and judgments declared by the Hon'ble Supreme Court would be the law of the land and are enforceable throughout the territory of India in accordance with law. However, the direction of the Supreme Court in the above case, clearly falls within the domain of constitutional or service law. It is for the applicant to approach the appropriate forum/court for enforcement of that direction. In our considered view it would not fall within the ambit of Section 14 of the NGT Act as neither does it raise any substantial question relating to environment nor does the implementation of the Scheduled Acts arise.

26. Ergo for the reasons afore-recorded, we are of the considered view that the present application filed by the applicant under Section 14 of the NGT Act is not maintainable and the Tribunal has

no jurisdiction to entertain and grant the reliefs prayed for by the applicant. The applicant is, however, at liberty to approach the court of competent jurisdiction. This order would in no way prejudice the rights and contentions of the applicant. We, further make it clear that we have neither examined the merits of the case nor any other contention raised by the parties except to the extent afore-stated.

27. This application is, therefore, dismissed as not maintainable. However, we leave the parties to bear their own costs.

Justice Swatanter Kumar
Chairperson

Justice M.S. Nambiar
Judicial Member

Dr. D.K. Agrawal
Expert Member

Prof. A.R. Yousuf
Expert Member

Dr. R.C. Trivedi
Expert Member

New Delhi
July 17, 2014