

# PARLIAMENT OF INDIA

# RAJYA SABHA

## DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON SCIENCE & TECHNOLOGY, ENVIRONMENT & FORESTS

TWO HUNDRED AND THIRD REPORT

ON  
THE NATIONAL GREEN TRIBUNAL BILL, 2009

(PRESENTED TO THE RAJYA SABHA ON 24<sup>TH</sup> NOVEMBER, 2009)  
(LAID ON THE TABLE OF THE LOK SABHA ON 24<sup>TH</sup> NOVEMBER, 2009)

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RAJYA SABHA SECRETARIAT  
NEW DELHI  
NOVEMBER, 2009/ AGRAHAYANA, 1931 (SAKA)

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### CONTENTS

#### PAGES

1. COMPOSITION OF THE COMMITTEE
  2. PREFACE
  3. REPORT OF THE COMMITTEE
  4. ANNEXURE
  5. MINUTES OF THE MEETINGS OF THE COMMITTEE
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**COMPOSITION OF THE DEPARTMENT-RELATED PARLIAMENTARY  
STANDING COMMITTEE ON SCIENCE AND TECHNOLOGY,  
ENVIRONMENT AND FORESTS (YEAR 2009)**

**1. Dr.T. Subbarami Reddy — *Chairman***

**RAJYA SABHA**

- \*\* 2. Vacant
- 3. Shri Anil H. Lad
- 4. Shri Rajiv Pratap Rudy
- 5. Shri Bhagirathi Majhi
- 6. Shri Saman Pathak
- 7. Prof. Ram Gopal Yadav
- 8. Dr. Ejaz Ali
- 9. Shri Jabir Husain
- 10. Dr. Barun Mukherji

**LOK SABHA**

- 11. Dr. Mirza Mehboob Beg
- 12. Shri Udayanraje Bhonsale
- 13. Shri Ninong Ering
- 14. Shri A. Ganeshamurthi
- 15. Shri D.V. Sadananda Gowda
- 16. Shrimati Kaisar Jahan
- 17. Dr. Charan Das Mahant
- 18. Shri Jayaram Pangi
- 19. Shri C. R. Patil
- 20. Shrimati Kamla Devi Patle
- 21. Shri Gajendra Singh Rajukhedi
- 22. Shri S.S. Ramasubbu
- 23. Shri Francisco Sardinha
- #24. Shri Yashwant Sinha
- 25. Dr. Rajan Sushant
- 26. Shri Pradeep Tamta
- 27. Shri Bibhu Prasad Tarai
- 28. Shri Mansukhbhai D. Vasava
- 29. Prof. Ranjan Prasad Yadav
- \* 30. Shri Akhilesh Yadav
- 31. Vacant

**SECRETARIAT**

Smt. Agnes Momin George, Joint Secretary  
Shri Alok Chatterjee, Director

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Assistant Director

## PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Science & Technology, Environment & Forests, having been authorized by the Committee to present the Report on its behalf, present this Two Hundred and third Report on The National Green Tribunal Bill, 2009.

2. In the meetings of the Committee held on the 8<sup>th</sup>, 15<sup>th</sup>, 26<sup>th</sup> October and 5<sup>th</sup> November, 2009 Secretary/representatives of the Ministry of Environment & Forests and various experts/activists in the field of environment tendered oral evidence on the various aspects related to The National Green Tribunal Bill, 2009.

3. The Committee expresses its thanks to the Officers of the Ministry and experts/activists for rendering their valuable views/clarifications sought by the Members of the Committee.

4. In the meeting held on 16<sup>th</sup> November, 2009 the Committee considered the draft report and adopted the same.

NEW DELHI

November, 16, 2009

Dr. T. Subbarami Reddy

Chairman,

*Department-related Parliamentary Standing Committee  
on Science & Technology, Environment & Forests.*

## **REPORT**

The Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha in pursuance of Rule 270 (b) of the Rules relating to the Department-related Parliamentary Standing Committees, referred\* The National Green Tribunal Bill, 2009 (Annexure-I) as introduced on 31<sup>st</sup> July, 2009 in Lok Sabha and pending therein, to the Standing Committee on Science & Technology, Environment & Forests for examination and report.

2. The Committee held its first meeting with the representatives of Ministry of Environment & Forests, for a general discussion on the various provisions of the Bill. The Committee also heard the views of eight experts on the subject on 15<sup>th</sup> and 26<sup>th</sup> October, 2009 (Names of experts at Annexure-II). The written memoranda containing comments/suggestions on the various provisions of the Bill which were received from five of the experts mentioned above were sent to the Ministry of Environment & Forests for its comments/observations. The Committee adopted the report in its meeting held on 16<sup>th</sup> November, 2009.

3. Environment has assumed immense importance during the last few years not only because of significant climatic changes that have started manifesting in various forms, but also because of ever-sharpening conflict and contradictions between economic development and conservation and protection of environment. Such conflicts have led to a large number of litigations pending in various courts through out the country.

\*Rajya Sabha Parliamentary Bulletin Part II dated the 14<sup>th</sup> September, 2009.

4. It is in this background, that the need for courts dedicated exclusively to the cause of

environment was being felt for long. The Committee had, in its 192 Report on the Functioning of Central Pollution Control Board observed ..... “it could be very difficult to rein in violators to follow standards and guidelines with the existing judicial and legal setup. Courts are already overburdened with civil and criminal cases. They could not be expected to spend time to expeditiously take up and dispose off environment related cases. The Committee, therefore, recommends that the Government should setup environmental courts in each and every State and Union Territory to deal exclusively with environmental related matters”.

5. Supreme Court vide its order dated 1<sup>st</sup> December, 2000 in A.P. Pollution Control Board Vs. M. V. Nayudu, observed – “since most of the statutes dealing with environment are by Parliament, the Law Commission could kindly consider the question of review of the Environmental Laws and the need for constitution of Environmental Courts with experts in Environmental Law, in addition to judicial members in the light of experience in other countries”.

6. Accordingly, the Law Commission in its 186 Report, recommended *inter-alia* setting up of environmental courts having both original and appellate jurisdiction related to environmental laws. This Bill is a step in the direction which aims at establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment.

7. The salient features of the Bill are as under:

7.1 The Bill proposes a National Green Tribunal, which shall sit at such places as may be notified by the Central Government. The Tribunal shall consist of a full time Chairperson and such other full time Judicial Members and full time Expert Members as the Central Government may from time to time notify. The Expert Members shall be experts in physical and life sciences, engineering and include persons having practical knowledge and administrative experience in environmental matters. Any additional experts, if required, may be invited to assist the tribunal.

7.2 The Chairperson shall be appointed by the Central Government, in consultation with the Chief Justice of the Supreme Court of India. The Judicial Members and Expert Member of the tribunal shall be appointed by the Central Government in the manner prescribed. A person shall not qualify for appointment as Chairperson or Judicial Member of the tribunal unless he is, or has been, a judge of the Supreme Court or Chief Justice of a High Court. The qualifications of Expert Member have also been specified in the Bill.

7.3 Clause 14 of the Bill provides the jurisdiction of the Tribunal to settle disputes. The tribunal shall have jurisdiction over civil cases where a substantial question relating to environment, including enforcement of any legal right relating to environment, is involved. The tribunal shall hear disputes arising out of the environmental laws mentioned in Schedule -I of the Bill. The concept of "substantial question relating to environment" has been defined in the Bill.

7.4 Under Clause-15 of the Bill the Tribunal shall also have the jurisdiction to provide relief, compensation and damage for restitution of the damaged environment. The tribunal shall be competent to provide relief, in addition to what is admissible under the Public Liability Insurance Act, 1991.

7.5 Clause 16 of the Bill provides the Appellate Jurisdiction of the Tribunal. According to the said provisions the Tribunal shall have the appellate jurisdiction against certain orders or decisions or directions under the enactments specified in the Schedule I and III to the Bill.

7.6 In order to ensure access to justice, a provision has been made in Clause 18 of the Bill enabling the Pollution Control Boards or a local authority or any environmental authority to file an

application or appeal before the Tribunal, on behalf of the affected person for providing relief with the permission of the Tribunal.

7.7 Clause 19 of the Bill provides that the tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908. It shall not be bound by the procedure laid down by the said Code, but shall be guided by the principles of natural justice.

7.8 Clause 20 of the Bill provides the decision of the Tribunal by majority of members shall be binding. Further, Clause 21 of the Bill provides that every order of the Tribunal shall be final.

7.9 Clause 25 provides for deterrent penalty for non-compliance of the orders/ directions of the Tribunal. Three years term of imprisonment or fine of upto Rs.10 crore has been provided in case of an individual while the maximum fine of Rs. 25 crore has been provided if the offence has been committed by a company.

7.10 It has also been provided in Clause 28 of the Bill that no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the tribunal is empowered to determine under its appellate jurisdiction. No injunction shall be granted by any civil court or other authority in respect of any order passed by the tribunal.

7.11 Clause 33 of the Bill provides the Central Government to add or omit, by notification, to the said Schedule I any Act of Parliament, having regard to the objectives of environmental protection and conservation of natural resources.

7.12 The National Environment Tribunal Act, 1995 and the national Environment Appellate Authority Act, 1997, are proposed to be repealed. Notwithstanding such repeal, any thing done under the said Acts shall, be deemed to have been done under the corresponding provisions of the proposed Bill.

8. The Committee in principle welcomes the initiative of the Ministry and makes following observations/ recommendations in the context of the Bill:

#### **Observations/ Recommendations of the Committee**

**8.1 The Committee finds that Clause 1(2) of the Bill provides that the National Green Tribunal Act shall come into force on such date or dates as the Central Government may by notification, appoint, and different dates may be appointed for different States.**

**8.2 When the Committee desired to know the rationale behind such a provision, it was stated that this provision has been taken from National Environment Tribunal Act, 1995. The Committee feels that there is no convincing reason behind such a discretionary provision and, therefore, recommends that this act of far reaching consequences be brought into force in all the States/ Union Territories simultaneously.**

**8.3 Clause 2(1)(m) provides for definition of the terminology – “substantial question relating to environment” which shall include an instance where there is direct violation of statutory environmental obligation by a person by which the community at large other than an individual or group of individuals is affected. The Committee enquired from the Ministry as to why is it that even a group of individuals has not been included under the ambit of substantial question relating to environment, particularly, in view of the fact that community is a very vague and broad term? The Ministry contended that the National Green Tribunal is expected to look at major issues of environment. It was further added that as per Clause 14 (1) read with Clause 28 of the Bill, the jurisdiction of civil courts to adjudicate and settle disputes pertaining to the implementation of the acts specified in Schedule 1 has been barred in cases where substantial questions relating to environment is involved and it is in this context that the term has been defined with the reasons given by the Ministry. The Committee feels that there could still be ambiguity in certain cases as**

**to the applicability of concept of substantial question relating to environment which could be decided by the proposed Tribunal and which could also evolve in due course of time by way of judicial interpretation by the higher courts.**

8.4 The Committee enquired from the Ministry that the Bill does not specify the number of Judicial and Expert members in the composition of the Tribunal and leaves it to the discretion of the Central Government to decide and notify from time to time. It was informed that the National Green Tribunal will be a specialized quasi-judicial forum. The settlement of disputes relating to environment is of complex nature. Therefore, a specific cap on the number of Judicial and Expert Members has not been envisaged at this stage. As and when the burden of the cases increases, the Central Government may increase the number of Judicial and Expert Members accordingly. If a fixed number of the Judicial and Expert Members is specified in the Bill, in that event, the strength of the Judicial and Expert Members can be increased only by an amendment in the Act. As per the existing provisions of the Bill, flexibility is available whereby the Central Government may enhance the strength by way of notification.

**8.5 The Committee feels that the Ministry of Environment and Forests with such a vast and long experience must have done its ground work to workout the number of environment related cases through out the country and based on that figure should have specified a minimum and maximum number of judicial and expert members that the National Green Tribunal will have in its composition.** The Ministry initially contended that it has not fixed the exact number of overall judicial and expert Members at this stage because it is not sure about the quantum and nature of litigations that the National Green Tribunal would handle over a period of time. However, later on, the Ministry gave a rethought over this issue and suggested that they may incorporate the following provision in the Bill:

“The Tribunal shall have not less than 5 and more than 10 judicial members. The expert members shall be not less than 10 and not more than 20.”

**8.6 The Committee, however, feels that the suggestion of the Ministry is not very logical and convincing. The Committee fails to understand as to why the number of expert Members of the proposed Tribunal should be double the number of judicial Members. The Committee, therefore, is of the opinion that the number of judicial Members should also be not less than 10 and not more than 20 to have parity with the number of expert Members. It recommends that aforesaid proviso may be included in the Bill at an appropriate place.**

8.7 Clause 4(1)(a)(b)&(c) provides for the composition of the Tribunal whereby it is proposed that the Tribunal shall consist of a full-time Chairperson and such number of full-time judicial Members and full time expert members as the Central Govt. may from time to time notify. With the given composition of the Tribunal, it appears that judicial members have been equated with the expert members. This provision, if read with clause 20 of the Bill which says that the decision of the Tribunal by majority of members shall be binding and clause 21 of the Bill which says that every order of the Tribunal under this Act shall be final, appears to be somewhat awkward. **The Committee finds that a judicial member who, as provided in clause 5 (1) of the Bill, will be a person who is or has been a judge of the Supreme Court or Chief Justice of a High Court or is or has been a judge of the High Court should not be put at par with the expert members.** The Committee, therefore, enquired from the Ministry, as to whether judicial and expert members have been put on equal footing and whether expert members will also have right to vote? The Ministry replied that as per the existing provisions, judicial and expert members have implied equal rights. But to avoid the situation in which 50% of the members take one view and the other 50% of the

members take a contrary view and also the situation where the views of expert members may prevail because of their numerical strength, it may be provided – **“if there are differences of opinion among the members hearing a case and the opinions are equally divided, the Chairperson shall have the powers to take a final decision in the matter”**. The Committee while agreeing to the suggestion of the Ministry also recommends that the Chairperson while constituting a sitting or bench should ensure that the number of expert members in a sitting or bench does not exceed the number of judicial members.

8.8 Clause 4(3) of the Bill provides that the Tribunal shall sit at such place or places as the Central Government may, by notification, specify. **The Committee fails to understand as to why in the main body of the Bill, the Ministry has not thought it proper to spell out the number of places where the tribunal shall sit while this number has been specified in the financial memorandum attached with the Bill.** When the Committee enquired as to which are those five places where the tribunal would sit and how could those places be selected, the Ministry replied that after the enactment of the proposed National Green Tribunal, the Government proposes to notify the establishment of National Environment Tribunal at five places of sitting initially. It was also informed that these will be located strategically depending upon their accessibility, availability of infrastructure and geographical spread. The Ministry further informed that the locations where tribunal will sit have been kept open to have flexibility and to be decided by the Central Government in accordance with the requirements. **The Committee feels that the National Green Tribunal which claims itself to be a mechanism aimed at effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests does not exude much confidence given its infrastructural framework, particularly in view of the geographical vastness of our country. The Committee feels that such a limited spread of National Green Tribunal at five places only may lead to serious constraints of accessibility in the long run, especially to the poor and the tribal people who live in far flung areas of our country. This problem has to be viewed in the light of Clause 14(1), read with Clause 28 whereby the tribunal shall have the exclusive jurisdiction over all civil cases where a substantial question relating to environment is involved.** Thus, the poor and the tribal people living in remote areas will be deprived of the opportunity to approach civil courts for redressal of their grievances on substantial question relating to environment. The Ministry has clarified that the Tribunal may undertake a circuit approach for the conduct of its work apart from initial 5 primary places of sitting. This will be in the light of situation being responded to, say in a remote area where the disadvantaged group may have suffered from the environmental adverse impact.

8.9 **The Committee is satisfied with the explanation given by the Ministry and recommends that the concept of circuit approach should be clarified in the rules.**

8.10 The Committee made repeated efforts to know the overall structure and functioning of the Tribunal that has been envisaged through this Bill – whether there will be a national tribunal, i.e. Central Tribunal located at its headquarters with regional tribunals located at five different places; whether there will be a national tribunal, i.e. the principal bench with its benches at different places to be known as regional benches; whether the regional benches will have separate set of judicial and expert members; whether the national tribunal i.e. the principal bench will have a pool of judicial and expert members which will hold its sittings at different locations based on the number of cases received from there, etc. To these searching queries, the Committee was informed that National Green Tribunal is envisaged as a single tier Tribunal which is proposed to sit at 5 places initially so far as the powers of the Tribunal (primary places of sitting) are concerned, these

shall have the same powers irrespective of their location. However, the administrative and financial powers for regulating day-do-day functions are vested with the Chairperson of the Tribunal as provided in Clause 13 of the Bill. Other modalities could be spelt out while framing the rules.

**8.11 However, the Committee recommends that geographical jurisdiction of these primary places of sitting of the Tribunal may be defined in the Notification so as to avoid overlap of jurisdiction. The Committee further recommends that while framing rules, provision should be made for the Chairperson of the Tribunal to transfer cases from one place of the sitting to the other in case the need arises.**

8.12 The Clause 5(4) of the Bill restricts the Chairperson and other Judicial and Expert Members from accepting any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the proposed Tribunal after they cease to hold office, for a period of one year. The Ministry informed that the restriction on acceptance of employment on the Chairperson, Judicial and Expert Members for accepting any employment has been provided in various statutes. For example, while Section 12 of the Competition Act, 2002, provides a restriction of one year from the date on which the Chairperson or Members cease to hold office, Section 8 of the Insurance Regulatory and Development Authority Act, 1999, provides for bar on future employment of members for a period of two years. It informed further that the Ministry is open to extend this period. The bar on acceptance of employment has been kept to discourage the misuse of position by a Member. At the same time, it has to be ensured that the Judicial and Expert Members may not be put in an unduly disadvantageous position.

**8.13 The Committee feels that it would be in the interest of fairness if one year period to bar members of the tribunal from being employed by a company that appeared before them in the tribunal be extended to two years.**

8.14 Clause 6(3) of the Bill provides that judicial and expert members of the Tribunal shall be appointed by the Central Government on the recommendations of such selection committee and in such manner as may be prescribed. The Committee enquired from the Ministry as to what would be the composition of the selection committee and who would be its members and what norms would be adopted by the Ministry for selection of members of this committee? The Committee was informed that all this is still to be decided. The composition of the selection committee will be appropriately prescribed under the rules, to ensure transparency and objectivity. **The Committee feels that this is a very important point which needs to be handled carefully and, therefore, recommends that adequate precautions should be taken while framing rules.**

8.15 In the context of Clause 16(e) of the Bill under which National Green Tribunal will have appellate jurisdiction against the orders made by a State or Central Government under the Forest (Conservation) Act, 1980, some experts took objections to this provision in the Bill because it will result in defacto dilution of the Forest (Conservation) Act and defeat the very purpose for which the Act was made. They apprised the Committee that presently, when no appeal lies against the rejection of the proposal for diversion of forest land by the Central Government and even the Supreme Court normally does not entertain any appeal against such rejection on the ground that the diversion of forest land is not permissible unless found to be in public interest by the Central Government, why do we need to open a Pandora Box by allowing appeal through this Bill? Some experts strongly argued in favour of this Clause being retained in the Bill as the Supreme Court which has battled with the Forest (Conservation) Act problems, would be happy and relieved to see that this work has been given to the Tribunal. They were of the view that the Tribunal must



have all the powers of enforcement of the Forest (Conservation) Act – The Tribunal must have the power to directly entertain complaints of violations of the Forest (Conservation) Act, it must have the powers to review the decisions of the Governments - State and Centre and they must also have the power to hear user agency's complaints if they have been wrongly denied permission to work under the Forest (Conservation) Act.

8.16 The Ministry of Environment & Forests are of the view that empowering the National Green Tribunal with this function will result in a refinement of the orders passed under the Forest (Conservation) Act and it will also provide for a forum for grievance redressal. Moreover, the original jurisdiction of the National Green Tribunal under section 14 of the proposed bill will provide a forum for addressing issues like non-compliance with the stipulations of the forest clearances as also enabling the National Green Tribunal to act as a watchdog for acts of omissions in usage of forest land for such purposes.

8.17 **The Committee, after weighing the pros and cons of the views, both of the experts as well as of the Ministry, is of the opinion that the appellate jurisdiction of the Tribunal against the Forest (Conservation) Act as provided in Clause 16(e) may be retained.**

8.18 **The Committee finds that the locus under Clause 18(2)(a) and 18(2)(b) is very limited. It only mentions the person who has sustained injury or is owner of the damaged property. Similarly, Clause 18(2)(e) of the Bill restricts the locus only to any representative body or organisation functioning in the field of environment. The Committee, therefore, is of the view that Clause 18(2)(e) be amended as “any person aggrieved, including any representative body or organisation”.**

8.19 **The Committee was informed that the finality of order of the Tribunal as provided under Clause 21 of this Act takes away the right to appeal of citizens although it has been done with the good intention of bringing out efficiency in the system and for expeditious disposal of cases. Since, the possibility of any institution or authority, making anti-community judgments cannot be totally ruled out and hence citizens must be given an opportunity to go and appeal in the Supreme Court against any order of the Tribunal. The Committee, therefore, recommends that the Ministry may provide an enabling clause for this purpose in this Bill.**

8.20 The Clause 28 of the Bill provides that from the date of establishment of the Tribunal, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction. At the same time Clause 29(2) provides that no court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under proposed legislation. The Ministry clarified that Clause 28 of the Bill provides a bar on the Jurisdiction of the Civil Courts to entertain any appeal in respect of the cases which the Tribunal is empowered to determine under its appellate jurisdiction under Clause 16. Similar provision are provided under Section 58 of the Water (Prevention and Control of Pollution) Act, 1974 and Section 46 of the Air (Prevention and Control of Pollution) Act, 1981. As regards Clause 29(2) of the Bill which provides for cognizance of any offence, meaning thereby an offence related to the non-compliance with the orders of the Tribunal as outlined in Clause 25, the jurisdiction has been conferred on the court of a Metropolitan Magistrate or Judicial Magistrate of the First Class. The two provisions are for different purposes and there is no contradiction between the two clauses. **The Committee is satisfied with the explanation given by the Ministry.**

8.21 India has a strong National legislation in the form of the Wildlife (Protection) Act, 1972, which provides the legal frame work for both 'in-situ' (National Park/Wildlife Sanctuary) and 'ex-

situ' (zoos) conservation. The various endangered species of wildlife are scheduled as per their status and accorded protection under the said Act. However, there is a need for protecting the wildlife habitats outside the protected areas and forest lands. The landscapes around protected areas (National Park, Wildlife Sanctuary, Tiger Reserve) are also ecologically significant in the sense they act as wildlife corridors and habitats, which facilitate the movement of wild animals spilling over from the protected areas. The forest areas falling in such landscapes have statutory protection under the Indian Forest Act and Forest (Conservation) Act. However, there is no statutory protection to wildlife habitats which do not have the status of forest land or protected area. This has led to depletion of wildlife on account of habitat shrinkage, at times leading to severe man-wildlife conflicts as well. It is in this background that the Committee enquired from the Ministry whether wildlife could be added to the definition of environment [Clause 2(1) (C)] and Wildlife (Protection) Act, 1972 to Clause 2(2) and Schedule I of the Bill. To this the Ministry replied that the existing definition of environment is borrowed from the definition provided in the Environment (Protection) Act, 1986 is a very comprehensive one which *inter-alia* includes other living creatures, plants and micro organisms and their inter-relationship with water, air and land. With regard to the addition of Wildlife (Protection) Act, 1972 in the Schedule I to the Bill, the Ministry stated that the tribunal has been consciously provided with a jurisdiction limited to cases of civil nature because criminal adjudication requires a hierarchy of courts and the tribunal system does not fit into the architecture of criminal courts. Most of the violations of the Wildlife Act, 1972 are criminal offences and the Act has specific chapters incorporating provisions for prosecution and trial, seizure and confiscation and the creation of the Wildlife Crime Control Bureau. That is why, Wildlife Act, 1972 has not been kept under the purview of this Bill.

**8.22 The Committee understands that the National Green Tribunal aims at disposal of cases of civil nature relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and not of criminal nature. The Committee, therefore, agrees to the contention of the Ministry.**

**8.23 The Committee was informed that the Bill does not mention any contempt powers vested in the Tribunal. Although such powers belong to court of records, it can be given directly as a statutory power. This power is also given to courts under Order 39 2.A. The Committee, therefore, recommends that contempt of court powers should be given to the National Green Tribunal to enforce their decisions and insertion to this effect may be made in the Bill at appropriate place.**

**8.24 The Committee finds that the power to amend Schedule I by including therein any other Act enacted by Parliament having regard to the objective of environmental protection and conservation of natural resources or omitting therefrom any Act already specified therein has been vested in the Central Government vide Clause 33(1) of the Bill. And this is to be effected only by a notification issued to that effect. The Committee feels that such an overriding power being vested in the Ministry undermines the supremacy of Parliament. The Committee, therefore, recommends that addition to or deletion of any Act to Schedule I of the Bill may be done only by way of amendment passed by the Parliament and not by the notification, as provided in the Bill as of now. The Committee, therefore, also recommends that Clause 33 (1) of the Bill may accordingly be amended.**

**8.25 The Committee has been informed that there are certain cardinal principles for good practice standards laid down by Supreme Court through various landmark judgments for protection of environment and conservation of forest and that these principles are supposed to be part of law of**

the land and form basis in formulation of policies, regulations, enactments, etc. The Committee finds that these principles do not find any mention in the Bill. **The Committee, therefore, recommends that the ‘principles of sustainable development’, ‘precautionary principle’ and ‘polluter pays principle’ should be reflected in the Bill at a suitable place. Similarly, the ‘principle of no fault liability’ in case of an accident as defined in Section 2(1)(a) can also be incorporated at an appropriate place in the Bill.**

## ANNEXURE

### ANNEXURE-II

#### LIST OF EXPERTS WHOSE ORAL EVIDENCE WAS HEARD ON THE NATIONAL GREEN TRIBUNAL BILL, 2009

Sl. N.	List of Experts	Date of hearing	
1.	Dr. Rajesh Gopal IFS IGF & Member Secretary National Tiger Conservation Authority	15 <sup>th</sup> October, 2009	
2.	Shri Sanjay Upadhyay Head of the Enviro Legal Defence Forum, A Law firm specializing in cases related to environment and forests	15 <sup>th</sup> October, 2009	
3.	Shri P.V. Jayakrishnan, Chairman, Central Empowered Committee	15 <sup>th</sup> October, 2009	
4.	Shri M.K. Jiwrajika, Secretary Central Empowered Committee,	15 <sup>th</sup> October, 2009	Member
5.	Ms. Sunita Narain, Director, Centre for Science and Environment,	26 <sup>th</sup> October, 2009	

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|----|--|--------------------------------|
| 6. | Valmik Thapar,<br>Renowned Environmentalist                      | 26 <sup>th</sup> October, 2009 |
| 7. | Shri Harish Salve,<br>Senior Advocate of Supreme Court of India  | 26 <sup>th</sup> October, 2009 |
| 8. | Shri Rajeev Dhawan,<br>Senior Advocate of Supreme Court of India | 26 <sup>th</sup> October, 2009 |
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# MINUTES

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**MINUTES OF THE MEETING OF THE DEPARTMENT-RELATED PARLIAMENTARY  
STANDING COMMITTEE ON SCIENCE AND TECHNOLOGY, ENVIRONMENT AND  
FORESTS  
II  
SECOND MEETING**

The Committee met at 03.00 p.m. on Tuesday, the 22<sup>nd</sup> September, 2009 in Room No. '63', First Floor, Parliament House, New Delhi.

## **PRESENT**

### **1. Dr. T. Subbarami Reddy - *Chairman***

#### **RAJYA SABHA**

2. Shri Anil H. Lad
3. Shri Rajiv Pratap Rudy
4. Shri Bhagirathi Majhi
5. Shri Saman Pathak
6. Prof. Ram Gopal Yadav
7. Dr. Barun Mukherji

#### **LOK SABHA**

8. Dr. Mirza Mehboob Beg
9. Shri A. Ganeshamurthi
10. Shri D.V. Sadananda Gowda
11. Dr. Charan Das Mahant
12. Shri Jayaram Pangi
13. Shri C. R. Patil

14. Shri Gajendra Singh Rajukhedi
15. Shri S.S. Ramasubbu
16. Shri Francisco Sardinha
17. Shri Neeraj Shekhar
18. Dr. Rajan Sushant
19. Shri Pradeep Tamta
20. Shri Bibhu Prasad Tarai
21. Shri Mansukhbhai D. Vasava
22. Prof. Ranjan Prasad Yadav

#### **SECRETARIAT**

Smt. Agnes Momin George, Joint Secretary  
 Shri Alok Chatterjee, Director  
 Shri V.S.P. Singh, Joint Director  
 Shri Girija Shankar Prasad, Assistant Director

#### **Representatives from the Ministry of Environment & Forests**

1. Shri Vijai Sharma, Secretary
2. Shri R.H. Khwaja, Additional Secretary
3. Shri J.M. Mauskar, Additional Secretary
4. Shri Rajneesh Dube, Joint Secretary
5. Shri A.K. Goyal, Joint Secretary (Parl.)
6. Dr. P. B. Gangopadhyay, Additional Director General of Forests
7. Dr. M.B. Lal, Additional Director General (Wild Life)
8. Shri Ansar Ahmeb, Inspector General of Forests
9. Dr. (Mrs.) Nalini Bhat, Adviser
10. Dr. Dr. G.K. Pandey, Adviser
11. Shri C.D. Singh, Sr. Asstt. Inspector General of Forests
12. Shri Bharat Bhushan, Director
13. Shri S.P. Gautam, Chairman, CPCB
14. Dr. Rajesh Gopal, Member Secretary (NTCA)

2. At the outset, the Chairman welcomed the Members of the Committee and gave a brief outline of the importance of the subject identified by the Committee for consideration and report. He also suggested that the subject stands slightly modified as "The Mechanism for enforcement of environment and forestry consistent with the need to infrastructure such as power, irrigation, highways and railways". He then, requested the Members to seek brief, pointed and specific clarifications from the Secretary on the subject. Thereafter, he informed the Members of the Committee that "The National Green Tribunal Bill, 2009" has been referred to the Committee by the Hon'ble Chairman, Rajya Sabha, for examination and report within three months. The Committee then decided to hear the views of the Secretary, Ministry of Environment & Forests on the Bill in its meeting to be held on the 8<sup>th</sup> October, 2009.

3. Thereafter, the Chairman welcomed the Secretary and his team of officials of the

Ministry of Environment & Forests to the meeting of the Committee and requested the Secretary to highlight the initiatives taken by the Ministry for enforcement of environment and forestry related policies and programmes which are not conflicting with various developmental projects pertaining to power, irrigation, highways and railways. He also desired to know the measures required to be taken to identify the inadequacy in the existing system and ensuring its strengthening after overcoming these shortcomings. The Secretary, Ministry of Environment & Forests, then made a visual presentation on the subject. Thereafter, Members sought clarifications on the points that emerged out of the presentation. The Secretary and other officials replied to them.

The officials then withdrew.

A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 5.30 p.m. to meet again at 3.00 p.m. on 8<sup>th</sup> October, 2009.

### **III THIRD MEETING**

The Committee met at 03.00 p.m. on Thursday, the 8<sup>th</sup> October, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

#### **PRESENT**

#### **1. Dr. T. Subbarami Reddy - *Chairman***

#### **RAJYA SABHA**

2. Shri Rajiv Pratap Rudy
3. Shri Bhagirathi Majhi
4. Shri Saman Pathak
5. Prof. Ram Gopal Yadav
6. Shri Jabir Husain
7. Dr. Barun Mukherji

#### **LOK SABHA**

8. Shri Ninong Ering
9. Shri D.V. Sadananda Gowda
10. Dr. Charan Das Mahant
11. Shri Jayaram Pangi
12. Shri S.S. Ramasubbu
13. Shri Francisco Sardinha
14. Shri Neeraj Shekhar
15. Shri Pradeep Tamta
16. Shri Bibhu Prasad Tarai
17. Shri Mansukhbhai D. Vasava
18. Prof. Ranjan Prasad Yadav

**SECRETARIAT**

Smt. Agnes Momin George, Joint Secretary  
 Shri Alok Chatterjee, Director  
 Shri V.S.P. Singh, Joint Director  
 Shri Girija Shankar Prasad, Assistant Director

**Representatives from the Ministry of Environment & Forests**

1. Shri Vijai Sharma, Secretary
2. Shri Bir Singh Parsheera, Special Secretary
3. Shri R.H. Khwaja, Additional Secretary
4. Shri J.M. Mauskar, Additional Secretary
5. Shri S.P. Gautam, Chairman, CPCB
6. Shri Rajiv Gauba, Joint Secretary
7. Dr. Rajneesh Dube, Joint Secretary
8. Dr. G.K. Pandey, Advisor
9. Shri Ansar Ahmeb, Inspector General of Forests
10. Dr. (Mrs.) Nalini Bhat, Advisor
11. Dr. Rashid Hasan, Director
12. Smt. Saheli Ghosh Roy, Deputy Secretary

2. At the outset, the Chairman welcomed the Members of the Committee and acknowledged the achievement of Dr. Venkataraman Ramakrishnan, a UK based Scientist of Indian origin who has been awarded the Nobel Prize for Chemistry this year for his outstanding work. Thereafter, he apprised the Members about the importance of the "The National Green Tribunal Bill, 2009" which has been referred to the Committee for examination and report within three months. He further informed that a Finnish delegation is visiting India from 25<sup>th</sup> October to 3<sup>rd</sup> November, 2009 and a meeting of the Committee has been fixed with them on 26<sup>th</sup> October, 2009 at 11.00 a.m. He also informed that the Secretariat is working out about the details in this regard. The Committee then decided to hear the views of some environment experts and activists in the field of environment on the aforesaid Bill in its meeting to be held on 15<sup>th</sup> October, 2009.

3. Thereafter, the Chairman welcomed the Secretary and his team of officials of the Ministry of Environment & Forests to the meeting of the Committee and requested the Secretary to highlight the salient features of the aforesaid Bill. He also desired to know the main reasons which have led to the origin of the Bill and the extent to which the Bill would be useful in effective and expeditious disposal of civil cases relating to environment protection and conservation of forests and other natural resources. The Secretary, Ministry of Environment & Forests, then made a visual presentation on the subject. Thereafter, Members sought clarifications on the points that emerged out of the presentation. The Secretary replied to them. The officials then withdrew.

A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 5.10 p.m. to meet again at 11.00 a.m. on 15<sup>th</sup> October, 2009.

#### IV FOURTH MEETING

The Committee met at 11.00 a.m. on Thursday, the 15<sup>th</sup> October, 2009 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

##### PRESENT

1. **Dr. T. Subbarami Reddy - *Chairman***

##### RAJYA SABHA

2. Shri Rajiv Pratap Rudy
3. Shri Bhagirathi Majhi
4. Shri Saman Pathak
5. Prof. Ram Gopal Yadav
6. Dr. Ejaz Ali
7. Shri Jabir Husain
8. Dr. Barun Mukherji

##### LOK SABHA

9. Shri A. Ganeshamurthi
10. Shri D.V. Sadananda Gowda
11. Dr. Charan Das Mahant
12. Shri Jayaram Pangi
13. Shri S.S. Ramasubbu
14. Shri Francisco Sardinha
15. Shri Neeraj Shekhar
16. Dr. Rajan Sushant
17. Shri Pradeep Tamta
18. Shri Bibhu Prasad Tarai

##### SECRETARIAT

Smt. Agnes Momin George, Joint Secretary  
 Shri Alok Chatterjee, Director  
 Shri V.S.P. Singh, Joint Director  
 Shri Girija Shankar Prasad, Assistant Director

##### Witness

1. Dr. Rajesh Gopal, Member Secretary, National Tiger Conservation Authority.
2. Shri Sanjay Upadhyay, Head of the Enviro Legal Defence Forum, a law firm specializing in cases related to environment and forests.
3. Shri P.V. Jayakrishnan, Chairman, Central Empowered Committee.
4. Shri M.K. Jiwrajka, Member Secretary, Central Empowered Committee.

##### Representatives from the Ministry of Environment & Forests

1. Shri Vijai Sharma, Secretary
2. Shri P.J. Dilip Kumar, Director General Forests & Special Secretary



3. Shri R.H. Khwaja, Additional Secretary
4. Shri S.P. Gautam, Chairman, CPCB
5. Dr. Rajneesh Dube, Joint Secretary
6. Dr. (Mrs.) Nalini Bhat, Advisor
7. Shri Ishwar Singh, Additional Director (Law)

2. At the outset, the Chairman welcomed the Members of the Committee, Secretary and his team of officials of the Ministry of Environment & Forests and Dr. Rajesh Gopal, Member Secretary, National Tiger Conservation Authority. Thereafter, he requested Dr. Gopal to express his suggestions and reservations on the various provisions of "The National Green Tribunal Bill, 2009". Dr. Gopal made a presentation on the subject. The Members then sought clarifications on the points arising out of the presentation and the witness and the Secretary of the Ministry replied to them.

The witness then withdrew.

3. The Chairman welcomed Shri Sanjay Upadhyay, Head of the Enviro Legal Defence Forum, a law firm specializing in cases related to environment and forests and requested him to express his views on the Bill. He also desired to know the extent to which the Bill would be useful in effective and expeditious disposal of civil cases relating to environment protection and conservation of forests and other natural resources. Shri Upadhyay made a presentation on the subject. The Members then sought clarifications on the points arising out of the presentation and the witness and the Secretary of the Ministry replied to them.

The witness then withdrew.

4. The Committee, thereafter, adjourned at 01.15 p.m. and re-assembled at 02.15 p.m. to hear the Chairman and Member Secretary of the Central Empowered Committee.

5. The Chairman welcomed Shri P.V. Jayakrishnan, Chairman and Shri M.K. Jiwrajka, Member Secretary of the Central Empowered Committee and requested them to express their suggestions and reservations on the various provisions of the Bill. Shri Jayakrishnan and Shri Jiwrajka made a presentation on the subject. The Members then sought clarifications on the points arising out of the presentation and the witnesses and the Secretary of the Ministry replied to them.

The witnesses and officials then withdrew.

A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 3.50 p.m. to meet again at 11.00 a.m. on 26<sup>th</sup> October, 2009.

## V

### FIFTH MEETING

The Committee met at 11.00 a.m. on Monday, the 26<sup>th</sup> October, 2009 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

### PRESENT

## **1. Dr. T. Subbarami Reddy - *Chairman***

### **RAJYA SABHA**

2. Shri Anil H. Lad
3. Shri Bhagirathi Majhi
4. Shri Jabir Husain
5. Dr. Barun Mukherji

### **LOK SABHA**

6. Shri Ninong Ering
7. Shri A. Ganeshamurthi
8. Shri D.V. Sadananda Gowda
9. Smt. Kaisar Jahan
10. Dr. Charan Das Mahant
11. Shri Jayaram Pangi
12. Shri C.R. Patil
13. Smt. Kamla Devi Patle
14. Shri S.S. Ramasubbu
15. Shri Francisco Sardinha
16. Shri Bibhu Prasad Tarai
17. Shri Mansukhbhai D. Vasava
18. Prof. Ranjan Prasad Yadav

### **SECRETARIAT**

Smt. Agnes Momin George, Joint Secretary  
Shri Alok Chatterjee, Director  
Shri V.S.P. Singh, Joint Director  
Shri Girija Shankar Prasad, Assistant Director

## **Representatives of the Ministry of External Affairs**

1. Shri T.P. Sitharam, Joint Secretary
2. Shri Viraj Singh, Deputy Secretary (Central Europe)

## **Representatives of the Department of Science & Technology**

1. Dr. A.K. Sood, Head (International) & Scientist 'G'
2. Dr. Rajiv Sharma, Advisor, Scientist 'G'

## **Members of Finland Delegation**

1. Kimmo Kiljunen, Member of Parliament, Chairman of Association of Members of Parliament and Scientists.
2. Ms Sanna Lauslahti, Member of Parliament
3. Ms. Tuula Peltonen, Member of Parliament
4. Prof. Iikka Ruostetsaari, Tampere University, Vice Chairman, of the Association of Members of Parliament and Scientists

5. Prof. Emeritus Martti Tiuri

6. Ms. Ulrica Gabrielsson, Researcher, Secretary of Association of Members of Parliament and Scientists

7. Mr. Keijo Norvanto, Counsellor in the Finnish Embassy in New Delhi.

2. At the outset, the Chairman extended a warm welcome to Mr. Kimmo Kilunen and other Members of the delegation. While addressing the delegation he touched upon a number of issues including friendly relations and bilateral trade, economic and commercial relations, bilateral cooperation in the field of science & technology, between India and Finland, India's stand on the issue of climate change, functioning of committee system in Indian Parliament, etc. The Chairman also briefed the delegation about the key role being played by Science & Technology sector in the overall social and economic growth of India. The delegation was informed that India is fast emerging as a global player in the field of technology development and the key emerging areas of science like Space, Telecom, Satellites, Atomic Energy, etc.

3. Thereafter, exchange of views on a number of issues took place among the Members of the Committee and the Members of the delegation. The Chairman thanked the Chairman and Members of the visiting delegation for the fruitful discussion and exchange of ideas and presented a Memento to them. Thereafter, the Chairman invited the Members of the Committee and the delegation for a lunch.

The Members of the delegation then withdrew.

4. The Committee adjourned at 12.40 p.m. to reassemble at 2.15 p.m. to hear the views of some renowned environmentalists and experts on "The National Green Tribunal Bill, 2009".

#### **Witness**

1. Ms. Sunita Narain, Director, Centre for Science & Environment, New Delhi.

2. Shri Valmik Thapar, renowned Environmentalist.

3. Shri Harish Salve, Senior Advocate of Supreme Court of India.

4. Shri Rajeev Dhawan, Senior Advocate of Supreme Court of India.

#### **Representatives from the Ministry of Environment & Forests**

1. Shri Vijai Sharma, Secretary

2. Shri P.J. Dilip Kumar, Director General Forests & Special Secretary

3. Dr. M.B. Lal, Additional Director General (Wild Life)

4. Dr. P. B. Gangopadhyay, Additional Director General of Forests

5. Shri R.H. Khwaja, Additional Secretary

6. Shri J.M. Mauskar, Additional Secretary

7. Prof. S.P. Gautam, Chairman, CPCB

8. Dr. Rajneesh Dube, Joint Secretary

9. Shri Rajiv Gauba, Joint Secretary

10. Shri Ansar ahmed, Inspector General of Forests

11. Dr. (Mrs.) Nalini Bhat, Advisor

12. Dr. G.K. Pandey, Advisor

13. Shri Rashid Hasan, Director

14. Shri Ishwar Singh, Additional Director (Law)

5. The Chairman welcomed Ms. Sunita Narain, Director, Centre for Science & Environment, S/Sh. Valmik Thapar, renowned Environmentalist, Harish Salve and Rajiv Dhawan, Senior Advocates of Supreme Court of India, Secretary and his team of officials of the Ministry of Environment & Forests and requested them to express their views/suggestions/reservations on the various provisions of "The National Green Tribunal Bill, 2009". Witnesses expressed their views and Members sought clarifications from them which were replied.

The witnesses and officials then withdrew.

A verbatim record of the proceedings was kept.

6. The Committee then adjourned at 4.50 p.m. to meet again at 11.00 a.m. on 5<sup>th</sup> November, 2009.

## VI SIXTH MEETING

The Committee met at 11.00 a.m. on Thursday, the 5<sup>th</sup> November, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

### PRESENT

1. **Dr. T. Subbarami Reddy - *Chairman***

#### RAJYA SABHA

2. Shri Bhagirathi Majhi
3. Shri Saman Pathak
4. Shri Jabir Husain

#### LOK SABHA

5. Dr. Mirza Mehboob Beg
6. Shri A. Ganeshamurthi
7. Shri Jayaram Pangi
8. Shri C.R. Patil
9. Smt. Kamla Devi Patle
10. Shri Gajendra Singh Rajukhedi
11. Shri S.S. Ramasubbu
12. Shri Pradeep Tamta
13. Shri Bibhu Prasad Tarai
14. Prof. Ranjan Prasad Yadav

#### SECRETARIAT

Smt. Agnes Momin George, Joint Secretary

Shri V.S.P. Singh, Joint Director

Shri Girija Shankar Prasad, Assistant Director

**Representatives of the Ministry of Environment & Forests**

1. Shri Vijai Sharma, Secretary
2. Shri R.H. Khwaja, Additional Secretary
3. Prof. S.P. Gautam, Chairman, CPCB
4. Dr. Rajneesh Dube, Joint Secretary
5. Dr. (Mrs.) Nalini Bhat, Advisor
6. Shri Rashid Hasan, Director
7. Shri Ishwar Singh, Additional Director (Law)

2. At the outset, the Chairman welcomed the Members of the Committee, Secretary, Ministry of Environment & Forests and his team of officials to the meeting of the Committee. He stated that the Committee has already heard the views of some prominent experts/activists in the field of environment on the various aspects relating to "The National Green Tribunal Bill, 2009" and requested the Secretary to express his views on a number of issues raised by experts, environmentalists and Members of the Committee in this regard. He also requested the Secretary to express his expectations from the Committee on the above Bill. The Secretary, Ministry of Environment & Forests, then made his submission. Thereafter, Members sought clarifications on the points that emerged out of his submission. The Secretary replied to them.

3. Thereafter, the Chairman concluded that the Committee had heard the views of the experts as well as the Secretary, Ministry of Environment & Forests with regard to the abovementioned Bill and will consider the draft report on the Bill in its next meeting scheduled to be held on 16<sup>th</sup> November, 2009. The Secretariat was directed to take necessary action in this regard.

The officials then withdrew.

A verbatim record of the proceedings was kept.

4. The Committee then adjourned at 12.45 p.m. to meet again on 16<sup>th</sup> November, 2009.

## VII SEVENTH MEETING

The Committee met at 3.00 p.m. on Monday, the 16<sup>th</sup> November, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

### PRESENT

1. **Dr. T. Subbarami Reddy - *Chairman***

### RAJYA SABHA

2. Shri Bhagirathi Majhi
3. Shri Saman Pathak
4. Shri Jabir Husain

### LOK SABHA

5. Dr. Mirza Mehboob Beg
6. Shri Ninong Ering
7. Shri Gajendra Singh Rajukhedi
8. Shri S.S. Ramasubbu
9. Shri Yashwant Sinha
10. Dr. Rajan Sushant
11. Shri Bibhu Prasad Tarai
12. Prof. Ranjan Prasad Yadav

## **SECRETARIAT**

Smt. Agnes Momin George, Joint Secretary  
Shri Alok Chatterjee, Director  
Shri V.S.P. Singh, Joint Director  
Shri Girija Shankar Prasad, Assistant Director

2. At the outset, the Chairman welcomed Shri Yashwant Sinha, M.P., newly nominated Member to the Committee i.e. w.e.f. 9<sup>th</sup> November, 2009.

3. The Committee then took up for consideration its draft 203<sup>rd</sup> Report on "The National Green Tribunal Bill, 2009". After thorough discussions the Committee adopted the report with certain additions/modifications as suggested by Members. The Committee authorised the Chairman to approve changes/modifications as suggested by Members.

4. The Committee then adjourned at 4:30 p.m.

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\* Nominated w.e.f. 14<sup>th</sup> October, 2009

\*\* Prof. Saif-ud-Din Soz ceased to be a Member of the Committee w.e.f. 30<sup>th</sup> October, 2009

# Nominated w.e. f. 9<sup>th</sup> November, 2009