



# **FACULTY OF JURIDICAL SCIENCES**

**COURSE: LL.B.**

**Semester: IV**

**SUBJECT: Environmental Laws**

**SUBJECT CODE: LLB404**

**NAME OF FACULTY: Mohammad Aqib**

# Lecture-28



## **LECTURE 28: The National Environment Authority Act- Establishment of Authority**

An Act to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 and for matters connected therewith or incidental thereto.

### **Establishment of Authority.—**

- (1) The Central Government shall, by notification in the Official Gazette, establish a body to be known as the National Environment Appellate Authority to exercise the powers conferred upon, and to perform the functions assigned to, it under this Act.
- (2) The head office of the Authority shall be at Delhi.

### **Composition of Authority.—**

The Authority shall consist of a Chairperson, a Vice-Chairperson and such other Members not exceeding three, as the Central Government may deem fit.

### **Qualifications for appointment as Chairperson, Vice-Chairperson or Member.—**

- (1) A person shall not be qualified for appointment as a Chairperson unless he has been—
  - (a) a Judge of the Supreme Court; or
  - (b) the Chief Justice of a High Court.
- (2) A person shall not be qualified for appointment as a Vice-Chairperson unless he has—
  - (a) for at least two years held the post of a Secretary to the Government of India or any other post under the Central or State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; and
  - (b) expertise or experience in administrative, legal, managerial or technical aspects of problems relating to environment.
- (3) A person shall not be qualified for appointment as a Member unless he has professional knowledge or practical experience in the areas pertaining to conservation, environmental management, law or planning and development.

(4) The Chairperson, the Vice-Chairperson and the Members shall be appointed by the President.

**Term of office.—**

The Chairperson, the Vice-Chairperson or a Member shall hold office as such for a term of three years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of three years:

Provided that no Chairperson, Vice-Chairperson or Member shall hold office as such after he has attained,—

- (a) in the case of the Chairperson, the age of seventy years; and
- (b) in the case of the Vice-Chairperson or a Member, the age of sixty-five years

**Resignation and removal.—**

(1) The Chairperson, the Vice-Chairperson or a Member may, by notice in writing under his hand addressed to the President, resign his office:

Provided that the Chairperson, the Vice-Chairperson or a Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairperson, the Vice-Chairperson or a Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairperson, the Vice-Chairperson or a Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The President may suspend from office the Chairperson, the Vice-Chairperson or a Member in respect of whom a reference has been made to the Supreme Court under sub-section (2) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson, the Vice-Chairperson or a Member referred to in sub-section (2).

**Salaries and allowances and other terms and conditions of service of Chairperson, Vice-Chairperson and Members.—**

The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, the Vice-Chairperson and the Members shall be such as may be prescribed by the Central Government.

**Vacancy in Authority not to invalidate acts or proceedings.—**

No act or proceedings of the Authority shall be questioned or shall be invalid merely on the ground of existence of any vacancy or defect in the establishment of the Authority.