



# **FACULTY OF JURIDICAL SCIENCES**

**COURSE: LL.B.**

**Semester: IV**

**SUBJECT: Environmental Laws**

**SUBJECT CODE: LLB404**

**NAME OF FACULTY: Mohammad Aqib**

# Lecture-24



## **LECTURE 24: Establishment of National Environment Tribunal**

### **Establishment of National Environment Tribunal**

The Central Government shall, by notification, establish a Tribunal, to be known as the National Environment Tribunal, to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

### **Composition of Tribunal and Benches**

(1) The Tribunal shall consist of a Chairperson and such number of Vice-Chairpersons, Judicial Members and Technical Members as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof.

(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Technical Member.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson-

(a) may, in addition to discharging the functions of the Judicial Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Technical Member, of any other Bench;

(b) may transfer the Vice-Chairperson or other Member from one Bench to another Bench;

(c) may authorise the Vice-Chairperson or the Judicial Member or the Technical Member appointed to one Bench to discharge also the functions of the Vice-Chairperson or, as the case may be, the Judicial Member or the Technical Member of another Bench; and

(d) may, for the purpose of securing that any case or cases which, having regard to the nature of the questions involved, requires or require, in his opinion or under the rules made by the Central Government in this behalf, to be decided by a Bench composed of more than two Members issue such general or special orders, as he may deem fit:

Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Technical Member.

(4) Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the Chairperson or any other Member authorised by the Chairperson in this behalf to function as a Bench consisting of a single Member and exercise the jurisdiction, powers and authority of the Tribunal in respect of such classes of cases or such matters pertaining to such classes, of cases as the Chairperson may, by general or special order, specify:

Provided that if at any stage of the hearing of any such case or matter, it appears to the Chairperson or such Member that the case or matter is of such a nature that, it ought to be, heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairperson or, as the case may be referred to him for transfer to such Bench as the Chairperson may deem fit.

(5) Subject to the other provisions of this Act, the Benches of the Tribunal shall ordinarily sit at New Delhi (which shall be known as the principal Bench) and at such other places as the Central Government may, by notification, specify.

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

(1) A person shall not be qualified for appointment as the Chairperson unless he-

- (a) is, or has been, a Judge of the Supreme Court or a High Court; or
- (b) has, for at least two years, held the office of Vice-Chairperson.

(2) A person shall not be qualified for appointment as the Vice-Chairperson unless he-

- (a) is, or has been, a Judge of a High Court; or
- (b) has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; or
- (c) (i) has, for at least five years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; and
- (ii) has adequate, knowledge of, or experience in, legal, administrative, scientific or technical aspects of the problems relating to environment; or
- (d) has for at least three years, held office as a Judicial Member or a Technical Member,

(3) A person shall not be qualified for appointment as a Judicial Member unless he--

- (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in grade I of that Service for at least three years.

(4) A person shall not be qualified for appointment as a Technical Member unless he has adequate knowledge of, or experience in, or capacity to deal with, administrative, scientific or technical aspects of the problems relating to environment.

(5) Subject to the provisions of subsections (6) and (7), the Chairperson, Vice-Chairperson and every other Member of the Tribunal shall be appointed by the President.

(6) No appointment of a person possessing the qualifications specified in this section as the Chairperson or the Vice-Chairperson shall be made except after consultation with the Chief Justice of India.

(7) No appointment of a person as a Judicial Member or a Technical Member shall be made except on the recommendation of a Selection Committee appointed by the Central Government