

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI**

ORIGINAL APPLICATION No. 135 OF 2025

(Filed under Section 18(1) read with Sections 14 and 15 of the National Green
Tribunal Act, 2010)

IN THE MATTER OF:

The escape of approximately 67.638 metric tonnes of ammonia from the sub-sea pipeline of the 1st Respondent at Ennore, Chennai, on the intervening night of 26.12.2023, and the ecological damage caused thereby to the marine environment, marine life and the coastal fishery; and for restitution of the environment under Section 15 of the National Green Tribunal Act, 2010.

AND IN THE MATTER OF:

K. Kuppan

... Applicant

Versus

Coromandel International Limited & 12 Others

... Respondents

**WRITTEN SUBMISSIONS (WRITTEN NOTES) ON BEHALF OF THE
APPLICANT**

I. PREFATORY SUBMISSION:

1. These Written Notes are respectfully submitted on behalf of the Applicant pursuant to the liberty granted by this Hon'ble Tribunal, whereby, upon hearing the oral submissions of the parties, orders were reserved with liberty to the Applicant to file Written Notes. The Applicant gratefully avails of that liberty.
2. At the threshold, the Applicant respectfully places before this Hon'ble Tribunal the true and narrow compass of the present Application. The escape

of ammonia from the 1st Respondent's sub-sea pipeline on the intervening night of 26.12.2023 produced two entirely distinct categories of harm. **The first** - the atmospheric dispersal of ammonia gas and its consequences upon human health, upon the residents of the adjoining villages, and upon the operation of the industrial unit - has already engaged the attention of this Tribunal in its suo motu proceedings. **The second** - the discharge of approximately 67.638 metric tonnes (approximately 68,000 kilograms) of a substance acutely toxic to aquatic life, directly into the coastal marine waters, within a span of about fifteen minutes - has, to this day, never been the subject of any scientific assessment, expert enquiry, restitutionary direction or adjudication whatsoever, by any forum.

3. It is this second, sub-marine and hitherto unexamined dimension of the harm - the injury sustained **below the waterline** by the marine ecosystem, the marine habitat, the fishery, and the fisherfolk whose livelihood is inseparable from that ecosystem - that forms the exclusive subject-matter of the present Application. The Applicant does not seek to reopen, re-agitate or disturb any finding rendered in the suo motu proceedings. The Applicant seeks only that which those proceedings never undertook: an authoritative scientific determination of the ecological damage caused beneath the sea, as the necessary and anterior step towards restitution of that environment under Section 15 of the Act.

II. SYNOPSIS OF FACTS:

4. The 1st Respondent, Coromandel International Limited, operates a fertiliser-manufacturing facility at Ennore, Chennai, employing anhydrous ammonia in substantial quantities as a feedstock. Ammonia is a hazardous and inherently dangerous substance.

5. On the intervening night of 26.12.2023, at about 11:30 p.m., during the pre-cooling process undertaken prior to the transfer of liquid ammonia from a berthed vessel to the shore-based storage tank, the pressure in the sub-sea pipeline dropped, resulting in a leak. As subsequently placed on record by the Tamil Nadu Pollution Control Board (TNPCB), approximately 67.638 metric tonnes of ammonia escaped within a period of about fifteen minutes.
6. The gaseous plume caused acute distress in the neighbouring habitations; a number of residents were hospitalised with respiratory difficulty and irritation, and the residents of the surrounding villages agitated for the closure of the unit.
7. This Hon'ble Tribunal took suo motu cognizance of the incident. In those proceedings (O.A. No. 195 of 2023 and O.A. No. 81 of 2024), the Tribunal was concerned with, and passed directions in relation to, matters of industrial safety; the closure of the unit and the conditions upon which it might resume operations (including the procurement of No-Objection Certificates from the Directorate of Industrial Safety and Health, the Indian Register of Shipping and the Tamil Nadu Maritime Board); the installation of ammonia sensors and emergency-preparedness systems; and the environmental compensation of Rs.5.92 crore levied by the TNPCB, directed to be applied towards environmental mitigation in the **Ennore industrial area**.
8. It is respectfully submitted - and this is the very fulcrum of the present Application - that neither in the said suo motu proceedings, nor in the report of the Technical Committee, nor in the compensation so levied, was there any assessment whatsoever of the ecological damage occasioned to the **marine** environment by the discharge of ammonia into the sea. No enquiry was directed into the mortality or migration of marine species, the contamination or degradation of the marine habitat and the sea-bed, the

impact upon fish stocks and the coastal fishery, or the consequential loss of livelihood suffered by the fisherfolk. That grievance being wholly unaddressed, the Applicant - a former Member of the Legislative Assembly of Tamil Nadu, espousing the environmental cause of the affected coastal community - was constrained to approach this Tribunal by the present Application.

III. THE DISTINCT AND LIMITED SCOPE OF THE PRESENT APPLICATION:

9. The distinction between what has already been decided and what remains wholly unexamined may be tabulated thus:

Already adjudicated in the suo motu proceedings (O.A. 195/2023 & 81/2024) - “above the waterline”	Never examined; the subject of the present Application — “below the waterline”
Industrial and process safety at the unit	Scientific assessment of ecological damage to the marine environment
Closure and conditional reopening of the unit	Mortality and/or migration of marine species and marine life
NOCs from DISH, the Indian Register of Shipping and the TN Maritime Board	Degradation of the marine habitat and contamination of the sea-bed
Installation of sensors and emergency-preparedness systems	Impact upon fish stocks and the coastal fishery
Rs.5.92 crore compensation applied to mitigation in the industrial area	Loss of livelihood of the fisherfolk community
Impact of the gas upon human health of residents on land	Restitution / restoration of the damaged marine environment

10. The two sets of questions are mutually exclusive. The present Application trespasses upon none of the matters in the first column; it seeks only the first-ever examination of those in the second.

IV. SUBSTANTIAL QUESTIONS OF LAW:

11. The following substantial questions of law arise for the consideration of this Hon'ble Tribunal:

- (a)** Whether the prior suo motu proceedings, having been confined to industrial safety, the closure and conditional reopening of the unit, and onshore mitigation, operate as res judicata or otherwise bar the present Application, which seeks the assessment and restitution of marine ecological damage that was neither raised, examined nor adjudicated therein?
- (b)** Whether, the present Application being in substance one for restitution of the environment and for relief in respect of an accident occurring in the handling of a hazardous substance, the governing period of limitation is five years under Section 15(3) of the Act, and not six months under Section 14(3)?
- (c)** Whether, in view of the precautionary principle and the reversal of the onus of proof mandated by Section 20 of the Act and by binding precedent, the absence of a completed scientific assessment of marine damage can constitute a valid ground to decline the very assessment that alone can establish or negate such damage?
- (d)** Whether an enterprise engaged in a hazardous and inherently dangerous activity is absolutely liable, without exception, for the escape of a hazardous substance, such that the plea of "act of God" is unavailable as a defence and cannot foreclose a factual enquiry into the resultant harm?
- (e)** Whether the restorative, ameliorative and inquisitorial jurisdiction of this Tribunal empowers and obliges it to constitute an expert

committee to ascertain environmental damage that has never been assessed?

- (f) Whether the efflux of time between the incident and the institution of the Application can, by itself, preclude the constitution of an expert committee, where the ecological injury and the obligation of restitution are of a continuing character, and where the delay is itself a consequence of the very absence of assessment now sought to be remedied?

V. SUBMISSIONS:

A. The earlier suo motu proceedings do not bar the present Application

12. The bar of res judicata, whether under Section 11 of the Code of Civil Procedure or on general principles, is attracted only where the matter in issue was directly and substantially in issue in a former proceeding, and was heard and finally decided, between the same parties or those claiming under them. Not one of these conditions is satisfied qua the marine ecological damage. The Applicant was not a party to the inquisitorial suo motu proceedings; he was not heard therein; and the question of marine ecological damage was neither in issue nor decided.
13. Further, the cause of action, the medium of harm, the statutory violation, the reliefs and the affected class are each distinct. The suo motu proceedings addressed the atmospheric release and its onshore and industrial consequences. The present Application concerns the discharge of a hazardous substance into coastal waters - engaging the Water (Prevention and Control of Pollution) Act, 1974, an enactment specified in Schedule I to the Act - and the Tribunal's distinct duty of restitution of the marine environment. A finding upon plant safety is no adjudication upon marine ecology.

14. In any event, in matters of continuing environmental harm affecting the public at large, the doctrine of res judicata is applied with circumspection and cannot be permitted to defeat the Tribunal's restorative mandate. As affirmed in *Municipal Corporation of Greater Mumbai -vs- Ankita Sinha*, (**MANU/SC/0815/2021**) the jurisdiction of the Tribunal is not confined to adjudication between two rival parties, but extends to the prevention, remediation and amelioration of environmental harm, and to the moulding of relief even where not specifically prayed for.
15. Above all, the disposal of the safety-and-reopening question cannot be read as an implied adjudication that no marine damage occurred. Silence is not a finding. A question never asked cannot be treated as a question answered.

B. Limitation - Section 15(3) governs, and the Application is well within time

16. The Application is expressly instituted under Section 18(1) read with Sections 14 **and** 15 of the Act. In pith and substance, the reliefs sought - assessment leading to restitution of the marine environment, and relief in respect of ecological damage arising from an accident occurring while handling a hazardous substance - fall squarely within Section 15(1)(b) and (c) of the Act.
17. Section 15(3) prescribes a limitation of **five years** from the date on which the cause for such compensation or relief first arose. The incident having occurred on 26.12.2023 and the Application having been instituted in July 2025, the Application is comfortably within the five-year period.
18. The character of an application is determined by the substance of the reliefs claimed, and not by its nomenclature. In *Mantri Techzone (P) Ltd. v. Forward Foundation*, (**MANU/SC/0315/2019**), the Hon'ble Supreme Court held that where an Original Application relates to environmental and

ecological degradation and seeks restoration of ecology, it is not an application simpliciter under Section 14 but gives rise to an independent cause of action under Section 15, for which the period of limitation is five years, and is therefore within time. The present Application, seeking assessment and restitution of the marine environment, is on all fours with that principle.

19. To the extent that the Respondents invoke the six-month period under Section 14(3), it is respectfully submitted that (i) that period governs an application for adjudication of a dispute simpliciter, and not an application for restitution of the environment, which is separately provided for and separately time-limited under Section 15; and (ii) in any event, the marine ecological injury is a **continuing wrong** - the degradation of the habitat, the depletion of the fishery and the loss of livelihood subsist from day to day, and the obligation of restitution endures so long as the environment remains unrestored (Bal Krishna Savalram Pujari v. Shree Dhyaneshwar Maharaj Sansthan, (MANU/SC/0174/1959), on the distinction between a wrong complete once and for all and a continuing wrong that furnishes a fresh cause of action de die in diem).

C. The efflux of time does not preclude the constitution of an expert committee

20. This submission is addressed directly to the apprehension expressed from the Hon'ble Bench - namely, how the Respondents may be directed to constitute an expert committee after the lapse of time since the incident. With the greatest respect, that apprehension proceeds upon an assumption that must yield to the statutory scheme, to settled principle, and to the peculiar character of environmental harm. The Applicant submits as follows.

- 21. First, the statute itself sanctions the temporal distance.** Parliament, in Section 15(3), has fixed a five-year window for restitutionary relief precisely because ecological damage frequently manifests, and requires to be remedied, over a horizon far longer than the six months allowed for ordinary disputes. A relief expressly permitted by the statute within five years cannot be denied on the ground of a delay falling well within that period. To do so would be to substitute judicial apprehension for legislative judgment.
- 22. Secondly, the injury is continuing, and so is the duty of restitution.** The death or migration of marine organisms, the impoverishment of the fishery, and the deprivation of the fisherfolk's livelihood are not spent events; they persist. As held in *Vellore Citizens' Welfare Forum -vs- Union of India*, (MANU/SC/0686/1996), the polluter-pays principle fastens upon the polluter not merely the cost of compensating the victims but also the cost of restoring the degraded environment, and remediation of the damaged environment is an integral part of sustainable development. So long as the marine environment stands unrestored, the cause for restitution subsists.
- 23. Thirdly, delay is no bar to a fact-finding enquiry, and modern environmental science can reconstruct the impact.** The constitution of an expert committee is not a final adjudication of liability or quantum; it is an anterior, fact-ascertaining step. The extent to which the impact remains scientifically recoverable - through sediment and benthic sampling, examination of the sea-bed in the vicinity of the pipeline, comparison of fishery-landing data before and after the incident, bio-indicators, and the testimony of the fishing community - is itself a matter for expert determination, and cannot be presumed against the Applicant without any expert input. Indeed, the longer the assessment is deferred, the greater the risk that recoverable data is irretrievably lost. The passage of time is therefore a reason to direct the assessment now, not to refuse it.

- 24. Fourthly, the polluter cannot take advantage of the very default it occasioned.** It is a settled principle that no person may be permitted to derive a benefit from his own wrong (*nullus commodum capere potest de injuria sua propria*). The 1st Respondent, having caused the escape and having at no stage conducted or procured any assessment of the marine impact, cannot be heard to plead the resulting evidentiary delay as a shield against the enquiry. The absence of assessment is the Respondent's own omission; it cannot be converted into the Applicant's bar.
- 25. Fifthly, a refusal would convert apprehension into an unfounded finding.** To decline the assessment on the assumption that no ascertainable damage now survives is, in effect, to record a finding of "no marine damage" without any evidence - the very antithesis of the adjudicatory function, and impermissible in the teeth of the precautionary principle, which forbids the postponement of protective measures for want of scientific certainty where serious or irreversible harm is threatened.
- 26. Sixthly, the restorative and inquisitorial mandate of this Tribunal is not defeated by delay.** In *Ankita Sinha (supra)*, the Hon'ble Supreme Court affirmed that the jurisdiction of the Tribunal is of the widest amplitude, extending beyond adjudication between rival parties to the prevention, remediation and amelioration of environmental harm, exercised through an inquisitorial process of calling for reports and studies. The environment's entitlement to restoration is a public interest that the Tribunal is duty-bound to vindicate and is not extinguished by the mere efflux of time in the manner of a private, adversarial money claim.
- 27. Seventhly, the public trust doctrine subsists.** The State holds the coastal and marine resources of the nation in trust for the people; the duty to protect and restore those resources, recognised in *M.C. Mehta -vs- Kamal Nath*, (**MANU/SC/1007/1997**), endures and cannot be defeated by delay.

28. For these reasons, the efflux of time furnishes no impediment. On the contrary, the unremedied and continuing character of the harm renders the constitution of an expert committee not merely permissible, but imperative.

D. The onus of proof lies upon the Respondent-polluter; want of proof is not proof of absence

29. Section 20 of the Act mandates that the Tribunal shall, while passing any order, apply the principles of sustainable development, the precautionary principle and the polluter-pays principle. In Vellore Citizens' Welfare Forum (supra), the Hon'ble Supreme Court held the precautionary principle, in the context of municipal law, to comprise: (i) that the State and statutory authorities must anticipate, prevent and attack the causes of environmental degradation; (ii) that where there are threats of serious or irreversible damage, lack of scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation; and (iii) that the **onus of proof** lies upon the actor, developer or industrialist to show that his action is environmentally benign.
30. Applying that reversed onus, the burden lies upon the 1st Respondent to demonstrate that the discharge of some 68,000 kilograms of ammonia into the sea caused no ecological damage - a burden it has neither discharged nor can discharge, having never conducted any marine assessment. The Respondents' objection that the Applicant has furnished no "proof" of depletion of marine life is, with respect, misconceived: it inverts the statutory onus, and is moreover self-defeating, since the very relief sought is the scientific assessment that alone can establish the fact. To demand proof of the damage as a pre-condition to ordering the enquiry that would furnish such proof is to place the cart before the horse.

31. The absence of proof of damage is not proof of the absence of damage. That ammonia is acutely toxic to aquatic organisms is a matter of established scientific knowledge; that some 67.638 metric tonnes of it entered a coastal ecosystem within about fifteen minutes is not in dispute. A prima facie case for enquiry is therefore self-evident; the quantum and extent of the harm is precisely what the expert committee is to determine.

E. Absolute liability, and the plea of “act of God” is no defence

32. The 1st Respondent is an enterprise engaged in a hazardous and inherently dangerous activity. In *M.C. Mehta –vs- Union of India*, (MANU/SC/0768/2009) (the “Oleum Gas Leak” case), the Hon’ble Supreme Court enunciated the rule of **absolute liability**: an enterprise engaged in a hazardous or inherently dangerous activity, from which harm results on account of the escape of a dangerous substance, is absolutely liable to compensate all those affected, and such liability is not subject to any of the exceptions which attach to the rule in *Rylands -vs- Fletcher*. It follows that the plea reportedly advanced by the 1st Respondent - that the leak was an “act of God” - is not available in law. The escape of the substance being admitted, liability attaches irrespective of care or fault; and the very unavailability of the “act of God” defence is a further reason why the factual enquiry into the resultant marine harm ought to be directed and not foreclosed.

F. The relief sought is a routine and proportionate exercise of the Tribunal’s jurisdiction

33. The constitution of an expert committee to ascertain environmental damage is a standard and well-recognised exercise of the Tribunal’s powers; indeed, in *Ankita Sinha* (supra) itself, the enquiry proceeded upon the report of a committee constituted for that very purpose. The prejudice, if any, to the

Respondents from such an enquiry is minimal; the prejudice to the marine environment and to the fisherfolk from leaving the damage permanently unexamined is grave and irreversible. The precautionary principle tilts the balance decisively in favour of enquiry.

34. The Applicant respectfully suggests that this Hon'ble Tribunal may be pleased to constitute an expert committee comprising representatives of: the Central Marine Fisheries Research Institute (CMFRI); the National Institute of Ocean Technology (NIOT); the National Environmental Engineering Research Institute (NEERI); the Central Pollution Control Board (CPCB); the Tamil Nadu Pollution Control Board (TNPCB); the Department of Fisheries, Government of Tamil Nadu; and the Zoological Survey of India (Marine Biology Division) - or such other institutions and experts as this Tribunal may deem fit, with liberty to co-opt domain experts.
35. The suggested terms of reference are: (i) to assess the nature and extent of the ecological damage caused to the marine environment, the sea-bed and the marine habitat in the area affected by the discharge; (ii) to assess the mortality, morbidity and/or migration of marine species and the impact upon marine biodiversity; (iii) to assess the impact upon fish stocks and the coastal fishery, and the consequent loss of livelihood to the fisherfolk; (iv) to recommend measures for the restitution and restoration of the marine environment; and (v) to assess the quantum of environmental compensation attributable to the marine ecological damage, in accordance with the polluter-pays principle - and to submit a report to this Tribunal within such time as it may fix.

VI. PRAYER

In the premises, it is most respectfully prayed that this Hon'ble Tribunal may be graciously pleased to:

a. Direct Respondent No. 2 (Union Ministry of Fisheries, Animal Husbandry and Dairying), in coordination with Respondent No. 4 (Tamil Nadu Fisheries Department), Respondent No. 8 (MoEFCC), Respondent No. 9 (NBA), Respondent No. 11 (NFDB), and other necessary expert institutions (like NIOT, CMFRI, etc.), to constitute a multi-disciplinary expert committee to conduct a comprehensive, time-bound, scientific investigation and assessment of the impact of the ammonia gas leak of December 26, 2023, from Respondent No. 1's pipeline on the marine environment in the Bay of Bengal off the coast of Thiruvottiur, Ennore, and surrounding areas affecting approximately 27 fishing villages;

b. Direct that the said assessment specifically studies and quantify:

i. The short-term and long-term impact on marine biodiversity, including fish (various species), plankton, benthic organisms, and other marine life.

ii. The impact on fish health, physiology, and critically, their reproductive capacity and potential genetic damage.

iii. Changes in fish migration patterns and population dynamics in the affected area.

iv. Damage to the marine habitat, including seabed contamination, water quality parameters (persistent pollutants, pH changes), and impact on breeding/nursery grounds.

v. The direct correlation between the ammonia leak and the reported sustained decline in fish catch experienced by the local fishermen.

vi. The full extent of economic loss suffered by the fishermen and fishing-dependent families in the affected villages due to reduced catch and damage to the fishery resource, from the date of the incident onwards.

c. Direct Respondent No. 1 (Coromandel International Limited) to bear the entire cost of conducting the comprehensive assessment as prayed for in (a) and (b).

d. Direct the expert committee, based on its findings, to formulate a detailed, long-term Marine Ecosystem Restoration and Remediation Plan for the affected area, and direct Respondent No. 1 to implement the said plan under the supervision of Respondents No. 2, 4, 6, and 8, at its own cost.

e. Direct Respondent No. 1 to create a substantial compensation fund, based on the assessment of economic loss (Prayer b(vi)), to adequately compensate the affected fishermen and their families in the approximately 27 villages for the past, present, and future loss of livelihood and income resulting from the ammonia leak. Direct the constitution of an independent committee, including representatives of the affected communities and the Applicant, to oversee the fair and transparent disbursement of this compensation.

f. Direct Respondents No. 5 and 6 (CPCB and TNPCB) and Respondents No. 3, 7, 12, 13 (Maritime Board, IRS, DISH, Dock Safety) to conduct a fresh, rigorous audit of Respondent No. 1's pipeline integrity, safety protocols, leak detection systems, and emergency response mechanisms, and mandate the implementation of state-of-the-art safety upgrades, including real-time underwater monitoring and early warning systems for coastal communities, before allowing any further ammonia transfer operations.

g. Pass such other or further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case, in the interest of environmental justice and equity and thus render justice.

LIST OF AUTHORITIES RELIED UPON
--

1. Municipal Corporation of Greater Mumbai -vs- Ankita Sinha, 2021, (MANU/SC/0815/2021) ----(2022) 13 SCC 401 : AIR 2021 SC 5147

2021 INSC 624 : (three-Judge Bench, decided 07.10.2021) - suo motu, restorative and inquisitorial jurisdiction of the NGT; power to mould relief.

Relevant Paragraphs: from MANUPATRA JOURNAL (MANU)

11.1. The second limb of contention is that the Act is applicable to 'disputes' as, necessarily referring to a lis between two parties. The counsel has relied upon *Techi Tagi Tara v. Rajendra Singh Bhandari and Ors.* MANU/SC/1217/2017 : (2018) 11 SCC 734 wherein the term 'substantial question relating to environment' was interpreted in an attenuated fashion to mean a question arising as part of a dispute. The submission therefore is that a dispute must necessitate a claimant or an applicant. Further, this dispute must also be capable of settlement by the NGT. In the cited case the proposition is articulated in the following fashion,

14.4. The paragraph 2 of the Statement of Objects and Reasons refers to the United Nations Conference on the Human Environment held at Stockholm in June 1972 which called upon governments and peoples to exert common efforts for the preservation and improvement of the human environment when it involved people and for their posterity. Therefore, the municipal law enacted with such a laudatory objective of not only preventing damage to the environment but also to protect it, must be provided with the wherewithal to discharge its protective, preventive and remedial function towards protection of the environment. The mandate and jurisdiction of the NGT is therefore conceived to be of the widest amplitude and it is in the nature of a sui generis forum.

16.1 "Section 15 deals with relief, compensation and restitution whereby besides providing relief to the victims of pollution, the NGT can direct

	restitution of property damage and restitution of environment for such area(s) 'as the Tribunal may think fit'. ... Section 20 says that while adjudicating issues, the Tribunal shall apply the environmental principles, namely, sustainable development principles, precautionary principles and polluter pays principle. ... Under Section 33, the NGT Act has an overriding effect over other laws."
16.4	"Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses inter alia, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to the environmental principles and even hauling up authorities for inaction, when need be."
16.5	"Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, the NGT is conferred with power of moulding any relief. The provisions show that the NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties."
17.4	"The NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration."
18.	"We have earlier discussed that the NGT is empowered to carry out restitutive exercise for compensating persons adversely affected by environmental events. ... Even in the absence of harm inflicted by human agency, in a situation of a natural calamity, the Tribunal will be required to devise a plan for alleviating damage. An inquisitorial function is also available for the Tribunal, within and without

adversarial significance. Importantly, many of these functions do not require an active 'dispute', but the formulation of decisions."

24.2 (the Court adopting 77 of DG NHAI v. Aam Aadmi Lokmanch, 2020 SCC OnLine SC 572) — "As a quasi-judicial body exercising both appellate jurisdiction over regulatory bodies' orders and directions (Under Section 16) and its original jurisdiction Under Sections 14, 15 and 17 of the NGT Act, the tribunal, based on the cases and applications made before it, is an expert regulatory body. Its personnel include technically qualified and experienced members. The powers it exercises and directions it can potentially issue, impact not merely those before it, but also state agencies and state departments whose views are heard, after which general directions to prevent the future occurrence of incidents that impact the environment, are issued."

24.3 "In that case, this Court repelled the argument for a restricted jurisdiction for the NGT, and fittingly observed in paragraph 76 that the powers conferred on the NGT are both reflexive and preventive and the role of the NGT was recognized in paragraph 77 as 'an expert regulatory body', which can issue general directions also albeit within the statutory framework."

25.8 "Access to justice, may however be curtailed by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens. Another deterrence is the likelihood of polluters/violators being powerful entities with adequate wherewithal to skirt regulations. Thus, it may not always be feasible for individuals to knock on the doors of the Tribunal, and NGT in such exigencies must not be made dysfunctional."

26.5	"It is not only a matter of rhetoric that the Tribunal is to remain ever vigilant, but an important legal onus is cast upon it to act with promptitude to deal with environmental exigencies. The responsibility is not just to resolve legal ambiguities but to arrive at a reasoned and fair result for environmental problems which are adversarial as well as non-adversarial."
27.3	"Environmental justice starts with distributive justice, or more accurately, distributive injustice. The rich and powerful derive the most benefit while suffering the least harm from environmentally harmful activities; conversely, the poor and minorities derive the least benefit but suffer the most harm."
30	"The NGT Act, when read as a whole, gives much leeway to the NGT to go beyond a mere adjudicatory role. The Parliament's intention is clearly discernible to create a multifunctional body, with the capacity to provide redressal for environmental exigencies."
34	"In circumstances where adverse environmental impact may be egregious, but the community affected is unable to effectively get the machinery into action, a forum created specifically to address such concerns should surely be expected to move with expediency, and of its own accord. The potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access."
39	"Not merely should a procedure exist but it must be meaningfully effective to address such concerns. The role of such an institution cannot be mechanical or ornamental. We must therefore adopt an interpretation which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective."

2. Mantri Techzone (P) Ltd. -vs- Forward Foundation, (MANU/SC/0315/2019) - substance over nomenclature; ecological-restoration application lies under Section 15; five-year limitation; overriding effect of the Act.

Relevant Paragraphs: from MANUPATRA JOURNAL (MANU)
41. The jurisdiction of the Tribunal is provided Under Sections 14, 15 and 16 of the Act. Section 14 provides the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved. However, such question should arise out of implementation of the enactments specified in Schedule I.
42. The Tribunal has also jurisdiction Under Section 15(1)(a) of the Act to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Further, Under Section 15(1)(b) and 15(1)(c) the Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas as the Tribunal may think fit. It is noteworthy that Section 15(1)(b) & (c) have not been made relatable to Schedule I enactments of the Act. Rightly so, this grants a glimpse into the wide range of powers that the Tribunal has been cloaked with respect to restoration of the environment.
44. The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading.

(See *Kishore Lal v. Chairman, Employees' State Insurance Corporation* MANU/SC/2148/2007 : (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers Under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment.

45. Section 15 of the Act provides power & jurisdiction, independent of Section 14 thereof. Further, Section 14(3) juxtaposed with Section 15(3) of the Act, are separate provisions for filing distinct applications before the Tribunal with distinct periods of limitation, thereby amply demonstrating that jurisdiction of the Tribunal flows from these Sections (i.e. Sections 14 and 15 of the Act) independently. The limitation provided in Section 14 is a period of 6 months from the date on which the cause of action first arose and whereas in Section 15 it is 5 years. Therefore, the legislative intent is clear to keep Section 14 and 15 as self contained jurisdictions.

46. Further, Section 18 of the Act recognizes the right to file applications each Under Sections 14 as well as 15. Therefore, it cannot be argued that Section 14 provides jurisdiction to the Tribunal while Section 15 merely supplements the same with powers. As stated supra. the typical nature of the Tribunal, its breadth of powers as provided under the

statutory provisions of the Act as well as the Scheduled enactments, cumulatively, leaves no manner of doubt that the only tenable interpretation to these provisions would be to read the provisions broadly in favour of cloaking the Tribunal with effective authority. An interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction.

3. Vellore Citizens' Welfare Forum -vs- Union of India, (MANU/SC/0686/1996) - (1996) 5 SCC 647 : AIR 1996 SC 2715 : 1996 INSC 952 - precautionary principle; reversed onus of proof upon the polluter; polluter-pays and restoration of the environment.

Relevant Paragraphs: from MANUPATRA JOURNAL (MANU)

- **Paragraph 9:** "Though the leather industry is of vital importance to the country as it generates foreign exchange and provides employment avenues it has no right to destroy the ecology, degrade the environment and pose as a health hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry."
- **Paragraph 11:** "We are, however, of the view that 'The Precautionary Principle' and 'The Polluter Pays' principle are essential features of 'Sustainable Development'. The 'Precautionary Principle' - in the context of the municipal law - means:
 - (i) Environmental measures - by the State Government and the statutory authorities - must anticipate, prevent and attack the causes of environmental degradation.
 - (ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures

to prevent environmental degradation.

(iii) The 'onus of proof' is on the actor or the developer/industrialist to show that his action is environmentally benign."

12. "Once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on. ... The 'Polluter Pays' principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of 'Sustainable Development' and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology."

14. "In view of the above mentioned constitutional and statutory provisions we have no hesitation in holding that the precautionary principle and the polluter pays principle are part of the environmental law of the country."

22. "There are more than 900 tanneries operating in the five districts of Tamil Nadu. ... they have been polluting the environment for over a decade and in some cases even for a longer period. ... The polluters must compensate the affected persons and also pay the cost of restoring the damaged ecology."

27.2. "The authority so constituted ... shall implement the 'precautionary principle' and the 'polluter pays' principle. The authority shall, with the help of expert opinion and after giving opportunity to the concerned

polluters assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment."

27.5 "An industry may have set up the necessary pollution control device at present but it shall be liable to pay for the past pollution generated by the said industry which has resulted in the environmental degradation and suffering to the residents of the area."

4. M.C. Mehta -vs- Union of India, (MANU/SC/0768/2009) - (1987) 1 SCC 395 : AIR 1987 SC 1086 : 1986 INSC 281 (Oleum Gas Leak) - rule of absolute liability of a hazardous enterprise; no exceptions; "act of God" unavailable.

Relevant Paragraphs: from MANUPATRA JOURNAL (MANU)

- **Paragraph 31:** "We are of the view that an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of the hazardous or inherently dangerous nature of the activity which it has undertaken. The enterprise must be held to be under an obligation to develop and maintain the highest safety standards with respect to its plant and machinery, and if any harm results on account of the escape of a hazardous substance from its premises, the enterprise must be absolutely liable to compensate all those who are affected by the accident and such

liability is not subject to any of the exceptions which operate in the tortious action under the rule in *Rylands v. Fletcher*."

- **Paragraph 32:** "We would therefore hold that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of the accident in the operation of such hazardous or inherently dangerous activity resulting, for example, in the escape of toxic gas, the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which are available in the rule in *Rylands v. Fletcher* including the exception of act of God." "We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be co-related to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise."

5. *Indian Council for Enviro-Legal Action v. Union of India*, (MANU/SC/1112/1996) - polluter-pays principle; obligation to bear the cost of remediation and restoration.

Relevant Paragraphs: from MANUPATRA JOURNAL (MANU)

- **Paragraph 67:** The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution or produce the goods

which cause the pollution. Under the principle it is not the role of government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The 'polluter pays' principle was promoted by the Organisation for Economic Co-operation and Development [OECD] during the 1970s when there was great public interest in environmental issues. During this time there were demands on government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialised society. Since then there has been considerable discussion of the nature of the polluter pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactory agreed. “Thus, according to this principle, the responsibility for repairing the damage is that of the offending industry. Sections 3 and 5 empower the Central Government to give directions and take measures for giving effect to this principle. In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realization and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment [Protection] Act, 1986. It is of course, open to the Central Government to take the help and assistance of State Government, R.P.C.B. or such other agency or authority, as they think fit”.

- **Paragraph 68:** " The next question is what is the amount required for carrying out the necessary remedial measures to repair the damage and to restore the water and soil to the condition it was in before the respondents commenced their operations. The Report of NEERI has worked out the cost

at more than Rupees forty crores. The estimate of cost of remedial measures is, however, not a technical matter within the expertise of NEERI officials. Moreover, the estimate was made in the year 1994. Two years have passed by since then. Situation, if at all, must have deteriorated further on account of the presence of - and dispersal of the sludge - in and around the complex of the respondents by them. They have been discharging other toxic effluents from their other plants, as reported by NEERI and the central team. It is but appropriate that an estimate of the cost of remedial measures be made now with notice to the respondents, which amount should be paid to Central Government and/or recovered from them by the Central Government. Other directions are also called for in the light of the facts and circumstances mentioned above. "

6. M.C. Mehta v. Kamal Nath, (MANU/SC/1007/1997) - 1996 SCALE 9 141, 1997 SCC 1 388, 1996 SUPP SCR 10 12, 996 INSC 1482 ---- public trust doctrine over natural resources.

Relevant Paragraphs: from MANUPATRA JOURNAL (MANU)

PARAGRAPH 30: The Polluter Pays" principle has been held to be a sound principle by this Court in Indian Council for Environ-Legal Action v. Union of India MANU/SC/1112/199503.1996]2SCR503. The Court observed, "We are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country". The Court ruled that "Once the activity carried on is hazardous or inherently dangerous, the persons carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity.

The rule is premised upon the very nature of the activity carried on". Consequently the polluting industries are "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays" principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only the compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. The precautionary principle and the polluter pays principle have been accepted as part of the law of the land

7. Bal Krishna Savalram Pujari v. Shree Dhyaneshwar Maharaj Sansthan, (MANU/SC/0174/1959) - 1959 INSC 27-----distinction between a completed wrong and a continuing wrong.

Relevant Paragraphs: from MANUPATRA JOURNAL (MANU)

- **Paragraph 31:** " It is the very essence of a continuing wrong that it is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. If, however, a wrongful act is of such a character that the injury caused by it itself continues, then the act constitutes a continuing wrong. In this connection it is necessary to draw a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury.

8. Sections 14, 15, 18 and 20 of the National Green Tribunal Act, 2010

Dated in Chennai on this 09th July 2026

A handwritten signature in black ink, appearing to read 'R. I. Senthil', is written over a long, thin horizontal line.

COUNSEL FOR APPLICANT