

>

Title: Further discussion on the motion for consideration of the National Green Tribunal Bill, 2009 moved by Shri Jairam Ramesh on the 15th March, 2010 (Bill Passed).

MADAM SPEAKER: Let us now take up item No.15. Shri Shailendra Kumar may speak now.

श्री शैलेन्द्र कुमार (कौशाम्बी): माननीय अध्यक्ष महोदया, आपने मुझे राष्ट्रीय हरित अधिकरण विधेयक, 2009 पर बोलने का अवसर दिया, इसके लिए मैं आपका आभारी हूँ। इस पर पक्ष और विपक्ष के सम्मानित सदस्यों द्वारा चर्चा हो चुकी है।

13.39 hrs.

(Dr. M. Thambidurai in the Chair)

माननीय मंत्री श्री जयराम रमेश जो अधिकरण विधेयक बिल लेकर आए हैं, मैं इन्हें बधाई देना चाहूँगा। अब तक लगभग पांच हजार ऐसे मामले पूरे देश में लंबित पड़े हुए थे जिनकी सुनवाई नहीं हो पा रही थी, लेकिन राष्ट्रीय हरित अधिकरण विधेयक से एक आशा और उम्मीद जगी है। आपने देश में बेंचें स्थापित करने के लिए जो संख्या दी है, मेरे ख्याल से वह कम है। ठीक है, अभी अधिकरण की शुरुआत हो रही है, लेकिन इसके बाद मैं चाहूँगा कि देश के स्तर पर बेंचें बनाई जाएं ताकि लंबित मामलों का निपटारा हो सके। आज अगर वनों और प्राकृतिक संसाधनों की तरफ गौर से देखा जाए, तो मेरे ख्याल से सरकार ने बहुत कुछ किया है, लेकिन तमाम ऐसी परियोजनाएं हैं जो आज देश स्तर पर जनहित में हैं, वे लंबित पड़ी हुई हैं। कहीं-कहीं पर एनओसी लेने की जो बात होती है, उसमें बहुत देरी होती है जिससे वे योजनाएं लंबित पड़ी रहती हैं। मैं नहीं जानता, क्योंकि उसमें एक एक्सपर्ट कमेटी है, जो उसकी देख-रेख करती है। हमें यह भी देखना पड़ेगा कि हमारी राष्ट्रीय प्राकृतिक सम्पदा का संरक्षण और उसकी देख-रेख हो, ताकि उसे भी नुकसान न हो और पर्यावरण को भी खतरा न हो। इस ओर भी हमें ध्यान देना होगा, लेकिन बहुत सी ऐसी परियोजनाएं हैं, जो जनहित में हैं, उन्हें भी हमें स्वीकृत करना चाहिए।

मैं याद दिलाना चाहूँगा, क्योंकि मेनका जी बैठी हैं, मैं जानता हूँ कि उनको अफसोस होगा और वे एतराज भी करेंगी। हमारे यहां नील गायों का बहुत आतंक है। ...**(व्यवधान)**

श्रीमती मेनका गांधी (आंवला): वे हिस्न हैं। ...**(व्यवधान)**

श्री शैलेन्द्र कुमार : हम उन्हें हिस्न ही मान लेते हैं। आज किसान जो फसल लगाता है, वे भारी संख्या में झुंड में आकर, खासकर जो फूल-फली है, उसी को खाता है। इससे किसान तबाह हो जाता है। ...**(व्यवधान)**

श्रीमती मेनका गांधी : उसका उपाय है, जिसे मैं अभी बताऊंगी। ...**(व्यवधान)**

श्री शैलेन्द्र कुमार : उसका उपाय है, लेकिन किसान इतना तबाह हो रहा है, जिसका कोई इंतहा नहीं है। मैं जानता हूँ कि आप जो उपाय बतायेंगी, वह भी बहुत मुश्किल होगा। उस उपाय को भी लोगों ने किया है, लेकिन उससे निजात नहीं मिल पायी। मेरे ख्याल से इस ट्रिब्यूनल में, किसानों को जो हानि या क्षति हो रही है, उनके केस जरूर जाएंगे। मैं मंत्री जी से चाहूँगा कि वे ऐसा रास्ता निकालें, जिससे हमारे जानवर भी संरक्षित रहें और किसानों का भी उसमें नुकसान न होने पाये।

दूसरा, तमाम ऐसी नदियां और छोटे-छोटे नाले हैं, जिनको संरक्षित करने की जरूरत है। आज नदी-नालों के अलावा हमारी कांस्टीट्यूसी कौशाम्बी में एक अलवाया झील है, जो चार हजार एकड़ में है। उसमें बारिश का पानी बारह महीनों रहता है। जब ज्यादा ओवर फ्लो होता है, तो वह पानी बहकर यमुना नदी में चला जाता है। हमने जिले और प्रदेश सरकार से एक परियोजना बनाकर सरकार को भेजी है। उस झील की कम से कम संरचना हो, उसे संरक्षित रखा जाये और इसके लिए केन्द्र सरकार से कोई बजट जाये। खासकर जाड़ों के मौसम में वहां पर बहुत से विदेशी पक्षी आकर वास करते हैं। लेकिन हम आज तक कुछ नहीं कर पाये हैं। वह लावारिस हालत में है। वहां बहुत से शिकारी भी शिकार करते हैं, इसलिए हमें इस ओर विशेष ध्यान देना होगा।

सभापति महोदय, अभी हमने समाचार पत्रों में देखा कि बाघों के संरक्षण के लिए देश बहुत चिन्ता कर रहा है। बहुत सी ऐसी प्रजातियां हैं, जो लुप्त होने के कगार पर हैं। बहुत से ऐसे पशु-पक्षी हैं, जो लुप्त होने के कगार पर हैं। उन्हें संरक्षित करने की आवश्यकता है। अब वनों में जो वास करने वाले लोग हैं खासकर जो घुमंतू बिरादरी के हैं। उनकी पीढ़ी दर पीढ़ी ने उन जंगलों में वास किया है और जंगल को ही अपना सब कुछ समझा है, आज उन्हें विस्थापित करने की बात हो रही है। एक तरीके से उनके अधिकार को हमें बहुत ध्यान से देखना पड़ेगा। हम इस पक्ष में नहीं हैं कि जंगल को काटा जाये या जंगल को कोई नुकसान हो। मैं भी उत्तर प्रदेश सरकार में वर्ष 1988 में वन मंत्री था। मैं जानता हूँ कि नैशनल कार्बेट पार्क, दुधवा नैशनल पार्क, लखीमपुर खीरी पार्क आदि तमाम ऐसे जंगल हरिद्वार में थे। वहां पर भी हमने जाकर देखा था। उनका डेलीगेशन हमसे मिला था। वे चाहते हैं, उनके कहने का मतलब है कि जंगलों से ही हमें सब कुछ मिला है और हम यहां दो-चार-छः पीढ़ी से यहां रह रहे हैं, लेकिन हमें विस्थापित करने की बात कही जा रही है। अगर उन्हें विस्थापित करना है, तो उन्हें आप कम से कम मकान और रोजगार दीजिए, क्योंकि उनका पूरा जीवनस्तर, जीवनयापन उसी जंगल से ही चलता है। यह भी सोचने की जरूरत है।

राष्ट्रीय हरित अधिकरण में ऐसे तमाम तरीके की शिकायतें और बातें इस ट्रिब्यूनल में आयेंगी। आपको गंभीरता से यह भी सोचना है कि पर्यावरण से हमारा समाज स्वच्छ रहे।

हमारे जंगल संरक्षित रहें, वहां जो जंगली जानवर हैं, उनकी भी संरक्षा और सुरक्षा होनी चाहिए। मैं सुझाव देना चाहता हूँ कि हमारे जो नेशनल हाइवेज हैं, या जो राज्य की डिस्ट्रिक्ट सड़कें हैं, जो अच्छी हालत में बन रही हैं, उनके बगल में भी वृक्ष लगाने की जरूरत है जिससे पर्यावरण शुद्ध हो और उन वृक्षों को सरकारी संरक्षण में लेकर संरक्षित करना होगा। आज हम देखते हैं कि नेशनल हाइवेज के किनारे एक रो में पेड़ लगे हैं, अगर दूसरी और तीसरी रो में भी पेड़ लगे हैं, तो उनकी कटाई हो रही है। उसे हमें रोकना होगा। इसके लिए वन विभाग का पता नहीं क्या मानक है? हम उन पेड़ों को कटते हुए देखते हैं, चाहे यूकलिप्टस के पेड़ हों

या अन्य पेड़ जैसे रेगम के कीड़े का पेड़ हो, उनकी कटाई हो जाती है। फूलों पर बताया जाता है कि इनसे यातायात में बाधा पड़ती है, रोशनी कम आती है, इसलिए इनकी कटाई की जा रही है। मान लीजिए थोड़े-बहुत पेड़ लग गए हैं, पुराने और मोटे पेड़ हैं, तो उनकी कटाई नहीं होनी चाहिए। पीडब्ल्यूडी की जमीन पर, नेशनल हाइवेज की जमीन पर वे पेड़ लगे हैं, उनकी सुरक्षा और संरक्षा करनी होगी, मैं ज्यादा कुछ न कहते हुए, इस राष्ट्रीय हरित अधिकरण विधेयक, 2009 का पुरजोर समर्थन करते हुए अपनी बात समाप्त करता हूँ।

MR. CHAIRMAN : I would request the hon. Members to be very brief about this Bill because the hon. Minister has to reply. At 3.30 p.m., we are going to take up the Private Members' Business. Therefore, before that, we want to complete it. Hence, I request the hon. Members to be very brief on this topic.

SHRIMATI SUPRIYA SULE (BARAMATI): Sir, I thank you very much for giving me an opportunity to speak on this Bill. I would like to compliment the hon. Minister and his Ministry for bringing forward this Bill. I stand here in total support of the Tribunal but there are a few queries in my mind. I do not doubt his integrity or intentions in bringing forward this Bill. I feel the Bill needs to be strengthened in respect of a few topics which I would like to highlight. Since the time is very less, I would just come to the points.

In the context of the Law Commissions 81st to 86th Reports, there was a suggestion that the Tribunal has to be in every State so that it is more accessible and quick in disposing the matter. That is not found here. The Tribunal is going to be in the East, West, North and South only – in the four regions. So, the accessibility of the Tribunal is really not going to reach the end person who really needs access to it.

Secondly, Clause 14 of the Bill says that the power to settle disputes, if it involves a substantial question relating to environment, is relating to Schedule-I. Schedule-I specifically does not cover ecology, wet lands and lakes. All these do not come under the term "pollution". So, I would urge upon the hon. Minister to guide us. The whole idea of getting this Tribunal in this specific Bill is about the right to live. He is talking about the right to live. If he is talking about the right to live, it takes beyond food and livelihood. It is about air, water, environment and everything. So, this particular point in Clause 14 does not cover the entire meaning in the constitution of it. The hon. Supreme Court has specifically said that environment has to come in this. So, I would definitely like him to clarify it and enlighten how this issue will be covered.

The other point is about civil courts. The civil court was an option for people before the Tribunal happened. Now, this has been removed because of the Tribunal. So, if a person in any part of rural India likes to make an intervention about his environment, he may not be able to go to a Tribunal. Would this be really the right way to go forward? The accessibility to the civil court has been totally diluted. Would the civil courts be considered to be brought in again? It is not possible for every person to go to the Tribunal and then go straight to the Supreme Court. Anyway, it is a double-edged sword. If you take it into two phases, you go to the Tribunal and then straightaway to the Supreme Court. For a big company, it could be a very easy option but I am not sure a common man can go quickly to a Tribunal or a High Court. It is an option for him to, at least, prolong or delay the process but it can be used either way by both the parties. If you could kindly clarify this point, I would be happy.

The other point is, the power of framing schemes does not exist which the Supreme Court had before in respect of the Environment Ministry when they used to take decision on this. It is like environmental solutions. If you remember, when the issue of the Taj Mahal came, they said that the colour was changing. There was a policy decision taken by the Supreme Court. All the businesses which were there were moved out.

So, it was an environmental solution which the hon. Supreme Court gave. Will this tribunal be able to support, monitor and do a follow up? I say this because it is not just a case one gas leak or water getting polluted in an area. Suppose this happens somewhere and there is effluent coming out, should there not be a monitoring system? Even if you go to the court, the Supreme Court would monitor it, but I feel this is lacking in this Bill. This is a very important thing and this is more applicable to chemical zones. There are a lot of chemical zones in this country. If you see the State where I come from, in Maharashtra most chemical zones are near rivers. So, after all the pollution damages that they have caused, do we have an option of shifting those plants from there? Could that be an option? We will have to review this entirely and it is more for the chemical zones. I think environmental solutions are extremely crucial for this tribunal.

The other thing is about moulding the requirement of relief. When we talk about civil courts, the civil courts do not have the option of doing it. Take the case of Bhopal Gas Tragedy where repercussions had come out much later. Suppose something

happens today and you do not know what the repercussions are going to be for 5 or 10 years and if there is a requirement of moulding the relief, will this tribunal have the right to do it? That is the clarification I am looking to get from the hon. Minister because environment is about nature, it is not about suing one party or the other and the issue ending there. It is about long-term consequences which are going to affect the whole society.

Then, I would like to make a point regarding *amicus curiae* because these are environmental issues and they need very specific interventions. We need super speciality people to come and make interventions. So, would this tribunal, like the Supreme Court used its brains, help them research? Would this tribunal have this option which will help them study the matter about the ground reality and not just go by reports made by people?

There is one more point about strict liability about hazardous effects. There is no strong reaction because there are a lot of people who do a lot of business and they promise a lot of things. For example, as it happened in the case of Bhopal Gas Tragedy where they said that they considered everything and they gave an assurance, but always there can be freak accidents. So, when dealing with such cases, I feel the company has to pay for the consequent damages that they cause. So, there has to be extremely strict liability clause for that purpose in this Bill.

The other two things which are missing in this Bill are the doctrine of public trust and inter-generational equity. I think when these projects are taken up, they are long-term projects, they are not there just for 5 or 10 years, they are there for generations ahead and generations have paid a price because sometimes, people there start having upper respiratory track infections. That is the first reaction to air pollution and after 5 or 10 years, you realise that the entire block there is suffering from cancer. There have been such instances and the hon. Minister is very much aware of these situations. So, does the Minister think that this Bill has covered these issues?

The last point that I would like to make is about the appointment of Chairperson and other Members of this Tribunal. There are a lot of Government people involved. Clause 5 (2) (b) says:

"â€¦has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution."

If you are having 10 people, all the people could be from the Government and it could be a Government-dominated body. So, how are you going to keep a fine balance? I am not insisting that there have to be NGOs and I am not defending the NGOs. But you really need to have people who really work on the field. We have a great Minister right now who thinks that environment is a big deal. We all need to realize that. But there can be changes at all levels. The intention of the Bill is very good. But how are we going to make sure that the people involved in this tribunal also feel the same way?

I am sure the hon. Minister will clarify these points. I thank the hon. Minister for bringing this Bill. We all talk about the issue of global warming and climate change and at least India being a participant in the global negotiations, I am sure, will definitely make a difference to this country.

SHRIMATI MANEKA GANDHI (AONLA): Mr. Chairman, Sir, environmental crimes are the most serious crimes in the world, not only because they hurt you immediately but they hurt all the generations to come. Mining, poisoning the rivers for gold panning, throwing sewage into the water, opening polluting industries and ignoring all the current laws whether from brick kilns to chemical factories, damming rivers just to give money to contractors, allowing inappropriate factories near forests, allowing inappropriate hotels outside sanctuary areas, allowing the sale of polluting consumer goods like firecrackers for instance, the sale of flooring material that have clearly come from destroying hill ranges like the Aravallis, the export of leather and minerals, these are genocidal crimes, no less than war by a few upon the whole of India. To treat them so lightly as civil issues rather than criminal ones and allow the polluter to pay his way, probably from the same money that he has earned by polluting the area, is cynical and shows collusion with the enemy.

Before I start, I am going to talk about the Minister. The Minister is like a rain upon the desert as I said before. We have waited for 20 years for a good minister and he and I share the same values. We have had 20 years of contract driven Ministers or Ministers who did not understand what they were doing. To have a person who uses his brains, which is just commonsense, is like *mana* on the desert. However, Jairam and I share most values.

13.56 hrs.

(Mr. Deputy-Speaker *in the Chair*)

The only difference between us is that I am so passionate about India, I want everything done today, yesterday and Jairam wears his passion like a cloak which he takes off and puts on when he changes Ministry. I would urge him that he could be the best Minister in the entire Cabinet but he is in a very ticklish position. If he is good at his job, he has the contractor driven lobby baying for his

head for more dams, more roads, more cutting of trees, more encroachment, and more killings and if he is bad at his job, he has the whole of India to spit on him as they have on environment ministers in the previous 20 years. He has generations of children who will remember him as the bogeyman. So, he is stuck between a rock and hard place. In this case, he needs to wear his passion and to do things quickly.

This Tribunal does not really reflect the person that Jairam is and I am going to point out a few things which could make it better. None of these things that I propose have come from my mind. They are the *crux* of 40-50 environmental study groups that have put themselves together to see what is wrong with the Bill and what can make it better.

We have had two absolutely useless Bills before this on the same lines which never ever matured into anything. We need to have one good Bill. The National Green Tribunal Bill 2009 that would judge environmental issues was introduced on 31st July 2009. This establishment of a National Green Tribunal has been done for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources, but it will have the same powers as a civil court. It will subsume various State level authorities that address environmental issues as well as committees created by the Supreme Court for that purpose.

It comes in response to the 186th Report of the Law Commission of India on the proposal to constitute under the NEAA Act 1997 for the limited purpose of providing a forum to review administrative decisions on environment. Unfortunately, the implemented NEAAs have remained dysfunctional as no judicial member has been appointed since 2000. If the Minister really wanted, he could have made these tribunals work because it is the Executive who has made them fully inoperative, instead this new Bill that he is bringing in which is flawed.

So far as the National Environmental Tribunal Act is concerned, the legislation has yet to be notified after eight years. Since it was enacted by Parliament, the Tribunal under the Act is yet to be constituted. These two Tribunals are non-functional and remain only on paper, in which case this is an important Bill.

If it had been conceptualized to provide safeguards to the poorest of poor communities in the face of a rapacious attack on their resources it might have been approached differently. But it seems to be yet another mechanism to give jobs to bureaucrats.

Now, I would take its clauses one by one. Some of the amendments have already been made by the Minister. Some of them seem simply cosmetic like changing one year to two years. Three of them seem all right. I would recommend the following:

The appointment of experts: The intent of most appointed bodies can be judged from its composition and on that score the Bill fares poorly. The proposed composition of the Tribunal follows a tried, tested and failed track. Anybody who has read the Bill is bound to wonder, as did all the NGOs, whether it is meant to be a club for retired IAS officers and technocrats.

As it stands, the expert members of the Tribunal would need "administrative experience of fifteen years including five years experience in dealing with environmental matters in the Central or State Government or in a reputed national or State level institution."

14.00 hrs.

This is an undisguised code for the 'Job for the Boys' programme that all senior retired bureaucrats join. For instance, if I wanted a job in the Tribunal, I do not have any of these administrative experiences. What prevents Rajendra Singh or Medha Patkar, or people who have actually done a huge amount of work in environmental protection? They cannot join the Tribunal even though they have the experience, and even though they have the passion. After all, Supreme Court Judges are not born knowing the law. What they do sitting at the Supreme Court is to have an eye for truth, an eye for justice, and

common sense which is what anybody working on the ground has. But you have excluded us from this by saying administrative experience of 15 years, 5 years experience in dealing with environmental matters in the Central or State Government. What would you count as experience? Bureaucrats are changed every three years. They are really neither learned nor educated in anything they do. It is simply a matter of passing files around. Why not give an appointment or the ability to get appointed, the window of opportunity to people who have actually worked in environmental management?

All earlier attempts in handling environmental problems through the NEAA and other bodies have failed because their control was left in the hands of bureaucrats. Had such appointees been competent, those Government Departments or institutions where they served would surely have been instrumental in protecting the environment, which is clearly not the case, which is why you need a Tribunal. In fact, it is the colossal failure of the administration that has created the compelling logic for the Tribunal.

What would be infinitely better is for the Tribunal expert members to be of technical and scientific background, experts in public health, occupational health, social science with relevant experience in environmental and occupational health or with qualifications for its membership. There is no provision in this Bill for ecologists, environmentalists, hydrologists and anybody from civil society or NGOs who have been active in the field of environment to become a member. This should be changed.

Moreover, a Tribunal member can join a corporate house whose case he might have dealt with within two years of demitting office. You have changed it from one year to two years. It is a dangerous proposition that harms transparency and impedes Tribunal independence. The House panel feels that judges should not be allowed to take up Directorship of any concern or be associated with any industrial house.

Even worse, the shortlisting of candidates will be done by the Ministry of Environment and Forests. We know the kind of pressure that is put on them to select weak or vicious people with no integrity or value, either irrelevant retired bureaucrats or technocrats in search of re-employment.

This is what should be amended. There should be a transparent process of appointment of members and Chairman. There should be a noted environmental lawyer or jurist as a member. No bureaucrats should be there as expert members. In fact, a specific clause that anyone working in MoEF or any Ministry whose decisions are subject matter before the court, cannot be included. If we need these great experts, they can be called in for advice. They can be *amicus curiae* if they like. The word 'expert' as qualified by the Bill is expert in science, engineering, technology, and having administrative experience. Is it the only thing that makes you expert? How about people who have spent their lives in the field working with cold logic to get justice? The field should be open to anyone who has dealt with environmental matters in the field. As I said, I, for one, would like to be a member. What amendment can you put in to include people like me? Obviously, by including NGOs, civil society organisations, wildlife scientists, ecologists, the Bill will have meaning, please amend this Bill.

Then I come to the second clause, that is, restrictions on who can approach the Tribunal. There is an amendment here, which is a good amendment. It says that any person aggrieved including any representative body can file an application. Judicial and quasi-judicial institutions cannot be strong if only a few people conveniently selected by the authorities are allowed to approach them. Moreover, since the courts have recognised that since environment falls within the purview of Article 21, it is clear that all persons have a duty to protect the environment and a corresponding right to question the adverse impact on environmental health. The Bill ignores this principle.

In Clauses 14 to 16 it is given that the Tribunal is only allowed jurisdiction in those cases considered substantial. And this word 'substantial' has been qualified to mean the community at large rather than individual or a group of individuals, and the damage should be grave. That is an extremely serious error. The Tribunal judges what is substantial without any qualification.

When does a group of individuals become a community? Would 50 remaining *Jarawa* tribals qualify as a community or group of individuals when their forests are cut down by loggers? Does the individual not deserve protection or does he have to wait until everyone suffers as much as him? Leaving the judging of the issue to the Tribunal to decide whether the group is large enough or the issue is grave enough is ridiculous. Let us suppose I live in a lane of six houses which has three *peepal* trees and a company comes in and cuts them down. This would seem so small to the Tribunal but it is life and death to that lane. Also much of the pollution is non-point and has many sources. So, these words – substantial, grave, broadly measurable – should be removed.

What should the Bill add? All issues arising out of non-implementation or compliance of approval conditions should be a

subject of the Bill. This is one of the main grievances, as you have with all the mining cases that you have taken action on. They take the approvals for a small patch of land and then destroy an entire district as in Karnataka, Andhra and Rajasthan. You have no compliance mechanisms. Why do you not make this Bill one of your instruments?

Why is the Bill in Clause 15 restricting itself to just providing compensation and perhaps restitution of property? Does this make sense – after the companies have finished mining, the tribals will get some money from them and black empty holes in the ground laid waste as restitution? The Bill has cut off prospective activity which includes environmental damage. An amendment is needed here to include prospective damage rather than simply retrospective jurisdiction. Has the Ministry not heard of the word 'precautionary' principle? Obviously it has because that is one of the amendments that it has brought in, and that is well done. But prevention of pollution is the most important way to protect the country. The Ministry has protected itself by refusing to give the Tribunal the teeth to challenge its decisions. While I am fairly sure that there would be very little need to challenge Shri Jairam's decisions, we have had Secretaries like Ghosh and Ministers like Mr. Balu and Mr. Raja and Mr. Meena and Mr. Kamal Nath who march to different drummers. Therefore, the Bill should be amended to give it powers to review a statutory authority's exercise of judgement. The courts are subject to review of their decisions. Why not a Ministry or an Expert Appraisal Committee? Bring in an amendment for review of abuse of authority or failure of application of mind. Then, you will see that Government clearances will survive vested interests. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please conclude now.

SHRIMATI MANEKA GANDHI : Sir, I am going to take ten minutes more.

According to Clause 15, the Tribunal can give compensation to the victim but it cannot quash the approval granted. Is that right? What does this mean? So, I can keep giving money in the air notionally to the forest dweller but I cannot stop the mining licence. In which case, what is the point of this Bill? On the one hand, the Bill can give compensation to individuals; on the other hand it prevents them from approaching the Tribunal because the licence is made *pacca*. So, basically this Bill is neither fish nor fowl and will help polluters carry on their business while giving money to the victims. Either the drafting is poor or this is a deliberate attempt to make something useless again.

Has the Bill got any real power? ...(*Interruptions*)

उपाध्यक्ष महोदय : कृपया आपका समय समाप्त हो गया है।

SHRIMATI MANEKA GANDHI : Sir, I am afraid, you will have to give me some time because this Bill is really very important. ...(*Interruptions*) मैं अभी दस मिनट और लूंगी। मैं आपसे माफी चाहती हूँ, क्योंकि मैं एक्सीड कर रही हूँ। लेकिन यह बहुत महत्वपूर्ण मुद्दा है।

उपाध्यक्ष महोदय : आप केवल पांच मिनट में समाप्त करिये।

SHRIMATI MANEKA GANDHI : Has the Bill got any real power? The proposed enactment does not have the power to stall any project that caused damage to environment. It can act only when the damage is done by dealing with the origin of pollution. It also fails to hold the polluting companies criminally liable for their acts of omission and commission such as the Bhopal's industrial disaster or, God forbid, any nuclear accident.

One of the significant amendments proposed in the new draft is that decisions of the Tribunal can be challenged in the Supreme Court. The earlier draft said that the Tribunal's decisions would be final and binding. The amendments still do not address some core concerns. For instance, the Bill is vague about the Tribunal's mandate and states that it will deal, as I said before, with substantial questions. That means, it will only look at single point sources of pollution and not cases where there are multiple points.

Should this Tribunal not have the power to act for the protection and cancel environmental clearances, if necessary; provide incentives to individuals who work as eyes and ears to nature and wildlife? Why should it penalize alert NGOs and civil society for raising their voice? Should it not have the power to issue contempt of court notices to polluting companies?

Clause 18(e) is another bizarre clause which says that among the people who can file for relief/compensation or settlement is " any representative body or organization functioning in the field of environment". This is highly problematic. There is no reason why only an environmental organization can file appeals before the Tribunal. Why not human rights organization, public health institutions, labour groups or plaintiffs? Why should the 'permission of the Tribunal' be needed before applications are filed before it?

This portion of the Bill should simply be deleted, before it heads inevitably towards a constitutional challenge in the Supreme Court.

All Indians are affected by a pollution problem and when their rights are taken away. For instance in Kutch where companies have come and drilled deep wells in the ground and robbed hundreds of villages of their ground water. Is that

not a Human Rights problem as much as environment ? If an authority takes away a forest and substitutes it with an iron ore company in Orissa, is that not a Human Rights problem?

The rights of social organizations to approach the Tribunal should be expanded because at the moment the provisions are draconian. In 18(e), it is written: "A number of institutions need not be 'representative' or even working in the field of environment and yet be concerned about environment loss." This line has to be amended if justice is to be served.

When can we approach the Tribunal? Limiting the period of accountability: Section 14(3) of chapter III in the Bill deals with Tribunals jurisdiction. It reads: "no application for adjudication of dispute under the Section shall be entertained by the Tribunal unless it is made within a period of six months on the date of which the cause of action for such dispute first arose".

It is not clear why there should be such a restriction. Disputes can arise at any time, and it is silly to expect that only those that arise in the first six months should be entertained by the Tribunal. The Bill is also silent on where it should take disputes that rise beyond this window time. If I miss the six months window, where should I go?

Similarly, Section 15 (3) say: "No application of grant of any compensation or relief or restitution of property or environment under this Section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause of such compensation or relief first arose". The adverse effects of so many public health hazards - silicosis, asbestosis, radiation exposure, chemical exposure, for instance -- take more than five years to manifest themselves.

Therefore, this fixed boundary of five years should be removed, or the Bill should specify who will be liable for adverse effects discovered beyond this time limit. Where should the people of Bhopal go?

Section 16, that deals with the appellate jurisdiction of the Tribunal in the matter of "any person aggrieved" by orders or decisions of the Tribunal or National Biodiversity Authority or State Bio Diversity Board, under the stipulated provision of the NTG Bill, the person aggrieved can file an appeal." within a period of thirty days from the date, which I think, you have amended now to 60 days, on which the order or decision or direction is communicated to him"

MR. DEPUTY-SPEAKER: Please conclude.

SHRIMATI MANEKA GANDHI : I beg leave for another minute.

The period of filing the appeal is too short, and should be extended to sixty days, as often individuals are prevented by unavoidable situations from filing appeals within 30 days.

Therefore, clause 16 needs to be amended to remove or liberalize the time frames

The last thing is an implicit threat to petitioners. Section 22 (2) of the Bill reads: "Where the Tribunal holds that a claim is not maintainable, or false or vexatious, the Tribunal may make an order to award costs, including lost benefits due to any interim injunction." This provision, according to all the NGOs who has studied it, is very discouraging. In general, the courts (Tribunal in this case) always have a general right to impose costs of trials and others costs upon petitioners or the accused. This is taken for granted.

There is no need to include this explicitly in Section 22(2) because it will deter people who are poor, concerned citizens, from bringing in any environmental issues before the Tribunal, fearing the imposition of heavy costs in case a claim is disallowed.

In any event, the correct way to tackle this is for the Tribunal to decide whether *prime facie* the claim made by the petitioner is allowed before it, and whether any defendants have a fair amount of explaining to do. If this is done right in the beginning, there is no need for imposing any costs of trial or punitive costs at the end of the trial.

MR. DEPUTY-SPEAKER: Please conclude.

SHRIMATI MANEKA GANDHI : I would thank you for giving this opportunity.

I would like Mr. Jairam Ramesh to bring in these amendments. You and I are on the same side. Long after we have gone, this Tribunal might hold up to protect India and take some of the pressure off to make Environmental Ministers honest and efficient. Otherwise, there is no other protection we will have, except this Bill. I would urge you to accept these amendments which are in the interests of India.

श्री प्रदीप टम्टा (अल्मोड़ा): महोदय, आपने मुझे इस बिल के ऊपर बोलने का मौका दिया, इसके लिए मैं आपका बहुत आभारी हूँ। यह बिल बहुत महत्वपूर्ण है। यूपीए सरकार का सूचना का अधिकार, शिक्षा का अधिकार, काम का अधिकार, इन तीन के बाद यह चौथा, हैल्दी पर्यावरण का अधिकार आज इस देश के लाखों, करोड़ों लोगों को मिलने जा रहा है। देश के विभिन्न न्यायालयों के निर्णयों, उच्चतम न्यायालय के निर्णयों से आर्टिकल 21 का जो भी इन्टरप्रेटेशन किया गया, जीने के अधिकार को एक हैल्दी अधिकार के रूप में परिभाषित किया गया। मैं यूपीए सरकार को और विशेषकर माननीय एनवायरमेंट मिनिस्टर को बहुत-बहुत बधाई देता हूँ कि एक बहुत ही क्रांतिकारी, बहुत ही दूरगामी बिल आज इस देश की पार्लियामेंट में आपके द्वारा लाया गया और पास हो रहा है। बहुत लंबे समय के बाद इस देश ने और दुनिया ने, जब आज ग्लोबल वार्मिंग की बात हो रही है, भूमंडलीकरण की बात हो रही है, एनवायरमेंट पर खतरे की बात हो रही है, एक समय दुनिया के नवशे में पर्यावरण को बचाने का कोई अर्थ नहीं था। लोग पर्यावरण को कोई महत्व ही नहीं देते थे। विकास ही केंद्र का मुख्य बिन्दु होता था। विकास और पर्यावरण को एक-दूसरे का विरोधी, एक-दूसरे के खिलाफ समझा जाता था। आज उस हद को पार करके पूरी दुनिया डेवलपमेंट और एनवायरमेंट, इन दोनों को एक-दूसरे का पूरक, एक-दूसरे का साथी समझकर, दुनिया के अंदर पर्यावरण को बचाने के लिए और विकास को साथ लेकर चल रहे हैं। स्टाकहोम वर्ष 1972 के बाद, रेडियोडीजेनेरो के बाद, न्यायालय के निर्णयों के बाद, देश की स्टैंडिंग कमेटी के बाद, सुप्रीम कोर्ट बाद, इन तमाम निर्णयों के बाद हम इस बिल की ओर आये हैं, इसके द्वारा इस देश के पर्यावरण को बचाने के लिए, वैसे भी देश का कानून कहता है, देश का संविधान कहता है कि यह राज्य का दायित्व है, राज्य को पर्यावरण को भी बचाना है, राज्य के जंगलों को भी बचाना है और इस हित में यह बिल बहुत महत्वपूर्ण कारक होगा। यह मैं आज समझ भी रहा हूँ। पिछले दो-तीन महीनों से बहुत से विषयों के संबंध में इस देश की संसद में बहुत सी बहसें आयी हैं। आज इस देश में जिसके ऊपर सबसे ज्यादा दबाव है, जो सबसे अर्थपूर्ण भी है, इस देश के पर्यावरण मंत्रालय पर है। देश के फॉरेस्ट मिनिस्टर पर तमाम तरह का दबाव भी है। देश के अंदर बड़ी-बड़ी कंपनियों का जंगलों के ऊपर जो दबाव पड़ रहा है, आज झारखंड के अंदर, छत्तीसगढ़ के अंदर, उड़ीसा के अंदर, जो कोर इंडस्ट्री हैं, जो हमारा फॉरेस्ट का एरिया है, वहां पर पैनीट्रेट करना चाहते हैं। जहां इस देश के लाखों, करोड़ों आदिवासी हैं।

महोदय, अभी कुछ समय पहले मैं गंगा के दर्शन करने के लिए कानपुर गया था। बिदूर में जब मैंने गंगा को देखा तो मुझे यह नहीं लगा कि यह नदी है। वह नदी नहीं थी, एक नाला था। जिस गंगा का अस्तित्व इस देश की सभ्यता, संस्कृति में है, लाखों लोगों की शूद्रा कुंभ में है, उस नदी को कोई नहीं देख रहा है। आज हमारे सामने यह एक पूरा बिल जंगलों, पर्यावरण को बचाने के लिए आया है, हवा को बचाने के लिए आया है। आज इस देश को तय करना पड़ेगा कि विकास की इस 50-60 साल की दौड़ के बाद हमने क्या पाया, क्या खोया? यह हमारे जंगलों, पर्यावरण को बचाने के लिए बहुत ही महत्वपूर्ण बिल है। मैं अभी जीरो ऑवर में किसानों के ऊपर सुन रहा था, हमारे वहां भी, मैं उतराखंड से आया हूँ, वहां के किसानों की मांग है कि जंगलों से जानवर आ रहे हैं। सवाल यह है कि इन 60 सालों में, इंसान और वाइल्ड लाइफ, ये दोनों एक-दूसरे के विरोधी नहीं हैं। ये दोनों एक-दूसरे के ऊपर निर्भर हैं, लेकिन हम अपने अधिकारों के लिए सक्षम हैं। हम अपने राइट को प्रोटेक्ट करने के लिए सक्षम हैं। उनके राइट के प्रोटेक्शन के लिए हमने कुछ नहीं किया है। जंगलों के जानवर आज शहरों की तरफ आ रहे हैं, आखिर ऐसा क्यों हो रहा है, इस बारे में भी हमें सोचने की आवश्यकता है। क्या जानवरों के हितों को प्रोटेक्ट करना हमारा फर्ज नहीं है। हम अपने इंटेरेस्ट को प्रोटेक्ट करने की सोचते हैं, जबकि उनके इंटेरेस्ट को भी प्रोटेक्ट करना बहुत जरूरी है।

मैं मंत्री जी को अपनी तरफ से बहुत-बहुत बधाई देता हूँ। सिर्फ प्राणियों को बचाने का सवाल नहीं है, सिर्फ जंगलों को बचाने का सवाल नहीं है, इस देश की नदियों के अस्तित्व को बचाने के लिए आपने उत्तरकाशी और पाला मनेरी भटपरस्त दो जलविद्युत परियोजनाओं को स्थगित किया है, 850 मेगावाट बिजली की परियोजना को निरस्त किया है, यह बहुत बड़ा कदम यूपीए सरकार ने उठाया है। एक नए शिरे से इस सवाल को सोचने का समय है, इस देश की जो नदियां हैं, इस देश का जो पानी है, क्या ये सिर्फ विद्युत परियोजनाओं के लिए हैं? देश के लाखों-करोड़ों किसान सिर्फ उतराखंड ही नहीं, बंगाल, बिहार, उत्तर प्रदेश के लाखों-करोड़ों किसान इस पर निर्भर हैं, खेती इस पर निर्भर है, उनके परिवार इस पर निर्भर है। यह पानी किसी सरकार की देन नहीं है, यह ईश्वर की कृति है। इसे प्रोटेक्ट करना है। इस कदम के लिए मैं सरकार को बहुत-बहुत धन्यवाद देना चाहता हूँ। तीसरी योजना के लिए पर्यावरण मंत्री जी ने जो समिति बनाई है, उस तीसरी योजना को भी निरस्त करने की जरूरत है। मैं सदन में अर्ज करना चाहता हूँ कि हमें विचार करना पड़ेगा कि पूरे हिमालय क्षेत्र में नदियों पर जो बड़े-बड़े प्रोजेक्ट बन रहे हैं, चाहे डैम के प्रोजेक्ट्स हों, चाहे रन आफ दि रीवर के प्रोजेक्ट्स हों, इन पर पुनर्विचार करने की जरूरत है। उतराखंड की सरकार पहले कहती थी कि गंगा को बचाना है, वे धार्मिक उन्माद को पैदा करती थीं और आज विकास के नाम पर जब आपने बहुत बड़ा कदम उठाया है, तो वे कहते हैं कि इससे विकास अवरुद्ध हो जाएगा। मैं तमाम राज्य सरकारों से भी अनुरोध करना चाहता हूँ और यह भी चाहता हूँ कि हमें पूरी तरह से विचार करना पड़ेगा कि नदियों के आगे पर्यावरण और पानी है, जो देश के लोगों का मूल अधिकार है, उस पर्यावरण को दूषित करने के लिए नदियों के किनारे जितनी भी फैक्टरियां लग रही हैं, उनके ऊपर पाबंदी लगनी चाहिए। प्रदूषित करने वाली जितनी भी फैक्टरियां हैं, उनके लिए सख्त कानून बनाना पड़ेगा। उनके ऊपर भी चैक लगाना होगा। आपने स्थायी समिति के दस सुझावों को मंजूर किया, मैं उसके लिए आपको बहुत-बहुत बधाई देता हूँ। पहले इस बिल में यह प्रोविज़न था कि देश में अलग-अलग समय में यह कानून लागू किया जाएगा, लेकिन आपने पूरे देश में एक बार लागू किया है। इसी तरह से पहले जो एनजीओ केवल पर्यावरण से संबंधित थीं, उन्हीं को हस्तक्षेप करने का अधिकार था, आपने उस दायरे को भी खत्म कर दिया है। इसका भी मैं स्वागत करता हूँ। शेड्यूल एक में इन्कलूजन और एक्सक्लूजन का अधिकार ब्यूरोक्रेसी को दिया गया है, मेरी यह मांग है कि यह केवल संसद के माध्यम से ही किया जाए ताकि संसद की पकड़ उस पर बनी रहे।

महोदय, वन संरक्षण अधिनियम वर्ष 1980 में लागू हुआ था। वर्ष 1980 में ही उतराखण्ड में जंगल बचाओ आंदोलन और विपको आंदोलन चला था। इन आंदोलनों के परिणामस्वरूप ही देश में कनज़र्वेशन एक्ट आया था। जिसके लिए हम श्रीमती इंदिरा गांधी के बहुत-बहुत आभारी हैं।

महोदय, आज सबसे बड़ा सवाल खड़ा हो रहा है। इस देश में कोई न कोई ऐसी लॉबी है जो इस पर्यावरण संरक्षण एक्ट में संशोधन चाहती है। एक सिडकी यहां से मिल रही है। पहले मैं भी सोच रहा था कि इस संरक्षण एक्ट में किसी अपील का अधिकार नहीं होता था, आज यह ग्रीन ट्रिब्यूनल को दिया जाए, यह हमारा डैमोक्रैटिक अधिकार है। लेकिन जिस तरह का देश में माहौल बन रहा है, देश के मुख्य जंगलों पर लोगों की नजर है। आर्टिकल 48ए के अनुसार राज्य का दायित्व है कि वह पर्यावरण और जंगलों की रक्षा करेगी। लेकिन इस समय देश के सबसे रिच फॉरेस्ट्स, जहां आंदोलन चल रहे हैं, मैं उस पर टिप्पणी नहीं करना चाहता हूँ। आज हम पर्यावरण संरक्षण एक्ट में संशोधन करके ग्रीन ट्रिब्यूनल बना रहे हैं, यह जो हम नई सिडकी खोल रहे हैं, इससे कहीं ऐसा न हो कि हिमालय और इस देश के जंगलों का नुकसान न हो। मैंने बहुत सी बहसों में सुना है कि जो कोर फॉरेस्ट एरिया हैं, जो नेशनल पार्क हैं। वहां पर भी बहुत सी पावर सैक्टर का दबाव है, जिसका यहां जिक्र भी आया है। कहीं ऐसा न हो कि ग्रीन ट्रिब्यूनल के माध्यम से फॉरेस्ट कंजर्वेशन एक्ट में थोड़ा सा डायल्यूट हो जाए, इसे बचाना है। अगर इसमें किसी भी तरह की डायल्यूशन होगी तो मैं समझता हूँ कि इसमें हमारा सारा प्रयास बहुत ही नेगेटिव दिशा की तरफ चला जाएगा।

उपाध्यक्ष महोदय, आपने मुझे बोलने का मौका दिया, इसके लिए मैं आपका धन्यवाद करता हूँ। मैं इस बिल का बहुत स्वागत करता हूँ, यह बिल इस देश के राइट टू एजुकेशन, काम के अधिकार के साथ...(व्यवधान)

उपाध्यक्ष महोदय: कृपया समाप्त करें।

श्री प्रदीप टम्टा : इस देश को हेल्दी पर्यावरण देने का बहुत बड़ा अधिकार दे रहा है, इसके लिए मैं ग्रीन ट्रिब्यूनल बिल का स्वागत एवं समर्थन करता हूँ।

***SHRI C. SIVASAMI (TIRUPPUR):** Mr. Deputy-Speaker, Sir, I thank you for giving me an opportunity to speak on the National Green Tribunal Bill, 2009. In order to ensure the growth of economy of a country, we need to have both, agricultural growth and industrial growth. A country can really develop only when agriculture and industry grow. When industries grow, there is bound to be a damaging affect both on the land resources and water resources. The industrial waste can cause pollution in so many ways and ground water degradation is the worst form of it. This is a natural corollary where we get succumbed to air pollution, water pollution and noise pollution.

This Bill has been contemplated to bring certain redressal way out to those people and industries who are affected by pollution due to industrialization. This National Green Tribunal Bill is a welcome measure. This Tribunal will provide certain remedy to those who are affected by environmental pollution. This is an after-thought move extending benefit to those who suffer due to after affects. But it would be better we take enough of precaution and preventive measures well in advance so that there is not much of fallout due to pollution. Prevention is always better.

In Tamil Nadu, Tiruppur is an industrial town popular for several knitting industrial units. Annually, Rs. 10,000 crore worth of foreign exchange is earned by the garment units. This industrial town is earning industriously this huge amount as foreign exchange for the coffers of our Union Government. Tiruppur, Karur, Erode, Dindigul, and Vellore are towns where industrial effluents from dyeing units and tanneries are causing great pollution and concern. But at the same

time, we must have to come to terms with the reality that these hundreds of units are providing jobs to thousands of workers and lakhs of people dependent on them. The great threat of pollution to ground water is a hard reality. In order to get effluent treatment plants, that will help avoid polluting the ground water.

We, on behalf of AIADMK, under the able guidance of our hon. chi Thalaivi Amma raised this issue on the floor of this House to draw the attention of the Government. The Government did pay heed to our demand and had set apart Rs. 200 crore in this year's budget for setting up an effluent treatment plant in Tiruppur. I would like to record our sense of gratitude.

Not only in Tamil Nadu, wherever we find threat to ground water potential due to industrial activity and effluents, the Centre must come forward to extend grant-in-aid to such industry to help overcome the problem of treating the industrial waste and effluents. This will help the country in a big way to conserve ground water potential without getting polluted. This will help us to overcome the problems that may accrue to the people which result in litigations and taking both the parties to tribunals that are being created through the passage of this Bill.

If we could take enough of preventive and precautionary measures, such a need to knock at the doors of courts and tribunals may not arise. At this juncture, I would like to offer a suggestion to this Government to widen the depleting green cover and forest areas. We must preserve nature with its pristine glory. To achieve this, we need to have 33 per cent of our landmass to be covered with thick vegetation and forest cover. Day by day deforestation is on the increase. We must arrest this trend. We need to make great efforts to widen the forest cover. This can be achieved with the help of farmers to whom we can liberally extend grants and provide subsidy. If farmers are encouraged to grow fruit trees, like mango, amla, guava and coconut in a big way, it would help both the ways. Thick vegetation will be on the increase while providing remunerative post-harvest occupation to the farmers. When the cultivable lands are also diminishing because of factors like realty and industrial activity, this can be a viable alternative to help overcome the natural calamity that may befall due to inevitable pollution caused by industrialization.

India is an agricultural country and hence, it would be better to go in for greater green cover in the vicinity of our cultivable lands. Our farming pattern must change. Cultivation of crops will go on with cultivation of plants and trees, like mango, amla, guava and coconut. This will help us to save mother nature extending the much needed green cover in the country. In order to go ahead with this in a big way, we need to involve our farmers by offering them incentives like grant-in-aid and subsidies.

When this Green Tribunal is formed, we must ensure that adequate protection is given to the tribal people living in the forest areas carrying on with their traditional occupation. Their livelihood should not get affected. They must be assured of their daily earning. This is very much necessary to see that those people who can help nature without exploiting it are protected. This Green Tribunal must include nature-lovers and people who have got great concern for environmental protection. Only then we would be able to ensure that environmental pollution and degradation are stalled. We must involve our people to save environment.

With these words, I conclude and thank you.

श्री जगदानंद सिंह (बक्सर): उपाध्यक्ष महोदय, आपने मुझे एक महत्वपूर्ण विषय, जिसकी इस देश को बहुत आवश्यकता थी, जिस पर भारत सरकार कानून बनाने जा रही है, पर बोलने और सुझाव देने का मौका दिया है। इसके लिए मैं आपको धन्यवाद देना चाहता हूँ। राष्ट्रीय हरित अधिकरण विधेयक, 2009 पर सदन में बहस हो रही है। अपनी बात कहने से पहले मैं माननीय मंत्री जी को धन्यवाद देना चाहता हूँ। आज इस देश को जिस सबसे बड़ी वस्तु की आवश्यकता थी और जिस कानून की सबसे ज्यादा आवश्यकता थी, वह इसी की थी। इस राष्ट्र और देश के पर्यावरण को बचाने के लिए जिसकी आवश्यकता थी, उसके लिए आप सदन में बिल लेकर आए हैं।

महोदय, पर्यावरण के बारे में सर्वोच्च न्यायालय में संघर्ष लम्बे समय से चला आ रहा था। माननीय सर्वोच्च न्यायालय ने एक प्रकार से भारत सरकार के अधिकांश अधिकारों को, केस की सुनवाई के माध्यम से, अपने हाथों में लेने और मॉनीटरिंग कमेटी बनाने का काम किया और शायद उसी के माध्यम से पर्यावरण की हिफाजत अभी तक चल रही थी। माननीय सर्वोच्च न्यायालय का भारत सरकार को यह भी निर्देश था कि इस संबंध में एक कानून बनाया जाए, ताकि पर्यावरण की हिफाजत हो सके।

महोदय, संयोग से मैं बिहार राज्य में, 15 सालों तक वाटर रिसोर्सेस का मिनिस्टर रहा हूँ। जब इस राष्ट्र की जल-नीति बन रही थी, तो उसकी जो सब-कमेटी थी, मैं उसका भी मੈम्बर था। मैं माननीय मंत्री जी से कहना चाहता हूँ कि पर्यावरण का एक मूल विषय पानी, जल यानी वाटर है, लेकिन जब इस देश की जल-नीति बन रही थी, जब वॉटर पालिसी बन रही थी, तो उसमें पानी के उपयोग की प्राथमिकता में पर्यावरण भी है, यह वाक्य ही नहीं था। मैंने लगातार 10 बैठकों में, यहां तक कि भारत के तत्कालीन प्रधान मंत्री, श्री अटल बिहारी वाजपेयी जी के सामने भी इस सवाल को उठाया था कि पानी केवल ड्रिंकिंग वाटर नहीं है, पानी केवल सिंचाई, बिजली और उद्योग के लिए नहीं है, बल्कि पर्यावरण के लिए सबसे बड़ी आवश्यकता पर्याप्त और शुद्ध पानी है। यदि हमने पानी को पर्यावरण की प्राथमिकताओं में नहीं रखा, तो शायद इस देश का भला नहीं होगा।

महोदय, हमारे माननीय मंत्री जी यहां बैठे हैं। जल नीति में चौथी प्राथमिकता में पर्यावरण को रखा गया है। मेरा कथन था कि ड्रिंकिंग वाटर एक ऐसा सब्जेक्ट है, जिसकी उपयोगिता है। लोगों को यदि पीने के पानी की आवश्यकता है, तो उसे हर हालत में देना होगा, लेकिन सैंकिड प्रयर्ट हमारे पर्यावरण को दी जाए, तो ठीक रहेगा। ऐसा नहीं हुआ। सैंकिड प्रयर्ट इमैजेशन को, थर्ड प्रयर्ट इनर्जी को और चौथी प्राथमिकता पर्यावरण को दी गई। यह बहुत महत्वपूर्ण सवाल है कि यदि हमारी नदियां ही ज़िन्दा नहीं रहेंगी, तो हमारे पर्यावरण का क्या हाल होगा। यदि हमने सिंचाई के लिए नदियों को सुखा डाला, यदि हमने नदियों को जलाशयों में कैद कर डाला और यदि हमारी नदियां ही ज़िन्दा नहीं रहेंगी और उनकी वहीं मृत्यु हो जाएगी, तो हमारी इकोलॉजी का क्या होगा। लोग, पानी, नदियों और जलाशयों को देख कर ही अपना निवास बनाते हैं। इन्हीं के किनारे हमारी सभ्यता बनी और विकसित हुई है। हमारे सारे बड़े-बड़े शहर नदियों के किनारे पर हैं। आज उनकी क्या दुर्दशा है, यह आपको पता है। आज जब हम पानी का प्रयोग करने चलते हैं, तो पर्यावरण को दिमाग से निकाल देते हैं। भले ही पूरी नदी सूख जाए, लेकिन उसके पानी को खेतों में डाल देते हैं। माननीय मंत्री जी, सरकार की ओर से भी खतरा पर्यावरण को है।

विकास और पर्यावरण यदि दोनों एक साथ नहीं चले तो पृथ्वी ही नहीं बचेगी, उस पर रहने वालों का विकास करके कोई क्या करेगा। मनुष्य के लिए विकास की आवश्यकता है, उसका पेट भरने के लिए, उसको जीवन चलाने के लिए उसकी समृद्धि और उन्नति आवश्यक है, लेकिन इस धरती को, पृथ्वी को पर्यावरण के खतरे में डालकर नहीं। मैं एक उदाहरण देना चाहता हूँ। नदियों से बालू निकाला जाता है। यह नदियों का बालू नदियों का जीवन है, पानी के फिल्ट्रेशन का काम करता है। यदि हम नदियों से बालू को हटा लें तो केवल कादो और कीचड़ बचेगा। नदियों में बचा कादो और कीचड़ पानी को फिल्टर नहीं कर सकता है, यही साफ पानी हमारा गूण्ड वाटर है, हमारा पीने का पानी है, लेकिन कभी भी इस पर सोच नहीं हुई कि हमारी नदियां में बालू को कितना गहरा रहना चाहिए, कितनी मोटाई रहनी चाहिए। हमारे पानी के फिल्ट्रेशन के लिए हमारी नदियों से बालू की मात्रा क्या रहनी चाहिए।

मैं एक-दो उदाहरण के साथ कहना चाहता हूँ, माननीय मंत्री जी, आपने अपने विभाग को शायद अनुशासित किया है। मैं पांच साल बिहार का पर्यावरण मंत्री भी रहा हूँ और जो मैंने देखा...(व्यवधान)

उपाध्यक्ष महोदय : आपको दिया गया समय पूरा हो गया है, कृपया अपनी बात समाप्त करें।

श्री जगदानंद सिंह : मैं अपने दल का एकमात्र वक्ता हूँ और अन्त में आपने मुझे बोलने के लिए पुकारा। मैं इसके लिए आपको धन्यवाद देता हूँ, लेकिन मुझे अपनी बात तो कहने दी जाये। अगर इस तरह से बातें होंगी कि अन्तिम वक्ता और कोई बात भी न कहे। तीन दिन से यह बहस हो रही है, माननीय मंत्री जी चौथे दिन भी, पांचवें दिन भी आपकी बहस जा सकती है, यदि इस महत्वपूर्ण विषय पर इस सदन को आप विश्वास में लीजिए। केवल आपकी बात सुन लेने से इस कानून में परिवर्तन-परिवर्धन नहीं हो जायेगा। यदि हमारे मैम्बर पार्लियामेंट की बात आप नहीं सुन पाएंगे तो हो सकता है कि आपकी नीयत अच्छी हो, लेकिन कानून में खोट रह जायेगा। मैं यही बात आपसे कहना चाहता हूँ।

हमारा जो बिहार का बालिमिक टाइगर प्रोजेक्ट है, यह वर्जिन फॉरेस्ट है। वहां पर आपके विभाग ने, भारत सरकार और केन्द्रीय मंत्रालय ने माइनिंग की अनुमति दे दी, जबकि आपका कानून कहता है कि हम कभी सैंचुरी में एक खरपतवार भी नहीं छूने देंगे। हम आदिवासियों को भी तेंदू का पत्ता नहीं तोड़ने देते, लेकिन सैंकड़ों सालों से वहां माइनिंग हो रही थी। हमने फॉरेस्ट मिनिस्टर की हँसियत से जब उस पर रोक लगाई तो वह आदमी दिल्ली केन्द्रीय सरकार के सामने चला आया। मेरी बहस से मुझे याद है कि मैंने उस समय के फॉरेस्ट मिनिस्टर से कहा था कि हम केन्द्रीय कानून लागू करने वाले लोग हैं, लेकिन जो हमारे अधिकार बने हैं, उसमें

केन्द्रीय सरकार का हस्तक्षेप नहीं करना चाहिए। उस समय भी भारत सरकार ने, केन्द्रीय सरकार ने बिना राज्य सरकार की अनुमति के माइनिंग की अनुमति दे दी थी। उसमें मुझे सर्वोच्च न्यायालय जाना पड़ा। यदि सी.ई.सी. ने राहत नहीं दी होती तो हम उस वर्जिन फॉरैस्ट को नहीं बचा पाते। मैं आपसे अनुरोध करना चाहता हूँ कि आप अपने मंत्रालय को निश्चित ही अनुशासित करेंगे, वरना भारत में बने हुए जितने कानून हैं, उन कानूनों में खामियां नहीं हैं, कानूनों में कमी नहीं है...

उपाध्यक्ष महोदय : अब इनकी बात रिकार्ड में नहीं जायेगी।

(Interruptions) अर्थात् *

उपाध्यक्ष महोदय : श्री मंगनी लाल मंडल। माननीय सदस्य आप भी समय का ख्याल रखें। बोलने वाले सदस्य काफी हैं और आप लोगों ने नाम दिये हैं तो बुलाना तो है ही।

श्री मंगनी लाल मंडल (झंझारपुर): माननीय उपाध्यक्ष महोदय, पिछले कई सप्ताह से यह विधेयक जबरदस्त कसरत करता रहा है कि कब अन्तिम परिणति तक यह विधेयक पहुंचेगा। लेकिन ऐसा लगता है कि आज अन्तिम परिणति में यह विधेयक पहुंच गया है। सरकार का इस पर उत्तर होगा और फिर इसे पारित कराया जायेगा।

मैं इस विधेयक का समर्थन करता हूँ, स्वागत करता हूँ, लेकिन इस विधेयक के कुछ प्रावधानों के बारे में मैं कुछ कहूँ, उससे पहले 2-3 बातें मैं यहां रखना चाहूँगा। माननीय मंत्री जी बहुत संवेदनशील हैं।

जब से इस विभाग का कार्यभार इन्होंने संभाला है, पर्यावरण के मामले में सरकार के अंदर भी और सरकार के बाहर भी एक जबरदस्त चेतना की लहर पैदा हुयी है। इसके लिए मैं श्री जयराम रमेश जी को व्यक्तिगत रूप से बधाई देता हूँ। उनको धन्यवाद देता हूँ कि पर्यावरण के लिए उन्होंने एक संकल्प किया और एक बीड़ा उठाया है।

महोदय, मैं आपके माध्यम से दो तीन बातों की ओर इनका ध्यान आकृष्ट करना चाहूँ। बीटी बैंगन के बारे में पिछले दिनों जबरदस्त हंगामा सारे देश में हुआ। माननीय मंत्री जी ने बीटी बैंगन का समर्थन किया। यद्यपि इस मामले में अभी स्थगन है। कई राज्यों ने भी इसका विरोध किया है। इनके तर्क का मैं समर्थन करता हूँ, लेकिन तर्क के पीछे जो पृष्ठभूमि है, उस पृष्ठभूमि को मैं सामने लाना चाहूँगा। इन्होंने तर्क दिया है कि जनसंख्या बढ़ रही है। इन्होंने सही बात कही। खाद्यान्न की जबरदस्त आवश्यकता होगी, इन्होंने यह बात भी सही कही। इसीलिए जो बीटी जेनेटिक है, हिंदुस्तान को इसको एडॉप्ट करना चाहिए, अंगीकार करना चाहिए और उसका उत्पादन करना चाहिए।

उन्होंने बीटी कॉटन का उदाहरण दिया कि बीटी कॉटन के यील्ड में इससे जबरदस्त वृद्धि हुयी है। यह कॉटन है। कॉटन पहना जाता है, खाया नहीं जाता है। ठीक है कि पर्यावरण का असर उस पर भी होता है, लेकिन माननीय मंत्री जी से यह कहना चाहूँगा कि कृषि मंत्री से और अन्य विभागों से इनका पर्यावरण के मामले में को-ऑर्डिनेशन होगा, जो होता ही है। दुनिया के कई देशों में जहां बीटी जेनेटिक का, आनुवांशिक बीटी का उत्पादन अंगीकार नहीं हुआ है, वहां प्रति हेक्टेयर यील्ड खाद्यान्न, इंडिया से चार गुना ज्यादा है। जो बीटी आनुवांशिक उत्पादन है, जिस पर ये जोर दे रहे हैं, कृषि विभाग से बात करके, क्योंकि प्रति हेक्टेयर उत्पादन के मामले में चीन हमसे आगे है और भी कई देश हमसे आगे हैं, इसलिए इस पर जोर देना चाहिए। जो बीटी बैंगन और बीटी कॉटन है, खाद्यान्नों के मामले में जो इनका अनुसंधान हो रहा है, उसके अनुसंधान पर भी ज्यादा से ज्यादा जोर देना चाहिए।

एक वैज्ञानिक अनुसंधान के बारे में इनका ध्यान आकृष्ट करना चाहूँगा। आईपीसीसी पर बड़ा जबरदस्त हंगामा हुआ। जो वैज्ञानिक अनुसंधान हमारा पर्यावरण के मामले में है, इसमें हमको विनिश्चय होना चाहिए, नहीं तो दुनिया के देशों में हमारी हंसी उड़ेगी, जैसी हंसी अभी ग्लौशियर के मामले में हुयी है। यह कहा गया कि इतने वर्षों में ग्लेशियर संपूर्ण रूप से पिघल जाएगा। आईपीसीसी के चेयरमैन ने कह दिया कि हमारा वैज्ञानिक अनुसंधान यह कहता है। यद्यपि जयराम रमेश जी ने अपनी असहमति व्यक्त की, लेकिन बाद में चेयरमैन का इन्होंने बचाव किया। इसीलिए मैं पर्यावरण मंत्री जी से कहना चाहूँगा कि जो आनुवांशिक उत्पादन है, जो वैज्ञानिक अनुसंधान है, पर्यावरण से संबंधित इन सब मामले में भी आपकी पकड़ होनी चाहिए। पकड़ ढीली नहीं होनी चाहिए और इसको भी आपको विभाग की परिधि में लाना चाहिए। मैं दो बातें कहना चाहूँगा कि चीन में प्रतिवर्ष चार मिलियन हेक्टेयर वन की वृद्धि हो रही है, यह बात माननीय मंत्री जी जानते हैं। हमारे यहां एक आइडियल है कि जो पूरा हमारा भौगोलिक क्षेत्र है। उसमें 33 प्रतिशत फॉरेस्ट होना चाहिए, जो अभी 20-21 प्रतिशत के लगभग है। हम इसमें 0.04 प्रतिशत के हिसाब से बढ़ रहे हैं। हो सकता है, हमारा आंकड़ा कम हो, जबकि चीन बढ़ रहा है, चार मिलियन प्रतिवर्ष के हिसाब से। हमारे यहां जो डी-फॉरेस्टेशन हुआ है, इसमें वृद्धि होनी चाहिए। हम विकास के मामले में चीन के मॉडल को एडॉप्ट करना चाहते हैं, तो उसके पर्यावरण के मॉडल को भी एडॉप्ट करना चाहिए। चीन में जाकर कहा है कि कोपेनहेगेन में हम दोनों ने गलबाहीं की है, हम दोनों एक साथ हैं, घंट में घंट हमने मिलायी है। घंट में घंट का मतलब यह जानते हैं या नहीं, यह मुझे नहीं पता है, लेकिन विशुद्ध हिंदी शब्द है कि गर्दन में गर्दन को जोड़ देना, घंट में घंट मिलाना। आपने चीन में जाकर इसे कहा है, तो पर्यावरण के मामले में भी इस बात को एडॉप्ट करना चाहिए।

मैं दो बातें और कहूँगा, उसके बाद विधेयक पर आऊंगा।...(व्यवधान)

उपाध्यक्ष महोदय : क्या आप अभी विधेयक पर नहीं बोल रहे हैं?

श्री मंगनी लाल मंडल : यह विधेयक की पृष्ठभूमि है, चूंकि विधेयक कई कानूनों की पृष्ठभूमि को लेकर आया है। जब विधेयक कई कानूनों की पृष्ठभूमि लेकर आया है, तो मुझे भी माननीय मंत्री जी को विधेयक की पृष्ठभूमि के बारे में अपनी बात कहने दीजिए।...(व्यवधान)

उपाध्यक्ष महोदय : मैं आपसे सिर्फ यह आग्रह कर रहा हूँ कि आप समय का ध्यान रखें।

श्री मंगनी लाल मंडल : मैं दो-तीन मिनट में अपनी बात समाप्त करूँगा। महोदय, जब आप चेयर पर होते हैं तब हमें ज्यादा नहीं बोलने देते हैं।...(व्यवधान)

उपाध्यक्ष महोदय : जो समय निर्धारित है, उसी हिसाब से बोल रहे हैं।

श्री मंगनी लाल मंडल

श्री मंगनी लाल मंडल : ठीक है, मैं दो बातें और कहकर विधेयक पर आऊंगा।

मैं मंत्री जी का ध्यान आकृष्ट करना चाहता हूँ कि एक समाचार आया है कि केरल में चमगादड़ विलुप्त हो रहे हैं, क्योंकि वहाँ साल में एक बार धार्मिक उत्सव आता है, तो बड़े पैमाने पर उसका संहार होता है। यह संहार इसलिए होता है कि चमगादड़ को मारकर जितना उसका भक्षण करेगा, वह समझता है कि धार्मिक रूप से स्वर्ग में जाएगा। मैं मंत्री जी का ध्यान आकृष्ट कर रहा हूँ कि केरल सरकार से इस मामले में पूछना चाहिए और इस पर प्रतिबंध लगाना चाहिए... (व्यवधान)

मैं दिल्ली के बारे में ध्यान आकृष्ट करना चाहूँगा। दिल्ली के फुटपाथों पर पेड़ लगे हुए हैं। दिल्ली में पेड़ों की संख्या दिनों-दिन घटती जा रही है। कुतुब मीनार से साकेत की तरफ जो सड़क जाती थी, पहले उसके दोनों किनारे पेड़ लगे हुए होते थे, लेकिन अब दुकानें बन गई हैं। वे दुकानों इललीगल नहीं हैं, अनअथोराइज्ड नहीं हैं, अथोराइज्ड हैं। उसी तरह जब कैप्टन एरिया में कोई पेड़ सूखता है तो उसकी जगह कोई न कोई दुकान बन जाती है, चाहे दवाई की दुकान हो या फल की दुकान हो। मैं कहना चाहता हूँ कि शहरी मंत्रालय से बात करके उन्हें इसके बारे में बताना चाहिए... (व्यवधान)

महोदय, आप घंटी बजा रहे हैं, इसलिए मैं बिल पर आता हूँ... (व्यवधान)

उपाध्यक्ष महोदय : शुरू में ही बिल पर बात करने के लिए कहा गया था।

श्री मंगनी लाल मंडल : मैं अभी बिल की पृष्ठभूमि पर बोल रहा था। ... (व्यवधान)

उपाध्यक्ष महोदय : आप बोल रहे हैं कि मैं बिल पर आ रहा हूँ।

श्री मंगनी लाल मंडल

श्री मंगनी लाल मंडल : मैं बिल के क्लॉज पर आ रहा हूँ। 1995 और 1997 के अधिकरण के बारे में जो कहा गया है... (व्यवधान)

उपाध्यक्ष महोदय : माननीय सदस्य, बिल को पास भी करना है।

श्री मंगनी लाल मंडल : अगर आप कहें तो मैं बैठ जाता हूँ... (व्यवधान)

उपाध्यक्ष महोदय : आपको बैठने के लिए नहीं बोल रहे हैं, बल्कि संक्षेप में बोलने के लिए कह रहे हैं।

श्री मंगनी लाल मंडल : मैं यही बात कह रहा हूँ। मैं एक और बात का उल्लेख करके अपनी बात समाप्त कर दूँगा। पृष्ठभूमि की अनुसूची में सात कानून जो पहले बनाए गए थे, उनका उल्लेख है। बिल की धारा 33(1) में पार्लियामेंट के अधिकार को हड़पने का प्रयास किया गया है। धारा 33 (1) में कहा गया है - केन्द्रीय सरकार अधिसूचना द्वारा, अनुसूची 1 का पर्यावरण संरक्षण और प्राकृतिक संसाधनों के संरक्षण के उद्देश्य को ध्यान में रखते हुए संसद द्वारा अधिनियमित किसी अन्य अधिनियम को उसमें सम्मिलित करके या उसमें पहले विनिर्दिष्ट किसी अधिनियम का उसमें से तोप करके संशोधन कर सकेगी। किसी कानून में संशोधन करने की पावर पार्लियामेंट की है। इस बिल की धारा 33(1) में सरकार कह रही है कि अनुसूची एक में जो सात कानून हैं, उस कानून के प्रोवीजन से हम इसमें संशोधन करेंगे। अब तक सरकार को यह अधिकार होता है कि जो कानून बनेगा, उसके अनुसार रूल्स बनेंगे और उन रूल्स को पार्लियामेंट में ले करना होगा। लेकिन सरकार को यह अधिकार कभी नहीं है कि जो कानून पहले से है, उसमें संशोधन करने का अधिकार इस बिल द्वारा ले सके। इसलिए मैं समझता हूँ कि यह संविधान सम्मत नहीं है, संविधान के प्रावधान के विपरीत है। मैं सरकार से इस पर स्पष्टीकरण चाहता हूँ।

*SHRI PRASANTA KUMAR MAJUMDAR (BALURGHAT) : Respected Deputy Speaker Sir, today we are discussing about the National Green Tribunal Bill, 2009 in this august House. I want to mention at the very outset that there are a few shortcomings in this Bill; it is actually lacking in certain powers. Suppose you have a forest in front of your house and that is being cleared off. There is no provision in this Bill to stop this deforestation beforehand. Once an incident has already taken place, one can approach the tribunal, not before that. Thus it is clear that the Bill does not provide for any anticipatory power. At the most you can have a kind of post mortem but you cannot prevent any incident from occurring. So there are certain anomalies here.

Secondly, this tribunal should be endowed with the power of contempt of court; otherwise the decisions of the tribunal will not be followed and implemented effectively.

Thirdly, a judge can be appointed as the chairman of the committee which will be constituted but there is no mention of the eligibility of other members of the committee. The Government will have the sole right to select them. And this will convert the committee into a state machinery. The Government can act according to its own whims and fancies. Therefore persons who are renowned environmentalists, jurists, experts, writers or social activists should be chosen impartially to carry out the functions. The bureaucrats must not interfere in its functioning. If that is not done then it will become a state - run arrangement.

There is a provision in the Bill whereby, within 6 months of any incident, appeal should be made to the tribunal. If the

matter is more important than a grace period of two more months will be available. But the ground reality is something different. The workers or labourers who toil hard in coal and iron mines work in pathetic condition in dark and damp atmosphere. It is thus often found that after 2 to 3 years these people fall sick, they are plagued by various diseases. So I demand that the window period for appeal should be extended by at least 3 years instead of 6 months.

Article 21 of the constitution confers the Right to Life upon the citizens of the country. Similarly we should incorporate the Right to Clean Environment in this Bill. Though it is an integral part of Right to Life, it has not been recognised by the Bill under consideration.

Sir, it has also been said that the Tribunal Court will deal with substantially big cases. So the people who are to oppose the tribunal might raise the issue of firstly determining whether the cases are really substantial and important or not. Therefore if a case goes to the tribunal, it will become highly time consuming. This will be a genuine problem.

It is also not very clear that where will this tribunal function from. Thus sir there are so many issues which need to be addressed before we go about with the Bill. The issues relate to the environment, to the people of this country and are not to be overlooked.

I had a lot to say but due to paucity of time I am winding up my speech but would urge upon the Hon. Minister to look into these aspects sincerely. With these words I thank you and conclude my speech.

SHRI PREM DAS RAI (SIKKIM): Mr. Deputy-Speaker, Sir, thank you for giving me an opportunity to participate in the debate on the National Green Tribunal Bill.

I have got basically four points to make and I will try and complete this within the stipulated time.

If there is one word in this which has some significance, it is the word 'green'. Why was it not called ecological or ecology or environment? It is because 'green' encompasses a larger meaning in this particular context. So, I welcome the National Green Tribunal Bill.

However, under clause 2 (1) (a), it is given:

" 'accident' means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance or equipment, or plant, or vehicle resulting in continuous or intermittent or repeated exposure to death, of, or, injury to, any person or damage to any property or environment but does not include an accident by reason only of war or civil disturbance;"

So, it is pertinent to note that the seemingly innocuous italicized words above denote that despite the worst experiences of industrial disaster, the National Green Tribunal Bill promotes strict liability over absolute liability that has formed the basis of environmental governance in India.

In *M.C. Mehta vs. Union of India*, the Oleum gas leak case, the Supreme Court examined the concept of strict liability as prevalent in England, laid down in the English case *Rylands vs. Fletcher* and found it to be irrelevant and unacceptable in the Indian context. The Supreme Court, therefore, laid down the principle of absolute liability. It is well said but I do not want to go into that because it will take too much of time.

It is, therefore, clear that the jurisprudence in this area of law has evolved to the extent that there are no exceptions or defences available to a hazardous industry when an accident occurs. The Bill by carving out exceptions such as war and civil disturbance, either of which has been defined in the Bill, is seeking to turn the clock back on the evolution of environmental jurisprudence in India.

There are other issues like the substantial question relating to environment. I will not get into that because that has been dealt with by other Members. What I would now like to take up is the recommendations of the Law Commission.

The recommendation of the Law Commission, at page 145 of its 186th Report, was that exemplary costs be awarded where the application or appeal was frivolous and vexatious. Such a power might not be entirely inappropriate in a few cases where the suits are brought in bad faith or without credible basis. But where the Tribunal has the power to impose costs for a false case, costs might easily be imposed merely because the Tribunal reached a different interpretation of the law or fact than that presented by the claimant, no matter whether it was filed in good faith or not. Ordering costs against

impoverished litigants will dissuade them and other litigants from filing claims before the Tribunal. Such a power must be exercised sparingly.

Finally, Sir, I would like to bring to the notice of this House that the North-East and the Eastern Himalayas is a bio-diversity hot spot. So, in the implementation of this Bill and Bench has to be made available in the North-Eastern region.

With these words, I thank you for giving me this opportunity.

SHRI BIBHU PRASAD TARAI (JAGATSINGHPUR): The aim and object of National Green Tribunal Bill is to dispose of cases relating to environment, environmental protection, conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property. But the form in which this Bill is being introduced and if it is not modified or amended then it will be dangerous and detrimental for the poor and tribal people.

The Bill clearly says that the tribunals shall not be bound by the procedure laid down by the Code of Civil Procedure 1908 and shall be guided by natural justice. In our country, more than 65,000 civil cases are pending before a number of civil courts. What will be the fate of these cases? What will be the fate of the poor farmers and tribal people who have taken shelter before the civil courts? On the one hand, for industrial growth we are transferring the land to the multinational companies, corporate houses and industrial houses.

15.00 hrs.

On the other hand, we evict the poor farmers and tribal people. We have been cultivating the land for more than 50 to 60 years. It is a burning issue in my Constituency. More than 4000 families have been cultivating more than 10,000 acres of barest land in Mahakalpada block of Kendrapada district. They are landless and poor people. Now the Department of Forest is taking stringent action against them to evict them from this land. At the same time, in my Constituency, the Government has given forest clearance for the POSCO project and around 3600 acres of forest land have been transferred to the POSCO company. Will this Tribunal safeguard the interest of the poor people or will it keep the interest of the multinational companies and industrial houses? Article 21 of the Constitution says that the right to health and environment has been construed as the right to life. We should think about the right to livelihood. We should look after the livelihood of the poor farmers and tribals.

If we see the composition and structure of the Tribunal, it will have the retired judges of the Supreme Court as also the retired Chief Justices of High Courts. If this is so, then this Tribunal will be the court of corruption. So, we should see that the sitting judges should be appointed instead of retired judges.

SHRI S.S. RAMASUBBU (TIRUNELVELI): Sir, I thank you for giving me this opportunity to speak on this Bill.

I welcome the National Green Tribunal Bill. Due to the recommendations of the Law Commission regarding environment cases, we have to dispose of these cases quickly. In fact, the Green Tribunal Bill has been introduced by our Government. The Tribunal gives relief and compensation for the damages to the persons and also for property. This Bill deals with civil cases only. I want to say that the preservation of forests is very important.

15.03 hrs.

(Shri Francisco Cosme Sardinha *in the Chair*)

At the same time, the development work is also important. Many developmental works related to forest areas are pending for a long time. Both development and preservation of forests and environment are essential. They must go hand-in-hand. Then only our development can be improved.

I live in Western Ghat areas near Cuttivalim, Papanasam and Manimutharu. In these areas, once upon a time, there used to be dense forests. People are not allowed to enter these areas. No permission is given for any hydel project or road project. We are waiting for a long time for construction of Papanasam-Trivandrum link road in the Western Ghat areas. But they have not allowed it. Even after that there is a heavy deterioration and depletion in the dense forest. What is the reason? The anti-social elements are cutting the forests. The Green Tribunal Bill must give solution to protect such forests. I would

submit that this is a very important point.

Sometimes wild animals come down from these forests and enter the nearby villages. They damage the cultivable crops. The farmers depend upon cultivation of banana, sugarcane and various other crops.

People are cultivating various crops. It is causing more damage to the crops. The Bill must give protection to the people and also to the crops. At the same time, nowadays, in most of the States, ground water is getting affected due to environmental pollution. This results in industries causing more damage to it. About 30 per cent of the water is damaged due to this problem. This is very important as drinking water is very essential for the society.

The UN Summit was held in Copenhagen and our hon. Minister and Prime Minister attended it. The Western countries are trying to politicise the matter. Our hon. Minister told that environmental protection at the global level should be done by a scientific approach and not by politicising it since the Western countries are trying to politicise the issue and suppress the developing countries.

This Bill is welcomed by all of us as it seeks to preserve our forests and it brings forward speedy and swift remedy in environmental cases. I hope it will give more protection to people in this environmental scenario.

SHRI CHARLES DIAS (NOMINATED): Mr. Chairman, I am thankful to you for giving me an opportunity to speak on this Bill.

The National Green Tribunal Bill, 2009 is introduced in this august House for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment, giving relief and compensation for damages to persons and property.

I understand that we are framing this Bill in accordance with the intentions of the United Nations Conference on the Human Environment held in Stockholm in 1972 and also in tune with the decisions taken at the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992.

In the proposed Bill, clause 14 of Chapter III provides for the Tribunal, and jurisdiction over all civil cases where a substantial question relating to environment is involved. Such question arises out of the implementation of the enactments specified in Schedule I, which include the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 1974, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability Insurance Act, 1991 and the Biological Diversity Act, 2002.

The primary function of the Tribunal, as per this Bill, is to hear the disputes arising out of the questions referred to in sub-section 1, that is, when violation is taking place on the seven Acts mentioned in Schedule I.

Clause 15 mentions about relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I.

Clause 16 empowers an aggrieved person to prefer an appeal within 30 days from the date on which the order or decision or direction is communicated to him, in matters mostly affecting the Acts mentioned in Schedule I.

At the first instance, I have to congratulate the hon. Minister for taking a bold step in providing some provisions to book the persons or establishments who violate the Acts in Schedule I mentioned in the Bill. Also, the Bill provides scope of compensation for the people who suffer by the above violations. But, Sir, I have my own doubts about the achievement of protection of our trees, forests, rivers and the greenery by this Bill.

What are all the actions proposed to be taken against the State Governments and industries for not planting trees in the stipulated area as a pre-condition for granting permission to construct dams or establishing factories?

What is the present situation in our cities? Most of the cities and towns are now becoming concrete jungles. The FAR is a rule applicable practically only to poor people; so also the CRZ stipulations are blatantly violated and huge buildings have come up near the sea-shore and riversides. Only the poor people are denied permission to construct their houses near the sea sides. In my place Ernakulam, near the major port of Cochin, in the reclaimed portion of the marine-

drive close to the sea, huge buildings have come up in a row and not even leaving space to pass breeze from sea. This has practically suffocated this city. Complaints and suggestions have been filed with the authorities but all these have been ignored. By destroying the trees and greenery, our cities are losing their lungs.

I would request the hon. Minister that this Bill should provide clauses to file complaints before the proposed Tribunal, against the above violations of using and misusing of public land by City Corporations, Municipalities and Panchayats, only to construct huge concrete structure not leaving space at least up to 20 per cent of the total area, to provide parks and public places where trees have to be planted in such a way to have lung-space for providing oxygen to people. The city-forests of European countries are good example for this.

There is one more point. This Bill should also have clauses to take action against the persons who damage partially or fully the trees planted near public roads and other public places.

Sir, considering the vast nature of our country, sittings of the Tribunal are to be conducted region-wise so as to facilitate to attend hearings by the aggrieved people who cannot afford to travel much distances.

I now come to the last point. I understand that clause 34 of this Bill empowers the Central Government to make rules by notification in the official Gazette for carrying out the provisions in this Bill. It further enumerates the matters for which the Central Government may make rules by the consent of each House of Parliament. I would request the hon. Minister to provide clauses in this Bill to achieve our goal of protecting our environment in an effective manner. I hope the hon. Minister will consider the above suggestion.

DR. PRASANNA KUMAR PATASANI (BHUBANESWAR): Mr. Chairman, Sir, I am grateful to you for giving me the time to speak on this Bill. The time is very short. Certainly, I will conclude my speech within three minutes.

I am adoring the greatest topic laid before this House for discussion by our hon. Minister. He is a knowledgeable Minister. He is a philanthropist and he knows the history of the environment of my State.

I would like to draw the kind attention of the hon. Minister to the fact that when the individual tree is green, the jungle is green. When the individual society is healthy, the entire country is healthy. If you are cutting a tree, you are cutting the jungle. According to the evolution process of Darwin theory, when the tiger is killed, you cannot protect the tiger. When you are cutting the tree, when you are cutting the jungle, you are cutting the throat of the human beings. When the tiger is killed, when the day it is being published globally, to save the tiger, we have to protect the forests and the jungle is to be saved. The animal kingdom cannot be protected unless and until the jungle is protected. The day when we are inhaling oxygen, when we are consuming it daily, when we are exhaling carbon-di-oxide, the trees are exhaling more oxygen to save human life. So, trees are our friends and gods. When the law is enacted in this august House, if somebody is killed and annihilated or butchered, the law is applicable under Section 302. There are advocates. They can plead and get a person released under culpable homicide. In the same way, when a tree is killed, you have to apply the same law. By that, it will create the awareness and nobody will go to cut the tree. That should be the law to a cutter who is cutting the tree. When a tree is cut and killed, thousands of birds are also killed. When the tree is killed, the entire animal kingdom is killed.

In our tradition, in our Puranam, Alayam, Karunalayam, Namami, Bagavad Padam, Sankaram, Lok Sankaram, we are invoking the holy traditional masters to protect the life of the tree. Man is a tree and tress is a man!

If the life of elephants is protected, the entire animal kingdom will be protected. You might have seen Konark. There were about one lakh elephants and our King also presented one lakh elephants as you could see from the Mahabharata where there is evidence of it. There is not time. Otherwise I would have quoted it. You can see the title of Gajapati was conferred upon only Lord Jagannath. But you see the number of elephants present in my State now. It is about 2,000 or 3,000. Why is it declining? If you cannot protect our elephants and if you cannot protect our tigers, you cannot protect the precious wildlife. So, when this Bill is passed, I appeal to the Government that just as we apply Section 302 of the IPC when a man is killed, we should apply Section 302 even when animals are killed and when trees are cut. By that you can save the animal kingdom and our forests.

With these words, I conclude.

SHRI BHAKTA CHARAN DAS (KALAHANDI): Mr. Chairman, Sir, I support the National Green Tribunal Bill, 2009. Our UPA Government has brought this Bill in the interest of environment and the suffering tribal people dwelling in the forest region. The Congress Party has always been conscious enough to bring this kind of legislations as in the case of the Forest Conservation Act of 1980 during Indiraji's period, the declaration of Ganga Cleaning Programme during Rajivji's period and even the Prime Minister Dr. Manmohan Singh has also taken up the Ganga Cleaning Programme.

This Bill clearly states that the decision would be taken by the majority and naturally when the majority takes the decision, nobody can tamper the decisions taken in the interest of environment. In our country, we have seen that there have been many instances of blind and brutal mining and there have been no compensatory plantations, with the result the ecological imbalance has gone to the extent of causing global warming and now we are all expressing our concern about climate change situation.

This Bill states very clearly that both the offences committed by the companies and offences committed by the Government departments would be covered. I have recently pointed out some of the violations committed by some companies to the hon. Minister of Environment and Forests and he has taken a very serious view on this matter and I thank the hon. Minister for that. I have been fighting an environment battle for the last six years to save the Niyamgiri Hills. There have been series of violations committed by the State Government and some private companies. In spite of the clearance given by the hon. Supreme Court of India about a year back, just because of the directive given by the Supreme Court to the Ministry of Environment that they have to look into the environment aspect and then give the clearance, the hon. Minister Shri Jairam Ramesh has not yet given clearance for mining of bauxite in Niyamgiri Hills. About 8,000 primitive tribals and more than a lakh of people sustain their livelihood out of traditional earning from this forest region which is spread over 240 sq. km. in Raigada, Gajapati and Kalahandi districts of Orissa and this forest has about 26,000 plants. There are a lot of animals and medicinal plants in this forest. The hon. Minister has taken a very serious view of this issue and he has not yet given clearance. I would urge upon the Minister and the Government not to give forest clearance and the Government of Orissa may be asked to go for some other substitute.

Sir, there has been blind and brutal mining in Orissa. My brother friend raised the matter that the Ministry of Environment has given clearance to the Pasco Company. Sir, in that area the greenery is not involved there, the forest is not there. It is only cultivable land and the Government has sold away that land to the Pasco Company. So, Environment Ministry is not held responsible for this.

Sir, in Orissa, we are poor in every sense. There is a lot of poverty, infant deaths, child selling, starvation deaths and we are in back bench in every field. There has not been progress, there has not been mindful industrialisation in true sense...(*Interruptions*)

MR. CHAIRMAN : Please do not disturb him.

SHRI BHAKTA CHARAN DAS : Sir, the Government has been busy in signing the MoU. You can calculate how many trees have been felled in Orissa during the last ten years tenure of the present State Government. The environmental damage is caused to the highest extent by our State Government in Orissa. It is totally ignored. Our tribal people could not make any appeal before anybody, but I think, the tribals have got the right now to make their appeal before this Green Tribunal to save their forests, save their sustainability and save their future.

SHRIMATI BOTCHA JHANSI LAKSHMI (VIZIANAGARAM): Thank you, Mr. Chairman, Sir. I rise to support the National Green Tribunal Bill 2009. The Bill seeks to create special courts for environmental matters. The Bill has come to this House after thorough scrutiny by the Parliamentary Standing Committee. I appreciate the efforts put in by the Environment Minister to bring in this Bill under the guidance of the hon. Prime Minister, Dr. Manmohan Singh Ji and the UPA Chairperson, Shrimati Sonia Gandhi Ji. Sir, it is always 'better late than never'.

The Bill consists of five Chapters. The Bill consists of elaborate details. I thank the officials for producing a comprehensive Bill. The Tribunal will consist of both judicial and subject expert members. The Government should not compromise on the integrity, honesty and qualifications of the judicial and expert members.

Another important thing is that the Tribunal will hear only substantial questions relating to environment which affect the community at large and not just individuals or groups of individuals or cause significant damage to the environment and property or cause harm to public health.

Here I would like to submit that the criteria to determine what a substantial question related to the environment are open to interpretation. There is an apprehension that the Bill may reduce access to justice in environmental matters by taking away the jurisdiction of civil courts. All cases under laws mentioned in the Bill will now be handled by the Tribunal which will initially have Benches at only five locations.

I would request the hon. Minister to consider setting up of a Bench at Vijayanagram, Andhra Pradesh as it is blessed with a lot of thick forest coverage and it is a Scheduled Area. There is ample greenery. It is the most backward district in coastal Andhra Pradesh and it is a tri-State junction, that is, to Orissa, Chhatisgarh and Madhya Pradesh. This should be the norm for setting up of Tribunals at five locations. I would request the hon. Minister once again to consider this.

The Bill does not give the Tribunal jurisdiction over some laws related to the environment. The qualifications of the judicial members of the Tribunal are similar to that of the National Environmental Appellate Authority. The Government has been unable to find qualified members for the national Environment Appellate Authority for the past three years. I wonder how they would find qualified members for the Green Tribunal.

The Bill gives option to the Government to appoint members with administrative experience as expert members instead of specialization in environment. The Bill does not mention the minimum number of members of the Tribunal and also does not mention the composition of the Selection Committee for selecting members. For example, some other laws that establish tribunals specify the persons who shall decide or be consulted. May I know whether any woman Members are proposed to be nominated in the Selection Committee for selecting Members? The Bill states that the order of the Tribunal shall be final and contains no provision for appeal. I feel that the citizens must be given an opportunity to go and appeal in the Supreme Court.

Finally, it has been mandated that if we cut one tree, we have to plant four trees. This has to be implemented carefully. Wherever construction of buildings, national highways is going on, it has to be stipulated that they have to plant trees to maintain ecological balance. So far as tanks and ponds are concerned, the Government should give priority to plant more trees to strengthen and increase the ground water and also put an end to encroachments on ponds and lakes. This will help in environmental protection and conservation of forests to a great extent. There is a need to draw up a comprehensive plan for planting trees. This will be a future asset for our country. So far as scheduled areas are concerned, there is a need to pay more attention because the tribals depend to a large extent on the forest produce. This will also help us in reducing global warming. There is a need to involve Interior Tribal Development Agency. Local bodies and panchayats should be involved in this social responsibility. There is a need to involve NGOs, Revenue Department, police and local bodies in protecting our environment and conservation of forests.

On the whole, this Bill is a good piece of legislation. I hope the Minister will clarify the points raised by me. Once again, I extend my full support to the Bill.

MR. CHAIRMAN : The hon. Minister may kindly reply.

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI JAIRAM RAMESH): Mr. Chairman, Sir, I believe you want to start the Private Members' Business at 3.30 p.m. I cannot finish this in 10 minutes.

MR. CHAIRMAN: It all depends on how brief you are.

SHRI JAIRAM RAMESH: I can respond to this on Monday. I have absolutely no problem in doing it, but I do not want to rush the reply. If you can give me 20 minutes, I will do it today. Otherwise, I will do it on Monday....(*Interruptions*)

MR. CHAIRMAN: Hon. Members, please do not disturb. The Parliamentary Affairs Minister may kindly respond.

...(*Interruptions*)

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF WATER RESOURCES (SHRI PAWAN KUMAR BANSAL): Sir, the Minister has responded to it that he will do it on Monday.

MR. CHAIRMAN: So the reply will be on Monday.

The discussion on this Bill is complete. We will now take Private Members' Business.

श्री हुवमदेव नारायण यादव (मधुबनी): महोदय, इस विधेयक का तीन मिनट का समय बाकी है।

MR. CHAIRMAN: Hon. Minister, since three minutes are there, you can just initiate the reply.

SHRI JAIRAM RAMESH: Sir, if you want, I will try to finish in the next 15 minutes. If you can give me 15 minutes....(*Interruptions*)

MR. CHAIRMAN: Please do not disturb now.

...(*Interruptions*)

SHRI PAWAN KUMAR BANSAL: Sir, I would request the indulgence of the House for 20 minutes; let us conclude this because we have very few days left; otherwise we will have to finally extend the Session. So, we have to complete some legislative business. We will have to take it to Rajya Sabha...(*Interruptions*)

SHRI JAIRAM RAMESH: Sir, I will finish in 15 minutes....(*Interruptions*)

MR. CHAIRMAN: If the House agrees, the hon. Minister will start his reply and complete it within 15 minutes.

...(*Interruptions*)

श्री हुवमदेव नारायण यादव : नहीं।

MR. CHAIRMAN: Rules are clear; that is why the House has to agree. Please sit down.

...(*Interruptions*)

श्री पवन कुमार बंसल : हम आपका सहयोग चाहते हैं, बिल निपटाने हैं। हम उसमें भी समय ले लेंगे। ये रूल्स हैं।

MR. CHAIRMAN: The House is supreme. Please sit down now.

...(*Interruptions*)

श्री हुवमदेव नारायण यादव : महोदय, एक मिनट मेरी बात सुन लीजिए। ऐसे मुझे बैठने के लिए मत कहिये। मैं नहीं बैठूंगा, पहले मेरी बात सुनिये।

श्री पवन कुमार बंसल : रूल वेव हो जाते हैं।

MR. CHAIRMAN: What have you to say?

श्री हुवमदेव नारायण यादव : महोदय, हमने रूल्स पढ़े हैं। आप बैठने की क्या बात करे हैं?

महोदय, यह नियम 26, न सदन को न सरकार को किसी को अधिकार नहीं देता है कि जो गैर सरकारी सदस्य का राइट है, वह उसमें इन्क्यूव करे। जब यह अधिकार ही नहीं है तो आप सदन से कैसे अधिकार ले रहे हैं? यह कहीं नहीं लिखा है, यह लिखा है कि अगर समय लेंगे तो दूसरा दिन देंगे। आप आज पूरा समय ले लीजिए, लेकिन सोमवार को हमें हमारा ढाई घंटे का समय दे दीजिये।

श्री पवन कुमार बंसल : आधा घंटा बाद तक साढ़े छह बजे तक चलेगा।

श्री हुवमदेव नारायण यादव : नहीं, आप छह बजे के बाद आधा घंटा ले लीजिये।

श्री पवन कुमार बंसल : चार बजे से साढ़े छह बजे तक चलेगा। आपके पास ढाई घंटे हैं।

श्री हुवमदेव नारायण यादव : आप छह बजे के बाद ले लीजिये। प्राइवेट मेंबर का अधिकार हम नहीं छोड़ेंगे। यह नियम कहता है, क्या आपको मालूम नहीं है?

MR. CHAIRMAN : You have now made your point. Please sit down.

Hon. Members, as I said earlier, if the House agrees, I will allow the hon. Minister to give his reply and pass this Bill. Now, I would like to take the sense of the House.

...(*Interruptions*)

SEVERAL HON. MEMBERS: Yes.

...(*Interruptions*)

श्री हुवमदेव नारायण यादव : आपको यह अधिकार नहीं है...(व्यवधान)

श्री पवन कुमार बंसल : यदि साढ़े तीन की जगह पाँचे चार हो जाते हैं, तो वहाँ भी 15 मिनट बढ़ा देंगे। प्रॉइवेट मैम्बर्स बिजनेस ढाई घण्टे का ही तो है। इससे क्या फर्क पड़ने वाला है। यह बिल राज्य सभा में भी जाने हैं। यदि इन्हें अभी पास नहीं किया गया तो हमें सेशन बढ़ाकर 7 की बजाय 13-14 तारीख तक ले जाने पड़ेंगे...(व्यवधान)

श्री हुवमदेव नारायण यादव : आप 9 बजे से 7 बजे तक बैठिए, हम तैयार हैं। लेकिन प्रॉइवेट मैम्बर्स बिल साढ़े तीन बजे से छः बजे तक ही रखिए। छः बजे के बाद आप इस बिल पर एक घण्टा या दो घण्टा बहस कीजिए, हम तैयार हैं। लेकिन यह गैर सरकारी बिजनेस का सवाल है, सदस्य का सवाल है। गैर सरकारी बिल पर सभी सदस्यों को सोचना चाहिए। यह आज तक कभी नहीं हुआ...(व्यवधान)

SHRI PAWAN KUMAR BANSAL: Let it go on record that Shri Hukumdeo Narayan Yadav does not want to proceed with this Bill. ...(*Interruptions*) Let it go on record that this is the cooperation from the hon. Members in passing this legislation and go ahead. ...(*Interruptions*) ऐसा करेंगे तो कोपर्ेशन कहाँ है। हम आपसे केवल 15 मिनट के लिए ही कह रहे हैं और आपने 15 मिनट तो इसमें ही निकाल दिए हैं। आपस में कोई तो बात होती है...(व्यवधान)

MR. CHAIRMAN: I have already said this. I think, the sense of the House is for the reply of the hon. Minister now. So, I would request the hon. Minister to start his reply now.

...(*Interruptions*)

MR. CHAIRMAN: Please do not disturb now. Now, the hon. Minister.

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI JAIRAM RAMESH): Mr. Chairman, Sir, I will try my best to finish my reply in the quickest possible time so that the Private Members' Business can start at the quickest opportunity.

Sir, 24 hon. Members have presented their views, spread over a three-day period. Broadly, the idea of having a National Green Tribunal has been supported. There have been some criticisms in respect of many of the provisions of the Bill, which I will respond to as quickly as I can.

Before I respond to the criticisms, I would like to mention that the National Green Tribunal Bill is one element of a revised or a reformed or a re-structured approach to environmental governance. On the one side, we need an effective Environmental Protection Authority that actually monitors compliance, that ensures implementation of laws, and on the other side, you have the National Green Tribunal Bill which deals with the civil dimensions of implementation of these laws. So, the National Green Tribunal Bill is not an answer to the problems of environment and forest. It provides an opportunity for people to claim civil damages arising out of the non-implementation or the wrong implementation of the laws relating to environment and forest. So, do not see this in isolation.

In the monsoon Session of Parliament, I hope to bring forward a legislation to establish a National Environmental Protection Authority. The National Environmental Protection Authority will be charged with the responsibility of ensuring proper implementation of the laws relating to environment and forest. And a part of the implementation is to provide an opportunity for individuals of our country to claim civil damages out of the non-implementation of the laws. So, there is a judicial dimension to governance. There is an Executive dimension to governance. This Bill deals only with the judicial dimension.

Sir, many Members have criticized the Bill for many of its provisions. Let me say straightaway that I am going to bring forward ten amendments today, which will take care 90 per cent of the problems that have been expressed by the hon. Members.

The most important amendment that I am going to bring forward is an amendment to Clause 18 (2) (e), which will provide an opportunity for any individual, for any citizen of India to approach the National Green Tribunal. This was the criticism that was made; that it does not provide an opportunity for individuals and it provides a limited access. But I am going to bring forward this amendment today to Clause 18 (2) (e) which will expand the definition of 'persons aggrieved'. So, any person aggrieved can approach the National Green Tribunal.

Sir, the second important criticism that was mentioned was that this Bill does not have the foundational principles, which should govern its functioning. That is why I am going to amend Section 19(a), which will bring principles of sustainable development. Precautionary principles, polluter pays principles, intergenerational equity, will all be part of this Amendment.

The third important Amendment that I am going to bring forward is that this Act will come into force simultaneously. It would not be Section by Section. The entire Act will come into force at one go. This was also a criticism that had been made by some hon. Members.

The fourth Amendment that I propose to bring forward is that the decisions of the National Green Tribunal can be appealed in the Supreme Court. So, anybody who is aggrieved by the decision of the National Green Tribunal can go to the Supreme Court. Mr. Rajiv had raised this issue that suppose this Tribunal gives a decision against community rights, and the Bill as it stood today, there was no appeal against that decision. But the Amendment I am going to bring forward to Section 21 will provide for an appeal to the Supreme Court on any decision of the National Green Tribunal.

The fifth Amendment is about the place of sitting. We did not specify the territorial jurisdiction. We are now going to specify the territorial jurisdiction in the Amendment as well.

The sixth Amendment relates to the number of members, the judicial members, the expert members. We will have a minimum of 10 judicial members, a minimum of 10 expert members; and not exceeding 20. We specified that in the Act itself.

The seventh important Amendment I am going to bring forward is the Amendment, which will enable a deadlock to be broken so that we give the Chairperson of the Tribunal, the authority to break the deadlock in case there is a deadlock.

Then, I am going to bring forward some other Amendments in order to maintain the integrity and the credibility of the Tribunal.

Sir, these Amendments, which I will propose at the end of my speech today, will, I believe, go a long way in assuaging the concerns of many hon. Members.

I would just like to deal with two or three significant criticisms that have been made that are not dealt with in these Amendments. I propose to come back to these criticisms in the rules that we will frame. The rules will be framed; they will be put on our website; they will be laid on the Table of the House; and the hon. Members of Parliament will have every opportunity of responding to these rules. So, I will not do anything without parliamentary approval of the rules that will govern this Act.

Sir, there was a criticism that Schedule (1) of this Bill will give an opportunity for the Government to amend these Acts. That is the complete misreading of Schedule (1). There are seven laws in Schedule (1). We are not going to amend any law in Schedule (1). Please be under no fear on this. There is not going to be amendment of the Forest Conservation Act or amendment of Environment Protection Act, 1986. Schedule (1) only lists those Acts for which the National Green Tribunal has jurisdiction. What we are saying is that we can expand Schedule (1) or delete Schedule (1) by the Government and we will lay that decision on the floor of the House. We do not want to amend the Act every time we want to do it. We want to add or delete by notification. Of course, we will be laying that notification on the Table of the House. So, it is wrong as Mr. Mangani Lal Mandal was trying to say or some other Members were saying that this gives the power to the Government to amend the Act. No. We are not going to amend any Act in Schedule (1). Schedule (1) only says that these are the Acts for which the jurisdiction of the National Green Tribunal applies.

Sir, there was also some criticism of one year and five years saying: "in Bhopal, the effects are long-ranging and why are we limiting to five years". I will clarify this. In the rules, it will be five years from the date the injury begins to manifest itself and the cause is attributable to the environmental damage. I will make this very clear in the rules. The hon. Members should not have any fears on this score.

As far as members are concerned, we will have a Selection Committee. This Selection Committee will ensure that this does not become a parking place for retired civil servants. This is a fear that has been expressed, and I assure the hon. Members that we will have a transparent Selection Committee. Environmentalists, people with background in environment, will be made members of the National Green Tribunal. Activists may not be members but if activists have the requisite educational qualifications, I do not see any reason why an activist should be debarred from being a member of the National Green Tribunal.

So, I think regarding the rules, many of the rules that will govern the selection of members will be made clear, and I can assure the hon. Members that we will not be found wanting on this score.

One or two other criticisms have come. How is this different from the previous National Environment Tribunal? I want to make it clear that the National Environment Tribunal of 1995 dealt only with hazardous chemical substances. It had limited

scope whereas this National Green Tribunal deals with Water Act, Air Act and Environment Protection Act. It deals with the Forests Conservation Act. It also deals with the Biological Diversity Act. So, its scope is much larger. All that I am trying to accomplish by having the National Green Tribunal is to provide an opportunity for people, who feel aggrieved by the non-implementation of these laws, to seek civil damages, to go to the National Green Tribunal and we have specified that the National Green Tribunal should give a decision normally within six months.

So, we are trying to bring this. There are 5,600 cases in our judiciary today relating to environment. I am sure the number of cases will increase. We need specialised environmental courts. The Supreme Court has said this. The Law Commission has said this. India will be one of the few countries which will have such a specialised environmental court. I believe Australia and New Zealand are the two countries that have such specialised tribunals. I think India would be one of the few countries to have a specialised environment tribunal.

I want to assure the hon. Members that let us give this National Green Tribunal a try. If, after a couple of months, we feel the need for amending some of the provisions, we will come back to Parliament. I have a completely open mind on this. But I believe it is important to set a beginning, to start the process and give this National Green Tribunal an opportunity to perform. I will stop here.

I have also said in the past and I want to repeat it here that my intention is to locate the National Green Tribunal in Bhopal, not in Delhi. I do not want to create another Delhi-based institution. I want to locate it in Bhopal because Bhopal was the scene of the humanity's worst industrial environmental tragedy in 1984 and by locating the National Green Tribunal in Bhopal, I think our Government and our Parliament would be showing some small sensitivity to that great tragedy. We can never obliterate that tragedy from our memories but by setting the National Green Tribunal in Bhopal, I think we would send a signal that we mean business. It will have four Benches in different parts of the country. We will expand the number of Benches depending on the generosity of my senior colleague, the Minister of Law, who has just walked in and is sitting right next to me.

We will follow a circuit approach so that access is not difficult for ordinary people. People will not come to courts. Courts will go to people. I assure you this. Tribunal will go to the people. People will not come to the Tribunal. I want to assure this and give it a chance. If, at the end of one year, I am proved wrong, I will come back to Parliament, if I am still in this post, and come for the amendment.

I think I have kept my time.

So, with these few words, I would now urge the hon. Members to extend their full support to the National Green Tribunal Bill.

...(Interruptions)

MR. CHAIRMAN : Please sit down. Nothing should go on record.

*(Interruptions) €**

MR. CHAIRMAN: You can meet him later. There is no time.

The question is:

"That the Bill to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN The House shall now take up clause-by-clause consideration of the Bill.

Clause 2

Definition

MR. CHAIRMAN : Hon. Member Shri M.B. Rajesh, are you moving your amendments?

SHRI M.B. RAJESH (PALAKKAD): Yes, Sir. I beg to move :

"Page 3, line 14,--

for "other than"

substitute "including"" (48)

"Page 3, *omit* lines 20 and 21." (49)

MR. CHAIRMAN : I shall put Amendment Nos. 48 and 49 moved by Shri M.B. Rajesh to the vote of the House.

The amendments were put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 Establishment of Tribunal

MR. CHAIRMAN : Shri Rajesh, are you moving your amendment?

SHRI M.B. RAJESH (PALAKKAD): Yes, Sir. Since this is a very important amendment, I am seeking a clarification. This is an amendment regarding setting up of Green Tribunal Benches in every State.

SHRI JAIRAM RAMESH : Sir, I cannot give an assurance on this. All I can say is that depending on the workload, depending on the cases that come to the National Green Tribunal, we have an open mind on expanding the number of Benches as far as the National Green Tribunal is concerned.

SHRI M.B. RAJESH : Sir, I beg to move :

"Page 3, line 36,--

after "Act"

insert "and there shall also be established a bench of the National Green Tribunal in every State."" (50)

...(Interruptions)

श्री जयराम रमेश: मुझे बैचेंज बढ़ाने में कोई एतराज नहीं है। अगर केसेज आएंगे, अगर इसमें वर्कलोड बढ़ेगा तो मैं अपने कानून मंत्री से जरूर गुजारिश करूंगा कि और बैचेंज की स्थापना करें।

MR. CHAIRMAN : I shall put Amendment No. 50 moved by Shri M.B. Rajesh to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN : The question is :

"Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause

Clause 4

Composition of Tribunal

Amendments made:

Page 3, line 39,--

for "such number of full time Judicial Members",
substitute "not less than ten but subject to a maximum of twenty full time Judicial Members." (4)

Page 3, line 41,--

for "such number of full time Expert Members",
substitute "not less than ten but subject to maximum of twenty full time expert Members." (5)

Page 4, *for* lines 1 and 2, *substitute*"

"(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting." (6)

Page 4, *for* lines 7, *substitute*"

"matters [including the circuit procedure for hearing at a place other than the ordinary place of its sitting falling within the jurisdiction referred to in sub-section (3)], pertaining to the applications and appeals;". (7)

Page 4, *after* line 9, *insert*"

"Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting." (8)

(Shri Jairam Ramesh)

MR. CHAIRMAN : Hon. Member Shri Rajesh, are you moving your amendment?

SHRI M.B. RAJESH : Yes, Sir. I beg to move :

"Page 3, *after* line 42,--

insert "Provided that the Expert Members shall include social scientists with specialization in or familiarity with the enviro-occupational health aspects and shall be appointed in consultation with the State Governments"." (51)

MR. CHAIRMAN : I shall put Amendment No. 51 moved by Shri M.B. Rajesh to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5

Clause 5

Qualifications for appointment of Chairperson, Judicial Member and Expert Member

Amendment made:

Page 4, line 29,--

for "one year",

substitute "two years". (9)

(Shri Jairam Ramesh)

MR. CHAIRMAN : The question is :

"That Clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clauses 6 to 14 were added to the Bill.

Clause 15

Relief, Compensation and restitution

MR. CHAIRMAN : Shri Rajesh, are you moving your amendment?

SHRI M.B. RAJESH : Yes, Sir. I beg to move :

"Page 6, *omit* lines 36 to 42." (52)

MR. CHAIRMAN : I shall put Amendment No. 52 moved by Shri M.B. Rajesh to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

Clause 16

Clause 16

Tribunal to have appellate jurisdiction

Amendments made :

Page 7, line 6,-

for "2009"

substitute "2010". (10)

Page 7, line 9,-

for "2009"

substitute "2010". (11)

Page 7, line 12,-

for "2009"

substitute "2010". (12)

Page 7, line 15,-

for "2009"

substitute "2010". (13)

Page 7, line 18,-

for "2009"

substitute "2010". (14)

Page 7, line 21,-

for "2009"

substitute "2010". (15)

Page 7, line 24,-

for "2009"

substitute "2010". (16)

Page 7, line 26,-

for "2009"

substitute "2010". (17)

Page 7, line 31,-

for "2009"

substitute "2010". (18)

Page 7, line 34,-

for "2009"

substitute "2010". (19)

(Shri Jairam Ramesh)

MR. CHAIRMAN : Hon. Member Shri Rajesh, are you moving your amendment?

SHRI M.B. RAJESH : Yes, Sir. I beg to move :

"Page 7, *omit* lines 30 to 32." (53)

MR. CHAIRMAN : I shall put Amendment No. 53 moved by Shri M.B. Rajesh to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 16, as amended, stand part of the Bill."

The motion was adopted.

Clause 16, as amended, was added to the Bill.

Clause 17

Liability to pay relief or

**compensation in certain
cases**

Amendment made:

Page 8, after line 4, insertâ€”

"(3) The Tribunal shall, in case of an accident, apply the principle of no fault." (20)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is:

"That clause 17, as amended, stand part of the Bill."

The motion was adopted.

Clause 17, as amended, was added to the Bill.

**Application or appeal to
Tribunal**

Clause 18

Amendments made:

Page 8, for lines 16 and 17, substitute –

"(e) any person aggrieved, including any representative body or organisation; or". (21)

Page 8, line 22,

omit ",with the permission of the Tribunal". (22)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is :

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill

Clause 19 was added to the Bill.

Motion Re: Suspension of Rule 80(i)

SHRI JAIRAM RAMESH: Sir, I beg to move:

"That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 23 to the National Green Tribunal Bill, 2009 and that this amendment may be allowed to be moved."

MR. CHAIRMAN: The question is:

"That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 23 to the National Green Tribunal Bill, 2009 and that this amendment may be allowed to be moved."

The motion was adopted.

New Clause 19A Tribunal to apply certain principles

Amendment made:

Page 9, *after* line 20, *insert* –

"Tribunal to 19A. The Tribunal shall, while passing any order or apply certain decision or award, apply the principles of sustainable principles. development, the precautionary principle and the polluter pays principle." (23)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is:

"That new clause 19A be added to the Bill."

The motion was adopted.

New clause 19A was added to the Bill.

Clause 20 Decisions to be taken by majority

Amendment made:

Page 9, *for* line 21, *substitute*"

"Decision to 20. The decision of the Tribunal by majority of be taken by Members shall be binding: majority.

Provided that if there is a difference of opinion among the Members hearing an application or appeal, and the opinion is equally divided, the Chairperson shall hear (if he has not heard earlier such application or appeal) such application or appeal and decide:

Provided further that where the Chairperson himself has heard such application or appeal along with other Members of the Tribunal, and if there is a difference of opinion among the Members in such cases and the opinion is equally divided, he shall refer the matter to other Member of the Tribunal who shall hear such application or appeal and decide." (24)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is :

"That clause 20, as amended, stand part of the Bill."

The motion was adopted.

Clause 20, as amended, was added to the Bill

Clause 21

Finality of order

Amendment made:

Page 9, for line 22, substitute"â€

"Appeal to 21. Any person aggrieved by any award, decision or

Supreme Court. order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil

5 of 1908. Procedure, 1908:

Provided that the Supreme Court may, entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.". (25)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is :

"That clause 21, as amended, stand part of the Bill."

The motion was adopted.

Clause 21, as amended, was added to the Bill

Clause 22

Cost

MR. CHAIRMAN: Shri M.B. Rajesh, are you moving your amendment?

SHRI M.B. RAJESH (PALAKKAD): Yes, Sir.

I beg to move:

"Page 9, omit lines 25 to 28." (54)

MR. CHAIRMAN: I shall now put Amendment No. 54 moved by Shri M.B. Rajesh to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN: The question is:

"That clause 22 stand part of the Bill."

The motion was adopted.

Clause 22 was added to the Bill.

Clauses 23 to 25 were added to the Bill.

Clause 26 Offences by companies

MR. CHAIRMAN : Mr. Rajesh, are you moving amendment No. 55?

SHRI M.B. RAJESH : Sir, this amendment is about awarding maximum punishment of life imprisonment. We have the experience of Bhopal tragedy. ...(*Interruptions*)

MR. CHAIRMAN: Please give him time to think about it?

SHRI M.B. RAJESH: Sir, the hon. Minister, in his reply, has referred to Bhopal tragedy. To deal with these types of cases, we should make a provision for awarding maximum punishment of life imprisonment. The present term of punishment is only for three years. It is not sufficient and that is why I want to move this amendment.

Sir, I beg to move:

"Page 10, *after* line 40,--

insert "(3) Notwithstanding anything in sub-sections (1) and (2), the Tribunal may award maximum punishment of life imprisonment in cases where it deems fit and may also terminate or suspend contracts." (55)

MR. CHAIRMAN: I shall now put amendment No. 55 to clause 26 moved by Shri M.B. Rajesh to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN: The question is:

"That clause 26 stand part of the Bill."

The motion was adopted.

Clause 26 was added to the Bill.

Clause 27 was added to the Bill.

Clause 28 Bar of jurisdiction

MR. CHAIRMAN: Are you moving amendment No. 56, Mr. Rajesh?

SHRI M.B. RAJESH : Sir, since the hon. Minister himself has brought the amendment to protect the right to appeal to the Supreme Court, I am not moving this amendment.

MR. CHAIRMAN: The question is:

"That clause 28 stand part of the Bill."

The motion was adopted.

Clause 28 was added to the Bill.

Clauses 29 to 31 were added to the Bill.

Clause 32 Act to have overriding effect

MR. CHAIRMAN: Are you moving the amendment, Mr. Rajesh?

SHRI M.B. RAJESH : Sir, I beg to move:

"Page 11, *after* line 46,--

insert "Provided that the provisions of this Act shall be in addition to and not in derogation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the powers under the Sixth Schedule to the Constitution and the Panchayats (Extension to Scheduled Areas) Act, 1996 and in case of any conflict, the later Acts shall prevail." (57)

MR. CHAIRMAN: I shall now put amendment No. 57 to clause 32 moved by Shri M.B. Rajesh to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN: The question is:

"That clause 32 stand part of the Bill."

The motion was adopted.

Clause 32 was added to the Bill.

Clause 33 was added to the Bill.

Clause 34 Power to make rules

Amendment made:

"Page 12, *after* line 20, *insert*"

"(ca) the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting;" (26)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is:

"That clause 34, as amended, stand part of the Bill."

The motion was adopted.

Clause 34, as amended, was added to the Bill.

Clauses 35 and 36 were added to the Bill.

Clause 37 Repeal and savings

Amendments made:

Page 13, line 25,--

for "2009",

substitute "2010". (27)

Page 13, line 32,--
for "2009",
substitute "2010". (28)

Page 13, line 39,--
for "2009",
substitute "2010". (29)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is:

"That clause 37, as amended, stand part of the Bill."

The motion was adopted.

Clause 37, as amended, was added to the Bill.

Schedules I and II

MR. CHAIRMAN: The question is:

"That Schedules I and II stand part of the Bill."

The motion was adopted.

Schedules I and II were added to the Bill.

Schedule III

Amendments made:

Page 17, line 11,--
for "2009",
substitute "2010" (30)

Page 17, line 14,--
for "2009",
substitute "2010" (31)

Page 17, line 16,--
for "2009",
substitute "2010" (32)

Page 17, line 18,--

for "2009",

substitute "2010" (33)

Page 17, line 29,--

for "2009",

substitute "2010" (34)

Page 17, line 31,--

for "2009",

substitute "2010" (35)

Page 17, line 38,--

for "2009",

substitute "2010" (36)

Page 17, line 40,--

for "2009",

substitute "2010" (37)

Page 18, line 7,--

for "2009",

substitute "2010" (38)

Page 18, line 8,--

for "2009",

substitute "2010" (39)

Page 18, line 15,--

for "2009",

substitute "2010" (40)

Page 18, line 17,--

for "2009",

substitute "2010" (41)

Page 18, line 25,--

for "2009",

substitute "2010" (42)

Page 18, line 27,--

for "2009",

substitute "2010" (43)

Page 18, line 30,--

for "2009",

substitute "2010" (44)

Page 18, line 35,--

for "2009",

substitute "2010" (45)

Page 18, line 36,--

for "2009",

substitute "2010" (46)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is:

"That Schedule III, as amended, stand part of the Bill."

The motion was adopted.

Schedule III, as amended, was added to the Bill.

Clause 1

**Short title and
commencement**

Amendments made:

Page 2, line 4,--

for "2009" substitute "2010". (2)

Page 2, for lines 5 to 9, substitute

"(2) It shall come into force on such date as the Central government may, by notification in the Official Gazette, appoint." (3)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

16.00 hrs.

Enacting Formula

Amendment made:

Page 2, line 1, --

for "Sixtieth" substitute "Sixty-first". (1)

(Shri Jairam Ramesh)

MR. CHAIRMAN: The question is:

"That Enacting formula, as amended, stand part of the Bill."

The motion was adopted.

The Preamble and the Long Title were added to the Bill.

The Enacting Formula, as amended, was added to the Bill.

MR. CHAIRMAN: The Minister may now move that the Bill, as amended, be passed.

SHRI JAIRAM RAMESH: I beg to move:

"That the Bill, as amended, be passed."

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.
