



## ERGO

*Analysing developments impacting business*

National Green Tribunal asks applicants and appellants to give concerned authorities 15 days' time to respond before approaching the tribunal, effective 1 August 2018

25 July 2018

### Introduction

The Principal Bench of the National Green Tribunal (NGT) in its order dated 19 July 2018 in the case of *Shivpal Bhagat v Union of India* has directed that every applicant and appellant must approach the NGT after giving the concerned authority against which it has filed the appeal or application a time period of 15 days to respond. Thereafter when the applicant or appellant approaches the NGT it is obligatory that the response received from the concerned authority is also mentioned in the application or appeal filed before the NGT.

The case involved an application filed before the NGT in the month of March 2018 alleging that the concerned authorities had failed to act against the thermal power plants, coal washeries and other industries in Tamnar and Gharghoda blocks of Raigarh District in the state of Chattisgarh.

### Key Highlights of the Order

- Any applicant or appellant before approaching the NGT must approach the concerned authorities and give them at least 15 days' time to respond. The defending authority is required to respond either to the concerned party or individual applicant or put its response on its website at the earliest.
- Every applicant or appellant who approaches the NGT must indicate in the application / appeal the specific provision of a statute violated, substantiate questions of environment arising in the matter and the persons accountable for the same particularly, the public authorities. Most importantly, the applicant or appellant must mention in its application or appeal the response received from the concerned authority.
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appellant must mention in its application or appeal the response received from the concerned authority.

- The NGT has observed that this procedure may provide quicker remedy to the aggrieved parties and would also provide the concerned authorities the opportunity to indicate their stand.
- The NGT has ordered that unless any exception is made, this process should be followed in all matters from 1 August 2018.

### Comment

Concerns have been raised by environmentalists and various activist groups on the NGT order as the new process may not help in seeking immediate relief in cases where instances of deforestation, illegal mining, air and water pollution etc. are involved and are of a continuing nature. Activists argue that providing the erring authorities 15 days' time before approaching the NGT may alert the violators and therefore may also aggravate the environmental damage or may be used to threaten or influence the applicant or appellant.

While the concerns raised by activists highlight the potential for misuse of the new procedure, if implemented properly and if the authorities use it to address environmental concerns and take appropriate steps to preserve and protect the environment, the new procedure may also help in reducing the number of frivolous litigation and would also discourage applicants and appellants who approach the NGT with vested interest. However, the impact of the NGT order remains to be seen and will be visible only after 1 August 2018 when parties begin to comply with the new procedure.

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