

## AN ANALYSIS ON INTER-STATE WATER TRIBUNALS

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### ABSTRACT:

The Constitution of India has given all the necessary powers to govern the water resources and to resolve disputes that arise in the use, control and distribution of inter-state rivers. Since the constitution talks only about the provisions relating to sharing and managing the resources between states and adjudication of disputes, the great deal since the independence of India is to flesh out the provisions of constitution and to implement its provision. However, these were not adequate giving rise to disputes at the central level as well as between two or more states and consequent politicisation of disputes. This article look beyond the proportional distribution of water among the stakeholders, including farmers, industries, local governments. This article deals with the national water tribunal with is essential in balancing developmental needs with ecological preservation. This tribunal adjudicates cases relating to agricultural, industrial, domestic and environmental matters. The purpose of water tribunal is generally to ensure that water resources are managed in a sustainable, fair and equitable way while taking into account the interests of all stakeholders involved. The national water tribunal is a quasi-judicial body which is specialised in resolving disputes arising related to water resources, allocation, and management. The major disputes on water resources is mainly due to population growth, industrialisation, and climate change and additionally due to conflicts over water rights, its usage and environmental impact which becomes more frequent and complex. This article discusses about the functions, significance, and challenges of the national water tribunal in maintaining water justice and promoting environmental sustainability.

### INTRODUCTION :

Water is an essential resource for sustaining life, economic development, and environmental balance. The resource have become increasingly scarce and contested due to growing population pressures, industrial expansion, and the effects of climate change. Disputes were arising over water rights, allocation, and environmental impact have escalated, necessitating a legal framework to resolve these conflicts equitably and efficiently. Several countries have established various national water tribunal which are designed to adjudicate water related disputes. The role of these tribunals is not to resolve disputes but also to contribute shaping water governance policies that promote sustainable water

management and environmental protection. The Constitution of India specifically provides a provision in Article 262 which empowers the Parliament in resolving disputes arising between the centre and federal states. As a result of this provision provided by the Constitution, the Parliament has enacted the – ‘Inter State River Water Dispute Tribunal Act’ which allows the central or federal government to adjudicate the disputes between the states. This was intended to resolve disputes using political, diplomatic or through the administrative means, without interfering the sovereign power of the state to govern the renewable water resource. There are two amendments that are governing the tribunals that are formed for resolving the disputes. The tribunal investigates the aspects that are

involved in the dispute such as quality of the water, flood control, and climate change effects. The data and information about each river basin is maintained by the Central Government. The verdict or the decision which is given by the tribunal is binding on both the Union and the State Government and it is more equivalent to the Supreme Court verdict. This article explains about the five important tribunals that were formed for resolving the major water disputes related to water. As per the Inter-state water disputes act, 1956 the State Governments approaches the centre for a tribunal for the resolution of a water dispute. The verdict that is given by the tribunal will be a precise one as they take a variety of steps to investigate the dispute. This article explains about the problem in each water dispute and the necessary steps that are taken by the tribunal for resolving the dispute. This article explains about the nature of the acts and how these acts are applicable for resolving a water dispute. The sharing of water resources between the states is a complex issue and it is still in practice in the state. This article says about how these disputes occur and whether the tribunals had resolved those disputes or not.

### I. CONSTITUTIONAL PROVISIONS

- Entry 56 in the Seventh Schedule of Indian Constitution gives power to the union government in regulating and developing inter-state rivers in public interest.<sup>652</sup>
- Entry 17 in the Seventh Schedule of Indian Constitution deals with the legislation with respect to rivers of the state regarding supply of water, irrigation, canals, drainage and water storage.
- Article 262 of the Indian Constitution states the use, distribution or control of any inter-state river water.

**River Board Act, 1956:** The River Board Act, 1956, is an act enacted by the Indian Parliament which allows the Central Government to form regulate and control inter-state rivers and

valleys. The main aim of this act is to bring cooperation among the federal states and integrated development of rivers. These board plan and carry out projects for the development of river valley and regulate inter-state rivers and resolve disputes arising over the use of river water between two or more states. The structure of this board is a body corporate with a common seal. Till now, no river board has been formed by the Indian Parliament.

**Inter-State Water Dispute Act, 1956:** This act allows the State government to request the central government to establish an Inter-State Water Dispute Tribunal to resolve the dispute. The central Government should try to settle the dispute before forming a tribunal in consultation with the state government. This act prohibits the state from imposing extra fees or charges for the use of water resources from an Inter-state river.

### II. RIVER WATER TRIBUNAL COMPOSITION

The composition of the River Water Tribunal in India includes: The Chairperson, Vice Chairperson, Three Judicial Persons, Three Experts members from Central Water Engineering Service. The appointment is made by the Central Government through recommendation by the Selection Committee. The Chief Justice of India appoints the Judges of the Tribunal from Supreme Court or High court. The Central government also appoints the two experts from the Central Water Engineering Service for advising in the disputes. But the experts should not be from the disputed states.

### III. INTER-STATE WATER DISPUTES TRIBUNALS

There are Five Inter-State Water Disputes Tribunal which are active before the Supreme Court of India. They are elaborated as below:

- **Krishna Water Disputes Tribunal II** – The Krishna Water Disputes Tribunal is formed for resolving disputes for the use of water from the Krishna River Basin between Maharashtra, Karnataka and Andhra Pradesh. This Tribunal was established in 1969 by the Inter-STATE River

<sup>652</sup> Inter – State Water Dispute by Geethanjali K.V., Legal Associate, CEERA-NLSIU

Water Disputes Act, 1956. The KWDT was once again established in the year 2004 and issued its report in 2010. This report had allocated water to the states as follows: Maharashtra 81 TMC, Karnataka 177 TMC, and Andhra Pradesh 190 TMC. This 2010 report was challenged by the state of Andhra Pradesh in Supreme Court in 2011. They also contested another report which was issued by KWDT IN 2014. The state of Andhra Pradesh asked that Telangana should be included as separate party in the KWDT. The matter of KWDT II is still exist as an unsolved one before the Supreme Court.

- **Mahanadi Water Disputes Tribunal** – Mahanadi Water Disputes Tribunal (MWDT) was established by the Central Government on March 12 2018. This Tribunal was formed to resolve the water disputes in the states of Odisha and Chhattishgarh. This dispute centres out the Mahanadi River and includes issues relating to the infrastructure and the Upstream of the Hirakud Dam. The Headquarters of the Tribunal are present in Delhi. This Tribunal is led by Justice Dr Ravi Ranjan and Justice Inderjeet Kaur Kochhar. Sanjiv Aggarwal and Dr Vijay Kumar Dwivedi were also the members of the tribunal.

- **Mahadayi Water Disputes Tribunal** – This Tribunal was established in 2002 by the Inter-State River Water Disputes Act, 1956 at the request of Goa. The Tribunal comprises of The Chairman and two other members who are nominated by the Chief Justice of India and must be the Judges of Supreme Court or High Court. This River dispute is a complex issue that involves development ecology and Inter-State relations. The Mahadayi Water disputes Tribunal is also known as the Mhadei Water Disputes Tribunal. This issue deals with the allocations of Water for consumption and power generation to Goa, Karnataka and Maharashtra. A project which is named as Kalasa-Banduri Nala by Karnataka to divert water from Mahadayi River to its tributaries. The State of Goa had made some objections as its concerns about environmental impact. Mahadayi Bachao

Andolan is an environmental group that seeks to protect the Mahadayi River.

- **Ravi & Beas Water Tribunal** – The Ravi & Beas Water Tribunal deals with the dispute over the Ravi & Beas rivers dates back to the partition of India and there were many protests and disputes in the 1950s and 1960s. the Punjab termination of- Agreements Act (PTAA) was enacted in 2004 terminated the Punjab's obligations under the 1981 agreement and all other agreements related to the Ravi-Beas Water. The RBWT was established to adjudicate and resolve water disputes in Punjab, Haryana and Rajasthan and also to adjudicate matters related to Punjab Memorandum of settlement. It was signed by the Prime Minister of India, Rajiv Gandhi in 1985.

- **Vansadhara Water Disputes Tribunal** – The Vansadhara Water Disputes Tribunal was formed under the Inter-State River Water Disputes Act of 1956 to resolve the water sharing dispute between the States of Andhra Pradesh and Orissa. This Tribunal was established by the Central Government on February 24, 2004. Justice Mukundakam Sharma was a Chairman of the Tribunal. No conclusive results were reached by the Tribunal. In 2019, Orissa filed a complaint in the Supreme Court and the verdict is still pending.<sup>653</sup>

#### IV. THE INTER-STATE RIVER WATER DISPUTE TRIBUNAL (AMENDMENT) BILL, 2017

The Inter-State River Water Disputes (Amendment) Bill, 2017 was introduced by Ms. Uma Bharti on March 14, 2017. The aim of the bill is to address the gaps in present system in resolving water disputes. There are three main features included in this Bill:

- **Disputes Resolution Committee** – This Committee is established by the Central Government to settle the disputes amicably through negotiations. This Committee is given one year time to submit its report to the Central government and this can also be extended by six months.

<sup>653</sup> Vansadhara River Water Dispute By Shruti Kakkar Live Law.in



• **Inter-State River Water Disputes Tribunal** – This Tribunal is established by the Central Government to resolve disputes relating to the Inter-State Rivers. This Tribunal consists of Chair person, Vice chair person and three judicial members.

• **Time Frames for Submission** – These Tribunals should submit its report within three years of time period, which can be further extended to two years.

#### CONCLUSION:

The tribunals are those bodies where it deals with resolving the disputes related to any agreements. The water dispute occurs in multiple states but some of the disputes are not yet resolved by the government. This does not mean that the water tribunal does not take any steps, they are taking the necessary and the sufficient steps but these steps are not sufficient and enough. The water tribunals taking a long time for resolving a particular dispute. There is a lack of transparency in the institutional framework and the guidelines for water tribunals. The tribunals are mostly made up of people from the judiciary which leads to a lack of multidisciplinary representation. The adjudication can not be made without establishing a base line for water data in which all parties can agree on. It also leads to political issues by using this as an identity and emotive associations. The tribunals should investigate the disputes between the centre and states and should provide a final and binding decision. The decision which is provided by the tribunal should be enforced in a timely manner. The tribunal can make recommendations on how to improve the efficiency of water and adopt water conservation technologies. The demand for river water can be reduced when the tribunal gives an advise to states regarding the harvest and recharge of water. The tribunal needs to make suggestions for the management of both the ground water and the surface water. Informed decision making needs to be made by the water tribunal by establishing a central repository of water data. These are the steps

and the preventive measures that can be taken by the tribunal for better working and adjudicating the disputes that occur in the state in relation to water agreements.

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