Climate Litigation

Why in news?

Recent Supreme Court's ruling on right against climate change could energise climate litigation in India.

Climate Litigation
• Climate litigation means legal action that aims to ***combat climate change*** and involves arguments which are related to climate change. • It is one tool communities and individuals are using to force governments and corporations to do more to prevent dangerous climate change. • **Categories-** - Cases relying on human rights enshrined in international law and national constitutions - Challenges to domestic non-enforcement of climate-related laws and policies - Litigants seeking to keep fossil fuels in the ground - Advocates for greater climate disclosures and an end to greenwashing - Claims addressing corporate liability and responsibility for climate harms; and - Claims addressing failures to adapt to the impacts of climate change.

What is the Supreme Court's recent ruling on right against climate change?

- The Supreme Court of India has made a significant ruling that acknowledges the fundamental right of people to be free from the adverse impacts of climate change, it is seen as an extension from the *right to life* (Article 21) and *equality* (Article 14) under Indian Constitution.
- The court has recognized that the *right to a clean environment* is well established in Indian jurisprudence, and given the increasing damage caused by climate change, it is essential to establish a distinct right to be protected against its negative effects.
- This landmark decision came about in a case concerning *the conservation of the Great Indian Bustard*, an endangered species.
- The central government sought to modify a 2021 order related to the bird's conservation, arguing that it was impractical and could hinder India's renewable energy development and its climate change commitments.
- The Supreme Court agreed to amend the order but also took the opportunity to address the broader issue of climate change risks.
- The ruling is expected to energize climate litigation in India, as it sets a precedent for the legal recognition of the right to be protected from climate change.
- It also reflects a global trend where courts are increasingly being approached to address climate-related issues.

Why there is global surge in climate litigation?

Global Climate Litigation Report 2023 by UNEP identified 2,180 climate-related cases being heard by courts, tribunals and other adjudicatory bodies in 65 countries.

- **Diverse actors**- Children and youth, women's groups, local communities, and Indigenous Peoples are taking prominent role in bringing climate litigation cases.
- **Awareness generation**- Due to involvement of diverse actors, it fosters climate change governance reforms in many countries around the world.
- **Environmental rule of law**-Access to justice enables the protection of environmental law and human rights, promoting accountability in public institutions.
- **Connection with human rights**- Many cases brought before the courts show concrete links between human rights and climate change.

UN General Assembly's recognises the human right to a clean, healthy and sustainable environment

- **Global impact-** While most cases have been brought in the United States, climate litigation is taking root worldwide. About 17% of cases are now reported in developing countries, including Small Island Developing States.
- **Vulnerable voices-** Vulnerable groups, including children and youth, are making their voices heard globally. For instance, cases have been brought by and on behalf of children as young as 7 and 9 years old in Pakistan and India.
- **Role of judiciary**- Sensitization of courts due to climate related issues due to increased litigation, it further enhances the accountability in government and corporate climate actions.

What is the status of climate litigation in India?

As per Global climate litigation report India ranks 14th globally with 11 cases

- **Role of judiciary-** National Green Tribunal deals exclusively with environmental matters, is the main forum for climate related cases but petitions routinely land in the High Court and Supreme Court.
- **Potential for new jurisprudence**- Supreme Court's ruling on right against climate change could lead to a new jurisprudence that balances human and socio-economic development with environmental and climate considerations.
- **Effectiveness of court rulings**- There is a question about the effectiveness of court rulings on climate change, particularly in enforcing rights related to climate change impacts.
- **Challenges-** The court may not be proactive in climate change cases as they are with other environmental issues due to complex nature of climate change and its socio economic implications.

What lies ahead?

- Climate change is a complex issue that may not be fully addressed through litigation alone, as it involves multi-dimensional problems that exceed the capabilities of local, regional, or national governments.
- Courts may encourage the government to develop mitigation and adaptation strategies but are less likely to enforce such measures strictly.

National Green Tribunal
• **Year**- 2010. • **Statutory body**- It is established under *National Green Tribunal Act, 2010.* • **Ministry**- Ministry of Law and Justice • **About**- It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues. • Its dedicated jurisdiction in environmental matters shall provide speedy environmental justice. • **Mandate**- To endeavour for disposal of applications or appeals finally *within 6 months* of filing of the same. • Governing principles- The Tribunal shall not be bound by the procedure laid down under the Code of Civil Procedure, 1908, but shall be guided by *principles of natural justice*. • NGT applies the principles of *sustainable development*, *precautionary principle*, and *polluter pays principle*. • **New Delhi**- It is the Principal Place of Sitting of the Tribunal. • Bhopal, Pune, Kolkata and Chennai are the other four place of sitting. • India is the *3rd country in the world*, after Australia and New Zealand, to set up a statutory body for environmental protection.

References

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