



## Supreme Court Judgements / Orders

Supreme Court rules that payment of penalty for compounding does not place any bar for initiating proceedings under other laws including for environmental damage against the violators

### **Jayant Etc. v. State of Madhya Pradesh; Judgement dated 3 December 2020<sup>1</sup>**

The Hon'ble Supreme Court of India ("Supreme Court") has held that the power to have a criminal case registered exists with the District Magistrate for offences under the Mines and Minerals (Development and Regulation) Act, 1957 ("MMDR Act"). The Supreme Court held that sand/ mines were property of the State and it is the duty of the State to protect the public property and the environment. It was noted that the State should be inclined towards taking strict action against environmental violators whose activities were leading to ecological imbalance. The Supreme Court also held that while the violator was permitted to compound the offences on payment of penalty, this does not bar the State from initiating proceedings for theft and concealment of property against such violators, apart from action for damage caused to the environment.

An appeal was filed in this case by the appellants for quashing the First Information Report ("FIR") that was initiated against them by the District Magistrate for illegal mining/sand transportation. The District Magistrate had initiated the FIR under section 23A of the MMDR Act which provides for compounding

of offences and just payment of penalty. The concerned police station was directed to register a criminal case for starting the investigation and registration of the FIR.

The declaration under section 3D of the National Highways Act, 1956 regarding acquisition of notified land can be made only after environmental / forest clearance is granted

### **The Project Director, Project Implementation Unit v. P.V. Krishnamoorthy & Ors.; Judgement dated 8 December 2020<sup>2</sup>**

A three judge bench of the Supreme Court comprising of Justice A.M. Khanwilkar, Justice B.R. Gavai and Justice Krishna Murari while hearing appeals emanating from the common judgment and order of the High Court of Madras has held that for the purpose of a national highway, prior Environmental Clearance ("EC") is not necessary at the stage of notification of land acquisition proceedings. However, the Court clarified that the declaration under section 3D of the National Highways Act, 1956 ("NH Act") regarding the acquisition of notified land has to be made only after environmental/forest clearance for the specific land has been granted.

Through the impugned judgment, the High Court of Madras had quashed the notifications issued for acquiring land for the Chennai-Salem eight lane national highway. While allowing the appeal against the impugned judgment, the Supreme Court observed that it is not necessary for the Central

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Government or for that matter, National Highways Authority of India (“NHAI”), to apply for prior environmental/forest clearances or permissions, as the case may be, at the stage of planning or taking an in principle decision to formalize the Project of constructing a new national highway before issuing notification under section 2(2) or section 3A of the NH Act.

While clarifying the scope of section 2(2) of the NH Act, the Supreme Court has observed that the power bestowed upon the Central Government under section 2(2) of the NH Act to declare a stretch / section to be a national highway is not constricted or circumscribed by any other inhibition, such as to declare only an existing road or highway within the State as a national highway.

The Court noticed that it is essential to issue a declaration under section 3D of the NH Act

within a period of one year from the date of publication of the notification under section 3A in respect of the notified land, failing which notification under Section 3A ceases to have any effect. There is no express provision in the NH Act which excludes the time spent by the Central Government or the executing agency in obtaining prior EC or permission under forest laws. To get over this predicament, the Supreme Court in this case by an interpretative process and also by invoking plenary powers of the Court under Article 142 of the Constitution, held that the dictum in its judgment in the case of *Karnataka Industrial Areas Development Board v. C. Kenchappa & Ors.* shall operate as a stay by an order of the Court for the purposes of section 3D(3) in respect of all projects under the NH Act, in particular for excluding the time spent after issue of section 3A notification, in obtaining the EC as well as for permissions under the forest laws.

## High Court Judgments / Orders

**Madras High Court suggests that the Central Government issues notifications in vernacular languages of the respective states**

**M. Satheesh v. The Secretary to Government of India & Ors.; Order dated 1 December 2020<sup>3</sup>**

The Madras High Court has observed that the Central Government cannot expect everyone to know Hindi and English languages and it is expected of the Central Government to respect the languages of all the states and comply with the procedures. This observation was made by the Court while adjudicating a writ petition challenging the gazette notification dated 22.09.2020 issued by the Ministry of Environment, Forest and Climate Change (“MoEF&CC”) reducing the size of the Kanyakumari Wild Life Sanctuary from 0-10 kms to 0-3 kms. The petitioner in this case had contended that even though the draft notification was issued as early as on 21.02.2020, no public hearing was ever conducted. It was further contended that the draft notification was not made available to the local people in the vernacular language.

The Court observed that as per Rule 3 of the MoEF&CC notification dated 19.01.2009 and

the Official Memorandum (OM) issued by MoEF&CC dated 19.04.2010, notice of public hearing as well as the draft Environmental Impact Assessment Report have to be advertised in one major national daily and in one regional vernacular daily in official state language, enabling the local people to understand the importance of the notification and to respond. The Court held that the impugned notification has not been made known to the local people, as required under the law and since the present pandemic has also made the issue very complex, the Court directed that there shall be an order of interim stay on the impugned gazette notification dated 22.09.2020, as issued by the MoEF&CC.

**Government of Karnataka directed to place on record measures it proposes to take for the protection and preservation of Great Indian Bustards**

**Mr. Edward Santosh Martin v. State of Karnataka; Order dated 4 December 2020<sup>4</sup>**

A two judge bench of the High Court of Karnataka while hearing a writ petition highlighting the issue of protection of Great Indian Bustards (“GIBs”) has directed the State Government of Karnataka to place on record

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the immediate measures which it proposes to take for the protection and preservation of GIBs. The Court gave this direction while hearing a petition where the issue raised is essentially of protecting the species of GIB. Through this petition, the Court's attention has been brought to the various reasons which are leading the species of GIB to extinction.

The Court in this present order has observed that under Article 48A of the Constitution of India, the State has constitutional mandate to protect and improve the environment and to safeguard the forests and wild life. It has been further observed by the Court that under Article 51A(g) of the Constitution of India, it is the duty of every citizen to protect and improve the wild life.

## Calcutta High Court takes suo motu cognizance of illegal smuggling of endangered birds

### In re: Smuggling and illegal trading of endangered species of birds; Order dated 4 December 2020<sup>5</sup>

A Division Bench of the Calcutta High Court comprising of Chief Justice Thottathil B. Radhakrishnan and Justice Arijit Banerjee has taken suo motu cognizance of the illegal smuggling and trading of endangered species of birds in West Bengal. The basis for this suo motu cognizance was a report in a Bengali daily newspaper which exposed the cruel intrusion into the life of flora and fauna, particularly the birds, in the wake of the winter season. According to the Court order, this suo motu Public Interest Litigation ("PIL") will aim to address various issues including smuggling and illegal trading of endangered species of birds, fixing responsibility for such smuggling and illegal trading of endangered species of birds and to pass necessary directions upon the appropriate authorities to ensure that no smuggling and illegal trading of endangered species of birds take place and the violators are taken to task on war footing.

## Gauhati High Court directs that the environmental clearance granted to OIL may not be given effect for not carrying out Biodiversity Impact Assessment

### Mrinmoy Khataniar and Anr. v. The Union of India & Ors. ; Order dated 7 December 2020<sup>6</sup>

A two judge bench of the Gauhati High Court comprising of Chief Justice (Acting) and Justice Manish Choudhury while hearing a PIL has directed that the EC issued on 11.05.2020 may not be given effect for extension drilling and testing of hydrocarbons at seven locations by Oil India Limited ("OIL") under Dibru Saikhowa National Park area, Tinsukia.

The aforementioned interim order has been passed by the Court in view of non-compliance with the Hon'ble Supreme Court's order dated 7.09.2017 passed in the case of *T.N. Godavarma Thirumulpad v. Union of India & Ors.*, by which the Supreme Court had made it specifically clear that OIL will be bound by the undertaking given on 25.07.2017 under which OIL will carry out Biodiversity Impact Assessment study through Assam State Biodiversity Board. With regards to this non-compliance, the Court in the present order observed that since OIL has not yet carried the Biodiversity Impact Assessment Study through Assam State Biodiversity Board and as such, since the said EC was given by the MoEF&CC contrary to direction of the Hon'ble Supreme Court it would create serious prejudice to the cause of environment.

## Orissa High Court directs authorities to consider concerns of local villagers before allotting forest land for waste management services

### New Light Yubak Sangha (Registered), Rengalipali, Jharsuguda v. State of Odisha & Ors.; Order dated 18 December 2020<sup>7</sup>

The Orissa High Court has observed that while industrialization is required for enhancement of revenue, it should not come at the cost of destruction of environment and natural ecosystem. While observing that equity has to be maintained between industrialization and ecosystem, the Court has further observed that unless there is equilibrium between these two systems, ultimate result will be devastating.

The Court in this petition was hearing a plea seeking direction to the respondents to cause

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an inquiry on the basis of the grievance made by the villagers of Sodamal and further sought cancellation of the notification dated 10.10.2019 and a letter dated 19.10.2020 for allotment of the land in question in favour of M/s Mahanadi Waste Management Services. Petitioner had contended that the establishment of industry will destroy the ecosystem and deprive the people from getting free air and water, thereby violating their right to live with dignity as enshrined under Article 21 of the Constitution of India.

The Court observed that the District Level Single Window Clearance Committee without giving

opportunity of hearing to the local villagers approved the application of M/s Mahanadi Waste Management Services for allotment of forest land in which newly planted valuable trees are growing. However, since the petitioner had already moved a representation to the Collector and District Magistrate, Jharsuguda and the same is still pending for consideration, the Court disposed of the present writ petition directing the Collector and District Magistrate, Jharsuguda to consider the representation and pass a reasoned and speaking order by affording opportunity of hearing to the petitioner and other affected persons, if any, as expeditiously as possible.

## National Green Tribunal Orders

**NGT directs MoEF&CC to devise effective monitoring mechanism for ensuring compliance**

**Society for Protection of Culture, Heritage, Environment, Traditions and Promotion of National Awareness v. National Highway Authority of India & Ors.; Order dated 3 December 2020<sup>8</sup>**

The NGT has directed that while granting EC, the MoEF&CC must ensure that an effective monitoring mechanism exists to ensure compliance of requisite safeguards including the plantations on the road sides and keeping such roadsides free from encroachments up to specified distance. The NGT observed that the green cover on both sides of highways is absolutely essential to mitigate adverse impact of vehicular pollution on the highways. The dust leads to increase of PM2.5 and PM10 and consequential health hazards.

The stand of the NHAI that the roads are constructed by concessioners and it is only their responsibility to comply with the mandate of law was held patently untenable by the NGT in this order. The NGT observed that if the NHAI in the course of its activities hires its agents, the liability of the principal does not end. The Tribunal further observed that the criminal and civil liabilities of NHAI and its highest officers continues under environmental law, even if they hire contractors and they can be prosecuted and also required to pay compensation under such laws.

**NGT directs Chairman, CPCB to ensure compliance with Tribunal's orders**

**Platinum AAC Blocks Pvt. Ltd. v. Pollution Control Committee, Daman Diu and Dadra Nagar Haveli & Ors.; Order dated 9 December 2020<sup>9</sup>**

While hearing execution applications against the conduct of the Pollution Control Committee ("PCC"), Daman Diu and Dadra Nagar Haveli in not complying with the orders of this Tribunal dated 17.01.2020 and 14.09.2020 respectively, the NGT has directed Chairman, Central Pollution Control Board ("CPCB") to look into the matter and take remedial action expeditiously. In this order, the NGT has observed that no one can be above law. The NGT further observed that it is a serious matter and needs remedial action including personally against the erring officer.

The background to these execution applications is that the NGT by an order dated 17.01.2020 had directed that any consideration about grant of the consent to the applicant unit may be viewed based on harmonization of industries by PCC. However, even after its aforementioned order when PCC failed to take remedial action, NGT in a subsequent appeal preferred by the applicant observed that the impugned action of PCC of not permitting an environmental friendly activity to start is against the mandate of environmental protection. The NGT through its order dated 14.09.2020 had also asked the

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Advisor to the Union Territory of Daman Diu and Dadra Nagar Haveli to consider remedial action against the erring officer of the PCC for passing such patently absurd order, overreaching the orders of this Tribunal and against the interest of the environment.

**NGT directs to show cause as to why the order of the Government of Haryana to allow manufacturers of formaldehyde to operate for six months without EC not be quashed**

**Dastak N.G.O. v. Synochem Organics Pvt. Ltd. & Ors.; Order dated 9 December 2020<sup>10</sup>**

An application has been preferred before the NGT seeking quashing of State of Haryana's order dated 10.11.2020 allowing manufacturers of formaldehyde, requiring prior EC to operate for six months without EC, subject to making application for EC within 60 days.

The NGT has directed the contesting respondents to show cause why the impugned order be not quashed by their response. While passing this order, NGT has observed that it *prima facie* finds the impugned order to be without jurisdiction. The NGT has further observed that the requirement of prior EC cannot be dispensed with and this legal position has been recently reiterated by the Supreme Court in the case of *Alembic Pharmaceuticals Ltd. v. Rohit Prajapati & Ors.*

**State of Punjab directed to limit the number of stone crushers as a remedial action for environment protection**

**Bachitter Singh v. State of Punjab & Ors.; Order dated 10 December 2020<sup>11</sup>**

The NGT has directed the State of Punjab to take remedial action of suitably limiting the number of stone crushers as per carrying capacity of legitimate source of raw material and taking stringent action against the stone crushers not having accountable sources of raw materials for stone crushing.

The NGT in its present order has observed that it appears that stand alone stone crushers have been allowed without permission for mining

possibly to avoid the requirement of EC, but, on the ground, mining is taking place to feed such stone crushers. Establishment of such stone crushers is thus against the spirit of requirement of EC and this is resulting in not only loss of revenue, but, also damage to the environment. In view of these circumstances, the Tribunal has opined that it is necessary that the State or the SPCB revisits its policy of the consents under the Water (Prevention and Control of Pollution) Act, 1974 ("Water Act") and Air (Prevention and Control of Pollution) Act, 1981 ("Air Act") to stand alone stone crushers without credible and effective data to ensure that raw material is not sourced by illegal mining.

**NGT disposes an application seeking stoppage of construction under RRTS**

**Ashwini Sharma & Ors. v. National Capital Region Transport Corporation & Ors.; Order dated 11 December 2020<sup>12</sup>**

The NGT in this case has disposed an application which sought stopping of construction under the Regional Rapid Transit System ("RRTS") by stating that the project is meant for facilitating public transport and in reply to notice of the applicants, the project proponent has clearly stated that the norms will be duly complied and all mitigation measures will be taken.

The NGT observed that beyond bald averments that the parks and green belts will be ruined, no tangible material has been presented. The Tribunal further observed that the applicants have not approached the concerned environmental regulators who are under obligation to take remedial action in case of violation of environmental norms. It was further observed by the Tribunal that it cannot proceed on a presumption that there will be violation of the environmental norms.

**NGT extends the time limit for the constitution of Biodiversity Management Committees and preparation of People's Biodiversity Registers**

**Chandra Bhal Singh v. Union of India & Ors.; Order dated 16 December 2020<sup>13</sup>**

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Taking a liberal view due to COVID-19 pandemic, the NGT has extended the time limit for the constitution of Biodiversity Management Committees (“BMC”) and preparation of People’s Biodiversity Registers (“PBR”) up to 30.06.2021 and has further directed that the compensation amounts will stand waived if compliances are ensured by that date.

The NGT in this case was dealing with the issue of remedial action for noncompliance of provisions of the Biological Diversity Act, 2002 and Biological Diversity Rules, 2004, including constitution of BMCs and maintaining PBRs. The NGT has been monitoring this matter for more than last four years and there is substantial progress in compliance with the requirements of setting up BMCs and maintaining PBRs.

Status of BMC formation and PBR preparation as on 8.12.2020 was filed before the Tribunal by the National Biodiversity Authority (“NBA”) showing that 2,69,433 BMCs have been constituted and 2,28,543 PBRs have been prepared in different Indian states and Union Territories (“UT”). The Member Secretary of the NBA has assured the Tribunal that further monitoring will be faithfully conducted by the NBA with all the concerned State Biodiversity Boards and necessary steps for compliance of law will be taken.

**NGT directs that safety audits be conducted for the pharma city in Vishakhapatnam along with other locations in the State**

**News item published in the local daily “Economic Times” dated 30.06.2020 titled “Another Gas Leakage at Vizag Factory kills two, critically injures four...”; Order dated 22 December 2020<sup>14</sup>**

The NGT in this case has directed the Director of Industries, Andhra Pradesh to conduct safety audit of entire pharma city in Vishakhapatnam where units such as Sainor Life Sciences factory are located and also at all other locations in the State at the earliest.

The issue in this case before the Tribunal was the remedial action on account of the incident

of Benzimidazole gas leakage at Sainor Life Sciences factory at Parawada in industrial area, on the outskirts of Visakhapatnam on 30.06.2020 which resulted in damage to the environment and human beings. These proceedings were initiated by the Tribunal in light of media reports about this incident. The Tribunal has observed that the report of Committee shows that the cause of incident is operational negligence of the management and its employees. As the accident occurred during manufacture of Benzimidazole (an intermediate of Omeprazole), it is worth mentioning that in this order, the Tribunal has held that a separate consent to operate is required for manufacturing Benzimidazole as it is an independent compound. The unit in question was having consent to operate from Andhra Pradesh Pollution Control Board under Air Act, Water Act and authorisation under the Hazardous & Other Wastes (Management and Transboundary, Movement) Rules, 2016 for manufacture of Omeprazole but was manufacturing Benzimidazole without such consent.

**Safety audit of thermal power stations to be undertaken throughout the country**

**News item published in the “Indian Express” dated 01.07.2020 titled “Tamil Nadu Neyveli boiler blast: 6 dead, 17 injured”; Order dated 22 December 2020<sup>15</sup>**

The NGT has directed the Secretaries of Ministries of Power and Coal, Government of India, to undertake safety audit of similarly placed thermal power stations throughout the country expeditiously and preferably within six months. This direction has been passed to avoid recurrence of incidents like the Tamil Nadu Neyveli boiler blast.

This direction was passed in a matter where proceedings were initiated on the basis of a news item in the ‘Indian Express’ dated 1.07.2020 titled as, “Tamil Nadu Neyveli boiler blast: 6 dead, 17 injured”. The question for consideration before the Tribunal in this matter was whether there is a violation of environmental safety norms and what would be the further course of action required.

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The Tribunal observed that as per the report of the Committee, the cause of the incident is failure of the staff handling the situation. As per NGT, since the staff was not given due training and requisite work permits, the Occupier, the Head of the Operation and Maintenance and the Safety Officer are mainly responsible for the accident. The Tribunal further observed that there is violation of the Factories Act, 1948 and the Manufacture, Storage, Import of Hazardous Chemicals Rules, 1989. The Tribunal in its present order has opined that it would have been desirable that the standard operating procedures were duly explained to the handling staff in vernacular language as a part of process of awareness.

**NGT directs transmission lines to be made underground for new wind / solar energy projects in order to protect GIBs**

**Centre for Wildlife and Environment Litigation v. Union of India & Ors.; Order dated 23 December 2020<sup>16</sup>**

The NGT has directed that undergrounding of transmission lines needs to be ensured for all new wind/solar energy projects in marked habitats of GIB by making it a mandatory condition for grant of consents under the Water Act or the Air Act by the concerned SPCBs which may be overseen by the CPCB and the MoEF&CC. The Tribunal has further directed bird diverters to be installed on existing power lines expeditiously, preferably within four months. The Tribunal through this present order has also directed that while granting consents under the Water Act and the Air Act, impact of such projects on biodiversity

## Regulatory and Policy Developments

**The validity of notification / rule / order for the purpose of Rule 5(3)(d) of the Environment (Protection) Rules, 1986 stands extended; 3 December 2020<sup>18</sup>**

Rule 5 of the Environment (Protection) Rules, 1986 (the "Rules") provides for prohibitions and restrictions on the location of industries and the carrying on processes and operations in different areas.

of the area, especially in the context of GIBs to be undertaken.

The bench was hearing an application where the issue for consideration was the mitigation measures for protection of GIB. According to the applicant, population of GIB has steadily declined by 75% in last thirty years and main reason for such decline is fatal accidents with the power lines.

**Action taken report sought from MoEF&CC for Funicular Ropeway Project in Maharashtra**

**Udayasankara Samudrala v. Union of India & Ors.; Order dated 24 December 2020<sup>17</sup>**

While hearing an application where grievance is that Funicular Ropeway Project is being undertaken at Jivdani Temple located at Palgar district of Maharashtra without the requisite EC, the NGT has sought an action taken report on this matter from MoEF&CC.

The Tribunal observed that in terms of the judgment of the Hon'ble Supreme Court in the case of *Alembic Pharmaceuticals v. Rohit Prajapati*, if requisite prior EC has not been taken and there is violation of environmental norms, the project proponent may be liable to pay compensation for restoration of the environment or to cancel the project.

According to the applicant, the project in question is on forest land and falls in item 7(g) of the Schedule to the EIA Notification, 2006. The EC was applied for on 30.09.2019 after substantial progress had been made, public hearing was scheduled on 30.12.2020 and the Forest Clearance has not yet been taken.

The MoEF&CC through a notification dated 3.12.2020 has notified the Environment (Protection) Third Amendment Rules, 2020 which substitutes the proviso in Rule 5(3)(d) of the Rules to provide that for the purpose of this clause, the validity of notification or rule or order expiring in the Financial Year 2020-2021 shall stand extended upto 30 June 2021 on account of COVID-19 pandemic.

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Government of Goa exempts registered commercial tree plantation area from the provision of the Goa, Daman and Diu (Preservation of Trees) Act, 1984; 24 December 2020

RFID compliance to be ensured to reduce vehicular pollution from vehicles entering Delhi; 29 December 2020

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## **SJVN Ltd. enters into MoU with IREDA for green energy projects; 7 December 2020<sup>19</sup>**

Indian Renewable Energy Development Agency Ltd. (“IREDA”) has entered a Memorandum of Understanding (“MoU”) with SJVN Ltd., a public sector undertaking under the Ministry of Power to provide its services to SJVN for green energy projects.

As per the MoU, IREDA will undertake techno-financial due diligence of renewable energy, energy efficiency & conservation projects for SJVN Ltd.. IREDA will also assist SJVN Ltd. in developing an action plan to create and acquire renewable energy projects for the next five years.

## **NTPC enters into MoU with IIFM, Bhopal for Narmada Landscape Restoration Project; 7 December 2020<sup>20</sup>**

National Thermal Power Corporation Ltd. (“NTPC”) has signed a MoU with the Indian Institute of Forest Management (IIFM), Bhopal to implement the Narmada Landscape Restoration Project. This program is in partnership with a grant in aid from NTPC and United States Agency for International Development (USAID) in equal proportions.

IIFM will be jointly implementing this project with the Global Green Growth Institute (GGGI). This four year project will be implemented in the catchments of selected tributaries of the river Narmada between Omkareshwar and Maheshwar dams in Madhya Pradesh. The project aims to establish an incentivisation mechanism that can continue to support the riparian forest and farm communities of the Narmada basin to maintain sustainable landscape practices.

## **The Haryana Water Resources (Conservation, Regulation and Management) Authority Act, 2020 notified; 7 December 2020<sup>21</sup>**

The Government of Haryana has published the Haryana Water Resources (Conservation, Regulation and Management) Authority Act, 2020 vide an Extraordinary Gazette dated 7.12.2020. The Preamble of this Act declares that this is an Act to establish the Haryana Water Resources (Conservation, Regulation and Management) Authority for conservation,

management and regulation of water resources i.e., ground water and surface water within the State of Haryana for ensuring the judicious, equitable and sustainable utilization, management, regulation thereof, fix the rates for use of water and for matters connected therewith or incidental thereto.

Section 3 of the Act provides for establishment of the Haryana Water Resources (Conservation, Regulation and Management) Authority. Under the Act, this Authority has been tasked to prepare an Integrated State Water Plan based on water plans prepared for every block. As per section 14 of the Act there shall be a District Water Resources Planning Committee at each district of the State which shall prepare District Water Resources Plan.

The Act has specific provision for punishment for offences and offences by companies respectively. According to section 24 of this Act, no Court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Authority or by any officer duly authorized by the Authority.

## **No offline applications for seeking tree removal or felling permission by Department of Forests & Wildlife, Government of NCT of Delhi; 8 December 2020<sup>22</sup>**

The Department of Forests & Wildlife, Government of NCT of Delhi through an order dated 8.12.2020 has communicated that subsequent to the e-forest portal becoming functional, competent authority has decided that no offline applications for seeking tree removal or felling permission will be accepted.

This order directs that all applicants or user agencies (Govt. departments / PSUs, Resident Welfare Associations, landowning agencies, individual & others) may send their application for tree removal or felling under the Delhi Preservation of Trees Act, 1994 through e-forest portal.

## **Gujarat Pollution Control Board (“GPCB”) to accept only online applications for registration / renewal under Plastic Waste Management Rules, 2016; 8 December 2020<sup>23</sup>**

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GPCB through a circular dated 8.12.2020 has informed that all the applications seeking registration or renewal under Plastic Waste Management Rules, 2016 shall be accepted only by online mode and no physical application shall be accepted from the date of issue of this circular.

The circular mentions that the online system on Xtended Green Node (“XGN”) is now integrated with Investor Facilitation Portal (“IFP”) from 7.12.2020 in such a manner that it allows online submission of application, document submission and payment. The appendix to this circular provides the details for obtaining User ID and password for IFP along with the checklist for applications seeking registration or renewal under Plastic Waste Management Rules, 2016.

### **CPCB issues directions to UKPCB regarding Maha Kumbh Mela 2021; 8 December 2020<sup>24</sup>**

Maha Kumbh Mela is an important Indian religious congregation. The forthcoming Maha Kumbh Mela is scheduled to be held at Haridwar from 14 January 2021 to 27 April 2021.

CPCB through a communication dated 8.12.2020 has issued directions to UKPCB under section 18 of the Water Act directing UKPCB to undertake certain specified measures and further direct concerned authorities/industries for ensuring pollution free condition in river Ganga at Haridwar during the Maha Kumbh Mela 2021.

The annexure to these direction specify the suggested monitoring plan according to which UKPCB shall monitor water quality of the river Ganga, tributaries, drains and Sewage Treatment Plants (“STP”).

### **UNEP Emissions Gap Report 2020 launched; 9 December 2020<sup>25</sup>**

United Nations Environment Programme (“UNEP”) Emissions Gap Report 2020 was launched on 9 December 2020. This report offers an update of global emissions pathways and progress towards accomplishing national mitigation pledges and the Paris Agreement goals as well as the resulting ‘emissions gap’. The difference between “where we are likely to be and where we need to be” is known as the ‘emissions gap’.

This report finds that a green pandemic recovery could reduce up to 25 per cent of predicted 2030 greenhouse gas emissions and bring the world closer to meeting the 2°C goal of the Paris Agreement. The report also includes preliminary assessments of the implications of the pandemic and associated rescue and recovery measures. The report has dedicated chapters which cover areas that have received limited attention in previous Emissions Gap Reports, but that get much international attention and have been mainly affected by COVID-19 pandemic.

### **2020 Human Development Report launched; 15 December 2020<sup>26</sup>**

The 2020 Human Development Report (“HDR”) was launched on the 15 December 2020. This 30<sup>th</sup> anniversary edition of the HDR, *The Next Frontier: Human Development and the Anthropocene* includes a new experimental index on human progress that takes into account countries carbon dioxide emissions and material footprint.

2020 HDR is divided into three parts. Part I of the report has three chapters sequentially exploring analytical, empirical and policy perspectives on how human development relates the Anthropocene. Part II considers the implications for action, discussing three key mechanisms for change: social norms and values, incentives and regulation, and nature-based human development. Part III proposes new metrics, including an adjustment to the Human Development Index to account for planetary pressures.

### **COVID-19 Emergency Program Loan of USD 1 billion to India for supporting India’s economic recovery; 16 December 2020<sup>27</sup>**

The Government of India and the New Development Bank (“NDB”) have signed a loan agreement for lending USD 1 billion for supporting India’s economic recovery from COVID-19. The loan program will enable economic recovery in the rural areas through Natural Resource Management (“NRM”) works and generation of rural employment opportunities under the Mahatma Gandhi National Rural Employment Guarantee Scheme (“MGNREGS”).

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The program intends to mitigate the adverse economic impact of COVID-19 pandemic and enable economic recovery in the rural areas through NRM works which will facilitate economic activity and employment generation to stimulate rural demand, to combat the decline in economic activity due to outbreak of COVID-19.

The program proposes to create durable rural infrastructure assets relating to NRM and generation of employment opportunities for rural poor, especially migrant workers who have returned from urban areas and have lost their livelihoods due to the COVID-19 pandemic.

### **ACC approves the appointment of candidates as Judicial Members in the NGT; 17 December 2020<sup>28</sup>**

The Appointments Committee of the Cabinet (“ACC”) has approved the proposal for appointment of four High Court judges (two sitting and two retired) to the post of Judicial Members in the NGT.

The four judges so appointed are retired Justice Brijesh Sethi of the High Court of Delhi, Justice B. Amit Sthalekar of the High Court of Allahabad, Justice M. Sathyanarayanan of the High Court of Madras and retired Justice Sudhir Agarwal of the High Court of Allahabad. They have been appointed for a period of 4 years with effect from the date of their assumption of charge of the post or till they attain the age of 65 years, whichever is earlier.

### **All industrial units in Delhi directed to switch to PNG; 22 December 2020<sup>29</sup>**

The Commission for Air Quality Management in National Capital Region and Adjoining Areas (“Commission”) has directed industrial units in Delhi to switch over to Piped Natural Gas (“PNG”) by 31 January 2021.

The Commission reviewed the progress of switching over of industries operating in Delhi to PNG with the representatives of Government of NCT of Delhi, Indraprastha Gas Limited and Gas Authority of India Limited. About 1644 industrial units spread across 50 industrial areas in Delhi has been identified

to switch over to PNG. Delhi Pollution Control Committee (“DPCC”) has been directed to inspect and identify the industries which are using unapproved fuels and to take stringent penal action in case of non-compliances.

### **Strict enforcement of dust control measures to curb air pollution; 23 December 2020<sup>30</sup>**

The Commission of Air Quality Management in National Capital Region and Adjoining Areas (“Commission”) has directed strict enforcement of dust control measures to curb air pollution in Delhi National Capital Region (NCR). Statutory directions have been issued to CPCB, SPCBs and DPCC to constitute teams for inspection and strict enforcement of dust control measures. Directions have been issued to levy environment compensation charge from violators and stoppage/prohibition of construction or demolition activities depending on the extent of violations.

The Commission has further directed CPCB, SPCBs of Haryana, Rajasthan, Uttar Pradesh and DPCC to constitute surprise inspection teams and to furnish inspection reports fortnightly to the Commission regarding compliance of Construction and Demolition Waste Management Rules with respect to construction and demolition activities in the NCR.

### **CPCB lays down steps to be taken by implementing agencies owing to deteriorating air quality in Delhi NCR; 23 December 2020<sup>31</sup>**

The CPCB has issued an order dated 23.12.2020 where owing to the deteriorating air quality in Delhi NCR, the CPCB has directed implementing agencies to ensure following actions with immediate effect:

1. Hot mix plants and stone crushers shall remain closed all the time till 2 January 2021.
2. Frequency of mechanised cleaning of roads and water sprinkling to be increased particularly on the road stretches with high dust generation potential.
3. It shall be ensured that guidelines/ standard operating procedures for dust mitigation at construction sites are

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strictly adhered to. In case of violations, strict action should be taken against the violators like imposition of penalty/temporary stoppage of construction activities.

- Agencies must ensure compliance of orders of Hon'ble courts and NGT regarding banning of sale and use of firecrackers.

#### **HDFC Ltd. signs MoU with IGBC to promote green building initiatives; 23 December 2020<sup>32</sup>**

HDFC Ltd. has signed a MoU with the Indian Green Building Council ("IGBC") to promote green buildings in India.

Under this MoU, HDFC Ltd. and IGBC will work towards promoting green housing by jointly organising training and awareness programmes. HDFC Ltd. also intends to work with IGBC in promoting financing of green buildings in the country.

#### **Government of Goa exempts registered commercial tree plantation area from the provision of the Goa, Daman and Diu (Preservation of Trees) Act, 1984; 24 December 2020<sup>33</sup>**

The Government of Goa through official gazette dated 24.12.2020 communicated the notification issued by the Department of Forest, Government of Goa through which the Government of Goa has exempted registered commercial tree plantation area from the provision of the Goa, Daman and Diu (Preservation of Trees) Act, 1984. This Act had been enacted to provide for the preservation of trees in the Union Territory of Goa, Daman and Diu.

Under the instant notification, the tree

plantation raised on private non forest land shall be registered as commercial plantation area and such area shall not come under the category of deemed forest/private forest. The tree grower shall be free to sell and transport the felled timber/wood to any place outside Goa, however, during the registration of commercial plantation an undertaking shall be given by the land owner that he will not cut the plantation before completion of five years. The intention behind this notification is to encourage tree plantation on private non forest land. This notification also specifies the terms and conditions for carrying out commercial tree plantation in private non forest land in the state of Goa.

#### **RFID compliance to be ensured to reduce vehicular pollution from vehicles entering Delhi; 29 December 2020<sup>34</sup>**

South Delhi Municipal Corporation ("SDMC") has been instructed to ensure Radio Frequency Identification ("RFID") compliance at all the 13 toll plazas in Delhi with effect from 01 January 2021 and to disallow entry of vehicles which are without RFID tags or have inadequate balance in the tags. The consideration behind this direction is the pollution scenario in Delhi and the fact that commercial vehicles are a significant contributor to the vehicular pollution.

This development has come after the issue of lack in implementation of RFID at 13 toll plazas in Delhi with effect from 14.08.2020 was brought to the notice of the Commission. The Commission was also informed that waiver is being given to commercial vehicles without such RFID tags or which have inadequate balance in the tags at these toll plazas.

## Practice Highlights

Mentioned below are some of the events and publications in which our Environmental Law Practice contributed in the last quarter for knowledge creation:

#### **Lecture to APPCB officials on "Environmental Fines and Corporate Compliance with PCBs"; 10 December 2020**

Mr. Nawneet Vibhaw, Partner, Environmental Law Practice delivered a lecture on the topic "Environmental Fines and Corporate Compliance with PCBs" to the officers of the Andhra Pradesh Pollution Control Board ("APPCB") on 10 December 2020. This lecture was organised by National Law School of India University, Bengaluru. [Read more](#)

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## Panel discussion organised by Asian Development Bank and others on the “Role of NGT in Addressing Environmental Harm in India”; 23 November 2020

Asian Development Bank, United Nations Environment Programme, Jawaharlal Nehru University and Gujarat National Law University organised a panel discussion on the “Role of NGT in Addressing Environmental Harm in India”. Our Environmental Practice Partner, Mr. Nawneet Vibhaw, participated as one of the panellists in the discussion. [Read more](#)

## Roundtable on “Navigating through Environmental Compliance Challenges in India”; 20 October 2020

Shardul Amarchand Mangaldas & Co hosted a roundtable on “Navigating through Environmental Compliance Challenges in India” on 20 October, 2020. The roundtable was moderated by Mr. Nawneet Vibhaw, Partner, Environmental Law Practice. The speakers in the roundtable included Mr. Surojit Bose, AVP Sustainability and Climate Change ICP, Coca Cola India; Mr. Shujath Bin Ali, General Counsel and Chief Ethics and Compliance Officer, Ramky Enviro Engineers Ltd.; and Dr. Sanjeev Gemawat, Executive Director and Group Company Secretary, Dalmia Bharat Group.

## 70<sup>th</sup> Constitution Day Moot Court Competition on Environmental Law organised by Ministry of Education, UGC and NLU Delhi; 18 October 2020

Our Environmental Law Practice Partner, Mr. Nawneet Vibhaw was invited to judge the finals of the competition along with Hon’ble Mr. Justice Swatanter Kumar, Former Chairperson, National Green Tribunal and Former Judge, Supreme Court of India and Mr. Shyam Divan, Senior Advocate. The 70th Constitution Day Moot Court Competition was organized as a part of the celebration of the 70th Anniversary of the Constitution Day by the Ministry of Education, Government of India, University Grants Commission and hosted by National Law University Delhi. [Read More](#)

## Articles and Publications

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2. How India plans to streamline environmental clearances, Shardul Amarchand Mangaldas & Co, 22 December, 2020. [Read more](#)
3. Centre Issues Motor Vehicle Aggregator Guidelines To Regulate Shared Mobility And Reduce Traffic Congestion And Pollution, Mondaq, 8 December, 2020. [Read more](#)
4. Government permits thermal power plants to change the coal source without seeking amendment in Environmental Clearance, Mondaq, 8 December, 2020. [Read more](#)
5. The ESG-audit edge: They boost firms’ competitive advantage, Financial Express, 5 December, 2020. [Read more](#)
6. National Authority For Recycling Of Ships Notified In India, Mondaq, 25 November, 2020. [Read more](#)
7. Note To Companies: Get Eco-Friendly, Or Prepare To Fold, Outlook, 16 November, 2020. [Read more](#)
8. Ordinance Passed To Constitute A Commission To Control Air Pollution In The National Capital Region (NCR) And Adjoining States, Mondaq, 9 November, 2020. [Read more](#)
9. India Bans Seven Persistent Organic Pollutants Listed Under Stockholm Convention, Mondaq, 19 October, 2020. [Read more](#)
10. Lessees Required To Obtain Timely Prior Approval Under The Forest (Conservation) Act, 1980 To Continue Mining Beyond The Two Years Period, Mondaq, 19 October, 2020. [Read more](#)
11. The Need To Walk The Green Path In A Post-Covid World, BW Businessworld, 15 October, 2020. [Read more](#)
12. Public Hearing Amidst The COVID-19 Pandemic, Mondaq, 1 October, 2020. [Read more](#)

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- 1 Criminal Appeal No. 824-825 of 2020 with Criminal Appeal No. 826 of 2020.
- 2 Civil Appeal Nos. 3976-3977 of 2020
- 3 WP(MD) No. 17277 of 2020 and W.M.P(MD) No. 14467 of 2020
- 4 W.P. (C) 13961/2020
- 5 WPA 10138 of 2020
- 6 PIL/35/2020
- 7 W.P.(C) No. 34688 of 2020
- 8 Execution Application No. 29/2018 in O. A. No. 386/2016
- 9 Execution Application No. 28/2020 in Appeal No. 8/2019 with Execution Application No. 29/2020 in Appeal No. 77/2019
- 10 Original Application No. 287/2020
- 11 Original Application No. 57/2020
- 12 Original Application No. 288/2020
- 13 Original Application No. 347/2016
- 14 Original Application No. 106/2020
- 15 Original Application No. 108/2020 with Original Application No. 130/2020
- 16 Original Application No. 385/2019
- 17 Original Application No. 100/2020(WZ)
- 18 <http://egazette.nic.in/WriteReadData/2020/223458.pdf>
- 19 <https://pib.gov.in/PressReleasePage.aspx?PRID=1678841>
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- 33 <https://goaprintingpress.gov.in/downloads/2021/2021-39-SI-QG-0.pdf>
- 34 <https://www.pib.gov.in/PressReleaseDetail.aspx?PMO=3&PRID=1684402>

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