



Supreme Court Judgements / Orders

Supreme Court directs removal of all encroachments on forest land in Faridabad within 6 weeks

Sarina Sarkar & Ors. v. The State Of Haryana & Ors.; Order dated 7 June, 2021¹

A two judge bench of the Supreme Court of India ("Supreme Court") comprising of Justice A.M. Khanwilkar and Justice Dinesh Maheshwari has directed the Municipal Corporation of Faridabad to ensure removal of encroachments on the subject forest land within six weeks and submit a compliance report under the signature of the Chief Executive Officer of the corporation. The Secretary of the Forest Department of the State of Haryana has been directed to verify the factual situation regarding encroachments on the subject forest land and submit an independent compliance report under his signature. The Court has also held that the Superintendent of Police, District Faridabad shall be personally responsible for ensuring adequate logistical support and police protection to the officials of the corporation to ensure implementation of the Supreme Court's directions to evict the occupants/encroachers including by forceful eviction from the subject forest land and to clear all the encroachments therefrom.

These directions have been passed by the Court while adjudicating the case wherein the residents of Khorī Gaon Basti in Faridabad, Haryana have sought a stay on the proposed demolition of about 10,000 houses in the area. The petitioners have challenged the validity of the Haryana Shehri Vikas Pradhikaran Rehabilitation Policy to the extent that it limited the cut-off for rehabilitation to 2003.

Supreme Court upholds the Delhi High Court's order denying to stop the work of Central Vista project amidst the pandemic

Anya Malhotra and Anr. v. Union Of India and Ors.; Order dated 29 June, 2021²

A three judge bench of the Supreme Court comprising of Justice A.M. Khanwilkar, Justice Dinesh Maheshwari and Justice Aniruddha Bose has dismissed the petition challenging the judgement of the High Court of Delhi wherein the High Court had dismissed a plea to halt the work on Central Vista project amidst the pandemic.

The Supreme Court in its present order has observed that the petitioners are not in a position to point out that, as public-spirited persons, they had made proper enquiries about the other public projects in the city and that only the subject project was non-compliant. The Court further observed that an affidavit was filed on record during the pendency of the case before the High Court that the project was fully compliant. However, the correctness of that affidavit has not been challenged by the petitioners.

The Court in its present order has also observed that the High Court had been conservative in imposing cost of INR 0.1 million despite recording the finding that the petition was motivated as the petitioners selectively questioned only one project.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



High Court Judgements / Orders

Karnataka High Court directs constitution of District Level Committee for maintenance and developments of lakes

Environment Support Group and Anr. v. State of Karnataka & Ors.; Order dated 15 June, 2021³

The High Court of Karnataka through its present order dated 15 June, 2021 has modified its earlier judgment dated 11 April, 2012, to direct the State government to constitute District Level Committee for maintenance and development of lakes or tanks situated in respective districts. The District Level Committee shall ensure the implementation of directions issued by the High Court in its judgment dated 11 April, 2012 except for Municipal Corporation and Municipal areas within the district for which Committees have already been constituted.

As per the Court order, members of this Committee shall include Deputy Commissioner of the respective districts, Chief Executive Officer of respective zilla panchayats and one higher officer each from Forest Department, Minor Irrigation Department, Environment Department or Karnataka State Pollution Control Board ("KSPCB") and the Member Secretary of the respective District Legal Services Authority.

Through this present order, the Court has further directed that in the Committees established in Municipal Corporations and Town Municipal Council areas, the jurisdictional Assistant Commissioner shall be the member of the Committees instead of Deputy Commissioner of the district.

These directions have been passed by the Principal Bench of the High Court of Karnataka headed by Chief Justice Abhay Oka while adjudicating an application under Section 151 of the Code of Civil Procedure, 1908 which prayed for modifying the final

judgement dated 11 April, 2012. In its judgment dated 11 April, 2012, Court had issued various directions dealing with preservation and maintenance of the lakes in the State through formation of different Committees. The High Court agreed to modify its earlier judgment due to the absence of the Committee at the district level to oversee the implementation of its directions regarding preservation and maintenance of lakes.

Karnataka High Court directs State Government to initiate action against the Municipal Corporation for its failure to manage waste

Karnataka State Legal Services Authority v. The State of Karnataka & Ors.; Order dated 21 June, 2021⁴

After going through the reports of the Central Pollution Control Board ("CPCB"), KSPCB and National Institute of Technology Karnataka Surathkal, the High Court of Karnataka held that the said three reports *prima facie* indicate complete failure of the Municipal Corporation to comply with the rules regarding solid waste management and various other rules under the Environment (Protection) Act, 1986.

The Court directed State Government to take an appropriate decision on the aspect of initiating action against the Municipal Corporation before the next date. While directing as aforesaid, the Court observed that the Deputy Commissioner undertook the exercise of holding a meeting on 16 June, 2021 on the subject of solid waste management disaster without inviting the higher officers of both the CPCB and KSPCB.

In this case, the High Court is adjudicating a public interest litigation filed by the Karnataka State Legal Services Authority pertaining to the Pachhanadi landfill slip incident of August 2019 and non-implementation of the Solid Waste Management Rules, 2016 in Karnataka.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



National Green Tribunal Judgements / Orders

NGT holds that industrial units cannot be allowed to operate without prior EC

Dastak N.G.O. v. Synochem Organics Pvt. Ltd. & Ors.; Order dated 3 June, 2021⁵

The National Green Tribunal ("NGT") has held that industrial units cannot be allowed to operate without prior environmental clearance ("EC"). NGT has further held that the State has no power to exempt the requirement of prior EC or to allow the units to function without EC on payment of compensation. It also observed that it has neither been shown by Respondents nor claimed by the State Government that State has exercised its delegated powers under Section 3(3) of the Environment (Protection) Act, 1986 to exempt the EC requirement for industries.

In this case, the NGT was adjudicating an application which sought quashing of an order of the State of Haryana dated 10 November, 2020 which allowed manufacturers of formaldehyde to operate for six months without EC subject to making application for EC within 60 days.

In its present order, the NGT has referred to the case of *Alembic Pharmaceuticals v. Rohit Prajapati & Ors.* [2020 SCC Online 347] wherein the Supreme Court has made it clear that prior EC requirement cannot be dispensed with and even if prior EC is not taken, the principle of proportionalities applies. After observing that prior EC is required under EIA Notification dated 14 September, 2006, the NGT held that these units cannot be allowed to function till compliance of statutory mandate is ensured. However, authorities can take actions against them for operation during the period of non-compliance.

In a connected matter, *Ayush Garg v. Union of India & Ors.*⁶, a similar order was passed on 3 June, 2021 whereby NGT restrained industries from operating without obtaining requisite EC and ensuring other statutory compliances. It also noted that operation of these industries

might be bona fide which can be considered by authorities while granting them permission.

NGT directs the project proponent operating stone crushers to prepare an action plan for mitigating the impact of damage

Ashish Shaunik v. State of Himachal Pradesh & Ors.; Order dated 4 June, 2021⁷

The NGT has directed that the project proponent (Afcons Infrastructure Ltd.) to prepare an action plan within one month from this order, with the approval of the State Pollution Control Board ("SPCB"), to provide for suitable measures to mitigate the impact of damage done by its operations.

This direction was passed by the NGT while adjudicating an application where the grievance was against the violation of environmental norms in the operation of stone crushers by Afcons Infrastructure Ltd. in a village in Himachal Pradesh. It was alleged that the stone crushers are within the prohibited distance of Tirthan River, national highway, government school, reservoir of Larji dam (126 MW Larji Hydropower project), Great Himalayan National Park and Tirthan Wildlife Sanctuary.

Through an earlier order, the NGT had directed the SPCB; Principal Chief Conservator of Forests (Chief Wildlife Warden) Himachal Pradesh; Director, Department of Environment; and District Magistrate Mandi to look into this matter and furnish a report to the NGT. Thereafter, after a joint inspection, the SPCB had filed a report wherein, in addition to other things, it provided the status of the prescribed distance and the distance in the present case. After considering the submissions and the aforementioned report, the NGT has held that the stone crusher in question is not maintaining the required distance from the village habitation and also from hospital and educational institutions. The NGT has further held that no exemption can be granted to environmental norms in light of the

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



'precautionary principle' of environmental law as held by the Supreme Court in the case of *A.P. Pollution Control Board II v. Prof. M.V. Nayudu (Retd.) & Ors.* [(2001) 2 SCC 62].

NGT directs industrial unit to deposit environmental compensation of INR 63.7 million in an escrow account

In re: News item published in Navbharat Times dated 24.12.2020 titled "Gas leaks in IFFCO Plant, 2 Officers dead"; Order dated 4 June, 2021⁸

In the case pertaining to the incident of ammonia gas leakage in the IFFCO plant located at Phulpur, Prayagraj, Uttar Pradesh on 22 December, 2020, the NGT has accepted the recommendations of the five-member Expert Committee constituted by it. This Committee was tasked with, among other things, to ascertain the causes of failure of the authorities, extent of damage caused and remedial measures required.

The Committee in its report found several failures on the part of the plant including operational negligence, inadequate manpower, lack of standard operating procedures ("SOPs") and absence of auto cut-off valve. The Committee has assessed the valuation of environmental damage due to ammonia gas leakage at INR 63.7 million.

Through this order, the NGT has accepted the report of the Committee and directed that the compliance of the recommendations of the Committee be overseen by the statutory regulators as per law, in particular, the implementation of restoration plan and recovery of compensation for damage to the environment apart from other steps which still remained to be taken. The NGT has further directed that the amount of compensation for environment damage may be kept in an escrow account by the industrial unit which is to be spent for restoration of environment after preparing an action plan which is to be approved by the Joint Committee of CPCB, SPCB and the concerned District Magistrate.

NGT observes that if the State itself fails in implementing the law and controlling pollution, it is nothing but a breakdown of the system

Sunaina v. State of Punjab & Ors.; Order dated 4 June, 2021⁹

The NGT has observed that States of Himachal Pradesh, Haryana, Punjab and Union Territory of Chandigarh continue to cause water pollution. This is a criminal offence and also amounts to the breach of public trust under public trust doctrine. NGT further remarked that if the State itself fails in implementing the law, it is nothing but a breakdown of the system itself.

The aforementioned observations were made by the NGT while adjudicating an application wherein the grievance was pertaining to the failure of statutory authorities in Punjab and Chandigarh to install necessary sewage treatment plant ("STP") which is resulting in discharge of pollution in the drain originating from Chandigarh and passing through various sectors and villages of Mohali, before merging into Ghaggar River.

Through this order, the NGT has directed Chief Secretary, Punjab and the Advisor to the Administrator, Union Territory of Chandigarh in coordination with other concerned officers to take further appropriate remedial measures to comply with the mandate of law, including the binding directions of the Hon'ble Supreme Court and this Tribunal. The NGT has further directed a joint Committee of CPCB, SPCB and Chandigarh Pollution Control Committee to inspect the drain and furnish a status report within two months.

In this order, the NGT has also observed that in spite of enactment of Water (Prevention and Control of Pollution) Act, 1974 which makes discharge of untreated effluents into a water body a criminal offence, the States are still struggling to prevent discharge of untreated sewage into the water body which comes at a huge cost to the environment and health

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



and lives of citizens who have fundamental right to clean environment under the Constitution of India. Besides, NGT also made serious observations regarding the lack of commitment of the State authorities in taking actions for upholding environmental rule of law, and it also observed that holding erring officials accountable for being party to these non-compliances may be considered to ensure future compliance.

NGT constitutes a three-member Committee to evaluate the risks associated with expansion of refinery capacity of Nayara Energy Limited in Gujarat

Sanghar Zuber Ismail v. Ministry of Environment, Forest & Climate Change & Ors.; Order dated 8 June, 2021¹⁰

In this case, NGT has upheld the EC granted in favour of M/s Nayara Energy Limited for expansion of refinery capacity from 20 MMTPA to 46 MMTPA with petro-chemical complex of the plant located at Vadinar, Devbhumi Dwarka district, Gujarat. However, invoking the precautionary principle, NGT constituted a three-member Committee of Chief Wildlife Warden, Gujarat; Director, Marine National Park and the SPCB to evaluate the risks associated with the expansion activities of the project, suggest remedial measures which should be taken and to undertake certain studies with respect to the project. The report of this Committee will be submitted to the Chairman of the SPCB and the recommendations contained in this report are to be treated as additional conditions for the EC.

In the present order, after giving due consideration to the grievance of the appellant against the grant of EC to the project, the NGT noted that the project is already in existence and there is no continuing grievance against its functioning as far as environmental norms are concerned. In this case the Appellant raised grievances related to the possible impact on marine environment or on mangrove forest by this project, and for identification of remedial measures that need to be taken.

NGT directs Chief Secretary, Haryana to take suitable measures against erring restaurants in Haryana

Abhay Dahiya & Ors. v. State of Haryana; Order dated 8 June, 2021¹¹

While observing that the authorities have taken the matter of filing compliance status report with respect to compliance of environmental norms by restaurants in the State of Haryana lightly, the NGT through its present order has directed the Chief Secretary, Haryana to take suitable remedial measures including action against the erring officers for such negligent behaviour and ensure filing of a meaningful compliance report before the next date.

The issue for consideration in this case was remedial action against illegal dumping and burning of garbage and discharge of untreated waste water by various establishments, including restaurants on G.T. Road, Murthal in Sonapat district. However, during the course of the proceedings, the NGT has considered compliance of environmental norms by all such establishments throughout the State of Haryana.

Through an earlier order, the NGT had directed CPCB to finalize an appropriate SOP based on which the State of Haryana was directed to finalize its respective action plan. The subsequent status report filed by the State of Haryana communicated that the SOP prepared by the CPCB has been adopted and its enforcement will be ensured. However, NGT observed that beyond saying that action will be taken by the State of Haryana in terms of the SOP issued by the CPCB, there is no mention of compliance status by authorities.

NGT seeks response from government authorities over the issue of resettlement of Bru community in a forest

Dhanishwar Debnath v. Union of India & Ors.; Order dated 9 June, 2021¹²

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



The NGT has sought response from government authorities on an application pertaining to the issue of resettlement of Bru community in a forest.

Bru community originally belongs to Mizoram and have been displaced due to internecine troubles with the local Mizos. The present NGT order has been issued on the basis of the contention of the applicant that for resettlement of about 40,000 Bru community members who have fled into Tripura, the Government has invited e-tenders dated 04 November, 2020 for making certain constructions within a forested area. The further grievance of the applicant is that the construction over this forest area, to resettle the Bru community is in violation of section 2 of the Forest Conservation Act, 1980.

NGT directs Punjab Chief Secretary to issue appropriate directions for ensuring Municipal Corporations regularly pay operation & maintenance charges to the contractor so that STPs may be operated effectively and efficiently

Vikram Ahuja v. State of Punjab & Ors.; Order dated 9 June, 2021¹³

The NGT has directed the Chief Secretary, Punjab to issue appropriate directions to the concerned officers in terms of the recommendations made by the Monitoring Committee. One of the aforesaid recommendations which needs a special mention pertains to regular payment of operation & maintenance charges of STPs. The Monitoring Committee has observed that normally the operation & maintenance charges of STPs are not paid regularly by the Municipal Councils / Corporations and this results in poor performance of STPs because of their irregular operation. The Monitoring Committee has recommended that concerned Municipal Corporations are to ensure that operation & maintenance charges are paid regularly to the contractor so that STPs may be operated effectively and efficiently by the contractor for all the times.

In addition to the abovementioned recommendation, the Monitoring Committee also recommended quantification of the sludge generated during operation of STPs, treatment and utilisation of the treated sewage for irrigation purposes and utilisation of the bio-sludge from STPs as manure in the agriculture fields.

This direction has been given by the NGT while adjudicating an application wherein the issue for consideration is the remedial action for violation of environmental norms by discharge of untreated sewage and effluents into the drains and other water bodies in Fazillka district in Punjab. In this order, the NGT has also directed the State of Punjab to take further remedial action in terms of the abovementioned recommendations made by the Monitoring Committee. The Monitoring Committee has been requested to continue monitoring compliance and furnish a further status report as on 30 September, 2021 before the next date.

NGT observed that non-availability of funds from NMCG cannot be a justification for not stopping pollution in River Sai

T. S. Singh v. State of Uttar Pradesh; Order dated 9 June, 2021¹⁴

The NGT observed that non-availability of funds from the National Mission for Clean Ganga ("NMCG") cannot be a justification for not preventing pollution in the River Sai. After observing the non-willingness of officers in taking even small step to prevent discharge of pollution in the river, the NGT in its present order has imposed a deduction of INR 1,000 per month from the salary of the concerned officer till compliance of pollution check in River Sai which later meets River Ganga.

The issue before the NGT in this application is prevention of discharge of untreated sewage into Sai River at Pratapgarh in Uttar Pradesh. Based on the report of Oversight Committee, NGT observed that no meaningful actions have been taken and funds have been misappropriated from projects which were meant to prevent pollution in the river.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



While observing that the concerned authorities cannot avoid their responsibility under the public trust doctrine, the NGT stated that if funds are available from any other source, the Tribunal has no objection to the same. The NGT further stated that if compliance is ensured and affidavit is filed to its satisfaction before the next date, it may consider restoring the deduction imposed on the salary of the concerned officer and refunding the said deducted amount. However, it further warned about more stringent action under Section 26 of the NGT Act, 2010 in case there is no compliance and change in attitude towards compliance of law.

NGT directs to specify Hastinapur Wildlife Sanctuary boundary within six months

Gaurav Kumar Bansal v. Union of India & Ors.; Order dated 10 June, 2021¹⁵

In this case, NGT was considering the execution application for non-compliance with its previous orders with respect to specifying the boundary of Hastinapur Wildlife Sanctuary. NGT through its present order has directed the Commissioner, Meerut to ensure that the rationalization process is completed within three months and the report be submitted to the State Government and thereafter, the Additional Chief Secretary, Forest and Environment, Uttar Pradesh to ensure that the issue of final notification is completed within next three months.

The NGT gave this direction while adjudicating the execution application filed for seeking compliance of the NGT order dated 31 May, 2019 through which it had directed issuance of requisite notification under section 26A of the Wildlife (Protection) Act, 1972 for protection of the Hastinapur Wildlife Sanctuary.

While passing the direction in its present order, the NGT observed that the delay has taken place due to pandemic and the Rationalization Committee is now likely to complete its work within three months and thereafter the State Government will issue final notification within three months. The NGT further noted that in case of failure it will

be open to either party to move the NGT after six months for seeking coercive measures against the erring officers.

NGT directs Indian Rayon, a unit of Aditya Birla Nuvo Ltd. to act upon recommendations made by the fact-finding committee

Protection of Environment and Public Service Committee v. Indian Rayon & Ors.; Order dated 10 June, 2021¹⁶

The NGT has directed Indian Rayon, a unit of Aditya Birla Nuvo Ltd. to act upon the recommendations of the NGT appointed fact-finding Committee. Among other things, some of such recommendations which the Indian Rayon has been directed to act upon are: to expedite the work related to recycling of wastewater to the maximum extent; industry should improve its STP operation to meet the prescribed norms; the industry should improve or beautify surrounding area of natural drain; and that the municipality should restrict throwing or dumping of solid waste into the Devka River and periodically clean the River while generating awareness among the citizens.

This direction has been passed by the NGT while adjudicating an application where the grievance was of violation of environmental norms by Indian Rayon at Junagadh-Veravel, District Gir Somnath, Gujarat. According to the applicant, the company was discharging hazardous chemicals into the sea as well as the river, dumping fly ash at public places and causing air pollution.

NGT constitutes a three-member Joint Committee to probe the issue of encroachment on the Bhoj wetland upper lake in Bhopal

Aarya Shrivastava v. Union of India & Ors.; Order dated 10 June, 2021¹⁷

Bhoj wetland upper lake located in Bhopal is an internationally acclaimed wetland site and has been designated as a Ramsar site. The issue in this case pertains to the illegal

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



encroachment on the Bhoj wetland due to construction of concrete structures of permanent nature.

Through this present order, the NGT has constituted a Joint Committee consisting of the Collector, Bhopal; Municipal Commissioner, Bhopal; and Madhya Pradesh Pollution Control Board, Bhopal. This Joint Committee is expected to visit the place and submit an action taken report on the issue of the encroachment on the Bhoj wetland upper lake in Bhopal.

In its present order, the NGT has observed that Article 39E, Article 47 and Article 48A of the Constitution of India casts a duty on the State to secure the health of the people, improve public health and protect and improve the environment. The NGT has further observed that continuous encroachment over wetland and lake is a substantial question relating to environment and falls well within the four corners and purview of the NGT's jurisdiction.

NGT directs the Chief Secretary, Tamil Nadu to identify appropriate remedial measures for avoiding recurrence of incidents such as firecracker factory blast

In re: News item published in The News Indian Express dated 12.02.2021 titled "At least 19 dead in Virudhunagar firecracker factory blast, more than 30 injured"; Order dated 11 June, 2021¹⁸

The NGT has directed the Director of Industrial Safety to conduct in coordination with the CPCB and SPCB a study of the carrying capacity of the area to sustain the extent of firecracker factories in the region having regard to the potential for accidental, occupational and environmental hazards. The study may include number of units to be allowed, size of operation of such units, quantity of material to be used, siting criteria for location of the units, arrangement for fire management and health services.

Proceedings in this matter pertains to the blast in a firecracker factory located in Virudhunagar on 12 February, 2021. The

NGT passed this order after considering the report filed by the eight-member Committee headed by Justice K. Kannan, former Judge of Punjab & Haryana and Madras High Courts which was constituted by the NGT through an earlier order to ascertain the cause of this incident, extent of damage and remedial measures required. The NGT has accepted the observations on factual aspects made by this Committee. The Committee in its report has also suggested remedial measures to prevent such accidents.

On the aspect of absolute liability, the NGT in this order has observed that the liability of the person undertaking hazardous activities for commercial gains on account of any accident and loss is absolute. NGT also observed that compensation assessed has to be paid by the State of Tamil Nadu through the District Magistrate, Virudhunagar. The State can recover such costs from the persons directly responsible for the incident.

Further, with regard to the need for review at highest level in the State, the NGT has directed the Chief Secretary, Tamil Nadu to identify appropriate remedial measures for avoiding recurrence of such incidents in future. NGT also noted that SPCB may incorporate appropriate conditions in consents including prohibiting use of banned chemicals, compliance of 1989 and 1996 Rules. Besides, insurance policies covering risk to life and health of all workers and others likely to be affected by fire or other accidents may also be taken by such industries.

NGT directs the Committee constituted by it to assess the environmental compensation based on best judgement assessment method as the project proponent failed to provide data

Mahakar Singh v. State of Uttar Pradesh; Order dated 14 June, 2021¹⁹

The issue in this case pertains to illegal cutting of trees, extraction of groundwater and construction without EC for the project of Wave City at Ghaziabad and High Tech City at Noida by real estate developers.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



In the report submitted by the Committee constituted by the NGT, various issues for violations were highlighted but amount of compensation was not assessed. In its instant order, NGT disregarded the approach adopted by the Committee in deferring the assessment of environmental compensation till the project proponent gives data. NGT observed that if the project proponent is avoiding giving data, there should be no difficulty in drawing adverse inference based on 'best judgement assessment' based on inferences from the circumstances. The Committee has been directed to make assessment of environmental compensation based on indicative scale of compensation as the project proponent has failed to provide data.

On the aspect of illegal cutting of trees, the NGT in its present order has stated that the Forest Department has merely imposed some fine and neither prosecution has been initiated nor adequate compensation has been recovered based on the principle of restitution and value of the ecological services forgone forever. Through this instant order, the NGT has directed the statutory authorities to exercise their jurisdiction in the matter to comply with the rule of law and file a compliance report.

NGT grants last opportunity to authorities for compliance of its orders regarding restoration of Bum-Rukn-ud-Dowla lake

Lubna Sarwath v. Govt. of Telangana; Order dated 15 June, 2021²⁰

In this case, restoration of Bum-Rukn-ud-Dowla, a historic heritage water body of around 104 acres, opposite National Police Academy, Shivrampally, Hyderabad, was the question for consideration.

After highlighting the earlier orders passed in this case, the NGT noted that the situation has not improved and the SPCB has also failed to perform its statutory duty to the prejudice of environment, public health and the rule of law.

The NGT has granted last opportunity to authorities for compliance of its orders regarding restoration of Bum-Rukn-ud-Dowla

lake. NGT has further directed that while giving compliance status, it may be made clear that the sewage which is being discharged into lake stands diverted to the destined STP and that the water quality of lake had improved to at least category 'C'. Otherwise, coercive measures may also be taken against them.

It further observed that in light of the binding judgment of the Hon'ble Supreme Court, the plea of budget cannot be taken to justify continued violations of statutory compliances and citizen's right to clean environment. In absence of any other source of funds, funds are to be raised from the citizens in the area as directed by the Hon'ble Supreme Court and concerned erring officers are to be proceeded against for their failure.

NGT directs District Magistrate of Fatehpur to stop illegal sand mining

Vikas Pandey v. State of Uttar Pradesh; Order dated 17 June, 2021²¹

The NGT has directed the District Magistrate, Fatehpur to take necessary remedial action against illegal sand mining in the district as per due process of law. This direction was passed while adjudicating an application which was in nature of execution of an earlier NGT order dated 09 April, 2021 passed in Original Application No. 02/2021 filed by the applicant. Through this earlier order, the NGT had directed the District Magistrate, Fatehpur to look into the grievance against illegal sand mining in the district and take remedial action.

Despite the aforesaid previous order, the NGT was informed that illegal mining is still continuing by using heavy pock land machines in violations of Sustainable Sand Mining Management Guidelines, 2016 and 2020 in violations of UP Mining Rules, 1963. It was further submitted before the NGT that CCTV cameras are not installed properly to capture the illegal mining.

Through the present order, the NGT has further directed to ensure that mining is undertaken as per sustainable sand mining guidelines and compensation needs to be recovered for the violations. The NGT further held that

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



if violations are found to be continuing, the NGT would be constrained to require District Magistrate, Fatehpur to appear in person and explain why rule of law is not being enforced.

NGT issues notice to respondents in the case pertaining to Stage-I approval granted by Regional Office of MoEF&CC

Daniel Sukumardas v. Union of India & Ors.; Order dated 21 June, 2021²²

The NGT has issued notice to respondents in a case where the grievance is regarding Stage-I approval granted by the Bangalore Regional Office of the Ministry of Environment, Forest and Climate Change ("MoEF&CC") for the project of Rail Vikas Nigam Limited for laying of a railway line. The project pertains to doubling of Tinaighat-Castlerock-Carzon railway lane.

The applicant submitted before the NGT that granting of Stage-I approval has to be issued by MoEF&CC and Regional Office lacks the jurisdiction to grant the same. It was further submitted by the applicant that the Tiger Authority had given a recommendation to undertake comprehensive impact assessment study of the entire project as it passes through the most eco-sensitive zone of the Western Ghats with respect to the instant project. It was also submitted that this issue was also pending before the Karnataka High Court.

NGT was also informed that on the basis of the impugned Stage-I approval, the project proponent is trying to proceed with the work of tree cutting. After going through the aforementioned allegations, NGT was satisfied that instant matter involves substantial question of environment which requires its interference.

NGT directs holding impugned order requiring payment of environmental compensation in abeyance subject to the appellant depositing a sum of INR 2.5 million with SPCB

M/s Malganga Enterprises v. Maharashtra Pollution Control Board; Order dated 22 June, 2021²³

NGT has directed holding the impugned order dated 31 December, 2020 passed by the Maharashtra SPCB requiring the appellant to pay environmental compensation of INR 14.9 million in abeyance pending further consideration, subject to the appellant depositing a sum of INR 2.5 million with the SPCB within three months.

This direction was passed by the NGT while adjudicating an appeal challenging the above-mentioned impugned order. In the present order, NGT observed that the impugned order neither refers to the report of Committee constituted by the NGT through its previous orders nor mentions about the opportunity of hearing being provided to the appellant. Hence, there is a need to revisit the impugned order.

Through the present order, the NGT has directed that if the interim amount is deposited, the impugned order will be revisited based on the report of the Committee and considering the viewpoint of the appellant and till fresh order is passed, the impugned order will not be given effect to.

NGT directs State of Maharashtra to pay compensation to workers injured due to blast in a fire cracker factory

In re : News item published in the Hindustan Times dated 17.06.2021, titled "Blast in firecracker unit in Maharashtra's Palghar, at least 10 injured"; Order dated 25 June, 2021²⁴

The NGT has held that the workers who were injured due to a blast inside a fire cracker factory shall be paid on a scale which would comprise of INR 1.5 million to persons who have burns in excess of 50%, INR 1 million for persons who have burns from 25 to 50%, INR 0.5 million for persons who have injuries between 5 to 25% and INR 0.2 million to victims who were treated as outpatients and who had minor degree of burns or other forms of simple injuries. Through the present order, the NGT has directed that compensation as per aforementioned scale be paid by the State of Maharashtra within one month and the State has been granted liberty to recover the same from the occupier or owner of the Premise.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



This direction has been passed by the NGT while adjudicating a *suo moto* matter pertaining to the blast inside a fire cracker factory in Maharashtra's Palghar district on 17 June, 2021.

Through the instant order, the NGT has also directed the Director of Industrial Safety in coordination with the CPCB and SPCB to undertake a study of the potential for accidental, occupational and environmental hazards from such activities in the State within three months and submit their report to the Chief Secretary, Maharashtra for further action.

Further, with regard to the need for review at highest level in the State, the NGT has directed the Chief Secretary, Maharashtra to identify appropriate remedial measures for avoiding recurrence of such incidents in future. NGT also noted that SPCB may incorporate appropriate conditions in consents including prohibiting use of banned chemicals, compliance of 1989 and 1996 Rules. Besides, insurance policies covering risk to life and health of all workers and others likely to be affected by fire or other accidents may also be taken by such industries.

NGT dismisses an application which sought restrain on PFH Oil and Gas Private Limited from commencing its project

Yogesh Bhagwandas Gandhi v. Union of India & Ors.; Order dated 28 June, 2021²⁵

The NGT has dismissed an application which was filed to restrain PFH Oil and Gas Private Limited from undertaking development, re-development, drilling, appraisal, extraction or any activity whatsoever at the three exploratory wells namely ELAO-2, ELAO-3 and KIM-5 and to reject the application for EC filed by the said entity.

NGT while dealing in an earlier separate application pertaining to the instant project had through an order dated 25 March, 2021 directed that the project cannot commence without EC. The applicant filed the instant application based on the fact that a statement has been made by the Minister of Petroleum

and Natural Gas, Government of India, that production will commence within a week.

NGT in the present order has observed that the applicant has merely relied upon a newspaper report and the application itself is filed after more than one week since the abovementioned statement was made. NGT observed that there is no averment in the application that production has actually commenced. After noting the direction given in its earlier order dated 25 March, 2021, the NGT in the present order has held that there is no reason to presume that the production will commence without EC.

NGT holds that there is no need to impose environmental compensation on KPCL

Heritage Estate Apartment Owners Association v. Union of India and Ors.; Judgment dated 28 June, 2021²⁶

The Southern Zone bench of the NGT in its judgment has observed that at present no violations have been committed by the Karnataka Power Corporation Ltd. ("KPCL") at the gas based power plant at Yelahank and there was no need to impose environmental compensation or remedial measures to restore the damage caused to the environment.

The grievance in this application was regarding the violation of conditions of the EC granted for the proposed gas based power plant at Yelahanka to the KPCL and its impact on environment.

In this matter, the report of the Joint Committee constituted by the NGT found that as per the documents or monitoring reports on air, water and noise submitted by the KPCL, the construction phase has not caused any environmental degradation. In light of the report of the Joint Committee, the NGT has held that the applicant is not entitled to get any other reliefs claimed in the application. But, through this judgment, the NGT issued various directions including direction to KPCL to strictly comply with the recommendations made by the Joint Committee to avoid present or future possible pollution that is apprehended by the applicant.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



NGT directs to NHAI that while construction of roads is a social necessity, it cannot be at the cost of environment

Amresh Singh v. Union of India & Ors., Order 28 June, 2021²⁷

In this case, NGT was adjudicating on the remedial action against violation of environmental norms by National Highway Authority of India ("NHAI") and its contractors - M/s Gammon India Limited, the Hindustan Construction Co. Ltd. and M/s Choudhary Power Project Pvt. Ltd., sub-contractor of M/s GIL and M/s HCCL, in the course of four laning of National Highway from Udhampur to Banihal in Jammu and Kashmir.

NGT has been hearing this case for the last four years and has issued several directions to NHAI, its contractors and Jammu & Kashmir SPCB to ensure that there is no illegal and unscientific dumping and disposal of debris around the construction site which was ultimately making way into Chenab river and other water bodies in the region. A monitoring committee was also constituted by the NGT

which in its report highlighted that Jammu & Kashmir SPCB and NHAI failed to provide their compliance status reports.

NGT observed that nothing tangible had been done by the NHAI in the last four years to prevent the illegal and unscientific dumping and disposal of debris. Besides, it was also observed that Jammu & Kashmir SPCB had failed to take actions against erring officials and ensuring compliance with environmental laws.

In this respect, NGT held that remedial actions are required to be taken by authorities and NHAI. It observed that while construction of roads is a necessity, it cannot be at the cost of environment. However, if protection of environment cannot be ensured, the project may have to be halted to prevent damage to the environment by unauthorized muck dumping destroying the overall environment.

NGT has directed the Managing Director, NHAI and Chairman, Jammu & Kashmir SPCB to present their respective action taken reports on the next date of hearing, failing which NGT will take coercive actions against them personally.

Regulatory and Policy Developments

Cabinet approves MoU between India and Maldives on cooperation in the field of sustainable urban development; 2 June, 2021²⁸

The Union Cabinet has approved the Memorandum of Understanding ("MoU") signed between the Ministry of Housing and Urban Affairs, Government of India and the Ministry of National Planning, Housing and Infrastructure, Government of Maldives on cooperation in the field of sustainable urban development.

To strategize and implement the programmes on cooperation under the framework of this MoU, a Joint Working Group will be constituted which will meet once in a year, alternately in Maldives and in India.

The objectives of this MoU are to facilitate and strengthen India-Maldives technical cooperation in the field of sustainable urban development including urban planning, smart cities development, solid waste management, affordable housing, urban green mobility,

urban mass rapid transport, smart cities development and any other related area mutually agreed by contracting parties.

Cabinet approves MoC between India and Japan in the field of sustainable urban development; 2 June, 2021²⁹

The Union Cabinet has approved the signing of the Memorandum of Cooperation ("MoC") on sustainable urban development between the Ministry of Housing & Urban Affairs, Government of India and the Ministry of Land, Infrastructure, Transport and Tourism, Government of Japan.

To strategize and implement the programmes on cooperation under the framework of this MoU, a Joint Working Group will be constituted which will meet once in a year, alternately in Japan and in India.

The objectives of the MoC are to facilitate and strengthen India-Japan technical cooperation in the field of sustainable urban

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



development including urban planning, smart cities development, affordable housing (including rental housing), urban flood management, sewerage and waste water management, intelligent transport management system, transit-oriented development, multimodal integration, disaster resilient development and other areas as mutually identified by both sides.

SDG India Index and Dashboard 2020-21 released; 3 June, 2021³⁰

The third edition of the SDG India Index and Dashboard 2020-21 has been released by NITI Aayog. Since its inaugural launch in 2018, the index has been comprehensively documenting and ranking the progress made by Indian States and Union Territories towards achieving the Sustainable Development Goals ("SDGs").

Goal wise scores on the 16 SDGs for each State and Union Territory are computed by the SDG India Index. The aforesaid scores range between 0 to 100 and if a State or Union Territory achieves a score of 100 it implies that it has achieved the 2030 targets. Based on their SDG India Index score, the States and Union Territories are classified as Aspirant, Performer, Front-Runner and Achiever.

Upto 20 percent ethanol blending in petrol required from April, 2023; 3 June, 2021³¹

Ministry of Petroleum and Natural Gas, Government of India has issued a notification requiring oil companies to sell petrol with ethanol blending up to twenty per cent as per the Bureau of Indian Standards specifications, in all States and Union Territories of India. The notification will be brought into effect from 01 April, 2023.

Government of Punjab launches an emissions trading scheme to reduce industrial air pollution in the State; 5 June, 2021³²

The Department of Industry & Commerce and the Department of Science, Technology & Environment of the Government of Punjab is partnering with the Abdul Latif Jameel Poverty Action Lab South Asia and the Energy Policy Institute at the University of Chicago to launch the use of an emissions trading scheme ("ETS") to tackle growing industrial air pollution in Punjab.

With the aim to reduce particulate and greenhouse gas emissions in Punjab, as the first step in this partnership the Government of Punjab and the Punjab Pollution Control Board will launch an ETS to regulate emissions from 200 dyeing industries in Ludhiana.

New product category of Green Room Air Conditioners launched on Government e-Marketplace (GeM) to mark the World Environment Day; 5 June, 2021³³

On World Environment Day, 2021, a new product category of Green Room Air Conditioners was launched on the Government e-Marketplace ("GeM"). The GeM portal will enable and encourage all central and state government agencies to buy efficient and environment friendly green ACs, thereby paving a way for Sustainable Public Procurement in India. The purchase of Green RACs shall be a voluntary approach.

This intends to leverage the procurement power and promote the sustainable public procurement that align with India's climate policies helping in achieving India's Nationally Determined Contributions and its commitment towards relevant Sustainable Development Goals. The integration of Green Room Air Conditioners within the public procurement system is intended to catalyse the market transformation towards sustainable cooling practices.

MoU signed between CESL and Ladakh to make the Union Territory carbon neutral; 8 June, 2021³⁴

Convergence Energy Services Limited ("CESL"), a wholly owned subsidiary of Energy Efficiency Services Limited under the Ministry of Power has signed an MoU with the Administration of Union Territory of Ladakh to make Ladakh a clean and green Union Territory.

Under this MoU, various clean energy and energy efficiency programmes will be implemented. EV ecosystem for Ladakh will be built by CESL by focusing on such EV charging infrastructure which will utilize renewable sources of power, and electric vehicles that are being tested for high altitudes. Like all CESL's projects, this programme will also be based on innovative business models, using carbon credits.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



The Administration of Union Territory of Ladakh will support CESL with investment in the projects and will also assist in business development of various clean energy and sustainability programmes of convergence.

Cash reward announced by Odisha forest department for rescuing gharials; 10 June, 2021³⁵

The Mahanandi Wildlife Division in Odisha has announced a cash reward of INR 1,000 for rescuing gharials (a critically endangered crocodile species) and informing wildlife personnel. The Division will also provide compensation to fishermen whose fishing nets are destroyed by gharials. This is an effort to conserve the gharials in the Mahanadi river basin.

The gharial is listed in Schedule 1 of the Wildlife (Protection) Act, 1972 which covers endangered species that need rigorous protection and has also been described as critically endangered on the International Union for Conservation of Nature Red List of Threatened Species.

NGT office order on suo moto matters; 12 June 2021³⁶

The NGT through an office order dated 12 June, 2021 has communicated that henceforth *suo moto* matters having pan-India or inter-state implications will be listed before the Principal Bench comprising of at least three members.

Exemption for import of used critical care medical equipment (Basel No. B1110) for reuse under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016; 14 June, 2021³⁷

Rule 12(6) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 ("Rules") reads as, "No import of the hazardous and other wastes specified in Schedule VI shall be permitted."

'Used critical care medical equipment for re-use (Basel No. B1110)' falls under Schedule VI of the Rules and hence it is prohibited for import. However, MoEF&CC through an office memorandum ("OM") dated 14 June, 2021 has communicated that in view of the prevailing pandemic and possible use of

these equipment in the ongoing pandemic, the MoEF&CC has decided to allow one-time permission for import of used critical care medical equipment for reuse that have been already imported and are lying at different ports or airports as on 08 June, 2021.

NTPC invites EoI for Hydrogen Fuel Cell based pilot projects; 14 June, 2021³⁸

National Thermal Power Corporation Limited ("NTPC") has floated a global Expression of Interest ("EOI") to set up two pilot projects, Standalone Fuel-Cell based backup power system and a standalone fuel-cell based microgrid system with hydrogen production using electrolyser at its premises.

Through these projects, NTPC intends to further strengthen its footprint in green and clean fuel. It may also be noted that NTPC has already started a pilot project for making methanol by integrating carbon captured from power plant flue gas and hydrogen from electrolysis.

Cabinet approves Deep Ocean Mission; 16 June, 2021³⁹

With a vision to explore deep ocean for resources and developing deep sea technologies for sustainable use of ocean resources, the Cabinet Committee on Economic Affairs has approved the proposal of Ministry of Earth Sciences on 'Deep Ocean Mission'. The estimated cost of this mission will be INR 40.77 billion crore for a period of 5 years to be implemented in a phased manner.

The mission has six major components namely development of technologies for deep sea mining and manned submersible; development of ocean climate change advisory services; technological innovations for exploration and conservation of deep-sea biodiversity; deep ocean survey and exploration; energy and freshwater from the ocean; and advanced marine station for ocean biology.

Under the mission, attempts will be made to indigenise technologies required for deep sea mining by collaborating with leading institutes and private industries. A research vessel for deep ocean exploration would be built in an Indian shipyard which would create employment opportunities. This mission is

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



also envisaged to contribute towards capacity development in the domain of marine biology.

Extension notice for registration of PIBOs under the provisions of PWM Rules, 2016; 16 June, 2021⁴⁰

In continuation of its earlier notice issued on 14 May, 2021, CPCB has informed that in view of the prevailing COVID-19 pandemic conditions, the last date for submission of complete application to CPCB by producers, importers & brand owners ("PIBOs") (for those operating in more than two States or Union Territories) under the provisions of Plastic Waste Management (PWM) Rules, 2016 who have not yet applied for registration, has been extended to 01 August, 2021.

Government releases Desertification and Land Degradation Atlas of India; 17 June, 2021⁴¹

On the occasion of Desertification and Drought day, the Minister of State for Environment, Forest and Climate Change has released the latest version of 'Desertification and Land Degradation Atlas of India'. This Atlas has been published by the Space Application Centre, Ahmedabad and the Atlas provides state wise area of degraded lands for the time frame 2018-19. The Atlas also provides the change analysis for the duration of 15 years ranging from 2003-05 to 2018-19.

In addition to being useful as a ready reference, the salient findings of this Atlas are also helpful in strengthening the envisaged National Action Plan for achieving land restoration targets by providing important baseline and temporal data and technical inputs.

India and Bhutan have signed an MOU for developing cooperation in the area of environment; 18 June, 2021⁴²

India and Bhutan have signed an MoU for developing cooperation between the two countries in the area of environment. This MoU will open new vistas of bilateral co-operation in the area of climate change, waste management etc. between the two countries.

The MoU will provide a platform to enhance Indian and Bhutanese partnership and support, exchange of best practices in areas

of environment such as prevention of air pollution, waste management, chemical management, climate change, etc. There will also be a possibility to conduct joint projects in the areas of mutual interest. In addition to expanding the areas of cooperation in the field of environment for promoting a mutually beneficial partnership between the two countries, this MoU will also strengthen technological, scientific and management capabilities between the two countries.

NTPC organises two-day BRICS Green Hydrogen Summit; 23 June, 2021⁴³

NTPC Ltd. anchored a two-day workshop on green hydrogen. It was an online event which saw the gathering of leading experts from the Brazil, Russia, India, China, South Africa ("BRICS") countries who shared their insights and views on green hydrogen as well as the latest developments which are taking place in their respective countries in the area of green hydrogen.

NTPC itself has announced a few pilot projects on green hydrogen. In fact, green hydrogen is presumed to be of great topical interest to all the countries including BRICS as it has potential to ensure sustainable energy supply, increase the level of energy availability and minimize the negative impact on the environment.

Climate Smart Cities Assessment Framework 2.0 released by Government of India; 25 June, 2021⁴⁴

Ministry of Housing and Urban Affairs has announced the results of Climate Smart Cities Assessment Framework 2.0, which was launched in September, 2020 with an aim to provide an overarching roadmap to formulate, implement and monitor urban climate actions in India.

This framework acts as a tool for cities to evaluate their current performance and build on the same evaluating them on 28 diverse indicators across five thematic areas. While Surat received the first rank in this assessment, other cities that have been awarded 4-star rating are Indore, Ahmedabad, Pune, Vijayawada, Rajkot, Visakhapatnam, Pimpri-Chinchwad and Vadodara.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



Total 126 cities, including 100 Smart Cities and 26 cities with population over 500,000, participated in the 2020 assessment cycle.

DPRs of LiDAR based survey of forest areas in 10 states for water and fodder augmentation released; 25 June, 2021⁴⁵

The Minister for Environment, Forest and Climate Change has released the Detailed Project Reports ("DPRs") of Light Detection and Ranging ("LiDAR") based survey of forest areas in ten states namely Assam, Bihar, Chhattisgarh, Goa, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Nagaland, and Tripura.

The project for this was awarded to WAPCOS, a public sector undertaking under the aegis of Ministry of Jal Shakti, Government of India. This is a first of its kind and a unique experiment using LiDAR technology which will help augment water and fodder in forest areas, thereby, reducing human-animal conflict. This survey will further assist in identifying areas which need groundwater recharge, thereby, help local communities. State forest departments have been asked to use Compensatory Afforestation Fund Management and Planning Authority funds towards implementation of these projects in right earnest and in accordance with the 'Ridge to Valley' approach of watershed management.

WAPCOS has prepared these DPR's using LiDAR technology in which the three dimensional DEM (Digital Elevation Model), imagery and layers of the project areas are used for recommending different types of soil & water conservation structures such as anicut, gabion, gully plug, mini percolation tank, percolation tank, field bund, sunken pond, farm pond etc.

Government extends the second phase of FAME scheme for electric vehicles till 2024; 25 June, 2021⁴⁶

Ministry of Heavy Industries and Public Enterprises, Government of India has extended the period of Faster Adoption and Manufacturing of Electric Vehicles in India Phase II (FAME India Phase II) by 2 years. i.e. till 31 March, 2024.

Earlier, the scheme was intended to be

implemented over a period of 3 years w.e.f. 01 April, 2019 for faster adoption of electric mobility and development of its manufacturing eco-system in India. However, now it has been further extended from 31 March, 2022 to 31 March, 2024.

Mumbai to have its own climate action plan by October; 25 June, 2021⁴⁷

The State environment minister of Maharashtra has confirmed that Mumbai will have a climate action plan by October, 2021 ahead of the United Nations Climate Change Conference (COP26) to be held in November, 2021. The action plan will be drafted by the World Resources Institute (WRI) India, which has been engaged as a consultant by the environment department. Mumbai's action plan will be executed in seven broad steps.

The plan is being prepared pursuant to Mumbai's entry into the C40 Cities climate leadership group in December, 2020. It is noteworthy that C40 connects 97 of the world's largest cities, enabling them to "collaborate effectively, share knowledge and drive meaningful, measurable and sustainable action on climate change". Member cities are encouraged to develop and implement action plans in line with goals of the Paris Agreement.

Government issues draft notification on ethanol blending in gasoline; 28 June, 2021⁴⁸

Ministry of Road Transport and Highways has issued a draft notification providing mass emission standards for E-12 (blend of 12% ethanol in gasoline) & E-15 (15 % Ethanol-Gasoline Blend) fuels, thereby facilitating use of a blend of 12 per cent and 15 per cent ethanol in gasoline as automotive fuels. Comments have been invited from stakeholders within a period of 30 days from the date of notification.

Glacial Lake Atlas of Ganga River Basin has been released; 29 June, 2021⁴⁹

The Secretary, Department of Water Resources, River Development and Ganga Rejuvenation has released the Glacial Lake Atlas of Ganga River Basin. This Atlas is based on the inventoried glacial lakes located in parts of Ganga River basin. The Atlas is available on Bhuvan portal, India Water Resources

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS



Information System (India WRIS) portal and National Hydrology Project website.

The expected utility of this Atlas are as follows:

1. The Atlas provides a comprehensive and systematic glacial lake database for Ganga River basin with size > 0.25 ha;
2. In the context of climate change impact analysis, the Atlas can be used as reference data for carrying out change analysis, both with respect to historical and future time periods;
3. The Atlas provides authentic database for regular or periodic monitoring changes in spatial extent (expansion / shrinkage) and formation of new lakes;
4. The Atlas can also be used in conjunction with glacier information for their retreat and climate impact studies;
5. The information on glacial lakes are useful in identifying the potential critical glacial lakes and consequent Glacial Lake Outburst Floods risk; and
6. Disaster mitigation planning and related program.

In this edition

SUPREME COURT JUDGEMENTS / ORDERS

HIGH COURT JUDGEMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGEMENTS / ORDERS

REGULATORY AND POLICY DEVELOPMENTS

Endnotes

- 1 Writ Petition(s)(Civil) No(s). 592/2021
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- 3 I.A. No. 1/2021 in Writ Petition No. 817/2008
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- 12 Original Application No. 112/2020/EZ
- 13 Original Application No. 596/2019
- 14 Original Application No. 490/2019
- 15 Execution Application No. 47/2019 in Original Application No. 325/2018
- 16 Original Application No. 160/2020
- 17 Original Application No. 77/2020 (CZ)
- 18 Original Application No. 44/2021
- 19 Original Application No. 549/2019
- 20 Original Application No. 614/2018
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