



March 2022 | Vol. 2, Issue 6



National Green Tribunal Judgments / Orders

NGT directs Hindustan Zinc Ltd. to pay environmental compensation of INR 25 crores for violating environmental norms in Rajasthan

Om Puri & Ors. v. Hindustan Zinc Ltd. & Ors.; 02 February, 2022¹

The National Green Tribunal (“NGT”) has directed Hindustan Zinc Ltd. to pay INR 25 crores to meet the cost of remediation measures for violating environmental norms in its mining operations in district Bhilwada, Rajasthan. The NGT also constituted a joint committee to prepare a restoration plan for remediating the soil and quality of ground water in the area, apart from undertaking health improvement programme for the inhabitants and the cattle.

NGT observed that even if the committee in its report has not been able to conclude with certainty that the company is responsible for the damage, it is possible to infer damage to the groundwater due to its activities. Thus, remedial actions are required, and company has to bear the cost and pay compensation on principles laid down by the Hon’ble Supreme Court of India. The NGT noted that environmental law violations cannot be taken lightly when the violators are entities like Hindustan Zinc Ltd. and victims are unspecified number of persons spread over more than six Panchayats.

In this case, applicants raised grievances against the violation of environmental norms by Hindustan Zinc Ltd., in executing mining lease of lead, zinc and associated minerals in district Bhilwada, Rajasthan.

NGT constitutes a joint committee to investigate into the unscientific disposal

of e-waste in Faridabad, Haryana

Varun Shekand v. Central Pollution Control Board & Ors.; 04 February, 2022²

NGT has constituted a joint committee to consider the issues raised by the applicant regarding unscientific disposal of e-waste in Sarurpur Industrial Area, Faridabad, Haryana. NGT considered the averments raised by the applicant along with the photographs and observed that this matter raises substantial questions relating to environment. In this case, the applicant raised grievances against burning of e-waste in Sarurpur Industrial Area, Faridabad, Haryana by different industries.

NGT has also directed to forward this order to all State Pollution Control Boards (“SPCBs”) and Union Territory Pollution Control Committees (“UTPCCs”) for filing status reports on operation of e-waste recycling industries as well as other such polluting categories of industries with the Central Pollution Control Board (“CPCB”) within one month. Based on this, CPCB has been directed to hold an online interaction with all the SPCBs and UTPCCs and give a consolidated report to NGT.

NGT directs real estate developer to respond to observations of the joint committee noting serious violations at its project

Saviour Park Apartment Owners Association v. State of Uttar Pradesh & Ors.; 04 February, 2022³

NGT has granted an opportunity to Savfab Buildtech Pvt. Ltd to respond to observations made by the joint committee, as constituted by the NGT to consider the allegations of the violations at the project site. The joint

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committee noted that the company has violated environmental norms and Environmental Clearance (“EC”) conditions.

The committee’s report shows that regulatory authorities have not monitored the project activities. It also noted that SPCB issued consents under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 even before the grant of EC. Moreover, EC for expansion was granted while overlooking the continuing violations by the company.

In this case, applicant raised grievances against violation of environmental norms in setting up of a construction project – “Saviour Park”, by Savfab Buildtech Pvt. Ltd., without a valid EC. It was also contended that proponent violated EC conditions and other environmental norms.

NGT constitutes a joint committee to consider allegations regarding violation of environmental norms around Khijadiya Bird Sanctuary, Gujarat

Suresh Bhanushanker Bhatt v. GPCB & Ors.; 04 February, 2022⁴

NGT has constituted a joint committee to submit a factual report concerning the allegations raised by the applicant regarding damage to the ecology of coastal zone and a wetland recently announced as wetland of international importance under the Ramsar Convention. In this case, applicant had raised grievances against the operation of a ship breaking unit in district Jamnagar, Gujarat in violation of environmental norms and causing damage to the ecology of Khijadiya Bird Sanctuary located in the same coastal area.

NGT restrains permanent construction in Mahanadi flood plain in Cuttack and constitutes joint committee to study ecological and hydrological aspects of the project

Pradip Kumar Pattnaik v. Union of India & Ors.; 07 February, 2022⁵

NGT has directed that no construction of permanent nature shall be undertaken in Mahanadi flood plain in Cuttack for Balijatra River Front Improvement, pending its further orders. NGT noted that the report prepared

by authorities did not consider ecological and hydrological aspects of the project, which is essential for the protection of flood plain zone and associated issues relating to the ecology, environment and biodiversity. Accordingly, NGT directed that ecological vulnerability and combined hazard vulnerability of the flood plain is required to be studied. As such, it directed a joint committee to study the ecological and hydrological aspects and vulnerability of the project, and also to make detailed recommendations to identify steps required for protecting the flood plain zone and the environment within three months.

In this case, applicant raised grievances against the illegal sand filling in the Mahanadi riverbed within the water area of Jobra Barrage at Cuttack. It was also contended that Balijatra River Front Improvement project is an attempt to monetize the riverbed for commercial purposes which will reduce the water retaining capacity of the river at Cuttack.

NGT imposes INR 5 crores environmental compensation on a sugar mill in Uttar Pradesh

Vinit Kumar v. DSM Sugar Mills Ltd. & Ors.; 11 February, 2022⁶

NGT has directed M/s DSM Sugar Mills Ltd. to pay environmental compensation of INR 5 crores for restoration of the environment. The joint committee constituted by NGT found that the industry has committed violations under various environmental laws. It failed to establish appropriate mechanism for storage of scraps and hazardous waste chemicals. It failed to maintain acoustic enclosures to operate pumps in its premises to reduce the noise pollution. The water quality of the Gram Sabha pond is also beyond norms for which the industry is accountable.

In this case, NGT was considering grievances against the operation of M/s DSM Sugar Mills Ltd., in Muzaffarnagar, Uttar Pradesh, in violation of the environmental norms including discharge of untreated industrial effluent into the storm drain / nullah and Gram Sabha pond and eventually into the river Kali.

NGT imposes environmental compensation of INR 50 crores on distillery in Uttar Pradesh

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Vinit Kumar v. Sir Shadilal Distillery and Chemical Works Pvt. Ltd. & Ors.; 11 February, 2022⁷

NGT has imposed an environmental compensation of INR 50 crores on M/s. Sir Shadilal Distillery and Chemical Works. The joint committee constituted by NGT found that the industry has been violating the environmental norms which include violation of zero liquid discharge condition by discharging effluents into drain as well as disposing effluents on land. The analysis of water during inspection has also confirmed these violations by the industry.

In this case, NGT was considering an execution application to take remedial action against violation of environmental norms in the operation of the distillery unit of M/s. Sir Shadilal Distillery and Chemical Works in District Muzaffarnagar, Uttar Pradesh.

NGT directs payment of interim environmental compensation by thermal power plants in Raigarh, Chhattisgarh

Shivpal Bhagat & Ors. v. Union of India & Ors.; 15 February, 2022⁸

NGT has directed the state of Chhattisgarh and concerned thermal power units to deposit interim compensation for continued damage to the environment and public health caused by indiscriminate storing, transportation and disposal of fly ash in district Raigarh in Chhattisgarh. NGT noted that remedial actions have been identified but the actions taken so far are not adequate. There is an absence of health facilities for the victims and also suitable roads in the area which is resulting in continued air pollution and even road accidents.

NGT directed the units to install requisite devices; take steps for timely utilization of disposal of fly ash; scientific designing of fly ash dykes; address issues relating to public health and restoration of deteriorated environment. It also directed for audit of fly ash generation and management within three months in respect of each unit generating fly ash.

In this case, NGT considered the issue for remedial action against pollution caused by the thermal power plants and coal washeries in Raigarh district, Chhattisgarh. Applicant alleged that the operation of these units is resulting in contamination of air, water and land and having an adverse impact on the environment and the habitants.

NGT imposes environmental compensation on beverages companies for illegal groundwater extraction in Uttar Pradesh

Sushil Bhatt & Anr. v. Moon Beverages Ltd. & Ors.; 25 February, 2022⁹

The NGT has imposed environmental compensation on M/s. Moon Beverages Ltd. and M/s. Varun Beverages Ltd for extraction of groundwater in State of Uttar Pradesh without obtaining valid No-Objection Certificate (“NOC”) and for failing to recharge groundwater in compliance with applicable regulations. The NGT also observed that Central Ground Water Authority (“CGWA”) and Uttar Pradesh Ground Water Department are responsible for failing to prevent illegal groundwater extraction by industries.

The NGT observed that industries are responsible for illegal extraction of ground water at least after expiry of NOCs issued to them by CGWA. They continued to extract ground water without any authority. They are liable to pay environmental compensation for causing loss to environment by failing to comply the most crucial condition of NOCs, i.e., recharge of groundwater. Hence, they are liable to pay environmental compensation for the said cause/loss. Such compensation received from industries shall be utilized for recharge of ground water, restoration of environmental damage, etc.

The NGT also constituted a joint Committee to conduct a survey in the state of Uttar Pradesh and prepare data of various persons drawing ground water for commercial purposes, conduct impact assessment and suggest ways and modes to reduce ground water extraction. In this case, NGT was considering the issue of exploitation of ground water in stressed areas by industries in Uttar Pradesh.

NGT upholds EC granted to a cement plant in Hazira industrial area in Surat, Gujarat

Larsen & Toubro Limited v. Sanghi Industries Limited & Ors.; 25 February, 2022¹⁰

NGT has upheld the EC granted to Sanghi Industries for establishing a cement manufacturing plant in Hazira Industrial Zone at Surat, Gujarat. NGT observed that the plant has not deliberately or fraudulently suppressed or concealed any material

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information. A perusal of the Environment Impact Assessment (“EIA”) report clearly shows that all relevant information has been duly disclosed by the plant. Non-disclosure of immaterial information, which is not crucial, to the determination of the environmental impact assessment of the proposed unit, cannot be considered as deliberate.

NGT also observed that appellant’s unit cannot be considered as a defence installation, even

if it is manufacturing defence equipment for armed forces. The Official Secret Act, 1923 or Works of Defence Act 1903 also do not prohibit any construction around its unit. Hence, respondents’ facility being a legitimate industrial unit cannot be prohibited in proximity to appellant’s unit.

In this case, appellant challenged the EC granted to Sanghi Industries Ltd. for a cement grinding unit at Hazira Industrial Zone, Surat, Gujarat.

Regulatory / Policy developments

CPCB issues guidelines titled “System and Procedure for Emission Compliance Testing of Retro-fit Emission Control Devices (RECD) For Diesel Power Generating Set Engines Up to Gross Mechanical Power 800 kW”; 01 February, 2022¹¹

CPCB has released the guidelines titled “System and Procedure for Emission Compliance Testing of Retro-fit Emission Control Devices (RECD) For Diesel Power Generating Set Engines Up to Gross Mechanical Power 800 kW” for retrofitting of diesel generator sets with emission control devices. This document has been issued in compliance with the NGT’s order to reduce emissions by using retrofitted emission control devices in diesel operated generator sets up to 800 kW power.

Union Government issues draft notification for renewal of fitness certificate for vehicles; 02 February, 2022¹²

The Union Government has issued the draft notification in relation to the renewal of certificate of fitness of transport vehicles. It proposes to provide renewal for two years for vehicles up to eight years old and one year for vehicles older than eight years. It also proposes that the fitness test of transport vehicles will be done mandatorily only through a registered Automated Testing Station with effect from specified dates.

MNRE issues simplified procedure for installation of Rooftop Solar; 02 February, 2022¹³

Ministry of New and Renewable Energy (“MNRE”) has issued the simplified procedure for residential consumers for installation of rooftop solar plants by themselves or through any vendor of their choice under the Rooftop Solar Programme. Under the new procedure, beneficiaries can avail subsidy for rooftop solar by applying through a national portal.

CPCB issues notice relating to prohibition on single-use plastic items; 04 February, 2022¹⁴

CPCB has issued the notice to all producers, stockists, retailers, shopkeepers, e-commerce companies, street vendors, commercial establishments and general public in relation to prohibition on specific single-use plastic items as notified by the Ministry of Environment, Forests and Climate Change (“MoEFCC”) on 12 August, 2021. It requires entities to ensure zero inventory of prohibited plastic items by 30 June, 2022.

MoEFCC releases draft notification to amend EIA Notification, 2006; 07 February, 2022¹⁵

MoEFCC has released the draft notification to amend EIA Notification, 2006 omitting aerial ropeways from the Schedule to the notification. The notification noted that the Expert Committee recommended that aerial ropeway is an environment friendly mode of transport in hilly areas with least impact on environment as compared to roads/highways and recommended that aerial ropeway projects may be excluded from the ambit of EIA Notification, 2006 subject to certain environmental safeguards prescribed from time to time.

It also mentioned that public utility ropeways have already been excluded from the ambit of the Forest (Conservation) Act, 1980 subject to certain conditions.

CAQM directs industries located in NCR of Haryana, Uttar Pradesh and Rajasthan to switch to PNG or Biomass Fuel; 09 February, 2022¹⁶

The Commission for Air Quality Management in NCR and Adjoining Areas (“CAQM”) has directed the industries located in National Capital Region including parts of Haryana, Uttar Pradesh and Rajasthan to switch to PNG or Biomass Fuel by 30 September, 2022. It has also

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directed that non-switchover shall result in closure of industries using other fuels. During the transition period, such industries shall use only fuels as approved by the respective State Governments for industrial operations.

MoEFCC issues clarification for validity of the EC for captive mines of an integrated project; 11 February, 2022¹⁷

MoEFCC has clarified that validity of the EC for a captive mine of any integrated project shall be considered as per the validity of the EC for mining projects as prescribed in the EIA Notification, 2006. However, the EC for industrial part of the integrated project shall be valid for a period of seven years as per the said notification.

MoEFCC notifies EPR Guidelines for plastic packaging; 16 February, 2022¹⁸

MoEFCC has amended the Plastic Waste Management (Amendment) Rules, 2022 to notify the Extended Producer Responsibility ("EPR") guidelines for plastic packaging. These guidelines shall come into force with immediate effect. These guidelines provide the roles and responsibilities of Producers, Importers, Brand Owners, CPCB, SPCB or UTPCC, recyclers and waste processors for effective implementation of the EPR scheme.

Union Government releases Green Hydrogen Policy; 17 February, 2022¹⁹

Ministry of Power has released the Green Hydrogen Policy as a part of the National Hydrogen Mission announced by the Prime Minister. This policy emphasises on Green Hydrogen and Green Ammonia as crucial tools for emissions reduction, especially in hard to abate sectors. It provides various policy incentive measures to encourage green hydrogen and ammonia including: (i) Green Hydrogen / Ammonia manufacturers may purchase renewable power from the power exchange or set up renewable energy capacity themselves or through any other, developer, anywhere; (ii) Waiver of inter-state transmission charges for a period of 25 years will be allowed to the manufacturers of Green Hydrogen and Green Ammonia for the projects commissioned before 30 June, 2025; (iii) manufacturers of Green Hydrogen / Ammonia and the renewable energy plant shall be given connectivity to the grid on priority basis to avoid any procedural delays; and (iv) a single portal for carrying out all the activities including statutory clearances in a time bound manner will be set up.

MoEFCC releases draft standards for generator sets; 18 February, 2022²⁰

MoEFCC has released the draft amendment to notify the revised emission standards for generator sets in India. Currently, these standards have been divided based on different fuels used in generator sets. However, these revised standards provide single standard covering all available fuels and upcoming fuels viz. producer gas, hydrogen gas etc.

MoEFCC constitutes SEIAA and SEAC for Haryana; 21 February, 2022²¹

MoEFCC has notified the constitution of State Level Environment Impact Assessment Authority ("SEIAA") and State Level Expert Appraisal Committee ("SEAC") for the State of Haryana. These authorities have been constituted for a period of three years.

MoEFCC releases revised environmental standards for brick kilns; 22 February, 2022²²

MoEFCC has amended the Environment (Protection) Rules, 1986 to notify the revised environmental standards for brick kilns. It *inter alia* provides that all new brick kilns shall be allowed only with zig-zag technology or vertical shaft or use Piped Natural Gas as fuel in brick making. All brick kilns shall use only approved fuel such as Piped Natural Gas, coal, fire wood and/or agricultural residues. Use of pet coke, tyres, plastic, hazardous waste will not be allowed in brick kilns.

MoEFCC constitutes CZMA for Andaman & Nicobar Islands; 23 February, 2022²³

MoEFCC has notified the constitution of Andaman and Nicobar Coastal Zone Management Authority ("CZMA") for a period of three years for protecting and improving the quality of the coastal environment and preventing, abating and controlling environmental pollution in the Coastal Regulation Zone areas in the Union territory of Andaman and Nicobar Administration.

MoEFCC issues draft Building Construction Environment Management Regulations, 2022; 25 February, 2022²⁴

MoEFCC has issued the draft notification for Building Construction Environment Management Regulations, 2022. These regulations will be applicable on projects involving construction of buildings, having built up area \geq 5000 sq. mts. It will also be applicable to new building projects and

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expansion/renovation/repair of old /existing buildings.

IPCC releases contribution of Working Group – II to Sixth Assessment Report; 28 February, 2022²⁵

Intergovernmental Panel on Climate Change (“IPCC”) has released the Working Group II contribution to its Sixth Assessment Report. The Report affirms that climate change due to historical emissions is leading to serious impacts which are already being felt globally including in developing countries with low contribution to cumulative emissions. These impacts will rise as warming proceeds and will rise rapidly at higher levels of warming.

It also notes that India faces multiple climate hazards and has high vulnerability to

climate change. It has come out with regional assessments, even focussing on mega cities of India. It has estimated that Mumbai is at high risk of severe flooding and sea level rise. Cities like Ahmedabad, Chennai, Bhubaneshwar, Patna are approaching dangerous levels of heat and humidity.

MoEFCC releases ESZ Notification for different protected areas

MoEFCC has released the Ecologically Sensitive Zones (“ESZ”) Notifications for Tundah Wildlife Sanctuary (Chamba in Himachal Pradesh)²⁶, Gangul-Siyabehi Wildlife Sanctuary (Chamba, Himachal Pradesh)²⁷ and Bhitarkanika National Park, Bhitarkanika Wildlife Sanctuary and Gahirmatha (Marine) Wildlife Sanctuary (Kendrapada, Odisha)²⁸.

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Endnotes

- 1 Original Application No. 226/2020.
- 2 Original Application No. 08/2022.
- 3 Original Application No. 199/2021.
- 4 Original Application No.03/2022(WZ).
- 5 Original Application No. 68/2020/EZ.
- 6 Original Application No. 16/2021.
- 7 Execution Application No. 20/2021 in Original Application No. 206/2020.
- 8 Original Application No. 104/2018.
- 9 ORIGINAL APPLICATION NO. 69/2020.
- 10 Appeal No.36/2020.
- 11 <https://cpcb.nic.in/openpdf.php?id=TGF0ZXN0RmlsZS9fMTY0Mzk1MDQxN19tZWVpYXBob3RvMzEzMTUucGRm>
- 12 <https://egazette.nic.in/WriteReadData/2022/233097.pdf>
- 13 <https://solarrooftop.gov.in/notification/RTS%20Programme%20Ph-II.pdf>
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- 18 <https://egazette.nic.in/WriteReadData/2022/233568.pdf>
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