



## Supreme Court Judgments / Orders

Supreme Court directs that statutory tribunals should not consider cases which are sub-judice before constitutional courts

**State of Andhra Pradesh v. Raghu Ramakrishna Raju Kanumuru (M.P.); Judgment dated 01 June, 2022<sup>1</sup>**

The Supreme Court of India ("Supreme Court") has quashed and set aside proceedings pending before the National Green Tribunal ("NGT") in a matter that was sub-judice before the High Court of Andhra Pradesh. Supreme Court noted that it was not appropriate for NGT to consider this matter and pass an interim stay order on construction, particularly when the High Court was already considering this issue and had passed an interim order permitting the construction. Supreme Court directed that the conflicting orders passed by NGT and High Court would lead to an anomalous situation, where the authorities would not be sure as to which order they are required to follow. The orders passed by the constitutional courts would prevail over orders passed by statutory tribunals.

In this case, the appellant was running a resort at Rushikonda Hill, near Visakhapatnam. It sought to reconstruct the resort after demolishing the existing structure. However, NGT prohibited the appellant from undertaking any further construction. The appellant challenged this order before the Supreme Court. Considering the environmental issues involved in the matter, Supreme Court issued an interim order that until the High Court considers the issue, the construction would be permitted only on the area where the resort existed earlier and has now been demolished.

Supreme Court issues directions regarding ESZ around protected areas

**In Re : T.N. Godavarman Thirumulpad v. Union of India & Ors.; Order dated 03 June, 2022<sup>2</sup>**

Supreme Court has directed the Government authorities to comply with the requirement for having minimum 1 km as Eco-Sensitive Zone ("ESZ") around all protected areas in India. In exceptional cases, smaller ESZ may be acceptable which will be subject to approval of the Supreme Court. The Court noted that ESZ cannot be uniform for all protected areas and therefore it should be site-specific.

In its order, Supreme Court considered guidelines issued by the Ministry of Environment, Forest and Climate Change ("MoEFCC") in 2011 for declaration of ESZ around wildlife sanctuaries and national parks. These guidelines also provide the list of activities that are prohibited, regulated or allowed in ESZ. In respect of these guidelines, the Court directed that the activities already permitted within 1 km or ESZ of protected areas will be allowed to continue in compliance with these guidelines and approval of the relevant Principal Chief Conservator of Forest. However, no new permanent structure shall be permitted within ESZ for any reason whatsoever.

It further directed that in protected areas where wider ESZ has been notified, such wider ESZ shall prevail. For proposed ESZ boundaries that are still under consideration, ESZ of 1 km shall be followed until final decision is taken. However, for areas where no proposal for ESZ has yet been made, 10 km shall be considered as ESZ as per earlier directions of the Supreme Court.

### In this edition

**SUPREME COURT JUDGMENTS / ORDERS**

**HIGH COURT JUDGMENTS / ORDERS**

**REGULATORY / POLICY DEVELOPMENTS**



In this petition, the Court was considering the area of ESZ surrounding the wildlife sanctuaries and national parks. The Court noted that the role of the State to act as a trustee for the benefit of the public in achievement of sustainable

development is more relevant today, than possibly at any point of time in history with the threat of climate catastrophe resulting from global warming looming large.

## High Court Judgments / Orders

**Telangana High Court permits de-casting of sand for agricultural purposes around Eturunagaram Wildlife Sanctuary, Telangana**

**Bolusani Gowri Shankar & Ors. v. State of Telangana & Ors.; Judgment dated 16 June, 2022<sup>3</sup>**

Telangana High Court has permitted petitioners to continue de-casting of sand from their land for agricultural purposes, by setting aside notices issued by the forest department for stopping such activity as the land falls within ESZ of Eturunagaram Wildlife Sanctuary. The High Court noted that the Telangana Mining department had permitted petitioners to undertake de-casting of sand for removal of sand deposits on agricultural fields after floods. It observed that the said activity does not require prior environmental clearance as per the notification dated 28 March, 2020 issued by MoEFCC.

Referring to MoEFCC guidelines related to the requirement of prior clearance for projects around protected areas, Court noted that the requirement for prior clearance from National Board for Wildlife ("NBWL") is applicable for projects located within 10 kms from national parks or wildlife sanctuaries, which are listed in the Schedule to the Environment Impact Assessment Notification, 2006 ("EIA Notification") and where ESZ has not been notified. In the present case, ESZ had not yet been notified and project was also not listed in the said Schedule. As such, prior clearance from NBWL was not required and therefore the forest department's notices were unlawful. Further, the Court referred to MoEFCC guidelines regarding activities prohibited and permitted within the ESZ and noted that while commercial mining is prohibited in ESZ, de-casting of sand for agriculture purposes is not commercial mining and hence can be undertaken in ESZ with required approvals.

## Regulatory / Policy developments

**MoEFCC constitutes National Designated Authority for implementation of Article 6 of Paris Agreement; 01 June, 2022<sup>4</sup>**

MoEFCC has constituted the National Designated Authority for implementing Article 6 of the Paris Agreement. Under Article 6 of the Paris Agreement, parties to the United Nations Framework Convention on Climate Change have adopted market and non-market mechanisms to assist countries in implementing their respective Nationally Determined Contributions to address climate change.

The National Designated Authority will *inter alia* ensure that India is achieving sustainable development and environment integrity by evaluating, approving and authorising projects and actions under Article 6 mechanisms of the Paris Agreement. It will also handle all responsibilities related to other matters under this Article.

**MoEFCC reconstitutes SEIAA and SEAC for Himachal Pradesh; 01 June, 2022<sup>5</sup>**

MoEFCC has reconstituted the State Level Environment Impact Assessment Authority ("SEIAA") and State Level Expert Appraisal Committee ("SEAC") for State of Himachal Pradesh to perform functions under the EIA Notification. These bodies have been constituted for a period of three years.

**Union Government notifies rules for renewable purchase obligation; 06 June, 2022<sup>6</sup>**

Union Ministry of Power has notified the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022. These rules provide that the obligated entities under these rules will be required to comply with a uniform renewable purchase obligation. It further provides that entities utilizing green energy beyond this obligation will be issued a green certificate. It also provides that any entity

### In this edition

**SUPREME COURT JUDGMENTS / ORDERS**

**HIGH COURT JUDGMENTS / ORDERS**

**REGULATORY / POLICY DEVELOPMENTS**



can choose to generate, purchase and consume renewable energy through different sources mentioned in these rules. One such prescribed source of fulfilling this requirement is by purchasing green hydrogen or green ammonia. It also allows commercial and industrial consumers to purchase green power on a voluntarily basis for which they will be provided rating based on green energy consumed by them.

### **Union Cabinet approves MoU for joint research on air quality and climate change; 08 June, 2022<sup>7</sup>**

Union Cabinet has approved the Memorandum of Understanding (“MoU”) to establish collaborative guidelines between the National Institute for Environmental Studies, Japan and Aryabhata Research Institute of Observational Sciences, India so as to carry out and implement joint research on air quality and climate change.

### **MoEFCC issues guidelines for construction of zoo over forest land as a non-forestry activity; 08 Jun, 2022<sup>8</sup>**

MoEFCC has issued guidelines clarifying that the establishment of a zoo over a forest area after it is duly approved by the Central Zoo Authority should not be considered as a non-forestry activity for the purpose of implementation of the provisions of Forest (Conservation) Act, 1980. It has further stated that the construction of zoos in protected area will be avoided and only in exceptional cases, the fringes of the buffer zone of these areas may be considered for the construction of a zoo on forest land, subject to the condition that it should not cause hindrance in the movement of the wild animals of the area and that eco-friendly materials and designs are used in construction.

### **MoEFCC issues directions regarding submission of wildlife management plan and soil and moisture conservation plan; 08 June, 2022<sup>9</sup>**

MoEFCC has issued directions stating that every state government should submit its Wildlife Management Plan with detailed cost of its implementation, along with Stage-I compliance under Forest (Conservation) Act, 1980. However, where it cannot be submitted due to delay in its preparation, the prescribed amount would be realized from the user agency towards cost of implementation of Wildlife Management Plan and Soil and Moisture Conservation Plan along with Stage-I compliance. It would be the responsibility of the state government to ensure that the details of these plans are provided to

the relevant authority before actual non-forest use of the forest land. It should also ensure that the mitigation measures prescribed in these plans should not be delayed beyond a period of 2 years to ensure the commencement of rejuvenation of ecosystem services lost due to diversion of forest land at the earliest.

### **MoEFCC issues directions relating to baseline data submission for projects requiring EC; 08 June, 2022<sup>10</sup>**

MoEFCC has issued directions concerning baseline data and public consultation required for projects seeking prior environmental clearance (“EC”) under EIA Notification. It *inter alia* provides that (i) baseline data and public hearing shall not be more than three years old at the time of submission of application for consideration of EC; (ii) public consultation shall be conducted after the grant of Terms of Reference (“ToR”), and public consultation conducted after the expiry of ToR shall not be accepted; and (iii) at the time of application for EC, in case baseline data is older than the prescribed time, it can be considered subject to the condition that it is revalidated with one season fresh non-monsoon data collected after three years of the initial baseline data.

### **MoEFCC issues clarification for EC requirement for phosphoric and sulphuric acid projects; 08 June, 2022<sup>11</sup>**

MoEFCC has clarified that as phosphoric acid and sulphuric acid are inorganic compounds, projects for their manufacture are not covered under the EIA Notification. However, in case such plants are set up within the existing premises of the project/activity for which prior EC has already been obtained, it shall be ensured that inclusion/expansion/modernization of the said plant shall not result in increase in the production level of the project beyond the sanctioned capacity, as stated in the prior EC.

### **MoEFCC issues directions regarding certified compliance reports for expansion projects; 08 June, 2022<sup>12</sup>**

MoEFCC has issued directions regarding submission of Certified Compliance Report (“CCR”) by project proponents for expansion projects. In case the project has prior EC, CCR would be issued by the Integrated Regional Office, MoEFCC within three months. CCR would be valid for one year from the date of inspection of project and should provide status of implementation of each condition in the EC. Further, for projects not requiring prior EC,

## In this edition

**SUPREME COURT JUDGMENTS / ORDERS**

**HIGH COURT JUDGMENTS / ORDERS**

**REGULATORY / POLICY DEVELOPMENTS**



CCR on CTO conditions would be issued by the relevant State Pollution Control Board within two months, which would be valid for one year from the date of inspection of project.

## **MoEFCC directs online submission of six-monthly compliance reports under EIA Notification; 14 June, 2022<sup>13</sup>**

MoEFCC has directed that all project proponents should submit the six-monthly compliance report with respect to the environmental conditions prescribed in their prior EC letter through newly developed compliance module in the PARIVESH portal.

## **CAQM issues list of approved fuels for NCR; 23 June, 2022<sup>14</sup>**

The Commission for Air Quality Management in National Capital Region and Adjoining Areas ("CAQM") has issued directions providing the list of approved fuels in the National Capital Region of Delhi ("NCR"). Considering the common airshed in NCR, CAQM has issued a unified list of approved fuels for various applications across all sectors in the entire territorial jurisdiction of NCR. These directions will come into effect from 01 October, 2022 (where PNG infrastructure and supply is available) and 01 January, 2023 (where PNG supply is not available). The use of polluting fuels like coal, light diesel oil and naphtha has been prohibited, except for the use of low sulphur coal used in thermal power plants in NCR.

## **UN Ocean Conference held in Portugal from 27 June to 1 July, 2022<sup>15</sup>**

United Nations Ocean Conference was held in Lisbon, Portugal from 27 June to 01 July, 2022. The conference is aimed at formulating strategies for ocean conservation, resilience and its sustainable use to achieve United Nations Sustainable Development Goal 14 by the year 2030. Indian delegation to the conference was led by Union Minister for Earth Sciences, Dr Jitendra Singh.

## **MoEFCC issues draft environmental standards for boilers; 27 June, 2022<sup>16</sup>**

MoEFCC has issued a draft notification amending Schedule-I of the Environment (Protection) Rules, 1986 providing revised environmental standards for industrial boilers using coal / lignite, pet coke, bagasse / agro-fuels.

## **MoEFCC notifies Forest (Conservation) Rules, 2022; 28 June, 2022<sup>17</sup>**

MoEFCC has notified the Forest (Conservation)

Rules, 2022 in supersession of the Forest (Conservation) Rules, 2003. These rules *inter alia* provide that: (a) Project Screening Committee will be constituted by the State Government and Union Territory Administration to initially examine the completeness of proposals without going into their merits; (b) Advisory Committee and Regional Empowered Committee will be constituted to advise and examine proposals received for diversion of forest land; (c) Working Plan shall be prepared for each forest division in conformity with National Working Plan Code and National Forest Policy, 1988; and (d) if proposal is to divert forest land in a hilly or mountainous State / Union territory (having forest cover of more than two-third of its geographical area) or in any other State / Union territory (having forest cover of more than one-third of its geographical area), compensatory afforestation can be taken up in another State or Union territory having forest cover less than 20% of its total geographical area.

## **MoEFCC to enforce the ban on specified single-use plastic items from 01 July, 2022; 28 June, 2022<sup>18</sup>**

MoEFCC notified the Plastic Waste Management (Amendment) Rules, 2021 on 12 August, 2021 to ban manufacture, import, stocking, distribution, sale and use of items such as ear buds with plastic sticks, plastic sticks for balloons, plastic flags, candy sticks, ice-cream sticks, polystyrene (Thermocol) for decoration, plastic plates, cups, glasses, cutlery such as forks, spoons, knives, straw, trays, wrapping or packaging films around sweet boxes, etc. with effect from 01 July, 2022.

For effective enforcement of this ban, national and state level control rooms will be set up and special enforcement teams will be formed. Central Pollution Control Board Grievance Redressal App has also been launched to empower citizens to help curb plastic menace.

## **Union Cabinet approves Strategic Partnership Agreement between MNRE and IRENA; 29 June, 2022<sup>19</sup>**

Union Cabinet has approved the Strategic Partnership Agreement between India's Ministry of New and Renewable Energy ("MNRE") and International Renewable Energy Agency ("IRENA"). The aim of the agreement is to drive ambition, leadership and knowledge on green energy transition in India. The areas of cooperation in this agreement are expected to support India in achieving its ambitious target of 500 GW of installed non-fossil fuel electricity

## In this edition

**SUPREME COURT JUDGMENTS / ORDERS**

**HIGH COURT JUDGMENTS / ORDERS**

**REGULATORY / POLICY DEVELOPMENTS**



capacity by 2030.

## MoEFCC issues proposal for amendment in Water (Prevention and Control of Pollution) Act, 1974; 30 June, 2022<sup>20</sup>

MoEFCC has issued a proposal for amendment in the Water (Prevention and Control of Pollution) Act, 1974. It intends to essentially decriminalize existing provisions to remove imprisonment for simple violations under the Act. It also seeks to universalize processes related to consents across different States and Union Territories for the ease of doing business and to create Water Pollution Remediation Fund for compensation to affected parties and for environmental restoration.

## MoEFCC issues proposal for amendment in Air (Prevention and Control of Pollution) Act, 1981; 30 June, 2022<sup>21</sup>

MoEFCC has issued a proposal for amendment in the Air (Prevention and Control of Pollution) Act, 1981. It intends to decriminalize existing

provisions to remove imprisonment for simple violations under the Act. It seeks to create Air Pollution Remediation Fund for compensation to affected parties and environmental restoration, and to grant powers to the Union Government to prescribe guidelines related to grant, refusal or cancellation of consent under the Act.

## MoEFCC issues proposal for amendment in Public Liability Insurance Act, 1991; 30 June, 2022<sup>22</sup>

MoEFCC has issued a proposal for amendment in the Public Liability Insurance Act, 1991. The proposal notes that the Act has not been amended since 1991 despite various changes in chemical protocols, business scenario and inflation. It intends to essentially decriminalize existing provisions to remove imprisonment for simple violations under the Act, which will be replaced with substantial penalties. It also seeks to ensure swift payment of compensation to affected parties and provide provision for appeal to the NGT in case of grievance.

## In this edition

**SUPREME COURT JUDGMENTS / ORDERS**

**HIGH COURT JUDGMENTS / ORDERS**

**REGULATORY / POLICY DEVELOPMENTS**

### Endnotes

- 1 CIVIL APPEAL NO(S). 45224524 OF 2022.
- 2 Writ Petition (Civil) No. 202 of 1995.
- 3 Writ Petition No. 10774 of 2022.
- 4 <https://egazette.nic.in/WriteReadData/2022/236210.pdf>
- 5 <https://egazette.nic.in/WriteReadData/2022/236198.pdf>
- 6 <https://egazette.nic.in/WriteReadData/2022/236345.pdf>
- 7 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1832171>
- 8 [http://forestsclearance.nic.in/writereaddata/public\\_display/schemes/1415255914\\$sign\\_538\\_1654673383040.pdf](http://forestsclearance.nic.in/writereaddata/public_display/schemes/1415255914$sign_538_1654673383040.pdf)
- 9 [http://forestsclearance.nic.in/writereaddata/public\\_display/schemes/419711922\\$sign\\_538\\_1654608337736.pdf](http://forestsclearance.nic.in/writereaddata/public_display/schemes/419711922$sign_538_1654608337736.pdf)
- 10 [http://environmentclearance.nic.in/writereaddata/OMS-2004-2021/296\\_OM\\_08\\_06\\_2022.pdf](http://environmentclearance.nic.in/writereaddata/OMS-2004-2021/296_OM_08_06_2022.pdf)
- 11 [http://environmentclearance.nic.in/writereaddata/OMS-2004-2021/297\\_OM\\_08\\_06\\_2022.pdf](http://environmentclearance.nic.in/writereaddata/OMS-2004-2021/297_OM_08_06_2022.pdf)
- 12 [http://environmentclearance.nic.in/writereaddata/OMS-2004-2021/298\\_OM\\_08\\_06\\_2022.pdf](http://environmentclearance.nic.in/writereaddata/OMS-2004-2021/298_OM_08_06_2022.pdf)
- 13 [http://environmentclearance.nic.in/writereaddata/OMS-2004-2021/299\\_OM\\_14\\_06\\_2022.pdf](http://environmentclearance.nic.in/writereaddata/OMS-2004-2021/299_OM_14_06_2022.pdf)
- 14 <http://caqm.nic.in/WriteReadData/RTF/Direction%20No.65bdb61737-d9c1-45ce-9574-add3906a8342.pdf>
- 15 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1837642>
- 16 <https://egazette.nic.in/WriteReadData/2022/236895.pdf>
- 17 <https://egazette.nic.in/WriteReadData/2022/236894.pdf>
- 18 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1837518>
- 19 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1837898>
- 20 [https://moef.gov.in/wp-content/uploads/2022/06/Public-Notice-CP-Water\\_compressed.pdf](https://moef.gov.in/wp-content/uploads/2022/06/Public-Notice-CP-Water_compressed.pdf)
- 21 [https://moef.gov.in/wp-content/uploads/2022/06/Public-Notice-CP-Air\\_compressed.pdf](https://moef.gov.in/wp-content/uploads/2022/06/Public-Notice-CP-Air_compressed.pdf)
- 22 [https://moef.gov.in/wp-content/uploads/2022/06/Notice-For-Public-Consultation-on-Prposal-for-amendment-in-the-Public-Liability-Insurance-PLI-Act1991Hindi-English\\_compressed-1.pdf](https://moef.gov.in/wp-content/uploads/2022/06/Notice-For-Public-Consultation-on-Prposal-for-amendment-in-the-Public-Liability-Insurance-PLI-Act1991Hindi-English_compressed-1.pdf)

## PRACTICE AREA EXPERTS

### Pallavi Shroff

Managing Partner and National Practice Head Dispute Resolution  
+91 98100 99911  
E: pallavi.shroff@AMSShardul.com

### Nawneet Vibhaw

Partner - Environmental Law  
+91 88004 91477  
E: nawneet.vibhaw@AMSShardul.com

### Disclaimer

This is intended for general information purposes only. It is not a substitute for legal advice and is not the final opinion of the Firm. Readers should consult lawyers at the Firm for any specific legal or factual questions.