



Supreme Court Judgments / Orders

Supreme Court upholds the NGT order allowing operation of biomedical waste treatment facility without prior EC

D. Swamy v. Karnataka State Pollution Control Board & Ors.; Judgment dated 22 September, 2022¹

The Supreme Court of India ("Supreme Court") has upheld a judgment passed by the National Green Tribunal ("NGT") holding that a common biomedical waste treatment facility cannot be closed for want of prior environmental clearance ("EC") under Environment Impact Assessment Notification, 2006 ("EIA Notification"), considering that it has been operating with a valid Consent to Operate from the State Pollution Control Board ("SPCB"). The Court observed that the Environment (Protection) Act, 1986 does not prohibit the grant of *ex post facto* EC, however, such EC can be granted only in exceptional situations. It further observed that enforcement of environmental laws is very critical to ensure sustainable development, but Courts cannot also be oblivious to the economy, livelihood of hundreds of employees and general public interest. Accordingly, grant of some relaxations and *ex post facto* EC in accordance with law in cases where projects are in compliance with environmental norms, is not impermissible. In this case, since the facility was operating with a valid environmental consent, it cannot be closed for the want of an EC.

Supreme Court issues clarification regarding its judgment on ESZ around protected areas

In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.; Order dated 23 September, 2022²

Supreme Court has upheld the final eco-sensitive zone ("ESZ") notifications issued for Sanjay Gandhi National Park, Mumbai and Thane Flamingo Creek Sanctuary wherein ESZs were established with less than the minimum distance prescribed in the Supreme Court judgment dated 03 June, 2022. In the said judgment, Supreme Court had *inter alia* directed that each protected area, be it a national park or a wildlife sanctuary, shall have an ESZ of minimum one kilometer which shall be a no-development area. However, the Court had noted that such an ESZ may not be feasible in all cases and specific instances with respect to Sanjay Gandhi National Park and Guindy National Park were also noted in the aforesaid judgment. An approval from the Court was required in case of such exceptions. In this case, the applicant had sought a clarification from the Court on the issue that its judgment could not be applicable to Sanjay Gandhi National Park and Thane Flamingo Creek Sanctuary as final notifications for their ESZs were issued on 05 December, 2016 and 14 October, 2021 respectively.

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS

High Court Judgments / Orders

Karnataka High Court quashes Magistrate's order taking cognizance of a criminal complaint filed under Air Act and Water Act

B.V. Byre Gowda v. State of Karnataka & Ors.; Order dated 02 September, 2022³

Karnataka High Court has quashed a Magistrate's order taking cognizance of a criminal complaint



filed by Karnataka State Pollution Control Board ("KSPCB") against the petitioner, as complaint was filed without obtaining prior approval from the Chairman, as required under the law. The High Court observed that a perusal of the provisions of Air (Prevention and Control of Pollution Act) 1981 ("Air Act") and Water (Prevention and Control of Pollution) Act, 1974 ("Water Act") indicates that SPCB may delegate its powers to the Chairman or any other officer by a special or general order subject to the conditions and limitations, as may be specified in the order. The resolution of KSPCB delegating the power to file complaints to initiate prosecutions against any person imposed a condition that such filing can be done only after getting approval from the Chairman. However, such administrative approval was not issued by the Chairman before the filing of the present case. Accordingly, the complaint filed against the petitioner and the Magistrate's order taking cognizance of such complaint needs to be quashed as prior approval from the Chairman was not taken.

Karnataka High Court dismisses the petition filed against the construction of a sugar mill and distillery

Dandeli Bachao Andolan Samithi & Ors. v. State of Karnataka & Ors.; Judgment dated 03 September, 2022⁴

The High Court of Karnataka has dismissed a petition filed against the construction of a sugar unit containing sugarcane grinding plant, power generation plant and distillery and the permission granted to extract water from Kali River. The unit was allowed to extract water from Kali River through a pipeline. The High Court observed that the decision to set up the sugar factory has been taken in view of the fact that setting up of the sugar factory is essential as a sizeable quantity of sugarcane crop is grown in the area which was being transported to distant sugar mills by incurring huge expenditure, thus causing inconvenience to the farmers. The approval for extraction of water from Kali River was subject to the condition that water supply to nearby areas shall not be adversely affected. Accordingly, it was noted that this decision was taken in the larger interest of the residents of the region.

Uttarakhand High Court allows the state government to cut and transplant trees for road expansion project in Dehradun

Ashish Kumar Garg v. State of Uttarakhand & Anr.; Order dated 16 September, 2022⁵

The High Court of Uttarakhand has dismissed a Public Interest Litigation ("PIL") challenging the cutting of 2057 trees for widening of the road connecting Jogiwala, Ladpur, Sahasthradara crossing, Krishali Square and Pacific Golf Estate in Dehradun, Uttarakhand. The Court noted that this is a development project intended to reduce traffic congestion in the area, which will also reduce air pollution caused by traffic jams. The cutting of trees might adversely impact the environment for a short term but widening of a busy and congested road will result in the overall improvement of local environment. The Court also observed that the Eucalyptus trees being cut have exceeded their optimum age. The Court noted that the state government is also undertaking transplantation and relocation of trees in compliance with the guidelines issued by Forest Research Institute, Dehradun. However, it directed the government to procure equipment for transplantation of trees and continue with the project in the meantime by ensuring transplantation under the guidance of experts from the said forest institute. In this case, the petitioner had challenged the felling of trees by the state government for the road expansion project.

Bombay High Court holds the constitution of special benches by Principal Bench of NGT as illegal

Goa Foundation v. National Green Tribunal, Principal Bench; Judgment dated 21 September, 2022⁶

The High Court of Bombay has quashed five notices issued by the Principal Bench of NGT dated 06 September, 2021, 04 January, 2022, 11 April, 2022, 27 April, 2022 and 26 August, 2022. These notices provided that certain matters pending before the zonal benches of NGT will be heard by a special bench at New Delhi. The High Court observed that these notices lacked clarity as to which matter will be heard by the special bench and why, as also which matters will be heard by the zonal benches and why. It also observed that the constitution of a special bench with odd number of members is not permitted under National Green Tribunal Act, 2010 ("NGT Act") and National Green Tribunal (Practice and Procedure) Rules, 2011. The statutory framework provides that NGT's bench shall have equal number of judicial and expert

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS



members which makes the total number of members an even number. The High Court also found that there is no source of power in the statutory framework providing jurisdiction over cases pertaining to western zone to northern zone, especially when there are sufficient members available at the western zone bench to adjudicate these cases. Accordingly, while holding the constitution of special bench as illegal, High Court directed that cases related to western zone can only be heard by Western Zonal Bench of NGT. In this case, the petitioner had challenged these five notices as they cumulatively resulted in cases from Goa that were being heard by the western zonal bench of NGT at Pune being abruptly taken up by a special bench sitting at New Delhi.

Tripura High Court dismisses PIL seeking declaration of the possession of exotic animals / birds as illegal

Adwitiya Chakrabarti v. Union of India & Ors.; Judgment dated 21 September, 2022⁷

The High Court of Tripura has dismissed a PIL praying for the issuance of a writ to declare the possession of all exotic animals and

birds by any person in India as illegal, except those who have made voluntary disclosure to Ministry of Environment, Forest and Climate Change ("MoEFCC") as per its advisory dated 11 June, 2020. The petition prayed before the High Court to make such possession a punishable offence under the Wild Life (Protection) Act, 1972 and Customs Act, 1962, as exotic species are currently not identified in these legislations. The High Court noted that it cannot interfere with the issues that fall within the sphere of legislature and executive. It observed that the Central Government has consciously kept the exotic animals and birds out of the purview of Wild Life (Protection) Act, 1972 by not including them in its Schedules and has thus permitted their domestic trading, possession and captive breeding in India. The Court noted that most people possessing such species are animal lovers and there are appropriate safeguards in law to prevent cruelty to them. The legislative intent and decision of the government can neither be interfered with through its writ jurisdiction, nor can any direction be issued to amend these legislations.

National Green Tribunal Judgments / Orders

NGT directs M/s Key Stone Properties to pay a penalty of INR 4.4 crores

Shashikant Vitthal Kamble v. M/s Key Stone Properties & Ors.; Judgment dated 01 September, 2022⁸

NGT has directed M/s. Key Stone Properties (M/s. Royal Developers) to pay a penalty of INR 4.4 crores for commencing construction of its project without taking a valid Consent to Establish for a period of seven years and continuing it for over one year without obtaining a valid Consent to Operate. NGT noted that a closure notice was also issued against it. NGT further noted that the proponent had taken environmental clearance for the project under the window for violation cases which was opened for the limited period. In this case, the applicant alleged that M/s. Key Stone Properties (M/s. Royal Developers) had commenced the construction of its residential building project in violation of the EIA Notification without obtaining a prior EC.

NGT directs demolition of illegal constructions in CRZ areas of Goa

Agnelo Fernandes & Ors. v. GCZMA & Ors.; Order dated 02 September, 2022⁹

NGT has upheld an order issued by Goa Coastal Zone Management Authority ("GCZMA") directing demolition of illegal constructions raised by the appellant in violation of the Coastal Regulation Zone Notification, 2019 ("CRZ Notification"). NGT has granted a time of two weeks to enable the appellant to take any other remedy as per law and to remove these structures, failing which GCZMA can execute this order. The appellant prayed before the NGT on the ground that its structure existed prior to the initial notification of the CRZ Notification in 1991, which can be observed through satellite images and approval letter of local panchayat. However, NGT observed that satellite images clearly show that a small structure existed prior to 1991, whereas currently this structure is a massive building with ground and two other floors having 36 rooms and a swimming pool. Considering

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS



that the subject area is a no-development zone, new construction is against the CRZ Notification. In this case, the appeal was filed against the GCZMA order directing demolition of illegal constructions raised by the appellant in violation of the CRZ Notification.

NGT sets aside CRZ clearance issued for construction of cottages in Goa

Alchemist Asset Reconstruction Company Ltd. v. Goa Coastal Zone Management Authority & Ors.; Judgment dated 05 September, 2022

NGT has set aside the CRZ approval granted by GCZMA to M/s. Costeiro Azul Resorts for construction of cottages, restaurant, reception lounge and open recreation space in Canacona Taluka, Goa. NGT observed that only temporary and seasonal structures are permissible under Goa CRZ, whereas GCZMA has granted these approvals for permanent construction in an ecologically sensitive area which is very close to a turtle nesting ground. These projects involve construction of huge structures using steel and pre-fabricated material in no-development zone, which is not permissible.

NGT sets aside an EC revocation order issued by MP SEIAA as being harsh, disproportionate, unfair and arbitrary

ACC Limited v. MP SEIAA; Order dated 08 September, 2022¹⁰

NGT has set aside the order of Madhya Pradesh State Environment Impact Assessment Authority ("MP SEIAA") revoking the EC issued to an entity engaged in the business of manufacturing of cement, mining and allied activities. The ground for revocation of EC was non-submission of half yearly EC compliance statement for a past period by the entity. NGT referred to the earlier decisions of the Supreme Court to deliberate on the principle of proportionality in determining penalties for environmental violations. It observed that, since the entity was not found violating any other environmental laws or causing pollution, revocation of the EC on the aforesaid ground is not justified or proper. The revocation order is accordingly harsh, disproportionate, unfair and arbitrary.

NGT further observed that the closure of the unit will directly affect the economy of the

state and may disbalance the demand and supply of the material in the society and result in unemployment in the state. The matter of calculation of compensation or penalty is pending before the competent forum and the SEIAA must have waited for its decision for further proceedings. In this case, MP SEIAA issued a show-cause notice to the entity that the six-monthly report for a previous period has not been filed within time. Considering the reply filed by the entity, MP SEIAA passed an order to revoke the EC.

NGT directs Chief Secretary, Bihar to address fire incidents in firework industries

In re: News item published in The Hindu dated 25.07.2022 titled "Explosion in Bihar illegal firecracker unit kills five"; Order dated 13 September, 2022¹¹

NGT has directed the Chief Secretary, Bihar to convene a meeting of all district magistrates of the state to formulate appropriate Standard Operating Procedure for preventing fire incidents in industries, particularly firework factory in this case. NGT noted that such incidents often happen due to failure of industries to follow environmental safety norms and lack of adequate monitoring and oversight mechanism to ensure compliance with applicable law. It has dealt with various cases involving industrial accidents resulting in fatalities and injuries and issued directions to authorities to strengthen monitoring for ensuring compliance of environmental safety norms and preventing such incidents. In this case, NGT took *suo-motu* cognizance of a fire incident in a house where persons were engaged in manufacture and sale of firecrackers without obtaining requisite clearances from authorities.

NGT imposes penalty of INR 120 crores against State of UP for polluting rivers in Gorakhpur

Meera Shukla v. Municipal Corporation, Gorakhpur & Ors.; Order dated 13 September, 2022¹²

NGT has directed State of Uttar Pradesh ("UP") to pay INR 120 crores as penalty for its failure to control water pollution and for allowing discharge of untreated sewage into rivers flowing through Gorakhpur. NGT also

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS



observed non-compliances with respect to solid waste management in the city. NGT has constituted a six-member joint committee to address these issues and take steps including operationalization of effluent treatment plants, interception and diversion of drains to sewage treatment plants, maintaining floodplain zones of rivers and lakes, preventing encroachment and ensuring plantation and desilting of waterbodies. In this case, applicant had raised grievances against contamination of water bodies and groundwater, specially Ramgarh Lake, Ami, Rapti and Rohani Rivers in and around district Gorakhpur, UP.

NGT imposes environmental compensation of INR 100 crores against UP Government for failure to manage liquid waste

T. S. Singh v. State of Uttar Pradesh; Order dated 14 September, 2022¹³

NGT has directed UP government to pay penalty of INR 100 crores for failure to prevent discharge of untreated sewage into river Sai. The reports submitted by CPCB and NGT constituted Oversight Committee noted that untreated sewage is being discharged into the drains which eventually connect with the river. It also observed that sewage treatment plants ("STP") have also not been established in these districts resulting in the discharge of untreated sewage into the waterbodies. NGT has also constituted a monitoring committee for compliance with the steps like operationalization of STPs, interception and diversion of drains to the respective STPs, maintaining floodplain zones of rivers, preventing encroachment, ensuring plantation and desilting of the rivers and other associated activities. In this case, NGT was considering an application filed against the failure of authorities in UP, particularly Pratapgarh, Rai Bareilly and Jaunpur, in preventing discharge of untreated sewage into Sai river.

NGT upholds EC issued for expansion of a mining project in Madhya Pradesh

Budhsen Rathore v. Union of India & Ors.; Judgment dated 15 September, 2022¹⁴

NGT has upheld the EC dated 11 January, 2019 issued for the expansion of Khairaha Underground Coal Mining Project of M/s. South Eastern Coalfields Limited in Shahdol, Madhya

Pradesh. Based on the report submitted by the joint committee constituted by it, NGT observed that there is no incremental trend in environmental pollutants concentration, health related issues and water quality in the core and buffer area of the mine after EC-expansion. However, NGT issued directions for the project proponent regarding increase in planation around the road towards the mine, transport facility management so that trucks are not overloaded, taking precautions to avoid falling of coal on the road that results in fugitive emission, to raise the height of railway siding wall by sheds, establish more ground water recharge structures and construct or reclaim ponds in nearby villages where water is not being supplied. NGT further directed the Central Pollution Control Board ("CPCB") to periodically monitor the compliance of the environmental conditions and to take necessary steps in case of non-compliance.

NGT issues directions concerning utilisation and disposal of fly ash

Ram Awtar Agrawal v. State of Chhattisgarh & Ors.; Judgment dated 19 September, 2022¹⁵

NGT has directed State of Chhattisgarh authorities to ensure compliance with the regulatory framework related to utilisation and disposal of fly ash. Government should work to augment the utilization and disposal of fly ash in the state and all thermal power plants in the area should address this issue. It observed that the transportation of fly ash should be done in compliance with the applicable law. The use of fly ash for filling of low-lying areas needs to be explored and district fly ash disposal committee should prepare a list of abandoned mines that can be filled with fly ash. NGT also considered and accepted recommendations of the joint committee established by it for examining this issue. In this case, NGT was considering an application pertaining to the use of fly ash and its unscientific dumping by Bharat Aluminium Company Limited management in district Korba, Chhattisgarh in violation of the law, which is causing adverse effect on human health and agricultural fields.

NGT holds the operation of a bamboo chemical treatment plant in forest area as illegal

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS

**Manoj Markendeyrao Wahane v. Maharashtra Bamboo Development Board & Ors.; Judgment dated 19 September, 2022¹⁶**

NGT has directed that setting up a chemical treatment plant for bamboo processing within a reserved forest area will not be considered as 'non-forest purpose' defined under the Forest (Conservation) Act, 1980 ("FCA"), as the said plant is undertaking chemical treatment of bamboo for strengthening it so that it can be used in construction of fencing, bridges, culverts etc. Moreover, as this activity is being done at a large scale, it will be considered as a commercial activity and not a research activity. Therefore, there is a violation of FCA as prior approval from Central Government was not taken. NGT further noted that this plant is also being operated without valid Consent to Establish and Consent to Operate from the SPCB. NGT also directed SPCB to determine environmental compensation for violation and restoring the area to its original condition. In this case, NGT was considering an application filed against the Maharashtra Bamboo Development Board, which is operating a bamboo chemical treatment plant inside the reserved forest area in violation of FCA.

NGT upholds the EC granted to a hydroelectricity plant in Uttarakhand**Manoj Mishra & Ors. v. Union of India & Ors.; Order dated 19 September, 2022¹⁷**

NGT has upheld EC granted to M/s. UJVN Ltd for Lakhwar Multipurpose Project (300 MW) in districts Tehri Garwal and Dehradun of Uttarakhand. It observed that the project is in national interest and viable, subject to suggested safeguards provided in the EC. NGT accepted recommendations provided in the report submitted by NGT constituted joint committee and directed the proponent to ensure compliance with them as well. NGT observed that there is no reason to interfere with the EC granted by the MoEFCC based on an independent and thorough appraisal of all relevant environmental issues.

NGT imposes INR 100 crores environmental compensation against Haryana for its failure to manage municipal solid waste**Poonam Yadav v. M/s. Ecogreen Energy Pvt. Ltd. & Ors.; Order dated 23 September, 2022¹⁸**

NGT has directed the Chief Secretary, State of Haryana to pay INR 100 crores as environmental compensation for the failure to ensure compliance with environmental norms for handling and disposing legacy municipal solid waste at the dump site which has damaged environment and public health. NGT considered reports of the joint committee, which noted that Haryana has completely failed to comply with statutory norms at these sites and steps being taken to manage such waste are inadequate. NGT noted that about 33 lakh metric tonnes of solid waste have been dumped at Bandhwari landfill site in Gurugram over the years. NGT further noted that even after almost seven years of continuous monitoring, there is hardly any meaningful progress in clearing the legacy waste. The waste to energy plant being operated in Gurugram has also failed to make any difference in the situation.

NGT sets aside ECs issued for riverbed mining in J&K**Raza Muzaffar Bhat v. State Environment Impact Assessment Authority, Jammu & Kashmir & Ors.; Judgment dated 28 September, 2022¹⁹**

NGT has set aside three ECs dated 19 April, 2022 granted by the State Environment Impact Assessment Authority, Jammu & Kashmir ("J&K") in favour of M/s. NKC Projects Pvt. Ltd. for undertaking river bed mining. NGT observed that the authorities have not followed the mandatory procedure prescribed for granting the EC, as proponent had not submitted the district survey report ("DSR") or replenishment study which are required under EIA Notification, Sustainable Sand Mining Management Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020. As per EIA Notification, DSR is the basis for application for the grant of prior EC and therefore, an application without DSR means an incomplete document, which cannot be processed or proceeded with any further. Incomplete information or documents would render an application for grant of prior EC liable to be rejected, as has been held by the Supreme Court.

NGT also found that the authority had granted an EC to the project proponent to undertake mining activities within 10 meters from the river embankment, which is contrary to J&K Minor Mineral Rules, 2016.

In this edition**SUPREME COURT JUDGMENTS / ORDERS****HIGH COURT JUDGMENTS / ORDERS****NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS****REGULATORY / POLICY DEVELOPMENTS**



NGT further observed that the proponent has also violated the EC conditions as it was using heavy machines like JCB etc. for mining activities despite there being a prohibition on the use of heavy machines like JCB, hydraulic excavator etc. in EC. NGT observed that violation of EC conditions by itself will not vitiate the EC but may attract penal action like cancellation of EC or cancellation of mining contract and/or imposition of environmental compensation and other remedial and punitive action as provided under the law. It has accordingly directed J&K State Pollution Control Board to take appropriate action on account of the violation of these conditions by the proponent. It has also restrained the proponent from carrying on any mining activities pursuant to these ECs.

NGT directs UP Government to issue final notification for rationalisation of Hastinapur Wildlife Sanctuary, UP

Vireshwar Singh v. Union of India & Ors.; Order dated 28 September, 2022²⁰

In this case, the applicant sought an enforcement of NGT's order dated 10 June, 2021 in *Gaurav Kumar Bansal v. UOI & Ors.*²¹ directing finalization of notification under Section 26A of the Wild Life (Protection) Act, 1972 for protection of the Hastinapur Wildlife Sanctuary by State of UP. NGT found that the status report filed by government authorities was not satisfactory as no justification was provided for delay in enforcement of NGT's directions for issuance of final notification on the Hastinapur Wildlife Sanctuary. It accordingly directed the government to issue final notification within a period of 45 days.

NGT imposes INR 15 crores as environmental compensation against a real estate project for construction of additional floors

Vineet Sinha v. Union of India & Ors.; Order dated 28 September, 2022²²

NGT has directed M/s Express Builders and Promoters Private Limited to pay environmental compensation of INR 15 crores for violating EC conditions in construction of its real estate project. NGT observed that the project proponent had violated the EC conditions prescribing the number of flats that could be built in the project. In violation of these conditions, proponent has exceeded

the limit of construction in connivance with the authorities. As per the EC, the project proponent could establish only ground floor along with 18 floors, but it had constructed 19 floors along with ground floor in 5 towers of the project. Even if total number of floors is within limit of EC, it cannot justify extra construction without prior approval. NGT further observed that demolition of 19th floor might affect third party rights as those flats have been sold and occupied. NGT accordingly directed proponent to pay environmental compensation of INR 15 crores based on 10% of total project cost. In this case, applicant raised grievances against the violation of EC conditions by M/s Express Builders and Promoters Private Limited in constructing its project Express Zenith in Noida, UP.

NGT issues directions for controlling pollution in salt pans of Mumbai affecting mangrove ecosystem

Madhura Rajesh Tawde v. State of Maharashtra; Order dated 28 September, 2022²³

NGT has directed Municipal Corporation of Greater Mumbai to prepare a time bound action plan to issue directions for scientific handling of waste being dumped in salt pans of South Mumbai, which is affecting the mangrove ecosystem of the area. The report submitted by NGT constituted joint committee noted that there have been unchecked violations by way of encroachments, construction of bund, illegal constructions and dumping of debris in violation of environmental norms which has harmed the environment, particularly mangroves. NGT also directed Salt Commissioner, Mumbai to take necessary action in this matter. In this case, applicant raised grievance against damage to the environment in Mumbai city near coastal road from Wadala to Mahul, close to Chembur to CST freeway, due to the debris and encroachment of salt pan, which is affecting the mangroves.

NGT issues multiple orders imposing environmental compensation against West Bengal, Rajasthan, Maharashtra and Punjab for their failure to ensure waste management

In re: Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues²⁴

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS



NGT has directed the Chief Secretaries of States of Maharashtra²⁵, West Bengal²⁶, Punjab²⁷ and Rajasthan²⁸ to take measures to ensure waste management in their respective jurisdictions through stringent monitoring at appropriate levels, particularly district level. The objective should be to reduce the gap between generation and processing of solid and liquid waste and to remediate the legacy waste. For past violations by the State, NGT has imposed environmental compensation of INR 12,000 crore (on Maharashtra), INR 3,500 crore (on West Bengal), INR 2,180 crore (on Punjab) and INR 3,000 crore (on Rajasthan) for waste management and remediation measures based on the compensation methodology determined in its previous directions.

NGT observed that these States failed to ensure compliance with its prior directions related to waste management. No steps have been taken by the authorities to ensure compliance and there are still huge gaps in the management of solid as well as liquid waste. NGT noted that waste management mechanism is required on war footing scale and authorities need to brainstorm with experts and other stakeholders at different levels to evolve models and initiate community campaigns. NGT took *suo-motu* cognizance of this case on the basis of the directions issued by the Supreme Court pertaining to timeline for compliance with Solid Waste Management Rules, 2016.

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS

Regulatory / Policy developments

MoEFCC issues clarification on applicability of EIA Notification on R&D activities; 01 September, 2022²⁹

MoEFCC has clarified that research and development ("R&D") activities on laboratory/pilot scale carried out for projects or activities which are listed in the EIA Notification and involving no commercial production are exempted from requirements of EC, provided that these activities are specifically mentioned as R&D activity in consents obtained from SPCB.

MoEFCC revises timeline for compliance with environmental standards by thermal power plants; 05 September, 2022³⁰

MoEFCC has extended the timeline for thermal power plants in India to comply with revised environmental standards. The revised standards deal with sulphur dioxide and other emissions and prescribe different timelines for units located (i) within 10 km radius of National Capital Region or cities having million plus population; (ii) within 10 km radius of critically polluted areas or non-attainment cities; and (iii) other areas. It also prescribes the last date for retirement of power plant units to seek exemption from compliance with revised standards. In case of non-compliance, environmental compensation methodology is also prescribed.

MoEFCC issues clarifications on validity of approval under FCA and mining lease; 05 September, 2022³¹

MoEFCC has clarified that relevant state government may extend the validity of approvals granted under the FCA to make it co-terminus with validity of the lease granted under the Mines and Mineral (Development and Regulation) Act, 1957, as per the applicable provisions of the Handbook of Forest (Conservation) Act, 1980. However, in case of change in the user agency during the validity period of lease, state government shall take prior approval of Central Government under FCA.

MoEFCC issues guidelines on the process for dealing with violation cases under FCA; 08 September, 2022³²

MoEFCC has issued guidelines for dealing with cases related to violation of FCA. In case of proposals submitted for *ex-post facto* approval, these cases will be dealt with as encroachment of forest land and therefore the process prescribed under rule 7(2)(c) of the Forest (Conservation) Rules, 2003 needs to be followed for cases involving area up to 40 ha while proposal involving area more than 40 ha will be dealt as per rule 7(4) of the Forest (Conservation) Rules, 2003. The document also notes that proposals submitted after 28 June, 2022 will be dealt with as per the Forest (Conservation) Rules, 2022. All proposals of regularization of encroachment or *ex-post facto* approval shall be decided by MoEFCC at the central level and not by Integrated Regional Offices.



Union Government notifies rules related to vehicle scrapping facilities; 13 September, 2022³³

The Ministry of Road Transport and Highways has issued a notification to amend the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021. Through this amendment, the Government has *inter alia* proposed the framework to be followed by scrapping facilities for scrapping the end-of-life vehicles and provision for vehicle owners to digitally apply for vehicle scrapping.

Delhi government launches an open database on EV charging and battery swapping stations; 14 September, 2022³⁴

Delhi government has launched an open database on electric vehicles (“EV”) charging and swapping stations. This database is intended to provide information to EV users about the location of EV charging and battery swapping stations across the territory.

MoEFCC constitutes SEIAA and SEAC for State of Odisha; 19 September, 2022³⁵

MoEFCC has constituted the State Environment Impact Assessment Authority (“SEIAA”) and State Expert Appraisal Committee (“SEAC”) for State of Odisha for a period of three years. These authorities need to discharge the functions prescribed under EIA Notification.

Union Cabinet approves PLI Scheme for manufacturing of solar PV modules; 21 September, 2022³⁶

The Union Cabinet has approved the Production Linked Incentive Scheme (Tranche II) (“PLI Scheme”) on ‘National Programme on High Efficiency Solar PV Modules’ with an outlay of INR 19,500 crores for encouraging increase in manufacturing capacity of high efficiency solar PV modules in India. This programme aims to build an ecosystem for manufacturing of high efficiency solar PV modules in India and thus reduce import dependence in the area of renewable energy.

Ministry of Power notifies energy saving targets for designated consumers; 26 September, 2022³⁷

Ministry of Power has notified the energy consumption norms and standards for the

period from 2022-23 to 2024-25 for specified industries covered in sectors including aluminium, iron and steel, cement, electricity distribution companies, etc. The industries will be required to achieve the specified energy consumption levels in relation to their current energy consumption, for which they will receive energy saving certificates that can be traded with entities unable to achieve their respective levels.

Ministry of Power notifies energy consumption standards for star labelled household refrigerators; 26 September, 2022³⁸

Ministry of Power has notified the energy consumption standards for star labelled household refrigerators. As per these standards, every household and similar refrigerating appliance cooled by internal natural convection (direct cool) or forced air circulation (frost free) being manufactured, commercially purchased, sold or imported in India shall comply with requirements specified in the notification for star rating.

MoEFCC issues procedure for transfer of EC proposals from central level to state level or vice versa; 27 September, 2022³⁹

MoEFCC has issued the procedure for transfer of EC proposals from authorities at state level to central level or *vice versa*, as constituted under EIA Notification. MoEFCC had amended the EIA Notification on 20 April, 2022, which had provided that Category B projects which were inordinately delayed at SEIAA level beyond the stipulated timeline and also meet the relevant criteria shall be considered at the central level as Category B projects. This memorandum provides the procedure to be followed by authorities in such cases.

Government notifies implementation dates for EV battery testing safety standards; 27 September, 2022⁴⁰

Ministry of Road Transport & Highways has decided to implement the EV battery safety testing standards to strengthen safety parameters for testing of batteries used in EVs in two phases, i.e., from 01 December, 2022 and 31 March, 2023.

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS



Union Cabinet approves MoU between India and Bangladesh on withdrawal of water from common border river Kushiyara; 28 September, 2022⁴¹

Union Cabinet has approved the Memorandum of Understanding ("MoU") between India and Bangladesh on withdrawal of upto 153 cusecs

of water each by India and Bangladesh from common border river Kushiyara during dry season (1st November to 31st May) for their consumptive water requirement. This will enable Government of Assam to withdraw the said amount of water from Kushiyara river.

Endnotes

- 1 Civil Appeal No. 3132 of 2018.
- 2 Writ Petition(s)(Civil) No(s). 202/1995.
- 3 CRL.P No. 8067 of 2019.
- 4 W.P. No. 16505 of 2007 (GM-RES).
- 5 Writ Petition (PIL) No. 68 OF 2022.
- 6 PIL Writ Petition No. 4 OF 2022.
- 7 W.P.(C.)(PIL) No. 11/2022.
- 8 Original Application No. 13/2021(WZ).
- 9 Appeal No. 16/2022 (Appeal No. 9/2022 (WZ)) (I.A. No. 29/2022 (WZ)).
- 10 Appeal No.09/2022 (CZ).
- 11 Original Application No. 545/2022.
- 12 Original Application No. 116/2014 (I.A. No. 195/2022).
- 13 Original Application No. 490/2019.
- 14 Appeal No. 06/2019 (CZ) and I.A. No. 24/2019.
- 15 Original Application No. 33/2022 (CZ).
- 16 Original Application No. 107/2021(WZ).
- 17 Appeal No. 35/2021 (I.A. No. 173/2022).
- 18 Original Application No. 172/2021.
- 19 Appeal No. 24/2022.
- 20 Execution Application No. 38/2021 in Original Application No. 48/2021.
- 21 E.A. No. 47/2019 in O.A. No. 325/2018.
- 22 Original Application No. 245/2021.
- 23 Original Application No. 343/2021.
- 24 Original Application No. 606/2018.
- 25 Order dated 08 September, 2022.
- 26 Order dated 01 September, 2022.
- 27 Order dated 22 September, 2022.
- 28 Order dated 15 September, 2022
- 29 http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/304_OM_01_09_2022.pdf
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- 39 http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/306_OM_27_09_2022.pdf
- 40 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1862596>
- 41 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1862940>

In this edition

SUPREME COURT JUDGMENTS / ORDERS

HIGH COURT JUDGMENTS / ORDERS

NATIONAL GREEN TRIBUNAL JUDGMENTS / ORDERS

REGULATORY / POLICY DEVELOPMENTS

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