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## Supreme Court Judgments / Orders

Supreme Court accepts CEC recommendations to utilise existing powerline instead of cutting trees for a new power transmission project in Goa

**In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.; 07 April, 2022<sup>1</sup>**

The Supreme Court of India (“Supreme Court”) has accepted the recommendations of the Central Empowered Committee (“CEC”) to utilise the existing 220 KV powerline alignment in Goa, instead of cutting down the trees in the virgin forests to lay a new 400 KV transmission line by Goa Tamnar Transmission Project Limited. The Court accepted this recommendation in the interest of the forests and wildlife of the ecologically fragile and biodiversity rich areas of Western Ghats. Accordingly, the Court also set aside the permission granted by National Board for Wildlife to cut down trees in protected areas. In this case, Supreme Court was considering the proposal to lay down inter-state power transmission lines through protected areas of Karnataka and Goa.

Brick kilns permitted to operate in NCR with certain conditions

**NCR Brick Kiln Association v. Central Pollution Control Board & Ors.; 08 April, 2022<sup>2</sup>**

The Supreme Court has permitted the brick kilns in the National Capital Region (“NCR”) to operate in cases where they have obtained the Consent to Operate (“CTO”) from respective State Pollution Control Boards (“SPCBs”) and declared their production capacity to the concerned authorities. The units which have failed to obtain the CTO and disclose their

production capacity will not be permitted to operate till they do so. The Court held that the operation of these kilns is subject to the following conditions: (i) to operate in compliance with MoEFCC notification dated 22 February, 2022 prescribing emission standards for brick kilns; (ii) officers of both Central Pollution Control Board (“CPCB”) and SPCBs shall conduct surprise inspections without any notice and warning to units to ensure compliance; (iii) production will be limited to the production capacity as per the consent granted by the respective SPCBs; (iv) brick kilns shall report their actual total production to the respective SPCBs at the end of every cycle; (v) CPCB and SPCBs shall monitor the impact of pollution caused due to the operation of the permitted units.

In this case, Supreme Court was considering an appeal against the order passed by the National Green Tribunal (“NGT”) allowing brick kilns operating only on Piped Natural Gas to operate in NCR. The Court provided relief to the brick kiln operators while balancing the interest of environment protection along with the interests of the brick kiln owners and their employees.

Oversight Committee for Delhi-Dehradun Expressway project reconstituted

**Citizens for Green Doon v. Union of India & Ors.; 19 April, 2022<sup>3</sup>**

The Supreme Court has reconstituted the Oversight Committee constituted by the NGT for monitoring the implementation of the Delhi-Dehradun Expressway project while ensuring compliance with the environmental

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laws and protection of the wildlife in the region. The Court included additional members in the Committee to bring in specialised domain knowledge relevant for the project. The Court also made Director General of Forests, MoEFCC the Chairperson of the Committee. The Court directed the Committee to consider the key issues important to ensure mitigation of risks for wildlife due to the construction of the project. In this case, the appellant had challenged the NGT's order which had upheld the forest clearance granted for the Delhi-Dehradun Expressway Project.

**Supreme Court directs power companies to approach the committee for seeking exemption from undergrounding power transmission lines in GIB habitat of Gujarat and Rajasthan**

**M.K. Ranjitsinh & Ors. v. Union of India; 21 April, 2022<sup>4</sup>**

The Supreme Court has directed the power companies to approach the expert committee constituted by it earlier, in order to seek any

exemption from installing underground power transmission lines in the priority areas of the habitat of Great Indian Bustard ("GIB"). The court considered the status report provided by the committee and noted that only a few companies had approached it so far. The Court further observed that the steps taken to install bird diverters in the GIB habitat were deficient and therefore directed all stakeholders to ensure the installation of bird diverters before 20 July, 2022. It also directed the committee to formulate standards for the quality of bird diverters in consultation with the Central Electricity Authority to ensure uniformity in standards.

In this case, the Court was considering interlocutory applications filed by various governments, ministries and associations of power companies seeking modification of its earlier order dated 19 April, 2021 wherein it had directed that power transmission lines be laid underground in the priority and potential areas of the GIB habitats in Rajasthan and Gujarat.

## High Court Judgments / Orders

**Madras HC quashes TNPCB notification directing installation of emission control devices in DG sets**

**Hindustan Petroleum Corporation Limited & Ors. v. Union of India & Ors.; 01 April, 2022<sup>5</sup>**

The High Court of Madras has quashed the notification issued by Tamil Nadu Pollution Control Board ("TNPCB") requiring respondent petroleum marketing company to install

emission control equipment in its diesel generator ("DG") sets. The Court noted that these devices are not manufactured anywhere in India or abroad. CPCB recognised laboratories also don't manufacture these devices and the matter is still being considered by CPCB's sub-committee. While TNPCB agreed to grant six-month extension for installation of these devices, the High Court observed that it should have taken a pragmatic approach in this issue and therefore the notification was quashed.

## National Green Tribunal Judgments / Orders

**NGT quashes Chhattisgarh Environment Conservation Board's order refusing permission for CTE amendment by a thermal power plant**

**Jindal Power Limited v. Chhattisgarh Environment Conservation Board & Ors.; 01 April, 2022<sup>6</sup>**

NGT has quashed the order issued by the Chhattisgarh Environment Conservation Board through which it had refused to allow

the application seeking amendment of the Consent to Establish ("CTE") issued to a thermal power plant. The applicant operates a thermal power plant in Raigarh District, Chhattisgarh. The Environmental Clearance ("EC") issued to the plant required it to establish a fly ash pond near Rodapali village. However, this land could not be acquired as it falls within a coal mine and hence EC modification application was filed. MoEFCC amended the EC allowing the applicant to change the location of the

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fly ash pond and continue using the existing pond for two more years. The applicant's application for amendment in the CTE was denied vide an order dated 19 March, 2021 on the ground that the time period granted for 100% fly ash utilization cannot be extended.

NGT held that the refusal to amend the CTE was invalid as this application had to be considered in view of the recent fly ash notification dated 31 December, 2021 which has been issued in supersession of all previous notifications/circulars. This notification provides a fresh road map for achieving 100% utilisation of current and legacy fly ash by thermal power plants. The notification also allows plants to operate temporary fly ash ponds.

**NGT dismisses application against a construction project under Bhopal Smart City Project**

**Vijit Patni & Anr. v. State of Madhya Pradesh & Ors.; 04 April, 2022<sup>7</sup>**

NGT has dismissed an application filed against a high-rise building project under Bhopal Smart City Project alleging that the project has covered a drainage system / nalla with sand and dust and also violated environmental rules by undertaking construction without requisite approvals. NGT noted that prior EC was taken for the project and EC compliance reports are also being regularly furnished to MoEFCC. It also noted that the khasra map of the revenue department does not provide any natural stream or nallah in the area under question. Since artificial drains were being used for drainage of storm water in the area, there was no violation of environmental rules due to the construction activities.

In this case, NGT was considering an application raising grievances against the construction of a high-rise building project under Bhopal Smart City Project in violation of the environmental rules.

**NGT directs Madhya Pradesh Government to control illegal mining in Sonchiraiya Sanctuary, Gwalior**

**Braj Raj Singh v. Department of Housing and Environment; 04 April, 2022<sup>8</sup>**

NGT has directed the Government of Madhya Pradesh to ensure total control on illegal mining within and around Sonchiraiya

Sanctuary in Ghatigaon, Gwalior. NGT observed that mining is prohibited within the sanctuary especially the Eco-Sensitive Zone ("ESZ"). It noted that illegal mining using heavy earth moving machineries meant to remove the overburden for winning the mineral has been reported from the sanctuary. However, as the matter is also pending before the High Court of Madhya Pradesh, NGT directed that the monitoring shall be done by the Government in compliance with the directions of the High Court.

In this case, NGT was considering grievances against illegal mining around Sonchiraiya Sanctuary in Ghatigaon, Gwalior, which was having an adverse impact on the environment.

**NGT dismisses appeal challenging the EC granted to a CBWTF in Madhya Pradesh**

**Puneet Jain v. Madhya Pradesh State Environment Impact Assessment Authority; 05 April, 2022<sup>9</sup>**

NGT has dismissed an appeal filed against the EC granted to establish a Common Bio-Medical Waste Treatment Facility ("CBWTF") in Madhya Pradesh. NGT noted that Madhya Pradesh State Environment Impact Assessment Authority ("MPSEIAA") had considered all relevant aspects while considering the application for EC. The recommendations of State Level Expert Appraisal Committee were also taken into consideration. NGT noted that various aspects mentioned in Biomedical Waste Management Rules, 2016 and CPCB guidelines such as existing CBWTF and its coverage area, total generation of BMW, total number of beds, estimated quantity, etc. were also considered by the authority and therefore, there was no irregularity in granting this EC.

In this case, NGT was considering an appeal against the EC granted to a CBWTF by MPSEIAA under the provisions of the Environment Impact Assessment Notification, 2006 ("EIA Notification").

**NGT dismisses application filed against Tata Steel for illegal diversion of forest land**

**Manoj Kumar Banara & Ors. v. State of Odisha & Ors.; 05 April, 2022<sup>10</sup>**

NGT has dismissed an application filed

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against Tata Steel Ltd. for constructing a boundary wall for its Integrated Steel Plant on forest land without approval under Forest (Conservation) Act, 1980. NGT observed that the diversion of forest land in question was approved by MoEFCC based on an application filed by the State Government, which then allowed Tata Steel to utilise the land for its operations. Accordingly, there is no need for Tata Steel to obtain a separate approval for forest land diversion.

In this case, NGT was considering an application against Tata Steel Limited, Kalinganagar for constructing a boundary wall for its Integrated Steel Plant on forest land without taking requisite approval under Section 2 of the Forest (Conservation) Act, 1980.

**NGT dismisses application filed against Steel Authority of India Ltd. for illegally using forest land**

**Dulal Singh v. Steel Authority of India Ltd.; 06 April, 2022<sup>11</sup>**

NGT has dismissed an application filed against the Steel Authority of India Ltd. for using forest land for non-forest purposes without obtaining stage-II forest clearance from MoEFCC. NGT noted that the stage-II forest clearance was provided to the company in 2017. It was also granted permission for operationalisation of the mine by Government of Odisha and Supreme Court. Accordingly, since these approvals had been obtained for mining operations within the forest area, no other points remain pending for adjudication.

In this case, NGT was considering an application filed for taking necessary action against the respondents for violation of the provisions of the Forest (Conservation) Act, 1980 as Steel Authority of India Ltd. was alleged to have been stacking and loading iron ore in rail wagons illegally and was unauthorisedly using 77.94 hectares of forest land in Toda Reserve Forest.

**MoEFCC directed to notify the final standards for pharmaceutical industry and to enforce draft standards until their finalisation**

**Jasmeet Singh v. State of Himachal Pradesh; 06 April, 2022<sup>12</sup>**

NGT has directed MoEFCC to expeditiously notify the final standards for pharmaceutical industry based on expert studies. NGT noted that the draft notification dated 23 January, 2020 proposed standards for Bulk Drug and Formulation (Pharmaceutical) Industry. However, the final notification dated 06 August, 2021 did not cover all the standards mentioned in the draft notification including antibiotic residue standards. Accordingly, there is a lacuna in regulating discharge from pharmaceutical industries.

NGT also observed that the regulatory mechanism cannot be a reason to keep such important issues in abeyance for an indefinite period, just because MoEFCC is unable to finalise the draft standards even after two years. In view of its adverse consequences for environment and public health, NGT issued a direction under Section 15(1) of the NGT Act holding that the standards proposed in the draft notification will be strictly followed, pending its finalisation by MoEFCC. The guidelines issued by CPCB on this subject shall also be followed. It further directed Himachal Pradesh Pollution Control Board ("HPPCB") to take further action to prevent and find a solution to the unregulated discharge by pharmaceutical industries in rivers.

In this case, NGT was considering an application for remedial action against the failure of the authorities in the state of Himachal Pradesh in preventing pollution of rivers Balad, Sirsa and Sutlej in Baddi industrial area in Solan district.

**NGT directs recovery of environmental compensation from illegal tanneries in West Bengal**

**Md. Islam v. Pollution Control Board, West Bengal & Ors.; 08 April, 2022<sup>13</sup>**

NGT has directed the West Bengal Pollution Control Board ("WBPCB") to assess and recover environmental compensation from the respondent company for illegally running tannery business and polluting the environment. It also directed WBPCB to regularly monitor similar cases of illegal operation of tanneries in the State. The NGT-constituted committee had found these tanneries to be operating in violation of the environmental norms. However, since their premises have been sealed and vacated,

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NGT observed that there is no other issue requiring adjudication. In this case, NGT was considering grievances against two tanneries being operated by M/s. India Tanneries in Kolkata in violation of the environmental norms.

## NGT directs State of Rajasthan to control pollution in Man Sagar Lake, Jaipur

**Tribunal at its Own Motion v. State of Rajasthan & Ors.; 08 April, 2022<sup>14</sup>**

NGT has directed the State of Rajasthan to take urgent measures to control the pollution in Man Sagar Lake, Jaipur along with the other water bodies in the State. NGT held that sewage disposal should not be allowed in the lake and it should be rejuvenated for environmental conservation. While this matter is being monitored by the NGT from 2017, NGT has now directed Chief Secretary, Rajasthan to take steps for further action and monitoring.

NGT took suo motu cognizance of this matter based on a news article highlighting discharge of toxic effluents from textile and other industries into the Man Sagar Lake in Rajasthan resulting in pollution in the lake and death of hundreds of fishes.

## NGT sets aside CRZ clearance for construction of groynes to prevent coastal erosion and directs State to implement alternate sustainable measures

**C. H. Balamohan v. Union of India & Ors.; 11 April, 2022<sup>15</sup>**

NGT has directed the coastal states and union territories to explore sustainable measures to protect beaches from human induced erosion caused by hard structures. NGT noted that construction of hard structures at the coasts may prevent erosion at the said stretch temporarily but the adverse impact of such measures is felt upstream or downstream where erosion starts. A holistic study needs to be undertaken to find appropriate alternative scientific measures. NGT also observed that the expert report had also noted the need to replace hard structures like seawalls, groynes etc. with softer options such as beach nourishment, sand bypassing, dune planting, offshore submerged reefs, etc. Thus, the general principle of “working with nature” would be a better approach for cost-effective

and sustainable coastal protection measures. Accordingly, NGT set aside the impugned Coastal Regulation Zone (“CRZ”) clearance issued for the construction of 19 groynes from Ennore to Ernavoorkuppam, terming them as unsustainable.

In this case, NGT was considering grievances against the destruction of Puducherry and Tamil Nadu coastal environment due to the construction of hard structures causing continuous erosion of the coast. An appeal was also filed against the CRZ clearance issued for the proposed construction of 19 groynes from Ennore to Ernavoorkuppam in Tiruvallur District, Tamil Nadu.

## NGT upholds the environmental compensation imposed on Bhushan Power and Steel Ltd. for environmental law violations

**Bhagawan Padhan v. Bhushan Power and Steel Limited & Ors.; 11 April, 2022<sup>16</sup>**

NGT has upheld environmental compensation imposed on Bhushan Power and Steel Limited for various environmental law violations at its plant in Sambalpur, Odisha. Based on this application, NGT had directed the Odisha State Pollution Control Board (“OSPCB”) to inspect the plant and verify compliances by the plant. The OSPCB report found various non-compliances by the plant.

Further, NGT also refused to entertain the argument made by the plant that the management and owner was different when these non-compliances occurred in 2018. NGT observed that violation of environmental norms and degradation of environment is an offence not only against the residents of the areas surrounding the plant but also against the public at large who have a stake in clean and healthy environment. For this, the plant would be liable, and it is immaterial whether the present management was then not in existence. The present management having stepped into the shoes of the previous management would incur all the rights and liabilities of the previous management. The liability of the present management would not be distinguishable or separable from the liability of the previous management in matters of compensation against violation of environmental norms against the public at large.

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In this case, NGT was considering allegations of violation of environmental norms by M/s. Bhushan Power and Steel Limited operating in district Sambalpur, Odisha.

**NGT directs State of Meghalaya to stop rat hole mining in the State**

**Farkul Islam Barbhuiya & Ors. v. The State of Meghalaya & Ors.; 11 April 2022<sup>17</sup>**

NGT has directed the State of Meghalaya to restrain rat hole mining in the State. NGT while taking note of the Supreme Court's directions and its own earlier orders directed the authorities to monitor compliance with the directions. It further directed the State to take steps for rejuvenation of rivers in Meghalaya that have been polluted due to contamination and drainage from illegal coal mining activities. In this case, NGT was considering a matter related to continuation of rat hole mining in the State of Meghalaya by various persons and a recent coal mine incident reported in the news.

**NGT directs State of Andhra Pradesh to notify wetlands and restrain industrial activities around them**

**Paryavarana Parirakshana Sangham & Anr. v. Union of India & Ors.; 13 April, 2022<sup>18</sup>**

NGT has held that Sompeta Wetland in Andhra Pradesh is a wetland complex of three different wetlands, and will therefore have to be treated as a wetland complex under the Wetlands (Conservation and Management) Rules, 2017. Due to its rich ecology, it was mapped as a wetland in the National Wetland Atlas of MoEFCC, but it is yet to be identified as a wetland under the Rules. Accordingly, NGT observed that the impugned project is in violation of the Rules as industrial activities are impermissible in wetlands.

NGT further directed the State Government to undertake research studies for identification and declaration of wetlands as mapped in the atlas. Until then, no activities shall be permitted in and around such wetlands. NGT further directed that even if the wetlands identified and mapped in the atlas were not notified as wetlands, they will have to be treated as water bodies and steps will have to be taken to protect them. If Sompeta is declared as a wetland, permission for commercial activities shall be revoked. If it is

not declared as a wetland, then it will have to be protected as a water body and State shall revoke the permission for the project with respect to the area covered by the water body, in accordance with law.

In this case, NGT was considering grievances against the permission granted by the State Government to develop a "Multi Product Industry Zone" in Sompeta Wetlands against the provisions of Wetlands (Conservation and Management) Rules, 2017.

**NGT dismisses appeals against the EC granted to the petroleum refinery project of Nayara Energy in Gujarat**

**Rahul Bhardwaj & Ors. v. Union of India & Ors.; 18 April, 2022<sup>19</sup>**

NGT has dismissed two appeals filed against the EC issued for expansion of petroleum refinery project of Nayara Energy Limited in Dwarka, Gujarat. NGT observed on the basis of the EIA report and the report filed by NGT-constituted joint committee that issues raised by the appellant regarding damage to marine life and mangroves by the project have been adequately addressed. NGT noted that the EAC had also considered these aspects during the appraisal of this project and therefore no issue remained to be addressed in these appeals.

In this case, NGT was considering a challenge to the EC issued to M/s. Nayara Energy Limited for expansion of the refinery capacity of its Petro-Chemical Complex in Devbhumi Dwarka, Gujarat.

**NGT directs Haryana to upgrade its STPs for treatment of sewage water and its utilisation for non-potable purposes**

**Sukhwanti v. State of Haryana & Ors.; 19 April, 2022<sup>20</sup>**

NGT has directed the State of Haryana to ensure proper treatment of sewage before its discharge and 100% utilisation of treated sewage for non-potable purposes. NGT observed from the report filed by Haryana State Pollution Control Board that there are still various unresolved issues regarding disposal of treated sewage into drains, planning of new sewage treatment plants ("STP"), compliance with release standards by these plants and utilisation of treated sewage.

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NGT also directed authorities to identify potential industrial clusters, major industrial sectors and other bulk users for maximising use of their treated sewage. This will save potable water for drinking purposes.

In this case, NGT was considering grievances regarding wastewater being discharged from the STP at Barwala, Haryana into the land of the applicant and other adjoining lands, resulting in damage to the crops, contamination of groundwater, death of livestock and loss of soil fertility.

**NGT restrains Auroville Foundation from proceeding with its township project activities without taking prior EC**

**Navroz Kersasp Mody v. The Auroville Foundation; 28 April, 2022<sup>21</sup>**

NGT has restrained Auroville Foundation from proceeding with its township project before

preparing a proper layout plan showing aspects such as existing structures, future constructions planned, area of construction, nature of activities envisaged, the quantity of waste that is to be generated, the water requirement and facilities for disposal of the waste generated. For the industrial zone, it should provide for the nature of industries envisaged to be set up and the generation and disposal of waste. It further directed that any activity for this project can be permitted to be carried out only after obtaining necessary prior EC. However, NGT allowed the Foundation to complete the crown road even before obtaining prior EC, subject to its consideration by joint committee constituted by the NGT.

In this case, NGT was considering grievances regarding cutting of large number of trees by Auroville Foundation from Auroville forest area for this project.

## Regulatory / Policy developments

**Union Government introduces Indian Antarctic Bill, 2022 in Lok Sabha; 02 April, 2022<sup>22</sup>**

Government of India has introduced the Indian Antarctic Bill, 2022 in the Parliament to provide for national measures to protect the Antarctic environment and associated ecosystems and to give effect to multiple international legal instruments related to the Antarctic region. Antarctica has a geographical area of 14 million sq. km and has no indigenous population. The growing presence of Indian scientists in Antarctica and the commitment to Antarctic research and protection prompted the Government to adopt domestic legislation consistent with its international obligations. The Bill inter alia provides for constitution of a central committee that will carry out environmental impact assessment of proposed activities in the region and also prepare a waste management plan. The Bill also prohibits certain activities in Antarctica including: (i) nuclear explosion or disposal of radioactive wastes, (ii) introduction of non-sterile soil, and (iii) discharge of garbage, plastic or other substance into the sea which is harmful to the marine environment.

**IPCC releases the Sixth Assessment Report (AR6) of Working Group-III on mitigation of**

**climate change; 04 April 2022<sup>23</sup>**

The report "Climate Change 2022: Mitigation of Climate Change by 'Working Group III'" is the third and concluding instalment of the Sixth Assessment Report (AR6) of the Intergovernmental Panel on Climate Change ("IPCC"). It examines current trends of emissions, projected levels of future warming, and how to transition to a low carbon economy in order to limit global warming to 1.5 degree Celsius by 2100, in line with the 2015 Paris Agreement targets. It focuses on climate change mitigation and international cooperation.

The report also notes that the financial support to developing countries to deal with climate change falls short of the global commitments made by developed countries. Accelerated financial support to developing countries is key to climate mitigation implementation. The report has underlines the need for deep and urgent global emissions reduction while highlighting that four-fifths of the total carbon budget for 1.5 degree Celsius temperature increase and two-thirds of the total carbon budget for 2 degree Celsius warming has already been consumed.

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## **SPCBs to check EC applicability before granting CTE/CTO ; 05 April, 2022<sup>24</sup>**

MoEFCC has issued directions to all SPCBs/ Pollution Control Committees (“PCCs”) to make specified changes in their application forms for CTE / CTO. Post amendment, these forms will require the applicant to specifically answer certain questions about the applicability of EC for their project. In case the EC is applicable to their project, the applicant will be required to provide information regarding the EC obtained or the application filed for it.

## **IRENA launches the World Energy Transition Outlook 2022; 08 April, 2022<sup>25</sup>**

The International Renewable Energy Agency (“IRENA”), an intergovernmental organization, has recently launched the World Energy Transitions Outlook, 2022. India is one of the founding members of IRENA. The outlook emphasizes that the countries, especially the largest energy consumers and carbon emitters, need to set more ambitious targets and implement measures to ramp up energy efficiency and deployment of renewables by 2030. The outlook also points out that renewables will have to be scaled up massively across all sectors from 14 per cent of total energy share today to around 40 per cent share in 2030. It also highlights the need to use solar and wind energy in a big way to thoroughly decarbonize the electricity sector by mid-century to fulfil the 1.5 Degree Celsius promise.

## **MoEFCC issues clarification regarding extent of compensatory afforestation; 11 April, 2022<sup>26</sup>**

MoEFCC has issued an order clarifying that the requirement to raise compensatory afforestation on degraded forest land double the size of forest land diverted by States or State entities could be considered on a case to case basis. This could be done after the receipt of an application from the State Government, subject to certain conditions such as non-availability of non-forest land or forest land for raising compensatory afforestation.

## **MoEFCC issues draft to amend EIA Notification; 11 April, 2022<sup>27</sup>**

MoEFCC has proposed amendments in the requirement of prior EC for various projects by issuing draft amendments in the Schedule to the EIA Notification. It has *inter alia* proposed that: (i) thermal power plants upto 25 MW

(currently it is 15 MW) based on biomass and non-hazardous municipal solid waste are exempted from prior EC; (ii) only expansion of airport terminal buildings more than 20,000 sqm will require EC and expansion up to 1,50,000 sqm will be appraised as construction and building projects, provided there is no increase in the existing area of the Airport; (iii) ports/harbours with exclusively fish handling capacity above 30,000 TPA will require prior EC; (iv) all highway projects are exempted upto 100 km from line of control/border; and (v) width at toll plaza and junction improvement at intersection of other roads is exempted from Right of Way for highway projects.

## **MoEFCC issues clarifications on validity of EC for projects involving forest land; 11 April, 2022<sup>28</sup>**

MoEFCC has clarified that for projects involving forest land and requiring Stage – I and II forest clearances, the validity period of their ECs shall be reckoned from the date of grant of Stage – II forest clearance or a maximum period of 2 years, whichever is less.

## **MoEFCC issues guidelines regarding expansion of existing projects without additional land acquisition; 11 April, 2022<sup>29</sup>**

MoEFCC has issued an office memorandum prescribing requirements for considering cases of expansion of existing projects covered under Para 7(ii)(a) of the EIA Notification. It provides that the application for expansion of an existing project upto 50% of capacity (as mentioned in the existing EC) in minimum three phases will need to adhere to the prescribed requirements for consideration of their case. These requirements will be based on the nature of change in existing projects, some of which are related to the preparation of revised EIA report, fresh public consultation, submission of certified compliance report and reference to Expert Appraisal Committee. These requirements are also subject to certain conditions mentioned in the memorandum.

## **NITI Aayog releases the State Energy and Climate Index Round-I; 11 April, 2022<sup>30</sup>**

NITI Aayog has launched the State Energy & Climate Index Round-I, which ranks States’ performance on 6 parameters, namely, (1) DISCOM’s Performance (2) Access, Affordability and Reliability of Energy (3) Clean Energy Initiatives (4) Energy Efficiency (5) Environmental Sustainability; and (6) New

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Initiatives. The parameters are further divided into 27 indicators.

The States have been categorized based on their size and geographical differences as larger states, smaller states, and Union Territories (“UTs”). Gujarat, Kerala and Punjab have been ranked as the top three performers in the category of larger States. Goa emerged as the top-performing State in the smaller States category, followed by Tripura and Manipur. Among UTs, Chandigarh, Delhi and Daman & Diu, Dadra & Nagar Haveli are the top performers.

### **Cabinet approves Memorandum of Cooperation between India and Japan in the area of decentralized domestic wastewater management; 13 April, 2022<sup>31</sup>**

The Union Cabinet has given its ex-post facto approval for a Memorandum of Cooperation signed between the Department of Water Resources, River Development and Ganga Rejuvenation, Ministry of Jal Shakti and The Ministry of the Environment of Japan for decentralized domestic wastewater management.

The collaboration with Japan will prove to very fruitful in areas such as decentralized domestic wastewater management and effective reuse of treated wastewater using Johkasou technology. The decentralized Johkasou systems towards management of wastewater can have greater implications for management of grey/ black water from settlements with coverage under Jal Jeevan Mission.

### **MoEFCC modifies guidelines for compensatory afforestation on degraded forest land; 19 April, 2022<sup>32</sup>**

MoEFCC has modified its earlier guideline dated 11 April, 2022 relating to raising compensatory afforestation on degraded land double in extent to the area diverted for State/State entities. It has been clarified that this will not be a general requirement for State/State entities, but will be considered for captive coal blocks on case to case basis, depending on the proposal received from the State Government. It has also been clarified that this will be subject to certain conditions.

### **NITI Aayog releases Draft Battery Swapping Policy for stakeholder comments; 21 April,**

**2022<sup>33</sup>**

NITI Aayog has released the Draft Battery Swapping Policy with a key objective of promoting swapping of batteries to decouple battery costs from the upfront costs of purchasing electric vehicles, thereby driving their adoption. It also seeks to provide flexibility to e-vehicle users by promoting the development of battery swapping as an alternative to charging facilities. Stakeholders can provide comments on the policy till 05 June, 2022.

### **Government appoints Expert Members of the NGT; 22 April, 2022<sup>34</sup>**

MoEFCC has issued notification appointing three Expert Members of the NGT – Dr. A. Senthil Vel, Dr. Vijay Kulkarni and Dr. Afroz Ahmad – for a term of four years.

### **MoEFCC reconstitutes SEIAA and SEAC in Meghalaya and West Bengal; 22 April, 2022<sup>35</sup> and 26 April, 2022<sup>36</sup>**

MoEFCC has reconstituted the State Level Environment Impact Assessment Authority (“SEIAA”) and State Level Expert Appraisal Committee (“SEAC”) for the states of Meghalaya and West Bengal for a term of three years from the date of publication of this notification in the Official Gazette.

### **MoEFCC issues fresh procedure for clearance of projects under CRZ Notification, 2011 and IPZ Notification, 2011; 26 April, 2022<sup>37</sup>**

MoEFCC has released the revised procedure for seeking clearance for projects under the Coastal Regulation Zone Notification, 2011 and Island Protection Zone Notification, 2011. This has been issued in supersession of the earlier procedure provided vide order dated 19 January, 2015 to remove redundancy and bring more clarity in delegation of powers as per these notifications. The revision was also required to reflect the launch of PARIVESH portal after the release of earlier notification. As per this document, project proponent is required to apply on the PARIVESH portal along with specified documents for consideration of its project. Thereafter, the relevant State/ Union Territory Coastal Zone Management Authority shall examine the proposal and forward it to relevant authorities for final consideration.

### **MoEFCC amends guidelines for cancelled**

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## mining leases; 27 April, 2022<sup>38</sup>

MoEFCC has issued a letter amending guidelines dated 07 July, 2021 to provide that forest clearance proposals of new lessee, in respect of cancelled leases which are currently under consideration in the State and Central Government, may be dealt as a transfer of lease case at the MoEFCC level, with condition as applicable or reported by the State Government.

## MoEFCC issues environmental safeguards for aerial ropeway projects; 27 April, 2022<sup>39</sup>

MoEFCC has exempted aerial ropeway projects from EC requirements through a notification. However, certain environmental safeguards have been issued related to waste, diesel generator sets, energy conservation, use of solar energy, air pollution control, noise control, etc. for compliance by these projects.

## CPCB releases online portal for monitoring compliance with single-use plastics regulations; April, 2022<sup>40</sup>

CPCB has released the online portal for monitoring compliance with regulatory framework related to single-use plastics. The website provides the updated regulatory framework on single-use plastics including Rules, action plan for phasing out single-use plastic, directions to sellers/users for phasing out single-use plastic, etc.

## MoEFCC issues multiple amendments to EIA Notification; April, 2022

MoEFCC has issued a notification dated 12 April, 2022<sup>41</sup> to amend the validity period for ECs issued for different projects. As per the notification, EC for an existing or new project shall be valid for a period of (a) thirteen years in the case of river valley projects or activities; (b) fifteen years in the case of nuclear power projects or activities and processing of

nuclear fuel; (c) in case of mining projects, it shall be valid for the project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of thirty years, whichever is earlier; and (d) ten years in the case of all other projects and activities other than the mining projects, river valley projects and nuclear power projects. The notification has also prescribed period for which such ECs can be extended in case of their expiry.

Further, MoEFCC has amended the EIA Notification vide notification dated 20 April, 2022<sup>42</sup> to *inter alia* provide that Category 'B' projects, relating to the national defence, strategic or security importance, or those notified by the Central Government on account of exigencies such as pandemics, natural disasters or to promote environmentally friendly activities under national programmes shall be considered at the central level.

Moreover, vide notification dated 27 April, 2022<sup>43</sup>, MoEFCC has omitted the requirement of prior EC for aerial ropeway projects.

## MoEFCC issues multiple notifications for declaration of ESZ around protected areas; April, 2022

MoEFCC has notified ecologically sensitive zones ("ESZ") around Barail Wildlife Sanctuary (Cachar District, Assam)<sup>44</sup>; Panidehing Bird Sanctuary (Sibsagar District, Assam)<sup>45</sup>; and Mahatma Gandhi Marine National Park (South Andaman district, Andaman and Nicobar Islands)<sup>46</sup>.

Further, draft ESZ notifications have also been issued for Pong Dam Lake Wildlife Sanctuary (Kangra District, Himachal Pradesh)<sup>47</sup> and Sessa Orchid Wildlife Sanctuary (West Kameng District, Arunachal Pradesh)<sup>48</sup>.

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## Endnotes

- 1 Writ Petition(s)(Civil) No. 202/1995.
- 2 CIVIL APPEAL Diary No. 18213/2021.
- 3 Civil Appeal No(s). 2570-2571 of 2022.
- 4 Writ Petition (Civil) No.838/2019.
- 5 W.P. Nos. 8027, 8028, 8031 of 2022 and W.M.P. Nos. 8003 to 8011 of 2022.
- 6 Original Application No. 69/2021 (CZ).
- 7 Original Application No. 32/2020 (CZ).
- 8 Original Application No. 88/2021.
- 9 Appeal No. 73/2021.
- 10 Original Application No. 169/2016/EZ (M.A. No. 23/2017/EZ).
- 11 ORIGINAL APPLICATION No. 101/2017/EZ.



- 12 Original Application No. 801/2018.
- 13 Original Application No. 96/2021/EZ.
- 14 Original Application No. 88/2017 (CZ).
- 15 Original Application No. 04/2013(SZ) with Appeal No.18/2017(SZ).
- 16 Original Application No. 65/2020/EZ.
- 17 Original Application No. 55/2021/EZ.
- 18 Original Application No. 153 of 2016 (SZ).
- 19 Appeal No. 35/2021(WZ) (I.A. Nos. 117, 118/2021) and Appeal No. 5/2021(WZ).
- 20 Original Application No. 887/2019 (I.A. No. 230/2021).
- 21 Original Application No. 239 of 2021 (SZ).
- 22 <https://science.thewire.in/environment/indian-antarctic-bill-introduced-lok-sabha-treaty-tourism-fisheries/>
- 23 <https://www.ipcc.ch/2022/04/04/ipcc-ar6-wgiii-pressrelease/>
- 24 [http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/283\\_OM\\_05\\_04\\_2022.pdf](http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/283_OM_05_04_2022.pdf)
- 25 <https://energy.economictimes.indiatimes.com/news/renewable/world-energy-transition-outlook-2022-launched-where-does-india-stand/90720716>
- 26 [http://forestsclearance.nic.in/writereaddata/public\\_display/schemes/928046609\\$letter.pdf](http://forestsclearance.nic.in/writereaddata/public_display/schemes/928046609$letter.pdf)
- 27 <https://egazette.nic.in/WriteReadData/2022/235061.pdf>
- 28 [http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/285\\_OM\\_11\\_04\\_2022.pdf](http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/285_OM_11_04_2022.pdf)
- 29 [http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/284\\_OM\\_11\\_04\\_2022.pdf](http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/284_OM_11_04_2022.pdf)
- 30 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1815612>
- 31 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1816365>
- 32 [http://forestsclearance.nic.in/writereaddata/public\\_display/schemes/435302029\\$F%20N%2011%20423%202011-FC.pdf](http://forestsclearance.nic.in/writereaddata/public_display/schemes/435302029$F%20N%2011%20423%202011-FC.pdf)
- 33 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1818569>; [https://www.niti.gov.in/sites/default/files/2022-04/20220420\\_Battery\\_Swapping\\_Policy\\_Draft.pdf](https://www.niti.gov.in/sites/default/files/2022-04/20220420_Battery_Swapping_Policy_Draft.pdf)
- 34 <https://egazette.nic.in/WriteReadData/2022/235323.pdf>
- 35 <https://egazette.nic.in/WriteReadData/2022/235337.pdf>
- 36 <https://egazette.nic.in/WriteReadData/2022/235372.pdf>
- 37 [http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/286\\_OM\\_26\\_04\\_2022.pdf](http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/286_OM_26_04_2022.pdf)
- 38 [http://forestsclearance.nic.in/writereaddata/public\\_display/schemes/1747316165\\$C%20category.pdf](http://forestsclearance.nic.in/writereaddata/public_display/schemes/1747316165$C%20category.pdf)
- 39 [http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/287\\_OM\\_27\\_04\\_2022%20\(1\).pdf](http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/287_OM_27_04_2022%20(1).pdf)
- 40 <http://cpcbplastic.in/sup/>
- 41 <https://egazette.nic.in/WriteReadData/2022/235092.pdf>
- 42 <https://egazette.nic.in/WriteReadData/2022/235241.pdf>
- 43 <https://egazette.nic.in/WriteReadData/2022/235392.pdf>
- 44 <https://egazette.nic.in/WriteReadData/2022/235349.pdf>
- 45 <https://egazette.nic.in/WriteReadData/2022/235354.pdf>
- 46 <https://egazette.nic.in/WriteReadData/2022/235468.pdf>
- 47 <https://egazette.nic.in/WriteReadData/2022/235447.pdf>
- 48 <https://egazette.nic.in/WriteReadData/2022/234825.pdf>

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