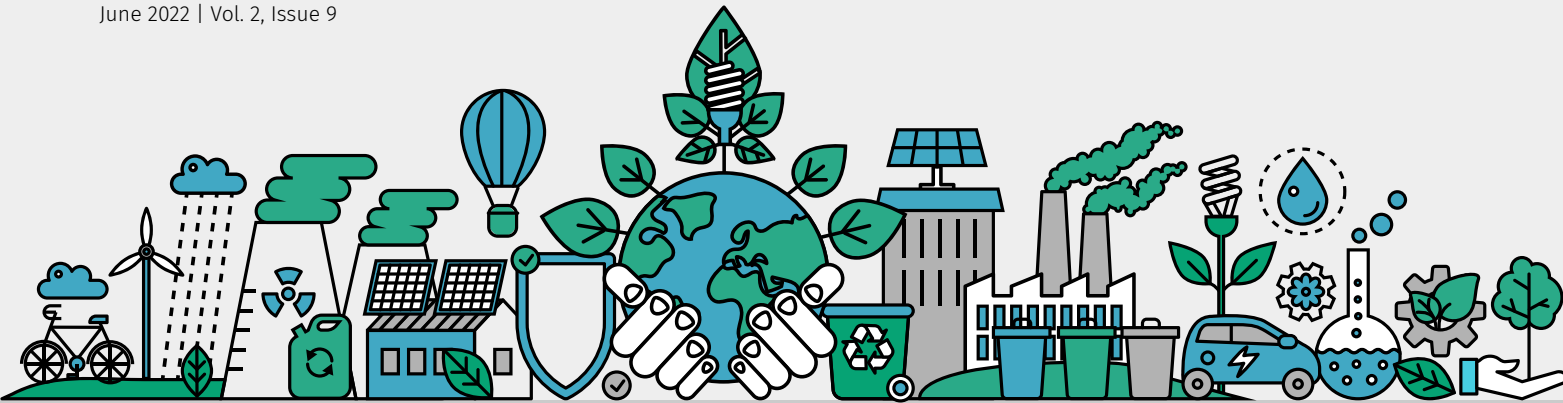




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Supreme Court Judgments / Orders

Supreme Court revokes the approval granted by the Standing Committee of NBWL for doubling of the railway line between Castlerock and Kulem in Western Ghats

T.N. Godavarman Thirumulpad v. Union of India & Ors.; Order dated 09 May, 2022¹

The Supreme Court of India (“Supreme Court”) has revoked the approval granted by the Standing Committee of National Board for Wildlife (“NBWL”) for doubling of the railway line between Castlerock (Karnataka) and Kulem (Goa), which passes through the ecologically sensitive Bhagwan Mahaveer Wildlife Sanctuary in Western Ghats. The Court noted that the landscape through which the railway line is proposed to pass is an important tiger corridor, connecting the States of Goa, Karnataka and Maharashtra. It is necessary that there should be a detailed study and analysis of the impact of the proposed project on the biodiversity and ecological system of this area. Any further construction might invite a disaster in the sensitive areas of Western Ghats. The opinion of National Tiger Conservation Authority is also crucial in this matter.

The Court also observed that Ministry of Railways has failed to provide any substantial basis for the proposed project, its potential impact on the wildlife habitat and damage that it would cause to the environment. There are alternative railway lines available in the region as well. The Court also considered the report submitted by the Centrally Empowered Committee, which recommended revocation of the said permission as it was in violation of the guidelines issued by the Ministry of

Environment, Forest and Climate Change (“MoEFCC”) under the Wildlife Protection Act, 1972 as well as the Supreme Court’s earlier orders. The Court also observed that in case of a doubt, protection of environment would take precedence over the economic interest. In such cases, it is not always necessary that there should be a direct evidence of the harm to the environment.

Supreme Court upholds NGT Act and constitution of NGT as being *intra vires* the Constitution of India

Madhya Pradesh High Court Advocates Bar Association & Anr. V. Union of India & Anr.; 18 May, 2022²

Supreme Court has upheld various provisions of the National Green Tribunal Act, 2010 (“NGT Act”) as being *intra vires* the Constitution of India, 1950 (“Constitution”). It observed that the NGT Act does not, either impliedly or explicitly, oust the jurisdiction of the High Courts (“HC”) under Article 226 and 227 of the Constitution. HC’s power of judicial review remains intact and unaffected by the NGT Act. The prerogative of writ jurisdiction of HCs is neither taken away nor it can be ousted as it is a part of the basic structure of the Constitution.

The Court observed that NGT Act is not a case of excessive delegation of power to Central Government as operationalization of NGT, including location of its benches, was closely monitored by the Supreme Court. NGT Act has adequate safeguards to guide the Government in such matters. The Court also observed that the requirement for constitution of an NGT bench in each State

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does not arise as the volume of cases before NGT is low and the number of pending cases is also not substantially high. There is also no specific reason to direct relocation of NGT's Central Bench from Bhopal to Jabalpur.

Supreme Court also upheld Section 22 of NGT Act, which provides for direct appeal to Supreme Court against the decisions of NGT, on the ground that such a provision is not constitutionally impermissible. It observed that even when a direct appeal to Supreme

Court is provided by a statute against the decision of a tribunal, the remedy under Article 226 or 227 of the Constitution remains unextinguished. The appeal under Section 22 of NGT Act is permitted on specific grounds. Moreover, subject to HC's discretion, the affected litigants could approach the HCs under Article 226 or 227 and in such cases a petition under Article 136 of the Constitution could also be filed before the Supreme Court against the HC's verdict.

High Court Judgments / Orders

Bombay HC holds that a project proponent cannot be asked to pay wildlife conservation fee for a project located beyond ESZ of protected areas

Sai Pushp Enterprises & Ors. v. Thane Municipal Corporation & Ors.; 05 May 2022³

The Bombay HC has directed that Government bodies do not have the legal authority to demand deposit amounting to 2% of the project cost from any project proponent as wildlife protection fee when the project is located beyond the Eco-Sensitive Zone ("ESZ") of a protected area. The proponent was developing a residential project over its property, which was situated beyond 5 km from the Sanjay Gandhi National Park and Tungareshwar Wildlife Sanctuary. The ESZ of these areas has been fixed upto a distance of 4 km. Accordingly, proponent's property was not situated within ESZ. Hence, the respondents did not have the authority of law to demand such payment as wildlife conservation fee.

In this case, HC was considering a writ petition filed against the decision of respondent authorities requiring the proponent to deposit 2% of the project cost as wildlife conservation fee even though the project property was not situated within the ESZ of Sanjay Gandhi National Park and Tungareshwar Wildlife Sanctuary.

Bombay HC directs MCGM to stop construction of cycling and jogging tracks inside Powai Lake

Omkar Mahadeo Supekar & Ors. v. Municipal Corporation of Greater Mumbai & Ors.; 06 May, 2022⁴

Bombay HC has directed Municipal Corporation of Greater Mumbai ("MCGM") to not carry out any reclamation or construction activities for cycling and jogging tracks or for any other project inside Powai Lake (Mumbai) and its catchment area. The Court has also directed it to immediately remove all construction carried out for this project. Court observed that while Powai Lake has been shown as a wetland in the National Wetland Atlas, it has not been notified as a wetland under Wetlands (Conservation and Management) Rules, 2017. Therefore, it cannot be considered a wetland under the law.

The Court noted that Development Control Regulation for Greater Mumbai, 2034 provides that an exclusive green belt of 100 m would be provided around the periphery of Vihar and Powai Lakes and in order to prevent erosion of soil and silting in lakes, no construction activity of whatsoever nature shall be allowed. The proposed jogging and cycling track-cum-walkway will require land filling/ reclamation, raising of metallic frames on water body for dumping stones and laying of tar road along the peripheral area of the lake which cannot be considered as 'rejuvenation and reinvigoration' of the physical and natural environment of Powai Lake. This project might have far-reaching effects on the ecology and aquatic life of the lake, which already has excessive silting, sewage ingress and extended hyacinth growth leading to eutrophication of the lake water.

In this case, High Court was considering Public Interest Litigations filed against the construction of cycling and jogging tracks inside Powai Lake by MCGM in violation of the

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provisions of the Maharashtra Regional Town Planning Act, 1966 and Development Control Regulation for Greater Mumbai, 2034.

Meghalaya HC directs Government authorities to ensure compliance with judicial directions regarding illegal coal mining in Meghalaya

In Re Suo Motu Illegal Mining of Coal in the State of Meghalaya v. State of Meghalaya, Order dated 24 May, 2022⁵

The Meghalaya HC has directed the Central and Meghalaya Government authorities to ensure complete implementation of directions issued by the Supreme Court and

NGT in relation to illegal coal mining and environmental damages associated thereto in Meghalaya. It has also sought responses from each authority regarding directions that are still pending for implementation. The Court considered the report submitted by Justice B.P. Katakey (Retd.), who had been asked by the Court to prepare a report on the status of implementation of these judicial directions. The HC noted that the orders passed by the Supreme Court and the NGT continue to be violated and the directions issued have not been implemented. Accordingly, it is necessary that the recommendations made in the report are immediately considered to address the relevant matters.

National Green Tribunal Judgments / Orders

NGT directs Vedanta to pay INR 25 crores as compensation for expansion of its aluminium manufacturing project in Odisha without obtaining prior EC

Prafulla Samantray v. Union of India & Ors.; Order dated 02 May, 2022⁶

NGT has directed Vedanta to pay compensation of INR 25 crores under the polluter pays principle for illegal expansion of its project without prior environmental clearance ("EC"). NGT observed that the company illegally expanded its capacity without taking prior EC from authorities. When it subsequently applied for EC, MoEFCC granted it the EC for expansion. While NGT did not quash EC on the ground that expansion had commenced prior to seeking EC, it observed that the company should be held accountable for violation of the provisions of Environment Impact Assessment Notification, 2006 ("EIA Notification") through criminal proceedings or compensation.

NGT also considered issues related to grant of EC on merits. It observed that though authorities have considered relevant environmental aspects, there are certain issues that need to be addressed like fly ash management and water extraction from local river. Accordingly, it constituted a committee for consideration of these issues and imposition of additional conditions relevant to these aspects.

In this case, NGT was considering an appeal against the EC granted to Vedanta Limited

(formerly Sesa Sterlite Ltd.) for expansion of alumina refinery (1 MTPA to 4 MTPA) and captive power plant (from 75 MW to 285 MW) at Lanjigarh, District Kalahandi, Odisha.

NGT dismisses application seeking prior EC for inland waterway project in river Ganga

Bharat Jhunjhunwala & Ors. v. Inland Waterways Authority & Ors; Order dated 04 May, 2022⁷

NGT has dismissed an application filed against the inland waterway project in river Ganga, which raised issues that the project is being undertaken without prior EC under the EIA Notification. NGT observed that inland waterway projects are not covered in the said notification. The Allahabad HC had already concluded this issue by allowing the project to proceed and EIA being conducted after its commencement.

In this case, NGT considered whether EIA is necessary for navigation infrastructure in river Ganga from Allahabad to Haldia, National Waterway-1 undertaken by Inland Waterways Authority of India. The project envisages developmental activities such as river terminals, jetties and locks and barrages and multimodal river water terminals along with necessary dredging operations.

NGT directs Savfab Buildtech Pvt. Ltd. to pay environmental compensation of INR 40 crores for violation of

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requirement of prior EC as well as EC conditions

Saviour Park Apartment Owners Association v. State of Uttar Pradesh & Ors.; 04 May, 2022⁸

NGT has directed Savfab Buildtech Pvt. Ltd. to pay environmental compensation of INR 40 crores for its failure to obtain prior EC as well as violation of conditions prescribed in the EC. NGT observed that the company has violated norms related to Sewage Treatment Plants and also illegally extracted groundwater. The report submitted by the NGT-constituted joint committee noted these violations by the company.

Further, noting lapses committed by State Environment Impact Assessment Authority ("SEIAA"), Uttar Pradesh, NGT observed that SEIAAs should be run by technically qualified and experienced members rather than by those having only administrative experience. NGT also directed MoEFCC to undertake financial audit of SEIAA and other environment-related regulators in States/UTs on a regular basis. These reports should be followed by remedial measures to address identified lacunae.

In this case, applicant raised grievances against the violation of environmental norms in setting up of a construction project, "Saviour Park" by Savfab Buildtech Pvt. Ltd. in Ghaziabad, Uttar Pradesh without obtaining valid EC and taking requisite safeguards. It was also mentioned in the application that EC conditions and other environmental norms were being violated.

NGT imposes environmental compensation of INR 41 crores on Singareni Collieries for excessive coal mining in Telangana

Banothu Nandu Nayak & Ors. v. Singareni Collieries Company Limited & Ors.; Judgment dated 06 May, 2022⁹

NGT has directed Singareni Collieries Company Limited ("SCCL"), a public sector undertaking, to pay an environmental compensation amounting to INR 41 crores for excessive coal mining in Telangana. It also directed the State's mining department to calculate the penalty payable for the excess mining. NGT noted that SCCL had admitted carrying

out excessive mining beyond the permitted quantity of 2.5 MTPA. NGT also observed that SCCL had violated the conditions prescribed in the EC granted for this project.

In this case, NGT was considering an application against the violations committed by SCCL in respect of the conditions prescribed in the EC and Consent to Operate granted by authorities. Applicant also contended that the company was causing pollution in nearby areas.

NGT directs Vedanta to pay INR 5.5 crores as environmental compensation for damaging the environment by dumping fly ash

Ajit Kumar Dhal v. State of Odisha & Ors.; 06 May, 2022¹⁰

NGT has directed M/s. Vedanta Limited to pay an environmental compensation amounting to INR 5.5 crores for damaging the environment by dumping fly ash on agricultural land adjoining its aluminium products manufacturing plant. NGT referred to the judgments of the Supreme Court to observe that the environmental compensation must be determined on the basis of the magnitude of violation and the financial capacity of the violator and that such compensation must have a deterrent effect.

In this case, NGT was considering an application filed against the environmental damage being caused by M/s. Vedanta Limited by dumping fly ash over the land and other ponds in the area adjoining its aluminium products manufacturing plant in Jharsuguda, Odisha.

NGT directs Uttar Pradesh authorities to comply with the Supreme Court directions for operation of brick kilns in Delhi-NCR

Mukesh Kumar Aggarwal v. Central Pollution Control Board & Anr.; Order dated 09 May, 2022¹¹

NGT has directed the Government authorities to ensure compliance with the directions of the Supreme Court in *NCR Brick Kiln Association v. Central Pollution Control Board & Ors.*¹² concerning operation of brick kilns in Mathura. In this case, the Supreme Court had issued various directions regarding operation of brick kilns in Delhi-NCR. In the present

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case, NGT observed that the brick kilns are operating in Mathura (covered in Delhi-NCR) in non-compliance with the law. A report filed by the joint committee constituted by the NGT had noted the failure of the administration in enforcing the consent conditions and siting norms by brick kilns. NGT has directed that a joint committee be constituted to monitor compliances by these kilns for a period of three months, which thereafter shall be monitored by the statutory authorities concerned.

In this case, NGT was considering grievances against the failure of the Government authorities in taking adequate remedial measures against the air pollution caused due to the operation of brick kilns in Mathura, Uttar Pradesh, resulting in severe health impact on the lives of citizens.

NGT directs Chief Secretary, Haryana to ensure scientific disposal of waste from waste dumping sites in Haryana

Jagdish Kumar v. State of Haryana; Order dated 09 May, 2022¹³

NGT has directed the Chief Secretary, Haryana to undertake more rigorous monitoring of disposal of waste from the waste dumping sites in Haryana. It should be ensured that the sites where legacy waste is cleared are properly closed and the final destination of the material removed from the legacy waste site must be specified to ascertain the effectiveness of the waste processing. NGT also found the report filed by the State Government in this regard unsatisfactory and incomplete.

In this case, NGT was considering an application seeking remedial action for restoration of the site where garbage was unscientifically dumped in Sonapat, Haryana. However, in the light of the earlier proceedings, NGT took up for its consideration steps taken by the Government for compliance with Solid Waste Management Rules, 2016 in the entire State since timelines given for various steps under the Rules had already expired.

NGT directs GPCB to take legal action against SML Films Industries Limited for operating without obtaining prior EC

Paryavaran Mitra v. State of Gujarat; Order dated 09 May, 2022¹⁴

NGT has directed the Gujarat Pollution Control Board ("GPCB") to take initiate action under the law against SML Films Industries Limited for operating without obtaining prior EC from relevant authorities. The report submitted by the NGT-constituted joint committee noted that the industry was operating without obtaining requisite approvals from the concerned authorities. GPCB has also been directed to file an action taken report in this regard.

In this case, NGT was considering an application against the violation of environmental norms by SML Films Industries Limited, Ichchapore, GIDC-Surat. It was contended that the unit is disposing plastic waste in an illegal manner. It was also contended that the burning of plastic waster by the industry emits foul gases which are dangerous to the health of the residents in surrounding areas.

NGT dismisses an appeal challenging the grant of EC for construction of Chhatrapati Shivaji Maharaj Memorial in Mumbai

Mr. Damodar Tandel & Anr. v. Govt. of Maharashtra through Chief Secretary & Ors.; 11 May, 2022¹⁵

NGT has dismissed an appeal challenging the grant of EC issued for the construction of Chhatrapati Shivaji Maharaj Memorial in Mumbai. NGT observed that the project is being undertaken based on different scientific studies and all environmental safety and mitigation measures have been taken based on these studies. It also observed that the Expert Appraisal Committee ("EAC") has addressed the environmental concerns while recommending the grant of EC. The appellant failed to point out any infirmity in the process for grant of EC, except contentions about the adverse impact on biodiversity and environment on account of water consumption and water discharged. These aspects have already been duly covered in EIA studies.

In this case, NGT was considering an appeal against the grant of EC for construction of Chhatrapati Shivaji Maharaj Memorial along with equestrian statue of Chhatrapati Shivaji Maharaj in the Arabian Sea along the coast of Mumbai, Maharashtra.

NGT directs Andaman & Nicobar

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Pollution Control Committee to fix liability against units for damaging coastal environment

Andaman Chamber of Commerce Industry & Ors. v. The Andaman and Nicobar Administration & Ors.; 12 May 2022¹⁶

NGT has directed the Andaman & Nicobar Pollution Control Committee to determine environmental compensation under polluter pays principle and restitution principle against erring industries for violating environmental norms during their operation. It shall do so by taking into consideration the period of violation, nature of violation and financial capacity of the unit to determine the compensation. The Committee has also been directed to fix liability and take action against units which have been established in a 'No Development Zone' under Coastal Regulation Zone ("CRZ") Notification, 2019 or in the CRZ area without obtaining CRZ permission, thereby causing damage to the fragile coastal ecosystem. In this case, NGT was considering an application against various hotels, resorts, automobile service centres, etc. for operating in violation of environmental norms.

NGT imposes environmental compensation of INR 33 crores on residential project for violating environmental norms

Kumar City Residents Co-operative Housing Society Ltd. v. Kumar Urban Development Pvt. Ltd. and Ors.; 13 May 2022¹⁷

NGT has directed the respondent project proponent to pay an environmental compensation of INR 33 crores for construction of housing projects without requisite approvals and continuous violation of environmental norms since its commencement. NGT observed that the project proponent had obtained EC after construction of its projects had been completed. The EC issued for the project was also illegal as SEIAA, Maharashtra failed to consider that the application was filed by the project proponent after the window of opportunity granted by MoEFCC for *ex post facto* EC had been closed. No further extension was granted by MoEFCC for filing this application. Hence, this EC is illegal.

NGT also observed that since the commencement of the project, the project

proponent has continuously violated environmental norms by discharging untreated sewage, cutting trees illegally and diversion and concretization of natural storm water drain. Applying the principle of proportionality, NGT directed the proponent to pay compensation for restoration of environmental damage caused by it. It also directed Pune Municipal Corporation to pay a compensation of INR 2 crores for its failure to perform its duties.

In this case, NGT was considering an application against the construction of residential accommodation project without prior EC. The application also contended violation of environmental laws by cutting trees; diverting storm water drain by constructing concrete slab work; and releasing untreated sewage.

NGT approves retrospective application of MoEFCC notification exempting aerial ropeway projects from prior EC

Udayasankar Samudrala v. Union of India & Ors.; 18 May, 2022¹⁸

NGT has approved the retrospective application of MoEFCC notification dated 27 April, 2022 which has exempted aerial ropeway projects from prior EC. NGT observed that the project in question would be covered under entry 7(g) of the Schedule to EIA Notification pertaining to 'Aerial Ropeway'. The said MoEFCC notification, however, has omitted this entry from EIA Notification, thereby exempting such projects from the requirement of prior EC subject to certain conditions. Considering the objective of the notification, this omission seems to be in public interest as aerial ropeways provide last mile connectivity and mobility in hilly areas while causing minimal damage to the environment. This omission does not appear to be a change in the substantive law. It is rather a procedural change, hence, it would be applicable with retrospective effect. Therefore, the benefit of this notification would also accrue to the project proponent as huge amount has already been spent on project construction so far.

In this case, NGT was considering an application seeking direction to stop construction work of Funicular Ropeway Project by Jivdani Devi Sansathan as it was being constructed without prior EC.

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NGT declines to annul EC for a housing project that is located within 10 km distance from two wildlife sanctuaries in Haryana

Ramesh Malik & Ors. v. Union of India & Ors.; Order dated 19 May, 2022¹⁹

NGT has rejected an application filed to annul the EC issued for a housing project of M/s. Amarnath Aggarwal Investment (P) Ltd. on the ground that it is located within prohibited distance from two wildlife sanctuaries - Bir Shikargarh and Kho Hai Raitam in Panchkula District. NGT observed that the general conditions prescribed in the EIA Notification are not applicable on the project. It also observed that the project does not require a wildlife clearance merely because it is located within 10 km from two wildlife sanctuaries. The reference was drawn to the Supreme Court's judgment in *Goa Foundation vs. Union of India and Ors.*²⁰ where the Supreme Court had clarified that until the MoEFCC issues notification under Rule 5 of Environment (Protection) Rules, 1986, there cannot be a prohibition of mining activities beyond 1 km from the boundaries of national parks or wildlife sanctuaries. Since such notification is yet to be issued, the requirement for wildlife clearance on this project is not applicable.

In this case, NGT was considering an execution application and appeal filed against a housing project of M/s. Amarnath Aggarwal Investment (P) Ltd. on the ground that wildlife clearance is not obtained for the project despite being located within prohibited distance from two wildlife sanctuaries in Haryana.

NGT dismisses the review application relating to environmental damage caused due to discharge of API residues by pharmaceutical companies

Veterans Forum for Transparency in Public Life v. State of Himachal Pradesh & Ors.; Order dated 24 May, 2022²¹

NGT has dismissed the review application filed by MoEFCC against the NGT's order in *Veterans Forum for Transparency in Public Life v. State of Himachal Pradesh & Ors.*²². In this order, NGT noted that the government agencies had not yet notified final standards for discharge of Active Pharmaceutical Ingredients ("API") residues by pharmaceutical companies. Accordingly, in order to prevent

damage to environment and public health by such unregulated discharge, it had directed relevant agencies to ensure compliance with standards laid down in draft notification released by MoEFCC on 23 January, 2020, until final standards are notified by MoEFCC. NGT stated that it has the powers to issue such directions under Section 15 read with Section 20 of the NGT Act to ensure sustainable development.

NGT upholds imposition of environmental compensation against Sopore Municipal Council for unscientific dumping of waste

Chief Executive Officer, Municipal Council, Sopore v. Jammu & Kashmir Pollution Control Board; Order dated 25 May, 2022²³

NGT has declined to interfere with an order issued by the Jammu & Kashmir Pollution Control Board against Municipal Council, Sopore to pay an environmental compensation of INR 1.30 crore for illegal and unscientific dumping of solid waste in the municipal area. NGT considered the responses provided by the Board that the dumping of waste was not on forest land and it was beyond the catchment area of the Wular lake or buffer zone of the Jhelum river. However, it found that the dumping of the waste was in violation of Solid Waste Management Rules, 2016. Accordingly, it found no ground to interfere with the levy of environmental compensation.

In this case, NGT was considering an appeal filed by the Municipal Council, Sopore against an order of the Board levying environmental compensation, based on 'Polluter Pays' principle for illegal and unscientific dumping and disposal of solid waste in the area of the Municipal Council.

NGT sets aside the EC granted for a high-rise housing project in North Delhi

University of Delhi Through its Registrar v. Ministry of Environment Forest and Climate Change; Judgment dated 31 May, 2022²⁴

NGT has set aside the EC granted for the construction of a high rise building by M/s. Young Builder Private Limited in Delhi. NGT observed that the project proponent concealed material information in EIA

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documents on various aspects such as groundwater discharge, drainage, air quality, noise level, traffic congestion, capacity carrying assessment, etc. It observed that EAC had also failed to apply its mind in granting the EC. There is hardly any tangible and substantive discussion either by EAC or MoEFCC analysing various environmental aspects and impacts of the proposed project. EC conditions prescribed for the project are also very generic without any analysis of

pertinent issues. Thus, the whole exercise by EAC was based on non-application of mind. MoEFCC had also mechanically granted EC following recommendation of EAC and therefore, EC is vitiated in law.

In this case, NGT was considering an appeal filed by University of Delhi against the EC granted to M/s. Young Builder Private Limited for construction of group housing project near Vishwavidhyalaya Metro Station, New Delhi.

Regulatory / Policy developments

[Global Forest Resources Assessment Remote Sensing Survey released by Food and Agriculture Organization; 03 May, 2022²⁵](#)

Food and Agriculture Organization of the United Nations ("UN") has released the Global Forest Resources Assessment Remote Sensing Survey, 2020. The report notes that the world lost tropical forests roughly the size of Europe in the first two decades of this century. The major causes identified in the report are deforestation in South America and Asia, cropland expansion, palm oil plantations and livestock grazing. The report also notes that tropical forests loss accounted for more than 90 per cent of global deforestation from 2000 to 2018.

[MoEFCC amends Lead Stabilizer in Polyvinyl Chloride \(PVC\) Pipes and Fittings Rules, 2021; 04 May, 2022²⁶](#)

MoEFCC has amended the Lead Stabilizer in Polyvinyl Chloride (PVC) Pipes and Fittings Rules, 2021. The amendment *inter alia* provides that manufacturers shall submit water test report of pipes and fittings carried out by authorised agencies to respective State Pollution Control Board or Pollution Control Committee in accordance with their consent to operate and manufacturers and importers of PVC pipes and fittings shall comply with Indian standards prepared by the Bureau of Indian Standards. These amendments will come into force after six months from the publication date of this notification.

[MoEFCC issues multiple notifications enabling setting up of gas-based power plants in the island regions of India; 05 May, 2022](#)

MoEFCC has notified amendment to Island

Protection Zone Notification, 2011 ("IPZ Notification")²⁷ to enable setting up of gas-based power plant in Island Coastal Regulation Zone – III areas. Similarly, MoEFCC has also amended the Island Coastal Regulation Zone Notification, 2019²⁸ to enable setting up of gas-based power plant in islands with geographical areas >100 sq.km. in Island Coastal Regulation Zone – III areas.

MoEFCC included this aspect based on the representation from Andaman and Nicobar Coastal Zone Management Authority for meeting the energy requirement of residents of Andaman & Nicobar Islands while reducing their dependence on highly polluting sources viz. conventional diesel generator sets.

[MoEFCC releases guidelines for seeking recommendations of Standing Committee of NBWL for activities in protected areas; 06 May, 2022²⁹](#)

MoEFCC has released revised guidelines for seeking recommendations of Standing Committee of NBWL for activities in protected areas. These guidelines provide different activities which require consideration and recommendation of NBWL or Standing Committee of NBWL, some of which are: activities within National Parks, Wildlife Sanctuaries and Tiger Reserves; alteration in boundaries of protected areas; and activities in ESZ around these protected areas. The guidelines describe the procedure to be followed for such recommendation and timelines associated therewith.

[SEBI constitutes advisory committee on ESG matters; 06 May, 2022³⁰](#)

SEBI has constituted the advisory committee on Environment, Social and Governance

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(“ESG”) related matters. Constituted with 19 members, the terms of reference for the committee include aspects such as enhancements in Business Responsibility and Sustainability Report (“BRSR”), developing framework for ESG ratings and ESG investment disclosures by mutual funds.

MoEFCC issues guidelines regarding standard ToR for projects under EIA Notification; 06 May, 2022³¹

MoEFCC has issued guidelines regarding the standard Terms of Reference (“ToR”) for projects under EIA Notification. The guidelines provide that on online submission of application for EC, project proponent will be provided a standard ToR online. In this respect, Member Secretary of EAC/State Expert Appraisal Committee (“SEAC”) shall scrutinize applications for EC within 07 days and refer them to EAC/SEAC for grant of ToR only in exceptional cases depending upon environmental sensitivity involved or as per requirements annexed with this guideline.

MoEFCC provides special dispensation for expansion of coal mining projects; 07 May, 2022³²

MoEFCC has issued a special dispensation allowing coal mining projects that have been granted expansion EC upto 40% of their original capacity, to increase their production capacity upto 50% of original EC capacity on same mine lease area without requiring revised EIA reports and public consultation. Certain conditions have also been prescribed for claiming benefit under this guideline. This special dispensation has been provided considering coal shortage across India due to heatwave situation and surge in power demand. It will be valid for a period of 06 months from the date of issue.

MoEFCC amends the EIA Notification; 09 May, 2022³³

MoEFCC has notified an amendment to the EIA Notification, which *inter alia* provides that: (i) general conditions will not apply for mining of minor minerals; (ii) in case of delay in public hearing, the time duration for convening the rescheduled public hearing should not be less than forty-five days from the date of first advertisement already published and that a minimum notice period of fifteen days shall be provided to the public before the rescheduled date of the public hearing,

for furnishing the responses in writing; (iii) public hearing can be supervised by any other district level officer as authorised by the District Magistrate; and (iv) any officer not below the rank of Sub-Divisional Magistrate can also supervise the public hearing if the project or activity is confined to the territorial jurisdiction of one sub-division.

MoEFCC constitutes the National Coastal Zone Management Authority; 12 May, 2022³⁴

MoEFCC has notified the constitution of National Coastal Zone Management Authority for protecting and improving the quality of coastal environment and preventing, abating, and controlling environmental pollution in coastal areas. The authority has been constituted for a period of three years. It is *inter alia* required to coordinate the actions of State Coastal Zone Management Authorities and Union Territory Coastal Zone Management Authorities; examine the proposals for changes or modification in the classification of Coastal Zone Areas and in the Coastal Zone Management Plans received from State Coastal Zone Management Authorities and Union Territory Coastal Zone Management Authorities; and examine and approve the Coastal Zone Management Plans, Island Coastal Regulation Zone Plan, Integrated Island Management Plans and modifications thereof submitted by State Coastal Zone Management Authorities and Union Territory Coastal Zone Management Authorities.

Ramgarh Visdhari notified as 52nd Tiger Reserve of India; 16 May, 2022³⁵

Ramgarh Visdhari has been notified as the 52nd Tiger Reserve of India and the 4th in Rajasthan. Located in Bindi district of Rajasthan, the reserve is connected to two other critical tiger habitats – Ranthambore Tiger Reserve and Mukundra Hills Tiger Reserve.

MoEFCC issues clarification regarding statutory clearances required for projects around protected areas in India; 17 May, 2022³⁶

MoEFCC has issued clarification regarding statutory clearances such as environmental clearance, forest clearance and wildlife clearance required for projects around protected areas in India. MoEFCC has sought to streamline these requirements due to multiple judgments by the Supreme Court on this subject as well as previous

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communications issued by MoEFCC. These requirements have been determined based on location of the project as: project located within notified ESZ; project outside protected area where ESZ is not yet notified; and project located outside protected area which is either a part of Tiger Reserve or links one protected area with another protected area.

Union Cabinet approves amendments to the National Biofuel Policy; 18 May, 2022³⁷

Union Cabinet has approved amendments to the National Biofuel Policy, 2018. Some of the amendments approved are: (i) to advance the ethanol blending target of 20% blending of ethanol in petrol to 2025-26 from 2030; (ii) to promote the production of biofuels in India under the Make in India program by units located in Special Economic Zones / Export Oriented Units; and (iii) to grant permission for export of biofuels in specific cases.

MoEFCC issues Draft E-Waste Management Rules; 19 May, 2022³⁸

MoEFCC has issued a draft notification for E-Waste Management Rules to supersede E-Waste Management Rules, 2016. These draft rules provide that the manufacturer, producer, recycler and refurbisher shall require registration under the proposed rules. These entities will also need to comply with various proposed requirements. The proposed rules also provide detailed guidance on Extended Producer Responsibility ("EPR") and also allow trading in EPR certificates. These rules also propose an expanded list of products that will be considered as 'electrical and electronic equipment' for the application of these rules.

MoEFCC issues clarification regarding EC requirement for educational institutions; 19 May, 2022³⁹

MoEFCC has issued a clarification that exemption from the requirement of EC under EIA Notification applies to all institutions covered under the definition of 'educational institution' in Noise Pollution (Regulation and Control) Rules, 2000. However, these institutions shall ensure sustainable environmental management as per applicable guidelines.

15th Conference of Parties of the United Nations Convention to Combat Desertification concluded in Côte d'Ivoire; 20 May, 2022⁴⁰

The fifteenth session of the Conference of the Parties (COP15) of the United Nations Convention to Combat Desertification (UNCCD) took place in Abidjan, Côte d'Ivoire from 09 to 20 May, 2022. The theme for COP15 was "Land. Life. Legacy: From scarcity to prosperity" and it called for action to ensure land, which is the lifeline on this planet, continues to benefit present and future generations.

The UNCCD COP15 adopted 38 decisions, including on tenure, migration and gender, that highlight the role of land in addressing multiple crises. The global leaders inter alia agreed to establish an Intergovernmental Working Group on Drought for 2022-2024 to look into possible options, including global policy instruments and regional policy frameworks to support a shift from reactive to proactive drought management. They also agreed on the requirement to boost drought resilience by identifying the expansion of drylands, improving national policies and early warning.

Rajasthan Government approves its electric vehicle policy; 24 May, 2022⁴¹

Government of Rajasthan has approved the Rajasthan Electric Vehicle ("EV") Policy with an additional budget of Rs 40 crore for State GST ("SGST") reimbursement for those purchasing EVs. According to the new EV policy, the government will reimburse INR 5,000 to INR 10,000 SGST on two-wheelers, whereas three-wheelers will get a SGST reimbursement of INR 10,000 to INR 20,000, depending upon the battery capacity of the vehicle.

MoEFCC issues clarification regarding EC requirement for manufacturing of Polyurethane foam; 24 May, 2022⁴²

MoEFCC has clarified that manufacturing of Polyurethane foam shall not require prior EC under the EIA Notification. It has also clarified that any further utilization of Polyurethane foam as a raw material / further application shall also not require prior EC. However, the manufacturing of chemicals to be used as raw materials for manufacturing of foam shall attract the provisions of EIA Notification, as applicable.

MoEFCC issues clarification regarding requirement of revised EIA reports for expansion projects; 30 May, 2022⁴³

MoEFCC has issued a clarification regarding

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requirements for expansion projects pursuant to the Office Memorandum dated 11 April, 2022. It has been clarified that revised EIA reports for expansion can be prepared for a maximum of 50% capacity expansion over original EC capacity. EC for expansion can be granted in phases of 20%, 40% and 50% capacity expansion based on these EIA reports, subject to submission of certified compliance reports for ECs granted at each stage. There will be no requirement to prepare revised EIA report for each phase in such cases.

MoEFCC issues draft environmental standards for Calcined Petroleum Coke units; 31 May, 2022⁴⁴

MoEFCC has issued a draft notification to amend Environment (Protection) Rules, 1986.

This notification proposes emission standards for Calcined Petroleum Coke units and also require them to install continuous emission monitoring system (CEMS) as per Central Pollution Control Board's guidelines.

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

MoEFCC has notified the ESZ around Gulmarg Wildlife Sanctuary (District Baramulla, Jammu and Kashmir)⁴⁵ and Kibber Wildlife Sanctuary (Himachal Pradesh)⁴⁶. Further, MoEFCC has also issued draft notifications for declaration of ESZ around Koundinya Wildlife Sanctuary (Andhra Pradesh)⁴⁷, Kuno National Park (Madhya Pradesh)⁴⁸ and Kamlang Tiger Reserve (Arunachal Pradesh)⁴⁹.

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Endnotes

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- 2 WRIT PETITION (CIVIL) NO. 433 OF 2012.
- 3 Writ Petition No. 4725 of 2021.
- 4 Public Interest Litigation (L) No. 23928 of 2021.
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- 6 Appeal No. 01/2016/EZ.
- 7 Original Application No. 487/2015.
- 8 Original Application No. 199/2021.
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- 11 Original Application No. 93/2021.
- 12 Civil Appeal Diary No.- 18213/2021, dated 08.04.2022.
- 13 Original Application No. 1011/2018.
- 14 Original Application No. 438/2021.
- 15 Appeal No. 15/2017(WZ).
- 16 Appeal Nos. 6 and 9/2017/EZ.
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- 18 Original Application No. 100/2020 (WZ).
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