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Supreme Court Judgments / Orders

Supreme Court refuses to adjudicate whether metro rail project in Noida requires prior EC considering that the project is already complete and operational

Dedicated Freight Corridor Corporation of India Ltd. & Anr. v. Society for Protection of Environment and Biodiversity & Ors.; Judgment dated 04 January, 2023¹

The Supreme Court of India (“Supreme Court”) has refused to act on an appeal against the National Green Tribunal (“NGT”) order dated 31 May, 2016 on whether the metro rail project in Noida requires prior environmental clearance (“EC”) under the Environment Impact Assessment Notification, 2006 (“EIA Notification”). NGT had in its order directed the project proponent to approach the State Environment Impact Assessment Authority (“SEIAA”), Uttar Pradesh for prior EC. The Supreme Court had stayed this order on 16 September, 2016. Supreme Court observed that the entire metro rail project in Delhi and Noida is already complete and functional and is being used by a large number of commuters. Therefore, the Supreme Court refused to act on this appeal in light of its peculiar facts and circumstances. However, it kept the question of law as to whether metro rail projects require prior EC, open for consideration in appropriate proceedings.

Supreme Court sets aside Punjab & Haryana HC judgment allowing construction of multi-floor apartments on a single dwelling unit in Phase-I of Chandigarh

Resident’s Welfare Association & Anr. v. Union Territory of Chandigarh & Ors.; Judgment dated 10 January, 2023²

Supreme Court has directed that the conversion of individual dwellings into multi-floor apartments in Phase-I of Chandigarh is not in consonance with Chandigarh Master Plan, 2031 and Chandigarh Estate Rules, 2007. Despite the statutory provisions barring fragmentation of dwellings, Chandigarh Administration is sanctioning building plans and permitting such construction. Therefore, the Heritage Committee should consider this issue using the example of the damage caused by unplanned urbanization to the ecology of Bengaluru. It is important that before undertaking any urban development, environment impact assessment of such projects ought to be done so that the environment is not sacrificed at the altar of urban development. Supreme Court noted the heritage value of Phase-I of Chandigarh which is sought to be inscribed as a UNESCO world heritage city. The conversion of individual dwellings into apartments (permitting sale of each floor) will increase the number of residents and buildings, thereby adversely impacting the ecology and transportation in the region. Chandigarh Administration cannot permit these approvals without considering their environmental impacts. In this case, the Court was considering an appeal against the judgment of the Punjab and Haryana High Court allowing construction of multi-floor apartments on a single dwelling unit.

Supreme Court issues directions for modification of its previous order

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regarding felling of trees for road projects

In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.; Order dated 11 January, 2023³

Supreme Court has directed the relevant authorities to take various mitigation measures in road construction / expansion projects to ensure free movement of wildlife. The Court noted that when its previous orders (requiring permission of Supreme Court for felling of trees) were passed, legislations like Compensatory Afforestation Fund Act, 2016, Forest Conservation Rules, 2022 and Compensatory Afforestation Fund Rules, 2018 were not enforced. These legislations now address issues relating to forest conservation and compensatory afforestation before relevant permissions are issued. Court also noted that requiring parties to approach this Court for such projects would cause unnecessary delays in execution of projects.

In this case, an interlocutory application was filed by National Highway Authority of India, Puducherry seeking permission of the Court to remove 177 trees in the Gopalamudram Reserve Forest Block for laying a four-lane road in a particular section of NH-45A. State of Tamil Nadu had also filed an application for the removal of four trees in the Mahanyam Reserved Forest Area, Kancheepuram District for the upgradation of a road. These have been filed in light of the Supreme Court's order dated 12 December, 1996 wherein a ban was imposed on felling of trees in all forest areas. Accordingly, the Court has issued directions for the modification of the said order, passed in respect of Tamil Nadu. It has directed that felling of trees in all forest areas in respect of any road projects initiated by the State Government, National Highway Authority of India or any other instrumentality of the State, which involves cutting of up to 500 trees can be done without Supreme Court's permission. However, this modified order will not be applicable for projects inside wildlife sanctuaries, national parks, tiger reserves and elephant corridors.

Supreme Court exempts construction and allied activities by Railways from ESZ related restrictions prescribed in

its order dated 03 June, 2022

In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.; Order dated 16 January, 2023⁴

Supreme Court has exempted the construction and other allied activities by Indian Railways and its subsidiaries / sister concerns from its order dated 03 June, 2022 *inter alia* prohibiting new construction activities within the Eco-Sensitive Zone ("ESZ") area and prescribing minimum 1 km ESZ around protected areas. Court noted that construction and other allied activities by Railways are not prohibited in ESZ areas as per the Ministry of Environment, Forest and Climate Change ("MoEFCC") guidelines dated 09 February, 2011. These activities are required in the larger public interests and therefore exemption can be provided for them. However, Railways shall take permission from MoEFCC and the Standing Committee of National Board for Wildlife before undertaking such activities, which shall prescribe necessary mitigation measures for the protection of wildlife. The Court was considering an application filed by Indian Railways for the modification of the Supreme Court's order dated 03 June, 2022 to provide exemption for its construction and allied activities.

Supreme Court directs NGT to consider the report of the expert committee reconstituted by it in the Baghjan oil well blow-out matter

Bonani Kakkar v. Oil India Limited & Ors.; Judgment dated 23 January, 2023⁵

Supreme Court has directed the NGT to disburse the interim compensation to persons affected by blow-out incident at Baghjan oil well and consider the reports of the Supreme Court constituted expert committee on the damage caused to the environment before passing further directions. NGT had constituted three committees for assessment of damage caused by the blow-out incident at the oil well. After the third committee was reconstituted by the Supreme Court, it had submitted its reports on the damage caused to the environment and the restoration measures required. The other two committees shall also proceed to complete the tasks allotted to them. NGT shall now consider these reports and issue

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necessary directions for the restoration of environment, reparation of environmental damage and compensation. The Court noted that pendency of this case will not affect the disbursement of interim compensation to affected persons, which shall be done within a period of two months. In this case,

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Uttarakhand High Court prohibits the operation of a stone crushing unit in ESZ of Rajaji National Park

Devendra Singh Adhikari v. State of Uttarakhand & Ors.; Judgment dated 02 January, 2023⁶

The High Court of Uttarakhand has directed that the stone crushing units, which were granted license under the previous legal regime, also need to comply with the amended legal regime as environmental policies are framed and updated from time to time keeping in view the evolving situation concerning prevailing levels of pollution, changing standards, upgradation of technology, scientific discoveries, etc. No person has a right to cause higher pollution only because the level of pollution that it is causing was permissible when it was granted permission to carry out an activity. Accordingly, the unit is required to comply with the state's stone crushing policy, as amended from time to time. Court also found that the unit was operating within the ESZ of Rajaji National Park, Uttarakhand but has not yet obtained the permission of the National Board for Wildlife (NBWL). Since it is operating in breach of the applicable law, it was ordered that the operations of the unit shall be stopped till the time appropriate permissions from NBWL are obtained.

High Court upholds the ban on non-woven plastic bags in Uttarakhand

Sukhivender Kaur Gill v. State of Uttarakhand & Ors.; Judgment dated 03 January, 2023⁷

The High Court of Uttarakhand has dismissed an appeal filed by a company manufacturing non-woven fabric (plastic carry bags) above 60 gram per square metre ("GSM") thickness against an order issued by the state authorities alleging that it is operating in contravention of the Uttarakhand Plastic and Other Non-

the Supreme Court was considering an appeal against the NGT's order dated 19 February, 2021 relating to the damage and destruction caused to the biodiversity of Dibru Saikhowa National Park and Biosphere Reserve due to the blow-out incident at Baghjan oil well.

Biodegradable Garbage (Regulation of Use and Disposal) Act, 2013 ("State Act"). The High Court noted that MoEFCC has prescribed the minimum thickness for non-woven plastic carry bags as 60 GSM under Plastic Waste Management Rules, 2016 ("Plastic Rules"). However, the State Act completely prohibits such bags. After examining the entries mentioned in the three lists of the Seventh Schedule of the Constitution of India, the High Court relied on the principle of pith and substance to observe that the State Legislature had the competence to enact the said legislation for managing plastic and other non-biodegradable waste in the state. The Court further observed that there is no repugnancy between the Plastic Rules and the State Act as the State of Uttarakhand is an ecologically sensitive state and therefore the state government can prescribe norms that are stricter than those laid down by the Central Government to prevent and manage the pollution caused by plastic waste. Accordingly, it has directed to harmonize both the legislations by observing that in areas where either there is no ban or where higher standards have not been laid down in relation to manufacture, sale and usage of plastic bags, sheets etc., the minimum standards laid down under the Plastic Rules would be applicable.

Kerala High Court quashes state government orders banning all non-woven plastic bags in Kerala

Nibu Kasim & Ors. v. Union of India & Ors.; Judgment dated 10 January, 2023⁸

The High Court of Kerala has set aside the orders issued by Kerala government and Kerala Pollution Control Board ("KPCB") to include non-woven plastic carry bags in the list of prohibited items. The High Court noted that Plastic Rules provide minimum thickness for non-woven plastic carry bags as 60 GSM.

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However, the state government has prohibited all non-woven plastic bags, irrespective of their GSM, by including them in the list of prohibited single-use plastic items. The Court observed that if the Central Government has prescribed a minimum standard in GSM for manufacturing of non-woven bags, then the State Government cannot prescribe a different standard which would negate the rules framed by the Central Government. If any State Government issues executive instructions contrary to Plastic Rules, it would amount to exercise of powers which

the Environment (Protection) Act, 1986 has prohibited to delegate. No other state in India has banned non-woven plastic bags above 60 GSM. Moreover, even if KPCB can prescribe stricter standards in the state than the central legislation, the relevant reasons should be provided for it. However, KPCB's order does not mention any such reason. In this case, the manufacturers of non-woven plastic bags in Kerala challenged the government orders which included all non-woven plastic bags in the list of prohibited items.

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NGT directs CPCB to consider inclusion of artificial flowers and plants in the list of single use plastic products

Rahul Popat Pawar v. MoEFCC & Ors.; Order dated 03 January, 2023⁹

NGT has directed the Central Pollution Control Board ("CPCB") to ensure within two months as to whether the committee constituted by the Department of Chemicals and Petrochemicals could include artificial flowers and plants in the list of single use plastic products. NGT noted from CPCB's affidavit that such products are not yet identified as single use plastic products by the committee. However, the Maharashtra Pollution Control Board has included such products in the list of banned single-use plastic products under the state-specific law. Hence, a penalty of INR 1,70,000 was imposed on the defaulting entities pursuant to the inspection. In this case, NGT was considering an application seeking the issuance of directions to the statutory authorities for prohibiting the production, commerce, stocking, distribution, sale and use of artificial flowers and plants as they are single use plastic products.

NGT constitutes a high-level committee chaired by LG, Delhi to implement earlier orders to control pollution in river Yamuna

Ashwani Yadav v. Govt. of NCT of Delhi; Order dated 09 January, 2023¹⁰

NGT has directed for the constitution of a high-level committee of concerned authorities in Delhi where the pollution in river Yamuna

is higher (about 75%) than other river basin states. The Lieutenant Governor ("LG") of Delhi shall be its chairperson and the committee shall include representatives of various departments as its members. The committee shall deal with all issues concerning pollution in Yamuna and directions set out in the NGT's order dated 27 January, 2021. NGT noted that several orders and directions have been passed by both the Supreme Court and the NGT regarding pollution in Yamuna, but there are still substantial gaps in their implementation. NGT noted that multiple authorities dealing with this issue might be a reason for not achieving success so far due to the lack of ownership and accountability among them. In this application, the applicant raised grievances about unabated pollution of River Yamuna and continued failure of the authorities in taking adequate remedial measures on the basis of specific orders passed by the Supreme Court and NGT.

NGT directs states of Odisha and Chhattisgarh along with the project proponents to ensure construction of alternative road for transportation of coal

In re: News report published in the Newspaper named Indian Express, Daily News Paper dated: 4th February, 2022, Kolkata, Late City Edition titled "Non-compliance of EC conditions by Kulda coal mine, Odisha & Tamnar Thermal Plant, Chattisgarh"; Order dated 12 January, 2023¹¹

NGT has directed the Chief Secretaries of Odisha and Chhattisgarh as well as the

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project proponents, M/s Mahanadi Coalfields Limited (“MCL”) and M/s Jindal Power Limited (“JPL”) to construct alternative roads for the transportation of vehicles and coal between MCL’s mine and JPL’s thermal power plant within a period of four months. NGT noted that since the meeting between the stakeholders, no substantial action has been taken. The cost of such construction shall be shared by equally by the states of Chhattisgarh and Odisha and they shall have the liberty to recover the said cost from the project proponents proportionately. NGT has also directed the relevant State Pollution Control Boards (“SPCBs”) to determine and recover environmental compensation from the project proponents for past violations caused due to the transportation of coal by road.

NGT observed that the EC was granted for coal mining and thermal power projects with conditions requiring alternative arrangements for transportation of coal from the mine to the thermal plant and avoiding its transportation by existing road. The report submitted by NGT constituted joint committee confirmed violation of this condition. The NGT took *suo motu* cognizance of this matter based on a media report that there is a violation of the environmental norms in operation of Kulda Coal Mine, Odisha and Tamnar Thermal Plant, Chhattisgarh due to the course of transportation of coal from Kulda to Tamnar.

NGT holds that the limitation period cannot be invoked for the imposition of environmental compensation in cases involving continuous damage to the environment

Amelia Textile and Chemical Pvt. Ltd. v. Uttar Pradesh Pollution Control Board; Judgment dated 16 January, 2023¹²

Waris Chemicals Pvt. Ltd. v. Uttar Pradesh Pollution Control Board; Judgment dated 16 January, 2023¹³

NGT has revised the environmental compensation imposed by Uttar Pradesh Pollution Control Board (“UPPCB”) against two industrial units for undertaking operations without prior authorization and dumping of toxic waste in violation of the law. The compensation for M/s. Amelia Textiles and

Chemicals Pvt. Ltd. was revised from INR 40 crore to INR 11.9 crore and the compensation for M/s Waris Chemicals Pvt. Ltd. was revised from INR 46.6 crore to INR 25.4 crore, based on the CPCB guidelines for the determination of such compensation. NGT observed that these units commenced operations without obtaining prior consents and authorization from the UPPCB for waste management. They also dumped the hazardous waste comprising of chromium outside the factory premises, which is very toxic and dangerous to the environment. This has contaminated the soil and the groundwater and caused health hazards for residents. Hence, they are liable for causing damage to the environment and need to bear the cost for its restoration. Since the units have been operating for over a decade, the NGT also observed that even though the environmental statute does not prescribe the limitation period upto which environmental compensation can be imposed against a polluting entity, it is an established norm that no person has the legal right to damage the environment. The failure of statutory authorities in discharging their obligations under the law cannot be made a ground to claim limitation on the imposition of environmental compensation for past violations that have continuously been damaging the environment. In this case, NGT was considering appeals filed by both the companies against UPPCB for imposing environmental compensation for violation of environmental law.

NGT issues directions to the authorities for preparing and updating environmental action plans

Shree Nath Sharma v. Union of India & Ors.; Order dated 17 January, 2023¹⁴

NGT has issued various directions pertaining to environmental action plans at the district, state and national levels. It has directed the central and state authorities to prepare and regularly update the environmental action plans, considering the urgent need to upgrade environmental standards in India regarding air, water and land. The district plans must cover all relevant data on different thematic subjects covering each city, town and village, with the identified gaps in compliances along with the remedial action plan. The progress

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in implementation of these plans must be finalized by 31 January of every year. Basis these district-based plans, state level plans shall also be finalized and placed on state government website by 28 February of every year. CPCB shall also prepare consolidated action plan and place it on its website by 31 March of every year. In this case, NGT was examining the reports filed by the monitoring committees on the status of environmental action plans of different states.

NGT directs an apparel company to pay INR 10 crore as environmental compensation for the damage caused due to toxic gas leakage incidents

In re: News item published in Hindustan Times dated 03.06.2022 titled “178 women workers fall ill after gas leak in Andhra’s Visakhapatnam”; Order dated 18 January, 2023¹⁵

NGT has directed M/s Brandix India Apparel City Pvt. Ltd. to pay compensation of INR 10 crore for the damage caused by two gas leakage incidents at its plant in Andhra Pradesh. Out of the said amount, compensation of INR 1,00,000 shall be disbursed to each of the 539 workers affected by these incidents. The shortfall, if any, shall be made up by the state government. The report of the joint committee confirmed the presence of chemicals like acetonitrile, dichloromethane, ethyl acetate, n-hexane, etc. in air, dust and water samples from the industrial unit. Hence, based on overwhelming preponderance of probabilities, the company is responsible for these leakage incidents. NGT observed that the principle of absolute liability applies in cases where damage is caused to any person due to the hazardous commercial activities of an enterprise. The conclusive scientific evidence is not required to determine liability in such cases and under the principle of ‘reverse burden of proof’, company is responsible to prove that its activities did not cause the damage. In this case, NGT initiated *suo motu* proceedings based on the media report about gas leakage incident at Visakhapatnam, Andhra Pradesh.

NGT imposes environmental compensation of INR 2 crore for inadequate sewage management in Agra, Uttar Pradesh

Devanshu Bose v. Agra Development Authority & Ors.; Order dated 18 January, 2023¹⁶

NGT has imposed INR 2 crore as environmental compensation against Agra Development Authority for environmental damage caused due to the discharge of untreated sewage from the city into Yamuna River and for the construction of the urban infrastructure without adequate sewage management. NGT observed from the data presented before it that more than 85 million litres of untreated sewage is being discharged into Yamuna every day. In such a situation, the permission to set up colonies without appropriate infrastructure is against the principle of sustainable development. Accordingly, the authority is liable to pay for its failure to ensure sewage management. In this case, NGT was considering grievances against the failure of the authority to prevent the discharge of untreated sewage from a housing colony in Agra, Uttar Pradesh.

NGT directs authorities to ensure operation of stone crushing units in Mahendragarh and Charkhi Dadri districts of Haryana after considering the carrying capacity of the region

Mahendra Singh & Ors. v. State of Haryana & Ors.; Order dated 18 January, 2023¹⁷

NGT has directed the regulatory authorities in Haryana to proceed against the stone crushing units in Mahendragarh and Charkhi Dadri districts and shut them down as they are operating in violation of the law. The number of stone crushers being allowed to operate in the region must be based on the carrying capacity of the region. NGT observed that in spite of the negative carrying capacity of the area in terms of the air quality, a large number of stone crushers are currently operating in the region. NGT has directed the authorities to recover compensation for past violations and prohibit illegally operating stone crushers till compliance is ensured with the region’s carrying capacity. No stone crushing unit shall be allowed to operate till the air quality index in the area is below 200. It has also imposed interim compensation at the rate of INR 20 lakh against each of the stone crushers. In this case, NGT was considering grievances against air and noise pollution due to the crushing of stone

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and other such minerals in Mahendragarh and Charkhi Dadri districts of Haryana.

NGT issues orders against States of Assam, Jharkhand and Odisha for their failure to ensure waste management

In re: Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues¹⁸

NGT has directed States of Jharkhand¹⁹, Assam²⁰ and Odisha²¹ to take appropriate measures to ensure waste management in their respective jurisdictions through stringent monitoring at appropriate levels, particularly district level. NGT refrained from directing these states to pay environmental compensation on account of

their undertaking to provide appropriate funds earmarked for waste management. It observed that the objective should be to reduce the gap between generation and processing of solid and liquid waste and to remediate the legacy waste. NGT also observed that the authorities have failed to ensure compliance with its prior directions related to waste management. The waste management mechanism is required on war footing 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 based on the directions issued by the Supreme Court pertaining to the timeline for compliance with Solid Waste Management Rules, 2016.

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Union Cabinet approves National Green Hydrogen Mission; 04 January, 2023²²

The Union Cabinet has approved the National Green Hydrogen Mission with the financial outlay of INR 19,744 crore. Ministry of New and Renewable Energy will formulate guidelines to implement this scheme. This mission aims to achieve following outcomes by the year 2030: (a) development of green hydrogen production capacity of at least 5 million metric tonne ("MMT") per annum with an associated renewable energy capacity addition of about 125 gigawatt; (b) investment of rupees eight lakh crore; (c) creation of over six lakh jobs; (d) cumulative reduction in fossil fuel imports by over rupees one lakh crore; and (e) abatement of nearly 50 MMT of annual greenhouse gas emissions.

MoEFCC releases the draft regulations for CETP; 04 January, 2023²³

MoEFCC has released the draft Regulation of Common Effluent Treatment Plants Rules, 2022. These draft rules lay down the roles and responsibilities of Common Effluent Treatment Plant ("CETP") operating agency, SPCB and member industries of a CETP. As per MoEFCC, these rules are intended to address the bottlenecks in the operation of CETP and improve their performance for waste treatment.

MoEFCC issues office memorandum for

protection of Sammed Shikharji Parvat Kshetra; 05 January, 2023²⁴

MoEFCC has issued an office memorandum directing Jharkhand Government to enforce the provisions of ESZ Notification dated 02 August, 2019 concerning Sammed Shikharji Parvat Kshetra and prohibit activities such as selling of liquor and drugs, playing loud music and defiling sites of natural, religious and cultural importance. MoEFCC has also stayed the operation of clause 3 of the said notification concerning tourism and eco-tourism activities in the region.

MoEFCC issues clarification regarding applicability of EIA Notification for manufacture of organic products from plants; 09 January, 2023²⁵

MoEFCC has clarified that the manufacture of organic products from plants through the extraction process without any chemical synthesis, but involving mixing/blending, percolation with water and extracting with solvent are not covered under item 5(f), i.e., synthetic organic chemicals industry, of the Schedule to the EIA Notification. Hence, such projects do not require prior EC.

MoEFCC revises guidelines for the cost of implementation of wildlife management and soil and moisture conservation plan; 10 January, 2023²⁶

MoEFCC has revised its guidelines dated 07 June,

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2022 regarding the implementation of wildlife management plan and soil and moisture conservation plan. As per the revised guideline, provisions of these plans shall be approved by the competent authority of state government and any deficit from the prescribed amount shall be paid by the user agency and deposited in the Compensatory Afforestation Fund, but the requirement to do so before actually working on the forest area has been removed. Moreover, these plans shall be approved by the competent authority of state government and concurred by the relevant Integrated Regional Office of MoEFCC. However, such approval was earlier required before actual working/non-forestry use of the forest land, but now it can be done within 1 year from the date of deposit of the said amount.

World Economic Forum releases Global Risks Report 2023; 11 January, 2023²⁷

World Economic Forum has released the Global Risks Report 2023 exploring some of the most severe risks that human beings may face over the next decade. The report notes the impacts of current crises as well as several short and long-term risks for humanity. As per the results of the survey conducted as a part of this report, “cost of living crisis” is ranked as the most severe global risk in the short term and “biodiversity loss and ecosystem collapse” is ranked as one of the fastest deteriorating global risks over the next decade. It is noteworthy that all six environmental risks feature in the top 10 risks over the next decade.

MoEFCC issues clarification for cost of wildlife management plan and soil and moisture conservation plan in case of linear projects; 16 January, 2023²⁸

MoEFCC has issued a clarification to its guideline dated 07 June, 2022 regarding the cost of implementation of wildlife management plan and soil and moisture conservation plan. In respect of linear projects, the user agency shall pay for the implementation of these plans at the prescribed rate in proportion to the extent of the forest land involved in the project. Earlier the agency was required to pay as per the total project cost or the actual cost of implementation, whichever is more.

Central Government notifies lapse of

registration certificate of government vehicles after fifteen years from initial registration; 16 January, 2023²⁹

Union Ministry of Road Transport and Highways has notified that the certificate of registration of the government vehicles shall expire after the lapse of fifteen years from the date of initial registration of the vehicle. If the registration certificate of such vehicle is already renewed before the lapse of fifteen years, such certificate shall also be treated as cancelled on completion of fifteen years from the date of initial registration. This requirement will not apply for defence and security vehicles. Such vehicle shall then be disposed through registered vehicle scrapping facility set up in accordance with the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021.

IFSCA releases the framework for disclosures by fund management entities for Environmental, Social or Governance (ESG) schemes; 18 January, 2023³⁰

International Financial Services Centres Authority (“IFSCA”) has issued a circular requiring ESG schemes to make certain initial and periodic disclosures. Norms have also been prescribed for ongoing monitoring and performance evaluation. This circular is applicable to retail schemes, exchange traded funds (ETFs), restricted schemes and venture capital schemes which: (a) have terms, such as ‘Environment’, ‘Social’, ‘ESG’, ‘Green’, ‘Sustainability’ or any combination thereof or similar terms incorporated in their names; or (b) represent or market themselves as ESG-focused schemes.

South Africa and India sign MOU for transfer of Cheetahs; 27 January, 2023³¹

The Republic of South Africa and the Republic of India have signed a Memorandum of Understanding (“MOU”) on cooperation in the re-introduction of Cheetah in India. In terms of the agreement, an initial batch of 12 cheetahs will be brought from South Africa to India during February, 2023, with a plan to translocate further 12 Cheetahs annually for the next 8 to 10 years.

Finance Minister focusses on Green Growth in the Union budget presented before the Parliament; 01 February, 2023³²

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The Union Finance Minister has presented the Union Government's Budget for FY 2023-24 before the Parliament. The budget sets out the key priorities for the government during the *Amrit Kaal* and sets the blueprint for India@100. 'Green Growth' featured as one of the *Saptarishi* (seven priorities) in the budget that will include implementation of many programmes for the promotion of clean fuel, clean energy, organic farming, clean mobility, efficient buildings, equipment and efficient use of energy. This will help in reducing carbon intensity of the economy and generate job opportunities. The following key announcements were made in relation to environment, climate change and sustainability:

- States and cities will be encouraged to undertake urban planning reforms and actions to transform cities into 'sustainable cities of tomorrow'. This includes efficient use of land resources, adequate resources for urban infrastructure, transit-oriented development, enhanced availability and affordability of urban land and opportunities for all.
- Outlay of INR 35,000 crore has been made for priority capital investments towards energy transition, net zero objectives and energy security.
- Battery energy storage systems with a capacity of 4,000 MWH will be supported with viability gap funding. A detailed framework for pumped storage projects will also be formulated.
- Inter-state transmission system for evacuation and grid integration of 13 GW renewable energy from Ladakh will be constructed with an investment of INR 20,700 crore including central support of INR 8,300 crore.
- Green Credit Programme will be notified under the Environment (Protection) Act, 1986 for encouraging behavioural change to incentivize environmentally sustainable and responsive actions by companies, individuals and local bodies and help mobilize additional resources for such activities.
- PM-PRANAM (PM Programme for Restoration, Awareness, Nourishment and Amelioration of Mother Earth) scheme will

be launched to incentivize states and union territories to promote alternative fertilizers and balanced use of chemical fertilizers.

- 500 new 'waste to wealth' plants will be established under GOBAR-dhan (Galvanizing Organic Bio-Agro Resources Dhan) scheme for promoting circular economy. These will include 200 compressed biogas plants (including 75 plants in urban areas) and 300 community or cluster-based plants at a total investment of INR 10,000 crore. In due course, a 5% compressed biogas mandate will be introduced for all organizations marketing natural gas and biogas.
- Farmers will be facilitated to adopt natural farming and 10,000 Bio-Input Resource Centres will be setup for creating a national-level distributed micro-fertilizer and pesticide manufacturing network.
- MISHTI (Mangrove Initiative for Shoreline Habitats & Tangible Incomes) scheme will be introduced for mangrove plantation along the coastline and on salt pan lands, wherever feasible.
- Amrit Dharohar scheme will be implemented to encourage optimal use of wetlands, and enhance biodiversity, carbon stock, eco-tourism opportunities and income generation for local communities.
- Coastal shipping will be promoted as the energy-efficient and lower-cost mode of transport, both for passengers and freight, through public-private partnership mode with viability gap funding.
- While Central Government is replacing old vehicles for scrapping, state governments will be supported for replacing old vehicles and ambulances.
- Blended Compressed Natural Gas will be exempted from central excise duty for the amount of GST paid on biogas / compressed biogas contained in it.
- Import of capital goods and machinery required for manufacture of lithium-ion cells for batteries used in electric vehicles will be exempted from customs duty upto 31 March, 2024.

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Endnotes

- 1 CIVIL APPEAL NO. 8762 OF 2016.
- 2 CIVIL APPEAL NO. 274 OF 2023 (Arising out of SLP(C) No. 4950 & 5489 of 2022).
- 3 Writ Petition (Civil) No. 202/1995.
- 4 Writ Petition (Civil) No. 202/1995.
- 5 Civil Appeal No 2201 of 2021.
- 6 Writ Petition (PIL) No. 168 of 2019.
- 7 Special Appeal No. 466 of 2022.
- 8 W.P. (C) Nos. 23089 and 24165 of 2022.
- 9 Original Application No. 82/2022 (WZ).
- 10 Original Application No. 21/2023.
- 11 Original Application No. 236/2022.
- 12 Appeal No. 15/2020 (I.A. No. 127/2022).
- 13 Appeal No. 18/2020 (I.A. No. 130/2022).
- 14 Original Application No. 360/2018.
- 15 Original Application No. 448/2022.
- 16 Original Application No. 329/2021.
- 17 Original Application No. 667/2018.
- 18 Original Application No. 606/2018.
- 19 Order dated 19 January, 2023.
- 20 Order dated 27 January, 2023.
- 21 Order dated 27 January, 2023.
- 22 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1888545>
- 23 <https://egazette.nic.in/WriteReadData/2023/241663.pdf>
- 24 <https://moef.gov.in/wp-content/uploads/2023/01/OM-ESZ-SammedShikharji-Eng.pdf>
- 25 http://environmentclearance.nic.in/writereaddata/OMs-2004-2021/311_OM_09_01_2023.pdf
- 26 [https://forestsclearance.nic.in/writereaddata/public_display/schemes/1436062237\\$guideline.pdf](https://forestsclearance.nic.in/writereaddata/public_display/schemes/1436062237$guideline.pdf)
- 27 <https://www.weforum.org/reports/global-risks-report-2023/>
- 28 [https://forestsclearance.nic.in/writereaddata/public_display/schemes/1328447254\\$Guidelines%20dated%2016-01-2023.pdf](https://forestsclearance.nic.in/writereaddata/public_display/schemes/1328447254$Guidelines%20dated%2016-01-2023.pdf)
- 29 <https://egazette.nic.in/WriteReadData/2023/242033.pdf>
- 30 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1892049>
- 31 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1894092>
- 32 https://www.indiabudget.gov.in/doc/Budget_Speech.pdf

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