Environmental Law Newsletter





Supreme Court Judgements/ Orders

Supreme Court pulls up authorities for stubble burning

MC Mehta vs. Union of India & Ors.,1 Order dated 21 November, 2023

The Supreme Court of India ("Supreme Court") considered the report filed by the Government of Punjab which stated that 8481 meetings had been held with the farmers and farmer leaders to convince them not to burn paddy crops and 1092 flying squads had been constituted for ensuring the same. However, the upward trend in farm fires has not been abated. The Court also noted that environmental compensation amounting to more than INR 2 (two) crores had been imposed, however, the recovery has only been around INR 18 (eighteen) lakhs. The Court directed the state government to ensure recovery of the remaining amount and apprise it regarding the said compliance. It noted that the number of cases in which environmental compensation has been imposed is just over twenty-five per cent (25%) of the total cases identified by the states. The Court further directed the joint committee to investigate into the aspect of discouraging cultivation of rice especially on account of the water required for it and the wells running dry in Punjab. The Court also flagged the continuous burning of e-waste in the open in Uttar Pradesh and Delhi. The Court directed the states of Delhi and Uttar Pradesh to initiate action and file a report in this regard.

Supreme Court stays NGT order imposing INR 12,000 crores cost on Government of Maharashtra for improper waste management

The State of Maharashtra vs. National Green Tribunal,² Order dated 28 November, 2023 The Supreme Court has stayed the order of the National Green Tribunal ("**NGT**") which directed the State of Maharashtra to deposit environmental compensation amounting to INR 12,000 crore in a 'ring fenced account' for its failure to treat solid and liquid waste generated in the state. NGT had levied the environmental compensation citing alleged negligence in managing both solid and liquid waste, leading to environmental harm. NGT had highlighted the necessity for fixing quantified liability to prevent further harm and restore past damage.

Supreme Court directs Government of Delhi to transfer funds for RRTS project

MC Mehta vs. Union of India & Ors.,³ Order dated 28 November, 2023

Supreme Court has directed the Government of Delhi to completely comply with its assurance of allocating funds for the Regional Rapid Transit System ("RRTS") project. The Delhi government had informed that only a portion of the funds had been disbursed and it was in partial compliance of the Court's earlier Order. The Court opined that there is no question of partial compliance and complete compliance must take place. Delhi government stated that the amount of INR 415 crore has been paid as per sanction order, but it may not have been credited to the account of National Capital Region Transport Corporation. However, the Court noted that the sanction order itself states that it is in 'partial compliance'. During the last hearing, the Court had expressed dissatisfaction with the Delhi government for failing to fulfil its commitment to allocate funds for the RRTS Project, calling it a 'gross breach'. The Court had passed an

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order to transfer the advertisement funds of Delhi government to the project, but upon request from the counsel representing the

High Court Judgements/ Orders

Uttarakhand High Court issues contempt notice against officers of PWD for cutting trees instead of transplanting them

Ashish Garg vs. RK Sudhanshu & Another,⁴ Order dated 01 November, 2023

The Uttarakhand High Court has issued contempt notices to former Principal Secretary and Executive Engineer of Public Works Department ("PWD") in Rishikesh for allegedly not complying with its order to transplant the fully grown trees and instead cutting them to widen Saurashtra road, Dehradun. The Court noted that since the issue pertained to maintaining the ecology of the area falling in Shivalik Hills, it had directed the transplantation of the trees. Transplantation of trees means uprooting them with mechanical devices and planting them at some other place so that they may still grow. While issuing notice to the respondents, it also directed them to provide details regarding purchase of mechanical devices for transplanting trees, number of trees transplanted, location where they are transplanted, date of such transplantation and their present condition. The matter is listed on 20 December, 2023 for further consideration.

Bombay High Court reduces time

National Green Tribunal Judgements / Orders

NGT directs MoEFCC and CPCB to submit response on allegations regarding concretization of green road-sides in Noida

Vikrant Tongad & Anr. vs. State of Uttar Pradesh & Ors.,⁶ Order dated 03 November, 2023

The Principal Bench of NGT has impleaded the Central Pollution Control Board ("**CPCB**") in the matter involving violation of environmental norms by concretization of green road-sides in Uttar Pradesh's Noida and Greater Noida. Delhi government, the Court agreed to keep its earlier order in abeyance for a week.

seeks statutory pollution control

High Court of Judicature at Bombay on its

own motion vs. State of Maharashtra and

The Bombay High Court reduced the window

for bursting firecrackers in the Mumbai

Metropolitan Region, which was allowed from

8 PM to 10 PM in view of order dated November

8, 2021 passed by the Supreme Court in

Arjun Gopal vs. Union of India. The Court

requested the government to come up with

a statutory mechanism to monitor pollution.

It further requested the state to constitute

a commission for monitoring air quality in

Mumbai along the lines of the Commission

for Air Quality Management formed under the

Commission for Air Quality Management in

National Capital Region and Adjoining Areas

Act, 2021. The Court further expressed concerns

about the sale of crackers with banned

chemicals and suggested further scrutiny. The Court re-constituted the committee formed

earlier for monitoring the pollution situation.

The re-constituted committee comprised of

three members including experts nominated

by NEERI and IIT, Bombay and Mr. Sudhir

Shrivastav, former Additional Chief Secretary, Home and Chairman, Maharashtra Pollution

Control Board.

Ors.,⁵ Order dated 10 November, 2023

firecrackers

and

bursting

for

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Regulatory / Policy developments

The applicant raised the issue of excessive concretisation of road-sides in Noida. The plea stated that the concretization leads to various ramifications on the environment including obstruction and prevention of ground water recharge, urban flooding, water logging, elimination of biodiversity etc. NGT directed Ministry of Environment, Forest and Climate Change ("**MOEFCC**") and CPCB to file their replies to the allegations raised in the application, within two months. It also directed the presence of officers from the respective departments to produce the







relevant record. It clarified and directed that its earlier order prohibiting the concretization of road-sides shall continue to operate.

NGT directs authorities to ensure improvement in AQI of Delhi

In re: News item published in Indian Express dated 07.10.2023 titled "GRAP Stage 1 kicks in as air quality dips to poor, condition likely to prevail till Sunday",⁷ Order dated 20 November, 2023

The Principal Bench of NGT has directed the authorities to take all possible measures to ensure improvement in the Air Quality Index ("AQI") of Delhi. The bench observed that it was difficult to accept the stand of various authorities that they are taking all possible measures to control air pollution and improve the quality of air because the AQI of Delhi does not indicate any significant improvements. It further observed that the action plan has failed to provide concrete proposals and action taken thereof which would indicate an improvement in the air quality. NGT directed the authorities to take all possible measures to ensure that the quality of air improves in Delhi. Taking into consideration all relevant

Regulatory / Policy developments

MoEFCC appoints date of enforcement for the Forest (Conservation) Amendment Act, 2023⁹

MoEFCC on 02 November, 2023 has issued a notification regarding the appointment of the date on which the Forest (Conservation) Amendment Act, 2023 shall come into force. The central government has appointed 01 December, 2023 as the date on which the provisions of the Forest (Conservation) Amendment Act, 2023 shall come into force.

MoEFCC issues draft Environment (Protection) Seventh Amendment Rules, 2023¹⁰

MoEFCC on 08 November, 2023 has issued the draft Environment (Protection) Seventh Amendment Rules, 2023. The draft rules have introduced the emission and effluent standards for the "Pulp and Paper Industry" at serial number 14 in Schedule-I of the Environment (Protection) Rules, 1986. The details include effluent standards, freshwater findings, NGT has directed to file the action taken report again within one week.

NGT directs states to ensure utilization of funds to improve air quality

In re: Air Quality Index in various cities,⁸ Order dated 22 November, 2023

NGT on 10 November, 2023 observed that despite its earlier orders, there is no improvement in the air quality in various cities and instead the air quality has dipped even further in some cities. NGT had also considered the report filed by some of the states and observed that its directions to take immediate remedial measures were not fully complied with. NGT directed the states to submit a report providing the details of the funds received and their utilisation in respect of non-compliant cities. The states were also directed to ensure that the air quality does not dip any further in respect of the cities under consideration. The Tribunal further directed MoEFCC to file their response on monitoring mechanism to oversee the progress of implementation of action plan particularly for 53 cities in consideration before it.

consumption, effluent discharge standards and emission standards. The draft rules have been made available to the public for comments and shall be taken into consideration on or after 16 December, 2023.

MoEFCC removes the regulations on use of water purification system under the Environment (Protection) Rules, 1986¹¹

MoEFCC on 08 November, 2023 has issued the Environment (Protection) Fifth Amendment Rules, 2023 to further amend the Environment (Protection) Rules, 1986. The amendment withdraws the regulations on the use of water purification system issued earlier on 4 October, 2021. The amendment shall come into force from 08 November, 2023.

Water Purification System (Regulation of Use) Rules, 2023 notified¹²

MoEFCC on 10 November, 2023 notified the Water Purification System (Regulation of Use) Rules, 2023. The rules provide the mechanism

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for the proper management, storage, and utilization of reject water and discarded elements generated by these systems. Key provisions of the rules include introducing standard marks for domestic water purification systems, regulation of discarded elements, manufacturer obligations, commercial water purification systems, conformance label for water purification systems. These rules shall come into force on 10 November, 2024.

MoEFCC notifies the date of enforcement of the provisions of the Jan Vishwas (Amendment of Provisions) Act, 2023 relating to Indian Forest Act, 1927¹³

MoEFCC on 10 November, 2023 has issued notification regarding the coming into effect of the provisions of Indian Forest Act, 1927 which were amended by Jan Vishwas (Amendment of Provisions) Act, 2023. The central government has appointed 15 November, 2023 as the date on which the provisions of the amendment to the Indian Forest Act, 1927 shall come into force.

MoEFCC extends the consultation period for the draft Ecomark Certification Rules, 2023¹⁴

MoEFCC on 14 November, 2023 has issued a notification to extend the date for the public consultation for draft provisions of the Ecomark Certification Rules, 2023. The date to receive comments for the draft notification has been extended by thirty days from 10 November, 2023.

MoEFCC issues draft amendment to an older EIA notification¹⁵

MoEFCC on 22 November, 2023 has issued a draft amendment to the Environment Impact Assessment Notification, 2006 ("**EIA**"). The draft amendment seeks to bring "pellet plant" under the purview of EIA. In item 3, which provides for "materials production" and entries relating to it, the item metallurgical industries (ferrous & nonferrous) have been substituted as item 3(a).

CAQM revokes Stage-III of GRAP in the entire NCR¹⁶

Commission for Air Quality Management in NCR and Adjoining Areas ("**CAQM**") on 28 November, 2023 has issued a notification for revocation of Stage-III of Graded Response Action Plan (**"GRAP**") in the entire National Capital Region (**"NCR**") with immediate effect. However, the restrictions under Stage-I to Stage-II of GRAP continue to be applicable and are to be implemented, intensified, monitored and reviewed by all agencies concerned in NCR to ensure that the AQI levels do not slip further to 'severe' category. The notification also urged all agencies responsible for the implementation of the actions listed under Stages – I & II of GRAP and citizens/ residents to strictly implement and follow the provisions/ charter of GRAP under Stage I and Stage II to obviate the need for re-imposition of Stage-III of GRAP in NCR.

MoEFCC notifies the Van (Sanrakshan Evam Samvardhan) Rules, 2023

MoEFCC on 29 November, 2023 has notified the Van (Sanrakshan Evam Samvardhan) Rules, 2023. The rules are notified in suppression of the Forest (Conservation) Rules, 2022. The rules provide for the constitution of an advisory committee and its conduct, constitution of the regional empowered and project screening committee. The new rules also lay down the steps for proposal requiring prior approval of central government. It also mentions the creation of compensatory afforestation mechanism and management of compensatory afforestation. The rules provide that the state governments and union territory administration are required to prepare a consolidated record of such lands including - (i) the forest like areas identified by the Expert Committee, (ii) unclassed forest lands or (iii) community forest land on which the provisions of the FCA shall be applicable in terms of Section 1A(1) of the FCA. The state governments are required to complete the exercise within a period of one year. The rules have come into force from 01 December, 2023.

MoEFCC issues terms and conditions for the assignment of forest land on lease¹⁷

MoEFCC on 29 November, 2023 has issued an order specifying the terms and conditions for assignment of forest land on lease under the Van (Sanrakshan Evam Samvardhan), Adhiniyam, 1980 (**"Adhiniyam**"). The terms and conditions are required to be followed by the state government or union territory administration while considering the

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proposals pertaining to assignment of forest land on lease to government or private entities. As per the order, the user agency shall make an online application in the prescribed form on Parivesh portal for the prior approval of the central government. The breaking of forest land is not allowed in case of assignment of forest land on lease for mining purposes. The validity of approval shall be for a period co-terminus with the period of mining lease granted under the relevant statute or for the period as may be specified by the central government. The user agency seeking assignment of forest land on lease for mining shall submit mining plan approved by the competent authority, indicating the detailed pre-mining and post mining land use plan and mine closure plan. For activities other than mining a detailed project report or plan indicating the activities proposed on the forest land shall be submitted by the user agency along with the proposal.

MoEFCC issues order specifying the terms and conditions for survey on forest lands¹⁸

MoEFCC on 29 November, 2023 has issued an order specifying the terms and conditions for conducting surveys such as reconnaissance, prospecting, investigation or exploration including seismic survey in forest lands. The order further clarifies that surveys, including seismic surveys other than for mining purposes, to be undertaken in the forest lands for hydro-electric projects, establishment of wind energy farms, transmission lines, railway line, etc. shall not be treated as non-forest purpose as long as these surveys do not involve any breaking of forest land or cutting of trees and operations are restricted to clearing of bushes and lopping of tree branches for the purpose of sighting. Exploratory drilling under petroleum mining leases which do not result in permanent change in the forest land use or the production of hydrocarbon are also exempted. No surveys for mining of minerals shall be undertaken in the protected areas

such as national parks, wildlife sanctuaries, tiger reserves, tiger corridors. No permanent change in the land use of the forest land shall be allowed. The survey activities shall be carried out by the user agency temporarily and after completing the survey, the forest land will be reclaimed and restored to its original state.

Guidelines specifying terms and conditions for considering exemption under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980¹⁹ notified

MoEFCC on 29 November, 2023 has notified guidelines specifying terms and conditions to be abided by the state government or union territory, while considering exemptions provided under the Adhiniyam. The exemption for strategic linear projects of national importance and concerning national security that are located within hundred kilometres of aerial distance from the international borders. line of control or line of actual control shall be considered only for such projects which have been notified as strategic and concerning national security by the central government in consultation with the respective state governments or the union territory administration. Exemptions for security related and public utility infrastructure shall be considered exclusively for left wing extremism affected districts which are notified by the central government. The projects pertaining to the security related infrastructure and public utility shall be submitted in their entirety and authorities in the state and union territory shall ensure strict compliance in this regard. To compensate the loss of trees, the state government or the union territory administration shall raise compensatory afforestation and realise net present value of the forest land, being diverted, from the user agency.

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- 1 Writ Petition(s)(Civil) No(s). 13029/1985 | In Re: Crop burning
- 2 Diary No. 44889-2023
- 3 Writ Petition(s)(Civil) No(s). 13029/1985 | IA NO. 238763/2023
- 4 CLCON No. 65 of 2023
- 5 Suo Moto PIL (L) No. 30257 of 2023
- 6 Original Application No.363/2022
- 7 Original Application No. 663/2023
- 8 Original Application No. 687/2023
- 9 https://egazette.gov.in/(S(l4uxhiseucnabtoqhqivnwip))/ViewPDF.aspx
- 10 https://egazette.gov.in/(S(l4uxhiseucnabtoqhqivnwip))/ViewPDF.aspx
- 11 https://egazette.gov.in/(S(l4uxhiseucnabtoqhqivnwip))/ViewPDF.aspx
- 12 https://egazette.gov.in/(S(l4uxhiseucnabtoqhqivnwip))/ViewPDF.aspx
- 13 https://egazette.gov.in/(S(l4uxhiseucnabtoqhqivnwip))/ViewPDF.aspx
- 14 https://egazette.gov.in/(S(uz34vps3mpr0114c2wc0lrfn))/ViewPDF.aspx
- 15 https://egazette.gov.in/(S(stcbnust3dbyu5aznunenddn))/ViewPDF.aspx
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- 17 https://egazette.gov.in/(S(ck2sm4nljvjykmokhtslt2to))/ViewPDF.aspx
- 18 https://egazette.gov.in/(S(ncbpawpaokzyyyi05zypgpzo))/ViewPDF.aspx
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