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## Supreme Court Judgements/ Orders

**Supreme Court directs MPCB to verify compliance with the NGT order regarding illegal garbage dumping by gram panchayat**

***Gram Panchayat Maan vs. The Cliff Garden Condominium B and C Association of Apartments & Ors.*<sup>1</sup>, Order dated 02 February 2024**

The Supreme Court of India (“**Supreme Court**”) while considering an appeal filed by Gram Panchayat Maan against an order passed by the National Green Tribunal (“**NGT**”) has directed the Maharashtra Pollution Control Board (“**MPCB**”) to file a report and verify whether the appellant has complied with the directions issued by NGT. The Maan Gram Panchayat had informed the Supreme Court that all the solid and other wastes have been removed as per the directions issued in the impugned order passed by the NGT. The Court also directed the Maan Gram Panchayat to file an affidavit setting out the process in which it will comply with the requirements of the Solid Waste Management Rules, 2016. The NGT through the impugned order had also imposed an environmental compensation of INR 34 lakhs on Maan Gram Panchayat for illegal garbage dumping and damage to the environment. The Court directed MPCB not to take any steps to recover the environment compensation from the Maan Gram Panchayat until further directions.

**Supreme Court directs states and union territories to follow the definition of ‘forest’ as per the Godavarman judgment till forests are identified as**

**per the Forest Amendment Act 2023**

***Ashok Kumar Sharma, IFS (Retd.) & Ors. vs. Union of India & Ors.*<sup>2</sup>, Order dated 19 February 2024**

The Supreme Court has passed an order directing the states and union territories to act as per the definition of ‘forest’ laid down in “*T.N. Godavarman Thirumalpad vs. Union of India*” [(1997) 2 SCC 267] (“**Godavarman Judgment**”) till forests are identified under the Forest Conservation (Amendment) Act 2023 (“**Forest Amendment Act**”). The petitioners contended that the expansive definition of ‘forest’ provided in the Godavarman Judgment has been narrowed down as per Section 1A inserted through the Forest Amendment Act. According to the new definition, a land must be either notified as a forest or specifically recorded as a forest in government records to qualify as a “forest”. Whereas, as per the Godavarman Judgment, the term ‘forest’ must be understood in terms of the dictionary meaning. The Court further directed that the Ministry of Environment, Forest and Climate Change (“**MoEFCC**”) shall, within a period of two weeks require all states and union territories to provide a comprehensive record of lands which have been identified as forests by the expert committees constituted by various states and union territories in pursuance of the directions in the Godavarman Judgment. All states and union territories must comply with the directions by forwarding the reports of the expert committees by 31 March, 2024. These records shall be maintained by the MoEFCC and shall be duly digitised and made

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available on the official website by 15 April, 2024.

The Court also issued an interim order directing that any proposal for the establishment of zoo/ safaris referred to in the Wild Life (Protection) Act, 1972 owned by government or any authority in forest areas

other than protected areas shall not be approved without prior permission of the Court. To avoid any conflicting orders the interim order will operate only till the final judgment on the same issue is pronounced by another coordinate bench as the coordinate bench has already reserved orders on the issue of zoos within forests.

## High Court Judgements/ Orders

### **Andhra Pradesh High Court directs District Collector to ensure no illegal sand mining and extraction is permitted at Neeva riverbed**

***D. Swaminathan vs. The State of Andhra Pradesh and Ors.<sup>3</sup>, Order dated 14 February 2024***

The Andhra Pradesh High Court has directed the District Collector of Chittoor to ensure that no illegal sand mining and extraction is permitted at the Neeva riverbed and to file an action taken report with regards to preventing such illegal activities. The petitioner contended that the official authorities be directed to take stringent action against Jaiprakash Power Venture Limited and the Prathima Infrastructure Limited for allegedly conducting mining and extraction of sand without proper permissions or license. The petitioner also contended that the mining and extraction activities were being carried out over an area of 120 acres and the sand was being carried away in lorries, tractors and tippers. As an interim relief, the petitioner had sought that all mining activities to be stopped on the 120 acres of land till the disposal of the plea. The Andhra Pradesh High Court directed the District Collector of Chittoor to ensure that no illegal sand mining is permitted in the absence of any permission/ license having been granted to the concerned mining companies.

### **Telangana High Court seeks Telangana Government's response on remedial measures suggested by the committee for protection of the Durgam Cheruvu lake**

***News item published in the Times of India English daily newspaper Hyderabad City Edition dated 12-12-2023 under the caption***

### ***"Durgam Cheruvu chokes on sewage will Hyderabad rescue its iconic lake? vs. State of Telangana and Ors.<sup>4</sup>, Order dated 21 February 2024***

The Telangana High Court has sought the response from the Government of Telangana on the remedial measures suggested by joint expert committee constituted earlier for assessing the damage and for coming up with remedial measures to protect the Durgam Cheruvu lake. The joint expert committee filed its report before the Telangana High Court stating its observations along with short-term and long-term remedial measures to be undertaken for restoration. The report stated that two sewage treatment plants have been set up but a portion of the sewage was still being drained into the lake. It stated that though the lake is notified, 49 constructions had been set up in full tank level and 149 constructions had come up in the buffer zone. Drainage projects had been undertaken to divert the sewage but the projects are yet to be completed. The short-term remedies have considered all aspects including inundation after monsoon, fishing, Ganesh Chaturthi, inspecting legal and illegal constructions, setting up of boards, spreading public awareness and regular maintenance of the sewage treatment plants. As for long-term measures, the joint expert committee has suggested a survey of the lake, baseline monitoring, diagnostic study, watershed assessment, sewage management, dredging and desilting, construction of slit traps and establishment of buffer zone and green belt. The Court after perusing the report, directed the Government of Telangana to go through the report and submit the plan of action to

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implement the short-term and long term remedies suggested by the joint expert committee for restoration and preservation of Durgam Cheruvu lake.

## **Kerala High Court permits use of elephants for chariots subject to compliance with all safeguards**

***Mahalakshmi Temple Car Festival Committee vs. Palakkad District Committee (Festival Monitoring)*<sup>5</sup>, Order dated 23 February 2024**

The Kerala High Court has permitted three temples to use elephants to push chariots only for negotiating curves, noting the fact that the old tradition is being followed since centuries. The Court also stated that the permission

is granted subject to compliance with all safeguards and directions by the Court. The temple committee members had approached the Kerala High Court seeking permission to deploy services of elephants for pushing the chariots in three temples. The Court further stated that elephants shall not be tortured using any weapon, including sticks or anything else. The Court also directed the officials of the forest department to oversee and monitor the temple festival when elephants are used to prevent any untoward incidents from happening and to ensure the safety of devotees who flock during the festival. Accordingly, the Court directed the forest officials to grant permission to the petitioners and to file a report before the Court in this regard.

## **National Green Tribunal Judgements / Orders**

### **NGT directs Environment Department of J&K to submit action taken report against brick kilns for operating without CTE and CTO**

***Syed Riyaz vs. Union Territory of J&K*<sup>6</sup>, Order dated 02 February 2024**

The Principal Bench of NGT has issued notice to the Principal Secretary, Department of Environment, Jammu & Kashmir requiring him to file a response disclosing the action taken for ensuring proper functioning of Jammu & Kashmir Pollution Control Committee (“J&KPCC”) and also action taken against the brick kilns which have been set up and are operating without Consent to Establish (“CTE”) and Consent to Operate (“CTO”) and without following environmental norms. The Tribunal in the earlier proceedings had recorded that J&KPCC was directed to file additional report regarding compliance status of all brick kilns. In compliance thereof, additional report by Member Secretary, J&KPCC was filed but the same was found to be lacking in the information sought. Subsequently, the Member Secretary, J&KPCC filed a detailed report stating the compliance status of brick kilns in Jammu & Kashmir. NGT noted that the detailed report revealed that there are at least 132 brick kilns still operating without CTE/CTO. However, the report did not mention the action

taken against such 132 brick kilns. Accordingly, the Tribunal directed the Principal Secretary, Department of Environment, Jammu & Kashmir to file action taken report at least one week before the next date of hearing.

### **NGT issues notice to GAIL and Uttar Pradesh Irrigation Department for alleged illegal constructions**

***Adesh Kumar Yadav vs. State of Uttar Pradesh*<sup>7</sup>, Order dated 05 February 2024**

NGT has impleaded Gas Authority of India Limited (“GAIL”) and Uttar Pradesh Irrigation Department as respondents and issued notices in relation to the illegal construction at village Milak in Moradabad. The original application was registered on the basis of the letter petition raising the grievance that Hindustan Petroleum Corporation Limited (“HPCL”) has been carrying out illegal construction in the thickly populated area of village Milak, Moradabad, which comes under the flood plain zone of river Ramganga and river Gagan which is declared as flood plain zone by the Government of Uttar Pradesh. The letter further alleged that HPCB has violated environmental norms and provisions of River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016, which has caused a threat to the life and property

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of the nearby villagers. NGT directed the District Magistrate, Moradabad to undertake demarcation of the flood plain zone of the river in question in accordance with the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 and file a report before the NGT.

## **NGT directs UPPCB to ensure that no industrial effluent is discharged in the storm water drain by industries in Muzaffarnagar**

***Sachin Tomar vs. State of U.P. & Ors.<sup>8</sup>, Order dated 12 February 2024***

NGT has directed the Uttar Pradesh Pollution Control Board (“UPPCB”) to verify the factual position regarding utilization of treated industrial and domestic effluent for irrigation by M/s Indian Potash Ltd. and to ensure that 100 per cent of the treated effluent, whether industrial or domestic, is utilized by the industry for irrigation and not discharged in storm water drain. UPPCB was also directed to ensure that no industry operating in Muzaffarnagar discharges its industrial effluent in storm water drain. Further, UPPCB was directed to monitor the quality of water reaching the river and to take appropriate action against the defaulting industries. NGT also directed that fly ash generated by coal should not be utilized for filling of any agricultural area and shall be utilized by cement or brick making industries. UPPCB was also directed to finalize mechanisms for proper disposal of fly ash by all air polluting industries within six months and submit a report. M/s Indian Potash Ltd. was directed to deposit an environmental compensation of INR 22,10,000 within a period of two months. The NGT also directed the UPPCB to prepare an action plan for utilization of such environmental compensation and execute the same for restoration of environment in the area surrounding project proponents’ unit by carrying out plantation and other such remedial measures.

## **NGT imposes environmental compensation of INR 45 crores on NHAI for causing damage to the environment during construction activities**

## ***Prem Mohan Gaur vs. National Highway Authority of India and Ors.<sup>9</sup>, Order dated 13 February 2024***

The Principal Bench of NGT has directed the National Highway Authority of India (“NHAI”) to pay the environmental compensation of INR 45 crores within three months by depositing it with Haryana State Pollution Control Board (“HSPCB”). The NGT was considering an original application filed against NHAI for alleged encroachment, covering and construction over a pond/water body and other alleged violations at village Kiranj, District Nuh, State of Haryana. It also stated that in case NHAI fails to deposit the environmental compensation, the damaged pond, gochar/grazing land and nallahs should be restored to their original form, shape, size and composition by taking such steps as required under law. The NGT also noted that if the environmental compensation is deposited by NHAI, the same shall be appropriated for restoration/rejuvenation of the environment and the plan for restoration/rejuvenation shall be prepared by the joint committee. It also directed that the plan shall be prepared within three months, after deposit of environmental compensation and amount of environmental compensation shall be utilized within six months thereafter. NGT has also directed the Chief Secretary, Haryana and Member Secretary, HSPCB to submit compliance reports by 15 November, 2024.

## **NGT directs UPPCB to submit action taken report against violators for carrying out mining without obtaining CTO**

***News item titled “Mafiyo ko kisi ka dar nahi is jile me beroktok ho raha avaidh khaman” appearing in Hindustan dated 22.11.2023<sup>10</sup>, Order dated 23 February 2024***

NGT has directed UPPCB to file a report indicating the action taken by UPPCB against those who had carried out mining without obtaining a valid CTO. It also directed UPPCB to disclose as to how the lease holders have been permitted mining after the expiry of the District Survey Report (“DSR”) issued in 2017 as the old mining lease was granted based on

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the DSR. The NGT was considering the issue of large scale illegal mining of sand and natural soil and consequential damage caused to the environment in Ambedkar Nagar. NGT in its previous order had directed a joint committee to visit the site, collect relevant information and submit the report before it. The joint committee report had found that mining activity was being carried out by the lease holders at different places without obtaining

valid CTO and CTE. NGT observed that though the lease holders have carried out the mining without obtaining CTO and excavated more than the permitted quantity, the report does not reflect any action taken by UPPCB against such violators. The authorities were directed to ensure that the recommendations made by the joint committee are duly complied with by the mining lease holders before publication of the auction notice.

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### MNRE issues pilot project guidelines for utilizing green hydrogen in shipping sector<sup>11</sup>

The Ministry of New & Renewable Energy (“MNRE”) on 01 February, 2024, had issued the “Scheme Guidelines for implementation of Pilot projects for use of Green Hydrogen in the Shipping Sector”, under the National Green Hydrogen Mission (“Mission”). Under the Mission, the MNRE will implement pilot projects for replacing fossil fuels and fossil fuel-based feedstock with green hydrogen and its derivatives in the shipping sector. These pilot projects will be implemented through the Ministry of Ports, Shipping and Waterways and the implementing agencies nominated under this scheme. Two areas have been identified as thrust areas under the pilot projects. These are retrofitting of existing ships so as to enable them to run on green hydrogen or its derivatives; and development of bunkering and refueling facilities at ports on international shipping lanes for fuels based on green hydrogen. The scheme will be implemented with a total budgetary outlay of INR 115 crores till the financial year 2025-26. The use of green hydrogen and its derivatives in the shipping sector, through the proposed pilot projects, will lead to the development of necessary infrastructure including refueling stations, storage and distribution networks, resulting in the establishment of a green hydrogen ecosystem in the shipping sector. The utilization of green hydrogen in the shipping industry is expected to increase over the years, with the expected reduction in its production cost.

### MNRE issues pilot project guidelines for utilizing green hydrogen in steel sector<sup>12</sup>

MNRE on 02 February, 2024, has issued the “Scheme Guidelines for implementation of pilot projects for use of Green Hydrogen in the Steel Sector”, under the National Green Hydrogen Mission. These pilot projects will be implemented through the Ministry of Steel and the implementing agencies nominated under this scheme. Three areas have been identified as thrust areas for the pilot projects in the steel sector. These are use of hydrogen in direct reduced ironmaking process; use of hydrogen in blast furnace; and substitution of fossil fuels with green hydrogen in a gradual manner. The scheme will also support pilot projects involving any other innovative use of hydrogen for reducing carbon emissions in iron and steel production. The scheme envisages that considering the higher costs of green hydrogen at present, steel plants could begin by blending a small percentage of green hydrogen in their processes and increasing the blending proportion progressively with improvement in cost-economics and advancement of technology. The guidelines also note that upcoming steel plants should be capable of operating with green hydrogen, thus ensuring that these plants are able to participate in future global low-carbon steel markets. The scheme will also consider greenfield projects aiming at 100% green steel. The scheme will be implemented with a total budgetary outlay of INR 455 crores till FY 2029-30. The use of green hydrogen and its derivatives in the steel sector, through the proposed pilot projects, will lead to the

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development of necessary infrastructure for use of green hydrogen in the iron and steel industry, resulting in establishment of a green hydrogen ecosystem in the steel sector.

## MoEFCC issues draft Environment Audit Notification<sup>13</sup>

MoEFCC on 02 February, 2024, invited comments on the draft Environment Audit Notification. The draft notification mainly stipulates the conditions for the establishment of private environmental auditors and auditing firms, which are not governmental institutions and through which companies can conduct audits in various environmental fields and make environmental appeals. In accordance with the Green Credit Rules, 2023, the environmental auditors will also be appointed as designated agencies to audit corporate activities prior to the issuance of green credits. The proposed third-party environment audit is exclusively a voluntary mechanism and not intended to be made mandatory for those entities who want to continue within the existing framework of compliance and monitoring through government agencies.

## The Lok Sabha approves the Water (Prevention and Control of Pollution) Amendment Bill, 2024<sup>14</sup>

The Lok Sabha on 08 February, 2024, has approved the Water (Prevention and Control of Pollution) Amendment Bill, 2024 (**"Bill"**). The Bill was first introduced in Rajya Sabha on 05 February, 2024. It amends the Water (Prevention and Control of Pollution) Act, 1974 (**"Water Act"**) and aims to decriminalise several violations and instead imposes penalties. It will initially apply to Himachal Pradesh, Rajasthan and the union territories. Other states may pass resolutions to extend its applicability to their states. Under the old provision of the Water Act, violation of discharging pollutants in water was punishable with an imprisonment for a term between one and a half years to six years and a fine. The Bill removes the punishment and instead imposes a penalty between INR 10,000 to INR 15,00,000. Except for the offences of discharging polluting matter and establishing

new outlets for discharge without permission from the state board, the Bill removes imprisonment as a punishment for other offences under the Water Act and prescribes a penalty between INR 10,000 to INR 15,00,000 instead. The Bill also allows the central government to appoint adjudication officers to determine penalties under the Water Act.

## MoEFCC notifies methodology for calculation of green credit in respect of tree plantation<sup>15</sup>

MoEFCC on 22 February, 2024, has notified the methodology for calculation of green credit in respect of tree plantation. Under the methodology, the green credit will be calculated at the rate of one green credit per tree grown through tree plantation on such land parcel, subject to minimum density of 1100 trees per hectare, based on the local silvi-climatic and soil conditions. The afforestation will be carried out by the forest department on behalf of industries, companies or any private entity after getting the cost of tree plantation and administrative expenses. The plantation will be done in line with specified working and management plans within a period of two years from the date of payment. The generated credits may be used for reporting under Environmental, Social and Governance (**"ESG"**) leadership indicators or under Corporate Social Responsibility (**"CSR"**). The green credits may also be exchanged for meeting the compliance of the compensatory afforestation in case of diversion of forest land for non-forestry purposes.

## RBI releases draft disclosure framework on climate-related financial risks, 2024<sup>16</sup>

The Reserve Bank of India (**"RBI"**) on 28 February, 2024, has released a Draft Disclosure framework on Climate-related Financial Risks, 2024. The RBI stated that the Regulated Entities (**"REs"**) should disclose information about their climate-related financial risks and opportunities for the users of financial statements. It will foster an early assessment of climate-related financial risks and opportunities and also facilitate market discipline. The guidelines shall be applicable

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to the following REs: (a) all scheduled commercial banks (excluding local area banks, payments banks and regional rural banks); (b) all Tier-IV primary (urban) co-operative banks; (c) all all-India financial institutions; (d) all top and upper layer non-banking financial companies. The RBI's draft further said the disclosures by the REs should cover four thematic areas - governance, strategy, risk management and metrics and targets. The draft also proposes a glide path for detailed disclosures by the REs on the areas of governance, strategy, risk management and metrics and targets. The disclosures should

be subject to appropriate internal control assessments and should be reviewed by the board of directors or a committee of the board. The REs should disclose the information detailed in these guidelines on a standalone basis and not a consolidated basis. Foreign banks shall make disclosures specific to their operations in India. The REs are already required to disclose information on material risks as a part of certain disclosures. Given the growing importance of climate-related financial risks, there is a need for REs to disclose more structured information about their climate-related financial risks.

## Endnotes

- 1 Civil Appeal Diary No(s). 940/2024
- 2 Writ Petition (Civil) No. 1164 of 2023
- 3 Writ Petition (PIL) No. 37 of 2024
- 4 Suo Motu Writ Petition (PIL) No. 10 OF 2023
- 5 Writ Petition (Civil) No. 6054 OF 2024
- 6 Original Application No. 594/2022
- 7 Original Application No. 603/2023
- 8 Original Application No.369/2022 (I.A No. 279/2022)
- 9 Original Application No. 892/2022
- 10 Original Application No. 719/2023
- 11 <https://cdnbbsr.s3waas.gov.in/s3716e1b8c6cd17b771da77391355749f3/uploads/2024/02/202402021243386059.pdf>
- 12 <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2024/feb/doc202422305501.pdf>
- 13 <https://egazette.gov.in/writeReadData/2024/251722.pdf>
- 14 [https://prsindia.org/files/bills\\_acts/bills\\_parliament/2024/Water\\_\(Prevention\\_and\\_Control\\_of\\_Pollution\)\\_Bill,\\_2024.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2024/Water_(Prevention_and_Control_of_Pollution)_Bill,_2024.pdf)
- 15 [https://egazette.gov.in/\(S\(egct5tmggo0uggiawx3ml5f\)\)/ViewPDF.aspx](https://egazette.gov.in/(S(egct5tmggo0uggiawx3ml5f))/ViewPDF.aspx)
- 16 <https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR1958DRAFTCLIMATERELATEDFINANCIALRISKS20249B1140EC054244DB8BD2D5655BB39988.PDF>

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