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Supreme Court Judgments / Orders

Supreme Court upholds NGT's judgment revoking CRZ clearance for an edible oil storage facility in the CRZ area around Chennai Port

K.T.V. Health Food Pvt. Ltd. v. Union of India & Ors.; Judgment dated 01 February, 2023¹

The Supreme Court of India ("Supreme Court") has upheld the National Green Tribunal ("NGT") order wherein it was held that the coastal regulation zone ("CRZ") clearance granted to an edible oil storage facility near the Chennai Port is illegal. The Court interpreted the CRZ Notification, 2011 ("CRZ Notification") and observed that the storage facility of the appellants is not located inside the Chennai port. NGT had noted that the authority had the power to grant an *ex post facto* clearance under Para 4.3 of the CRZ Notification, but the clearance in this case is illegal as the project in question is not located in the Chennai Port and is, thus, not a permissible activity under the CRZ Notification. The Supreme Court found this argument valid and upheld the NGT's direction to demolish the storage facility in CRZ area. The Court granted six months to the appellant for complying with the NGT's order.

In relation to the pipeline meant for the transfer of edible oil to the storage tank, the Court observed that the District Coastal Zone Management Authority shall take a decision as to whether its usage as a pipeline per se is a permissible activity in the CRZ area. In this case, the Court was considering an appeal against the NGT order which set aside the proceedings of the Coastal Zone Management Authority wherein *ex post facto* clearance was granted for laying a pipeline for the transfer of edible oil from Chennai Port to the storage

terminal tank and for the establishment of a storage transit terminal by the appellant.

Supreme Court issues various directions for forest conservation in Delhi, Uttarakhand and West Bengal

In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.; Order dated 08 February, 2023²

Supreme Court has allowed an application for the diversion of 6,200 sq. metres area of Delhi Ridge in Vasant Kunj for the construction of the office building of the Directorate of Revenue Intelligence ("DRI") Headquarters, New Delhi. The Court observed that the Central Empowered Committee has not raised objections against the project but has recommended various conditions which have to be complied with. The Court also directed the Ministry of Environment, Forest and Climate Change ("MoEFCC") to appoint a committee for identifying areas that fall outside the ridge but have similar morphological features and hence should be protected as a notified ridge. Until this is done, the Delhi Development Authority shall not allot land in areas that are under consideration for their notification as a protected area.

In another case, Supreme Court has directed MoEFCC and State of Uttarakhand to justify the rationale for the construction of a jungle safari / zoo inside a protected area. The Court noted that various constructions have been carried out in the Jim Corbett National Park in this regard. It has also directed the National Tiger Conservation Authority to explain reasons for permitting tiger safaris inside national parks and wildlife sanctuaries. Until then, any construction

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activity inside these areas is prohibited.

In a separate case, Supreme Court has also permitted the construction of a railway over-bridge in West Bengal to avoid congestion on roads. The project requires felling of 356 trees, many of which are heritage trees with high ecological value. The government has agreed to undertake compensatory afforestation for the trees to be cut. The Court had constituted an expert committee to assess the project and make recommendations for similar projects in India. While the committee had recommended the construction of this bridge, going forward it has also suggested the inclusion of environmental costs in total project cost.³

Supreme Court permits operation of IL&FS thermal power plant in Tamil Nadu

IL&FS Tamil Nadu Power Company Limited v. T. Muruganandam & Ors.; Judgment dated 17 February, 2023⁴

Supreme Court has permitted the appellants to continue the operation of the thermal power plant on the condition that they comply with all the conditions prescribed in the environmental clearance ("EC") and with the additional conditions in the corrigendum to the EC. The Court noted that the power plant has substantially complied with these conditions. However, it kept the legal question on the requirement for a cumulative impact assessment study by the appellant in the project area open for an appropriate

proceeding. In this case, the Court was considering an appeal against the NGT order wherein the NGT suspended the EC until the MoEFCC reviews the EC based on cumulative impact assessment study and stipulates any additional conditions for the appellant. Pursuant to the NGT order, instead of this study, the appellant had undertaken a rapid cumulative impact assessment and submitted its report to MoEFCC for additional conditions and MoEFCC had issued a corrigendum with additional conditions relying on this report.

Supreme Court directs the Monitoring Committee for Matheran ESZ to consider issues relating to plying of e-rickshaws and paver blocks in Matheran

In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.; Order dated 24 February, 2023⁵

Supreme Court has directed the Monitoring Committee constituted under the Eco Sensitive Zone ("ESZ") Notification dated 04 February, 2023 for Matheran to consider two issues: whether to permit plying of e-rickshaws in Matheran, Maharashtra for transportation of people and goods in the region; and whether to lay down paver blocks in the city. Court also observed that laying down of paver blocks in the area would destroy its natural beauty. E-rickshaws, if permitted, can ply on existing roads in the city instead of paver blocks. Until further orders, no such blocks shall be laid down.

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Bombay High Court permits diversion of mangrove area for construction of Mumbai-Vadodara Expressway

National Highways Authority of India v. State of Maharashtra & Ors.; Judgment dated 02 February, 2023⁶

Bombay High Court has permitted the diversion of mangroves in Maharashtra for the development of an expressway between Vadodara and Mumbai, as a part of the Delhi-Mumbai Expressway. MoEFCC has granted the EC and CRZ clearance for this project. This petition was filed to seek the permission of the High Court in compliance of its earlier directions prohibiting cutting of mangroves in Maharashtra without its permission. The

High Court observed that developmental activities could be undertaken in CRZ-I area and the provisions of CRZ Notification cannot be interpreted as a freeze on all activities in these areas. The object of this notification is to conserve the environment and ensure sustainable development. Hence, projects of public importance could be allowed in CRZ-I area. The Court noted that development of roads and bridges is a permissible activity in CRZ-I area. In this case, the Court was considering a petition for the development of Vadodara Mumbai Expressway that would affect 2686 mangrove trees within the proposed route, out of which 1001 mangrove trees would be located within the construction zone.

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Uttarakhand High Court sets aside permission for dredging and mining in Nandhaur river

Dinesh Kumar Chandola v. Union of India & Ors.; Judgment dated 14 February, 2023⁷

Uttarakhand High Court has set aside the permission granted to M/s A.P.S. Infra Engineers Private Limited for dredging in Nandhaur river in the ESZ area of Nandhaur Wildlife Sanctuary, Uttarakhand. The High Court noted that the Government has permitted the project proponent to not only dredge the river but also mine any mineral from the dredged material. The mining activity is not permitted in an ESZ area, and it will be very difficult to control or monitor the extent of dredging or mining being carried out in the region. In this case, the petitioner had challenged the Government order dated 07 January, 2022 and the subsequent permission granted for mining / dredging of Nandhaur river in the ESZ of Nandhaur Wildlife Sanctuary.

Guwahati High Court directs Govt. of Assam to initiate steps for the protection of forest cover over Gita Mandir Hills in Guwahati, Assam

Dwijen Bhattacharya & Ors. v. State of Assam & Ors.; Judgment dated 16 February, 2023⁸

Guwahati High Court has directed the Government of Assam to ensure that the forest area of Gita Mandir Hills in Guwahati is not used for any other non-forest purpose without following the due process of law under the Forest (Conservation) Act, 1980 ("FCA"). The Court noted that the forest area over the hills is not notified as a 'forest' under the Indian Forest Act, 1927, but it falls

National Green Tribunal Judgments / Orders

NGT refuses to interfere in the decision of SEIAA revoking EC for a mining project in Rajasthan

M/s Bahirubaba Mines v. Rajasthan, SEIAA; Order dated 01 February, 2023¹⁰

NGT has declined to interfere in the decision of Rajasthan State Environment Impact Assessment Authority ("SEIAA") wherein it revoked the EC granted for a mining project in Rajasthan, while holding that the grounds cited for such revocation are reasonable.

within the dictionary meaning of forest and is, hence, protected under FCA. The Court has also directed the Chief Secretary, Government of Assam to determine the steps for the protection of the forest cover of these hills including its notification as a reserved forest or protected forest. In this case, the Court was considering a petition for protection of this forest area noting that it is the only surviving green area in the locality.

Bombay High Court permits water tank project partly falling in mangrove buffer zone

Municipal Corporation of Greater Mumbai v. Union of India & Ors.; Judgment dated 24 February, 2023⁹

Bombay High Court has permitted the execution of a water tank project in Gorai village, Mumbai. The Court noted that the CRZ clearance was granted for this project with a condition to obtain the Court's permission, in compliance with its earlier directions. It observed that while the project partly falls in the mangrove buffer zone it does not involve any destruction of mangroves. The project intends to serve a necessity (water) of the local population and these permissions are issued with appropriate safeguards. Considering the public interest involved, this project can be executed while ensuring compliance with all conditions. In this case, the High Court was considering a writ petition filed by the Municipal Corporation of Greater Mumbai seeking permission of the Court to execute a project of proposed suction tank for providing adequate water supply to the citizens around Gorai Village, Mumbai.

NGT noted that the judiciary can interfere in the policy decisions by the Government on limited grounds and they are not applicable here. It observed that the SEIAA has exercised its discretion not to allow mining in the interest of forest conservation considering the location of the mine within 50 metres of a forest area.

NGT directs Rajasthan state and Jaisalmer district authorities to assess the environmental carrying capacity

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- NGT imposes environmental compensation of INR 113 crore against a real estate project in Uttar Pradesh
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- NGT constitutes a committee of high-level officers to investigate illegal establishments around Rajaji National Park, Uttarakhand

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of Jaisalmer region for sustainable tourism activities

Tapeshwar Singh Bhati v. State of Rajasthan; Order dated 03 February, 2023¹¹

NGT has directed the Rajasthan state and Jaisalmer district authorities to undertake a scientific study for determining the environment carrying capacity of Jaisalmer region and, on that basis, preparing exhaustive sustainable tourism, desert management, traffic management and sand dunes management plans. It has constituted a ten-member joint committee for such a study. NGT observed that the region has serious challenges of environmental protection and conservation due to unregulated tourism activities. Accordingly, steps are required for the protection of the fragile desert ecology. Authorities may also take action for stopping hazardous activities being undertaken without requisite permissions, placing suitable sign boards at appropriate locations, issuing requisite Standard Operating Procedure (“SOP”) and enforcing environmental laws. In this case, NGT was considering an application against apprehended damage to the environment due to ‘Maru Mahotsav 2023’ at Jaisalmer during March, 2023. As this programme will be held closer to the Desert National Park and the bird sanctuary with Great Indian Bustards, it will adversely affect wildlife, the bird sanctuary and local environment. The administration subsequently agreed to shift the programme to a location within Jaisalmer city.

NGT upholds show cause notices issued by Rajasthan State Pollution Control Board to brick kilns

S.M. Bricks Suppliers & Ors. v. Member Secretary, RSPCB & Ors.; Judgment dated 03 February, 2023¹²

NGT has refused to set aside show cause notices issued by the Rajasthan State Pollution Control Board (“RSPCB”) to certain brick kilns for operating in violation of the applicable law, particularly consent to operate. NGT observed that the concern of pollution caused by such industries has been a subject of regulatory and judicial consideration in the past. The Central Pollution Control Board (“CPCB”) had also conducted a site visit to the region and recommended action against illegally operating brick kilns. These notices provide

the appellants an opportunity to present their response to the board and, hence, these comply with the principles of natural justice. In this case, NGT was considering appeals against show cause notices issued by RSPCB for the closure of the appellant’s brick kilns and payment of environmental compensation for causing pollution.

NGT directs the Chief Secretaries of the States of Rajasthan, Madhya Pradesh and Uttar Pradesh to address the grim situation of illegal mining around Chambal river

In re: News item published in The Hindu dated 27.03.2022 titled “Digging up the Chambal”; Order dated 06 February, 2023¹³

NGT has directed the Chief Secretaries of the States of Rajasthan, Madhya Pradesh and Uttar Pradesh to address the grim situation of illegal mining around Chambal River and its impact on sensitive ecology. They have been asked to prepare a joint action plan after holding joint review meeting on these aspects. The local officials should ensure patrolling and monitoring of these areas to prevent illegal mining incidents. NGT found that illegal mining is being carried out around the Chambal river in Rajasthan and the adjoining areas of Madhya Pradesh and Uttar Pradesh, which is adversely affecting its ecology. The NGT constituted joint committee also found illegal mining occurring in this region, and its suggestions were broadly accepted by the NGT for remedial action. However, these states have not yet taken satisfactory action and remedial measures to rectify the situation. NGT took *suo motu* cognizance of a media report regarding illegal mining in the periphery of Keoladeo National Park and National Chambal Sanctuary which are habitats of rare species, particularly Gharial, roofed turtles and river dolphins.

NGT issues directions to the West Bengal government authorities for protection of Sundarbans

Subhas Dutta v. State of West Bengal & Ors.; Order dated 07 February, 2023¹⁴

NGT has directed the West Bengal government authorities to finalize the Coastal Zone Management Plan (“CZMP”) by March, 2023 and thereafter, MoEFCC shall finalize it within two months. In relation to the conservation of

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Sundarbans, the authorities must ensure that impermissible activities shall not be allowed to continue in the Sundarbans including hotels illegally operating in 'no construction zone'. Similarly, the SOP for the operation of vessels and other compliances including protection of mangroves, tiger reserve and waste management shall be enforced. NGT has also constituted a higher-level monitoring committee in this regard. In this case, NGT was considering grievances against inadequate remedial action against environmental degradation of Sundarbans in West Bengal *inter alia* on account of illegal constructions, operation of sea vessels, unscientific waste management and delay in finalizing CZMP.

NGT directs closure of illegal sand mines and recovery of environmental compensation

Kandra Battachhatri & Ors. v. State of Odisha & Ors.; Order dated 07 February, 2023¹⁵

NGT has accepted the recommendations provided in the report submitted by a joint committee constituted by it for the assessment of illegal sand mining activities in Sundergarh district, Odisha and determining environmental compensation to be recovered. NGT has directed the district administration to recover the amount assessed by the committee and utilise it for the restoration of environment. In this case, NGT was considering an application against unregulated illegal sand mining by M/s Rajashree Behera in Brahmani River in Sundergarh District, Odisha.

NGT imposes environmental compensation of INR 113 crore against a real estate project in Uttar Pradesh

Mahakar Singh v. State of Uttar Pradesh; Judgment dated 07 February, 2023¹⁶

NGT has directed M/s. Uppal Chadha Hi Tech Developers Pvt. Ltd. to pay an environmental compensation of INR 113 crore to Uttar Pradesh Pollution Control Board for the construction of its project Wave city / Hi Tech city in violation of environmental law. NGT noted that the project proponent had submitted incorrect information in the application for EC, and it undertook construction in violation of the conditions prescribed in EC and groundwater extraction approval. The NGT constituted joint committee also submitted that there are various instances

of violations at the project, but the actions taken against it are not proportionate to these violations. In this case, NGT was considering grievances against the construction of the project in violation of environmental laws such as illegal extraction of groundwater and construction of buildings without requisite permissions from concerned authorities.

NGT directs demolition of an illegal hotel in Sundarbans, West Bengal

Dakshinbanga Matsyajibi Forum v. State of West Bengal & Ors.; Order dated 14 February, 2023¹⁷

NGT has upheld the decision of West Bengal Coastal Zone Management Authority wherein it held the construction of Hotel Sonar Bangla in Sundarbans, West Bengal as illegal. It has constituted a joint committee to ensure demolition of the illegal structure and restoration of the area. NGT observed that construction area falls in CRZ-1A and Critically Vulnerable Coastal Area as per CRZ Notification, 2019. These constructions were carried out without seeking prior CRZ clearance and it applied later for an *ex post facto* clearance. NGT also rejected the preliminary objections by the respondent concerning the composition of the bench and members of the Delhi bench virtually joining the hearing at Kolkata bench.

NGT directs Tamil Nadu government to ensure efficient management of sewage in Chennai

Tribunal on its own motion Suo Motu v. The Principal Secretary to Government of Tamil Nadu, Judgment dated 15 February, 2023¹⁸

NGT has directed the government departments responsible for management and treatment of sewage in Chennai to ensure effective implementation of septage management regulations and operative guidelines issued by the state government. NGT noted that treatment and management of sewage is within the exclusive domain of Chennai Metropolitan Water Supply and Sewerage Board ("CWSSB"), and other authorities like National Highway Authority of India ("NHAI") do not have independent manpower or authority to curb these illegal activities. However, since the process involves multiple aspects, it signifies the problem of policy coordination

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among government departments and hence needs to be collectively addressed by them. The report of the joint committee constituted by the NGT had also noted inefficiency in the city's sewage system and lack of coordination among different departments. In this case, NGT took *suo motu* cognizance of illegal dumping of sewage water into either storm water drainage on the National Highway or water bodies in Chennai.

NGT issues orders against Delhi and Gujarat governments for failure to ensure waste management

In re: Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues¹⁹

NGT has directed Delhi²⁰ and Gujarat²¹ governments to take measures to ensure waste management through stringent monitoring at appropriate levels, particularly at the district level. NGT refrained from imposing environmental compensation (estimated around INR 2100 crore) against Gujarat on account of its undertaking to credit this amount in a separate ring-fenced account for waste management. However, Delhi government has been directed to pay INR 2232 crore as environmental compensation on the basis of polluter pays principle. The objective should be to reduce the gap between generation and processing of solid and liquid waste and to remediate the legacy waste. NGT 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

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MoEFCC issues guidelines for non-coal mining on non-forest land after Stage-I approval; 03 February, 2023²³

MoEFCC has issued a guideline for the commencement of non-coal mining on leases involving forest as well as non-forest land after grant of Stage-I approval under FCA. For mining proposals involving forest and non-forest land, working on non-forest land without ensuring a separate mining plan or lease for such land may create *fait accompli* situations in terms of damage to the forest land. Accordingly, it is directed that after obtaining Stage-I approval, EC and deposition of compensatory levies, the relevant authority should prepare a separate

mining plan or execute a separate mining lease for full or part of non-forest land involved in the mining lease before allowing mining on non-forest land.

NGT constitutes a committee of high-level officers to investigate illegal establishments around Rajaji National Park, Uttarakhand

All India Young Lawyers Association v. State of Uttarakhand & Ors; Order dated 24 February, 2023²²

NGT has directed reconsideration of commercial resorts, clubs and other establishments around Rajaji National Park, Uttarakhand by Government of Uttarakhand. The report of NGT-constituted joint committee was found incorrect in law as it ignored the Supreme Court's direction that there shall be a minimum one km ESZ around protected areas. Accordingly, it is wrong to presume that resorts outside the boundary of Rajaji National Park are legal even if they are within this one km zone. This aspect needs reconsideration by a committee of higher-level officers that shall demarcate the region and determine illegal resorts therein. In this case, NGT was considering grievances against illegal functioning of hotels, resorts, pubs, clubs, ashrams and other commercial activities in Chilla Range of Rajaji National Park, Uttarakhand.

mining plan or execute a separate mining lease for full or part of non-forest land involved in the mining lease before allowing mining on non-forest land.

MoEFCC issues SOP for highway projects upto 100 km from the border or line of control; 06 February, 2023²⁴

MoEFCC has issued the SOP for environmental safeguards for construction and operation of all highway projects upto 100 km from line of control or border. Such projects are exempted from requirement of prior EC. Such safeguards include risk assessment, landslide management plan and disaster management plan; tunnelling

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and horizontal directional drilling; soil conservation measures; noise management; air pollution control; water management; etc. The relevant State Pollution Control Board or Pollution Control Committee shall undertake periodic monitoring of these aspects.

CPCB releases draft guidelines on compliance testing of revised emission standards for generator sets upto 800 KW power; 14 February, 2023²⁵

CPCB has released the draft document on "System and Procedure for Compliance Testing of Revised Emission Standards for Power Genset Engines having Capacity Up to Gross Mechanical Power 800 KWs". This document is intended to prescribe the testing mechanism to ensure compliance by generator sets upto 800 KW with revised emission standards notified on 03 November, 2022 that will take effect from 01 July, 2023.

Ministry of Power releases draft guidelines to promote pump storage projects in India; 15 February, 2023²⁶

Ministry of Power has released draft guidelines for the promotion of pump storage projects in India, which seeks to utilise the potential of pump storage in energy storage, grid stabilization and peaking power demand pursuant to enhanced generation of renewable energy in India. The guidelines *inter alia* describe the benefits, challenges and proposed financing mechanisms for such projects.

MoEFCC issues draft notification on Agro Residue Utilization by Thermal Power Plants Rules, 2023; 16 February, 2023²⁷

MoEFCC has issued draft notification on Agro Residue Utilization by Thermal Power Plants Rules, 2023. These rules are applicable to all thermal power plants located in the jurisdiction of Commission for Air Quality Management in NCR and Adjoining Areas, i.e., within Delhi-National Capital Region. It requires all such coal-based plants to mandatorily use minimum 5% blend of pellets / briquettes made of crop residue along with coal. This is intended to address air pollution linked to stubble burning in the region. There is also a provision of environmental compensation at the prescribed rate in case of non-compliance from year 2024-25. The comments could be sent on this draft up to a period of 60 days.

MoEFCC releases the list of activities for carbon credits under Paris Agreement; 17 February, 2023²⁸

India has ratified the Paris Agreement and its rulebook, which *inter alia* contains Article 6 focusing on carbon trading through bilateral/cooperative approaches and international market mechanisms. India notified the National Designated Authority for the Implementation of the Paris Agreement ("NDAIAPA") in 2022. The authority is mandated *inter-alia* to determine type of projects that may take part in international carbon market under Article 6 mechanisms. NDAIAPA has determined the larger categories of projects that will be allowed in India for this mechanism as: greenhouse gas mitigation, alternative materials (green ammonia) and removal activities (carbon capture and storage). These activities are initially selected for a period of 3 years and may be revised thereafter.

MoEFCC releases two draft papers prepared by NDAIAPA; 20 February, 2023²⁹

MoEFCC has released two draft papers prepared by NDAIAPA – Sustainable Development Evaluation Framework ("SDEF") and Approval and Authorization Criteria for implementation of Article 6 of the Paris Agreement. SDEF provides the following criteria and components to determine the projects/activities that can be covered under this framework: (a) do-no-significant-harm criteria in terms of the Environment, Social and Governance ("ESG"); (b) impacts of project on priority developmental aspects; and (c) positive impact on sustainable development. Further, Approval and Authorization Criteria provides the activities that can be undertaken in India under Article 6 of the Paris Agreement as well as criteria and process for their approval.

SEBI releases consultation paper on ESG disclosures, ratings and investing; 20 February, 2023³⁰

Securities and Exchange Board of India ("SEBI") has released a consultation paper on the regulatory framework for ESG disclosures, ratings and investing. The paper proposes a Business Responsibility and Sustainability Report ("BRSR") core format consisting of select key performance indicators under each attribute that need to be reasonably assured/verified. The reasonable assurance of this format will enhance credibility/investor confidence and be gradually mandated for

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listed entities. The requirement for ESG disclosures for supply chain is also proposed in this paper. Secondly, paper proposes appropriate parameters for determination of ESG ratings by rating providers to ensure consistency. Thirdly, paper proposes measures for ESG mutual fund schemes essentially to address greenwashing and mis-selling activities and to ensure transparency. It also proposes new sub-categories for ESG schemes under which an asset management company can introduce ESG scheme. Comments are invited on this paper by 06 March, 2023.

MoEFCC releases guideline regarding conditional Stage-I approvals; 22 February, 2023³¹

MoEFCC has released a guideline wherein it has raised a concern regarding issue of Stage-I approval for forest diversion under FCA with conditions like change in the compensatory afforestation sites or their area, change in the area in online proposal, etc. It has stated that such approvals are not in consonance with the Parivesh portal as after the grant of Stage-I approval, all relevant fields of the application are locked and the user agency or processing authority cannot change them. Issue of such conditions delays the process of Stage-II approval. Hence, Integrated Regional Offices are directed to restrain from issuing such conditional approvals.

SEBI releases consultation paper on regulatory framework for ERPs; 22 February, 2023³²

SEBI has released a consultation paper on the regulatory framework for ESG rating providers ("ERP"). The paper proposes a 'Core ESG Rating' based on assured indicators in 'BRSR Core' format. While Core ESG ratings must necessarily be based on assured or verified data, ERPs may be allowed to provide an additional commentary/outlook/observation on data that may not be verified/assured. It further proposes that ERPs shall provide detailed rationale behind the ESG rating assigned to an entity. ERPs may also provide transition score to entities to track their performance towards net zero goals.

MoEFCC issues draft ESZ notification for national parks and wildlife sanctuaries in Maharashtra; 24 February, 2023³³

MoEFCC has issued a draft notification providing ESZ for Nagzira Wildlife Sanctuary, New Nagzira Wildlife Sanctuary, Koka Wildlife Sanctuary,

Navegaon Wildlife Sanctuary and Navegaon National Park in Maharashtra. The proposed ESZ is spread over an area of 2337 square kilometres. Comments have been invited on this notification up to a period of 60 days.

SEBI issues circulars related to green bonds; February, 2023

SEBI has notified an amendment to Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021 to revise the definition of 'green debt security'. SEBI has expanded the scope of 'green debt securities' to cover aspects like circular economy, climate change adaptation, blue bonds (related to water management and marine sector), yellow bonds (related to solar energy) and transition bonds (transition to sustainable operations).³⁴

SEBI has also issued two circulars providing (a) disclosure requirements for issuers of green debt securities under Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021³⁵. This circular lists the initial disclosure requirements, continuous disclosure requirements and responsibilities of the issuer. This will be applicable for green debt securities launched on or after 01 April, 2023; and (b) steps to be taken by the issuer of green debt securities to avoid greenwashing, such as continuous monitoring to move towards more sustainable form of operations, ensuring utilization of funds for purposes within definition of green debt securities, quantification of negative externalities related to utilization of green debt security funds, etc.³⁶

Tamil Nadu releases Electric Vehicle Policy, February 2023³⁷

The Government of Tamil Nadu has released the Electric Vehicle Policy, 2023 with key features such as reimbursement of state goods and services tax, investment and turnover based subsidy, advanced chemistry cell subsidy, electrification of public and commercial transport, formation of electric vehicle cities, etc. Government aims to promote cities including Chennai, Coimbatore, Tiruchirappalli, Madurai, Salem, and Tirunelveli as pilot cities for implementing e-mobility solutions.

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Endnotes

- 1 CIVIL APPEAL NO. 3626 OF 2020.
- 2 Writ Petitions (Civil) No. 202/1995 and W.P.C. No. 435/2012.
- 3 SLP(C) No.25047/2018.
- 4 Civil Appeal Nos. 1811-1812 of 2015.
- 5 I.A. NOS.79569, 79576, 159670 & 159677 OF 2019, 14261 & 14262/2021, 40624 and 40599 of 2023 in Writ Petition(s) (Civil) No(s). 202/1995.
- 6 Writ Petition No. 9368 of 2021.
- 7 Writ Petition (PIL) No. 47 of 2022.
- 8 PIL/52/2021.
- 9 Writ Petition No. 4138 of 2022 and Interim Application No. 4665 of 2022.
- 10 Appeal No.20/2022 (CZ).
- 11 Original Application No. 76/2023.
- 12 Appeal Nos. 18, 19 and 23/2022 (CZ) (I.A. No. 63/2022).
- 13 Original Application No. 248/2022.
- 14 Original Application No. 6/2021/EZ.
- 15 Original Application No. 112/2021/EZ.
- 16 OA No. 549/2019.
- 17 Original Application No. 32/2022/EZ.
- 18 Original Application No. 168 of 2020 (SZ).
- 19 Original Application No. 606/2018.
- 20 Order dated 16 February, 2023.
- 21 Order dated 23 February, 2023.
- 22 Original Application No. 361/2022.
- 23 [https://forestsclearance.nic.in/writereaddata/public_display/schemes/1248141995\\$11%2066%202022.pdf](https://forestsclearance.nic.in/writereaddata/public_display/schemes/1248141995$11%2066%202022.pdf)
- 24 https://environmentclearance.nic.in/writereaddata/OMs-2004-2021/313_OM_06_02_2023.pdf
- 25 <https://cpcb.nic.in/openpdffile.php?id=TF0ZNX0RmlsZS8zNjVfMTY3NjM3NzQzMl9tZWRRpYXBob3RvMTMwNy5wZGY=>
- 26 https://powermin.gov.in/sites/default/files/webform/notices/Draft_Guidelines_to_promote_development_of_PSPs_in_the_Country_Seeking_Comments.pdf
- 27 <https://egazette.nic.in/WriteReadData/2023/243680.pdf>
- 28 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1900216>; <https://moef.gov.in/wp-content/uploads/2023/02/NDA-for-Implementation-of-Article-6-of-Paris-Agreement.pdf>
- 29 <https://moef.gov.in/wp-content/uploads/2023/02/Draft-papers-on-Sustainable-Development-Evaluation-Framework-SDEF.pdf>
- 30 https://www.sebi.gov.in/reports-and-statistics/reports/feb-2023/consultation-paper-on-esg-disclosures-ratings-and-investing_68193.html
- 31 [https://forestsclearance.nic.in/writereaddata/public_display/schemes/1937278704\\$11%2004%202021.pdf](https://forestsclearance.nic.in/writereaddata/public_display/schemes/1937278704$11%2004%202021.pdf)
- 32 https://www.sebi.gov.in/reports-and-statistics/reports/feb-2023/consultation-paper-on-regulatory-framework-for-esg-rating-providers-erps-in-securities-market_68337.html
- 33 <https://egazette.nic.in/WriteReadData/2023/243920.pdf>
- 34 <https://egazette.nic.in/WriteReadData/2023/243370.pdf>
- 35 https://www.sebi.gov.in/legal/circulars/feb-2023/revised-disclosure-requirements-for-issuance-and-listing-of-green-debt-securities_67837.html
- 36 https://www.sebi.gov.in/legal/circulars/feb-2023/dos-and-don-ts-relating-to-green-debt-securities-to-avoid-occurrences-of-greenwashing_67828.html
- 37 <https://www.thehindu.com/news/national/tamil-nadu/tns-new-e-vehicles-policy-provides-for-fresh-incentives/article66509095.ece>;
<http://www.indiaenvironmentportal.org.in/files/file/tamil%20nadu%20electric%20vehicle%20policy%202023.pdf>

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