

Environment Law Monthly Updates – March 2024

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1 Judgments

1.1 Supreme Court of India

a. **Exemption from prior environment clearance for linear projects for extracting or sourcing or borrowing of ordinary earth struck down**

On 21 March 2024 the Supreme Court has, in *Noble M. Paikada v Union of India and Ors.*, set aside item 6 of the notification issued by the Ministry of Environment, Forest and Climate Change (**MoEF&CC**) dated 28 March 2020 (**Impugned Notification**) whereby an exemption was granted to linear projects such as roads, pipelines, etc., from obtaining prior Environment Clearance (**EC**) for extracting or sourcing or borrowing of ordinary earth.¹

The subject matter of challenge was the exemption granted to 13 activities/projects from the requirement of prior EC, subject to compliance with standard operating procedures as well as environmental safeguards.

In its judgment, the Supreme Court held that the Impugned Notification had been issued without any application of mind and without issuing notice to the public, thereby vitiating the entire decision-making process. Pertinently, the court concluded that any exemption granted from the EC regime must be specific. However, there are no specifications in the Impugned Notification on the area and the quantum of ordinary earth that can be extracted. Furthermore, the term '*linear projects*' itself has not been defined. Therefore, the Supreme Court held that the blanket exemption in the Impugned Notification is arbitrary, unguided and violative of Article 14 of the Constitution of India.

This judgment is a step towards strengthening environmental jurisprudence in the country, specifically in relation to stakeholder consultation.

b. **Permanent closure of a copper smelting unit in Tamil Nadu upheld by Supreme Court, for repeated breaches and serious environmental violations**

On 29 February 2024, in *Vedanta Limited v the State of Tamil Nadu and Ors.*, the Supreme Court of India upheld the judgment of a division bench of the Madras High Court, confirming the permanent closure of a copper smelting unit, as it did not warrant interference under Article 136 of the Constitution.²

The subject matter of the proceedings was a series of orders passed by the Tamil Nadu Pollution Control Board (**TNPCB**) and the government of Tamil Nadu between the years 2013 and 2018, directing the closure of the copper smelter plant for egregious environmental violations. Dismissing the petitions, the Supreme Court held that it must apply settled principles of judicial review while considering special leave petitions and held that there are no exceptional circumstances that justify the exercise of the discretionary power of the Supreme Court under Article 136 of the Constitution in this case. The Supreme Court noted that the violations ranged from failure to obtain appropriate authorisations, to failure to abide by the conditions of the consents granted by the TNPCB, indiscriminate dumping of hazardous wastes close to rivers, and most importantly, failure to remediate pollution despite directions and findings by multiple judicial fora.

¹ C.A. Nos. 1628-1629 of 2021

² SLP (C) Nos. 10159-10168 of 2020

In view of the above, the Supreme Court held that while closure of an industry is not the first choice, the nature of violations and the conduct of the operations of the copper smelting plant demand the closure of this plant. While doing so, Supreme Court placed reliance on the polluters pay principle, the public trust doctrine, and the concept of intergenerational equity.

This judgment is a resounding declaration of the Supreme Court of the need for stricter implementation of environmental laws in the country, including by the State Pollution Control Boards (SPCB) in the discharge of their duties.

c. Order mandating the laying of underground transmission lines in the Priority Area and Potential Area of the habitat of Great Indian Bustard, modified

In an order dated 19 April 2021, in the case of *M.K. Ranjitsinh and Ors. v Union of India and Ors.*,³ the Supreme Court had demarcated the Priority Area and Potential Area for the habitat of the Great Indian Bustard and mandated the laying of underground transmission lines to protect the Great Indian Bustard.

On 21 March 2024, the Supreme Court has modified this earlier order dated 19 April 2021. The court has now restricted the injunction for undergrounding of transmission lines to only the Priority Area of about 13163 km² and has eased these restrictions in the Potential Area of the total habitat of the Great Indian Bustard, which totals over 80000 km² in Rajasthan and Gujarat.

Besides relaxing the injunction in the Potential Area of the habitat of the Great Indian Bustard, the Supreme Court has reconstituted the expert committee to assess and determine the scope, feasibility and extent of overhead and underground electric lines in the Priority Area and the Potential Area, and to lay down suitable parameters for the same.

The modification is a welcome move to address the difficulties encountered by energy-generating companies operating in these areas that would be required to bear additional capital expenditure for undergrounding their transmission lines in addition to delays in project implementation.

1.2 Delhi High Court

a. Plea for the grant of mining lease to commence iron ore and manganese ore mining in Saranda forest in Jharkhand, rejected

The Delhi High Court, by a judgment dated 29 February 2024, dismissed a petition praying for the grant of a mining lease and a definitive interpretation of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (**2015 Amendment**).⁴ The Delhi High Court refused to grant a mining lease in the petitioner's favour to commence iron ore and manganese ore mining in the Saranda forest in Jharkhand. It was held that the petitioner could not claim any right to mine merely on account of a letter of intent issued in its favour in 2008, when mandatory environment and forest clearances were not granted within time. The court further added that no right would accrue to the petitioner only on account of alleged delays by the central government and the Jharkhand government in processing its forest or environment clearance applications.

The scope of the petition was the validity of the 2015 Amendment by way of which the mining regime shifted from a first-come-first-serve basis to a competitive auction system. Pertinently, Section 10A(2)(c)

³ Writ Petition(s) Civil Nos. 838 of 2019

⁴ ArcelorMittal India Private Limited and Anr. V Union of India and Ors., W.P. (C) No. 224 of 2017

of the Mines and Minerals (Development and Regulation) Act, 1957, introduced through the 2015 Amendment, provided a window of two years from the date of its commencement i.e., 11 January 2017 (**Cut Off Date**), to entities that had applied for mining leases under the old system, to obtain forest clearances and environment clearances.

The petitioner was granted a letter of intent before the 2015 Amendment, however it was not granted forest clearance or environment clearance by the Cut Off Date. The forest clearance was obtained by the petitioner post the Cut Off Date and the petitioner contended that the delay in grant of forest clearance as well as other authorisations was attributable to the central government and the Jharkhand government. However, the Delhi High Court observed, in this regard, that the petitioner's applications were not processed because of an environmental study being conducted in the Saranda forest.

In conclusion, the Delhi High Court held that the grant of forest clearance to the petitioner even after the Cut Off Date would not entitle the petitioner to avail exemption from the auction regime of granting mining leases introduced under the 2015 Amendment. Therefore, the court held that there is no vested right created in favour of the petitioner, thereby settling the law in respect of Section 10A(2)(c), of the Mines and Minerals (Development and Regulation) Act, 1957.

1.3 National Green Tribunal

a. National Green Tribunal constitutes a Joint Committee to assess methane emissions from landfill sites

On 19 March 2024, the principal bench of the National Green Tribunal has directed the constitution of a joint committee to furnish a factual report in respect of methane emissions from landfill sites mentioned in the news,⁵ in Central Mumbai, Pune and Kalyan in Maharashtra; Ahmedabad and Surat in Gujarat; Barmer, Jaisalmer, Taranagar and Chirawa in Rajasthan; and in Nazira, Dibrugarh-Tinsukia in Assam, in an original application registered *suo moto*.

The news article in question⁶ highlights the high level of methane gas emissions from landfill sites based on a study conducted by the Indian Space Research Organisation. Consequently, the joint committee has been directed to collect relevant factual information for its report, particularly relating to compliance of such sites with Schedule I of Solid Waste Management Rules, 2016 and details of the remedial measures taken at such sites, within three months. The report should also give details of the status of authorisations granted by the SPCBs, accumulation of waste in quantified terms at the sites in question and ambient air quality monitoring data around these sites as per Solid Waste Management Rules, 2016.

The proceedings in this matter may be instrumental in streamlining the requirements and procedure for maintaining landfill sites.

2 Legislative Updates

2.1 Amendments introduced in environmental laws through the Jan Vishwas (Amendment of Provisions) Act, 2023, made effective from 1 April 2024

The Jan Vishwas (Amendment of Provisions) Act, 2023 (**Jan Vishwas Act**) was promulgated in the year 2023 with the aim of reshaping the regulatory framework through the decriminalisation of minor offences under 42

⁵ [National Green Tribunal order in Original Application No. 247/2024](#)

⁶ "[Ahmedabad, Surat landfills among worst three methane spots in India](#)", Times of India (7 February 2024)

different legislations, including four environmental legislations, i.e., (i) Indian Forest Act, 1927, (ii) Air (Prevention and Control of Pollution) Act, 1981, (iii) Environment (Protection) Act, 1986 and (iv) Public Liability Insurance Act, 1991. Similar amendments were also introduced in the Water (Prevention and Control of Pollution) Act, 1974 in 2024.⁷ The amendments in the Air (Prevention and Control of Pollution) Act, 1981, Environment (Protection) Act, 1986 and Public Liability Insurance Act, 1991 has become effective from 1 April 2024.

Pertinently, by way of these amendments, the provisions for imprisonment have been done away with and replaced with substantial fines. Imprisonment has only been retained for illegal operations without obtaining requisite consents, and for failing to pay the penalty imposed for violation, within the specified time.

2.2 Plastic Waste Management (Amendment) Rules, 2024 notified

On 14 March 2024 the MoEF&CC published the Plastic Waste Management (Amendment) Rules, 2024 to amend the Plastic Waste Management Rules, 2016, with immediate effect.⁸

By way of the amendment, the definition of an importer, manufacturer and producer under the Plastic Waste Management Rules, 2016 has been amended, and the definition of 'seller' has been introduced. Further, manufacturers of compostable plastic/biodegradable plastic carry bags or commodities have been entrusted with the additional liability of obtaining a certificate from the Central Pollution Control Board (CPCB) before marketing or selling such products. Manufacturers of compostable plastic/biodegradable plastic will now also be required to inform the CPCB of the quantity of such commodities introduced in the market and the pre-consumer waste generated by it.

The amendment further inserts provisions in the Plastic Waste Management Rules, 2016 to enable the local body to assess the plastic waste generated, and the infrastructure for collection/segregation/processing, as well as to take measures to prevent stocking, distribution, sale and usage of prohibited single-use plastic items in their jurisdiction. New provisions have also been inserted in Rule 11 relating to marking or labelling. Additionally, Form-I for the registration of producers or brand owners has been revised.

This amendment is a welcome step for the effective implementation of the Plastic Waste Management Rules, 2016.

2.3 Battery Waste Management (Amendment) Rules, 2024 notified

On 14 March 2024, the MoEF&CC published the Battery Waste Management (Amendment) Rules, 2024 amending the Battery Waste Management Rules, 2022, with immediate effect.⁹ The amendment provides that the CPCB will fix the highest and lowest prices for Extended Producer Responsibility (EPR) certificates. These prices will range from 100% to 30% of the environmental compensation levied on obligated entities for not fulfilling their EPR obligations, as determined by the CPCB. The amendments aim to strengthen the regulation of battery waste and ensure accountability among stakeholders.

The amendment also mandates CPCB to develop guidelines for imposing and collecting environmental compensation from producers and entities engaged in refurbishing and recycling of waste batteries, for non-compliance with the rules. After consultation with the Committee for Implementation (constituted under Rule

⁷ [Water \(Prevention and Control of Pollution\) Amendment Act, 2024](#)

⁸ [Plastic Waste Management \(Amendment\) Rules, 2024](#)

⁹ [Battery Waste Management \(Amendment\) Rules, 2024](#)

15 of the Battery Waste Management Rules, 2022), these guidelines will be submitted to the MoEF&CC for approval. The amendment also modifies the mandatory targets for the collection, recycling or reprocessing of waste batteries, including portable batteries, batteries for electric vehicles, and industrial batteries.

2.4 Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2024 notified

On 12 March 2024, the MoEF&CC published the Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2024 to amend the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, with effect from 1 April 2024.¹⁰

The amendment introduces the definition of '*deposition center*' by clarifying that it will have the same meaning as provided in Solid Waste Management Rules, 2016 and lays down the requirement for deposition centres to obtain authorisation from the SPCB or Pollution Control Committee (PCC). The deposition centres have also been obligated to provide the domestic hazardous waste to the actual user or operator of the disposal facility and maintain records.

Further, the amendment also modifies the timelines for filing of returns by authorising the central government to relax timelines up to nine months. The amendment also clarifies the conditions for the import of post-industrial or pre-consumer polyethylene waste. Finally, the amendment introduces provisions for establishing platforms for exchanging EPR certificates at prices fixed by the CPCB. The CPCB will fix the highest and lowest prices for the EPR certificates, which will be equal to 100% and 30% respectively, of the environmental compensation levied on obligated entities for non-fulfilment of their EPR obligations.

2.5 E-Waste (Management) Amendment Rules, 2024 notified

On 8 March 2024, the MoEF&CC published the E-Waste (Management) Amendment Rules, 2024, amending the E-Waste (Management) Rules, 2022, with immediate effect.¹¹

The amendment introduces a new definition for '*dismantler*' to include those engaged in the dismantling of used electrical and electronic equipment and components thereof, as per CPCB guidelines. Further, the amendment also modifies the timelines for filing of returns by authorising Central Government to relax timelines up to nine months.

Additionally, Rule 15 of the E-Waste (Management) Rules, 2022 now introduces provisions for establishing platforms for exchanging EPR certificates at prices fixed by the CPCB. The CPCB will fix the highest and lowest prices for the EPR certificates which will be equal to 100% and 30% respectively of the environmental compensation levied on obligated entities for non-fulfilment of their EPR obligations.

¹⁰ [Hazardous and Other Wastes \(Management and Transboundary Movement\) Amendment Rules, 2024](#)

¹¹ [E-Waste \(Management\) Amendment Rules, 2024](#)

3 Other relevant developments

3.1 Central Pollution Control Board issues guidelines for promoting community boiler for cluster of small scale industries

On 5 March 2024, the CPCB released guidelines for promoting community boilers for clusters of small-scale industries.¹² The guidelines lay down key steps for both new and existing industrial clusters.

For new clusters, the town planning or industrial estate development department of the state or union territory is advised to incorporate community boilers into the utility sector of their development plans, allocating necessary land during the initial development phase. Existing clusters are encouraged to conduct feasibility studies in collaboration with the SPCB or PCC to identify suitable cluster locations, land availability, and the required number and capacity of boilers.

The establishment and monitoring of these boilers will be overseen by an industrial cluster level committee, with representation from various stakeholders, including the SPCB/PCC, boiler directorate, and industries/industrial associations. The guidelines mandate that community boilers adhere to emission norms set by the MoEF&CC, using only approved fuels as prescribed by the respective SPCB/PCC, with a focus on environment-friendly options like refuse-derived fuel, biomass briquettes/pellets, and piped natural gas.

3.2 Central Pollution Control Board fixes last date for registration of producer, importer, brand owner and plastic waste processor on the Centralized Extended Producer Responsibility portal for Plastic Packaging as 31 March 2024

On 14 March 2024, the CPCB issued a notice providing an opportunity to Producers, Importers & Brand-Owners (PIBOs) and Plastic Waste Processors (PWPs) to obtain registrations on the Centralized EPR portal for plastic packaging by 31 March 2024.¹³ The notice also specified that failure to comply with the same will attract environmental compensation and closure of operations.

3.3 State of Andhra Pradesh introduces Energy Conservation Policy 2023-2028

On 11 March 2024, the government of Andhra Pradesh notified the Andhra Pradesh Energy Efficiency and Energy Conservation Policy 2023-2028.

The policy aims to effectively implement the Energy Conservation Act, 2001. It also intends to put in place a framework for the identification, development, implementation, monitoring and verification of energy efficiency programmes to be undertaken in Andhra Pradesh, to tap substantial energy savings potential and to act as an enabler for the adoption of energy efficiency and energy conservation measures. The policy focuses on energy efficiency and energy conservation across domestic, industrial and commercial uses, as well as across sectors including agriculture and transport.

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¹² [Guidelines for Promoting Community Boiler for Cluster of Small-Scale Industries](#)

¹³ [Notification No. CP-20/8/2024-UPC-II-HO-CPCB-HQ](#)