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[www.sdruk.in/himalayan-watch](http://www.sdruk.in/himalayan-watch)

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**About Environment Law Reporter:** A fortnightly publication reporting judgments, order and legal developments from the Supreme Court, National Green Tribunal and the Indian Himalayan Region. It is a joint publication by SDC Foundation and SCLHR.

**About SCLHR:** It is a student driven forum dedicated to promote research in Constitutional Law, Human Rights and incidental issues. Society is founded under the aegis of School of Law, University of Petroleum and Energy Studies (UPES). Email: [sclhr@ddn.upes.ac.in](mailto:sclhr@ddn.upes.ac.in)

**About SDC Foundation:** SDC is an environmental action and advocacy group based in Dehradun. Himalayan Watch is a forum founded and managed by SDC to conduct research and communication on ecological affairs of the Indian Himalayan Region.

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## National

### → **Man-Animal conflict: SC issues notice to Himachal Pradesh, Bihar and Kerala**

(30 July, 2020)

Responding to a petition filed by Biju Janata Dal (BJD) Member of Parliament (MP) Anubhav Mohanty, [SC has issued notices to states](#) of Himachal, Bihar and Kerala for explaining the indiscriminate use of snares and traps to kill wild animals.

A bench comprising Chief Justice SA Bobde, Justice AS Bopanna and V. Ramasubramaniam discussed the issue of rising man-animal conflict incidents across the nation. It also asked the petitioner to come up with some solutions to address the issue of man-animal conflict. The court deliberated on finding alternative ways to deal with the problem of wild animals that venture into hard tilled lands of farmers and destroy all the crops.

Court made it clear that it is necessary to protect the crops but at the same time killing of animals is not the solution to the problem. CJI expressed the need to understand it from forest officials on what kind of initiatives have been taken by the department to avert this problem. "We need information about what Forest officials have done to tackle this. We want you to suggest us actively what are the other options to scare away animals," said CJI.

Petitioner in a press release had said earlier that there exists no clear guidelines at the central or state level to deal with the problem of man-animal conflict. "This has led to the emergence of haphazard, unscientific and excessive policies being exercised by the governments," said the petitioner.

### → **Supreme Court: Environment clearance not required for mining ordinary Earth**

(28 July, 2020)

While [disposing of the Public Interest Litigation \(PIL\)](#) filed by the Society for Protection of Environment and Biodiversity, Supreme Court (SC) said that mining of the ordinary earth will not require any environmental clearance. A bench led by Chief Justice SA Bobde said, "development will come to standstill if mining ordinary earth also needs clearance. We don't agree with you".

PIL challenged Clause VI in Appendix IX of the Environment Impact Assessment Notification 2006 [that was inserted on 28 March 2020](#) by the Ministry of Environment, Forests & Climate Change (MoEF&CC). The contested provision exempted "extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines etc." from requiring an environmental clearance.

The petitioner cited another SC case of [Som Datt Builders v. Union of India](#) in which the court held 'ordinary earth' as mineral. The petition further stated 2003 notification too classified 'ordinary earth' under the mining category.

The petitioner further argued that MoEF&CC has wrongly exercised its extraordinary power which shall be used only in 'public interest'. The step taken by MoEF&CC will result in wide scale mining of ordinary earth, that too without any clearance, said the petition.

**→ NGT directs CPCB to ensure ban on petcoke and furnace oil in industrial units**

(14 July, 2020)

National Green Tribunal (NGT) in the matter of Sumit Kumar v. State of Himachal Pradesh and Amarjeet Kumar v. Union of India [ordered the Central Pollution Control Board \(CPCB\)](#) to ensure strict enforcement of ban on use of petcoke and furnace oil by industrial units across the country. The ban was imposed by SC on use of petcoke and furnace oil in the national capital region and suggested to take similar steps in other states too.

Following the same lines, NGT has now urged the state governments and Union Territories to take steps to ban the use of petcoke and furnace oil and instead promote cleaner alternatives. To give effect, the Tribunal has asked CPCB to issue orders, as and when required, according to the statutory powers vested in it.

The green court directed CPCB to take action and submit the report with the court. It has listed the matter for 15 January 2021. The bench was headed by Chairperson, Adarsh Kumar Goel.

NGT passed the order after considering reports from 27 states.

**→ NGT orders MoEF&CC to ban use of RO units; directs to issue notification by year-end**

(14 July, 2020)

NGT [has directed MoEF&CC](#) to issue notification banning use of Reverse Osmosis (RO) water purifiers by December 31, 2020. The petition was filed by non-governmental organization (NGO) Friends seeking conservation of potable water by regulating use of RO water purifiers.

The tribunal while passing the order directed the government to issue a notification banning use of RO water purifiers in areas where total dissolved solids (TDS) is less than 500 milligrams.

Moreover, it directed the government to make the public aware regarding the bad effects of demineralized water. It has made it mandatory for the government to recover 60 percent of water where RO is permitted. The order of the tribunal is based on the recommendations of an expert committee on the said issue.

## Indian Himalayan Region

### **→ Uttarakhand High Court: Committee to study carrying capacity of tourist destinations and identify biodiversity zones in the Himalayan state**

(27 July, 2020)

Uttarakhand High Court [passed a strong-worded order](#) on Monday against the state govt for allowing the Auli Wedding by Gupta Brothers last year. High Court was disposing of the last year's PIL filed by Kashipur based Lawyer, Rakshit Joshi. A division bench of Justice Sudhanshu Dhulia and Justice Ramesh Chandra Khulbe delivered the ruling on 27 July. PIL stated that the wedding was in violation of environmental norms.

The High Court has directed the state govt to set up a committee to examine whether there is a need to identify biodiversity heritage sites in the hill state? If yes, the identification of sites shall be undertaken as per section 7 of the Biodiversity Act.

The High Court has also ordered the State's Tourism Department to conduct a study on the carrying capacity of Auli by the same committee and submit the report within four weeks. The study might also be undertaken for other tourist spots in the biodiversity sensitive zone!

While passing the order, the court also observed, "it is clear that the government was in grave error in granting its approval to this mega event without having any kind of assessment of waste and garbage which would be generated due to the event".

"It is necessary, therefore that the government limits its activities in Auli only to the field of sports and adventure tourism and not venture into any other activities which are not compatible with the principles of sustainable tourism," further stated the order.

### **→ Illegal Coal Mining in Meghalaya: NGT disapproves committee's recommendation on transportation of coal; accepts its restoration and remediation plans**

(27 July, 2020)

In context to illegal coal mining, restoration of the environment and rehabilitation of the victims in the hill state of Meghalaya; NGT discussed the recommendations of the seventh report. The seventh report was submitted by the committee appointed by the Tribunal on 31 August 2018 to look into issues of illegal mining in the state.

The [NGT passed this order](#) in continuation to its earlier order on 17 January 2020 after considering other reports submitted by the committee. These reports dealt with inventorization of illegally extracted coal, steps for its disposal, steps for restoration of the environment and preventing any further illegal coal mining.

The committee recommended that instead of state, coal owners shall transport the illegally mined coal and the coal owners shall be selected by a 'draw of lots' mechanism. To this, the

NGT vehemently declined. It was because SC had already passed the order in the case of State of Meghalaya v. All Dimasa Students Union in 2019, which governed the ongoing matter. In the 2019 case, SC exclusively stated that the illegally extracted coal should be handed over to CIL for its disposal by state only.

The recommendations of the committee were against the order of SC and hence declined by the green court.

However, NGT has agreed to go ahead with the committee's recommendation on restoration and remediation plan, which will be executed under the aegis of the committee only, the court said. The court further directed the committee to furnish its report on execution of both restoration and remediation plans on 31 December 2020.

The bench was headed by Chairperson, Adarsh Kumar Goel.

**→ Himachal Pradesh: Committee to enquire into issue of water pollution caused by pharmaceutical units in Baddi**

(24 July, 2020)

NGT while hearing a petition filed by an NGO Veterans Forum for Transparency in Public Life, [directed Central Pollution Control Board \(CPCB\)](#) and Himachal Pradesh Pollution Control Board (HPPCB) to form a joint committee study the dumping of untreated waste into the Sirsa and Sutlej rivers by pharmaceutical companies at Baddi in Solan.

Petition alleged two pharmaceutical companies for dumping untreated waste into the rivers. It also stated that both the companies are not attached to the Common Effluent Treatment Plant, which is in violation of environmental norms.

Petitioner told the court that presence of high chemical toxins in river water is a threat to aquatic life and human health.

The bench was headed by Chairperson, Adarsh Kumar Goel. The court ordered the committee to inspect the whole matter and submit the report to the green court. The court has listed the matter on 4 January 2021.

**→ NGT modifies its order on Rs. 25 crores penalty to OIL in Baghjan Fire case**

(5 July, 2020)

[NGT revised its order](#) in the case of Bonani Kakkar vs. Oil India Limited (Baghjan Fire Case). Earlier, NGT had ordered OIL to pay a compensation of Rs. 25 crores.

This order came after senior lawyer Mukul Rohtagi, representing Oil India Limited (OIL), has contended that an interim relief of Rs. 4.83 crores was already paid to the District Magistrate

of Tinsukia District. Further, he also informed the court that the District Magistrate has not made it clear if the interim relief has been disbursed to the victims or not.

Another concern raised by the defendant was regarding the disbursement and restoration plan, which was not framed till the date of order by the committee that was appointed to oversee the matter.

Owing to these contentions and the assurance that OIL being a public sector undertaking is committed to pay whatever amount is necessary once the liability is ascertained for environmental restitution and victim compensation, NGT deferred from its direction.

The green court ordered to hold off the payment of Rs. 25 crores by OIL till the committee submits its report on the actual amount and a plan for disbursement and restoration.

**→ Degradation of environment a major reason for COVID-19, says Manipur High Court**

(14 June, 2020)

“It is time for the collective wisdom of human beings to reflect where we went wrong or what went awry and what should be done. There are a number of theories that abound as we traverse through the views of scientists, doctors, researchers, scholars, expressed in their scientific literature. There are very many reasons attributed for the present pandemic which evidently is a sequel, with many more to come in the times to come. Amidst all the cause and effect theories that propounded, there appears to be one significant factor which needs the world’s attention - irrespective of anyone nation being the cause for the current pandemic -that is desecration of ‘Nature’ and environment” [observed Manipur High Court](#) in the case of Manipur Valley Village Reserve Forest Rights Protection Association v. State of Manipur.

Court made these comments while hearing the PIL on the issue of illegal encroachment in reserved forest areas of Manipur. The court linked biodiversity loss to the emergence of infectious diseases.

The outbreak of novel coronavirus disease (COVID-19) has already been blamed on rampant ecological destruction by several quarters.

The court held that “Destruction of forests and invasion / intrusion of human beings in the forest domain, displacing forest species appears to be a major factor for the series of diseases like the present COVID-19”. The court compared COVID-19 to “the march of the Macedonian army”.

The court asked the government to submit a report on utilization of the state's Compensatory Afforestation Funds.

**→ CPCB recommends more than Rs. 20 lakh fine for a factory unit based in SIDCUL at Sitarganj, Uttarakhand**

(10 June, 2020)

In a joint status report filed by CPCB and Uttarakhand Pollution Control Board (UPCB) to NGT, [it has recommended to impose](#) a fine of more than Rs. 20 lakh on Speciality Industrial Polymers & Coatings Pvt. Ltd. The unit is engaged in manufacturing of polymer emulsion.

On the order of NGT, officials from CPCB visited the site, where it was noted that the unit had not acquired a No Objection Certificate from the concerned officials for the extraction of groundwater since the last three years. Around 26,688 cubic metres of ground water was extracted without the approval of the authorities.

Effluent Treatment Plant sludge was also being generated during the process which is one of the most hazardous waste.

Owing to these violations, CPCB filed a report and suggested a fine of Rs. 19, 90,000 for non-compliance of industrial pollution standards and imposed an additional fine of Rs. 5, 33,760 for extracting a huge amount of groundwater without gaining permission.

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