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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

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

→ NGT reiterates its prohibition on extraction of groundwater by slaughterhouses

(18 August 2020)

National Green Tribunal (NGT) on August 18, 2020 has reiterated its order of [Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors](#) where it said that [groundwater can be allowed to be extracted](#) only after Environment Impact Assessment (EIA) by Central Ground Water Authority (CGWA) in ground water scarcity areas notified by CGWA as overexploited, critical and semi critical.

In the case of Shailesh Singh, NGT said that extraction of ground water without proper permissions is against the universal principle of sustainable development. In such a case, there can be no exception to any industry working against the principle of sustainable development. The court also observed the remarks made in the case of State of West Bengal v. Kesoram Industries Ltd. & Ors. where it was observed that deep underground water belongs to the state and is governed by public trust doctrine.

In the same case, the green court directed CGWA to not to give any general permissions for withdrawal of water, particularly to any commercial entity, without EIA.

The tribunal further said that slaughter houses may not be allowed to operate till compliance of environmental law and payment of compensation for their illegal operation in the past.

In order to address the problem of water pollution, it directed the Uttar Pradesh Pollution control board to initiate a drive to ascertain the sources of such pollution and take remedial action.

The petition was filed by Journalist Shailesh Singh to regulate illegal operations of slaughter houses in Khurja Uttar Pradesh.

→ State Pollution Control Boards to ensure compliance of environmental norms by railway stations

(18 August 2020)

While hearing a matter regarding compliance of Plastic and Solid Waste Management Rules at railway stations, [NGT on August 18, 2020 has directed](#) all State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs) to ensure compliance of environmental norms and in particular the waste management rules.

The matter of compliance to waste management rules by railway stations was first raised by Comptroller and Auditor General (CAG) in its report titled "Environment Management in the Indian Railways" in 2018. Report found an unsatisfactory state of affairs of waste

management, wastewater treatment and open defecation on railway tracks. To this, the green court took cognizance and passed an order on 1 October 2018.

Thereafter, the 36 railway stations were shortlisted by CPCB and the green court for formulating an action plan and implementing the same concerning waste management and other environmental aspects. Court directed the CPCB to monitor the process of formulation and implementation of these action plans by railway stations and submit its status report.

CPCB filed its report dated July 13, 2020 regarding Environmental Performance Assessment of Railway Stations. The report highlighted the performance assessment of 36 stations in terms of requirements under the Water Act, Air Act and the Environment Protection Act and Rules framed thereunder.

An Expert Committee of the CPCB categorized railway stations into red, orange and green categories. As per CPCB report, only 11 have applied for 'consent' in terms of the Water Act and Air Act and only 3 have applied for 'authorization' under the statutory rules under the Environment Protection Act.

NGT ordered that the remaining major railway stations (out of total 720) should apply for requisite consents/ authorizations within three months from the date of passing this order.

→ NGT approves fine up to Rs. 1 lakh on noise pollution violations

(11 August 2020)

NGT has approved a [report submitted by Central Pollution Control Board \(CPCB\)](#) which proposed a fine upto Rs. 1 lakh on activities violating noise pollution norms. While approving the fines for the national capital, Delhi, it directed to enforce the compensation scale throughout India. The green court also said that CPCB may issue statutory orders to enforce these guidelines.

The report provided for a fine of Rs. 10,000 for misuse of loudspeakers and public address system, besides seizure of equipment. It also suggested a fine of Rs. 1 lakh for noise pollution from diesel generators of more than 1000 kilo volt ampere (KVA) capacity along with seizure of equipment. Moreover, noise beyond permissible levels at construction sites would attract a penalty of Rs. 50,000 and seizure of equipment. Noise pollution from bursting crackers will attract a fine of Rs. 1000.

Permissible noise levels for residential areas is 55 decibels during the day and 45 decibels at night. The standards for industrial areas are 75 decibels during the day and 70 at night. The standard noise limit for silence zones such as hospitals and educational institutions during day time is 50 decibels and 40 during the night.

Indian Himalayan Region

→ High Powered Committee chief alleges Char Dham Pariyojana of violating several environmental norms

(26 August 2020)

Char Dham Pariyojana is once again in the headlines. The Supreme Court appointed a committee in August 2019 to study the ecological impact of the 900 km all-weather highway project in the Himalayan state of Uttarakhand.

Mr. Ravi Chopra, Chairperson of the committee has written to the Environment Secretary [highlighting the incalculable and long term damage](#) to the Himalayan ecology that will be caused by the project. Drawing the environment ministry's attention towards the gross violation of the environmental norms he wrote "...laws have been violated as is Rule of Law does not exist".

Mr. Ravi has highlighted three major violations.

First, work without valid permission; second, misusing old clearances; and third, violation of Supreme Court directive. It has been alleged that project work and felling of trees on different stretches is going on illegally since 2017-18 and the work order which was issued in September 2018 has been post facto and legally untenable.

It has been further alleged "...work started on several stretches on the basis of old forest clearances issued to the Border Roads Organisation (BRO) during 2002-2012 is illegal and defeats the regulatory purpose since the scope of work has changed drastically".

It is important to note that the project is meant to widen 900 km of hill roads connecting four major pilgrimage sites in Uttarakhand.

→ Uttarakhand: Ban on non-woven plastic bags pending approval with the state government

(25 August 2020)

In a public interest litigation (PIL) which sought a prohibition on the usage of non-woven bags and action against the industries producing them, it was submitted to Uttarakhand High Court by Uttarakhand Environment Protection and State Pollution Control Board that a [proposal had already been sent](#) for banning non-woven polypropylene bags, which is pending approval from the State Government.

The affidavit submitted by the State Pollution Control Board mentioned that a proposal was already forwarded to the state government by the pollution watchdog. This proposal talked

about implementing a complete ban on single-use plastic or non-woven polypropylene bags for sale, manufacturing and storage.

The affidavit further alleged that it was delayed by the Government of Uttarakhand in the implementation of the proposal as no order was issued in this regard. The high court has issued directions giving the magistrates of 13 districts three weeks of time to file compliance status.

→ NGT approves clearance to Bamboo Ethanol Project in “no-development” zone in Assam

(18 August 2020)

An appeal reached to NGT [against the grant of Environmental Clearance \(EC\)](#) to a Bamboo based Ethanol Project. The Ministry of Environment, Forest & Climate Change had issued EC for setting up Bamboo based Ethanol Project at village Owguri Chapori Gaon in Golaghat district of Assam.

It was claimed by the appellant that the said project is within “no development zone” as declared by the Ministry of Environment by a notification dated 5 July 1996. It was submitted that there is noncompliance of Terms of Reference with respect to water consumption and additional terms of reference on cumulative impact of air emissions from the project. The appeal also stated that there has been no attempt to study the air pollution impact on the surroundings.

The Ministry has taken the stand that said notification is for the protection of Kaziranga National Park and accordingly the nearby areas have been declared as the “no development zones” against the industrial expansion or related activities which may lead to pollution and congestion.

The Ministry further claimed that EC has been granted after satisfaction that the said project will not lead to pollution or congestion and that water consumption and air pollution aspects have also been duly considered. It was also highlighted by the Ministry that ethanol blending using bamboo as raw materials is a national programme to generate renewable green fuel and it will not add any pollution.

The green court in its order discussed the “no development zone” notification which provides “...on and from the date of publication of this notification the expansion of industrial area, township, infrastructures facilities and such other activities which could lead to pollution and congestion shall not be allowed within No Development Zone specified in the Appendix to this notification except with the prior approval of the Central Government”.

The tribunal held that 5 July notification does not place absolute prohibition for setting up or expansion of industrial activities. It was further observed that the project in question is for

substituting fossil fuel by generation of renewable green fuel and EC has been granted after due consideration and does not suffer from any illegality on that count.

The appeals were dismissed.

→ **Uttarakhand High Court gives six weeks to form a panel on Van Gujjars in the state**

(18 August 2020)

An NGO by the name of Think Act Rise Foundation (TARF) filed a Public Interest Litigation [contending that the Van Gujjars as a community](#) have been lacking basic rights and have often been forcefully evicted by forest and police personnel in Uttarakhand.

The petition additionally mentioned that around 1,400 families of the community living in these territories were restored, yet the ground reality is different as they are still waiting for land ownership and rights to be awarded.

As per the PIL, Van Gujjars have been living largely around Rajaji Tiger Reserve which extends even to the neighbouring state of Uttar Pradesh.

The petition further said that Van Gujjars who have kept on living in forests don't have fundamental documents of identity proof like Aadhaar card and have no admittance to conveniences, for example, electricity connections or schools.

Owing to these contentions, the High Court of Uttarakhand ordered the state government to form suggestions and constitute a committee to investigate the issues of the pastoral nomadic community in next six weeks.

The court made it sure that the state government's reaction shouldn't just be restricted to the Van Gujjars mentioned in the petition. Rather, the court has requested that the state government take all perspectives into consideration.

→ **Gauhati High Court takes cognizance of PIL on cancellation of approvals granted to OIL**

(17 August 2020)

A Public interest litigation (Mrinmoy Khataniar v. Union of India) was filed by Advocate Mrinmoy Khataniar and mountaineer Amar Joti Deka in Gauhati High Court on 17 August. The PIL [challenged the central government's grant of approval](#) to Oil India Limited for drilling seven wells inside Dibru-Saikhowa National Park.

It was further pleaded before the bench that the Dibru-Saikhowa in Tinsukia is a National Park and a designated Biosphere Reserve through a notification issued in July 1997. It was also stated that the park is situated on the bank of river Brahmaputra and the oil drilling will have negative impact on the same.

The petition further claims "...the entire action of the authorities in bringing in the amendment... smacks of malice in fact and malice in law and is clearly reflective of abuse of powers as vested in governmental authorities, besides being in violation of the various protections under the Constitution of India".

The petition further highlighted that if the company is allowed to go ahead with the drilling, an accident similar to the Baghjan gas well incident might take place there as well, threatening the ecology of the entire park.

The Gauhati High Court has accordingly directed the Central government, Assam government and Oil India Limited to file their replies by 21 September 2020 and matter is listed for next hearing on 30 September 2020.

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