



JSA Newsletter Environmental Disputes and ESG Regulatory

January 2025

Supreme Court judgements/orders

Protection of sacred groves of Rajasthan and the community stewardship associated therewith

The Supreme Court of India, in its judgment dated December 18, 2024, in the case of *TN Godavarman Thirumulpad v. Union of India and Ors*¹ directed the forest department to recognise the sacred groves/orans of Rajasthan as “forests” under the Forest Conservation Act, 1980. The Court stated that the recognition should be based on the groves’ purpose, as well as their cultural and ecological significance to the local community, rather than solely on their size or extent. The Court further proposed suggestions to sustainably conserve the sacred groves/ orans of the Rajasthan and empower the communities associated with their protection. Some of the key suggestions are as follows:

1. the Rajasthan Government should identify traditional communities that have historically protected sacred groves and designate these areas as ‘Community Forest resource’ under Section 2(a) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (“**Forest Rights Act**”);
2. models like Piplantri village demonstrate how community driven initiatives can effectively address social, economic, and environmental challenges in a cohesive manner. Active measures are required at the Governmental level to ensure that such ideas are implemented/replicated in other parts of the country to promote sustainable development and gender equality; and
3. the Ministry of Environment, Forests and Climate Change (“**MoEFCC**”) is recommended to create a comprehensive policy for the governance and management of sacred groves across the country. As part of this policy, the MoEFCC must also develop a plan for a nationwide survey of sacred groves, by whatever name they are identified in each State. Further, the court suggested that MoEFCC should strive to create policies and programs that protect the rights of these communities and involve them in forest conservation.

Delhi’s solid waste crisis demands immediate action; SC directs authorities to comply

The Supreme Court in its order dated December 19, 2024, in *MC Mehta vs Union of India*, addressed several critical environmental concerns, particularly related to solid waste management, air quality, and pollution control raising concerns over the Delhi government and the Municipal Corporation of Delhi’s non-compliance with the Solid Waste Management Rules, 2016 (“**SWM Rules**”). It directed the Delhi government to submit a detailed affidavit outlining compliance with specific provisions and timelines under the SWM Rules.

The Court observed that Delhi generates 11,000 tonnes of municipal solid waste daily, however, experiences a processing shortfall of 3,000 tonnes per day which has resulted in widespread illegal dumping. This situation poses

¹ 2024 INSC 997.

significant risks to the environment and public health while violating the citizens' fundamental right to a pollution-free environment. The Court urged authorities to adopt innovative solutions to address the deficit and warned that unchecked waste generation might necessitate a reassessment of the city's development activities.

The Court also highlighted the daily dumping of 3,800 tonnes of solid waste at the Ghazipur and Bhalswa sites, which causes environmental degradation and frequent fires. It directed the Delhi government to submit an affidavit by January 15, 2025, detailing measures taken to prevent fires at these sites and mitigate their environmental impact. Additionally, the Court instructed the Delhi government and the Municipal Corporation of Delhi to file a comprehensive affidavit addressing all aspects of compliance with the 2016 Rules.

The National Green Tribunal sets up a joint committee to examine Bengaluru's nitrogen dioxide levels

The National Green Tribunal vide Order dated December 19, 2024, has constituted a joint committee to examine the high levels of nitrogen dioxide in Bengaluru. The said committee is instructed to visit site, collect relevant information and submit a factual report within 2 (two) months from the date of this order, with the Registrar, Southern Zonal Bench, Chennai of this Tribunal.

Regulatory updates

Battery Waste Management (Third Amendment) Rules, 2024

MoEFCC, *vide* notification dated December 3, 2024, has amended the Battery Waste Management Rules, 2022 to decriminalize certain contraventions under the rules, providing that any person who fails to comply with or contravenes the provisions of the principal rules will be liable to a penalty in accordance with the provisions of Section 15 of the Environment (Protection) Act, 1986.

Draft Environment Protection (Extended Producer Responsibility for Packaging made from Paper, Glass and Metal as well as Sanitary Products) Rules, 2024

MoEFCC, *vide* notification dated December 6, 2024, has notified the draft rules to introduce Extended Producer Responsibility (“EPR”) for promoting sustainable packaging practices, ensuring environmentally sound management of post-consumer paper including paper board, glass, metal (excluding non-ferrous metal based) packaging and sanitary products and to promote circular economy through reuse, recovery and recycling thereby creating new opportunities for economic activities, green jobs and innovations. MoEFCC has invited stakeholders to submit comments, suggestions, or objections by February 4, 2025.

Draft Solid Waste Management Rules, 2024

MoEFCC, *vide* notification dated December 9, 2024, has notified the draft rules. The salient features are as follows:

1. the rules inter alia propose to focus on waste management in environmentally sustainable ways. Special duties have been carved out for operator of waste processing facilities. Further, standards for incineration i.e. emission from incinerators/thermal technologies in solid waste treatment facility have been specified in Schedule II of these rules;
2. more intricate manner for segregation of waste i.e. categories like wet, dry, sanitary and special care waste added;

3. mandatory usage of Refuse Derived Fuel (“**RDF**”)/solid recovered fuel in industrial units using solid fuel (which are located near solid waste-based RDF plants). This was earlier limited to 5% in the Solid Waste Management Rules, 2016. Now the prescribed limit is 6 to 15%;
4. carves out special duties for bulk waste generators like industrial units;
5. use of centralised online portal for registering waste management entities;
6. landfill user fee introduced for urban/rural local body for waste sent to landfills- which will be higher than collection, transportation and waste processing costs. This fee collected shall be used towards processing of unsegregated waste/solid waste management infrastructure of the local body;
7. closer monitoring of biomining of legacy waste through centralised online portal where agencies will be required to disclose, update process, file quarterly returns etc. on the portal; and

polluter pays principle is applied for non-compliance of these rules – compensation to be determined by implementation committee formulated by Central Pollution Control Board (“**CPCB**”) which will also lay down guidelines.

MoEFCC has invited stakeholders to submit comments, suggestions, or objections by February 7, 2025. The rules are proposed to be implemented on October 1, 2025.

Public Liability Insurance (Amendment) Rules, 2024

MoEFCC, *vide* notification dated December 17, 2024, has notified the amendments made to the Public Liability Insurance Rules, 1991. Some of the key provisions are as follows:

1. Rule 3 is revised to specify that applications for relief or property restoration will be made to the collector using Form I. Further, it is clarified that an application for claim for restoration of the property may also be filed by a person who holds an interest in the affected public property, and can demonstrate a direct and substantial connection with that property;
2. Rule 3A is inserted outlining the process for allocating funds from the environmental relief fund for environmental damage restoration. The CPCB or State Pollution Control Boards (“**SPCBs**”) will apply to the Central Government using Form II. The Central Government will then determine the allocation (up to 10% of the fund) using Form III. The CPCB/SPCBs will maintain accounts and submit annual reports on fund utilisation; and
3. Rule 5A is inserted mandating industrial units to publicise among the affected persons their right to claim for relief in case of an accident occurring in any industrial unit.

Environment Relief Fund (Amendment) Scheme, 2024

MoEFCC, *vide* notification dated December 17, 2024, has notified the amendments made to the Environment Relief Fund Scheme, 2008. Some of the key provisions are as follows:

1. the relief fund will be vested in the Central Government;
2. the sources of the fund are clarified to include amounts remitted as compensation or relief for environmental damage under Section 24 of the National Green Tribunal Act, 2010; penalties and additional penalties imposed under Sections 14, 15, or 17 of the Public Liability Insurance Act, 1991 and interest or returns earned on fund investments;
3. CPCB will serve as the fund manager for a period of 5 (five) years, starting January 1, 2025. This replaces the previous role of United Insurance Company Limited;
4. payments to the fund can be made *via* demand draft or other electronic modes;

5. the percentage of the fund allocated for administrative expenses has been increased from 1% to 2%;
6. the fund manager will develop and maintain an online portal for implementing the scheme and disburse funds based on orders issued by the District Collector or the Central Government; and
7. the fund's accounts will be audited by an independent auditor appointed by the Central Government from a panel approved by the Comptroller and Auditor-General.

Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2024

The Securities and Exchange Board of India ("**SEBI**"), *vide* notification dated December 12, 2024, has notified the SEBI (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2024 ("**LODR Amendment Regulations**"), for significantly amending the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("**LODR Regulations**"). The LODR Amendment Regulations have been made effective from December 31, 2024, except for certain provisions relating to secretarial audit, which will be effective from April 1, 2025. Some of the key provisions of the LODR Amendment Regulations are as follows:

1. Related Party Transactions ("RPTs"):

- a) The term 'related party transaction' will not include the following: (i) corporate actions by subsidiaries provided by the subsidiaries of the listed entity; (ii) acceptance of current account deposits and saving account deposits by banks in compliance with the directions issued by the Reserve Bank of India or any other central bank in the relevant jurisdiction from time to time; and (iii) retail purchases from any listed entity or its subsidiary by its directors or its employees, without establishing a business relationship and at the terms which are uniformly applicable/offered to all employees and directors.
- b) Remuneration and sitting fees paid by listed companies or its subsidiaries to its director, key managerial personnel or senior management, except who is part of promoter or promoter group no longer require the approval of the audit committee (if the same are not material).
- c) The members of the audit committee, who are independent directors, may ratify RPTs within 3 (three) months from the date of the transaction or in the immediate next meeting of the audit committee (whichever is earlier), subject to the following conditions:
 - i) the value of the RPT whether entered into individually or taken together, during a financial year must not exceed INR 1,00,00,000 (Indian Rupees one crore);
 - ii) the transaction is not material;
 - iii) rationale for inability to seek prior approval for the transaction must be placed before the audit committee at the time of seeking ratification; and
 - iv) the details of ratification must be disclosed along with the RPT disclosures submitted with the stock exchanges.
- d) The transactions in the nature of statutory dues, statutory fees or statutory charges entered into between an entity and the Central Government or any State Government or any combination thereof are exempted as an RPT. Further, transactions between a public sector company and the Central Government or any State Government or any combination thereof are also exempted.

2. Compliance Officers:

- a) Compliance officer of a listed entity must be in the whole-time employment of such listed entity. Further, the compliance officer must not be more than one level below the board of directors.
- b) Compliance officer of the listed entity will be designated as key managerial personnel.

- c) Any vacancy in the office of the compliance officer of a listed entity in respect of which a resolution plan under Section 31 of the Insolvency and Bankruptcy Code, 2016 has been approved, must be filled within a period of 3 (three) months of such approval.

3. **Directors:**

- a) A person can be appointed as the non-executive director of a listed entity until the age of 75.
- b) In case a listed entity wants to appoint a person of more than 75 years as its non-executive director, the shareholders of such listed company will be required to pass a special resolution to that effect, in which case the explanatory statement annexed to the notice for such motion must indicate the justification for appointing such a person as the non-executive director.
- c) In case there is a vacancy in the committees of the board of directors of a listed entity, such vacancy must be filled within 3 months or by the date of the vacancy's occurrence, whichever is earlier.

- 4. **Investor Grievance Redressal:** A listed entity must file with the recognised stock exchange(s), on a quarterly basis, a statement detailing the redressal of investor grievances in such form and within the timelines as may be specified by SEBI.

- 5. **Peer Reviewed Company Secretary:** The term 'peer reviewed company secretary' is inserted to mean a company secretary in practice, who is either practicing individually or as a sole proprietor or as a partner of a peer reviewed practice unit, holding a valid certificate of peer review issued by the institute of Company Secretaries of India. Further, a person will be eligible for appointment as a secretarial auditor of the listed entity only if such person is a peer reviewed company secretary and has not incurred any of the disqualifications as specified by SEBI.

Industry standards on reporting of business responsibility and sustainability report core

SEBI, *vide* circular dated December 20, 2024, has outlined industry standards for the reporting of the Business Responsibility and Sustainability Report ("BRSR") Core. These standards, developed by the Industry Standards Forum, aim to facilitate the standardisation and ease of implementation of BRSR Core disclosures under the LODR Regulations and will be applicable for the financial year 2024-25 and onwards.

Clarifications on Cybersecurity and Cyber Resilience Framework

SEBI, *vide* notification dated December 31, 2024, has clarified that with regard to the compliance requirements effective from January 1, 2025, under the Cybersecurity and Cyber Resilience Framework ("CSCRF"), regulatory forbearance is provided till March 31, 2025. For any non-compliance during this period that comes to the notice of the regulator, no regulatory action will be taken provided the Regulated Entities ("REs") are able to demonstrate meaningful steps taken/progress made in implementation of CSCRF. An opportunity will be given to the REs to demonstrate the same before any regulatory action is considered by SEBI. Further, it is clarified that the circular is effective from January 1, 2025, but the date of compliance of CSCRF for Know Your Client registration agencies and depository participants is extended from January 1, 2025, to April 1, 2025.

Other Developments

Department of Chemicals and Petrochemicals launches the first training programme on "Chemical and Petrochemical Industrial Safety"

Department of Chemicals and Petrochemicals, *vide* press release dated December 3, 2024, has announced the launch of the first training programme on "Chemical and Petrochemical Industrial Safety" at Ahmedabad, Gujarat. The first 2 (two) day residential training programme was conducted from November 28, 2024, to November 29, 2024, at Central

Institute of Petrochemical Engineering & Technology: Institute of Petrochemicals Technology Ahmedabad, focusing on major accident hazard units in the chemical and petrochemical sector.

Union Minister of Steel and Heavy Industries unveiled the “Taxonomy of Green Steel”

The Ministry of Steel, *vide* press release dated December 12, 2024, announced that Union Minister of Steel and Heavy Industries, Shri H D Kumaraswamy, unveiled the “Taxonomy of Green Steel” for India. This initiative marks a global first, providing a formal definition for green steel while advancing India’s commitment to achieving net-zero emission intensity by 2070.

The taxonomy sets standards to define and categorize low-emission steel, outlining a framework for green steel production, market creation, and securing financial support for the steel industry's green transition. The taxonomy introduces a star-rating system based on CO₂ emission intensity, categorizing steel into five, four, and three-star ratings for emission levels below specific thresholds, while steel with emissions exceeding 2.2 t-CO₂e/tfs is ineligible for green certification.

Ministry of New and Renewable Energy announces significant amendment to the Approved Models and Manufacturers of Solar Photovoltaic Modules Order 2019 to advance solar manufacturing

The Ministry of New and Renewable Energy, *vide* press release dated December 10, 2024, has announced a significant amendment to the Approved Models and Manufacturers of Solar Photovoltaic Modules (“**ALMM**”) Order, 2019 which will have far-reaching implications for India’s solar power sector and its clean energy transition. Taking effect from June 1, 2026, the amendment introduces List-II for solar photovoltaic (“**solar PV**”) cells under the ALMM framework, mandating that all solar PV modules used in projects, including government-backed schemes, net-metering projects, and open access renewable energy initiatives, source their solar cells from ALMM-approved manufacturers. This move aims to bolster domestic manufacturing, ensure quality assurance, and foster self-reliance in India’s renewable energy sector.

Existing projects which were bid out before the amendment’s issuance will be exempt, but all future bids must comply, signifying a shift toward sustainability and higher standards in the solar industry. Prioritizing domestic solar PV cell production will reduce India’s dependency on imports augmenting India’s goal of achieving 500 GW of non-fossil fuel power by 2030.

Environment, ESG and Climate Change Practice

The Firm advises and represents clients in environmental disputes before the National Green Tribunal, High Court(s) and the Supreme Court of India. We also advise clients on environment, social and governance (ESG) issues and assist them in ensuring compliance with the relevant laws. The firm has been regularly advising clients in matters relating to climate change and energy transition.

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