

Supreme Court Quashes 2021 Order on Ex Post Facto Environmental Clearances

The Supreme Court quashed a 2021 Office Memorandum allowing retrospective environmental clearances for projects operating without prior approval.

Ex post facto environmental clearance refers to grant of environmental approval after a project has already commenced construction or operation without prior mandatory approval under EIA 2006.

KEY EXAM POINTS

- The judgment was authored by Justice **Joymalya Bagchi** for a Bench headed by Chief Justice of India **Surya Kant** on **July 29, 2026**.
- The Supreme Court quashed the **2021 Office Memorandum** issued by the **Ministry of Environment, Forest and Climate Change** allowing retrospective clearances.
- The court quashed the 2021 order **prospectively** to prevent disruption to ongoing **infrastructure projects** already granted approvals.
- The Supreme Court restrained the **Union Government** from using routine **administrative orders** to grant ex post facto clearances in the future.
- The court upheld the Centre's power under the **Environment (Protection) Act, 1986** to provide **amnesty schemes** in exceptional public interest cases via statutory rules.

STATICS & SYLLABUS FOCUS

The **Environment (Protection) Act** was enacted in **1986** under **Article 253** of the Constitution following the **1972 Stockholm Conference**.

Article 48A of the Indian Constitution, added by the **42nd Amendment Act 1976**, directs the State to protect and improve the environment.

Article 51A(g) of the Constitution mandates every citizen of India to protect and improve the natural environment.

The **Environmental Impact Assessment** (EIA) Notification was issued in **2006** under the Environment (Protection) Act, 1986, mandating prior environmental clearance.

The Water (Prevention and Control of Pollution) Act was enacted in **1974**, while the Air (Prevention and Control of Pollution) Act was enacted in **1981**.

The **National Green Tribunal** (NGT) was established in **2010** under the NGT Act **2010** for effective disposal of environmental protection cases.

In the **Vellore Citizens Welfare Forum** case (**1996**), the Supreme Court formally integrated the '**Precautionary Principle**' and 'Polluter Pays Principle' into Indian law.

REVISION FLASHCARD

Supreme Court quashes 2021 OM allowing ex post facto environmental clearances, limiting amnesty strictly to statutory rules under EPA 1986.

Syllabus Relevance: Covers Unit 5 (Indian Polity - Judiciary & Statutory Acts) and Unit 3 (Environmental Protection & Policy) for TNPSC Group 1, 2, and 4.

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