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**ENVIRONMENTAL LAW***G.B.Reddy\**

## I INTRODUCTION

IT IS UNIVERSALLY accepted that life will become extinct without environmental protection. During the year under survey, many developments took place in India concerning the environmental conditions and qualities, environmental resources and their uses, human settlements and environmental health, environmental protection, management and regulation. Lifestyle for Environment (LiFE) has been recognized by the Union Ministry of Environment, Forest and Climate Change (MoEFCC) as an India-led global mass movement to nudge individual and community behaviour towards sustainable actions for the environment.<sup>1</sup> A unique tree plantation campaign “एक पेड़ माँ के नाम” (#Plant4Mother) was launched by the Prime Minister on June 5, 2024, on World Environment Day, with the planting of a Peepal sapling at Buddha Jayanti Park, New Delhi. The campaign draws a symbolic connection between the nurturing of nature by Mother Earth and the care provided by human mothers. This campaign has attracted a good response from all the stakeholders. Some of the most significant developments witnessed during the year under review are discussed hereunder.

## II Environmental protection and forest conservation

In *Ashok Kumar Sharma v. Union of India (UOI)*,<sup>2</sup> the Supreme Court considered the constitutional validity of the Forest Conservation Amendment Act, 2023 which introduced Section 1A to clarify that certain lands would and would not be covered within the meaning of ‘forest’ under the 1980 Act. Sub-section (1) of Section 1A, as introduced, indicates that two categories of lands are sought to be covered under the provisions of the parent enactment, namely, (i) lands which have been declared or notified as forests under the Act of 1927 or any other law for the time being in force; and (ii) lands not covered by (i) but which are recorded in government records as forests on or after October 25, 1980. While recording that a co-ordinate Bench of this court has reserved orders on the subject the court issued an interim order to the effect that any proposal for the

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1 See Annual Report 2024-25 published by MoEFCC of Government of India, at 14.

2 MANU/SC/0795/2024: 2024(14) FLT460.

establishment of zoos and safaris referred to in the Wild Life Protection Act 1972, enacted by the government or any authority in forest areas other than protected areas, shall not be finally approved by the States/Union Territories, save and except with the prior permission of the apex Court. The court relied upon its earlier judgment in *T.N. Godavarman Thirumulpad v. Union of India*,<sup>3</sup> where the court, while noting that the Forest Conservation Act, 1980 was enacted to curb the deforestation which results in an ecological imbalance, indicated that the provisions incorporated to conserve forests and for other connected matters “must apply to all forests irrespective of the nature of ownership or classification”.

In *T.N. Godavarman Thirumulpad v. Union of India (UOI)*,<sup>4</sup> the Supreme Court dealt with the protection of “Sacred Groves” existing in certain States like Kerala, Karnataka, Himachal Pradesh and Rajasthan, and noted that India is home to thousands of community-protected forests known as ‘Sacred Groves’. These areas are patches of forest or clusters of trees that hold deep cultural or spiritual significance for the local communities that protect and sustain them. India has the highest concentration of sacred groves in the world; however, these groves are rapidly vanishing due to the increasing demand for timber, urban expansion, deforestation for agriculture, and the pressure to extract natural resources. The present interlocutory application concerned the protection of the sacred groves of Rajasthan.

Previously, the court, in its judgment rendered in 1996 in *T.N. Godavarman Thirumulpad v. Union of India*,<sup>5</sup> held that the Forest Conservation Act, 1980, applies to all forests, irrespective of their classification, and directed state governments to identify forests through expert committees. In compliance with these directions, the State of Rajasthan constituted the State Level Expert Committee, which submitted its report and identified sacred groves, such as Bundhs, and Dev-vans, for classification as ‘forests’. It is recommended that ‘deemed forests’ would be “a compact area of at minimum 5 hectares and where naturally growing a minimum of 200 trees per hectare exist. “The court noted that the Rajasthan State Forest Policy, 2010, provided a detailed framework for the protection of sacred groves (Oran’s/Dev-vans), emphasizing their ecological and cultural significance. The court observed that:

Given their ecological, cultural, and spiritual significance, the Oran lands must be granted the legal status of “forests” under the FC Act. This designation would not only ensure their protection against encroachment and degradation but also reinforce community participation in sustainable forest management. Recognizing Orans as forests aligns with both domestic legal mandates and international commitments, fostering a harmonious balance between cultural heritage and biodiversity conservation for present and future generations.

3 MANU/SC/0278/1997 :1996: INSC:1477: (1997) 2 SCC 267.

4 MANU/SC/1359/2024.

5 MANU/SC/0278/1997:1996: INSC:1477: (1997) 2 SCC 267.

The court issued certain suggestions to promote the sustainable conservation of sacred groves and empower the communities associated with their protection. As section 3(1)(j) of the Forest Rights Act, recognizes the rights of tribal communities under State laws, Autonomous District or Regional Council laws, and their traditional or customary laws to ensure respect for the diverse legal and cultural practices of tribal communities across India, the Rajasthan Government was directed to identify traditional communities that have historically protected sacred groves and designate these areas as ‘Community Forest resource’ Under section 2(a) of the Forest Rights Act.

While highlighting the inter-dependence of tigers and forests, the Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India (UOI)*<sup>6</sup> dealt with the issue of the establishment of a ‘Tiger Safari’ in the buffer zone of the Corbett National Park, and the probable impact on the protection and conservation of the Biological Diversity, flora and fauna, as well as the ecology. The court held that:<sup>7</sup>

It is well known that the presence of a Tiger in the forest is an indicator of the well-being of the ecosystem. Unless steps are taken for the protection of the Tigers, the ecosystem revolving around Tigers cannot be protected. The figures which are placed before us show that there has been a substantial reduction in tiger poaching and an increase in the tigers’ strength throughout the country. However, that should not be enough. The ground realities cannot be denied. Events like illegal constructions and illicit felling of trees on a rampant scale, like the one that happened in the Corbett National Park, cannot be ignored. Steps are required to prevent this.

In the peculiar facts, the court was inclined to approve the establishment of the ‘Tiger Safari’; however, it was found that when the Tiger Conservation Plan (TCP) of 2015 itself provided for the establishment of a Rescue Centre-cum-Tiger Safari at a nearby place, there appears to be no logic for establishing a rescue centre at another place. The court, therefore, found that it would be appropriate to direct the State of Uttarakhand to also relocate the rescue centre near the ‘Tiger Safari’. Looking at the empirical evidence of the impact of carnivores in maintaining the ecosystem of forests, the efforts of tiger conservation in the Jim Corbett National Park, an iconic National Park of this country, are imperative and of utmost importance, as per the top court.

In *Tapas Guha v. Union of India (UOI)*,<sup>8</sup> the Supreme Court stayed the activities for the construction of a Greenfield airport at Silchar in the State of Assam on the ground of absence of environmental clearance, and observed that:<sup>9</sup>

Environmental Regulations are in place precisely to ensure that developmental projects, such as the establishment of airports, are

6 MANU/SC/0178/2024: AIR2024SC1955

7 *Id.*, para 159.

8 MANU/SC/0421/2024: AIR 2024 SC 3186.

9 *Id.*, para 21.

undertaken in a manner that minimizes adverse ecological impacts and safeguards the well-being of both the environment and local communities. While acknowledging the importance of infrastructure development, it is paramount that such projects proceed in harmony with environmental laws to prevent irreparable damage to ecosystems and biodiversity. The requirement for Environmental Clearance serves as a crucial safeguard against unchecked exploitation of natural resources and helps uphold the principles of sustainable development, which safeguard the interests of both present and future generations. Therefore, while the decision to establish an airport may serve broader policy objectives, it must be executed within the confines of legal frameworks designed to protect the environment and ensure responsible resource management. Failure to adhere to these norms not only undermines the integrity of environmental governance but also risks long-term environmental degradation and societal discord”.

In *Suo Motu v. State of Goa*,<sup>10</sup> a division bench of High Court of Bombay directed the Chief Secretary, State of Goa to hold an inquiry into a large-scale, unauthorized activity of mining sand, gravel, and pebbles from the *Ragada* River at a location protected by forest and wildlife legislation allegedly without the knowledge of the DMG, Police, Forests and Revenue Officials. The chief secretary was also directed to fix the responsibility on the concerned officials.

The High Court of Calcutta permitted the felling of trees as per the sanction given, for the Calcutta Metro Rail, in the case of *People United for Better Living in Calcutta (Public) v. State of West Bengal*<sup>11</sup> and observed that “there should be a balance, a delicate balance between the protection of ecology and environment and implementation of development projects in public interest.” (Para 30)

In the *State of Kerala v. T. Easwaranunni*,<sup>12</sup> a division bench of the High Court of Kerala upheld the action of the State to restore the status of certain private forest lands excluded from the purview of the ecologically fragile land by an authority, in the larger public interest, taking note of a public outcry of wrongful loss of a large tract of ecologically fragile lands. It was noted that the State found the order of its officer to remove the lands from the notification under the transitional powers under Section 19(3)(b) of the Kerala Forests (Vesting and Management of Ecologically Fragile Lands) Act, 2003, was vitiated by fraud on the part of the private parties and collusion by the officer.

In *National Environment and Forest Protection Trust Regd. v. State of Haryana*,<sup>13</sup> the high court restrained the state government from cutting about 150 trees, which are a century old, standing on the land allotted for the purpose of

10 MANU/MH/3073/2024.

11 MANU/WB/1131/2024

12 MANU/KE/4744/2024: 2024/KER/89303

13 MANU/PH/3990/2024: (2024)214PLR669.

constructing a police station and a police line, which was also adjacent to a water body.

In *Re: Save the Trees (1.19 lakh in number) proposed to be cut down for Establishment of pumped storage project in Shahbad block district Baran*,<sup>14</sup> a division bench of the Rajasthan High Court took cognizance of the reports published in daily newspapers *i.e.*, *Rajasthan Patrika* and *Dainik Bhaskar*, wherein it has been highlighted that at a short distance of 15 kms from the Kuno National Park in Rajasthan's territory *i.e.*, District Baran, 1.19 lakh trees are being proposed to be cut down for establishment of a Pumped Storage Project in Shahbad Block of Baran District, Rajasthan. The court issued notices to the respondent authorities to explain the facts.

In *Forum for A Better Hyderabad v. The Govt. of India, Ministry of Environment & Forests Prayavaran Bhavan*<sup>15</sup>, the High Court of Telangana refused to entertain a writ petition against the allotment of forest lands before commencement of the Forest (Conservation) Act, 1980, in respect of the land which was not declared as reserved forest either under the Hyderabad Forest Act, 1355 Fasli or under section 15 of the Telangana Forest Act, 1967, mainly on the technical grounds including the delay and laches on account of the petitioners having not been diligent even in prosecuting the writ petition.

In *State of Uttarakhand v. Gulshan Bhanot*,<sup>16</sup> the High Court of Uttarakhand declared that 26 hectares of land that has been offered to the High Court at Golapar in Haldwani for making the new high court. Out of these 26 hectares of land, 75% of the land is full of trees. So, the Court did not want to uproot any of the trees to make a new high court; therefore, they are not using that land.

### III ENVIRONMENTAL DAMAGES

Nowadays, it is a common practice for the NGT and also the apex court to impose environmental damages on the companies that default on environmental compliance. In *Benzo Chem Industrial Private Limited v. Arvind Manohar Mahajan*,<sup>17</sup> the Supreme Court dealt with an appeal challenging an order passed by an NGT bench which imposed environmental damages to the tune of Rs 25 Crores on the ground that the operative revenue of the Appellant company ranges from 100 Crores to 500 Crores. While noting that the appellant was compliant with environmental requirements and that there was not a single non-compliance, the court ruled that the generation of revenue would have no nexus with the amount of penalty to be ascertained for environmental damages, and consequently quashed and set aside the orders of the NGT.<sup>18</sup>

14 MANU/RH/1284/2024.

15 MANU/TL/0909/2024: AIR2024 151, 2024(4) ALT138.

16 MANU/UC/0222/2024.

17 MANU/SC/1269/2024.

18 See also *G.T. Karnal Road Industrial Estate Cstp Society (Regd.) v. The Government of NCT of Delhi* MANU/DE/5985/2024: 2024: DHC:6735, 312(2024) DLT490, *Chennai Petroleum Corporation Limited [CPCL] v. National Green Tribunal Southern Zone*, MANU/TN/1425/2024: 20241WritLR467.

In *G. Rajagopalan v. State of Tamil Nadu*,<sup>19</sup> the High Court of Madras entertained a PIL filed by a senior advocate regarding the complete negligence and slackness in enforcing the Development Control Rules on the part of the Chennai Metropolitan Development Authority in the matter of granting permissions for constructions. The court directed the Greater Chennai Corporation to pay a cost of Rs. 5,00,000/- to the Cancer Institute at Adayar, Chennai and also the Pollution Control Board to pay a cost of Rs. 2,00,000/- to the same institute. The Pollution Control Board was also directed to frame guidelines to have a check on large-scale construction projects where there is a possibility of pollution.

In *Re Sustainability Healthcare Solutions Limited v. The Member Secretary, Tamil Nadu Pollution Control Board*,<sup>20</sup> the first respondent, imposed environmental compensation to the tune of Rs 91,29,750/- as against the petitioner, a company, claiming to have established several facilities for biomedical waste management across the country. The impugned communication was challenged mainly on the ground that such a huge environmental compensation was imposed without even an opportunity to the petitioner before assessment. Even though the court was not inclined to go into the details of violations against the petitioner, the assessment of environmental compensation without issuing a show cause notice informing the petitioner about the specific violations/deviations or non-observance was found to violate the principles of natural justice. Consequently, the communication imposing the environmental damages was set aside.

In *Prem Mohan Gaur v. National Highway Authority of India Through Chairman*,<sup>21</sup> the NGT imposed environmental compensation to the extent of Rs 45 crores on the National Highway Authority of India for the encroachment/covering/construction over the pond/water body and other violations at village Kiranj, District Nuh, State of Haryana.

In *Naresh Chaudhary v. Union of India*,<sup>22</sup> the NGT imposed a cost of 10,000 on Delhi's Public Welfare Department (PWD) and the Delhi government for their failure in filing a response in the matter of the alleged environmental violation at the Delhi Chief Minister's official residence.

#### IV Environmental release of transgenic mustard hybrid

There is a strong opinion that India, being the center of origin for many food crops, has to be more vigilant and cautious in adopting this new technology, which is still in the process of evolution. In particular, transgenic varieties of crops for which India is the center of origin should not be released for commercial cultivation until their impact is adequately assessed and there are serious concerns about contamination of the natural gene pool of crops originating in India. Further,

19 MANU/TN/0955/2024: 20241WritLR453.

20 MANU/TN/3363/2024: AIR 2024 Mad 171. See also *Sakthi Mining Company v. The Secretary to Government Industries Department*, MANU/TN/0607/2024.

21 Original Application No. 892/2022, NGT Principal Bench order dated Feb.13,2024.

22 Order dated Jan. 15, 2024.

it is also argued vehemently that farmers have the right to save seed for sowing in the next season, which a patent-based regime of GM seeds will effectively deny.

In the *GENE Campaign and others. v. Union of India (UOI)*,<sup>23</sup> the Supreme Court dealt with two decades old case wherein was urged among other grounds that the Herbicide Tolerance (HT) seeds of transgenic mustard hybrid DMH-11 have been sown in five locations and in the absence of a proper and lawful approval of the same, the plants should be uprooted and destroyed immediately, so that no environmental contamination takes place. On the other hand, it was argued that the petitioners have voiced unfounded fears of adverse impact of GM crops, even when India is already importing and consuming oil derived from said GM crops, that the transgenic mustard hybrid DMH-11 has shown an increase per-hectare yield by 25-30 per cent over the traditional varieties due to exploitation of hybrid vigor and that as mustard is one of the highest oil-bearing of oilseeds utilized in India, the domestic production of edible oil would considerably increase if DMH-11 hybrid technology is employed. The court noted that many authorities like the Recombinant DNA Advisory Committee (RDAC), Genetic Engineering Appraisal Committee (GEAC), Review Committee on Genetic Manipulation (RCGM) and Institutional Biosafety Committee (IBSC) have been constituted in India to regulate the GMO research in the country, and that the questions involved are highly technical and polycentric in character.

Justice Nagarathna was of the view that the GEAC approval dated 18.10.2022 and the consequent decision dated October 25, 2022 regarding the environmental release of transgenic mustard hybrid DMH-11 are vitiated, and also that the impugned approval was in gross violation of the principle of public trust.[Para 43]. On the issue of the right to safe and healthy environment, the judge noted that in spite various scholars and public activists raising serious objections to the conduct of the appraisal process, particularly the refusal to disclose the bio safety dossier to the general public, and though these objections initially weighed with GEAC to defer environmental release of DMH-11 in the years 2019-2021, but in the year 2022, things moved with an undue haste and speed and thereby GEAC ignored all precautionary measures suggested by TEC as well as by the sub-committee constituted by it and simply leap frogged into the impugned decision approving. The judge, therefore held that the recommendations of GEAC as well as the decision taken by the Respondent Union of India in 2022 about approving environmental release of transgenic mustard hybrid DMH-11 on the application made by the applicant, namely, CGMCP, University of Delhi (South Campus) are vitiated and hence, they are liable to be quashed, further observed that the recommendation of the Expert Committee constituted by the GEAC in the year 2022 was of no consequence and not binding. However, JS. Sanjay Karol was unable to agree with the findings, conclusions so drawn, and certain directions given by the other judge forming the bench, and held that the conditional approval, leading to field trials for DMH-11, is in line with a developmental approach of a scientific temper. The judge held that:

23 MANU/SC/0743/2024: 2024 INSC 545.

“.....the field testing of DMH-11, pursuant to the conditional approval of the GEAC, with sufficient safeguards and precautions, ought to continue and cannot be said to be violative of the precautionary principle and therefore, the constitutional challenge thereto fails”.<sup>24</sup>

The question of a ban on crops is not warranted in view of the precautionary principle, and it is a decision squarely within the domain of policy.<sup>25</sup>

However, the bench reached a consensus and issued the following directions:

- i) The Respondent-Union of India is directed to evolve a National Policy about GM crops in the realm of research, cultivation, trade and commerce in the country. The said National Policy shall be formulated in consultation with all stakeholders, such as experts in the field of agriculture, biotechnology, State Governments, representatives of the farmers, *etc.* The National Policy to be formulated shall be given due publicity.
- ii) For the aforesaid purpose, the MoEFCC shall conduct a national consultation, preferably within the next four months, to formulate the National Policy on GM crops. The State Governments shall be involved in evolving the National Policy on GM crops.
- iii) Respondent - Union of India must ensure that all credentials and records of any expert who participates in the decision-making process should be scrupulously verified, and conflict of interest, if any, should be declared and suitably mitigated by ensuring representation to a wide range of interests. Rules in this regard may be formulated having a statutory force.
- iv) In the matter of importing of GM food and more particularly GM edible oil, the Respondent shall comply with the requirements of Section 23 of FSSA, 2006, which deals with packaging and labelling of foods.<sup>26</sup>

Having regard to the difference of opinion expressed by us on the decision of the GEAC and MoEF granting conditional approval for environmental release of DMH-11, the Registry was directed to place the matter before the Chief Justice of India for constituting an appropriate Bench to consider the said aspect afresh.

#### V Effective functioning of environmental bodies- court monitored mechanism

The judiciary in India, more particularly the apex court, has contributed immensely to environmental protection during the last 40 years. One of the active measures initiated by the top court has been the Central Empowered Committee (CEC), initially constituted as an *ad hoc* body in response to court directions. In *T.N. Godavarman Thirumulpad v. Union of India (UOI)*,<sup>27</sup> the Supreme Court noted that the CEC was originally directed to be constituted by an order of the Court in September 2002, and that, almost for a period of two decades, the CEC was

<sup>24</sup> *Id.*, para 97.

<sup>25</sup> *Id.*, para 100.

<sup>26</sup> *Id.*, para 107.

<sup>27</sup> MANU/SC/0077/2024: AIR2024SC1029.

functioning as an ad hoc body. It was noticed that the present composition of the CEC also consisted of persons who are more than 75 years of age and some of whom are also residing outside India. Further, it was also noticed that much water had flown when the CEC was initially constituted, inasmuch as various enactments concerning environmental issues were enacted, so also various regulatory bodies were constituted under the said enactments.<sup>28</sup> Therefore, to have a relook at the CEC's functioning, the court passed orders in March 2023 and May 2023 in this regard for institutionalization and reconstitution of the CEC.

Accordingly, the Ministry of Environment, Forest and Climate Change (MoEFCC) issued a Notification in September 2023 under Section 3(3) of the Environment (Protection) Act, 1986, for constituting the CEC as a permanent body for "the purposes of monitoring and ensuring compliance of the orders of the Supreme Court covering the subject matter of Environment, Forest and Wildlife, and related issues arising out of the said orders and to suggest measures and recommendations generally to the State, as well as Central Government, for more effective implementation of the Act and other orders of the Court".<sup>29</sup> This permanent authority, *i.e.*, the Central Empowered Committee (CEC), for monitoring and ensuring compliance of this Court's orders covering the subject matter of environment, forest, and wildlife and related issues arising out of these orders; and to suggest measures and make recommendations to the states and Central Government for more effective implementation of the Act and this Court's orders. Under the new notification, the CEC shall comprise: i) Chairman, ii) Member Secretary, and iii) Three expert members (one each from the fields of environment, forest, and wildlife to be nominated by the Central Government. The court's concerns regarding the functioning of the CEC as an ad hoc body and that, hereinafter, it should be institutionalized as a permanent body have been taken care of, and the notification provides for the constitution of the CEC, its powers, functions, and mandate. In this judgment, the court referred to the environmental rule of law, existing institutional governance of the environment in India and how effectively these environmental bodies are functioning today, and emphasized and reiterated the importance of ensuring the effective functioning of these environmental bodies, as this is imperative for the protection, restitution, and development of the ecology. The court reiterated that the constitutional courts will monitor the functioning of these institutions so that the environment and ecology are not only protected but also enriched. This judgment is an apt example of the much-needed judicial activism at one point in time and the necessary follow-up action by the State.

28 Like the Animal Welfare Board of India, Atomic Energy Regulatory Board, Central Pollution Control Board, State Pollution Control Boards, Director of Wild Life Preservation, Chief Wild Life Wardens, Wild Life Wardens, and Honorary Wild Life Wardens, National Board for Wild Life, State Boards for Wild Life, National Tiger Conservation Authority, Coastal Zone Management Authority, Central Groundwater Board, National Biodiversity Authority, State Biodiversity Boards, National Disaster Management Authority, State Disaster Management Authorities, National Green Tribunal, and Environment Impact Assessment Authorities. See Para 26 of the judgment].

29 See *T.N. Godavarman Thirumulpad v. Union of India*, MANU/SC/0278/1997: (1997) 2 SCC 267.

### Garbage processing plants

The increasing urbanization always poses increased challenges to garbage processing. In *Pune Municipal Corporation v. Sus Road Baner Vikas Manch*,<sup>30</sup> the Supreme Court overruled a judgment and order of the NGT which directed the closure of a Garbage Processing Plant (GPP), where the application for its authorization, the grant of authorization, the grant of Environment Clearance by the SEIAA and the commencement of the GPP all had taken place prior the date on which the Municipal Solid Waste (Management and Handling) Rules, 2016 Rules came into force. The court found that the NGT had erred in considering the facts correctly, and held that the closure of the GPP in question, rather than serving the public interest, would be detrimental to the public interest. If the GPP in question is closed, the organic waste generated in the western part of Pune city would need to be taken all the way throughout the city to a distant place, which would undoubtedly lead to foul odour and nuisance to the public. It could thus be seen that the 2016 Rules also give preference to the on-site processing of the waste.

#### VI NGT-jurisdiction and procedures

In *Grasim Industries Limited v. The State of Madhya Pradesh*,<sup>31</sup> the Supreme Court held that the approach of the NGT in deciding the matter without impleading an affected party and passing its decision on an outsourced opinion of the experts is not permissible on the ground of violation of the principle of natural justice. Thus, it was held that the company, which was not impleaded as a party before the NGT in spite of its application and before an outsourced expert committee, cannot be directed to pay a huge environmental penalty for the so-called violations under the Environment (Protection) Act 1986.<sup>32</sup> In *Veena Gupta v. Central Pollution Control Board*,<sup>33</sup> the Supreme Court set aside two orders passed by the National Green Tribunal without following the principles of natural justice. The Court made the following pertinent observations:

It is evident from the above that the Tribunal itself has noted that notices were not issued to the Project Proponents. The Tribunal, in fact, considers it unnecessary to hear the Project Proponent to verify the facts in issue. The tribunal thought it appropriate to adopt this method in view of a Joint Inspection Report that had been submitted. The persons who were prejudiced by the order of the Tribunal naturally filed Review Petitions before the Tribunal... and dismissed by the Tribunal...<sup>34</sup>

The National Green Tribunal's recurrent engagement in unilateral decision-making, providing ex post facto review hearings, and routinely dismissing them

30 MANU/SC/1007/2024: AIR 2024 SC 4452

31 MANU/SC/1276/2024: 2024 INSC 926.

32 See also *Municipal Corporation of Greater Mumbai v. Ankita Sinha* MANU/SC/0815/2021: 2021: INSC: 624: (2022) 13 SCC 401.

33 MANU/SC/0086/2024: 2024 INSC 89, 2024 (2) SCALE 200.

34 *Id.*, para 3.

has regrettably become a prevailing norm. In its zealous quest for justice, the Tribunal must tread carefully to avoid the oversight of propriety. The practice of ex parte orders and the imposition of damages amounting to crores of rupees have proven to be a counterproductive force in the broader mission of environmental safeguarding".<sup>35</sup>

In *Nagar Palika Parishad v. State of UP*,<sup>36</sup> a division bench of the Allahabad High Court held that the challenge made to the orders passed by the Chief Environmental Officer of Uttar Pradesh Pollution Control Board, in furtherance of the orders issued by the N.G.T. and as a consequence thereof, cannot sustain in writ jurisdiction and any relief granted to the petitioner against the impugned demand would have an effect of expressly or impliedly staying or setting aside orders passed by the N.G.T. It was held impermissible to entertain a writ petition by the High Court, in view of the appellate forum being the Supreme Court as per Section 22 of the Act of 2010.

In *City Industrial Development Corporation v. State of Maharashtra*,<sup>37</sup> a division bench of the High Court of Bombay set aside the review orders passed by NGT on the ground that the review order violated established principles by impermissibly expanding the original order with new material, contrary to the Supreme Court's directives.

In *Hikal Ltd. v. Union of India*,<sup>38</sup> The high court dismissed the contention raised on behalf of the petitioner that since the Principal Bench of NGT proceeded to take *suo motu* cognizance of the proceedings of which the Western Zone was seized, the impugned orders suffer from a jurisdictional error, thus requiring the court to interfere in the matter.

Since Section 16(c) of the National Green Tribunal Act, 2010 provides that the Tribunal would have the appellate jurisdiction regarding the directions issued on or after the commencement of the Act, by a Board under Section 33-A of the Water (Prevention & Control of Pollution) Act, 1974, the High Court of Punjab and Haryana held that an appeal would lie before the Appellate Tribunal.<sup>39</sup>

#### VII Climate change and the right against its adverse effects

In *M.K. Ranjitsinh v. Union of India*,<sup>40</sup> the apex court dealt with a PIL touching upon several environmental issues like ecological imbalance: protection and conservation of forests throughout the country, protection of wildlife, ban on felling of trees and falling of the underground water level. The jurisdiction of the Court was invoked for protecting the Great Indian Bustard and the Lesser Florican,

35 *Id.*, para 4.

36 MANU/UP/4898/2024.

37 MANU/MH/0496/2024 :2024: BHC-AS:4128-DB.

38 MANU/MH/1087/2024 :2024: BHC-OS:2949-DB.

39 In *Qumax Engineering & Consultancy Vs. Haryana State Pollution Control Board and Ors.* MANU/PH/3948/2024 :2024(14)FLT603. See also *Sahil Enterprises v. State of Haryana* MANU/PH/3949/2024: 2024(14) FLT633.

40 MANU/SC/0274/2024: 2024 (14) FLT 434, 2024 INSC 280, 2024 (4) SC ALE 779.

both of which are on the verge of extinction. The International Union for Conservation of Nature (IUCN) classified the GIB as a critically endangered species in the year 2018. In the context of the dwindling population of GIBs and the existential threat looming over them, a writ petition invoking the constitutional jurisdiction under article 32 in 2019 and in the year 2021, the court passed an interim order imposing restrictions on the setting up of overhead transmission lines in a large swath of territory of about 99,000 square kilometers, among other directions. The Union of India, as well as the concerned state governments, applied to amend these directions in 2024 on the ground that a blanket direction of the nature that was imposed by the court, besides not being feasible to implement, would also not result in achieving its stated purpose, *i.e.*, the conservation of the GIB.

The court briefly adverted to India's obligations towards preventing climate change and tackling its adverse effects, and noted that Parliament has enacted the Wild Life (Protection) Act 1972, the Water (Prevention and Control of Pollution) Act 1974, the Air (Prevention and Control of Pollution) Act 1981, the Environment (Protection) Act 1986, the National Green Tribunal Act 2010, amongst others.<sup>41</sup> The court observed that without a clean environment which is stable and unimpacted by the vagaries of climate change, the right to life is not fully realized, and emphasized the importance of solar power as a source of renewable energy. While reiterating that the GIB is seriously endangered as a species, the court also noted in the course of the hearing that there is no basis to impose a general prohibition regarding the installation of transmission lines for the distribution of solar power in an area about 99,000 square kilometers and cited several reasons due to which it is not feasible to convert all transmission lines into underground power transmission lines. The court observed:<sup>42</sup>

.....it is imperative to recognize the intricate interface between the conservation of an endangered species, such as the Great Indian Bustard, and the imperative of protecting against climate change. Unlike the conventional notion of sustainable development, which often pits economic growth against environmental conservation, the dilemma here involves a nuanced interplay between safeguarding biodiversity and mitigating the impact of climate change. It is not a binary choice between conservation and development but rather a dynamic interplay between protecting a critically endangered species and addressing the pressing global challenge of climate change”.

Accordingly, the court was of the view that the order passed in 2021 needs to be suitably modified by modifying the blanket direction for undergrounding high voltage and low voltage power lines of the nature that was directed by the court in view of the need for recalibration by leaving the matter to domain experts

41 The Bench gave a detailed account of the right to a healthy environment and the right to be free from the adverse effects of climate change in paras 19 to 35 of the judgment.

42 *Id.*, para 53.

instead of an a priori adjudication by the court. Though the court recalled its earlier order, this judgment serves as a timely reminder of the adverse impact of climate change and the right of the people against such impact.

***Environmental Protection v. Business & Development***

In *Noble M. Paikada v. Union of India*, the Supreme Court invalidated the exemption of certain cases from requirement of environmental clearance with special reference to dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for their maintenance, upkeep and disaster management under a notification issued by the Ministry of Environment and Forests (MoEFCC) in exercise of powers Section 3 of the Environment (Protection) Act, 1986 and a Sub rule of Rule 5 of the Environment (Protection) Rules, 1986 on the ground that the exemption should strike balance and instead of being blanket exemption, it needs to be hedged by appropriate safeguards such as the process of excavation and quantum.

In *S.N. Dubey v. Raman Khandelwal*,<sup>43</sup> the Supreme Court overruled the decision of the NGT which accepted the report of a court commissioner that declared an area within the distance of one kilometer surrounding a lake as no development zone, by treating the same as a catchment area, though the state government opposed such view on the ground that the master plan of the area did not reflect it. The Court recollected that by an earlier order<sup>44</sup> in *Benzo Chem Industrial Private Limited v. Arvind Manohar Mahajan* it had deprecated the practice of the NGT of basing its judgment on outsourced material by stating that the tribunal is expected to carefully consider the material placed before it and the contentions raised on behalf of both parties. It cannot discharge its function by merely relying on a report of the court commissioner without even considering the stand of the parties before it.

In *The Goa Foundation v. The Goa State Environment Impact Assessment Authority*,<sup>45</sup> the Supreme Court struck down an order of the NGT which permitted the construction of a bridge in a no-development zone subject to certain precautions. An objection was raised on various grounds, including the ground that there is a violation of the CRZ Notification, which requires prior approval of the Ministry of Environment, Forest and Climate Change (MoEFCC)/SEIAA. Another objection was that the construction was proposed to be carried out in a No Development Zone (NDZ), and no mitigation measures were taken. The Tribunal passed an interim order of status quo and, thereafter, sought a report from the National Institute of Ocean Technology, Chennai (for short, NIOT). By the impugned order, the Tribunal referred to the observations made in the report of the NIOT and disposed of the Original Application by directing that the work of construction of the Bridge may proceed after taking all due precautions in accordance with law and, particularly, as suggested in the report of the NIOT.

43 MANU/SC/1288/2024: 2024 INSC 931.

44 Dated 27.11.2024 passed in CA Nos. 9202-9203 of 2022.

45 MANU/SC/0802/2024: 2024 (14) FLT 701.

In *the State of Himachal Pradesh v. Yogendera Mohan Sengupta*,<sup>46</sup> the apex court set aside two orders passed by the NGT staying the operation of the development plan under the Himachal Pradesh Town; Country Planning Act, 1977 (TCP Act) for 22,450 hectares of Shimla Planning Area finalized in 2022. The NGT passed orders, though the domain is within the powers vested with the Director and the State Government for enacting a piece of delegated legislation concerning the plan. The court held that the preparation of a draft development plan under Section 18 of the TCP Act, finalization of the same under Section 19 of the TCP Act by the Director and grant of approval by the State under Section 20 of the TCP Act are all legislative functions. The provisions enable the delegated legislative body to formulate the provisions which will have a general application to all members of the broadly identifiable classes. It is thus clear that while ensuring the developmental activities so as to meet the demands of a growing population, it is also necessary that the issues with regard to environmental and ecological protection are addressed too.

In *Bharat Petroleum Corporation Ltd. v. Union of India*,<sup>47</sup> the High Court of Bombay permitted the petitioner corporation to cut 11677 trees to lay an oil pipeline below the forest surface, subject to an undertaking that no trees will be cut in the forest area. In *Brihanmumbai Municipal Corporation v. Union of India*,<sup>48</sup> the Petitioner, a Planning Authority constituted under the provisions of the Mumbai Municipal Corporation Act, 1888 was allowed to carry out the work of laying of 3.5 kilometers long pipeline along with the pump room to carry secondary treated sewage from one pumping station to the main processing plant for the development of 600 TPD Waste to Energy (WTE) Project.

In *Conservation Action Trust v. Dahanu Taluka Environment Protection Authority*,<sup>49</sup> the court upheld the order passed by a Taluka Environment Protection Authority in Mumbai thereby allowing the application filed by Jawaharlal Nehru Port Authority (JNPA) seeking grant of permission to establish and develop Greenfield Port, on the ground that the Authority under Section 3 of the Act of 1986 had considered all relevant aspects having material bearing on the issue.

In *Nandlal Khemka v. State of Goa*,<sup>50</sup> the High Court of Bombay held that the Coastal Zone management authority (CZMA), an authority constituted under Section 3 of the Environment Protection Act by the Government is either has an implied or an expressed power of review of its decision.

In *Vanashakti v. Union of India*,<sup>51</sup> it was held by the high court that after issuance of CRZ Notification, 2019, in the absence of any amendment in this

46 MANU/SC/0032/2024: AIR 2024 SC 859.

47 MANU/MH/0953/2024:2024: BHC-OS:2585-DB.

48 MANU/MH/0211/2024: 2024:BHC-OS:692-DB. See also *City and Industrial Development Corporation of Maharashtra Ltd. v. The State of Maharashtra and Ors.* MANU/MH/0253/2024.

49 MANU/MH/2472/2024: 2024:BHC-AS:17807-DB.

50 MANU/MH/1261/2024: 2024(14) FLT717, 2024(4) MhLj56.

51 MANU/MH/6008/2024:2024: BHC-OS:14641-DB.

notification or issuance of any other statutory notification permitting post facto CRZ clearance, issuing an Office Memorandum which is clearly non-statutory in nature, post facto CRZ clearance is legally not permissible.

In *A.N. Padma v. M.V. Venkatasubbaiah Shetty*,<sup>52</sup> the High Court of Karnataka highlighted a common problem in the area of environmental protection, namely the lack of coordination between different regulating authorities. The issue concerned was a banana chips, coffee hurling unit in a residential premise, and the local municipality and the State PCB refused to act on the issue of license, shifting the burden to the other. The court observed that the Pollution Control Board would have to come up with a proper system of administering the Air Act and Water Act so as to make available a pollution-free environment to the citizens of the country. The court also acknowledged that, in the age of global warming and climate change affecting the human populace, cost cannot be a factor which comes in the way of the KSPCB or the State setting up preventive measures and/or setting up automatic analysis units, so it has to take action in the event of such action being necessary. As regards the role of the local body, the court pointed out that there needs to be an orderly development of every city in the State of Karnataka and residents of each such city are required to be provided a pollution free environment and in this regards it would be for the Director of Municipal Administration and the Urban Development Department to properly and effectively take steps to segregate residential, commercial and industrial areas in each city. It would be required for planning authorities to be appointed, and such planning authorities to take into account all relevant factors for the above. In the peculiar facts of the case, both the stakeholders were directed to work in coordination with each other to ensure environmental protection.

In *Ajay Peter v. Kerala Coastal Zone Management Authority*,<sup>53</sup> the issue before the High Court of Kerala was the challenge to the action taken by the Panchayat and various other authorities for withdrawing the permits issued for the construction of residences, shops and other commercial establishments in the different categories of the coastal regulation zones in Kerala. In view of the confusion regarding the demarcation of the CRZs by the Kerala Coastal Zone Management Authority, errors in the errors in the Coastal Zone Management Plan (CZMP) prepared by Kerala among other reasons, the high court quashed the impugned notices, in all matters/writs, issued by gram panchayats or KCZMA, even if they are issued by the committee or not, with further direction that the Kerala Coastal Zone Management Authority or other competent authorities would consider/reconsider request for sanction or take action only when the Cadastral Map of 2023 is approved by the Government whereby the distance of 200 meters in CRZ-III has been reduced to 50 meters and then examine every case, pending or future applications, depending upon the location, situation and the extent of construction, permitted or prohibited.

52 MANU/KA/1387/2024:2024: KHC:16797.

53 MANU/KE/1497/2024: 2024/KER/29684.

Having regard to the assessment of dust emissions from a stone crushing industry, an order passed by the State Pollution Control Board was upheld by the Madras High Court in *Angala Parameswari Blue Metals v. The Chairman, Tamil Nadu Pollution Control Board*<sup>54</sup> by observing that “the environmental laws are meant to protect the fundamental rights of the citizens and the laws have to be enforced uniformly for the existing units as well as the units which are to be established in future. The contention of the petitioner that they had established the unit long back and they were in business from the year 2005 cannot be a criterion to permit the petitioner Unit to pollute the atmosphere, which would cause environmental damage which is not retrievable later”. The court also reiterated that just because the industrial units were allowed to function for a long number of years, it cannot be a reason to permit such units to pollute the atmosphere.

Right to life is higher than the rights flowing from Article 19, *i.e.* to carry on business. The business of stone crushers is considered a *res extra commercial* and is, therefore, subject to stringent regulation. The pollution caused by the stone crushers is inherently injurious to the health of all living beings, including humans, wildlife, rivers and plants. The efforts made to maintain a delicate ecological balance, which is the need of the hour, particularly in view of rising pollution, should not require to be interfered with. Making the above observations, the Punjab and Haryana High Court in *Ambala Stone Crushers v. State of Haryana*,<sup>55</sup> upheld the norms for location of the stone crushers to prevent further damage to all the living beings in the area, by exercising its powers under Section 23 of the Environment (Protection) Act, 1986, as delegated by the Central Government.

In *Ram Ji Vyas v. State of Rajasthan*,<sup>56</sup> the High Court of Rajasthan lamented that even after repeated orders/directions of the Court, the authorities are not ensuring that the environmental and related laws so enacted, to deal with the issues in question, are duly followed, and also the repeated directions of this court are still awaiting their compliance. The court directed the respondents to evolve and adopt the scientific temper for dealing with the problems, which are arising continuously all over the State, whereby the natural resources in the shape of forests, reserve lands, hills, reservoirs and protected areas are directly in conflict with the ever-expanding *Abadi* limits.

NGT quashed an environmental clearance (EC) granted to Maharashtra State Power Generation Company Limited for failing to conduct a public hearing in *Kanhai Ram Patel v. Union of India*.<sup>57</sup>

#### **Air and sound pollution**

In *Shridhar Kashinath Bhagat v. Sub-Divisional Officer at Panvel*,<sup>58</sup> the High Court of Bombay upheld the closure of certain crushing units on the interim

54 MANU/TN/1766/2024.

55 MANU/PH/3913/2024.

56 MANU/RH/0300/2024.

57 Order dated Jan.15, 2024.

58 MANU/MH/5077/2024: 2024ALLMR(Cri)4073.

orders passed by the executive magistrate under Section 133 of the Cr.P.C., 1973. The closure order was passed because the stone crushing activities cause air and sound pollution, which is not conducive to the health of lakhs of passengers using the Trans Harbour Link situated nearby. Another observation was that such a closure order was temporary, as the report of the expert committee was awaited at the time of passing such orders.

In *High Court of Judicature at Bombay on its Own Motion v. The State of Maharashtra*,<sup>59</sup> the High Court of Bombay noted that the Maharashtra Pollution Control Board (MPCB) correctly identified the sources of air pollution in Mumbai Metropolitan Region, as (i) roadside dust, (ii) vehicular emissions, (iii) industrial emissions, (iv) construction and demolition activities, (v) biomass burnings and (vi) other sources like road dust, cooking emissions etc. but observed that more effective steps are required to be taken by all concerned to reduce the air pollution level in the city. The court observed:<sup>60</sup>

It is needless to observe that for the urban population, healthy quality of air is one of the primary requisites and the Urban Local Bodies are duty-bound constitutionally in terms of the provisions contained in Article 243-W read with Entry 6 in the Twelfth Schedule of the Constitution to take every possible measure for ensuring public health, sanitation, conservancy and solid waste management. It is, thus, not only the expectation of the general population of the city and the common citizenry and the Court from the municipal bodies to take all possible steps to provide for taking adequate measures providing appropriate environment where public health can be ensured, but it is also the constitutional mandate cast upon Urban Local self-governance bodies to discharge their constitutional functions and duties as entrusted to them by Article 243-W read with Twelfth Schedule appended to the Constitution.

Heavy-duty diesel vehicles always pose a hazard to the environment and, more importantly, to the quality of the air. Though the Supreme Court had on multiple occasions directed the Union of India and state governments and other authorities to phase out such vehicles, the same could not be achieved fully due to various reasons. In *Container Corporation of India Ltd. v. Ajay Khera*,<sup>61</sup> a division bench of the Supreme Court dealt with an important issue of the pollution created by the Inland Container Depot (ICD) at Tughlakabad, on the outskirts of Delhi. The court agreed with the contention of the petitioners that the said ICD is used by a large number of trucks/trailers not destined for Delhi and is used for delivery/pick up to and from locations outside Delhi, due to which the air pollution in Delhi NCR has substantially increased due to the emissions from those trucks/trailers. Recollecting that in the year 2020, the Court issued a direction to the

59 MANU/MH/3415/2024: 2024(14) FLT289.

60 *Id.*, para 21.

61 AIR 2024 SC 1153: (2024) 3 SCC 216.

Environment Pollution (Prevention and Control) Authority ('EPCA') to look into the issues raised and to file a report containing its recommendations, to protect and improve the quality of the environment in Delhi NCR and that EPCA submitted a report promptly in the same year, the court directed the Ministry of Road Transport and Highways (MoRTH) to present an effective and robust policy for scrapping of heavy-duty diesel vehicles and replacement with BS VI vehicles, which are substantially cleaner and will greatly reduce pollution in the entire air shed.

In *Vedanta Limited v. The State of Tamil Nadu*,<sup>62</sup> the Supreme Court upheld the closure of a smelting unit due to violations of numerous environmental norms. The court observed that:<sup>63</sup>

The closure of the industry is undoubtedly not a matter of first choice. The nature of the violations and the repeated nature of the breaches, coupled with the severity of the breach of environmental norms, would, in the ultimate analysis, have left neither the statutory authorities nor the High Court with the option to take any other view unless they were to be oblivious of their plain duty. We are conscious of the fact that the unit, as this Court observed in its decision in 2013, has been contributing to the productive assets of the nation and providing employment and revenue in the area. While these aspects have undoubted relevance, the Court has to be mindful of other well-settled principles, including the principles of sustainable development, the polluter pays principle, and the public trust doctrine. The polluter pays principle, a widely accepted norm in international and domestic environmental law, asserts that those who pollute or degrade the environment should bear the costs of mitigation and restoration. This principle serves as a reminder that economic activities should not come at the expense of environmental degradation or the health of the population.

In *Abhilaksh Sachdev v. State of Haryana*,<sup>64</sup> the High Court of Punjab and Haryana dealt with the issue of noise pollution caused by the loudspeaker, public address system, musical instrument and sound amplifier during the different timings of the day and also during the night, and observed that it would be appropriate that since noise pollution is part of the air pollution and is punishable under the penal provisions of the Air (Prevention and Control of Pollution) Act of 1981. The court directed the petitioner to approach the concerned jurisdictional police station and lodge an FIR in the event of any violation of the guidelines laid down by the court.

62 NU/SC/0169/2024: 2024 INSC 175, 2024(3) SCALE422.

63 *Id.*, para 24.

64 MANU/PH/3566/2024: 2024: PHHC:143302-DB.

In *Tsunami on Roads through Sanjay Kulshresthav. Ministry of Road, Transport Highways*,<sup>65</sup> the NGT took cognisance of an application seeking the implementation of a star rating system for all passenger vehicles based on fuel efficiency and CO<sub>2</sub> emission. The prayer madewas based on the plea that vehicular pollution is the most important contributory factor in air pollution, and as per the Ministry of Earth Sciences, vehicular pollution is responsible for 40% of such air pollution. The NGT issued notices to the respondent to respond. In 'News Item titled "How Partial Combustion Fuels Your Bad Air Woes",<sup>66</sup> the Principal Bench of NGT at New Delhi registered an original application *suo motu* based on the news item disclosing that incomplete combustion of various fuels in the vehicles significantly contributes to the poor air quality.

### **Water pollution**

In *Madan Lal v. State of H.P.*<sup>67</sup> The High Court of Himachal Pradesh *considered* the issue raised in a Public Interest Litigation as of extreme importance, as it related to the breach of environmental laws. The petitioner alleged repeated instances of illicit dumping of muck into Govind Sagar Lake and its tributaries in the district of Bilaspur, Himachal Pradesh, allegedly by the agencies involved in construction works of four-lane roads near a national highway. The court noted that there had been a blatant violation of environmental laws noticed by the State Authorities, but strangely, no penal action had been initiated against the violators and that such a conduct of the authorities clearly amounted to failure on their part to discharge constitutional and legal obligations. Observing that the aspect of depletion of natural resources and its impact on environment cannot be ignored and similarly the violations of law with impunity on account of the failure on part of authorities to enforce needs to be viewed seriously, the court directed the official respondents (i) to initiate penal action against the violators, who have dumped the muck illegally in Govind Sagar Lake or its tributaries/rivulets/khuds or on other forest or public lands and to take legal action as expeditiously as possible and (ii) to initiate all possible steps to clear the muck from the shores of Govind Sagar Lake, its tributaries, forest and all public lands.

It can hardly be disputed that the majority of illnesses in the country are water-borne and sanitation-related diseases. Improper sanitation and sewage disposal cause pollution of water and contamination of the drinking water supply, resulting in the spread of diseases like jaundice, cholera, typhoid, etc. In *Pawan Singh v. State of H.P. and Residents of village Jhabola v. State of H.P.*,<sup>68</sup> the High

65 National Green Tribunal Principal Bench, New Delhi, Original Application No. 638/2024- Order dated December 23, 2024. See also "News Item titled "Heavy metals in PM 2.5 New Study reveals air quality concerns in East Delhi" appearing in the Times of India dated 29.09.2024", Before the National Green Tribunal Principal Bench, New Delhi in Original Application No. 1233/2024, order dated October 16, 2024, where the NGT took note of the news item relates to a study conducted by the Indian Institute of Technology, Delhi revealing severe heavy metal pollution in East Delhi's air, raising significant health concerns.

66 I Original Application No. 646/2024.

67 MANU/HP/2770/2024: 2024(14) FLT588.

68 MANU/HP/2918/2024.

Court of Himachal Pradesh noted the precautions taken by the Government while constructing a Sewerage Treatment Plant (STP) at a village in District Bilaspur based on the report given by NEERI, and permitted the construction with a caveat not to affect the health of the villagers.

In *Suhail M.A. v. State of Kerala*,<sup>69</sup> The High Court of Kerala relying upon the Supreme Court's decision in *State of Karnataka v. K.Krishnan*, and its own Division Bench's decision,<sup>70</sup> held that any vehicle, which was allegedly found dumping septic waste into a water stream in a manner that pollutes the water source, and was seized immediately, cannot be released routinely in view of the seriousness of the crime. The court therefore directed the release of the seized vehicle subject to stringent conditions like executing a bank guarantee, personal sureties an undertaking, and restriction of transfer of ownership of the vehicle during the trial.

In *Kamlesh Singh v. State of Uttar Pradesh and Saurabh Tiwari v. Union of India*,<sup>71</sup> the NGT while considering the issue of quality of water flowing in the river Ganga in Prayagraj and the requirement of fresh water for the Kumbh Mela, directed the CPCB and Uttar Pradesh Pollution Control Board (UPPCB) to increase monitoring points and frequency of monitoring on river Ganga and Yamuna.

In other related areas, the apex court highlighted the issues relating to solid waste management in Delhi. Supreme Court highlighted the non-compliance with Solid Waste Management Rules and illegal dumping in Delhi in the case of *MC Mehta v. Union of India*.<sup>72</sup> The Supreme Court expressed concern over non-compliance with the Solid Waste Management Rules, 2016, by the Delhi government and the Municipal Corporation of Delhi (MCD, and noted that Delhi generates 11,000 tons of municipal solid waste daily, with a processing gap of 3,000 tons per day. It noted that this gap in processing capacity results in large-scale illegal dumping, posing significant environmental and public health risks. It also highlighted that such a situation violates the fundamental right of citizens to live in a pollution-free environment. It further urged authorities to adopt innovative measures to address the shortfall and warned that unchecked waste generation could necessitate a review of the development activities in the city. The Supreme Court also addressed the issue of 3,800 tons of solid waste being dumped daily at the Ghazipur and Bhalsawa sites, leading to environmental degradation and frequent fires.

The Supreme Court considered the Delhi government's order dated December 19, 2024, issued under section 5 of the Environment (Protection) Act, 1986 (EPA), imposing a year-round ban on the manufacture, storage, sale (including online delivery) and use of firecrackers across the National Capital Territory. It noted that

69 MANU/KE/3653/2024: 2024(5) KLT337.

70 In in W.P.(C) No.7844/2023.

71 Order dated December 23, 2024.

72 Order dated December 19, 2024.

the ban's effectiveness hinges on similar restrictions being enforced in other states within the national capital region.

#### VII CONCLUSION

After surveying the response of the Supreme Court, various high courts and the benches of the National Green Tribunal, apart from certain initiatives of the Government of India during the year 2024, it becomes clear that the conflict between environmental protection and development has become more intense. Very often, the developmental concerns have taken precedence over environmental protection. The NGT has been proactive in imposing environmental damages, sometimes without following the procedural due process, which attracted judicial intervention in many cases. The NGT has also exhibited little activism during the last year by taking *suo motu* cognizance of certain incidents impacting the environment. Even the governmental and public authorities have found themselves at the receiving end of the charges that they, too, have contributed to environmental degradation by way of commissions and omissions. The Supreme Court left its mark by way of certain landmark judgments, including the one relating to the Great Indian Bustard and the right against the adverse impact of climate change. However, the apex court was unable to resolve the important issue of the environmental release of transgenic mustard hybrids due to the conflicting opinions among the judges on the bench.

On the whole, the year under survey highlights the significant contribution of the judiciary in coming to the rescue of the environment in more than one way. However, the other stakeholders, including citizens, have not been left far behind in this endeavor.

