

Supreme Court mandates Environmental Clearance is necessary for all large scale building and construction projects

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Introduction

The Supreme Court in *Vanashakti v Union of India*, 2025 SCC OnLine SC 1703 held that Environmental Clearance (EC) is necessary for all large scale building and construction projects including educational institutions under the Environmental Impact Assessment (EIA) Notification, 2006 (EIA Notification).

Case Summary

The EIA Notification requires all Building, Construction projects, area development projects and townships having a built-up area of more than 20,000 square metres to obtain prior EC. By an amending notification issued on 29 January 2025 (the 2025 Notification), an exemption was granted to building and construction projects with built-up area upto 1,50,000 square metres in respect of "industrial shed, school, college, hostel for educational institution" from obtaining a prior EC. The 2025 Notification also made the General Conditions inapplicable to all Building, and Construction projects and Area Development Projects and Townships; the General Conditions require that an application for EC for a project or activity located within 5 kms of eco-sensitive areas or protected areas under the Wildlife (Protection) Act, 1972, or interstate and international boundaries or critically polluted areas should be examined only by the Ministry of Environment, Forest and Climate Change (MoEF&CC) and not by the State Environment Impact Assessment Authority (SEIAA).

It was alleged by the NGO that the 2025 Notification diluted the substantive provisions of the EIA Notification and could lead to the destruction of the environment due to unregulated building and construction activities. It was submitted that the 2025 Notification is ultra vires the Environment (Protection) Act, 1986 and disregards the precautionary principle by removing scrutiny for large projects that could severely impact the environment. It was also submitted that this was not the first attempt by the government to relax EC requirements, as similar notifications issued in the past were stayed or quashed by the National Green Tribunal and the High Courts.

The State argued that the 2025 Notification was issued to remove long-standing ambiguities in the Schedule of the EIA Notification. It was submitted that a perusal of the Schedule of the EIA Notification would show that wherever the framers of the EIA Notification intended for the general conditions to apply, it has been specifically provided for in the EIA Notification and since there is no mention of the applicability of general conditions for building and construction projects and township and area development projects, the amendments introduced by the 2025 Notification were clarificatory in nature.

It was submitted that due to the stay on the 2025 Notification ordered by the Supreme Court in February this year, construction activity had come to a grinding halt all across the country and over 700 projects were pending consideration before SEIAA in Maharashtra alone.

The Supreme Court accepted the submissions of the state with respect to the applicability of general conditions and noted that wherever it was thought appropriate, the EIA Notification provided that the general conditions would apply to a project or activity necessitating an EIA study by MoEF, and not by State level EIA Authorities. The Court held that a literal interpretation of the EIA Notification makes it

evident that general conditions were never intended to apply to 'Building or Construction projects' or 'Townships and Area Development Projects'.

The Court reaffirmed the principle of sustainable development which requires that the effort to protect the environment must not come at the cost of development, rather, both must go hand in hand in tandem with each other. The Court agreed that it is not possible for the MoEF&CC to consider projects from all over the country and noted that SEIAAs are also expert bodies constituted by the Central Government itself and are well-placed to evaluate the environmental impact of state-level projects.

While the Court upheld the 2025 Notification and accepted the argument that the general conditions are not applicable to building and construction projects, the Court struck down the exemption granted to building and construction projects for industrial shed, school, college and hostel for educational institutions from obtaining a prior EC.

The Court opined that construction of any project over an area of more than 20,000 square metres irrespective of its purpose would have a significant effect on the environment and ecology and there was no rationale for excluding some types of buildings or structures from the rigours of the EIA Notification. The Court went on to observe that education has increasingly become a thriving industry and is no longer a service-oriented activity.

Comments

The judgment brought much-needed clarity on the issue of EC for educational institutions and industrial projects and ended the standstill in the processing of applications for EC for real estate projects caused by the previous interim orders of the Court.

The Court further reaffirmed that environmental protection must not be compromised on account of developmental growth and vice versa and held that the environmental framework must not be diluted. The judgment ensures that large-scale building and construction projects do not escape necessary scrutiny from an environmental protection perspective and that they are developed in a sustainable manner taking into account their ecological footprint.

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