



Independent Environment Regulator

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Why in News

Recently, the **Supreme Court** (SC) asked the government to explain the reasons for not setting up an “**Independent Environment Regulator**” to oversee green clearances.

Key Points

- **SC's Order:**

SC had ordered the setting up of a national environment regulatory body under the **Environment (Protection) Act, 1986** to ensure independent oversight of green clearances way back in ***Lafarge Umiam Mining Private Limited v. Union of India case (2011)***, commonly known as the **Lafarge mining case**.
- **Envisaged Functions of the Regulator :**
 - **Appraisal and Approval:**

The regulator will carry out **independent, objective and transparent appraisal and approval of projects** for environmental clearances.
 - **Monitoring and Implementation:**

It will also **monitor the implementation of the conditions** laid down in the clearances and impose **penalties on polluters**. While exercising such powers, the regulator will ensure the **National Forest Policy, 1988** is duly implemented.

- **Current Issues:**

- **Related to Environment Impact Assessment (2006):**

- **Lack of Capacity:**

- The **environmental clearance at the national level** is overseen by an **Expert Appraisal Committee (EAC)**, which functions on an ad-hoc basis, **without much regulatory capacity.**

- The state-level appraisal committees overseeing the clearance also function without much regulatory support.

- The committees function as per the **Environment Impact Assessment (EIA) Notification 2006.**

- **Lack of Expertise:**

- The EAC has been **questioned on many occasions for lack of expertise** of its members and chairpersons.

- **Lack of Proper Legislation:**

- EAC and the state-level committees are **toothless due to the lack of effective legislative power and supporting institutional capacity.**

- **Multiplicity of Regulations and Increasing Cost:**

- There are too many clearances for the same thing; and none of them seem to be working for the environment or for **protecting the rights of communities.** Worse, they are adding to the burden of industry in terms of high transaction costs.

- Forest clearance under Section 2 of the **Forest (Conservation) Act, 1980.**

- Coastal clearance under the **Coastal Regulation Zone Notification, 2011.**

- Wildlife clearance under the **Wildlife Protection Act, 1972.**

- This **multiplicity of regulations** and regulatory authorities help unscrupulous elements in the industry and the government.

- **Need:**
 - **Unbiased Decision Making:**
Lack of an independent body to oversee the entire environmental regulatory process could lead to a possible political interest in the decision making.
 - **Proper Compliance:**
The major concerns regarding EIA norms, such as the compliance monitoring and ex-post regularisation, could be tackled with proper standard-setting by a regulator.
 - **Capacity and Independence:**
The present environmental regulation institutional mechanism in India, which lies with pollution control boards at the state and central level, lacks regulatory capacity and independence.
 - **Preventing Regulatory Delays:**
Cutting down on regulatory delays is also important. This may be possible with the help of a credible independent regulator. But an optimum level of rigour in the regulatory process and standards is important for environmental protection.
- **Temporary Solution:**
As per the SC till an Independent Regulator was put in place, the Environment Ministry should prepare a **panel of accredited institutions from which alone the project proponent should obtain the Rapid Environmental Impact Assessment (EIA).**

Way Forward

- Independence in standard-setting, monitoring, and enforcement are important characteristics of an effective regulatory body. Setting-up of a stand-alone independent body must **precede fragmented revamping of environmental laws.**
- A **second-generation reform for environmental regulation**, which will safeguard environment and community rights as well as reduce time and transaction costs for the industry is the need of the hour.
- What is needed is to **reduce multiplicity, remove archaic laws and streamline regulatory procedure.**

Source:TH