



SC Strikes Down Ex-Post Facto Environmental Clearances

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The [Supreme Court \(SC\) of India](#) has declared **ex-post facto environmental clearances (ECs)** (granted after a project has already commenced) as illegal, and has invalidated the [2017 Environment Ministry notification](#) and the 2021 Office Memorandum (OM) that permitted retrospective clearances for projects.

- SC noted that the concept of post-clearance approval is in derogation of [Article 21 \(Right to life in a pollution-free environment\)](#) and [Article 14](#) (right to equality before law), **as the OM applied to all project proponents who “were fully aware” of the consequences of violations.**
 - However, the judgment allowed ECs already granted under the 2017 and 2021 regime to remain valid, avoiding retroactive disruption.
- The SC criticized the post-facto clearance regime, citing past judgments (***Common Cause v. Union of India (2017)*** and ***Alembic Pharmaceuticals v. Rohit Prajapati (2020)***) to reaffirm that ex-post facto approvals **violate environmental law.**
 - It held that the 2021 OM effectively legalized starting projects without prior clearance, defying earlier rulings and fundamental principles of environmental jurisprudence.
 - The SC noted that prior clearance is mandatory under the [Environment Impact Assessment Notification, 2006](#) to scrutinize a project’s impact on the environment, natural resources, human health, and social infrastructure.
- The Court emphasized that **development cannot come at the cost of environmental degradation** and reaffirmed the constitutional duty under [Article 51A\(g\) to protect nature.](#)

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