



Post-Facto Environmental Clearances

For Prelims: Environment Impact Assessment, Environmental Clearances.

For Mains: Post-Facto Environmental Clearances and Related Concerns.

Why in News?

Recently, the Supreme Court has concluded that ex post facto (after being started) **Environmental Clearances (EC)** are acceptable.

- The court has concluded in response to a claim that a **bio-medical treatment facility** was set up and run without an EC and it raises concern over Environmental Degradation.

What is an Ex Post Facto Environment Clearance?

- Ex post facto environmental clearance refers to **allowing functioning of an industry or project which has started operating without obtaining the green clearance** and disclosing the probable environmental impacts of the project.
- A bench of SC observed that the [Environment \(Protection\) Act, 1986](#), did not absolutely prohibit the grant of **ex post facto environmental clearance**.
 - It should not be granted routinely, **but in exceptional circumstances** taking into account all relevant environmental factors.

What are the Related Concerns?

- A post facto assessment **defeats the very purpose of [Environment Impact Assessment \(EIA\)](#)** because irreversible ecological damage will already have been committed with the commencement of operations.
 - The [Food and Agriculture Organisation \(FAO\)](#) of the United Nations **defines the purpose of EIA as alerting decision makers**, regulatory agencies and the public of environmental consequences of projects “so that those projects can be modified, if need be, to **prevent environmental deterioration**, to avoid construction errors and to forestall economic losses caused by negative side effects.
- The industries are encouraged to commence operations **without bothering for clearance and eventually get regularised by paying the penalty** amount. It is likely to open a **floodgate of violations and give rise to a situation** where damage to the environment is irreversible.

What is the Environment Impact Assessment?

- It can be defined as the study for predicting the effect of a proposed activity/project on the environment.
- It is statutory **under the [Environment Protection Act, 1986](#)** for some projects.
- Process:
 - **Screening** based upon scales of investment, type of development, and location of the

development is done to see whether a project requires an environmental clearance as per the statutory notifications.

- **Scoping** is a process of detailing the Terms of Reference (ToR) of EIA, that is the main issues or problems in the development of a project.
- **Impact Prediction** involves mapping the environmental consequences of the significant aspects of the project and its alternatives.
- The public mandatorily needs to be informed and consulted on the proposed development after the completion of the EIA report.

What is the Environment Clearance Process?

- An EIA report is prepared to get **Environment Clearance (EC) for a project**.
- A process of '**Public Hearing**' is conducted before the issue of 'Consent to Establish (NOC)' by state regulators. Concerns of people living in the proposed project area are heard.
- An application form with **EIA report, details of public hearing and NOC is submitted for environmental clearance** with the **Ministry of Environment and Forests and Climate Change (MoEFCC)** if the project falls under Project A category or the state government if the project falls under Project B category.
 - **Category A projects** require **mandatory environmental clearance** and thus they do not undergo the screening process.
 - **Category B projects** undergo a screening process and they are classified into two types.
 - **Category B1** projects (Mandatorily requires EIA).
 - **Category B2** projects (Do not require EIA).
- The documents submitted are then analyzed by an **Expert Appraisal Committee (EAC) under the Ministry**. The recommendations of the Committee get processed in the MoEFCC for final approval or rejection.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. Consider the following statements: (2019)

The Environment Protection Act, 1986 empowers the Government of India to

1. state the requirement of public participation in the process of environmental protection, and the procedure and manner in which it is sought
2. lay down the standards for emission or discharge of environmental pollutants from various sources

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (b)

Mains

Q1. Environmental Impact Assessment studies are increasingly undertaken before a project is cleared by the Government. Discuss the environmental impacts of coal-fired thermal plants located at coal pitheads. **(2014)**

Q2. How does the draft Environment Impact Assessment (EIA) Notification, 2020 differ from the existing

[Source: DTE](#)

PDF Refernece URL: <https://www.drishtias.com/printpdf/post-facto-environmental-clearances>

