



# SC Overturns Unregulated Soil Extraction for Linear Projects

**For Prelims:** SC Overturns Unregulated Soil Extraction for Linear Projects, [Supreme Court](#), [Environmental Clearance \(EC\)](#), [National Green Tribunal \(NGT\)](#).

**For Mains:** SC Overturns Unregulated Soil Extraction for Linear Projects, Features of EPA, Drawbacks of Environment Protection Act, 1986.

[Source: IE](#)

## Why in News?

Recently, the [Supreme Court](#) overturned a notification from the Ministry of Environment **issued three years ago**. This notification **exempted the extraction of ordinary earth** for linear projects like **road and railway construction** from needing [Environmental Clearance \(EC\)](#).

- The exemption, introduced in March 2020, faced a challenge in the [National Green Tribunal \(NGT\)](#), which instructed the Ministry in October 2020 to reassess it within three months.

## Linear Projects:

- Linear projects refer to infrastructure developments that follow a linear or continuous path, such as **roads, railways, pipelines, canals, transmission lines**, and highways.
- These projects typically traverse long distances in a straight or curving line, connecting various points or locations.

## What was the 2020 Exemption for Linear Projects?

- **Background:**
  - In September 2006, the Environment Ministry issued a notification under **the [Environment \(Protection\) Act, 1986](#)**, outlining activities requiring prior **Environmental Clearance (EC)**.
  - In January 2016, a **subsequent notification exempted certain project categories** from this requirement.
- **Exemptions Provided in 2020 Notification:**
  - In March 2020, a notification was issued that **broadened the list of activities exempt from requiring environmental clearance**. This included the extraction of ordinary earth, also referred to as sourcing or borrowing, for use in linear projects.

## Why was the 2020 Exemption Challenged?

#### ▪ **Grounds of Challenge by the Petitioner:**

- The exemption was challenged before the NGT on the grounds that allowing the extraction of earth **indiscriminately was arbitrary and violative of Article 14** of the Constitution of India.
  - The petitioner argued that the exemption violated the requirement of prior EC in the leases as laid down by the Supreme Court in **Deepak Kumar versus the State of Haryana Case, 2012**.
- The petitioner contended that the **Ministry had bypassed the proper legal procedure** of soliciting public objections **before issuing the 2020 notification**.
- Critics contend that the **exemption granted in the environmental clearance (EC)** process under the **guise of 'public interest'** during the **Covid-19** lockdown was merely a pretext **to favour private mining companies and contractors**.

#### ▪ **Government's Argument:**

- Before the NGT, the Centre argued that the **exemption was essential "for the aid of the general public,"** benefiting various groups including the kumhars (potters), farmers, gram panchayats, banjara and oad communities in Gujarat, among others.
  - It contended that granting **exemption was a policy matter not subject to judicial intervention**.
- The overarching aim of the 2020 notification was to align with amendments to the **Mines and Minerals (Development and Regulation) Act, 1957**, enacted in March 2020.
  - These amendments allowed new lessees to continue mining for two years with the statutory **clearances and licenses obtained by their predecessors**.

#### ▪ **Verdict of NGT:**

- In October 2020, the NGT stated that the **Ministry should aim for a balanced approach**. Instead of a complete exemption, it should **incorporate suitable safeguards** such as regulating the excavation process and determining the quantity.
  - The Tribunal directed the Centre to review the notification within three months.
- **Centre's Response:**
  - The **Centre delayed action on the NGT order** until the appellant appealed to the Supreme Court.

#### ▪ **Concerns Raised by the SC:**

- The court ruled that the **2020 notification offering a blanket exemption** lacked clarity and **violated Article 14** of the Constitution.
  - The Notification didn't define **'linear projects'** or **specify the amount** and area of earth extraction.
  - Additionally, it didn't ensure that only the necessary amount of earth for these projects was exempted, undermining the purpose of the **Environmental Protection Act**.
- The court found **no justification for waiving the requirement of public notice** in the notification or in the Ministry's submissions to the NGT and SC.
- It deemed the decision arbitrary and lacking thoughtful consideration. The court also questioned the rush in issuing the notification during a nationwide lockdown when linear projects were halted.

#### **Note:**

- In **Deepak Kumar versus the State of Haryana Case, 2012**, the Court held that the **Model Rules of 2010** issued by the Ministry of Mines are vital from the environmental, ecological and bio-diversity point of view and therefore the State Governments have to frame proper rules in accordance with the recommendations, under **Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957**.

#### **What are the Previous Similar Instances?**

- In January 2018, the **NGT quashed an exemption offered by the Ministry's 2016** notification from the requirement of **prior EC for building and construction activities having built-up**

**areas of more than 20,000 sq m.**

- There was nothing to suggest an improvement in the quality of the environment to justify the exemption.
- Emphasising the requirement of prior approval under the [Environment Protection Act](#), the NGT invalidated two Office Memorandums issued by the Ministry in December 2012 and June 2013. These memorandums aimed **to grant retrospective Environmental Clearance to projects under the 2006 notification.**
- On 6th March 2024, the Kerala [High Court](#) quashed a 2014 notification that exempted educational institutions and industrial sheds with built-up areas of more than 20,000 sq m from obtaining EC.

**Drishti Mains Question:**

Q. Discuss the recent Supreme Court decision overturning the exemption of unregulated soil extraction for linear projects under the Environment Protection Act, 1986. Analyse the features of the exemption and the concerns raised by the court.

**UPSC Civil Services Exam, Previous Year Questions (PYQ)**

**Prelims:**

**Q. Consider the following statements: (2019)**

1. The Environment Protection Act, 1986 empowers the Government of India to:
2. State the requirement of public participation in the process of environmental protection, and the procedure and manner in which it is sought.
3. 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:**

**Q.** Despite India being one of the countries of Gondwanaland, its mining industry contributes much less to its Gross Domestic Product (GDP) in percentage. Discuss. **(2021)**

**Q.** "In spite of adverse environmental impact, coal mining is still inevitable for development". Discuss. **(2017)**