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# SUPREME COURT NULLIFIES 2020 EARTH EXTRACTION EXEMPTION

THIS ARTICLE COVERS 'DAILY CURRENT AFFAIRS' AND THE TOPIC DETAILS OF "SUPREME COURT NULLIFIES 2020 EARTH EXTRACTION EXEMPTION". THIS TOPIC IS RELEVANT IN THE "ENVIRONMENT" SECTION OF THE UPSC CSE EXAM.

## WHY IN THE NEWS?

The Supreme Court has nullified a notification issued by the Ministry of Environment three years prior, which granted an exemption for obtaining Environmental Clearance (EC) for extracting ordinary earth used in linear projects such as road and railway construction. The exemption, initiated in March 2020, came under scrutiny by the National Green Tribunal (NGT), which directed the Ministry in October 2020 to review it within a three-month period.

## WHAT WAS THE 2020 NOTIFICATION FOR LINEAR PROJECTS?

- The 2020 exemption pertained to the addition of "Extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines, etc." to the list of activities exempted from prior Environmental Clearance (EC). This exemption was introduced through a notification issued by the Environment Ministry under The Environment (Protection) Act, 1986.
- In 2006, the Environment Ministry initially issued a notification outlining activities requiring prior Environmental Clearance (EC). Subsequently, in 2016, another notification exempted certain categories of projects from this requirement.
- The rationale behind the 2020 notification was to align with amendments made to the Mines and Minerals (Development and Regulation) Act, 1957, which **permitted lessees to continue mining for up to two years with the statutory clearances and licences issued to their predecessors.**

## WHAT ARE THE LINEAR PROJECTS?

- Linear construction projects are those that involve **development stretching out in a long, narrow strip of land**. These projects typically involve repetitive construction activities carried out along the entire length. Some common examples of linear construction projects are:
  1. Highways, roads, and expressways
  2. Railways
  3. Airports
  4. Canals and irrigation channels
  5. Fences and border walls
  6. Communication lines

7. Pipelines for oil, gas, water, and sewage
8. Power transmission lines

### WHY WAS THE 2020 NOTIFICATION AND EXEMPTION UNDER IT WERE CHALLENGED

- **Equality Under Threat (Article 14):** Critics argued that the exemption violated Article 14 of the Indian Constitution, which guarantees equal protection of the law. The notification, they claimed, allowed unrestricted earth removal without clear guidelines or safeguards, raising concerns about fairness and potential abuse.
- **Transparency Issues:** The Ministry's failure to justify waiving the requirement of public notice or issuing a blanket exemption raised questions about transparency and accountability. Critics pointed out the absence of proper justification for bypassing environmental assessments and scrutiny.
- **Favouritism:** The exemption was seen as potentially favouring private miners and contractors at the expense of public interest. Additionally, critics argued that the Ministry misused its power under the guise of public interest during the COVID-19 lockdown to benefit private entities, bypassing established legal procedures for environmental assessment.
- **Previous Judgments:** The case of Deepak Kumar vs State of Haryana (2012) was referenced, where the Supreme Court mandated prior EC for leases. This established precedent was seen as being violated by the 2020 exemption.
- **Environmental Concerns:** A major concern was the lack of environmental safeguards in the exemption. Without defined limits on extraction quantities or designated areas, the notification posed a risk to environmental conservation efforts.
- **NGT's Ruling and Delays:** The NGT acknowledged the need for balance and directed the Ministry to revise the exemption with appropriate safeguards, including regulations on excavation procedures and the amount of earth allowed for extraction. However, the Ministry's delay in revising the exemption led the issue to escalate to the Supreme Court.

### CONCERNS RAISED BY SC

- The court highlighted that it violates **Article 14**.
- The Court deemed the **exemption given in the notification arbitrary due to:**
  1. Unclear definitions of key terms like "linear projects" and permissible extraction amounts.
  2. Lack of justification for waiving public notice requirements.
- A subsequent attempt by the Ministry to clarify the exemption in 2023 failed to address these concerns. The Court further **questioned the timing of the initial exemption, issued during a nationwide lockdown** that halted construction.
- This decision underscores the importance of environmental safeguards in infrastructure development. Clear regulations, defined terms, and limitations on earth removal are necessary to minimise environmental damage from such projects.

### PRELIMS PRACTISE QUESTIONS

**Q1. Which constitutional body in India is responsible for environmental impact assessment (EIA) of developmental projects?**

- (a) Ministry of Environment, Forest and Climate Change
- (b) National Green Tribunal
- (c) Pollution Control Boards
- (d) Central Pollution Control Board

**Answer: A**

**Q2. The Supreme Court has interpreted the right to life under Article 21 to include the right to a healthy environment in which landmark case?**

- (a) Kesavananda Bharati v. State of Kerala
- (b) Vishaka v. State of Rajasthan
- (c) Olga Tellis v. Bombay Municipal Corporation
- (d) M.C. Mehta v. Union of India

**Answer: D**

**MAINS PRACTISE QUESTION**

**Q1. Discuss the concept of consumerism and its impact on environmental degradation, considering the relentless pursuit of material possessions and the consumption of resources beyond sustainable levels.**

**Himanshu Mishra**

