

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

LOK SABHA
UNSTARRED QUESTION NO.821
TO BE ANSWERED ON 07.02.2022

Ex-post Facto Clearance to Projects

821. MS. RAMYA HARIDAS:

Will the Minister of ENVIRONMENT, FOREST AND CLIMATE CHANGE be pleased to state:

- (a) the need to dilute the Environmental Impact Assessment (EIA) by the Government when there is already a high rate of depletion of natural resources and environmental degradation has tremendous impact on human health and the details of the beneficiaries of this relaxation;
- (b) the reasons for reducing the notice period and rushing to the EIA process;
- (c) the reasons for ex-post facto project clearance being contemplated; and
- (d) the details of the projects which were started after the ex-post facto project clearance?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(SHRI ASHWINI KUMAR CHOUBEY)

(a) There is no dilution of the Environmental Impact Assessment by the Central Government. Currently EIA Notification 2006 as amended from time to time is in force. In fact, the draft EIA Notification, 2020 aims to strengthen the environmental cause and strikes the balance between environment and development. The draft EIA Notification, 2020, *inter alia*, promotes environmental cause; removing redundancies & encourages modernization. Therefore, it brings defaulters into environmental regime with requisite action, penalty and remediation; and introduces standardization and technology driven process.

(b) In the draft EIA Notification, 2020, the notice period for intimating date, time & place for conducting public hearing was reduced to 20 days as against 30 days in EIA, 2006 taking into account the development of information technology & advanced modes of communications, deep penetration of mobile telephone use in the country etc., and has not been done with an aim to rush the EIA process which is to be conducted with all due diligence.

(c) and (d) The draft EIA Notification 2020 does not contemplate or provide for *ex post facto* clearance to violation cases. The environmental clearance, if issued, to the project shall only be prospective and shall be effective from the date of its issuance. Any violation of the EIA Notification, 2006, that is in force, under the Environment (Protection) Act, 1986 results in contravention under the Environment (Protection) Act, 1986 itself, thereby attracting the provisions of Section 15/19 of the said Act. Section 15 of the Environment (Protection) Act, 1986 provides for penalty or imprisonment or both for contravention of the Act. In the same

manner, a violation of any provisions in the EIA, 2020 shall attract the penal provisions of Section 15 of Environment (Protection) Act, 1986.

The Clause 22 (14) of the draft EIA Notification 2020 clearly specifies that the project proponent is liable for action under Section 15/19 of the Environment (Protection) Act, 1986 which provides for penalty or imprisonment or both in case of contravention of the Act. In addition, the draft notification also lays down additional liability on the project proponent for causing damage to the environment through assessment of environment damage caused, remedial and community augmentation plans (reference clause 22(5) of the draft notification).No ex-post facto clearance has been granted.
