

Centre dilutes penal rules in air, water pollution and eco protection laws

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The Ministry of Environment, Forest and Climate Change (MoEFCC) has proposed dilution of penal provisions from three key laws — Environment Protection Act, 1986, Air (prevention and control of pollution) Act, 1986 and Water (prevention and control of pollution) Act, 1974.

The ministry, in a set of notifications, said the amendments have been introduced as “suggestions were received for decriminalisation of the provisions of the said Acts, in order to weed out the fear of imprisonment for simple violations.”

For the EPA, failure or contravention or non-compliance of the provisions of EPA would be dealt through imposing penalty through a duly authorised adjudicating officer. “However, in case of serious violations which leads to grievous injury or loss of life, they shall be covered under the provisions of Indian Penal Code, 1860,” said the notification.

Similar notification has been issued for the water and air pollution act as well. Under the water pollution act, the Centre has also said there are different processes in states which create confusion among industries and needs to be universalised across jurisdictions.

Earlier, under EPA in case of non-compliance, the violator was punishable with imprisonment up to five years or with a fine up to Rs 1 lakh, or with both. If it continued further, an additional fine of up to Rs 5,000 for every day during the default period was levied. If the violation continued beyond one year after the date of conviction, the offender was punishable with an imprisonment extending to seven years.

The Centre has increased the penalty amount to Rs 5 lakh extended up to Rs 5 crore but has removed the provision of jail term from the first default. The penalty amount for repeated offence would be equivalent to the damage caused. There is imprisonment only after a defaulter fails to pay penalty and additional penalty. The MoEFCC has introduced provision in the Acts that any aggrieved party can now approach the National Green Tribunal to appeal against the order passed by any adjudicating officer. Similar changes have been made to the air and water pollution act as well.

The ministry said a fund namely ‘environment protection fund’ has been created in which the penalty imposed under the three amended Acts by the adjudicating officer would be deposited. This would be utilised for remittance to the affected parties. The amendment said the Centre would prescribe the way the Fund would be administered and the manner in which the money shall be drawn.

Universalising the penal provisions, the Centre has amended the three acts saying, “the provisions of the Code of Criminal Procedure, 1973, would apply to any search or seizures under section 94 of the said Code.”

The ministry has opened the amendments for public comments to be submitted by July 21, 2022.

The series of dilutions come in just two years of MoEFCC facing flak over watering down of several provisions of Environment Impact Assessment, wherein the Centre proposed doing away with public

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hearing for key infra projects. After several environment bodies protested against the move, the deadline for comments was extended and the final EIA is yet to be notified.

The Proposals

- MoEFCC proposes amendments to Environment Protection Act, 1986, Air (prevention and control of pollution) Act, 1986, and Water (prevention and control of pollution) Act, 1974
- Increases penalty amount, reduces provisions of jail terms
- Move aimed at reducing fear of imprisonment among industries, says the ministry
- Series of dilutions come in just two years after of controversy over EIA