

Independent Regulator

Environment

March 13, 2021

In news : Recently, the Apex Court of India asked the Central government that why Independent Environment Regulator has not been constituted to oversee green clearances

Timeline of the issue

- In 2011, the court had asked the Centre to appoint a national regulator under the Environment (Protection) Act, 1986 **for appraising projects, enforcing environmental conditions for approvals and to impose penalties on polluters.**
- Rather than reform the system, in 2011 and 2014, the Centre rebuffed the apex court on the question of forming an independent regulator, contending that its orders in the Lafarge mining PVT Ltd VS Union of India case were only in the nature of a suggestion, and later sought time but decided not to act
- The Supreme court had made it clear that till such mechanism was put in place, the Environment Ministry (MoEF) “should prepare a panel of accredited institutions from which alone the project proponent should obtain the Rapid Environmental Impact Assessment (EIA) and, that too, on the Terms of Reference to be formulated by the MoEF”

Need for independent regulatory mechanism

- In 2011 order, the court had explained the need for an independent regulatory mechanism, saying the “identification of an area as forest area is solely based on the declaration to be filed by the user agency [project proponent]. The project proponent under the existing dispensation is required to undertake EIA by an

expert body/institution”.

- The draft EIA, 2020 clearly lacks a thinking from a regulatory governance perspective
- The draft EIA, 2020 notification retains the EAC at the central level and the State Level Environment Impact Assessment Authority and appraisal committee. But the need for an independent regulator is not addressed.
- If there is no independent body to oversee the entire environmental regulatory process could lead to a possible political interest in the decision making.
- The lack of an independent regulatory body for environmental protection is a pertinent concern relating to EIA and environmental legal framework in India.
- The current environmental regulation institutional mechanism in India, which lie with pollution control boards at the state and central level, lacks regulatory capacity and independence.