



SC Recalls Ban On Ex-Facto Green Clearances

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These are **after-the-fact environmental approvals** granted to projects that began construction, expansion, or operation without acquiring the mandatory prior EC under EIA 2006 rules.

What Was the Vanashakti Ruling (May 16, 2025)?

- The two-judge Bench (Justice A.S. Oka & Justice Ujjal Bhuyan) held that granting retrospective environmental clearances violates the precautionary principle which requires environmental harm to be prevented before it occurs.
- It struck down the **2017 MoEFCC notification** and **2021 OM**s, noting that they enabled regularisation of illegal projects that had bypassed prior environmental approvals.
- The Court said the Centre used "**crafty drafting**" to sanitise violations, allowing industries to construct first and seek legal cover later, undermining environmental governance.
- It directed the government **not to issue any future notifications** or circulars permitting ex post facto ECs, ensuring strict enforcement of the Environment Protection Act.
- The verdict emphasised that retrospective ECs are a "**gross illegality**" and an "**anathema to environmental jurisprudence**", weakening constitutional environmental protections.

What Are Ex Post Facto Green Clearances?

- **Key Features:**
- They regularise projects already in violation of environmental norms, effectively converting an illegal act into a legal one after paying compensatory charges.
- Such approvals involve **penalty-based compliance**, including fines and restoration measures, which serve as corrective—not preventive—mechanisms.
- Intended for **rare, exceptional situations**, they are often misused as routine escape routes for non-compliant developers.
- They are commonly invoked in large infrastructure, mining, industrial, and real-estate projects where delays could cause significant financial losses.
- Critics argue they undermine the precautionary principle and encourage developers to start projects illegally, knowing they can regularise violations later.