

**COMMITTEE ON SUBORDINATE LEGISLATION****(2023-2024)****(SEVENTEENTH LOK SABHA)****THIRTY-FOURTH REPORT**

**ACTION TAKEN REPORT ON THE 24TH REPORT, SEVENTEENTH LOK SABHA ON STATUS OF FRAMING OF SUBORDINATE LEGISLATION VIZ. RULES/REGULATIONS ETC. UNDER VARIOUS ACTS BEING ADMINISTERED BY THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, GOVERNMENT OF INDIA AND DELAY IN LAYING OF RULES.**

**(PRESENTED TO LOK SABHA ON 18.12.2023)**

**LOK SABHA SECRETARIAT  
NEW DELHI  
DECEMBER, 2023/AGRAHAYANA 1945 (SAKA)**

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**MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION**  
**(2023-2024)**

Shri Balashowry Vallabhaneni      Chairperson

**MEMBERS**

2. Shri. Manickam Tagore B.
3. Shri Pinaki Mishra
4. Dr. Pritam Gopinath Rao Munde
5. Shri Chandeshwar Prasad
6. Shari N.K.Premachandran
7. Shri Suresh Kumar Pujari
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| 2. | Smt. Jagriti Tewatia   | - | Director          |
| 3. | Shri Maya Ram          | - | Deputy Secretary  |
| 4. | Shri Kunal Bhardwaj    | - | Committee Officer |

## **INTRODUCTION**

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the Report on their behalf, present this Thirty-fourth Action Taken Report.

2. This Report relates to the Action Taken on the Observations/ Recommendations of the Committee contained in the Twenty-fourth Report (Seventeenth Lok Sabha) which was presented to Lok Sabha on 22.12.2022.

3. The Committee considered and adopted this Report at their sitting held on 14.12.2023.

4. The Extracts of the Minutes of the Sitting of the Committee relevant to this Report are brought out in Appendix I of the Report.

5. An analysis of the Action Taken by Government on the Observations/ Recommendations contained in the Twenty-fourth Report of the Committee (Seventeenth Lok Sabha) is given in Appendix II of the Report.

**New Delhi;  
14 December, 2023  
23 Agrahayana 1945 (Saka)**

**BALASHOWRY VALLABHANENI  
Chairperson,  
Committee on Subordinate Legislation**

## REPORT

### CHAPTER-I

This Report of the Committee on Subordinate Legislation (2022-23) deals with the action taken by the Government on the Observations/Recommendations contained in the Twenty-fourth Report (Seventeenth Lok Sabha) of the Committee which was presented to Lok Sabha on 22.12.2022. The Twenty-fourth Report dealt with the status of framing of Subordinate Legislation viz. Rules/Regulations etc. under various Acts being administered by the Ministry of Environment, Forest and Climate Change, Government of India and delay in laying of rules.

2. The Report, after presentation, was forwarded to the Ministry of Environment, Forest and Climate Change for implementation of the recommendations contained therein. The Ministry of Environment, Forest and Climate Change vide their OM No. F.No. P-L-10002/2023-P-L dated 17.03.2023 and 31.05.2023 had furnished interim action taken reply and vide O.M. dated 04.08.2023 furnished their final action taken replies on all the Observations/Recommendations contained in paras 20-27, 37-42, 48-50 and 53 of the Twenty-fourth Report (Seventeenth Lok Sabha).

3. Replies to the observations/recommendations contained in the Report have been categorized as follows:

(i)	Observations/Recommendations which have been accepted by the Government Sl. Nos. 20,21,22,23,24,25,26,27,37, 38,39,40,41,42,48,49,50 and 53	Total Eighteen Chapter II
(ii)	Observations/Recommendations which the Committee do not desire to pursue in view of the Government's reply. Sl. No. Nil	Total Nil Chapter III
(iii)	Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee Sl. No. Nil	Total Nil Chapter IV
(iv)	Observations/Recommendations in respect of which final replies of the Government are still awaited Sl. No. Nil	Total Nil Chapter V

4. The main observations/ recommendations made by the Committee in different paras of the Report and the action taken thereupon by the Ministry of Environment, Forest and Climate Change are, in brief, as follows:-

**(I) Status of framing of Rules/Regulations under the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021**

5. The Committee had noted that the Commission for Air Quality Management in the National Capital Region and Adjoining Areas Act, 2021 was enforced on 13.04.2021 by promulgating an Ordinance which was replaced by an Act, assented by the President of India on 12.08.2021 and all Rules/Regulations under the Act were required to be framed by within six months i.e. by 11.02.2022. The Committee were concerned to note that the Commission for Air Quality Management in the National Capital Region and Adjoining Areas (Form of Annual Statement of Accounts) Rules, 2021 had been notified in G.S.R. 336(E) dated 4 May, 2022 i.e. after a delay of 2 months 22 days and the Commission for Air Quality Management in the National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rules, 2021 were yet to be framed and the Ministry had also not asked for any extension of time from the Committee w.r.t delay in framing of both the Rules. This compelled the Committee to conclude that the Ministry is either not aware of the laid down procedure, as prescribed in Para 11.3.2 of the Manual of Parliamentary Procedure in the Government of India related to framing of Subordinate Legislation or is having casual approach towards the same. To further supplement to this, it was also noted by the Committee that the Ministry in their background note dated 27.07.2021 had furnished list of only ten Acts and did not mention about the latest Act viz. the Commission for Air Quality Management in the National Capital Region and Adjoining Areas Act, 2021 which was enforced on 13.08.2021 but has furnished status of 5 Rules which were yet to be framed under this Act. The Committee thus took serious note of this casual approach of the Ministry towards framing of Subordinate Legislation and directed the Ministry to evolve a foolproof system for the same and if required, give training to the Officers/Staff so that the laid down procedure pertaining to framing of Subordinate Legislation as elaborated in the Manual of Parliamentary Procedure is followed in letter and spirit and the Ministry should also evolve a system to upload

details of the Acts being administered or implemented by them on the webpage of the Ministry to ensure that the same are also being regularly updated. The Committee also noted that the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rule, 2021 were yet to be framed even after more than one year of enactment of the Act. The Committee were of the view that a statute can be fully enforced only when the Subordinate Legislation stipulated under the Ordinance/ Act are framed in time. The Committee had therefore asked the Ministry to complete its task in a time bound manner and notify the rules/regulations under intimation to the Committee.

{Recommendations Para Nos. 20 to 27}

6. The Ministry of Environment, Forest and Climate Change in their action taken reply submitted that all the subordinate legislations under the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 have been notified. In addition to the above, the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rules, 2023 has been notified on 28<sup>th</sup> April, 2023 vide GSR 322 (E) and the same has been laid before Rajya Sabha on 27.7.2023 and Lok Sabha on 31.07. 2023. Further, the report of the Committee was forwarded to Divisions concerned of the Ministry for compliance. In addition to this, two Meetings were also conducted at the level of Joint Secretary, Ministry of Environment, Forest and Climate Change on 29.05.2023 and 24.07.2023 to sensitize the Officers of the Ministry and to create awareness about procedure laid down in the manual of Parliamentary procedure, Particularly w.r.t. Subordinate Legislation. The matter was also reviewed at the level of Secretary (EF&CC) during Senior Officers' meeting held on 27.06.2023. A training session was also conducted by the Parliament Section of MoEF&CC on 25.07.2023. For timely framing of the Subordinate Legislation as required by the Act and laying of the same before both Houses of Parliament, the Ministry proposes to use IT to make this process online, which is less dependent on the factors such as institutional memory, human interference, transfer and posting of the officers in the Ministry. An IT enabled mechanism has been devised as shown in **Annexure-I**. The same is proposed to be incorporated in the PARIVESH 2.0 Portal. The Ministry has also



initiated the process of uploading legacy data initially from 2014 onwards on the PARIVESH 2.0 Portal (**Annexure-II**). The future notifications will also be uploaded after their publication.

**(II) Status of laying of Rules/Regulations framed under the Act (NGT Act, 2010)**

7. The Committee observed from the Statement furnished by the Ministry vide OM dated 29 June, 2022, under the column pertaining to date of laying of Rules in both Houses, the Ministry had either left blank or had mentioned the status as 'yet to be laid in Lok Sabha' or 'To be laid by the Central Government in the upcoming monsoon session' or 'will be laid in the next session' even for the rules notified as early as in the year 2016, 2018, 2020 and also in 2021 too. The matter of concern was that the Ministry in their earlier background note dated 27.07.2021 had not revealed this fact and had rather submitted that the Rules/Regulations are being laid regularly on the Table of the House and only 4 rules i.e. GSR 1362(E) dt. 02.11.2017, GSR 589(E) dt. 26.06.2018, SO 1027 (E) dt. 22.02.2019 and GSR 1473 (E) dt. 01.12.2017, framed under the National Green Tribunal Act, 2010 have not been laid on the Table as the same got overlooked due to intermittent transfer of Charge of the Section's Staff/Officers. The Committee, thus, took serious note of wrong and misleading information being furnished to the Committee and recommended the Ministry to look into the matter and fix responsibility. The Committee were also constrained to further note that these four Rules were laid before both Houses of Parliament after a delay of almost three and a half years. The Committee were of the opinion that this may be because of the non-existence of an assigned Section, in the Ministry, to keep proper records of subordinate legislation and also lack of monitoring of the same by the Senior Officers which caused to defeat the very purpose of incorporating the laying provision in various Acts of Parliament. The Committee, thus, desired that the Ministry evolve a foolproof mechanism for laying of orders in Parliament, so that such lapses do not recur. The Committee took serious note of casual approach of the Ministry and recommend that the Ministry should adhere to the time schedule of laying of Notification as prescribed by the Committee in its oft repeated Recommendations and

in case of delay in laying of Notification is unavoidable, the same should be laid along with an explanatory note giving cogent reasons for the delay.

*{Recommendations Para Nos. 37 to 42 }*

8. The Ministry of Environment, Forest & Climate Change in their action taken reply submitted that report of the Committee was forwarded to Divisions concerned of the Ministry for compliance. In addition to this, meetings were also conducted at the level of Joint Secretary to sensitize the Officers of the Ministry and to create awareness about procedure laid down in the Manual of Parliamentary Procedure, particularly w.r.t. Subordinate Legislation. The matter was also reviewed at the level of Secretary (EF&CC) during Senior Officers' meeting held on 27.06.2023. In addition to above, a training session was also conducted by the Parliament Section of MoEF&CC on 25.07.2023. Further, a Committee was constituted to examine the issue flagged by the Committee on Subordinate Legislation, Lok Sabha. The Recommendations of the Committee may be seen at **Annexure-III**. In addition to this, an IT enabled mechanism has already been devised to make this process online. Regarding non-existence of an assigned section, the Ministry in their action taken reply have submitted that the Ministry is already having a Parliament Division, which is responsible for coordination of all Parliament matters related to the Ministry. The Division is also a Nodal Division for matters related to the Ministry of Parliamentary Affairs pursuant to the General Coordination Division's OM dated 4.12.2020. Further, the recommendation of the committee was circulated to all the concerned divisions for compliance. They were also conducted at the level of the Joint Secretary, wherein officers were sensitized to prepare a list of all notifications which are required to be laid in both Houses of the Parliament. Further, an IT enabled mechanism has already been devised and after the development of the portal, the process will be completely online. The records of subordinate legislation will be maintained in the system itself and will be updated as soon as the notifications are published. The monitoring of the same will be done by the Division concerned and parliament section. Further, the status of framing and laying of the subordinate legislations will be one of the agenda items of the Senior Officers' meeting which is chaired by Secretary (EF&CC). In addition to this, Ministry has also

initiated the process of uploading the legacy data regarding the laying of the notifications on the PARIVESH Portal.

9. Since the meetings of the committee on Subordinate Legislation held on 29.07.2021, all divisions of the Ministry have been requested to take necessary action on the identification of un-laid notifications. Based on the provisions of the Acts being administered by the Ministry, a total of 57 numbers of notifications/ S.O. have been laid before both the Houses of Parliament since 29.07.2021. Further as per Observation of the Committee, an IT enabled mechanism has already been devised and the Portal, once developed , will have facilities to send reminders before the due date of notification and also to remind the users to obtain an extension of time from the Committee in case of any delay. Provision will also be there for storing the delay statements.

### **III. Infirmary in Rules 3(1) of the NGT (Practice and Procedure) Rule, 2011**

10. The Committee had observed that amendment notified by the Government under sub-Rule 1 of Rule 3 of the NGT (Practice and Procedure) Rule, 2011 is not only in contravention of the Provision made in the Act under sub-Clause (c) of sub-section (4) of Section 4 of the NGT Act, 2010, but it also contradicts the Rule framed by the Government itself i.e. Rule 5(2) of the Principal Rules notified by the Ministry of Environment, Forest and Climate Change vide GSR 296 (E) dated 4.11.2011. The Committee were of the view that the Chairperson of the National Green Tribunal cannot constitute a single Member Bench as proposed by the amendment dated 1<sup>st</sup> December,2017 and each bench should be constituted with at least two member- one Judicial and one expert as per the proviso to Section 4 (4) (c) of the NGT Act, 2010. The Committee are of the view that since no provision of the NGT Act stipulates for framing of a single Member Bench for any purpose, the delegated authority cannot make a rule which is not authorised to it by the Parent statute. The Committee had, therefore, impressed upon the Ministry to avoid framing of such rules which can dilute or enlarge the meaning of a statutory provision, as the essential legislative function cannot be delegated to the executive and has to be exercised by the legislature itself, so as to avoid litigation and the Courts to declare it to be *ultra vires*. The Committee had further

noted that the Hon'ble Supreme Court while hearing the Writ Petition 1235 of 2017 had also observed that the Chairperson of the National Green Tribunal shall not constitute a single Member Bench, but a Divisional Bench Consisting of one Judicial and expert Member. The Committee had thus in the light of its Observations made by the Committee and also the judgement given by Hon'ble Supreme Court, desired the Ministry to withdraw the amendment made vide GSR 1473(E) dated 1<sup>st</sup> December, 2017 by issuing a Notification in the Gazette of India and lay the same in the House.

*{Recommendations Para Nos. 48 to 50}*

11. The Ministry of Environment, Forest and Climate Change, in their action taken reply submitted that in compliance with the Observation/Recommendation made, the Ministry vide Notification having GSR No. 215 (E) dated 17.03.2023 made an amendment in the National Green Tribunal (Practice & Procedure) Rules, 2011 whereby the proviso inserted vide GSR No. 1473(E) dated 01.12.2017 was omitted. Further, the Notification GSR No. 215(E) dated 17.03.2023 was published/notified on the e-gazette website on 24.03.2023 and the same has been laid before the Lok Sabha on 24.07.2023 and Rajya Sabha on 21.07.2023.

**(iv) Vacancies in National Green Tribunal (NGT)**

12. The Committee while taking note of large number of vacancies existing in the National Green Tribunal were of the view that for effective and foolproof implementation of any legislation, the Authority who is authorised to implement the provisions of that legislation should be fully equipped and staffed to be strong enough, to deliver the results in a time bound manner. The Committee, had therefore, recommended to fill up all the vacancies, existing in National Green Tribunal at the earliest and also to evolve a mechanism to initiate process of filling up of vacancies against Superannuation in advance so as to avoid time gap and the vacancy remain unfilled for indefinite period.

*{ Recommendations Para No. 53}*

13. The Ministry in their action taken reply submitted that the matter has been examined and the current status note on vacancies in the National Green Tribunal and

the mechanism to be followed to avoid time gap in for filling up the vacancies in National Green Tribunal is given as **Annexure- IV and V respectively.**

**14. The Committee are satisfied to note that the Ministry of Environment, Forest and Climate Change have accepted all the shortcomings as pointed out by the Committee and rectified the same. The necessary amendments have been carried out by the Ministry in the Rules and notified vide GSR 215(E) dated 17.03.2023 and the same has also been laid before the Lok Sabha on 24.07.2023 and Rajya Sabha on 21.07.2023. The Committee also desire that the Ministry will make all efforts to ensure that the mechanism as proposed in Annexure-V of the Report for filling up vacancies in National Green Tribunal will be followed so that timely action is taken and no vacancy remains unfilled for long or indefinite period.**

15. The Observations/Recommendations made by the Committee and the Action Taken Reply received from the Ministry concerned have been reproduced and suitably categorized in the succeeding Chapters of the Report.

## CHAPTER II

### **OBSERVATIONS/ RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT**

#### RECOMMENDATIONS

The Committee note that Section 25 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 gives power to the Central Government to frame Rules and Section 25(3) to lay the same in both Houses. Further Section 26(1) of the Act gives Power to the Commission with the previous approval of the Central Government, by notification to make regulations subject to the Provisions of the Act and the rules made there under to carry out the provisions of this Act and as per sub-Clause (3) of Section 26, every regulation made under this Act shall be laid after it is made before each House of Parliament, while it is in session for a total period of 30 days.

The Committee also note that the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 was enforced on 13 April, 2021 by promulgating an Ordinance which was replaced by an Act assented to by the President on 12 August, 2021. Thus, all the Rules and Regulations were required to be framed within 6 months of the Act coming into force i.e. by 11 February, 2022 and if for unavoidable reasons it is not possible for the Ministry to frame rules within the prescribed time limit of 6 months, they should after the expiration of 6 months explain the reasons to the Committee and seek extension of time from them.

The Committee, thus, note with satisfaction that, the Central Government has framed the following Rules under the Act within the stipulated time frame of 6 months:-

- i. The Commission for Air Quality Management in National Capital Region and Adjoining Areas (Appointment, Salary, Allowances and other Terms and Conditions of Service of Chairperson, Full-time Members and member-Secretary) Rules, 2021, (GSR 593(E) of 2021) dated 27 August, 2021.
- ii. The Commission for Air Quality Management in National Capital Region and Adjoining Areas (Manner of Taking Samples and Form of Notice) Rules, 2021 (GSR 742 (E) of 2021) dated 14 October, 2021.
- iii. The Commission for Air Quality Management in National Capital Region and Adjoining Areas (Conduct of Business and Conditions and Limitations in Delegation of Powers of Commission) Regulations, 2021(F.No.R-11011/1/2021-Estt.Dated 17.09.2021).

The Committee, are however, concerned to note that the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Form of Annual Statement of Accounts) Rules, 2021 has been notified vide GSR 336(E) dated 4 May, 2022 i.e. after a delay of 2 months 22 days and the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and

Utilization of Environmental Compensation for Stubble Burning) Rules, 2021 are yet to be framed and the Ministry has also not sought any extension of time from the Committee w.r.t. delay in framing of both the Rules. The matter of more concern is not only that the Ministry has sought no extension of time from the Committee, but it is more appalling to note that the Ministry in their written reply has submitted - 'not applicable', in response to the specific query raised by the Secretariat whereby the Ministry was asked to submit the details of the extensions sought in respect of rules that were or have not been framed within the time limit of 6 Months period.

*[ Recommendations at Para No. 20 to 23 of the Report]*

### **REPLY BY THE GOVERNMENT**

All the subordinate legislations under the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 have been notified. In addition to the above, the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rules, 2023 has been notified on 28<sup>th</sup> April, 2023 vide GSR 322 (E) and the same has been laid before Rajya Sabha on 27.7.2023 and Lok Sabha on 31.07. 2023.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

This compels the Committee to conclude that either the Ministry is not aware of the laid down procedure, as prescribed in Para 11.3.2 of the Manual of Parliamentary Procedure in the Government of India, related to framing of Subordinate Legislation or is having a very casual approach towards the same. It is also felt so, because the Ministry, while furnishing the Statement twice regarding the status of rules framed under various Acts has also ignored to furnish the status pertaining to framing of Regulations by the Commission, as required to be framed under Section 26 of the Act. The Committee are, therefore, of the view that furnishing of incomplete information to a Parliamentary Committee tantamount to the lackadaisical approach of the Ministry in framing and also keeping record of the Subordinate legislation.

*[Para No. 24 of the Report]*

### **REPLY BY THE GOVERNMENT**

The report of the Committee was forwarded to concerned Divisions of the Ministry for compliance. In addition to this, two Meetings were also conducted at the level of Joint Secretary, Ministry of Environment, Forest and Climate Change on 29.05.2023 and 24.07.2023 to sensitize the Officers of the Ministry and to create awareness about procedure laid down in the manual of Parliamentary procedure, Particularly w.r.t. Subordinate Legislation. The matter was also reviewed at the level of Secretary (EF&CC) during Senior Officers' meeting held on 27.06.2023. In addition to the above, a training session was also conducted by the Parliament Section of MoEF&CC on 25.07.2023.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

To further supplement to this, it is also noted by the Committee with concern that, the Ministry in their background Note dated 27 July, 2021 has furnished list of only 10 Acts, that are being administered by them and did not mention about the latest Act viz. The Commission for the Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 which was enforced on 13 April, 2021 and is also being administered by the Ministry. Conversely, while furnishing the status of pending Rules/Regulations required to be framed, the Ministry vide their communication dated 27 July, 2021 has furnished the list of 5 Rules, which are yet to be framed under this Act.

*[Para No. 25 of the Report]*

### **REPLY BY THE GOVERNMENT**

The observation of the Committee is noted and all the subordinate legislations under the Commission for Air Quality Management in NCR and Adjoining Areas Act, 2021 have been notified. In Addition to the above, the Commission for Air Quality Management in National Capital Region and Adjoining Areas Utilization of Environmental Burning ) Rules, 2023 has been notified on 28<sup>th</sup> April, 2023 vide GSR 322 (E) and the same has been laid before Rajya Sabha on 27.7.2023 and Lok Sabha on 31.07.2023. It is further submitted that the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance was originally promulgated on 28<sup>th</sup> October, 2020 which got lapsed in 6 months and re-promulgated on 13<sup>th</sup> April, 2021 The Commission for Air Quality Region and Adjoinig Areas, Act, 2021 was enacted on 13.08.2021. Therefore, the same was not mentioned in the background note dated 27<sup>th</sup> July, 2021. Further, a list of 5 rules which are mentioned as yet to be framed have not been framed and laid before both Houses of Parliament.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

The Committee thus, take serious note of this casual approach of the Ministry towards framing of Subordinate Legislation and is also of the strong view that, when the Ministry was asked by a Parliamentary Committee to furnish the status of rules framed and laid on the table of both Houses under various Acts being administered by them, the Ministry's sincere efforts should have been to compile and furnish the correct updated information to the Committee. The Committee would, therefore, direct the Ministry to evolve a foolproof system for the same and if required, give training to the Officers/Staff so that the laid down procedure pertaining to framing of the Subordinate Legislation, as elaborated in the Manual on Parliamentary Procedure, is followed in letter and spirit. The Ministry should also evolve a system to upload details of the Acts being administered or implemented by the Ministry and status of Rules/Regulations/Ordinances/Statutes etc. on the Webpage of the Ministry and ensure that the same are also being regularly updated. The Committee would like to be apprised of the action take in this regard.



*[Para No. 26 of the Report]*

### **REPLY BY THE GOVERNMENT**

For timely framing of the Subordinate Legislation as required by the Act and laying of the same before both Houses of Parliament, the Ministry proposed to use IT to make this process online, which is less dependent on the factors such as institutional memory, human interference, transfer and posting of the officers in the Ministry. An IT enabled mechanism has been devised and may be seen as **Annexure-1**. The same is proposed to be incorporated in the PARIVESH 2.0 Portal. The Ministry has also initiated the process of uploading legacy data initially from 2014 onwards on the PARIVESH 2.0 portal (**Annexure-2**) The future notifications will also be uploaded after their publication.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

The Committee are also of the view that a statute can be fully enforced only when all the subordinate legislation stipulated under the Ordinance/Act are framed in time. The Committee, however, note with concern that the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rule, 2021 are yet to be framed even after more than one year of enactment of the Act and the Regulations as required to be framed by the Commission as per Section 26 of the Act, also appears to be pending, because the Ministry did not furnish any information about the same. The Committee would, thus like to point out that in cases of delay in framing of Rules/Regulations by the Ministry and further not seeking extension from the Committee, is in utter disregard of the recommendations of the Committee made in their earlier reports. The Committee are also of the view that the slow pace of framing rules negates the very purpose of the important provision of the legislation passed by the Parliament. The Committee would like to point out that since the said Act is a very important law dealing with National Clean Air Programme, the framing of Rules/Regulations in this regard should have been initiated simultaneously with the drafting of the proposed Ordinance/Act so that the draft rules/regulations become ready by the time the Ordinance/Act was promulgated and passed. Had the Ministry initiated action in this manner, there would not have been such inordinate delay in enforcement of the law. The Committee, therefore, recommend the Ministry to complete its task in a time bound manner and notify the rules/regulations under intimation to the Committee.

*[Para No. 27 of the Report]*

### **REPLY BY THE GOVERNMENT**

All the subordinate legislations under the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 have been notified. In addition to the above, the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rules, 2023 has been notified on 28<sup>th</sup> April, 2023 vide GSR 322 (E) and the same has been laid before Rajya Sabha on 27.7.2023 and Lok Sabha on 31.07. 2023.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

The Committee observe from the Statement furnished by the Ministry vide O.M. dated 29 June, 2022, under the column pertaining to date of laying of rules in both Houses, the Ministry has either left it blank or has mentioned the status as - 'yet to be laid in Lok Sabha' or 'To be laid by the Central Government in upcoming monsoon Session' or 'will be laid in next session' even for rules notified as early as in the Years 2016, 2018, 2020 and also in 2021 too. The matter of more concern is to note that the Ministry in their background note dated 27 July, 2021 i.e. which was furnished almost one year back, didn't mention anywhere that large number of rules are yet to be laid. Rather the Ministry had submitted to the Committee that, the Ministry has been regularly laying the Rules/Regulations on the Table of the House of the Parliament and only 4 rules i.e. GSR 1362(E) dt. 02.11.2017, GSR 589(E) dt.26.06.2018, SO 1027 (E) dt.22.02.2019 and GSR 1473 (E) dt.01.12.2017, framed under the National Green Tribunal Act, 2010 have not been laid on the Table. The Ministry also stated that these four rules were not laid as the same got over looked due to intermittent transfer of Charge of the Section's Staff/Officers and also assured the Committee that, responsibility for the same is being fixed. The Committee, take serious note of the wrong and misleading information being furnished by the Ministry to the Committee which came to the notice of the Committee only when the matter was seized by the Committee. The Committee, thus, strongly deprecate such casual approach of the Ministry and recommend the Ministry to look into the matter and fix responsibility for furnishing wrong and misleading information to a Parliamentary Committee. The Committee would like to be apprised of the action taken in this regard and steps taken by the Ministry to avoid repetition of similar instances.

*[Para No. 37 of the Report]*

### **REPLY BY THE GOVERNMENT**

The report of the Committee was forwarded to concerned Divisions of the Ministry for compliance. In addition to this, Meetings were also conducted at the level of Joint Secretary to sensitize the Officers of the Ministry and to create awareness about procedure laid down in the manual of Parliamentary procedure, particularly w.r.t. Subordinate Legislation. The matter was also reviewed at the level of Secretary (EF&CC) during Senior Officers' meeting held on 27.06.2023. In addition to the above, a training session was also conducted by the Parliament Section of MoEF&CC on 25.07.2023.

Further, a Committee was constituted vide OM dated 28.06.2023 to examine the issue flagged by the committee. In addition to the above, an IT enable mechanism has already been devised as mentioned against recommendations No. 26 of the report. It is expected that the proposed mechanism would help in minimizing human error, proper up keeping of the records and monitoring mechanism for timely framing and laying of the subordinate legislations.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

## **RECOMMENDATION**

The Committee, further note that the Ministry vide their subsequent OM dated 9 September, 2021 informed that all the four rules, framed under the NGT Act, 2010 have been laid in Lok Sabha on 6.8.2021 and in Rajya Sabha on 9.8.2021 respectively as indicated below:-

- i The National Green Tribunal (Recruitment, Salaries and other terms and conditions of service of Officers and other Employees (Amendment) Rules, 2017 [G.S.R.1362(E) dated 2.11.2017] laid on Lok Sabha with a delay of 1372 and in Rajya Sabha with a delay of 1375 days .
- li The National Green Tribunal (Recruitment, Salaries and other Terms and Conditions of Service of Senior Accountant) Rules, 2018 [G.S.R.589(E) Dated 26.6.2018] laid in Lok Sabha with a delay of 1136 days and in Rajya Sabha with a delay of 1139 days.
- ii The national Green Tribunal (Recruitment, Salaries and other Terms and Conditions of Service of Officers and Other Employees) Rules, 2019 [G.S.R.1027(E) Dated 22.2.2019] laid in Lok Sabha with a delay of 895 days and in Rajya Sabha with a delay of 898 days.
- v The National Green Tribunal (Practice and Procedure) Amendment Rules, 2017 [G.S.R.1473(E) Dated 1.12.2017] laid in Lok Sabha with a delay of 1343 days and in Rajya Sabha with a delay of 1346 days.

The Committee are, however, constrained to note that the rules framed under relevant sections of National Green Tribunal Act, 2010 were laid in both Houses of Parliament after delay of almost three and half years as can be seen from above. The Committee have emphasized time and again that rules/regulations should invariably be laid within a period of 15 days (30 days in case of notifications relating to a State under the President's rule) after its notification. The delay by the Ministry of Environment, Forest and Climate Change in laying of the rules, after lapse of such long period reflects complete disregard by the Ministry, of the provisions of the Parent Act viz. the National Green Tribunal Act, 2010 whose Section 35 (3) also stipulates in unambiguous terms that, every Rule shall be laid on the Table of the House as soon as it is made before each House of Parliament while it is in Session for a period of 30 days. However, in complete disregard to this important statutory provision, the Ministry has reflected a very casual approach.

*[Para Nos. 38 & 39 of the Report]*

## **REPLY BY THE GOVERNMENT**

The observation of the Committee is noted and complied with. However, as desired by the Committee, an IT enabled mechanism has already been devised, so as

to avoid such delays in future, as explained in response to recommendation No. 26 of the Report.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

It further speaks volume about the casual way of functioning of the Ministry in complying with the fulfillment of the Statutory requirements and also furnishing of correct and complete information to a Parliamentary Committee. The Committee, are of the view that this may be because of non existence of an assigned Section, in the Ministry, to keep proper records of subordinate legislation and also monitoring of the same by the Senior Officers. The Committee, thus, take serious note of this lack of monitoring at senior level in the Ministry, especially of timely framing and laying of Orders in the House, as this has defeated the very purpose of incorporating of laying provision in various Acts of Parliament.

The Committee, thus, while deprecating the state of affairs prevailing in the Ministry of Environment, Forests and Climate Changes recommend that urgent action may be taken to prepare a list of all the notifications that have been notified but not yet been laid on the Table of both houses, and cause the same to be laid on the Table of Lok Sabha alongwith requisite statement of reasons for delay in laying at the first available opportunity. The Committee would also like the Ministry to evolve a fool proof mechanism of laying of Orders in Parliament, so that such lapses do not recur, as the same also was assured by the Secretary, Ministry of Environment, Forests and Climate Changes before the Committee that, the Ministry will be more observant so as to avoid any possible delay and the officers/officials will also be strictly instructed to be careful and no such delay be repeated. The Committee, would like the Ministry to apprise the latest status in this regard and also intimate about the necessary steps taken by the Ministry to avoid such delays.

*[Para Nos. 40 & 41 of the Report]*

### **REPLY BY THE GOVERNMENT**

Ministry is already having a Parliament Division, which is responsible for coordination of all Parliament matters related to the Ministry. The Division is also a Nodal Division for matters related to the Ministry of Parliamentary Affairs pursuant to OM dated 4.12.2020. Further the recommendation of the committee was circulated to all the cornered divisions for compliance. The meetings were also conducted at the level of the Joint Secretary, wherein officers were sensitized to prepare a list of all notifications which are required to be laid in both Houses of the Parliament, Further, an IT enabled mechanism has already been devised and after the development of the portal, the process will be completely online. The records of subordinate legislation will be maintained in the system itself and will be updated as soon as the notifications are polished. The monitoring of the same will be done by the concerned division and parliament section. Further, the status of framing and laying of the subordinate legislations will be one of the agenda items of the senior Officers' meeting which is chaired by Secy (EF&CC) In additions to this, Ministry has also initiated the process of

uploading the legacy data regarding the laying of the notifications on the PARIVESH portal. Since the meeting of the Committee on Subordinate Legislation held on 29.07.2021, all divisions of the Ministry have been requested to take necessary action on the identification of unlaidd notifications. Based on the provisions of the Acts being administered by the Ministry, a total of 57 numbers of notifications/S.O. have been laid before both the Houses of Parliament since 29.07.2021.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

The Committee further note that there is a procedural requirement as reported in Para 38 of 6<sup>th</sup> Report, (3<sup>rd</sup> Lok Sabha) of the Committee, that, when there is delay in laying a notification on the Table of the House, an explanatory note giving reasons for such delay should be appended to the Order. The Committee, recommend that the Ministry should ensure to adhere to the time schedule of laying of Notifications as prescribed by the Committee in its oft repeated recommendations and in case the delay in laying of Notification is unavoidable, the Ministry should attach a delay statement from their Minister citing cogent reasons for the delay. The delay statement gives the Ministry an opportunity to clarify the reason for the delay in laying of Notifications but also a reason to introspect and improve their functioning.

*[Para No. 42 of the Report]*

### **REPLY BY THE GOVERNMENT**

The Ministry have responded that the observation of the Committee are noted. As per observation of the committee, an IT enabled mechanism has already been devised and the ports, once developed, will have facilities to send reminders before the due date of notification and also to remind the users to obtain an extension of time from the Committee in case of any delay. Provision will also be three for storing the delay statements.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

The Committee are, therefore, concerned to note that the above amendment notified by the Government under sub-Rule 1 of Rule 3 of the NGT (Practice and Procedure) Rule, 2011 is not only in contravention of the Provision made in the Act under sub-Clause (c) of sub-section (4) of Section 4 of the NGT Act,2010, but it also contradicts the Rule framed by the Government itself i.e. Rule 5(2) of the Principal Rules notified by the Ministry of Environment, Forest and Climate Change vide GSR 296 (E) dated 4.11.2011. The Committee is of the strong opinion that a delegated legislation must be in conformity with the Provisions of the law enacted by the legislature and the subordinate authority who is delegated to frame rules cannot override the laid down provisions and dilute the intent of the law passed by the legislature because a rule cannot rise above the source of power. Thus, the Committee is of the view that the Chairperson of the National Green Tribunal cannot constitute a

single Member Bench as proposed by the amendment dated 1<sup>st</sup> December,2017 and each bench should be constituted with at least two member- one Judicial and one expert as per the proviso to Section 4 (4) (c) of the NGT Act, 2010.

The Committee further disagree to the clarification given by the Ministry in its written submission that the proposal for amending the NGT Rules were framed to enable day to day functioning of the NGT's Zonal Benches with a single Member (Judicial/Expert) for matters other than involving hearing or appeal. The Committee are of the view that since no provision of the NGT Act stipulates for framing of a single Member Bench for any purpose, the delegated authority cannot make a rule which is not authorised to it by the Parent statute. The Committee would, therefore, like to impress upon the Ministry to avoid framing of such rules which can dilute or enlarge the meaning of a statutory provision, as the essential legislative function cannot be delegated to the executive and has to be exercised by the legislative itself, so as to avoid litigation and the Courts to declare it to be *ultra vires*. The Committee expect the Ministry to follow this principle in letter and spirit for framing all Subordinate Legislations.

[Para Nos. 48 & 49 of the Report]

### **REPLY BY THE GOVERNMENT**

In compliance the observation/recommendation the report, the Ministry vide Notification No GSR 215 (E) dated 17.03.2023 have made an amendment in the National Green Tribunal (Practice & Procedure) Rules, 2011 whereby the proviso inserted vide GSR No. 1473(E) dated 01.12.2017 was omitted. The same was also communicated to Lok Sabha Secretariat vide Ministry's OM dated 31.05.2023. Further, the GSR 215(E) dated 17.03.2023 published/notified on the e-gazette website on 24.03.2023 and the same has been laid before the Lok Sabha on 24.07.2023 and Rajya Sabha on 21.07.2023.

[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]

### **RECOMMENDATION**

The Committee further note that on the issue, the Hon'ble Supreme Court while hearing the Writ Petition 1235 of 2017 has also observed that the Chairperson of the National Green Tribunal shall not constitute a single Member Bench, but a Divisional Bench Consisting of one Judicial and expert Member. This Writ Petition was disposed of *vide* Order dated 05.01.2021. The Committee would thus in the light of its Observations made in preceding paras and also the judgement given by Hon'ble Supreme Court, like the Ministry to withdraw the amendment made vide GSR 1473(E) dated 1<sup>st</sup> December, 2017 by issuing a Notification in the Gazette of India and lay the same in the House. The Committee would also like to be apprised of the conclusive action taken in this regard within 3 months of presentation of the Report to the House.

[Para No. 50 of the Report]

### **REPLY BY THE GOVERNMENT**

In compliance the observation/recommendation the report, the Ministry vide Notification No GSR 215 (E) dated 17.03.2023 have made an amendment in the

National Green Tribunal (Practice & Procedure) Rules, 2011 whereby the proviso inserted vide GSR No. 1473(E dated 01.12.2017 was omitted. The same was also communicated to Lok Sabha Secretariat vide Ministry's OM dated 31.05.2023. Further, the GSR 215(E) dated 17.03.2023 published/notified on the e-gazette website on 24.03.2023 and the same has been laid before the Lok Sabha on 24.07.2023 and Rajya Sabha on 21.07.2023.

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **RECOMMENDATION**

The Committee while taking note of the large number of vacancies existing in the Tribunal are of the view that for effective and fool proof implementation of any legislation, the Authority who is authorised to implement the provisions of that legislation should be fully equipped and staffed to be strong enough, to deliver the results in a time bound manner. The Committee, would therefore, like to recommend to fill up all the vacancies, existing in National Green Tribunal at the earliest and also to evolve a mechanism to initiate process of filling up of vacancies against Superannuation in advance so as to avoid time gap and the vacancy remain unfilled for indefinite period. The Committee may be apprised of the final status within 3 months after presentation of the Report to the House.

*[Para No. 53 of the Report]*

### **REPLY BY THE GOVERNMENT**

The Ministry in their response have furnished the information with regard to the current status of filling of vacancies in the National Green Tribunal and the mechanism to be followed for filling up the vacancies details at (Annexure-III and IV)

*[MoEF&CC O.M. No. P-L-10002/2023-P-L, dt. 4.8.2023]*

### **CHAPTER III**

**OBSERVATIONS/ RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLY**

**-NIL-**



## CHAPTER IV

**OBSERVATIONS/ RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION**

**-NIL-**

**CHAPTER V**

**OBSERVATIONS/ RECOMMENDATIONS IN RESPECT OF WHICH FINAL REPLIES  
OF THE GOVERNMENT ARE STILL AWAITED**

**-NIL-**

**New Delhi;  
14 December, 2023  
23 Agrahayana, 1945 (Saka)**

**BALASHOWRY VALLABHANENI  
Chairperson,  
Committee on Subordinate Legislation**

**Mechanism for Framing and Laying of the  
Subordinate Legislation**

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For timely Framing of the Subordinate Legislation as required by the Act and laying of the same before both Houses of the Parliament, the Ministry proposes to use IT Technology to make this process online and foolproof, which is less dependent on the factors such as institutional memory, human interference, transfer and posting of the officers in the Ministry. The basic flow of the proposed online portal and the steps involved are as follows:

**A. Mechanism for Rules & Amendments in Rules.**

<b>Steps</b>	<b>Action</b>	<b>Responsibility</b>	<b>Remarks</b>
1.	The division will upload a copy of the Act on the portal as soon as it gets promulgated.	Concerned Division	—
2.	Provide the details of rules to be framed under the said Act.	Concerned Division	The System will check the status of framing of rules within the stipulated time frame and send monthly reminders to the Concerned Divisional Head and JS(Parliament).  If the rules are not framed within 6 months, then a reminder will be sent to Concern Divisional Head and JS(Parliament) for seeking an extension of time from the Sub-Ordinate Legislative Committee.
3.	After framing the rules, the Division will upload the following:  • A signed copy (Hindi & English) of the	Concerned Division	Nil

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	<p>rules.</p> <ul style="list-style-type: none"> <li>• Upload the soft copy (Hindi &amp; English)</li> <li>• Letter to be sent to Mayapuri Press for publication of the Rules.</li> </ul> <p>The complete set of documents needs to be forwarded through the portal to Nodal Officer authorised for uploading of the rules on the E- Gazette Portal.</p>		
4.	<p>The Nodal officer shall verify that all the documents are uploaded to the Portal and if all the documents are uploaded then forward the same to Manager, Mayapuri Press for uploading on the E-Gazette website.</p> <p>In case of any deficiency in submission, the request shall be referred back to Division for uploading of correct documents.</p>	Nodal Officer Concerned Division	<p>The system will keep a record of requests submitted, requests referred back, request re-submitted after corrections and request forwarded to Mayapuri Press.</p> <p>Note: The request Status at this Stage is “open”.</p>
5.	<p>After the publication of the notification in the E-Gazette website, the Concern Division shall upload the following:</p> <ul style="list-style-type: none"> <li>• A copy of the notification published on the E-Gazette Website.</li> <li>• Provide the G.S.R No</li> </ul>	Concerned Division	<p>After uploading all the information, the status of the request status becomes Closed.</p> <p>Every week the system will give auto intimation to the Concerned Divisional Head and Parliament Section w.r.t request having open status.</p>

	<p>or S.O No as the case may be.</p> <ul style="list-style-type: none"> <li>• Date of Issue of notification,</li> <li>• Date of publication of the notification.</li> <li>• Details of the section and sub-section of the Act under which the rule was framed.</li> <li>• Provide details of the part and section under which the Rule was published in the E-Gazette.</li> </ul>		
6.	<p>After the publication of the notification, the concern division shall lay the same before both Houses of Parliament.</p>	Concerned Division	<p>The system will give weekly reminders to the Concerned Divisional Head for laying the notification before both Houses of Parliament and also send intimation to Parliament Section.</p> <p>Note: The System Status at this stage is "not laid".</p>
7.	<p>After laying the Notification before both Houses of Parliament, the concerned division shall upload:</p> <ul style="list-style-type: none"> <li>• Copy OM sent to table office LS&amp; RS.</li> <li>• Provide the date of the laying of the notification.</li> <li>• Upload a copy of Bulletin Part-1 of LS &amp; RS.</li> </ul>		<p>The System Status at this stage become "Laid".</p>

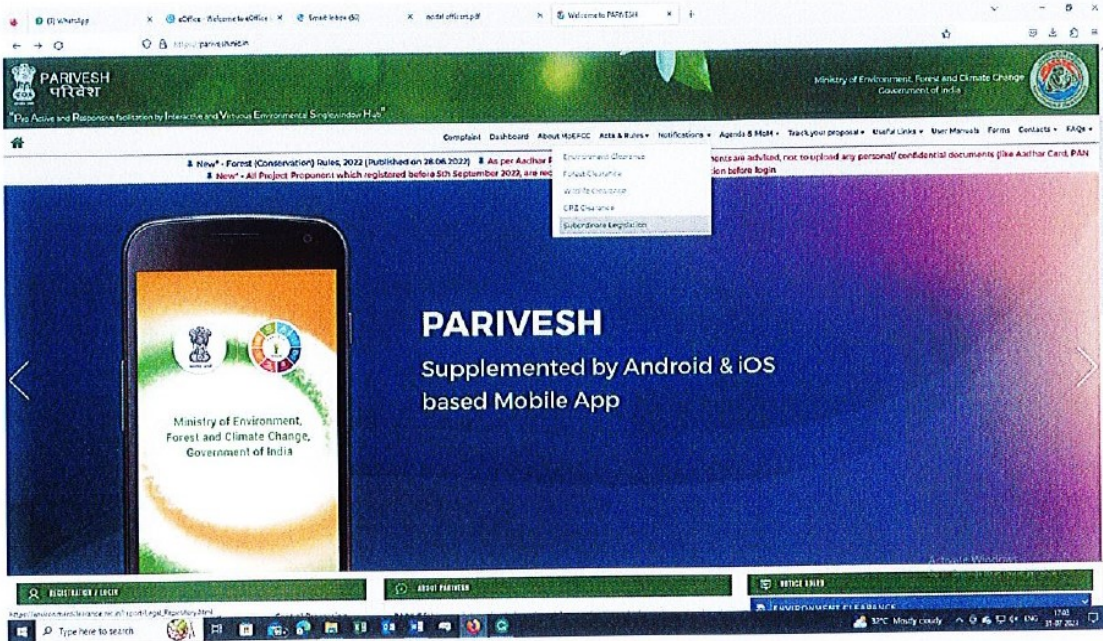
**B. Other Notifications which are not a rule but are Statutory in Character.**

Repeat Steps 3 to 7 as mentioned above.

2. In addition to the above, the Online Portal will have a Dashboard which can be viewed by any user and a monthly report can also be generated for the review at Senior Officer's meeting.
3. The portal will also have a separate section for public viewing wherein all the subordinate legislation published by the Ministry can be viewed.

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**ANNEXURE-II**



**Notifications laid before both the Houses of the Parliament**

Serial No.	Sl. No./Date No.	Date of Issue of Notification	Subject	Date of laying before Lok Sabha	Date of laying before Rajya Sabha	Download Manual
100	S.O. 100314	03-07-2023	Amendment in exercise of the powers conferred by sub-section (1) and clause (a) of sub-section (1) of section 3 of Environment (Protection) Act, 1986	20-07-2023	21-07-2023	<a href="#">Download</a>
101	S.O. 112753	19-06-2022	AMENDMENT IN S.O. NOTIFICATION 3005 FOR PUMP STORAGE PROJECTS	25-07-2023	26-07-2023	<a href="#">Download</a>
102	G.S.R. 38182	27-04-2023	Plastic Waste Management, (Amendment) Rules, 2022	24-07-2023	21-07-2023	<a href="#">Download</a>
103	S.O. 1600 (4)	29-04-2023	AMENDMENT IN RECONSTITUTION OF PUDUCHERRY COASTAL ZONE MANAGEMENT AUTHORITY	21-07-2023	21-07-2023	<a href="#">Download</a>
104	S.O. 13201	21-02-2023	AMENDMENT IN THE S.O. NOTIFICATION 2008 FOR MAKING PROVISION FOR STAFF AND PAID TRANSFER OF ENVIRONMENTAL OFFICERS	24-07-2023	24-07-2023	<a href="#">Download</a>
105	G.S.R. 12474	24-03-2023	NATIONAL GREEN TRIBUNAL (PROCEDURE AND PROCEEDURE) AMENDMENT RULES, 2022	24-07-2023	24-07-2023	<a href="#">Download</a>
106	S.O. 13178	27-03-2023	RECONSTITUTION OF KERALA COASTAL ZONE MANAGEMENT AUTHORITY	14-08-2023	06-08-2023	<a href="#">Download</a>
107	G.S.R. 18153	21-02-2023	The Commission for Air Quality Management in National Capital Region and Adjoining Areas (Appointments, Salary, Allowances and other Terms and Conditions of Service of Chairpersons, Full-time Members and Member Secretary) Amendment Rules, 2022	17-03-2023	25-03-2023	<a href="#">Download</a>
108	G.S.R. 18152	21-02-2023	The Commission for Air Quality Management in National Capital Region and Adjoining Areas (Members other than official Members) Rules, 2022	17-03-2023	21-03-2023	<a href="#">Download</a>
109	G.S.R. 18151	21-02-2023	The Commission for Air Quality Management in National Capital Region and Adjoining Areas (Members other than official Members of the Sub-Committee) Rules, 2022	17-03-2023	21-03-2023	<a href="#">Download</a>
110	G.S.R. 11142	21-02-2023	The Commission for Air Quality Management in National Capital Region and Adjoining Areas (Members other than official Members of the Sub-Committee) Rules, 2022	27-03-2023	23-03-2023	<a href="#">Download</a>
111	S.O. 14714	24-10-2022	Amendment in Coastal Regulation Zone Notification 2019	14-12-2022	15-12-2022	<a href="#">Download</a>





**Report of Committee for compliance of para 37 of the 24<sup>th</sup> Report of the Committee on Subordinate Legislation.**

Policy and Law Division, MoEFCC had constituted a Committee vide OM dated 26<sup>th</sup> June 2023 for compliance of Para 37 of the 24<sup>th</sup> Report of the Committee on Subordinate Legislation.

2. The terms of reference of the Committee are as under.

- To analyse the recommendation /observation made by the Committee at para 37 of its 24<sup>th</sup> Report.
- To examine and verify the reply submitted by the Ministry to the Committee.
- To verify and examine other records and files available in the Division.
- To look into the matter and fix responsibility for furnishing wrong and misleading information to a Parliamentary Committee.

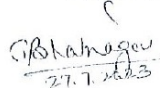
3. The Lok Sabha Secretariat while forwarding the 24<sup>th</sup> Report of the Committee on Subordinate Legislation has observed the following in Para 37 of the report.

*"The Committee observe from the Statement furnished by the Ministry vide O.M. dated 29 June, 2022, under the column pertaining to date of laying of rules in both Houses, the Ministry has either left it blank or has mentioned the status as - 'yet to be laid in Lok Sabha' or 'To be laid by the Central Government in upcoming monsoon Session' or 'will be laid in next session' even for rules notified as early as in the Years 2016, 2018, 2020 and also in 2021 too. The matter of more concern is to note that the Ministry in their background note dated 27 July, 2021 i.e. which was furnished almost one year back, didn't mention anywhere that large number of rules are yet to laid. Rather the Ministry had submitted to the Committee that, the Ministry has been regularly laying the Rules/Regulations on the Table of the House of the Parliament and only 4 rules i.e. GSR 1362(E) dt. 02.11.2017, GSR 589(E) dt.26.06.2018, SO 1027 (E) dt.22.02.2019 and GSR 1473 (E) dt.01.12.2017, framed under the National Green Tribunal Act, 2010 have not been laid on the Table. The Ministry also stated that these four rules were not laid as the same got over looked due to intermittent transfer of Charge of the Section's Staff/Officers and also assured the Committee that, responsibility for the same is being fixed. The Committee, take serious note of the wrong and misleading information being furnished by the Ministry to the Committee which came to the notice of the Committee only when the matter was seized by the Committee. The Committee, thus, strongly deprecate such casual approach of the Ministry and recommend the Ministry to look into the matter and fix responsibility for furnishing wrong and misleading information to a Parliamentary Committee. The Committee would like to be apprised of the action taken in this regard and steps taken by the Ministry to avoid repetition of similar instances."*

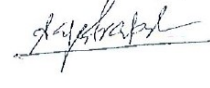
4. The concerned files in the Policy and Law Division and the Parliament Section of the Ministry of Environment Forest and Climate Change (MoEF & CC) were examined by the Committee and the following facts emerged w.r.t the observations in the Para 37 of the 24<sup>th</sup> Report of the Committee on Subordinate Legislation.

5. **Parliament Section File No File No. H-11011/18 /2018-Parl**

- i. Ministry of Parliamentary Affairs vide their OM dated 14<sup>th</sup> June 2021 issued a OM to all the Ministries of the Govt of India for taking appropriate action for framing, notifying and laying rules /regulations on the Table of the both the Houses of Parliament and to continuously keep updating the status of the same to the Legislative Department, Ministry of Law and Justice.
- ii. Parliament Section, MoEFCC vide communication dated 18<sup>th</sup> June 2021 sought the information from all the Divisions in the Ministry.

  
S.K. Singh  
27.7.2023

  
R.K. Singh  
27/7/23

  
J.K. Singh

- Recd
- iii. Lok Sabha Secretariat vide OM dated 25<sup>th</sup> June 2021 sought the status of framing of Rules and Regulations etc. (Subordinate Legislations) for the Acts being administered by the Ministry.
  - iv. Lok Sabha Secretariat had informed the Ministry vide its OM dated 22<sup>nd</sup> July 2021 that a background note covering inter alia the status of the laying of the Rules/Regulations under the various Acts/ Amendment Act and the instances of delay in laying of Rules/Regulations framed under the Act on the Table of the Lok Sabha/Rajya Sabha may be sent to Lok Sabha Secretariat before the hearing of Committee on Subordinate Legislation on 29<sup>th</sup> July 2021.
  - v. Lok Sabha Secretariat OM dated 22<sup>nd</sup> July 2021 was processed in Parliament Section and the matter was assigned with the approval of the then Secretary, MoEFCC to Policy and Law Division for coordination, furnishing inputs and brief to Lok Sabha Secretariat for the sitting of the Committee on Subordinate Legislation on 29<sup>th</sup> July 2021. Further action in the matter was taken by Policy and Law Division.
  - vi. On receipt of reminders from the Lok Sabha Secretariat for the information sought vide OM dated 25<sup>th</sup> June 2021, Parliament Section reminded the Divisions for providing the information.
  - vii. Parliament Section sent the information on 29.6.2022 after getting the same from the Divisions and compiling it.

**6. Policy and Law Division File No 2(10)2021-P & L.**

- i. With reference to Lok Sabha Secretariat OM dated 22<sup>nd</sup> July 2021, as per the decision in para 5(v) above the Policy and Law Division vide its email dated 24<sup>th</sup> July 2021 sought the inputs for the background note from all the Divisions in the MoEF & CC.
- ii. After obtaining information from the Divisions the final version of the Background Note was sent to the Committee on Subordinate Legislation on 27<sup>th</sup> July 2021 by the Policy and Law Division.

**Observations :-**

7. In para (x) of the Note sent to the Lok Sabha Secretariat on 27<sup>th</sup> July 2021 by the Policy and Law Division after obtaining the same from the Divisions it was mentioned that MoEF & CC has been regularly laying the Rules/Regulations on the Table of the House of Parliament. It was further mentioned in Para (xi) that 4 Rules have not been laid on the table of either houses of Parliament and the Ministry is in the process of laying these rules before both the houses of Parliament on priority basis.
8. Further, the observation of the Committee in para 37 that four rules were not laid as the same got over looked due to intermittent transfer of Charge of the Section's Staff/Officers and also assured the Committee that, responsibility for the same is being fixed has emanated from the statement enclosed as Annexure to the report in the OM No 17(12)2021-PL/NGT dated 19<sup>th</sup> July 2021 through which the status of the 4 rules relating to NGT was sent to the Lok Sabha Secretariat.
9. It is observed that the information sent to the Lok Sabha Secretariat vide OM dated 29<sup>th</sup> June 2022 contains Division wise list of Rules/Regulations made in the past under various Acts being administered by the Ministry. It is observed that some columns have been left blank as indicated by the Committee in its report and in some of the columns the status has been indicated as - 'yet to be laid in Lok Sabha' or 'To be laid by the Central Government in upcoming monsoon Session' or 'will be laid in next session'.
10. It is also observed that the information which was compiled & sent by the Parliament Section, was furnished by the Divisions as per their domain & responsibility as originators/keepers.
11. Evidently, both the sections have processed the communications received from the Lok Sabha Secretariat and sent the information to Lok Sabha Secretariat as provided by the Divisions.

Gibhrajnagar  
27.7.2023

RSC  
27/7/23

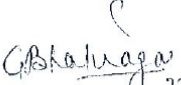
dep. Secy


**Recommendations :-**

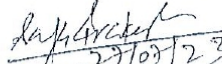
12. The following are the recommendations of the Committee.

- i. The Divisions of the Ministry need to keep an updated information on the Acts being administered by them for framing, notifying and laying rules /regulations on the Table of the both the Houses of Parliament and the instances of delay, if any.
- ii. A mechanism for the institutional memory for matters relating to Acts, rules and regulations in the Divisions be created so that the change in incumbency does not create information gap and updated information is available for providing to the Parliament as and when required. In this regard, as observed by the Committee on Subordinate Legislation, a module may be created by IT Division on the Ministry's portal to facilitate the Divisions to upload the requisite details on regular basis.
- iii. Instructions may be issued by the Parliament Section to the Heads of all the Divisions of the Ministry on the sensitivity of the matters related to information to the Parliament and the timelines to be followed in this regard. A training programme may be organised for the officers of the various divisions in this regard.
- iv. Instructions may also be issued to the Divisions to maintain proper record of the Acts, rules framed thereunder, and their updated status (pending for laying on the tables of the Houses) and furnishing the accurate information to Parliament Section/Policy and Law Division.
- v. Policy and Law Division /Parliament Division has to be more proactive with the Divisions so that the last minute rush is avoided and the correct information is provided on parliament matters.
- vi. The revised and updated information, as available with the Divisions along with the reasons for delay in providing information in their earlier reply, may be collected and sent to Lok Sabha Secretariat.
- vii. The status of the framing, notifying and laying rules /regulations under the Acts being administered by the Ministry, may be one of the agenda points for the Senior Officers Meeting.

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(Geeta Bhatnagar) 27.7.2023

  
(R S Bora)

  
(Satya Prakash) 27/07/23



**ANNEXURE-IV**

**CURRENT STATUS OF VACANCIES IN NATIONAL GREEN TRIBUNALS**

1. Name of the Tribunal: **National Green Tribunal (NGT)**
2. Post-wise details:

Sl. No.	Post Name	Sanctioned Strength (As per the related Act)	Number of posts filled	Number of posts vacant	Action Taken
1.	Chairperson	01	01	NIL*	<p>Anticipated vacancy that shall arise on the completion of tenure of Chairperson, NGT in July, 2023.</p> <p>Ministry vide letter dated 23.01.2023 requested Ministry of Law &amp; Justice to seek nomination of Chairperson for the constitution of Search-cum-Selection Committee (referred as SCSC) from Hon'ble Chief Justice of India for the appointment of Chairperson in NGT and to nominate additional member for the SCSC in case the incumbent Chairperson seek re-appointment.</p> <p>Further, the Hon'ble CJI vide letter dated 02.03.2023 nominated Hon'ble Justice ShriAniruddha Bose as the Chairperson, of SCSC for appointment of Judicial Members in NGT. In this regard to save time, Ministry vide D.O. letter dated 07.03.2023 requested MoLJ to seek nomination from Hon'ble CJI for one chairperson of SCSC collectively for the appointment to the post of chairperson and Expert members in NGT.</p>

2.	Judicial Members	10	06	04 <sup>#</sup>	<p>The last round of selection of Judicial Members in the NGT was completed in the month of April, 2022. After the approval of SCSC an advertisement for filling up of five (05) posts {4 vacant + 1 anticipated vacancy} of Judicial Members was published in the national daily on 16.12.2022 and the last date of receiving the applications was 12.01.2023.</p> <p>Thereafter, Ministry vide letter dated 10.01.2023 requested Ministry of Law and Justice to seek nomination of Chairperson of SCSC from Hon'ble CJI in this regard. Accordingly it was conveyed by Hon'ble CJI vide letter dated 02.03.2023 that Hon'ble Justice ShriAniruddha Bose has been nominated as the Chairperson, of SCSC for appointment of Judicial Members in NGT.</p> <p>Accordingly, Ministry vide its order dated 09.03.2023 constituted the SCSC under the Chairmanship of Hon'ble Justice ShriAniruddha Bose for appointment of Judicial Members in NGT.</p>
3.	Expert Members	10	05	05 <sup>@</sup>	<p>A fresh advertisement for selection of four (04) vacant posts for Expert Members</p>

					<p>since 31.10.2022 in the NGT was published on 03.02.2022. Thereafter, Ministry vide its order dated 13.04.2022 had duly constituted the SCSC under the Chairmanship of Shri Justice S. Abdul Nazeer. The Committee held its meeting on 09.09.2022 for shortlisting of candidates. However, before the SCSC could finalise its recommendation, the then Chairmanship of SCSC Shri Justice S. Abdul Nazeer was appointed as Governor of Andhra Pradesh. Therefore, Ministry vide D.O. letter dated 07.03.2023 informed MoLJ that the above said SCSC may have to be re-constituted and to save time Ministry vide D.O. letter dated 07.03.2023 requested MoLJ to seek nomination from Hon'ble CJI for one chairperson of SCSC collectively for the appointment to the post of chairperson and Expert members in NGT.</p> <p>Further, approval of SCSC had also been obtained for publishing the advertisement for one (01) additional vacant post of Expert Member. The Ministry has published the advertisement for the said vacancy on 18.02.2023 and the last date of receiving the applications is 17.03.2023 and Ministry vide D.O. letter dated 07.03.2023 requested MoLJ to seek nomination from Hon'ble CJI for one chairperson of SCSC</p>
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					collectively for the appointment to the post of chairperson and Expert members in NGT.
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## ANNEXURE-V

### PROPOSED MECHANISM FOR FILLING UP VACANCIES IN NATIONAL GREEN TRIBUNAL (NGT)

1. Name of the Tribunal: National Green Tribunal (NGT)
2. Post-wise details:

Sl. No.	Post Name	Sanctioned Strength (As per the related Act)	Number of posts filled	Action Taken
1.	Chairperson	01	01	As the tenure of Chairperson, NGT will be complete in July, 2023- Process already initiated.
2.	Judicial Members	10	06	Out of 6 filled posts of judicial members in NGT 5 post will start vacant from April, 2025.
3.	Expert Members	10	05	All the 5 filled posts of expert members in NGT will start vacant from April, 2025.

#### ACTION PLAN

S.NO	STEPS TO BE TAKEN	PROPOSED TIME LINE
1.	Seeking approval from the previous SCSC for publication of advertisement.	Ministry may seek approval from already constituted SCSC for publication of advertisement at least 8 months prior to the date from which the post(s) fall vacant.
2.	Seeking nomination of Chairperson of SCSC.	Ministry may request MoLJ to seek nomination of Chairperson/ member of SCSC from Hon'ble CJI at least 6 months prior to the date from which the posts fall vacant.
3.	Constitution of SCSC	Ministry may constitute SCSC at least 5 months prior to the date from which the posts fall vacant.
4.	Recommendation by SCSC	SCSC shall recommend the name of suitable candidate at least 3 months prior to the date from which the posts remain vacant.
5.	Recommendation by Central Government	In terms of power conferred under Section 3 sub-section 7 of the Tribunal Reforms Act, 2021 the Central Government shall take a decision on the recommendations made by that Committee, within 3 months from the date of such recommendations.

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## APPENDIX-I

### EXTRACTS OF THE MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2023-2024)

—

The Third Sitting of the Committee (2023-24) was held on Thursday, the 14<sup>th</sup> December, 2023 from 1030 hours in Committee Room 1, B Block, Extension to Parliament House Annexe, New Delhi.

#### **PRESENT**

Shri Balashowry Vallabhaneni                      Chairperson

#### **MEMBERS**

2. Shri Chandeshwar Prasad
3. Shri Suresh Kumar Pujari
4. Shri A.Raja
5. Shri Nama Nageswara Rao
6. Shri Sanjay Seth
7. Dr. Amar Singh
8. Shri Brijendra Singh
9. Shri Ram Kripal Yadav
10. Shri Arvind Ganpat Sawant

#### SECRETARIAT

- |    |                       |   |                  |
|----|-----------------------|---|------------------|
| 1. | Sh. Srinivasulu Gunda | - | Joint Secretary  |
| 2. | Smt. Jagriti Tewatia  | - | Director         |
| 3. | Sh. Maya Ram          | - | Deputy Secretary |

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports :-

- |       |  |     |     |     |
|-------|--|-----|-----|-----|
| (i)   | ***  | *** | *** | *** |
| (ii)  | ***  | *** | *** | *** |
| (iii) | Draft Thirty-fourth Action Taken Report on the action taken by the Government on the Observations/ Recommendations contained in the Twenty-fourth Report of the Committee on Subordinate Legislation (17th Lok Sabha ) |     |     |     |

3. After deliberations, the Committee adopted the above draft Reports without any modification. The Committee also authorized the Chairperson to present the same to the House.

4.        \*\*\*    \*\*\*    \*\*\*    \*\*\*

5.       \*\*\*                                       \*\*\*                                       \*\*\*                                       \*\*\*

The Committee then adjourned.

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\*\*\* Not related to the subject matter.

**APPENDIX-II**  
(Vide Para 5 of the Introduction of the Report)

**ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/ RECOMMENDATIONS CONTAINED IN THE TWENTY FOURTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA)**

Chapter-I	Total No. of Observations/Recommendations made	18
Chapter-II	Recommendations that have been accepted by the Government	18
	Percentage of total	100%
Chapter-III	Recommendations which the Committee do not want to pursue in view of Government replies	NIL
	Percentage of total	0%
Chapter-IV	Recommendations in respect of which replies of Government have not been accepted by the Committee	NIL
	Percentage of total	0%
Chapter-V	Recommendations in respect of which final replies of Government are still awaited	NIL
	Percentage of total	0%