SC on Green Clearances

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Why in News?

- The Supreme Court quashes the Centre's 2021 Office Memorandum on ex post facto environmental clearance.
- It was ruling that any future amnesty under the Environment (Protection) Act must flow from a statutory notification, not an administrative order, and be confined to projects of supervening public interest under the EIA framework of 2006.
- An administrative order cannot create a perpetual and parallel regime to grant retrospective authorisation to big-ticket infrastructure projects commenced without prior, valid environmental clearance.
- However, the court has not barred retrospective ECs totally.
- It has in fact adopted a note of reconciliation and called for "measured regularisation".
- The court held that ex post facto environmental regularisation must be restricted to "a narrow, time-bound, reasoned and supervised window", and done only in projects of "supervening public interest".
- The judgment will apply prospectively, thus saving projects that got retrospective environment clearances (ECs) from demolition and other punitive measures.
- The Supreme Court was using its power under Article 142, which aims to do complete justice in appropriate cases.
- It said the office memorandum does not satisfy the test of proportionality and reasonableness and is violative of Articles 14 and 21 of the Constitution.
- India's EIA framework is built around a simple principle: projects requiring environmental clearance (EC) must obtain it before construction or operations begin.
- The 2006 EIA Notification explicitly mandates "prior environmental clearance", allowing regulators to evaluate ecological impacts, hear public objections and prescribe safeguards before irreversible environmental

damage occurs.
- Environmental Impact Assessment (EIA) comes under the Environment (Protection) Act, 1986.

Reference

The Indian Express | Ex-post facto environment clearances