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1. Top Court's Green Governance, Cause for Uncertainty (TH)**General Studies 2 & 3** – Governance / Environment

Topic– Structure, organization and functioning of the Judiciary; Separation of powers between various organs; Statutory, regulatory and various quasi-judicial bodies. / Conservation, environmental pollution and degradation, environmental impact assessment.

Top Court's Green Governance– A Cause for Uncertainty**1. Introduction**

Over the last decade, the Supreme Court of India has undergone a significant transformation in environmental jurisprudence. It has shifted from its traditional role of reviewing the legality of administrative actions to issuing prospective, quasi-regulatory directions. While this "managerial" role emerged due to the failure of statutory regulators, it has inadvertently created a parallel regulatory structure. The sustained use of continuing mandamus—where the Court keeps cases open to issue serial orders—has led to policy flip-flops, creating uncertainty for the State, regulated entities, and the public.

2. The Shift– From Adjudicator to Substitute Regulator

The Court's intervention was initially triggered by regulatory gaps such as fragmented enforcement, delayed notifications, and weak monitoring. However, the nature of this intervention has evolved –

Substitute Regulator– Instead of compelling the executive to fulfill its statutory duties, the Court often assumes the role of the executive itself.

Consequentialist Reasoning– Judicial reasoning has moved from strict "legality" (what the law says) to "consequences" (weighing economic and practical fallout against environmental principles).

Govern First, Manage Later– The trend involves announcing broad, principled rules first and then managing the fallout later through modifications, reflecting an impulse to govern rather than strictly adjudicate.

3. Evidence of Policy Reversals (Key Rulings)

The Court's approach has resulted in several "U-turns" where initial strict orders were later diluted or modified due to practical constraints–

Eco-Sensitive Zones (ESZ)

1. June 2022– Directed a mandatory 1-km ESZ buffer for all protected areas.
2. April 2023– Diluted the order to exempt areas where the Environment Ministry had already notified ESZs, following state protests over implementation.

Diesel Vehicle Ban (Delhi–NCR)

1. Dec 2015– Imposed a ban on registration of diesel cars/SUVs above 2,000 cc.
2. Aug 2016– Lifted the ban and replaced it with a 1%–2% "Green Cess" (compensatory charge), shifting from prohibition to mitigation.

Old Vehicle Scrappage

1. 2025– Initially ordered no coercive action against 10-year (diesel) and 15-year (petrol) old vehicles.
2. Later– Narrowed protection only to vehicles below Bharat Stage-IV standards.

Firecrackers– Alternated between near-total bans in NCR (pollution concerns) and partial relaxations (festivals), permitting "green crackers" due to enforcement and public order challenges.

Ex Post Facto Clearances (Vanashakti vs Union of India)

1. May 2025– Held that post-facto environmental clearances violate core norms.
2. Nov 2025– Reconsidered the stance to avoid disrupting ongoing commercial activity.

4. The Challenge of Expertise

The Court often relies on expert committees to bridge the gap in its technical institutional capacity, but this has created a "push-pull" dynamic

The Aravalli Case (Nov 20)– The Court adopted a uniform definition of "Aravalli hills" based on a committee report to regulate mining.

The Reversal– Within weeks, the order was kept in abeyance, and a *fresh* committee was constituted after realizing the definition had unintended legal consequences.

Regional Variance– Similar to the ESZ issue, uniform expert recommendations often fail when faced with the reality that ecological feasibility differs widely across regions.

5. Consequences for Public Participation and Institutional Integrity

The Court's entry into the administrative domain has significant negative externalities–

De Facto Approving Authority– Project proponents and governments now approach the Court for permissions *before* statutory authorities' complete scrutiny.

Premature Finality– This gives an early sense of finality to projects, discouraging objections in lower forums (National Green Tribunal) or public hearings.

Stifling Review– By becoming the first point of approval, the Supreme Court inadvertently stifles meaningful judicial review in other forums, reshaping the terrain of environmental adjudication.

6. The Need for Stability and Restraint

The current framework of "continuing mandamus"—marked by serial interim orders, affidavits, and constant modifications—makes course correction easy but destroys regulatory stability.

Way Forward for the Court

Return to Core Function– Limit role to reviewing legality and procedural compliance rather than ongoing administration.

Compel, Don't Substitute– Focus on holding the State accountable and compelling it to return to effective regulation.

Define Thresholds– Clearly define when "managerial" directions are necessary and when they should be avoided.

Time-Bound Regulation– Require the executive to take time-bound action supported by public data and reasons.

Avoid Sweeping Rules– Reduce uncertainty by avoiding broad rules that immediately require exceptions. Clarify in advance what constraints justify modifications.

7. Conclusion

To safeguard the environment effectively, the Supreme Court must recalibrate its approach. By establishing clear, enforceable rules rather than flexible, negotiable directives, the Court can ensure stability. This would spare the government from parallel decision-making structures and provide the public with clarity on accountability, ultimately strengthening both the rule of law and environmental protection.

Source– <https://www.thehindu.com/opinion/op-ed/top-courts-green-governance-cause-for-uncertainty/article70487766.ece>

2. Don't Count Faith to Kill a college, lot at Stake (IE)

General Studies 2– Governance

Topic– Statutory, regulatory and various quasi-judicial bodies (National Medical Commission)

The Katra Medical College Decision– Legal, Social, and Constitutional Stakes

1. Introduction

The National Medical Commission (NMC) recently ordered the closure of a newly approved MBBS course at the Shri Mata Vaishno Devi Institute of Medical Excellence (SMVDIME) in Katra. While officially attributed to gaps in teaching resources following an inspection, the decision has ignited a fierce debate. It is viewed not merely as an administrative step but as a complex flashpoint involving

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procedural irregularities, alleged religious discrimination, and the constitutional guarantee of equal opportunity in education.

2. Process and Due Diligence Concerns

The manner in which the closure was ordered raises significant questions about the robustness of the regulatory framework.

Bypassing Safeguards- Standard regulatory protocol dictates that institutions facing adverse actions be given a show-cause notice, an opportunity to respond, and access to an appeals mechanism. In this instance, the NMC reportedly bypassed these essential procedural safeguards.

Procedural Injustice- The "short-circuiting" of established processes suggests a failure of procedural justice.

Erosion of Trust- When regulatory bodies deviate from transparent processes that protect the rights of institutions for remediation, it erodes the trust that educators, students, and the public place in governance structures.

3. Allegations of Prejudice and Political Influence

Underlying the administrative reasons are allegations that the decision was influenced by ideological pressure rather than educational merit.

Student Composition- A significant portion of the admitted students were Muslim, selected entirely on merit through a nationally competitive examination.

Discriminatory Demands- This demographic outcome sparked protests from several organizations arguing that an institution affiliated with a religious trust should reserve seats for specific communities.

Regulatory Capitulation- The NMC's response appears to have accommodated these discriminatory demands rather than upholding neutrality. This signals a dangerous intertwining of ideological pressures with educational governance, undermining the constitutional principle of equality.

4. Constitutional Protections and Minority Rights

The decision presents a conflict with India's constitutional framework regarding discrimination and minority rights.

Prohibition of Discrimination- The Constitution (under Article 15) strictly prohibits discrimination on grounds of religion.

Minority Institution Rights- While Articles 29 and 30 allow minorities to establish institutions to preserve culture, these right balances management autonomy with universal access.

Lack of Justification- In the case of SMVDIME, neither the protections for minority institutions nor general equality provisions justify the NMC's action. There is no evidence that the college failed educationally in its short tenure; rather, the shutdown appears rooted in external pressures unrelated to academic standards.

5. Impact on Students and Social Trust

The fallout of this decision extends beyond the administration to the immediate stakeholders—the students.

Disruption of Education- The primary victims are meritorious students whose academic aspirations have been abruptly halted.

Chilling Effect- The move sends a negative signal to future applicants regarding the stability and fairness of professional courses in the region.

Career Uncertainty- The livelihoods and career prospects of the faculty and staff are now in jeopardy.

Social Cohesion- In a region like Jammu & Kashmir, which is historically sensitive, actions perceived as discriminatory can deepen communal distrust, undermine integration efforts, and weaken the social fabric.

6. Urgency of Judicial Review and Policy Clarity

The situation demands immediate legal and judicial intervention to restore order and fairness.

Judicial Scrutiny- Courts must assess whether constitutional rights and principles of natural justice were violated by the NMC.

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Setting a Precedent- A clear judicial directive is necessary not just for this specific case but to reinforce the principles of non-discrimination and procedural justice across the entire educational sector.

7. Conclusion

The closure of SMVDIME is a litmus test for India's commitment to the rule of law, equal opportunity, and secular governance. It highlights the dangers of regulatory bodies acting as instruments of social exclusion rather than guardians of the public interest. To prevent the further erosion of state legitimacy, it is crucial to reverse this decision and reaffirm that educational governance must be grounded in merit and constitutional standards, immune from ideological pressure.

Source- <https://indianexpress.com/article/opinion/editorials/vaishno-devi-medical-college-dont-count-faith-to-kill-a-college-lot-at-stake-10463115/>

