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Forest (Conservation) Amendment Bill, 2023

Published On: 21-02-2024

Why is in news? SC directs govts to follow 'broad' definition of forests: How they are defined, what law says on conservation

The Supreme Court has directed governments to follow the "broad and all-encompassing" definition of forest as laid down in its **1996 judgment in the T N Godavarman case** until a consolidated record of all kinds of forests across the country is prepared.

A three-judge Bench led by Chief Justice of India (CJI) D Y Chandrachud passed the order on February 19 on petitions that challenged the 2023 amendments to the Forest (Conservation) Act, 1980 (FCA) on the ground that the modifications had **"substantially diluted" the definition of forest**, and had reduced the ambit of the Act.

In the Statement of Objects and Reasons for the Forest (Conservation) Amendment Bill, 2023, passed by both Houses in July-August last year, the government said that **applicability of the FCA had been widened by the judgment of the Supreme Court in T N Godavarman Thirumalpad v. Union of India** (December 12, 1996).

Forest (Conservation) Amendment Bill, 2023:

The **Indian Forest Act, 1927** was framed with the objective of managing timber and other forest resources. It provides for state governments to notify any forest land they own as reserved or protected forests.

All land rights in such land are subject to the provisions of the Act.

The **Forest (Conservation) Act, 1980** was enacted to prevent large-scale deforestation. It requires the central government's approval for any diversion of forest land for non-forest purposes.

The **Standing Committee on Science and Technology, Environment and Forests** (2019) noted that pressure on forest land has increased due to several reasons such as industry demands, agriculture, and demand for forest produce.

The 1980 Act specifies certain restrictions on diverting forest land for non-forest purposes. The Bill modifies the criteria for including and excluding forest land from the purview of the Act.

It also expands the list of forest activities that will be permitted on forest land. The Bill has been **referred to a Joint Parliamentary Committee** (Chair: Mr. Rajendra Agrawal).

Highlights of the Bill:

The Bill **amends the Forest (Conservation) Act, 1980** to make it applicable to certain types of land.

These include land notified as a forest **under the Indian Forest Act, 1927** or in government records after the 1980 Act came into effect.

The Act will **not be applicable for land converted to non-forest use before December 12, 1996**.

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It also exempts certain types of land from the purview of the Act. These include **land within 100 km of India's border** needed for national security projects, small roadside amenities, and public roads leading to a habitation.

The state government requires prior approval of the central government to assign any forest land to a private entity

The Bill extends this to all entities, and allows the assignment to be made on terms and conditions specified by the central government.

The Act specifies some activities that can be carried out in forests, such as establishing check posts, fencing, and bridges. The Bill also **allows running zoos, safaris and eco-tourism facilities**.

Key Issues and Analysis:

The Bill **excludes two categories of land** from the purview of the Act: land recorded as forest **before October 25, 1980** but not notified as a forest, and land which changed from forest-use to non-forest-use **before December 12, 1996**. This provision **may go against a 1996 Supreme Court judgement** on preventing deforestation.

Exempting land near border areas for national security projects may adversely impact the forest cover and wildlife in north-eastern states.

A blanket exemption for projects like zoos, eco-tourism facilities, and reconnaissance surveys may adversely affect forest land and wildlife.

How exactly did the Supreme Court define 'forest' for the purposes of the Act?

The court ruled that the FCA would apply to all land parcels that were **either recorded as 'forest', or which resembled the dictionary meaning of forest**.

The **1996 judgment** passed by Justice J S Verma and Justice B N Kirpal said: "The word 'forest' must be understood according to its **dictionary meaning**. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise. The term 'forest land' will **not only include 'forests' as understood in the dictionary sense, but also any area recorded as forest in the Government record** irrespective of the ownership."

The CJI-led three-judge Bench reaffirmed this principle on February 19, saying that the **dictionary meaning of forests had been adopted by the court** to align with Parliament's intent behind legislating the FCA in 1980.

To what extent did the SC's 1996 judgment really expand the ambit of the FCA, 1980?

The declared intent of the 2023 amendment was to correct the situation arising out of the perceived expansion of the FCA's applicability by the SC.

However, under **sub-sections ii, iii, and iv of Section 2** ("Restriction on the dereservation of forests or use of forest land for non-forest purpose") of the FCA, the ambit of the law is **not limited to only "reserved forest" — it bars the unauthorised non-forest use of any forest land**.

In the FCA, the term "reserved forest" is used only in the limited context of de-reservation. **Section 2(i)** says that no reserve forest "shall cease to be reserved" without prior approval from the Centre. Clearly, a clause on dereservation can only apply to what is reserved.

This principle was reiterated by the Supreme Court in July 2022 in **Narinder Singh & Ors vs Divesh Bhutani & Ors**. "As clause (i) specifically refers to a reserved forest, it is obvious that clauses (ii), (iii) & (iv) apply to any other forest... Therefore, forest as understood by its dictionary meaning is covered by Section 2" of the FC Act itself, a three-judge Bench of Justice C T Ravikumar, Justice Abhay S Oka, and Justice A M Khanwilkar ruled.

T.N. Godavarman Thirumulkpad vs. Union of India & Ors.:

T.N. Godavarman Thirumulkpad vs. Union of India & Ors. is a **landmark environmental case in India**, which was first heard in the Supreme Court **in 1996**. The case is commonly known as the “Godavarman case.”

The petitioner T.N. Godavarman Thirumulkpad, a retired forest officer had **raised concerns about the degradation of forest lands due to various developmental activities**, such as mining, quarrying, and construction, which were being carried out without proper environmental clearances.

The **main issue** in the case was **whether forests in India could be diverted for non-forest purposes, and if so, under what conditions**.

The court held that forests could be diverted for non-forest purposes, but **only under certain conditions and after obtaining necessary environmental clearances**.

The case has been significant in shaping India’s environmental jurisprudence. The court has issued several orders and directions over the years to regulate developmental activities in forest areas and protect the environment. It has also set up several committees to monitor compliance with its orders.

Legal and Regulatory Framework:

The Godavarman case primarily deals with the interpretation and implementation of the **Forest (Conservation) Act, 1980 (FCA) and the Forest (Conservation) Rules, 1981**, which provide for the conservation of forests and the protection of wildlife in India.

The FCA empowers the central government to **declare any area as a “reserved forest” or “protected forest,”** which prohibits any non-forest activity in the area. The act also requires the state governments to obtain prior approval from the central government before diverting any forest land for non-forest purposes. The FCA also has provisions for the eviction of illegal occupants and the restoration of degraded forests.

In the Case, the Supreme Court of India **interpreted the FCA and the Forest (Conservation) Rules, 1981**, in a manner that **gave a broad and expansive interpretation** to the powers of the central government to regulate forest resources.

The court held that the FCA was enacted to conserve forests and protect wildlife, and **any diversion of forest land for non-forest purposes must be done strictly** in accordance with the law and after due diligence.

The court also held that the **power of the central government** under the FCA was **not limited to the declared “reserved forests” or “protected forests,”** but **extended to all forests in India**, whether on public or private land.

The court further held that the **principle of “sustainable development”** must be followed in forest conservation and that the rights of forest dwellers and tribal communities must be protected while conserving forests.

The court also issued several directives to the central and state governments to ensure that the forests were protected and conserved.

What happens now?

States and Union Territories have until March 31 to **submit comprehensive records of forests** identified by the expert committees constituted as per the 1996 judgment. The Ministry will have to publish this data on its website by April 15.

The Supreme Court said that while the expert committees set up under the 2023 Rules should take into account the progress made by the previous expert panels, they are free to expand the protection umbrella to any forest land that

is worth protecting.

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