

Forests' lingering question

Nearly three decades have passed since the Supreme Court ruling in 1996, which mandated the use of dictionary definition to delineate forests. Still, India grapples with the challenge of accurately identifying its forests

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IN THE wake of a recent interim order handed down by a Supreme Court bench on February 19, the debate surrounding India's forest definitions has reignited. The court has mandated all states and Union Territories (UTs) to ascertain their total forestland based on the dictionary definition of a forest, as outlined by the Supreme Court's landmark verdict in the T N Godavarman Thirumulpad *v* Union of India case in December 1996. The deadline for submission of this data to the Union government is March 31.

The apex court, in essence, has ordered the government to step back and adhere to the 28-year-old

dictionary meaning of forest till a final verdict is handed out on a series of petitions challenging the constitutional validity of Parliament's 2023 Amendment to the Forest (Conservation) Act, 1980, known as the Van Sanrakshan Evam Adhinyam, 1980, and the Van Sanrakshan Evam Adhinyam Rules, 2023.

The petitioners argue that the 2023 amendment could exclude approximately 197,000 square kilometres, or roughly 27 per cent of the total forest area, due to its "constricted" coverage. They assert that this amendment contradicts the 1996 order, which directed states and UTs to establish expert committees (EC), headed by the princi-

pal chief conservator of forests, to identify their forest area based on the dictionary definition, thereby including forests not officially notified as such.

Almost three decades post the Godavarman verdict, ambiguity persists regarding both the understanding of forests and the extent of forestland across the country.

DELIBERATE OVERSIGHT

While the Union Ministry of Environment, Forest and Climate Change (MOEFCC) claims the 2023 amendment is in line with the Godavarman verdict, a closer examination reveals it is not completely true. Under Section 1 A, the amend-

RAJASTHAN COMMUNITIES AT RISK OF LOSING LAND

Village residents oppose declaring traditional pastoral land as deemed forests, fearing loss of access and livelihood

A RECENT state government notification has sparked fear among community dwellers in western Rajasthan, who are concerned about potential loss of access to forest produce and livelihood. The community is apprehensive about the state's proposal to recognise *orans* (sacred groves) as deemed forests. The government notification on February 1, 2024 declares that, in compliance with directives from the Supreme Court (SC), *orans*, *dev vans* (sacred forests) and *runds* (traditionally conserved open forests) will be categorised as deemed forests. The notification also invites objections and issues to be raised by locals, if any.

Sumer Singh from Savata village in Jaisalmer tells *Down To Earth* that his community through representation of the organisation "Gochar Oran Sanrakshak Sangh Rajasthan" has raised objection to the decision. "The Degray *oran* in our village supports at least 5,000 camels and 50,000 sheep," he says. The village residents also depend on the forest for gum, timber, forest produce and wild vegetables, crucial for their livelihoods and daily needs. If *orans* are declared as deemed forests, the people fear they will lose access to forest produce and grazing land for their herds and sheep.

Singh adds that some houses are situated in close proximity to *orans*. "Residents may have to vacate their homes if the state forest department takes over. Moreover, last rites, and religious events are held inside *orans* and are deeply intertwined with the trees, waterbodies and other features of the forest," he says.

In a letter submitted to the district collector, the organisation highlights the interconnectedness between *oran* land and neighbouring villages, emphasising that any restrictions in the forest area would impact movement and livelihoods. Singh alleges that the government did not engage with community members for consultation or hearings before proposing the classification of these lands.

Parul Gupta, conservation lawyer practising before SC and the National Green Tribunal, explains that deemed forests are areas with forest-like characteristics that are not officially recorded in government or revenue records. "To prevent further degradation of such lands, the Supreme Court, in the TN Godavarman case, directed state governments to identify them and stipulated that all forests, including deemed forests, would be covered under section 2 of the Forest (Conservation) Act, 1980," she says. Gupta asserts that the provisions in this section prohibit non-forestry activities such as mining, deforestation, quarrying, or infrastructure projects on such forest land without permissions from the central government. However, she says that the move does not restrict individuals or communities from accessing the forest for grazing or worship.

ed Act says forests include land declared or notified as forest under the Indian Forest Act, 1927, or any other prevailing law. Additionally, it includes land recorded in government records as forest on or after October 25, 1980, with an exemption for land converted from forest to non-forest use before December 12, 1996.

Prakriti Srivastava, former principal chief conservator of forests, Kerala, and one of the petitioners, argues that the amended Act seeks to legitimise diversions that occurred between 1980 and 1996 through government orders or local body directives. Srivastava also questions MOEFCC's assertion made to the Joint Parliamentary Committee (JPC) on the Forest Conservation Amendment Bill, 2023, regarding the inclusion of EC reports while deciding the forest area in the 2023 amendment. "...deemed forests as identified by expert committees of the states, have been taken on record and hence the provision of the Act will be applicable in such lands also..." notes the JPC report tabled in Parliament in July 2023.

Srivastava had filed a query under the Right to Information (RTI) Act in January 2024 to access the EC reports that are not available in the public domain. In response to her query, MOEFCC replied that "requisite information is not available in the Forest Conservation division of the Ministry" and that her queries have been directed to the principal chief conservator of forest for replies. "The RTI response shows that MOEFCC has not accessed the EC reports for the amendment," she says.

As of February 26, Srivastava had EC reports for only two states—Kerala and Assam. Kerala's records, obtained during Srivastava's

tenure as a forest officer, indicate substantial forest areas under government and private ownership. Assam's records, acquired through the RTI query, reveal significant forestland, albeit with challenges in identifying specific areas due to inadequate geo-referencing. "Comprehensive information on the location of forest with geo-reference and demarcation should have been provided by the states according to the judgement in the Lafarge Umi-am Mining v Union of India case in 2011. But it has not happened," she adds. As a result, though states have overall numbers for its forest areas, the exact location of these areas cannot be verified, she adds.

28 YEARS OF INACTION

The delay in defining forests in India is attributed to the complexity of the process and numerous challenges encountered along the way. The problem lies in identifying deemed forests, which are forest-like areas but not recognised as forests in government records. Going by the Godavarman verdict's definition, such areas should have been identified and declared as forests, but in the absence of the ECs, a comprehensive identification of deemed forests never happened. Experts believe that a sincere effort post the 1996 and 2011 judgments could have expedited this crucial task.

"State governments hesitate to protect forest-like areas or traditional ecosystems like *orans* and *runds* in Rajasthan and the Aravalis in Haryana," says Debadityo Sinha, senior resident fellow and lead of the climate and ecosystems team at Vidhi Centre for Legal Policy, New Delhi (see 'Rajasthan communities at risk of losing land', p20).

Karnataka is one of the few states that has tried to identify its deemed forests at several times in the past, but ended up with different figures each time. The expert committee report in 2014 identified 0.994 million hectares (ha) as deemed forest in the state. In 2022, deemed forests was reduced to 0.33 million ha due to absence of land records, plantations, transfer of area and other reasons.

Meenakshi Negi, who served as Karnataka's additional principal chief conservator of forests, says forests are dynamic in nature and need to be monitored regularly, in the absence of which numbers are bound to be different. "Beyond the central issue of identifying deemed forests, for which Karnataka has a framework that other states can emulate, the challenge is excluding

NUMEROUS INSTANCES EXIST WHERE DESIGNATED FOREST AREAS HAVE BEEN DIVERTED FOR OTHER PURPOSES, UNDERMINING CONSERVATION EFFORTS

the areas that are recorded as forests in government records but have degraded over time due to government projects such as dams or has seen human settlement," says Negi.

Sharachandra Lele, distinguished fellow at Ashoka Trust for Research in Ecology and the Environment, Bengaluru, says state governments have resisted the expansion of the scope of the Forest Conservation Act. "They want a land bank at their disposal which they can release without any central oversight for various activities, especially industries," he says. This is why most states have not even identified deemed forest areas, in spite of repeated orders from the Supreme

Court. Many of these places are also inhabited by communities, who will be alienated once the land is declared as forests, says Srivastava. She highlights the lack of initiative when she says that as the district forest officer of the Munnar region in Kerala, she had found that the revenue department was in possession of around 7,200 ha of land earmarked for transfer to the forest department for designation as reserved forest. Still, this parcel of land was inexplicably excluded from the 1997 EC report of the state. It was not until 2002, after protracted and contentious battles with state authorities, that the area was identified, demarcated, and eventually notified as reserved forest in 2011.

"Numerous instances exist where forest areas were diverted for other purposes. For instance, a sandalwood reserve was redirected for land distribution, while Mathiketana, now a national park, fell victim to encroachment facilitated by political patronage. Additionally, the allocation of the elephant corridor in Chinna-

kanal to landless tribal, despite warnings of escalating human-elephant conflicts, exemplifies the consequences of such actions," she says.

The recent Supreme Court order granting states time until March 31, to submit EC reports offers a glimmer of hope. Pia Sethi, senior fellow at the Centre for Ecology Development and Research, Uttarakhand, anticipates increased clarity once this information is made public. Lele, though, warns of delays and lingering issues. He cautions that without swift action, the forest conundrum may persist for years to come, perpetuating a challenge that has plagued the nation for decades. [RTI](#) [@down2earthindia](#)