

IN THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 641 OF 2024

IN THE MATTER OF:

News Item titled "Chunk of India's forests, missing, after 27-year- delay to file reports Analysis" appearing in The Hindu dated 28.04.2024

NDOH - 03.03.2025

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New Delhi

Date: 27.02.2025

Through Counsel


Sumit Arora

Advocate for the Respondent No. 1

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ORIGINAL APPLICATION NO. 641 OF 2024

IN THE MATTER OF:

News Item titled "Chunk of India's forests, missing, after 27-year- delay to file reports Analysis" appearing in The Hindu dated 28.04.2024

**COUNTER AFFIDAVIT ON BEHALF OF UNION OF INDIA,
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE,
NEW DELHI (RESPONDENT NO. 1)**

PRELIMINARY SUBMISSIONS:

I, Charan Jeet Singh son of Late Sh. Pritam Singh, aged about 44 years, working as Scientist 'E' in the Ministry of Environment, Forest and Climate Change, New Delhi do hereby solemnly affirm and state as under:

1. That I am duly authorized to swear this affidavit as such conversant with the facts of the present case and competent to swear the present affidavit.
2. That I have read and understood the contents of the accompanying affidavit and state that the same has been drafted under my instructions based on the records maintained by the Respondent No. 1 in its normal course of business and the same are true and correct.
3. That the contents of the accompanying reply shall be treated as part of this affidavit and the same are not being repeated for the sake of brevity.

Charan Jeet Singh



4. At the outset, all the allegations made against the Answering Respondent in the instant OA are denied except those that are specifically admitted herein. The OA is not maintainable against the Answering Respondent either on law or on facts.

STATEMENT OF FACTS:

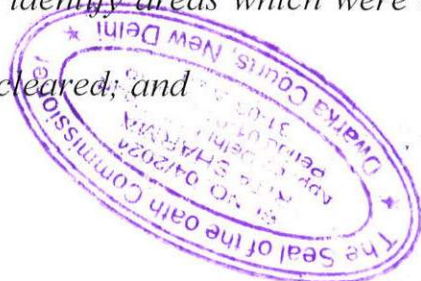
5. It is humbly submitted that prior approval under the Van(Sanrakshan Evam Samvardhan), Adhiniyam, 1980{Formerly known as Forest(Conservation) Act, 1980} is mandatory to carry out any non-forestry activity in the forest land.
6. The Hon'ble Supreme Court in the case titled as T.N.Godavarman Thirumulpad v. Union of India, (1977) 2 SCC 267, vide order dated 12th December, 1996 *inter-alia* directed the following:

"Each State Government should constitute within one month an Expert Committee to:

(i) Identify areas which are "forests", irrespective of whether they are so notified, recognised or classified under any law, and irrespective of the ownership of the land of such forest;

(ii) identify areas which were earlier forests but stand degraded, denuded or cleared; and

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(iii) identify areas covered by plantation trees belonging to the Government and those belonging to private persons.”

7. The Central Government, with a view to consolidate and codify the directions of Hon'ble Supreme Court issued from time to time including directions passed on 12.12.1996, proposed an amendment in the Forest (Conservation) Act, 1980 (69 of 1980) by introducing the Forest (Conservation) Amendment Bill, 2023 in the Parliament.
8. The Forest (Conservation) Amendment Bill, 2023 was placed before the Parliament and the Parliament referred the Bill to a Joint Parliamentary Committee (“JPC” for short) comprising of 31 members (21 Lok Sabha and 10 Rajya Sabha).
9. The Joint Parliamentary Committee obtained the view from the public in general and experts/NGOs, various Ministries, State Governments and other organization in particulars on the amended provisions of the Bill. The Committee received 1309 memoranda which were circulated to all members of the Committee and to Ministry of Environment, Forest and Climate Change (“MOEF&CC”) to obtain their comments. The Committee also heard the views of the twelve experts/stakeholders/organizations that made personal appearance and presentation before the Committee. The points raised by the experts/

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stakeholders and public along with the comments of the Nodal Ministry were suitably incorporated in the report submitted by the JPC.

10. The JPC, after thorough examination of the Bill and deliberations with the various stakeholders across the country adopted its report and the same was submitted to the Parliament on 20.07.2023.

11. Pursuant to passing of the Bill by the Parliament, the Forest (Conservation) Amendment Act, 2023 was notified on 04.08.2023 and was enforced from 01.12.2023. Subsequently the necessary guidelines and Van (Sanrakshan Evam Samvardhan) Rules 2023 were notified on 29.11.2023. (True Copy of the Forest (Conservation) Amendment Act, 2023 is annexed as “**Annexure R1**”).

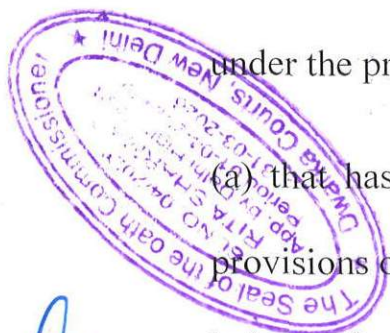
12. The Forest (Conservation) Amendment Act, 2023 has been enacted with a view to augment and strengthen the forest management, and to codify and consolidate the applicability of the provisions of the Act.

13. As per Section 1A of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980:

“ **Act to cover certain land.**— (1) The following land shall be covered under the provisions of this Act, namely:-

(a) that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time

being in force;



(b) that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25th October, 1980:

Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before the 12th December, 1996 in pursuance of an order, issued by any authority authorised by a State Government or an Union territory Administration in that behalf.”

14. Further, with a view to ensure that the directions contained in the various orders passed by this Hon'ble Court with regard to the applicability of the Adhiniyam to various lands including forest in their dictionary meaning, an explanation to define the government record has been provided under section 1A of the Adhiniyam as under:

Explanation.- (i) For the purposes of this sub-section, the expression 'Government record' means record held by Revenue Department or Forest Department of the State Government or Union territory Administration or any authority, local body, community or council recognised by the State Government or Union territory Administration.



15. It is submitted that as per the provisions provided in section 1A of the Van (Sanrakshan Evam Samvardhan), Adhiniyam, 1980, the provisions of the Adhiniyam will be applicable on the lands notified as forests under

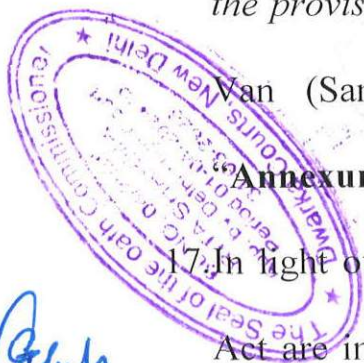
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the Indian Forest Act, 1927 or local Act/laws and the lands which have been recorded as forests in the Government records on or after 25.10.1980. It is pertinent to note here that the scope of the government record has been enlarged to include areas such as unclassified forests, and other similar areas having characteristics of forests. The 'Explanation' has been provided under section 1A to define the term Government record to include the various types of lands recorded as forest in the records of revenue Department, Forest Department, any other Department of the State or Union territory, municipality, council or local body.

16. It is humbly submitted that the Rule 16(1) of the Van (Sanrakshan Evam Samvardhan, Rules 2023, as notified by the Central Government on 29.11.2023, provides that "*For the purpose of explanation of government records provided under subsection (1) of section 1A of the Adhiniyam, the State Governments and Union territory Administrations, within a period of one year, shall prepare a consolidated record of such lands, including the forest like areas identified by the Expert Committee constituted for this purpose, unclassified forest lands or community forest lands on which the provisions of the Adhiniyam shall be applicable*". (True Copy of the

Van (Sanrakshan Evam Samvardhan, Rules 2023 is annexed as **Annexure R2**".)

17. In light of the above, the applicability of the provisions of Amendment Act are in tune with the directions of the order dated 12.12.1996 of the

Hon'ble Supreme Court and no areas, as envisaged in the said order, will be eliminated or precipitated from the purview of the Adhiniyam. Therefore, it is emphasized that the provisions of the Adhiniyam in no way dilute the directions contained in the order dated 12.12.1996 passed by the Hon'ble Supreme Court pertaining to the applicability of the Van(Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and on the contrary consolidate and codify the law relating to forests in the Country.

18. Furthermore, the matter with regard to the State Expert Committee Reports("SEC" for short) is also under challenge and pending in the Hon'ble Supreme Court in Writ Petition(C) No. 1164 of 2024 titled as Ashok Kumar Sharma Retd. IFS and Ors. Vs Union of India and ors. The petitioner has challenged the constitutional validity of the Forest(Conservation) Amendment, Act, 2023, its rules and guidelines and has also raised allegations that many states have not complied with the directions of the Hon'ble Supreme Court dated 12.12.1996 and the SECs have not been constituted.(True Copy of the Writ Petition(C) No. 1164 of 2023 is annexed as "**Annexure R3**")

19. The Hon'ble Supreme Court vide its order dated 19.02.2024 in the aforementioned Writ Petition inter-alia directed,

"....it must be noted that following the decision in T.N. Godavarman, Expert Committees were required to be constituted by all the States (and Union



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Territory Administrations). The reports of the Expert Committees is crucial for the maintenance of a contemporaneous public record of lands which were identified as forests within the ambit of that expression as explained in the decision of this Court. The Union of India through the Ministry of Environment, Forest and Climate Change shall within a period of two weeks from the date of this order require all the States and the Union Territory Administrations to provide to it a comprehensive record of lands which have been identified as forests by the Expert Committees constituted by the State Governments/Union Territories in pursuance of the directions in T N Godavarman.

All States and Union Territory Administrations shall comply with the present direction by forwarding records of the reports of the Expert Committees to MoEFCC no later than by 31 March 2024. These records shall be maintained by MoEFCC and shall be duly digitized and made available in the electronic format on the website of the MoEFCC no later than by 15 April 2024.

The Expert Committees which are constituted in pursuance of Rule 16 by the States/Union Territory Administrations shall duly bear in mind the work of identification which was carried out by the Expert Committees in pursuance of the directions in T N Godavarman. This shall however not preclude the Expert Committees from expanding the ambit of forest lands



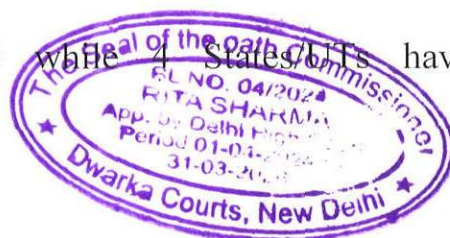
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which are worthy of protection particularly having regard to the coverage as specified in Section 1A of the amended statute read with Rule 16(1).....”(True Copy of the Order dated 19.02.2024 is annexed as “Annexure R4”).

20. That in compliance of the aforesaid order, the Ministry issued a letter on 02.03.2024 to all States/UTs to comply with the order of the Hon’ble Supreme Court and submit reports of Expert Committee, constituted in pursuance to directions contained in order dated 12.12.1996, to the Ministry by 31.03.2024. (True Copy of the letter dated 02.03.2024 is annexed as “Annexure R5”).

21. Thereafter, the States/UTs submitted the reports/status of Expert Committee to the Ministry and the reports received from the States were uploaded on the **PARIVESH (Pro-Active and Responsive Facilitation by Interactive Virtual Environmental Single Window Hub)** portal of the Ministry on 15.04.2024. Reports received from the States after 15.04.2024 were also uploaded on the website of the Ministry.

22. That, as per reports of the Expert Committee, received from the States and Union territories, 33 States/UTs have submitted the information regarding the reports of the Expert Committee in compliance of order dated 12.12.1996 while 4 States/UTs have informed about the



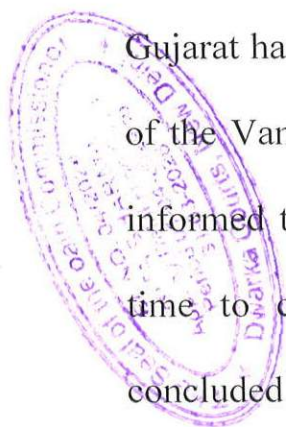
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constitution of the Expert Committee after the order dated 19.02.2024 of Hon'ble Supreme Court.

23. Thereafter, the Ministry vide its letter dated 10.07.2024 requested the State Governments and Union territory Administrations to provide the information giving due regard to the directions contained in the Hon'ble Supreme Court's order dated 12.12.1996 of the Hon'ble Supreme Court and to comply with the provisions of sub rule (1) of rule 16 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, Rules 2023. (True Copy of the letter dated 10.07.2024 is annexed as "**Annexure R6**").

24. The Ministry actively coordinated with the States/UTs to ensure timely compliance of the order of the Hon'ble Supreme Court and compliance of rule 16(1) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, Rules 2023. The Ministry conducted two meetings on 03.10.2024 and 14.02.2025 in the MoEF&CC, New Delhi with the Principal Chief Conservator of Forests (PCCFs) of all States/UT Administrations.

25. It was informed in the meeting that three States viz. Sikkim, Odisha and Gujarat have reported completion of exercise in compliance to rule 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2023. Several States informed that the exercise is under process and will require some more time to complete. Accordingly, after detailed deliberations, it was concluded as follows:



“i. The State/UTs where exercise is being taken in compliance to Rule 16(1) with or without the Constitution of the Committee, will make best efforts to complete the exercise at the earliest within the time as informed by the respective officers of the States/UTs.

ii. The States/UTs, where so far no substantial progress has been made in compliance to Rule 16(1), shall immediately take action and a progress report on the same shall be submitted to the MoEF&CC by 15th March, 2025.”

The minutes of the meeting was conveyed to all States/UTs vide letter dated 18.02.2025 (True Copy of the letter dated 18.02.2025 and the minutes of the meeting is annexed as ‘ **Annexure R7**’).

26. The Writ Petition(C) No. 1164 of 2023 is pending for adjudication in the Hon’ble Supreme Court and is next listed for hearing on 04.03.2025.

27. In view of the aforesaid, it is prayed that the Hon’ble NGT may dismiss the instant OA in order to avoid multiplicity of court cases of similar subject matter as the matter is already pending for adjudication in the Hon’ble Supreme Court.

28. That this Ministry reserves its right to file additional affidavit as and when required till *pendente-lite*.



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29. That in light of the aforementioned facts and circumstances it is respectfully prayed that this Hon'ble Tribunal may pass any order as it deem fit.

I identify the deponent who has signed in my presence.

VERIFICATION


DEPONENT
(CHARAN JEET SINGH)
वैज्ञानिक 'ई'/Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

I, the above named Deponent do hereby verify that the contents of the above affidavit are true and correct to my knowledge and are based on official records and nothing material is concealed therein.

28 FEB 2025

Verified at New Delhi on this Day of, 2025.


DEPONENT
(CHARAN JEET SINGH)
वैज्ञानिक 'ई'/Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



CERTIFIED THAT THE DEPONENT*
Shri/Smt./M/s.....
S/o W/o.....
R/o.....
Identified by.....
has explained to me at
New Delhi.....
that the contents of the affidavit which
have been read to him are
true and correct to this knowledge
Oath Commissioner
RITA SHARMA
New Delhi

28 FEB 2025

**VAN (SANRAKSHAN EVAM SAMVARDHAN) ADHINIYAM, 1980 WITH
AMENDMENTS MADE IN 1988 AND 2023**

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

“WHEREAS, the importance of forests is to be realised to enable achievement of national targets of Net Zero Emission by 2070 and maintain or enhance the forest carbon stocks through ecologically balanced sustainable development;

AND WHEREAS, Nationally Determined Contribution (NDC) targets of the country envisage creating carbon sink of additional 2.5 to 3.0 billion tons of CO₂ equivalent by 2030;

AND WHEREAS, the country envisages an increase in the forest and tree cover to one third of its land area, which has to be given impetus with an enhanced growth trajectory;

AND WHEREAS, India has a rich tradition of preserving forests and their bio-diversity, and therefore enhancing forest based economic, social and environmental benefits, including improvement of livelihoods for forest dependent communities is envisaged;

AND WHEREAS it is necessary to provide for provisions relating to conservation management and restoration of forests, maintaining ecological security, sustaining cultural and traditional values of forests and facilitating economic needs, carbon neutrality .”.

Be it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. Short title, extent and commencement.— (1) This Act may be called the *Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980*.

(2) It shall be deemed to have come into force on the 1st day of December, 2023.

1A. Act to cover certain land.— (1) The following land shall be covered under the provisions of this Act, namely:-

(a) that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force;

(b) that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25th October, 1980:

Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before the 12th December, 1996 in pursuance of an order, issued by any authority authorised by a State Government or an Union territory Administration in that behalf.

Explanation.- (i) For the purposes of this sub-section, the expression ‘Government record’ means record held by Revenue Department or Forest Department of the State Government or Union territory Administration or any authority, local body, community or council recognised by the State Government or Union territory Administration;

(2) The following categories of land shall not be covered under the provisions of this Act, namely:—

(a) such forest land situated alongside a rail line or a public road maintained by government, which provides access to a habitation, or to such rail, and roadside amenity up to a maximum size of 0.10 hectare in each case;

(b) such tree, tree plantation or reforestation raised on lands that are not specified in clause (a) or clause (b) of sub-section (1); and

(c) such forest land, —

(i) as is situated within a distance of hundred kilometres along international borders or Line of Control or Line of Actual Control, as the case may be, proposed to be used for construction of strategic linear project of national importance and concerning national security; or

(ii) up to ten hectares, proposed to be used for construction of security related infrastructure; or

(iii) as is proposed to be used for construction of defence related project or a camp for paramilitary forces or public utility projects, as may be specified by the Central Government, the extent of which does not exceed five hectares in a Left Wing Extremism affected area as may be notified by the Central Government.

(3) The exemption provided under sub-section (2) shall be subject to such terms and conditions, including the conditions of planting trees to compensate felling of trees undertaken on the lands, as the Central Government may, by guidelines, specify.

2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose—

– (1) Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing -

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose;

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation subject to such terms and conditions, as the Central Government may, by order, specify;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation:

‘Explanation— For the purposes of this sub-section, “non-forest purpose” includes breaking up or clearing of any forest land or a portion thereof for—

(a) cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reforestation,

but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as—

- (i) *silvicultural operations including regeneration operations;*
- (ii) *establishment of check-posts and infrastructure for the front line forest staff;*
- (iii) *establishment and maintenance of fire lines;*
- (iv) *wireless communications;*
- (v) *construction of fencing, boundary marks or pillars, bridges and culverts, dams, waterholes, trenches and pipelines;*
- (vi) *establishment of zoo and safaris, referred to in the Wild Life (Protection) Act, 1972, owned by the Government or an Authority, in forest areas other than Protected Areas;*
- (vii) *eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and*
- (viii) *any other like purposes, which the Central Government may, by order, specify. ’;*

(2) The Central Government may, by order, specify the terms and conditions subject to which any survey, such as, reconnaissance, prospecting, investigation or exploration including seismic survey, shall not be treated as non-forest purpose.

3. Constitution of Advisory Committee — The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to

- (i) the grant of approval under section 2; and
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

3A. Penalty for contravention -

Whoever contravenes or abets the contravention of any of the provisions of section 2, shall be punishable with simple imprisonment for a period, which may extend to fifteen days.

3B. Offences by the Authorities and Government Departments— (1) Where any offence under this Act has been committed -

- (a) by any department of Government, the head of the department; or
- (b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the head of the department or any person referred to in clause (b), liable to any punishment if he proves that the offence was

committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the department, or in the case of an authority, any person other than the persons referred to in clause (b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

3C. Power of Central Government to issue directions— The Central Government may, from time to time, issue such directions, to any authority under the Central Government, State Government or Union territory or any organization, entity or body recognized by the Central Government, State Government or Union territory Administration, as may be necessary for the implementation of this Act.

4. Power to make rules — (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

5. Repeal and saving -

(1) The Forest (Conservation) Ordinance, 1980 is hereby replaced.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.



भारत का राजपत्र

The Gazette of India

सी.जी.-डी.एल.-अ.- 30112023-250333
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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 686]

नई दिल्ली, बुधवार, नवम्बर 29, 2023/अग्रहायण 8, 1945

No. 686]

NEW DELHI, WEDNESDAY, NOVEMBER 29, 2023/AGRAHAYANA 8, 1945

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय अधिसूचना

नई दिल्ली, 29 नवम्बर, 2023

सा.का.नि.869(अ)—केन्द्रीय सरकार, वन (संरक्षण एवं संवर्धन) अधिनियम 1980 (1980 का 69) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और वन (संरक्षण) नियम, 2022, को, उन बातों के सिवाय जिन्हें ऐसे अधिक्रमण से पूर्व किया गया है या करने का लोप किया गया है, अधिकांत करते हुए, निम्नलिखित नियम बनाती है, अर्थात्:-

- संक्षिप्त नाम, विस्तार और प्रारंभ (1) इन नियमों का संक्षिप्त नाम वन (संरक्षण एवं संवर्धन) नियम, 2023 है।
(2) ये 1 दिसम्बर, 2023 से प्रवृत्त होंगे।
- परिभाषाएं- (1) इन नियमों में, जब तक संदर्भ से अन्यथा अपेक्षित न हों,-
(क) "प्रत्यायित प्रतिपूरक वनीकरण" से अधिनियम की धारा 2 की उप-धारा (1) के अधीन पूर्व अनुमोदन प्राप्त करने के लिए प्रयोग की जाने वाली सक्रिय वनीकरण की एक प्रणाली अभिप्रेत है;
(ख) "अधिनियम" से वन (संरक्षण एवं संवर्धन) अधिनियम, 1980 (1980 का 69) अभिप्रेत है;
(ग) "परामर्शदात्री समिति" से अधिनियम की धारा 3 के अधीन गठित परामर्शदात्री समिति अभिप्रेत है;
(घ) "प्रतिपूरक वनीकरण" से अधिनियम के अधीन वनेतर प्रयोजन के लिए वन भूमि के अपवर्तन की एवज में किया गया वनीकरण अभिप्रेत है;

- (ङ) “प्रतिपूरक उद्ग्रहण” में प्रतिपूरक वनीकरण निधि अधिनियम, 2016 (2016 का 38) की धारा 4 की उप-धारा 3 के खंड (iii) और खंड (iv) में विनिर्दिष्ट सभी धनराशियां और निधियां सम्मिलित हैं;
- (च) “वन संरक्षक” से वन संरक्षक, मुख्य वन संरक्षक, क्षेत्रीय मुख्य वन संरक्षक या वन भूमि पर अधिकारिकता, जिसके लिए केन्द्रीय सरकार का पूर्व अनुमोदन अपेक्षित है, रखने वाले अधिकारी द्वारा वन सर्कल का कार्यभार ग्रहण करने के लिए राज्य सरकार या संघ राज्य क्षेत्र प्रशासन द्वारा नियुक्त वन संरक्षक के समकक्ष अधिकारी अभिप्रेत है;
- (छ) “उप-वन महानिदेशक (केन्द्रीय)” से केन्द्रीय सरकार द्वारा नियुक्त क्षेत्रीय कार्यालय का प्रमुख अभिप्रेत है।
- (ज) “अनारक्षण” से वन के रूप में कानूनी रूप से या अन्यथा मान्यताप्राप्त की गई भूमि की विधिक प्रास्थिति को भूमि के किसी अन्य प्रवर्ग में परिवर्तित करने के लिए राज्य सरकार या संघ राज्यक्षेत्र प्रशासन और उसके किसी प्राधिकरण द्वारा जारी किया गया कोई आदेश अभिप्रेत है;
- (झ) “अपयोजन” से किसी वन भूमि के उपयोग को वनेतर प्रयोजन या किसी वन भूमि के पट्टे को वनेतर प्रयोजन हेतु समनुदेशन के लिए राज्य सरकार या संघ राज्यक्षेत्र प्रशासन या उसके किसी भी प्राधिकरण द्वारा जारी किया गया कोई आदेश अभिप्रेत है;
- (ञ) “जिला कलेक्टर” उस वन भूमि, जिसके लिए अधिनियम के अधीन केन्द्रीय सरकार का पूर्व अनुमोदन अपेक्षित है, पर अधिकारिकता रखने वाले राजस्व जिले के प्रशासन का प्रभार धारण करने के लिए उप-आयुक्त सम्मिलित हैं।
- (ट) “प्रभागीय वन अधिकारी” से राज्य सरकार या संघ राज्यक्षेत्र प्रशासन द्वारा नियुक्त प्रभागीय वन अधिकारी, उप-वन संरक्षक या प्रभागीय वन अधिकारी या उप-वन संरक्षक के समकक्ष कोई अधिकारी अभिप्रेत है, जिसे उस वन भूमि, जिसके लिए अधिनियम के अधीन केन्द्रीय सरकार का पूर्व अनुमोदन अपेक्षित है, पर अधिकारिकता रखने वाले वन प्रभाग का प्रभार धारण करने के लिए नियुक्त किया गया है;
- (ठ) “भूमि बैंक” से अधिनियम के अधीन अपयोजन के लिए प्रस्तावित या अपयोजित वन भूमि की एवज में प्रतिपूरक वनीकरण किए जाने के लिए राज्य सरकार और संघ राज्यक्षेत्र प्रशासन द्वारा यथास्थिति भूमि को अभिज्ञात या चिन्हित करना अभिप्रेत है;
- (ड) “संरेखीय परियोजना” से ऐसी परियोजनाएं अभिप्रेत हैं जिनमें सड़कों, पाइप लाइनों, रेलवे, पारेषण लाइनों, गारे की पाइपलाइन, प्रहवणी बेल्ट आदि के प्रयोजन के लिए वन भूमि का संरेखीय अपयोजन सम्मिलित है;
- (ढ) “राष्ट्रीय कार्य-योजना कोड” से कार्य योजनाएं तैयार करने के लिए केन्द्रीय सरकार द्वारा तैयार किया गया कोड अभिप्रेत है;
- (ण) “नोडल अधिकारी” से इस अधिनियम और उसके अधीन बनाए गए नियमों को क्रियान्वित करने और वन संरक्षण के मामलों पर कार्रवाई करने वाला और केन्द्रीय सरकार से इस मामले में पत्राचार करने के प्रयोजन के लिए, यदि विभाग में मुख्य वन संरक्षक या उससे ऊपर का पद नहीं हो यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन द्वारा प्राधिकृत ऐसा अधिकारी अभिप्रेत है, जो मुख्य वन संरक्षक से नीचे के पद का न हो, या संबंधित संघ राज्यक्षेत्र के वन विभाग में ज्येष्ठतम अधिकारी हो;
- (त) “परियोजना जांच समिति” से नियम 8 के अधीन गठित परियोजना जांच समिति अभिप्रेत है;
- ‘क्षेत्रीय सशक्त समिति’ से नियम 6 के उप नियम (1) के अधीन गठित की गई क्षेत्रीय सशक्त समिति अभिप्रेत है;
- (थ) “क्षेत्रीय कार्यालय” से केन्द्रीय सरकार द्वारा स्थापित, और नियंत्रित क्षेत्रीय कार्यालय अभिप्रेत है;
- (द) “सर्वेक्षण” से किसी परियोजना के आरंभ से पूर्व किया गया कोई कार्यकालाप या वन भूमि में वास्तविक खनन कार्य करने से पूर्व खनिज भंडारों कि खोज, अवस्थिति या भंडार जिसके अंतर्गत कोयला, पेट्रोलियम तथा प्राकृतिक गैस भी है को साबित करने के संयोजन के लिए किये गए कार्यकालाप जिसके अंतर्गत सर्वेक्षण, अन्वेषण, पूर्वक्षण सहित ड्रिल करना भी शामिल है, अभिप्रेत है;
- (ध) “प्रौद्योगिक उपकरण” से अधिनियम के अधीन पूर्व स्वीकृति की आवश्यकता वाले प्रस्ताव के संबंध में निर्णय लेने को सुगम बनाने के लिए ‘निर्णय समर्थन तंत्र’ (डीएसएस) जैसे भगौलीक सूचना प्रणाली आधारित डिजिटल उपकरणों से अभिप्रेत है।

- (न) "प्रयोक्ता अधिकरण" से अभिप्राय अधिनियम की धारा 1 के अधीन प्रस्ताव प्रस्तुत करने वाले किसी व्यक्ति, संगठन या कानूनी इकाई या कंपनी या केन्द्रीय या राज्य सरकार या संघ राज्य क्षेत्र प्रशासन के विभाग है;
- (प) "कार्य की अनुमति" से ब्लैक टॉपिंग, कंक्रीट बिछाने, रेलवे ट्रैक बिछाने, ट्रांसमिशन लाइनों को चार्ज करने आदि के अतिरिक्त प्रारंभिक परियोजना कार्य आरंभ करने के लिए संसाधन जुटाने हेतु अंतिम अनुमोदन देने के पूर्व रैखिक परियोजनाओं को दी गई या 'सैधांतिक' अनुमोदन में यथा-निर्दिष्ट अनुमति से अभिप्रेत है;
- (फ) "कार्य योजना" से समय-समय पर केन्द्रीय सरकार द्वारा प्रकाशित की गई राष्ट्रीय कार्य योजना कोड के उपबंधों के अनुसार तैयार किया गया दस्तावेज और जिसमें किसी विनिर्दिष्ट अवधि के लिए विशिष्ट वन प्रभाग के वनों के वैज्ञानिक प्रबंधन करने के लिए निर्धारित निर्देश सम्मिलित हैं, अभिप्रेत है।
- (2) इसमें प्रयुक्त शब्दों और अभिव्यक्तियों और जिन्हें इन नियमों में परिभाषित नहीं किया गया है किंतु अधिनियम में परिभाषित किया गया है, का वही अर्थ होगा जैसा कि अधिनियम में क्रमशः उन्हें दिया गया है।

3. परामर्शदात्री समिति का गठन—(1) केन्द्रीय सरकार, आदेश द्वारा, नियम 10 के उपनियम (5) के उप खंड (ख) के अधीन निर्दिष्ट प्रस्तावों के संबंध में धारा 2 की उप-धारा (1) के अधीन अनुमोदन प्रदान करने के लिए और वनों के संरक्षण से संबंधित कोई मामला जिसे केन्द्रीय सरकार द्वारा परामर्शदात्री समिति को निर्दिष्ट किया गया है, के संबंध में केन्द्रीय सरकार को परामर्श देने के लिए एक परामर्शदात्री समिति का गठन कर सकती है:-

- (2) परामर्शदात्री समिति में निम्नलिखित सदस्य सम्मिलित होंगे, अर्थात् :-
- (क) वन महानिदेशक, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय - अध्यक्ष;
- (ख) अपर वन महानिदेशक, जो पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय में वन संरक्षण से संबंधित कार्य देख रहे हैं - सदस्य;
- (ग) अपर वन महानिदेशक, जो पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय में वन्यजीव से संबंधित कार्य देख रहे हैं - सदस्य;
- (घ) अपर आयुक्त (मृदा संरक्षण), कृषि एवं किसान कल्याण मंत्रालय - सदस्य;
- (ङ) पारिस्थितिकी, इंजीनियरिंग और आर्थिक विकास अर्थशास्त्र क्षेत्रों से प्रत्येक का प्रतिनिधित्व करने वाले केन्द्रीय सरकार द्वारा नामनिर्दिष्ट किए जाने वाले तीन गैर शासकीय विशेषज्ञ - गैर-सरकारी सदस्य;
- (च) वन संरक्षण और उसके अधिनियम के संबंध में कार्रवाई कर रहे वन महानिरीक्षक - सदस्य-सचिव
- (3) अध्यक्ष, परामर्शदात्री समिति की बैठक में किसी भी डोमेन विशेषज्ञ को विशेष आमंत्रित व्यक्ति के रूप में सहयोजित कर सकते हैं।
- (4) अध्यक्ष, परामर्शदात्री समिति की बैठक की अध्यक्षता करेंगे और उनकी अनुपस्थिति में अपर वन महानिदेशक, जो पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय में वन संरक्षण से संबंधित कार्य देख रहे बैठक की अध्यक्षता करेंगे।

4. परामर्शदात्री समिति के गैर शासकीय सदस्यों के लिए निबंधन और शर्तें :—

- (1) गैर-शासकीय सदस्य के अपने कार्यकाल की अवधि अपने नामनिर्देशन की तारीख से दो वर्ष तक होगी या जैसी केन्द्रीय सरकार द्वारा निर्दिष्ट की गई है;
- (2) एक गैर-शासकीय सदस्य का यदि विकृत चित्त या दिवालिया या किसी अपराध, जिसमें नैतिक अधमता अन्तर्वलित है, में दोष सिद्ध होने की दशा में उसकी सदस्यता समाप्त हो जाएगी;
- (3) यदि कोई गैर-शासकीय सदस्य बिना पर्याप्त कारणों से परामर्शदात्री समिति की लगातार तीन बैठकों में उपस्थित होने में असफल राहत है तो उसकी सदस्यता समाप्त हो जाएगी;
- (4) खंड (2) और (3) में बताए गए कारणों के द्वारा यदि कोई रिक्ति होती है तो उसे केन्द्रीय सरकार द्वारा दो वर्ष की शेष अवधि के लिए भर लिया जाएगा;
- (5) परामर्शदात्री समिति के गैर-शासकीय सदस्य उस यात्रा भत्ता और दैनिक भत्ता के हकदार होगा जो समूह 'क' के पद धारण करने वाले भारत सरकार के किसी अधिकारी को ग्राह्य होगा ;

- (6) परंतु जहां संसद के सदस्य या राज्य विधान सभा के सदस्य को परामर्शदात्री समिति के सदस्य के रूप में नियुक्त किया गया है, वहां वह यथास्थिति संसद सदस्यों के वेतन, भत्ते और पेंशन अधिनियम 1954 (1954 का 30) या संबंधित राज्य विधान सभा के सदस्यों से संबंधित विधि के संबंधित उपबंधों के अनुसार, यात्रा भत्ता और दैनिक भत्तों के लिए हकदार होगा।

5. परामर्शदात्री समिति के कार्यों का संचालन:—

- (1) परामर्शदात्री समिति का अध्यक्ष जब कभी आवश्यक समझे, परामर्शदात्री समिति की बैठक माह में कम से कम एक बार बुला सकता है।
- (2) परामर्शदात्री समिति की बैठक सामान्यता नई दिल्ली में होगी सिवाय इसके कि जब अध्यक्ष प्रस्तावित भूमि का निरीक्षण करना आवश्यक समझे तो वह उस स्थान पर बैठक आयोजित करने का निदेश दे सकता है जहां से प्रस्ताव का निरीक्षण किया जा सकता है।
- (3) परामर्शदात्री समिति की बैठक की गणपूर्ति (कोरम) अध्यक्ष सहित पांच होगी।
- (4) सदस्य सचिव बैठक की कार्य-सूची तैयार करेंगे और केन्द्रीय सरकार द्वारा परामर्शदात्री समिति को निर्दिष्ट प्रस्तावों और विषयों को प्रस्तुत करेंगे।
- (5) परामर्शदात्री समिति अपनी बैठक में प्रस्ताव या विषयों की जांच करेगी और, तत्काल मामलों में, अध्यक्ष उस प्रस्ताव या विषय को सदस्यों को उनके विचारार्थ प्रेषित करने का निदेश दे सकता है, जो निर्धारित समय के भीतर समिति को उपलब्ध कराया जाएगा।
- (6) प्रयोक्ता अधिकरण को ऐसी अवधि के लिए परामर्शदात्री समिति की बैठक में उपस्थित होने के लिए अनुज्ञात किया जा सकता है जो उनसे संबंधित किसी सूचना को प्रदान करने या किसी मुद्दे को स्पष्ट करने के लिए आवश्यक हो।
- (7) प्रस्ताव या विषयों की जांच के पश्चात्, परामर्शदात्री समिति केन्द्रीय सरकार को अपनी सिफारिश/परामर्श देगी।

6. क्षेत्रीय सशक्त समिति का गठन - (1) केन्द्रीय सरकार, नियम 10 के उपनियम (3) के खंड (ख) के अधीन निर्दिष्ट प्रस्तावों की जांच करने तथा धारा 2 की उप-धारा (1) के अधीन प्रस्तावों को अनुमोदन प्रदान करने या अस्वीकार करने के लिए प्रत्येक क्षेत्रीय कार्यालय में आदेश द्वारा एक क्षेत्रीय सशक्त समिति का गठन कर सकेगी।

(2) प्रत्येक क्षेत्रीय कार्यालय में क्षेत्रीय सशक्त समिति में निम्नलिखित व्यक्ति सम्मिलित होंगे, अर्थात् :-

- (क) उप वन महानिदेशक (केन्द्रीय) या केन्द्रीय सरकार द्वारा नामनिर्दिष्ट कोई अधिकारी - अध्यक्ष;
- (ख) ख्याति प्राप्त व्यक्तियों में से, जो वानिकी और सहायक विषयों के क्षेत्र में विशेषज्ञ है, तीन गैर- शासकीय सदस्य - सदस्य;
- (ग) क्षेत्रीय कार्यालय में वन संरक्षक और उप वन संरक्षक रैंक के अधिकारियों में से ज्येष्ठतम अधिकारी - सदस्य सचिव

- (3) क्षेत्रीय सशक्त समिति का अध्यक्ष बैठक के लिए विशेष आमंत्रितों के रूप में डोमेन विशेषज्ञों को सहयोजित कर सकता है
- (4) राज्य या संघ राज्यक्षेत्र प्रशासन के वन विभाग और राजस्व विभाग से एक-एक प्रतिनिधि, जो भारत सरकार के निदेशक के पद से नीचे का न हो, को क्षेत्रीय सशक्त समिति द्वारा प्रस्तावों की जांच के लिए विशेष आमंत्रित के रूप में बैठक में भाग लेने के लिए आमंत्रित किया जाएगा।

(5) क्षेत्रीय सशक्त समिति के गैर-शासकीय सदस्यों के निबंधन और शर्तें :—

- (1) एक गैर-शासकीय सदस्य उसके नामनिर्देशन की तारीख से दो वर्ष की अवधि के लिए पद धारण करेगा;
- (2) एक गैर-शासकीय सदस्य को यदि विकृत चित्त, दिवालिया या एक ऐसे अपराध के लिए दोषी पाया गया हो, जिसमें नैतिक अधमता अंतर्विलित है, की स्थिति में उसकी सदस्यता समाप्त हो जाएगी;
- (3) यदि कोई गैर- शासकीय सदस्य बिना पर्याप्त कारणों से समिति की लगातार तीन बैठकों में उपस्थित होने में असफल राहत है तो उसकी सदस्यता समाप्त हो जाएगी;

- (4) उप नियम (2) और (3) में वर्णित किसी कारण के फलस्वरूप यदि क्षेत्रीय सशक्त समिति में सदस्य की कोई रिक्ति होती है तो उसे केंद्रीय सरकार उस सदस्य की शेष अवधि के लिए भर लिया जाएगा, जिसके स्थान पर रिक्ति हुई है;
- (5) क्षेत्रीय सशक्त समिति के गैर-सरकारी सदस्य यात्रा भत्ता और दैनिक भत्ते के हकदार होंगे जो समान वेतनमान वाले समूह 'क' पद धारण करने वाले भारत सरकार के एक अधिकारी के लिए ग्राह्य है;
- (6) परंतु जहां संसद के सदस्य या राज्य विधान सभा के सदस्य क्षेत्रीय सशक्त समिति के सदस्य के रूप में नियुक्त किया गया है, वहां वह यथास्थिति संसद सदस्यों के वेतन, भत्ते और पेंशन अधिनियम 1954 (1954 का 30) या संबंधित राज्य विधान सभा के सदस्यों से संबंधित विधि के संबंधित उपबंधों के अनुसार, यात्रा भत्ता और दैनिक भत्तों के लिए हकदार होगा।

7. क्षेत्रीय सशक्त समिति के कार्यों का संचालन:—सलाहकार समिति अपना कार्य निम्नानुसार संचालित करेगी, अर्थात्:-

- (1) क्षेत्रीय सशक्त समिति का अध्यक्ष जब कभी आवश्यक समझे, समिति की बैठक आयोजित कर सकता है, जो माह में एक बार से कम नहीं हो;
- (2) क्षेत्रीय सशक्त समिति की बैठक क्षेत्रीय कार्यालय के मुख्यालय में आयोजित की जाएगी:
परंतु क्षेत्रीय सशक्त समिति के अध्यक्ष जहां इस बात से संतुष्ट हो कि ऐसी वन भूमि के स्थान का जिनका वनेत्तर प्रयोजनों के लिए प्रयोग किया प्रस्तावित है, का निरीक्षण आवश्यक या निर्दिष्ट प्रस्ताव के संबंध में विचार शीघ्रता से किया जाना आवश्यक या समीचीन है तो स्थल के ऐसे निरीक्षण के लिए यह क्षेत्रीय सशक्त समिति की बैठक क्षेत्रीय कार्यालय के मुख्यालय में न करके अन्य स्थान पर करने के निदेश दे सकते हैं;
- (3) अध्यक्ष क्षेत्रीय सशक्त समिति की बैठक की अध्यक्षता करेगा और उसकी अनुपस्थिति में, अन्य क्षेत्रीय कार्यालय का प्रभार संभालने वाला उप वन महानिदेशक या अधिनियम से संबंधित मामलों पर कार्य करने वाला वन महानिरीक्षक, जैसा कि केन्द्रीय सरकार द्वारा प्राधिकृत किया जाए, क्षेत्रीय सशक्त समिति की बैठक की अध्यक्षता कर सकता है।
- (4) क्षेत्रीय सशक्त समिति को सलाह या विनिश्चय के लिए निर्दिष्ट प्रत्येक प्रस्ताव पर क्षेत्रीय सशक्त समिति की बैठक में विचार किया जाएगा।
परंतु शीघ्रता वाले मामलों में, क्षेत्रीय सशक्त समिति का अध्यक्ष निदेश दे सकेगा कि दस्तावेजों को परिचालित किया जाए और क्षेत्रीय सशक्त समिति के सदस्यों को अनुबद्ध समय के भीतर उनकी राय के लिए भेजा जाए।
- (5) क्षेत्रीय सशक्त समिति की बैठक में गणपूर्ति (कोरम) तीन होगी;
- (6) प्रयोक्ता अभिकरण को बैठक के दौरान ऐसी अवधि के लिए उपस्थित रहने के लिए अनुज्ञात किया जा सकेगा जो इससे संबंधित किसी सूचना को प्रदान करने या किसी मुद्दे को स्पष्ट करने के लिए आवश्यक हो।
- (7) सदस्य सचिव बैठक की कार्यसूची तैयार करेंगे और अधिनियम से जुड़े प्रस्तावों और विषयों को समिति के समक्ष प्रस्तुत करेंगे तत्पश्चात् उचित सिफारिशें तथा निर्णय लिए जा सकें।

8. परियोजना जांच समिति का गठन:—(1) राज्य सरकार और संघ राज्यक्षेत्र प्रशासन, एक आदेश द्वारा, अधिनियम की धारा 2 की उप-धारा (1) के खंड (i), खंड (ii) या खंड (iii) के अधीन प्रस्तुत प्रस्ताव की पूर्णता की जांच करने के लिए एक परियोजना जांच समिति का गठन कर सकते हैं।

(2) परियोजना जांच समिति में निम्नलिखित व्यक्ति सम्मिलित होंगे, अर्थात्: -

- (क) नोडल अधिकारी- अध्यक्ष;
- (ख) संबंधित मुख्य वन संरक्षक/वनसंरक्षक - सदस्य;
- (ग) संबंधित प्रभागीय वन अधिकारी - सदस्य;
- (घ) संबंधित जिला कलेक्टर और उनके प्रतिनिधि, (डिप्टी कलेक्टर के पद से नीचे का नहीं) - सदस्य;
- (ङ) नोडल अधिकारी के कार्यालय में प्रभागीय वन अधिकारी - सदस्य - सचिव

- (3) परियोजना जांच समिति की बैठक प्रत्येक मास में कम से कम दो बार होगी, और परियोजना जांच समिति की बैठक की गणपूर्ति तीन होगी।
- (4) परियोजना जांच समिति, प्रस्तावों की जांच के पश्चात्, यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को सिफारिश करेगी।

9. केन्द्रीय सरकार के पूर्व अनुमोदन के लिये प्रस्ताव:—(1) केन्द्रीय सरकार अपना अनुमोदन दो चरणों में दिया करेगी, अर्थात् (i) 'सैद्धांतिक' अनुमोदन; और (ii) 'अंतिम' अनुमोदन।

- (2) प्रयोक्ता अभिकरण राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को अधिनियम की धारा 2 की उपधारा (1) के अधीन वन भूमि के अनारक्षण, वनेतर प्रयोजनों के लिए वन भूमि के उपयोग या पट्टे के लिए केन्द्रीय सरकार के वेब पोर्टल के माध्यम से ऑनलाइन समनुदेशन केन्द्रीय सरकार के अनुमोदन हेतु आवेदन प्रस्तुत करेगी।
- (3) प्रयोक्ता अभिकरण द्वारा प्रस्तुत किये जाने वाले प्रस्ताव के लिए एक प्रस्ताव पहचान संख्या को ऑनलाइन 'जेनरेट' किया जाएगा और उक्त पहचान संख्या का उपयोग भविष्य के सभी संदर्भों के लिए किया जाएगा।
- (4) प्रस्ताव की एक प्रति, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन के संबंधित वनमंडल अधिकारी, जिला कलेक्टर, वन संरक्षक, मुख्य वन संरक्षक और नोडल अधिकारी को भी साथ-साथ अग्रेषित की जाएगी और उनमें से प्रत्येक प्रस्ताव के प्रलेखन की पूर्णता की प्रारंभिक जांच स्वतंत्र रूप से करेगा।
- (5) परियोजना जांच समिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन से प्राप्त पांच हेक्टेयर या उससे कम की वन भूमि वाले प्रस्तावों के सिवाय, जांच करेगी कि प्रस्ताव सभी तरह से पूर्ण है और प्रस्तावित कार्यकलाप किसी प्रतिबंधित क्षेत्र या प्रवर्ग में नहीं है।
- (6) परियोजना जांच समिति, स्पष्टीकरण या अतिरिक्त दस्तावेज, यदि कोई हो, के लिए प्रयोक्ता अभिकरण को बुला सकती है।
- (7) परियोजना जांच समिति प्रस्ताव की पूर्णता और शुद्धता के लिए जांच करेगी और यह सुनिश्चित करेगी कि प्रस्ताव में कमियां, यदि कोई हों, तो उसकी पहचान की जाए और सदस्य-सचिव इस संबंध में प्रयोक्ता अभिकरण को सूचित करेगा।
- (8) प्रयोक्ता अभिकरण को लौटाए गए प्रस्तावों को नब्बे दिनों की अवधि के भीतर उपरोक्त उप नियम (7) के अधीन अभिज्ञात कमी को दूर करने के पश्चात् फिर से प्रस्तुत किया जा सकेगा, ऐसा न हो पाने पर प्रस्ताव को सूची से हटा दिया जाएगा।
- (9) यदि प्रयोक्ता अभिकरण दिए गए समय के भीतर जानकारी प्रस्तुत करती है, तो परियोजना जांच समिति द्वारा प्रस्ताव की फिर से जांच की जाएगी और यदि प्रस्ताव सभी दृष्टि से पूरा नहीं पाया जाता है, तो कारणों को लेखबद्ध कर उसे सूची से हटा दिया जाएगा:
- परंतु यह कि परियोजना जांच समिति द्वारा प्रस्ताव को सूची से हटाने के पश्चात्, प्रयोक्ता अभिकरण, कमियों को संबोधित करने के बाद, उपरोक्त उपनियम (2) के अधीन उत्पन्न उसी प्रस्ताव पहचान संख्या का उपयोग करके केवल एक बार प्रस्ताव को फिर से सूचीबद्ध कर सकती है, जो फिर उपरोक्त उपनियम (5) से (2) में दी गई प्रक्रिया के अनुसार परियोजना जांच समिति द्वारा जांच की जाएगी और यदि प्रस्ताव अभी भी अपूर्ण पाया जाता है, तो इसे अस्वीकार किया जाएगा और इसका पोर्टल से स्थायी रूप से लोप किया जाएगा।
- (10) परियोजना पहचान संख्या के साथ पूर्ण प्रस्ताव संबंधित प्रभागीय वन अधिकारियों, जिला कलेक्टरों, वन संरक्षक या मुख्य वन संरक्षक को क्षेत्र सत्यापन के लिए अग्रेषित किया जाएगा।
- (11) जहां प्रस्ताव में सम्मिलित वन भूमि या उसका कोई भाग वन विभाग के प्रबंधन नियंत्रण के अधीन नहीं है, वहां जिला कलेक्टर राजस्व विभाग और वन विभाग के अधिकारियों द्वारा संयुक्त सत्यापन के माध्यम से ऑनलाइन प्रमाणीकृत प्रस्ताव में प्रमाणित सम्मिलित वन भूमि की भूमि अनुसूची और नक्शा प्राप्त करेंगे।
- (12) इसके अतिरिक्त, संबंधित प्रभागीय वन अधिकारी द्वारा क्षेत्र में सत्यापित प्रत्येक प्रस्ताव, जिसमें 40 हेक्टेयर से अधिक वन भूमि सम्मिलित है तो उसे संबंधित वन संरक्षक द्वारा और यदि प्रस्ताव में सौ हेक्टेयर से अधिक वन भूमि; सम्मिलित है तो नोडल अधिकारी द्वारा क्षेत्रीय निरीक्षण किया जाएगा।

(13) पांच हेक्टेयर या उससे कम की वन भूमि वाले प्रस्तावों के सिवाय, उप नियम (8) या (9) के अधीन पूर्ण प्रस्ताव प्रस्तुत करने से, इन नियमों से संलग्न अनुसूची-1 में विनिर्दिष्ट अवधि के भीतर परियोजना जांच समिति के विचार के लिए प्रस्तुत किया जाएगा और परियोजना जांच समिति प्रयोक्ता अभिकरण द्वारा अंगीकृत किए जाने वाले उपशमन उपायों के साथ राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को इसकी सिफारिश करने के प्रयोजन से प्रस्ताव की व्यवहार्यता की जांच करेगी:

परंतु, परियोजना जांच समिति, वन भूमि की आवश्यकता को कम करने या वन और वन्यजीवों, पर प्रतिकूल प्रभाव को कम करने, प्रस्तावित प्रतिपूरक वनीकरण भूमि में परिवर्तन या परियोजना के प्रतिकूल प्रभाव को कम करने के लिए प्रयोक्ता अभिकरण द्वारा अंगीकार किए गए जाने वाले प्रस्तावित उपायों में परिवर्तन, जैसे कारणों से अपयोजन के लिए प्रस्तावित वन भूमि में परिवर्तन के संदर्भ में प्रयोक्ता अभिकरण से कोई स्पष्टीकरण, अतिरिक्त विवरण या उपांतरण की मांग कर सकती है, और इस प्रयोजन लिए यह प्रयोक्ता अभिकरण को एक प्रस्तुति देने के लिए कह सकती है:

परंतु यह और कि प्रयोक्ता अभिकरण द्वारा समय पर पूरी जानकारी और स्पष्टीकरण तथा अतिरिक्त विवरण ऑनलाइन प्रस्तुत करने की स्थिति में परियोजना संचालन समिति द्वारा प्रस्ताव पर पुनर्विचार किया जाएगा और यदि प्रयोक्ता अभिकरण मूल प्रस्ताव को पर्याप्त रूप से संशोधित करती है और वन भूमि या भूमि उपयोग योजना में परिवर्तन जैसे बड़े बदलाव करती है, तो परियोजना संचालन समिति उप नियम (7) से उपनियम (11) में दिए गए चरणों को पूरा करने के लिए प्रस्ताव को वापस कर सकती है और इसलिए ऐसे मामलों में इस उप नियम के चरणों को भी दोहराया जाएगा।

(14) जहां प्रयोक्ता अभिकरण यथानिर्दिष्ट अवधि के भीतर सही सूचना, अतिरिक्त विवरण या उपांतरित प्रस्ताव प्रस्तुत करने में असफल रहती है, प्रस्ताव अस्वीकृत माना जाएगा:

परंतु यदि प्रयोक्ता अभिकरण परियोजना जांच समिति को संतुष्ट करती है कि देरी का कारण उसके नियंत्रण से बाहर था, तो परियोजना जांच समिति लेखबद्ध कारणों के पश्चात उस प्रस्ताव पर पुनः विचार कर सकती है और यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को इसकी सिफारिश कर सकती है;

(15) पांच हेक्टेयर तक की वन भूमि वाले प्रस्ताव को प्रभागीय वन अधिकारी के स्तर पर उसकी जांच के पश्चात उसके द्वारा सीधे नोडल अधिकारी को अग्रेषित किया जाएगा और नोडल अधिकारी ऐसे प्रस्तावों को अपनी सिफारिशों के साथ राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को अग्रेषित करेगा:

बशर्ते कि प्रभागीय वन अधिकारी, प्रयोक्ता अभिकरण से प्रस्ताव प्राप्त करने के पश्चात, उनकी पूर्णता का आकलन करेगा और अपूर्ण प्रस्तावों को पूर्ण रूप से पुनः प्रस्तुत करने के लिए प्रयोक्ता अभिकरण को वापिस किया जाएगा।

(16) पांच हेक्टेयर या उससे अधिक की वन भूमि वाले प्रस्ताव को नोडल अधिकारी द्वारा प्रधान मुख्य वन संरक्षक के अनुमोदन से राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को परियोजना जांच समिति की सिफारिश के साथ अग्रेषित किया जाएगा और उसकी एक प्रति क्षेत्रीय कार्यालय को भेजी जाएगी;

(17) जहां यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन गैर-वन उद्देश्यों के लिए वन भूमि को अनारक्षित, अपयोजन या प्रस्ताव में उपदर्शित अनुसार वन भूमि को पट्टे पर न देने का निर्णय लेते हैं, तो इसकी सूचना प्रयोक्ता अभिकरण को नोडल अधिकारी द्वारा दी जाएगी।

(18) जहां राज्य सरकार या संघ राज्यक्षेत्र प्रशासन, वन भूमि को अनारक्षित करने के लिए, गैर-वन प्रयोजनों के लिए अपयोजन या पट्टे पर वन भूमि आवंटित करने के लिए जैसा कि प्रस्ताव में उपदर्शित है, सैद्धांतिक रूप से सहमत होने पर अपनी सिफारिश केन्द्रीय सरकार को अग्रेषित करेगी।

(10) प्रस्ताव का सैद्धांतिक रूप अनुमोदन:—

(1) उप नियम (2) में निर्दिष्ट प्रस्तावों के सिवाय, निम्नलिखित से संबंधित अन्य सभी प्रस्तावों:-

- (i) रैखिक परियोजनाएं;
- (ii) चालीस हेक्टेयर तक वन भूमि; और

(iii) 25 मेगावाट से तक क्षमता की जलविद्युत परियोजनाएं, चाहे उनकी नदी बेसिन में प्रस्तावित स्थापित क्षमता कुछ भी हो, जहां नदी बेसिन की वहन क्षमता का निर्धारण करने के लिए संचयी प्रभाव मूल्यांकन अध्ययन किया गया है;

(iii) 0.7 तक वितान घनत्व वाली वन भूमि का उपयोग, चाहे सर्वेक्षण की दृष्टि से इसका विस्तार कुछ भी हो, और जिन्हें अधिनियम की धारा 2 की उपधारा (1) के खंड (iii) और इसके तदधीन जारी दिशानिर्देशों के अधीन छूट नहीं दी गई हो,

के बारे में क्षेत्रीय कार्यालय में जांच पड़ताल की जाएगी और इनका उपनियम (3) में विनिर्दिष्ट रीति से निपटारा किया जाएगा;

(2) उप-नियम (1) में निर्दिष्ट से भिन्न, सभी प्रस्ताव और निम्नलिखित प्रस्तावों, अर्थात् :-

(i) अनारक्षण;

(ii) खनन;

(iii) 25 मेगावाट से अधिक क्षमता की जलविद्युत परियोजनाएं, चाहे उनकी नदी बेसिन में प्रस्तावित स्थापित क्षमता कुछ भी हो, जहां नदी बेसिन की वहन क्षमता का आकलन करने के लिए संचयी प्रभाव मूल्यांकन अध्ययन नहीं किया गया है या किसी नदी बेसिन में परियोजनाओं की अनुमति देने पर केंद्रीय सरकार द्वारा नीतिगत निर्णय नहीं लिया गया है;

(iv) अतिक्रमण का नियमितीकरण;

(v) अधिनियम के उपबंधों के उल्लंघन से संबंधित कार्योंत्तर अनुमोदन,

की जांच और निपटारा इन नियमों के अधीन विनिर्दिष्ट रीति से केंद्रीय सरकार द्वारा किया जाएगा।

परंतु पेट्रोलियम अन्वेषण अनुज्ञप्ति या पेट्रोलियम खनन पट्टे, जिसमें वन भूमि पर भौतिक कब्जा और उसे खंडित करना अंतर्वलित नहीं है, समुनदेशित करने के लिए कोई अनुमोदन अपेक्षित नहीं है।

(3) उप नियम (1) के अधीन प्राप्त प्रस्तावों की क्षेत्रीय कार्यालय द्वारा निम्नलिखित रीति में जांच की जाएगी, अर्थात्:

(i) 5 हेक्टेयर तक की वन भूमि वाले सभी प्रस्तावों की क्षेत्रीय कार्यालय द्वारा इसकी पूर्णता के संबंध में जांच की जाएगी, और जांच या निरीक्षण रिपोर्ट, जो भी आवश्यक समझी जाए, के पश्चात और उप नियम (5) के खंड (ii) के अधीन सूचीबद्ध पक्षों पर सम्यक ध्यान देते हुए, क्षेत्रीय कार्यालय द्वारा कारणों को लेखबद्ध करते हुए 'सैद्धांतिक' अनुमोदन प्रदान किया जाएगा।

(ii) 5 हेक्टेयर से अधिक वन भूमि वाले सभी रेखीय प्रस्तावों, 'सर्वेक्षण' के प्रयोजन के लिए 0.7 तक कैनोपी घनत्व वाली वन भूमि के उपयोग के लिए सभी प्रस्ताव, चाहे उनकी सीमा कुछ भी हो और पाँच हेक्टेयर से अधिक और चालीस हेक्टेयर तक वन भूमि के उपयोग वाले अन्य सभी प्रस्तावों की क्षेत्रीय कार्यालय द्वारा उनकी पूर्णता की जांच के पश्चात क्षेत्रीय सशक्त समिति को निर्दिष्ट किया जाएगा।

(iii) क्षेत्रीय सशक्त समिति, खण्ड (ii) के अधीन इसे निर्दिष्ट सभी प्रस्तावों की जांच करेगी और आगे की जांच या स्थल का निरीक्षण, जो भी आवश्यक समझी जाए, के पश्चात और नियम (5) के खण्ड (ii) के अधीन सूचीबद्ध पक्षों पर सम्यक ध्यान देते हुए, पूर्व अनुमोदन प्रदान करेगी या कारण लेखबद्ध करके उसे निरस्त करेगी।

(iv) इस नियम के अधीन प्रत्यायोजित शक्ति के अनुसार क्षेत्रीय सशक्त समिति या वन उप महानिदेशक द्वारा किसी प्रस्ताव को 'सैद्धांतिक' मंजूरी देने या अस्वीकार करने के लिए लिए गए विनिश्चयों का, जब भी आवश्यक हो या अपेक्षित हो, का पुनर्विलोकन किया जा सकता है, ऐसे विषयों में केंद्रीय सरकार द्वारा लिया गया निर्णय अंतिम होगा।

(4) क्षेत्रीय कार्यालय द्वारा उप-नियम (2) में विनिर्दिष्ट प्रस्तावों के संबंध में एक स्थल निरीक्षण रिपोर्ट तैयार की जाएगी और उसे केंद्रीय सरकार को परामर्शदात्री समिति द्वारा विचार करने के लिए प्रस्तुत किया जाएगा।

(5) केंद्रीय सरकार द्वारा प्राप्त प्रस्तावों की निम्नलिखित रीति में जांच की जाएगी अर्थात्:-

- (i) उपनियम (2) के अधीन सभी प्रस्तावों, को इनकी पूर्णता की जांच के पश्चात, उप नियम (5) के अधीन अपेक्षित स्थल निरीक्षण रिपोर्ट के साथ या/यथा केंद्रीय सरकार द्वारा पूछे जाने पर, परामर्शदात्री समिति को निर्दिष्ट किया जाएगा।
- (ii) परामर्शदात्री समिति, खंड (i) में निर्दिष्ट सभी प्रस्तावों को, निम्नलिखित बिन्दुओं पर अपेक्षित ध्यान देते हुए परंतु उन्हीं तक सीमित न रहते हुए, जांच करेगी और आगे की जांच, जो भी आवश्यक समझी जाए, के पश्चात केन्द्रीय सरकार को उनके द्वारा अनुमोदन पर विचार करने के लिए सिफारिशें करेगी:-
- (क) वन भूमि का प्रस्तावित उपयोग, किसी गैर-स्थल विनिर्दिष्ट प्रयोजन जैसे कि कृषीय प्रयोजनों, कार्यालय या आवासीय प्रयोजनों से या अपने आवासों से विस्थापित हुए व्यक्तियों के पुनर्वास के लिए नहीं है।
- (ख) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, यथास्थिति, ने प्रमाणित कर दिया है कि उसने सभी विकल्पों पर विचार किया है और इन परिस्थितियों में कोई अन्य विकल्प साध्य नहीं है और यह कि अपेक्षित क्षेत्र की न्यूनतम आवश्यकता है।
- (ग) राज्य सरकार या संघ राज्यक्षेत्र प्रशासन, यथास्थिति, ने अपनी सिफारिश करने से पूर्व, वन भूमि के अपयोजन के कारण वन, वन्यजीव और पर्यावरण पर पड़ने वाले प्रत्यक्ष और अप्रत्यक्ष प्रभाव वाले सभी मुद्दों पर विचार किया है।
- (घ) राष्ट्रीय वन नीति के अधीन संबंधित अधिदेश;
- (ङ.) यदि वनेत्तर प्रयोजन के लिए उपयोग किए जाने वाली प्रस्तावित वन भूमि, किसी राष्ट्रीय उद्यान, वन्यजीव अभयारण्य, बाघ रिजर्व का एक हिस्सा है या अभिहित या अभिज्ञात बाघ या वन्यजीव गलियारा है या वनस्पति-जात और प्राणी-जात की किसी विलुप्तप्रायः या संकटग्रस्त प्रजाति का पर्यावास या गंभीर रूप से अपक्षरित जलग्रहण क्षेत्र में आने वाले क्षेत्र का हिस्सा है तो क्या राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, यथास्थिति, द्वारा पर्याप्त औचित्य दिया गया है और समुचित उपशमन उपाय प्रस्तावित किए गए हैं; और
- (च) राज्य सरकार या संघ राज्यक्षेत्र प्रशासन, यथास्थिति, प्रतिपूरक वनीकरण करने के प्रयोजन से नियम 13 के अनुसार अपनी लागत या प्रयोक्ता अभिकरण की लागत पर समुचित भूमि के अपेक्षित विस्तार करने का उपबंध करता है।
- (6) उप नियम (5) के अनुसार, सिफारिश करते समय समिति, शर्तों या निर्बंधनों और ऐसे उपशमन उपायों, जो उसके विचार से प्रस्ताव के अधीन वन भूमि के अपयोजन के प्रतिकूल पर्यावरणीय प्रभाव को कम करेंगे, को भी लागू कर सकती है।
- (7) केंद्रीय सरकार, परामर्शदात्री समिति की सिफारिश पर विचार करने के पश्चात निर्धारित शर्तों को पूरा करने के अध्यक्षीन, यथास्थिति सैद्धांतिक अनुमोदन प्रदान करेगी या अस्वीकृत करेगी और इस बारे में राज्य सरकार या संघ राज्यक्षेत्र प्रशासन और प्रयोक्ता अभिकरण को संसूचित करेगी।
- (8) यदि इसकी जांच करने के पश्चात प्रस्ताव अपूर्ण या उपलब्ध कराई गई सूचना असत्य पाई जाती है तो केन्द्रीय सरकार राज्य सरकार/संघ राज्य क्षेत्र प्रशासन और प्रयोक्ता अभिकरण को एक विनिर्दिष्ट अवधि के भीतर अपेक्षित सूचना प्रस्तुत करने के लिए सूचित करेगी;
- (9) राज्य सरकार या संघ राज्यक्षेत्र प्रशासन उपनियम 8 के अधीन संसूचना प्राप्त होने पर पूरी सूचना प्रस्तुत कर सकती है, जिसके पश्चात इन नियमों के अधीन 'सैद्धांतिक' अनुमोदन के लिए प्रस्ताव पर विचार किया जाएगा :
- परंतु, यदि वांछित सूचना, प्रयोक्ता अभिकरण से संबंधित है तो प्रयोक्ता अभिकरण, केन्द्रीय सरकार को अपेक्षित सूचना प्रत्यक्ष रूप से प्रस्तुत करेगी जिसकी एक प्रति राज्य सरकार/संघ राज्य क्षेत्र प्रशासन को भेजी जाएगी और प्रयोक्ता अभिकरण से ऐसी सूचना की प्राप्ति पर, केन्द्रीय सरकार, यदि आवश्यक समझे, तो प्रयोक्ता अभिकरण द्वारा प्रस्तुत की गई सूचना पर 'सैद्धांतिक' अनुमोदन की मंजूरी प्रदान करने पर विचार करने के लिए यथा स्थिति संबंधित राज्य सरकार या संघ राज्य क्षेत्र प्रशासन की टिप्पणियों की मांग कर सकती है।
- (10) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, यदि ऐसा चाहे, रेखीय प्रस्ताव का 'सिद्धांततः' अनुमोदन प्राप्त करने और प्रतिपूरक वनीकरण एवं शुद्ध वर्तमान मूल्य जैसे प्रतिपूरक उपग्रहणों तथा वन्यजीवन प्रबंधन योजना एवं मृदा और आर्द्रता संरक्षण योजना जैसी उपशमन योजना की लागत, यथा लागू, अधीन, भारतीय वन अधिनियम,

1927 (1927 का 16) या स्थानीय वन अधिनियम के तहत संरक्षित वन के रूप में प्रतिपूरक वनीकरण करने हेतु अभिज्ञात भूमि की अधिसूचना तथा अनुसूचित जनजाति और अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 (2007 का 2) के अनुपालन में 'अंतिम' अनुमोदन प्रदान करने से पूर्व परियोजना कार्य प्रारम्भ करने हेतु 'कार्य अनुमति' प्रदान कर सकता है।

11. प्रस्ताव का अंतिम अनुमोदन :—

- (1) नोडल अधिकारी, केंद्रीय सरकार से 'सैद्धांतिक' अनुमोदन प्राप्त करने के पश्चात्, संबंधित प्रभागीय वन अधिकारियों, जिला कलेक्टरों और वन संरक्षक को इसकी सूचना दे सकता है;
- (2) 'सैद्धांतिक' अनुमोदन की एक प्रति प्राप्त होने पर प्रभागीय वन अधिकारी एक मांग-पत्र तैयार करेगा जिसमें प्रतिपूरक उदग्रहण की मद-वार रकम, जैसा लागू हो, प्रयोक्ता अभिकरण द्वारा भुगतान किया जाएगा और साथ ही 'सैद्धांतिक' अनुमोदन में नियत शर्तों के अनुपालन में उनके द्वारा प्रस्तुत किए जाने वाले दस्तावेजों, प्रमाणपत्रों और वचनबंधों की एक सूची के साथ प्रयोक्ता अभिकरण को सूचित करेगा;
- (3) प्रयोक्ता अभिकरण सूचना की प्राप्ति के पश्चात्, प्रतिपूरक उदग्रहण का भुगतान करेगा और प्रतिपूरक वनीकरण के लिए चिन्हित भूमि को सौंप देगा, प्रतिपूरक उदग्रहण के भुगतान के संबंध में वचनबंध और प्रमाण-पत्र सहित दस्तावेजी साक्ष्य की प्रतियों के साथ एक अनुपालन रिपोर्ट और प्रतिपूरक वनीकरण भूमि प्रभागीय वन अधिकारी को सौंप देगा;
- (4) प्रभागीय वन अधिकारी, उप नियम (3) में निर्दिष्ट अनुसार अनुपालनरिपोर्ट प्राप्त करने के पश्चात् और इसकी पूर्णता की जांच करेगा और अनुपालन रिपोर्ट पर अपनी सिफारिश करेगा और इसे नोडल अधिकारी को अग्रेषित करेगा;
- (5) नोडल अधिकारी अनुपालन रिपोर्ट प्राप्त करने के पश्चात्, इसकी पूर्णता सुनिश्चित करने और राज्य सरकार के प्रधान मुख्य वन संरक्षक या संघ राज्यक्षेत्र प्रशासन के मामले में विभाग के प्रमुख का अनुमोदन प्राप्त करने के पश्चात्, यथास्थिति ऐसी रिपोर्ट को अपनी सिफारिशों के साथ राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को, अग्रेषित करेगा।
- (6) केन्द्रीय सरकार, अनुपालन रिपोर्ट प्राप्त कर लेने और इसकी पूर्णता सुनिश्चित करने के पश्चात्, अधिनियम की धारा 2 की उप-धारा (1) के अधीन 'अंतिम' अनुमोदन प्रदान करेगी और ऐसे विनिश्चय के बारे में राज्य सरकार या संघ राज्य क्षेत्र प्रशासन और प्रयोक्ता अभिकरण को सूचित करेगी।
- (7) यथास्थिति राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, अधिनियम की धारा 2 की उप-धारा (1) के अधीन केन्द्रीय सरकार का अंतिम अनुमोदन प्राप्त करने के पश्चात् और अनुसूचित जनजाति और अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 (2007 का 2) के अधीन अधिकारों के बंदोबस्त को सुनिश्चित करने सहित यथा लागू, अन्य सभी अधिनियमों और उसके अधीन बनाए गए नियमों के उपबंधों की पूर्ति और अनुपालना करने के पश्चात्, यथास्थिति अपयोजन, पट्टा समनुदेशित करने या अनारक्षण करने के आदेश जारी करेंगे।
- (8) अधिनियम की धारा 2 की उपधारा (1) के खंड (i) के अधीन अनारक्षण का अंतिम आदेश, जहां भी दिया गया है, वन भूमि के अनारक्षण की सूचना यथा स्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन द्वारा, राजपत्र में प्रकाशित की जाएगी।
- (9) अनुमोदन प्राप्त करने की पूरी प्रक्रिया इस प्रयोजन के लिए विकसित ऑनलाइन पोर्टल में की जाएगी।
- (10) जहां सैद्धांतिक अनुमोदन में अधिरोपित की गई शर्त का अनुपालन यथा स्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन, से दो वर्षों से अधिक समय से प्रतीक्षित है, उनमें सैद्धांतिक अनुमोदन को अकृत और शून्य समझा जाएगा;

परंतु, केन्द्रीय सरकार लेखबद्ध किए जाने वाले कारणों के लिए, ऐसे प्रस्ताव जिनमें एक हजार हेक्टेयर से अधिक की वन भूमि अंतर्वलित है, जिनमें सैद्धांतिक रूप से अनुमोदन प्राप्त कर लिया गया है, सक्षम प्राधिकारी द्वारा चरणवार (अंतिम) अनुमोदन निम्न अनुपालना के अध्यक्षीन प्रदान कर सकता है :

- (क) प्रतिपूरक उदग्रहण का संदाय और प्रतिपूरक वनीकरण करने के लिए चिन्हित और स्वीकृत भूमि की अधिसूचना क्षेत्र के भाग के अनुपात में अनुपालन के लिए प्रस्तुत की गई; और
- (ख) अन्यकोई विनिर्दिष्ट शर्त जिसे अनुपालन के लिए केन्द्रीय सरकार उचित समझे के संबंध में अनुपालन की गई।
- (11) उप नियम (7) के अधीन अंतिम अनुमोदन जारी करने और उप नियम (8) के अधीन राजपत्र में अधिसूचना जारी होने के पश्चात, यथास्थिति संबंधित वन भूमि को राज्य सरकार या संघ राज्यक्षेत्र प्रशासन द्वारा प्रयोक्ता अभिकरण को सौंपा या समनिदेशित किया जा सकता है;
- (12) क्षेत्रीय कार्यालय, 'सैद्धांतिक' अनुमोदन प्रदान करते समय लागू की गई सभी शर्तों के अनुपालन की मॉनीटरिंग करेगा और राज्य सरकार या संघ राज्यक्षेत्र प्रशासन और प्रयोक्ता अभिकरण वर्ष में कम से कम एक बार, सैद्धांतिक अनुमोदन के दौरान अधिरोपित की गई शर्तों के अनुपालन को मॉनीटर करेगी और मॉनीटरिंग रिपोर्ट को ऑनलाइन पोर्टल पर अपलोड करेगा।
- (13) प्रस्तावों पर कार्रवाई करने की संपूर्ण प्रक्रिया राज्य के विभिन्न प्राधिकरणों द्वारा इन नियमों से संलग्न **अनुसूची -1** में विनिर्दिष्ट समय सीमा के भीतर पूरी की जाएगी।

12. कार्य योजना के लिए केन्द्रीय सरकार का पूर्व अनुमोदन प्राप्त करने हेतु प्रस्ताव—

- (1) राज्य सरकार या संघ राज्यक्षेत्र प्रशासन का नोडल अधिकारी केन्द्रीय सरकार के पूर्व अनुमोदन के लिए ऑनलाइन पोर्टल पर राज्य परामर्शदात्री समिति की सिफारिश के साथ-साथ राष्ट्रीय कार्य योजना कोड के उपबंधों के अनुसार सम्यक रूप से तैयार किए गए वन प्रभाग की प्रारूप कार्य योजना प्रस्तुत करेगा;
- (2) प्रारूप कार्ययोजना में अन्य बातों के साथ-साथ अपयोजित वन भूमि तत्स्थानी प्रतिपूरक वनीकरण भूमियां और उस पर वनीकरण की प्रास्थिति के विवरण सम्मिलित होंगे;
- (3) केन्द्रीय सरकार को प्रस्तुत की गई प्रारूप कार्य योजना की राष्ट्रीय कार्य योजना कोड, राष्ट्रीय वन नीति, के साथ और वनों के संरक्षण तथा संवर्धन के लिए अधिनियम की प्रस्तावना के साथ इसकी अनुरूपता की जांच संबंधित क्षेत्रीय कार्यालय द्वारा की जाएगी। क्षेत्रीय कार्यालय प्रारूप कार्य योजना को शर्तों के साथ-साथ या बिना किसी शर्तों के पूर्व अनुमोदन दे सकता है या प्रारूप कार्य योजना में अंतर्विष्ट उपबंधों में उपांतरण के साथ उस अवधि के लिए, जैसा कि उचित समझा जाए, अनुमोदन दे सकता है या कारण बताते हुए उसे अस्वीकार कर सकता है;
- (4) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन या इसके अभिहित अधिकारी कार्य योजना के सभी या विनिर्दिष्ट उपबंध और उस अवधि जिसके लिए कार्य योजना अनुमोदित की गई है, के संबंध में क्षेत्रीय कार्यालय द्वारा प्रदान किए गए अनुमोदन में कार्य योजना के निर्देशों का कार्यान्वयन करेंगे;
- (5) राज्य सरकार या संघ राज्यक्षेत्र प्रशासन अनुमोदित कार्यकारी योजना की मध्य-अवधि पुनर्विलोकन करेगा और अपनी सिफारिशों के साथ समीक्षा रिपोर्ट क्षेत्रीय कार्यालय को प्रस्तुत करेगा और क्षेत्रीय कार्यालय जांच करने के पश्चात अनुमोदन की शर्त में उपांतरण कर सकता है, या शेष अवधि के लिए पूर्व अनुमोदित कार्य योजना के उपबंधों में उपांतरण करते हुए एक नया पूर्व अनुमोदन जारी करेगा या इसके कारण लेखबद्ध करके मध्य-अवधि पुनर्विलोकन की सिफारिशों को अस्वीकार करेगा; और
- (6) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन द्वारा प्रस्तुत पात्र वार्षिक कार्य योजना की दशा में क्षेत्रीय कार्यालय द्वारा भी विचार एवं अनुमोदन किया जा सकता है।
- (7) धारा 2 की उप-धारा (1) के खंड (iv) के अधीन आने वाले सभी प्रस्तावों को चाहे उनका विस्तार कितना भी हो, संबंधित एकीकृत क्षेत्रीय कार्यालय को राज्य सरकार या संघ राज्यक्षेत्र प्रशासन द्वारा ऑनलाइन प्रस्तुत किए जाएंगे;
- (8) उप-नियम (1) के अधीन प्राप्त प्रस्तावों की जांच क्षेत्रीय कार्यालय द्वारा की जाएगी जो जांच के पश्चात, अनुमोदन दे सकता है या कारण लेखबद्ध करके उसे अस्वीकार कर सकता है;
- (9) ऐसे प्रस्ताव जिनमें वन भूमि के संपूर्ण या कुछ भाग, जिनमें वितान सघनता 0.4 या अधिक हैं या मैदानों में बीस हेक्टेयर और पहाड़ों पर दस हेक्टेयर से अधिक आकार की अच्छी तरह से कटाई वाली वन भूमि के प्रस्ताव, जिनकी वितान सघनता कुछ भी हो, सम्मिलित हैं, क्षेत्रीय सशक्त समिति को अग्रपिहित किए जाएंगे और क्षेत्रीय सशक्त समिति इन नियमों के अधीन विनिर्दिष्ट रीति में इनसे निपटेगी और जबकि प्रस्ताव की जांच करते समय,

क्षेत्रीय कार्यालय यह सुनिश्चित करेगी कि अंतिम निर्णय राष्ट्रीय कार्य योजना कोड, राष्ट्रीय वन नीति और वनों के संरक्षण और संवर्द्धन संबंधी अधिनियम की प्रस्तावना के अनुरूप है;

- (10) इन नियमों के प्रयोजन के लिए "वन भूमि से वनस्पति की समूचित कटाई" का आशय आकार में एक हेक्टेयर या उससे अधिक की वन भूमि से सभी प्राकृतिक वनस्पति को चाहे वह किसी भी रूप में हो उन्हें काटकर, उखाड़कर या जलाकर हटाना है लेकिन विनिर्दिष्ट आकार या प्रजातियों के वृक्षों को गिराने के अन्य प्रकारों को जिसमें उनका चयन द्वारा गिराना या टूटों को गिराना सम्मिलित है, पर "वन भूमि से वनस्पति की समूचित कटाई" के रूप में विचार नहीं किया जाएगा।

13. प्रतिपूरक वनीकरण का सृजन—(1) प्रयोक्ता अभिकरण ऐसी भूमि उपलब्ध कराएगा जो न तो भारतीय वन अधिनियम 1927 (1927 का 16) या किसी अन्य विधि के अधीन वन के रूप में अधिसूचित हो, न ही वन विभाग द्वारा वन के रूप में प्रबंधित भूमि हो और वह ऐसी भूमि पर प्रतिपूरक वनीकरण (सीए) करने की लागत भी वहन करेगा और प्रतिपूरक वनीकरण भूमि की आवश्यकता इन नियमों के साथ उपाबद्ध अनुसूची-II के अनुसार होगी :

परंतु यह कि यदि प्रयोक्ता अभिकरण द्वारा प्रदान की गई गैर-वन भूमि या उसका कोई हिस्सा विनिर्दिष्ट सघनता के प्रतिपूरक वनीकरण के लिए उपयुक्त नहीं है, तो वन विभाग के प्रबंधन नियंत्रण के अधीन ऐसी अवक्रमित अधिसूचित या अवर्गित वन भूमि पर अतिरिक्त प्रतिपूरक वनीकरण किया जाएगा जो दी गई प्रतिपूरक वनीकरण भूमि में ऐसी कमी के आकार से दोगुना हो, और प्रयोक्ता अभिकरण ऐसे लेखों पर आई अतिरिक्त लागत को भी वहन करेगी:

परंतु यह भी कि यदि प्रतिपूरक वनीकरण के लिए उपलब्ध कराई जा रही गैर-वन भूमि में पहले से ही 0.4 वितान सघनता या उससे अधिक की वनस्पतिपैदा हो रही है, तो ऐसी भूमि पर पेड़ लगाने की अतिरिक्त आवश्यकता नहीं होगी, लेकिन समयबद्ध रीति से वन विभाग द्वारा वन फसल के सुधार के लिए एक कार्यक्रम कार्यान्वित किया जाएगा:

परंतु यह भी कि आपवादिक परिस्थितियों में जब इस खंड के अधीन प्रतिपूरक वनीकरण के लिए अपेक्षित उपयुक्त भूमि उपलब्ध नहीं है और, यथास्थिति इस आशय का प्रमाण पत्र राज्य सरकार या संघ राज्य क्षेत्र, द्वारा दिया जाता है, तो अवक्रमित वन भूमि पर प्रतिपूरक वनीकरण हेतु विचार किया जा सकता है जो मामला-दर-मामला के आधार पर केन्द्रीय सरकार की एजेंसियों या केन्द्रीय सार्वजनिक उपक्रमों के मामले में अपयोजित किए जाने वाले प्रस्तावित क्षेत्र से दोगुना होगा:

परंतु यह भी कि आपवादिक परिस्थितियों में जब इस खंड के अधीन प्रतिपूरक वनीकरण के लिए अपेक्षित उपयुक्त भूमि उपलब्ध न हो, और यथास्थिति इस आशय का प्रमाण पत्र राज्य सरकार या संघ राज्यक्षेत्र, द्वारा दिया गया हो, तो अवक्रमित वन भूमि पर प्रतिपूरक वनीकरण पर विचार किया जा सकता है जो मामला-दर-मामला आधार पर कैप्टिव कोयला ब्लॉकों के लिए राज्य सार्वजनिक के उपक्रमों के मामले में अपयोजित किए जाने के लिए प्रस्तावित क्षेत्र से दोगुना होगा:

परंतु यह और कि यदि प्रयोक्ता अभिकरण परियोजना के निष्पादन के लिए कोई गैर-वन भूमि अधिग्रहण करता है, तो केन्द्रीय सरकार के अभिकरणों, केन्द्रीय सार्वजनिक उपक्रमों और राज्य सार्वजनिक उपक्रमों मामले में उपरोक्त अपवाद लागू नहीं होंगे।

- (2) इस उप-नियम के अधीन प्रतिपूरक वनीकरण को बढ़ाने के विनिर्दिष्ट सघनता ऐसी होगी कि, प्रतिपूरक वनीकरण ऑपरेशन के शुरू होने के पांचवें वर्ष में 0.4 या उससे अधिक के न्यूनतम वितान सघनता का वन विकसित हो, और इस क्षेत्र में पर्याप्त वनस्पति सामग्री है जो इसे परिपक्व कर न्यूनतम 0.7 वितान सघनता वाली भूमि बनाने में सक्षम बनाता है;
- (3) वनेतर भूमि के उपलब्ध न होने की दशा में प्रतिपूरक वनीकरण निम्नलिखित भूमियों पर भी किया जा सकता है, यथास्थिति जो कि ऐसे अपयोजित भू-क्षेत्र के कम से कम दो गुना या जो वन भूमि अपयोजन की जा रही हो और उपलब्ध वनेतर भूमि के बीच के अंतर के बराबर, उपलब्ध कराई जाएगी और इनको भारतीय वन अधिनियम, 1927 या स्थानीय अधिनियमों के अधीन 'अंतिम' अनुमोदन से पूर्व संरक्षित वन (पीएफ) के रूप में अधिसूचित किया गया है:

- (क) राजस्व वन भूमि अर्थात् जो सरकारी अभिलेख में वन के रूप में दर्ज भूमि है लेकिन किसी भी कानून के तहत वन के रूप में अधिसूचित नहीं है और वन विभाग द्वारा प्रबंधित नहीं है जैसे राजस्व भूमि या जुड़पी जंगल या छोटे या बड़े झाड़ का जंगल या जंगल-झाड़ी भूमि या सिविल-सोयम या ओरेन्ज वन भूमि और वन भूमि की अन्य सभी श्रेणियां, परंतु यह है कि इन्हें राज्य वन विभाग के नाम पर हस्तांतरित और दाखिल -खारिज किया जाय;
- (ख) अरुणाचल प्रदेश के अवक्रमित अवर्गीकृत वनों का प्रतिपूरक वनीकरण के लिए प्रयोग किये जाने हेतु विचार किया जाएगा परंतु यह कि उन्हें राज्य वन विभाग के नाम पर हस्तांतरित और दाखिल-खारिज किया जाए;
- (ग) हिमाचल प्रदेश राज्य की बंजर भूमि, जो संरक्षित वनों की श्रेणी में आती है, लेकिन न तो ऐसी जमीन पर सीमांकन किया गया है और न ही राजस्व अभिलेख में वन विभाग के नाम पर हस्तांतरित या दाखिल-खारिज किया गया है, परंतु उन्हें राज्य वन विभाग के नाम पर हस्तांतरित और दाखिल - खारिज किया जाए;
- (घ) पंजाब, भूमि संरक्षण अधिनियम, 1900 की धारा (4) और धारा(5) के अधीन हरियाणा, पंजाब और हिमाचल प्रदेश राज्यों में, आने वाली भूमि, जो राज्य वन विभाग के प्रबंधन और प्रशासनिक नियंत्रण में नहीं हैं:
- परंतु यह कि ऐसी भूमि तब तक राज्य वन विभाग के नाम पर अंतरित तथा दाखिल खारिज की जाएगी, जब तक कि मामले दर मामले के आधार पर उसे राज्य वन विभाग को अंतरित किए बिना, भारतीय वन अधिनियम, 1927 (1927 का 16) के अधीन उन्हें केंद्रीय सरकार द्वारा उन्हें अधिसूचित करने के लिए यथाविनिर्दिष्ट और सहमति न दी जाए;
- (4) निम्नलिखित प्रस्तावों के संबंध में अवक्रमित वन भूमि पर न्यूनतम दोगुनी सीमा तक प्रतिपूरक वनीकरण बढ़ाने के लिए विशेष व्यवस्था पर विचार किया जा सकेगा, अर्थात्-
- (क) जिन राज्यों/संघ राज्य क्षेत्र प्रशासनों के पास कुल भौगोलिक क्षेत्र का 33% से अधिक वन क्षेत्र है और प्रतिपूरक वनीकरण के लिए उपयुक्त वनेतर भूमि की अनुपलब्धता का प्रमाण-पत्र राज्य सरकार/संघ राज्य क्षेत्र प्रशासन द्वारा (अनुसूची-III)के अधीन विनिर्दिष्ट प्रारूप में प्रस्तुत किया गया है, इन नियमों से संलग्न है।
- (ख) पारेषण लाइन परियोजनाएं, जिसमें वनेतर भूमि का अधिग्रहण नहीं किया गया है। वन भूमि के अपवर्तन के लिए आवेदन करते समय उपयोगकर्ता एजेंसी द्वारा पारेषण लाइन परियोजना में आने वाली वनेतर भूमि का कोई अधिग्रहण नहीं करने का अंडरटेकिंग प्रस्तुत किया जाएगा;
- (ग) टेलीफोन/ऑप्टिकल फाइबर लाइनें बिछाना;
- (घ) रेशम कीट पालन के लिए शहतूत का वृक्षारोपण किया जाना ;
- (ङ) नदी के तल से गौण सामग्री का निष्कर्षण,
- (च) संपर्क मार्गों, लघु जल कार्यों, लघु सिंचाई कार्यों, स्कूल भवन, औषधालयों, अस्पताल, सरकार के छोटे ग्रामीण औद्योगिक शेडों का निर्माण या खनन और अतिक्रमण के मामलों को छोड़कर इसी तरह के किसी अन्य कार्य, जो पहाड़ी जिलों में क्षेत्र के लोगों को सीधे लाभान्वित करते हैं और अन्य जिलों में जहां वन क्षेत्र कुल भौगोलिक क्षेत्र का 50% से अधिक है, परंतु वन क्षेत्र का अपयोजन 5 हेक्टेयर से अधिक न हो।
- (छ) फील्ड फायरिंग रेंज (एफएफआर) के वास्तविक प्रभाव क्षेत्र को अधिनियम के अधीन अपयोजन के लिए विचार किया जाता है या कुल वन क्षेत्र का 10% अपयोजित किया जाता है यदि फील्ड फायरिंग रेंज के पूरे क्षेत्र को अपवर्तित करने के लिए प्रस्तावित किया जाता है।
- (ज) इस उप-नियम के अधीन, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन द्वारा प्रतिपूरक वनीकरण के प्रयोजन से चयनित किसी अवक्रमित वन भूमि को केन्द्र सरकार द्वारा स्वीकार किया जाएगा, जब ऐसे अवक्रमित वन का वितान घनत्व 40 प्रतिशत से कम है और ऐसे क्षेत्र वन्यजीवों के प्रबंधन और, संरक्षण के लिए प्रयोग की जा रही प्राकृतिक या प्रबंधित घास भूमि नहीं है।
- (5) निम्नलिखित श्रेणियों के प्रस्तावों के मामले में प्रयोक्ता अभिकरण से काटे जाने वाले संभावित पेड़ों की संख्या के दस गुना अधिक वृक्षारोपण पर आने वाले खर्च या वनभूमि के अपयोजन के लिए आए आदेश में विनिर्दिष्ट संख्या

(न्यूनतम 100 पौधों की संख्या के अधीन) के रोपण पर आने वाले खर्च को प्रतिपूरक वनरोपण के शुल्क के रूप में प्रयोक्ता अभिकरण से वसूला जाएगा:

- (क) पुनर्वनरोपण के लिए उपयोग करने के उद्देश्य से वन भूमि या उसके हिस्से में प्राकृतिक रूप से उगे पेड़ों को साफ़ करना;
- (ख) एक हेक्टेयर तक वन भूमि का अपयोजन;
- (ग) भू-तल पर अधिकार के बिना वन भूमि में भूमिगत खनन;
- (6) वन क्षेत्र के लिए खनन पट्टे के नवीकरण के संबंध में कोई प्रतिपूरक वनीकरण शुल्क नहीं लिया जाएगा, जिसके लिए प्रतिपूरक वनीकरण के लिए भूमि और वृक्षारोपण की लागत का संदाय पहले ही किया जा चुका है;
- (7) खान की आंतरिक सीमा के साथ सुरक्षा क्षेत्र के अनुरक्षण के लिए नियत वन भूमि के अपयोजन के संबंध में, प्रतिपूरक वनीकरण बढ़ाने के उपबंध, जैसा कि अपयोजन के लिए प्रस्तावित संपूर्ण वन क्षेत्र में लागू है, सुरक्षा क्षेत्र में स्थित वन भूमि के बदले में भी लागू होंगे।
- (8) इन नियमों से संलग्न अनुसूची-II में उपबंधित उपबंधों के अनुसार वन्यजीव गलियारों और संरक्षित क्षेत्रों में अवस्थित वन भूमि के समीप प्रतिपूरक वनीकरण हेतु अभिज्ञात वनेतर भूमि को प्रोत्साहन दिया जाएगा।

14. प्रतिपूरक वनीकरण का प्रबंधन—

- (1) नियम 13 के उप-नियम 1 के अधीन विनिर्दिष्ट की गई भूमि को उपयुक्त आकार के कंक्रीट के खंभों द्वारा सीमांकित किया जाएगा और सभी विल्लंगमों से मुक्त करके, राज्य वन विभाग या संघ राज्य क्षेत्र वन विभाग को सौंप दिया जाएगा, और संबंधित वन भूमि को अधिनियम के अधीन अंतिम अनुमोदन से पहले भारतीय वन अधिनियम, 1927 (1927 की अधिनियम संख्या 16) की धारा 29 के अधीनया तत्समय प्रवृत्त किसी अन्य विधि के अधीन, संरक्षित वन के रूप में अधिसूचित किया जाएगा;
- (2) उक्त वन अपयोजन प्रस्ताव के भाग के रूप में अनुमोदित प्रतिपूरक वनीकरण योजना के अनुसार राज्य सरकार या संघ राज्यक्षेत्र प्रशासन या प्रयोक्ता अभिकरण द्वारा प्रतिपूरक वनीकरण के लिए चिन्हित और निश्चित की गई भूमि का रखरखाव और वनीकरण किया जाएगा और तत्स्थानी वन भूमि के अपयोजन का आदेश जारी होने के 1 वर्ष के भीतर प्रतिपूरकवनीकरण का कार्य प्रारंभ हो जाएगा और केन्द्रीय सरकार प्रतिपूरकवनीकरण के तौर तरीकों पर मागदर्शक सिद्धांत जारी कर सकती है, जिसमें वे अभिकरण भी सम्मिलित होंगे जो प्रतिपूरकवनीकरण कर सकते हैं;
- (3) यदि वन भूमि, जिसका अपयोजन किया जाना है, ऐसे किसी पहाड़ी या पर्वतीय राज्य/संघ राज्य क्षेत्र में है जिसके भौगोलिक क्षेत्र का दो तिहाई से अधिक वन क्षेत्र है या वह ऐसे किसी दूसरे राज्य/संघ राज्य क्षेत्र में स्थित है जिसका भौगोलिक क्षेत्र का एक तिहाई से अधिक वन क्षेत्र है तो संबंधित राज्य सरकार या संघ राज्य क्षेत्र की सरकार की सहमति के अधीन रहते हुए उस दूसरे राज्य या संघ राज्य क्षेत्र में प्रतिपूरक वनीकरण, मान्यता प्राप्त प्रतिपूरक वनीकरण और भूमि बैंकों का सृजन किया जा सकता है।

परंतु, ऐसे मामलों में प्रतिपूरकवनीकरण के लिए धनराशि उस राज्य/संघ राज्यक्षेत्र के राज्यप्रतिपूरकवनीकरणनिधि में स्थानांतरित की जाएगी जिसमें प्रतिपूरकवनीकरण हेतु भूमि की पहचान की गई है, और प्रतिपूरक उदग्रहण की गई बची हुई धनराशि उस राज्य सरकार या संघ राज्यक्षेत्र के प्रतिपूरकवनीकरण निधि प्रबंधन और योजना प्राधिकरण में जमा की जाएगी जिनमें वन भूमि को अपयोजित करने का प्रस्ताव रखा गया है।

परन्तु यह और कि ऐसे मामलों में, जहां उप-नियम में विनिर्दिष्ट शर्तों जैसे कि भौगोलिक क्षेत्र की वन भूमि की प्रतिशता को पूरा न किए जाने के कारण उसी राज्य/संघ राज्य क्षेत्र में प्रतिपूरक वनीकरण करना संभव नहीं है, जहां वन भूमि का अपयोजन प्रस्तावित है या अन्य राज्य/संघ राज्य क्षेत्र में, केन्द्रीय सरकार जनहित में मामला-दर-मामला आधार पर अन्य राज्यों/संघ राज्य क्षेत्रों में प्रतिपूरक वनीकरण की अनुमति दे सकता है;

- (4) (क) कोई राज्य सरकार या संघ राज्यक्षेत्र प्रशासनयथास्थिति, प्रतिपूरक वनीकरण के प्रयोजन के लिए वन विभाग के प्रशासनिक नियंत्रण के अधीन एक भूमि बैंक बना सकता है;
- (ख) भूमि बैंक का न्यूनतम आकार 25 हेक्टेयर का एकल ब्लॉक होगा:

परंतु, भारतीय वन अधिनियम, 1927 (1927 का 16) या तत्समय प्रवृत्त किसी अन्य विधि के अधीन वन के रूप में घोषित या अधिसूचित भूमि में निरंतर भूमि बैंक होने की दशा में, संरक्षित क्षेत्र, टाइगर रिजर्व या अभिहित या अभिज्ञात बाघ या वन्यजीव कॉरिडोर के भीतर जमीन के आकार पर कोई प्रतिबंध नहीं होगा।

(ग) उप नियम (5) के अधीन अर्जित प्रत्यायित प्रतिपूरक वनीकरण के अधीन आने वाली भूमि को भूमि बैंक में सम्मिलित किया जा सकता है।

(5) (क) केंद्रीय सरकार, धारा 2 के उप-धारा(1) अधीन पूर्व अनुमोदन अभिप्राप्त करने के लिए उपयोग किए जाने वाले एक प्रत्यायित प्रतिपूरक वनीकरण तंत्र का निर्माण कर सकती है;

(ख) किसी व्यक्ति द्वारा प्रत्यायित प्रतिपूरक वनीकरण अर्जित किया जा सकता है यदि उसने ऐसी भूमि पर वनीकरण किया हो जिसपर अधिनियम लागू नहीं होता है और वह भूमि सभी विल्लंगमों से मुक्त हो;

(ग) कोई वनीकरण प्रत्यायित प्रतिपूरक वनीकरण में गिना जाएगा यदि ऐसी भूमि में मुख्य रूप से 0.4 या उससे अधिक के वितान सघनता वाले पेड़ों से बना वनस्पति क्षेत्र हैं और पेड़ कम से कम पांच वर्ष पुराने हैं;

(घ) एक प्रत्यायित प्रतिपूरक वनीकरण 0.4 या अधिक वितान सघनता के साथ एक हेक्टेयर क्षेत्र के वनीकरण को विकसित करके अर्जित किया जाएगा। 0.4 वितान सघनता से कम या एक हेक्टेयर भूमि से कम के क्षेत्र के विकास के लिए कोई प्रत्यायित प्रतिपूरक वनीकरण नहीं होगा;

(ड.) उप-नियम (13) के अधीन प्रतिपूरक वनीकरण की प्रत्यायित प्रतिपूरक वनीकरण से अदला-बदली की जा सकती है,

परंतु प्रत्यायित प्रतिपूरक वनीकरण न्यूनतम दस हेक्टेयर के ब्लॉक को कवर करे और उस क्षेत्र में प्रतिपूरक वनीकरण के लिए विनिर्दिष्ट सन्नियमों के अनुसार बाड़ लगाई गई हो।

परंतु यह और कि किसी विधि के अधीन वन के रूप में घोषित या अधिसूचित भूमि में स्थित किसी भी आकार के प्रत्यायित प्रतिपूरक वनीकरण, संरक्षित क्षेत्र, बाघ रिजर्व या अभिहित अभिज्ञात बाघ या वन्यजीव कॉरिडोर के साथ प्रतिपूरक वनीकरण के लिए बदला जा सकता है।

(च) राष्ट्रीय उद्यान, वन्यजीव अभयारण्य या बाघ रिजर्व और अभिहित या अभिज्ञात बाघ या वन्यजीव कॉरिडोर से किसी गांव को स्वैच्छिक रूप से पुनःस्थापन करने के कारण वनेत्तर भूमि खाली करने से अर्जित प्रत्यायित प्रतिपूरक वनीकरण इन नियमों से उपाबद्ध अनुसूची-II के अनुसार प्रतिपूरक वनीकरण के लिए अर्हता प्राप्त करेगा और प्रयोक्ता द्वारा अभिकरण नियम (13) के अधीन प्रतिपूरक वनीकरण के बदले उसका इस्तेमाल भी किया जा सकता है;

(छ) इस नियम के अधीन चिन्हित किए गए प्रत्यायित प्रतिपूरक वनीकरण का सीमांकन उपयुक्त आकार के ठोस स्तंभों द्वारा किया जाएगा और उस भूमि को सभी विल्लंगमों से मुक्त करते हुए, राज्य सरकार वन विभाग या संघ राज्य क्षेत्र प्रशासन के वन विभाग को सौंप दिया जाएगा और इसे इस अधिनियम के अधीन अंतिम अनुमोदन प्रदान करने से पहले भारतीय वन अधिनियम, 1927 (1927 का 16) या तत्समय प्रवृत्त किसी अन्य विधि के अधीन संरक्षित वन के रूप में अधिसूचित किया जाएगा।

(ज) केंद्रीय सरकार समय-समय पर प्रत्यायित प्रतिपूरक वनीकरण के सृजन और प्रतिपूरक वनीकरण भूमि के लिए इसकी अदला-बदली के प्रयोजन से उसके स्टॉक रजिस्ट्री तथा प्रबंधन और केंद्रीय सरकार द्वारा विनिर्दिष्ट अवधि तक उसके रखरखाव की लागत के बारे में एक विस्तृत मार्गदर्शक सिद्धांत जारी कर सकती है।

(झ) प्रत्यायित प्रतिपूरक वनीकरण हेतु पंजीकृत सभी अस्तित्व ग्रीन क्रेडिट नीति कार्यान्वयन नियम, 2023 के अधीन ग्रीन क्रेडिट रजिस्ट्री का रजिस्ट्रीकरण करेंगे और वन भूमि के अपयोजन के बदले में प्रतिपूरक वनीकरण की उनकी पात्रता के अतिरिक्त ग्रीन क्रेडिट नीति कार्यान्वयन नियम, 2023 के अधीन प्रत्यायित प्रतिपूर्ति वनीकरण के लिए भी ग्रीन क्रेडिटों का आवंटन किया जा सकेगा।

15. इस अधिनियम के अधीन अपराध के दोषी व्यक्तियों के विरुद्ध कार्यवाही—

(1) केंद्रीय सरकार, अधिसूचना जारी करके संबंधित राज्य सरकार या संघ राज्य क्षेत्र प्रशासन के प्रभागीय वन-अधिकारी उप-वन-संरक्षक के दर्जे के या उससे ऊपर के किसी ऐसे अधिकारी को जिसके अधिकारकारिता में वह

वन भूमि आती है जिसके संबंध में इस अधिनियम के अंतर्गत कोई अपराध किया गया है या इस अधिनियम के किसी भी उपबंध का उल्लंघन हुआ है, किसी ऐसे न्यायालय में जिसकी अधिकारकारिता में यह मामला आता हो, ऐसे किसी व्यक्ति या प्राधिकारी या संगठन के खिलाफ शिकायत दर्ज करने के लिए प्राधिकृत कर सकती है जो कि प्रथम दृष्टया इस अधिनियम के अधीन किसी अपराध को करने का या इसके अधीन बनाए गए किसी नियम के उल्लंघन करने का दोषी पाया गया हो।

- (2) केंद्रीय सरकार, किए गए अपराध या उल्लंघन के संबंध में या तो राज्य सरकार या संघ राज्य क्षेत्र प्रशासन या प्राधिकारणों या अन्य कोई स्रोत के माध्यम से या स्वतः जानकारी प्राप्त करने के पश्चात्, इसकी जांच के पश्चात् उस संबंधित राज्य सरकार या संघ राज्य क्षेत्र और संबंधित प्राधिकारणों को, जिसके अधिकारकारिता के अंतर्गत इस अधिनियम के अधीन ऐसा अपराध किया गया है या उक्त अधिनियम के किसी उपबंध का उल्लंघन किया गया है, अधिकारकारिता रखने वाले किसी न्यायालय के समक्ष ऐसे अपराधी के विरुद्ध शिकायत दर्ज करने के लिए जानकारी देगी, और ऐसा किया जाना ऐसी शिकायत को इस प्रकार की सूचना की प्राप्ति से पैंतालीस दिनों की अवधि के भीतर दायर किए जाने के पहले ऐसे प्राधिकृत अधिकारी के लिए पूर्वाधार होगा राज्य सरकार और संबंधित प्राधिकरण समय-समय पर शिकायतें दर्ज करने के संबंध में एक आवधिक रिपोर्ट क्षेत्रीय कार्यालय प्रस्तुत करेंगे।
- (3) सहायक महानिरीक्षक की श्रेणी या उससे उच्च पद वाले अधिकारी को केंद्रीय सरकार द्वारा, अधिसूचना के द्वारा, इस अधिनियम के अधीन किए गए अपराधों के विरुद्ध धारा कानूनी कार्यवाही शुरू करने और शिकायत दर्ज करने के लिए प्राधिकृत किया जा सकता है।
- (4) उप-नियम (1) और उप-नियम (3) के अंतर्गत केंद्रीय सरकार द्वारा प्राधिकृत अधिकारी यथास्थिति, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, के किसी अधिकारी या किसी व्यक्ति या किसी अन्य प्राधिकारी को विनिर्दिष्ट अवधि के भीतर अधिनियमित तथा तदधीन बनाए गए नियम के उल्लंघन से संबंधित ऐसी किसी रिपोर्ट, दस्तावेज या अन्य कोई जानकारी प्रस्तुत करने के लिए कह सकता है, जिसे किसी अधिकारकारिता वाले न्यायालय में शिकायत दर्ज करने के लिए आवश्यक समझा जाए, और ऐसी राज्य सरकार या ऐसा व्यक्ति या प्राधिकारी ऐसा करने के लिए बाध्य होगा।

16. प्रकीर्णः—(1) अधिनियम की धारा 1 (क) की उप धारा (1) के अधीन उपबंधित सरकारी अभिलेखों के स्पष्टीकरण के प्रयोजन के लिए, सभी राज्य सरकारें और संघ राज्य क्षेत्र प्रशासन, एक वर्ष की अवधि के भीतर, ऐसी वन भूमियों, जिसके अंतर्गत प्रयोजनार्थ गठित विशेषज्ञ समिति द्वारा अभिज्ञात वन क्षेत्र, अवर्गीकृत वनभूमियों या सामुदायिक वन भूमि, सम्मिलित हो, जिन पर अधिनियम के उपबंध लागू होंगे।

- (2) वन भूमियों पर वृक्षों की कटाई जिसे इन नियमों के अधीन वनेत्तर प्रयोजन के उपयोग के लिए अनुमोदित किया गया है वहां वृक्षों की कटाई को न्यूनतम और अपरिहार्य संख्या तक सीमित रखा जाएगा तथा यह कार्य स्थानीय वन विभाग के पर्यवेक्षण के अधीन किया जाएगा। उससे प्राप्त वनोपज को राज्य सरकार/संघ राज्यक्षेत्र प्रशासन द्वारा विनिर्दिष्ट रीति से निपटान के लिए स्थानीय वन विभाग को सौंप दिया जाएगा। जो स्थानीय ग्राम वासियों को उनकी घरेलू वास्तविक आवश्यकताओं को पूरा करने के लिए वितरण करने को प्राथमिकता देगा।
- (3) इन नियमों के अधीन प्रयोक्ता अभिकरण की लागत पर समुचित स्थायी सीमा चिन्हों के माध्यम से जमीन पर सीमांकित जो वन-भूमि वनेत्तर प्रयोजन उपयोग के लिए अपयोजित की गई है उसका प्रयोक्ता अभिकरण तथा वन विभाग या भूमि स्वामित्व विभाग द्वारा संयुक्त रूप से उपयुक्त सर्वेक्षण किया जाएगा तथा किसी गैर-वन उपयोग के प्रारंभ से पूर्व उसे वन-विभाग या भू-स्वामित्व विभाग द्वारा प्रयोक्ता अभिकरण को सौंप दिया जाएगा।
- (4) इन नियमों के अधीन वन-आवरण के प्रयोजन के लिए भारत वन सर्वेक्षण द्वारा प्रकाशित नवीनतम भारतीय वन स्थिति रिपोर्ट में प्रयुक्त आंकड़ों और विवरण को निर्दिष्ट किया जाएगा।
- (5) केन्द्रीय सरकार, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन के अनुरोध के साथ या इसके बिना किसी प्रस्ताव के संबंध में दिए गए अनुमोदन को रद्द कर सकती है और मामला दर मामला आधार पर, जमा किए गए प्रतिपूरक उदग्रहण को वापस करने का निर्णय ले सकती है।
- (6) वन भूमि के वनेत्तर उपयोग के अपयोजन में केन्द्रीय सरकार द्वारा अधिरोपित की गई शर्तों को अंतिम अनुमोदन की तारीख से दो वर्ष की अवधि के पश्चात तब तक परिवर्तित या उपांतरित नहीं किया जाएगा, जब तक कुछ

आपवादिक परिस्थितियां उत्पन्न न हो या केन्द्रीय सरकार अनुपालन के किसी अतिरिक्त खंड को अधिरोपित करना आवश्यक न समझे।

- (7) भारतीय वन अधिनियम, 1927 (1927 का 16) स्थानीय वन अधिनियम या अधिनियम से संबन्धित मुद्दे के कारण मुकदमों के अधीन या विचारधीन वन भूमि के प्रस्तावों पर ऐसे मामलों में न्यायालयों/अधिकरणों द्वारा दिए गए आदेशों के अनुसार कार्य किया जाएगा और ऐसी भूमियों पर यह अधिनियम उस तिथि से लागू होगा जो न्यायालयों या अधिकरणों द्वारा पारित निदेश, यदि कोई हो, के अनुसार निर्धारित की गई हो।
- (8) ऐसे कोई प्रस्ताव जो वन (संरक्षण) नियमावली, 2003 या वन (संरक्षण) नियमावली, 2022 के उपबंधों के अधीन पहले से ही प्रस्तुत कर दिए गए हैं और वर्तमान में सैद्धांतिक या अंतिम अनुमोदन प्रदान किए जाने के लिए राज्य सरकार या संघ राज्य क्षेत्र प्रशासन या केन्द्रीय सरकार के विभिन्न प्राधिकरणों में विचाराधीन हैं, पर निम्न प्रकार से कार्य किया जाएगा, अर्थात:
- (i) सैद्धांतिक अनुमोदन प्रदान किए गए किन्हीं प्रस्तावों को मौजूदा नियमों के उपबंधों के तहत लिया जाएगा और उन पर कार्यवाही की जाएगी तथा उनको सैद्धांतिक अनुमोदन में निर्धारित शर्तों में उपांतरण किए बिना अंतिम अनुमोदन प्रदान करने योग्य समझा जाएगा।
- (ii) वर्तमान नियमों का कोई उपबंध उन प्रस्तावों पर प्रयोज्य होगा जिन्हें अधिनियम के अधीन अभी तक सैद्धांतिक अनुमोदन मिलना बाकी है।

अनुसूची-I

केंद्र सरकार की पूर्व मंजूरी हेतु प्रस्तुत प्रस्तावों पर कार्रवाई के लिए समय सीमा

[नियम 8(1), नियम 9, नियम 10 और नियम 11 देखें]

कार्रवाई करने वाले प्राधिकरण/प्राधिकारी		क्षेत्रफल (हेक्टेयर)/कार्य दिवस			
		5*तक	5 से 40*	40 से 100*	100*से अधिक
क.राज्य स्तर	परियोजना जांच समिति	0	30	30	30
	डीसीएफ/जिला कलेक्टर	10	10	10	20
	डीसीएफ/सीएफ/नोडल अधिकारी द्वारा स्थल का निरीक्षण	5	5	20	20
	नोडल अधिकारी/पीसीसीएफ द्वारा कार्रवाई	5	10	15	15
	राज्य सरकार	10	15	15	15
	उप-योग	30	70	70	100
ख. क्षेत्रीय कार्यालय	पूर्णता की जांच करने के लिए परीक्षण	3	3	3	3
	क्षेत्रीय कार्यालय द्वारा प्रस्ताव का परीक्षण एवं कार्रवाई	5	5	5	5
	क्षेत्रीय कार्यालय द्वारा स्थल निरीक्षण	0	0	15	15
	क्षेत्रीय अधिकार प्राप्त समिति द्वारा परीक्षण एवं अनुमोदन	0	20	20	20
	सक्षम प्राधिकारी (सीए) द्वारा कार्रवाई और अनुमोदन	5	5	5	5
	सीए के अनुमोदन की संसूचना	2	2	2	2
	कुल	15	35	50	50
कुल (क+ख)	45	105	120	150	
ग. पर्यावरण, वन	पूर्णता की जांच करने के लिए परीक्षण	3	3	4	4

और जलवायु परिवर्तन मंत्रालय	प्रस्ताव का परीक्षण एवं कार्रवाई	6	6	5	5
	क्षेत्रीय कार्यालय द्वारा स्थल निरीक्षण	10	10	20	20
	परामर्शदात्री समिति	20	20	20	20
	सक्षम प्राधिकारी (सीए) द्वारा अनुमोदन	10	10	10	10
	सीए के अनुमोदन की संसूचना	1	1	1	1
	कुल	50	50	60	60
	कुल (क+ग)	85	120	160	160

*उन प्रस्तावों के लिए समय-सीमा विहित की गई है जो राज्य/संघ राज्य क्षेत्र या प्रयोक्ता अभिकरण से अतिरिक्त विवरण मांगने में लगे समय के अलावा सभी प्रकार से पूर्ण हैं।

'अंतिम' अनुमोदन प्रदान करने के लिए प्रस्तावित समय-सीमा

स्तर	गतिविधि	समय (दिन)
राज्य स्तर	प्रयोक्ता अभिकरण द्वारा प्रतिपूरक शुल्क के संदाय के लिए मांग पत्र जारी करना	2
	नोडल अधिकारी द्वारा मांग पत्र का अनुमोदन	3
	प्रयोक्ता अभिकरण द्वारा प्रतिपूरक शुल्क का संदाय और दस्तावेज़/प्रमाणपत्र जमा करना	5
	डीएफओ द्वारा अनुपालन रिपोर्ट की जांच किया जाना और डीएफओ द्वारा सीएफ/सीसीएफ को सूचित करते हुए वन संरक्षण अधिनियम, 1980 के नोडल कार्यालय को पूर्ण अनुपालन रिपोर्ट अग्रेषित किया जाना।	5
	नोडल अधिकारी द्वारा अनुपालन रिपोर्ट की जांच किया जाना और कमियों, यदि कोई हो, को अनुपालन के लिए डीएफओ को जारी किया जाना, या पूर्ण अनुपालन रिपोर्ट को एमओईएफसीसी/क्षेत्रीय कार्यालय को अग्रेषित करना।	10
	उप-योग	25
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय, नई दिल्ली/क्षेत्रीय कार्यालय	अनुपालन रिपोर्ट की जांच, प्रयोक्ता अभिकरण से काम्पाखाते में प्राप्त प्रतिपूरक उद्ग्रहण की अदायगी की पुष्टि करना और कमियों का मुद्दा, यदि कोई हो, या स्तर-II अनुमोदन को जारी करना	20
	उप-योग	20
	कुल योग	45

अनुसूची- II

[नियम 13 (1) और नियम 14 (4) देखें]

प्रतिपूरक वनीकरण से संबंधित भूमि आवश्यकता के लिए उपबंध

क्र.सं.	प्रतिपूरक वनीकरण (सीए) भूमि का विवरण	वनेत्तर उपयोग के लिए अपयोजित की गई वन भूमि की तुलना में प्रतिपूरक वनीकरण भूमि का आकार
(1)	(2)	(3)
1.	भूमि जिस पर इस अधिनियम के उपबंध लागू नहीं है	समतुल्य
2.	भूमि जो सरकारी रिकार्ड में 'वन' के रूप में अभिलिखित है	दो गुणा

	परंतु निम्नलिखित सभी शर्तें पूर्ण नहीं करती हैं : (क) तत्समय प्रवृत्त किसी विधि के अधीन वन अधिसूचित होना। (ख) वन विभाग द्वारा वन के रूप में प्रबंधित करना। (केंद्रीय सरकार तथा राज्य सरकार/संघ राज्यक्षेत्र प्रशासन के प्रस्तावों पर ही यह विधान अनुज्ञात है)।	
3.	अवक्रमित अधिसूचित या अवर्गीकृत वनभूमि। (यह वितरण मामला-दर-मामला आधार पर कैप्टिव कोयला ब्लॉक्स के लिए राज्य के सार्वजनिक के उपक्रम और मामला-दर-मामला आधार पर केन्द्रीय सरकार के अभिकरणों/केन्द्रीय सार्वजनिक उपक्रम के मामले में है)	दो गुणा
4.	उपर्युक्त क्रम संख्या (1) के अधीन प्रतिपूरक वनीकरण के लिए योग्य भूमि, एक ब्लॉक में पच्चीस हेक्टेयर या उससे ज्यादा के आकार की भूमि। दस हेक्टेयर से कम की प्रतिपूरक वनीकरण भूमि को तब तक स्वीकार नहीं किया जाएगा जब तक दस हेक्टेयर से कम की प्रतिपूरक वनीकरण भूमि की आवश्यकता न हो; ऐसे मामलों में प्रयोक्ता अभिकरण को वृक्षारोपण की तारीख से बीस वर्षों की अवधि के लिए इस प्रकार उठाए गए प्रतिपूरक वनीकरण के संरक्षण की अतिरिक्त लागत वहन करनी होगी।	अधिकतम पच्चीस प्रतिशत की छूट के अधीन दस हेक्टेयर के प्रत्येक अतिरिक्त ब्लॉक या उसके भाग के लिए पांच प्रतिशत कम। यह प्रतिशत केवल पच्चीस हेक्टेयर के न्यूनतम आकार से अधिक अधिगृहीत अतिरिक्त ब्लॉक आकार पर प्रयोज्य होगा।
5.	उपर्युक्त क्रम संख्या (1) के अधीन प्रतिपूरक वनीकरण के लिए योग्य भूमि, एक ब्लॉक में जो भूमि 25 हेक्टेयर आकार से कम है परंतु 10 हेक्टेयर से अधिक है। यदि प्रतिपूरक वनीकरण भूमि की आवश्यकता पच्चीस हेक्टेयर से कम है लेकिन आकार में दस हेक्टेयर से अधिक है, तो प्रतिपूरक वनीकरण के लिए अतिरिक्त भूमि के उपबंध लागू नहीं होंगे लेकिन प्रयोक्ता अभिकरण को वृक्षारोपण की तारीख से बीस वर्षों की अवधि के लिए इस प्रकार उठाए गए प्रतिपूरक वनीकरण के संरक्षण की अतिरिक्त लागत वहन करनी होगी।	प्रत्येक पांच हेक्टेयर लघु ब्लॉक आकार या उसके भाग के लिए पांच प्रतिशत अधिक
6.	उपर्युक्त क्रम संख्या (1) के अधीन प्रतिपूरक वनीकरण के लिए योग्य भूमि तथा संरक्षित क्षेत्र की अधिसूचित सीमा के अधीन अवस्थित है।	पच्चीस प्रतिशत कम
7.	उपरोक्त क्रमांक (1) या (2) के अधीन प्रतिपूरक वनीकरण के लिए योग्य भूमि तथा एक राष्ट्रीय उद्यान या वन्यजीव अभयारण्य या एक संरक्षित क्षेत्र या बाघ रिजर्व के साथ अन्य संरक्षित क्षेत्र और अनिहित या अभिज्ञात बाघ या वन्यजीव गलियारों को जोड़ने वाला क्षेत्र, की अधिसूचित सीमा की निरंतरता में स्थित है।	पन्द्रह प्रतिशत कम
8.	उपरोक्त क्रमांक (1) या (2) के अधीन प्रतिपूरक वनीकरण के लिए योग्य भूमि तथा भारतीय वन अधिनियम, 1927 (1927 का 16) या अन्य विधि के अधीन वन के रूप में अधिसूचित वन भूमि के निकटवर्ती स्थित है। किसी भी आकार की प्रत्यायित प्रतिपूरक वनीकरण भूमि को स्वीकार किया जा सकता है यदि वह किसी विधि के अधीन अधिसूचित वन भूमि के पास हो।	दस प्रतिशत कम

9.	<p>प्रतिपूरक वनीकरण भूमि वन्यजीव अभयारण्य, राष्ट्रीय उद्यान या बाघ रिजर्व से गांव (वनेत्तर भूमि में स्थित), के संपूर्ण तथा स्वैच्छिक पुनःस्थापन/आवास सेऐसे अभयारण्य उद्यान या रिजर्व, या एक संरक्षित क्षेत्र या बाघ रिजर्व के साथ अन्य संरक्षित क्षेत्र और नामनिर्दिष्ट/चिन्हित वन्यजीव गलियारों को जोड़ने वाला क्षेत्र, यथास्थिति, के बाहर वनेत्तर पर उपलब्ध कराई गई।</p>	<p>(क) राष्ट्रीय उद्यान/ वन्यजीव अभयारण्य/ बाघ रिजर्व में गांव या आवास स्थल को खाली कराने के माध्यम से प्रतिपूरक वनीकरण भूमि के बराबर वन भूमि के शुद्ध वर्तमान मूल्य के भुगतान से छूटा।</p> <p>टिप्पण: “शुद्ध वर्तमान मूल्य” का प्रतिपूरक वनीकरण निधि अधिनियम, 2016 (2016 का 38) की धारा 2 के खंड (ज) में समनुदेशित अर्थ वही होगा।</p> <p>(ख) स्वैच्छिक पुनःस्थापन के माध्यम से एक गांव द्वारा खाली किए गए स्थान पर (वनेत्तर भूमि: अर्जित प्रत्यायित प्रतिपूरक वनीकरण) 1:1.25 के अनुपात में प्रत्यायित प्रतिपूरक वनीकरण (परंतु इसे वन्यजीव अभयारण्य, राष्ट्रीय उद्यान या बाघ रिजर्व, के भाग के रूप में तथा संरक्षित क्षेत्र या आरक्षित क्षेत्र के रूप में भी अधिसूचित किया जाए)</p> <p>(ग) अतिरिक्त प्रत्यायित प्रतिपूरक वनीकरण 0.5 हेक्टेयर प्रति पुनर्स्थापित परिवार के मूल्य पर।</p>
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टिप्पणी 1: प्रयोक्ता अभिकरण या प्रत्यायित प्रतिपूरक वनीकरण विकासकर्ता यह सुनिश्चित करेगा कि पुनःस्थापन स्वैच्छिक है।

टिप्पणी 2: केन्द्रीय सरकार या राज्य सरकार की सुसंगत योजनाओं के अधीन भी कोई क्षतिपूर्ति पुनःस्थापनकर्ता या प्रयोक्ता अभिकरण या प्रत्यायित प्रतिपूरक वनीकरण विकासकर्ता को देय नहीं होगा।

टिप्पणी 3 : राज्य सरकार भी इस उपबंध का उपयोग कर सकती है, यदि ऐसी योजना पर कोई केंद्रीय सहायता प्राप्त नहीं की जाती है।

अनुसूची—III

राज्य सरकार द्वारा जारी किया जाने वाला राज्य/संघ राज्य क्षेत्र में प्रतिपूरक वनरोपण के लिए भूमि की अनुपलब्धता का प्रमाण पत्र।

[नियम 13 देखें]

सं.....

दिनांक.....

मैं....., पदनाम..... (राज्य/संघ राज्य क्षेत्र का नाम) यह प्रमाणित करता हूं कि:

- (राज्य/संघ राज्य क्षेत्र का नाम) के प्रत्येक जिले में उपलब्ध वनेत्तर भूमि, राजस्व भूमि, जुड़पी जंगल, छोटे झाड़ का जंगल, बड़े झाड़ का जंगल, जंगली झाड़ी भूमि, सिविल-सोयम भूमि और वन भूमि की अन्य ऐसी सभी श्रेणियों (वन विभाग के प्रबंधन और प्रशासनिक नियंत्रण के अधीन वन भूमि को छोड़कर), जिन पर वन (संरक्षण एवं संवर्द्धन) अधिनियम, 1980 के उपबंध लागू होते हैं, से संबंधित प्रासंगिक रिकॉर्ड की जांच की गई है; और
- मैंने इस प्रमाणपत्र को जारी करने के लिए स्वयं की संतुष्टी हेतु आगे की आवश्यक जांच भी की है। इस प्रमाणपत्र को जारी करने के लिए आवश्यक प्रासंगिक अभिलेखों की जांच और इस प्रकार की आगे की जांच के आधार पर, मैं प्रमाणित करता हूं कि संपूर्ण (राज्य/संघ राज्य क्षेत्र का नाम) में वन (संरक्षण एवं संवर्द्धन) अधिनियम, 1980 के उपबंध लागू होने वाली और केंद्रीय सरकार के मौजूदा दिशा-निर्देशों के अनुसार

वनेत्तर प्रयोजन के लिए अपवर्तित वन भूमि के बदले में प्रतिपूरक वनीकरण के लिए उपयोग की जा सकने वाली वनेत्तर भूमि, राजस्व भूमि, जुडपी जंगल, छोटे झाड़ का जंगल, बड़े झाड़ का जंगल, जंगली झाड़ी भूमि, सिविल-सोयम भूमि और वन भूमि की अन्य श्रेणियों, (वन विभाग के प्रबंधन और प्रशासनिक नियंत्रण के अधीन वन भूमि के अलावा) में आने वाली भूमि उपलब्ध नहीं है।

मेरे हस्ताक्षर और मुहर से आज.....दिनको जारी किया गया।

हस्ताक्षर और आधिकारिक मुहर

[फा.सं. एफसी-11/118/2021-एफसी]

रमेश कुमार पाण्डेय, वन महानिरीक्षक

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 29th November, 2023

G.S.R. 869(E).—In exercise of the powers conferred by sub-section (1) of section 4 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 (69 of 1980) and in supersession of the Forest (Conservation) Rules, 2022, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title, extent and commencement.—(1) These rules may be called the Van (Sanrakshan Evam Samvardhan) Rules, 2023.

(2) They shall come into force on the 1st Day of December 2023.

2. Definitions.—(1) In these rules, unless the context otherwise requires, -

- (a) “accredited compensatory afforestation” means a system of proactive afforestation to be used for obtaining prior approval under sub-section (1) of section 2 of the Adhiniyam.
- (b) "Adhiniyam" means the Van (Sankashan Evam Samvardhan) Adhiniyam, 1980 (69 of 1980);
- (c) “Advisory Committee” means the Advisory Committee constituted under section 3 of the Adhiniyam;
- (d) “compensatory afforestation” means afforestation done in lieu of the diversion of forest land for non-forest purpose under the Adhiniyam;
- (e) “compensatory levies” includes all money and funds specified in clauses (iii) and (iv) of sub-section (3) of section 4 of the Compensatory Afforestation Fund Act, 2016 (38 of 2016);
- (f) “Conservator of Forests” means Conservator of Forests, Chief Conservator of Forests, the Regional Chief Conservator of Forests or an officer equivalent to Conservator of Forests appointed by the State Government or Union territory Administration to hold the charge of a forest circle having jurisdiction over the forest land for which the prior approval of the Central Government is required;
- (g) “Deputy Director General of Forests (Central)” means head of the Regional Office appointed by the Central Government;
- (h) “dereservation” means an order issued by the State Government or Union territory Administration or any authority thereof, for change in the legal status of a land statutorily or otherwise recognised as forest to any other category of land;
- (i) “diversion” means an order issued by the State Government or Union territory Administration or any authority thereof for the use of any forest land for non-forest purpose or assignment of a lease of any forest land for non-forest purpose;
- (j) "District Collector" includes Deputy Commissioner, to hold the charge of the Administration of the revenue district having jurisdiction over the forest land for which the prior approval of the Central Government under the Adhiniyam is required;
- (k) “Divisional Forest Officer” means Divisional Forest Officer, Deputy Conservator of Forests or an officer equivalent to the Divisional Forest Officer or Deputy Conservator of Forests appointed by the State Government or Union territory Administration to hold the charge of a Forest Division having

jurisdiction over the forest land for which the prior approval of the Central Government under the Adhiniyam is required;

- (l) “land bank” means the lands identified or earmarked, as the case may be, by the State Government and Union territory Administration for raising compensatory afforestation in lieu of forest land proposed for diversion or diverted under the Adhiniyam;
 - (m) “linear project” means project involving linear diversion of forest land for the purposes such as roads, pipelines, railways, transmission lines, slurry pipeline, conveyor belt etc.;
 - (n) “National Working Plan Code” means a code prepared by the Central Government for the preparation of Working Plans;
 - (o) “Nodal Officer” means any officer not below the rank of Chief Conservator of Forests, authorised by the State Government or Union territory Administration, as the case may be, or the senior most officer in the Forest Department of the concerned Union territory, if there is no post of Chief Conservator of Forests or above in the Department, for the purpose of implementation of the Adhiniyam and rules thereof and to deal with and to make correspondence with the Central Government, in the matter of forest conservation;
 - (p) “Project Screening Committee” means the Project Screening Committee constituted under rule 8;
 - (q) “Regional Empowered Committee” means the Regional Empowered Committee constituted under sub-rule (1) of rule 6;
 - (r) “Regional Office” means a Regional Office established by, and controlled by the Central Government for the purpose of these rules;
 - (s) “survey” means any activity to be taken up prior to initiating commissioning of a project or any activity undertaken for the purpose of exploring, locating or proving mineral deposits including coal, petroleum and natural gas before carrying out actual mining in the forest land, that includes survey, investigation, prospecting, exploration, including drilling therefor, etc.;
 - (t) “technological tool” means Geographical Information System based digital tools such as Decision Support System facilitating the decision making process of proposal seeking prior approval under the Adhiniyam;
 - (u) “user agency” means any person, organisation or legal entity or company or Department of the Central Government or State Government or Union territory Administration submitting a proposal under section 1 of the Adhiniyam;
 - (v) “working permission” means permission granted to linear projects before final approval to mobilise the resources to commence the preliminary project work other than black topping, concretisation, laying of railway tracks, charging of transmission lines, etc. or as specified in the in-principle approval;
 - (w) “Working Plan” means the document prepared as per the provisions of the National Working Plan Code published by the Central Government from time to time and having prescriptions for scientific management of the forests of a particular Forest Division for a specified period;
- (2) Words and expressions used herein and not defined in these rules but defined in the Adhiniyam shall have the same meaning as respectively assigned to them in the Adhiniyam.

3. Constitution of Advisory Committee. - (1) The Central Government may, by an order, constitute an Advisory Committee to advise the Central Government with regards to the grant of approval under sub-section (1) of section 2 in respect of proposals referred under sub-rule (2) of rule 10; and any matter connected with the conservation of forests referred to the Advisory Committee by the Central Government.

(2) The Advisory Committee shall consist of the following persons, namely: -

- (a) Director General of Forests, Ministry of Environment, Forest and Climate Change – Chairperson;
- (b) Additional Director General of Forests, dealing with the forest conservation in the Ministry of Environment, Forest and Climate Change – Member;
- (c) Additional Director General of Forests, dealing with wildlife in the Ministry of Environment, Forest and Climate Change – Member;
- (d) Additional Commissioner (Soil Conservation), Ministry of Agriculture and Farmers’ Welfare – Member;
- (e) Three non-official experts to be nominated by the Central Government representing one each from the fields of ecology, engineering and development economics – members;

(f) Inspector General of Forests dealing with forest conservation and Adhinyam thereof – Member-Secretary

(3) The Chairperson may co-opt the domain experts as special invitees to a meeting of the Advisory Committee.

(4) The Chairperson shall preside over the meeting of the Advisory Committee and in his absence, the Additional Director General of Forests, dealing with forest conservation, in the Ministry of Environment, Forest and Climate Change shall preside over the meeting.

4. Terms and conditions of non-official Members of Advisory Committee. –

(1) A non-official Member shall hold his office for a period of up to two years from the date of his nomination or as specified by the Central Government.

(2) A non-official Member shall cease to hold office if he becomes of unsound mind, or insolvent or is convicted for an offence which involves moral turpitude.

(3) A non-official Member may be removed from his office if he fails to attend three consecutive meetings of the Advisory Committee without any sufficient cause or reason.

(4) Any vacancy caused by any reason mentioned in clauses (b) and (c) shall be filled by the Central Government for the remaining term of two years.

(5) The non-official Members of the Advisory Committee shall be entitled to a travelling allowance and daily allowance as are admissible to an officer of the Government of India holding Group 'A' post.

(6) Provided that where a Member of the Parliament or a Member of a State Legislature has been appointed as a member of the Advisory Committee, he shall be entitled to the travelling allowance and daily allowances in accordance with the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954) or the respective provisions of law pertaining to the member of the concerned State Legislature, as the case may be.

5. Conduct of business of the Advisory Committee.—(1) The Chairperson of the Advisory Committee shall call the meeting of the Committee at least once a month, whenever considered necessary;

(2) the meeting of the Advisory Committee shall ordinarily be held at New Delhi except when the Chairperson considers it necessary to inspect the proposed land, then the Chairperson may direct the meeting to be held at a place from where the proposal can be inspected.

(3) the quorum of the meeting of the Advisory Committee shall be five including the Chairperson.

(4) The Member-Secretary shall prepare an agenda of the meeting and present the proposals and matters referred to the Advisory Committee by the Central Government.

(5) The Advisory Committee shall examine in its meeting the proposal or the matter and, in urgent cases, the Chairperson may direct the proposal or the matter to be sent to the members for their opinion, which shall be furnished to the Committee within the stipulated time.

(6) the user agency may be allowed to attend the meeting of the Advisory Committee for such duration as may be necessary to furnish such information or clarify any issue which may pertain to it.

(7) After the examination of the proposal or the matter, the Advisory Committee shall make its recommendation/advise to the Central Government.

6. Constitution of Regional Empowered Committee.—(1) The Central Government may, by an order, constitute a Regional Empowered Committee at each of the Regional Offices to examine proposals referred to it under sub-rule (3) of rule 10 and grant approval or rejection of proposals under sub-section (1) of section 2.

(2) The Regional Empowered Committee at each of the Regional Offices shall consist of the following persons, namely: -

(a) Deputy Director General of Forests (Central) or an officer nominated by the Central Government – chairperson;

(b) Three non-official members from amongst eminent persons who are experts in the field of forestry and allied disciplines – members;

(c) The senior-most officer amongst officers of the rank of Conservator of Forests and Deputy Conservator of Forests in the Regional Office – member-secretary.

(3) The chairperson of the Regional Empowered Committee may co-opt the domain experts as special invitees to the meeting.

(4) One representative each from the Forest Department and Revenue Department of the State or the Union territory Administration, not below the rank of Director to the Government of India, shall be invited by the Regional Empowered Committee to attend the meeting as a special invitee, in the examination of the proposals.

(5) Terms and conditions of non-official members of Regional Empowered Committee.—

- (1) A non-official member shall hold his office for a period of up to two years from the date of his nomination.
- (2) A non-official member shall cease to hold office if he becomes of unsound mind, insolvent, or is convicted for an offence involving moral turpitude.
- (3) A non-official member may be removed from his office if he fails to attend three consecutive meetings of the Committee without any sufficient cause or reason.
- (4) Any vacancy of a member in the Regional Empowered Committee caused by any reason mentioned in sub-rules (2) and (3) shall be filled by the Central Government for the remaining term of the member in whose place vacancy has arisen.
- (5) The non-official members of the Regional Empowered Committee shall be entitled to a travelling allowance and daily allowance as are admissible to an officer of the Government of India holding Group 'A' post carrying the same scale of pay.
- (6) Provided that where a Member of the Parliament or a Member of a State Legislature has been appointed as a member of the Advisory Committee, he shall be entitled to the travelling allowance and daily allowances in accordance with the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954) or the respective provisions of law pertaining to the member of the concerned State Legislature, as the case may be.

7. Conduct of business of Regional Empowered Committee. —The Regional Empowered Committee shall conduct its business as follows, namely:—

- (1) The chairperson of the Regional Empowered Committee shall hold the meeting whenever considered necessary, but not less than once a month.
- (2) The meetings of the Regional Empowered Committee shall be held at the headquarters of the Regional Office:

Provided that where the chairperson of the Regional Empowered Committee is satisfied that inspection of site of forest land proposed to be used for non-forest purposes shall be necessary or expedient in connection with the consideration of the proposal referred, he may direct that the meetings of the Regional Empowered Committee be held at a place other than headquarters of the Regional Office for such inspection of site;

(3) The chairperson of the Regional Empowered Committee shall preside over the meeting of the Regional Empowered Committee and in his absence, Deputy Director General of Forests holding the charge of other Regional Office or Inspector General of Forests dealing with the matter related to the Adhinyam, as may be authorised by the Central Government, may chair the meeting of the Regional Empowered Committee.

(4) Every proposal referred to the Regional Empowered Committee for advice or decision shall be considered in the meeting of the Regional Empowered Committee:

Provided that in urgent case, the chairperson of the Regional Empowered Committee may direct that documents may be circulated and sent to the members of the Regional Empowered Committee for their opinion within the stipulated time.

- (5) The quorum of the meeting of the Regional Empowered Committee shall be three.
- (6) The user agency may be allowed to remain present for such duration during a meeting as may be necessary to furnish such information or clarify any issue which may pertain to it.
- (7) The member-secretary shall prepare agenda of the meeting and present the proposals and matters connected with the Adhinyam before the committee for making appropriate recommendations and decisions thereafter.

8. Constitution of Project Screening Committee.—(1) The State Government and Union territory Administration may, by an order, constitute a Project Screening Committee to examine the completeness of the proposal submitted under clauses (i), (ii) or (iii) of sub-section (1) of section 2 of the Adhinyam.

- (2) The Project Screening Committee shall consist of the following persons, namely:-

- a. Nodal Officer – chairperson;
- b. Concerned Chief Conservator of Forests/ Conservator of Forests – member;
- c. Concerned Divisional Forest Officer- member;
- d. Concerned District Collector or his representative (Not below the rank of Deputy Collector) –member;
- e. Divisional Forest Officer in the office of Nodal Officer- member-secretary

(3) The Project Screening Committee shall meet at least twice every month and the quorum of the meeting of the Project Screening Committee shall be three.

(4) The Project Screening Committee shall, after examination of the proposals, make recommendation to the State Government or Union territory Administration, as the case may be.

9. Proposals for prior approval of Central Government.—(1) The approval shall be accorded by the Central Government in two stages, namely, (i) 'In- Principle' approval; and (ii) 'Final' approval.

(2) The user agency shall submit an application to the State Government or Union territory Administration for approval of the Central Government under sub-section (1) of section 2 of the Adhiniyam for dereservation of forest land, use of forest land for non-forest purposes or for assignment of lease online, through the web portal of the Central Government.

(3) A proposal identity number shall be generated online for the proposal submitted by the user agency and the said identity number shall be used for all future references;

(4) The copy of the proposal shall be simultaneously forwarded to the concerned Divisional Forest Officers, District Collectors, Conservator of Forests, Chief Conservator of Forests and the Nodal Officer of the State Government or Union territory Administration each of whom shall independently undertake preliminary examination of the completeness of documentation of the proposal.

(5) The Project Screening Committee shall examine the proposal received from the State Government or Union territory Administration, except proposals involving forest land of five hectares or less, that the proposal is complete in all respects and the proposed activity is not in any restricted area or category.

(6) The Project Screening Committee, for the purpose of screening, may call the user agency for clarification or additional documents, if any.

(7) The Project Screening Committee shall examine the proposal for its completeness and correctness and ensure that deficiencies in the proposal, if any, are identified and the member-secretary shall inform in this regard to the user agency.

(8) The proposals returned to the user agency shall be re-submitted after addressing the deficiency, as identified under sub-rule (7) above, within a period of ninety days, failing which the proposal shall stand de-listed.

(9) In case the user agency submits the information within the given time the proposal will be re-examined by the Project Screening Committee and in case the proposal is not complete in all respect then the same will be de-listed for the reasons to be recorded in writing:

Provided that the after de-listing of the proposal by the Project Screening Committee, the user agency, after addressing the deficiencies, can re-list the proposal only once using the same proposal identity number, as generated under sub-rule (2) above, which will again be examined by the PSC as per procedure given in sub-rule (5) to (7) above and in case the proposal is found still incomplete, it will be rejected and deleted permanently from the portal.

(10) The complete proposal with the proposal identity number shall be forwarded to concerned Divisional Forest Officer concerned, District Collectors, Conservator of Forests or Chief Conservator of Forests for field verification.

(11) Where the forest land or part thereof included in the proposal is not under the management control of the Forest Department, the District Collector shall get the land schedule and map of the forest land included in the proposal authenticated online through joint verification by officers of the Revenue Department and Forest Department.

(12) In addition to every proposal verified in the field by the Divisional Forest Officer concerned, field inspection shall be simultaneously undertaken for every proposal that involves more than forty hectares of forest land by the Conservator of Forests concerned and for every proposal that involves more than hundred hectares of forest land by the Nodal Officer.

(13) The proposal, except involving forest land of five hectares or less, shall come up for consideration of the Project Screening Committee within the period specified in Schedule I, annexed to these rules, from

submission of the completed proposal under sub-rule (8), or (9), as the case may be, and the Project Screening Committee shall examine the feasibility of the proposal for the purpose of recommending it to the State Government or Union territory Administration along with mitigation measures to be adopted by the user agency:

Provided that the Project Screening Committee may seek from the user agency any clarification, additional detail or modification of the proposal in terms of change in forest land proposed for diversion on account of reasons such as minimising the requirement of forest land or minimising adverse impact on forest and wildlife, change in compensatory afforestation land proposed or change in measures proposed to be adopted by the user agency to mitigate the adverse impact of the project, and for this purpose it may ask the user agency to make a presentation:

Provided further that the proposal shall be reconsidered by the Project Steering Committee in case of timely submission of complete information and clarification and additional detail by the user agency online and in case the user agency modifies the original proposal substantially and makes major changes such as change in the forest land or land use plan, the Project Steering Committee may return the proposal to complete the steps given in sub-rule (7) to (11) and therefore the steps in this sub-rule shall also be repeated in such cases.

(14) Where the user agency fails to submit correct information, additional detail or a modified proposal within the period as specified, the proposal shall stand rejected:

Provided that if the user agency satisfies the Project Screening Committee that the reason for the delay was beyond its control, the Project Screening Committee may reconsider the proposal, after the reasons to be recorded in writing and recommend it to the State Government or Union territory Administration, as the case may be;

(15) The proposal involving forest land of up to five hectares, shall after their examination at the level of Divisional Forest Officer be forwarded by him directly to the Nodal Officer and the Nodal Officer shall forward such proposals to the State Government or Union territory Administration along with his recommendations:

Provided that Division Forest Officer, after receiving the proposals from the user agency, shall assess their completeness and incomplete proposal shall be returned to the user agency for re-submitting it with complete information.

(16) The proposal involving forest land of more than five hectares, shall be forwarded by the Nodal Officer, with the approval of the Principal Chief Conservator of Forests, to the State Government or Union territory Administration, along with the Project Screening Committee's recommendation and the same shall also be forwarded to the Regional Office.

(17) Where the State Government or Union territory Administration, as the case may be, decides not to dereserve, divert for non-forest purposes or assign on lease the forest land as indicated in the proposal, the same shall be intimated to the user agency by the Nodal Officer.

(18) Where the State Government or Union territory Administration agrees 'In-Principle' to dereserve the forest land, divert for non-forest purposes or assign on lease the forest land as indicated in the proposal shall forward its recommendation to the Central Government.

10. In-Principle approval of the proposal.—

(1) Except the proposals referred to in sub-rule (2), all proposals related to.-

- (i) linear projects;
- (ii) hydro electric power projects of upto 25 MW capacity proposed in the river basin where cumulative impact assessment to assess the carrying capacity of the river basing has been done
- (ii) forest land up to forty hectares; and
- (iii) use of forest land having canopy density up to 0.7 irrespective of their extent for the purpose of survey which are not covered under the exemptions provided under clause (iii) of sub-section (1) of section 2 of the Adhiniyam and Guidelines issued thereunder;

shall be examined in the Regional Office and disposed off in the manner specified in sub-rule (3).

(2) All proposals, other than those referred to in sub-rule (1) and following proposals, namely:-

- (i) dereservation;
- (ii) mining;

- (iii) hydro electric power projects of more than 25 MW and those falling in a river basin where cumulative impact assessment study to assess the carrying capacity of river basin has not been done or policy decision on allowing the projects in a river basin has not been taken by the Central Government;
- (iv) regularisation of encroachment;
- (v) ex-post facto approval involving violation of the provisions of the Adhiniyam;

shall be examined and disposed of by the Central Government in the manner specified under these rules.

Provided that, no approval is required for assignment of petroleum exploration licence or petroleum mining lease where the physical possession or breaking of forest land is not involved:

- (3) The proposals received under sub-rule (1) shall be examined by the Regional Office in the following manner, namely:-
- (i) all proposals involving forest land up to five hectares, shall be examined by the Regional Office for its completeness and after further enquiry or site inspection, as deemed necessary and giving due regard to the aspects listed under clause (ii) of sub-rule (5), 'In-Principle' approval or rejection may be granted by the Regional Office by recording the reasons.
 - (ii) all linear proposals involving forest land of more than five hectares, all proposals for use of forest land having canopy density upto 0.7 for the purpose of survey irrespective of their extent and all other proposals involving the use of more than five hectares and up to forty hectares forest land, shall be referred, after examination of its completeness, by the Regional Office to the Regional Empowered Committee.
 - (iii) the Regional Empowered Committee shall examine all proposals referred to it under clause (ii) and after further enquiry or site inspection as deemed necessary and giving due regard to the aspects listed under clause (ii) of sub-rule (5), may grant 'In-Principle' approval or reject the same by recording reasons.
 - (iv) The decisions taken by the Regional Empowered Committee or the Deputy Director General of Forests to grant 'In-principle' approval or to reject a proposal, in accordance with the power delegated under this rule, as and when necessary or required, may be reviewed by Central Government and decision taken by the Central Government in such matters shall be the final.
- (4) Site inspection report shall be prepared for proposals specified in sub-rule (2) by the Regional Office and the same shall be submitted to the Central Government for consideration by the Advisory Committee.
- (5) The proposals received by the Central Government shall be examined in the following manner, namely:-
- (i) all proposals under sub-rule (2) along with the site inspection report as required under sub-rule (4) or as asked by the Central Government, shall be referred, after examination of its completeness, to the Advisory Committee.
 - (ii) the Advisory Committee shall examine all proposals referred to it in clause (i), giving due regards, but not limited to, the following, and after further enquiry, as deemed necessary, shall make recommendation to the Central Government for consideration for approval:-
 - (a) the proposed use of the forest land is not for any non-site specific purpose such as agricultural purpose, office or residential purpose or for the rehabilitation of persons displaced for any reason;
 - (b) the State Government or the Union territory Administration, as the case may be, has certified that it has considered all alternatives and that no other alternative in the circumstances is feasible and that the required area is the minimum needed;
 - (c) the State Government or the Union territory Administration, as the case may be, before making his recommendation, has considered all issues having direct and indirect impacts on the diversion of forest land on the forest, wildlife and the environment;
 - (d) concerned mandates under the National Forest Policy;
 - (e) whether adequate justification has been given and appropriate mitigation measures have been proposed by the State Government or the Union territory Administration, as the case may be, if the forest land proposed to be used for non-forest purposes forms part of a national park, wildlife sanctuary, tiger reserve, designated or identified tiger or wildlife corridor, or habitat of any endangered or threatened species of flora and fauna or of an area lying in the severely eroded catchment; and

- (f) the State Government or the Union territory Administration, as the case may be, undertakes to provide at its cost or at the cost of the user agency the requisite extent of appropriate land, as per rule 13, for the purpose of carrying out compensatory afforestation.
- (6) While making recommendations under sub-rule (5), the Committee may also impose conditions or restrictions and such mitigation measures, which in its opinion would offset the adverse environmental impact of diversion of forest land under the proposal.
- (7) The Central Government shall, after considering the recommendation of the Advisory Committee, grant 'In-Principle' approval subject to fulfilment of stipulated conditions or reject and communicate the same to the State Government or the Union territory Administration, as the case may be, and to the user agency.
- (8) In case the proposal is found incomplete or information provided is found to be incorrect after its examination, the Central Government shall inform the State Government or Union territory Administration and user agency for furnishing the required information within a specified period.
- (9) The State Government or Union territory Administration on receipt of communication under sub-rule (8), may furnish the complete information, after which the proposal shall be considered for 'In-Principle' approval under these rules:

Provided, if the information sought pertains to the user agency, the user agency may directly furnish the requisite information to the Central Government with a copy to the State Government or Union territory Administration, and upon receipt of such information from the user agency, the Central Government, if it considers necessary, may seek comments of the concerned State Government or Union territory Administration, as the case may be, on the information furnished by the user agency or consider granting 'In-Principle' approval.

- (10) The State Government or the Union territory Administration, if so desire, after obtaining the 'In-principle' approval of linear proposal and deposition of compensatory levies such as compensatory afforestation and Net Present Value and cost of mitigation plans such as of the Wildlife Management Plan and Soil and Moisture Conservation Plan, as applicable, notification of the land identified for raising compensatory afforestation as Protected Forest under Indian Forest Act, 1927 (16 of 1927) or local forest Act and compliance of other statutes including the Schedule Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), may grant 'working permission' for the commencement of project work before grant of 'Final' approval.

11. Final approval of the proposal.—

- (1) The Nodal Officer may, after receipt of the 'In-Principle' approval from the Central Government, communicate the same to the Divisional Forest Officers, District Collectors and Conservator of Forests.
- (2) On receipt of a copy of the 'In-Principle' approval, the Divisional Forest Officer shall prepare a demand note containing the item-wise amount of compensatory levies, as applicable, to be paid by the user agency and communicate the same to the user agency, along with a list of documents, certificates and undertakings required to be submitted by them in compliance with the conditions stipulated in 'In-Principle' approval.
- (3) The user agency shall, after receipt of the communication, make payment of compensatory levies and hand over the land identified for compensatory afforestation, a compliance report along with copies of documentary evidence including undertaking and certificate in respect of the payment of compensatory levies and handing over of compensatory afforestation land to the Divisional Forest Officer.
- (4) The Divisional Forest Officer, after having received the compliance report as referred to in sub-rule (3), shall examine its completeness and make his recommendations on the compliance report and forward the same to the Nodal Officer.
- (5) the Nodal Officer, after having received the compliance report, ensuring its completeness and obtaining approval of the Principal Chief Conservator of Forests of the State Government or head of the Department in case of Union territory Administration, shall forward such report with his recommendations to the State Government or Union territory Administration, as the case may be.
- (6) The Central Government after having received the compliance report and ensuring its completeness may accord 'Final' approval under sub-section (1) of section 2 of the Adhiniyam and communicate such decision to the State Government or Union territory Administration and the user agency.
- (7) The State Government or Union territory Administration, as the case may be, after receiving the 'Final' approval of the Central Government under sub-section (1) of section 2 of the Adhiniyam, and after fulfilment and compliance of the provisions of all other Acts and rules made thereunder, as applicable including ensuring settlement of rights under the Scheduled Tribes and Other Traditional Forest

Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), shall issue order for diversion, assignment of lease or dereservation, as the case may be.

- (8) The final order of dereservation under clause (i) of sub-section (1) of section 2 of the Adhiniyam, wherever accorded, shall be published in the official Gazette by the State Government or Union territory Administration, as the case may be, informing dereservation of the forest land;
- (9) The whole process of obtaining approval shall be carried out in the online portal developed for this purpose.
- (10) Where compliance of condition imposed in the 'In-principle' approval is awaited from the State Government or Union territory Administration, as the case may be, for more than two years, the 'In-Principle' approval shall be deemed to be null and void:

Provided the Central Government may, for the reasons to be recorded in writing, in respect of proposals involving forest land of more than thousand hectares, where 'In-Principle' approval has been obtained, may consider grant of phase-wise 'Final' approval by the competent authority subject to compliance in respect of-

- (a) payment of compensatory levies and notification of land identified and accepted for raising Compensatory Afforestation, proportional to the part area for which compliance is submitted; and
 - (b) any other specific condition that the Central Government may deem fit to have been complied with.
- (11) After issue of final approval under sub- rule (7) and Gazette notification under sub-rule (8) the forest land concerned may be handed over or assigned, as the case may be, to the user agency by the State Government or Union territory Administration.
 - (12) The Regional Office shall monitor the compliance of all conditions imposed at the time of granting 'In-Principle' approval and the State Government or Union territory Administration and the user agency shall also monitor, at least once every year, the compliance of conditions imposed during 'In-Principle' approval and upload the monitoring report in the online portal.
 - (13) The entire process for processing the proposals by the various authorities in the State shall be completed within the time limit specified in **Schedule-I** appended to these rules.

12. Proposal seeking prior approval of Central Government for working plan.—

- (1) The Nodal Officer of the State Government or Union territory Administration shall submit the draft Working Plan of a Forest Division, duly prepared in accordance with the provisions of the National Working Plan Code, along with the recommendation of the State Consultative Committee, in the online portal for prior approval of the Central Government.
- (2) The draft Working Plan shall include, *inter alia*, details of forest land diverted, corresponding Compensatory Afforestation lands and status of afforestation thereon.
- (3) the draft Working Plan submitted to the Central Government shall be examined by the Regional Office concerned for its conformity with National Working Plan Code, the National Forest Policy and with preamble of Adiniyam for conservation and augmentation of forests and the Regional Office may accord prior approval to the draft Working Plan along with conditions or without conditions or accord approval along with modification of the provision contained in the draft Working Plan and for a period as it deems fit, or reject the same by recording the reasons therefor.
- (4) The State Government or Union territory Administration or its designated officer shall carry out the prescriptions of the Working Plan to which the approval has been accorded by the Regional Office with respect to all or specific provision of the Working Plan and for the period for which the Working Plan has been approved.
- (5) The State Government or Union territory Administration shall undertake a mid-term review of the approved Working Plan and submit the review report along with its recommendation to the Regional Office and the Regional Office may, after examination, modify the condition of approval or issue a fresh prior approval by modifying the provision of the previously approved Working Plan for the remaining period or reject the recommendations of mid-term review by recording reasons therefor.
- (6) The Regional Office may also consider and approve eligible Annual Working Schemes, in case submitted by the State Government or Union territory Administration.
- (7) All proposals under clause (iv) of sub-section (1) of section 2, irrespective of the size of forest land involved, shall be submitted online by the State Government or Union territory Administration to the concerned Regional Office.

- (8) The proposals received under sub-rule (1) shall be examined by the Regional Office and after enquiry, the Regional Office may grant approval or reject the same by recording the reasons thereof;
- (9) The proposals involving whole or part of forest land bearing a canopy density of 0.4 or more or proposals involving clear-felling of forest land of size more than twenty hectares in plains and ten hectares in hills irrespective of canopy density, shall be forwarded to the Regional Empowered Committee and the Regional Empowered Committee shall deal in the manner specified under these rules and while examining the proposal, the Regional Office shall ensure that the final decision is in conformity with the National Working Plan Code, the National Forest Policy and with preamble of Adiniam for conservation and augmentation of forests.
- (10) For the purpose of these rules “clear-felling of forest land” means removal of all natural vegetation in whatever form occurring, by felling, uprooting or burning them and removing them from the forest land over one hectare in size or more, but other types of felling of trees of specified size or species, including their selection felling or coppice felling shall not be considered as clear felling.

13. Creation of Compensatory Afforestation.—(1) The user agency shall provide land which is neither notified as forest under the Indian Forest Act, 1927 (16 of 1927) or any other law nor managed as forest by the Forest Department and it shall also bear the cost of raising compensatory afforestation over such land and the requirement of Compensatory Afforestation land shall be as per the **Schedule-II** annexed to these rules:

Provided that in case the non-forest land or portion thereof provided by the user agency is not fit for raising compensatory afforestation of a specified density, then additional compensatory afforestation shall be raised on a degraded notified or unclassified forest land under the management control of the Forest Department which is twice in size of such shortfall in the given compensatory afforestation land and the user agency shall also bear the additional cost on such account:

Provided further that if the non-forest land being made available for compensatory afforestation already bears vegetation of 0.4 canopy density or more, there shall not be an additional requirement of planting of trees on such land but a programme for improvement of the forest crop shall be implemented by the Forest Department in a time-bound manner:

Provided also in exceptional circumstances when the suitable land required for compensatory afforestation under this clause is not available and the certificate to this effect is given by the State Government or Union territory Administration, as the case may be, the compensatory afforestation may be considered on degraded forest land which is twice in extent to the area proposed to be diverted in case of the Central Government agencies or Central Public Sector Undertakings on case to case basis:

Provided also in exceptional circumstances when the suitable land required for compensatory afforestation under this clause is not available, and the certificate to this effect is given by the State Government or Union territory Administration, as the case may be, the compensatory afforestation may be considered on degraded forest land which is twice in extent to the area proposed to be diverted in case of State Public Sector Undertakings for captive coal blocks on case to case basis:

Provided also in case the user agency acquires any non-forest land for the execution of the project, the exceptions in case of Central Government agencies, Central Public Sector Undertakings and State Public Sector Undertakings as above shall not be applicable.

- (2) The specified density for raising compensatory afforestation under this sub-rule shall be such as to develop, a forest of a minimum canopy density of 0.4 or more in the fifth year of start of compensatory afforestation operation, and the area has sufficient vegetation stock to enable it to mature into land with canopy density of minimum 0.7.
- (3) In case of non-availability of the non-forest land, the compensatory afforestation can also be raised over the following lands, which will be provided minimum double in extent of the area being diverted or difference between the forest land being diverted and the available non-forest land, as the case may be, is made available and they are notified as Protected Forests under the Indian Forest Act, 1927 (16 of 1927) or local Acts prior to ‘Final’ approval:
- (a) revenue forest lands i.e. land recorded as forest in the Government records but not notified as forest under any law and not managed by the Forest Department viz. revenue lands or zudpi jungle or chhote-bade jhar ka jungle or jungle-jhari land or civil-soyam or orange forest lands and all other such categories of forest lands, provided they are transferred and mutated in the name of State Forest Department;
- (b) the degraded Unclassed State Forests in the State of Arunachal Pradesh, shall be considered for compensatory afforestation provided they are transferred and mutated in the name of State Forest Department;

- (c) the waste lands in the State of Himachal Pradesh, falling under the category of Protected Forests but have neither been demarcated on the ground nor transferred and mutated in the name of forest department in the revenue records, provided they are transferred and mutated in the name of State Forest Department;
- (d) lands falling under section 4 and 5 of the Punjab Land Preservation Act, 1900 in the States of Haryana, Punjab and Himachal Pradesh, which are not under the management and administrative control of the State Forest Department, provided that such lands will be transferred and mutated in the name of State Forest Department, unless as specified and agreed to by the Central Government to notify them under Indian Forest Act 1927 (16 of 1927), without transferring them to the State Forest Department, on case to case basis;
- (4) Special dispensation for raising compensatory afforestation over degraded forest land, minimum double in extent, may be considered in respect of following proposals, namely.—
- (a) in the States or Union territory Administrations, having forest area more than 33% of their total geographical area and a certificate on non-availability of suitable non-forest land for raising compensatory afforestation has been furnished by the State Government /Union territory Administration in the format specified under **Schedule-III**, appended to these rules;
- (b) transmission line projects;
- (c) laying of telephone or optical fibre lines;
- (d) mulberry plantation undertaken for silkworm rearing;
- (e) extraction of minor materials from the river beds;
- (f) construction of link roads, small water works, minor irrigation works, school building, dispensaries, hospital, tiny rural industrial sheds of the Government or any other similar work excluding mining and encroachment cases, which directly benefit the people of the area in hill districts and in other districts having forest area exceeding 50% of the total geographical area, provided diversion of forest area does not exceed 5 hectares;
- (g) actual impact zone of the field firing range considered for diversion under the Adhiniyam or 10% of the total forest area diverted in case entire area of the field firing range is proposed for diversion;
- (h) any degraded forest land for the purpose of compensatory afforestation, selected by the State Government or the Union territory Administration, under this sub-rule, may be accepted by the Central Government when the crown density of such degraded forest is below 40 percent and such areas is not a natural or managed grassland being used for the management and conservation of wildlife; and
- (5) In the following categories of proposals, cost of plantation of ten times the number of trees likely to be felled or specified number of trees as may be specified in the order for diversion of forest land (subject to a minimum no. of 100 plants), shall be levied from the user agency towards compensatory afforestation-
- (a) clearing of naturally grown trees in forest land or in portion thereof for the purpose of using it for reforestation;
- (b) diversion of forest land up to one hectare; and
- (c) Underground mining in forest land without surface rights.
- (6) No compensatory afforestation shall be charged in respect of renewal of mining lease for the forest area for which land for compensatory afforestation and cost of plantation has already been paid.
- (7) In respect of diversion of forest land earmarked for the maintenance of safety zone along the inner boundary of a mine, the provisions of the raising compensatory afforestation, as applicable in the entire forest area proposed for diversion, shall be applicable in lieu of forest land located in the safety zone.
- (8) Non-forest land identified for raising compensatory, contiguous to forest land, located in the wildlife corridors and protected areas shall be incentivised as per the provisions provided in the **Schedule-II** appended to these rules;

14. Management of compensatory afforestation.—(1) The land specified under sub-rule (1) of rule 13, shall be demarcated by concrete pillars of suitable size and handed over, free from all encumbrances to the State Forest Department or Union territory Forest Department and the same shall be notified as protected forest under section 29 of Indian Forest Act, 1927 (16 of 1927) or under any other law for the time being in force before the Final approval is granted under the Adhiniyam.

- (2) The land identified and earmarked for compensatory afforestation shall be treated and afforested by the State Government or Union territory Administration or user agency as per the compensatory afforestation plan approved as part of the said forest diversion proposal and the work of compensatory afforestation shall start within two years of issue of order of diversion of the corresponding forest land and the Central Government may issue guidelines on the modalities of compensatory afforestation, including agencies that may undertake compensatory afforestation.
- (3) Subject to the consent of the State Governments or Union territory Administrations, in case the forest land to be diverted is in a hilly or mountainous State or Union territory having forest cover of more than two-third of its geographical area or situated in any other State or Union territory having forest cover of more than one-third of its geographical area, creation of compensatory afforestation, accredited compensatory afforestation and land banks may be taken up in another State or Union territory Administration:

Provided that, the money towards compensatory afforestation in such cases shall be transferred to the State Compensatory Afforestation Fund of the State or Union territory in which the compensatory afforestation land has been identified and the remaining money of the compensatory levies shall be deposited in the Compensatory Afforestation Fund Management and Planning Authority Fund of the State Government or Union territory Administration in which the forest land has been proposed to be diverted:

Provided further that in cases, where due to unfulfilment of the conditions specified in this sub-rule such as percentage of forest land of the geographical area, it is not possible to raise compensatory afforestation in the same State or Union territory Administration where diversion of forest land is proposed or in other States or Union territory Administration, the Central Government, in public interest, may allow, on case to case basis, compensatory afforestation in other State or Union territory Administration.

- (4) (a) A State Government or Union territory Administration as the case may be, for the purpose of compensatory afforestation, may create a land bank under the administrative control of the Department of Forest;
- (b) The minimum size of the land bank shall be a single block of twenty five hectares:

Provided that in case a land bank is in continuity of a land declared or notified as forest under the Indian Forest Act, 1927 (16 of 1927) or under any other law for time being in force, protected area, tiger reserve or within a designated or identified tiger or wildlife corridor, there shall be no restriction on size of the land; and

- (c) The lands covered under accredited compensatory afforestation earned under sub-rule (5) may be included in the land bank.
- (5) (a) The Central Government may formulate an accredited compensatory afforestation mechanism to be used for obtaining prior approval under sub-section (1) of section 2 of the Adhinyam.
- (b) the accredited compensatory afforestation may be earned by a person if he has established afforestation over land on which the Ahinyam is not applicable and is free from all encumbrances;
- (c) an afforestation shall be counted towards accredited compensatory afforestation if such land has vegetation composed predominantly of trees having canopy density of 0.4 or more and the trees are at least five years old;
- (d) the accredited compensatory afforestation shall be earned by developing afforestation of one-hectare area with 0.4 or more canopy density, but there shall be no accredited compensatory afforestation for developing an area below 0.4 canopy density or below one-hectare land;
- (e) the accredited compensatory afforestation may be swapped for compensatory afforestation proposed under rule (13):

Provided the accredited compensatory afforestation cover a block of minimum of ten hectares and has been fenced as per norms specified for compensatory afforestation in that area:

Provided further that accredited compensatory afforestation over land of any size situated in the continuity of land declared or notified as forest under any law, protected area, tiger reserve or within a designated or identified tiger or wildlife corridor, may be swapped for compensatory afforestation;

- (f) the accredited compensatory afforestation earned out of vacation of non-forest lands on account of voluntary relocation of a village from a national park, wildlife sanctuary or tiger reserve and designated or identified tiger or wildlife corridors shall qualify for compensatory afforestation as per **Schedule –II** annexed to these rules, and may be used by a user agency in lieu of compensatory afforestation under rule (13);
- (g) the accredited compensatory afforestation identified under this rule shall be demarcated with concrete pillars of suitable size and handed over, free from all encumbrances to Forest Department of the State

Government or Union territory Administration and the same shall be notified as protected forest under section 29 of Indian Forest Act, 1927 (16 of 1927) or under the provision of any other law for the time being in force before the Final approval is granted under the Adhiniyam;

- (h) The Central Government, from time to time, may issue detailed guidelines on creation of accredited compensatory afforestation, its stock registry and management for the purpose of its swap for compensatory afforestation land and cost of maintenance thereof up to a period specified by the Central Government.
- (i) All entities registered for accredited compensatory afforestation shall register with the Green Credit Registry under the Green Credit Policy Implementation Rules, 2023 and besides their eligibility for compensatory afforestation in lieu of diversion of forest land, the accredited compensatory afforestation will also be eligible for allocation of green credits under the Green Credit Policy Implementation Rules, 2023.

15. Proceedings against persons guilty of offences under the Adhiniyam.—

- (1) The Central Government may, by notification in official gazette, authorise an officer of the rank of Divisional Forest Officer or Deputy Conservator of Forests and above of the State Government or Union territory Administration concerned, having jurisdiction over the forest land in respect of which any offence under the Adhiniyam is committed or violation of the provisions of the said Adhiniyam has been made, to file complaints against such person or authority or organization, prima-facie found guilty of offence under the Adhiniyam or the violation of the rules made thereunder, in the court having jurisdiction in the matter.
- (2) The Central Government, after receiving the information with respect to offence committed or violations made either through State Government or Union territory Administration or authorities or any other source or *suo moto*, shall, after examination, communicate the same to the State Government or Union territory and the authorities concerned under whose jurisdiction the offence under the Adhiniyam has been committed or any provision of the said Adhiniyam has been violated, for filing the complaint against the offenders before the court having jurisdiction and it shall act as a prerequisite for the authorised officer before such complaints are filed within a period of forty five days from the receipt of such communication. The State Government and authorities concerned shall submit a periodic report to Regional Office, from time to time, regarding filing of the complaints.
- (3) An Officer of the rank of Assistant Inspector General and above, may be authorized by the Central Government, by notification, to initiate legal proceedings and file complaints, against the offences committed under the Adhiniyam.
- (4) The officer authorized by the Central Government in sub-rule (1) and (3) may require any officer or any person or any other authority of the State Government or the Union territory Administration, as the case may be, to furnish to it within a specified period any reports, documents, and any other information related to contravention of the Adhiniyam or the rules made thereunder, considered necessary for making a complaint in any court of jurisdiction and every such State Government or officer or person or authority shall be bound to do so.

16. Miscellaneous.—(1) For the purpose of explanation of government records provided under subsection (1) of section 1A of the Adhiniyam, the State Governments and Union territory Administrations, within a period of one year, shall prepare a consolidated record of such lands, including the forest like areas identified by the Expert Committee constituted for this purpose, unclassed forest lands or community forest lands on which the provisions of the Adhiniyam shall be applicable.

- (2) The felling of trees on forest lands approved for use for the non-forest purpose under these rules shall be restricted to a bare minimum and to an unavoidable number and shall be done under the supervision of the local Forest Department and the forest produce obtained therefrom shall be handed over to the local Forest Department for disposal in the manner specified by the State Government or Union territory Administration which shall give preference to distribution to local villagers for meeting their domestic bonafide requirement.
- (3) The forest land diverted for non-forest purpose under these rules shall be appropriately surveyed jointly by the user agency and the Forest Department or the land-owning Department, demarcated on the ground by way of appropriate permanent boundary marks at the cost of the user agency and handed over by the Forest Department or land-owning Department to the user agency prior to starting of any non-forest use.
- (4) For the purpose of forest cover under these rules, the figures and description used in the latest India State of Forest Report published by Forest Survey of India shall be referred.

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- (5) The Central Government may cancel approval accorded in respect of a proposal, with or without the request of the State Government or Union territory Administration and may decide to refund the compensatory levies deposited, on case to case basis.
 - (6) The conditions imposed by Central Government for diversion of forest land for the non-forest purpose shall not be changed or modified after a period of two years from the date of grant of final approval unless some exceptional circumstances arise or the Central Government considers it necessary to impose any additional clause of compliance.
 - (7) The proposals on forest land under litigation or *sub-judice* on account of an issue pertaining to the Indian Forest Act, 1927 (16 of 1927), local forest Act or Adhinyam will be dealt as per the orders of the Courts or Tribunals passed in such cases and the date of applicability of the Adhinyam in such lands shall be in accordance with the direction, if any, passed by the Courts or Tribunals.
 - (8) Any proposal which has already been submitted under the provisions of the Forest (Conservation) Rules, 2003 or Forest (Conservation) Rules, 2022 and are currently under consideration of the various authorities in the State Government or Union territory Administration or the Central Government for grant of 'In-principle' or 'Final' approval shall be dealt in the following manner, namely:-
 - (i) Any proposals granted 'In-principle' approval shall be dealt under the provisions of the extant rules and be processed and considered for grant of 'Final' approval without amending the conditions stipulated in the 'In-principle' approval; and
 - (ii) Any provision of the extant rules will be applicable on the proposals which are yet to be granted 'In-principle' approval under the Adhinyam.

Schedule-I**TIME LINE FOR PROCESSING OF PROPOSALS SEEKING PRIOR APPROVAL OF CENTRAL GOVERNMENT**

[See rule 8 (1), rule 9, rule 10 and rule 11]

Processing Authorities		Area (Ha)/working days			
		Up to 5*	5 to 40*	40 to 100*	More than 100*
A. State Level	Project Screening Committee	0	30	30	30
	DCF/District Collector	10	10	10	20
	Site inspections by DCF/CF/Nodal Officer	5	5	20	20
	Processing by Nodal Officer/ PCCF	5	10	15	15
	State Govt.	10	15	15	15
	Sub-Total	30	70	70	100
B. Regional Office	Scrutiny to examine completeness	3	3	3	3
	Examination and processing of the proposal by the Regional Office	5	5	5	5
	Site inspection by Regional Office	0	0	15	15
	Examination and approval by the Regional Empowered Committee	0	20	20	20

	Processing and approval by competent authority (CA)	5	5	5	5
	Communication of approval of CA	2	2	2	2
	Total	15	35	50	50
	Total (A+B)	45	105	120	150
C. MoEFCC	Scrutiny to examine completeness	3	3	4	4
	Examination and processing of the proposal	6	6	5	5
	Site inspection by Regional Office	10	10	20	20
	Advisory Committee	20	20	20	20
	Approval by competent authority (CA)	10	10	10	10
	Communication of approval of CA	1	1	1	1
	Total	50	50	60	60
	Total (A+C)	85	120	160	160

*Time line is prescribed for the proposals which are complete in all respects excluding the time consumed in seeking additional details from the State/UT or User agency.

PROPOSED TIME LINE FOR GRANT OF 'FINAL' APPROVAL

Level	Activity	Time (days)
State Level	Issue of demand note for payment of compensatory levies by the user agency	2
	Approval of demand note by the Nodal Officer	3
	Payment of compensatory levies and submission of documents/ certificate by the user agency	5
	Examination of the compliance report by the DFO and forwarding of complete compliance report by DFO to the Nodal Office FC Act, 1980 with intimation to the CF/CCF	5
	Examination of compliance report by the Nodal Officer and issue of shortcomings, if any, to the DFO for compliance, or forwarding of the completed compliance report to the MoEFCC / Regional Office	10
	Sub-Total	25
MoEFCC, New Delhi/ Regional Office	Examination of the compliance report, confirmation of remittance of compensatory levies realised from the user agency in to the CAMPA account and issue of shortcomings, if any, or State-II approval	20
	Sub-Total	20
	Grand Total	45

Schedule II

[See rule 13 and rule 14]

PROVISIONS FOR THE REQUIREMENT OF LAND RELATED TO COMPENSATORY
AFFORESTATION

Sl. No.	Description of Compensatory Afforestation Land	Size of Compensatory Afforestation land as compared to forest land to be diverted for non-forest purpose
(1)	(2)	(3)
1.	Land to which provisions of the Adhiniyam are not applicable.	Equivalent.
2.	Land recorded as 'forest' in Government record but does not fulfill all of the following conditions:- (a) notified as forest under any other law for the time being in force (b) managed as forest by Forest Department. <i>(This dispensation is allowed to <u>certain</u> proposals of Central Government and State Government or Union territory Administration only.)</i>	Two times.
3.	Degraded notified or unclassified forest land. <i>(This dispensation is in case of State Public Sector Undertakings for captive coal blocks on case to case basis and Central Government Agencies/Central Public Sector Undertakings on case to case basis involving no acquisition of non-forest land)</i>	Two times
4.	Land, qualifying for Compensatory Afforestation under Sl. No. (1), provided is of size of twenty-five hectares or more in one block. Compensatory Afforestation land of less than ten hectares shall not be accepted unless the requirement of Compensatory Afforestation land is less than ten hectares in which case the user agency has to bear the additional cost of protection of Compensatory Afforestation so raised for a period of twenty years from the date of planting.	Five <i>per cent</i> less for every additional block size of ten hectares or part thereof subject to a maximum of twenty-five per cent rebate. This percentage will be applicable only on the additional block size acquired beyond the minimum size of twenty five hectares.
5.	Land, qualifying for Compensatory Afforestation under Sl. No. (1), that is less than 25 hectares size but more than 10 hectares size in one block If the requirement of Compensatory Afforestation land is less than twenty-five hectares but more than ten hectares in size, the provision of excess land for Compensatory Afforestation shall not be applicable but the user agency has to bear the additional cost of protection of Compensatory Afforestation so raised for a period of twenty years from the date of planting.	Five <i>per cent</i> . more for every five hectares smaller block size or part thereof.
6.	Land qualifying for Compensatory Afforestation under Sl. No. (1) above and is located within the notified boundary of a protected area	Twenty-five <i>per cent</i> . less

7.	Land qualifying for Compensatory Afforestation under Serial No. (1) or (2) and is located in continuity of a notified boundary of a National Park or a Wildlife Sanctuary or area linking one protected area or tiger reserve with another protected area and designated or identified tiger or wildlife corridors.	Fifteen <i>per cent.</i> less.
8.	Land qualifying for Compensatory Afforestation under Sl. No. (1) or (2) and is located adjacent to a forest land notified as forest under Indian Forest Act, 1927 (16 of 1927) or any other law. Accredited Compensatory Afforestation land of any size may be accepted in case it is contiguous to a forest land notified under any law.	Ten <i>per cent.</i> less
9.	Compensatory Afforestation land made available from complete and voluntary relocation of a village/ habitation (situated in non-forest land) from a Wildlife Sanctuary, National Park or Tiger Reserve, to a non-forest land outside such Sanctuary, Park or Reserve or area linking protected area or tiger reserve with another protected area and designated or identified tiger or wildlife corridors, as the case may be.	(a) Exemption from payment of Net Present Value of forest land equivalent to the Compensatory Afforestation land by way of vacation of village or habitation from National Park/ Wildlife Sanctuary/ Tiger Reserve. Note: "Net Present Value" shall have the same meaning as assigned in clause (j) of section 2 of the Compensatory Afforestation Fund Act, 2016 (38 of 2016). (b) Accredited Compensatory Afforestation in the ratio of 1:1.25 (Non-forest land: Accredited Compensatory Afforestation earned) so vacated by a village by way of voluntary relocation (<i>provided that the same shall be notified as part of the Wildlife Sanctuary, National Park or Tiger Reserve and also notified as Protected Forest or Reserved Forest</i>). (c) Additional Accredited Compensatory Afforestation at the rate of 0.5 ha per relocated family.

Note 1: The user agency or Accredited Compensatory Afforestation developer shall ensure that relocation is voluntary.

Note 2: No compensation under relevant schemes of the Central Government or State Government would be payable to such relocatees or user agency or Accredited Compensatory Afforestation developer.

Note 3: The State Government can also use this provision, provided no central assistance on such scheme is availed.

Schedule-III

CERTIFICATE OF NON-AVAILABILITY OF LAND FOR COMPENSATORY AFFORESTATION IN THE STATE/UNION TERRITORY TO BE ISSUED BY THE STATE GOVERNMENT//UNION TERRITORY ADMINISTRATION

[See rule 13(4)]

No.....

Dated.....

I....., Designation.....(Name of State/ Union Territory) do here by certify that:

i.

- i. Relevant records pertaining to non-forest land, revenue lands, *zudpi jungle, chhote jhar ka jungle, bade jhar ka jungle, jungle jhari land, civil-soyam lands* and all other such categories of forest lands

(except the forest land under the management and administrative control of the Forest Department) on which the provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 are applicable, available in each district of..... (name of the State/UT) have been examined; and

- ii. I have also conducted such further enquiry as is required to satisfy myself for issue of this certificate. On the basis of examination of relevant records and such further enquiry, as was required for issue of this Certificate, I do hereby certify that non-forest land, revenue lands, *zudpi jungle*, *chhote jhar ka jungle*, *bade jhar ka jungle*, *jungle-jhari land*, *civil-soyam* lands and all other such categories of forest lands (except the forest land under management and administrative control of the Forest Department) on which the provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 are applicable, which as per the extant guidelines of the Central Government may be utilized for creation of compensatory afforestation in lieu of forest land diverted for non-forest purpose, is not available in the entire (name of State/UT)

Issued under my hand and seal on this.....day of.....

Signature & Official Seal

[F. No. FC-11/118/2021-FC]

RAMESH KUMAR PANDEY, Inspect General of Forests

**IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)**

WRIT PETITION (CIVIL) NO. _____ OF 2023
(Petition under Article 32 of the Constitution of India read with Order XXXVIII of the Supreme Court Rules, 2013)

IN THE MATTER OF:

Shri Ashok Kumar Sharma & Ors.**PETITIONER(S)**

Versus

Union of India & Anr.**RESPONDENT(S)**

VOLUME-I
(Pg.A to 561)

WITH

I.A. NO. _____ OF 2023
[Application For Stay]

PAPER BOOK
(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONER(S) : KAUSHIK CHOUDHURY

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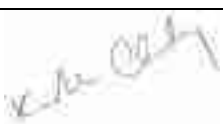
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“A”

PROFORMA FOR FIRST LISTING	
SECTION :	
THE CASE PERTAINS TO (Please tick/check the correct box):	
<input type="checkbox"/> Central Act: (Title)	N.A.
<input type="checkbox"/> Section:	N.A.
<input type="checkbox"/> Central Rule: (Title)	N.A.
<input type="checkbox"/> Rule No(s):	N.A.
<input type="checkbox"/> State Act: (Title)	N.A.
<input type="checkbox"/> Section:	N.A.
<input type="checkbox"/> State Rule: (Title)	N.A.
<input type="checkbox"/> Rule No(s):	N.A.
<input type="checkbox"/> Impugned Interim Order: (Date)	N.A.
<input type="checkbox"/> Impugned Final Order/ Decree: (Date)	N.A.
<input type="checkbox"/> High Court: (Name)	N.A.
<input type="checkbox"/> Name of Judges:	N.A.
<input type="checkbox"/> Tribunal/Authority: (Name)	N.A.
1. Nature of matter:	✓ Civil Criminal
2. (a) Petitioner / appellant No.1:	Shri Ashok Kumar Sharma & Ors.
(b) e-mail ID:	N.A.
(c) Mobile Phone number:	N.A.
3. (a) Respondent No.1:	Union of India & Anr.
(b) e-mail ID:	N.A.
(c) Mobile phone number:	N.A.

“A-1”

4.	(a) Main category classification	08
	(b) Sub classification:	0805
5.	Not to be listed before:	N.A.
6.	(a) Similar disposed of matter with citation, if any & case details: (b) Similar pending matter with case details	No similar disposed of matter No Similar matter is pending
7.	Criminal Matters:	N.A.
(a) Whether accused/convict has surrendered: <input type="checkbox"/> Yes <input type="checkbox"/> No. N.A.		
	(b) FIR No. N.A. Date: N.A.	
	(c) Police Station:	N.A.
	(d) Sentence Awarded:	N.A.
	(e) Sentence Undergone:	N.A.
8.	Land Acquisition Matters:	N.A.
	(a) Date of Section 4 notification:	N.A.
	(b) Date of Section 6 notification:	N.A.
	(c) Date of Section 17 notification:	N.A.
9.	Tax Matters: State the tax effect:	N.A.
10.	Special Category (first petitioner/appellant only):	N.A.
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11.	Vehicle Number (in case of Motor Accident Claim matters):	N.A.
Date:	.09.2023	AOR for petitioner(s)/appellant(s)
		
		[KAUSHIK CHOUDHURY]
		Registration No.2459 kaushikchoudhury7@gmail.com

SYNOPSIS

The present Petition is being filed in public interest under Article 32 of the Constitution of India to challenge the constitutionality of the Forest (Conservation) Amendment Act 2023 ['2023 Amendment Act']. The 2023 Amendment Act will radically undermine India's decades-old forest governance regime built around the implementation of the Forest (Conservation) Act 1980 ['FC Act'] and based on the landmark order of this Hon'ble Court delivered on 12.12.1996 in *T.N. Godavarman v Union of India* W.P. (C) No. 202/1995. The impugned law significantly restricts the scope of the FC Act by curtailing the definition of forest land that will fall within its ambit.

The land thus identified after the amendment circumvents the clear exposition of this Hon'ble Court in its 12.12.1996 order on what constitutes forest land. In that order, this Hon'ble Court held that the aim of the FC Act is to protect against ecological imbalance which would necessarily require that 'forest land' in Section 2 of the FC Act to include not only forests as understood in the dictionary sense but also any area recorded as forest in the Government record irrespective of the nature of ownership or classification thereof. Forest lands which until recently enjoyed the protection of law due to this expansive interpretation provided by this Hon'ble Court will now be stripped of any legal protection.

The 2023 Amendment Act arbitrarily permits several categories of projects and activities in forest land, while

exempting them from the purview of the FC Act. These projects and activities are vaguely defined in the impugned law, and could be interpreted in a manner that serves vested commercial interests, at the cost of much larger public interest. Each diversion of land, without any cumulative ceiling being prescribed across the country, will pockmark our forests with cancerously growing deforested 'islands' and fragment them, causing enormous ecological loss. For instance, the newly inserted Section 1A(2)(a) excludes forest land alongside a rail line or public road which provides access to a habitation, or to a rail, and roadside amenity. This will also apply to feeder roads. The number of such feeder roads, and the distance between each road is not specified and this can lead to large scale destruction of forest lands. Section 1A(2)(b) arbitrarily exempts plantations and reforested areas from the purview of the law purportedly to incentivise tree plantations, but there are no legal safeguards against these same lands being diverted for non-forest use. According to Section 1A(2)(c)(ii), forest land upto 10 hectares is exempt from scrutiny under this Act if it is being proposed to be used for construction of 'security related infrastructure'. There is no clarity in the law as to what would be considered as 'security related infrastructure'. These kinds of exemptions will sound the death-knell of forests in India.

The FC Act included a list of activities which were not to be considered as non-forest purpose and were thus permitted within forest land. This list, provided in the Explanation to Section 2, included public works like establishment of

check-posts, fire lines, wireless communication etc which were considered as work relating to or ancillary to conservation, development and management of forests and wildlife. The 2023 Amendment Act arbitrarily and capriciously expands this list in the Explanation to Section 2 to include activities like safaris, zoos, and eco-tourism facilities. Zoos hold captive animals and safari parks are merely larger enclosures, and thus cannot by any means be equated with measures for conservation of wildlife or forestry activity. This is a blatant attempt to open floodgates to increased forest diversions, while ignoring the associated negative impacts on otherwise intact forests and wildlife from the creation of permanent structures, huge constructions, access roads, power transmission lines and other supporting infrastructure for such zoos and safaris. The 2023 Amendment Act also permits the Central Government not to treat surveys and explorations in forest lands as non-forest uses and thus exempt from scrutiny. Such provisions subvert basic public interest and commitment to nature conservation

The 2023 Amendment Act unlawfully delegates what are essentially legislative functions to the government. The discretion granted to the Central Government under the provisions of the impugned law such as the newly inserted Section 1A(2) and (3), amended Explanation to Section 2(1), Section 2(2) and Section 3C are excessive, and the 2023 Amendment Act does not provide sufficient guidance for the exercise of the discretion. Definitions of key terms and phrases like 'public utility project', 'strategic linear

project', 'security related infrastructure' etc are not provided in the law. Under the impugned law, the Central Government will implement the provisions of the amended Act through guidelines, directives and orders, not through a set of notified rules duly approved by Parliament. Such untrammelled powers will allow Central Government to permit diversion of forest lands without public or regulatory scrutiny.

A Joint Committee of Parliament (JCP) was set-up to review the Forest (Conservation) Amendment Bill 2023. During the pre-legislative consultation process, the JCP repeatedly overlooked the lack of evidence to support the need for the amendment, completely disregarded the concerns and suggestions put forth by different stakeholders, and blindly accepted submissions made by the MoEFCC. MoEFCC, as it appears from its submissions – many of which were vague and evasive, based its decisions with the goal of facilitating "ease of business" for those with commercial interests, and this unfortunately appears to be the *raison d'être* of the impugned legislation.

One of the critical issues before the JCP was the amended definition of forest land proposed in the Bill. The MoEFCC gave an assurance before the JCP that all categories of forests defined by the State Expert Committees set up by various states in compliance with this Hon'ble Court's order of 12.12.1996 will be given protection. JCP accepted this submission on face value, without undertaking any

assessment of the said SEC reports which had purportedly been taken into consideration while framing the legislation.

The aforesaid assurance given by the MoEFCC was blatantly misleading. As per this Hon'ble Court's order, SEC were to *inter alia* identify areas which are "forests", irrespective of whether they are so notified, recognised or classified under, any law, and irrespective of the ownership of the land of such forest. These reports would have provided crucial information about the location and nature of forest lands across the country. However, little information about these SECs and their reports is available in the public domain. It is not known whether these SECs were even formed in all states; how many reports were submitted; and what is the quality of these reports. Yet, MoEFCC places reliance on them, and JCP accepts their existence and content without question.

In the instant case, the State ought to have carried out a detailed analysis of the impact which the provisions of this legislation would have on the forests in order to ensure that the duty to protect and improve the environment as encapsulated in Article 48A read with Article 51A(g) was fulfilled. A Brandeis brief compilation of data is designed to indicate the actual or probable social effects of legislation, and it has been recognised as a valid aid to judicial review of legislation. The same approach is appropriate for an environmental legislation particularly since the damage once caused to the environment by a constitutionally deficient legislation would be irreversible.

Unlike other legislations, since environmental legislations involve resources belonging to the community, it necessitates a greater degree of responsibility by the legislature than what would be expected in a normal legislation. It is submitted that a greater judicial scrutiny of what relevant factors were taken into consideration and what was the scientific basis of the amendments, becomes imperative while examining the constitutionality of the statute. This is a classic case where the need for a 'Brandies Brief' approach is acutely felt.

The 2023 Amendment Act is in blatant violation of several principles of Indian environmental law – precautionary principle, intergenerational equity, principle of non-regression and public trust doctrine. As this Hon'ble Court has observed on several occasions, each of these principles along with the Environmental Rule of Law must guide present day environmental decision-making in India. Yet, in the present matter, each of them have been overlooked.

The 2023 Amendment Act gravely impinges on the fundamental rights guaranteed to citizens under Articles 14 and 21 of the Constitution, read with Articles 48A, 51(c) and 51A(g). It provides a restrictive definition of 'forest land' and arbitrarily exempts various activities and projects from the regulatory scrutiny of the FC Act. The amendment represents a complete dereliction of duty imposed on the State to protect and improve the environment in keeping with the Directive Principle of State Policy under Article 48A

of the Constitution read with the State's collective duty to protect the environment under Article 51A (g).

India is one of the most vulnerable countries to impacts of climate change, and weakening its ecological security by permitting rampant deforestation will only worsen the country's adaptive capacity. India's forests are a crucial defence against the climate crisis. Significantly, it is now established that the carbon sequestration potential of natural forests is 40 times greater as compared to plantations, and therefore we as a country cannot afford to lose our natural carbon sinks as the alternatives such as plantations are evidently not as effective.

A law that is so manifestly arbitrary in its scope, blatant in its intent to circumvent the interpretation of law as adopted by this Hon'ble Court, and will likely endanger ecological and food security of the country must be struck down. There exists a constitutional imperative in accordance with Article 14, Article 21, Article 48A, 51(c) and 51A(g) of the Constitution of India to protect our forests and wildlife. Therefore, it is prayed that this Hon'ble Court finds the 2023 Amendment Act to be unconstitutional and set it aside.

LIST OF DATES

1878	The Indian Forest Act, 1878 was enacted to consolidate the laws relating to forests in India.
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1927	The Act of 1878 was amended by the Indian Forest Act of 1927. <i>Inter alia</i> , the Act empowers State Governments to notify and declare the forest lands as reserved forests and protected forests.
1952	The Central Government adopted the Indian Forest Policy of 1952, wherein it was recommended that India should aim to bring 33% of the total land area under forest and tree cover, and about 60% in hilly areas under forest and tree cover to prevent soil erosions in the hilly and mountainous districts.
1952 – 1980	In almost three decades India witnessed rampant deforestation, and approximately 4.2 million hectares of forests were lost due to diversion for non-forest purposes.
1977	The 42 nd Constitutional Amendment Act of 1976 was passed in 1977. Article 48A and Article 51A(g) of the Constitution of India were introduced; thus, placing a constitutional duty on the State to protect forests and wildlife. 'Forests' was moved from List II (State List) to List III (Concurrent List) of the Seventh Schedule to the Constitution.
1980	The Forest (Conservation) Act of 1980 was enacted with the aim to conserve forests. It placed restrictions on the use of forest land for

	non-forest purposes. It required the State Governments to seek a prior approval from the Central Government before permitting diversion of forest lands for non-forest use.
1988	The Central Government adopted the National Forest Policy of 1988 which reiterated the goals set out in the National Forest Policy of 1952. The Policy focused on the restoration of the ecological balance and conservation of the natural heritage of the country through the preservation of natural forests with its vast variety of flora and fauna, and increasing substantially the forest/tree cover through massive afforestation and social forestry programmes. It also highlighted the involvement of tribal communities in conservation of forest. The policy categorically stated that derivation of direct economic benefit must be subordinated to the principal aim of the policy which was to ensure environmental stability and maintenance of ecological balance including atmospheric equilibrium which are vital for sustenance of all life forms, human, animal and plant.
12.12.1996	The Hon'ble Supreme Court passed a landmark order in <i>T.N Godavarman v. Union of India</i> W.P. (C) 202/1995, holding in categorical terms that the Forest (Conservation) Act 1980

	<p>would apply to all forests that come within the dictionary definition of forests. This was done considering that the aim of the principal Act is to protect against “ecological imbalance”, which would necessarily require the Act to “apply to all forests irrespective of the nature of ownership or classification thereof”. This Hon’ble Court also issued direction to the state governments for constituting State Expert Committees (SECs) for the systematic identification of the forest areas in every state.</p>
1997	<p>The Forest Survey of India (FSI) published the State of Forest Report 1997 which reported that the forest and tree cover stood at only 19.27% of India’s total land area; much less than the policy goals set in the National Forest Policies of 1952 and 1988.</p>
2019	<p>The Forest Survey of India published the State of Forest Report 2019 that reported that forest and tree cover was 24.56% of the total land area. It also recorded forest cover in hilly areas to be at 40.3% of the total land area in these districts as against the target figure of 67% (as per the 1988 Forest Policy). It should be noted that the forest surveys which are conducted are primarily satellite surveys and record all plantations and other areas which have tree cover as forests.</p>

29.03.2023	<p>The Central Government introduced the Forest (Conservation) Amendment Bill of 2023 in the Lok Sabha. A motion was passed referring the Bill to a Joint Committee of Parliament (JCP), chaired by the member of the ruling party. This was against the conventional parliamentary norm of referring a Bill to the Departmental Standing Committee responsible for same, in this case the Committee on Science & Technology, Environment & Forests.</p>
2023	<p>The JCP received hundreds of representations and submissions from various stakeholders including scientists, forest officers, conservationists, tribal councils, retired civil servants, researchers etc. opposing the Bill. Several petitioners herein also sent their detailed representations to the JCP. Many states including Kerala rejected provisions of the Bill.</p> <p>The Bill proposed to strip vast tracts of forest land in the country of any legal protection and permit the use of forest land for several non-forest purposes which were previously subject to strict regulatory scrutiny. It would encourage the diversion of forest land in a manner which would pockmark our forests, and fragment and shrink important wildlife habitats.</p>

20.07.2023	The JCP submitted its report and accepted the provisions of the Bill. It disregarded all genuine concerns raised by stakeholders, and returned the Bill stating that due legislative process had been followed. The outcry of the scientific community, forest officers, conservationists, tribal councils, retired civil servants, and other expert advice was completely ignored. At the same time, the Ministry of Environment, Forest and Climate Change (MoEFCC) furnished inaccurate and misleading information to the JCP. A plain reading of the report shows that the JCP accepted all submissions made and assurances given by the MoEFCC without any independent verification.
26.07.2023 & 02.08.2023	The Bill was passed by the Lok Sabha on 26 July 2023 and by the Rajya Sabha on 2 August 2023. The Bill was passed through the Lok Sabha in 38 minutes and through the Rajya Sabha in 1 hour and 41 minutes, with limited debate and discussion on the substance of the Bill and the arbitrary report filed by the JCP.
4.08.2023	The Bill received Presidential assent on 4 August 2023. It was published in the Gazette of India for general information on 4 August 2023.

11.08.2023	A letter was issued by the Additional Chief Secretary, Odisha, stating that requests to divert forest land for non-forestry purposes such as infrastructure and state development now ought to conform with the amended Forest Act and that 'the concept of deemed forest is now removed'.
14.08.2023	After public pressure, letter dated 14.08.2023 was issued, and the letter dated 11.08.2023 of the Additional Chief Secretary, Odisha, was withheld. It will become operational once guidelines are received from MoEFCC. Not being aware or not caring to follow due procedure on part of the highest officer of the State of Odisha in-charge of forests shows the potential of misuse and misinterpretation of the amended FC Act.
27.09.2023	Hence, this Writ Petition.

**IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)**

WRIT PETITION (CIVIL) NO. _____ OF 2023
(Petition under Article 32 of the Constitution of India read with Order XXXVIII of the Supreme Court Rules, 2013)

IN THE MATTER OF:

1. Shri Ashok Kumar Sharma
Indian Forest Service (Retd),
Kirti Chakra,
Principal Chief Conservator of Forests, Gujarat
R/o 835, Sector-8,
Near Police Choki,
Gandhinagar, Sector-7,
GUJARAT-382007
PAN Card ACSPS5622A
Annual income ₹19 lakh appx
2. Shri Uma Shanker Singh
Indian Forest Service (Retd),
Principal Chief Conservator of Forests,
Uttar Pradesh
R/o B-3/184 Vibhav Khand,
Kathowta Chowraha, Gomti Nagar,
Lucknow,
U.P.-226010
PAN: APSPS2571K
Approximate annual income is Rs. 15 lakhs per annum
3. Shri Prashant Kumar Jha
Indian Forest Service (Retd),
Principal Chief Conservator of Forests
& Head of Forest Force, Telangana
C/o Gulab Jha, P. No. 170,
Jubilee Hills, Prashasan Nagar,
Hyderabad,
TELANGANA-500110
Pan Number: ABNPJ9417C
Annual Income: ₹15 lakhs
4. Shri Biswajit Majumdar
Indian Forest Service (Retd)
Principal Chief Conservator of Forests-Maharashtra,
Vice Chairman, Maharashtra Administrative Tribunal
R/o Flat No.102, Chaitanya Heights,

Motghare Layout, Hajaripahad,
Near Gaukhede Complex,
Seminary Hills, Nagpur,
MAHARASHTRA-440006
Annual Income: ₹19,00,000;
PAN Number: AGXPM8814F

5. Shri Arvind Kumar Jha
Retd as PCCF & DG (SFD),
Maharashtra State.
R/o 303, Salvador, Fortaleza Society,
Kalyani Nagar,
PUNE-411006
Pan No: AENPJ4194H
Annual Income: ₹12 lakhs
6. Dr. M K Ranjitsinh
Indian Administrative Service (Retd)
Former Addl Secretary,
Ministry of Environment & Forests
R/o 5 Tiger Lane Sainik Farms Mehrauli,
South Delhi
DELHI-110062
Pan Number: ABUPJ 3031D
Income: About ₹47 Lakhs
7. Ms Prakriti Srivastava
Indian Forest Service (Retd)
Principal Chief Conservator of Forests,
Kerala
R/o B-18, Hudco Place,
Andreswganj, South Delhi
DELHI-110049

ALSO AT:
R/o 1904, KNG-I, Klassic Wishtown,
Sector-134, NOIDA, U.P.
PAN: ALIPS1527R,
Annual income: ₹ 20 lakhs per annum (approx.)
8. Ms Meena Gupta
Indian Administrative Service (Retd)
Former Secretary Ministry of Environment & Forests
R/o H.No.44, Prakruthik Vihar,
Near Meghadri Heights,
Balajinagar Road, Yapral, Medchal,

TELANGANA-500087

PAN no: AEDPG8031N

Annual income: ₹ 25 lakhs approximately

9. Shri Amitabha Pande
Indian Administrative Service (Retd)
Former Secretary to Government of India
R/o T5 603, Parsvnath Srishti,
Sector-93A, NOIDA, Gautam Budh Nagar,
U.P.-201304
Pan No: AAIPP2304G
Annual Income : Approx ₹ 22 lacs per annum
10. Shri Ashok Kumar Sharma
Indian Foreign Service (Retd),
Former Ambassador Finland and Estonia
R/o C-1, Press Apartments,
Plot No.23, I.P. Extension,
Laxmi Nagar, East Delhi
DELHI-110092
PAN no. is APTPS3219P
Annual Income: ₹ 40 Lakhs.
11. Ms Prerna Singh Bindra
Former Member, Standing Committee,
National Board of Wildlife,
Former Member,
State Board of Wildlife-Uttarakhand
R/o House No.2/13,
Jasmine Street, Vatika City,
Sector-49, Islampur(97), Gurgaon,
HARYANA-122018
PAN no AEJPB1981N
Annual Income: ₹ 171150
12. Shri Deb Mukherjee
Indian Foreign Service (Retd),
Former High Commissioner to Bangladesh
R/o C-71, IFS Apartments
Mayur Vihar, phase-I
DELHI 110091
PAN : AIRPM3835E
Annual Income ₹12 lakhs
13. Shri Debadityo Sinha
Wildlife Conservationist, Legal and Policy Analyst
R/o Flat No.001, Tower No. 28,

Jaypee Kosmas, Kosos Gate B-37,
Sector-134, NOIDA,
GAUTAM BUDDHA NAGAR
U.P.-201304
PAN: BZHPS0069Q
Annual Income: ₹ 847230

.....PETITIONERS

Versus

1. Union of India,
Ministry of Environment, Forest & Climate Change
Through the Secretary,
Jor Bagh, Lodhi Colony, New Delhi,
Delhi-110003
2. Ministry of Law & Justice,
Through the Secretary,
Shastri Bhavan, New Delhi,
Delhi -110001

...RESPONDENTS

**WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA SEEKING A
DECLARATION THAT THE FOREST
(CONSERVATION) AMENDMENT ACT 2023 IS
UNCONSTITUTIONAL AND HENCE NULL AND VOID
AS IT IS IN VIOLATION OF FUNDAMENTAL
RIGHTS GUARANTEED UNDER THE CONSTITUTION
AND ESTABLISHED PRINCIPLES OF INDIAN
ENVIRONMENTAL JURISPRUDENCE**

To

The Hon'ble Chief Justice of India and His Companion
Justices of the Hon'ble Supreme Court of India.

The humble Petition of the Petitioners above named.

MOST RESPECTFULLY SHEWETH:

1. That this petition filed under Article 32 of the Constitution of India is filed in public interest for the enforcement of fundamental rights under Articles 14 and 21 read with Articles 48A, 51(c), and 51A(g) of the Constitution. The petition challenges the constitutionality of the Forest (Conservation)

Amendment Act 2023 [hereinafter '2023 Amendment Act'] which significantly reduces legal protection afforded to vast tracts of forest lands in India and exposes them to deforestation and irreversible damage. The 2023 Amendment Act will threaten the environmental, ecological and food security of the country, and impact the lives and livelihoods of local communities. It grants unfettered discretion to the Central Government regarding use of forest lands and reduces regulatory scrutiny of forest lands. As it impinges on various constitutional provisions and violates various established principles of Indian environmental law, the impugned 2023 Amendment Act must be struck down in its entirety.

A copy of the Forest (Conservation) Amendment Act 2023 is filed herewith and marked as **ANNEXURE P-1** (Pg.125-128).

- 1A. That the present writ petition is being filed in public interest under Article 32 of the Constitution of India to raise issues that impinge fundamental rights guaranteed to citizens under Articles 14 and 21 of the Constitution, and violate directive principles of state policy and fundamental duties of citizens. Having regard to the nationwide implications of the important issues raised in this petition, impacting several states in the country, it is respectfully submitted that this Hon'ble Court has the jurisdiction to entertain and hear the present petition. The Petitioners state that they have not filed any other similar petition challenging the *vires* of the Forest (Conservation) Amendment Act 2023 in this or any other Court. The Petitioners have demanded justice but justice has been denied to them.

1B. PAN and Income details of the Petitioners are as follows:-

1. Shri Ashok Kumar Sharma PAN Card ACSPS5622A Annual income ₹19 lakh appx	8. Ms Meena Gupta PAN no: AEDPG8031N Annual income: ₹ 25 lakhs approximately
2. Shri Uma Shanker Singh PAN: APSPS2571K Approximate annual income is Rs. 15 lakhs per annum	9. Shri Amitabha Pande Pan No: AAIPP2304G Annual Income : Approx ₹ 22 lacs per annum
3. Shri Prashant Kumar Jha Pan Number: ABNPJ9417C Annual Income: ₹15 lakhs	10. Shri Ashok Kumar Sharma PAN no. is APTPS3219P Annual Income: ₹ 40 Lakhs.
4. Shri Biswajit Majumdar Annual Income: ₹19,00,000; PAN Number: AGXPM8814F	11. Ms Prerna Singh Bindra PAN no AEJPB1981N Annual Income: ₹ 171150
5. Shri Arvind Kumar Jha Pan No: AENPJ4194H Annual Income: ₹12 lakhs	12. Shri Deb Mukherjee PAN : AIRPM3835E Annual Income ₹12 lakhs
6. Dr. M K Ranjitsinh Pan Number: ABUPJ3031D Income: About ₹47 Lakhs	13. Shri Debadityo Sinha PAN: BZHPS0069Q Annual Income: ₹ 847230
7. Ms Prakriti Srivastava PAN: ALIPS1527R, Annual income: ₹ 20 lakhs per annum (approx.)	

ARRAY OF PARTIES

1. The Petitioner No.1 is a retired IFoS, who officiated the post of Principal Chief Conservator of Forest, Gujarat and is an awardee of Kriti Chakra; Petitioner No.2 is a retired IFoS, who officiated the post of Principal Chief Conservator of Forest, Uttar Pradesh; Petitioner No.3 is a retired IFoS who officiated the post of Principal Chief Conservator of Forest & Head of Forest Force, Telangana;

Petitioner No.4 is a retired IFoS who officiated the post of Principal Chief Conservator of Forest and Vice – Chairman of Maharashtra Administrative Tribunal; Petitioner No.5 is a retired IFoS, who officiated the post of Principal Chief Conservator of Forest & Director General of Social Forestry Department, Maharashtra; Petitioner No.6 is a retired IAS, who was officiated as the Former Additional Secretary to the Ministry of Environment & Forest, Government of India; Petitioner No.7 is a retired IFoS who officiated the post of Principal Chief Conservator of Forest, Kerela; Petitioner No.8 is a retired IAS who was officiated as the Former Secretary to the Ministry of Environment & Forest, Government of India; Petitioner No.9 is a retired IAS who was officiated as the Former Secretary to the Government of India; Petitioner No.10 is a retired IFS who was officiated as the Former Ambassador of Finland & Estonia; Petitioner No.11 was officiated as the Former Member to the Standing Committee of National Board of Wildlife and State Board of Wildlife, Uttarakhand; Petitioner No.12 is a retired IFS who was officiated as the Former High Commissioner of Bangladesh; Petitioner No.13 is officiated as the Wildlife Conservationist and Legal & Policy Analyst.

2. That the Petitioners do not have any personal interest or any personal gain or private motive or any other oblique reason in filing this Writ Petitioner in Public Interest. The Petitioners have not been involved in any other civil or criminal or revenue litigation, which could have legal nexus with the issues involved in the present Petition.
3. That Respondent No. 1 is the Union of India, through the Ministry of Environment, Forest and Climate Change

(MoEFCC) and Respondent No. 2 is the Ministry of Law and Justice of the Union of India. Both the Respondents are proper and necessary parties to the present Petition and are likely to be affected by the orders sought in the present Petition.

4. That the Petitioners, through the present writ petition, are invoking the civil original writ jurisdiction of this Hon'ble Court to seek issuance of a writ, order or direction of like nature against the Respondents herein *inter alia* to quash the Forest (Conservation) Amendment Act 2023 being unconstitutional and in violation of several provisions of the Constitution of India.
5. That the Petitioners have no other equally efficacious remedy except to approach this Hon'ble Court by way of present Writ Petition. All annexures annexed to the Writ Petition are true copies of their respective originals.
6. That the Petitioners herein have never approached this Hon'ble Court or any other Court seeking a relief similar to the relief sought for in the present writ petition.

A. SUMMARY

1. That forests are our purveyors of potable water, the most important gift of nature along with oxygen. Unfortunately, rampant increase in unrestricted deforestation, and the privatisation of forests, pose an impending threat to the forests, and the environment at large. It is absolutely essential that we protect our environment. The faunal and floral biodiversity of the country is our national natural heritage and the source of sustenance for millions including the most marginalised peoples of our nation. It is an important part of the religious and cultural heritage of several local

communities. Forests and other ecosystems also provide valuable ecosystem services particularly from the perspective of poverty alleviation especially for a developing country like India. According to a 2010 paper by the global initiative The Economics of Ecosystems and Biodiversity (TEEB), ecosystem services and other non-marketed goods account for between 47% and 89% of the so-called 'GDP of the poor' (i.e. the effective GDP or total source of livelihood of rural and forest-dwelling poor households), whereas in national GDP, agriculture, forestry and fisheries account for only 6% to 17%.

2. That permitting unrestricted destruction and privatisation of forests, and allowing megaprojects to come up in the wilderness and forests could disrupt complex ecological systems, thus threatening also the survival of some of the most endangered life-forms in the country, shifting drastically the ecological balance of nature. This will have far-reaching impacts on the environment and potentially cause permanent and irreversible damage.
3. That India is one of the most vulnerable countries to impacts of climate change, and threatening its ecological security will only worsen the country's adaptive capacity. India's forests are a crucial defence against the climate crisis. A 2009 study by the Indian Council of Forestry Research and Education estimated that India's forestry sector could neutralise more than 9% of India's GHG emissions at 2000 levels. Significantly, it is now established that the carbon sequestration potential of natural forests is 40 times greater as compared to plantations, and therefore we as a country cannot afford to lose our natural carbon sinks as the alternatives, such as plantations, are evidently not as effective.

4. That the 2023 Amendment Act introduces a regulatory regime that facilitates a regression in the nature and extent of protection that forests were afforded earlier. It significantly reduces the protections earlier guaranteed under the Forest (Conservation) Act 1980 read with the landmark order dated 12.12.1996 delivered by this Hon'ble Court in *T.N. Godavarman v Union of India* W.P. (C) No. 202/1995. The provisions of the 2023 Amendment Act violate Articles 14, 21, 48A, 51(c) and 51A(g) of the Constitution of India as well as established principles of Indian environmental jurisprudence including the principles of non-regression, precaution and inter-generational equity and the public trust doctrine. The impugned law excessively delegates powers to the executive, and its definition of forest land amounts to an impermissible overruling of this Hon'ble Court's order of 12.12.1996.

B. BRIEF HISTORICAL BACKGROUND TO FOREST GOVERNANCE IN INDIA

5. That forests in India have been subject to protection and reservation since the colonial era. The Indian Forest Act of 1878 was enacted to create a system of reservation and protection of forest land, noting the importance of systematic conservation of forest land.

6. That the Indian Forest Act of 1878 was later updated through the Indian Forest Act of 1927 without any significant changes. The Indian Forest Act of 1927 continues to be the framework by which State Governments are entitled to notify, declare, or record forests as reserved or protected. Forest lands recognised as reserved or protected under the provisions of this Act make up the total "Recorded Forest Area" of India.
7. That most notable in the historical policy framework relevant to the present Petition is the Indian Forest Policy adopted by the Central Government in 1952. By way of this policy, the Government, in paragraph 19 of the Policy, recommended that India should aim to bring, at least one-third (33%) of the total land area under forest and tree cover. It also recommended that in light of special ecological considerations such as the need to prevent soil erosion in hilly and mountainous districts of India, about sixty percent (60%) of the total land area in these districts must be brought under forest and tree cover. Though many forest policies have since been adopted by both the Central and State governments, these proportions endure as targets to be achieved, through forest legislation and policies.

A copy of the National Forest Policy, 1952 is filed herewith and marked as **ANNEXURE P-2** (Pg.129-144).

8. That despite the recommendations made in the Indian Forest Policy of 1952, survey reports indicated rampant deforestation due to diversion of forest land for non-forest uses. It was estimated that between 1950 and 1980, approximately 4.2 million hectares of forest land were lost to diversion and deforestation.

9. That in consideration of this and the targets set by the recommendations in the 1952 Policy, the Central Government took several legislative decisions to reduce the rate of deforestation and increase protection afforded to forests. Most significantly, in January 1977, the Constitution (42nd Amendment) Act 1976 came into force. It, *inter alia*, accorded the Central Government greater responsibility towards forests and conservation through a constitutional mandate. It did so in three ways. Firstly, it moved the subject of Forests from the State List to the Concurrent List in the Seventh Schedule, thus empowering the Central Government to legislate on forest conservation. Secondly, it introduced Article 48A to the Constitution of India wherein, the protection and safeguarding of forests and wildlife was included as a Directive Principle of State Policy. Thirdly, it introduced Article 51A to the Constitution of India, wherein Article 51A(g) made the protection and improvement of forests a fundamental duty. These amendments to the Constitution were deliberate

efforts at tackling the prevalent threat of deforestation by expanding the constitutional mandate of the Central Government, and by tasking it with the duty of protecting and conserving the forests of the nation.

10. That the widened constitutional mandate granted to the Central Government under the 42nd Amendment Act became the precursor to the Forest (Conservation) Act 1980 (hereinafter 'the principal Act'). As per the Statement of Objects and Reasons of the principal Act, the primary thrust behind the Act was to check and counter the ecological imbalance and environmental degradation caused by deforestation. It followed and sought to replace the Forest (Conservation) Ordinance 1980 passed earlier. The Act made it necessary to seek prior approval of the Central Government for the de-reservation of forests reserved under the 1927 Act and for the diversion of any forest land to non-forest uses and purposes. The Act also laid down ameliorative measures to tackle deforestation through compensatory reforestation and afforestation. It is noteworthy that since 1980 about 1.5 million hectares of forest land has been diverted to non-forest use – a marked reduction compared to figures between 1950 and 1980 which were estimated to be 4.2 million hectares. In this context, the principal Act was a significant progressive legislative step in the conservation and

protection of forests. The change in figures is evidence of a positive realisation of the goal of curbing deforestation and diversion of forest land as set out in the Statement on Objects and Reasons.

11. That the Central Government in its 1988 Forest Policy again reiterated the goals set out earlier in the 1952 Policy. The 1988 Policy focused on the restoration of the ecological balance and conservation of the natural heritage of the country through the preservation of natural forests with its vast variety of flora and fauna, which represent the remarkable biological diversity and genetic resources of the country, and increasing substantially the forest/tree cover through massive afforestation and social forestry programmes. It was notable in being one of the earliest significant policies highlighting the involvement of tribal communities in the protection and conservation of forests. It also guarded specifically against the diversion of forest land towards non-forest uses, noting that forests must be considered as national assets warranting proper safeguarding, instead of considering them as merely a readily available resource. The 1988 Policy was, in retrospect, an important step in moving from an anthropocentric to an ecological approach to conservation. The policy categorically stated that derivation of direct economic benefit must be subordinated to the principal aim of the policy which was to ensure

environmental stability and maintenance of ecological balance including atmospheric equilibrium which are vital for sustenance of all lifeforms, human, animal and plant.

A copy of the National Forest Policy, 1988 is filed herewith and marked as **ANNEXURE P-3** (Pg.145-154).

12. That on 12.12.1996, the Hon'ble Supreme Court passed a landmark order in *T.N. Godavarman v Union of India* (1997) 2 SCC 267 holding in categorical terms that the Forest (Conservation) Act 1980 would apply to all forests that come within the dictionary definition of forests. This was done considering that the aim of the principal Act is to protect against "*ecological imbalance*", which would necessarily require the Act to "*apply to all forests irrespective of the nature of ownership or classification thereof*". This Hon'ble Court held –

4. The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. 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 for the purpose of Section 2(i) of the Forest

Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.

13. That to execute this interpretation of forests, this Hon'ble Court further ordered the creation of an Expert Committee in each State tasked with identifying areas that are forests, and gave the following direction:

- "5. Each State Government should constitute within one month an Expert Committee to:
- i) identify areas which are "forests", irrespective of whether they are so notified, recognised or classified under, any law, and irrespective of the ownership of the land of such forest;
 - ii) identify the areas which were earlier forests, but stand degraded, denuded or cleared and;
 - iii) identify the areas covered by plantation trees belonging to the Government and those belonging to private persons."

A copy of the order dated 12.12.1996 in *T.N. Godavarman v Union of India* (1997) 2 SCC 267 is

filed herewith and marked as **ANNEXURE P-4** (Pg.155-163).

14. That it is pertinent to note the importance of the reports of the State Expert Committees (SEC) that were to be set-up on direction of this Hon'ble Court. According to the 12.12.1996 order, State Governments were to constitute SECs within a month, and the Expert Committees were directed to, identify those areas with forest cover to be protected under the FC Act. This identification was to be done based on the categorisation laid down by the Hon'ble Supreme Court in its order. It is unknown, however, whether this was done at all, or, indeed, if such Expert Committees exist in each state. The reports of the SECs are not available in the public domain despite several applications under the Right to Information Act 2005 for release of the same. Thus, there is no clarity if all states have indeed prepared the reports as directed by this Hon'ble Court and if prepared, whether they were exhaustive, and based on cadastral surveys and ground truthing. While examining the Kerala's State Expert Committee report, it is evident that it was put together in haste with no reference to the locations of the forests in the state, and without any ground truthing, physical cadastral surveys or demarcation of these lands. SEC reports submitted by other states are likely to be of similar poor quality.

15. That the State of Forest Report 1997 published by the Forest Survey of India (FSI) reported that the forest and tree cover stood at only 19.27% of India's total land area. Despite the reduction in deforestation brought by the principal Act, it was clear that its implementation affected only deforestation and failed to actively increase and grow forest cover as envisaged by the 1952 and 1988 Policies.

A copy of the relevant extract from the State of Forest Report 1997 alongwith its typed copy is filed herewith and marked as **ANNEXURE P-5** (Pg.164-176).

16. That the the State of Forest Report 2019 did not reflect much increase in the total figures. It recorded the total forest and tree cover to stand at 24.56% of the total land area. It also recorded forest cover in hilly areas to be at 40.3% of the total land area in these districts as against the target figure of 67% (as per the 1988 Forest Policy). It should be noted that the forest surveys which are conducted are primarily satellite surveys and record all plantations and other areas which have tree cover as forests.

A copy of the relevant extracts from the State of Forest Report 2019 is filed herewith and marked as **ANNEXURE P-6** (Pg.177-191).

C. INTRODUCTION OF 2023 AMENDMENT ACT AND THE PRE-LEGISLATIVE PROCESS

17. That it is against this background that the Central Government introduced the Forest (Conservation) Amendment Bill 2023 to the Lok Sabha on 29 March 2023. On the same day, a motion was passed to refer the Bill to a Joint Committee of Parliament including members from both Houses of Parliament [hereinafter referred to as 'JCP']. It must be noted that, in contravention of ordinary parliamentary procedure, the Bill was referred to a Joint Committee of Parliament chaired by a member of the ruling party instead of a Department Related Standing Committee which was, in this case, the Committee on Science & Technology, Environment & Forests.

A copy of the Forest (Conservation) Amendment Bill 2023 is filed herewith and marked as **ANNEXURE P-7** (Pg.192-198).

18. That hundreds of representations and submissions were made to the JCP highlighting various concerns with regard to the 2023 Amendment Bill. Several significant issues arising out of the Bill were extensively pointed out to the JCP by a joint submission made by Prakriti Srivastava, IFS, (then) Principal Chief Conservator of Forests, Kerala, Petitioner No. 7 herein and Prerna Bindra, former member of the Standing Committee of the National Board of Wild Life (NBWL), Petitioner No. 11 herein. Another set of detailed comments on the adverse impacts of the Amendment Bill 2023 were

submitted to the JCP by a group of eighteen experts and stakeholders including Dr. MK Ranjitsinh, IAS, Petitioner No. 6 herein and Mr. Debadityo Sinha, Petitioner No. 13 herein, and convened by the Vidhi Centre for Legal Policy. None of these concerns were taken on the record or corrective measures made in the draft Bill.

A copy of the joint submission made by Prakriti Srivastava, IFS, Petitioner No. 7 and Prerna Bindra, former member of the Standing Committee NBWL, Petitioner No. 11 is filed herewith and marked as **ANNEXURE P-8** (Pg.199-258).

The Report of the High-Level Working Group on the Forest (Conservation) Amendment Bill 2023 submitted to the JCP by a group convened by Vidhi Centre for Legal policy is filed herewith and marked as **ANNEXURE P-9** (Pg.259-302).

19. That despite receiving 1,309 memoranda questioning the soundness of the Bill, the Committee accepted, without any critical comment, all its provisions in its report submitted on 20 July 2023. It disregarded any and all genuine concerns and returned the Bill stating that due legislative process had been followed. The outcry of the scientific community, forest officers, conservationists, tribal councils, retired civil servants, and other expert advice, was completely ignored. States also raised serious concerns; for

instance, concerns raised by Sikkim (Clause 2.4.33, JCP report); Tripura (Clause 2.4.34) and Mizoram (Clause 2.4.36, JCP Report) which were dismissed with perfunctory replies by the MoEFCC and states such as Kerala rejected the amendment Bill in its entirety. Several members of the JCP expressed dissent and their notes were brought on record. For instance, Pradeep Bordoloi, MP, Lok Sabha in his detailed comments of dissent stated that there was reason to believe that the proposed changes would subvert the primary objective of the principal Act which was forest conservation and checking further deforestation.

A copy of the Letter No. FC2-2252/21 dated 29/10/2021 from the Principal Chief Conservator of Forests and Head of Forest Force, Government of Kerala to the Director General of Forests and Special Secretary, MoEFCC is filed herewith and marked as **ANNEXURE P-10** (Pg.303-311).

A copy of the Letter vide D.O. No. Mp. Nowgong: 03 sent by Pradyut Bordoloi with Comments of dissent on the Forest (Conservation) Amendment Bill, 2023 for inclusion in the JPC Report dt. 26.06.2023 is filed herewith and marked as **ANNEXURE P-11** (Pg.312-315).

A copy of the letter dated 12.07.2023 from 105 retired civil servants sent to Members of Parliament

is filed herewith and marked as **ANNEXURE P-12** (Pg.316-325).

20. That the JCP failed to properly take scientific concerns into consideration while considering the Bill. In fact, the JCP had no independent Scientific Advisor to go through and vet the scientific and technical information submitted by MoEFCC and advise it on the deposition of the officers of MoEFCC. Further on perusal of the JCP report, it is evident that the MoEFCC misled the JCP and submitted false information. In turn, the JCP accepted these depositions at face value without any scrutiny or critical thinking.

A copy of the Report of the Joint Committee on The Forest (Conservation) Amendment Bill 2023 dated 20.07.2023 is filed herewith and marked as **ANNEXURE P-13** (Pg.326-503).

21. That the Committee's Report noted that the impetus behind the amendments was the misinterpretations caused by adopting the dictionary definition of forests. It was noted that adopting such a definition led to a number of lands already diverted to non-forest use being considered as forests and that this led to hinderances in achieving carbon sink goals. This assumption does not seem to be correct since forest cover is determined primarily through satellite survey, and land on which there is no tree cover, even if

recorded as forest land, is not included in the survey results.

22. That the catastrophic consequences of enacting this bill were brought to the Government's attention through media and other fora, as it would exacerbate the ill effects of climate change. The Government, nonetheless, bulldozed the bill through Parliament without considering the widespread dissent expressed by the knowledgeable scientific community and other important voices, thus crushing the democratic process that needed to be mandatorily followed for bringing a new law into force.
23. That the Bill was passed by the Lok Sabha on 26 July 2023 and by the Rajya Sabha on 2 August 2023. The Bill was passed through the Lok Sabha in 38 minutes and through the Rajya Sabha in 1 hour and 41 minutes, with limited debate and discussion. The Bill received Presidential assent on 4 August 2023 and was published in the Gazette of India for general information on 4 August 2023.
24. The 2023 Amendment Act is deeply damaging to any gains made in the protection, improvement and conservation of forests after 1980. The amendments also seek to overrule the 12.12.1996 order in *T.N Godavarman* by restricting the application of the Act to only Recorded Forest Areas ("RFAs"). Doing so strips the protection afforded

under the principal Act, as it stood prior to the 2023 amendment to Unclassed Forest Areas which is a large chunk of forest land in India.

25. That most significantly, unclassified forests make up most of the forest area in the North-Eastern states of India. This would mean that under the Act, approximately 97.29% of forest lands in Nagaland and approximately 88.15% of forest lands in Meghalaya will lose legal protection. This is even before considering the implication of the newly inserted Section 1A(2)(a) which exempts all forest land within 100 kilometres of India's international borders from the purview of the FC Act.

D. PRINCIPAL ISSUES

I. Vast tracts of forests have lost legal protection

26. That the 2023 Amendment Act removes protections provided earlier in the principal Act to vast tracts of forest land and restricts protections only to declared and notified forest under the Indian Forest Act of 1927 and land which has been recorded in Government record as Forest on or after 25.10.1980 (i.e. date on which the principal Act came into force). It does so through the insertion of Section 1A(1) which provides –

1A. (1) The following land shall be covered under the provisions of this Act, namely:—

(a) the land that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force;

(b) the land that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25th October, 1980:

27. That this new definition of forest has totally changed the previously accepted dictionary definition of forest, and has left unprotected the most vulnerable forest areas of India. Even before the amendment, India lost 11,743 square kilometres of unclassed forest area between 1997 and 2019 as per Forest Survey of India reports. The newly inserted Section 1A(1) would further exacerbate the vulnerability and lead to unhindered exploitation of unclassed forest areas.

A copy of a Comparative Chart on the unclassed forest area as per the FSI Reports of 1997 and 2019 is filed herewith and marked as **ANNEXURE P-14** (Pg.504).

28. That the amendment retrospectively deprives the effects of the order of this Hon'ble Court in *T.N. Godavarman (supra)*. As per the order of 12.12.1996, forest lands were to be identified by the SEC as per the categorisation provided by the Hon'ble Court within one month. Following up on its

directions issued on 12.12.1996, this Hon'ble Court ordered once again in July 2011 for completion of the exercise of identification of all lands that can be classified as forest for the purpose of FCA.

29. That the MoEFCC has given an assurance before the JCP that under Section 1A(I)(a) and (b) all categories of forests defined by the SECs set up by various states in compliance with this Hon'ble Court's order of 12.12.1996 will be given protection. The MoEFCC further stated that only those forests whose nature has been changed to non-forestry purpose by any Government order, on or before 1996 will not be covered by the amended Act. The MoEFCC assured the JCP that all such forest lands mentioned above have been identified by the SECs constituted within one year of the Hon'ble Supreme Court's order, and that mostly all states had submitted their reports which are on record.
30. That it may be noted with much consternation that the JCP has believed the submissions of the MoEFCC without any questions. They did not call for these SEC reports to be released, or get them examined by scientific forestry experts. They did not have the scientific acumen to question if such data has been evaluated by the FSI, if satellite mapping has been done, if such physical surveys have been undertaken by the states, and if such areas have been demarcated in the field.

31. That contrary to assurance given by the MoEFCC, it is neither known how many states have submitted these SEC reports, nor can the authenticity of these reports be verified. It is not known if the reports were based on ground truthing and if are exhaustive, comprehensive and adequate. The Kerala Expert Committee report itself says that extension of time was requested given the exhaustive terms of reference but was not granted. Hence implying that the report was hurriedly put together. It has no reference to the location in the state, and that no ground truthing, physical cadastral surveys or demarcation of these lands have been done. This is probably the case with other SEC reports submitted by other states also.
32. That it may be noted that these SEC reports are not in public domain either on the MoEFCC's website or on the website of the Forest Survey of India. Thus for citizens of this country, it is difficult to even know where India's forests are located.
33. That the Forest Survey of India reports that have been accessed of 1997 and 2019 do not mention these SEC reports. FSI's identification of forest lands has also not been conducted as per the SEC reports which would have been the order of things. The only information that can be gleaned from the two FSI reports are that over the period from 1997 to 2019, as much as 11,743 sq Kms of Unclassed forests have been lost across the country. Loss of

such a large area of unclassified forest indicates illegal diversion of lands throughout the country.

34. That this Hon'ble in its judgment in *Lafarge Umiam Mining v Union of India* (2011) 7 SCC 338 gave the following directions:

“(vii) Creation and regular updating of a GIS based decision support database, tentatively containing inter-alia the district-wise details of the location and boundary of (i) each plot of land that may be defined as forest for the purpose of the Forest (Conservation) Act, 1980; (ii) the core, buffer and eco-sensitive zone of the protected areas constituted as per the provisions of the Wildlife (Protection) Act, 1972; (iii) the important migratory corridors for wildlife; and (iv) the forest land diverted for non-forest purpose in the past in the district. The Survey of India top sheets in digital format, the forest cover maps prepared by the Forest Survey of India in preparation of the successive State of Forest Reports and the conditions stipulated in the approvals accorded under the Forest (Conservations) Act, 1980 for each case of diversion of forest land in the district will also be part of the proposed decision support database.

(viii) Orders to implement these may, after getting necessary approvals, be issued expeditiously.

(xii) Completion of the exercise undertaken by each State/UT Govt. in compliance of this Court's order dated 12.12.1996 wherein inter-alia each State/UT Government was directed to constitute an Expert Committee to identify the areas which are "forests" irrespective of whether they are so notified, recognized or classified under any law, and irrespective of the land of such "forest" and the areas which were earlier "forests" but stand degraded,

denuded and cleared, culminating in preparation of Geo-referenced district forest-maps containing the details of the location and boundary of each plot of land that may be defined as "forest" for the purpose of the Forest (Conservation) Act, 1980.

It is understood that while some states undertook the exercise, albeit adopting different methodologies, it seems the exercise has not been completed in any state. Therefore, it is very clear that none of the states have followed the orders of this Hon'ble Court vis-à-vis its directions pertaining to the State Expert Committees and identification and demarcation of forests on field by them as detailed above.

35. That it would have been more in order, given its mandate, that the MoEFCC had gotten the orders of the Hon'ble Supreme Court scrupulously implemented rather than create new legislation which not only does not implement the orders but sets it aside. Furthermore, as the three categories of forest lands as identified by this Hon'ble Court's order dated 12.12.1996 have not been identified and demarcated in the field, implementation of the 2023 Amendment Act will be guided by little to no data. This will result in confusion and misuse, and large areas that are intended to be forests will be now taken out of the purview of the Forest (Conservation) Act.

36. That areas that will go out of the purview of the Forest (Conservation) Act as being areas diverted on or before 12.12.1996 based on Government or any authority's order also needed to be identified, before legislating the proviso under Section 1A(1).
37. That proposing such sweeping changes to the existing legal regime through an amendment without actual assessment of forest lands that will be removed from the purview of the FC Act appears to be with a dubious intent and is completely against scientific principles of forestry and conservation, and in contravention of the ecological security of the country. Ground surveys, and state-wise identification of all types of forest lands - notified, recorded, unclassified, deemed forests, and forests by its dictionary meaning, need to be undertaken. This has not been done till now and the SEC reports are inadequate. Making drastic changes in the FC Act, which has been the cornerstone for forest conservation, on the basis of inadequate data and unproven hypothesis is a precursor to an ecological disaster.

II. Violations of FC Act 1980 are being Illegally Regularised

38. That the proviso to Section 1A(1) states-

Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest

purpose on or before the 12th December, 1996 in pursuance of an order, issued by any authority authorised by a State Government or an Union territory Administration in that behalf.

This means that such land shall not fall under the definition of forest land. By bringing this proviso the Government is trying to retrospectively legalise the illegality committed by violating the provisions of Section 2 (ii) of the principal Act. The FC Act categorically states that without the prior approval of Central Government, no state government or authority can use a Forest Land for any non-forest purpose. By bringing the proviso in the amendment the Government is trying to cover up and regularise the illegalities of various State Governments which, without the prior approval of the Central Government, had used forest land for non-forest purposes.

III. Amendments facilitate Rampant Deforestation through Over-Broad Exemptions and Excessive Discretion to the Central Government

39. That beyond the restriction of the applicability of the Forest (Conservation) Act 1980, the 2023 Amendment Act exempts several categories of forest lands (including RFAs) from statutory protection.

i. Section 1A(2)(a): Exacerbating fragmentation of forest land by exempting forest land along rail lines and public roads

40. As per the newly introduced Section 1A(2)(a), the following lands are not covered by the FC Act—

(a) such forest land situated alongside a rail line or a public road maintained by the Government, which provides access to a habitation, or to a rail, and roadside amenity up to a maximum size of 0.10 hectare in each case;

This exemption would cause fragmentation in forest land, leading to its degradation and ultimate destruction as has been proven repeatedly in the past. No definitions have been given as to what is a roadside amenity, public utility, habitations etc. There is no explanation whether the whole area alongside an entire road or rail line is exempt or only the area around the feeder roads that is exempt. Such exemptions can result in large scale degradation and destruction of forests alongside roads and rails.

41. That the MoEFCC has submitted before the JCP that defining amenities, strategic roads/public utilities etc will be undertaken subsequently by the Central Government in accordance with provisions of Section 1A(3) and further explanation in future, under Section 3(C) of the amended Act.

42. That this form of opaqueness is deeply concerning as the MoEFCC does not care to inform the JCP and the people of the country what these terminologies entail. It arrogates the authority to subsequently define these crucial terms without giving explanations and obtaining public consent. It is indeed very dubious as to how the JCP has accepted such explanations and not conducted its transactions with due diligence.
43. That it is a known ecological fact supported by scientific findings and data that ecosystem services provided by intact forest, particularly climax natural forests, is much greater than fragmented forests. Microenvironment changes at fragmented edges resulting in increased light levels, higher daytime temperatures, higher wind speed and lower humidity. Habitat fragmentation reduces biodiversity by 13-75% and impairs key ecosystem functions by decreasing biomes and altering nutrient cycles. This negatively impacts the water table, agricultural productivity, the ability of forest to sequester carbon and the ability to prevent landslides and environmental calamities and provisioning for ecosystem services. It causes irreparable damage to the habitats of both wild animals and birds, especially the smaller species. It is a potent recipe for loss of ecological security for the citizens of this country.

A copy of Haddad et. al., *Habitat Fragmentation and Its Lasting Impact on Earth's Ecosystems* (2015) 1(2) *Science Advances* is filed herewith and marked as **ANNEXURE P-15** (Pg.505-514).

44. That this provision is also applicable to feeder roads being created to the size of 0.1 hectare for access to habitations and public utility services along rail and road sides. The number of such feeder roads, and the distance between each road is not specified and this can lead to large scale destruction of forest lands. Each diversion of 0.1 hectares without any ceiling being prescribed across the country, will pockmark our forests with cancerously growing deforested "islands" and fragment them causing enormous ecological loss.
45. That Respondent No. 1 has failed to appreciate that human-wildlife conflict will exacerbate as a consequence of these amendments. Opening forest lands for non-forest use will lead to shrinking, fragmentation and degradation of wildlife habitats. Blocking the paths of long ranging animals such as elephants, tigers, bears by mines, highways and other infrastructure increases human-wildlife conflict, which is already a burning issue in many parts of the country. It has led to loss of human life, livelihoods, and tremendous loss of crops across the country. It could lead to local extinctions of already vulnerable species. It is a misconception that much of our wildlife is confined to Protected Areas. It is

noteworthy that much of our wild species live outside Protected Areas. Seventy percent of elephant population, a good part of wolf, bustard and leopard populations reside in landscapes outside Protected Areas. Other endangered wildlife outside Protected Areas includes fishing cats, snow leopards, sloth bears, hyenas, sarus cranes, lesser floricans, king cobras, etc.

46. That when a forest becomes secluded, the movement of wildlife is inhibited. This restricts gene flow and results in long-term population decline. Organisms struggle to move between habitat fragments, which can lead to decreased genetic diversity. This increases disease vulnerability and the risk of extinction. Fragmentation contributes to increased invasive plants (uncontrolled spread of non-native plants) in the habitat thereby increasing chances of spread of pests, pathogens and degradation of the water quality.
47. That predators have a very important role to play in the regulation of an ecosystem. Most predators are susceptible to the process of fragmentation and thus are found to be often missing from fragmented forests. When the top predators are lost, the food web falls out of place and the organisms residing at the lower end of the food chain can uncontrollably multiply. Herbivores like wild pigs, leaf cutter ants, monkeys and rodents have shown such effects.

ii. Section 1A(2)(b): Wrongly exempting all tree plantations and afforested areas

48. That the newly inserted Section 1A(2)(b) further excludes the following from the purview of the FC Act –

(b) such tree, tree plantation or reforestation raised on lands that are not specified in clause (a) or clause (b) of subsection (1);

This exemption stands in stark contrast to the Act's purported Statement of Objects and Reasons to promote reforestation. Scientifically, this exception is also misplaced and illogical and functions under unsound and dubious presumptions as to the efficacy of compensatory afforestation and plantation drives.

49. That according to the MoEFCC, as submitted before the JCP, this provision has been introduced for promoting tree plantations as allegedly people are not growing trees and plantations due to the fear of applicability of the FCA. It further claimed that by removing such trees and plantations from the FCA's purview, the fear will be removed. It has been assumed that people will then start growing trees and plantations on a large scale, thus helping our country to achieve its national targets of Net Zero emission by 2070, while creating carbon

sinks, increasing green cover, improving livelihood of forest-dependent communities, etc.

50. That the submission of the MoEFCC is only based on suppositions and anecdotes, and not on data to show that there is reduced planting due to fear of the FC Act.
51. That there is no clause in the impugned law stipulating that such areas identified will be used only for plantations and cannot be diverted for any other purpose by the owner of that parcel of land. It is only wishful thinking at best, but a false and misleading claim that the owners will use that land only for agro-forestry and for raising plantations. In fact, in all likelihood, the owners would not have diverted it for other uses till now only because of the applicability of the FC Act, and that will change now.
52. That such lands are more likely to be diverted for non-forestry lucrative “developmental” activities now when there will be no oversight over land use of these areas. More ominously, they will be used as Compensatory Afforestation lands offered up in lieu of forest areas diverted for non-forestry activities. There is a strong possibility that while obtaining permits for diversions of notified forest land, project proponents will offer such “freed forest lands” as compensatory afforestation areas.

The amendments offer no safeguards against such a trade-off.

53. That it can only be inferred that the intention is dubious and the MoEFCC is trying to mislead the citizens of this country by offering such a bizarre logic that people will grow more trees once the FC Act is no longer applicable to such lands.
54. That it is presumptuous and fallacious to believe that the amendment will address a perceived fear that people are not planting trees because the FC Act is applicable in these areas. In fact, people, especially those who are financially deprived – a likely majority, will go for what is most monetarily appealing for them in the short term, rather than start planting trees. At best they will go for monoculture of the most commercially profitable trees. Further, this perceived fear could have been easily resolved by issuance of a clarificatory circular/ guideline rather than bring out such a sweeping amendment.
55. That there are large patches of land throughout the country where plantations of poplar, rubber and eucalyptus etc. are being grown and harvested for commercial purposes, without any fear of the Forest (Conservation) Act being brought into force in such lands. If there are any such instances that may have happened, it could have been only due to mala-fide or ignorance on part of

the enforcement officers, rather than fear of the law.

56. That the principal Act is effective and practical and the need of the hour is better implementation. State-level initiatives under the umbrella of the principal Act could have been considered to encourage tree plantation. Some such initiatives are already underway -

- i. The administrative report of Kerala Forest Department 2020-21 states that there is a "*Scheme for Incentivization of Private Forestry under Social Forestry*". The proposal to give cash incentives to farmers with an objective of encouraging them to grow more trees and produce timber in private lands, was approved by the Government vide G.O (Rt) No. 99/2012/F&WLD, dated: 17.02.2012. The tree species included in this scheme are teak, sandal, mahogany, anjili, plavu, rosewood, kambakom, kumbil, kunnivaka and thembavu. The scheme is being implemented through individual farmers, VSS, EDC, Kudumbasree units, Self Help Groups, farmer's co-operatives and NGOs. Those who are planting a minimum of 50 seedlings in their land will be eligible for incentives. The scheme also provides cash awards for the best three performers in each of the above said slab at the end of 5th and

10th year. An amount of Rs. 4,09,610 was expended during 2020-21 for the same.

- ii. Similarly, the Forest Department Annual Administrative Report of Assam states that Agro-Forestry and plantation on private land under the programme *Assam Project on Forest and Biodiversity Conservation* aims to promote alternative livelihoods through initiatives such as agroforestry amongst the forest-fringe communities of the state. In December 2021, the Assam FD has also notified the creation of 'Assam Agroforestry Development Board' as a non-profit company.
- iii. The Andhra Pradesh Annual Administrative Report also states the popularisation of various Agroforestry practices/models suitable to different agro-ecological regions and land use conditions.

It would be safe to say that many states in India run such tree plantation drives and specific targeted programmes to increase tree cover and to provide local livelihoods.

57. That social forestry programs offering tree planting for private areas, agroforestry, plantations along rail, roads, etc. run throughout the country and huge funds have been spent over such programmes and many assets created in terms of agroforestry and urban forestry. Therefore, for the MoEFCC to

claim that people are scared to plant trees, plantations, and engage in agroforestry is negating a huge social forestry programme running across the country over the last 20 years. The Government has poured crores and crores of public funds for this purpose, with dedicated forest staff to run such programs. The MoEFCC has misled the JCP by giving false information and hiding the facts.

iii. Section 1A(2)(c)(i): Blanket exclusion of land within 100 kms of the LOC and international borders

58. That the newly inserted Section 1A(2)(c)(i) excludes such forest land –

(i) as is situated within a distance of one hundred kilometres along international borders or Line of Control or Line of Actual Control, as the case may be, proposed to be used for construction of strategic linear project of national importance and concerning national security; or

The petitioners would like to draw the attention of the Hon'ble Court to the horrific impacts of this exemption. This means there will be no regulatory oversight, no safeguards, no impact assessment on the environment, loss of some of the rarest lowland dipterocarp forests surviving in the world which are also amongst the richest in India in the

Andamans and Nicobar, as also wild habitats and species. India's 15,100 km international terrestrial borders house India's most biodiverse and fragile ecosystems and includes almost the whole of the Northeast. A look at just the Species Listed in the MoEFCC's 'Species Recovery Programme' whose ranges fall within 100 kms distance from International Border, LoC, LAC is cause for concern.

A copy of a representative map of India showing the ranges of Species Listed in the MoEFCC's 'Species Recovery Programme' falling within 100 kms distance from International Border, LoC, LAC along with population status of these species is filed herewith and marked as **ANNEXURE P-16** (Pg.515-516).

59. That entire territories of the northeastern states, such as 90% of Nagaland, a large part of Assam, and the whole of Meghalaya, Tripura and Mizoram, fall within this range. These exclusion zones harbour India's national animal - the tiger, national heritage animal - the elephant, and other endangered, critically endangered and endemic species such as the Great Indian Bustards, red pandas, Snow Leopards, Hoolock Gibbons, Wild Ass, wolves, Black-necked Cranes, pangolins and bears, to name only a few.

60. That it may be noted that Himalayan glaciers form the headwaters of rivers such as the Ganga, Brahmaputra, Indus and others which provide sustenance to millions downstream. Unchecked construction on such seismically and geologically sensitive landscapes not just threatens rare wildlife and the country's water security but also renders these regions vulnerable to earthquakes and landslides. The land subsidence in various parts of Himachal Pradesh and Uttarakhand should be a wake-up call for stringent environmental oversight and safeguards on developmental activities in the Himalayan belt, rather than squandering our ecological responsibility. Viewed in this context, the justifications provided by the MoEFCC for this amendment are vapid and hollow.
61. That the MoEFCC in the JCP report states that 100 km exemption along international border is being provided because they want to fast-track construction of strategic linear projects of national importance and those concerning national security. However, they have not provided any data to the JCP showing delay in any such projects due to the implementation of the principal Act. Thus the MoEFCC concern is based on suppositions and anecdotal findings which has little value empirically and in forestry, which relies heavily on science.
62. That a number of the present petitioners have been members of the committees which approve

projects under the FC Act including those for defence needs and can vouchsafe that no defence project has ever been rejected. The MoEFCC should have been asked by the JCP to furnish information as to how many and what percentage of defence proposals have indeed been rejected in the past 10 years to warrant such a drastic exemption.

63. That the MoEFCC deposed before the JCP that only 3.5% of diverted area under the FC Act is for defence road projects (clause 2.4.68, JCP Report). This again indicates that defence roads in border areas have not been a significant number. Changing the law so drastically for 3.5% of forest diversions appears to be unwarranted.
64. That MoEFCC's replies to the JCP in response to concerns raised about this exemption include that these will be linear projects and will only be within 5-10 kms of the international boundary/LOC (e.g. Internal Page 30, 32, 37, 39 of JCP report). If that is the case, then it is unclear why a 100 km belt been provided when 5-10 km is adequate. Such a submission is merely a response to the JCP by senior officers of MoEFCC and is neither reflected in the law nor does it trickle down to other implementing officers in the concerned states. What will be implemented is what is stated in the law, and not what was deposed before the JCP.

65. That the Ministry has remained silent about the maritime borders which also are included within international boundaries of 100 kms and where linear projects such as laying of oil and natural gas pipelines, etc can be done as per this act legally, without obtaining any clearance. The destruction that can be caused to the already vulnerable sea scape, coastal belts, coral reefs, mangroves, beaches and marine bio-diversity is incalculable. the richness and importance of the forests of the outlying islands of India has been already mentioned. These coastal and marine ecosystems are the first line of defence against tsunamis and cyclones, as was seen in the 2005 tsunami and repeated cyclones in the Sundarbans, for the extremely vulnerable coastal and island zones of our country. Bleaching of corals, loss of sea grasses, high extinction risks of endangered species such as the dugong and turtles is a stark outcome of such meddling with our sea scape. Acute hardship will be caused to millions of fisherfolk, whose livelihood is completely dependent on seas. They are inevitably going to be impacted by such laws, for which no social accounting has been done before notifying such an amendment. Such over-broad exemptions, without any explicit safeguard in the amended law, will render them vulnerable, exposed to large-scale destruction without any scrutiny or accountability.

iv. Section 1A(2)(c)(ii): Forest land used for security related infrastructure excluded from the Act's purview

66. That newly inserted Section 1A(2)(C)(ii) excludes the following from the purview of the FC Act –

(ii) up to ten hectares, proposed to be used for construction of security related infrastructure; or

In the absence of any indication of which forests this provision will be applicable to, it is clear that it will apply to all forests in the country. It does not even restrict the numbers of such constructions of security related infrastructure, which could amount any numbers of constructions carried out, taking 10 hectare forest land for each such construction piecemeal.

67. That the exemption applies to forest anywhere in the country, rendering by implication all forest in the country vulnerable to diversion and destruction. This is indeed a shocking and very dangerous clause and will result in loss of our forests, biodiversity, livelihoods, and ecological security for people.

68. That such a broad exemption, without any explanation to where it will be applicable and without any safeguards, while potentially being applicable to every piece of forest land in India, is

extremely concerning and should be set aside to safeguard the ecological security of our country

69. That this too will result in fragmentation of our forests. It merits repeating that the amendment does not consider a known ecological fact supported by scientific findings and data that ecosystem services provided by intact forests is much greater than fragmented forests. As mentioned earlier, habitat fragmentation reduces biodiversity by 13-75% and impairs key ecosystem functions by decreasing biomes and altering nutrient cycles. It is a potent recipe for loss of ecological security for the citizens of this country besides being disastrous for our biodiversity and wildlife through loss and destruction of habitat and populations.

v. ***Section 1A(2)(c)(iii): Unrestricted exemption for defence and public utility projects in Left Wing Extremism affected areas***

70. That as per the newly inserted Section 1A(2)(c)(iii), the FC Act will not apply to such forest land –

(iii) as is proposed to be used for construction of defence related project or a camp for paramilitary forces or public utility projects, as maybe specified by the Central Government, the extent of which does not exceed five hectares in a Left Wing Extremism affected

area as may be notified by the Central Government.

The amendment has also been justified by stating that the principal Act comes in the way of building drinking water facilities, toilets in schools, basic infrastructure and other such basic facilities in forests.

71. That construction of infrastructure to serve basic development needs are allowed by circulars and guidelines under the FC Act 1980. Therefore, the premise itself is false that people living in forests face difficulties as there are no schools and water facilities and that other basic facilities are denied due to the FCA 1980. The MoEFCC has deliberately misled the JCP and the nation by stating this as a reason for allowing 5 hectares to be diverted in left wing extremism areas for such purposes.
72. That the number of such infrastructure for paramilitary units within any forest is also not specified. Laying of roads to such units, electricity, water lines and other such facilities is also not specified, which no doubt will be ancillary and not accounted within the stipulated diversion of the 5 ha exemption. It has been already mentioned that fragmentation and other associated ecological losses, both to biodiversity and humans, is an inevitable outcome of such untrammelled construction.

vi. Section 1A(3): Statutory reliance on compensatory afforestation which has a very poor track record in India

73. That as per the newly inserted Section 1A(3),

(3) The exemption provided under sub-section (2) shall be subject to such terms and conditions, including the conditions of planting trees to compensate felling of trees undertaken on the lands, as the Central Government may, by guidelines, specify.

It is submitted that before making such a grandiose aspiration of increasing green cover by raising plantations, an assessment should have been as to how much money has been spent in the past 20 years for raising plantations across the country, the species composition and success and failure rates of such plantations and such data should have been placed in public domain. There must be innumerable vigilance cases against delinquent officers for causing failed plantations, data regarding which is also liable to be collated. Such large-scale plantations as suggested should only be given a go-ahead if the data shows that the survival rate of these plantations is good and worth investing in.

74. That this Hon'ble Court in its order dated 25.03.2021 in *Association for Protection of Democratic Rights v State of W.B.* (2021) 5 SCC

466 had set up an expert committee under the chairpersonship of Dr. MK Ranjitsinh Jhala to *inter alia* develop a set of scientific and policy guidelines that shall govern decision making with respect to cutting of trees for developmental projects. The committee submitted its report dated 05.01.2022. Some of the key observations made by this committee in its report are:

“Compensatory Afforestation’ needs to be replaced with ‘Compensatory Restoration’ both conceptually and in practice. Compensatory restoration of forest implies restoring it to its pristine form, and a degraded grassland to its original state and not into a woodland of fast-growing species.’

“The survival of plantations has been a major problem and results from inadequate planning, and poor execution and monitoring. Monies collected by the CAMPA are to “carry out statutory and constitutional obligations,” i.e., the protection of natural resources. Compensatory afforestation ought to be positioned as discharging a statutory and constitutional responsibility of restoring and long term survival of a ‘national’, ‘intergenerational’, ‘public’ asset and be differentiated from routine forest

plantation activity. Forestry plantations will succeed only when accountability is fixed.'

'The present compensatory conservation regime turns a blind eye to the livelihood and security of forest-dependent communities who are most impacted by forest diversion.'

'Species selection in afforestation projects is most often biased towards fast-growing, non-native tree species that thrive in disturbed habitats but have limited scope for fostering biodiversity or other species that would benefit local forest-dependent communities. Such inappropriate plantations may be more accurately described as 'green deserts'. To make matters worse, in many instances plantations have been raised in areas that never historically harboured trees, but instead contained other types of valuable natural habitats such as grasslands, which were destroyed as a result of mindless tree-planting.'

A copy of relevant extract the Report on Compensatory Conservation in India: An Analysis of the Science, Policy and Practice submitted to the Hon'ble Supreme Court by the 7-Member Expert

Committee pursuant to the directions dated 25.03.2021 in SLP (Civil) No. 25047/2018 is filed herewith and marked as **ANNEXURE P-17** (Pg.517-527).

75. That in its order dated 11.01.2023, this Hon'ble Court recorded its appreciation for the herculean efforts put in by the Expert Committee in preparing a commendable report. It directed the MoEFCC to respond to the report and state as to what measure the Union of India propose to take to give effect to the Committee's recommendations. Till date no response has been filed by the MoEFCC to this report, which indicates its low level of engagement with issues of such critical importance.

A copy of relevant extract of order dated 11.01.2023 of the Hon'ble Supreme Court of India in SLP (C) No. 25027 of 2018 (tagged with *T.N. Godavarman v Union of India*) is filed herewith and marked as **ANNEXURE P-18** (Pg.528-551).

76. That it may also be noted that there are innumerable press reports for almost all states as to the number of failed plantations and crores of tax-payer's money squandered over this.

A copy of the article by Simrin Sirur titled 'More Than Half of Himachal Pradesh's expenditure on tree planting wasteful, study finds' published in

The Print dt. 27.03.2022 is filed herewith and marked as **ANNEXURE P-19** (Pg.552-554).

A copy of the article by Atikh Rashid titled 'Green Maharashtra' initiative: 38 out of 59 participating govt agencies fail to submit survival report for a single sapling' published in *The Indian Express* is filed herewith and marked as **ANNEXURE P-20** (Pg.555).

A copy of the article titled 'CAG finds 'irregularities' in Odisha forest dept's plantation activities' published in *Business Standard* dt.02.08.2022 is filed herewith and marked as **ANNEXURE P-21** (Pg.556-561).

77. That moreover, this objective of creating carbon sinks via afforestation, plantations and increasing tree cover is counter intuitive, and multiple studies, including in India show that these are poor in sequestering carbon. Natural forests are far more effective – a study published in *Nature* indicates that the carbon sequestration potential of natural forests is 40 times greater as compared to plantations.

A copy of the article Lewis, Wheeler et. al. 'Regenerate Natural Forests to Store Carbon' (2019) 568 *Nature* 25, dt. 04.04.2019 is filed herewith and marked as **ANNEXURE P-22** (Pg.562-565).

IV. **Arbitrary Restriction of what constitutes Non-forest Purpose**

i. Explanation to Section 2(1): Arbitrary exemption of zoos, safaris and ecotourism facilities from the purview of 'non-forest purpose' without regard to conservation goals

78. That the 2023 Amendment Act entirely arbitrarily expands the scope of what may be considered a non-forest purpose by substituting the existing provision. The Explanation to Section 2(1) now states the following regarding non-forest purpose—

Explanation - ...

but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as—

(i) silvicultural operations including regeneration operations;

(ii) establishment of check-posts and infrastructure for the front line forest staff;

(iii) establishment and maintenance of fire lines;

(iv) wireless communications;

(v) construction of fencing, boundary marks or pillars, bridges and culverts, check dams, waterholes, trenches and pipelines;

(vi) establishment of zoo and safaris referred to in the Wild Life (Protection) Act, 1972, owned by the Government or any authority, in forest areas other than protected areas;

(vii) eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and

(viii) any other like purposes, which the Central Government may, by order, specify.";

Forests have been managed traditionally by operationalising the activities mentioned in clauses (i) to (v), and these were mentioned in the principal Act as well. To date, huge amounts of funds from the public exchequer have been spent on such activities. Huge assets and infrastructure have been created for this purpose throughout the country. All these are governed by approved working plans, forestry codes, and forest schedule rates.

79. That, however, apart from the reasonable exemptions that already existed in the principal Act, shockingly zoos and safaris owned by the Government or any authority in forest areas other

than Protected Areas, and Ecotourism facilities are also now excluded from the purview of non-forest purpose. A number of submissions made to the JCP by stakeholders, experts, and even a few State Governments raised serious concern about the misuse of this amendment and commercializing of the forests in the name of zoo, safari and ecotourism.

80. That zoos hold captive animals and safari parks are merely larger enclosures, and thus cannot be equated with conservation of wildlife or forestry activity. They do not have in their manifesto or agenda the conservation of forests or other natural ecosystems. It may be mentioned that until recently the setting up of zoos and safari parks within and around protected areas was not permitted.
81. That this is a blatant attempt to open floodgates to increased forest diversions for zoos and safaris in the name of 'forest conservation and management' and ecotourism, as has been promoted and planned in the Aravali. The proposed Aravalli Safari Park by Haryana government involves construction of huge infrastructure and, includes structures such as clubs, restaurants, aquarium, cable car, open-air theatres, animal cages, entertainment parks, landscaped gardens, electricity lines, road networks etc. This cannot be termed a forestry activity by any stretch of imagination. Bringing zoos and

safaris in the ambit of forestry activities will only benefit the mega tourism industry and politicians, who have been clamouring for such activities for their personal and political gains. The principal Act had been a major tool for forest officials in fighting off such unscrupulous attempts at forest diversion. However, the MoEFCC has now made it easy for such vested interests to be rewarded by removing the need to seek permission.

A copy of the article by Ipsita Pati titled 'Ph-1 of Aravali zoo safari park to be developed in 2 years: Khattar' published in *The Times of India* dated 06.07.2023 is filed herewith and marked as **ANNEXURE P-23** (Pg.566-567).

82. That the exemption for zoo, safari, eco-tourism facilities, prospective survey, exploration etc. is contrary to the National Forest Policy 1988. It is regressive and ultra vires to the FC Act, as it relaxes the existing safeguards against commercial utilization of our natural assets.
83. That the inclusion of the term '*any authority*' in clause (vi) is also deeply worrying. Like with other terms in this Act, this phrase has not been defined in the law, thus rendering it open for misuse or misinterpretation. In its submission to the JCP, the MoEFCC mentions that activities indicated in clause (vi) will be with the approval of the Central Zoo Authority (CZA) and will be implemented by

Government authorities. CZA looks only at the aspects related to the functioning and upkeep of zoos; not at forest conservation vis-à-vis the zoo. The MoEFCC assurance to the JCP is clearly misleading and creates a leeway for future diversions by private or corporate entities, who have already shown interests in creation of large zoos. The controversy surrounding the illegal felling of trees in the Corbett Tiger Reserve and massive encroachments on forest land for the Pakhru Tiger Safari in Uttarakhand may be highlighted here. In September 2023, the Hon'ble High Court of Uttarakhand directed the Central Bureau of Investigation to investigate the illegalities surrounding the construction in the Safari Park in the Tiger Reserve.

A copy of article by Ishita Mishra titled 'Uttarakhand HC orders CBI to probe illegal construction inside Corbett National Park' published in *The Hindu* dt. 07.09.2023 is filed herewith and marked as **ANNEXURE P-24** (Pg.568-571).

84. That even though the JCP raised concerns on this specific exemption and suggested that such activities be carried out in non-forest lands, the MoEFCC did not address its concerns nor give a satisfactory response. Despite knowing the negative implications of such a legal exemption, the JCP accepted the unreasonable explanation, accepted

the amendment and did not recommend any modifications.

85. That the amendment to encourage zoos and safaris on forest land suggests an intent to encourage wildlife in captivity and as objects of amusement, rather than their conservation in the wild. World over, the movement is to move away from zoos. With this law India seems to be sliding into the dark ages where menageries flourished as means of entertainment and not the way forward for the future for forest and wildlife conservation and the preservation of the national natural heritage.
86. That considering zoos and safaris as activities ancillary to forest conservation and management defies logic and basic common sense and only exposes the mala fide commercial intent of the government. One must consider the associated negative impacts on otherwise intact forests and wildlife from the creation of permanent structures, huge constructions, access roads, power transmission lines and other supporting infrastructure for such zoos and safaris. It subverts basic public interest and commitment to nature conservation. Zoological parks hold wildlife in captivity and are considered means of entertainment; many have huge welfare concerns and only a select few serve as ex-situ tools for wildlife conservation. They cannot, at any cost, be

used as means to fragment the forests and destroy them in the name of conservation.

87. That the amendment also excludes ecotourism facilities in forest lands from non-forest uses, if they are included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area. In this regard, MoEFCC as per the JCP Report believes that "...such facilities, besides sensitizing and generating awareness about the importance of conservation and protection of forest land and wildlife, will also add to the livelihood sources of local communities and thereby providing them opportunities to connect with the mainstream of development". This clause is redundant because if such activities are included and approved in Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area, they do not need to be specified in this amendment as this course of action is already being followed.
88. That in the name of ecotourism, commercial tourism has already taken over the natural habitats and forests in our country. This is the on-ground situation in many forest lands in India, despite the existing regulations under the purview of the principal Act and the "Guidelines on Sustainable Eco-tourism in Forest and Wildlife Areas" issued by MoEFCC in 2021. Similar concerns about the negative impacts of unregulated ecotourism on

forests and wildlife have been raised by several other individuals, organizations and experts in their submissions to the JCP including Petitioner No. 7 and No. 11 in their submission annexed as Annexure P-8 above. However, these were completely disregarded by MoEFCC as well as the JCP.

A copy of the Ministry of Environment, Forests and Climate Change's Guidelines for Sustainable Eco-tourism in Forest and Wildlife Areas 2021 dated 08.10.2021 is filed herewith and marked as **ANNEXURE P-25** (Pg.572-582).

89. That eco-tourism facilities obstruct wildlife movement, alter the land use and land cover, pollute the landscape, increase human-wildlife conflict etc., cause further fragmentation of a landscape already affected by linear disturbances like access roads, and put great pressure on land and water. Similar concerns are reflected in the National Wildlife Action Plan 2017-31 ("NWAP"), which mentions that in recent years mushrooming of tourism facilities has led to overuse, disturbance and serious management problems in several PAs.
90. That the submission of the MoEFCC to the JCP does not clearly justify the reasons for permitting ecotourism facilities in forest areas. It also does not clarify or define the term 'ecotourism facilities'. Such an ambiguous term is open for wide

interpretations, making it easier for construction of permanent or high-impact structures within the forests. This has serious ecological implications and is clearly against our country's ethos of forest conservation and protection.

91. That it is pertinent here to recall Hon'ble National Green Tribunal's observations in the matter of *Social Action for Forest and Environment (SAFE) Vs Union of India & Others* in its order dated 10/12/2015, regarding haphazard and unregulated licensing of the river rafting camps operating in the river Ganga from Shivpuri to Rishikesh. In this context, the Hon'ble Tribunal noted that ecotourism activities such as camping in forest lands, that were erroneously perceived as low-impact by the Government, could not be considered as a forestry activity or ancillary to forest conservation. Therefore, such activities shall be subjected to the provisions of the original FC Act directing the concerned user agencies to seek relevant permission for such non-forestry activity in a forest land.

A copy of the Judgment dated 10/12/2015 passed by the Hon'ble National Green Tribunal in *Social Action for Forest and Environment (SAFE) v Union of India & Ors* 2015 SCC OnLine NGT 843 is filed herewith and marked as **ANNEXURE P-26** (Pg.583-692).

92. That the MoEFCC's actual intentions for permitting ecotourism in forest areas remains ambiguous. In its submission to the JCP, the MoEFCC mentions that these amendments do not promote corporate enterprises and that such activities like ecotourism will be implemented as the working plan or management plan by the Government Department. However, the amended provision is only likely to provide an opportunity to unscrupulous individuals or agencies to misuse the Act.
93. That the MoEFCC failed to apprise the JCP about 'The National Strategy for Ecotourism 2022'. The JCP members also did not find it necessary to inquire from MoEFCC or the relevant Ministry about the existing policies governing the implementation of ecotourism in forests and Protected Areas. This 2022 Strategy allows for identification of certain areas as 'Ecotourism Blocks' in forest lands, which are to be designated by State Governments for development and management by the private sector. The private operator will be given 'exclusive access' preferably in partnership with the local communities but they will not have rights to the forest produce or the forest land. The private operators cannot build residential or commercial facilities on the designated forest land except if there are no private lands available for the same, adjoining the Block. This is a very alarming development and violative of the FC Act.

Exemptions to ecotourism activities and facilities in forest lands as per the 2023 Amendment Act along with this 2022 strategy of 'Ecotourism Blocks' is a sure way of opening the doors of the country's forests to the private sector, giving them unfettered access to our natural assets.

A copy of the National Strategy for Ecotourism 2022 by Ministry of Tourism, Government of India dated 29.04.2022 is filed herewith and marked as **ANNEXURE P-27** (Pg.693-742).

94. That the potential impacts of ecotourism and safaris on the wildlife living in such forest lands has been entirely ignored. One study published in 2019, found higher stress levels in tigers during the tourist season than in non-tourist season in two tiger reserves in India. The hordes of jeeps clamouring to get as close to an animal or to take pictures of tigers and other wildlife are popular scenes in our tiger reserves and protected areas. Increased littering by tourists has severe implication in and around the forests and protected areas. Most scenic natural forests and hill stations have restaurants, souvenir shops, shanties selling tetra pack drinks, chips in poly-packs, etc. Wildlife is attracted to the food in rubbish dumps where they scavenge, becoming used to people further exacerbating human-wildlife conflict. Macaques, and increasingly elephants, in human spaces, sometimes feeding on the waste dumps near

ecotourism facilities, is a typical example of the unforeseen impacts of anthropogenic activities. Allowing such a clause will destroy our natural habitats, and poignantly, remove the very essence of wildness from our wildlife.

A copy of the research article by Tyagi et al. titled 'Physiological stress response of tigers due to anthropogenic disturbance especially tourism in two central Indian tiger reserves' 7(1) Conservation Physiology 2019, coz045 is filed herewith and marked as **ANNEXURE P-28** (Pg.743-751).

95. That nature has time and again made the grave consequences of widespread disturbances and degradation of forests and natural habitats clear. The unfortunate tragedy in Kedarnath, Uttarakhand in 2013 and the damage caused by the recent Himachal Pradesh flash floods in July 2023 are distressing examples of the harrowing outcomes. Such ecologically fragile areas are also very popular tourist destinations and are increasingly being developed to facilitate more tourist influx. While tourism is an important way to provide local communities with livelihood options, but unregulated and high-impact tourism can be counterproductive with deadly impacts on the same communities.

ii. Section 2(2): Arbitrarily permitting activities such as survey and exploration in forest land

96. That as per the newly inserted Section 2(2)–

(2) The Central Government may, by order, specify the terms and conditions subject to which any survey, such as, reconnaissance, prospecting, investigation or exploration including seismic survey, shall not be treated as non-forest purpose."

This means no approvals will be required under the FC Act for such work. By excluding activities such as surveying from the ambit of non-forest purpose, it leaves all forests vulnerable to destructive use and activity. The JCP has not considered the necessity of conducting prospective surveys for minerals and oil and natural gas in forest areas. It simply says that no permanent damage will be done to forest in the event of such scoping surveys. If coal, diamonds or other minerals are found in rich forest areas, there will inevitably be demands for diverting the forest land for destructive mining activities. The implication is clear that if minerals are found in such prospecting surveys the next step will be to extract it, without considering the deleterious impacts on forest, wildlife, bio-diversity and ecosystem services that such forests offer, even in designated protected areas like national parks and sanctuaries. It raises the question as to how such a clause is going to justify the new name of the law which refers to conservation and augmentation of forests.

97. That the MoEFCC repeatedly justifies the exemption of these survey activities as these do not have any "perceptible change". Such an understanding and rationale is highly imprudent. In the JCP Report, there is no mention of empirical evidence provided by MoEFCC to this effect or for any other exemptions.
98. That as per the guidelines issued by MoEFCC (FC Division) '*Guidelines specific to hydrocarbon sector for undertaking 'seismic surveys and exploratory drilling in forest areas'* under para 6.8 of Chapter-6 of the Handbook of the Forest (Conservation) Act, 1980, certain guiding directions have been enlisted to regulate seismic surveys and exploratory drilling in forest areas. One of the guidelines direct that, "[t]he process of exploration drilling for hydrocarbon in 130 m x 130 m area causes total damage to vegetation (both flora and faunal elements) in the area and cannot be considered as temporary vegetation change. It is a case of proper diversion for the purpose of FCA 1980 and must be considered for processing with application in form A of FCA rules and not under Form C."
99. That when MoEFCC itself considers certain types of exploratory drilling in forests as a "case of proper diversion", it is rather baffling that it went on to impose a blanket exemption on all such activities irrespective of their individual impacts, instead of continuing to regulate it on a case-by-case basis or

through effective implementation of its own guidelines. This clearly shows the actual intentions of MoEFCC, which is incongruous to its stated mandate –the conservation of forests, mitigating the impacts of climate change, meeting the carbon sequestration targets and welfare of and livelihood generation for local communities.

100. That the Hon'ble Guwahati High Court in December 2020 has imposed a stay over the Environmental Clearance given to Oil India Limited for their proposal on hydrocarbon exploration and drilling utilizing extended reach drilling methods at seven distinct locations within the Dibrusaikhowa National Park. The reason for this suspension was the absence of a Biodiversity Impact Assessment. Unfortunately, such regulatory safeguards against unbridled developmental activities slowly being diluted and the 2023 Amendment Act is yet another instance of this dilution.
101. That it is apparent that the provisions of the 2023 Amendment Act will cumulatively cause extensive and unbridled damage to the forests of India. These amendments fundamentally change the entire object and purpose of the FC Act as well as the regulatory framework built under it. The amended Forest (Conservation) Act is now a new legislation, bearing little resemblance with the principal Act. This was brought to the attention of the JCP by the submission of LIFE, but this concern

has neither been taken on record, nor replied or addressed by the JCP.

A copy of the Legal Initiative for Forest and Environment (LIFE)'s comments on the Forest (Conservation) Amendment Bill 2023 is filed herewith and marked as **ANNEXURE P-29** (Pg.752-762).

V. **North Eastern States Will Be Forced To Bear The Brunt Of The Act's Arbitrary Provisions**

102. That the north-eastern states of India boast significant forest coverage, ranging from 47% in Sikkim to 84.5% in Mizoram. These lush forests contribute substantially to the country's dense forest cover, accounting for around 25%. However, even prior to the recent amendments, these states were grappling with substantial forest loss. Between 2009 and 2019, these states lost a considerable 3698 sq.km of forest, with nearly 28% of this loss occurring within the last two years. A pressing concern amplifying the situation in the region relates to large forest expanses falling within the Recorded Forest Area (RFA) that remain unclassified under any government records. This constitutes more than 52% of the RFA in certain states, such as Manipur, Nagaland (almost over 90%), and Meghalaya, and includes forests managed by traditional institutions on private or communal lands. Disturbingly, extensive

unclassified forests might not even appear in government records, potentially rendering them beyond purview of the FC Act after the amendment unless officially recognized as forests after 25 October 1980.

103. That the removal of legal protection of forests solely due to absent official records is a contentious point in the Northeast. Moreover, these forests play a pivotal role in food security for the region, as periodic clearings and regeneration – known as jhum cultivation is the mainstay of local agriculture. Significantly, areas outside the RFA in the Northeast comprise approximately 38.5% of Assam's forest area, contributing almost 4% to India's total forest cover. Remarkably, dense forests form a substantial 44% or so of these areas, underscoring their ecological importance. However, the 2023 Amendment Act fails to extend conservation provisions to these regions.
104. That the situation is worsened as pursuant to the amendments, forest clearance is no longer required under the FC Act for forest land within 100 km of international borders or strategic zones for defence or security related projects. Entire territories of the northeast states, such as 90% of Nagaland and the whole of Meghalaya, Tripura and Mizoram, and a substantial part of Assam fall within this range.

105. That the unique status of Nagaland under Article 370(a) further complicates matters. With over 90% of its forests owned by individuals, clans, and local communities, the state operates under oral traditions, with limited written records including records of the forest boundary, etc. Less than 6% of the forest lands are controlled and managed by the forest department as per the original FCA 1980. An estimated 29% of Nagaland's forest cover lies outside the RFA, raising questions about the applicability of the amended FC Act. Moreover, Nagaland has also failed to implement the Forest Rights Act until now, due to the different traditional ownership system in the state. Therefore, further easing the way for forest diversion and exploitation in the state. There is a push for oil palm plantations in Nagaland. Currently it has 4623 ha under oil palm while the target is another 15000 ha in the "wastelands" of seven districts under the National Mission on Edible Oils-Oil Palm-a Centrally Sponsored Scheme. Agreements on the same have already been signed with Patanjali and Godrej Agrovet Limited.
106. That large parts of dense forests in these states will be highly vulnerable to diversions to activities such as mining, plantation, zoos, safari, exploration surveys, and for security reasons. It is pertinent to note here that this concern has been

mirrored and considered seriously by the affected states themselves. It may be noted that the legislative assembly of Mizoram has unanimously rejected the 2023 Amendment Act through a resolution dated 22.08.2023 to "protect the rights and interests of the people of Mizoram".

A copy of the Resolution opposing the Forest (Conservation) Amendment Act, 2023 adopted by the Mizoram Legislative Assembly dated 22.08.2023 is filed herewith and marked as **ANNEXURE P-30** (Pg.763).

VI. Lack of clear definitions for crucial terms

107. That despite amending the existing regulatory framework significantly, the 2023 Amendment Act leaves several key terms and phrases undefined. It is not stated as to what is implied by "strategic linear projects", "security projects", "public utility projects", etc. For example "security" can imply anything- defence, financial, food, raw materials. Therefore, any diversion can be covered under the newly inserted Section 1A(2). The terms "roadside amenity" and "public utility projects" are not defined which can have sweeping connotations. Unfortunately, it can be presumed that it has been deliberately left vague to allow all nature of diversions to be included. Definitional clarity must be there in the principal law as it is essentially a legislative function. Allowing the same to be

clarified subsequently by the Government through orders and circulars would amount to excessive delegation and unlawful exercise of legislative functions by the Government.

108. That it may be noted that nowhere in the pre-legislative process has the MoEFCC clarified that these undefined terms and phrases will be defined in the Rules that will be notified subsequently. To the contrary, it has said that it will invoke newly inserted Section 3C to clarify applicability of the Act and other issues (see for e.g., Clause 2.4.9, Clause 2.4.17, Clause 2.4.31 and Clause 2.5.14, JCP Report). This provision only envisages directions being issued by the Central Government to State Governments and other entities. Such directions will be in the form of executive action, not subject to crucial legislative scrutiny, and are likely to amount to impermissible law-making by the executive.

VII. Excessive delegation of powers to Central Government

109. That with inclusion of provisions like Section 1A(1) and (3), amended Explanation to Section 2(1), Section 2(2) and Section 3C, the Central Government has ensured full control of how forests are diverted and retained all over the country without having to inform or take sanction from Parliament or do so with the knowledge and participation of the citizens of the country. With

these enabling provisions in the amended Act, the Central Government will implement the provisions of the amended Act not through a set of notified Rules duly approved by Parliament, but through guidelines, directives and missives. This will give untrammelled powers to the Central Government which can implement projects of diversion of forest lands without public or legal scrutiny possibly in collusion with the party seeking diversion/project proponent along with the State Government.

110. That delegating such excessive powers through the Act to the executive jeopardises transparency and public participation as well as parliamentary scrutiny of the law. No doubt these draconian clauses have been brought in for ease of business to convert forest lands to non-forestry uses in the name of "development" which will endanger the ecological security of the country. Once implemented, these provisions will result in ecocide and have disastrous impacts on our forests, wildlife, biodiversity and ecosystem services offered by forests for human survival and security.

VIII. Conflict with The Wildlife (Protection) Act, 1972

111. That the impugned law will come in conflict with the provisions of the Wildlife (Protection) Act of 1972 (WPA), pertaining to the control,

management, diversion and excision of territory, denotification, etc, of Protected Areas (national parks, sanctuaries, etc) lying within the 100 Km radius of India's boundaries, and those that come within the purview of areas affected by Left Wing Extremism. Many of these Protected Areas are not forests notified under the Indian Forest Act 1927 and many of them, especially in the Trans Himalayan regions like Ladakh, Himachal Pradesh, Uttarakhand, Sikkim, and Arunachal Pradesh, and in the Kutch and Western Rajasthan, do not even have forest cover but are unique ecosystems rich with endangered and also endemic wildlife. They have come under the control of the state wildlife and forest departments only because they were notified as Protected Areas.

112. That it is unclear whether these vulnerable areas will now come under FC Act, as amended. It is highly likely that the amended provisions will grossly override and erode the protections afforded in the WP Act. The consequences of this would be grave.
113. That the protected areas that fall within the ambit of the 100 Km of the borders are the main, and in some cases the only surviving habitat, many of them minuscule, of a majority of our most endangered species—the Manipur brow-antlered deer, Kashmir Hangul, great Indian bustard, Tibetan Gazelle, Tibetan antelope, Tibetan Argali,

wild yak, snow leopard, takin, Black-necked crane, markhor, Malayan sun bear, Manipur quail, western tragopan, Sclater's monal, Nicobar megapode, Andaman pigeon, Andaman teal, Andaman wild pig, Narcondam hornbill and a host of others. Many of these species are the State Animals and State Birds of the states and union territories. Their survival and recoveries are being funded by the States and the Union Government. These are also the habitats of our national animal, the tiger and national heritage animal, the elephant. If these habitats are excluded from the purview of the WP Act, their extinction would be rendered imminent.

IX. Joint Committee of Parliament was Misled by Government And Its Report Lacks Scientific Credibility

114. That throughout the pre-legislative consultation process for the 2023 Amendment Act, the JCP repeatedly overlooked the lack of evidence to support the need for the amendment, completely disregarded the concerns and suggestions put forth by different stakeholders, and blindly accepted submissions made by the MoEFCC. MoEFCC, as it appears from its submissions, based its decisions only on ensuring ease of doing business for those with commercial interests, and this unfortunately appears to be the *raison d'être* of this legislation.

115. That the JCP accepted all falsehoods of the MoEFCC at face value without checking the facts in their hurry to recommend the amendment which can only be with a dubious intent to fast-track diversion of forest lands for non-forestry purposes.
116. That the statement of MoEFCC that even handpumps and school toilets for tribal girls are not being able to be made due to the stringent FC Act 1980, a statement repeated by the Minister of Environment, Forest and Climate Change, as well as a Member of Parliament in the Rajya Sabha, is devoid of truth given the data on diversion of forest land for such and other basic infrastructure and public utility projects.
117. That regarding SEC reports and the identification of forest land in accordance with this Hon'ble Court's order, the JCP believed submissions made by the MoEFCC. It did not call for the SEC reports, verify their existence for all states, and get them examined by scientific forestry experts.
118. That from a perusal of the JCP report, it is very clear that the MoEFCC has provided false and incomplete information to the JCP and the JCP has believed the Ministry's submissions without any scientific examination or scrutiny of the documents. The JCP ought to have examined the Director of FSI to understand the ground reality

which would have helped it to take an informed decision.

119. That the JCP ought to have sought independent scientific and technical advice from person or persons with expertise in forestry, forest laws and wildlife conservation to assess the veracity of submissions made by MoEFCC. In response to several important concerns, the MoEFCC gave vague, evasive or incomplete responses, or stated that terms and conditions would be formulated at a subsequent stage. This has resulted in highly arbitrary amendments to the law, which lack clarity in definitional scope and ambit, allow sweeping exemptions that are not based on empirical data or sound scientific evidence, and are replete with contradictions.
120. That the officers of the MoEFCC who have deposed before the JCP are holding the post in a term bound manner. Their assurances and explanations to the Committee are of little value as the law must speak for itself, not by what some officers' deposition before certain committees.

X. Alarming Scope for Misinterpretations

121. That alarmingly, amendments introduced by the 2023 Amendment Act are confusing and misinterpretations have surfaced barely a few days after the enactment of the bill on 04.08.2023, and there are likely to be more such instances of

misinterpretations. This will lead to irrevocable and disastrous consequences for forests across the country. Recently a letter was issued by the Additional Chief Secretary Odisha dated 11.08.2023 as an outcome of misinterpreting the notified amendment. The letter stated that requests to divert forest land for non-forestry purposes such as infrastructure and state development now ought to conform with the amended Forest Act and that 'the concept of deemed forest is now removed'. Not being aware or not caring to follow due procedure on part of the highest officer of the State of Odisha in-charge of forests shows how misuse and misinterpretation of the amended FC Act can arise. This directive has been kept on hold after public pressure, and a subsequent letter dated 14.08.2023 says it is withheld and will become operational once guidelines are received from MoEFCC. It may be noted that when the highest officer in the state, the person in-charge of forests of Orissa has misread and misinterpreted the notified amendment, what will be the pathetic plight of a lower functionary of the Forest Department such as the forest guard or forest watchers who are the first line of defense for protection of forest wealth. If corrective action is not taken, the large-scale havoc of forests that will be unleashed is horrific to envisage.

A copy of the Letter dt. 11.08.2023 from the Additional Chief Secretary, Forest, Environment and Climate Change Department, Government of Odisha to the vide subject The Forest (Conservation) Amendment Act 2023 is filed herewith and marked as **ANNEXURE P-31** (Pg.764).

A copy of the Letter No. FE-DIV_MISC-0022-2023-172285/FE&CC dt. 14.08.2023 from Additional Secretary, Forest Environment and Climate Change Department, Government of Odisha to the Collectors vide subject The Forest (Conservation) Amendment Act 2023 is filed herewith and marked as **ANNEXURE P-32** (Pg.765).

122. That the Petitioners are filing the present petition on the following among other grounds which are set out without prejudice to each other.

E. GROUNDS

123. That the Petitioners are approaching this Hon'ble Court for reliefs and directions on the following grounds:

- A. BECAUSE the Forest (Conservation) Amendment Act 2023 is highly detrimental to the environmental and ecological integrity of the country and if not struck down with immediate effect will cause untold and irreversible damage to India's forests and wildlife and greatly impacting human welfare.

Once the 2023 Amendment Act is implemented, vast tracts of invaluable forest land across the country will lose legal protection and will be vulnerable to destruction. There will be immeasurable loss of ecosystem services and associated social, cultural, and economic value. We will witness exacerbation of widespread natural calamities such as landslides, floods and droughts which will impact the lives and livelihoods of millions of people in India.

- B. BECAUSE we hold this earth and its natural resources and ecological wealth in trust for our present and future generations. This trust, and the principle of inter-generational equity, are blatantly breached when whimsical decisions, inadequate and inaccurate data, and poor scientific evaluation influence legislative measures, causing rampant destruction of the forests and the ecology that they support.
- C. BECAUSE the introduction of the 2023 Amendment Act to India's forest governance regime will effectively destroy decades of work on preservation and conservation of India's forest land, first through the enactment of the Forest (Conservation) Act 1980 and then through the landmark order of this Hon'ble Court dated 12.12.1996 in *T.N. Godavarman v*

Union of India. The lucid exposition by this Hon'ble Court on what will constitute 'forest' in Indian law and the subsequent directions delivered by the Hon'ble Court have been the guiding principles for Indian forest regulation and governance till date. They have significantly helped in reducing loss of forests and wild habitats and provided a crucial bulwark against unregulated and unaccounted destruction of forest lands across the country.

I. **Gravely impinges on the fundamental right to pollution-free environment**

- D. BECAUSE the Hon'ble Supreme Court has held in *T.N. Godavarman Thirumulpad (87) v. Union of India* (2006) 1 SCC 1 that 'any threat to the ecology can lead to violation of the right of enjoyment of healthy life guaranteed under Article 21, which is required to be protected. The Constitution enjoins upon this Court a duty to protect the environment'.
- E. BECAUSE the protection of forest lands is essential to the ecological, food and water security in the country. Rampant diversion of forest land for all varieties of purposes, many only serving commercial interests, and allowing unrestricted deforestation will amount to violation of the fundamental right guaranteed to persons by Article 21 of the Constitution. This Hon'ble Court in *Narinder*

Singh v Divesh Bhutani & Ors. [2022] 15 S.C.R. 1066 has observed -

“Article 21 of the Constitution confers a fundamental right on the individuals to live in a pollution-free environment. Forests are, in a sense, lungs which generate oxygen for the survival of human beings. The forests play a very important role in our ecosystem to prevent pollution. The presence of forests is necessary for enabling the citizens to enjoy their right to live in a pollution-free environment;”

- F. BECAUSE this Hon’ble Court has observed that the right to life guaranteed under Article 21 includes the right to a proper and healthy environment. In *Hinch Lal Tiwari v. Kamala Devi* (2001) 6 SCC 496, it was held-

“13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution.”

- G. BECAUSE it is imperative to maintain the ecological balance under the Constitutional schema of Article 21 read with Article 48A and Article 51A(g). This Hon’ble Court has held in

Sushanta Tagore v Union of India (2005) 3
SCC 16 –

“31. It is imperative that the ecological balance be maintained keeping in view the provisions of both directive principles of State policy read with Article 21 of the Constitution. Furthermore, a State within the meaning of Article 12 of the Constitution must give effect to the provisions of Article 51-A(g) of the Constitution...”

Furthermore this Hon'ble Court has upheld in *Charu Khurana v Union of India* (2015) 1 SCC 192 the proposition that the fundamental duty of every citizen is the collective duty of the State. Article 12 of the Constitution of India provides that 'State' includes Parliament of India. In this context, therefore, Article 51A(g) also imposes a duty on Parliament as the legislative arm of the State.

- H. BECAUSE the amendments to the FC Act reflect a complete dereliction of duty imposed on the State to protect and improve the environment. Article 48A of the Directive Principles of State Policies (DPSPs) provides that the state shall endeavor to protect and improve the environment and safeguard forests and wildlife of the country. Article 51A(g) makes it a duty of every citizen of India to protect and improve the natural environment including forests, lakes etc. In

the Constitutional Assembly Debates, Dr. Ambedkar had emphasized that DPSPs should be made the basis of all executive and legislative actions that will be taken hereafter. Prof. Shibban Lal Saksena emphasized that every legislature will be bound to respect the directive principles in the Constitution, and any act which offends the directive principles shall be ultra vires. This Hon'ble Court has held that DPSPs cannot be reduced to oblivion by a sleight of interpretation (*Gujarat Mazdoor Sabha v. State of Gujarat* (2020) 10 SCC 499).

- I. BECAUSE the State rather than protect and improve the forests, seeks to remove the protection of the FC Act previously afforded to large sections of forests as defined by the Hon'ble Supreme Court in its 12.12.1996 order in *T.N. Godavarman v. Union of India*. It is a brazen attempt at overriding a judicial decision. The Act is egregiously unconstitutional as not only does it violate the fundamental rights, but also represents a failure of the State in discharging its duty to legislate in keeping with the directive principles as under Article 48A of the Constitution. Directive principles impart greater width to fundamental rights and have

to be taken into consideration while legislating on environmental concerns.

- J. BECAUSE there is little data to support the impugned amendment to the FC Act. A Brandeis Brief form of compilation of data designed to indicate the actual or probable social effects of legislation has been recognised as a valid aid to judicial review of legislation. In fact, the Supreme Court in *Carew & Co. Ltd. v Union of India* (1975) 2 SCC 971 held that, '18. *It is unfortunate that in cases where the economic object and impact of special types of legislation call for judicial interpretation, the necessity for a detailed statement of the background facts and supportive data, apart from some sort of a Brandeis Brief illuminating the social purpose of the statute, is not being fully realized by the state.*' The same approach is apt for environmental legislation particularly since the damage once caused to the environment by constitutionally deficient legislation would be irreversible. A cautious approach in such cases where irreversible and irreparable damage may be caused to the environment has been crystallized in the precautionary principle and recognised in *Research Foundation for Science (18) v Union of India* (2005) 13 SCC 186.

- K. BECAUSE in the instant case the State ought to have carried out a detailed analysis of the potential impact which these amendment would have on the Forests in order to ensure that the duty to protect and improve the environment as encapsulated in Article 48A read with Article 51A (g) was fulfilled. On the contrary, the State has given no data to justify its legislative stand. For instance, the SEC Reports which had purportedly been taken into consideration while framing the legislation, were not placed before the JPC. In fact, these reports are not available in the public domain either, and it is not known how many states have even submitted these reports.
- L. BECAUSE deforestation not only decimates wild habitats but leads to defragmentation of forests which also severely impacts wildlife. As held by this Hon'ble Court in *M.C. Mehta (Badkhal and Surajkund Lakes Matter) v. Union of India* (1997) 3 SCC 715-

'Articles 21, 47, 48-A and 51-A(g) of the Constitution of India give a clear mandate to the State to protect and improve the environment and to safeguard the forests and wildlife of the country. It is the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.'

The impugned law will exacerbate fragmentation of forests by permitting various projects with varying land requirements to pockmark our forest land, with no regulatory oversight.

- M. BECAUSE this Hon'ble Court is fully cognisant of the dangers of habitat defragmentation, and in the context of encroachments in elephant corridors has held in *Hospitality Assn. of Mudumalai v In Defence of Environment & Animals* (2020) 10 SCC 589 that -

33. Elephant corridors allow elephants to continue their nomadic mode of survival, despite shrinking forest cover, by facilitating travel between distinct forest habitats. Corridors are narrow and linear patches of forest which establish and facilitate connectivity across habitats. In the context of today's world, where habitat fragmentation has become increasingly common, these corridors play a crucial role in sustaining wildlife by reducing the impact of habitat isolations. In their absence, elephants would be unable to move freely, which would in turn affect many other animal species and the ecosystem balance of several wild habitats would be unalterably upset.

(emphasis supplied)

- N. BECAUSE it is incumbent on Respondents to apply the precautionary principle – which has been accepted as part of the law of our land

by this Hon'ble Court in *Vellore Citizens' Welfare Forum v Union of India* (1996) 5 SCC 647. The law requires the State to anticipate, attack and prevent any cause of environmental degradation. This Hon'ble Court in *Hospitality Assn. of Mudumalai* case held -

"39. As was held by this Court in *M.C. Mehta (Badkhal & Surajkund Lakes Matter) v. Union of India* [*M.C. Mehta (Badkhal & Surajkund Lakes Matter) v. Union of India*, (1997) 3 SCC 715] the "precautionary principle" has been accepted as a part of the law of our land. ... It is the duty of every citizen of India to protect and improve the natural environment including forests and wildlife and to have compassion for living creatures. The precautionary principle makes it mandatory for the State Government to anticipate, prevent and attack the causes of environmental degradation. In this light, we have no hesitation in holding that in order to protect the elephant population in the Sigur Plateau region, it was necessary and appropriate for the State Government to limit commercial activity in the areas falling within the elephant corridor."

Stripping vast tracts of forest land of any legal protection and permitting a wide spectrum of activities in forest land on the pretext that they do not constitute non-forest use will cause extensive environmental degradation, not prevent it.

- O. BECAUSE this Hon'ble Court has categorically held that when the State has to choose between irreparable damage to the environment and that to economic interests, it has to give precedence to environmental protection. In *M.C. Mehta v. Union of India* (2004) 12 SCC 118 it was held -

"48. ... Principle 15 of the Rio Conference of 1992 relating to the applicability of precautionary principle, which stipulates that where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation, is also required to be kept in view. In such matters, many a times, the option to be adopted is not very easy or in a straitjacket. If an activity is allowed to go ahead, there may be irreparable damage to the environment and if it is stopped, there may be irreparable damage to economic interest. In case of doubt, however, protection of environment would have precedence over the economic interest. Precautionary principle requires anticipatory action to be taken to prevent harm. The harm can be prevented even on a reasonable suspicion. ..."

- P. BECAUSE the 2023 Amendment Act goes against the foundations of the Environmental Rule of Law as defined by this Hon'ble Court in a series of judgments. This Hon'ble Court elucidated on the concept of the

Environmental Rule of Law in *H.P. Bus-Stand Management & Development Authority v. Central Empowered Committee* (2021) 4 SCC 309-

49. The environmental rule of law, at a certain level, is a facet of the concept of the rule of law. But it includes specific features that are unique to environmental governance, features which are sui generis. The environmental rule of law seeks to create essential tools — conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges — of how they have been shaped by humanity's interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity's actions have charted. The environmental rule of law seeks to facilitate a multi-disciplinary analysis of the nature and consequences of carbon footprints and in doing so it brings a shared understanding between science, regulatory decisions and policy perspectives in the field of environmental protection. ... There are significant linkages between concepts such as sustainable development, the polluter pays principle and the trust doctrine. The universe of nature is indivisible and integrated. The state of the environment in one part of the earth affects and is fundamentally affected by what occurs in another part. Every element of the environment shares a symbiotic relationship with the others. It

is this inseparable bond and connect which the environmental rule of law seeks to explore and understand in order to find solutions to the pressing problems which threaten the existence of humanity. The environmental rule of law is founded on the need to understand the consequences of our actions going beyond local, State and national boundaries. The rise in the oceans threatens not just maritime communities. The rise in temperatures, dilution of glaciers and growing desertification have consequences which go beyond the communities and creatures whose habitats are threatened. They affect the future survival of the entire eco-system. The environmental rule of law attempts to weave an understanding of the connections in the natural environment which make the issue of survival a unified challenge which confronts human societies everywhere. ...The structural design of the environmental rule of law composes of substantive, procedural and institutional elements. The tools of analysis go beyond legal concepts. The result of the framework is more than just the sum total of its parts. Together, the elements which it embodies aspire to safeguard the bounties of nature against existential threats. For it is founded on the universal recognition that the future of human existence depends on how we conserve, protect and regenerate the environment today.

(emphasis supplied)

II. Excessive Delegation of Powers to the Executive

Q. BECAUSE the 2023 Amendment Act unlawfully delegates what are essentially legislative functions to the government. The discretion granted to the Central Government under the provisions of the law are excessive, and there is not sufficient guidance for the exercise of this discretion. This Hon'ble Court through a catena of cases has laid down the rule against excessive delegation. In *Gwalior Rayon Silk Mfg. (Wvg.) Co. Ltd. v. CST*, (1974) 4 SCC 98, this Hon'ble Court held -

"13. ... At the same time it has to be borne in mind that our Constitution-makers have entrusted the power of legislation to the representatives of the people, so that the said power may be exercised not only in the name of the people but also by the people speaking through their representatives. The rule against excessive delegation of legislative authority flows from and is a necessary postulate of the sovereignty of the people. The rule contemplates that it is not permissible to substitute in the matter of legislative policy the views of individual officers or other authorities, however competent they may be, for that of the popular will as expressed by the representatives of the people.

15. ... the determination of the legislative policy and its formulation as a rule of conduct. Obviously it cannot abdicate its functions in favour of another. But in view of the multifarious activities of a

welfare State, it cannot presumably work out all the details to suit the varying aspects of a complex situation. It must necessarily delegate the working out of details to the executive or any other agency. But there is danger inherent in such a process of delegation. An overburdened legislature or one controlled by a powerful executive may unduly overstep the limits of delegation. It may not lay down any policy at all; it may declare its policy in vague and general terms; it may not set down any standard for the guidance of the executive; it may confer an arbitrary power on the executive to change or modify the policy laid down by it without reserving for itself any control over subordinate legislation. This self-effacement of legislative power in favour of another agency either in whole or in part is beyond the permissible limits of delegation. It is for a court to hold on a fair, generous and liberal construction of an impugned statute whether the legislature exceeded such limits."

(emphasis supplied)

- R. BECAUSE the fact the delegatee in the present case is the Central Government does not make the delegation lawful. In his concurring judgment in *Gwalior Rayons Silk* case, KK Mathew J observed

"57. It is not clear what difference does it make in principle by saying that since the delegation is to a representative body, that would be a guarantee that the delegate will not exercise the power unreasonably, for, if ex hypothesi the legislature must perform the essential legislative

function, it is certainly no consolation that the body to which the function has been delegated has a representative character. In other words, if, no guidance is provided or policy laid down, the fact that the delegate has a representative character could make no difference in principle."

(emphasis supplied)

- S. BECAUSE the 2023 Amendment Act while exempting certain forest lands from the applicability of the FC Act and declaring large number of activities as outside the remit of non-forest purposes, gives the Central Government unfettered discretion to define the related terms and conditions through orders, guidelines and directions. There is no clarity or guidance on how such executive action should be carried out even though these actions will impact vast tracts of forest land. As has been observed by this Hon'ble Court in *Vasantlal Maganbhai Sanjanwala v. State of Bombay* (1961) 1 SCR 341:

4. ... The extent to which such delegation is permissible is also now well-settled. The legislature cannot delegate its essential legislative function in any case. It must lay down the legislative policy and principle, and must afford guidance for carrying out the said policy before it delegates its subsidiary powers in that behalf. As has been observed by Mahajan, C.J., in *Harishankar Bagla v. State of Madhya Pradesh* [(1955) 1 SCR 381, 388] "the

legislature cannot delegate its function of laying down legislative policy in respect of a measure and its formulation as a rule of conduct. The legislature must declare the policy of the law and the legal principles which are to control any given cases, and must provide a standard to guide the officials or the body in power to execute the law". In dealing with the challenge to the vires of any statute on the ground of excessive delegation it is, therefore, necessary to enquire whether the impugned delegation involves the delegation of an essential legislative function or power and whether the legislature has enunciated its policy and principle and given guidance to the delegate or not.
 ..."

(emphasis supplied)

- T. BECAUSE the impugned law suffers from patent illegality as the Central Government has been given the powers to issue directions for the implementation of the law, but there is no provision which lays down the underlying principles or the criteria or standards that the Central Government must follow while issuing such directions. This Hon'ble Court has held in *Mohmedalli and Others v. Union of India and Another* [1963] Suppl 1 SCR 993:

"It is clear that the last mentioned case illustrates the rule that the question whether or not a particular piece of legislation suffers from the vice of excessive delegation must be determined with reference to the facts

and circumstances in the back-ground of which the provisions of the statute impugned had been enacted. If, on a review of all the facts and circumstances and of the relevant provisions of the statute, the Court is in a position to say that the legislature had clearly indicated the underlying principle of the legislation and laid down criteria and proper standards but had left the application of those principles and standards to individual cases in the hands of the executive, it cannot be said that there was excessive delegation of powers by the legislature. On the other hand, if a review of all those facts and circumstances and the provisions of the statute, including the preamble, leaves the Court guessing as to the principles and standards, then the delegate has been entrusted not with the mere function of applying the law to individual cases, but with a substantial portion of legislative power itself."

(emphasis supplied)

Key terms such as 'public utility projects', 'strategic linear projects' and 'security related infrastructure' have been left undefined in the impugned law, and the Central Government is now empowered to clarify what would fall within the ambit of these terms. This untrammelled power will come at the cost of invaluable forest lands being usurped not for critical and limited public purposes but projects and developments that have only a tenuous link with public

purpose at best, and at worst – vested commercial interests.

III. Illegal legislative overruling of the 12.12.1996 order of this Hon'ble Supreme Court in T.N. Godavarman

- U. BECAUSE amendments have been introduced with the intention to overrule the landmark judicial pronouncement made by this Hon'ble Court vide its order 12.12.1996 and is thus *ultra vires*. This Hon'ble Court in the 12.12.1996 order laid down the manner in which the word 'forest' was to be interpreted for the purposes of implementation of the FC Act. It did not invalidate the law, it provided a clarification on how the word 'forest' was to be understood, and then issued suitable directions in the nature of mandamus to the government. The objective of the FC Act being to protect forests, and there being misconceptions about the true scope of what are forests, the order of this Hon'ble Court sought to remedy that situation. The 2023 Amendment Act excludes certain categories of forests from the scope of the FC Act which this Hon'ble Court had clearly considered to be within the ambit of the definition of forest. This nullification of a judicial pronouncement is impermissible. As has been held by this

Hon'ble Court in *S.R. Bhagwat v. State of Mysore* (1995) 6 SCC 16:

"12. It is now well settled by a catena of decisions of this Court that a binding judicial pronouncement between the parties cannot be made ineffective with the aid of any legislative power by enacting a provision which in substance overrules such judgment and is not in the realm of a legislative enactment which displaces the basis or foundation of the judgment and uniformly applies to a class of persons concerned with the entire subject sought to be covered by such an enactment having retrospective effect. We may only refer to two of these judgments.

...

15. We may note at the very outset that in the present case the High Court had not struck down any legislation which was sought to be re-enacted after removing any defect retrospectively by the impugned provisions. This is a case where on interpretation of existing law, the High Court had given certain benefits to the petitioners. That order of mandamus was sought to be nullified by the enactment of the impugned provisions in a new statute. This in our view would be clearly impermissible legislative exercise.

(emphasis added)

- V. BECAUSE the power of judicial review is part of the basic structure of our Constitution, and the legislature cannot in the exercise of its

power nullify judicial pronouncements. This Hon'ble Court in *NHPC Ltd. v State of Himachal Pradesh* 2023 SCC OnLine SC 1137 observed:

"...The role of the judiciary in galvanising our constitutional machinery characterised by institutional checks and balances, lies in recognising that while due deference must be shown to the powers and actions of the other two branches of the government, the power of judicial review may be exercised to restrain unconstitutional and arbitrary exercise of power by the legislature and executive organs. The power of judicial review is a part of the basic feature of our Constitution which is premised on the rule of law. Unless a judgment has been set aside by a competent court in an appropriate proceeding, finality and binding nature of a judgment are essential facets of the rule of law informing the power of judicial review. In that context, we observe that while it may be open to the legislature to alter the law retrospectively, so as to remove the basis of a judgment declaring such law to be invalid, it is essential that the alteration is made only so as to bring the law in line with the decision of the Court.

(emphasis supplied)

- W. BECAUSE this Hon'ble Court in its 12.12.1996 order had held that the aim of the principal Act is to protect against ecological imbalance which would necessarily require that 'forest land' in Section 2 of the FC Act to include not only forests as understood in the dictionary

sense but also any area recorded as forest in the Government record irrespective of the nature of ownership or classification thereof. The 2023 Amendment Act blatantly sets aside this lucid and clear interpretation of the law by the Hon'ble Court, and that is not permissible. In *Madras Bar Association v. Union of India* (2022) 12 SCC 455, the following principles were laid down by the majority of the Hon'ble Supreme Court, as regards the permissibility of abrogation, to remove the basis of a judgment:

"43. The permissibility of a legislative override in this country should be in accordance with the principles laid down by this Court in the aforementioned as well as other judgments, which have been culled out as under:

a) The effect of the judgments of the Court can be nullified by a legislative act removing the basis of the judgment. Such law can be retrospective. Retrospective amendment should be reasonable and not arbitrary and must not be violative of the fundamental rights guaranteed under the Constitution. (*Lohia Machines Ltd. v. Union of India*, (1985) 2 SCC 197).

b) The test for determining the validity of a validating legislation is that the judgment pointing out the defect would not have been passed, if the altered position as sought to be brought in by the validating statute existed before the Court at the time of rendering its judgment. In other words, the defect

pointed out should have been cured such that the basis of the judgment pointing out the defect is removed.

c) Nullification of mandamus by an enactment would be impermissible legislative exercise (See : S.R. Bhagwat v. State of Mysore, (1995) 6 SCC 16). Even interim directions cannot be reversed by a legislative veto (See : Cauvery Water Disputes Tribunal, 1993 Supp (1) SCC 96 (2) and Medical Council of India v. State of Kerala, (2019) 13 SCC 185).

d) Transgression of constitutional limitations and intrusion into the judicial power by the legislature is violative of the principle of separation of powers, the Rule of law and of Article 14 of the Constitution of India.”

This position of law was recently relied upon by this Hon’ble Court in *Dr. Jaya Thakur v. Union of India* 2023 SCC OnLine SC 813 wherein it was reiterated that a writ of mandamus could not be nullified by a subsequent legislation.

- X. BECAUSE the 2023 Amendment Act does not address to any degree, implicitly or explicitly, the issue of ecological imbalance being caused by deforestation of any wooded area in general. It also fails to address how the principal Act would be able to continue its protection against ecological imbalance through such a restrictive definition of forest land. It is also not clear from the Statement of

Objects and Reasons and the amended Preamble why only those forests specifically declared, notified, or recorded as defined in Section 1A(1) should be given legal protection under the FC Act while the Hon'ble Supreme Court's order that a wider applicability irrespective of classification should be set aside.

- Y. BECAUSE while the impugned law squarely circumvents and overrules the 12.12.1996 pronouncement, the core reason for that landmark judicial order remains as relevant today as it was then – deforestation must be checked, and ecological imbalance has to avoided.
- Z. BECAUSE this Hon'ble Court was conscious of the limits to forest conservation if large areas of forests were excluded from the protection of the FC Act, and thus through its decision it interpreted forests in FC Act to include *all* forests, as it also used the word 'otherwise' to indicate an expansive definitional ambit. The Hon'ble Court was thus deliberate in adopting the wider dictionary definition of forests. On the other hand, the newly inserted Section 1A(1) has circumvented such an understanding of the term 'forest' by limiting the Act's applicability to only those forests that have been declared, notified or recorded.

AA. BECAUSE as a result of the impugned law, we are likely to revert to a pre-1980 situation where large forest areas were exempted from legal protection of the FC Act. Forests will now be diverted at a whim, with no consideration of the resultant ecological dangers.

IV. Manifestly arbitrary and capricious

BB. BECAUSE the Constitution of India mandates protection against arbitrariness under Article 14, and the 2023 Amendment Act is clear instance of manifest arbitrariness in legislative action. The Hon'ble Supreme Court of India has held in *Shayara Bano v Union of India* (2017) 9 SCC 1 that the test of manifest arbitrariness would apply to invalidate legislation as well as subordinate legislation under Article 14 of the Constitution. This Hon'ble Court held-

"101. ... Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary. We are, therefore, of the view that arbitrariness in the sense of manifest arbitrariness as pointed out by us above would apply to negate legislation as well under Article 14."

The Hon'ble Supreme Court in *Ajay Hasia v Khalid Mujib Sehravardi* (1981) 1 SCC 722 has observed that -

"16. Wherever therefore there is arbitrariness in State action whether it be of the legislature or of the executive or of an "authority" under Article 12, Article 14 immediately springs into action and strikes down such State action. In fact, the concept of reasonableness and non-arbitrariness pervades the entire constitutional scheme and is a golden thread which runs through the whole of the fabric of the Constitution."

- CC. BECAUSE the 2023 Amendment Act introduces a regulatory regime for forest governance in the country, which is manifestly arbitrary, based on unreasonable assumptions, and without adequate guiding principles for its implementation. The 2023 Amendment Act significantly reduces the area of forest land that will be governed by the FC Act, and thus removes protection that was earlier afforded to vast tracts of land. Contrary to its Statement of Objects and Reasons, the 2023 Amendment Act does not enhance the available carbon stock, carry forward the rich tradition of preserving forests or broaden the horizons of the principal Act. In fact, its implementation will reduce the capacity of India's forest to sequester carbon, exacerbate defragmentation of forests and permit activities like zoos and safaris in pristine forest land which were impermissible until recently.

DD. BECAUSE the lack of clear definitions for terms like 'strategic linear projects', 'security related infrastructure projects, 'public utility projects' etc. means that the scope of the FC Act is no longer clear, and therefore the 2023 Amendment Act is capricious. The Government has arrogated to itself powers to issue guidelines, orders, directions etc. to clarify whatever is unclear in the law, but this not only amounts to law-making – which is impermissible under the Constitutional rubric, but also leaves the forest protection regulatory regime vulnerable to unpredictable and unreasonable policy changes that are not supported by robust evidence but are likely to serve vested interests not forest conservation goals.

V. **Patent Breach of the Public Trust Doctrine**

EE. BECAUSE forests are held by the government in public trust. It is the duty of the government to ensure their protection and exposing our forest land to rampant deforestation and unchecked diversion is a patent breach of public trust. This Hon'ble Supreme Court in *Fomento Resorts and Hotels Ltd. and Ors. v Minguel Martins and Ors.* (2009) 3 SCC 571 has held:

"The heart of the public trust doctrine is that it imposes limits and obligations

upon government agencies and their administrators on behalf of all the people and especially future generations. For example, renewable and non-renewable resources, associated uses, ecological values or objects in which the public has a special interest (i.e. public lands, waters, etc.) are held subject to the duty of the State not to impair such resources, uses or values, even if private interests are involved. The same obligations apply to managers of forests, monuments, parks, the public domain and other public assets."

(emphasis supplied)

FF. BECAUSE the Hon'ble Supreme Court in *Intellectuals Forum, Tirupathi v. State of A.P.* (2006) 3 SCC 549, while invoking the public trust doctrine in a matter involving the challenge to the systematic destruction of percolation, irrigation and drinking water tanks in Tirupati town observed about the public trust doctrine:

"Formulated from a negatory angle, the doctrine does not exactly prohibit the alienation of the property held as a public trust. However, when the State holds a resource that is freely available for the use of the public, it provides for a high degree of judicial scrutiny on any action of the Government, no matter how consistent with the existing legislations, that attempts to restrict such free use. To properly scrutinise such actions of the Government, the courts must make a distinction between the Government's general obligation to act for the public benefit, and the

special, more demanding obligation which it may have as a trustee of certain public resources..."

(emphasis supplied)

GG. BECAUSE the State cannot abdicate its duty to protect the country's natural assets by excluding previously protected forest land from statutory protection, and permitting the use of forest land for vaguely defined non-forest activities without taking into account relevant considerations. The Hon'ble Supreme Court has observed in *T.N. Godavarman Thirumulpad, In re v. Union of India* (2022) 10 SCC 544-

"33. The role of the State cannot be confined to that of a facilitator or generator of economic activities for immediate upliftment of the fortunes of the State. The State also has to act as a trustee for the benefit of the general public in relation to the natural resources so that sustainable development can be achieved in the long term. Such role of the State is more relevant today, than, possibly, at any point of time in history with the threat of climate catastrophe resulting from global warming looming large."

Natural forests perform the invaluable function of carbon sequestration. Furthermore, altering the natural ecological functions of resources like rivers, forests, soil, etc will significantly reduce the adaptive capacity of the country. As several parts of the world reel under the

impacts of climate change and natural calamities get exacerbated, the State has to protect our natural assets as a responsible trustee, not squander them with no regulatory scrutiny or impact assessment.

VI. Violation of the Principle of Non-Regression

HH. BECAUSE provisions of the 2023 Amendment Act violate the international legal principle of non-regression. The impugned law reduces the protection afforded under the law to forest lands across the country and reduces the scope and applicability of the FC Act. The principle of non-regression posits that States are prohibited from weakening their domestic levels of environmental protection. Therefore, new environmental legal provisions can only maintain or increase protection of natural resources, not decrease them.

II. BECAUSE this principle has been relied on by Indian courts and thus the State is bound to follow it. The principle of non-regression was applied by the Hon'ble National Green Tribunal in its judgment and order dated 08.12.2017 in *Society for Protection of Environment & Biodiversity v. Union of India & Ors*, O.A. No. 677/2016, 2017 SCC OnLine NGT 981 where it quashed parts of the Notification dated 09.12.2016 which sought to dilute the EIA

Notification, 2006. The Tribunal noted as follows:

“Under the International law, the doctrine of Non-regression is an accepted norm. It is founded on the idea that environmental law should not be modified to the detriment of environmental protection. This principle needs to be brought into play because today environmental law is facing a number of threats such as deregulation, a movement to simplify and at the same time diminish, environmental legislation perceived as too complex and an economic climate which favours development at the expense of protection of environment. The draft amendment of the existing environmental laws should be done with least impact on environment protection that was available under the existing law or regime.

32... Thus, some other provisions of the same Notification ex-facie suffer from legal infirmities and are incapable of being implemented in accordance with the scheme of federal structure under the Constitution of India. Out of them, some provisions are directly opposed to the Principle of Non-regression as they considerably dilute the existing environmental laws and standards to the prejudice of the environment...”

In *Hanuman Laxman Aroskar v. Union of India* (2019) 15 SCC 401, this Hon’ble Court relied on the IUCN World Declaration on the Environmental Rule of Law, which outlines 13 principles for ecologically sustainable development, one of which was the principle

of non-regression. The Hon'ble National Green Tribunal has referred to the principle of non-regression in *Waris Chemicals (P) Ltd. v. U.P. Pollution Control Board* 2023 SCC OnLine NGT 41 as well.

- JJ. BECAUSE the provisions of the 2023 Amendment Act are manifestly regressive in the protections afforded to forests. The principal Act read with the 12.12.1996 order of this Hon'ble Court in *T.N. Godavarman v Union of India* afforded protection to 100% of India's forest lands. The 2023 Amendment Act through Section 1A(1) reduces this protection significantly by restricting the applicability of the principal Act to only Recorded Forest Areas.
- KK. BECAUSE the impugned law through Section 1A(2) is regressive in expanding the conditions under which forest land may be diverted to non-forest use. Further, by expanding the list of activities which will not be considered non-forest purpose, the 2023 Amendment Act reduces the protection available to forest lands and violates the principle of non-regression.
- LL. BECAUSE by permitting activities such as survey and reconnaissance in forest land on a discretionary basis, the impugned Act ignores

the ecological impact of these activities and permits them with minimal regulatory oversight and compliance conditions, thus marking a clear regression.

VII. Complete disregard of the principle of Inter-generational Equity

MM. BECAUSE the 2023 Amendment Act completely disregards the principle of inter-generational equity. The environment must be protected for the future generations; it is not an asset that the current generation can dispose of for its immediate short-term gains. This Hon'ble Court has held that environment and ecology are national assets, not state property, and are subject to the principle of inter-generational equity (*T.N. Godavarman v Union of India* (2006) 1 SCC 1; *M.C. Mehta v Union of India* (2009) 6 SCC 142). In *Glanrock Estate (P) Ltd. v The State of Tamil Nadu* (2010) 10 SCC 96, the Hon'ble Court observed:

'Forests in India are an important part of environment. They constitute national asset. In various judgments of this Court delivered by the Forest Bench of this Court in the case of *T.N. Godavarman v. Union of India* Writ Petition No. 202 of 1995, it has been held that "inter-generational equity" is part of Article 21 of the Constitution.

What is inter-generational equity? The present generation is answerable to the

next generation by giving to the next generation a good environment. We are answerable to the next generation and if deforestation takes place rampantly then inter-generational equity would stand violated."

NN. BECAUSE the principle of inter-generational equity and its origin in international legal documents was traced by this Hon'ble Court in *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, (1999) 2 SCC 718:

The duty of the present generation towards posterity: principle of inter-generational equity: rights of the future against the present

53. The principle of inter-generational equity is of recent origin. The 1972 Stockholm Declaration refers to it in Principles 1 and 2. In this context, the environment is viewed more as a resource basis for the survival of the present and future generations.

"Principle 1.—Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for the present and future generations....

Principle 2.—The natural resources of the earth, including the air, water, lands, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of the present and future generations through careful planning or management, as appropriate."

Several international conventions and treaties have recognised the above principles and, in fact, several imaginative proposals have been submitted including the locus standi of individuals or groups to take out actions as representatives of future generations, or appointing an ombudsman to take care of the rights of the future against the present (proposals of Sands and Brown Weiss referred to by Dr Sreenivasa Rao Pemmaraju, Special Rapporteur, paras 97, 98 of his Report).

(emphasis supplied)

VIII. Breach of India's international obligations

OO. BECAUSE the 2023 Amendment Act is an unfortunate instance of India not respecting international law and its treaty obligations as required under Article 51(c) of the Constitution. India is a member of several multilateral environmental agreements which place obligations on it to protect floral and faunal biodiversity, their habitat and the indigenous communities and their knowledge associated with this biodiversity. These include the Convention on Biological Diversity, Convention on Wetlands of International Importance especially as Waterfowl Habitat (the Ramsar Convention), and Convention on the Conservation of Migratory Species of Wild Animals. India is also a party to the UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement 2015. By significantly reducing the legal protection

afforded to forests and wild habitats, and thus impacting the naturally available carbon sink in the country, the 2023 Amendment Act in effect amounts to a violation of several of India's international obligations.

PP. BECAUSE in 2015, the international community adopted the 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs). India is also a party to this. SDG 13 on climate action and SDG 15 on life on land are relevant to the present case. The Hon'ble Supreme Court has also acknowledged the significance of these two SDGs in *Hanuman Laxman Aroskar v. Union of India* (2019) 15 SCC 401:

"151. SDG 13 emphasises the urgent action required to combat climate change and its impacts. This is based on the recognition that extreme weather events such as heat waves, droughts, floods and tropical cyclones have aggravated the need for water management, pose a threat to food security, increase health risks, damage critical infrastructure and interrupt the provision of basic civil services.

...

153. In this backdrop, SDG 1[5] emphasises the need to protect, restore and promote sustainable use and management of terrestrial ecosystems and forests, combat desertification of river lands, prevent land degradation and halt the loss of biodiversity.

Terrestrial ecosystems provide a range of ecosystem services including the capture of carbon, maintenance of soil quality, provision of habitat for biodiversity, maintenance of water quality and regulation of water flow together with control over erosion. Maintenance of ecosystems is hence crucial to efforts to combat climate change, mitigate and reduce the risks of natural disasters including floods and landslides."
(emphasis added)

QQ. BECAUSE international legal principles such as sustainable development, precautionary principle, principle of non-regression, and inter-generational equity find their source in various international legal documents such as the Rio Declaration 1992 which India is signatory to. These principles are now part of the Indian environmental jurisprudence and crucial for effectuating the fundamental right to a clean and healthy environment under Article 21 of the Constitution of India. The impugned law blatantly violates these principles.

IX. Decision to amend the principal Act is based on irrelevant considerations and in the absence of accurate data

RR. BECAUSE the underlying basis for the 2023 Amendment Act is influenced by irrelevant considerations, and the JCP report recommending the Bill with no changes was issued in the absence of any credible data

being presented to the JCP. Environmental decision making in the absence clear evidence and data can lead to disastrous consequences. This Hon'ble Court in *Lafarge Umiam Mining Pvt Ltd. v Union of India* (2011) 7 SCC has clearly laid down the principles of judicial review applicable in environmental matters -

"In the circumstances, barring exceptions, decisions relating to utilisation of natural resources have to be tested on the anvil of the well-recognised principles of judicial review. Have all the relevant factors been taken into account? Have any extraneous factors influenced the decision? Is the decision strictly in accordance with the legislative policy underlying the law (if any) that governs the field? Is the decision consistent with the principles of sustainable development in the sense that has the decision-maker taken into account the said principle and, on the basis of relevant considerations, arrived at a balanced decision? ..."

SS. BECAUSE the State Expert Committee (SEC) reports have either not been prepared or are not available for all the states; identification of forest land has not been undertaken as directed by this Hon'ble Court, and there is clear lack of credible data supported by ground truthing on the extent of forest land etc., Therefore assumptions made by the Respondent have no basis. The MoEFCC's responses to the JCP were evasive,

inaccurate, and misleading. This Hon'ble Court in *Sachidanand Pandey v West Bengal* (1987) 2 SCC 295 held:

On the other hand, if relevant considerations are not borne in mind and irrelevant considerations influence the decision, the court may interfere in order to prevent a likelihood of prejudice to the public. Whenever a problem of ecology is brought before the court, the court is bound to bear in mind Article 48-A of the Constitution, the Directive Principle which enjoins that "the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country", and Article 51-A(g) which proclaims it to be the fundamental duty of every citizen of India "to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures". When the court is called upon to give effect to the Directive Principle and the fundamental duty, the court is not to shrug its shoulders and say that priorities are a matter of policy and so it is a matter for the policy-making authority. The least that the court may do is to examine whether appropriate considerations are borne in mind and irrelevancies excluded. In appropriate cases, the court may go further, but how much further must depend on the circumstances of the case.

Relevant considerations relating to the nature, extent, and use of forest lands, and the fact that stripping vast tracts of forest land of their legal protection will violate the fundamental

rights of millions of people was entirely overlooked while amending the FC Act.

TT. BECAUSE unlike other legislations, environmental legislations are concerned with, or regulate, resources belonging to and shared by the community. These resources are finite and deeply contested. In such a scenario the breach of legal principles such as public trust doctrine, inter-generational equity, principle of non-regression and precautionary principle directly affect humanity at large and the rights of persons under Article 21. As impacts of climate change are beginning to be felt across the country, there is an even greater degree of responsibility on the legislature while legislating on natural resources than what would be expected for other legislation. The State ought to have carried out a detailed analysis of the impact which the provisions of amended law would have on the forests in order to ensure that its duty to protect and improve the environment as encapsulated in Article 48A read with Article 51A(g) was fulfilled. At the same time, deeper judicial scrutiny of whether relevant factors were taken into consideration, and what was the scientific basis of the amendments sought to be made become

imperative when examining the constitutionality of an environmental law.

F. JURISDICTION

124. That the present writ petition is being filed in public interest under Article 32 of the Constitution of India to raise issues that impinge fundamental rights guaranteed to citizens under Articles 14 and 21 of the Constitution, and violate directive principles of state policy and fundamental duties of citizens. Having regard to the nationwide implications of the important issues raised in this petition, impacting several states in the country, it is respectfully submitted that this Hon'ble Court ought to entertain and hear the present petition. The Petitioners have demanded justice but justice has been denied to them.
125. That the Petitioners have no other efficacious remedy but to approach this Hon'ble Court by means of the present Writ Petition.
126. That the present Petition is filed *bona fide* and in the interest of justice.
127. That the Petitioners have not filed any other similar petition before this Hon'ble Court or any other court seeking similar reliefs.

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PRAYER

That it is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Issue a writ in the nature of certiorari and/ or any other writ/ order or direction declaring the Forest (Conservation) Amendment Act 2023 to be unconstitutional as it is in violation of Articles 14 and 21 read with Articles 48A, 51(c) and 51A(g) of the Constitution of India, and accordingly set aside the Forest (Conservation) Amendment Act 2023;
- b) Issue Rule Nisi in terms of prayer (a) above; and/or
- c) Pass any other such further or other writ, orders or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

Settled by: PRASHANTO CHANDRA SEN, FILED BY:
Senior Advocate
DRAWN BY: SHIBANI GHOSH
ADVOCATE
DRAWN ON: 23/09/2023



PLACE : NEW DELHI
DATED: 27/09/2023

[KAUSHIK CHOUDHURY]
Advocate for the Petitioner(s)

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**IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)**

WRIT PETITION (CIVIL) NO. _____ OF 2023

IN THE MATTER OF:

Shri Ashok Kumar Sharma & Ors.**PETITIONER(S)**

Versus

Union of India & Anr.**RESPONDENT(S)**

CERTIFICATE

CERTIFIED that the Writ Petition is confined only to the pleadings before the Court/Tribunal whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Writ Petition. It is further certified that the copies of the documents/Annexure attached to the Writ Petition are necessary to answer the question of law raised in the petition or to make out grounds urged in the Writ Petition for consideration of this Hon'ble Court. This certificate is given on the basis of the instructions given by the petitioner/person authorized by the petitioner whose affidavit is filed in support of the Writ Petition.

FILED BY:



PLACE : NEW DELHI
DATED: 27/09/2023

[KAUSHIK CHOUDHURY]
Advocate for the Petitioner(s)

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**IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)**

WRIT PETITION (CIVIL) NO. _____ OF 2023

IN THE MATTER OF:

Shri Ashok Kumar Sharma & Ors.**PETITIONER(S)**

Versus

Union of India & Anr.**RESPONDENT(S)**

AFFIDAVIT

I, Prakriti Srivastava, aged about 60 years, D/o Shri T.B. Srivastava, R/o 1904, KNG-I, Classic Wishtown, Sector-134, NOIDA, U.P. (Presently at New Delhi) do hereby solemnly affirm and state as under:

1. That I am one of the Petitioners in the aforesaid matter and am conversant with the facts and circumstances of the case and as such competent to swear this affidavit and on behalf of the others.
2. That the accompanying Writ Petition [Pages 1 to 124] Para 1 to 127 Statement of Dates and Facts [Pages B to N] and Interlocutory Application [s] have been drawn by my Advocate under my instructions. I have read and understood the contents of the above and I say that the same are true and correct to my knowledge and belief and I believe the same to be true.
3. That the Annexures filed herewith are true copies of their respective originals.



P. Bandana

DEPONENT

VERIFICATION:

I, the abovenamed deponent, do hereby verify that the contents of para-1 to Para-3 of above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

Solemnly affirmed on the ___ day of September, 2023, New Delhi.

23 SEP 2023

P. Bandana

DEPONENT

IDENTIFIED

23 SEP 2023



ATTESTED
NOTARY PUBLIC DELHI
GOVT. OF INDIA
Mob.: 9954768498

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

Writ Petition (Civil) No 1164 of 2023

**Ashok Kumar Sharma, Indian Forest Service
(Retired) and Others**

... Petitioners

Versus

Union of India and Another

... Respondents

W I T H

Writ Petition (Civil) No 1336 of 2023

Writ Petition (Civil) No 1375 of 2023

Writ Petition (Civil) No 42 of 2024

Writ Petition (Civil) No 85 of 2024

O R D E R

1 In ***T N Godavarman Thirumulpad vs Union of India***¹, this Court while noting that the Forest Conservation Act 1980 was enacted to curb the deforestation which results in an ecological imbalance, indicated that the

(1997) 2 SCC 267

1

provisions incorporated to conserve forests and for other connected matters “must apply to all forests irrespective of the nature of ownership or classification”. Apart from the above principle, the Court spelt out in paragraph 4 of the order, the meaning which must be attributed to the expression ‘forest’. For convenience of reference, it would be appropriate to disaggregate the contents of paragraph 4 so as to indicate the components of the expression ‘forest’ as explained in the order of this Court:

Firstly, the decision in ***T N Godavarman*** (*supra*) indicates that expression ‘forest’ must be understood according to its dictionary meaning;

Secondly, the description of the expression ‘forest’ would cover all statutorily recognized forests whether they are designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act 1980;

Thirdly, besides including forests as understood in the dictionary sense, the term ‘forest’ in Section 2 would include “also any area recorded as forest in the government record irrespective of the ownership”; and

Fourthly, the provisions for the conservation of forests and ancillary matters in the Forest Conservation Act 1980 must apply to all forests “so understood” irrespective of ownership or classification.

- 2 The directions which were issued by this Court, included the following:
- (i) The necessity of prior approval of the Central Government for any non-forest activity within the area of any “forest”; and
 - (ii) A mandamus to the State Governments to constitute Expert Committees to:
 - (a) Identify areas which are forests irrespective of whether they are so notified, recognized or classified under any law and irrespective of the ownership of the land;
 - (b) Identify areas which were earlier forests, but were degraded, denuded or cleared; and
 - (c) Identify areas covered by plantation trees belonging to the government and those belonging to private persons.
- 3 Further directions were issued in the judgment of this Court in ***T N Godavarman Thirumulpad vs Union of India [Lafarge Umiam Mining Private Limited - Applicant]***².
- 4 The process of identification of forests was crucial to the implementation of the directions which were issued by this Court. The purpose of identification was to ensure that the areas which fell within the description of ‘forests’ as

2 (2011) 7 SCC 338

WPC 1164/2023

explained in the decision would be capable of being preserved upon the process of identification being carried out under the auspices of Expert Committees in every State.

- 5 In this batch of petitions, there is a challenge to the constitutional validity of the Forest Conservation Amendment Act 2023 (Act No 15 of 2023).
- 6 Section 4 of the Amending Act has introduced Section 1A after Section 1 of the principal Act in the following terms:

“4. After section 1 of the principal Act, the following section shall be inserted, namely:—

‘1A. (1) The following land shall be covered under the provisions of this Act, namely:—

- (a) the land that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force;
- (b) the land that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25th October, 1980:

Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before the 12th December, 1996 in pursuance of an order, issued by any authority authorised by a State Government or an Union territory Administration in that behalf.

Explanation.—For the purposes of this sub-section, the expression "Government record" means record held by Revenue Department or Forest Department of the State Government or Union territory Administration, or any authority, local body, community or council recognised by the State Government or Union territory Administration.

(2) The following categories of land shall not be covered under the provisions of this Act, namely:—

(a) such forest land situated alongside a rail line or a public road maintained by the Government, which provides access to a habitation, or to a rail, and roadside amenity up to a maximum size of 0.10 hectare in each case;

(b) such tree, tree plantation or reforestation raised on lands that are not specified in clause (a) or clause (b) of sub-section (1); and (c) such forest land,—

(i) as is situated within a distance of one hundred kilometres along international borders or Line of Control or Line of Actual Control, as the case may be, proposed to be used for construction of strategic linear project of national importance and concerning national security; or

(ii) up to ten hectares, proposed to be used for construction of security related infrastructure; or

(iii) as is proposed to be used for construction of defence related project or a camp for paramilitary forces or public utility projects, as may be specified by the Central Government, the extent of which does not exceed five hectares in a Left Wing Extremism affected area as may be notified by the Central Government.

(3) The exemption provided under sub-section (2) shall be subject to such terms and conditions, including the conditions of planting trees to compensate felling of trees undertaken on the lands, as the Central Government may, by guidelines, specify.”

7 Sub-section (1) of Section 1A, as introduced, indicates that two categories of lands are sought to be covered under the provisions of the parent enactment, namely, (i) lands which have been declared or notified as forests under the Act of 1927 or any other law for the time being in force; and (ii) lands not covered by (i) but which are recorded in government records as forests on or after 25 October 1980. An exception is provided in the proviso

as set out above. The Explanation indicates that for the purpose of sub-section (1) of Section 1A, 'government records' would mean records held by the Revenue department or forest department of the State or Union Territory or any authority, local body, community or council recognized by the State Government.

- 8 The amendment is in challenge on the ground that while the dictionary meaning of the expression 'forests' which was adopted in ***T N Godavarman*** (*supra*) provided a broad and all encompassing meaning to the expression, the amendment circumscribes the coverage of the statute to two categories falling in clauses (a) and (b) of sub-section (1) of Section 1A. As a consequence, it has been submitted that whereas the total coverage of forests in the country is expected to be in the vicinity of 7.13 lakhs square kilometers, about 1.97 lakh square kilometers would stand excluded by the constriction of the coverage by the amending legislation.
- 9 Rule 16 of the Rules which were notified on 29 November 2023 deals with 'miscellaneous matters' and provides that for the purpose of the explanation of the expression 'government records' in sub-section (1) of Section 1A, the State Governments and the Union Territory administrations shall within a period of one year prepare a consolidated record of such lands, including (i) 'forest like areas' identified by the Expert Committee constituted for this purpose; (ii) 'unclassed forest lands'; and (iii) 'community forest lands' to which the provisions of the Amending Act would be applicable. The

provisions of Rule 16(1) are footnoted³ below.

- 10 Sub-Rule 4 of Rule 16 indicates that for the purpose of forest cover under the Rules, the figures and description used in the latest India State of Forest Report published by the Forest Survey of India shall be referred.
- 11 Mr Prashanto Chandra Sen, senior counsel and Mr Prashant Bhushan, counsel for the petitioners have submitted that the application of the provisions of amended Section 1A is likely to result in a substantial dilution of the coverage of lands protected as forests under the broad definition adopted in the judgment of **T N Godavarman** (*supra*). On the other hand, the argument of the Union of India, as set forth by Ms Aishwarya Bhati, Additional Solicitor General, is that the purpose of introducing the amendment and the Rules as noted above was not to constrict the definition as adopted by this Court, but to implement the decision. In other words, the case of the Union of India is that the coverage which has been statutorily provided for in Section 1A as well as Rule 16 is in furtherance of the above decision of this Court.
- 12 On 30 November 2023, this Court, in the course of the preliminary hearing, noted the submissions which were urged on behalf of the petitioners which have been reiterated in the submissions urged at this hearing.

3 16. **Miscellaneous**.- (1) For the purpose of explanation of government records provided under sub-section (1) of Section 1A of the Adhinyam, the State Governments and Union Territory Administrations, within a period of one year, shall prepare a consolidated record of such lands, including the forest like areas identified by the Expert Committee constituted for this purpose, unclassified forest lands or community forest lands on which the provisions of the Adhinyam shall be applicable.

- 13 At that stage, a statement was made by the Additional Solicitor General appearing on behalf of the Union Government that “there is no intention to dilute the scope of forest as defined in the judgment of this Court in **T N Godavarman** (*supra*)”. Hence, it was also stated that the exemptions which would be granted under sub-section (2) of Section 1A would accord with the guidelines which may be spelt by the Union Government. The Union Government, the Court was informed, was in the process of formulating the guidelines, but in order to allay the apprehensions of the petitioners, a statement was made by the Additional Solicitor General that no precipitate action will be taken by the Union Government “until further orders in respect of the forest as understood in accordance with the dictionary sense”.
- 14 The decision in **T N Godavarman** (*supra*) needs to be understood from two perspectives. First, the expression ‘forest’ was read in a broad sense bearing in mind the object and purpose of the Forest Conservation Act 1980. While adopting the dictionary meaning of the expression ‘forest’, the Court intended to impart a purposive interpretation to the phrase so as to accord with the intent underlying the enactment of the law in 1980. Hence, the Court clarified that this would cover but not be confined only to lands recorded as forest in government records. Moreover, the expression ‘forest’ would be independent of the nature of ownership or title.

- 15 As regards the modalities for implementing the directions, the decision of this Court envisaged that all State Governments would constitute Expert Committees in order to identify forests as understood in the judgment. Proper implementation of the directions would take place once such a process of identification was made.
- 16 By the amending statute, the coverage of the Act has been extended to two categories. The first category consists of lands which have been declared or identified as forests in accordance with the Indian Forest Act or any other law for the time being in force. The second category consists of lands which have not been so declared or notified but which are recorded in government records as forests on or after 25 October 1980. The Explanation somewhat broadens the definition of the expression government records so as to include lands recorded either in the records of the Revenue or Forest departments of the States or Union Territories or any other authorities, local bodies, communities or council recognized by the State/Union Territories.
- 17 Rule 16 to which a reference has been made above requires the States and the Union Territory Administrations to prepare a consolidated record of such lands for the purpose of the explanation of government records under subsection (1) of Section 1A. This would include forest like areas identified by the Expert Committees for this purpose, unclassed forest lands or community forest lands to which the provisions of the amended statute would be applicable. Such an exercise is to be carried out within a period of one year.

It is thus evident that the exercise which is to be carried out by the State Governments and the Union Territory Administrations is expected to be completed within that period. However, there is a need to impart clarity to the position as it should obtain pending such a determination and beyond. The position must be governed by the directions which were issued by this Court in **T N Godavarman** (*supra*), which have held the field for over twenty-five years.

- 18 Both in the submissions at the preliminary hearing on 30 November 2023, as well as in the submissions which were urged during the course of the present hearing, it is not the contention of the Union Government that the statutory amendment seeks to bring about any change in the law which was laid down in **T N Godavarman** (*supra*). That apart, both the counsel for the petitioners have adverted to the stand of the Government before the Joint Parliamentary Committee which preceded the enactment of the law and the clear elaboration of the Union of India that the proposed coverage in the legislative provision which was under consideration, would accord with the decision of this Court. That being the position, we clarify that pending the completion of the exercise by the Administrations of the State Governments and the Union Territories under Rule 16 and pending these proceedings, the principles which are elucidated in the judgment of this Court in **T N Godavarman** (*supra*) must continue to be observed.

- 19 As a matter of fact, it is evident that Rule 16 includes within its ambit forest like areas to be identified by the Expert Committee, unclassified forest lands; and community forest lands. While being guided by the provisions of the statute and those contained in Rule 16, the State Governments as well as Union Territory Administrations shall peremptorily ensure compliance with the ambit of the expression 'forest' as explained in the decision in **T N Godavarman**.
- 20 The Union Ministry of Environment and Forest shall in pursuance of the interim order issue a circular to all the States and the Union Territory Administrations to act strictly in accordance with the present directions. This shall be issued within two weeks.
- 21 Apart from the above interim direction, it must be noted that following the decision in **T N Godavarman**, Expert Committees were required to be constituted by all the States (and Union Territory Administrations). The reports of the Expert Committees is crucial for the maintenance of a contemporaneous public record of lands which were identified as forests within the ambit of that expression as explained in the decision of this Court. The Union of India through the Ministry of Environment, Forest and Climate Change shall within a period of two weeks from the date of this order require all the States and the Union Territory Administrations to provide to it a comprehensive record of lands which have been identified as forests by the Expert Committees constituted by the State Governments/Union Territories

in pursuance of the directions in **T N Godavarman**.

- 22 All States and Union Territory Administrations shall comply with the present direction by forwarding records of the reports of the Expert Committees to MoEFCC no later than by 31 March 2024. These records shall be maintained by MoEFCC and shall be duly digitized and made available in the electronic format on the website of the MoEFCC no later than by 15 April 2024.
- 23 The Expert Committees which are constituted in pursuance of Rule 16 by the States/Union Territory Administrations shall duly bear in mind the work of identification which was carried out by the Expert Committees in pursuance of the directions in **T N Godavarman**. This shall however not preclude the Expert Committees from expanding the ambit of forest lands which are worthy of protection particularly having regard to the coverage as specified in Section 1A of the amended statute read with Rule 16(1).
- 24 Apart from the above directions, the attention of the Court has been drawn to the provisions contained in Section 5 of the Amending Act of 2023 which is in the following terms:

“5. In the principal Act, section 2 shall be renumbered as sub-section (1) thereof and—

(a) in sub-section (1) as so renumbered,—

(l) in clause (iii), for the words "not owned, managed or controlled by Government", the words ", subject to such terms and conditions, as the Central Government may, by order, specify" shall be substituted;

(II) in the Explanation, for the long line occurring after clause (b), the following shall be substituted, namely:— but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as—

(i) silvicultural operations including regeneration operations;

(ii) establishment of check-posts and infrastructure for the front line forest staff;

(iii) establishment and maintenance of fire lines;

(iv) wireless communications;

(v) construction of fencing, boundary marks or pillars, bridges and culverts, check dams, waterholes, trenches and pipelines;

(vi) establishment of zoo and safaris referred to in the Wild Life (Protection) Act, 1972, owned by the Government or any authority, in forest areas other than protected areas;

(vii) eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and

(viii) any other like purposes, which the Central Government may, by order, specify.";

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) The Central Government may, by order, specify the terms and conditions subject to which any survey, such as, reconnaissance, prospecting, investigation or exploration including seismic survey, shall not be treated as non-forest purpose."

- 25 Our attention is drawn to the fact that a co-ordinate Bench of this Court presided over by Hon'ble Mr Justice B R Gavai has reserved orders on the subject. Specifically, with reference to clause (6) above, we issue an interim order to the effect that any proposal for the establishment of zoos and safaris referred to in the Wile Life Protection Act 1972, enacted by the Government or any authority in forest areas other than protected areas, shall not be finally approved by the States/Union Territories, save and except with the prior permission of this Court. Where any such proposal is sought to be implemented, this Court shall be moved by the Union Government or, as the case may be, the competent authority for the prior approval of this Court. This part of the interim direction will hold the field only till the final judgment of the co-ordinate Bench. Necessarily therefore the judgment of the co-ordinate Bench shall govern the arena, once it is pronounced.
- 26 The Petitions shall now be listed for hearing and final disposal in the month of July 2024.
- 27 Mr Kaushik Chaudhary, Advocate-on-Record for the petitioner and Ms Suhasini Sen, counsel instructing the Additional Solicitor General are nominated as nodal counsel to prepare a consolidated compilation in the electronic form in terms of the Circular dated 22 August 2023.
- 28 The written submissions on behalf of the petitioners shall be provided to the nodal counsel no later than 30 April 2024. The written submissions of the

WPC 1164/2023

Union Government in response shall be provided no later than 30 June 2024 to the nodal counsel. The common compilation duly indexed shall be prepared in terms of the above circular and shall be emailed to cmvc.dyc@gmail.com.

IA No 5280 of 2023 In Writ Petition (Civil) No 1336 of 2023

- 1 The application for impleadment is allowed.
- 2 Liberty to serve the Standing Counsel for the newly impleaded States. They shall file their counter affidavit by 31 May 2024.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
February 19, 2024
CKB

ITEM NO.22

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.1164/2023

ASHOK KUMAR SHARMA, INDIAN FOREST SERVICE
(RETD) & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(With IA No.10020/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.214764/2023 - STAY APPLICATION and IA No.240922/2023 - STAY APPLICATION)

WITH W.P.(C) No.1336/2023 (PIL-W)

(With IA No.5280/2024 - INTERVENTION/IMPLEADMENT, IA No.10426/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No.247593/2023 - STAY APPLICATION)

W.P.(C) No.1375/2023 (PIL-W)

W.P.(C) No.42/2024 (PIL-W)

(With IA No.14901/2024 - GRANT OF INTERIM RELIEF)

W.P.(C) No.85/2024 (PIL-W)

(With IA No.30155/2024-EXEMPTION FROM FILING O.T.)

Date : 19-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) WPC 1164/2023	Mr. Prashanto Chandra Sen, Sr. Adv. Mr. Kaushik Choudhury, AOR Ms. Shibani Ghosh, Adv. Mr. Jyotirmoy Chatterjee, Adv. Ms. Khyati Jain, Adv. Ms. Akshata Chhabra, Adv. Mr. Yogesh Malik, Adv. Mr. Saksham Garg, Adv.
WPC 1336/2023	Mr. Satyajit Sarna, Adv. Mr. Prashant Padmanabhan, AOR Ms. Reaa Mehta, Adv. Mr. Vishal Sinha, Adv.
WPC 42/2024	Mr. Prashant Bhushan, AOR Ms. Neha Rathi, Adv. Ms. Kajal Geri, Adv. Mr. Kamal Kishore, Adv.
WPC 1375/2023	Mr. Balaraj Malik, Adv. Mr. R.C. Kaushik, AOR
WPC 85/2024	Mr. Shyam Divan, Sr. Adv. Ms. Madhusmita Bora, AOR Mr. Riju Raj Singh Jamwal, Adv. Mrs. Madhur Dadlani, Adv. Mr. Dipankar Singh, Adv.
For Respondent(s)	Ms. Aishwarya Bhati, ASG Mr. Gurmeet Singh Makker, AOR Ms. Ruchi Kohli, Adv. Ms. Bani Dixit, Adv. Mr. Rajat Nair, Adv. Mr. Sridhar Pottaraju, Adv. Mr. Kanu Agarwal, Adv. Dr. N. Visakamurthy, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 In terms of the signed order, the Petitions shall now be listed for hearing and final disposal in the month of July 2024.
- 2 Mr Kaushik Chaudhary, Advocate-on-Record for the petitioner and Ms Suhasini Sen, counsel instructing the Additional Solicitor General are nominated as nodal counsel to prepare a consolidated compilation in the electronic form in terms of the Circular dated 22 August 2023.
- 3 The written submissions on behalf of the petitioners shall be provided to the nodal counsel no later than 30 April 2024. The written submissions of the Union Government in response shall be provided no later than 30 June 2024 to the nodal counsel. The common compilation duly indexed shall be prepared in terms of the above circular and shall be emailed to cmvc.dyc@gmail.com.

IA No 5280 of 2023 In Writ Petition (Civil) No 1336 of 2023

- 1 The application for impleadment is allowed.
- 2 Liberty to serve the Standing Counsel for the newly impleaded States. They shall file their counter affidavit by 31 May 2024.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar
(Signed order is placed on the file)

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ANNEXURE R-5

Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)
Indira Paryavaran Bhawan,

Aliganj, Jor Bagh Road,
New Delhi: 110003
Dated: March, 2024

OFFICE MEMORANDUM

Sub: Interim order dated 19.02.2024 passed by the Hon'ble Supreme Court in the W.P. (C) No. 1164/2023 in the matter of Shri Ashok Kumar Sharma vs. Union of India and others and other connected matters – reg.

The undersigned is directed to refer to the interim order dated 19.02.2024 (copy enclosed) passed by the Hon'ble Supreme Court in the above subject matter wherein the Hon'ble Supreme Court has inter-alia directed that the MoEF&CC to issue a circular to all the States and the Union Territory Administrations to act strictly in accordance with the directions contained in the said interim order. A copy of the interim order dated 19.02.2024 is enclosed herewith.

In view of the above, the undersigned is directed to request all the State Governments and Union Territory Administrations to comply with all the directions contained in the interim order in letter and spirit. Further, as directed by the Hon'ble Court in the aforementioned order, a comprehensive record of lands which have been identified as forests by the Expert Committees constituted by the State Governments/Union Territories in pursuance of the directions of the Hon'ble Supreme Court in **T. N. Godavarman** case, shall be provided to the Ministry not later than 31st March, 2024.

This is issued with the approval of the competent authority.

Encl: As Above.

**Signed by Charan Jeet
Singh**

Date: 02-03-2024 11:22:17

(Charan Jeet Singh)
Scientist D

To

The Addl. Chief Secretary/Principal Secretary (Forests)
All State Govt./Union territory Administrations

Copy to:

1. PCCF (HOFF), All States/UTs
2. Dy Director Generals of Forests (Central), All ROs/SROs of the MoEF&CC
3. Addl. PCCF & Nodal Officer (FCA), O/o PCCF, All State/UTs
4. Guard File

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ANNEXURE R-6

Government of India
Ministry of Environment, Forest & Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Jor Bagh Road, Aliganj,

New Delhi, 110003,

Date: **As per E-sign**

To

Addl. Chief Secretaries (Forests)/Principal Secretary (Forests),
All State Governments/UT Administrations

Sub: In Writ Petition 1164 Of 2023 in the matter Ashok Kumar Sharma Retd. IFS Vs Union Of India In The Hon'ble Supreme Court Of India – reg.

Ref: Ministry's letter dated 02.03.2024 – reg.

Sir,

I am directed to refer to the above captioned matter which is pending in the Hon'ble Supreme Court of India. The Ministry vide its letter of even number dated 02.03.2024 requested all State Governments and Union territory Administrations to send the Expert Committee reports in compliance of the order dated 19.02.2024 of the Hon'ble Supreme Court.

Since many States/UTs have not provided the complete information in the expert committee report as per the directions contained in the Hon'ble Supreme Court's judgment dated 12.12.1996, the State Governments and Union territory Administrations are requested to send complete information having due regard to the directions contained in the Hon'ble Supreme Court's order dated 12.12.1996 of the Hon'ble Supreme Court.

Further, all States and Union territory Administrations are also requested to comply with the provisions of sub rule (1) of rule 16 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, Rules 2023 as also directed by Hon'ble Supreme Court in its order dated 19.02.2024 in the instant matter.

This is issued with the approval of the competent authority.

Yours' sincerely,

**Signed by Charan Jeet
Singh**

Date: 10-07-2024 11:57:07

(Charan Jeet Singh)
Scientist 'D'
Email: c.jsingh1@gov.in

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ANNEXURE R-7

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File No. 7/25/2024-FC
Government of India
Ministry of Environment Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan
Aliganj, JorBagh Road
New Delhi-110003

Dated: February, 2025

To

The Addl. Chief Secretary (Forests)/Prl. Secretary (Forests),
All States/Union Territories

Sub: Minutes of meeting held under the chairmanship of Addl. DGF on 14th February, 2025 in the MoEF&CC, New Delhi to assess the progress of compliance of Rules 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2024 - reg.

Madam/Sir,

I am directed to refer to the meeting held under the chairmanship of Addl. DGF held on 14.02.2025 in the MoEF&CC, New Delhi to assess the progress of compliance of Rules 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2024 and to enclose herewith minutes of the said meeting for further needful.

Encl: As above.

(Charan Jeet Singh)
Scientist 'E'

Copy to:

1. PCCF (HoFF), State Forest Department, All States/Union Territories.
2. Dy DDG (Central), All Regional Office, MoEF&CC
3. Nodal Officer (VSSA), O/o PCCF (HoFF), State Forest Department, All States/Union Territories.
4. DG, FSI, Kaulagarh Road, Dehradun with a request to depute the concerned officer from Forest Survey of India to attend the meeting.

Copy for internal circulation to:

PPS to IGF (FC) PSO to Secretary, EF&CC/Sr. PPS to DGF&SS/PPS to Addl. DGF(FC)/ PPS to IGF (SU)

Minutes of meeting held under the chairmanship of Addl. DGF on 14th February, 2025 in the MoEF&CC, New Delhi to assess the progress of compliance of Rules 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2024

1. In furtherance to the decisions taken in the meeting held on 3.10.2024 in the MoEF&CC, a meeting was held on 14.02.2025 in the Ministry under the chairmanship of Addl. DGF (FC) to deliberate on the progress made by the various States and Union territories in the preparation of consolidated records of forest lands in accordance with provision of Rule 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2023 and directions contained in the Hon'ble Supreme Court order dated 19.02.2024. The PCCFs and Nodal Officers from the States/Union territories and DDGs of the Regional Offices of the MoEF&CC attended the meeting. List of participants is enclosed at Annexure.
2. At the outset, the participants were welcomed by the chair and briefed about the background and purpose of the meeting. The participants were briefed and clarified the following during the meeting:
 - i. As per the amended provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, an explanation to the term 'Government Records' has been provided under section 1A of the Adhiniyam which states that '*Government record*' means record held by Revenue Department or Forest Department of the State Government or Union territory Administration or any authority, local body, community or council recognised by the State Government or Union territory Administration'.
 - ii. To supplement the Government records as explained in the Adhiniyam, supporting provisions have been provided under Rule 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2023 stating that '*For the purpose of explanation of government records provided under subsection (1) of section 1A of the Adhiniyam, the State Governments and Union territory Administrations, within a period of one year, shall prepare a consolidated record of such lands, including the forest like areas identified by the Expert Committee constituted for this purpose, unclassed forest lands or community forest lands on which the provisions of the Adhiniyam shall be applicable.*
 - iii. Hon'ble Supreme Court, at para 23 of its order dated 19.02.2024, has

taken note of the above provisions of Rule 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2023 and directed that *'The Expert Committees which are constituted in pursuance of Rule 16 by the States/Union Territory Administrations shall duly bear in mind the work of identification which was carried out by the Expert Committees in pursuance of the directions in T N Godavarman. This shall however not preclude the Expert Committees from expanding the ambit of forest lands which are worthy of protection particularly having regard to the coverage as specified in Section 1A of the amended statute read with Rule 16(1).* Hon'ble Supreme Court in the said order has also directed the MoEF&CC to upload the reports of the Expert Committee, to be made available by the States/UTs by 31.03.2024, on the website of the Ministry before 15.04.2024.

- iv. Information related to the reports of the Expert Committee, as submitted by States/UTs have been uploaded by the MoEF&CC on the website of the Ministry. Reports received from the States after 15.04.2024 was also uploaded on the website of the Ministry (PARIVESH). As per information on the Expert Committee reports, received from the States and Union territories, it was observed that 33 States/UTs have submitted the information regarding the reports of the Expert Committee in compliance of order dated 12.12.1996 while 4 States/UTs have informed about the constitution of the Expert Committee after the order dated 19.02.2024 of Hon'ble Supreme Court. Detail of the same is annexed as '**Annexure - II**'.
3. The participants were further informed that as per the deliberations held in the meeting dated 3.10.2024, all States/UTs were required to prepare and compile the records of the lands in accordance with the Rule 16(1) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 by completing the exercise of identification of such lands within the stipulated time and a progress report on the same was to be informed to the Ministry. It was also decided in the said meeting that States/UTs, who had made no progress so far, shall immediately take action in this regard.
4. Officers from the States/UTs have informed the status of progress made in their respective States/UTs and the same was deliberated during the review meeting. Summary of the progress made by the various States and Union territories, as revealed during the review is as under:
 - i. Three States viz. Sikkim, Odisha and Gujarat have reported completion of exercise in compliance to rule 16(1) of the Van (Sanrakshan Evam

Samvardhan) Rules, 2023.

- ii. Committee in compliance of 16(1) of the rules has been constituted in 9 States/UTs viz. Chhattisgarh, Mizoram, Kerala, Rajasthan, Uttarakhand, Himachal Pradesh, Chandigarh, Dadar and Nagar Haveli and Daman and Diu, Jammu and Kashmir and the work related to preparation and consolidation of land records is under progress which is likely to be completed within period of 2-6 months.
- iii. Work in compliance of rule 16(1) is also observed to be under progress in another 9 States and Union territories viz. Arunachal Pradesh, Meghalaya, Tripura, Tamil Nadu, Goa, Punjab, Madhya Pradesh, Bihar and Puducherry where no Committee in compliance of Rule 16(1) has constituted and the exercise is reported to be completed within period of 6 months.
- iv. No progress has been observed to be made in respect of 7 States and Union territories viz. Assam, Karnataka, Andhra Pradesh, Telangana, Maharashtra, Government of NCT Delhi and Andaman & Nicobar Islands.
- v. No information in respect of 8 States and UTs viz. Nagaland, Manipur, Haryana, Jharkhand, Uttar Pradesh, West Bengal, Ladakh, Lakshadweep was reported as no officers from these States attended the meeting.

State wise detail of progress reported during the meeting is enclosed at **Annexure-III.**

5. The Nodal Officers from the States of Chhattisgarh, Himachal Pradesh, Madhya Pradesh, and Uttarakhand have informed that although the exercise in compliance to Rule 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2023 is under progress, yet taking into consideration the various administrative reasons, the completion of exercise may take time even more than 6 months. As per the provisions of the Rule 16(1), the time of one year has already expired and therefore, Ministry may consider extending the time for a period of one year enabling the various States/UTs to complete the exercise in consonance with the provisions of the Rules.
6. After deliberations, the following was concluded:
 - i. The State/UTs where exercise is being taken in compliance to Rule 16(1) with or without the Constitution of the Committee, will make best efforts to complete the exercise at the earliest within the time as informed by the respective officers of the States/UTs.
 - ii. The States/UTs, where so far no substantial progress has been made in

compliance to Rule 16(1), shall immediately take action and a progress report on the same shall be submitted to the MoEF&CC by 15th March, 2025.

7. Meeting ended with thanks to the chair.

Annexure

Officers connected through VC link during the meeting held on 14.02.2025 at 11.00 AM.

A. Participants from MoEF&CC

1. Shri A.K. Mohanty, ADG (FC)
2. Shri Ramesh Pandey, IGF(FC)
3. Shri K. B. Singh, IGF, Survey and Utilization Division
4. Shri Charan Jeet Singh, Scientist 'E'
5. Dr. Shobhita Agarwal, Asst. IGF
6. Shri Jitesh Kumar, ACF, MoEF&CC

B. Prl. Secretary/Addl. Secretary from the State connected through VC link

1. Ms. Richa Sharma, Principle Secretary, Chhattisgarh
2. Secretary (Forest), Chhattisgarh
3. Spl. CS E&F Dept. Assam

C. Official from FSI, Dehradun

1. Shri S.K. Singh, DDG, FSI, Dehradun

D. Nodal Officers from State/UTs

1. Shri Ranjan Kumar, Nodal Officer, O/o PCCF& HoFF, Uttarakhand
2. Shri Jiapal Singh, Nodal Officer, O/o PCCF& HoFF, Gujarat
3. Shri Parveen Kumar, CCF, Forest Department, Goa
4. Shri Sunil Mishra, Nodal Officer, Chhattisgarh
5. Shri Sanjay Sood, Nodal Officer, Himachal Pradesh
6. Shri Vishwa Kannan, Nodal Officer, Government of NCT, Delhi

7. Shri Arun Prasad APCCF O/o PCCF HoFF Rajasthan
8. Shri Rajesh Devendar, CF (SA & NO), Kerala
9. Shri Surendar Singh, Nodal Officer, State Forest Department, Bihar
10. Shri A. K. Naiak, PCCF, Forest Department, Andhra Pradesh
11. Shri Vishavjeet Mishra, Nodal Officer, O/o PCCF & HoFF, Karnataka
12. Shri Phani Kumar Naidu, O/o PCCF, State Forest Department, Andhra Pradesh
13. Shri H. S. Mohanta, Nodal Officer, O/o PCCF& HoFF, Madhya Pradesh
14. Shri A.K. Kar, CCF, O/o PCCF, Government of Odisha
15. Shri T. Wanniang, IFS, FCA, NO, Meghalaya
16. Sh. L. Otta
17. Deputy Conservator of Forests, Territorial, Dadra & Nagar Haveli
18. PCCF Nodal FC& Wildlife CWLW Uttarakhand
19. PCCF (HoFF), Telangana
20. Nodal Officer, Punjab State Forest Department
21. Nodal Officer, Forest Department Jammu and Kashmir
22. Nodal Officer, State Forest Department Tamil Nadu
23. Nodal Officer, State Forest Department Mizoram
24. Nodal Officer, State Forest Department, Sikkim
25. Chief Conservator of Forest & Chief Wildlife Warden, UT Chandigarh
26. PCCF, Andman & Nicobar Island
27. APCCF & Nodal Officer (FCA), Arunachal Pradesh
28. Sh. Tseten W. Lachungpa

E. Officials From Regional Offices and Sub-Offices connected through VC link

1. Regional Office Nagpur
2. Regional Office, Bhopal
3. Regional Office, Shillong
4. Regional Office, Bhubaneswar
5. DDG, Dehradun
6. Shri Shrawan Kumar Verma, DDGF, RO, Gandhinagar
7. RO, Chennai
8. RO, Bengaluru

9. AIGF, RO Lucknow
10. Sh. MK Sambhu, RO Bangalore
11. Regional Office, Bhopal

Annexure-I**Detail of information received from the States/UTs in compliance of Hon'ble Supreme Court Order dated 19.02.2024**

S. No.	Status of Constitution of Expert Committee	States	Remarks
A.	Status of submission of information as per order dated 12.12.1996		
1.	Number of States/UTs who have submitted information on or before 31.03.2024	11	Meghalaya, Arunachal Pradesh, Goa, Himachal Pradesh, Chandigarh, Dadra and Nagar Haveli and Daman and Diu, Jammu and Kashmir, Ladakh, Puducherry, West Bengal
2.	Number of States/UTs who have submitted information after 31.03.2024 and before 15.04.2024	17	Assam, Nagaland, Mizoram, Tripura, Kerala, Maharashtra, Gujarat, Rajasthan, Haryana, Punjab, Uttarakhand, Uttar Pradesh, Madhya Pradesh, Jharkhand, Bihar, Andaman & Nicobar Islands, NCT of Delhi
3.	States/UT who have submitted information after 15.04.2024	8	Tamilnadu, Manipur, Sikkim, Karnataka, Andhra Pradesh, Chhattisgarh, Odisha, Lakshadweep
4.	States/UTs who have submitted information earlier but withdrawn subsequently	1	Telangana
	Total	37	
B.	Status of information		
1.	States /UTs who have submitted reports regarding identification of various forest lands in compliance of order dated 19.02.2024	33	
2.			

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States/UTs where Expert Committee constituted after the order dated 19.02.2024	4	West Bengal, Ladakh, Jammu and Kashmir, and Lakshadweep
Total	37	

Annexure-II**Progress of compliance of Rule 16(1) of the Van (Sanrakshan Evam Samvardhan) Rules, 2023 reported by the States/UTs**

S. No.	Name of the States	Status of Progress
	North Eastern States	
1.	Assam	Proposal for the constitution of the Committee has been submitted for the approval of the State Government. After constitution of the Committee, the exercise will be completed within a period of almost 6 months.
2.	Meghalaya	Committee is not constituted. Work is under progress and it will be completed within 3-4 months.
3.	Arunachal Pradesh	Committee is not constituted. Work is under progress
4.	Nagaland	-
5.	Manipur	-
6.	Mizoram	Committee constituted. Work is under progress and will be completed within a period of 3-4 months
7.	Tripura	Work is under progress and will be completed within a period of 3-4 months.
8.	Sikkim	Work in compliance to Rule 16(1) has been completed.
	Southern States	
9.	Karnataka	Notification of the Committee will be issued soon. Tentative timeline for completion of exercise was not mentioned.
10.	Tamil Nadu	Work is under progress and the same will be completed by the end of March, 2025.
11.	Andhra Pradesh	Approval from the State is awaited on the constitution of Committee. Tentative time for the completion of the exercise was not informed.
12.	Telangana	Approval from the State is awaited on the constitution of Committee. Tentative time for the completion of the exercise was not informed.
13.	Kerala	Committee constituted. Work is under progress and the exercise will be completed within a

		period of one month.
14.	Goa	Work is under progress and compilation in respect of notified forest lands will be completed within a period of one week while compilation of records related to private forest land will be completed within a period of one year.
	North, Central, East and Western India	
15.	Maharashtra	No progress. Work related to compilation of records is yet to be initiated. Tentative time lines not mentioned.
16.	Gujarat	Completed with respect to Recorded Forest Areas. Progress report will be submitted within a week.
17.	Rajasthan	Committee Constituted. Work related to compilation of land records has been completed and submitted for the approval of the Revenue Department.
18.	Haryana	-
19.	Punjab	Work related to preparation and compilation of land records is under progress and will be completed within a period of 2-3 months.
20.	Uttarakhand	Committee constituted. Work is under progress and will be completed within a period of 6 months.
21.	Uttar Pradesh	-
22.	Madhya Pradesh	Completed for notified forest land. Work on the compilation of records pertaining to the government records is yet to be initiated.
23.	Chhattisgarh	Committee constituted. Considerable progress in the compilation of the records has been made and work will be completed within a period of 3 months.
24.	Jharkhand	-
25.	Bihar	Work is under progress and will be completed within a period of 2-3 months.
26.	West Bengal	-
27.	Odisha	Completed. Digitization of records is under progress.
28.	Himachal Pradesh	Committee constituted. Exercise of compilation of land records will be completed within 3 months period.

Union territory Administrations

S. No.	Name of the Union territory	Status of information
1.	Andaman and Nicobar	Committee constituted and submitted for the

	Islands	approval of the Administration.
2.	Chandigarh	Committee constituted. Work will be completed within a period of three months.
3.	Dadra and Nagar Haveli and Daman and Diu	Works will be completed by April, 2025
4.	Delhi (NCT)	Proposal submitted to the Government of NCT Delhi for the constitution of the Committee. Work will be completed within a period of 3-4 months after the Constitution of the Committee.
5.	Jammu and Kashmir	Committee constituted. Compilation of land records has been submitted for approval. Compliance will be ensured within a period of two months.
6.	Ladakh	-
7.	Lakshadweep	-
8.	Puducherry	Progress report will be submitted within a week.
