

The Forest (Conservation) Act, 1980

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The Forest (Conservation) Act, 1980

[Act 69 of 1980]

[27th December, 1980]

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

Be it enacted by Parliament in the Thirty-first year of the Republic of India as follows:—

Statement of Objects and Reasons.—Deforestation causes ecological imbalance and leads to environmental deterioration. Deforestation had been taking place on a large scale in the country and it had caused widespread concern.

2. With a view to checking further deforestation, the President promulgated on the 25th October, 1980, the Forest (Conservation) Ordinance, 1980. The Ordinance made the prior approval of the Central Government necessary for de-reservation of reserved forests and for use of forest land for non-forest purposes. The Ordinance also provided for the constitution of an advisory committee to advise the Central Government with regard to grant of such approval.

CASE LAW ▶ Object.—The Act was in recognition of the awareness that deforestation and ecological imbalances as a result of deforestation have become social menaces and further deforestation and ecological imbalances should be prevented. That was primary purpose of the Act, *Ambica Quarry Works v. State of Gujarat*, (1987) 1 SCC 213.

▶ **Scope.**—After enforcement of the 1980 Act, the State Governments were denuded of suo motu power to deal with reserved forest or forest land and permit use thereof for non-forest purposes. They could do so only after obtaining prior approval of the Central Government. The object of the 1980 Act is conservation of forests and to prevent depletion thereof. Therefore, the Court is bound to interpret the provisions of that Act in a way which would further the object of the legislation, *Nature Lovers Movement v. State of Kerala*, (2009) 5 SCC 373.

The Revenue Authorities had no jurisdiction to make any grants under the Karnataka Land Grants Rules or such other grants under the Karnataka Land Revenue Act more particularly after the Forest (Conservation) Act, 1980 had come into force, *Commr. v. Gidda*, ILR 2012 KAR 2275.

▶ **Applicability.**—Integrated development of wildlife habitat under Central Government sponsored schemes like Integrated Development of Wildlife Habitats (Centrally-sponsored Scheme 2009) and NWAP 2002-2016 and other wildlife policies of Central Government have to be read along with provisions of Wildlife Act, 1972, Forest (Conservation) Act, 1980, and Articles 48-A, 51-A(g) of Constitution, *Centre for Environmental Law, World Wide Fund-India v. Union of India*, (2013) 8 SCC 234.

▶ **Repugnancy between Central and State Legislations.**—There is no conflict between Forest (Conservation) Act, 1980 and M.P. Land Revenue Code, 1959, *Asmeen Vaishya v. Union of India*, (2012) 3 MP LJ 678 (MP).

1. Short title, extent and commencement.—(1) This Act may be called the Forest (Conservation) Act, 1980.

(2) It extends to the whole of India ¹[* * *].

(3) It shall be deemed to have come into force on the 25th day of October, 1980.

2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose.—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) ²[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 not owned, managed or controlled by Government;
- (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 reafforestation].

³[*Explanation.*—For the purposes of this section “non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for—

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticulture crops or medicinal plants;
- (b) any purpose other than reafforestation,

but does not include any work relating or ancillary to conservation, development and management of forests and wild-life, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes].

CASE LAW ► Nature and scope.—The Forest (Conservation) Act does not permit mining in the forest area. Whether the mines are within the reserved forests or, in other forest area, the provisions of the Act apply. The Act applies to renewals as well and even if there was a provision for renewal in the lease agreement on exercise of lessee’s option, the requirements of the Act has to be satisfied before such renewal could be granted. Whether it is a case of first grant or renewal following exercise of option by the lessee, the compliance of Section 2 of the Act is necessary as a condition precedent, *Rural Litigation and Entitlement Kendra v. State of U.P.*, 1989 Supp (1) SCC 504.

► Applicability.—Under Section 3 of the Forest Act, 1927 the State Government may constitute any forest land or waste land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest.

1. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, Ss. 95, 96 & Sch. V (w.e.f. 31-10-2019).

2. *Ins.* by Act 69 of 1988, S. 2 (w.e.f. 15-3-1989).

3. *Subs.* by Act 69 of 1988, S. 2 (w.e.f. 15-3-1989).

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Section 2 applicable not only to State Governments but to Union Territories as well and expression 'other authority' in Section 2 includes Collector, *Union of India v. Kamath Holiday Resorts (P) Ltd.*, (1996) 1 SCC 774.

► **"Forest land" what is.**—Merely because land is not described as "forest land" in the revenue accounts, the same cannot be treated as not being "forest land". The matter has now to be decided keeping in mind the actual nature of the land and not merely by the description in the revenue accounts. It may be that any positive description of the land as "forest land" in the revenue accounts may help the court in treating the land as "forest land" but in the absence of such description the evidence of the actual nature of the land may also lead to the conclusion that the land is in its true nature, "forest land", *Colorock (P) Ltd. v. Director of Mines and Geology, Govt. of A.P.*, (1989) 2 AP LJ 11 (SN).

The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act, *T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267.

► **Renewal of lease.**—Central Government is the competent authority to grant approval of the renewal of the lease for quarrying the mines by the State Government, *Anupama Minerals Kasturupally v. Union of India*, (1984) 2 AP LJ 68(SN).

After coming into force of the Act, renewal of pre-existing mining leases in forest areas can be granted only if requirements of Section 2 are satisfied, *Ambica Quarry Works v. State of Gujarat*, (1987) 1 SCC 213.

Once an area is declared as protected forest, it becomes forest land within the meaning of Section 2 and for grant of mining leases/licences within the protected forest clearance from Central Govt. under Rule 4(6) and approval of Central Govt. under Section 2 are conditions precedent, *Tarun Bharat Sangh v. Union of India*, 1993 Supp (3) SCC 115.

The initial lease deed could be granted earlier to the promulgation of the Act, but for renewal, the provisions of the Act would be operable. After the coming into force of the Act, the renewal of a pre-existing mining lease in a forest area can be granted only if the requirements of Section 2 are satisfied, *A. Chowgule & Co. Ltd. v. Goa Foundation*, (2008) 12 SCC 646.

For renewal of pre-existing mining lease in a forest area, requirements of Section 2 are to be necessarily complied with, *A. Chowgule & Co. Ltd. v. Goa Foundation*, (2008) 12 SCC 646.

Considering the object of 1980 Act and legal principles laid down by Supreme Court after enforcement of 1980 Act, State Governments cannot deal with reserved forest or forest land and permit use thereof for non-forest purposes, except after obtaining prior approval of Central Government. Further, even if any forest land or any portion thereof had been used for non-forest purpose for a particular length of time prior to enforcement of 1980 Act, the tenure of such activity cannot be extended by way of renewal of lease or otherwise after enforcement of 1980 Act without obtaining prior approval of Central Government, *Nature Lovers Movement v. State of Kerala*, (2009) 5 SCC 373.

► **Prior approval.**—Building activity within forest area is a non-forest activity for which prior approval of Central Govt. is necessary. However, permission granted in some cases by State Govt. only, *Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority*, (1997) 11 SCC 605.

Where the State Government did not want to lease any part of forest land, question of seeking prior approval of the Central Government did not arise. Question of approval arises only when the State Government makes a request for such approval in respect of cases falling under the enumerated categories

in Section 2. Section 2 has no application when the State Government does not want to do any of the enumerated acts, *State of Kerala v. Sunil Kumar*, (2006) 9 SCC 753.

Section 2(i) prohibits any State Government or authority from making an order directing that any forest land or portion thereof be used for any non-forest purpose without the prior approval of the Central Government, *Rajinder Kishan Gupta v. Govt. of NCT of Delhi*, ILR (2010) 1 Del 642(DB).

Section 2(i) prohibits any State Government or authority from making an order directing that any forest land or portion thereof be used for any non-forest purpose without the prior approval of the Central Government—Since the Delhi Development Authority (“DDA”) land is marked as forest land, the DDA has no authority to allot the same to DMRC. Further, mere availability of DDA land cannot be a good ground for quashing the notification which has otherwise been validly issued under the provisions of the Land Acquisition Act, *Rajinder Kishan Gupta v. Govt. of Nct of Delhi*, ILR (2010) 1 Del 642 (DB).

If project site is not classifiable as forests, prior approval of Central Government is not required. The restriction imposed by Section 2(ii) is in respect of forest land, *NOIDA Memorial Complex Near Okhla Bird Sanctuary, In re*, (2011) 1 SCC 744.

Approval of the Central Government under Section 2 does not lead to the conclusion that the forest land becomes Central Government land or provision of M.P. Land Revenue Code or any other State Act stood excluded for all purposes, *Asmeen Vaishya v. Union of India*, (2012) 3 MP LJ 678 (MP).

► **Government clearance.**—Central Government’s permission under, and under notification dated 19-2-1991 issued under Sections 3(1) & (2)(v), Environment (Protection) Act, and permission of State Government under Sections 29 and 35, Wild Life (Protection) Act are independent of each other. Clearance under each of the three statutes is essential before any activity otherwise prohibited thereunder may be proceeded with, *Essar Oil Ltd. v. Halar Utkarsh Samiti*, (2004) 2 SCC 392 : AIR 2004 SC 1834.

Since prayer was for strengthening of existing Orai Dam Irrigation Project, District Chittorgarh in BASSI Wildlife Sanctuary, Rajasthan, following judgment of Supreme Court in Mullaperiyar Environmental Protection Forum, (2006) 3 SCC 643 no clearance under Section 2 is necessary for strengthening work of existing dam, *T.N. Godavarman Thirumulpad v. Union of India*, (2012) 12 SCC 115.

Wide terms of definition in Section 3(d) encompasses all such activity within the meaning of expression “mining operations”. Use of forest land for such activity would require clearance under the Forest (Conservation) Act, *Samaj Parivartana Samudaya v. State of Karnataka*, (2013) 8 SCC 154.

► **Power of Government.**—The convention on Biological Diversity has been acceded to by the country and, therefore, it has to implement the same. In the absence of any inconsistency between the domestic law and the international conventions, the rule of judicial construction is that regard must be had to international conventions and norms even in construing the domestic law. It is, therefore, necessary for the Government to keep in view the international obligations while exercising discretionary powers under the Conservation Act unless there are compelling reasons to depart therefrom, *T.N. Godavarman Thirumulpad v. Union of India*, (2002) 10 SCC 606.

State Government has no power to grant lease of forest and to encroachers nor it has any power of settlement, *Ratan Singh Rajput v. State of M.P.*, (2012) 3 MP LJ 173 (MP).

► **Reserved land.**—Notification declaring Government decision to constitute land a reserved forest without revesting the said land in Government under Section 117(6) of Uttar Pradesh Zamindari Abolition and Land Reforms Act is valid, *Om Singh v. State*, 1980 All LJ NOC 77.

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Status of reserved forest land could not be changed by a notification under Section 349 of Karnataka Municipalities Act, 1964, *T.N. Godavarman Thirumalpad v. Union of India*, (2002) 10 SCC 606.

► **Grove land.**—Grove land cannot be included within the term 'forest land' or 'waste land', *State v. Mahant Avaidh Nath*, AIR 1977 All 192.

► **Non-forest activity.**—Since total area of sanctuary remained unaffected while strengthening works on dam and increase in expanse of dam reservoir due to restoration of water level, definition of land in Section 2(17), the Wild Life (Protection) Act, 1972 included water bodies, and since forest or wildlife would not be affected by carrying out the strengthening works and the increase of the water level, said activity cannot be described as non-forestry activity, to attract Section 2, *Mullaperiyar Environmental Protection Forum v. Union of India*, (2006) 3 SCC 643 : AIR 2006 SC 1428.

► **Submission of proposal.**—Section 2, 1980 Act, read with Rule 4, 1981 Rules requirement of submitting the proposal for forest diversion under the 1980 Act was exclusively the obligation of the State Government, *Lafarge Umiam Mining (P) Ltd. v. Union of India*, (2011) 7 SCC 338.

► **National Forest Policy.**—The words "environment" and "sustainable development" have various facets. At times in respect of a few of these facets data is not available. Care for environment is an ongoing process. The National Forest Policy, 1988 which lays down far-reaching principles must necessarily govern the grant of permissions under Section 2 of the Forest (Conservation) Act, 1980 as the same provides the road map to ecological protection and improvement under the Environment (Protection) Act, 1986. The principles/guidelines mentioned in the National Forest Policy, 1988 should be read as part of the provisions of the Environment (Protection) Act, 1986 read together with the Forest (Conservation) Act, 1980, *Lafarge Umiam Mining (P) Ltd. v. Union of India*, (2011) 7 SCC 338.

► **Determination of whether land in question is forest land.**—For determination of whether land in question is forest land, due weight has to be given to revenue records, especially those pertaining to a period when the dispute regarding the land being forest land did not exist, *Chandra Prakash Budakoti v. Union of India*, (2019) 10 SCC 154.

► **Restriction on de-reservation of forests.**—Provisions of Section 2 mandate strict and punctilious compliance therewith. Mere substantial compliance is not enough. Any construction made on forest land or its utilisation for "non-forest purposes" which is violative of Forest (Conservation) Act, 1980 and therefore illegal, liable to be demolished. *H.P. Bus-Stand Management & Development Authority v. Central Empowered Committee*, (2021) 4 SCC 309.

⁴[**2-A. Appeal to National Green Tribunal.**—Any person aggrieved, by an order or decision of the State Government or other authority made under Section 2, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under Section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.]

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

4. Ins. by Act 19 of 2010, S. 36 and Sch. III (Pt. III) (w.e.f. 18-10-2010).

- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

CASE LAW ▶ Grant of approval.—State Government's order granting lease in respect of forest land with special condition that quarrying operation must commence only after obtaining concurrence of Central Government, such grant of lease subject to concurrence of Central Government is violative of Forest (Conservation) Act and liable to be set aside, *K.V. Shanmugam v. State of T.N.*, (1997) 2 CTC 431.

Existence of Advisory Committees under, with regard to Section 2, approval is not an impediment to exercise of power under Section 3(3), Environment (Protection) Act, 1986 for appointment of a National Environment Regulator, *T.N. Godavarman Thirumulpad v. Union of India*, (2014) 4 SCC 61.

⁵[**3-A. Penalty for contravention of the provisions of the Act.**—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.]

⁶[**3-B. Offences by 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].

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

5. Section 3-A ins. by Act 69 of 1988, S. 3 (w.e.f. 15-3-1989).

6. Section 3-B ins. by Act 69 of 1988, S. 3 (w.e.f. 15-3-1989).

S. 5] in the rule or both Houses agree that the rule should not be made, the rule 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 repealed.

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