International Journal of Pure and Applied Mathematics
Volume 120 No. 5 2018, 2189-2207
ISSN: 1314-3395 (on-line version)
url: http://www.acadpubl.eu/hub/
Special Issue

http://www.acadpubl.eu/hub/

ROLE OF JUDICIARY IN CONSERVATION OF FORESTS

[1]L. SANMIHA

[1]Student ,4Th Year, Ba Llb, Saveetha School Of Law, Saveetha Institute Of Medical And Technical Sciences , Saveetha University, Chennai- 77,Tamilnadu,India.

[2]R. DHIVYA

[2] Assistant Professor, Saveetha School Of Law, Saveetha Institute Of Medical And Technical Sciences , Saveetha University, Chennai- 77,Tamilnadu,India.

[1]lsanmiha96@gmail.com , [2]divyar.ssl@saveetha.com

ABSTRACT

India, like most developing countries, is faced with the daunting challenge of developing itself rapidly, while at the same time preserving and protecting its environment. The concepts of industrialisation, urbanisation and globalisation have adversely influenced the natural resources like water, forest, air, etc. There is imminent need to conserve and utilise theses resources in a sustainable manner since they are the very basic components of human development. Forests form a very important part of our natural ecosystem. They help in maintaining ecological balance. They render the climate equable, add to the fertility of the soil, prevent soil erosion, and promote perennial stream flow in rain-fed rivers. They also shelter wild animals, preserve gene pools, and protect the tribal population. There is a need to balance both the development and conservation providing a good governance model. This paper deals with the issue of forest conservation in India with special role of the Supreme Court of India. In India the conservation of forest has been ensured through legislative acts, judicial pronouncements and executive orders. It is a fact that there are number of legislative steps taken to ensure forest conservation in India but the contribution of Indian Judiciary in this context is unparallel. Since last two decades the Judiciary of India has been performing the stellar role by taking a Herculean task of comprehensive conservation and protection of forest across the country. It has added a new dimension to environmental scenario in a country. This paper then analyses the various acts passed by the legislature for the conservation of forest and the drawbacks in it. Then the focus shifts on critically analysing

various landmark judgments given by the judiciary by interpreting the forest conservation acts. This paper tries to incorporate various doctrines evolved by the judiciary regarding the conservation of forest.

KEYWORDS: Judiciary, conservation, forest, legislature, development, environment, human.

INTRODUCTION

The constitution of India envisages three independent organs - legislature, judiciary and executive. The present case discusses the role played by judiciary vis a vis executive and legislature. The Judicial intervention is in form of direction issued to executives and framing of rules/guidelines which legislature has either failed to do or is yet to do.

The Hon'ble Supreme court has looked at the environment and forests as closely related entities. The Hon'ble Supreme court initially intervened in cases of environment to protect the Fundamental Right to Life (Article 21 of constitution of India) and later the interventions were extended to protect forests and wildlife as well. For conservation of forests and wildlife the higher judiciary has played a proactive role. The intervention by Hon'ble Supreme Court in case of forest and wildlife conservation has been innovative and has devised and suggested many innovative tools for example- Writ of Continuous Mandamus, Central Empowered Committee, PIL, Green Tribunal, CAMPA etc.

The most remarkable contribution of Hon'ble Supreme Court in forest conservation is to define forest. Though the legislation Indian Forest Act for conservation of forests had been passed by the British in year 1865, then amended in year 1878 & 1927, but the term "forest" was not defined in the acts. And the term Forest remained undefined until the Hon'ble Supreme Court defined it, in order dated 12.12.1996 in TN Godavarman Case (WP 202/1995). The term "forest" was given a broad interpretation to include, the dictionary meaning of the word- 'forest' beside the recorded and notified forest areas and also laid down various situations in which no forest can be acquired for non- forest purposes without taking the consent of Central Government. In India, the judiciary has shown deep concern for the forest conservation. The judiciary has not only played a pivotal role in a manner to interpret the forest laws to protect the forest and environment but also it has shown judicial activism by entertaining public interest litigations under articles 32 and 226 of the Constitution. The

Supreme Court and High Courts while protecting environment and promoting sustainable development have delivered many important judgments.

Aim of the study:

To trace out the national need for the conservation of forest and the judicial attitude and to analyse the constitutional mandate for the conservation of forest and various legislative measures concerning forest conservation.

Ha: The Indian Judiciary has played a pivotal role in the Protection and conservation of forest in India.

RESEARCH QUESTION:

Has over exploitation of forest resources in the name of upliftment of the poor swallowed much of India's rich forest?

RESEARCH METHODOLOGY

The methodology adapted for conducting the proposed research is **Doctrinal research** method. Doctrinal research in law field indicates arranging, ordering and analysis of the legal structure, legal framework and case laws to search out the new thing by extensive surveying of legal literature but without any field work.

MATERIALS

The researcher has referred secondary sources namely books, journals, research articles, unpublished theses, newspapers and e- sources for the purpose of writing this paper.

LEGISLATIVE PROVISIONS:

The first forest act was enacted in year 1865 for the purpose of the protection of the forest. The purpose behind enacting this act was acquisition of the forest land for providing timber to railway authorities and also establishing the claim of the state over that particular land. Further, in order to make the laws for effective for the protection of the forests, the Forest Act, 1927 was enacted. This act repealed all the previous acts and consolidated all the acts in respect of forests. It regulated the transmission of the timber and also levied duty on timber

and other forest produce. The major lacuna in 1927 act was that it did not give common ownership rights to the tribal living on the forest land. Further, all the disputes of the tribal community were resolved through the "Forest Settlement officer", who in most of the cases did not take into consideration the rights of the tribal community.(Sandler 1981)

After independence, Forest (Conservation) Act, 1980 was enacted. The major purpose behind enacting this act was to remove lacunas which were found in 1927 Act. The major salient features of the act are as follows:-

1. Restrictions on the use of forests for non-forest purposes.
2. Restrictions on the dereservation of reserve forests.
3. Regulation concerning the diversion of forest lands by way of lease to industries and individuals.
4. Restriction on the clear felling of trees and
5. Constitution of an advisory committee to grant an approval for the conduct of any activity for which an approval of the Central Government is required.[3]

The legislatures also enacted Schedule Tribe and other Traditional Forest dwellers (Recognition of Forest Rights) Act, 2006 for recognising the rights of the tribal community who have been residing in the forest land for many years. Mainly, it is the outcome of various developments taking place at the international level. In 1988 , the government introduced the National forest policy with the objective of bringing stability in the management of the forests. The analysis of the above laws indicates that various efforts have been taken by the legislatures for the protection of the forest. The major problem lies in the implementation of these laws. The judiciary has played major role in interpreting and implementing the laws stated above.

NATIONAL NEEDS, FOREST CONSERVATION AND JUDICIAL ATTITUDE:

The United nations Conference on human environment held in Stockholm in 1972 aroused a world wide environmental consciousness. It had its impact in India also. The Constitution of India was amended in 1976 to include environmental safeguards. The Forest (Conservation) Act 1980 was passed to arrest large scale deforestations. Department of Environment and Forest was established at the Centre. Judiciary made landmark decisions to ensure environmental protection. The people of India became more and more aware of the

[3] Section 2 of FCA, 1980.

environmental significance of forest. They even started revolts against deforestation. Inspite of all these changes in outlook and approach, the Indian Forest Act 1927 and the legislation framed by different States on the lines of the Indian Forest Act remained the same as before. They do not reflect a policy of environmental protection. Instead they continue the revenue oriented approach of the colonial era.

In R.L. & E. Kendra, Dehradun v. State of U.P.,[4] (popularly known as Doon Valley Case) was the first case of its kind in the country involving issues relating to environment and ecological balance, which brought into sharp focus the conflict between development and conservation and the Court emphasized the need for reconciling the two in the larger interest of the country. This case arose from haphazard and dangerous limestone quarrying practices in the Mussoorie Hill Range of Himalayas. The mines in the Doon Valley area denuded the Mussoorie Hills of trees and forest cover and accelerated soil erosion. The Supreme Court was careful in its approach when it pointed that it is for the Government and the Nation and not for the court, to choose whether the stores ought to be misused at the cost of biology and condition or the modern necessities ought to be generally fulfilled. In any case, the concern of the Court for ensuring the forest and keeping up the ecological balance in the Doon Valley was clear when it observed- We are not neglectful of the way that natural resources must be tapped for the purposes of the social improvement however one can't overlook while tapping of resources must be done with imperative consideration and care so that ecology and environment may not be affected in any serious way, there may not be exhaustion of water resources and long term planning must be undertaken to keep up the national wealth. It has always to be remembered that these are perpetual resources of humanity and are not expected to be depleted in one generation. Regardless of such laws it has been encountered that in various states (Karnataka, U.P., Bihar and West Bengal) forests are being bared indiscriminately(Sulphey and Safeer 2017).

CONSTITUTIONAL MANDATE AND FOREST CONSERVATION

The Constitution (Forty-second Amendment) Act, 1976 has introduced a new directive principle of state policy-article 48-A and a fundamental duty under article 51(A) (g) for the

[4] AIR 1985 SC 652

protection and improvement of environment including forests. These provisions provide as under:

Article 48-A. - Protection and improvement of environment and safeguarding of forests and wild life. - The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

Article 51-A(g) provides-It shall be the 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.

A perusal of the above provisions clearly shows that both State and the citizens are under an obligation to protect and safeguard forests, which will have an impact on the environment.

"Forest" was initially a "State" subject covered by **Entry 19 in List II of the VII** Schedule. The Indian Parliament understanding the national seriousness of the forest has additionally made out improvements in the VII Schedule. Entry 19 in List II of the VII Schedule has been deleted and a new entry 17-A relating to forests has been introduced in the Concurrent List of the VII Schedule by the Constitution (Forty-second Amendment) Act, 1976. Thus, State as well as Centre can make the law relating to forests. The State Government can make laws relating to forest administration provided it is in consonance with the forests policy of centre for preservation and development of the nation's forest resources.(Divan and Rosencranz 2001)

INTERPRETATION AND IMPLEMENTATION OF FOREST ACT, 1980 BY THE SUPREME COURT

The Supreme Court has interpreted and enforced the provisions of Forest Conservation Act 1980 strictly in T.N.Godavarman Thirumalpad v. Union of India[5]. The Court issued sweeping directives to enforce the FCA[6]. All wood based industries were closed and an embargo was imposed on the exploitation of forest and forest product. The Court also created Central and State committees to enforce the directions it issued in this case. The court recognized that FCA was enacted with a view to check ecological imbalance caused by rapid deforestation. The court also defined the word forest used in the FCA.

[5] AIR 1997 SC 1228

[6] Forest Conservation Act,1980.

The Court said the provisions of the act must apply to all the forests irrespective of the ownership or classification thereof. "The word forest must be understood according to its dictionary meaning. This description covers all statutory recognized forest, whether designated as reserved, protected or otherwise for the purposes of s.2 (I). The word forest will not only include forest as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of ownership."(Thakur 1997)

The Court further said any activity going on in any forest in any state of the country which is a non- forest activity is in isolation of the act and has to cease immediately. As a result, all mining, quarrying activities were prohibited in the forest. Wood based industries such as saw mills were also in violation of the Act, it was held. A complete ban was enforced on the felling of trees in all forests, and felling and logging could be carried out only if they are in accordance with the working plans of the State Government only.

The Courts all over India have followed the Principles laid down by the Supreme Court in Godavarman[7] cases[8]. Shree Bhagawati Tea Estates v. Government of India[9] the Supreme Court examined a number of issues with respect to the FCA. Firstly, the court looked at the Kerala Private Forests (vesting and Assignment) Act 1971. This act was part of the agrarian reform of the Kerala Government and it sought to acquire private forest lands for this purpose. This acquired land was then to be distributed amongst landless peasants. The petitioner challenged this act by saying that it violated the provisions of the FCA. It was contended that this acquisition for agricultural purpose would mean clearing of forests on such land, and this was not permissible without the approval of the central government. It was also suggested that the FCA prohibits the leasing of forest land to private and industries or individuals and therefore, the acquired land could not be distributed to the landless(Robledo et al. 2005).

The Supreme Court dismissed these contentions and stated that the FCA does not envisage a complete ban; only approval of the Central Government is required. In this case the Supreme Court while upholding the legality of the Kerala Private Forests act, reconciled with the need

[7] S. Jagannath v Union of India (1997) 2 SCC 202.
[8] Goa Foundation v. Conservator of Forests, 18 AIR 2000 Ori 201; Bahgawati Bhoi v .State of Orissa AIR 1996 SC 201
[9] AIR 1996 SC 201

to conserve forests with the need to address the livelihood concerns of the poor and the marginalized. The Court had also confronted with the issues of mining activities in the forest areas. The court had clearly laid down prohibition of mining activities in the forest areas.[10] The Supreme Court made it categorically clear that renewal of mining licence after FCA came into force can be made only on getting prior permission from the Central Government[11]. The Supreme Court observed[12] "the primary duty was to the community and that duty took precedence , in our opinion, in these cases. The obligation to the society must predominate over the obligation to the individuals."

The Court had firmly disallowed the non-forest activities and granting of lease for non forest activities in forests. Renewal of stone crushing lease without prior permission of the from the Central Government was considered a serious breach of duty in the case Dhirendra agrawal v. State of Bihar.[13] The use of forest land for non forest purpose was clearly denied by the court in the case of State of Bihar v. Banshi Ram Modi.[14] Similarly excavations of iron ore[15] and tourism[16] in forest were highly criticised by the Supreme Court(Ellefson 1992).

PUBLIC INTEREST LITIGATION (PIL)

The Public Interest Litigation (PIL) is allowed under "Doctrine of Public trust" and the condition of "Locus standi" is done away. Most of the PIL related to environment are allowed to protect fundamental right to life Article 21 (Right to healthy environment). And any public spirited person can approach the higher courts for remedial measures. The Hon'ble Supreme Court has even observed that a simple post card addressed to it can be considered as PIL. The higher courts have effectively used this tool to draw attention of public and demanded actions from executive

Few critics have pointed out that in view of large number of pending cases in various courts, entertaining frivolous petitions may waste precious time of courts. Also, in case of PILs there

[10] Rural Litigation and Environment Kendra v.State of Uttar Pradesh AIR 1988 SC 2187, Tarun Bharat Sangh Alwar v. Union of India AIR1992 SC 514.
[11] Ambika Quarry Works v The State of Gujarat , AIR 1987 SC 1073
[12] Id, p 1076.
[13] AIR 1993 Pat 109
[14] AIR 1985 SC 814
[15] B V Joshi v State of Andhra Pradesh AIR 1989 AP 122
[16] Union of India v Kamath Holiday resorts Pvt. Ltd. AIR 1996 SC 1040

are no set guidelines and it solely depends on the courts to admit it or not. However, many landmark judgements have been delivered through this mechanism, for example- MC Mehta Case, Centre for Environmental Law-WWF Case, Mussorie Quarrying Case, Goa Foundation Case etc. With time the PIL has emerged as effective tool to address any emergent issue of public importance.(Razzaque 2004)

WRIT OF MANDAMUS

The writ of Mandamus is issued under this Article 32 & 226 of Constitution to enforce the fundamental rights enlisted in Chapter-II of the Constitution. In this regard the Supreme Court has devised new tool of Writ of Continuing Mandamus which is being issued from time to time to executive in TN Godavarman Case (WP(c) 202 of 1995), for last 18 years from year 1996. Many critics have raised concerns that judiciary has taken over the work of executive. And the administration of forests is effectively being done by Hon'ble Court. Also, the court have allowed raising connected matters and effectively dealing with and issuing orders in respect of almost all the issues of forest administration in one Writ Petition. Though the critics have raised concerns but this mechanism of Writ of Continuing Mandamus has brought some sense and streamlined many administrative actions of executive. Also this has given strength to executive to strictly implement the law.

CENTRAL EMPOWERED COMMITTEE

The Central Empowered Committee (CEC) constituted by the Hon'ble Supreme Court of India by order dated 9.5.2002 in Writ Petitions (Civil) Nos. 202/95 & 171/96. The Central Empowered Committee is set up as an authority under Section 3 (3) of the Environment (Protection) Act, 1986 to adjudicate and hear grievances on forest and wildlife related issues.
The Hon'ble Supreme Court has constituted the CEC with specific mandate as follow:-
a) Pending interlocutory application in these two writ petitions and in addition the reports and oaths filled by the States in light of the requests made by the Court should be inspected by the Committee, and their proposals will be submitted under the steady gaze of Hon'ble Court for requests. .(Hossain et al. 1997)

b) Any individual having any grievance against any means taken by the Government or some other specialist in indicated consistence with the requests go by this Hon'ble Court will be at freedom to move the Committee for looking for reasonable help. The Committee may discard

such applications in similarity with the requests go by Hon'ble Court. Any application, which can't be suitably discarded by the Committee might be alluded by it to this Hon'ble Court.

The CEC is not a statutory body constituted under any statute of parliament. But, the CEC has practically become the investigative wing of the Hon'ble Supreme Court in matters of forest & wildlife conservation and almost on all the matters the report from CEC is being sought by the Hon'ble court before passing an order. The CEC has practically become the eyes and ears of the court and also it has given very bold and true picture of ground situations on basis of which many landmark orders have been passed. For example Report by CEC on Mining activities in Kudremukh National Park situated in fragile Western Ghats, Illegal mining in Bellary, Karnataka, etc.

THE NATIONAL GREEN TRIBUNAL

The Hon'ble Supreme Court in various judgments (namely, M.C. Mehta v. Union of India, Indian Council for Environmental-Legal Action v. Union of India; A.P. Pollution Control Board v. M.V. Nayudu) has observed that full fledged Environmental courts are required to be established. Taking clue from this, the Law commission in its 186th report recommended for constitution of the National Green Tribunal.

The Green tribunals in country have been established by an Act of Parliament, the "National Green Tribunal Act, 2010" to deal with matter relating to environment and forests & wildlife. The Tribunal's dedicated jurisdiction in environmental matters will provide speedy environmental justice and help reduce the burden of litigation in the higher courts. The NGT is proposed to be set up at five places of sittings and; New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai will be the other 4 place of sitting of the Tribunal.(Pring and Pring 2009)

SERIES OF GODAVARMAN CASE

The judgement pronounced by court in T.N. Godavarman II[17] has become a guiding force in cases of grant of licence to sawmills, veneer and plywood mills within the forest area.

[17] (2002) 9 SCC 502

Detailed directions were issued by the Supreme Court on 29 April 2002 and 12 December 1996, wherein all the States were directed to constitute "expert committee" to assess sustainable capacity of sawmills and timber based industries in the States It also directed the Central Government to constitute the CEC as envisaged by Section 3, Environment (Protection) Act, 1986 to monitor implementation of the court orders and examine the application of the sawmill owners. It must be remembered that the court had already made it clear that any non-forest activity, mining activity and sawmills, within the forest area without the "prior approval of the Central Government' must cease forthwith. T.N. Godavarman II particularly dealt with the sawmills, veneer and plywood operating in the forest areas(Divan and Rosencranz 2001).

In T.N. Godavarman v. Union of India[18], the Kudremukh Iron Ore Co. Ltd., which was working in the Kudremukh National Park, applied for the renewal of the lease for a period of 20 years. This Forest National Park was declared to be a reserved area in 1960 and 1980- under a notification issued under Section 35(1), Forest Act, 1927. To solve the dispute, a Forest Advisory Committee (FAC) was set up under Section 3 FCA which recommended that mining may be allowed for a period of four years, i.e. up to 2005, UP to which the company can exhaust the already broken up area. The company was already working in the park area before the commencement of the FCA. The Supreme Court declared that the recommendation of the FAC be accepted. The court ruled that whether it is a case of first grant or renewal, the compliance of Section 2 FCA is necessary as a condition precedent.

In T.N. Godavarman[19], the petitioner challenged the allotment of land of 15 hectares by way of lease to M/s Maruti Coal and power Ltd. for setting up coal washery. It was claimed that the land leased out was a forest land, which could not be used for non-forest purpose, for coal washery. The court reiterated that the definition given to the term "forest" must be understood according to its dictionary meaning Thus, it covers all statutorily recognised forests, whether designated as reserved, protected or otherwise, for the purpose of Section 2(1), Forest Act, 1927. Taking a practical approach, "an area measuring 10 hectares or more having an average number of 200 trees per hectare ought to be treated as forest". Moreover, it includes any area recorded as forest in the government record irrespective of the ownership.

[18] (2002) 10 SCC 606, AIR 2003 SC 724
[19] (2006) 5 SCC 28

The matter related to the disputed land was referred to the CEC who gave three reports on three different occasions, and declared that the land in question was a non-forest land. Therefore, it was declared that the petitioner did not come to the court with clean hands but with ulterior motives, the court dismissed the petition with costs and also warned the petitioner not to use "recuperate language" in the pleadings.(Sayer et al. 2013)

GRANT OR RENEWAL OF LEASE IN FOREST AREA AND JUDICIAL ATTITUDE

In State of Bihar v. Banshi Ram,[20] the Supreme Court held that where a lease was granted for winning a certain mineral prior to the coming into of the Act, and the lessee had applied to the State Government after coming into force of the Act for permission to win and carry any new miners from any part of a forest area which was already utilized for non-forest purposes by carrying out mining operations before the coming into force the Act, the prior approval of the Central Government under section 2 for purpose of granting such permission was not necessary. Before granting permission to start mining operations on a virgin area, section 2 of the Act to be complied with, it is not necessary to seek the prior approval of Central Government for purposes of carrying out mining operations in a forest area, which is broken up or cleared before the commencement of the Act(Kotzé and Paterson 2009).

In Ambika Quarry Works v. State of Gujarat,[21] the Supreme Court held that the Forest Conservation) Act, 1980 applies to renewal of leases, which had originally been granted before the Act came into force. The State Governments may renew the pre-existing mining leases only with the review and approval of the Centre Government as contemplated under section 2 of the Act.

USE OF FORESTS FOR NON-FOREST PURPOSES AND JUDICIAL ATTITUDE:

Section 2 of the Act applies not merely to cases of mining leases granted in respect of areas within the reserved forests but to all cases where forest-land is sought to be used for non-forest purposes" Conservation of forests includes not only preservation and' protection of an existing forest but also re-afforestation. Forests have to be regularly cut to meet the needs of

[20] AIR 1985 SC 814.
[21] AIR 1987 SC 1037.

the country. At the same time re-afforestation should go on to replace the vanishing forests. It is a continuous and integrated process.

In M.C. Mehta v. Kamal Nath,[22] it was brought to the notice of the Supreme Court that large area of the bank of River Beas which was part of protected forest had been given on lease purely for commercial purposes to the motel of the respondent. Even the Board in its report had recommended de-leasing of the said area. The Court had no hesitation in holding that the Himachal Pradesh Government committed a patent breach of public trust by leasing the ecologically fragile land to the motel management and the prior approval for lease granted by the Government was quashed. The Court in this case applied the "precautionary principle" and "polluter pays principle" and the motel management was asked to show cause why pollution fine should not be imposed on it. Since this case had been filed by way of public interest litigation (PIL) under article 32 of the Constitution, the Supreme Court subsequently held that "pollution fine" cannot be imposed under article 32 of the constitution and thus the said notice be withdrawn. But the matter did not end there. The Court further held that it can, in exercise of its jurisdiction under article 32, award "exemplary damages" in PIL and the person causing the pollution can be held liable to pay "exemplary damages" so that it may act as deterrent for others not to cause pollution in any manner, Accordingly, the Court directed that a show cause notice be issued to the motel management as to why in addition to damages, "exemplary damages" be not awarded against it? After considering the reply of the motel management in this regard, the Court quantified rupees ten lacs as the "exemplary damages" in this case.(UNEP/UNDP Joint Project on Environmen...)

ECO – TOURISM AND THE ROLE OF JUDICIARY TOWARDS FOREST PROTECTION :

There are differing views on the benefits of eco-tourism. While it provides opportunities for nature lovers to experience its beauty and appreciate its importance, its promotion also results in polluting and harming the environment.

Eco-tourism was one of the objects of the project for a biological park, which was examined in Niyamavedi vs. State of Kerala.[23] Petitioners contend that the proposed project for

[22] (1997) 1 SCC 388.
[23] A.I.R. 1993 Ker 262

Biological Park would result in denudation of forest in the State of Kerala and if the project materializes it would pose threat to the environment and ecology. The project was designed after consulting many experts who gave full support to watching wildlife at close quarters, without interfering with the sanctity of flora and fauna. The Kerala High Court held that the government's decision to establish a park after such consultation was a policy decision which could not be interfered with. According to the Court, the object of a biological park, not being a non-forest purpose, prior approval of the Central Government was not necessary(Kusters and Belcher 2004).

FOREST PROTECTION : SOME JUDICIAL PERSPECTIVES IN MINING CASES :

In Samatha vs. State of Andhra Pradesh,[24] the guidelines for bureaucrats assessing an application to mine in a forest were set out by the Supreme Court. The Count held that, mining operations, though detrimental to forest growth, are part of layout of the industry, provision should be made for investment or infrastructural planning to reforest the area; and to protect environment and regenerate forest. The Ministry of Environment and Forests and all Secretaries of all the State Governments holding charge of Forest Departments have a duty to prevent mining operations are carried on within the reserved forest or other forest area, it is their duty to ensure that the industry or enterprise does not denude the forest to become a menace to human nor a source to destroy flora and fauna and biodiversity. No distinction can be made between the Government Forest and Private forests in the matter of forest wealth of the nation and in the matter of environment and ecology.

EFFECT OF THE JUDGMENTS OF THE JUDICIARY

The Supreme Court failed to account for the states' interests and the competing interests at local levels. By not having the representation of state and local bodies and by not addressing and incorporating state-level needs and inefficiencies in its orders, the Supreme Court created policies that have been extremely difficult, if not impossible, to implement successfully.(Roberts 2012)

[24] A.I.R. 1997 S.C. 3297

The Supreme Court's lack of consideration has resulted in an increase of corruption in forest management within state governments. This corruption has undermined the Supreme Court's efforts to improve the nation's forest cover.

The Supreme Court issued policy decisions independently of the MoEF, making it awkward for the MoEF to develop and enforce its own policies. The MoEF reacted to the Supreme Court's attention to the problem of encroachments as if it were in competition with the Supreme Court to do something about the problem. Rather than assisting the MoEF and providing guidance to it, the Supreme Court assumed its responsibilities without consulting it. The MoEF has deferred to the Supreme Court rather than developing its own forest policies. As a result, its actions are often premature and not guided by an organized and well-planned agenda.

The Supreme Court instigated the MoEF's premature and insufficiently planned actions and then created a government entity to compensate for it, even further complicating the management of India's forests. By attempting to deal with the problem on its own, and by creat- ing new organizations to effectively replace the MoEF's functions, the Supreme Court has complicated the system of managing India's forests while failing to effectively address local people's relationships to the forests.

CONCLUSION

India's most unique protection for the environment and forests is the Indian Constitution. It contains environmental policy guidance for parliament, as well as a guarantee of life that the Indian Supreme Court interprets as providing a right to a protected environment. Unlike other common law jurisdictions, India's most basic legal instrument is used to directly addresses the question of forest protection.

The judiciary has contributed in protection and conservation of the forest by propounding the doctrine of Public trust doctrine and sustainable development. There are various laws enacted for the purpose of the protection and conservation of the forests, however the various judicial pronouncements have given life to all such laws. By giving case laws such as Godavarman, the judiciary has played the role of activist in the protection and conservation of the forest. The court has breached the gap between the lacunas in the implementation of the laws and

various laws itself. Further, from the analysis of various case laws cited above, it can be stated that the judiciary has tried to balance the economic development and protection of environment. The judiciary has also enacted various laws by giving pronouncements in relation to the question of the protection of the forest. This makes it clear that the judges do make law. All case laws cited above clearly indicate that the Apex Court of India has played unique role in protection and conservation of forest in India.

RECOMMENDATIONS

Given that its extremist way to deal with ecological issues has seen some achievement in ensuring woodlands, the Court should keep on inviting PIL and keep up standing necessities as they presently exist. To consider responsible those in charge of deforestation, the Court should keep on recognizing epistolary ward as an approach to increment and level access to the legal framework. Besides, the Court should keep on responding to such letters by starting Court-checked examinations and commissions. In spite of the fact that outside the customary ambit of a sacred court, the requirement for this oversight holds on in light of the fact that numerous Indian political and mechanical interests keep on subverting people in general enthusiasm for an ensured domain.

In addition, should the Court withdraw its standing development and grasp of PIL, subjects trying to uphold backwoods strategy and their major rights under the Constitution would have a small container of cures. As appeared above in the audit of customary law cures, irritation and its associates don't adequately address every one of the damages that jump out at nature and people in general. The damage prerequisite inalienable in those activities blocks by far most of the people from taking an interest in case and subsequently requires that activities be brought by a thin subset of the populace. Frequently those avoided as a result of the damage necessity are those in a situation to bring suit, while the individuals who manage damage regularly are most certainly not.

Notwithstanding keeping up its present standing prerequisites, the Court ought to likewise proceed with its advancement and treatment of PIL. Through that vehicle, the Court figures out how to employ a gigantic measure of control over both official and parliamentary activity. Despite the fact that conceivably destructive to ideas of partition of forces and run by fairly chose branches of government, the Court's oversight isn't presently spoiled by judges'

individual inspirations. The Court's vision with respect to the best possible part of government and the authorization of law directs its oversight and prompts a quest for equity.

REFERENCES

1. Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* 304 (2001).
2. Prabhjot Singh, *SC Orders Body on Afforestation Fund*, The Tribune (Chandigarh, India), Nov. 24, 2002.
3. Leelakrishnan. P. : *Environmental Law in India* (Lexis Nexis, 2002)
4. Divan & Rosencranz : *Environmental Law And Policy in India* (Oxford 2001)
5. Rosencranz & Lele : *Supreme Court and India's Forests in India,* Economic & Political weekly (Feb. 2, 2008)
6. Dutta Ritwick & Bhupender Yadav : *Supreme Court on Forest Conservation* (Universal 2007)
7. Adhideb Bhattacharya & Ankit Shrivastav, *Forest Conservation and Preservation in India- Judicial Approach,* available at http://www.mightylaws.in/forest-conservation - preservation
8. Dias Ayesha., *Judicial Activism in Development and Enforcement of Environmental Law: Some Comparative Insights from The Indian Experience*. (6J.Envit. L. 1994, p.243)
9. Abraham,C.M.; *Environmental Jurisprudence in India,* 1999. Kluwer Law International
10. Bakshi, P.M., *Public Interest Litigation* , 2004, Ashoka Law House.
11. Bharti, H.K. and Dubey, B.K.; *Manuel of Environment and Pollution Laws,* ed. 1st, 2010, Wadhwa and Company, Indore
12. Chandra Pal., *Environment Pollution and Development: Environmental Pollution Policy and Judiciary.* 1999, Mittal Publications, New Delhi.
13. Chauhan ,J.K., *Relations in Working of Legislature, Executive and Judiciary: An introspection and Prospective Vision*, 2007, Allahabad law Agency.
14. Desai, Ashok. A., *Environmental Jurisprudence*, 2002, Modern Law House
15. Deswal, S., Deswal, A., *A basic course in Environmental Studies.*, 2004, Dhanpat Rai and Co. New Delhi.
16. S.C. Shastri ; *Environment Law,* Eastern Book Company, Lucknow, 2005

17. https://scroll.in/article/726461/a-short-history-of-indias-two-decade-struggle-to-define-what-a-forest-actually
18. Kailash Thakur, *Environmental Protection Law And Policy In India* 184 (1997)
19. Lavanya Rajamani, *The Right to Environmental Protection in India: Many a Slip Between the Cup and the Lip?*, 16 Rev. European Community. & International Environmental Law, (2007).
20. http://awsassets.wwfindia.org/downloads/indias_forests_and_the_judiciary.pdf
21. http://www.environmentportal.in/files/epw1.pdf
22. http://elr.info/sites/default/files/articles/37.10032.pdf
23. http://infochangeindia.org/ environment/backgrounder/a-history-of-forest-regulations.html.
24. Jaswal, P. K, Jaswal Nishtha, Environmental Law, 3rd Edition, 2013, Allahabad Law Agency, Faridabad.
25. http://ilnu-jcel.org/critical-analysis-of-the-role-of-judiciary-in-conservation-of-forest/
26. Dr.Lakshmi T and Rajeshkumar S "In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes", International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 3, P.No 20-25, March 2018.
27. Trishala A , Lakshmi T and Rajeshkumar S," Physicochemical profile of Acacia catechu bark extract –An In vitro study", International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 4, P.No 26-30, April 2018.