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Forest (Conservation) Amendment Bill

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Why in News: The Forest (Conservation) Amendment Bill, 2023 is likely to be tabled in the monsoon session of Parliament which is slated to begin from July 20. A Joint Parliamentary Committee (JPC) which was looking at amendments to the Bill has approved the version sent by the government with almost no comment, revisions or suggestions

Forest (Conservation) Amendment Bill

The Bill seeks to amend the Forest Conservation Act, 1980. This is the legislation enacted to protect India's forests and empowers the Central government to regulate the extraction of forest resources — from timber and bamboo to coal and minerals — by industries as well as forest-dwelling communities.

A separate Act, the Forest Rights Act, protects the rights of tribals and forest-dwellers dependent on forests for their livelihood. From 1951-1975, about four million hectares of forest land has been diverted for various non-forestry purposes.

From 1980 to 2023, under the purview of the Act, only a million hectares have been diverted — a sign of its impact in reducing the pace of forest appropriation.

However, such protection was only available for areas already marked out as 'forest' in Central or State government records.

A Supreme Court judgment in 1996, in the Godavarman Thirumulpad case, expanded the scope of such protection. Under it, even areas not formally notified as 'forests' but conforming to the 'dictionary' meaning of forests were protected.

There is no all-encompassing definition of a 'forest' and the Thirumulpad judgment directed States to define and demarcate forests using their own criteria. Not all States did, and over the years there has been considerable debate over the extent to which the judgment abetted forest conservation.

India's forest policy of 1988 prescribes a third of the country's geographical area to be under forests.

Realistically, only 21% is under such cover and it is about 24% if one also accounts for tree cover outside areas under recorded forest, plantations, orchards. It is to address this latter issue, the Environment Ministry says, that amendments were required to the Act.

Key features under the bill

The key changes to the Act include inserting a 'preamble' that underlines India's commitment to preserving forests, their biodiversity and tackling challenges from climate change and amending the name of the Act to Van (Sanrakshan Evam Samvardhan) Adhiniyam (translated as Forest Conservation and Augmentation) from the existing Forest (Conservation) Act.

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The amendments also say that the Act would only apply to lands notified in, any government record, as ‘forest’ on or after 1980.

If notified forest land was legally diverted between 1980 and 1996, for non-forest use, the Forest Conservation Act would not apply.

Forest land situated 100 km away from international borders and to be used for “strategic projects of national importance” or land ranging from 5-10 hectares for security and defence projects would also be exempted from the Act’s stipulations.

These amendments were necessary, in the Environment Ministry’s view, because private parties who wanted to develop plantations in degraded forests or restore tree patches were disincentivised to do so.

A private plantation, or a reforested piece of land that wasn’t officially marked out as forest could be retrospectively earmarked — under the provisions of the Act — as such, forcing the developer of such a plantation to lose rights associated with that patch.

This was an ‘impediment’ to India’s plans of developing a ‘carbon sink’ of three billion tonnes by 2030 in line with its commitments under the Paris Agreement.

On the other hand, States were also apportioning forest tracts meant for plantations to companies for mining operations — a contravention of the Act’s intent.

The amendments, thus were necessary, in the Centre’s view, to craft new solutions beyond the Act’s original intent of only keeping forests from being exploited for industrial uses and, to aid reforestation.

Objections to the changes

The JPC consists of 31 members, 18 of whom are from the Bharatiya Janata Party. Usually bills that are sent to the Standing Committee or Select Committees of Parliament are thoroughly investigated by members who in their report present their own independent assessment of views put forth by multiple stakeholders.

While a final report is yet to be a tabled, a draft version viewed by The Hindu suggests that the committee has made no collective, independent assessment.

There are dissent notes filed by six members — all incidentally from Opposition parties including the Congress, the Trinamool Congress and the Dravida Munnetra Kazhagam.

The amendments have been in the public domain since June 2022 and has invited thousands of comments from non-governmental organisations, think tanks and tribal communities.

The key objections are that the exemptions could be detrimental to significant forests in the Himalayan, trans-Himalayan and northeastern regions.

Clearing such forests without an appropriate “assessment and mitigation plan” will threaten the biodiversity of “vulnerable ecological and geologically sensitive areas” and trigger extreme weather events.

Other objections are that restricting the legislation’s ambit only to areas recorded as forests on or after October 25, 1980 would mean leaving out significant sections of forest land and many biodiversity hot spots to be potentially sold, diverted, cleared, and exploited for non-forestry purposes.

There is also dissent against the move to rename the bill as Van (Sanrakshan Evam Samvardhan) Adhiniyam, on the grounds that it was “sanskritik (sic) terminology...and untenable.”

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Some objections have come in from experts invited to depose before the committee who have said that the Act waters down the Godavarman judgment and a few State governments have said that forest conservation comes under the domain of both the Centre and States, which means it is in the Concurrent List, and the amendments tilted the balance towards the Centre.

Conclusion

After the JPC tables its report in Parliament — expected to be in the beginning of the Monsoon session — the Bill is likely to be placed for debate.

The Environment Ministry has submitted detailed explanations to the Committee, trying to address concerns that have been raised.

It emphasises that the new amendments do not dilute the Godavarman judgment and that there are provisions in place to ensure that land will not be “misused.”

It underlines that proposed exemptions along the international borders are not generic exemptions and would be restricted to “specific linear projects of strategic importance” identified by the Central government. These exemptions wouldn’t be available to private entities.