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## UNIT 2 FOREST CASES AND RESPONSES (CASE LAWS)

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### 2.1 INTRODUCTION

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The subject of forest has received special attention of the Supreme Court since the year 1996 when the Court on a weekly basis started hearing a petition titled *T.N Godavarman Thirumulpad v. Union of India* [‘Godavarman’ for short]. The understanding of the some of the orders in *Godavarman* is crucial for it shows the scope of public Interest litigation but also how the Courts fill up gaps in existing laws and policies. Through the *Godavarman* case, the Supreme Court has dealt with a wide range of issues concerning the subject of forest. It set up a Committee to assist it in dealing with forest issues i.e the Central Empowered Committee (under Section 3 (3) of the Environment (Protection) Act, 1986.

This unit provides an overview of some of the major issues related to forest on which the Court has passed significant orders.

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### 2.2 OBJECTIVES

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After reading this unit, you should be able to:

- explain the genesis and development of Supreme Courts role in forest governance;
- describe how the Forest (Conservation) Act, 1980 is applicable and interpreted; and
- examine some of the significant decisions with respect to mining, saw mill and compensatory afforestation.

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## 2.3 THE FOREST (CONSERVATION) ACT, 1980: AN OVERVIEW

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The Forest (Conservation) Act, was enacted in 1980 and subsequently amended in 1988. Section 2 of the Act forms the core and states that ‘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 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 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 reforestation.

**Explanation-**For the purpose 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, horticultural crops or medicinal plant;
- b) any purpose other than reforestation; but does not include any work relating or ancillary to conservation, development and management of forest 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 purpose.

### Self Assessment Question

- 1) Why is cultivation of Tea, Coffee and Horticultural crops treated as ‘non forest purpose’?

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## 2.4 THE GENESIS OF THE GODAVARMAN CASE

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The genesis of the *Godavarman* case was a result of the non-responsiveness of various State Governments to the issue of forest conservation. The Writ Petition filed by *Environmental Awareness Forum* (W.P. 171 of 1995) and the *T.N. Godavarman Thirumulpad* (W.P. 202 of 1995) on limited and restricted issue of forest conservation was extended by the Supreme Court on 02.09.1996, when the

## **Judicial Trends and Public Interest Initiatives**

Court directed the issue of Notice to Chief Secretaries of all the State Governments other than States that were already made parties. The Court in its order noted that “in spite of notice being issued to all the State Governments, many of them have not entered appearances”. The Court, therefore, directed the issue of fresh notice. Unfortunately, even this did not result in much response. The Court in its order dated 28.11.1996 observed that in spite of notice being served on all the State Governments, there is no representation on behalf of most of the State Governments. The Court felt that the version of the North Eastern States in particular is necessary ‘but no assistance to that effect was available to the Court on account of absence of any representation at that time on behalf of any of the seven North Eastern States’. The Court emphasized the fact that “it is necessary that effective representation on behalf of each of the seven North Eastern States be ensured during the entire hearing of this matter”. It, therefore, directed the personal presence of the Secretary dealing with Forest and Environment of each of the seven North Eastern States along with the Secretaries of Sikkim, Kerala and Maharashtra during the hearing of this matter.

On the next date of hearing i.e. on 12.12.1996, the Supreme Court passed an Interim order that was to be one of the most significant decisions of the Court on an environmental issue. The order of 12.12.1996 became the basis for the subsequent judicial involvement in forest conservation.

Among the most significant orders passed by the Supreme Court in *Godavarman* was the order of 12.12.1996 which clarified certain provisions of the Forest (Conservation) Act, 1980 [FCA] and also extended the scope of the Act.

The Supreme Court observed in its order of 12.12.1996 stated that there is misconception in certain quarters about the true scope of the Act and the meaning of the word “forest” used therein. There is also misconception about the need of prior approval of the Central Government. The Court order dealt with the following aspects–

### **Dictionary Meaning of Forest**

The Court did a purposive interpretation of the Act, and held that the Act was enacted with a view to check further deforestation which ultimately results in ecological imbalances, and therefore, the provisions made therein for conservation of forests must apply to all types of forests irrespective of the nature of ownership or classification. Most significantly, the Court held that:

- The word “forest” must be understood according to the dictionary meaning. The Court clarified that this description covers all statutorily recognized forest, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Act.
- The term “forest land” as 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.
- The provisions enacted in the Act, for the conservation of forests must apply clearly to all forests so understood irrespective of the ownership or classification thereof.

### **Identifying Forest**

Having extended the scope of the Act by including diverse categories as “forest”,

the Court directed each State Government to constitute within one month an expert committee to:

- 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;
- Identify areas which were earlier forests but stand degraded, denuded or cleared; and
- Identify areas covered by plantation trees belonging to the Government and those belonging to persons.

### Specific Directions on Non Forest Activities

The Court directed that in accordance with Section 2 of the Act, “all ongoing activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith”. Significantly, the felling of trees in all forests was to remain suspended except in accordance with working plans of the State Government, as approved by the Central Government. Specific orders were passed for the North Eastern State and especially for Tirap and Changlang in Arunachal Pradesh Jammu and Kashmir, Himachal Pradesh and hill regions of Uttar Pradesh, Tamil Nadu. Most importantly, it was directed that this order (i.e. 12.12.1996) will operate and be implemented notwithstanding any order at variance, made or which may be made by any Government or any authority, tribunal or court, including the High Court<sup>1</sup>.

Thus, began the engagement of the Supreme Court on a continuing basis with the issue of forest conservation. This case came to be known popularly as the *Godavarman*<sup>2</sup> case or less commonly the ‘forest conservation case’<sup>3</sup>. The prime focus of Godavarman was the effective implementation of the Forest (Conservation) Act, 1980. However, as the case progressed, the Wild life (Protection) Act, 1972 [WPA] and all State and local laws relevant for forest conservation also came within the purview of the Godavarman case.

### Godavarman and Centre for Environmental Law

Forest conservation law in India is now impacted not only by the outcome of the Godavarman case but also the ongoing litigation concerning the National Parks and Sanctuaries through the *Centre for Environmental Law WWF-India v. Union of India*, (W.P. 337 of 1995). Although, in principle the case concerns the issue of settlement of rights in National Parks and Sanctuaries, yet its scope is much beyond this issue. Perhaps, the most significant was the order dated 13.11.2000, wherein the Supreme Court through an interim order restrained all State Government from dereserving National Parks, Sanctuaries and Forests. The order reads as follows:

“This Court while directing to list the above application after five weeks DOTH ORDER THAT pending further orders no dereservation of Forests/Sanctuaries/ National Parks shall be effected.

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<sup>1</sup> This was further reiterated in order dated 04.03.1997.

<sup>2</sup> Incidentally, the petitioner, TN Godavarman Thirumulpad has little to do with the subsequent developments in the case.

<sup>3</sup> Shyam Diwan and Armin Rosencranz, *Environmental Law and Policy in India* 289 (Oxford University Press, 2<sup>nd</sup> ed., 2001).

AND THIS COURT DOTH FURTHER ORDER THAT this ORDER be punctually observed and carried into execution by all concerned”

The inclusion of the word ‘forest’ is significant and adds a completely new dimension to the implementation of forest law in the country and specifically of the Forest (Conservation) Act, 1980 and the Wild Life (Protection) Act. 1972

The combined implication of the *Godavarman* and *Centre for Environmental Law* case can be summarized as follows:

- The Court by order dated 12.12.1996 in *Godavarman* restrained all State Governments from using forest land for non-forest purpose without the prior approval of the Central Government in accordance with the provisions of Section 2(ii) of the Forest (Conservation ) Act, 1980.
- The Court by the same order stayed all non-forest activities insofar as they were being carried out without prior approval of the Central Government. Thus, the decision of 12.12.1996 aimed at ensuring the proper and effective implementation of the Forest (Conservation) Act, 1980.

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## **2.5 ORDERS AND JUDGMENTS**

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### **2.5.1 Working Plan**

The *Godavarman* case attracted significant attention when on 12.12.1996 the Court in its order ‘suspended’ the felling of trees in all forest except in accordance with the working plans of the State Governments which were approved by the Central Government. It was brought to the notice of the Court that most of the working plans on the basis of which timber were harvested were based on plans which placed primacy to commercial consideration over ecological and social concerns. The issue of working plans was dealt with extensively in the order dated 15.01.1998, The Court directed that working plans for all forest divisions shall be prepared by the State Governments and approval will be obtained from the Government of India. It was clarified that the term ‘State Government’ would also include District Councils constituted under Schedule VI of the Constitution of India. The working plans would have to be prepared within a period of two years. During the intervening period, the forest shall be worked according to an annual felling program approved by the Ministry of Environment and Forests. In respect of District, Regional and Village Council Forests, it was directed that the same shall be worked in accordance with worked with working scheme which has to specify both the program for regeneration and harvesting. It was however clarified that the plantation schemes raised on private and community holding shall be excluded from these requirements but will be regulated under the respective State rules and regulations. For the purpose of preparing the working plans, the States were directed to constitute a state level expert Committee to be headed by the PCCF.

Very interestingly, the Court in its above order directed the North Eastern States to identify ecologically sensitive areas in consultation with Institutions such as the Indian Council of Forest Research and Education, Wild Life Institute of India, North Eastern Hill University, North Eastern Regional Institute of Science and Technology and NGOs and ensure that such identified ecologically sensitive areas are totally excluded from any kind of exploitation, The Court further stipulated that minimum extent of such area shall be 10% of the total area of the State.

Subsequently, (on 12.05.2001), the Court laid down detailed guidelines for the felling of trees from forest areas as well as non forest areas including plantation. As per the order, the felling of trees from forest areas could be allowed only as per the approved Working Plans/schemes, whereas the felling of trees from non forest area could be allowed only as per detailed guidelines which are prepared by the State Government with the concurrence of the Central Government. This order, together with the order of the Court on 15.01.1998 forms the guidelines for felling of trees. The highlights of the Order dated 12.05.2001 were-

- i) Felling of trees from forest shall be only in accordance with working plans/schemes or felling schemes approved by the Ministry of Environment and Forests.
- ii) Such working plans/schemes shall also be needed for felling of trees from any non-Government forest areas including land which is required to be treated as “forest” as the decision of the Court on 12.12.1996.
- iii) While implementing the Working Plans/schemes approved by the Central Government, the State Government or the concerned authority shall ensure that no felling is done unless and until sufficient budgetary provisions exist for the regeneration of such areas.
- iv) For felling of trees from non-forest areas, including plantations on concerned State Government which will come in force only after concurrence from the Ministry of Environment and Forest.
- v) The Guidelines/Rules shall also include provisions for penalties and mode of disposal in respect of any felling done in violation of such Guideline/Rules.
- vi) Till such Guidelines/Rules become effective no felling from any area other than that under approved working pans/schemes or felling schemes shall be permitted.
- vii) The schemes are to be prepared within a period of three months and the Ministry of Environment and Forests has to take a decision on the same within a period of one month of the date of receipt.

<p><b>Self Assessment Question</b></p> <p>2) Why was there a need to insist on approved working plan? Why is working plan crucial in forest management?</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
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**2.5.2 Mining**

In a series of orders in the *Godavarman* case, the Supreme Court dealt at length and at times in minute details about instances of mining taking place in forest area. The Supreme Court however, made it clear that it was not against mining *per se* but against mining which is in violation of the Forest (Conservation) Act, 1980, and also mining in National Parks and Sanctuaries. In one of its order dated

17.12.1999, on application filed by the National Mineral Development Corporation (N.M.D.C.), the Court clarified its position vis-à-vis wherein it held that the ban imposed on mining was subject to the approval of the Central Government and when Central Government has granted the permission the applicant would be at liberty to operate the said mines.<sup>4</sup> What was prohibited was illegal felling of trees without the permission of the Central Government.

### **The Kudremukh Case**

The continued operations of the Kudremukh Iron Ore Company Limited (KIOCL), a Government of India, a Public Sector Unit, was a major issue for many environmental groups. The Supreme Court's response was based on an application filed by Wild Life First! a Karnataka based NGO.

According to the Petitioner, inspite of the orders passed by the Supreme Court, mining activities were conducted by the KIOCL within the Kudremukh National Park which were in clear violation of orders passed by this Court. The main reliefs sought were: (a) to direct the MoEF to withdraw the illegal "temporary working permission" issued by it and stop mining activities, (b) direct KIOCL to stop polluting the Bhadra river due to open cast mining, (c) take action against KIOCL for illegal encroachment in the forest and for the destruction of forests in the Kudremukh National Park., and (d) to stop KIOCL from laying a new slurry pipe line in the forest of the National Park, The main reliefs sought were (a) to direct the MoEF to withdraw the illegal 'temporary working permission' issued by it and stop mining activities (b) direct KIOCL to stop polluting the Bhadra river due to open cast mining (c) take action against KIOCL for illegal encroachment in the forest and for the destruction of forests in the Kudremukh National Park: and (d) to stop KIOCL from laying a new slurry pipe line in the forest of the National Park. The Court accepted the time period for stopping mining activities as fixed by the Forest Advisory Committee constituted under Section 3 of Forest (Conservation) Act, 1980. It meant that KIOCL was to be given five years to wind up operation from the time its earlier lease expired (it had already expired). This meant mining would be allowed till the end of 2005 by which time the weathered secondary ore available in the already broken area will be exhausted. In view of the series of temporary working permission that were granted, as well as the inconsistency on part of the Government of Karnataka and Ministry of Environment and Forests, the Court observed:

*"Before we part with the case, we note with concern that the State and the Central Government were not very consistent in their approach about the period for which the activities could be permitted. Reasons have been highlighted to justify the somersault. Whatever be the justification, it was but imperative that due application of mind should have been made before taking a particular stand and not to change colour like chameleon, and that too not infrequently."*

The Kudremukh case is also important in view of the law laid down with respect to the use of discretionary powers to be exercised under the Forest (Conservation) Act, 1980. The Court also emphasized the need to implement the provisions of the Convention on Biological Diversity:

*"Duty is cast upon the Government under Article 21 of the Constitution of India to protect the environment and the two salutary principles which govern*

*the law of the environment are; (i) the principles of sustainable development and (ii) the precautionary principle. It needs to be highlighted that our country has acceded to the Convention on Biological Diversity and therefore, it has to implement the same. As was absence by this Court in Vishaka v. State of Rajasthan, [1997(6)SCC 241], 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 been 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 there from”.*

### 2.5.3 Compensatory Afforestation

Compensatory afforestation refers to afforestation activities carried out to compensate the losses due to diversion of forest land due to non forest activities. Compensatory afforestation prior to the orders of the Court was carried out in accordance with the guidelines issued by the Ministry of Environment and Forests under the provisions of the Forest (Conservation) Act, 1980. According to the guidelines:

- The compensatory afforestation is to be done over an equivalent non-forest are at the cost of the user agency.
- Wherever non-forest land is not available, which is to be certified by the Chief Secretary of the State, compensatory afforestation is to be done over double the degraded forest area at the cost of the user agency.
- After the funds for compensatory afforestation are deposited with the concerned State Government and the land for this purpose is transferred and mutated in favour of the forest department, a formal approval for diversion of forest land for non forest use under Section 2 of the FC Act is given by the Ministry of Environment and Forests.
- Compensatory afforestation is generally to be done by the Forest Departments in the respective States.

The Central Empowered Committee considered at length all aspects related to compensatory afforestation. It consulted the Ministry of Environment and Forests as well as the State Governments. Although, there were guidelines on compensatory afforestation, the same were not uniformly followed. For example, the procedure for the receipt and utilisation of funds differed among different states. Thus, in the States of Chhattisgarh, Madhya Pradesh, Uttaranchal and Uttar Pradesh, the money received on account of compensatory afforestation is directly deposited by the user agency with the Forest Department as “forest deposit” and do not form part of the consolidated fund of the State. In these States, accessing funds for compensatory afforestation is not a problem. Unfortunately, in most other States, the funds received from the user agencies for compensatory afforestation are deposited as ‘revenue receipts’ with the State Governments, which are made available to the forest department only through budgetary provision and sanction. As such, in all States other than Karnataka, there is problem of timely release of funds for compensatory afforestation. It was, therefore, felt that a Fund for Compensatory Afforestation should be created to be called ‘Compensatory Afforestation Fund’ wherein all the amount received from the user agencies be deposited and subsequently released directly to the implementing agencies as and

when required. It was further recognized that plantations raised under compensatory afforestation can never adequately compensate for the loss of natural forests as they are poor substitutes of the natural forests. The CEC in its report noted that in the states of Madhya Pradesh and Chhattisgarh, the net present value is being recovered at the rate of Rs. 5.80 Lakh per hectare to Rs.9.20 Lakh per hectare of forest land depending upon the quality and the density of the forest land diverted for non forest purpose. The CEC recommended that the Net Present Value of the forest land diverted for non-forest purposed should also be recovered from the user agency while according approval under FCA. The fund so recovered could be utilised for undertaking specific activities such as forest protection and other conservation measures.<sup>5</sup>

### **Compensatory Afforestation Fund Management and Planning Authority (CAMPA)**

On 29.10.2002, the Court directed that a Compensatory Afforestation Fund shall be created in which all the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, Net Present Value of forest land, Catchment Area treatment fund shall be deposited. The fund will be administered through a body called CAMPA. However, in view of the fact that the considerable time would be required till CAMPA becomes operational, the Court constituted<sup>6</sup> an Ad Hoc CAMPA. The Ad Hoc CAMPA would comprise of Director General of Forest as Chairman and have members from the CEC, the CAG and Ministry of Environment and Forest. It was directed that all the State Governments/ Union Territories shall account for and pay the amount collected with effect from 30<sup>th</sup> October, 2002 in conformity with the order dated 29.10.2002 to the said Ad-Hoc CAMPA.

The functioning of CAMPA and specifically the management of funds collected by the Ad Hoc CAMPA was considered at length by the Courts at different hearings. It was observed by the Court that various agencies had deposited amounts by way of Net Present Value when the forest area were utilised for non forest purposes. This amount is lying with CAMPA. The issue was examined in detail by the CEC and a report filed.<sup>7</sup> Based on the Report of the CEC, the Court accepted<sup>8</sup> the following recommendations:

- A) The guidelines and the structure of the State CAMPA as prepared by the MoEF may be notified/implemented. All previous orders passed by this Court regarding this would stand modified to the extent necessary for implementation of the present proposal.
- B) Substantial amount of funds have been received by the Ad-hoc CAMPA and sudden release and utilisation of this large sum all at one time may not be appropriate and may lead to its improper use without any effective control on expenditure. This Court considers it appropriate to permit the Ad-hoc CAMPA to release, for the next 5 years, in proportion of 10% of the principal amount pertaining to the respective State/UT as per the conditions given below:
  - i) the details of the bank account opened by the State Executive Committee (in Nationalised Bank) are intimated to the Ad-hoc CAMPA;

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<sup>5</sup> I. A. No. 566; *see* order dated 26.09.2005.

<sup>6</sup> Order dated 05.05.2006.

<sup>7</sup> I.A. No. 2143.

<sup>8</sup> Order dated 10.07.2009.

- ii) the amount towards the NPV and the protected area may be released after the schemes have been reviewed by the State Level Executive committee and the Annual Plan of Operation is approved by the Steering Committee;
  - iii) the amount towards the CA, Additional CA, PCA and the Catchment Area Treatment Plan may be released in the respective bank accounts of the States/UTs immediately for taking up site specific works already approved by the MoEF while granting prior approval under the Forest (Conservation) Act, 1980.
- C) An amount upto 5% of the amount released to the State CAMPA may also be released and utilised by the National CAMPA Advisory Council, for monitoring and evaluation and for the implementation of the various schemes as given in para 19 of the Guidelines on the State CAMPA. It is left to the discretion of the National CAMPA Advisory Council whether it wants to spend money directly or through the Ad hoc CAMPA.
- D) The recommendations for the release of the additional funds, if any, will be made in due course from time to time after seeing the progress made by the State Level CAMPA and the effectiveness of the accounting, monitoring and evaluation systems.
- E) The State Accountant General shall carry out the audit of the expenditure done out of State CAMPA funds every year on annual basis.
- F) The State Level Executive Committee shall evolve an appropriate and effective accounting process for maintenance of accounts, returns and for audit.
- G) The interest received by the State CAMPA on the amounts placed at their disposal by the Ad hoc CAMPA may be used by it for administrative expenditure.

Till an alternative system is put in place (after obtaining permission from this Court) the money towards CA, NPV and Protected Areas (National parks, Wildlife sanctuaries) shall continue to be deposited in the Ad hoc CAMPA and its release will continue to be made as per the existing orders of this Court.

**Self Assessment Question**

3) Why was the need felt to Impose Net Present Value?

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4) What is CAMPA? Why was it felt necessary to have a separate fund for compensatory afforestation?

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## 2.5.4 Saw Mills and Wood Based Units

The Court in order dater 12.12.1996 directed that all ongoing activities within any forest without the prior approval of the Central Government must cease forthwith. The Court made it absolutely clear that the running of saw mills of any kind, including, veneer or plywood mills are not permissible without prior Central Government approval. Specifically concerned about the danger to the tropical wet evergreen forest of Tirap and Changlang in Arunachal Pradesh, the Court directed the immediate closure of all saw mills, plywood mills and veneer mills within a distance of 100 kms from the border of Assam. Further, in order to stop the trade in timber, the Court directed that there shall be a complete ban on the movement of cut trees and timber from any of the seven North Eastern States to any other State.

Each State Government was directed to file within two months a report regarding the number of saw mills, veneer and plywood mills operating within each State, the real owners of these mills, the licensed and actual capacity of the mills their proximity to the nearest forest and their source of timber. Further the States were also directed to constitute within one month an Expert Committee to:

- assess the sustainable capacity of the forest of the State vis-à-vis saw mills and timber based industries;
- the number of existing saw mills that can be safely be sustained by the State; and
- the optimum distance from the forest at which the saw mills should be located.

In view of the large number of saw mills operating in the North Eastern Region, the Court constituted a High Power Committee (HPC) on 04.03.1997 in order to oversee the 'strict and faithful implementation' of the orders of the Court. On the same day, the Court passed an order that no new unlicensed sawmills, plywood, veneer and wood based units shall function in the State of Uttar Pradesh and Maharashtra. All unlicensed sawmills, veneer, plywood industries in the States of Maharashtra and Uttar Pradesh were to be closed forthwith and the State Government would not remove or relax the condition for grant of permission/license for the opening of any such sawmill, veneer and plywood industry. The Court directed that it shall not grant any fresh permission/license for this purpose.

The order dated 15.01.1998 was very significant and dealt at length with the running of wood based industries specifically in the North Eastern States. The Court in its order observed:

*“Even though the proliferation of wood based industries has been the main cause of degradation of forest in the North Eastern States, considering the extent of forest (64% of the geographical area) and the dependence of local people on the forest in the region it is neither feasible nor desirable to ban completely either the timber trade or running of wood based industries. However, their number and capacities are to be regulated ... and they are also required to be relocated in specified industrial zones. Moreover, industrial requirements have to be subordinated to the maintenance of environment and ecology as well as bona fide local needs.”*

With a view to regulating the saw mills, the Court directed the State Governments to notify industrial estates for locating wood based industrial units in consultation

- Licenses given to all wood based industries shall stand suspended.
- Wood based industries cleared by the HPC will have the option to shift to identified industrial estates.
- Units which do not want to shift shall be allowed to be wound up as per law.
- Licenses of units shall be renewed annually only when no illegality is attributed.
- Number of wood based industries shall be determined strictly within the quantity of timber that can be felled annually on a sustainable basis as determined by approved working plan from time to time.
- There shall be a complete moratorium on the issue of new licenses for any wood based unit for the next five years.

**Self Assessment Question**

5) Why did the Supreme Court feel the need to regulate Saw Mills? Can the restrictions be termed as unreasonable restrictions?

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## 2.6 SUMMARY

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- In this Unit, we discussed the how the Supreme Court of India has dealt with the issue of forest. How judicial activism on forests evolved and was innovative in many ways.
- We discussed how the scope of the Forest (Conservation) Act, 1980 was broadened by the Supreme Court in *Godavarman*.
- We dealt at length on how mining, saw mill were dealt by the Supreme Court in its various orders.
- We further discussed the imposition of Net Present Value and the constitution of CAMPA.

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## 2.7 TERMINAL QUESTIONS

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- 1) Why was there a need for the judicial intervention on the issue of Forest?
- 2) Why was the Court so concerned about Compensatory Afforestation and need for constituting CAMPA?
- 3) Why is it that the Supreme Court continues to monitor issues related to forests? Is it because of the failure of the executive?

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## 2.8 ANSWERS AND HINTS

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### Self Assessment Questions

- 1) Refer to Sub-section 1.2.3
- 2) Refer to Section 2.5
- 3) Refer to Sub-section 2.5.3
- 4) Refer to Sub-section 2.5.3
- 5) Refer to Sub-section 2.5.4

### Terminal Questions

- 1) The loss of forests was alarming and the executive to a large extent had failed to take action to stop the degradation. It therefore became necessary for the Court to pass regular directions.
- 2) The existing practice of carrying out compensatory afforestation has not been successful in the Country. The funds meant for compensatory afforestation were routinely used for other activities unconnected with forests. There was massive diversion of funds and the need was felt to have an independent body to collect and disburse the funds.
- 3) Many of the orders passed by the Court emphasizes on the need for prior approval from Supreme Court before certain activities can take place viz no dereservation of National Parks, Forests and Sanctuaries. As a result many cases come before the Supreme Court.

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## 2.9 GLOSSARY

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**W.P** : Writ Petition.

**I.A** : Intervention Application. This is when a third Party files an Application in an existing Writ Petition.

**CEC** : Central Empowered Committee constituted under Section 3(3) of the Environment (Protection) Act, 1986 to assist the Court in implementation of the orders.

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## 2.10 REFERENCES AND SUGGESTED READINGS

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- 1) “Supreme Court on Forest Conservation”, Ritwick Dutta & Bhpender Yadav, Universal Publications, Second Edition, 2007.