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SC modifies order on eco-sensitive zone around national parks, sanctuaries

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The judgement pointed out that there are various regulated and permissible activities as well certain projects of national and strategic importance such as construction of National Highways, Railways, Defence infrastructure. "The effect of the direction...is that all such activities will be permanently prohibited." (WikimediaCOmmons)

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The Supreme Court Wednesday modified its 2022 order mandating a minimum 1-km eco-sensitive zone around national parks or wildlife sanctuaries, saying it would have prevented the government from building roads and other important infrastructure in those areas.

With the June 3, 2022 order sparking concerns about human habitations falling within the proposed ESZs, the Centre had approached the court seeking modification of some of the directions.

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On Wednesday, a bench of Justices B R Gavai, Vikram Nath and Sanjay Karol said the 2022 order will not be applicable to ESZs in respect to which draft and final notifications have been issued by the Ministry of Environment, Forests and Climate Change, and where proposals for such notifications have been received by the ministry.

It will also not be applicable where the national parks and sanctuaries are located on inter-state borders or share common boundaries.

But it underlined that no mining would be allowed, either within national parks and sanctuaries or in a 1-km radius.

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Modifying its order, the court ruled: “If the direction...is continued, then no permanent structure would be permitted to come up for whatsoever purpose in the aforesaid ESZs. As already pointed out from the aforesaid examples, hundreds of villages are situated within the ESZs in the country. If no permanent construction is to be permitted for any purpose, a villager who is desirous to reconstruct his house would not be permitted. Similarly, if there is an extension in their family and some additional construction is required for accommodating the enlarged family, the same would also not be permitted. Similarly, if the Government decides to construct schools, dispensaries, anganwadis, village stores, water tanks and other basic structures for improvement of the life of the villagers, the same would also not be permitted. The effect of the order will be to prevent the State or the Central Government from constructing roads and provide other facilities to the villagers”.

Writing for the bench, Justice Gavai also said if the order is not modified, it will be impossible for the Forest Departments to conduct eco-development activities around national parks and sanctuaries. “The said activities are required with the dual objectives of protection of wildlife and provision of benefits for the local communities. MoEFCC provides financial assistance to the States under the

Centrally Sponsored Scheme-Integrated Development of Wildlife Habitats, which includes assistance for eco-development activities. These activities often involve construction of small structures which are permanent in nature in areas including ESZs.”

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The judgement pointed out that there are various regulated and permissible activities as well certain projects of national and strategic importance such as construction of National Highways, Railways, Defence infrastructure. “The effect of the direction...is that all such activities will be permanently prohibited.”

Referring to Ministry guidelines, it said there are inbuilt safeguards to prevent rampant construction that will affect wildlife habitats.

The top court said: “The necessity to have ESZs is to provide a buffer zone around the Protected Areas. The rights of the villagers residing in the Protected Areas are required to be settled in accordance with the provisions contained in the 1972 Act and such villagers are rehabilitated outside the Protected Areas. However, no such settlement of rights is available to the villagers residing in the ESZs areas. As stated in the said Guidelines, the purpose of declaring ESZs is not to hamper the day to day activities of the citizens. If the direction as issued is continued, it would certainly hamper the day to day activities of the citizens residing in ESZs.”

The June 2022 order also said that even for continuation of existing activities, the permission of the Principal Chief Conservator of Forests (PCCF) of each State or Union Territory would be necessary.

Wednesday's ruling said that if this is not modified, “taking into consideration that in each State or Union Territory there will be hundreds of villages wherein millions of people would be residing, the PCCF would be left with no other job except to consider such applications for permission to continue such activities. Even a farmer desirous to continue farming activities would be required to seek such permission.

We find that such a direction is impossible to be implemented...If such a direction is continued, rather than avoiding man-animal conflict, it will intensify the same”.

Modifying this, it asked the Ministry and State/UT to “strictly follow” the provisions in February 9, 2011 guidelines for declaration of ESZs around National Parks and Wildlife Sanctuaries and also the provisions contained in the ESZs notifications pertaining to the respective Protected Areas with regard to prohibited activities, regulated activities and permissible activities.

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It added that while granting Environmental and Forest Clearances for project activities in ESZ and other areas outside the Protected Areas, the centre as well as various State/UT Governments shall strictly follow the provisions contained in the Ministry's Office Memorandum of May 17, 2022.

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