

Centre's panel recommends uniform penalty for violations of Van Adhiniyam, 1980

The Forest Advisory Committee first took up the issue in 2018 after observing that different quantum of penalties was imposed for similar cases of violations due to the absence of common guidelines.

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The Union Environment Ministry's Forest Advisory Committee (FAC), which scrutinises proposals for the diversion of forest land for non-forestry activity, has recommended rationalisation and uniformity in penal provisions levied over the violation of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. The expert panel has said that penal compensatory afforestation shall be charged on an equal extent of the forest land involved in the cases of violation.

Van Adhiniyam and penal compensatory afforestation

The Van Adhiniyam (formerly Forest Conservation Act, 1980) is considered to be violated when forest land is permitted for “de-reservation, non-forest use, lease, or clear felling” without prior approval of the Centre under the law.

The FAC recommended penal compensatory afforestation in addition to penal provisions provided in the Van Adhiniyam Rules, 2023, as per the minutes of its October 28 meeting.

Penal compensatory afforestation refers to restoration efforts which are ordered in addition to the legally mandated compensatory afforestation for non-forestry use of forest land for infrastructure projects, industries.

Under the rules, a penal net present value (NPV) of up to five times is levied in relation to the forest area that is used in contravention of the law. NPV is the quantification of the environmental services provided for the forest area diverted for non-forestry purposes.

Even as the practice of stipulating penal compensatory afforestation was largely discontinued after detailed guidelines on monetary penalties were introduced, it was still ordered on a case-to-case basis, the FAC noted. The committee, after reviewing the matter, observed that the stipulation of penal compensatory afforestation equivalent to twice the area used in violation of the Adhiniyam was appropriate when no other penal provisions existed, as per the minutes of its meeting.

“However, with the introduction of the penal NPV by the ministry, it is now imperative to rationalise the applicability of penal CA (compensatory afforestation) in conjunction with the penal NPV measures to ensure consistency and proportionality in enforcement,” the FAC's minutes noted.

FAC suggests sending detailed reports on violations

In cases where the state government was convinced that provisions of the law were violated, the FAC recommended that a detailed report should be sent to the regional office or ministry headquarters along with details of persons who allowed the offence and action taken under the law.

As per the FAC meeting's minutes, a committee was constituted, including officers from the ministry's regional offices, to submit recommendations on the matter of penal compensatory afforestation. The committee submitted its report in November 2024 and it was also examined by the forest conservation division of the ministry.

The FAC noted that the concept of penal NPV emanated from the directions of the Supreme Court dating back to August 2017. Based on the apex court's directions, the ministry had further streamlined penalties for various violations and they were also incorporated in the consolidated guidelines issued after the amendment of the Forest Conservation Act in 2023.

The FAC had first taken up the issue in January 2018 after observing that different quantum of penalties was imposed for similar cases of violations and offences, due to the absence of common guidelines. A committee was constituted, consisting of officers from the regional office of the environment ministry and an FAC member, to examine various aspects, situations, and activities that fall under the ambit of violations of rules and guidelines of the Forest Conservation Act, 1980.



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