

# VAJIRAM & RAVI

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**JUDICIARY AND FOREST  
GOVERNANCE**

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## Godavarman Case and Forest Conservation in India

### Introduction and Rationale

- The judiciary plays a crucial role in shaping legal discourse, including in forestry and wildlife conservation. The way courts, especially the Supreme Court of India, adjudicate issues related to forests and wildlife continually redefines legal principles, significantly influencing policy and governance.
- Judicial intervention in forestry dates back to the 1950s, but a clear distinction can be seen before and after the enactment of the Forest (Conservation) Act, 1980 (FCA):
  - **Before the FCA (pre-1980):** Court cases primarily focused on the commercial use of forests and their economic benefits.
  - **After the FCA (post-1980):** Judicial interventions shifted towards conservation and protection of forests.
- Over time, courts expanded the scope of forest-related petitions, going beyond the cases initially brought before them. Judicial activism in forestry has shaped policies at both the national and state levels, refining and improving forestry laws and management practices.
- A key outcome of judicial activism in forestry was the creation of dispute resolution institutions, particularly the **Central Empowered Committee (CEC)**. This body, formed by the Supreme Court during the **Godavarman case**, has played a major role in forest governance and continues to influence policy.

### Importance of Documenting Judicial Interventions

- Studying the impact of judicial pronouncements in forestry is essential because:
  - Judicial decisions set legal precedents, guiding future policymaking.
  - Understanding past interventions helps predict future judicial trends.
  - It provides a reference for legal professionals, environmentalists, and policymakers.

### 1. The Godavarman Case: A Landmark in Forestry Governance

- **T.N. Godavarman Thirumulpad**, from the **Nilambur Kovilakam** family in Kerala's Malabar region, initiated a landmark legal battle for forest conservation.
- In **September 1995**, he was disturbed by the large-scale destruction of wooded areas in **Gudalur, Nilgiris, Tamil Nadu**.
- These forests, known as **Janmam Lands**, were originally owned by the **Nilambur Kovilakam** but were taken over by the Kerala government under

the **Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969**.

- However, the state failed to protect them, leading to rampant tree felling. **Godavarman filed a writ petition in the Supreme Court.**

## Filing of the Writ Petition

- In **1995, Writ Petition (C) No. 202 of 1995** was filed as a **Public Interest Litigation (PIL)** under **Article 32** of the Indian Constitution.
- The petition sought to challenge the destruction of **tropical rainforests** in the **Nilgiris, Tamil Nadu**, due to large-scale tree felling.
- It alleged that the **State of Tamil Nadu, district authorities, and timber contractors** had violated multiple laws, including:
  - **Indian Forest Act, 1927**
  - **Forest (Conservation) Act, 1980**
  - **Tamil Nadu Hill Stations Preservation of Trees Act**
  - **Environment (Protection) Act, 1986**
- The petitioner argued that this destruction caused severe **ecological imbalances**, affecting the livelihoods of people in Tamil Nadu.

## Key Allegations in the Petition

- **Encroachment and illegal tree felling:** Authorities allegedly allowed encroachers to illegally fell valuable trees, including **Rosewood, Teak, and Ayni**, which were exclusive to these forests.
- **Mass deforestation:** The clearing was not limited to mature trees; entire forest areas were being cut down to make quick profits.
- **Violation of National Forest Policy (1952):** The policy aimed for **33% forest cover**, but India's forest cover was below **15%**, and **natural rainforest cover was only around 5%**.
- **Impact on ecology:**
  - Loss of **unique flora and fauna** in the **Western Ghats**.
  - **Depletion of water sources** feeding rivers.
  - **Severe climate and environmental changes**.
- **Violation of Fundamental Rights:** The petitioner argued that deforestation deprived local communities of their right to a **clean and pollution-free environment** under **Article 21** of the Constitution.
- **Corruption and illegal timber trade:** A well-organized racket involving **forest officials, timber contractors, and local authorities** facilitated large-scale illegal logging.

## Key Prayers in the Petition

The petitioner requested the Supreme Court to:

1. **Stop tree felling and deforestation** in the Nilgiris.
2. **Prevent the conversion of forest land** into plantations.
3. **Evict illegal encroachers** from the forest.
4. **Halt timber transportation** from Nilgiri forests.
5. **Form a committee** to assess forest damage in **Tamil Nadu, Kerala, and Karnataka**.

## Supreme Court Intervention

- **Disturbed by the grave environmental damage**, the Supreme Court issued notices to all concerned states and took up the case for **continuous monitoring**.
- Over the years, numerous **Interlocutory Applications (IAs)** were filed, expanding the case to include:
  - **Forest cover protection**
  - **Wildlife conservation**
  - **Water body protection**
  - **Ecological restoration**

## Strategies of the Supreme Court in the Godavarman Case

The **Supreme Court's intervention** followed a strategy of **continuous mandamus** (constant judicial oversight) and included:

- **Appointment of Amicus Curiae** (legal advisors to assist the court).
- **Expert Committees** for investigations, fact-finding, and quasi-judicial reviews.
- **State-level expert committees** for localized issues.
- **Bi-monthly Action Taken Reports (ATR)** to track compliance.
- **Imposition of fines and contempt proceedings** against non-compliant officials.
- **Formation of the Central Empowered Committee (CEC) in 2002**, a unique judicially mandated body monitoring Supreme Court orders on forest conservation.

## Impact of the Judgment

- In **northeastern states**, where **illegal logging** and **unregulated sawmills** were widespread, a **ban on illicit timber movement** was imposed.

- Authorities **seized 94 railway wagons** carrying illegally transported timber.
- The case continued for **nearly two decades** under the legal principle of **continuing mandamus**, allowing the court to **monitor forest-related issues**.
- Over a **thousand Interlocutory Applications (IAs)** were filed, covering concerns such as:
  - **Mining**
  - **Deforestation**
  - **Management of Protected Areas**
  - **Encroachments**
- To handle **increasing technical issues**, the **Supreme Court established the Central Empowered Committee (CEC) in May 2002**.
- By **September 2002**, it was given **statutory authority** to handle pending IAs, review fresh applications, and pass orders aligned with the **Supreme Court's directives**.
- This created a **new framework for forest governance**. Although the main case is no longer under **active hearing**, the **CEC continues to function**, though no longer as a statutory committee.

## Significant Environmental Protections Introduced

The case led to **significant environmental protections**, including:

- **Ban on mining in Kudremukh**
- **Complete prohibition of tree-felling in Protected Areas**
- **Regulation of sawmills and timber companies**
- **Prohibition of marble mining in the Aravallis**
- **Introduction of the Net Present Value (NPV) levy** for using forest land for non-forestry purposes
- **Establishment of the Compensatory Afforestation Fund (CAMPA)**
- **Requirement of Supreme Court approval** for commercial activities in Protected Areas.

## Judicial Activism and the Godavarman Case

- The **Godavarman case** is a prime example of **judicial activism** in India. Over time, the Supreme Court not only adjudicated the case but also **expanded its scope**, significantly influencing national and state-level policies on **forest conservation and wildlife management**.

## Challenges in Enforcing Conservation Laws

- **Implementing the Forest Conservation Act (FCA, 1980)** while balancing commercial and ecological concerns.
- **Ensuring sustainable development**, now a constitutional mandate.
- **Net Present Value (NPV) introduced** as a monetary compensation for diverting forest land for non-forest purposes.
- **Compensatory Afforestation Fund (CAF)** was set up to ensure afforestation in lieu of forest diversion.
- **The Compensatory Afforestation Fund Management and Planning Authority (CAMPA)** was established in 2004 to manage these funds.

## Conclusion

The **Godavarman case** became a **turning point in Indian forest governance**. It:

- Established **continuous judicial oversight** on forest conservation.
- Led to the **creation of CAMPA** to ensure proper afforestation funding.
- Strengthened the **Doctrine of Public Trust**, reinforcing that **natural resources belong to the people**.
- Set a **precedent for environmental protection**, influencing future conservation policies.

The case remains **the most influential legal battle** in Indian forestry governance, **reshaping legal frameworks, introducing new regulatory bodies, and strengthening conservation laws**.

## 2. National Implications of the Godavarman Case

The T.N. Godavarman Thirumulpad v. Union of India case has had a significant impact on forest management and conservation in India. The Supreme Court's various interim orders have redefined policies, expanded legal interpretations, and imposed strict regulatory mechanisms nationwide.

### Expansion to National Level

- The case gained national relevance after counsel highlighted similar forest violations in other states (e.g., Kashmir's Environment Awareness Forum case).
- **Exclusive Jurisdiction of Supreme Court:**
  - On 02.09.1996, the Court ruled that all forest-related matters would be heard only by the Supreme Court.

- All State Governments were made parties to the case, ensuring nationwide enforcement.

## Landmark Order of 12.12.1996

- **Comprehensive Review:** The Court decided to examine all aspects of the National Forest Policy.
- **Institutional Mechanisms:** The order introduced several institutional measures with long-term implications.

## Ban on Tree Felling

- **Complete Prohibition:** The Court imposed a nationwide ban on tree felling in all forests.
- **Exemptions:** Trees planted in non-forest areas were exempt.

## Expansion of Forest Conservation Act, 1980

- The Court ruled that the **Forest Conservation Act (FCA), 1980**, applies to all forests **regardless of ownership or classification**.
- **Key Provisions of FCA:**
  - Restricts non-forest use of forest land.
  - Regulates forest land leasing to private entities.
  - Prohibits clear felling of trees without approval.
  - Establishes an **Advisory Committee** for approvals.

## Redefining 'Forest'

- **Dictionary Definition Applied:** The Court ruled that 'forest' includes:
  - All statutorily recognized forests (reserved, protected, or otherwise).
  - Any land recorded as forest, irrespective of ownership.
- **Non-Forest Activities Regulation:**
  - No activity in forests without **prior approval of the Central Government**.
  - Ongoing activities violating this rule were to be halted.

## Working Plans Made Mandatory

- **State Governments' Responsibility:** All tree felling must adhere to **approved working plans**.
- **Extended to Non-Government Forests:** Even private forests require working plans.

## Regulation of Timber Extraction

- **State Monopoly on Timber Extraction:** Only state agencies can extract timber (except private plantations).
- **Customary Laws Considered:** States could apply for exceptions based on local laws.

## Transit Passes and Timber Regulation

- **Watermarked Transit Passes:** Court mandated **watermarked paper** for transit passes to prevent forgery.
- **Cross-Border Timber Trade:** Smuggled timber was to be **confiscated** and handed to forest departments.

## Wood-Based Industries and Licensing

- **Unlicensed Units Shut Down:** All **unlicensed sawmills, veneer, and plywood mills** were ordered to shut down.
- **Central Empowered Committee (CEC) Approval:** Any new wood-based industry required **CEC approval**.

## Environmental Regulations on Industries

- **Regulation of Wood-Based Industries:**
  - Plywood and veneer units required strict record-keeping.
  - Railway **banned from using wooden sleepers**, except from imported wood.
- **Alternative Materials for Railways:** The Court encouraged non-wooden railway sleepers.

## Institutional Reforms and Monitoring

- **Central Empowered Committee (CEC) Formation:**
  - Established to **monitor compliance and assist the Court**.
  - Had **powers to summon officials and inspect documents**.
- **Ministry of Environment & Forests (MoEF) Empowered:**
  - Allowed to **suspend sawmill licenses, seal units, or cut electricity** for violations.
  - Authorized to **seize illegal timber**.

## Encroachment on Forest Land

- **No Regularization of Encroachment:** Court banned regularization of encroachments on forest land.
- **State Government Accountability:** States had to submit reports on anti-encroachment efforts.

## Environmental Vandalism Prohibited

- **Rock Advertisements Banned:**
  - Companies were fined for painting advertisements on rocks.
  - **Himachal Pradesh fined ₹1 crore** for ecological damage.
- **National Monitoring:** MoEF was tasked with reporting similar vandalism nationwide.

## Financial Regulations and Resource Mobilization

- **Revolving Fund Creation:** Penalties from industries were used for **forest conservation**.
- **Compensatory Afforestation Fund (CAF):**
  - States were **ordered to deposit funds** for afforestation.
  - Utilization of funds was subject to strict oversight.

## Forest Exploitation and Compensatory Afforestation

- **Mining Regulations:**
  - Mining projects needed MoEF clearance and compensatory afforestation plans.
  - Strict timelines for processing approvals were set.
- **Net Present Value (NPV) Concept Introduced:**
  - Companies diverting forest land for non-forest use had to pay **₹5-9.2 lakh per hectare**.
- **Independent Monitoring of Afforestation:**
  - **Satellite imagery** was to be used for verification.

## CAMPA and Fund Management

- **Compensatory Afforestation Fund Management and Planning Agency (CAMPA):**
  - Established to **manage afforestation funds**.
  - MoEF and Planning Commission oversight ensured.

- **Supreme Court Ordered Fund Transfers:**
  - All funds collected from 30.10.2002 onwards had to be transferred to **Adhoc CAMPA**.
- CAMPA act by the parliament in 2016 (Executive)

## Supreme Court's Procedural Strategies

- **Expert Committees:** States were directed to form **Expert Committees** for compliance.
- **Regular Action Taken Reports (ATR):** MoEF and states had to file **bi-monthly compliance reports**.
- **Amicus Curiae's Expanding Role:**
  - All applications had to be **first submitted to the Amicus Curiae**.
  - Amicus had significant influence over case proceedings.

## Key Takeaways and Implications

1. **Supreme Court's Expansive Role:**
  - The Court **redefined forest governance** and took over many executive functions.
  - It created **CEC and CAMPA**, influencing policy implementation.
2. **Institutional Strengthening:**
  - **Forest Conservation Act expanded** to apply to all forests.
  - Working plans became **legally binding** for tree felling.
3. **Legal and Financial Implications:**
  - **Industries and mining companies** had to pay hefty compensatory fees.
  - **Encroachments and forest violations faced strict action**.
4. **Challenges and Debates:**
  - **Judicial Overreach?** Some argue the Court encroached on executive functions.
  - **Implementation Issues:** States and agencies have struggled with compliance.

## Net Present Value (NPV) and Its Application in Forestry

### Concept and Evolution

- **Net Present Value (NPV)** in forestry evolved from legal cases concerning forest land diversion.
- Under current legal frameworks, forest land diversion for non-forest use requires **payment for compensatory afforestation** and **NPV**.

- NPV represents the present value of the forest land diverted for non-forestry purposes and must be paid in addition to compensatory afforestation.
- The Supreme Court (SC) mandated an **expert committee** to establish guidelines for determining NPV.

## Exemptions from NPV Payment

1. **Relocation of villages from National Parks/Sanctuaries**
  - The SC exempted MoEF from NPV payment for relocating villages from **Protected Areas**.
2. **Military Training and Firing Ranges**
  - The **Ministry of Defence** contended that temporary use of land for firing ranges does not cause significant damage.
  - The SC **exempted the Defence Ministry from paying NPV** for using forest land for training.
3. **Modification of NPV Quantum**
  - The SC **revised the payable amount** in certain cases based on unique circumstances.
4. **Mining: Different NPV Criteria for Underground and Open Cast Mining**
  - **Underground Mining:** 50% of the NPV must be paid initially, with an undertaking to pay the balance later.
  - **Overground Mining:** 100% of NPV must be paid before project approval.
5. **Clarifications on NPV Applicability and Timelines**
  - Any **forest land diversion after October 2002** requires NPV payment, regardless of when stage-one (preliminary) clearance was granted.
  - If NPV has not been recovered, it should be **collected immediately**.

## Determination of NPV Based on Forest Classification

- Based on **Kanchan Chopra Committee** recommendations, the **Central Empowered Committee (CEC)** classified forests into six ecological categories:
  1. **Eco-Class I:** Tropical Wet Evergreen, Semi Evergreen, Moist Deciduous Forests
  2. **Eco-Class II:** Littoral and Swamp Forests
  3. **Eco-Class III:** Tropical Dry Deciduous Forests
  4. **Eco-Class IV:** Tropical Thorn and Dry Evergreen Forests
  5. **Eco-Class V:** Sub-tropical Broad-Leaved Hill Forests, Pine Forests, Dry Evergreen Forests
  6. **Eco-Class VI:** Montane Wet Temperate, Himalayan Moist & Dry Temperate, Sub-Alpine & Alpine Scrub Forests

- NPV rates (in ₹ per hectare) vary based on eco-class and forest density:

Eco-Class	Very Dense Forest	Dense Forest	Open Forest
Class I	10,43,000	9,39,000	7,30,000
Class II	10,43,000	9,39,000	7,30,000
Class III	8,87,000	8,03,000	6,26,000
Class IV	6,26,000	5,63,000	4,38,000
Class V	9,39,000	8,45,000	6,57,000
Class VI	9,91,000	8,97,000	6,99,000

## Projects Exempted from NPV Payment

The **Kanchan Chopra Committee** recommended exemptions for certain public utility projects, which the **CEC approved**. SC granted **full exemption** for:

- Public welfare projects (up to 1 ha):** Schools, hospitals, playgrounds, rural community centers, drinking water pipelines, electricity lines in rural areas.
- Relocation of villages** from National Parks/Sanctuaries.
- Collection of boulders/silt from river belts** (if necessary for forest conservation).
- Laying underground optical fiber cables** outside Protected Areas.
- Regularization of pre-1980 encroachments** in accordance with MoEF guidelines.

## Partial Exemptions:

- Underground mining:** 50% of NPV payable initially.
- Wind energy projects:** 50% of NPV at the minimum rate (CEC suggested 90% exemption, but SC approved 50%).

## Revised Guidelines for NPV Payment

- NPV rates will be revised every three years.**
- For National Parks/Wildlife Sanctuaries:**
  - Forest land use requires SC's prior approval.
  - NPV charge: 10 times the base rate** for National Parks, **5 times the base rate** for Sanctuaries.
  - Non-forest land within these areas:** NPV equivalent to adjacent forest land.

## Supreme Court Interventions

### 1. Supreme Court on Protected Areas & Wildlife Conservation

1. **Bamboo and Cane as Minor Forest Produce**
  - o Bamboo and cane classified as **grass family** → not considered tree felling.
  - o **Cutting bamboo is prohibited in National Parks and Sanctuaries.**
2. **Ban on Removal of Forest Produce in Protected Areas**
  - o **Dead, diseased, fallen trees, driftwood, and grasses cannot be removed from Protected Areas.**
3. **Funds from Forest Diversion to Be Used Exclusively for PA Conservation**
  - o **SC ordered user agency funds (for forest diversion) to be deposited in Compensatory Afforestation Fund and used exclusively for PA conservation.**
4. **Special Authority for PA Supervision**
  - o SC considered forming a **special authority under NBWL** to monitor 25 National Parks/Sanctuaries.
  - o **Directed CBI to investigate wildlife trade networks.**
5. **Tiger Census and Monitoring**
  - o SC directed **use of modern gadgets like camera traps** for an accurate tiger census.
6. **Permissible Activities in Protected Areas**
  - o SC permitted certain activities, **provided they align with National Wildlife Action Plan**: Fire prevention, Habitat improvement, Anti-poaching infrastructure, Sustainable eco-development projects

### 2. Supreme Court on Mining in Forests

#### Mining in Kudremukh National Park

- **Kudremukh Iron Ore Company Ltd (KIOCL) was allowed to mine only in already broken areas for five years.**
- SC directed **gradual closure of mining operations.**

#### Buffer/Safety Zones Around PAs

- **SC considered a 500-meter safety buffer around PAs** to prohibit mining and construction activities.

- CEC recommended a **minimum 500m buffer zone** around National Parks and Sanctuaries.

## Temporary Working Permits (TWP)

- TWPs only for existing mining leases, not for new mining leases.
- TWPs granted only in legally broken areas and not exceeding one year.

## 3. Supreme Court Interventions in Development Projects

### Railways and Transmission Lines

- SC allowed **broad gauge railway lines and transmission lines through PAs**, subject to:
  - NPV payment
  - Minimum 5% project cost towards PA conservation
  - Erosion control measures

### POSCO & Vedanta Cases

- Vedanta's forest diversion rejected due to its poor environmental track record.
- POSCO steel project and Teesta Hydro project were approved with strict environmental conditions.

## 4. Supreme Court Interventions in Forest Conservation

### Leniency and Stringency

- SC granted time extensions to Committees handling forest cases.
- However, non-compliance with orders was dealt with strictly (e.g., contempt proceedings against officials in Mirzapur mining case).

### Contribution from Forest-Deficient States

- SC suggested **forest-deficient States should contribute** financially towards preserving forests in forest-rich States.
- This **proposal was rejected by 12 forest-deficient States** (Tamil Nadu, Bihar, Rajasthan, Karnataka, Maharashtra, Delhi, Haryana, Uttar Pradesh, Odisha, Gujarat, Punjab, West Bengal, Andhra Pradesh).
- SC then **asked the Union Government** why it should not bear the cost of maintaining natural forests under **Article 48A of the Constitution**.