

CAMPAIGN FOR SURVIVAL AND DIGNITY

Ph: 9810819301, 09448740381 Email: forestcampaign@gmail.com

Problems With the Compensatory Afforestation Fund Bill, 2008

The Compensatory Afforestation Fund Bill is a very dangerous legislation. **The Central government is violating its own pledge to the forest dwellers of the country. This Bill will harm people and forests in this country.**

Timeline of Bill

- Introduced in Lok Sabha in May 2008 and referred to the Standing Committee for Science and Technology and Environment and Forests;
- The Standing Committee **unanimously recommended that the Bill be withdrawn;**
- In December 2008 the Bill was reintroduced **without any changes** in the Lok Sabha and passed in **fifteen minutes in the last session** without any debate.
- In February 2009 an attempt was made to push through the legislation in the Rajya Sabha, which was defeated. The Bill has now lapsed but may well be reintroduced by the next government.

Background – What Are Compensatory Afforestation and Net Present Value?

Under the Forest (Conservation) Act, 1980, a law enacted for protection of forests, no “forest land” can be used for any non-forest purpose without the permission of the Central government. Such permission is referred to as “diversion” of the said forest land. Upon such diversion, the Forest (Conservation) Rules require that twice the area of diverted land be set aside for “compensatory afforestation” - namely tree plantations. The user agency is required to pay sufficient funds for such planting to the State government, which is then required to do the planting.

In 2002, in the course of hearing the *Godavarman* case¹, the Supreme Court issued a series of orders that changed this system. In response to concerns that compensatory afforestation was not taking place, the court ordered that:

- Henceforth, the funds for compensatory afforestation would be deposited not with the State governments, but in a specialised central fund;
- This fund would be administered by a central body called the Compensatory Afforestation Management and Planning Authority;
- Payments would include not only money for compensatory afforestation, but also for the “Net Present Value” of the forest being destroyed – calculated as per an arbitrary figure of 5.8 – 9.6 lakhs per hectare.

The said Authority was notified by the Central government but given no statutory basis. As a result these funds are now lying unspent, up to a total of **at least 5,000 crores**.

Problems of The Current System

There are some severe problems with the system of compensatory afforestation and net present value payments as it is currently instituted. **The current Bill not only does not address these problems, but will make them much worse.** The problems include:

- ***Depriving people of their rights over forest and forest land.*** A forest is a source of minor forest produce like fruits, food items, saleable tendu patta or kendu patta, fuelwood, medicinal herbs, etc., as well as containing water bodies, grazing areas, common lands and other areas that people depend on for their livelihood. Even where people in fact owned the so-called “forest land”, as in community lands in Arunachal

¹ WP 202/95, *T.N. Godavarman Thirumalpad and Ors. vs. Union of India and Ors.*

Pradesh, they are paid nothing for its diversion. **Destruction of the forest deprives adivasis, forest dwellers and other local communities of some or all of their livelihood or basic resources– for which they are neither informed, nor consulted, nor compensated.**

- ***Equating tree planting with environmental protection.*** The system implies that, if an equivalent area of forest is planted with the same number of trees, it is somehow equivalent to the environmental damage caused by destroying an area of natural forest. In fact a natural forest has many environmental values – such as providing water, a habitat for wildlife, biodiversity, etc. These cannot be recreated simply by planting trees.
- ***Encouraging seizure of community and individual lands for plantation purposes.*** In most cases such plantations have taken place on the community or individual lands of adivasis and forest communities, which have been used because they are recorded as “forest land.” The Joint Forest Management Committees, which are controlled by the Forest Department as the forest guard is their secretary, are a favourite instrument for doing this. Even as per official records, tens of thousands of hectares of people's land have been planted with such trees in recent years.
- ***Equating payment of money with restricting environmental and livelihood damage.*** This approach assumes that, just by requiring companies or the government to pay money, environmental damage will be restricted. This ignores the fact that environmental damage is of many types, some of which can be compensated with money and some of which cannot.

The current Bill tries to give statutory status to CAMPA.

Dangers of the Bill

- The Central government has all powers, including deciding the amount of money to be paid (section 2(g)), the power to collect it (section 6), and deciding where it shall be spent (section (2(f)). It need not consult the State or the local people. The Standing Committee noted that **"such a fund, will allow the Central Government to exercise hegemony through concentration of financial power with the Central Government and encroach upon the normal powers and functions of the State governments."**
- The Bill threatens the rights of forest dwellers. In many cases afforestation is done through plantations on the farms and grazing lands of villages. The proposed Bill does not even refer to the rights of forest communities. The Standing Committee noted that, **"The role of local bodies such as Gram Panchayats / Gram Sabhas etc. has been completely ignored in the Bill... afforestation ... deprives forest dwellers and tribals / adivasis of some or all of their lands and adversely impact their livelihoods and basic needs – for which they are neither informed, nor consulted, nor compensated."**
- The Bill does not protect forests except by collecting money for diversion. Then, it only provides that that money should be spent on "afforestation" and "wildlife protection." The Standing Committee noted **"The present Bill gives fillip to the tendency to see all such resources as sources of profit at the cost of the poor who are being deprived and denied of whatever access they traditionally had to such natural resources.... forest conservation has found a strange companion in industrial forestry. While the rights of forest dwellers are severely curtailed on the pretext of forest conservation, forests are increasingly shaped to suit the needs of industry."**

In short, this Bill will make all the problems of the current system worse rather than better.