



THE ROLE OF PUBLIC INTEREST LITIGATION IN ENVIRONMENTAL GOVERNANCE: INSIGHTS FROM T.N. GODAVARMAN V UOI

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INTRODUCTION

To begin with, let's explore the significance of sacred groves for communities. Sacred groves are traditionally established and managed by communities in various ways deeply intertwined with their cultural identity. These groves are preserved through customary law and taboos, many of which entirely forbid the extraction of resources, allowing only custodians to collect medicinal plants. India is believed to have between 100,000 and 1 million sacred groves of this type, making it the country with the most in the world. They are referred to by various names in different regions, such as 'Devra Kadu' in Karnataka, 'Sarna' in Chota Nagpur, 'Devban' in Himachal Pradesh, 'ki law Lyngdoh' in Maharashtra, and Gujarat, they are known as 'Dahod' or 'Banas kantha', among others.

T.N. Godavarman has been instrumental in the conservation and protection of the environment. He is widely known as 'the Green Man.' He has filed numerous public interest litigations that focus on conservation efforts and fostering harmony with nature. Environmental law is a crucial area at the national level, significantly supported by various NGOs and private organizations. This support has led to the development of a new dimension of jurisprudence that started with the concept of absolute liability. Today, it encompasses ideas such as the polluter pays principle, sustainable development, and the precautionary principle.

FACTS OF THE CASE

In the case of T.N. Godavarman Thirumulpad v. Union of India [WP (Civil) No. 202 of 1995], the Supreme Court transcended its usual role as a legal interpreter, taking on responsibilities that encompassed administration, legislation, and policymaking. This landmark case is commonly referred to as 'the Forest Case in India.' The title stems from the Supreme Court's

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expanded role beyond constitutional limits as it engaged in the management and supervision of India's forests. In 1995, T.N. Godavarman submitted a writ petition to the Supreme Court, concentrating on the safeguarding and conservation of forest areas in the Nilgiris that were being damaged by illegal timber activities, which led to deforestation. The case primarily revolved around forest conservation, scrutinized through numerous hearings related to the National Forest Policy, considered essential temporary guidelines for addressing pertinent issues. The goal was to ensure the enforcement and implementation of forest-related laws and regulations throughout the Indian region.

The Supreme Court issued directives to promote the sustainable use of forests and their resources. Additionally, it highlighted the necessity of establishing a self-monitoring system concurrently. The court recognized the importance of developing an implementation framework at both regional and state levels to manage the timber supply. Godavarman Thirumulpad faced considerable opposition. The case touches on the environmental rights of all individuals, underscoring the court's involvement. Judicial intervention, or encroachments by the judiciary, should only occur when warranted, particularly when the state fails to uphold its duties.

Significant instances of judicial interventions include the prohibition of tree cutting, regulation of the timber industry, banning mining in Kudremukh and the Aravalli's, and governing sawmill activities. A notable ruling regarding forest governance includes the establishment of a levy known as Present Value for utilizing forest land for purposes other than forestry, the formation of the Compensatory Afforestation Fund (CAMPA), and the necessity to obtain prior approval from the Supreme Court for any commercial activities. Consequently, the determination of one individual to halt deforestation in Gudalur resulted in a pivotal legal intervention that has greatly benefited forest conservation initiatives. Godavarman Thirumulpad's contributions will be etched in legal history and hold a significant place in the hearts of environmental advocates.

ISSUE RAISED

1. Whether the recent interpretation of Section 2 of the Forest Conservation Act and the definition of forest land in violation of existing laws?
2. Whether the use of timber for commercial purposes warranted?

3. Whether sandalwood be considered an endangered species and classified as a “specified plant”?

PETITIONERS ARGUMENT

Moreover, despite the delegation's recommendation that the Ministry of Environment act against those responsible, in line with the Forest (Conservation) Act of 1980, the Ministry has yet to initiate any initial actions. Consequently, this Court is sending notices to the involved respondents. Mr. C.S. Rawat, the esteemed Chief Standing Counsel representing the State of Uttarakhand, has acknowledged receipt of the notice on behalf of respondents 2, 3, 5, 6, 7, 8, 9, 10, and 11. Endorse, coordinate research, and oversee elements related to tigers, their co-predators, prey species, habitats, and relevant ecological and socio-development issues, as well as involve public engagement by established management plans, while also backing similar efforts in neighboring regions through Central and State regulations.

Provide essential support, including scientific, information technology, and legal assistance for the successful execution of the tiger conservation plan; The State Government will create a Tiger Conservation Plan that includes a strategy for staff development and allocation to ensure effective management of each area, to guarantee. Areas within National Parks and sanctuaries critical to tiger habitats, identified through scientific and objective criteria as needing protection for conservation efforts, must respect the rights of Scheduled Tribes and other forest communities and should be officially designated by the State Government in collaboration with a specially appointed Expert Committee.

It must focus on management and execute strategies aimed at reducing conflicts between humans and wildlife while promoting coexistence in forested areas outside National Parks, sanctuaries, or tiger reserves based on the working plan guidelines. Accordingly, it is essential to include details regarding protective measures like upcoming conservation projects, tiger population assessments and their natural prey, habitat conditions, disease monitoring, mortality evaluations, patrolling activities, unusual occurrence reports, and any additional management factors considered appropriate, including future conservation initiatives. Under the clause, the Tiger Conservation Authority is responsible for approving, coordinating research, and monitoring aspects related to tigers, their co-predators, prey, habitats, and pertinent ecological and socio-economic factors, along with their evaluations.

Under the clause, it is necessary to make sure that tiger reserves and areas that connect one protected area or tiger reserve to another are not allocated for ecologically harmful purposes, except in the public interest and only with the consent of the National Board for Wildlife and following the advice of the Tiger Conservation Authority. Under the clause, there is a requirement to promote and assist in the management of tiger reserves in the State for biodiversity conservation efforts through eco-development and community engagement by approved management plans, while also supporting similar efforts in surrounding areas in alignment with Central and State regulations.

Under the clause, there is a requirement to provide essential support, including scientific, information technology, and legal assistance for improved implementation of the Tiger Conservation Plan (TCP). Under the clause, there is a necessity to enable a continuous capacity-building program aimed at enhancing the skills of officers and staff working in tiger reserves. The report mentions the Uttarakhand Forest Department's objection to the FSI estimation, a point that Mr. Nadkarni, the learned Senior Counsel, also emphasized during his arguments.

RESPONDENTS ARGUMENT

Mr. Rakesh Thapliyal, the learned Assistant Solicitor General for the Union of India, accepts notice on behalf of respondent no.1.

The initiative to establish a 'Tiger Safari' did not originate from the State of Uttarakhand. Rather, it was the NTCA that communicated with the Field Directors of four (04) Tiger Reserves nationwide via a letter dated December 19, 2014, requesting them to propose the creation of a 'Tiger Safari' in the buffer zones of those Tiger Reserves. It was indicated that the 'Tiger Safari' project has reached 80% completion, involving a significant investment of public funds.

It was additionally argued that the area of Pakhrau Tiger Safari spans 106.16 Hectares, which represents merely 0.082% of the entire Corbett Tiger Reserve and 0.22% of the reserve's buffer area. In any event, it is located at the periphery of the buffer zone. Beyond the buffer zone, there are agricultural lands owned by local villagers living in the neighboring regions. Therefore, the argument that the establishment of a 'Tiger Safari' would reduce the available habitat for tigers and hinder their movement corridors is unfounded.

Ms. Aishwarya Bhati, the learned ASG, stated that the 2016 Guidelines addressed the issues concerning injured tigers, conflict tigers, and orphaned tiger cubs. She explained that the 2019 Guidelines were introduced to align with Section 38I of the Wildlife Protection Act. It was noted that the TCP submitted by the State of Uttarakhand proposed a 'Tiger Safari' in the Karnashram area of the Lansdowne Forest Division. Ms. Bhati pointed out that there are approximately 20 Safaris located within National Parks, some of which have been in operation since the 1970s.

Mr. Gaurav Kumar Bansal emphasized that numerous unlawful constructions had occurred within the Corbett National Park, which completely disregards legal requirements. Additionally, he noted that illegal tree-cutting was carried out to enable these unlawful constructions. The State Government, having secured the approval of the Scheduled Tribes and other forest inhabitants in the region, and after consulting with an independent ecological and social expert knowledgeable about the area, has determined that there are no other viable options for co-existence.

“Source” populations refer to those that generate an excess of animals that may potentially colonize new areas. Conversely, “Sinks” denote populations where mortality surpasses reproduction, and their survival relies on a consistent inflow of migrants.

It is apparent that the site for the ‘Tiger Safari’ has not been determined by clause 10 of the 2016 Guidelines, which necessitates the recommendations from a committee that includes (i) NTCA representatives, (ii) CZA members, (iii) officials from the relevant State’s Forest Department, (iv) a qualified tiger biologist/scientist/conservationist, and (v) a representative appointed by the Chief Wildlife Warden of the respective State.

In his article in the Michigan Law Review, Professor Sax discusses cases such as *Priewev v. Wisconsin State Land and Improvement Co.* [93 Wis 534 (1896)], *Crawford County Lever and Drainage Distt. No. 1* [182 Wis 404], *City of Milwaukee v. State* [193 Wis 423], and *State v. Public Service Commission* [275 Wis 112]. He asserts that “the Supreme Court of Wisconsin has likely made a more diligent effort to transcend mere rhetoric and formulate a practical interpretation of the public trust doctrine than courts in any other State.”

JUDGMENT AND RATIONALE

On December 18, 2024, the Supreme Court directed the Forest Department of Rajasthan to map on the ground and via satellite every 'sacred grove' in detail. After mapping the court directed the department to classify them as 'forests' and notify them as 'community reserves' under the Wildlife Protection Act (WLPA) 1972.

The sacred grove of Rajasthan is also known as 'orans', 'malvan', 'deo ghat', and 'baugh', numbers around 25,000 and covers about six lakh hectares of the State. This order shifts control of sacred groves from community-based management to the Forest Department.

The situation regarding the environment, particularly concerning forests, is critical. T.N. Godavarman, recognizing the challenges faced by forests and acting as a conscientious citizen of India, felt compelled to take a stand against such unlawful activities. He approached the Indian judiciary, seeking assistance from the Supreme Court to address these damaging practices. By filing a Public Interest Litigation (PIL), he aimed to gain the court's support and find a legal solution to reduce the harm inflicted on forests and the natural environment due to excessive non-forest activities on forest land.

It helped minimize errors in the application of the Forest Conservation Act. It guaranteed the proper and efficient functioning of the legislation. There was a total ban on illegal activities, such as deforestation, aimed at exploiting forest land. This includes using forest land for industrial activities like logging and the transport of timber and other valuable forest resources. This initiative was implemented to establish new government bodies to oversee forest regulations and policies. It aimed to create a regulatory framework and mechanism to ensure the protection of forests. As a result of this ruling, led to increased transparency and improved enforcement of environmental laws across the country.

This case represents a prime example of a continuous mandamus. It illustrates both judicial activism and the empowerment of the judiciary. Additionally, it brings to light certain negative aspects of excessive judicial authority and its deficiencies. This case defines the responsibilities of the highest court and other significant bodies in delivering justice. Continuous mandamus refers to situations where the court takes an extended period, sometimes reaching 20 years, to resolve a case that remains pending. With each hearing, fresh directives are issued. The court also transcended the principle of separation of powers. Its actions were seen as irrational and

arbitrary. Thus, this case highlights the advantages of safeguarding the environment, as well as the disadvantages of overstepping its authority and interfering with other institutions.

ANALYSIS OF THE JUDGMENT

The problem of environmental degradation, especially the serious damage to resource-rich forests, emerged due to the escalating demands from a society driven by swift industrial growth, increased migration from rural areas to cities, the need for additional land for agriculture, housing, and other factors related to overpopulation. Extensive tracts of forested land have been cleared for purposes unrelated to forestry or commercial endeavors like mining and illegal logging, resulting in deforestation. Forests are regarded as one of the most precious resources, as the sustainability of a nation and its citizens depend on them for critical natural resources. Nevertheless, they are being heavily exploited, often without any mitigating strategies in place. This situation leaves little to no chance for the renewal of these resources, presenting a considerable threat. In the absence of these resources, the country's future may be clouded by concerns of insecurity and a scarcity of essential resources.

The court assessed and analyzed the National Forest Policy alongside the Forest Conservation Act of 1980, focusing on the issue of deforestation. It also reviewed the definition of the term "Forest" as per the updated interpretation, which falls under Section 2 of the Forest Conservation Act of 1980. According to this section, no state government or other authority is permitted to utilize forest land for any non-forestry purposes without prior approval from the Central Government. Concerning the revised understanding of Section 2 of the Forest Conservation Act and forest land, it is not permissible to de-reserve protected forests for commercial purposes without consent. This implies that all forest-related projects must obtain authorization from the Central Government. For instance, operations like sawmills, mining, and plywood manufacturing can only proceed with the Central Government's approval.

Transportation of cut trees and timber from any region of the seven northeastern states of India is completely prohibited. There must be no movement of wood via rail, road, or waterways from these areas. Indian Railways and state authorities have enacted strict measures to ensure compliance and prevent any violations. The defendants were also instructed to seek alternatives to wood. A high-power committee was established to oversee the implementation of the court's verdict and the accompanying orders. This committee creates an inventory of timber and related products that the forest utilizes for transporting to the depots and mills in the region.

The high-power committee empowered the usage and sale of timber goods, provided they were authorized by the State Forest Corporation.

The licenses for all wood-based industries were revoked. The Principal Chief Conservator of the Forest implemented a new action plan aimed at making patrolling and protective measures more rigorous. Additionally, the plan sought to identify vulnerable areas based on the quarterly report that had been submitted and approved by the Central Government. A significant aspect of this case is the role of the Indian Constitution, which outlines the authority of Central and State governments in the protection of natural resources from illegal activities. Article 48A states that the government will strive to secure and improve the environment while also holding a responsibility to protect the forests and wildlife of the country. Article 51A imposes a duty on all Indian citizens to conserve and enhance the natural environment, including rivers, lakes, forests, and wildlife, and to show compassion towards all living beings.

The ruling handed down by the Supreme Court triggered the emergence of a substantial black market for timber. This, in turn, led to unlawful activities in wooded areas, including deforestation for purposes unrelated to forestry. The court's extensive involvement in the operations and duties of the Ministry of Environment and Forest diminished the ministry's autonomy; it was continually influenced by the directives issued by the court and its personnel. This case resulted in a consolidation of authority within the Central Government, which became the sole body permitted to make environmental policy decisions in India.

While the aforementioned points emphasize the adverse effects of the ruling, there are also numerous advantages in protecting forested areas from aggressive timber cartels. This case underscores the importance of environmental justice within the legal system and reinforces the function of environmental agencies. It highlighted the power exercised by judicial authorities and the court in tackling environmental issues. The case demonstrated the contributions of environmental groups, the judiciary, and other involved parties.

LAW INVOLVED

The Constitution of India was enacted in 1950.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act was established in 2006.

The National Forest Policy addresses forest management.

The Forest Conservation Act was passed in 1980.

The Environment Protection Act came into effect in 1986.

The Wildlife Protection Act was implemented in 1972.

The Jammu and Kashmir Wildlife Protection Act was introduced in 1978.

CONCLUSION

This case underscored the importance of sustaining and enhancing forest productivity. It aids in the preservation of biodiversity. Additionally, discussions centered around the protection and conservation of environmental conditions were included in this case. The ruling in T.N. Godavarman v. Thirumulpas led to a reduction in the number of timber industries and their eventual closure. It also raised environmental awareness among the people of India. Strict prohibitions against deforestation were implemented.

This case has catalyzed widespread environmental conservation and protection efforts. The primary contribution of this case was the effective and seamless enforcement of various laws related to environmental initiatives. The Supreme Court's verdict in this case imposed strict accountability on government authorities at various levels. While the Godavarman case is mainly focused on forest conservation, it indirectly touches on the rights of tribal communities and Indigenous people who live in forests and depend on forest resources for their livelihood. The case highlighted the importance of protecting tribal rights and ensuring that they are not adversely affected by state actions or industrial development.