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Rethink FCA changes: Conservation law must not make diversion of green cover easier

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The liberalisation of the Forest Conservation Act (FCA) the Centre has proposed in a recent consultation paper may be well intended, but could end up hurting conservation. The National Forest Policy 1952 envisages a 33% forest cover for India, while the current coverage is under 25%. The government says, more non-forest land, including that under private ownership, needs to be brought under "tree cover". To that end, the government believes that the FCA, in its current form and coverage, has become an impediment.

The FCA originally applied to forests notified under the Indian Forest Act or under any other state law, and to forests under the management of the forest department. Following the TN Godavaram Thirumulpad judgement of the Supreme Court (December 12, 1996), the provisions became applicable to areas classified as forest (irrespective of ownership) in any government record, which conformed to the dictionary definition of "forests", or which were identified as forest by an expert committee following the judgment. This judgement brought NPV into calculation of what a developer seeking diversion of forest land needed to pay, paved the path for the compensatory afforestation fund and provision of non-forest land to make up for diversion. The wide sweep of the judgment, the Centre argues, became a disincentive for planting of trees in private lands because FCA applicability meant the owner had to get government clearance for non-forestry use.

The Centre believes liberalisation will facilitate projects and encourage diversion of private lands for plantation. But, such a move—it isn't hard to imagine—could not only retard conservation efforts, but also divest states of their say significantly, if not overwhelmingly. It is true that many states, with potential political fallout in mind, have dragged their feet on defining forests in their jurisdiction. But, if identification of lands bearing vegetation, under "some locally defined criteria" for FCA purposes, is already held as "subjective and arbitrary", chances are the changes will overrule some states' definition of forests.

The "strong feeling" that "plantations, afforestation etc. on any non-forest land after 12.12.1996 remain outside the purview of the Act" illustrates this. It also poses serious challenges to green cover expansion. While the government may believe, rightly or wrongly, that the liberalisation will help create more plantations, there is equally the danger that it will merely make existing ones easier to trade for development; the consultation paper also talks of a one-time relaxation on construction of residential units for owners of lands covered under state-specific private forest laws. It is no one's case that private individuals should be abjectly constrained in construction in green-cover areas that they own; but what if the liberalisation means more Aravalli degradation? The consultation paper talks of, in the same breath, the need to create carbon sinks under the Paris climate accord and the Rs 45,000 crore wood-market opportunity from cutting back wood imports. To what extent will the liberalisation support timber trade as opposed to creation of carbon-trapping plantations?

The expansion of India's green cover over the last couple of decades is rooted in afforestation of non-forest lands as also mis-classification of degraded land as forest land. Granted, plantations have been mostly monoculture, but that can be remedied by mandating diversity in plantations. The Centre needs to bear in mind the FCA's aim is to conserve India's forests, not make diversion easier.

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