



SUPREME COURT ON FOREST CONSERVATION (2nd ed. 2007). By Ritwick Dutta and Bhupender Yadav. Universal Law Publishing Co. Pvt. Ltd., Dilkush Industrial Area, Karnal Road, Delhi 110 033. Pp. xxxiv + 420. Price Rs. 450/-

THE UNMINDFUL use of forest land for non-forest purposes causes grave problems of ecological imbalance which also minimizes the natural function of forests to protect and preserve the environment. The deforestation leads to environmental deterioration. The efforts of certain spirited and concerned individuals devoted to “conserving forests through law”<sup>1</sup> have many times been thwarted by slothful legislatures who believe that “trees don’t vote while people do”.<sup>2</sup> However, the judiciary particularly the apex court has come forward enthusiastically and has served to stir and awaken the environment movement in the country.

The book under review presents important cases and materials on forest conservation. The authors themselves state :<sup>3</sup>

The conservation movement in India today is at the cross roads, the same political establishment that enacted these protective legislations is today leaving no stone unturned in attempting to curtail them, if there is anything that is preventing them it is the fear (or respect) of the courts. The judiciary is thus performing the tough task of not only ensuring the implementation of the law but also the moulding of same to suit the new demands and situations.

Many initiatives for the protection and preservation of the forest was undermined or defeated by the red tapism prevailing in the bureaucratic set up by the non-implementation and violations of the orders of the lawmakers. Hence the courts are being relied upon as the last resort to protect forests and natural habitats.

The authors have covered in lucid manner the multi-faceted gamut of forest related problems with special emphasis on the outcome of *Godavarman* which ultimately paved the way for tremendous political

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1. Ritwick Dutta and Bhupender Yadav, *Supreme Court on Forest Conservation* XI (2007).

2. *Id.* at IX.

3. *Id.* at XIII.



determination which is necessary in effecting the radical changes in the executive approach.

The book under review is divided into thirteen chapters spread over 44 pages and three annexures spread over 376 pages. The book opens with an inventory of the orders passed by the Supreme Court from time to time in the *Godavarman* case. This inventory gives an insight into the dynamism of the apex court as it kept regular monitoring of the effects of its orders. In the first chapter, the authors describe the genesis of the *Godavarman* case in the backdrop of the non responsiveness of the states in the implementation of the Forest (Conservation) Act, 1980. In this chapter the author provides strenuous account of how the apex court removed the misconception in certain quarters about the true scope of the Forest (Conservation) Act of 1980. The authors assert: “The court did a purposive interpretation of the Act, and held that the Act was enacted with a view to check further deforestation which ultimately results in ecological imbalance.”<sup>4</sup> In chapter II there is a mention of the problem relating to saw mills and wood based industry. The apex court’s concern about the danger to the tropical wet evergreen forest of *Tirap* and *Changlang* of Arunachal Pradesh which were threatened by the running of saw mills, plywood mills and veneer mills is reflected in this chapter. The court has directed the states to constitute expert committees to assess the sustainable capacity of the forest of the state to foster the running of the saw mills and timber based industry.<sup>5</sup>

It has been observed by the Supreme Court that the Forest (Conservation) Act, 1980 did not provide for any opportunity for setting up tribunals and authorities to adjudicate on the arraigned issues raised by encroachers, contractors and other affected people. In order to correct the shortcomings, the apex court put reliance on section 3(3) of the Environment Act,<sup>6</sup> and evolved a system to render justice faster. The evolution and formation of various committees and authorities have been outlined in chapter III. Social forestry and compensatory forestation finds place in chapter IV. This chapter covers the orders of the Supreme Court regarding plantations, social forestry and compensatory afforestation.

Though the *Godavarman* case has been related to the Forest (Conservation) Act, 1980 and the National Forest Policy, 1988 yet the apex court had an opportunity to resolve the issues concerning the protection of national parks and sanctuaries, that is to say the preservation of bio-diversity and protection of wildlife. Chapter V explains the nature

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4. Ritwick Dutta, *supra* note 1 at 2.

5. *Id.* at 5.

6. S. 3(3) Environment (Protection) Act, 1986.



of orders of the Supreme Court and their implications on cutting of trees. The authors also cover the issues relating to *Rajaji National Park* of Uttaranchal,<sup>7</sup> *Kudremukh National Park* in Karnataka,<sup>8</sup> *Olive Ridley Turtles* in Orissa,<sup>9</sup> *Wyanad Wild Life Sanctuary* in Kerala, *Ranthambore National Park and Tiger Reserve* in Rajasthan, *Jamua Ramghar Wild Life Sanctuary* in Rajasthan, *Shoolpaneshwar Sanctuary* in Gujarat and *Madei and Netravali Wild Life Sanctuary* in Goa.

Chapters VI and VII unveil the working plan and the structure of the forest department. The courts have thrown light on the issue of working plans<sup>10</sup> devised for the protection of forests. “In *Godavarman*, the Supreme Court recognized the fact that the effective implementation of its orders would not be possible unless suitable steps are taken to boost the morale of the forest department.”<sup>11</sup> The chapter VIII deals with regularization allowed by the Supreme Court. However, the court has not lost sight of the non-implementation of the conditions imposed in relation to regularization and the court itself has expressed its opinion that the central government should consider that conditions such as compensatory afforestation are fulfilled first before any regularization is granted.<sup>12</sup>

The problems pertaining to non-timber forest produce and mining as discussed by the judiciary find place in chapters IX and X, respectively. The authors analyse the proceedings of the *Kudremukh* case relating to mining activities conducted by the Kundremukh Iron Ore company Ltd., within the Kundremukh National Park. The authors focus on the policy concerns which have been enlisted in chapter XI. The authors express their opinion thus: In *Govdavarman*, the courts foray into policy issues has been extensive and at the same time innovative.<sup>13</sup>

Chapter XII pertains to Supreme Court’s orders in *Godavrman*. This chapter covers the whole story of the *Godavarman* case and the authors have narrated it at length setting a sound platform for the work. The authors present significant changes and developments that took place in legal battle before the Supreme Court in *Godavarman* case. The comprehensive discussion provides insights as to how the case took different turns, handed

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7. Now Uttarakhand.

8. I.A. No. 67of 2001.

9. *Alok Kubhan Agrawal v. State of Orissa*, Application No. 46, interim order dt. 7.3.03.

10. Order dt. 15.01.1998 given during hearing of *Godavarman* case.

11. *Supra* note 1 at 27.

12. *Id.* at 30.

13. *Id.* at 43.



down various orders directed towards the protection of forests and wild life.

The last chapter contains several cases in tune with the protection of wild life. These cases have been taken to the apex court by the Centre for Environmental Law WWF - India. At the end of the book one finds three annexures and a topical index which provide chronological information of the orders passed by the court as contained in various chapters.

The author has brought out a comprehensive work mainly based on the contribution of the judiciary in the field of conservation of forests. Though the authors present the relevant material succinctly yet it has some minor errors which could have been taken care of by proper proof reading. The book does not have a subject index, the value of which in any book cannot be over looked. Apart from these minor shortfalls the book under review is a mine of information which would certainly prove useful to the lawyers, students, academicians and researchers.

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