

Environment Ministry Defines Forests, Legally

Nitin Sethi

In a move that is expected to have far-reaching consequences for protection of forests while ensuring ease of doing business for mining sector, realty sector and industry, the Union Environment Ministry has defined what constitutes a forest under the Forest Conservation Act 1980 (FCA).

The legal definition, pending since 2006, will help in identifying areas where development and industrial activity can take place without statutory clearances under the FCA. At the same time, clearances, compensatory afforestation and payment of levies would be compulsory for the areas now defined as forests.

So far, while the FCA laid down the provisions for protection of forests, it did not define a forest. Different classifications of land in various states as well as messy revenue and forest records caused poor implementation of the FCA, often leading to litigations over thousands of hectares of land across the country.

In the National Capital Region (NCR) and nearby districts of Haryana, real estate and mining industries have constantly had to deal with this ambiguity about forests in Aravalli hills. Most of these disputes were over the difference between what was recorded as forest in the state land records and the definition under an order of the Supreme Court.

Following a 2006 order of the Supreme Court, all state governments were required to identify forests as per dictionary meaning of the word, apart from lands which were demarcated in records as forest.

But this did not happen, forcing the apex court to reiterate the need for a clear definition of forest land from the Centre.

Union Environment Minister Prakash Javadekar gave in-principle clearance for the definition after which a draft notification has been prepared and is pending finalisation. This comes as an amended and partially-diluted version of the first definition which was drafted by the ministry in consultation with states in 2014.

“This process started before I came in. I have approved a good note and stand for them (the ministry officials who prepared the draft). There are some issues but we shall protect all forests,” said Javadekar. “This is not final as yet. But we will not reduce any forest areas,” he added.

The new definition classifies states in two different ways. One is the states where cadastral surveys were completed before the FCA came in to being and land records were settled for the entire state. Another is the states where this process was not completed and confusion remains over what is forest land.

In the first category of states the definition of forests covers not only areas recorded as forests but also those classified as forests under various state laws and land classification systems, such as chote jhad ke jungle, bani, oran, civil soyam land, etc.