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### NATIONAL PARKS/WILDLIFE SANCTUARIES SHOULD HAVE MINIMUM 1 KM ECO-SENSITIVE ZONE: SUPREME COURT

14 June 2022

#### INTRODUCTION

A 3-judge bench of the Supreme Court of India (**SC**) *vide* its judgment dated 03 June 2022 in the case of *In re: T.N. Godavarman Thirumulpad v Union of India & Ors.*, I.A. No.1000 of 2003 in W.P. (C) No. 202 of 1995 has held that every national park/wildlife sanctuary should have an eco-sensitive zone (**ESZ**) of minimum 1 km where developmental activities shall be regulated/prohibited in terms of the Guidelines for the Declaration of the ESZ around the National Parks/Wildlife Sanctuaries issued on 09.02.2011 (**2011 Guidelines**) by the Ministry of Environment and Forests (**MoEF**).

#### FACTUAL BACKGROUND

- These proceedings originate from a Public Interest Litigation instituted in 1995 for protection of forest lands in the Nilgiris in Tamil Nadu. Subsequently, the scope of the petition was enlarged to protect such natural resources throughout the country.
- The subject application I.A. No. 1000 of 2003 arose out of a 2003 Report by the Central Empowered Committee (**CEC**) pertaining to mining activities in and around Jamua Ramgarh wildlife sanctuary in Rajasthan. Thereafter, the CEC submitted another Report in 2012 dealing with creation, identification and declaration of safety zones around protected forests all across the country.
- Initially, the issue of ESZ came to light when a Wildlife Conservation Strategy 2002 was adopted by National Board of Wildlife that decided to notify areas within 10 Kms from the boundaries of national parks/sanctuaries as eco fragile zones. This proposal was, however, opposed by various States.
- In 2005, it was decided that States will declare ESZs on site-specific, and case-to-case basis. Accordingly, the States were asked to identify suitable areas and submit proposals.
- This issue was also examined by the SC in *Goa Foundation v Union of India*, W.P. (C) No. 460 of 2004 wherein the SC *vide* various orders directed States/Union Territories (**UTs**) to send proposals for notification of areas within 10 kilometres of boundaries of sanctuaries/national parks as ESZ.

- When many States took no action, the SC recognized the lackadaisical attitude of the States in its order dated 04.08.2006 in the subject writ petition (*TN Godavarman*), and in the interim, directed that a safety zone of 1 km shall be maintained around wildlife sanctuaries/national parks.
- MoEF issued 2011 Guidelines reiterating that delineation of ESZ would be site-specific. The maximum width of the ESZ could go up to 10 kms.
- *Vide* order dated 11.12.2018 in IA No. 1000, the SC directed that an area of 10 kms around National Parks/Wildlife Sanctuaries for which no proposals have been made, are to be declared as ESZ by the MoEF. It was, however, further clarified that 10 km declared as ESZ by the MoEF will be operative only as an interim order till the proposals to demarcate the ESZ are made to the MoEF by the States and the State Governments move an application for modification of the order.
- In the subject IA No. 1000 of 2003, over the years, several parties, mostly various mining lease holders, approached the SC for modification of its earlier orders prescribing ESZ. The crux of the issue was thus whether a uniform ESZ could be prescribed across all protected forests in the country or whether the ESZ should be site specific and flexible.

#### ISSUES:

- A. Mining Activities in and around "Jamua Ramgarh", Rajasthan
- B. Prescribing ESZ surrounding wildlife sanctuaries/national parks as well as mining and other commercial activities within the said areas

#### JUDGMENT

- The SC disposed off I.A No. 1000 of 2003 and opined that uniformity may not be possible for each sanctuary/ National Park and observed that the 2011 Guidelines are reasonable. The SC also *inter-alia* issued the following directions:
  - a) Minimum 1 KM ESZ: Each national park/ wildlife sanctuary must have an ESZ of minimum 1 km measured from the boundary of such protected forest in which the activities proscribed and prescribed in the 2011 Guidelines shall be strictly adhered to.

For Jamua Ramgarh Wildlife Sanctuary, an ESZ of 500 m has been prescribed as a special case for subsisting activities only.
  - b) Wider ESZ to prevail, if already notified: If the ESZ already prescribed goes beyond 1 km, the wider margin shall prevail. If such wider ESZ is proposed under any statutory instrument for a particular area awaiting final decision, then till such decision, the proposed wider ESZ shall be maintained.
  - c) Mining is prohibited within national parks/wildlife sanctuaries.
  - d) Subsisting activities, not within the prohibited list, in the ESZ require permission of the Principal Chief Conservator of Forests to continue.

- e) The minimum ESZ may be diluted in overwhelming public interest upon approval of the SC. Similar orders will be required if it is found necessary for maintaining a wider ESZ.
- f) Where no proposal has been given by states/UTs, 10 km ESZ as indicated in the order passed by the SC on 04.12.2006 in *Goa Foundation* (supra) shall be implemented till a final decision is arrived at.

However, the present WP No. 202/1995 remains pending and the Bench requested the Chief Justice to consider hearing the WP along with similar matters in *Goa Foundation* (W.P. (C) No. 460/2004 and W.P. (C) No. 435/2004).

#### COMMENTS

In this welcoming judgment, the SC has not only affirmed that ESZ would be site-specific and on case to case basis but has also prescribed a minimum distance of ESZ from the boundary of a national park/wildlife sanctuary.

Since there was no minimum distance of ESZ prescribed earlier, States were proposing ESZs to a minimal extent, even lesser than 1 km.

Further, the SC has also given leeway for reduction of such ESZ on grounds of 'overwhelming public interest' after its approval. While it remains to be seen what constitutes 'overwhelming public interest', this judgment certainly settles the long-standing dispute over ESZ in respect of national parks/wildlife sanctuaries.

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