

## AN INSIGHT OF THE COMPENSATORY AFFORESTATION AND MANAGEMENT ACT, 2016

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### Introduction

Forests play a pivotal role in the economy of the country and in maintaining the ecological imbalance. The forest cover of India is on a steady decrease due to the increased use of the axe and bulldozer. Senseless cutting of trees and clearing of forest land for construction of dams, roads and buildings can result in serious environmental problems including changing rainfall patterns resulting in drought conditions.

Compensatory Afforestation and Management Bill 2015 aims at setting up funds under the Public Accounts of India and the public accounts of each state for the development and conservation of forests in India. Introduced in the month of May 2015, the bill was passed a year after, on July 28<sup>th</sup> 2016.

The Forest Conservation Act, 1980 confers restrictions on the conversion of land for non-forest purposes. Presently, forest lands can be taken over for industrial or developmental purposes only after the approval of the centre or the respective state governments. In order to compensate for the loss caused due to such diversions additional afforestation must be done on a separate piece of land. This is known as compensatory afforestation. The net present value of the forest before conversion must also be paid for the loss of the forest ecosystem. The state government has to use this compensation paid by the person responsible for the diversion for further reforestation, wildlife protection and compensatory afforestation.

### Backdrop of CAMPA

India's national policy of 1952 had sought for the protection and preservation of trees and had provided that 33% of India's territory shall be covered with forests. The policy did not bear

much fruit as the extent of forest cover was found to be below 15% out of which only 5% were natural rainforests. This paved way to the enactment of Forest (Conservation) Act 1980. The statute was also a result of a President's ordinance (Dated 25<sup>th</sup> October 1980) which brought forward the idea of prior approval of the Central Government to despoil forest land for non-forest purposes.

Disturbed by the threatening facts presented in the case of T.N. Godavaraman Thirumulpad v Union of India [Writ Petition (Civil) No. 202 of 1995] the Hon. Supreme Court directed the Ministry of Environment and Forests (MOEF) to formulate a scheme for compensatory afforestation. The Court also noticed that though funds for compensatory afforestation were received, it was not utilised properly. The Central Empowered Committee (CEC) after examination of this matter recommended the formation of a separate fund for compensatory afforestation which was later agreed upon by all states and UTs.

The CEC recommendations in its report (Dated 5<sup>th</sup> September 2002) were accepted by the Union of India through an affidavit which led to the formation of a body for the management of compensatory afforestation fund (CAF). Compensatory Afforestation funds Management and Planning Authority (CAMPA) was thus expected to be constituted as an authority under section 3(3) of Environment Protection Act 1986 through an MOEF notification dated 23<sup>rd</sup> April 2004. Unfortunately this notification only remained in paper.

The Court again examined these issues and constituted a committee of experts (Kanchan Chopra Committee) to wipe out the practical difficulties underlying the issue and to determine the Net Present Value (NPV) of different categories of forests. On 5<sup>th</sup> May 2006 the Court ordered for the constitution of an ad-hoc body which will work in place of CAMPA till CAMPA becomes operational. This led to the formation of Ad-hoc CAMPA.

The central government passed a notification on 2<sup>nd</sup> July 2009 for the appropriation and utilisation of funds received by the State CAMPAs. In furtherance to this, on 10<sup>th</sup> July 2009 Supreme Court has directed that these funds will be controlled by the ad-hoc committee until an alternative system is put in place.

### **Features of the Bill**

The bill aims at establishing permanent compensatory afforestation funds both at the central and at the state level under the public accounts of India. CAMPA also mandates the user-agencies to pay the Net Present Value (NPV) to its funds. These funds will be managed by bodies created at each level namely, National Compensatory Afforestation fund Management and Planning Authority (National CAMPA) and State CAMPA.

The National CAMPA will have a three-tier structure and will consist of a governing body, an executive committee, and a monitoring group, in addition to an administrative support mechanism. The broad policy framework for the functioning of CAMPA will be formulated by the governing body while the executive committee helps in implementing them. The Union Minister of Environment and forests will chair the governing body. The monitoring body, on the other hand, monitors the work done by states and utilisation of the CAMPA funds.

The State CAMPA consists of a governing body chaired by the Chief Minister of the State, a steering committee and an executive committee and these committees will be responsible for formulating and implementing the broad policy framework for the State CAMPA, within the overall framework laid out by the National CAMPA.

The pivotal source of revenue for the National fund will be the money collected by the state governments placed with the existing national CAMPA. The states are also supposed to transfer 10% of the funds they collected each year. National CAMPA also get funded through grants-in-aid or other sums received by and loans or borrowing taken by National CAMPA.

States receive money from the unspent balances lying with existing state CAMPAs, National CAMPAs, money received from user-agencies for compensatory afforestation and grants-in-aid or other sums received by and loans or borrowing taken by State CAMPA.

### **The working of CAMPA**

Although the idea of creation of a compensatory afforestation fund was a major leap towards combating climate change, the implementation of this idea met with many hurdles to cross. The bill can be considered as a revolutionary step in consonance with the overwhelming

support by different states and Union Territories to achieve the goal initiated by the National Policy of 1952. But CAMPA has many obstacles to overcome for its effective implementation. One of the major problems is the unavailability of land for compensatory afforestation as land is a very limited resource and is needed for wide variety of purposes. In such a case the respective state governments must work towards increasing the density of the present forest cover instead of looking for barren lands for afforestation. The administrative authorities' incapability to carry out compensatory afforestation was put forth in the CAG report of 2013. With the transferring of about 90% of these funds to State CAMPAs, the efficacy of the bill will now depend upon the capacity of these authorities especially forest departments.

At present, an ad hoc National CAMPA and ad hoc State CAMPAs receive money collected for compensatory afforestation. These ad hoc bodies were created through government orders because CAMPA itself had an unfortunate start. CAMPA was expected to be created by an MOEF notification which more or less remained only in paper. Large scale amassing of huge unspent funds in the ad-hoc CAMPAs is probably a direct result of the absence of permanent institutions for utilisation of these funds.

India's forest cover has suffered a steady decline during the period of 1951-2014 due to unbridled conversion of forests land for non-forest purposes. It is high time that these authorities as well as individuals recognise the need of forests for survival. Compensatory afforestation is one of the best ways to ensure that a balance is maintained when forest lands are converted for non-forest purposes thus helping the nature to replenish its green cover. The authorities must be harnessed for its effective implementation and to give way to this commendable legislation to come into force.