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The architect of an omnibus forest-protection case

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Special Arrangement

T.N. Godavarman Thirumulpad Photo: Special Arrangement

On June 1, 2016, T.N. Godavarman Thirumulpad, a member of the princely Nilambur Kovilakam family in the Malabar region of Kerala, passed away at the age of 86. He had initiated what turned out to be a landmark intervention by the Supreme Court to protect India's forests. Many conservationists and foresters are familiar with this major case, but know little about the petitioner himself and the genesis of Writ Petition (Civil) No. 202 of 1995.

It all started in September 1995, when Godavarman Thirumulpad was distressed on seeing the destruction of pristine wooded areas in Gudalur in the Nilgiris, Tamil Nadu. These wooded areas, Janmam Lands (absolute proprietary lands), of the Nilambur Kovilakam, had been taken over by the State of Kerala following the enactment of the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act of 1969.

However, the State was unable to protect the areas. Trees were being felled and logs rolled down the mountain slopes and stacked along the highway for miles on end. Godavarman Thirumulpad filed a writ petition in the Supreme Court.

Path-breaking order

On December 12, 1996, a bench led by Chief Justice J.S. Verma passed an interim order directing that tree-felling and non-forestry activity in forests across the country be stopped. The path-breaking order re-defined the meaning of forests and extended protection to all areas with natural forests irrespective of their ownership. It laid down that 'forests' will be understood by its dictionary meaning, and the provisions of the Forest (Conservation) Act 1980, shall apply to all thickly wooded areas. States were directed to form expert committees to identify forests as defined and file reports. Senior Counsel Harish Salve was appointed Amicus Curie to assist the Supreme Court.

The fallout

What followed was unprecedented. Several northeastern States, where forests were being plundered by gangs and unregulated sawmills operated openly, were rattled. A ban on movement of illicit timber was imposed. Ninety-four railway wagons of illicitly transported timber were seized.

At that stage, even the Supreme Court probably did not foresee that the matter would be kept open for close to 20 years. But thankfully it was, under what is known in constitutional jurisprudence as the Writ of continuing mandamus. More than a thousand Interlocutory Applications have since been filed, covering a spectrum of issues concerning forest protection, such as mining, tree-felling, management of Protected Areas and forest encroachment.

In response to the rising number of IAs and the technical nature of the issues involved, the court ordered the constitution of an expert body, the Central Empowered Committee (CEC), in May 2002. In September 2002 it was notified as a statutory committee with wide-ranging powers to deal with pending IAs, hear fresh applications, and pass orders in consonance with those of the Supreme Court. A new paradigm in the administration of forests had been created. Into its 20th year, the omnibus forest case is still open but is not under active hearing anymore. The CEC continues, but not as a statutory committee.

Critics, too

Godavarman Thirumulpad has had its fair share of critics. On the one hand, human rights groups have largely perceived the court's interventions, particularly with respect to encroachments, as negative. On the other hand, corporates argued that the case, and "excessive judicial activism" based on the growing interventions of conservationists, were becoming an impediment to development. However, such arguments hold no water. What the judicial interventions stopped were ill-planned development projects that the nation could well do without.

Notable interventions include the stoppage of mining in Kudremukh, a complete ban on tree-felling in PAs, curbs on rapacious timber companies, prohibition on marble mining in the Aravallis, and regulation of saw mills. Other path-breaking decisions on forest governance include the imposition of a levy called the Net Present Value for the use of forest land for non-forestry purposes, the establishment of the Compensatory Afforestation Fund, or CAMPA, and the system of seeking prior approval from the Supreme Court for any commercial activity in PAs.

Thus, one man's efforts to stop forest destruction in Gudalur led to a watershed legal intervention, which has greatly contributed to conservation of forests. Godavarman Thirumulpad will remain in the annals of legal history, and in the hearts of conservationists.

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