Draft Indian Forest Act, 2019

Why in news?

The draft Indian Forest Act, 2019 was recently released by the Union government, proposing an overhaul of the Indian Forest Act, 1927.

What are the key features?

- **Powers** - The draft law proposes to restore higher management powers and a degree of veto power with the forest bureaucracy over the Forest Rights Act, 2006.
- Forest officials would be able to -

i. deny or extinguish rights over traditional forests of tribals, even those already recognised under the FRA
ii. reduce or restrict tribals and forest dwellers' access to forest produce (which they own under the FRA)
iii. diminish the role of gram sabhas (village assemblies) by running a parallel system of "village forests" wherein officials would have the last say

- Also, the powers to investigate, search and seize property, hold inquiries by forcing attendance of witnesses and evidence have been retained and in parts enhanced.
- Moreover, the Centre will be able to intervene in the states on matters of management of forestlands.
- It can overrule the states on several counts when it deems fit.
- **Commercial use** - The government had earlier proposed as a policy, to open forests to private commercial plantations.
- Facilitating this, the draft law proposes to open any patch of forests it deems fit for commercial plantations.
- The law allows the government to assign forests to non-state entities but not lease it or use it as collateral to raise funds.
- '**Production forests'** - Introducing legal provisions for commercial forestry, the government proposes to create a new class of forests called 'production forests'.
- It can as well declare any forests as conservation area for the purpose of enhanced carbon sequestration.

- The conservation areas will also be opened to active forest management for enhancing vegetational growth by reforestation and afforestation.
- **Infrastructure** - The State Government/UT Administration shall -

i. develop the infra-structure for standardized lock-up rooms for housing the accused
ii. provide for transportation of accused
iii. provide necessary articles for restraining the accused(s), armouries, safe custody of arms, ammunitions, etc

- The State/UT should provide these to the Forest-officers for implementing the provisions of the Act in each forest division of the country within 2 years.
- **Offence** - Certain offences that were bailable earlier have been proposed to be made non-bailable.
- The onus of proving innocence in several cases has been left on the accused who are to be presumed guilty till proven otherwise.
- The accused has to prove that s/he is in lawful possession of forest land, forest produce, and has not committed any offence against the Act.
- **Protection** - The draft law also proposes to provide indemnity to Forest-officer using arms, etc to prevent the forest offence.
- This is in addition to the immunity provided under section 197 of Code of Criminal Procedure 1973 for certain categories of Public Servant.
- The immunity under the draft forest law is higher than what other government officers are usually provided.
- It is similar to the one provided under laws imposed in conflict zones, such as the Armed Forces (Special Powers Act).
- But proceedings against the officers can begin if an inquiry by an authority to be notified by the State Government for the purpose is taken up.
- Even state governments would not be permitted to grant sanction for prosecution without first constituting an inquiry.
- **Case** - Any person, forest officer, any officer of the State Government cannot withdraw forest offence cases registered under the Act.
- This is to dissuade political executives to incite masses against the provisions of the Act.
- E.g. many State Governments have withdrawn cases registered under the Indian Forest Act, 1927 to draw political benefits
- **Collective punishment** - The colonial provision of collective punishment of communities for crimes committed by individuals under the forest law has been retained.
- This applies when fire is caused wilfully or by negligence in a reserved forest, or when theft of forest produce or grazing by cattle occurs.
- The State Government may then suspend the exercise of all rights of pasture

or to forest-produce to all dwellers in the region, for a specified period.

Source: The Hindu, Business Standard

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