



ENVIRONMENT

Balancing Environmental Protection with Procedural Justice: Supreme Court's Landmark Ruling on Forest Encroachment Evictions in Assam

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Introduction

In a significant constitutional pronouncement that harmonizes environmental imperatives with the rule of law, the Supreme Court of India has delivered a carefully calibrated judgment addressing the complex intersection of forest conservation and human habitation rights. The decision in *Abdul Khalek & Others v. The State of Assam & Others* represents a watershed moment in Indian environmental jurisprudence, establishing a framework that neither compromises the State's constitutional obligation to protect reserved forests nor permits arbitrary executive action in the removal of alleged encroachments.

The judgment, authored by Justice Alok Aradhe, addresses what the Court itself characterizes as a question of considerable constitutional and environmental significance. At its core lies the fundamental inquiry: how must the State discharge its constitutional mandate to protect reserved forests when confronted with assertions of long-standing human habitation within forest lands? This article provides a comprehensive analysis of the judgment, examining its factual matrix, legal contentions, constitutional underpinnings, and the procedural safeguards established by the Court to ensure that environmental protection proceeds through lawful and equitable means.

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Factual Matrix and Genesis of Litigation

The appeals and writ petitions before the Supreme Court arose from eviction notices issued by the Assam Forest Department to residents of multiple villages situated within several reserved forests in the State of Assam, including Doyang Reserved Forest, South Nambar Reserved Forest, Jamuna Madunga Reserve Forest, Barpani Reserved Forest, Lutumai Reserved Forest, and Gola Ghat Forest. The appellants and writ petitioners asserted that they, along with their predecessors in title, had been residing in these villages for a period exceeding seventy years, thereby establishing claims based on prolonged occupation and settled habitation.

The affected persons further contended that their existence and residence had received official recognition through the issuance of various governmental documents, including Aadhar cards, ration cards, and other identity credentials issued by State agencies. This governmental acknowledgment, they argued, provided de facto recognition of their residential status and created legitimate expectations regarding their continued occupation of the land in question.

The State Government, however, adopted a diametrically opposite position. It asserted that the lands occupied by the appellants and writ petitioners fell squarely within the boundaries of reserved forests that had been formally notified under applicable forest laws during the years 1887 and 1888. According to the State, the appellants and writ petitioners possessed no legally cognizable right to occupy these forest lands. Consequently, the Forest Department issued eviction notices directing the alleged unauthorized occupants to vacate the reserved forest lands within an exceptionally brief period of seven days from receipt of such notices.

The precipitous nature of these eviction notices, particularly the extraordinarily short timeframe prescribed for vacation of the premises, prompted the affected persons to approach the Gauhati High Court by filing writ petitions under Article 226 of the Constitution of India. The validity of the eviction notices was challenged on multiple grounds, including allegations of

arbitrariness, violation of principles of natural justice, and failure to afford any prior opportunity of hearing or adjudication of the claimed rights over the land. Some petitioners subsequently approached the Supreme Court directly through Special Leave Petitions, while others filed writ petitions under Article 32 of the Constitution, thereby bringing the matter before the apex court for final determination.

The State's Contentions and Environmental Imperatives

The State Government resisted the challenge to eviction notices by presenting a comprehensive case grounded in environmental protection and constitutional obligations. Central to the State's position was the assertion that large-scale and systematic encroachments had occurred within reserved forest areas across Assam, representing a grave threat to the ecological integrity of these vital natural resources.

In substantiation of its claims, the State placed extensive statistical data on record, demonstrating that approximately 3,62,082 hectares of forest land was under unauthorized occupation. This figure represented a staggering 19.92 percent of the total forest area in the State, indicating the magnitude of the encroachment problem. The State further contended that unauthorized occupants had systematically cleared forest land, diverting it for residential purposes, agricultural activities, and other non-forest uses, thereby causing serious and potentially irreversible environmental degradation.

The State Government submitted that it had taken a policy decision to remove all unauthorized encroachments from reserved forests and to undertake restoration of such lands through comprehensive reforestation and conservation measures. This policy decision, according to the State, was necessitated by its constitutional and environmental obligations to protect forest resources for present and future generations. The State maintained that prompt action was essential to prevent further degradation and to commence the process of ecological restoration.

Constitutional Obligations and Environmental Jurisprudence

The Supreme Court commenced its substantive analysis by articulating the fundamental importance of forests as natural resources. The Court observed that forests are not merely repositories of timber or parcels of land capable of alternate utilization, but rather constitute complex ecological systems that are indispensable for maintaining environmental balance. Forests perform multiple critical functions: they regulate climate patterns, preserve biological diversity, facilitate groundwater recharge, prevent soil erosion, and serve as natural carbon sinks that mitigate the adverse effects of climate change.

In a country as ecologically diverse and climatically vulnerable as India, the Court emphasized, the role of forests assumes even greater significance. The judgment recognized that encroachment upon forest land has emerged as one of the gravest challenges confronting environmental governance in contemporary India. Against this backdrop, the Court examined the constitutional framework governing environmental protection and forest conservation.

The Court highlighted that Article 48A of the Constitution, forming part of the Directive Principles of State Policy, mandates that the State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country. While acknowledging that Directive Principles are not directly enforceable by courts of law, the judgment emphasized that they are fundamental in the governance of the country and must guide the State in formulation and implementation of policy.

Furthermore, the Court noted that Article 51A(g) of the Constitution imposes a fundamental duty upon every citizen to protect and improve the natural environment, including forests. These constitutional provisions, the Court observed, reflect a collective responsibility shared by both citizens and the State to prevent, regulate, and remedy environmental harm. The constitutional scheme thus creates a framework of shared environmental stewardship.

Reconciling Environmental Protection with Rule of Law

Having established the constitutional foundation for environmental protection, the Court proceeded to articulate a principle of critical importance: constitutional governance demands that environmental protection be pursued through lawful means. The judgment states unequivocally that the mandate to clear encroachments from forest land does not authorize arbitrary action. The Constitution, the Court emphasized, does not envisage a choice between environmental protection and the rule of law; rather, it insists that both coexist and mutually reinforce each other.

This principle represents a significant contribution to Indian environmental jurisprudence. It establishes that even actions undertaken in furtherance of environmental protection must conform to constitutional requirements of fairness, reasonableness,

and due process. The Court thus rejected any suggestion that the urgency of environmental protection could justify departure from fundamental principles of natural justice and procedural fairness.

During the course of hearings, the Court expressed concern regarding the necessity to maintain the rule of law while ensuring adequate protection of the environment. Following these observations, the learned Solicitor General sought time to obtain instructions from the State Government. Subsequently, an additional affidavit was filed on behalf of the State, proposing a comprehensive procedural framework for addressing the issue of forest encroachments.

The Evolved Procedural Framework

The additional affidavit filed by the State Government outlined a detailed mechanism for removal of unauthorized occupations from reserved forests. This mechanism, which received the approval of the Supreme Court, incorporates multiple procedural safeguards designed to ensure fairness and due process. The framework represents a careful balance between the State's constitutional obligation to protect forests and the imperative of ensuring that such protection is achieved through lawful and equitable means.

Under the approved framework, the State is required to constitute a committee comprising both forest officials and revenue officials. This multi-departmental composition ensures that decisions are informed by expertise from different administrative domains. The committee is tasked with issuing notices to alleged unauthorized occupants, providing them with an opportunity to adduce evidence demonstrating their right to occupy the land in their possession.

Critically, action for removal of encroachment is to be taken only upon a finding that unauthorized occupation exists within the reserved forest area. If the land of a noticee is determined to fall within revenue limits and outside the notified forest area, the matter is to be referred to the Revenue Department for appropriate action. The eviction process confined to reserved forests thus maintains clear jurisdictional boundaries.

Where a noticee is found to be in unauthorized occupation of reserved forest land after scrutiny of submitted documents, a speaking order must be passed and served upon the affected person. This requirement of a reasoned decision ensures transparency and facilitates judicial review if necessary. The speaking order must be accompanied by a notice period of fifteen days for vacating the unauthorized occupation. Only upon expiry of this notice period may the State proceed with physical removal of unauthorized occupants.

Recognition of Legitimate Forest Habitation

The procedural framework approved by the Court incorporates important provisions recognizing legitimate occupation within forest areas. The State's affidavit clarified that the concept of a forest village is unique to Assam and is expressly recognized under Section 5 of the Assam Panchayat Act, 1994. This statutory provision permits the establishment of Gaon Panchayats in forest areas, including forest villages, tea garden areas, and hamlets forming part of forest villages.

Persons entitled to reside in forest villages have their names recorded in a statutory register known as the Jamabandi Register, which is maintained by the Forest Department. Such persons hold documents evidencing their rights to the land under their possession. Additionally, title holders under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 are legally authorized to occupy forest land and are not liable for eviction.

The framework recognizes that rights held under these provisions are inheritable but not alienable or transferable. Individuals whose names appear in the Jamabandi Register or who hold rights under the Forest Rights Act, 2006 are not considered unauthorized occupants. However, the framework also acknowledges that unauthorized inhabitants have encroached upon lands both outside and, in some cases, inside Gaon Panchayat limits that fall within reserved forest boundaries. Even within Gaon Panchayats located in reserved forests, unauthorized occupants who lack proper documentation are liable to eviction following the prescribed procedure.

The Court's Approval and Directions

Upon examination of the procedural framework proposed by the State Government, the Supreme Court expressed satisfaction that it contains sufficient procedural safeguards. The Court held that the process sought to be adopted conforms to the principles of fairness, reasonableness, and due process. The learned Solicitor General provided an assurance to the Court that the mechanism evolved by the State would be complied with objectively and with fairness while taking action for removal of

unauthorized occupation in reserved forests.

The Court directed the parties to maintain status quo in respect of land in occupation of the appellants and writ petitioners until a speaking order is passed by the committee and until expiry of the fifteen-day notice period. This direction ensures that no precipitate action is taken and that affected persons receive adequate time to present their case and, if necessary, to make alternative arrangements.

Significantly, the Court clarified that all contentions of the parties are kept open to be agitated before the committee. This preserves the rights of affected persons to raise all available defenses and to present all relevant evidence in support of their claimed rights. The Court further clarified that it had not expressed any opinion on the merits of the claims advanced by either party, as substantive determination of rights is to be undertaken by the committee constituted for this purpose.

In view of the mechanism evolved by the State and approved by the Court, the judgment substituted and modified earlier orders passed by the Gauhati High Court. The Court also observed that in light of the procedural framework now in place, it was not necessary to consider in detail the writ petitions filed directly under Article 32 of the Constitution. The writ petitioners were informed that they would be entitled to avail such remedies as may be permissible in law, including approaching the committee established under the new framework.

Legal Significance and Implications

The judgment in Abdul Khalek represents a significant advancement in the jurisprudence concerning environmental protection and procedural justice. It establishes several important principles that will guide administrative action in similar contexts. First, the judgment reaffirms that constitutional obligations regarding environmental protection are paramount and must be discharged by the State with diligence and commitment. The recognition that nearly twenty percent of Assam's forest area is under encroachment underscores the gravity of the environmental challenge and the legitimacy of State action to address it.

Second, and equally importantly, the judgment establishes that environmental protection cannot be pursued through arbitrary means. The Constitution does not permit a trade-off between environmental imperatives and the rule of law. Administrative action, even when undertaken in furtherance of constitutional objectives, must conform to principles of natural justice, fairness, and reasonableness. The requirement of notice, opportunity to be heard, examination of evidence, and reasoned decision-making are essential components of lawful administrative action.

Third, the judgment recognizes the complexity inherent in situations involving long-standing human habitation in forest areas. Rather than adopting a rigid approach, the framework approved by the Court creates space for examination of individual claims, recognition of legitimate rights under statutory provisions, and differentiation between reserved forest areas and revenue lands. This nuanced approach ensures that genuine cases of authorized occupation are not swept away in the drive against encroachments.

Fourth, the judgment emphasizes the importance of inter-departmental coordination in addressing complex land tenure issues. The requirement that the committee comprise both forest and revenue officials ensures that decisions are informed by comprehensive understanding of both forest law and revenue law. This collaborative approach reduces the likelihood of jurisdictional errors and enhances the quality of administrative decision-making.

Conclusion

The Supreme Court's judgment in Abdul Khalek & Others v. The State of Assam & Others represents a judicious reconciliation of competing constitutional values. It affirms the State's obligation to protect reserved forests and to take effective action against unauthorized encroachments while simultaneously ensuring that such action conforms to constitutional requirements of fairness and due process. The procedural framework approved by the Court establishes a model that can guide similar efforts in other jurisdictions confronting the challenge of forest encroachments.

By insisting that environmental protection and the rule of law must coexist and mutually reinforce each other, the Court has made an important contribution to constitutional jurisprudence. The judgment demonstrates that urgent environmental challenges can be addressed effectively within the framework of constitutional governance, provided that adequate procedural safeguards are incorporated into administrative processes.

Ultimately, the judgment reflects a mature understanding that sustainable environmental protection requires not merely governmental action but governmental action that commands legitimacy and public confidence. By insisting on procedural fairness, the Court has ensured that the critical objective of forest conservation is pursued in a manner consistent with

democratic values and constitutional principles. This approach enhances the prospects for long-term success in addressing the complex challenge of forest encroachments while respecting the dignity and rights of all affected persons.

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