

## 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**

