

**In Re: T.N. Godavarman Thirumulpad**

**v.**

**Union of India & Ors.**

(IA No. 41723 of 2022)

In

(Writ Petition (Civil) No. 202 of 1995)

18 December 2024

**[B.R. Gavai, S.V.N. Bhatti and Sandeep Mehta,\* JJ.]**

### **Issue for Consideration**

Protection of the sacred groves/Orans of Rajasthan.

### **Headnotes<sup>†</sup>**

**Forest Conservation Act, 1980 – s.2 – Forest (Conservation) Amendment Act, 2023 – Wildlife Protection Act, 1972 – s.36-C – Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – ss.3, 5 – Rajasthan State Forest Policy, 2010 – Rajasthan Forest Policy, 2023 – Sacred groves/Orans of the Rajasthan – Protection of – Identification and notification of sacred groves as ‘forests’ – Directions issued:**

**Held:** **1.1** Sacred groves of Rajasthan which hold immense ecological value and are deeply revered in local cultures, urgently require formal recognition and protection to safeguard their preservation. [Para 53]

**1.2** The list provided by the applicant identifying 100 sacred groves in the State of Rajasthan to be taken into consideration – Forest Department of the State of Rajasthan to carry out detailed on-ground mapping and satellite mapping of each sacred grove, such as Orans, Dev-vans, Rundhs or by any other name by which they are known in the respective area – State of Rajasthan to complete the survey and notification of sacred groves/Orans in all districts – Forest Department to carry out detailed on-ground mapping of the identified groves and classify them as ‘forests’ as recommended in the Central Empowered Committee’s report dated 01.06.2005 – Recommendations in the report must be implemented in their entirety and in true spirit. [Para 54]

**1.3** Given the ecological and cultural importance of sacred groves, it is recommended that they be granted protection under the Wildlife

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\* Author

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Protection Act, 1972, specifically through s.36-C which allows for the declaration of 'community reserves' – Sacred groves/Orans should be identified and where appropriate, declared as community reserves to ensure their preservation and prevent unauthorized land use changes – This process should be initiated by the State Government in collaboration with local communities. [Para 55]

**1.4** To ensure compliance of the directions issued, a 5-member Committee, as directed, to be constituted by the Ministry of Environment, Forest and Climate Change of India (MoEFCC) in collaboration with the Forest Department, Government of Rajasthan preferably headed by a retired Judge of the Rajasthan High Court. [Paras 56, 57]

**1.5** Sacred groves/Orans – Suggestions by Supreme Court – To promote the sustainable conservation of sacred groves and empower the communities associated with their protection – Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – National Forest Policy, 1988. [Para 58]

**Environmental Protection – Community-driven initiatives/conservation efforts – Piplantri model in a village in Rajasthan, praised – Effects:**

**Held: 2.1** The Piplantri model, created in a small village in Rajasthan's Rajsamand district shows how environmental protection, gender equality and economic growth can work together to change communities – It started after the tragic death of a girl child of Shri Shyam Sundar Paliwal, the Sarpanch of the village – The village had suffered from environmental damage due to excessive marble mining which led to water shortages, deforestation, and economic decline – To counter this, the community led by its visionary Sarpanch introduced a practice of planting 111 trees for every girl born – This initiative transformed the damaged environment not only of the village but also of the nearby areas – This phenomenal effort also gave positive impetus to the efforts for reducing societal biases against women. [Para 48]

**2.2** Positive effects of Piplantri model – Environmentally, over 40 lakh trees have been planted which has helped raise the water table by 800-900 feet and cooled the climate by 3-4°C – These efforts have improved local biodiversity and protected the land from soil erosion and desertification – Economically, the planting of indigenous species of trees like gooseberry, aloe vera, and bamboo has created sustainable jobs – Aloe vera processing, furniture making, and

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other businesses have increased local incomes, providing work, especially for women, through self-help groups – Socially, the model has helped eliminate harmful practices like female foeticide – The village now has a rare distinction of a higher female population ratio i.e. 52% and ensures that all girls receive education. [Para 49]

**Sacred groves/Orans – Protection of, as ‘forests’ – Need for – Ecological and cultural significance – Enumerated – Forest Conservation Act, 1980 – Forest (Conservation) Amendment Act, 2023 – Wildlife Protection Act, 1972 – Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – Rajasthan State Forest Policy, 2010 – Rajasthan Forest Policy, 2023 – Biological Diversity Act, 2002 – National Forest Policy, 1988 – Convention on Biological Diversity, 1992; United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).**

**Words and Phrases – “sacred groves”; “sacred”; “grove”; “orans” – Discussed.**

### Case Law Cited

*T.N. Godavarman Thirumalpad v. Union of India and Others* [1996] Supp. 9 SCR 982 : (1997) 2 SCC 267; *Orissa Mining Corporation Limited v. Ministry of Environment & Forest & Others* [2013] 6 SCR 881 : (2013) 6 SCC 476; *T.N. Godavarman(87) v. Union of India* [2005] Supp. 3 SCR 552 : (2006) 1 SCC 1; *Centre for Environment Law, World Wide Fund v. Union of India* [2013] 6 SCR 757 : (2013) 8 SCC 234; *Nature Lovers Movement v. State of Kerala and Others* [2009] 4 SCR 687 : (2009) 5 SCC 373 – referred to.

### Books and Periodicals Cited

Lebbie & Freudenberg 1996; Chandan & Hughes 1997; Malhotra et al. 2007; Sheridan & Nayamweru 2008; Ormsby & Edelman 2010; Ormsby 2012; Ntiamoa-Baidu 1995; Kosambi, 1962, Sacred Groves in India, Aryan Books International (New Delhi, 2007).

### List of Acts

Forest Conservation Act, 1980; Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006; Wildlife Protection Act, 1972; Biological Diversity Act, 2002; Forest (Conservation) Amendment Act, 2023; Biological Diversity Act, 2002; National Forest Policy, 1988; Forest Conservation Amendment Act, 2023.

**In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.****List of Keywords**

Sacred groves'; 'Orans; Sacred groves/Orans of Rajasthan; Community-protected forests; Central Empowered Committee; Orans; Bundhs; Dev-vans; 'deemed forests'; Forests'; Sustainable forest management; Conservation of biodiversity; Environmental protection; Conservation of forests; Recognition of sacred forests; Community reserves.

**Case Arising From**

CIVIL ORIGINAL JURISDICTION: IA No. 41723 of 2022

In

Writ Petition (Civil) No. 202 of 1995

(Under Article 32 of The Constitution of India)

**Appearances for Parties**

Harish N. Salve, A.D.N. Rao, Ms. Aparajita Singh, Sr. Advs./Amici Curiae, Siddhartha Chowdhury, K. Parameshwar, Amici Curiae.

Ms. Aishwarya Bhati, Mrs. Archana Pathak Dave, A.S.Gs., Shiv Mangal Sharma, A.A.G., Mrs. Ruchi Kohli, Sr. Advs., Ms. Kanti, Shreenivas Patil, Ms. Chitransha Singh Sikarwar, M.V. Mukunda, Raji Gururaj, G.S. Makker, Raj Bahadur Yadav, Uday Prakash Yadav, Suhasini Sen, S. S. Rebello, Shyam Gopal, Raghav Sharma, Sugghosh Subramaniam, Mukesh Kumar Maroria, Shyam Gopal, Raghav Sharma, Gaurang Bhushan, Jagdish Chandra Solanki, Saurabh Rajpal, Ms. Nidhi Jaswal, Sandeep Kumar Jha, Siddhartha Jha, Advs. for the appearing parties.

**Judgment/Order of the Supreme Court****Judgment**

**Mehta, J.**

*“प्रकृतिं पुरुषं चैव विद्ध्यनादी उभावपि।  
विकारांश्च गुणांश्चैव विद्धि प्रकृतिसम्भवान्॥”*

– **Bhagwat Gita (Chapter 13, Verse 20)**

**[Translation: Nature is the source of all material things: the maker, the means of making, and the things made. Spirit is the source of all consciousness which feels pleasure and feels pain.]**

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I. INTRODUCTION

1. India is home to thousands of community-protected forests known as ‘Sacred groves’. These areas are patches of forest or clusters of trees that hold deep cultural or spiritual significance for the local communities that protect and sustain them.
2. As defined by Collins Dictionary, the term “sacred” describes ‘something that is sacred is believed to be holy and to have a special connection with God’, while “grove” refers to a ‘group of trees that are

\* Ed. Note: Pagination as per the original Judgment.

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*close together*'. Sacred groves, therefore, symbolize a harmonious blend of natural and spiritual elements, embodying both ecological and cultural value.

3. Sacred groves are conserved by the local residents for a variety of reasons, ranging from belief in a forest deity to the protection of a spring or as sacred space where ancestors are buried.<sup>1</sup> The size of sacred groves ranges from very small plots of less than 1 hectare to larger tracts of land of several hundred hectares.<sup>2</sup> In some cases, these fragments of sacred groves represent the sole remaining natural forests outside of protected areas and, therefore making them some of the last locations with potential for the conservation of flora and fauna.
4. Sacred groves, like Living Root Bridges of Meghalaya (*a UNESCO recognised World Heritage Site*), locally recognized as *Jingkieng Jri*, show the deep connection between people and nature. The Living Root Bridges, built by the Khasi tribes, are an incredible example of traditional knowledge, where *Ficus* trees are carefully grown to form strong, living structures. These bridges provide essential pathways in one of the rainiest places on the earth and carry cultural and ecological importance. Over generations, they have adapted to harsh weather, demonstrating a sustainable way of living in harmony with nature. Similarly, sacred groves across India reflect ancient traditions of forest conservation, where nature is respected and protected, helping preserve biodiversity and ecological balance.
5. India has the highest concentration of sacred groves in the world (estimated to be over 100,000 sacred groves<sup>3</sup>), however, these groves are rapidly vanishing due to the increasing demand for timber, urban expansion, deforestation for agriculture, and the pressure to extract natural resources. The sacred groves are known by diverse names across different regions: *Devban* in Himachal Pradesh, *Devarakadu* in Karnataka, *Kavu* in Kerala, *Sarna* in Madhya Pradesh, *Oran* in Rajasthan, *Devrai* in Maharashtra, *Umanglai* in Manipur, *Law Kyntang*/

1 Lebbie &Freudenberger 1996; Chandan & Hughes 1997; Malhotra et al. 2007; Sheridan & Nayamweru 2008; Ormsby & Edelman 2010; Ormsby 2012

2 Ntiama-Baidu 1995; Malhotra et al. 2007

3 K.C. Malhotra, Y. Gokhale, S. Chatterjee, and S. Srivastava, SACRED GROVES IN INDIA, Aryan Books International (New Delhi, 2007)

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*Law Lyngdoh* in Meghalaya, *Devan/Deobhumi* in Uttarakhand, *Gramthan* in West Bengal, and *Pavithravana* in Andhra Pradesh.

6. The present Interlocutory application concerns the protection of the sacred groves/Orans of the Rajasthan. We will briefly discuss them.

### II. ORANS OF RAJASTHAN

7. The State of Rajasthan is vertically divided in two parts north to south, by the Aravali hills. To the west of the Aravali is the Thar desert. There are about 25,000 Orans in Rajasthan covering an area of about 6,00,000 hectares. About 1100 major Oran's spread out in an area of more than 1,00,000 hectares in Rajasthan provide livelihood to the rural population of the State. Species that are primarily found in most of the Orans are *Prosopis cineraria*, *Zizyphus mauritiana* and *Salvadora sp.*, *Zizyphus sp.*, *Caparris aphylla* and *Calotropis procera*.
8. In Rajasthan, sacred groves are known under various names i.e. *oran*, *deora*, *malvan*, *deorai*, *rakhat bani*, *deo ghats* (sacred corridors), *mandir van* (temple forests), and *baugh* (sacred gardens). The word 'Oran' is a derivative of the Sanskrit word '*Aranya/अरण्य*' meaning the 'undisturbed forest'. Their existence can be traced back to the pre-agrarian hunter-gatherer phase of human civilisation.<sup>4</sup> In Rajasthan, 'Orans' vary in size depending on their specific religious significance to a particular community. They serve as a reserve for grazing, forest products, water infiltration, and as a coping mechanism for climate change in arid regions. There are nearly 25,000 identified Orans in Rajasthan covering approximately 6,00,000 hectares of which 5,37,000 hectares are located in the western Thar region.<sup>5</sup>
9. Orans are related to religious practices followed since time immemorial and serve to conserve natural resources. People do not harm sacred groves mainly because of socio-religious traditions, believing that anyone who cuts or uses an axe in a sacred grove may be harmed by the presiding deity. In sacred groves, different idols like *Majisa*, *Jamboji*, *Jog Maya*, *Bhomiaji*, *Pabuji*, *Harbuji*, *Ramdeoji*, *Mamaji* are positioned in the shade of green trees. These religious and cultural practices ensure that the ecosystem is maintained and prevent the

4 Kosambi, 1962, SACRED GROVES IN INDIA, Aryan Books International (New Delhi, 2007)

5 Singh, 2011, 2014, SACRED GROVES IN INDIA, Aryan Books International (New Delhi, 2007)

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deforestation/desertification process. Orans also provide vital grazing land for livestock, water, minor forest produce, medicinal plants, and green cover in the rural areas.

10. Each Oran has its own set of established customs to ensure the protection of its specific combination of resources. These vary from completely banning the collection of any materials from the forest floor to only prohibiting the felling of particular species of trees.<sup>6</sup> At the heart of every Oran is a deity, whose domain has been at some point in time marked out by a ritual.
11. Orans are usually managed under a mixture of open access (i.e. no effective owners or secured rights) and loosely defined common property regimes. Orans are situated in dry environments across western India. The desert ecosystem, particularly in western Rajasthan, is very rich in livestock; hence, Orans provide means of livelihood/social security to the rural populace and also play an important role in promoting a flourishing livestock-based economy. This makes them important natural resources which have the capability to regenerate and proliferate. Here, Orans protect springs and aquifers, and host centuries-old water resources most of which are small springs or rivulets, a variety of ponds and *Baoris*, which are used year-round for drinking water and irrigation purposes. *Gopal Das ki Devbani* has a very old and architecturally ornate '*Oran talab*'. *Jugrawar ki Rundh Bani*, *Gujawas ki Bani*, *Bherunath ji ki bani*, and several other Orans likewise have large ponds that serve as water harvesting structures for the catchment area and are usually located to collect maximum run-off rainwater and serve the important purpose of providing water for irrigation and drinking.
12. The Orans found around Jodhpur, Nagaur, Churu, and Bikaner are replete with *khejri* trees (*Prosopis spicigera*), deer, blackbuck, and *nilgai*, which are sacred to the Bishnoi community of Rajasthan. In the year 1730, in the village of *Khejadli* in Jodhpur district, 363 Bishnoi women gave up their lives to protect the *Khejri* trees, giving rise to the Chipko or "Hug a Tree" movement. Mata Karni Devi Temple at Deshnoke village near Bikaner, wherein rodents are regarded as reincarnations of the goddess's devotees has been documented by international media houses like Discovery and National Geographic



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channels. The area of 2,100 hectares near the Mata Karni Devi temple is also regarded as sacred by the community. Thousands of *jhadberis* (shrubs bearing berries) dot the area where cattle of the nearby villages graze freely. The practices like hunting of animals, cutting of trees and even beating a bush to collect the berries are prohibited by Karni Mata Trust, which manages the Oran. Only the wood for the purpose of cremation can be sourced from the Oran. Important Orans in Sirohi, a semi-desert district in Rajasthan, include ‘*Pichheshwar Mahadeo*’ near Pindwara, ‘*Voreshwar Mahadeo*’ near Pindwara, ‘*Voresh Mahadeo*’ in Sheoganj, ‘*Sarneshwar Mahadeo*’ near Sirohi, ‘*Mochal Mataji*’ in Sheoganj, ‘*Baleshwari Mataji Oran*’ in Pesua village and ‘*Varada Hanuman ji*’ which supports old *Prosopis cineraria* trees.

13. *In toto*, the sacred groves/Orans in Rajasthan play a very crucial role in conserving biodiversity, sustaining livelihoods, protecting water resources, and preserving the cultural and ecological balance in Rajasthan’s arid and semi-arid regions.

### III. BACKGROUND

14. This Court, in its judgment dated 12.12.1996 in ***T.N. Godavarman Thirumalpad v. Union of India and Others***,<sup>7</sup> held that the *Forest Conservation Act*, 1980<sup>8</sup> is applicable to all forests, irrespective of their classification, and directed State Governments to identify forests through expert committees. In compliance with these directions, the State of Rajasthan constituted the State Level Expert Committee,<sup>9</sup> which submitted its report dated 15.04.2004. The Kapoor Committee identified sacred groves, such as Orans, Bundhs, and Dev-vans, for classification as ‘forests.’ It recommended that ‘deemed forests’ would be “a compact of area of minimum 5 hectares and where naturally growing minimum 200 trees per ha. exist.”
15. Subsequently, numerous interlocutory applications were filed including, I.A. No. 1254 in W.P. No. 202 of 1995 praying that sacred groves in the State of Rajasthan be classified as ‘deemed forests’. The matter

7 (1997) 2 SCC 267

8 Hereinafter being referred to as the ‘**FC Act**’

9 Hereinafter being referred to as the ‘**Kapoor Committee**’

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was then referred to the Central Empowered Committee<sup>10</sup> which in its report dated 01.06.2005, found that the Kapoor Committee's criteria was inconsistent with this Court's orders and recommended classifying sacred groves as 'forests,' save for small, fragmented areas that are difficult to manage, which may be excluded under the FC Act.

16. Pursuant thereto, the State of Rajasthan had published the *Rajasthan State Forest Policy*, 2010, where the guidelines were laid down for Orans/Dev-vans.
17. By order dated 03.07.2018, in I.A. No. 1254, this Court directed the State of Rajasthan to implement the recommendations of the CEC expeditiously, in letter and spirit. The relevant part of the order dated 03.07.2018 is extracted below for the sake of ready reference:

“The State of Rajasthan has accepted Recommendation Nos. (i) and (iii) given by the CEC which read as follows:

*(i) In respect of sacred groves such as Orans, De-vans etc. the Kapoor Committee has included only those areas in the category of 'forest' which also fulfill the criteria laid down for deemed forest i.e. having more than 200 trees per ha. A compact block of 5 ha. Or more. The remaining areas have been left out though they are recorded as Orans, De-vans etc. in government records. Traditionally Orans; Dev-vans and other sacred groves, irrespective of their size, have been treated as forest land in Rajasthan. This was also confirmed by the State of Rajasthan during the hearing held before the CEC. In view of above the CEC is of the view that exclusion of such areas from the category of 'areas recorded as forest in government records' on the ground that they do not fulfill the criteria of 'deemed forest' will be inconsistent with the orders of this Hon'ble Court and therefore, needs to include as 'forest land'. However, in case some of these small fragmented areas, which*

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<sup>10</sup> Hereinafter being referred to as the 'CEC'

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*are difficult to manage have to be excluded from the purview of the FC Act, 1980 the same may be done after following the procedure as laid down under the Act.*

*(iii) In Rajasthan large areas are arid areas which support scanty vegetation, grass lands or eco-systems, which have few large trees. Many of these areas represent various forms of climate eco-system such as grass, land, rocky outcrops, stony desert etc. which need to be treated as 'forest land'. If Hon'ble Supreme Court deems it fit the State of Rajasthan would constitute an Expert Committee consisting of representative of the Forest Department, Arid Zone Forestry Research Institute (AFRI), Central Arid Zone Research Institute (CAZRI) and representatives of various departments and expert bodies to identify areas which are representative of various types of desert eco-systems. Such areas may also be included in the category of 'deemed forest' irrespective of the vegetation supported by such areas. The Committee may adopt a rational criteria for this purpose and finalize its report within a period of six months.*

In respect of Recommendation No. (ii), it is stated that the provisions of Forest Conservation Act, 1980 did not apply to any Forest Land diverted prior to date of its enactment i.e. 25.10.1980 and thus it is not necessary to get such areas diverted from the purview of the Forest Conservation Act after following due process. It is therefore prayed that the Kapoor Committee Report may be accepted with the said modification.

We find no substance in this submission. The lands that have already been diverted prior to the date of its enactment i.e. 25.10.1980 need to be clearly identified, surveyed, demarcated and diverted in accordance with law. We find no error in the recommendations made by the CEC nor do we find anything to set aside the recommendations made

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by the CEC. Recommendation No. (ii) of the CEC is also accepted which reads as follows:

*(ii) The inclusion of areas recorded as 'Rundh' as 'forest' by the Kapoor Committee is appropriate and, therefore, may be accepted. However, a large chunk of such areas have been put under agriculture and other non forestry purpose prior to enactment of the FC Act i.e. 25.10.1980 and are being used for non-forestry purposes for last many decades. It may, therefore, be desirable that all such areas, diverted/used for non-forestry purposes prior to 25.10.1980 are identified and area deleted from the purview of the FC Act after following due process of law. These areas will have to be surveyed and demarcated in a time bound manner. For deletions of such areas from the purview of FC Act the MoEF may consider waiving the condition of compensatory afforestation. The payment of Net Present Value (NPV) may also not be insisted upon in such cases.*

The I.As. stand disposed of.

We expect the State of Rajasthan to comply with the aforesaid three recommendations expeditiously in letter and spirit.”

18. Subsequently, the applicant filed I.A. No. 41723 of 2022 in W.P. No. 202 of 1995, seeking directions to the State of Rajasthan to take steps in accordance with the mandate of this Court's order dated 03.07.2018, for identification, survey, and demarcation of sacred groves such as Orans, Dev-vans, Rundhs, etc. as 'forest lands' to be included under the purview of the FC Act, and additionally to declare the 100 Orans identified in the publication 'Oran Atlas of Rajasthan' as 'forest lands'.
19. The State of Rajasthan in pursuance to the order dated 03.07.2018 filed an affidavit dated 13<sup>th</sup> Feb, 2024 and responded as below:
  - (i) Numerous Rundhs have already been documented as forests, and the process of identifying and classifying additional areas is ongoing.

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- (ii) To protect Rundhs and other ecologically sensitive areas in Alwar district, the Ministry of Environment and Forests, Government of India, issued the '*Aravali Notification*' in 1992. This notification imposes restrictions on activities that contribute to environmental degradation in the region.
  - (iii) The Deputy Conservator of Forests has identified several sacred groves, and the Rajasthan Forest Department has issued a notification expressing its intent to classify these areas as 'deemed forests'. Public objections to this proposal were invited through a newspaper publication. Once these objections are reviewed and the list is finalized, it will be submitted to the State Government for issuing the final notification.
20. The applicant in I.A. No. 41723 of 2022, through the rejoinder statement, submitted that the affidavit filed by the State of Rajasthan is incomplete, vague, and superficial as no concrete steps with respect to the identification of the Dev-vans/Orans have been taken. The applicant pointed out the following inconsistencies in the affidavit filed by the State of Rajasthan:
- (i) The State has not complied with recommendation (iii), which required the constitution of an expert committee to identify various desert ecosystems for inclusion in the category of 'deemed forests'.
  - (ii) While the State has documented several Rundhs as forests, some, such as those listed at Sl. Nos. 37 and 38 (in the list submitted by the State of Rajasthan), appear to have been allotted or de-notified. Additionally, notes on the village displacement activities in certain Rundhs raise questions about their status as forests.
  - (iii) The State's district-wise list of Orans to be declared as 'deemed forests' is incomplete, covering only approximately 5,000 Orans out of the estimated 25,000. A complete district-wise list is essential before final notification, especially as many Orans are located in the ecologically sensitive Thar Desert.
  - (iv) The *Rajasthan Forest Policy, 2023*, lacks provisions defining the roles, responsibilities, and rights of local communities in conserving Orans, Dev-vans, and Rundhs. These communities

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have historically safeguarded sacred groves and ought to be actively involved in identification and conservation efforts to ensure sustainable practices that align with local biodiversity.

- (v) The State's claim that '*Shree Degray Mataji*' Oran in Jaisalmer is officially listed and recorded in revenue records is vague and lacks supporting documentation. Clarification is needed on whether it is recorded as 'Forest/Deemed Forest' or 'Gair Mumkin Oran', considering that the area is critical for the protection of the endangered Great Indian Bustard.

**IV. SUBMISSION ON BEHALF OF AMICUS CURIAE**

21. Shri K. Parameshwar, learned *Amicus Curiae* submitted that sacred groves are vital for linking culture with biodiversity conservation, rooted in the belief that humans are part of a broader ecological community. Protected through practices of veneration and restraint, they embody a grassroot conservation model that integrates cultural traditions with ecological restoration. These groves play a key role in *in situ* biodiversity preservation, sustaining pristine habitats, endangered species like the Indian gazelle and blackbuck, and keystone species such as the culturally significant *khejari* tree and the *Rohida* Tree (*Tecomella undulata*) also known as the teak of the Thar Desert. They combat soil erosion, recharge aquifers, safeguard genetic diversity, and rely on community-led management for their protection.
22. It was submitted that the *Rajasthan Forest Policy, 2023*, has regressed by omitting the specific obligations related to sacred groves and their recognition as 'forests'. In contrast, the *Rajasthan State Forest Policy, 2010*, provided a detailed framework for the protection of sacred groves (Orans/Dev-vans), emphasizing their ecological and cultural significance. The *Rajasthan State Forest Policy, 2010*, made the following provisions in respect of the protection of sacred groves:

***"5.10 Orans/Dev-vans***

*5.10.1 Orans/Dev-vans are islands of good forests and repositories of rich biodiversity. These orans/ dev-vans are an excellent example of religious faith in conservation. Efforts will be made to provide necessary financial and legal support in consonance with local religious ethos of the local community.*

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*5.10.2. District-wise inventory and database will be prepared for all such areas with the support of local NGOs and religious trusts. However, these areas will be demarcated on the ground as well as on cadastral maps on priority.*

*5.10.3 For management of these orans/ dev-vans, a committee of local people and trustees of the temple can be constituted to protect these areas.”*

23. The *Rajasthan Forest Policy, 2023*, generalizes the commitment by stating:

*“6.1.3 Actively take up protection, conservation and plantation on community lands like Gochar, Oran, Charagah, etc.”*

24. This paradigm shift in the *Rajasthan Forest Policy, 2023* dilutes the focused protections previously afforded to sacred groves, relegating them to a broader category of community lands.

#### **(i) COMMUNITY RIGHTS AND INVOLVEMENT**

25. It was submitted that ‘community forest resource’ is defined under Section 2(a) of the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*<sup>11</sup> as “**customary common forest land** within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the **community had traditional access.**” Under the Forest Rights Act, Section 3(1)(i) recognizes the rights of forest-dwelling communities to protect, regenerate or conserve, or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use. Section 5(a) empowers these communities to protect wildlife, forests, and biodiversity, ensuring the preservation of their natural habitat. Additionally, Section 5(c) mandates the prevention of activities that harm their cultural and natural heritage. Together, these provisions safeguard the rights of forest communities while promoting sustainable forest management and the conservation of biodiversity.

<sup>11</sup> Hereinafter being referred to as ‘Forest Rights Act’.

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26. Learned *Amicus Curiae* drew the Court's attention to the following observations of this Court in the case of ***Orissa Mining Corporation Limited v. Ministry of Environment & Forest & Others***:<sup>12</sup>

“55. The definition clauses read with the abovementioned provisions give emphasis to customary rights, rights to collect, use and dispose of minor forest produce, community rights like grazing cattle, community tenure of habitat and habitation for primitive tribal groups, traditional rights customarily enjoyed, etc. Legislative intention is, therefore, clear **that the Act intends to protect custom, usage, forms, practices and ceremonies which are appropriate to the traditional practices of forest dwellers.**”

27. He further submitted that Section 36-C of the *Wildlife Protection Act, 1972*, recognizes ‘community reserves.’ This provision highlights the connection between protecting biodiversity and preserving cultural values and practices. It allows the State Government to declare private or community lands as community reserves, provided the community or individuals voluntarily agree to protect wildlife and its habitat. Once declared, these lands are protected, and no changes can be made in the land use unless approved by the community's management committee and the State Government. This ensures both ecological and cultural conservation. Therefore, wherever possible, these lands may be recognised and managed as ‘community reserves’ under the *Wildlife Protection Act, 1972*.
28. It was further submitted that Section 36(5) of the *Biological Diversity Act, 2002* imposes an obligation on the Central Government to “endeavour to respect and protect the knowledge of local people relating to biological diversity” and Section 36B(1) imposes an obligation on the State Government to develop strategies for the conservation of biological diversity:

**“36-B. State Government to develop strategies and plans for conservation and sustainable use of biological diversity.—(1) The State Government shall develop strategies, plans, programmes for the conservation**



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and promotion and sustainable use of biological diversity, including measures for identification and *monitoring* of areas rich in biological resources, promotion of *in situ*, and *ex situ*, conservation of biological resources, including cultivars, folk varieties and landraces, incentives for research, training and public education to increase awareness with respect to biodiversity, in conformity with the national strategies, plans and programmes.

(2) The State Government shall, as far as practicable, wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into *relevant* sectoral policies or cross-sectoral plans and programmes.]”

#### (ii) CONSERVATION GOALS

29. Learned *Amicus Curiae* placed reliance upon ***T.N. Godavarman(87) v. Union of India***,<sup>13</sup> and submitted that this Court in Para 72 recognised that the *National Forest Policy*, 1988, has a statutory flavour. It provides for the identification of protected areas, recognition of customary rights over the forest areas, forest conservation with the involvement of the local community, and the need for regular surveys of forest resources. Similarly, the ‘*National Action Plan*’ was also recognised as having statutory flavour in ***Centre for Environment Law, World Wide Fund v. Union of India***,<sup>14</sup> The *National Wildlife Action Plan*, 2017<sup>15</sup> recognises the need to enhance the protected area network(broadly including national parks, wildlife sanctuaries, community reserves, etc), demarcate boundaries for protected areas, and involve local communities in the protection and sustainable management of protected areas. The NWAP highlights the need for wildlife conservation beyond protected areas, focusing on larger landscapes shaped by diverse land uses and human activities. It also emphasises *in situ* conservation of threatened species through immediate protection of critical habitats.

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13 (2006) 1 SCC 1

14 (2013) 8 SCC 234

15 Hereinafter being referred to as ‘NWAP’

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30. Learned *Amicus Curiae* submitted that India has been a signatory to the *Convention on Biological Diversity*, 1992, since 18.02.1994. Article 8, which pertains to *in situ* conservation, imposes an obligation on contracting parties to preserve and maintain the practices of indigenous communities and Article 10(c) provides that contracting parties shall, as far as possible, and as appropriate, protect and encourage customary use of biological resources in accordance with traditional cultural practices.
31. It was further submitted that the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, which India endorsed at the General Assembly on 13.09.2007, recognizes several key rights of indigenous people. Article 5 of this declaration affirms their right to “maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.” Article 12 ensures their “right to maintain, protect, and have access in privacy to their religious and cultural sites.” Article 18 provides that “Indigenous people have the right to participate in decision making in matter which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.” Further, Article 25 recognizes their “right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.”
32. It was further submitted that the *Rio Declaration on Environment and Development*, 2006, acknowledges that the indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.
33. Learned *Amicus Curiae*, concluded his submissions with the following suggestions:
  - (i) Sacred groves should be managed through decentralized, bottom-up governance involving active participation from local

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communities and the primary decision-makers in managing sacred groves should be the local community members who nurture and protect them.

- (ii) The Ministry of Environment, Forest and Climate Change (MoEFCC) should be directed to frame a comprehensive policy for the governance of sacred groves.
- (iii) Identified sacred groves should be classified as 'forest' based on their ecological and cultural significance, regardless of their size.
- (iv) Wherever appropriate, sacred groves should be recognized and managed as 'community reserves' under the *Wildlife Protection Act, 1972*.
- (v) The State of Rajasthan should complete the survey and notification process for sacred groves across all districts within eight months.

#### **V. SUBMISSIONS ON BEHALF OF THE STATE OF RAJASTHAN**

- 34. Shri Shiv Mangal Sharma, learned AAG for the State of Rajasthan, submitted that pursuant to the order dated 03.07.2018, an expert committee was constituted by an order dated 06.11.2018. Subsequently, a preliminary identification process was undertaken, and district-wise draft notifications were issued to designate Orans, Dev-vans, and other lands as 'deemed forests.' Public objections to these draft notifications were invited, with the deadline for submissions set as 03.03.2024. This process follows the completion of the preliminary identification and inventory exercise in accordance with Clause 5.10.2 of the *Rajasthan State Forest Policy, 2010*.
- 35. It was further submitted that while the specific language from the *Rajasthan State Forest Policy, 2010* was not replicated in the *Rajasthan Forest Policy, 2023*, the new policy incorporates provisions for Dev-vans/Orans under Clause 6.5.11, emphasizing their identification and management in consultation with local communities.
- 36. An expert committee finalized its recommendations on 07.03.2024 after reviewing public objections regarding deemed forests. A draft notification has been prepared and sent to the State Government, with instructions for District Collectors to address objections as per the Court's directions. However, public hearings on the objections were delayed due to the model Code of Conduct. The recommendations of the expert committee are under consideration by the competent authority.

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37. It was further submitted that, if this Court deems it necessary to include the previous policy's language, the State is prepared to seek appropriate directions, review the *Rajasthan Forest Policy, 2023*, and place a revised version before the Court.

**VI. DISCUSSION**

38. This Court while speaking through Hon'ble Mr. Justice G.S. Singhvi, in ***Nature Lovers Movement v. State of Kerala and Others***,<sup>16</sup> eloquently reflected upon Indian society's deep-rooted commitment to environmental protection. The judgment underscored how ancient traditions and teachings in India have consistently emphasized the harmonious co-existence of human life with nature. The relevant para is extracted herein below:

“2. The Indian society has, for many centuries, been aware and conscious of the necessity of protecting environment and ecology. Sages and saints of India lived in forests. Their preachings contained in vedas, upanishads, smritis, etc. are ample evidence of the society's respect for plants, trees, earth, sky, air, water and every form of life. The main motto of social life is to live in harmony with nature. It was regarded as a sacred duty of everyone to protect them. In those days, people worshipped trees, rivers and sea which were treated as belonging to all living creatures. The children were educated by elders of the society about the necessity of keeping the environment clean and protecting earth, rivers, sea, forests, trees, flora, fauna and every species of life.”

39. Furthermore, the *Forest (Conservation) Amendment Act, 2023*, has also emphasized the importance of preserving the cultural and traditional values of forests, explicitly incorporating these principles into its preamble, which states:

“ ....

*AND WHEREAS, it is necessary to provide for provisions relating to conservation management and restoration of forests, maintaining ecological security, **sustaining***

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*cultural and traditional values of forests and facilitating economic needs and carbon neutrality”*

(emphasis supplied)

40. The FC Act was enacted to provide for the conservation of forests. In the landmark judgment of *T.N. Godavarman Thirumulpad*,<sup>17</sup> this Court emphasized that the FC Act was enacted to curb deforestation and address the resulting ecological imbalance. It was held that the FC Act provisions for forest conservation and related matters apply universally to all forests, regardless of their ownership or classification. The relevant portion is as follows:

**“4. The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word “forest” must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term “forest land”, occurring in Section 2, will not only include “forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.** This aspect has been made abundantly clear in the decisions of this Court in *Ambica Quarry Works v. State of Gujarat* [(1987) 1 SCC 213] , *Rural Litigation and Entitlement Kendra v. State of U.P.* [1989 Supp (1) SCC 504] and recently in

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17 Supra

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the order dated 29-11-1996 (*Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority* [ WP (C) No 749 of 1995 decided on 29-11-1996] ). The earlier decision of this Court in *State of Bihar v. Banshi Ram Modi* [(1985) 3 SCC 643] has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay.”

(emphasis supplied)

41. This celebrated judgment firmly establishes that the FC Act must be applied comprehensively to all forests and forest lands, ensuring the protection of these vital ecological and cultural resources across the nation.

**(i) STATUTORY FRAMEWORK**

42. Section 2 of the FC Act strengthens the protection of forests by strictly regulating activities that could lead to their degradation or misuse of the forests. It prohibits any State Government or any authority from de-reserving forest areas, using forest land for non-forest purposes, or leasing it to private entities without prior approval from the Central Government. The relevant section as amended by the Forest Conservation Amendment Act, 2023 reads as follows:

**“Section 2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.**

**(1)** Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing—

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(i) that any reserved forest (within the meaning of the expression “reserved forest” in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose;

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation, subject to such terms and conditions, as the Central Government may, by order, specify;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

Explanation. —For the purpose of this sub-section, “non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for—

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reafforestation, but does not include any work relating to or ancillary to conservation, development, and management of forests and wildlife, such as—

(i) silvicultural operations including regeneration operations;

(ii) establishment of check-posts and infrastructure for the front-line forest staff;

(iii) establishment and maintenance of fire lines;

(iv) wireless communications;

(v) construction of fencing, boundary marks or pillars, bridges and culverts, check dams, waterholes, trenches, and pipelines;

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establishment of zoos and safaris referred to in the Wild Life (Protection) Act, 1972, owned by the Government or any authority, in forest areas other than protected areas;

(vi) eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and

(vii) any other like purposes, which the Central Government may, by order, specify.

(2) The Central Government may, by order, specify the terms and conditions subject to which any survey, such as reconnaissance, prospecting, investigation, or exploration including seismic survey, shall not be treated as a non-forest purpose.”

43. The statutory framework also supports the recognition of sacred forests. The *Forest Rights Act* explicitly acknowledges community rights over customary forest resources and mandates their conservation. Section 3 of this Act recognises the following rights of forest dwellers:

**“3. Forest rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers.** —(1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership access to collect, use, and dispose of minor forest produce which has been



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traditionally collected within or outside village boundaries;

(s) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights, including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified, or not, into revenue villages;

**(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;**

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

**(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;**

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which

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are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.”

(emphasis supplied)

Further, Section 5 provides:

**“5. Duties of holders of forest rights.**—The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) **protect the wild life, forest and biodiversity;**

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas adequately protected;

(c) **ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;**

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.”

(emphasis supplied)

44. Similarly, the *Wildlife Protection Act, 1972*, under Section 36-C, recognizes the importance of community reserves, underscoring the need to preserve cultural and ecological landscapes. The provision states as follows:

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**“36-C. Declaration and management of community reserve. — (1) The State Government may, where the community or an individual has volunteered to conserve wild life and its habitat, *declare any private or community land not comprised within a National Park, sanctuary or a conservation reserve, as a community reserve, for protecting fauna, flora and traditional or cultural conservation values and practices.***

*(2) The provisions of sub-section (2) of Section 18, sub-sections (2), (3) and (4) of Section 27, Sections 30, 32 and clauses (b) and (c) of Section 33 shall, as far as may be, apply in relation to a community reserve as they apply in relation to a sanctuary.*

**(3) *After the issue of notification under sub-section (1), no change in the land use pattern shall be made within the community reserve, except in accordance with a resolution passed by the management committee and approval of the same by the State Government.***

(emphasis supplied)

45. The *Biological Diversity Act, 2002*, and the *National Forest Policy, 1988*, also advocate for integrating biodiversity conservation into community-based management frameworks. The relevant Clause of the *National Forest Policy, 1988* is extracted below:

**“Clause 4.3.4.2:**

**The holders of customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive benefits. The rights and concessions from forests should primarily be for the bona fide use of the communities living within and around forest areas, especially the tribals.** It is imperative for the MOEF&CC to take these considerations into account while formulating policies and executing programs aimed at forest protection and development, ensuring that the interests of communities reliant on forests, particularly tribals, are safeguarded.”

(emphasis supplied)

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46. Moreover, international obligations such as the *Convention on Biological Diversity*, 1992 and the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) compel India to respect and protect traditional ecological knowledge and cultural practices. The relevant clauses are as follows:

**“THE CONVENTION ON BIOLOGICAL DIVERSITY, 1992**

**8.** Each contracting Party shall, as far as possible and as appropriate:

(j) Subject to its national legislation, respect, **preserve and maintain knowledge, innovations and practices of Indigenous and local communities** embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices.”

**10. (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices** that are compatible with conservation or sustainable use requirements.

.....

**The United Nations Declaration on the Rights of Indigenous Peoples(UNDRIP)**

**Article 5:**

Indigenous peoples have the **right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions**, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

**Article 12:**

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; **the right to maintain, protect, and have access in privacy to their religious and**

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**cultural sites; the right to the use and control of their ceremonial objects**; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

### **ARTICLE 18:**

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

### **Article 25:**

**Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.”**

(emphasis supplied)

### **(ii) ECOLOGICAL AND CULTURAL SIGNIFICANCE**

47. The protection of Orans lands as ‘forests’ under the FC Act is imperative for upholding both ecological sustainability and cultural heritage. Orans are not merely tracts of land but sacred groves deeply interwoven with the spiritual and cultural ethos of local communities. They represent a grassroot model of conservation, where biodiversity thrives under community-led management and traditional practices of restraint. These sacred groves are pivotal for *in situ* biodiversity preservation, safeguarding endangered species. Additionally, they mitigate soil erosion, recharge aquifers, and serve as genetic repositories critical for ecological balance.
48. Inspired by community-driven conservation efforts, the *Piplantri* model, created in a small village in Rajasthan’s Rajsamand district, shows

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how environmental protection, gender equality, and economic growth can work together to change communities. It started after the tragic death of a girl child of Shri Shyam Sundar Paliwal, the *Sarpanch* of the village. The village had suffered from environmental damage due to excessive marble mining, which led to water shortages, deforestation, and economic decline. To counter this, the community led by its visionary *Sarpanch* Shri Shyam Sundar Paliwal introduced a practice of planting 111 trees for every girl born. This initiative transformed the damaged environment not only of the village but also of the nearby areas. This phenomenal effort also gave positive impetus to the efforts for reducing societal biases against women.

49. The *Piplantri* model has had many positive effects. Environmentally, over 40 lakh trees have been planted, which has helped raise the water table by 800-900 feet and cooled the climate by 3-4°C. These efforts have improved local biodiversity and protected the land from soil erosion and desertification. Economically, the planting of indigenous species of trees like gooseberry, aloe vera, and bamboo has created sustainable jobs. Aloe vera processing, furniture making, and other businesses have increased local incomes, providing work, especially for women, through self-help groups. Socially, the model has helped eliminate harmful practices like female foeticide. The village now has a rare distinction of a higher female population ratio i.e. 52% and ensures that all girls receive education. Financial support through the “Kiran Nidhi Yojna”<sup>18</sup> has empowered girls and their families, creating a community that celebrates and rejoices on the birth of a girl child rather than resenting it.

**(iii) RAJASTHAN’S POLICY FRAMEWORK AND CEC RECOMMENDATIONS**

50. The *Rajasthan State Forest Policy*, 2010, had recognized the critical importance of Orans, providing for their legal and financial support, demarcation, and community-led management. However, the *Rajasthan Forest Policy*, 2023, has diluted these protections by relegating *Orans* to the status of general community lands, thereby

<sup>18</sup> Started by Shya Sundar Paliwal under “**Kiran Nidhi Yojna**,” a bank account is opened in the name of the girl child, with an initial deposit of Rs. 2,100. The entire village collectively contributes Rs. 21,000 for the girl, and the family adds Rs. 10,000. This total sum of Rs. 31,000 is then placed in a fixed deposit, which can be accessed when the girl turns 20. The parents are required to sign an affidavit committing to not practice female foeticide, ensuring they will not marry their daughter before the legal age, and pledging to provide her with education. This initiative empowers the girls and supports their independence.

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eroding the focused conservation mechanisms previously afforded to them.

51. Given their ecological, cultural, and spiritual significance, Oran lands must be granted the legal status of “forests” under the FC Act. This designation would not only ensure their protection against encroachment and degradation but also reinforce community participation in sustainable forest management. Recognizing Orans as forests aligns with both domestic legal mandates and international commitments, fostering a harmonious balance between cultural heritage and biodiversity conservation for present and future generations.
52. This Court in I.A. No. 1254 of Writ Petition No. 202 of 1995 has noted that recommendations of the CEC have to be complied with by the State of Rajasthan. The three recommendations as given by the CEC can be summarised as follows:
  - (i) The Kapoor Committee classified only sacred groves, such as Orans and Dev-vans, meeting the deemed forest criteria (200+ trees/ha and 5+ ha compact blocks) as forests, excluding smaller areas despite their recognition in government records. Traditionally, the Orans are treated as forest lands in Rajasthan, but the exclusion of such areas in government records on the ground that they do not fulfil the criteria of the deemed forests, contradicts this Court’s orders. The CEC has recommended including these sacred groves as forest land unless their exclusion, due to management challenges, by following the procedure outlined in the *Forest (Conservation) Act*, 1980.
  - (ii) The Kapoor Committee’s inclusion of areas recorded as ‘Rundh’ as ‘forest’ is *apropos* and may be accepted. However, many of these areas were converted for agriculture or other non-forestry uses before the FC Act came into effect on 25.10.1980 and have been in use for such purposes since decades. It is recommended that these pre-25.10.1980 converted areas be identified, surveyed, and demarcated in a time-bound manner and removed from the purview of the FC Act, following due legal process. To facilitate this, the Ministry of Environment and Forests may consider waiving requirements for compensatory afforestation and payment of Net Present Value(NPV) for these cases.

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- (iii) In Rajasthan, large arid areas with sparse vegetation, grasslands, and unique desert ecosystems, including rocky outcrops and stony deserts, should be considered as ‘forest land.’ To address this, it is proposed that an Expert Committee be formed, comprising of representatives from the Forest Department, Arid Zone Forestry Research Institute (AFRI), Central Arid Zone Research Institute (CAZRI), and other expert bodies. This Committee would identify areas representing diverse desert ecosystems and recommend their inclusion as ‘deemed forests,’ regardless of the vegetation density. The Committee may adopt rational criteria for this purpose and submit its report within six months.

**VII. DIRECTIONS**

53. Pursuant to the orders of this Court, the State of Rajasthan has initiated the process of identifying and notifying sacred groves as forests through district-wise notifications. While this development is commendable, it is important to highlight the significant delay in commencing this critical process. Sacred groves of Rajasthan, which hold immense ecological value and are deeply revered in local cultures, urgently require formal recognition and protection to safeguard their preservation. The applicant in the present case has given a list identifying 100 sacred groves in the State of Rajasthan. The list provided by the applicant is extracted below:

S. No.	Name	S. No.	Name
1.	Bherudham ki Bani	51.	Yogiraj Jharneshwar ka Oran
2.	Mataji ki Bani	52.	Sire Mandir
3.	Khoda Mata ki Bani	53.	Veer Momaji ka Oran
4.	Devnarayan ki Devbani	54.	Jharneshwar Mahadev
5.	Devnarayan Bhagvan ki Devbani	55.	Sundha Mata ka Oran
6.	Piplaj Mata	56.	Dosi Hills
7.	Ramdev Baba ka Oran	57.	Bheruji ki Devbani
8.	Kalka Mata ka Oran	58.	Panchmukhi Balaji ki Bani



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9.	Devnarayan Bhagvan ji Bani	59.	Sitla Mata ki Bani
10.	Devnarayan Bani	60.	Kunjla Mata ki Bani
11.	Baniwala/Ghalawala Baba ki Bani	61.	Dadhi Mata ki Bani
12.	Bherunath ji Bani	62.	Udadas Maharaj ki Bani
13.	Adawal ki Bani	63.	Shree Jog Mata ki Devbani
14.	Devima ki Bani	64.	Dinshaha Babi ki Bani
15.	Dhuninath ki Devbani	65.	Ramdevji ki Bani
16.	Garbaji ki Devbani	66.	Vakal Chamunda Mata
17.	Behrubaba ji Bani	67.	Bheruji ki Bani
18.	Shitaldas Maharaj ki Devbani	68.	Alakdham ka Oran
19.	Shivji ki Devbani	69.	Jog Mata ka Oran
20.	Narayan Mata ki Devbani	70.	Gaja Mata ka Oran.
21.	Malaji ki Bani	71.	Ramdev ka Oran
22.	Dubalrani Mataji ki Bani	72.	Devak Mata ka Oran.
23.	Bherunath ki Bani	73.	Shiv Shankar ki Bani
24.	Chouth Mata ki Devbani	74.	Sankat Mochan Hanumanji ka Oran
25.	Jagdamba/Kunjbihari ki Devbani	75.	Nilkanth Mahadev ki Bani
26.	Mataji ki Bani	76.	Aawari Mata ki Bani
27.	Mataji ki Bani	77.	Udheshwar Mahadev ki Bani
28.	Devnarayan ki Devbani	78.	Devnaryan ki Devbani
29.	Madhuban Aashram/ Tapowan	79.	Ramdevbaba ki Bani
30.	Bheruji ki Bani	80.	Jagdishji ki Bani
31.	Shree Daneshwar Mahadev	81.	Kotdadham Hanumanji

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32.	Pahadband Bani	82.	Balaji ki Devbani
33.	Chawand Mata ki Bani	83.	Behruji ki Devbani
34.	Savariyaji ki Devbani	84.	Jirna Mata ki Bani
35.	Mora Mata ki Devbani	85.	Shree Aashapura Mataji
36.	Jhajhirampura ki Devbani	86.	Siddheswar Mahadev ki Bani
37.	Jwala Mata ki Devbani	87.	Shree Mahadevji Ishwarji ka Mandir
38.	Chalandham Hanumanji	88.	Hanumanji ka Oran
39.	Bheravji ki Bani	89.	Momaji ki Bani
40.	Kanikangni ki Bani	90.	Ubeshwar Mahadev Mandir
41.	Sidhh Baba ki Bani	91.	Dhaneshwar Hanumanji ki Bani
42.	Bhomiyaji ki Bani	92.	Sukdevi ki Devbani
43.	Jaivanti Mata ki Bani	93.	Ghatawali Mata ki Bani
44.	Bhomiyaji ki Bani	94.	Aashapura ki Bani
45.	Mansa Mata ki Bani	95.	Dhuni Mata ki Bani
46.	Trivenidham	96.	Tariba Hanumanji ki Bani
47.	Banganga	97.	Maleshwari Mata ki Bani
48.	Behruji ki Devbani	98.	Jhameshwar Mahadev ki Bani
49.	Shree Jogmaya ka Oran	99.	Shringrishi Mahadev ki Bani
50.	Shree Dharaveer Momaji ka Oran	100.	Potalia Bheruji ki Bani

54. The above extracted list may be taken into consideration by the appropriate authority, during the process of identification. However, it is made clear that this list is not all-inclusive/exhaustive. The Forest Department of the State of Rajasthan is directed to carry out detailed on-ground mapping and satellite mapping of each sacred grove, such as Orans, Dev-vans, Rundhs, or by any other name by which they are known in the respective area. In view of

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the facts noted above, this Court directs the State of Rajasthan to complete the survey and notification of sacred groves/Orans in all districts. The Forest Department must carry out detailed on-ground mapping of the identified groves and classify them as ‘forests,’ as recommended in the Central Empowered Committee’s report dated 01.06.2005. Additionally, all three recommendations outlined in the report must be implemented in their entirety and in true spirit. This classification should not depend on the size or extent of the groves but instead, focus solely on their purpose and their cultural and ecological significance to the local community.

55. Further, given the ecological and cultural importance of sacred groves, it is recommended that they be granted protection under the *Wildlife Protection Act*, 1972, specifically through Section 36-C, which allows for the declaration of ‘community reserves.’ This would legally protect these areas, recognizing their role in biodiversity conservation and cultural practices. Sacred groves/Orans should be identified and, where appropriate, declared as community reserves to ensure their preservation and prevent unauthorized land use changes. State Government, in collaboration with local communities, should initiate this process to safeguard both their ecological and cultural value.
56. In order to ensure compliance of the aforementioned directions, the Ministry of Environment, Forest and Climate Change of India (MoEFCC) in collaboration with the Forest Department, Government of Rajasthan shall constitute a 5-member Committee preferably headed by a retired Judge of the Rajasthan High Court.
57. The Committee shall include one Domain Expert, preferably a retired Chief Conservator of Forests, a Senior Officer from the MoEFCC, Government of India and one Senior Officer each from the Forest Department and Revenue Department, Government of Rajasthan. The terms and conditions of the Committee shall be jointly finalized by the Union of India and the State of Rajasthan.

### **VIII. SUGGESTIONS**

58. This Court deems it necessary to propose certain suggestions to promote the sustainable conservation of sacred groves and empower the communities associated with their protection.

**In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.**

- (i) Section 3(1)(j) of the Forest Rights Act, recognizes the rights of tribal communities under State laws, Autonomous District or Regional Council laws, and their traditional or customary laws. This provision ensures respect for the diverse legal and cultural practices of tribal communities across India. The Rajasthan Government should identify traditional communities that have historically protected sacred groves and designate these areas as 'Community Forest resource' under Section 2(a) of the Forest Rights Act. These communities have shown a strong cultural and ecological commitment to conservation, and their role as custodians should be formally recognized. As per Section 5 of the Forest Rights Act, they should also be empowered, along with Gram Sabhas and local institutions, to continue protecting wildlife, biodiversity, and natural resources. Granting them the authority to regulate access and prevent harmful activities would preserve their legacy of stewardship and promote sustainable conservation for future generations.
- (ii) Models like *Piplantri* village demonstrate how community-driven initiatives can effectively address social, economic, and environmental challenges in a cohesive manner. Active measures are required at the Governmental level to ensure that such ideas are implemented/replicated in other parts of the country to promote sustainable development and gender equality. The Central and State Governments should support these models by providing financial assistance, creating enabling policies, and offering technical guidance to communities.
- (iii) As highlighted by the learned *Amicus Curiae*, sacred groves in different States are managed in various ways. Some are overseen by village panchayats or local bodies created for this purpose, while others rely solely on community traditions without any formal governance. The Ministry of Environment, Forest and Climate Change (MoEFCC) is recommended to create a comprehensive policy for the governance and management of sacred groves across the country. As part of this policy, the MoEFCC must also develop a plan for a nationwide survey of sacred groves, by whatever name they are identified in each State. This survey should identify their area, location, and extent, and clearly mark their boundaries. These boundaries

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should remain flexible to accommodate the natural growth and expansion of these forests while ensuring strict protection against any reduction in size due to agricultural activities, human habitation, deforestation, or other causes.

- (iv) It must be noted that the *National Forest Policy*, 1988, carries a statutory flavour as noted in Para 72 of the ***T.N. Godavarman Thirumulpad(87) v. Union of India***,<sup>19</sup> Clause 4.3.4.2 of the *National Forest Policy*, 1988, highlights the importance of encouraging people with customary rights in forests to help protect and improve forest ecosystems, as they depend on these forests for their needs. Therefore, it is suggested that MoEFCC should strive to create policies and programs that protect the rights of these communities and involve them in forest conservation.

### **IX. CONCLUSION**

59. Based on the above discussion, the authorities concerned are directed to ensure implementation of the directions given in para-Nos. 53 to 57 of this judgment in letter and spirit. The suggestions mentioned at para-No. 58 shall also be considered during implementation.
60. The Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India, Forest Department, Government of Rajasthan are directed to file a compliance report regarding constitution of the Committee as mentioned in para-Nos. 56 and 57 of this judgment.
61. List the matter on 10.01.2025 for receiving the compliance report to this limited extent.
62. Accordingly, I.A. No. 41723 of 2022 is disposed of.

*Result of the Case:* Directions issued.

<sup>†</sup>Headnotes prepared by: Divya Pandey