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# Forest dwellers Act faces vet more legal opposition



Caught in a tussle: A file photo of tribals transporting goods in Nallamalla forest, 200km from Hyderabad.

**The latest petition, the fifth such so far, also**

**implementation of the 2006 Act**

PADMAPARNA GHOSH

A landmark Indian legislation that recognizes and gives forest rights, including rights to occupy forest land, to scheduled tribes and native forest dwellers has run into more legal opposition.

The latest petition, the fifth such case so far, was filed in the Bombay high court by the Sevanivrutta Vana Karamchari Sangh, or retired forest officials organization.

It seeks to stop the implementation of the Scheduled Tribes and Other Traditional

Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The petition is scheduled for its first hearing on 17 April.

The Act has already been caught in a tussle between conservationists, who believe that it will destroy India's forests and affect wildlife protection adversely, and pro-tribal rights activists who say it will finally settle long-delayed tribal rights in India.

"This is unfortunate because these people should sit across the table and talk about the implementation of the Act for the betterment of conservation and people who are dependent on forests. They are not enemies of each other," laments Sanjay Upadhyay, a Supreme Court advocate and member of the technical sub-group that formulated the draft rules of the Act.

Other petitions opposing the Act have been filed in the Hyderabad high court, Madras

high court—both its Chennai and Madurai benches—and one in the Supreme Court.

The petitions also have political overtones in the sense that the Act is one of the achievements touted by the ruling Congress-led Union government, which is heading into elections in key states as well as national elections within 12-15 months.

"Yes, this court case can prove to be a setback. But, let's wait and hope for the best," says Jivabhai Ambalal Patel, a Congress party Lok Sabha member from Mehsana in Gujarat where the party will face a tough fight with the Bharatiya Janata Party (BJP).

Both Kishanbhai Vestabhai Patel and Tushar Amarsingh Chaudhary, also Lok Sabha members of the Congress party from constituencies reserved for the scheduled tribes in Gujarat, said they, too, were hoping that the Supreme Court,

which is hearing one of the petitions, will rule in favour of the Act.

The Supreme Court case is up for hearing on 28 March.

Rupchand Murmu, a Lok Sabha member of the Communist Party of India (Marxist), or CPI (M), from Jhargram in West Bengal, and a member of the parliamentary standing committee on the welfare of scheduled castes and scheduled tribes, said he remains optimistic.

Simply because the matter has been taken to the court doesn't mean that we should be despondent," he said. The CPI (M) had pushed for the implementation of the Act.

The Act has had its share of delays. While the rights Bill became an Act in 2006, the notification, which gives it the necessary legal status, didn't happen for another year.

While no political party is likely to openly oppose the Act, there is already an attempt by various parties to take credit for it and blame unnamed opposition for stalling the Act.

"The BJP government in Gujarat first took steps to get the tribals their due," says Ratilal Kalidas Varma, chairperson of the same parliamentary committee and a BIP Lok Sabha member from Gujarat. "However, some people don't want that, or the BJP to benefit from it politically. I believe that is why they have taken the matter to the court."

The petitions against the Act are very similar to each other. "There is clearly one force which is trying to create hysteria around the Act by getting retired forest officials to file these petitions one after the other. But, we have to look into the merits of what they are arguing," says Upadhyay.

Three of the petitions in the states have been filed by retired forest officials and the Supreme Court petition by the Bombay Natural History Society, Wildlife Trust of India and Wildlife Society of Orissa.

Ashish Sharma contributed to this story.