

EDITORIAL HIGHLIGHTS

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What is Karnataka's objection to the ESA?

What did the Karnataka Legislature decide on September 22? Why has the State repeatedly rejected the ESA draft? What did the Kasturirangan Committee recommend? How much of the Western Ghats was proposed as ESA? What has Karnataka proposed as the way forward?

Sharath S. Srivatsa

The story so far:

In September 22, the Karnataka Legislature unanimously passed a resolution rejecting the K. Kasturirangan Committee report on the Western Ghats in its current form. The resolution was in response to the seventh draft, published on July 27 by the Ministry of Environment, Ecology and Climate Change to declare parts of the Western Ghats as an Ecologically Sensitive Area (ESA). The draft gave the State government a 60-day window to file its objections.

This was the seventh instance of the Karnataka government rejecting the draft, which was first published in 2014. Successive governments have acknowledged the Western Ghats as an ecologically sensitive region, but have highlighted the ESA's impact on lives and livelihoods. There have been widespread protests over fears of loss of livelihood, as well as public consultations in the Malnad region. Of the six Western Ghats States, Karnataka has the largest area to be notified as an ESA, spread across 10 districts.

What is the report?

Eminent space scientist K. Kasturirangan chaired the High Level Working Group (HLWG), which was tasked with reviewing the earlier Western Ghats Ecology Expert Panel (WGEEP), headed by Prof. Madhav Gadgil, and recommending measures to protect the fragile Western Ghats, recognised by UNESCO as one of the world's ecological hotspots. The WGEEP submitted its report in 2011. Set up in 2012, the HLWG submitted its recommendations in 2013. Of the 1.64 lakh square kilometres of the

Both Houses of Karnataka Legislature passed a unanimous resolution seeking one year to conduct a physical survey of the area

Western Ghats, it recommended declaring 59,940 sq. km, covering 4,156 villages across Kerala, Karnataka, Tamil Nadu, Goa, Maharashtra and Gujarat, as ESA.

Karnataka has the largest area recommended under the ESA and the highest number of villages among the six States. About 41% of the total Western Ghats area has been identified as natural landscape, of which 37%, or about 59,940 sq. km, is biologically rich, has low fragmentation and low population density, and contains protected areas, World Heritage Sites, and tiger and elephant corridors. The report identified 20,668 sq. km across 1,576 villages in Karnataka, 17,340 sq. km across 2,159 villages in Maharashtra, 13,108 sq. km across 123 villages in Kerala, 6,914 sq. km across 135 villages in Tamil Nadu, 449 sq. km in 64 villages in Gujarat and 1,461 sq. km in 99 villages in Goa.

Currently, the area sought to be notified is 56,825 sq. km, mainly after Kerala undertook a ground survey and brought down its area to 9,993 sq. km. Subsequently, the number of villages in Maharashtra and Goa has increased, while the number has come down in Karnataka. As per the latest draft, a total of 4,402 villages will be part of the ESA. The actual area is sought to be finalised based on the recommendations of the State governments, the views of stakeholders, and the ESA Expert Committee.

What are the key recommendations?

The report recommends a total ban on certain activities and regulation of others. Banned activities include mining, quarrying, sand extraction, setting up red-category industries, thermal power plants, and construction of buildings beyond 20,000 square metres. It has prohibited township and area development projects. It has subjected infrastructure and development projects to environmental clearances and allowed hydroelectricity projects with certain conditions. All development projects located within 10 km of the Western Ghats ESA and requiring environmental clearance would be regulated under the provisions of the EIA Notification, 2006. It has also recommended financial arrangements and incentives for Green Growth in the Western Ghats, and suggested a decision-support and monitoring centre.

How does it differ from the Gadgil report?

There has been intense debate among experts, environmentalists and policymakers over the recommendations of the two reports. The two committees differed on the extent of the area to be declared ecologically sensitive and brought under protection. The Gadgil Committee

designated the entire Western Ghats as an ESA and estimated it to cover about 1.29 lakh sq. km, whereas the Kasturirangan Committee identified 1.64 lakh sq. km as the Western Ghats, of which about 60,000 sq. km were sought to be declared ESA. To initiate the conservation exercise, the Gadgil Committee recommended three categories of Ecologically Sensitive Zones – 1, 2 and 3 – with corresponding restrictions and bans on activities. The Kasturirangan Committee divided the Western Ghats into natural and cultural landscapes, with the latter being areas that have helped sustain lives but have lost their original character over centuries. The prohibition or restriction of activities is sought to be implemented in the ESA.

What is Karnataka's contention?

The State has argued that the ESA should cover only notified forest areas and other forest areas, and should not include plantation areas, agriculture and horticulture fields, or residential and public areas. It has pointed out that the areas were demarcated using satellite data and not through a joint survey. It has said there is no accurate bifurcation of revenue and forest land, and that there is no reference to provide alternatives for livelihood. It has argued that Bagair Hukum, forest rights, deemed forest, land grants, appeals, and legal cases should be considered. These issues, it has said, should be examined by an expert committee through a physical survey. It has also opposed the logic of including entire villages under the ESA because one-fifth of a village's area may be forest.

On the ground, genuine concerns have been expressed about possible restrictions on agriculture, housing and day-to-day activities by zealous forest officials. However, misinformation is also being spread in the name of the report. For example, though no restriction has been proposed on house building or renovation activities, ill-informed leaders at the local level are fuelling fears and anxiety that the measures would bring all such activities to a complete halt. There is also concern over a possible loss in the value of agricultural and plantation land due to restrictions, which could result in reduced investment in agriculture.

What has Karnataka done now?

Rejecting the report in its current form, both Houses of the Karnataka Legislature passed a unanimous resolution seeking one year to conduct a physical survey of the area and demanded that Karnataka's part should not be finalised till then. It has announced the setting up of a high-level committee headed by a retired judge and comprising all stakeholders to review the shortcomings of the Kasturirangan report and recommend modifications. Cutting across party lines, legislators urged the government to follow the 'Keralam model', under which such physical verification was conducted and submitted to the Centre.



Of the six Western Ghats States, Karnataka has the largest area to be notified as an ESA, spread across 10 districts. K. MURALI KUMAR

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What does the law say about CEC's removal?

How are the CEC and ECs appointed? Why did the Supreme Court intervene in appointments? What did the Anoop Baranwal judgment prescribe? Who was on the appointment panel prescribed by the Supreme Court? What protection does a CEC have against removal?

Rizmi Lia M.

The story so far:

The Chief Election Commissioner of India has come under scrutiny following a recent expose by *The Indian Express*. On September 23, Opposition parties sought the removal of Chief Election Commissioner (CEC) Gyanesh Kumar after the expose claimed that two of the three Election Commissioners, Sukhbir Singh Sandhu and Vivek Joshi, had formally recorded objections at least 14 times over the last 10 months.

How are the CEC and ECs appointed?

Article 324 of the Constitution vests the "superintendence, direction and control" of elections in the Election Commission of India (ECI). Article 324(2) provides that the President appoints the CEC and other Election Commissioners, subject to any law made by Parliament.

For several decades, Parliament had not enacted a law laying down the procedure for these appointments. This led to a challenge before the Supreme Court on the question of how the independence of the ECI could be protected when its members were appointed by the executive. In March 2023, a five-judge Constitution Bench of the Supreme Court

Article 324(5) states that the CEC can be removed from office 'in like manner and on the like grounds as a Judge of the Supreme Court'.

delivered its judgment in *Anoop Baranwal v. Union of India*.

What was the Anoop Baranwal case?

In January 2015, Anoop Baranwal filed a public interest litigation (PIL) on the ground that the system for appointing members of the ECI was unconstitutional. At the time, the executive enjoyed the power to make appointments. The PIL contended that the ECI's independence has degraded over time. It pleaded for the court to issue directions to set up an independent, collegium-like system for ECI appointments.

The Constitution Bench held that until Parliament made a law under Article 324(2), appointments to the Election Commission would be made on the recommendation of a three-member committee comprising the Prime Minister, the Leader of the Opposition in the Lok Sabha and the Chief Justice of India. The court said the arrangement would operate only until Parliament enacted a law on the subject.

What happened after the judgment?

Parliament enacted the *Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023*, which came into force in January 2024.

The appointment mechanism differed from the one prescribed by the Supreme Court in *Anoop Baranwal*. Under the 2023 Act, the Selection Committee consists of the Prime Minister, the Leader of the Opposition in the Lok Sabha, and a Union Cabinet Minister nominated by the Prime Minister.

The President appoints the CEC and ECs on the recommendation of this committee.

The Act also provides for a Search Committee headed by the Union Law Minister, which prepares a panel of five persons for consideration by the Selection Committee.

The 2023 law has been challenged before the Supreme Court. One of the questions before the court is whether replacing the CJI with a Union Cabinet Minister is constitutionally valid. On September 23, a Division Bench of Justices Dipankar Datta and S.C. Sharma delivered a 'split' verdict on the Union government's plea

seeking a larger bench reference of the challenges against the 2023 Act. While Justice Datta did not find a reference to a Constitution Bench necessary, Justice Sharma held in favour of sending the case to a Constitution Bench, stating that several questions of substantial importance were at stake.

How can a CEC be removed?

The Constitution gives the CEC a high degree of protection against removal. Article 324(5) states that the CEC can be removed from office "in like manner and on the like grounds as a Judge of the Supreme Court." This means that the CEC can be removed only on the grounds of proved misbehaviour or incapacity and through the parliamentary procedure prescribed for the removal of a Supreme Court judge.

A removal motion has to be passed by the required special majority in both Houses of Parliament. Only after Parliament passes the motion can the President issue an order removing the CEC. The procedure is set out in the *Judges (Inquiry) Act, 1968*.

The protection available to the other Election Commissioners is different. Under Article 324(5), an Election Commissioner or Regional Commissioner cannot be removed from office except on the recommendation of the CEC.

Can a CEC be arrested?

This question has come into focus because of calls for the arrest of the incumbent CEC.

The relevant provision is Section 16 of the 2023 Act. It provides protection to a person who is or was a CEC or Election Commissioner from civil or criminal proceedings in court for an act, thing or word done or spoken while, or in the course of, acting or purporting to act in the discharge of official duty or function.

The provision is significant because it extends protection even to a person who "is or was" a CEC or Election Commissioner.

However, Section 16 does not expressly state that a CEC cannot be arrested. It says that no court shall entertain or continue civil or criminal proceedings in relation to conduct covered by the provision. The section does not use the words "arrest", "investigation" or "police custody". It therefore cannot simply be described as a blanket immunity from arrest.

The protection is also linked to acts done while, or in the course of, acting or purporting to act in the discharge of official duty or function.



Rising dissent: Youth Congress workers protesting against CEC Gyanesh Kumar, demanding his resignation, in New Delhi on Friday. SUSHIL KUMAR VERMA

GS 3: DISASTER MANAGEMENT

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Memories of Maharashtra's 1972 drought



HISTORY HEADLINE
BY SHUBHANGI KHAPRE

WITH THE El Niño causing rainfall deficits and crop losses in rural Maharashtra, the state could be heading for a drought. Chief Minister Devendra Fadnis said last week, "We are bracing for a severe drought, which could be worse than 1972." NCP (SP) chief Sharad Pawar said the same: "This year's drought could be worse than 1972."

From 1960 to 2026, Maharashtra has gone through at least 15 droughts. Yet, 1972 remains unparalleled for many reasons. The state of Maharashtra, which came into existence on May 1, 1960, was beginning to settle down, focusing on agriculture to drive its rural economy, when devastation struck. Much of the state, especially Marathwada, Vidarbha and parts of Western Maharashtra, was dependent on rain-fed agriculture. However, the south-west monsoon's failure for three consecutive years, beginning 1970, would break the backbone of its rural economy and culminate in the worst famine the state has witnessed in 1972.

During that time, the calamity — devastated nearly 75 to 80 per cent of Maharashtra's population of 5.4 crore, with official records putting the number of affected between 1.8 crore and 2 crore. This havoc was unprecedented for a state actively evolving a cooperative-sector economic model.

In 1972, Maharashtra had 26 districts, and 21 had been drought-affected. Now, the state has 36 districts, and 21 have logged rainfall deficits. With the lack of rain turning vast swathes of agricultural land into barren fields in 1972, farmers became most vulnerable. The question before them was how to survive?

The water in wells, lakes, and rivers had dried. With no food grains to draw sustenance from, no water to drink, and no work to earn from, rural Maharashtra, for the first time in its history, saw mass migration to urban ghettos. In Mumbai (then Bombay), the population rose by 3.5 lakh in the drought year.

The Maharashtra government, then led by the Congress's longest-serving CM, Vasant Rao Naik, took some drastic and innovative decisions, redefining the socio-economic policies of the state and the nation. Of them, the Employment Guarantee Scheme (EGS) remains relevant to this day. The idea came from a visionary Gandhian leader, also the first state legislative council chairman — V S Patil. Based on the concept that work is a fundamental right, a government resolution for EGS was issued in March 1972.

Through the EGS, villagers rendered jobless by the drought were given an alternative to agricultural work they no longer had. Major public works, such as water and soil conservation, digging wells, building tanks and ponds, and constructing canals and roads, were undertaken across the rural belt with heavy government backing. During the worst of the drought, the state poured over Rs 200 crore into the scheme. While nearly 15 lakh enrolled during the initial rollout, estimates suggest that over the course of the crisis, the program absorbed a record one crore workers.

Another critical decision taken to avert starvation deaths was providing villagers with *sukdi*, a calorie-dense, nutrition-rich supplement made from wheat flour, jaggery, and oil or ghee. Amid the domestic shortage of food grains, *sukdi* utilised substandard red wheat imported from the US under aid programmes. During this crisis, the Public Distribution System (PDS), which provided essential grains through fair-price ration shops, emerged as a foundational component of the state's drought relief measures.

In 1978, the government adopted the EGS Act, which mandated providing unemployed people in rural Maharashtra with jobs on daily wages within 15 days. Tailored for drought mitigation as an emergency measure, the Act soon became a model for the country through the Mahatma Gandhi National Rural Employment Act, 2005. The calamity also hit the cattle and farm animals hard. But, despite the severity of the crisis, human starvation deaths were avoided, even as malnutrition persisted.

Decades later, history threatens to repeat itself. Moreover, as All India Kisan Sabha national president Ashok Dhawale says, "The 1972 drought was catastrophic. But what we are heading for is going to be far more dangerous." The prolonged dry spell, says noted water expert Pradeep Purandare, has made winter rabi season uncertain. "We failed miserably in addressing challenges in water conservation. We are still stuck in a 19th-century irrigation system, which is not compatible with the demands of the 21st century."

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