

# Concrete Vs Jungle

*The Supreme Court's recent overturning of its ruling on Ecologically Sensitive Zones around protected areas may have left some locals relieved but could open the doors to new threats from unbridled construction*

By Rohit Parihar



No one was happier than Om Saini, the sarpanch of Sherpur village near the Ranthambore National Park in Rajasthan, with the April 26 ruling of the Supreme Court of India. Just 10 months earlier, in June 2022, the apex court had imposed a blanket freeze on construction in Ecologically Sensitive Zones (ESZs), mandating that at least a one-kilometre stretch around the demarcated boundary of all protected areas be included in the relevant ESZ. In Sherpur, this meant its 8,000-odd residents could not even construct a

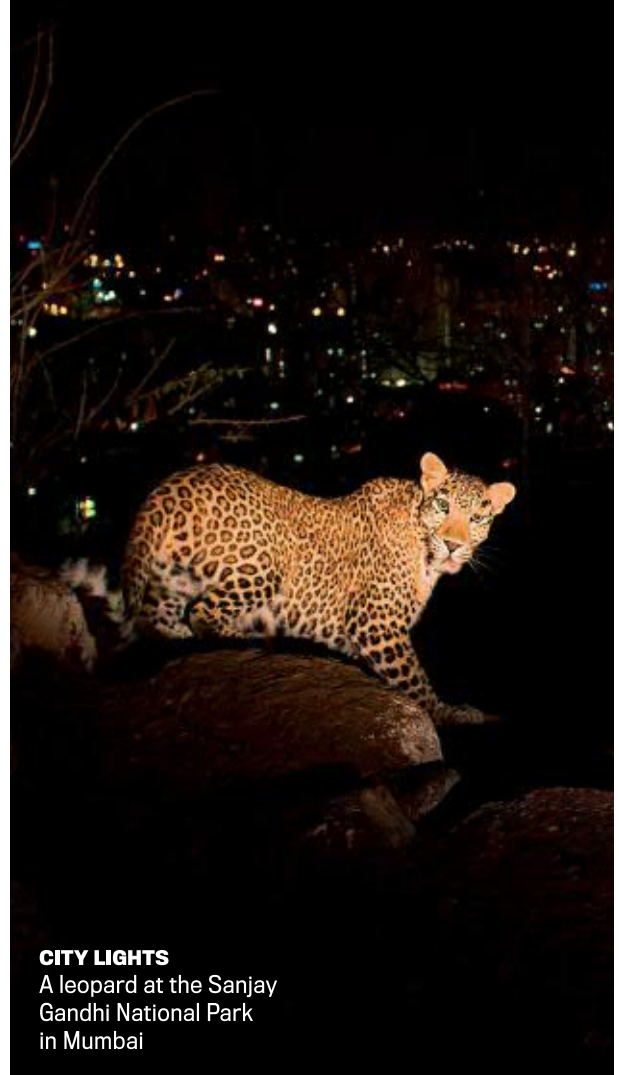
toilet, let alone a house, without seeking permission from the principal chief conservator of forests (PCCF), who heads the state's forest department.

The Supreme Court has now relaxed its previous order. But what may have come as a relief to the villagers of Sherpur could well turn into a destructive tsunami for the fragile ecology of the region. India has a network of 998 protected areas, per the National Wildlife Database, including 106 national parks, 567 wildlife sanctuaries, 105 conservation reserves and 220 community reserves. Together, they cover 5.3 per cent of the country's geographical area, as of January 2023. The Union ministry of environment, forest and climate change (MoEFCC)—on the basis of surveys conducted and proposals sent by respective state governments—has been notifying ESZs under the Environment (Protection) Act, 1986, to provide a buffer against construction and de-

velopment activities that may harm the biodiversity in these protected areas.

Though the Wildlife Conservation Strategy, 2002, provided for a 10-km-wide ESZ, the actual extent remained variable, depending upon site-specific ecological, geographical and other relevant factors. Around the Nagarjunasagar-Srisailem Tiger Reserve in Andhra Pradesh, for instance, the ESZ ranges between zero and 26 km, the lower limit owing to parts of the reserve being located along the Krishna river and the interstate boundary with Telangana. The blanket ban on construction hit 100-odd villages located within this ESZ. Similar was the plight of millions of people residing within other ESZs, which in the case of Assam's Nameri National Park and Sonai-Rupai Wildlife Sanctuary extends up to 48 km from the park's boundary.

The apex court's overturning of the ban came in response to pleas from



## CITY LIGHTS

A leopard at the Sanjay Gandhi National Park in Mumbai



ALAMY

the Centre and state governments. According to the new ruling, the June 2022 order ceased to apply to protected areas for which the MoEFCC had already issued the final or draft notifications—474 and 112, respectively—or the 73 for which the ministry had received proposals. Noting that the ESZs notified so far ranged from the zero line to as much as 48 km from the boundary, the bench, which was headed by Justice B.R. Gavai, also clarified that “in certain cases, it may not be possible to have a uniform minimum area [for ESZs] by virtue of interstate boundaries or a sea or a river beyond one side of the protected area”.

As far as development activities within ESZs are concerned, the authorities were asked to follow the ministry’s February 2011 guidelines, as was being done before June 2022. They include an exhaustive list of activities that are either ‘permitted’, ‘prohibited’,

or ‘regulated with safeguards’. The prohibited ones include commercial mining and setting up of polluting industries, while the construction of hotels, road-widening and felling of trees are among the regulated activities—a category that was always prone to some local interpretive discretion. However, the SC clarified that the 1-km ban will stay as far as mining is concerned, even if the ESZ is marked at the zero line.

**S**o why has this modified order raised concern among conservationists? With hotel construction once again becoming a regulated activity, it is being feared that state governments and local authorities could exploit the norms in cahoots with private players, as had been happening before. “The SC’s fresh order has rightly taken into consideration the needs of people who live next to the forests,” says M.K. Ranjitsinh, the iconic

## A TO Z OF THE ESZ

The laws and guidelines that govern Ecologically Sensitive Zones (ESZs)



**ESZs** are notified around protected areas by the Centre, on the basis of surveys done by states, to provide a buffer against development activities

**106**

National Parks

**567**

Wildlife Sanctuaries

The Wildlife Conservation Strategy, 2002, provides for a **10-km-wide ESZ**, but the actual extent varies, depending on local factors

### THE 2011 GUIDELINES

Three types of activities



**PERMITTED**  
(like farming)



**PROHIBITED**  
(like mining)

**REGULATED**  
(like construction of hotels and road-widening)



**June 3, 2022**

The Supreme Court mandates a **minimum 1-km ESZ**

around all protected areas; imposes construction freeze

**April 26, 2023:** The SC **exempts 659 ESZs** for which the Centre has issued notifications or received proposals. But ban on mining up to 1 km stays even if the ESZ is marked at the zero line

ex-IAS officer who was the key architect of independent India's first proper environment-related legislation—the Wild Life (Protection) Act, 1972. “But what bothers me is its implementation, in which we have often faltered.”

About 200 km from Ranthambore, on the outskirts of Jaipur, environmentalists are fiercely opposing attempts to regularise a hotel being run by a prominent group and an adjoining banquet hall, both of which fall under the Nahargarh Wildlife Sanctuary ESZ. The properties were, in fact, opened after the ban was imposed, and their very design violates guidelines prohibiting boundary walls that hinder the free movement of wildlife, a senior forest officer confirmed to INDIA TODAY. Elsewhere, too, resorts and hotels that mushroomed near protected areas, often within ESZs, to promote wildlife tourism have turned into wedding destinations, threatening the area's tranquility. So much so that the National Green Tribunal (NGT) in March had to issue a detailed protocol to enforce the existing regulations regarding noise pollution, including a round-the-clock ban on loud music and the bursting of firecrackers around Fatehsagar Lake and the ESZ in Udaipur. It also asked the Central Pollution Control Board (CPCB) to launch a mobile app to monitor the situation across the country.

“The NGT order was overdue,” says Arvind Jain, who runs hotels near the Ranthambore and Sariska tiger zones, “but now, after the SC has relaxed constructions within ESZs, I fear more resorts will come up in the garb of farm- and guest houses.” A senior officer in the Rajasthan wildlife department, who does not wish to be named, says the SC in its April order did well to leave it to local-level committees to grant permissions for any fresh constructions by ESZ inhabitants, instead of referring each case to the principal chief conservator. However, he wishes the court had retained the part of the June 2022 order that enjoined upon these forest department heads in each state/Union Territory to list every existing structure in ESZs.” This would

have helped prevent any misrepresentation and foul play.

Debadityo Sinha, conservationist and lead, climate and ecosystems, at the Vidhi Centre for Legal Policy, agrees. Sinha claims states are not taking the exercise seriously, and many protected areas have hotels and resorts running in the garb of homestays that channel the new buzz around ecotourism. “The Supreme Court could have deliberated more on ways to regulate activities in ESZs so as to provide better protection to wildlife,” he says. Sinha claims that while the top court correctly directed the states to strictly follow the 2011 guidelines, it gave a “contrary observation” while relaxing

## MANY PROTECTED AREAS IN INDIA HAVE ALREADY UNDERGONE TREMENDOUS DEVELOPMENT IN THEIR VICINITY, LEAVING THEM WITHOUT A ‘SHOCK ABSORBER’

the 1-km rule. “The 2011 guidelines clearly say that if the boundary of a protected area overlaps with an interstate border, both the states will endeavour to reach a consensus to decide the minimum ESZ,” he explains. “But using it as a ploy to not have an ESZ or minimise its area means ignoring the link between land and water bodies for the survival of ecosystems and species.”

In an ongoing study, Vidhi found that of the 109 national parks and sanctuaries it analysed, 60, or 55 per cent, have notified a minimum ESZ of zero km. This means there is no ESZ around a part of these protected areas. In a majority of the cases, the interstate border is cited as the reason. Further,

the 2022 SC order had relied on the submission of an empowered committee, which recommended minimum safety zones of 2 km around protected areas spread over 500 sq. km, 1 km for those between 200 and 500 sq. km, and 200–500 metres for the smaller ones. “This time, though,” says Sinha, “the SC did not rely on any expert opinion while modifying the restrictions.”

Unfortunately, many protected areas have already undergone tremendous development in their close vicinity. Some are even surrounded by urban continua. Then there are others where small ESZs have been notified, citing limited area for the region's “holistic development” or upcoming strategic infrastructure. The Galathea National Park in Great Nicobar is one such instance—it has just a 0–1 km ESZ. This leaves several wildlife and biodiversity reserves in India without much of a “shock absorber” around them. Sinha says states must demarcate ESZs to fulfil their responsibility towards the conservation of ecosystems, and not just for the sake of compliance. “Most protected areas in India now exist as small, isolated patches in a mosaic of human-created barriers,” he says. “Such habitat fragmentation has driven many species to local extinction and increased human-wildlife conflict.”

Ironically, the SC's latest order says overly restrictive ESZs could “intensify” rather than “avoid” such conflict. ESZs are not meant “to hamper day-to-day activities of citizens but...to protect precious forests and protected areas from any negative impact and to refine the environment around the protected areas”, it noted. Now, it is for the government, both at the Centre and in the states, to expedite the notification of ESZs while striking a balance between the nation's conservation goals and the development needs of the locals. Add to that strict enforcement, which can prevent all kinds of encroachments and hazardous activities in these ecologically fragile zones—perhaps under the watchful eyes of the Supreme Court. ■