

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONAL BENCH AT CHENNAI
ORIGINAL APPLICATION No. 129 OF 2021**

IN THE MATTER OF:

Daniel Sukumardas

... Applicant

Versus

Union of India & Ors.

... Respondents

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NDoH: 06.09.2021

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Date: 25.08.2021

Place: New Delhi

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTH ZONE AT CHENNAI
ORIGINAL APPLICATION No.129 OF 2021

IN THE MATTER OF:

Daniel Sukumardas Applicant

Versus

Union of India &Ors. Respondents

REPLY ON BEHALF OF RESPONDENT No.5 RAIL VIKAS NIGAM LIMITED AGAINST APPLICATION FOR STAY

MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal is currently seized of the above-mentioned Original Application which has been filed on the apprehension of illegal felling of trees for doubling of railway track between the Castle rock to Kulem, wherein vide Order dated 19.07.2021, the Respondents were granted liberty to file their replies.
2. That the instant Reply is being filed on behalf of Rail Vikas Nigam Limited, who has been arrayed as Respondent No.5 in the said matter and which is the nodal agency responsible for the implementation of the said doubling project.
3. That the Respondent No.5, Rail Vikas Nigam Limited, at the outset, submits that all those averments in the replies that have not been specifically admitted are herewith denied and are not to be construed as having been accepted by the said Respondent as if traversed *seriatim*.
4. That before averting to the para wise reply on the merits of the Original Application, the answering Respondent seeks to place on record its

Preliminary Objections, which in its humble opinion, are crucial for a holistic adjudication of the present matter.

I. PRELIMINARY OBJECTIONS

1. That it is submitted that the entire Original Application is based on an apprehension that the answering Respondent would indulge in illegal felling of trees subsequent to the grant of Stage I Approval dated 04.02.2021, without placing on record any shred of evidence which corroborates the said baseless averment. It is the submission of the answering Respondent that such conjectures and misplaced apprehensions that have no basis either in law or fact, deserve to be set aside as such by this Hon'ble Tribunal.
2. That it is submitted that answering Respondent had sought diversion of forest land of an area of 10.45 ha from the three villages of Devalli, Konashet and Kalambuli for undertaking doubling of the railway line. That the answering Respondent has been granted permission for felling trees by the Order of the State Government dated 28.04.2021 for the villages of Devalli and Konashet which amounts to an area of 0.88 ha falling within the Reserve Forest pursuant to acquiring Stage I forest clearance on 04.02.2021 by the Regional Office of MoEF&CC. That it is submitted that the abovementioned permission dated 28.04.2021 ensures the compliance to MoEF&CC letter dated 28.08.2015, which categorically states that such an Order of the State Government would be treated as a permission under Section 2 of the Forest Conservation Act, 1980 for the purposes of tree felling and would be liable to be challenged under Section 16(e) of the National Green Tribunal Act, 2010.

That it is further submitted the since Respondent has already been granted permission for felling trees on area of 0.88 ha, the instant Original

Application has become in fructuous to that extent. True and translated copy of the Order dated 28.04.2021 issued by the Assistant Conservator of Forests, Dandeli, Karnataka is marked and annexed herewith as **ANNEXURE R/1**.

3. That the answering Respondent further submits that the Order of the State Government of Karnataka in accordance with the MoEF&CC letter dated 28.08.2015 is pending for the remaining area of 9.57 ha that falls in the village of Kalambuli with in Dandeli Wildlife Sanctuary, for which no tree felling has been undertaken by the answering Respondent. Therefore, this Application itself is in fructuous as premature.
4. That the Competent Authority Assistant Forest Conservator officer, Dandeli passed an order permitting felling of 2097 No. of Trees standing on Railway land between ch. 21/900 to 30/020 in Kalambuli village located within Dandeli Wild Life Sanctuary vide order No.B4/Land/Railway Doubling/CR-8/2021-22 dated.30.04.2021. The above order pertains to trees standing on Railway land within Dandeli Wild Life Sanctuary, but, it does not include the trees standing on proposed 9.57 Ha of Forest land under diversion within Dandeli Wild Life Sanctuary. True Copy of Order dated 30.04.2021 by Assistant Forest Conservator Officer, Dandeli permitting felling of trees on railway land is marked and annexed as **ANNEXURE R/2**.

Further, the said Order dated 30.04.2021 has now been put on hold by the Assistant Conservator of Forests and Director, Kali Tiger Reserve, Dandeli vide letter dated 06.05.2021 where he has advised a complete status quo for both forest and non-forest land that comes within the doubling project . True copy of letter dated 06.05.2021 by the Assistant Conservator of forests and Director, Kali Tiger Reserve, Dandeli for maintaining status quo on felling of trees is marked and annexed as **ANNEXURE R/3**.That further, the said

Order is also under challenge in the Hon'ble Karnataka High Court by way of a Writ Petition (PIL) No. 8607/2021.

5. That it is submitted that the Applicant has reproduced an utterly incomplete procedure with regard to the authority of the Regional Office of the MoEF&CC to grant Stage-I permits. The answering Respondent vehemently denies that the Regional Office lacks authority, since the Forest (Conservation) Amendment Rules, 2014 dated 14.03.2014, that have been relied on by the Applicant, have long since been amended vide Forest (Conservation) Amendment Notifications dated 14.10.2014 and 06.03.2017 whereby all proposals for linear projects, irrespective of the area, will be forwarded to the Regional Office of MoEF&CC for grant of Stage-I Forest Clearance. That it is in pursuance of the same that the Stage-I approval of the answering Respondent was processed and granted by the Regional Office of MoEF&CC and nowhere does the law mandate prior consent of MoEF&CC before grant of forest clearance. True copies of the Forest (Conservation) Amendment Notifications dated 14.10.2014 and 06.03.2017 have been marked and annexed herewith as **ANNEXURE R/4 (colly)**. This is a ground alone for dismissing the said Application with costs.
6. That it is also pertinent to mention here that the above-mentioned Original Application also suffers from serious infirmities as it alleges violations, albeit baseless, on the state of Goa without making it a party in the matter, which is also violative of the established Principles of Natural Justice. Infact, some of the Stage-I Approvals as impugned by the Applicant (see pages 30 and 34 of the OA No. 129/2021) categorically state that the same have been granted to the state of Goa. This Hon'ble Tribunal may take a strict note of the above impropriety and order accordingly.

That the answering Respondent submits that as mentioned in the paragraph above, the subject matter for the alleged irregularities especially in the state of Goa, would fall under the purview of the Western Zonal Bench of this Hon'ble Tribunal since the project pans across the states of Goa and Karnataka. It is the submission of the answering Respondent that despite alleging violations on the state of Goa, the Applicant herein has filed the Application in the Southern Zone Bench of the National Green Tribunal, which alone is a ground for dismissing the Application *in limine*.

II. PRELIMINARY SUBMISSIONS:

7. That the Answering Respondent is a Mini-Ratna undertaking and is directly responsible for the implementation of the projects relating to the creation and augmentation of capacity of rail infrastructure. The answering Respondent is governed by the Railways Act, 1989 and functions as an extended arm of the Ministry of Railways, which has been empowered to act as an umbrella Special Purpose Vehicle to undertake project development, resource mobilization, among others. That at present, the answering Respondent has been tasked with undertaking doubling of the existing railway line from Tinaighat to Caranzol, within its existing Right of Way across the states of Karnataka and Goa and a very meager amount of forest land in the vicinity of ROW is being applied for diversion for the purpose of doubling.
8. That it is pertinent to note here that the existing rail line and its Right of Way was conceptualized and implemented in the late 1800s, way before the enactment of the Forest Conservation Act, 1980. Further, Section 11 of the Railway Act of 1989 categorically allows the Railways to undertake construction and maintenance of railways over *inter alia*, any land, street or hill, notwithstanding anything contained in any other law for the time being

in force. That despite that, the answering Respondent is going through the rigors of the Forest Conservation Act, 1980 for diversion of 148.6416 ha of forest land which includes the 86.9057 ha of railway land already in possession of the answering Respondent.

9. It is submitted that the answering Respondent was granted in-principle approval for 10.45 ha of forest land in Uttar Kannada District, Karnataka 1.9089 ha of private forest land for Kulem-Madgaon Doubling, South Goa Forest Division, the State of Goa, 120.875 ha of forest land for Castle rock to Kulem track doubling, North Goa Forest Division, the State of Goa and 15.6077 ha of forest land for Kulem railway doubling, North Goa Forest Division, State of Goa on 04.02.2021.
10. That as mentioned in the preceding paragraphs, on 28.04.2021, the Assistant Conservator of Forest passed an Order granting the answering Respondent permission to cut trees in an area of 0.88 ha as required by the MoEF&CC Guidelines dated 28.08.2015. That as stated earlier, the answering Respondent has not yet been granted Order to fell trees for an area of 9.57 ha in the village of Kalambuli and the same is being adhered to.
11. That as stated earlier, vide letter dated 06.05.2021, the Deputy Conservator of Forest and Director, Kali Tiger Reserve, Dandeli wrote to the answering Respondent and advised to stop felling of trees for rail doubling of work within Dandeli Wildlife Sanctuary. This communication was in view of the Report dated 23.04.2021 filed by the Central Empowered Committee in the Supreme Court. The letter states that in view of the same, it is best to maintain status quo on any work relating to felling of trees till the matter is heard and adjudged by the Hon'ble Supreme Court.

PARAWISE REPLY TO THE ORIGINAL APPLICATION

12. That the contents of Para I are matters of record and do not merit any response.
13. That the contents of Para II are matters of record and do not merit any response.
14. That the contents of the para III are denied as wrong, false and devoid of any merit, save what are matters of record. That there is no substantial question of environment which involves the invoking of the Precautionary Principle under Section 20 of the NGT Act, 2010 where there is merely an apprehension of illegal felling. The answering Respondent therefore vehemently denies any illegality or irregularity with respect to the permission of felling of trees. Moreover, the contents of the preceding Preliminary Objections are reiterated as true and correct and may be read as part of response to this paragraph. That further, the Applicant itself submits that the said diversions are in two states of Goa and Karnataka. So, it is submitted that this Hon'ble Tribunal should decide whether the two different jurisdictions can be entertained by one bench.
15. That the contents of para IV are denied as wrong, false and devoid of any merit, save what are matters of record. The answering respondent denies any destruction of the Castle rock landscape as doubling is taking place in the existing Right of Way of the answering Respondent. The answering Respondent also submits that the Applicant has not placed on record any scientific studies/data to establish that the catchment of the Mahadhayi, Dudhganga, Malaprabha and Ghataprabha will be impacted adversely by the said project and therefore is put to strict proof to validate its averment. It is reiterated that no water catchment will be destroyed during the construction of this doubling project.

16. That the contents of para V are matters of record and do not merit any response. However, it is reiterated that the doubling is being carried out on an existing Right of Way with all the statutorily mandated clearances and approvals, and with all the environmental safeguards in place and therefore, there is no cause for concern. Moreover, the railway track was constructed in the late 1800s much before the protected areas were conceived.

17. That the contents of para VI are denied as wrong, false and devoid of any merit. It is submitted that the Applicants have deliberately relied upon the previous position of law i.e. Notification dated 14.03.2014. The MoEF&CC has further amended the said notification vide two more notifications dated 14.10.2014 and 06.03.2017 respectively, wherein by virtue of Rule 6(a) of the Forest Conservation Rules, 2003, the Regional Office of the MoEF&CC is empowered to grant Stage I forest clearance to all linear projects, irrespective of the area of the project. Further, Rule 7(2) (c) requires all linear project proposals to be referred to the Regional Empowered Committee for grant of in-principle approval. In the present case as well, the in-principle approval dated 04.02.2021 has been accordingly granted by the Regional Empowered Committee after thorough examination of the proposals of the answering Respondent, and more importantly in accordance with the law.

It is further submitted that the averment of the Applicant on the non-compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is not tenable as the same does not fall within the jurisdiction of this Hon'ble Tribunal. The same has been affirmed by the Principal Bench of this Hon'ble Tribunal in the case of Hira Singh Markam & Ors Vs Union of India (Appeal No. 83/2014) vide Order dated 14.09.2018 wherein it dismissed the challenge to the Order of the State

Government of Chhattisgarh granting Forest Clearance on the basis that the consent of the Gram Sabha has not been obtained by stating *inter alia*, that Forest Rights Act, 2006 does not fall under the Schedule of the Acts in the NGT, Act 2010. Despite the above, the answering Respondent humbly submits that the permission of the Gram Sabha for the phases of the project passing through Goa and Karnataka have been obtained on 01.09.2019 and 15.03.2021, respectively and the same may be produced as and when desired by this Hon'ble Tribunal.

18. That the contents of para VII are denied as wrong, false and devoid of any merit. The answering Respondent humbly reiterates that it has valid permission of the State Government to fell trees for an area of 0.88 ha in the Devalli and Konashet villages located in the Reserve Forest area. For the remaining area of 9.57 ha, the Order is awaited. Therefore, the submissions of the Applicant are absolutely misplaced and baseless, both in law and in fact. The contents of the preceding Preliminary Objections may be read along with the response to this para.

Reply to the Facts in Brief:

1. That the contents of the corresponding para are denied for want of knowledge, and he should be put to strict proof by this Hon'ble Tribunal as to why he is opposed to a nationally important project.
2. That the contents of corresponding para are matters of record and do not merit any response.
3. That the contents of the corresponding para are denied as wrong, false and devoid of any merit. The Applicant has repeated this point, *ad nauseum*, which is also an incorrect interpretation of the law, as explained in the preceding paragraphs. It is humbly reiterated that the Applicant relies on a

previous position of law that has changed vide notification dated 14.10.2014 and 06.03.2017 whereby Rule 6(a) of the Forest Conservation Rules, 2003 Regional Office of the MoEF&CC is empowered to grant Stage I forest clearance to all linear projects, irrespective of the area of the project. Further Rule 7(2) (c) requires all linear project proposals to be referred to the Regional Empowered Committee for grant of in-principle approval. In the present case as well, the in-principle approval has been granted by the Regional Empowered Committee after thorough examination of the proposals of the answering Respondent.

4. That the contents of the corresponding para are matters of record and do not merit any response to that extent. However, it is pertinent to submit here that the answering Respondent has adhered to the said Guidelines in letter and spirit and has not undertaken any illegal felling of trees after acquiring Stage-I Forest Clearance. The answering Respondent seeks the indulgence of this Hon'ble Tribunal and places reliance on the Guidelines dated 07.05.2015 which only marginally changes the position by putting a one-year timeline for passing an order for tree cutting for linear projects. The answering Respondent has not undertaken any felling over the lands for which it does not have permission. Moreover, it has been constrained from felling, as mentioned above, vide letter dated 06.05.2021.
5. That the contents of the corresponding para are matters of record and merely state the position of law as confirmed by this Hon'ble Tribunal in the decision of Milind Parawakam, and which the answering Respondent is adhering to.
6. That the contents of the corresponding para are matters of record and merely state the position of law as confirmed by this Hon'ble Tribunal in the

decision of Vimal Bhai, and which the answering Respondent is adhering to.

7. That the contents of the corresponding para are yet again denied as wrong, false and devoid of any merit in view of the fact that no felling has been undertaken on the forest land where no order has been granted and also in view of the letter dated 06.05.2021, which has now advised status quo for the felling of trees. This Hon'ble Tribunal may take strict note of the Applicant's conduct who has repeatedly harped on the apprehension of felling trees by the answering Respondent without the Order of the State Government. This is a ground alone to dismiss this Application.
8. That the contents of the corresponding para are denied, save what are matters of record. The answering Respondent, before responding to the issues as highlighted under para 8, submits the glaring irregularities in the Applicant's averments:
 - a. The Applicant has impugned the Stage-I approval granted to the State of Goa without making the State a party in the matter, thereby violating the settled Principles of Natural Justice, and also without understanding the jurisdictional boundaries of this Hon'ble Tribunal;
 - b. That the Applicant has impugned three Stage-I Clearances granted to the State of Goa but has filed the Application in the Southern Bench of this Hon'ble Tribunal where only 10.45 ha is involved in the State of Karnataka, whereas a much larger parcel of land is involved in the State of Goa, when clearly two separate jurisdictions are attracted. Be that as it may, the Answering Respondent has followed all the procedures in accordance with law.
9. That the contents of the corresponding para are yet another mischievous attempt by the Applicant to mislead this Hon'ble Tribunal as the proposals

although filed separately have been considered comprehensively by the Regional Empowered Committee. Admittedly, the whole project has been bifurcated in 2 stages. Stage I of the project constituted the doubling of Hospet railway station to Tinaighat railway station (245km) including construction of bypass line between Hubli & Dharwar, in the state of Karnataka, while Stage II of the project constituted of doubling between Tinaighat Railway Station in Karnataka to Vasco-da-Gama Railway station in Goa (97km).

The construction of Phase I of the railway doubling has been completed and trains are running successfully in this section. This doubling has increased the capacity of the total railway section of Hospet to Tinaighat and is serving the nation and local public by reducing the time of travel, increased connectivity within the section as well as reduced commodity price as the delay caused in transportation of material has significantly gone down. It is also pertinent to mention here that all the construction has been environmentally compliant.

Further, the construction of Phase II of the section has been further bifurcated into 4 stages namely Tinaighat- Castlerock, Castlerock- Kulem Ghat Section, Kulem- Madgaon and Majorda- Vasco. The phase wise bifurcation was done for the ease of construction and detailed administration of the project, including reducing the environmental impact. Furthermore, the Project falls across two states Goa and Karnataka, with both the states having different wildlife sanctuaries. Thus, they required different proposals to be submitted to avoid confusion regarding the area of forest land that would be diverted for doubling of the railway track within each sanctuary and within each State. Also, it is submitted that the project is being implemented in phases and detailed estimates of each phase has been

sanctioned separately. However, it is pertinent to note that the proposals submitted were examined comprehensively by the Regional Empowered Committee as it is evident from the 41st Minutes of the Regional Empowered Committee meeting that was held on 25.02.2020. Moreover, the authority of the Regional Office of MoEF&CC would not have ousted even if the answering Respondent had applied for grant of Forest Clearance for the entire project, in view of Amendment notifications dated 14.10.2014 and 06.03.2017, as discussed in the preceding paragraphs.

10. That the contents of the corresponding para are denied, save what are matters of record. The answering Respondent submits that there has been no violation of the National Forest Policy of 1988. That para 4.4.1 of the National Forest Policy 1988 allows for diversion of forest land provided that such projects provide in their investment budget, funds for compensatory afforestation. It is submitted that the answering Respondent has already deposited an amount of Rs.9.37 Crores towards the Net Present Value and Compensatory Afforestation for the state of Karnataka in Karnataka CAMPA Account and Rs. 159.42 Cr. towards the Net Present Value and Compensatory Afforestation for the state of Goa in the account of Goa CAMPA Account. The true copy of the screenshot of the receipts towards the deposition in CAMPA amount of Rs.168 crores is marked and annexed herewith as **ANNEXURE R/5**.

11. That the content of the corresponding para needs no response as it relates to facts however it is reiterated that all statutory requirements have been complied with.

12. That the contents of the corresponding para are denied. The answering Respondent is undertaking doubling of the existing single railway track which falls majorly within the Right of Way of the Railway and in the

absence of any fresh diversion of land, there will not be any impact on the catchment area of the rivers or ecology of the Western Ghats. The contents of para 16 of the para wise reply is reiterated as a response to this para.

13. That the contents of the corresponding para are matters of record. However, the said MA No.1167 of 2015 has been quoted out of context in the present case. The said MA largely relates to Hydel Projects and the concept of deemed forest. The said Order dated 15.02.2016 also is being quoted selectively and it ignores the fact that the State is at liberty to examine what activities should be permitted keeping in mind the restrictions of the Forest Conservation Act, 1980. There are further observations of carrying capacity of the Western Ghats Region. The answering Respondent humbly reiterates that it has not only conformed to the mandate of the Forest Conservation Act, 1980, it has also carried out all impact studies, including the Site Appraisal as was undertaken by the Regional Empowered Committee of the MoEF&CC, and is acting in accordance with the stipulations therein. It has also been examined by the Standing Committee and found to be feasible from the wildlife standpoint, based on studies by the Indian Institute of Science as well as the Wildlife Institute of India.
- 14-17. That with regard to the contents of the paragraphs 14 to 17, it is submitted that not only have the extracts been selectively relied upon, but also are not tenable in view of the NTCA Report exclusively dealing with the aspect of wildlife clearance, which is a separate process altogether. Further, a detailed study of the project has also been undertaken by Wildlife Institute of India while submitting a detailed mitigation plan for the project of the answering Respondent. The Indian Institute of Science, Bangalore has also examined the project from the Wildlife and Biodiversity standpoint. Therefore, there has been cumulative assessment of the impact of the project by different

agencies before its final execution and it cannot be stated a detailed study has not been conducted for the present project of the answering Respondent.

18. That the contents of the corresponding para are matters of record and not being denied to that extent. However, the section 5 direction that is being issued largely prohibits mining, quarrying and sand mining; thermal power plants, building and construction projects and other red category industries. It does not include improvement of existing railway tracks which the current project envisages. However, it is reiterated that the answering respondent is a responsible Public Sector Company, which is mindful of the law, especially environmental laws, in the execution of its projects.

19. That the contents of the corresponding para are denied. It is undoubted that Railways is an important part of the development initiative of the government and more importantly the said doubling has been envisaged in the most environmentally benign manner in an area where a track already exists thereby reducing manifold the impact that would be created by a fresh alignment altogether. Further, it is also important to state here that the answering Respondent is governed by the Railways Act of 1989 whereby section 11 permits a railway administration for the purposes of construction and maintenance of a railway to make or construct upon, across, under or over any lands or streets, hills, valleys, among others, notwithstanding anything contained in any other law for the time being in force. Thus, the 13.11.2013 direction being stated by the Applicant is not applicable to the answering Respondent. Moreover, the answering Respondent has submitted a total of Rs. 168 Crores in CAMPA in pursuance of the number of trees that would be cut in its Right of Way for the purposes of doubling as well as taken the requisite permissions for undertaking felling of trees. That the number of trees that will be felled is clear and it is on the basis of the same

that the CAMPA amount was calculated and submitted by the answering Respondent. Further, to stretch the doubling of a project to interpret it as a building and construction project would be inappropriate and incorrect in law.

- 20.** That for the purposes of the response to the said paragraph, the contents of the preceding para no. 19 are reiterated as being true and correct and not being repeated for the sake of brevity. It is reiterated that Railway projects are not covered by the EIA Notification, 2006. Further, the terrain, the proposed doubling project has been evaluated by the statutory authorities and has been allowed after a rigorous and due process. It is therefore, incorrect to presume that there is any violation of the 2013 Notification, which does not include Railway Projects as such.
- 21.** That the contents of the corresponding paragraph merit no response. Further, in view of the submissions made earlier, it is reiterated that the impact of the railway doubling project has been considered by premier institutes such as IISc, Bangalore, as well as Wildlife Institute of India.
- 22.** That the contents of the corresponding paragraph merit no response as it describes the definition of forests in the Godavarman case. It is, however, surprising that the Applicant avers that a Stage I clearance is required, while impugning the Stage-I clearance itself!
- 23.** That the contents of the corresponding para are denied. The Applicant has no reason or basis to aver that the answering Respondent will exceed in view of the letter dated 22.04.2021 of the Deputy Conservator of Forests, Haliyal Division, Haliyal which clearly stipulates the number of trees marked for cutting and transportation are 181 trees in the diverted forest land and the answering Respondent is bound to adhere to the same. For the remaining forest land for which Order is yet to be issued in accordance with the letter

of MOEF&CC dated 28.08.2015, the answering Respondent will also adhere to the number of trees that it will be permitted to fell as and when it receives the approval for felling trees and this Hon'ble Tribunal may dismiss the said averment on such a ground.

Further, it is on the basis of exact number of trees that the answering Respondent has submitted Rs.9.37 Crores towards the Net Present Value and Compensatory Afforestation for the state of Karnataka in Karnataka CAMPA Account and Rs. 159.42 Cr. towards the Net Present Value and Compensatory Afforestation for the state of Goa in the account of Goa CAMPA Account.

24. That the Applicant has contradicted itself by quoting an exact number of trees in the said para, which is a departure from the position in the preceding paragraph. The contents of the said para are denied as being vague and baseless, and the contents of the preceding paras are reiterated as true and correct. The exaggerated numbers have no basis and need to be discarded as such.

25. That in response to the contents of para 25 it is submitted that such extrapolations based on generalities and its linkage to the report of the Western Ghats Ecology Panel needs to be disregarded. The computation of the number of trees is done through ground-trotting processes and the NPV and the CA money is calculated based on such physical inventories. The Applicant is trying to mislead this Hon'ble Tribunal by generic and alarming calculations, which have no basis on the ground.

26. That in response to para 26 it is stated that the Hon'ble Supreme Court constituted Expert Committee is yet to submit its report stating the criteria or parameter for assessment for undertaking felling of trees. That the answering Respondent has submitted Rs. 168 Crores based on the existing criteria and

parameters for undertaking compensatory afforestation and Net Present Value on felling of trees. In any case, as and when the Hon'ble Supreme Court decides, the same shall be applicable in the terms of such decision across the board and the answering Respondent, as a public sector company, has to abide by the same.

- 27.** That the contents of para 27 are denied as being an incorrect position of the law. The contents of the preliminary objections as well as response to paras 18 are reiterated as true and correct and may be read as response to the said para. It is reiterated that the Applicant has conveniently concealed the amendments to the Notification dated 14.03.2014 and more importantly, although Forest Rights Act, 2006 is not within the jurisdiction of this Hon'ble Tribunal, it is submitted that the requisite permission from the Collector on Forest Rights Act, 2006 compliance has been obtained vide letters as submitted earlier.
- 28.** That in response to the contents of the corresponding para, it is submitted that the averment of the Applicant challenging Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is not tenable as the same does not fall within the jurisdiction of this Hon'ble Tribunal. The same has been affirmed by the Principal Bench of this Hon'ble Tribunal in the case of Hira Singh Markam & Ors Vs Union of India (Appeal No. 83/2014) wherein this Hon'ble Tribunal vide Order dated 14.08.2018 dismissed the challenge to the Order of the state government of Chhattisgarh granting Forest Clearance on the basis that the consent of the Gram Sabha has not been obtained by stating *inter alia*, that Forest Rights Act, 2006 does not fall under the Schedule of the Acts in the NGT, Act 2010. However, the answering Respondent humbly submits that the permission of the Gram Sabha for the phases of the project passing through

Goa and Karnataka have been obtained on 01.08.2019 and 15.03.2021, respectively. Further, as regards the power of the REC is concerned, it is reiterated that the amendments subsequent to the Notification dated 14.03.2014 clearly empowers the REC for linear projects, as detailed in paras above.

29. That the contents of para 29 to the extent that they are matters of records do not merit a response. It is incorrect to state that the Cost-Benefit Analysis has not been carried out. The answering respondent has confirmed to the requirements of the Forest Conservation Act, 1980 clearance procedure and also submitted the Net Present value and the CA money to the tune of 168crores, which is based on Cost and Benefit Analysis.
30. That in response to the contents of para 30 it is reiterated that the answering Respondent has submitted more than Rs.168crores for Net Present Value and the amount has been calculated based on a cost-benefit analysis of the project.
31. That the contents of the paragraphs under 'Grounds' are summarily rejected in view of the averments made in the paragraphs above.
32. That in view of the abovementioned position of the law and facts, it is submitted that this Original Application be dismissed with huge costs.

Date: 25.08.2021

Place: New Delhi

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**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH
Original Application No. 129/2021**

In the matter of:

Daniel Sukumardas

..... Applicant

V/s

Union of India & Others.

..... Respondents

AFFIDAVIT

I, P. K. Kshatriya, S/o P. G Kshatriya aged about 55 years working as Chief Project Manager, having its office at Rail Vikas Nigam Ltd Bangalore, do here by solemnly affirm and declare as under:-

1. That I am well conversant with the facts and circumstances of the case and duly authorized to sign the present affidavit on behalf of respondent and hence competent to swear this affidavit.
2. That the contents of the accompanying "Reply" to Application are true and correct to my knowledge based on the records available and the same has been drafted under my instructions.



[Signature]
DEPONENT
CHIEF PROJECT MANAGER
RAIL VIKAS NIGAM LIMITED
No. 16, Millers Road, Benson Town Post,
BANGALORE-560 046

VERIFICATION:-

12 AUG 2021

I, the above named deponent do hereby solemnly affirm and verify that the contents of above paras of the affidavit are true and correct to the best of my knowledge and belief, and that nothing has been concealed therefrom.

Verified on _____ day of July, 2021 at Delhi.

16 AUG 2021

[Signature]

[Signature]

DEPONENT
CHIEF PROJECT MANAGER
RAIL VIKAS NIGAM LIMITED
No. 16, Millers Road, Benson Town Post,
BANGALORE-560 046

Certified that the foregoing statement was declared on solemn affirmation before me and has been read out to the deponent who has admitted as correct.
[Signature]
Notary, DELHI



12 AUG 2021

OFFICE OF THE DEPUTY CONSERVATOR OF FORESTS HALIYAL, DIVISION,
HALIYAL-581329
PHONE NO. 08284-220128, FAX: 08284-220365, Email : dcfhalval@gmail.com

S. No. D1/GFL/Railway Line Doubling / No. CR/2021-22

Date: 28.04.2021

OFFICIAL MEMORANDUM

Sub : Diversion of 10.45 Ha . of forest land in Devalli, Kalambuli and Konshet villages in Castlerock Hobli, Joida Taluk, Uttar Kannada District (Haliyal Forest Division & Kali Tiger Reserve) for Doubling of Tinaighat-Castlerock-Caranzol Railway line (South Western Railway) in favour of Chief Engineer (Construction), Club Road, Keshwapur, Hubballi, Dharwad District.

- Ref** :
- 1) GOI Letter No. F.N. No. 4-KRC 1227/2020-BAN/1171, Dated 04.02.2021.
 - 2) GOK Letter No. FEE 02 FLL 2020, dated 15.02.2021
 - 3) GOI Letter No : F. No. 11-306/2014-FC, Dated 15-01-2015 & F.No. 11-306/2014-FC(Pt), dated: 28.08.2015
 - 4) Additional General Manager/Civil/RVNL/Belagavi letter No. RVNL/PIU/UBL/TGT-CLR/R.Forest, dated 09.04.2021.
 - 5) Tinaighat Forest Office letter No. VA/A/Tinaighat/Railway Doubling/2019-20, dated 26.09.2019
 - 6) ACF/Alnavar Sub Division/Ganeshgudi Office letter No. S. No. Ganeshgudi/Railway Doubling/2019-20, dated 01.10.2019
 - 7) Additional General Manager/Civil/RVNL/Belagavi letter No. RVNL/PIU/UBL/Belagavi works/forest department, dated 23.04.2021.

Preface

Chief Engineer (Construction) Club road Keshwapur Hubballi, Dharwad District, has principally got stage-1 approval to take up work of track doubling between Tinaighat-Castlerock and Caranzol, in 10.45ha forest area (0.88 ha in Haliyal division) from Central Government vide reference (1) above and from under secretary, ministry of forest ecology and environment, Bangalore, vide reference (2) above.

As per the condition no (1) and (2) of stage-1 principle approval, an amount of Rs.9,17,840.00 against net present value and Compensatory Afforestation Charges of Rs.3,34,53,000.00 was advised to deposit. Accordingly, utility department has deposited the amount and reported to this office under guidelines vide letter under reference -3 above and requested to this office for permission to fell trees, vide letter under reference no-4 above.

Permission for cutting trees is supposed to be given, as per the guidelines, vide letter under reference no-3, as utility department has deposited net present value of Rs.9,17,840.00 and Afforestation Charges of Rs.3,34,53,000.00 as per the letter advised.

The list of the trees submitted by Divisional Forest officer, Tinaighat vide letter under reference no-5, and Assistant forest Conservative officer, Sub Division, Ganeshgudi vide letter under reference no-6 is scrutinized.

It is required to cut 181 nos of trees in this region, details of approximate expenditure for cutting / transporting the trees is prepared and advised utility department to deposit an amount of Rs 4,22,791.00 in this office for cutting / transporting the trees in the consented area.

Accordingly, Chief Engineer (construction) of the utility department, club road, Keshwapur, Hubballi, Dharwad District, has deposited an amount of Rs 4,22,791.00 in this office, vide DD No.228663 dated 23-04-2021, vide letter under reference no-7.

The amount is credited in account of Government vide receipt no-2717691 dated 27-04-2021 and this Department has issued an order as follows, for cutting of 181 trees infringing track doubling project between Tinaighat-Castlerock and Caranzol.

The order for cutting the trees is also to be published in the website of forest department as per the (GOI Letter no-F.No.11.306/2014-FC Dated 15-01-2015 & F.No. 11-306/2014-FC (Pt) dated 28-08-2015) vide letter under reference 3. Accordingly the Order is to be published in the website <http://aranya.gov.in>.

ORDER:

As described in the above proposal, the trees obstructing to tinaighat-castlerock-caranzol railway line doubling project in Tinaighat range belonging to tinaighat beat no-1 to 10, trees available in Devalli beat no-01 to 21 and Kunigini beat no-01 to 150, in total 181 trees, it is ordered to transport the fire wood to Jagalbet Depot and Logs to Dandeli Depot, department is to cut the trees and transport the trees, as per the conditions of Central Government no-A(3) & B(5), and the order is published in the website <http://aranya.gov.in>, as referred vide letter under (3), in (GOI Letter no-F.No.11.306/2014-FC, dated 15-01-2015 & F.No. 11-306/2014-FC (Pt), dated 28-08-2015)

Details of marked trees:

S. No	Caste	No of marked trees	Timber in Cubic mtr	Fire wood Cubic mtr	branches number		
					I	II	III
Forest Survey No 4A1A1A1A1A1 (Tinaighat beat)							
1	Matti	01	0	4.000	0	0	0
2	Jungle	09	0	10.950	0	0	0
	Total	10	0	14.950	0	0	0
Forest Survey No 10A (Devalli beat)							
1	Seesam	1	0.480	1.000	0	0	0
2	Matti	4	1.423	3.100	0	0	0
3	Nandi	2	0	1.100	0	0	0
4	Kindala	2	0	0.700	0	0	0
5	Jungle	12	1.021	5.700	0	0	0

	Total	21	2.924	11.600	0	0	0
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Forest Survey No 7A1 (Kunigini beat)							
S. No	Caste	No of marked trees	Timber in Cubic mtr	Fire wood Cubic mtr	Branches number		
1	Seesam	3	0.186	1.900	0	0	0
2	Nandi	17	6.470	8.100	0	0	0
3	Maavu	3	0.787	4.100	0	0	0
4	Kindala	22	4.225	12.800	0	0	0
5	Jungle	105	4.705	64.700	0	0	0
	Total	150	16.373	91.600	0	0	0

Summary:

S. No	Bit	Forest Survey Number	No of Marked trees	Timber in Cubic mtr	Fire wood Cubic mtr
1	Tinaighat	4A1A1A1A1A1	10	0	14.950
2	Devalli	10A	21	2.924	11.600
3	Kunigini	7A1	150	16.373	91.600
		Total	181	19.297	118.150

CONDITIONS:

- 1) To take up the tree cutting work after marking the area with GPS system.
- 2) As per the clause no-A(3)&A(5) of the Central Government guidelines only, the trees infringing to be cut and which are not required to be cut to be preserved.(Trees beyond the berm shall be retained and felling may be done only, if it is absolutely essential.
- 3) To maintain the record books, as per the Karnataka forest code (K.F.C)and Karnataka Aranya Lekka code (K.F.A.C) regarding tree cutting work without fail.
- 4) The wood produced is to be transported to the government wood stocking depots, and to be stacked as per the lot, along with the permission for transporting the wood.
- 5) To submit the progress of trees cutting in a specific format before fifth of every month.
- 6) Permission to cut the trees shall be given after getting the area confirmed, providing boundary stones, and inspected by Divisional Forest Officer, Tinaighat and Assistant Forest officer Ganeshgudi.
- 7) Trees shall be cut under the supervision of nominated agency.

S/d

Dy. Conservator of Forests
Halyal Division, HALYAL

To: Chief Engineer (Construction) Club Road, Keshwapur, Hubballi, Dharwad District: for information.

- Copy to:
- 1) Range forest officer, Tinaighat-: for submitting action taken report to this office against the list of trees provided here with
 - 2) Assistant conservator of forest, Alnavar sub division, Ganeshgudi and government timber yard, Dandeli: for information and necessary action.
 - 3) Chief conservator of forest, canara circle, Sirsi : For kind information please.

-TRUE TYPED COPY-

Translation copy

No. B4/Land/Railway Doubling/CR-8/2021-22

dated 30.04.2021

- Sub:** Permission for transportation Jalau wood from the trees cut within the Railway boundary for the track doubling Project
- Ref:** 1) Addl General Manager/Civil/Belgaum letter No. RVNL/PIU/UBL/TGT-CLR-CRZ/forest, dated 08.04.2021
- 2) Divisional forest officer and conservation Division, Castlerock letter no. 9/10-421
- 3) Asst forest officer conservation vani jeevan Sub Division Anasi letter No. 85/2020-21, dated 22.04.2021
- 4) GOI letter No. F. No 11-306/2014-FC, dated 15.01.154. F. No.11-306/2014-FC (pt), dated 28.8/2015
- 5) Certificate from Tahasildar Joida, dated 05.08.2020
- 6) Karnataka tree protection law 1976, section 8(3)(III)(IV) and Karnataka forest Adhiyan 1969 section 127(A)

PREFACE

Vide letter no under S. No 01, Addl GM/Civil has requested for permission to cut the trees within the Railway boundary infringing the track doubling project.

Accordingly recommendation vide letter under Sl. No 02 by Division officer forest conservator, castlerock report and vide letter under Sl. No. 3 by Asst forest conservator forest conservation have submitted lot of 2097 trees of various category infringing track doubling project and valuation details for permission to cut the trees is verified.

Area covered for track doubling project is about 9.56 Hectors and the Railway area which is covered by trees is 9.06 hectors.

Utility department has already received the permission (stage-1 approval) for using the forest land for other than forest purpose.

Further Karnataka Govt forest department has passed the following order permitting the 2097 trees within the Railway boundary in kalambuli village in survey No. 17 and 3/A1/A1/A1 and area 302 Acre and 36 Guntas and 08 Anas duly excluding the permitted forest area for track doubling project.

ORDER:

As per the recommendations of forest officer and wild life division castlerock and Asst forest officer and wild life sub division Anasi. Permission is herewith accorded to dispose the trees identified and infringing the track doubling project in castlerock to kulem vide section no. 8(3)(III) of Karnataka tree protection rule 1976.

The trees are to be disposed by the utility department and to transport the wood and logs on their own expenditure to the stocky place.

Details of the trees:

S. No	Details of Area	Type	No of Trees	Approx details	
				Logs (cum)	Jalau (cum)
1	Kalambuli village chainage 21/900 to 30/020	Mixed	2097	84.505	390.711

Permission is awarded with the lots of the trees identified/marked in A-1 and A-2 and the condition as follows.

As per the Indian Govt guidelines the order is also included in the forest department web page <http://aranya.gov.in> for general public, vide GOI circular under reference (4).

1) Joida Tahsildar has certified vide letter under reference -5, that the trees available in the land and land to be deforested belongs to Railways. But Railways have not submitted no objection certificate issued by either revenue department or from Dy.Commissioner. Based on the request from organisation to take up the track work urgently, permission to cut the trees is accorded; amendment will be issued based on the final opinion from revenue department

2) As per the Karnataka forest conservation act 1976. Railways are advised to give 10 plants of various types of trees, against each tree cut, Accordingly for 2097 trees cut for track doubling project, railway is permitted to cut the trees on condition to give plants suitable to the environment, and raised up to 6 to 8 feet in area measuring 14x20, in total for 20970 plants, duly taking care for 5 years.

3) Depositing Rs.200.00 per tree cut, in total Rs.41,94,000.00 as security deposit in favour of the signing officer below, for confirming the plantation of 20,970 plants against 2,097 plants (2097x10=20970) and upbringing of the plants, as per the Karnataka forest conservation act 1976.

The amount of deposit will be returned after submitting, confirmation certificate from the divisional forest officer wild life division Castlerock.

4) The trees infringing the railway track are to be cut by the organization on their own cost and the jalau wood to be transported to the wood stocking depot at jagalbet, and the logs are to be transported to the wood depot at Dandeli. After submitting detailed report through the

concerned forest divisional office and Assistant forest conservation officer, and getting permission to transport the wood.

5) Railways will be responsible for any loss of property and disturbance to the wild life while cutting the trees.

6) Railways will have to pay any variation in the of amount to be deposited and noticed in future

7) Legal action will be taken as per the forest act 1963. if any additional tree and tree not included in the list is cut

8) To take the tree cutting work, after identifying the boundaries by GPS method and to maintain the record as per the forest department rules and forest accountable rules.

9) To transport and to stock the wood in nearest the wood depot as per the lot number along with the permit.

10) To submit the daily progress report regarding the wood product after cutting the trees, till transportation of the product to the wood depot in a specific form, once in a week through divisional forest officer, wild life division, castlerock and assistant forest conservation officer, wild life sub division, Anasi.

In charge trees and
Assistant forest conservation officer
Kali Tiger Conservation Pradesh.
Dandeli.

Copy to:

- 1) Divisional Forest officer / Castlerock : for information please
- 2) Chief Forest conservation officer / Wild life / Bangalore: for kind information please.
- 3) Chief Forest conservation officer / Forest conservation / Bangalore : for kind information please
- 4) Additional General Manager /Civil/Rail Vikas Nigam limited/Belgaum: for information please.
- 5) Assistant forest conservation Wild life /Sub DIVISION /Anasi :for information and needful action please

-TRUE COPY-

No.B4/LAND/FC/Railway/CR-9/2020-21

May 6, 2021

To

Additional General Manager (Civil)
Rail Vikas Nigam Limited
Belagavi

Sub : Advice to stop felling of trees for rail doubling work within Dandeli Wildlife Sanctuary - reg

Ref : (1) Your letter No. RVNL/PIU/UBL/TGT-CLR-CRZ/W.Forest dated 06.05.2021
(2) This office order No. B4/Land/RailwayDoubling/CR-8/2021-22 dated 30.04.2021
(3) Report of CEC F.No. 1-19/CEC/SC/2020-Pt. (59) dated 23.04.2021

Sir,

With respect to the above subject, the receipt of Demand Draft for Rs.41,94,000/- (Forty one lakh ninety four thousand only) bearing No. 228761 dated 04.05.2021 from Axis Bank in favour of 'Dy. Conservator of Forests, Kali Tiger Reserve, Dandeli' towards planting security deposit demanded in the felling order for trees in Railway Land issued vide ref (2) is hereby acknowledged.

It is to bring to your notice that on the petition filed by Goa Foundation to the Central Empowered Committee (CEC) of the Hon'ble Supreme Court against the Tinaighat-Castlerock-Kulem rail line doubling project the CEC had filed its report vide (3) to the Registrar, Supreme Court of India, New Delhi. In the report CEC has recommended to the Hon'ble Supreme Court "to revoke the permission granted by the Standing Committee of National Board for Wildlife for doubling of the railway track passing through the ecologically sensitive Western Ghats from Tinaighat-Castlerock in Karnataka to Kulem in Goa".

In view of this, it is best to maintain status quo on any work relating to felling of trees in the areas falling within Dandeli Wildlife Sanctuary both in Railway Land and Forest Land till the matter is heard and adjudged by the Hon'ble Supreme Court to avoid a *fait accompli* situation.

Thanking you,

Yours sincerely



Deputy Conservator of Forests and Director

Kali Tiger Reserve, Dandeli

Copy to -

- (1) The Chief Engineer (Construction), South Western Railway, Hubballi
- (2) Assistant Conservator of Forests, Anshi Subdivision, Anshi
- (3) Range Forest Officer, Castlerock Wildlife Range, Castlerock for information and necessary action

-TRUE COPY-



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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नई दिल्ली, शुक्रवार, अक्टूबर 10, 2014/आश्विन 18, 1936

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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 10 अक्टूबर, 2014

सा.का.नि.713 (अ).— केन्द्रीय सरकार, वन (संरक्षण) अधिनियम, 1980 (1980 का 69) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वन (संरक्षण) नियम, 2003 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

1. (1) इन नियमों का संक्षिप्त नाम वन (संरक्षण) दूसरा संशोधन, नियम, 2014 है।

(2) ये 1 नवम्बर, 2014 को प्रवृत्त होंगे।

2. वन (संरक्षण) नियम, 2003 (जिसे इसमें इसके पश्चात् उक्त नियम कहा गया है), के नियम 2 में, खंड (गक) के पश्चात् निम्नलिखित खंड अंतःस्थापित किए जाएंगे, अर्थात् :-

"(गख)", प्रादेशिक सशक्त समिति के अध्यक्ष " से नियम 4क के अधीन गठित प्रत्येक प्रादेशिक सशक्त समिति का अध्यक्ष अभिप्रेत है ;

(गग) "प्रादेशिक कार्यालय का प्रमुख" से केन्द्रीय सरकार द्वारा प्रादेशिक कार्यालय में इस अधिनियम के अधीन वन संरक्षण मामलों से व्यौहार करने के लिए अपर प्रधान मुख्य वन संरक्षक या मुख्य वन संरक्षक की पंक्ति में नियुक्त ज्येष्ठतम अधिकारी अभिप्रेत है ;

(गघ) "लिनियर परियोजनाएं" से ऐसी परियोजनाएं अभिप्रेत हैं जिनमें सड़कों, रेलवे लाइनों, पाइप लाइनों, पारिषण लाइनों आदि का प्रयोजन के लिए वन भूमि का लिनियर परिवर्तन अभिप्रेत है ;

3. उक्त नियमों में अधिसूचना सं. सा.का.नि. 94(अ), तारीख 3 फरवरी, 2004 द्वारा यथा अंतःस्थापित प्रादेशिक सशक्त समिति के गठन से संबंधित नियम 4 के स्थान पर निम्नलिखित नियम रखा जाएगा, अर्थात् :-

"4क" प्रादेशिक सशक्त समिति का गठन-

(1) केन्द्रीय सरकार राजपत्र में अधिसूचना द्वारा प्रत्येक प्रादेशिक कार्यालय के लिए प्रादेशिक सशक्त समिति का गठन करेगी।

(2) प्रत्येक प्रादेशिक कार्यालय में सशक्त समिति, केन्द्रीय सरकार द्वारा नाम निर्दिष्ट किए जाने वाले निम्नलिखित सदस्यों से वन संरक्षण मामलों से व्यवहार करने के लिए, मिलकर बनेगी, अर्थात् :-

(i)	प्रादेशिक कार्यालय प्रमुख ;	अध्यक्ष
(ii)	मुख्य वन संरक्षक या वन संरक्षक के रैंक के अधिकारियों में से ज्येष्ठतम अधिकारी;	सदस्य
(iii)	विख्यात व्यक्तियों में से जो वानिकी और सहायक विषयों में विशेषज्ञ हैं, में से तीन गैर शासकीय सदस्य ;	सदस्य
(iv)	प्रादेशिक कार्यालय में उप वन संरक्षक के रैंक के अधिकारियों में से ज्येष्ठतम अधिकारी;	सदस्य सचिव

(3) भारत सरकार के निदेशक के रैंक से अन्यून यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन के प्रतिनिधियों के अधिकारी को यथास्थिति, वन विभाग और राजस्व विभाग प्रत्येक में से एक को प्रादेशिक सशक्त समिति की बैठकों में ऐसे राज्य या संघ राज्यक्षेत्र प्रशासन से संबंधित प्रस्तावों की जांच के लिए विशेष आमंत्रिती के रूप में आमंत्रित किया जाएगा ।

(4) गैर शासकीय सदस्यों की पदावधि नियम 4 में यथा विनिर्दिष्ट होगी।

4. उक्त नियमों में नियम 5 के पश्चात् निम्नलिखित नियम अंतःस्थापित किया जाएगा, अर्थात् :-

"5क. प्रादेशिक सशक्त समिति के कारबार का संचालन

(1) प्रादेशिक सशक्त समिति का अध्यक्ष, प्रादेशिक समिति की जब वह आवश्यक समझे बैठक करेगा, किंतु एक मास में एक से अन्यून बैठक नहीं ।

(2) प्रादेशिक सशक्त समिति की बैठकें प्रादेशिक कार्यालय के मुख्यालय में आयोजित की जाएंगी :

परंतु प्रादेशिक सशक्त समिति के अध्यक्ष का यह समाधान हो जाने पर कि गैर वन प्रयोजनों के लिए उपयोग की जाने के लिए प्रस्तावित वन भूमि का स्थल या स्थलों का निरीक्षण प्रादेशिक सशक्त समिति को निर्दिष्ट प्रस्तावों के विचारण के संबंध में आवश्यक या समीचीन है तो वह यह निदेश दे सकेगा कि प्रादेशिक सशक्त समिति की बैठक ऐसे स्थल या स्थलों के निरीक्षण के लिए, प्रादेशिक कार्यालय के मुख्यालय से भिन्न, स्थान पर की जाए ।

(3) प्रादेशिक सशक्त समिति का अध्यक्ष प्रादेशिक सशक्त समिति की प्रत्येक बैठक की अध्यक्षता करेगा :

परंतु प्रादेशिक सशक्त समिति के अध्यक्ष की अनुपस्थिति में मुख्य वन संरक्षक या वन संरक्षक के रैंक का ज्येष्ठतम सदस्य प्रादेशिक सशक्त समिति के अध्यक्ष के रूप में कार्य करेगा ।

(4) प्रादेशिक सशक्त समिति को सलाह या विनिश्चय के लिए निर्दिष्ट प्रत्येक प्रस्ताव पर, प्रादेशिक सशक्त समिति की बैठक में विचार किया जाएगा:

परंतु शीघ्रता वाले मामलों में यदि बैठक एक मास के भीतर नहीं बुलाई जा सकती है तो प्रादेशिक सशक्त समिति का अध्यक्ष निदेश दे सकेगा कि कागज-पत्रों को परिचालित किया जाए और प्रादेशिक सशक्त समिति के सदस्यों को अनुबद्ध समय के भीतर उनकी राय के लिए भेजा जाए ।

(5) प्रादेशिक सशक्त समिति की बैठक में गणपूर्ति तीन होगी । "

5. उक्त नियमों के नियम 6 के उपनियम (4) के खंड (क) और खंड (ख) के स्थान पर निम्नलिखित खंड रखे जाएंगे , अर्थात् :-

"(क) 40 हेक्टेयर तक वन भूमि को अंतर्वर्तित करने वाले उप नियम (3) के खंड (ठ) में निर्दिष्ट प्रस्ताव और अंतर्वर्तित वन भूमि के क्षेत्र को गणना में लिए बिना लिनियर परियोजनाओं से संबंधित सभी परियोजनाओं को यथास्थिति, संबंधित राज्य सरकार या संघ राज्य क्षेत्र प्रशासन को उनकी सिफारिशों सहित संबंधित प्रादेशिक कार्यालय को अग्रेषित किया जाएगा ।

(ख) लिनियर परियोजनाओं से संबंधित सभी प्रस्तावों से भिन्न, 40 हेक्टेयर से अधिक वन भूमि को अंतर्वर्तित करने वाले उप नियम (3) के खंड (ठ) में निर्दिष्ट प्रस्तावों, को, यथास्थिति, संबंधित राज्य सरकार या संघ राज्य क्षेत्र प्रशासन द्वारा, उनकी सिफारिशों सहित, सचिव, भारत सरकार, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को अग्रेषित किया जाएगा ।"

6. उक्त नियमों के नियम 7 में-

(i) उपनियम (2) के स्थान पर निम्नलिखित उप नियम रखा जाएगा, अर्थात् :-

"(2) (क) प्रादेशिक कार्यालय खनन, अतिक्रमण और जल विद्युत परियोजनाओं से संबंधित से भिन्न, पांच हेक्टेयर वन भूमि को अंतर्वर्तित करने वाले प्रस्ताव, जो सभी परिप्रेक्ष्यों में पूर्ण हैं, की जांच करने के पश्चात् और ऐसी और जांच जैसा कि वह उचित समझे करने के पश्चात्, निर्दिष्ट शर्तों को पूरा करने के अधीन रहते हुए सिद्धांतः उसे अनुमोदन प्रदान कर सकेगा या यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन से प्राप्ति के पश्चात् पच्चीस दिन के भीतर उसे अस्वीकार कर सकेगा और अगले पांच दिन के भीतर उससे यथास्थिति, संबंधित राज्य सरकार या संघ राज्यक्षेत्र को संसूचित करेगा।

(ख) प्रादेशिक कार्यालय ऐसे प्रस्ताव की दशा में जिसमें सौ हेक्टेयर से अधिक वन भूमि या पट्टे का नवीकरण अंतर्वर्तित है यथास्थिति, राज्य सरकार या संघ राज्य क्षेत्र से सभी परिप्रेक्ष्यों में पूर्ण प्रस्ताव की प्राप्ति के पैंतालीस दिन के भीतर परिवर्तित किए जाने के लिए प्रस्तावित भूमि का निरीक्षण करेगा और एक स्थल निरीक्षण रिपोर्ट तैयार करेगा।

(ग) प्रादेशिक कार्यालय पांच हेक्टेयर से अधिक चालीस हेक्टेयर तक अंतर्वर्तित करने वाले वन भूमि से संबंधित सभी प्रस्तावों को, खनन, अतिक्रमण और जल विद्युत परियोजनाओं जिनमें पांच हेक्टेयर तक भूमि अंतर्वर्तित है और लिनियर परियोजनाओं से संबंधित सभी परियोजनाएं जो सभी परिप्रेक्ष्यों में पूर्ण हैं जिसके अंतर्गत प्रादेशिक सशक्त समिति को यथास्थिति, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन से प्रस्ताव की प्राप्ति के दस दिन के भीतर, स्थल निरीक्षण रिपोर्ट, जब भी अपेक्षित हो, प्रादेशिक सशक्त समिति को निर्दिष्ट करेगा :

परंतु ऊपर खंड (ख) में निर्दिष्ट परियोजनाओं को स्थल निरीक्षण रिपोर्ट की प्राप्ति के पांच दिन के भीतर प्रादेशिक सशक्त समिति को निर्दिष्ट किया जाएगा।

(घ) प्रादेशिक सशक्त समिति पैंतीस दिन की अवधि के भीतर ऊपर खंड (ग) के अधीन प्रस्तावों की जांच करेगी और ऐसी और जांच जैसा कि वह उचित समझे निर्दिष्ट शर्तों को पूरा करने के अधीन रहते हुए खनन, अतिक्रमण और जल विद्युत परियोजनाओं से संबंधित से भिन्न प्रस्तावों को सिद्धांतः अनुमोदन प्रदान कर सकेगी या यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन से प्राप्ति के पश्चात् पच्चीस दिन के भीतर उसे अस्वीकार कर सकेगी और अगले पांच दिन के भीतर उससे यथास्थिति, संबंधित राज्य सरकार या संघ राज्यक्षेत्र को संसूचित करेगी।

(ङ.) प्रादेशिक सशक्त समिति तीस दिन की अवधि के भीतर खनन, अतिक्रमण और जल विद्युत से संबंधित प्रस्तावों जिनमें चालीस हेक्टेयर तक वन भूमि को परिवर्तित करना अंतर्वर्तित है, जांच करेगी और अपनी सलाह देगी :

परंतु प्रादेशिक सशक्त समिति ऐसी शर्तों या निबंधनों का, यदि कोई हों, सुझाव दे सकेगी जिनके गैर वन प्रयोजन के लिए किसी वन भूमि के उपयोग पर अधिरोपित करने की अपेक्षा हो, जो उसके मत में प्रतिकूल पर्यावरण संघात को न्यूनतम करेंगे।

(च) प्रादेशिक कार्यालय ऊपर खंड (ङ.) में निर्दिष्ट प्रस्तावों पर प्रादेशिक सशक्त समिति की सलाह की प्राप्ति के पांच दिन की अवधि के भीतर प्रादेशिक सशक्त समिति की सलाह के साथ ऐसे प्रस्ताव को सचिव, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को, केन्द्रीय सरकार का विनिश्चय अभिप्राप्त करने के लिए अग्रेषित करेगा:

परंतु प्रादेशिक कार्यालय से पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को किसी प्रस्ताव के पारेषण में लगने वाला समय पांच दिन से अधिक नहीं होगा।

(छ) केन्द्रीय सरकार प्रादेशिक सशक्त समिति की सलाह पर विचार करने के पश्चात् और ऐसी और जांच जो वह आवश्यक समझे, करने के पश्चात् अनुबद्ध शर्तों को पूरा करने की शर्त के अधीन रहते हुए सिद्धांतः अनुमोदन प्रदान कर सकेगी या उसे प्रादेशिक कार्यालय से उसकी प्राप्ति के तीस दिन के भीतर उसे अस्वीकार कर देगी और उसकी संसूचना यथास्थिति संबंधित राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को अगले पांच कार्यदिवस के भीतर देगी।

(ii) उप नियम (4) में खंड (ग) के स्थान पर निम्नलिखित खंड रखा जाएगा, अर्थात्:-

"(ग) प्रादेशिक कार्यालय ऐसे प्रस्ताव की दशा में जिसमें सौ हेक्टेयर से अधिक वन भूमि या पट्टे का नवीकरण अंतर्वर्तित है पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय, सभी परिप्रेक्ष्यों में पूर्ण प्रस्ताव की प्राप्ति के दस दिन के भीतर संबंधित प्रादेशिक कार्यालय को परिवर्तित किए जाने के लिए प्रस्तावित भूमि का निरीक्षण करने और पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को पैंतालीस दिन के भीतर एक निरीक्षण रिपोर्ट प्रस्तुत करने का अनुरोध करेगा:

परंतु पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय से प्रादेशिक कार्यालय को स्थल निरीक्षण के अनुरोध को संसूचित करने में लगने वाला कुल समय और प्रादेशिक कार्यालय से पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को स्थल निरीक्षण रिपोर्ट से संसूचित करने में लगने वाला कुल समय प्रादेशिक कार्यालय द्वारा स्थल निरीक्षण करने में लगने वाले समय से दस दिन से अधिक और ऊपर नहीं होगा।"

7. उक्त नियमों के नियम 8 में-

(i) उप नियम (2) में खंड (क) के स्थान पर निम्नलिखित खंड रखा जाएगा , अर्थात्:-

"(क) उन मामलों में जहाँ यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन से सिद्धांततः अनुमोदन में अनुबद्ध शर्त का अनुपालन पांच वर्ष से अधिक समय से प्रतिक्षित है, सिद्धांततः अनुमोदन का तुरंत प्रतिसंहरण कर लिया जाएगा:

परंतु जहाँ वैध और तर्कपूर्ण कारणों से यथास्थिति उपयोगकर्ता अभिकरण या राज्य सरकार या संघ राज्यक्षेत्र प्रशासन के लिए सिद्धांततः अनुमोदन, में अनुबद्ध एक या अधिक शर्तों का अनुपालन अधिनियम के अधीन अंतिम अनुमोदन प्राप्त करने के लिए सिद्धांततः अनुमोदन प्रदान करने की तारीख से पांच वर्ष की अवधि के भीतर संभव नहीं हुआ है तो केन्द्रीय सरकार ऐसी शर्तों के अनुपालन की अवधि का, ऐसी और अवधि से जो वह उचित समझे, विस्तार कर सकेगी।"

(ii) उप नियम (3) में खंड (ग) के स्थान पर निम्नलिखित खंड रखे जाएंगे, अर्थात्:-

"(ग) केन्द्रीय सरकार, ऐसे मामलों में, खनन पट्टे की मूल अवधि के लिए, ऐसी वन भूमि के, अधिनियम के अधीन परिवर्तन के लिए अंतिम अनुमोदन प्रदान करने के अतिरिक्त यथास्थिति वन सलाहकार समिति या प्रादेशिक सशक्त समिति की सलाह पर विचार करने के पश्चात् और ऐसी और जांच जो वह आवश्यक समझे करने के पश्चात्, यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को खनन पट्टे के बीस वर्ष से अनधिक ऐसी अवधि के नवीकरण के प्रस्ताव को, जो केन्द्रीय सरकार द्वारा समुचित शर्तों के साथ विनिर्दिष्ट किया जाए, के लिए अंतिम अनुमोदन प्रदान कर सकेगी या उसे अस्वीकार कर सकेगी।

(घ) ऊपर खंड (क) से खंड (ग) में अनुबद्ध प्रक्रिया उन मामलों में भी लागू होगी जहाँ खनन पट्टे की समाप्ति की तारीख से पांच वर्ष से अधिक पूर्व किसी दिन वन भूमि के परिवर्तन के लिए अधिनियम के अधीन सिद्धांततः अनुमोदन प्रदान किया गया है और वैध और तर्कपूर्ण कारणों से यथास्थिति उपयोगकर्ता अभिकरण या राज्य सरकार या संघ राज्यक्षेत्र प्रशासन से सिद्धांततः अनुमोदन में अनुबद्ध एक या अधिक शर्तों का अनुपालन करना और सिद्धांततः अनुमोदन प्रदान करने की तारीख से पांच वर्ष की अवधि के भीतर अंतिम अनुमोदन प्रदान करना संभव नहीं हुआ है :

परंतु केन्द्रीय सरकार द्वारा ऐसे सिद्धांततः अनुमोदन का पहले ही संक्षेपतः प्रतिसंहण नहीं कर लिया गया है:

परंतु यह और कि ऐसे मामलों में ऊपर खंड (ख) में निर्दिष्ट रिपोर्ट के अतिरिक्त, यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन केन्द्रीय सरकार को सिद्धांततः अनुमोदन में अनुबद्ध शर्तों के अनुपालन में विलंब के कारण या कारणों को भी प्रस्तुत करेंगे।"

(ड.) ऊपर खंड (क) से खंड (ग) में अनुबद्ध प्रक्रिया, जहाँ खनन पट्टे का अधिनियम के अधीन सिद्धांततः अनुमोदन प्रदान करने की तारीख से दस वर्ष की अवधि के भीतर अवसान हो गया है, या पहले ही अवसान हो गया है, यहां तक कि अधिनियम के अधीन ऐसी वन भूमि को परिवर्तित करने का अंतिम अनुमोदन खनन पट्टे के अवसान से पूर्व प्रदान कर दिया गया है, के मामलों में भी लागू होगी:

परंतु ऐसे मामलों में सिद्धांततः अनुमोदन में अनुबद्ध शर्तों के अनुपालन की रिपोर्ट के स्थान पर, मूल पट्टा अवधि की वैधता के दौरान ऐसी वन भूमि को अधिनियम के अधीन परिवर्तित करने के लिए अंतिम अनुमोदन में अनुबद्ध शर्तों के अनुपालन की रिपोर्ट यथास्थिति राज्य सरकार या संघ राज्यक्षेत्र प्रशासन द्वारा केन्द्रीय सरकार को प्रस्तुत की जाएगी।"

8. इन नियमों में सभी स्थानों पर, "पर्यावरण और वन मंत्रालय" शब्द जहाँ जहाँ वे आते हैं, के स्थान पर, "पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय" शब्द रखे जाएंगे।

[फा. सं. 11-43/2013-एफसी]

एम.सी. नेगी, वन महानिरीक्षक (वन संरक्षण)

टिप्पण: मूल नियम भारत के राजपत्र सा.का.नि. सं. 23(अ) तारीख 10 जनवरी, 2003 द्वारा प्रकाशित किए गए थे और तत्पश्चात् सा.का.नि. 94(अ) तारीख 3 फरवरी, 2004, सा.का.नि. सं. 107(अ) तारीख 9 फरवरी, 2004 और सा.का.नि. सं. 185(अ) तारीख 14 मार्च, 2014 द्वारा संशोधित किए गए।

MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE

(Forest Conservation Division)

NOTIFICATION

New Delhi, the 10th October, 2014

G.S.R.713 (E).— In exercise of the powers conferred by sub-section (1) of Section 4 of the Forest (Conservation) Act, 1980 (69 of 1980), the Central Government hereby makes the following rules further to amend the Forest (Conservation) Rules, 2003, namely: -

1. (1) These rules may be called the Forest (Conservation) Second Amendment Rules, 2014.
- (2) They shall come into force on the 1st day of November 2014.
2. In the Forest (Conservation) Rules, 2003 (hereinafter referred to as the said rules), in rule 2, after clause (ca), the following clauses shall be inserted, namely:

“(cb) **“Chairperson of the Regional Empowered Committee”** means chairperson of each of the Regional Empowered Committees constituted under rule 4A;

(cc) **“Head of the Regional Office”** means senior-most officer in the rank of Additional Principal Chief Conservator of Forests or Chief Conservator of Forests appointed by the Central Government at Regional Office to deal with the forest conservation matters under the Act;

(cd) **“linear projects”** means projects involving linear diversion of forest land for purposes such as roads, railways lines, pipelines, transmission lines, *etc.*;

3. **In the said rules, for rule 4 relating to constitution of Regional Empowered Committee as inserted vide notification number G.S.R. 94 (E) dated, the 3rd February, 2004, the following rule shall be substituted namely:-**

“4-A Constitution of Regional Empowered Committee-

- (1) The Central Government by notification in the Official Gazette, shall constitute a Regional Empowered Committee at each of the Regional Offices.
- (2) The Regional Empowered Committee at each of the Regional Offices shall consist of the following members to be appointed by the Central Government to deal with the forest conservation matters, namely:

(i) Head of the Regional Office;	Chairperson
(ii) Senior most officer from amongst officers in the rank of Chief Conservator of Forests or Conservator of Forests in the Regional Office;	Member
(iii) Three non-official members from amongst eminent persons who are experts in the forestry and allied disciplines;	Members
(iv) Senior most officer from amongst officers in the rank of Deputy Conservator of Forests in the Regional Office.	Member-Secretary
- (3) Representatives of the State Government or the Union Territory Administration, as the case may be, not below the rank of a Director to the Government of India, one each from Forest Department and Revenue Department shall also be invited to attend meeting of the Regional Empowered Committee as special invitee, in the examination of the proposals pertaining to such State or Union Territory Administration, as the case may be.
- (4) The term of appointment of non-official members shall be as specified in rule 4.“

4. **In the said rules, after rule 5, the following rule shall be inserted, namely:-**

“5 A. Conduct of Business of Regional Empowered Committee

- (1) The Chairperson of the Regional Empowered Committee shall hold the meeting of the Regional Empowered Committee whenever considered necessary, but not less than once in a month.
- (2) The meetings of the Regional Empowered Committee shall be held at the headquarters of the Regional Office:

Provided that where the Chairperson of the Regional Empowered Committee is satisfied that inspection of site or sites of forest land proposed to be used for non-forest purposes shall be necessary or expedient in connection with the consideration of the proposals referred to the Regional Empowered Committee, he may direct that the meetings of the Regional Empowered Committee be held at a place other than headquarters of the Regional Office for such inspection of site or sites.

- (3) The Chairperson of the Regional Empowered Committee shall preside over every meeting of the Regional Empowered Committee:

Provided that in the absence of Chairperson of the Regional Empowered Committee, the senior most member in the rank of the Chief Conservator of Forests or the Conservator of Forests shall act as the Chairperson of the Regional Empowered Committee.

- (4) Every proposal referred to the Regional Empowered Committee for advice or decision shall be considered in the meeting of the Regional Empowered Committee:

Provided that in urgent cases if the meeting cannot be convened within a month, the Chairperson of the Regional Empowered Committee may direct that papers may be circulated and sent to members of the Regional Empowered Committee for their opinion within the stipulated time.

- (5) The quorum of the meeting of the Regional Empowered Committee shall be three.”

5. **In the said rules, in sub-rule (4) of rule 6, for clauses (a) and (b), the following clauses shall be substituted, namely: -**

“(a) The proposal referred to in clause (1) of sub-rule (3), involving forest land up to forty hectares and all proposals related to linear projects irrespective of the area of forest land involved, shall be forwarded by the

concerned State Government or the Union Territory Administration, as the case may be, along with its recommendations, to the concerned Regional Office.

(b) The proposal referred to in clause (1) of sub-rule (3), involving forest land of more than forty hectares, other than proposals related to linear projects shall be forwarded by the concerned State Government or the Union Territory Administration, as the case may be, along with its recommendations, to the Secretary, Government of India, Ministry of Environment, Forests and Climate Change.”

6. In the said rules, in rule 7-

(i) for sub-rule (2) the following sub-rule shall be substituted, namely:-

“(2) (a) The Regional Office shall after examination of the proposal involving forest land up to five hectares other than the proposal related to mining, encroachments, and hydel projects, which are complete in all respect, and after such further enquiry as it may consider necessary, grant in-principle approval subject to fulfillment of stipulated conditions, or reject the same within twenty five days of its receipt from the State Government or the Union Territory Administration, as the case may be, and communicate the same to the concerned State Government or the Union Territory Administration, as the case may be, within next five days.

(b) In case a proposal involves forest land more than one hundred hectares or renewal of lease, Regional Office shall within forty-five days of the receipt of the proposal complete in all respects from the State Government or the Union Territory Administration, as the case may be, inspect the forest land proposed to be diverted and prepare a site inspection report.

(c) Regional Office shall refer all proposals involving forest land above five hectares and up to forty hectares; proposals related to mining, encroachments, and hydel projects involving forest land up to five hectares; and all proposals related to linear projects which are complete in all respects, including site inspection report, wherever required, to the Regional Empowered Committee within ten days of the receipt of the proposal from the State Government or the Union Territory Administration, as the case may be:

Provided that proposals referred to in clause (b) above, shall be referred to the Regional Empowered Committee within five days of the receipt of the site inspection report.

(d) The Regional Empowered Committee shall within a period of thirty days examine the proposals referred to it under clause (c) above and after such further enquiry as it may consider necessary, grant in-principle approval to the proposals other than proposals related to mining, encroachment and hydel projects subject to fulfilment of stipulated conditions, or reject the same and the Regional Office shall communicate the decision of the Regional Empowered Committee to the concerned State Government or the Union Territory Administration, as the case may be, within next five working days.

(e) The Regional Empowered Committee shall within a period of thirty days examine the proposals related to mining, encroachments, and hydel project involving diversion of forest land up to forty hectares and tender its advice:

Provided that the Regional Empowered Committee may suggest such conditions or restrictions if any, required to be imposed on the use of any forest land for non-forest purpose, which in its opinion would minimise adverse environmental impact.

(f) The Regional Office shall within a period of five days of the receipt of the advice of the Regional Empowered Committee on proposals referred to in clause (e) above, forward such proposal along with advice of the Regional Empowered Committee to the Secretary, Ministry of Environment, Forests and Climate Change for obtaining the decision of the Central Government:

Provided that time taken in transit of a proposal from Regional Office to the Ministry of Environment, Forests and Climate Change shall not be more than five days.

(g) The Central Government shall, after considering the advice of the Regional Empowered Committee and after further enquiry as it may consider necessary, grant in-principle approval subject to fulfillment of stipulated conditions, or reject the same within thirty days of its receipt from the Regional Office and communicate the same to the concerned State Government or the Union Territory Administration, as the case may be, within next five working days.”

(ii) in sub-rule (4), for clause (c), the following clause shall be substituted, namely: -

“(c) In case the proposal involves forest land more than one hundred hectares or renewal of lease, Ministry of Environment, Forests and Climate Change shall within ten days of the receipt of a proposal complete in all respects, request the concerned Regional Office to inspect the forest land proposed to be diverted and submit a report to the Ministry of Environment, Forests and Climate Change within a period of forty-five days:

Provided that the total time taken in communication of the request for site inspection from the Ministry of Environment, Forests and Climate Change to Regional Office and communication of the site inspection report from the Regional Office to the Ministry of Environment, Forests and Climate Change shall not be more than ten days, over and above the time taken in undertaking site inspection by the Regional Office.”

7. In the said rules, in rule 8-**(i) in sub-rule (2), for clause (a), the following clause shall be substituted, namely:**

“(a) In cases where compliance of conditions stipulated in the in-principle approval is awaited for more than five years from the State Government or the Union Territory Administration, as the case may be, the in-principle approvals may be summarily revoked:

Provided that in cases where for valid and cogent reasons it has not been possible for the User Agency or the State Government or the Union territory Administration, as the case may be, to comply with one or more of the conditions stipulated in the in-principle approval for obtaining final approval under the Act within five years from the date of grant of in-principal approval, the Central Government may extend the period for compliance of such conditions by such further period as it deem fit.”

(ii) in sub-rule (3), for clause (c), the following clauses shall be substituted, namely:

“(c) In such cases, apart from grant of final approval under the Act for diversion of such forest land for original period of mining lease, the Central Government, shall, after considering advice of the Forest Advisory Committee or the Regional Empowered Committee, as the case may be, and after further enquiry as it may consider necessary, grant final approval to the proposal of the State Government or the Union Territory Administration, as the case may be, for renewal of mining lease for a period, as may be specified by the Central Government, not exceeding twenty years, with appropriate conditions or reject the same.

(d) Procedure stipulated in clauses (a) to (c) above, shall also be applicable to the cases where in-principle approval under the Act for diversion of forest land has been accorded on a day more than five years prior to date of expiry of mining lease and for valid and cogent reasons it has not been possible for the User Agency or the State Government or the Union Territory Administration, as the case may be, to comply with one or more of the conditions stipulated in the in-principle approval and obtain final approval within five years from the date of grant of the in-principal approval:

Provided such in-principle approval has not already been summarily revoked by the Central Government:

Provided further that in such cases, apart from the report referred to in clause (b) above, the State Government or the Union Territory Administration, as the case may be, shall also submit to the Central Government, reason or reasons for delay in compliance to conditions stipulated in the in-principle approval.

(e) Procedure stipulated in clauses (a) to (c) above, shall also be applicable to the cases where mining lease expires or has already expired within a period of ten years from the date of grant of in-principle approval under the Act, even if final approval under the Act for diversion of such forest land has been granted prior to expiry of the mining lease:

Provided, that in such cases, in place of a report on compliance to conditions stipulated in the in-principle approval, a report on compliance to conditions stipulated in the final approval under the Act for diversion of such forest land during validity of the original lease period shall be submitted to the Central Government by the State Government or the Union Territory Administration, as the case may be.”

8. Throughout the said rules, for the words “Ministry of Environment and Forests” wherever it occurs, the words “Ministry of Environment, Forests and Climate Change” shall be substituted.

[F. No. 11-43/2013-FC]

M.S. NEGI, Inspector General of Forests (Forest Conservation)

Note: The Principal rules were published in the Gazette of India vide number G.S.R. 23 (E) dated the 10th January, 2003 and subsequently amended vide G.S.R 94 (E) dated the 3rd February, 2004, vide G.S.R. 107 (E) dated the 9th February, 2004 and vide G.S.R. 185 (E) dated the 14th March, 2014.

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भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

(वन संरक्षण प्रभाग)

अधिसूचना

नई दिल्ली, 6 मार्च, 2017

सा.का.नि. 200(अ).—केन्द्रीय सरकार, वन (संरक्षण) अधिनियम, 1980 (1980 का 69) की धारा 4 की उप-धारा

(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वन (संरक्षण) नियम, 2003 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

1. (1) इन नियमों का संक्षिप्त नाम वन (संरक्षण) संशोधन नियम, 2016 है।

(2) ये राजपत्र में प्रकाशन की तारीख को लागू होंगे।

2 वन (संरक्षण) नियम, 2003 में -

(क) नियम 2 में, धारा (ग क) के पश्चात, निम्नलिखित धारा अन्तःस्थापित की जाएगी, अर्थात्:-

‘(गकक) "जिला कलक्टर" से यथास्थिति राज्य सरकार अथवा संघ राज्य क्षेत्र प्रशासन द्वारा जिला कलक्टर अथवा उप-आयुक्त के पदाभिधान अथवा ऐसे किसी सदृश पदाभिधान के अधीन उस वन भूमि, जिसके लिए अधिनियम के अधीन केन्द्रीय सरकार का अनुमोदन अपेक्षित है, पर क्षेत्राधिकार रखने वाले राजस्व जिले के प्रशासन का प्रभार धारण करने के लिए नियुक्त किया गया अधिकारी अभिप्रेत है।’;

(ख) नियम 6 में -

- (i) उप-नियम (3) में, खंड (ड.), (च) और (छ) के स्थान पर निम्नलिखित खंड क्रमशः रखे जाएंगे, अर्थात् :-
- "(ड.) जिला कलेक्टर-
- (i) प्रस्ताव में उपदर्शित पूर्ण वन भूमि हेतु अनुसूचित जनजाति और अन्य परम्परागत वन वासी (वन अधिकारों की मान्यता) अधिनियम, 2006 (2007 का 2) के उपबंधों के अनुसार वन अधिकारों को मान्यता देने और उन्हें निहित करने की प्रक्रिया पूरी करेगा;
- (ii) अपवर्तन के प्रयोजन तथा ब्यौरे, जहां कहीं अपेक्षित हो, को समझ लेने पर ऐसी वन भूमि के अपवर्तन तथा प्रतिपूरक और सुधारात्मक उपायों, यदि कोई हों, के प्रस्ताव में इंगित संपूर्ण वन भूमि अथवा इसके भाग पर क्षेत्राधिकार रखने वाली प्रत्येक ग्राम सभा से सहमति प्राप्त करना; और
- (iii) इस संबंध में अपने निष्कर्षों को वन संरक्षक को अग्रेषित करना;
- (च) खंड (ड.) में निर्दिष्ट संपूर्ण प्रक्रिया, प्रस्ताव के अधिनियम के अधीन सैद्धांतिक रूप से अनुमोदन प्रदान किए जाने हेतु इन नियमों में नियत समयावधि के अन्दर, जिला कलेक्टर द्वारा पूरी की जाएगी;
- (छ) वन संरक्षक प्रस्ताव के तथ्यात्मक ब्यौरे एवं व्यवहार्यता की जांच करेगा, अपवर्तित की जाने वाली प्रस्तावित वन भूमि का क्षेत्रफल 40 हेक्टेयर से अधिक होने की दशा में स्थल पर निरीक्षण करेगा, और अपनी सिफारिशों के साथ प्रस्ताव नोडल अधिकारी को अग्रेषित करेगा;" ;
- (ii) उप-नियम (4) के पश्चात्, निम्नलिखित उप-नियम अन्तःस्थापित किए जाएंगे, अर्थात् :
- "(5)(क) इन नियमों में किसी बात के होते हुए भी, संरक्षित क्षेत्रों, संरक्षित क्षेत्रों के पारिस्थितिकी-संवेदी जोन, अभिज्ञात बाघ कोरिडोर तथा 10 प्रतिशत से अनधिक वनाच्छादित क्षेत्रों से बाहर के खनन ब्लॉकों में वृक्षों की कटाई किए बिना खनिजों का पूर्वेक्षण करने तथा नई सड़क अथवा मार्ग के संनिर्माण के लिए इस अधिनियम के अधीन अनुमोदन प्राप्त करने का प्रस्ताव । प्रयोक्ता अभिकरण द्वारा शीर्ष घनत्व, भारतीय वन सर्वेक्षण द्वारा प्रकाशित नवीनतम भारत वन स्थिति रिपोर्ट के अनुसार एक पत्र के रूप में एक भू-संदर्भित मानचित्र सहित प्रस्तुत किया जाएगा जिसमें पूर्वेक्षण किए जाने वाले ब्लॉक की सीमा, प्रत्येक बोर-होल स्थल तथा पूर्वेक्षण हेतु प्रयोग की जाने वाली सड़कों अथवा मार्गों की अवस्थिति उपदर्शित की गई हो; और इस आशय का एक प्रमाण पत्र कि प्रस्ताव नोडल अधिकारी की पूर्वोक्त अपेक्षाओं को पूरा करता है;
- (ख) नोडल अधिकारी खंड (क) के अधीन प्रस्ताव प्राप्त हो जाने पर और उसका यह समाधान हो जाने पर कि भू-संदर्भित मानचित्र और प्रमाण पत्र ठीक क्रम में हैं, प्रस्ताव को इसके प्राप्त होने के दस दिनों के अन्दर प्रभागीय वन अधिकारी को भेजेगा;
- (ग) यदि नोडल अधिकारी यह पाता है कि भू-संदर्भित मानचित्र अथवा प्रमाण पत्र ठीक क्रम में नहीं है तो वह प्रस्ताव को दस दिनों के अंदर प्रयोक्ता अभिकरण को वापस लौटा देगा और नोडल अधिकारी द्वारा लिया गया समय तथा प्रयोक्ता अभिकर्ता द्वारा भू-संदर्भित मानचित्र और प्रमाण पत्र को पुनः प्रस्तुत करने में लिये गये समय की गणना भविष्य के किसी भी संदर्भ के लिए नहीं की जाएगी;
- (घ) ऐसे प्रस्तावों को, उनकी प्राप्ति के तीस दिन के भीतर, अंतिम रूप से निपटान करने हेतु प्रभागीय वन अधिकारी, प्रयोक्ता अभिकरण द्वारा प्रस्तुत किए गए भू-संदर्भित मानचित्र और प्रमाणपत्र को अधिप्रमाणित

करेंगे और उसे यथास्थिति राज्य सरकार या संघ राज्य प्रशासन, या यथास्थिति राज्य सरकार अथवा संघ राज्य क्षेत्र प्रशासन द्वारा प्राधिकृत अधिकारी, जो नोडल अधिकारी की पंक्ति से नीचे का न हो, को अग्रेषित करेंगे;

- (ड.) भू-संदर्भित मानचित्र और प्रमाणपत्र की जांच के पश्चात और ऐसी जांच जो आवश्यक समझी जाएं, करने के पश्चात ऐसे मामलों के अंतिम रूप से निपटान हेतु यथा स्थिति राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, या यथास्थिति राज्य सरकार अथवा संघ राज्य क्षेत्र प्रशासन द्वारा विधिवत प्राधिकृत अधिकारी, जो नोडल अधिकारी की पंक्ति से नीचे का न हो, निर्धारित शर्तों को पूरा करने के अध्यक्षीन खनिजों के पूर्वक्षेपण की अनुमति देंगे, या प्रभागीय वन अधिकारी से प्रस्ताव प्राप्त होने के पच्चीस दिन के भीतर उसे अस्वीकार कर देंगे और उसकी संसूचना अगले पांच दिन के भीतर संबंधित प्रभागीय अधिकारी और प्रयोक्ता अभिकरण को सूचित कर देंगे;
- (6) (क) इन नियमों में अन्तर्विष्ट किसी बात के होते हुए भी, वृक्षों की कटाई किए बिना खनिजों का पूर्वक्षेपण करने के लिए और संरक्षित क्षेत्रों के बाहर के खनन ब्लॉक, संरक्षित क्षेत्रों के पारिस्थितिकी-संवेदी जोन, अभिज्ञात बाघ कोरीडोर और चालीस प्रतिशत से कम वनावरण में नई सड़कों या रास्तों का निर्माण करने के लिए अधिनियम के अधीन अनुमोदन प्राप्त प्रस्ताव। भारतीय वन सर्वेक्षण द्वारा प्रकाशित भारत की नवीनतम वन-स्थिति रिपोर्ट के अनुसार नोडल अधिकारी को ऊपरी सघनता, पूर्वक्षेपण खंड की सीमा, प्रत्येक बोर होल साइट के स्थान पर पूर्वक्षेपण हेतु प्रयोग में आने वाली सड़कों और रास्तों को इंगित करते हुए भू-संदर्भित मानचित्र और इस आशय का प्रमाणपत्र कि यह प्रस्ताव उपर्युक्त अपेक्षाओं को पूरा करता है, प्रस्तुत किया जाएगा;
- (ख) नोडल अधिकारी खंड (क) के अधीन प्रस्ताव प्राप्त करने और उसका यह समाधान हो जाने पर कि भू-संदर्भित मानचित्र और प्रमाणपत्र ठीक क्रम में है, प्रस्ताव को प्राप्त होने के दस दिन की अवधि के भीतर प्रभागीय वन अधिकारी को भेजेगा;
- (ग) यदि नोडल अधिकारी यह पाता है कि भू-संदर्भित मानचित्र या प्रमाणपत्र ठीक क्रम में नहीं हैं तो वह इस प्रस्ताव को दस दिन की अवधि के भीतर प्रयोक्ता अभिकरण को वापस लौटा देगा और नोडल अधिकारी द्वारा ली गई उक्त समयावधि और प्रयोक्ता अभिकरण द्वारा इस प्रस्ताव को पुनः प्रस्तुत करने की समयावधि को किसी भावी संदर्भ के लिए नहीं गिना जाएगा;
- (घ) प्रभागीय वन अधिकारी, प्रयोक्ता अभिकरण द्वारा प्रस्तुत भू-संदर्भित मानचित्र और प्रमाण-पत्र प्रमाणित करेगा और भू-संदर्भित मानचित्र और प्रमाण-पत्र की प्राप्ति के तीस दिन की अवधि के भीतर सीधे नोडल अधिकारी को अग्रेषित करेगा;
- (ड.) खंड (क) के अधीन नोडल अधिकारी द्वारा प्राप्त प्रस्ताव को इन नियमों के नियम 6 और नियम 7 के उप नियम (3) और उप नियम 4 के खंड (झ) से खंड (ड) में यथा उपबंधित रीति और अवधि में आगे और प्रसंस्कृत किया जाएगा;
- (ग) नियम 7 में -
- (ज) उप नियम 2 में खंड (ख) के स्थान पर निम्नलिखित खंड रखा जाएगा, अर्थात्:

"यदि प्रस्ताव में एक सौ हेक्टेयर से अधिक वन भूमि अथवा पट्टे का नवीकरण अन्तर्वलित हो तो क्षेत्रीय कार्यालय, यथास्थिति राज्य सरकार अथवा संघ शासित क्षेत्र प्रशासन से सभी बाबत पूर्ण प्रस्ताव की प्राप्ति के पैंतालीस दिन के भीतर, अपवर्तित की जाने वाली प्रस्तावित वन भूमि का निरीक्षण करेगा और स्थल निरीक्षण रिपोर्ट तैयार करेगा :

परन्तु वन भूमि में खनिजों का पूर्वक्षण करने हेतु अधिनियम के अधीन अनुमोदन की वांछा करने वाले प्रस्तावों के मामले में, क्षेत्रीय कार्यालय द्वारा पूर्व स्थल निरीक्षण तभी अपेक्षित होगा जब सड़कों, मार्गों के निर्माण; वेध छिद्र की खुदाई और सभी ऐसे वनेतर उद्देश्यों हेतु अपेक्षित वन भूमि का क्षेत्र एक सौ हेक्टेयर से अधिक हो।";

(ii) उप-नियम (4) में खंड (ग) के स्थान पर निम्नलिखित खंड रखा जाएगा, अर्थात :-

"(ग) यदि प्रस्ताव में एक सौ हेक्टेयर से अधिक वन भूमि और पट्टे का नवीकरण अन्तर्वलित है तो पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय सभी बाबत पूर्ण प्रस्ताव की प्राप्ति के दस दिन के भीतर संबंधित क्षेत्रीय कार्यालय से अनुरोध करेगा कि वह अपवर्तित की जाने वाली प्रस्तावित वन भूमि का निरीक्षण करे और पैंतालीस दिन के भीतर पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को रिपोर्ट प्रस्तुत करें:

परन्तु वन भूमि में खनिजों का पूर्वक्षण करने हेतु अधिनियम के अधीन अनुमोदन की वांछा करने वाले प्रस्तावों के मामले में, क्षेत्रीय कार्यालय द्वारा पूर्व स्थल निरीक्षण तभी अपेक्षित होगा जब सड़कों, मार्गों के निर्माण; वेध छिद्र की खुदाई और सभी ऐसे वनेतर उद्देश्यों हेतु अपेक्षित वन भूमि का क्षेत्र एक सौ हेक्टेयर से अधिक है।"

परन्तु यह और कि पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय से क्षेत्रीय कार्यालय को स्थल निरीक्षण के लिए अनुरोध की संसूचना देने तथा क्षेत्रीय कार्यालय से पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को स्थल निरीक्षण रिपोर्ट सम्प्रेषित करने में लगने वाला कुल समय, क्षेत्रीय कार्यालय द्वारा स्थल निरीक्षण करने में लिए गए समय के अतिरिक्त, दस दिन से अधिक नहीं होगा";

(घ) नियम 8 के उप-नियम (1) में,-

(i) खंड (छ) के स्थान पर, निम्नलिखित खंड रखा जाएगा, अर्थात :-

"(छ) यदि वन संरक्षक यह पाता है कि अनुपालन रिपोर्ट सभी बाबत पूर्ण है तो वह नियम 6 के उप-नियम (3) के उप-खंड (च) में निर्दिष्ट जिला कलक्टर से प्राप्त वन अधिकारों को मान्यता देने तथा निहित होने और प्रत्येक ग्राम सभा की सहमति की प्रक्रिया पूरी होने संबंधी रिपोर्ट के साथ ऐसी रिपोर्ट प्रभागीय वन अधिकारी से प्राप्त होने के पंद्रह दिन की अवधि के भीतर नोडल अधिकारी को अग्रेषित करेगा :

परन्तु यदि वन संरक्षक यह पाता है कि अनुपालन रिपोर्ट पूर्ण नहीं है तो वह वन प्रभागीय अधिकारी से इसकी प्राप्ति की पंद्रह दिन की अवधि के भीतर उपभोक्ता अभिकरण और वन प्रभागीय अधिकारी को अनुपालन रिपोर्ट में कमी अथवा कमियों के बारे में बताएगा";

(ii) खंड (झ) के स्थान पर, निम्नलिखित खंड रखा जाएगा, अर्थात :-

"(झ) यदि नोडल अधिकारी यह पाता है कि अनुपालन रिपोर्ट सभी बाबत पूर्ण है तो वह ऐसी रिपोर्ट वन संरक्षक से इसकी प्राप्ति की पंद्रह दिन की अवधि के भीतर, यथास्थिति राज्य सरकार अथवा संघ राज्य क्षेत्र प्रशासन को अग्रेषित करेगा:

परन्तु यथास्थिति राज्य सरकार अथवा संघ राज्य क्षेत्र प्रशासन अनुपालन रिपोर्ट सीधे ही पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय को भेजने के लिए नोडल अधिकारी को प्राधिकृत करेगा:

परन्तु यह और भी कि यदि नोडल अधिकारी यह पाता है कि अनुपालन रिपोर्ट अपूर्ण है तो वह उपयोक्ता अभिकरण, वन संरक्षक और प्रभागीय वन अधिकारी को अनुपालन रिपोर्ट में कमी या कमियों के बारे में वन संरक्षक से इसकी प्राप्ति के पंद्रह दिन की अवधि के भीतर सूचित करेगा।

(iii) खंड (ड) के स्थान पर निम्नलिखित खंड रखा जाएगा, अर्थात :-

"(ड) यदि पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय या क्षेत्रीय कार्यालय, यथास्थिति, यह पाता है कि अनुपालन रिपोर्ट हर प्रकार से पूर्ण है तो वह इस अधिनियम के अधीन अंतिम अनुमोदन प्रदान करेगा और ऐसे अनुमोदन के बारे में यथास्थिति राज्य सरकार या संघ राज्य क्षेत्र प्रशासन को अनुपालन रिपोर्ट की प्राप्ति के बीस दिन की अवधि के भीतर सूचित करेगा :

परन्तु यदि यथास्थिति पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय या क्षेत्रीय कार्यालय यह पाता है कि अनुपालन रिपोर्ट अपूर्ण है तो वह अनुपालन रिपोर्ट में कमी या कमियों के बारे में यथास्थिति राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, नोडल अधिकारी और उपयोक्ता अभिकरण को अनुपालन रिपोर्ट की प्राप्ति के बीस दिन की अवधि के भीतर सूचित करेगा।"

[फा. सं. 11-43/2013-एफसी (खण्ड)]

दीपक कुमार सिन्हा, वन महानिरीक्षक (वन संरक्षण)

टिप्पण :- मूल नियम भारत के राजपत्र, असाधारण, भाग II, खण्ड 3, उप-खण्ड (i) में सा.का.नि. 23(अ), तारीख 10 जनवरी, 2003 द्वारा प्रकाशित किए गए थे और तत्पश्चात् सा.का.नि. 94(अ), तारीख 03 फरवरी, 2004; सा.का.नि. 107(अ), तारीख 09 फरवरी, 2004; सा.का.नि. 185(अ), तारीख 14 मार्च, 2014 और सा.का.नि. 713(अ), तारीख 10 नवम्बर, 2014 द्वारा संशोधित किए गए थे।

MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE

(Forest Conservation Division)

NOTIFICATION

New Delhi, the 6th March, 2017

G.S.R. 200(E).—In exercise of the powers conferred by sub-section (1) of section 4 of the Forest (Conservation) Act, 1980 (69 of 1980), the Central Government hereby makes the following rules further to amend the Forest (Conservation) Rules, 2003, namely: -

1. (1) These rules may be called the **Forest (Conservation) Amendment Rules, 2016.**
- (2) They shall come into force on the date of their publication in the **Official Gazette.**

2. **In the Forest (Conservation) Rules, 2003, -**

(a) **In rule 2, after clause (ca), the following clause shall be inserted, namely: -**

'(caa) "**District Collector**" means an officer appointed by the State Government or the Union territory Administration, as the case may be, under the designation of District Collector or Deputy Commissioner or any such similar designation, to hold charge of the administration of the revenue district having jurisdiction over the forest land for which the approval of the Central Government under the Act is required.';

(b) **in rule 6, -**

(i) **in sub-rule (3), for clauses (e), (f) and (g), the following clauses shall respectively be substituted, namely:-**

"(e) the District Collector shall-

- (i) complete the process of recognition and vesting of forest rights in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) for the entire forest land indicated in the proposal;
 - (ii) obtain consent of each Gram Sabha having jurisdiction over the whole or a part of the forest land indicated in the proposal for the diversion of such forest land and compensatory and ameliorative measures, if any, having understood the purposes and details of diversion, wherever required; and
 - (iii) forward his findings in this regard to the Conservator of Forests;
- (f) the entire process referred to in clause (e) shall be completed by the District Collector within the time period stipulated in these rules for grant of in-principle approval under the Act to the proposal;
- (g) the Conservator of Forests shall examine the factual details and feasibility of the proposal, carry out site-inspection in case the area of forest land proposed to be diverted is more than forty hectares, and forward the proposal along with his recommendations to the Nodal Officer;" ;
- (ii) after sub-rule (4), the following sub-rules shall be inserted, namely:-**
- "(5) (a) notwithstanding anything contained in these rules, the proposal to obtain approval under the Act to undertake prospecting of minerals without felling of trees and construction of new road or path in mining blocks falling outside the protected areas, eco-sensitive zone of protected areas, identified tiger corridors and having no forest cover of more than ten percent crown density as per the latest India State of Forest Report published by the Forest Survey of India, shall be submitted by the User Agency in a letter form along with a georeferenced map indicating boundary of the prospecting block, location of each bore-hole site and roads or paths to be used for prospecting; and a certificate to the effect that the proposal meets the afore-mentioned requirements to the Nodal Officer;
- (b) the Nodal Officer, after having received the proposal under clause (a) and on being satisfied that the geo-referenced map and the certificate are in order, shall send the proposal to the Divisional Forest Officer within a period of ten days of the receipt of the proposal;
- (c) if the Nodal Officer, finds that the geo-referenced map or the certificate are not in order, he shall return the proposal within a period of ten days to the User Agency and the said period taken by the Nodal Officer and the time taken by the User Agency to re-submit the geo-referenced map and the certificate shall not be counted for any future reference;
- (d) the Divisional Forest Officer shall authenticate the geo-referenced map and certificate submitted by the User Agency and forward the same directly to the State Government or Union territory Administration, as the case may be, or an officer not below the rank of the Nodal Officer, authorized by the State Government or Union territory Administration, as the case may be, to finally dispose of such proposals, within thirty days of its receipt;
- (e) the State Government or the Union territory Administration, as the case may be, or the officer not below the rank of the Nodal Officer, duly authorised by the State Government or the Union territory Administration, as the case may be, to finally dispose of such proposals, after examination of the geo-referenced map and certificate and after such further enquiry as it may consider necessary, grant permission for prospecting of minerals subject to fulfillment of stipulated conditions, or reject the same within twenty-five days of receipt of the proposal from the Divisional Forest Officer and communicate the same to the concerned Divisional Forest Officer and the User Agency, within next five days;
- (6) (a) notwithstanding anything contained in these rules, proposal to obtain approval under the Act to undertake prospecting of minerals without felling of trees and construction of new road or path in mining blocks falling outside the protected areas, eco-sensitive zone of protected areas, identified tiger corridors and having no forest cover of more than forty percent crown density as per the latest India State of Forest Report published by the Forest Survey of India, shall also be submitted in a letter form along with a geo-referenced map indicating boundary of the prospecting block, location of each bore-hole site and roads or paths to be used for prospecting; and a certificate to the effect that the proposal meets the afore-mentioned requirements to the Nodal Officer;
- (b) the Nodal Officer, after having received the proposal under clause (a) and on being satisfied that the geo-referenced map and the certificate are in order, shall send the proposal to the Divisional Forest Officer within a period of ten days of the receipt of the proposal;
- (c) if the Nodal Officer, finds that the geo-referenced map or the certificate are not in order, he shall return the proposal to the User Agency within a period of ten days and the said period taken by the

Nodal Officer and the time taken by the User Agency to re-submit the proposal shall not be counted for any future reference;

- (d) the Divisional Forest Officer shall authenticate the geo-referenced map and certificate submitted by the User Agency and forward the same directly to the Nodal officer, within a period of thirty days of receipt of the geo-referenced map and the certificate;
- (e) the proposal received by the Nodal Officer under clause (d) shall be further processed in the manner and within the period as provided in clause (i) to clause (m) of sub-rule (3) and sub-rule (4) of rule 6 and rule 7 of these rules." ;

(c) In rule 7 –

(h) in sub-rule (2), for clause (b), the following clause shall be substituted, namely:

"In case a proposal involves forest land more than one hundred hectares or renewal of lease, Regional Office shall within forty-five days of the receipt of the proposal complete in all respects from the State Government or the Union territory Administration, as the case may be, inspect the forest land proposed to be diverted and prepare a site inspection report:

Provided that in case of the proposals seeking approval under the Act for prospecting of minerals in forest land, prior site inspection by the Regional Office shall be required only if the area of forest land required for construction of roads, paths, drilling of bore holes and all such non-forest purpose is more than one hundred hectares." ;

(ii) in sub-rule (4), for clause (c), the following clause shall be substituted, namely :-

"(c) in case the proposal involves forest land more than one hundred hectares or renewal of lease, the Ministry of Environment, Forests and Climate Change shall within ten days of the receipt of a proposal complete in all respects, request the concerned Regional Office to inspect the forest land proposed to be diverted and submit a report to the Ministry of Environment, Forests and Climate Change within a period of forty-five days:

Provided that in case of the proposals seeking approval under the Act for prospecting of minerals in forest land, prior site inspection by the Regional Office shall be required only if the area of forest land actually required for construction of roads, paths, drilling of bore holes and all such non-forest purpose is more than one hundred hectares:

Provided further that the total time taken in communication of the request for site inspection from the Ministry of Environment, Forests and Climate Change to Regional Office and communication of the site inspection report from the Regional Office to the Ministry of Environment, Forests and Climate Change shall not be more than ten days, over and above the time taken in undertaking site inspection by the Regional Office." ;

(d) in rule 8, in sub-rule (1), -

(i) for clause (g), the following clause shall be substituted, namely:-

"(g) in case the Conservator of Forests finds that the compliance report is complete in all respect, he shall forward such report along with the report on completion of the process of recognition and vesting of forest rights and consent of the each Gram Sabha received from the District Collector referred to in sub-clause (f) of sub-rule (3) of rule 6, to the Nodal Officer within a period of fifteen days of its receipt from the Divisional Forest Officer:

Provided that in case the Conservator of Forests finds that the compliance report is incomplete, he shall communicate the shortcoming or shortcomings in the compliance report to the User Agency and the Divisional Forest Officer within a period of fifteen days of its receipt from the Divisional Forest Officer" ;

(ii) for clause (i), the following clause shall be substituted, namely:-

"(i) in case the Nodal Officer finds that the compliance report is complete in all respect, he shall forward such report to the State Government or Union territory Administration, as the case may be, within a period of fifteen days of its receipt from the Conservator of Forests:

Provided that the State Government or the Union Territory Administration, as the case may be, may authorize the Nodal Officer to send the compliance report directly to the Ministry of Environment, Forest and Climate Change or the Regional Office, as the case may be:

Provided further that in case the Nodal Officer finds that the compliance report is incomplete, he shall communicate the shortcoming or shortcomings in the compliance report to the User Agency, the Conservator of Forests and the Divisional Forest Officer within a period of fifteen days of its receipt from the Conservator of Forests:" ;

(iii) for clause (m), the following clause shall be substituted, namely:-

- "(m) in case the Ministry of Environment, Forests and Climate Change or the Regional Office, as the case may be, finds that the compliance report is complete in all respect, it shall accord the final approval under the Act and communicate such approval to the State Government or the Union Territory Administration, as the case may be, within a period of twenty days of the receipt of the compliance report :

Provided that in case the Ministry of Environment, Forests and Climate Change or the Regional Office, as the case may be, finds that the compliance report is incomplete, the shortcoming or shortcomings in the compliance report shall be communicated to the State Government or the Union territory Administration, as the case may be, the Nodal Officer and the User Agency, within a period of twenty days of the receipt of the compliance report."

[F. No. 11-43/2013-FC (Vol.)]

DEEPAK KUMAR SINHA, Inspector General of Forests (Forest Conservation)

Note :— The Principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 23(E), dated the 10th January, 2003 and subsequently amended vide G.S.R. 94(E), dated the 3rd February, 2004; vide G.S.R. 107(E), dated the 9th February, 2004; vide G.S.R. 185(E), dated the 14th March, 2014 and vide G.S.R. 713(E), dated the 10th November, 2014.

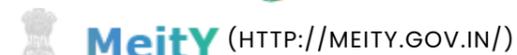
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Online payment history made by User Agency under CAMPA

Help



Sno.	Proposal Detail	Application_No	Application No (New)	Date of IN-PRINCIPLE	Amount to be Paid/Amount Paid (in Rs.)	Payment Status	Payment Detail	Demand Letter
1	FP/GA/RAIL/22041/2016 (../viewreport.aspx?pid=FP/GA/RAIL/22041/2016) Castlerock - Kulem Railway Doubling	RAIL220412016257	5922041257	04 Feb 2021	CA: 280761760/- , Addl CA : 0/- PCA: 0/- , CAT : 0/- Safety Zone: 0/- , Addl PA : 0/- NPV: 1194848284/- , Other Charges : 0/- Other Charges1 : 0/- Other Charges2 : 0/- Other Charges3 : 0/- Total : 1475610044/-	✓ Paid	Fund Demand Verified by Nodal Officer On :30 Mar 2021 Bank Name :Union Bank Of India Mode of Payment :NEFT/RTGS (Challan) Challan Generated On :30 Mar 2021 Transaction Date :09 Apr 2021	Demand Letter (../writereaddata/Fundpdf/31129123412114D0QXDemandnoteGoa.pdf) Generated Challan (../UserAccount/Neft_Challan.aspx?pid=RAIL220412016257)
2	FP/KA/RAIL/34288/2018 (../viewreport.aspx?pid=FP/KA/RAIL/34288/2018) Tinaighat-Castlerock-Caranzol Railway doubling of South Western Railways(in the state of Karnataka)	RAIL342882018881	5934288881	04 Feb 2021	CA: 33453000/- , Addl CA : 0/- PCA: 0/- , CAT : 0/- Safety Zone: 0/- , Addl PA : 0/- NPV: 60274970/- , Other Charges : 0/- Other Charges1 : 0/- Other Charges2 : 0/- Other Charges3 : 0/- Total : 93727970/-	✓ Paid	Fund Demand Verified by Nodal Officer On :31 Mar 2021 Bank Name :Union Bank Of India Mode of Payment :NEFT/RTGS (Challan) Challan Generated On :09 Apr 2021 Transaction Date :09 Apr 2021	Demand Letter (../writereaddata/Fundpdf/311311291215QUBNPDemandnoteforkarnataka.p Generated Challan (../UserAccount/Neft_Challan.aspx?pid=RAIL342882018881)



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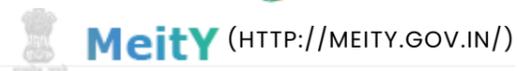
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Online payment history made by User Agency under CAMPA

Help



Sno.	Proposal Detail	Application_No	Application No (New)	Date of IN-PRINCIPLE	Amount to be Paid/Amount Paid (in Rs.)	Payment Status	Payment Detail	Demand Letter
1	FP/GA/RAIL/28650/2017 (../viewreport.aspx?pid=FP/GA/RAIL/28650/2017) Kulem-Madgaon Railway Doubling Project	RAIL286502017974	5928650974	04 Feb 2021	CA: 36398944/- , Addl CA : 0/- PCA: 0/- , CAT : 0/- Safety Zone: 0/- , Addl PA : 0/- NPV: 76060593.5/- , Other Charges : 0/- Other Charges1 : 0/- Other Charges2 : 0/- Other Charges3 : 0/- Total : 112459537.5/-	✓ Paid	Fund Demand Verified by Nodal Officer On :30 Mar 2021 Bank Name :Union Bank Of India Mode of Payment :NEFT/RTGS (Challan) Challan Generated On Transaction Date :09 Apr 2021 :09 Apr 2021	Demand Letter (../writereaddata/Fundpdf/3112612331218CN201ForestFundDocs.p Generated Challan (../UserAccount/Neft_Challan.aspx?pid=RAIL286502017974)
2	FP/GA/RAIL/28665/2017 (../viewreport.aspx?pid=FP/GA/RAIL/28665/2017) Kulem-Madgaon Railway Doubling Project	RAIL286652017257	5928665257	04 Feb 2021	CA: 4428648/- , Addl CA : 0/- PCA: 0/- , CAT : 0/- Safety Zone: 0/- , Addl PA : 0/- NPV: 1792457/- , Other Charges : 0/- Other Charges1 : 0/- Other Charges2 : 0/- Other Charges3 : 0/- Total : 6221105/-	✓ Paid	Fund Demand Verified by Nodal Officer On :04 Mar 2021 Bank Name :Union Bank Of India Mode of Payment :NEFT/RTGS (Challan) Challan Generated On Transaction Date :09 Apr 2021 :09 Apr 2021	Demand Letter (../writereaddata/Fundpdf/311412401210XSLKTForestNote.pdf) Generated Challan (../UserAccount/Neft_Challan.aspx?pid=RAIL286652017257)



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Service in Daniel Sukumar Das O.A. No. 129 of 2021 (Reply on behalf of Respondent No.5, Rail Vikas Nigam Ltd.)

1 message

ELDF <eldflegal@gmail.com>

Wed, Aug 25, 2021 at 6:15 PM

To: litigation.life@gmail.com, Om Prakash <OMPRAKASH.LIFE@gmail.com>, secy-moef@nic.in, rosz.bng-mef@nic.in, cs@karnataka.gov.in, pccfkar@gmail.com

Cc: Eisha Krishn <eisha@eldfindia.com>, Mansi Bachani <mansi@eldfindia.com>

Respected Sir/Ma'am

Places find the attachment of the Daniel Sukumar Das O.A. No. 129 of 2021 (Reply on behalf of Respondent No.5, Rail Vikas Nigam Ltd.)

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Sameer

Clerk

Enviro Legal Defence Firm

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New Delhi – 110013

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