

BEFORE THE NATIONAL GREEN TRIBUNAL**EASTERN ZONE BENCH, KOLKATA****APPEAL NO. 20/2023/EZ****IN THE MATTER OF:**NTPC, PAKRI-BARWADIH COAL MINING PROJECT ...**APPELLANT**

VS.

THE STATE OF JHARKHAND & ORS.

...**RESPONDENT****REJOINDER ON BEHALF OF THE APPELLANT TO THE****COUNTER AFFIDAVIT FILED BY THE RESPONDENT NO. 2 & 4.****MOST RESPECTFULLY SHOWETH:**

1. That the captioned Appeal has been filed by the Appealchallenging the imposition of penalty in light of technical aspects in the Forest Clearance issued by the State Authorities while completely overlooking the fact that the Appellant has religiously complied with and conducted appropriate environment restoration and ensured appropriate green belt for betterment of environment and green belt, aiming for sustainable development.
2. That all the statements made and contentions raised in the Counter Affidavit filed by the Respondent No. 2&4, unless specifically admitted herein below, are hereby denied in toto and nothing shall be deemed to be admitted unless specifically averred herein below.

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का. महाप्रबन्धक (पर्यावरण प्रबंधन) / DGM (ENVT. MGMT.)
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3. It is specifically submitted that the averments under the Counter Affidavit are mere reflection of the factual matrix given under the captioned Appeal. The Respondent no.4 has failed to bring on record any material/document to contradict the submissions made by the Appellant in the captioned Appeal. In response to the same, the Appellant submits that the grounds raised in the captioned Appeal may be read as part and parcel of the present Rejoinder, the contents of which are not repeated herein for the sake of brevity.
4. That the para-wise Rejoinder to the averments made by the Respondent No. 2 & 4 in its Counter Affidavit is provided in the following manner:
- 1-2 That the contents of para 1-2 of the Counter Affidavit does not concern the Appellant herein and hence needs no reply. However, anything contained therein contrary to the contentions made by the Appellant herein are completely denied in toto.
- 3-25 That the contents of para 3 to 25 of the Counter Affidavit are false, frivolous and hence vehemently denied. It is submitted that the averments so made are mere reflection/reiteration of the factual description given by the Appellant in the captioned Appeal in a twisted manner to serve its own narrow ends. The Respondent No. 2&4 has failed to contradict the contentions raised by the Appellant by way of the captioned Appeal keeping in mind that the very same facts have been challenged by the Appellant via captioned Appeal. In view thereof, the Appellant submits that the contents of the captioned Appeal may be read as part and parcel of the present Rejoinder, the contents of which are not repeated herein for the

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sake of brevity. That in furtherance thereof, following submissions are made in response to the averments made by the Respondent No. 2&4 in the above stated paras of the Counter Affidavit:

A. That no violation has been committed by the Appellant as the diversion of Do Muhani Nallah has been done as per the approved mine plan and as per specific condition no. IV of the Environment Clearance (EC). Further there is no violation of the specific conditions of the Forest Clearance both stage-I and II as has been contended and the averments made in this regard by the Respondent No. 2&4 are completely misleading.

B. That so far as the allegation for non-compliance of condition No. 7 of Stage I Approval and condition No. 8 of Stage II Approval is concerned it is submitted that the said conditions required following compliance:

"The user agency will take up programme for at least 50 m green belt along the sides of the pakwa nallah and dumuhani nallah from the initial years under the supervision of the state forest department."

C. In this regard it is submitted that there are three Nallah that appear in the Mining Plan of the Appellant namely, Pakwa, Do Muhani and Khora. While Pakwa and Khora are in the peripheral region and as such their geographical location in the overall topography of the mining area, would not hamper the mining operations of the Appellant, insofar as Do Muhani Nallah is concerned, the same flows in the very centre of the mining area, where mining operations are to take place. The aforesaid position was clear to the authorities which issue FC

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Certificate and it appears that by mistake, instead of mentioning Khora Nallah, the name of Do Muhani Nallah was mentioned.

- D. Be that as it may, the Appellant took appropriate steps to create a green belt in the 50m radius of Khora and Pakwa Nallahs and realizing the infeasibility of doing likewise in the area around Do Muhani Nallah, it could not undertake creation of green belt in respect thereof. A bare perusal of the site plan (attached along with the Appeal) would show that the green belt near Do Muhani Nallah was not only impractical, but would have frustrated the entire mining operations, for which EC and FC granted after due examination of the topography of the area in which the mining operation was to be carried out.
- E. That in order to achieve the meaningful and substantial compliance of EC Specific condition no. (iv) , the Appellant got a study conducted by Central Water and Power Research Station and technical report no. 4813 was submitted by CWPRS. Based on the report of Central Water and Power Research Station, Office of Chief Engineer, Project monitoring and planning, water Resource Department accorded NOC for realignment of Do Muhani Nallah vide Letter no. 2/PMC/ND-171/2012-224 dated 19.03.2013.
- F. It is pertinent to mention that half-yearly Environmental Monitoring Report of EC for Pakri–Barwadih Project was submitted by the Appellant to the Additional Principal Conservator of Forest vide Letter no. 7010/GM/2013/ dated 26.04.2013. It is submitted that in half-yearly Environmental Monitoring Report of EC, the Appellant in its response to the compliance of the conditions imposed under the Clearance

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Certificates categorically pointed out the requirement for the diversion /Realignment of Do Muhani Nallah.

- G. That admittedly from 2010 to 2016, no mining activities could be started on account of issues relating to land acquisition as well as law and order problems. As a matter of fact, the contract to Mining Development Operator could be awarded in the year 2015 only. Hence, in the absence of any construction activity, the occasion to divert Do Muhani Nallah, did not arise, nor was there any occasion to develop the green belt in the 50m radius of the same Nallahs.
- H. That the intimation notice regarding opening of Pakri - Barwadih mine was given to Director General of Mines Safety, Dhanbad, Jharkhand in Form 1 as per clause 3(2) of Coal Mines Regulation Act, 1957 vide Letter no. 7010/PBCMP/MIN/16/02 dated 17.05.2016. That pursuant to the above, the Appellant commenced the creation of green belt around Khora and Pakwa Nallahs, which was feasible and possible while continuing with the mining operations, and at the same time ensured that the mining plan is not violated. As of today, the Appellant has planted around 12,550 trees to create green belt around Pakwa Nallah and around 25,725 trees around Khora Nallah to create green belt. The Appellant is committed and continues to further enhance the green belt while carrying out its mining operations smoothly, as per the approved mining plan.
- I. That upon commencement of the mining activities and diversion of Nallahs, the Appellant consciously wrote a Letter bearing Letter No 1040/PBCMP/EMG/2018/F-28/31748 dated 09.10.2018, requesting the

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Director General of Forest (FC Division), MoEF&CC to amend condition 8 of stage II of FC approval and Condition 7 of Stage I of FC approval, with respect to the creation of green belt around Pakwa and Khora Nallahs, foreseeing that creation of green belt around Do Muhani Nallah would be infeasible and thus, the same would frustrate the proposed mining operations. In pursuance of the Letter dated 09.10.2018, a Letter dated 29.01.2019 was issued by Assistant IG Forest (FC) to the Principal Secretary, Forest Division, Government of Jharkhand for furnishing comments on the aforementioned Letter dated 09.10.2018.

- J. That to the utter dismay of the Appellant, the Respondent Authority even after realising the fact that without diverting/realigning the Nallah, the mining will not be viable, has granted approval for modification of condition no. 8 of the Stage-II FC approval. Shockingly, in the same breath, it has recommended levy of penalty on entire forest land of (1026.438 ha). It is pertinent to mention at this juncture that the Appeal for amendment in condition was made vide letter dated 09.10.2018 which is much prior to the violation reported by Forest Dept. It is pertinent to note at this juncture, admittedly, as mentioned by the DFO in its letter dated 16.06.2022, 50m plantation could be done along Khorra and Pakwanalla as Dumuhaninalla is running in the midst of mining area. Thus it is clear that the green belt development was not possible along the DumuhaniNalla.
- K. It is of utmost importance to note at this juncture that the conditions stipulated under the EC as well as the FC are concerned the same are

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contradictory in nature which is the primary reason for the alleged violation of condition 8 of the Stage –II approval. As has been averred that according to the Mining Plan approved by Ministry of Coal, GoI and specific condition no.- (iv) of Environment Clearance granted to Pakri Barwadih Coal Mining Project of NTPC Limited stipulates that nalas flowing within the mining lease were to be realigned after design and study of realignment of nalla by CWPRS and obtaining NOC for nalla diversion by state govt. Therefore, it is clear that on one hand as per the conditions of the FC does not permit diversion whereas the condition of EC suggests realignment of the DumuhaniNalla.

- L. Further, Respondent No.2&4 in the counter affidavit has referred to the directions of this Hon'ble Tribunal in OA 182/2016 (EZ) vide Order dated 18.02.2019. It is pertinent to note at this juncture that the said OA was disposed by this Hon'ble Tribunal with the observation that the only question that had been culled out for determination of the said OA stood answered and the Application was disposed off vide order dated 25.09.2020. It may be noted at this juncture that validity of Environment Clearance (EC) is for 39 years, and validity of Forest Clearance (FC) is 20 years. All the condition mentioned under EC & FC to be complied throughout the life of the project. For instance, the EC Condition no. XVI stipulates that the total plantation in 1199 Ha area shall be done at the end of the project shall only be possible after completion of the project. The compliance status of the said condition shall be in partially complied condition till completion of the project. Accordingly, the Hon'ble NGT court considered the plea of NTPC and disposed the matter vide order dated 25.09.2020. Therefore it is clear

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that the Respondent No.2&4 have not brought the entire information in their counter affidavit only to unnecessary complicate the issues which have already been considered by this Hon'ble Tribunal. The copy of the Order dated 25.09.2020 passed by this Hon'ble Tribunal is attached herewith and marked as **Annexure-A**.

M. It is noteworthy to mention that the Appellant has made necessary deposition in ADHOC CAMPA account for the diversion of 1026.438 ha of land for non- forest purpose for which certain compliances were to be met. The land where Do Muhani Nallah exists, is a part of the mining lease and also a part of the diverted forest land of 1026.438 ha and the Appellants have already deposited Rs. 93,02,53,964/- (Rupees Ninety three crore two lakhs fifty three thousand nine hundred and sixty four only) and Rs. 2,20,39,921.73 (Rupees Two crore Twenty Lac Thirty-Nine Thousand Nine Hundred Twenty-One and Seventy-Three only) for NPV amount for Safety Zone area 11.212 ha pertaining to NTPC Pakri-Barwadih Coal Mining Project. Apart from these payments, the Appellant has also deposited an amount of Rs. 1,25,67,32,412/- for management of Wildlife.

N. That Regional Executive Director, NTPC Ltd also wrote a request Letter (Letter no RED (CM) Sect./PBCMP/EMG/2023/475) dated 02.06.2023 to Principal Chief Conservator of Forest, regarding delinking of Stage II FC approval of Pakri - Barwadih (North-West) with the deposit of penal NPV, that the area pertaining to the perceived violation, may be changed to 37.20 ha from 1026.438 ha and stretch of perceived violation area may be changed from 31 km to 3.1 km, that

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the width of green belt development may be changed from 50 m to 15 m and that the penalty levied upon the Appellant is exorbitantly high and hence, may be reviewed in terms of Clause no. 1.21(iii)(a) of Chapter-1 of Part B of Forest Handbook.

- O. That it is pertinent to mention that the mining plan describes existence of three Nallahs i.e. Khora, Pakwah and Do Muhani Nallah and the EC was accorded for diversion / realignment of Nallah flowing across the mining lease after obtaining approval of State Government. That the DFO vide Impugned Demand Order demanded a deposit of penal NPV amounting to Rs 857,52,85,944.32.
- P. It is of utmost importance to note that in under the EC, Nallahs are mentioned as the mining lease area containing 3 Nallahs – Khora Nallah, Pakwah Nallah and Do Muhani Nallah. However, inadvertently /erroneously the name of Pakwah and Do Muhani Nallahs have been mentioned instead of Pakwah and Khora Nallah. Realising the said fact, approval for modification of Condition 8 of FC clearance stage II was granted but to the utter dismay, the Respondent authorities have levied the high penalty on the Total forest Land i.e. 1026.438 ha.
- Q. That it is a natural corollary of the Letter dated 25.05.2023 issued by the MoEF&CC that the effect of the permission to divert Do Muhani Nallah, would reflect on the FC approval dated 17.09.2010 retrospectively for the reason that it is no more in doubt that any attempt to develop green belt around the same, would have been a wastage of the natural resources, keeping in view that the Nallah has to

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be diverted in order to clear the area and make it conducive for mining activities.

R. It may be noted that the subsequently approved Revised Mining plan on 17.03.2016 automatically takes away and extinguishes the element of mandate as regards the development of green belt within 50m of Do Muhani Nallah and in that view of the matter, if the fact the Appellant duly proceeded to develop Khora Nallah, though it was not specifically mentioned in the said condition no. 8, ought to be construed as deemed compliance to the full extent on the part of the Appellant and this aspect ought to have been considered by the Competent Authority in its decision-making process, which resulted in the decision to hold the Appellant as non-compliant as regards condition no. 8.

S. It has to be appreciated that issues of Environment Preservation, cannot be evaluated in isolation of the ground realities in the coal belts and since the availability of coal is a natural phenomenon, which decides the earmarking of the mining area, any pre-condition in the nature of creating a green belt, cannot be treated as a violation in the event of non-compliance, if it is clear from the record that the greening activity was practically infeasible in the originally earmarked area and that the project proponent has already taken remedial steps to undertake the greening activity in another area within the project peripheries, where it was actually feasible to do the same and that such an act, having been done voluntarily, should have been taken as a redeeming act and that the only reasonable finding, in such a situation, was that the Appellant

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was not only in substantial compliance of condition no. 8, but in full compliance of condition no. 8 of the said FC approval.

T. In view of the above, the Appellant submits that the finding of violation of condition no. 8 of Stage II of the FC approval as well as the penalty imposed on the basis of the same, are fundamentally flawed.

5. The Appellant being a Maharatna Public Sector Undertaking, in order to avoid multiple litigation with Government Departments, opted to make a representation to the Respondent Department to re-look into the issue and resolve it without any undue litigation between two Government entities. Accordingly, as directed by this Hon'ble Tribunal vide Order dated 02.04.2024, the Appellant is placing on record the representation dated 09.11.2023 given by the Appellant to the Director General of Forest & Special Secretary, MOEF & CC. The true copy of the Representation dated 09.11.2023 issued by the Appellant is attached herewith and marked as **Annexure B**.

6. That in view of the above, it is clear that the submissions made by the Respondent No. 2 & 4 by way of its reply are clearly bereft of merits and a clear reiteration of facts pleaded by the Appellant in the captioned Appeal. The averments made under the Counter Affidavit are not in relevance to the present context and are highly extraneous, hence specifically denied in *toto*. The Respondent has failed to bring on record anything contrary to the submissions made by the Appellant in the captioned Appeal.

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7. The Appellant reserves its right to file a more detailed reply as and when required depending upon the circumstances of the present case subject to the leave of this Hon'ble Tribunal.
8. That in terms as stated hereinabove, it is most humbly requested that the present Rejoinder be taken on record and this Hon'ble Court be pleased to allow the captioned Appeal, as prayed for therein.

Prepared in my office



Advocate

Navin Kumar

APPELLANT

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Aditya Kumar Pandey
NOTARY
Hazaribag, Jharkhand

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
APPEAL NO. 20/2023/EZ**

IN THE MATTER OF:

NTPC, PAKRI-BARWADIH COAL MINING PROJECT ...APPELLANT

VS.

THE STATE OF JHARKHAND & ORS. ...RESPONDENT

AFFIDAVIT

I, Navin Kumar, S/o Sh. Narendra Kumar Yadav, aged about 48 years, working as DGM(Environment Management) at the office of NTPC Limited, having its office at NTPC Bhawan, Core-7, Scope Complex, Institutional Area, Lodhi Road, New Delhi 110003, presently at NTPC Pakri Barwadih Coal Mining Project, Hazaribagh, Jharkhand do hereby solemnly affirm and state as under:

1. I say that I am the authorized representative of the Appellant Company and as such am competent to swear the present affidavit.
2. I say that I have read the contents of the above Rejoinder filed by the Appellant in replication of the Counter Affidavit filed by the Respondent No. 2&4 and I have understood the contents of the same.
3. I say that the contents of the above Rejoinder filed by the Appellant are based on the information available with the appellant in the normal course of business and believed by me to be true.

Dated: 01/05/2024.
Back of the notary
Authorised u/s 8(1) (a) of the notaries
Act 53 of 1952 & rule 11 (3) (4) of the
notary rules 1958



Solemnly affirmed/declared on o/w
before me by Sri. Navin Kumar...
Who has been identified by Shri. Thakur...
Advocate,
who is personally know to me

Thakur
NOTARY

Navin Kumar

DEPONENT

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Identified the deponent who
has signed/put 'T.I' in my
presence

Thakur
ADVOCATE

VERIFICATION

I, the deponent above-named, do hereby verify the contents of the above affidavit to be true to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at Hazaribagh on this 1st day of May, 2024.



Solemnly affirmed/declared on oath before me by Sri. Navin Kumar Who has been identified by Shri. D. Bakir Advocate who is personally know to me

06/05/24
NOTARY

Navin Kumar

DEPONENT

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Identified the deponent with has signed/put L.T.I in my presence

06/05/24
ADVOCATE



Affidavit



Dec 2011
Joint Secretary
Administration
Bar Association, Hazaribag

Signature of Executive Member

Suman
(Suman Kumar Singh)
General Secretary

Sl. No. A 50497
HAZARIBAG BAR ASSOCIATION

Item No. 03

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 182/2016/EZ

(I.A. No. 77/2020)

Sumitra Lakshman Development Society Applicant(s)

Versus

Union of India & Ors. Respondent(s)

Date of hearing: 25.09.2020

**CORAM: HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Rahul Choudhury, Advocate

For Respondent(s): Mr. Gora Chand Roy Choudhury,
Advocate for Respondent No.1.
Mr. Rajib Ranjan, Ld. AG for State of
Jharkhand a/w Ms. Aishwarya
Rajyashree, Advocate for Respondents
No. 2, 5, 7-9.
Mr. Ashok Prasad, Advocate for
Respondent No. 3.
Mr. Surendra Kumar, Advocate for
Respondent No. 4.
Mr. Amit Pattnayak and Mr. Uttam
Kumar Mondal, Advocates for
Respondent No. 6.

ORDER

I.A. No. 77/2020

1. This application had been filed on 04.09.2020 for modification of the orders dated 27.01.2020 and

18.08.2020 for expunging the observation with respect to limiting the issue raised in the present application to violation of conditions relating to compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

2. Upon perusal of the application, we find that the application in the first instance is in the nature of a review which cannot be permitted having been filed far in excess of the limitation prescribed under Rule 22(1) of the National Green Tribunal (Practices and Procedure) Rules, 2011. Secondly, even on the merits, we find the plea raised in the application to be an afterthought as the orders being sought to be modified were passed in open court after due deliberations for considerable length of time in court.
3. The application thus stands dismissed.

O.A. No. 182/2016/EZ

4. In the present application, violation of the various conditions of the Environmental Clearance has been alleged although specific allegations pertain to Stage-II

Forest Clearance, non-compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, specified in clause 17 of the Environmental Clearance, green belt having not been established, etc.

5. Since, the case had been pending for inordinately long time and had been placed before us only on 18.01.2018 and thereafter on 17.04.2018, in order to assess the present status, *vide* order dated 23.11.2017, a Committee was constituted comprising of (i) the Conservator of Forest of concerned Forest Circle; (ii) the Member Secretary, State Pollution Control Board; (iii) the Member Secretary, SEIAA, Jharkhand and, (iv) a senior Scientist/Engineer from the Regional Office of the MoEF&CC, Ranchi.
6. The Committee was directed to inspect the project in question and to verify as to whether the conditions of the Forest Clearance and the Environmental Clearance were being complied with by the project proponent and, further directing that in the event there was failure on the part of the project proponent to do so, appropriate action in accordance with law be taken against the project

proponent which may also include suspension and/or withdrawal of the Environmental Clearance. Report was directed to be submitted within one month, which was eventually filed on 20.11.2019.

7. The case was then taken up on 27.01.2020, when the reply to the report of the Committee and affidavits in reply filed by the Respondent No. 6 as well as to the counter affidavit of the said Respondent dated 17.08.2019, were considered. After hearing the learned Counsel for the parties at a considerable length, it was agreed that the only question left for determination in the case was as to whether the State respondents had complied with the requirements of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, more particularly Section 6, which under Stage-I Forest Clearance was mandatorily required to be complied with.
8. During the proceedings today, the learned Counsel for the Applicant has referred to Annexure IIA-Compliance Status of Conditions of Stage-I Forest Clearance by emphasizing on Sl. No. xvii thereof, to state that in

response to the query with regard to obtaining clearance under the provisions of Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the *“user agency did not produce the certificate before the Committee towards the settlement of all claims and rights over the proposed forest land under the Act, as per the advisory dated 03.08.2009 issued by the MoEF&CC.”* It was submitted that the Respondent No. 6 in its counter affidavit has stated that as per the S.D.O, no claim had been received under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Authority to do so under the Act, is the Gram Sabha, when we enquired of the State as to whether in the present case, the procedure prescribed under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, had been followed or not, time was sought for by the learned Counsel appearing for the State to seek instructions.

9. As the question was crucial for determination of the only issue remaining to be decided, the prayer was allowed directing the State to file an affidavit. An affidavit was accordingly filed by the State through the In-charge of the

Legal Section of the Respondent No. 9 stating that Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, had been duly complied with placing the requisite information in a tabular form as under:-

"Sl. No.	<u>DATE</u>	<u>DESCRIPTION OF EVENT</u>
01	(i) 31.12.2007	<i>(i) The Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (In short FRA, 2006) came into force.</i>
	(ii) 01.01.2008	<i>(ii) The Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2008 (In short FRA Rules 2008) came into force.</i>
02	31.03.2009	<i>NTPC (Respondent No. 6) submitted application before Divisional Forest Officer, Hazaribagh for diversion of forest land for Pakri-Barwadih coal mining project under Forest Conservation Act, 1980.</i> <i>A Xerox copy of the letter dated 31.03.2009 is annexed hereto and marked as Annexure-A.</i>
03	03.08.2009	<i>... Secretaries of all the States /Union Territories stipulating certain evidences for having initiated and completed the process to ensure compliance of FRA Act, 2006 to formulate the unconditional proposals under Forest Conservation Act, 1980.</i> <i>A Xerox copy of the letter dated 03.08.2009 is annexed hereto and marked as Annexure-B.</i>
04	24.09.2009	<i>With reference to the circular dated 03.08.2009, NTPC (Respondent No. 6) requested Additional Collector, Hazaribagh to provide information regarding Scheduled Tribes and Other Traditional Forest Dwellers</i>

staying in the villages coming under project are for onward submission of the same to the Forest Department.

A Xerox copy of the letter dated 24.09.2009 is annexed hereto and marked as Annexure-C.

05 07.01.2010 *NTPC (Respondent No. 6) wrote a letter to the S.D.O., Hazaribagh requesting to provide information regarding Scheduled Tribes and Other Traditional Forest Dwellers staying in the villages coming under project are for onward submission of the same to the MoEF.*

A Xerox copy of the letter dated 07.01.2010 is annexed hereto and marked as Annexure-D.

06 29.01.2010 *S.D.O. Hazaribagh wrote letters to Circle Officer's of Barkagaon, Keredari & Katkamdag for providing the list of Scheduled Tribes and Other Traditional Forest Dwellers staying in the forest land proposed for Pakri-Barwadih Coal mining project.*

A Xerox copy of the letter dated 29.01.2010 is annexed hereto and marked as Annexure - E.

07 09.02.2010 *Letter from Circle Officer, Barkagaon to S.D.O. Hazaribagh informing that no claims under FRA, 2006 have been received as on date within the forest land proposed for Pakri-Barwadih Coal Mining.*

A Xerox copy of the letter dated 09.02.2010 is annexed hereto and marked as Annexure-F.

08 10.02.2010 *Letter from Circle Officer, Keredari to SDO, Hazaribagh informing that no claims under FRA, 2006 have been received as on date within the forest land proposed for Pakri-Barwadih Coal Mining.*

A Xerox copy of the letter dated 10.02.2010 is annexed hereto and marked as Annexure-G.

09 10.02.2010 *..... under FRA 2006 have been received as on date within the*

forest land coming under Barkagaon and Keredari circle.

A Xerox copy of the letter dated 10.02.2010 is annexed hereto and marked as Annexure - H.

10 13.02.2010 *Letter from Circle Officer Katkamdag to S.D.O. Hazaribagh informing that no claims under FRA, 2006 have been received as on date within the forest land proposed for Pakri-Barwadih Coal Mining.*

A Xerox copy of the letter dated 13.02.2010 is annexed hereto and marked as Annexure - I.

11 18.02.2010 *S.D.O. Hazaribagh sent a letter to District Collector Hazaribagh, stating that no claims under FRA have been received as on date within the forest land coming under Katkamsandi circle.*

A Xerox copy of the letter dated 18.02.2010 is annexed as Annexure-J.

12 11.05.2010 *MoEF granted Stage-I forest clearance with one of the conditions (Condition-17) that the User agency will obtain the clearance under the provisions of ST & OTFD (Recognition of Forest Rights) Act, 2006 before the final approval and will submit certificate towards alongwith the compliance report as per the advisory dated 03.08.2009. (Stage-1 letter was addressed to the Principal Secretary, Forest, Govt. of Jharkhand).*

A Xerox copy of the letter dated 11.05.2010 is annexed hereto and marked as Annexure-K.

13 31.05.2010 *In response to the letter dated 24.09.2009, the Addl. Collector, Hazaribagh replied NTPC enclosing the no claim letters received from S.D.O. Hazaribagh.*

A Xerox copy of the letter dated 31.05.2010 is annexed hereto and marked as Annexure-L.

14 24.06.2010 *NTPC (Respondent No. 6) submitted compliance of the*

Stage-I FC conditions before the D.F.O. Hazaribagh. Against the compliance of FRA, 2006, NTPC has submitted letter dated 31.05.2010 received from the Addl. Collector Hazaribagh enclosing the certificates of S.D.O./C.O. concerned alongwith an undertaking to the effect that if any claims or rights are there over the proposed forest land, it will be settled as per provision of FRA, 2006.

A Xerox copy of the letter dated 24.06.2010 is annexed hereto and marked as Annexure-M.

- 15 28.07.2010 ... No. 2659 dated 28.07.2010 had directed all the Deputy Commissioner's of the State to ensure compliance with the Section - 6 of Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006.**

A Xerox copy of the letter dated 28.07.2010 is annexed hereto and marked as Annexure - N.

- 16 17.09.2010 MoEF granted Stage-II (Final Approval) forest clearance to NTPC.**

A Xerox copy of the letter dated 17.09.2010 is annexed hereto and marked as Annexure -O

- 17 01.12.2010 D.F.O. Hazaribagh wrote a letter to NTPC referring to the circular dated 28.07.2010 of F&E Dept, Govt. of Jharkhand and asked NTPC to avail certificate under FRA, 2006 from Collector as per prescribed format enclosed therein.**

A Xerox copy of the letter dated 01.12.2010 is annexed hereto and marked as Annexure-P.

- 18 31.12.2010 NTPC (Respondent No. 6) wrote a letter to Deputy Commissioner/Collector enclosing all the communications with regard to compliance of FRA, 2006 with a request to forward the certificates to the D.F.O. Hazaribagh.**

A Xerox copy of the letter dated

- 31.12.2010 is annexed hereto and marked as Annexure Q.*
- 19 08.01.2011** *Addl. Collector Hazaribagh wrote letter to the B.D.O. Barkagaon, Keredari and Katkamdag to conduct Gram Sabhas in concerned villages and to submit certificates alongwith the proceedings.*
- A Xerox copy of the letter dated 08.01.2011 is annexed hereto and marked as Annexure -R.*
- 20 13.06.2011/
19.07.2011** *B.D.O. Barkagaon issued notice to Paneh Head/Panchayat Secretary, of concerned Panchayats to conduct Gram Sabhas as per schedule mentioned therein.*
- A Xerox copy of the notice dated 13.06.2011/19.06.2011 are annexed hereto and marked as Annexure - S.*
- 21 15.06.2012** *B.D.O. Katkamdag forwarded the Certificate of compliance under FRA, 2006 along with the proceedings of Gram Sabhas held in concerned Panchayats to the Addl. Collector, Hazaribagh.*
- 19.09.2011: Gram Sabha held in Kusumbha.*
- 20.09.2011: Gram Sabha held in Shirka....Banadag.*
- 22.09.2012: Gram Sabha held in Odarna.*
- A Xerox Copy of the certificates sent on 15.06.2012 along with Gram Sabha resolution of various villages are annexed hereto and marked as Annexure - T.*
- 22 06.07.2012** *Addl. Collector, Hazaribagh sent urgent reminder to B.D.O. Barkagaon and Keredari to forward the compliances under FRA, 2006 for onward submission before the Collector/ Dy. Commissioner.*
- A Xerox copy of the letter dated 06.07.2012 is annexed hereto and marked as Annexure- U.*

- 23 16.07.2012** *B.D.O. Barkagaon forwarded the Certificate of compliance under FRA, 2006 along with the proceedings of Gram Sabhas held in concerned Panchayat to the Addl. Collector, Hazaribagh.*
- 20.06.2011: Gram Sabha held for Barkagaon-West.*
- 27.07.2011: Gram Sabha held for Sinduari.*
- 01.08.2011: Gram Sabha held for Chepakela.*
- 03.08.2011: Gram Sabha held for Chandol.*
- A Xerox copy of the Certificates sent on 16.07.2012 along with Gram Sabha resolution of various villages are annexed hereto and marked as Annexure - V.*
- 24 16.10.2012** *B.D.O. Keredari forwarded the Certificate of compliance dated 16.10.2012 under FRA, 2006 along with the proceedings of Gram Sabha to the District Welfare Officer, Hazaribagh.*
- 04.06.2011: Gram Sabha held in Itiz Village of Kandaber Panchayat.*
- A Xerox copy of the Certificate sent on 16.10.2012 along with Gram Sabha resolution of the villages under Kandaber Gram Panchyat are annexed- hereto and marked as Annexure-W.”*

10. It is further stated that Gram Sabha was held in the year 2011-12 in the respective villages when resolutions were passed with no claims having been made for the benefits under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and, the

Gram Sabha has certified in its resolution that no claims have been received.

11. It is further stated that any person aggrieved by the resolution of the Gram Sabha has the remedy of filing a petition before the Sub-Divisional Level Committee within a period of sixty days from date of passing of the resolution by the Gram Sabha under Section 2 of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. As there are no persons who were aggrieved by the resolution of the Gram Sabha, no such petition had been filed.
12. In view of the above facts and circumstances, the only question that had been culled out for determination of the case stands answered.
13. In the result, the application stands disposed off along with connected I.A.

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

25th September, 2020
O.A. No. 182/2016/EZ
avt



शिवम श्रीवास्तव
निदेशक (ईंधन)
SHIVAM SRIVASTAVA
Director (Fuel)

एनटीपीसी लिमिटेड
(भारत सरकार का उद्यम)
NTPC Limited
(A Government of India Enterprise)
केन्द्रीय कार्यालय/Corporate Centre

Ref. No. D(Fuel) Sectt/ Nov23/01

Dated: 09.11.2023

To,

**The Director General of Forest & Special Secretary
Ministry of Environment, Forest & Climate Change (MoEF&CC),
Indira Paryavaran Bhawan, Jor Bagh
New Delhi.**

Subject:

1. **Reconsideration of penal NPV imposed while Stage -II FC amendment of Pakri Barwadih Coal Mining Project (1026.438 ha).**
2. **Delinking of Stage-II Forest Clearance of PB-North West (331.198ha) from the deposition of penal NPV of Pakri Barwadih CMP. Reg.**

Ref.

1. **FC Amendment Letter dated 25.05.2023 to PBCMP (1026.438 ha)**
2. **Stage-1 Forest clearance granted to PB - NW Coal Mining Project.**
3. **NTPC request letters dated: 18.05.2023, 02.06.2023, 24.07.2023, 03.08.2023, 17.10.2023 for reconsideration of subject matter.**
4. **Secy (MoP) DO No. 11/25/2023-Th.I dated 30.10.2023**

Dear Sir,

With reference to above subject it is to submit that Ministry of Coal (MoC), GoI allocated the Pakri barwadih Coal Mining Project (PBCMP) to NTPC Ltd in the year 2004. The environment clearance (EC) was granted on 19.05.2009 and the Stage-II forest clearance was granted to Pakri barwadih Coal Mining Project (PBCMP) (1026.438 Ha) vide MoEF ltr ref. no. F.No. 8-56/2009-FC on 17.09.2010. NTPC on 09.10.2018 requested MoEF & CC for amendment of Condition no. 8 of Stage-II FC accorded to PBCMP. Subsequently the matter was pursued at different levels.

FAC during its meeting dated 25.04.2023, recommended the amendment to Forest Clearance Condition no. 8 of Stage-II FC for Pakri-Barwadih Coal Mining Project (PBCMP) (1026.438 ha). However, a penalty was imposed with penal NPV (5 times the normal NPV on total Forest Land with 12% interest) of Rs 857.52 Crs on the entire forest land (1026.438 ha) along with a condition of maintaining 100m green belt (against requested 15m) along the Khorra Nalla (West) and Pakwa Nalla (East). (Annexure-I).

Also, Stage-I clearance for diversion of 331.198 ha of forest land was accorded for Pakri Barwadih Northwest Coal Mining Project (PB-NW CMP) (Annexure-II), but Stage-II FC clearance of PB-NW was interlinked with the deposition of Penal NPV of PBCMP, vide point no 4 &(X) of 4 of agenda-1 of FAC MoM 25.04.2023.

Corporate Identification Number : L40101DL1975GO1007966

एनटीपीसी भवन, कोर-7, पांचवा तल, स्कोप कॉम्प्लेक्स, 7, इंस्टीट्यूशनल एरिया, लोधी रोड, नई दिल्ली-110 003 टेल./Tel.: 011-24360860,24361012,फैक्स / Fax : 011-24368417
NTPC Bhawan, Core-7, 5th Floor, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi-110 003, E-mail : shivamsrivastava@ntpc.co.in, web site : www.ntpc.co.in



A Maharatna Company

शिवम श्रीवास्तव
निदेशक (ईंधन)

SHIVAM SRIVASTAVA
Director (Fuel)

एनटीपीसी लिमिटेड
(भारत सरकार का उद्यम)

NTPC Limited
(A Government of India Enterprise)

केन्द्रीय कार्यालय/Corporate Centre

NTPC Ltd is committed to comply with all the statutory obligations and have always complied the stipulations made in the statutory clearances accorded with our mines. In this regard, we humbly submit to your good office to kindly reconsider the matter as below:

- a. *Waival of penal NPV imposed on the NTPC for Pakri-Barwadih coal mining project.*
- b. *Delinking of stage-II forest clearance of Pakri Barwadih (North-West) with the deposition of penal NPV of PBCMP.*
- c. *Permit to maintaining of green belt of 15 m along Pakwa and Khora Nala in line with the regulation no 149 of Coal Mines regulation, 2017.*

Submitted for kind consideration please.

Thanking You

Yours' faithfully
S. Srivastava
(Shivam Srivastava)
Director (Fuel) & Nominated Owner of Mines

Enclosures: as above.

Corporate Identification Number : L40101DL1975GO1007966

एनटीपीसी भवन, कोर-7, पांचवा तल, स्कोप कॉम्प्लेक्स, 7, इंस्टीट्यूशनल एरिया, लोधी रोड, नई दिल्ली-110 003 टेल: 011-24360880, 24361012, फ़ैक्स / Fax : 011-24368417
NTPC Bhawan, Core-7, 5th Floor, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi-110 003, E-mail : shivamsrivastava@ntpc.co.in, web site : www.ntpc.co.in

**Government of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)**

Indira Paryavaran Bhawan,
Aliganj, Jor Bag Road,
New Delhi - 110003

Dated: 25th May, 2023

To,

The Principal Secretary (Forests),
Government of Jharkhand,
Ranchi

Subject: Diversion of 1026.438 ha of forest land for coal mining Pakribarwadih Project in favour of M/s NTPC Ltd. in Hazaribag West Forest Division in Hazaribag District of Jharkhand - Modification in condition of Stage-II approval and violation of FC Act - regarding.

Madam/Sir,

I am directed to refer to the State Government of Jharkhand's letter no. vanbhumi-75/2009-1915 V.P. dated 08.07.2022 requesting for modification of condition no. 8 of Stage-II approval dated 17.09.2010 issued under Section 2 (ii) of Forest (Conservation) Act, 1980. The said condition at Sr no. 8 of the approval dated 17.09.2010 is as under:

"The user agency will take up program for at least 50 m green belt along the sides of the Pakwa nallah and Dumhani nallah from the initial years under the supervision of the state forest department".

2. The request of the State Government was considered by the Advisory Committee in its meeting held on 25.04.2023. After careful examination of the request of the State Government, on the basis of the recommendations of the Advisory Committee, and its acceptance by the competent authority in this Ministry, the Central Government hereby accords its approval to modify the condition no. 8 of the Stage-II approval dated 17.09.2010 as under:

"The user agency shall restore and conserve the Khorra Nalla (west) and Pakwa Nalla (east) watersheds on priority basis under supervision of the forest department and expert hydrologists/agencies and develop their watershed status as per the Survey of India toposheet no. 73 E/I. A greenbelt of 100 meters on either side of both Khorra Nala and Pakwa Nalla shall be maintained".

3. Further, in total disregard to the conditions of approval, the user agency has mined out the area and changed the course of the Dumuhani nala which was actually required to be protected and maintained as green belt. In view of this, it has been decided that the penalty shall be imposed for violation committed over the forest area (1026.438 ha) without approval equal to five times the normal NPV

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plus simple interest of 12 % from the date of actual violation committed till the deposition of penalty.

4. The remaining conditions stipulated in approval dated 17.09.2010 for instant proposal shall remain the same.

5. This issues with the approval of competent authority.

Yours faithfully,

Signed by

Suneet Bhardwaj

Date: 25-05-2023 15:00:30

Sd/-

(Suneet Bhardwaj)

Assistant Inspector General of Forests

Copy to:

1. Principal Chief Conservation of Forests, Government of Jharkhand, Ranchi
2. Regional Officer, Integrated Regional Office (Eastern Zone), Ranchi
3. Nodal Officer, O/o the PCCF, Govt. of Jharkhand, Ranchi
4. User Agency
5. Monitoring Cell, FC Division, MoEF&CC, New Delhi

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Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)
....

Indira Paryavaran Bhawan,
Aliganj, Jor Bag Road,
New Delhi - 110003.

Dated: 26th May, 2023

To,

The Principal Secretary (Forests),
Government of Jharkhand,
Ranchi.

Subject: Proposal for non-forestry use of 331.198 ha of forest land in favour of M/s NTPC Limited for Pakribarwadih (North West) Opencast Coal Mining Project in West Forest Division, District Hazaribagh, Jharkhand – regarding.

Madam/Sir,

I am directed to refer to the Government of Jharkhand's letter No. Van Bhumi-10/2021-1664/V.P. dated 14.06.2022 on the above subject seeking prior approval of the Central Government under Section 2 of the Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Advisory Committee constituted by the Central Government under Section-3 of the aforesaid Act.

After careful examination of the proposal of the State Government and on the basis of the recommendations of the Advisory Committee, and its acceptance by the competent authority in this Ministry, ***In-principle/Stage-I approval*** of the Central Government is hereby accorded for non-forestry use of 331.198 ha of forest land under Section - 2 (ii) of the Forest (Conservation) Act, 1980 in favour of M/s NTPC Limited for Pakribarwadih (North West) Opencast Coal Mining Project in West Forest Division, District Hazaribagh, Jharkhand) subject to fulfillment of the following conditions:

- i. Legal status of the diverted forest land shall remain unchanged;
- ii. *A team of specialists from field of Soil Engg, Agriculture Engg, Hydrology, GIS & Geology shall be constituted under chairpersonship of DFO concerned. The team shall continuously study the area for assessing the impact of on-going mining on various environmental/ecological parameter and submit findings/ report to IRO annually.*
- iii. *UA shall generate drone survey data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nalas watershed parallel to the ongoing mining activities. For this purpose, a reputed institute, preferably located in the State, may be engaged for data collection, processing and*


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interpretation in effective and exclusive manner.

- iv. *Study of river-aquafer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site shall be conducted to facilitate the delineation of groundwater potential zones, ground water variation in these zones and help in water budgeting to the surroundings.*
- v. *Since the area is rich in species composition therefore Reclamation, Eco-restoration, and Conservation Plan shall be prepared by conducting proper study before initiating mining activities.*
- vi. *The Catchment Area Treatment Plan shall be prepared and implemented at the cost of the user agency for the treatment of all Nallahs/streams pertaining to instant mining lease/project area. The commensurate funds shall be deposited in National Authority prior to Stage-II approval.*
- vii. *An integrated soil and water conservation plan shall be prepared and implemented at the cost of the user agency for the entire landscape affected by the mining activities of the User agency in the region.*
- viii. *The mining in the area should be in consonance with the "Integrated Wildlife Management Plan" of North Karanpura. The cost estimate of Integrated Wildlife Management Plan (IWMP) submitted is based on the rate of 2010, while approval is being considered in 2023, hence rate revision has to be done based on the present rate.*
- ix. *As observed in the existing mine of NTPC Pakri Barwadih no amount of siltation dams could prevent the sediment deposition and choking of streams as overburden is dumped just adjacent to the nallahs/ streams. The Khorra nallah will largely be affected by the mining activities hence it should be protected by identifying and developing green belt of 100 metres on the side of Khorra nallah & Pakwa Nalas that is facing the mining area, to prevent further sedimentation and choking.*
- x. *A violation of the conditions of approval in case of diversion of 1026.438 ha forest land diverted earlier has been reported and is being processed separately. The State Govt shall ensure that the penal NPV and other penal levies as imposed are deposited before the Stage-II approval.*
- xi. **Compensatory Afforestation:**
 - a. *The Compensatory afforestation over degraded forest land, double in extent to the forest land being diverted, shall be raised by the State Forest Department at the project cost within three years from the date of grant of Stage - II approval;*
 - b. *The cost of compensatory afforestation at the prevailing wage rates as per compensatory afforestation scheme and the cost of survey, demarcation and erection of permanent pillars, if required on the CA land, shall be deposited in advance with the Forest Department by the user agency. The CA will be maintained for 10 years. The scheme may include afforestation of indigenous species with appropriate provision for anticipated cost increase for works scheduled for subsequent years;*


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- c. The KML files of diverted area and the CA areas shall be uploaded on the e-Green watch portal with all requisite details prior to Stage II approval.
- xii. The User Agency shall transfer the funds towards the cost of Net Present Value (NPV) of the forest land being diverted under this proposal from the User in accordance with the MoEF&CC's guidelines dated 6.01.2022 read with guidelines dated 22.03.2022.
- xiii. **Safety Zone Management:** Following activities, at project cost, shall be undertaken by the user agency for the management of safety zone as per relevant guidelines issued by the Ministry's guidelines:
- a. User agency shall ensure demarcation of safety zone (7.5 meter strip all along the inner boundary of the mining lease area), and its fencing, protection and regeneration by erecting adequate number of 6 feet high RCC boundary pillars inscribed with DGPS coordinates with barbed wire fencing and deploying adequate number of watchers under the supervision of the State Forest Department;
 - b. Boundary of the safety zone of the mining lease, adjacent to habitation/roads, should be properly fenced by the user agency;
 - c. Safety zone shall be maintained as green belt around mining lease and regeneration shall be taken up in this area by the user agency at project cost under the supervision of the State Forest Department;
 - d. Afforestation on degraded forest land to be selected elsewhere, measuring one and a half times the area under safety zone, shall also be done at the project cost under the supervisions of the State Forest Department. The degraded forest land (DFL) so selected will be informed to the MoEF & CC with shape files before Stage-II approval and afforestation will be done within three years from the date of Stage-II clearance and maintained thereafter in accordance with the approved Plan in consultation with the State Forest Department; and
 - e. The State Government and the user agency shall ensure that safety zone is maintained as per the prescribed norms.
- xiv. The cost of felling of trees shall be deposited by the User Agency with the State Forest Department;
- xv. All the funds received from the user agency under the project shall be transferred/deposited in CAMPA account only through e-portal (<https://parivesh.nic.in/>). Amount deposited through other modes will not be accepted as compliance of the Stage-I clearance;
- xvi. The complete compliance of the FRA, 2006 shall be ensured by way of prescribed certificate from the concerned District Collector;
- xvii. The compliance report shall be uploaded on e-portal (<https://parivesh.nic.in/>).
- xviii. At the time of payment of the Net Present Value (NPV) at the present rate, the user agency shall furnish an undertaking to pay the additional amount of


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NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;

- xix. The user agency shall explore the possibility of translocation of maximum number of trees identified to be felled and shall ensure that any tree felling shall be done only when it is unavoidable and that too under strict supervision of the State Forest Department;
- xx. Trees should be felled in phased manner as per the requirement in the approved Mining Plan with prior permission of concerned DFO;
- xxi. The User Agency shall undertake mining in a phased manner after taking due care for reclamation of the mined over area. The concurrent reclamation plan as per the approved mining plan shall be executed by the User Agency from the very first year, and an annual report on implementation thereof shall be submitted to the Nodal Officer, Forest (Conservation) Act, 1980, in the concerned State Government and the concerned Regional Office of the Ministry. If it is found from the annual report that the activities indicated in the concurrent reclamation plan are not being executed by the User Agency, the Nodal Officer or the concern Regional Officer, Integrated Regional Office may direct that the mining activities shall remain suspended till such time, such reclamation activities area satisfactorily executed;
- xxii. The User Agency shall comply with the Hon'ble Supreme Court order on re-grassing, and re-grass the mining area and any other areas which may have been disturbed due to mining to restore them to a condition which is fit for growth of fodder, flora, fauna, etc. in a timely manner;
- xxiii. Period of diversion of the said forest land under this approval shall be for a period co-terminus with the period of the mining lease proposed to be granted under the Mines and Minerals (Development and Regulation) Act, 1957, as amended and the Rules framed there-under;
- 26/05/23 xxiv. The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required;
- xxv. No labour camp shall be established on the forest land and the User Agency shall provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas;
- xxvi. The layout plan of the mining plan/ proposal shall not be changed without the prior approval of the Central Government and the forest land shall not be used for any purpose other than that specified in the proposal;
- xxvii. The forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government;
- xxviii. No damage to the flora and fauna of the adjoining area shall be caused;
- xxix. The User Agency shall submit the annual self-compliance report in respect of the above stated conditions to the State Government, concerned Regional Office and to this Ministry by the end of March every year regularly;

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- xxx. Any other condition that the concerned Regional Office of this Ministry may stipulate with the approval of competent authority in the interest of conservation, protection and development of forests & wildlife;
- xxxi. The user agency shall comply the provisions of the all Acts, Rules, Regulations, Guidelines, Hon'ble Court Order (s) and NGT Order (s) pertaining to this project, if any, for the time being in force, as applicable to the project; and
- xxxii. Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as prescribed in para 1.21 of Chapter 1 of the Handbook of comprehensive guidelines of Forest (Conservation) Act, 1980 as issued by this Ministry's letter No. 5-2/2017-FC dated 28.03.2019.

After receipt of compliance report on fulfillment of the conditions mentioned above, the proposal shall be considered for final approval under Section-2 of the Forest (Conservation) Act, 1980. Transfer of forest land shall not be affected till final approval is granted by the Central Government in this regard.

Yours faithfully,


(Suneet Bhardwaj)

Assistant Inspector General of Forests (FC)

Copy to:-

1. The Principal Chief Conservator of Forests and HoFF, Government of Jharkhand, Ranchi ;
2. The Regional Officer, Integrate Regional Office of the MoEF&CC, Ranchi;
3. The Nodal Officer (FCA), O/o PCCF, Government of Jharkhand, Ranchi;
4. User Agency ;and
5. Monitoring Cell, Forest Conservation Division, MoEF&CC, New Delhi



एनटीपीसी लिमिटेड

(भारत सरकार का उद्यम)

NTPC Limited

(A Government of India Enterprise)

केन्द्रीय कार्यालय/Corporate Centre

शिवम श्रीवास्तव

निदेशक (ईंधन)

SHIVAM SRIVASTAVA

Director (Fuel)

Ref. No.01/Dir(Fuel)

Date: 18.05.2023

To,
The Joint Secretary (Thermal and Coal, Distribution),
Ministry of Power,
Government of India,
Shram Shakti Bhawan, Rafi Marg,
New Delhi – 110001.

Sub: 1. Proposal for non-forestry use of 331.198Ha of forest land in favour of NTPC Ltd for Pakri-Barwadih(North-West)
2. Modification in condition of Stage-II approval and violation of FC Act for Pakri Barwadih Coal Mining Project- reg.

Dear Sir,

Ministry of Coal (MoC), GoI allocated Pakri Barwadih Coal Mining Project (PBCMP) located in North Karanpura Coalfields to NTPC Ltd. vide allotment letter no. 13016/29/2003-CA dated 11.10.2004 and DO No. 13016/29/2003-CA (Part) dated 24.08.2005.

The Mining Plan was approved by Ministry of Coal vide letter no. 13016/29/2003 CA-I dated 25.08.2006 and subsequently Revised Mining Plan was approved by MoC vide letter no. 13016/29/2003-CA (Part) dated 07.03.2016.

The Environment Clearance (EC) was granted by the Ministry of Environment, Forest and Climate Change (MoEF&CC) vide letter no. J-11015/692/2007-IA. II (M) dated 19.05.2009 and amendment dated 29.06.2016 and 14.08.2018. Stage-I and Stage-II Forest Clearance were accorded vide letter dated 11.05.2010 & 17.09.2010 respectively.

At present, PBCMP is an operational mine which has produced 47.75 million tonnes of coal till Mar'23 and is expected to reach its peak rated capacity of 15 million tonnes in FY 23-24 which is also the coal production target set by the ministry for this fiscal. However, achievement of this target of 15 million tonnes is subject to the expansion of the existing pit on the eastern side which is being restricted due to *Dumuhani nallah* which could not be diverted due to condition no. 7 of **Stage- I FC** and condition no. 8 of **Stage- II FC** which states that:

Quote

"The user agency will take up programme for at least 50 m green belt along the sides of the Pakwa nallah and Dumuhani nallah from the initial years under the supervision of the state forest department."

Un-Quote.

Contd....2/-

Corporate Identification Number : L40101DL1975GO1007966

NTPC, vide letter dated 09.10.2018, had requested Director General of Forest (FC) for making amendments to the abovementioned condition as per following:

- a. *Green belt development along the sides of **Pakwa** nallah and **Khorra** nallah instead of **Pakwa** nallah and **Dumuhani** nallah since **Dumuhani** nallah is passing through the block and needs to be diverted as per the CWPRS report (study was conducted in line with condition no. (iv) of the Environment Clearance).*
- b. *Change in the width of green belt development from 50 m to 15 m in line with regulation no. 149 of Coal Mines Regulation, 2017.*

The above requests were reiterated through multiple letters and raised during various review meetings of the ministry. A brief on this issue is enclosed as **annexure-1**.

Our request was considered for discussion during the FAC meeting on 25.04.2023 (**annexure-2**) and following decisions were made:

Agenda-1

a. At point no-4 & (X) of 4

Recommended the proposal for grant of Stage-I approval, subjected to deposition of penal NPV and other penal NPVs as imposed in case of diversion of 1023.438 ha forest land for Pakri-Barwdih. (**annexure-2**)

Agenda-2

a. At para-2 of the point no-4,

Quote –

"The user agency shall restore and conserve the Khorra Nalla (west) and Pakwa Nalla (east) watersheds on priority basis under supervision of the forest department and expert hydrologists/agencies and develop their watershed status as per the Survey of India toposheet no. 73 E/I. A greenbelt of 100 meters on either side of both Khorra Nalla and Pakwa Nalla shall be maintained".

Un-Quote.

However, till date NTPC Ltd. have already done mining in area leaving 50 m from both the Nallas i.e. Khorra and Pakwa Nalla within the lease area as per condition no. 7 of **Stage- I FC** and condition no. 8 of **Stage- II FC** and approved Mining Plan. The increase of green belt width to 100 m will lead to loss of more than 16 million tonnes of coal out of 311.71 million tonnes of total mineable coal reserve of western quarry.

b. At para-3 of the point no-4,

Quote –

".....the penalty shall be imposed for violation committed over the forest area (1026.438 Ha) without approval equal to five times the normal NPV plus simple interest of 12% from the date of actual violation committed till the deposition of penalty shall be imposed."

Un-Quote.

: 3 :

It is pertinent to mention here that **1026.438 Ha is the total forest area** which was diverted to PBCMP in favour of M/s NTPC Ltd whereas alleged violated forest area is 37.20 Ha as mentioned at point no 3.V.b of the FAC minutes (**annexure-3**) which is reproduced below:

Quote –

“Despite repeated cautions from the officials of the Forest Department, the user agency has violated the provisions of condition no 8 of the Stage-II approvals by diverting the Dumuhani nallah and carried out mining over a stretch of 31 km involving an area of 37.20 Ha of forest land without prior approval under the Forest (Conservation) Act, 1980”

Un-Quote.

Further, in the above referenced point, “3.1 Km” is the length of working stretch of the Dumuhani nallah.

We would like to submit that the penalty imposed by the committee on the area of 1026.438 ha shall be of the tune of 857 crores (approx.) which is exorbitantly high and will render our mining operations unviable.

It is pertinent to mention that violation are calculated as per clause no 1.21(iii)(a) of Chapter-1 of PART B of Forest Handbook, applicable in our case, is reproduced below:

Quote –

“(iii) Violation /noncompliance of any conditions imposed while granting approval under FC Act.

In such cases the penalty will be imposed on the recommendation of the APCCF Regional office in whose jurisdiction the alleged violation has occurred. The violation will be reported to REC/FAC and the committee will give time to comply the conditions within stipulated time.

- a. *In case the offence is proved then the penalty shall be imposed for violation committed over forest area without approval, equal to twice the normal NPV.*
- b. *In case of public utility projects of the government the penalty shall be 20 % of the penalty proposed in para (a) above.”*

Un-Quote.

The penalty as per clause (a) comes out to be 9.14 crores and clause (b) comes out to be Rs.1.83 Crores (calculation sheet as per the above clause is attached as **annexure-4**).

In view of the above, your kind intervention is requested for taking up the matter with MoEF & CC for following points:

- a. Delinking of stage-II clearance of Pakri Barwadih (North-West) with the deposition of penal NPV and other penal NPVs as imposed in case of diversion of 1023.438 ha forest land for Pakri-Barwadih.
- b. Change in the width of green belt development from 50 m to 15 m in line with regulation no. 149 of Coal Mines Regulation, 2017

Contd...4/-



: 4 :

- c. The area pertaining to violation may be changed to 37.20ha from 1026.438 Ha (total area diverted for Pakri Barwadih Coal Mining Project) to 37.20 Ha (alleged violated forest area) and Stretch of alleged violation area may be changed from 31 Km to 3.1 Km.
- d. Exorbitantly high penalty may be reviewed in line with clause no 1.21(iii)(a) of Chapter-1 of PART B of Forest Handbook.

Thanking you,

Yours faithfully,
S. Srivastava
(18.05.2023)
(Shivam Srivastava)

Director (Fuel) & Nominated Owner of Mines

Enclosed annexures:

Annexure-1: Brief on Dumuhani nala

Annexure-2: Agenda No-1 of FAC MOM dated 25.04.2023

Annexure-3: Agenda No-2 of FAC MOM dated 25.04.2023

Annexure-4: Penalty Calculation sheet

BRIEF ON DUMUHANI NALA

- The drainage of the block area is controlled through a network of small streamlets with a general southward flow direction. Most of these streamlets are seasonal in nature. *Khora* nala drains the northwestern part of the lease area. *Khora* nala joins the *Lathorwa* nala which runs along the western boundary of the lease area to join the *Harharo* river (near *Barkagaon* village) about 1 km south of the lease area. The northern part of the lease area is drained by the *Dumuhani* nala, which runs southwards nearly through the center of the lease area to join *Lathorwa* nala just south of the lease area. The eastern part of the lease area is drained by the *Pakwa* nala, which joins the *Harharo* river (near *Barkagaon* village) south of the lease.
- The CWPRS report states that the *Dumuhani* nala originates at a small distance upstream of the northern boundary of the coal mining block and traverses towards the south. The mining activity will be carried out in such a way that the catchment area of the nala will go on reducing towards south.
- Water entering the nala from the upper catchment at the northern boundary of the coal mining block would be transferred through canals constructed near the northern boundary of the mining block to *Khora* & *Pakwa* nalas. For this purpose, the work of canal construction has been awarded to WAPCOS which is under completion.
- Precipitation falling within the mining block from the catchment area of *Dumuhani* nala would be pumped to *Khora* & *Pakwa* nala progressively. The water being collected in mine sump is progressively pumped into the *Khora* & *Pakwa* nalas after treatment.
- As per FC condition 50m green belt has to be developed along the *Dumuhani* nala. Had we considered the green belt on either side of the nala the effective width of the section consisting of the nala, embankment & green belt is 100 m. *A width of 100 m on the surface shall translate into a width of 225m in northern boundary to 600m in southern boundary (considering the pit slope of 37.5 deg) on pit floor at the ultimate pit depth of 300m.* This would have led to:
 - a. Loss of 58 million tonnes of reserves out of 311.71 million tonnes mineable reserve of western quarry. Which comes to 19% of the total reserve in the west quarry;
 - b. Discontinuity along the strike causing reduction of production targets;
 - c. Discontinuity of sump;
 - d. Creation of 2 separate pits leading to requirement of additional production and ancillary equipment;
 - e. Disruption of OB management along the timeline.

It is pertinent to mention that the plots of land falling under *Dumuhani* nala are under legal possession of NTPC.

PBCMP has made substantial progress since the **start** of mining operations and now the mining activity **has** reached very close to DUMUHANI NALA present in the central part of the coal block. For mine progression, substantial **land** would be required, **however**, it will be possible only after **diversion** of the **DUMUHANI NALA**.

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Minutes of the Meeting of Advisory Committee meeting dated 25.04.23**Agenda No. 1****F. No. 8-56/2009-FC (Vol)**

Subject: Proposal for non-forestry use of 331.198 ha of forest land in favour of M/s NTPC Limited for Pakribarwadli (North West) Opencast Coal Mining Project in West Forest Division, District Hazaribagh (Jharkhand) - regarding.

1. The agenda item was considered by the Advisory Committee (AC) in its meeting held on 25.04.2023. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, all the facts and background of the proposal, along with examination of the proposal in the DSS were presented and explained by the Member Secretary before the AC for their examination and analysis. Committee was also apprised of the relevant provisions under other Acts & Rules relevant to the proposal and their significance.
3. The AC after thorough deliberation and discussion observed that:
 - i. The Government of Jharkhand vide their letter No. Van Bhumi-10/2021-1664/V.P. dated 14.06.2022 submitted the above mentioned proposal seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980. Legal status of the forest land proposed for diversion is Protected Forest land and Jungle Jhadi land comprising of 306.36 ha and 24.82 ha, respectively. Density of the area has been reported to be 0.8 by the DCF concerned with 30,521 project affected trees.
 - ii. Compensatory afforestation has been proposed over an area of 683.863 ha of degraded forest land in Hazaribagh West Forest Division. CA scheme involving financial provision of ₹87,62,282/- has been submitted for a period of 10 years.
 - iii. The area proposed for diversion is adjoining the 1026.438 ha forest land already diverted in favour of the same user agency. A nallah namely Khorra Nallah separates the extant forest area of 331.198 ha from the 1026.438 ha of forest land approved in the past. As reported by the concerned DCF in his report the said nallah will be largely affected by the mining activities.
 - iv. The total area involved in the project is 485.161 ha, with 331.198 ha of forest land included in the present proposal, 133.27 ha of non-forest land and 20.6925 ha forest area proposed to be re-diverted from the 1026.438 ha of forest land already diverted by the Central Government vide order dated 17.09.2010 in favour of user agency.
 - v. As per Mining Plan approved in the past, the total lease area was 4625.84 ha comprising of 1124.08 ha of forest land and 806.82 ha of recorded forest land and 2694.9 ha of private non-forest land. Now, Mining Plan has been revised and as per revised Mining Plan, total project area is 4695 ha, comprising of 1787 ha of forest land and 2908 ha of non-forest land. Out of total forest area, with regards to the status of balance forest area of 428.582 ha, Nodal Officer informed the Committee that said area may be required by the user agency in future and is currently under the possession of the State Forest Department.
 - vi. The Hon'ble NGT vide order dated 18.02.2019 in OA No.

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- 182/2016(EZ), constituted a committee to inspect the Pakri Barwadih Coal Mining Project of M/s NTPC Ltd. and to verify as to whether the conditions of the Forest Clearance (FC) and Environmental Clearance (EC) are meticulously complied with by the M/s NTPC. During inspection, it was observed that some of the conditions of FC approval (Stage-I and Stage-II) were still partially complied/ or where the project proponent has to take actions for complete compliance.
- vii. IRO in its inspection report, adverted to the violation committed by the user agency in respect of contiguous forest area of 1026.438 ha and recommended that extant proposal should only be considered after the penalty of Rs. 81,89,82,060 / - (Rupees Eighty One Crore Eighty Nine Lakh Eighty Two Thousand and Sixty only) is realized from user agency for violating the FC conditions and creating *fait-accomplie* situation.
- viii. The proposal was earlier considered by the Advisory Committee (AC) in its meeting held on 09.12.2022 and the AC observed that since the lease area of the user agency is transacted by various nallahs and therefore, the issue related to impact assessment on hydrological regimes by shifting of nallah needs to be considered holistically and accordingly, the Committee recommended that Sub-Committee of the AC may be reconstituted to ascertain and report on the following:
- a. Assessment of hydrological regimes of the area and impact of ongoing mining operations of the user agency in general and Dumuhani Nallah in particular and changes brought in by the User Agency and its impact on the ecology of the area.
 - b. Efficacy of mitigation measures, if any, undertaken by the user agency in their lease area.
 - c. Holistic assessment of 1787 ha of forest land involved in the mining lease of the user agency, its present status and legitimacy of future use proposed by the user agency.
- ix. On the basis of the recommendations of the AC, and approval of the same by the competent authority of the MoEF&CC, New Delhi, Ministry vide letter dated 28.12.2022 and 07.03.2023 constituted a sub-committee to visit the area. The Integrated Regional Office, Ranchi vide their letter dated FP/JH/Min/38798/2019/1014 dated 03.04.2023 submitted a report of Sub-Committee which recommended that:-
- a. A team of specialists from field of soil Engg, agriculture Engg, Hydrology, GIS & Geology may be constituted under chairpersonship of DFO who shall continuously study the area for assessing the impact of on-going mining on various environmental/ecological parameter and shall submit finding report to IRO annually.
 - b. UA shall generate drone survey data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nana watershed parallel to the ongoing mining activities. The data hence collected shall help user agency to design and develop green belt under super vision of Forest Department. For this purpose, a reputed institute, preferably located in the state, may be engaged for data collection, processing and interpretation in effective and exclusive manner. The institute can also be requested to study the entire region of 10 km from the lease boundaries for temporal land use and its changes.

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- c. Study of river-aquifer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site. The study may help in delineation of groundwater potential zones, ground water variation in these zones and may help in water budgeting to the surrounding.
- x. The AC observed that the present forest patch of 331.198 Ha of forest land proposed for diversion is part of larger forest landscape in the area and is source to many perennial streams. It was noted that the area doesn't have any perennial river and the water availability is enhanced only by the forests of the area. Hence, a Catchment Area Treatment plan should be prepared and adhered to.
- xi. The AC observed that as the present area of diversion is adjacent to an existing mine and more mines would come up in future leading to cluster mining in the area. Since, the cluster mining would involve activities like breaking of land and removal of earth in the area and beyond the entire landscape will be vulnerable to soil erosion and sedimentation. Therefore, an integrated soil and water conservation plan should be prepared and implemented treating the entire landscape.
- xii. It has been reported by the field officers that the present area is just adjoining to the already diverted forest area of 1026.438 Ha and Khorra Nallah separates these two blocks. The said nallah will largely be affected by the mining activities hence it should be protected by identifying and developing green belts upto 100 metres on either side to prevent sedimentation and choking. As observed in the existing mine of NTPC Pakri Barwadih no amount of siltation dams could prevent the sediment deposition and choking of streams as overburden is dumped just adjacent to the nallahs/ streams. A serious view may be taken in this regard failing which a few decades down the line, the entire area would be affected by water crises.
- xiii. Further it has been recommended by CF Hazaribagh that a water security plan should be prepared by the group of experts and adhered to. Since the area is rich in species composition, eco-restoration plan, Conservation Plan and Reclamation Plan may be prepared by conducting proper study before initiating mining activities and should be implemented in its spirit. An integrated soil and water conservation plan should be prepared and implemented treating the entire landscape. The mining in the area should be in consonance with the "Integrated Wildlife Management Plan" of North Karanpura.
4. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with the Nodal Officer (FCA), Jharkhand and Regional Officer, IRO Ranchi. After going through the facts of the proposal and submissions made by the Regional Officer, IRO Ranchi, the Committee recommended the proposal for grant of Stage-I approval subject to fulfilment of general, standard and the following additional conditions:
- i. A team of specialists from field of Soil Engg, Agriculture Engg, Hydrology, GIS & Geology shall be constituted under chairpersonship of DFO concerned. The team shall continuously study the area for assessing the impact of on-going mining on various environmental/ecological parameter and submit findings/ report to IRO annually.

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- ii. UA shall generate drone survey data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nallas watershed parallel to the ongoing mining activities. For this purpose, a reputed institute, preferably located in the State, may be engaged for data collection, processing and interpretation in effective and exclusive manner.
- iii. Study of river-aquafer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site shall be conducted to facilitate the delineation of groundwater potential zones, ground water variation in these zones and help in water budgeting to the surroundings.
- iv. Since the area is rich in species composition therefore Reclamation, Eco-restoration, and Conservation Plan shall be prepared by conducting proper study before initiating mining activities.
- v. The Catchment Area Treatment Plan shall be prepared and implemented at the cost of the user agency for the treatment of all Nallahs/streams pertaining to instant mining lease/project area.
- vi. An integrated soil and water conservation plan shall be prepared and implemented at the cost of the user agency for the entire landscape affected by the mining activities of the User agency in the region.
- vii. The mining in the area should be in consonance with the "Integrated Wildlife Management Plan" of North Karanpura. The cost estimate of Integrated Wildlife Management Plan (IWMP) submitted is based on the rate of 2010, while approval is being considered in 2023, hence rate revision has to be done based on the present rate.
- viii. Remaining draft minutes are concurred with.
- ix. As observed in the existing mine of NTPC Pakri Barwadih no amount of siltation dams could prevent the sediment deposition and choking of streams as overburden is dumped just adjacent to the nallahs/ streams. The Khorra nallah will largely be affected by the mining activities hence it should be protected by identifying and developing green belt of 100 metres on the side of Khorra nallah & Pakwa Nallas that is facing the mining area, to prevent further sedimentation and choking.
- x. A violation of the conditions of approval in case of diversion of 1026.438 ha forest land diverted earlier has been reported and is being processed separately. The State Govt shall ensure that the penal NPV and other penal levies as imposed are deposited before the Stage-II approval.

Agenda No. 2

F. No. 8-56/2009-FC (Pt.)

Subject: Modification in condition of Stage-II approval and violation of FC Act: Diversion of 1026.438 ha of forest land for coal mining Pakribarwadih Project in favour of M/s NTPC Ltd. in Hazaribag West Forest Division in Hazaribag District of Jharkhand - regarding.

1. The agenda item was considered by the AC in its meeting held on 25.04.2023. The corresponding agenda note may be seen at www.parivesh.nic.in.

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- ii. UA shall generate drone survey data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nallas watershed parallel to the ongoing mining activities. For this purpose, a reputed institute, preferably located in the State, may be engaged for data collection, processing and interpretation in effective and exclusive manner.
- iii. Study of river-aquifer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site shall be conducted to facilitate the delineation of groundwater potential zones, ground water variation in these zones and help in water budgeting to the surroundings.
- iv. Since the area is rich in species composition therefore Reclamation, Eco-restoration, and Conservation Plan shall be prepared by conducting proper study before initiating mining activities.
- v. The Catchment Area Treatment Plan shall be prepared and implemented at the cost of the user agency for the treatment of all Nallahs/streams pertaining to instant mining lease/project area.
- vi. An integrated soil and water conservation plan shall be prepared and implemented at the cost of the user agency for the entire landscape affected by the mining activities of the User agency in the region.
- vii. The mining in the area should be in consonance with the "Integrated Wildlife Management Plan" of North Karanpura. The cost estimate of Integrated Wildlife Management Plan (IWMP) submitted is based on the rate of 2010, while approval is being considered in 2023, hence rate revision has to be done based on the present rate.
- viii. Remaining draft minutes are concurred with.
- ix. As observed in the existing mine of NTPC Pakri Barwadih no amount of siltation dams could prevent the sediment deposition and choking of streams as overburden is dumped just adjacent to the nallahs/ streams. The Khorra nallah will largely be affected by the mining activities hence it should be protected by identifying and developing green belt of 100 metres on the side of Khorra nallah & Pakwa Nallas that is facing the mining area, to prevent further sedimentation and choking.
- x. A violation of the conditions of approval in case of diversion of 1026.438 ha forest land diverted earlier has been reported and is being processed separately. The State Govt shall ensure that the penal NPV and other penal levies as imposed are deposited before the Stage-II approval.

Agenda No. 2

F. No. 8-56/2009-FC (Pt.)

Subject: Modification in condition of Stage-II approval and violation of FC Act: Diversion of 1026.438 ha of forest land for coal mining Pakribarwadih Project in favour of M/s NTPC Ltd. in Hazaribag West Forest Division in Hazaribag District of Jharkhand - regarding.

1. The agenda item was considered by the AC in its meeting held on 25.04.2023. The corresponding agenda note may be seen at www.parivesh.nic.in.

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2. During the meeting, all the facts and background of the proposal, along with examination of the proposal in the DSS were presented and explained by the Member Secretary before the AC for their examination and analysis. Committee was also apprised of the relevant provisions under other Acts & Rules relevant to the proposal and their significance.
3. The AC after through deliberation and discussion observed that:
 - i. The extant proposal was accorded Stage-I approval vide Ministry's letter dated 11.05.2010 and Stage-II/ final approval vide letter dated 17.09.2010, inter-alia stipulating the following condition:
"The user agency will take up program for at least 50 m green belt along the sides of the Pakwa nallah and Dumhani nallah from the initial years under the supervision of the state forest department"
 - ii. The user agency i.e. M/s NTPC submitted a representation dated 09.10.2018 and 18.01.2022 requested for amendment in the above mentioned stipulation which appeared as condition no. 7 and 8 in Stage-I and Stage-II approval, respectively. The Ministry vide its letter dated 29.01.2019 requested the State Government to furnish comments on the said representation and provide documents as available with the State Government related to the instant proposal.
 - iii. In the meantime, Regional Office, Ranchi of this Ministry vide their letter dated 09.07.2019 informed that a committee constituted by Hon'ble NGT vide its order dated 18.02.2019 in OA No. 182/2016(EZ) inspected the Pakri Barwadih Coal Mining Project of M/s NTPC Limited on 15.03.2019 for compliance of approvals granted by the MoEF&CC under FC Act and EP Act. The committee observed that some of the condition of FC approval (Stage-I and Stage-II) were still partially complied with, including the raising of green belt around Pakwa and Dumhani nalla. The committee advised the user agency to ensure compliance of conditions stipulated in the FC approval.
 - iv. The Ministry, vide letters dated 3.09.2019 and 23.02.2022, after examination of the said report, requested comments from the State and also requested the IRO to take appropriate action in the matter as per provisions of the Ministry's guidelines given under para 1.21 (iii) of Handbook of Forest (Conservation) Act, 1980.
 - v. The Government of Jharkhand vide letter dated 08.07.2022 submitted their reply in response to Ministry's letter dated 29.01.2019 and 23.02.2022 wherein the following was informed:
 - a. Inspection report of the DFO revealed that Dumuhani Nallah which is running in the midst of the mining area which is also the quarry area has been found to be diverted by the user agency while as per condition stipulated in the approval, green belt should have been developed around the said nallah.
 - b. Despite repeated cautions from the officials of the Forest Department, the user agency has violated the provisions of condition no 8 of the Stage-II approval by diverting the Dumuhani nallah and carried out mining over a stretch of 31 km involving an area of 37.20 ha of forest land without prior approval under the Forest (Conservation) Act, 1980.
 - vi. The Ministry, after examination of reply received from the State, vide letter dated 13.09.2022 requested additional information from the State, including justification from the user agency and comments on various representation received in the Ministry on the alleged violation of the

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- Act by the user agency. The IRO of the Ministry was also requested to inspect the area and submit a detailed report on the violation.
- vii. The proposal was earlier considered by the Advisory Committee (AC) in its meeting held on 21.09.2022 and 09.12.2022 and the AC observed that since the lease area of the user agency is transacted by various nallah and therefore, the issue related to impact assessment on hydrological regimes by shifting of nallah needs to be considered holistically and accordingly, the Committee recommended that Sub-Committee of the AC may be constituted to ascertain and report on the following:
- a. Assessment of hydrological regimes of the area and impact of ongoing mining operations of the user agency in general and Dumuhani Nallah in particular and changes brought in by the User Agency and its impact on the ecology of the area.
 - b. Efficacy of mitigation measures, if any, undertaken by the user agency in their lease area.
 - c. Holistic assessment of 1787 ha of forest land involved in the mining lease of the user agency, its present status and legitimacy of future use proposed by the user agency.
- viii. On the basis of the recommendations of the AC, and approval of the same by the competent authority of the MoEF&CC, New Delhi, Ministry vide letter dated 28.12.2022 and 07.03.2023 constituted a sub-committee to visit the area. Integrated Regional Office, Ranchi vide their letter dated FP/JH/Min/38798/2019/1014 dated 03.04.2023 submitted a report and observed that:
- a. Prima-facie the three watersheds (Khorra, Pakwa and Dumuhani) have been subject to extreme diversion by locals for their livelihood amelioration well before the mining activities begun in the region.
 - b. The technical expert member of the committee has suggested that the green belt development can be notified for Khorra Nalla instead of Dumuhani Nalla (a tributary of Khorra Nalla).
 - c. The hydrological expert member of the committee, after taking into consideration the holistic approach, has concluded with the recommendation of (i) diversion of the Dumuhani Nalla (a tributary of Khorra Nalla) for coal mining and (ii) restoration and conservation of the Khorra Nalla (west) and Pakwa Nalla (east) watersheds on priority basis under supervision of the forest department and expert hydrologists/agencies and develop their watershed status as per the Survey of India toposheet no. 73 E/I.
- ix. Further the following is recommended by the sub-committee:-
- a. A team of specialists from field of Soil Engg, Agriculture Engg, Hydrology, GIS & amp; Geology may be constituted under chairpersonship of DFO who shall continuously study the area for assessing the impact of on-going mining on various environmental/ecological parameter and shall submit finding report to IRO annually.
 - b. UA shall generate drone survey Data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nana watershed parallel to the ongoing mining activities. The data

11-91/2012FC

I/42466/2023

hence collected shall help user agency to design and develop green belt under super vision of Forest Department. For at his purpose a reported institute, preferably located in the State, may be engaged for data collection, processing mid interpretation in effective and exclusive manner. The institute can also be requested to study the entire region of 10 km from the lease boundaries for temporal land use and its changes.

- c. Study of river-aquafer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site. The study may help in delineation of groundwater potential zones, ground water variation in these zones and may help in water budgeting to the surrounding.
 - x. The AC observed that DFO Hazaribagh and the State government in the proposal of the 331.198 ha of the mine has mentioned that a 100 m green belt could be developed along Khorra nallah which is an important rivulet providing water security to people living downstream. Likewise, in the Eastern extremity of mining area a 100 m green belt can be developed along the riverside. However, Dumuhani Nallah which is running in the midst of the mining area which is also the quarry area has been found to be diverted by the user agency and again recommended to the same rivulet downstream. But as per the condition a green belt has to be developed along the sides of Dumuhani Nallah. However, the earlier recommendation for raising green belts along the nallas were for 50 meters. The AC deliberated on this point in length and comments of PCCF & HoFF Jharkhand was also taken. After deliberation and keeping in view the issue of water security in the area, raising green belt of 100 meters along Khorra and Pakwa, which are flowing flanking the mining area should be done.
 - xi. The AC also observed that the State Government has informed that the user agency has violated the provisions of condition no 8 of the Stage-II approval as the user agency at its own diverted the Dumhani nallah without prior approval of the Central Government under the Forest (Conservation) Act, 1980.
4. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with the Nodal Officer (FCA), Jharkhand and Regional Officer, IRO Ranchi. After going through the facts of the proposal and submissions made by the Regional Officer, IRO Ranchi, the Committee recommended to modify the condition no. 8 in Stage-II approval as under:

'The user agency shall restore and conserve the Khorra Nalla (west) and Pakwa Nalla (east) watersheds on priority basis under supervision of the forest department and expert hydrologists/agencies and develop their watershed status as per the Survey of India toposheet no. 73 E/I. A greenbelt of 100 meters on either side of both Khorra Nala and Pakwa Nalla shall be maintained'.

The Committee further observed that in total disregard to the conditions of approval the user agency has mined out the area and changed the course of the Dumuhani nala which was actually required to be protected and maintained as green belt. Keeping this in view the Committee recommended that the penalty shall be imposed for violation committed over the forest area (1026.438 ha) without approval equal to five times the normal NPV plus

11-91/2012FC

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simple interest of 12 % from the date of actual violation committed till the deposition of penalty shall be imposed.

Agenda No. 3**File no. 8-14/2018FC(VOL)**

Sub: Diversion of 15.981 ha of forest land in RM Block & other villages for Approach Road, Downhill Pipe Line Conveyer and Feed & Transfer Point area for Rama Iron Ore Mine (ML.No. 2621) in favour of M/s JSW Steel Ltd., Vijaynagar works Bellary in Bellary District of Karnataka. (Online proposal No. FP/KA/Others/27780/2017). –regarding.

1. The above subject agenda item was considered by Advisory Committee (AC) in its meeting held on 25.04.2023. The Nodal Officer (FCA), Government of Karnataka and IRO Bangalore were present in the meeting.
2. The details of the proposal may be seen at www.parivesh.nic.in.
3. The Member Secretary placed all the facts and background of the proposal, along with examination of the proposal in the DSS, before the Advisory Committee for examination and analysis. The Committee was also apprised of the provisions of other Acts & Rules relevant to the proposal and their significance.
4. The Advisory Committee after thorough deliberation and discussion observed that:
 - i. The proposal is for construction of approach road, downhill pipe line conveyer and feed & transfer point area for Rama Iron Ore Mine (ML.No. 2621) in favour of M/s JSW Steel Ltd., Vijaynagar works Bellary in Bellary District.
 - ii. The instant proposal has been accorded Stage-I approval by the Ministry vide its letter of even number dated 31.12.2018 subject to certain conditions prescribed therein.
 - iii. The Government of Karnataka vide letter dated 14.06.2022 submitted the compliance report informing that the CA land has been changed and recommended for Stage-II approval. After analysing the compliance report the Ministry observed certain observation and the same was communicated to the State vide this Ministry's letter dated 05.07.2022.
 - iv. In response to the Ministry's observation, the State govt. on 15.03.2023 submitted/uploaded a complete report on compliance to conditions stipulated in the in-principle/Stage-I approval letter dated 31.12.2018.
 - v. The user agency has submitted the necessary undertakings to comply with the conditions stipulated in the Stage-I approval dated 31.12.2018.
 - vi. The UA has deposited the all the compensatory levies into National Authority, CAMPA account through e-portal.
 - vii. The FRA certificate in Form-I (for linear project) issued by Deputy Commissioner, Ballari District vide No.REV/Mining/FRA/08/2018-19 dated 13.09.2019, REV/mining/FRA/73/2018-19 dated 13.09.2019 and REV/Mining/FRA/63/2017-18 dated 28.11.2019 and rectification letter No. BLR-DC -33011/12-2021-BLRDC/Forest Ballari DC dated 01.09.2021 and proceeding of village Forest Right Committee held 30.11.2018 along with documentary evidences has been submitted.
 - viii. AC observed that the State Government has changed the CA land without Central Government approval providing the justification that

Sl. No.	Description	Basic Data	Penalty (all amounts are in Crore Rs.)				
			As per Forest Act hand Book		As per MoM dtd 25.04.2023		
			Penalty as per 1.21 (iii)(a)	Penalty for PSU/Govt. Org. 1.21(iii)(b)	As per MoM dtd 25.04.2023	Interest amount on Penalty as per MoM	Total Penalty as per MoM
			(in Crore)	(in Crore)	(in Crore)	(in Crore)	(in Crore)
1	2	3	4	5	6	7	8
1	Rate of NPV/Ha as on date (in Rs) for Dense Forest)	1,228,590.00	Twice of NPV	20% of 1.21(iii)(a)	Five times of NPV	@ 12% of (Column 6)	(Col-6+Col-7)*yr of violation
2	Total Forest Area diverted to PBCMP (Ha)	1026.438	252.21	50.44	630.54	75.66	857.53
3	Area of the Land in Dumuhani Nala (Ha)	37.2	9.14	1.83	22.85	2.74	31.08
	Actual Date of Violation Reported 16.06.2020	16.06.2020	--	--	Year of Violation = 3 yrs		
	Actual Date of Deposition of Penal NPV	30.06.2023	--	--			



Ref: No. RED(CM) Sectt./PBCMP/EMG/2023/475

Date: 02.06.2023

To,
The Principal Chief Conservator of Forest & HoFF,
Govt. of Jharkhand
Block-A, Van Bhawan, Doranda
Ranchi, Jharkhand

Sub: 1. Proposal for non-forestry use of 331.198 Ha of forest land in favour of NTPC Ltd. For Pakri Barwadih (North-West) Coal Mining Project
2. Modification in condition of Stage-II approval and violation of FC Act for Pakri Barwadih Coal Mining Project-reg.

Dear Sir,

Ministry of Coal (MoC), GoI allocated Pakri Barwadih Coal Mining Project (PBCMP) located in North Karanpura Coalfields to NTPC Ltd. vide allotment letter no. 13016/29/2003-CA dated 11.10.2004 and DO No. 13016/29/2003-CA (Part) dated 24.08.2005.

The Mining Plan was approved by Ministry of Coal vide letter no. 13016/29/2003 CA-I dated 25.08.2006 and subsequently Revised Mining Plan was approved by MoC vide letter no. 13016/29/2003-CA (Part) dated 07.03.2016.

The Environment Clearance (EC) was granted by the Ministry of Environment, Forest and Climate Change (MoEF&CC) vide letter no. J-11015/692/2007-IA. II (M) dated 19.05.2009 and amendment dated 29.06.2016 and 14.08.2018. Stage-I and Stage-II Forest Clearance were accorded vide letter dated 11.05.2010 & 17.09.2010 respectively.

At present, PBCMP is an operational mine which has produced 50.51 million tonnes of coal till May'23 since inception and is expected to reach its peak rated capacity (PRC) of 15 million tonnes in FY 23-24. However, achievement of PRC is subject to the expansion of the existing pit on the eastern side which is being restricted due to non-diversion of *Dumuhani nallah*. The *Dumuhani nallah* has not been diverted due to condition no. 7 of Stage- I FC and condition no. 8 of Stage- II FC which states that:

Quote -

"The user agency will take up programme for at least 50 m green belt along the sides of the Pakwa nallah and Dumhani nallah from the initial years under the supervision of the state forest department."

Un-Quote.

NTPC, vide letter dated 09.10.2018 (**Annexure-1**), had requested Director General of Forest (FC) for making amendments to the abovementioned condition as per following:

- green belt development along the sides of Pakwa and Khorra nallah instead of Pakwa and Dumuhani nallah since Dumuhani nallah is passing through the block which needs to be diverted as per the CWPRS report (study was conducted in line with condition no. (iv) of the Environment Clearance); and

1 of 3 | Page

कोयला खनन मुख्यालय: एनटीपीसी लिमिटेड, गिन्नी प्लाजा, चुटिया थाना के सामने, चुटिया, राँची 834001 (झारखण्ड)

Coal Mining Headquarters, NTPC Limited, Ginni Plaza, Opposite Chutia Police Station, Chutia, Ranchi-834001 (Jharkhand)

Registered Office : NTPC Bhawan, SCOPE Complex, 7, Institutional Area, Lodi Road, New Delhi-110003

www.ntpc.co.in

- b. *change in the width of green belt development from 50 m to 15 m in line with regulation no. 149 of Coal Mines Regulation, 2017.*

The above requests were reiterated through multiple letters and raised during various review meetings of the ministry. A brief on this issue is enclosed as **Annexure-2**.

Our request was considered for discussion during the FAC meeting on 25.04.2023 (**Annexure-3**) and following decisions were made which were communicated by MoEF&CC, New Delhi vide letter dated 25.05.2023 (**Annexure-4**) :

- a. **At para-2 of the point no-4,**

Quote –

"The user agency shall restore and conserve the Khorra Nalla (west) and Pakwa Nalla (east) watersheds on priority basis under supervision of the forest department and expert hydrologists/agencies and develop their watershed status as per the Survey of India toposheet no. 73 E/I. A greenbelt of 100 meters on either side of both Khorra Nala and Pakwa Nalla shall be maintained".

Un-Quote.

Herein, we would like to submit that, mining activities have already been carried while maintaining 50 m width for green belt as per FC granted to NTPC in 2010. The increase of green belt width 50 m to 100m will lead to loss of around 16 million tonnes of coal.

- b. **At para-3 of the point no-4,**

Quote –

".....the penalty shall be imposed for violation committed over the forest area (1026.438 Ha) without approval equal to five times the normal NPV plus simple interest of 12% from the date of actual violation committed till the deposition of penalty shall be imposed."

Un-Quote.

It is pertinent to mention here that **1026.438 Ha** is the total forest area which was diverted for coal mining to PBCMP in favour of M/s NTPC Ltd whereas alleged violated forest area is 37.20 Ha as mentioned at point no 3.V.b of the FAC minutes (**Annexure-4**) which is reproduced below:

Quote –

"Despite repeated cautions from the officials of the Forest Department, the user agency has violated the provisions of condition no 8 of the Stage-II approval by diverting the Dumuhani nallah and carried out mining over a stretch of 31 km involving an area of 37.20 Ha of forest land without prior approval under the Forest (Conservation) Act, 1980"

Un-Quote.

Further, in the above referenced point, "3.1 Km" is the length of working stretch of the Dumuhani nallah. Considering the area of 1026.438 Ha, the penalty imposed against the alleged violation shall reach to the tune of 857 crores (approx.). The penalty amount, which is exorbitantly high, coupled with the loss of revenue against the blocked coal reserves of 16 million tonnes (due to increase in green belt width from 50 m to 100 m) will render our mining operations unviable.

Also, the penalty clause no 1.21(iii) of Chapter-1 of PART B of Forest Handbook, applicable in the instant case, is reproduced below:

Quote –

"(iii) Violation /noncompliance of any conditions imposed while granting approval under FC Act. In such cases the penalty will be imposed on the recommendation of the APCCF Regional office in

whose jurisdiction the alleged violation has occurred. The violation will be reported to REC/FAC and the committee will give time to comply the conditions within stipulated time.

- a. In case the offence is proved then the penalty shall be imposed for violation committed over forest area without approval equal to twice the normal NPV.
- b. In case of public utility projects of the government the penalty shall be 20 % of the penalty proposed in para (a) above."

Un-Quote.

The penalty as per clause (a) comes out to be Rs. 9.14 crores and clause (b) comes out to be Rs. 1.83 crores (calculation sheet as per the above clause is attached as **Annexure-5**).

In view of the above, it is requested that the following may kindly be considered:

- a. Delinking of stage-II clearance of Pakri Barwadih (North-West) with deposition of penal NPV and other penal levies as imposed in case of diversion of 1026.438 ha forest land for Pakri Barwadih. (FAC minutes attached as **Annexure-6**).
- b. Change in the width of green belt development from 50 m to 15 m in line with regulation no. 149 of Coal Mines Regulation, 2017.
- c. The area pertaining to violation may be changed from 1026.438 Ha (total area diverted for Pakri Barwadih Coal Mining Project) to 37.20 Ha (alleged violated forest area) and stretch of alleged violation area may be changed from 31 Km to 3.1 Km.
- d. Exorbitantly high penalty may be reviewed in line with clause no 1.21(iii)(a) of Chapter-1 of PART B of Forest Handbook.

It is requested for your kind help and support in resolving the above points.

Thanking you,

Yours faithfully,


(M.V.R. Reddy)

Regional Executive Director

Enclosed Annexures:

- Annexure-1: Our letter 1040/PBCMP/EMG/2018/F-28/31748 dated 09.10.2018
- Annexure-2: Brief on Dumuhani nala
- Annexure-3: Agenda No-2 of FAC MOM dated 25.04.2023
- Annexure-4: MoEF & CC letter 8-56/2009-FCpt dated 25.05.2023
- Annexure-5: Penalty Calculation sheet
- Annexure-6: Agenda No-1 of FAC MOM dated 25.04.2023



एन टी पी सी लिमिटेड
(भारत सरकार का उपक्रम)

NTPC Limited

(A Govt. of India Enterprise)

पकरी बरवाडीह कोयला खनन परियोजना
Pakri Barwadih Coal Mining Project

Ref. No.: 1040/PBCMP/EMG/2023/ 163

Dated 24.07.2023

To,
The Director General of Forest,
Ministry of Environment, Forest & Climate Change (MoEF&CC),
New Delhi.

Through Proper Channel (DFO, Hazaribagh West forest division)

Sub: Diversion of 331.198 Ha of forest land for non-forestry use, in favour of NTPC Ltd., for Pakri Barwadih (North-West) Coal Mining Project- Delinking of condition of penal NPV of Pakri Barwadih CMP-reg

Ref-1: Stage-1 Forest clearance obtained vide File Ref No 8-56/2009-FC-(vol) dated 26th May 2023.

Ref-2: Ltr No RED(CM) SectL/PBCMP/EMG/2023/475 Dated 02.06.2023 from NTPC.

Ref-3- Ltr No NTPC/PBCMP/EMG/2023 dated 21.06.2023 from NTPC.

Respected Sir,

Application for the diversion of 331.198 ha of forest land for non-forestry use for Pakri Barwadih (North West) Opencast Coal Mining Project has been submitted to MoEF&CC through Parivesh portal. Vide reference Ltr No 8-56/2009-FC-(vol) dated 26th May 2023, Inprinciple / Stage-I approval is accorded for non-forestry use of 331.198 ha of forest land under Section-2 (ii) of the Forest (Conservation) Act, 1980 in favour of M/s NTPC Limited for Pakri Barwadih (North West) Opencast Coal Mining Project in West forest division, district Hazaribagh, Jharkhand subject to fulfillment of certain conditions. (Copy enclosed as Annexure-1).

As per Condition No. X of Stage- I FC states that:

Quote –

"A violation of the conditions of approval in case of diversion of 1026.438 ha forest land diverted earlier has been reported and is being processed separately. The State Govt shall ensure that the penal NPV and other penal levies as imposed are deposited before the Stage-II approval."

Un-Quote.

We would like to humbly submit that the diversion of 1026.438 ha forest land pertains to Pakri Barwadih Coal Mining and it is having a separate EIA/EMP and mining operations.



A Maharatna Company

769

एन टी पी सी लिमिटेड

(भारत सरकार का उपकरण)

NTPC Limited

(A Govt. of India Enterprise)

पकरी बरवाडीह कोयला खनन परियोजना
Pakri Barwadih Coal Mining Project

For Pakri Barwadih (North West) Opencast Coal Mining Project, MDO has been appointed for start of mining operations and application for the Environment Clearance is being processed by SEIA, Jharkhand. The EIA/EMP and mining operations at Pakri Barwadih (North West) Coal Mining Project are not linked in any way with the existing Pakri Barwadih Coal Mining Project.

Please refer to our request letters dated 02.06.2023 & 21.06.2023 at various levels regarding the subject matter (Copies enclosed as Annexure-2 & 3 respectively). It is requested to kindly consider for Delinking of above condition of deposition of penal NPV and other penal levies as imposed in case of diversion of 1026.438 ha forest land for Pakri Barwadih Coal Mining Project for processing of stage-II clearance of Pakri Barwadih (North-West) CMP, So that compliance of stage 1 conditions of Pakri Barwadih (North West) CMP can be submitted to MoEF&CC for processing of Stage-II forest clearance and project can be started at the earliest to meet the country's coal requirement.

It is requested for your kind support for resolving the above issue.

With Regards.

Yours Sincerely,

**Neeraj Jalota,
General Manager,
(PB, PB-NW CMP),
NTPC Limited.**

Encl: A/a

Ref. No.: 1040/PBCMP/EMG/2023/165

Dated 03.08.2023

To,
The Director General of Forest,
Ministry of Environment, Forest & Climate Change (MoEF&CC),
New Delhi.

Through Proper Channel (DFO, Hazaribagh West forest division)

Sub: Diversion of 331.198 Ha of forest land for non-forestry use, in favour of NTPC Ltd., for Pakri Barwadih (North-West) Coal Mining Project- Delinking of condition of penal NPV of Pakri Barwadih CMP-reg

Ref-1: Stage-1 Forest clearance obtained vide File Ref No 8-56/2009-FC-(vol) dated 26th May 2023.

Ref-2: Ltr No RED(CM) Sectt./PBCMP/EMG/2023/475 Dated 02.06.2023 from NTPC.

Ref-3- Ltr No NTPC/PBCMP/EMG/2023 dated 21.06.2023 from NTPC.

Ref-4-1040/PBCMP/EMG/2023/163 Dated 24.07.2023

Ref-5—Order dated 01.08.2023 of NGT (Appeal No 20/2023/EZ (I.A.No 34 /2023 / EZ)

Respected Sir,

Application for the diversion of 331.198 ha of forest land for non-forestry use for Pakri Barwadih (North West) Opencast Coal Mining Project has been submitted to MoEF&CC through Parivesh portal. Vide reference Ltr No 8-56/2009-FC-(vol) dated 26th May 2023, Inprinciple / Stage-I approval is accorded for non-forestry use of 331.198 ha of forest land under Section-2 (ii) of the Forest (Conservation) Act, 1980 in favour of M/s NTPC Limited for Pakri Barwadih (North West) Opencast Coal Mining Project in West forest division, district Hazaribagh, Jharkhand subject to fulfillment of certain conditions. (Copy enclosed as Annexure-1).

As per Condition No. X of Stage- I FC states that:

Quote –

"A violation of the conditions of approval in case of diversion of 1026.438 ha forest land diverted earlier has been reported and is being processed separately. The State Govt shall ensure that the penal NPV and other penal levies as imposed are deposited before the Stage-II approval."

Un-Quote.

We would like to humbly submit that the diversion of 1026.438 ha forest land pertains to Pakri Barwaidih Coal Mining and it is having a separate EIA/EMP and mining operations.

For Pakri Barwadih (North West) Opencast Coal Mining Project, MDO has been appointed for start of mining operations and application for the Environment Clearance is being processed by SEIA, Jharkhand. The EIA/EMP and mining operations at Pakri Barwadih (North West) Coal Mining Project are not linked in any way with the existing Pakri Barwadih Coal Mining Project.

Please refer to our request letters dated 02.06.2023, 21.06.2023, 24.07.2023 at various levels regarding the subject matter (Copies enclosed as Annexure-2,3 & 4 respectively). Also NGT vide its order dated 01.08.2023 issued "stay" on demand order dated 14.06.2023 from office of DFO, Hazaribagh West Forest division for paying the penal NPV of Rs 857,52,85,944.32 for Pakri Barwadih CMP. Copy enclosed as Annexure-5.

It is requested to kindly consider for Delinking of above condition of deposition of penal NPV and other penal levies as imposed in case of diversion of 1026.438 ha forest land for Pakri Barwadih Coal Mining Project for processing of stage-II clearance of Pakri Barwadih (North-West) CMP, So that compliance of stage 1 conditions of Pakri Barwadih (North West) CMP can be submitted to MoEF&CC for processing of Stage-II forest clearance and project can be started at the earliest to meet the country's coal requirement.

It is requested for your kind support for resolving the above issue.

With Regards.

Yours Sincerely,


Neeraj Jalota, 03/08/23
General Manager,
(PB, PB-NW CMP),
NTPC Limited.

Encl: A/a



शिवम श्रीवास्तव
निदेशक (ईंधन)
SHIVAM SRIVASTAVA
Director (Fuel)

Ref. No. 01/DIR(FUEL)/2023/7

एनटीपीसी लिमिटेड
(भारत सरकार का उद्यम)

NTPC Limited
(A Government of India Enterprise)

केन्द्रीय कार्यालय/Corporate Centre

Date: 17.10.2023

To,
The Joint Secretary (Thermal)
Ministry of Power,
Government of India,
Shram Shakti Bhawan, Rafi Marg,
New Delhi – 110001.

Sub:- Resolution through Mutual consultation of NGT Kolkata appeal no 20/2023, dated 18.07.2023 (NTPC PBCMP vs State of Jharkhand & Others)- reg.

Dear Sir,

Ministry of Coal (MoC), GoI allocated Pakri Barwadih Coal Mining Project (PBCMP) to NTPC Ltd in 2004, Mining plan was approved in 2006, The Environment clearance was issued in 2009. Stage-I and Stage-II forest clearance was granted by MoEF & CC in 11.05.2010 & 19.09.2010.

NTPC requested MoEF&CC for amendment of condition no. 8 of stage-II and condition no. 7 of stage-I of Forest Clearance for replacement of the term "Dumuhani Nala" for "Khorrah Nala" of Pakri Barwadih in 2018. Diversion of Dhumani Nala is required for expansion of mine to enhance coal production. The above requests were reiterated through multiple letters and raised during various review meetings of the ministry.

MoEF&CC had issued an amendment in 2023 along with the imposition of penal NPV (5 times) the normal NPV for the entire forest area (1026Ha) diverted for the project along with maintaining a greenbelt of 100m on either side of nala.

NTPC represented the case before MoP and the State Forest Department (Govt. of Jharkhand) for review of decision of FAC vide its letter dated 18.05.2023, 02.06.2023, however, DFO, Hazaribagh vide its Communication dated 14.06.2023 issued a demand notice for payment of Rs 857.52 Cr as per FAC recommendations. Further NTPC requested MoEF & CC vide its letter dated 24.07.2023 & 03.08.2023 for review of penalties.

As NTPC had no other option, NTPC approached NGT Kolkata for relief on the issue on 17.07.2023. Three hearings were held till date.

In view of above, Ministry of Power intervention is requested to take up the matter with MoEF & CC for resolution of the issue through mutual consultation.

Thanking you,

Yours faithfully,
S. Srivastava
(Shivam Srivastava)

Director (Fuel) & Nominated Owner of Mines

Corporate Identification Number : L40101DL1975GO1007966

पंकज अग्रवाल, भा.प्र.से.
सचिव
Pankaj Agarwal, I.A.S.
Secretary



भारत सरकार
विद्युत मंत्रालय
श्रम शक्ति भवन, नई दिल्ली-110001
Government of India
Ministry of Power
Shram Shakti Bhawan, New Delhi - 110001
Tele : 23710271/23711316
Fax : 23721487
E-mail : secy-power@nic.in
October 30, 2023

DO No.:11/25/2023-Th.I

Dear Ms Nandan,

As you may be aware that, NTPC Ltd. was allocated Pakri Barwadih Coal Mining Project (PBCMP) located in North Karanpura Coalfields, Jharkhand. Stage-I and Stage-II forest clearance was granted by MoEF&CC on 11.05.2010 & 19.09.2010 respectively. PBCMP is an operational mine which has produced 47.75 million tonnes of coal till Mar'23 and is expected to reach its peak rated capacity of 15 million tonnes in FY 23-24 which is also the coal production target set by the Ministry for this fiscal. PBCMP is a basket mine which supplies to around 20 Thermal Power Plants that are critical to power supply scenario in the country.

2. NTPC vide letter dated 17.10.2023 (copy enclosed) has informed that MoEF&CC had issued an amendment in 2023 along with the imposition of penal NPV (5 times the normal NPV) for the entire forest area (1026.438 Ha) diverted for the project along with maintaining a greenbelt of 100m (against requested 15m) on either side of 'Pakwa Nala' and 'Khorra Nala'. However, 'Dumuhani Nala' needs to be diverted for expansion of mine to enhance coal production. NTPC represented through Forest department, Govt. of Jharkhand, for review of decision of Forest Advisory Committee (FAC). However, DFO, Hazaribagh issued a demand notice for payment of Rs 857.52 Cr as per the recommendations. Further, Forest clearance Stage-II of Parkri Barwadih (North West) Project has also been linked with the payment of said penalty. A brief on the issue is enclosed.
3. Subsequently, NTPC filed an appeal before Hon'ble NGT, Eastern Bench against the demand of the penalty. Hon'ble NGT in its first hearing dated 01.08.2023 has ordered interim stay on the operation of DFO, Hazaribagh demand notice dated 14.06.2023. The stay has been extended vide subsequent orders and matter is scheduled for hearing on 23.11.2023.
4. In view of the above, may I propose a meeting between Ministry of Power, Ministry of Environment Forest and Climate Change (MoEF&CC) & Ministry of Coal for amicable resolution of the issue. Your kind convenience is solicited for the proposed meeting.

Regards,

Yours sincerely

30.10.23
(Pankaj Agarwal)

Encl: As Above

Ms. Leena Nanadan
Secretary,
Ministry of Environment, Forest and Climate Change
Jor Bagh, New Delhi



पंकज अग्रवाल, भा.प्र.से.
सचिव
Pankaj Agarwal, I.A.S.
Secretary



भारत सरकार
विद्युत मंत्रालय
श्रम शक्ति भवन, नई दिल्ली-110001
Government of India
Ministry of Power
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Tele : 23710271/23711316
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E-mail : secy-power@nic.in
October 30, 2023

DO No.11/25/2023-Th.I

Dear Sri Meena,

As you may be aware that, NTPC Ltd. was allocated Pakri Barwadih Coal Mining Project (PBCMP) located in North Karanpura Coalfields, Jharkhand. Stage-I and Stage-II forest clearance was granted by MoEF&CC on 11.05.2010 & 19.09.2010 respectively. PBCMP is an operational mine which has produced 47.75 million tonnes of coal till Mar'23 and is expected to reach its peak rated capacity of 15 million tonnes in FY 23-24 which is also the coal production target set by the Ministry for this fiscal. PBCMP is a basket mine which supplies to around 20 Thermal Power Plants that are critical to power supply scenario in the country.

2. NTPC vide letter dated 17.10.2023 (copy enclosed) has informed that MoEF&CC had issued an amendment in 2023 along with the imposition of penal NPV (5 times the normal NPV) for the entire forest area (1026.438 Ha) diverted for the project along with maintaining a greenbelt of 100m (against requested 15m) on either side of 'Pakwa Nala' and 'Khorra Nala'. However, 'Dumuhani Nala' needs to be diverted for expansion of mine to enhance coal production. NTPC represented through Forest department, Govt. of Jharkhand, for review of decision of Forest Advisory Committee (FAC). However, DFO, Hazaribagh issued a demand notice for payment of Rs. 857.52 Cr as per the recommendations. Further, Forest clearance Stage-II of Pakri Barwadih (North West) Project has also been linked with the payment of said penalty. A brief on the issue is enclosed.

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4. In view of the above, may I propose a meeting between Ministry of Power, Ministry of Environment Forest and Climate Change (MoEF&CC) & Ministry of Coal for amicable resolution of the issue. Your kind convenience is solicited for the proposed meeting.

regards,

Yours sincerely

Pankaj
30.10.23
(Pankaj Agarwal)

Encl: As Above

Shri Amrit Lal Meena
Secretary,
Ministry of Coal
Shastri Bhawan, New Delh



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- ii. UA shall generate drone survey data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nallas watershed parallel to the ongoing mining activities. For this purpose, a reputed institute, preferably located in the State, may be engaged for data collection, processing and interpretation in effective and exclusive manner.
- iii. Study of river-aquifer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site shall be conducted to facilitate the delineation of groundwater potential zones, ground water variation in these zones and help in water budgeting to the surroundings.
- iv. Since the area is rich in species composition therefore Reclamation, Eco-restoration, and Conservation Plan shall be prepared by conducting proper study before initiating mining activities.
- v. The Catchment Area Treatment Plan shall be prepared and implemented at the cost of the user agency for the treatment of all Nallahs/streams pertaining to instant mining lease/project area.
- vi. An integrated soil and water conservation plan shall be prepared and implemented at the cost of the user agency for the entire landscape affected by the mining activities of the User agency in the region.
- vii. The mining in the area should be in consonance with the "Integrated Wildlife Management Plan" of North Karanpura. The cost estimate of Integrated Wildlife Management Plan (IWMP) submitted is based on the rate of 2010, while approval is being considered in 2023, hence rate revision has to be done based on the present rate.
- viii. Remaining draft minutes are concurred with.
- ix. As observed in the existing mine of NTPC Pakri Barwadih no amount of siltation dams could prevent the sediment deposition and choking of streams as overburden is dumped just adjacent to the nallahs/ streams. The Khorra nallah will largely be affected by the mining activities hence it should be protected by identifying and developing green belt of 100 metres on the side of Khorra nallah & Pakwa Nallas that is facing the mining area, to prevent further sedimentation and choking.
- x. A violation of the conditions of approval in case of diversion of 1026.438 ha forest land diverted earlier has been reported and is being processed separately. The State Govt shall ensure that the penal NPV and other penal levies as imposed are deposited before the Stage-II approval.

Agenda No. 2**F. No. 8-56/2009-FC (Pt.)**

Subject: Modification in condition of Stage-II approval and violation of FC Act: Diversion of 1026.438 ha of forest land for coal mining Pakribarwadih Project in favour of M/s NTPC Ltd. in Hazaribag West Forest Division in Hazaribag District of Jharkhand - regarding.

1. The agenda item was considered by the AC in its meeting held on 25.04.2023. The corresponding agenda note may be seen at www.parivesh.nic.in.

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2. During the meeting, all the facts and background of the proposal, along with examination of the proposal in the DSS were presented and explained by the Member Secretary before the AC for their examination and analysis. Committee was also apprised of the relevant provisions under other Acts & Rules relevant to the proposal and their significance.
3. The AC after through deliberation and discussion observed that:
 - i. The extant proposal was accorded Stage-I approval vide Ministry's letter dated 11.05.2010 and Stage-II/ final approval vide letter dated 17.09.2010, inter-alia stipulating the following condition:
"The user agency will take up program for at least 50 m green belt along the sides of the Pakwa nallah and Dumhani nallah from the initial years under the supervision of the state forest department"
 - ii. The user agency i.e. M/s NTPC submitted a representation dated 09.10.2018 and 18.01.2022 requested for amendment in the above mentioned stipulation which appeared as condition no. 7 and 8 in Stage-I and Stage-II approval, respectively. The Ministry vide its letter dated 29.01.2019 requested the State Government to furnish comments on the said representation and provide documents as available with the State Government related to the instant proposal.
 - iii. In the meantime, Regional Office, Ranchi of this Ministry vide their letter dated 09.07.2019 informed that a committee constituted by Hon'ble NGT vide its order dated 18.02.2019 in OA No. 182/2016(EZ) inspected the Pakri Barwadih Coal Mining Project of M/s NTPC Limited on 15.03.2019 for compliance of approvals granted by the MoEF&CC under FC Act and EP Act. The committee observed that some of the condition of FC approval (Stage-I and Stage-II) were still partially complied with, including the raising of green belt around Pakwa and Dumhani nalla. The committee advised the user agency to ensure compliance of conditions stipulated in the FC approval.
 - iv. The Ministry, vide letters dated 3.09.2019 and 23.02.2022, after examination of the said report, requested comments from the State and also requested the IRO to take appropriate action in the matter as per provisions of the Ministry's guidelines given under para 1.21 (iii) of Handbook of Forest (Conservation) Act, 1980.
 - v. The Government of Jharkhand vide letter dated 08.07.2022 submitted their reply in response to Ministry's letter dated 29.01.2019 and 23.02.2022 wherein the following was informed:
 - a. Inspection report of the DFO revealed that Dumuhani Nallah which is running in the midst of the mining area which is also the quarry area has been found to be diverted by the user agency while as per condition stipulated in the approval, green belt should have been developed around the said nallah.
 - b. Despite repeated cautions from the officials of the Forest Department, the user agency has violated the provisions of condition no 8 of the Stage-II approval by diverting the Dumuhani nallah and carried out mining over a stretch of 31 km involving an area of 37.20 ha of forest land without prior approval under the Forest (Conservation) Act, 1980.
 - vi. The Ministry, after examination of reply received from the State, vide letter dated 13.09.2022 requested additional information from the State, including justification from the user agency and comments on various representation received in the Ministry on the alleged violation of the

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- Act by the user agency. The IRO of the Ministry was also requested to inspect the area and submit a detailed report on the violation.
- vii. The proposal was earlier considered by the Advisory Committee (AC) in its meeting held on 21.09.2022 and 09.12.2022 and the AC observed that since the lease area of the user agency is transacted by various nallah and therefore, the issue related to impact assessment on hydrological regimes by shifting of nallah needs to be considered holistically and accordingly, the Committee recommended that Sub-Committee of the AC may be constituted to ascertain and report on the following:
- a. Assessment of hydrological regimes of the area and impact of ongoing mining operations of the user agency in general and Dumuhani Nallah in particular and changes brought in by the User Agency and its impact on the ecology of the area.
 - b. Efficacy of mitigation measures, if any, undertaken by the user agency in their lease area.
 - c. Holistic assessment of 1787 ha of forest land involved in the mining lease of the user agency, its present status and legitimacy of future use proposed by the user agency.
- viii. On the basis of the recommendations of the AC, and approval of the same by the competent authority of the MoEF&CC, New Delhi, Ministry vide letter dated 28.12.2022 and 07.03.2023 constituted a sub-committee to visit the area. Integrated Regional Office, Ranchi vide their letter dated FP/JH/Min/38798/2019/1014 dated 03.04.2023 submitted a report and observed that:
- a. Prima-facie the three watersheds (Khorra, Pakwa and Dumuhani) have been subject to extreme diversion by locals for their livelihood amelioration well before the mining activities begun in the region.
 - b. The technical expert member of the committee has suggested that the green belt development can be notified for Khorra Nalla instead of Dumuhani Nalla (a tributary of Khorra Nalla).
 - c. The hydrological expert member of the committee, after taking into consideration the holistic approach, has concluded with the recommendation of (i) diversion of the Dumuhani Nalla (a tributary of Khorra Nalla) for coal mining and (ii) restoration and conservation of the Khorra Nalla (west) and Pakwa Nalla (east) watersheds on priority basis under supervision of the forest department and expert hydrologists/agencies and develop their watershed status as per the Survey of India toposheet no. 73 E/I.
- ix. Further the following is recommended by the sub-committee:-
- a. A team of specialists from field of Soil Engg, Agriculture Engg, Hydrology, GIS & amp; Geology may be constituted under chairpersonship of DFO who shall continuously study the area for assessing the impact of on-going mining on various environmental/ecological parameter and shall submit finding report to IRO annually.
 - b. UA shall generate drone survey Data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nana watershed parallel to the ongoing mining activities. The data

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hence collected shall help user agency to design and develop green belt under super vision of Forest Department. For at his purpose a reported institute, preferably located in the State, may be engaged for data collection, processing mid interpretation in effective and exclusive manner. The institute can also be requested to study the entire region of 10 km from the lease boundaries for temporal land use and its changes.

- c. Study of river-aquafer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site. The study may help in delineation of groundwater potential zones, ground water variation in these zones and may help in water budgeting to the surrounding.
 - x. The AC observed that DFO Hazaribagh and the State government in the proposal of the 331.198 ha of the mine has mentioned that a 100 m green belt could be developed along Khorra nallah which is an important rivulet providing water security to people living downstream. Likewise, in the Eastern extremity of mining area a 100 m green belt can be developed along the riverside. However, Dumuhani Nallah which is running in the midst of the mining area which is also the quarry area has been found to be diverted by the user agency and again recommended to the same rivulet downstream. But as per the condition a green belt has to be developed along the sides of Dumuhani Nallah. However, the earlier recommendation for raising green belts along the nallas were for 50 meters. The AC deliberated on this point in length and comments of PCCF & HoFF Jharkhand was also taken. After deliberation and keeping in view the issue of water security in the area, raising green belt of 100 meters along Khorra and Pakwa, which are flowing flanking the mining area should be done.
 - xi. The AC also observed that the State Government has informed that the user agency has violated the provisions of condition no 8 of the Stage-II approval as the user agency at its own diverted the Dumhani nallah without prior approval of the Central Government under the Forest (Conservation) Act, 1980.
4. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with the Nodal Officer (FCA), Jharkhand and Regional Officer, IRO Ranchi. After going through the facts of the proposal and submissions made by the Regional Officer, IRO Ranchi, the Committee recommended to modify the condition no. 8 in Stage-II approval as under:

'The user agency shall restore and conserve the Khorra Nalla (west) and Pakwa Nalla (east) watersheds on priority basis under supervision of the forest department and expert hydrologists/agencies and develop their watershed status as per the Survey of India toposheet no. 73 E/I. A greenbelt of 100 meters on either side of both Khorra Nala and Pakwa Nalla shall be maintained'.

The Committee further observed that in total disregard to the conditions of approval the user agency has mined out the area and changed the course of the Dumuhani nala which was actually required to be protected and maintained as green belt. Keeping this in view the Committee recommended that the penalty shall be imposed for violation committed over the forest area (1026.438 ha) without approval equal to five times the normal NPV plus

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simple interest of 12 % from the date of actual violation committed till the deposition of penalty shall be imposed.

Agenda No. 3

File no. 8-14/2018FC(VOL)

Sub: Diversion of 15.981 ha of forest land in RM Block & other villages for Approach Road, Downhill Pipe Line Conveyer and Feed & Transfer Point area for Rama Iron Ore Mine (ML.No. 2621) in favour of M/s JSW Steel Ltd., Vijaynagar works Bellary in Bellary District of Karnataka. (Online proposal No. FP/KA/Others/27780/2017). –regarding.

1. The above subject agenda item was considered by Advisory Committee (AC) in its meeting held on 25.04.2023. The Nodal Officer (FCA), Government of Karnataka and IRO Bangalore were present in the meeting.
2. The details of the proposal may be seen at www.parivesh.nic.in.
3. The Member Secretary placed all the facts and background of the proposal, along with examination of the proposal in the DSS, before the Advisory Committee for examination and analysis. The Committee was also apprised of the provisions of other Acts & Rules relevant to the proposal and their significance.
4. The Advisory Committee after thorough deliberation and discussion observed that:
 - i. The proposal is for construction of approach road, downhill pipe line conveyer and feed & transfer point area for Rama Iron Ore Mine (ML.No. 2621) in favour of M/s JSW Steel Ltd., Vijaynagar works Bellary in Bellary District.
 - ii. The instant proposal has been accorded Stage-I approval by the Ministry vide its letter of even number dated 31.12.2018 subject to certain conditions prescribed therein.
 - iii. The Government of Karnataka vide letter dated 14.06.2022 submitted the compliance report informing that the CA land has been changed and recommended for Stage-II approval. After analysing the compliance report the Ministry observed certain observation and the same was communicated to the State vide this Ministry's letter dated 05.07.2022.
 - iv. In response to the Ministry's observation, the State govt. on 15.03.2023 submitted/uploaded a complete report on compliance to conditions stipulated in the in-principle/Stage-I approval letter dated 31.12.2018.
 - v. The user agency has submitted the necessary undertakings to comply with the conditions stipulated in the Stage-I approval dated 31.12.2018.
 - vi. The UA has deposited the all the compensatory levies into National Authority, CAMPA account through e-portal.
 - vii. The FRA certificate in Form-I (for linear project) issued by Deputy Commissioner, Ballari District vide No.REV/Mining/FRA/08/2018-19 dated 13.09.2019, REV/mining/FRA/73/2018-19 dated 13.09.2019 and REV/Mining/FRA/63/2017-18 dated 28.11.2019 and rectification letter No. BLR-DC -33011/12-2021-BLRDC/Forest Ballari DC dated 01.09.2021 and proceeding of village Forest Right Committee held 30.11.2018 along with documentary evidences has been submitted.
 - viii. AC observed that the State Government has changed the CA land without Central Government approval providing the justification that

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Minutes of the Meeting of Advisory Committee meeting dated 25.04.23**Agenda No. 1****F. No. 8-56/2009-FC (VoI)**

Subject: Proposal for non-forestry use of 331.198 ha of forest land in favour of M/s NTPC Limited for Pakribarwadih (North West) Opencast Coal Mining Project in West Forest Division, District Hazaribagh (Jharkhand) - regarding.

1. The agenda item was considered by the Advisory Committee (AC) in its meeting held on 25.04.2023. The corresponding agenda note may be seen at www.parivesh.nic.in.
2. During the meeting, all the facts and background of the proposal, along with examination of the proposal in the DSS were presented and explained by the Member Secretary before the AC for their examination and analysis. Committee was also apprised of the relevant provisions under other Acts & Rules relevant to the proposal and their significance.
3. The AC after thorough deliberation and discussion observed that:
 - i. The Government of Jharkhand vide their letter No. Van Bhumi-10/2021-1664/V.P. dated 14.06.2022 submitted the above mentioned proposal seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980. Legal status of the forest land proposed for diversion is Protected Forest land and Jungle Jhadi land comprising of 306.36 ha and 24.82 ha, respectively. Density of the area has been reported to be 0.8 by the DCF concerned with 30,521 project affected trees.
 - ii. Compensatory afforestation has been proposed over an area of 683.863 ha of degraded forest land in Hazaribagh West Forest Division. CA scheme involving financial provision of ₹87,62,282/- has been submitted for a period of 10 years.
 - iii. The area proposed for diversion is adjoining the 1026.438 ha forest land already diverted in favour of the same user agency. A nallah namely Khorra Nallah separates the extant forest area of 331.198 ha from the 1026.438 ha of forest land approved in the past. As reported by the concerned DCF in his report the said nallah will be largely affected by the mining activities.
 - iv. The total area involved in the project is 485.161 ha, with 331.198 ha of forest land included in the present proposal, 133.27 ha of non-forest land and 20.6925 ha forest area proposed to be re-diverted from the 1026.438 ha of forest land already diverted by the Central Government vide order dated 17.09.2010 in favour of user agency.
 - v. As per Mining Plan approved in the past, the total lease area was 4625.84 ha comprising of 1124.08 ha of forest land and 806.82 ha of recorded forest land and 2694.9 ha of private non-forest land. Now, Mining Plan has been revised and as per revised Mining Plan, total project area is 4695 ha, comprising of 1787 ha of forest land and 2908 ha of non-forest land. Out of total forest area, with regards to the status of balance forest area of 428.582 ha, Nodal Officer informed the Committee that said area may be required by the user agency in future and is currently under the possession of the State Forest Department.
 - vi. The Hon'ble NGT vide order dated 18.02.2019 in OA No.

- 182/2016(EZ), constituted a committee to inspect the Pakri Barwadih Coal Mining Project of M/s NTPC Ltd. and to verify as to whether the conditions of the Forest Clearance (FC) and Environmental Clearance (EC) are meticulously complied with by the M/s NTPC. During inspection, it was observed that some of the conditions of FC approval (Stage-I and Stage-II) were still partially complied/ or where the project proponent has to take actions for complete compliance.
- vii. IRO in its inspection report, adverted to the violation committed by the user agency in respect of contiguous forest area of 1026.438 ha and recommended that extant proposal should only be considered after the penalty of Rs. 81,89,82,060 / - (Rupees Eighty One Crore Eighty Nine Lakh Eighty Two Thousand and Sixty only) is realized from user agency for violating the FC conditions and creating *fait-accomplis* situation.
- viii. The proposal was earlier considered by the Advisory Committee (AC) in its meeting held on 09.12.2022 and the AC observed that since the lease area of the user agency is transacted by various nallahs and therefore, the issue related to impact assessment on hydrological regimes by shifting of nallah needs to be considered holistically and accordingly, the Committee recommended that Sub-Committee of the AC may be reconstituted to ascertain and report on the following:
- a. Assessment of hydrological regimes of the area and impact of ongoing mining operations of the user agency in general and Dumuhani Nallah in particular and changes brought in by the User Agency and its impact on the ecology of the area.
 - b. Efficacy of mitigation measures, if any, undertaken by the user agency in their lease area.
 - c. Holistic assessment of 1787 ha of forest land involved in the mining lease of the user agency, its present status and legitimacy of future use proposed by the user agency.
- ix. On the basis of the recommendations of the AC, and approval of the same by the competent authority of the MoEF&CC, New Delhi, Ministry vide letter dated 28.12.2022 and 07.03.2023 constituted a sub-committee to visit the area. The Integrated Regional Office, Ranchi vide their letter dated FP/JH/Min/38798/2019/1014 dated 03.04.2023 submitted a report of Sub-Committee which recommended that:-
- a. A team of specialists from field of soil Engg, agriculture Engg, Hydrology, GIS & Geology may be constituted under chairpersonship of DFO who shall continuously study the area for assessing the impact of on-going mining on various environmental/ecological parameter and shall submit finding report to IRO annually.
 - b. UA shall generate drone survey data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nana watershed parallel to the ongoing mining activities. The data hence collected shall help user agency to design and develop green belt under super vision of Forest Department. For this purpose, a reputed institute, preferably located in the state, may be engaged for data collection, processing and interpretation in effective and exclusive manner. The institute can also be requested to study the entire region of 10 km from the lease boundaries for temporal land use and its changes.

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- c. Study of river-aquifer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site. The study may help in delineation of groundwater potential zones, ground water variation in these zones and may help in water budgeting to the surrounding.
- x. The AC observed that the present forest patch of 331.198 Ha of forest land proposed for diversion is part of larger forest landscape in the area and is source to many perennial streams. It was noted that the area doesn't have any perennial river and the water availability is enhanced only by the forests of the area. Hence, a Catchment Area Treatment plan should be prepared and adhered to.
- xi. The AC observed that as the present area of diversion is adjacent to an existing mine and more mines would come up in future leading to cluster mining in the area. Since, the cluster mining would involve activities like breaking of land and removal of earth in the area and beyond the entire landscape will be vulnerable to soil erosion and sedimentation. Therefore, an integrated soil and water conservation plan should be prepared and implemented treating the entire landscape.
- xii. It has been reported by the field officers that the present area is just adjoining to the already diverted forest area of 1026.438 Ha and Khorra Nallah separates these two blocks. The said nallah will largely be affected by the mining activities hence it should be protected by identifying and developing green belts upto 100 metres on either side to prevent sedimentation and choking. As observed in the existing mine of NTPC Pakri Barwadih no amount of siltation dams could prevent the sediment deposition and choking of streams as overburden is dumped just adjacent to the nallahs/ streams. A serious view may be taken in this regard failing which a few decades down the line, the entire area would be affected by water crises.
- xiii. Further it has been recommended by CF Hazaribagh that a water security plan should be prepared by the group of experts and adhered to. Since the area is rich in species composition, eco-restoration plan, Conservation Plan and Reclamation Plan may be prepared by conducting proper study before initiating mining activities and should be implemented in its spirit. An integrated soil and water conservation plan should be prepared and implemented treating the entire landscape. The mining in the area should be in consonance with the "Integrated Wildlife Management Plan" of North Karanpura.
4. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with the Nodal Officer (FCA), Jharkhand and Regional Officer, IRO Ranchi. After going through the facts of the proposal and submissions made by the Regional Officer, IRO Ranchi, the Committee recommended the proposal for grant of Stage-I approval subject to fulfilment of general, standard and the following additional conditions:
- i. A team of specialists from field of Soil Engg, Agriculture Engg, Hydrology, GIS & Geology shall be constituted under chairpersonship of DFO concerned. The team shall continuously study the area for assessing the impact of on-going mining on various environmental/ecological parameter and submit findings/ report to IRO annually.

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- ii. UA shall generate drone survey data on spatial and seasonal status of Khorra Nalla & Pakwa Nalla watersheds for having first-hand information on the current status of the Khorra and Pakwa Nallas watershed parallel to the ongoing mining activities. For this purpose, a reputed institute, preferably located in the State, may be engaged for data collection, processing and interpretation in effective and exclusive manner.
- iii. Study of river-aquifer interaction using non-invasive geo-physical technique in 10 km radius of NTPC Pakribarwadih Coal mine site shall be conducted to facilitate the delineation of groundwater potential zones, ground water variation in these zones and help in water budgeting to the surroundings.
- iv. Since the area is rich in species composition therefore Reclamation, Eco-restoration, and Conservation Plan shall be prepared by conducting proper study before initiating mining activities.
- v. The Catchment Area Treatment Plan shall be prepared and implemented at the cost of the user agency for the treatment of all Nallahs/streams pertaining to instant mining lease/project area.
- vi. An integrated soil and water conservation plan shall be prepared and implemented at the cost of the user agency for the entire landscape affected by the mining activities of the User agency in the region.
- vii. The mining in the area should be in consonance with the "Integrated Wildlife Management Plan" of North Karanpura. The cost estimate of Integrated Wildlife Management Plan (IWMP) submitted is based on the rate of 2010, while approval is being considered in 2023, hence rate revision has to be done based on the present rate.
- viii. Remaining draft minutes are concurred with.
- ix. As observed in the existing mine of NTPC Pakri Barwadih no amount of siltation dams could prevent the sediment deposition and choking of streams as overburden is dumped just adjacent to the nallahs/ streams. The Khorra nallah will largely be affected by the mining activities hence it should be protected by identifying and developing green belt of 100 metres on the side of Khorra nallah & Pakwa Nallas that is facing the mining area, to prevent further sedimentation and choking.
- x. A violation of the conditions of approval in case of diversion of 1026.438 ha forest land diverted earlier has been reported and is being processed separately. The State Govt shall ensure that the penal NPV and other penal levies as imposed are deposited before the Stage-II approval.

Agenda No. 2

F. No. 8-56/2009-FC (Pt.)

Subject: Modification in condition of Stage-II approval and violation of FC Act: Diversion of 1026.438 ha of forest land for coal mining Pakribarwadih Project in favour of M/s NTPC Ltd. in Hazaribag West Forest Division in Hazaribag District of Jharkhand - regarding.

1. The agenda item was considered by the AC in its meeting held on 25.04.2023. The corresponding agenda note may be seen at www.parivesh.nic.in.