

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,**EASTERN ZONE, KOLKATA****IN****APPEAL NO. 20/2023/EZ**

IN THE MATTER OF:

M/s NTPC.

...Appellant

Versus

State of Jharkhand & Ors.

...Respondents

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Place: Ranchi

Dated: 06th November, 2024

06 NOV 2024





**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE, KOLKATA**

IN

APPEAL NO. 20/2023/EZ

NTPC

...Appellant

Versus

State of Jharkhand & Ors.

...Respondent(s)

**ADDITIONAL AFFIDAVIT ON BEHALF OF THE MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE,
REGIONAL OFFICE, RANCHI (RESPONDENT NO. 2 & 4) MOST
RESPECTFULLY SHOWETH:**

Answeary

1. I, Pasupala Ravi, S/o Shri Pasupala Sunkanna, aged about 47 years, working in the Regional Office at Ranchi to the Government of India, Ministry of Environment, Forest and Climate Change (MoEF&CC), having office located at 2nd Floor, Headquarter- Jharkhand State Housing Board, Harmu Chowk, Ranchi-834002, Jharkhand, do hereby solemnly affirm and state as follows: -

2160 06 NOV 2024

Ref No. Date



2. That, at present, I am working and posted as Scientist 'D' in the Regional office at Ranchi to the Government of India, Ministry of Environment, Forest and Climate Change (MoEF&CC) and as such, I am fully conversant with the facts and circumstances of the case from records maintained in the office. I have read and understood the contents of the application thereof and as such authorized and competent to swear the present affidavit.

STATEMENT OF FACTS:

3. The Hon'ble NGT vide its order dated 22.08.2024 directed the Ministry to decide on the representation of the Applicant i.e., NTPC and file an affidavit in this regard. Accordingly, the instant additional affidavit is being filed in the compliance of the said order.

4. The Applicant had submitted the representation to the Ministry seeking the following:

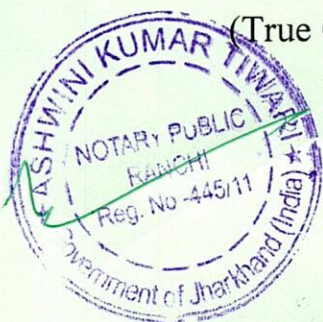
a. To wave penal NPV imposed on the NTPC for Pakri- Barwadih coal mining project.

b. Delinking of Stage-II forest clearance of Pakri Barwadih (North-West) with the deposition of penal NPV of Pakri- Barwadih coal mining project.

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.

5. Accordingly, the Ministry sought a point wise reply on the representation of the applicant from the State Government vide its letter dated 22.01.2024.

(True Copy of the letter dated 22.01.2024 is annexed as "Annexure R1").



6. The State Government vide its letter dated 05.04.2024 furnished the comments without any recommendation stating that the Central Government is the competent authority for amendment or reconsideration of the conditions imposed in approvals granted under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.
7. Thereafter, the proposal was considered by the Advisory Committee (AC) in its meeting held on 30.04.2024 wherein the Committee observed that the State Govt. has not provided any recommendations or view point on the representation of the User Agency. Accordingly, the Ministry vide its letter dated 20.05.2024 requested the State Government to carry out an in-depth analysis on the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and the Nodal Officer, Government of Jharkhand shall present the same before the Advisory Committee. (True Copy of the letter dated 20.05.2024 is annexed as **“Annexure R2”**).
8. The proposal was again considered by the AC in its meeting held on 07.06.2024 wherein the Committee observed that the Nodal Officer, Government of Jharkhand was requested to give a presentation before the Advisory Committee which has not been done. Accordingly, the AC decided that the PCCF & HoFF, Government of Jharkhand shall present the same before the Advisory Committee in its next meeting. The same was conveyed to the State Government vide Ministry letter dated 26.06.2024. (True Copy of the letter dated 26.06.2024 is annexed as **“Annexure R3”**).
9. Thereafter the proposal was again considered by the AC in its meeting held

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on 04.07.2024 wherein the Committee observed that the PCCF & HoFF, Government of Jharkhand was requested to give a presentation before the Advisory Committee which has not been done. Accordingly, it was reiterated that the State Govt. shall carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and the PCCF & HoFF, Government of Jharkhand shall present the same before the Advisory Committee in its next meeting. The same was conveyed to the State Government vide Ministry's letter dated 26.07.2024. (True Copy of the letter dated 26.07.2024 is annexed as "Annexure R4").

10. The proposal was again placed before the Advisory Committee on 27.08.2024 wherein the Committee noted that user agency has represented for a specific condition i.e., the penal NPV which was imposed for the entire area proposed for diversion (1026.438 ha) and accordingly the demand note was raised by the concerned DFO. In view of presentation given by PCCF & HoFF and available facts with regard to area reported to be in violation and considering the fact that the User Agency has broken up the area to be conserved, the Committee observed that the condition of penal NPV may not be waived off and therefore, the condition w.r.t. penal NPV does not require any modification, in light of the facts put forth.

11. The Committee also noted that considering the request for delinking of Stage-II approval of Pakri Barwadih (North-West) (331.198 ha) with the deposition of penal NPV of Pakri Barwadih (1026.438 ha) will be appropriate as the two proposals are separate proposals and the User



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Agency is not able to comply the stipulated condition in Pakri Barwadih (North-West) (331.198 ha) proposal for which Stage-I approval has been granted. The Committee also considered the request of the User Agency for maintaining a green belt of 15 m instead of 100 meters along Pakwa and Khora Nala, and observed that as per the guidelines issued by the Ministry, a green belt of only 50 meter width along the Nalas/streams can be allowed in the instant case.

12. After detailed deliberations and going through the facts of the proposal, the Committee recommended the following:

- i. The condition no. 8 in the Stage-II approval issued vide Ministry's letter dated 17.09.2010 for 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 may be modified 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 50 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 Nalla, which was actually required to be protected and maintained as green belt. Keeping this



in view the Committee recommended to continue with the penalty 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.

- ii. The condition no. (x) of Stage-I approval issued vide Ministry's letter dated 26.05.2023 for Pakri Barwadih (North-West) (331.198 ha) proposal may be waived off. (True Copy of the Minutes of the Meeting dated 27.08.2024 is annexed as "Annexure R5").

13. Based on the recommendations of the Advisory Committee and as per the approval of the competent authority, the Ministry vide its letter dated 01.10.2024 conveyed its decision to the State Government. (True Copy of the letter dated 01.10.2024 is annexed as "Annexure R6").

14. That in view of the forgoing submissions, this additional affidavit being filed by the Respondent No. 2 & 4 be admitted and accepted by the Hon'ble Tribunal.

15. That this answering respondent craves leave of the Hon'ble Tribunal to file additional information if any, till pendent lite.

16. In view of the forgoing submissions, the Hon'ble Tribunal may please to pass such or further order as it may deem fit and proper in the given circumstances in this case.

Kanswari

DEPONENT

डॉ० पशुपाला रवि / Dr. Pasupala Ravi
वैज्ञानिक 'डी' / Scientist 'D'
भारत सरकार / Govt. of India
पर्यावरण, वन एवं जलवायु परिवर्तन विभाग
Ministry of Environment, Forest & Climate Change
क्षेत्रीय कार्यालय, राँची
Regional Office, Ranchi

L. P. Chakraborty
Attested on identified
by the Lawyer



06 NOV 2024

VERIFICATION

Verified at Ranchi on the^{06 NOV 2024} day of, 2024 that the contents of this affidavit based on official record(s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed there from

06 NOV 2024

[Handwritten Signature]

DEPONENT

डा० पशुपाला रवि / Dr. Pasupala Ray
वैज्ञानिक 'डी' / Scientist 'D'
भारत सरकार / Govt. of India
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Mo Environment, Forest & Climate Change
क्षेत्रीय कार्यालय, राँची
Regional Office, Ranchi



[Handwritten Signature]
06/11/2024

**NOTARY PUBLIC
RANCHI**

[Handwritten Signature]
A.P.V.
ENR No - 2793/24

Attested on identified
by the Lawyer

/63247/2024

REMINDER

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

Indira Paryavaran Bhawan,
Jor Bag Road, Aliganj,
New Delhi – 110003
Dated: ~~22~~²⁴ January, 2024

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 - regarding.

Madam/Sir,

I am directed to refer to the Ministry's letter of even no. dated 10.11.2023 wherein the information regarding the Pakribarwadih Project of M/s NTPC was sought from the State (Copy enclosed). However the same is still awaited. In this regard, as discussed in the meeting held on 17.01.2024 the State Govt. is again requested to submit the requisite details along with point-wise reply/comments on the representation submitted by the User agency (copy enclosed) for further necessary action in the matter.

Yours sincerely,

Encl: As Above


Sd/
(Suneet Bhardwaj)
Assistant Inspector General of Forests

Copy to:

1. The PCCF (HoFF), Department of Forest, Government of Jharkhand, Ranchi;
2. The Dy. DGF (Central), Regional Office, MoEF&CC, Ranchi;
3. The Nodal Officer (FCA), Department of Forest, Government of Jharkhand, Ranchi;
4. User Agency i.e. M/s NTPC Ltd.

Annexure R2

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

Indira Paryavaran Bhawan,
Jor Bag Road, Aliganj,
New Delhi – 110003
Dated: As per e-Sign

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 - regarding.

Madam/Sir,

I am directed to refer to State Government's letter No. Van Bhumi-75/2009/1262/V.P. dated 05.04.2024 on the above subject furnishing their comments as sought by Ministry's vide letter of even no. dated 10.11.2023. The proposal was considered by the Advisory Committee (AC) in its meeting held on 30.04.2024. The minutes of the meeting of the AC may kindly be seen at www.parivesh.nic.in.

2. After going through the facts of the proposal, the Committee observed that the State Govt. has just forwarded the representation of the User Agency without any specific comments, recommendations and view point of the state on the matter. Accordingly, it was decided that the State Govt. be requested to carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and submit a pointwise detailed report to the Ministry. The committee also took note of the court case filed by the User Agency with respect to challenging the decision of the Ministry and the demand note of penal NPV raised by the DFO and sought the update in this regard in the future meetings.

3. Further, the matter is proposed to be placed before the Advisory Committee in its upcoming meeting scheduled to be held on 28.05.2024. The State is therefore requested to provide the details as indicated above and the Nodal Officer, Government of Jharkhand shall present the same before the Advisory Committee in its upcoming meeting scheduled to be held on 28.05.2024.

Yours sincerely,

Signed by Suneet Bhardwaj
Date: 20-05-2024 19:56:20

Sd/-
(Suneet Bhardwaj)
Assistant Inspector General of Forests

Copy to:

1. The PCCF (HoFF), Department of Forest, Government of Jharkhand, Ranchi;
2. The Dy. DGF (Central), Regional Office, MoEF&CC, Ranchi;
3. The Nodal Officer (FCA), Department of Forest, Government of Jharkhand, Ranchi;
4. User Agency;
5. Monitoring Cell, FC Division, MoEF & CC, New Delhi for uploading on PARIVESH portal.

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

Indira Paryavaran Bhawan,
Jor Bag Road, Aliganj,
New Delhi – 110003
Dated: As per E-sign

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 –regarding.

Madam/Sir,

I am directed to refer to State Government's letter No. Van Bhumi-75/2009/1262/V.P. dated 05.04.2024 on the above subject furnishing their comments as sought vide Ministry's letter of even no. dated 10.11.2023 and to say that the proposal was placed before the Advisory Committee (AC) in its meeting held on 07.06.2024. The minutes of the meeting of the AC may kindly be seen at www.parivesh.nic.in.

After going through the facts of the proposal, the Committee observed that the Nodal Officer, Government of Jharkhand was requested to give a presentation before the Advisory Committee which has not been done. Accordingly, it was decided that the State Govt. shall carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and the PCCF(HoFF) Government of Jharkhand shall present the same before the Advisory Committee in its next meeting.

In view of above, the State Government is requested to take appropriate action in the matter as per recommendation of Advisory Committee.

Yours sincerely,

Signed by

Dheeraj Mittal

Date: 26-06-2024 15:27:02

(Dr. Dheeraj Mittal)

Assistant Inspector General of Forests

Copy to:

1. The PCCF (HoFF), Department of Forest, Government of Jharkhand, Ranchi;
2. The Dy. DGF (Central), Regional Office, MoEF&CC, Ranchi;
3. The Nodal Officer (FCA), Department of Forest, Government of Jharkhand, Ranchi;

4. User Agency;
5. Monitoring Cell, FC Division, MoEF & CC, New Delhi for uploading on PARIVESH portal.

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

Indira Paryavaran Bhawan,
Jor Bag Road, Aliganj,
New Delhi – 110003
Dated: 26-07-2024

To,

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

Sub: 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 –reg.

Madam/Sir,

I am directed to refer to State Government's letter No. Van Bhumi-75/2009/1262/V.P. dated 05.04.2024 on the above subject furnishing their comments as sought vide Ministry's letter dated 10.11.2023 and to inform that the proposal was again considered by the Advisory Committee (AC) in its meeting held on 04.07.2024. The minutes of the meeting of the AC may kindly be seen at www.parivesh.nic.in.

After going through the facts of the proposal, the Committee observed that the PCCF (HoFF), Government of Jharkhand was requested to give a presentation before the Advisory Committee which has not been done. Accordingly, it is again re-iterated that the State Govt. shall carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and the PCCF (HoFF), Government of Jharkhand shall present the same before the Advisory Committee in its next meeting.

In view of above, the State Government is requested to take appropriate action in the matter as per recommendation of Advisory Committee.

Yours sincerely,

Signed by
Suneet Bhardwaj
Date: 26-07-2024 15:28:14

Sd/-
(Suneet Bhardwaj)
Assistant Inspector General of Forests

Copy to:

1. The PCCF (HoFF), Department of Forest, Government of Jharkhand, Ranchi;

2. The Dy. DGF (Central), Regional Office, MoEF&CC, Ranchi
3. The Nodal Officer (FCA), Department of Forest, Government of Jharkhand, Ranchi;
4. User Agency;
5. Monitoring Cell, FC Division, MoEF & CC, New Delhi for uploading on PARIVESH portal.

PARIVESH 1.0
Minutes of the Meeting of the Advisory Committee (AC) meeting held on
27.08.2024

Agenda No. 1

File No. 8-08/2006-FC

Sub: Proposal for seeking prior approval of the Central Government under Section 2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 in favour of M/s South Eastern Coalfield Limited (SECL) for non-forestry use for renewal of diversion of 33.84 ha of broken up forest land (out of total 424.429 ha of forest land in lease area) in respect of Deepika Expansion open cast mining project in favour of M/a SECL in Korba District of Chhattisgarh (Online Proposal No. FP/CG/MIN/1461/2006)- regarding.

1. The agenda item was considered by the AC in its meeting held on 27.08.2024. 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 and Guidelines relevant to the proposal and their significance.
3. The DDGF (Central), Regional Office, Nagpur and Nodal Officer, Government of Chhattisgarh attended the meeting. The Advisory Committee (AC) after thorough deliberation and discussion observed the following:
 - i. The Deepika project involves 409.149 ha of forest land. Details of Forest land involved and the approvals accorded is as under:

DETAILS OF FOREST LAND OF SECL DIPKA OCP				
Area	Proposal No	Stage-I /Stage-II FC letters no. & date	Status	Remarks
206.638 Ha	FP/CG/MIN/1452/2006	F. No. 8-80/2006-FC, dated-20/10/2006	Stage - I FC (Regularization Case)	Stage – II awaited, Proposal at MoEF, New Delhi
33.84 Ha	FP/CG/MIN/309/1992	F. No. 8-8/2006-FC, dated-03/03/2010	Stage-I FC (Renewal case)	Stage – II awaited, this is the proposal which is under consideration.
240.478 Ha		SUB TOTAL-STAGE-I		
133.707 Ha	FP/CG/MIN/1454/2006	F. No. 8-78/2006-FC, dated-31.01.2022	Stage – II FC	Stage-I FC obtained for 148.866 Ha out of which 15.159 Ha was diverted to NTPC Seepat. (148.866-15.159 = 133.707 Ha)
15.159 Ha	--	Diverted to NTPC (FC dated: 20.06.2004)	Stage-II FC	15.159 Ha out of 148.866 Ha diverted in favour of NTPC Seepat for MGR and is located within ML boundary of Dipka.
16.794 Ha	--	F. No. 8C/6/591/98/FCW/78, 11/01/2001	Stage-II FC	-
2.918 Ha	--	F. No.8B/115/2001-FCW/869, 03/04/2002	Stage-II FC	FC obtained by Spectrum Coal and

4. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with the Dy. DGF (Central), RO, Ranchi and Nodal Officer, Government of Jharkhand. After going through the facts of the proposal and submissions made by the Dy. DGF (Central), RO, Ranchi and Nodal Officer, Government of Jharkhand, and recommended the proposal for raising Compensatory Afforestation on alternative degraded forest land sites in case of Rajrappa Open Cast Coal Mining Project subject to following condition:
- i. Compensatory Afforestation is crucial for maintaining ecological stability. Therefore, the balance CA must be carried out within stipulated time frame positively. This is required for maintaining a green and healthy environment in the State of Jharkhand.

Agenda No. 8

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

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 - regarding.

1. The agenda for above subject proposal was considered by the Advisory Committee in its meeting held on 27.08.2024. The corresponding agenda note may be seen at www.parivesh.nic.in. The Dy. DGF (Central), RO, Ranchi and Nodal Officer, Government of Jharkhand attended the meeting.
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 and Guidelines relevant to the proposal and their significance.
3. While deliberating on the proposal, Advisory Committee observed that:
 - i. The above cited 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, subject to fulfilment of conditions prescribed therein.
 - ii. User Agency i.e. M/s NTPC submitted a representation dated 09.10.2018 requesting for amendment in condition no. 8 of Stage-II/ final approval dated 17.09.2010 and condition no. 7 of Stage-I approval dated 11.05.2010 which states that " 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 ".
 - iii. In this regard, 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.
 - iv. The Regional Office, Ranchi of this Ministry vide their letter no. 5-JHA104/2009- BHU/3277 dated 09.07.2019 informed that Hon'ble NGT vide its 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 and the inspection was carried out by the committee on 15.03.2019. During inspection, it was observed that some of the condition of FC approval (Stage-I and Stage-II) were still partially complied/ or where the project proponent has to take actions for complete compliance. Ministry vide its letter dated 03.09.2019 and subsequent letter dated 23.02.2022 requested the RO, Ranchi to take appropriate action in this matter as per provisions of Ministry's guidelines given under para 1.21 (iii) of Handbook of Forest (Conservation) Act, 1980.

- v. The User Agency i. e. M/s NTPC vide their representation dated 18.01.2022 again requested for amendment in condition no. 8 of Stage-II/ final approval dated 17.09.2010 and condition no. 7 of Stage-I approval dated 11.05.2010 which states that " 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" citing the justification that Dumuhani nallah, flowing across the mining leases will be re- aligned for which approval of Water Resource Department, Government of Jharkhand has been obtained. In this regard, Ministry vide its letter dated 23.02.2022 requested the State Government to provide additional information/comments.
- vi. The Government of Jharkhand vide letter no. vanbhumi-75/2009-1915 V.P. dated 08.07.2022 adverting PCCF, Government of Jharkhand's letter no. 893 dated 22.10.2020, letter no. 490 dated 13.06.2022 and letter no. 507 dated 16.06.2022 submitted their reply in response to Ministry's letter dated 29.01.2019 and 23.02.2022. From the examination of reply of the State, the following is revealed:
 - a. The State Government 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. State Government has further informed that despite standing directions of the CCF to abide by the condition no. 8 of approval till a time amendment in the same is granted by the Central Government, the user agency has violated the provisions of said condition. The land used in violation of the conditions of approval has been reported to be 37.20 ha. The State Government has recommended to levy penal CA and Penal NPV in respect of 37.20 ha of forest land used by the user agency in violation of Forest (Conservation) Act, 1980.
- vii. The Regional Office vide their letter dated 25.11.2022 submitted the site inspection report and assessed that the area involved in violation is 156 ha and gave a tentative assessment of penalty amounting to Rs. 818982060 (Eighty-one crores, eighty-nine lakhs eighty-two thousand and sixty). In assessment of the quantum of violation, the following points are considered by the Regional Office:
 - a. Penal NPV: - 2 times of the Normal NPV as per para 1.21(iii) of the FC Guidelines Handbook.

- b. Loss of Eco-system services that the green belt would have provided: - Equal to the NPV.
 - c. The greenbelt along the Nalla would have served as a good Habitat for avian fauna and other several biodiversity. Therefore, 50% of NPV is accounted for Habitat Destruction as per the guideline dated 1/8/2017.
 - d. Compensatory afforestation and soil moisture conservation cost that the user agency should have borne as per the laid condition. Since afforestation was to be done in linear patches, considering the increased fencing the rate of Afforestation is considered as ₹5 Lakh per Ha.
 - e. Therefore, the Penalty assessed for the Fait-accompli violation is:

$$156 \times (3.5 \text{ times NPV} + \text{Afforestation cost}) = 156 \times (3.5 \times 1357110 + 500000) = ₹818982060/-.$$
- viii. The proposal was 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 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 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. The Regional Office, Ranchi vide their letter dated FP/JH/Min/38798/2019/1014 dated 03.04.2023 submitted a report of Sub-Committee of AC.
- x. The said report was considered by the Advisory Committee in its meeting held on 25.04.2023 wherein 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 simple interest of 12 % from the date of actual violation committed till the deposition of penalty shall be imposed.

- xi. On the basis of the above said recommendations of the Advisory Committee, and with the approval of the competent authority the Ministry vide letter dated 25.05.2023 has issued Modification in condition of Stage-II approval.
- xii. Thereafter the User Agency has filed a case in Hon'ble NGT against the demand for penal NPV raised by the State Government and in an another case violations regarding EC and FC was reported to the Hon'ble NGT. The ministry has filed replies in both the cases, therefore, the status of sub judice cases should also be taken into account while deliberating the matter. It is imperative to mention that the prayers of the NTPC in the petition are as under:
 - a. To set aside the letter dated 25.05.2023 issued by the MoEF;
 - b. To set aside the demand notice dated 14.06.2023 received from DFO Hazaribagh for realizing of penal NPV;
 - c. To stay the letter dated 25.05.2023 issued by the MoEF;
 - d. For such further and other reliefs as the nature and circumstances of the case may require.
- xiii. Further the Secretary, Ministry of Power vide their DO No. 11/25/2023- Th.1 dated 30.10.2023 proposed to hold a meeting between Ministry of Power, Ministry of Environment Forest and Climate Change (MoEF&CC) & Ministry of Coal for amicable resolution of the issue.
- xiv. Thereafter, the Ministry vide letter dated 10.11.2023 requested the State Government to furnish the updated status of the proposal and status of the compliance of the conditions stipulated in the Stage-I approval along with the report/comments on the court matter in the instant case.
- xv. Further, the user agency i.e. NTPC Limited vide their representation dated 09.11.2023 requested to 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.
- xvi. The matter was discussed in the Ministry and it was decided that since the conditions have been stipulated in the approval as per the recommendations of the Advisory Committee, therefore the State Government shall submit a point wise report/comments on the representation of the User Agency along with its recommendations and thereafter the matter would be placed before the Advisory Committee for appropriate decision in the matter. The same was conveyed to the State Government vide letter dated 22.01.2024.
- xvii. The State Government vide their letter dated 05.04.2024 furnished their comments without any recommendation stating that the Central Government is the competent authority for amendment or

- reconsideration of the conditions imposed in approvals granted under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.
- xviii. The Advisory Committee (AC) observed that the proposal was placed before the AC in its meeting held on 30.04.2024 wherein the Committee observed that the State Govt. has just forwarded the representation of the User Agency without any specific comments, recommendations and view point of the state on the matter. Accordingly, it was decided that the State Govt. be requested to carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and submit a point-wise detailed report to the Ministry. The committee also took note of the court case filed by the User Agency with respect to challenging the decision of the Ministry and the demand note of penal NPV raised by the DFO and sought the update in this regard in the future meetings.
- xix. The Ministry vide its letter dated 20.05.2024 requested the State Government to carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and the Nodal Officer, Government of Jharkhand shall present the same before the Advisory Committee.
- xx. In this regard the Nodal Officer, Government of Jharkhand informed the committee that the PCCF, Government of Jharkhand vide their letter dated 04.06.2024 has submitted the reply.
- xxi. The proposal was again considered by the AC in its meeting held on 07.06.2024 wherein the Committee observed that the State Govt. has not provided any specific comments, recommendations and view point of the state on the matter and keeping in view the factual position/field situation the Nodal Officer, Government of Jharkhand was requested to give a presentation before the Advisory Committee which has not been done. Accordingly, it was decided that the State Govt. shall carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and the PCCF (HoFF) Government of Jharkhand shall present the same before the Advisory Committee in its next meeting.
- xxii. The Ministry vide letter dated 26.06.2024 has requested the State Government to carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and the PCCF (HoFF), Government of Jharkhand shall present the same before the Advisory Committee in its next meeting.
- xxiii. The proposal was again considered by the AC in its meeting held on 04.07.2024 wherein the Committee observed that the PCCF (HoFF), Government of Jharkhand was requested to give a presentation before the Advisory Committee which has not been done. Accordingly, it is again re-iterated that the State Govt. shall carry out an in-depth analysis of the matter and the relaxations sought by the User Agency, keeping in view the factual position/field situation and the PCCF (HoFF), Government of Jharkhand shall present the same before the Advisory Committee in its next meeting.
- xxiv. The Ministry vide letter dated 26.07.2024 has requested the State Government to carry out an in-depth analysis of the matter and the

relaxations sought by the User Agency, keeping in view the factual position/field situation and the PCCF (HoFF), Government of Jharkhand shall present the same before the Advisory Committee in its next meeting.

- xxv. The PCCF (HoFF), Government of Jharkhand has given a detail presentation in front of Advisory Committee and informed that
- a. Pakri-Barwadiah Coal Mining Project is Captive Block of M/s NTPC Limited. Located in North Karanpura Coalfield in Hazaribagh West Forest Division in Hazaribagh District. Total Lease Area: 4695 Ha (including North – West Project).
 - b. The User Agency has violated the condition No. 8 of Stage- II approval and diverted Dumuhani Nallah and carried out mining on the land which was to be developed as green belt.
 - c. The matter was discussed by FAC in its meetings held on 21.09.2022, 09.12.2022, and 25.04.2023.
 - d. The FAC in its meeting dated 25.04.2023 discussed in detail and agreed to amend the condition no. 8 of Stage-II approval as “The UA shall restore and conserve the Khora Nalla and Pakwa Nalla watersheds on priority basis under supervision of the forest department and expert hydrologists / agencies and develop their watershed status as per the SOI toposheet no. 73 E/I. A greenbelt of 100 meters on either side of both Khora Nalla and Pakwa Nalla shall be maintained”. FAC also recommended that the penalty shall be imposed for violation committed over the forest area (1026.438 ha) without approval equal to 5 times the normal NPV plus simple interest of 12% from the date of actual violation committed till the deposition of penalty shall be imposed.
 - e. DFO Hazaribagh West Forest Division vide its letter dated 14.06.2023 raised demand of Rs. 857.52 crore from UA, as the amount of penalty imposed (in FAC meeting on 25.04.2023). UA filed appeal before the NGT [Appeal No. 20 / 2023 (EZ)] against the penalty imposed by Gol. NGT vide its order dated 01.08.2023 has stayed the DFO Hazaribagh West Forest Division demand letter dated 14.06.2023.
 - f. Further PCCF (HoFF) informed the committee that the following inspection of violation by various Teams/Committees has been carried out in the instant proposal as under:

S No.	Committee/Team	Remarks
1	Inspection by officials of Hazaribagh West Forest Division	<p>As per inspection report of the DFO dated 16.03.2022, it was found that UA have done mining over 37.2 ha of land in violation of the Stage-2 forest clearance condition.</p> <ul style="list-style-type: none"> • Length of Dumhani Nalla affected due to violation: 3.1 Km • Average width of Nalla: 20 m • Width of green belt as per FC condition: 50 m + 50 m = 100 m

		<ul style="list-style-type: none"> Total violation = 3.1 Km x (100+20)m = 37.2 ha
2	Inspection by IRO, GOI Ranchi	<p>Inspection report submitted to GOI vide IRO Ranchi letter dated 25.11.2022</p> <ul style="list-style-type: none"> Violation committed by UA over 156 ha area Recommended penalty of Rs. 81.9 crore <p>It also recommended that the proposal of forestry clearance of Pakri Barwadih North-West project should only be considered after the penalty of ₹81.9 crore is realized from user agency.</p>
3	Inspection by FAC appointed committee (FAC date: 21.09.2022)	Inspection could not be done by the sub-committee headed by FAC member Shri O. P. Sharma due to unavailability of Hydrologist therein
4	Inspection by FAC appointed sub-committee (FAC date: 09.12.2022)	Inspection report submitted to GOI vide IRO Ranchi letter dated 03.04.2023
5	FAC meeting held on 25.04.2023 and modified the FC condition and imposed penalty	

g. The User Agency has submitted a representation dated 09.11.2023 to MoEF&CC and requested as under:

- Waival of penal NPV imposed
- Delinking of Stage-II forest clearance of Pakri Barwadih (North-West) (331.198 ha) with the deposition of penal NPV of Pakri Barwadih (1026.438 ha)
- Permission to maintain green belt of 15 meter along Pakwa and Khora Nala in line with the regulation no. 149 of Coal Mines regulation, 2017.

xxvi. The Advisory Committee noted that user agency has represented for a specific condition i.e. the penal NPV which was imposed for the entire area proposed for diversion(1026.438 ha) and accordingly the demand note was raised by the concerned DFO. In view of presentation given by PCCF (HoFF) and available facts with regard to area reported to be in violation and considering the fact that the user agency has broken up the area in total disregard to the conditions of approval, the Committee observed that the condition of penal NPV has been rightly imposed. The User Agency or the State has not produced any new facts or details which may prove that all due precautions were taken and the violation was not wilful and intentional act of the user agency. Accordingly, the committee observed that the condition wrt penal NPV does not require any modification.

xxvi. The committee also noted that considering the request for delinking of Stage-II approval of Pakri Barwadih (North-West) (331.198 ha) with the deposition of penal NPV of Pakri Barwadih (1026.438 ha) will be appropriate as the two proposals are separate proposals and the user agency is not able to comply the stipulated condition in Pakri Barwadih

(North-West) (331.198 ha) proposal for which Stage-I approval has been granted.

- xxvii. The committee also considered the request of the user agency for maintaining a green belt of 15 m instead of 100 meters along Pakwa and Khora Nala, and observed that as per the guidelines issued by the Ministry, a green belt of only 50 meter width along the Nalas/streams can be allowed in the instant case.

4. **Decision of Advisory Committee:** The Committee had detailed discussion and deliberation with the Dy. DGF (Central), RO, Ranchi, PCCF(HoFF) and Nodal Officer, Government of Jharkhand. After going through the facts of the proposal, the Committee recommended the following:

- i. The condition no. 8 in the Stage-II approval issued vide Ministry's letter dated 17.09.2010 for 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 may be modified 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 50 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 to continue with the penalty 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.

- ii. The condition no. (x) of Stage-I approval issued vide Ministry's letter dated 26.05.2023 for Pakri Barwadih (North-West) (331.198 ha) proposal may be waived off.

Agenda No. 9

F. No. FP/JH/Road/42722/2019

Subject: Proposal for diversion of 21.931 ha of forest land in favour of RCD for widening & Strengthening of Chaibasa-Tonto-Roam (Km 0.00 to 58.825 km) Road under Chaibasa & Kolahan Forest Division in West Singhbhum district of Jharkhand State (FP/JH/ROAD/42722/2019) – regarding.

- migration route shall be developed with plantation of suitable species at the project cost.
- viii. User agency shall prepare a Digital Elevation Model of 10 Km radius using LIDAR technology before commencement of mining operation and shall be repeated on 3rd, 5th, 10th, 15th, 20th, 25th and 30th year in consultation with the PCCF. On the basis of DEM user agency shall prepare a CAT and SMC plan of 10 km radius including Chatua nala and other nearby nalas. These plans will be approved by the PCCF (HoFF) and will be implemented by the Forest Department at the project cost. A team, to be finalized by the PCCF, comprising of officials of user agency, Forest Department subject matter specialist shall be constituted to study and monitor the soil erosion, water conservation, ecological restoration activities during the implementation of the project.
- ix. As recommended by the State, the Water security plan prepared by the group of experts shall be adhered to.

(Not present)

Dr. Naveen Chandra Bisht
(non-official Member)

(Not present)

Shri S. D. Vora
(non-official Member)

(confirmed through e-mail)

Shri Manoj Pant
(non-official Member)

(confirmed through e-mail)

Dr. Mehraj Sheikh
Deputy Commissioner (NRM)
(Member)

(confirmed through e-mail)

Shri Sushil Awasthi
Additional Director General of Forests
(WL)
(Member)

(confirmed through e-mail)

Shri Anjan Kumar Mohanty
Additional Director General of Forests (FC)
(Member)

(Confirmed)

Shri Ramesh Kumar Pandey
Inspector General of Forests
(Member Secretary)

(Approved)

Shri Jitendra Kumar
(Director General of Forests and Special Secretary)
(Chairperson)

Annexure R6

File No.: 8-56/2009-FCpt
Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Jor Bag Road, Aliganj,
New Delhi – 110003
Dated: As per E-sign

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 –reg.

Madam/Sir,

I am directed to refer to the Government of Jharkhand letter No. Van Bhumi-75/2009-3376 dated 23.08.2024 on the above mentioned subject furnishing their comments with regard to the representation for modification in conditions of Stage-II approval of the subject cited proposal and other related matters and inform that the representation was considered by the Advisory Committee (AC) in its meeting held on 27.08.2024. The minutes of the meeting of the AC may kindly be seen at www.parivesh.nic.in.

In this regard, keeping in view the facts of the proposal and the recommendations of the Advisory Committee it has been decided that:

- i. The condition no. 8 in the Stage-II approval issued vide Ministry's letter dated 17.09.2010 for 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 is modified 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 50 meters on either side of both Khorra Nala and Pakwa Nala shall be maintained'.

- ii. 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. Keeping this in view, it has been decided to continue with the penalty 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.

- iii. The condition no. (x) of Stage-I approval issued vide Ministry's letter dated 26.05.2023 for Pakri Barwadih (North-West) (331.198 ha) proposal is waived off.

This issues with the approval of Competent Authority.

Yours sincerely,

Signed by
Suneet Bhardwaj
Date: 01-10-2024 11:53:31

(Suneet Bhardwaj)
Assistant Inspector General of Forests

Copy to:

1. The PCCF (HoFF), Department of Forest, Government of Jharkhand, Ranchi;
2. The Dy. DGF (Central), Regional Office, MoEF&CC, Ranchi
3. The Nodal Officer (FCA), Department of Forest, Government of Jharkhand, Ranchi;
4. User Agency;
5. Monitoring Cell, FC Division, MoEF&CC, New Delhi for uploading on PARIVESH portal.