

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, AT KOLKATA
ORIGINAL APPLICATION NO. 105 OF 2024**

IN THE MATTER OF:

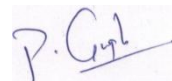
Rohit Choudhury...Applicant

Versus

State of Assam & Ors... Respondents

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**New Delhi
Dated:13.07.2026**

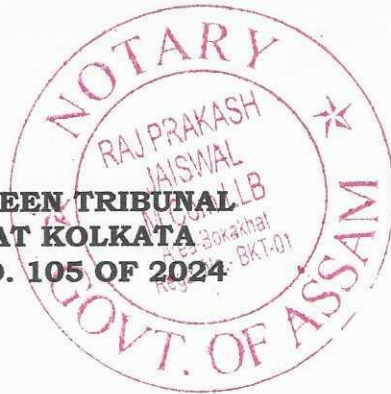


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SL No.1153/2026

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, AT KOLKATA
ORIGINAL APPLICATION NO. 105 OF 2024



Rohit Choudhury

IN THE MATTER OF:

Rohit Choudhury... ..Applicant

Versus

State of Assam & Ors... .. Respondents

ADDITIONAL AFFIDAVIT FILED BY THE APPLICANT**MOST RESPECTFULLY SHOWETH**

I, Rohit Choudhury, S/o Shri Debi Prasad Agarwal, aged about 44 years,
R/o village Gormur, PO Lokhujan, Bokakhat-785612, District Golaghat,
Assam, do hereby solemnly affirm and state as under:

1. That I am the Applicant in the abovementioned matter and well conversant with the facts and record of the case, thus, I am competent to swear this affidavit.
2. That this application has been filed against the concerned official/officials of the Assam Forest Department for illegally diverting 28 hectares of reserve forest inside Geleky Reserve Forest located in Sibsagar district of Assam for raising large scale construction for a Commando Battalion Camp. The applicant has stated that the said construction has been done in violation of the provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam,

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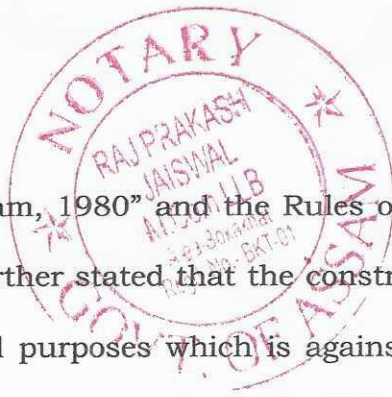
1980 referred to as "Van Adhiniyam, 1980" and the Rules of 2023 prescribed therein. It has been further stated that the construction activity is primarily for residential purposes which is against 11.8 and 11.9 of the mandatory Guidelines issued under the Adhiniyam dated 29.12.2023. The relevant extracts of the Guidelines are annexed as Annexure A-2 at page 34 to 39 of the original application.

Copy of the relevant Van Adhiniyam, 1980 alongwith the Van Rules, 2023 is annexed herewith for ready reference as **Annexure A-1**.

3. That the MoEFCC filed its counter affidavit on 03.10.2024. The affidavit stated that the State Govt. applied for an ex-post facto approval for non-forestry use of 28.0 Ha. of forest land for establishment of Commando Battalion Camp. The affidavit also referred to a Site Inspection Report (SIR) which specifically stated that the said construction activities have been done without obtaining prior approval of the Central Government which is in contravention of the provisions of the Van Adhiniyam, 1980 and the rules prescribed therein (**para 8 at page 115**). The affidavit further stated that the MoEFCC requested the Regional Office, Shillong to initiate action against the concerned official under sections 3A and 3B of the Van Adhiniyam, 1980 and to discontinue with the illegal construction activities (**para 9 at page 117**).

4. That the Site Inspection Report further revealed that the


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construction is beyond 20,000 sq meters **(page 124-127)** which implies that it also required EC under the EIA Notification, 2006. However, it is submitted that no EC for the same was obtained and the construction continued without obtaining necessary permissions both under the Van Adhiniyam, 1980 and the EIA Notification, 2006. Concluding that this is a prima facie case of violation, the MoEFCC made specific directions for immediate stopping of the ongoing work and a detail action report on violation of section 2 (1) (ii) of the Van Adhiniyam, 1980 **(page 132 and 136 and letters at page 141 and 143 of the Counter Affidavit).**

5. That the State of Assam filed its reply on 20.04.2025 which stated that a Stage I and Stage II FC (ex-post facto approvals) have been obtained for diversion of 26.1 ha of forest land (original area is 28.0 ha) on 21.01.2025 and 20.02.2025 respectively. However, the conditions of the Stage I at 3.2 at page 427 and Stage II at 3.1 at page 432 specifically states that the "The Regional Office shall pursue the proceedings under Section 3A/3B of the Van (Sanrakshan evam Samvardhan) Adhiniyam, 1980 as applicable". Further condition no 3.8 of Stage I at page 428 and condition no 3.7 of Stage II at page 432 states that the approval shall be subject to the orders of this Hon'ble Tribunal in the present OA. It is also important to mention that the Stage II approval is only granted subject to compliance of all the Stage I conditions. However, in the

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present case the approvals were accorded without due compliance of the mandatory conditions and without taking any action against the concerned official as prescribed under the Adhiniyam.

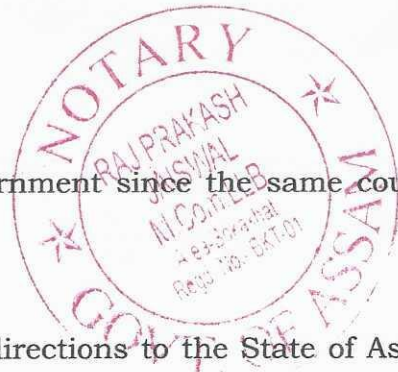
6. That subsequently on 29.05.2025 the MoEFCC, Regional Office, Shillong wrote to the PCCF and HOFF, Government of Assam clearly mentioning that Shri M.K Yadava, who is presently serving as Special Chief Secretary, Forest has been found guilty of violating the provisions of Van Adhiniyam, 1980 and the Guidelines dated 29.12.2023 and action against him shall be initiated as per sections 3A and 3B of the Act read with Rule 15 of the Van Adhiniyam Rules, 2023. The said letter is also annexed at page 855 and 856 of the records. The same is also reproduced herein as **Annexure A-2** for ready reference.

7. That it is also pertinent to mention here that the MoEFCC, Regional Office through the letter dated 29.05.2025 has directed the DFO to take action against the offender and submit a compliance report. However, as per 15(3) of the Van Adhiniyam Rules, it is an officer of the rank of Assistant Inspector General of Forest and above to be authorised by the Central Government to initiate legal proceedings and file complaints against the offences committed under the Adhiniyam. Thus, in this case the Central Government shall authorise an officer of senior and higher rank to initiate action against the concerned official. Such authority shall not be delegated

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to any officer of the State Government since the same could be a conflict of interest.



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8. That despite the said repeated directions to the State of Assam for initiating action against the concerned official under sections 3A and 3B of the Van Adhiniyam, 1980, no action has been taken till date. Despite committing the said violations, the officer concerned is still serving as Special Chief Secretary (Forests), Assam. It is also pertinent to mention that no information with respect of EC to the said project is on record. Thus, alongwith action taken under sections 3A and 3B read with Rule 15 of the Van Adhiniyam, 1980 and section 15(B) of the Environment (Protection) Act, 1986, the officer concerned is responsible to pay heavily and be made personally liable for the environmental damage done to the reserve forest.
9. That it is also pertinent to mention that pursuant to Stage I and Stage II approvals granted by the Central Government, the State Government has to pass the necessary order permitting diversion/transfer of forest land for non-forestry use in terms of section 2 (1) (ii) of the Van Adhiniyam, 1980 read with Sub Rule (7) of Rule (11) of the Van Adhiniyam Rules, 2023. Thus, under the given provisions, the process of FC is only final and complete when the order permitting diversion of forest land is issued by the State Government.


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10. That I have searched for the said order of the State Government permitting diversion/transfer of 26.1 hectares of forest land in favour of Assam Police Housing Corporation for construction of the said commando batallion. However, the same is not available in public domain which implies that no such order has been passed by the State Government. I further requests that if such an order has already been passed, the same shall be produced before this Hon'ble Tribunal.

11. That I also wish to place on record the judgment passed by this Hon'ble Tribunal in the matter of **Vimal Bhai & Ors versus UOI & Ors, Appeal No. 7 of 2012, MANU/GT/0064/2012** wherein this Hon'ble Tribunal has held that the diversion/transfer of forest land as prescribed under section 2 of the Van Adhiniyam, 1980 can only be done by the State Government by passing a final and reasoned order pursuant to the grant of prior approval (Stage I and Stage II) by the Central Government. The Hon'ble Tribunal in the given judgment has clearly held that the right to use the forest land for non- forest purpose accrues only after the State Government passes the order, and not from the date of granting Stage - I or Stage - II Clearance. The Hon'ble Tribunal states that bereft of such order no forest lands can be put to use for non-forest purpose and all activities done without such orders would be ab initio void. Further, it is only the order of the State Government which is

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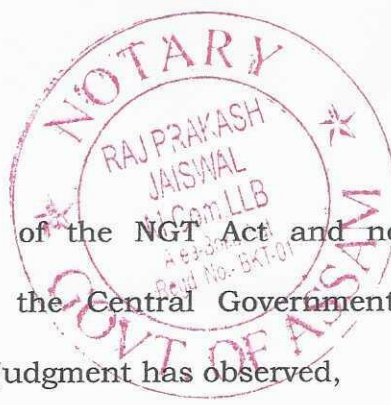
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appealable under Section 16 (e) of the NGT Act and not the approvals/clearances granted by the Central Government. The Hon'ble Tribunal at para 29 of the judgment has observed,

"In the aforesaid scenario it can safely be concluded that after receiving a Stage - I and/or Stage - II Clearance, thereby granting a consent to permit use of forest land for non-forest purposes, from the Central Government, it is incumbent upon the State Government to pass a reasoned order transferring and/or allowing the land in question for being used for non forest purpose. It is needless to be said that bereft of such order no forest lands can be put to use for non-forest purpose. Further, all activities done without such orders would be ab initio void. An Appeal can be filed against the said order of the State Government under Section 2 (A) of FC Act and/or under Section 16(e) of the NGT Act. In the event such an Appeal is filed it would be open for the person aggrieved, to assail the order/Clearances granted by the Central Government under Section 2 of the Act which forms an integral part and sole basis of the order passed by the State Government."

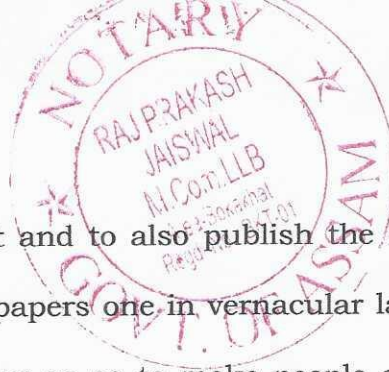
12. That the said judgment at para 30 and 31 has further directed the concerned authorities to publish the order of diversion passed by the State Government on the MoEFCC website, portal of

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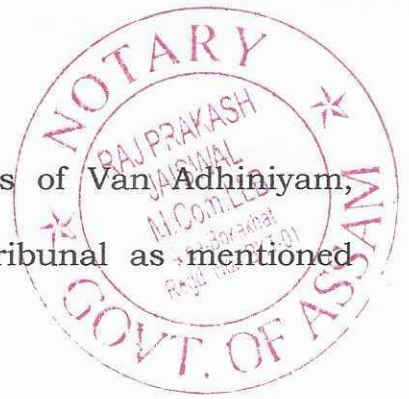
*Rohit Dhawan*

the concerned State Government and to also publish the same in two widely circulated daily newspapers one in vernacular language and the other in English language so as to make people aware of the permission granted to the Project Proponent for use of forest land for non-forest purposes. The judgment further makes it clear that the cause of action for filing an Appeal would commence only from the date when such publication is made in the newspapers, as well as from the date when the forest clearance and permission to use the Forest land for non-forest purpose is displayed on the website of the concerned State Government or the MoEFCC, as the case may be. The copies of the Forest Clearance should also be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt. Copy of the judgment dated 07.11.2012 passed in Vimal Bhai & Ors versus UOI & Ors, Appeal No. 7 of 2012, MANU/GT/0064/2012 is annexed herewith as **Annexure A-3**.

13. That it is abundantly clear from the above-mentioned facts that (i) the violation of the provisions of Van Adhiniyam are still continuing as no action against the concerned official has been taken despite repeated directions (ii) the construction of the commando batallion camp has taken place in absence of any order

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requirements provided under the provisions of Van Adhiniyam, 1980 and the judgment of this Hon'ble Tribunal as mentioned above.



14. That I crave leave to rely upon the documents annexed herewith and reserve my right to file further/detailed affidavits if the need arises during the course of the proceedings.

15. That the facts stated in the above paragraphs are true and correct to my knowledge and belief, and no material fact has been concealed therefrom.

Rohit Choudhury
DEPONENT

VERIFICATION:-

I, Rohit Choudhury, the above-named deponent, do hereby verify that the contents of paragraphs 1 to 15 of my above affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Verified at **Bokakhat** on this **13th day of July, 2026**.

Rohit Choudhury
DEPONENT

Identified by
Nadira Begum 13/7/2026
Advocate, Bokakhat

Nadira Begum
B.A., LL.B., LL.M
Advocate, Bokakhat
Enroll. No.- 377/2013
Ph No.- 7002785470

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CONSOLIDATED GUIDELINES AND CLARIFICATIONS

issued under

**VAN (SANRAKSHAN EVAM
SAMVARDHAN) ADHINIYAM, 1980**

and

**VAN (SANRAKSHAN EVAM
SAMVARDHAN) RULES, 2023**



Government of India

Ministry of Environment, Forest and Climate Change

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

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

Dated: 29th December, 2023

ORDER

In exercise of the powers conferred under section 3 C of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, the Central Government, in suppression to all previous guidelines, hereby issue a Consolidated Guidelines and Clarifications on Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, Van (Sanrakshan Evam Samvardhan) Rules, 2023, including the guidelines issued under sub-section (3) of section 1A, clause (iii) of sub-section (1) of section 2 and sub-section (2) of section 2 of the Adhiniyam for effective and transparent implementation of the provisions of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. All the provisions enshrined in these guidelines will be applicable from 1st December, 2023.

This issues with the approval of the competent authority.

Yours faithfully,


(Ramesh Kumar Pandey)
Inspector General of Forest

Distribution to:

1. All concerned
2. Director (Technical), NIC with a request to upload the same on the website of the Ministry

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ABBREVIATIONS

ABC	Aerial Bunched Cable
AC	Advisory Committee
ACA	Accredited Compensatory Afforestation
ACF	Assistant Conservator of Forest
AONBs	Areas of Outstanding Natural Beauty
APCCF	Additional Principal Chief Conservator of Forests
BRO	Border Road Organisation
CA	Compensatory Afforestation
CA	Competent Authority
CAF	Common Application Form
CAMPA	Compensatory Afforestation Fund Management and Planning Authority
CAT	Catchment Area Treatment
CBA	Cost Benefit Analysis
CBA	Coal Bearing Areas (Acquisition and Development) Act, 1957
CCF	Chief Conservator of Forests
CEA	Central Electricity Authority
CF	Conservator of Forest
CNG	Compressed Natural Gas
CPCB	Central Pollution Control Board
CZA	Central Zoo Authority
DCF	Deputy Conservator of Forests
DDA	Delhi Development Authority
DFO	Divisional Forest Officer
DGPS	Differential Geographical Positioning System
DoT	Department of Telecommunications
DPIIT	Department for Promotion of Industry and Internal Trade
DSS	Decision Support System
DWPR	Draft Working Plan Report
EDS	Essential Details Sought
EPA	Environment Protection Act
ESZ	Ecologically Sensitive Zone
FAC	Forest Advisory Committee
FFR	Field Firing Range
FRCM	Fortnightly Regional Coordination Meeting
FRL	Full Reservoir Level
GIS	Geographical Information System
GOI	Government of India
HEP	Hydro Electric Project
HoFF	Head of Forest Force
ICMC	Inter-Ministerial coordination and Monitoring Committee
IFA	Indian Forest Act, 1927
KYA	Know Your Approval
LAC	Line of Actual Control
LoI	Letter of Intent
LWE	Left Wing Extremism
MDDA	Mussoorie Dehradun Development Authority

MHA	Ministry of Home Affairs
MMDR	Mines and Minerals (Development and Regulation) Act, 1957
MoEFCC	Ministry of Environment, Forest and Climate Change
MoRTH	Ministry of Road Transport and Highways
NBWL	National Board for Wildlife
NDC	Nationally Determined Contributions
NGO	Non-Government Organisation
NGT	National Green Tribunal
NHAI	National Highway Authority of India
NHIDCL	National Highways and Infrastructure Development Corporation Ltd.
NOC	No Objection Certificate
NPV	Net Present Value
NTCA	National Tiger Conservation Authority
OFC	Optical Fibre Cable
OISD	Oil Industry Safety Directorate
PA	Protected Areas
PAN	Protected Area Network
PCCF	Principal Chief Conservator of Forests
PESO	Petroleum and Explosive Safety Organisation
PF	Protected Forest
PLPA	Punjab Land Preservation Act, 1900
PMGSY	Pradhan Mantri Gramya Sadak Yojna
PNG	Piped Natural Gas
PNGRB	Petroleum and Natural Gas Regulatory Board
PSC	Project Screening Committee
PSU	Public Sector Undertakings
PWD	Public Works Department
RCCF	Regional Chief Conservator of Forest
REC	Regional Empowered Committee
RF	Reserved Forest
RO	Regional Office
ROHQ	Regional Office Head Quarter
RoW	Right of Way
SBWL	State Board for Wildlife
SFD	State Forest Department
SLC	State Level Committee
SMC	Soil Moisture Content
TOF	Trees Outside Forest
TR	Tiger Reserved
UA	User Agency
UA	User Agency
USF	Un-classed Forest
WII	Wildlife Institute of India
WLMP	Wildlife Management Plan
WLPA	Wild Life (Protection) Act, 1972

**VAN (SANRAKSHAN EVAM SAMVARDHAN) ADHINIYAM, 1980 WITH
AMENDMENTS MADE IN 1988 AND 2023**

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

“WHEREAS, the importance of forests is to be realised to enable achievement of national targets of Net Zero Emission by 2070 and maintain or enhance the forest carbon stocks through ecologically balanced sustainable development;

AND WHEREAS, Nationally Determined Contribution (NDC) targets of the country envisage creating carbon sink of additional 2.5 to 3.0 billion tons of CO₂ equivalent by 2030;

AND WHEREAS, the country envisages an increase in the forest and tree cover to one third of its land area, which has to be given impetus with an enhanced growth trajectory;

AND WHEREAS, India has a rich tradition of preserving forests and their bio-diversity, and therefore enhancing forest based economic, social and environmental benefits, including improvement of livelihoods for forest dependent communities is envisaged;

AND WHEREAS it is necessary to provide for provisions relating to conservation management and restoration of forests, maintaining ecological security, sustaining cultural and traditional values of forests and facilitating economic needs, carbon neutrality .”.

Be it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. Short title, extent and commencement.— (1) This Act may be called the *Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980*.

(2) It shall be deemed to have come into force on the 1st day of December, 2023.

1A. Act to cover certain land.— (1) The following land shall be covered under the provisions of this Act, namely:-

(a) that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force;

(b) that is not covered under clause (a), but has been recorded in Government record as forest, as on or after the 25th October, 1980:

Provided that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before the 12th December, 1996 in pursuance of an order, issued by any authority authorised by a State Government or an Union territory Administration in that behalf.

Explanation.— (i) For the purposes of this sub-section, the expression ‘Government record’ means record held by Revenue Department or Forest Department of the State Government or Union territory Administration or any authority, local body, community or council recognised by the State Government or Union territory Administration;

(2) The following categories of land shall not be covered under the provisions of this Act, namely:—

(a) such forest land situated alongside a rail line or a public road maintained by government, which provides access to a habitation, or to such rail, and roadside amenity up to a maximum size of 0.10 hectare in each case;

(b) such tree, tree plantation or reafforestation raised on lands that are not specified in clause (a) or clause (b) of sub-section (1); and

(c) such forest land, —

(i) as is situated within a distance of hundred kilometres along international borders or Line of Control or Line of Actual Control, as the case may be, proposed to be used for construction of strategic linear project of national importance and concerning national security; or

(ii) up to ten hectares, proposed to be used for construction of security related infrastructure; or

(iii) as is proposed to be used for construction of defence related project or a camp for paramilitary forces or public utility projects, as may be specified by the Central Government, the extent of which does not exceed five hectares in a Left Wing Extremism affected area as may be notified by the Central Government.

(3) The exemption provided under sub-section (2) shall be subject to such terms and conditions, including the conditions of planting trees to compensate felling of trees undertaken on the lands, as the Central Government may, by guidelines, specify.

2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose—

– (1) Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing -

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose;

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation subject to such terms and conditions, as the Central Government may, by order, specify;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation:

‘Explanation— For the purposes of this sub-section, “non-forest purpose” includes breaking up or clearing of any forest land or a portion thereof for—

(a) cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reafforestation,

but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as—

- (i) *silvicultural operations including regeneration operations;*
- (ii) *establishment of check-posts and infrastructure for the front line forest staff;*
- (iii) *establishment and maintenance of fire lines;*
- (iv) *wireless communications;*
- (v) *construction of fencing, boundary marks or pillars, bridges and culverts, dams, waterholes, trenches and pipelines;*
- (vi) *establishment of zoo and safaris, referred to in the Wild Life (Protection) Act, 1972, owned by the Government or an Authority, in forest areas other than Protected Areas;*
- (vii) *eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and*
- (viii) *any other like purposes, which the Central Government may, by order, specify. ’;*

(2) The Central Government may, by order, specify the terms and conditions subject to which any survey, such as, reconnaissance, prospecting, investigation or exploration including seismic survey, shall not be treated as non-forest purpose.

3. Constitution of Advisory Committee — The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to

- (i) the grant of approval under section 2; and
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

3A. Penalty for contravention -

Whoever contravenes or abets the contravention of any of the provisions of section 2, shall be punishable with simple imprisonment for a period, which may extend to fifteen days.

3B. Offences by the Authorities and Government Departments— (1) Where any offence under this Act has been committed -

- (a) by any department of Government, the head of the department; or
- (b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the head of the department or any person referred to in clause (b), liable to any punishment if he proves that the offence was

committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the department, or in the case of an authority, any person other than the persons referred to in clause (b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

3C. Power of Central Government to issue directions— The Central Government may, from time to time, issue such directions, to any authority under the Central Government, State Government or Union territory or any organization, entity or body recognized by the Central Government, State Government or Union territory Administration, as may be necessary for the implementation of this Act.

4. Power to make rules — (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

5. Repeal and saving -

(1) The Forest (Conservation) Ordinance, 1980 is hereby replaced.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

VAN (SANRAKSHAN EVAM SAMVARDHAN) RULES, 2023**NOTIFICATION****New Delhi, the 29th November, 2023**

G.S.R. 869 (E). - In exercise of the powers conferred by sub-section (1) of section 4 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 (69 of 1980) and in supersession of the Forest (Conservation) Rules, 2022, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title, extent and commencement. - (1) These rules may be called the Van (Sanrakshan Evam Samvardhan) Rules, 2023.

(2) They shall come into force on the 1st Day of December 2023.

2. Definitions. - (1) In these rules, unless the context otherwise requires, -

(a) “accredited compensatory afforestation” means a system of proactive afforestation to be used for obtaining prior approval under sub-section (1) of section 2 of the Adhiniyam.

(b) "Adhiniyam" means the Van (Sankashan Evam Samvardhan) Adhiniyam, 1980 (69 of 1980);

(c) “Advisory Committee” means the Advisory Committee constituted under section 3 of the Adhiniyam;

(d) “compensatory afforestation” means afforestation done in lieu of the diversion of forest land for non-forest purpose under the Adhiniyam;

(e) “compensatory levies” includes all money and funds specified in clauses (iii) and (iv) of sub-section (3) of section 4 of the Compensatory Afforestation Fund Act, 2016 (38 of 2016);

(f) “Conservator of Forests” means Conservator of Forests, Chief Conservator of Forests, the Regional Chief Conservator of Forests or an officer equivalent to Conservator of Forests appointed by the State Government or Union territory Administration to hold the charge of a forest circle having jurisdiction over the forest land for which the prior approval of the Central Government is required;

(g) “Deputy Director General of Forests (Central)” means head of the Regional Office appointed by the Central Government;

(h) “dereservation” means an order issued by the State Government or Union territory Administration or any authority thereof, for change in the legal status of a land statutorily or otherwise recognised as forest to any other category of land;

(i) “diversion” means an order issued by the State Government or Union territory Administration or any authority thereof for the use of any forest land for non-forest purpose or assignment of a lease of any forest land for non-forest purpose;

(j) "District Collector" includes Deputy Commissioner, to hold the charge of the Administration of the revenue district having jurisdiction over the forest land for which the prior approval of the Central Government under the Adhiniyam is required;

(k) “Divisional Forest Officer” means Divisional Forest Officer, Deputy Conservator of Forests or an officer equivalent to the Divisional Forest Officer or Deputy Conservator of Forests appointed by the State Government or Union territory Administration to hold the charge of a Forest Division having jurisdiction over the forest land for which the prior approval of the Central Government under the Adhiniyam is required;

(l) “land bank” means the lands identified or earmarked, as the case may be, by the State Government and Union territory Administration for raising compensatory afforestation in lieu of forest land proposed for diversion or diverted under the Adhiniyam;

(m) “linear project” means project involving linear diversion of forest land for the purposes such as roads, pipelines, railways, transmission lines, slurry pipeline, conveyor belt etc.;

(n) “National Working Plan Code” means a code prepared by the Central Government for the preparation of Working Plans;

(o) “Nodal Officer” means any officer not below the rank of Chief Conservator of Forests, authorised by the State Government or Union territory Administration, as the case may be, or the senior most officer in the Forest Department of the concerned Union territory, if there is no post of Chief Conservator of Forests or above in the Department, for the purpose of implementation of the Adhiniyam and rules thereof and to deal with and to make correspondence with the Central Government, in the matter of forest conservation;

(p) “Project Screening Committee” means the Project Screening Committee constituted under rule 8;

(q) “Regional Empowered Committee” means the Regional Empowered Committee constituted under sub-rule (1) of rule 6;

(r) “Regional Office” means a Regional Office established by, and controlled by the Central Government for the purpose of these rules;

(s) “survey” means any activity to be taken up prior to initiating commissioning of a project or any activity undertaken for the purpose of exploring, locating or proving mineral deposits including coal, petroleum and natural gas before carrying out actual mining in the forest land, that includes survey, investigation, prospecting, exploration, including drilling therefor, etc.;

(t) “technological tool” means Geographical Information System based digital tools such as Decision Support System facilitating the decision making process of proposal seeking prior approval under the Adhiniyam;

(u) “user agency” means any person, organisation or legal entity or company or Department of the Central Government or State Government or Union territory Administration submitting a proposal under section 1 of the Adhiniyam;

(v) “working permission” means permission granted to linear projects before final approval to mobilise the resources to commence the preliminary project work other than black topping, concretisation, laying of railway tracks, charging of transmission lines, etc. or as specified in the in-principle approval;

(w) “Working Plan” means the document prepared as per the provisions of the National Working Plan Code published by the Central Government from time to time and having

prescriptions for scientific management of the forests of a particular Forest Division for a specified period;

(2) Words and expressions used herein and not defined in these rules but defined in the Adhiniyam shall have the same meaning as respectively assigned to them in the Adhiniyam.

3. Constitution of Advisory Committee - (1) The Central Government may, by an order, constitute an Advisory Committee to advise the Central Government with regards to the grant of approval under sub-section (1) of section 2 in respect of proposals referred under sub-rule (2) of rule 10; and any matter connected with the conservation of forests referred to the Advisory Committee by the Central Government.

(2) The Advisory Committee shall consist of the following persons, namely: -

- (a) Director General of Forests, Ministry of Environment, Forest and Climate Change – Chairperson;
- (b) Additional Director General of Forests, dealing with the forest conservation in the Ministry of Environment, Forest and Climate Change – Member;
- (c) Additional Director General of Forests, dealing with wildlife in the Ministry of Environment, Forest and Climate Change – Member;
- (d) Additional Commissioner (Soil Conservation), Ministry of Agriculture and Farmers' Welfare – Member;
- (e) Three non-official experts to be nominated by the Central Government representing one each from the fields of ecology, engineering and development economics – members;
- (f) Inspector General of Forests dealing with forest conservation and Adhiniyam thereof – Member-Secretary

(3) The Chairperson may co-opt the domain experts as special invitees to a meeting of the Advisory Committee.

(4) The Chairperson shall preside over the meeting of the Advisory Committee and in his absence, the Additional Director General of Forests, dealing with forest conservation, in the Ministry of Environment, Forest and Climate Change shall preside over the meeting.

4. Terms and conditions of non-official Members of Advisory Committee. –

(1) A non-official Member shall hold his office for a period of up to two years from the date of his nomination or as specified by the Central Government.

(2) A non-official Member shall cease to hold office if he becomes of unsound mind, or insolvent or is convicted for an offence which involves moral turpitude.

(3) A non-official Member may be removed from his office if he fails to attend three consecutive meetings of the Advisory Committee without any sufficient cause or reason.

(4) Any vacancy caused by any reason mentioned in clauses (b) and (c) shall be filled by the Central Government for the remaining term of two years.

(5) The non-official Members of the Advisory Committee shall be entitled to a travelling allowance and daily allowance as are admissible to an officer of the Government of India holding Group 'A' post.

(6) Provided that where a Member of the Parliament or a Member of a State Legislature has been appointed as a member of the Advisory Committee, he shall be entitled to the travelling allowance and daily allowances in accordance with the Salary, Allowances and

Pension of Members of Parliament Act, 1954 (30 of 1954) or the respective provisions of law pertaining to the member of the concerned State Legislature, as the case may be.

5. Conduct of business of the Advisory Committee.- (1) The Chairperson of the Advisory Committee shall call the meeting of the Committee at least once a month, whenever considered necessary;

(2) the meeting of the Advisory Committee shall ordinarily be held at New Delhi except when the Chairperson considers it necessary to inspect the proposed land, then the Chairperson may direct the meeting to be held at a place from where the proposal can be inspected.

(3) the quorum of the meeting of the Advisory Committee shall be five including the Chairperson.

(4) The Member-Secretary shall prepare an agenda of the meeting and present the proposals and matters referred to the Advisory Committee by the Central Government.

(5) The Advisory Committee shall examine in its meeting the proposal or the matter and, in urgent cases, the Chairperson may direct the proposal or the matter to be sent to the members for their opinion, which shall be furnished to the Committee within the stipulated time.

(6) the user agency may be allowed to attend the meeting of the Advisory Committee for such duration as may be necessary to furnish such information or clarify any issue which may pertain to it.

(7) After the examination of the proposal or the matter, the Advisory Committee shall make its recommendation/advise to the Central Government.

6. Constitution of Regional Empowered Committee. - (1) The Central Government may, by an order, constitute a Regional Empowered Committee at each of the Regional Offices to examine proposals referred to it under sub-rule (3) of rule 10 and grant approval or rejection of proposals under sub-section (1) of section 2.

(2) The Regional Empowered Committee at each of the Regional Offices shall consist of the following persons, namely: -

(a) Deputy Director General of Forests (Central) or an officer nominated by the Central Government – chairperson;

(b) Three non-official members from amongst eminent persons who are experts in the field of forestry and allied disciplines – members;

(c) The senior-most officer amongst officers of the rank of Conservator of Forests and Deputy Conservator of Forests in the Regional Office – member-secretary.

(3) The chairperson of the Regional Empowered Committee may co-opt the domain experts as special invitees to the meeting.

(4) One representative each from the Forest Department and Revenue Department of the State or the Union territory Administration, not below the rank of Director to the Government of India, shall be invited by the Regional Empowered Committee to attend the meeting as a special invitee, in the examination of the proposals.

(5) Terms and conditions of non-official members of Regional Empowered Committee.-

- (1) A non-official member shall hold his office for a period of up to two years from the date of his nomination.
- (2) A non-official member shall cease to hold office if he becomes of unsound mind, insolvent, or is convicted for an offence involving moral turpitude.
- (3) A non-official member may be removed from his office if he fails to attend three consecutive meetings of the Committee without any sufficient cause or reason.
- (4) Any vacancy of a member in the Regional Empowered Committee caused by any reason mentioned in sub-rules (2) and (3) shall be filled by the Central Government for the remaining term of the member in whose place vacancy has arisen.
- (5) The non-official members of the Regional Empowered Committee shall be entitled to a travelling allowance and daily allowance as are admissible to an officer of the Government of India holding Group 'A' post carrying the same scale of pay.
- (6) Provided that where a Member of the Parliament or a Member of a State Legislature has been appointed as a member of the Advisory Committee, he shall be entitled to the travelling allowance and daily allowances in accordance with the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954) or the respective provisions of law pertaining to the member of the concerned State Legislature, as the case may be.

7. Conduct of business of Regional Empowered Committee. - The Regional Empowered Committee shall conduct its business as follows, namely:-

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

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

- (3) The chairperson of the Regional Empowered Committee shall preside over the meeting of the Regional Empowered Committee and in his absence, Deputy Director General of Forests holding the charge of other Regional Office or Inspector General of Forests dealing with the matter related to the Adhiniyam, as may be authorised by the Central Government, may chair the meeting of the Regional Empowered Committee.

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

Provided that in urgent case, the chairperson of the Regional Empowered Committee may direct that documents may be circulated and sent to the members of the Regional Empowered Committee for their opinion within the stipulated time.

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

(6) The user agency may be allowed to remain present for such duration during a meeting as may be necessary to furnish such information or clarify any issue which may pertain to it.

(7) The member-secretary shall prepare agenda of the meeting and present the proposals and matters connected with the Adhiniyam before the committee for making appropriate recommendations and decisions thereafter.

8. Constitution of Project Screening Committee. - (1) The State Government and Union territory Administration may, by an order, constitute a Project Screening Committee to examine the completeness of the proposal submitted under clauses (i), (ii) or (iii) of sub-section (1) of section 2 of the Adhiniyam.

(2) The Project Screening Committee shall consist of the following persons, namely:-

- a. Nodal Officer – chairperson;
- b. Concerned Chief Conservator of Forests/ Conservator of Forests – member;
- c. Concerned Divisional Forest Officer- member;
- d. Concerned District Collector or his representative (Not below the rank of Deputy Collector) –member;
- e. Divisional Forest Officer in the office of Nodal Officer- member-secretary

(3) The Project Screening Committee shall meet at least twice every month and the quorum of the meeting of the Project Screening Committee shall be three.

(4) The Project Screening Committee shall, after examination of the proposals, make recommendation to the State Government or Union territory Administration, as the case may be.

9. Proposals for prior approval of Central Government - (1) The approval shall be accorded by the Central Government in two stages, namely, (i) ‘In- Principle’ approval; and (ii) ‘Final’ approval.

(2) The user agency shall submit an application to the State Government or Union territory Administration for approval of the Central Government under sub-section (1) of section 2 of the Adhiniyam for dereservation of forest land, use of forest land for non-forest purposes or for assignment of lease online, through the web portal of the Central Government.

(3) A proposal identity number shall be generated online for the proposal submitted by the user agency and the said identity number shall be used for all future references;

(4) The copy of the proposal shall be simultaneously forwarded to the concerned Divisional Forest Officers, District Collectors, Conservator of Forests, Chief Conservator of Forests and the Nodal Officer of the State Government or Union territory Administration each of whom shall independently undertake preliminary examination of the completeness of documentation of the proposal.

(5) The Project Screening Committee shall examine the proposal received from the State Government or Union territory Administration, except proposals involving forest land of five hectares or less, that the proposal is complete in all respects and the proposed activity is not in any restricted area or category.

(6) The Project Screening Committee, for the purpose of screening, may call the user agency for clarification or additional documents, if any.

(7) The Project Screening Committee shall examine the proposal for its completeness and correctness and ensure that deficiencies in the proposal, if any, are identified and the member-secretary shall inform in this regard to the user agency.

(8) The proposals returned to the user agency shall be re-submitted after addressing the deficiency, as identified under sub-rule (7) above, within a period of ninety days, failing which the proposal shall stand de-listed.

(9) In case the user agency submits the information within the given time the proposal will be re-examined by the Project Screening Committee and in case the proposal is not complete in all respect then the same will be de-listed for the reasons to be recorded in writing:

Provided that the after de-listing of the proposal by the Project Screening Committee, the user agency, after addressing the deficiencies, can re-list the proposal only once using the same proposal identity number, as generated under sub-rule (2) above, which will again be examined by the PSC as per procedure given in sub-rule (5) to (7) above and in case the proposal is found still incomplete, it will be rejected and deleted permanently from the portal.

(10) The complete proposal with the proposal identity number shall be forwarded to concerned Divisional Forest Officer concerned, District Collectors, Conservator of Forests or Chief Conservator of Forests for field verification.

(11) Where the forest land or part thereof included in the proposal is not under the management control of the Forest Department, the District Collector shall get the land schedule and map of the forest land included in the proposal authenticated online through joint verification by officers of the Revenue Department and Forest Department.

(12) In addition to every proposal verified in the field by the Divisional Forest Officer concerned, field inspection shall be simultaneously undertaken for every proposal that involves more than forty hectares of forest land by the Conservator of Forests concerned and for every proposal that involves more than hundred hectares of forest land by the Nodal Officer.

(13) The proposal, except involving forest land of five hectares or less, shall come up for consideration of the Project Screening Committee within the period specified in Schedule I, annexed to these rules, from submission of the completed proposal under sub-rule (8), or (9) or (11), as the case may be, and the Project Screening Committee shall examine the feasibility of the proposal for the purpose of recommending it to the State Government or Union territory Administration along with mitigation measures to be adopted by the user agency:

Provided that the Project Screening Committee may seek from the user agency any clarification, additional detail or modification of the proposal in terms of change in forest land proposed for diversion on account of reasons such as minimising the requirement of forest land or minimising adverse impact on forest and wildlife, change in compensatory afforestation land proposed or change in measures proposed to be adopted by the user agency to mitigate the adverse impact of the project, and for this purpose it may ask the user agency to make a presentation:

Provided further that the proposal shall be reconsidered by the Project Steering Committee in case of timely submission of complete information and clarification and additional detail by the user agency online and in case the user agency modifies the original proposal substantially and makes major changes such as change in the forest land or land use plan, the Project Steering Committee may return the proposal to complete the steps given

in sub-rule (7) to (11) and therefore the steps in this sub-rule shall also be repeated in such cases.

(14) Where the user agency fails to submit correct information, additional detail or a modified proposal within the period as specified, the proposal shall stand rejected:

Provided that if the user agency satisfies the Project Screening Committee that the reason for the delay was beyond its control, the Project Screening Committee may reconsider the proposal, after the reasons to be recorded in writing and recommend it to the State Government or Union territory Administration, as the case may be;

(15) The proposal involving forest land of up to five hectares, shall after their examination at the level of Divisional Forest Officer be forwarded by him directly to the Nodal Officer and the Nodal Officer shall forward such proposals to the State Government or Union territory Administration along with his recommendations:

Provided that Division Forest Officer, after receiving the proposals from the user agency, shall assess their completeness and incomplete proposal shall be returned to the user agency for re-submitting it with complete information.

(16) The proposal involving forest land of more than five hectares, shall be forwarded by the Nodal Officer, with the approval of the Principal Chief Conservator of Forests, to the State Government or Union territory Administration, along with the Project Screening Committee's recommendation and the same shall also be forwarded to the Regional Office.

(17) Where the State Government or Union territory Administration, as the case may be, decides not to dereserve, divert for non-forest purposes or assign on lease the forest land as indicated in the proposal, the same shall be intimated to the user agency by the Nodal Officer.

(18) Where the State Government or Union territory Administration agrees 'In-Principle' to dereserve the forest land, divert for non-forest purposes or assign on lease the forest land as indicated in the proposal shall forward its recommendation to the Central Government.

10. In-Principle approval of the proposal.-

(1) Except the proposals referred to in sub-rule (2), all proposals related to.-

(i) linear projects;

(ii) hydro electric power projects of upto 25 MW capacity proposed in the river basin where cumulative impact assessment to assess the carrying capacity of the river basing has been done

(ii) forest land up to forty hectares; and

(iii) use of forest land having canopy density up to 0.7 irrespective of their extent for the purpose of survey which are not covered under the exemptions provided under clause (iii) of sub-section (1) of section 2 of the Adhiniyam and Guidelines issued thereunder;

shall be examined in the Regional Office and disposed off in the manner specified in sub-rule (3).

(2) All proposals, other than those referred to in sub-rule (1) and following proposals, namely:-

(i) dereservation;

- (ii) mining;
 - (iii) hydro electric power projects of more than 25 MW and those falling in a river basin where cumulative impact assessment study to assess the carrying capacity of river basin has not been done or policy decision on allowing the projects in a river basin has not been taken by the Central Government;
 - (iv) regularisation of encroachment;
 - (v) ex-post facto approval involving violation of the provisions of the Adhiniyam;
- shall be examined and disposed of by the Central Government in the manner specified under these rules.

Provided that, no approval is required for assignment of petroleum exploration licence or petroleum mining lease where the physical possession or breaking of forest land is not involved:

(3) The proposals received under sub-rule (1) shall be examined by the Regional Office in the following manner, namely:-

(i) all proposals involving forest land up to five hectares, shall be examined by the Regional Office for its completeness and after further enquiry or site inspection, as deemed necessary and giving due regard to the aspects listed under clause (ii) of sub-rule (5), 'In-Principle' approval or rejection may be granted by the Regional Office by recording the reasons.

(ii) all linear proposals involving forest land of more than five hectares, all proposals for use of forest land having canopy density upto 0.7 for the purpose of survey irrespective of their extent and all other proposals involving the use of more than five hectares and up to forty hectares forest land, shall be referred, after examination of its completeness, by the Regional Office to the Regional Empowered Committee.

(iii) the Regional Empowered Committee shall examine all proposals referred to it under clause (ii) and after further enquiry or site inspection as deemed necessary and giving due regard to the aspects listed under clause (ii) of sub-rule (5), may grant 'In-Principle' approval or reject the same by recording reasons.

(iv) The decisions taken by the Regional Empowered Committee or the Deputy Director General of Forests to grant 'In-principle' approval or to reject a proposal, in accordance with the power delegated under this rule, as and when necessary or required, may be reviewed by Central Government and decision taken by the Central Government in such matters shall be the final.

(4) Site inspection report shall be prepared for proposals specified in sub-rule (2) by the Regional Office and the same shall be submitted to the Central Government for consideration by the Advisory Committee.

(5) The proposals received by the Central Government shall be examined in the following manner, namely:-

(i) all proposals under sub-rule (2) along with the site inspection report as required under sub-rule (4) or as asked by the Central Government, shall be referred, after examination of its completeness, to the Advisory Committee.

(ii) the Advisory Committee shall examine all proposals referred to it in clause (i), giving due regards, but not limited to, the following, and after further enquiry, as deemed necessary, shall make recommendation to the Central Government for consideration for approval:-

(a) the proposed use of the forest land is not for any non-site specific purpose such as agricultural purpose, office or residential purpose or for the rehabilitation of persons displaced for any reason;

(b) the State Government or the Union territory Administration, as the case may be, has certified that it has considered all alternatives and that no other alternative in the circumstances is feasible and that the required area is the minimum needed;

(c) the State Government or the Union territory Administration, as the case may be, before making his recommendation, has considered all issues having direct and indirect impacts on the diversion of forest land on the forest, wildlife and the environment;

(d) concerned mandates under the National Forest Policy;

(e) whether adequate justification has been given and appropriate mitigation measures have been proposed by the State Government or the Union territory Administration, as the case may be, if the forest land proposed to be used for non-forest purposes forms part of a national park, wildlife sanctuary, tiger reserve, designated or identified tiger or wildlife corridor, or habitat of any endangered or threatened species of flora and fauna or of an area lying in the severely eroded catchment; and

(f) the State Government or the Union territory Administration, as the case may be, undertakes to provide at its cost or at the cost of the user agency the requisite extent of appropriate land, as per rule 13, for the purpose of carrying out compensatory afforestation.

(6) While making recommendations under sub-rule (5), the Committee may also impose conditions or restrictions and such mitigation measures, which in its opinion would offset the adverse environmental impact of diversion of forest land under the proposal.

(7) The Central Government shall, after considering the recommendation of the Advisory Committee, grant 'In-Principle' approval subject to fulfilment of stipulated conditions or reject and communicate the same to the State Government or the Union territory Administration, as the case may be, and to the user agency.

(8) In case the proposal is found incomplete or information provided is found to be incorrect after its examination, the Central Government shall inform the State Government or Union territory Administration and user agency for furnishing the required information within a specified period.

(9) The State Government or Union territory Administration on receipt of communication under sub-rule (8), may furnish the complete information, after which the proposal shall be considered for 'In-Principle' approval under these rules:

Provided, if the information sought pertains to the user agency, the user agency may directly furnish the requisite information to the Central Government with a copy to the State Government or Union territory Administration, and upon receipt of such information from the user agency, the Central Government, if it considers necessary,

may seek comments of the concerned State Government or Union territory Administration, as the case may be, on the information furnished by the user agency or consider granting 'In-Principle' approval.

(10) The State Government or the Union territory Administration, if so desire, after obtaining the 'In-principle' approval of linear proposal and deposition of compensatory levies such as compensatory afforestation and Net Present Value and cost of mitigation plans such as of the Wildlife Management Plan and Soil and Moisture Conservation Plan, as applicable, notification of the land identified for raising compensatory afforestation as Protected Forest under Indian Forest Act, 1927 (16 of 1927) or local forest Act and compliance of other statutes including the Schedule Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), may grant 'working permission' for the commencement of project work before grant of 'Final' approval.

11. Final approval of the proposal.-

(1) The Nodal Officer may, after receipt of the 'In-Principle' approval from the Central Government, communicate the same to the Divisional Forest Officers, District Collectors and Conservator of Forests.

(2) On receipt of a copy of the 'In-Principle' approval, the Divisional Forest Officer shall prepare a demand note containing the item-wise amount of compensatory levies, as applicable, to be paid by the user agency and communicate the same to the user agency, along with a list of documents, certificates and undertakings required to be submitted by them in compliance with the conditions stipulated in 'In-Principle' approval.

(3) The user agency shall, after receipt of the communication, make payment of compensatory levies and hand over the land identified for compensatory afforestation, a compliance report along with copies of documentary evidence including undertaking and certificate in respect of the payment of compensatory levies and handing over of compensatory afforestation land to the Divisional Forest Officer.

(4) The Divisional Forest Officer, after having received the compliance report as referred to in sub-rule (3), shall examine its completeness and make his recommendations on the compliance report and forward the same to the Nodal Officer.

(5) the Nodal Officer, after having received the compliance report, ensuring its completeness and obtaining approval of the Principal Chief Conservator of Forests of the State Government or head of the Department in case of Union territory Administration, shall forward such report with his recommendations to the State Government or Union territory Administration, as the case may be.

(6) The Central Government after having received the compliance report and ensuring its completeness may accord 'Final' approval under sub-section (1) of section 2 of the Adhiniyam and communicate such decision to the State Government or Union territory Administration and the user agency.

(7) The State Government or Union territory Administration, as the case may be, after receiving the 'Final' approval of the Central Government under sub-section (1) of section 2 of the Adhiniyam, and after fulfilment and compliance of the provisions of all other Acts and rules made thereunder, as applicable including ensuring settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest

Rights) Act, 2006 (2 of 2007), shall issue order for diversion, assignment of lease or dereservation, as the case may be.

(8) The final order of dereservation under clause (i) of sub-section (1) of section 2 of the Adhiniyam, wherever accorded, shall be published in the official Gazette by the State Government or Union territory Administration, as the case may be, informing dereservation of the forest land;

(9) The whole process of obtaining approval shall be carried out in the online portal developed for this purpose.

(10) Where compliance of condition imposed in the 'In-principle' approval is awaited from the State Government or Union territory Administration, as the case may be, for more than two years, the 'In-Principle' approval shall be deemed to be null and void:

Provided the Central Government may, for the reasons to be recorded in writing, in respect of proposals involving forest land of more than thousand hectares, where 'In-Principle' approval has been obtained, may consider grant of phase-wise 'Final' approval by the competent authority subject to compliance in respect of-

(a) payment of compensatory levies and notification of land identified and accepted for raising Compensatory Afforestation, proportional to the part area for which compliance is submitted; and

(b) any other specific condition that the Central Government may deem fit to have been complied with.

(11) After issue of final approval under sub- rule (7) and Gazette notification under sub-rule (8) the forest land concerned may be handed over or assigned, as the case may be, to the user agency by the State Government or Union territory Administration.

(12) The Regional Office shall monitor the compliance of all conditions imposed at the time of granting 'In-Principle' approval and the State Government or Union territory Administration and the user agency shall also monitor, at least once every year, the compliance of conditions imposed during 'In-Principle' approval and upload the monitoring report in the online portal.

(13) The entire process for processing the proposals by the various authorities in the State shall be completed within the time limit specified in **Schedule-I** appended to these rules.

12. Proposal seeking prior approval of Central Government for working plan.-

(1) The Nodal Officer of the State Government or Union territory Administration shall submit the draft Working Plan of a Forest Division, duly prepared in accordance with the provisions of the National Working Plan Code, along with the recommendation of the State Consultative Committee, in the online portal for prior approval of the Central Government.

(2) The draft Working Plan shall include, *inter alia*, details of forest land diverted, corresponding Compensatory Afforestation lands and status of afforestation thereon.

(3) the draft Working Plan submitted to the Central Government shall be examined by the Regional Office concerned for its conformity with National Working Plan Code, the National Forest Policy and with preamble of Adiniyam for conservation and augmentation of forests and the Regional Office may accord prior approval to the draft Working Plan along with conditions or without conditions or accord approval along with modification

of the provision contained in the draft Working Plan and for a period as it deems fit, or reject the same by recording the reasons therefor.

(4) The State Government or Union territory Administration or its designated officer shall carry out the prescriptions of the Working Plan to which the approval has been accorded by the Regional Office with respect to all or specific provision of the Working Plan and for the period for which the Working Plan has been approved.

(5) The State Government or Union territory Administration shall undertake a mid-term review of the approved Working Plan and submit the review report along with its recommendation to the Regional Office and the Regional Office may, after examination, modify the condition of approval or issue a fresh prior approval by modifying the provision of the previously approved Working Plan for the remaining period or reject the recommendations of mid-term review by recording reasons therefor.

(6) The Regional Office may also consider and approve eligible Annual Working Schemes, in case submitted by the State Government or Union territory Administration.

(7) All proposals under clause (iv) of sub-section (1) of section 2, irrespective of the size of forest land involved, shall be submitted online by the State Government or Union territory Administration to the concerned Regional Office.

(8) The proposals received under sub-rule (1) shall be examined by the Regional Office and after enquiry, the Regional Office may grant approval or reject the same by recording the reasons thereof;

(9) The proposals involving whole or part of forest land bearing a canopy density of 0.4 or more or proposals involving clear-felling of forest land of size more than twenty hectares in plains and ten hectares in hills irrespective of canopy density, shall be forwarded to the Regional Empowered Committee and the Regional Empowered Committee shall deal in the manner specified under these rules and while examining the proposal, the Regional Office shall ensure that the final decision is in conformity with the National Working Plan Code, the National Forest Policy and with preamble of Adiniyam for conservation and augmentation of forests.

(10) For the purpose of these rules “clear-felling of forest land” means removal of all natural vegetation in whatever form occurring, by felling, uprooting or burning them and removing them from the forest land over one hectare in size or more, but other types of felling of trees of specified size or species, including their selection felling or coppice felling shall not be considered as clear felling.

13. Creation of Compensatory Afforestation.- (1) An user agency shall provide land which is neither notified as forest under the Indian Forest Act, 1927 (16 of 1927) or any other law nor managed as forest by the Forest Department and it shall also bear the cost of raising compensatory afforestation over such land and the requirement of Compensatory Afforestation land shall be as per the **Schedule-II** annexed to these rules:

Provided that in case the non-forest land or portion thereof provided by the user agency is not fit for raising compensatory afforestation of a specified density, then additional compensatory afforestation shall be raised on a degraded notified or unclassified forest land under the management control of the Forest Department which is twice in size of such shortfall in the given compensatory afforestation land and the user agency shall also bear the additional cost on such account:

Provided further that if the non-forest land being made available for compensatory afforestation already bears vegetation of 0.4 canopy density or more, there shall not be an additional requirement of planting of trees on such land but a programme for improvement of the forest crop shall be implemented by the Forest Department in a time-bound manner:

Provided also in exceptional circumstances when the suitable land required for compensatory afforestation under this clause is not available and the certificate to this effect is given by the State Government or Union territory Administration, as the case may be, the compensatory afforestation may be considered on degraded forest land which is twice in extent to the area proposed to be diverted in case of the Central Government agencies or Central Public Sector Undertakings on case to case basis:

Provided also in exceptional circumstances when the suitable land required for compensatory afforestation under this clause is not available, and the certificate to this effect is given by the State Government or Union territory Administration, as the case may be, the compensatory afforestation may be considered on degraded forest land which is twice in extent to the area proposed to be diverted in case of State Public Sector Undertakings for captive coal blocks on case to case basis:

Provided also in case the user agency acquires any non-forest land for the execution of the project, the exceptions in case of Central Government agencies, Central Public Sector Undertakings and State Public Sector Undertakings as above shall not be applicable.

(2) The specified density for raising compensatory afforestation under this sub-rule shall be such as to develop, a forest of a minimum canopy density of 0.4 or more in the fifth year of start of compensatory afforestation operation, and the area has sufficient vegetation stock to enable it to mature into land with canopy density of minimum 0.7.

(3) In case of non-availability of the non-forest land, the compensatory afforestation can also be raised over the following lands, which will be provided minimum double in extent of the area being diverted or difference between the forest land being diverted and the available non-forest land, as the case may be, is made available and they are notified as Protected Forests under the Indian Forest Act, 1927 (16 of 1927) or local Acts prior to 'Final' approval:

(a) revenue forest lands i.e. land recorded as forest in the Government records but not notified as forest under any law and not managed by the Forest Department viz. revenue lands or zudpi jungle or chhote-bade jhar ka jungle or jungle-jhari land or civil-soyam or orange forest lands and all other such categories of forest lands, provided they are transferred and mutated in the name of State Forest Department;

(b) the degraded Unclassed State Forests in the State of Arunachal Pradesh, shall be considered for compensatory afforestation provided they are transferred and mutated in the name of State Forest Department;

(c) the waste lands in the State of Himachal Pradesh, falling under the category of Protected Forests but have neither been demarcated on the ground nor transferred and mutated in the name of forest department in the revenue records, provided they are transferred and mutated in the name of State Forest Department;

(d) lands falling under section 4 and 5 of the Punjab Land Preservation Act, 1900, gair mumkin Pahads, gair mumkin darkhtan, in the States of Haryana, Punjab and Himachal Pradesh, which are not under the management and administrative control of the State Forest Department, provided that such lands will be transferred and mutated in the name of State Forest Department, unless as specified and agreed to by the Central Government

to notify them under Indian Forest Act 1927 (16 of 1927), without transferring them to the State Forest Department, on case to case basis;

(4) Special dispensation for raising compensatory afforestation over degraded forest land, minimum double in extent, may be considered in respect of following proposals, namely.-

(a) in the States or Union territory Administrations, having forest area more than 33% of their total geographical area and a certificate on non-availability of suitable non-forest land for raising compensatory afforestation has been furnished by the State Government /Union territory Administration in the format specified under **Schedule-III**, appended to these rules;

(b) transmission line projects;

(c) laying of telephone or optical fibre lines;

(d) mulberry plantation undertaken for silkworm rearing;

(e) extraction of minor materials from the river beds;

(f) construction of link roads, small water works, minor irrigation works, school building, dispensaries, hospital, tiny rural industrial sheds of the Government or any other similar work excluding mining and encroachment cases, which directly benefit the people of the area in hill districts and in other districts having forest area exceeding 50% of the total geographical area, provided diversion of forest area does not exceed 5 hectares;

(g) actual impact zone of the field firing range considered for diversion under the Adhiniyam or 10% of the total forest area diverted in case entire area of the field firing range is proposed for diversion;

(h) any degraded forest land for the purpose of compensatory afforestation, selected by the State Government or the Union territory Administration, under this sub-rule, may be accepted by the Central Government when the crown density of such degraded forest is below 40 percent and such areas is not a natural or managed grassland being used for the management and conservation of wildlife; and

(5) In the following categories of proposals, cost of plantation of ten times the number of trees likely to be felled or specified number of trees as may be specified in the order for diversion of forest land (subject to a minimum no. of 100 plants), shall be levied from the user agency towards compensatory afforestation-

(a) clearing of naturally grown trees in forest land or in portion thereof for the purpose of using it for reforestation;

(b) diversion of forest land up to one hectare; and

(c) Underground mining in forest land without surface rights.

(6) No compensatory afforestation shall be charged in respect of renewal of mining lease for the forest area for which land for compensatory afforestation and cost of plantation has already been paid.

(7) In respect of diversion of forest land earmarked for the maintenance of safety zone along the inner boundary of a mine, the provisions of the raising compensatory afforestation, as applicable in the entire forest area proposed for diversion, shall be applicable in lieu of forest land located in the safety zone.

(8) Non-forest land identified for raising compensatory, contiguous to forest land, located in the wildlife corridors and protected areas shall be incentivised as per the provisions provided in the **Schedule-II** appended to these rules;

14. Management of compensatory afforestation.- (1) The land specified under sub-rule (1) of rule 13, shall be demarcated by concrete pillars of suitable size and handed over, free from all encumbrances to the State Forest Department or Union territory Forest Department and the same shall be notified as protected forest under section 29 of Indian Forest Act, 1927 (16 of 1927) or under any other law for the time being in force before the Final approval is granted under the Adhiniyam.

(2) The land identified and earmarked for compensatory afforestation shall be treated and afforested by the State Government or Union territory Administration or user agency as per the compensatory afforestation plan approved as part of the said forest diversion proposal and the work of compensatory afforestation shall start within two years of issue of order of diversion of the corresponding forest land and the Central Government may issue guidelines on the modalities of compensatory afforestation, including agencies that may undertake compensatory afforestation.

(3) Subject to the consent of the State Governments or Union territory Administrations, in case the forest land to be diverted is in a hilly or mountainous State or Union territory having forest cover of more than two-third of its geographical area or situated in any other State or Union territory having forest cover of more than one-third of its geographical area, creation of compensatory afforestation, accredited compensatory afforestation and land banks may be taken up in another State or Union territory Administration:

Provided that, the money towards compensatory afforestation in such cases shall be transferred to the State Compensatory Afforestation Fund of the State or Union territory in which the compensatory afforestation land has been identified and the remaining money of the compensatory levies shall be deposited in the Compensatory Afforestation Fund Management and Planning Authority Fund of the State Government or Union territory Administration in which the forest land has been proposed to be diverted:

Provided further that in cases, where due to unfulfilment of the conditions specified in this sub-rule such as percentage of forest land of the geographical area, it is not possible to raise compensatory afforestation in the same State or Union territory Administration where diversion of forest land is proposed or in other States or Union territory Administration, the Central Government, in public interest, may allow, on case to case basis, compensatory afforestation in other State or Union territory Administration.

(4) (a) A State Government or Union territory Administration as the case may be, for the purpose of compensatory afforestation, may create a land bank under the administrative control of the Department of Forest;

(b) The minimum size of the land bank shall be a single block of twenty five hectares:

Provided that in case a land bank is in continuity of a land declared or notified as forest under the Indian Forest Act, 1927 (16 of 1927) or under any other law for time being in force, protected area, tiger reserve or within a designated or identified tiger or wildlife corridor, there shall be no restriction on size of the land; and

(c) The lands covered under accredited compensatory afforestation earned under sub-rule (5) may be included in the land bank.

(5) (a) The Central Government may formulate an accredited compensatory afforestation mechanism to be used for obtaining prior approval under sub-section (1) of section 2 of the Adhiniyam.

(b) the accredited compensatory afforestation may be earned by a person if he has established afforestation over land on which the Adhiniyam is not applicable and is free from all encumbrances;

(c) an afforestation shall be counted towards accredited compensatory afforestation if such land has vegetation composed predominantly of trees having canopy density of 0.4 or more and the trees are at least five years old;

(d) the accredited compensatory afforestation shall be earned by developing afforestation of one-hectare area with 0.4 or more canopy density, but there shall be no accredited compensatory afforestation for developing an area below 0.4 canopy density or below one-hectare land;

(e) the accredited compensatory afforestation may be swapped for compensatory afforestation proposed under rule (13):

Provided the accredited compensatory afforestation cover a block of minimum of ten hectares and has been fenced as per norms specified for compensatory afforestation in that area:

Provided further that accredited compensatory afforestation over land of any size situated in the continuity of land declared or notified as forest under any law, protected area, tiger reserve or within a designated or identified tiger or wildlife corridor, may be swapped for compensatory afforestation;

(f) the accredited compensatory afforestation earned out of vacation of non-forest lands on account of voluntary relocation of a village from a national park, wildlife sanctuary or tiger reserve and designated or identified tiger or wildlife corridors shall qualify for compensatory afforestation as per **Schedule –II** annexed to these rules, and may be used by a user agency in lieu of compensatory afforestation under rule (13);

(g) the accredited compensatory afforestation identified under this rule shall be demarcated with concrete pillars of suitable size and handed over, free from all encumbrances to Forest Department of the State Government or Union territory Administration and the same shall be notified as protected forest under section 29 of Indian Forest Act, 1927 (16 of 1927) or under the provision of any other law for the time being in force before the Final approval is granted under the Adhiniyam;

(h) The Central Government, from time to time, may issue detailed guidelines on creation of accredited compensatory afforestation, its stock registry and management for the purpose of its swap for compensatory afforestation land and cost of maintenance thereof up to a period specified by the Central Government.

(i) All entities registered for accredited compensatory afforestation shall register with the Green Credit Registry under the Green Credit Policy Implementation Rules, 2023 and besides their eligibility for compensatory afforestation in lieu of diversion of forest land, the accredited compensatory afforestation will also be eligible for allocation of green credits under the Green Credit Policy Implementation Rules, 2023.

15. Proceedings against persons guilty of offences under the Adhiniyam.-

(1) The Central Government may, by notification in official gazette, authorise an officer of the rank of Divisional Forest Officer or Deputy Conservator of Forests and above of the State Government or Union territory Administration concerned, having jurisdiction over the forest land in respect of which any offense under the Adhiniyam is committed or violation of the provisions of the said Adhiniyam has been made, to file complaints against such person or authority or organization, prima-facie found guilty of offence under the Adhiniyam or the violation of the rules made thereunder, in the court having jurisdiction in the matter.

(2) The Central Government, after receiving the information with respect to offence committed or violations made either through State Government or Union territory Administration or authorities or any other source or *suo moto*, shall, after examination, communicate the same to the State Government or Union territory and the authorities concerned under whose jurisdiction the offence under the Adhiniyam has been committed or any provision of the said Adhiniyam has been violated, for filing the complaint against the offenders before the court having jurisdiction and it shall act as a prerequisite for the authorised officer before such complaints are filed within a period of forty five days from the receipt of such communication. The State Government and authorities concerned shall submit a periodic report to Regional Office, from time to time, regarding filing of the complaints.

(3) An Officer of the rank of Assistant Inspector General and above, may be authorized by the Central Government, by notification, to initiate legal proceedings and file complaints, against the offences committed under the Adhiniyam.

(4) The officer authorized by the Central Government in sub-rule (1) and (3) may require any officer or any person or any other authority of the State Government or the Union territory Administration, as the case may be, to furnish to it within a specified period any reports, documents, and any other information related to contravention of the Adhiniyam or the rules made thereunder, considered necessary for making a complaint in any court of jurisdiction and every such State Government or officer or person or authority shall be bound to do so.

16. Miscellaneous.- (1) For the purpose of explanation of government records provided under subsection (1) of section 1A of the Adhiniyam, the State Governments and Union territory Administrations, within a period of one year, shall prepare a consolidated record of such lands, including the forest like areas identified by the Expert Committee constituted for this purpose, unclassed forest lands or community forest lands on which the provisions of the Adhiniyam shall be applicable.

(2) The felling of trees on forest lands approved for use for the non-forest purpose under these rules shall be restricted to a bare minimum and to an unavoidable number and shall be done under the supervision of the local Forest Department and the forest produce obtained therefrom shall be handed over to the local Forest Department for disposal in the manner specified by the State Government or Union territory Administration which shall give preference to distribution to local villagers for meeting their domestic bonafide requirement.

(3) The forest land diverted for non-forest purpose under these rules shall be appropriately surveyed jointly by the user agency and the Forest Department or the land-owning Department,

demarcated on the ground by way of appropriate permanent boundary marks at the cost of the user agency and handed over by the Forest Department or land-owning Department to the user agency prior to starting of any non-forest use.

(4) For the purpose of forest cover under these rules, the figures and description used in the latest India State of Forest Report published by Forest Survey of India shall be referred.

(5) The Central Government may cancel approval accorded in respect of a proposal, with or without the request of the State Government or Union territory Administration and may decide to refund the compensatory levies deposited, on case to case basis.

(6) The conditions imposed by Central Government for diversion of forest land for the non-forest purpose shall not be changed or modified after a period of two years from the date of grant of final approval unless some exceptional circumstances arise or the Central Government considers it necessary to impose any additional clause of compliance.

(7) The proposals on forest land under litigation or *sub-judice* on account of an issue pertaining to the Indian Forest Act, 1927 (16 of 1927), local forest Act or Adhiniyam will be dealt as per the orders of the Courts or Tribunals passed in such cases and the date of applicability of the Adhiniyam in such lands shall be in accordance with the direction, if any, passed by the Courts or Tribunals.

(8) Any proposal which has already been submitted under the provisions of the Forest (Conservation) Rules, 2003 or Forest (Conservation) Rules, 2022 and are currently under consideration of the various authorities in the State Government or Union territory Administration or the Central Government for grant of 'In-principle' or 'Final' approval shall be dealt in the following manner, namely:-

- (i) Any proposals granted 'In-principle' approval shall be dealt under the provisions of the extant rules and be processed and considered for grant of 'Final' approval without amending the conditions stipulated in the 'In-principle' approval; and
- (ii) Any provision of the extant rules will be applicable on the proposals which are yet to be granted 'In-principle' approval under the Adhiniyam.



सत्यमेव जयते

भारत सरकार
Government of Indiaपर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest & Climate Change
क्षेत्रीय कार्यालय, शिलांग/Regional Office, Shillongउपकार्यालय, गुवाहाटी/Sub - Office, Guwahati
चौथी मंजिल, हौसेफेड इमारत, जी एस रोड, रुक्मिणी गाँव, गुवाहाटी- ७८१०२२
4th Floor, Housefed building, GS Road, Rukmini gaon, Guwahati -781022
दूरभाष /Tel Fax: 0361-2962350, E-mail: iro.guwahati-mefcc@gov.in

F.No-3ASC/255/2024/Ghy/110-12

Dated 29/05/2025

To,

The PCCF & HoFF
Government of Assam
Aranya Bhawan, Panjabari
Guwahati -781037

Sub: Proposal for seeking prior approval of the Central Government under Section 2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 for 28 ha of forest land for the purpose of the establishment of Commando Battalion Camp in Assam -Nagaland inter State Border area of Geleky Reserved Forest under Sivasagar Forest Division - regarding.

Ref: (i) Letter No SCS/MKY/PF/NGT/2024 dated 13.03.2025 and even letter No. /10 dated 14.10.2024, No. /1 dated 16.11.2024, and No. /1 dated 13.01.2024 of Govt of Assam.
(ii) Letter No 3/255/2024/GHY/430 dated 18.09.2024, No. /500 dated 17.10.2024, No. /580 dated 22.11.2024, No. /817-18 dated 31.01.2025 and /838-40 dated 13.02.2025 of Sub Office Guwahati, RO Shillong.

Sir,

With reference to the subject and letter cited above, I am directed to inform that the information furnished by the State Govt letter No SCS/MKY/PF/NGT/2024 dated 13.03.2025 in reply to the Show Cause notice under Section 3A and 3B of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 read with Rule 15(3) of the Van (Sanrakshan Evam Samvardhar) Rules, 2023 issued vide this office letter dated 18.09.2024 has been examined in this office.

It is pertinent to refer the Consolidated Guidelines and Clarifications issued under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and the rules framed thereunder, which is quoted herein below:

“1.2 General Clarifications:

(viii) No work/activity can be taken up in the forest land before issue of order for its diversion for the non-forest purpose unless and to the extent permitted in the Van (Sanrakshan Evam Samvardhan) Rules, 2023 or guidelines issued there under.

11.8 Infrastructure ancillary to Forest Management:

According to the explanation in the Act, any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check- posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes, is not a non-forest use and therefore, taking up such work in the forest land

does not require diversion under the Van (Sanrakshan Evam Samvardhan) Adhiniyam. As such all State Governments should ensure that the basic spirit and essence or the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is not to divert forest land for construction of residential buildings, Bungalows, quarters etc. Bare minimum (operational) buildings, which are essential for management of forest by forest personnel and conservation of bio-wealth such as forest guard hut, check posts, range offices, small inspection bungalow (2-3 room), un-tarred single lane roads etc., can be taken up in selected areas without causing damage/destruction to the forests thereon. But if the structures are large and would impact on conservation, prior permission under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 would be required."

The construction was going on in full swing and construction of large scale and of permanent nature with no resemblance to the activities specified in explanation (b) of Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, as seen during the site inspection conducted on 16.08.2024 & 17.08.2024 by Regional Office, Shillong. The Advisory Committee (AC) (constituted under the provisions of FCA 1980), while deliberating on the proposal of the State Government in its meeting held on 27-08-2024 has accepted the contention of the State Government on the need for placing an armed police inside the Reserve Forest to ensure its protection. However, the Advisory Committee also stated that, the prior approval of the Central Government is necessary.

Moreover, site inspection conducted by the Committee constituted as per order of Hon'ble National Green Tribunal in OA No. 105/2024/EZ also found that the area concerning is undulating and about 80% of the construction work for most of the proposed buildings has been completed. It was observed from the site inspection conducted on 16.08.2024 & 17.08.2024 by Regional Office, Shillong, MoEF&CC that the construction is in large scale

Although the plea of conservation and protection of forest has been cited by Shri. M.K. Yadava, the then PCCF & HoFF, Govt of Assam in his reply dated 13.03.2025, the stand taken or the justification given in the reply is not legally tenable.

Shri. M.K. Yadava, the then PCCF & HoFF, Govt of Assam had no authority to grant permission for clearing the forest land for non forest activity without the prior permission of Central Govt as per Rule 11.8, Van (Sanrakshan Evam Samvardhan) Adhiniyam and Rules, Guidelines and Notifications.

Therefore, the activities amounts to gross violation of the Van (Sanrakshan Evam Samvardhan) Adhiniyam and the Rules, Guidelines and Notifications framed thereunder and it is also against the legal principles framed by the Hon'ble Courts and Tribunals. The submissions provided to the Show Cause notice has been found to be not satisfactory and the Special Chief Secretary, (Forest), Forest and Environment Department, Government of Assam has failed to prove not guilty of the aforesaid offence and therefore, failed to prove, not liable to be proceeded against and to be punished as per provisions contained in Section 3-A and 3-B read with Rule 15(3) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and Van Sanrakshan Rules 2023.

In reference to Rule 15(2) of **Van (Sanrakshan Evam Samvardhan) Rules, 2023** which is reproduced under:

"15. Proceedings against persons guilty of offences under the Adhiniyam.-

(2) The Central Government, after receiving the information with respect to offence committed or violations made either through State Government or Union territory Administration or authorities or any other source or suo moto, shall, after examination, communicate the same to the State Government or Union territory and the authorities

concerned under whose jurisdiction the offence under the Adhiniyam has been committed or any provision of the said Adhiniyam has been violated, for filing the complaint against the offenders before the court having jurisdiction and it shall act as a prerequisite for the authorised officer before such complaints are filed within a period of forty five days from the receipt of such communication. The State Government and authorities concerned shall submit a periodic report to Regional Office, from time to time, regarding filing of the complaints."

And in view of the above and Ministry's direction to Regional Office, Shillong, MoEF&CC, Government of India vide letter No.FC-7/14/2024-FC dated 28-08-2024, Online Proposal No. FP/AS/OTHERS/478981/2024 Stage-I dated 21-01-2025 and Online Proposal No. FP/AS/OTHERS/478981/2024 Stage-II dated 20-02-2025, the DFO concerned, Government of Assam is hereby authorized to take legal action against the offender and furnish an action taken report to this office in compliance of Rule 15(2) of *Van (Sanrakshan Evam Samvardhan) Rules, 2023* dated 29.11.2023 within a period of 45 days.

Furthermore, considering the aforesaid facts and circumstances and the seriousness of the issues involved and also the connected litigations being taken up by the Hon'ble National Green Tribunal, the State Government is requested to periodically submit the action taken report every month to the Regional Office, Shillong, MoEF&CC, Government of India under Rule 15(2) of *Van (Sanrakshan Evam Samvardhan) Rules, 2023* dated 29.11.2023

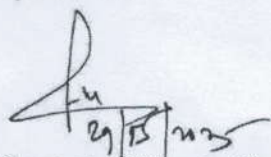
Yours faithfully,


(Pee Lee Ete)

Deputy Inspector General of Forests (Central)

Copy to:

- 1) The ADG (FC), MoEF&CC, Government of India, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi -110003
- 2) The Nodal Officer (FCA), Forest and Environment Department, Government of Assam, Panjabari, Guwahati.


Deputy Inspector General of Forests (Central)

Vimal Bhai & Ors vs Uoi & Ors on 7 November, 2012

BEFORE THE NATIONAL GREEN TRIBUNAL
NEW DELHI
(PRINCIPAL BENCH)

APPEAL NO. 7/2012

1. Vimal Bhai
Convener, Matu Jansangthan
D-334/10 Ganesh Nagar,
Pandav Nagar Complex, Delhi - 110092
2. Bharat Jhunjhunwala
Lakshmoli, PO Maletha, Via Kirti Nagar,
District Tehri,
Uttrakhand - 249161

...Appellants

Versus

1. Union of India
Through the Secretary
Ministry of Environment and Forests
Government of India
Paryavaran Bhawan, C.G.O. Complex,
Lodhi Road, New Delhi - 110003
2. State of Uttrakhand
Through the Principal Secretary (Forests)
Civil Secretariat, Dehradun - 248001,
Uttrakhand
3. GMR Energy Limited
Through Managing Director
Mira Corporate Suites
Block D, Second Floor,
Plot 1 & 2, Ishwar Nagar,
New Delhi - 110065

....Respondents

1

Counsel for Appellants:
Shri Ritwick Dutta, Advocate along with
Shri Rahul Chaudhary, Advocate

Counsel for Respondents:
Ms. Neelam Rathore, Advocate for R. 1 (MoEF)
Mr. Abhishek Atrey, Advocate for R. 2 (State of Uttarakhand)
Mr. A.D.N. Rao, Advocate for R. 3 (GMR (Badrinath) Hydro Power
Generation Pvt. Ltd.

JUDGEMENT

PRESENT:

Justice A.S. Naidu (Acting Chairperson) Dr. G.K. Pandey (Expert Member)

.....

Dated 07th November, 2012

Shri Vimal Bhai claiming to be the convener of a social organization called Matu Jansanghthan and a social activist working for decades on environment and social issues in the middle of Himalaya region has approached this Tribunal, along with another, invoking jurisdiction under Section 16 (e) of the National Green Tribunal Act, 2010 (hereinafter called as NGT Act), and seeks to assail the communication dated 8th November, 2011 issued by the Government of India, Ministry of Environment and Forests (MoEF) according, Stage-I approval under Section 2 of the Forest Conservation Act, 1980 (hereinafter called as FC Act) for diversion of 60.513 hac. of forest land in favour of GMR Energy Limited for construction of Alaknanda Badrinath Hydro-

Electric Project in Chamoli District of Uttarakhand, subject to fulfilling of certain conditions of environmental safeguards. The said letter (Annexure A - 1) was addressed to the Principal Secretary (Forests) Government of Uttarakhand, Dehradun. According to the Appellants, the Stage-I Forest Clearance granted by the MoEF is palpable, illegal and suffers from following infirmities:-

(i) The approval was granted without taking into consideration the recommendations of the Forest Advisory Committee (FAC). It is averred that the Forest Advisory Committee after considering all the facts and circumstances had come to the conclusion that prior approval under Section 2 of the FC Act, 1980 should not be accorded in favour of the project for use of forest lands for non-

forest purpose.

(ii) Relying upon the report submitted by the Wildlife Institute of India (WII), it is averred that the diversion of forest land in the proposed site, would lead to severe fragmentation and degradation of the important wildlife habitats as well as habitats of RET species. The WII report it is stated reveals that the project in question is located in the buffer zone of the Nanda Devi Biosphere Reserve and the same will seriously hamper the movement of RET species like Snow Leopard and Brown Bear existing in the vicinity. The project shall also pose adverse effect on the ecology and bio-diversity and would cause irreparable and irreversible impact on the environment.

2. It appears that Appellants are aggrieved by the fact that the MoEF relied upon an interim report submitted by H.N.B. Garhwal, University, which was prepared at the instance of the project

proponent so as to suit its purpose. It is averred that the said report was prepared by the expenses paid by the company and was in the nature of a critic to the report submitted by the WII.

3. In course of hearing a further affidavit was filed indicating that in the meanwhile the WII has submitted its final report recommending therein for exclusion of the forest lands from the project mainly on the ground that the same are located within Alaknanda III sub-basin and the habitats of more than 250 birds including Indian white-backed vulture would be affected. Further, case of the Appellant is that the report prepared by the EIA Consultant Group of HNB Garhwal University and the report of IIT was not sent to the Forest Advisory Committee by the MoEF, thereby causing a dent in the decision making process. In short, according to the Appellants the decision to grant Forest Clearance without seeking any opinion from the Forest Advisory Committee is a clear case of bias and exhibits arbitrariness on the part of the MoEF.

4. After receiving notice, Respondents filed their replies, strongly repudiating the allegations made in the Memorandum of Appeal. In the respective replies the Respondent took the stand that the provision of the FC Act and Rules framed thereunder were sacrosanctly followed by the MoEF and submissions made to the contrary are unfounded. According to the Respondent the MoEF is the final authority to grant or refuse approval. The Forest Advisory Committee, as the name itself indicates, is required to advise the MoEF, which may be agreed or disagreed by the latter. It is submitted that the report submitted by WII was only an interim report. The said report as well as the subsequent report submitted by WII has not been accepted by the MoEF as yet, and as such it has not attained finality. Respondents further submits that the decision was taken by the MoEF after due consideration of the prevalent circumstances and topography, thus the allegations made contrary are without any basis, and deserves no consideration.

5. The last but not the least contentions raised by the Respondents, is that the present Appeal is not maintainable under Section 16 (e) of the NGT Act and on that ground alone the same should be dismissed. A prayer is also made to consider the question of maintainability of the Appeal at the first instance, before going to the merits.

6. Heard Learned Counsel for the parties at length. As we propose to dispose of this case on the question of maintainability we refrain from entering into the merits of controversies raised by different parties, and leave it open for the parties to raise the same if contingency arises.

Before entering into the arena of controversy, it would be proper to discuss relevant provisions of law on the point. Realising that rampant and indiscriminate deforestation, was the cause for ecological imbalances and the same would lead to environmental deterioration, the Legislature in order to check further deforestation promulgated FC Act, 1980. Section 2 of the said Act imposes restrictions on diversion of forest and restricts use of forest land for non-forest purposes. The said Section reads as follows:

Section 2: "Restriction on the de-reservation of forests or use forest land for non-forest purpose.

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the central Government, any order directing-

- (i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non-forest purpose;
- (iii) that any forest-land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;
- (iv) that any forest-land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

Explanation - For the purpose of this section, "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for-

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil- bearing plants, horticultural crops or medicinal plant;
- (b) any purpose other than reafforestation;

but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and constructions of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes". It is evident that the FC Act, 1980, imposes a strict restriction upon deforestation and use of Forest lands for non- forest activities. It mandates that no State Government shall accord permission for use of any forest land for non-forest purpose without obtaining prior permission of the Central Government.

7. In the event a Project Proponent desires to use any forest lands for non-forest purpose, he has to file an application before the concerned State Government.

The said proposals are disposed of as under:-

- (i) All proposals involving diversion/de-reservation of forest land up to 40 hectares, and proposals for clearing of naturally grown trees in forest area or portion thereof shall be sent by the concerned State/UT Government to the concerned Regional Officer of MoEF.

(ii) Chief Conservator of Forests of the concerned Regional office shall be competent to finally dispose of all proposals (including decision regarding violation of Act) involving diversion / de-reservation for forest land up to 5 hectare, except in respect of proposals for regularization of encroachments and mining (including renewal of mining leases). Similarly, proposals involving clearing of naturally grown trees in forest area or portion thereof for reforestation shall also be finally disposed of by the Chief Conservator of Forests of the concerned Regional Office, subject to guidelines / instructions issued in this regard (refer to para 1.8) and any other instructions issued from time to time.

(iii) In the absence of Chief Conservator of Forests, these powers shall be exercised by the concerned Conservator of Forests of the Regional Office in case the post of Chief Conservator of Forests is vacant due to transfer, long leave, etc.

(iv) A list of cases finally disposed of and a list of cases rejected along with reasons thereof for rejection would be required to be sent every month to the MoEF by the Regional Office.

(v) (a) In respect of proposals involving diversion of forest area above 5 hectares and up to 40 hectares and all proposals for regularization of encroachments and mining up to 40 ha., the proposals shall be examined by the Regional Chief Conservator of Forests/ Conservator of Forests in consultation with the Advisory Group consisting of representatives of the State Government from Revenue Department, Forest Department, Planning and / or Finance Department and concerned Department whose proposal is being examined. The views of the Advisory Group shall be recorded by the Regional Chief Conservator of Forests and along with the same, the proposal shall be sent to Secretary, MoEF for consideration and final decisions. It is to be clarified that views of this Advisory Group in no way shall be binding while deciding the proposal. The meeting of the Advisory Group may be held at the State Capital. The proposal will not be deferred for want of quorum.

(b) The meeting of the State Advisory Group (SAG) will normally be held once in a month at concerned State Capital. The Regional Chief Conservator of Forests shall act as Chairman of the Advisory Group and Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group.

(c) State Government may take immediate steps to nominate representatives of the State Government not below the rank of Joint Secretary for the Advisory Group. Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group.

(d) The details of the officers along with addresses, telephone number, etc. may be directly communicated to the concerned Regional Chief Conservator of Forests under intimation to this Ministry to facilitate early processing of the proposals by the

Advisory Group.

Forestry clearance will be given in two Stages. In 1st Stage, proposal shall be agreed to in-principle in which usually the conditions relating to transfer, mutation and declaration as RF/ PF under the Indian Forest Act, 1927 of equivalent non-forest land for compensatory afforestation and funds for raising compensatory afforestation thereof are stipulated and after receipt of compliance report from the State Government in respect of the stipulated conditions, formal approval under the Act shall issued."

The decision for granting approval by the Central Government are taken in exercise of the powers conferred under Section 2 of the FC Act.

8. Section 2 (A) of the NGT Act stipulates that if any person aggrieved, by an order or decision of the State Government or other authority made under Section 2, on or after the commencement of the NGT Act, 2010 (19 of 2010), has an option to file an appeal before the National Green Tribunal established under Section 3 of the NGT Act, 2010 (19 of 2010), in accordance with the provisions of that Act".

9. The parameteria provision to Section 2 (A) of FC Act is Section 16 (e) of the NGT Act. The said section stipulates that any person aggrieved by an order or decision, made, on or after the commencement of NGT Act, 2010 by the State Government or other authorities under Section 2 of the FC Act, 1980, may within a period of 30 days from the date on which the order or decision or direction or determination is communicated to him prefer an appeal to the Tribunal.

The sole contention raised by the Respondents in the case in hand is that the impugned order dated 08th November, 2011 having not being passed by the State Government nor by any authority cannot be assailed in this Appeal.

10. Perusal of the impugned order reveals that after careful consideration of the proposal of the State Government of Uttarakhand, the Central Government by order dated 08th November, 2011, accorded in-principle Stage-I approval under the FC Act, 1980 for diversion for 60.513 hac. of forest land in favour of GMR Energy Limited, for construction of Alaknanda Badrinath Hydro-Electric Project at Chamoli District of Uttarakhand subject to fulfillment of other conditions stipulated in the order.

In the aforesaid scenario of facts the mute question which arises for consideration is, as to whether an Appeal lies against the order of the MoEF granting Stage - I Forest Clearance, under Section 2 (A) of FC Act or Section 16 (e) of the NGT Act.

11. Mr. A.D.N. Rao, learned Counsel appearing for Respondent No. 3 drew attention of this Tribunal to Section 2 (A) of the FC Act, 1980 as well as Section 16 (e) of the NGT Act, 2010 and submitted that an Appeal is prescribed under those two Acts only against an order or decision passed by the State Government or other authority. Expanding his arguments Mr. Rao submitted that under the provision of the aforesaid two Acts, a person aggrieved by the order passed under Section 2 of FC

Act by the State Government or any other authority can file an Appeal. Further according to Mr. Rao neither Section 16 (e) of the NGT Act, 2010, nor Section 2(A) of the FC Act, 1980 provide for or contemplates an Appeal against an order passed by the Central Government. The Legislature on its wisdom having consciously and specifically omitted the word "Central Government" in both the Sections i.e. Section 2 (A) of FC Act and 16 (e) of NGT Act, 2010, and such intention of the Legislature being clear and unambiguous, no contrary view can be taken by this Tribunal which is a creature under the Statute.

12. A cogent reading of NGT Act as well as FC Act, reveals that the word "Central Government", "State Government" and "other authority" has been distinctly used in different Sections. Thus the words Central Government cannot include within the words 'Authority'. Relying upon G.S.R. 94 (e) dated 3.2.2004, Mr. Rao submitted that sub-rule 2 clauses (c) (d) under Rule 6(III) of G.S.R. contemplates that 'or the other authority' should be substituted by words 'or the Union Territory Administration' as and where required. In the light of the above Rule, it is submitted that the word 'other authority' used in Section 16 (e) of the NGT Act, and Section 2 (A) of the FC Act, 1980 can be referred or substituted by words "Union Territory Administration". In short according to Mr. Rao both Sections 16(e) of the NGT Act and FC Act, 1980 provide for an Appeal to the Tribunal only against an order passed by the State Government or Union Territory Administration and thus no Appeal is contemplated by the Legislature against any order passed by the Central Government or MoEF. The order impugned, having not been passed either by the State Government or the Union Territory Administration, the same cannot be assailed by filing an Appeal before this Tribunal, and this Appeal is liable to be dismissed as not maintainable, on that ground alone.

13. Provisions of Indian Forest Act and FC Act, 1980 read together leads an irresistible conclusion that the permission for carrying out any of the activities mentioned in Sections 5 and 26 of the Indian Forest Act can be granted by the State Government only upon the formulation of Rules contemplated under Section 32 of the Indian Forest Act. Though the activities mentioned in Section 2 of the FC Act, 1980 can be carried only after obtaining prior permission of the Central Government, the authority for granting such permission still continues to be the State Government and not the Central Government. That apart a cause of action accrues upon an aggrieved party only when the necessary orders to transfer forest lands are issued by the State Government and not before that, Thus, according to Mr. Rao an Appeal under Section 2(A) of the FC or Section 16 (e) of NGT Act can be filed before this Tribunal only against an order passed by the State Government and not against the order granting in- principal approval, which is commonly called as Stage - I approval, granted by the Central Government or Stage - II approval granted after compliance of the conditions imposed in Stage - I approval. In other words the Central Government is only a sanctioning authority, whereas the actual power to accord approval for conversion of Forest lands for non-forest purpose still lies with the respective State Government.

14. Ms. Neelam Rathore, learned Counsel appearing for the MoEF supported the stand taken by Respondent No. 3. According to her the provisions of Section 2 of the FC Act makes it clear that the role of the Central Government is limited only to granting a prior approval/permission. The Legislature has clearly defined the role of the Central Government and as there is no provision to assail any order passed by the Central Government by filing an Appeal before this Tribunal, the

present Appeal cannot be entertained. In other words, according to Ms. Rathore, Section 2 (A) of the FC Act cannot be interpreted to include "Central Government" within its ambit and scope, and that the words other authorities do not engulf the Central Government within its scope and ambit. Section 16 of the NGT Act more particularly Section 16 (e) also envisages and grants opportunity to any person aggrieved by an order passed under Section 2 of the FC Act by the State Government or other authorities, to file an Appeal before this Tribunal. The said Section excludes the sanctions/approvals granted by the Central Government from the purview of Appeal. The approval of the Central Government under Section 2 of the FC Act, 1980 is precursor to passing of an order by the State Government or other Authority and if a person is aggrieved by the said latter order, he can approach this Tribunal either under Section 16 (e) of the NGT Act or Section 2 (A) of the FC Act, 1980.

15. Repudiating the contentions raised by the MoEF and Respondent No. 3, Mr. Ritwick Dutta, learned Counsel appearing for the Appellant submitted that under the provisions of FC Act the only decision making authority is the Central Government. Bereft of an order of approval passed by the Central Government, granting forest clearance, no diversion of forest land can be made. It is submitted by Mr. Dutta, that the powers of the State Government is limited to submission of proposals only, whereas the, decision making power for granting forest clearance completely lies with the Central Government and therefore the State Government or other authority cannot be called as the decision making body within the meaning of Section 2 of the FC Act and an Appeal under Section 2 (A) can only be filed against the decision of the Central Government permitting diversion of forest land, the intention of the Legislature cannot be otherwise.

16. Further, according to Mr. Dutta the Courts have the power to iron out the creases and to remove ambiguity and give full effect to the intention of the Legislature. In support of such submission he relied upon the decision of the Supreme Court in the case of *Nathi Devi v. Radha Devi Gupta*, (2005) 2 SCC 27. In the said decision the Hon'ble Supreme Court observed as follows:

"The interpretative function of the Court is to discover the true legislative intent. It is trite that in interpreting a Statute the Court must, if the words are clear, plain, unambiguous and reasonably susceptible to only one meaning, give to the words that meaning, irrespective for the consequences. Those words must be expounded in their natural ordinary sense. When a language is plain and unambiguous and admits of only one meaning no question of construction of statute arises, for the Act speaks for itself. Courts are not concerned with the policy involved or that the results are injurious or otherwise, which may follow from giving effect to the language used. If the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In considering whether there is ambiguity, the Court must look at the statute as a whole and consider the appropriateness of the meaning in a particular context avoiding absurdity and inconsistencies or unreasonableness which may render the statute unconditional."

17. In the case in hand, the Legislature has used the phrase "State Government and any other authority" in Section 16 (e) of NGT Act and Section 2 (A) of the FC Act, for the purpose of providing an Appeal against the diversion of forest land for non forest uses. According to Mr. Dutta since the decision to divert forest land has to be taken by the Central Government, on the basis of the recommendation of the Forest Advisory Committee, the purpose of the said Section would become nugatory if the appeal is confined only to the orders passed by the State Government which are more less ministerial in nature and are consequential to the orders passed by Central Government. Further, the State Government has the power only to make a proposal to the Central Government for diversion of forest land and cannot take a decision under Section 2 of the FC Act, the permission granted or clearance accorded by the Central Government would be binding upon the State Government, thus, the decision that has to be assailed is that of the Central Government and not of the State Government. In other words according to Mr. Dutta the State Government is only a recommending authority whereas the Central Government is the authority vested with the power to accord approval, as such if the final order granting approval by the Central Government is not assailed the purpose of the Act would be frustrated.

18. The NGT Act, according to Mr. Dutta was constituted to provide a full-fledged redressal to a person who is aggrieved by any act, commission or omission of the authorities by which the environment is effected. Diversion of forest land for non forest uses has severe effect on the ecology/bio-diversity and the environment, therefore, the Legislature has provided the remedy of an Appeal against an order passed under Section 2 of the FC Act, dealing with diversion of forest land. Since the Central Government is the primary decision making authority, under no stretch of imagination it can be argued that against the decision taken by the Central Government no Appeal lies. Such an argument according to Mr. Dutta would not only be contrary to the letter and spirit of the NGT Act and FC Act, but also contrary to the interest of general public. Such a narrow construction would also render the decision or orders passed by the Central Government, virtually non assailable thereby vesting an unbridled power upon the said Respondent.

19. We have heard learned Counsel for parties at length. We have also perused different provisions of NGT Act and FC Act meticulously. We have considered the pleading of the parties consciously. It is well settled law that while interpreting a Statute effort should be made to give effect to each and every word used by the Legislature. It should be always presumed that the Legislature inserted every word in the Statute for a purpose and legislative intention is that every part of the Statute should have a meaningful effect. A construction which attributes redundancy to the Legislation should not be expected, except for compelling reasons such as obvious drafting errors (see State of U.P. and others Vs. Vijay Anand Maharaj : AIR 1963 SC 946)

20. In the case of P.K. Unni v. Nirmala Industries and Ors. (1990) 2 SCC 378, the Hon'ble Supreme Court held:-

"Where the language of the Statute leads to manifest contradiction of the apparent purpose of the enactment, the Court can, of course, adopt a construction which will carry out the obvious intention of the Legislature. In doing so "a judge must not alter the material of which the Act is woven, but he can and should iron out the creases".

On the touchstone of the legal position enunciated above and admitted facts, we proposed to answer the question posed, i.e. whether an Appeal lies against the impugned order passed by the MoEF granting in principle Stage - I Forest Clearance.

Right of appeal is statutory, and no one inherits it. When conferred by statute it becomes a vested right. In this regard there is essential distinction between right of appeal and right to suit. Where there is inherent right in every person to file a suit and for its maintainability it requires no authority of law, appeal requires so.

21. Section 2(A) of the FC Act as well as Section 16(e) of the NGT Act clearly stipulates that an order or decision made by the State Government or other authority passed under Section 2 of the FC Act 1980 can be assailed by filing an Appeal before this Tribunal.

Section 2 of the FC Act, 1980 deals with restrictions or de- reservation of forest or use of forest land for non-forestry purpose. The said section starts with a non-obstante clause and stipulates that notwithstanding anything contained in any other law no State Government or other authority shall pass, except with the prior approval of the Central Government, any order directing de- reservation of any forest land for any non forest purpose, lease out any forest land to a person or authority, corporation, agency etc. and/or permit deforestation of any forest land for the purpose of using it for cultivation of tea, coffee, spices, rubber etc. or for any other purpose other than reafforestation. The said Section therefore curtails the power of the State Government from leasing out or otherwise permitting use of forest land for non forest purpose, without obtaining prior permission of the Central Government.

22. The questions now arises as to whether the approval granted by the Central Government under Section 2 of the FC Act granting in-principle sanction can be assailed by filing an Appeal, the said order not being the final allotment order. The language of the Section stipulates that before permitting user of forest land for non-forest purposes, the State Government has to obtained prior approval of the Central Government, thus there is no ambiguity that the State Government is the authority to grant permission for use of forest land for non-forest purpose, but then such permission can be granted only after the Central Government accords approval. Further a right to use the forest land for non- forest purpose accrues only after the State Government passes the order, and not from the date of granting Stage - I or Stage - II Clearance.

There is no ambiguity in the proposition that a person aggrieved by any action of the instrumentalities of the State or Central Government should have a right to assail the same before competent forum.

23. It is no more res-integra that an Appeal is a creation of a Statute and it cannot be created by acquiescence of the parties or by the order of the Court. The findings of a Court or a Tribunal becomes irrelevant and unforceable/ inexecutable once the Forum is found to have no jurisdiction, as doctrine of nullity will come into operation (see *State of Gujrata v. Rajesh Chiman Kal Barat* (1996) 5 SCC 477. Further, there is also no quarrel to the legal proposition that right to Appeal is neither an absolute nor an ingredient of natural justice and the Legislature can put conditions for

maintaining the same. In the case of Vijay Prakash D. Mehta & Jawahar D. Mehta vs. Collector of Customs (Preventive), Bombay, AIR 1988 SC 2010, the Apex Court held as under:-

"Right to appeal is neither an absolute right nor an ingredient of natural justice, the principles of which must be followed in all judicial or quasi-judicial adjudications. The right to appeal is a statutory right and it can be circumscribed by the conditions in the grant.....The purpose of the Section is to act in terrorem to make the people comply with the provisions of law".

24. In the case of Nand Lal v. State of Haryana and Ors. AIR 1980 SC 2097, it was held that "right of appeal is a creature of Statute and there is no reason why the Legislature, while granting the right, cannot impose conditions for the exercise of such right so long as the conditions are not so onerous as to amount to unreasonable restrictions rendering the right almost illusory".

25. It is well settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the Legislature. The language employed in a statute is the determinative factor of legislative intent. Words and phrases are symbols that stimulate mental references to referents. The object of interpreting a statute is to ascertain the intention of the Legislature enacting it. (See *Institute of Chartered Accountants of India v. M/s Price Waterhouse and Anr.* (AIR 1998 SC 74)) The intention of the Legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence, a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided. As observed in *Crawford v. Spooner* (1846 (6) Moore PC 1), Courts, cannot aid the Legislatures' defective phrasing of an Act, we cannot add or mend, and by construction make up deficiencies which are left there. (See *The State of Gujarat and Ors. v. Dilipbhai Nathjibhai Patel and Anr.* (JT 1998 (2) SC 253)).

26. It is contrary to all rules of construction to read words into an Act unless it is absolutely necessary to do so. (See *Stock v. Frank Jones (Tiptan) Ltd.* (1978 1 All ER 948 (HL)). Rules of interpretation do not permit Courts to do so, unless the provision as it stands is meaningless or of doubtful meaning. Courts are not entitled to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself. (Per Lord Loreburn L.C. in *Vickers Sons and Maxim Ltd. v. Evans* (1910) AC 445 (HL), quoted in *Jamma Masjid, Mercara v. Kodimaniandra Deviah and Ors.* (AIR 1962 SC 847)).

The question is not what may be supposed and has been intended but what has been said. "Statutes should be construed not as theorems of Euclid", Judge Learned Hand said, "but words must be construed with some imagination of the purposes which lie behind them". (See *Lenigh Valley Coal Co. v. Yensavage* 218 FR 547). The view was re-iterated in *Union of India and Ors. v. Filip Tiago De Gama of Vedem Vasco De Gama* (AIR 1990 SC 981).

27. In *Dr. R. Venkatchalam and Ors. etc. v. Dy. Transport Commissioner and Ors. etc.* (AIR 1977 SC 842), it was observed that Courts must avoid the danger of apriori determination of the meaning of

a provision based on their own pre-conceived notions of ideological structure or scheme into which the provision to be interpreted is somewhat fitted. They are not entitled to usurp legislative function under the disguise of interpretation.

While interpreting a provision the Court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary. (See Commissioner of Sales Tax, M.P. v. Popular Trading Company, Ujjain (2000 (5) SCC 515). The legislative casus omissus cannot be supplied by judicial interpretative process.

Two principles of construction one relating to casus omissus and the other in regard to reading the statute as a whole appear to be well settled. Under the first principle a casus omissus cannot be supplied by the Court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time a casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the Legislature. "An intention to produce an unreasonable result", said Danackwerts, L.J. in Artemiou v. Procopiou (1966 1 QB 878), "is not to be imputed to a statute if there is some other construction available".

28. "Appeal", is defined in the Oxford Dictionary, volume I, page 398, as the transference of a case from an inferior to a higher Court or tribunal in the hope of reversing or modifying the decision of the former. In the Law Dictionary by Sweet, the term "appeal" is defined as a proceeding taken to rectify an erroneous decision of a Court by submitting the question to a higher Court or Court of appeal, and it is added that the term, therefore, includes, in addition to the proceedings specifically so called, the cases stated for the opinion of the Queen's Bench Division and the Court of Crown Cases reserved, and proceedings in error. In the Law Dictionary by Bouvier an appeal is defined as the removal of a case from a Court of inferior to one of superior jurisdiction for the purpose of obtaining a review and re-trial, and it is explained that in its technical sense it differs from a writ of error in this, that it subjects both the law and the facts to a review and re-trial, while the latter is a Common Law process which involves matter of law only for re-examination; it is added, however, that the term "appeal" is used in a comprehensive sense so as to include both what is described technically as an appeal and also the common law writ of error. (See - Shiv Shakti Coop. Housing Society v. M/s Swaraj Developers & Others (2003) 6 SCC - 659) The discussions made above leaves no doubt in our mind that an Appeal flows from a Statute and if the Statute does not provide an Appeal against a specific order, no Appeal can be entertained.

29. Cumulative reading of Section 2 (A) of the FC Act and 16(e) of the NGT Act, leads to an irresistible conclusion that under the said Sections an Appeal is provided for only against an order passed by the State Government or other authorities. In other words, the Legislature in its wisdom has kept the order of approval/clearance passed by the Central Government under FC Act beyond the scope of Appeal.

30. However, a party cannot be remediless, a person who is aggrieved by the Approval/Clearance granted by the Central Government has to avail an opportunity to assail the same. In the aforesaid scenario it can safely be concluded that after receiving a Stage - I and/or Stage - II Clearance, thereby granting a consent to permit use of forest land for non-forest purposes, from the Central Government, it is incumbent upon the State Government to pass a reasoned order transferring and/or allowing the land in question for being used for non forest purpose. It is needless to be said that bereft of such order no forest lands can be put to use for non-forest purpose. Further, all activities done without such orders would be ab initio void. An Appeal can be filed against the said order of the State Government under Section 2 (A) of FC Act and/or under Section 16 (e) of the NGT Act. In the event such an Appeal is filed it would be open for the person aggrieved, to assail the order/Clearances granted by the Central Government under Section 2 of the Act which forms an integral part and sole basis of the order passed by the State Government.

31. We are surprised to find that most of the State Governments do not pass separate orders in the light of the basic requirement of Section 2 of the FC Act as explained above thereby creating an embargo and depriving a person aggrieved from filing an Appeal. Section 2 of the FC Act, mandates that as and when the State Government decides to permit use of the Forest land for non forest purpose, it has to pass order to that effect. The said order along with the conditions imposed by the Central Government according Stage - I and Stage - II Clearance is mandatorily required to be displayed in the website. A copy of the order should also be sent to the MoEF forthwith. After receiving the copy of the order MoEF is also required to upload the same in its website so as to make the entire transactions transparent and bring it to public domain or Government portal and to enable any person aggrieved by the order passed under the provision of Section 2 of the FC Act, to approach this Tribunal in consonance with Section 2 (A) for FC Act or Section 16 (e) of the NGT Act.

32. Apart from the said action the State Government should also insist that the Project Proponent should publish the entire forest clearances granted in verbatim along with the conditions and safe-guards imposed by the Central Government in Stage - I Forest Clearance in two widely circulated daily newspapers one in vernacular language and the other in English language so as to make people aware of the permission granted to the Project Proponent for use of forest land for non-forest purposes. The cause of action for filing an Appeal would commence only from the date when such publication is made in the newspapers, as well as from the date when the forest clearance and permission to use the Forest land for non-forest purpose is displayed in the website of the concerned State Government or the MoEF, as the case may be. The copies of the Forest Clearance should also be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.

33. In view of the discussions made above and reasons assigned we come to the conclusion that the order dated 08th November, 2011 (Annexure A/1), according Stage - I Forest Clearance cannot be assailed by filing an Appeal at this stage and as such the present Appeal is premature and has to be dismissed. Liberty is however granted to the Appellants to prefer an Appeal as and when the State Government passes the final order, permitting the Project Proponent to use the Forest land for non-forest purpose, if they feel aggrieved. In the event such an Appeal is filed, it would be open for the

said Appellants to raise all the points which have been raised in the present Appeal and also other points which would be available to them in law and also bring to the notice the infirmities/ omissions and commissions committed by the MoEF (Central Government) while granting Stage - I and Stage - II forest clearances.

34. The MoEF is directed to issue necessary Notification, stream lining the procedure to be adopted by the State Government and other Authorities for passing orders/decision for granting Forest Clearance under Section 2 of the FC Act, as well as the modalities for communicating the said order in the Public domain on Government portal.

With the directions and observations made in the preceding paragraphs the Appeal stands disposed of. Parties to bear their own cost.

Dr. G.K Pandey
Expert Member

Justice A.S. Naidu
Acting Chairperson