

OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FOREST, RAJASTHAN, JAIPUR

F. ()2023-24/FP/PCCF/ 1814

Dated:- 29-7-24

Action Taken Report

Action Taken Report of letter issued by MoEF&CC vide letter dated 30.11.2023

MoEF&CC vide its letter dated 30.11.2023 has directed State Government to ensure strict compliance of provisions of Compensatory Afforestation Fund Act, 2016 rules & guidelines. As per information provided by Additional PCCF CAMPA, Rajasthan, vide U.O. Note dated 22.07.2024 (Copy enclosed), funds available with Compensatory Afforestation Fund Management and Planning Authority (CAMPA) are being utilised strictly as per Compensatory Afforestation Fund Act, 2016, corresponding rules and guidelines issued by MoEF&CC from time to time. Funds available with CAMPA are being utilised in state of Rajasthan as per Annual Work Plan approved by National Authority on CAMPA and under provision of Compensatory Afforestation Act, 2016 and Compensatory Afforestation Rules, 2018.



(Pramod Kumar Pandey)
OIC & DCF (Forest Protection)



यू.ओ.नोट

विषय :- ओ.ए. संख्या 90/2023(सी.जेड.) आई. ए. नम्बर 80/2023 नरेश चन्द्र वनाम
यूनियन ऑफ इण्डिया व अन्य ।

संदर्भ:- कार्यालय अति.प्रधान मुख्य वन संरक्षक, श्रम एवं विधि, राज. जयपुर का यू.ओ. नोट
क्रमांक एफ 26(71) 2023/विधि/प्रमुवसं/913-16 दिनांक 15.02.2024 एवं
1535-38 दिनांक 01.03.2024 एवं 3437 दिनांक 15.05.2024

उपर्युक्त विषयान्तर्गत संदर्भित पत्र के साथ संलग्न पत्र दिनांक 30.11.2023 एवं पत्र
दिनांक 02.05.2024 के क्रम में कैम्पा अनुभाग से संबंधित टिप्पणी निम्नानुसार प्रस्तुत है :-

वन संरक्षण एवं संवर्धन अधिनियम, 1980 के अन्तर्गत वन भूमि प्रत्यावर्तन प्रकरणों में प्राप्त राशि
(क्षतिपूर्ति वृक्षारोपण, NPV, वन्यजीव प्रबन्ध, CAT आदि) को स्टेट कैम्पा फण्ड में जमा कराया जाता
है। उक्त निधि के व्यय करने हेतु प्रतिकरात्मक वनरोपण निधि अधिनियम, 2016 एवं प्रतिकरात्मक
वनरोपण निधि नियम, 2018 प्रचलन में हैं। तदनुसार राज्य प्राधिकरण द्वारा प्रत्येक वर्ष वार्षिक कार्य
योजना तैयार कर संचालन समिति से अनुमोदन उपरान्त राष्ट्रीय प्राधिकरण की कार्यकारी समिति से
अनुमोदन के अनुसार राशि व्यय की जाती है। उक्त राशि का व्यय प्रतिकरात्मक वनरोपण निधि
अधिनियम, 2016 एवं प्रतिकरात्मक वनरोपण निधि नियम, 2018 के अन्तर्गत राशि का उपयोग वन भूमि
पर वृक्षारोपण, वन एवं वन्य जीव सुरक्षा, एवं वन एवं वन्यजीव के प्रबंधन में किया जाता है।

वन (संरक्षण एवं संवर्धन) अधिनियम, 1980 के अन्तर्गत वन भूमि प्रत्यावर्तन प्रकरणों के एवज
में प्राप्त गैर वन भूमि एवं परिभ्रांषित वन भूमि पर कैम्पा योजनान्तर्गत वर्ष 2016-17 से वर्ष 2022-23
तक करवाये गये वृक्षारोपण की सूची संलग्न कर आवश्यक कार्यवाही हेतु प्रेषित है।

संलग्न:- सूची

(उदय शंकर)

अति. प्रधान मुख्य वन संरक्षक, कैम्पा
राजस्थान, जयपुर।

अति. प्रधान मुख्य वन संरक्षक (श्रम एवं विधि),
राजस्थान, जयपुर।

क्रमांक : एफ.14()कैम्पा/अप्रमुवसं/विधि/2023-24/ 582

दिनांक:- 22/7/2024

Report of the Committee constituted by Hon'ble National Green Tribunal, Central Zone, Bhopal in its order dated 12.03.2024 in Original Application No. 90/2023 Naresh Chaudhary v/s Union of India and ors

Background:

Original Application No. 90/2023 Naresh Chaudhary v/s Union of India and ors was filed before the Hon'ble National Green Tribunal, Central Zone Bench, Bhopal, raising the issue that the circular dated 09.06.2023 issued by the Department of Environment, Forest and Climate Change, Government of Rajasthan is in violation of Forest (Conservation) Act, 1980, for want of approval of Central Government for non-forest activities on the forest land. A circular dated 02.09.2006 was issued in compliance of letter of Ministry of Environment, Forest and Climate Change dated 30.08.2005 and in compliance of the order of the Hon'ble Supreme Court of India passed in Civil Writ 202/1995. The Principal Chief Conservator of Forest (HoFF) vide dated letter 15.12.2022 had communicated that such conditions by the State Government, which are in violation of the previous order of Government of India and in contradiction of the circular dated 02.09.2006, are not acceptable to the Forest Department and any amendment is neither desired nor necessary for the protection of forest area.

The question before the tribunal is as to whether the circular dated 09.06.2023 issued by Additional Chief Secretary to the Government of Rajasthan is in violation of the letter of Government of India dated 30.09.2005 and the order passed by the Hon'ble Supreme Court of India in the Civil Writ petition number 202/1995 and as to whether these guidelines and circular are in violation of Forest (Conservation) Act, 1980. According to the Hon'ble National Green Tribunal, the matter requires serious consideration being a policy matter and the purpose of the circular, the order of the Hon'ble Supreme Court of India and the guidelines issued by the Central Government are intended to protect the environment and forest.

In this background, the Hon'ble National Green Tribunal constituted a committee consisting of following persons to reconsider the points raised by the Department and the Ministry of Environment, Forest and Climate Change and to submit the report: - 1. One representative from the Ministry of Environment, Forest and Climate Change (Forest Conservation Division), 2. One representative from the Principal Secretary to Government of Rajasthan 3. One representative from the Principal Chief Conservator of Forest, Rajasthan, Jaipur 4. One representative from Director, Indian Institute of Forest Management, Bhopal.

Details of the meeting:

In compliance of the order of the Hon'ble National Green Tribunal, as given above, the meeting of following members took place on 21.05.2024 in Aranya Bhavan, Jaipur:

1. Ms. Shikha Mehra, IFS, APCCF (Forest Conservation Act) - Representative of Additional Chief Secretary (Forest).
2. Mr. Suneet Bhardwaj, IFS, AIG(FC) - Representative of Ministry of Environment, Forest and Climate Change.
3. Prof. Manmohan Yadav - Representative of Indian Institute of Forest Management, Bhopal
4. Mr. Sedu Ram Yadav, IFS, CF (Forest Protection) - Representative of PCCF and Member Secretary.


AIG(FC)
MOEFCC

Shikha
Shikha Mehra


Sedu Ram Yadav


Sedu Ram Yadav

Discussion and deliberation: The members of the committee were provided with the copy of circular dated 02.09.2006, circular dated 09.06.2023 and the letter of Principal Chief Conservator of Forest, Jaipur dated 15.12.2022, the letter of Ministry of Environment, Forest and Climate Change, Government of India dated 30.08.2005 along with other relevant information and material. Detailed discussion and deliberations were held among the members based on the terms of reference provided by the Hon'ble National Green Tribunal in its order dated 12.03.2024. All aspects of the impugned circular dated 09.06.2023, circular dated 02.09.2006, letter of the Principal Chief Conservator of Forest dated 15.12.2022 were thoroughly deliberated upon, in the light of the letter of Ministry of Environment, Forest and Climate Change dated 30.08.2005 and 30.11.2023, the order dated 12.12.96 of the Hon'ble Supreme Court of India in Civil Writ petition 202/1995, and the further developments that have taken place with respect to the compliance of aforesaid order of the Hon'ble Supreme Court of India.

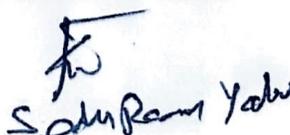
Observations and Recommendations: The following observations and recommendations emerged out of the detailed discussion and deliberation held by the members of Committee:

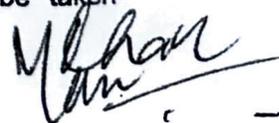
1. The prior approval of Central Government under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 which was earlier known as Forest(Conservation) Act, 1980 is required for using any forest land for any non-forest purpose. The Committee observed that in the circular dated 02.09.2006 there was a reference to the non-notified forests, recorded forests and the forest areas identified by competent committee constituted in pursuance of the order of the Hon'ble Supreme Court of India dated 12.12.1996 in Civil Writ petition 202/1995. However, the circular dated 09.06.2023 issued by the State of Rajasthan does not mention the word "recorded forest areas" as was done in the past. Moreover, it was observed that there are certain areas that have been accepted and declared by the Hon'ble Supreme Court of India as "forest" for the applicability of Forest(Conservation) Act, 1980 in its order dated 03.07.2018 in IA No. 1136 filed by Government of Rajasthan and the areas which are being identified by the Expert Committee constituted by the Government of Rajasthan vide their order dated 18.07.2018 in compliance of the order dated 03.07.2018 of the Hon'ble Supreme Court of India. In its order dated 03.07.2018, the Hon'ble Supreme Court of India has also accepted the rationale criteria adopted by the Government of Rajasthan to identify 'forest area' viz. 'a compact area of minimum 5 ha and where there are naturally growing minimum 200 trees per hectare'. The Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 applies to all forest areas irrespective of their classification and ownership and therefore the state government has to ensure that no non-forestry activities are allowed on any forest land without the prior approval of the central government under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. The circular dated 09.06.2023 needs modification accordingly.

2. The Government of Rajasthan has the power to frame rules and regulations for regulating use of afforested community land /government land on which the provisions of Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 do not apply, however keeping in view the ecological concerns it is very important that the adequate mitigation measures are taken to compensate the ecological loss due to felling of trees. The circular dated 02.09.2006 had a provision for compensatory afforestation, however, the circular dated 09.06.2023 has kept the state government agencies outside the ambit of carrying out such compensatory measures. As the majority of works taken on the areas under reference are likely to be executed by the state government agencies, therefore in majority of the cases the ecological loss due to tree felling may not get compensated. The Committee was of the view that the State may impose the principle of tree for tree so as to deter avoidable projects on such lands. This aspect needs the attention of State Government and the compensatory measures are required to be taken


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irrespective of the fact whether the user agency is a state government undertaking or any private entity.

3. The Central Government has already clarified vide letter dated 30.11.2023, that the State Government is at liberty to formulate their procedure and modus operandi to undertake non-forestry works in the lands where the provisions of the Forest (Conservation) Act, 1980 do not apply. However, keeping in view the provisions of the Compensatory Afforestation Fund Act, 2016, rules and guidelines made thereunder which provide that funds realized in lieu of diversion of forest land for a particular project should be used for the mitigation measures prescribed in that area and under no circumstances diversion of such funds for carrying activities prescribed in other projects is permissible. The State Government was accordingly requested to ensure strict compliance of the provisions of the Compensatory Afforestation Fund Act, 2016, rules and guidelines made thereunder and to ensure that funds from the State CAMPA shall be utilized only for mitigation measures, proposed under a project against which funds have been realized from the user agency, and under no circumstances these funds will be diverted for compensating the loss by allowing non-forestry use of plantations raised in the Government and community lands.

4. In the circular dated 09.06.2023 it has been mentioned that getting required permissions under the prescribed system is taking a substantial time in many cases. A District Level Committee has been formed to approve such proposals and a detailed composition of the committee has been given in the circular. A perusal of the composition of the committee reveals that most of the members of the committee so constituted are the senior officers of the work executing departments who also have a mandate to achieve the targets of construction and completion of the works. Though the State has the power and is at liberty to take such decisions in case of non-forest lands, however the presence of the user agencies/executing agencies in the decision making committee may be in conflict with the idea of tree conservation in some cases. In this regard the State Government also has an alternative option of strengthening the field level offices of forest department with the requisite manpower and infrastructure to improve the efficiency and streamlining the decision-making process.

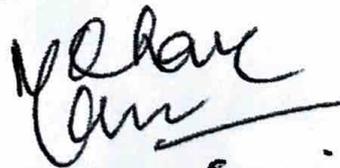
The above observations and recommendations were unanimously accepted by all members of the Committee and it was decided to submit the report with above observations to the Hon'ble National Green Tribunal in compliance of their order dated 12.03.2024 and dated 02.05.2023 in Original Application No. 90/2023, Naresh Chaudhary versus Union of India and others.



(Ms. Shikha Mehra)
IFS, APCCF
(FCA)



(Mr. Sumit Bhardwaj)
IFS, AIG



(Prof. Manmohan Yadav)
Professor



(Mr. Sedu Ram Yadav)
IFS, CF (FP)

F () FP/2024/

Date :

Copy of the report to the following for kind information:

1. Deputy Secretary to Additional Chief Secretary (Forest)
2. Private Secretary to Principal Chief Conservator of Forest (HoFF)
3. Additional Principal Chief Conservator of Forest (Forest Conservation Act)
4. Additional Principal Chief Conservator of Forest (Labour & Law)
5. Conservator of Forest (Forest Protection)
6. Deputy Conservator of Forest (Forest Protection), OIC
7. Guard File

**Conservator of Forest
(Forest Protection)**