



**BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE
CHENNAI BENCH**

Appeal No 27 of 2023

IN THE MATTER OF:

Pasupuleti Suresh Babu

Surya pet District

Telangana State.

...Applicant.

V/S

The Govt of India,

M.o.E.F & C.C,

New Delhi and Ors.

...Respondent(s).

Objections and Additional written Submission by the Applicant according the Honorable Tribunal order dated 15th March 2024, based on reports filed by the "R1" (M.O.E.F & CC), "R6" (Telangana State Forest Department) and the "R8" (M/S Deccan Cements Limited).

I Mr. Pasupuleti Suresh Babu S/o Shiva Ramakrishna, Applicant of the present Appeal No 27 of 2023 in this Honorable N.G.T (S.Z) Chennai, based on the order dated 15th March 2024 by this tribunal here with submitting the objections & Additional written submission for the consideration of the Hon'ble Tribunal with most sincerely as follows.

Objections for the Consideration of This Honorable Tribunal based on the reports filed by R1, R6 and R8.

I am Humbly submitting this present Appeal no 27 of 2023 Filed in this Honorable Tribunal Under the provisions of Section 16 National Green Tribunal Act 2010, with challenging the Environmental Clearance which is granted by R1 Government of India M.O.E.F & Cc New Delhi and obtained by R8 M/S Deccan Cements Limited on Dated:19th June 2023, vide EC identification No:EC23A001TG110250, for the project titled expansion of Bhavani Puram Limestone Mine Lease -3 for increase of Limestone production from 2.3 MTPA to 4.6 MTPA with Total Excavation of 4.736 MTPA (Limestone: 4.6 MTPA + Top Soil 0.136 MTPA), in part of this appeal my affidavit is confined to particularly mine lease no 3 extent of 183.11 Ha located in sidulnama reserve forest compartment no 26 & 27, Nalgonda Division, Telangana state, and at the time of appraisal, approval of the proposal there are some important conditions imposed by the competent authorities that Forest Advisory Committee and M.O.E.F & C.C New Delhi, particularly my submission is about major non compliances of the conditions imposed in F.A.C minutes of meeting, stage 1 and stage 2 Forest Clearances of Bhavani Puram Limestone mine lease no 3.

The Honorable Tribunal passed directions dated: 15th march 2024 to file my objections on the reports submitted by the Respondent no 1, 6 & 8, the respondent's no's 1,6 & 8 is submitted individual reports and counter affidavits to the honorable tribunal, so that apart from raising the scope of my appeal by addressing some more severe violations, important issues in this case based on the submissions



made by respondents, hence I am feeling it is my privilege and responsibility to submit /report the facts and findings accordingly such matters before this Honorable Tribunal.

I am humbly submitting that After perusal of the reports submitted by R-1 and R-6, it is clear that reports were prepared by R-8, which the respondents merely under signed and submitted to the Hon'ble Court, so I am completely denying the reports submitted by the R-1, R-6.

I am humbly submitting that if we observe the reports there is mentioned in some were the reclamation works is done, somewhere mentioned the reclamation works not been done properly , and some were mentioned that reclamation done as per the mine closure plan, but there is no proper proof submitted by any one on the actual status of the abandoned mine leases, even after knowing and reporting the many of non-compliances including con submission of compliance reports from the last 15years, as per their reports they are not even mentioned what action was taken by the authorities, so this is why I have a doubt that is the reports are really prepared by the R-1 and R-6 after verifying the present status of the abandoned mine leases in field or they just under signed on the reports given by the R-8.

Hence now Severe Illegalities and violations of the respondent no:8 some which mentioned in their reports, and some suppressed intentionally is submitting as follows.



Objection No: I Reclamation or Restoration works in the existing mine leases located in the reserve forest lands and specifically abandoned by the M/S Deccan Cements Limited that before commencement of the operations in the mine lease no -3 extent of 183.11Ha as per the Conditions imposed in forest, environmental clearances of this mine lease no-3 Extent of 183.11Ha & Mine lease no -2 73.93Ha located in Reserve forest lands, based on the Apex Court orders and the M.O.E.F & C.C Central Gov't Guidelines.

Objection No: II Illegal Encroachment of reserve forest land to established many of permeant structures by the user agency and regularization of the same with severely violating the Forest Conservation Act 1980, irrespective of the Acts, Laws, Guidelines and Honorable N.G.T Court that includes Apex Court orders.

Objection No: III Compensatory Afforestation scheme on behalf of M.L 2 extent of 73.93Ha is been pending since 1998, till now the said C.A land 60 % out of the total Forest lease area extent 43.93Ha (108.55 Acre) in Sy no 540 Gurrambodu rehabilitation center, Pedaveedu village, Matampalli Mandal, Suryapet District, Telangana State, is not been notified by the state forest department under the C.A Scheme even after completion of more than 25 years.

I am humbly submitting that with relaying The Apex Court Opinion about real meaning of FOREST should be understood as per the dictionary **Food Oxygen Rain Environment Soil Timber** with having this same opinion sentences quoted by the Honorable Supreme court of India, and laid emphasis on three principles that from the basic intergenerational equity.



- I. The first principle relied on is called the principle of 'conservation of options. This requires each generation to conserve the diversity of the natural and cultural resource base in such a manner that the options available to future generations are not restricted. It was submitted that the extent of mining activities being carried on in Odisha indicate that the entire iron ore will perhaps be fully extracted within a period of 30 years and nothing would be available for future generations. Therefore, some sort of a limit would have to be placed on the mining operations.
- II. The second principle relied on is the principle of 'conservation of quality'. This was with reference to the submission that future generations should not be subjected to a quality of the planet worse than what it is today in other words, future generations are also entitled to quality enjoyment of the diversity in the natural and cultural resource base.
- III. The third principle relied upon was the principle of conservation of access' which is to say that future generations have an equitable right to access the diversity of the natural and cultural resource base as is available to the present generation.



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❖ Detailed Submission about objection no: 1

I am humbly submitting that as per the reports submitted by the respondents they are wontedly creating the confusion with submitting deferent type of statements towards reclamation or restoration of abandoned mined out areas, they are stating that small amount of area partially done the reclamation and balance area kept as water body and that may be utilize for pisciculture, boating and may be utilize as water reservoir and the same respondents are reported that there is no such activities seen in the field because the said activities are non-forestry activities so the abandoned pits left over like open to the sky.

I am humbly submitting that The respondents are must awarded and keep in mind that the said lease areas are not belongs to any other individuals or own patta lands to take decisions as they thought to provide exemptions to the project proponent irrespective of the Acts, Laws and these mine lease areas are completely located in Reserve Forest lands and the said forests are nations property, wealth so the Project proponent should comply the conditions imposed by the Approval Authorities with respect the Acts, Guidelines and Court orders is unconditionally, And it is very clear that this particular Reserve Forest lands allotted to M/S Deccan Cements for captive lime stone mining purpose and no other non-forest activities allowed in the lease area, and the forest area is should be restored and backfilled until getting original topography after completion of mineable ore in the lease area, Towards implementation of this the conditions imposed by the F.A.C and M.O.E.F & C.C in forest clearances Stage-1 and Stage-2 of Mine Lease No 3 extent of





183.11Ha and also earlier mine lease no 2 extent of 73.93 Ha, which is adjacent to the mine lease no -1 & 3 located in saidulnama reserve forest, in this connection there are clearcut guidelines issued by the Ministry of Environment Forests & Climate Change New Delhi and Apex Court orders with stating that there is no compromise in the reclamation and restoration proses because it will completely eliminate the vegetation and it is also impact the future generations that unavailability of land for the any purposes and the area which is disturbed due to the mining activities also to be back filled and restored, as per the Guidelines issued by the M.o.E.F & C.C, Honorable Courts that includes Apex court orders and the same conditions are imposed in the forest clearances of the said mine leases that Mine lease -2 and mine no-3 which is should be complied by the project proponent, it shall be monitored by the state forest department and compliance report on the forest clearances should be submitted to the M.O.E.F & C.C periodically as per the F.C.Act-1980.

I am humbly submitting that as per the reports submitted by the respondents there is 6.5Ha of reserve forest land backfilled / restored up to year 2013 in the Mine lease no: 1 that out of total extent 22.5Ha, there is also mentioned balance left over area was kept as water body, and the said water body may be utilized for pisciculture or boating and utilize as water reservoir, So, it is very clear that there is no progress in the reclamation works in the abandoned mine leases by the user agency except the reported 6.5Ha after commencement of operations in the Mine lease -3, and no reclamation works taken place in M.L no -2 extent of 73.93Ha, before commencement of operations in the M.L no 3 extent of 183.11 Ha.

I am humbly submitting that The respondents are stating there is no waste material generating by the operations of present mine leases so due to non- availability of the waste materials reclamation, restoration or re-grossing works are not possible in the abandoned mine lases so the said abandoned lease areas are left over as water bodies and utilizing for other purposes irrespective of the F.C Act, F.C Clearances and Apex Court Orders this means they are literally violating the Acts and also Contempt of the Apex Court orders.

I am humbly submitting that the respondents R-1 and R-6 are mentioned reclamation in the their reports that reclamation of existing mine leases is initiated by the user agency, state forest department before commencement of the operations in the Mine Lease no -3 extent of 183.11Ha, so there is no concept of that non-compliances of the conditions imposed in the Forest Clearances by the project proponent, and as per their reports the condition imposed in Forest Clearances by the Authorities is only for initiation and not for the continued progress in the reclamation until getting the self-sustainability of the land here the respondent no-1 and 6 are literally changed the concept and purpose of reclamation and restoration with their justifications.

I am humbly submitting that the respondent no 1 reported that there is no such activities pisciculture, boating and utilization of the water seen which mentioned by the project proponent and respondent no 6 and there are many observations made in the inspection report with stating that no proper slopping provided to the deep pits, no proper green belt was maintaining as per the C.P.C.B Guidelines around the Mine lease areas most importantly no compliance /





monitoring reports was submitted by the project proponent to the M.O.E.F & C.C on the said forest clearances which is should be duly submitted by the P.P and monitored/certified by the State Forest Department and shall be submitted to M.O.E.F & C.C, The recommendations / reports made by the respondents on behalf of the reclamation works is completely against to the F.C. Act 1980, M.O.E.F & C.C and the Apex Court orders, because the said all mine leases operated and abandoned by the P.P is completely Reserve Forest Lands, these forest lands is allotted for the Captive lime stone mining purpose only with imposing the specific conditions as per the F.C.Act 1980, E.P. Act 1986, C.P.C.B Guidelines and also careful consideration of Environment Impact Assessment at the project location so the conditions imposed by the Authorities is subject to fulfillment of these Acts provisions the project proponent must and should be comply but the forest officers are not wontedly supporting the violations and illegalities irrespective of the F.C Act 1980, E.P Act 1986 provisions, Laws, Guidelines and it is very unfortunate that the respondents are not even considering the Apex Court orders to compliance of the said conditions.

I am Humbly submitting that as per the reports submitted by the respondents the Reclamation works in the abandoned mine leases as per the condition no-(i) imposed by F.A.C, Condition No (XXI) in Forest Clearance stage-1 & condition no (XX) in Forest clearance Stage- 2 is already taken up by the user agency apart from that 6.5Ha of reserve forest land has been restored and remaining area left over as water body as per the I.B.M Mine closure plan. And stated that the activity is taken up Before commencement of operations in the Mine lease-3 extent of 183.11 Ha, so the mining operations in

M.L -3 is not been violated the Forest Conservation Act 1980, It means they are reporting that as per the conditions imposed in the Forest clearances and Forest Advisory committee minutes the reclamation work was initiated so that the condition is complied by the user agency hence there is no concept of Noncompliance's and violation of the forest conservation Act 1980.

I am humbly submitting that the condition no – (XVI) in Stage -1 forest Clearance and condition no (XV) in Sate -2 Forest Clearance as follows.

- *The user agency shall undertake mining in a phased manner taking due care for reclamation of the mined-out area. The concurrent reclamation plan shall be executed by the user agency from the very first year, and an annual report on implementation thereof shall be submitted to the Nodal Officer, Forest (Conservation) Act, 1980, State of Andhra Pradesh and the Chief Conservation of Forests (Central), Ministry of Environment & Forests regional Office (Southern Zone), Bangalore. If it is found from the annual report that the activities indicated in the concurrent reclamation plan are not being executed by the User Agency, the nodal officer or the Chier Conservator of forests (Central) may direct that the mining activities shall remain suspended till such time, such reclamation activities are satisfactory executed.*

And the condition for reclamation or restoration of the earlier mine lease was also imposed in the forest clearance of Mine Lease -2 That Extent of 73.93 Ha in Condition no (IV) with stating that.





- *The mined-out area will be reclaimed as per the plan with satisfaction of the Forest department until the area vegetation becomes self-sustaining.*

As per the above mentioned conditions in forest clearances of mine lease no 2 and mine lease no -3, the user agency continue the reclamation activities until the vegetation becomes self-sustaining and the area shall be fit for plantation and the progress of this activity should be reported in the compliance reports and it shall be monitored by the state forest department, but as per the counter submitted by the R-1 it proven in their reports the user agency not even submitting the compliance reports and also not been following the conditions imposed in the Forest Clearances and also mentioned that is no progress in the reclamation since 2013, but this condition to progress on reclamation, restoration is not taken in to the consideration by the respondents, the reason behind of this should be shown to this hon'ble tribunal.

I am humbly submitting that here the conditions imposed in the Forest Clearances is subject to fulfillment of Forest Conservation Act 1980, and mining operations in the lease areas should be carried out as per the E. P .Act 1986 , E.I.A Notification 2006, C.P.C,B & State P.C.B Guidelines and F.C Act 1980 and its subsequent amendments because the impact assessment was taken in to the consideration as per these E.P & F.C Acts and C.P.C.B Guidelines , provisions. So, the Mining plan should be prepared and mining operations should be carried out according to the assessment done by the M.O.E.F & C.C and state PCB as per the Acts here the state forest department and M.O.E.F & CC is mentioned that reclamation works are done as per

the I.B.M Mine closure plan, but the Apex court in the judgement of W.P (C) No 114 of 2014 common cause Vs Union of India Dated: 02.08. 2017, said the Mining plan is only subordinate to the E.C, so regressing, restoration and reclamation activities should be carried out as per the conditions imposed in the Forest Clearances, with subject to M.O.E.F & CC Guidelines and Apex Court orders.

Conclusion extracted as per the R-1 M.O.E.F & C.C and R-6 D.F.O Surya pet District Reply affidavits on this Particular Abjection No. I

- The reclamation activities are not satisfactory as per the conditions imposed in the Forest Clearances.
- The dug-up material is stored in the lease area with violating the Forest Clearances.
- There are no such activities going on related pisciculture, boating as state forest department and P.P reported even those are non-forest activities.
- There is no proper slopping provided to the mined-out pits.
- There are no greenbelt maintaining by the U/A as per the Forest Clearances Conditions.
- The compliance reports as per the Forest Clearances are not been submitting by the user agency and the state forest department not even monitoring the compliance of the conditions imposed by the authorities from the decade of period.
- The compliance reports of the M.L 3 submitted by the 1st respondent is clearly indicates the all above violations.



I am humbly submitting that as per the conditions imposed by the approval authorities in the Forest Clearances, Environmental Clearances for their captive limestone mine lease the Project Proponent should be reclaimed restored mined out area until the vegetation become the self-sustaining, the progress of the reclamation activity should be monitored by the state forest department and the compliance reports on these conditions should be submitted to the M.O.E.F & C.C (central) periodically otherwise all the remain activities shall be suspended until such reclamation activities are satisfactory executed, so all the forest clearances of the 8th Respondent shall be suspended as per the Acts and Approval Authorities guidelines.

All the relevant documents and evidences related objection -3 are attached as "A-I Annexures" for the consideration of the This Hon'ble Tribunal.

❖ Detailed Submission about objection no: II

I am humbly submitting that the user agency M/S Deccan Cements Limited Illegally Encroached huge amount of Reserve Forest lands and the state forest officers submitted the false justifications and suppressed the facts Illegally regularized the encroached reserve forest lands with acting in favor of the user agency (Encroacher), that irrespective of the Forest Acts, Laws Guidelines and not even considering the Honorable Supreme court of India and National Green tribunal judgements.



The user agency illegally encroached Reserve Forest land extent of 85 Acre (33Ha) as per the evidences , forest and revenue records the same extent is certified by Forest flying squad in their field inspection report Dated: 08.06.2020, the same is accepted and acknowledged by the User Agency, but after the flying squad detailed report the D.F.O Surya pet is wontedly reduced the extent of encroachment without any detailed report and simply stated that instead of 85 Acre (33 Ha) of encroachment 20 Acre (8.05Ha) of reserve forest land is encroached by M/S Deccan cements Limited and issued one show cause notice with certifying that the said encroachment taken place in between the years 2011-2014 dated : 01.07.2020, and the user agency again accepted the same extent 20 Acres (8.05Ha) of forest land encroached by them in saidulnama reserve forest Compartment no's 26 & 27 which is adjacent to their cement plant and they have established many permanent structures in the encroached forest land like huge structures related to the cement plant, laid a railway siding etc. but there is no action has been initiated by the forest department on this illegality As per the Forest Conservation Act 1980, its subsequent amendments M.O.E. F & C.C Guidelines and the Apex Court's orders.

I am humbly submitting that as per all the existing guidelines Without prior approval from the competent authority Any kind of non-forest activity in the forest lands is treated as a Violation of F.C. Act-1980 also it will be treated as punishable offence, especially any kind of encroachment taken place after the 1980 should be evicted and those encroachments are not even eligible for the regularization so the encroachments taken place after the commencement of the



F.C Act -1980 are should be evicted as per the provisions, laws and guidelines which exist in our country.

I am humbly submitted that it is very clear that after commencement of the forest conservation Act1980 the Ministry of Environment and Climate Change clearly issued guidelines to all the states with explaining the categories of eligibility and in-eligibility of the forest land encroachments by any parties, persons and entities there is no provisions non forest activities in the forest lands without prior approval from the authority is as offence and proper action to be initiated on the encroached under the provisions of the section 3 of forest conservation act 1980, and the encroached forest land shall be evicted and restored as its original character, and any encroachment taken place after commencement of the F.C.Act 1980, is un-eligible for regularization, it means very clear that no ex-post facto approvals are possible under the Forest Conservation Act-1980, and the same

I am humbly submitting that the Honorable N.G.T principal Bench, and Supreme court of India passed orders in many cases based on the F.C.Act-1980, M.O.E.F & C.C strong guidelines, stating that there is no provisions for the regularizations of forest lands encroachments after commencement of the Forest Conservation Act1980, and forest lands encroachment should evicted without any ambiguity, the concerned forest officers shall take steps to elimination of forest lands encroachments in this connection so many cases got same outcome on the forest lands encroachments, that encroachments are evicted even there is no provision provided for Forest Dwellers, Tribes and farmers so there is no exemption



provided in the F.C Act and clearcut guidelines should be followed to maintain strong / proper forest conservation system to stop or prevent the illegal encroachments of forests effectively.

I am humbly submitting that in this case the Telangana state forest officers are completely colluded with Project Proponent to obtain forest clearances for illegally encroached reserve forest land irrespective of the Acts, M.o.E.F & C.C guidelines and also, they won't pay any respect on the honorable court orders and join hands with P.P to support this illegality and submitted false recommendations, justifications to the Ministry Of Environment Forests & Climate Change Central to getting forest clearances for illegally encroached reserve forest land, with completely violating the of the Acts, Laws.

I am humbly submitting to this honorable tribunal may understand that how the forest department officers working to protect project proponent from consequences of the illegalities instead of discharge their prescribed duties to protecting and safe guard the Forests, from this kind of illegal encroachers.

Conclusion extracted as per the R-8 M/S Deccan Cements Limited counter affidavit on this Particular Abjection No-II.

- The project proponent M/S Deccan Cements Limited Illegally Encroached Reserve Forest Land and the same was admitted by the project proponent there is no conflict in this.
- The Forest Flying squad reported that amount of encroachment is more than 32.5Ha in 2 compartments that 26 and 27th



compartment of saidulnama reserve forest, suryapet division, along with the detailed report and maps and all.

- The D.F.O Suryapet is simply certified that forest land encroachment is only 8.02ha in saidulnama reserve forest Compartment no 26, that without any detailed reports.
- The said encroachment taken place in between the period 2011-2016, and this is treated as severe violation of Forest Conservation Aact-1980, and it should be treated as most important these are also clearly mentioned in the show-cause notice and the same accepted by the Project Proponent.
- The State Forest department not even initiated any action on the said sever violation and most important issue.
- The project proponent submitted a proposal for regularization with the acceptance of the state forest department that to cheating the authorities by the proposal named: DCL Railway siding 2 and its associated activities at suryapet District - 8.02Ha.
- As per the provisions of forest conservation act -1980, concerned Ministry Guidelines and Apex court and N.G.T (P.B Delhi) orders the admitted encroachment should be Evicted without any exemption.
- As per the said guidelines, landmark judgments passed by the Hon'ble courts post 1980 encroachments are not eligible for regularization, there is clear cut of date fixed by the all-concern authorities and the same in implementation as a standard policy, towards forest lands encroachments, regularizations.
- The M.O.E.F & C.C Central (Approval Authority) issued stage-1 and 2 Forest clearances, based on the strong recommendations



made by the P.C.C.F Telangana State in R.E.C meeting at the time of appraisal also intentional false reports submitted by the D.F.O Suryapet, irrespective of the F.C Acts , Guidelines and Hon'ble Courts orders, but these forest clearances (regularization) for the illegally encroached reserved forest are completely incompetent.

I am humbly submitting that it is construe that how the forest officers are colluded with the 8th respondent join hands with the violator to get illegal and incompetent approvals (regularization) for the ineligible forest land encroachment.

I am humbly submitting that as per the above the said reserve forest land encroachment regularization proposal and process itself false and completely against the Forest Conservation System, F.C.Act - 1980, its subsequent amendments, M.O.E.F & C.C Guidelines and judgments of the hon'ble Apex court and N.G.T Principle Bench, so the approval shall be suspended and the admitted encroachment should be evicted, therefore the evicted forest land should be restored as its original condition.

All the relevant documents and evidences related objection -3 are attached as "P-II Annexures" for the consideration of the This Hon'ble Tribunal.

❖ Detailed Submission about objection no: III

I am humbly submitting that Mining operations in Mine lease no 2 extent 73.93Ha is commenced in the year of 2000, the entire mine lease is located in saidulnama reserve forest compartment no 27, the



project proponent exploiting the minerals from this lease area since 2000 that more than 24 years with violating the Forest Clearances dated: 07.01.1997 & 22.01.1998 and Environment Clearance dated: 22.11.1999, of this Mine lease that specific conditions are mentioning follows.

Conditions no (I) & (II) in stage-1 Forest Clearance

- *Immediate action should be taken for transfer and mutation of equivalent non-forest land in favor of State Forest Department.*
- *The user agency will transfer the cost of compensatory afforestation over equivalent non-forest land (revised as on date incorporate existing wage structure) in favor of Forest Department.*

Conditions no (II) & (III) in stage-1 Forest Clearance

- *The compensatory afforestation shall be raised over equivalent non-forest land at the project cost. The non-forest land identified for compensatory afforestation will be notified as protected forest under the Indian Forest Act-1927.*
- *Demarcation of the diverted forest land will be done on the ground at the project cost using a 4' feet height concrete pillars having serial no, bearing and distance from pillar to pillar.*
- *The mined-out area will be reclaimed as per the plan to the satisfaction of the forest department.*

Specific Condition no (I) in Environment Clearance as follows:

- *OB Dump should be stacked at earmarked dump site's only and should be kept active for long period monitoring and management of rehabilitated areas should continue until the*





vegetation becomes self-sustaining. Compliance status should be submitted to Ministry of Environment and forests one yearly basis.

I am humbly submitting that as per the reply affidavit submitted by Respondent-1, the D.F.O Surya pet reported that DGPS survey will be taken shortly and area will be notified as RF at the earliest.

I am humbly submitting that the stage-2 (final) Forest clearances issued by the authorities on dated: 22.01.1998, and as per the Forest Conservation Act it is very clear that after the completion of the C.A scheme that including notification as P.F or RF only the proposed forest area will be diverted in favor of the project proponent, but in this case it is so much mysterious that why the state forest department is not able to notifying the said C.A land that should be answered to this Hon'ble tribunal.

I am humbly submitting that this issue was already raised in the earlier case OA No 33 of 2016, and the state forest department submitted a report in their affidavit to this honorable Tribunal dated : 18.03.2021, with stating that the notification will be done in with in 6months, but still there is no progress in the proses of notifying the land and the C.A scheme as per the F.C.Act 1980 not fulfilled this is completely against to the Acts and provisions of the forest conservation system and it is a completely violation of the F.C.Act 1980.

I am humbly submitting that there is a big conspiracy in this issue, that actually the said land 43.93 Ha is not available in the field this issue already known to the concern forest officers, but they are wontedly suppressing the facts, in this connection earlier years



together there are so much of correspondence was taken place in-between project proponent and forest department, after the all of this the project proponent submitted the letter with requesting the state forest department stated that they (P.P) need some time to arrange alternate C.A Land in place of the present disputed land and until then they will restrict their mining activities in 30.0Ha out of the lease area 73.93 Ha, as per the Project proponent undertaking until the dispute was get cleared the mining activities should be carried out in the 30.0Ha only, but the dispute was not cleared till now and C.A.G Report for the earlier state of Andhra Pradesh in the year of 2013 -2014 in economic sector also indicated that the C.A Land 43.93Ha is in pending since then, but there is no restrictions was followed by the project proponent as they committed and no action was taken by the forest department, finally the total lease area was broken up and entire mineral was exhausted in the lease area now the total mined out quantity from this lease area is more than 2.4crores of tones, in this aspect out of the total excavated quantity 58% mineral will be consider as illegal due to non-hardcovered the C.A land, and appropriate fine shall be imposed on the P.P as per the Honorable Supreme Court of India Judgment on behalf of the W.P (C) 114 of 2014, instead of taking steps on this the state forest department completely supporting the violator irrespective of the Forest Conservation Act 1980 and Apex court orders.



Conclusion extracted as per the R-1 M.O.E.F & C.C and R-6 D.F.O Surya pet District Reply affidavits on this Particular Abjection No-III.

- The Mine Lease -2 extent -73.93 Ha, located in saidulnama reserve forest compartment no 27, is allotted for the captive limestone mining purpose in the year -1999.
- The mine lease no 2 is in operation since the year -2000, and still the mine is operational.
- The Compensatory Afforestation Scheme that included mutation, notification as P. F (or) R. F as per the F.C. Act-1980, should be done before the stage -2 approval.
- The condition about C.A Land and its complete scheme is clearly mentioned in the Forest Clearances.
- The C.A Land offered by the Project ponent in two different places, two different extents,
- The C.A Land offered extent 30.04Ha (74.20 Acre), Nambapur village, P.A Palli Mandal, Nalgonda District, and 43.909Ha (108.50 Acre) pedaveedu village, adjacent gurrambodu reserve forest block, matampalli Mandal.
- The C.A land extent 30.04Ha (74.20 Acre) located in Nambapur, village, P.A Palli Mandal process that including notification is completed as per the Scheme,
- The C.A Land extent 43.909Ha (108.50 Acre) located in pedaveedu village, gurrambodu, matampalli mandal, that up to 60% of the lease area is not been notified till now as per the C.A Scheme.
- As per the conditions imposed in the forest clearances and F.C. Act-1980, without complete the C. A Scheme utilization of the

forest area is violation of the F.C Act and the said approval is cannot be considered as per the F.C. Act-1980.

- The state forest department is not able to notifying the C.A land in field because there is an unavailability of the said land, this issue is noticed by the forest officers many years back and the same admitted by the user agency then given one request letter to the forest department with stating that they will provide same amount of C.A land alternatively in the year of 2002, until then they will restrict their mining activities up to 30.04Ha which is they have completed the C.A Scheme.
- The project proponent not given alternative non-Forest land under the C.A Scheme since the past 25 years but the state forest officers are saying that they will notify the same soon.
- Now the mineable ore in the mine lease -2 is almost over but the project proponent is wontedly keeping that mine is alive to escape from the reclamation activity.

I am humbly submitting that the C.A Scheme 60% of the mine lease -2 is not excecated by the state forest department and project proponent also wontedly misleading the facts, so without completing the C.A Scheme Forest clearance is invalid, when the forest clearance is invalid, the Apex court is clearly said that mining activities in the forest lands should be carried out with complying the forest Acts, and forest clearances otherwise the said mining operations are considered as illegal, hence appropriate penalty 100% shall be imposed on this kind of illegal mining activities as per the Judgement of Apex Court in W.P (C) no 114 of 2014, dated : 02.08.2017.





I am humbly submitting that as per the apex court orders the mining operations in the mine lease no -2 minimum up to 60% consider as illegal, so operations in the mine lease -2 shall be stopped immediately and appropriate penalty shall be imposed on 60% of the mined-out mineral from this mine lease according to the Acts and Judgements of the Apex Court.

All the relevant documents and evidences related objection -3 are attached as "P-III Annexures" for the consideration of the This Hon'ble Tribunal.

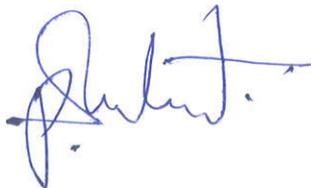
Interim Prayer:

It is therefore most humbly prayed that this Hon'ble Tribunal may be pleased.

- A.** Pass such order or orders to stop all the captive lime stone mining operations in the all-mine all leases that Mine lease -2 and Mine lease-3 immediately, located in the reserve forest lands those allotted to M/S Deccan Cements limited, until they comply with all the conditions imposed in the Forest and environmental Clearances by the Approval Authorities as per the Acts.
- B.** Pass such order or orders to appoint an enquiry commission to find out the actual status of the reclamation or restoration works as per the conditions imposed in F.C's & E.C's , Apex Court Directions and know the all illegalities.
- C.** Pass such order or orders to stop the trespassing immediately in the illegally encroached, regularized reserve forest land.

Main Prayer: -

- I. I am therefore most humbly praying that this Hon'ble Tribunal to please take cognizance of the facts, evidences and pass such orders to quash the Environmental Clearance EC. Identification NO. EC 23A001TG110250, Dated: 19.06.2023. that Project Title increasing the production capacity from 2.3 MTPA to 4.6MTPA in the Mine lease -3 area, located in saidulnama reserved forest compartment no 26 & 27 Ravipahad Village, Palakeedu Mandal, Suryapet District, Telangana State, issued by the respondent no Respondent no-1, pass such orders to strictly compliance of the conditions imposed in the forest clearances, environmental clearances and to the follow the Apex Court orders towards reclamation, restoration of the abandoned mine leases completely which is operated and abandoned by the respondent no -8.
- II. I am therefore most humbly praying this Hon'ble Tribunal to pass the orders to squash the Forest Clearance F.C Identification No. F.NO.4-TSC182/2021-HYD/135, Dated: 15th March 2023, the project titled Proposal for Regularization of 8.02ha of illegally encroached Forest area in saidulnama reserve forest of Surya pet division for establishing part of the railway siding and associated activities and other permanent structures in Surya pet district in favor of M/S Deccan cements Limited (DCL), That Respondent no-8, also praying to pass the orders to evict illegally encroached reserve forest land by the R-8 and restore the forest land as its original status.



- III. *I am most humbly praying this Hon'ble Tribunal for pass such orders to quash the forest, environmental clearance of Mine lease-2 extent of 73.93Ha located in saidulnama reserve forest land due to non-compliance of the conditions imposed in the approvals, non-completing the Compensatory Afforestation Scheme since 1998, initiate the state mining authority to consider the entire mining operations in the mine lease no 2 is illegal and appropriate fine shall be imposed on the total quantity which is exhausted from the mine lease -2 as per the judgement of W.P (C) 114 of 2014, Common cause V/S Union of India.*
- IV. *I am humbly praying this Hon'ble Tribunal that Even though the illegal activities are taking place in the forest lands on such a large scale, the concerned authorities are not responding at all, instead of that they are Filing false reports even directly to the Honorable Courts, it will not only cause serious damage to the environment, forest and mineral wealth of the country but also have a serious adverse effect on the survival of the future generations, Therefore I am praying this Hon'ble tribunal to considered this matter seriously and requesting that those who have committed these illegalities and the officials who stand by the illegalities with violating the Acts and provisions should be punished according to the law.*

I am most humbly praying this Hon'ble Tribunal with having strong believe that protecting the forests is most important fundamental element for survival of human, animal and Nature present, future generations. and raising voice against the





Environmental degradation, Destruction of Forests and looting the minerals is every citizen responsibility. So here with I am making this submission as a responsible citizen for the interest of the state. According to the reports of world-renowned environmentalists, the only solution we have is strictly follow the environmental, forest conservation and mineral conservation laws to prevent environmental degradation, if Failing to follow those, should be faced very much serious vagaries of nature, these man-made Highrise buildings and concrete jungles cannot protect us and also future generations livelihood , from the unnatural changes in nature and the terrible calamities caused by them that we should realize and prevent those illegalities, I am making this submission as a responsible Indian citizen, and also having awareness on Ecological imbalance due to the Environmental degradation Forests lands destruction improper Mineral Conservation System.

I am most Humbly praying this Hon'ble Tribunal to pass the appropriate order or orders deem fit and proper as per the Law in the interest of justice.

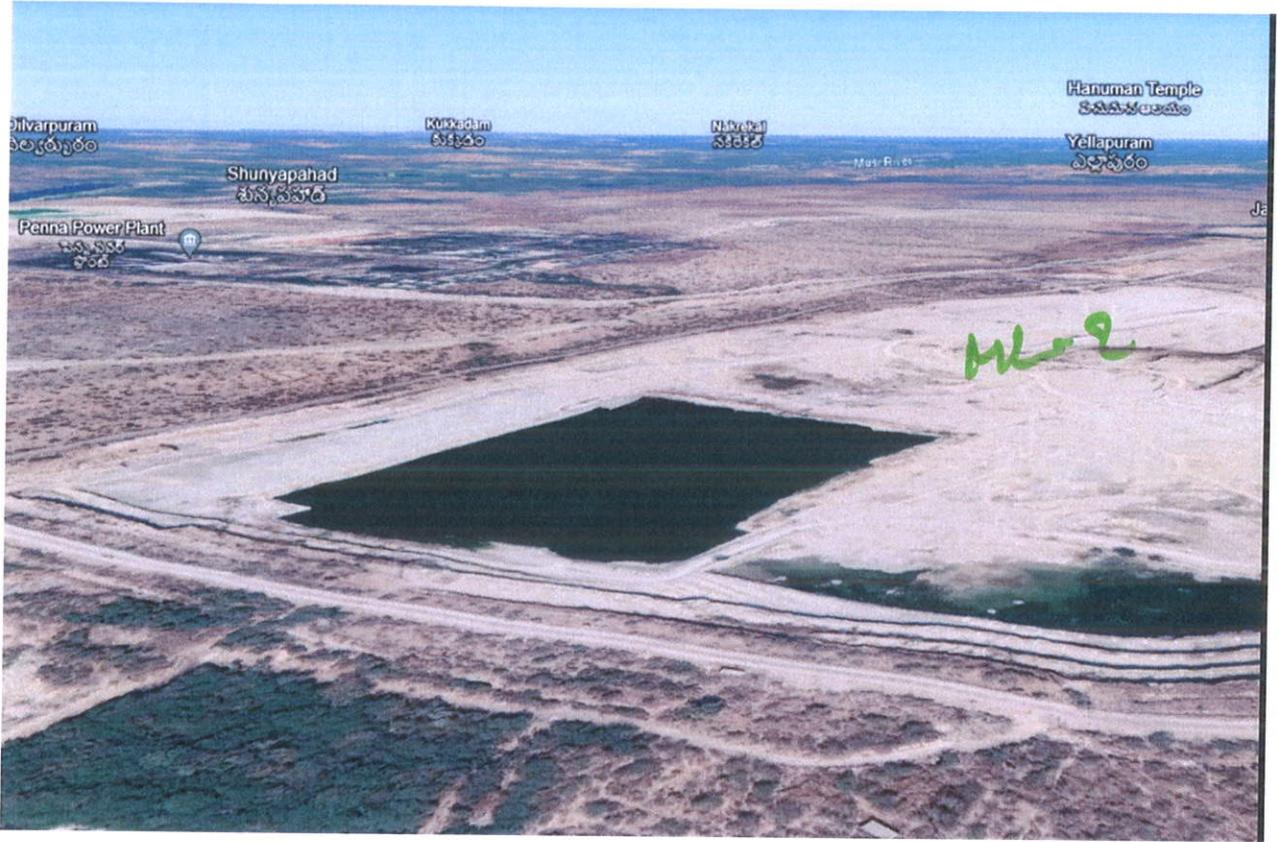
Applicant for Appeal No: 27 of 2023.

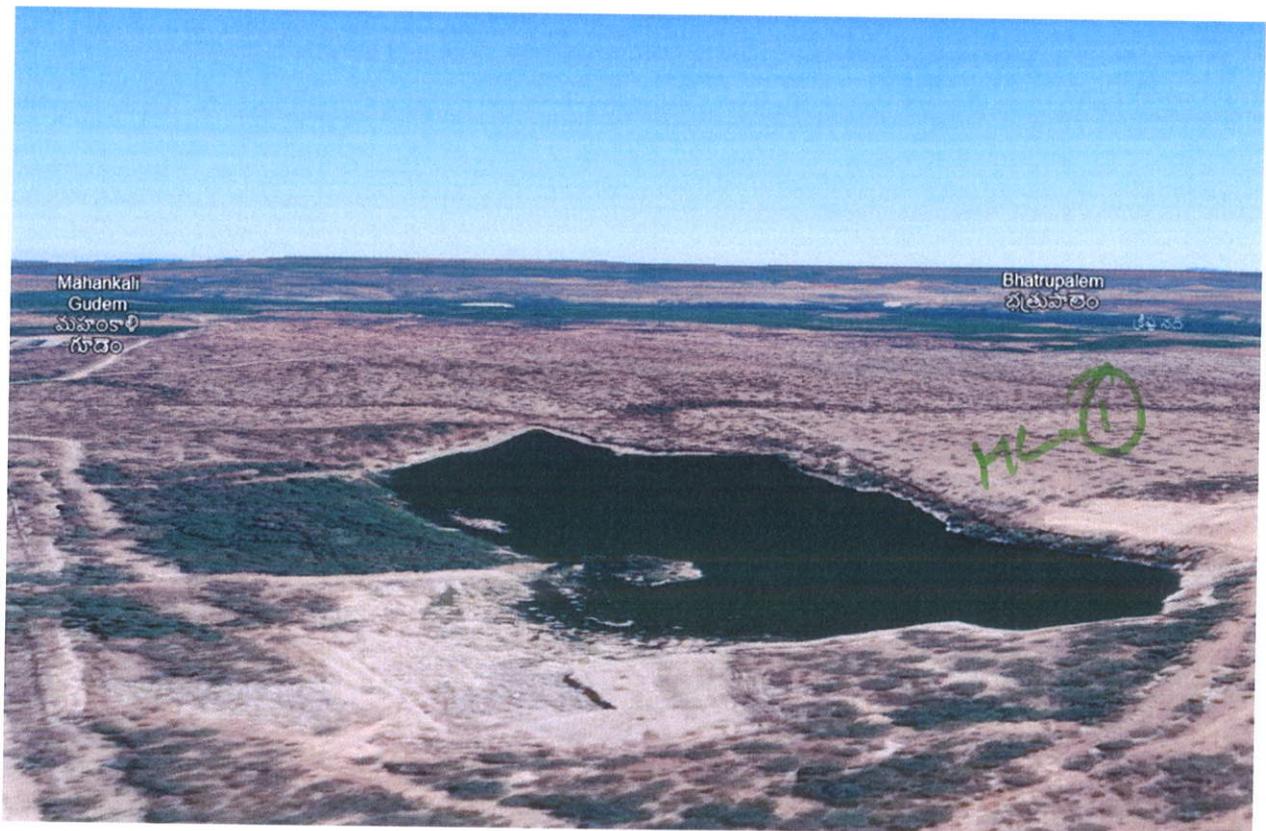
Pasupuleti Suresh Bau, (Party in Person).

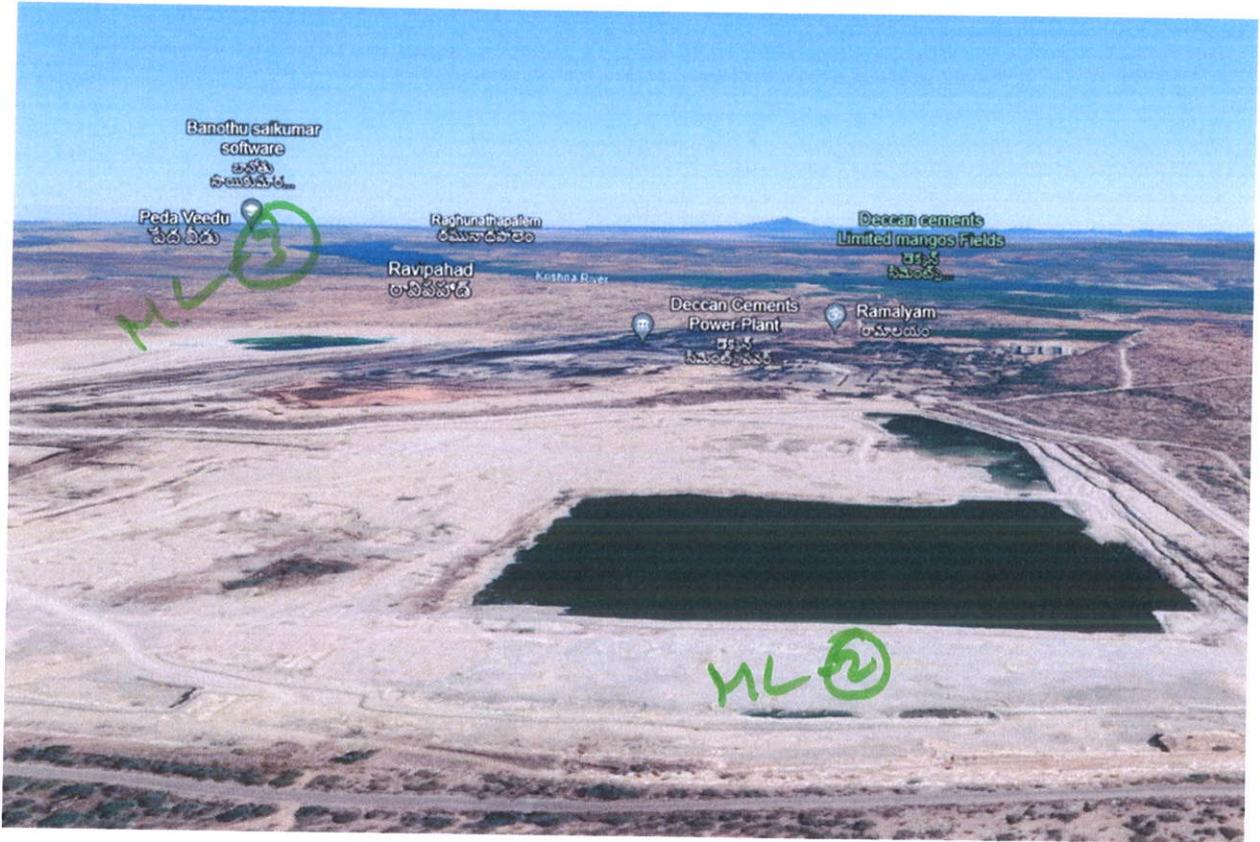
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REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 114 of 2014

Common CausePetitioner

versus

Union of India and Ors. ...Respondents

WITH

WRIT PETITION (CIVIL) NO. 194 of 2014

Prafulla Samantra and Anr.Petitioners

versus

Union of India and Ors. ...Respondents

J U D G M E N T

Madan B. Lokur, J.

1. The facts revealed during the hearing of these writ petitions filed under Article 32 of the Constitution suggest a mining scandal of enormous proportions and one involving megabucks. Lessees in the districts of

Signature Not Verified

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SANJAY KUMAR
Date: 2014.08.02
10:54:24 IST
Reason:

Keonjhar, Sundergarh and Mayurbhanj in Odisha have rapaciously mined iron ore and manganese ore, apparently destroyed the environment and forests and perhaps caused untold misery to the tribals in the area. However, to be fair to the lessees, they did the detail steps taken to ameliorate the hardships of the tribals, but it appears to us that their contribution is perhaps not more than a drop in the ocean – also too little, too late.

Facts leading up to the report of the Central Empowered Committee

2. Rabi Das, the editor of a daily newspaper called Ama Rajdhani filed I.A. No. 2746-2748 of 2009 in a pending writ petition being *T.N. Godavarman v. Union of India*.¹ He prayed, *inter alia*, for the following directions from this Court:

- a) Issue a direction to the Central Empowered Committee to conduct an exhaustive fact finding study of the illegal mining in Keonjhar, Sundargarh and other Districts of Orissa;
- b) Direct appointment of a “Commission” to investigate and study the modalities of the illegal machinations, fix responsibility on individuals (in Government and outside it) and recommend remedial measures to be immediately implemented by the Government of India and the Government of Orissa;
- c) Direct the Respondents to take effective and appropriate action to ensure closure/stoppage of all the illegal mining activities in the concerned areas and direct prosecution and punish all those found guilty of this illegal mining in violation of the Mines and Minerals (Development and Regulation)

¹ W.P. No. 202 of 1995

Act, 1957, Forest (Conservation) Act, 1980 and other relevant laws.”

3. The applications were taken up for consideration on 6th November, 2009 when notice was issued to the Central Empowered Committee (for short ‘the CEC’) to file its report/response within six weeks.

4. On 26th April, 2010 the CEC submitted an interim report which was noted by this Court and taken on record. The report was of a general nature but contained quite a few recommendations. Some of the recommendations presently relevant are as follows:

“(b) Even otherwise the Rule 24-A(6), MCR, 1960 does not authorize the lessee to operate a mine without the statutory clearances/approvals. Therefore, in respect of a mine covered under the ‘deemed extension’ clause, the mining operations should be permitted to be undertaken in the non forest area of the mining lease only if (i) it has the requisite environmental clearance; (ii) it has the consent to operate from the State Pollution Control Board under the Air and Water Acts; (iii) Mining Plan is duly approved by the competent authority; and (iv) the NPV for the entire forest falling within the mining lease is deposited in the Compensatory Afforestation Fund.

The mining in the forest land included in the mining lease should be permissible only if, in addition to the above, the approval under the FC Act/TWP has been obtained;

(c) No forest land can be leased/assigned without first obtaining the approval under the FC Act. Therefore, the forest area approved under the FC Act should not be lesser than the total forest area included in the mining leases approved under the MMDR Act, 1957. Both necessarily have to be the same. In view of the above, this Hon’ble Court while permitting grant of Temporary Working Permission to the mines in Orissa and Goa has made it one of the pre-conditions that the NPV will be paid for the entire forest area included in the mining

leases. Similarly, all the mining lease holders in Orissa should be directed to pay the NPV for the entire forest area, included in the mining lease;

- (d) In Orissa, substantial areas included in the mining leases as non forest land have subsequently been identified as DLC forest (deemed forest/forest like areas) by the Expert Committee constituted by the State Government pursuant to this Hon'ble Court's order dated 12.12.1996. While processing and/or approving the proposals under the FC Act in many cases such areas have been treated as non-forest land. It is recommended that (i) the NPV for the entire DLC area included in the mining lease, after deducting the NPV already paid, should be deposited by the concerned lease holder and (ii) the mining operations in the unbroken DLC land (virgin land) should be permissible only if the permission under the FC Act has been obtained/is obtained for such area. Keeping in view the peculiar circumstances as was existing in Orissa and subject to the above, the mining operations in the broken DLC land may be allowed to be continued provided the other statutory requirements and Rules are otherwise being complied with."

The report concluded by recording as follows:

- " a) an attempt has been made for the first time by the CEC to comply and analyse the status of all the mining leases in a State and to suggest effective and remedial measures - something made possible because of the unstinted cooperation extended by the senior functionaries of the Forest and Mines Departments of the State Government; and
- b) the above recommendations if accepted and implemented will, besides ensuring that mining is done in compliance with the statutory provisions, result in recovery of additional amount towards the NPV etc. running into hundreds of crores of rupees. It would be appropriate that a part of this additional amount, say 50% is used through a SPV for undertaking specific tribal welfare and area development works so as to ensure inclusive growth of the mineral bearing areas. The CEC proposes to file detailed schemes in this regard for seeking permission of this Hon'ble Court provided the State

of Orissa as well as the MoEF endorse the course of action proposed above.”

The significance of the second conclusion will be discussed by us a little later.

5. Notice was issued on the report returnable on 7th May, 2010. On the adjourned date, the following order was passed by this Court:

“The CEC has filed its Report. The State would like to file its response. Six weeks time is granted for the same. The recommendations of the CEC which are acceptable to the State Government can be complied with.”

It may be mentioned that some of the recommendations made by the CEC have been accepted and implemented by the State of Odisha.

6. The issue of mining in Odisha again came up for consideration on 16th September, 2013 and this Court passed the following order:

“We call for a report from the Central Empowered Committee within a period of six weeks. We direct that the parties of the State Government of Odisha and the Central Government will cooperate with the Central Empowered Committee to enquire into the matter and furnish a report.

The matter be listed on a Monday after six weeks.”

7. With reference to the order passed on 16th September, 2013 the CEC conducted an inquiry and some information was sought from M/s Sarda Mines Private Limited (for short ‘SMPL’). This was objected to by SMPL

who filed an application which was taken up for consideration on 9th December, 2013. The following order was passed on that day:

“By our order dated 16th September, 2013, we had called for a Report from the Central Empowered Committee within a period of six weeks. It is stated on behalf of the Central Empowered Committee that the Report could not be ready as part of the information called for have not been furnished by the State Government.

Mr. Venugopal, learned senior counsel for the applicant M/s. Sarda Mines Private Limited in IA No.3721 submits that since some of the matters are pending before the High Court, a prayer has been made for not furnishing the required information to the Central Empowered Committee.

List this matter in the second week of January, 2014.

In the meantime, the Central Empowered Committee may not submit its final Report.”

8. The matter was again taken up on 13th January, 2014 and this Court passed the following order:

“We have heard learned counsel for the parties.

We have also perused the letter dated 17th October, 2013 of the Member Secretary, Central Empowered Committee sent to the Chief Secretary, Government of Odisha along with its annexures and in particular, the Statement of Details of information and documents sought by Central Empowered Committee for the meeting convened on 30th October, 2013, which cover forest and environmental issues.

We, accordingly, modify the order dated 9th December, 2013 and direct the Central Empowered Committee to submit its final report on the queries made by the State Government with regard to the details of the documents sought for in the letter dated 17th October, 2013 within a period of six weeks.

The Report will not cover cases other than forest and environmental issues.

The lessees and others from whom information is sought for will cooperate if they do not cooperate the Central Empowered Committee will give its report.

A copy of the interim report of 26th April, 2010 will be furnished to the learned counsel appearing for the State of Odisha.

This matter be listed on 20th January, 2014 for consideration of the recommendations made by the Central Empowered Committee in the said Report dated 26th April, 2010.”

Thereafter and partly based on reports given by Justice M.B. Shah, a retired judge of this Court, holding a commission under the Commissions of Inquiry Act, 1952 a writ petition being W.P. (C) No. 114 of 2014 was filed by Common Cause. Several prayers were made in the writ petition, and some of the more significant prayers read as follows:-

“(a) Issue a writ of mandamus or any other appropriate writ directing the Union of India and Government of Odisha to immediately stop forthwith all illegal mining in the State of Odisha and to terminate all leases that are found to be involved in illegal mining and mining in violation of the provisions of the Forest Conservation Act 1980, the environment laws and other laws.

(b) Issue a writ of mandamus or any other appropriate writ directing the Union of India and Government of Odisha to take action against all the violators involved either directly or indirectly in illegal mining including those named in the report of Justice Shah Commission.

(c) Issue a writ of mandamus or any other appropriate writ directing a thorough investigation by an SIT or CBI under the supervision of this Hon’ble Court, as is recommended by the Justice

Shah Commission into illegal mining in Odisha and collusion between private companies/individuals and public officials of the State/Central Governments.

xxx

xxx

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(e) Issue a writ of mandamus or any other appropriate writ directing the respondents to recover the illegally accumulated wealth through illegal mining and related activity, as per Section 21(5) of the MMDR Act, 1957 [Mines and Minerals (Development and Regulation) Act, 1957] and launch prosecutions under Section 21(1) of the MMDR Act 1957, and direct that the money recovered would be used for the welfare of local communities, tribals and villagers.”

9. The writ petition was taken up for consideration on 21st April, 2014 when the following order was passed:

“We have heard the preliminary objections with regard to the writ petition and we are not convinced that the writ petition is not maintainable.

Issue notice.

As the State of Odisha, Union of India and the CEC have already been served with the notices, no further notices be issued to them.

Notice, however, be issued to respondent nos. 4 and 5 returnable within four weeks.

It appears from the averments in paragraph 14 of the writ petition that several lessees are operating without clearances under the Environment (Protection) Act, 1986 and the Forest (Conservation) Act, 1980, and without renewal by the Government. Hence, an interim order needs to be passed in respect of these lessees who are operating the leases in violation of the law.

For consideration of the interim order that should be passed, only this writ petition be listed next Monday, the 28th of April, 2014, as first item. It will be open for all parties and intervenors/proposed intervenors to file their respective affidavits.

CEC, in the meanwhile, will make out a list of such lessees who are operating the leases in violation of the law. This list be prepared by the CEC without reference to the Shah Commission's Report.

Liberty is given to the parties to produce their papers before CEC. The State of Odisha and the Union of India will cooperate with CEC to prepare the list."

Report of the Central Empowered Committee

10. The CEC gave its final report on 25th April, 2014 which was considered by this Court and a detailed interim order was passed on 16th May, 2014.² The sum and substance of the final report dated 25th April, 2014 and the interim order is that in the districts of Odisha that we are concerned with, namely, Keonjhar, Sundergarh and Mayurbhanj, the total number of leases granted for mining iron and manganese ore are 187. Of these, 102 lease holders did not have requisite environmental clearance (under the Environment (Protection) Act, 1986) or approval under the Forest (Conservation) Act, 1980 or approved mining plan and/or Consent to Operate under the provisions of the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1981. This Court directed that mining operations in these 102 mining leases shall remain suspended but it will be open to such lease holders to move the concerned authorities for necessary clearances, approvals or consents and

"as and when the mining lessees are able to obtain all the
2 Common Cause v. Union of India & Ors. (2014) 14 SCC 155

W.P. (C) Nos. 114/2014 etc.

clearances/approvals/consent they may move this Court for modification of this interim order in relation to their cases.”

11. This Court also found that 29 out of 187 mining leases had been determined or rejected or had lapsed. It was directed that mining operations in these 29 mining leases will also remain suspended but it would be open to all these concerned lessees to move the authorities for necessary relief and as and when they get the appropriate relief, they could move this Court for modification of the interim order.

12. This Court also found that 53 iron ore/manganese ore mining leases were operational and that they had necessary approvals under the Forest (Conservation) Act, 1980, consent to operate granted by the Odisha State Pollution Control Board and also approved mining plans. (There is no specific mention about environmental clearance). In addition 3 mining leases were located in forest as well as non-forest land, but mining operations were being conducted in non-forest areas of the mining lease as the lease holders did not have approvals under the Forest (Conservation) Act, 1980. Therefore a total of 56 iron ore/manganese ore mining leases were operating in the State of Odisha.

13. As far as the break-up of the 56 operational mining leases is concerned, it was found that 14 mining leases were operating on first renewal basis in

accordance with the deeming provisions of Section 8(2) of the Mines and Minerals (Development and Regulation) Act, 1957 (for short 'the MMDR Act') read with Rule 24-A(6) of the Mineral Concession Rules, 1960 (for short 'the MCR') and 16 mining leases were operating since lease deeds for grant of renewal had been executed in their favour. The remaining 26 mining leases were operating on second and subsequent renewal basis with the renewal applications pending a final decision with the State Government.

14. In respect of the 14 first renewal mining leases, this Court permitted them to continue their operations for the time being in view of the deemed renewal provisions. This Court also permitted 16 mining leases to continue to operate since they had lease deeds executed in their favour. With regard to the remaining 26 mining leases operating on second and subsequent renewal applications, this Court drew attention to the decision rendered on 21st April, 2014 in *Goa Foundation v. Union of India*³ wherein it was held that the provision for a second or subsequent deemed renewal was not available in view of Section 8(3) of the MMDR Act. Consequently, these 26 lease holders were restrained from operating until express orders were passed by the State Government under Section 8(3) of the MMDR Act. Six months time was granted to the State Government to take a final decision on the

3 (2014) 6 SCC 590

renewal applications. This Court left it open to the mining lease holders to apply for modification of the interim order dated 16th May, 2014 on obtaining necessary clearances.

15. During the hearing of these petitions, we were informed that the balance 26 mining leases are now operational in view of the amendment to Section 8(3) of the MMDR Act with effect from 12th January, 2015. However, we are not aware whether these 26 mining leases have the necessary statutory clearances.

16. We may also mention that pursuant to the liberty granted to move for modification of the interim order of 16th May, 2014 we have received 17 interim applications for modification. Through a chart handed over to us in Court on 3rd May, 2017 we have been informed that in respect of two of the 17 applications, that is, Zenith Mining (I.A. No. 45) and Kavita Agrawal (I.A. No. 47), the lease has not been extended or has been determined and they do not have any Environmental Clearance or Forest Clearance. In respect of J.N. Pattnaik (I.A. No. 66), there is no Forest Clearance available. We were also informed that S.A. Karim (I.A. No.9) actually had a working lease and had wrongly been included as a non-operational lease.

17. Be that as it may, learned counsel for the lease holders drew our attention to the record of proceedings of 16th May, 2014 and particularly the following paragraph appearing therein:

“We have passed interim order in a separate sheet. The Central Empowered Committee will give a final report on the Writ Petition by the end of July, 2014 and the matter will be listed in the first week of August, 2014 before the Green Bench.”

We are mentioning this in the context of the order passed on 13th January, 2014 adverted to above to the effect that “The Report will not cover cases other than forest and environmental issues.”

18. In its final report, the CEC has dealt with the following ten topics:

In this final report dated the CEC dealt with the following ten topics:-

- I. Production of iron ore and manganese ore without/in excess of the environmental clearance/Mining Plan/Consent to Operate.
- II. Mining leases operated in violation of the Forest (Conservation) Act, 1980.
- III. Illegal mining outside the sanctioned mining lease areas.
- IV. Mining leases acquired in violation of Section 6 of the MMDR Act, 1957.
- V. Violation of Rule 37 of the Mineral Concession Rules, 1960 by the lessees.
- VI. Illegality involved in the mining leases of Essel Mining & Industries Ltd.

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- VII. Illegalities involved in the mining lease of Sharda Mines (P) Ltd.
- VIII. Massive illegal mining in Uliburu Forest land.
- IX. Inordinate delays in taking decisions by the State Government regarding renewal of the mining leases.
- X. Other issues.”

19. By an order dated 16th January, 2015 objections to the final report were permitted and we have since received quite a few objections. When the matter was taken up for consideration by this Court on 7th October, 2015 and pursuant to the order passed on that date, the learned *Amicus* filed a statement dated 30th October, 2015 in a tabular form dealing with each I.A. filed in respect of the observations and recommendations made by CEC. Thereafter, when the matter was again taken up for consideration the learned *Amicus* filed a note dated 15th March, 2016 wherein the following four issues were flagged:-

- “(i) Leases lapsed under Section 4A(4) of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as MMDR Act, 1957) (11 leases);
- (ii) Violation of Rule 24 of the Minerals (other than Atomic and Hydrocarbons Energy Minerals) Concession Rules, 2016 (hereinafter referred to as MCR, 2016) and Rule 37 of the Mineral Concessions Rules, 1960 (hereinafter referred to as MCR, 1960) (9 leases);
- (iii) Illegal mining in forest lands (20 leases); and

- (iv) Iron ore produced without/in excess of the environmental clearance (each of the operating leases involved).”

20. Insofar as the first issue is concerned, it is common ground that that issue has been fully, conclusively and exhaustively dealt with by this Court by a judgment and order dated 4th April, 2016 (*Common Cause v. Union of India*).⁴ Therefore, the first issue does not survive for consideration by us.
21. As far as the remaining three issues are concerned, these overlap with topics I, II and V dealt with by the CEC. Detailed submissions were made before us by learned counsel for all the appearing parties on these issues as well as by the learned *Amicus* and the learned Attorney General. We propose to deal with them in this judgment and order.
22. We may mention that submissions were also made on topics III and IV identified by the CEC, that is, illegal mining outside the sanctioned mining lease areas and mining leases acquired in violation of Section 6 of the MMDR Act. We will consider these issues as well.
23. As far as topics VI and VII identified by the CEC are concerned, we would like to hear the parties in detail in respect of these issues.
24. No challenges or submissions were made on topics VIII, IX and X and therefore we accept the report of the CEC on these topics.

4 (2016) 11 SCC 455



25. At this stage, we may mention some rather frightening figures mentioned by the CEC in its final report. According to the CEC, excess mining without environmental clearance or beyond what was authorized by the environmental clearance is 2130.988 lakh MT of iron ore and 24.129 lakh MT of manganese ore making a total of 2155.117 lakh MT of iron and manganese ore. This does not include extraction of ore without forest clearance. These figures give an indication of the extent of excess or illegal or unlawful mining carried out.

26. In terms of rupees, according to the CEC the total notional value of minerals produced without an environmental clearance or in excess of the environmental clearance, at the weighted average price of minerals as proposed by the Indian Bureau of Mines comes to about Rs.17091.24 crores for iron ore and about Rs.484.92 crores for manganese ore making a total of Rs.17,576.16 crores. Again, this does not include mining without forest clearance. It is for this reason that we have referred to the megabucks and rapacious mining.

Justice M.B. Shah Commission of Inquiry

27. Apparently, and it appears quite independently of all these developments, the Central Government issued a notification on 22nd November, 2010 under the Commissions of Inquiry Act, 1952 whereby it

appointed Justice M.B. Shah, a retired judge of this Court to conduct an inquiry on the following Terms of Reference:

“2. (i) to inquire into and determine the nature and extent of mining and trade and transportation, done illegally or without lawful authority, of iron ore and manganese ore, and the losses therefrom; and to identify, as far as possible, the persons, firms, companies and others that are engaged in such mining, trade and transportation of iron ore and manganese ore, done illegally or without lawful authority;

(ii) to inquire into and determine the extent to which the management, regulatory and monitoring systems have failed to deter, prevent, detect and punish offences relating to mining, storage, transportation, trade and export of such ore, done illegally or without lawful authority, and the persons responsible for the same;

(iii) to inquire into the tampering of official records, including records relating to land and boundaries, to facilitate illegal mining and identify, as far as possible, the person responsible for such tampering; and

(iv) to inquire into the overall impact of such mining, trade, transportation and export, done illegally or without lawful authority, in terms of destruction of forest wealth, damage to the environment, prejudice to the livelihood and other rights of tribal people, forest dwellers and other persons in the mined areas, and the financial losses caused to the Central and State Governments.

3. The Commission shall also recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority.”

28. In the preamble to the notification appointing the Commission, it was noted that there were reports that mining, raising, transportation and export of iron ore and manganese ore illegally or without lawful authority was being carried on in various States in one or more of the following forms:

- “(a) mining without a licence;
- (b) mining outside the lease area;
- (c) undertaking mining in a lease area without taking approval of the concerned State Government for transfer of concession;
- b raising of minerals without lawful authority;
- c raising of minerals without paying royalty in accordance with the quantities and grade;
- d mining in contravention of a mining plan;
- e transportation of raised mineral without lawful authority;
- f mining and transportation of raised mineral in contravention of applicable Central and State Acts and rules thereunder;
- g conducting of multiple trade transactions to obfuscate the origin and source of minerals in order to facilitate their disposal;
- h tampering with land records and obliteration of inter-state boundaries with a view to conceal mining outside lease areas;
- i forging or misusing valid transportation permits and using forged transport permits and other documents to raise, transport, trade and export minerals;”

It is in the above context that the Terms of Reference were framed.

29 On 1st July, 2013 the Commission gave the First Report on Illegal Mining of Iron and Manganese Ores in the State of Odisha. The report contains an executive summary and very briefly the Commission stated that:

- (i) All modes of illegal mining, as stated in the notification dated 22nd November, 2010 of the Central Government are being committed in the State of Odisha;
- (ii) There is a complete disregard and contempt for law and



lawful authorities on the part of many of the emerging breed of entrepreneurs; (iii) It appears that the law has been made helpless because of its systematic non implementation. The executive summary states that the following are discussed in the report:

“(A) Information regarding mining leases should be placed on website to make mining operations more transparent and to display the information for each lease on the departmental/State website with various conditions which are required to be adhered by the lessee.

(B) Misuse of Rule 24-A(6) of MCR, 1960 [Mineral Concession Rules, 1960] which provides for deemed extension of lease. Application for renewal of mining lease is not decided for one or other pretexts, may be, there is lack of co-ordination among various departments which are required to decide renewal application. There is gross misuse of deemed refusal and deemed extension of both the provisions of renewal of leases (before 27.09.1994 and after) under Rule 24-A of MCR, 1960. This casual and negative approach has caused dearly to State exchequer in the form of hundred crores of stamp duty and others.

(C) Violation of the provisions of the Forest (Conservation) Act, 1980, Rules & guidelines and directions issued by the Hon’ble Supreme Court of India.

(D) Violation of the provisions of the Environment (Protection) Act, 1986.

(E) Misuse of Rules: 10 & 12 of MCDR, 1988 [Mineral Conservation and Development Rules, 1988] which provides for modification and review of mining plan only for a specific purpose, namely,

- (i) Safe and scientific mining;
- (ii) conservation of minerals;
- (iii) the protection of environment; and
- (iv) in case of modification, explanation for the same.

(F) Encroachment:-

On the basis of Google Image, the survey report prepared by the State Government by DGPS method, it was found that in 82 mining leases, there was encroachment. Out of the said leases, re-survey was ordered for 37 leases.”

30. Soon thereafter, the Commission gave its Second Report on Illegal Mining of Iron and Manganese Ores in the State of Odisha, sometime in October, 2013. This report dealt with specific lease holders and violations committed by them. It is not necessary for us to delve into those specific details.

31. It was submitted before us by learned counsel for the mining lease holders that the reports given by the Commission were not acceptable on the ground that a notice had not been given to the lease holders under Section 8B or Section 8C of the Commissions of Inquiry Act, 1952. It was submitted that under these circumstances the reports given by the Commission were vitiated and therefore the foundation of the writ petition filed by Common Cause was taken away. We are not in agreement with learned counsel for the mining lease holders.

32. The first report given by the Commission was a general, overall perspective on the subject while the second report went into specific details of several mining lease holders - but we are not concerned with those

specifics. Therefore, whether notices were or were not issued to the lease holders who were the subject matter of discussion in the second report is of no consequence.

33. What we are really perturbed about is the facts stated by the Commission in the first report. So far as this is concerned, we are of the view that no irregularity or illegality has been committed so as to vitiate the first report. Notwithstanding this, we are not relying upon any of the facts determined by the Commission for the purposes of our judgment and order.

34. The procedure followed by the Commission has been mentioned in Volume I Part II of the first report, but it is not necessary for us to recount each and every detail. Suffice it to say that a resume of the procedure followed will indicate that full opportunity was given to the lease holders to have their say.

Resume of the procedure followed by the Commission

35. In March 2011 the Commission sent the first questionnaire to the concerned Secretary of the Government of Odisha seeking the following information regarding each lease holder:-

- “(i) the name of the lessee;
- (ii) area of the lease;
- (iii) date of the execution of the lease deed;
- (iv) present status (renewal, mining plan, mining scheme) approval date;



(v) production and export particulars from the year 2008-09 up to January, 2011; etc.”

36. On 20th April, 2011 the Commission sent the second questionnaire to the said concerned Secretary seeking further information in a Form consisting of 14 questions and 4 tables.

37. Thereafter, between 24th and 26th August, 2011 the Commission issued the first notice to various mining lessees in Odisha seeking information on affidavit as per Proforma A and B enclosed with the notice. In Proforma A the lease holder was asked to submit details which included the details of environment clearance, forest clearance and renewal of lease and whether the leased mine was in operation or not. In Proforma B the lease holder was asked to submit details which included the details of dispatch, domestic consumption and export in million tonnes of iron ore and manganese ore from 2006-07 to 2010-11.

38. The Commission visited Odisha from 7th December, 2011 to 14th December, 2011, from 3rd October, 2012 to 11th October, 2012 and from 31st October, 2010 to 8th November, 2012. The purpose of the visits was to collect information and seek explanations and gather facts from the concerned Departments of the Government of India and the Government of Odisha. During the visits, the Commission received as many as 140

complaints alleging illegal mining. Accordingly, a public hearing was held in Keonjhar and Bhubaneswar on 11th and 12th December, 2011.

39. On 21st December, 2012 and 12th January, 2013 several senior counsel were given a personal hearing by the Commission including a personal hearing to the Federation of Indian Mining Industries (for short 'FIMI'). Following the submissions made, a fresh notice was issued to the lease holders from 28th January, 2013 seeking information in Proformas A to H. In terms of the fresh notice, the lease holder was required to verify the facts stated therein (which were collected by the Commission) and if found incorrect then to state the correct facts. The fresh notice specifically mentioned that:

- “(i) The lessee shall come fully prepared to answer, related to this matter and submit all related records.
- (ii) Explain the production from the leased area without having approval under F(C) Act, 1980.
- (iii) Explain the production during the deemed extension period without having approval under EIA Notification dated 27.01.1994 and amendments thereon.
- (iv) Explain the excess production in violation of EIA Notification dated 27.01.1994 and amendments thereon under the EP Act, 1986.”

40. The report mentions the various dates of hearing given to learned counsel for the lease holders, the State of Odisha, FIMI, Federation of Indian



Chambers of Commerce and Industry (FICCI) and the Ministry of Environment and Forest of the Government of India (for short 'MoEF') which are as follows:

HEARING NO.	DATE	PLACE
1.	21.12.2012	Office of the Commission, Ahmedabad.
2.	12.01.2013	-do-
3.	18.02.2013	-do-
4.	27.02.2013	Circuit House, Bhubaneshwar (Odisha).
5.	28.02.2013	-do-
6.	01.03.2013	-do-
7.	02.03.2013	-do-
8.	04.03.2013	-do-
9.	16.03.2013	Circuit House, Annexe, Ahmedabad.
10.	20.03.2013	-do-
11.	23.03.2013	Office of the Commission, Ahmedabad.
12.	02.04.2013	Circuit House, Annexe, Ahmedabad.
13.	03.04.2013	-do-
14.	04.04.2013	-do-
15.	12.04.2013	Office of the Commission, Ahmedabad.
16.	13.04.2013	-do-
17.	21.04.2013	Gujarat University Convention Centre, Nr. Helmet Cross Road, 132 ft. Ring Road, Ahmedabad.
18.	24.05.2013	Office of the Commission, Ahmedabad.
19.	25.05.2013	-do-

41. The number of learned counsel and representatives who were heard by the Commission and with whom interactions took place are mentioned in Annexure A to Volume I of the first report. The list of learned counsel runs into 18 pages - from page 33 to page 50 of Volume I of the first report.

Some individual lawyers appeared for several lease holders but the fact of the matter is that everybody who wanted to be heard was given a hearing.

42. The function of the Commission as stated in the first report, at the present stage, is best described in the words of the Commission itself. It is stated as follows:-

“The function of the Commission, at this stage, is only to inquire, assess the data collected and to submit the report on the said basis. On that basis, some remedial measures are suggested by the Commission for controlling illegal mining and violation of the Acts and/or Rules. For that, there is no question of issuing notices to the lessees.

For collecting the data and assessing it, the Principles of Natural Justice are fully complied with, as stated above. On the basis of the data submitted by the lessees and the submissions made by Ld. Counsel for them, the report is submitted.”

It is further clarified on page 198 of Volume I of the first report that with regard to individual mining leases in which there is a violation of the provisions of the Forest (Conservation) Act, 1980 and/or conditions of environmental clearance etc. a report would be submitted later on.

43. It is therefore abundantly clear that the first report is generally a limited fact finding enquiry on the basis of information supplied by the mining lease holders. Therefore, there is absolutely no question of any notice being issued to any mining lease holder under Section 8B or the right of cross examination being granted to any mining lease holder under Section

8C of the Commissions of Inquiry Act, 1952. We are satisfied that the W.P. (C) Nos. 114/2014 etc.



Commission made adequate efforts to collect the facts and this collation in the first report was possible with the assistance of the mining lease holders and their learned counsel and representatives as well as the government authorities and FIMI and FICCI. Under these circumstances, no lease holder can seriously contend that the procedure adopted by the Commission in collecting facts was either irregular or not in accordance with law. As mentioned above, any mining lease holder who wanted to be heard was given an opportunity of being heard and was fully aware of what the Commission was attempting to achieve and if any particular mining lease holder chose not to associate with it, it was at his or her own peril. Lack of knowledge of the proceedings before the Commission cannot be appreciated and we are quite satisfied that all the mining lease holders were fully aware of what was going on, if not personally then certainly through their list of learned counsel running into 18 pages or their representatives individually or their Federation.

44. In *Goa Foundation* there was a challenge to the report of the Justice Shah Commission in respect of its conclusions pertaining to the State of Goa. This was dealt with by this Court in paragraphs 11 to 14 of its decision. This Court declined to quash the report in view of the statement made by the learned Advocate General of Goa. But, this Court took the

view that: “we will, however, examine the legal and environmental issues raised in the Report of Justice Shah Commission and on the basis of our findings on these issues consider granting the reliefs prayed for in the writ petition filed by Goa Foundation and the reliefs prayed for in the writ petitions filed by the mining lessees, which have been transferred to this Court.”

45. In the present petitions before us, there is no challenge to the reports of the Justice Shah Commission. However, we propose (as in *Goa Foundation*) to confine ourselves to some limited facts adverted to by the CEC in its final report. We do not propose to base any of our conclusions on the reports of the Commission.

46. Learned counsel for the petitioners insisted that the illegal or unlawful mining activity carried on in the State of Odisha as noted by the Commission deserves to be investigated by the Central Bureau of Investigation. Reference in this regard was made to the passage in Part III of Volume I of the first report of the Commission to the following effect:-

“Since this is one of the biggest illegal mining ever observed by the Commission, it is strongly felt that this is a fit case to handover to Central Bureau of Investigation, for further investigation and follow up action.”

47. Similarly, on page 125 of Chapter II of Volume I of the report, it is stated as follows:-

“Terms of Reference No. 8 provides that “The Commission may take the services of any investigating agency of the Central Government in order to effectively address its terms of reference.

The Commission, therefore, suggests that Central Bureau of Investigation (C.B.I.) may be directed to investigate into allegations of corruption made against politicians, bureaucrats and others.”

We will consider this at the appropriate stage. Suffice it to say for the time being that the Commission made certain significant observations in Chapter II of the report to the effect that:

- a That the tribals in the area have been displaced or stay in pathetic and miserable conditions in same area. There is rampant air pollution with the trees having the colour of minerals making it clear that tribals are forced to breathe polluted air and drink polluted water.
- b Streams and ground water is polluted and there is hardly any facility of drinking water. Women have been seen fetching water from dirty nalas.
- c Mining companies and beneficiation plants are drawing water from rivers and nearby water resources are getting depleted at a fast rate. The river Baitrani has been seriously affected by this activity.
- d Basic facilities such as medical facilities, shelter/residence, education facilities are absent. Roads have a heavy flow of traffic and on one road of the area about 7000 trucks passed during night time.
- e The labour is not being paid adequate wages beyond the minimum wages even though the income of the mine owners runs into billions of rupees.



48. Adverting to corruption in the area due to illegal mining activities, the Commission felt that the Vigilance Commission was unlikely to conduct an impartial and independent enquiry for arriving at just and proper findings because of external pressures. Accordingly, it would be more appropriate if the Central Bureau of Investigation (CBI) conducts a detailed enquiry into all cases that have been registered between 2008 and 2011. It was also noted that the railways have issued demand notices to the extent of Rs.1,874 crores. The latest position with regard to these notices is not available.

49. It was also noted that notices have been issued in 146 cases to various lease holders for recovery of mined ore as per Section 21(5) of the MMDR Act. In the Koirā circle notices have been issued to 55 lessees for more than Rs. 13,000 crores; in Joda circle notices have been issued to 72 lessees for recovery of more than Rs. 44,000 crores; in Keonjhar circle notices have been issued to 4 lessees for recovery of about Rs. 1,065 crores; in Koraput circle notices have been issued to three lessees for the recovery of about Rs. 44 lakhs; and in Bolangir circle notice has been issued to 1 lessee for the recovery of about Rs.29.5 crores. In Baripada circle notices have been issued to 11 lessees for recovery of more than Rs. 467 crores. In other words notices have been issued to the lessees for recovery of more than Rs.

59,000 crores! (According to the CEC the figure exceeds Rs. 61,000 crores)!!

50. We have adverted to the reports of the Commission, without relying on them, only to highlight the gravity of the situation and nothing more. The gravity of the situation is also apparent from the report of the CEC and the Commission seems to support it.

Initial contention

51. The initial contention urged on behalf of the respondents - lease holders was that in giving the report dated 16th October, 2014 the CEC has exceeded its remit. In this context, reference was made to the order of 13th January, 2014 in which it is stated that “The Report will not cover cases other than forest and environmental issues.”

52. We are of opinion that this objection deserves immediate rejection. The subsequent orders passed by this Court have been completely overlooked by learned counsel inasmuch on 21st April, 2014 it was specifically noted by this Court that “CEC, in the meanwhile, will make out a list of such lessees who are operating the leases in violation of the law.” Similarly, in the record of proceedings of 16th May, 2014 it was noted that “The Central Empowered Committee will give a final report on the Writ Petition by the end of July, 2014.....”

53. From a reading of the orders and the proceedings that have been held in this regard from time to time, it is quite obvious to us that the jurisdiction of the CEC was not limited and it was expected to give a detailed report on all aspects of illegal mining or mining being carried out without any lawful authority in whatever manner. The initial objection raised on behalf of the lease holders is therefore rejected.

Central Empowered Committee

54. The Central Empowered Committee or the CEC was first constituted by this Court by an order dated 9th May, 2002 (*T.N. Godavarman v. Union of India*)⁵ as an interim body. Thereafter, it was constituted by a notification dated 17th September, 2002 issued under Section 3(3) of the Environment (Protection) Act, 1986 (for short 'the EPA'). It has continued functioning and assisting this Court for more than a decade and even though it has been criticized on a couple of occasions, it is now an established body which renders extremely valuable advice to this Court and provides factual material on the basis of which this Court can make some recommendations and pass appropriate orders.⁶

5 (2013) 8 SCC 198

6 T.N. Godavarman v. Union of India, (2013) 8 SCC 198 and (2013) 8 SCC 204

55. The details of the functioning of the CEC have been discussed by this Court in *Samaj Parivartana Samudaya v. State of Karnataka*.⁷ In that decision, questions were raised about the credibility of the CEC and while rejecting the submissions, it was made clear that the recommendations made by the CEC are subject to the satisfaction of this Court. We need say nothing more except that during the course of hearing of the present petitions, some of the conclusions arrived at by the CEC were disputed by the petitioners and even by the learned *Amicus* and some were supported by learned counsel for the mining lease holders, the learned Attorney General and the learned counsel for the State of Odisha. It is therefore quite clear that in the present cases, the CEC as a fact finding body has functioned impartially and it is only on the conclusions arrived at by the CEC on the basis of the facts gathered that there can be some debate and discussion. Anyone may disagree with the views of the CEC and there is no need to make heavy weather about this at all.

56. In so far as the report given by the CEC on 16th October, 2014 (the final report) is concerned, before going into the details thereof, we may mention that the CEC has stated that it held meetings with the Chief Secretary and other senior officials of the State of Odisha and others on six

⁷ (2013) 8 SCC 154

dates. It also heard the lease holders and others on seven dates and it held meetings with three of the lease holders that is Jindal Steel and Power Ltd. (JSPL), Sarda Mines Pvt. Limited (SMPL) and Essel Mining and Industries Ltd. (Essel) on 10th September, 2014. The CEC visited the site of the mining lease of SMPL from 4th March, 2014 to 7th March, 2014 and had site visits of a number of other lessees from 12th July, 2014 to 16th July, 2014.

57. As far as the facts collected by the CEC are concerned, there is no dispute with regard to their correctness. The CEC has recorded that there are 187 iron ore and manganese ore mining leases in the State of Odisha. On the basis of the material and information collected, a statement was prepared showing lease-wise and year-wise details of production of iron ore and manganese ore, permissible production and production without environmental clearance/beyond environmental clearance. The details in this regard have been given as Annexure R-14 to the final report.

58. Regarding the correctness of the information, the CEC has this to say:

“24. A copy of the above said statement prepared by the CEC was made available, through the Director, Mines and Geology, Government of Odisha and also through the Federation of Indian Mining Industries (FIMI), to the lessees of each of the mining leases to enable them to verify the production and other details as given in the statement. During the hearings held before the CEC between 5th August and 12th August, 2014 and also in the representations filed before the CEC a large number of lessees stated that the yearwise production details are not correctly reflected in the statement. Some of them also stated that

the environment clearance details are not properly reflected in the statement. Therefore, it was decided that (a) the State Government will reconcile the annual production and other details with the respective lessees and (b) the copies of the environmental clearances may also be filed before the CEC by those lessees who are disputing the environmental clearances details provided by the State. Accordingly a meeting was convened by the Director, Mines & Geology (DMG) with the lessees on 14th August, 2014 and during which the annual production and other details were reconciled. The reconciled leasewise and yearwise production and other details provided to the CEC by the State of Odisha may be seen in the statement enclosed at **Annexure - R-11** to this Report. The figures modified in the said statement, after reconciliations, are shown in bold print.”

59. The CEC noted that the Director, Mines and Geology of the Government of Odisha had informed the CEC that each lease holder with the exception of SMPL and JSPL agreed with the reconciled production details. On facts, therefore, there is no dispute with regard to the contents of the report of the CEC, although the conclusions might be disputed. Separately, the CEC has dealt with the facts concerning SMPL and JSPL pursuant to a meeting held with them on 11th September, 2014.

Statutory provisions

60. The grant of a mining lease is governed by the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (or the MMDR Act), the Mineral Concession Rules, 1960 (or the MCR) and the Mineral Conservation and Development Rules, 1988 (or the MCDR).



61. Section 4(1) of the MMDR Act provides that no person shall undertake any mining operation in any area except under and in accordance with the terms and conditions of a mining lease granted under the MMDR Act and the rules made thereunder. A mining operation is defined in Section 3(d) of the MMDR Act as meaning any operation undertaken for the purpose of winning any mineral. Section 4(2) of the MMDR Act provides that no mining lease shall be granted otherwise than in accordance with the provisions of the said Act and the rules made thereunder.
62. Section 5(2) of the MMDR Act provides for certain restrictions on the grant of a mining lease. It provides that the State Government shall not grant a mining lease unless it is satisfied that the applicant has a mining plan duly approved by the Central Government or the State Government in respect of the concerned mine and for the development of mineral deposits in the area concerned.
63. Section 10 of the MMDR act provides for the procedure for obtaining a mining lease and sub-section (1) thereof provides that an application is required to be made for a mining lease in respect of any land in which the mineral vests in the government and the application shall be made to the State Government in the prescribed form and along with the prescribed fee.
64. Section 12 of the MMDR Act requires the State Government to

maintain a set of registers. Among the registers that the State Government is required to maintain are a register of applications for mining leases and a register of mining leases. Every such register shall be open to inspection by any person on payment of such fee as the State Government may fix.

65. Section 13 of the MMDR Act provides for the rule making power of the Central Government in respect of minerals. The MCR are framed in exercise of power conferred by Section 13 of the MMDR Act.

66. Section 18 of the MMDR Act makes it the duty of the Central Government to take all such steps as may be necessary for the conservation and systematic development of minerals in India and for the protection of the environment by preventing or controlling any pollution which may be caused by mining operations. The MCDR are framed in exercise of power conferred by Section 18 of the MMDR Act.

67. The distinction between the MCR and the MCDR is that the MCR deal, *inter alia*, with the grant of a mining lease and not commencement of mining operations. However, the MCDR deal, *inter alia*, with the commencement of mining operations and protection of the environment by preventing and controlling pollution which might be caused by mining operations.

68. Section 21 of the MMDR Act deals with penalties and sub-section (1) thereof provides that whoever contravenes the provisions of sub-section (1) or sub-section (1A) of Section 4 shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 25,000 or with both. Sub-section (5) of Section 21 of the MMDR Act provides that whenever any person raises without any lawful authority, any mineral from any land, the State Government may recover from such person the minerals so raised or where such mineral has been disposed of the price thereof. In addition thereto the State Government may also recover from such person rent, royalty or tax, as the case may be for the period during which the land was occupied by such person without any lawful authority.

Mineral Concession Rules, 1960

69. As far as the MCR are concerned, Rule 22 is of some importance and this provides for an application to be made for the grant of a mining lease in respect of land in which the mineral vests in the government. An application for the grant of a mining lease is required to be made by an applicant to the State Government in Form I to the MCR. Sub rule (5) of Rule 22 deals with a mining plan and it requires that a mining plan shall incorporate, amongst other things, a tentative scheme of mining and annual programme and plan for excavation for year to year for five years.

70. Rule 22A of the MCR makes it clear that mining operations shall be undertaken only in accordance with the duly approved mining plan. Therefore, a mining plan is of considerable importance for a mining lease holder and is in essence sacrosanct. A mining scheme and a mining plan are a *sine qua non* for the grant of a mining lease.

71. Rule 27 of the MCR deals with the conditions that every mining lease is subject to. One of the conditions is that the lessee shall comply with the MCDR.

72. The format of a mining lease is given in Form K to the MCR and this is relatable to Rule 31 of the MCR which provides that on an application for the grant of a mining lease, if an order has been made for the grant of such lease, a lease deed in Form K or in a form as near thereto as circumstances of each case may require, shall be executed within six weeks of the order, or within such extended period as the State Government may allow.

73. Part VII of Form K deals with the covenants of the lessee/lessees. Clause 10 thereof requires the lessee to keep records and accounts regarding production and employees etc. The lessee is required, *inter alia*, to maintain a record of the quantity and quality of the mineral released from the leased land, the prices and all other particulars of all sales of the mineral and such

other facts, particulars and circumstances, as the Central Government or the State Government may require.

74. Clause 11C is of some importance and it requires that the lessee shall take measures for the protection of the environment like planting of trees, reclamation of land, use of pollution control devices and such other measures as may be prescribed by the Central Government or the State Government from time to time at the expense of the lessee.

75. Rule 37 of the MCR deals with the transfer of a lease and provides, *inter alia*, that a mining lessee shall not without the previous consent in writing of the State Government or the Central Government, as the case may be, assign, sublet, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein. The lessee shall not enter into or make any *bona fide* arrangement, contract or understanding whereby the lessee will or may directly or indirectly be financed to a substantial extent in respect of its operations or undertakings or be substantially controlled by any person or body of persons. Sub-rule (3) of Rule 37 of the MCR enables a State Government to determine any lease if the mining lessee has committed a breach of Rule 37 of the MCR or has transferred any lease or any right, title or interest therein otherwise than in accordance with sub-rule (2) of Rule 37 of the MCR.



Mineral Conservation and Development Rules, 1988

76. The MCDR promulgated under Section 18 of the MMDR Act and referred to in Rule 27 of the MCR are also of some significance. Rule 9 of the MCDR prescribes that no person shall commence mining operations in any area except in accordance with a mining plan approved under Clause (b) of sub-section (2) of Section 5 of the MMDR Act.
77. The mining plan may be modified in terms of Rule 10 of the MCDR in the interest of safe and scientific mining, conservation of minerals or for protection of the environment. However, the application for modifications shall set forth the intended modifications and explain the reasons for such modifications. The mining plan cannot be modified just for the asking.
78. Rule 13 of the MCDR provides that mining operations are required to be carried out by every holder of a mining lease in accordance with the approved mining plan. If the mining operations are not so carried out, the mining operations may be suspended by the Regional Controller of Mines in the Indian Bureau of Mines or another authorized officer.
79. From our point of view, Chapter V of the MCDR dealing with “Environment” is of significance. In this Chapter, Rule 31 of the MCDR provides that every holder of a mining lease shall take all possible

precautions for the protection of the environment and control of pollution while conducting any mining operations in the area.

80. Rule 37 of the MCDR requires certain precautions to be taken against air pollution and obliges the mining lease holder to keep air pollution under control and within permissible limits specified under various environmental laws including the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986.

81. Rule 38 of the MCDR requires the holder of a mining lease to take all possible precautions to prevent or reduce the passage of toxic and objectionable liquid effluents from the mine into surface water bodies, ground water aquifer and usable lands to a minimum. It also mandates effluents to be suitably treated, if required, to conform to the standards laid down in this regard. In other words, the provisions of the Water (Prevention and Control of Pollution) Act, 1974 are required to be adhered to by the mining lease holder.

82. Rule 41 of the MCDR requires every holder of a mining lease to carry out mining operations in such a manner as to cause least damage to the flora of the area and the nearby areas. Every holder of a mining lease is required to take immediate measures for planting not less than twice the number of trees destroyed by reason of any mining operations and to look after them

during the subsistence of the lease after which these trees shall be handed over to the State Forest Department or any other appropriate authority. The holder of a mining lease is also required to restore, to the extent possible, other flora destroyed by the mining operations.

83. Briefly therefore, the overall purpose and objective of the MMDR Act as well as the rules framed there under is to ensure that mining operations are carried out in a scientific manner with a high degree of responsibility including responsibility in protecting and preserving the environment and the flora of the area. Through this process, the holder of a mining lease is obliged to adhere to the standards laid down under the Environment (Protection) Act, 1986 or the EPA as well as the laws pertaining to air and water pollution and also by necessary implication, the provisions of the Forest (Conservation) Act, 1980 (for short 'the FC Act'). Exploitation of the natural resources is ruled out. If the holder of a mining lease does not adhere to the provisions of the statutes or the rules or the terms and conditions of the mining lease, that person is liable to incur penalties under Section 21 of the MMDR Act. In addition thereto, Section 4A of the MMDR Act which provides for the termination of a mining lease is applicable. This provides that where the Central Government, after consultation with the State Government is of opinion that it is expedient in

the interest of regulation of mines and mineral development, preservation of natural environment, prevention of pollution, etc. then the Central Government may request the State Government to prematurely terminate a mining lease.

Environment Impact Assessment Notification of 27th January, 1994

84. As can be seen from the statutory scheme adverted to above, protection and preservation of the environment is a significant and integral component of a mining plan, a mining lease and mining operations — and rightly so.

85. Keeping this in mind, an Environment Impact Assessment Notification dated 27th January, 1994 was issued by the Central Government in exercise of powers conferred by Section 3(1) and Section 3(2)(v) of the EPA read with Rule 5(3)(d) of the Environment (Protection) Rules, 1986. The Environment Impact Assessment Notification dated 27th January, 1994 (for short 'EIA 1994') is a prohibitory notification and directs that on and from the date of its publication in the official gazette: (i) expansion or modernization of any activity (if pollution load is to exceed the existing one) and (ii) a new project listed in Schedule I to the notification, shall not be undertaken unless it has been accorded environmental clearance (for short EC) by the Central Government in accordance with the procedure specified in the notification.



86. The notification provides, among other things, that in case of mining operations, site clearance shall be granted for a sanctioned capacity and shall be valid for a period of five years from commencing mining operations. What this means is that on receipt of an EC a mining lease holder can extract a mineral only from a specified site, upto the sanctioned capacity and only for a period of five years from the date of the grant of an EC. This is regardless of the quantum of extraction permissible in the mining plan or the mining lease and regardless of the duration of the mining lease. Consequently, a mining lease holder would necessarily have to obtain a fresh EC every five years and can also apply for an increase in the sanctioned capacity. There is no concept of a retrospective EC and its validity effectively starts only from the day it is granted. Thus, the EC takes precedence over the mining lease or to put it conversely, the mining operations under a mining lease are dependent on and 'subordinate' to the EC.

87. On 4th May, 1994 an Explanatory Note was added to EIA 1994. We are concerned with the 1st Note which deals with the expansion and modernization of existing projects. This reads as follows:

“1. Expansion and modernization of existing projects

A project proponent is required to seek environmental clearance for a proposed expansion/modernization activity if the resultant

pollution load is to exceed the existing levels. The words “pollution load” will in this context cover emissions, liquid effluents and solid or semi-solid wastes generated. A project proponent may approach the concerned State Pollution Control Board (SPCB) for certifying whether the proposed modernization/expansion activity as listed in Schedule-I to the notification is likely to exceed the existing pollution load or not. If it is certified that no increase is likely to occur in the existing pollution load due to the proposed expansion or modernization, the project proponent will not be required to seek environmental clearance, but a copy of such certificate issued by the SPCB will have to be submitted to the Impact Assessment Agency (IAA) for information. The IAA will however, reserve the right to review such cases in the public interest if material facts justifying the need for such review come to light.”

88. The Note is significant and from its bare reading it is clear that if any proposed expansion or modernization activity results in an increase in the pollution load, then a prior EC is required. The project proponent should approach the concerned State Pollution Control Board (for short the SPCB) for certifying whether the proposed expansion or modernization is likely to exceed the existing pollution load or not. If the pollution load is not likely to be exceeded, the project proponent will not be required to seek an EC but a copy of such a certificate from the SPCB will require to be submitted to the Impact Assessment Agency which can review the certificate.

89. What is the requirement, if any, under EIA 1994 with regard to an existing mining lease where there is no proposal for expansion or modernization? Does such a mining lease holder require an EC to continue



mining operations? This is answered in the 8th Note which is also of some importance and this reads as follows:

“8. Exemption for projects already initiated

For projects listed in Schedule-I to the notification in respect of which required land has been acquired and all relevant clearances of the State Government including NOC from the respective State Pollution Control Boards have been obtained before 27th January, 1994, a project proponent will not be required to seek environmental clearance from the IAA. However those units who have not as yet commenced production will inform the IAA.”

90. The above Note makes it clear that existing mining projects that have a no objection certificate from the SPCB before 27th January, 1994 will not be required to obtain an EC from the Impact Assessment Agency. Of course, this is subject to the substantive portion of EIA 1994 and the 1st Note. However, if the existing mining project does not have a no objection certificate from the SPCB, then an EC will be required under EIA 1994.

91. Two questions immediately arise from a reading of the 1st and the 8th Note. The first question is: What is the base year for considering the pollution load while proposing any expansion activity? The second question is: What is the duration for which an EC is not necessary for an ongoing project which does not propose any expansion, or to put it differently, what is the validity period for a no objection certificate from the SPCB?

92. In our opinion, as far as the first question is concerned, a reading of EIA 1994 read with the 1st Note implies that the base year would need to be the immediately preceding year that is 1993-94. This is obvious from the opening sentence of the 1st Note, that is, “A project proponent is required to seek environmental clearance for a proposed expansion/modernization activity if the resultant pollution load is to exceed the existing levels.” (Emphasis supplied). In its report, the CEC has taken 1993-94 as the base year and we see no error in this. Even the MoEF in its circular dated 28th October, 2004 stated with regard to the expansion in production: “If the annual production of any year from 1994-95 onwards exceeds the annual production of 1993-94 or its preceding years (even if approved by IBM), it would constitute expansion.” If that expansion results in an increase in the pollution load over the existing levels, then an EC is mandated.

93. It was contended on behalf of the mining lease holders that in terms of the circular of 28th October, 2004 the annual production even prior to 1993-94 could be considered for ascertaining if there was an expansion or not. We cannot accept this submission for a variety of reasons. For one, the existing levels mentioned in the 1st Note clearly have reference to the immediately preceding year and not to a preceding year in a comparatively remote past. Secondly, a very high annual production in any one year is not



reflective of a consistent pattern of production – it could very well be a freak year and that freak year certainly cannot be a basic standard or the norm to measure expansion. Then if the interpretation sought to be given is accepted, there would be an absence of consistency and a lack of uniformity with different mining lease holders having different base years. This is hardly conducive to good governance. Finally, EIA 1994 was intended to prevent the existing environmental load from increasing based on the existing data of the immediate past and not data of a few years gone by. We may add that the only exception that could be made in this regard would be if there is no production during 1993-94. In that event, the immediately preceding year would be relevant and that is the only reasonable interpretation that we see for the use of the words “or its preceding years”.

94. On the question of the duration or exemption period from an EC in respect of a project that has commenced prior to 27th January, 1994 the substantive portion of EIA 1994 and the 8th Note grant an exemption from the requirement of obtaining an EC if there is no expansion and the existing pollution load is not exceeded. In any event, a no objection certificate from the SPCB is necessary for continuing the mining operations. Consequently, even if any mining lease holder does not have an EC or does not require an EC for continuing mining operations (but has a no objection certificate from



the SPCB), the absence of an EC would not have an adverse impact on the mining lease holder unless of course, there was an expansion in the mining operations without any certificate from the SPCB. In addition to this, the validity period (if any) of the certificate from the SPCB is important – we have not been made aware whether there is such a validity period or not.

95. The contention of learned counsel for the mining lease holders that EIA 1994 was rather vague, uncertain and ambiguous cannot be accepted. In our opinion, on a composite reading of EIA 1994, it is clear that: (i) A no objection certificate from the SPCB was necessary for continuing mining operations; (ii) An expansion or modernization activity required an EC unless the pollution load was not exceeded beyond the existing levels; (iii) The base year for determining the pollution load and therefore the proposed expansion would be with reference to 1993-94; (iv) Whether an expansion or modernization would lead to exceeding the existing pollution load or not would require a certificate from the SPCB which could be reviewed by the IAA; (v) New projects require an EC; and (vi) Existing projects do not require an EC unless there is an expansion or modernization for the duration (if any) of the validity of the certificate from the SPCB. We need not say anything more on this subject since the CEC has proceeded to discuss the issue of mining in excess of the EC or in excess of the mining plan only

from the year 2000-01 onwards. The prior period may, therefore, be ignored and it is the period from 2000-01 onwards which is actually relevant for the present discussion.

96. It was submitted by learned counsel for the mining lease holders that the MoEF had caused some confusion with regard to the requirement of an EC at the time of renewal of a mining lease. In this connection, reference was made to a Press Note of July 1994 and a letter dated 19th June, 1997 of the MoEF to the Chief Conservator of Forests in the MoEF.

97. Learned counsel for the mining lease holders sought to buttress their submission that EIA 1994 was vague and ambiguous by mentioning two circulars issued by the MoEF on 5th November, 1998 and 27th December, 2000 extending the period for obtaining an EC for new units. However, these circulars are apparently not on our record (which goes into 148 volumes) and therefore we cannot make any comment about them. These circulars were mentioned to also contend that even for new units the absence of an EC would not have an adverse impact on them, since the period for obtaining an EC was extended from time to time. A reference was also made to a circular dated 14th May, 2002 which later on became the subject of consideration by this Court in *M.C. Mehta v. Union of India*.⁸ A reading of

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the circular of 14th May, 2002 indicates that several units had come up in violation of EIA 1994. The MoEF had taken the view that such units may be permitted to apply for an EC by 31st March, 1999 which was then extended to 30th June, 2001 by circulars dated 5th November, 1998 and 27th December, 2000 respectively.

98. By the circular dated 14th May, 2002 the deadline for applying for an EC was extended up to 31st March, 2003 as a last and final opportunity to obtain an *ex post facto* EC in respect of units which had commenced mining operations without obtaining a prior EC in violation of EIA 1994. The circular also stated that: "Suitable directions shall be issued by all States/UTs under the Environment (Protection) Act to units to stop construction activities/operations of all such units that fail to apply for environmental clearance by 31st March, 2003. Units which fail to comply with these directions shall be proceeded against forthwith under the relevant provisions of the Environment (P) Act, 1986 without making reference to this Ministry."

99. It was submitted that in view of these ambiguous and unclear signals emanating from the MoEF which resulted in confusion being worse confounded, the mining lease holders were not clear whether or not they

were required to obtain an EC particularly in respect of pre-EIA 1994 mining leases and operations.

100. As mentioned above, these dates and the text of the circulars were emphasized by learned counsel for the lease holders to contend that it was not obligatory for the mining lease holders, who did not expand their mining operations, to obtain an EC and in any event the period for obtaining an EC was extended till 31st March, 2003 with *ex post facto* approval. In this context, reliance was placed on *M.C. Mehta* referred to above.

101. We are not in agreement with the contention of learned counsel for the mining lease holders on the interpretation given to the various circulars for the reasons given above and must also correctly appreciate the decision of this Court in *M.C. Mehta*.

102. In *M.C. Mehta* the issue that arose for consideration was whether mining activity in the Aravalli hills causes environmental degradation and what directions are required to be issued. While considering this issue, this Court also considered EIA 1994 and the circular dated 14th May, 2002. In doing so, this Court categorically held in paragraph 37 of the Report that the intention of the MoEF was not to legalize the continuance of mining activity without complying with the requisite stipulations. If that were unfortunately so, then it would demonstrate a lack of sensitivity of the MoEF to the



principles of sustainable development and the object behind issuing EIA

1994. This Court said:

“It does not appear that MOEF intended to legalise the commencement or continuance of mining activity without compliance of stipulations of the notification. In any case, a statutory notification cannot be notified [modified] by issue of circular. Further, if MOEF intended to apply this circular also to mining activity commenced and continued in violation of this notification, it would also show total non-sensitivity of MOEF to the principles of sustainable development and the object behind the issue of notification. The circular has no applicability to the mining activity.”

103. Adverting to the MMDR Act, this Court expressed the view in paragraph 52 of the Report that the approval of a mining plan does not imply that a mining lease holder can commence mining operations. The mining lease holder is nevertheless obliged to comply with statutory provisions including the EPA and other laws. It was said:

“The grant of permission for mining and approving mining plans and the scheme by the Ministry of Mines, Government of India by itself does not mean that mining operation can commence. It cannot be accepted that by approving mining plan and scheme by the Ministry of Mines, the Central Government is deemed to have approved mining and it can commence forthwith on such approval..... A mining leaseholder is also required to comply with other statutory provisions such as the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974 and the Forest (Conservation) Act, 1980. Mere approval of the mining plan by the Government of India, Ministry of Mines would not absolve the leaseholder from complying with the other provisions.”

104. This Court also considered the question of the applicability of EIA 1994 to the renewal of an existing mining lease. It was held that the said notification would apply to the renewal of a mining lease that came up for consideration post 27th January, 1994. In other words, for the renewal of a mining lease, an EC was required by the mining lease holder. It was held in paragraph 77 of the Report:

“We are unable to accept the contention that the notification dated 27-1-1994 would not apply to leases which come up for consideration for renewal after issue of the notification. The notification mandates that the mining operation shall not be undertaken in any part of India unless environmental clearance by the Central Government has been accorded. The clearance under the notification is valid for a period of five years. In none of the leases the requirements of the notification were complied with either at the stage of initial grant of the mining lease or at the stage of renewal. Some of the leases were fresh leases granted after issue of the notification. Some were cases of renewal. No mining operation can commence without obtaining environmental impact assessment in terms of the notification.”

105. It is clear from the decision rendered by this Court that EIA 1994 is mandatory in character; that it is applicable to all mining operations –expansion of production or even increase in lease area, modernization of the extraction process, new mining projects and renewal of mining leases. A mining lease holder is obliged to adhere to the terms and conditions of a mining lease and the applicable laws and the mere fact that a mining plan has been approved does not entitle a mining lease holder to commence

mining operations. In *M.C. Mehta* this Court concluded that EIA 1994 is clearly applicable to the renewal of a mining lease.

106. Subsequent to the decision in *M.C. Mehta* two clarificatory circulars were issued by MoEF on 28th October, 2004 and 25th April, 2005. These were adverted to by learned counsel for the mining lease holders but in our opinion they are not relevant except to the extent that they make it explicit that following the decision of this Court in *M.C. Mehta*, an EC is required to be obtained before the renewal of a mining lease and that the term 'expansion' would include an increase in production or the lease area or both.

107. It was submitted on behalf of the mining lease holders that the possibility of getting an *ex post facto* EC was a signal to the mining lease holders that obtaining an EC was not mandatory or that if it was not obtained, the default was retrospectively condonable. We do not agree. We have referred to various provisions of the MMDR Act and the rules framed thereunder to indicate the statutory importance given to the protection and preservation of the environment. This was also emphasized in *M.C. Mehta* in which it was also stated that "It does not appear that MOEF intended to legalise the commencement or continuance of mining activity without compliance of stipulations of the notification." It appears to us that the

MoEF was, in a sense, cajoling the mining lease holders to comply with the law and EIA 1994 rather than use the stick. That the mining lease holders chose to misconstrue the soft implementation as a licence to not abide by the requirements of the law is unfortunate and was an act of omission or commission by them at their own peril. We cannot attribute insensitivity to the MoEF or even to the mining lease holders to environment protection and preservation, but at the same time we cannot overlook the obligation of everyone to abide by the law. That the MoEF took a soft approach cannot be an escapist excuse for non-compliance with the law or EIA 1994.

Environment Impact Assessment Notification of 14th September, 2006

108. On 14th September, 2006 another EIA Notification was issued by the MoEF. This notification (for short EIA 2006) required prior EC for projects or activities mentioned in the Schedule to it both for major as well as minor minerals if the leased area is 5 hectares or more. We were informed that several mining lease holders, in compliance with EIA 2006, applied for and were granted an EC.

109. It was submitted by learned counsel for the mining lease holders that the confusion, vagueness and uncertainty caused by EIA 1994 and subsequent circulars and other communications did not end with the issuance of EIA 2006. Reference was made to a circular dated 13th October,

2006 which deals with interim operational guidelines till 13th September, 2007 in respect of applications made under EIA 1994. We do not see the relevance of this circular (which really dealt with transitional issues) not only for the reason given in *M.C. Mehta* that circulars cannot override statutory notifications but also because it deals with the procedure for considering applications made under EIA 1994.

110. Reference was also made to a circular dated 2nd July, 2007. The passage relied upon reads as follows:-

“It is clarified that all such mining projects which did not require environmental clearance under the EIA Notification, 1994 would continue to operate without obtaining environmental clearance till the mining lease falls due for renewal, if there is no increase in lease area and/or there is no enhancement of production. In the event of any increase in lease area and or production, such projects would need to obtain prior environmental clearance. Further, all such projects which have been operating without any environmental clearance would obtain environmental clearance at the time of their lease renewal even if there is no increase either in terms of lease area or production.”

111. The aforesaid circular relates to three categories that is: (i) Mining leases, where no EC was required under EIA 1994 would continue to operate without an EC; (ii) If there was an increase in the lease area or enhancement of production, an EC was required by the mining lease holder; (iii) All projects would require an EC at the time of renewal of the mining lease even if there was no increase in the lease area or enhancement of production.

112. Reference was also made to an Office Memorandum dated 19th August, 2010. However a reading of this document brings out that it basically relates to construction at site but makes it clear that no activity relating to any project covered under EIA 2006 including civil construction could be undertaken without obtaining a prior EC except fencing of the site to protect it from getting encroached and construction of temporary sheds for the guards.

113. Reference was also made to Office Memorandums dated 16th November, 2010 and 12th December, 2012 but having gone through them we find them of little relevance as they deal with procedural issues only.

114. All that we need to say on this subject is that there is no confusion, vagueness or uncertainty in the application of EIA 1994 and EIA 2006 insofar as mining operations were commenced on mining leases before 27th January, 1994 (or even thereafter). Post EIA 2006, every mining lease holder having a lease area of 5 hectares or more and undertaking mining operations in respect of major minerals (with which we are concerned) was obliged to get an EC in terms of EIA 2006.

115. An attempt was then made by learned counsel for the mining lease holders to get out of the rigours of EIA 1994 and EIA 2006 by contending

that some of them had modified the mining plan (with approval) and that therefore they had extracted iron ore or manganese ore, as the case may be, in terms of the mining plan but not necessarily in terms of the EC that had been obtained, if at all.

116. We have already held that a mining plan is subordinate to the EC and in *M.C. Mehta* it was held by this Court that having an approved mining plan does not imply that a mining lease holder can commence mining operations. That being so, a modified mining plan without a revised or amended EC, is of no consequence. What the contention of learned counsel suggests to us is that under the shield of a modified mining plan, illegal or unlawful mining in the form of mining without an EC, mining by over-reaching EIA 1994 and EIA 2006 was being carried out.

117. The contention apart, the subterfuge of obtaining a modified mining plan to get over the adverse effects of excess and illegal or unlawful production of iron ore or manganese ore was deprecated by the Ministry of Mines of the Government of India. In a letter dated 29th October, 2010 addressed to the Controller General, Indian Bureau of Mines it was pointed out that State Governments had expressed a concern that the Indian Bureau of Mines (IBM) had been modifying mining plans for allowing an increase in production of ore without adequate intimation to the State Governments.

A concern was raised that such a revision was often being used to increase production of ore, which is sometimes not accounted for in mining operations in the concerned mining lease. It was made clear that all modifications of mining plans shall be effective prospectively only and earlier instances of irregular mining shall not be regularized through a modification of the mining plan.

118. In a subsequent letter dated 12th December, 2011 addressed to the Chief Secretary in the Government of Orissa the said Ministry of Mines noted that there were violations of the actual production limit laid down in the mining plan and that the State Government had finally taken steps to curb illegal mining in respect of over-production of minerals. There was a reference to suggest (and we take it to be so) that 20% deviation from the mining plan (in terms of over-production) would be reasonable and permissible. However, it appears from a reading of the communication that illegal mining was going on beyond the 20% deviation limit and that appropriate steps were needed to curb these violations. Learned counsel for the petitioners submitted that such egregious violations must be firmly dealt with by cancellation or termination of the mining lease and a soft approach is not called for.

119. In this context, it is worth noting that a High Level Committee (called the Hoda Committee) on the National Mineral Policy noted in its Report dated 22nd December, 2006 in paragraph 3.47 as follows :

“3.47 An EMP [Environment Management Plan] has to be prepared under the MCDR and got approved by IBM. However, this EMP is not acceptable to the MoEF. The miner has to prepare two EMPs separately – one for IBM and another for MoEF. The Committee suggests that IBM and MoEF should prepare guidelines for a composite EMP so that IBM can approve the same in consultation with MoEF’s field offices. This will eliminate anomalous situations where increase of even a few tonnes in production requires project authorities to get a fresh EMP approved from the MoEF although the IBM allows a grace of $\pm 10\%$ per cent, keeping in view the fluctuations in the market situation and process complexities. If a single EMP is accepted in principle such anomalies can be resolved in advance. The Committee feels the MoEF should also have a cushion of $\pm 10\%$ per cent in production while giving EIA clearance.”

120. The above passage indicates that the permissible variation in production as per the Indian Bureau of Mines is $\pm 10\%$ but according to the letter dated 12th December, 2011 issued by the Ministry of Mines, the reasonable variation limit could be $+20\%$. It is not clear why there was a shift in the variation, but as rightly pointed out by learned counsel for the petitioners, the fact that in some cases the variation exceeded 20% was a cause for concern which necessitated strict and punitive action.

121. A submission was made by learned counsel for the mining lease holders to the effect that since many of them had been granted the first

deemed statutory renewal of the mining lease under Rule 24A of the MCR, the requirements of EIA 1994 would not be applicable. We were shown various amendments made to Rule 24A of the MCR from time to time particularly the amendments made on 10th February, 1987, 7th January 1993, 27th September, 1994, 17th January, 2000, 18th July, 2014 and 8th October, 2014. In our opinion, none of these are of any consequence, the reason being that for the purposes of renewal of the mining lease, an application is required to be made by the mining lease holders and the deemed renewal clause under Rule 24A of the MCR will come into operation only after an application for renewal is made in Form J in Schedule I of the MCR. Under Rule 26 of the MCR, the State Government may refuse to renew the mining lease. That apart, the position in environmental jurisprudence with regard to the renewal of a mining lease has been made explicit by this Court in *M.C. Mehta*. Even otherwise, in view of EIA 1994, it is quite clear that the renewal of a mining lease would require a prior EC.

122. We may also draw attention in this regard to a circular dated 28th October, 2004 issued by the MoEF wherein it was stated that in view of the decision in *M.C. Mehta* all mining projects of major minerals of more than 5 hectares lease area that had not yet obtained an EC would have to do so at the time of renewal of the lease.

123. Finally, it was submitted that whenever an EC is granted, it would have retrospective effect from the date of the application for grant of an EC. In this context, it was pointed out that there were enormous delays in granting an EC and that the Hoda Committee had noted with reference to EIA 2006 that if all goes well, the grant of an EC takes about 232 days whereas the international norm is that an EC is granted within six months or 180 days. According to the additional affidavit filed by some mining lease holders, the period of 232 days mentioned by the Hoda Committee was actually a conservative estimate and that in fact it takes anything upto 390 days for the grant of an EC. It was submitted that the position was even worse under EIA 1994 since the MoEF rarely showed any urgency in the grant of an EC. Examples were cited before us to show that in some instances the grant of an EC took more than two years. Taking all this into consideration it was submitted that it would be more appropriate that the EC is given retrospective effect from the date of the application.

124. We are not in agreement with learned counsel for the mining lease holders. There is no doubt that the grant of an EC cannot be taken as a mechanical exercise. It can only be granted after due diligence and reasonable care since damage to the environment can have a long term impact. EIA 1994 is therefore very clear that if expansion or modernization

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of any mining activity exceeds the existing pollution load, a prior EC is necessary and as already held by this Court in *M. C. Mehta* even for the renewal of a mining lease where there is no expansion or modernization of any activity, a prior EC is necessary. Such importance having been given to an EC, the grant of an *ex post facto* environmental clearance would be detrimental to the environment and could lead to irreparable degradation of the environment. The concept of an *ex post facto* or a retrospective EC is completely alien to environmental jurisprudence including EIA 1994 and EIA 2006. We make it clear that an EC will come into force not earlier than the date of its grant.

Illegal Mining

125. A question raised by learned counsel for the mining lease holders concerned the interpretation of the expression 'illegal mining'. Reliance was placed on the report of the CEC which refers to Rule 2(iia) of the MCR to conclude that the violation of any rule within the mining lease area would not come within the definition of 'illegal mining' except where there has been a violation of the rules framed under Section 23C of the MMDR Act.

According to the CEC:

“17. Illegal mining has been defined as mining operations undertaken by any person in any area without holding a mining lease. It does not include violation of any rules within the mining lease area except the Rules made under Section 23C of the MMDR

Act, 1957. The mining lease area shall be considered as an area held with lawful authority by the lessee (refer Rule 2(ia), MCR, 1960).”

126. As can be seen from the above, there is a difference of opinion between the CEC and the Commission on what is illegal mining or mining without lawful authority and we will give our views on the subject.

127. According to the lessees a mining operation only outside the mining lease area would constitute ‘illegal mining’ making illegal mining lease centric. We are unable to accept this narrow interpretation given by the CEC and relied upon by learned counsel for the mining lease holders.

128. The simple reason for not accepting this interpretation is that Rule 2(ii a) of the MCR was inserted by a notification dated 26th July, 2012 while we are concerned with an earlier period. That apart, as mentioned above, the holder of a mining lease is required to adhere to the terms of the mining scheme, the mining plan and the mining lease as well as the statutes such as the EPA, the FCA, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. If any mining operation is conducted in violation of any of these requirements, then that mining operation is illegal or unlawful. Any extraction of a mineral through an illegal or unlawful mining operation would become illegally or unlawfully extracted mineral.

129. It is not, as suggested by learned counsel, that illegal mining is confined only to mining operations outside a leased area. Such an activity is obviously illegal or unlawful mining. Illegal mining takes within its fold excess extraction of a mineral over the permissible limit even within the mining lease area which is held under lawful authority, if that excess extraction is contrary to the mining scheme, the mining plan, the mining lease or a statutory requirement. Even otherwise, it is not possible for us to accept the narrow interpretation sought to be canvassed by learned counsel for the mining lease holders particularly since we are dealing with a natural resource which is intended for the benefit of everyone and not only for the benefit of the mining lease holders.

Encroachments

130. Section 4(1) of the MMDR Act makes it clear that no person can carry out any mining operations except under and in accordance with the terms and conditions of a mining lease granted under the MMDR Act and the rules made thereunder. Obviously therefore, any person carrying on mining operations without a mining lease, is indulging in illegal or unlawful mining. This would also necessarily imply that if a mining lease is granted to a person who carries out mining operations outside the boundaries of the

mining lease, the mineral extracted would be the result of illegal or unlawful mining.

131. In its report, the CEC has dealt with illegal mining outside the sanctioned mining areas. It is stated that 82 mining leases for iron ore and manganese ore were identified by the Commission where there were encroachments in the form of illegal mining pits, illegal over-burden dumps etc.

132. In respect of these 82 mining leases, the State of Odisha appointed a Committee on the suggestion of the Commission, to survey and identify the exact extent and location of the sanctioned lease area, lease area under occupation of the mining lease holder and the area under encroachment/illegal mining. The Committee or the Joint Survey consisted of officers of the Revenue Department, Forest Department and Mining Department of the State of Odisha who carried out a field survey in respect of 39 mining leases. The findings of the field survey or the Joint Survey were verified by a team comprising of the Director Mines, Chief Engineer, ORSAC and the Additional Secretary, F & E Department of the Government of Odisha.

133. It is mentioned in the report of the CEC that the Joint Survey for each of the 39 mining leases is technically sound and reliable. However, in

respect of some of the leases, it would be desirable for the State Government to take another look at the results of the field survey. Unfortunately, the CEC has not identified these mining leases that require another look. Be that as it may, the fact is that a joint survey has not been conducted in respect of 43 mining leases.

134. We are of the view that for completing the record and taking the report of the CEC to its logical conclusion, it would be appropriate if a fresh Joint Survey is conducted by concerned officers of the Government of Odisha from the Revenue Department, the Forest Department, the Mining Department and any other department that may be deemed necessary. The Forest Survey of India, the MoEF, the Indian Bureau of Mines and the Geological Survey of India should also be associated in the Joint Survey. In our opinion, it would also be appropriate if the CEC is also associated in the Joint Survey and the best and latest technology should be made use of including satellite imagery and thereafter a report is submitted in this Court on or before 31st December, 2017 after hearing the 82 lessees identified by the Commission.

Adherence to the mining plan

135. A side issue raised by learned counsel for the mining lease holders in this regard was the necessity (if any) of adhering to the annual plan or



calendar plan of mining. It was contended that a mining lease holder could mine in excess of the annual plan. While it is so, this submission must be tempered and appreciated in the proper context. A mining plan is valid for a period of five years but there could be a 20% variation in extraction over and above the mining plan. This is the maximum that is stated to be reasonably permissible according to the Ministry of Mines. In terms of Rule 22(5) of the MCR a mining plan shall incorporate a tentative scheme of mining and annual program and plan for excavation from year to year for five years. At best, there could be a variation in extraction of 20% in each given year but this would be subject to the overall mining plan limit of a variation of 20% over five years. What this means is that a mining lease holder cannot extract the five year quantity (with a variation of 20%) in one or two years only. The extraction has to be staggered and continued over a period of five years. If any other interpretation is given, it would lead to an absurd situation where a mining lease holder could extract the entire permissible quantity under the mining plan plus 20% in one year and extract miniscule amounts over the remaining four years, and this could be done without any reference to the EC. The submission of learned counsel in this regard simply cannot be accepted.



136. In the letter dated 12th December, 2011 sent by the Secretary in the Ministry of Mines of the Government of India to the Chief Secretary of the Government of Odisha (adverted to above) concerning violation of annual production limit laid down in the approved mining plan, it was stated, *inter alia*, that an analysis of production and violations in 104 mining leases for bulk minerals in the last ten years was undertaken by the Indian Bureau of Mines. It was noted that in 71 cases there was excess ore produced beyond the reasonable variation limit of 20%. It was noted that this was partly due to the failure of the State machinery to restrict the movement of minerals.

137. In a further letter dated 5th September, 2012 it was reiterated that any violation of the mining plan or the mining scheme noticed by the State Government should be immediately brought to the notice of the Indian Bureau of Mines to initiate suitable action. It was reiterated that transit passes to such mines should not be issued by the State Government so as to stop any additional outgo. It was added: "Needless to say any revision on the limits of production is subjected to statutory clearances under Environment and Forest laws. Having said that, the State Mining and Geology officials should not also lose focus on taking stringent action against any instances of illegal mining, undertaken outside the leased area, and passed off as excess production." It is quite clear from the

correspondence placed before us that as far as the Union of India is concerned, any violation of the requirements of the law has to be firmly dealt with.

138. With reference to the interpretation of Section 21(5) of the MMDR Act (which we shall soon consider) it was stated as follows:

“Section 21(5) of MMDR Act is clearly applicable on such land which is occupied without lawful authority. It is clarified that in the context of MMDR Act, 1957, violations pertaining to mining operations within the mining lease area are to be dealt with only in terms of the provisions of the Mineral Conservation and Development Rules 1988. The State Governments have clear powers to tackle any offences related to mining outside the mining lease area in terms of Section 23C of the MMDR Act, 1957. However, the interpretation that a land granted under a Mining lease by the State Government can be held to be occupied without lawful authority on the grounds of violation of provisions of any other law of the land is not appropriate and such interpretation may not stand in the Court of law. Such Act or Rules, including the Environment (Protection) Act, 1986, or the Forest (Conservation) Act, 1980, etc. clearly provide penalties for violations under those laws. This aspect may be clarified to the State Accountant General also.”

139. All that we need say for the present is that the interpretation given in the aforesaid letter to Section 21(5) of the MMDR Act is not fully correct. While mining in excess of permissible limits under the mining plan or the EC or FC on leased area may not amount to mining on land occupied without lawful authority, it would certainly amount to illegal or unlawful mining or mining without authority of law.

Section 21 of the MMDR Act

140. The discussion on illegal or unlawful mining takes us to the question of the consequence of illegal or unlawful mining and the interpretation of Section 21(1) and Section 21(5) of the MMDR Act.

141. Section 21(1) of the MMDR Act is clearly relatable to a penal offence and applies if any one contravenes the provisions of Section 4(1) of the MMDR Act. Section 4(1) of the MMDR Act prohibits the undertaking of any mining operation in any area except under and in accordance with the terms and conditions of a mining lease and the rules made thereunder. Therefore, when a person carries out a mining operation in any area other than a leased area or violates the terms of a mining lease, which incorporates the mining plan and which requires adherence to the law of the land, that person becomes liable for prosecution under Section 21(1) of the MMDR Act. In the event of a conviction, he or she shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to Rs.5 lakh per hectare of the area.

142. As far as Section 21(5) of the MMDR Act is concerned, according to the CEC the provision is applicable only if a person indulges in illegal mining outside the mining lease area. Consequently, Section 21(5) of the MMDR Act is not attracted even if the mineral raised within the mining

lease area is without an EC or beyond the quantity prescribed by the EC or beyond the quantity permitted in the mining plan. In such a situation, the provisions of the EPA or the MCR come into play. This interpretation is supported by learned counsel for the mining lease holders who affirm that Section 21(5) of the MMDR Act is mining lease area centric. In other words, according to the CEC and the learned counsel, for the purposes of Section 21(5) of the MMDR Act illegal mining is mining outside the mining lease area and Section 21(5) of the MMDR Act has to be understood in that light.

143. Reference was also made to the Explanation to Rule 2(iiia) of the MCR where it is stated that for the purposes of this clause, the violation of any rules, other than the rules made under section 23C of the MMDR Act, within the mining lease area by a holder of a mining lease shall not include illegal mining. In other words, it was submitted that Section 21(5) of the MMDR Act is required to be understood in the context of Rule 2(iiia) of the MCR.

144. It was submitted by Shri Ashok Desai learned senior counsel for one of the intervenors, that the penalty postulated by Section 21(5) of the MMDR Act though an imposition of a pecuniary liability, is punishment for the commission of an offence. By referring to *Khemka & Co. (Agencies)*

*Pvt. Ltd. v. State of Maharashtra*⁹ it was contended that the liability sought to be imposed by Section 21(5) of the MMDR Act is not a liability that is created by a clear, unambiguous and express enactment.

145. As far as the Union of India is concerned, in its affidavit filed on 20th January, 2017 by Shri Sudhakar Shukla, Economic Advisor in the Government of India, Ministry of Mines, it is submitted (and this submission is supported by the learned Attorney General in his oral submissions) that Section 21(5) of the MMDR Act is in two parts. The first part refers to the raising of minerals without any lawful authority from any land. The second part is in addition to what is recoverable under the first part. The addition is to the effect that when a person raises a mineral from any area not in his or her lawful authority, that person is also liable to pay the rent, royalty or tax for the period during which the land was occupied without lawful authority.

146. It is further submitted that 'illegal mining' as defined in Rule 2(iia) of the MCR is also required to be read in the context of Rule 26(4) and Rule 27(4A) of the MCR which deal with the refusal to renew a mining lease if the mining lease holder is convicted of illegal mining and the determination of a mining lease in the event the mining lease holder is convicted of illegal mining. It is submitted that the definition of illegal mining in the MCR must

9 (1975) 2 SCC 22

be strictly construed and limited to the provisions of the MCR and cannot apply to the provisions of Section 21(5) of the MMDR Act.

147. In conclusion, it is reiterated by the Union of India on affidavit as follows:

“55. That considering all the above, the Ministry would like to submit that the provisions of sub-section (5) of Section 21 would apply to all minerals raised without any lawful authority, be it forest clearances or environment clearances or any other such legal requirements.

56. That penalties would arise under section 21(5) of the MMDR Act, 1957, in respect of any form of mining activity without lawful authority. Mining outside lease area would on the face of it amount to mining without lawful authority and would attract the provisions of section 21(5); and, in addition, all forms of mining without lawful authority including that in breach of the limits imposed by the Environmental Clearance carried out within the lease area would also invite penalties under section 21 (5).” (Emphasis given by us).

148. On behalf of the State of Odisha, it was submitted by Shri Rakesh Dwivedi learned senior counsel by relying upon *Karnataka Rare Earth v. Senior Geologist, Department of Mines & Geology*¹⁰ that what is sought to be achieved by Section 21(5) of the MMDR Act is to recover the price of the mineral that has been illegally or unlawfully or unauthorisedly raised with an intention to compensate the State for the loss of the mineral owned by it, the loss having been caused by a person who is not authorized by law to raise that mineral. There is no element of penalty involved in this and the

10 (2004) 2 SCC 783

recovery of the mineral or its price is not a penal action but is merely compensatory. This is what this Court had to say in *Karnataka Rare Earth*:

“12. Is the sub-section (5) of Section 21 a penal enactment? Can the demand of mineral or its price thereunder be called a penal action or levy of penalty?”

13. A penal statute or penal law is a law that defines an offence and prescribes its corresponding fine, penalty or punishment. (*Black's Law Dictionary*, 7th Edn., p. 1421.) Penalty is a liability composed (*sic* imposed) as a punishment on the party committing the breach. The very use of the term “penal” is suggestive of punishment and may also include any extraordinary liability to which the law subjects a wrongdoer in favour of the person wronged, not limited to the damages suffered. (See Aiyar, P. Ramanatha: *The Law Lexicon*, 2nd Edn., p. 1431.)

14. In support of the submission that the demand for the price of mineral raised and exported is in the nature of penalty, the learned counsel for the appellants has relied on the marginal note of Section 21. According to Justice Singh, G.P.: *Principles of Statutory Interpretation* (8th Edn., 2001, at p. 147), though the opinion is not uniform but the weight of authority is in favour of the view that the marginal note appended to a section cannot be used for construing the section. There is no justification for restricting the section by the marginal note nor does the marginal note control the meaning of the body of the section if the language employed therein is clear and spells out its own meaning. In *Director of Public Prosecutions v. Schildkamp*¹¹ Lord Reid opined that a sidenote is a poor guide to the scope of a section for it can do no more than indicate the main subject with which the section deals and Lord Upjohn opined that a sidenote being a brief précis of the section forms a most unsure guide to the construction of the enacting section and very rarely it might throw some light on the intentions of Parliament just as a punctuation mark.

15. We are clearly of the opinion that the marginal note “penalties” cannot be pressed into service for giving such colour to the meaning

¹¹ (1969) 3 All ER 1640 : (1970) 2 WLR 279 (HL)

of sub-section (5) as it cannot have in law. The recovery of price of the mineral is intended to compensate the State for the loss of the mineral owned by it and caused by a person who has been held to be not entitled in law to raise the same. There is no element of penalty involved and the recovery of price is not a penal action. It is just compensatory.”

149. We are in agreement with the view expressed by the learned Attorney General and Shri Dwivedi as also the view expressed in *Karnataka Rare Earth*. The decision in *Khemka & Co.* is not at all apposite. There is no ambiguity in Section 21(5) of the MMDR Act or in its application. We are also of opinion that though Section 21(1) of the MMDR Act might be in the realm of criminal liability, Section 21(5) of the MMDR Act is certainly not within that realm.

150. In our opinion, Section 21(5) of the MMDR Act is applicable when any person raises, without any lawful authority, any mineral from any land. In that event, the State Government is entitled to recover from such person the mineral so raised or where the mineral has already been disposed of, the price thereof as compensation. The words ‘any land’ are not confined to the mining lease area. As far as the mining lease area is concerned, extraction of a mineral over and above what is permissible under the mining plan or under the EC undoubtedly attracts the provisions of Section 21(5) of the MMDR Act being extraction without lawful authority. It would also attract Section 21(1) of the MMDR Act. In any event, Section 21(5) of the Act is certainly

attracted and is not limited to a violation committed by a person only outside the mining lease area – it includes a violation committed even within the mining lease area. This is also because the MMDR Act is intended, among other things, to penalize illegal or unlawful mining on any land including mining lease land and also preserve and protect the environment. Action under the EPA or the MCR could be the primary action required to be taken with reference to the MCR and Rule 2(ii a) thereof read with the Explanation but that cannot preclude compensation to the State under Section 21(5) of the MMDR Act. The MCR cannot be read to govern the MMDR Act.

151. What is the significance of this discussion? It was submitted that the CEC has taken the following view:

“..... it may be appropriate that 30% of the notional value of the iron and manganese produced by each of the lessees without/in excess of the environmental clearances may be directed to be recovered from the concerned lessees and with the explicit understanding the concerned lessees as well as the officers will continue to be liable for action under the provisions of the respective Acts.”

152. Learned counsel for the petitioners and the learned *Amicus* were of opinion that the provisions of Section 21(5) of the MMDR Act require that the entire price of the illegally mined ore should be recovered from each defaulting lessee. Similarly, in its affidavit, the Union of India differs with the recommendation of the CEC. According to the affidavit of the Union of

India this would be contrary to the statutory scheme and in fact 100% recovery should be made under the provisions of Section 21(5) of the MMDR. We may note that only to this extent, the learned Attorney General differed with the view expressed by the Union of India and submitted that the recommendation of the CEC to recover only 30% of the value of the illegally mined ore should be accepted.

153. In our opinion, there can be no compromise on the quantum of compensation that should be recovered from any defaulting lessee – it should be 100%. If there has been illegal mining, the defaulting lessee must bear the consequences of the illegality and not be benefited by pocketing 70% of the illegally mined ore. It simply does not stand to reason why the State should be compelled to forego what is its due from the exploitation of a natural resource and on the contrary be a party in filling the coffers of defaulting lessees in an ill gotten manner.

Calculations on merits

154. The issue now is with regard to the calculations made by the CEC with regard to the production of iron ore and manganese ore without or in excess of the EC and/or the mining plan. As already mentioned above, the figures were not disputed (except by JSPL and SMPL). Therefore, only the application of the figures requires consideration and so we do not need to



examine each individual case. However to understand and appreciate the manner in which the CEC has arrived at its figures, we may state that this has been specifically mentioned by the CEC in its report. The basis of the calculations is as follows:

- “(a) the production during the year 1993-94 has been considered as the permissible production during each year till the mining lease did not have the environmental clearance;
- (b) the permissible production for the year in which the environmental clearance was obtained for the first time has been considered on pro rata basis of (a) the prescribed annual production and (b) the date of the grant of the environmental clearance. For this purpose the environmental clearance granted on or before 15th of a month has been considered valid for the entire month. Where the environmental clearance has been granted after 15th of a month it has been considered valid from the subsequent month. For example if the environmental clearance for a mining lease has been granted say on 10th October, 2008 for an annual production of say 12 lakh MT then in that case the permissible production for the mining lease for the year 2008-09 would be taken as 6 lakh MT ($12 \times 6 / 12$ lakh MT) and 12 lakh MT per annum in the subsequent year; and
- (c) wherever a mining lease having environmental clearance has been granted revised environmental clearance for a higher production the permissible annual production for the year, during which the revised environmental clearance has been granted, has been considered on pro rata basis of the quantities prescribed in the earlier environmental clearance and the revised environmental clearance. For example if the mining lease was having environmental clearance for annual production of 12 lakh MT and say on 28th September, 2009 it has been granted revised environmental clearance for annual production of say 24 lakh MT then in that case the permissible production for the year 2009-10 would be taken as 18 lakh MT ($12 \times 6 / 12 + 24 \times 6 / 12$) and 24 lakh MT per annum in subsequent years.”

155. A submission made by the mining lease holders was that the maximum production in any year up to 1993-94 should be considered as the base for making the calculations. Such a contention was also urged before the CEC and was rejected. We have examined this contention independently and are of the view that the base year of 1993-94 is most appropriate - we have already given our reasons for this. Some lessees might lose in the process while some of them might benefit but that cannot be avoided. In any event, each mining lease holder is being given the benefit of calculations only from 2000-01 and is not being 'penalized' for the period prior thereto. We think the mining lease holders should be grateful for this since it was submitted by learned counsel for the petitioners and the learned *Amicus* that the penalty should be levied from the date of EIA 1994. In our opinion, the cut-off from 2000-2001 (without interest) is undoubtedly reasonable and there can be hardly be any grievance in this regard. The mining lease holders cannot have their cake and eat it too, along with the icing on top.

156. Since the recommendation made by the CEC in this regard is not totally unreasonable, we accept that the compensation should be payable from 2000-2001 onwards at 100% of the price of the mineral, as rationalized by the CEC.

Violation of the Forest (Conservation) Act, 1980

157. Before dealing with the violations of Section 2 of the Forest (Conservation) Act, 1980 (for short 'the FCA'), it is necessary to give a brief background.

158. The FCA came into operation initially through the Forest (Conservation) Ordinance, 1980 with effect from 25th October, 1980. The said Ordinance was repealed and subsequently the FCA came into effect on 25th December, 1980.

159. Section 2 of the FCA provides that no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing, *inter alia*, that any forest land or any portion thereof may be used for non-forest purposes.

160. The interpretation of Section 2 of the FCA first came up for consideration in *State of Bihar v. Banshi Ram Modi*.¹² In that case, Banshi Ram Modi was granted a mining lease for mining and winning mica. During the course of mining operations, feldspar and quartz were discovered. Modi then applied to the Central Government to include these minerals in the lease. The State Government agreed to do so but did not

12 (1985) 3 SCC 643

obtain the previous approval of the Central Government for the inclusion of the two minerals in the original lease.

161. The Central Government took the view that since its previous approval had not been obtained for inclusion of feldspar and quartz in the mining lease, Modi could not be permitted to mine these two minerals. This led Modi to approach the High Court with the contention that he was not breaking up or clearing any forest land other than the land on which mining operations were already being carried on. The High Court allowed the writ petition but feeling aggrieved, the State of Bihar preferred an appeal in this Court.

162. The question before this Court was a narrow one, namely, whether prior approval of the Central Government is necessary in respect of a mining lease, granted for winning a certain mineral prior to the coming into force of the FCA, if the lessee applies to the State Government after the FCA came into force for permission to win and carry any new mineral from the broken up area?

163. While answering this question in the negative, it was held that after the commencement of the FCA no fresh breaking up of forest land or no fresh clearing of the forest on any such land could be permitted by the State Government or any authority without the approval of the Central

Government. However, in respect of broken up land, it was held that if the State Government permits the lessee to remove any discovered mineral, it cannot be said that there has been a violation of Section 2 of the FCA particularly since there is no breaking up of any fresh forest land.

164. Subsequently in *Ambica Quarry Works v. State of Gujarat and Ors*¹³ when the lease of the mining holder came up for renewal, the FCA had already come into force. Since the forest department of the State of Gujarat refused to give a no objection certificate, the application for renewal of the lease was rejected. The question that arose for consideration was whether, after coming into force of the FCA, the mining lease holder was entitled to renewal of the mining lease. While answering the question in the negative this Court held that the renewal of a lease cannot be claimed as a matter of right. The primary purpose of the FCA was to prevent deforestation and ecological imbalance as a result of deforestation. Therefore, the primary duty under the FCA was to the community and the obligation to society must predominate over the obligation to the individuals. While distinguishing *Banshi Ram Modi* this Court held that renewal of the lease would lead to further deforestation or at least it would not help in reclaiming the area where deforestation had already taken place. The primary purpose of the

13 (1987) 1 SCC 213

FCA is to prevent further deforestation and any interpretation must sub-serve that purpose and implement the FCA. Under the circumstances, it was held, considering the scheme of the FCA that refusal to renew the lease without prior approval of the Central Government was not unjustified.

165. This view was reiterated in *Rural Litigation and Entitlement Kendra v. State of U.P.*¹⁴ It was held that the FCA does not permit mining in a forest area. Reiterating the view expressed in *Ambica Quarry Works*, it was observed that compliance of Section 2 of the FCA is necessary as a condition precedent even for the renewal of a mining lease. This Court went so far as to hold that if any decree or order has already been obtained by any of the mining lease holders, from any Court relating to renewal of their lease, the same shall stand vacated and similarly, any appeal or other proceeding taken to obtain a renewal or against any order or decree granting renewal shall also become *non est*.

166. The definition of the word 'forest' for the purposes of the FCA came up for consideration in *T.N. Godavarman v. Union of India*.¹⁵ In its decision of 12th December, 1996 this Court observed that during the course of hearing it appeared that there is a misconception about the true scope of

14 (1989) Supp. (1) SCC 504

15 (1997) 2 SCC 267

the FCA and the meaning of the word 'forest' used therein. Consequently, there is also a misconception about the need for prior approval of the Central Government as mandated by Section 2 of the FCA in respect of certain activities in a forest area, which activities are more often of a commercial nature.

167. In this context, it was held that 'forest' must be understood according to its dictionary meaning and it would cover all statutorily recognized forests, whether designated, reserved, protected or otherwise. It was further held that 'forest' would also include any area recorded as a forest in the government records irrespective of the ownership. With this in mind, this Court directed that prior approval of the Central Government is required for any non-forest activity within the area of any 'forest'. In accordance with Section 2 of the FCA all on-going activity within any forest in any State throughout the country, without prior approval of the Central Government must cease forthwith. This particular direction given by this Court is of immense significance.

168. This Court further directed each State Government to constitute within one month an Expert Committee, *inter alia*, to identify areas which are 'forest' irrespective of whether they are so notified, recognized or classified under any law and irrespective of the ownership of the land of such forest.

169. Pursuant to the directions given by this Court, the State of Odisha constituted District Level Committees (for short 'DLC') for identification of forest lands. After the identification process, appropriate affidavits were filed by the State of Odisha in this Court in 1997-98, the last being dated 6th January, 1998.

170. In the meanwhile, in *T.N. Godavarman v. Union of India*¹⁶ this Court passed certain directions on 4th March, 1997 with regard to what was categorized as mining matters. The directions given by this Court are as follows:

“9. We direct that –

- (1) where the lessee has not forwarded the particulars for seeking permission under the FCA, he may do so immediately;
- (2) the State Government shall forward all complete pending applications within a period of 2 weeks from today to the Central Government for requisite decisions;
- (3) applications received (or completed) hereafter would be forwarded within two weeks of their being so made.
- (4) the Central Government shall dispose of all such applications within six weeks of their being received. Where the grant of final clearance is delayed, the Central Government may consider the grant of working permissions as per existing practice.”

171. It was also made clear that the order passed by this Court including the earlier order dated 12th December, 1996 shall be obeyed and carried out by

16 (1997) 3 SCC 312

the Central Government and the State Governments notwithstanding any order or direction passed by a court including a High Court or Tribunal to the contrary.

172. From the above, it is explicit that in terms of the orders passed by this Court, there was a complete ban on non-forest activity on forest lands with effect from 12th December, 1996. The only issue that remained was identification of all such lands by the District Level Committees and as mentioned above this exercise was completed by the State of Odisha on or about 6th January, 1998. The lands identified by the DLC are compendiously referred to as DLC lands.

173. In this background in IA Nos. 2746-2748 of 2009 in the case of *T.N. Godavarman* the CEC was directed to submit a report which it did on 26th April, 2010. It was recommended by the CEC that given the peculiar circumstances prevailing in the State of Odisha, mining operations in the entire DLC lands included in the mining leases, may be allowed to continue on payment of the Net Present Value (NPV) subject to the fulfillment of other statutory requirements and rules being complied with.

174. By an order dated 7th May, 2010 this Court directed that the recommendation of the CEC acceptable to the State Government could be complied with. Consequently, the State of Odisha appears to have

implemented the recommendations regarding recovery of NPV and realized an amount of about Rs. 1750 crores as additional NPV.

175. We have been informed that in addition to the above, the mining lease holders have subsequently deposited an amount under the heading of penal compensatory afforestation which was introduced through guidelines issued by the MoEF on 3rd February, 1999. The guidelines in this regard, were communicated by the Assistant Inspector General of Forest to the Chief Secretary of all the State and Union Territories and the relevant portion thereof reads as follows:

“4.3.1 Cases have come to the notice of the Central Government in which permission for diversion of forest land was accorded by the concerned State Government in anticipation of approval of the Central Government under the Act and/or where work has been carried out in forest area without proper authority. Such anticipatory action is neither proper nor permissible under the Act which clearly provides for prior approval of the Central Government in all cases. Proposals seeking ex-post-facto approval of the Central Government under the Act are normally not entertained. The Central Government will not accord approval under the Act unless exceptional circumstances justify condonation. However, penal compensatory afforestation would be insisted upon by the MoEF on all such cases of condonation.

4.3.2 The penal compensatory afforestation will be imposed over the area worked/used in violation. However, where the entire area has been deforested due to anticipatory action of the State Government, the penal compensatory afforestation will be imposed over the total lease area.”

176. It was submitted by learned counsel for the lessees that since additional NPV as well as an amount towards penal compensatory afforestation has been paid by the defaulting mining lease holders, the violation of Section 2 of the FCA stands condoned or in any event the illegal or unlawful mining in forest lands stands regularized.

177. The CEC did not accept this submission made on behalf of the mining lease holders on the ground that no retrospective forest clearance has been granted and even otherwise there is no provision to condone or regularize the violation of Section 2 of the FCA.

178. We are of opinion that the view expressed by the CEC in this regard is partially correct. Given the fact that the defaulting mining lease holders have been asked to pay and have paid additional NPV as well as an amount towards penal compensatory afforestation, it must be assumed the violation of the FCA has been condoned to a limited extent, more particularly since in its order dated 7th May, 2010 this Court permitted the State of Odisha to accept such recommendations of the CEC made in the report dated 26th April, 2010 as are acceptable to it. The relevant recommendations made by the CEC read as follows:

“(c) No forest land can be leased/assigned without first obtaining the approval under the FC Act. Therefore, the forest area approved under the FC Act should not be lesser than the total forest area included in the mining leases approved under the MMDR Act, 1957.

Both necessarily have to be the same. In view of the above, this Hon'ble Court while permitting grant of Temporary Working Permission to the mines in Orissa and Goa has made it one of the pre-conditions that the NPV will be paid for the entire forest area included in the mining leases. Similarly, all the mining lease holders in Orissa should be directed to pay the NPV for the entire forest area, included in the mining leases;

(d) In Orissa, substantial areas included in the mining leases as non forest land have subsequently been identified as DLC forest (deemed forest/forest like areas) by the Expert Committee constituted by the State Government pursuant to this Hon'ble Court's order dated 12.12.1996. While processing and/or approving the proposals under the FC Act in many cases such areas have been treated as non-forest land. It is recommended that (i) the NPV for the entire DLC area included in the mining lease, after deducting the NPV already paid, should be deposited by the concerned lease holder and (ii) the mining operations in the unbroken DLC land (virgin land) should be permissible only if the permission under the FC Act has been obtained/is obtained for such area. Keeping in view the peculiar circumstances as was existing in Orissa and subject to the above, the mining operations in the broken DLC land may be allowed to be continued provided the other statutory requirements and Rules are otherwise being complied with."

179. This still leaves open the question of violation of the order passed by this Court on 12th December, 1996 followed by the order dated 4th March, 1997 namely that mining must cease forthwith in forest areas. In regard to this violation, the only benefit (at best) that can be granted to the mining lease holders that we are concerned with, is till 6th January, 1998 when the affidavit was filed in this Court in I.A.Nos. 2746-2748 of 2009 in *T.N. Godavarman*. With effect from 7th January, 1998 any mining activity in forest and DLC lands would clearly be completely illegal and unauthorized

and the benefit that the mining lease holders have derived from this illegal mining would be subject to Section 21(5) of the MMDR Act. Therefore, the price of the iron ore and manganese ore mined by the mining lease holders from 7th January, 1998 is payable until forest clearance under Section 2 of the FC Act is obtained by the mining lease holders.

180. The report of the CEC dated 16th October, 2014 deals with 51 mining leases. It has been recorded by the CEC that of them 15 mining leases have been found not involved in undertaking mining operations in violation of the FCA. There are 16 mining leases that have violated the provisions of the FCA between 25th October, 1980 and 1999-2000 and the State Government in some of the cases has already issued a show cause notice to the mining lease holders. It is further stated that most of the violations pertain to the period prior to 12th December, 1996. The CEC has not made any particular recommendation in regard to these 16 mining leases nor do we, except to direct the State Government to promptly take a decision on the show cause notice preferably within a period of four months and in any case before 31st December, 2017.

181. The CEC has also dealt with 18 others mining lease holders (other than M/s. Essel Mining and Industries Ltd. relating to the Kasia Iron Ore Mines and Jilling-Langlotta Iron & Manganese Ore Mines). With regard to these

18 mining lease holders, the view taken by us above would hold good and clearly they are liable to compensate the State for the entire price of the iron ore and manganese ore illegally mined with effect from 7th January, 1998 until the forest clearance was obtained by the concerned mining lease holder.

182. We have fixed 7th January, 1998 as the cut-off date despite the orders dated 12th December, 1996 and 4th March, 1997 only for the reason that it is possible that some mining lease holders (we do not know how many) were not aware that they were inadvertently conducting mining operations on DLC lands which were identified by the State of Odisha as forest lands on the directions of this Court. For the purposes of Section 21(5) of the MMDR Act, they are entitled to the benefit of doubt and along with them, the other mining lease holders before us.

The CEC in this regard has observed as follows:

“It will be seen that in the above cases the mining operations have been done in the forest land in violation of the Forest (Conservation) Act, 1980 and consequently also in violation of this Hon’ble Court order dated 12.12.1996. The CEC recommends that 70% of the notional value of the iron ore and manganese produced by the lessees by undertaking mining operations in the forest land in violation of the Forest (Conservation) Act, 1980 may be directed to be recovered from the respective lessees. Wherever the mineral production is both from the forest land as well as non-forest land then in such cases the notional value of the production from the forest land may be calculated on pro rata basis of the extent of the forest land and non-forest land involved. The notional value of the mineral, time limit for payment of the compensation, use of the amount received as compensation and other conditions as decided by this Hon’ble Court in respect of the production without/in excess of

the environmental clearance may be directed to be followed on pari-passu basis.”

183. For the reasons that we have already expressed above, we are not in agreement with the CEC that only a part of the notional value (in this case 70%) of the iron ore and manganese ore produced by the mining lease holders should be recovered. We are of the view that Section 21(5) of the MMDR Act should be given full effect and so we reiterate that the recovery should be to the extent of 100%.

184. There may be some overlap in the period when mining operations were conducted by the mining lease holders without an EC and/or an FC. We make it clear that mineral extracted either without an EC or without an FC or without both would attract the provisions of Section 21(5) of the MMDR Act and 100% of the price of the illegally or unlawfully mined mineral must be compensated by the mining lease holder. To the extent of the overlap or the common period, obviously only one set of compensation is payable by the mining lease holder to the State of Odisha. We order accordingly. However, we make it clear that whatever payment has already been made by the mining lease holders towards NPV, additional NPV or penal compensatory afforestation is neither adjustable nor refundable since that falls in a different category altogether.

185. We may note that this Court has held in *T.N. Godavarman v. Union of India*¹⁷ that a violation of the FCA is condonable on payment of penal compensatory afforestation charges. This obviously would not apply to illegal or unlawful mining under Section 21(5) of the MMDR Act, but we make it clear that the mining lease holders would be entitled to the benefit of any Temporary Working Permission granted.

Conclusions on the issues of mining without an EC or FC or both

186. To avoid any misunderstanding, confusion or ambiguity, we make the following very clear:

- (1) A mining project that has commenced prior to 27th January, 1994 and has obtained a No Objection Certificate from the SPCB prior to that date is permitted to continue its mining operations without obtaining an EC from the Impact Assessment Agency. However, this is subject to any expansion (including an increase in the lease area) or modernization activity after 27th January, 1994 which would result in an increase in the pollution load. In that event, a prior EC is required. However, if the pollution load is not expected to

¹⁷ (2011) 15 SCC 658 and (2011) 15 SCC 681

increase despite the proposed expansion (including an increase in the lease area) or modernization activity, a certificate to this effect is absolutely necessary from the SPCB, which would be reviewed by the Impact Assessment Agency.

- (2) The renewal of a mining lease after 27th January, 1994 will require an EC even if there is no expansion or modernization activity or any increase in the pollution load.
- (3) For considering the pollution load the base year would be 1993-94, which is to say that if the annual production after 27th January, 1994 exceeds the annual production of 1993-94, it would be treated as an expansion requiring an EC.
- (4) There is no doubt that a new mining project after 27th January, 1994 would require a prior EC.
- (5) Any iron ore or manganese ore extracted contrary to EIA 1994 or EIA 2006 would constitute illegal or unlawful mining (as understood and interpreted by us) and compensation at 100% of the price of the mineral should be recovered from 2000-2001 onwards in terms of Section 21(5) of the MMDR Act, if the extracted mineral has been disposed of. In addition, any rent, royalty or tax for the period that such mining activity was

carried out outside the mining lease area should be recovered.

- (6) With effect from 14th September, 2006 all mining projects having a lease area of 5 hectares or more are required to have an EC. The extraction of any mineral in such a case without an EC would amount to illegal or unlawful mining attracting the provisions of Section 21(5) of the MMDR Act.
- (7) For a mining lease of iron ore or manganese ore of less than 5 hectares area, the provisions of EIA 1994 will continue to apply subject to EIA 2006.
- (8) Any mining activity carried on after 7th January, 1998 without an FC amounts to illegal or unlawful mining in terms of the provisions of Section 21(5) of MMDR Act attracting 100% recovery of the price of the extracted mineral that is disposed of.
- (9) In the event of any overlap, that is, illegal or unlawful mining without an FC or without an EC or without both would attract only 100% compensation and not 200% compensation. In other words, only one set of compensation would be payable by the mining lease holder.
- (10) No mining lease holder will be entitled to the benefit of any payments made towards NPV or additional NPV or penal

compensatory afforestation.

Violation of Section 6 of the MMDR Act

187. We have examined the report of the CEC with regard to the alleged violation of Section 6 of the MMDR Act and find that there have been several amendments to Section 6 relating to the maximum area for which a mining lease may be granted to a person. The following is the result of the amendments:

1. From 1.6.1958 to 11.9.1972 - maximum lease area 10 sq. miles.
2. From 12.9.1972 to 9.2.1987 - maximum lease area 10 sq. km or 1000 hectares in any one State.
3. From 10.2.1987 to 17.12.1999 – maximum lease area 10 sq.km or 1000 hectares in any part of the country.
4. From 18.12.1999 till date – maximum lease area 10 sq.km or 1000 hectares in one State.

188. While the word ‘person’ has not been defined in the MMDR Act, a reading of Section 5 thereof indicates that the State Government shall not grant a mining lease to any person unless such person is an Indian national or a company as defined in the Companies Act, 1956 and subsequently in the Companies Act of 2013.

189. Sub-section (2) of Section 6 of the MMDR Act provides that a person acquiring by, or in the name of, another person a mining lease which is intended for him/her shall be deemed to be acquiring it himself/herself.

190. For the purposes of determining the total area that can be acquired for mining operations, Section 6(3) of the MMDR Act provides that the area held under a mining lease by a person as a member of a cooperative society, company or other corporation or a Hindu Undivided Family or a partner of a firm shall be deducted from the area referred to so that the sum total of the area held by such person under a mining lease only as such member or partner or individually may not in any case exceed the total area specified.

191. In this background, the CEC examined the case of seven mining lease holders. They are:

1. Essel Mining and Industries Limited
2. Rungta Mines Limited
3. Rungta Sons Pvt. Limited
4. Bonai Industrial Company Limited
5. Feegrade & Co. Pvt. Limited
6. M/s Mangilal Rungta
7. Jindal Steel & Power Limited

192. As far as Essel Mining and Industries Limited is concerned we propose to deal with this mining lease holder on another occasion since even the CEC has placed this mining lease holder in a special category.

193. Similarly, so far as Rungta Mines Limited, Rungta Sons Pvt. Limited and M/s Mangilal Rungta are concerned, although the CEC has come to the conclusion that these persons have not acquired mining leases in violation of Section 6 of the MMDR Act, there are some critical observations made by

the Commission with regard to the 'Rungta Group'. Learned counsel for the W.P. (C) Nos. 114/2014 etc.
Page **99** of **114**

petitioner submitted that the view of the CEC in this regard needs reconsideration. Since the 'Rungta Group' was not heard by us, we propose to hear the above Rungta companies to ascertain, *inter alia*, whether there has been any violation of the provisions of Section 6 of the MMDR Act.

194. As far as Jindal Steel & Power Limited is concerned, we propose to hear this company on another occasion since the suggestion of the CEC is that it is the benami holder of Sarda Mines Pvt. Ltd. If it is so held to be a benami holder of Sarda Mines Pvt. Ltd. then there is a violation of Section 6 of the MMDR Act. However, the CEC has refrained from making any observations or recommendation in this regard. Accordingly, we propose to hear Jindal Steel & Power Limited on a later occasion on this limited issue.

195. As far as Bonai Industrial Company Limited and Feegrade & Co. Pvt. Limited are concerned, the CEC has concluded that they have not violated Section 6 of the MMDR Act. That being the position, and nothing having been shown to the contrary, we accept the recommendation of the CEC in this regard.

Violation of Rule 37 of the Mineral Concession Rules, 1960

196. The CEC has discussed the possible violation of Rule 37 of the MCR. In this context, it was noted that there were several mining lease holders who

had entered into raising contracts which were actually a transfer of the lease as postulated by Rule 37 of the MCR.

197. On this basis the State of Odisha constituted a Committee on 8th July, 2011 to carry out a study of the financial transactions between the mining lease holders and the raising contractors to determine whether there is a *prima facie* violation of Rule 37 of the MCR.

198. On an examination of the material before it the Committee concluded that eight mining lease holders violated Rule 37 of the MCR. These mining lease holders are as under:

- i) R.P. Sao, Guali Iron Ore Mines, Keonjhar
- ii) Indrani Patnaik, Unchabali Iron Ore Mines, Keonjhar
- iii) M/s K.J.S. Ahluwalia, Nuagaon Iron Ore Mines, Keonjhar
- iv) M/s Aryan Mining & Trading Corporation Pvt. Ltd., Narayanposhi Iron Ore Mines, Sundergarh

- v) M/s Mideast Integrated Steel Ltd., Roida, Sidhamatha Iron Ore Mines, Keonjhar

- vi) Kavita Agrawal, Kusumdihi Manganese Mines, Sundergarh
- vii) Mala Roy & Others, Jalabari Iron Ore Mines, Keonjhar
- viii) M/s Sharda Mines (P) Ltd., Thakurani Iron Ores Mines, Keonjhar

199. Pursuant to the report of the Committee, a show cause notice was issued to these mining lease holders by the State of Odisha. Six of the mining lease holders (other than M/s Aryan Mining & Trading Corporation

Pvt. Ltd. (for short Aryan) and Kavita Agrawal (Kusumdihi Manganese Mines) challenged the show cause notice and the decision of the Committee by filing revision petitions under Section 30 of the MMDR Act read with Rule 55 of the MCR before the Central Government. The challenge to the show cause notice was on the ground that persons who were not government servants could not have been included in the Committee and also that the Committee was not notified in the official gazette as required by Section 26(2) of the MMDR Act.

200. The Central Government set aside the order constituting the Committee and the State of Odisha has challenged the orders of the Central Government before the Orissa High Court through writ petitions. We are told that the writ petitions filed by the State of Odisha are pending in the High Court.

201. As far as Aryan is concerned, we were informed that the matter was pending with the State of Odisha and a request was made to us to permit the State of Odisha to pass a final order on the submissions made by Aryan. On 28th April, 2017 we had permitted the State of Odisha to pass final orders but we are not aware whether any orders have since been passed.

202. As far as Kavita Agrawal is concerned, her lease was terminated by the State of Odisha and the Central Government also dismissed her revision

petition on 28th April, 2014. The said mining lease holder has since filed a writ petition which is pending in the Orissa High Court.

203. During the course of hearing it was proposed by learned counsel appearing for some of the mining lease holders that it might be appropriate if the raising contracts between these eight mining lease holders and the raising contractors are given a fresh look. This suggestion was not acceptable to one of the mining lease holders. However, we are of opinion that the suggestion is reasonable and it will be appropriate if in fact a fresh look is given to the raising contracts entered into by the mining lease holders and the raising contractors. We are also of opinion that such an order ought to be passed with the consent of the mining lease holders since any delay in disposal of the issue would not really sub-serve the interests of anybody including the mining lease holders.

204. Accordingly, for considering the appointment of an appropriate Committee in respect of the eight mining lease holders mentioned above we would like to hear learned counsel for the parties. We make it clear that the proposed Committee will be entitled to lift the corporate veil, the importance of which in cases such as the present, has been emphasized in *State of Rajasthan v. Gotan Lime Stone Khanij Udyog (P). Ltd.*¹⁸

18 (2016) 4 SCC 469

Intergenerational equity

205. Mr. Prashant Bhushan, learned counsel for the petitioner sought to impress upon us the need to consider intergenerational equity and if possible to place a limit on the extent of mining in the State of Odisha by referring to an article titled: "Intergenerational equity: a legal framework for global environment change" by Edith Brown Weiss. He laid emphasis on three principles that form the basis of intergenerational equity.

206. The first principle relied on is called the principle of 'conservation of options'. This requires each generation to conserve the diversity of the natural and cultural resource base in such a manner that the options available to future generations are not restricted. It was submitted that the extent of mining activities being carried on in Odisha indicate that the entire iron ore will perhaps be fully extracted within a period of 30 years and nothing would be available for future generations. Therefore some sort of a limit would have to be placed on the mining operations.

207. The second principle relied on is the principle of 'conservation of quality'. This was with reference to the submission that future generations should not be subjected to a quality of the planet worse than what it is today. In other words, future generations are also entitled to quality enjoyment of the diversity in the natural and cultural resource base.

208. The third principle relied upon was the principle of 'conservation of access' which is to say that future generations have an equitable right to access the diversity of the natural and cultural resource base as is available to the present generation.

209. There is no doubt considerable substance in the submission particularly if this is considered in the light of intergenerational rights and obligations which have been dealt with in the said article. However, it is really not for this Court to lay down limits on the extent of mining activities that should be permitted by the State of Odisha or by the Union of India. Nevertheless, this is an aspect that needs serious consideration by the policy and decision makers in our country in the governance structure. At present, keeping in mind the indiscriminate mining operations in Odisha, it does appear that there is no effective check on mining operations nor is there any effective mining policy. The National Mineral Policy, 2008 (effective from March 2008) seems to be only on paper and is not being enforced perhaps due to the involvement of very powerful vested interests or a failure of nerve. We are of opinion that the National Mineral Policy, 2008 is almost a decade old and a variety of changes have taken place since then, including (unfortunately) the advent of rapacious mining in several parts of the country. Therefore, it is high time that the Union of India revisits the

National Mineral Policy, 2008 and announces a fresh and more effective, meaningful and implementable policy within the next few months and in any event before 31st December, 2017. We are constrained to pass this direction in view of the facts disclosed in these petitions and in judgments delivered by this Court with regard to mining in Goa and Karnataka.

Inquiry by the Central Bureau of Investigation

210. It was emphasized by Shri Prashant Bhushan that because of the rampant illegal or unlawful mining being carried out in Odisha, there should be an enquiry by the Central Bureau of Investigation (for short 'the CBI') to ascertain and determine the persons involved either in turning a Nelson's eye to rampant illegal or unlawful mining or being conspirators in the activity and the extent of the illegal or unlawful mining. It was submitted that the Justice Shah Commission had very strongly recommended an inquiry conducted by the CBI and criminal elements being brought to book for the despoliation of the land.

211. For the present, we do not propose to direct an investigation or inquiry by the CBI for the reason that what is of immediate concern is to learn lessons from the past so that rapacious mining operations are not repeated in any other part of the country. This can be achieved through the identification of lapses and finding solutions to the problems that are faced.

Undoubtedly, there have been very serious lapses that have enabled large scale mining activities to be carried out without forest clearance or environment clearance and eventually the persons responsible for this will need to be booked but as mentioned above, the violation of the laws and policy need to be prevented in other parts of the country. The rule of law needs to be established. We are therefore of the view that it would be appropriate if an Expert Committee is set up under the guidance of a retired judge of this Court to identify the lapses that have occurred over the years enabling rampant illegal or unlawful mining in Odisha and measures to prevent this from happening in other parts of the country.

212. There is no doubt that the recommendations of the Commission can form a platform for the study but it is also necessary to use technology for maintenance of registers, records and data through computers, satellite imagery, videography and other technology tools so that the natural wealth of our country is not rapaciously exploited for the benefit of a few to the detriment of a large number, many of whom are tribals inhabiting the land for several generations.

Utilization of funds by the Special Purpose Vehicle

213. In I.A. Nos.2746-2748 of 2009 filed by Rabi Das, an order was passed on 27th January, 2014 relating to the preparation of a scheme by the

CEC for setting up a Special Purpose Vehicle (SPV) for tribal welfare and area development works. The relevant extract of the order reads thus:

"50% of the additional amounts of Net Present Value (NPV) recovered by the State of Odisha from the mining lessees will be used by the State of Odisha through a Special Purpose Vehicle (SPV) for undertaking specific tribal welfare and area development works so as to ensure inclusive growth of the mineral bearing areas. The State of Odisha will accordingly file within four weeks from today, a comprehensive plan for the development of tribals out of the aforesaid funds, taking into consideration their requirements of health, education, communication, recreation, livelihood and cultural lifestyle as indicated in this Court's judgment in T.N. Godavaraman Thirumulpad v. Union of India & Others (2008) 2 SCC 222."

214. Subsequently on 28th April, 2014 this Court accepted the scheme prepared by the Government of Odisha in consultation with the Central Empowered Committee. The scheme was captioned "Setting up of Special Purpose Vehicle (SPV) for undertaking specific tribal welfare and area development works so as to ensure inclusive growth of mineral bearing areas in the State of Odisha". This Court then passed the following order on 28th April, 2014:

"Pursuant to orders passed by this Court on 7th [27th] January, 2014, the Government of Odisha in consultation with the Central Empowered Committee has prepared a Scheme captioned "Setting up of Special Purpose Vehicle (SPV) for undertaking specific tribal welfare and area development works so as to ensure inclusive growth of mineral bearing areas in the State of Odisha.

The Central Empowered Committee has submitted a Report dated 9th April, 2014 and has recommended that the Scheme prepared by the Government of Odisha may be approved by this Court and the ad

hoc CAMPA may be directed to transfer to the SPV 50 per cent of the additional amount of the NPV recovered from the mining lease holders by the State of Odisha for undertaking tribal welfare and development works.

We have perused the Scheme prepared by the State Government of Odisha and the recommendation of the Central Empowered Committee and we approve the Scheme and direct as hoc CAMPA to transfer to the SPV 50 per cent of the additional amount of the NPV within a month for undertaking tribal welfare development works.

The Interlocutory applications be listed in the month of July, 2014.”

215. Some of the salient features of the Scheme are as follows:

- 5 The SPV will undertake specific tribal welfare and area development works so as to ensure inclusive growth of the mineral bearing areas. These will include works/projects related to livelihood intervention, health, water supply and sanitation, education, special programmes for development of women and children, entrepreneurial development of local people, communication and infrastructure projects and agro silvi-horticultural based livelihood projects through identified agencies/Government Departments. While taking up such projects/works a bottom up planning and participatory approach will be followed.
- 9 The general superintendence of the affairs will be vested in its Board of Directors including (a) to receive grants/funds and have custody of the same, (b) to approve Annual Budget Estimates and sanction the expenditure within the limits of the Budget, (c) to enter into any agreement for and on behalf of the SPV; (d) institute and defend legal proceedings (e) to consider and approve the Annual Report, audit report, annual accounts and the financial estimates of the SPV, (f) to prescribe procedure to be followed for implementation of the projects/works and for maintenance of accounts and (g) to undertake any other ancillary activities/works for the furtherance of the objective of the SPV.
 - a The funds made available to the SPV will be utilized only for the purpose for which the SPV has been set up and will not be used for any other purpose or transferred to any other authority; and

- b The composition of the Board of Directors of the SPV, as provided in the present scheme, will be modified only after obtaining permission from the Hon'ble Supreme Court.

10. The accounts of the SPV will be internally audited annually by the Chartered Accountant firms empanelled with the CAG/Principal Accountant General, Odisha. The audit of the accounts of the SPV, receipts as well as expenditure, will be done annually by the office of the Principal Accountant General, Odisha.

11. The State Government has, earlier, registered a Society, namely, Society for Inclusive Development of Mineral Bearing Areas of Odisha, which has been registered vide registration number 23354/74 of 2011-12 under the Societies Registration Act, 1860 to act as SPV for the purpose. It is now proposed to wind up the said Society and to replace it with 'Odisha Mineral Bearing Areas Development Corporation' to be set up under section 25 of the Companies Act.

216. It appears that the scheme has been implemented with the Chief Secretary of Odisha as the *ex-officio* Chairman of the SPV. There are several other members and directors of the SPV. There is no further information available with this Court with regard to the implementation of the scheme.

217. During the course of hearing, some of the mining lease holders represented by Shri Gopal Subramaniam, Senior Advocate offered to deposit and in fact did deposit an amount of Rs.237.05 crores for utilization by the SPV for carrying out welfare works and activities in the districts of Keonjhar, Sundergarh and Mayurbhanj in Odisha. The deposit was made by way of a cheque on 6th April, 2017 and was without prejudice to the rights

and contentions of lessees. In terms of our directions, the Registry has encashed the cheque and kept the amount in a short term fixed deposit. We have mentioned this only to point out that there are huge amounts available with the Special Purpose Vehicle for tribal welfare and area development works and we have absolutely no idea about the utilization of the funds or whether they are in fact being used for tribal welfare and area development works. We also expect that as a result of the orders that we are passing today, very large amounts will again be made available to the State of Odisha. These amounts should also be kept with the Special Purpose Vehicle.

218. To ensure that the amounts are utilized for the benefit of tribals in the affected districts and for area development works, we would like the Chief Secretary of Odisha to file an affidavit stating the work done as well as providing the audited accounts of the receipt and expenditure of the SPV from its inception.

Conclusion

219. In view of findings above, we dispose of the writ petitions to the extent of the directions that we have already given.

220. I.A. Nos. 45 (filed by Zenith Mining) and 47 (filed by Kavita Agrawal) are dismissed since their lease has not been extended or has been determined and they do not have any environment clearance or forest clearance.

221. I.A. No. 66 (filed by J.N. Pattnaik) is also dismissed since there is no forest clearance available.

222. We have been informed that S.A. Karim (I.A. No.9) actually had a working lease and has wrongly been included as a non-operational lease. Accordingly, I.A. No. 9 (filed by S.A. Karim) is also dismissed but as being infructuous. However, it is made clear that the State Government should ensure that the lessee S.A. Karim in fact has valid statutory clearances.

223. Pending show cause notices issued by the State Government should be decided by 31st December, 2017 (if not already decided) after hearing the concerned noticees.

224. We would like to hear Jindal Steel and Power Limited, Sarda Mines Private Limited, Rungta Group of Companies and Essel Mining and Industries Limited on the applications filed by them. For this purpose list the matter again after two weeks so that a convenient date of hearing can be fixed.

225. The amounts determined as due from all the mining lease holders should be deposited by them on or before 31st December, 2017. Subject to

and only after compliance with statutory requirements and full payment of compensation and other dues, the mining lease holders can re-start their mining operations.

226. We would also like to hear the eight concerned mining lease holders on the question of appointing an appropriate Committee in respect of the applicability of Rule 37 of the Mineral Concession Rules to them.

227. We would also like to hear learned counsel for all the parties with regard to setting up of an Expert Committee presided over by a retired judge of this Court to identify the lapses that have occurred over the years that have enabled rampant illegal and unlawful mining in Odisha and to recommend preventive measures not only to the State of Odisha but generally to all other States where mining activities are proceeding on a large scale. For the present, we pass no direction with regard to any investigation by the CBI.

228. We direct the Union of India to have a fresh look at the National Mineral Policy, 2008 which is almost a decade old, particularly with regard to conservation and mineral development. The exercise should be completed by 31st December, 2017.

229. The Chief Secretary of Odisha should file an affidavit as indicated by us within a period of six weeks and in any case on or before 30th September,

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2017. The Registry will list these petitions along with the affidavit immediately after its receipt for our consideration.

230. All other pending I.A.s are disposed of in terms of our orders.

.....J
(Madan B. Lokur)

New Delhi;
August 2, 2017

.....J
(Deepak Gupta)

ITEM NO.10

COURT NO.3
S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SECTION PIL-W

Writ Petition(s)(Civil) No(s). 114/2014

COMMON CAUSE

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH IA NO. 110418/2018 (APPLN. FOR CONDONATION OF DELAY ON B/O M/S GEETA RANI MOHANTY, A PARTNERSHIP FIRM)

IA NO. 137873/2018 (APPLN. FOR DIRECTIONS ON B/O SMT. GEETA RANI MOHANTY IN IA NO. 110418/2018)

IA NO. 130079/2018 AND 130083/2018 (APPLNS. FOR DIRECTIONS AND CONDONATION OF DELAY ON B/O MRUNAL DAS)

IA NO. 113096/2018 (APPLN. FOR DIRECTIONS B/O STATE OF ORISSA)

IA NOS. 172486 AND 172493/2018 (APPLNS. FOR INTERVENTION AND DIRECTION ON B/O M/S NATIONAL ENTERPRISES)

IA NOS. 153571 AND 153579/2018 (APPLNS. FOR IMPLEADMENT AND DIRECTION ON B/O M/S MANORANJAN DAS)

IA NO. 180945/2018 (APPLN . FOR EXTENSION OF TIME FOR FRAMING NEW NATIONAL MINERAL POLICY)

Date : 16-01-2019 This petition was called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Prashant Bhushan, AOR

Mr. A.D.N. Rao, Adv. (A.C.)
Mr. Sudipto Sircar, Adv.

Mr. Harish N. Salve, Sr. Adv. (AC) (N.P.)

Mr. Siddhartha Chowdhury, Adv. (A.C.)

Ms. Aparajita Singh, Adv. (A.C.)

For Respondent(s)/ Applicant(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Neeraj Kishan Kaul, Sr. Adv.

Mr. Naveen Kumar, AOR
Mrs. Nandini Gore, Adv.
Ms. Khushboo Bari, Adv.
Ms. Tahira Karanjawala, Adv.
Ms. Natasha Sahrawat, Adv.
Mr. Anand Varma, Adv.
Mr. Prabhat Kumar, Adv.
Mr. Mandeep Kalra, Adv.

Signature Not Verified

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SANJAY KUMAR
Date: 2019.01.17
16:53:16 IST
Reason:

Ms. Uttara Babbar, Adv.
Ms. Bhavana Duhoon, Adv.

Mr. Bhavanishankar V. Gadnis, Adv.
Mr. Vishwanath B. Gadnis, Adv.
Mr. Naveen Kumar, AOR
Ms. Radni Vishwanath Gadnis, Adv.

Mr. Preshit Surshe, Adv.

Mr. Dhananjaya Mishra, Adv.
Mr. Dilip Das, Adv.
Mr. Arnav Dash, Adv.

Mr. Shibashish Misra, AOR
Mr. Chandan Kumar Mandal, Adv.
Mr. Ashish Kumar Sinha, Adv.
Mr. Ompal Singh, Adv.

Mr. Rakesh Dwivedi, Sr. Adv.
Ms. Kirti R. Mishra, Adv.
Ms. Sansriti Pathak, Adv.
Ms. Apurva Upmanyu, Adv.

Mr. Raju Ramchandran, Sr. Adv.
Mr. Ashok Parija, Sr. Adv.
Mr. Anand Varma, AOR
Ms. Shubhagni Jain, Adv.
Ms. Hansani, Adv.

Mr. R.R. Rajesh, Adv.
Mr. Raj Bahadur, Adv.
Mr. Arun Kr., Adv.

Mr. Ashok Kumar Panda, Sr. Adv.
Ms. V. Mohana, Sr. Adv.
Mr. P.K. Mallick, Adv.
Mr. Atulesh Kumar, Adv.
Mr. Balendu Shanker, Adv.
Mr. G.S. Makker, AOR

Mr. Ashok Kumar Panda, Sr. Adv.
Mr. Tejaswi Kumar Pradhan, Adv.
Mr. Satyabrata Panda, Adv.
Mr. Manoranjan Paikaray, Adv.
Mr. Aniruddha Purushotham, Adv.

Mr. Ashok Parija, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Anand Varma, Adv.
Mr. Naveen Kumar, Adv.
Mr. Dhananjaya Mishra, Adv.
Mr. Gaurav Khanna, Adv.

Ms. Nishit Agarwal, Adv.
Ms. Devika Mohan, Adv.
Mr. E.C. Agrawala, Adv.

Ms. Ruchi Kohli, AOR

Mr. Sunil Kumar Jain, AOR

Mr. Raj Kumar Mehta, AOR

Mr. Balaji Srinivasan, AOR

Mr. Mukul Kumar, AOR

Mr. Himinder Lal, AOR

Mr. Ramendra Mohan Patnaik, AOR

M/S. Khaitan & Co., AOR

Mr. Abhishek Sharma, AOR

Mr. Gaurav Kejriwal, AOR

Mr. Lakshmi Raman Singh, AOR

M/S. Aura & Co., AOR

Ms. Movita, AOR

Mr. Rameshwar Prasad Goyal, AOR

Mr. Ashok Panigrahi, AOR

Mr. Hitendra Nath Rath, AOR

Mr. Anand Varma, AOR

Mr. Dhananjaya Mishra, AOR

UPON hearing the counsel the Court made the following
O R D E R

I.A. NO.110418/2018 in W.P.(C) No.114/2014
(APPLN. FOR CONDONATION OF DELAY ON B/O M/S GEETA RANI MOHANTY, A
PARTNERSHIP FIRM)

Mr. Rakesh Dwivedi, learned Senior Counsel appearing for the
respondent-State of Orissa, affirms that all payments due from M/s
Geeta Rani Mohanty (firm) have been received.

Accordingly, the instant application for condonation of delay in depositing the amount of compensation is allowed.

Necessary steps may be taken by the State of Orissa so that mining operations may be resumed, subject to compliance of all mandatory requirements.

I.A. NO.137873/2018 in I.A. NO.110418/2018 in W.P.(C) No.114/2014
(APPLN. FOR DIRECTIONS ON B/O SMT. GEETA RANI MOHANTY IN IA NO. 110418/2018)

Learned counsel appearing for the applicant prays for and is granted four weeks' time to file rejoinder affidavit.

I.A. NOS.130079/2018 and 130083/2018
(APPLNS. FOR DIRECTIONS AND CONDONATION OF DELAY ON B/O MRUNAL DAS)

Learned counsel appearing for the applicant prays for and is granted four weeks' time to file rejoinder affidavit.

I.A. NO.113096/2018 (APPLN. FOR DIRECTIONS B/O STATE OF ORISSA)

Ms. Kirti R. Mishra, learned counsel appearing for the applicant prays for and is granted four weeks' time to file rejoinder affidavit.

I.A. NOS.172486 and 172493/2018
(APPLNS. FOR INTERVENTION AND DIRECTION ON B/O M/S NATIONAL ENTERPRISES)

Application for intervention is allowed only for the purpose of application for directions.

Mr. Rakesh Dwivedi, learned Senior Counsel appearing for the respondent-State of Orissa, confirms that all payments due from M/s National Enterprises have been received.

Accordingly, the application for direction is allowed and delay in making the payment is condoned.

Necessary steps may be taken by the State of Orissa so that mining operations may be resumed, subject to compliance of all mandatory requirements.

I.A. NOS.153571 and 153579/2018
(APPLNS. FOR IMPLEADMENT AND DIRECTION ON B/O M/S MANORANJAN DAS)

Application for impleadment is allowed only for the purpose of application for directions.

Since the applicant has not deposited the entire amount, the application for direction is dismissed.

I.A. NO.180945/2018 (APPLN.(S) FOR EXTENSION OF TIME FOR FRAMING NEW NATIONAL MINERAL POLICY)

For the reasons stated, the time, as prayed for, is further extended upto 30th April, 2019 to complete the task of reviewing the National Mineral Policy, 2008 and announce a new National Mineral Policy.

Hence, I.A. No.180945/2018 is disposed of.

Writ Petition (C) No.114/2014

In the course of hearing, the issue of deleterious effect of mining of vegetation in the area came up before us. In particular, it is well known that mining results in a complete elimination of grass in the area which results in denial of fodder to herbivores. We are informed that re-grassing technology is in existence today.

Mr. Mukul Rohatgi, learned Senior Counsel appearing for the applicant - Mining Lease Holder, fairly states that the mine owners would be willing to bear the cost of re-grassing upon termination of mining activities in the area since it is in the larger interest of the environment.

We request Mr. Rakesh Dwivedi, learned Senior Counsel appearing for the respondent-State of Orissa, to look into the matter and make appropriate suggestions for implementing this proposal of re-grassing after termination of mining activities.

Mr. Ashok Kumar Panda, learned Senior Counsel appearing for the respondent-Union of India, states that this will also be included as a part of the National Mining Policy 2019 which is being formulated by them.

Mr. Prashant Bhushan, learned counsel appearing for the petitioner, states that the report of the Committee comprising Hon'ble Mr. G.S. Singhvi and Hon'ble Mr. Anil R. Dave JJ, former Judges of this Court, is awaited.

The Registry of this Court is directed to find out the time period within which the aforesaid report is expected to come and apprise this Court of the same thereafter.

Put up after four weeks.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

ITEM NO.1

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 114/2014

COMMON CAUSE

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

(1) I.A. NO.30915/2019 AND 153946/2019 (APPLNS. FOR DIRECTIONS AND SEEKING LEAVE TO PLACE ON RECORD ADDL. DOCUMENTS ON B/O MIDEAST INTEGRATED STEELS LTD.)

(2) I.A. NO.186810/2019 (APPLICATION FOR DIRECTIONS) ON BEHALF OF M/S SARDA MINES PRIVATE LIMITED

(3) I.A. NO.157635/2019 (APPLICATION FOR DIRECTIONS) ON BEHALF OF ORISSA MINING CORPORATION LIMITED

"ONLY" IN W.P.(C) NO. 114/2014 ARE LISTED TODAY.

THE NAMES OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST: MR. HARISH N. SALVE, SR. ADVOCATE (A.C.) MS. APARAJITA SINGH, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) MR. PRASHANT BHUSHAN MR. B.K. PRASAD MR. GURMEET SINGH MAKKER MS. KIRTI R. MISHRAMR. MR. L.R. SINGH, ADVOCATES.)

Date : 08-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

Counsel for the parties

Mr. Harish N. Salve, Sr. Adv. (A.C.) (N.P.)

Ms. Aparajita Singh, Sr. Adv. (A.C.)

Mr. ADN Rao, Adv. (A.C.)

Mr. Siddhartha Chowdhury, Adv. (A.C.)

Mr. Prashant Bhushan, AOR
Mr. Pranav Sachdeva, Adv.
Mr. Hemanth Pothula, Adv.

Mr. B.K. Prasad, AOR

Ms. Pinky Anand, ASG
Ms. V. Mohna, Sr. Adv.
Mr. Atulesh Kumar, Adv.
Mr. Raj Bahadur, Adv.
Mr. R.R. Rajesh, Adv.
Mr. D.V. Rao, Adv.
Mr. Tarkeshwar Nath, Adv.
Ms. Saudimini Sharma, Adv.
Mr. Hemand Arya, Adv.

Mr. Mukesh Kumar Maroria, AOR

Mr. Atmaram N.S. Nadkarni, ASG
Ms. Chinmayee Chandra, Adv.
Mr. S.S. Rebello, Adv.
Ms. Arzu Paul, Adv.
Mr./Ms. Neeleshwar Pavani, Adv.
Ms. Riya Soni, Adv.
Ms. Shivikka Agrawal, Adv.
Mr. Gurmeet Singh Makker, AOR

Ms. Kirti R. Mishra, AOR
Ms. Apurva Upmanya, Adv.

Mr. Vikas Singh, Sr. Adv.
Mr. L.R. Singh, AOR
Mr. Satwik Misra, Adv.
Ms. Udit Singh, Adv.
Ms. Deepeika Kalia, Adv.
Ms. Shweta Priya, Adv.
Mr. Vivek Singh, Adv.

Mr. Mahesh Jethmalani, Sr. Adv.
Mr. Parag Tripathi, Sr. Adv.
Mr. Gopal Jain, Sr. Adv.
Mr. Navin Kumar, AOR
Mr. Manish Kharbanda, Adv.
Mr. Saurabh Ajay Gupta, Adv.
Ms. Natasha Sehwat, Adv.
Mr. Pranav Sood, Adv.
Ms. Priya Singh, Adv.
Mr. Karanveer Singh, Adv.
Ms. Nikita Mehta, Adv.
Mr. Vineet Kumar, Adv.

Mr. Raj Kumar Mehta, AOR
Ms. Himanshi Andley, Adv.

UPON hearing the counsel the Court made the following
O R D E R

In the course of hearing, this Court on 16.01.2019 passed an order taking cognizance of the deleterious effect of mining on vegetation, after mining activities are over. In particular, it is observed that an area which is mined results in complete elimination of grass which in turn denies fodder to the herbivores. The only solution can be re-grassing of such mined areas. It is not in dispute that re-grassing technology is available in this country.

We see no reason why the area which has been mined should not be restored so that grass and other vegetations including trees can grow in the mining area for the benefits of animals.

We are of the view that this can be achieved by directing the Union of India to impose a condition in the mining lease and a similar condition in the environmental clearance and the mining plan to the effect that the mining lease holders shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc.

The Union of India may devise appropriate methods for ensuring compliance of this condition after the mining activity is over at the cost of the mining lease holders. This condition shall be in addition to those conditions which have already been imposed for achieving the same purpose under the mine closure plan. This condition shall not be imposed in derogation of any conditions

which are already in force.

Order accordingly.

The Union of India will report the action taken within a period of three weeks from today.

List the matter thereafter.

I.A. NOS.30915/2019 AND 153946/2019 (APPLNS. FOR DIRECTIONS AND SEEKING LEAVE TO PLACE ON RECORD ADDL. DOCUMENTS ON B/O MIDEAST INTEGRATED STEELS LTD.

Arguments concluded.

Orders reserved.

I.A. NO.186810/2019 (APPLICATION FOR DIRECTIONS) ON BEHALF OF M/S SARDA MINES PRIVATE LIMITED

Arguments concluded.

Orders reserved.

I.A. NO.157635/2019 (APPLICATION FOR DIRECTIONS) ON BEHALF OF ORISSA MINING CORPORATION LIMITED

Issue notice returnable after two weeks.

In the meantime, the respondent(s) may file their respective reply affidavits, if any.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

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V.V. Singh
O.M.

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F. No. 3-50/2017-IA.III(Pt.)
Government of India
Ministry of Environment, Forest and Climate Change
(IA-III Section)

Indira Paryavaran Bhawan
Jor Bag Road, New Delhi - 3
Dated: 30th May, 2018

OFFICE MEMORANDUM

Sub: Consideration of mining proposals involving violation of the EIA Notification, 2006 under the provisions of S.O. 804 (E) dated 14.03.2017 and subsequent amendments for ToR / EC -regarding.

In order to regularize the projects involving violation of EIA Notification, 2006, the Ministry of Environment, Forest and Climate Change has issued a Notification number S.O.804(E) dated 14th March, 2017 and S.O. 1030 (E) dated 8th March, 2018 under the Environment (Protection) Act, 1986 to appraise the projects that have not taken prior environment clearance in terms of provisions of Environment Impact Notification, 2006 amended from time to time. Such cases have been termed as cases of violation of said notification.

2. Meanwhile, Hon'ble Supreme Court, vide judgment dated the 2nd August, 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors. has passed a detailed order interpreting Section 21(5) of the MMDR Act and directing payment of 100% penalty for illegal mining operations with reference to the relevant statutes, which *inter-alia*, include the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Forest (Conservation) Act, 1980 and the Mines and Minerals (Development & Regulation) Act, 1957.

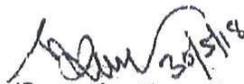
3. In pursuance of the Ministry's Notification referred to in para 1 above, the proposals involving violations of the EIA Notification, 2006 are to be appraised for grant of ToR/EC at the Central level or by the respective SEAC/SEIAA in different States/UT's levels depending upon the categorization of the project.

4. In pursuance of the above notifications, the ministry had invited proposals for regularization of violation during a specified time-window. Now, the Ministry has received a number of proposals for grant of Terms of Reference (ToR)/Environmental clearance(EC) to mining projects engaged in mining of major and minor minerals for regularization of the same.

5. In the above context, in order to additionally comply with the directions given by the Hon'ble Supreme Court as referred to in para 2 above, it has been decided to include the following additional conditions in ToRs/ECs to be issued for mining

projects under the provisions of S.O. 804 (E) dated 14.03.2017 and subsequent amendments:-

- i. The project proponent shall give an undertaking by way of affidavit to comply with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors. before grant of ToR/ EC. The undertaking *inter-alia* include commitment of the PP not to repeat any such violation in future.
- ii. In case of violation of above undertaking, the ToR/Environmental Clearance shall be liable to be terminated forthwith.
- iii. The Environmental Clearance will not be operational till such time the Project Proponent complies with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors..
- iv. State Government concerned shall ensure that mining operation shall not commence till the entire compensation levied, if any, for illegal mining paid by the Project Proponent through their respective Department of Mining & Geology in strict compliance of judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.
5. The direction issued vide this Ministry's OM dated 15th March, 2018 and 16th March, 2018 shall continue to apply.
7. This issues with approval of competent authority.


(Surender Kumar)
Advisor (IA)

To,

1. The Chairman of all the SEAC/SEIAA of States/UTs
2. The Member Secretary of all the SEAC/SEIAA of States/UTs

Copy for information to:

1. PS to Minister for Environment, Forest and Climate Change
2. PS to MoS for Environment, Forest and Climate Change
3. PPS to Secretary (EF&CC)
4. PPS to AS (AKJ)/AS(AKM)
5. PS to JS (GB)/JS(JT)
6. All officers in IA Division
7. Website, MoEF&CC
8. Guard File

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F. No. 22-34/2018-IA.III

Government of India

Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

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

E-mail: sharath.kr@gov.in
Tel: 011-24695319

Dated: 16th January, 2020

OFFICE MEMORANDUM

Sub.: Additional Environment Clearance condition for mining projects – reg.

The Ministry of Environment, Forest and Climate Change has issued the standard EC conditions for coal and non coal mining sectors vide OM no 22-34/2018-IA.III dated 9th August 2018 and 8th January 2019.

2. The Hon'ble Supreme Court vide order dated 08.01.2020 in W.P. (Civil) No.114/2014 in the matter of Common Cause vs. Union of India has directed that the area which has been mined should be restored so that grass and other vegetation including trees can grow in the mining area for the benefit of animals.

3. In view of the above, as directed by the Hon'ble Supreme Court, an additional condition as stipulated in the order be included in all the Environmental Clearances already granted to mining projects and to be granted henceforth.

"The mining lease holders shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc."

3.1 Necessary communication may be issued to the project proponents under intimation to respective regulatory authorities.

4. This issues with the approval of competent authority.

Sharath
16/01/2020
(Sharath Kumar Pallerla)
Director (IA-Policy)

To

1. Chairman, Central Pollution Control Board (CPCB).
2. Chairman of all the Expert Appraisal Committees

157

3. Chairperson/Member Secretaries of all the SEIAAs/SEACs
4. All the Officers of I.A. Division
5. Chairpersons/Member Secretaries of all SPCBs/UTPCCs

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary(EF&CC)
4. PPS to AS (RSP) / AS (RA)
5. PS to JS (GM)/ JS (AKN)/JS (SKB)
6. Website, MoEF&CC
7. Guard file.

20/05/2020
(Sharath Kumar Pallerla)
Director (IA-Policy)

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F. No. IA3-22/11/2023-IA.III (E-208230)
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

3rd Floor, Vayu Wing
Indira Paryavaran Bhavan,
Jor Bagh Road,
New Delhi-110003

Dated: 28th April, 2023

OFFICE MEMORANDUM

Subject: Compliance of order dated 07.12.2022 passed by Hon'ble NGT in O.A.142 of 2022 in the matter of Jayant Kumar vs. Ministry of Environment, Forests and Climate Change - reg.

The Hon'ble National Green Tribunal (Principal Bench), New Delhi vide order dated 13.09.2018 in O.A. No. 186 of 2016 (Satendra Pandey vs. Ministry of Environment Forest & Climate Change & Anr) had observed that the Ministry's Notification S.O. 141(E) dated 15.01.2016 was not in consonance with the directions given by Hon'ble Supreme Court in the matter of Deepak Kumar Vs. State of Haryana and Others and passed certain directions.

2. In the above case, Hon'ble NGT had *inter-alia* directed that mining projects with lease areas of 0 to 5 ha are to be evaluated by State Level Expert Appraisal Committee (SEAC) for recommendation and grant of Environmental Clearance (EC) by State Level Environment Impact Assessment Authority (SEIAA) instead of District Level Environment Impact Assessment Authority (DEIAA). In compliance of the said directions, Ministry issued an OM dated 12.12.2018 addressed to Chief Secretaries of all the States/UTs directing to comply with the directions of Hon'ble NGT.

3. Subsequently, Hon'ble NGT vide its order dated 07.12.2022 in O.A.142 of 2022 in the matter of Jayant Kumar vs. Ministry of Environment, Forests and Climate Change *inter-alia* observed that "mining leases in which environmental clearance was granted by DEIAA in view of amendment notification dated 15.01.2016 are still continuing even after passing of order dated 13.09.2018 by this Tribunal in Satendra Pandey (supra) and issuance of OM dated 12.12.2018 by MoEF&CC without any re-appraisal by SEIAA and appropriate remedial action on the basis of such re-appraisal. All such mining leases in which environmental

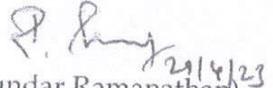
clearance was granted by DEIAA need to be brought in consonance with the directions given by Hon'ble Supreme Court in Deepak Kumar (supra) and order dated 13.09.2018 by this Tribunal in Satendra Pandey (supra) by re-appraisal by SEIAA and only such mining leases may be continued which have been on re-appraisal granted environmental clearance by SEIAA. MoEF&CC is, therefore, directed to take appropriate steps for compliance in this regard by issuance of requisite directions in exercise of the statutory powers under the Environment (Protection) Act, 1986."

4. The matter has been examined in the Ministry and accordingly it has been decided that all valid ECs issued by DEIAA shall be reappraised through SEAC/SEIAA in compliance to the order of the Hon'ble NGT in O.A.142 of 2022. In view of above, it is hereby directed that all concerned SEACs shall re-appraise the ECs issued by DEIAAs between 15.01.2016 and 13.09.2018 (including both dates) and all fresh ECs in this regard shall be granted only by SEIAAs based on such appraisal. The exercise shall be completed within a time period of one year from the date of issue of this OM. DEIAAs shall transfer all such files where ECs have been granted to concerned SEIAA within a time period of one month from issue of this OM. The State Government may assess the existing workload of SEAC(s) and accordingly, send proposals for constitution of additional SEAC for a specified period to deal with such additional workload.
5. Further, in order to have a uniform approach across the country for such appraisal, SEIAA shall scrutiny and appraise the proposals based on the checklist provided below:
 - i. Completely filled up Form-2 as per Ministry's OM dated 15.12.2021.
 - ii. Pre-Feasibility Report (PFR) as per MoEF Guidelines dated 30.12.2010
 - iii. Valid Mine Lease Document
 - iv. Approved Mining Plan from the concerned Authorities
 - v. District Survey Report approved by SEIAA as per Ministry's Notification S.O 3611(E) dated 25.07.2018
 - vi. Implementation of "Sustainable Sand Mining Management Guidelines, 2016" and "Enforcement & Monitoring Guidelines for Sand Mining, 2020" in case of sand mining proposals.
 - vii. Details of forest land involved in the mine lease area and availability of Stage-I/II Forest Clearance (FC) for diversion of forest land for non-forestry purpose.
 - viii. Details of Eco Sensitive Zones (ESZ) and Eco Sensitive Areas (ESAs), National Parks, Wildlife Sanctuary, Coastal Zone, Water bodies and other ecological sensitive areas within/in the vicinity of the mine lease area and if so details of NOC/Clearances obtained.
 - ix. If any Schedule-I species is present in the study area, proof of submission of Wildlife Conservation Plan to the Forest Department.
 - x. Cluster Certificate from State Mines and Geology Department.

- xi. Compliance of Hon'ble Supreme Court judgment dated 02.08.2017 passed in Common Cause vs Union of India Writ Petition (C) 114 of 2014.
- xii. Proposal of re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. in compliance to the direction dated 8th January, 2020 of Hon'ble Supreme Court in Writ Petition(s) Civil No. 114/2014, Common Cause vs Union of India & Ors.

6. The provisions of this OM shall be operational subject to the outcome of Civil Appeal No. 3799-3800 of 2019 titled Union of India vs Rajiv Suri filed by Ministry before the Hon'ble Supreme Court of India against the order dated 13th September, 2018 passed in O.A. No. 200 of 2016 (Rajiv Suri Vs UOI) & order dated 21st December, 2018 passed in R.A. No. 47 of 2018 (UOI Vs Rajiv Suri).

7. This is issued with the approval of the Competent Authority.


(Sundar Ramanathan)
Scientist E

To

1. The Chairperson/Member Secretaries of all the SEIAAs/SEACs.
2. The Chairman of all the Expert Appraisal Committees
3. The Chairpersons/Member Secretaries of all SPCBs/UTPCCs.
4. All the officers of IA Division

Copy for information to:

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to AS (TK)/ JS(SKB)
5. Website, MoEF&CC /Guard file

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Sl. No 8(R)

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Mk-2
Forest Clearance
Environmental Clearance



तार

Telegram : PARYAVARAN,
NEW DELHI

दूरभाष :

Telephone :

टेलिक्स (द्विभाषीय) :

Telex : (bi-lingual) : W-66185 DOE IN

FAX : 4360678

भारत सरकार

पर्यावरण एवं वन मंत्रालय

GOVERNMENT OF INDIA

MINISTRY OF ENVIRONMENT & FORESTS

पर्यावरण भवन, सी० जी० ओ० कॉम्प्लेक्स

PARYAVARAN BHAWAN, CGO COMPLEX

लोदी रोड, नई दिल्ली - 110003

LODHI ROAD, NEW DELHI-110003

No.8-44/96-FC

Dated: 07.01.1997

To

The Secretary (Forests),
Govt of Andhra Pradesh,
HYDERABAD.

Sub:- Diversion of 73.93 ha. of forest land in Nalgonda district in favour of M/s. Deccan Cements Ltd. for additional lime stone mining lease.

Sir,

I am directed to refer to your letter No.838/For.I/96-1 dated 24.2.96 on the above mentioned subject seeking prior approval of the Central Government in accordance with Section-2 of the Forest (Conservation) Act, 1980.

After careful consideration of the proposal of the State Government, the Central Government, hereby, agrees in principle for diversion of 73.93 ha. of forest land in Nalgonda district in favour of M/s. Deccan Cements Ltd. for additional lime stone mining lease, subject to fulfilment of following conditions:-

- (i) Immediate action should be taken for transfer and mutation of equivalent non-forest land in favour of State Forest Department.
- (ii) The user agency will transfer the cost of compensatory afforestation over equivalent non-forest land (revised as on date to incorporate existing wage structure) in favour of the State Forest Department.

After receipt of compliance report on the fulfilment of the above conditions from the State Govt., formal approval will be issued in this regard under Section-2 of the Forest (Conservation) Act, 1980. Transfer of forest land to user agency should not be effected by the State Govt. till formal orders approving diversion of forest land are issued by the Central Govt.

Yours faithfully,

(A.N. SHARAN)

ASSTT. INSPECTOR GENERAL OF FORESTS

[Handwritten signature]
20/1

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NEW DELHI

-: 2 :-

Copy to:-

1. Principal Chief Conservator of Forests, Govt. of Andhra Pradesh, Hyderabad.
2. Nodal Officer, Office of PCCF, Govt. of Andhra Pradesh, Hyderabad.
3. The CCF (Central), Regional Office, Bangalore.
4. RO(HQ), New Delhi.
5. Guard File.

ANSHARAN
7.1.97

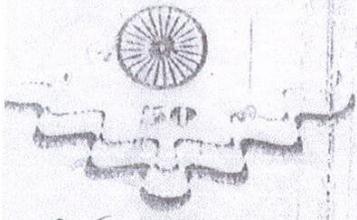
(A.N. SHARAN)

ASSTT. INSPECTOR GENERAL OF FORESTS

Subject: [Faint text, possibly related to forest conservation or administrative matters]

[Faint body text, mostly illegible due to fading]

Yours faithfully,
[Signature area]



165

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126
6/13

SC/100/10(R)

तार :
Telegram : PARYAVARAN,
NEW DELHI
दूरभाष :
Telephone :
Telex : (bi-lingual) : W 66185 DOE-IN
FAX :

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
पर्यावरण भवन, सी. जी. ओ. कॉम्प्लेक्स
PARYAVARAN BHAVAN, C.G.O. COMPLEX
लोदी रोड, नई दिल्ली-110003
LODI ROAD, NEW DELHI-110003



Dated: 23.02.1998

No.8-44/96-FC

To

The Secretary (Forests),
Government of Andhra Pradesh,
HYDERABAD.

Sub:- Diversion of 73.93 ha. of forest land in Nalgonda district in favour of M/s. Deccan Cement Ltd. for additional lime stone mining lease.

Ref:- Date of receipt of application 24.2.96
Date of Stage-I approval 7.1.97
Date of Stage-I compliance 9.2.98

Sir,

I am directed to refer to your letter No.838/For.I/96-1 dated 24.2.96 on the above mentioned subject seeking prior approval of the Central Government in accordance with Section-2 of the Forest (Conservation) Act, 1980.

After careful consideration of the proposal of the State Government, the Central Government hereby conveys its approval under Section-2 of the Forest (Conservation) Act, for diversion of 73.93 ha. of forest land in Nalgonda district in favour of M/s. Deccan Cement Ltd. for additional lime stone mining lease, subject to following conditions:-

- (i) Legal status of forest land shall remain unchanged.
- (ii) The compensatory afforestation shall be raised over equivalent non-forest land at the project cost. The non-forest land identified for compensatory afforestation will be notified as protected forest under the Indian Forest Act, 1927.
- (iii) Demarcation of the diverted forest land will be done on the ground at the project cost using 4 feet height concrete pillars having serial No., bearing and distance from pillar to pillar.
- (iv) The mined area will be reclaimed as per the plan to the satisfaction of the Forest Department.

Pl. put up in file
Asst. Secy

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- 2 -

- (v) No underground mining will be carried out by the user agency in the proposed area.
- (vi) Construction of permanent buildings and roads will not be allowed.
- (vii) This approval is subject to environmental clearance under EIA notification, 1994.
- (viii) Free fuelwood/alternate energy sources will be provided to labourers working at project site.
- (ix) The lease period will be for 20 years coterminus with lease under MCRD Act.
- (x) The forest land shall not be used for any purpose other than that specified in the proposal.
- (xi) Any other condition that the State Government may impose from time to time for the protection and improvement of flora and fauna in the forest area.

Yours faithfully,

(V.B. KUMAR)
ASSTT. INSPECTOR GENERAL OF FORESTS

Copy to:-

- 1. Principal Chief Conservator of Forests, Govt. of Andhra Pradesh, Hyderabad.
- 2. Nodal Officer, Office of PCCF, Govt. of Andhra Pradesh, Hyderabad.
- 3. The COF (Central), Regional Office, Bangalore.
- 4. RO(HQ), New Delhi.
- 5. Guard File.
- 6. Dr. Bannopadhyay, Enq. Wang for INTERNET

V.B. Kumar
28/2

(V.B. KUMAR)
ASSTT. INSPECTOR GENERAL OF FORESTS

174

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No. J-11015/1/98 - IA II (M)
Government of India
Ministry of Environment & Forests

Tele No. 436 3973
Paryavaran Bhawan,
C.G.O. Complex, Lodi Road,
New Delhi - 110 003

November 22, 1999

To

Shri G. Ram
Vice-President,
M/s Deccan Cement Limited,
6-3-666/B, Deccan's Chambers,
Somajiguda, Hyderabad - 500 082.

Sub: Bhavanipuram opencast limestone mine-II of M/s Deccan Cements Ltd., at village Bhavanipuram, Tehsil Naredcherla Mandal, District Nalgonda, Andhra Pradesh.

Sir,

This has reference to your letter No. DCL:VPC: EMP -I:97 dated 29.12.99 and subsequent communications dated 29.04.98, 23.5.98, 24.07.98, 21.07.99 and 06.10.99 regarding environmental clearance of Bhavanipuram opencast limestone mine-II of M/s Deccan Cements Limited in District Nalgonda, Andhra Pradesh. The Ministry of Environment & Forests has examined the application. It has been noted that the total Mining lease area is 73.93 ha. Entire lease area is a forest land. Forestry clearance was obtained on 23.02.1998. Targetted production capacity of the mine is 0.3 million tonnes/annum. The mine is captive to 0.22 million tonnes per annum cement plant located at a distance of 0.5km. No displacement of people and land oustees are involved. The State Pollution Control Board has granted the NOC on 12.12.98. IBM has approved the mining plan on 22.04.99. Public hearing is not applicable in this case.

2. The Ministry of Environment & Forests hereby accords environmental clearance to the Bhavanipuram opencast captive limestone mine-II project of M/s Deccan Cements Limited in District Nalgonda, Andhra Pradesh (capacity 0.3 million tonnes / annum) involving lease area of 73.93 ha. under the provisions of the Environmental Impact Assessment Notification, 1994 as amended on 04.05.94 and 10.04.97 subject to strict compliance of the following specific and general terms and conditions:

A. Specific conditions

(i) OB dumps should be stacked at earmarked dump site(s) only and should not be kept active for long period. Monitoring and management of rehabilitated areas should continue until the vegetation becomes self-sustaining. Compliance status should be submitted to Ministry of Environment and Forests one yearly basis.

- (ii) Garland drains of appropriate size should be constructed, to prevent storm water entering the excavated pits. The collected run-off should be diverted to the sedimentation tank before final disposal.
- (iii) A greenbelt of adequate width around the ML area, along roads by planting the native plant species should be raised in consultation with the local DFO / Agriculture Department. The density of the trees should be around 2000 plants / ha.
- (iv) Drills should be operated with dust extractors only.
- (v) The stage-wise reclamation programme in the lease holds areas should be implemented. The reclaimed area should be rehabilitated with suitable native plant species.
- (vi) A detailed mine decommissioning plan should be submitted to the Ministry of Environment & Forests 5 years in advance for approval in respect of mine - II & I.

B. General conditions

- (i) No change in mining technology and working plan should be made without prior approval of the Ministry of Environment & Forests.
 - (ii) No change in the calendar plan including excavation, quantum of limestone and wastes / overburden dumps should be made.
 - (iii) Four ambient air quality monitoring stations should be established in the core zone as well as buffer zone for SPM, RPM, SO₂, NO_x, and CO monitoring. Location of the ambient air quality stations should be decided based on the meteorological data, topographical features, and environmentally sensitive targets in the consultation with the Andhra Pradesh Pollution Control Board.
 - (iv) Data on ambient air quality should be regularly submitted to this Ministry including its Regional office at Bangalore and the State Pollution Control Board / Central Pollution Control Board once in six months.
 - (v) Fugitive emissions should be controlled, regularly monitored and data recorded properly.
 - (vi) Adequate measures should be taken for control of noise levels below 85 dB in the work environment. Workers engaged in the noisy areas should be provided with earmuffs.
 - (vii) Personnel working in dusty areas should wear personal protective equipment devices. Adequate training and information on safety and health aspects should be provided.
- Occupational health surveillance programme of the workers should be undertaken periodically to observe any contractions due to exposure to dust and take corrective measures, if needed.
- (viii) Funds earmarked for environmental protection measures should be kept in a separate account and should not be diverted for other purposes and year-wise expenditure should be reported to the Ministry.
 - (ix) The Regional Office of this Ministry located at Bangalore will monitor the project. The project authorities should extend full co-operation to the officer(s) of the Regional Office by furnishing the requisite data / information / monitoring reports.
 - (x) The project authorities should have valid "consent to operate" and mining plan approval and should abide by the conditions.

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-3-

3. The above conditions will be enforced, inter-alia, under the provisions of the water (Prevention and Control of Pollution) Act, 1974. The Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Public Liability Insurance Act, 1991 along with their amendments and rules.

4. Failure to comply with any of the conditions mentioned above would result in withdrawal of environmental clearance.

/

(DR. P. L. AHUJARAI)
JOINT DIRECTOR

Copy to:

- (i) Secretary, Department of Environment & Forests, Government of Andhra Pradesh.
- (ii) Chief conservator of Forests, Regional Office (SZ) No. 403, 1st Main, Block, IIIrd Stage, Basaveswara Nagar, Bangalore - 560 079.
- (iii) Chairman, Andhra Pradesh Pollution Control Board, 2nd Floor, HUDA Complex Maitrivanam, S.R. Nagar, Hyderabad - 500 038.
- (iv) ~~Guard~~ File.
- (v) Monitoring File.
- (vi) Record File.

P. Ahujara

(DR. P. L. AHUJARAI)
JOINT DIRECTOR

o/c

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14/08/11
29/11/11*

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J-11015/497/2007- IA. II (M)
Government of India
Ministry of Environment & Forests

353

Telefax: 011-24367257
Paryavaran Bhavan, C.G.O. Complex,
Lodi Road, New Delhi-110003.
Dated: October 18, 2007

To
M/s Deccan Cements Ltd.
6-3-666/B 'Deccan Chambers'
Somajiguda,
Hyderabad-500082

Sub: Expansion of Bhavanipuram Limestone Mine-2 (ML area 73.93 ha) at village Mahankaligudem, Neredcherla Mandal, Huzur Nagar Taluk, Nalgonda Distt., in Andhra Pradesh - reg. Environmental Clearance.

Sir,

The undersigned is directed to refer to your letter dated 22.05.2007, on the above mentioned subject. The Ministry of Environment and Forests has examined the application.

2. It has been noted that the proposal is for increase in production from 0.80 MTPA to 2.0 MTPA of your Bhavanipuram Limestone Mine-2 located at village Mahankaligudem, Neredcherla Mandal, Huzur Nagar Taluk, Nalgonda Distt., in Andhra Pradesh. The method of mining will be mechanised open cast. The mining lease area is 73.93 ha, which lies in the Saidulnama Reserved Forest. The mineable reserve is 13.88 MT. Life of the mine at proposed production will be 7 years. The ore is outcropped. Ultimate depth of mining will be about 29 m below ground level. Water table depth is 60 m below ground level. Hence no interference of ground water due to mining activity. The limestone ore will be transported to the crusher plant located at its cement plant 0.5 -1.0 km away from the working pits. Low grade limestone generated from the mine will be blended with cement grade limestone. At the end of mine life, the mined out area will be converted into water reservoir where pisciculture will be taken up. Krishna River flows at a distance of about 0.9 in the south and Musi river at 3.2km in the West. No Wildlife sanctuary/National park and heritage sites are located within 10 km of mine lease area. Water requirement will be about 110 m³/day, which will be met from the river Krishna. Domestic wastewater generated will be about 2.4 m³/day, which will be treated in septic tank followed by Soak pit. No solid waste which need disposal will be generated. Public hearing of the project was held on 28.04.2006. Approval for Mining scheme including progressive mine closure plan from IBM was obtained on 25.04.2007. Cost of the project is Rs. 23.0 crores.

3. The project has been considered in accordance with the provisions of the EIA notification issued by the Ministry of Environment & Forests vide S.O. 1533 (E), dated September 14, 2006 and its interim operational guidelines issued on October 13, 2006.

4. Based on the information submitted by you, the Ministry of Environment and Forests hereby accords environmental clearance to the above project under the provisions of EIA Notification dated September 14, 2006, subject to the compliance of the following Specific and General conditions:

A. Specific conditions

- (i) Forestry clearance for diversion of forest land under the Forests (Conservation) Act, 1980, shall be obtained.

Cont'd.....



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-2-

- (ii) Action plan for abatement and compensation for damages to agricultural land / common property land (if any) due to mining activity shall be submitted to the Ministry within six months.
- (iii) Water quality both for surface as well as ground water in the core zone shall be regularly monitored and records maintained. In case contamination is observed, measures for control and action taken shall be reported to the state government as well as the Ministry.
- (iv) Water bodies shall be developed and utilized to develop pisciculture by organizing Fishermen Co-operative Society with the land losers (if any) and specially the poorer section as members of such Society with initial financial assistance in the form of share money and managerial assistance so that the members themselves can run the affairs of the Society in due course. The project proponent shall arrange marketing tie up so that the society gets fair price of their product and the profits are equitably shared by the members of the society as regular source of income.
- (v) Action taken report on issues raised during public hearing shall be submitted to the Ministry and the State Govt. within six months.
- (vi) Occupational health and safety measures for the workers including training on malaria eradication, HIV, health effects on exposure to mineral dust etc. shall be carried out. The company shall engage a full time qualified doctor who is trained in occupational health surveillance. Records of the health of the workers shall be maintained.
- (vii) Top soil/ solid waste (if any) shall be stacked properly with proper slope with adequate safeguards and shall be backfilled for reclamation and rehabilitation of mined out area.
- (viii) Over burden (if any) shall be stacked at earmarked dump site(s) only and shall not be kept active for long period. The maximum height of the dump shall not exceed 30 m, each stage shall preferably be of 10 m and overall slope of the dump shall not exceed 28°. The OB dump shall be backfilled. The OB dumps shall be scientifically vegetated with suitable native species to prevent erosion and surface run off. Monitoring and management of rehabilitated areas shall continue until the vegetation becomes self-sustaining. Compliance status shall be submitted to the Ministry of Environment & Forests on six monthly basis.
- (ix) Garland drains shall be constructed to arrest silt and sediment flows from soil, and mineral dumps. The water so collected shall be utilized for watering the mine area, roads, green belt development etc. The drains shall be regularly de-silted particularly after monsoon and maintained properly.

Garland drain of appropriate size, gradient and length shall be constructed for both mine pit and for waste dump and sump capacity shall be designed keeping 50% safety margin over and above peak sudden rainfall (based on 50 years data) and maximum discharge in the area adjoining the mine site. Sump capacity shall also provide adequate retention period to allow proper settling of silt material. Sedimentation pits shall be constructed at the corners of the garland drains and de-silted at regular intervals.

Cont'd.....

- (x) Slope of the mining bench and ultimate pit limit shall be as per the mining scheme approved by Indian Bureau of Mines.
- (xi) Drilling and blasting (if any) shall be conducted by using dust extractors/wet drilling.
- (xii) Green belt development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the local DFO / Agriculture Department. Herbs and shrubs shall also form a part of afforestation programme besides tree plantation. Plantation shall be raised in 23.0 ha around the ML area, haul roads, OB dump sites etc. The density of the trees shall be around 2500 plants per ha. The company shall involve local people with the help of self help group for plantation programme.
- (xiii) The project authority shall implement suitable conservation measures to augment ground water resources in the area in consultation with the Regional Director, Central Ground Water Board.
- (xiv) Regular monitoring of ground water level and quality shall be carried out by establishing a network of existing wells and constructing new piezo meters during the mining operation. The monitoring shall be carried out four times in a year – pre-monsoon (April-May), monsoon (August), post-monsoon (November) and winter (January) and the data thus collected shall be regularly sent to MoEF, Central Ground Water Authority and Regional Director, Central Ground Water Board.
- (xv) Prior permission from the competent authority shall be obtained for extraction of ground water, if any.
- (xvi) Vehicles used for transportation of ores and other mining operations shall have valid permissions as prescribed under Central Motor Vehicle Rules, 1989 and its amendments. Measures shall be taken for maintenance of vehicles used in mining operations and in transportation of ores. Transporting of ores shall be done covered with a tarpaulin or other suitable enclosures so that no dust particles / fine matters escape during the course of transportation. No overloading of ores for transportation shall be undertaken.
- (xvii) A final mine closure plan, along with details of Corpus Fund, shall be submitted to the Ministry of Environment & Forests, 5 years in advance of final mine closure for approval.

B. General conditions

- (i) No change in mining technology and scope of working shall be made without prior approval of the Ministry of Environment & Forests.
- (ii) No change in the calendar plan including excavation, quantum of mineral, limestone and waste shall be made.
- (iii) Conservation measures for protection of flora and fauna in the core & buffer zone shall be drawn up in consultation with the local forest and wildlife department.

Cont'd...

- (iv) Four ambient air quality-monitoring stations shall be established in the core zone as well as in the buffer zone for RPM, SPM, SO₂, NO_x monitoring. Location of the stations should be decided based on the meteorological data, topographical features and environmentally and ecologically sensitive targets and frequency of monitoring should be undertaken in consultation with the State Pollution Control Board.
- (v) Data on ambient air quality (RSPM, SPM, SO₂, NO_x) should be regularly submitted to the Ministry including its Regional office located at Bangalore and the State Pollution Control Board / Central Pollution Control Board once in six months.
- (vi) Fugitive dust emissions from all the sources shall be controlled regularly. Water spraying arrangement on haul roads, loading and unloading and at transfer points shall be provided and properly maintained.
- (vii) Measures shall be taken for control of noise levels below 85 dBA in the work environment. Workers engaged in operations of HEMM, etc. shall be provided with ear plugs / muffs.
- (viii) Industrial waste water (workshop and waste water from the mine) should be properly collected, treated so as to conform to the standards prescribed under GSR 422 (E) dated 19th May, 1993 and 31st December, 1993 or as amended from time to time. Oil and grease trap shall be installed before discharge of workshop effluents.
- (ix) Personnel working in dusty areas shall be provided with protective respiratory devices and they shall also be imparted adequate training and information on safety and health aspects.
- (x) A separate Environmental Management Cell with suitable qualified personnel shall be set-up under the control of a Senior Executive, who will report directly to the Head of the Organization.
- (xi) The project authorities shall inform to the Regional Office of the Ministry located at Bangalore regarding date of financial closures and final approval of the project by the concerned authorities and the date of start of land development work.
- (xii) The funds earmarked for environmental protection measures shall be kept in separate account and shall not be diverted for other purpose. Year wise expenditure shall be reported to the Ministry and its Regional Office located at Bangalore.
- (xiii) The project authorities shall inform to the Regional Office of the Ministry located at Bangalore regarding date of financial closures and final approval of the project by the concerned authorities and the date of start of land development work.
- (xiv) The Regional Office of the Ministry, Bangalore shall monitor compliance of the stipulated conditions. The project authorities shall extend full cooperation to the officer(s) of the Regional Office by furnishing the requisite data / information / monitoring reports.
- (xv) A copy of clearance letter will be marked to concerned Panchayat / local NGO, if any, from whom suggestion / representation has been received while processing the proposal.

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- (xvi) State Pollution Control Board shall display a copy of the clearance letter at the Regional office, District Industry Centre and Collector's office / Tehsildar's Office for 30 days.
 - (xvii) The project authorities shall advertise at least in two local newspapers widely circulated, one of which shall be in the vernacular language of the locality concerned, within 7 days of the issue of the clearance letter informing that the project has been accorded environmental clearance and a copy of the clearance letter is available with the State Pollution Control Board and also at web site of the Ministry of Environment and Forests at <http://envfor.nic.in> and a copy of the same shall be forwarded to the Regional Office of the Ministry located Bangalore.
5. The Ministry or any other competent authority may alter/modify the above conditions or stipulate any further condition in the interest of environment protection.
 6. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environment (Protection) Act, 1986.
 7. The above conditions will be enforced inter-alia, under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Public Liability Insurance Act, 1991 along with their amendments and rules.

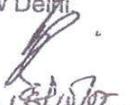
Yours faithfully,


 (W. Bharat Singh)
 Deputy Director

Copy to:

1. Secretary, Ministry of Mines, Government of India, Shastri Bhawan, New Delhi.
2. Secretary, Department of Environment, Government of Andhra Pradesh, Hyderabad.
3. Secretary, Department of Mines and Geology, Government of Andhra Pradesh, Hyderabad.
4. Secretary, Department of Forests, Government of Andhra Pradesh, Hyderabad.
5. Chief Wildlife Warden, Government of Andhra Pradesh, Hyderabad.
6. Chief Conservator of Forests, Regional Office (SZ), Kendriya Sadan, 4th Floor E&F, Wings 17th Main Road, 1 Block, Koranmangala, Bangalore-560 034.
7. Chairman, Central Pollution Control Board, Parivesh Bhawan, CBD-Cum-Office Complex, East Arjun Nagar, New Delhi-110 032.
8. Chairman, Andhra Pradesh State Pollution Control Board, Paryavaran Bhawan, A-3 Industrial Estate, Sanath Nagar, Hyderabad - 500 018
9. Member Secretary, Central Ground Water Authority, A2, W- 3 Curzon Road Barracks, K.G. Marg, New Delhi-110001.
10. Controller General, Indian Bureau of Mines, Indira Bhawan, Civil Lines, Nagpur- 440 001.
11. District Collector, Nalgonda, Government of Andhra Pradesh.
12. EI Division, Ministry of Environment & Forests, Paryavaran Bhawan, New Delhi
13. Monitoring File.
14. Guard File.
15. Record File.




 (W. Bharat Singh)
 Deputy Director

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भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण घलय)

Regional Office (Southern Zone)
Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034.

048802

No. :
तार : पर्यावरण, बेंगलूर
Telegram : PARYAVARAN
BANGALORE
दूरभाष :
Telephone :

No. FCA/11.1/127/API / 937
Dated the 26th September, 2007



The Principal Secretary to the Government of Andhra Pradesh,
Environment, Forests, Science & Technology Department,
P. Secretariat,
Hyderabad- 500 022.

1098/02

Subject: Diversion of 73.93 ha. of forest land in Nalgonda District in favour of M/s Deccan Cements Ltd. for additional limestone mining lease.

Reference: Govt. of India's letter No.8-44/96-FC dated 23.02.1998

Sir,

I am directed to inform you that this office vide letter of even number dated 15.12.2005 had requested the State Government to furnish a report on the status of CA land and progress of compliance of CA condition as stipulated by Govt. of India for the above project. The State Government was also informed that the road between present quarry and old quarry is passing through the RF and the same is being used by the user agency for transporting of materials and the user agency has also drawn transmission line through forest area. Therefore, the State Government was requested to fix up responsibility of above violation and to furnish a report in this regard to this office. However, no reply has been received from the State Government so far.

The project was again monitored by Deputy Conservator of Forests (Central) on 17.08.2007 and it was observed that ground realities remains the same with respect to dispute of CA land, violation committed by the user agency with reference to use of forest area for road and transmission etc. Reclamation work of already closed mine of 22.55 ha. has also not been done completely. It is therefore, once again requested that the matter may kindly be enquired into and furnish an action taken report on the above non-compliances. If no satisfactory report is received in this regard shortly, action will be initiated to revoke the permission granted for the project.

Yours faithfully,

(Dr. Avinash M. Kanfode)
Deputy Conservator of Forests (Central)

Copy to:-

1. The Principal Chief Conservator of Forests, Forests Department, Govt. of Andhra Pradesh, Thilajaguda Complex, M.J. Market, Hyderabad.
2. The Additional Principal Chief Conservator of Forests/Nodal Officer (FCA), Office of the Principal Chief Conservator of Forests, Forests Department, Govt. of Andhra Pradesh, Thilajaguda Complex, M.J. Market, Hyderabad.

(Signature)
(Dr. Avinash M. Kanfode)
Deputy Conservator of Forests (Central)

10/8/2007

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Annexure - 22.15.38404

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

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Telegram : PARYAVARAN
BANGALORE

क्षेत्रीय कार्यालय (दक्षिण वलय)

दूरभाष :

Telephone :

Regional Office (Southern Zone)

Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034.

No.FOA/11.1/64/API/7658
Dated the 22nd July, 2010



To
The Special Secretary to the Government of Andhra Pradesh,
Environment, Forests, Science & Technology Department,
P. Secretariat,
Hyderabad- 500 022

Subject: Diversion of 22.5 ha. of forest land for renewal of mining lease in
favour of M/s Deccan Cements Ltd. in Nalgonda District.

Sir,

I am directed to inform that the above project was monitored by Deputy
Conservator of Forests (Central) on 19.04.2010 and during the monitoring it was
observed that reclamation work has not been completed. It is, therefore,
requested to ensure that reclamation work is completed at an early date. A
report in this regard may please be sent to this office at the earliest.

Yours faithfully,

(N.S. Murali)

Deputy Conservator of Forests (Central)

Copy to:-

1. The Principal Chief Conservator of Forests, Forests Department, Govt. of
Andhra Pradesh, Aranya Bhavan, Saifabad, Hyderabad, PIN- 500 004.
2. The Additional Principal Chief Conservator of Forests/Nodal Officer (FCA),
Office of the Principal Chief Conservator of Forests, Forests Department,
Govt. of Andhra Pradesh, Aranya Bhavan, Saifabad, Hyderabad- 500 004.

(N.S. Murali)

Deputy Conservator of Forests (Central)

10749/87

28/6/2010

Deputy Conservator of Forests (WL)
O/o Pr. Chief Conservator of Forests,
Telangana, Hyderabad.

IT
Filing of
Enclosure and
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Annexure III

Free Copy of the Document /
Received under RTI Act
4 pages

Field Inspection Notes of Dr. Chandra B. Malasi, Addl. Prl. Chief Conservator of Forests (FCA-M) O/o the Prl. Chief Conservator of Forests, Andhra Pradesh, Hyderabad in Nalgonda Division of Hyderabad Circle dt. 08-10-2013.

Today along with the Divisional Forest Officer, Nalgonda and concerned field staff inspected following diverted forest area and CA Plantation in Nalgonda Division related to M/s Deccan Cement Ltd. in compt no.27.of Saidulamma RF in Miryalguda Range. Forest areas for following three project were diverted in this compartment in favour of M/s Deccan Cement Ltd.

I. Forest area diverted for M/s Deccan Cement Ltd: For this project, forest area of 73.93 Ha was diverted during 1998 in compt no.27.of Saidulamma RF in Miryalguda Range of Nalgonda Division. This 73.93 Ha area is adjacent to the cement factory and eastern boundary portion of the diverted area is attached to western boundary of Cement Factory. A compound wall is constructed between the Reserve Forest boundary and Factory boundary. This compound wall starts on Reserve Forest area Boundary located between station No.7 to 10 on eastern side of the leased area. **The station No.7 of the lease area is newly constructed RCC pillar and it is about 1.00 meter inside the compound wall. Station No.8 is rouble stone pillar and it is not made RCC pillar. It looks that a part of the lease area is encroached upon between station no. 7 to 8 and 8 to 10. It is evident from the Google Imagery of 2002 that there was not a compound wall in between the diverted forest area and factory boundary. Hence, immediate survey of this portion has to be taken up as per FCA proposal to know whether there is any encroachment or not.**

The factory officials have informed that out of 73.93 Ha diverted forest area, effective mining area is 59.14 Ha as 50.00 meter width toward the main road cannot be mined as per rules. Some plants were planted on this 50.00 meter width area on road side by blasting the rock area and filling with soil. 4.00 feet high rouble stone pillars with cement mortar plastering are existing at 20 survey stations only and no boundary pillars at 20.00 meter intervals were constructed as there was no such condition in approval orders. Most of the pillars are intact but some are damaged. Broken up area will be about 35.00 Ha. Area is broken upto 4th bench upto depth of 28.00 meter from ground level and further digging is stopped in about 8.90 Ha. At present digging is going on in 2nd and 3rd bench levels at 16.00 m to 18.00 meter depth in 35.00 meter broken up area.

Three temporary roads were constructed within the leased area. As seen from Google Imagery of 2002(copy enclosed), these three roads were constructed subsequently and they are constructed in violation fo the Forest (Conservation) Act, 1980. One of the road is laid after constructing a earthen bund and this road is continuing within the factory premises by constructing a similar road on a earthen bund. From this road, extracted lime stone is taken from the broken up area directly to the crusher site. No permission was granted for such a earthen bund road in approval orders. Hence, this road is illegal and it is in violation of the approval conditions and this road has to be dismantled immediately. Another two roads were constructed between survey station no. 18 to 20 and these roads are leading to the gate of the factory which is directly opening in the leased area between survey station no.7 to 8. These roads are used for transportation of cement from the factory. As could be seen from the utilization of the diverted area near the factory gate between survey station no.7 to 8, the area is utilized for parking and maintenance of transport vehicles in the past as about 2.00 Ha area is completely blackened and boundary pillars at 20.00 meter

intervals around the forest area diverted for railway sliding leading to the factory gate are missing in the portion. It is also evident from Google Imagery of 2013. Hence, the major road which is leading to the factory gate through the diverted forest area shall be blocked and factory gate opening to the diverted forest area between survey station No.7 and 8 shall be closed and sealed immediately. The third road shall be allowed to be used for transportation of extracted lime stone from the lease area to the main tar road and then take it to factory from their entry road for which forest area was also diverted.

The Vice-President (Works) of M/s Deccan Cement has promised to repair the damaged boundary pillars at 20 survey stations and whitewashed them duly recording geo-coordinates on each of the survey stations. He has also promised to construct 4.00 feet high boundary pillars at 20 meter intervals within one month period. He has also informed that firms for conducting DGPS survey has already been finalized and DGPS survey will be completed within one months time.

Non-forest CA land for this project is partly given in Nalgonda Division and partly in WLM Division, Nagarjunasagar.

II- Forest area diverted for Railway sliding in favour M/s Daccan Cement Ltd.:- 1.9337Ha area is diverted for laying a railway line from main railway line to the Cement Factory. Part of this railway sliding area is falling within the already diverted area of 73.93 Ha for mining and part is falling in adjacent RF area. The railway sliding is entering into already diverted area for mining between survey station no.19 and 20 of the mining area and leading to the existing gate of the Cement Factory located between survey station no 7 and 8 of the mining area. 2.00 feet high boundary pillars are constructed at 20.00 meter intervals but so far 4.00 feet high boundary pillars are not constructed. The boundary pillars are missing near the gate area as this area was used for parking and maintenance of the Transport vehicles. Construction works for railway sliding is under progress. For laying of railway sliding, area was cut up to 8.00 to 9.00 meter depth towards main road. Hence, both side of dug up area shall be dressed properly and retention wall shall be constructed. **Requested the factory Officials to construct 4.00 feet height boundary pillars at 20.00 meter intervals around the diverted area upto factory gate and not to use this area for transport of cements from the factory.**

CA land for this project in is given in WLM Division, Nagarjunasagar.

III- Forest area diverted for Road, Electrical Line and Water Supply Line in favour of M/s Deccan Cement Ltd. :- For this project, 1.897 Ha forest area was diverted for laying Entry Road of 12.00 meter width to Cement Factory from the main Nareducherla to Mahankaliguda road. This diverted area is parallel to the southern boundary of mining lease area between survey station no.4 to 10. Under ground water pipe line and overhead Electrical line are also passing through this area for electricity and water supply to factory gate. Laying of road, Electricity line and Water pipe line have been completed. 2.00 feet high boundary pillars are available but construction of 4.00 feet high boundary pillars is not taken up. **The Vice-President (works) has promised to construct 4.00 feet high boundary pillars around this diverted forest area and also complete DGPS survey within one month.**

Total CA and penal CA of 3.80 Ha for this project was handed over in WLM Division, Nagarjunsagar.

IV Old minning area :- Previously, 22.55 Ha forest area was diverted for mining purpose adjacent to the existing mining lease area on southern side. This 22.55 Ha mining lease area was closed in 2000 but still reclamation works are not completed. A water body of 9.99 Ha is proposed to be retained and balance area has to be reclaimed. Some filling was in progress and about 4.00 Ha area has to be filled and planted. Dumps on unworked area also

26/11/2021

PS
BIS (WL)
Director, Nagarjunasagar

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require some gap planting. The Vice-President (works) promised to complete filling works within 6 to 8 months and area will be planted during 2014 planting season. Dump area will also be planted on gaps during 2014 planting season.

Factory Officials has informed that full reclamation of mined area is not possible in this areas as waste materials from the mined area is less than 10% and refilling of mined area is very costly. Hence, dugup areas are maintained as water bodies. This water bodies both in old mining area and new mining area are about 25.00 to 30.00 meter deep and having vertical cut of 25.00 to 30.00 meter height. These water bodies may be very dangerous both for Wildlife as well as for human beings.

V. Non-forest CA area : For diversion of 73.93 Ha forest area for mining lease in favour of M/s Deccan Cement Ltd, 48.70 Ha non-forest CA land was handed over in Peddavedu village. The area is old dis-resevered forest area which was dis-resevered in 1972 for rehabilitation of Nagarjunsagar Dam oustees. The area is a linear strip and attached to Compt No.17 of Gurrambadu Reserve Forest on eastern side. Area is plain to undulating. CA scheme was prepared for 43.909 Ha. CA plantation was raised during 2009-10. Most of plain area in about 10.00 Ha was planted with Eucalyptus clone under Semi mechanical Method and balance area was treated under gap planting. Clone no.7 of Eucalyptus was planted at 3X3 meter spacement. Plantation has come up well and present height of seedlings is about 5.00 to 6.00 meter. Present survival will be about 90.00%. In gap planting area, seedlings are about 1.50 meter height but growth is not satisfactory. Seedlings of Kanuga, A. Siamea, Marri, Ravi, etc., were planted. Seedlings are surviving but not putting into significant growth. Gap planted area is having thorny growth of Sandra and Zizyphus with Grewia species. No maintenance works were takenup so far this year.

Forest Range Officer has informed that about 1.50 Ha plain area was tried for encroachment and presently this area is under court litigation but under the control of Forest Department.

Divisional Forest Officers, Nalgonda has informed that block notification proposal under section 4 of AP Forest Act 1967 has been submitted to Government.

Following instruction are issued :

1. All RF boundary pillars in Compt No.72 shall be made RCC pillars with green and blue paints and duly recording the DGPS Geo coordinates on the RF boundary pillars.
2. Actual forest areas utilized by the User Agency ie M/s Deccan Cement Ltd. for above mentioned three diversion cases shall be re-surveyed with the DGPS instrument and re-surveyed map duly superimposed on proposed diverted forest area map shall be submitted within 7 days. If User Agency has utilized more than the forest area ordered for diversion or encroached the diverted forest land, necessary actions shall be taken up immediately.
3. User Agency may be requested to construct 4.00 ft high boundary pillars at 20.00 meter intervals around the diverted forest areas related to all the three projects. These boundary pillars shall be whitewashed and DGPS Geo coordinates shall be recorded on each and every boundary pillars.
4. User Agency shall be requested to complete the reclamation works in the old mining areas and also start reclamation works in present mining area.

[Handwritten signature]

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5. The illegal earthen bund road leading to crusher shall be dismantled immediately and factory official shall be ask to take away the mined minerals from the leased area to main Nareducheria - Mahankaligudem road for further transportation.
6. Road leading to factory gate between survey station no.7 and 8 shall be closed and no vehicles shall be allowed to move on this road.
7. To construct RCC boundary pillars around the non-forest CA land of 48.70 Ha at the earliest.
8. Condition wise compliance reports on other conditions related to three current diversion cases and old mining case shall also be submitted immediately and alongwith the resurveyed maps of three diverted cases.

The Conservator of Forests, Hyderabad is requested to communicate the inspection note and obtain action taken report from the Divisional Forest Officer, Nalgonda and furnish the same alongwith his remarks within 15 days.

Encl: As above.

Dated: 17-10-2013.

Yours Sincerely
Dr. Chandra B. Malasi
(Dr. Chandra B. Malasi) 17/10/2013.

Addl. Pri. Chief Conservator of Forests(FCA-M)
O/o the Pri. Chief Conservator of Forests,
Andhra Pradesh, Hyderabad

To
The Conservator of Forests, Hyderabad Circle, Hyderabad and
Divisional Forest Officers, Nalgonda Division.
Copies to the connecting monitoring files. (File No 2430/2012/FM-1,
2429/2012/FM-1, 707A9/87/FM-1).

Jaya
23/11/2021
Des
GIS (WL)
Forests,

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Annexure-XXI
Letter 2 pages.

सत्यमेव जयते

भारत सरकार

GOVERNMENT OF INDIA

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय

MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE

श्री क्षेत्रीय कार्यालय (दक्षिणी पूर्व परिसर)/Regional Office (South Eastern Zone)

1st & 2nd floor, HEPC Building, No.34, Cathedral Garden Road,
Nungambakkam, Chennai - 600034

Ph: 044-28222325 Email: ro.moefccc@gov.in



F.No.F(C)A/11.1/64/AP/4/1/(85)/90/(P) 1374

Dated:04-07-2016

To

The Principal Secretary to the Government of Telangana
Environment, Forests, Science & Technology Department,
Secretariat, Hyderabad-22.

Sub: Renewal of Mining Lease for Lime Stone over an extent of 55.71 acres (22.55 ha) in
Comp No.27 and 28, Saidulnama RF-Miryalaguda Taluk Nalgonda dist.-monitoring-
regarding.

Sir,

The above mentioned forest diversion proposal was monitored on 26 & 27-04-2016 for
compliance of the Forest Clearance conditions.

1. The reclamation plan as stipulated in the FC conditions has not been carried out properly and also the mine has not been closed properly as per the IBM approved mine closure plan. Proper sloping has not been provided to the mined out area.
2. The plantation carried out as part of the reclamation work has been found unsatisfactory. The General Manager, Deccan Cements, present during the inspection has informed that since all the dug up materials are exhausted by the company, enough material is not available for carrying out the reclamation. Hence the UA may be instructed to bring out fresh soil from outside and carry out the reclamation work properly.
3. The lime stone material is dug up from the rocky portions up to a depth of 10 to 20 metres resulting in creation of large water body. The UA, in consultation with DFO, Nalgonda may be asked to carry out pisciculture in the stored water.

Hence in this regard, I am directed to request that a compliance report on the
above mentioned observations may be sent to the Government of India at the earliest.

Yours faithfully,

(Signature)
04/07/16
(Dr.K.Ganesh Kumar, IFS)

Dy. Conservator of Forests (Central)

Encl: Monitoring Report

o/c

DESPATCHED
Date: 04/07/16 Rgt (S)

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL /APPELLATE JURISDICTION
& CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 562 of 2009

Samaj Parivartana Samudaya & Ors. ... Petitioner (s)

Versus

State of Karanataka & Ors. ... Respondent(s)

WITH

SLP (C) Nos.7366-7367 of 2010, SLP (C) Nos.32690-32691 of 2010, WP (Cri.) No.66 of 2010, SLP (C) Nos.17064-17065 of 2010, SLP (C) No.....(CC No.16829 of 2010), SLP (C) No.....(CC No. 16830 of 2010), WP (C) No.411 of 2010, SLP (C) No.353 of 2011 and WP (C) No.76 of 2012

J U D G M E N T

J U D G M E N T

RANJAN GOGOI, J.

W.P. (C) No.562 of 2009

1. What should be the appropriate contours of this Court's jurisdiction while dealing with allegations of systematic plunder of natural resources by a handful of opportunists

43. It was lastly submitted that the recommendations of CEC to impose a complete ban on mining, particularly in cases where environmental clearances are obtained would amount to an exercise of power outside the 1957 Act and the Rules framed thereunder. That, this Court cannot exercise powers under Article 142 of the Constitution when specific provisions are made under various forest and environmental laws dealing with the manner and procedure for cancellation/termination of mining leases.

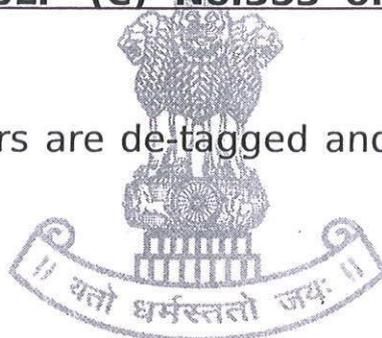
44. We find no merit in the above arguments. As stated above, in the past when mining leases were granted, requisite clearances for carrying out mining operations were not obtained which have resulted in land and environmental degradation. Despite such breaches, approvals had been granted for subsequent slots because in the past the authorities have not taken into account the macro effect of such wide-scale land and environmental degradation caused by the absence of remedial measures (including rehabilitation plan). Time has now come, therefore, to suspend mining in the above area till statutory provisions for restoration and reclamation are duly complied with, particularly in cases where pits/quarries have been left abandoned.

45. Environment and ecology are national assets. They are subject to intergenerational equity. Time has now come to suspend all mining in the above area on sustainable development principle which is part of Articles 21, 48-A and 51-A(g) of the Constitution of India. In fact, these articles have been extensively discussed in the judgment in [*M.C. Mehta case (2004) 12 SCC 118*] which keeps the option of imposing a ban in future open."

51. We also direct that all consequential action in terms of the present order be completed with the utmost expedition. The writ application filed by Samaj Parivartan Samudaya and IAs shall stand disposed of in terms of our abovestated conclusions.

SLP (C) Nos.7366-7367 of 2010, SLP (C) Nos.32690-32691 of 2010, WP (Crl.) No.66 of 2010, SLP (C) Nos.17064-17065 of 2010, SLP (C) No.....(CC No. 16829 of 2010), SLP (C) No.....(CC No. 16830 of 2010), WP (C) No.411 of 2010, SLP (C) No.353 of 2011 and WP (C) No.76 of 2012

52. All these matters are de-tagged and directed to be listed separately.



.....J.
(Aftab Alam)

JUDGMENT

.....J.
(K.S. Radhakrishnan)

.....J.
(Ranjan Gogoi)

New Delhi;
April 18, 2013.

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Item No.3:-

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Thursday, the 19th day of January 2023.

Appeal No.44 of 2022 (SZ)

(Through Video Conference)

IN THE MATTER OF:

Pasupuleti Suresh Babu
M/34, S/o. Shivaramakrishna,
D.No.4-139, Vajinepalli Village,
Chintalapalem Mandal,
Suryapet District,
Telangana State - 508 246.

...Appellant(s)

Versus

- 1) Union of India**
Represented by its Secretary,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan,
Vayu Wing, 3rd Floor, Jor Bagh Road,
Aliganj, New Delhi - 110 003.
- 2) The Chairman**
Expert Appraisal Committee
Industry - I Sector,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan,
Vayu Wing, 3rd Floor, Jor Bagh Road,
Aliganj, New Delhi - 110 003.
- 3) The Secretary to Government**
Department of Environment, Forests, Science & Technology,
Government of Telangana,
Hyderabad - 502 375.
- 4) The Principal Chief Conservator of Forests,**
Telangana (Head of the Forests)
Arnya Bhavan, Saifabad,
Hyderabad - 500 004.

5) **The District Collector**
Suryapet District,
Telangana - 508 213.

6) **M/s. Deccan Cements Limited**
Represented by its Chairman/Managing Director
6-3-666/B, Somajiguda,
Telangana, Hyderabad - 500 082.

...Respondent(s)

For Appellant (s): M/s. R. Jayaprakash, R.S. Maitreya & R. Sakthivel.

For Respondent(s): Mr. R. Thirunavukarasu for R1 to R3.
M/s. P.J. Rishikesh, P.J. Sri Ganesh &
Ami Kataria for R6.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

ORDER

1. After hearing both counsels, the learned counsel appearing for the appellant desired to withdraw this appeal with liberty to challenge the Stage - II Approval by the Forest Department as and when it is granted.
2. To be noted is that earlier when the **Original Application No.33 of 2016 (SZ) [Vakkanti Koteswar Rao Vs. Union of India, Ministry of Environment, Forests & Climate Change, New Delhi and Ors.]** was disposed of by this Tribunal on 18.11.2021, liberty was given to the applicant therein to challenge the final Stage - II Approval granted under Section 2 of the Forest (Conservation) Act, 1980 before the appropriate forum.
3. **The similar liberty is granted to the appellant herein also to challenge the Stage - II Approval as and when it is granted.**

4. With the above said liberty, the appellant is permitted to withdraw this appeal
5. Hence, the appeal [Appeal No.44 of 2022 (SZ)] is dismissed as withdrawn, based on the endorsement made by the learned counsel for the appellant.

Sd/-
Smt. Justice Pushpa Sathyanarayana, JM

Sd/-
Dr. Satyagopal Korlapati, EM

Appeal No.44/2022 (SZ)
19th January, 2023. Mn.

NGT

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**Government of Telangana
Forest Department**

From:
V. Manjula, SFS.,
Forest Divisional Officer,
Flying Squad Division,
Khammam.

To:
The Chief Conservator of Forests,
Khammam Circle,
Khammam.

RC. No.32/CP/FSD/2020; Dated: 08 /06/2020.

Sir,

Sub:- FD- irregularities in **M/s Deccan Cements Private limited.**- Report submitting- regard.

It is to submit that vide subject cited above the Chief Conservator of Forests Khammam vide RC no CCF, Khammam, Rc.No. 174/2018/M11; Dated: 11.03.2020 instructed the Forest Divisional Officer, Flying Squad Division, Khammam to cause enquiry on a complaint petition on **M/s Deccan Cements Private limited.** In compliance to the above instructions the Forest Divisional Officer, Flying Squad Division, Khammam gone through the complaint petition and conducted discrete enquiry. The following irregularities were found during inspection.

1. Encroached 10.12 ha area in comp 26 and established permanent structures by DCL company.

2. The DCL company Encroached 21.51 ha area in compartment no 27 and established permanent structures.

Further the Forest Divisional Officer, Flying Squad Division, Khammam proceeded to Janpahad beat of Huzurnagar Range along with party on 09.06.2020 and inspected Reserve Forest areas diverted to railway line to M/s DCL and encroachments in comp 26 and 27 in saidulunama RF. The Forest Beat Officer and Section Officer are followed the inspection. The following is the detailed enquiry report.

1. Encroached 10.12 ha area in comp 26 and established permanent structures by DCL company.

In this regard I submit that, the M/s Deccan Cements Private limited, got the approval for laying of railway track in saidulunama RF as per the G.O Ms no 125, about 1.9337 ha area in compartment no 27. From 1.9337 ha area, (vide geo reference latitude 79.70538 and longitude 16.1758) to remaining track towards DCL plant the area laid by Rail way track in compartment no 26 along the boundary line and also established the permanent structures like one **Compound wall along with big Gate, Railway track with railway platform** for loading of finished goods. The total encroached area is in compartment no 26 is 10.12 ha. by DCL company. Google images and Topo sheet was enclosed as **ANNEXURE-Ia & Ib**

~~CONFIDENTIAL~~

2. The DCL company Encroached 21.51 ha area in compartment no 27 and established permanent structures

In this regard I submit that, the M/s Deccan Cements Private limited. Encroached the area about 21.51 ha area in between revenue boundary and compartment no 27. More over they are established permanent structures like **Officers quarters, Petrol bunk, Employee quarters, Guest house, DCL main Gate and internal connecting roads**. Google images and Topo sheet were enclosed as **ANNEXURE- Ib & II**. for kind perusal.

Further, I submit that, I have import the image of village map from Vanasri of TGFMS and super imposed in our compartment layers, it learnt that there was a encroachment in compartment no 27. images were enclosed as **ANNEXURE- III** for kind persual .

On further enquiry regarding illegal structures in compartment no 27, the DCL company authorities, showing they records as they purchased from Revenue department and formers, about 150.18 aces from survey no 1 to survey no 10. of Mahankaligudem village, X-rox copy of Village map, Forest Gazette notification enclosed as **ANNEXURE -IV a IV b& IV c** for kind perusal.

In this connection the FSP staff taken GPS readings on boundaries of DCL company. It was super imposed in Topo sheet, it showing 62 ha (i.e 155 aces) area covering under Revenue lands. Google images and Topo sheet were enclosed as **ANNEXURE- II a & IIb**. for kind perusal.

In this regard I submit that, in view the above illegal occupations by **M/s Deccan Cements Private limited**. are highly violated the Forest conservation rules . I request to the chief conservator of forest Khammam, to give the suitable *instructions to District Forest Officer, Suryapeta to conduct DGPS survey for getting accurate maps and further action* .

This is submitted for favour of information and necessary action.

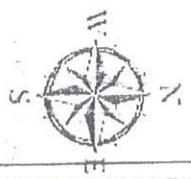
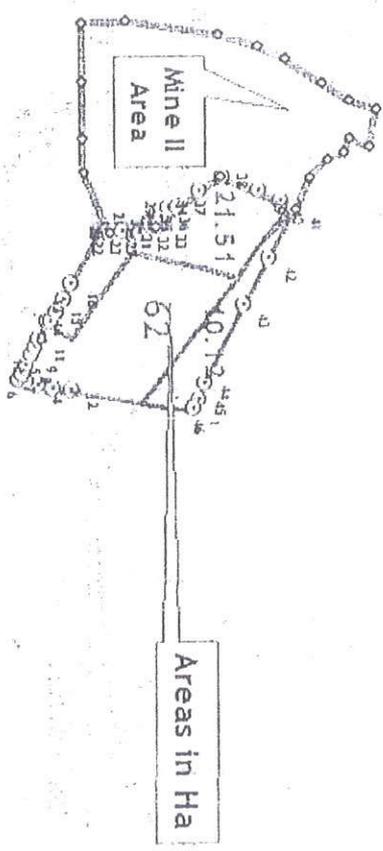
Encl: As above

Yours faithfully,

Forest Divisional Officer,
Flying Squad Division,
Khammam.

Map showing DCL boundary superimposed on topographic map of the area

DCL Area Boundaries Superimosing in Topo Sheets



Scale
1:28,183

DCL area in Reserve
land is - 62 ha
DCL covered in camp - 20
ha - 10,172
DCL covered in camp - 20
ha - 21,511 ha

BLOCK HISTORY

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01	District	Nalgonda
02	Division	Nalgonda
03	Block	Nalgonda
04	Name of the Block	Balaiah
05	Area (in Hectares)	1255.57 Ha.
06	Reference to Survey of India sheet No.	56 P/10
07	Legal Status	
	(i) Notified under Sec.	18 of A.P. Act 1967
	(ii) Published in A.P. gazette No.	169 Dt. 27-2-1955 F.
	(iii) Published in District Gazette No.	1290 Dt. 8-3-1955 F.
08	Topography	i) Plain
09	Soil Type	i) Red Soil (ii) Black Cotton iii) Clayey loam
10	Basic Rock	Shabad stone.
11	Growing Stock	Southern dry deciduous scrub 5A/03/DS1
	(i) Forest Type (Champion & Seth's)	DS1
	(ii) Sub-type	D:2
	(iii) Density	Under stocked.
	(iv) Quality	
12	Area under plantations	Species Area in Ha NIL.
13	Area under encroachment & illicit cultivation	NIL.
14	Status of natural regeneration	NIL.
15	Status of Bamboo	NIL.
16	Important rivers or canals passing through the block	NIL.
17	Important tanks or reservoirs situated in the block	NIL.
18	Roads:	
	(i) Forest roads in the block (with distances and nature of road)	NIL.
	(ii) Other roads in the block (with distances and nature of road)	NIL.

19. Wild life present			
20. Mining or quarrying leases in the block		Lime stone	
21. Labour force available in enclosures or surrounding villages		Adequate	
22. Carrying capacity of the block	:	1 Ha.	
23. State of biotic pressure (both human and cattle) in the block	:	Heavy.	
24. Natural boundaries			
i) Boundary with surrounding villages or enclosures	:	24.10 KM.	
ii) Common block boundary with following adjacent blocks	:	Janpabad, Kalpatanda, Sajjanpur tandu	
a) Pasupubodu			
b) "			
c) "			
25. Area reserved in the past (with G.O.No. & Date)	:	202.34 Ha. 2204 Dt. 27-11	
26. Past history of Management	:	Protection working circle	
27. Future proposals			
Working Circle	:	Compt. No. Area In Ha.	
Afforestation working circle (Plain)	:	27 80.00	
28. Yields from the Block			
<u>Year</u>		<u>Timber</u>	<u>Fuel</u> <u>Others</u>
			NIL.

DIVISIONAL FOREST OFFICER
NALGONDA

WORKING PLAN OFFICER
PARTY NO. VI, NALGONDA

BALDWINIAN RESERVATION

According to the terms of section 18 of Forest Act No. 1 of 1927 (1928) it is notified that the area mentioned below comprising villages of Hankani guda, Ravi Pahad, Jampahad taluk Huzur Nagar and cultivable area of Ganesh Pahad under village Wada pally taluk Miryalguda District Malgonda is declared as reserved forest from the date of the publication of the notification of the Gazette No. H.E.H. the Nizam's Government, which shall be called as reservation of Syed Inam taluk Huzur Nagar District Malgonda area of which is 3602 acres 27 guntas and after obtaining the approval of H.E.H. the Nizam's Government notification thereof is published under section 7 in Gazette No. 8 dated 23rd dai 1337 Fasli and under section 10 in Gazette No. 19 dated 9th Farward 1337 Fasli, and it is published in the local language in concerned villages. The boundaries of this reservation are as follows:-

B O U N D A R I E S

North:- The boundary line of this reservation starts with the south-western corner of survey No. 336 of village Jan Pahad proceeds towards east and north and passing through southern boundaries of said number and south of Darrah Jan Pahad and southern boundary of Survey No. 26 and 223 reaches the south western corner of survey No. 232 thence it passes through the southern and eastern direction of the said number and reaches south western corner of Survey No. 71 thence it passes with many zig zags from the southern boundary of survey No. 71 and reaches north-eastern corner of Survey No. 308 which is included in the reservation, where letter 'B' is indicated in the plan.

East:- from the above mentioned point the line turning towards south and passing through the western side of Survey No. 71 reaches near chinta way, thence it proceeds towards south and passes between the reservation of near chinta way and Syed Inam reaches the north west corner of Survey No. 112. Thence it passes from the west and south of the said number reaches boundary of Ravi Pahad thence it enters the boundary of Ravi Pahad passing the Survey Nos. 31, 12, 8, 31, 2) and again passing over the northern boundary of S. Nos. 31 and 6 proceeds towards south and west and reaches the boundary of Hankomiguda, thence it runs towards south and passing over the western corner of survey No. 6 and of Ravi Pahad and western boundary of Survey No. 1-2 of village Hankani guda, through western boundary of Survey No. 6 reaches directly to the western corner of Survey No. 3 thence it passes through northern boundary of said number reaches the south western corner of said number, thence it runs towards south-west and

passes through southern boundary of Survey No. 6 reaches south-western corner of Survey No. 10 thence passing over the southern boundary of said number reaches the boundary of Ravi Pahad, thence it runs towards south and passing through between the boundaries of Ravi Pahad and Hankani Guda reaches the north-eastern corner of Survey No. 24 of village Hankani guda, where the letter 'C' is indicated in the plan.

South:- From the above mentioned point the line proceeds towards west with many zig-zag passes over the northern boundary of the survey No. 1, 1, 12, 40, 41, 13 reaches the north west corner of letter number where meets river Krishna, thence it proceeds towards north-west side and passing over northern boundary of Survey No. 71 reaches the eastern corner of survey No. 61 thence it passes over the northern boundaries of said number and northern boundary of Survey No. 41 crossing the cart-track excluding survey No. 3 from reservation, passing over its north-west and southern boundaries, turning again towards south reaches the Krishna river, thence it proceeds towards west and declaring the Krishna river as a natural boundary line of the reservation runs for a distance 70 chains, thence it passes over the northern boundary of Survey No. 5 situated at Hankani guda reaches Ganesh Pahad, the runs towards north-western side for a distance of 5 chains and towards west for a distance 6 chains where letter 'D' is six on the plan.

East:- From the above mentioned point the line of this reservation runs towards north-east and reaches south-eastern corner of Survey No. 531 thence passing through the eastern boundaries of survey No. 564 and 565 reaches the south-western corner of S.No. 531 thence proceeds towards east and passing through the eastern boundary of Survey No. 531 and south-eastern direction on S.No. 565 touching the eastern corner of S.No. 531 again passing through the eastern boundaries of S.No. 565 reaches the reservation line of Pappabode, thence it runs towards east and passing between the reservation line of Pappabode and Ryad Inam and crossing the cart-track of Mahakali guda reaches the south-eastern corner of survey No. 240 situated at Janpahad thence passing out the eastern boundaries of Survey No. 24, 21 reaches the first letter 'A'.

Sd/-

Revenue Secretary

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GOVERNMENT OF TELANGANA
FOREST DEPARTMENT

From
Sri P.V Raja Rao, IFS.,
Chief Conservator of Forests/
(FAC) Conservator of Forests,
Khammam Circle, Khammam.

To
The Principal Chief Conservator
of Forests, (Head of Forest Force)
Telangana, Hyderabad.

Rc.No. 174/2018/M11, Dated; 27.07.2020.

Madam,

Sub : FCA- Suryapet Dist. - FC Act rules violated by user agency i.e M/s. Deccan Cements Private Ltd i.e., illegal encroachment of Forest area and other permanent structures constructed in Saidulnama RF of Suryapet district - Report submitted - **Reg.**

- Ref :**
1. Compliant given by Sri V. KoteswarRao, S/o Narayana, R/o Komatikunta (Vg), Palakedu (Md), Suryapet Dist. Dt.19.02.2018.
 2. CCF/(FAC)CF,Khammam Rc.No. 174/2018/M11,dt.26.02.2018.
 3. CCF/(FAC)CF,Khammam Rc.No. 174/2018/M11,dt.09.07.2018.
 4. CCF/(FAC)CF,Khammam Rc.No. 174/2018/M11,dt.11.03.2020..
 5. Compliant given by Sri V. KoteswarRao, S/o Narayana, R/o Komatikunta (Vg), Palakedu (Md), Suryapet Dist. Dt.11.03.2020.
 6. CCF/(FAC)CF,Khammam Rc.No. 174/2018/M11,dt.13.05.2020.
 7. PDO, FSD, Khammam Rc.No.32/CP/FSD/2020, Dt.08.06.2020.
 8. CCF/(FAC)CF,Khammam Rc.No. 174/2018/M11,dt.22.07.2020.

<><>

It is submitted that, the applicant Sri V. Koteswara Rao R/o Komatikunta (Vg), Palakeedu (Md), Suryapet District vide reference 1st cited has given compliant against M/s. Deccan Cements Ltd, stating that M/s. Deccan Cements has laid down the railway line in Compt.No.27 of Saidulnama RF without getting forest clearances and also violated the FC Act rules by constructing the permanent structures in mining area. He also stated that, Deccan cements ltd has encroached the forest area in Compt.No. 26 & 27 of Saidulnama RF and constructed the other permanent structures like power plant, coal mill, crusher, administrative office building, residential houses in colony, Guest house, canteen, oil bunk, etc., and requested the undersigned to conduct detailed enquiry and to remove the permanent structures constructed in Saidulnama RF and necessary action may be taken against M/s. Deccan Cements Ltd for constructing the permanent structures and encroaching the forest area in Compt.No.26&27 of Saidulnama RF of Suryapet District and action taken report by the Department may be intimated to him.

In this regard, it is submitted that, vide reference 2nd cited necessary instructions issued to the Forest Divisional Officer, FSD, Khammam to conduct detailed enquiry on the compliant given by Sri V. Koteswar Rao R/o Komatikunta (Vg), Suryapet District. Accordingly, the Forest Divisional Officer, FSD, Khammam vide reference 7th cited has submitted detailed enquiry report, as detailed below.

The Forest Divisional Officer, FSD, Khammam has processed to Janpahad beat of Huzurnagar Range along with party on 09.06.2020 and inspected RF areas diverted to railway line to M/s .Deccan Cements Ltd and encroachments in Compt.No.26 & 27 of Saidulnama RF and following irregularities were found during inspection.

1. **Encroached 10.12 Ha area in Compt.no.26 and established permanent structure by Deccan Cement Ltd Company.** The Forest Divisional Officer, FSD, Khammam has submitted that, the M/s. Deccan Cements Private Ltd, has got the approval for laying of railway track in in Compt.No.27 of Saidulnama RF as per GoMs.No.125, dt.19.12.2011 about 1.9337 Ha. From 1.9337 Ha area (Lat.79.70538 Long 16.1758) to remaining track towards DCL plant, the area laid by railway track in Compt.No.26 along the boundary line and also established the permanent structures like **one compound wall along with big gate, railway track with railway platform** for loading of finished goods. The total encroached area is in Compt.No.26 is 10.12 Ha by DCL company. Google images and topo sheet was enclosed as **Annexure- Ia & Ib.**

2. **The Deccan Cements Ltd, company encroached 21.51 ha area in Compt.No.27 and established permanent structures.** The Forest Divisional Officer, FSD, Khammam has submitted that, the M/s. Deccan Cements Private Ltd, encroached the area about 21.51 Ha in between Revenue boundary and compt.No.27. Moreover, they have established permanent structures like **Officer's Quarters, Petrol bunk, Employee Quarters, Guest house, DCL main gate and Internal connecting roads.** Google images and topo sheet were enclosed as **Annexure- IIa & IIb.**

Further, the Forest Divisional Officer FSD, Khammam has reported that, she has imported the image of village map from Vanasri of TGFMS and super imposed in Department compartment layers and learnt that **there was encroachment in Compt.No.27.** Images were enclosed as **Annexure-III** for kind perusal.

On further enquiry regarding illegal structures in compt.No.27, the DCL company authorities, showing their records as they **purchased from Revenue department and Formers, about 150.18 acres from Sy.No.1 to Sy.No.10 of Mahankaligudem Village.** Xerox copy of village map, Forest Gazette Notification enclosed as **Annexure-IVa, IVb & IVc** for kind perusal.

In this connection, the Forest Divisional Officer, FSD, Khammam has taken GPS readings on boundaries of DCL Company. It was super imposed in Topo sheet, it showing 62 Ha (i.e 155 acres) area covering under Revenue lands. Google images and topo sheet were enclosed as **Annexure- IIa & IIb for kind perusal.**

Finally, the Forest Divisional Officer, FSD, Khammam has submitted that, the M/s Deccan Cements Ltd has highly violated the Forest Conservation Act rules and requested the undersigned to issue suitable instructions to the District Forest Officer, Suryapet to conduct DGPS Survey for getting accurate maps and further action. The report of the Forest Divisional Officer FSD, Khammam is submitted herewith for kind perusal.

In view of the above, the following instructions have been issued to the District Forest Officer, Suryapet vide reference 8th cited.

- i) Fix the Reserve forest boundary jointly by Forest and Revenue and conduct detailed minutes of the minutes and personally verify the report of the joint inspection and submit a report. After joint inspection prepare RF Block map and compare with the notified RF block in all aspects and then verify the allegations.
- ii) Check whether the alleged permanent structures if there, then verify if falls within the boundary of Saidulnama RF, whether they are falling in any revenue pattas granted in the said Reserve forest. If revenue pattas granted in such reserve forest, then when and verify whether granted legally or illegally.

And requested to submit the report at the earliest and with conclusive details without any ambiguity in the boundary as per the notification.

Therefore, it is submitted that, further report in the matter will be submitted soon after completion of joint survey in Saidulnama RF by the Revenue & Forest Department and on receipt of detailed report from the District Forest Officer, Suryapet.

This is submitted for favour of kind information.

Encl: Report of the FDO, FSD, Khammam.

Yours faithfully,
 Sd/- P.V. Raja Rao.,
 Chief Conservator of Forests/
 (FAC) Conservator of Forests
 Khammam Circle, Khammam.

- Copy submitted to the Prl. Chief Conservator of Forests(FCA), TS, Hyderabad for favour of kind information
- Copy submitted to the Prl. Chief Conservator of Forests(Vigilance), TS, Hyderabad for favour of kind information.

Sd/- P.V. Raja Rao.,
 Chief Conservator of Forests/
 (FAC) Conservator of Forests
 Khammam Circle, Khammam

// t.c.b.o //

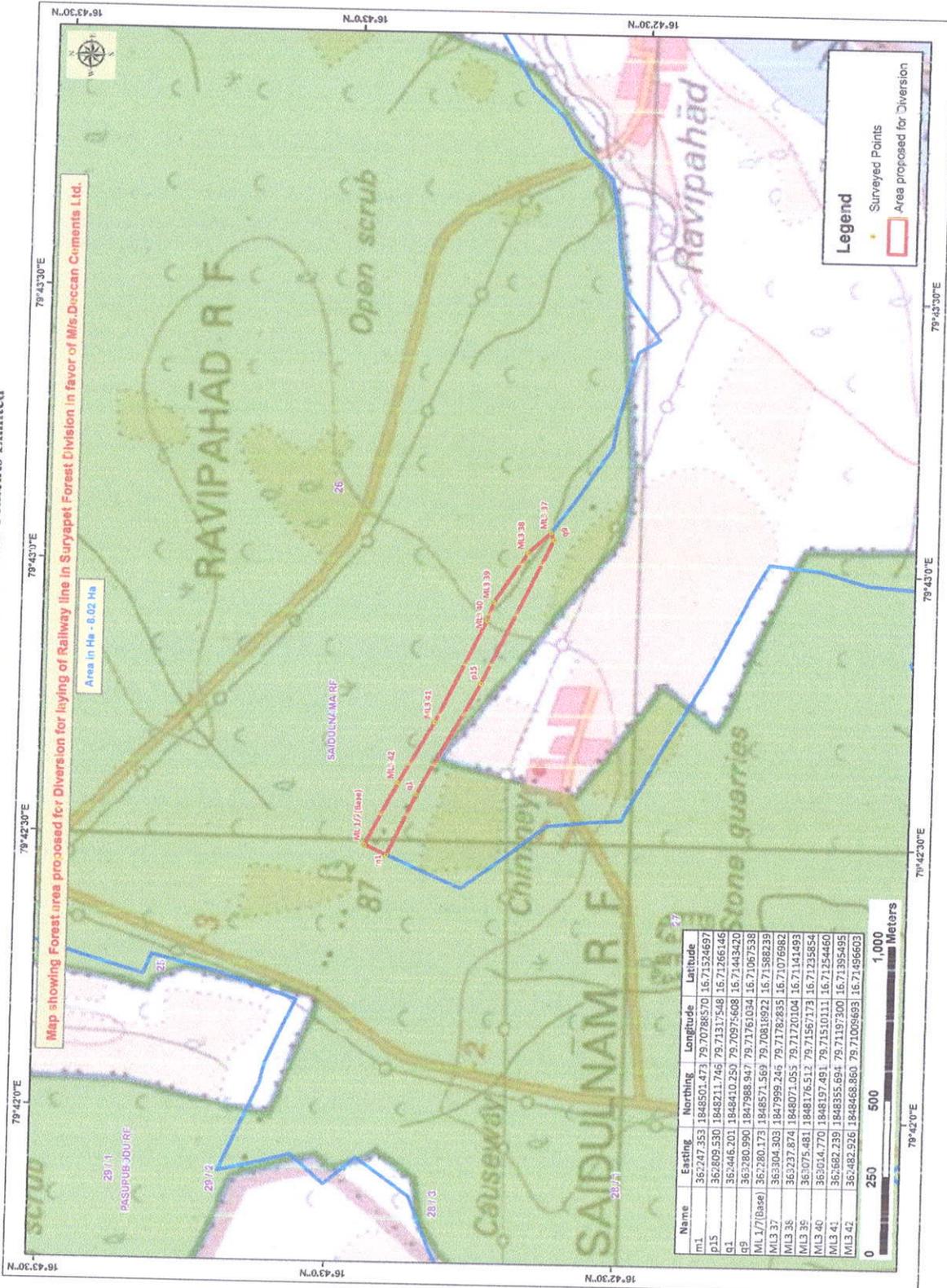
[Handwritten Signature]
 Superintendent

[Handwritten Signature]
 30/7/2020

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Sketch showing the proposed forest diversion for railway siding over an extent of 8.02 Ha in Compartment No.26 of Saidulnama R.F. Janpahad Section, Huzurnagar Range, Suryapet Division, Telangana in favour M/s Deccan Cements Limited



Name	Easting	Northing	Longitude	Latitude
m1	367247.353	1848501.473	79.70788570	16.71524697
p15	367809.530	1848211.746	79.71317548	16.712661446
q1	367246.201	1848410.250	79.70975608	16.71443420
q9	367280.990	1847988.947	79.71761034	16.71067538
M1.17(Base)	367280.173	1848571.569	79.70816972	16.71586239
M13.37	363304.303	1847989.265	79.71767835	16.71076982
M13.38	363397.874	1848071.055	79.71720104	16.71141493
M13.39	367075.481	1848197.491	79.71567173	16.71235854
M13.40	367034.770	1848197.491	79.71510111	16.71254460
M13.41	367582.239	1848355.694	79.71197300	16.71395495
M13.42	367482.926	1848468.860	79.71006493	16.71496603

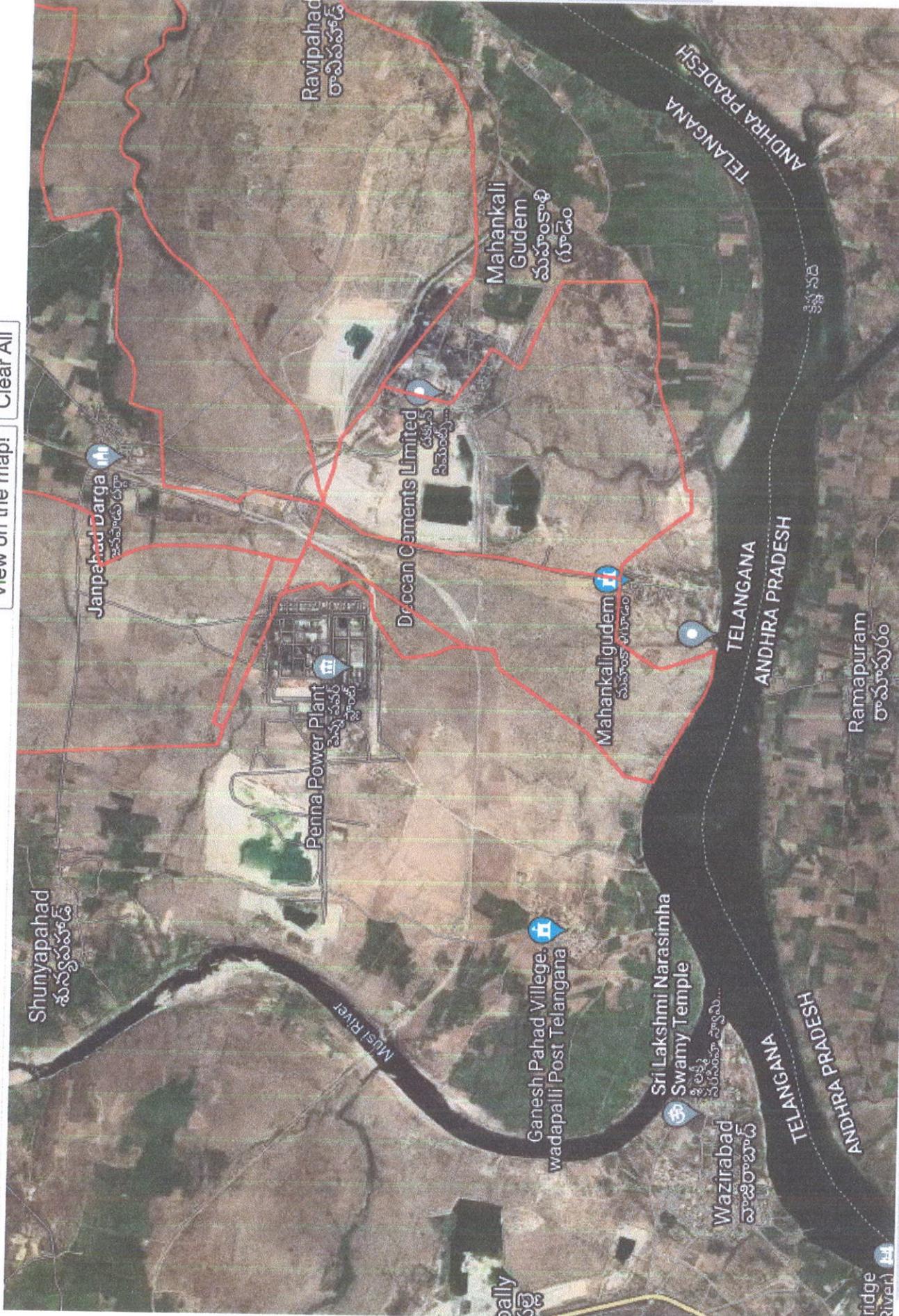
For Deccan Cements Limited

S. Venkateswarlu
Director (W)

KML, KMZ Viewer with Drive

KML, KMZ Viewer is a tool that views the .kml, .kmz (Zipped KML format) file in your browser. Free online tool to view KML, KMZ files from the web on a Google map. You can open KML, KMZ files from URL, Google Drive or from your computer. Provides connect with Google Drive. You can directly open a KML file from Drive. Max 10M (based on unzipped KML), free OO uploads/1 Day

Enter a KML, KMZ URL below to view it. [Sample 1](#) [Sample 2](#) [Sample 3](#) [Sample 4](#)



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200-213

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GOVERNMENT OF TELANGANA
FOREST DEPARTMENT

Rc.No.789/2020/S4,
Dt.01.07.2020

O/o District Forest Officer,
Suryapet.

Sri. G. Mukund Reddy, Dy.C.F.,
District Forest Officer.

SHOW CAUSE NOTICE

Sub : TSFD - FC Act, 1980 - NGT - Allegations made by Sri. V. Koteswar Rao, against irregularities - Show cause Notice - issued - Reg.

Ref : NGT, Chennai original Application No.33/2016(SZ) (Received on 01.06.2020)

With reference to the subject cited above, it is to bring to your notice that, certain allegations were levied against your company i.e., M/s Deccan Cements Ltd., Mahankaligudem of Suryapet District by Sri. V. Koteswar Rao. These allegations were under consideration by Hon'ble National Green Tribunal, Southern Zone, Chennai.

The Hon'ble National Green Tribunal has constituted a committee under the chairmanship of Collector & District Magistrate, Suryapet to enquire into the allegations made against M/s Deccan Cements Ltd and to submit a detailed report for further course of action.

The undersigned i.e, District Forest Officer, Suryapet and staff of Huzurnagar Range have conducted DGPS/DGNSS survey during May/June, 2020 to ascertain whether the company has encroached into Reserve Forest area of Saidulnama Forest Block for the purpose of Mining and construction of any other establishment of the company.

The following observations are noticed during the survey:

1. ML-2: Which is granted to the company vide G.O.Ms.No.51, EFS&T (For.1) Dept., Dt.05.05.1998, by diverting an area of 73.909 Ha in Compartment No.27 of Saidulnama Reserve Forest Block. After Survey, it is observed that the total area of the mine is 73.51 Ha, which is less than the actual diverted area.
2. ML-3: Which is granted to the company vide GO Ms.No.85, EFS&T(For-I) Dept., Dt.09.10.2013, by diverting 183.11 Ha, in Saidulnama RF Block in Compartment No.26 & 27. After DGPS/DGNSS Survey, it is observed that, the mining area is occupied an area of 179.18 Ha. Which is less than the actual diverted area.

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Hence, the allegations of encroachment into Forest Land for the purpose of Mining by the Company were not proved.

3. During the DGPS/DGNSS Survey it was observed that, there are permanent establishments such as, Railway Line, Power Plant and sheds, etc., were constructed in Compt.No.26, which is occupied an area of 8 Ha. This is in clear violation of Forest Conservation Act, 1980.

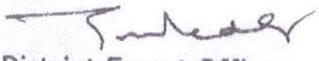
It is learnt that, there are no proposals made for diversion of this piece of Forest Land for the purpose of erecting establishments of your company.

This is also verified from the Satellite imagery & confirmed that, the encroachments took place from the year 2011-12 to 2015-16.

Hence, you are hereby directed to show proper cause as to why suitable necessary action shall not be initiated against your company alleged violations of encroachments into Forest Land under Forest Conservation Act, 1980.

TREAT THIS AS MOST IMPORTANT

Received
C.S. smh
11/7/2020


District Forest Officer,
Suryapet.

O/C

To,

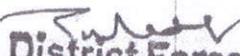
M/s Deccan Cements Limited.,
Bhavanipuram, Janpahal (M), Suryapet District. 508218.

Copy submitted to Prl. Chief Conservator of Forests (HoFF), TS, Hyderabad for favour of kind information and necessary action.

Copy submitted to Addl. Prl. Chief Conservator of Forests, FCA, TS, Hyderabad for favour of kind information and necessary action.

Copy submitted to Chief Conservator of Forests/Conservator of Forests, Khammam Circle Khammam for favour of kind information.


District Forest Officer,
Suryapet.


District Forest Officer
SURYAPET.

For Applicant(s): Mr. G. Stanley Hebzon Singh.

For Respondent(s): Mr. B. Lakshmi Narasimhan represented
Mrs. M.Sumathi for R1.
Mrs. H. Yasmeen Ali for R2, R3, R5, R6 & R9.
Mr. B. Lakshmi Narasimhan represented
Mr. T. Saikrishnan for R4 & R7.
Mr. P.J. Rishikesh represented
Mr. Narayanasamy for R8.

ORDER

1. As per order dated 06.11.2020, this Tribunal had considered the order passed on 19.08.2020 and directed the MoEF&CC to file an independent report and the applicant also wanted to file objection to the report submitted by the committee as well as the TSPCB. So, the matter was posted to 15.12.2020 for that purpose.
2. On 15.12.2020, it was adjourned to 11.01.2021 by notification and on 11.01.2021, it was adjourned to today, at the request of the counsel appearing for the MoEF&CC. We also recorded the submission made the counsel for the 8th respondent that the environmental compensation of Rs.28,20,000/- (Rupees Twenty Eight Lakhs and Twenty Thousand only) imposed has been deposited which was confirmed by the Pollution Control Board and that fact was also recorded.

3. We also directed the committee to submit their views on the objections filed by the applicant to the Joint Committee Report and posted the case to today for that purpose.
4. When the matter came up for hearing today through Video Conference, Sri. G. Stanley Hebzon Singh represented the applicant. Mr. B. Lakshmi Narasimhan represented Mrs. M. Sumathi, the learned counsel for 1st respondent, Mrs. H. Yasmeen Ali represented respondents 2, 3, 5, 6 & 9 and Mr. B. Lakshmi Narasihman represented Mr. T. Sai Krishnan, the learned counsel for respondents 4 & 7 and Mr. Narayanasamy through Mr. P.J. Rishikesh represented 8th respondent.
5. We have received the Joint Committee report dated 19.02.2021 considering the objections filed by the applicant. However, we have not received the independent report to be filed by the MoEF&CC as directed by this Tribunal.
6. The learned counsel who represented the counsel appearing for the MoEF&CC wanted some more time for filing the report.
7. The report filed by the Joint Committee recently also does not show the status of the mining closure measures taken in respect of Mine-I directed to be complied by the 8th respondent. They also have not mentioned as to whether any excess mining has been done in the

encroached area and what is the action taken by them for realization royalty of excess mining and penalty thereof, except stating that they are taking steps for regularization of the same. What are all the steps taken by them in respect of encroachment into the forest area was also not made clear in the report. They also have not given the details regarding the compensatory afforestation land of 73.93 Ha. which is said to have been mutated in the name of Forest Department and what is the stage of the mutation and steps taken by them for that purpose.

8. According to the applicant, as per the details produced along with the joint committee report, the extent of the land for Compensatory Afforestation did not tally with the actual extent expected to be transferred under the Compensatory Afforestation Scheme.
9. The committee is also directed to explain the same in the subsequent report to be filed. The committee as well as the MoEF&CC are directed to submit the report to this Tribunal on or before 22.03.2021 by e-filing in the form of Searchable/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

10. The Registry is directed to communicate this order to the members of the committee as well as to the official respondents by e-mail immediately so as to enable them to comply with the direction.
11. For consideration of further report and independent report as directed to be submitted by the MoEF&CC and also for consideration of the Joint Committee report submitted now, post on 22.03.2021.

Sd/-

.....J.M.
(Justice K. Ramakrishnan)

Sd/-

.....E.M.
(Shri. Saibal Dasgupta)

O.A. No.33/2016,
22nd February, 2021 Mn.



Project Details

Proposal No.:	FP/TG/RAIL/138554/2021
Single Window No.:	SW/204508/2021
Project Name:	DCL Railway Siding 2 and its associated activities at Suryapet District -8.02 Hc
Short Proposal Narrative	The present proposal (DCL railway siding - 2) is for approval for diversion of 8.02 Ha forest land in compartment No. 26 of Saidulnama Reserve Forest, Janpahad Section, Huzurnagar Range, Suryapet Division for establishing part of the railway siding and associated activities.
Region Name	Hyderabad
State:	Telangana
No. of Districts	1
District:	Suryapet
Category:	Railway
Shape of Forest Land	Linear
No. of Divisions	1
Division:	Suryapet
Area Applied (ha):	8.02
Non Forest Land	0
Total Period Years	100
Area Diverted (ha):	8.02
Application For:	Forest Clearance
Date of Submission:	19/03/2021
MoEFCC File No.:	4-TSC182/2021-HYD
Project Status :	APPROVED
Issuing Authority:	Regional Office
Form Type	Form-A [Section 2(ii)]
Estimated Cost	3017
SC Family	0
ST Family	0
Other Family	0
Total Family	0
Employment Generated	Yes
Permanent Employment	20
Temporary Employment	600
Mineral	NA
Mineral Commodity	N/A
Old FC Form Filled By	NA
Valid Status	APPROVED
Received Period	After 15th July 2014

Applicant Details

Applicant Address 1	M/S DECCAN CEMENTS LIMITED
Applicant Address 2	M/S DECCAN CEMENTS LIMITED

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Applicant Designation	DirectorWorks
Applicant District ID	Hyderabad
Applicant Fax No.	08683229502
Applicant First Name	SONTI
Applicant Gender	Male
Applicant Landline No.	8683-229503
Applicant Landmark	opp to NIMS
Applicant Last Name	VENKATESWARLU
Applicant Middle Name	
Applicant Mobile Number	91-9490671896
Applicant New Email ID	venkat.s@deccancements.com
Applicant State ID	Telangana
Applicant Tehsil	Khairatabad

User Agency Details

UA Address 1	6-3-666/B SOMAJIGUDA
UA Address 2	
UA District ID	Nalgonda
UA Email ID	venkat.s@deccancements.com
UA Fax No.	23318366
UA Landline Number	40-23310168
UA Landmark	
UA Legal Status Entity	Others
UA Mobile Number	91-9490671893
UA Pincode	500082
UA State ID	Telangana
UA Submission Date	19/03/2021

Proposal History/Timeline

Activity	Date
UA Submission Date:	19/03/2021
Nodal Accepted Date:	20/04/2021
Division Name:	Suryapet
DFO Recommended Date:	22/04/2021
Circle Name:	Khammam
CF Recommended Date:	22/04/2021
Nodal Recommended Date:	22/04/2021
SS Recommended Date or ROHO Received Date:	22/04/2021
Stage I Date:	30/07/2021
UA Compliance Submission Date:	28/06/2022
Nodal Compliance Forward Date:	28/06/2022
SS Compliance Forward Date:	28/06/2022
Stage II Date:	15/03/2023
MoEFCC HO Linked Proposal:	
MoEFCC HO Linked Date:	
IRO SIR Request Date:	
IRO SIR Received Date:	
UA Withdraw Request Date:	
UA Withdraw Approved Date:	

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भारतसरकार

GOVERNMENT OF INDIA

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय

MINISTRY OF ENVIRONMENT, FORESTS & CLIMATE CHANGE

Integrated Regional Office

Aranya Bhavan, Opp RBI, Saifabad, Hyderabad, Telangana 500004

e-mail: irohyd.moefcc@gmail.com

F.No. 4-TSC182/2021-HYD/082

Date 23rd April, 2021

To,

The Special Chief Secretary to the Government,
Environment, Forests, Science & Technology Department,
Telangana State Secretariat, Hyderabad.

Subject: Proposal for regularization of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favour of M/s Deccan Cements Limited (DCL), Hyderabad -reg.

Reference: The Telangana State Government letter No 1632/For.I(I)/2020 dated 22.04.2021

Sir,

Please refer to the subject and reference and I am to request to submit the following additional information / documents / clarification;

- As the State Government reported that the UA utilized 8.02 ha beyond the approval accorded by the GoI for diversion of 1.9337 ha in the year 2011, hence a map clearly depicting an forest area proposed for regularization under subject proposal and an area i.e. 1.9337 ha already been diverted in favour of M/s Deccan Cements Limited may submitted;
- The DFO reported that no trees available in the proposed area, however, as per the kml file uploaded by the User Agency, few trees are existing in the proposed area. Hence clarification on the trees existing in the proposed area may be furnished;

It is to request to submit above information on or before 29.04.2021 so as to enable this office to process and place the subject proposal before Regional Empowered Committee (REC) meeting proposed to be held during 1st week of May, 2021.

Yours faithfully

(R.Hemant Kumar)

DDG / RO (Central), IRO, Chennai &
I/c DDG / RO (Central), IRO, Hyderabad

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Copy to:

1. The Principal Chief Conservator of Forests, Forests Department, Govt. of Telangana Aranya Bhavan, Saifabad, Hyderabad, PIN- 500 004.
2. The Additional Principal Chief Conservator of Forests/Nodal Officer (FCA), Office of the Principal Chief Conservator of Forests, Forests Department, Govt. of Telangana, Aranya Bhavan, Saifabad, Hyderabad, PIN- 500 004.



(R.Hemanth Kumar)

DDG /RO (Central), IRO, Chennai &
I/c DDG /RO (Central), IRO, Hyderabad

Agenda No. 04: Proposal for regularization of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favour of M/s Deccan Cements Limited (DCL), Hyderabad

The Regional Empowered Committee (REC) has noted the following facts of the proposal:

1. The State Government of Telangana vide letter No 1632/For.I(I)/2020 dated 22.04.2021 forwarded the proposal for regularization of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favour of M/s Deccan Cements Limited (DCL), Hyderabad and requested to obtain and communicate the approval of GoI MoEF&CC under Section 2 of FCA, 1980.
2. **Purpose wise breakup of the forest area required for diversion:** 8.02 ha for Railway Siding, Wagon loading and Wagon tippler, etc
3. Legal Status of Forest land: Reserved Forest
4. Density of Vegetation: 0.1, Eco Class 3
5. Cost of the project: Rs.3017 lakhs.
6. As reported, 20 permanent and 600-man days of temporary employment likely to be generated due to the project.
7. DFO, Suryapet Forest Division has reported that the proposed forest area for diversion is not vulnerable for erosion;
8. DFO, Suryapet Forest Division has reported that the forest area proposed for diversion does not fall under Sanctuary / National Park, Biosphere Reserve, Tiger Reserve, Elephant Corridor etc.
9. DFO, Suryapet Forest Division has reported that no rare/ endangered / unique species of flora is found in the area.
10. DFO, Suryapet Forest Division has reported that no protected archaeological/ heritage site/ defence establishment or any other important monument is located in the area.
11. DFO, Suryapet Forest Division has reported that the requirement of forest land for diversion as proposed by the UA is unavoidable and the barest minimum for the project.
12. Violation of FCA, 1980: The entire 8.02 ha is under the violation of FCA, 1980. **The PCCF, Telangana reported the following;**

The District Forest Officer, Suryapet has reported that, works were already done by the user agency by violating the FC Act, 1980 during the period from 2011-12 to 2015-16. A show cause has been issued to the user agency vide DFO, Suryapet Rc.No.789/2020/S4, Dt.01.07.2020. The proposed work was already completed and now submitting the proposals for regularization of said area.

Further, the District Forest Officer has reported that, the violation is not intentional. It occurred due to mistake of facts. The user agency has obtained forest clearance for railway



Ministry of Environment, Forests & Climate Change,
Integrated Regional Office, Chennai

10 May 2021

10/5/2021

sliding to an extent of 1.93377 ha, but extended beyond the permitted area.

Further, the District Forest Officer, has reported that, For the approved mining lease project (183.11 ha), the then DFO Nalgonda has submitted in Part-II application that, the proposed area for additional mining lease is the southern boundary within the Saidulanama RF in Compt.No.26 & 27. It seems the leased area was presumed to be up to the boundary line of RF. The situation arose due to the fact that the reserved forest boundary lines were not clearly demarcated on the ground. But, during the detailed survey of RF Block with DGPS, it is understood that, the extended railway siding is also a part of RF. Hence, it appears that, user agency has not intentionally utilized the RF area for the purpose of Railway line, extended beyond the approved diversion. DFO also reported that, the committee constituted by Hon'ble National Green Tribunal has recommended regularization of said area. Hence, necessary penalty and Penal Compensatory Afforestation may be imposed to the user agency

13. DFO, Suryapet Forest Division has reported that no trees in the proposed forest area: ~~XX~~
14. An extent of 8.839 ha of non-forest area in two bits have been identified for the purpose of compensatory afforestation and CA scheme including 10 years of maintenance over an area of 8.02 ha and fencing & SMC works etc. for entire 8.839 ha with financial outlay of Rs. 184.46223 lakhs along soil suitability certificate, map etc have been submitted and uploaded in the web portal;
15. Penal Compensatory Afforestation (PCA) over 17 ha of degraded forest area Compt.No.9, Ramavaram RF, Pengadapa beat, Musalivarre (W), Ramavaram Range has been proposed and submitted CA scheme with financial outlay of Rs.120.3289 lakhs have been submitted
16. DFO, Suryapet Forest Division: Recommended with the following conditions;
- The violation under F(C)Act, 1980 is committed by the UA. Hence, necessary penalty may be imposed to the UA. The UA has committed this offence unintentionally. Hence, the UA has opted for regularization of this said area. The committee constituted by Hon'ble National Green Tribunal has recommended regularization of said area.
 - User Agency has to provide funds for Wildlife Mitigation plan which includes provisions for taking up works like Saucer pit formation with refilling of water.
 - The user agency has to deposit funds for erection of the Boundary Pillars throughout the entire length of Saidulanama RF so as to ease the further discrepancies if any.
 - User Agency has to erect a 4 ft height parapet wall on towards the Forest Boundary all along the length of the proposed diversion.
 - UA has to provide fund for Penal CA land. As no suitable land is available for in this District for this purpose.



Ministry of Environment, Forests & Climate Change,
Integrated Regional Office, Chennai

10 May 2021

Page 25.

17. Conservator of Forests, Khammam, PCCF (HoFF) Telangana and State Government of Telangana recommended for regularization;
18. Site Inspection report of the DFO, Suryapet Forest Division has been furnished and uploaded in the web portal.
19. Map and kml of the Forest land proposed for diversion have been submitted and uploaded in the web portal;
20. RoFR certificate: As reported, RoFR is yet to be obtained from the concerned competent authority;
21. The subject proposal has been processed through DSS cell and found to be not inviolate.
22. The subject proposal has been uploaded in the web portal vide proposal number FP/TG/RAIL/138554/2021
23. A case is filed by the Vakkanti Koteswar Rao, S/o. Narayana, H.No.2-8 Komatikunta (V), Nereducharal Mandal, Nalgonda District, Telangana State Hon'ble NGT Chennai vide i.e. OA No 33 of 2016 against the M/s Deccan Cements Limited and made the Union of India, Ministry of Environment, Forests & Climate Change as 1st respondent and wherein petitioner among other things, he alleged that the M/s Deccan Cements Limited encroached reserved forest and carried out work in the forest area without approval under FCA, 1980;
24. The Hon'ble NCT, Chennai has heard the matter and passed orders dated 18.12.2019 constituting a Joint Committee consisting of District Collector, Nalgonda (now Suryapet District); Senior Official from Mining and Geology Department, Government of Telangana; Senior Scientist from the Telangana State Pollution Control Board and Divisional Forest Officer, Nalgonda Division (Now Suryapet District) to inspect the unit in question and submit the present status and compliance of Environmental norms and excess of quantity of mining being done or extension of the area for mining beyond the permitted area as per the lease and if so, any action has been taken against them and submit the factual and action taken report to the Tribunal constituted. The "Joint committee in its report, apart from other things, mentioned (with reference to complaint concerned with encroachment of forest land) that the project Proponent i.e M/s Deccan Cements Limited has encroached in to the reserved forest for the purpose of erecting some permanent structures like the sheds and power plant to an extent of 8.00 ha and committee instructed the project proponent to go for diversion of the RF area to the extent required by the following due procedures as per rules".



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25. The Hon'ble NGT, Chennai, vide its order dated 19.08.2020 instructed the Regional Office, MoEF&CC as below;
- "the Regional Office, MoEF&CC is also directed to consider the report and if any action is required on that basis, they are also directed to take appropriate action in accordance with law and submit the report to that effect"
26. As per the directions of the Hon'ble NGT in its interim order dated 19.08.2020, the Integrated Regional Office, Chennai vide letter dated 23.10.2020 requested the Telangana State Government to submit factual report regarding alleged violation i.e encroachment of forest and to an extent of 8 ha area by the project proponent;
27. To ascertain the exact extent of forest area encroached (as by then, complaints start coming up stating that the actual forest area under encroachment is more than what it is mentioned by Joint Committee) by the M/s Deccan Cements Limited, the PCCF vide letter Rc No 53565/2008/FCA-3 dated 25.09.2020 requested the Chief Conservator of Forests, Khammam and District Forest Officer, Suryapet to take immediate necessary action on the following items in connection with all complaint petitions;
- Through a joint team of forest, revenue, SSLR to fix the boundaries of the Saidulanama RF as per the Gazettee notification, maps, cadastral maps and allied records and then carry out the DGPS survey and furnish the report on extent of violation, with respect to the forest clearance and encroachments;
 - To check whether any pattas issued in RF, if so the details of Pattas and action taken report on cancellation of Pattas.
 - To furnish conclusive report without any ambiguity on violations and pattas
 - To furnish the DGPS data of Saidulanama RF the railway line the constructions, mining areas etc and Gazette notification, maps, and allied records for ascertaining the extent of areas;
 - To furnish the notification proposals of the non-forest CA land
 - To furnish the detailed report on the development of green belt along with DGPS data
 - Status of reclamation and regressing of ML -1 of 22.55 ha of forest land which is closed and handed over to Forest Department on 23.12.2000.
28. After receipt of the detailed report and DGPS survey, it is found that an extent of 1.9337 ha already been diverted as per order No. 4-APB633/2009-BAN/9848 dated 22.09.2011 under FCA, 1980 in favor of M/s Deccan Cements Limited by the erstwhile Regional Office, Bengaluru, however, the project proponent has brought up some construction activities involving the forest land to an extent of 8.02 ha in due course of time.



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- As instructed by the committee constituted by the Hon'ble NGT, the project proponent i.e. M/s Deccan Cement Limited has applied for diversion / regularization of 8.02 ha forest area which is encroachment into RF. *
29. The State Government as per letter No 1312/For.I(1)/2014 dated 22.04.2021 submitted enquiry report on the orders issued by Hon'ble NGT, Chennai dated 19.08.2020 and 22.02.2021 in O.A. No 33 of 2016, and forwarded the proposal seeking regularization Proposal for regularization of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favour of M/s Deccan Cements Limited (DCL), Hyderabad;
30. The proposal submitted by the Telangana Govt. has been scrutinized by the Integrated Regional Office, Hyderabad and vide letter dated 23.04.2021 requested Telangana Government to submit the following additional information / documents;
- As the State Government reported that the UA utilized 8.02 ha beyond the approval accorded by the Gol for diversion of 1.9337 ha in the year 2011, hence a map clearly depicting an forest area proposed for regularization under subject proposal and an area i.e. 1.9337 ha already been diverted in favour of M/s Deccan Cements Limited may be submitted;
 - The DFO reported that no trees available in the proposed area, however, as per the kml file uploaded by the User Agency, few trees are existing in the proposed area. Hence clarification on the trees existing in the proposed area may be furnished;
31. The State Government vide letter NO 1632/For.I(1)/2021 dated 01.05.2021 submitted additional information as sought by the IRO Hyderabad and the additional information are as follows;

No	Additional information sought by the IRO Hyderabad	Reply received from the PCCF, Telangana
	As the State Government reported that the UA utilized 8.02 ha beyond the approval accorded by the Gol for diversion of 1.9337 ha in the year 2011, hence a map clearly depicting an forest area proposed for regularization under subject proposal and an area i.e. 1.9337 ha already been diverted in favour of M/s Deccan Cements Limited may	The District Forest Officer, Suryapet has reported that the Original diverted area 1.9337 ha is utilized for railway line and additional (encroached) area of 8.02 ha is contiguous to the existing 1.9337 ha area diverted for railway line siding. There is no other forest land being utilized. The total survey map of Saidulnama RF is enclosed showing both 1.9337 ha diverted for railway line and 8.02 ha additional area utilized other mining leases,



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	submitted;	road transmission line for which forest land diverted in favour of user agency;
	The DFO reported that no trees available in the proposed area, however, as per the kml file uploaded by the User Agency, few trees are existing in the proposed area. Hence clarification on the trees existing in the proposed area may be furnished	The District Forest Officer, Suryapet has reported that (200) nos of Subabul trees and (15) nos Neem trees are existing along the railway siding of proposed 8.02 ha area for regularization. It is submitted that all the trees are below 30 cm girth & with an average height of 3 mtrs. The Management of M/s Deccan Cement Limited has given an undertaking that, they will not fell any trees in the proposed 8.02 ha for regularization.

32. For the purpose of cross verification, the kml file of the forest area proposed for diversion / regularization has been analyzed by the Decision Support System (DSS) and found that no mining activities has been carried out in the forest area proposed for diversion.

33. Committee noted that The Hon'ble NGT expressed displeasure for not filling reply affidavit on action taken by the Regional Office, Chennai on allegation made under OA 33 of 2016 (interim orders dated 22.02.2021, 22.03.2021 & 26.04.2021 is enclosed) and the next date of hearing is scheduled on 7th June 2021;

Deliberation: The Regional Empowered Committee (REC) noted the interim orders issued by the Hon'ble NGT in OA 33/2016 and in specific discussed in detail the order dated 19.08.2020 and examined the proposal submitted by the Telangana State Government seeking approval for regularization of 8.02 ha of forest area.

The Committee deliberated on the above case in each issue wise as below;

1. Interim Order dated 19.08.2020 under O.A. 33/2016 filed before Hon'ble NGT, Chennai

The committee perused the interim order dated 19.08.2020 by the Hon'ble National Green Tribunal, Chennai and is as follows;

*****Extract of the Interim Order dated 19.08.2020*****
 6. The committee have assessed the environmental compensation and



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they want this Tribunal to approve the same and pass appropriate orders. It may be mentioned here that it is not for the tribunal to pass any order in respect of environmental compensation. That is for the regulator to take appropriate action against the violators after giving an opportunity to the violating industry to be heard.

7. So under such circumstances, we direct the regulators to consider the report and take appropriate action against the alleged violating unit, after giving an opportunity to that unit and pass appropriate orders and submit a compliance report regarding the same to this Tribunal. We do not express any opinion regarding the report at this stage.

8. The Regional Office, MoEF&CC is also directed to consider the report and if any action is required on that basis, they are also directed to take appropriate action in accordance with law and submit the report to that effect.

9. Learned counsel appearing for the applicant as well as eighth respondent wanted time to file their objections to the committee report and they are at liberty to file the same to this tribunal before next hearing date.

10. The regulating authorities namely the Pollution Control Board and Regional Office, Ministry of Environment, Forests & Climate Change (MoEF&CC) are also directed to consider the question of alleged violations mentioned in the report and the action taken on that basis before the next hearing date

In addition, to the above, the committee of REC noted that one of the recommendations of the Joint committee constituted by the NGT is as below;

"project Proponent (i.e M/s Deccan Cements Limited) has encroached in to the reserved forest for the purpose of erecting some permanent structures like the sheds and power plant to an extent of 8.00 ha and committee instructed the project proponent to go for diversion of the RF area to the extent required by the following due procedures as per rules".

The Committee of the REC examined the operative portion of the order passed by the Hon'ble NGT, Chennai and after verifying the facts, the Committee noted the following

a. As directed by the NGT, Chennai, the Integrated Regional Office (IRO) Hyderabad has



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- requested the Telangana State Government to submit factual report regarding alleged violations i.e encroachments into the Reserved Forest land;
- b. After continuous follow up by the Integrated Regional Office, Hyderabad, the Telangana State Government vide letter No 1312/For.I(1)/2014 dated 22.04.2021 submitted enquiry report to the IRO, Hyderabad based on the orders issued by Hon'ble NGT, Chennai dated 19.08.2020 and 22.02.2021 in O.A. No 33 of 2016, and vide letter No 1632/For.I(1)/2020 dated 22.04.2021 forwarded the proposal for regularization of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favour of M/s Deccan Cements Limited (DCL), Hyderabad;

2. The proposal for regularization of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favour of M/s Deccan Cements Limited (DCL), Hyderabad;

As the proposal is linear in nature and having area more than 5 hectares with violation of FCA, 1980, the Integrated Regional Office, Hyderabad placed the proposal before the Regional Empowered Committee (REC) for consideration and to take appropriate decision as per the provisions made under rules / guidelines framed under FCA, 1980. The Committee examined the proposal submitted by the State Government seeking approval under FCA, 1980 and as reported by the State Government, the project proponent i.e M/s Deccan Cements Limited obtained the approval under FCA, 1980 for diversion of over an extent of 1.9337 ha vide order No. 4-APB633/2009-BAN/9848 dated 22.09.2011 in favor of M/s Deccan Cements Limited by the erstwhile Regional Office, Bengaluru, however, the project proponent has brought up some construction activities involving the forest land to an extent of 8.02 ha in due course of time in addition to the forest area diverted.

The Committee heard the representatives present during the meeting, the User Agency informed the committee that the M/s Deccan Cements Limited has taken prior approval of GoI under FCA, 1980 for all the activities taken up in the forest area, however the area of 8.02 ha of RF has been utilized unintentionally and mainly because of confusion in the demarcation of the RF boundary. The Project Proponent briefed the committee that, as instructed by the committee constituted by the Hon'ble NGT, the project proponent i.e. M/s Deccan Cement Limited has applied for diversion / regularization of 8.02 ha forest area now which is termed as



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encroachment into RF and informed that the M/s Deccan Cement Limited will abide by the all rules / regulations and to make all necessary payments towards Net Present Value (NPV), Compensatory Afforestation, Penal Compensatory Afforestation, Penal Net Present Value as decided by the committee and follow all rules / regulation as applicable to such project in future also.

Committee enquired the PCCF, Telangana regarding boundary disputes, other forest clearances obtained by the M/s Deccan Cement Limited and their compliances to the conditions stipulated by the GoI. The PCCF, Telangana explained all the clarifications / details as sought by the Committee and informed that the User Agency encroached forest area over 8.02 ha in addition to the 1.9337 ha diverted earlier mainly because of *dispute in the RF boundary* and the PCCF, Telangana strongly recommended that though the encroachment is not intentional, the violation committed by the User Agency shall be dealt strictly and fix the penalty as per the provisions made under FCA, 1980.

After hearing both the Forest Department Officials & the representative of the User Agency the committee opined that though the M/s Deccan Cement Limited obtained the prior approval of Government of India during 2011 for diversion of 1.9337 ha for railway siding the M/s Deccan Cement Limited should have been consulted the Forest Department before taking up of any activity near to the RF boundary to avoid violation of FCA, 1980 over an extent of 8.02 ha. The Committee opined that the encroachment of 8.02 ha of forest area is completely in violation of condition No. 06 stipulated by the erstwhile Regional Office in its order No 4-APB633/2009-BAN/9849 dated 22.09.2011 and the committee concluded that the User Agency utilized / encroached additional 8.02 ha shall be penalized as per the provision made in the comprehensive hand book under 1.21(ii) & (iii) and also decided to impose Penal Compensatory Afforestation (PCA) as proposed by the State Government;

3. Deliberation on complaint dated 30.04.2021 received from Shri. Vakkanti Koteswar Rao S/o Narayana, R/o Komatikunta Village, Palakaveedu Mandalam, Suryapet District.

Above complaint was received to revoke the proposal of illegally encroached reserve forest and stage-1 clearance submitted by the M/S Deccan Cements Limited Bhavanipuram Named DCL railway sliding -2 proposal no: FP/TG/RAIL/138554/2021 dated: 19.03.2021 over an extent of 8.02 hectares.

Since the complaint was received only in the evening (after the REC meeting is over through VC) on 07.05.2021 the issue could not be deliberated in the meeting. Thereafter same complaint also received through email on 08.05.2021, and the mail with its annexures was forwarded to the members of the REC on 08.05.2021, for their remarks / suggestions. The



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committee members opined that, whatever the REC decided in respect of this proposal in the meeting, is as per the prevailing Act, Rules and guidelines of the Ministry, hence the decisions made in the meeting can be recommended.

Recommendation: After deliberation on all aspects and considering the directions issued by Hon'ble NGT based on the report of the Committee Constituted by the Hon'ble NGT and also need of the railway siding as per the conditions stipulated in the Environmental Clearance, the committee opined that the established railway siding by the M/s Deccan Cements Limited is essential for the conservation of environment and forests and hence decided to **RECOMMEND** the proposal to regularize / diversion under FCA, 1980 subject to the standard conditions as applicable to such railway projects with the following additional conditions;

1. Committee decided to impose a penalty of 2 times the NPV as per provisions made in the comprehensive guidelines hand book under section 1.21 (iii) (a) ;
2. The violation committed by the User Agency / Forest Department officials shall be dealt as per the provisions made in State Forest Act or FC Act and its Rules and guidelines made there under.
3. Penal Compensatory Afforestation (PCA) over 17 ha of degraded forest area Compt.No.9, Ramavaram RF, Pengadapa beat, Musalivarre (W), Ramavaram Range shall be carried out with financial outlay of Rs.120.3289 lakhs as per proposed PCA Scheme;
4. The user agency shall get the wildlife mitigation plan prepared by any competent person /agency and the same should be approved by the Chief Wildlife Warden and implemented at the cost of the User Agency;
5. The user agency has to deposit funds for erection of the Boundary Pillars throughout the entire length of Saidulanama RF so as to ease the further discrepancies if any.
6. User Agency has to erect a 4 ft height parapet wall on towards the Forest Boundary all along the length of the proposed diversion.
7. Trees standing within 8.02 ha shall not be felled.
8. In consultation with the DFO, Concerned, User Agency shall carryout plantation of long living and environmental tree species like Peepal (Ficus religiosa) Banyan (Ficus benghalensis), Tamarind (Tamarindus indica), Neem (Azaridicta indica), and Jamun (Syzygium cumini) etc in vacant area within the 8.02 ha,
9. The User Agency shall take prior approval of GoI for any new non forestry activity within 8.02 ha;

Committee decided that after issuing of Stage I approval, the Integrated Regional Office,



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Hyderabad may file reply affidavit before Hon'ble NGT, Chennai after addressing all other issues raised in the OA.No.33/2016 in consultation with the Ministry, New Delhi. Further, Committee decided that the Integrated Regional Office, Hyderabad shall issue letter to the Telangana State Forest Department requesting to issue instructions to the field officials to be alert / vigil so as to prevent such encroachment(s) in future.

State: Andhra Pradesh

Agenda No: 05: Diversion of 4.59 ha (Previously 3.89 ha) of forest land for quarrying of road metal in Sy.No.361 of Sangam (V) & Mandal, Sangam RF, SPSR Nellore Division/District in favour of Smt. D. Mamatha Rani, Nellore

1. After obtaining approval from the competent authority, MoEF&CC, New Delhi, the Regional Office, Chennai vide letter dated 14.03.2017 conveyed *in-principle (Stage-I) approval*. The PCCF of Andhra Pradesh vide letter No. 8454/2011-FCA-2 dated 30.11.2017 has reported compliance to the conditions stipulated in the in-principle approval. After careful consideration of the compliance report submitted by the State Government, the Regional Office, Chennai vide letter dated 18.12.2017 conveyed *final (Stage II)* for the subject proposal;
2. The purpose wise breakup approved by the competent authority are as follows;

a. For mining	: 3.67 ha
b. For road	: 0.22 ha
c. Safety zone	: 0.70 ha
Total	: 4.59 ha
3. The State Government of Andhra Pradesh vide letter No 1282/Section.II/2020 dated 04.11.2020 has stated that the User Agency has proposed a new road on the western side of the above mining lease to a length of 1.36 km (1.15 km in RF and 0.21 km in the existing RoW) so as to save mileage and avoid the heavy traffic to reach stone crusher as it is being established in the revenue land on the western side of the proposed mining area at a distance of 1.36 km from the proposed mining area. Further reported that, the Conservator of Forests, Guntur vide letter dated 27.02.2019 has submitted a report, stating that the permitted road to the User Agency is 4km distance from the stone crusher unit of the User Agency and Nellore Division is taking up Karthikavanam tree planting in Sangam RF under MNREG scheme and the vehicle movement in the permitted road will affect the developmental activities taken up by the Department and hence the User Agency has proposed a new road involving diversion of forest land to an extent



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Government of India

पर्यावरण वन और जलवायु परिवर्तन मंत्रालय

Ministry of Environment, Forest & Climate Change

एकीकृत क्षेत्रीय कार्यालय/Integrated Regional Office

Aranya Bhavan, 3rd floor, Saifabad, Hyderabad-500004, Telangana

E-mail: iro.hyderabad-mefcc@gov.in

Tel: 040- 29390053

F.No.4-TSC182/2021-HYD/ 135

Date: 15th March, 2023

प्रति/To,

The Special Chief Secretary to the Government,
Environment, Forests, Science & Technology Department,
Telangana State Secretariat, Hyderabad.

विषय/Subject: Proposal for regularization of 8.02 ha of forest area in Saidulnama RF of Suryapet Division for establishing part of the railway siding and associated activities and other permanent structures in Suryapet District in favour of M/s Deccan Cements Limited (DCL), Hyderabad- Revised Stage-I approval order-Reg.

महोदया/Madam,

Please refer to the State Government's letter Nos. 1632/For.I(1)/2020 dated 22.04.2021 and online Proposal No FP/TG/RAIL/138554/2021 seeking prior approval of the Government of India in accordance with Section '2' of Forest (Conservation) Act, 1980 for the above-mentioned project. With the approval of the competent authority in the Ministry, the project was accorded *in-principle approval (Stage-I)* by the Central Government vide letter dated 30.07.2021. The State Government vide letter No.1632/For.I(1)/2021 dated 17.06.2022 and No. 1632/For.I(1)/2021 dated 29.10.2022 have reported compliance to the conditions stipulated in the in-principle approval.

After careful consideration of the compliance report submitted by the State Government and with the approval of the competent authority in the Ministry, I am hereby directed to convey the Central Government's **Formal approval (Stage-II)** under Section '2' of the Forest (Conservation) Act, 1980 for diversion (regularization) of **8.02 ha** of forest area in Saidulnama RF of Suryapet Division for part of the railway siding established, associated activities and other permanent structures in Suryapet District in favour of M/s Deccan Cements Limited (DCL), Hyderabad, subject to the following conditions:-

1. The legal status of forest land shall remain unchanged.
2. The State Forest Department(SFD) shall take up Compensatory Afforestation over 8.98 ha of non-forest area identified and handed over to the SFD in Sy.No. 195/7, 209, 211/1/2, 211/2/2, 211/3/2, 211/a/2, 211/4/2, 211/6/2 and 211/7/2 of Charakonda (Village and Mandal) from the amount already been realized from the User Agency.
3. The State Forest Department shall declare the entire extent of non-forest area transferred and mutated in favour of the State Forest Department for the purpose of CA



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- as Reserved Forest/ Protected Forest under the provisions of Indian Forest Act, 1927 or under the relevant section(s) of the State Forest Act within six (6) months from the date of issue of Stage II approval and send a copy of the original Notification to this office without fail.
4. The approved CA land and CA scheme shall not be changed without prior approval of the Central Government.
 5. Additional amount of the NPV of the diverted forest land, if any, becoming due after finalization of the same by the Hon'ble Supreme Court of India on receipt of the report from the Expert Committee, shall be charged by the State Government from the User Agency.
 6. The State Forest Department shall carry out Penal Compensatory Afforestation (PCA) over 17 ha of degraded forest area identified in Compt.No.9, Ramavaram RF, Pengadapa beat, Musalivarre (W), Ramavaram Range with a financial outlay of Rs.120.3289 lakhs as per the proposed PCA Scheme.
 7. The State Forest Department shall implement the wildlife mitigation plan approved by the Chief Wildlife Warden from the amount which has already been realized from the User Agency.
 8. The State Forest Department shall carry out the erection of the Boundary Pillars throughout the entire boundary of Saidulanama RF from the amount already realized from the user agency, to ease any further discrepancies.
 9. User Agency shall maintain the 4 ft height parapet wall constructed towards the Forest Boundary all along the length of the forest land diversion;
 10. Trees standing within 8.02 ha of forest land shall not be felled by the User Agency.
 11. No labour camp shall be established on the forest land.
 12. The User Agency shall take prior approval of GoI for any new non-forestry activity within the 8.02 ha forest land diverted in this proposal.
 13. User Agency shall obtain Environmental Clearance as per the provisions of the Environmental (Protection) Act, 1986, if applicable.
 14. The forest land proposed to be diverted shall under no circumstances be transferred or sublet to any other agencies, department or person without prior approval of Govt. of India.
 15. The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less.



16. The total forest area utilized for the project shall not exceed **8.02 ha** and the forest area diverted shall not be used for any purpose other than those shown in the diversion proposal.
17. The layout plan of the proposal shall not be changed without prior approval of the *Central Government*.
18. Complete compliance with FRA, 2006 shall be ensured by way of a prescribed certificate from the concerned District Collector.
19. The user agency shall submit a yearly compliance report on the conditions imposed to the State Forest Department and the IRO, Hyderabad.
20. The User Agency and the State Government shall ensure compliance with all the acts, rules, regulations and guidelines of the Ministry, for the time being in force, as applicable to the railway line projects;
21. Any other condition that the Ministry of Environment, Forests & Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests & wildlife.
22. Violation of any of these conditions will amount to a violation of the Forest (Conservation) Act, 1980 and deemed fit action will be taken.

Yours faithfully

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15.03.23

(कैलाश भि. भवर, भावसे)

(Kailash B. Bhawar, IFS)

सहायक वन महानिरीक्षक (केंद्रीय)

Assistant Inspector General of Forests (Central)

प्रति लिपि /Copy to:-

1. The IGF (ROHQ), MoEF&CC, New Delhi for information, please.
2. The Principal Chief Conservator of Forests (HoFF), Forests Department, Govt. of Telangana, Hyderabad, PIN- 500 004.
3. The Principal Chief Conservator of Forests (CEO, CAMPA), Forests Department, Govt. of Telangana, Hyderabad, PIN- 500 004.
4. Nodal Officer (FCA), Forest Department, Govt. of Telangana, Hyderabad, PIN- 500 004
5. M/s Deccan Cements Limited, 6-3-666/B Somajiguda, Nalgonda District, Telangana-500082 venkat.s@deccancements.com
6. Guard file.

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15.03.23

(कैलाश भि. भवर, भावसे)

(Kailash B. Bhawar, IFS)

सहायक वन महानिरीक्षक (केंद्रीय)

Assistant Inspector General of Forests (Central)



Circular
Ref. No. 13-1/90-FP
238

Circular No. 13-1/90-FP
Classification
on 17/07/01

232

Circular No. 13-1/90-FP of Government of India, Ministry of Environment & Forests, Department of Environment, Forests & Wildlife dated 18.9.90 addressed to the Secretaries of Forest Departments of all States/UTs.

II.1

FP (2) Review of disputed claims over forest land, arising out of forest settlement

It has been brought to the notice of this Ministry that local inhabitants, living in and around forest areas, have preferred claims on certain notified forest lands contending that they were in occupation of such areas prior to the initiation of forest settlements and/ or their rights were not enquired and/ or commuted before notifying these lands as forests under respective laws. The claimants are requesting that title of such lands should be conferred on them. It is being felt that even bonafide claims are persistently overlooked causing widespread discontentment among the aggrieved persons. Such instances ultimately erode the credibility of the Forest Administration and sanctity of the forest laws, especially in the tracts inhabited by tribals.

2. Seized of its complexities, the issue regarding disputed claims over forest land was got critically examined by this Ministry through an inter-Ministerial Committee. The Committee, after prolonged deliberations and due consultations with representatives of some of the states, stressed the need to resolve such disputes with utmost urgency and suggested the feasible course of action to redress genuine grievances without jeopardising protection of forests and forest land. Keeping in view the recommendations of the said committee and with due approval of the competent authority, the following course of action is suggested for amicably resolving disputed claims on forest land:

2.1 The States/ UTs Administration should review the cases of disputed claims over forest land and identify the following three- categories of claims;

(a)

Claims in respect of forest areas notified as 'deemed Reserved Forest' without observing the due process of settlement as provided in Forests Acts provided that these pertain to

(i)

tribal areas or affect a whole cross section of rural poor in non-tribal areas;

and

(ii)

the claimants are in possession of the "disputed land".

(b)

Claims in tribal areas wherever there is *prima facie* evidence that the process of forest settlement has been vitiated by incomplete or incorrect records/maps or lack of information to the affected persons, as prescribed by law, provided that:

(i)

Such forest settlement pertains to a period after 1947; and (ii) the claimants are in possession of the "disputed land".

(ii)

Claims in tribal areas wherever the process of settlement is over but notification under Section 20 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) is yet to be issued, particularly where considerable delay has occurred in the issue of final notification under Section 20, provided that the claimants are still in possession of 'disputed land'.

2.2

After identifying the above three categories of the claims, the State Government/UT Administration should get these enquired through a Committee which

should consist of atleast the concerned Divisional Forest Officer, Sub-divisional Officer (Revenue Department) and a representative of the Tribal Welfare Department. The Committee should determine genuineness of the claims after examining all available evidence to establish that:

(i)

in case of category 2.1 (a) the claimant was in possession of the disputed land when the notification declaring 'deemed reserved forests' was issued; and

(ii) in case of categories 2.1(b) and 2.1(c) the claimant was in possession of the disputed land when the notification showing Government intention to declare reserved forest was issued under Section 4 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) and his rights were not commuted or extinguished in accordance with due process of law.

2.3

In no case either the Government or the above Committee shall entertain any claim in which the claimant has not been in possession of the disputed land throughout.

2.4

Once the bonafides of the claims are established through proper enquiry, the State/UT Government may consider restoration of titles to the claimants. While deciding to restore titles to the claimants the following aspects should be duly considered:

(i)

As far as possible, restoration of claims should not result in honey-combing of forest land. In such cases possibility of exchange of land near periphery or else where (e.g. non-forest Government land) should be exhausted.

(ii)

The land to be restored to the claimants should be properly demarcated on the ground with permanent boundary marks.

2.5

After the State Government/ UT Administration has decided in principle to restore titles to the claimants proposals may be formulated suitably and submitted for seeking prior approval of this Ministry under the provision of the Forest (Conservation) Act, 1980, alongwith proposals for compensatory afforestation

3. Progress of the action taken/proposed to be taken under the above guidelines may kindly be conveyed to the Ministry.

II. 2. FF(3) Disputes regarding pattas/ leases/ grants involving forest land.

An inter-Ministerial Committee, which was set up by this Ministry to look into various aspects of *tribal* -forest-interface has pointed out that a number of cases of pattas/ leases/ grants involving forest land in one way or the other, have become *contentious* issues between different departments of the State/UT Govts. Such pattas/leases/grants are said to have been issued under the proper authority and orders of the respective State/UT Govts. and the land in question continues in the possession of the allottees or under their authorised use but its status under dispute between different departments. Some of such cases are listed below for illustration:

1.1

Protected forests in Madhya Pradesh, termed as "Orange Areas" which according to the State Government's decision were to be transferred to Revenue Department after demarcation for issuing pattas to the beneficiaries. It is observed that pattas were issued to the individuals but transfer of the land from Forest to Revenue Deptt, which should have preceded allotment of pattas, was not effected.

1.2 'Dali' lands in Maharashtra which are said to have been leased to the entire village community in the past by the State Government. The assignees continue to make use of

these lands for various purposes as per original terms and conditions and, sometimes, in accordance with the decision of the village community wherever such leases are for collective use of the community as a whole. But the formal status of these 'Dali' lands is not clear.

1.3

Cases in which land was assigned by the Revenue Department supposedly from revenue lands. But eventually these were found to be notified forest land even though the assignees were not dispossessed of their holdings.

1.4 Leases granted by the State Govts. for cultivation, agro-forestry or tree plantation; the lessees continue to possess the land though these have not been renewed since enactment of the Forest (Conservation) Act, 1980.

2. An ambiguity about the status of the land involved in the type of cases cited above, particularly when the forest land continues under the possession of the assignees, is likely to adversely affect forest protection in these and the neighbouring areas, apart from forcing the lawful assignees to live a state of uncertainty. Keeping these and similar other aspects in view and after careful consideration of the recommendations of the inter Ministerial Committee, it has been decided that inter departmental issues related to pattas/ leases/ grants involving forest land should be settled at the earliest. The following steps are suggested in this regard:-

2.1

All the cases of pattas, leases, grants involving forest land whether by intent, omission, oversight or accident, should be reviewed by the State/ UT Govt. Such review should enable the State/ UT Govt. to identify those cases in which the pattas/ leases/ grants were awarded under proper authority. The assignees continue to be in possession of the land and the term of the pattas/ leases/ grant is yet to expire-

2.2

In all those cases, where pattas/ leases/ grants were given by the State Government Departments to Scheduled Tribes or rural poor either individually or collectively, such pattas/ leases/ grants should be honoured and inter-departmental disputes should not affect the rights of the lessees provided they are in physical possession of the land, and term of the patta/ lease/ grant has not yet expired. These cases should be examined by district level committees consisting of D.F.O, S.D.O., Revenue Department, a representative of Tribal Welfare Department. The disputes should be resolved at the district level wherever it is possible, or after obtaining suitable orders of the States/UT Govt. or the Government of India (if the provisions of the Forest (Conservation) Act, 1980 are attracted), as the case maybe.

2.3

Leases of a period prior to 25.10.1980 which were granted to the Scheduled Tribes or to other rural poor for agro-forestry, tree plantation or alike but could not be renewed, despite the State/ UT government's intention to do so, on account of enactment of the Forest (Conservation) Act, 1980 should be examined expeditiously. Wherever the State/UT Government's desire to continue the leases proposals should be submitted to this Ministry, in the prescribed manner, for seeking prior approval under the Forest (Conservation) Act, 1980. Pending final decision, that lessees should not be dispossessed of the land.

2a. In cases where Forest (Conservation) Act is attracted proposals for denotification of forest land should be accompanied by proposals for compensatory afforestation. This Ministry may be kept informed of the action taken/ proposed to be taken in this connection.

IL3. FP (1) Review encroachments on forest lands.

Encroachment of forest land for cultivation and other purposes continues to be most pernicious practice endangering forest resources throughout the country. Statistical information compiled by the then Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of States had regularised such encroachments periodically and approximately 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Govts. to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.

The National Forest Policy 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments, some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers' Conference and the Committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.

2.1

All the cases of subsisting encroachments where the State Governments stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest (Conservation) Act, 1980. Such proposals should invariably conform to the criteria given below:-

I.

Pre-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENT HAD TAKEN A DECISION BEFORE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980, TO REGULATE 'ELIGIBLE' CATEGORY OF ENCROACHMENTS.

i. i

Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act on 25.10.80.

1.2

All such cases should be individually reviewed. For this purpose the State Govt. may appoint a joint team of the Revenue, Forest and Tribal Welfare Departments for this work and complete it as a time bound programme.

1.3

In cases where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gaon Sabha with a view to avoid disputes in future.

1.4

All encroached lands proposed for regularisation should be properly surveyed.

1.5

Encroachments proposed to be regularised must have taken place before 25.10.80. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.

1.6

Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.

1.7

The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.

1.8

As far as possible scattered encroachments proposed to be regularised should be consolidated/ relocated near the outer boundaries of the forests.

1.9

The outer boundaries of the areas to be denotified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.

1.10 All the cases proposed to be regularised under this category should be covered in one proposal and it should give districtwise details.

1.11 All cases of proposed regularisation of encroachment should be accompanied by a proposal for compensatory afforestation as per existing guidelines.

1.12 No agricultural practices should be allowed on certain specified slopes.

2.

INELIGIBLE CATEGORY OF PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENTS HAD TAKEN A DECISION PRIOR TO THE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980.

2.1

Such cases should be treated at par with post 1980 encroachments and should not be regularised.

3.

ENCROACHMENTS THAT TOOK PLACE AFTER 24.10.80.

3.1

In no case encroachments which have taken place after 24.10.1980 should be regularised. Immediate action should be taken to evict the encroachers. The State/UTs Government may, however, provide alternate economic base to such persons by associating them collectively in afforestation activities in the manner suggested in this Ministry's letter No. 6-21/69-FI dated 1.6.90, but such benefits should not extend to fresh encroachers.

This Ministry may kindly be apprised of the action taken/ proposed to be taken in this regard.

11.4.

FP (4) Elimination of intermediaries and payment of fair wages to the labourers on forestry works

Forestry works are one of the important sources of livelihood to the tribals and other rural poor living in and around forests. On a number of occasions in the past, especially in the deliberations of the Central Board of Forestry, the need to eliminate contractors and other intermediaries in forestry operations has been emphasised with a view to ensure fair wages to the labourers. The National Forest Policy, 1988 has again reiterated that contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives Government cooperatives etc as early as possible. A number of States/UTs have taken steps to excite these works through Government agencies viz.. State Forest Departments, Forest Corporations. Nevertheless, at operational level certain aberrations

still persist resulting in under payment of wages to the labourers. In order to protect tribals and other rural poor from and fair wages to them, the following guidelines may kindly be complied with

- a. no outside labour should be engaged in forestry operations where local tribal labour is adequately available;
- b. no contract should be entered into for imported labour;
- c. tribal cooperatives should be involved wherever labour is in short supply,
- d. representatives of Tribal Welfare Departments should sit in the Wage Board appointed by Forest Department for fixation of daily wages rates;
- e. norms for payment of wages for piece works should be worked out by carrying out detailed work studies; and
- f. uniform wage rates should be prescribed for similar piece of works throughout the area by the State Government for all agencies; and
- g. for payment of wages for forestry operations the State Forest Department and Forest Corporations should comply with the provisions of the Minimum Wages Act

Action taken/ proposed to be taken in this respect may kindly be intimated to this Ministry.

Joint Secretary,
Government of India

II.4. FP (5) Conversion of forest villages into revenue villages and Settlement of other old habitations

Forest villages were set up in remote and inaccessible forest areas with a view to provide uninterrupted man-power for forestry operations. Of late, they have lost much of their significance owing to improved accessibility of such areas, expansion of human habitations and similar other reasons. Accordingly, some of the States converted forest villages into revenue villages well before 1980. Nevertheless, there still exist between 2500 to 3000 forest villages in the country. Besides, some cases of other types of habitations e.g. unauthorised houses/ homesteads, dwellings of tribals who have been living in them in virtually pre-agrarian life styles, are suspected to exist in forest lands even though these may not have been recognised either as revenue villages or forest villages.

2.

In March, 1984, the then Ministry of Agriculture suggested to the state/UT Govts that they may confer heritable and inalienable rights on forest villagers if they were in occupation of land for more than 20 years. But this suggestion does not seem to have been fully implemented. Development of forest villages has also been endorsed in the National Forest Policy, 1986 which states that these should be developed on par with revenue villages. This issue was again examined by an inter - Ministerial Committee, set up by this Ministry to look into various aspects of tribal-forest-interface, in consultation with representatives of some of the States.

3.

Although the forest villages have lived in harmony with their surrounding forests and the concept of forest villages proved an effective arrangement for sustained supply of manpower, yet it would not be appropriate to deny them legitimate rights over such land which were allotted to them decades ago for settlement and have been continuously under their occupation since then. Keeping this aspect and the recommendations of the inter - Ministerial Committee the following measures are suggested to resolve the outstanding issues of forest villages and other types of habitations existing in forest lands.

3.1 Forest villages

Forest villages may be converted into revenue villages after denotifying requisite land as forest. Proposals seeking prior approval of Government of India for this purpose under the Forest (Conservation) Act, 1980 may be submitted "expeditiously". While converting these villages into Revenue Villages, the following principles may be adhered to:

- (i) the villages are conferred heritable but inalienable rights;
- (ii) administration of these and other Revenue Villages enclaved in forest areas should preferably be entrusted to the State Forest Departments.

3.2

Other Habitations

(a)

Habitations other than Forest Villages may be grouped into the following categories:

(i) Cases where dwellings belong to persons who have encroached on forest land for cultivation.

(ii) dwelling of other persons who have been living therein since past without encroaching on forest land for cultivation but their habitations are neither recognised as Revenue Villages nor Forest Villages.

(b) Each case may be examined on its merits. Suggestions for resolving the cases are given below:

(i) In case of category (a) (i) above, wherever encroachments for agricultural cultivation are regularised, the house sites and homesteads, too, may be regularised either in situ or as near to agricultural field as possible subject to certain safeguards in the interest of forest protection and "eligibility" criteria as may be evolved by the State Government.

(ii) In case of category (a)(ii) above, certain specific habitations, more than 25 years old, involving sizeable group of families, may be examined, case by case, on merits for their amicable settlement.

(iii) Scheduled Tribes and rural poor not covered under (i) and (ii) above should be resettled in non-forest Government land.

(iv) All other unauthorised habitations must be evicted.

(v) Wherever provisions of the Forest (Conservation) Act, 1980 are attracted, comprehensive proposals may please be submitted for seeking prior approval of this Ministry. It may kindly be noted that such proposals will be considered only when the State/ UT Govt ensure that all the measures are taken simultaneously and effectively and are accompanied with proposals for compensatory afforestation.

4. This Ministry may kindly be kept informed of the action taken/proposed to be taken in this regard.

II.5. FP (6) Payment of compensation for loss of life and property due to predation/depredation by wild animals.

It has been observed that loss of life and property by wild animals is not compensated adequately by the State Governments. Different States have different norms for compensating such losses. The maximum compensation for loss of human life varies from Rs. 2000 (Orissa) to Rs. 20,000 (Bihar). In the interest of inhabitants in and around forests as well as wild fauna it is essential that loss of human life is compensated in such a way that it is fully commensurate with the amount required to settle the dependents of a deceased earning member of the family. The loss of property including livestock also needs to be compensated fully.

2.

This issue was discussed in detail by an inter-ministerial committee set up by this Ministry for this purpose. The recommendations of the Committee were considered and after obtaining approval of the competent authority it is suggested that the following norms may be accepted for the same being. ,

- (a) Death or permanent incapacitation - Minimum of Rs 20,000/- Part amount of the compensation should be paid through long term deposit;).
- (b) Grievous injury - one third of (a).
- (c) Minor injury - cost of treatment.
- (d) Loss of cattle - Market value (category-wise).
- (e) Damage to house or crop or any other property - As per assessment of damage. Compensation should be revised subsequently to bring it on par with the amount admissible to riot victims. The quantum of compensation may be reviewed periodically with a view to bring it on par with any better norm.

2.1

The compensation shall be governed under the regulations made under Wildlife (Protection) Act.

This Ministry may kindly be apprised of the action taken/proposed to be taken in this regard.

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**Consolidated Guidelines for Diversion of
Forest Land under the
Forest (Conservation) Act, 1980
(Revised on October 25, 1992)**

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मंत्री
पर्यावरण एवं वन
भारत

Minister
Environment & Forests
India

FOREWORD

The publishing of these revised and comprehensive Rules & Guidelines under the Forest (Conservation) Act of 1980, is a visible sign of the commitment of the Central Government to the essential principles of environmental conservation and sustainable development.

Today is the twelfth anniversary of the passing of the Act. This legislation is unique in its endorsement of our will to protect the rich bio-diversity of our forest and wildlife, which is not only the natural heritage of our country, but also the base of our socio-economic progress and the repository of yet unknown panaceas for the future.

The Act also translated into legal terms the fact that forests in India are not to be regarded as sources of State revenue, but rather as community resources, subserving the needs of hundreds of millions of rural people and tribals; and the principal duty of the Forest Administration was no longer exploitation of forest wealth, as in colonial times, but conservation of bio-diversity and green-cover.

Some difficulties were, however, experienced in the implementation of the Act. Impractical interpretations unfortunately resulted in alienating some of those very persons for whose benefit the law was enacted. Provisions of the Act seemed to become obstacles in the path of rural development, especially in the construction of village dispensaries, tribal schools, rural electrification, mofussil roads, silk-worm rearing etc. This was never the intention of the Act, just as it was never intended to enweb the whole process of examination in centralised bureaucratic red-tapeism. Clearly action was called for to redress the situation.

I therefore initiated a dialogue with State Governments and NGOs early this year. The result has been a dramatic decentralisation in the process of decision-taking and a rationalisation of the procedures and requirements to streamline disposal. The rules were also amended to remove avoidable hardships, particularly insofar as small, rural development projects were concerned.

Once this was done, the need was obviously felt for a consolidated and comprehensive handbook, with the Rules & Guidelines amended up to date, the Act itself, as amended, and special circulars, with explanatory notes. This booklet is the answer. An attempt has been made to simplify the language, remove inconsistencies, and generally ensure that the Act is implemented in the true spirit for which it was intended.

(KAMAL NATH)

New Delhi
25th October, 1992

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REGULARISATION OF ENCROACHMENTS ON FOREST LAND

Encroachment of forest land for cultivation and other purposes continues to be the most pernicious practice endangering forest resources throughout the country. Statistical information compiled by Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of States had regularised such encroachments periodically and approximately 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Government to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.

- 2 The National Forest Policy, 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers' Conference and the Committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.
 - 2.1 All the cases of subsisting encroachments where the State Governments stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest (Conservation) Act, 1980. Such proposals should invariably conform to the criteria given below :
 1. PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENT HAD TAKEN A DECISION BEFORE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980, TO REGULARIZE 'ELIGIBLE' CATEGORY OF ENCROACHMENTS.
 - 1.1 Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act, on 25.10.80.

- 1.2 All such cases should be individually reviewed. For this purpose the State Government may appoint a joint team of the Revenue, Forest and Tribal Welfare Departments for this work and complete it as a time-bound programme.
- 1.3 In case where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gaon Sabha with a view to avoid disputes in future.
- 1.4 All encroached lands proposed for regularisation should be properly surveyed.
- 1.5 Encroachments proposed to be regularised must have taken place before 25.10.1980. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.
- 1.6 Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.
- 1.7 The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.
- 1.8 As far as possible scattered encroachments proposed to be regularised should be consolidated/relocated near the outer boundaries of the forests.
- 1.9 The outer boundaries of the areas to be denotified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.
- 1.10 All the cases proposed to be regularised under this category should be covered in one proposal and it should give district-wise details.
- 1.11 All cases of proposed regularisation of encroachments should be accompanied by a proposal for compensatory afforestation as per existing guidelines.
- 1.12 No agricultural practices should be allowed on certain specified slopes.
2. 'INELIGIBLE' CATEGORY OF PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENTS HAD TAKEN A DECISION PRIOR TO THE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980.
 - 2.1 Such cases should be treated at par with post 1980 encroachments and should not be regularised.

3. ENCROACHMENTS THAT TOOK PLACE AFTER 24.10.1980.

- 3.1 In no case encroachments which have taken place after 24.10.1980 should be regularised. Immediate action should be taken to evict the encroachers. The State /UT Government may, however, provide alternate economic base to such persons by associating them collectively in afforestation activities in the manner suggested in this Ministry's letter No. 6-21/89-FP dated 1.6.90, but such benefits should not extend to fresh encroachers.

CLARIFICATION

A reference is invited to the guidelines issued by this Ministry for regularisation of certain cases of forest encroachments reproduced above. The relevant paragraph 1.1 of the guidelines, which clarifies the cases of encroachments, which subject to specified conditions, would be eligible for regularisation, is reproduced below :

"Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decisions either wholly or partially before enactment of the Forest (Conservation) Act on 25.10.1980.

2. Doubts have been raised as to whether all encroachments that had taken place up to 25.10.1980 could be regularised in accordance with an eligibility formula by which some earlier encroachments were regularised.
3. A perusal of the paragraph reproduced above will make it clear that there are 2 pre-conditions for any encroachments to be considered for regularisation. These are:-
 - (a) The State Government should have taken the decision on regularisation of encroachments before 25.10.1980; and
 - (b) that the decision should be with reference to some eligibility criteria (normally expected to be related to social and economics status of encroachers, location and extent or encroachment, cut off date of encroachment, etc.,)
4. It would be seen that the encroachments which are proposed to be considered for regularisation, subject to the prescribed conditions, are those which fulfilled the eligibility criteria evolved by the State Government as per decision taken before 25.10.1980 for regularisation of encroachments. The objective is limited to permitting implementation of decisions taken before 25.10.1980 which could not be implemented because the enactment of Forest (Conservation) Act, 1980 intervened. It is therefore quite clear that while all encroachments that can be considered as eligible for regularisation

would have taken place before 25.10.1980, all encroachments that had taken place before 25.10.1980 would not be eligible for regularisation –they may be ineligible because either they do not meet the eligibility criteria or are not covered by any decision taken before 25.10.1980. Thus, if the decision on regularisation of encroachments in a State covered only encroachments up to a date earlier than 25.10.1980, the guidelines on regularisation of encroachments do not envisage that the State Government would now survey encroachments between that date and 25.10.1980 and propose regularisation. The latter encroachments though occurring before 25.10.1980 are not covered by any regularisation decision taken prior to that date and hence cannot be considered for regularisation at this juncture.

5. Accordingly, the State Governments may take up for implementation only such decision of pre 25.10.1980 period which could not be implemented because of *Forest (Conservation) Act, 1980 intervening and propose* regularisation of encroachments as per those decisions and in accordance with the eligibility criteria laid down in those decisions. No encroachments not covered by any pre 25.10.1980 decisions – even though they might have occurred prior to that date – should now be considered for regularisation in terms of our guidelines.

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REGULARISATION OF ENCROACHMENTS ON FOREST LAND

Encroachment of forest land for cultivation and other purposes continues to be the most pernicious practice endangering forest resources throughout the country. Statistical information compiled by Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of States had regularised such encroachments periodically and approximately 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Government to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.

2 The National Forest Policy, 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers' Conference and the committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.

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1.1 Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act, on 25.10.80.

1.2 All such cases should be individually reviewed. For this purpose the State Government may appoint a joint team of the Revenue, Forest and Tribal Welfare Department for this work and complete it as a time-bound programme.

1.3 In case where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gaon Sabha with a view to avoid disputes in future.

1.4 All encroached lands proposed for regularisation should be properly surveyed.

- 1.5 Encroachments proposed to be regularised must have taken place before 25.10.1980. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.
- 1.6 Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.
- 1.7 The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.
- 1.8 As far as possible scattered encroachments proposed to be regularised should be consolidated/relocated near the outer boundaries of the forests.
- 1.9 The outer boundaries of the areas to be denotified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.
- 1.10 All the cases purposed to be regularised under this category should be covered in one proposal and it should give district-wise details.
- 1.11 All cases of proposed regularisation of encroachments should be accompanied by a proposal for compensatory afforestation as per existing guidelines.
- 1.12 No agricultural practices should be allowed on certain specified slopes.

2. 'INELIGIBLE' CATEGORY OF PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENTS HAD TAKEN A DECISION PRIOR TO THE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980.

- 2.1 Such cases should be treated at par with post 1980 encroachments and should not be regularised.

3. ENCROACHMENTS THAT TOOK PLACE AFTER 24.10.1980.

- 3.1 In no case encroachments which have taken place after 24.10.1980 should be regularised. Immediate action should be taken to evict the encroachers. The State/UT Government may, however, provide alternate economic base to such persons by associating them collectively in afforestation activities in the manner suggested in this Ministry's letter No. 6-21/89-FP dated 1.6.90, but such benefits should not extend to fresh encroachers.

CLARIFICATION

A reference is invited to the guidelines issued by this Ministry for regularisation of certain cases of forest encroachments reproduced above. The relevant paragraph 1.1 of the guidelines, which clarifies the cases of encroachments, which subject to specified conditions, would be eligible for regularisation, is reproduced below:

"Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decisions either wholly or partially before enactment of the Forest (Conservation) Act on 25.10.1980.

2. Doubts have been raised as to whether all encroachments that had taken place up to 25.10.1980 could be regularised in accordance with an eligibility formula by which some earlier encroachments were regularised.
3. A perusal of the paragraph reproduced above will make it clear that there are 2 pre-conditions for any encroachments to be considered for regularisation. These are:-
 - (a) The State Government should have taken the decision on regularisation of encroachments before 25.10.1980; and
 - (b) That the decision should be with reference to some eligibility criteria (normally expected to be related to social and economics status of encroachers, location and extent of encroachment, cut off date of encroachment, etc.)
4. It would be seen that the encroachments which are proposed to be considered for regularisation, subject to the prescribed conditions, are those which fulfilled the eligibility criteria evolved by the State Government as per decision taken before 25.10.1980 for regularisation of encroachments. The objective is limited to permitting implementation of decisions taken before 25.10.1980 which could not be implemented because the enactment of Forest (Conservation) Act, 1980 intervened. It is therefore quite clear that while all encroachments that can be considered as eligible for regularisation would have taken place before 25.10.1980, all encroachments that had taken place before 25.10.1980 would not be eligible for regularisation - they may be ineligible because either they do not meet the eligibility criteria or are not covered by any decision taken before 25.10.1980. Thus, if the decision on regularisation of encroachments in a State covered only encroachments up to a date earlier than 25.10.1980, the guidelines on regularisation of encroachments do not envisage that the State Government would now survey encroachments between that date and 25.10.1980 and propose regularisation. The latter encroachments though occurring before 25.10.1980 are not covered by any regularisation decision taken prior to that date and hence can not be considered for regularisation at this juncture.
5. Accordingly, the State Governments may take up for implementation only such decision of pre 25.10.1980 period which could not be implemented because of Forest (Conservation) Act, 1980 intervening and propose regularisation of encroachments as per those decisions and in accordance with the eligibility criteria laid down in those decisions. No encroachments not covered by any pre 25.10.1980 decisions - even though they might have occurred prior to that - should now be considered for regularisation in terms of our guidelines.

INFORMATION FOR PROPOSAL FOR REGULARISATION OF ENCROACHMENTS

S.No.	Division	District	Total encroachers		Eligible encroachers		Area with ineligible encroachers	Excess area with eligible encroachers	Area to be retrieved from encroachers (8+9)
			No.	Area	No.	Area			
1	2	3	4	5	6	7	8	9	10

Community of eligible encroachers				Legal status of Forest Land			Eligible encroachers in W.L.S./NP		Eligible encroachers in midst of forest		Eligible Encroachers to be relocated to fringes of forest or in excess forest land recovered from encroaches	
SC	ST	OBC	OTH	RF	PF	OTH	No.	Area	No.	Area	No. (18+20)	Area (19+21)
11	12	13	14	15	16	17	18	19	20	21	22	23

Government of India
Ministry of Environment & Forests
Tel/Fax : 24360379

No.7-16/2002-FC

Dated : 3.5.2002

To,

1. The Chief Secretary,
(All States/UTs)
2. The Secretary (Forests)
(All States/UTs)
3. The Principal Chief Conservator of Forests
(All States/UTs)

Subject : Eviction of illegal encroachment on forest lands in various States/UTs time bound action plan

Sir,

I am directed to draw your attention to the problem of encroachments of forest lands which is assuming a serious proportion in the country. These encroachments have been attracting the attention of Central Government and State Governments have been requested from time to time to take prompt action against the encroachers under various Acts and Rules. Such encroachments are generally done by the powerful lobbies and cause great harm to forest conservation particularly when these are carried out in the remote areas in a honey comb pattern. These encroachments are also seriously threatening the continuity of the Wild Life corridors between the various National Parks and Sanctuaries. Somehow, timely action is not being taken by the frontline staff for the eviction of the encroachers which further emboldens others also for similar actions. As per the information received from various States approximately 12.50 lakh hectares of forest land is under encroachment. There may be many more unrecorded instances which will add to the over all tally.

Hon'ble Supreme Court has also been greatly concerned with this pernicious practice and in their order of 23.11.2001 in IA No. 703 in WP No. 202/95 have restrained the Central Government from regularization of encroachments in the country. There is now a need to frame a time bound programme for eviction of the encroachers from the forest lands for which following steps are suggested:

- (i) All encroachments which are not eligible for regularization as per guidelines issued by this Ministry vide No. 13.1/90-F.P. (1) dated 18.9.90 should be summarily evicted in a time bound manner and in any case not later than 30th September, 2002.
- (ii) A cell should be constituted in the PCCF office headed by a CCF level officer to plan and monitor eviction of encroachments on forest lands on a continuous basis.
- (iii) Forest officers should be delegated powers under relevant Acts for trials of encroachers and adequate steps should be taken for the completion of the eviction process through summary trials in a time bound manner.

- (iv) At the State level, a monitoring committee may be constituted under the Chairmanship of the Chief Secretary, which may meet biannually to take stock of the situation. The Committee while monitoring forest encroachments should also fix responsibility of the field formulation including the revenue officials for their failures to prevent/evict encroachments on the forest lands.
- (v) At the forest Circle level, a Committee should be constituted under the Chairmanship of Conservator of Forests with District Collector and Superintendent of Police as members which may meet every quarter and take effective steps to assist the Divisional Forest Officers or the Territorial Division/Wildlife Warden/National Park and Sanctuary Director for the eviction of the encroachers.
- (vi) A comprehensive list of encroachments in your State with current status of eviction process etc. may please be prepared as the base line information and a copy of the same be also sent to this Ministry preferably by June 30th, 2002. Principal Chief Conservator of Forests may be bound to give detail progress report of the action taken, area evicted and area reclaimed/planted etc. every quarter commencing from July 2002.
- (vii) It may please be noted that the Ministry may be constrained to link processing of requests for clearance under Forest (Conservation) Act 1980, approval of relevant Working Plan and, funding under Centrally Sponsored Schemes as well, to the progress shown in eviction of the encroachers as per the instant guidelines.

Yours faithfully,

Sd/-
(Dr. V.K. BAHUGUNA)
Inspector General of Forests

Copy for information and necessary action to :

1. All Chief Conservator of Forests/Conservator of Forests (Central), Ministry of Environment and Forests, Government of India. They are requested to fix a meeting with the concerned senior functionary of the State Government to sensitise them about the urgency of the implementing these guidelines and monitor action taken by the States regularly. While giving approval of the working plans they may also insist for a detailed status report on encroachment and vacation thereof in that particular division.

Sd/-
(Dr. V.K. BAHUGUNA)
Inspector General of Forests

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GOVERNMENT OF INDIA
ENVIRONMENT AND FORESTS
LOK SABHA

UNSTARRED QUESTION NO:1884
ANSWERED ON:15.12.2003
REGULARISATION OF ENCROACHMENTS ON FOREST LAND
NAMDEO HARBAJI DWATHE

Will the Minister of ENVIRONMENT AND FORESTS be pleased to state:

- (a) whether encroachments made on the forest land prior to enactment of the Forest (Conservation) Act, 1980 have not been regularised so far;
- (b) if so, the area yet to be regularised, State-wise;
- (c) the reasons for not regularising the same;
- (d) whether the Government proposes to regularise such encroachments; and
- (e) if so, the criteria proposed to be adopted in this regard?

Answer

MINISTER OF ENVIRONMENT AND FORESTS (SHRI T.R. BAALU)

(a) to (d) Government had received proposals for regularization of pre-1980 eligible encroachments from States of Arunachal Pradesh, Gujarat, Karnataka, Madhya Pradesh, Kerala, Orissa, Rajasthan and Andaman & Nicobar islands. The Government has regularized pre-1980 eligible encroachments over around 3.66 lakh hectares of forest area, in respect of these States. Some proposals of Orissa and Rajasthan could not be considered as the Supreme Court has, in the meantime, restrained Union of India from further regularization of encroachments on forest lands vide their order dated 23-11-2001.

(e) Government had issued detailed guidelines for regularization of pre-1980 eligible encroachments as well as eviction of all ineligible encroachments on 18th September, 1990, which clearly lay down the criteria adopted for the purpose. A copy of these guidelines is enclosed as an Annexure.

ANNEXURE REFERRED TO IN THE REPLY TO PART (e) OF THE LOK SABHA UN-STARRED QUESTION NO. 1884 BY SHRI NAMDEO HARBAJI DWATHE REGARDING 'REGULARISATION OF ENCROACHMENTS ON FOREST LAND' DUE FOR ON 15-12-2003.

GUIDELINES FOR REGULARISATION OF ENCROACHMENTS ON FOREST LAND

Encroachment of forest land for cultivation and other purposes continues to be the most pernicious practice endangering forest resources throughout the country. Statistical information compiled by Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of States had regularised such encroachments periodically and approximately 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Government to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.

2 The National Forest Policy, 1988 has also observed the increasing trend in encroachments on forestland and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers' Conference and the Committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.

2.1 All the cases of subsisting encroachments where the State Governments stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest (Conservation) Act, 1980. Such proposals should invariably conform to the criteria given below:

1. PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENT HAD TAKEN A DECISION BEFORE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980, TO REGULARIZE 'ELIGIBLE' CATEGORY OF ENCROACHMENTS.

1.1 Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act, on 25.10.80.

1.2 All such cases should be individually reviewed. For this purpose the State Government may appoint a joint team of the Revenue, Forest and Tribal Welfare Department for this work and complete it as a time-bound programme.

1.3 In case where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gaon Sabha with a view to avoid disputes in future.

1.4 All encroached lands proposed for regularisation should be properly surveyed.

1.5 Encroachments proposed to be regularised must have taken place before 25.10.1980. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.

1.6 Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.

1.7 The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.

1.8 As far as possible scattered encroachments proposed to be regularised should be consolidated/relocated near the outer boundaries of the forests.

1.9 The outer boundaries of the areas to be denotified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.

1.10 All the cases proposed to be regularised under this category should be covered in one proposal and it should give district-wise details.

1.11 All cases of proposed regularisation of encroachments should be accompanied by a proposal for compensatory afforestation as per existing guidelines.

1.12 No agricultural practices should be allowed on certain specified slopes.

2. 'INELIGIBLE' CATEGORY OF PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENTS HAD TAKEN DECISION PRIOR TO THE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980.

2.1 Such cases should be treated at par with post 1980 encroachments and should not be regularised.

3. ENCROACHMENTS THAT TOOK PLACE AFTER 24.10.1980.

3.1 In no case encroachments which have taken place after 24.10.1980 should be regularised. Immediate action should be taken to evict the encroachers. The State/UT Government may, however, provide alternate economic base to such persons by associating them collectively in afforestation activities in the manner suggested in this Ministry's letter No. 6-21/89-FP dated 1.6.90, but such benefits should not extend to fresh encroachers.

CLARIFICATION

A reference is invited to the guidelines issued by this Ministry for regularisation of certain cases of forest encroachments reproduced above. The relevant paragraph 1.1 of the guidelines, which clarifies the cases of encroachments, which subject to specified conditions, would be eligible for regularisation, is reproduced below:

'Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decisions either wholly or partially before enactment of the Forest (Conservation) Act on 25.10.1980.

2. Doubts have been raised as to whether all encroachments that had taken place up to 25.10.1980 could be regularised in accordance with an eligibility formula by which some earlier encroachments were regularised.

3. A perusal of the paragraph reproduced above will make it clear that there are 2 pre-conditions for any encroachments to be considered for regularisation. These are:-

(a) The State Government should have taken the decision on regularisation of encroachments before 25.10.1980; and

(b) That the decision should be with reference to some eligibility criteria (normally expected to be related to social and economic status of encroachers, location and extent of encroachment, cut off date of encroachment, etc.)

4. It would be seen that the encroachments which are proposed to be considered for regularisation, subject to the prescribed conditions, are those which fulfilled the eligibility criteria evolved by the State Government as per decision taken before 25.10.1980 for regularisation of encroachments. The objective is limited to permitting implementation of decisions taken before 25.10.1980 which could not be implemented because the enactment of Forest (Conservation) Act, 1980 intervened. It is therefore quite clear that while all encroachments that can be considered as eligible for regularisation would have taken place before 25.10.1980, all encroachments

that had taken place before 25.10.1980 would not be eligible for regularisation - they may be ineligible because either they do not meet the eligibility criteria or are not covered by any decision taken before 25.10.1980. Thus, if the decision on regularisation of encroachments in a State covered only encroachments up to a date earlier than 25.10.1980, the guidelines on regularisation of encroachments do not envisage that the State Government would now survey encroachments between that date and 25.10.1980 and propose regularisation. The latter encroachments though occurring before 25.10.1980 are not covered by any regularisation decision taken prior to that date and hence can not be considered for regularisation at this juncture.

5. Accordingly, the State Governments may take up for implementation only such decision of pre 25.10.1980 period which could not be implemented because of Forest (Conservation) Act, 1980 intervening and propose regularisation of encroachments as per those decisions and in accordance with the eligibility criteria laid down in those decisions. No encroachments not covered by any pre 25.10.1980 decisions - even though they might have occurred prior to that - should now be considered for regularisation in terms of our guidelines.

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GOVERNMENT OF INDIA
ENVIRONMENT AND FORESTS
LOK SABHA

UNSTARRED QUESTION NO:1650

ANSWERED ON:19.07.2004

LEASE OF FOREST LAND

Ahir Shri Hansraj Gangaram;Bisen Shri Gauri Shankar Chaturbhuj

Will the Minister of ENVIRONMENT AND FORESTS be pleased to state:

- (a) whether any scheme has been formulated to provide the lease deed to the persons including Scheduled Tribes who have encroached upon the forest land for agricultural and other purposes;
- (b) if so, the details thereof alongwith criteria fixed in this regard;
- (c) whether certain State Governments have sent any proposals to the Union Government to provide lease deed to such persons; and
- (d) if so, the details thereof and the action taken thereon, State-wise?

Answer

MINISTER OF STATE IN THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI NAMO NARAIN MEENA)

(a) & (b) No Sir. Encroachment is an offence under Section 26 of the Indian Forest Act, 1927. These have to be evicted from the forest lands. However, Central Government had issued following two separate guidelines under Forest (Conservation) Act, 1980 to various State / UT Governments on 18th September, 1990 :

(i) Guidelines for regularisation of pre-1980 eligible encroachments on forest lands as a one time dispensation keeping in view the fact that the various State / UT Governments in some cases had taken a decision to regularize certain categories of encroachments but could not implement the decision as Forest (Conservation) Act, 1980 came into effect. This relaxation is not applicable to encroachments that took place after 24-10-1980. The detailed guidelines/criteria for regularisation of encroachments are appended as Annexure-I.

(ii) Guidelines for settlement of disputed claims of the tribals living in forests by constituting a committee involving a Revenue Officer, concerned Divisional Forest Officer and a representative of the Tribal Welfare Department. These guidelines have been appended as Annexure-II, which provide the criteria fixed for settlement of such disputed claims. There was no progress in this respect in any State / Union Territory over the years. Therefore, the Central Government re-iterated the same guidelines on 30-10-2002, to settle the tribal rights in a time bound manner, but again there was no progress. Central Government has issued fresh guidelines to the State / UT Governments on 5-2-2004, appended at Annexure-III, for regularization of tribal rights and settlement of their disputed claims. Implementation of these guidelines has been stayed by the Supreme Court on 23-2-2004 in IA No.1126 in Writ Petition (C) No. 202 of 1995.

(c) & (d) Madhya Pradesh, Karnataka, Arunachal Pradesh, Orissa, Gujarat, Kerala, Tripura and Andaman & Nicobar Islands had submitted proposals for regularisation of encroachments on forest land in the past. In accordance with the guidelines issued for regularisation of encroachments on 18th September, 1990, the Central Government found pre-1980 encroachments over 3.66 lakh hectare of forest land eligible for regularisation. These cases have already been approved by the Central Government for regularization. The State-wise details of regularization of encroachments on forest lands are given in Annexure-IV. Supreme Court has restrained the Union Government from further regularization of encroachments over forest land vide their order dated 23-11-2001 in IA No.703 in Writ Petition (C) No. 202 of 1995.

Annexure-I

ANNEXURE REFERRED TO IN THE REPLY TO PARTS (a) & (b) OF THE LOK SABHA UN-STARRED QUESTION NO. 1650 BY SHRI GAURISHANKAR CHATURBHUIJ BISEN AND SHRI HANSRAJ G. AHIR REGARDING 'LEASE OF FOREST LAND' DUE FOR REPLY ON 19-07-2004.

REGULARISATION OF ENCROACHMENTS ON FOREST LAND

Encroachment of forest land for cultivation and other purposes continues to be the most pernicious practice endangering forest resources throughout the country. Statistical information compiled by Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of States had regularised such encroachments periodically and approximately 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Government to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem

remained as elusive as ever for want of effective and concerted drive against this evil practice.

2 The National Forest Policy, 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers' Conference and the committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.

2.1 All the cases of subsisting encroachments where the State Governments stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest (Conservation) Act, 1980. Such proposals should invariably conform to the criteria given below:

1. PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENT HAD TAKEN A DECISION BEFORE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980, TO REGULARIZE 'ELIGIBLE' CATEGORY OF ENCROACHMENTS.

1.1 Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act, on 25.10.80.

1.2 All such cases should be individually reviewed. For this purpose the State Government may appoint a joint team of the Revenue, Forest and Tribal Welfare Department for this work and complete it as a time-bound programme.

1.3 In case where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gaon Sabha with a view to avoid disputes in future.

1.4 All encroached lands proposed for regularisation should be properly surveyed.

1.5 Encroachments proposed to be regularised must have taken place before 25.10.1980. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.

1.6 Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.

1.7 The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.

1.8 As far as possible scattered encroachments proposed to be regularised should be consolidated/relocated near the outer boundaries of the forests.

1.9 The outer boundaries of the areas to be denotified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.

1.10 All the cases purposed to be regularised under this category should be covered in one proposal and it should give district-wise details.

1.11 All cases of proposed regularisation of encroachments should be accompanied by a proposal for compensatory afforestation as per existing guidelines.

1.12 No agricultural practices should be allowed on certain specified slopes.

2. 'INELIGIBLE' CATEGORY OF PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENTS HAD TAKEN A DECISION PRIOR TO THE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980.

2.1 Such cases should be treated at par with post 1980 encroachments and should not be regularised.

3. ENCROACHMENTS THAT TOOK PLACE AFTER 24.10.1980.

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CLARIFICATION

A reference is invited to the guidelines issued by this Ministry for regularisation of certain cases of forest encroachments reproduced above. The relevant paragraph 1.1 of the guidelines, which clarifies the cases of encroachments, which subject to specified conditions, would be eligible for regularisation, is reproduced below:

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partially before enactment of the Forest (Conservation) Act on 25.10.1980.

2. Doubts have been raised as to whether all encroachments that had taken place up to 25.10.1980 could be regularised in accordance with an eligibility formula by which some earlier encroachments were regularised.

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(b) that the decision should be with reference to some eligibility criteria (normally expected to be related to social and economics status of encroachers, location and extent of encroachment, cut off date of encroachment, etc.)

4. It would be seen that the encroachments which are proposed to be considered for regularisation, subject to the prescribed conditions, are those which fulfilled the eligibility criteria evolved by the State Government as per decision taken before 25.10.1980 for regularisation of encroachments. The objective is limited to permitting implementation of decisions taken before 25.10.1980 which could not be implemented because the enactment of Forest (Conservation) Act, 1980 intervened. It is therefore quite clear that while all encroachments that can be considered as eligible for regularisation - they may be ineligible because either they do not meet the eligibility criteria or are not covered by any decision taken before 25.10.1980. Thus, if the decision on regularisation of encroachments in a State covered only encroachments up to a date earlier than 25.10.1980, the guidelines on regularisation of encroachments do not envisage that the State Government would now survey encroachments between that date and 25.10.1980 and propose regularisation. The latter encroachments though occurring before 25.10.1980 are not covered by any regularisation decision taken prior to that date and hence can not be considered for regularisation at this juncture.

5. Accordingly, the State Governments may take up for implementation only such decision of pre 25.10.1980 period which could not be implemented because of Forest (Conservation) Act, 1980 intervening and propose regularisation of encroachments as per those decisions and in accordance with the eligibility criteria laid down in those decisions. No encroachments not covered by any pre 25.10.1980 decisions - even though they might have occurred prior to that - should now be considered for regularisation in terms of our guidelines.

ANNEXURE- II

ANNEXURE REFERRED TO IN THE REPLY TO PARTS (a) & (b) OF THE LOK SABHA UN-STARRED QUESTION NO. 1650 BY SHRI GAURISHANKAR CHATURBHUI BISEN AND SHRI HANSRAJ G. AHIR REGARDING 'LEASE OF FOREST LAND' DUE FOR REPLY ON 19-07-2004.

Review of disputed claims over forest land, arising out of forest settlement

It has been brought to the notice of this Ministry that local inhabitants, living in and around forest areas, have preferred claims on certain notified forest lands contending that they were in occupation of such areas prior to the initiation of forest settlements and/or their rights were not enquired and/or commuted before notifying these lands as forests under respective laws. The claimants are requesting that title of such lands should be conferred on them. It is being generally felt that even bonafide claims are persistently overlooked causing wide-spread discontentment among the aggrieved persons. Such instances ultimately erode the credibility of the Forest Administration and sanctity of the forest laws, especially in the tracts inhabited by tribals.

2. Seized of its complexities, the issue regarding disputed claims over forest land was got critically examined by this Ministry through an inter-Ministerial Committee. The Committee, after prolonged deliberations and due consultations with representatives of some of the States, stressed the need to resolve such disputes with utmost urgency and suggested the feasible course of action to redress genuine grievances without jeopardising protection of forests and forest land. Keeping in view the recommendations of the said Committee and with due approval of the competent authority, the following course of action is suggested for amicably resolving disputed claims on forest land:

2.1. The State Government/UT Administration should review the cases of disputed claims over forest land and identify the following three categories of claims:

(a) Claims in respect of forest areas notified as deemed reserved Forests without observing the due process of settlement as provided in Forest Acts provided that these pertain to:

(i) tribals areas; or affect a wide cross section of rural poor in non-tribal areas; and

(ii) the claimants are in possession of the 'disputed land'.

(b) Claims in tribal areas wherever there is prime facie evidence that the process of forest settlement has been vitiated by incomplete or incorrect records/maps or lack of information to the affected persons, as prescribed by law, provided that:

(i) Such forest settlement pertains to a period after 1947; and

(ii) The claimants are in possession of the 'disputed land'.

(c) Claims in tribal areas wherever the process of settlement is over but notification under section 20 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) is yet to be issued, particularly where considerable delay has occurred in the issue of final

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notification under section 20, provided that the claimants are still in possession of 'disputed land'.

2.2b After identifying the above three categories of the claims, the State Government/UT Administration should get these enquired through a Committee which should consist of atleast the concerned Divisional Forest Officer, Sub-divisional Officer (Revenue Department) and a representative of the Tribal Welfare Department. The Committee should determine genuineness of the claims after examining all available evidence to establish that:

(i) In case of category 2.1(a) the claimant was in possession of the disputed land when the notification declaring 'deemed reserved forests' was issued; and

(ii) In case of categories 2.1(b) and 2.1(c) the claimant was in possession of the disputed land when the notification showing Governments intention to declare reserved forest was issued under section 4 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) and his rights were not commuted or extinguished in accordance with due process of law.

2.3 In no case either the Government or the above Committee shall entertain any claim in which the claimant has not been in possession of the disputed land throughout.

2.4 Once the bonafides of the claims are established through proper enquiry, the State/UT Government may consider restoration of titles to the claimants. While deciding to restore titles to the claimants the following aspects should be duly considered:

(i) As far as possible, restoration of claims should not be result in honey combing of forest land. In such cases possibility of exchange of land near periphery or elsewhere (e.g. non-forest Govt. land) should be exhausted.

(ii) The land to be restored to the claimants should be properly demarcated on the ground with permanent boundary marks.

2.5 After the State Government/UT Administration has decided in principle to restore titles to the claimants proposals may be formulated suitably and submitted for seeking prior approval of this Ministry under the provision of the Forest (Conservation) Act, 1980, alongwith proposals for compensatory afforestation.

ANNEXURE-III

ANNEXURE REFERRED TO IN THE REPLY TO PARTS (a) & (b) OF THE LOK SABHA UN-STARRED QUESTION NO. 1650 BY SHRI GAURISHANKAR CHATURBHUI BISEN AND SHRI HANSRAJ G. AHIR REGARDING "LEASE OF FOREST LAND'DUE FOR REPLY ON 19-07-2004.

GOVERNMENT OF INDIA

MINISTRY OF ENVIRONMENT & FORESTS

Tel: 24360379, Fax: 24365721 No.2-1/2003-FC(Pt) Dated: 5.2.2004.

To:

1. All Chief Secretary, All the States/UTs
2. All Principal Secretary, All the States/UTs
3. All Principal Chief Conservator of Forests, All the States/UTs

Sub: Regularisation of the rights of the tribals on the forest lands.

Sir,

The Government of India have been receiving a number of representations for regularisation of rights of the tribal forest dwellers on forest lands in different parts of the country. The question has also been raised in various public discussions including meetings of various Standing Consultative Committees of Parliament attached to different Ministries, as also various State Governments, that the tribals have been living in harmony with the forests since time immemorial and their rights on such lands should be recognised. However, while these areas were being brought under the purview of relevant Forest Acts, their traditional rights could not be settled due to number of reasons, making them encroachers in the eyes of the law. The Central Government in September, 1990, vide No.13-1/90-FP(2) & (3) had requested the State Governments/UTs to settle the disputed claims, issue patta lease, etc. of the tribal population on the forest land, but so far no such proposals have been received. Proposals have been received only under the category of regularisation of eligible encroachments only from a couple of States. This has deprived the tribals of natural justice as guidelines for regularisation of encroachments are different from the guidelines for settling disputed settlement claims.

This issue has been examined in its entirety in considerable depth by the Central Government and after careful consideration, the Central Government hereby takes the following decisions with a request to the State Governments/UT Administrations to take necessary follow up action as under:

1. The State Government/UT Administration should recognise the traditional rights of the tribal population on forest lands, and these

rights should be incorporated into the relevant Acts, rules and regulations prevalent in the concerned States/UTs by following the prescribed procedure.

2.(i) In respect of these recognised rights of the tribal forest dwellers on the forest lands, the Central Government upon receipt of complete proposals from the State Governments/UT Administration concerned, shall consider these proposals for diversion of continuously occupied forest land under the Forest (Conservation) Act, 1980 so that these tribals can get unfettered legal rights over such lands. The tribals shall have heritable but inalienable rights over such lands. This decision shall apply for those tribal dwellers who are in continuous occupation of such forest land at least since 31.12.1993.

(ii) The diversion proposals shall, however, be considered only if an integrated tribal rehabilitation scheme forms part of the proposal to be submitted by the State/UT, along with financial commitments, so that the tribal population are retained at that particular land, and the problem is solved once and for all. In order to ensure in situ biodiversity conservation with the rehabilitation package, the programme should be implemented by the tribal rehabilitation wing of the forest department. Where such wings do not exist, these may be created. The model adopted by the Kerala Government for rehabilitation of the tribals is a case in point and the State Governments may follow this pattern.

(iii) As the Hon'ble Supreme Court vide their Order dated 23.11.2001 in W.P.202/95 had restrained the Central Government from regularisation of encroachments, the Central Government shall approach the Court for modification of their order so that the instant decision taken in this regard by the Central Government is implemented.

3. In respect of any fresh occupation of forest land by tribals and non-tribals in forest areas henceforth, the State Government/UT Administration shall hold the concerned District Magistrate and Collector, Superintendent of Police, and the Divisional Forest Officer personally responsible for such encroachment and they will be liable for disciplinary action in respect of any such encroachment.

4. Attention of the State Government / UT Administration is invited to this office letter No.7-16/2002-FC dated 3rd May, 2002 in which the constitution of State level and Circle level encroachment monitoring committees had been suggested. Apart from this, a district level committee consisting of District Magistrate & Collector, Superintendent of Police and the Divisional Forest Officer should also be constituted immediately for eviction of encroachments, and monitoring of the same should be done at the State level, the Circle level and the District level Committees at quarterly intervals. The notification constituting these committees and action taken by them shall also be part of the diversion proposal.

5. The State Government and UTs should make sincere efforts for making available an equivalent area of non-forest land wherever feasible for inclusion of such lands as reserved forests or protected forests.

6. It is also clarified that in respect of pre-1980 eligible encroachers, the Central Government has already approached the Supreme Court in October, 2002 to permit to regularize such eligible encroachments as per the guidelines and policy of the Government.

7. The consideration of the proposals from the State Governments/UTs shall depend on the progress achieved by the concerned States/UT Administration in eviction of all pre-1980 and post-1980 in-eligible non-tribal encroachers and all encroachers post 31-12-1993.

8. It may please be noted that this issue of tribal rights must be settled in a fixed time period of one year from the date of issue of this letter and no proposals shall be entertained thereafter.

9. The State level Committee, headed by the Chief Secretary mentioned under Para 3 above, shall monitor the implementation of the above decisions.

Yours faithfully,

Sd/- (Dr. V.K. Bahuguna)

Inspector General of Forests (FC)

Copy for information and necessary action to:

1. The Prime Minister's Office, New Delhi (Attention: Shri K.V. Pratap, Deputy Secretary)

2. All Chief Conservator of Forests/Conservator of Forests (Central), Ministry of Environment & Forests, Government of India

3. The Secretary, Ministry of Tribal Welfare, Government of India, New Delhi

4. Member/Adviser (Environment), Planning Commission, New Delhi

Sd/-
(Dr. V.K. Bahuguna)

Inspector General of Forests (FC)

Annexure-IV

ANNEXURE REFERRED TO IN THE REPLY TO PARTS (c) & (d) OF THE LOK SABHA UN-STARRED QUESTION NO. 1650 BY SHRI GAURISHANKAR CHATURBHUIJ BIEN AND SHRI HANSRAJ G. AHIR REGARDING 'LEASE OF FOREST LAND' DUE FOR REPLY ON 19-07-2004.

State-wise details of regularisation of encroachments on forest lands

(Area in hectare)

Name of State Already approved regularization of pre-1980
eligible encroachments on forest lands

1. Madhya Pradesh	275405.692
2. Gujarat	31982.80
3. Kerala	28588.159
4. Arunachal Pradesh	13419.290
5. Karnataka	14848.830
6. Andaman & Nicobar Islands	1367.000
7. Orissa	29.940
8. Tripura	27.400
TOTAL :	365669.111

I.A. Rejected on Regularization

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RY
W.P(C)No. 202 OF 1995

ITEM No.301 + 303 + 304

Court No. 1

SECTION PIL
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. No. 887 in Writ Petition(Civil) No.202/1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner (s)

VERSUS

UNION OF INDIA & ORS

Respondent (s)

(Recommendations of C.E.C. In I.A. Nos. 414, 414A, 173, 423 & 751)

with

I.A. No. 906 in WP(C) No. 202/95 (for clarification/directions on behalf of State of Maharashtra)

I.A. No. 827 in WP(C) No. 202/95 (Recommendations of C.E.C. Regarding transfer of funds and related issues)

I.A. No. 804 in WP(C) No. 202/95 (Letter dated 10.9.2002 signed by Mr. Santosh Bharati, filed by learned A.C. In the court on 26.9.2002)

I.A. No. 777 in I.A. Nos. 754-755 in WP(C) No. 202/95 (for vacation of stay on behalf of Lingraj Saw Mills)

I.A. No. 921 in I.A. Nos. 782-784 with 842, 843 & 843A & 793-795 with 844, 845 & 845A and 813-815 in WP(C) No. 202/95 (recommendations of C.E.C. In I.A. Nos. 782-784, 793-795 and 813-815)

I.A. No. 786 in WP(C) No. 202/95 (for clarification of court's order dated 12.12.1996 on behalf of J&K)

I.A. Nos. 896-898 in WP(C) No. 202/95 (for directions and impleadment and exemption from filing O.T. on behalf of Power Grid Corporation)

I.A. No. 60 in WP(C)No. 202/95 (Letter received from Empowered Committee, Chhattisgarh)

I.A. No. 884 in WP(C) No. 202/95 (Recommendations of C.E.C. In IA 705)

I.A. Nos. 789 & 790 in I.A. No. 757 in WP(C) No. 202/95 (for directions/clarification/impleadment and exemption from filing O.T. on behalf of Sidhi Trading Co.)

I.A. No. 860 in I.A. No. 276 in WP(C) No. 202/95 (for impleadment/modification of order dated 29.10.2002 on behalf of Mr. Pradeep Kumar, Chickmagalur)

I.A. No. 861 in I.A. No. 276 in WP(C) No. 202/95 (for impleadment/modification of order dated 29.10.2002 on behalf of Mr. K.D. Manohar, Chickmagalur)

I.A. No. 862 in I.A. No. 454 in I.A. No. 276 in WP(C) No. 202/1995 (for impleadment and modification of court's order dated 29.10.2002 on behalf of Mr. H.M. Seshagowda & Anr.)

I.A. No. 863 in WP(C) No. 202/95
(for directions on behalf of Mr. B.L. Shankar, Bangalore)

I.A. Nos. 864-865 in WP(C) No. 202/95
(for impleadment and directions on behalf of Municipal Corporation, Bhopal)

I.A. No. 931 in WP(C) No. 202/95
(for directions on behalf of State of Utaranchal)

and

Item No. 303

I.A. No. 421 in WP(C) No. 202/95
(for directions on behalf of Teyang Wood Products (P) Ltd., Arunachal Pradesh)

Item No. 304

I.A. No. 941 in WP(C) No. 202/95
(recommendations of C.E.C. In I.A. Nos. 754 & 755)

Date : 14/07/2003 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

Amicus Curiae Mr. Harish N Salve, Sr.Adv. (AC)
Mr. U U Lalit, Adv. (AC)
Mr. Siddhartha Chowdhary, Adv.

For Petitioner (s)

Mr. P.K. Manohar, Adv.

Mr. Mahendra Vyas, Adv.

For Applicant (s)

IA 414, 414A, 173, 423 & 751

Mr. Pallav Shishodia, Adv.

Mr. D N Mishra, Adv.

Mr. V A Mohta, Sr. Adv.

Mr. D M Nargolkar, Adv.

Mr. P H Parekh, Adv.

Mr. E R Kumar, Adv.

Mr. Lalit Singh Chauhan, Adv.

for M/s. Pareksh & Co., Adv.

Mr. S C Birla, Adv.

IA 906 Mr. Ravindra Adsure, Adv.

Mr. Mukesh K Giri, Adv.

Mr. V N Raghupathy, Adv. (NP)

IA 777 Mr. J R Das, Adv.

Mr. G Biswal, Adv.

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Mr. S Mishra, Adv.

IA 754-755 Mr. Raj Panjwani, Adv.

Mr. Vijay Panjwani, Adv.

Mr. Iqbal Shamshi, Adv.

IA 782-784, 793-795,
813-815 Mr. K K Gupta, Adv.

Mr. A P Sahay, Adv.

Mr. Ardhendumauli Kumar Prasad, Adv.

Mr. Kuldeep Singh, Adv.

(in IAs 813-815)

Mr. Krishnan Venugopal, Adv.

Mr. Chandra Shekhar, Adv.

IA 786 Mr. Altaf H Naik, Adv. Genl.

Mr. Anis Suhrawardy, Adv.

IA 896-898 Ms. Tasneem Ahmadi, Adv.

Mr. Bharat Sangal, Adv.

Ms. Sangeeta Panicker, Adv.

Mr. R R Kumar, Adv.

Mr. Santosh Dwivedi, Adv.

IA 705 Mr. Sanjay R Hegde, Adv.

IA 789 & 790 Mr. Ranjit Kumar, Sr. Adv.

Mr. Jatin Zaveri, Adv.

IA 860 to 862 Mr. T R Andhyarujina, Sr. Adv.

Mr. Vijay Bahuguna, Sr. Adv.

Mr. L Nageswara Rao, Adv.

Mr. D K Garg, Adv.

Mr. V Laxminarayanan, Adv.

Mr. B S Billowria, Adv.

IA 863 Mr. V Laxminarayanan, Adv.

Mr. B S Billowria, Adv.

Mr. Ashok Sharma, Adv.

IA 864-865 Mr. Satish K Agnihotri, Adv.

Ms. Yogmaya, Adv.

Mr. R K Singh, Adv.

Mr. Anil Kumar Pandey, Adv.

Mr. D K Garg, Adv.

IA 931 Ms. Rachana Srivastava, Adv.

IA 421 Mr. Rajiv Tyagi, Adv.

Mr. Ajit Singh, Adv.

For Respondent (s)

UoI Mr. A D N Rao, Adv.

Mr. P Parmeswaran, Adv. (NP)

Board of Indian Mr. Raj Panjwani, Adv.

Wildlife Mr. Vijay Panjwani, Adv.

Mr. Iqbal Shamsi, Adv.

Mr. J R Das, Adv.

Mr. G Biswal, Adv.

Mr. S Mishra, Adv.

Mr. P Chidambaram, Sr. Adv.
Mr. Naresh Kumar Sharma, Adv.

State of Assam Ms. Krishna Sarma, Adv.
Ms. Asha G Nair, Adv.
Mr. V K Sidatharan, Adv.
for Corporate Law Group, Adv.

State of Arunachal Pradesh Mr. Anil Shrivastav, Adv.

State of A.P. Mr. T V Ratnam, Adv.
Mr. K Subba Rao, Adv.

State of Bihar Ms. Sunita R Singh, Adv.
Mr. B B Singh, Adv.

State of Chhattisgarh Mr. Prakash Shrivastava, Adv.

State of Goa Ms. A Subhashini, Adv.

State of H.P. Mr. J S Attri, Adv.

State of J & K Mr. Altaf H Naik, Adv. Genl.
Mr. Anis Suhrawardy, Adv.

State of Madhya Pradesh Mr. Vivek Tankha, Adv. Genl.
Mr. Satish K Agnihotri, Adv.
Mr. R K Singh, Adv.
Mr. Anil Kumar Pandey, Adv.

State of Maharashtra Mr. Ravindra Adsure, Adv.
Mr. Mukesh K Giri, Adv.

State of Manipur Mr. KH Nobin Singh, Adv.

State of Orissa Mr. Raj Kumar Mehta, Adv.

State of Tripura Mr. Gopal Singh, Adv.
Ms. Vani Singh, Adv.
Mr. Amit K Poddar, Adv.

State of U.P. Mr. S Wasim A Qadri, Adv.
Mr. S K Dwivedi, Adv.

UPON hearing counsel the Court made the following
O R D E R

I.A. No. 887 (Recommendations of C.E.C. In I.A. Nos. 414, 414A, 173, 423 & 751) and I.A. No. 906

Heard counsel for the parties.

The recommendations of the Central Empowered Committee (C.E.C.) dated 27.12.2002 are accepted.
The State of Maharashtra is directed to act according to and abide by the aforesaid recommendations. Further, so far

as 64 saw-mills which are claimed to be actually eligible for grant of licenses as per notification dated 16.7.1981 are concerned, their cases may be examined by the State Government within a period of two months and if they are found eligible, their applications may be sent to the C.E.C. which may submit a report to this Court.
I.As. stand disposed of.

I.A. No. 827

list this matter after eight weeks. In the meantime, the learned counsel appearing for the Central Government will obtain complete instructions.

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Let Rs. 7.44 lakhs out of the sale proceeds of confiscated timber be paid as award/honorarium.
List for further orders after eight weeks.

I.A. No. 804

Await the report of C.E.C.

I.A. No. 777 in I.A. Nos. 754-755 and I.A. No. 941

As prayed, let an affidavit by the Chief Secretary, Government of Orissa be filed within four weeks indicating therein the aerial distance between the saw mills and the forest. List on a date to be given by the Registry.

I.A. No. 921 in I.A. Nos. 782-784, 793-795 and 813-815 (with I.A. Nos. 842, 843 & 843A in 782-784 and I.A. Nos. 844, 845 & 845A in 793-795)

Learned counsel appearing for the State of Bihar prays for and is allowed four weeks' time to file a reply to the recommendations made by C.E.C. List thereafter.

I.A. No. 786.

Further four weeks' time is allowed to the Ministry of Environment and Forests to file its response. List thereafter.

I.A. Nos. 896-898

Await the report of the Standing Committee of Indian Board of Wildlife.
The Central Government is directed to file an affidavit within four weeks indicating therein the constitution of the Standing Committee of Indian Board of Wildlife, the names of new members and their credentials.

I.A. No. 60

Learned counsel appearing for the State of Chhattisgarh prays for and is allowed four weeks' time to file response in regard to the letter sent by the Empowered Committee, Chhattisgarh. List after four weeks.

I.A. No. 884 (Recommendations in I.A. No. 705)

Learned counsel appearing for the State of Karnataka states that the recommendations of C.E.C. in I.A. No. 705 are acceptable to the State. A sum of rupees 15 crores and other sums, which are payable by the Project Authorities shall be deposited with the C.E.C. which in turn shall invest the same in a short term fixed deposit.
I.As. stand disposed of.

I.A. Nos. 789 & 790

Await response of the Ministry of Environment & Forests.

I.A. No. 860

Heard counsel.

This Court on 29.10.2002 passed an order for removal of encroachments after examining the report of Shri R.M.N. Sahay, Court Commissioner, report of the Survey of India who carried out detailed survey, report of C.E.C. and arguments of the learned counsel. We do not find any fresh ground to review the said order. The I.A. is rejected.
On 29.10.2002, this Court directed the Chief Secretary, Government of Karnataka to submit monthly report as regards the possession

taken in pursuance of ejection of encroachers. Grievance is made that no such report has yet been filed before the C.E.C. The Chief Secretary, Government of Karnataka is directed to file an affidavit within four weeks as regards the actual possession, if any, taken after removing the encroachment.

I.A. Nos. 861 and 862

I.As. are rejected.

I.A. No. 863

I.A. is rejected.

Mr. V Laxminarayanan, learned counsel appearing for B.L. Shankar states that possession of the land was handed over on 30th January, 2003 and an affidavit to that effect will be filed within two weeks. The Chief Secretary, Government of Karnataka is directed to verify whether actual physical possession has been taken and shall file an affidavit in that respect within four weeks.

I.A. Nos. 864 & 865

Let these I.As. be forwarded to the C.E.C. which shall send its recommendations to this Court within a period of eight weeks.

I.A. No. 931

Since similar permission was granted to the State of Uttaranchal in the year 2002, this application is allowed. The applicant State of Uttaranchal is permitted to fell the trees as prayed, in terms of the order dated 24th April, 2000 which run as follows :

".... This exercise will be undertaken by the State under the supervision of the Scientists of Entomology Division of the Forest Research Institute, Dehradun. The exercise be completed within a period of four months and the report be then submitted

by the State as well as the Forest Research Institute. List thereafter.

I.A. No. 421.

Adjourned for four weeks.

(D.P. WALIA)
COURT MASTER

(SURAJ PARKASH)
COURT MASTER

Cat 66 for Regularisation

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

I.A. NOS.969-970 IN I.A. NO.729 IN I.A. NO.424

IN

WRIT PETITION (CIVIL) NO. 202 OF 1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

[For directions and exemption from filing O.T. on behalf of the State
of Chhattisgarh]

With I.A. No.1126 in I.A. No.703 in Writ Petition (C) No.202 of 1995

[For directions filed by Amicus Curiae]

I.A. Nos.991, 1004, 1185 in Writ Petition (C) No.202 of 1995

[Recommendation of C.E.C. regarding illegal mining in Chourbil Reserved
Forest, Lalitpur and exemption from filing O.T.]

Date: 11/02/2005 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.H. KAPADIA

Mr. Harish N. Salve, Sr. Adv. (A.C.)

Mr. U.U. Lalit, Sr. Adv. (A.C.)

Mr. Sidhartha Choudhary, Adv. (A.C.)

For Petitioner(s) Ms. Suparna Srivastava, Adv.

Applicant(s): Mr. Rahul Srivastava, Adv.
Mr. Rajesh Srivastava, Adv.
Ms. Deepti Singh, Adv.

For Respondent(s) Mr. Mohan Parasaran, ASG.

Mr. A.D.N. Rao, Adv.

Mr. S. Wasim A. Qadri, Adv.

Mr. Mohd. Saud, Adv.

Mr. Pramod Dayal, Adv.

Ms. Swati Sinha, Adv.

Ms. Sangeeta Mandal, adv.

Ms. Jayasree Singh, Adv.

for M/s. Fox Mandal & Co., Adv.

...2/-

- 2 -

Mr. Kh. Nobin Singh, Adv.

Mr. Dinesh Dwivedi, Sr. Adv.

Mr. Gopal Singh, Adv.

Mr. Anurag Sharma, Adv.

Mr. Rituraj Biswas, Adv.

Mr. Avijit Bhattacharjee, Adv.

Mr. Atanu Saikia, Adv.

Mr. Manoj Saxena, Adv.

Mr. Mohan Prasad Meharia, Adv.

Mr. S.K. Mittra, Adv.

Mr. Mukesh K. Giri, Adv.

UPON hearing counsel the Court made the following

O R D E R

At request, Mr. Mohan Parasaran, learned Additional Solicitor General appearing for the Ministry of Environment and Forest in I.A. No.1126 in I.A. No.703 in Writ Petition (C) No.202 of 1995, is granted one week's time to file affidavit stating the cut-off date for regularisation of encroachment on the forest land. It is stated that a policy decision has been taken that the cut-off date would be 25th October, 1980 and not 31st December, 1993.

Amicus The interlocutory application filed by the learned curiae is taken on Board.

Issue notice.

The learned counsel appearing for Mr. Pooran Singh Bundela, State of Uttar Pradesh and the Union of India, accept notice.

Replies may be filed within four weeks.

List thereafter.

The affidavit directed to be filed by Mr. Pooran Singh Bundela in I.A. No.991 may be filed within three days.

[T.I. Rajput]

Court Master

[V.P. Tyagi]

Court Master

CASE NO.:

Writ Petition (civil) 202 of 1995

PETITIONER:

T.N. Godavarman Thirumulpad

RESPONDENT:

Union of India & Ors.

DATE OF JUDGMENT: 26/09/2005

BENCH:

Y.K.Sabharwal, Arijit Pasayat & S.H.Kapadia

JUDGMENT:

J U D G M E N T

IA NO.826 IN IA NO.566

IN

WRIT PETITION (C) NO.202 OF 1995

[WITH IA NO.932 IN 819-821, 955, 958, 985, 1001-1001a, 1013-1014, 1016-1018, 1019, 1046, 1047, 1135-1136, 1137, 1164, 1180-1181 AND 1182-1183, 1196, 1208-1209, 1222-1223, 1224-1225, 1229, 1233, 1248-1249, 1253, 1301-1302, 1303-1304, 1312, 1313, 1314, 1315-1316, 1318 AND 1319 IN WP (C) NO. 202 OF 1995]

Y.K. Sabharwal, J.

Natural resources are the assets of entire nation. It is the obligation of all concerned including Union Government and State Governments to conserve and not waste these resources. Article 48A of the Constitution of India requires the State shall endeavour to protect and improve the environment and to safeguard the forest and wild life of the country. Under Article 51A, it is the duty of every citizen to protect and improve the natural environment including forest, lakes, rivers and wild-life and to have compassion for living creatures.

In the present case, the question is about conservation, preservation and protection of forests and the ecology. When forest land is used for non-forest purposes, what measures are required to be taken to compensate for loss of forest land and to compensate effect on the ecology, is the main question under consideration.

Forests are a vital component to sustain the life support system on the earth. Forests in India have been dwindling over the years for a number of reasons, one of it being the need to use forest area for development activities including economic development. Undoubtedly, in any nation development is also necessary but it has to be consistent with protection of environments and not at the cost of degradation of environments. Any programme, policy or vision for overall development has to evolve a systemic approach so as to balance economic development and environmental protection. Both have to go hand in hand. In ultimate analysis, economic development at the cost of degradation of environments and depletion of forest cover would not be long lasting. Such development would be counter productive. Therefore, there is an absolute need to take all precautionary measures when forest lands are sought to be directed for non forest use.

The point in issue is whether before diversion of forest land for non-forest purposes and consequential loss of benefits accruing from the forests should not the user agency of such land be required to compensate for the diversion. If so, should not the user Agency be required to make

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forest is illegal cutting and removal by contractors and their labour. In order to put an end to this practice, contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives, government corporations, etc. as early as possible;

-- Protection, regeneration and optimum collection of minor forest produce along with institutional arrangements for the marketing of such produce;

-- Development of forest villages on par with revenue villages;

-- Family-oriented schemes for improving the status of the tribal beneficiaries; and,

-- Undertaking integrated area development programmes to meet the needs of the tribal economy in the around the forest areas, including the provision of alternative sources of domestic energy on a subsidized basis, to reduce pressure on the existing forest areas.

XXX

XXX

XXX

4.8.1. Encroachment on forest lands has been on the increase. This trend has to be arrested and effective action taken to prevent its continuance. There should be no regularization of existing encroachments.

XXX

XXX

XXX

4.9. The main considerations governing the establishment of forest-based industries and supply of raw material to them should be as follows :

-- As far as possible, a forest-based industry should raise the raw material needed for meeting its own requirements, preferably by establishment of direct relationship between the factory and the individuals who can grow the raw material by support the individuals with inputs including credit, constant technical advice and finally harvesting and transport services.

-- No forest-based enterprise, except that at the village or cottage level, should be permitted in the future unless it has been first cleared after a careful scrutiny with regard to assured availability of raw material. In any case, the fuel, fodder and timber requirements of local population should not be sacrificed for this purpose.

-- Forest-based industries must not only provide employment to local people on priority but also involve them fully in raising trees and raw-material.

-- Natural forests serve as a gene pool resources and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for undertaking plantation and for any other activities.

-- Framers, particularly small and marginal farmers would be encouraged to grow, on marginal/degraded lands available with them, wood species required for industries. These may also be grown along with fuel

obtain actual numerical values for different forest types for each bio-geographical zone in the country.

(iv) To determine on the basis of established principles of public finance, who should pay the costs of restoration and/or compensation with respect to each category of values of forests.

(v) Which projects deserve to be exempted from Payment of NPV.

C. The user agencies shall give undertakings for the further payment, if any, as may be determined on receipt of report from the expert body.

D. The Special Purpose Vehicle shall be established with the permission of the Court.

E. The Institute shall send report of Committee of Experts within a period of four months.

F. The various clauses of CAMPA shall be suitably modified in terms of this judgment within a period of one month.

List after four months.

JUDIS

order on Prohibitory Regulation

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A.No.1333 in Writ Petition (C) No.202 of 1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

(For permission to remove trees)

AND

I.A.Nos.1527-1527A in Writ Petition (C) No.202 of 1995

(For directions and exemption from filing O.T.)

I.A.No.1528 in Writ Petition (C) No.202 of 1995

(For impleadment/directions)

I.A.No.1529 in Writ Petition (C) No.202 of 1995

(Report of CEC in Appln. No.703 filed before CEC)

I.A.No.1530 in Writ Petition (C) No.202 of 1995

(Report of CEC in Appln. No.732 filed before CEC)

I.A.No.1483 in I.A.No.548 in Writ Petition (C) No.202 of 1995

(For modification of Court's order dated 14.2.2000)

I.A.No.1345 in I.A.No.1252 in Writ Petition (C) No.202 of 1995

(Recommendation of CEC in I.A.No.1252)

I.A.No.1346 in I.A.No.1227-1228 in Writ Petition (C) No.202 of 1995

(Recommendation of CEC in I.A.No.1227-1228)

Special Leave Petition (C) Nos.24951-24954 of 2005

(With appln. for exemption from filing c/c of the impugned judgment and with prayer for interim relief)

Writ Petition (C) No.589 of 2003

(With appln. for exemption from filing O.T. and ex-parte stay and office report)

S.L.P. (C) No...../2006 (CC 2637)

(With appln. for c/delay in filing SLP)

S.L.P. (C) No...../2006 (CC 2850)

(With appln. for c/delay in filing SLP)

Date: 13/04/2006 These Petitions were called on for hearing today.

CORAM :

- HON'BLE THE CHIEF JUSTICE
- HON'BLE MR. JUSTICE ARIJIT PASAYAT
- HON'BLE MR. JUSTICE S.H. KAPADIA

....2/-

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For Petitioner(s) Mr. Harish N. Savle, Sr.Adv. (AC)
 Mr. U.U. Lalit, Sr.Adv. (AC) (NP)
 Mr. Sidhartha Choudhary, Adv. (AC)

Mr. P.K. Manohar, Adv. (NP)

in SLPs: Mr. J.L. Gupta, Sr.Adv.
 Mr. Nidhesh Gupta, Adv.
 Mr. Vinod Shukla, Adv.
 Ms. S. Janani, Adv.

in WP 589/03: Mr. Maninder Singh Dahiya, Adv. (NP)

in CC 2637,2850: Mr. Mukul Rohtagi, Sr.Adv.
 Mr. Vinay Kr. Garg, Adv.
 Mr. Imran Ahmad Abbasi, Adv.

For Applicant(s)
 in IA 1333: Mr. Anis Suhrawardy, Adv.

in IAs.1527-27A, 1529:

Mr. B.S.Banthia, Adv.

in IA 1528:

Mr. L.N. Rao, Sr.Adv.

Mr. E.M.S. Anam, Adv.

Mr. Fazlin Anam, Adv.

in IA 1483:

Mr. Pallav Sisodia, Adv.

Mr. S.S. Shinde, Adv.

Mr. V.N. Raghupathy, Adv.

in IAs.1227-28:

Dr. J.N. Dubey, Sr.Adv.

Mr. Anurag Dubey, Adv.

Mr. K.B. Upadhyay, Adv.

Mr. Gaurav Singh, Adv.

Mr. Pramod Kumar, Adv.

Mr. S.R. Setia, Adv.

For Respondent (s)

-MoEF:

Mr. A.D.N. Rao, Adv.

Mr. Manjit Singh, Adv.

Mr. Harikesh Singh, Adv.

Mr. T.V. George, Adv.

Mr. Aruneshwar Gupta, AAG

Mr. Naveen Kr. Singh, Adv.

Mr. KH. Nobin Singh, Adv.

Mr. K.N. Madhusoodhanan, Adv.

Mr. R.Sathish, Adv.

Mr. Kuldip Singh, Adv.

Mr. R.K. Panday, Adv.

Mr. Gopal Singh, Adv.

Mr. Retu Rai Biswas, Adv.

Mrs. A. Subhashini, Adv.

Mr. Anil Shrivastav, Adv.

Ms. Nandini Gore, Adv.

Mr. Jayant Mohan, Adv.

Ms. Manik Karanjawala, Adv.

Mr. R.G.Padia, Sr.Adv.

Mr. J.K.Bhatia, Adv.

Mr. B.N.Jha, Adv.

Mr. K.R.Sasiprabhu, Adv.

Mr. J.K.Das, Adv.

Mr. Raj Kr.Mehta, Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A.No.1333:

as We have perused the report of the CEC dated 3rd April, 2006. It indicates to the particulars sought for from the State Government which have not been supplied.

ne The information shall now be supplied after being duly verified by a senior officer of t State Government. As prayed, the State is granted four weeks' time to supply the

requisite information. The CEC would consider the information supplied and give another report.

I.A.No.1527-1527A:

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The application is dismissed.

I.A.No.1528:

The application is dismissed as withdrawn with liberty to the applicant to have recourse to appropriate remedy at appropriate stage.

I.A.No.1529:

Issue notice to the Bharat Sanchar Nigam Limited.

I.A.No.1530:

Issue notice to the Bharti Tele-Ventures Limited.

...4/-

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I.A.No.1483 in I.A.No.548:

List after re-opening of the court after summer vacation.

I.A.No.1345 in I.A.1252:

The recommendations made by the CEC in para 8(i) to 8(iv) and para 9 of its report dated 11th July, 2005 are acceptable to the State Government. The State Government is, therefore, permitted to regularize pre-25th October, 1980 encroachments subject to the following conditions under the overall supervision of the Regional Chief Conservator of Forest, Bhubaneshwar, subject to clearance, if any, given by the MoEF:

- (i) Regularization of encroachments in favour of the eligible encroachers will be done simultaneously with the eviction of ineligible encroachers and taking back of excess land in possession of the eligible encroachers;

orest (ii) No regularization of encroachments which have taken place on f
 land after 25.10.1980 will be done;
 (iii) The MoEF's guidelines dated 18.9.1990 will be strictly adhered to; and
 (iv) Compensatory afforestation over equivalent non-forest land will be
 ate of carried for which adequate funds will be made available by the St
 Orissa.

I.A.No.1346 in I.A.1227-1228:

the As prayed, four weeks' time is granted to file response to
 recommendations of CEC.

S.L.P. (C) Nos.24951-24954/2005:

4. Mr.Manjit Singh, Advocate, appears for respondent Nos.1, 2 and

Learned amicus curiae appears for respondent No.3.

o Response, if any, shall be filed within three weeks and rejoinder within tw
 weeks thereafter.

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List the petition along with I.A.No.1429 (Report of CEC, dated 17.10.2005)
 and I.A.No.1381 (Report of CEC, dated 17.8.2005).

W.P. (C) No.589/2003:

None appears for the petitioner. The writ petition is dismissed.

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S.L.P. (C) No...../2006 (CC 2637 & 2850):

Delay condoned.

Issue notice.

Mrs. Rachana Srivastava, learned counsel, accepts notice for the state of Uttaranchal.

Copy of the petitions be given to the CEC. Response be filed within two weeks.

List the petitions in July, 2006.

(N. Annapurna)
Court Master

(V.P. Tyagi)
Court Master

ITEM NO.MM-3

COURT NO.1

SECTION PIL

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

I.A.No.1516 &

I.A.Nos. (Diary Nos.1148, 1149, 1150, 1154, 1155, 1156 and 1190 of 2006 in Writ Petition (C)

No.202 of 1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner (s)

VERSUS

UNION OF INDIA & ORS

Respondent (s)

Date: 13/04/2006 These Petitions were mentioned today.

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CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s)

Mr.Mohd. Wasay Khan, Adv.

Mr. G.R.K.Prasad, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

List the applications before the Bench in its next sitting.

(N. Annapurna)

Court Master

(V.P. Tyagi)

Court Master

(2009) 5 Supreme Court Cases 373

(BEFORE B.N. AGRAWAL, G.S. SINGHVI AND AFTAB ALAM, JJ.)

a NATURE LOVERS MOVEMENT .. Appellant;

Versus

STATE OF KERALA AND OTHERS .. Respondents.

Civil Appeal No. 2116 of 2000[†], decided on March 20, 2009

b A. Forest (Conservation) Act, 1980 — S. 2 — Requirement to obtain prior approval of Central Government before passing order as to dereservation of forests or use of forest land for non-forest purpose — Applicability — Whether S. 2 retrospective in operation i.e. applicable qua any action which State Government could take with reference to activity undertaken in any reserved forest or forest land prior to date of enforcement of 1980 Act i.e. 25-10-1980

c — Considering the object of 1980 Act and legal principles laid down by Supreme Court, reiterated, after enforcement of 1980 Act, State Governments cannot deal with reserved forest or forest land and permit use thereof for non-forest purposes, except after obtaining prior approval of Central Government — Further, even if any forest land or any portion thereof had been used for non-forest purpose for a particular length of time prior to enforcement of 1980 Act, the tenure of such activity cannot be extended by way of renewal of lease or otherwise after enforcement of 1980 Act without obtaining prior approval of Central Government — Hence, conclusion of High Court that provisions of 1980 Act have no retrospective operation and that they operate prospectively, held, legally unsustainable and liable to be set aside — Thus, where State Government had not taken any policy decision prior to date of enforcement of 1980 Act i.e. 25-10-1980 to regularise unauthorised pre-25-10-1980 occupation/encroachment of forest land, no order for regularisation of such occupation/encroachment could be passed post 25-10-1980 without obtaining prior approval of Central Government in terms of S. 2

f — In present case, before enactment of 1980 Act, State Government had taken a policy decision to regularise unauthorised occupation/encroachment of forest land made prior to 1-1-1977 — For implementation of that decision, State Government succeeded in persuading Central Government to grant approval for diversion of 28,588.159 ha of forest land by way of assignment to unauthorised occupants/encroachers — Approval granted in accordance with guidelines framed by Central Government — Hence, High Court's refusal to nullify the action taken by State Government to regularise unauthorised occupation/encroachment of 28,588.159 ha of forest land, held, not liable to be interfered with — Grievance raised against regularisation of unauthorised occupation/encroachment of another area of forest land, held, was premature in absence of any decision taken by State

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[†] From the Judgment and Order dated 7-10-1999 of the Hon'ble High Court of Kerala at Ernakulam in Original Petition No. 14276 of 1993

NATURE LOVERS MOVEMENT v. STATE OF KERALA (*Singhvi, J.*) 389

22. *No right acquired over reserved forests except as herein provided.*—

a No right of any description shall be acquired in or over a reserved forest except under a grant or contract in writing made by or on behalf of the Government or by or on behalf of some person in whom such right or the power to create such right was vested when the notification under Section 19 was published or by succession from such person:

Provided that no patta shall, without the previous sanction of the Government, be granted for any land included within a reserved forest and every patta granted without such sanction shall be null and void.”

b *The Forest (Conservation) Act, 1980 (as amended by Act 69 of 1988)*

33. “2. *Restriction on the dereservation of forests or use of 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—

c (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;

d (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.

e *Explanation.*—For the purposes 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 plants;

(b) any purpose other than reforestation;

f 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 construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

g 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.

h 3-A. *Penalty for contravention of the provisions of the Act.*—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.”



34. Regularisation of Encroachments on Forest Land

“Encroachment of forest land for cultivation and other purposes continues to be the most pernicious practice endangering forest resources throughout the country. Statistical information compiled by Ministry of Agriculture during early 1980s revealed that nearly 7 lakh ha of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of States had regularised such encroachments periodically and approximately 43 lakh ha of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Government to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.

2. The National Forest Policy, 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments, some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers’ Conference and the Committee referred to the above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.

2.1. All the cases of subsisting encroachments where the State Governments stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest (Conservation) Act, 1980. Such proposals should invariably conform to the criteria given below:

1. *Pre-1980 encroachments where the State Government had taken a decision before enactment of the Forest (Conservation) Act, 1980, to regularise ‘eligible’ category of encroachments.*

1.1. Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act, on 25-10-1980.

1.2. All such cases should be individually reviewed. For this purpose the State Government may appoint a joint team of the Revenue, Forest and Tribal Welfare Department for this work and complete it as a time-bound programme.

1.3. In case where proposals are yet to be formulated, the final picture after taking into consideration all the stipulations specified here may be placed before the Gaon Sabha concerned with a view to avoid disputes in future.



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NATURE LOVERS MOVEMENT v. STATE OF KERALA (*Singhvi, J.*) 391

1.4. All encroached lands proposed for regularisation should be properly surveyed.

a 1.5. Encroachments proposed to be regularised must have taken place before 25-10-1980. This must be ascertained from the first offence report issued under the relevant Forest Act at that point of time.

1.6. Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.

b 1.7. The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.

1.8. As far as possible scattered encroachments proposed to be regularised should be consolidated/relocated near the outer boundaries of the forests.

c 1.9. The outer boundaries of the areas to be denotified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.

1.10. All the cases proposed to be regularised under this category should be covered in one proposal and it should give districtwise details.

d 1.11. All cases of proposed regularisation of encroachments should be accompanied by a proposal for compensatory afforestation as per existing guidelines.

1.12. No agricultural practices should be allowed on certain specified slopes.

* * *

Clarification

* * *

e 2. Doubts have been raised as to whether all encroachments that had taken place up to 25-10-1980 could be regularised in accordance with an eligibility formula by which some earlier encroachments were regularised.

3. A perusal of the paragraph reproduced above will make it clear that there are 2 preconditions for any encroachments to be considered for regularisation. These are:

f (a) the State Government should have taken the decision on regularisation of encroachments before 25-10-1980; and

(b) that the decision should be with reference to some eligibility criteria (normally expected to be related to social and economic status of encroachers, location and extent of encroachment, cut-off date of encroachment, etc.).

g 4. It would be seen that the encroachments which are proposed to be considered for regularisation, subject to the prescribed conditions, are those which fulfilled the eligibility criteria evolved by the State Government as per decision taken before 25-10-1980 for regularisation of encroachments. The objective is limited to permitting implementation of decisions taken before 25-10-1980 which could not be implemented because the enactment of Forest (Conservation) Act, 1980 intervened. It is therefore quite clear that while all encroachments that can be considered as eligible for regularisation would have taken place before 25-10-1980, all encroachments that had taken

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place before 25-10-1980 would not be eligible for regularisation—they may be ineligible because either they do not meet the eligibility criteria or are not covered by any decision taken before 25-10-1980. Thus, if the decision on regularisation of encroachments in a State covered only encroachments up to a date earlier than 25-10-1980, the guidelines on regularisation of encroachments do not envisage that the State Government would now survey encroachments between that date and 25-10-1980 and propose regularisation. The latter encroachments though occurring before 25-10-1980 are not covered by any regularisation decision taken prior to that date and hence cannot be considered for regularisation at this juncture.

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5. Accordingly, the State Government may take up for implementation only such decision of pre-25-10-1980 period which could not be implemented because of Forest (Conservation) Act, 1980 intervening and propose regularisation of encroachments as per those decisions and in accordance with the eligibility criteria laid down in those decisions. No encroachments not covered by any pre-25-10-1980 decisions—even though they might have occurred prior to that date—should now be considered for regularisation in terms of our guidelines.”

c

35*. An analysis of the above-reproduced provisions of the 1961 Act makes it clear that once a land was declared as reserved forest, no right could be acquired by anyone after issue of notification under Section 4 except under a grant or contract in writing made or entered into by or on behalf of the Government, or by or on behalf of some person in whom such right or power to create the same was vested or by succession from such person and no activity of clearing such land or collection of forest produce could be made. Sub-section (2) of Section 7 of the 1961 Act also imposes prohibition against grant of patta in such land without previous sanction of the Government.

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36. The 1980 Act was enacted by virtue of Entry 17-A of List III in the Seventh Schedule of the Constitution. Section 2 (as originally enacted) contains a non obstante clause. It lays down that notwithstanding anything contained in any other law for the time being in force in a State, no State Government or authority shall without prior approval of the Central Government make any order directing that any reserved forest or any portion thereof, shall cease to be reserved or that any forest land or any portion thereof may be used for any non-forest purpose.

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37. By Act 69 of 1988 clause (iii) was inserted in Section 2 and what was implicit in clause (ii) was made explicit. Explanation appearing below Section 2 was also amended and it was made clear that the phrase “non-forest purpose” will mean breaking up or clearing of any forest land or portion thereof for cultivation of tea, coffee, spices, etc. and any purpose other than reforestation. However, activity or work relating or ancillary to conservation, development and management of forest and wildlife was excluded from the ambit of the phrase “non-forest purpose”.

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* Ed.: Para 35 corrected vide Official Corrigendum No. F.3/Ed.B.J./72/2009 dated 30-6-2009.

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BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No.13/2015
(M.A. No. 32/2015)

Dr. Amarjit Singh Nalwa & Ors.
Vs.
The State of NCT of Delhi & Ors.

CORAM: HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER

Present: Applicant /Appellant :Mr. Rahul Choudhary Adv.
Respondent No.1 :Mr. D. Rajeshwar Rao, Adv.
Respondent No. 2 :Mr. Sanjay Diwan, Adv.
Respondent No. 5 :Ms. Shubhra Parshar, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 9 December 11, 2015 AM	<p>Heard. Perused Record.</p> <p>The applicant is seeking removal of all the illegal construction/non-forest activity from the forest area of Dera Mandi and Jaunapur, and restoration of the said area. The applicant is also seeking embargo on all illegal activities viz. construction, laying of concrete RCC roads, felling and cutting of trees, mining, digging of bore-well, disposal of municipal waste and burning of plastic inside the said forest area.</p> <p>On 16th April, 2015 at the instance of applicant and on her willingness to physically show the places of such activities to the authorities. We had directed the authorities particularly the respondent no. 2 Conservator of Forest and Local patwari of Village Jaunapur, Teshil Mehrauli to carry out inspection of the places indicated by the applicant. Accordingly the inspection was carried out and inspection report dated 25th May, 2015 was placed before us.</p> <p>Inspection report dated 25th May, 2015 reveals a fact that some parts of Khasra No. 105/13, 105/14, 105/17, 92/15, 92/16, 92/25, 92/24 of Village Jaunapur were found partially encroached upon.</p> <p>Parties conceded that the reports of special task force created for identifying the forest area vide CCF's ORDER NO. F. 8(118)PA/CF/RUC/Pt.-IV/7709-7723 dated 28-11-2012 and 10-10-2012 concerning lands at village</p>

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Dera Mandi and Village Jaunapur respectively give correct description of the forest area and it is the obligation of the authorities to halt and remove all such non-forest activity therefrom and restore the area to its original condition.

Consolidated details of the forest area at Dera Mandi village Khasra wise are as follows:

Khasra No.	Area		Area as per 1996 Notification		Area of forest land under Notification 1994 which is not included in 1996 Notification		Area of the Consolidated Forest land		Remarks
	Bigha	Biswa	Bigha	Biswa	Bigha	Biswa	Bigha	Biswa	
%									%
1	33	10	33	10	-	-	33	10	
2	119	0	119	0	-	-	119	0	
3	91	0	91	0	-	-	91	0	
4	56	0	56	0	-	-	56	0	
5	87	19	-	-	87	19	87	19	
6//1	6	8	6	8	-	-	6	8	
2	5	12	5	12	-	-	5	12	
3	4	16	4	16	-	-	4	16	
4	3	12	3	12	-	-	3	12	
5	1	10	1	10	-	-	1	10	
6	4	16	4	16	-	-	4	16	
7	4	16	4	16	-	-	4	16	
8	4	16	4	16	-	-	4	16	
9	4	16	4	16	-	-	4	16	
10	4	16	4	16	-	-	4	16	
11	4	16	4	16	-	-	4	16	
12	4	16	4	16	-	-	4	16	
13/2	1	2	1	2	-	-	1	2	
19	4	16	4	16	-	-	4	16	
20	4	16	4	16	-	-	4	16	
21	4	16	4	16	-	-	4	16	
22	4	16	4	16	-	-	4	16	
7//2/3	4	0	4	0	-	-	4	0	
8	2	12	2	12	-	-	2	12	
9	14	9	14	9	-	-	14	9	
10//5/1	34	0	34	0	-	-	34	0	
17	4	16	-	-	4	16	4	16	
18	4	16	-	-	4	16	4	16	
19	4	16	-	-	4	16	4	16	
20	4	16	-	-	4	16	4	16	
21	4	12	-	-	4	12	4	12	
22	4	16	-	-	4	16	4	16	
23	4	12	-	-	4	12	4	12	

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11	4	16	-	-	4	16	4	16
12	4	16	-	-	4	16	4	16
19/2	3	10	-	-	3	10	3	10
20	4	16	-	-	4	16	4	16
21	4	16	-	-	4	16	4	16
22/1	1	10	-	-	1	10	1	10
113//1	4	16	-	-	4	16	4	16
2	4	16	-	-	4	16	4	16
3	4	16	-	-	4	16	4	16
4	4	16	-	-	4	16	4	16
5	4	16	-	-	4	16	4	16
6	4	16	-	-	4	16	4	16
7	4	16	-	-	4	16	4	16
8	4	16	-	-	4	16	4	16
9	4	16	-	-	4	16	4	16
10	4	16	-	-	4	16	4	16
11	1	8	-	-	1	8	1	8
12	3	16	-	-	3	16	3	16
13	5	16	-	-	5	16	5	16
14	5	4	-	-	5	4	5	4
15	2	18	-	-	2	18	2	18
114//3	2	7	-	-	2	7	2	7
4	4	18	-	-	4	18	4	18
5	4	16	-	-	4	16	4	16
6	3	8	-	-	3	8	3	8
115	15	16	-	-	15	16	15	16
116	7	19	-	-	7	19	7	19
119	4	16	-	-	4	16	4	16
120//1	0	14	-	-	0	14	0	14
2	0	11	-	-	0	11	0	11
122	15	12	-	-	15	12	15	12
123	47	16	-	-	47	16	47	16
125	46	10	-	-	46	10	46	10
126	11	13	-	-	11	13	11	13
127	28	3	-	-	28	3	28	3
128	6	11	-	-	6	11	6	11
129	8	5	-	-	8	5	8	5
130	23	2	-	-	23	2	23	2
131	96	11	-	-	96	11	96	11
132	46	1	-	-	46	1	46	1
133	10	4	-	-	10	4	10	4
134	96	6	-	-	96	6	96	6
137	19	5	-	-	19	5	19	5
Total	3919	0	1999	15	1856	10	3855	18

In view of the admitted position as aforesaid we direct that respondent nos. 1 to 6 shall take all such steps for removal of all construction standing on the forest area indicated herein above and restore such area to its original condition in accordance with law. We direct respondent no. 6 Deputy Commissioner of

Police Hauz Khas to provide necessary force and assistance for enforcement of the measures taken by the respondent nos.1 to 6 for removal of non forest activities from the said forest area from time to time. We direct the respondents to take all necessary measures to stop illegal activities of construction, laying of concrete RCC roads, both felling and cutting of trees, mining, digging of borewells, disposal of MSW and burning of plastic inside the said forest area expeditiously. As regards the area indicated in the inspection report dated 25th May, 2015 as above, particularly noticed as being encroached upon, we direct that the concerned authorities shall initiate measures for the removal of these encroachments thereupon within three months and shall remove all such encroachments in accordance with law within a year.

Original Application No. 13/2015 is disposed of accordingly. M.A. No. 32/2015 also stands disposed of as the main matter is disposed of.

.....,JM
(U.D. Salvi)

.....,EM
(Ranjan Chatterjee)

NGT orders on
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Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Execution Application No. 05/2017
IN
O.A. No. 13/2015

Dr. Amarjit Singh Nalwa & Ors.

Applicant(s)

Versus

The State of NCT Delhi & Ors.

Respondent(s)

(Report filed in O.A. No. 13/2015)

Date of hearing: 14.08.2019

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

For Applicant(s): Mr. Niraj Gupta, Mr. Gaurav Kumar, Mr.
Somesnar Nath Pandey (in M.A. No. 190/2019)
Mr. Rahul Choudhary, Ms. Meera Gopal,
Advocates for original applicants

For Respondent (s): Mr. Sanjay Dewan, Advocate for GNCTD
Ms. Puja Kalra, Advocate for South MCD

ORDER

1. This application for execution of order dated 11.12.2015 for removing encroachments from forest land was taken up earlier on 02.07.2019. This Tribunal sought a status report about the compliance of the order of this Tribunal from the Chief Secretary, Delhi.
2. Accordingly, a status report dated 08.08.2019 has been filed based on the inputs from the Revenue Department, District Administration, South Delhi District, Forest Department, Law Department, Urban

Development Department, Delhi Urban Shelter Improvement Board and Delhi Police. It is stated that demarcation and handing over of the forest land has been completed as per Notification dated 04.04.1996. Encroachments have been identified and demarcations done with Total Station Machine (TSM). Encroachments have been removed from 110-18 Bigha-Biswa (22.9 Acres) area between 29th to 31st July, 2019. Vacant land has been taken over by the Forest Department. Work of fencing and protection has commenced. Area of 118-5 Bigha-Biswa (24.6 Acres) is a part of a slum colony which is a part of 675 such colonies. For removing the said encroachment, the Delhi Slum and Jhopri Relocation and Rehabilitation Policy, 2015 is to be followed and the NCT of Delhi Laws (Special Provisions) (Second Amendment) Act, 2017 provides for rehabilitation of the encroachers. We may also note the status report dated 13.08.2019 filed by the District Magistrate, South stating that encroachments have been removed from 127-09 (26.5 Acres) from Dera Mandi Village. While some land under encroachment in the same village is yet to be retrieved, as the said area is covered by list of Jhuggi Jhopri bastis which are protected under the NCT of Delhi Laws (Special Provisions) (Second Amendment) Act, 2017 and the Delhi Slum and Jhopri Relocation and Rehabilitation Policy, 2015. For removing such encroachments, relocation of the inhabitants will be required.

3. By a separate order passed today in *M.A. No. 190/2019* which was filed by the encroachers for recall of order dated 11.12.2015, it has been observed by the Tribunal as follows:

- “2. The application has been opposed by the original applicants. Reliance has been placed on the judgment of the Delhi High Court in W.P. (C) 5459/2017, Residents Welfare Association (Regd.) & Ors. Vs. Union of India & Ors., laying down as follows:
- “16. Although, by virtue of Section 3(2) of the Act, status quo as to certain encroachments or unauthorised developments as on 01.01.2006 is to be maintained, the same plainly does not extend to forests as no such use is permitted under the Forest (Conservation) Act, 1980. Further the Act was enacted in public interest so that no hardship is caused to the public until revision of Master Plan. The same has little relevance in the context of Forest land, which must be preserved. More importantly, the provisions of the Act cannot be read as protecting unauthorised encroachments, which are necessarily required to be removed for protecting the water bodies and preserving the natural flow of water, which is necessary to preserve and provide the basic necessity of life. Further is necessary to address the issue of water logging as that brings the functioning of the city to a standstill causes loss to property and exposes its residents to outbreak of diseases. The encroachment by petitioners cannot be protected at the cost of the other residents of the city. This is neither the object nor the import of the Act.”
3. Further reliance has been placed on *M.C Mehta v. U.O.I (In Re: Kant Enclav matters) 2018 SCC Online SC 1426* wherein the principle laid down in *Godavarman Thirumulkpad Vs. Union of India (1997) 2 SCC 267* was reiterated.
4. The applicants do not dispute that the area in question is forest area. The application for recall is based on the allegation that the applicants have been given the land by Gaon Sabha. The Delhi Government vide Notification dated 02.04.1996 placed the land at the disposal of the Forest Department. The applicants sought regularization of the land under the National Capital Territory of Delhi Laws (Special Provisions) Act, 2006 which has provisions for relocation of slum dwellers. The area is shown as unauthorised colony in the DDA development plan. Reliance has also been placed on the National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 for relocation and rehabilitation of slum dwellers. The area in question has a colony inhabited by 400 families. In execution of the order dated 11.12.2015, the said applicants apprehend dispossession and moved the Hon'ble Supreme Court by way of Civil Appeal being Civil Appeal (Diary) No. 20867/2017 which was disposed of on 10.11.2017 with

the observation that it would be more appropriate for the NGT to look into the grievance of the applicants.”

4. We have taken note of the reports submitted by the Chief Secretary and the District Magistrate, South in relation to the ongoing process of removal of encroachment. As per the status report of the Chief Secretary dated 08.08.2019, Delhi, there are around 5000 people residing in the Sambhav, Bapu and Biru Campu and 3000 people residing in the Bheem Basti. As per the report of the Chief Secretary the entire process of rehabilitation will take one (1) year.

5. In view of the judgment of the Delhi High Court quoted above, which is based on judgements of the Hon'ble Supreme Court in *T.N Godavarman*, regularization of encroachment of forest land is not permissible. The applicability of the Regularization Policy or Special Provisions Act stands excluded as far as forest land is concerned. Moreover, India's Forest Policy is that since encroachment on forest lands has been on the increase, this trend has to be arrested and effective action taken to prevent its continuance. There should be no regularisation of existing encroachments.¹

6. As per Forest Survey of India report titled "State of Forest Report 2017 for the NCT of Delhi"², the forest cover in Delhi is 12.97% of the State's geographic area. The total carbon stock of forests³ in Delhi is

¹ 4.8.1- Encroachment on forest lands has been on the increase. This trend has to be arrested and effective action taken to prevent its continuance. There, should be no regularisation of existing encroachments, *National Forest Policy, 1988, Government of India, Ministry of Environment, Forest & Climate Change*

² <http://fsi.nic.in/isfr2017/delhi-isfr-2017.pdf>

³ Forest carbon stock is the amount of carbon that has been sequestered from the atmosphere and is now stored within the forest ecosystem, mainly within living biomass and soil, and to a lesser extent also in dead wood and litter.

0.948 million tonnes (equivalent to 3.476 million tonnes of CO₂) which 0.01% of total forest carbon in the country. Encroachments in the forest will result in the decline of the carbon stock and will not be able to combat with the severe air pollution in Delhi. India is committed to the 'Green India Mission' launched under the National Action Plan on Climate Change (NAPCC) with the objective to expanding forest cover from 23% to 33% of India's territory. The current forest cover of our country is 21.54%.⁴ The lackadaisical attitude of the authorities is apparent since over the years no permission was ever sought for the non-forest use of forest land as per the procedure laid down in the Forest Conservation (Rules), 2003.

7. Let further necessary steps be now taken and a further progress report filed on or before 30.11.2019 by e-mail at judicial-ngt@gov.in. The progress may be monitored by the Chief Secretary.

List again on 17.01.2020.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

August 14, 2019
Execution Application No. 05/2017
IN O.A. No. 13/2015
DV

⁴ <http://fsi.nic.in/isfr2017/isfr-forest-cover-2017.pdf>

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Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

M.A. No. 190/2019

IN

O.A. No. 13/2015

Dr. Amarjit Singh Nalwa & Ors.

Applicant(s)

Versus

The state of NCT Delhi & Ors.

Respondent(s)

Date of hearing: 14.08.2019

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

For Applicant(s):
(in M.A. No. 190/2019)

Mr. Niraj Gupta, Mr. Gaurav Kumar, Mr.
Someshar Nath Pandey, Advocates

For Respondents(s):

Mr. Rahul Choudhary, Ms. Meera Gopal,
Advocates (for original applicants)

ORDER

M.A. No. 190/2019

1. This application has been filed for recall of order dated 11.12.2015 in O.A. No. 13/2015. Order dated 11.12.2015 was for removing non-forest activities from the forest area.
2. The application has been opposed by the original applicants. Reliance has been placed on the judgment of the Delhi High Court in *W.P. (C) 5459/2017, Residents Welfare Association (Regd.) & Ors. Vs. Union of India & Ors.*, laying down as follows:

"16. Although, by virtue of Section 3(2) of the Act, status quo as to certain encroachments or unauthorised developments as on 01.01.2006 is to be maintained, the same plainly does not extend to forests as no such use is permitted under the Forest (Conservation) Act, 1980. Further the Act was enacted in public interest so that no hardship is caused to the public until revision of Master Plan. The same has little relevance in the context of Forest land, which must be preserved. More importantly, the provisions of the Act cannot be read as protecting unauthorised encroachments, which are necessarily required to be removed for protecting the water bodies and preserving the natural flow of water, which is necessary to preserve and provide the basic necessity of life. Further is necessary to address the issue of water logging as that brings the functioning of the city to a standstill causes loss to property and exposes its residents to outbreak of diseases. The encroachment by petitioners cannot be protected at the cost of the other residents of the city. This is neither the object nor the import of the Act."

3. Further reliance has been placed on *M.C Mehta v. U.O.I (In Re: Kant Enclav matters) 2018 SCC Online SC 1426* wherein the principle laid down in *Godavarman Thirumulkpad Vs. Union of India (1997) 2 SCC 267* was reiterated.
4. The applicants do not dispute that the area in question is forest area. The application for recall is based on the allegation that the applicants have been given the land by Gaon Sabha. The Delhi Government vide Notification dated 02.04.1996 placed the land at the disposal of the Forest Department. The applicants sought regularization of the land under the National Capital Territory of Delhi Laws (Special Provisions) Act, 2006 which has provisions for relocation of slum dwellers. The area is shown as unauthorised colony in the DDA development plan. Reliance has also been placed on the National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 for relocation and rehabilitation of slum dwellers. The area in question has a colony inhabited by 400 families. In execution of

the order dated 11.12.2015, the said applicants apprehend dispossession and moved the Hon'ble Supreme Court by way of Civil Appeal being *Civil Appeal (Diary) No. 20867/2017* which was disposed of on 10.11.2017 with the observation that it would be more appropriate for the NGT to look into the grievance of the applicants.

5. We have heard learned Counsel for the applicants and perused the averments in the application.
6. In view of the fact that the land in question is the forest land, order dated 11.12.2015 requiring non-forest activities to be removed from the said land cannot be held to be erroneous. No ground is made out for recall of the said order.

The application is dismissed.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

August 14, 2019
M.A. No. 190/2019
DV

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Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Execution Application No. 05/2017

In

O.A. No. 13/2015

(With report dated 9.11.2020)

Dr. Amarjit Singh Nalwa & Ors.

Applicant(s)

Versus

The State of NCT Delhi & Ors.

Respondent(s)

Date of hearing: 09.11.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant(s): Mr. Rahul Choudhary, Advocate

Respondent(s): Ms. Sonalika Jiwani, SDM Mehrauli

ORDER

1. The issue for consideration is remedial action against failure to remove encroachment from forest land inspite of order of this Tribunal dated 11.12.2015 at certain locations in South Delhi.
2. The matter has been earlier considered in the light of the status reports filed by the Deputy Commissioner, South District, Delhi Government. The status report shows that there are about 5000 encroachers and 750-800 structures set up illegally over a period of time at one camp and about 3000 encroachers are living at another camp. Huge forest land has been encroached. For ready reference, we reproduce extracts from order dated 17.01.2020 as follows:-

"1 to 4...xxx.....xxx.....xxx

5. Accordingly, a further status report has been filed on behalf of the Deputy Commissioner, South District. The Tables showing the particulars of Encroachments yet to be removed:-

Name of Jhuggi Jhopri Basti/Colony	Khasra No.	Total Area (Bigha-Biswa)	Remarks/Details
Shambhu Bapu Camp	91//20, 91//21, 91//22, 92//14, 92//15, 92//16, 92//17, 92//23, 92//24, 92//25, 105//3, 105//4, 105//5, 105//6, 105//7, 105//8, 105//13, 105//14, 105//17, 106//1, 106//2, 106//3, 106//4, 106//7, 106//8, 106//9, 106//10, 106//11, 106//12, 106//13, 92//16	93-16	Approx 5000 people are residing in the colony, and 750-800 structures are existing. The area is heavily built up and thickly populated. These colonies are part of Sl. No. 363 & 364 of the DUSIB list of Jhuggi Jhopri Basties.
Bhim Basti Camp	67//1, 67//2/1, 67//9/2, 67//10, 67//11, 67//12/1, 67//19/2, 67//20, 67//21, 67//22/1, 79//10, 79//11, 79//20, 79//21	24-9	Approx 3000 people are residing in the colony, and 450-500 structures are existing. The area is heavily built up and thickly populated. This colony is on Sl. No. 365 of the DUSIB list of Jhuggi Jhopri Basties.
Total Left over encroached area in village Jonapur		118-05 (24.6 Acres)	

Name of the Colony/Land Details	Khasra No.	Total Area (Bigha-Biswa)	Remarks
Shanti Camp	25/5, 25/6, 25/7, 25/14, 25/15, 25/16, 25/17, 25/25, 37//2/3, 37//3, 37//8, 37/9/1	28-9	This colony is at Sl. No. 367 of the DUSIB list of Jhuggi Jhopri Basties.
Jawahar Colony	5, 6/11, 6/20, 6/21	32-15	This colony is part of plots allotted for 20 Point Programme, for residential

			purposes. Details have been sent to Forest Settlement Officer for necessary action.
Govt. Allotments, Private Land, Temple etc.	39//7/2, 45//11/1, 56/3, 60/4, 60/7, 61/25, 62/5, 75//17/2, 82/19, 84//11/2, 91/16, 103/20/1, 108//2/2, 118//21, 131	30-18	Necessary action such as referring the matter to the Forest Settlement Officer and Religious Committee has been taken.
Total		92-02 (19 Acres)	

6. Progress after last affidavit is given as follows:

“Progress after last affidavit (12.08.2019)

It is submitted that demolition action was undertaken on 13th, 14th, 16th and 17th of August, 2019, (91-01) Bigha Biswa, (18-9) Acres of Forest Land has been retrieved and taken over by the Forest Department. Copy of Demolition report is annexed herein and marked as **ANNEXURE-A**. Copy of the last affidavit file by the respondent is also annexed herein and marked as **ANNEXURE-B**.

Further, the demolition programme was fixed on 30/10/2019, for the removal of encroachment in village Dera Mandi. However, consequent upon the Hon'ble High Court of Delhi, vide order dated 18/10/2019 in W.P. (C) 11079/2019 titled as Bari Bhati and Chhoti Bhati Resident Welfare Association and Ors. Vs Govt. of NCT of Delhi & Ors., deferred the said demolition process till 10/11/2019.

The encroachers went in High Court for Khasra Nos. 123/3/2, 123/4/2, 123/5, 123/6, 123/15, 124/1, 124/2, 124/9, 124/10, 124/11, 124/12, 125 & 126 of village Dera Mandi, in the matter of Om W.P. (C) 11079/2019 titled as Bari Bhati and Chhoti Bhati Resident Welfare Association and Ors. Vs Govt. of NCT of Delhi & Ors., where ASC informed to the Hon'ble High Court the time being there is no demolition programme. As and when, the matter came to the knowledge of SDM (Mehrauli), SDM (Mehrauli) briefed the matter to the DM (South), after that DM (South), instructed to ASC and SDM (Mehrauli) to file an affidavit in Hon'ble High Court for early hearing. On 18/11/2019, Hon'ble High Court directed to Status Quo to be maintained in the same matter, till further order. Accordingly, action against ASC has been proposed by DM (South). Since ASC failed to protect Government interest in this matter.

Directions of Hon'ble High Court of Delhi to the respondents, on 18.11.2018, in reference to W.P. 11079/2019 of the High Court of Delhi in Bari Bhati and Chhoti Bhati Resident Welfare Association and Ors. Vs Govt. of NCT of Delhi & Ors., as follows:-

Learned senior counsel appearing for the petitioner has submitted that the notification dt. 02.04.1996 issued under section 154 of the Delhi Land Reforms Act, 1954 does not state that the above stated land. He states that there is no Notification issued by the respondent under section 4 of the Indian Forest Act, 1927. He further states that it is mandatory for the State Government to issue a Notification under section 4 of the Indian Forest Act and complete the procedure thereof before a land can be said to be reserved forest. He further states that even assuming that the land in question is Gaon Sabha land, the petitioners have been occupying the said land for the last three generations and hence the provisions of The National Capital Territory of Delhi Laws (Special Provisions) Second Bill, 2007 would be applicable and the petitioner will accordingly have protection from vacation.

Learned counsel for the respondent has disputed the above submissions.

List for further arguments on 26.11.2019 at 03:15 PM.

Status quo be maintained till then

In the same matter, demolition programme was again rescheduled for removal of all encroachment of Forest Land in the village of Dera mandi on 11/11/2019. Meanwhile, the Hon'ble Supreme Court of India had directed that due to deterioration of Air Quality Index, all construction and demolition activities in Delhi/NCR region will be stopped immediately till further order, in the matter of W.P. (s) (Civil) No. (s). 13029/1985 titled as M.C. Mehta Vs. UOI & Ors. dated 06/11/2019.

As per the directions of Hon'ble Supreme Court of India in the above mentioned matter, the demolition programme for removal of encroachment on Forest Land in the village of Dera Mandi, could not be done on 11/11/2019.

Further, another demolition programme is also fixed on 30.11.2019. Copy of the same is annexed herein and marked as ANNEXURE-C; however, this is subject to the revised order of Hon'ble Apex court in the matter of W.P. (s) (Civil) No. (s). 13029/1985 titled as M.C. Mehta Vs UOI & Ors."

7. It is clear from the above, that the matter is not being seriously pursued in proceedings pending before the High Court. It is admitted that Counsel for the Department itself made a statement that there was no demolition programme which was sought to be later on withdrawn. The legal position, as recorded in the orders of this Tribunal and earlier order of the High Court was not projected before the High Court in subsequent proceedings. The observations in the earlier order of the High Court in W.P. (C) 5459/2017, Residents Welfare Association (Regd.) & Ors. Vs. Union of India & Ors. are:

“16. Although, by virtue of Section 3(2) of the Act, status quo as to certain encroachments or unauthorised developments as on 01.01.2006 is to be maintained, the same plainly does not extend to forests as no such use is permitted under the Forest (Conservation) Act, 1980. Further the Act was enacted in public interest so that no hardship is caused to the public until revision of Master Plan. The same has little relevance in the context of Forest land, which must be preserved. More importantly, the provisions of the Act cannot be read as protecting unauthorised encroachments, which are necessarily required to be removed for protecting the water bodies and preserving the natural flow of water, which is necessary to preserve and provide the basic necessity of life. Further is necessary to address the issue of water logging as that brings the functioning of the city to a standstill causes loss to property and exposes its residents to outbreak of diseases. The encroachment by petitioners cannot be protected at the cost of the other residents of the city. This is neither the object nor the import of the Act.”

8. Reference may also be made to the observations of the Hon'ble Supreme Court in *M.C Mehta v. U.O.I (In Re: Kant Enclave matters)* 2018 SCC Online SC 1426 wherein the principle laid down in *Godavarman Thirumulkpad Vs. Union of India* (1997) 2 SCC 267 was reiterated.

9. In view of above legal position, no encroachment can be allowed to continue on the forest land and wherever stay has been granted, this position may need to be explained by the Delhi Government.

10. The orders for not undertaking to maintain air quality ought not to be construed as an obstacle to the removal of illegal constructions or demolition for remove encroachments not entailing constructions and demolitions.

11. Let further steps in the matter be taken expeditiously. The monitoring has to be at appropriate higher level so that the encroachments are not obstructed as appears to be happening at the moment.

12. Further report about the status of steps taken, as on 30.04.2020, be filed before the next date by email at judicial-ngt@gov.in.”

8. A further compliance report has been filed today giving the status of demolition as follows:-

“5. The demolition status of the khasra-wise encroachments removed in Dera Mandi Village on 13,14,16 and 17th August, 2019 and present status is submitted below:-

Table showing encroachments removed in Dera Mandi village

Khasra No.	Area	Remove Encroachment Area
77/19/1	2-4	2-4
85/1/2	1-0	1-0
2/1	1-14	1-0
12/2	3-11	3-11
44/7/2	1-4	1-4
47/19/2	2-0	2-0
123/16	4-16	4-16
17	4-16	4-16
18	4-16	4-16
19	4-16	4-16
20	4-16	4-16
21	4-16	4-16
22	4-16	4-16
23	4-16	4-16
24	4-16	4-16
25	4-16	4-16
124/20	4-9	4-9
125 Min	13-9	4-16
112/3	4-12	0-2
4	4-12	0-10
5/1	1-18	0-6
7	4-16	0-16
111/2/1	2-4	0-14
4/1	1-3	1-3
110/3/1	0-8	0-8
12	4-16	0-16
21/1 & 21/2	4-16	0-6
22	4-16	0-12
24/2	3-02	3-02
81/24	3-4	3-4
104/20/2	0-6	0-6
106/12/1	1-12	1-12
123/11/2	2-16	1-07
12	4-16	1-13
85/25/2	2-4	2-4
108/13/2	3-12	1-3

14	4-16	0-16
20	4-16	0-16
2/2	1-6	1-6
Total Encroachment Removed Area		91-01 (18-9 Acres)

6. It was mentioned in the said order "10. The orders for not undertaking to maintain air quality ought not to be construed as an obstacle to the removal of illegal constructions or demolition for remove encroachment not entailing constructions and demolitions." Accordingly, a demolition order dated 29.07.2020 was issued to all the Encroachers in the instant matter to remove the unauthorized construction/ colonization and plotting at Kh. Nos. 61/21 (0-13), 22 (0-11), 23/1 (0-7), 78/20/1 (0-16), 22/3 (2-3), 23/2(0-13) & 79/25/2 (2-0) Village Dera Mandi, New Delhi, on 18.08.2020.

7. However, the proposed demolition on 18.08.2020 could not be held **due to** non-availability of the police force despite informing them well in advance to depute sufficient police on the date of demolition.

8. Director (Rehabilitation), Delhi **Urban Shelter Improvement Board**, Govt. of NCT of Delhi, was requested vide letter dated 26.10.2020 to inform the steps taken by the DUSIB to relocate the JJ clusters of Sambhu Babu Camp & Bhim Basti Camp so as to initiate further **necessary action by** the Revenue Department.

9. In this regard, a letter **was** received from the Department of Urban Development, GNCTD stating that "**The Rehabilitation Branch of DUSIB relocated JJ Basti on request of Land Owning Agency (LOA), i.e. Forest Department, as per provisions of Delhi Slum JJ Rehabilitation and Relocation Policy — 2015, after receipt of relocation charges in advance from concerned LOA, after completing all codal formalities.**"

10. As per the laid down procedure, the Forest Department, Govt. of NCT of Delhi, being the land owning **agency**, will be requesting the Rehabilitation Branch of DUSIB, for rehabilitation of families / clusters in the encroachment areas."

9. While it is true that removing such encroachment is a challenge but if the Rule of Law is not to be enforced, we will have lawless society. Forest laws can be defeated by allowing encroachments and thereafter pleading helpless in enforcing the law.

10. SDM, Mehrauli is present in person and she has assured that further action according to law will be taken.

11. In view of the above, let further action be taken according to law and status report as on 31.03.2021 be filed before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List for further consideration on 19.04.2021.

Pending M.A. Nos. 540/2017, 223/2019 and 224/2019, do not survive for consideration, in view of the subsequent orders passed. The same stand disposed of.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

November 09, 2020
Execution Application No. 05/2017
A

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
ORIGINAL APPLICATION No. 33 OF 2016 (SZ)

IN THE MATTER OF:

Vakkanti Koteswar Rao

....

Applicant(s)

Versus

Ministry of Environment Forest
& Climate Change, Government of India,
New Delhi & 7 Others

....

Respondent(s)

JOINT COMMITTEE REPORT

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Place: Hyderabad

Date: 18-03-2021.

REPORT OF THE JOINT COMMITTEE CONSTITUTED BY THE HON'BLE NATIONAL GREEN TRIBUNAL, CHENNAI IN ORIGINAL APPLICATION NO.33 OF 2016 SZ) FILED BY SHRI VAKKANTI KOTESHWAR RAO Vs UNION OF INDIA MOEF&CC AND ORS.

It is to submit that Sri Vakkanti Koteswara Rao, H.No.2-8, Komatikunta (V) Nereducherla (M), Nalgonda District (now Suryapet District) has filed an Application before the Hon'ble National Green Tribunal, Southern Zone, Chennai (Original Application No. 33 of 2016) against M/s. Deccan Cements Ltd (8th Respondent). As per the Hon'ble NGT orders, a joint committee was constituted and the joint committee has submitted report to the Hon'ble NGT.

The Hon'ble NGT has passed orders dated 11.01.2021 and directed the joint committee to consider the objections submitted by the Applicant on the joint committee report and directed to submit further report.

In this regard, the joint committee has submitted the report to Hon'ble NGT and the Hon'ble NGT has heard the matter and passed orders on 22.02.2021 directing the Joint committee to submit further report on certain issues on or before 22.03.2021.

In this regard, the para wise reply to the clarifications sought by the Hon'ble NGT is submitted as below.

Para-1 of Hon'ble NGT Order Dated.22.02.2021:-

Reply: No Remarks.

Para-2 of Hon'ble NGT Order Dated.22.02.2021:-

Reply: No Remarks.

Para-3 of Hon'ble NGT Order Dated.22.02.2021:-

Reply: No Remarks.

Para-4 of Hon'ble NGT Order Dated.22.02.2021:-

Reply: No Remarks.

Para-5 of Hon'ble NGT Order Dated.22.02.2021:-

Reply: No Remarks.

Para-6 of Hon'ble NGT Order Dated.22.02.2021:-

Reply: No Remarks.

Para-7 of Hon'ble NGT Order Dated.22.02.2021:- The report filed by the Joint Committee recently also does not show the status of the mining closure measures taken in respect of Mine-I directed to be complied by the 8th respondent. They also have not mentioned as to whether any excess mining has been done in the encroached area and what is the action taken by them for realization royalty of excess mining and penalty thereof, except stating that they are taking steps for regularization of the same. What are all the steps taken by them in respect of encroachment into the forest area was also not made clear in the report. They also have not given the details regarding the compensatory Afforestation land of 73.93 Ha., which is said to have been mutated in the name of Forest Department and what is the stage of the mutation and steps taken by them for that purpose.

Reply: it is humbly submitted that, the 8th respondent i.e. M/s Deccan Cements Limited is served a notice by District Forest Officer, Suryapet vide Rc.No.789/2020/S4, Dt.24.01.2019 to develop green cover and progressive back filling of Mine -I (Annexure-I). The 8th respondent has taken up back filling of Mine -I accordingly (Annexure-II).

It is submitted that the Project proponent has obtained the deemed renewal of Mining Lease for ML-2 for a period that is co-terminus with the period of mining lease granted under Mines and Minerals (Development & Regulation) Act 1957 up to 08.02.2050 (copy of MoEF F.No.11-51/2015-FC, dated 01.04.2015--Annexure-III). Hence, the issue of back filling of ML-2 doesn't arise now.

Further, it is submitted that the project proponent has not done mining in the encroached area which extends to 8.02 Ha inside the Reserved Forest land i.e., no part of Forest land is encroached by the user agency for the purpose of mining. The project proponent has limited his mining activity within the area diverted for mining. Further it is submitted that, the Divisional Forest Officer, Nalgonda vide letter dated 19.04.2010 has stated that the newly proposed mining area (ML-3) is located in southern boundary of Reserve Forest (Annexure-IV). Hence, the project proponent has mistaken it as boundary line of Reserve Forest and erected certain structures like sheds in that encroached area. This was noticed & confirmed during the joint survey. Accordingly, the user agency is served a show cause notice dated 01.07.2020 for encroachment in Reserve Forest land (Annexure-V). The user agency has admitted the mistake and prayed before the competent authority to give an opportunity to rectify the mistake. Hence, the competent authority has given an opportunity

to the proponent M/s Deccan Cement Limited to apply for diversion of above said encroached land of 8.02 Ha. Accordingly, the project proponent has applied for diversion/regularization of 8.07 Ha for the alleged encroachment in to reserve forest.

It is submitted that, the details of compensatory land to an extent of 73.93 Ha is already handed over to the Forest Department by user agency. The compensatory land is handed over at two places. The land is mutated by Revenue Authorities in the name of Forest Department (Annexure-VI & VII) Notification proposals for these lands are currently under progress by the Forest Department and will be completed in 6 months time.

Para-8 of Hon'ble NGT Order Dated.22.02.2021:- According to the applicant, as per the details produced along with the joint committee report, the extent of the land for Compensatory Afforestation did not tally with the actual extent expected to be transferred under the Compensatory Afforestation Scheme.

Reply: It is submitted that the compensatory forest land to an extent of 73.93 ha of forest land diverted for mining is handed over to the Forest Department in the following two places.

1. An area of 43.909 Ha (Ac.108.50cents) in Sy.no. 540 of Pedaveedu village adjacent to Reserve Forest block Gurrambodu of Suryapet District (erstwhile Nalgonda District) (Annexure-VI).
2. An area of 30.04 Ha (Ac.74.20cents) in Sy.Nos.231,232, 233,235,236, 237,240,241 and 242 of Nambapuram village of P.A.Pally Mandal of Nalgonda District (Annexure-VII).

Hence, the applicant's allegation of non - transfer of equivalent amount of CA land is incorrect.

Submitted.

[Signature]
 District Forest Officer,
 Suryapet
 District Forest Officer
 SURYAPET.

[Signature]
 Environmental Scientist,
 TSPCB,BO,
 Hyderabad
 Environmental Scientist
 Central Laboratory
 Telangana State Pollution Control Board,
 Sanathnagar, Hyderabad.

[Signature]
 Asst. Director, Mines
 & Geology, Suryapet
 Asst. Director of Mines and Geology
 SURYAPET

[Signature]
 Dist. Collector,
 Suryapet
 DISTRICT COLLECTOR
 SURYAPET

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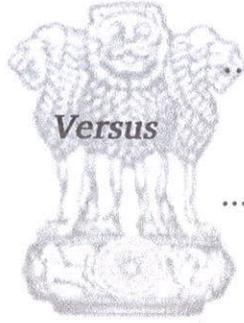
Item No. 10

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
Original Application No. 33 of 2016 (SZ)

(Through Video Conference)

IN THE MATTER OF:

Vakkanti Koteswar Rao



... Applicant(s)

Versus

Union of India and Ors.

... Respondent(s)

Date of hearing: 02.09.2021

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE MR. DR. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s):

Mr. Vakkanti Koteswar Rao (party - in person)

For Respondent(s):

M/s. M.Sumathi for R1.

M/s. H. Yasmeen Ali for R2, R3, R5, R6 & R9.

Ms. J. Dayana represented

Mr. T. Saikrishnan for R4 & R7

Ms. Elakkia represented

Mr. P. J. Rishikesh for R8

ORDER

1. As per order dated 19.08.2020, after considering the report submitted by the Joint Committee, this Tribunal had passed the following order:-

"6.The committee have assessed the environmental compensation and they want this Tribunal to approve the same and pass appropriate orders. It may be mentioned here that it is not for the Tribunal to pass any order in respect of environmental compensation. That is for the regulator to take appropriate action against the violators

after giving an opportunity to the violating industry to be heard.

7. So under such circumstances, we direct the regulators to consider the report and take appropriate action against the alleged violating unit, after giving an opportunity to that unit and pass appropriate orders and submit a compliance report regarding the same to this Tribunal. We do not express any opinion regarding the report at this stage.

8. The Regional Office, MoEF & CC is also directed to consider the report and if any action is required on that basis, they are also directed to take appropriate action in accordance with law and submit the report to that effect.

9. Learned counsel appearing for the applicant as well as eighth respondent wanted time to file their objections to the committee report and they are at liberty to file the same to this Tribunal before the next hearing date.

10. The regulating authorities namely the Pollution Control Board and Regional Office, Ministry of Forest & Climate Change (MoEF & CC) are also directed to consider the question of alleged violations mentioned in the report and the action taken on that basis before the next hearing date.

2. The case was posted to 06.11.2020 for filing further action taken report and also for objections. Thereafter the matter was taken up on 06.11.2020 and which was extracted in the order dated 19.08.2020 in Para (1) of the order and also considered the submissions and posted the case to 05.12.2020 for filing objections if any and consideration of report. Thereafter the matter was taken up on 11.01.2021 and recorded the submission made by the 8th respondent that they have deposited the environmental compensation of

Rs.28,20,000/- (Rupees Twenty Eight Lakhs and Twenty Thousand Only) imposed by the Pollution Control Board **as per order dated 18.12.2019** as **per the direction of this Tribunal**, which was confirmed by the memo filed by the Pollution Control Board dated 11.12.2020. On the basis of the submissions made by the counsel for the Ministry of Environment, Forests and Climate Change (MoEF & CC) the matter has been adjourned for filing further report and we have also directed the joint committee to file further report on the basis of the objections raised by the applicant and also the contentions raised by the 8th respondent in their written submission and posted the case to 22.02.2021. On 22.02.2021, this Tribunal had passed the following order:-

" 5. We have received the Joint Committee report dated 19.02.2021 considering the objections filed by the applicant. However, we have not received the independent report to be filed by the MoEF&CC as directed by this Tribunal.

6. The learned counsel who represented the counsel appearing for the MoEF&CC wanted some more time for filing the report.

*7. The report filed by the Joint Committee recently also does not show the status of the mining closure measures taken in respect of Mine-I directed to be complied by the 8th respondent. They also have not mentioned as to whether any excess mining has been done in the encroached area and what is the action taken by them for realization royalty of excess mining and penalty thereof, except stating that they are taking steps for regularization of the same. **What are all the steps taken by them in respect of encroachment into the forest area was also not made clear in the report. They also have not given the details regarding the compensatory afforestation***

land of 73.93 Ha. which is said to have been mutated in the name of Forest Department and what is the stage of the mutation and steps taken by them for that purpose.

8. According to the applicant, as per the details produced along with the joint committee report, the extent of the land for Compensatory Afforestation did not tally with the actual extent expected to be transferred under the Compensatory Afforestation Scheme.

9. The committee is also directed to explain the same in the subsequent report to be filed. The committee as well as the MoEF&CC are directed to submit the report to this Tribunal on or before 22.03.2021 by e-filing in the form of Searchable/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

10. The Registry is directed to communicate this order to the members of the committee as well as to the official respondents by e-mail immediately so as to enable them to comply with the direction.

3. The case was posted to 22.03.2021 and on 22.03.2021 the matter has been adjourned to 26.04.2021 at the request of the parties. Thereafter the matter has been taken up on 29.06.2021 and the matter was adjourned from time to time by successive notifications for filing the report to be submitted by the joint committee as well the Ministry of Environment, Forests and Climate Change (MoEF&CC). The matter was lastly adjourned to today as per notification dated 16.08.2021.
4. The counsel appearing for Ministry of Environment, Forests and Climate Change (MoEF&CC) wanted some more time to file the report. The matter is of the year 2016, Ministry of Environment, Forests and Climate Change

(MoEF&CC) is expected to file the report as directed without further delay.

But we wanted to know only a further action, if any, has taken by the Ministry of Environment, Forests and Climate Change (MoEF&CC) in this regard, especially in respect of the encroachment into the forest area.

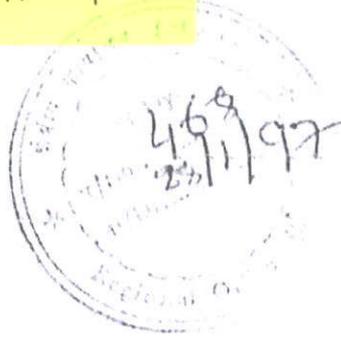
5. The above officials are directed to submit the report to this Tribunal on or before 27.09.2021 by e-filing in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF along with necessary hard copies to be produced as per rules. If the report is not filed as directed, then this Tribunal will be compelled to dispose of the case with the available materials as this Tribunal cannot wait for getting the report from the Ministry of Environment, Forests and Climate Change (MoEF&CC) indefinitely as the matter is of the year 2016.
6. The Registry is directed to communicate this order to the Ministry of Environment, Forests and Climate Change (MoEF&CC), Regional Office and also to the official respondents through e-mail immediately so as to enable them to comply with the direction.
7. For consideration of report and also for hearing, post on 27.09.2021.

.....J.M.
(Justice K. Ramakrishnan)

Sd/--
.....E.M.
(Dr. K. Satyagopal)

O.A. No.33/2016,
02.09.2021, Sr.

392
C. Alaud



आर
Telegram : PARYAVARAN,
NEW DELHI

Answer 28

55 316
दूरभाष :
Telephone :
टेलिग्राफ (द्विभाषीय) :
Telex : (bi-lingual) : W-66185 DOE IN
FAX : 4360878

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
पर्यावरण भवन, सी० जी० ओ० कॉम्प्लेक्स
PARYAVARAN BHAWAN, CGO COMPLEX
लोधी रोड, नई दिल्ली - 110003
LODHI ROAD, NEW DELHI-110003

No.8-44/96-FC

Dated: 07.01.1997

To

The Secretary (Forests),
Govt of Andhra Pradesh,
HYDERABAD.

Sub:- Diversion of 73.93 ha. of forest land in Nalgonda district in favour of M/s. Deccan Cements Ltd. for additional lime stone mining lease.

Sir,

I am directed to refer to your letter No.838/For.I/96-1 dated 24.2.96 on the above mentioned subject seeking prior approval of the Central Government in accordance with Section-2 of the Forest (Conservation) Act, 1980.

After careful consideration of the proposal of the State Government, the Central Government, hereby, agrees in principle for diversion of 73.93 ha. of forest land in Nalgonda district in favour of M/s. Deccan Cements Ltd. for additional lime stone mining lease, subject to fulfilment of following conditions:-

- (i) Immediate action should be taken for transfer and mutation of equivalent non-forest land in favour of State Forest Department.
- (ii) The user agency will transfer the cost of compensatory afforestation over equivalent non-forest land (revised as on date to incorporate existing wage structure) in favour of the State Forest Department.

After receipt of compliance report on the fulfilment of the above conditions from the State Govt., formal approval will be issued in this regard under Section-2 of the Forest (Conservation) Act, 1980. Transfer of forest land to user agency should not be effected by the State Govt. till formal orders approving diversion of forest land are issued by the Central Govt.

Yours faithfully,

(A.N. SHARAN)
ASSTT. INSPECTOR GENERAL OF FORESTS

317
56

Copy to:-

1. Principal Chief Conservator of Forests, Govt. of Andhra Pradesh, Hyderabad.
2. Nodal Officer, Office of PCCF, Govt. of Andhra Pradesh, Hyderabad.
3. The CCF (Central), Regional Office, Bangalore.
4. RO(HQ), New Delhi.
5. Guard File.

A. N. SHARAN
3.1.97
(A.N. SHARAN)
ASSTT. INSPECTOR GENERAL OF FORESTS

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Amay D

318



Government of Andhra Pradesh
Forest Department.

From
Sri D. Ravinder Reddy, M.S. (USA),
Divisional Forest Officer,
Nalgonda.

To
The Vice President (Works)
M/s Deccan Cements Limited,
Bhavanapuram, Janpahad,
Miryalguda.

Rc.No.4317/S5/99 Dt. 25-4-2000

Sir,

Sub:- Time Limit for sending compliance approval and start of work after issue of final report - compliance report called for -Reg.

Ref:- 1.This office Rc.No.4716/89/S5 Dt. 11-2-2000

...

With reference to the subject and reference cited, the user agency is requested to submit the compliance report, whether the diverted land 73.93 Ha. of Forest Land at Saidulnama Reserve Forest Block in Miryalguda Range is under use by the user agency or not. As per GOI MOE&F New Delhi Lr.No.4-2/99-FC (PT) Dt. 31-8-1999 compliance report of conditions of in principle approval is not submitted within two years time period from date of receipt of the order. Thus the order (is., in principle) will automatically stand ~~revoked~~ ^{revoked}. Further in case of non-use of Forest land (For the purpose for which it was diverted) with in period of two years from the date of issue of final order. The order stands automatically **revoked.**

In view of the above the user agency is requested to submit the compliance report as per conditions of in-principal approval whether the diverted land of 73.93 ha. of Forest land is under use or not.

Yours faithfully,
Sd/-
Divisional Forest Officer,
Nalgonda.

Copy to the Forest Range Officer, Miryalguda is instructed to inspect the mining lease area and submit the compliance report whether the diverted land 73.93 ha. Forest land is under use by the user agency or not.

/t.c.b.o./

[Signature]
Superintendent.
26/4/2000

...

On request under RTI Act the document was Issued

GOVERNMENT OF ANDHRA PRADESH
FOREST DEPARTMENT

319

From
Sri P. Ravinder Reddy, M.S(USA),
Divisional Forest Officer,
Nalgonda.

To,
The Conservator of Forests,
Hyderabad Circle,
Hyderabad.

Rc.No. 4716/89/S1, (S5) (Vol. IV) Dt:- 01/04/2002

Sir,

Sub:- M & M ^{MP DCL} Diversion of 73.93 ha of Forest Land from Saldulnam Rf in Miryalguda Range - CA land at Gurrampodu Village handedover to FD - Report Submitted - Reg.

- Ref:-** 1) This Office Ref No. 4716/89/S1,S5 Dt:- 20/03/02
2) This Office Ref No. 4716/89/S1,S5 Dt:- 22/03/02
3) M/s Deccan Cements Ltd Lr No. DCL:DFO:PJR:02 Dt:- 22/03/2002
4) This Office Ref No. 4716/89/S1,S5 Dt:- 26/03/02
5) M/s DCL Lr No. DCL:JKR:DFO lands 2002 Dt:- 25/03/02.

* * *

1. In continuation of this Office reference 1st, 2nd and 4th cited, I submit that the user Agency through their letter 5th cited has offered the equivalent CA land elsewhere and requested this office to give the time to procure the suitable land and drop the criminal proceedings. A copy of the M/s Deccan Cements Ltd letter 5th cited is enclosed herewith for your kind perusal. In their letter, they have also requested to furnish the copy of investigation report for their study and comments. Further, the user Agency has also stated that an extent of 74.20 cents towards CA land handedover to the Forest Department on 16/03/1997 at Nambapur Village of PA Pally Mandal, Nalgonda District which falls under the jurisdiction of Divisional Forest Officer, WLM, Nagarjuna Sagar may raise the afforestation immediately. The user agency is also stated that till the disputed land at Gurrampodu is cleared, they shall restrict their mining activities in their 74.20 cents only.

2. In this regard it is submitted that, based on the report of the Divisional Forest Officer, Flying Squad Party, I have filed a complaint with Sub Inspector of Police Mattampally against the fraudulent action in registering CA land based on fraudulent GPA papers vide this Office reference No.4716/89/S1,(S5) Dt:- 26/03/2002. As the user agency have offered alternative CA land elsewhere, I request the Conservator of Forest, Hyderabad Circle, Hyderabad to kindly issue necessary instructions in the matter on the representation of user agency Dt: 25/03/2002 for taking further action.

Early action in this regard is highly solicited.

Yours faithfully,

P. Ravinder Reddy
1.4.2002
Divisional Forest Officer,
Nalgonda.

Copy to M/s Deccan Cements Ltd., with reference to his letter 5th cited for information.

Copy to the Forest Range Officer Miryalguda, for information.

Sd/-
Divisional Forest Officer
Nalgonda.

On request on 14/04/2002
document was issued

BY REGD. POST. ACK DUE

Rc.No. 4716/89/S1 (S5)
Date: 15-8-2005

Office of the Divl. Forest Officer,
Nalgonda.

320

Sri P. Rajender Reddy
Divisional Forest Officer,

403

FINAL NOTICE

Sub:- FD - M&M Diversion of Non-Forest land at Charakonda (v) of Vangoor (M) Mahaboobnagar Dist - Delay in handing over the alternate CA land - Another notice issued - Reg.

- Ref:-
1. M/s DCL Lr. No. DCL/JKR/DFO/LANDS/2002 Dt. 25-3-2002
 2. PCCF Ref. No. 13110/2002/F2 Dt. 2-1-2003
 3. CF HC. Hyd. Ref. No. 6645/93/D1(ii) Dt. 13-5-03
 4. D.F.O, Nalgonda Rc.No 4716/89/S1(S5) Dt. 20-12-03
 5. M/s DCL Lr. No.DCL: PJR:DFO:CA-2003 Dt. 9-1-04 25-7-05
 6. D.F.O, Nalgonda Rc.No. 4716/89/S1(S5) Dt: 17.9.04
 7. D.F.O, Nalgonda Rc.No. 4716/89/S1(S5) Dt: 23.06.2005
 8. CF, Hc, Hyd Rc.No. 6645/93/D1 Dt: 02.07.2005
 9. D.F.O. Nalgonda Rc.No. 4716/89/S1 (S5) Dt: 7.7.2005
 10. D.F.O. Nalgonda Rc.No. 4716/89/S1 (S5) Dt: 1.8.2005

In continuation of this office reference 10th cited, the user agency is informed that there is no response from your end though (4) notices have been issued to you.

Therefore, once again the User Agency is requested to look into the seriousness of the matter and handover the alternate Compensatory Afforestation land immediately without waiting for further action in this regard. This is a final notice to you and no further correspondence will be made to the User Agency.

The receipt of this notice should be acknowledged on the duplicate copy enclosed.

Sd/-
Divisional Forest Officer,
Nalgonda.

To
M/s Deccan Cements Limited,
Bhavanipuram, Janpahad PO Pin. NO. 508 218
Nalgonda District.

Copy submitted to the Conservator of Forests, Hyderabad Circle, Hyderabad for favour of kind information.

Copy submitted to the District Collector, Nalgonda for favour of kind information.

Copy to Forest Range Officer, Miryalaguda for necessary action.

Sd/-
Divisional Forest Officer,
Nalgonda.

//t.c.b.o//

Superintendent

4716,89,S1 (S5) apv

On request under RTI Act the
document was Issued

IK
Forest Range Officer
Huzurnagar.

- 149 -

**GOVERNMENT OF ANDHRA PRADESH
FOREST DEPARTMENT**

10711

From,
Sri Sunil Kumar Gupta IFS.,
Conservator of Forests,
Hyderabad Circle, Hyderabad.To,
The Prl. Chief Conservator of Forests,
Andhra Pradesh,
Hyderabad.Rc.No.6645/1993/D1, dt.04-03-2006

Sir,
Sub: Diversion of 73.93 Ha of Forest Land in Nalgonda District - in favour of
M/s. DCL for Addl. Lime stone mining lease - Reg.

Ref: Pr.C.C.F Ap Hyd Ref.No.13110/2002/F2, dt.3.2.2006.

It is submitted that the Divisional Forest Officer, Nalgonda has submitted the detailed report on the issues raised by the Govt. in case of mining lease of M/s. Deccan Cements Limited copy enclosed for kind perusal. The following are the remarks offered on the report Divisional Forest Officer, Nalgonda.

- 1) Compensatory Afforestation land:- It is to submit that the user agency is being reminded continuously by issuing notices by the Divisional Forest Officer, Nalgonda to hand over litigation free land to an extent of 44Ha in lieu of 44Ha handed over at Gurrangudu (V) found to be dispute and under cultivation. The area offered by M/s. Deccan Cements Limited., at Gurrambodu village, was inspected on 16.2.1999 and 19.2.1999 and found that there were no boundary pillars and area was not clearly demarcated by fixing permanent cairns / pillars. The Forest Range officer, Miryalaguda was deputed to survey the Compensatory Afforestation area and locate proper boundaries and to take action to evict the encroachments to notify the area as protected forests U/s. 24 and A.P Forests Act, 1967. When the Forest Range Officer tried to start the survey the villagers of Vardhapur obstructed by claiming the land belongs to them, as they are cultivating the land since 20 to 25 years. The same was informed to M/s. Deccan Cements Ltd., vide Lr.No.4716/89/S5, dt.5.2.2000 and asked them to give the possession of litigation free land and it was also informed that if the Dept., cannot raise Compensatory Afforestation in the area it will be violation of the conditions of the agreement.

The approval of mining lease is received on 5-5-1998 but the user agency not yet handed over the alternate C.A land free from disputes which is violation of conditions of the agreement. The Divisional Forest Officer, Nalgonda have already put lot efforts on this issue to persuade the user agency but not taken seriousness to hand over the land and wasted over efforts. Necessary action may be suggested for violation of and breach of conditions. /The Divisional Forest Officer is also pursuing with Police Authority to lodge a complaint against the company for registration of the land by fraudulent GPA documents. /Further the detailed report on the entire issue has

Jaya
28/11/2011

Deputy Conservator of Forests (WL)
O/o Prl. Chief Conservator of Forests,
Telangana, Hyderabad.

(6.9.9)

151

already been submitted to the Prl.Chief Conservator of Forests Vide this office Rc.No.1126/2002/D1, dt.15-3-2002 which is self explanatory, the same was also informed to the Govt. vide Prl.C.C.F Rc.No.32132/99/F2, dt.21-3-2002 copies are enclosed.

- 2) Using of road between present quarry and old quarry it is seen from the correspondence as per the proposals received from the Divisional Forest Officer the then Conservator of Forests, Hyderabad vide Rc.No.6640/79/D1, dt.1-9-1981 has accorded permission for laying of road and electrical line to the firm under intimation to the Prl.Chief Conservator of Forests a copy of the above reference is enclosed herewith subsequently the User Agency have applied fresh proposals in Form-I of FC Act 1980 and offered Compensatory Afforestation land at Nambapuram (V) PA Pally (M). The correspondence of this subject is being dealt in Prl.C.C.F Ref.No.25496/2003/F1, and 26268/2003/F1.
- 3) Reclamation Plan: The Divisional Forest Officer has reported that the user agency has been directed to make available reclamation plan immediately.

This is submitted for favour of information and necessary action.

Yours faithfully,
Sd/-Conservator of Forests,
Hyderabad Circle, Hyderabad.

//t.c.b.o//

J. Able
Manager.
6/03/06

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**GOVERNMENT OF ANDHRA PRADESH
FOREST DEPARTMENT**

Office of the Conservator of Forests,
Hyderabad Circle, Hyderabad.

Rc.No.6645/1993/D1
Dated.23.11.2006.

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**Sri Sunil Kumar Gupta IFS.,
Conservator of Forests,**

Sub: Compensatory Land handed over to Forest Department - Ac 108.50 in Gurrambodu vig Mat ampally (M) - Remarks called for - Reg.

- Ref:
1. C.F Hyd Rc.No.6645/93/D1, Dt.11.8.2005.
 2. D.F.O Nalgonda Rc.No.4716/89/S1 (S5), Dt. 01.8.2005.
 3. Representation of General Manger Deccan Cements Ltd. Dt. 23.8.2005.
 4. C.F Hyd Rc.No.6645/93/D1, Dt. 28.10.2005, 30.11.2005 & 06.01.2006.
 5. Prl. C.C.F. Ref.No 10981/02/F4, Dt. 28.06.2005 & 22.08.2006

Attention of the Divisional Forest Officer is invited to the reference cited. Wherein he was requested to pursue the matter with the user agency and submit detailed report regarding non-handing over of compensatory land in lieu of disputed C.A Land by the M/s. Deccan Cements Limited. If the company failed to comply with instructions for non-handing over of C.A Land and violation of conditions submit proposals to Prl. Chief Conservator of Forests to move the matter to the Govt. of India for taking further action, but Specific report in this matter is awaited.

M/s Deccan Cements Ltd. report 20/11

Therefore, the Divisional Forest Officer is once again requested to look into the matter personally and submit detailed report in this matter along with action to be taken for implementation of CA scheme etc urgently.

Sd/-Conservator of Forests,
Hyderabad Circle, Hyderabad.

To:
The Divisional Forest Officer,
Nalgonda.

On request under RTI Act the document was Issued
Sd/- Forest Range Officer
Huzurnagar.

Manager. 23/11/06

M/2

GOVERNMENT OF ANDHRA PRADESH
FOREST DEPARTMENT

Rc. No. 2056/2007/S5

Date: 14.05.2009

Office of the Divi., Forest
Officer, Nalgonda

Sri B. M. Swami Dass, S.F.S.,
Divisional Forest Officer

Sub:- Notification of CA Lands under A.P. Forest Act 1967 - Proposals U/s 4 in respect of 43.9 Ha., in Gurrampodu (v) in Sy. No. 540 village, adjacent to Reserve Forest Gurrampodu handed over by M/s DCL called for - Reg.

- Ref:-
1. C.F, HC, Hyd Ref. No.1094/2006/D2; Dt: 7.8.2006
 2. This office reference even no. Dt: 19.01.2007
 3. This office reference even no. Dt: 13.02.2007
 4. This office ref. even No. Dt. 1.3.2007
 5. F.R.O. Miryalguda Rc. No. 64/2007/M5 Dt. 1.3.2007
 6. Meeting convened by C.F. Hyderabad on 7.8.2007 in Nalgonda Division office.
 7. This Office Reference even No. Dt: 20.08.2007 & 25.10.2007
 8. FRO, Miryalguda Rc.No. 64/2007/M5 Dt: 26.10.2007 & 31.12.07

Personal and immediate attention of Forest Range Officer, Miryalguda is drawn to the reference 8th cited. On verification of the section 4 proposals received in respect of CA land taken from M/s Deccan Cements Ltd., the following omissions were noticed.

1. On computation of the map enclosed, the area arrived to 40.75 Ha as against 43.909 Ha.
2. The underground water pipe line stated to be passing between station Nos. 5 & 6 and 24 & 26 is not depicted on the map. The points ABCD are not shown in the map.
3. As against 5 sets, only 4 sets are received in this office.

Accordingly, the proposals received vide reference 8th cited were returned with a request to submit the same immediately duly rectifying the above omissions by 05.01.2008.

But so far, the Forest Range Officer, Miryalguda has not complied the instructions. As he is well aware that as per the guidelines of Government of India, the Compensatory Afforestation area should be notified under A.P. Forest Act, 1967 within 6 months positively. But, inspite of several reminders and personal instructions by the undersigned the matter is pending for the last 12 years which is not appreciated. He is therefore instructed to attend immediately and submit proposals by 25.05.09 positively.

On request under RTI Act the document was Issued

[Signature]
SIC Forest Range Officer
Huzurnagar.

[Signature]
Divisional Forest Officer,
Nalgonda.

To
Forest Range Officer,
Miryalguda.

// T. C. B. O. //

[Signature] 14.5.09
Technical Officer.

X

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DECCAN CEMENTS LIMITED

Annexure - X
1 Page

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WORKS BHAVANIPURAM
JANPAHAD P.O. PIN : 508218
NALGONDA DISTRICT (A.P.)
PHONES (08683) 69503, 69504
(08683) 69505, 69507
TELE/FAX (08683) 69502

DCL:JKR:DFO:LANDS:2002

The Divisional Forest Officer,
Nalgonda.

013110

25/03/2002

Dear Sir,



Sub:- M & M Diversion of 73.93 Ha of Forest land from
Saidulnama Reserve Forest Block in Miryalguda
Range - Compensatory Afforestation area at
Gurrambodu Village - Reg.

Ref:- Our Lr. No. DCL:DFO:PJR/02 Dt:- 22/03/2002

FR
In continuation of our letter cited above, we wish to inform you that
we have given authorization to purchase the lands at Gurrambodu Village of
Nattampally Mandal to Mr. Ch. Kutumba Rao, Miryalguda in good faith.

On verification of all the records pertaining to the above land by
us and the Forest Department, we have transferred the lands in your favour
and handed over.

However, we are offering the equivalent compensatory land
elsewhere. Hence, we request you to give us the time to procure the suitable
land and drop the criminal proceedings. We request you to furnish us the
investigation report done by your Department for our study and comments.
This is to bring it to your kind notice that an extent of acres 74.20 cents at
Nambapuram Village of P.A Pally Mandal handed over on 16/03/1997 in which
we request you to raise the afforestation immediately. Till the disputed land
at Gurrambodu is cleared, we shall restrict our mining activities within acres
74.20 cents only.

Thanking you,

Yours faithfully,
For Deccan Cements Limited

(J. Koteswara Rao)
Dy. Manager (Admn)

Copy to the P. Chief Conservator of Forest, A.P, Hyderabad for favorable orders
please.

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**Report of the
Comptroller and Auditor General of India
on
Economic Sector
for the year ended March 2013**

Government of Andhra Pradesh
Report No. 3 of 2014

www.saiindia.gov.in

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Preface

- 1. This Audit Report on the Government of Andhra Pradesh, covering the activities of the Economic Sector (excluding State Government Companies and Statutory Corporations), has been prepared for submission to the Governor under Article 151 of the Constitution of India.*
- 2. The Comptroller and Auditor General of India's Audit Reports relating to General and Social Sectors, Revenue Sector and Public Sector Undertakings are presented separately.*
- 3. This Report contains the results of three Performance Audits viz., (i) 'State Horticulture Mission Programme', (ii) 'Minor Irrigation' and (iii) 'Creation of Infrastructure for National E-Governance Plan (NeGP) and delivery of services to common citizens through Common Service Centers' (Chapter-2); and results of Compliance Audit (Chapter-3).*
- 4. The cases mentioned in this Report are those which came to notice in the course of audit during the year 2012-13, as well as those which had come to notice in earlier years but could not be dealt with in the previous Reports. Matters relating to the period subsequent to 2012-13 have also been included, wherever necessary.*
- 5. Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.*

Appendix 3.2

(Reference to paragraph 3.2.4.2, page 84)

Delay in notification of forest land accepted for Compensatory Afforestation

Sl. No.	Name of the Project	Date of GoI final approval	Non-forest CA land accepted (Ha) and Forest Division in which accepted	Time elapsed since final approval (as of June 2013)
1	Forest land – rehabilitation of people Thitigudem, Chirumalla, Sitarampuram and Karakagudem of Manugur Taluk, diversion of 10 Ha of forest land in Mothi RF of Bayyaram Range.	31.08.1992	10.00, DFO, Paloncha	20 years 10 months
2	Laying of 220 KV line from lower Sileru to Bommuru	07.02.1994	225.160, DFO, Kakinada	19 years 04 months
3	Diversion of forest land of 48 Ha, Chimalpad RF, Mudupally beat of Karepally range of Khammam Division for coal mining at Yellandu – Open Cast Project-II in favour of Singareni Collieries Company Limited (SCCL)	22.07.1995	48.00, DFO, Paloncha	17 years 11 months
4	Mining of lime stone Calcite etc in favour of user agency in Kurnool Dist.	12.09.1995	1.770, DFO, Kurnool	17 years 9 months
5	Diversion of 286.25 Ha of forest land on lease basis mining towards balance requirement of open cast project –II-Phase III in Kondapur- Ext.-I and Kondiagudem RF	10.10.1997	19.12, DFO, Paloncha	15 years 8 months
6	Diversion of 73.93 Ha of forest land in Compt. No. 27, Saidulunama RF, Nalgonda Dist. in favour of user agency	23.02.1998	43.909, DFO, Nalgonda	15 years 4 months
7	Diversion of 124 Ha of forest land for Guathamikhani- OCP- Phase II- in favour of SCCL.	17.08.1998	124.00, DFO, Paloncha	14 years 10 months
8	Diversion of forest land Centenary Incline- Yellandu in favour of SCCL.	10.09.1998	4.77, DFO, Paloncha	14 years 9 months
9	Diversion of 2 Ha of forest land for sand stowing plant for PK.No.1 Incline Manuguru Forest.	27.05.1999	2.00, DFO, Paloncha	14 years 1 month
10	Construction of approach road to Guathamikhani – OCP – from workers colony	27.08.1999	1.80, DFO, Paloncha	13 years 10 months
11	Construction of Dharacalva reservoir project.	27.10.2000	10.810, DFO, Kakinada	12 years 8 months
12	Diversion of forest land – OCP-I in Koyagudem	14.05.2001	18.57, DFO, Paloncha	12 years 1 month

Audit Report (Economic Sector) for the year ended March 2013

Sl. No.	Name of the Project	Date of GoI final approval	Non-forest CA land accepted (Ha) and Forest Division in which accepted	Time elapsed since final approval (as of June 2013)
13	Extraction of iron ore in Bellary RF in favour of user agency	21.10.2005	18.00, DFO, Ananthapuramu	7 years 8 months
14	Construction of Peddavagu Irrigation Project in Adilabad Dist. (Komaram Bheem Project).	02.12.2005	189.00, DFO, Ananthapuramu	7 years 6 months
15	Diversion of 220.091 Ha of forest land in Bhupathipalem, Geddada, Cheruvupalem and Rampa forest block in RC varam range of Kakinada Division for construction of Bhupathipalem Reservoir.	22.12.2005	220.190, DFO, Kakinada	7 years 6 months
16	Diversion of 110.87 Ha for Eco-Tourism Project in Ranga Reddy (RR) District.	23.03.2006	110.87, DFO, Chittoor East.	7 years 3 months
17	Pushkar Lift Irrigation Scheme.	21.04.2006	4.110, DFO, Kakinada	7 years 2 months
18	Mining lease for extraction of iron ore in Bellary RF in favour of user agency.	05.10.2006	39.50, DFO, Ananthapuramu	6 years 8 months
19	Diversion of 4.74 Ha of forest land in Ramavaram RF for shifting of 220 KV KTS Nunna SC line in Kothagudem Division.	21.11.2006	4.74, DFO, Paloncha	6 years 7 months
20	Diversion of 13.205 Ha of forest land to install natural gas pipe line through Rathikalwa RF in E.G. Dist. in favour of user agency.	21.05.2007	15.823, DFO, Nalgonda	6 years 1 months
21	Diversion of 4.88 Ha of forest land for shaft sinking of Shanthikhanai long wall project in favour of SCCL.	18.07.2007	4.88, DFO, Paloncha	5 years 11 months
22	Diversion of 39.40 Ha of forest land in four RFs of Hyderabad Division for formation of Outer Ring Road – Phase II (A) in favour of HUDA.	21.02.2008	40.47, DFO, Nalgonda	5 years 4 months
23	Talleru and Kodavali lift canals (left main canal and right main canal) under Pushkar Lift Irrigation Scheme.	03.03.2008	17.860, DFO, Kakinada	5 years 3 months
24	For excavation of canal in package no. 27 from Km 0.00 to 9.00 under GNSS flood flow canal in favour of Irrigation Dept.	26.03.2008	33.510, DFO, Kurnool	5 years 3 months
25	Excavation of SRBC main canal from 142.925 to 146.275 Km in favour of Irrigation Dept.	21.07.2008	29.260, DFO, Kurnool	4 years 11 months

Sl. No.	Name of the Project	Date of GoI final approval	Non-forest CA land accepted (Ha) and Forest Division in which accepted	Time elapsed since final approval (as of June 2013)
26	For excavation of Chute canal for spillway of Owk reservoir (Gollaleru drain) in favour of Irrigation Dept.	24.07.2008	4.80, DFO, Kurnool	4 years 11 months
27	Excavation of Owk canal to GNSS flood flow canal from Km 57.70 to Km 63.70 in favour of Irrigation Dept.	14.10.2008	28.00, DFO, Kurnool	4 years 8 months
28	Diversion of 175.69 Ha forest land in Paloncha Forest Division for open cast coal mining (OCP-II), Manuguru in favour of SCCL.	05.02.2009	175.69, DFO, Paloncha	4 years 4 months
29	Mining for extraction of Black granite in favour of user agency.	05.03.2009	7.40, DFO, Ananthapuramu	4 years 3 months
30	Mining for extraction of black granite in favour of user agency.	05.03.2009	7.40, DFO, Ananthapuramu	4 years 3 months
31	Diversion of 98.093 Ha of forest land in Kadlakoti (10.54 Ha), Thumkunta (77.129 Ha), Shamirpet (10.60 Ha), RF for ORR Project- Phase II (B), HUDA advance works in favour of PD & Special Collector, ORRP, HUDA.	08.04.2010	111.57, DFO, Nalgonda	3 years 2 months
32	Diversion of 3731.07 Ha (3473.00 Ha notified forest, 258.07 Ha deemed forest land as per Hon'ble Supreme Court Decision) - Construction of Indira Sagar (Polavaram) Project.	28.07.2010	1152.34, DFO, Kakinada	2 years 11 months
33	Formation of approach road for transportation of Minerals in favor of user agency.	02.09.2011	2.24, DFO, Ananthapuramu	1 year 9 months
34	Extraction of limestone mining in favor of user agency.	5.12.2011	630.00, DFO, Ananthapuramu	1 year 6 months
35	Formation of HAUL road for transport of limestone in favor of user agency.	24.02.2012	6.05, DFO, Ananthapuramu	1 year 4 months

Appendix 3.3

(Reference to paragraph 3.3.1, page 88)

Modernization projects approved by Government

Sl. No.	Name of the scheme	Ayacut (in lakh acres)	Background for modernization	Month/Year of Administrative Approval	Administrative Approval cost (₹ in crore)
1	Nagarjunasagar Project	21.53	Deterioration of canal and distributary system; deficiencies in the dam due to repeated erosion and pitting of concrete	February 2008	4444.41
2	Krishna Delta System (KDS)	13.35	Damages caused by cyclone OGNI (October 2006) in the four delta districts ² .	November 2007	4573.00
3	Godavari Delta System (GDS)	10.38	Increase in ayacut; present carrying capacity of the system including structures was found inadequate; outliving of canal and structures which are in dilapidated condition; and damages caused by cyclone OGNI.	November 2007	3361.00
4	Tungabhadra Project High Level Canal (TBP HLC) & Low level Canal (TBPLLC)	4.65	HLC: Allocation of water of 5 TMC ³ (later increased to 10 TMC) to Pennar Ahobilam Balancing Reservoir (PABR) for drinking water and other needs of Hindupur area in Ananthapuramu district; reduction in storage capacity of the Tungabhadra project reservoir. LLC : Continuous siltation; seepage losses due to existence of reaches without lining (from KM 250.58 to KM 310.00 of main canal and 124 KMs distributary system out of 215KMs).	November 2007 (HLC) and February 2008 (LLC)	794.12
5	Pennar Delta System	2.47	Silting of principal supply channels resulting in reduction of discharge capacity; Silting up of reservoirs and distributary systems.	May 2006 - February 2009	1001.73
6	Nizamsagar Project	2.31	Decrease in carrying capacity of canal due to siltation; Seepage losses due to unlined canals.	June 2008	549.60
7	Yeleru Irrigation system	0.67	Inundation of 0.30 lakh acres every year during cyclonic season.	July 2008	138.00
8	Nagavali system	0.40	Aging; several high floods and heavy rains caused silting up and erosions in the system.	May 2009	139.59
		55.76			15001.45

² Krishna, Guntur, Prakasam and West Godavari districts³ Thousand Million Cubic Feet

C.A. Land Concubers

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F. No. 11-423/2011-FC
Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Aliganj, Jorbagh Road,
New Delhi - 110003
Dated: 22nd May 2019

To
The Principal Secretary (Forests),
All States/UT Governments

Sub: Proposal seeking diversion of forest land for non-forestry purposes under the Forest (Conservation) Act, 190 - Special consideration of compensatory afforestation in forest rich States – reg.

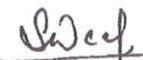
Sir,

I am directed to refer to the minutes of the meeting dated 23rd April, 2019 of the Forest Advisory Committee (FAC) wherein the FAC considered the issue mentioned in the subject above. The FAC, after deliberation on the issue, recommended as under:

- (a) The states/UTs having forest land of more than 75% of their respective total geographical area, shall not be insisted upon providing non-forest land (for subsequently notifying into RF/PF) equal to the forest area diverted for non-forest purposes in the same state/UT. However, the same may be taken up in any other state/UT having deficient forest land/cover and having land bank for CA.
- (b) Isolated patches having area less than 5 ha are difficult to manage as forests. Hence, no non-forest land, having area less than 5 ha area shall be accepted for CA purpose. However, land parcels, if contiguous to RF/PF, can be accepted for CA irrespective of their sizes, subject to their suitability for CA. In case of forest area under diversion is less than 5 ha, efforts should be made to identify non-forest land contiguous to some RF/PF. User agency shall fence all such land parcels properly and mutate the same in the name of Forest Department before handing them over to the Forest Department. All such land parcels shall be compact (i.e. without any pockets of habitation or non-forest land) and free from any encumbrances.
- (c) Land parcels, if contiguous to National Parks/WL Sanctuaries, can be accepted for CA irrespective of their sizes and suitability for CA, subject to condition that the same shall be mutated in the name of Forest Department, notified as RF/PF and thereafter merged with concerned National Park/Wildlife Sanctuary with suitable declaration, prior to stage-II approval by MoEF&CC.

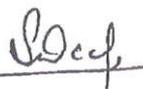
This issues with the approval of the competent authority in the Ministry.

Yours faithfully,


(Sandeep Sharma) 2.5.19
Assistant Inspector General of Forests (FC)

Copy to:-

1. The Principal Chief Conservator of Forests (HoFF), All States/UT Governments.
2. The Addl. Director General (Central), All Regional Offices of the MoEF&CC.
3. The Addl. PCCF & Nodal Officer (FCA), All States/UT Governments
4. Monitoring Cell, FC Division, MoEF&CC, New Delhi.
5. Guard File.


(Sandeep Sharma) 22/5/19
Assistant Inspector General of Forests

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

Indira Paryavaran Bhawan,
Aliganj, Jorbagh Road,
New Delhi-110003
Dated: August, 2023

To

The Addl. Chief Secretary/Principal Secretary (Forests),
All State/UT Governments

Sub: Provisions and guidelines on compensatory afforestation - reg.

Madam/Sir,

I am directed to refer to this Ministry's letter of even number dated 13.06.2023 on the above subject and to say that during an inter-ministerial review of the provisions relating to compensatory afforestation, it has been observed that during the last year after the enactment of Forest (Conservation) Rules, 2022, the Ministry has issued guidelines on the compensatory afforestation. Scattered information on compensatory afforestation in rules and guidelines makes it inconvenient for the users to comprehend the provisions efficiently, it has therefore, been desired that a consolidated provisions of the compensatory afforestation may be compiled and issued by the Ministry to enable the users to understand and apply them conveniently.

The matter has also been considered by the Advisory Committee in its meeting held on 17.07.2023 and the Committee observed that the Forest (Conservation) Rules, 2022 and guidelines dated 13.06.2023 issued by the Ministry provides for enabling provisions for raising compensatory afforestation in various lands. The Central PSU and State Government undertakings can raise over degraded forest land provided no acquisition of non-forest land is involved. As per the enabling provisions already been provided by the Ministry to raise CA over various lands, including degraded forest land and Accredited Compensatory Afforestation lands, the consolidated guidelines have been concurred and recommended by the Advisory Committee. Minutes of the meeting of the Advisory Committee may be accessed at <https://parivesh.nic.in>.

Based on the recommendation of the Advisory Committee and approval of the same by the competent authority of the MoEF&CC, new Delhi, the Central Government hereby issues the consolidated guidelines on raising compensatory afforestation as annexed herewith.

This issues with the approval of the competent authority.

Encl: As above.

**Signed by Charan Jeet
Singh**

Date: 21-08-2023 18:01:13

Reason: Approved

Yours faithfully,

(Charan Jeet Singh)
Scientist 'D'

Copy to:

1. The Principal Chief Conservator of Forests, All State Govts./UTs
2. The Dy Director General of Forests, All Regional Offices of the MoEF&CC
3. The Nodal Officer (FCA), O/o the PCCF, All State Govts./UTs
4. Monitoring Cell, FC Division, MoEF, New Delhi
5. Guard File

Annexure

Consolidated Guidelines on raising compensatory afforestation in lieu of diversion of forest land under the Forest (Conservation) Act, 1980

1. Provisions given under sub-rule (1) rule 11 of the Forest (Conservation) Rules, 2022, provides that primarily, the compensatory afforestation, in lieu of forest land proposed for diversion, has to be raised over equivalent non-forest land which is not under the management and administrative control of the Forest Department.
2. The non-forest lands afforested as per the provisions Accredited Compensatory Afforestation scheme i.e. patch of non-forest land involving minimum area of 10 ha with 0.4 vegetation density and minimum five years old afforestation can be used as CA in lieu of diversion of forest land. In case of lands owned by the Government agencies, such lands containing ACA be notified without transferring and mutating their ownership. Revenue, if any, earned from such lands from various operations such as thinning, felling, and selling of carbon credits and other benefits will also accrue to the land owning agency. Existing plantation which meets the criteria of ACA can also be swapped for CA in lieu of diversion of forest land.
3. The State Government/UT Administrations may create a Land Bank of non-forest lands with minimum size of 25 ha under the administrative control of the Department of Forest. In case, the Land Bank is in continuity of a land declared or notified forest land, Protected Area, Tiger Reserve or within a designated tiger corridor or a designated/ identified wildlife corridor, there shall be no restriction on size of the land. The lands covered under accredited compensatory afforestation may be included in the Land Bank.
4. In case of non-availability of the non-forest land, the CA can also be raised over the following lands subject to conditions prescribed therein:
 - i. 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/zudpi jungle/chhote/bade jhar ka jungle/jungle-jhari land/civil-soyam/orange lands and all other such categories of forest lands. Such lands shall be provided double in extent to the area proposed for diversion and shall be transferred and mutated in the name of State Forest Department. These lands shall be notified as Protected Forests (PF) under the Indian Forest Act, 1927 or local Acts prior to Stage-II approval.
 - ii. 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. However, 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

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projects.

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;
 - c. Underground mining in forest land without surface rights;
 - d. Renewal of mining lease for the forest area for which CA has already been paid;
 - e. Diversion of forest land under the General Approval (GA) up to one hectare;
 - f. Re-diversion of forest land within the RoW of roads which have already been diverted for non-forestry purposes and are located outside the Protected Areas. In case, the proposed area falls in the RoW of the road passing through Tiger Reserves, General Approval is subject to requisite permissions from the Standing Committee of the State Board for Wildlife.
6. In respect of diversion of forest land for safety zone along around a mine, User Agency shall deposit the amount for afforestation on degraded forest land, to be selected elsewhere measuring one and a half time the area of forest land under safety zone with the State Forest Department in addition to depositing funds with State Forest Department for the protection and regeneration of the Safety Zone area. The State Forest Department shall execute the afforestation scheme. These provisions will not be applicable, in case the area of safety zone is located within the lease area or area proposed for diversion and land identified for raising compensatory afforestation, non-forest land or degraded forest land, also includes the CA area in lieu of forest land located in the safety zone.
7. Any degraded forest land for the purpose of CA, selected by State Government as per above provisions, may be accepted by MoEF&CC only if the crown density of the area is below 40 percent.
