

**BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO. 182 OF 2023**

IN THE MATTER OF:

Sushovan Saw

...Applicant

Versus

MOEF&CC and Ors.

...Respondent(s)

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NDoH: 07.05.2024

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**REJOINDER OF THE ORIGINAL APPLICANT TO THE COUNTER
AFFIDAVIT OF RESPONDENT NO. 2, PRINCIPAL CHIEF
CONSERVATOR OF FOREST.**

MOST RESPECTFULLY SHEWETH:

1. That the present Original Application was filed seeking urgent intervention of this Hon'ble Tribunal to take appropriate action against the illegal encroachment of 8.59 acres of forest land at Mouza Mudumpur, J.L. No. 51, Plot No. 473, West Bengal by the Respondent No. 3, Shyam Sel and Power Ltd. in blatant disregard of the provisions of Forest Conservation Act, 1980, the Orders of the Hon'ble Supreme Court and this Hon'ble Tribunal.
2. That on 05.01.2024, this Hon'ble Tribunal noted that the matter requires consideration and issued a Notice to the Respondents to file their Reply Affidavit within four weeks. On 30.01.2024, the Respondent No. 4 – Officer In Charge, Jamuria Police Station filed their response to the OA on 30.01.2024 stating that on receipt of the complaint of the Forest Range officer, the Officer In Charge has registered FIR No. 159/23 and initiated proceedings against Respondent No. 3, Shyam Sel and Power Ltd. under section 26,33, 63 of the Indian Forest Act, 1927.
3. That thereafter on 20.02.2024, the Respondent No. 2 – Principal Chief Conservator of Forest has filed its Affidavit submitting *inter alia* that Respondent No. 3, Shyam Sel and Power Ltd. has been granted In Principle Approval on 11.01.2024 for 0.47 ha of forest land. The PCCF has also submitted that adequate proceedings under Section 33,63 of the Indian Forest Act, 1927 for encroachment of forest land has been initiated in the Court of the Chief Judicial Magistrate. It is pertinent to submit that the In Principle approval has come at a lightning speed after the case has been filed and it is but too obvious that the said encroachment for which the In Principle



Approval is given is clearly not an exceptional situation and is neither a site specific activity for which precious forest land which is encroached with impunity has been sought to be regularised. The same should not only be deprecated but also should not be allowed at any cost. This Ho'ble Tribunal may take note of the serious misconduct of the office of the PCCF - Respondent No. 4.

4. That it is clear that the action undertaken by the Respondent No. 2, PCCF for the grant of In Principle FC for 0.49 ha of land violates the law. The PCCF has also failed to clarify the action undertaken for encroachment of 8.73 acres, which is approximately 3.53 ha of forest land without prior Forest Clearance. It is also the humble submission of the Applicant herein that the failure to undertake In -Principle approval violates General Condition No. 1 of the Environment Clearance dated 16.11.2021 which categorically states that requisite permissions under other laws/statutes is required to be obtained by the Project Proponent. In addition to the abovementioned blatant violations, the Respondent No. 3 , Shyam Sel and Power Ltd. has continued construction without obtaining Final Approval under the Forest Conservation Act, 1980 by the Central Government and Section 2 permission of the State Government. It is verily believed that the said encroachment is for setting up the Sinter Plant and which certainly not a structure that is site specific, vclearly violating the principles of ex post facto clearance for previous forest land . This is a ground to prohibit the use of forest land for such non forestry activity and the In Principle Approval should be accordingly set aside with immediate effect.
5. That the Applicant herein seeks to submit its Preliminary Submissions before responding to the para wise submissions in the Affidavit of the PCCF on merits, which in the humble opinion of the Applicant are crucial for a holistic adjudication of the case.

Preliminary Objections/Submissions on legality of grant of ex post facto forest clearance

- I. **The PCCF along with the other Forest Department officials have failed to take action for encroachment of 3.53 ha of forest land**
6. That the PCCF has conveniently left out pertinent legal and crucial factual details pertaining to the encroachment of 3.63 ha of forest land by the Respondent No.3, Shyam Sel and Power Ltd. (hereinafter referred as Respondent No. 3) which are imperative for determining the extent of liability of Respondent No.3.

7. That at the outset, it is pertinent to reiterate and emphasize that the Complaint of the Forest Range Officer dated 13.02.2024 *prima facie* establishes that Shyam Sel has encroached upon 8.73 acre or approximately 3.53 ha of forest land in violation of the Forest Conservation Act, 1980 and the Orders of and the Hon'ble Supreme Court and this Hon'ble Tribunal. That on 24.08.2023, the report of the DFO *inter alia* affirmed that -

- i. JL No.51, Plot No. 473 is Notified Forest Land (Protected Forest);
- ii. The Land is recorded in favour of DFO Durgapur and classification is jungle (forest)
- iii. The survey report of the land department , Government of West Bengal has stated that the user agency has encroached upon 8.73 acre of forest land and a big RCC construction has been undertaken over an area of 1.17acre (0.74 ha).
- iv. During inspection it was found that endangered/unique species of flora and fauna such as wild boar, Indian jackle, Bengal fox, wolf, jungle cat, pangolin, porcupine, rock python, cobra, Russell's viper etc. in the nearest forest areas under this diversion proposal.

Copy of the Report as obtained from the Parivesh Portal of Respondent No.1, MoEF&CC is marked and annexed as **Annexure A/1**.

8. That thereafter, the Enquiry report dated 12.09.2023 of Superintendent Police, Jamuria Police Station has also categorically informed that Respondent No. 3 has encroached upon 8.73 acres (which is 3.53 ha) of forest land with an RCC structure on 0.79 ha of forest land.
9. That post the inquiry by the Superintendent of Police, the Respondent No. 4 (office In Charge of the Police Station) has stated that the Investigating Officer (IO) has submitted the charge sheet against one Bajranglal Agarwal, (designation in the company) and one Alok Kumar Mishra (designation in the company under section 26, 30, 32, 33 and 63 of Indian Forest Act, 1927 and Section 4C of West Bengal Land Reform Act, 1955, before the Court of the Learned Chief Judicial Magistrate, Court, District: Paschim.
10. That during the pendency of the abovementioned encroachment case before the Ld. Chief Judicial Magistrate, the Respondent No. 3 applied for In-Principle Approval for 0.47 ha of forest land on 27.08.2023. It is pertinent to note that in its application for Forest Clearance, Respondent No. 3 has stated that only 0.47 ha of forest land has been encroached, despite the submission of the Forest Department that 3.53 ha has been encroached upon. The copy of

the parivesh application of the Respondent No. 3 is marked and annexed as **Annexure A/2.**

11. That thereafter, during the processing of the application for In Principle approval, the DFO has raised the query and submitted that there is a clear encroachment of 3.48 ha or 8.73 acres of forest land. Copy of the DFO response to EDS is marked and annexed as **Annexure A/3.**
12. That a final site inspection was conducted by the ADFO, Beat officer, Forest Guard and Ban Sahayak on 23.11.2023. It is pertinent to note that the site inspection notes that construction was carried out over 0.47 ha of land by the Project Proponent/Respondent No. 3. Out of 3.53 ha, In principle approval is sought for 0.47 ha and for the balance encroached forest land amounting to 3.0629 ha, soil filling has been undertaken by the Respondent No.3. Copy of the Site Inspection Report is annexed at **Annexure A/4.** Clearly, the encroachment is established with such non forestry activity which violates the FCA, 1980 and therefore not only such forest land should be resumed back to the Forest Department but even the Environment clearance should be held as void ab initio.
13. That from the above, it is also evident that the Forest Department has merely processed the application for In Principle approval for 0.47 ha of land without any action for encroachment of 3.0629 ha of land and without examining whether such post facto use is a site specific use or not. Merely by planting certain plantations without any formal approvals, the Project Proponent has been allowed to go scot-free for his illegal action. It is pertinent to note that the encroachment assumes a more serious illegality in view of the presence of Schedule I species such as Pangolin and Porcupine and several Schedule II species such as the Bengal Fox, Cobra, among others. In view of the same, such encroachment should not have been allowed by the Forest Department.

II. Regularization of Forest Encroachment cases only in exceptional circumstances

14. That it is the humble submission of the Applicant that the In Principle Approval for regularization of encroachment has been granted in violation of the procedure established under law. That the Forest Conservation Act, 1980 did not make any provision for grant of ex post facto clearance. That even in the Forest Conservation Rules of 1981, there was no provision for regularization of encroachment. It ought to be examined by this Hon'ble Tribunal whether any subsequent OMs can go beyond the law itself.



15. That further, as early as 1990, the then Ministry of Environment and Forest had clarified in the Letter to all Secretaries of the Forest Department that all encroachments which have taken place post-1980 should not be regularized. Further, immediate action should be taken to evict the encroachers. Copy of the Letter dated 18.09.1990 is marked and annexed as **Annexure A/5**. Thus, there was no provisions for regularization of encroachment at that point of time.
16. That thereafter, the Forest Conservation Rules of 1981 were replaced by the the Forest Conservation Rules, 2003. It is pertinent to note that on 15.12.2003, the Lok Sabha proceedings on an Unstarred Question regarding Regularization of Encroachments also clarified that no encroachments post-1980 should be regularized. Copy of the Lok Sabha Proceedings dated 15.12.2003 is marked and annexed as **Annexure A/6**.
17. That the Forest Conservation Rules of 2003 were amended vide Amendments dated 03.02.2004, 09.02.2004, wherein procedure for regularization of encroachments was introduced by the Central Government. However, the said Notifications were stayed by the Hon'ble Supreme Court vide Order dated 23.02.2004 in the case of TN Godavarman v. Union of India and Ors. A Copy of the Order dated 23.02.2004 is marked and annexed as **Annexure A/7**.
18. That thereafter on 14.03.2014, 10.10.2014 and 06.03.2014, the Forest Conservation Rules, 2003 were again amended to include a procedure for the regularization of encroachments. It is however pertinent to note that the subsequent 'Handbook of Guidelines for Effective and Transparent Implementation of the Provisions of the Forest Conservation Act, 1980', (Hereinafter referred as the 'Handbook') clarify in para 1.21 of Chapter I of Court Orders and General Clarifications that proposals seeking ex post facto approval from the Central Government under the Forest Conservation Act, 1980 are normally not to be entertained. The Central Government will accord its approval "*only in exceptional circumstances*", which may justify condonation. The relevant extract of the Handbook on Guidelines for Forest are marked and annexed as **Annexure A/8**. On a combined reading of the letter of 1990 with the proceedings before the Lok Sabha in December 2003, it is clear that the provision for regularization of encroachment was largely aimed at projects that existed before the enactment of the Forest Conservation Act, 1980. However, for encroachment that has been undertaken post 1980, until 2014 there was an absolute prohibition on the same. Post 14.02.2014



amendments to the Forest Conservation Rules, 2003, encroachment can be regularized only in exception circumstances and not as a matter of general rule. This is clearly not a case where an exceptional circumstance has been made out and thus the In Principle Approval and encroachment of forest land should be deprecated and set aside by this Hon'ble Tribunal.

19. That thereafter the Forest Conservation Rules of 2003 were replaced by the Forest Conservation Rules of 2022. The Rules clarified the procedure for regularization of encroachment in Sub Rule 9(5)(a) read with Sub Rule 9(5)(d) and (e) of the FCR, 2022. The latest amendment is of Van Sanrakshan Evam Samvardhan Adhiniyam of 2023 wherein a distinction has been drawn in the Rules for regularization of encroachment and grant of ex post facto clearance. However, it is pertinent to note that in December 2023, the Government of India has issued a Handbook on 'Consolidated Guidelines and Clarifications issued under the Van (Sanrakshan Evam Samvardhan Adhiniyam, 1980 and Van Sanrakshan Evam Samvardhan and in Chapter I , para 1.16 it has categorically stated that –

"Proposals seeking ex post facto are normally not to be entertained, unless in exceptional circumstances.

(i) In cases where the proposal under Van (Sanrakshan Evam Samvardhan) Adhiniyam has not been submitted and forest land is diverted without FC

(a) The diversion of forest land for non-forestry purposes without the prior approval of the competent authority in the State will be dealt under the provisions of Indian Forest Act 1927 and other State Acts dealing with the conservation of Forests by the State Government concerned. The land in question will not be considered as diverted under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and the status of the land shall continue to be forest.

(b) If the permission for use of forest land for non-forestry purposes have been granted by the State authority without the prior approval of the central government under section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam then action under section 3A and /or 3B of Van (Sanrakshan Evam Samvardhan) Adhiniyam, as may be applicable, shall be taken against the authority causing such diversion. A report with full details of violation shall be submitted by the State Government on the recommendation of the Forest Department of the State to the Ministry of Environment, Forests & Climate Change Government of India, New Delhi and formal enquiry shall be conducted by the Regional Office of the MoEF&CC."

Copy of the relevant extracts from the Handbook on 'Consolidated Guidelines and Clarifications issued under the Van (Sanrakshan Evam Samvardhan Adhiniyam, 1980 and Van Sanrakshan Evam Samvardhan dated December 2023 is marked and annexed as **Annexure A/9**.

20. That from the above, it is evident that all proposals seeking ex post facto clearance are required to be processed only in exceptional circumstances and not as a matter of rule. The procedure for encroachment is again clarified only with respect to encroachment that took place prior to 1980. However, with respect to the present case, the proposal for regularization has been processed without any credible reasoning merely on the ground that the Project Proponent/Respondent No. 3 requires 0.47 ha of land for its expansion project. It is the humble submission of the Applicant that such a scenario cannot be considered as an 'exceptional circumstance'. In fact if such a proposition is allowed, this will open a pandoras box and all forest lands adjacent to non forest land can be regularised for some use or the other by continuing or expanding the non forestry use on adjacent lands.
21. That it is the humble submission of the Applicant herein that the grant of In Principle Stage I Forest Clearance to the Project Proponent is in violation of the law as it has failed to satisfy the test of '*exceptional circumstances*'. It is also pertinent to note that the application for In Principle Forest Clearance was submitted by the Respondent No. 3 in August 2023 and thus the grant of FC had to be governed by the Forest Conservation Rules, 2022.
22. That in view of the above, it is the humble submission of the Applicant that the Respondent No. 3 could not be granted In Principle approval without first satisfying the test of 'exceptional circumstances', especially due to the presence of Schedule I and Schedule II species in the Forest Land encroached by the Respondent No. 3. Moreover, the Respondent No. 3 has failed to clarify action undertaken for the pending encroachment of 3.069 ha of forest land. The Applicant seeks liberty to rely on precedents that explain 'exceptional circumstances' at the time of arguments.
23. That arguendo, the Respondent No. 3 has satisfied the said test, the grant of In Principle Approval and the conditions specified therein are in pursuance of the 2019 Handbook and not in accordance with the Van Sanrakshan Evam Samvardhan Adhiniyam of 2023 and the Guidelines issued thereunder in 2023.

Response on merits

24. That the contents of para 1 to 3 are matters of record and to that extent do not require a response from the Applicant herein.

25. That the contents of para 4 with respect to the initiation of the prosecution offence report by the Forest Range Officer do not merit any response. Although, it is pertinent to highlight that the Ministry of Environment, Forest and Climate Change on 25.05.2023 had made the Divisional Forest Officer responsible for the initiation of complaints of violation of the Forest Conservation Act, 1980. That further, the submissions with respect to the grant of ex post facto clearance are vehemently denied as the grant of post facto FC is in violation of the law. That there is no provision in the FCR, 2022 for grant of ex post facto clearance. Further, with respect to regularization of encroachment, the same has to be undertaken only in 'exceptional circumstances'. However, the site inspection report fails to clarify what exceptional circumstances exist for grant of ex post facto clearance especially in an area endemic to Schedule I and Schedule II species. The contents of the preliminary submission may be read as a response to the contents of the corresponding paragraph and are not being reiterated for the sake of brevity. In fact, the said activity is not a site specific activity and therefore could not have been regularized or considered for Ex Post Facto Clearance under the Forest Conservation Act, 1980. That it appears through latest photographs that the Respondent No. 3 has continued with the construction and is in the process of finishing the construction without waiting for the Stage II clearance which is clearly violative of the law and also does not qualify as a post facto clearance in a stricter sense. This is only arguendo and it is reiterated that such an In Principle approval could not have been given as it does neither qualifies as exceptional circumstance nor the fact that such an activity is site specific. On both these accounts this is a fit case to set aside the In Principle approval and impose heavy environmental compensation apart from setting aside the environmental clearance itself which is void ab initio. Latest Photographs of the unit of Respondent No. 3 is marked and annexed as **Annexure A/10**.
26. That the contents of para 5 of the PCCF affidavit do not merit any response.
27. That the contents of para 6 to the extent of the proposal made by the Respondent No 3 for grant of ex post facto clearance is denied as wrong, false and in violation of the procedure established by law. The contents of the preliminary submission may be read as a response to the contents of the corresponding paragraph and are not being reiterated for the sake of brevity.
28. That the contents of paras 7 and 8 do not merit any response.



29. That the Applicant reiterates the submissions made in the Application alongwith the prayers, which are made bonafidely in the interest of justice, equity and most importantly, the environment. This Hon'ble Tribunal may take a strict note of the dereliction of duty by the State Respondents and the absolute ignorance and indifference of the law of the land by the Project Proponent and set aside the In Principle approval dated and impose heavy environmental compensation apart from setting aside the environmental clearance dated ...itself which is void ab initio accordingly.



VERIFICATION

I, Sushovan Sow, Son of Sudhamoy Sow, aged about 27 years, residing at Gopedanga, P.O-Amdahi, P.S-Laudoha Faridpur, Paschim Barddhaman, by occupation – Private Service, do hereby verify that the contents of the paragraphs 12304 are true to my personal knowledge and belief and/ or based on information and/or derived from sources which I verily believe to be true and the paragraph 51029 are my humble submissions before this Hon'ble Bench based upon legal advice and I have not suppressed any material facts and circumstances.

Sushovan Sow

Signature of the applicant

Identified by me :

Poushali Banerjee
(Adv)

04 MAY 2024

✕

ANNEXURE A/1

Site Inspection Report of Divisional Forest Officer, Durgapur Division in respect of proposal for Diversion of 0.47 ha. of Forest Land in favor of M/S SHYAM SEL & POWER LIMITD (SSPL).

The undersigned inspected the forest land in different areas in the mouza of Mamudpur under Mongalpur Beat in Asansol Range of this Division involved in the proposal submitted by M/S Shyam Sel and Power Limited , for diversion of forest land of 0.47 ha. in connection with Establishing Industries and examined the factual details and feasibility of the proposals, verified the maps etc. and found that –

- i) This proposal involves surface use of forest land for establishing industries.
- ii) There has no tree on the forest land.
- iii) Mouza -Mamudpur , JI No-51 ,Plot No- 473 is Notified Forest Land (Protected Forest).
- iv) Mouza-Mamudpur , JI No-51 , Plot No-473 is recorded in favour of DFO Durgapur and classification is Jungle.
- v) As per survey report of Land department , Govt. of West Bengal , the user Agency encroached the forest land over 8.73 Acre and a big R.C.C. construction done within the area 8.73 Acre (3.53 ha) covering an area 1.17 Acre (0.74 ha). Now the structure on forest land is incomplete condition.
- vi) During inspection it was also observed that endangered/unique species of flora and fauna e.g Wild boar , Indian jackle , Bengal fox ,Wolf , Jungle cat , Pangolin , Porcupine, Rock python , Cobra , Russell's viper etc in the nearest forest areas under this diversion proposal.
- vii) Once time it was part of famous **NILBAN**.
- viii) Now it is Sub judice matter in the court of Hon:ble Chief Judicial Magistrate , Asansol., Paschim Bardhaman.

Divisional Forest Officer
Durgapur Division
24-08-2023

/TRUE COPY/



Basic Details

1. District-wise area to be diverted

District	Area (ha)
PASCHIM BARDHAMAN	0.47
1.1. Total Area (ha)	0.47

2. Legal Status of forest land proposed for diversion

Area (ha)	Legal Status of Forest Land
0.47	Protected Forest
2.1. Total Area (ha)	0.47

3. Density of vegetation

Area (ha)	Canopy density	Eco-Class
0.47	0	Eco 4
3.1. Total Area (ha)	0.47	

4. Species-wise local/scientific names and girth-wise enumeration of trees

4.1. Whether the proposal involves felling of trees? No

5. Working plan

5.1 Working plan prescription for the forest land proposed for diversion NA

5. Copy of working plan prescription for the forest land proposed for diversion N/A

6. Brief note on vulnerability of forest area to erosion NA

7 Approximate distance of proposed Site for diversion from boundary of forest (km) 0

8. Details of violation(s)

8 Whether any work in violation of the Act or guidelines issued under the Act has been carried out Yes

Details of violation	period of work start	Period of work done (Years)	Area of forest land involved in violation (ha)	Name of person(s) responsible for violation	Designation & Address of person(s) responsible for violation	Action taken against the person(s) responsible for violation
A big R.C.C. construction done within the area	2022	2022	0.47	Unknown	Unknown	The Prosecution offence report under FCA Act 1980 submitted in the Hon'ble Court
8.2. Whether work in violation is still in progress				No		
8.2. Whether work in violation is still in progress				NO		

Note: If you disagree with the violation details filled by User Agency, kindly raise EDS to user agency.



Wildlife Specific Details

9. Significance of the forest land proposed for diversion from wildlife point of view.

9. Details of wildlife present in and around the forest land proposed for diversion	Wild boar , Indian jackle , Bengal fox ,Wolf , Jungle cat , Pangolin , Porcupine, Rock python , Cobra , Russell's viper etc in the nearest forest areas under this diversion proposal.
9.2. Whether forms part of national park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, wildlife migration corridor etc	No
9.3. Whether any national park, wildlife sanctuary, biosphere reserve, tiger reserve buffer zone, elephant corridor, wildlife migration corridor etc., is located within 10 Km. from boundary of the forest land proposed to be utilized for prospecting or diversion	No
9.4. Whether any rare/endangered/unique species of flora and fauna found in the area	No
9.5. Whether any protected archaeological/heritage site/defence establishment or any other important monument is located in the area	No
9.6. Whether the requirement of forest land as proposed by the user agency is unavoidable and bare minimum for the project	No

Afforestation Details

10. Compensatory Afforestation

10.1. Whether CA is applicable or not?	No
11. Whether the provision of additional CA land is proposed?	No

12. District Profile

12.1. District	
12.2. Geographical area of the district. (ha)	160317
12.3. Forest area of the district. (ha)	13538
12.4. Total forest area diverted since 1980. (ha)	310.6225
12.5. No. of Approved Cases.	12

Total compensatory afforestation stipulated in the district/division since 1980 on

13. Forest Land including penal C.A. (ha)	310.6225
14. Progress of compensatory afforestation as on(date)*	19/07/2022
15. Forest land (ha)	310.6225
16. Non-forest land. (ha)	0

13. Additional Information

S.

No. Document Name Remark

Document

1	Revised reply to EDS	Revised reply to EDS for Proposal of Diversion of Forest Land at Nil Bon at Mouza Mamudpur, JL No.- 51 under Durgapur Forest Diversion, Dist - Paschim Bardhaman in West Bengal for Expansion cum modification of existing Integrated Steel Plant of Shyam Sel & Power Limited .Uploaded EDS reply Serial No. 2 was missing.	Letter of EDS.pdf
2	NA	NA	N/A
3	Undertaking For Payment Of Net Present Value Of Fo	Undertaking For Payment Of Net Present Value Of Forest Area, Cost of Compensatory Afforestation and Penal CA	undertaking and letter-1.pc
4	Undertaking For Payment Of Net Present Value Of Fo	Undertaking For Payment Of Net Present Value Of Forest Area, Cost of Compensatory Afforestation and Penal CA	undertaking and letter-1.pc
5	CA Scheme	Total area of CA and Penal CA will depend on what is finally approved by MoEF. Standard CA/ha. Rate estimate	CA ESTIMATE.pdf
6	CA Scheme	Total area of CA and Penal CA will depend on what is finally approved by MoEF. Standard CA/ha. Rate estimate	CA ESTIMATE.pdf
7	Prosecution Offence Report (POR)	P.O.R. No-10 of 2023-2024 dt. 22-05-2023 and Court Case No- Case Mo-C-764/23	POR MERGED.pdf
8	Prosecution Offence Report (POR)	P.O.R. No-10 of 2023-2024 dt. 22-05-2023 and Court Case No- Case Mo-C-764/23	POR MERGED.pdf
9	KML FILE of 3.53 ha	Kml file of 3.53 ha. Forest land encroached. There is no kml file of NILBAN	3.53 HA AREA KML file.kml
10	KML FILE of 3.53 ha	Kml file of 3.53 ha. Forest land encroached. There is no kml file of NILBAN	3.53 HA AREA KML file.kml
11	COMMENTS of DFO	COMMENTS of DFO	DFO Comments.pdf
12	COMMENTS of DFO	COMMENTS of DFO	DFO Comments.pdf

Other Details

(Site Inspection & Recommendation)

14. Site Inspection

14.1. Site Inspection Report

Site Inspection Report1.pdf

15. Recommendation

15.1. Total forest land to be diverted (ha)

0.47

15.2. Recommended Area (ha)

0.47

15.3. Recommendation of DFO/DCF

Recommended

15.4. Justification

The undersigned examined all alternatives and found the User Agency already encroached the forest land and constructed R.C.C. structure.. Hence, the proposal is recommended. If the Forest (Conservation)Act 1980 permit.



ANNEXURE A/3

Comments of DFO against reply to EDS for Proposal of Diversion of Forest Land at Nil Bon at Mouza-Mamudpur, JI. No.- 51 under Durgapur Forest Diversion, Dist - Paschim Bardhaman in West Bengal for Expansion cum modification of existing Integrated Steel Plant of Shyam Sel & Power Limited.

Ref: Proposal No. FP/WB/IND/442054/2023

Sl. No.	Query Title	Query Description	Reply	Comments of DFO
1	Justification of violation	Explanation/ justification of the User Agency regarding the reported violation.	The adjacent plot of the alleged forest land was acquired by us through Bonafied means and by Govt. registration process from the Private land owners. Before starting the work, our internal team along with a third-party consultant had conducted the survey of our own land and boundary was demarcated accordingly and construction was carried on within our demarcated boundary. We were doing construction on our acquired land. Nowhere at any point of time during the construction phase any staff of the forest department inquired or surveyed the alleged forest area. There is no visual demarcation mark in between forest and private land. We were confident that we were doing work on our own land. A survey was conducted by the Forest department on 27.04.2023 and alleged that we have made construction in some part of plot of alleged forest land. If we had known that the land belonged to the forest department then we may never have done the construction in that forest area. We have immediately stopped the construction work in the alleged forest area and a diversion proposal has been	M/S ShyamSel& Power Ltd. [Shyam Metalics] encroached the forest land at Mouza - Mamudpur , JI. No-51 ; Plot No-473 ; District- Paschim Bardhaman. Not only that they constructed building etc. For confirmed the actual forest area a preliminary survey was done by local Amin during the month of February 2023(28-02-2023). After survey it has been noticed that M/S Shyam Sel & Power Ltd. [Shyam Metalics] encroached the forest land over 8.59Acre (3.48 ha.) land. On the basis of preliminary survey on 28-02-2023 , a G.D. was lodged at Jamuria P.S. on 15-03-2023 regarding illegal encroachment of Forest Land. Again a joint Survey was done from Land Department on 27-04-2023 and it was confirmed that M/S Shyam Sel & Power Ltd authority, [Shyam Metalics] encroached the forest land over 8.73Acre (3.53 ha) land. F.I.R. also lodged at Jamuria Police

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			mitted before the competent authority for approval.	Station ,Asansol on 12-04-2023 and P.O.R submitted on 26-05-2023.in the court of Hon'ble Chief Judicial Magistrate , Asansol. [Case Mo-C-764/23] At present land is recorded in favour of DFO ,Durgapur, Classification is Jungle. Notified Forest Plot.
2	Change in proposed area	In Site Inspection Report of the DFO, it is mentioned that the UA encroached the 3.53 ha forest land. The UA vide online proposal No. FP/WB/IND/431631/2023, applied for 0.9 ha forest land diversion. Now, they applied for 0.47 ha forest land for diversion. It needs to be clarified.	The alleged Encroachment of 3.53 Ha of forest land was not accepted by us and we requested for re-measurement. As per our requirement, we have applied for diversion of 0.9 Ha which includes our construction area and some utility area. In the meantime, we have further reassessed our requirement of the forest land and found that 0.47 Ha of forest land can suffice our requirement, therefore we have reduced the forest area to the extent of 0.47 Ha only and submitted a fresh diversion proposal application accordingly. We have also submitted a request letter to the Nodal Office to withdraw the Application of 0.9 Ha of Land. (Copy enclosed as Annexure 1)	M/S ShyamSel& Power Ltd. [ShyamMetalics] encroached the forest land and constructed building at Mouza - Mamudpur , JL No-51 ; Plot No-473 ; District- PaschimBardhaman. For confirmed the actual forest area a preliminary survey was done by local Amin during the month of 28-02-2023. After survey it has been noticed that M/S ShyamSel& Power Ltd. [ShyamMetalics] encroached the forest land over 8.59Acre (3.48 ha) land. Again a joint Survey was done from Land Department on 27-04-2023 and it was confirmed that M/S ShyamSel& Power Ltd authority, [ShyamMetalics] encroached the forest land over 8.73Acre (3.53 ha.) land. At present land is recorded in favour of DFO ,Durgapur, Classification is Jungle. Notified Forest Plot. The user agency initially applied on Parivesh Portal[Proposal No.FP/WB/IND/431631/2023] for 0.9 ha forest land diversion. Now, they

			X	applied for 0.47 ha forest land for diversion. [Proposal No-FP/WB/TND/442054/2023]
3	Kml of Nil Bon	Kml of the Nil Bon as well as 3.53 ha forest land encroached by the UA as reported by the State Forest Department.	Nil Bon KML is not with us.	AttachedAnnexure 1 .Kml file of 3.53 ha. Forest land encroached. There is no kml file of NILBAN.
4	Prosecution Report	Copy of the prosecution report with the name of the accused person for encroachment.	We Don't have the Prosecution Report, it may please be collected from the competent authority.	AttachedAnnexure 2 . P.O.R. No-10 of 2023-2024 dt. 22-05-2023 and Court Case No- Case Mo-C-764/23
5	Toposheet Map	Toposheet Map of the forest land proposed for diversion.	Attached as Annexure 2	Attached by User Agency for 0.47 ha.
6	Details of non-forest land	Details of the Non-forest land (8 ha) along with kml file.	Attached as Annexure 3a & 3b	Attached by User Agency. Details of Non –forest land not available with forest department.
7	CA scheme	CA scheme along with other details as per the FC provisions.	We do not have expertise for preparation for CA Scheme as per norms of Forest Department for raising different type of Plantation. Forest Department has been requested to please prepare CA Scheme as per norms for raising plantation, we will bear the necessary cost of the same.	Total area of CA and Penal CA will depend on what is finally approved by MoEF. Standard CA/ha. Rate estimate attached in Annexure -3
8	Case details	In point no.15 of Common Application Form, reply is 'No' for "whether there is any litigation pending against the project and/or land in which the project is proposed to be set up?". It may be rechecked since Case No-C-764/23 filed on 26.5.2023 is filed before the Learned Chief Judicial Magistrate, Asansol Court.	This may please be ascertained from The DFO Office.	Case No-C-764/23 filed on 26.5.2023 is filed before the Learned Chief Judicial Magistrate, Asansol Court. Details at item 4 of this table.



9	Environmental clearance	Under point No.9 of Part-I, reply is 'No' against the "Whether the Project requires Clearance under the Environment (Protection) Act 1986 (Environmental clearance)". It may be rechecked.	Copy of the Environmental Clearance is enclosed herewith as Annexure 4	Attached by User Agency. Does not pertain to Forest Department.
10	Authorization letter	Authorization certificate from the competent authority in favour of the applicant.	Attached as Annexure 5	Attached by User Agency

DIVISIONAL FOREST OFFICER
DURGAPUR DIVISION

Site Inspection Report in respect of regularization of encroachment and ex-post-facto approval of 0.47 ha of forest land occupied by M/s Shyam Sel and Power Limited for expansion-cum-modification of existing Integrated Steel Plant in 'Nil Bon' at Mouza - Mamudpur, JL No.51 under Durgapur Forest Division, West Bengal (online proposal No.FP/WB/IND/442054/2023).

Name of the Inspecting Officer: Sujoy Dutta, Assistant Commissioner, Sub Office at Kolkata, Regional Office Bhubaneswar, MoEF&CC

Date of Inspection: 23rd November 2023.

Officials present from the State Forest Department:

- (i) Smt.Sarada Saha, ADFO
- (ii) Mr.Sumanta Das, Beat Officer
- (iii)Mr.Zulfikkar Molla, Forest Guard
- (iv) Mr.Tapan Ghosal, Ban Sahayak

Officials present from the User Agency:

- (i) Shri Sumit Chakraborty, Director
- (ii)Shri Prasanth Kumar, AGM

1. Legal status of the forest land proposed for diversion:

0.47 ha Protected Forest

2. Item-wise break-up details of the forest land proposed for diversion.

NA.

3. Whether proposal involves any construction of buildings (including residential) or not. If yes, details thereof:

Some portion of the Sinter Plant of integrated steel plant is already constructed in the proposed forest area.

4. Total cost of the project at present rates:

164.31 Cr

5. Wildlife:

Whether forest area proposed for diversion is important from wildlife point of view or not:

The proposed forest area does not form part of any National Park, Wildlife Sanctuary.

6. Vegetation:

(a) Total number of trees to be felled.

Nil

~~22~~

Effect of removal of trees on the general ecosystem in the area:

NA

7. Background Note on the proposal

The DFO, Durgapur Forest Division vide letter No.1490/15 dated 21.6.2023 addressed to the PCCF & HOFF, West Bengal had reported encroachment of approx. 8.73 acres (3.5329 ha) forest land by M/S Shyam SEL and Power Ltd at Mouza Mamudpur, JL No.51 plot 473. The DFO Durgapur had lodged FIR at Jamuria Police Station on 12.4.2023, along with POR in the Court of Hon'ble Chief Judicial Magistrate, Asansol Court [Case Mo-C-764/23 filed on 26.5.2023].

Subsequently, on 31.05.2023 M/s Shyam Sel and Power Limited had filed an online application for FC for diversion of 0.9 ha of forest land on the Parivesh portal (Proposal No. FP/WB/IND/431631/2023). At present the proposal is delisted by the system.

Further, the User Agency reassessed their requirement and found that 0.47 ha of forest land is suffice for their requirement. Now, they applied for 0.47 ha forest land diversion.

8. Compensatory afforestation:

The concerned DFO had submitted that total area of CA and penal CA will depend on what finally approved by MoEF&CC. However, standard CA/ha rate estimate is submitted with the proposal.

The State Forest Department has recommended the proposal with the conditions that the UA should provide non-forest land equivalent to five times the forest land being diverted for the purpose of CA plus bear all costs of restoring the entire encroached forest land to fully stocked forest status (crown density > 0.7)

(a) Whether land for compensatory afforestation is suitable from plantation and management point of view or not:

NA.

(b) Whether land for compensatory afforestation is free from encroachment/other encumbrances:

NA.

(c) Whether land for compensatory afforestation is important from Religious/Archaeological point of view:

NA.

(d) Land identified for raising compensatory afforestation is in how many patches, whether patches are compact or not:

NA.

(f) Total financial outlay:

NA.



- 9. Whether proposal involves violation of Forest (Conservation) Act, 1980 or not. If yes, a detailed report on violation including action taken against the concerned officials:**

The proposal not involves violation of F (C) Act, 1980. However, it is reported that the User Agency encroached 8.73 acre (3.53 ha) forest land and a big RCC construction done within the 0.47 ha. Now the structure on forest land is incomplete condition. A FIR was lodged at Jamuria Police Station on 13.04.2023.

- 10. Whether proposal involves rehabilitation of displaced persons. If yes, whether rehabilitation plan has been prepared by the State Government or not:**

NA

- 11. Reclamation plan:**

NA

- 12. Details on catchment and command area under the project:**

NA

Catchment area treatment plan to prevent siltation of reservoir:

NA

- 13. Cost benefit ratio:**

NA

- 14. Recommendations of the Principal Chief Conservator of Forests/State Government:**

The State Government has recommended the proposal with some stipulations:

- i. User Agency (UA) should pay five times of applicable Net Present Value (NPV) of forest land per ha for each year of violation from the date of actual diversion as reported by the inspecting officer plus 12% simple interest till the deposit is made as per para 1.21 (ii) of 2019 FCA guidelines.
- ii. The UA should provide non-forest land equivalent to five times the forest land being diverted for the purpose of CA plus bear all costs of restoring the entire encroached forest land to fully stocked forest status (crown density > 0.7).
- iii. UA should pay cost of CA, penal CA along with cost of maintenance for 10 years.
- iv. Compliance of provisions of FRA 2006 should be ensured prior to Stage-II approval.
- v. Appropriate Wildlife Conservation Plan should be prepared by the DFO Durgapur to be funded by the UA.

- 15. Dy. Director General of Forests (Central) shall give detailed comments on whether there are any alternative routes/alignment for locating the project on the non-forest land:**

Attached separately.



16. Utility of the project:

Some portion of the Sinter Plant of expansion-cum-modification of existing integrated steel plant of the UA is comes under the forest land which is in consideration.

17. Numbers of Scheduled Caste/Scheduled Tribes to be benefited by the project:

NA

(a) Whether land being diverted has any socio-cultural/ religious value:

NA.

(b) Whether any sacred grove or very old growth trees/forests exist in the areas proposed for diversion:

NA.

(c) Whether the land under diversion forms part of any unique eco-system:

NA.

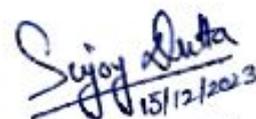
18. Situation with respect to any Protected Area:

Proposed forest area does not touch any Protected Area within 10 Km.

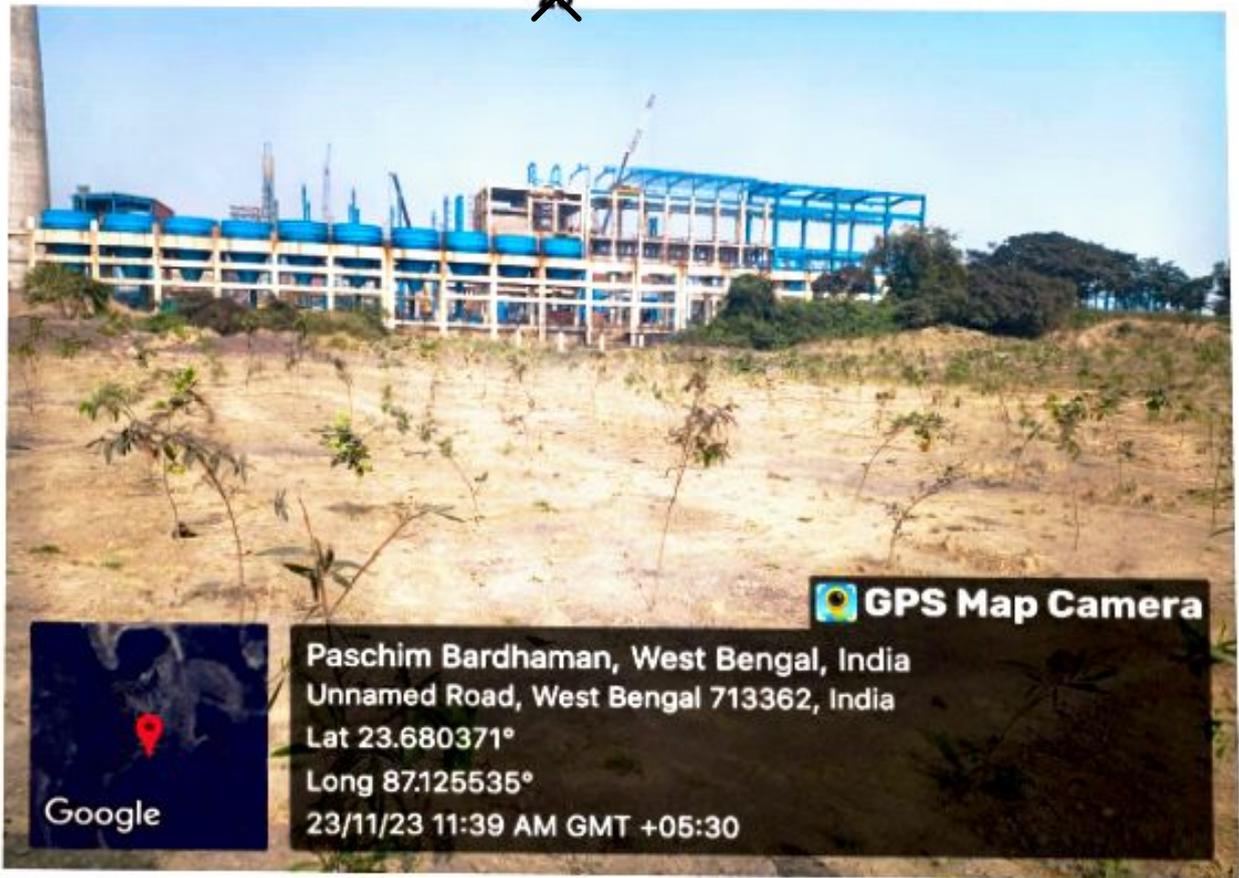
19. The construction activity was carried out by the Project Proponent over 0.47 ha of forest land. The forest land has been demarcated by the RCC pillars with barbed wire at the side of the Project proponent's area. During visit, no construction activity was observed over the 0.47 ha forest land. It was informed by the Project Proponent that the construction activity in the proposed forest was started in the month of April 2022.

Balance 3.0629 ha (3.5329 ha - 0.47 ha) forest land is in possession of State Forest Department, which was confirmed by the State Forest Officials during site visit. No infrastructure/ construction was observed in the balance 3.0629 ha forest land. However, soil filling was done by the project proponent in some portion of the 3.0629 ha encroached forest land and new plantation (Arjun, Akashmoni, Karanj etc) was observed in that area. It was informed that the plantation work was done by the project proponent on suggestion of the local forest officials.

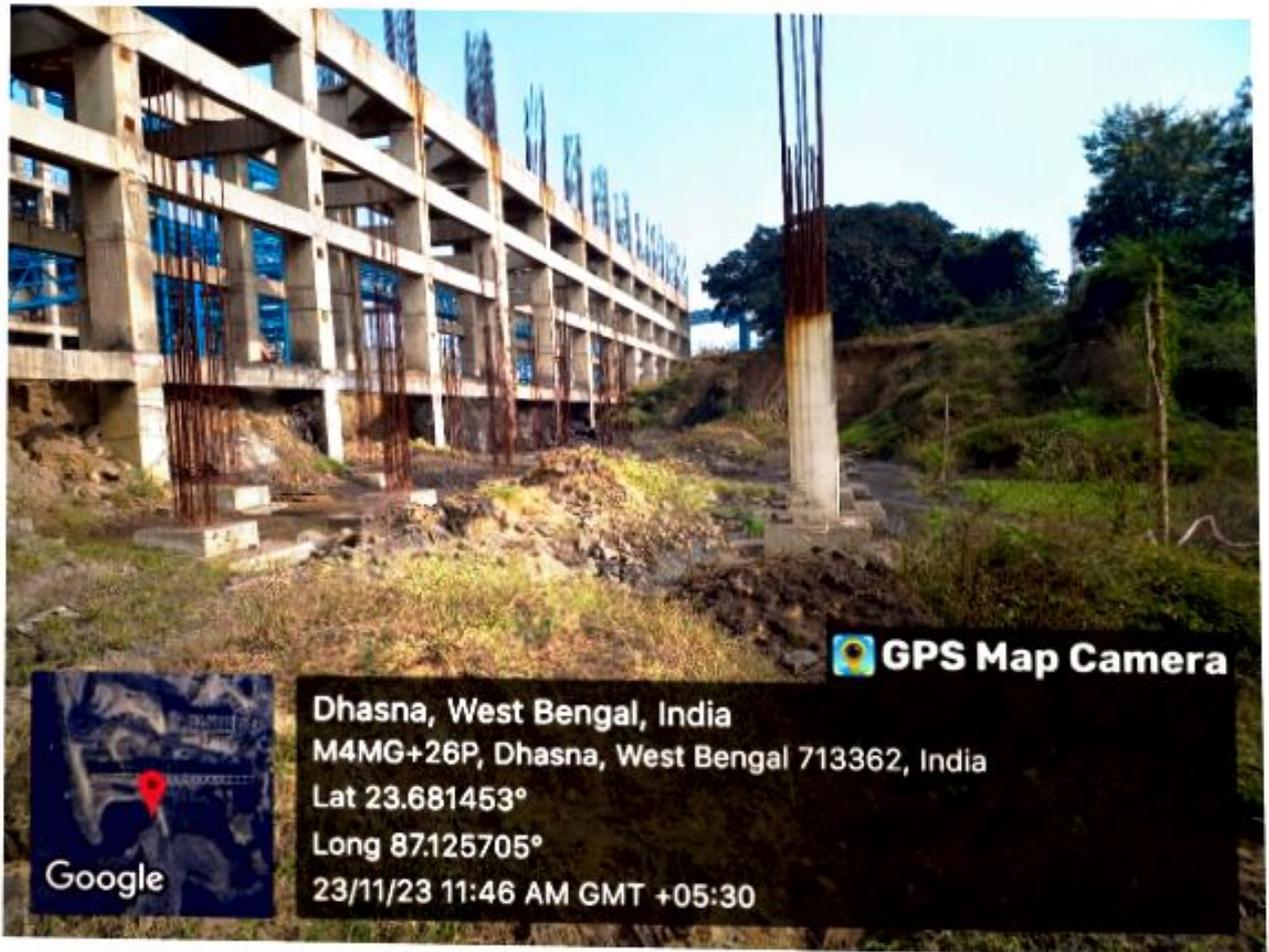
Photographs taken during the site visit are attached with this report


15/12/2023
(Sujoy Dutta)

Assistant Commissioner (F)



Pic 1: Soil filling and plantation over some portion of the balanced encroached forest land (3.0629 ha)



Pic 2: Demarcation of forest land proposed for regularization with bamboo pole (0.47 ha)



Pic 3: Barbed weir fencing of the forest land at the side of the Project Proponent's area.



Pic: Construction done on encroached forest land.

Recommendation of the DDGF² (Central), Regional Office, MoEF&CC, Bhubaneswar along with detailed reasons:

The regularization of encroachment/violation of 0.47 ha of forest land is recommended with the condition that 5 times Penal NPV may be realized, Penal CA may be done in 5 times of encroached land over non-forest land.



(A.T. Mishra)

DDGF (Central)

Regional Office, MoEF&CC, Bhubaneswar

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No. 12-1/90-FP (1)
Government of India
Ministry of Environment & Forests
Department of Environment, Forests & Wildlife

ANNEXURE A/5

Paryavarn Bhawan,
CGO Complex,
Lodi Road, New Delhi
Dated 18th September 1990

To,
The Secretary,
Forest Departments
(All States & UTs)

Sub:- Encroachments On Forest Land: A Review Thereof and Measures for Containment

Sir,

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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- 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.

This Ministry may kindly be apprised of the action taken/proposed to be taken in this regard.

Yours Faithfully
(KM Chadha)
Joint Secretary, Government of India

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31
GOVERNMENT OF INDIA
ENVIRONMENT AND FORESTS
LOK SABHA

ANNEXURE A/6

UNSTARRED QUESTION NO:1884
 ANSWERED ON:15.12.2003
 REGULARISATION OF ENCROACHMENTS ON FOREST LAND
 NAMDEO HARBAJI DIWATHE

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 BY SHRI NAMDEO HARBAJI DIWATHE 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:

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 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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ANNEXURE A/7

ITEM No.302 and
ITEM No.304

Court No. 1

SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGSItem No. 302

IA 923 in Writ Petition(Civil) No.202/1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner (s)

VERSUS

UNION OF INDIA & ORS

Respondent (s)

(for recommendations of CEC in IA 392 in IA 263)

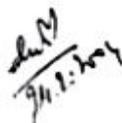
with

IA 786 in WP(C) 202/95

(for clarification of court's order dated 12.12.1996 on behalf of J&K)

SLP(C) No. 20070/1998 (Amicus Curiae Harish N Salve vs. State of Jammu & Kashmir & ors.) (with appln.(s) for intervention and with prayer for interim relief and office report)

Contempt Petition (C) No. 555/2002 in WP(C) No. 202/95
(Vishnu Digamber Bhaskar vs. Naveen Rattan & Ors.)Contempt Petition (Civil) No. 193/2001 in WP(C) No. 202/95
(District Forest Officer, Tamil Nadu vs. Gowri Shankar & Anr.)IA 780 in WP(C) No. 202/95
(for directions)IA 818 in IA 780 in WP(C) No. 202/95
(for recalling order dated 23.9.2002 and 26.9.2002 on behalf of State of Himachal Pradesh)IA 827 in WP(C) No. 202/95
(recommendations of CEC regarding transfer of funds and related issues)IA 824 in IA 703 in IA 502 in WP(C) No. 202/95
(recommendations of CEC in IA 703)IA 841 in WP(C) No. 202/95
(for intervention on behalf of Samata, Hyderabad)IA 829 in IA 703 in WP(C) No. 202/95
(for intervention on behalf of Kashtakari Sanghatan, Maharashtra)





- IA 830-832 in IA 703 in IA 502 in WP(C) No. 202/95
(for intervention and exemption from filing OT and permission to file
addl. Documents on behalf of Ms. Paromita Goswami, Chandrapur,
Maharashtra)
- IA 899 in IA 824 in WP(C) No. 202/95
(for intervention and directions on behalf of National Committee for Protection
of Natural Resources, Karnataka)
- IA 918 in IA 502 & 703 in WP(C) No. 202/95
(for variation of order dated 7.5.2002 on behalf of Andaman & Nicobar Islands)
- IA 927-928 in IA 824 in WP(C) No. 202/95
(for impleadment/directions and exemption from filing OT on behalf of
Mr. K Rajavel & 41 others)
- IA 961 in IA 703 in WP(C) No. 202/95
(for directions on behalf of State of Karnataka)
- IA 1024 in IA 502 in WP(C) No. 202/95
(for directions on behalf of Society for Andaman & Nicobar Ecology & Ors.)
- IA 908 in IA 724 in WP(C) 202/95
(for modification & clarification of order dated 7.5.2002 on behalf
of Andaman & Nicobar Island Small Scale Wood Based Industries
Association)
- IA 922 in IA 908 in WP(C) 202/95
(for filing additional documents in IA 908)
- IA 929 in WP(C) 202/95
(for directions on behalf of Andaman & Nicobar Islands)
- IA 1025 in WP(C) No. 202/95 (for recommendations of CEC in IA 929)
- IA 1023 in IA 922 & IA 908 in IA 724 in WP(C) 202/95
(for early hearing and interim relief on behalf of Anadman & Nicobar
Islands Small Scale Wood Based Industries Association)
- IA 745 in WP(C) No. 202/95
(for directions regarding Senior Forest Officer killed in Bihar)
- IA 926 in IA 745 in WP(C) No. 202/95
(for directions)
- IA 1003 in IA 965 with IA 1004 in WP(C) No. 202/95
(recommendations of CEC in IA 965)
- IA 979 in WP(C) No. 202/95
(recommendations of CEC in IA 442-446)
- IA 991 in WP(C) No. 202/95
(recommendations of CEC regarding alleged illegal mining in Choursil Reserve
Forest Lalitpur by Mr. Pooran Singh Bundela, MLA)

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IA 982-984 in WP(C) No. 202/95
(for directions and exemption from filing OT and impleadment on behalf of Smt. Magan Devi Meena)

IA 1000 in WP(C) No. 202/95
(recommendations of CEC regarding mining in Jamua Ramgarh Wildlife Sanctuary, Jaipur)

IA 1035 in WP(C) No. 202/95
(recommendations of CEC in IA 776)

IA 930 in IA 669 & 659 with IA 775 in WP(C) No. 202/95
(for recommendations of CEC in IA Nos. 669 & 659)

IA 967 in WP(C) No. 202/95
(re: Encroachment upon forest land in Mathern)

I.A. No. 976 in IA 727 in WP(C) No. 202/95
(for recommendations of CEC in IA 727)

IA 1048 in WP(C) No. 202/95
(for reports of CEC in IA 60)

IA 966 in IA 548 in WP(C) 202/95
(for directions on behalf of Dr. Lalit Mohan Nath, New Delhi)

IA 1012 in IA 966 in IA 548 in WP(C) 202/95
(for impleadment & directions on behalf of National Hydroelectric Power Corporation Ltd. Faridabad)

IA 826 in IA 566 in WP(C) 202/95 (recommendations of CEC in IA 566)

IA 955 in IA 566 in WP(C) 202/95
(for modification of order dated 30.10.2002 on behalf of State of Assam)

IA 958 in IA 566 in WP(C) 202/95
(for modification of order dated 30.10.2002 on behalf of State of MP)

IA 985 in IA 566 in WP(C) 202/95
(for directions/modification on behalf of Federation of Indian Mineral Inds.)

IAs 1001 & 1001A in IA 566 in WP(C) 202/95
(for modification of order dated 30.10.2002 and permission to file application on behalf of State of Rajasthan)

IAs 1013-1014 in IA 566 in WP(C) 202/95
(for impleadment and clarification/direction on behalf of Mahaveer Trading Co., Udalpur, Rajasthan)

IAs 1016-1018 in IA 566 in WP(C) 202/95
(for directions, impleadment and exemption from filing OT on behalf of the Thane Quarry Owners, Thana, Maharashtra)

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IA 1019 in IA 566 in WP(C) 202/95
(for modification of order dated 30.10.2002 on behalf of State of
Uttaranchal)

IA 1046 in IA 566 in WP(C) No. 202/95
(for directions on behalf of Ministry of Environment & Forests)

IA 1047 in IA 566 in WP(C) No. 202/95
(for directions on behalf of Ministry of Mines)

IAs 896-898 in WP(C) 202/95
(for directions and impleadment and exemption from filing OT on behalf
of Power Grid Corporation)

IA 989 in IAs 857-858 with IAs 997 & 998 in WP(C) 202/95
(for recommendations of CEC in IAs 857-858)

IA 992 in WP(C) No. 202/95
(for directions on behalf of Mr. Komor Uddin Ahmad & Ors.)

IA 960 in WP(C) No. 202/95
(for impleadment on behalf of Mr. S S Chitwadi, Bhopal)

IA 963-964 in WP(C) No. 202/95
(for directions on behalf of Shri Moirangmayum Indrasan Singh, Manipur)

IA 969-970 in IA 729 in IA 424 in WP(C) No. 202/95
(for directions and exemption from filing OT on behalf of State of Chhatisgarh)

IA 1026-1028 in WP(C) No. 202/95
(for impleadment, directions, and exemption from filing OT on behalf of
M/s. Agarwal Marble Centre (P) Ltd., Jaipur)

IA 361 in IA 352 in WP(C) No. 3727/1985 (M.C. Mehta vs. UOI & Ors.)
(for directions on behalf of Damodar Valley Corporation (Bokaro Thermal
Power Plant)

IA 363 in IA 361 in IA 352 in WP(C) No. 3727/1985 (MC Mehta vs. UOI & Ors.)
(for permission to file additional documents)

SLP(C) No. 6266/2000 (Veeru Devgan vs. State of Tamil Nadu & Anr.)
(with prayer for interim relief and office report)

and Item No. 304

I.A. No. 1122 in WP(C) No. 202/95
(report of Special Investigation Team regarding use of illegal timber)

I.A. Nos. 1123-1124 in I.A. No.1000 in WP(C) No. 202/95
(for impleadment and directions on behalf of Jaipur Mineral Development
Syndicate (P) Ltd.)

I.A. No. in IA No. 502 in WP(C) No. 202/95
(for impleadment/directions on behalf of Ranchi Association (Regd.)

Date : 23/02/2004 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.
Mr. U U Lalit, Adv.
Mr. Siddhartha Chaudhary, Adv.

For Petitioner(s) Mr. P K Manohar, Adv.
(in WP 202/95)

Mr. R F Nariman, Sr. Adv.
Mr. P Chidambaram, Sr. Adv.
Ms. Indu Malhotra, Adv.
Ms. Ruchi Khurana, Adv.
(in SLP 6266/03)

Mr. M N Shroff, Adv.
(in SLP 20070/98)

Mr. Rajan Narain, Adv.
(in Contempt Petition 555/02)

Mr. Subramonium Prasad, Adv.
Mr. P N Ramalingam, Adv. (NP)
(in Contempt Petition 193/01)

For Applicant(s) Mr. Anis Suhrawardy, Adv.
(in IA 786)

Mr. J S Attri, Adv.
Mr. N K Sharma, Adv. (NP)
(in IA 818)

Mr. L R Singh, Adv.
(in IA 841)

Mr. Bharat Sangal, Adv.
(in IA 829)

Mr. S V Deshpande, Adv.
(in IA 830-832)



Mr. Vishal Gupta, Adv.
 Ms. Shivangi Adv.
 Dr. Padma, Adv.
 Mr. Prashant Bhushan, Adv.
 (in IA 899)

Mr. T R Andhyarujna, Sr. Adv.
 Ms. S C Patodia, Adv.
 (in IA 918)

Mr. G Sivabalamurugan, Adv.
 Mr. Y Arunagiri, Adv.
 Mr. V N Raghupathy, Adv.
 (in IA 927-928)

Mr. Sanjay R Hegde, Adv.
 (in IA 961)

Ms. Aparna Bhat, Adv.
 Mr. Vipin Mathew Benjamin, Adv.
 (in IA 1024)

Mr. P Chidambaram, Sr. Adv.
 Mr. A M Pattiyani, Adv.
 Ms. M A Pattiyani, Adv.
 Mr. S P Sharma, Adv.
 (in IAs 908 & 922 & 1023)

Mr. T R Andhyarujna, Sr. Adv.
 Mrs. S C Patodia, Adv.
 (in IA 929)

Dr. Ghanshyam Narain, in person.
 (in IA 745 and 926)

Ms. Rani Chhabra, Adv.
 (in IA 442-446)

Mr. Rakesh Dwivedi, Sr. Adv.
 Ms. Sangeeta Mandal, Adv.
 Mr. Kapil Chaudhary, Adv.
 Ms. Jayasree Singh, Adv.
 for M/s. Fox Mandal & Co., Adv.
 (for Pooran Singh Budela in IA 991)

Mr. P Chidambaram, Sr. Adv.
 Mr. Atul Y Chitale, Adv.
 Mr. Ravikesh Sinha, Adv.
 Mr. Abhishake Sinha, Adv.
 Ms. Lakshika Joshi, Adv.
 Ms. Suchitra A Chitale, Adv.
 (in IA 982-984)



Mr. S K Agnihotri, Adv.
(in IA 776)

Mr. Kapil Sibal, Sr. Adv.
Mr. Raj Singh Rana, Adv.
Dr. Sita Ram Sharma, Adv.
Mr. S D Sharma, Adv.
(in IA 976 in IA 727)

Mr. Devendra Singh, Adv.
(in IA 966)

Mr. Kirit N Raval, Solicitor General
Mr. Jayant Dass, Sr. Adv.
Mr. Ajit Pudussery, Adv.
(in IA 1012)

Mr. Anoop Choudhary, Sr. Adv.
Ms. Krishna Sarma, Adv.
Mr. Sanjay C V Choudhury, Adv.
for M/s. Corporate Law Group, Adv.
(in IA 955)

Mr. S K Agnihotri, Adv.
(in IA 958)

Mr. Sunil Dogra, Adv.
Mr. S Udaya Kumar Sagar, Adv.
Ms. Bina Madhavan, Adv.
Ms. Pooja Nanekar, Adv.
for M/s. Lawyers Knit & Co., Adv.
(in IA 985)

Mr. Altaf Ahmed, ASG
Ms. Sandhya Goswami, Adv.
(in IAs 1001 & 1001A)

Mr. K. Parasaran, Sr. Adv.
Mr. V Balachandran, Adv.
(in IAs 1013-1014)

Mr. Sunil Dogra, Adv.
Mr. S Udaya Kumar Sagar, Adv.
Ms. Bina Madhavan, Adv.
Ms. Pooja Nanekar, Adv.
for M/s. Lawyers Knit & Co., Adv.
(in IAs 1016-1018)

Ms. Rachana Srivastava, Adv.
(in IA 1019)

Mr. A D N Rao, Adv.
(in IA 1046)



Ms. Sunita Sharma, Adv.
Mr. D S Mahra, Adv.
(In IA 1047)

Ms. Tasneem Ahmadi, Adv.
Mr. Santosh Dwivedy, Adv.
Mr. Rajesh Rai, Adv.
Mr. Bharat Sangal, Adv.
(In IAs 896-898)

Mr. P Chidambaram, Sr. Adv.
Mr. Himanshu Shekhar, Adv.
(IAs 997 & 998)

Dr. A M Singhvi, Sr. Adv.
Mr. R K Jain, Sr. Adv.
Mr. Vivek Tankha, Sr. Adv.
Mr. Prashant Kumar, Adv.
Mr. Joseph Pookkatt, Adv.
Mr. Surya Narain, Adv.
Ms. Pragati Nikhra, Adv.
(for Deepak Agarwal in 857-858 with IAs 997,
998)

Mr. F I Choudhury, Adv.
Mr. Shesh Dutt Sharma, Adv.
Mr. Aditya Sharma, Adv.
Mr. Rameshwar Pd. Goyal, Adv.
(In IA 992)

Mr. M K Balakrishnan, Adv.
Mr. K S Rana, Adv.
(In IA 960)

Mr. Shreepal Singh, Adv.
(In IA 963-964)

Mr. Prakash Srivastava, Adv.
(In IA 969-970)

Ms. Hemantika Wahi, Adv.
(In IA 1026-1028)

Mr. Ranjit Kumar, Sr. Adv.
Mr. Rana Mukherjee, Adv.
Dr. Reba Ray, Adv.
Mr. Goodwill Indeevar, Adv.
(In IA 361 & 363 in IA 352 in WP-3727/85)

Mr. Kapil Sibal, Sr. Adv.
Mr. Paras Kuhad, Adv.
Mr. Tarun Johri, Adv.
(In IA 1123-24)





Mr. M N Krishnamani, Sr. Adv.
 Mr. Bhavanishankar V Gadnis, Adv.
 Ms. B Sunita Rao, Adv.
 Mr. Nitin Popli, Adv.
 Mr. Pani, Adv.
 (In JA in IA 502)

For Respondent(s)
 Uol

Mr. Kirit N Raval, Solicitor General
 Mr. A D N Rao, Adv.
 Mr. C V Subba Rao, Adv.
 Ms. Sushma Suri, Adv.
 Mr. B V Dalram Das, Adv.

Mr. S Wasim A Qadri, Adv.
 Mr. Pramod Dayal, Adv.
 (for State of UP in IA 923)

In SLP 20070

Mr. Subhash Sharma, Adv.

In CP 555

Ms. Nanita Sharma, Adv.
 Mr. Vivek Sharma, Adv.
 Mr. Janesh Singh, Adv.

Mr. Anis Suhrawardy, Adv.

In CP 193

Mr. Dayan Krishnan, Adv.
 Mr. Nikhil Nayyar, Adv.
 Mr. Gautam Narayan, Adv.

Mr. R Nedumaran, Adv.

Mr. K K Mani, Adv.

Mr. Santhil Jagadeesan, Adv.
 Mr. V Ramasubramanian, Adv.

Mr. P Venugopal, Adv.
 Mr. PS Sudheer, Adv.
 for M/s. K J John & co., Advs.

Mr. S Guru Krishna Kumar, Adv.
 Ms. Srikala Gurukrishna Kumar, Adv.

Mr. T Raja, Adv.

Mr. R Ayyam Perumal, Adv.

Mr. V Prabhakar, Adv.
 Mr. R S Krishna Kumar, Adv.
 Mr. Rakesh Garg, Adv.
 Mr. M K D Namboodiry, Adv.

Mr. Kapil Sibal, Sr. Adv.
 Mr. Gourab Banerji, Sr. Adv.
 Mr. R N Karanjawala, Adv.
 Ms. Ruby Singh Ahuja, Adv.
 Ms. Seema Sundd, Adv.
 Ms. Manik Karanjawala, Adv.

Mr. K Swami, Adv.
 Ms. Prabha Swami, Adv.

Mr. K B Sounder Rajan, Adv.

Mr. M A Chinnasamy, Adv.

Mr. Balaji Srinivasan, Adv.
 Mr. V Sudeer, Adv.
 Mr. M B Rama Subba Raju, Adv.
 Ms. S Sunita, Adv.
 Mr. S Srinivasan, Adv.

Mr. E M S Anam, Adv.

Mr. C N Sreeckumar, Adv.

Mr. Naveen R Nath, Adv.

Ms. Revathy Raghavan, Adv.

Mr. G Sivabalamurugan, Adv.
 Mr. Y Arunagiri, Adv.
 Mr. L K Pandey, Adv.

Mr. Joseph Pookkatt, Adv.
 Mr. Prashant Kumar, Adv.

In IA 780

Mr. Maninder Singh, Adv.

Mr. Manu Nair, Adv.
 Ms. Deep Kriti Varma, Adv.
 for M/s. Suresh A Shroff & Co., Advs.

Mr. Anil Kumar Sangal, Adv.
 Ms. Bhakti Pasrija, Adv.
 Ms. Recna Sinha, Adv.

Ms. Ruby Singh Ahuja, Adv.

Mr. Ramesh N Keshwani, Adv.

Ms. Manjula Gupta, Adv.





Mr. Naveen R Nath, Adv.

Mr. Vishwajit Singh, Adv.

Mr. Bharat Sangal, Adv.

Mr. S Ganesh, Sr. Adv.

Mr. U A Rana, Adv.

Mr. Arvind Kumar, Adv.

Mr. Sadeep Kharel, Adv.

for M/s. Gagrat & Co., Advs.

Mr. Sanjay R Hegde, Adv.

Mr. P Venugopal, Adv.

Mr. P S Sudheer, Adv.

for M/s. K J John & Co., Advs.

Mr. C N Sreekumar, Adv.

Mr. Sanjeev Anand, Adv.

Mr. Shashi Bhushan, Adv.

Mr. Arun Kathpalia, Adv.

Mr. Pradeep K Bakshi, Adv.

Mr. Ranjit Kumar, Sr. Adv.

Ms. Binu Tamta, Adv.

Mr. Mahendra Anand, Sr. Adv.

Mr. C L Sahu, Adv.

Ms. Ilena Sahu, Adv.

Mr. D P Chaturvedi, Adv.

in IA 967

Mr. David Rao, Adv.

Mr. K H Nobin Singh, Adv.

in IA 1000 for
respondent Andhi
Marbles

Mr. P Chidambaram, Sr. Adv.

Mr. Gopal Subramaniam, Sr. Adv.

Ms. Aruna Gupta, Adv.

Mr. Aruneshwar Gupta, Adv.

in WP 3727/85

Mr. U U Lalit, Adv.

Mr. Vijay Panjwani, Adv.
(for CPCB)

Mr. Janaranjan Das, Adv.
Mr. Swetaketu Mishra, Adv.
Ms. Moushumi Gahlot, Adv.
for M/s. Sinha & Das, Adv.
(for State of West Bengal)

Mr. R Mohan, Sr. Adv.
Mr. V G Pragasam, Adv.
(for WB PCB)

Mr. A D N Rao, Adv.
Mr. B V Balram Das, Adv.)

Mr. S Rajappa, Adv.

In SLP 6266/00

Mr. C S Valdyanathan, Sr. Adv.
Mr. R Ayyam Perumal, Adv.
Mr. G Umopathy, Adv.
Mr. S Vallinayagam, Adv.
Mr. P N Ramalingam, Adv.(NP)

STATES

- State of J & K Mr. Anis Suhrawardy, Adv.
- State of Maharashtra Mr. Mukesh K Giri, Adv.
Mr. V N Raghupathy, Adv. (NP)
- State of Uttaranchal Ms. Rachana Srivastava, Adv.
- State of Rajasthan Mr. Altaf Ahmed, ASG
Ms. Sandhya Goswami, Adv.
- State of Tamilnadu Mr. R Ayyam Perumal, Adv.
Mr. S Vallinayagam, Adv.
Mr. Subramonium Prasad, Adv.
- State of IIP Mr. J S Attri, Adv.
Mr. N K Sharma, Adv. (NP)
- State of Assam Ms. Krishna Sarma, Adv.
Mr. Sanjay C V Choudhury, Adv.
Ms. Asha G Nair, Adv.
for M/s. Corporate Law Group, Adv.
- State of AP Mr. T V Ratnam, Adv.
Mr. K Subba Rao, Adv.
Ms. O S G Prasuna, Adv.
- State of Chhatisgarh Mr. Ravish Chandra Agrawal, Adv. Genl.
Mr. Prakash Srivastava, Adv.
- State of Jharkhand Mr. Ashok Mathur, Adv.



State of Orissa	Mr. Raj Kumar Mehta, Adv.
State of Karnataka	Mr. Anil K Mishra, Adv. for Mr. Sanjay R Hegde, Adv.
State of Kerala	Mr. K R Sasiprabhu, Adv.
State of Haryana	Mr. Aditya Kumar Chaudhary, Adv. Mr. Neeraj Kumar Jain, Adv. Mr. Bharat Singh, Adv. Ms. Kavita Wadia, Adv.
State of Nagaland	Mr. U Hazarika, Adv. Ms. Madhvi Sharma, Adv. Ms. Sumita Hazarika, Adv. Ms. V D Khann, Adv. (NP)
State of Punjab	Mr. R K Rathore, Addl. Adv. Genl. Mr. Ajay Bansal, Addl. Adv. Genl. Mr. R S Suri, Adv.
State of Bihar	Mr. B B Singh, Adv. (NP)
UTs	Mr. R K Rathore, Adv. Mr. D S Mahra, Adv.
Andaman & Nicobar Islands	Mr. T R Andhyarujina, Sr. Adv. Ms. S C Patodia, Adv. Ms. Priyanka Sharma, Adv.
State of Goa	Ms. A Subhashini, Adv.
CPCB	Mr. Vijay Panjwani, Adv.
State of Arunachal Pradesh	Mr. Anil Srivastav, Adv.
State of UP	Mr. S Wasim A Qadri, Adv. Mr. Pramod Dayal, Adv.
State of Manipur	Mr. K H Nobin Singh, Adv.
for State of Sikkim	Mr. A Mariarputham, Adv. Ms. Aruna Mathur, Adv. for M/s. Arputham Aruna & Co., Advs.
State of West Bengal	Mr. Avijit Bhattacharjee, Adv. Mr. Atanu Salkia, Adv. (In IA 703 in IA 502)
State of MP	Mr. Satish K Agnihotri, Adv. Mr. Rohit K Singh, Adv.



State of Tripura Mr. Anurag Sharma, Adv.
Mr. Gopal Singh, Adv.

Govt. of Pondicherry Mr. V G Pragasan, Adv.

Ms. Hemantika Wahi, Adv.
Ms. Aruna Gupta, Adv.

UPON hearing counsel the Court made the following
ORDER

IA 966 in IA 548 and IA 1012 in IA 966

Learned Solicitor General prays that these IAs may be
adjourned for two weeks. Order as prayed.

I.A. No. in I.A. No. 703 (filed in Court by learned Amicus
Curiae) for directions.

Taken on board.

Let this IA be registered and numbered.

Issue notice.

Notice on behalf of the Union of India is accepted by Mr. A
D N Rao, Adv. He prays for and is allowed four weeks' time to file a
reply. List thereafter.

In the meantime, Annexures P-1, P-2, P-3, P-4 and P-5
dated 5.2.2004, 3.2.2004, 7.10.2003, 6.2.2004 and 13.1.2004
respectively, to the I.A., shall not be implemented.

SLP(C) No. 6266/2000

Delink. List on a date to be given by the Registry before
this Bench.

I.A. No. 923 (in I.A. No. 392)

Let the sale proceeds be invested in a fixed deposit in a nationalised bank for a period of six months. Further orders in this matter shall be made after receipt of a comprehensive report by the State of Uttar Pradesh.

I.A. No. 786

Heard counsel for the parties.

The order dated 12.12.1996 is clarified to the extent that it would be open to the State of Jammu & Kashmir to export and transport the finished products of timber outside the State except those finished products of timber which have not be permitted by the Ministry of Environment & Forests, namely, mentioned at Sl.Nos. 12 and 14 in the letter dated 25.10.1997 enclosed with the IA. In case any further finished products are to be included, the State shall seek permission of this Court.

This IA stands disposed of.

SLP(C) No. 20070/1998

Issue fresh notice to respondent No. 4-Kashmir Veneer Industries.

Notice be also issued to the 11 units mentioned in para 4 in the report of the Central Empowered Committee (CEC) (pages 60-61 of the paperbooks). Notice to these parties be served through the Department of Forests, Jammu & Kashmir.

Contempt Petition (Civil) No. 555/2002

Let this petition be forwarded to CEC for its recommendations. It may clarify whether 'band-saw' can be equated with a 'saw-mill'.

Contempt Petition (Civil) No. 193/2001

Let response to the recommendations of CEC be filed by the State of Tamil Nadu and other parties within four weeks. List thereafter.

Letter dt. 31.1.2004 of one CN Preamsagar, Nilgiris (submitted by learned Amicus Curiae in Court):

Let this letter be taken on record and registered & numbered as an IA. List after four weeks. In the meantime, the State of Tamil Nadu shall file its response to the same.

I.A. No. 780 and I.A. No. 818

Adjourned for eight weeks.

Let the FDR for Rs.8,30,678/-, which is going to mature on 7.3.2004, be renewed for a further period of six months.

I.A. No. 827

Adjourned.

In the meantime, the Member-Secretary and the Chairman of CEC shall continue to occupy the premises which they are occupying at present on the same rate as presently charged till any



alternative accommodation is offered or given to them by the Government.

I.A. No. 1122

List after SIT decides the matter.

I.A. No. 824 (in IA No. 703 in IA 502), I.A. Nos. 841, 829, 830-32, 899, 918, 927-28, 961, 1024 and I.A. No. in IA No. 502 (on behalf of Ranchi Association (Regd))

Tag these IAs with IA filed today in Court by the learned Amicus Curiae.

Response be filed to the IA filed on behalf of Ranchi Association (Regd.)

I.A. Nos. 908, 922 and I.A. No. 1023

These IAs be transmitted to CEC for its recommendations. List after a report is submitted by the CEC.

The Government of Andaman & Nicobar Islands shall submit a report as regards report of Shekhar Singh Committee to the CEC within three weeks.

I.A. No. 929 and I.A. No. 1025 (in IA No. 929)

We have looked into the recommendations of CEC.

I.A. No. 929 is disposed of in terms of the recommendations of CEC.

IA No. 1025 stands disposed of.



LA. Nos. 745 and 926

The effort to arrest the accused who are at large shall continue. Status report in this regard shall be submitted by the CBI within a period of six weeks. In the meantime, we direct the States of Bihar, Jharkhand and Uttar Pradesh to extend all cooperation and help to the CBI in the matter of arrest of the remaining accused. List after six weeks.

LA. No. 1003 (in LA. No. 965)

Four weeks' time is granted to the State of Uttaranchal and the Union of India to file a response. List thereafter.

LA. No. 979 (in LA. Nos. 442-446)

Mr. Pramod Dayal, learned counsel appearing for the State of Uttar Pradesh prays for and is granted four weeks' time to file a response. List thereafter.

LA. No. 991

Issue notice to the State of Uttar Pradesh and the Union of India.

Mr. A D N Rao, Adv. accepts notice on behalf of the Union of India and Mr. Pramod Dayal, Adv. on behalf of the State of Uttar Pradesh. They pray for and are allowed six weeks' time to file response. List thereafter.

LA. Nos. 982-984 and LA. No. 1000

The Ministry of Environment & Forests is granted two weeks' time to file a response. The State of Rajasthan may file its response within two weeks thereafter. List after four weeks.



IA Nos. 1026-1028 and 1123-1124

Issue notice.

The Union of India may file its response within two weeks and the State of Rajasthan within two weeks thereafter.

List these IAs after four weeks.

IA No. 1035 (in IA 776 in IA 424)

Four weeks' further time is granted to the State of Madhya Pradesh to file its response. No further time shall be granted. List after four weeks.

IA No. 930 (in IA Nos. 669 & 659) with IA No. 775

Adjourned.

IA No. 967

We direct the Divisional Commissioner, Konkan Division, to get the demarcated areas under various notifications, demarcated within a period of four months and action taken report in this regard may be submitted within one month thereafter.

CEC shall monitor the demarcation work to be undertaken.

Rest of the matters

Adjourned. List on a date to be given by the Registry.

(D.P. WALLIA)
COURT MASTER

(JANKI BUNIA)
COURT MASTER

ANNEXURE A/8

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F. No. 5-2/2017- FC
Government of India
Ministry of Environment, forests and Climate Change
(FC Division)

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

Dated: 28th March, 2019

To,
The Principal Secretary/Secretary (Forests),
All State/UT Governments.

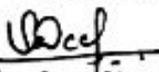
Sub: Handbook of guidelines for effective and transparent implementation of the provisions of Forest (Conservation) Act, 1980.

Sir,

In supersession of all guidelines issued in the past, a handbook of guidelines is issued for effective and transparent implementation of the provisions of Forest (Conservation) Act, 1980. All the provisions enshrined in these guidelines will be applicable from 8th March 2019 onwards. The copy of comprehensive guidelines is available on Ministry's website: www.parivesh.nic.in.

This issue with the approval of competent authority.

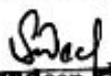
Yours faithfully,


(Sandeep Sharma)

Assistant Inspector General of Forest (FC)

Copy to:

1. Prime Minister's Office, New Delhi.
2. Secretary, Ministry of Mines/Coal/Steel/MoRTH/MoPNG/MHA/MoP/MoTA, Government of India, New Delhi.
3. Principal Chief Conservator of Forests, all State/UT Governments.
4. Nodal Officer (FCA), all State/ UT Governments.
5. All Regional Offices, Ministry of Environment, Forest and Climate Change (MoEF&CC), GoI, New Delhi.
6. Joint Secretary in-charge, Impact Assessment Division, MoEF&CC, GoI, New Delhi.
7. All IGF/ DIGF/AIGF in MoEF&CC, GoI, New Delhi.
8. Sr. Director (Technical), NIC, MoEF&CC with a request to place a copy of the letter on website of this Ministry.
9. PPS to Secretary (EF&CC)/DGF&SS/ADGF(FC)/ADGF(Wildlife), MoEF&CC, New Delhi.
10. Guard File.


(Sandeep Sharma)

Assistant Inspector General of Forest (FC)

o/c
17/4/19

Handbook of

Forest (Conservation) Act, 1980

and

Forest Conservation Rules, 2003

(Guidelines & Clarifications)



Ministry of Environment, Forest and Climate Change

Government of India

2019



Chapter I

Court Orders and General Clarifications

1.1. Meaning of 'forest' for the purpose of FCA-1980: As ordered by the Supreme Court of India in their order of 12th December 1996 in WP No. 202/1995 in the matter of T. N. Godavarman Thirumalpad Vs. Union of India *"The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act.*

1.2. Salient features of Lafarge Judgement (2011) : Issuing specific guidelines so that *fait accompli* situations do not recur the Supreme Court in their order dated 6.7.2011 (in IA Nos. 1868, 2091, 2225-2227, 2380, 2568 and 2937 in WRIT PETITION (C) No. 202 of 1995 - Lafarge matter) directed for "completion of the exercise undertaken by each State/ UT Govt. in compliance of this Court's order dated 12.12.1996 wherein *inter-alia* each State/UT Government was directed to constitute an Expert Committee to identify the areas which are "forests" irrespective of whether they are so notified, recognized or classified under any law, and irrespective of the land of such "forest" and the areas which were earlier "forests" but stand degraded, denuded and cleared, culminating in preparation of Geo-referenced district forest-maps containing the details of the location and boundary of each plot of land that may be defined as "forest" for the purpose of the Forest (Conservation) Act, 1980".

The Supreme Court also directed "the MoEF&CC for preparation of comprehensive policy for inspection, verification and monitoring and the overall procedure relating to the grant of forest clearances and identification of forests in consultation with the States."

1.3. Procedure for submission of proposals: All proposals for diversion of forest land for any non-forest purpose, irrespective of its ownership, requiring prior approval of the Central Government under FCA shall be submitted to the Nodal officer of the State/UT Government, online in the appropriate form and as per the procedures & requirements prescribed under the Forest (Conservation) Rules 2003, as amended from time to time.

1.4. Approval in two stages: MoEF&CC accords prior approval on proposals of the State/UT Government in two stages: first In-principle or Stage-I approval, and second on compliance to the conditions of the in-principle approval, final or Stage-II approval. Thereafter, as and when the State Government decides to permit the use of the forest land for non-forest purpose, it has to pass order to that effect along with the conditions and safeguards imposed by the Central Government while according Stage-I and Stage-II clearance (Ref: NGT principal bench order dated 7th November 2012 in appeal no. 7 of 2012).

1.5. No additional condition after Centre issues final approval: While issuing the diversion order, the State/UT government shall not impose any additional condition over and above the conditions stipulated by the Central government in their approval. However, subsequent to approval granted by the Central Government under FC Act, if the State/UT Government feels exceptional/unforeseen circumstances warrant imposition of additional

proposals on the recommendations of the REC as per the existing rules/ acts keeping into account the directions of supreme Court dated 22.09.2000 in Writ petition No. 202/ 95. The APCCF (Central) of the Regional Office will ensure strict monitoring of felling and regeneration as per approved Working Plan/ Working Scheme.

- (v) National parks and Wildlife sanctuaries are to be managed according to approved management plan. The Supreme Court has passed an order on 14.02.2000 restraining removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses etc. from any National Park or Game Sanctuary.....".

1.20. Reopening/reconsideration of Proposals

(i) In cases where the State Government is requested to furnish clarification or additional information relating to a proposal, all particulars should be made available to the Central Government within 90 days. If such particulars are not received within 90 days, the proposal may be rejected by the Central Government for non-furnishing of essential information. Such cases can be reopened provided the following conditions are satisfied:

- a. there is no change in the proposal in terms of scope, purpose and other important aspects.
- b. all the required information has been made available
- c. delay in providing the information is satisfactorily explained

(ii) Any request for reconsideration of any proposal that has been considered and rejected by the Central Government has to be made by concerned State/UT Government within three months from the date of communication of such rejection along with detailed justification for reconsideration and comments on each of the grounds on which proposal has been rejected.

1.21. Ex-post Facto approval and Penal Provisions: Proposals seeking ex-post-facto approval of the Central Government under the Forest (Conservation) Act, 1980 are normally not to be entertained. The Central Government will not accord approval under the Act unless under exceptional circumstances that may justify condonation. In such cases Central Government shall ensure penalty from user agencies/State as follows:

- (i) **In cases where the proposal under FC Act has not been submitted and forest land is diverted without FC.**
 - a. The diversion of forest land for non-forestry purposes without the prior approval of the competent authority in the State will be dealt under the provisions of Indian Forest Act 1927 and other State Acts dealing with the conservation of Forests by the State government concerned. The land in question will not be considered as diverted under FCA 1980 and the status of the land shall continue to be forest.
 - b. If the permission for use of forest land for non-forestry purposes have been granted by the State authority without the prior approval of the central government under section 2 of the Forest Conservation Act 1980 then action under section 3A and /or 3B of FC Act, as may be applicable, shall be taken against the authority causing the diversion. A report with full details of



violation shall be submitted by the State Government on the recommendation of the Forest Department of the State to the Ministry of Environment, Forests & Climate Change Government of India, New Delhi and formal enquiry shall be conducted by the Regional Office of the MoEF&CC.

(ii) In cases where the proposal under FC Act is under consideration and forest land is diverted before grant of FC:

- a. The penalty for violation shall be equal to NPV of forest land per hectare for each year of violation from the date of actual diversion as reported by the inspecting officer with maximum up to five (5) times the NPV plus 12 percent simple interest till the deposit is made.
- b. In case of public utility projects of the government the penalty shall be 20 % of the penalty proposed in para (a) above.
- c. State government will initiate disciplinary action against the official concerned for not being able to prevent use of forest land for non-forestry purpose without prior approval of Government of India.
- d. User agency responsible for violation shall be prosecuted under local Act of the State for unauthorized use of forest land without the permission of State authority.

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

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

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

(iv) Violation on account of change of land use in the approved mining plan:

- a. No penalty is to be imposed for such violation if the change is as per change in mining plan duly approved by competent authority. User agency shall intimate all approvals related to change in mining plan to the regional office within one month of approval. In other cases, change in land use plan shall not be carried out without prior approval of MoEF&CC under the provisions of FCA 1980.
- b. Any violation of change in land use (other than mining operations), penalty of two times the NPV plus simple interest 12 per cent from the date of actual violation committed will be imposed.
- c. In case the approved change in mining plan is not intimated within one month of the approval the same fine shall be imposed as in para IV(b).

If the violation is not attributable to the user agency, no penalty shall be imposed on user agency.

1.22. Zoo, Rescue, Rehabilitation Center and captive breeding facility



ANNEXURE A/9

CONSOLIDATED GUIDELINES AND CLARIFICATIONS

issued under

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

and

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



Government of India

Ministry of Environment, Forest and Climate Change

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

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

Dated: 29th December, 2023

ORDER

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

This issues with the approval of the competent authority.

Yours faithfully,


29.12.23
(Ramesh Kumar Pandey)
Inspector General of Forest

Distribution to:

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



CHAPTER-1

GENERAL CLARIFICATIONS AND COURT ORDERS

1.1 Applicability of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980: The provisions of the Act will be applicable in the following:

- (i) Land that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force;
- (ii) Land that is not covered under clause (i) of para 1.1 above i.e. lands which is recorded as forest on or after the 25th October, 1980 in the government record will also be covered under the provisions of the Adhiniyam. However, such government forest land (revenue forest land) not declared or notified under the IFA or local Act which has been changed from forest use to use for non-forest purpose on or before the 12th December, 1996 with the approval of competent authority in the State/UT shall be exempted from the purview of the Adhiniyam as per the *proviso* given under clause (b) of sub-section (1) of newly inserted section 1 A of the Adhiniyam.
- (iii) The proposals on forest land under litigation or *sub-judice* on account of an issue pertaining to the Indian Forest Act, 1927 (16 of 1927), local forest Act or Adhiniyam will be dealt as per the orders of the Courts or Tribunals passed in such cases and the date of applicability of the Adhiniyam in such lands shall be in accordance with the direction, if any, passed by the Courts or Tribunals.
- (iv) The provisions of the Act are not applicable on the tree, plantation and afforestation raised on private lands, except the notified private forests. However, felling of trees, in these private plantations shall, be governed by various State Acts, Rules, and Regulations. Felling of trees in private forests will be as per the working /management plan duly approved by the Government of India.
- (v) For the purpose of explanation of government records provided under subsection (1) of section 1A of the Adhiniyam, the State Governments and Union territory Administrations, within a period of one year, shall prepare a consolidated record of such lands, including the forest like areas identified by the Expert Committee, unclassified forest lands or community forest lands on which the provisions of the Adhiniyam shall be applicable. The record, so prepared shall be updated at regular intervals by State Government and Union territory Administration.

1.2 General Clarifications

- (i) The term 'tree' for the purpose of Adhiniyam will have the same meaning as defined in section 2 of the Indian Forest Act, 1927 and Indian Forest (Amendment) Act, 2017 or in State/ or other forest Act that may be in force in the forest area under question.
- (ii) Development/ construction of facilities which are not of permanent nature, in forest areas for the purpose of ecotourism by Government authorities, as per the



having addressed the concerns of the processing authorities, may submit an online request for re-listing of the proposal. The Nodal Officer in the State or the Inspector General of Forest (Forest Conservation) in the Central Government, DDG (Central) in the Regional Office, as the case may be, after examining completeness of the information furnished by the user agency, will consider re-listing of the proposal for consideration of approval under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.

- 1.14** In case the Advisory Committee or the Regional offices of this Ministry are of the view that State Government or Union territory Administrations needs to formulate a policy or change in an existing policy, in the interest of conservation and development of flora and fauna, they may advise the MoEF&CC to issue appropriate advisory to the concerned State Government or Union territory Administration. Issue and compliance to such advisory, however, may not be linked to grant of approval under the Act for diversion of forest land for a specific project.
- 1.15 Approval after ensuring compliance of provisions stipulated in the rules and guidelines:** Some proposals are recommended for grant of 'In-Principle' approval by the REC and Regional Offices subject to conditions like change in the CA sites, change in the area in online proposal, change in the area of CA site, etc. Such conditional approval are not in consonance with the online process envisaged in the PARIVESH portal as after grant of 'In-principle approval all relevant fields of the application become freezed/locked and the user agency or the processing authority cannot change the values of these fields including updating the fields related to CA land. This situation often delays the grant of 'Final' approval as the processing authorities cannot submit the compliance of 'In-principle' on PARIVESH. Such situations often call for intervention of NIC which is not desirable in any case. Therefore, Regional Offices and RECs of the Ministry shall restrain themselves from granting such conditional approval to avoid delays in the approval process.
- 1.16 Ex-post Facto approval and Penal Provisions:** Proposals seeking ex-post-facto approval of the Central Government under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 are normally not to be entertained. The Central Government will not accord approval under the Act unless under exceptional circumstances that may justify the case. In such cases Central Government shall ensure penalty from user agencies/State as follows:
- (i) **In cases where the proposal under Van (Sanrakshan Evam Samvardhan) Adhiniyam has not been submitted and forest land is diverted without FC**
- (a) The diversion of forest land for non-forestry purposes without the prior approval of the competent authority in the State will be dealt under the provisions of Indian Forest Act 1927 and other State Acts dealing with the conservation of Forests by the State Government concerned. The land in question will not be considered as diverted under Van (Sanrakshan Evam Samvardhan) Adhiniyam,1980 and the status of the land shall continue to be forest.
- (b) If the permission for use of forest land for non-forestry purposes have been granted by the State authority without the prior approval of the central government under section 2 of the Van (Sanrakshan Evam Samvardhan)



Adhiniyam then action under section 3A and /or 3B of Van (Sanrakshan Evam Samvardhan) Adhiniyam, as may be applicable, shall be taken against the authority causing such diversion. A report with full details of violation shall be submitted by the State Government on the recommendation of the Forest Department of the State to the Ministry of Environment, Forests & Climate Change Government of India, New Delhi and formal enquiry shall be conducted by the Regional Office of the MoEF&CC.

(ii) In cases where the proposal under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is under consideration and forest land is diverted before grant of FC

- (a) The penalty for violation shall be equal to NPV of forest land per hectare for each year of violation from the date of actual diversion as reported by the inspecting officer with maximum up to five (5) times the NPV plus 12 percent simple interest from the date of raising of such demand till the deposit is made.
- (b) State Government will initiate disciplinary action against the official concerned for not being able to prevent use of forest land for non-forestry purpose without prior approval of Government of India.
- (c) Central Government will initiate suitable action against the concerned offender.
- (d) User Agency responsible for violation shall be prosecuted under relevant local Act of the State and/or Central Act for unauthorized use of forest land without the permission of State authority.

(iii) Violation /non-compliance of any conditions imposed while granting approval under The Van (Sanrakshan Evam Samvardhan) Adhiniyam:

- (a) In such cases the penalty will be imposed on the recommendation of the Dy. Director General of Forests (Central), Regional Office in whose jurisdiction the alleged violation has occurred. The violation will be reported to REC/AC and the committee will give time to comply the conditions within stipulated time.
- (b) In case the offence is proved then the penalty shall be imposed for violation committed over forest area without approval equal to twice the normal NPV.
- (iv) **Violation on account of change of land use :** Any violation of change in land use, other than mining operations, penalty of two times the NPV plus simple interest 12 per cent from the date of actual violation committed will be imposed.
- (v) If the violation is not attributable to the user agency, no penalty shall be imposed on user agency.

1.17 Zoo, Rescue, Rehabilitation Centre and captive breeding facility.

Establishment of Zoo over forest area, other than Protected Areas, by the Forest Department/State Zoo Authority/Society formed by the State Forest Department and its management by the Forest Department/ State Zoo Authority/ Society formed by the State Forest Department/any agency authorized by the State Forest Department under PPP mode or otherwise, after it is duly approved by CZA, a central regulatory authority under the Ministry, shall be considered as a forestry activity for the purpose of implementation of provisions of Van (Sanrakshan Evam Samvardhan) Adhiniyam,



ANNEXURE A/10



-TRUE COPY-