

2. The said proposal was placed before Forest Advisory Committee (FAC) in its meeting held on 26.07.2018. The detailed minutes of the said FAC meeting held on 26.07.2018 is placed on the website of this Ministry: www.forestrclearance.nic.in and a copy of the same is placed in file at F/X for ready reference.

3. FAC after thorough deliberation and discussion with the Nodal officer (FCA) of Chhattisgarh, Representative of APCCF, Regional Office, Nagpur and user agency observed that:

4. The User Agency has three coal blocks allotted in its favour in Hasdeo-Arand Coal field as per detail given below:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of Coal Block</th>
<th>Forest Area (Ha)</th>
<th>Non-forest land (Ha)</th>
<th>Total Area (H)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Parsa</td>
<td>841.538</td>
<td>410.909</td>
<td>1252.447</td>
</tr>
<tr>
<td>2.</td>
<td>Parsa East and Kete Basan</td>
<td>1898.328</td>
<td>812.706</td>
<td>2711.034</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>4485.749</td>
<td>1240.571</td>
<td>5726.32</td>
</tr>
</tbody>
</table>

5. Major part of the coalfield is still virgin with huge resources of power grade coal. There are 18 coal block in Hasdeo-Arand Coal fields. Out of the 18 coal blocks, currently, mining operations are being carried out in 2 coal blocks namely Parsa East and Kete Basan and Chotia coal blocks while proposal in respect of other 4 coal blocks are under consideration in the State/Central Government level.

6. It is reported that the area is sensitive from erosion point of view. The vegetation density in the area is reported to be 0.5. Total number of trees reported to be felled are 95,458.

7. FAC took a note of the fact that similar case of PEKB and Tara Coal block in Hasdeo-Arand Coal was granted approval by the competent authority by overriding the recommendation of the then FAC. The then FAC also took into consideration the observations of the sub-committee of the FAC, which visited the area that the quality of the forest cover available in the Parsa East and Kante Basan coal block is poorer compared to area in the Tara coal block. However, as per the study jointly undertaken by the MoEF and MoC, Gross Forest Cover is 52.95% and Weighted Forest Cover comes to 27.55%. The then FAC after considering all the findings and observations did not recommend the diversion of the proposed forest area in view of fact that area proposed for diversion has high ecological and forest value and the number of trees to be felled was very high, which did not justify diversion from conservation point of view.
Recommendation of FAC was placed for approval before the Hon’ble Minister of Environment & Forests for their acceptance. The then Hon’ble Minister of State for Environment & Forests after considering the recommendations of FAC and taking into consideration the various issues, proceeded on to grant permission for Stage – I approval to the proposal on 23.06.2011.

8. The Hon’ble MEF had overruled(F/Y) the recommendation of the FAC on the following grounds:

   a) Coal block located in fringe area and not in biodiversity rich area of Hasdeo-Arand Coal filed.
   b) Substantial changes have been introduced in the mining plan as originally envisaged. Revised plan envisage mining in two phases of 15 years each.
   c) Concern identified relating to wildlife should be taken care of through a well-prepared and well-executed Wildlife Management Plan and Programme under the aegis of WII, Dehradun.
   d) These coal blocks are linked to super critical thermal power generating stations. In fact this is an explicit pre-condition for approval in order to remove any ambiguity on this score.
   e) Both the State Government involved – Chhattisgarh and Rajasthan (which will use the coal mined at Parsa East and Kante Basan) have been persistently following up since their power generation plans are closely linked with these coal blocks.
   f) While the FAC has to do its due diligence with single-minded focus, as the Minister I have necessarily to keep the boarder development picture in mind and balance out different objectives and considerations

9. On the basis of the order dated 23.06.2011 of the then Minister, this Ministry decided to give Stage-I clearance to diversion proposal of (I) Tara Coal Block and (II) PEKB Coal Block in Hasdeo-Arand Coal Block. MoEF granted Stage-I clearance dated 06.07.2011 to the diversion of 1898.328 ha of forest land (for mining in two phases) in Parsa East and Kante Bassan captive coal blocks open cast mining project in favour of M/s RVUNL in South Sarguja Forest division in Sarguja district of Chhattisgarh subject to fulfilment of certain terms & conditions, as specified therein. The State Government of Chhattisgarh has furnished the satisfactory compliance report on conditions stipulated in the Stage-I approval dated 6.07.2011 vide their letter no. 331-53/2455 dated 31.12.2011. After having found the compliance report submitted by the State Government complete, the stage –II approval was granted by MoEF on 15.3.2012 for the said proposal subject to fulfilment of certain conditions.

10. Subsequently, an appeal was filed by Mr. Sudiep Shrivastava before the Hon’ble NGT challenging the order dated 28-3-2012 passed by the State Govt. of Chhattisgarh under section-2 of the FCA for diversion of 1898.328 Ha of forest land of Parsa East and Kante Basan Captive Coal Blocks open cast mining project. Matter was concluded after series of hearing conducted by the Hon’ble NGT and judgment was passed on 24.03.2014 wherein the Hon’ble NGT inter-alia directed as under:

   a) “Order dated 23rd June, 2011 passed by the respondent no. 2- MoEF Government of India and consequential order dated 28th March, 2012 passed by the respondent no. 1 State of Chhattisgarh under section 2 of the Forest (Conservation) Act 1980 for diversion of forest land of PEKB Coal Blocks are set-aside;
b) The case is remanded to the MoEF with directions to seek fresh advice of the FAC within reasonable time on all aspects of the proposal discussed herein above with emphasis on seeking answers to the following questions: (i) What type of flora and fauna in terms of bio-diversity and forest cover existed as on the date of the proposal in PEKB Coal Blocks in question. (ii) is/was the PEKB Coal Blocks habitat to endemic or endangered species of flora and fauna. (iii) Whether the migratory route/corridor of any wild animal particularly, elephant passes through the area in question and, if yes, its need. (iv) Whether the area of PEKB Block has that significant conservation/protection value so much so that the area cannot be compromised for coal mining with appropriate conservation/management strategies. (v) What is their opinion about opening the PEKB Coal Blocks for mining as per the sequential mining and reclamation method proposed as well as the efficacy of the translocation of the tree vis-a-vis the gestation period for regeneration of the flora (vi) What is their opinion about the Wildlife Management plan finally prescribed. (vii) What conditions and restriction do they propose on the mining in question, if they favour such mining? Liberty is granted to the FAC to seek advice/opinion/specialised knowledge from any authoritative source such as Indian Council of Forestry Research and Education Dehradun or Wildlife Institute of India including the sources indicated in the present case by the parties.

c) The MoEF shall pass a reasoned order in light of the advice given by the FAC in accordance with law and pass appropriate order in accordance with law.

d) All work commenced by the respondent no. 3 project proponent and respondent no.4 pursuant to the order dated 28th March, 2012 passed by the respondent no. 1 State of Chhattisgarh under section 2 of the FC Act 1980, except the work of conservation of existing flora and fauna, shall stand suspended till such further orders are passed by the MoEF in accordance with law.”

11. The Order of NGT was challenged in Hon’ble Supreme Court through Civil Appeal No. 4395 of 2014.
12. In compliance of the NGT order, the FAC considered the proposal again on 29-30th April 2014 and reviewed the whole matter and after examination of the issue, recommended that since the matter is sub-judice, decision on the matter may be deferred.
13. In the meanwhile the Hon’ble Supreme Court heard the matter on 28.04.2014 and directed as under:

“…..we stay the direction in the impugned order that all works commenced by the appellant pursuant to the order dated 28th March, 2012 passed by the State of Chhattisgarh under Section 2 of the Forest Conservation Act, 1980 shall stand suspended till further orders are passed by the Ministry of Environment and Forests”.

14. Based on the stay order the user agency continued the work. Since 2014, the matter is pending in the Supreme Court and user agency is working in the area based on the stay order of Hon’ble Supreme Court.
15. In the meanwhile the user agency had approached the IA division of MoEF&CC for grant of EC to the expansion project “Parsa East and Kanta Basan (PEKB)” Opencast Coal Mine from 10 MTPA to 15 MTPA along with the expansion of Pit Head Coal Washery from 10 MTPA to 15 MTPA.
16. The file was processed and Hon’ble Minister of State for EF&CC directed that “since the matter is pulling for long, FAC may convene a meeting and decide the matter in 4 weeks
17. The Ministry observed that since the Supreme Court has stayed the part (4) of the order of the NGT whereby the ongoing operation of mining was suspended, the matter should be placed before the FAC in compliance of the remaining part of the NGT order namely (1), (2), and (3) and seek advice of FAC on the whole issue.
18. The Ministry is of the opinion that since the Supreme Court has not stayed the complete order of the NGT except the part 4 whereby the mining operation was suspended, the case was remanded to the FAC for reconsideration as directed by NGT and the Hon’ble Minister of State MoEF&CC.  
19. The matter of PEKB was discussed in FAC meeting on 25.01.18. FAC analyzed the existing condition of the mining lease area using the shape file on the DSS of the Ministry and google images and satellite imageries. FAC observed that the mining in the area is under process and forest has been cut as per the mining plan after the stay order granted by the Hon’ble Supreme Court against NGT order. The mining cannot be stopped now due to the stay order on suspension of mining operation. Since the matter has become a fait accompli situation, the user agency has to comply the mitigation measure as recommended in the Stage-II granted by the Ministry. FAC decided to recommend that the Ministry should ensure compliance of all conditions referred in Stage-II clearance subject to the final Decision of Hon’ble Supreme Court in Civil Appeal No. 4395 of 2014 in the matter of Rajasthan Rajya Vidyut Nigam Ltd. Vs. Sudiep Shrivastava.  
20. Now the matter related to adjoining area of Parsa Coal block is proposed for diversion. The area is located in the same Hasdeo Arund Coal field. This cannot be taken in isolation.  
21. FAC also considered the representations of BNHS,eRC and other such agencies.  
22. In concluding remarks of his note the then Hon’ble MOS(I/S)E&F dated 23.06.2011 (F/Y) has mentioned that ‘After taking all factors into account, I am of the view that permission should be granted to opening the Tara and Parsa East-kante Basan Coal blocks as proposed by Chattisgarh government, while granting this permission I must reiterate that any more opening of Coal blocks in the main Hasdeo-Arund forest area will severely disturb the fragile ecosystem of the region, perhaps the Chattisgarh government could be compensated through some sort of ‘green bonus’ (either through additional centenal assistance or through additional allocation of power from the central pool) for not giving any further permissions for coal mining in Hasdeo-Arund region. This green bonus policy will, of course, apply to the project in other states as well which may not see the light of day on account of ecological factors.  

Since the Parsa block of Chhattisgarh state electricity board is in between the Tara and the Parsa East –Kante basan Coal blocks permission for prospecting only as sought for by the state government is also hereby accorded. this block should not be worked commercially for at least the next five year till after some reclamation on portion of two other coal block has commenced in a visible manner.  

23. Taking into consideration the above facts, the FAC in its meeting held on 26.07.2018 recommended that:  

(i) Vide Judgment dated 24th March 2014 the Hon’ble NGT set aside the orders of MOEF dated 23 June 2011, which is related to Forest Clearance accorded for Parsa East & Kanta Basan coal block (PEKB) and is limited only to that. There is no mention of Parsa coal block in the order of NGT. However, considering that conservation of biodiversity and wildlife cannot be limited to this coal block only and has to cover the entire region, the FAC in its previous meetings had expressed serious concern and had instructed State Government to get a comprehensive study conducted by a reputed institution like ICFRE or WII and prepare a holistic report of the area which will be funded and executed by the user agencies. State government has already initiated the process.  

(ii) At that point of time MoEF&CC has taken a decision that Parsa coal block should not be worked commercially for at least 5 years till visible reclamation is done in the other two coal blocks (Tara &
PEKB). The mining operation in PKEB has been continuing in view of the stay granted by the Hon’ble Supreme Court on the impugned orders of the NGT and is in operation since February 2013 and more than five years have elapsed. The User Agency also presented documentary evidence regarding successful reclamation works. In view of this MoEF&CC may take a view.

(iii) FAC felt that final orders by the Hon’ble Supreme Court in this case would facilitate taking a clear-cut view for granting FC for Parsa coal block. However, FAC recommended that expert legal opinion may be obtained from ASG whether in-principle approval can be considered for this coal block/other coal blocks in Hasdeo-Arand forest area pending final disposal of the case in the Apex court.

24. A copy of civil appeal No. 4395 of 2014 made against judgement order dt. 24.03.2014 passed by the National Green Tribunal (NGT), New Delhi, Orders of NGT & Hon’ble Supreme Court are placed for ready reference at F/XX and F/YY respectively.

25. Based on the recommendation of FAC, the opinion of ASG through Ministry of Law and Justice, Department of Legal has been solicited as to whether in-principle approval can be considered for this coal block/other coal blocks in Hasdeo-Arand forest area pending final disposal of the case in the Apex court.

26. The opinion has now been received (Pg.32-33/n) and reproduced below:

**LEGAL OPINION**

**Query:**

The Querist seeks opinion with regard to whether in-principle approval can be considered for certain other Coal Blocks in hasdeo-Arand forest area pending final disposal of the case in the Hon’ble Supreme Court in Civil Appeal No 4395 of 2014 against judgment dated 24.03.2014 passed by the Hon’ble National Green Tribunal with respect to Parsa East and kete Basan (PEKB) Coal Block.

**Opinion:**

I have perused the opinion file CAS Dy. No. 2387/2018 in MoEF &CC F.No. 8-36/2018-FC(PT) with regard to the instant matter in hand. After perusal of the file it appears that FAC needs expert legal opinion whether in-principle approval can be considered for other Coal Blocks in hasdeo-Arand forest area pending final disposal of the Civil Appeal No. 4392 of 2014 before Hon’ble Supreme Court.

It is hereby pertinent to mention that the user agency has proposed for diversion of 841.538 hectares of Forest land for non-forest purpose under Forest Conservation Act. 1980 for the proposed Parsa Open Caste Mine in Surguja and Surjpur Districts in the State of Chhattisgarh which is one among the 18 Coal Blocks situated in Hasdeo-Arnad Coal Field. Out of this 18 Coal Blocks in the said Coal field, at present mining operations are being carried out in only 2 blocks namely, PEKB and Chotiya Coal Blocks.

It is also very apparent from the case file that the pending Civil Appeal No 4392 of 2014 before Hon’ble Supreme Court and the NGT Order dated 24.03.2014 pertains only with regard to forest clearance granted with regard for 1898.328 ha of PEKB Coal Block.

The Hon’ble Supreme Court vide Interim Order dated 28.04.2014 stayed only direction No. 4 of the impugned Order of NGT dated 24.03.2014 that “All works commenced by the appellant pursuant to the
Order dated 28th March 2012 passed by the State of Chhattisgarh under section 2 of the Forest Conservation Act 1980 shall stand suspended till further orders are passed by the Ministry of Environment and Forest.”

Apart from this, Order No. 2 and 3 of the NGT Order dated 24.03.2014 has not been stayed by the Hon’ble Supreme Court. The said Orders deal with the peculiar facts of the PEKB Coal Block diversion for Coal Mining purpose in context of environmental concerns, as per the expert opinion of the FAC. MoEF has been further directed by the NGT to pass a reasoned Order in light of the advice given by the FAC in accordance with law and pass appropriate order in accordance with law. All the said orders in any case only deal with the PEKB Block.

The new and present proposal for diversion of forest land for mining purpose is with regard to ‘Parsa Coal Block’ which is adjacent and contiguous to PEKB Coal Block, MoEF has processed this proposal and directed FAC that it may convene a meeting and decide the matter in 4 weeks for considering this proposal. It also appears that the said request by the ministry was only for the ‘Parsa Coal Block’ which is not in the lis pending before the Hon’ble Supreme Court.

At this juncture FAC is soliciting legal opinion as to whether they should consider in principal approval proposal for Parsa Coal Block in Hasdeo-Arnnd forest area during the pending Civil Appeal before the Hon’ble Supreme Court.

It is very apparent from the perusal of the file that there is no bar imposed by any of the Courts/Tribunals with regard to FAC to consider the conversion proposal for Parsa Coal Block in the Hasdeo-Arund Coal Fields. In the present case, rather the orders of NGT which has not been stayed by the Hon’ble Supreme Court are still operating and MoEF appear correct in its Opinion that since the Hon’ble Supreme Court has not stayed the Complete Order of the NGT except the Para 4 whereby the mining operation was suspended, the case could be sent to the FAC for reconsideration as directed by the NGT.

I have been further informed by the concerned officials of the Ministry with whom I have held detailed conference in this regard on 24.10.20158 and 26.1.2018 at Supreme Court that there is no other Orders or Directions passed by any of the Courts/Tribunals/other authorities with regard to Parsa Coal Block in hasdeo-Arund Coal field which restricts or prohibits FAC to consider the proposal for in-principal approval of such diversion of land.

I am, therefore, of the opinion that there is no bar for the FAC to consider the proposal for in-principal approval and the pending case before the Supreme Court has no bearing with the ‘Parsa Coal Block’ as such. However, it must be clarified that the FAC is competent and not restricted in any manner to take any decision in regard to the proposed conversion of land on any scientific or environmental concern which it may have.

27. The above facts were placed before Forest Advisory Committee (FAC) in its meeting held on 19.12.2018 and on the recommendation of FAC, the MoEF&CC vide its OM dated 20th December 2018 (Pg.7097/c) constituted a sub-committee of the following members for visiting the area proposed for diversion of 841.538 Ha of Forest Land for Coal Mining in Parsa Open Cast (OC) mine (5MTP) Block by Rajasthan Rajya Vidyut Utpadan Nigam Limited (RRVUNL) in Surajpur and Surguja District of Chhattisgarh, and submit their report:-
28. The committee as constituted on 19.12.2018 visited the area proposed for diversion and submit their report (Pg.7098-7101/c) as below:

Report of the Sub-Committee formed to make a visit to the area of diversion of 841.538 Ha of Forest Land for Coal Mining in Parsa Open Cast (OC) mine (5MTP) Block by Rajasthan Rajya Vidyut Utpadan Nigam Limited (RRVUNL) in Surajpur and Surguja District of Chhattisgarh

Vide Ministry of Environment, Forest and Climate Change notification dated 20th December 2018 a sub-committee of the following members was formed to make site visit to the area of diversion of 841.538 Ha of Forest Land for Coal Mining in Parsa Open Cast (OC) mine (5MTP) Block by Rajasthan Rajya Vidyut Utpadan Nigam Limited (RRVUNL) in Surajpur and Surguja District of Chhattisgarh:-

(i) Kanwarjit Singh Addl PCCF (C), Regional Office, MoEF&CC, Nagpur
(ii) Shri S.S. Bajaj, Nodal Officer, Chhattisgarh
(iii) Shri Deepak Mohanty, Member, FAC

Copy of the notification is at Annexure-I.

The sub-committee consisting of members listed at serial no. 1 and 3 above carried out the site visit on 8th January 2019, the other member Shri S.S. Bajaj, Nodal Officer, Chhattisgarh could not accompany the sub-committee.

The sub-committee; -

- Visited the 841.538 Ha. Area of the Forest Land proposed for diversion for Coal Mining in Parsa Open Cast (OC) mine (5MTP) block by Rajasthan Rajya Vidyut Utpadan Nigam Limited (RRVUNL) in Surajpur and Surguja District of Chhattisgarh.
- Visited the Mining area of the adjoining Parsa East and Kante Basen which consist of total 2711.034 Ha (1898.328 Ha of Forest Area and 812.706 Ha. of Non-Forest Area).
- Had discussions with the representatives of Rajasthan Rajya Vidyut Utpadan Nigam Limited (RRUVNL) and the local officials of the Forest Department.

Based on the observations on the above site visit and discussions, the aspect/issues wise findings and views of the sub-committee are as follows:-

a) Implementation status of the direction of Hon’ble NGT vide its order dated 24.03.2014 of para (b) of the operative part which reads as “The case is remanded to MoEF with direction to seek fresh advise of the FAC within reasonable time on all aspects of the proposal discussed herein above with emphasis on seeking answers to the following questions: (i) what type of flora and fauna in terms of biodiversity and forest cover existed on the date of the proposal in PEKB coal blocks in question (ii) is/was the PEKB coal blocks habituated to endemic or endangered species of flora and fauna (iii) whether the migratory rout/corridor of any wild animal particularly, elephant passed through the area in question and, if yes, its need. (iv) whether the area of the PEKB block has that significant conservation/protection values so much so that the area cannot be compromised for coal mining with appropriate conservation/management strategies (v)
what is their opinion about opening the PEKB coal blocks for mining as per the sequential mining reclamation method proposed as well as the efficacy for the trans location of the trees vis-à-vis the gestation period of the regeneration of the flora (vi) what is their opinion about the wildlife management plan finding prescribed (viii) what conditions and restrictions do they propose on the mining in question if they favor such mining? Liberty is granted to the FAC to seek advice/opinion / specialized knowledge from any authoritative source such as Indian Council of Forestry Research and Education, Dehradun or Wildlife Institute of India including the sources indicated in the present case by the parties.”

The point wise implantation status in view of the sub-committee is as follows-:

(i to vii) - As per the directions of the FAC, the State Government of Chhattisgarh is at the final stage of awarding “Biodiversity assessment study for the whole Hasdeo-Arand Coal fields consisting of Tara, Parsa, Parsa East and Kante Basen to the ICFRE, Dehradun in consultation with Wildlife Institute of India Dehradun”. These points will be addressed in this study.

However, the sub-committee intends to point out that the mining operations in Parsa East and Kanta Basen have already started since February 2013 and so far an area of 537.24 Ha has already been broken up and sequential mining and reclamation is also going on and so far an 161.63 Ha has been back-filled, 79.70 ha physically reclaimed and 50.2 Ha of internal dumps 43.62 Ha of external dumps and 21.96 Ha of other area have been reclaimed through plantation/biological reclamation. The company has a trans-location machine and trees upto 60 cm dia are being trans-located/transplanted on the dumps. The Sal trees trans-located in the past have well established.

b) Action taken on the observations of the Hon’ble Minister dated 23.06.2011 “Since the Parsa Coal Block of Chhattisgarh State Electricity Board is in between the Tara and The Parsa East – Kante Basen Coal blocks, permission for the prospecting only as sought by the State Government is also hereby accorded. This block should not be worked commercially for at least the next five years till after some reclamation on the portion of the other two coal blocks has commenced in a visible manner.”

The views/finding of the sub-committee are:

i) though the mining operations in the Parsa East and Kante Basen coal block started in February 2013 and are still going on, no mining operations have started in the Tara coal block, which is still intact

ii) More than five years have elapsed since the Hon’ble Minister has noted his observations on 23.06.2011,

iii) In the Parsa East and Kante Basen open cast Coal mine project the back filling and reclamation works have started from the year 2013-14 onwards and so far an area of approximately 161 Ha has been back filled and 121.77 Ha been treated with plantation and biological reclamation.

c) Scope of excluding the VDF from the proposed diversion area and carrying out other appropriate exercises so that the area does not come under inviolate area:

It was observed during the site visit and also evident from the working plan stock maps made available that this area of 841.538 Ha proposed for diversions do not have VDF and the maximum density of the Forest is around 0.5.
d) Any other matter that the sub-committee feels to include:

The sub-committee observed that the physical and biological reclamation/plantations taken up by the user agency in the Parsa East and Kante Basen open cast Coal mine project is done in a professional way and as per the approved progressive mine closure plan. Though some gully formations are observed in the initial overburden dump but the subsequent reclamation / plantations work is appreciable. The reclamation and plantation works taken up by the user agency is also supported by a report on the vegetation mapping and land reclamation for Parsa East Kante Basen (PEKB) open Cast coal mine Surguja prepared by Geotrax International Services which was engaged by the user agency. The report is attached with the Annexure-II.

The facts related to the above proposal may be placed before FAC in its meeting scheduled to be held on 15.01.2019 for their examination and appropriate recommendation.

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