

Sub: Diversion of 115.874 ha. of forest land in favour of M/s Jaiprakash Associates Ltd. for proposed diversion of forest land at village Kota in Tehsil Robertsganj, District Sonbhadra for JP Super cement plant & it's township (a unit of Jaiprakash Associates Ltd. Sector 128, Noida) in District Sonbhadra, State Uttar Pradesh (Online proposal No.FP/UP/IND/23246/2016).

Part - A

1. The State Government of Uttar Pradesh, Department of Forest, vide their letter No.130/14-2-2019-800(162)/2018 dated 25.02.2019 forwarded a proposal to obtain prior approval of the Central Government, in terms of the Section-2 of the Forest (Conservation) Act, 1980 for diversion of 115.874 ha. of Forest Land for JP super cement plant and establishment of residential colony in favour of M/s Jai Prakash Associates, at Village Kota in Tehsil Robertsganj, District Sonbhadra, Uttar Pradesh.
2. The proposal was scrutinized and a meeting was held with the officials of Regional Office, Lucknow, State Forest Department and the User agency in the Ministry on 06.08.2019. The following points were discussed in the meeting:
 - a. The land use plan of the proposed forest area with KML/Shape file in distinct colour.
 - b. Deficiencies in SIR.
 - c. History of the proposal in chronological order.
 - d. All relevant Court orders i.e. Hon'ble High Court, Supreme Court and NGT.
 - e. Justification for submission of only 115.874 ha area for diversion under FCA, 1980.
3. During the meeting certain issues and observations were raised and it was decided to seek the clarification from the state govt on following points:
 - a. The State Government should clarify that what action has been taken for unauthorized use of forest land.
 - b. What action has been taken against erring officers who have issued orders for use of forest land for non-forestry purpose in gross violations of Forest (Conservation) Act, 1980;
 - c. Whether all court orders pertaining to the project have been complied with or not?
 - d. It has come to the notice that the present project will be transferred to M/s Ultra Tech Cement Ltd. State Govt. need to clarify why the permission for diversion of forest land is not being taken in the name of M/s Ultra Tech Cement Ltd.
4. The above observations were communicated to the State Govt. of UP vide this Ministry's letter dated 28.08.2019. The Government of Uttar Pradesh vide their letter No.565/81-2-2020-800(162)/2018 dated 04.03.2020 submitted the reply to this Ministry's letter dated 28.08.19.
5. The above proposal was thereafter considered by the FAC in its meeting held on 23.04.2020.
6. The FAC after thorough deliberation & discussion with Nodal officer (FCA), Uttar Pradesh and DDG (RO, Lucknow) deferred the proposal and sought following information from the State Government:
 - i. The detailed chronology of the events which are vital to decide the issues pertaining to violation of FCA, 1980.
 - ii. Issue of violation of Forest (Conservation) Act, 1980 noted in Site Inspection Report of the Regional Office, MoEF&CC, Lucknow.
 - iii. The detailed clarification on responsibility with regard to the unauthorized use of forest land.
 - iv. Details of action initiated by the State Government in compliance of the orders issued by the Hon'ble NGT in this matter.
 - v. Issues pertaining to DSS analysis.
 - vi. The relevant copies of the orders of Hon'ble Court with regard to present proposal.
7. The above observations of the FAC were communicated to the State Govt. of UP vide this Ministry's letter dated 18.05.2020. The State Govt. of UP vide their letter dated 18.06.2020 submitted the reply to the observations.

8. Further, the above proposal was again considered in FAC meeting on 13th July, 2020, once the requisite information was forwarded by the State Govt. of UP on 18.06.20.

Part B

9. Observations and Decision of FAC meeting held on 13.07.2020:

The reply furnished by the State Government of Uttar Pradesh was discussed threadbare and same was also analyzed with regard to the Hon'ble NGT orders issued on 04.05. 2016 and 30.05.2016. Peculiarity of change in status of forest land in question and actions/inactions of State Forest Department in the instant case was also considered by the FAC members. It was decided that in order to have a better insight into the issue of violation done as per the provisions under Forest (Conservation) Act, 1980 and difference in contents of field report with DSS analysis, it would be pertinent to have a joint site inspection and bring more clarity on the proposal.

The FAC, after deliberation and examination, sought the following information/documents from the State Government:

I. A detailed site inspection report based on joint site inspection by the Regional Office, MoEF&CC, Lucknow and officials of the State Forest Department, regarding violation done as per the provisions under Forest (Conservation) Act, 1980 over the forest area proposed for diversion by user agency. The report shall include among others:

- a. Status of forest land proposed for diversion and extent of violations of FCA 1980;*
- b. Extent of forest area, within the proposed area of diversion, where violation under Forest (Conservation) Act, 1980 has been done;*
- c. Suitability of site proposed for compensatory afforestation vis-a-vis DSS analysis report;*
- d. Any other information relevant with instant proposal.*

II. The State Government shall provide details of construction activity carried out on proposed forest area for diversion by user agency after Hon'ble NGT order in OA No. 494 of 2015 dated 04.05.2016, if any;

III. Present possession status of remaining forest area outside the proposed area for diversion, i.e. 1083 .203 ha- 115.874 ha = 967.126 ha.

Part C

10. The Integrated Regional Office, MoEF&CC, Lucknow vide their letter dated 05.11.2020 had submitted the Joint Site Inspection Report wherein it has been reported as under:

- a.** According to FAC meeting held on 13 July, 2020, the Ministry of Environment, Forests and Climate Change, Government of India, New Delhi vide its letter No. 8-07-019-FC dated 06.08.2020 has directed to inspect jointly on the violation for diversion of 115.874 ha forest land at Village Kota, Tehsil- Robertsganj, District- Sonbhadra, Uttar Pradesh.
- b.** The State Government vide letter No. 1924-81-2-2020-800(162)/2018 dated 17.09.2020 has forwarded the relevant information to this office, wherein a detail report of the Chief Conservator of Forests, Mirzapur Mandal, Mirzapur is enclosed. It means the State Government agrees with the comments and contents of the said letter.

- c. State Government of Uttar Pradesh vide its letter dated 17/9/2020 nominated Chief Conservator of Forests/ Nodal Officer, Uttar Pradesh for joint inspection.
- d. Team comprising of Nodal Officer/ Chief Conservator of Forests, Uttar Pradesh State nominee visited the designated site on 07 October, 2020 along with CCF, Mirzapur Mandal, DFO, Obra and the officials of M/s Jaiprakash Associated Limited (commonly explained here as M/s JAL).
- e. Uttar Pradesh Cement Factory, Dala was established on two separate patches – Patch 1 having a total area 20.804 ha in five Gatas and Patch 2 is 95.07 ha. also in five Gatas. During site visit, it was seen that Patch 1 is old township having residential premises, Inter-college, hospitals, guest house, roads for the factory’s employee and semi constructed CBSE school building. Patch 2 consists of Super Cement Plant, road, old conveyor belts, ropeway and forests. Copy of the same is enclosed along with the report.
- f. The team, after careful analysis of factual data available in the office, produced by the State Government of Uttar Pradesh and site inspection, established that there is violation of the Forest (Conservation) Act, 1980 in the area.
- g. There are mainly 5 points wherein report is sought from the Regional Office. The point-wise report is as under:

(a) **The status of forest proposed for diversion and extent of violation of Forest (Conservation) Act, 1980.**

- i. According to the Part-I and Part-II of the proposal No. FP/UP/IND/23246/2016 submitted in the office, the status of proposed forest land is 115.874 ha as Reserve Forests vide Notification no. 1142/14-2-2016 – 20(4)/ 2016 dated 23/6/2016, situated in Village – Kota, Tehsil- Robertsganj, District – Sonbhadra, Uttar Pradesh.
- ii. The details of the khasra-wise land as explained in the proposal is as under:

Patch	Khasra	Area (in ha)	Description
I	933 KA	12.46	This patch is having residential quarters, power substation, playground, guest house, hospitals, Inter college, ITI College, internal road networks, created by Uttar Pradesh State Cement Corporation Limited. A half constructed CBSE School is also seen.
	2676 A	1.50	
	2602	6.604	
	2604	0.14	
	2607	0.10	
	Subtotal	20.804	
II	3198	21.10	This patch is having Super Cement Plant, Road, Conveyor structure, ropeway
	3199	21.25	
	3200	35.76	
	3108	4.11	
	3202	12.85	
	Sub total	95.07	
	Grand Total	115.874	

- iii. Old construction in patch I can be seen in Hon’ble NGT order dated 04 May, 2016 in M.A No. 1166 & 1169 of 2015 wherein it is said that the Government Cement Factory had carried out mining activity uninterrupted since 1954 till the production was stopped in 1999-2000 in the freehold, UPCCCL established township, administrative offices, township for employees, hospital, schools, stackers, reclaimers etc.

- iv. **Extent of Violation:** There are two broad scenarios of extent of violation of Forest (Conservation) Act, 1980, which are as under:

Scenario - 1

- a. Under Para-11 of Part –II, the extent of violation of Forest (Conservation) Act, 1980 is 115.874 ha. This proposal was duly endorsed at every level upto State Government of Uttar Pradesh.
- b. The Regional Office vide its earlier report in point No.8 through file No. 8A/UP/09/1177/2019/FC-390 dated 31.07.2019 has explicitly mentioned about the violation which is reproduced as under:

“Violation of Forest (Conservation) Act, 1980: The exclusion of forest land in question from purview of Section 4 and Section 20 of Indian Forest Act by State authorities and construction of JP Super Cement Plant in the year 2007 without obtaining permission under FC Act is in violation of the provisions of Conservation Act, 1980. Development of Township on the forest land was done in the year 1976 i.e. prior to enactment of Forest Conservation Act, 1980. Though the Cement Plan is not in operation but existence of residential quarters of company’s employees and continued use of other infrastructures without Forest clearance is also in violation of FC Act. The above violations have taken place prior to submission of application/proposal of forest diversion which needs examination in the light of recent guidelines of the Ministry regarding violations of FC Act issued vide letter No. 11-42-2017(FC) dated 29.01.2018.”

- c. The above quoted text has again mentioned about the development of township on forest land in the year 1976, which is actually in Patch I.
- d. State Government in its report dated 17/9/2020 has furnished the status of non-forestry activities including construction as in 2020 is as under:

S. No.	Land use	Area in ha
1	Factory premises	30.954
2	Plantation	77.514
3	Road	5.96
4	Settlement	1.199
5	Culvert	0.248
	Total area	115.874

Under Scenario- 1, entire 115.874 ha proposed reserve forest land for diversion is under violation of Forest Conservation Act, 1980.

Scenario– 2

According to the facts available in the Regional Office, documents produced by State Government, State Forest Department, Site Inspection and the proposals submitted for diversion, following facts are important to quantify the extent of non-forestry activity viz. violation of Forest Conservation Act, 1980.

- a.
- a. DFO, Obra in his letter dated 25/7/2010 had reported that no construction is seen in Gata number 3206, 3211 and 3212 and there was old constructed structure in Gata no. 3200.

- b. Regional office, Central Region, Lucknow in its letter no. II/1119/CEC/2009/1077 dated 19.01.2011 has asked the CCF, Mirzapur Mandal field official to stop illegal construction being carried out in Gata no. 3200 (cement plants) and roads were under construction in Gata no. 3211 & 3212
- c. During Site inspection, a semi-constructed CBSE School building seen in Patch 1.
- d. A structure called Super Cement Plant along with road is there in Patch II. Super cement Plant is established on the land where UPCCCL construction was existing.
- e. Natural Dense Forests because of secured area are seen on hillocks.
- f. According to a letter dated 19 October 2020 of DFO, Obra, the construction made during 2008 onwards by M/s JAL, area and gata details of the construction explained at point number (c & d) above is tabulated as under:

Patch	Khasra Number	Area of construction/ Total Area of plot(in ha)	Activity
I	2576 K	0.2 / 1.50	Partly constructed building of CBSE
II	3200	35.76 / 35.76	Super Cement Plant
	3198	2.96 / 21.10	Road
	3199	3.0 / 21.25	Road
	Total area	46.92 / 79.61	

- g. Report says that the Cement Plant is established in Gata No. 3200. Total area of the said Gata is kept under violation.
- h. So the total area constructed by M/s JAL since 2008 is (0.2 +35.76 +2.96+3.0=46.92 ha) 46.92 ha and team is of the view that this area may be treated as violation under Forest Conservation Act, 1980.

4.1 (b) **Extent of forest area within the proposed area of diversion where violation under Forest (Conservation) Act, 1980 has been done.**

- b. The extent of forest area within the proposed area of diversion, where violation under Forest Conservation Act, 1980 is 46.92 ha as explained in Scenario no. 2 above.

4.1(c) **Suitability of site proposed for compensatory afforestation vis a vis DSS analysis report.**

- a. According to the point 3.2 of part-I of the proposal, the total non-forest area proposed for compensatory afforestation is 115.874 ha.
- b. After DSS analysis The Ministry vide its letter dated 25.03.2019, it was found that the approximately 26 ha of land was falling within water bodies and accordingly requested the State Government of Uttar Pradesh to provide additional CA area of 26 ha.
- c. The Government of Uttar Pradesh vide its letter 1126/ 81-2-2020- 800 (162)/2018 dated 18 June 2020 had sent a detailed proposal along with map and suitability for plantation under CA, where in it was proposed degraded forest land in Paraspani Compartment no. 3 of Dala Range, Obra Forest Division. This additional area is suitable for plantation.
- d. Regional Office has requested the State Government on 25 September & 29 October 2020 to provide KML File of additional CA area of 26 ha., so that after DSS analysis suitability of the additional CA areas will be ascertained.
- e. The State of Uttar Pradesh has furnished KML file for additional compensatory afforestation on 19 October 2020, where some discrepancies was noticed. Subsequently, State Government was further requested to send revised KML File which was sent on 3 November, 2020.

The DSS report dated 4/11/2020 of the Regional Office states that the proposed area, (i.e Paraspani Compartment no. 3 of Dalla Range, Obra Forest Division) is 31.96 ha and 28 ha area is suitable for compensatory afforestation.

4.1(d) Any other information relevant on the proposal:

Hon'ble National Green Tribunal has passed a detailed order on 4 May, 2016 in M.A No. 1166 & 1169 of 2015.

4.2 The State Government shall provide the details of the construction activity carried out on proposed forest area for diversion by User Agency after Hon'ble NGT order in OA No. 494 of 2015 dated 04.05.2016.

As mentioned in point 1(d) Scenario 1-point no. (iv), the State Government vide its aforesaid letter, wherein Chief Conservator of Forest's report is enclosed, states about the construction activities carried out on the forest land, which is as under:

S. No.	Land use	Area in Ha
1.	Factory premises	30.954
2.	Plantation	77.514
3.	Road	5.96
4.	Settlement	1.199
5.	Culvert	0.248
	Total area	115.874

4.3 Present position status of remaining forest area outside the proposed area for diversion i.e. 1083.203 ha – 115.874 ha =967.1146 ha.

As per the report of Chief Conservator of Forests, Mirzapur Mandal, Mirzapur, the remaining 967.329 ha land has been notified as Reserved Forest under Section 20 of the Indian Forest Act, 1927.

4.4 Any other relevant information:

- i. The annual report of the U.P. State Cement Corporation Ltd. (1973-74) is enclosed in the reply of the State Government stating that the Company has completed two years of its working on 31st March, 1974.
- ii. No work could take place since 4th May, 2016, i.e. after the promulgation of NGT order.
- iii. Hon'ble National Green Tribunal in M.A No. 1166 of 2015 and M.A. No 1169 of 2015 vide its order dated 04 May, 2016 through its Amicus curie has said that prior approval of the central government under section 2 of the F C Act is required.
- iv. Under justification for locating the projects at page 79 stipulates that the total township of Dalla Cement Factory comprising above mentioned facilities were in possession of UPCCL since 1976.
- v. According to report dated 18 June 2020 of the State Government sent to the Ministry. M/s JAL had used the land for construction of structures like school, cement plant, roads when it was carved out from section 4 of Indian Forest Act, 1927 during settlement by then Forest Settlement Officer. The said proceeding of the FSO for exclusion of land notified under section 4 of Indian Forest Act, 1927 were declared null and void by Hon'ble National Green Tribunal in its order dated 4 May, 2016 and subsequently excluded land again notified as Reserve Forest under section 20 of Indian Forest Act.

12. The Regional Office, MoEF&CC, Lucknow vide letter dated 10.11.2020 has informed that:

उक्त विषय में इस कार्यालय के समसंख्यक पत्र दिनांक 05.11.2020 द्वारा आपको स्थल निरीक्षणकी रिपोर्ट मूल प्रति में प्रेषित की गई थी। इस सम्बन्ध में मुझे आपको यह सूचित करने का निर्देश हुआ है की स्थल निरीक्षक की रिपोर्ट में पृष्ठ सं० 5 में सिनेरियो - 2 के क्रम सं० (f) में दी गई तालिका में कुल क्षेत्र 46.92/79.61 टंकण त्रुटिवश गलत अंकित हो गया था जिसे संशोधित कर - कुल क्षेत्र 41.92/79.61 पढ़ा जाये।

Further the Government of Uttar Pradesh vide letter dated 10.11.2020 wherein it has been mentioned as under:

प्रश्नगत प्रकरण में आपत्तियों के निराकरण से सम्बंधित Joint Site Inspection Report की छायाप्रति प्रेषित करते हुए मुझे ये कहने का निर्देश हुआ है की जापट्टी संख्या - 1(a) के सम्बन्ध में अंकित निम्नवत चार्ट में कुल योग - 46.92 अंकित है। उक्त सूचना प्रभागीय वनाधिकारी के पत्र दिनांक 19.10.2020 में अंकित डाटा के आधार पर है। उक्त तालिका में कुल योग - 46.92 अंकित है, जो कि त्रुटिपूर्ण है। वास्तव में कुल योग - 41.92 है। अतः तालिका में अंकित मद का कुल योग - 41.92 माना जाय :-

Patch	Khasra No.	Area construction/Total Area plot (in ha)	Activity
I	2576 K	0.2/1.50	Partly constructed building of CBSE
II	3200	35.76/35.76	Super Cement Plant
	3198	2.96/21.10	Road
	3199	3.0/21.25	Road
	Total area	41.92/79.61	

From the Joint Inspection Report it was not clear that any representation was there from IRO Lucknow. The same was communicated to the State Govt. of UP vide this Ministry's letter dated 11.12.2020.

The State Govt. of UP vide their letter No.2589/81-2-2020-800(162)/2018 dated 15.12.2020 forwarded additional information in response to this Ministry's letter dated 11.12.2020 and informed that:

मुख्य वन संरक्षक/नोडल अधिकारी, उ०प्र० लखनऊ द्वारा अवगत कराया गया है कि भारत सरकार पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, इंदिरा पर्यावरण भवन, नई दिल्ली के पत्रांक-8-7/2019-एफसी दिनांक 06.08.2020 में दिए गए निर्देशों के क्रम में भारत सरकार, पर्यावरण वन एवं जलवायु परिवर्तन मंत्रालय, एकीकृत क्षेत्रीय कार्यालय, अलीगंज लखनऊ के उप वन महानिदेशक, श्री बिभाष रेंजन तथा वन विभाग कि तरफ से तत्कालीन मुख्य वन संरक्षक/ नोडल अधिकारी, श्री पंकज मिश्र द्वारा दिनांक 07.10.2020 को स्वयं संयुक्त स्थलीय निरीक्षण किया गया है।

इस सम्बन्ध में मुझे यह कहने का निर्देश हुआ है कि Joint Site Inspection Report भारत सरकार, पर्यावरण वन एवं जलवायु मंत्रालय, क्षेत्रीय कार्यालय, अलीगंज लखनऊ के पत्र संख्या 8बी/यूपी/09/1117/2019/एफसी/1015, दिनांक 05.11.2020 द्वारा उपलब्ध कराई गयी रिपोर्ट कि प्रति आवश्यक कार्यवाही हेतु आपको शासन के पत्र दिनांक 10.11.2020 द्वारा प्रेषित कि जा चुकी है, जिसमे उक्त दोनों अधिकारियों के हस्ताक्षर अंकित है।

In view of the above facts, the proposal is submitted to the Forest Advisory Committee (FAC), for consideration in its meeting scheduled to be held on 27.01.2021.
