

This is regarding a proposal for **transfer of final forest clearance** in favour of **M/s JSW Utkal Steel Ltd.**, which was granted vide this Ministry's letter dated **04.05.2011** for diversion of **1253.225 ha forest land** for establishment of Integrated Steel Plant and Captive Port in Jagatsinghpur district of Odisha by **POSCO-India Pvt. Ltd.**

2. It is imperative to mention that the Government of Orissa vide their letter dated 26.06.2007 had submitted the said proposal for seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980.
3. The integrated steel plant was proposed to be located in Kujang Tehsil of Jagatsinghpur district, Orissa, about 12 km from Para deep. The proposed project requires 4,004 acres of land of which 437.68 acres is private land, and 3566.342 acres is Government land (2958.79 acres forest land and 607.53 acres non-forest government land). The land for proposed project lies in 8 villages of three Gram Panchayats. Of the eight villages, two falls fully within the project area and the families in these villages would need to be resettled and rehabilitated in other areas. According to reports, **a total of 471 families would be displaced by the project.**
4. The said proposal was placed before the Forest Advisory Committee (FAC) constituted by the Central Government under Section 3 of the aforesaid Act in its meeting convened on **09.08.2007.**
5. In pursuance to the Hon'ble Supreme Court's order dt. 27.04.2007, in IA No. 1413, 1414 etc. in WP (C) No. 202/1995, which *inter-alia* states that "... *fresh cases may be cleared Project-wise by the FAC and thereafter such clearances shall be placed before this Court for approval. ...*", the said proposals along with said recommendation of the FAC were placed before the Central Empowered Committee (CEC) for its examination and appropriate recommendation to the Hon'ble Supreme Court.

The CEC examined the proposal and observed(**Pg.1965-1967/c**) that the diversion proposal covers forest land required for the integrated steel plant and captive minor port and the proposal for requirement of forest land for other linkages such as mines, railways, road, corridor, etc. are yet to be finalized. The CEC has further observed that instead of piecemeal diversion of forest land for the project, it would be appropriate to assess the total forest land requirement for the project including for the mining and that the decision for diversion of forest land is taken after considering the ecological importance of the area, number of trees required to be felled, adequacy and effectiveness of the Rehabilitation and Resettlement (R & R) Plan for the project affected persons and benefits accruing to the State. **Finally, the CEC recommended that the proposed diversion of forest land for M/s POSCO India Private Limited may be permitted subject to the compliance of the above observations.**

In consideration of the said report of the CEC, the Hon'ble Supreme Court in its order dated 08.08.2008 (**Pg.2177-2180/c**) in IA. No. 2166 in 1413 in Writ Petition (Civil) No. 202 of 1995 directed as below:

*"M/s POSCO, a Company registered in the Republic of Korea, proposes to start an integrated steel plant in the State of Orissa. The C.E.C. has examined the project and has recommended for diversion of 1253.225 ha of forest land. It is stated that about 2.8 lacs trees are to be cut and removed from this area. The Forest Advisory*

*Committee (FAC) has also examined the project and has given its report. The MoEF may take an appropriate decision in this regard and subject to the decision of the MoEF, this project is cleared. As regards milling operations, the matter is pending with the Orissa State Authorities and we are told that the matter has already heard by the appropriate authority. The decision may be taken within a period of four weeks.*

*As there is involvement of cutting of a large number of trees, especially from the coastal side, examination of mitigating measures to be taken to protect this area from cyclone and other natural calamities is necessary. We appoint a Committee consisting of Shri S.K. Patnaik, presently acting as a Member of C.E.C., as Chairman. The Tribal Welfare department of the State of Orissa will nominate a Member and also the MoEF will nominate another Member to this Committee. The Forest and Environment Department of State of Orissa may also nominate another Member to this Committee. The Committee shall examine the steps to be taken as mitigating measures. It may be noted that this part of the order is as an interim measure",*

6. In-principle/Stage-I approval for diversion of the said forest land was granted by this Ministry on **19.09.2008 (Pg. 1975-1976/c: F/A)** subject to certain conditions prescribed therein.
7. After receipt of compliance report on the conditions stipulated in the Stage-I approval dated 19.09.2008 from the State Government of Orissa, **Final approval/Stage-II Forest Clearance** for diversion of the said forest land in favour of POSCO-India Pvt. Ltd was accorded on **29.12.2009 (Pg.1949-1950/c: F/B)**. However, this Ministry vide its letter dated 8<sup>th</sup> January, 2010 (**Pg. 1951/c: F/C**) informed the State Government of Orissa that the stage-II approval is subject to settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and no forest land shall be handed over to the User Agency before settlement of the rights under the FRA.
8. Further, the Ministry received complaints on violations of FRA and Resettlement & Rehabilitations (R&R) provisions. This Ministry vide its order dated 28.07.2010 (**Pg.2024-2025: F/D**) constituted a four-members Committee consisting of Ms. Meena Gupta, Dr. Devendra Pandey, Dr. Urmila Pingley and Dr. V. Suresh to ascertain status of the implementation of the FRA and R&R in and around the said forest land. Later on, the Terms of Reference (ToR) of the Committee were further expanded to include review compliance with Environmental Impact Assessment (EIA), Coastal Regulation Zone (CRZ) & other clearances/ approvals under various statutes, rules, notifications etc.

Before the Committee started investigation in the matter, a sub-group of an another Committee which had been established jointly under the Ministry of Tribal Affairs and the MoEF, under the Chairmanship of Dr. N.C. Saxena to study and assess the impacts of the FRA with regards to the sustainable management of forest resources across the country, brought to notice of this Ministry certain violations of FRA by the POSCO project. **Therefore, the Ministry vide its letter dated 05.08.2010 (Pg.2132-2134/c) informed the State Government of Orissa that work, if any, being undertaken on the said land, for the said project, including handing over of the forest and non-forest land shall be stopped and report on the same be submitted to this Ministry.** The Committee undertook two field visits for the project area. During these visits the Committee interacted with wide range of stakeholders. The members of the Committee could not reach a consensus. Hence, two reports, one by Ms. Meena Gupta and another by the other three members of the Committee were

submitted to the Ministry on 18.10.2010(Pg.2229-2406/c).

9. The above stated reports of the Committee (Pg.2229-2406/c) were placed before the **Forest Advisory Committee (FAC) in its meeting convened on 25.10.2010** for its examination and appropriate recommendations. After perusal of the records and interaction with the officials, **the FAC on 25.10.2010** decided that to be within its mandate, it will limit its deliberation and recommendations to the grant of the prior approval of the Central Government for diversion of forest land. In addition, the FAC also decided to deliberate and recommend appropriate action on implementation of the FRA. The issue of the grant of environment & CRZ clearances and the status of implementation of the Resettlement and Rehabilitation (R&R) provisions is being dealt separately by the Impact Assessment (IA) division in the Ministry through the concerned Expert Appraisal Committees. After careful examination of the said reports and interaction with the officials, the FAC noted as below:

- (i) The members of the Expert Committee could not reach a consensus. Hence, there are two reports, one by Ms. Meena Gupta and another by the other three members of the Committee;
- (ii) Forest clearance was issued by the MoEF under the Forest (Conservation) Act, 1980 subject to compliance with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forests Rights) Act, 2006. For the settlement of forest rights, the Ministry has observed adequate caution by clearly stipulating, both in the forest clearance dated 29.12.2009 and subsequent clarification dated 8.1.2010, that the rights, in terms of the FRA shall be settled by the state Government of Orissa before handing over the forest land to the POSCO. On receipt of a report on certain violations of FRA by the POSCO project, from a sub-group of another Committee which had been established jointly under the Ministry of Tribal Affairs and the MoEF, under the Chairmanship of Dr. N.C. Saxena, to study and assess the impacts of the FRA with regards to the sustainable management of forest resources across the country, the Ministry on 5.8.2010, as a matter of abundant precaution, informed the State Government of Orissa to stop the works, if any, being undertaken for the said project.
- (iii) The Committee has raised an issue about uncertainty of source of iron ore. The FAC observed that decision on a proposal, if any is received in future, for diversion of forest land for supply of iron ore to the said project should be taken by the Ministry on its merit and will have no bearing on the present case.
- (iv) On the issue of implementation of the FRA, both the reports assert that there has not been full, complete and comprehensive compliance with the FRA. Beyond this the two do not concur on the modalities for further course of action. The report by Ms. Meena Gupta has recommended that settlement of forest rights should be redone in the project affected villages within a stipulated time frame. The report by the other three Members of the Committee have however, further recommended that final forest clearance dated 29.12.2009 of the MoEF be revoked. They assert that this follows from non-compliance with the FRA. The State Government of Orissa questions the veracity of both these reports. They are of the opinion that the procedure prescribed for settlement of the rights, have been duly observed, both in letter and spirit in the entire State, including in the villages being affected by the POSCO project. The State Government observes a fresh exercise may lead to unrest and litigation. According to them, the Rules framed under the FRA also do not provide to invite and settle claims once again, once the procedure prescribed to settle such claims has already been completed in a village. There is a clear and near complete divergence between the Committee members and Govt. of Orissa.

10. The FAC after detailed deliberations **in its meeting held on 25.10.2010**, recommended as below:

- (i) As there is no agreement on the adequacy of the FRA process at the project site, it is essential to examine the issue in its entirety.
- (ii) The Ministry of Tribal Affairs (MoTA) is the nodal Ministry to ensure implementation of the FRA and may examine the larger question of whether the implementation of the FRA has been adequate. At the same time, the Forest Advisory Committee is required to examine the prima facie allegations of noncompliance with the said Act. This is to ensure the Committee does not condone any illegality and to ensure that it always acts in full conformity with Acts of Parliament. This is done in following paragraphs.
- (iii) The MoEF's order dated 5 August 2010, asking that all works on the project site be halted, is still in force. This is to remain the case till it is ensured that all acts of the State Government of Orissa were in accordance with the FRA.
- (iv) The MoEF circular dated August 3, 2009, states that forest clearance under the Forest Conservation Act is conditional upon obtaining "*a letter each from the concerned Gram Sabhas, indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures if any, having understood the purposes and details of proposed diversion.*" No such resolutions meeting the required specifications have been forwarded by the State Government.
- (v) The issue of compliance with FRA is especially relevant in this case because the forest clearance dated 29.12.2009 clearly stipulates that rights as per the provisions of the FRA shall be settled before implementation of the project. This was further reiterated in the MoEF letter dated 8 January 2010 which stipulated that, "*the forest clearance issued is conditional on settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. No forest/ land shall be handed over to the User Agency before settlement of rights under the above mentioned Act*". This condition has not been met by the State Government. The majority and minority reports of the Meena Gupta Committee concur on this issue. The evidence clearly indicates that the conditions upon which final clearance was granted have been violated.
- (vi) Further, the regional representative of the MoEF had noted as early as 24.07.2007 that the No Objection Certificate from the *gram panchayats*, as required under para 2.1.4 of the FCA Handbook, had not been obtained.
- (vii) **The Committee is of the opinion that this is a clear case for temporary withdrawal of permission.** The Ministry may give adequate opportunity to the State Government to respond and adequately demonstrate its compliance with the above stipulations.

11. The FAC finally recommended that in the opinion of the FAC, the Meena Gupta Committee report clearly indicates a lack of diligence in settlement of forest rights and unless the State Government provides evidence of their serious intent for following observance of due process of law, it appears to the FAC that this is a breach of law. Based on the above analysis, **the FAC finds that this is a fit case for applying the precautionary principle to obviate irreparable damage to the affected people, and recommends temporary withdrawal of the final/stage-II approval accorded, in accordance with Section-2 of the Forest (Conservation) Act, 1980**, by the Ministry of Environment & Forests for diversion of 1253.225 ha. forest land for establishment of Integrated Steel Plant and Captive Port by POSCO-India Pvt. Ltd. in Jagatsinghpur district of Orissa.

12. Ministry vide its letter dated 10.02.2011 (**Pg. 2983-2984/c**) requested the State Government to submit the categorical assurance to this Ministry. Government of Odisha vide their letter no. 10F (Cons) 561/2011(pt.)/6356 dated 08.04.2011 (**Pg.3158-3161/c**) informed as below:

- (a) Subsequent to the afore-mentioned letter orders indicated in the Hon'ble Union Minister for Environment & Forests vide his letter dated 22.2.2011 had also drawn the attention of the Hon'ble Chief Minister, Orissa regarding violation of Forest Rights Act in the POSCO project area as alleged by Sri Prasant Paikray.
- (b) Since the issues raised above are about ensuring implementation of forest Rights Act and alleged violation of the said Act in the POSCO Project area, the ST & SC Development Department; which is the Nodal department for implementation of the Forest Right Act in the State and the Collector, Jagatsinghpur, who is the Chairperson of the District Level Committee constituted under the provision of the Forest Rights Act, were asked to look into the matter and submit compliance.
- (c) After necessary examination of the matter, the Commissioner-cum Secretary to Government, ST&SC Development Department in his letter No. 9770 dated 7.3.2011, based on the report of Collector, Jagatsinghpur, has confirmed that on one satisfies the conditions laid down under Section 2 (0) of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights Act, 2006 to be treated as other traditional forest dwellers in the forest land involved in the POSCO project area, who has for at least three generations prior to 13<sup>th</sup> day of December, 2005 primarily resided in and who depend on the forest land for bonafide livelihood needs. This observation of the Nodal department of the State Government clarifies that at least one of the three stipulations prescribed in para 19 of the order of Hon'ble Union Minister for Environment & Forests regarding eligibility of an applicant to be regarded as Other Traditional Forest Dwellers for settlement of Individual community forest rights as per provision of the Forest Rights Act is not fulfilled in respect of any person in the POSCO project area. The copies of the letters of the Commissioner -cum Secretary to Government. St & SC Development Department and the Collector Jagatsinghpur district as received along with the said letter of the State Government of Orissa are placed at (**pg- 3076-3077**) and (**pg- 3078-3080**) respectively.
- (d) Further the Hon'ble Minister, Environment & Forests in the letter dated 12.3.2011 had drawn the attention of Hon'ble Chief Minister, Orissa to the resolutions passed by Dinkia and Gobindpur villages of Dinkia GP appended with another representation of Sri Prasanta Paikra, indicating their opposition to setting up of Steel Plant Project by POSCO India Pvt. Ltd. in their area along with their eligibility to be created as Other Traditional Forest Dwellers under the provisions of Forest Rights Act. The matter has been thoroughly enquired examined by the Collector, Jagatsinghpur district (Chairperson of the District level Committee constituted under the Forest Right Act) and the ST & SC development Department (Nodal department for implementation of the Forest Rights Act in the State).

Further, the Commissioner -cum-Secretary, ST & SC Development Department vide his letter No.11807 dated 31.3.2011(**Pg.3102/c**), based on the latest report of the Collector, Jagatsinghpur, has again reiterated the earlier position that no one satisfies he conditions to be treated as "other traditional forest dwellers" in the forest land involved in the POSCO protect area.

Hon'ble Minister of this Ministry issued an order dated 02.05.2011 (**Pg-3071-3075/c**) ensuring

13. Ministry vide its letter dated **04.05.2011(Pg.3076-3079/c)** granted final/Stage-II approval in accordance with Section-2 of the Forest (Conservation) Act, 1980 for diversion of 1253.225 ha forest land for establishment of the said Integrated Steel Plant and Captive Port by POSCO-India Pvt. Ltd., Jagatsinghpur district of Orissa subject to the fulfilment of the conditions stipulated by this Ministry vide its letter dated 29.12.2009 **and additional condition** that the user agency would bear the cost of regeneration of an equivalent amount of open degraded forest and in a district to be determined and indicated by the State Government of Orissa.
14. In connection with the diverted forest land of 1253.225 ha. in favour of **M/s POSCO India Private Limited**, the Government of Odisha vide their letter no. 10F (Cons)-221/2015 (pt.)/21823/F&E dated 24.10.2017(**Pg. 3031-3034/c**) informed that as mentioned in the Part-I of the application seeking diversion of forest land, IDCO, a Government of Odisha Corporation, was entrusted with acquiring land required for the above Steel Plant/Captive Power Project in Jagatsinghpur district of Odisha. The Part-I application was also accordingly jointly signed by the user agency (POSCO India Pvt. Ltd.) and land acquiring agency of State Government (IDCO). **As reported by IDCO vide their letter dated 27.4.2017(pg.3090-3091/c), the advance possession of 1301.78 acres of diverted forest land ordered in favour of M/s POSCO India Pvt. Ltd for its non-forest use, had to be cancelled for non-deposit of annual Government dues i.e. Rent and Cess for the year 2016-17 by M/s POSCO India Pvt. Ltd and non-utilization of diverted forest land for non-forest use .**

Keeping in view of cancellation of advance possession of some portion of diverted forest land in favour of M/s POSCO India Pvt. Ltd and with a view to utilize the diverted forest land for some other industrial use, the land acquiring authority i.e. IDCO vide their letter No. IDCO/HO/DCF/41-FC dt. 18.9.2017 (**Pg.3033-3034/c**) have approached the MoEF&CC, GoI for making required amendment in their final forest clearance dt. 4.5.2011 and it was requested by the State Govt. **to consider** the request of IDCO in this context for **transfer of forest clearance made earlier in favour of M/s POSCO India Pvt. Ltd. to IDCO** subject to deposit of all pending dues by IDCO on account of conditions stipulated in the final forest clearance order dt. 4.5.2011 in Adhoc-CAMPA account and compliance of any other stipulations to be imposed by the Ministry in this regard.

The above request was processed by the FC division (**Pg.72-78/n**) and a meeting under the chairmanship of DGF&SS with the State Govt. official and representative of user agency was held on 21.12.2017 (**Pg.3092/c**) but no decision is taken.

15. In continuation of Govt. of Odisha's letter dated 24.10.2017 as explained in para (14) above, now the Govt. of Odisha vide their letter No. 10F (Cons)-164/2018/25069/F&E dated 19.11.2018 (**Pg.3094-3100/c: F/R**) informed that in view of cancellation of advance possession of some portion of diverted forest land in favour of M/s POSCO India Pvt. Ltd and with a view to utilize the diverted forest land for some other industrial use, Govt. of Odisha was earlier recommended that Ministry may consider for transfer of forest clearance made earlier in favour of M/s POSCO India Pvt. Ltd. to IDCO ( who are also the co- applicant seeking forest clearance then and being entrusted with the responsibility of acquisition of the land for the project) subject to deposit of all pending dues by IDCO on account of conditions stipulated in the final forest clearance order dt. 4.5.2011 in Adhoc-CAMPA Account and compliance of any other stipulations to be imposed by the Ministry. The IDCO authorities vide their letter No. IDCO-LAE-7289/2017 dt, **28.11.2017** had also furnished the details of the development in this project along with relevant undertakings to the Ministry for

consideration. But the orders of Ministry in this context has not yet been received.

It is further reported by the Govt. of Odisha that the Chairman-cum-Managing Director, IDCO vide his letter No. 19619 dt. 22.9.2018 (**Pg.3103-3106/c**) and subsequent communication dt. 29.10.2018 (**Pg.3101-3102/c**) has presented the case in detail before them indicating subsequent developments, revealing that the earlier project proponent i.e. M/s POSCO India Pvt. Ltd. could not utilize the land so allotted for establishment of Integrated Steel Plant even though they had possession of the land for a long period of four years. Further owing to non-payment of ground rent and cess of the allotted land by the M/s POSCO India Pvt. Ltd as per demand of IDCO and unwillingness of the Company to utilize the land for the purpose of allotment, **Government of Odisha decided to cancel the allotment of land earlier made in favour of M/s POSCO India Pvt. Ltd and to keep the said land under Land Bank of IDCO as the ownership of the land is with IDCO.**

16. It is further mentioned by the Govt. of Odisha that it revealed from the letters of CMD, IDCO that the proposal of M/s JSW Utkal Steel Limited for establishment of 12 MTPA Integrated Steel Plant with Captive Power Plant at Gadakujanga, Nuagaon and Dinkia area of Jagatsinghpur district with an investment of Rs.50,000 crores has been approved by the State Government following clearance of the above proposal of the Company in the 17 Meeting of High Level Clearance Authority headed by the Hon'ble Chief Minister, Odisha held on 2.6.2017. The land earlier allotted in favour of M/s POSCO India Pvt. Ltd in Jagatsinghpur district has now been decided by the State Government to be allotted in favour of M/s JSW Utkal Steel Limited for similar types of projects i.e. Integrated Steel Plant with captive Jetty.
17. The Industrial Promotion & Investment Corporation of Odisha Limited (IPICOL) have appraised the extent of land requirement for the new project proponent i.e. M/s JSW Utkal Steel Limited for setting up 12 MTPA Integrated Steel Plant & CPP and Captive jetty. As per its appraisal, the Integrated Steel Plant with CPP would require **2,980 acres (1,205.99 ha.) of land**, while the proposed Captive Jetty for this project needs **180 acres (72.85 ha) of land**. Thus total land required for the Integrated Steel Plant with CPP and Captive Jetty is assessed to be **3,160.00 acres (1,278.834 ha.)** as against earlier land requirement of **1620.496 ha. including 1253.225 ha. of forest land** for the same projects by the earlier project proponent i.e M/s POSCO India Pvt. Ltd. However, the requirement of land mentioned under Project Details furnished by the new project proponent indicates that the total land of **2950.31 acres (1193.974 ha.) is required** for the proposed Green Field Integrated Steel Plant of 12 MTPA along with a Captive Power Plant of 900 MW capacity and a dedicated Captive Jetty along the Jatadhar Muhan in Jagatsinghpur district, Odisha. Less requirement of land for the project is owing to due diligence and engineering innovations leading to requirement of reduced extent of forest as well as non- forest land for the project. Total land of **1193.974 ha. required now for the project** includes 2677.80 acres (1083.691 ha.) of forest land and 272.51 acres(110.283 ha.) of non-forest land spread over **six villages** of Dinkia, Gobindapur, Nuagaon, Bayanalakandha, Polanga and Jatadhara under Erasama Tahasil of Jagatsinghpur district as against earlier project area of 1620.496 ha. pertaining to POSCO project spread over **8 villages**.
18. The forest land includes 170.45 acres (68.98 ha.) of RF land, 2441.17 acres (987.928 ha.) of PF-1, 8.44 acres(3.416 ha.) of PF-2 and 57.74 acres (23.367 ha.) of Revenue forest land which are all part of earlier diverted forest land of 1253.225 ha allotted in favour of M/s POSCO India Pvt. Ltd. The comparative statement showing land requirement for the project of the new proponent i.e. M/s JSW Utkal Steel Limited vis-à-vis the land requirement

shown by M/s POSCO India Pvt. Ltd. for developing similar projects in the project area earlier which could not come up, is indicated at **Annexure-X(pg.3156/c)** of the application furnished now by the new proponent.

The Tahasildar, Erasama has also certified the land status of 272.51 acres of land as on 25.10.1980 which is found to be non-forest land. The process of allotment/handing over of the required extent of forest land i.e. **1083.691 ha. to the new user agency i.e. M/s JSW Utkal Steel Limited from out of already diverted forest land of 1253.225 ha.** can be finalized only after final forest clearance made by GoI, MoEF&CC vide their letter F.No. 8-63/2007-FC dt. 4.5.2011 under Forest Conservation Act, 1980 for diversion of forest land of 1253.225ha. earlier made in favour of M/s POSCO India Pvt. Ltd. is suitably **amended or transferred in favour of M/s JSW Utkal Steel Limited under the provision of para 2.8 of FC Act guidelines.** M/s POSCO India Pvt. Ltd, in whose favour forest clearance was earlier accorded by MoEF&CC is a Direct Foreign Investor. **Therefore, it is not feasible to have their NOC/Consent for transfer of forest clearance in favour of new user agency i.e. M/s JSW Utkal Steel Limited at present.**

Keeping this legal requirement as well as decision of State Government for development of projects of same nature at the earlier site in Jagatsinghpur district in view, the new project proponent i.e. M/s JSW Utkal Steel Limited has furnished the project details with updated developments to the co-applicant of the earlier forest diversion proposal and land acquisition authority i.e. IDCO in its revised application dt. **23.10.2018** and requested to facilitate in obtaining of NOC of State Government in the matter of transfer of forest clearance, as required for transfer of final forest clearance from M/s POSCO India Pvt. Ltd to M/s JSW Utkal Steel Limited for the purpose of establishing Integrated Steel Plant with CPP and Captive Jetty at the same project site in Jagatsinghpur district of Odisha as per provision of para 2.8 of F.C. Act guidelines. Accordingly, the CMD, IDCO in his letter No. 19619 dt. 22.9.2018 (**Pg.3103-3106/c**) and **No.21887 dt. 29.10.2018 (Pg.3101-3102/c)** has requested the State Forest Department for **transfer of forest clearance pertaining to 1083.691 ha. of forest land out of earlier diverted forest land of 1253.225 ha.** for the purpose of setting up of Integrated Steel Plant with CPP and Captive Jetty at the earlier project site in Jagatsinghpur district of Odisha by M/s JSW Utkal Steel Limited. In view that State Government have already approved the proposal of new user agency for setting up of the Integrated Steel Plant with CPP and Captive Jetty at the same project site in Jagatsinghpur district that was earlier allotted in favour of M/s POSCO India Pvt. Ltd, the **Forest Department of the State Government does not have any objection for transfer** of required extent of forest land in favour of new user agency from the earlier diverted forest land of 1253.225ha. in favour of M/s POSCO India Pvt. Ltd. **and the Ministry may treat this communication as NOC of State Government for transfer of diverted forest land proposed now in favour of new user agency under para 2.8 of FC Act guidelines.**

**19.** The new proponent i.e. M/s JSW Utkal Steel Limited has furnished the following documents along with its application form requesting for transfer of said forest clearance:

- (i) Decision of High Level Clearance Authority of Government of Odisha taken in its meeting on 2.6.2017 communicated by IPICOL on 7.7.2017 regarding approval of State Government to their proposal of setting up of 12 MTPA Integrated Steel Plant with CPP in Jagatsinghpur district, Odisha (**Pg.3119-3124/c**).
- (ii) Government in Commerce & Transport© Department approving allocation of Captive Jetty at Jatadhar Muhan in Jagatsinghpur district in favour of M/s JSW Utkal Steel



Limited Odisha (Pg.3126/c).

- (iii) Orders of Hon'ble Supreme Court dt. 8.8.2008 in IA No. 2166 in 1413 in WP© No.202 of 1995 clearing the earlier forest diversion proposal of 1253.225ha. in Jagatsinghpur district for setting up of Integrated Steel Plant, CPP and Captive Port Odisha (Pg.3127--3131/c).
- (iv) Final forest clearance order of MoEF&CC bearing F.No. 8-63/2007-FC dt. 4.5.2011 for diversion of 1253.225ha. of forest land in favour of M/s POSCO India Pvt. Ltd. in Jagatsinghpur district for establishment of an Integrated Steel Plant and Captive Port Odisha Odisha (Pg.3129-3132/c).
- (v) Abstract of land schedule and detailed land schedule of 1193.974 ha. of land including 1083.691 ha. of forest land required by the present project proponent for the project duly authenticated by Land Offices, IDCO , Tahasildar, Erasama and DFO, Mangrove Forest Division(WL), Rajnagar Odisha (Pg.3136/c).
- (vi) Topographic map of the project area of the proposed Integrated Steel Plant with Captive Jetty indicating buffer radius of 5KMs from the project boundary of M/s JSW Utkal Steel Limited and project area of earlier project proponent i.e. M/s POSCO India Pvt. Ltd signed by Land Officer, IDCO, Tahasildar, Erasama and DFO, Mangrove Division(WL), Rajnagar Odisha (Pg.3134/c).
- (vii) Village wise breakup the total land of 1193.974 ha. required for the project now in six villages of Erasama Tahasil of Jagatsinghpur district out of earlier requirement of land of 1620.496ha spread over 8 villages(Pg.3137-3152/c).
- (viii) Comparative Statement showing total land required now by M/s JSW Utkal Steel Limited for the project vis-à-vis area earlier project area required by M/s POSCO India Pvt. Ltd (Pg.3156/c).
- (ix) Certificate issued by Tahasildar, Erasama with regard to status of non-forest land of 272.51 acres as on 25.10.1980 required for the project now (Pg.3158/c).
- (x) Combined Map of the forest blocks superimposed on the unified village map showing the old project boundary of M/s POSCO India Pvt. Ltd and new project area boundary of M/s JSW Utkal Steel Ltd. duly signed by Land Officer, IDCO, Tahasildar, Erasama and DFO, Mangrove Division(WL), Rajnagar(Pg.3160/c)..
- (xi) Layout Plan of Project area of M/s JSW Utkal Steel Ltd superimposed on the unified village maps duly signed by Land Officer, IDCO, Tahasildar, Erasama and DFO, Mangrove Division(WL), Rajnagar(Pg.3162/c)..
- (xii) Undertakings of M/s JSW Utkal Steel Ltd :
  - a. to abide by all the stipulations imposed by MoEF&CC,
  - b. to indemnify against all claims, if raised by previous user agency including funds deposited on account of forest diversion ,
  - c. to pay all statutory dues including unpaid dues of previous user agency, transfer fee etc

20. The new proponent i.e. M/s JSW Utkal Steel Limited has indicated item wise breakup of the total land required for their project which is as under :

S. N.	Items/ Units	Jatadhar RF (Ha.)	Dhinkia/ Nuagaon Forest Block (PF-1) (Ha.)	Noliasahi Forest Block (PF-2) (Ha.)	Revenue Forest HAL (Ha.)	Total Forest Land (Ha.)	Non-forest Land (Ha.)	Total land (Ha.)
	1	2	3	4	5	6	7	8
1	Raw material storage & landing yard for Ore & Flux, Iron ore slurry, Thermal coal yard	-	52.630	-	-	52.630	-	52.630
2	Raw material storage & landing yard for imported coal, PCI, Lime stone and Pellet	22.790		-	-	22.790	20.073	42.863
3	Iron making plant	5.900	172.410	-	-	178.310	2.780	181.090
4	Steel making plant	-	73.305	-	-	73.305	-	73.305
5	Rolling Mill	-	183.447	-	-	183.447		183.447
6	Captive Power Plant	-	51.330	-	-	51.330		51.330
7	Disposal Area		20.740	-	-	20.740	-	20.740
8	Water/waste water treatment plants, treated waste water holding pond	-	60.240			60.240		60.240
9	Cement Plant	-	33.500		-	33.500	-	33.500
10	Main Admin office And common facilities	-	7.680	-	-	7.680	-	7.680
11	Railway siding/Truck Handing & Raw material unloading		30.820			30.820		30.820
12	Captive Jetty	14.400	-	-	-	14.400	54.177	68.577
13	Supporting Auxiliaries comprising of MRSS, Stores & repair shop, compressed air section, Loco repair shop, Medical center and fire station	-	40.630	-	-	40.630	0.493	41.123
14	Roads, Parking & drains	1.300	42.594	-	-	43.894	3.970	47.864
15	Green Belt	24.590	188.347	3.416	23.367	239.720	13.030	252.750
16	Water Reservoir	-	30.255	-	-	30.255	15.760	46.015
	<b>Total</b>	<b>68.980</b>	<b>987.928</b>	<b>3.416</b>	<b>23.367</b>	<b>1083.691</b>	<b>110.283</b>	<b>1193.974</b>

21. It is further indicated by the State Govt. that the Integrated Steel Plant with Captive Minor Port of M/s POSCO India Pvt. Ltd. had been grounded at the project site as per the MoU signed by the State Government, it would have been the largest foreign direct investment project of the country then. However, the State Government has renewed its effort in this context to develop the projects of similar nature at the same project site through a new project proponent i.e. M/s JSW Utkal Steel Ltd. As indicated by the proponent in its application, the estimated cost of the project is around Rs. 65,000 Crore and setting up of this large industrial project in the State would benefit the economy of the country as well as the State to the tune of approximately Rs. 5421 cr annually for a period of next 30 years by way of GST, Corporate Income tax. Besides it is expected to generate employment opportunity for around 15,000 personnel during construction phase involving casual and contractual workers. On being operationalized, around 12,000 personnel would be directly employed in these projects. Further indirect employment opportunity for more than 45,000 personnel would also be created as this large industrial projects also have potential for developing several ancillary industrial units in the area. More over economic as well as commercial activities of the area would also get a boost which will ultimately augment the financial conditions of the people of the region.

In view of above, the State Govt. is recommended to consider the transfer of final forest clearance of 1083.691ha. of forest land (out of earlier diverted forest area of 1253.225ha.) from M/s POSCO India Pvt. Ltd to M/s JSW Utkal Steel Limited for the purpose of establishing Integrated Steel Plant with CPP and Captive Jetty at the same project site in Jagatsinghpur district of Odisha by the latter as per provision of para 2.8 of F.C. Act guidelines subject to compliance of conditions to be stipulated by the Ministry in this context by the new project proponent along with compliance of the following conditions of State Government and simultaneously the land use pattern proposed by the new project proponent within the total requirement of land for the project mentioned above may also be considered and accepted:

- a) The new project proponent shall seek diversion of such extent of land under FC Act, 1980 before the said extent of land is used for non-forest purpose, in case any portion of non-forest land of 272.51 acres certified by the Tahasildar, Erasama as on 25.10.1980 is found to be of forest kism as on that date on a later stage.
- b) Map of RF/PF land required for the project indicating boundary pillars in A3/A4 size paper duly authenticated by DFO, Rajnagar (Mangrove) Division shall be furnished.
- c) Minutes of the meeting of HLCA of State Government dt. 2.6.2017 shall be furnished.
- d) Memorandum of Association, Articles of Association and Certificate of Incorporation pertaining to M/s JSW Utkal Steel Limited shall be furnished
- e) Detailed Project Report of the Integrated Steel Plant & CPP and Captive Jetty shall be furnished.
- f) Details of EC/CTE/CTO/CRZ clearance obtained for the Integrated Steel Plant & CPP and Captive Jetty by the new user agency shall be furnished
- g) Undertaking as furnished by the project proponent shall be complied with
- h) Funds not deposited by earlier project proponent on account of previous forest clearance shall be deposited by M/s JSW Utkal Steel Limited
- i) **Since 169.534 ha (1253.225ha.-1083.691ha.) of earlier diverted forest land is not required for the instant project, the same shall be protected by IDCO (the co-applicant of original forest diversion proposal). No non-forest activities shall be allowed on such forest land without prior approval of MoEF&CC, GoI under Section 2 of FC Act, 1980**
- j) The new user agency shall establish & operate a Vocational Training Institute having

capacity to impart training in at least 5 disciplines to be decided by the State Govt. for the benefit of the eligible unemployed youth in the Project affected villages

- k) The new user agency shall set up an independent Social Welfare Department Division and follow the subsequent conditions of the Project affected in such a way as to understand their socio-economic conditions before and alter the project and take such corrective measures as are necessary to restore them to their original or better than original condition

**22. The para 2.8: Transfer of Lease** of Handbook of Guidelines & Clarifications issued under Forest (Conservation) Act, 1980 states the following:

*“Where transfer of lease on forestland, from one user agency to another for the same purpose for which the forestland was diverted, becomes necessary, prior permission of the Central Government would be required. For this purpose, the State Government and the original user agency is required to submit no-objection certificate for such transfer and; the new user agency has to submit an undertaking that they shall abide by all the conditions on which the forest land was leased to the original user agency and any other condition which may be stipulated by the Central Government/State Government in future. However, to discourage middlemen from processing proposals and selling it to others, in case of transfer of lease from one user agency to another, the Central Government shall levy 10 % of the Net Present Value (NPV) of the forest land included in the mining lease, at the rates as applicable on the date of transfer of lease or Rs. 1,00,000/- whichever is minimum”.*

- 23.** In the instant proposal, the user agency i.e. M/s POSCO India Pvt. Ltd has not given their NOC. In this regard, the State Govt. clarified that M/s POSCO India Pvt. Ltd, in whose favour forest clearance was earlier accorded by MoEF&CC is a Direct Foreign Investor and therefore, it is not feasible to have their NOC/Consent for transfer of forest clearance in favour of new user agency .The CMD, IDCO has requested the State Forest Department for **transfer of forest clearance pertaining to 1083.691 ha. of forest land out of earlier diverted forest land of 1253.225 ha. for** the purpose of setting up of Integrated Steel Plant with CPP and Captive Jetty at the earlier project site in Jagatsinghpur district of Odisha by M/s JSW Utkal Steel Limited **and the Forest Department of the State Government does not have any objection for transfer** of required extent of forest land in favour of new user agency from the earlier diverted forest land of 1253.225ha. in favour of M/s POSCO India Pvt. Ltd. .

The request of the State Govt. is submitted for appropriate direction please.

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