

Sub: Diversion of 865.276 hectares of forest land out of 947.046 ha. of ML area for mining of iron ore in favour of M/s Sarda Mines Pvt. Ltd. in village Sayabali, Balita and Thakurani RF in Keonjhar district of Orissa- Application for permission to carry out mining operations by the user agency over 617.108 hectares of forest land out of 865.276 hectares of already diverted forest land- Approval of changed land use pattern –regarding.

This is regarding a proposal for diversion of 865.276 hectares of forest land out of 947.046 ha. of ML area for mining of iron ore in favour of M/s Sarda Mines Pvt. Ltd. in village Sayabali, Balita and Thakurani RF in Keonjhar district of Orissa. The original proposal involving 865.276 ha had granted approval under the Forest (conservation) Act, 1980 by the MoEF&CC on **21.06.2001 (P.206-208/c)** inter-alia stipulating that 616.0 ha of forest land is to be preserved as forest in the current lease period. The instant proposal was submitted with a view to enhance the production from 4.00 MTPA to 15 MTPA and to explore ore of higher grade for industrial requirement **(Pg. 37/N)**.

2. Proposal along with the site inspection report received from the Regional Office (Eastern Zone), Bhubaneswar and additional information/documents received from the Government of Odisha was placed before the **Forest Advisory Committee (FAC)** in its meeting held on **13th -14th February 2014**. The observation and recommendation of the FAC are available at **page 37-42/N**. The FAC, after examination of the proposal, recommended the proposal for change of land use subject to fulfilment of certain conditions **(Pg.40-42/N)**. Approval of Hon'ble MEF&CC was also obtained on the recommendation of the FAC. However, in the meantime Model Code of Conduct came into force and the approval of the Central Government could not be conveyed to the State Government.
3. Meanwhile, a meeting was held under the Chairmanship of the Secretary, Environment and Forests on 23rd April 2014 to discuss issues related grant of Environmental Clearance and Forest Clearance to the said mine **(P.44/n)**. During the meeting it was observed that recommendation of the FAC to accord stage-I approval under the Forest (Conservation) Act, 1980 for change in land use pattern of 382.4965 hectares of forest land located within the said mine is based on Site Inspection Report received from the Regional Office (Eastern Zone), Bhubaneswar vide their letter dated 23rd February 2011.

As more than three years elapsed after inspection of the said forest land, there was a possibility that a part of 616.00 hectares of forest land which, as per the approval under the FC Act accorded by the MoEF vide letter No. 8-55/2000-FC dated 21st June 2001 is to be preserved as forest in current lease period, might have been utilised by the user agency for mining and allied activities to increase production of iron ore from 4 MTPA to 15 MTPA. It was, therefore, decided during the meeting that the Regional Office (Eastern Zone) of this Ministry may be requested to inspect to said forest land once again and submit a report to this Ministry clearly stating whether a part of 616.00 hectares of forest land which, as per the approval accorded by this Ministry vide letter No. 8-55/2000-FC dated 21st June 2001 is to be preserved as forest in current lease period, has been utilised for mining or any other non-forest purpose, or not?

4. Accordingly, MoEF vide letter dated 2nd May 2014 and subsequent reminder dated 23rd May 2014 requested the Regional Office (Eastern Zone) of this Ministry to re-inspect the said forest land and submit a report to this Ministry clearly stating whether a part of 616.00 hectares of forest land which, as per the approval accorded by this Ministry vide letter No. 8-55/2000-FC dated 21st June 2001 is to be preserved as forest in current lease period, has been utilised for mining or any other non-forest purpose or not?
5. The Regional Office, Eastern Zone, Bhubaneswar vide their letter dated 30th May 2014 **(Pg.526-529/c)** informed that Regional Office has carried out inspection of the forest land as desired by the Ministry and sent a copy of the inspection report. The Regional Office, in **its site inspection report has inter-alia reported that that majority of the forest land has been kept intact. However, some non-forest activities have been noticed in the forest land, out of which some have been dismantled /demolished.** The detailed finding reported in the site inspection report may kindly be seen in **para (9) at 51/N**.

6. Meanwhile, the Impact Assessment Division in this Ministry vide their O.M. dated 28th May 2014 informed that the 2nd report of Shah Commission on illegal iron and manganese ore mining in Odisha has brought out a number of FC violations by the project and requested the FC Division to re-verify as to whether FAC has taken into account the observations of Shah Commission in its second report relating to this mine project while considering their case and making recommendations in its meeting on 13- 14 February, 2014. The User agency vide their letter dated 25th June 2014 has also drawn attention to the meeting of the FAC held on 13th -14th February, 2014 and requested this Ministry to accord approval under the FC Act.
7. After examination of the report of the Regional Office and representation received from the project proponent, it was proposed that as the new Government has taken the office, the file along with the development in the matter and recommendation of the FAC change of the land use within the said mining lease may be placed before the Hon'ble Minister of State (Independent Charge) for Environment, Forests and Climate Change for his kind perusal and approval.
8. After further examination of the matter in the Ministry, it was desired to obtain the current status of grant of EC and also the CEC's observation in the matter. With regards to EC to the project, Impact Assessment Division in the Ministry in their Note at **page 55/n** reported that the file was under submission for approval of letter to State Government and Ministry of Mines seeking their comments on issue relating to ownership of mine.
9. The CEC observed in Report (final) dated 16th October, 2014 in W.P. (Civil) No. 114/2014, W.P. (C) NO. 194/2014 and IA Nos. 2746-2748, 3629 and connected I.A.s in W.P. (C) No. 202/1995 regarding mining leases for iron and manganese in the State of Odisha the following:

161. The CEC further is of the view that it may be appropriate that the State Government is asked to reconsider, after considering all the relevant information including the nature of the virgin forest land and the earlier instances of violation of the Forest (Conservation) Act, 1980 by the lessee, its decision for seeking approval under the Forest (Conservation) Act, 1980 for diversion of the above said 367.832 ha of virgin forest for expansion of the mining operations by SMPL."

Keeping in view the above recommendation made by the CEC, it was decided that comments of the State Government may be obtained on the observation of the CEC. Accordingly, this Ministry vide its letter dated 4.12.2014 (**P.539-540/c**) requested the State Government to submit their comments in the matter.

10. The State Government of Odisha vide their letter no. 10F(Cons.) 108/2015.11021/F&E dated 27.06.2015(**541-586/c**) reported that the matter was referred to the Steel & Mines Department, PCCF, Odisha and others. The State Government, referring to the PCCF's letter No. 5830 dated. 26.3.2015 and No. 9641 dated. 5.6.2015, has reported following details in the matter of nature of virgin forest land in the mining lease, violations earlier noticed, action taken and present status of violations in the field along with further action taken against such violations:

A. Nature of Virgin forest land

- i. In this regard, the State Government reported that the executed mining lease area of Thakurani iron ore mines (Block-B) of M/s Sarda Mines (P) Ltd has 947.046 ha of area which involves 943.926 ha of forest land and 3.120 ha non-forest Govt. land.
- ii. An area of 865.276 ha forest land has been approved under Section - 2 of F.C. Act, 1980 vide letter No. 8-55/2000-FC dated 21.06.2001 involving 94.024 ha forest land broken prior to 1980, 155.252 ha forest land to be broken afresh in phases and 616.00 ha interspersed forest land to be maintained as forest subject to fulfilment of 14 conditions stipulated therein. Condition No. 3(v) of the aforementioned approval stipulates that *"the balance 616.00 ha of forest land will not be used for mining purpose and will be protected by the user agency in consultation with Forest Department whereby density of vegetation cover will be enriched"*.
- iii. It is further reported that the remaining forest land of 78.650 ha earmarked for safety zone has been applied for diversion by the user agency and is under process at the field level. However, the said diversion proposal is now not required to be processed in view of clarification made by the GoI, MoEF&CC vide their guidelines bearing F.No. I 1-599/2014-FC dated. 1.5.2015 provided the lessee

complies to the conditions prescribed in the general approval accorded by MoEF&CC earlier vide their letter F.No. 11-599/2014-FC dated. 1.4.2015.

- iv. It is indicated that the lessee was allowed to work over 249.276 ha involving 94.024 ha pre-1980 broken up area and 155.252 ha virgin to be broken afresh in phases out of the diverted forest land over 865.276 ha. The mining activity was confined to 248.625 ha of broken up forest land.
- v. With specific reference to nature of virgin forest existing within the mining lease area of Thakurani (Block B) Mines of M/s Sarda Mines Pvt. Ltd, it has been reported based on the field report of DFO, Keonjhar that the area falls under the type Moist Peninsular Valley Sal and Northern Dry Mixed Deciduous Forest and canopy density of the said virgin forest land varies from 0.4 to 0.5.
- vi. Mining activities in violation of approved land use plan has been carried out in the virgin forest land specifically in violation of condition No. 3(v) of the final approval vide F. No. 8-55/2000-FC dated 21.06.2001 of MoEF, Govt. of India referred to above. Based on the report of RCCF, Rourkela Circle, the PCCF, Odisha has reported the following present field situation regarding 616.00 ha of virgin forest land in the Mining lease.
 - a. From the DGPS map, it is revealed by the DFO, Keonjhar that, the area of the mining lease is found to be 936.950 ha whereas originally the same was granted over 947.046 ha. The discrepancy of 10.096 ha, as per DGPS survey, is well within the permissible limit of 5%.
 - b. There is a dispute of 7.00 ha of forest land which is on the boundary of the mining lease of Thakurani Iron Ore Mines Block-B of M/s Sarda Mines (P) Ltd. and Deojhar Iron Ore Mines of M/s Tarini Minerals (P) Ltd. This area being the part of Deojhar Iron Ore Mines of M/s Tarini Minerals (P) Ltd and diverted under FC Act, 1980 vide F.No.8-216/1992-FC Dtd.30.03.1993, has been worked out by M/s Tarini Minerals (P) Ltd. during their lease period from 05.09.1994 to 4.9.2014. The dispute has not been resolved by the Steel & Mines Dept. so far and the area has been stated as "no man's" land by the Deputy Director Mines, Joda.
 - c. The total forest land used for non-forest use in violation of condition No-3(v) of the final approval order, of MoEF, stands at 1.265 ha i.e. Encroached Base Camp into Thakurani RF(0.05ha), Road(0.20 ha), OB Dump (1.01 ha), ATM (0.002 ha) and Water Tank(0.003 ha) .
- vii. The DFO, Keonjhar Division has reported that the effective extent of forest land protected by the user agency in compliance with the aforementioned condition 3(v) of final approval dated 21.06.2001 stands at **597.639 ha** i.e. 616 ha-(1.265+10.096+7.0)ha. As on date the status of the forest land of 1.265 ha over which the violation has taken place is as under:

Violations of FC Act, 1980 observed during 2009-10

- (a) Un-authorized Construction of Boundary wall (Masonry) of base camp within M.L. area measuring 175 mtr(Length) X 2 mtr (Height) near RF pillar No 56 & 325 mtr (length) X 1 mtr (height) near RF pillar No. 57.
- (b) Un-authorized Construction of ATM RCC room measuring 4.8 mtr. x 5.8 mtr. near RF pillar No.54.
- (c) Un-authorized Construction of BSNL tower inside the lease area measuring 30mtr. x 25 mtr.
- (d) Un-authorized Construction of conveyer belt & underground water supply pipe line outside the lease boundary & inside Thakurani RF area measuring 316 Mts. x 4.70 mtr.
- (e) Un-authorized installation of Six nos. of electric poles with 33 KV transmission line adjacent the lease boundary & inside RF .
- (f) Un-authorized Construction of play ground measuring 140 mtr. X 70 mtr and one GI & AC sheet roof building measuring 21 mtr. X 11 mtr inside the lease area.
- (g) Un-authorized Construction of two nos. of old water tank inside the lease area measuring i) 30mtr. Dia x 6 mtr. Hight& ii) 60mtr. Dia.x 6 mtr. Height.
- (h) Un-authorized Construction of one huge Washing Plant within an old mining pit.
- (i) Un-authorized Construction of One black topped road within the lease area measuring 200 mtr. x 6 mtr.

- (j) Illicit felling of 59 nos. Sal & Misc. poles inside the lease area near ML boundary pillar No.7 (B) to 8.
- viii. Following actions had been taken in the field by the Forest field functionaries on the aforementioned violations.
- (a) The Lessee was issued with Show Cause Notice vide Memo No.6721 dt. 13.12.2009 of DFO, Keonjhar Division.
 - (b) O.R case has been booked against Sri H.N. Singh, Sr. DGM (Mines) of M/s Sarda Mines Pvt. Ltd. vide O.R No. 107BL of 2010-11 dated 21.07.2010 for muck dumping and road expansion inside Thakurani RF without prior approval and prosecution sanctioned and submitted in the Court of JMFC, Barbil.
 - (c) OR case has been booked against Sri Ashok Kumar Mohapatra , AGM (Geology), of M/s Sarda Mines Pvt. Ltd. vide O.R No. 222BL of 2010-11 dated 31.12.2010 for illegal drilling inside Thakurani RF without prior approval and prosecution sanctioned and submitted in the Court of JMFC, Barbil.
 - (d) O.R case has been booked against Sri H.N. Singh, Sr. DGM (Mines) of M/s Sarda Mines Pvt. Ltd. vide O.R No. 288BL of 2009-10 dated 07.11.2009 for illicit felling inside Thakurani RF and prosecution sanctioned and submitted in the Court of JMFC, Barbil.
 - (e) O.R case has been booked against Sri H.N. Singh, Sr. DGM (Mines) of M/s Sarda Mines Pvt. Ltd. vide O.R No. 296BL of 2009-10 dated 29.11.2009 for laying of conveyor belt and pipeline inside Thakurani RF without prior approval and prosecution sanctioned and submitted in the Court of JMFC, Barbil.
 - (f) The established ATM shed, temporary site office and old office campus have been demolished.
 - (g) The conveyor belt was de-operationalized till approval from MoEF, Govt. of India vide their letter No. 8-55/2000-FC dated 25.04.2012 was obtained.
- ix. It is also informed that details of violations committed and action taken by the Forest Field functionaries including status of legal action initiated against the lessee, have earlier been reported to Government of India, MoEF vide F&E department letter No. 1114 di 20.1.2014, No. 15145 dt. 18.8.2011 and No. 22796 dt. 21.10.2010, which may also be referred to.
- x. The State Government has also reported that the present status of violations in contravention to the stipulation made vide condition No. 3(v) of final approval order dated 21.6.2001 in this mining lease have also been reported by the PCCF, Odisha based on the report of RCCF, Rourkela which is as under:
- (a) The Base Camp comprising the established colony has encroached into Thakurani Reserved Forest in between Reserve pillar No. 55 and 56 which still persists in the field.
 - (b) One ATM counter along with an electric fuse center was installed in between broken up pillar No. 37 and 38 adjacent to RF pillar No. 54. The ATM counter has been dismantled and the said area has been developed into lawn.
 - (c) Broken up pillars which were not posted in correct positions as per approved broken up map in Block 11 and 12, the pillars have been posted as per approved Broken up Plan in the meantime.
 - (d) The constructed road was not demarcated with pillar posting, therefore it is difficult to ascertain the position of the laid pipeline in between broken up pillar and the road in Thakurani Reserved Forest. However, at present the road has been demarcated with 4 ft height RCC Pillars.
 - (e) The over Burden removed from Block 6 and 7 was spread beyond the broken up area into the Reserved Forest to an extent of 3 to 4 feet width. Now the OB Dump in Block 6 and 7 spread beyond the broken up area into the Reserved Forest to an extent of 3 to 4 feet width over 1.01 ha, has been removed.
 - (f) One black topped road has been constructed towards the Base Camp colony through the RF to the extent of 120 Mtr length in between RF pillar No. 55 and 56. The road still present.
 - (g) Another road has been constructed towards the colony through the RF from Security Camp in between ML pillar No. 1 and 2 adjacent to RF pillar No. 53 over 0.12 ha. The road is still present.
 - (h) One water tank constructed near ML pillar No. 9 along with RCC building (used as Dog House) and 33 KV transmission line in the RF with the following GPS reading-Water tank- N- 22°-05'-10.5" E- 85°-26'-

43.1" Dog House- N 22°-05'-12.5" E85°-26'36.2", 33KV transmission line- N22°-05'-11.8" E85°-26'-37.2" was dismantled along with transmission line.

xi. With regards to action taken by the State Government on the above mentioned violations, following is submitted:

(a) O.R case has been booked against Sri Arjun Saraswat, Nominated Owner cum Director, Sri Sekhar - Sarda, Director, Sri H.N. Singh, Sr. DGM (Mines) of M/s Sarda Mines Pvt. Ltd. vide O.R No. 161BL of 2013-14 dated 16.02.2014 for the aforementioned violations in the forest land in contravention to the stipulated condition No. (v) of Stage-II approval of MoEF, Govt. of India No. 8-55/2000-FC dated 21.06.2001 and prosecution sanctioned and submitted in the Court of JMFC, Barbil.

xii. As regards the observation of the Central Empowered Committee at para 163 of their report submitted to Hon'ble Supreme Court of India for asking the State Government to reconsider its decision for seeking approval of MoEF under FC Act, 1980 for diversion of 367.832 ha of virgin forest land in modification of proposed change in land use plan, it is stated by the State Government that the Central Empowered Committee have attributed a number of paragraphs in their Report in the matter of Thakurani —B Iron ore mines in Keonjhar district by M/s Sarda Mines Private Ltd, with specific reference to para 138, 156 and 162 in particular, where the CEC have viewed negatively to different aspects of mining in this project. The Steel & Mines Department vide their letter No. 5171/SM dt. 6.6.2015 have furnished their comments on para 138, 156 and 162 of the CEC report. It is revealed from their report that on para 138 they are of the view that granting of 1st RML on 11.2.1999 allowing renewal of lease for 20 years from 14.8.2001 to 13.8.2021 from the date of execution of lease deed, appears to be in violation of the provisions of MMDR Act as the terms of the original mining lease had expired on 31.7.1964. According to their present report, the period of 1st RML mentioned in the grant order dt. 11.2.1999 needs to be corrected and treated as the period from 1.8.1964 to 31.7.1984 (1st RML) instead of the period from 14.8.2001 to 13.8.2021 and 2nd RML should have been from 1.8.1984 to 31.7.2004. In view of this erroneous grant order, the lessee has been served with a show cause Notice vide Steel & Mines Department order No. 4233/SM dt. 8.5.2015 as to why the period from 14.8.2001 to 13.8.2021 for the 1st RML executed based on the grant order dt. 11.2.1999, shall not be corrected for 1st and 2nd RML period as mentioned above. The lessee has challenged the above Show cause Notice of Steel & Mines Department before the Hon'ble High Court, Orissa in WP(C) No. 9428/2015. The Hon'ble High Court in their order dated 13.5.2015 has passed interim order that *the petitioner shall respond to the show cause notice dated 8.5.2015 and hearing thereof may continue but no final order be passed without leave of this court.* It is revealed from the Counter Affidavit filed by Steel & Mines Department in this Writ case that mining operation has been stopped for having no valid environmental clearance of MoEF for this mining project. Further on para 156 of CEC report, the Steel & Mines Department has directed the Director of Mines, Odisha vide their letter dt. 8.5.2015 that production in excess of the earlier environmental clearance for 4 MTPA has been extracted without lawful authority for which demand under section 21(5) of MMDR Act is to be raised with the lessee. The Director of Mines has been further asked to withdraw the permission granted to M/s Sarda Mines Private Ltd to sell mineral in the form RoM to Jindal Steel & Power Ltd as well as storage license granted to M/s Jindal Steel & Power Ltd for storing RoM in the ML area of M/s Sarda Mines Pvt. Ltd. Similarly on para 162 of CEC report, it has been reported by the Steel & Mines Department that IBM, Bhubaneswar has been requested vide their letter dated 8.5.2015 to ignore the price of the transaction for the purpose of arriving at the market price for the peculiar sale arrangement between M/s Sarda Mines Pvt. Ltd. and M/s Jindal Steel & Power Ltd.

It has been further submitted by Steel & Mines Department in their reply (P.547/c) on behalf of State of Odisha in IA No. 42 of 2015 arising out WP(C) No. 114/2014 filed on 20.4.2015 that *certain ownership related issues along with other irregularities in this lease have been brought to light by CEC and Shah Commission which are under consideration of Hon'ble Supreme Court. In view of this, lessee should not be allowed to commence mining operation until a decision is taken on the report of the CEC on the issues relating to lessee.* A copy of letter No. 5171 dt. 6.6.2015 (P.549-552/c) of Steel & Mines Department along with all annexures has also been submitted by the State Government.

11. In view of the submission made by the State Government, it pertinent to mention that Hon'ble Supreme Court vide its order dated 16.05.2014 passed in W. P. No. 114 of 2014 has inter-alia directed that *"We direct that mining operations in these 102 mining leases listed in Annexure R-2 of the Report of the CEC, but it will be*

open to such leases to move the concerned authorities for environmental clearance, approval under the Forest (Conservation) Act, 198, approval of mining plan or consent to operate and as and when the mining lessees are able to obtain all the clearances/approval/consent, they may move this Court for modification of this interim order” In accordance with the provisions contained in the said order dated 16.05.2014, the user agency has to approach the Supreme Court to commence their mining operation. A copy of the Supreme Court order dated 16.05.2014 is placed below at **F/X**.

12. It is also to pertinent mention that the Ministry has ordered a carrying capacity study in the Keojar District, this file was referred to the IA Division for their comments in the instant case. Comments received from the IA Division in the matter are available at **page 67-68/N**. in their comments, the IA Division has reported as under:

Comments sought by the FC Division with respect to carrying capacity study in Orissa

The State Government has fixed a cap of 57 MTPA for the District of Keojar and Sundargarh. Based on interim report of NEERI a decision in F. No. Z-110113/36/2014 IA-II(M) was taken that (6) six cases of iron ore mining project which were already recommended by the Environmental Appraisal Committee should be processed for environment clearance and also (5) five cases in which the EC was kept in abeyance due to the carrying capacity was to be lifted. The final report of NEERI awaited.

In the instant case of M/s Sarada Mines Pvt. Ltd, this case is one of the six cases already recommended by the EAC.

The above comments received from the IA Division implies that that based on recommendation made in NEERI report and decision taken by the IA Division, the mining lease is being considered for grant of environment clearance.

13. It is also pertinent to mention here that Forest Advisory committee in its meeting held on 30.05.2014 while examining a proposal of M/s OCL for iron ore mining in Keojar District in the State of Odisha noted that Justice M.B. Shah Commission of Enquiry for Illegal Mining of Iron Ore & Manganese in their first report on Illegal Mining of Iron and Manganese Ores in the State of Odisha recommended that iron ore production in Odisha shall be limited to 55 million tonnes per annum (MTPA). MoEF therefore, proposes to conduct a study of the carrying capacity of the area through an institute of repute which would also, inter-alia, go into the issues of depletion of ground water level, pollution of Baitarni river and maximum permissible annual production taking into consideration environmental aspects, inter-generational equity, etc. The FAC in the said meeting recommended that decision on the proposal involving diversion of large area of forest land for execution of a fresh mining lease, may be deferred till completion of the carrying capacity study proposed to be undertaken by the MoEF. In the instant case mining lease was originally granted on 1.08.1934 to 31.07.1964 for thirty years.
14. With regards to re-consideration of its stand on the proposal, the State Government has submitted that the Forest & Environment Department, having taken into the consideration the application of lessee for change of land use plan, had earlier processed this case for seeking permission of Government of India, MoEF under FC Act, 1980 keeping in view the expansion of mining activities as per approved Mining Plan and environmental clearance obtained for enhanced production of minerals. Details of change of land use plan proposed by the lessee, activities undertaken by the lessee in violation of FC Act and action taken by field functionaries of F&E Department against such violations were also reported in detail to MoEF for taking a view in the matter. The present status of virgin forest land in this lease and action taken on violations still persisting in the field are also reported in the present report.
15. In view of the above, the State Government has requested that *MOEF&CC, may kindly take all aspects in this case into consideration including the observations of CEC made before the Hon'ble Supreme Court and stand taken by the Steel & Mines Department in various of Courts of law referred to above and take a decision in the matter* on its own merit and convey their orders for further follow up action at this end.
16. It was further decided in the Ministry that the State Government may be requested to submit the following information/documents:
- (i) Status of utilization of 7.0 ha of disputed forest land which is situated on the boundary of the Thakurani Iron Ore Mine and Sarda Mines (P) Limited.

- (ii) Considered opinion of the Department of Steel and Mines, Government of Jharkhand on the extant proposal for enhanced production and recommendation thereof may be obtained for further consideration of the Ministry
- (iii) Present status of all litigations related to the case, reported by the State Government in the letter dated 27.06.2015 and its implications of the mining operations.
17. Accordingly, the State Govt. was requested vide this Ministry's letter dated 18.08.2015 (P.588/c) to furnish the above information. In response to this referred letter dated 18.08.2015, the Govt. of Odisha replied vide their letter no. 10F(Cons.) 108/2015.2266/F&E dated 05.02.2016 (P.589-599/c). The information sought by this Ministry and reply thereof are as follows:

S. No.	Information sought by the MoEF& CC	Response of the State Government of Odisha
(i)	Status of utilization of 7.00 ha of disputed forest land which is situated on the boundary of the Thakurani Iron Ore Mines and Sarda Mines (P) Ltd.	In this regard the State Government informed that it revealed from the reports of PCCF, Odisha and Steel & Mines Department, disputed forest land of 7.0 ha is part of mining lease area of 34.365 ha of M/s Tarini Minerals (P) Ltd. , which is entirely located within Thakurani Reserved Forests, and is situated on the boundary of Thakurani iron Ore Mines of M/s Sarda Mines (P) Ltd. This disputed land of 7.0 ha is part of the broken up forest land of 18.042 ha. out of the diverted 34.365 ha and has been reportedly used for mining and dumping actives by M/s. Tarini Minerals (P) Ltd. As reported by Steel & Mines Department, instructions have been issued to both lessees i.e. M/s. Tarini Minerals (P) Ltd. and M/s Sarda Mines (P) Ltd. to maintain the said 7.0 ha of disputed forest land as no man's land and not to undertake any mining operation within the said area until the dispute is settled. <u>It has been further been reported that at present no mining operation is being carried out in the Said disputed area.</u>
(ii)	Considered opinion of the Department of Steel & Mines, Government of Odisha on the extant proposal for use of unbroken/virgin forest land to enhance ore production.	In this regard the State Government informed that the inferred by Steel & Mines Department that lease period is in dispute. <u>It has been opined that Original lease period was from 1.8.1934 to 31.07.1964.</u> However, 1 st RML was granted from 14.08.2001 to 13.08.2021 vide Steel & Mines Department Proceedings No. 1014 dt. 11.02.1999 (thus period from 1.08.1964 to 13.08.2001 was non-granted period). Further it was observed that grant of 1st RML from 14.08.2001 to 13.08.2021 is in violation of MMDR Act, 1957. Notice was therefore served on the lessee to rectify the grant period from 1.08.1964 to 31.07.1984 as 1 st RML period and 1.08.1984 to 31.07.2004 as 2 nd RML period vide Steel & Mines Department letter No. 4233/SM dt, 8.05.2015. <u>The lessee challenged this notice before the Hon'ble High court in WP(C) No. 9428 /2015, which is reported to be, sub-judice .</u> In this context, it is stated that in terms of Section 8A of MMDR Act, 1957, as inserted by the MMDR amendment Act, 2015, the lease would be

		<p>eligible to be considered on its own merits for extension of validity period up to 31.03.2020 subject to fulfilment of conditions specified in Section 8A (6) of MMDR Act provided the lease extension already granted up to 13.08.2021 is finally withdrawn upon final disposal of the Court case by Hon,ble High Court, Orissa. Further, it has also been intimated by the Steel & Mines Department that the eligibility of the lessee under Section 8A(6) of MMDR Act has not yet been examined or decided by the State Government which is contingent on the final decision of the notice issued to the applicant.</p> <p>With regard to change of land use, as has been applied for by the lessee, the Steel & Mines Department have opined that State Government has no objection for grant of approval to such proposal. However, such approval would not entitle the applicant to any claim for grant of extension of validity period of lease which shall be on its own merits under the provision of Section 8A of MMDR Act.</p> <p>Further it is to intimate that on the instruction of Government in Steel & Mines Department vide their letter No. 4232/SM dt, 8.05.2015, the Director of Mines, Odisha had directed the Dy. Director of Mines, Joda to withdraw the permission granted to M/s Sarda Mines Private Ltd. to sell mineral in the form RoM to Jindal Steel & Power Ltd. as well as storage license granted to M/s Jindal Steel & power Ltd for storing RoM in the ML area of M/s Sarda Mines Pvt. Ltd. vide his letter No. 4148 dt. 16.05.2015 and Dy. D.M, Joda complied with this instruction vide his order dt. 2476 dt. 25.05.2015 to M/s Sarda Mines (P) ltd.</p>
(iii)	<p>Present status of all litigations related to the case, reported by the State Government in the letter dated 27.06.2015 and its implications of the mining operations.</p>	<p>In this regard the State Government mentioned that the WP(C) No. 9428/2015 filed by the lessee before Hon'ble High Court, Orissa is reported to be sub-judice. Besides, the present status of forest offence cases booked against the lessee by the DFO, Keonjhar under provision of Orissa Forest Act, 1972 are indicated below:</p> <p>a. O.R. case has been booked against Sri H.N. Singh, Sr. DGM (Mines) of M/s Sarda Mines Pvt. Ltd. vide O.R No. 107BL of 2010-11 dated 21.07.2010 for muck dumping and road expansion inside Thakurani RF without prior approval. Prosecution has been sanctioned and submitted in the Court of JMFC, Barbil vide PR No. 27 of 2010-11. The case is said to be sub-Judice.</p>

		<p>b. OR case has been booked against Sri Ashok Kumar Mohapatra, AGM (Geology) of M/s Sarda Mines Pvt. Ltd. vide OR no. 222 BL of 2010-11 dated 31.12.2010 for illegal drilling inside Thakurani RF without prior approval. Prosecution sanctioned and submitted in the Court of JMFC, Barbil vide PR No. 8 of 2010-11. <i>The case is said to be sub-judice.</i></p> <p>c. OR case has been booked against Sri H.N. Singh, Sr. DGM (Mines) of M/s Sarda Mines Pvt. Ltd. vide O.R No. 288 BL of 2009-10 dated 07.11.2009 for illicit felling inside thakurani RF. Prosecution sanctioned and submitted in the court of JMFC Barbil vide PR No. 1 of 2010-11. The case is said to be sub-Judice.</p> <p>d. OR case has been booked against Sri H.N. Singh, Sr. DGM (Mines) of M/s Sarda Mines Pvt. Ltd. vide O.R No.296 BL of 2009-10 dated 29.11.2009 for laying of conveyor belt and pipeline inside Thakurani RF without prior approval. Prosecution sanctioned and submitted in the court of JMFC Barbil vide PR No. 1 of 2010-11. The case is said to be sub-Judice.</p> <p>e. OR case has been booked against Sri Arjun Saraswat, Nominated Owner cum Director, Sri Sekhar Sarda, Director, Sri H.N. Singh, Sr. DGM (Mines) of M/s Sarda Mines Pvt. Ltd vide O.r No. 161 BL of 2013-14 dated 16.02.2014 for the violations in the forestland in contravention to the stipulated condition No. (v) of Stage-II approval of MoEF, Govt. of India No. 8-55/2000-FC dated 21.06.2001. Prosecution sanctioned and submitted in the court of JMFC, Barbil vide PR No. 8 of 2014-15. The case is said to be Sub-Judice.</p>
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In addition to above, it is also reported by the State Govt. (P.596-599/c) that the Steel & Mines Department has reported the following status of other legal cases concerning this lessee:

- a. Show case notice has been issued to the lessee under Rule 37(3) of MC Rules, 1960 for breach of the provisions of the said Rule. **The matter is pending for hearing at Government level.**
- b. A **demand notice** has been issued to the lessee U/s 21(5) of MMDR Act, 1957 for an amount of **Rs. 1370,46,60,582/-** towards cost price of iron ore unlawfully extracted in excess of approved quantity from 2000-01 to 2009-10. The lessee has filed Revision application against said demand notice vide RA No. 22/(15)/2014-RC-I and **the demand has been stayed by the orders of Revisional Authority dt. 12.08.2014.**
- c. Collector, Keonjhar has filled prosecution for violation of Environment Production Act, 1986 vide case No. 2-(C) CC-122/2013 before JFMC, Barbil which is pending for disposal.
- d. A PIL filed by Sri Satyanarayan Mishra vide WP (C) No 5187 of 2015 against the lessee challenging illegal mining, loss of forest causing environmental hazard in High Court, Orissa is sub-Judice.

18. Further, the Ministry vide it's letter dated 14.05.2018 (pg.734/c) and subsequent reminder dated 01.08.2018 (pg.731/c) requested State Govt. to provide the status of lease, period of existing lease and

outcome of all court cases pertaining to diversion of 865.276 hectares of forest land out of 947.046 ha. of ML area for mining of iron ore in favour of M/s Sarda Mines Pvt. Ltd. in village Sayabali, Balita and Thakurani RF in Keonjhar district of Orissa is required to process the case further in the Ministry. In addition, a copy of the representation of M/s Sarda Mines Private Limited dated 12.07.2016 was forwarded for furnishing the para-wise comments of the State Govt.

- 19** The State Government of Odisha vide their letter No. 10F(Cons) 108/2015/6411/F&E dated 29.03.2019 (**Pg.747/c**) in response to this Ministry's letter dated 14.05.2018 informed that the said information was called for from the PCCF, Odisha and Steel & Mines Department. The PCCF, Odisha has now submitted the required information through his letter No. 4066 dated 02.03.2019 (**Pg.748-756/c**) for necessary action. The following information forwarded by the PCCF, Government of Odisha as furnished by the RCCF, Roukela Circle :

- i. The status of lease, period of existing lease and outcome of cases pertaining to diversion of 865.276 ha forest land out of 947.046 ha of ML area for mining of Iron Ore in favour of M/s Sarda Mines Pvt. Ltd in village Sayabali, Balita and Thakuranin RF in Keonjhar district of Odisha.**

Status of the lease – The RCCF, Rourkela Circle has stated that as per the report of the Deputy Director of Mines, Joda the Thakurani Iron Ore Mines, Block-B of M/s Sarda Mines Put. Ltd. was executed on 14.08.2001 for a period of 20 years over 947.046 ha ML area in village Sayabali, Balita and Thakuranin RF in Keonjhar District. Presently the mine is non-working since 01.04.2014 due to want of Environmental Clearance.

Status of all pending court cases pertaining to diversion of 865.276 ha forest land out of total 947.046 ha- As stated by the RCCF, Rourkela Circle, the Range Officer, Barbil has submitted the status of pending cases which is furnished below

S.N.	OR Case No./PR No.	2 (b) C.C.No.	Status of outcome of the case	Status as on date of the case
1.	288 ^{BL} of 2009-10 PR No.1 of 2010-11	10/2010	Sub-Judice in the Court of JMFC, Barbil	The record is posted on 24.01.2019 for hearing
2.	296 ^{BL} of 2009-10PR No.2 of 2010-11	11/2010	-do-	The record is posted on 25.01.2019 for hearing
3.	107 ^{BL} of 2010-11 PR No.27 of 2010-11	21/2010	-do-	-do-
4.	222 ^{BL} of 2010-11 PR No. 8 of 2010-11	08/2010	Disposed-off on 18.03.2014	The record has already been disposed-off on 18.03.2014 resulting into acquittal.
5.	161 ^{BL} of 2013-14 PR No. 36 of 2014-15	26/2015	Sub-Judice in the Court of JMFC, Barbil	The record is posted on 24.01.2019 for hearing

- ii. Para-wise comments in respect of the representation of M/s Sarda Mines Pvt. Ltd addressed to the Ministry vide their letter No. SMPL/TIOM/2016/3069 dated 12.07.2016.**

The RCCF, Rourkela Circle has furnished the Para-wise comments of the DFO, Keonjhar Division on the representation submitted by the user agency, Sarda Mines Pvt. Ltd. on 12.07.2016 addressed to the Inspector General of Forest vide SMPL/TIOM/2016/3069 dt. 12.07.2016 is appended below:-

1	The lessee Sarda Mines Pvt. Ltd. is a Mining Lease holder in respect of Thakurani Iron ore mines Block B over an area of 947.046 ha. in Keonjhar district of Odisha.	No comment has been furnished by the DFO, Keonjhar Division.
2	It is pertinent to mention here that after several rounds of litigations the State Government, acting in compliance of the orders passed by the Hon'ble High Court of Orissa and Supreme Court decided to grant mining lease for a period of 30 years. Accordingly, the State Government vide its letter No. 7175/SM dated 13.8.1998 issued the terms and conditions for grant of the mining lease in respect of Thakuranin iron ore mine Block B; the said terms and conditions were accepted by Shri SL Sarda and ML Sarda vide their letter dated 21.08.1998. There upon the State Govt. vide its proceeding dated 11.02.1999 granted mining lease of Thakurani iron ore mine Block B over 947.046 ha. jointly in favour of Shri SL Sarda & Shri M.L. Sarda for a period of 30 years. Copy of the proceedings attached as Annexure-1.	No comment has been furnished by the DFO, Keonjhar Division.
3	After having obtained required statutory clearances, the mining Lease Deed was executed on 14.08.2001 for 20 years up to 13.08.2021. It may be noted that though the lease had been granted vide order 11.02.1999 for a period of 30 years, the lease deed was executed only for 20 years, because the Forest Clearance granted by Ministry of Environment & Forest, Government of India vide letter No. 8-55/2000-FC dated 20.06.2001 was for 20 years, copy of the Forest Clearance dated 21.06.2001 is attached .	As reported by the DFO, Keonjhar Division, Forest Clearance has been obtained vide F.No.8-55/2000-FC dated 21.06.2001 over 865.276 ha. In stipulation No. xii of Stage-II approval, it has been mentioned that the period of permission under FC Act, 1980 will be for 20 years' subject to Environment Clearance (Protection) Act, 1986. In this case, the EC has expired on 31.03.2014. Accordingly, all mining activities have been suspended w.e.f.01.04.2014.
4	The lessee, after execution of the Mining Lease Deed, commenced the mining operations with validity of lease period up to 13.08.2021.	As reported by the DFO, Keonjhar Division, the mining operation is ceased after expiry of the validity period of Environmental Clearance since 01.04.2014.
5	The aforesaid Mining Lease was subsequently transferred under the provision of Rule 37 of MC Rule, 1960 in the name of Sarda Mines (P) Ltd. vide the State Govt. Proceeding No.8762 dated 07.06.2006. The same	No comment has been furnished by the DFO, Keonjhar Division.

	was also acknowledged by Ministry of Environment & Forest, Government of India and Forest Clearance obtained by the earlier lessee was also transferred to the transferee company vide letter dated 18.08.2006 issued by Ministry of Environment & Forest, Government of India, copy of the letter dated 18.06.2006 attached as Annexure-III	
6	It is submitted that the State Government has rightfully acknowledged the period of the instant mining lease deed to be from 14.08.2001 to 13.08.2021. The State Government suspended mining operation from 01.04.2014 solely on the alleged ground that the period of Environment Clearance dated 29.10.2018 expired with effect from 01.04.2014.	As reported by the DFO, Keonjhar Division, as per clarification submitted by the DDM, Joda vide his letter No. 4330 dated 08.11.2018, Thakurani Iron Ore Mines Block-B of M/s Sarda Mines Pvt. Ltd was executed on 14.08.2001 for a period of 20 years. The final forest clearance has been obtained by the lessee vide F.N. 8-55/2000-FC dated 21.06.2001 of MoEF, GoI and it has been mentioned therein vide stipulation No. 2(xii) that “ <i>the period of permission under the FC Act, 1980 will be for 20 years subject to Environmental Clearance under the Environmental Protection Act, 1986</i> ”. The E.C. obtained vide letter No. J-11015/1176/2007-IA.II(M) dated 29.10.2008 of MoEF, GoI was valid up to the year 2013-14. After expiry of the validity period of EC and as per condition No. 2(xii) of Stage-II approval, the lessee was issued closure notice vide office Letter No. 2189 dated 31.03.2014 of DFO, Keonjor Division for suspension of all mining activities with effect from 01.04.2014.
7	It is pertinent to mention that EC dated 22.09.2004 is valid and subsisting as per its stipulated Special Condition A(i) saying “ <i>The environmental clearance is for 20 years and fresh clearance would be required at the time of renewal lease</i> ”. Thus, the EC dated 22.09.2004 is co-terminus with the lease period up to 13.08.2021. Further, on our submission, the MoEF&CC, Government of India has clarified vide its letter No. J-11015/1176/2007-IA.II(M) dated 15.01.2015 that in view of the above, the matter has been examined in the Ministry and it has been decided that the permission to mine as per conditions of EC No.J-11015/05/2003.IA.II(M) for 4MTPA is approved subject to the permission from the Supreme Court.	As reported by the DFO, Keonjhar Division the E.C. was obtained by the lessee vide letter No. J-110015/1176/2007-IA.II(M) dated: 29.10.2008 for production capacity of 15.00 MTPA Iron Ore which was valid up to 31.03.2014.

8	<p>The State Government, presumably, under the influence of certain observations made by the Central Empowered Committee in its report dated 16.10.2014 issued show cause to SMPL on 08.05.2015 stating that the period of lease needs to be corrected backwards, as the period from 01.08.1934 to 31.07.1984 for the 1st RML and from 01.08.1984 to 01.08.2004 for the 2nd RML. At the outset it is submitted that the observations made by the CEC are ex-facie illegal, arbitrary, currently sub-judice apart from being directly contrary to the orders passed by the Hon'ble High Court of Orissa and the Rules 31 of the M.C. Rules 1960. However, the State Government, without any application of mind and without awaiting the order of the Hon'ble Supreme Court on the validity of the CEC report, had issued the show cause.</p>	<p>As stated by the DFO, Keonjhar Division, it relates to Steel and Mines Department.</p>
9	<p>As the aforesaid notice dated 08.05.2015 is ex-facie illegal, arbitrary and without jurisdiction of the State Government, the lessee filed writ petition before the Hon'ble High Court of Orissa thereby challenging the said show cause notice vide WP (C) No. 9428 of 2015. On 13.05.2015, the Hon'ble High Court of Odisha passed the interim order to the effect that the State Government can continue the hearing but no final order can be passed without leave of the High Court.</p>	<p>No comment has been furnished by the DFO, Keonjhar Division.</p>
10	<p>We have filed objections to the CEC report vide IA No. 40 of 2015 which is yet to be adjudicated by the Hon'ble Supreme Court.</p>	<p>No comment has been furnished by the DFO, Keonjhar Division.</p>
11	<p>Further, as per the provisions section 8A(6) of the of the MMDR Amendment Act 2015, the period of lease granted before the date of commencement of the MMDR Amendment Act, 2015, where mineral is used for other than captive purpose, shall be extended and be deemed to have been extended up to a period pending on 31.03.2020 with effect from the date of expiry of the period of renewal last made of till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, in consonance, the Hon'ble Supreme Court of India vide its interim Order dated 04.04.2016 of WP (C) No. 114 of 2014 has held that the intention of the legislature under section 8A (6) is absolutely clear to the effect that the subsisting leases are deemed to have been extended to farthest of all the period contemplated under that provisions of MMDR Act</p>	<p>No comment has been furnished by the DFO, Keonjhar Division.</p>

<p>12</p>	<p>It is further pertinent to mention that the Government of Odisha vide letter No.2266 dated 05.02.2016 has already recommended our proposal to MoEF for approval of change in land use pattern</p>	<p>As reported by the DFO, Keonjhar Division, MoEF&CC, GoI has sought for information existing lease and outcome of all court cases pertaining to diversion of 865.276 ha. of forest land out of 947.046 ha of ML area for mining of iron ore vide F.N.8-55/2000-FC dt. 14.05.2018 & 01.08.2018 for processing of the case and PWC Pvt. Ltd addressed to the MoEF & CC vide their Letter No. SMPL/TIOM/2016/3069 dt.12.07.2016</p>
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The facts related to the proposal may be placed before FAC in its fourth coming meeting to be held in June, 2019 for their examination and appropriate recommendation.
