

Agenda -2

File No. 8-55/ 2000-FC (pt.)

1. Government of Orissa vide their letter dated 27.08.2010 submitted a proposal to obtain prior approval of the Central Government, in terms of the Section-2 of the Forest (Conservation) Act, 1980 for change of land use pattern of 371.30 ha. forest land within 865.2760 ha. forest land diverted in favour of M/s. Sharda Mines Pvt. Ltd. for their Thakurani Iron Ore Mine Block-B located in village Sayabali, Balita and Thakurani Reserved Forest in Keonjhar District of Odisha.

2. The State Government of Orissa in their said letter dated 21.10.2010 submitted the following information pertaining to the said proposal:
 - (i) The Thakurani Iron ore Mine Block having total 947.046 ha. area consists of 941.498 ha. Reserved Forest, 2.28 ha. village forest and 3.120 ha. non-forest land. The Ministry of Environment & Forests vide its letter dated 21.06.2001 accorded approval of Central Government under the Forest (Conservation) Act, 1980 for diversion of 865.276 ha. forest land (excluding the 74.910 ha. forest land to be maintained as safety zone and 2.428 ha. disputed forest land as per the hon'ble High court of Orissa) in favour of Sri SL Sarda and ML Sarda located in their Thakurani Iron Ore Mine for a period of 20 years. Out of the 865.276 ha. forest land diverted in favour of the said user agency, 249.276 ha. land was to be used for mining and allied activities and the remaining 616.00 ha. forest land was to be preserved as forest. Later on the Ministry of Environment & Forests vide its letter dated 18.08.2006 allowed the transfer of the said mining lease in favour of M/s. Sarda Mines Pvt. Ltd.

 - (ii) With a view to enhance the production of iron ore from the lease from 4.0 million ton per annum (mtpa) to 15.00 mtpa and to explore ore of higher grade suitable for industrial requirement, the user agency prayed for allowing them to use additional 360.092 ha. forest land land for mining from the already diverted 616.00 ha. forest land to be kept intact as forest. Re-diversion of 2.971 ha. forest land from 20.351 ha. forest land already diverted for storing of sub-grade minerals and 0.317 ha. land from 32.104 ha. forest land diverted for dumping of overburden for mining has also been proposed. In addition re-diversion of 7.740 ha. forest land from 616 ha. forest land to be kept intact as forest for construction of road/rope way/ railways lines has also been proposed. The proposal thus involves re-diversion of total 371.30 ha. forest land.

 - (iii) A comparative statement indication the already approved as well as the proposed purpose-wise breakup of the forest land available in the said mining lease is given below:

Sl. No.	Purpose	Area of Forest land (in ha.)		
		As per MoEF's earlier approval dated 21.06.2001	Change (in ha.)	As per revised proposal
1	Mining	166.320	363.560	529.880
2	Storing of sub-	20.351	(-) 2.971	17.380

Sl. No.	Purpose	Area of Forest land (in ha.)		
		As per MoEF's earlier approval dated 21.06.2001	Change (in ha.)	As per revised proposal
	grade minerals			
3	Dumping of over burden	32.104	(-) 0.317	31.787
4	Magazine	0.150	-	0.15
5	Infrastructure like canteen, store, mine office, dispensary, rest shelter etc.	11.650	-	11.65
6	Township, Housing, colony	-	-	-
7	Construction of road/rope way/railway lines	18.521	7.740	26.261
Sub Total		249.276	367.832	617.108
8	Area to be preserved as forest in current lease period	616.000	(-) 367.832	248.168
Sub- Total		865.276	-	865.276
9	Safety zone area	74.910		74.91
10	Disputed area as per decision of the Hon'ble High Court of Orissa	3.740	-	3.74
Grand Total		943.926	-	943.926

- (iv) While recommending the modified land use plan, few violations Committed by the User agency within and outside the lease area have also been reported by the Divisional Forest Officer, Keonjhar; Conservator of Forests, Rourkela and the Principal Chief Conservator of Forests, Orissa. Earlier, the Eastern Regional office of the MoEF vide their letter dated 24.03.2010 had also informed the State Forest Department about the irregular activities undertaken by lessee within and beyond the leasehold area. Details of violations along with explanation of the User agency and action taken thereon is as below:

Sl. No.	Nature and extent of violation	Explanation of the User Agency
1.	The boundary (masonry) of base camp within ML area have been constructed measuring 175 mt length x 2 mt height near pillar No.56 and 325 mt length x 1 mt height near RF pillar No.57.	The masonry wall was felt essential to protect the mine workers families and school children from anti-social elements and Maoists
2.	Two no. of Masonry toilets measuring 7.6 x 2 mt have been constructed near RF pillar No.52 and 53. (area - 0.003 ha.)	The CRPF deployed by the State Government had constructed these toilets for their use. The structure has reportedly been demolished.
3.	An ATM RCC room measuring 4.8mt x 5.8mt near RF Pillar No.54 has been constructed. (area- 0.002 ha.)	The user agency has indicated about their ignorance of location of ATM within the RF land.
4.	One BSNL tower has been constructed inside ML area over an area of 30mt x 25mt. (area - (area: 0.075 ha.)	The site was identified by the BSNL authorities for providing communication system within the RF area
5.	One conveyor belt and underground water supply pipeline have been installed outside the lease area inside the RF.	Laying of conveyor belt and underground water supply system has been done in compliance with the conditions imposed in the environmental clearance order of MoEF. A separate Forest Diversion proposal involving 0.9457 ha. of forest land for this purpose has been filed/processed. The Divisional Forest Officer, Keonjhar was earlier asked to de-operationalize the infrastructure created on forest land without GoI, MoEF approval. The MoEF has already approved diversion of the said forest land.
6.	Six no. of electric poles with 33 KV transmission line have been installed adjacent to ML boundary within the RF area.	Such installation of electric poles have been made for illumination of the area.
7.	A playground measuring 140 mt x 70 mt with AC sheet Roof building of 21mt x 11mt have been developed with the ML area. (area: 0.98	The playground has been made on mined out area of broken block No.11 after reclamation of area by plantation for its occasional use by school children. The AC sheet roof room has been removed

Sl. No.	Nature and extent of violation	Explanation of the User Agency
	ha.)	
8.	Two no. of water tanks have been constructed within the ML area.	This infrastructure project has been taken up as per approval of MoEF dated 21.06.2001. However, infrastructure items allowed in the above approval order of MoEF did not include construction of water tanks.
9.	Construction of one huge washing plant is in progress within the ML area. One black topped road has been constructed over 200 mt x 6 mt.	It has been indicated by the user agency that this infrastructure project has been taken up as per approval of MoEF dated 21.06.2001. However, infrastructure items allowed in the above approval order of MoEF did not include construction of washing plant.
10.	59 no. of Sal and other miscellaneous poles have been illegally felled within the MI area near boundary pillar No.7(B) to 8.	The felling of trees has been undertaken by the miscreants who are indulged in illegal removal of ore from the area. An FIR is said to have been lodged with Barbil Police Station

- (v) The total 20.918 ha. forest land has been used in violation by the user agency for the purpose of dumping of overburden (10.00 ha.), installation of electric line (2.34 ha.), laying of water pipeline (0.838 ha.) and construction of road (7.74 ha.).
- (vi) The approved Modified Mining Plan indicates that the mining scheme of the lease area was approved with a production target of 15 mtpa iron ore including washing of ore. In order to conserve minerals, it is proposed to beneficiate the low grade ore to recover higher iron ore values and to reduce the rejection in slime loss and for that, an integrated Iron ore washing and beneficiation plant inside the lease area has been planned. It is for this reason, the huge washing plant is being constructed within the lease area.
- (vii) It has also been indicated in the approved mining plan that life of mines will be around six years considering mineable reserve of 85.486 million tonne and production target of 15 mtpa. However further exploration is likely to provide more information of mineral deposit and accordingly the life of mines is likely to increase.
- (viii) In compliance to the condition 3 (vi) of the MoEF's approval dated 21.06.2011, a site specific conservation plan has been approved by the Chief Wildlife warden with a total financial outlay of Rs. 414.00 lakhs. Out of this, Rs. 50.00 lakhs shall be deposited in the Corpus fund of CWLW, Orissa for compassionate grant payment of Keonjhar Forest Division.
- (ix) NPV amounting to Rs. 5,74,14,500/- pertaining to 78.65 ha. forest land (safety zone- 74.910 ha. + disputed land- 3.74 ha.) located in the mining lease for whose diversion approval of the Central Government under the Forest (Conservation) Act, 1980 has not been accorded by the MoEF, so far. The NPV for approved forest area of 865.276 ha. was not demanded as the final approval for its diversion was accorded on 21.06.2001 *i.e.* prior to 21.10.2010 (date on which NPV came into force).
3. Finally the State Government of Orissa recommended that in view of the above factual position the MoEF may examine all aspects of the mining lease and consider the change of

land use pattern as per provisions made under para 2.1 (iv) of the F.C. Act Guidelines vis-a-vis the irregularities committed and convey their permission for effecting the applied change in land use pattern both in terms of carrying out mining activities and developing infrastructure items.

4. The said mining lease has been inspected by the officials of the Eastern Regional Office of the Ministry on December 30-31, 2010 and January 12, 2011. Additional information indicated in the site inspection report furnished by the Eastern Regional Office vide their letter dated 23.02.2011 are as below:

- (i) During the site inspection the User Agency informed that the modified land use plan is different from the one appearing in the State Govt.'s letter. As per the information from the User Agency, the land use pattern given by the state is made on the basis of their request made during the year 2007. Subsequently, they made another request, superseding earlier land use plan as submitted in the 2007; however the same could not be reflected in the letter of the State. The modified land use plan as proposed by the User Agency is as below:

Sl. No.	Item of work	Area of Forest land (in ha.)			
		As per MoEF's earlier approval dated 21.06.2001	As per the actual present use	Change	As per revised proposal
1	Mining	166.3200	162.9375	343.5315	509.8515
2	Storing of minerals	20.5310	15.9780	(-) 4.553	15.9780
3	Dumping of Over Burden	32.1040	11.9925	(-) 10.1115	21.9925
4	Magazine	0.1500	0.1500	-	0.1500
5	Infrastructure like crushing, screening, washing & beneficiation plant and conveying, canteen, store, mine office, Dispensary, rest shelter housing etc.	11.6500	39.6970	31.225	42.8750
6	Township, Housing, colony	0.00	0.00	0.00	0.0000
7	Construction of road/ropeway/ railway	18.5210	18.5210	7.74	26.2610
Sub Total		249.2760	249.2760	367.832	617.1080

8	Area to be preserved as forest in current lease period	616.00	616.0000	(-) 367.832	248.1680
Total		865.2760	865.2760	616.0000	865.2760
9	Safety zone area	74.9100	74.9100		74.9100
10	Disputed area as per decision of The Hon'ble High Court of Orissa	3.7400	3.7400		3.7400
Grand Total		943.9260	943.9260		943.9260

- (ii) The modified land use pattern as suggested by the Eastern Regional Office involve re-diversion of 382.4965 ha. forest land.
5. Recommendations of the Chief Conservator of Forests (Central) in the said inspection report are as below:
- (i) **NPV Issue:** The proposal involves additional deforestation of 367.832 ha. Therefore, the proposal is equivalent to fresh diversion proposal. The change of land use pattern is allowed only for some minor changes in the land use. Such a massive change in land use pattern would require fresh mining plan duly approved by the IBM and other considerations related to EIA and EMP. The user agency has already got environmental clearance in 2008 for enhancing production from 4 MTPA to 15 MTPA and approved mining plan from 4 MTPA to 15 MTPA during 2010. The user agency has not paid any amount towards NPV as per the forest diversion clearance given earlier. But, after the Supreme Court case in WP (C) No. 2020/1995 the said proposal has to be subjected to the judgement of the Hon'ble Supreme Court considering the environmental loss to the society and compensation required in lieu of that. The user agency can not be allowed to get away from the implications of the above judgement in the name of approval for changed land use pattern. I am of the opinion that the user agency must pay NPV at the rate stipulated in the judgement of the Supreme Court.
- (ii) **Violation of Forest (Conservation Act):** As per the inspection note of the Conservator of Forests (Central), the User Agency has committed 10 violations of Forest (Conservation) Act. Each of these violations are described in detail and the Government may penalise them appropriately.
- (iii) The user agency may be asked to provide a detailed regional map showing all the mines within a radius of 10 km to have an integrated view and ensuring that wildlife habitats are not fragmented due to mining activities.
- (iv) Water is a scarce natural resource and user agency should engage a reputed consultancy for the purpose of water harvesting and aquifer recharging. All possible

steps should be taken to store the rain water appropriately and monitor the quality and depth of nearby wells being used by local people.

- (v) Appropriate CSR activities should be taken to ensure that the condition of the people adversely affected due to additional deforestation activities are duly compensated and in no way their livelihood opportunities are compromised.
 - (vi) Further the inspection note of the Conservator of Forests (Central) may kindly be perused and his suggestions may be given due consideration. It is good idea to have a Sal research centre which can be funded jointly by the various user agencies. The research input will be helpful in improving the quality of reclamation and land productivity.
 - (vii) With the above observations, the proposal is recommended for consideration by the Ministry.
6. As per the report of the site inspection of the 865.2760 ha. forest land carried out by Eastern Regional Office of the Ministry prior to its diversion (copy placed at page 68^c to 86^c in the file No. 8-55/2000-FC pertaining to original proposal), 19,827 trees were available on the 249.276 ha. forest land diverted for mining and allied activities in consideration of the original proposal. Out of these 18,010 trees were available on the 155.252 ha. virgin forest land and the remaining 1,817 trees were available on the 94.024 ha. broken up forest land. As per the above data, stem density in the virgin and broken up forest at the time of its diversion was 116.00 trees/ha. and 19.32 trees/ ha. Respectively. Girth -wise distribution of the trees available in the virgin and broken up forest land is as below:

Number of trees of girth below 60 cm

Broken up area: 1052

Virgin area- 11,800

Number of trees of girth above 60 cm

Broken up area: 765

Virgin area- 16,210

- 7. Details of trees available in the 616 ha. virgin forest land kept intact at that time, a part of which is now proposed to be diverted is not available in the original proposal. The same is also not available in the extant proposal for re-diversion.
- 8. As per the information available in the inspection report indicated in para-6 above, important species available in the forest land proposed for diversion are *Sal (Shorea robusta)*, *Bija sal (Adina cordifolia)*, *Dhaura (Anogeisus latifolia)*, *Asan (Terminalia tomentosa)*, *Mohula (Madhuca indica)*, *Harida (Terminalia tomentosa)*, *Bahada (Terminalia belerica)*, *Bel (Aegle marmelos)*, *Jamun (Syzygium cumini)*, *Shisam (Dalbergia sisoo) etc.*
- 9. This Ministry vide its letter dated 25.03.2011 requested the State Govt. of Orissa to intimate the final land use pattern for the forest land located in the above mentioned mining lease along with the information on forest area used in violations of Forest Conservation Act,

1980 by the user agency as it was not clearly indicated in the proposal received from the State Government.

10. The State Government of Orissa vide their letter dated 18.08.2011 informed this Ministry as below:
 - (i) Discrepancies indicated by the Government of India, MoEF in the proposed land use pattern were referred to Pr. CCF, Orissa for verification and compliance. The Pr. CCF, Orissa based on the report of the Divisional Forest Officer, Keonjhar has now submitted the changed land use plan duly authenticated by the Divisional Forest officer, Keonjhar vide his letter 4.7.2011. The map of the ML area indicating the specifications of changed land use pattern during the 2nd RML period is enclosed (placed at page 356^c. Besides this, a tabular statement of land use pattern required by the user agency is appended to the forwarding letter that indicates under column 9 and 13 regarding the forest area used in violation for various purpose of mining, both in the pre-1980 broken up forest area and virgin forest area of the Mining lease area.
 - (ii) Further, details of extent of forest area used in violations, for undertaking construction of different activities are as under.
 - (a) The boundary wall (masonry) of base camp within ML area have been constructed measuring 175mt length X 2 mt. height X 1 mt. width (**0.0175ha.**) near pillar No56 and 325 mt length X 1mt height X 1 mt width (0.0325ha.) near RF pillar No.57. **Thus total forest area used in violation for this construction activities comes to 0.05ha.**
 - (b) Six no. of electric poles with 33 MV transmission line have been installed adjacent to ML boundary within the RF area involving 0.4ha. of forest land.
 - (c) Two No. of water tanks have been constructed within the ML area involving 0.2828ha and 1.1314 ha of forest land respectively. **Thus total forest land used in violation for this purpose is 1.4142 ha.**
 - (d) Construction of one washing plant has been done within the ML area involving **11.65ha of diverted forest land.** Besides this one black topped road has been constructed over 200 mt X 6 mt (**0.12ha.**).
11. As per the information indicated in the para 10 and para 2 (iv) above, area of the total forest land used in violation is 14.6942 ha. out of which; area used within the diverted forest land for ML area for construction of one washing plant alone constitute 11.65 ha.
12. Forest Advisory Committee after examination of the proposal in their meeting held on 26th August 2011 recommended that Government of Odisha may be requested to provide some additional information pertaining to the proposal.
13. Government of Odisha vide their letter dated 20th January 2014 provided additional information/ documents desired by the Forest Advisory Committee (FAC).
14. Details of the additional information/ documents sought by the FAC and the same provided by the Government of Odisha are as below:

Sl. No.	Information Desired by the FAC	Information/ documents provided by the User agency
(i)	A copy of the approval Mining Plan for the mine	Copy of Mining Plan (Volume - I) duly approval by the Indian Bureau of Mines for Thakurani Iron ore mines of M/s S.L. Sarada and M.L. Sarada dt. 18.06.1999 is enclosed. Further the copy of the Scheme of Mining and Progressive Mine Closure Plan duly approval by Indian Bureau of Mines for the Mines vide their letter No. 314 (3) / 2010- MCCM (CZ) MS-34 dt. 2.03.2011 for the period from 2011 -12 to 2015 - 16 along with list of Plates (Volume - II) concerning the Scheme of Mining are enclosed herewith as Annexure-2 in two separate volumes
(ii)	Status of reclamation of the already mined over area	It has been reported that an area of 27.29 hectares covering 9 (Nine) no. of pits already been reclaimed and rehabilitated in the Mined over area. The block -wise extent of land covered under reclamation in the ML area is enclosed
(iii)	Photographs of the representatives sites located within the mining lease	The photographs of the representatives sites (28 no.) indicating area of different blocks the Mining lease covered under dump reclamation, plantation, tree transplantation etc. are enclosed
(iv)	Recommendations of the state Government on the penalty to be imposed in respect of the forest land used in the violations indicated in the proposal;	Details of forest area of the Mining lease area used in violation for different purposes by the lessee was reported to Government of India, MoEF in detail vide letter No. 15145/F&E dt. 18.08.2011. In all 13.6342 ha of forest land has been used in violations of approved land use pattern in this lease such as Boundary wall (0.05 ha), Installation of Electric poles (0.04 ha), Water tanks (1.4142 ha.) washing Plants (11.65 ha) and Black topped road (0.12 ha). Considering the nature of violations committed, the Government of India, MoEF may take a decision on the nature and extent of exemplary penalty to be imposed or such other action as deemed appropriate considering the serious nature of irregularities
(v)	Explanation form appropriate authority of the State Government of Orissa why these violations were not noted and acted against prior of the enquiry in connection	It has been reported by the Pr. CCF, Odisha that the Divisional Forest Officer, Keonjhar had earlier issued a show -cause notice to the lessee vide his letter No. 6721 dt. 13.12.2009 in connection with the irregularities noticed in the

	with the present proposal	<p>ML area for his response. The lessee had also submitted reply to the Show cause notice vide his letter bearing No. SMPL/TIOM/2009/177 dt. 28.12.2009, which was not satisfactory. Thereafter, the Range Officer, Barbil has booked following forest offence cases against the user agency under the relevant provisions of Odisha Forest Act, 1972 which are detailed as under.</p> <p>(a) Case No. 288 BL/2009-10 dated 7.11.2009 has been booked against the lessee for illicitly felling of Sal and Misc. Species of 59 no. within the leasehold area near ML boundary pillar No. 7 (B) to 8. This case is pending in the Hon'ble Court of JFMC, Barbil.</p> <p>(b) Case No. 296 BL/2009-10 dated 29.11.2009 has been booked against the lessee for laying conveyer belt and underground water pipeline outside leasehold area but within Thakurani Reserved Forests unauthorizedly. The length of conveyer belt and pipeline measures 316 mts X 4.70 mts. This case is also pending in the Hon'ble Court of JFMC, Barbil.</p> <p>In addition to above two cases booked against the lessee which was reflected in the show cause notice of DFO, Keonjhar dt. 13.12.2009, two other forest offence cases have also been booked against the user agency, which are detailed below:</p> <p>(i) Case No. 107/BL/2010-11 dated 21.07.2010 has been booked against the lessee for muck dumping and road expansion in Thakurani RF without approval of MoEF, Government of India.</p> <p>(ii) Case No. 222 BL/2010-11 dated 31.12.2010 has been booked against the lessee for illegal drilling in Thakurani RF.</p> <p>Forest Offences indicated at (a) and (b) were also indicted in their letter No. 22796/F&E dt. 21.10.2010 and No. 15145/F&E dt. 18.08.2011 to MoEF, Government of India, MoEF for</p>
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		<p>perusal and further action, Copies of documents showing the show cause notice served by the Divisional Forest Officer, Keonjhar dt. 13.12.2009, reply of the lessee to the show cause notice dt. 28.12.2009 and details of action taken by the Forest Department Officers against the lessee till filling of the four no. of Forest Offence cases against the lessee are enclosed. This shows that the Divisional Forest Officer, Keonjhar has taken note of the irregularities occurred in this lease and asked for explanation of the lessee in this context and initiated forest offence cases as per provisions of Odisha Forest Act, 1972 for the irregularities committed by the lessee as per law.</p>
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15. Government of Odisha in their said letter dated 20th January 2014 further informed this Ministry as below:
- (i) In the meantime, Hon'ble Central Empowered Committee constituted by the Hon'ble Central Empowered Committee is taking up hearing of IA No. 3629 of 2013 arising out of WP (C) No. 202/1995. As required by the CEC, the detailed information as sought for from F&E Department were also provided to them. This also includes the violations committed over the forest land by the user agency within the leasehold area.
 - (ii) The meeting/hearing of CEC is being attendant by a no. of respondents including the Ministry of Environment & Forests, Government of India.
16. Government of Odisha in their said letter dated 20th January 2014 further informed that the Government of India, MoEF may examine the compliances as required vide their letter No. 8-55/2000-FC (Pt) dated 7.10.2011 and dt. 9.12.2013 and take further steps for consideration in the matter of the changed land use pattern applied for by the user agency vis-à-vis the issues raised before the CEC and their observation thereon to this department for follow up action at this end, on the merits of the matter.
17. The proposal along with additional information received from the Government of Odisha is placed before the Forest Advisory Committee (FAC) for their examination and appropriate recommendations.
