

**Government of India
Ministry of Environment & Forests
Forest Conservation Division**

**MINUTES OF THE FOREST ADVISORY COMMITTEE (FAC) MEETING HELD ON
23rd February, 2018**

[Nisheeth Saxena AIG (FC)]

AGENDA NO.1

F. No. 8-02/2018-FC

Sub: Proposal for diversion of 52.61 ha. of forest land for establishment of various entities for defence purpose at Shiv Mandir RF in North Sikkim by 27 Mountain Division, C/o 99 APO (Army), in the State of Sikkim.

The Committee discussed the above mentioned proposal, heard the views of the user agency and observed as follows:-

1. Principal Chief Conservator of Forests-cum-Principal Secretary, Department of Forests, Environment & Wildlife Management, Deorali, Gangtok Government of Sikkim, has submitted a proposal to obtain prior approval of the Central Government under Section-2(ii) of the Forest (Conservation) Act, 1980 vide their letter No. 1717/FCA/FEWMD/273 dated 10th June, 2017 for diversion of 52.61 ha. of forest land (crown density 0.1) in Lauchung Territorial Range, Chungthang, Sub Division North Territorial Forest Division for establishment of various entities for defence purpose at Shiv Mandir Reserve Forest in North Sikkim by 27 Mountain Division, C/o 99 APO (Army), in the State of Sikkim. The Propose forest land is not a part of National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, Elephant Corridor, wildlife migration corridor etc.
2. As reported by the user agency, the present proposal is for establishment of various entities for defence purpose at Shiv Mandir RF in North Sikkim by 27 Mountain Division, C/o 99 APO (Army). The proposal has since been uploaded in the "OMFC" portal of the Ministry vide proposal No.FP/SK/DEF/20259/2016 and accordingly transferred to the level of MoEF, North Eastern Regional Office at Shillong through on-line mode. The User Agency has furnished the maps duly countersigned by the Divisional Forest Officer. The forest area is situated under the North Territorial Division. Under the proposal no tree felling has been proposed however the project may affect 5500 pole size trees and 12500 shrubs& 14150 herbs as per the enumeration list submitted by the State Government.



3. The Compensatory Afforestation has been proposed over an area in degraded forest land identified at Lachung RF & Lachung Range in North (T) Division, as per details given below:-

District	Forest Division	Range	Location	Block Plantation	Amount of CAS
North	North (T)	Lachung	Lachung	105.20 Ha	Rs. 9,88,46,000.00

The Compensatory Afforestation Scheme will be undertaken in the designated compact area identified by North Territorial Division of Sikkim. The Divisional Forest Officer (T) North Division has given the certificate on suitability of degraded land for Compensatory Afforestation. Accordingly, the User Agency has furnished an undertaking to deposit the amount of CA, NPV and additional NPV if any etc. after Stage I clearance is granted by the Ministry in this respect. But no Penal Compensatory Afforestation has been recommended for the violation because it has been informed that no violation of the Act has been reported against. No human population will be displaced owing to the project.

4. Documentary evidence in support of settlement of forest rights in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 on the forest land proposed to be diverted has not been submitted.
5. The Nodal officer Forest Conservation Sikkim Forest Department has inspected the area and reported that the location proposed for establishment of army entities in North District of Sikkim by Indian army was carried out on dated 10th December 2016. The Indian Army representatives present during the inspection have informed that the proposed forest land for diversion is in the close proximity to the Indo-China International Border falling from the north district of the State and is extremely important from the national strategic and security point of view. They have also informed that the Indian Army were in a possession of pre-occupied forest land i.e. approximately 10 Ha much before the Sikkim merged into Indian territory i.e. 1975-76 and have been using the same land for safeguarding the international border and for strategic purposes. This pre-occupied land i.e. of approximately 10 ha has been included within the 52.61 ha of the proposed land for diversion for regularization along with other requirements of forest land for the project proposals submitted to the State Government.
6. According to the report the land proposed for diversion is more than 40 Ha and was discussed in detail with the Indian Army representatives during the site inspection at proposed location for diversion under FCA Act' 1980. The representatives from Indian Army stated that the proposal is mainly for the Defence purposes and local communities and not for any other purpose. The land required would be beneficial to the Indian Army to meet up their immediate requirements from the security point of view and national



interest. The Indian Army troops in that regions are to control anti-social and anti-national activities and to tackle the tactful situations that may arise across the border at any point of time.

7. After careful consideration of the facts placed before it and placed on website, FAC recommended the project proposal for grant of in-principle approval with general and standard conditions for post facto diversion of the 10.0 ha of forest land already under the control of Army and 42.61 ha of additional forest land for Defence related activities with the following condition:
 1. Compensatory afforestation will be raised over 105.2 ha of degraded forest land identified by the state government and at least 1000 plants per hectare (52610 plants of native tree species) will be planted. The CA cost will be revised accordingly and CA cost shall be deposited in the Compensatory afforestation Fund of Sikkim State managed by adhoc CAPMPA.
 2. 25% of the Cost of CA will be deposited in addition to the CA cost for soil and moisture conservation works at CA site.
 3. Minimum number of trees will be felled in the forest depending upon the requirement of the construction activities approved by the competent authority of the Army.
 4. The wildlife will be protected by the Army personnel deployed in this establishment and provisions of the Wildlife Protection Act 1927 shall be applicable.
 5. Massive tree plantation will be carried out within the area by Army controlling the area.
 6. Complete compliance of the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 on the forest land proposed to be diverted shall be done by the State Government.

AGENDA NO. 2

F. No. 8-59/2017-FC

Sub: Proposal for diversion of 80.902 hectares of forest / revenue forest land (66.377 ha. forest land + 14.525 ha. revenue forest land=80.902 ha. of forest land/revenue land) for Shobhapur underground coal mining in favour of M/s. Western Coal Fields Limited, in Betul District State of Madhya Pradesh.- reg.

The Committee discussed the above mentioned proposal, heard the views of the user agency and observed as follows:-



1. The Addl. Principal Chief Conservator of Forests (Land Management) and Nodal Officer under Forest (Conservation) Act, 1980 SatpuraBhawan, Government of Madhya Pradesh, vide their letter No. F-1/769/2017/10-11/3040 Bhopal dated 12th October, 2017 submitted the above mentioned proposal to obtain prior approval of Central Government, in accordance with Section-2 of the Forest (Conservation) Act, 1980.
2. The proposal is for according post facto approval for already mined area under the underground mining project. As per the record available and placed on record by FC division, under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957, vide notification dated 19th September 1963 reserved forest in Betul District, Madhya Pradesh measuring 65.61 ha + 664.57 ha =730.18 ha was acquired. Further vide notification dated 21.08.1977 additional 355.377 ha of ASIR reserved forest was acquired in Sobhapur Reserved forest in Betul District, Madhya Pradesh. The mining started in Sobhapur RF after acquisition since 1963.
3. Earlier the mining was done without an environment clearance under EP Act. But after the enactment of Environment Protection Act 1986 the Environment clearance was required. It was found from the records that environment clearance for Sobhapur Underground mining expansion project was obtained on 4th October 2006 which refers that the propose mining area of 460.84 ha, included 357.067 ha of forest land. Thereby the mine was operated in the forest area of 357.067 ha.
4. It has been reported by the user agency that the mining started in 1977 and 12.0 ha forest land was broken before 1980 when FC Act became operational on 25th October 1980. It is important to note that as per the sub-section 8(1) and (2) of MMDR Act 1957, permission was granted only for maximum period 30 years but not less than 20 years. Therefore, mining permission in this case where the coal block was granted in 1977 was valid maximum upto 2007 only.
5. As per the guidelines issued under the FC Act the project provisions of the FC Act was not applicable over the area broken before 25.10.1980 but any breaking of forest land for mining after 25.10.1980 even mining lease and rights were granted before the day FC Act came into force. Any mining done above 12.0 ha constituted violation of FC Act. Moreover the Forest clearance or indemnity from obtaining FC will be required at the time of renewal of the mining permission under MMDR Act 1957 and shall be treated as fresh forest clearance proposal.
6. It was reported that FC clearance for Patharkhera (Suhagpur) coal block which included the Shobhapur reserve forest was obtained in 1997 for **1349.242 ha**. It was reported that Patherkhera coal block, as this coal block is known, the application for forest clearance was submitted in 1991 and the Forest Clearance over 1349.242 ha was granted by this ministry on 3rd February 1997. In the FC clearance order it was referred that the FC will be co terminus with lease under MMDR Act subject to maximum period of 30 years which starts from the date the lease is granted.



7. After the order passed by the Hon. Supreme Court dated 12th December, 1996 WPC No. 202 of 1995 in the case of T.N. Godavarman Thirumulpad vs. Union of India. Additional 42 ha land was obtained in the year 2001.
8. As per their stated facts in this present proposal the FC is available for 163.236 ha land out of 1349.24 ha granted for Pathakhera coal block granted in 1997. Similarly FC for 17.121 ha of forest land was available of 42 ha granted in 2001 for Sobhapur underground mining project. Therefore according to the WCL, FC was available for 193.83 ha and 12 ha were broken before 25.10.1980. Ostensibly the mining permission under MMDR Act was valid till 2007 only if the mining started in 1977. It was mentioned in the site inspection report of Conservator of Forest Central Regional office Bhopal dated 2nd January 1991 while processing the application for 1349.24 ha, 253.53 ha of forest area that out of proposed 1349.248 ha has been developed and underground mining was in progress without FC clearance. Apart from this violation it was found that surface right over an area of 122.829 ha of forest land out of 1349.248 ha was sanctioned by state government without any approval of the central Government under FC Act. However the ministry granted forest clearance with penalty for 1349.248 ha on 3rd February 1997.
9. The forest clearance are granted till valid mining lease period. In that way, post facto FC was granted in 1997 for 1349 ha for mining area which was granted in 1977 before 1980. The mining permission under MMDR Act was valid for 30 years only and therefore the FC granted was also valid not later than 2007 based on the fact that the mining permission under MMDR was granted to WCL in 1977. Consequently all post facto FC also expired in 2007. After 2007 the renewal of entire forest area in the mining area was required. However WCL continued mining without renewal of Forest Clearance.
10. As per the website of the Ministry for online application, WCL applied for forest clearance in 2007 to the state Government (FP/MP/MIN/4016/2007) but the case was not forwarded to the Ministry. Now the WCL has applied fresh on 12th October 2017 for post facto FC for underground mining in forest land over 80.902 ha only whereas FC for entire forest land in the mining area for underground mining is required. The total area of the Sobhapur underground mining project is **460.844 ha** involving **357.079 ha of forest land** whereas the application for only **80.902 ha** has been applied. As claimed by the WCL, the part of area **163.236 ha** for which forest clearance was granted to the patherkhera coal block over **1349.242 ha** and **17.121 ha** from 42 ha have been deducted and the FC for already broken **12 ha** of forest land has been excluded. However both these FC have already expired in 2007 with the co-terminus period of the mining area granted to WCL in 1977 for period referred in section 8 of MMDR Act. Coal and lignite is in part A of schedule-I of the MMDR Act 1957 for which maximum period prescribed is 30 years. Now WCL need to apply for entire forest area of **357.902 ha** within the mining area granted under MMDR.



11. It was also observed from the record that post facto in principle approval (Stage-I) was granted by this Ministry's letter F. No. 8-102/2004-FC dated 30.01.2012, in favour of WCL for diversion of another parcel of 90.00 ha. of forest land, after expiry of the Forest clearance in 2003. WCL has not complied the conditions and continued mining without FC in that coal block. The compliance of in principle approval is awaited for more than five years. The complete compliance including the compensatory levies towards the diversion of 90.00 ha need to be deposited by revising the levies as per current rates. So far the compliance has not been received from WCL.
- 1) The FAC observed the facts placed on records and is of the considered view that the WCL should apply for the remaining forest land for forest clearance under FC Act and deposit the NPV for the entire **357.079 ha**. The FAC recommends in principle approval for the ex-facto regularisation of the violation committed by the Western Coalfield Limited for diversion of the forest land over the forest land **80.902 ha** of forest land already broken with penal NPV and penal CA. FAC further recommends that the in-principle approval will be effective after the payment of NPV and other outstanding dues with WCL in CAMPA account.
- 12.
- 1) Application for diversion of entire forest land of 357.079 ha in the project be submitted by WCL for consideration.
 - 2) Action is required to be initiated against the authorities in WCL in accordance with the section 3(A) and 3(B) of the Forest Conservation Act, 1980 against the officials who violated the provisions of FC Act 1980. State Government may also initiate legal action under Indian Forest Act 1927 for violation of their relevant law.
 - 3) The Regional office, Bhopal shall visit the Shobhapur underground mining project and report the status of the forest clearance and the ongoing mining activities without valid Forest clearance under section 2(ii) of the FC Act along with the Nodal officer, Forest Conservation, Madhya Pradesh Forest Department. WCL will provide the copy of FC granted in past along with the details of the mining area of Sobhapur underground mining project over 460.844 ha which as per the EC report involves **357.079 ha** of forest land. The State Government shall submit documentary evidence for the forest area broken up prior to 25.10.1980 and after 25.10.1980 to the date of filing of proposal and current status of operations in proposed area.
 - 4) The Regional Office Bhopal should investigate along with the concerned officers of the forest department and WCL the status of entire Patherkhera coal block in Madhya Pradesh, the extent of forest land and the status of forest clearances in all such cases and submit comprehensive report on Forest clearance
 - 5) WCL will deposit the NPV for the entire 357.079 ha immediately since the forest land has been used by the WCL in Sobhapur underground project in contravention of the FC Act.



- 6) WCL should submit the compliance report of in principle approval granted by this Ministry's letter F. No. 8-102/2004-FC dated 30.01.2012, in favour of WCL for diversion of another parcel of 90.00 ha. of forest land, after expiry of the Forest clearance in 2003 and deposit the compensatory levies of Rs 255462766. With interest of 12% per annum.
- 7) The state government will prepare the wildlife management plan for the Sobhapur reserve forest and the same will be implemented from the funds provided by the WCL.
- 8) Penalty will be imposed as per the existing guidelines dated 29th January 2018.
- 9) Complete compliance of Forest Right Act 2006 will be done by the State Government and submitted along with the compliance report.

Agenda No.3.
F. No. 8-60/2017-FC

Sub: Proposal for diversion of 97.143 hectares of forest / revenue forest land (45.095 ha. forest land + 52.048 ha. revenue forest land=97.143 ha. of forest land/revenue land) for Shobhapur underground coal mining in favour of M/s. Western Coal Fields Limited, Pathakhera in Betul District State of Madhya Pradesh.- reg.

The Forest Advisory Committee discussed the above mentioned proposal, heard the views of the user agency and observed as follows:-

1. The Addl. Principal Chief Conservator of Forests (Land Management) and Nodal Officer under Forest (Conservation) Act, 1980 SatpuraBhawan, Government of Madhya Pradesh, vide their letter No. F-1/770/2017/10-11/3036 Bhopal dated 12th October, 2017 submitted the above mentioned proposal to obtain prior approval of Central Government, in accordance with Section-2 of the Forest (Conservation) Act, 1980.
2. The proposal is for according post facto approval for already mined area. Under the provisions of The Coal Bearing Areas (Acquisition and Development) Act, 1957, vide notification dated 19th September 1963 and reserved forest in Betul was measuring 65.61 ha + 664.57 ha = 730.18 ha was acquired. Further vide notification dated 21.08.1977 additional 355.377 ha of ASIR reserved forest was acquired in Sobhapur Reserved forest in Betul District, Madhya Pradesh. The mining started in Sobhapur RF after acquisition since 1963.
3. Earlier the mining was done without ant environment clearance. But after the enactment of Environment Protection Act 1986 the Environment clearance was required. The WCL has uploaded the EC of Satpura-II underground expansion project issued by the Ministry. It was found from the records that environment clearance for Sobhapur/ Satpuraa –II Underground mining expansion project was obtained on 2nd October 2006 which refers that the propose mining area of 458 ha, included 355.40 ha of forest land. Thereby the mine was operated in the forest area of 355.40 ha.



4. It has been reported by the user agency that the mining started in 1977 and 12.0 ha forest land was broken before 1980 when FC Act became operational on 25th October 1980. It is important to note that as per the sub-section 8(1) and (2) of MMDR Act 1957, permission was granted only for maximum period 30 years but not less than 20 years. Therefore, mining permission in this case where the coal block was granted in 1977 was valid maximum upto 2007 only.
5. As per the guidelines issued under the FC Act the project provisions of the FC Act was not applicable over the area broken before 25.10.1980 but any breaking of forest land for mining after 25.10.1980 even mining lease and rights were granted before the day FC Act came into force. Any mining done above 101.1 ha constituted violation of FC Act. Moreover the Forest clearance or indemnity from obtaining FC will be required at the time of renewal of the mining permission under MMDR Act 1957 and shall be treated as fresh forest clearance proposal.
6. It was reported that FC clearance for Patharkhera (Suhagpur) coal block which included the Shobhapur reserve forest was obtained in 1997 for 1349.242 ha. It was reported that Patherkhera coal block as this coal block is known, the application for forest clearance was submitted in 1991 and the Forest Clearance over 1349.242 ha was granted by this ministry on 3rd February 1997. In the FC clearance order it was referred that the FC will be co terminus with lease under MMDR Act subject to maximum period of 30 years which starts from the date the lease is granted.
7. After the order passed by the Hon. Supreme Court dated 12th December, 1996 WPC No. 202 of 1995 in the case of T.N. Godavarman Thirumulpad vs. Union of India. Additional 42 ha land was obtained in the year 2001.
8. As per their stated facts in this present proposal the FC is available for 107.26 ha land out of 1349.24 ha granted for Pathakhera coal block granted in 1997. Similarly FC for 20 ha of forest land was available of 42 ha granted in 2001 for Sobhapur underground mining project. Therefore according to the WCL, FC was available for 127.26 ha and 101.10 ha were broken before 25.10.1980. Ostensibly the mining permission under MMDR Act was valid till 2007 only. It was mentioned in the site inspection report of Conservator of Forest Central Regional office Bhopal dated 2nd January 1991 while processing the application for 1349.24 ha, 253.53 ha of forest area out of proposed 1349.248 ha has been developed and underground mining was in progress without FC clearance. Apart from this violation it was found that surface right over an area of 122.829 ha of forest land out of 1349.248 ha was sanctioned by state government without any approval of the central Government under FC Act. However the ministry granted forest clearance with penalty for 1349.248 ha on 3rd February 1997.
9. The forest clearance are granted till valid mining lease period. In that way, post facto FC was granted in 1997 for 1349 ha for mining area which was granted in 1977 before 1980. The mining permission under MMDR Act was valid for 30 years only and therefore the FC granted was also valid not later than 2007 based on the fact that the mining



permission under MMDR was granted to WCL in 1977. Consequently all post facto FC also expired in 2007. After 2007 the renewal of entire forest area in the mining area was required. However WCL continued mining without renewal of Forest Clearance.

10. It was reported from the record that post facto in principle approval (Stage-I) was granted by this Ministry's letter F. No. 8-102/2004-FC dated 30.01.2012, in favour of WCL for diversion of another parcel of 90.00 ha. of forest land, after expiry of the Forest clearance in 2003. WCL has not complied the conditions and continued mining without FC. The compliance of in principle approval is awaited for more than five years. The complete compliance including the compensatory levies towards the diversion of 90.00 ha need to be deposited by revising the levies as per current rates. So far the compliance has not been received from WCL.
11. As per the website of the Ministry for online application, WCL applied for forest clearance in 2007 to the state Government (FP/MP/MIN/4014/2007) but the case was not forwarded to the Ministry. Now the WCL has applied on 12th October 2017 for FC for underground mining in forest land over 97.143 ha in Betul North (T) Forest Division only whereas FC for entire forest land in the mining area for underground mining is required. Particulars of Forests:-

Division	Forest Land (ha.)	Legal Status
Betul North (T)	45.095	Protected Forest
Betul North (T)	52.048	Revenue Forest

The forest area is having eco class III and vegetation density is 0.7

12. The total area of the Sobhapur underground mining project is **458 ha** involving **355.40ha of forest land** whereas the application for only **97.143ha** has been applied. The part of area **107.26 ha** for which forest clearance was granted to the patherkhera over **1349.242 ha** and **20.0 ha** from 42 ha have been deducted and the FC for already broken **12 ha** of forest land has been excluded. However both these FC have already expired in 2007 with the co-terminus period of the mining area granted to WCL under section 8 of MMDR Act in 1977 and before. Now WCL need to apply for entire forest area of **355.40 ha** within the mining area granted under MMDR.
13. The FAC observed the facts placed on records and is of the considered view that the WCL should apply for the remaining forest land for forest clearance under FC Act and deposit the NPV for the entire **355.40 ha**. The FAC recommends in principle approval for the ex-facto regularisation of the violation committed by the Western Coalfield Limited for diversion of the forest land over the forest land of **97.143 ha** of forest land already broken with penal NPV and penal CA. FAC further recommends that the in-principle approval will be effective after the payment of NPV and other outstanding dues with WCL in CAMPA account.

- 1) Application for diversion of entire forest land of 355.40 ha in the project be submitted by WCL for consideration.
- 2) Action is required to be initiated against the authorities in WCL in accordance with the section 3(A) and 3(B) of the Forest Conservation Act, 1980 against the officials who violated the provisions of FC Act 1980. State Government may also initiate legal action under Indian Forest Act 1927 for violation of their relevant law.
- 3) The Regional office, Bhopal shall visit the Shobhapur / Satpura –II underground mining project and report the status of the forest clearance and the ongoing mining activities without valid Forest clearance under section 2(ii) of the FC Act along with the Nodal officer, Forest Conservation, Madhya Pradesh Forest Department. WCL will provide the copy of FC granted in past along with the details of the mining area of Sobhapur underground mining project over **458.0 ha** which as per the EC report involves **355.40 ha** of forest land. The State Government shall submit documentary evidence for the forest area broken up prior to 25.10.1980 and after 25.10.1980 to the date of filing of proposal and current status of operations in proposed area.
- 4) The Regional Office Bhopal should investigate along with the concerned officers of the forest department and WCL the status of entire Patherkhhera coal block in Madhya Pradesh, the extent of forest land and the status of forest clearances in all such cases and submit comprehensive report on Forest clearance.
- 5) WCL will deposit the NPV for the entire 355.40 ha immediately since the forest land has been used by the WCL in Sobhapur / Satpura-II underground project in contravention of the FC Act.
- 6) WCL should submit the compliance report of in principle approval granted by this Ministry's letter F. No. 8-102/2004-FC dated 30.01.2012, in favour of WCL for diversion of another parcel of 90.00 ha. of forest land, after expiry of the Forest clearance in 2003 and deposit the compensatory levies of Rs. 255462766.00 with interest of 12% per annum.
- 7) The state government will prepare the wildlife management plan for the Sobhapur reserve forest and the same will be implemented from the funds provided by the WCL.
- 8) Penalty will be imposed as per the existing guidelines dated 29th January 2018.
- 9) Complete compliance of Forest Right Act 2006 will be done by the State Government and submitted along with the compliance report.

Agenda No.4.

F. No. 8-/2017-FC

Sub: Proposal for diversion of 426.763 ha. of forest land in favour of Water Resources Department, Panna District for construction of Majhagaon Medium Irrigation project Panna district in the State of Madhya Pradesh – regarding.



The Committee discussed the above mentioned proposal, heard the views of the user agency and observed as follows:-

1. The Addl. Principal Chief Conservator of Forests (Land Management) and Nodal Officer, Forest (Conservation) Act, 1980, State Government of Madhya Pradesh vide their letter No. F-3/45/2014/10-11/5/1049 Bhopal dated 22.04.2017 submitted a proposal to obtain prior approval of the Central Government, in terms of the Section-2 of the Forest (Conservation) Act, 1980 for diversion of 426.763 ha. of forest land in favour of Water Resources Department, Panna District for construction of Majhagaon Medium Irrigation project Panna district in the State of Madhya Pradesh.
2. Particulars of Forests: Panna forest Division – 426.763 ha.
 - a. Vegetation & Density : 326.763 ha. = 0.2 ,Eco-Class = 3.
 - b. No. of trees to be felled : 100 ha. = 0.4 ;Eco-Class = 3.
3. As reported by the State Government the number of trees FRL wise to be felled in the proposed area:
FRL = 10924 trees
FRL2 = 6225 trees
FRL4 = 4699 trees
4. One of the forest compartments (P-182) proposed in the project belongs to the buffer area of **Panna Tiger Reserve**. Since the project involves impounding of water, the soil-moisture regime of the area will improve leading to better growth of vegetation.
5. The boundary of Panna Tiger Reserve, Ken Ghariyal Wildlife sanctuary and Gangu Wild Life sanctuary fall within 10 kms of the project area. The impact of project area will be positive as it will help in better growth of vegetation and will act as a perennial source of drinking water for Wild Life.
6. One of the proposed compartments (P-182) belongs to buffer area of Panna Tiger Reserve. Its impact on the project will be favorable as the water impounded in the project area will serve as perennial source of drinking water to the Wildlife and help in the better growth of vegetation.
7. Forest land as proposed by the user agency in col. 2 of Part-I is unavoidable and barest minimum for the project, if no recommended area item-wise with details of alternatives examined.
8. **As reported by the user agency, the EC application is yet to be submitted.**



9. It is reported that equivalent revenue land has been identified in Panna Forest Division for compensatory afforestation as per details given by the State Government.
10. The land identified for CA has been transferred in favour of the State Forest Department. A copy of the revenue records pertaining to the mutation of the said land has also been submitted by the State Government.
12. The District Collector, Panna, Madhya Pradesh has issued certificate dated 21.09.2015 for diversion of 426.763 ha. of forest land in favour of Water Resources Department, Panna District for construction of Majhgaon Medium Irrigation project Panna district in the State of Madhya Pradesh.
13. The Addl. Principal Chief Conservator of Forests (Land Management) and Nodal Officer, Forest (Conservation) Act, 1980, State Government of Madhya Pradesh vide its letter dated 22.04.2017 submitted following additional information pertaining to the proposal:

The Majhgaon medium irrigation project is planned to provide 13, 600 ha. Annual irrigation on 8, 370 ha. CCA Ajaigarh Tehsil of panna District benefitting 43 villages. In addition 2 MCM of water is reserved for domestic use and 40 MCM water is reserved for Barethi STPP (6x660 MW) of NTPC. Proposed project will have a gross storage capacity of 112.62 MCM, out of which 91.87 MCM will be made available from Bariarpur Pick-up weir. The present irrigation facilities in the region are about 30% and farmers are lifting the water from river and wells for the irrigation. There is no significant industrial development in the region and Bundelkhand comes under backward region and for development of this region special package has been given.

14. **Storage of water for irrigation project.**

Component wise breakup			
Sl. No	Component	Forest Land (ha.)	Non-Forest Land (ha.)
1	Dam	35.00	42.00
2	submergence	391.763	1020.627

15. **Wild Life: Compartment no P-182 in buffer area of Panna Tiger Reserve**
16. The proposal involves violation of Forest (Conservation) Act. The POR was registered against Mr. Brijesh Gupta, Sub Engineer, SinghpurBairaj Sub Division and Mr. Ajaygarh Rahul Singh, Manager, Runjha Structure Company, Raipur.
17. **Specific observation on Site Inspection:-**
 - i. The 11 nos of families over 22.683 ha in North Panna forest division & 40 nos of families over 39.52 PTR area are involved. So, R&R plan needs to be submitted by the User

Agency. The rights of the peoples (FRA, 2006) shall be settled by following prescribed procedure.

- ii. During settlement of patta holders under FRA, 2006, User Agency shall not ask any new forest area.
 - iii. As the area of Panna Tiger Reserve is involved, 5 % of the NPV shall be used for **Wildlife Management Plan** in Panna Tiger Reserve.
 - iv. The user agency had registered POR against the Mr.Brijesh Gupta, Sub Engineer, SinghpurBairaj, Sub Division Officer and Mr.Ajaygarh Rahul Singh, Manager, Runjha Structure Company, Raipur, the departmental action taken against the officer and Contractor may be sought from the WRD, Govt. of Madhya Pradesh.
 - v. The work was carried out and POR was issued vide letter no. 151/08 dated 09/08/2015 (means construction work was started) and **till date EC clearance is not granted, this amounts to violation of Environment (Protection) Act 1986 norms** and action deemed fit under EPA,1980 from MoEFCC may be seen.
 - vi. The **penal CA and penal NPV deemed fit** may be imposed by MoEFCC.
 - vii. User Agency shall submit the copy of approved CAT plan.
 - viii. The proposal attracts Para 2(iii) of guideline F. No. 11-327/2015-FC dated 14th August 2015 and based on which FC clearance for protected area may be considered after obtaining the Wildlife Clearance. **Wildlife Clearance for this project is awaited.**
 - ix. The proposed dam is 8 km long & C-shaped earthen dam at Panna District. In 2016 monsoon there were two (2) dam burst cases at Panna. Looking in to length of dam, shape of dam, earthen dam, pre 2015 design and act of violation is also reported. So, it is **proposed to seek** a study from reputed national institute for required structural approval for taking triple the precaution to avoid any possible unforced conditions.
 - x. The **dilapidated condition of PMGSY road** due to extensive use for the transportation of constructive material through heavy trucks / vehicle was observed in Pawai medium irrigation project, PannaDistt. Looking in to the PMGSY road and it utility for the villagers and same condition (**dilapidated condition**) of PMGSY roads shall appear in present project too. So, WRD, Govt. of MP must ensure that all PMGSY roads are maintained during construction phase and restored to its original condition after completion of project as per the norms approved by Govt. of India for maintenance of such roads.
18. After careful consideration of the facts placed before the FAC, the facts placed on website of the MoE&CC on the above proposal and deliberations with the user agencies



and amongst the members recommended the project for grant of in principle approval with general and standard conditions for irrigation projects along with following specific conditions:

- 1) The proposed dam is 8 km long & C-shaped earthen dam at Panna District. In 2016 monsoon there were two (2) dam burst cases at Panna. Looking in to length of dam, shape of dam, earthen dam, pre 2015 design and act of violation is also reported. So a study from reputed national institute for required structural approval shall be undertaken and the recommendations be implemented by the user agency to avoid any possible unforced conditions.
- 2) As the CA site is rugged with inert shallow soil strata, therefore the CA scheme would be revised so as to augment moisture regime in the area and planting indigenous species only.
- 3) Compensatory afforestation shall be raised over equivalent non forest land and at least 1000 plants will be planted ($426.763 \text{ ha} \times 1000 \text{ plants/ha} = 426763 \text{ plants}$) on the non-forest land. CA cost will be revised accordingly and CA cost will be deposited by the user agency in CAF managed by adhocCAMPAs. Special fence to protect the CA area for reducing biotic interference will be erected by the forest department at the cost of the user agency.
- 4) 25% of the CA cost will be deposited in addition to normal CA cost in CAF managed by adhoc CAMPAs for the soil & moisture conservation activities on the CA land.
- 5) The catchment area treatment (CAT) plan will be prepared by the State government and the cost of the CAT will be deposited in the CAF managed by adhoc CAPMA
- 6) As the area of Panna Tiger Reserve is involved, 5 % of the NPV shall be deposited and used for **Wildlife Management Plan** in Panna Tiger Reserve.
- 7) Since 11 families settled over 22.683 ha in North Panna forest division & 40 families settled over 39.52 PTR area are involved, the R&R plan shall be prepared and submitted by the User Agency.
- 8) Penal CA shall be raised over 426 ha of the degraded forest land forest land since work has been done in violation of FC.
- 9) Penal NPV will be imposed as per the guideline of the ministry as applicable in this case.
- 10) The area under diversion should be measured again using Total station method as area proposed found to be more (661.54 ha.) through DSS as compared to proposed.



- 11) The proposal attracts Para 2(iii) of guideline F. No. 11-327/2015-FC dated 14th August 2015 and based on which FC clearance for protected area may be considered after obtaining the Wildlife Clearance. Wildlife Clearance for this project is not submitted and the same may be obtained by the state government.
- 12) The proposed dam is 8 km long & C-shaped earthen dam at Panna District. In 2016 monsoon there were two (2) dam burst cases at Panna. Looking in to length of dam, shape of dam, earthen dam, pre 2015 design and act of violation is also reported. So, it is proposed to seek a study from reputed national institute for required structural approval for taking triple the precaution to avoid any possible unforced conditions.
- 13) The quantum of penalty of violations committed by user agency shall be arrived in accordance with guidelines issued by this Ministry vide no.11-42/2017-FC dated 29th January, 2018.
- 14) Complete compliance of the FRA 2006 shall be done by the State Government before diverting the forest land for non-forestry purpose in the proposed project.
- 15) It has been reported that the District Collector, Panna, Madhya Pradesh has issued certificate dated 21.09.2015 for diversion of 426.763 ha of forest land in favour of Water Resources Department, Panna District for construction of Majhagaon Medium Irrigation project Panna district in the State of Madhya Pradesh without approval under FC Act. The matter should be investigated under section 3A/3B of the FC Act by the Regional office and reported along with the action taken report against erring officials (those involved in non-forestry use of forest land) already initiated by the State Government.

Sandeep Sharma, AIGF (FC)

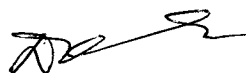
Agenda No. 1

File No. 8-478/82-FC

Sub: Diversion of 828.469 ha additional forest land for construction of Rajiv Sagar (Bawanthadi) Project, in District Bhandara and Nagpur, Maharashtra- change of Compensatory Afforestation sites-reg.

The above stated agenda item was discussed in FAC meeting on 23.2.18. The FAC observed the following:

1. Rajiv Sagar (Bawanthadi) Project, an Inter-State Irrigation Project was constructed in Bhandara and Nagpur Districts in Maharashtra and Balaghat and Seoni Districts in Madhya Pradesh
2. Ministry of Environment and Forests had accorded approval to the said project vide their



- letter dated 28.04.1989 for **diversion of 2448.10 ha.** of forest land in the state of Maharashtra and **diversion of 1940.02 ha.** of forest land in the State of Madhya Pradesh under the Forest (Conservation) Act, 1980, subject to the fulfilment of certain conditions including the condition no. (ii) which states that canal system will have a length of 50 kms. in Maharashtra and 78 kms in Madhya Pradesh. Canal sites would provide an area of about 78 ha for afforestation. This should be made available to the State Forest Department for raising plantation and condition no. (ix) that CA should be raised on equivalent non-forest area at the cost of the project. The non-forest lands identified for this purpose should be handed over to the forest departments and notified as protected forests before the release of forest lands being diverted by these orders.
3. Furtherin August 2006 theGovernment of Maharashtra forwarded a proposal for diversion of additional 828.469 ha. of forest land for the construction of Rajiv Sagar (Bawanthadi) Inter State Project vide letter No. FLD-3406/CR-168/F-10 dt. 11.08.2006. Similarly, Madhya Pradesh forwarded a proposal for diversion of 473.310 ha. of forest land for the same project vide letter No. F-3/31/2006/10-11/1/2340 dt. 18.10.2006.
 4. Ministry had accorded in-principle approval vide their letter dated 13.05.2008 for **diversion of 828.469 ha** of forest land in the state of Maharashtra and **diversion of 473.310 ha.** of forest land in the State of Madhya Pradesh under the Forest (Conservation) Act, 1980, for the construction of Rajiv Sagar (Bawanthadi) Project subject to the fulfillment of certain conditions
 5. Ministry further granted final (stage-II)approval vide its letter dated 20.04.2010 for **diversion of 828.469 ha.** of forest land in the state of Maharashtra and **diversion of 473.310 ha.** of forest land in the State of Madhya Pradesh under the Forest (Conservation) Act, 1980, for the construction of Rajiv Sagar (Bawanthadi) Project subject to certain conditions prescribed therein including that CA shall be raised and maintained by the State Forest Department at the project cost as envisaged in the proposal and approved by the ministry in its in principle approval. The non-forest land if any prosed for CA should be transferred and mutated in the name of forest department and should be declared as Reserved Forests/ Protected forests within six month.
 10. Government of Maharashtra vide their letter no. Desk-17/NC/RS-1/ID-11455/1958/16-17 dated 23.01.2017 has now submitted a proposal for change of compensatory afforestation site other than approved against in Bawanthadi Project. It is reported by the State Government that they have earlier requested for change in CA site. After its examination at MoEF&CC, requested the State Governmentvide this Ministry's letter dated 16.03.2017, to provide some additional information.
 11. In response to Ministry's letter dated 16.03.2017, Government of Maharashtra vide their letter no. Desk-17/NC/RS-1/ID-11455/1788/16-17 dated 25.10.2017 informed that RO, MoEF&CC, GoI conveyed the formal approval vide letter dt. 20.07.2010 for diversion of 828.469 ha additional forest land for construction of Rajiv Sagar (Bawanthadi) Project in District Bhandara and Nagpur, Maharashtra. It is pointed out here that the proposal has

been approved by the Ministry not Regional Office as stated by the State Govt. in their forwarding letter dated 25.10.2017. It has been informed by the State Government that while submitting the proposal under Forest (Conservation) Act, 1980, Collector, Gondia has provided 699.138 ha Zudpi land for CA in accordance with suitability certificate issued by Deputy Conservator of Forest, Bhandara. CA has been undertaken up over 314.63 Ha area out of the proposed 699.138 ha. However, CA could not be done over the remaining area of 383.508 ha. as this area was found unsuitable for raising CA. The DCF, Gondia has now proposed 383.508 ha alternate zudpi jungle area of CA. The position was communicated to GoI vide GoM letter on **31.10.2014**. On this GoI has raised queries vide letter dt.16.03.2017 which has been provided by the state government.

12. Based on the reply of the State Government and after thorough deliberation and discussion with the representative of state forest department recommended that
 1. State government shall submit the complete compliance of Compensatory afforestation done so far against the forest land diverted under the project in Maharashtra for which the approval was granted in two phases (2448.10 ha + 828.469 ha) and the status of transfer of the entire non-forest land to Forest Department and its notification as forests under Indian Forest Act.
 2. The revised CA site identified on zudpi jungle (383.508 ha) may be changed as recommended by the State Government. The Government will provide the shape files (geo referenced coordinates) of all CA done so far against the diversion of forest land for this project in Maharashtra (2448.10 ha + 828.469 ha) including the revised CA land on zudpi jungle.
 3. The identified Zudpi jungle as revised CA site shall be transferred to Forest department and afforestation shall be done @ 1000 plants per hectare on the identified 383.508 ha of zudpi jungle.
 4. The CA cost shall be revised and fund deposited in Maharashtra state CAF managed by ad-hoc CAMPA.
 5. 25% of cost of CA shall be deposited for soil and moisture conservation activities in addition of CA cost.
 6. The details of CA done so far will be uploaded on e-Green watch portal within six weeks.
 7. The Ministry will obtain complete compliance report from the Madhya Pradesh Government about the status of compensatory afforestation done against the diversion of forest land for the same project in two phases in Madhya Pradesh (1940.02 ha + 473.310 ha) and the transfer in favor of Forest department and subsequent notification as protected forest under Indian Forest Act along with the shape files of the CA site.



Agenda No. 2

F. No. 8-81/1992-FC (pt.)

Sub: Proposal for *ex-post-facto* approval for diversion of 2.025 ha forest land in Nithadi RF, Holalkere Range, Chitradurga Division in favour of M/s SesaSterlite Ltd., Bheemasamudra, Chitradurga.

The above stated agenda item was discussed in FAC meeting on 23.2.18.FAC observed that the matter was discussed in previous FAC meeting on 30.4.2015 also.

1. The Government of Karnataka vide its letter no. FCA/11.1/124/KAR/6554 dated 23.01.2015 submitted the above mentioned proposal seeking prior approval of the Central Government under the Forest (Conservation) Act, 1980.
2. The proposal envisage *ex-post-facto* approval for diversion of 2.025 ha. forest land in Nithadi RF, Holalkere Range, Chitradurga Division in favour of M/s SesaSterlite Ltd., Bheemasamudra, Chitradurga which has been reported to be used by the user agency without approval under the Forest (Conservation) Act, 1980. The details of the land required for the instant proposal is as under:-

Name of Village	Sy. No.	Name of Forest	Length in Mtr	Width in Mtr.	Extent (in. ha)
Chowdenhalli	1	Nirthadi RF	215	15	0.323
Tanigehalli	35	Nirthadi RF	1135	15	1.702
Total			1350	15	2.025

3. The Deputy Conservator of Forests, Chitradurga Division and Chief Conservator of Forests, Bellary Circle have inspected the site on 13-6-2014 and 20-6-2014 respectively and furnished the details in Form-A, part-II & III
4. The FAC in its meeting held on 30.04.2015 had discussed the above mentioned proposal with following observations:
 - i. The proposal for mining has been approved on 30.12.2014 for 164.79 ha of forest land including 5.98 ha of roads in the lease area. 3.25 ha of forest land has also been approved for approach road in earlier approval. The road section from R1-A to R1-B, as per the R.R. Plan approved by the CEC, has a length of 1350 metre and width of 15 mtrs. This part is earlier exclusively, used by the user agency for which no prior approval was obtained. However, as per the approved RR Plan, the length of this section has been mentioned as 2.00 km with a road width of 6.50 m. This requires



clarification from the State Government. This utilisation of forest land is in violation of the Forest (Conservation) Act, 1980.

- ii. The State Government has recommended that the user agency may be asked to pay the Net Present Value, the cost of Compensatory Afforestation and Penal Compensatory Afforestation, etc. to be stipulated by the Ministry.
 - iii. For section R1-B to R1-C, the user agency has submitted a NOC from R. Praveen Chandra, the adjacent mining lease owner, present user of this approach road. There are no trees in the proposed forest area.
 - iv. The CA land has been identified to the extent of 3.70 ha in Nannivala village, Challakera Taluk, Chitradurga District. The FRA-2006 certificate has not been submitted.
 - v. The project was also analysed on Decision Support System (DSS) and google map. It was found that there is one perennial river named HariHalla within 250 metre of the road. The proposal of Shri R. Praveen Chandra for using the road between R1-B to R1-C was under submission.
5. After detailed discussions in FAC on 30.04.2015, the Committee recommended that following actions may be taken:-
- (i) State Government may clarify the variation in length & width of the road, used by the user agency, proposed for diversion and that mentioned in R&R Plan approved by Monitoring Committee of the Hon'ble Supreme Court alongwith the reason for this variation and clearly come out with actual area of the road which was being used in violation of the Forest (Conservation) Act, 1980 along with the period of this unauthorised use of forest land.
 - (ii) State Government shall also clarify about the existence of HariHalla Perennial River within 250 mtr of road as appeared during examination of the area through Decision Support System but whose existence is denied by the user agency.
 - (iii) State Government may submit the proposal for R1-B & R1-C road section which is being used by Shri R. Praveen Chandra, owner of adjacent mine in violation of the Forest (Conservation) Act, 1980 so that a clear picture of the forest land being used in violation of the Forest (Conservation) Act, 1980 emerges out to enable the FAC to take decision.
 - (iv) Regional Office shall carry out the inspection of the area to verify the facts/issues raised by the FAC about the area proposed for diversion, existence of river and use of forest land in violation of the Forest (Conservation) Act, 1980.
6. Based on the recommendation of FAC above, State Government and Regional Office, Bangalore were requested on 25.05.2015 for submission of the desired information.
7. The Regional Office submitted their report vide their letter dated 09.12.2015. However the State Govt. did not submit their response. Accordingly, the State Govt. was reminded vide



Ministry's letter dated 28.09.2017 to expedite the reply. Now, the Govt. of Karnataka vide their letter no A5 (1).MNG.CR.10/2013-14 dated 26.12.2017 has submitted the information. The point-wise information as sought by the Ministry and reply thereof given by the State Govt. are as follows.

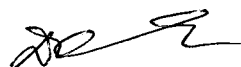
S. No.	Information sought by GOI	Response of State Govt.
1.	<p>State Government may clarify the variation in length & width of the road, used by the use agency, proposed for diversion and that mentioned in R&R Plan approved by Monitoring Committee of the Hon'ble Supreme Court along-with the reason for this variation and clearly come out with actual area of the road which was being used in violation of the Forest (Conservation) Act, 1980 along with the period of this unauthorised use of forest land.</p>	<p>In this regard it is reported by the State Forest Department that the R&R plan mentions the length and width of R1-A to R1-B road section as 2 Km and 6.5 m respectively. However, the DCF, Chitradurga Division, during spot inspection on 07.11.2017 has reported the length and width to be 1.35 Km and 14 meter, respectively. In the present FC proposal, the length and width of R1-A to R1-B section have been proposed as 1.35 km and 15 m respectively. Further, it is an existing mining lease, originally granted during 1952 and subsequently renewed under mining lease no. 2236 for a period of 20 years w.e.f. 28.10.1992. The FC approval for only the mining area was accorded vide GOI F. No. 8-81/92-FC dated 11.07.1996, for a period of 10 years and co-terminus with lease period under the MMDR Act. Thus, the FC violation (unauthorized use) of forest land in respect of the road from R1-A to R1-B section can be considered to have commenced from 28.10.1992.</p>



2.	State Government may also clarify about the existence of HariHallaperennial river within 250 mtr of road as appeared during examination of the area through Decision Support System but whose existence is denied by the user agency.	In this regard it is reported by the State Forest Department that the DCF Chitradurga informed that the Harihalla is not a perennial river; it is a seasonal rivulet. The said road crosses Harihalla at a distance of about 2.06 km from the edge of the mining lease area of M/s SesaSterlite Limited. The same is reiterated by the Chief Conservator of Forests, Ballari Circle, and also confirmed from Google Imagery.
3.	State Government may submit the proposal for R1-B & R1-C road section which is being used by Shri R. Praveen Chandra, owner of adjacent mine in violation of the Forest (Conservation) Act, 1980 so that a clear picture of the forest land being used in violation of the Forest (Conservation) Act, 1980 emerges out to enable the FAC to take decision.	In this regard it is reported by the State Forest Department that the FC proposal No.FP/KA/MIN/23899/2014 for diversion of 2.70 hectare of forest land measuring 1800 mtr. In length & 15 mtr in width (road section R1-B to R1-C) for approach road to ML No. 2294 of Sri R. Praveen Chandra was submitted to the Government of India through letter no. FEE 1 FFM 2015 dated 28.02.2015 of Government of Karnataka. Accordingly, the Government of India vide letter F. No. 8-89/1997-FC dated 27.09.2017 have accorded 'in-principle approval for the said proposal.

8. The Regional Office, Bangalore has carried out the inspection of the area again. The Site Inspection has been carried out by Dr. Avinash M. Kanfode, Conservator of Forests (Central), Regional Office, Bangalore on 09.12.2015. According to the inspection report:

- (i) The user agency was granted renewal of mining lease over an area of 164.79 ha. (161.54 ha for mining lease and 3.25 ha for approach road) in 2014. As per approved RR Plan, a road section (R1-A to R1-B) 1.35 km is exclusively being used by the user agency without any prior approval. Therefore, the user agency has submitted the proposal for post facto approval. The road will be used to transport ore from mine to railway siding located at village Sasalu. The total length of road from mine to railway siding is 16



kilometres, out of which a road length of 2.45 kilometres (**R1-A to R1-B**) forms part of NiruthadiResereForests. 1.35 Km of existing road is exclusively used by SesaSterlite (M.L No. 2236) and R1-B to R1-C is jointly used by two mines i.e. SesaSterlite and R. Pravin Chandra. It was informed that for R1-B to R1-C a separate proposal is being submitted by R. Pravin Chandra (M.L. NO. 2294).

- (ii) The entire area is being used by the user agency as road for transportation of iron ore. The forest land involved under this purposed is as below:-

Name of Village	Sy. No.	Name of Forest	Length (Meters)	Width (Meters)	Area (ha)
Chowdenhalli	1	Nirthadi RF	215	15	0.323
Tanigehalli	35	Nirthadi RF	1135	15	1.702
Total			1350	15	2.025

- (iii) **Compensatory Afforestation:** as per information provided, the user agency has identified non- forest land for compensatory afforestation to an extent of 3.70 ha in Sy. NO. 297 of Nannivala Village, ChillakereTaluk, Chitradurga District. However, no documentary proof was submitted during inspection regarding transfer and mutation of the said land in favour of forest department. The user agency has been using the road since long but case has been registered recently.
- (iv) The State Government has recommended the proposal with penal clauses for illegal use of forest land for the purpose of road. The length of the road was found to be 1350 m and the actual width at present is around 6.5 m. The user agency has requested for increasing the width to 15 m which was recommended by the State Government.
- (v) The Regional office vide letter no. F(C)A/11.1/124/KAR/739 dated 17.08.2015 has request the State government to provide justification for requirement of 15 m width. No response was received from the State Government.However, the user agency has submitted justification in which the actual requirement for the road is 6.5 m, 1.5 m on both sides is required for safety bund and 1.5 m required for earthen shoulder on both sides.As there is a proposal for increasing the width of the road, the road side vegetation present now will have to be cleared. The local Forest official should enumerate such vegetation.
- (vi) According to RO one perennial stream HariHalla is passing though nearby area. To reduce the impact of mining on the stream, its surrounding should be fully covered with vegetation and the user agency will have to plant trees for this purpose. Additional Soil Conservation Measures will have to be taken up in the adjoining areas to stop siltation in the stream. It has been recommended that if this proposal is considered, the user agency may be asked to take up avenue plantation on both sides of this road. The plantation including selection of tree species may be done in consultation with the local forest officials. As far as possible fruit bearing and medicinal plant species should be included

in the plantation programmed. The user agency has proposed for construction of drainage on both side of the road, the proposed drainage should join to settling tanks which should be regularly maintained. The user agency also should take up socio-economic improvement programmes for the people of the adjoining villages as a part of their corporate social responsibility. In this regard the emphasis should be on skill development, health, education, environment forest and agriculture. At the end of the Katcha road, wheel cleaning devices should be installed by the user agency, to protect the main road.

9. Recommendation of FAC: FAC after thorough deliberation and discussion with user agency and Regional office Bengaluru recommended that.

- 1) On analysis through DSS it is observed that the area proposed for diversion is 0.91 ha and not 2.025 ha. State government shall provide the shape file of 2.025 ha along with exact alignment to the Regional office Bengaluru. The proposal for diversion forest area for wider road and its map shall be examined by Regional Office in consultation with State Government and user agency and same shall be conveyed to MoEF and CC for final decision on new wider road as proposed by the user agency and recommended by the State Government.
- 2) The State Government will inform whether the permission for the use of existing forest road has been given to the user agency by the forest department as claimed by the user agency. If the permission has not been granted by forest department then the user agency will immediately deposit in Karnataka state CAF managed by ad-hoc CAMPA penal NPV and penal CA cost on equivalent degraded forest land for illegal use of the forest land under existing road. No further diversion as proposed will be allowed at present. The proposal for the diversion of forest land for width of 15 meter will be considered only after the report on justification for the diversion for wider road is submitted by the Regional office Bengaluru.

Agenda No. 3

F. No. 8-07/2018-FC

Sub: Renewal of 100.54 ha of forest land in Swamymalai Block, Sandur Taluk, Ballari district in ML no. 2290 of C-category mines in favour of M/s JSW Steel Ltd., Ballari.

The above stated agenda item was considered in FAC on 23.2.18.FAC after detail deliberation and discussion observed that:

1. The Mining lease was originally sanctioned vide M.L. No. 1524 during the year 1956 (13.07.1956) over an area of 161.88 ha in S.M. Block, Laxmipura Village, Sandur Taluk for a period of 20 years valid upto 12.07.1976 in favour of M/s V.S. Lad & Sons,



Sandur. The Mining lease was renewed with the new M.L No. 2290 during the year 1976 for a period of 20 years i.e. valid up to 30.07.1996 by the commerce and Industries Department, Bangalore over an area of 161.88 ha. Thereafter, the mining lease was renewed on 11.12.2000 for a period of 20 years up to 30.07.2016 w.e.f. 31.07.1996 for reduced area of 105.06 ha only.

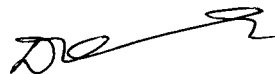
2. The Forest Clearance (FC) for the lease (ML No. 2290) was initially approved in favour of M/s V. S. Lad and Sons, Sandur by the Government of India, Ministry of Environment and Forests, New Delhi vide letter no. 8-75/1996-FC dated 30.05.1997 and Government of Karnataka (GoK) order No. FEE 40 FFM 96 dated 09.07.1997 and the FC approval was granted for a period of 10 years co-terminus with lease under MMRD Act over an extent of 105.06 ha imposing certain conditions.
3. In partial modification of the above order, the GoI vide its letter No. 8-75/1996 dated 02.11.1998 and the GoK vide its Order No. FEE 29 FFM 98 dated 16.02.1999 has modified the lease period and extended from 10 years to 20 years, as detailed below:
“The permission under the Forest (Conservation) Act 1980 shall be 20 years with effect from 06.07.1996 co-terminus with lease under MMRD Act, 1957. Lease of 105.06 Ha forest land leased in favour of M/s V.S Lad & Sons for renewal of M.L No. 1524/ 2290 of Sandur”.
4. After the joint survey of the Mining lease by the CEC on the orders of Hon’ble Supreme Court in W.P No. 562/2009, it was categorized as ‘C’ Category and the mining lease was cancelled. After survey and digitization of the lease by the CEC the extent of ML. No. 2290 is reduced to 100.54 ha only.
5. Now the mining lease area has been e-auction by the Department of Mines and Geology Department on the direction of Hon’ble Supreme Court vide its order dated 18.04.2013 and M/s JSW steel Limited has been issued a letter of intent for grant of this mining lease over an extent of 100.54 ha for a period of 50 years.
6. The FC in favour of M/s V.S. Lad & Sons was granted in year 1997, as the lease was approved before introducing of Net Present Value (NPV), the NPV was not remitted by the M/S. V.S.Lad&Sons. The FC approval was granted over an extent of 105.06 ha which was shown as already broken up / used area. Thus, the M/s V.S Lad and Sons did not transfer any non-forest land for CA to the Forest department. However, after the joint survey by the CEC, it is clear that the M/s V.S. Lad & sons had encroached on the neighboring forest land over and above the mining lease area granted as per the joint survey conducted above the mining lease area granted. As per the joint survey conducted on 03.05.2017, out of 100.54 ha of lease area, 81.29 ha is broken-up area and 19.25 ha is to be broken – up afresh (virgin are). However, this non-forest land is yet to be handed over to the forest department. M/s JSW Steel Limited is required to make payment towards CA charges for 19.25 ha. Illegality committed by the erstwhile mining lease holder M/s V.S. Lad & Sons were traced out by the Central Empowered Committee (CEC) as per the directions of the Hon’ble Supreme Court of India in W. P NO.



562/2009, the CEC conducted a Joint Survey of the M/s V.S. Lad and Sons, M.L No. 2290 and concluded the following encroachments made outside the lease area:

S.N	Land use	Area (ha)
1.	Mining Pit	0.23
2.	OB dumps	15.94
3.	Roads	-
4.	Others	5
	Total	21.17

7. M/s JSW Steel Limited has already uploaded a separate proposal for approach road and down Hill conveyor Belt over an extent of 4.165 ha vide proposal No. FP/KA/Others/26566/2017 dated 09.06.2017. Presently, the proposal is under examination at Nodal officer's office for further procession.
8. It was reported by the representative of user agency that the lease of erstwhile lease holder was upto October 2016 and after e-auction M/s JSW Steel Limited has been granted letter of Intent for 50 years. Now the above stated proposal has been received from the State Govt. of Karnataka vide their letter no. FEE 75 FFM 2017 dated 11.01.2018 for seeking prior approval under Forest (Conservation) Act, 1980 for renewal of 100.54 ha of forest land in Swamymalai Block, Sandur Taluk, Ballari District in ML no. 2290 of C-category mines in favour of M/s JSW Steel Ltd., Ballari.
9. DCF had recommended the proposal with comments that the proposal for renewal & transfer of Forest clearance is recommended for approval subject to compliances to the issues raised in the proposal and compliances to the conditions stipulated in letter No. 8-75/96-FC dated : 30.05.1997 and 02.11.1998 of GOI and letter no. FEE-40 FFM-96, dated 09.07.1997 and 16.02.1999 of GoK
10. CCF agreed with the information given in the part-II and recommendations of the DCF, Ballari Division. CCF had stated in his specific recommendation that by virtue of successful bidder having purchased the C Category mines pertains to M/s V.S. Lad & Sons in the e-auction conducted by the Director, Mines and Geology Department, Bengaluru, the transfer and renewal of ML. No. 2290 may kindly be considered as per the provisions of the Forest (Conservation) Act, 1980.
11. Nodal officer / PCCF Recommended the proposal for in-Principle/ Stage-I approval for transfer and renewal with standard and special conditions that



- a) The User Agency shall pay NPV for the forest land to be diverted to the extent i.e. 100.54 ha.
- b) The User Agency shall provide 19.25 ha non forest land for CA land mutated in favour of the Forest Department for this project in order to get the CA land notified as Protected / Reserved Forest and the user agency shall pay CA charges for 19.25 ha.
10. Since the proposed area for diversion is more than 100 ha, accordingly, Regional Office, Bengaluru was requested to carry out the site inspection.
11. while forwarding the SIR by RO vide his letter no.4-KRA 1147/2018-BAN/441 dated 20.02.2018 ,Dr. Avinash M. Kanfade, I/c APCCF(Central) mentioned that based on the site inspection report of DCF(CV), this proposal is recommended with a condition that the user agency may be instructed to take up wildlife habitat improvement activity like planting of fodder trees, digging of water holes etc, in the surrounding area as the State Forest Department officials and DCF(C) have reported that the sloth bear, leopard etc are present in the area. Since, during last few years the mine was not working, the wildlife presence has also increased in the area. The wildlife habitat improvement will reduce movement of wildlife in the surrounding villages which is mainly in search of food and water.
- 12. The SIR has been carried out by Ms. R.Padmawathe, DCF, RO, Bangalore and as per the report**
- a) The mining lease area of M/s. V.S. Lad & Sons, ML No.2290, now cancelled as it was categorized under C-category mines by the Hon'ble Supreme Court is located in Swamymalai (SM) Block of Sandur Taluk of Bellary district. The Mining lease original sanctioned vide ML No.1524 during the year 1956 (13.7.1956) over an area of 161.88 ha in S.M.Block, Laxmipura village, Sandur Taluk for a period of 20 years (upto 12.07.1976) in favour of M/s. V.S. Lad & Sons, Sandur. Subsequently, the Mining lease was renewed with the new ML No. 2290 during the year 1976 for a period of 20 years i.e., valid upto 30.07.1996 over an area of 161.88 ha. Thereafter, the mining lease was renewed on 11.12.2000 for a period of 20 years w.e.f 31.07.1996. However, the extent of lease was reduced to 105.06 ha only.
- b) The FC was initially approved in favour of M/s. V.S. Lad & Sons vide GOI, MoEF, New Delhi letter No.8-75/96-FC dtd. 30.05.1997 for a period of 10 years co-terminus with lease under MMRD Act over an extent of 105.06 ha. In a partially modification, GOI vide letter dated 2.11.1998 modified the lease period and gave permission under FC Act, 1980 shall be for 20 years w.e.f. 6.7.1996 co-terminus with lease under MMRD Act, 1957.



- c) After the joint survey of the Mining lease by the CEC, it was categorized as 'C' category and the mining lease was cancelled. After survey and digitization of the lease by the CEC, the extent of ML No.2290 is reduced to 100.54 ha only. Now the mining lease has been e-auctioned by the Department of Mines and Geology on the direction of Hon'ble Supreme Court vide its order dated 18.4.2013 and M/s. JSW Steel Ltd has been issued a letter of intent for grant of mining lease over an extent of 100.54 ha for a period of 50 years.
- d) The major ore found in this area is Banded Haematite Quartz. The ore reserve is predicted to be 28.618 MT and the length of the mine is 1.99 km while the width varies from 242 metres to 557 metres. The mineral ore is found in between Reduced Levels 980.317 metres and 823.49 metres.
- e) This proposal is only for the mining area and does not include the area involved for approach road and conveyer belt. A fresh proposal for the same is generated to an extent of 5.27 ha. Therefore, these two proposals have to be combined for as the user agency is the same and the road and conveyer belt forms a part of the mining proposal itself.
- f) Itemwise break-up details of the forest land proposed for diversion is as follows:

S. No	Purpose	Extent in ha.
1	Area under Mining (Existing land use)	59.11
2	Inactive Dump (existing land use)	16.64
3	Infrastructure/ Statutory buildings (Existing land use)	0.2
4	Existing Mineral Stock Piles (Existing land use)	5.34
5	Unbroken Area	15.66
6	Safety Zone area	3.59
	Total	100.54

- g) Leopard, Sloth bear, Small cats, Wild boar, Bonnet macaque, Indian Langur, Barking deer, Indian Peafowl, Painted Partridge, Savannah Nightjar, Blue Rock Thrush and other wildlife are present. Does not form part of any National Park, Wildlife Sanctuary, Bio-sphere Reserve, Tiger Reserve, Elephant corridor, etc.
- h) Density – 0.1 to 0.4. Eco-class 3. There are 1075 trees present in the area.
- i) The area under mining is devoid of trees except Prosopis juliflora, Acaicamangium and Cassia siamea. Grasses like Cenchrus ciliaris and Cynadondactylon are found, The major shrub is Tecomastans intermixed with Calotropis, Lantana camara and



Eupatorium spp. Root suckers of Soymidafebrifuga and Morindatinctoria are found in areas with some soil depth.

j) The vegetation in unbroken area comprises Terminaliatomentosa, Boswelliaserrata, Anogeissuslatifolia, Chloroxylonsweitenia and Wrightiatinctoria, Albizziaodoratissima, Azadirachtaindica, Pterocarpusmarsupium in the top storey while the understorey has Canthium didymium, MorindatinctoriaDichrostachys cineraria ZizyphusoenopliaZizyphusxylopyrus and Bambusabambus. Many grass species are also found making the area fire-prone during summer.

13. It is also mentioned here that with regard to **category 'C'** mining leases which were cancelled on the direction of the Hon'ble Supreme Court, the Ministry of Mines was requested that the existing statutory approvals/ clearances in favour of the lessee of the erstwhile **category 'C'** mining leases will be transferred in favor of the new lessee.

14. This matter has been examined in the Ministry and a guideline was issued by MoEF & C on 03.05.2017. **According to the guideline for transfer of existing lease it has been observed that:**

(i) In the case of the category "C" mines referred in the communication dated 29th October 2016 from Ministry of Mines, it is important to note that illegal mining of iron ore in Bellari region of the state of Karnataka was investigated by the Central Empowered Committee (CEC) and the report was submitted to the Supreme Court in the CWP no 562 of 2009 in the SamajParivartanSamudaya&Orsvs State of Karnataka &Ors. The report was disposed by the Supreme Court on 18th April 2013.

(ii) As per the judgment, the those existing operating mines were classified as **category "C"** mines wherein (i) the illegal mining by way of (a) mining pits outside the sanctioned lease area have been found to be more than 10% of the lease area and/or (b) over burden/ waste dumps outside the sanctioned lease area have been found to be more than 15% of the lease area and/ or (ii) the leases found to be in flagrant violation of the Forest Conservation Act 1980 and/ or found to be involved in illegal mining in other cases. **The number of such cases was 49.**

(iii) On the recommendation of the CEC the category "C" mines were cancelled by the Hon'ble Supreme Court and it was ordered that the area of mining leases falling in the category "C", after cancellation of the mining leases, may be directed to be allotted / assigned to the highest bidder (s) from amongst the end users. These category "C" mines were cancelled and put to auction after getting permission of the court.

The Hon'ble Supreme court has ruled on 30.7.2015 that:

8. *The existing statutory approval / clearances in favor of the lessee of the erstwhile category "C" mining leases will be transferred in favor of new lessees. The concerned authority will take expeditious action for grant of the statutory approvals such as*



environmental clearance and approval/ TWP under Forest (Conservation) Act 1980.

(iv) The Ministry has **no objection** in transfer of the FC clearance in favor of the new leases/ LOI holders provided the Ministry of Mines appoints a designated officer in this behalf who will certify the grant of Letter of Intent of Intent (LOI) in favor of new lessee of the cancelled mining lease in category “C “ referred in above paras on the following conditions:

- a) These new LOI holders have to apply separately to the Ministry of Environment, Forest & Climate Change for transfer of lease with requisite transfer fee. The ministry will examine the violations as reported in the CEC report and make necessary amendments in the stipulated conditions in FC clearances already granted, wherever necessary. Where additional forest land has been diverted/ broken for illegal mining then such excess forest land will not be a part of the new lease.
- b) Since category “C ”mines have been canceled by Court order, the NOC for transfer of lease from the erstwhile lease holder of the cancelled category” C” mine will not be required for transfer of forest clearance in favor of new lease/ LOI holder who have got the lease of the cancelled mine in auction. However, the MoEF& CC will not be liable to pay any compensation or refund compensatory levies deposited in Adhoc CAMPA fund to the erstwhile lease holder in category “C” and the new lease / LOI holder who have got the lease/LOI in auction shall furnish an undertaking to this effect that the Forest Clearance be transferred with all the liabilities of the transferred lease area of the erstwhile lease holder of the cancelled category “C” mine.

15. FAC after thorough deliberation and discussion with user agency and Regional office Bangalore observed that in the instant proposal the mining lease of the erstwhile mining lease holder M/s. V.S.Lad& Sons was valid up to 06.07.2016 and after e auction M/S JSW steel Ltd has been granted letter of intent for 50 year. In this backdrop the present proposal cannot be treated as renewal as well as transfer of existing statutory approvals. Even in case of expiry of the existing lease the proposal is treated as fresh proposal for all purposes. Here the user agency has changed and the existing lease has been terminated and Fc has also lapsed. Therefore the proposal has to be treated as fresh proposal as per the provisions of forest (Conservation) Act 1980. The proposal has to be submitted by user agency on form-A as prescribed under forest (conservation) rules. The representative of user agency informed that they were guided by the state government to fill the form for renewal and now if they start filling the proposal form-A, afresh they have to undergo a long official channel to get the proposal before FAC again. Revisiting whole process will consume time.

Taking the view point of the user agency and Regional office Bangalore, FAC recommended the proposal for in principle approval with general, standard and following specific conditions;



1. The application has been filled in form-C for renewal of existing FC. The user agency will fill form online in form-A; and upload all information available. The state Government will provide the application in Form-A; in hard copy, to the Ministry for consideration for fresh FC because the existing FC has expired on 06.07.2016 and the approval as fresh diversion will be applicable. State government shall be granted one time relaxation to submit hard copy of fresh proposal for diversion of Forest land in favour of M/S JSW steel Ltd. The hard copy of the revised proposal may be submitted to MoEF&CC directly by the State Government prior to stage II approval.
2. The user agency will use only 100.54 ha of forest land granted to the user agency. The excess forest land diverted illegally as under will be reverted back to the Forest department. This forest land diverted illegally by previous allottee will not be used by the User agency without the permission under FC Act.

1.	Mining Pit	0.23 ha
2.	OB dumps	15.94 ha
3	Others	5.00 ha
	Total	21.17 a.

3. Compensatory afforestation shall be carried out over non forest area equivalent to the forest land being diverted excluding the CA on area done already in the existing forest clearance which has expired on 06.07.2016.
4. The details of CA done by the State Forest department for this case for previous allottee will be provided by the State Government with shape files.
5. User agency shall provide 19.25 ha of non-forest land for unbroken forest land and same shall be mutated in favour of forest department. State government shall ensure that the non-forest land is declared as RF/PF as per the procedure laid in Indian forest Act or local Act.
6. CA will be done on non-forest land and at least 1000 plants per hectare will be planted. State government shall prepare a revised CA scheme.
7. 25 per cent of total cost of CA scheme as additional cost for soil and moisture conservation activities in CA area.
8. User agency shall pay NPV for entire area of 100.54 ha at the prevailing rates.
9. State government shall ensure complete compliance of FRA Act 2006 as per the guidelines issued by MoEF&CC.



10. It is observed that the proposed mine area is at hillock. A soil and moisture conservation scheme with cost estimate, duly approved by competent authority, shall be submitted. The amount shall be borne by user agency and shall be deposited in Adhoc CAMPA
11. Conservation plan for wildlife shall be prepared in consultation with CCF, Ballari Circle. The plan shall also consist of inbuilt monitoring and evaluation mechanism. The said plan shall be implemented at the project cost.

Agenda No. 4

F. No. 5-3/2007-FC

Sub: Guidelines for stipulating the norms for Survey and Investigation (Prospecting of ores) on forest land- regarding.

1. The above stated agenda item was discussed in the FAC meeting held on 23.2.18. FAC after thorough deliberation observed that the proposal is being deliberated upon in different FAC meeting since 2010.
2. The committee examined the existing guidelines. As per the old provisions given under 1.3 (v) under Investigation and Survey of the Handbook of Forest (Conservation) Act, 1980 - Guidelines and Clarifications (up to June 2004), it was mentioned that:
“test drilling up to 10 bore holes of maximum 4” diameter per 100 sq km for prospecting exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act. In all other cases involving more number of drilling of bore holes, prior permission of Central Government under the Act would be required”.
3. In past the Ministry of Environment and Forests received many proposals from various user agencies for carrying out survey and investigation (prospecting of ore) on forest land and it was noted that in those proposals, there was no uniformity in numbers of holes/pits to be dug per sq km for prospecting.
4. The Forest Advisory Committee (FAC), in one of its meeting, recommended for consideration of constituting a Committee to revisit the existing guidelines stipulating the norms for survey and investigation (prospecting of Ore), in order to rationalize the prospecting regime, in respect of project proposals under the Forest (Conservation) Act 1980. Accordingly, the Ministry of Environment & Forests constituted a Committee on 08.12.2006 under the Chairmanship of IGF (FC) with representatives of Geological Survey of India (GSI), Mineral Exploration Corporation Ltd. (MECL), and Central Mine Planning and Design Institute Ltd. (CMPDI) as members to re-visit the guidelines stipulating the norms for Survey and investigation (prospecting of Ore) on forest land.



5. The Committee, so constituted, after detailed discussion, submitted its recommendations as below:
- i. In case of metallic ores-*“The recommendation is to provide 20-25 boreholes of maximum 4” dia per sq km for prospecting and exploration.”*
 - ii. In case of Coal and Lignite (Non-metallic Ores) -The recommendation is to provide-
 - a. *15 boreholes per sq km in case of open case mining.and*
 - b. *20 boreholes per sq km in case of underground mining.*
6. The recommendation of the Committee was against the existing guidelines of 10 boreholes per 10 sq. km.The proposal was considered by FAC in its meeting held on 23.01.2008 and after examining the report, the FAC recommended the proposal for acceptance.
7. Hon’ble Minister however didn’t accept the recommendation of FAC and desired that basis on which the earlier guidelines were made should be linked up.
8. The proposal was again placed before FAC on 13.08.2008 and FAC after through deliberation recommended that 20 – 25 boreholes of maximum 4”dia per 10 sq. km. in metallic ores and 15 boreholes in case of open cast mining and 20 boreholes per 10 sq. km in case of underground mining in case coal and lignite for prospecting and exploration may not attract the provisions of Forest Conservation Act, 1980.
9. On the basis of the recommendations of the Forest Advisory Committee, the Ministry vide its letter **dated 16.12.2008** had issued its approval for replacing the existing provision given under 1.3 (v) *under Investigation and Survey* of the Handbook of Forest (Conservation) Act, 1980 - Guidelines and Clarifications (up to June 2004) guidelines with the provision was given below:

*“Prospecting of any Mineral, done under prospecting license granted under MMRD Act, which requires collection/ removal of samples from the forest land, would be a stage between survey & investigation and grant of mining lease and as such permission under Forest (Conservation) Act, 1980 would be required. However, **in case of metallic ores - test drilling up to 20-25 boreholes of maximum 4” dia per 10 sq km and in case of coal and lignite(non- metallic Ores) - (a) test drilling up to 15 boreholes of maximum 4” dia per 10 sq km for open cast mining; and (b) test drilling up to 20 boreholes of maximum 4” dia per 10 sq km for under-ground Mining for prospecting exploration or reconnaissance operations, without felling of trees, shall not attract he provisions of the Act. In all other cases involving more number of drilling of bore holes, prior permission of Central Government under the Act would he required”.***



10. The Secretary, Ministry of Mines vide their D. O. letter dated 30.04.2009 highlighted the problem being faced in conducting Regional level exploration for mineralization due to certain provision contain in the guidelines issued under Forest Conservation Act, 1980. The Secretary, Ministry of Mines further requested to rephrase the existing guidelines. A meeting was held on 23.02.2010 with Ministry of Mines and MoEF and the following points were emphasized:

- i. GSI's activities are of a general survey nature, requiring to be done systematically all over the country.
- ii. GSI's work not only locates mineralization but also to rule out mineralization, enabling better land use planning.
- iii. GSI's work is an input which is used for applying for prospecting licences. At that time, based on categorization of areas by MoEF into 'A' and 'B' based on factors such as crown density, biotic richness etc. rational and scientific decision can be taken whether to allow PL or not. Normally Mining lease is granted only if reserves are proved by way of prospecting.

11. The Ministry of Mines had proposed the following amendment in the guidelines under Forest (Conservation) Act, 1980:

1.3(i): Investigations and surveys carried out in connection with development projects such as transmission lines, hydro-electric projects, seismic surveys, exploration for oil drilling, geoscientific investigation and reconnaissance exploration (G4) etc, will not attract the provisions of the Act as long as these surveys do not involve any clearing of forest or cutting of trees, and operations are restricted to clearing of bushes and lopping of tree branches for purpose of sighting Investigation may include collections and removal of rock and soil and water samples through stream sediment sampling, pitting aim trenching”.

1.3(v): “General Exploration (G2) or Detailed Exploration (G1) for any mineral, done under prospecting license granted under MMDR Act would be a stage between reconnaissance and mining and as such permission under Forest (Conservation) Act, 1980 would be required. However, Geoscientific investigation by GSI and other Government agencies and Prospecting Exploration (G3) under prospecting licence {which is a stage between Reconnaissance (G4) and General Exploration (G2), and may involve shallow pitting, trenching and sampling, including collection of samples of rock, soil, fossils, water, stream sediment etc, and drilling of up to 20 boreholes per sq km upto 8 inch diameter in the case of coal, lignite and metallic ores and 16 boreholes per sq km



upto 6.6 inch diameter in the case of non-metallic ores shall not attract the provisions of the Act provided there is no felling of trees. In all other cases, prior permission of the Central Government under the Act would be required”

12. As per existing provision given under 1.3 (i) & (v) under Investigation and Survey of the Handbook of Forest (Conservation) Act, 1980 - Guidelines and Clarification (up to June 2004), it is mentioned that:

1.3(i): Investigations and surveys carried out in connection with development projects such as transmission lines, hydro-electric projects, seismic surveys, exploration for oil drilling, mining etc. will not attract the provisions of the Act as long as these surveys do not involve any clearing of forest or cutting of trees, and operations are restricted to clearing of bushes and lopping of tree branches for purpose of sighting.

1.3 (v): “Prospecting of any Mineral, done under prospecting license granted under MMRD Act, which requires collection/removal of samples from the forest land, would be a stage between survey & investigation and grant of mining lease and as such permission under Forest (Conservation) Act, 1980 would be required. However, in case of metallic ores - test drilling up to 20-25 boreholes of maximum 4" dia per 10 sq km and in case of coal and lignite (non-metallic Ores) - (a) test drilling up to 15 boreholes of maximum 4" dia per 10 sq km for open cast mining; and (b) test drilling up to 20 boreholes of maximum 4" dia per 10 sq km for under-ground mining for prospecting exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act. In all other cases involving more number of drilling of bore holes, prior permission or Central Government under the Act would be required”.

13. Based on the above fact the proposal was considered by FAC in its meeting held on 17.06.2010. The FAC listened to the presentation made by the representative of Ministry of Mines, Ministry of Coal, GSI, Indian Bureau of Mines and Mineral Exploration Corporation Limited (MECL) highlighting their role in prospecting of mineral resources and their requirement.
14. The Committee noted the different requirement of different organisation. The Committee took note of the suggested modification in the guidelines by the Ministry of Mines for allowing Geo-scientific investigation of GSI and other Government agencies and prospecting Exploration (G3) under prospecting license, which may involve shallow pitting, trenching and sampling, including collection of samples of rock, soil, fossils, water, stream sediment, etc., and drilling of up to 20 boreholes per sq km up to 8 inch diameter in the case of coal, lignite and metallic ores and 16 boreholes per sq km up to 6.6 inch diameter in the case of non-metallic ores without attracting the provisions of the act provided there is no felling of trees.



15. The FAC deliberated on the issue and found that there was no uniform requirement of relaxation of prospecting norms in forest area. The issue of prospecting in forests, associated disturbances to forest, much disposal and related soil erosion into rivers and rivulets and tribal population were also discussed. After discussion the proposal in detail and taking into account the differential requirement of various organizations the FAC recommended the amendment with modification that the drilling of up to 20 boreholes per 10 sq km up to 8 inch diameter in the case of coal, lignite and metallic ores and 16 boreholes per 10 sq km up to 6.6" diameter in case of non-metallic ores with attracting provisions of the Act providing there is no felling of trees.
16. Based on the decision the Ministry vide its letter **dated 19.08.2010** had issued its approval for replacing the existing provision given under 1.3 (v) *under Investigation and Survey* of the Handbook of Forest (Conservation) Act, 1980 - Guidelines and Clarifications (up to June 2004) guidelines with the provision was given below:
- “Prospecting of any Mineral, done under prospecting license granted under MMRD Act, which requires collection/removal of samples from the forest land, would be a stage between survey & investigation and grant of mining lease and as such permission under Forest (Conservation) Act, 1980 would be required. However, **in case of coal, lignite and metallic ores** - test drilling up to 20 boreholes of maximum 8” dia per 10 sq km and **in case of non-metallic ores excluding coal & lignite** - test drilling up to 16 boreholes of maximum 6.6” dia per 10 sq km for prospecting exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act. In all other cases involving more number of drilling of bore holes, prior permission or Central Government under the Act would be required”.*
17. Further, Ministry received many requests in 2011 from Ministry of Mines regarding further modification in the 1.3 (v) guidelines as ‘drilling of up to 20 boreholes per sq km up to 8 inch diameter in the case of coal, lignite and metallic ores and 16 boreholes per sq km up to 6.6 inch diameter in the case of non-metallic ores without attracting the provisions of the Act provided there is no felling of trees’.
18. MoEF vide letter dated 07.10.2011 had conveyed to Ministry of Mines that a trial exploratory drilling to assess impacts of such activities on the flora and fauna being undertaken by the Central Mine Planning & Design Institute Limited (CMPDI) in Chirra North, Bijul and Baitarani coal blocks of Madhya Pradesh, Orissa and Chhattisgarh, respectively after receipt of the findings of the said study, Ministry will take appropriate decision. CMPDI submitted its interim report on 05.05.2011 and the report was considered by the FAC on 16.08.2012 and recommended that:
- i. The MoEF may await receipt of final report containing details of technical design of the study viz. the nature of parameters (having impact on flora and fauna)



monitored during the study, along with frequency and manner of monitoring such parameters. The data collected during the study may also be provided in the interim assessment report.

- ii. Present practice of granting approval under the FCA for exploratory drilling on case to case basis, after examining impact of such activities in each case, may be continued.
 - iii. To expedite decision on proposals seeking prior approval under the FCA for drilling of bore holes for mineral exploration presently pending before various State/UT Governments the Ministry may convene a meeting of the Nodal officers of concerned State/Union Territory Government and to resolve the issue hindering expeditious processing of such proposals. Representatives of the Ministry of Coal, CMPDI and Coal India Limited may also be invited to be present in the meeting.
 - iv. MoEF may issue comprehensive guidelines on applicability of compensatory afforestation, NPV, MoEF's circular dated 3.8.2009 regarding settlement of rights in accordance with provisions of the Forest Rights Act, 2006 and MoFE's circular of July 2011 regarding submission of geo-reference ma etc. in respect of proposal seeking approval under FCA for exploration drilling in forest areas to facilitate expeditious processing of such proposals at State level.
19. Drilling of bore holes for exploration purposes in a typical mining block involves deployment of two to three units, each consisting of 1 drill machine, 1 pump, 1 derrick, 1 to 2 trucks for water hauling, 1 jeep for transportation of drilling crew and 4-5 drill crews in each shift for two to three years. Exploration activity not being directly or indirectly related to conservation, development and management of forests and wildlife is a non-forest activity for the purpose of the Forest (Conservation) Act, 1980. Drilling of bore hole in forest areas for exploration purposes therefore, require prior approval of Central Government under the FC Act.
20. The Ministry of Coal (MoC) and the Ministry of Mines (MoM) informed the Ministry of Environment and Forests (MoEF) that assessment of mineral reserves to a desired level of accuracy to facilitate preparation of detailed mining plan and to take investment decisions requires drilling of 15- 20 bore holes per sq. Km. They requested the MoEF to relax the existing guidelines to exempt drilling of 15-20 bore-holes per sq. km for prospecting of minerals from requirement of obtaining prior approval under the FC Act.
21. Before considering any further relaxation in number of bore-holes that may be drilled in the forest land without obtaining approval under FC Act, the MoC and MoEF agreed to undertake a study to assess impact of exploratory drilling on flora and fauna by undertaking trial exploratory drilling by the Central Mine Planning and Design Institute



Limited (CMPDIL).

22. The MoEF vide letter dated 10.03.2010 accorded approval under the FC Act for undertaking trial exploratory drilling by CMPDIL by drilling 940 bore holes (18 bore holes per sq. km) in three blocks located in three States within a period of one year, as per details given below:

Sl. No.	Name of Block	Coalfield/ State	Total Area (ha.)	Forest Area (ha.)	No. of Boreholes
1	Bijul	Singrauli/ MP	1,700	700	320
2	Chirra North	MandRaigarh/ Chhattisgarh	2,400	2,100	420
3	Biatarni East	Talchar/ Odisha	1,000	700	200
Total Area			5,100	3500	940

23. The conditions mutually agreed between the MoC and the MoEF for undertaking the said study were as below:
- No felling of trees will be allowed in forest area for carrying out drilling for prospecting of coal.
 - The State Govt. shall associate forest official(s) with the exploratory team of User Agency/ CMPDI.
 - During transportation of borehole machines/rigs, no new roads/ permanent path in the forest area will be constructed.
 - The User Agency /CMPDI shall submit the Joint (with concerned State Government) impact assessment report of such trial exploratory drilling on the flora and fauna of the area within one month from the date of completion of work to enable the Central Government to revisit the guidelines on prospecting of coal/other minerals.
24. Shri D. Srivastava (Geo), Coal India Limited vide their letter dated 26.09.2012, submitted a joint Impact Assessment report of exploratory drilling on flora and fauna in respect to the block selected.
25. The CMPDIL after drilling 215 bore holes or 4.20 bore-holes/sq. km submitted three separate impact assessment reports and requested the MoEF to relax the guidelines to permit drilling of 15-20 bore-holes per sq. km.
26. The impact assessment reports for Chiira North and Baitarani East Coal Blocks have been prepared jointly by the CMPDIL and the concerned Divisional Forest Officers. The report for the Bijul Cola Block has however been prepared jointly



by the CMPDIL and the Madhya Pradesh State Forest Research Institute, Jabalpur.

27. Joint impact assessment reports for Chirra North and Baitarni East coal blocks do not contain any details related to design of the study viz. nature of parameters (having impact on flora and fauna) monitored during the study, frequency and manner of monitoring such parameters etc. The data collected during the study have also not been provided in these reports.
28. In the joint impact assessment report for the Baitarni East Coal Block it has been reported that drilling operations have impact on the elephant movement in the area. Similarly, in the joint impact assessment report for the Bijul Coal Block it has been reported that shrubs and herb species and ground vegetation including grasses and some important annual medicinal plants were found to have adverse impact in the core zone where drilling machines were installed in the operational site. Creation of non-congenial environment for regeneration at the drilling site due to soil compaction and resultant poor soil porosity and infiltration has also been reported in the said report.
29. It has been indicated in the joint impact assessment reports that drilling operations, including transportation of drilling rigs to the drilling sites did not involve felling of trees. This may be possible due to availability of fairly good road network, relatively poor tree cover and flat terrain of the coal blocks identified for the exploratory drilling. In most of the forest areas it will however, be not feasible to transport drilling rigs and other accessories at the drilling site and undertake prospecting activities without felling of trees.
30. The reports were placed before FAC on 21.01.2013 and FAC recommended that:
 - (i) Exempting large scale non-forest activities, such as drilling of 15-20 bore-holes/sq km for prospecting of minerals in forest areas, from the requirement of obtaining prior approval under the FC Act, will be against the letter and spirit of the FC Act. The MoEF may therefore continue with the present practice of granting approval under the FCA for exploratory drilling on case to case basis, after examining impact of such activities.
 - (ii) To expedite decision on the proposals seeking approval under the FC Act for undertaking exploratory drilling in forest areas, the MoEF in consultation with MoC and MoM may simplify the procedure for obtaining such approval.
 - (iii) In the proposals for exploratory drilling, the following particulars may only be furnished in the prescribed format to be formulated by the MoEF in consultation with the MoC and the MoM:



- (a) Short narrative of the project/ and user agency;
- (b) Details of the activities proposed to be undertaken;
- (c) Survey of India Toposheet indicating (i) boundary of the prospecting block, (ii) location of drilling/ sample collection sites, (iii) location of roads/ paths proposed to be constructed/ utilized for transportation of drilling rigs to the prospecting sites (existing as well as new roads/ paths are to be indicated separately) (iv) boundary of prospecting/mining blocks located within 10 km distance from boundary of prospecting block along with present status of prospecting/ mining in each of these blocks, and (v) boundary of protected area, tiger reserve, notified tiger corridor, any other notified migratory corridor for wildlife, if any, located within 10 km distance from boundary of the prospecting block.
- (d) Area of forest land proposed to be utilized for
 - (i) construction of new road/path, if any;
 - (ii) drilling of bore holes/sample collection pits etc.; and
 - (iii) Any other purpose (to be specified).
- (e) Legal status of forest land located in the prospecting block.
- (f) Average crown density of vegetation available in the prospecting block.
- (g) Species and girth class-wise details of trees proposed to be felled.
- (h) Whether forest land forms part of national park, wildlife sanctuary, biosphere reserve, eco-sensitive zone around a national park/ wildlife sanctuary or forms part of the habitat of any endangered or threatened species of flora and fauna.
- (i) Distance from the nearest protected area.
- (j) Whether no alternative non-forest land is available to avoid or minimize use of forest land and, whether, the required forest area is the minimum needed for the purpose. A certificate in this regard is to be furnished by the concerned Divisional Forest Officer after personal inspection of the spot.
- (k) A site inspection report from the Divisional Forest Officer concerned, clearly bringing out the impact of the proposed prospecting activity on flora and fauna.



- (iv) Keeping in view that only a small fraction of area located within a prospecting block is utilized for exploration activities, site inspection by concerned Regional Office of the MoEF may be insisted only if the actual area of the forest land proposed to be utilized for construction of new roads/paths and for drilling of bore holes/ sample collection pits etc. is more than 100 hectares.
- (v) Keeping in view that prospecting operations involve use of forest land for a very short period, these activities may be exempted from the compensatory afforestation. NPV may also be realised only for the extent of forest land in which prospecting operation results in permanent change in land use.
- (vi) Similarly, the proposals seeking approval for prospecting may be exempted from the requirement of the submission of documentary evidence in support of settlement of rights in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 as stipulated in MoEF's circular dated 3.8.2009. Such proposals may also be exempted from the submission of the geo-reference map stipulated in the MoEF's circular dated 12th July 2011.

31. The recommendation of FAC meeting dated 21.01.2013 was approved by the Hon'ble Minister.
32. Accordingly, this Ministry in consultation with the Ministries of Coal, Mines and Petroleum & Natural Gas formulate a simplified format for submission of application to obtain prior approval of Central Government under the Forest (Conservation) Act, 1980 for prospecting of minerals in forest areas. The Ministry has already notified the Forest (Conservation) Amendment Rules, 2014 to insert the said format as 'Form-C' in the Forest (Conservation) Rules, 2003.
33. A meeting with MoEF and Minister of Power, Coal and New and Renewal Energy held in this Ministry on 10.07.2015. It was decided that FAC will once again re-examine the matter. It was also decided that CMPDI will be requested to make presentation before FAC. As per the decision of the meeting, the matter was again placed before FAC on 29.07.2015 and on 16.02.2016. FAC on 16.02.2016 recommended certain simplification process to grant approval under the Forest (Conservation) Act, 1980 for prospecting of minerals in forest areas and the same has been incorporated in Forest (Conservation) Amendment Rules, 2016.
34. A meeting was held on 05.02.2018 with Secretary, Ministry of Coal and MoEF&CC to permit enhancement of borehole density from the existing 1.5-2 boreholes per sq. km to 10-15 per sq. km for the exploration proposals in forest areas without the need for



seeking prior FC. DGF&SS agreed that the issue regarding permit enhancement of borehole density from the existing 1.5-2 boreholes per sq. km to 10-15 per sq. km for the exploration proposals in forest areas without the need for seeking prior FC may be taken up in the proposed FAC meeting on 23rd February 2018.

35. As per decision taken in the meeting the matter is once again placed before FAC for deliberation.
36. In the FAC meeting Mr R.K. Garg, Advisor Ministry of Coal made a detailed presentation explaining the manner in which exploration drilling are done and the extent of damage done to forest.
37. **Recommendation of FAC:** FAC after thorough deliberation with representatives of ministry of coal, observed that the exploratory drilling for prospecting of mineral ore over an area of about 10 m x 10 m per drilling site is a non-forestry activity and drilling of 20 such drilling will certainly affect the forest and wildlife. For this purpose Ministry of Coal will submit a proposal for consideration and the same shall be examined in the next FAC meeting for consideration.

ADDITIONAL AGENDA

Agenda No. 1

F. No. 8-45/2016-FC

Sub: Proposal for according permission for use of 3.606 ha of forest land within total Mining lease area of 264.466 ha in Kathpal chromite Mining lease located in KankadahadTahasil and Kamakshyanagar (East) Forest Range of Dhenkanal Forest Division in Dhenkanal district for undertaking exploratory drilling of 40 no. of boreholes of 4" dia (40 boreholes @ 0.02 ha each totaling 0.80 ha and 2.806 ha for construction of road) by M/S Odisha mining corporation Ltd. for prospecting of minerals.

1. The above stated agenda item was considered in FAC on 23.02.18. FAC observed the following:
2. The said proposal was considered earlier by the Forest Advisory Committee (FAC) in its meeting held on 26.10.2017. FAC after thorough deliberation and discussion with user agency recommended for in-principle approval to the proposal under section 2(ii) of FC Act with general, standard and specific conditions.
3. After getting approval of competent authority on the recommendation of FAC, the Ministry vide its letter dated 19.12.2017 issued stage-I approval to the said proposal subject to the general, standard and specific conditions.



4. In response to stage I approval Government of Odisha vide their letter no. 10F (Cons)-27036/F&E dated 30.12.2017 reported as follows:
- a) "Condition No. 2(ii) of Stage-I order regarding compensatory afforestation. The stipulation imposed under this condition is not in tune with revised guidelines of MoEF&CC regarding identification of suitable land and planting of no. of trees issued bearing F. No. 11-423/2011-FC dt. 8.11.2017. In the 1st place, non-forest land of 2.806 ha. is required only for the purpose of CA as this extent of forest land is proposed to be used for construction of temporary road for under prospecting under this proposal. Further, 2,806 no. of plants are required to be raised under this proposal for Compensatory afforestation @) 1000 plants/ha.
 - b) Further attention is also invited to condition No. 2 (v) of Stage-1 order where it has also been stipulated that no temporary road shall be constructed by the user agency for movement of equipment for drilling of boreholes. In this context, it is to state that out of 3.606ha of forest land proposed to be used under this project, 2.806 ha. of forest land is for construction of road for the purpose of movement of equipment. MoEF&CC have also agreed in-principle for use of 3.606 ha. of forest land for this project that includes 2.806 ha toward, construction of road within the ML area. The user agency has also represented that unless construction of road using 2.806ha. of forest land is allowed and movement of machinery is confined to existing roads in forest land, only a few no. of boreholes could be drilled which will not be adequate to prove the mineralized zone in GI category and the purpose of exploration shall not be fulfilled. In view of this portion of condition 2(v) of Stage-1 order dealing with the matter construction of temporary road needs to be deleted".
5. In this matter, it is mentioned that condition no. 2 (ii) of stage-I approval was imposed by the Forest Advisory Committee as a specific condition, which is stated that *"Compensatory afforestation shall be raised over equal the diverted forest land and atleast 1600 tall plants per hectare (3.606 hectares x 1600 = 3606 plants) shall be planted over identified non- forest land (3.6 ha) in pits of size 0.6m x 0.6m x 0.6m filled with imported soils and manure with provision for ten years on subsequent maintenance. Identified non-forest land for CA has been certified to be suitable for bald hill plantation by the state government"*.
6. It is reported that the CA scheme has been prepared and submitted by the Government of Odisha after duly approval of the Addl. PCCF (Forest Diversion) & Nodal Officer (FCA) over 3.5 ha with an estimated cost of Rs. 13,76,900/- at current wage rate of Rs. 200/- per manday including cost of maintenance of 10 years. The said CA scheme has been formulated/approved for undertaking bald hill plantation @ 1600 plants per ha. Over 3.5 ha of non-forest land.
7. **Recommendation of FAC:** FAC after thorough deliberation and discussion recommended that



1. The condition No. 2(ii) of Stage-I order i.e. *Compensatory afforestation shall be raised over equal the diverted forest land and atleast 1600 tall plants per hectare (3.606 hectares x 1600 = 3606 plants) shall be planted over identified non-forest land (3.6 ha) in pits of size 0.6m x 0.6m x 0.6m filled with imported soils and manure with provision for ten years on subsequent maintenance. Identified non-forest land for CA has been certified to be suitable for bald hill plantation by the state government*” is as per recommendation of state government and no change should be allowed.

8. The condition no 2(v) of stage-I approval stated that

“No tree/ vegetation shall be allowed to be removed /felled during prospecting and no temporary road shall be constructed by the user agency for movement of equipment stated by the user agency. The user agency may use the existing forest roads for prospecting works”

should be modified as

“No tree shall be allowed to be removed/felled during prospecting. User Agency is allowed to use 2.806 ha. Forest land, for construction of temporary path for movement of equipment. No permanent road shall be constructed by the user agency. The temporary path shall be reverting back to forest department after completion of prospecting work.

[Naresh Kumar Dy. Inspector General of Forests (FC)]

Agenda No. 1

File. No. 7-28/2018-FC

Sub: Request for refund of excess NPV paid on behalf of Wind World India Ltd (formerly Enercon India Ltd), its subsidiaries and associates (Wind World Group) for wind power projects, pursuant to the Supreme Court judgment dated 02.12.17 in IA No.2785 of 2009 in WP (C) No.202/1995

The Wind World India Ltd submitted representation for refund of excess NPV paid on behalf of Wind World India Ltd (formerly Enercon India Ltd), its subsidiaries and associates (Wind World Group) for wind power projects, pursuant to the Supreme Court judgment dated 02.12.2013 in IA No.2785 of 2009 in WP (C) No.202/1995.

1. The FAC was informed that I. A. No. 2717 etc. in I.A. No. 1135-1136/2004 of Indian Wind Turbine Manufacturers’ Association in W.P. (Civil) No. 202/1995 titled T. N Godavarman Vs. Union of India and the IA 2717 was transferred to the Ministry by the Supreme Court along with many similar IAs related to exemption of NPV. The IA was



- considered by the FAC in its meeting held on 25.04.2017. The FAC had considered the submissions made in the representation of the Indian Wind Turbine Manufacturers' Association (IWTMA), a representative body of wind energy developers and wind farm operators of India.
2. The recommendation of the FAC was submitted by the FC Division for approval of the Hon'ble MEF. The Secretary MoEF&CC while considering the recommendation of FAC raised the following queries:
 3. In the meanwhile the Wind World India Ltd has submitted the application dated 28.11.2017 to the Ministry for consideration of his case for refund of the excess of the NPV paid for use of forest land for generating wind power. It has been argued by Wind World India Ltd that his company has deposited full NPV for forest land used for Wind Energy projects after the Supreme Court, in its judgement dated 29-30th October 2002 in IA No. 566 in Writ Petition (C) No. 202 of 1995, ordered for constitution of Compensatory Afforestation Fund (CAF in short) in which all compensatory levies such as compensatory afforestation cost, net present value ('NPV' in short), wildlife management and catchment area treatment cost etc. shall be deposited. In the order the Hon'ble Court has given a range for the rates i.e., Rs. 5.80 Lakhs per hectare to Rs. 9.20 lakhs per hectare for NPV depending upon the quantity and density of forest land in question for non-forestry use. The NPV was to be collected from all user agency for all approval granted after 29-30th October 2002.
 4. In compliance to the Hon'ble Supreme Court order and order issued by the Ministry, Forest Department issued notices to all user agencies to deposit NPV at rates applicable to the type of forest land diverted. The Wind World India Ltd along with other Wind Energy developers which is represented by Indian Wind Turbine Manufacturers' Association (IWTMA) deposited outstanding NPV as demanded by the Forest Department. In the mean while the Supreme Court clarified that the NPV shall be collected from all those user agencies for which final forest clearance was granted after 29-30th October 2002 even though the in-principal approval was granted before 29-30th October 2002.
 5. The Hon'ble Supreme Court after thorough deliberation in IA no 826 in IA no 566 in Writ Petition (C) no 22 of 1995 ordered on 26th September 2005 observed that the NPV has to be worked out on economic principles and an expert Committee comprising of three experts including Ms. Kanchan Chopra was appointed by Institution of Economic Growth (North Campus). The Committee was asked to submit the list of proposal which may be exempted from payment of NPV and the extent of NPV to be exempted. The Report of the Committee was submitted in 2006 and examined by the CEC and the Supreme Court fixed the revised NPV rates and the proposals involving forest land which



were exempted from payment of NPV in its order ordered on 28th March 2008. In this order no exemption from payment of NPV to wind energy projects were granted.

6. That Wind Energy Farms being developers of green and clean energy, through their representative body IWTMA approached the Hon'ble Supreme Court, by filing I A No 1135 in I A No 566 in WP (Civil) No. 202 of 1995, making out a case for exemption from payment of Net Present Value (NPV). The Hon'ble Supreme Court passed order on 24th April 2008 by accepting the recommendations of CEC that the Wind Energy Projects were to pay 50% of the NPV at the minimum rate charged provided minimal tree felling is involved.
7. The Ministry issued formal order on revised NPV and exemption of NPV to various projects on 5th February 2009.
8. Meanwhile the Karnataka Forest Department had issued notice to M/s ENERCON (now Wind World India) for the payment of the full NPV vide letter dated 4.5.2009 the Conservator of Forest, Bellary Circle after Supreme Court order dated 24th April 2008 since final forest clearance was not issued. M/s ENERCON filed IA no 2785 of 2009 against the notice of the Forest Department to deposit full NPV in compliance of the earlier order of the Supreme Court dated 29-30th October 2002. The Hon'ble Supreme Court and after hearing the parties the Court in IA 2785 etc while referring to the order dated 24th April 2008 passed in IA 1135, held, *"Heard learned counsel for the parties.....// Considering the fact that Central Empowered Committee had recommended that wind energy projects be given extra 50 percent of the Net Present Value at the minimum rate for the reason that the wind energy projects eco-friendly. We are of the opinion that the project of the applicant should be given the said benefit of paying only 50 percent Net Present Value even though the project may have started prior to the order dated 24th March 2008 (sic. 24th April 2008) by which the aforesaid exemption of Net Present Value of 50 percent was granted....."*. The compliance was done by the applicant accordingly by paying only 50% of minimum NPV applicable.
9. Now the Indian Wind Turbine Manufacturers' Association (IWTMA) filed I. A. No. 2717 etc. in I.A. No. 1135-1136/2004 of Indian Wind Turbine Manufacturers' Association in W.P. (Civil) No. 202/1995 titled T. N Godavarman Vs. Union of India to revise the NPV at minimum rate as per the order dated 24th April 2008 and claimed refund of 50% NPV with interest paid post 29-30th October 2002 and before 24th April 2008.
10. The FAC had already considered the issue of refund of NPV in its meeting dated 25th April 2017 and recommended that the deposits of full NPV deposited by project



proponents in compliance of the Supreme Court order dated 29-30th October 2002 at the old NPV rates (Rs. 5.8 lakh to Rs.9.2 lakh per hectare) till the revision of NPV rate by Supreme Court order dated 28th March 2008 and exemption of 50 % granted to wind energy projects vide Supreme Court order dated 24th April 2008 in IA 1135-1136/2004 of IWTMA in IA no 566 in WP (Civil) No. 202 of 1995 are not refundable.

11. It was informed that the recommendation of the FAC dated 25.04.2017 was placed for approval of the HMEF but the Secretary has raised queries in file noting dated 01.06.2017 as under: "Supreme Court seems to have allowed payment of 50% NPV even for projects prior to order of March 2008. Does it set a precedent? May please clarify."
12. The FAC also considered the report in the CEC tendered in the IA No 2785 of 2009 wherein CEC had observed that the Hon'ble Court's order dated 28.3.2008 and subsequent order dated 24.4.2008 regarding the payment of the NPV at 50% of the minimum rate in respect of the wind energy projects are applicable with prospective effect. In view of the above, while raising the demand for the payment of the NPV vide letter dated 4.5.2009 the Conservator of Forest, Bellary Circle, should not have calculated the amount payable towards the NPV at 50% of the applicable rate of the NPV. The demand for the NPV referred in the specific case under IA 2785 should have been made at the rates of the NPV applicable on 24th April 2008.
13. The FAC is of considered opinion that legally the order of the Supreme Court in IA 2785 etc while referring to the order dated 24.4.2008 passed in IA 1135 was case specific because the demand for deposit was made by the Forest Department after the Supreme Court judgement dated 24th April 2008.
14. Considering all facts placed before the FAC it is recommended that the deposits of full NPV deposited by project proponents in compliance of the Supreme Court order dated 29-30th October 2002 at the old NPV rates (Rs. 5.8 lakh to Rs.9.2 lakh per hectare) till the revision of NPV rate by Supreme Court order dated 28th March 2008 and subsequent exemption to projects including exemption of 50 % granted to wind energy projects vide Supreme Court order dated 24th April 2008 in IA 1135-1136/2004 of IWTMA in IA no 566 in WP (Civil) No. 202 of 1995 should not be refunded.

The query raised by the Secretary on file dated 01.06.2017 on recommendation of FAC dated 25th April 2017 in I.A. No 2717/2009 in Writ Petition (C) No. 202/1995 titled T N Godavarman vs. Union of India stands answered in above para.



Agenda no 2; 3; 4; 5

The following agenda were not considered because no one from the plaintiff filing these IAs were present before the FAC. The FAC decided to defer the matter and recommended that fresh notices should be issued the applicant plaintiffs.

Agenda No. 2 (F. No. 7-79/2015-FC (Pt. III): Issue of NPV in Category III – I.A. No. 3594/2013 in the matter titled as GirdharilalAgarwal Vs. Union of India in W. P. (Civil) No. 202/1995 titled T. N. Godavarman Vs. Union of India

Agenda No. 3 (F. No. 7-79/2015-FC (Pt. IV): Issue of NPV in I.A. No. 2707/2009 in the matter titled as the Registrar, Kuvempu University Vs. Union of India & Others in W.P. (Civil) No. 202/1995 titled T. N. Godavarman Vs. Union of India

Agenda No. 4 (F.No.7-79/2015-FC(Pt.V): Request for exemption of NPV as per order dated 05/10/2015 passed by Hon'ble Supreme Court of India in I. A. No. 3826 of 2014 in I.A. No. 826&859 in I.A. No. 566/2002 in W.P. (Civil) No. 202/1995 in the matter titled as T. N Godavarman vs. Union of India.

Agenda No. 5 (F. No. 7-79/2015-FC (Pt. VI): Request for exemption of NPV as per order dated 05/10/2015 passed by the Hon'ble Supreme Court of India in I.A No 3894-3896 of 2015 in W.P (Civil) No. 202/1995 in the matter titled as T.N Godavarmanvs Union of India and in the matter of India Institute of Astrophysics.

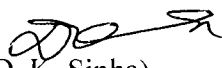
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(Dr. Sanjay V. Deshmukh)
Member

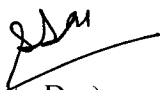
(Dr Rajesh Kaushal)
Member

(S. D. Vora)
Member


(D. K. Sinha)
Inspector General of Forests (FC)


Mr. Saibal Dasgupta
Addl. Director General of Forests (FC)

—
Additional Commissioner (Soil Conservation)
Ministry of Agriculture (Member)


(Siddhanta Das)
Director General of Forests & Special Secretary