

RECOMMENDATION OF FOREST ADVISORY COMMITTEE IN ITS MEETING
HELD ON 19th DECEMBER, 2019

Agenda No-1

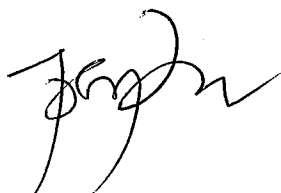
File No. 8-68/2004-FC Vol.1

Sub: Diversion of additional 34.64 ha of forest land for Urimari Open Cast Mining Project in favour of M/s Central Coalfields Limited in Hazaribagh district of Jharkhand.

The above stated agenda item was considered by FAC in its meeting on 19.12.19. The corresponding agenda note may be seen at www.parivesh.nic.in.

FAC after thorough deliberation and discussion observed that:

1. The instant proposal was submitted to MoEF&CC by the state government in 2009 and same was considered by the Forest Advisory Committee (FAC) on 25th October 2010, and the Committee recommended the diversion of forest land subject to the general and standard conditions.
2. The recommendations of the Committee were placed for approval of the Competent Authority, but he desired to know the rationale/reasons for the requirement of additional area.
3. It is noted that there had been prolonged communication between State government and Government of India related to actual area required for diversion. From the proposal of the State, MoEF&CC was not able to draw a clear picture of the area under non forestry use and status of compliances of previous approvals to the user agency at same area.
4. The proposal was again placed before FAC on 28.2.2017 whereby FAC noted that there were large discrepancies in the area statements and the lease details claimed by the user agency vis-a-vis the records available. The FAC directed that the complete details of the lease including forest and non- forest land be provided. Further FAC also required that complete details of forest land i.e. Stage-II cleared, Stage-I approved, not applied for as yet, maintained as safety zone etc. be provided greater clarity in the matter, be provided by the State, based on which FAC would provide its recommendations.
5. Based on the observation of FAC, the State Government provided following information:
 - (i) Total land involved in the project is 1034.84 ha, comprising of 677.24 ha of forest land and 357.55 ha of non-forest land.
 - (ii) So far approval under the Forest (Conservation) Act, 1980 has been obtained in respect of 186.09 ha of forest land while prior approval for balance area of 489.95 ha of forest land is yet to be obtained. Detail is given as under:
 - (a) Urimari OCP (91.04 ha) – Stage-II granted vide 8-68/2004-FC dt 17.07.2008.
 - (b) Birsa OCP (45.08 ha) - Stage-II granted vide 5-54/2008-FC dt 03.08.2011 (A part of the forest land, already diverted for Birsa OCP of 226.51 ha, is included in Urimari OCP also the area of which is 45.08 ha)
 - (c) Urimari OCP (49.97 ha) – Stage-I granted vide 8-113/90-FC dt 08.11.2010 (Renewal of Stage-I)

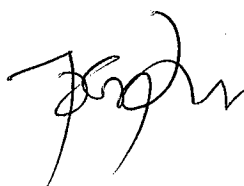


- (d) An area of 34.64 ha of Urimari OCP is being dealt in the current proposal while no proposal in respect of balance forest land of 455.31 ha has been submitted by the User Agency.
 - (iii) Out of the total area approved under the Forest (Conservation) Act, 1980 so far, an area of 19.46 ha has been earmarked for safety zone.
 - (iv) Examination of the CA land using DSS tool revealed presence of MDF (23 ha) and VDF (2 ha).
6. The proposal with all details provided by the state government was examined in detail in FAC.

Decision of FAC:

FAC after thorough deliberation and discussion with officials from Jharkhand Forest Department, DDG regional office Ranchi and representative of user agency observed that the instant project has 1034.84 ha land out of which 677.24 ha is forest land. It is reported that out of total forest land in the project area, the user agency had obtained approval under FCA 1980 for only 186.09 ha of forest land. It was reported that the user agency had deposited the NPV for entire forest land (677.24 ha) within the project area and they are in process of revising the mining plan for entire project area. It was further informed that the entire area has been acquired under the provisions of Coal bearing Act (CBA A&D) 1957 or land acquisition act 1957. It is also reported that the proposed Forest area that is 34.64 ha will raise the annual production from 1.3 MT/year to 2.0 MT/year. FAC **recommended that proposal** with General, Standard and following Specific conditions.

1. Forest land within the project area for which approval has not been obtained by user agency shall not be used for non forestry purpose
2. State government shall ensure that the user agency had deposited NPV for entire forest area within the project area.
3. The project proponent shall submit the reclamation plan of all the 4 mines with well defined time lines and submit the same with the compliance report.
4. The project proponent shall set up an independent social welfare division for tracking post R&R settlement of the project affected families through the Social Welfare Department and submit its reply regarding the arrangement made along with the compliance report.
5. The project proponent will set up a Vocational Training Institute in the area for training and skill up gradation of the local youths and employing them in their operations for some minimum time period as part of its CSR.
6. The project proponent shall earmark 1% of the market price of total coal produced with the state Forest Department for the protection and development of forest and wildlife of the area as part of CSR.
7. The project proponent to give an undertaking to contribute proportionately for the regional wildlife management plan.



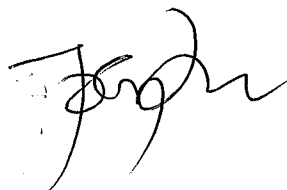
AGENDA No -2

File No. 8-69/2018-FC

Sub: Proposal for diversion of 390.264 ha. of forest land (370.152 ha area of Baidhan RF forest of Dudhichua Blocks + 20.112 ha. area of Revenue Forest Land of village Churidhe and Jhingurdeh = 390.264 ha.) in favour of M/s Northern Coalfields Limited, for Bina Kakri Open Cast Coal Mining, under Forest Div. and District Singrauli in the State of MP, regarding.

This proposal was considered in the meeting on 19th December 2019 whose detailed agenda notes may be seen on [www. parivesh.nic.in](http://www.parivesh.nic.in).

1. FAC, while deliberating on the proposal, observed that the State Govt. was advised
 - a. to review the proposal and submit report in the light of estimated area under VDF and MDF. They were also requested to redraw the proposed diversion proposal on the lines of analysis of Amelia Coal Block by FAC, excluding the certain area from proposal. For this purpose, State Govt. may seek help from FSI Nagpur.
 - b. To give justification for proposing the part of Elephant Corridor area for diversion.
 - c. To give justification for proposing the CA area which is already covered under some plantation.
2. The response to the above observations were furnished by the state Government (APCCF/Nodal Officer, FCA) vide its letter dated 09.12.2019.
3. The FAC considered the said reply and observed the following:
 - a) The copy of report of FSI, Nagpur has not been submitted by the State Govt.
 - b) Copy of comments from PCCF/CWLW, Madhya Pradesh has been made available by a communication received from Nodal Officer, FCA,
 - c) It was also accepted by the Nodal Officer that the proposed forest area (390.264 ha) pertains nearly 36.5 ha forest area under previously approved Dudhichua proposal (467.809 ha). Hence in lieu of this, the present proposal requires only 353.764 ha forest land (i.e. $390.264 - 36.5 = 353.764$ ha) and accordingly 707.528 ha. degraded forest land for CA.
 - d) KML file of an area 715 ha. degraded forest for CA as uploaded on e-portal shows some portion are having encroachments of agricultural lands and in some sites plantation/pre-plantation activities had already been taken in past.



Decision of FAC:

FAC recommended the proposal for in-principle approval with general, standard and following specific conditions:

- (i) The copy of report of FSI, Nagpur regarding inability to redraw the proposal on the lines of analysis of Amelia Coal Block shall be submitted prior to Stage-II approval.
- (ii) The revised KML file of 353.764 ha of the proposed forest land shall be uploaded on e-portal which will be verified by the DSS team of FSI.
- (iii) The revised KML file of degraded forest land proposed for CA shall be uploaded on e-portal.
- (iv) The state Government shall furnish a certificate that the proposed CA land is free from encroachment and any encumbrance, and also that no plantation (under any scheme/programme) was taken up in any part of the proposed CA site in last ten years.

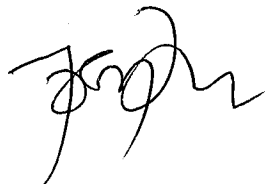
AGENDA ITEM NO.3

F. No. 8-34/2007 – FC

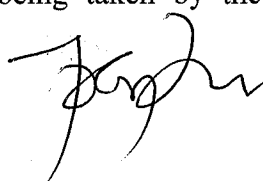
Sub: Diversion of 193.19 ha of forest land for underground mining of coal for Mahakali Colliery in favor of Western Coalfields Limited in Chandrapur District, Maharashtra– regarding

This proposal was considered in the meeting on 19th December 2019 whose detailed agenda notes may be seen on www.parivesh.nic.in.

1. During deliberations FAC observed that, the proposal was accorded Stage-I approval vide this Ministry's letter of even number dated 22.06.2018. The Addl. PCCF & Nodal Officer (FCA), Government of Maharashtra vide his letter dated 10.10.2019 submitted the compliance of Stage-I approval. Examination of the compliance report by the Ministry revealed conditions (ii), (iii), (iv), (v), (vi) and (vii) of Stage-I approval were not complied with. Committee further noted that non-compliance of above conditions was communicated to the State Government vide letter dated 21.11.2019. Nodal Officer (FCA), Maharashtra vide his letter dated 29.11.2019 submitted justification in support of non-compliance of said conditions.



2. The Committee also noted that, extant case involved violation of the FC Act, 1980 and there has been protracted correspondence between the State Government and Ministry in this regard. Finally, on the recommendation of the FAC, a Sub-Committee visited the area in June 2016 to ascertain the nature and extent of the violations. Conditions (ii), (iii), (iv) and (v) mentioned above were stipulated based on the recommendation of the Sub-Committee of the FAC.
3. Representatives of the User Agency put forth the argument that that lease was in operation prior to enactment of Forest (Conservation) Act, 1980 and their mining operations during the then currency of their lease validity (which was valid till 2005) should not be treated as violation of the Forest (Conservation) Act, 1980 as per the legal advice of the Law Department (of the state). The User Agency also submitted that there was ambiguity in the applicability of the Forest (Conservation) Act, 1980 in the underground mining lease till 6.12.2004. It was only after the clarifications issued by the Ministry in the year 2004, proposal seeking prior approval under the Forest (Conservation) Act, 1980 was submitted to the State Government.
4. Committee further noted that Nodal Officer (FCA), Maharashtra in his justification dated 29.11.2019 mentioned that the WCL is one of the Subsidiary Company of Coal India Ltd., Ministry of Coal and the State Government is of the firm opinion that no officer of the WCL can be held responsible in this regard in absence any clear cut guidelines in respect of underground mining till December 2004.
5. Committee noted that specific conditions on violations, stipulated in the Stage-I approval, is the outcome of cumbersome exercise undertaken by the Sub-Committee of the FAC, which involved field visit and combing of pre 1980 and post 1980 records to ascertain the extent, nature and attributability of violation of FCA 1980. The penal conditions stipulated in stage I approval duly approved by the competent authority were based on FAC recommendations. These recommendations were made after exercising due diligence and thorough examination of record as well as field visit. Therefore, by no stretch of imagination, there should be any ambiguity regarding applicability of said specific penal conditions.
6. Committee viewed that, the mining activity, since the enactment of FC Act, 1980, is a non-forestry activity, leaves no ambiguity in the application FC Act, 1980. However, for the sake of clarity (not for bringing any new provision), the Ministry re-iterated the facts on 6.12.2004. Therefore, argument put forth by the Nodal Officer and User Agency does not hold water.
7. Committee was also of the opinion that, the Legal advice of Law Department holds good as long as mining operations are restricted to already broken up areas and no fresh forest land is broken during the currency of lease granted before the enactment of Forest (Conservation) Act, 1980. Therefore, argument given by the User Agency in support of breaking of 47.07 ha of fresh forest land for underground mining is not tenable.
8. The User Agency should have made satisfactory effort for submission of proposal in respect of Zudupi Jungle land, as per the stipulation made in the Stage-I approval, irrespective of the action in parallel being taken by the State Government to seek



exemption of such areas from the purview of the FC Act. As per the view put forth by the user agency in the meeting, Zudupi land was assigned for rehabilitation by Land Revenue Department. Therefore, penal condition no. (ii) regarding violation may be reviewed in light these new facts and State Government should submit a self-contained note in this regard.

9. Committee clarified that the guidelines, referred by the User Agency to claim the adjustment of NPV with their other projects, have prospective effect and cannot be applied retrospectively that too under a situation when the payment was made in pursuance to Supreme Court order.

Decision of FAC:

After detailed deliberations and discussions with Dy. Director General (Central), Regional Office, Nagpur and representatives of the User Agency, the FAC recommended that:

- i. State Government/User Agency should comply with the specific conditions stipulated in the Stage-I approval.
- ii. State Government shall take credible action against the erring persons/authorities on account of violation committed in the matter and same should be informed to Ministry.

Agenda No-4

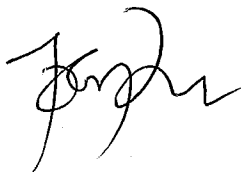
File No. 8-135/2003-FC (vol.)

Sub: Diversion of unbroken 59.606 ha forest land (57.515 ha for Mining & Ancillary activities including 1.417 ha of forest land diverted earlier for Safety Zone alongwith part surrender area + 2.091 ha for Safety Zone along ML Boundary) in respect of Sanindpur Iron & Bauxite Mines of Rungta Sons (P) Limited.

The above stated agenda item was considered by FAC in its meeting on 19.12.2019. The corresponding agenda note may be seen at www.parivesh.nic.in.

FAC after thorough deliberation and discussion observed that:

1. The total area of the instant project is 147.10 ha comprising of 126.324 ha of Forest land (PRF 23.290 ha +Khesra Forest 73.731 ha + DLC Forest 29.303 ha) and 20.776 ha of Non-Forest land
2. The lease was granted in favour of M/s Rungta Sons (P) Ltd. on 06.09.1985 for a period of 20 years, i.e., till 05.09.2005.



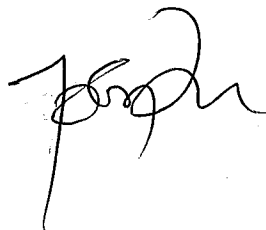
3. It is observed that the user agency had been granted approval for part of forest areas. Records reveal that the user agency was granted Stage-II approval over 52.742 ha of forest land on 19.06.2006 vide Letter No.8-135/2003-FC of the MoEF.
4. It was also granted Stage-II approval over an additional area of 15.393 ha of forest land (incl. 4.325 ha of Safety Zone) on 24.10.2013 vide Letter No.8-135/2003-FC (Vol).
5. Thus, the User Agency has already been granted Stage-II approval over 68.135 ha (52.742 ha (+) 15.393 ha). The remaining 58.189 ha (126.324 ha – 68.135 ha) of forest land (Total Forest area 126.324 ha – Final approval accorded 68.135 ha) was proposed for surrender during 1st Renewal of Mining Lease.
6. While the RML application was under process with the State Government, the supplementary lease deed has been executed on 14.07.2016 over the entire ML area of 147.10 ha as per MMDR Amendment Act' 2015 and the lease has been extended up to 05.09.2035.
7. It is reported that the User agency has deposited NPV for entire forest area that is 126.324 ha within the lease area.
8. The proposal has been recommended by PCCF and state government. However, it is noted that DFO and RCCF have not given clear recommendation, rather the application has been forwarded with comments that the "proposal may be considered on its own merits".

Decision of FAC:

FAC after thorough deliberation and discussion with Nodal Officer Odisha, observed that part of forest area within the lease area of 147.10 ha has already been diverted in favour of user agency and mining in that area is in progress. Moreover, the user agency had deposited NPV for entire forest area within the lease area. The proposal for diversion of balance area has been recommended by the State government. On analysis of the compliances of stipulations of approvals granted earlier it is noted that the state government was asked to declare non forest area, offered for CA against the forest area already diverted, as PF within three months of stage II approval but the state Government has not yet completed the same. FAC also took note of ambiguous language used in the recommendations of DFO and RCCF. It was conveyed to the Nodal officer Odisha that all field officers should be directed to give clear recommendation or dissent note, as the case may be and avoid ambiguity in case of all proposals being submitted under the provisions of FCA 1980.

FAC after thorough deliberation and discussion **recommended the proposal for in-principle approval** with General, Standard and following Specific conditions:

1. State Government shall ensure that all the areas identified for CA are notified as PF/RF before Stage II approval.



2. The User Agency shall pay towards cost of removal of trees enumerated before commencement of work and tree felling should be taken up in phased manner strictly as per requirement under the supervision of DFO, Bonai Forest Division.
3. Evaluated royalty of trees enumerated and required to be felled for the project, shall be deposited by the User Agency.
4. The User Agency shall pay the cost for implementation of Regional Wildlife Management Plan as per revised cost norm.
5. An area of 2.091ha. of forest land is to be maintained as safety zone and in no circumstances, it shall be used for mining or any other allied activities.
6. The rectified and authenticated DGPS Map of 59.606ha forest area proposed for diversion (including 2.091ha for Safety Zone) included within the mining lease of Sanindpur Iron & Bauxite Mines of Rungta Sons (P) Limited. Over 147.10ha shall be submitted to state government

Agenda No-5

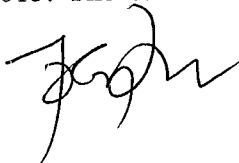
F. No. 8-28/2019-FC

Sub: Proposal for diversion of 183.218 ha of forest land involved in the mining, lease area over 380.40 ha of Banspani Iron Ore mines of M/s OMC Ltd in Keonjhar District, Odisha.

The above stated agenda item was considered by FAC in its meeting on 19.12.2019. The corresponding agenda note may be seen at www.parivesh.nic.in.

FAC after through deliberation observed that:

1. Total lease area is 380.40 ha. out of it 187.753 ha is forest area.
2. Out of 187.753 ha forest area 4.5350 ha is already diverted in favour of railways for laying out railway line.
3. The instant lease was granted in 20.05.1966 for 30 years. After 1996 user agency applied for 1st renewal and worked in the area based on deemed extension up to 2005.
4. User agency never obtained any approval for non forestry activities under Forest (Conservation) Act 1980 of forest land after 1980.
5. The user agency has been working in 45.922 ha of forest land prior to 1980.
6. DFO, Keonjhar Forest Division has reported that as per the observation of Hon'ble Justice M. B. Shah Commission, user agency had done illegal production of 148242 tonnes of Iron Ore from 2002-03 to 2004-05.
7. For illegal production of mineral OR case No.164CH of 2014-15 has been booked. Prosecution has been sanctioned and submitted in the court of JMFC Barbil vide PR No. 31 of 2014-15 dated 12.02.2015. The case is *sub-judice*. However, it was also



clarified that this criminal proceeding is independent of decision of concerned matter disposed of by Hon'ble Supreme Court.

8. This is a case of renewal of lease but approval under FCA, 1980 was never obtained. The lease period has been proposed to be extended upto 2036 for which the user agency requires statutory approvals.

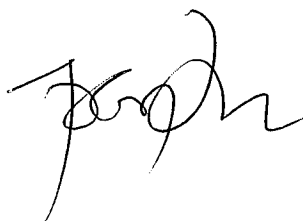
Decision of FAC:

After thorough deliberation and discussion FAC observed that the instant proposal involves violations of the provisions of FC Act 1980. User agency had continued mining in the forest area after completion of mining lease in 1996 when the mining lease was due for renewal. User agency continued mining with justification that the act is permissible under the deemed extension of lease in MMDR Act 1957. As per provisions of FCA 1980, there is no provision of "deemed extension". As per the existing provisions, the user agency should have sought permission under FCA on the due date of renewal of its lease in 1996. The Nodal officer (FCA) Odisha submitted during the meeting that, based on the observation of Justice M.B. Shah Commission of Inquiry, DFO Keonjhar Forest division has reported that offence case has been booked against the user agency for illegal production of minerals vide OR case No 164 CH of 2014-15. The prosecution has been sanctioned and submitted in the court of JMFC Barbil Vide PR. no 31 of 2014-15 dated 12.02.2015 and now the case is *subjudice*. Further Executive Director of OMC, present during the meeting, reported that this violation has been taken into account in the Hon'ble Supreme Court Judgement in WP no 114/2014 dated 2nd August 2017 (Common Cause vs Union of India). In compliance of this judgement the user agency had already paid Rs 6,13,21,368 as penalty. However, this has not been confirmed by the State Government.

FAC, after thorough deliberation and discussion, recommended for in-principle approval subject to general, standard and following specific condition:

1. State government shall clarify, whether all violations of FCA 1980 committed by the user agency has been taken into account and all the penalties imposed on the user agency has been realised, in pursuance of the direction of Hon'ble Supreme Court in its judgement in WP no 114/2014 dated 2nd August 2017 (Common Cause vs. Union of India).

FAC further recommended that the file shall be processed and placed for the approval of competent authority on receipt of above clarification from the state government.



AGENDA ITEM No 6

File No. 8-25/2019-FC

Sub:Proposal for diversion of 242.811 ha. of forest land in Anjur RF of Kancheepuram Forest Division for Hanumanthapuram Field Firing Range of Defense Services in favor of Officers Training Academy, St. Thomas Mount, Chennai INS Agrani India Navy, Coimbatore-online-regarding.

The above stated agenda item was considered in FAC meeting on 19.12.2019.

During deliberations on the matter, FAC observed the following:

1. The issue of increasing area from earlier available 70 ha to 242.811 ha in Anjur Reserve Forest was discussed with the Nodal Officer and DDGF (C) present in the meeting. The justification was provided on the basis of appropriate location, enhancement of cover, firing of heavy caliber guns and other defense related matters. It was also mentioned that Department of Forests, Government of Tamilnadu has allowed temporary usage of the area since 1969, mainly twice a year for training of purposes.
2. Issue of locating impact area of field firing zone in one corner of diversion was also explained. It was clarified by the Nodal officer and DDGF(C) that the remaining area is non-forest land and viewing both in a holistic manner will bring appropriate placement of impact zone.
3. Issue of very small impact zone was clarified on grounds of topography of the area which is primarily hilly.
4. It was informed by the DDGF(C) in his Site inspection report that proposed CA land is having a growth and about 500 plants per ha can only be planted in the proposed CA sites. Therefore, proposed CA area and CA scheme need to be revisited by the State Government.
5. A cost estimate of Rs 4.27 crores for CA on 3 ha was found to be very high and clarification was sought from Nodal Officer. The same fact was accepted by the Nodal Officer and he submitted a revised CA scheme for 3 ha, against the equivalent impact area of field firing zone.

Decision of FAC:

In view of above observations and detail deliberation on the matter, FAC **recommended for in-principle approval** with general and standard conditions.



Agenda item No. 7

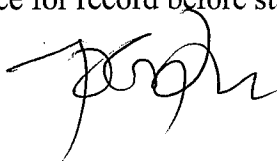
File No. 8-62/1999-FC (Pt.)

Sub: Proposal for seeking prior approval of the Central Government under Forest (Conservation) Act, 1980 in favour of Uttarakhand Forest Development Corporation, Dehradun for renewal of collection of Minor Minerals from 628.8 ha forest land of Song River 1, 2, 3 and Jakhan 1, 2 for 10 years under Dehradun Forest Division, Uttarakhand regarding (Online proposal no. FP/UK/MIN/38285/2019)

The above stated agenda item was considered in FAC meeting on 19.12.2019. The corresponding agenda note may be seen at www.parivesh.nic.in.

During deliberations on the matter, FAC observed following:

1. The Ministry had accorded approval for diversion of 1325 ha of forest land for collection of boulder, bajri, sand etc. vide letter No. **8-62/1999-FC** dated 26 May 2009 for a period of 10 (Ten) years. Accordingly, the lease period expired on 25.10.2019.
2. The State Government vide their vide letter no.971/X-4-19/2(51)/2019 dated 23rd September, 2019 submitted a proposal for seeking prior approval of the Central Government under Forest (Conservation) Act, 1980 in favour of Uttarakhand Forest Development Corporation, Dehradun for renewal of collection of minor minerals from 628.8 ha forest land of Song River 1, 2, 3 and Jakhan 1, 2 for next 10 years.
3. The concerned DFO, CF, Nodal Officer and State Government have recommended the proposal.
4. The proposed forestland was also inspected by Shri Pankaj Aggarwal, Dy. Director General of Forests (Central), Regional Office (NCZ), Dehradun, of MoEF&CC. dated 14.11.2019. Following suggestions, given in SIR were discussed in the meeting:-
 - a. Serious efforts should be made by the User Agency to give Trapezoidal shape to the riverbed to centralize the flow at the center of the riverbed to ensure stability of river banks after following the maximum permissible depth of mining at the center of the area and gradually reducing the depth towards the banks which will come to nil depth at the boundary of the middle half.
 - b. State Govt./Forest Department should ensure that the no. of seedlings to be planted per hectare of CA is as per approved norms and in no case, less no. of seedlings should be allowed to be planted. In case of any deviation, the matter should be enquired into and action may be taken against those found responsible for deviation/lapses.
 - c. As per recommendation of the ICAR-IISWC, Dehradun, the quantity of RBM extraction may be estimated by surveying the river after monsoon is over every year by a committee of experts. A copy of the assessment report of the expert committee indicating the RBM reserve replenished during rainy season should also be sent to the Regional Office for record before starting the work.



- d. The KML file of the already planted CA area not provided.

Decision of FAC:

FAC after thorough deliberations and discussions, observed that the proposal of 1325 ha of forest land has been approved under Section -2 of FC Act, 1980 for collection of minor minerals in past for 10 years. The State Government has not submitted the history of mined out area in past and the reason for submitting the proposal for the reduced area of 628.8 ha. There is no study available for any possible adverse effect of such mining on the flow of the river. In view of the above, FAC deferred the proposal with following directions:

- a. The State Government shall conduct a study to ascertain the impact of such mining in upstream and downstream. The study shall come out with clear recommendation as how such mining is useful in maintaining the natural flow of the river and health of adjoining forest. It should cover the impact of mining in the area in last 10 years. The study may correlate satellite imageries of last 10 years. It may also be ascertained that how much loose boulders and sand can be collected for the purpose of mining every year. The study may be conducted through a recognised institute of repute.
- b. It may be clarified that if the mining lease has been revised for 696.2 ha or not. The status of remaining forest area may be clarified. (1325-628.8 = 696.2 ha).
- c. KML file of CA area, as applicable be provided.

Agenda No-8

Policy issue no.: 1

F.No.FC-8-63/2000-FC

Sub: Transfer of FC approval from erstwhile M/s Bharath Mines & Minerals (ML No. 2245), Nandihalli village, Sandur Taluk, Ballari District to M/s Kirloskar Ferrous Industries Limited, LaxmanraoKirloskar Road, Khadki, Pune, the successful bidder in e-auction conducted by Department of Mines and Geology - reg.

Background

- i. The State Government of Karnataka vide their letter no. FEE 20 FFM 2019-E dt 23/10/2019 has forwarded a request for transfer of FC approval from erstwhile M/s Bharath Mines & Minerals (ML No. 2245), Nandihalli village, Sandur Taluk, Ballari District to M/s Kirloskar Ferrous Industries Limited, LaxmanraoKirloskar Road,



Khadki, Pune, along with supporting documents for the period of present FC clearance upto 05-04-2021 subject to any other conditions that arise due to non-compliance by the previous lessee or any other dues that are identified even at later stage, and also obtain separate clearance for approach road, if required under FCA, 1980.

- ii. PCCF(HoFF) Govt. of Karnataka vide E-office File no. KFD/HOFF/A5-1(MNG)/60/2018-FC dt 16/07/2019 informed that the M/s Kirloskar Ferrous Industries Limited, Khadki, Pune (Applicant) vide letter dated 17-12-2018 have reported that they have been declared as the 'preferred bidder' in e-auction process conducted by the Director, Department of Mines and Geology, Bengaluru in respect of erstwhile C-category mining lease no. 2245 of M/s Bharath Mines & Minerals and has requested this office to make the arrangements for early execution of transfer proceedings for commencement of mining operations.
- iii. The Deputy Conservator of Forests, Ballari Division has submitted the proposal to the Chief Conservator of Forests, Ballari Circle and has recommended the proposal for transfer of FC clearance. Agreeing with the opinion of Deputy Conservator of Forests, Ballari Division, the Chief Conservator of Forests, Ballari Circle has also recommended the case and submitted the report to this office. The proposal has been examined in the light of the existing FC guidelines with regard to transfer of FC clearance from one User Agency to another and the following is submitted in this regard.

a) **Mining Lease:** Government of Karnataka in Commerce and Industries Department vide Notification No. CI 83 MMM 97 dated 16-03-1999 had accorded sanction for the fourth renewal of mining lease for a period of 20 years w.e.f 06-04-1996 in favour of M/s Bharath Mines & Minerals over an area of 26.20 ha of forest land in Nandihalli village, Sandur Taluk, Ballari District. The mining lease was cancelled by Hon'ble Supreme Court vide Order dated 18-04-2013 in WP (Civil) No. 562 of 2009. Subsequently, the Department of Mines and Geology has e-auctioned the said mine and vide letter No. DMG/MLS/AUCPC'-224⁵/2018-19 dated 06-10-2018 has declared M/s Kirloskar Ferrous Industries Limited, as the 'Preferred Bidder' subject to fulfilment of certain conditions.

b) **FC Clearance:** The approval under Section 2 of the Forest (Conservation) Act, 1980 for renewal of mining lease No. 2245 in favour of M/s Bharath Mines & Minerals over 26.20 ha of forest land in Nandihalli village, Sandur Taluk, Ballari District was accorded by Government of India, Ministry of Environment, Forests and Climate Change, New Delhi vide letter No 8-63/2000-FC dated 20-03-2001 and followed by Government of Karnataka Order No. FEE 32 FFM 2000 Bengaluru dated 04-04-2001 for extraction of iron ore for a period of 20 years w.e.f. 06-04-2001. **It is to note that the said approval did not include the condition of FC approval being co-terminus with the Mining Lease. Hence, it is inferred that the said FC lease is in currency till 05-04-2021: and did not expire on the expiry of mining lease on 05-04-2016.** Further, the extent of FC lease area needs to be restricted to



24.47 hectare as indicated in CEC sketch and as per e-auction notification. **On the basis of the declaration of the Applicant as the 'Preferred Bidder' in the e-auction, and upon request of the Applicant, the FC Clearance needs to be transferred to the new User Agency.**

- iv. The issue whether the statutory approval *i.e.* approval under Forest (Conservation), Act 1980 is valid upto 31st March 2020 (as per amendment of MMDR Act) or 6th April 2021 as stipulated in MoEFCC letter dated 20.03.2001.

Decision of FAC:

The issue was deliberated and discussed in detail in the FAC. It is observed that Hon'ble Supreme Court in its order governing the issue of FC approval in respect of C-category Mines dated 30-07-2015 in WP(Civil) 562 of 2009 has ordered the following:

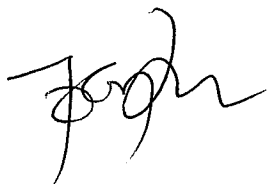
"8. The existing statutory approval/ clearances in favour of the lessee of the erstwhile category "C" mining leases will be transferred in favour of new lessees. The concerned authority will take expeditious action for grant of the statutory approvals such as environmental clearance and approval / TWP under Forest (Conservation) Act, 1980."

In the judgement it is clear that all existing statutory clearances have to be transferred in favour of new lessee. In the instant case the lease of erstwhile lessee would have expired on 05.04.2016. Had the same lessee continued, the lease would have been extended only upto 31 march 2020 (as per amended provisions of MMDR Amendment Act 2015). As per MoEF&CC guidelines 7(iii)

In case of existing mining leases, where approval under section 2 (ii) of the FC Act for the entire forest land in the mining lease has been obtained before 1.4.2015, the FC validity is deemed to have been extended co-terminus with ML in accordance of the provision of the MMDR Act. The extension of validity of FC is subject to realization of NPV before 31.3.2017, if not already realized earlier, failing which the Forest Clearance shall remain in abeyance till NPV is realized. Moreover, this deemed extension shall not apply to forest land falling in a Mining Lease for which renewal has been rejected, or which has been determined or lapsed before 1.4.2015.

Thus any approval granted to user agency prior to 1.4.2015 was deemed to be extended and made co terminus with the mining lease in accordance with the provisions of the MMDR Act. FAC also noted the fact that the renewal granted to the erstwhile lessee was fourth renewal of mining lease for a period of 20 years w.e.f 06-04-1996 to 2016.

FAC recommended that the approval granted under the provisions of FCA 1980 to erstwhile lessee *i.e.* M/s Bharath Mines & Minerals (ML No. 2245), Nandihalli village, Sandur Taluk, Ballari District may be transferred to new lessee M/s Kirloskar Ferrous Industries Limited,



LaxmanRao,Kirloskar Road, Khadki, Pune.The validity of the existing approval granted under FCA 1980 vide letter No 8-63/2000-FC dated 20-03-2001 shall be up to 31.03.2020.

Policy no. 2

File No. 10-36/2014-FC

Sub: Assurance given in the Rajya Sabha on 17th July, 2014 in respect of Rajya Sabha Unstarred Question No 938 raised by Shri Dilipbhai Pandya regarding 'Green Credit Scheme'

Facts of the proposal

GREEN CREDIT SCHEME AT A GLANCE

Introduction:

Forest Conservation Act, 1980 regulates de-reservation or diversion of forest land for non-forestry purpose. Any agency who intends to use forestland for non-forestry purpose should submit proposal for clearance under Forest Conservation Act, 1980 to the Forest Department. Compensatory afforestation is one of the most important conditions stipulated by the Central Government while approving proposals for de-reservation or diversion of forestland for non-forestry uses. It is essential that with all such proposals, a comprehensive scheme of compensatory afforestation is formulated and submitted to the Central Government.

Present practice:

The diversion of forestland for non-forestry purposes, therefore, calls for creation of equal area of forest. The present practice is that the project proponent identifies the land for compensatory afforestation and shows willingness to pay for the cost of afforestation. The proposal is thereafter approved with the conditions that the land identified is transferred to the Forest Department and amount required is paid to the Forest Department for use in compensatory afforestation works on the identified piece of land. The Forest Department thereafter undertakes the afforestation in due course while the forestland demanded by the proponent is released for the designated alternative use. This programme has been in vogue for past over three decades.

Issues:



There have been difficulties in implementation of this programme largely because of fund flow, continuous availability of land and success of afforestation is always not assured. The specific issues which need to be addressed in this regard are stated below:

1. There has been abnormal delay in making available the fund deposited by the user agency for afforestation works. This was first due to the fact that the amount so deposited by the user agency got deposited in the state revenue. The state governments thereafter provided fund under Annual Plans for the purposes which were many times adjusted according to the financial position of the state. This situation came to the notice of Hon'ble Supreme Court and CAMPA was constituted and funds deposited with State Governments were transferred to CAMPA account. It has taken several years and as yet the funds that were transferred to CAMPA have not flown in the desired manner to pace up the compensatory afforestation works.
2. The land made available for 'compensatory afforestation are often far away from forests. Thus, the new forest lands become isolated patches difficult to protect. The land so available often gets encroached before they come up for afforestation. This leads to social tensions and affect the afforestation works as also the success of afforestation.
3. Delay in undertaking afforestation works occasionally leads to cost over-runs. In such situation the requirements need to be compromised having an adverse impact on the success of afforestation.
4. The plantation raised on these lands reflects different degree of success, in respect of survival percentage. It can very well be expected that there are patches where success of afforestation is of desired level.


Proposed alternative:

To address the concerns due to delayed/inadequate/less successful compensatory afforestation for variety of reasons it is proposed that arrangement be made for advance afforestation on alternative lands. The objectives of the proposed scheme are detailed below:

1. The alternative land that may be made available would be in a suitable block facilitating appropriate protection measures.
2. The compensatory afforestation would be undertaken in advance. This 'will obviate any delays that could be caused due to fund flow or procedures.

With these highlights, programme details are described below:

1. It is proposed that any agency keen to participate in this programme may register with the State Forest Department giving details of its programme. The Forest Department will examine the proposal as per the norms and accredit the agency with the approved programme, if the proposal is found to meet the requisite criteria that may be laid in advance and approved at appropriate level including by GoI.




2. The plantation so raised shall be eligible to be considered for compensation against release of forest land after the age of three years if they meet the predetermined criteria for success. The participating agency will be free to trade its asset that is plantation in parcels with project proponents who need forest land. The project proponent may pay to the user agency the amount to be determined between the accredited agency and the project proponent and such a forested land shall be transferred to Forest Department in parcel as per project proponent's needs. In course of time, the entire site will be transferred to Forest Department and will constitute good block of forests to serve the ecological need of the region.
3. The proposed agencies could be from private sector, Joint sector or one of those agencies, which frequently need forestland for their uses.
4. There may also be a situation where the agency after undertaking the afforestation works may not like to part with the plantation area and may like to continue to retain the title of the plantation and finally take benefit in harvesting and reforesting the said piece of land. There may not be any objection to such a situation. It will in fact meet the objectives of afforestation enhancing green cover and contribute to environment improvements.

Procedure:

The procedure for participating in the scheme thus shall involve following steps

1. Identification of land by interested agency.
2. Preparation submission of project for raising forest on the identified land to the designated authority of the forest department.
3. The Forest Department would examine the project proposal and if found fit issue approval detailing norms of success.
4. At attaining appropriate age the area so afforested shall be evaluated for success against norms of success laid by the forest department. If it is found to meet criteria of success a certificate that it is eligible for consideration against "Compensatory Afforestation" under the FCA, 1980 shall be issued.
5. The agency then may publicise its credentials and availability of 'CA' the area with it for compensatory afforestation.
6. The forest department shall keep a list of such agencies and area and shall make it available to project proponents that approach it with demand of forestland for various non-forestry purposes.
7. The project proponents-needing forestland shall negotiate financial details with the afforesting available agency and enter into an agreement for required area with the concerned agency and submit same to the forest department together with application for diversion of forest land under FCA.
8. The Forest Department shall give priority to such proposals. On receipt of in-principle approval the said parcel shall be transferred to the Forest Department and declared reserved forest by the State Government.



9. However, since this piece of plantation may only be part of total area and difficult for Forest Department to manage till entire patch is transferred the concerned agency may be asked by the Forest Department to manage the area till such time as required or till the entire patch is so transferred to the Forest Department.

Benefits of the Scheme-:

1. The CA shall be undertaken in advance. thus avoiding delays due to various reasons.
2. The land being afforested in advance would not suffer from encroachments.
3. The success will be assured. Only the plantations that are found successful, according to the norms laid In advance of the department, would be eligible under the scheme.
4. In the larger context, this will hasten up the afforestation works and so carbon sequestration to address the concerns of climate change.

Afforestation Plan:

1. Compensatory afforestation- Land of minimum 100 ha. should be identified free from encroachment.
2. The identified land should be demarcated at site.
3. The identified land should be near RF/Sanctuary/NP or contiguous patch to form area.
4. The identified land for CA should be entered in revenue records.
5. CA should be carried after approval of technical model by the competent authority.

Species preferences will be as per the following list:

1. Bili
 2. Kothi
 3. Pilo
 4. Khijdo
 5. Neem
 6. Arduso
 7. Sisso
 8. Sagavo
 9. Khair
 10. D. Baval
 11. Eucalyptus
 12. Vad
 13. Pipal
 14. Umro
 15. Rukhdo
3. A Parliament assurance has been pending in this regard for a long time.



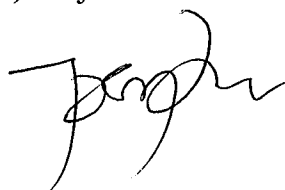
4. It was also informed that the matter of Green Credit Scheme was also dealt by the FP Division and accordingly comments of the Division was obtained, which are as follows:

Comments of FP Division

1. In a meeting chaired by Secretary, EF&CC on 18.12.2014, a presentation on Green Credit Scheme was made. The proposed scheme is mainly focused on compensatory afforestation under FCA and involves swapping of plantations raised on non-forest land in lieu of compulsory compensatory afforestation and a little incentive in form of reduction in NPV liable.
It is decided in the meeting to constitute a committee under chair of ADG(FC) to prepare a scheme involving private people in growing tree plantation on private land, plantation on degraded forest land, whether a component can be added in Compensatory Afforestation scheme to add/adjust plantation/ forest grown on private lands or incentivizing advance tree plantation raised in advance to be adjusted against CA requirement in future against diversion of forests, specific incentives for persuading people residing near forests etc.
2. On 14.01.2015 the committee discussed a draft concept note prepared in this regard. On 26th June, 2015 a presentation was made before Secretary, EF&CC on private participation in afforestation on degraded forest land including Green Credit and Tree Credit Certificate. It was decided in the meeting that PPP on afforestation of degraded forestlands should be finalized first. Accordingly, Guidelines for Participation of private sector in afforestation of degraded lands have been prepared and approved by HMEF&CC. A draft of Green Credit Certificate Scheme has been submitted for approval on 24.08.2015 but there is no approval by HMEF&CC on record.
3. No further action on proposed 'Green Credit Scheme' is on record of Forest Policy Division.
4. Forest Conservation Division may examine the proposed Green Credit Scheme in light of FCA Act, 1980, CAF Act, 2018 and rule made there under as it may deem fit.
5. In view of the above, it is submitted that the matter of Green Credit Scheme is a part of the Parliament Assurance for Rajya Sabha Unstarred Question No. 938 dated 17.07.2014 is pending since long.

Decision of FAC:

FAC deliberated on the issue and appreciated the scheme in principle. After thorough deliberation and discussion FAC recommended that such plantation shall be accepted on non-forest area. FAC believes that such schemes will encourage plantation by individuals outside the traditional forest area and will help in contributing towards meeting the International commitments of the country such as Sustainable development goals(SDGs) and Nationally determined contributions (NDCs). All such established plantations may be accepted for the purpose of CA(Compensatory afforestation) subject to the standard conditions, such as, the



CA land is mutated and notified as PF/RF.MoEF&CC may work on the modalities and issue specific guidelines in this regard.

Policy issue no.: 3

F.No.FC-11/274/2019-FC

Sub: Diversion of 1.645 ha. (revised from 1.7456 ha) of forest land in SM Block, and Sy. No. 224 of Bannihatti Village (Section-4 proposed area) in Ballari District for proposed Main Pipe Conveyor Belt Corridor from Nandihalli Railway Yard to JSW Plant in favor of M/s JSW Steel Ltd. Vidyanagar, Ballari District.

Background

- i. Government of Karnataka vide their letter no. FEE 11 FFM 2019 dt 16-12-2019 has forwarded the letter of PCCF (HoFF), Bengaluru to take necessary decision in order to extend the operation time of conveyor belt established by M/s JSW Steel Ltd. from leased mining location to manufacturing unit.
- ii. It was informed that in order to comply with the order of Hon'ble Supreme Court in W.P. (Civil) No. 562/2009 it is mandatory to establish Conveyor Belt System for mining leases. M/s JSW Steel Ltd. Thorangal has installed the conveyor belt to an extent of 24 kms out of which 1.50 kms falls in the forest area and the remaining in agricultural land.
- iii. At present, as per the conditions laid down vide letter dated 25.06.2019 by the Ministry (Stage-II approval), the operation of conveyor belts is restricted from sunrise to sunset. The user agency had requested for extending the same up to 24 hours a day.
- iv. However, the State Govt. has recommended to extend the operation time of Conveyor Belt from morning 6.00 AM to night 2.00 AM (total 20 hours) on experimental basis for 04 months, during which the impact on the wildlife is to be studied.
- v. State Forest Department has also recommended that a study should be conducted for assessing the impact of increased timing of conveyor belt system operation on wildlife of the area through a reputed institution.

Decision of FAC:

The issue was deliberated and discussed in detail in the FAC and it was appreciated that transportation of minerals by conveyor belt, slurry pipelines, etc. are environment-friendly mode of transport. Accordingly, the following recommendations were made:

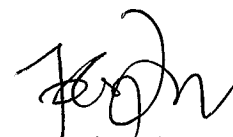
- i. The operation time of Conveyor Belt established by M/s JSW Steel Ltd., Thorangal be extended from morning 6.00 hours to night 2.00 hours (totally 20.00 hours) on experimental basis for 04 months.



- ii. A study on impact on wildlife due to increase in operation timings of conveyor belt system during experimental phase be taken up through an institute of repute like Wildlife Institute of India with ToR of proposed study finalized in consultation with State Forest Department.
- iii. The findings of the study will be shared with Forest Conservation Division of the Ministry and the cost of the study would be borne by the user agency.

Confirmed through mail

(S. D. Vora)
Member



(A. K. Mohanty)
Inspector General of Forests (FC)

not present

(Dr Sanjay Deshmukh)
Member

Confirmed through mail

(Sh Anmol Kumar)
Member

not present

(Sh M.S Negi)
i/c Addl. Director General of Forests (FC)

not present

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



(Siddhanta Das)
Director General of Forests & Special Secretary
