

**Minutes of Meeting of Forest Advisory Committee held on 28.05.2020**

**Agenda No. 1**

**Sub: Authorizing officer to take cognizance of violation under Forest (Conservation) Act, 1980-reg.**

1. The above agenda item as a policy issue was taken up in the meeting of FAC held on 28.05.2020. The status on past developments and comments/views received from various Regional Offices of the Ministry and State Governments/Union Territory Administrations were placed before FAC.
2. FAC observed that the issue was deliberated in one of its earlier meetings i.e. on 17.10.2019, wherein it was advised that a draft notification be circulated among all Regional Offices and State/UTs for comments. Accordingly, the draft notification as follows was circulated.

***"The Central Government hereby authorizes officers of the rank of Divisional Forest Officer (DFO)/Deputy Conservator of Forests (DCF) and above of the State/UT Government concerned and Assistant Inspector General of Forests(AIG) and above of Ministry of Environment, Forest and Climate Change, having jurisdiction over the forest land in respect of which any offense under the Forest (Conservation) Act, 1980 is alleged to have been committed, to file complaints against such person/authority/organization in the court having jurisdiction in the matter".***

3. The Committee was informed that most of the State Governments/UTs have agreed to the draft Notification proposed under Rule 9 of the Forest (Conservation) Rules, 2003 except certain States who have suggested certain modifications as given under:
  - a. Governments of Manipur and Karnatka have suggested to empower Asst Conservator of Forests level officer or above to file complaint against offenders in the court.
  - b. Government of Mizoram has informed that Chief Secretary of the State should be authorized.
  - c. Regional Office, Ranchi (MoEF&CC) informed that District Magistrate and the Deputy Commissioner in addition to DCF, should also be authorised to file complaints in respect of forest land not within administrative control of the State Forest Department.

- d. Regional Office, Bhubaneswar (MoEF&CC) suggested that while discharging duties as prosecuting officer, the officers entrusted with investigation and other procedures under FC Act should be considered as employees of Government of India and shall be liable for action as provided in All India Services (Conduct) Rules, 1968 as amended from time to time and Central Civil Services (Classification, Control and Appeal) Rules, 1965 as amended from time to time. Provision of indemnity for acts done in good faith while discharging responsibilities as prosecuting officer under Forest (Conservation) Act, 1980 vis-à-vis safeguards provided to the forest officer under section 74 of the Indian Forest Act, 1927 has also been suggested.
4. Drawing analogy with officers working under Election Commission of India during conduct of election on deputation was also deliberated. FAC observed that working on deputation during conduct of elections for a temporary phase of few weeks to months whereas discharging dual roles as working for the State Government and working on deputation to Government of India as prosecuting officer under Forest (Conservation) Act, 1980 are not comparable.
5. Legal aspects and other field related situations that need to be taken care of by the prosecuting officer while discharging responsibilities arising out of rule 9 of the Forest (Conservation) Rules, 2003 requires in depth study and wider consultation with States as well as Regional Offices of the Ministry. The matter may also require seeking legal opinion from appropriate authority to bring about a mechanism which will provide teeth to this delegation of power to the field level functionaries.

### **Recommendation of FAC**

FAC, after detailed deliberations on the suggestions received from various Regional Offices and State/UT Governments, desired that suggestions/comments received so far need further examination by the Ministry in the light of relevant provisions of various law as well as practical consideration of the matter with regard to efficacy of action.

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Agenda No. 2

**Sub: Minutes of the meeting of Group of Infrastructure (GoI) held under the Chairmanship of the Hon'ble Minister, RTH and MSME on 25.02.2020- reg.**

1. The above stated agenda item was discussed in FAC meeting held on 28.5 2020.
2. During deliberations, FAC observed that the issue of special exemption to Central government PSUs/undertakings to undertake Compensatory afforestation over double degraded forest land, was discussed in the Group of Infrastructure (GOI) meeting held under the Chairmanship of the Hon'ble Minister, RTH and MSME on 25.02.2020.
3. During the meeting it was informed that, FCA guideline 2.5(i) and (f) state that:

***2.5 Special provisions for CA for certain categories of projects:***

*(i) CA shall be raised and maintained at the cost of the user agency on degraded forest land twice in extent of the forest area diverted in the cases of:*

*(f) The projects implemented by the Central Government/PSUs, excluding Central Govt./Central PSUs Projects implemented by/through State Government and State Sector Projects implemented by the Central Government/PSUs*

4. In the meeting it was brought to the knowledge of official of MoEF&CC that despite clear guidelines, as stated above, ***allotment of equivalent Revenue land in lieu of diversion of forest land for NH Projects executed by the State Governments/State Governments agencies is being insisted.***
5. The decision of the Group of Infrastructure meeting held on 25.02.2020 was conveyed to MoEF&CC, through the approved minutes. The same was perused by FAC. The decision on this agenda item was:

*The official representing of MoEF&CC stated that Compensatory Afforestation (CA) is the most important component of diversion of forest area under Forest (Conservation) Act, 1980. This is stipulated to maintain and enhance forest area and forest cover of the country. CA is stipulated over non-forest land which is identified by the User Agency/Project Proponent. However, to expedite the Central Government projects, a special dispensation has been given in departure from the general norms, where under for CPSU projects afforestation in degraded forestland is allowed in lieu of non-forest land. This special dispensation has been given with the premise that Central Government does not own any land in a state/UT However, when states are associated with central projects, mobilizing non-forestland becomes possible, and this dispensation is not extended to such projects.*

*It was agreed that national highway projects, which are Central Sector Projects and are owned, developed and maintained by Central Government, identification for non-forest land for CA will not be insisted irrespective of the agency carrying out the execution. MoEF&CC is required to issue a clarification to this effect to all concerned immediately.*

**Decision of FAC:**

The matter was discussed and deliberated in detail in the FAC meeting with DDGs of Regional Offices. It was observed that as per existing guidelines, this dispensation is given for the projects implemented by Central Government/CPSUs excluding Central Govt. /CPSUs Projects implemented by/through State Government and State Sector Projects implemented by the Central Government/PSUs. The scope of expansion of this dispensation for Compensatory afforestation, as decided in the meeting of Group of Infrastructure (GoI) need proper understanding of process of execution of infrastructure work by NHAI (National Highway Authority of India) in States. In this regards NHAI officials may be invited for next FAC meeting for discussion with FAC members.

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*(Confirmed through mail)*

(S. D. Vora)  
Member

*(Confirmed )*

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

*(Confirmed through mail)*

(Dr Sanjay Deshmukh)  
Member

*(Confirmed through mail)*

(Sh Anmol Kumar)  
Member

*(Not present)*

Addl. Director General of Forests (FC)

*(Not present)*

Additional Commissioner (Soil Conservation)

Ministry Agriculture (Member)

*(Confirmed)*

(Dr. Sanjay Kumar)  
Director General of Forests and Special Secretary