

Site inspection report -Proposed diversion of 115.874 hectare of forest Land in favour of M/S Jai Prakash Associates Ltd for JP Super Cement plant and establishment of residential colony at Village Kota, District Sonbhadra

Reference: Letter no. 8-07/2019-FC dated 25.03.2019 of MoEF&CC

(FC Division) Indira Paryavaran Bhawan, NewDelhi

Date of Inspection:-16.04.2019

Name and Designation of Inspecting officer: K. K. Tiwary, DIG (Central)

The site inspection of the proposal was carried out by the undersigned in presence of following officials-

Sri Mool Chandra	Territorial DCF	Obra Forest Division
Sri Sunil Kumar Sharma	General Manager	JP associates
Sri J. P. Singh	SDO Forest	Obra subdivision
Sri T. V. Rao	Unit Head	Dalla Cement Factory

Sri Pradeep Sharma, Approved Surveyor and others officers/field staff of the Forest Department as well as user agency, were also present. Following observation was made:-

- 1. Legal status of the forest land proposed for diversion:** The area in question was excluded from section 4 of Indian Forest Act in the year 2007 by the Forest Settlement Officer and was accordingly kept out of notification under section 20 of Indian forest Act by the State Government. But the status of the land was reversed by the order dated 21.04.2016 of Hon'ble National Green Tribunal and the land was brought under the provision of Indian Forest Act 1980. The procedural formalities under section 20 has been completed vide notification dated 10.06.2016 and ownership of the land lies with the State forest Department. The legal status of the land is Reserve Forest.

2. Item-wise break-up of the forest land proposed for diversion:

The diversion of Forest land is proposed with following land use:

- (a) Cement plant named as JP Super Cement Plant area: 40.000 Ha.
 - (b) Already existing part of residential colony,
Hospital, Schools etc. 20.804 Ha.
 - (c) Connecting road to State Highway No. 5 and Green belt area: 55.070Ha.
- Total: 115.874 Ha.**

Development and Maintenance of a green belt is proposed in and around Cement Plant as per the CPCB guidelines to mitigate the effects of air emission. A green belt has to be developed in atleast 33% area in and around another cement plant of M/s JAL located on a non-forest land as per the condition stipulated in environmental clearance accorded by MoEF&CC, IA Division vide letter dated 30.09.2010.

3·Building and other Infrastructure: The Cement plant exists at the site measuring 95.070 hectare (including connecting road to State Highway no. 5 and Green belt area) which is reported to be constructed during 2007. In addition 20.804 hectare of the land is under township and ancillaries comprising 1326 Residential quarters, hospital, guest house, electric substation, Play Ground, Schools and other structures. The present proposal seeks diversion of $95.070+20.804=115.874$ hectare of Forest land, as mentioned above. Concrete Pillars have been erected around forest land proposed for diversion. A High tension line passes through proposed Forest Area.



JP Super Cement Plant at site



School building under Township



A view of proposed area for diversion



HT line passing through area



Pillar at site

4. **Total cost of the project** at present rates is reported to be 135000 Lacs.

5. **Vegetation:** -The vegetation density is about 0.3 under Eco-class III. Total number of trees to be felled are 5715. Important species are Asan,Dhaura,Casia Semia, Haldu, Khair, Kendu, Seamal, Sidha, Hardwickia etc. Number of trees to be felled of girth above 60 cm is 27.

6. Background note on the proposal: - The State Uttar Pradesh from time to time had issued notifications u/s 4 of the Indian Forest Act declaring the intention to constitute the reserved forest in respect of about 7.89 lakhs ha. area falling in Tehsil- Dudhi and Robertsganj. It was the subject matter of the case listed before the Hon'ble Supreme Court in Writ Petition(Criminal) No.1061 of 1982 (Banwasi Sewa Ashram V/s State of U.P. & Ors). The Hon'ble Supreme Court by judgement dated 20.11.1986 laid down a detailed procedure for settlement of claims, in respect of the land notified u/s section 4 of the Indian Forest Act, based on the grievances relating to the claims of the Adivasis living in Dudhi and Robertsganj Tehsil in the District of Mirzapur.

Dalla Cement Complex was developed by erstwhile U.P. Cement Corporation Ltd. (UPSCCL) since the year 1972. The Complex comprises of Cement manufacturing Unit, limestone mines, residential colony, other infrastructure

facilities etc. M/s Jai Prakash Associates Ltd acquired the assets of UPSCCL in competitive bidding under supervision of Hon'ble High Court Judicature Allahabad. Subsequently JP Super Cement Plant (A Unit of Jai Prakash Associates Ltd.) was established in the land which was earlier in possession of UPSCCL (In Liquidation) and where crusher and ancillary units were in operation.

The above land was excluded from section 4 of Indian Forest Act by Forest Settlement officer in the year 2007 and this status was reiterated by order dated 07.01.2008 of Hon'ble District Judge, Sonbhadra. Accordingly, the land measuring 599.211 hectare was excluded from the list of lands notified under Section 20 by the State Government. The change of the Forest land to Non-forest land in Revenue record was illegal and in violation of the Conservation Act, 1980. It may be mentioned that Regional Office of MoEF&CC issued various letters (viz letter dated 27.03.2009 and 10.06.2009) requesting Principal Secretary Forest U.P/ Principal Chief Conservator, U.P. and Chief Conservator of Forests, Mirzapur to stop illegal construction and other non-forest activities being carried out by M/s Jai Prakash Associates Ltd. in violation of F C Act but no effective steps were taken. An affidavit dated 02.12.2014 has been filed by Regional Office MoEF&CC, Lucknow before Hon'ble Supreme Court in the matter of I. A No. 2939-2940 of 2010 and I.A No. 2782 of 2010 in the Writ Petition 202 of 1995 T. N. Godavarman Thriumalkapad v/s Union of India on behalf of MoEF&CC, Government of India and the details of the fact have been submitted before the Hon'ble Court.

Based on a public complaint filed before Central Empowered Committee, a Writ Petition No. 2469 of 2009 was filed by the State Government in Hon'ble Supreme Court to decide the status of the said land. The matter was referred to Hon'ble National Green Tribunal by the Hon'ble Supreme Court. Ultimately, the decision of District Court was reversed by the order dated 21.04.2016 of Hon'ble National Green Tribunal. The status of the Forest land was restored and a direction for disposal of the proposal /Application under Section 2 of the Forest Conservation Act in a time bound manner was issued by Hon'ble National Green Tribunal. The land in question was notified under Section 20 of Indian Forest Act, 1980 by the state Government vide notification dated 10.06.2016. In the light of above order of Hon'ble NGT, Forest clearance for the existing plant land and other infrastructure facilities has been sought under Forest Conservation Act, 1980 by JP Associates Ltd.

7. **Compensatory afforestation**:-Compensatory Afforestation has been proposed on 115.874 hectare of Revenue land (Non-Forest land) at village Markundi in Tehsil Robertsganj under District Sonbhadra which falls under jurisdiction of Gurma Range of Kaimur Wild life Division, Mirzapur. However approximately 26 ha of this CA land is falling under water bodies.



Proposed non forest land for compensatory afforestation.



Water body falling in CA Area

To compensate the loss of net plantation area due to presence of water bodies, an additional 26 hectare of Degraded Forest land has been proposed under Odra Forest Division, Sonbhadra.

Suitability of land for compensatory afforestation: The site suitability certificates along with geo reference maps have been submitted.

The land is stated to be free from encroachments and other encumbrances.

The land is not important from Religious/Archaeological point of view.

Map with details: Geo referenced Maps of proposed CA lands have been submitted by the User Agency.

8. Violation of Forest (Conservation) Act, 1980:-The exclusion of Forest land in question from purview of Section 4 and Section 20 of Indian Forest Act by State authorities and construction of JP Super cement plant in the year 2007 without obtaining permission under FC Act is in violation of the provisions of Conservation Act, 1980. Development of Township on a forest land was done in the year 1976 i.e prior to enactment of Forest Conservation Act, 1980. Though the Cement plant is not in operation but existence of residential quarters of company's employees and continued use of other infrastructures without Forest Clearance is also in violation of FC Act. The above violations have taken place prior to submission of application/proposal of forest diversion which needs examination in the light of recent guidelines of the Ministry regarding violations of FC Act issued vide letter no.11-42-2017(FC) dated 29.01.2019.

9. Rehabilitation of displaced persons: - No displacement of habitation is proposed.

10. Cost benefit ratio. As per guidelines, proposal of Forest diversion for activities such as Habitation and establishment of industrial units on being detrimental to protection and conservation of Forests, as a matter of policy, would be rarely entertained.

11. Recommendations of the Principal Chief Conservator of Forests/State Government. Recommended by Nodal officer, FC Act, Uttar Pradesh.

12. Recommendations of Regional Chief Conservator of Forests – Recommended.

13. Utility of the project. Approximately 400 persons on regular employment and about 2000 persons on temporary basis may be benefited.

14. Land being diverted has not been reported for socio-cultural/religious value. Further, sacred grove or very old growth trees/forests is also not existent in the areas proposed for diversion. The land under diversion does not form part of any unique eco-system.

15. Wildlife and Situation w.r.t. any P.A: - Presence of rare, engendered, and specific wild life is not reported in Forest area proposed for diversion.

No National Park/Wildlife Sanctuary/Tiger Reserve/Elephant Corridor is reported to exist within 1 km radius of the land proposed for diversion. Dudhi RF and Singrauli RF area are located at a distance more than 10 km from the proposed site. It is noted that Kaimur Wildlife Sanctuary is located at a distance of about 2 km from plant site separated by a natural barrier i.e Sone River. Keeping in view the proximity of the area to Kaimur Wild life Sanctuary, Wild life Conservation Plan must be prepared /implemented in consultation with Chief Wild life Warden of the state to ensure in-built monitoring mechanism to ensure protection of Wildlife.

17. Any other information relating to the project: -

(a)The State Government of Uttar Pradesh has constituted a committee to enquire into the matter related to the inclusion of Forest land in bidding process for Sale of Assets of Uttar Pradesh Cement Corporation Ltd. and exclusion of Forest land from section 4 of Indian Forest Act in the year 2008 vide memo no. 946A/14-2-2006-405(96)/96 dated 22.04.2016.

(b) The National Company Law Tribunal Bench, Allahabad vide order dated 02.03.2017 has permitted the user agency M/s Jai Prakash Associates Ltd to transfer their cement plants to Ultra Tech Cement Ltd. M/s Jai Prakash Associates Ltd has entered into an agreement with M/s Ultra Tech Cement Ltd., to transfer the forest land involved in the above proposal with all assets existing thereupon to later, after obtaining the necessary forest clearance. So, the forest land shall ultimately be utilized by M/s Ultra Tech Cement Ltd.

(K. K. Tiwary)
DIG (Central)
Regional Office,
MoEF&CC, Lucknow.