

F.No. 5-5/2017 – FC
Government of India
Ministry of Environment, Forest and Climate Change
(F C Division)

Indira Paryavaran Bhawan,
Jor Bagh Road, Aliganj,
New Delhi-110003.
Dated: 26th September 2017

To,
The Principal Secretary
All States/Union Territories

Sub: Clarification on guideline dated 01.04.2015 and 01.05.2015 issued by this ministry regarding extension of period of validity of approvals accorded under the Forest (Conservation) Act, 1980 for diversion of forest land for mining projects in light of extension of mining lease under MMDR Amendment Act 2015

The Government of Karnataka has sought a clarification on guidelines dated 01.04.2015 and 01.05.2015 issued by this ministry regarding proposals presently under various stages of examination in the Central and State Governments for renewal of mining lease.

In this regard kindly refer to the Ministry's letter of even number dated 1st April 2015 on subject regarding extension of period of validity of approvals accorded under the Forest (Conservation) Act, 1980 for diversion of forest land for mining projects wherein it was informed that in case of existing mining leases in respect of minerals specified in sub-section (1) of section 8A of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR, Act, 1957) inserted by the Mines and Mineral (Development and Regulation) Amendment Act, 2015, period of validity of approvals accorded under section 2 of the Forest (Conservation) Act, 1980 (FC Act) shall be extended, and shall be deemed to have been extended upto a period co-terminus with the period of mining lease in accordance with the provisions of the MMDR Act, 1957, as amended, subject to the conditions stipulated in the afore-mentioned letter.

Further refer to the guideline dated 1st May 2015 whereby it was clarified that proposals seeking prior approval of Central Government under the FC Act for renewal, in accordance with the provisions of the MMDR, Act, 1957 prior to its amendment by promulgation of the afore-mentioned Ordinance, of mining leases to which provisions of the afore-mentioned guidelines dated 1st April 2015 extends, shall be closed, in case prior approval of Central Government under the FC Act for the entire forest land indicated in such proposal has already been obtained during the original lease period or previous renewal(s) of the mining lease. However, in case during the validity of the original lease or previous renewal prior approval of Central Government under the FC Act for a part of the forest land indicated in such proposal has only been obtained, such proposals shall be processed for such reduced area of forest land for which approval

under the FC Act during the original lease period or previous renewal(s) has not been obtained.

The above referred clarifications were issued assuming that no FC violation has been committed by the user agencies at the time of extending the period of FC clearance co-terminus with the extended mining lease.

In light of the clarification sought by Government of Karnataka, it is clarified that as a matter of fact the FC clearance expired on the date the lease expired as per the un-amended MMDR Act 1957. There was no provision for deemed extension of FC clearance in the existing rules. The user agencies must stop the working in the lease area involving forest land till the renewal of FC clearance. The Mines and Mineral (Development and Regulation) Amendment Act, 2015 came into effect from 12th January 2015 extending the original lease period to 50 years from the date of original assignment of lease. Before such amendment any non-forestry activity in the absence of valid FC clearance amounts to violation committed by the user agencies and appropriate penal action for violation of FC Act must be taken before extending the period of validity of the existing FC clearance co-terminus with the mining lease period extended in accordance with the MMDR Amendment Act, 2015.

The matter has been examined in the ministry and I am directed to state that those mining leases, whose lease had expired but were under extension (deemed or otherwise) when MMDR Act 2015 came in force and had not obtained Forest Clearance will be required to obtain fresh Forest Clearance under section 2(ii) of Forest Conservation Act 1980.

This issues with the approval of competent authority


20/9/17
(Naresh Kumar)

Dy. Inspector General of Forests

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2. All Regional Office, MOEF&CC
3. Secretary, M/o Tribal Affairs, Shastri Bhawan, New Delhi
4. Nodal Officers (FCA) O/o the PCCFs All States/UT
5. DIGF(FC)/Dir(ROHQ)/All AIGFs(FC), MOEF&CC New Delhi
6. PPS to Secretary, MOEF&CC New Delhi
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8. PPS to IGF(FC)
9. Guard File


20/9/17
(Naresh Kumar)

Dy. Inspector General of Forests

O/C


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