

F. No. 11-73/ 2014-FC
Government of India
Ministry of Environment and Forests
(FC Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110 510
Dated: 13th May, 2014

To

The Principal Secretary (Forests),
All State / Union Territory Governments

Sub: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980- Simplified procedures to obtain approval under the Forest (Conservation) Act, 1980 for diversion of forest land located in safety zone of existing mines- *reg.*

Sir,

I am directed to say that paragraph 4.7 (i) of the guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 (FC Act) originally provided as below:

"Forest area required for safety zone for mining operations should not be part of the forest area proposed for diversion. However, it should be indicated separately in the proposal. Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and half times of the safety zone area in degraded forest elsewhere."

2. Keeping in view the said guidelines, though prior approval of Central Government under the FC Act for diversion of forest land located within safety zone of mining lease was not sought by the State Governments, details *viz.* area, map *etc.* of forest land locate within the safety zone were separately provided in the proposals submitted by the State Governments to obtain prior approval of Central Government under the FC for diversion of the remaining forest land located within the mining lease.

3. Similarly, Central Government though was not according approval under the FC Act for diversion of forest land located within safety zone of mining leases, it was stipulating appropriate conditions, as provided in para 4.7 (i) of guidelines issued under the FC Act, in respect of the forest land located within safety zone of the mining leases, in the approvals for diversion of the remaining forest land located within the mining leases.

4. This Ministry after review of the said guidelines observed that assignment on lease of forest land located within safety zone of the mining lease in favour of the user agencies, without obtaining prior approval of Central Government under the FC Act for its diversion amounts to violation of clause (iii) of the section 2 FC Act, which reads as below:

"Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government"

2/17/05/2014

5. Accordingly, this Ministry amended the said guidelines. The amended guidelines, communicated to States/UTs. vide this Ministry's letter No. 8-25/2010-FC dated 12th July 2011 reads as below:

"Approval under the Act for diversion of entire forest land located within the mining lease, including the forest land located in safety zone, should be obtained before execution of mining lease in favour of the user agency. However, forest area required for safety zone should be indicated separately in the proposal. Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and a half times of the safety zone area in degraded forest elsewhere."

6. States/ Union Territories are now therefore, need to obtain prior approval of Central Government under the FC Act for diversion of entire forest land located within a mining lease, including forest land located within safety zone of the mining lease.

7. This Ministry after examination of the matter observed that adherence to existing procedure involving examination of proposal at several levels in the State/ Union Territory and Central Governments for obtaining approval under the FC Act for diversion of forest land located within the safety zone, in mines where approval under the FC Act for diversion of the entire remaining forest land has already been obtained, will not serve any useful purpose for the following reasons:

- (i) Impact of diversion of forest land located in safety zone, which in any case cannot be utilised for mining or any other non-forest purpose, has already been examined at the time of grant of approval under the FC Act for diversion of the remaining forest land located within the mining lease; and
- (ii) Appropriate measures to mitigate impact of diversion of such forest land have also been stipulated in the approval under the FC Act accorded for diversion of the remaining forest land located within the mining lease.

8. After careful examination of the matter, I am directed to say that in case of mines where approval under the FC Act for diversion of the entire forest land, except the forest land located within safety zone has already been obtained and while submitting proposal for obtaining prior approval of Central Government under the FC Act for diversion of forest land located in such mines, prior approval of Central Government under the FC Act for diversion of forest land located within safety zone of the mining lease was not sought keeping in view that as per the para 4.7 (i) of guidelines issued under the FC Act approval under the FC Act for diversion of such forest land at that time was not required to be obtained, the following simplified procedure may be followed:

- (i) State Government should seek the prior permission of the Central Government for diversion of forest land located in safety zone giving details of the earlier approval in letter form rather than initiating a fresh proposal.
- (ii) While seeking prior permission of the Central Government for diversion of such forest land, report on compliance to statute(s), circular(s) or directive(s), as applicable to the project, if any, which came into force after grant of earlier approval, shall also be submitted to the Central Government.
- (iii) In case of projects, where after placing full details of the project, including safety zone of the project, informed consent of all concerned gram sabha(s), as provided in clause (c) read with clause (b), (e) and (f) of this Ministry's letter No. 11-9/98-FC (pt.) dated 3rd August 2009, has already been obtained while obtaining earlier approval, fresh consent of

17/05/2017

gram sabha(s) for diversion of forest land located in safety zone of the mining lease is not required to be obtained. However, certificate regarding completion of process for identification and settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in respect of the forest land located within the safety zone, as provided in clause (a), (d), (g) and (h) of this Ministry's said letter dated 3rd August 2009, which in case of majority of the forest area in the country has already been completed, will be required to be provided by the State Government;

- (iv) Central Government shall after examination of the request and after such further enquiry as it may consider necessary, grant approval to the request of the State Government for diversion of forest land located within safety zone of the mining lease for a period coterminous with the period for which approval for diversion of the remaining forest land located within the mining lease has been accorded.

Yours faithfully,

(H.C. Chaudhary)

Assistant Inspector General of Forests

Copy to:-

1. Prime Minister's Office (*Kind attn.:* Shri Santosh D. Vaidya, Director).
2. Secretary, Ministry of Mines, Government of India, Shastri Bhawan, New Delhi 110 001.
3. Secretary, Ministry of Coal, Government of India, Shastri Bhawan, New Delhi 110 001
4. Principal Chief Conservator of Forests, all State/UT Governments.
5. Nodal Officer, the Forest (Conservation) Act, 1980, all State/UT Governments.
6. All Regional Offices, Ministry of Environment & Forests.
7. Joint Secretary in-charge, Impact Assessment Division, MoEF.
8. All Assistant Inspector General of Forests/ Director in the Forest Conservation Division, MoEF.
9. Director R.O. (HQ), Ministry of Environment and Forests, Government of India, New Delhi.
10. Sr. Director (Technical), NIC, MoEF with a request to place a copy of the letter on website of this Ministry.
11. Sr. PPS to the Secretary, Environment and Forests.
12. Sr. PPS to the Director General of Forests & Special Secretary, MoEF.
13. Sr. PPS to the Addl. Director General of Forests (Forest Conservation), MoEF.
14. PS to the Inspector General of Forests (Forest Conservation), MoEF.
15. Guard File.

(H.C. Chaudhary)

Assistant Inspector General of Forests