

F. No. 11-37/2016-FC
Government of India
Ministry of Environment, Forest and Climate Change
(FC Division)

Indira Paryavaran Bhawan
Aliganj, Jor Bagh Road
New Delhi-110003

Dated: 17th January, 2020

To

The Chief Secretary
Government of Jharkhand
Ranchi

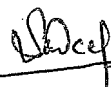
Sub: Issue pertaining to the State Forest Department in execution of doubling of Railway Line between Hatia and Bondamunda.

Sir,

It is with reference to your letter no. 1115/CS dated 23.07.2019. In this regard, I am directed to clarify that this ministry had already issued clarification on the applicability of provisions of FCA 1980 on Railway land vide letter no 11-37/2016-FC(pt) dated 21st May 2019 which reads as ***"if the land is a 'railway land' (i.e. ownership of the land vests with Railways) and which is under 'non-forest use' before 25th October, 1980 then provisions of FC Act would not apply"*** (copy enclosed). Ministry has also issued clarification vide letter 11-37/2016-FC dated 1st January 2020 regarding felling of trees in non forest land (copy enclosed).


As far as ownership of land is concerned, the same is to be done by the State Government. Moreover the word 'forest' shall be understood as per judgement of Hon'ble Supreme Court in Civil Writ No. 202/1995 in T. N. Godavarman Thirumulkpad vs. Union of India & others for the applicability of the provisions of Forest (Conservation) Act, 1980.

Yours faithfully


17.1.2020.
(Sandeep Sharma)

Assistant Inspector General of Forest (FC)

OK


21/1/2020

F. No.11-37/2016-FC (pt.)
Government of India
Ministry of Environment, Forests & Climate Change
(FC Division)

Indira Paryavaran Bhawan,
Aligang, Jor Bag Road,
New Delhi-110003.

Dated 21st May, 2019

To,
The Principal Secretary (Forests)
All State Governments/UTs

Sub: Clarification on applicability of Forest (Conservation) Act, 1980 over RoW of Railways-regarding


Sir/Madam,

It has been brought to the notice of this Ministry that from time to time Railways has been upgrading its tracks in different areas, in which the applicability of Forest (Conservation) Act, 1980 (FCA-1980) over Right of way (RoW) of Railways has come up.

Ministry of Railways has also expressed difficulty in carrying out such track upgradation works within RoW of Railways, where the State Forest Departments have raised objections seeking approval under FCA-1980.

In this context, the matter has been examined in the Ministry and it is now clarified that, "if the land is a 'railway land' (i.e. ownership of the land vests with Railways) and which is under 'non-forest use' before 25th October, 1980 then provisions of FC Act would not apply". This position would apply till any further orders/clarification are issued by the Ministry. Action may please be taken accordingly. f

Yours faithfully,


(Sandeep Sharma) 21.5.19.
Assistant Inspector General of Forests (FC)

Copy for information to:

1. Principal Chief Conservator of Forests, All State Governments/UTs.

F. No.11-37/2016-FC
Government of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Aliganj, JorBagh Road,
New Delhi – 110 003
Dated: 01st January, 2020.

To
The Secretary (Forests),
All State/UT Governments

Sub: Clarification on applicability of FCA, 1980 in Railways land - reg.

Sir,

I am directed to refer to this Ministry's letter of even number dated 21st May, 2019 on the above subject. In this connection, it is to mention that Ministry of Railways and the various State Governments have informed the Ministry that there appears to be some ambiguity in interpretation among the field staff of the State Forest Department regarding implementation of the clarification on the forest areas. The issue was further deliberated in the Ministry regarding the applicability of the Forest (Conservation) Act, 1980 on railway land

After such deliberations and, in continuation to this Ministry's letter dated 21.05.2019, it is clarified that felling of trees on railway land, which is not a forest land as clarified/defined by Hon'ble Supreme Court vide their Judgment dated 12.12.1996 in WP no. 202/1995, shall be governed by relevant local Act.

Yours faithfully,


(Sandeep Sharma) 1.1.2020

Assistant Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, All State/UT Governments
2. The Dy Director General of Forests (Central), All Regional Offices of MoEF&CC
3. The Nodal Officer, FCA, 1980 O/o PCCF, All State/UT Governments
4. Guard File.