

Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Aliganj, Jorbagh Road,
New Delhi-110003

Dated: 7th July, 2021

To

The Additional Chief Secretary (Forest)/Principal Secretary (Forest),
All State Governments/UT Administrations

Sub: Guidelines under Forest (Conservation) Act, 1980 for transfer of approvals granted under the Forest (Conservation) Act, 1980 to mining leases allotted to new lessee as per the provisions of the Mines and Minerals (Development and Regulation) Amendment Act, 2021 – reg.

Madam/Sir,

I am directed to refer to the Mines and Minerals (Development and Regulation) Amendment Act, 2021 which has been notified by the Central Government on 28.03.2021. Section 8B of the amended Act is reproduced below:

“provided that even after expiry or termination of lease and such rights, approvals, clearances, licenses and the like shall be transferred to, and vested; subject to the conditions provided under such laws; in the successful bidder of the mining lease selected through auction under the said Act. It has also been provided in the amendment Act that it shall be lawful for the new lessee to continue mining operations on the land till expiry or termination of mining lease granted to it, in which mining operations were being carried out by the previous lessee.”

In light of the above provisions of the MMDR Amendment Act 2021, the matter related to the validity of the approvals granted under Forest (Conservation) Act, 1980 (FCA-1980) was examined in the Ministry, and with a view to align the provisions under the two Acts, it has been decided that transfer of approval under FCA-1980 in such mining leases may be considered subject to the following conditions:

- i. Complete compliance of such terms and conditions as stipulated in the approval granted previously under the FCA-1980, and rules and guidelines framed thereunder in respect of the concerned mining lease has been made. The non-compliance of conditions, if any, stipulated in the approval granted to the erstwhile agency under FCA-1980, which were required to be complied before handing over the forest land to such agency, shall be transferred as liabilities to the new allottee, and in such case, complete compliance of such conditions shall be made prior to handing over of forest land to the new allottee. For the remaining conditions, the new allottee will make an undertaking to comply with, before handing over of the forest land. It is clarified that in case of violation of any of the conditions which was done during the period of previous allottee and which constitutes an offence under the FCA-1980, the penal clauses will be invoked against the previous allottee only and not against the new allottee.

- ii. Approval under FCA-1980 was valid on the date of expiry of previous lease.
- iii. Mining operations will be restricted to the forest area for which approval under Section 2 (ii) of the FC Act, 1980 has been obtained by the erstwhile user agency. No non-forest use of such forest lands falling within the lease shall be allowed, for which approval under Section 2(ii) has not been obtained by the State Government. Mining in such areas may be allowed only after obtaining prior approval of the Central Government under Section 2 (ii) of the FCA-1980.
- iv. The State Government shall ensure that the amount of Net Present Value, Safety Zone Plantation and Compensatory Afforestation(CA), if not deposited earlier, has been deposited prior to handing over of the forest land to the new allottee. Also, in case the CA land has not been made available previously, the forest land shall be handed over to the new allottee only after the corresponding CA land has been accepted by the competent authority as per the extant procedures for acceptance of CA lands for a new proposal.
- v. Mining operations and other activities shall be carried out as per the land-use allowed in the approval under the FCA-1980. Any change in the land use on account of any valid reason shall be effected with the prior approval of the Central Government.
- vi. Reclamation of the mined out forest area in the whole lease area as per the approved Mining Plan shall be an obligatory condition for the new allottee.
- vii. Transfer fee, as prescribed in the relevant guidelines incorporated in the Handbook of Forest (Conservation) Act, 1980 shall be realized from the new allottee and deposited into the account of CAMPA of the State concerned.
- viii. Transfer of approvals to new agency may be accorded by the concerned State Government/UT Administration subject to fulfilment of conditions/provisions stipulated in the relevant guidelines of the Ministry.

This issues with the approval of the competent authority in the Ministry.

Yours faithfully,

Sd/-

(Sandeep Sharma)

Assistant Inspector General of Forests

Copy to:

1. The Secretary (Mines), Government of India
2. The Principal Chief Conservator of Forests, All State Governments/UT Administrations
3. The Nodal Officer (FCA), Office of the PCCF, All State Governments/UT Administrations
4. The Dy Director General of Forests (Central), All Integrated Regional Offices of the MoEF&CC
5. PS to Hon'ble Minister, EF&CC ,GOI New Delhi
6. PPS to Secretary (EF&CC) GoI/PPS to DGF&SS, MoEF&CC, GoI
7. Monitoring Cell, FC Division, MoEF&CC, New Delhi
8. Guard File