

F.No. 11-438/15-FC(Pt)  
Government of India  
Ministry of Environment Forests & Climate Change  
(Forest Conservation Division)

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Indira Paryavaran Bhawan  
Aliganj. Jor Bagh Road, New Delhi-110003  
Dated: 17<sup>th</sup> April, 2018

To,

Principal Chief Conservator of Forest (Hoff)  
Himachal Pradesh  
Shimla

**Sub: Revision of Guidelines for diversion of forest land for non forestry purpose under the forest (Conservation) Act, 1980**

Sir,

I am directed to refer your letter No.48-66/2015(FCA) dated 8<sup>th</sup> April, 2016 and the letter of Additional Chief Secretary, Himachal Pradesh dated 14<sup>th</sup> January, 2016 and the letter of Shri Thakur Singh Bharmouri dated 30<sup>th</sup> June, 2016 on the subject cited above and to inform that considering the issues raised by Bonafide Himachalies Hydro Power Developers Association during the meeting held on 10<sup>th</sup> October, 2017, following decisions have been taken:-

**1. Right of way for transmission lines :**

**Issue:-** The financial implications of diverting the forest land coming within the width of ROW is very high as full Net Present Value (NPV) and Compensatory Afforestation (CA) costs are charged which render these projects financially unviable.

Government of India, Ministry of Power (Central Electrical Authority) guidelines dated 15<sup>th</sup> October, 2015 is for payment of compensation towards damages in regard to right of way for transmission lines and **this cannot be equated with the diversion of forest land under ROW** as in the case of forest land proposed for diversion for ROW is not acquired but permission for use of forest land for non forestry purposes are granted in favor of user agencies subject to several mitigation and compensatory measures such as payment of NPV and Compensatory afforestation cost on equal non forest area or degraded forest land towards compensating the ecological services rendered by the forest affected/damages due to laying of transmission line and construction of tower which occurs during the laying of lines and maintenance of lines while in operation. However, considering the nature of production of green energy the NPV may be charged at 50% of normal rate applicable as in case of wind energy may be allowed.

**Decision taken:** For the development of SHEP (up to 25 MW) the NPV may be charged at the rate of 50% of the normal NPV applicable in the area as granted to wind mill energy projects.

## **2. Compensatory afforestation:**

**Issue:-** In Himachal Pradesh the forest land area is more than 66.5% and there is very less non-forest land available in Himachal Pradesh for Compensatory Afforestation (CA) The HP State fulfills the criteria of forest land being more than 33% of geographical area and falls under the purview of GoI guidelines issued by MoEF&CC GoI therefore, compensatory afforestation may be considered to be allowed over the forest land as non-forest land is not available in all districts.

**Decision taken:** It was discussed and suggested that considering the topography and excessive slopes in hill districts of Himachal Pradesh and similarly positioned hill districts in the other states which are largely forest covered and to harness the tremendous under-utilized potential of Hydropower without bringing major changes in slopes/topography and to encourage natural non-abrasive eco centric development particularly in hill districts of the nation it would be appropriate to extend the benefit of clause 3.2 vi of Guidelines and clarifications issued by MOEF&CC which require compensatory afforestation may be raised over degraded forest land twice in extent of the forest area being diverted /de-reserved by bringing an amendment in the said guidelines in following manner:

### **Existing clause:**

**3.2 vi (b) For construction of link roads, small water works, minor irrigation works, school building, dispensaries, hospital, tiny rural industrial sheds of the Government or any other similar work excluding mining and encroachment cases, which directly benefit the people of the area – in hill districts and in other districts having forest area exceeding 50% of the total geographical area, provided diversion of forest area does not exceed 20 hectares.**

**Following additional clause will be inserted below the clause 3.2 vi (b)**

**3.2vi (b-1) For construction of small hydroelectric project (upto 25MW) duly approved by the competent authority in the Government which would directly benefit the people of the area – in hill districts of the country having forest area exceeding 50% of the total geographical area, provided diversion of forest area does not exceed 5(five) hectares.**

## **3. Land above tunnel shall not be considered for diversion.**

**Issue:-** Construction of tunnels is environment friendly; however, it attracts higher cost. It does not interfere with flora and fauna, ecology, etc. Therefore, the surface land above the tunnel should not be included in the Land Diversion Case.

It was clarified that tunnel is underground and land above the tunnel is always required to maintain the tunnel, to provide inspection shaft and to monitor the safety,

**Decision taken:** The forest land above the underground tunnel shall be considered for diversion and all conditions as applicable to underground mining shall be imposed accordingly.

#### **4. Temporary land required for Ropeways/construction power shall be excluded.**

**Issue:-**The temporary land required for construction activity such as construction tower, ropeways, etc. may be allowed and may not be enforced to be included in the land diversion case. Temporary ropeways and construction power lines not only protect environment rather it saves lot of fossil fuel. So land underneath the wires may not be insisted to be included in FCA.

It was clarified that though use of forest land seems to be of temporary nature but it is a fact that such changes in use of forest land for non-forestry purposes culminates into the use of regular nature. Hence it attracts the provision of Forest Conservation Act 1980 and at present no change is required from Ministry's end.

**Decision taken:** Provision of Forest Conservation Act 1980 will be applicable for such use of forest land for temporary ropeways and construction power lines.

#### **5. Considering Small Hydro Projects as linear Nature Projects.**

**Issue:-** Small Hydro Electric Projects (SHEP) involve construction of roads, transmission lines, and water canals and laying of pipelines, which involves several villages, and these activities are declared linear in nature by the Government of India not considering SHEP as linear project for the purpose of forest clearance is neither logical nor justified. It was argued by the representatives of the Bonafide Himchali's Hydro Power Developers Association that by treating the SHEP as linear project the relaxation granted in respect of the applicability of FRA will also be extended to the SHEP.

**Decision taken:** Small hydro projects requires linear components involved like laying of pipeline, roads and water canal etc. are integral part of the project and land use for linear segments therefore such proposals can be considered as linear projects as far as relaxation on settlement of rights in accordance with the FRA 2006 and the rules framed there under, however it would continue to be dealt by the Regional Office along with other hydro electric projects and sent to the Ministry for approval as being done at present.

#### **6. No Diversion case for Micro Hydel and watermills.**

**Issue:-** There are number of water mills in the hill states having potential to generate electricity 20 kw (0.02 MW) to 100 kw (0.1 MW) and there is a scheme of Ministry of New and Renewable Energy to promote such Micro Hydel Power Projects through village level committees, local youth, cooperative societies, etc. Unfortunately, such small projects are also subjected to all the clearances as a result of which nothing is happening on the ground in this regard.

It was deliberated that water mills in hills are being traditionally used and is part of hill culture and minor changes in the existing guidelines can help in generation of electricity.

**Decision taken:** Considering the Micro hydel and water mills as green energy source a general approval for establishment of Micro hydel and water mills covering a forest not more than one

hectare (1 hectare) may be granted under Section 2(ii) of FC Act to the state government if no felling of trees are involved with general and standard conditions applicable to such projects.

## 7. Catchment Area Treatment Plan (CAT)

**Issue:-** Project up to 10 MW are exempted to pay CAT Charges being renewable but as per present Guidelines up-to 25 MW capacity are categorized as renewable projects. Since all these projects are runoff river projects and no poundage is allowed CAT may be exempted for all type of projects up-to 25 MW capacity. It was clarified by IGF (FC) that the Catchment treatment is very essential to conserve soil strata covering the contributing slope of any watershed, it not only helps to conserve the precious soil but leads to vegetate the soil cover resulting prolonging moisture retention in the slopes. As this is a technical requirement it cannot be dispensed with.

**Decision taken:** Catchment area Treatment plan will be done as applicable today and this condition may not be dispensed with for the improvement of the catchment on which SHEP are situated.

This issues with the approval of competent authority.

Yours faithfully,

  
(Nisheeth Saxena)

Sr. Assistant Inspector General of Forests (FC)

Copy to :

1. Ms. Pratima Gupta, Director, NITI Ayog, Government of India with reference to letter No. 13017/9/2015-E&F dated May 19<sup>th</sup>, 2016.
2. Additional Chief Secretary, Forest Department, Himachal Pradesh Government, Shimla.
3. Shri Thakur Singh Bharmouri, Himachal Pradesh, Shimla.
4. Shri Pramod Sharma, Chief Adviser, BHPDA, Shivani Bhawan, New Delhi.

Copy to :

1. PPS to DGF&SS
2. PPS to ADGF (FC)
3. PPS to IGF(FC)