



**Office of the Principal Chief Conservator of Forests
(Head of Forest Force), Maharashtra State Nagpur**

**Additional Principal Chief Conservator of Forests and Nodal
Officer, Maharashtra State, Nagpur**

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Sub.:- Ex-Post facto approval for diversion of 0.8567 ha. of reserved forest land in favour of Tribal Public Works Division, Kalwan towards the construction of Disaster Management works i.e. Sky Walk, Bye pass road, Drainage line & Sewage treatment plant at Village Saptashrungi Gad, Tal-Kalwan in District Nashik in the State of Maharashtra-regarding.

No. : Desk-17/NC/II/I.D.12487/(14)/

681 /2018-19

Nagpur - 440 001, dated:

21/06/2018

To

The Addl. Principal Chief Conservator of Forests (Central),
Government of India, Ministry of Environment, Forests & Climate Change,
Regional Office (WCZ), Ground Floor, East Wing,
New Secretariat Building, Civil Lines,
Nagpur-440001

Ref. :-1) Government of India letter No. FC-I/MH-69/2017-NGP/1581 dated 04/04/2017.

2) Government of India letter No. FC-I/MH-69/2017-NGP/2456 dated 11/09/2017.

Sir,

A proposal for diversion of 0.8567 ha. of reserved forest land in favour of Tribal Public Works Division, Kalwan towards the construction of Disaster Management works i.e. Sky Walk, Bye pass road, Drainage line & Sewage treatment plant at Village Saptashrungi Gad, Tal-Kalwan in District Nashik has been submitted to GOI vide this office letter No Desk-17/NC/II/I.D.12487/(14)/2253/2016-17 dated 07/03/2017.

On scrutiny of the proposal, Govt of India has raised the observation vide letter dated 04/04/2017 under reference (1).

Due to non receipt of compliance in time, GOI has closed the proposal under para 4.14 of the Guidelines issued under the Forest (Conservation) Act 1980 vide their letter dated 11/09/2017 under reference (2)

The User Agency i.e. Executive Engineer, Tribal Public Works Division, Kalwan, Distt Nashik vide their letter dated 17/02/2018 (Copy enclosed) intimated that the queries compliance has not been submitted in time because of delay in preparation of DGPS Map, layout Map, time taken to explore the possibilities for alternative non forest land for this project and obtaining Form II from District Collector and requested to re-open the proposal.

The User Agency has submitted the compliance. Accordingly Chief Conservator of Forests (T) Nashik has submitted the compliance report vide letter dated 16/11/2017 and 12/06/2018 and recommended to reopen the proposal .

The compliance report on the point raised by the Government of India vide letter dated 04/04/2017 is submitted as under :- .

Sr.No	Raised Points (Remarks)	Compliance
i	Part -IV and Part -V of the Form -A do not bear date of submission	Part-IV and Part V of the form A duly mentioned the date is enclosed as Annexure I and uploaded on online portal .
ii	Copy of document, in support of the competence / authority of the person making application to make application on behalf of the user agency; have not been uploaded on the website.	The User Agency has submitted the Authority letter issued by S.E., P.W. Circle, Nasik is enclosed as Annexure II and uploaded on online portal .
iii	Differential GPS map of the area proposed for diversion as well as area identified for raising CA and Penal CA has not submitted. The same needs to be submitted along with soft copies of their Shape/KML files.	<ol style="list-style-type: none"> 1) DGPS map of the area proposed for diversion is enclosed as Annexure III 2) Consolidated DGPS map of the area identified for CA and PCA is enclosed as Annexure IV 3) Shape/KML file of the Area proposed for diversion as well as area identified for CA & PCA is enclosed as Annexure V
iv	Area of raising Penal CA has not been identified. Details of the same needs to be submitted along with corresponding attributes viz. afforestation scheme , Differential GPS map, suitability certificate and undertaking from the user Agency to bear the cost of CA.	<p>Deputy Conservator of Forests East Nashik division identified the consolidated area of 2.00 ha of degraded forest land from Compartment No 287 of Village Vanjari, Tal-Kalwan, Distt-Nashik for CA & PCA (1.00 ha for CA and 1.00 ha for PCA)</p> <ol style="list-style-type: none"> 1) Site Suitability certificate of Deputy Conservator of Forests East Nashik division is enclosed as Annexure VI 2) CA Scheme has already submitted with proposal, however a copy of the same is enclosed as Annexure VII 3) Consolidated DGPS map of the area identified for CA and PCA is enclosed as Annexure IV 4) Undertaking from the User Agency to bear the cost of CA has already submitted with proposal, however copy of the said is enclosed as Annexure VIII
v	The District Collector, Nashik has issued certificate in form-I instead of	The User Agency has submitted the FRA-2006 certificate issued by District Collector Nashik in Form

	form-II annexed to the MoEF&CC's advisory dated 5.07.2013 as the instant proposal falls into the non-linear category. Revised certificate, in original, needs to be submitted along with the compliance report. Copy of the resolutions of the concerned Gram Sabha (Marathi version) may be submitted.	II. alongwith copy of the resolutions of the concerned Gram Sabha are enclosed as <u>Annexure IX</u>
vi	Project layout map on appropriate scale clearly and conspicuously depicting all components of the project including temple vis-à-vis forest area may be submitted by the State Government.	The User Agency has submitted the Project layout on appropriate scale is enclosed as <u>Annexure X</u>
vii	Details of alternatives explored by the User Agency for construction of drainage line and Sewage Treatment Plant (STP) have not been provided by the User Agency. These two components are yet to be started. The STP, being a non-site specific component; should be shifted to non-forest land or in the already available temple premises.	<p>The User Agency submitted that for executing these works, either we have to use Gaothan land or forest land. As it's a pilgrimage centre, so many shops and buildings have come up in the Gaothan land. Whereas, the forest land was found barren without any vegetation. Moreover,</p> <p>As per Topography the gradient slope running through forest land is towards Valley. As per Topography it is not possible to take drainage line works in the area other than forest land. As STP is supposed to be constructed towards the end point of the drainage channel, forest land is the only option available. The temple is located at an altitude of 1230 msl on the top of a series of seven hills called Saptashrung Gad. Temple premises are also located in an elevation higher than Gaothan and forest land.</p> <p>Hence the proposal for constructing drainage lines and STP in forest land may be accepted on technical ground.</p>
viii	Detail of area break up submitted online mentioned in Part-I mentioned three drainage lines. Rationale for proposing three drainage lines instead of one line has not been submitted. Optimization of the area requirement needs to be undertaken by the State Government.	<p>The User Agency has submitted that three drainage Lines are considered for calculation purpose. Length of two branch Lines which collects drainage water from the streets and internal roads of Gaothan area are 66.23 m and 100m. Length of the main Drainage Line is 200 m. The total area of the Drainage Line in forest area is only 837.17 sqm. Two branch Lines are connected to a main Drainage Line.</p> <p>Drainage line is essential in such heavily floating populated area for the good sanitation care of the visitors, local villagers. It will protect the people from epidemics. This work is part of the original project.</p>

Matter regarding violation of the Forest (Conservation) Act, 1980 reported by the State Government has also been examined by the Regional Office. As per the report submitted by the PCCF & HoFF, it is revealed that User Agency has not complied with the relevant provisions of the Forest (Conservation)

Act, 1980. However, defendant cannot use ignorance of law to excuse his negligent actions. Following information needs to be obtained from the State Government.

Sr. No.	Points	Compliance
i	As per the facts indicated in the violation report the work was started by the User Agency on the strength of Technical Sanction and Administrative approvals accorded by the various authorities in the state Government. Details of concerned authorities, along with a copy of the technical / administrative approval and other approvals/orders accorded to start the work may be intimated by the state government.	<p>Administrative Approval given by Maharashtra Govt. Tourism department vide :-</p> <ol style="list-style-type: none"> 1. Sky walk- No/TDM/2009/7/Lr. no/217/Tourism Dt.05/03/2011 for Rs.8.45 corer. 2. By Pass- No/TDM/2009/7/Lr. no/217/Tourism Dt.05/03/2011 for Rs.1.45 corer. 3. Administrative approval order No TDS2012/10/P No 575/Tourism dated 29/01/2013 <p>Technical sanction 2- by chief Engineer P.W.Region, Nashik</p> <ol style="list-style-type: none"> 1. Sky Walk- No/Desk-3/Bldg./ Nashik 4535/2013 Dt. 29/07/2013 for 8,44,50,000/- (in Register noting no/Nashik/Bldg./11 for 2013-14) 2. By pass- In Register Nothing No/Nashik/Roads/222/2012-13 for Rs- 1,44,55,000/- <p>Work order- issued by Executive Engineer Tribal P.W.D.Kalwan vide :-</p> <ol style="list-style-type: none"> 1. Sky Walk vide Lr.No/EE/Tender/AB/4586/2013 Dt 30/12/2013 (open E Tender) Tender No B-1/Govt/5 for 2013-14 Accepted Tender cost Rs. 8,06,33,039 /-(3.33% above) 2. Bye Pass vide Lr.No/EE/Tender/AB/ 1210 /2014 Dt 04/03/2014 (open E Tender) Tender No B-1/CE /16 for 2013-14 Accepted Tender cost Rs. 1,38,29,247 /-(0.50 % above) <p>Copy of Administrative approval order/Technical Sanction/Work order are enclosed as Annexure XI</p>
ii	Issuance of technical / administrative approval and or other approvals / orders by the authorities in the state government to start work, without obtaining prior approval of the central government is violation of Section -2 of the Forest (Conservation) Act , 1980 .An action taken report by the authorities in the State Forest	<p>A POR was lodged against the Executive Engineer, Tribal Public Works Division Kalwan and concerned contractor by Round Officer, Abhona. Copy of the POR is enclosed as Annexure XII</p> <p>Executive Engineer Tribal Public Works Division Kalwan Distt Nashik intimated the details of action taken against the officers responsible for the violation of concerned rules and regulations stipulated in the FCA 1980 vide letter dated 21/02/2018 is enclosed as Annexure XIII</p>


	Department against the impugned approvals may be needs to be intimated to this office.	
iii	The user agency has undertaken construction of the said road w.e.f. from 30.12.2013 to 22.10.2014 i.e. for a period of 10 months without obtaining approval under the Forest (Conservation) Act, 1980 and no authorities in the State Forest Department recognized the unauthorized construction agency as violation of the Forest (Conservation) Act, 1980 A justification in this regard may be furnished by the State Government as to why no cognizance of the offence was taken during the intervening period along with the details of the officers of Forest Department who have ignored such violations and a report on actions taken against them.	Deputy Conservator of Forests East Nashik intimated vide letter dated 25/04/2018 that the following officer and staffs of Forest Department who have ignored and responsible such violations and process for Departmental Enquiry has been initiated against these three officers/Staff Copy of letter is enclosed as <u>Annexure XIV</u> 1.Shri R. P. Dhomse, R.F.O. Kalwan(T) 2.Shri D. S. Keskar, Forester, Abhona 3.Shri S. D. Mahale, Forest Guard ,Nanduri
iv	Present status of FIR lodged by the State Department, if any, along with a credible action taken report against the offenders, may be submitted to the Regional Office.	As POR has already been lodged against the offenders, enquiry is in progress.

Seeing the request of the User Agency and fulfillment of compliance, GOI is requested to reopen the proposal and may kindly be moved to issue formal approval order under section – 2(ii) of the Forest (Conservation) Act, 1980, as early as possible.

Encl.: As above.

Yours faithfully,

Draft Approved by
Addl.P.C.C.F.& N.O.M. S.Nagpur


**For Additional Principal Chief Conservator of Forests
& Nodal Officer, Maharashtra State, Nagpur**

Copy to :-

1. Secretary (Forests), Revenue and Forest Department, Mantralaya, Mumbai.
2. Chief Conservator of Forests (T) Nashik
3. Deputy Conservator of Forests, (East) Division Nashik
4. Executive Engineer , Tribal Public Works Division, Kalwan, Distt Nashik