

PART - IV

(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest Department)

Detailed opinion & specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks.

(While giving opinion, the adverse comments made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Recommended for according post-facto approval for diversion of 1.78 ha. of forest land [including 0.50 ha., already approved by the Government of India vide letter No. 4/KRB 551/2008/BAN dated 02-11-2010] in Padukonaje Village Sy.No.78/1P, Marpady Reserved Forest, Mangalore Taluk, , Kundapura Division, for building stone material quarry in favour of M/s. Padma Crushers, Bantwala Taluk, Dakshina Kannada District for a period of 10 years with effect from 2-11-2010. (Online Proposal No: FP/KA/QRV/7549/2014) under the Forest (Conservation) Act, 1980, subject to the specific conditions as detailed below and the general conditions appended in Annexure 'A'.

Signature:

Name:

Designation:


P. ANUR REDDY, IFS.,

Nodal Officer &

**Additional Principal Chief Conservator of Forests
(Forest Conservation) Bengaluru.**

(Official Seal):

Countersigned by :

Name:

Designation:


G.V. SUGUR, IFS.,

**Principal Chief Conservator of Forests
(Head of Forest Force) Bengaluru.**

(Official Seal):

N.D.O. No: 55/2014-15.

Date: 03-03-2015.



C. No: 11957

No: A5(2).QRY.CR-10/2014-15

Office of the
Principal Chief Conservator of Forests
(Head of Forest Force)
Aranya Bhavan, Malleswaram
Bengaluru - 560 003, dated 3 -03-2015.

To

The Additional Chief Secretary to Government,
Forest, Environment and Ecology Department,
M.S. Building,
Bengaluru - 560 001.

Sir,

Sub: Diversion of 1.78 ha. (including 0.50 ha. already diverted) of forest land in Padukonaje Village Sy.No.78/1P, Marpady Reserved Forest, Mangaluru Taluk, Kundapura Division, for building stone material quarry in favour of M/s. Padma Crushers, Bantwala Taluk, Dakshina Kannada District. **(Online Proposal No: FP/KA/ QRY/7549/2014)**

- Ref: 1) Online Proposal No. **FP/KA/QRY/7549/2014** dated 30-10-2014 of M/s. Padma Crushers, Jodumarga, Bantwala Taluk, Dakshina Kannada District.
- 2) Letter No. A3/Quarry/CR.118/2014-15 dated 19-1-2014 of the Chief Conservator of Forests, Mangaluru Circle, Mangaluru.
- 3) Letter No.DMN/CR.18/FLD/2014-15 dated 17-1-2015 of the Deputy Conservator of Forests, Kundapura Division, Kundapura.

* * * * *

M/s. Padma Crushers, Bantwala Taluk, Dakshina Kannada District has submitted the proposal through web portal for seeking approval for diversion of 1.78 ha. (including 0.50 ha. already diverted) of forest land for the above project under Forest (Conservation) Act, 1980, vide letter cited under reference (1) above. After examining, the Chief Conservator of Forests, Mangaluru Circle, Mangaluru has submitted the proposal for diversion of 1.78 ha. of forest land in Padukonaje Village Sy.No.78/1P, Marpady Reserved Forest, Mangalore Taluk, , Kundapura Division, for building stone material quarry in favour of M/s. Padma Crushers,

Bantwala Taluk, Dakshina Kannada District under the Forest (Conservation) Act, 1980.

Earlier, the Government of India vide letter No: 4-KRB551/2008-BAN dated 2-11-2010 & the Government of Karnataka vide letter No. FEE 93 FFM 2008 dated 24-1-2011 has accorded approval (Stage-II) for diversion of 0.50 ha of forest land in Sy.No.78/1 of Marpady Block in Moodbidri Range for building materials in favour of Sri Aithappa Alva, M/s. Padma Crushers, Bantwala, Kundapura Division, Dakshina Kannada District. In addition to 0.50 ha. of forest land, the User Agency has utilized additional forest land for quarrying, approach & for dumping the material, in violation of Forest (Conservation) Act, 1980.

The details of the forest land utilized as per the present proposal are as under:

Sl No	Name of the				Sy No	Status of Land	Extent (in ha.)
	District	Range	Hobli	Village			
1	Dakshina Kannada	Marpady Block	Mudabidare	Padukonaje	78/1P	RF	1.78
Grand Total							1.78

The purpose wise breakup of the forest land required for the project is as under:

Sl. No	Particulars	Extent (in ha.)
1	Building Stone Material Quarry.	1.20
2	Approach to the lease quarry area & for dumping the material	0.58
Total		1.78

The Deputy Conservator of Forests, Kundapura Division, Kundapura has inspected the site on 1-1-2015 and furnished the details in Form-A Part-II as under:

- (1) The requirement of forest land proposed by the User Agency is unavoidable and barest minimum for the project.
- (2) There are no trees existing on the proposed forest land for diversion.
- (3) The proposed forest area falls under Eco-Class-III (Open Forest) category
- (4) There are no rare / endangered / unique species of flora and fauna in the proposed area.
- (5) There are no protected / archeological / heritage sites or defence establishments or important monuments in the area.

- (6) The proposed forest area does not form part of any Wildlife Sanctuary, National Park, Biosphere Reserve, Tiger Reserve or Elephant Corridor, etc.
- (7) The forest area proposed for diversion is rocky.
- (8) Violation committed, the User Agency has utilized the excess area 1.28 ha without obtaining FC approval. Hence, the RFO has filed FIR against the User Agency vide FOC No.41/14-15, FIR No.037653 dated 16-9-2014.

The User Agency has identified 1.78 ha. of Patta Land (non-forest land) for compensatory afforestation in Kabbinala Village, Karkala Taluk which is adjacent to Hebri Forest Range and part of the said land is covered with bushes & small plants and the said non-forest land is in the name of Sri. Aithappa Alva.

Further the Deputy Conservator of Forests, Kundapura Division has stated that the said CA land in Sy.No. 68/8, 68/2A, 68/1, 68/7, 68/6B, 124/1B & 1C of Kabbinala Village of Karkala Taluk of Udupi District is found adjacent to the Someshwara Wildlife Sanctuary and is found with Natural tree growth. The area is suitable for plantation under eco-restoration model of afforestation.

The User Agency has to pay the Net Present Value (NPV) of forest land being diverted under this proposal as per Hon'ble Supreme Court of India's Orders dated 28-3-2008 and 9-5-2008 in I.A.No.826 in I.A.566 in WP(C) No. 202/1995. The User Agency has given an undertaking to pay the Net Present Value for an extent of 1.28 ha. (Since Net Present Value for 0.50 ha. has already been paid as per earlier stipulation of Government of India letter No. 4-KRB/551/2008/BAN dated 23-7-2009). The User Agency has also given undertaking to pay Compensatory Afforestation charges towards 1.78 ha. of forest land proposed for diversion.

With regard to compliance of Recognition of Forest rights (ROFR) Act 2006, the Deputy Conservator of Forests, Kundapura Division, Kundapura has furnished copy of certificate in Form-II issued by the Deputy Commissioner, Dakshina Kannada District regarding compliance of Forest Rights Act, 2006 and Rules 2008 as per guidelines issued by Ministry of Environment and Forest, New Delhi vide letter No. 11-9/1198-FC(pt) dated 3-8-2009/05-7-2013 (**Copy Enclosed**).

The Deputy Conservator of Forests, Kundapura Division, Kundapura has inspected the site on 01-01-2015 and has stated that the User Agency had already got a lease for 0.50 ha.in the above said Survey Number and Forest block, during the year 2010 & "the User Agency has utilized total 1.28 ha. area (0.70 ha. additional area opened up for quarry & 0.58 ha. of forest land utilized as approach to the leased quarry and for dumping the material) there by violating FCA, 1980

without obtaining approval". Accordingly, the Range Forest Officer has filed FIR against the User Agency vide FOC No. 41/14-15, FIR No.037653 dated 16-9-2014. The Deputy Conservator of Forests has also restricted the present working to the originally leased area of 0.5 ha. He was been specifically instructed not to allow working beyond 0.5 ha. of originally leased area. The Deputy Conservator of Forests has recommended the above proposal for diversion under the Forest (Conservation) Act, 1980 with the condition that the User Agency has to pay the Penal NPV, Penal CA Charges & any other conditions laid by the Government of India for the violation of Forest Conservation Act, 1980.

The CCF, Mangalore Circle, Mangalore has inspected the site on 13-1-2015 and he has reported that (i) the User agency holds a valid lease for quarrying in the area for 0.50 ha., (ii) and he has utilized part of this leased area, (iii) he has also utilized more area adjacent to this area there by violating FCA, 1980 i.e. "an area of 0.58 ha. Reserve Forest area has been utilized as approach to the leased quarry area and for dumping the material, & (iv) above this leased area, the user agency has opened certain area for quarrying which is approximately 0.70 ha." Hence, he has recommended for diversion of the additional area by imposing fine, penal NPV, penal CA charges & any other levies as deemed fit.

The following are some other observations with regard to the said proposal.

- 1. Violation of Forest (Conservation) Act, 1980:** Earlier, the Government of India vide letter No: 4-KRB551/2008-BAN dated 2-11-2010 & the Government of Karnataka vide letter No. FEE 93 FFM 2008 dated 24-1-2011 has accorded approval (Stage-II) for diversion of 0.50 ha of forest land in Sy.No.78/1 of Marpady Block in Moodbidri Range for building materials in favour of Sri Aithappa Alva, M/s. Padma Crushers, Bantwala, Kundapura Division, Dakshina Kannada District. In addition to the said land of 0.50 ha. the User Agency has already utilized an extent of 1.28 ha. forest land without approval under Forest Conservation Act, 1980 in violation of the Act said. And now the User Agency has submitted consolidated proposal for diversion of 1.78 ha. of forest land for building stone material quarry in Padukonaje Village Sy.No.78/1P, of Marpady Block, Dakshina Kannada District.

The above facts may kindly be brought to the notice of the Ministry of Environment, Forest and Climate Change, Government of India to take appropriate decision regarding imposing of penalty as deemed fit for the above violation. The User Agency shall have to comply with the same.

- 2. Submission of Quarrying Lease/License:** The User Agency has got a Quarrying Lease/License granted by the Deputy Director, Department of Mines & Geology, Mangalore for building stone in an area of 1.24 acres (0.50 ha.) in Sy.No. 78/1P of Padukonaje Village, Mangaluru Taluk for a period of 10 years with effect from 01-07-2011(Copy enclosed). The user agency has utilized 0.70 ha. in addition to 0.50 ha. for quarrying purposes for which he has no quarrying lease / license granted by the Department of Mines & Geology. User Agency has to obtain the same from the Department of Mines & Geology for 0.70 ha., thereby total area for quarry for which lease / license from Department of Mines & Geology is required is 1.20 ha. For remaining 0.58 ha. no quarrying shall be permitted and it shall be used only for approach and dumping of material. In this connection, the User Agency has submitted an undertaking to produce copy of the Quarrying Lease/License granted by the Department of Mines & Geology before submission of compliance to the 'in-principle' approval to be accorded under the Forest (Conservation) Act, 1980 (Undertaking enclosed).
- 3. Assessment of quantity of Material removed from the additional area utilized:** The field officers have reported that the User Agency had opened (utilized) certain area for quarrying which is approximately 0.70 ha., apart from the lease area of 0.50 ha., which is violation of the Forest (Conservation) Act, 1980. The Deputy Director, Mines & Geology, Mangalore shall have to ascertain the quantity of material removed from the addition land used by User Agency, based on which the assessment regarding recovery by Deputy Director, Mines & Geology, Mangalore for Royalty, etc & by Deputy Conservator of Forests, Kundapura Division, Kundapura regarding FDT, shall have to be carried out. The User Agency shall have to pay all such dues as assessed by Deputy Director, Mines & Geology, Mangalore, Deputy Conservator of Forests, Kundapura Division. In this regard, the User Agency has to produce no due Certificate from Deputy Director, Department of Mines & Geology, Mangalore and the Deputy Conservator of Forests, Kundapura Division regarding recoveries with regard to Royalty, Forest Development Tax, etc., for the quantity removed from the said additional land used by the User Agency before submission of compliance to the 'in-principle' approval to be accorded under the Forest (Conservation) Act, 1980.

Under the circumstances, while agreeing with recommendation of the field officers, it is requested to kindly move this proposal with the Government of India for according the post facto approval for diversion of 1.78 ha. of forest land [including 0.50 ha., already approved by the Government of India vide letter No.


4/KRB 551/2008/BAN dated 02-11-2010] in Padukonaje Village Sy.No.78/1P, Marpady Reserved Forest, Mangalore Taluk, , Kundapura Division, for building stone material quarry in favour of M/s. Padma Crushers, Bantwala Taluk, Dakshina Kannada District for a period of 10 years with effect from 2-11-2010. (Online Proposal No: FP/KA/QRV/7549/2014) under the Forest (Conservation) Act, 1980, subject to the specific conditions as detailed below and the general conditions appended in Annexure 'A'.

Specific conditions:

1. The User Agency shall have to produce copy of quarrying lease/license granted by the Department of Mines & Geology to an extent of 0.70 ha.
2. The User Agency shall not carry out quarrying in the remaining 0.58 ha. area which shall be utilized only for dumping of material and approach.
3. The User Agency shall have to clear all dues, as assessed by the Department of Mines & Geology pertaining to the quantity of material removed from the additional area used for quarrying and furnish no dues certificate.
4. The User Agency shall have to clear the Forest Development Tax dues, with regard to the quantity removed from the additional area used for quarrying.

The proforma particulars along with relevant documents in 3 sets are submitted herewith for kind perusal and further action.

Yours faithfully,


Principal Chief Conservator of Forests
(Head of Forest Force), Bengaluru.

Copy to the Chief Conservator of Forests, Mangaluru Circle, Mangaluru for information and necessary action.

Copy to the Deputy Conservators of Forests, Kundapura Division, Kundapura for information and necessary action as stated above. He is instructed to confine the working of lessee to the originally leased area of 0.5 ha. He is further instructed to send the name of the officers responsible for allowing the encroachment for taking further necessary action.

Copy to the Deputy Director, Department of Mines & Geology, Mangaluru for information and necessary action.

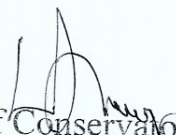
Copy to M/s. Padma Crushers C/o. Padma Services, P.O.Jodumarga-574 219 Bantwal Taluk, Dakshina Kannada District for information and necessary action with a request to produce the no due Certificates as stated above.

D:A5(2).QRY.PADMA CRUSHER

ANNEXURE 'A'

1. The User Agency has to pay the Net Present Value (NPV) of forest land diverted (1.28 ha.) under this proposal as per orders dated 28-3-2008 and 9-5-2008 of the Hon'ble Supreme Court of India.
2. The User Agency shall have to pay Compensatory Afforestation, Penal Compensatory Afforestation charges & any other penalties as stipulated by Ministry of Environment and Forests, Government of India.
3. The User Agency shall have to mutate & transfer non-forest Compensatory Afforestation land of 1.78 ha. in favour of Karnataka Forest Department.
4. The legal status of Forest land shall remain unchanged and it shall continue to be as forest land.
5. The lessee shall pay lease rent as fixed by the Govt. from time to time.
6. The lease tenure is for a period of 10 (ten) years with effect from 2-11-2010 i.e. co-terminus with the approval already accorded by the MoEF vide its letter dated 2-11-2010 (for an extent of 0.50 ha).
7. The leased out area should be used for the purpose for which it is granted. In case the land is not used for the stipulated purpose within one year or when it is no longer needed for the stipulated purpose, the area should be resumed to the Forest Department under Section 82 of Karnataka Forest Act, 1963. The concerned Chief Conservator of Forests / Deputy Conservator of Forests is authorized to take necessary action in this regard.
8. No residential buildings shall be permitted in the proposed forest area.
9. The Karnataka Forest Act, 1963 and Rules, 1969 and other relevant Acts & Rules will be applicable for any violation.
10. The lessee shall take up planting work on the static dumps during the advance quarrying operations.
11. Before closing the quarry lease the lessee shall reclaim the quarry and rehabilitate the dumping area at his cost / or deposit the cost to Forest Department as calculated by the Deputy conservator of Forests / State Government.
12. The lessee shall carry out soil and moisture conservation and other necessary measures around the forest area diverted as per the plan prepared in consultation with the Deputy Conservator of Forests.

13. The lessee shall undertake to protect rigidly the leased area and forest area surrounding the area from the leased site and shall ensure that no smuggling / poaching activities taken place in this area.
14. The lessee shall not cut any trees without prior permission of the Forest Department and all produce of permitted felling shall be handed over to the Forest Department under cover of receipt. Transportation of quarried material (Stones, jelly etc) should be strictly as per transit rules in force.
15. In case of violation of agreement condition the Deputy Conservator of Forests will have right to suspend the mining activities.
16. The boundary of the quarry shall be fixed by erecting the stone pillars of four feet height.
17. No new roads shall be made / opened inside the forest.
18. Quarrying shall be contained within gently slope, not exceeding 30 degrees.
19. The waste debris generated shall be disposed of properly.
20. The User Agency shall ensure that there should be no damage to the available fauna and other flora.
21. No labour camp shall be established on the forest land.
22. Any damage to forest area due to such works shall be compensated by the User Agency. The extent of damage shall be assessed by the concerned Deputy Conservator of Forests.
23. The lessee shall not sub-lease, mortgage or hypothecate the forest area.
24. The User Agency shall also abide by all the conditions imposed upon by Government of India, the Government of Karnataka and Principal Chief Conservator of Forests (Head of Forest Force).


Principal Chief Conservator of Forests
(Head of Forest Force), Bengaluru.