

चेक लिस्ट क्रमांक संख्या 28

संबंधित ग्राम पंचायत का अनापत्ति प्रमाणपत्र (छत्तीशगढ शासन वन विभाग का पत्र क्रमांक/ एफ -5-20/2007/10-2 दिनांक 12.01.2010)

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MoEF&CC का पत्रांक F.No. 11-09/98-FC दिनांक 28.10.2014, के अंतर्गत रेखांकिक परियोजना में आवश्यकता नहीं है, पत्र संगलन है संगलन है

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PROJECT DIRECTOR
NHAI, PIU, KORBA (C.G.)

F. No. 11-09/98-FC (pt.)
Government of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan
Aligarj, Jorbagh Road
New Delhi - 110 001
Dated: 28th October, 2014

To

The Principal Secretary (Forests),
All State / Union Territory Governments

Sub: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 - ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

I am directed to refer to this Ministry's letter of even number dated 03.08.2009 wherein this Ministry issued detailed guidelines on submission of evidences for having initiated and completed the process of settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

In consideration of representations received from Ministries in the Central Government, this Ministry after obtaining concurrence of the Ministry of Tribal Affairs informed the States and Union Territories vide letter of even number dated 5th February, 2013 that the proposals seeking prior approval of Central Government under the Forest (Conservation) Act, 1980 for projects like construction of roads, canals, laying of pipelines/ optical fibres and transmission lines etc. where linear diversion of use of forest land in several villages are involved, unless recognized rights of Primitive Tribal Groups and Pre-Agricultural Communities are being affected, are exempted from the requirement of obtaining consent of the concerned Gram Sabha(s) as stipulated in clause (c) read with clause (e) and clause (f) in second para of this Ministry's said letter dated 03.08.2009.

This Ministry after further examination of the matter observed that in case of plantations which were notified as "forest" on a day less than 75 years prior to the 13th day of December 2005 and are located in villages having no recorded population of Scheduled Tribes, as per the Census-2001 and the Census-2011, no forest rights are likely to be recognised, even if the process stipulated in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the rules framed thereunder for recognition and vesting of forests rights is initiated and completed. The reasons for the same are as below:

27/11/14

- (i) As per the clause (o) of the Section 2 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, no person residing in such forests will be eligible to be recognised as Other Traditional Forest Dweller (OTFD)'.
- (ii) Such villages will therefore, not have any person belonging to both the categories, viz. Scheduled Tribes and OTFD, whose rights can only be recognized over the forest land in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Question of recognition of forest rights on such forests will thus not arise.

Accordingly, I am directed to say that in further modification of this Ministry's said letter of even number dated 3rd August 2009, proposals seeking prior approval of the Central Government under the Forest (Conservation) Act, 1980 for diversion of plantations which were notified as "forest" on a day less than 75 years prior to the 13th day of December 2005 and are located in villages having no recorded population of Scheduled Tribes, as per the Census-2001 and the Census-2011, are exempted from the requirement of initiation and completion of process for recognition and vesting of forest rights of Scheduled Tribes and Other Traditional Forest Dwellers as stipulated in clause (a), read with clause (d) and clause (g) in second para of this Ministry's said letter of even number dated 3rd August 2009. In such cases a certificate from the concerned District Collector to the effect that the forest land proposed to be diverted is plantation which was notified as "forest" less than 75 years prior to the 13th day of December 2005 and is located in villages having no recorded population of Scheduled Tribes, as per the Census-2001 and the Census-2011, will only be sufficient to meet requirement of clause (a), read with clause (d) and clause (g) in second para of this Ministry's said letter of even number dated 3rd August 2009.

This issues with approval of the Competent Authority.

Yours faithfully,

(H.C. Chaudhary)
Director

Copy to:-

1. Prime Minister's Office (*Kind attn.*: Shri Santosh D. Vaidya, Director), North Block, New Delhi.
2. The Secretary (Coordination), Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
3. Secretary, Ministry of Tribal Affairs, Government of India, Shastri Bhawan, New Delhi.
4. Secretary, Ministry of Mines, Government of India, Shastri Bhawan, New Delhi.
5. Secretary, Ministry of Coal, Government of India, Shastri Bhawan, New Delhi.