

rights have been given and no deforestation is involved. However, if the forest area is broken up for making any opening for underground works the NPV shall be payable for such breaking up of forest land.

(PANKAJ ASTHANA)

Asstt. Inspector General of Forests

*(Subsequently modified)

No.5-1/98-FC (Pt-II)

Dated: 19-12-2005

Sub: Exemption of certain Government projects from payment of NET PRESENT VALUE (NPV) – **Guidelines for collection of NPV** under Forest (Conservation) Act, 1980 for diversion of forest land for non- forestry use.

Sir,

The Supreme Court of India vide its order Dated 30.10.2002 in IA No. 566 in Write Petition (Civil) No. 202 of 1995 has directed that NPV of the forest area diverted for non-forestry use shall be collected from the user agency. The orders of the Supreme Court have been communicated vide this office letters of even no. Dated 10.07.2003 and 11.08.2003 and subsequently guidelines, in this regard, were issued vide letters of even no. Dated 17/18.09.2003 and 19/22.09.2003.

The Supreme Court in its order Dated 26.09.2005 in IA No. 826 in IA No. 566 in Writ Petition (Civil) No. 202 of 1995 has concluded in addition to others, that “ *except for Government projects like, hospitals, dispensaries and schools referred to in the body of the judgment, all other projects shall be required to pay NPV though the final decision on this matter will be taken after receipt of the Expert Committee report*”

The issue of exemption of certain Government projects was examined by the Forest Advisory Committee (FAC). On the basis of the recommendations of the FAC and since the issue of exemption of projects from payment of NPV is being examined by the Expert Committee constituted by the Supreme Court, and final decision is to be taken by the Court on receipt of the report of the Institute of Economic Growth Committee the Central Government hereby directs that Government projects like **hospitals, dispensaries, non-commercial government ventures like, school, rain water harvesting, tanks, sewer lines, village roads, which are meant for public welfare may be allowed after taking an undertaking from the user agency that in case it is finally decided by the Supreme Court that such projects are not exempt from payment of NPV, the user agency will pay the amount of NPV as determined and ordered by the Supreme Court.**

In respect of other cases, the NPV at usual rates, as communicated earlier will continue to be paid by the user agency, i.e., at the rate of Rs. 5.8 Lakhs to Rs. 9.2 Lakhs per hectare. In addition, for such proposals, the user agency shall submit an undertaking that in case of any upward revision of rates of NPV, the user agency will pay the amount of differential NPV.

Pankaj Asthana

Assistant Inspector General of Forests

**SUPREME COURT OF INDIA
NEW DELHI**

Extract of:

D.NO. 597/1995/SC/PILC

Dated: 04.10. 2005

FROM: Vinod Kumar,

Assistant Registrar (PIL. CELL)

TO :

1. The Secretary,
Ministry of Environment & Forests,
2. Central Empowered Committee,
Ministry of Environment & Forests,
3. Chief Secretary, Govt of AP
Hyderabad (Andhra Pradesh).

Extract of:

IN THE MATTER OF:

I.A.No. 826 IN IA NO. 566

IA NO. 932 IN 819-821, 955, 958, 985, 1001-
1001a, 1013-1014, 1016-1018sd, 1019, 1046,
1047, 1135-1136, 1137, 1164, 1180-1181 AND
1182-1183, 1196, 1208-120-, 1222-1223, 1224-
1225, 1229, 1233, 1248-1249, 1253, 1301-1302,
1303-1304, 1312, 1313, 1314, 1315-1316, 1318
AND 1319

IN

WRTIE PETITION (CIVIL) NO. 202 OF 1995

(Under Article 32 of the Constitution of India)

T.N. Godavarman Thirumulpad

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

Sir,

I am directed to forward herewith for your information, compliance and necessary action a certified copy of the judgment of the Supreme Court Dated 26.09.05, passed in the I.A.S in Writ Petition above- mentioned.

Please acknowledge receipt.

Encl: as above.

Assistant Register

Extract of Hon'ble Supreme Court of India D.No.597/1995/SC/PILC

Dated: 04.10.2005 order Dated: 26.09.2005.

Court would further examine the matter and issue appropriate direction. However, prima facie we feel that revenue-earning projects do not deserve similar treatment as non-revenue earning public welfare projects.

We are clear that if let loose, the benefits achieved as indicated in the State Forest Report of 2001 would be lost and we may be again where we were in 1990's and earlier period during which there

was immense depletion of forest and insignificant regeneration.

The work of regeneration and also of compulsory afforestation requires special, specific and expert attention and we see no illegality in establishment of Special Purpose Vehicle (SPV) in terms of clause 6.6 above quoted except that for present till further orders it would be necessary to monitor the establishment of SPV. This, in respect of clause 6.6 in relation to establishment of SPV, we hold that before establishing SPV, its format shall be filed in Court and SPV shall not be established without permission of the Court. Further in our view the constitution of authority (CAMPa) is necessary to fully and effectively implement recommendation Dated 9th August 2002 made by CEC for protection of environment.

In view of the aforesaid discussion, our conclusions are:

1. Except for government projects like hospitals, dispensaries and schools referred to in the body of the judgment, all other projects shall be required to pay NPV though final decision on this matter will be taken after receipt of Expert Committee Report.
2. The payment to CAMPa under notification Dated 23rd April 2004 is constitutional and valid.
3. The amounts are required to be used for achieving ecological plans and for protecting the environment and for the regeneration of forest and maintenance of ecological balance and eco-systems. The payment of NPV is for protection of environment and not in relation to any propriety rights.
4. Fund has been created having regard to the principles of intergenerational justice and to undertake short term and long-term measures.
5. The NPV has to be worked out on economic principles.

In view of the above, we issue following directions:

- A. An expert committee comprising of three experts including Ms. Kanchan to be appointed within a period of one month by the institution of Economic Growth (North Campus).
- B. The committee of experts would examine the following issues:
 - (i) To identify and define parameters (scientific, bio - metric and social) on the basis of which each of the categories of values of forestland should be estimated.
 - (ii) To formulate a practical methodology applicable to different bio-geographical zones of India for estimation of the values in monetary terms in respect of each of the above categories of forest values.
 - (iii) To illustratively apply this methodology to obtain actual numerical values for different forest types for each bio-geographical zone in the country.
 - (iv) To determine on the basis of established principles of public finance, who should pay the costs of restoration and/or compensation with respect to each category of values of forests.
 - (v) Which projects deserve to be exempted from payment of NPV.
- C. The user agencies shall give undertaking for the further payment, if any, as may be determined on receipt if any, as may be determined on receipt of report from the expert body.
- D. The Special Purpose Vehicle shall be established with the permission of the Court.
- E. The institute shall send report of Committee of Experts within a period of four months.
- F. The various clauses of CAMPa shall be suitably modified in terms of this judgment within a period of one month.

List after four months.
