

CHAPTER-2

Submission of Proposals

2.1 General

(i) Rule 4 of the Forest (Conservation) Rules, 1981 prescribes the procedure for submission of proposals for seeking prior approval of the Central Government under Section 2 of the Act. The form appended to the Rules, specifies the particulars to be furnished with the proposal. Only proposal in the prescribed format, and complete in all respects, will be considered. The user agency, if they so desire, for monitoring purpose only, may submit the proposal along with a copy of the receipt from Nodal Officer of having received complete application to the Assistant Inspector General of Forests (FC)/ Director in charge of monitoring cell.

(ii) **All proposals relating to diversion of forest land up to 40 hectares and proposals for clearing of naturally grown trees for reforestation shall be sent directly to the concerned Regional Office of the MOEF by the State/UT government or other authority.** All other proposals shall be sent by the State/UT government or other authority to the Secretary to the Government of India, MOEF mentioning "Attention - FC Division" on covering letter as well as on envelope. **Moreover a copy of all these proposals irrespective of area should also be sent to concerned Regional Office of the MOEF.**

For small development and public utility projects involving division of forests land upto 5 hectare. the State government may authorize the Nodal Officer or any other Officer to submit the proposals directly to the Regional Offices.

(iii) Adverse recommendations of subordinate officers in prescribed form or in the documents attached with the form should invariably be commended upon by the Principal Chief Conservator of Forests/Chief Conservator of Forests. Similarly, adverse recommendation by the PCCF/CCF should be commented upon by the State Government to emphasis that a conscious decision has been taken in the matter.

(iv) **Wherever re-diversion of forest land becomes essential, State Government should seek the prior permission of the Central Government giving details of the earlier approval and the proposed activity details in letter from rather than initiating a fresh proposal.**

(v) In cases or irrigation projects involving liner diversion of forest land, when during execution, **some realignment is needed due to technical reasons and where the re-alignment is of a minor nature**, i.e. deviation from the original alignment is at few points and the number of trees to be cut does not exceed the number given in the original proposal, the State Government need not submit a fresh proposal. Rather, they may send this information through a covering letter giving maps of the original alignment and fresh alignment with details of the additional forest land required and the variation in the number of trees which will be affected due to the realignment.

(vi) **The State Governments are advised not consider/process cases, which are pending in various courts or are sub-judice, to avoid all sorts of administrative and legal complications.**

- (viii) In order to ensure that the forest lands are diverted only for site specific projects, that too where it is inescapable, so that the ecological balance of the country is well protected, the respective State/UT Administration, Should give due consideration to the following and should submit proposal accordingly after detailed scrutiny.

1. **Diversion of forest land within Reserve Forest:-** As per the State of Forest Report, 2001 published by Forest Survey of India, out 76.84 million hectare of total forest area, roughly 55 % is Reserve Forest Area. These forests are considered as good forests with plenty of bio diversity and it is necessary too keep thee forests intact. **As such, any proposal for diversion in Reserve Forest should be very carefully examined and detailed justification after exhausting all alternatives for locating the project in this forest area should be given while forwarding the proposal.**

2. **Regarding Mining proposals:-** It has been observed by the Central Government that a large number of proposals relating to mining are submitted which are located deep inside the forest areas. Locating such proposals inside makes entire forest area vulnerable due to ancillary activities like construction of approach road, movement of vehicles and coming up of colonies for the workers. It has also been observed that whatever area has already been opened up for mining of different minerals have not been worked and reclaimed systematically and scientifically. There is a tendency to open up new pits without exhausting the existing once to its full depth/potential. Therefore, Ministry has decided that whenever a production, the present level of average annual production, location of these pits and the status of reclamation of foest land that are exhausted of minerals. Along with this, the State Government should also submit details of all other mining leases for that particular mineral with their capacity and average annual production and projected future requirements. They should fully justify the necessity of opening new mining leases for that particular mineral. Mining plan should be approved by the competent authority for concerned minerals e.g. **for coal it should be approved by controller of coal and for major minerals by IBM and so on.**

Even in the case renewals, it has been observed that the state Governments are not giving complete picture of mining activity in the particular block or compartment of the forest block. Whenever such proposal is sent, complete details of existing or proposed leases in that particular forest area with their present statue should be indicated on **Survey of India topo-sheet on 1"5,000 scale.**

3. **Diversion for non-site specific projects:-** A large number or proposals for diversion of forest land for non-site specific projects like industries, construction residential colonies, institutes, disposal of fly ash, rehabilitation of displaced persons, etc. are received by the Central Government. Attention is drawn to item 1 (iv) and 8 of the From "A" in which the proposal is to be submitted by the State Government. In these columns, justification of locating the project in the forest area giving details of the alternatives examined and reason for their rejection has to be furnished. Normally, there should not be any justification of locating non site-specific projects on forest land. Therefore, the State Government should scrutinize the alternatives in more details and must give complete justification establishing its in - escapability for locating the projects in forest area.

4. It has been observed that in respect of many proposals, the Central Government receives representation from NGOs/local public bodies against the diversion of forest land or loss of forest land, environment and ecological grounds. It is felt it is essential to have the opinion

of the local people, whenever a project is coming up in that area. **Therefore, whenever any proposal for diversion of forest land is submitted, it should be accompanied by a resolution of the 'Aam Sabha' of gram Panchayat/Local Body of the area endorsing the proposal that the project is in the interest of people living in and around the proposed forest land except in cases wherever consent of the local people in one from or another has been obtained by the state or the project proponents and the same is indicated in the proposal explicitly.** However, it would be required where the project activity on forest land is affecting quality of life of the people residing in nearby areas of the site of diversion; like mining projects, displacement of people in submergence area, etc it is further clarified that such resolution would not be required in following cases:

- a. Project requires public hearing in order to get environment clearance. However, a copy of public hearing may be furnished along with the proposal in such cases.
- b. For projects like construction of roads, canals laying of pipelines/optical fibers and transmission lines etc., where liner diversion of forest land in several villages are involved.
- c. Proposals involving diversion of private forest lands.
- d. In case of small public utility projects like drinking water, schools hospitals which are for the welfare of local people .

2.2. Particulars to be furnished along with the Proposal

- (i) Map of the forest area required showing boundary of the adjoining forests, etc., is to be furnished along with the prescribed form. **This should normally be on 1:50,000 scale. original Survey of India toposheet.** However, if maps on 1:50,000 scale not available, map on 1"=1 mile or 1"= 4 miles or any other suitable scale would be acceptable. If the area is very small, an index map may be submitted showing forest boundaries and a location map on a larger scale with a land use of the area required.
- (ii) Species-wise and diameter class-wise abstract of trees to be felled should be furnished in the prescribed form. Total enumeration is necessary only up to 10 hectares. For larger areas, species-wise and diameter class-wise abstract of trees may be computed either from the working plans or by standard sampling methods.
- (iii) **The projects for roads and railway line construction will be processed in their entirety.** Therefore, proposals in piecemeal should not be submitted. A note on the present and future requirement of forest land is required to be submitted along with the proposal.
- (iv) **The user agency shall submit the proposal for renewal of mining lease to the Forest Department one year prior to date of expiry of existing lease, failing which the proposal may be liable for rejection.** The State Government shall send the complete proposal to the MOEF at least 6 months prior to the expiry of the existing lease. In case of any delay, a detailed report elaborating the cause of delay shall be sent along with the proposal.
- (v) Special guidelines in regard to laying of transmission lines in forest area are at Annexure V.
- (vi) All proposals seeking prior approval of the Central Government should invariably contain the following information:-
 - (a) Extent of forest cover in the concerned district/State.

- (b) Extent of forest land diverted so far under Forest (Conservation) Act 1980 in the concerned district/State.
- (c) Progress of compensatory afforestation in the concerned district/State under earlier forest clearances.
- (d) Progress of compensatory afforestation in the concerned district/State under earlier forest clearances.

However, the States/UTs may submit the above information on a consolidated, calendar year basis every year as per the proforma at Annexure-VII so as to avoid duplication/reiteration in each proposal. (No. 11-30/93-FC (Pt) dated 28.06.2001)

(vii) **Mining Proposals** in forest area in respect of coal and other major minerals should be accompanied with following documents:-

1. **In respect of Underground mining in stratified deposits in forest areas:-**

The mining plan in stratified deposits in forests areas should include the predicted subsidence, slope and strain values and their impact on forests and surface and their mitigation. The maximum tensile strain of 20 mm per metre and thereby the surface cracks of width of about 200-300 mm is to be permitted in forest areas. Accordingly, the mine plans should be made to restrict the subsidence movement within these limits with the provision of mitigation measures. All mining plans in respect of coal and other major minerals should be accompanied with numerical modelling in 3-Dimension for subsidence prediction though an expert mining engineer/organisation to assess long term damage on surface vegetation due to underground mining preferably from Banaras Hindu University; ISM, Dhanabadi; any of the IITs located at Delhi, Kanpur, Mumbai, Kharagpur, Madras, Roorkee & Guwahati, or M/s CMRI along with the mitigation measures suggested by them should be submitted along with the proposal. The surface layout of mining area should be designed so as to use minimum possible land, wherever feasible, the surface facilities should be planned over non-forest areas.

2. **Open cast mining in forest areas:-**

In respect of open cast mining in forest areas, a comprehensive study of solid waste management and land reclamation with post mining land use plan and de-commissioning should be made and the plan should envisage the minimum possible overburden dumping outside the mine. In place where the non-forest land is available, the external dumping of the overburden should be planned on non-forest land. **Special attention should be given to top-soil and sub-soil handling and management.**

3. **Use of fly ash in reclamation of open cast mines**

Wherever feasible, depending upon the characteristic of fly ash and its availability nearby, use of fly ash in reclamation of open pits should be looked into and planned. Fly ash for this purpose should be characterized from the point of view of leaching potential with special reference to heavy metals.

While forwarding the proposals, the State Government may also bear in mind the para 7.13 of The National Mineral Policy, 1993 (For non-fuel & non-atomic mineral) wherein it states that "Mining operation shall not ordinarily be taken up in identified ecologically fragile and biologically rich areas.

4. Mining Plan :-

Ministry of environment and Forest is receiving a large number of proposals for grant of/renewal of mining leases. In order to take a holistic view, it is essential that a copy of the mining plan duly approved by the IBM, Nagpur should be enclosed with the proposal alongwith map of forest area on printed original copy of Survey of India topo sheet 1:50, 000 scale showing boundaries forest areas and other mining leases of forests block within that sheet.

2.3 Proposals Requiring Clearance from Environmental Angle

- (i) The projects covered under notifications issued from time to time under Environment (Protection) Act, 1986, shall require clearance separately from environmental angle, as per procedure laid down by the Environment Wing of the MOEF. Environmental clearance where required should be applied for separately and simultaneously.
- (ii) Notwithstanding the above, if in the opinion of the Ministry or the Advisory Committee, any proposal should be examined from the environmental angle, it may be required that the project proponent refer the case to the Environment Wing of the MOEF.
- (iii) For projects requiring clearance from forest as well as environment angles, separate communications of sanction will be issued, and the project would be deemed to be cleared only after clearance from both angles.

2.4 Simplified Procedure for Certain Categories of Proposals

- (i) In respect of proposals for laying of transmission lines, pipelines for drinking water supply, laying of telephone/optical fibre lines and exploratory drilling for prospecting of oil which do not involve any felling or cutting of tree, only the following particulars may be furnished in the prescribed form:
 - (a) Map of the area required along with geographical location of the project.
 - (b) Purpose for which forest land is required to be used.
 - (c) Extent of forest area to be diverted.
 - (d) Whether forest land forms part of national park, wildlife sanctuary, biosphere reserve or forms part of the habitat of any endangered or threatened species of flora and fauna.
 - (e) Legal status of forest land.
 - (f) Whether no alternative alignment is possible to avoid or minimise use of forest land and, whether, the required forest area is the minimum needed for the purpose. A certificate in this regard is to be furnished by the concerned Divisional Forest Officer after personal inspection of the spot.
 - (g) Compensatory afforestation scheme.
 - (h) A certificate stating specifically that no cutting or felling of trees is involved.
- (ii) Other cases involving forest area up to 2 ha. which are devoid of tree cover, may also be dealt with as per above simplified procedure except for proposals for mining and regularisation of encroachments. (Annexure- XVI)

2.5 Diversion of Forest Land for Widening or Expansion or Realignment of Road/Rail/Canal

- (i) Such lands which had been acquired by Government Departments like Railway, Irrigation, PWD, etc. for specific purposes like laying of roads, railway lines and canals and the vacant area was

planted up with trees and these lands are not yet notified as protected forests will not attract the provisions of Forest (Conservation) Act, 1980 for the purposes of widening or expansion or re-alignment. However, the concerned agency will seek permission under local laws, if any, from appropriate authority.

- (ii) Such lands which were acquired by the above departments and the vacant areas were subsequently planted and notified as protected forests for management purposes will need approval from the Central Government under Forest (Conservation) Act, 1980. The user agency will submit the proposal in the prescribed format through the State Forest Department to the concerned Regional Office of the Ministry. The Regional Offices shall be competent to finally dispose of all such proposals irrespective of the area, preferably within 30 days from the date of receipt of the proposal. While issuing the approval, in place of normal provision for compensatory afforestation, the Regional Offices will stipulate a condition that for every tree cut at least two trees should be planted.
- (iii) However, if the decision is not ordered by the concerned Regional Office within 30 days of the receipt of fully completed application, the Central Government/State may proceed with the widening/modernisation under intimation to the local State Forest Department and Central Government. (Annexure-XIV)

Clarification: - This guideline is applicable to only such projects, where plantations have been raised on the lands acquired by the user agency and subsequently notified as Protected Forest. This guideline will not be applicable if the forest land involved is reserved/protected forests belonging to the Forest Department.

2.6 Cost-benefit Analysis

- (i) While considering proposals for dereservation or diversion of forest land for non-forest use, it is essential that ecological and environmental losses and socio-economic distress caused to the people who are displaced are weighed against economic and social gains.
- (ii) Annexure VI (a) details the types of projects for which cost-benefit analysis will be required. Annexure VI (b) lists the parameters according to which the cost aspect will be determined, while Annexure VI (c) gives the parameters for assessing the benefits accruing.
- (iii) A cost-benefit analysis as above should accompany the proposals sent to the Central Government for clearance under the Act.

2.7 Plans for Rehabilitation of Oustees

- (i) If the project involves displacement of people, a detailed Rehabilitation Plan shall be submitted along with the proposal for diversion of forest land. The Scheduled Tribe and Scheduled Caste population should be separately considered, and a plan for their rehabilitation should be in consonance with their socio-economic, cultural and emotional lifestyle.
- (ii) The Government of India do not allow diversion of forest land for rehabilitation of people. However, such diversion may be considered as a special case, if diversion of forest land is essentially required for the rehabilitation of persons belonging to Scheduled Tribes, Scheduled Castes and other people who may have to be shifted from the core zone of a national park or reserve.

2.8 **Transfer of Lease:-** Where transfer of lease on forest, from one user agency to another for the same purpose for which the forest land was diverted, becomes necessary, prior permission of the Central Government would be required. For this purpose, the State Government and the original user agency is required to submit no-objection certificate for such transfer and; the new user agency has to submit an undertaking that they shall abide by all the condition on which the forest land was leased to the original user agency and any other condition which may be stipulated by the Central Government/State Government in future.

2.9 **Participation of private sector through involvement of NGOs & Forest Department in afforestation/rehabilitation of degraded forests.**

Detailed guidelines issued in this regard vide this Ministry's letter No. 8-21/96 F-C dated 07.06.1999 shall be strictly followed. These are included in Annexure VIII.

2.10 **Cluster mining:-**

Detailed guidelines issued in this regard vide this Ministry's letter No. 11-8/2001-FC dated 15.11.2001 shall be strictly followed. These are included in Annexure IX.