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

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Sub:- Diversion of 0.467 ha. for construction of approach road towards Non Forest Land passing through Private Forest of Village Asangaon & Protected Forest of village Kalambe, Tal-Shahapur District-Thane in the State of Maharashtra.

No. : Desk-17/NC/II/ID 12481/(60)/926/2020-21
Nagpur - 440 001, Dated: 23/12/2020

To,

The Principal Secretary (Forests)
Revenue & Forest Department
Mantralaya, Mumbai-32

Ref:- Chief Conservator of Forests (T) Thane letter No Desk-10/FCA/CR 26/16-17/912/16-17 dated 30/12/2016 and letter No Desk-10/FCA/CR-26/16-17/OW-733/19-20 dated 16/03/2020.

Shri Raju Baban Dhanve at Vill- Kalambe, Tal-Shahapur, Distt-Thane has initiated the proposal for Diversion of 0.467 ha Protected /Private Forest land for construction of approach road under Section - 2 (ii) of the FCA, 1980. Total 0.398 ha. Non forest land is involved in the project. The detailed area statement of forest land is as under :-

Item of Work	Village	Survey No	Gut No	Length x Width	Area in Sq Mtr	Area in ha	Legal Status
Approach Road	Asangaon	156/5	-	44 x 10	440.00	0.044	Restored
		156/5	-	70 x 10	700.00	0.070	Private Forest
		156/6	-	73.260 x 10	732.60	0.073	
	Total area Asangaon				1872.60	0.187	
	Kalambhe	94	220	64.500 x 10	645.00	0.064	Protected Forest
				50.000 x 10	500.00	0.050	PF-HPC Plots
				165.550 x 10	1655.50	0.166	Protected Forest
Total area Kalambhe				2800.50	0.280		
Grand Total				4673.10	0.467		

2. History of land

2.1) The project Authority has his own private land at Gut No 214/Pt at Vill-Kalambe, Tal-Shahapur where Project Authority decided to construct residential project. The said private land is adjoining the Protected Forest Survey No 94 (Gut No 220) at vill-Kalambe. There is no pacca approach road to reach their own private land. There was existing rough road.

Noted

2.2) Project Authority constructed pacca approach road to reach their own private land and also erected street light poles through Asangaon Private Forest Survey No 156/6 and 156/5 and in Kalambhe Protected Forest Survey No 94 (Gut No 220).

2.3) Offence case is booked against Shri Dhanve on 11/02/2012 and a criminal case No 250/13 is lodged in J.M.F.C. Court of Shahapur for unauthorized construction of road in protected Forest Survey No 94 (Gut No 220).

2.4) Again offence case is also booked against Shri Dhanve on 22/04/2013 and criminal case No 251/13 is lodged in J.M.F.C. Court of Shahapur for unauthorized erection of electric poles on private Forest of Asangaon Survey No 156/6 and 156/5 on existing road.

To regularize the above, project authority has submitted the proposal under section 2 of FCA, 1980.

3. The User Agency has highlighted that they have own private land at Gut No 214/Pt at Vill-Kalambhe, Tal-Shahapur where Project Authority decided to construct residential project. The said private land is adjoining the Protected Forest Survey No 94 (Gut No 220) at vill-Kalambhe. There is existing kaccha approach road passing through non forest area as well as protected forest and Private forest land connecting to residential project on non forest land. This approach is unavoidable to local villagers also to reach their private area through protected forest. There is no alternative for avoiding protected forest and private forest land. The User Agency has constructed 438 meters length & 9 meter width approach in two patches in Restored Private Forest Survey No 156/5 & 156/6 of village Asangaon & Protected Forest Gut No 220 (Old Survey No 94/A) of village Kalambhe. Due to construction of road on protected forest land and erecting of Electric poles on private forest land, violation of Forest Conservation Act, 1980 has been committed and offence report has been booked against user agency. The concerned Restored Private Forest Owners as well as H.P.C. Plot holders have given their consent for construction of pacca approach road and erecting electric poles. The User Agency is ready to pay the Govt levies as directed by Forest Department.

4 Therefore the User Agency has submitted the proposal for diversion of 0.467 ha Protected/Private Forest land for regularization of violation i.e. construction of approach road and erecting of Electric poles under Section - 2 (ii) of the FCA, 1980.

5. The User Agency has not furnished the authenticated copy of restoration order u/s 22A of MPF (Act), 1975.

6. **Deputy Conservator of Forests, Shahapur has certified that :-**

6.1 No suitable alternate non forest land is available for the purpose, The demand for forest area is barest minimum demand for the same as there is already existing kaccha approach road used by the villagers. The proposed alignment is unavoidable

6.2 Three alternatives have been examined in detail and have to come to conclusion that the alternative No 1 (having 0.467 ha) is most suitable for forestry point of view, i.e. minimum area involved and there is no cutting/felling of trees.

6.3 Provisions of the Forest (Conservation) Act, 1980 and guidelines, under it, have been violated by user agency.

Project Authority constructed pacca approach road to reach their own private land and also erected street light poles through Asangaon Private Forest Survey No 156/6 and 156/5 and in Kalambhe Protected Forest Survey No 94 (Gut No 220).

Offence case is booked against Shri Dhanve on 11/02/2012 and a criminal case No 250/13 is lodged in J.M.F.C. Court of Shahapur for

unauthorized construction of road in protected Forest Survey No 94 (Gut No 220).

Again offence case is also booked against Shri Dhanve on 22/04/2013 and criminal case No 251/13 is lodged in J.M.F.C. Court of Shahapur for unauthorized erection of electric poles on private Forest of Asagaon Survey No 156/6 and 156/5 on existing road.

Violation report submitted. To regularize the above, project authority has submitted the proposal under section 2 of FCA, 1980.

- 6.4 The proposed area is not likely to affect any monument site of cultural , historical religious, archeological or recreational importance.
- 6.5 1.00 ha area from degraded Protected Forest Survey No 94/a (Gut No 220) at village Kalambhe, Tal-Shahapur, Distt-Thane proposed for compensatory afforestation is suitable for afforestation and management purpose and also it is free from encroachment and an encumbrances
- 6.6 **Wildlife Certificate**
 - The proposed area is not included in the area of any National Park/Wildlife Sanctuary or Nature reserve.
 - The proposed area is within 10 km of the Tansa Wildlife Sanctuary But the project will not have any adverse effect/impact on the Wildlife within Tansa Sanctuary.
- 6.7 There is No tree felling/cutting involved in the proposed project.
- 6.8 The proposed area belongs to Eco-value Class-I, **density below 0.1**
- 6.9 Deputy Conservator of Forests, Shahapur has submitted Site Inspection Report dated 23/04/2016.
7. **User Agency has submitted the following undertaking/documents :-**
 - 7.1 Agreed to bear the cost of Compensatory afforestation.
 - 7.2 Agreed to bear the cost of Net Present Value.
 - 7.3 To bear the cost of clearance/removal of the vegetation growth from the proposed forest land.
 - 7.4 The User Agency has submitted the FRA-2006 Certificate dated 01/10/2020 issued by Collector Thane
8. Deputy Conservator of Forests, Shahapur has recommended the proposal with following specific recommendation :-
 - 8.1 The project authority to bear the cost of 1.00 ha compensatory afforestation on degraded forest.
 - 8.2 Penal compensatory cost for double the required area and the cost of penal compensatory afforestation be recovered from the Project Authority.
 - 8.3 The approach road should be kept open for nearby villagers.
9. The Chief Conservator of Forests (T) Thane has recommended the proposal for approval
10. In view of the above, it may be appreciated that the Private forest land involved in the project have been restored prior to the commencement of the Forest (Conservation) Act, 1980. i.e. on 31/8/1978 actually implemented and land was handed over to the owners. However despite

reminders authenticated copy of restoration order has not been submitted in this case. Inspite of this an offence case has been lodged in the Court of JMFC Shahapur for unauthorized erection of electric poles in Private Forest area, which presumably should be the Restored area, ceased to have been an RF as per provision of section 22A of the Maharashtra Private Forest (Act), 1975. If that in the case, then it is not understandable as to how the complaint could have been filed before the Court at the level of Deputy Conservator of Forests, Shahapur, when IFA 1927 is not applicable on such land and only provision of FCA, 1980 can be involved, wherein it is the Regional office, MoEF&CC is competent to file the complaint.

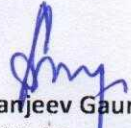
11. Therefore the said proposal is submitted for consideration and if the State Government agrees to divert the said land it may be forwarded to the Central Government by stipulating following conditions :-

- 11.1 The legal status of the land required will remain unchanged.
- 11.2 Compensatory afforestation will be raised at the cost of user agency on 1.00 ha area from degraded Protected Forest Survey No 94/a (Gut No 220) at village Kalambhe, Tal-Shahapur, Distt-Thane. As per GOI guidelines dated 08/11/2017 at least 1000 plants per ha. to be planted on degraded forest land identified for compensatory afforestation.
- 11.3 The cost of compensatory afforestation at the prevailing wage rates as per compensatory afforestation scheme and the cost of survey, demarcation and erection of permanent pillars if required on the CA land shall be deposited in advance with the forest Department by the project authority. The CA will be maintained for 10 years. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years
- 11.4 The user agency will defray the cost of Net Present Value of 0.467 ha. of Protected/Private forest land as per the latest Guideline of Government of India.
- 11.5 The user agency will defray the additional / revised cost of Net Present Value of forestland as per the latest Guideline of Government of India.
- 11.6 For violation of the FCA, 1980 as penalty, the user agency will defray the cost (equal to NPV of forest land per hectare for each year of violation from the date of actual diversion as reported by the inspecting officer with maximum upto (5) five times the NPV plus 12 percent simple interest till the deposit is made in accordance with Government of India advisory number 11-42/2017-FC, dated 29/01/2018.
- 11.7 The user agency should submit the complete compliance of FRA-2006 at the earliest or along with compliance of Stage-I approval.
- 11.8 The boundary of the diverted Protected /restored Private forest land shall be demarcated on ground at the project cost by erecting four feet high reinforced cement concrete pillars, with chain link fencing.
- 11.9 The layout plan of the proposal shall not be changed without prior approval of Central Government.
- 11.10 No labour camps shall be established on forest land.
- 11.11 Sufficient firewood, preferably the alternate fuel, shall be provided by the User Agency to the labourer after purchasing the same from the State forest Department or the Forest Development Corporation or any other legal source of alternate fuel.
- 11.12 No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work.

- 11.13 The forest land shall not be used for any purpose other than that specified in the project proposal.
- 11.14 The forest land proposed to be diverted shall under no circumstances be transferred to any other agencies, department or person without prior approval of Govt of India.
- 11.15 Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as per the MoEF&CC Guidelines F No 11-42/2017-FC dated 29/01/2018.
- 11.16 Any other condition that the Ministry of Environment, Forest & Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests & Wildlife.
- 11.17 All other conditions as may be mandatory under relevant Acts, rules and guidelines shall be complied with by the user agency.

12. In the instant case, the user agency has submitted the proposal for regularization of violation on Protected Forest and Private Forest land under Forest (Conservation) Act, 1980. As mentioned in para 11 above the said proposal is submitted for consideration and if the State Government agrees to divert the said land it may be forwarded to the Central Government by stipulating conditions mentioned at para 12 above.

Encl. :- Proposal 2 copies


(Sanjeev Gaur)

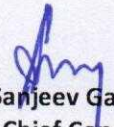
Addl. Principal Chief Conservator of Forests
& Nodal Officer

Copy submitted to Principal Chief Conservator of Forests (Wildlife) M.S. Nagpur for information.

Copy forwarded to Chief Conservator of Forests (T) Thane for information.

✓ Copy forwarded to Deputy Conservator of Forests, Shahapur for information.

Copy forwarded to Shri Raju Baban Dhanve, at Vill- Kalambe, Tal-Shahapur, Distt-Thane for information.


(Sanjeev Gaur)

Addl. Principal Chief Conservator of Forests
& Nodal Officer