

C.No. 13803

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

GOVERNMENT OF KARNATAKA

ಪ್ರಧಾನ ಮುಖ್ಯಾಚಾರ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ
(ಅರಣ್ಯ ಪಡೆ ಮುಖ್ಯಸ್ಥರು) ರವರ ಕಛೇರಿ

Office of
Principal Chief Conservator of
Forests
(Head of Forest Force)



ಅರಣ್ಯ ಭವನ, 18ನೇ ಅಡ್ಡರಸ್ತೆ, ಮಲ್ಲೇಶ್ವರಂ
ಬೆಂಗಳೂರು-560 003.

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No. A5(6)/GFL/CR-5/2015-16

And: 3 parts of the proposal
To,

Date: 24-09-2017

The Additional Chief Secretary to Government
Department of Forest, Ecology and Environment
M.S. Building, Bangalore - 560001

Sir,

Sub: Diversion of 0.994 (0.8093) ha of Paisari land (forest land) in
Sy.No. 1/9p2 of Kumaralli village, Madikeri Division for
implementation of Beedalli Mini Hydel Project of 3 MW capacity
in Somwarpet Taluk, Kodagu District in favour of M/s Kodagu
Hydel Projects Pvt. Ltd-reg.

Ref: 1. Proposal submitted by Kodagu Hydel Project Pvt. Ltd.,
Bangalore vide No. FP/KA/HYD/12749/2015.
2. Letter No. LAND/Mini Hydel/CR-10/2013-14 dated 12-04-
2017 of the Chief Conservator of Forests, Kodagu Circle,
Madikeri.

The instant proposal has originated from the order dated 20-06-2014 of the Hon'ble High Court in Writ Petition No. 18193/2016 in M/s. Kodagu Hydel Project Limited vs. Government of Karnataka and others. In the said order the petitioner was directed to make an application under Forest (Conservation) Act and further that such application should be processed at the level of Nodal Officer, State Government and the Central Government in a time bound manner. The context of the abovementioned writ petition arose when Deputy Conservator of Forests, Madikeri issued notice to the petitioner on 4-4-2014 to submit a proposal for diversion of forest land under the Forest (Conservation) Act, as execution of the mini hydel project by the petitioner was in violation of the Forest (Conservation) Act, and further to stop the work till the approval is obtained.

In this regard, the claim of the applicant M/s. Kodagu Hydel Project Private Limited has been that the Government of Karnataka vide its order dated 21-4-2016 allotted a mini hydel project to establish 3 MW capacity power generation unit across Kumaradhara River at

Beedalli, Somwarpete Taluk, Kodagu District and further for which 2 acre of land was allotted in Sy.No. 1/9 in Kumaralli village of Somwarpete Taluk to establish the project vide order dated 13-12-2007 of the Deputy Commissioner, Kodagu District.

Further, in this said writ petition, Hon'ble High Court constituted a joint inspection team consisting of the officials from Government of India and State Government (Forest Department and Revenue Department). The said team, after site inspection submitted to the Hon'ble Court that the 2 acre land allotted to the petitioner in Sy. No. 1/9p2 of Kumaralli village of Shanthalli Hobli, Somwarpet Taluk of Kodagu District is recorded as "Paisari Kadu" (Paisari forest) in the Jamabandhi record and therefore attracts the provisions of the Forest (Conservation) Act 1980.

In the above background, M/s Kodagu Hydel Project Pvt. Ltd., Bangalore have submitted a proposal seeking approval under Forest (Conservation) Act, 1980 vide letter under reference (1). After examining, Deputy Conservator of Forests (DCF) Madikeri and Chief Conservator of Forests (CCF) Kodagu Circle, Madikeri have recommended the proposal for diversion of 0.994 ha of 'Paisari Kadu' forest land in Madikeri Division for implementation of Beedalli Mini Hydel Project of 3 MW capacity in favour of M/s Kodagu Hydel Projects Pvt. Ltd., Bangalore under the Forest (Conservation) Act, 1980.

The details of the forest land required for the project are as under.

Name of the			Sy. No.	Status of forest land	Extent (ha)
District	Taluk	Village	1/9p2	Paisari Kadu (forest land according to Government records)	0.994
Kodagu	Somavarpet	Kumaralli			
				Total	0.994

The component wise breakup for Forest land required for the project is as under.

	Component	Forest Land (ha)
1	Dam area	0.8149
2	Tunnel Portion	0.0388
3	Road Portion	0.0393
4	Power House	0.101
	Total	0.994

DCF, Madikeri has inspected site on 12-09-2016 and recommended the proposal for approval furnishing the following details in Form-A Part-II.

1. The area is scheduled by the User Agency for implementation of Beedalli Mini Hydel Project of 03 MW.
2. Though the proposed forest area falls under Eco-Class- I (Dense Forest) however, no major trees are there now and the area is covered with grassy patches.

3. The area does not contain any protected / archeological / heritage sites or defence establishments or any other important monuments, it does not form part of Wildlife Sanctuary National Park, Nature Reserve, Biosphere reserve etc.,
4. The requirement of forest land proposed by the User Agency is unavoidable and barest minimum for the project.
5. Check dam, underground tunnel and other establishment on the left bank of the river is almost finished and levelling of area and other structures are already there and it is a violation under Forest Conservation Act 1980.
6. The Project falls within 10 Km from the boundary of Pushpagiri Wildlife Sanctuary.

Further, the Chief Conservator of Forests, Kodagu Circle, Madikeri has inspected the proposed area on 17-03-2017 and made the following observations.

1. The *Hydel project is constructed by Kodagu Hydel Power Projects Pvt Ltd., Bengaluru and is already commissioned. It's a fait accompli case.*
2. *Kodagu Hydel Project Pvt Ltd., Bengaluru has been granted 2 acres in 2008 in Sy. No. 1/9P2 vide MR N0 45/2007-08 dt: 16-06-2008. The status of the land is Paisari as per the RTC.*
3. **Paisari Land** – *All waste and forest lands which are declared by Section 42 of the Coorg Land and Revenue Regulation to be the property of the Government, and which have not been notified in the Coorg Gazette as protected forests under section 29 of Act XVI of 1927 or as forests reserved under section 2 of the same Act.*
4. *Though the area granted is 2 acres, the project occupies more than 2.35 acres excluding the road, building and the transmission line. It was informed that the buildings and road come in private lands – Redeemed sagu lands. The transmission line which is 22.42 kms passes through private as well as government land.*
5. *The project is located at a distance of 1.63 km from the boundary of the Pushpagiri Wildlife Sanctuary which is rich in endangered fauna and flora including King Cobra, Elephants, Tiger, Lion Tailed Macaque to name a few.*
6. *Elephants are using this landscape and as of now a herd is creating crop and property loss in the region.*

Principal Chief Conservator of Forests (Wildlife) has vide his note dated 06th June 2017 has opined that “the proposal of Eco Sensitive zone in Pushpagiri Wildlife Sanctuary is 1 km in the private areas. May be considered.”

Further, the proposed ‘Paisari Kadu’ forest land necessary for the said project is less than 1.00 ha, therefore the proposal is exempted from raising of Compensatory Afforestation as per guidelines issued under Forest (Conservation) Act, 1980 by Ministry of Environment and Forest, Government of India vide para 3.2 (viii) (b) of the FC Rules – 2003. Further, the user agency has furnished necessary undertaking to bear Additional Net Present Value and the same is enclosed with the proposal.

In view of the above, and further in view of the peculiar circumstances of the proposal including the judgment of the Hon'ble High Court, and furthermore, considering the recommendations of the Chief Conservator of Forests and Deputy Conservator of Forests, it is requested to move the matter with the Government of India for in-principle (Stage-I) approval of diversion of 0.994 ha of 'Paisari Kadu' forest in Madikeri Division for implementation of Beedalli Mini Hydel Project of 3 MW capacity in Kodagu District under Section 2 of the Forest (Conservation) Act, 1980 for a period of 20 Years, subject to the following.

- 1) Production of FRA certificate in Form-II issued from the Deputy Commissioner, Madikeri District as per guidelines issued by Ministry of Environment and Forest, New Delhi vide letter No. 11-9/98-FC(Pt) dated 05-07-2013 by the User Agency
- 2) Specific conditions as appended in Annexure-'A'.

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), Bangalore

Copy communicated:

1. The Chief Wildlife Warden and Principal Chief Conservator of Forests (Wildlife), 2nd Floor, Aranya Bhavan, Malleswaram, Bangalore for information.
2. The Chief Conservator of Forests, Kodagu Circle, Madikeri for information and necessary action.
3. The Deputy Commissioner, Kodagu District for information and with a request to submit Form-II regarding settlement of rights under FRA and consent of the GramaSabha/s to this office as per the Forest (Conservation) Rules.
4. The Deputy Conservator of Forests, Madikeri Division, Madikeri for information and necessary action.
5. The Deputy Conservator of Forests, Madikeri Wildlife Division, Madikeri for information.
6. M/s Kodagu Hydel Projects Pvt Ltd., S-5, 2nd Floor, Red Cross Bhavan, No. 26, Race Course Road, Bengaluru- 560 001 for information and necessary action. Recognition of Forest Rights certificate under Forest Rights Act 2006 may be obtained from the Deputy Commissioner, Kodagu & submitted on priority.

ANNEXURE-'A'

1. The legal status of land shall remain unchanged and it shall continue to be forest land
2. The lessee shall pay lease rent as fixed by the Government from time to time
3. The lease tenure is for a period of 20 (twenty) years
4. 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 shall be resumed back. The concerned Deputy Conservator of Forests is authorized to take necessary action in this regard
5. In case any violations are committed by the user agency under any of the Forest Acts and rules, the proposed Forest Land shall be liable for forfeiture under Section 82 of Karnataka Forest Act 1963. The concerned Chief Conservator of Forests is authorized to take necessary action in this regard.
6. No residential buildings shall be permitted in the proposed forest area.
7. The Karnataka Forest Act, 1963 and Rules, 1969 and other relevant Acts & Rules will be applicable in case any violation
8. The User Agency has to pay the Net Present Value (NPV) of forest land diverted under this proposal as per conditions stipulated by Government of India, Ministry of Environment and Forests, New Delhi vide letter No. 11-9/98-FC dated 13-02-2014 and orders dated 28-3-2008 and 9-5-2008 of the Hon'ble Supreme Court of India.
9. The User Agency shall ensure that there should be no damage to the available fauna and other flora.
10. No labour camp shall be established on the forest land
11. Any damage to forest area due to works of User Agency shall be compensated by the User Agency. The extent of damage shall be assessed by the concerned Deputy Conservator of Forests
12. The lessee shall not sub-lease, mortgage or hypothecate the forest area.
13. The User Agency shall also abide by all the conditions imposed by Government of India, Government of Karnataka and Principal Chief Conservator of Forests (Head of Forest Force).


Principal Chief Conservator of Forests
(Head of Forest Force), Bangalore

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).	Diversion of 0.994ha of 'Paisari Kadu' (forest land) in Sy. No.1/9p2 of Kumaralli Village, Madikeri Division for implementation of Beedalli Mini Hydel Project of 3 MW capacity in Kodagu District in favour of M/s. Kodagu Hydel Projects Pvt. Ltd under the Forest (Conservation) Act, 1980 subject to the conditions appended in Annexure 'A' is recommended for approval.
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Signature:



Name:

(JAGMOHAN SHARMA, IFS.,)

Designation:

Nodal Officer &

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

Signature:



Name:

(K.S. SUGARA, IFS.,)

Designation:

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

(Official Seal):

N.D.O. No. 17/17-18

Date: 26-09-2017



o/c