

Full Title of the Project: Diversion of 0.9505 ha of forest land for Khalsa Garden Marriage Centre cum Recreational Spot along Badkhal-Surajkund road at village Mewla Maharajpur, District Faridabad

File No. : FP/HR/Others/15190/2015

PART – II

(To be filled by the concerned Deputy Conservator of Forests)

1.	Location of the project / Scheme :	Diversion of 0.9505 ha of forest land for Khalsa Garden Marriage Centre cum Recreational Spot along Badkhal-Surajkund road at village Mewla Maharajpur, District Faridabad
(i)	State / Union Territory	Haryana State
(ii)	District	Faridabad
(iii)	Forest Division	Faridabad Forest Division
(iv)	Area of forest land proposed for diversion (in ha.)	0.9505 Ha
(v)	Legal status of forest	Section 4 & 5 PLPA Forest
(vi)	Density of vegetation	0.1
(vii)	Species-wise (scientific names) and diameter class-wise enumeration of trees (to be enclosed. In case of irrigation / hydel projects enumeration at FRL, FRL-2 meter & FRL-4 meter also to be enclosed.)	NA
(viii)	Brief note on vulnerability of the area to erosion	The area is notified under section 4 of PLPA therefore prone to erosion.
(ix)	Approximate distance of proposed site for diversion from boundary of forest.	0
(x)	Whether forms part of National Park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, etc. (If so, the details of the area and comments of the Chief Wildlife Warden to be annexed).	No
(xi)	Whether any rare/ endangered / unique species of flora and fauna found in the area – if so details thereof.	No
(xii)	Whether any protected archaeological / heritage site / defense establishment or any other important monument is located in the area. If so, the details thereof with NOC from competent authority, if required.	No
2.	Whether the requirement of forest land as proposed by the user agency in col. 2 of Part-I is unavoidable and barest minimum for the project. If no, recommended area	This project is non-site specific and can be avoided.

	item-wise with details of alternatives examined.	
3.	Whether any work in violation of the Act has been carried out (Yes/No). If Yes, details of the same including period of work have done, action taken on erring officials. Whether work in violation is still in progress.	User agency has violated the provisions of forest conservation act 1980. Without the prior approval of central govt. under forest conservation act, 1980 non forestry activities has been carried out which is offence.
4.	Details of compensatory Afforestation Scheme	
(i)	Details of non forest area / degraded forest area identified for compensatory Afforestation, its distance from adjoining forest, number of patches, size of each path.	Not recommended
(ii)	Map showing non-forest / degraded forest area identified for compensatory Afforestation and adjoining forest boundaries.	Not recommended
(iii)	Detailed compensatory Afforestation scheme including species to be planted, implementing agency, time schedule, cost structure, etc.	Not recommended
(iv)	Total financial outlay for compensatory Afforestation scheme	Not recommended
(v)	Certificates from competent authority regarding suitability of area identified for compensatory Afforestation and from management point of view.	Not recommended
5.	Site inspection report of the DCF (to be enclosed) especially highlighting facts asked in col. 7 (xi, xii), 8 and 9 above.	Attached (Check List No. 16)
6.	Division / District profile :	
(i)	Geographical area of the district	74290 Ha.
(ii)	Forest area of the district	7022.48 Hectares
(iii)	Total forest area diverted since 1980 with number of cases	487.601 Hec.
(iv)	Total compensatory Afforestation stipulated in the district/division since 1980 on. a) Forest land including penal CA b) Non-Forest land	505.20 Hectares 44.50 Hectares
v)	Progress of compensatory Afforestation as on date a) forest land b) Non-forest land	07.02.2025 a) 351.18 Ha b) 44.50 ha

<p>7. Specific recommendations of the DCF for acceptance or otherwise of the proposal with reasons.</p>	<p>The proposed use of the forest land is non-site specific. As per the Consolidated Guidelines and Clarifications issued under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, and Van (Sanrakshan Evam Samvardhan) Adhiniyam Rules, 2023, particularly Para 1.10 concerning Diversion of forest land for non-site-specific projects:</p> <p><i>“(a) Utilization of forest area for establishing industries, construction of residential colonies, institutes, rehabilitation of displaced persons, etc. are non-site-specific activities and cannot be considered on forest land as a rule. For that matter, no non-site specific proposal can be entertained for considering approval under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.”</i></p> <p>As per Consolidated Guidelines and Clarifications issued under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and Van (Sanrakshan Evam Samvardhan) Adhiniyam, Rules, 2023, Para 1.16 Ex-post Facto approval and penal provisions - "Proposals seeking ex-post-facto approval of the Central Government under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 are normally not to be entertained. The Central Government will not accord approval under the Act unless under exceptional circumstances that may justify the case. In such cases Central Government shall ensure penalty from user agencies/State as follows:</p> <p><i>(i) In cases where the proposal under Van (Sanrakshan Evam Samvardhan) Adhiniyam has not been submitted and forest land is diverted without FC</i></p> <p><i>(a) The diversion of forest land for non-forestry purposes without the prior approval of the competent authority in the State will be dealt under the provisions of Indian Forest Act 1927 and other State Acts dealing with the conservation of Forests by the State Government concerned. The land in question will not be considered as diverted under Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 and the status of the land shall continue to be forest.</i></p> <p>The Change of land use certificate from Town and country planning/ Municipal Corporation / any other competent authority is an essential document for processing of proposals under FCA. Incomplete proposals in absence of necessary documents cannot be recommended or processed. No document confirming CLU granted has been uploaded on portal.</p> <p>Approved layout plan is a document that ensures space is used efficiently, meets safety standards, and</p>
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ensures it aligns with all govt. rules and regulations. The layout plan submitted or uploaded by user agency is not approved by competent authority.

User agency has violated the provisions of forest conservation act 1980. Without the prior approval of central govt. under forest conservation act, 1980 non forestry activities has been carried out which is offence.

This case is also not in compliance of the various guidelines issued by MoEFCC vide its letter no 25-536/2023-ROC dated 29-12-2023 regarding-processing of the proposals involving non-forestry use of lands closed under Punjab Lands Preservation Act, 1900.

Conclusive and operative part of Hon'ble supreme court judgement dated 21.07.2022 in CA No. 10294/2013 in matter of Narendarsingh and others versus diveshbhutani and ors. is reproduced below-

Para 64. Thus, we hold that the lands covered by the special orders issued under Section 4 of PLPA have all the trappings of forest lands within the meaning of Section 2 of the 1980 Forest Act and, therefore, the State Government or competent authority cannot permit its use for non-forest activities without the prior approval of the Central Government with effect from 25th October 1980. Prior permission of the Central Government is the quintessence to allow any change of user of forest or so to say deemed forest land. We may add here that even during the subsistence of the special orders under Section 4 of PLPA, with the approval of the Central Government, the State or a competent authority can grant permission for non- forest use. If such non-forest use is permitted in accordance with Section 2 of the 1980 Forest Act, to that extent, the restrictions imposed by the special orders under Section 4 of PLPA. will not apply in view of the language used in the opening part of Section 2 of the 1980 Forest Act. We also clarify that only because there is a notification issued under Section 3 of PLPA, the land which is subject matter of such notification, will not ipso facto become a forest land within the meaning of the 1980 Forest Act.

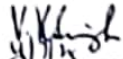
65. Therefore, the lands covered by the special orders dated 18th August 1992 issued under Section 4 of PLPA will be governed by the orders passed by this Court in the Petition for Special Leave to Appeal (Civil) Nos. 7220-7221 of 2017. Hence, all the concerned authorities shall take

action to remove the remaining illegal structures standing on land covered by the special orders and used for non-forest activities on the said lands erected after 25th October 1980, without prior approval of the Central Government, and further to restore status quo ante including to undertake reforestation/afforestation programmes in right earnest. As far as the lands covered by special orders under Section 5 are concerned, we are not making any adjudication. Therefore, the authorities will have to decide the status of the lands covered by the said orders under Section 5 on case to case basis.

In Compliance of Hon'ble supreme court judgement dated 21.07.2022, DCFFaridabad issued order, vide order Endst. No 374-78 dated 09.06.2023. The reply/representation submitted by Sh Narender singh and Kawaljeet C/o Khalsa garden was found to be unsatisfactory as -

No prior approval of Central Government under section 2 of FCA 1980 has been taken which makes structures in violations of Forest conservation Act. User agency failed to submit documents or prove that structures erected on the said land are prior to 25 October, 1980. Therefore was advised to remove unauthorized structures.

Based on the fact of the project being non-site specific in nature, and in light of facts mentioned above this proposal is not recommended.


Dy. Conservator of Forests,
Faridabad