

To,

Divisional Forest Officer cum Deputy Conservator,
Forest Department,
Faridabad.

Subject: Regarding issuance of Forest Clearance/NOC by the State Forest Department for HPCL retail Outlet (Petrol Pump) vide proposal number 146037/2021.

Respected Sir,

Kindly refer to your reference your quarry raised vide letter dated 30.06.2022 on the subject noted above, uploaded on Parivesh Portal.

2. In this regard, it is submitted that I wrote a letter dated 15.03.2022 in reference to your letter no. 1353 dated 12.01.2022 received through "Parivesh" portal. The response dated 15.03.2022 fairly answered the quarry raised by your office vide letter no. 1353 dated 12.01.2022 and the same was also considered by the Nodal Officer. In reference to my letter dated 15.03.2022, the Nodal Officer vide letter no. प्रशा-डी-3-10185/517-18 dated 24.05.2022 directed to you that;

"अपरोक्त विषय के सन्दर्भ में युजर एजेंसी का पत्र दिनांक 15.03.2022 (प्रतिलिपि संलग्न) भेजकर निर्देश दिया जाता है कि अपनी टिप्पणी विवरण सहित इस कार्यालय को भेजें, ताकि मामले में आगे की कार्रवाई की जा सके"

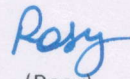
3. You rather sending your comments to the Nodal Officer, on dated 30.06.2022, again forwarded the letter no. 1353 dated 12.01.2022 to the user agency may be by mistake.

4. It is also worth mentioning here that now Hon'ble Apex Court in Civil Appeal no. 10294 of 2013 Narinder Singh & ors. V/s Divesh bhutani & ors. has again held that

"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."

It is therefore again requested that in light of my earlier request dated 15.03.2022 (Copy enclosed) and the above orders of Hon'ble Apex court, the application bearing proposal no. 146037/2021 for Forest Clearance may kindly be processed.

Dated: 26.07.2022


(Rosy)

Lol Holder retail outlet HPCL
9416957544

कार्यालय
प्रधान मुख्य वन संरक्षक, हरियाणा,
वन विभाग, हरियाणा सरकार,

सी-18, वन भवन, सेक्टर 6, पंचकुला, दूरभाष / फ़ैक्स +91 172 2563988, 2563861, E-mail: cffcpanchkula@gmail.com

क्रमांक : प्रशा-डी-तीन-10185 / 517-18
सेवा में

दिनांक : 24-5-2022

1. मुख्य वन संरक्षक, दक्षिणी परिमण्डल, गुरुग्राम।
2. वन मण्डल अधिकारी, फरीदाबाद।

विषय : Diversion of 0.2369 ha. of forest land for installation access to the proposed petrol pump of Hindustan Petroleum corporation Ltd. Between Ankhir Chowk to Surajkund on Surajkund road, Faridabad, within Municipal, Limit (WML), (Faridabad to New Delhi road) at Km. 05.777(LHS), in Village Maharajpur, Mustil No. -54, Killa No.- 18 Tehsil Badkhal, under forest division and District Faridabad, Haryana.

Online Proposal No. FP/HR/Others/146037/2021

उपरोक्त विषय के सम्बन्ध में यूजर एजैन्सी का पत्र दिनांक 15.03.2022 (प्रति संलग्न) भेजकर निर्देश दिया जाता है की आप अपनी टिप्पणी विवरण सहित इस कार्यालय को भेजे, ताकि केस में आगामी कार्यवाही की जा सके।
संलग्न / उपरोक्त ।

अति. प्रधान मुख्य वन संरक्षक (एफ0सी0ए0)
हरियाणा, पंचकुला ।

24/5/2022

To,

Divisional Forest Officer cum Deputy Conservator,
Forest Department,
Faridabad.

Subject: Regarding non issuance of Forest Clearance/NOC by the State Forest Department for retail Outlet (Petrol Pump).

Respected Sir,

This letter is in reference to your letter no. 1353 dated 12.01.2022 received through "Parivesh" portal. In this regard, it is humbly submitted that I, Rosy R/o 871, top floor, 21C, Faridabad was issued a Lol in year 2019-20 for establishment of a retail Outlet (Petrol Pump) by Hindustan Petroleum Corporation Private Limited on Ankhir-Surjakund Road, Faridabad. Before establishment, I have to obtain NoCs from certain departments including Forest Department. I took a land on lease bearing khasra no. 54//18 at village Mewala Maharajpur.

2. Subsequently, I came to know that the land in question is under section 4 of PLPA-1900 which was declared as deemed forest by Hon'ble Suprem court in year 2002-2004 in Writ Petition (Civil) 4677 of 1985 M.C. Mehta V/s Union of India and Writ Petition (Civil) 202 of 1995 T.N. Godavarman Thrimulpad V/s Union of India.

3. I first applied for FC on "Parivesh" portal in December, 2020 under category "Approach access". Thereafter I was told that in a similar matter Zonal Office has advised to apply applications in such areas under "other" category. Thereafter again an application was applied on "Parivesh" in March 2021 which is still pending on your part. And now I got your letter no. 1353 dated 12.01.2022 by which you have forwarded the letter no. 5858 dated 30.12.2021 of Nodal Officer stating to keep the application pending till any further order of Supreme Court of India which otherwise is not relevant in case of Petrol pump application. To demonstrate the same, I submit my following submissions.

4. Hon'ble Apex Court vide orders dated 16.12.2002 in Writ Petition (Civil) 202 of 1995 T.N. Godavarman Thrimulpad V/s Union of India, held the areas notified under PLPA 1900 be treated as Forest for the purpose of Forest Conservation Act as the same is being recorded as such in forest records. The direction given is reproduced as;

"For the present, no mining will be permitted in the areas for which notification under section 4 and 5 of PLPA Act 1900 have been issued for regulating the breaking up of the land etc and such lands are or were recorded as forest in Government records even if the notification period has expired, unless there is approval under the FC Act."

5. Hon'ble Apex Court further vide orders dated 08.03.2004 and 13.04.2006 in Writ Petition (Civil) 4677 of 1985 M.C. Mehta V/s Union of India. In order dated 08.05.2006, Hon'ble Apex court further referred again at page 6 and page no 19 of the orders that;

Page 6:

"(3) No mining activity would be permitted in respect of area where there is a dispute of applicability of F.C. Act, till such time the dispute is resolved or approval under the FC Act is accorded, in addition to order already passed in Writ Petition No. 4677/1985."

For the present, no mining will be permitted in the areas for which notification under section 4 and 5 of PLPA Act 1900 have been issued for regulating the breaking up of the land etc and such lands are or were recorded as forest in government records even if the notification period has expired, unless there is approval under the FC Act"

Page 19;

"(b) no mining can be carried on in areas which are subject matter of notifications under Section 4 and/or 5 of the PLPA Act 1900. However, even in these areas mining can take place after seeking permission under section 2 of the Forest (Conservation) Act. (see para 89);"

6. Even in the case referred in the letter dated 31.12.2021 of MCF V/s RWA of Khori, it is nowhere said that forest department will not give permission under section 2 of the Forest (Conservation) Act or will keep the application pending.

7. Even otherwise, the application in my case is for retail outlet/Petrol Pump on very small area. The project will also contribute to the economic growth of our Nation as well. It is also submitted that already there are number of Petrol Pumps under operation on land under PLPA, 1900 on Surajkund-Ankhir road and Gurugram-Faridabad Road and in Khori case Hon'ble Apex court never questioned any petrol pump already operation under section 4 and 5 of PLPA Act 1900. This act of the Forest department is only encouraging the monopoly of these already existing Petrol Pumps.

In light of above, it is again requested to kindly process my application under proposal no. 146037 of 2021 or a NOC may be given to go ahead to construct the project, subject to condition if any.

Dated: 15.3.2022

Rosy

(Rosy)

LoI Holder retail outlet HPCL
9416957544

Copy to;

Copy of above is forwarded to the following for information and further necessary action.

1. Principal Secretary, Forest Department, Haryana.
2. Principal Chief Conservator, Forest Department, Haryana at Panchkula.

Dated:

Rosy

(Rosy)

LoI Holder retail outlet HPCL
9416957544