

By e-mail



**ENVIRONMENT, CLIMATE CHANGE
& FORESTS(FR.10) DEPARTMENT,
SECRETARIAT, CHENNAI 9.**

Letter No.17592/FR.10/2020-6, dated: 10.10.2022

From
Tmt.Supriya Sahu, IAS.,
Additional Chief Secretary to Government.

To
The Assistant Inspector General of Forests (Central),
Government of India,
Ministry of Environment, Forests and Climate Change,
Integrated Regional Office,
No.1st Floor, Additional Office Block for GPOA,
Shastri Bhawan,
Haddows Road,
Nungambakkam, Chennai-600 006 (w.e).

Sir,

Sub: Forests – Forest (Conservation) Act, 1980 – Mudumalai Tiger Reserve, Udagamandalam – Proposal (No.FP/TN/Others/24406/2017) for diversion of 0.426 ha. of forest land in Mudumalai Tiger Reserve for laying of Optical Fiber Cable along the Theppakkadu, Masinagudi and Moyar Road section in the Nilgiris District in favour of M/s.Rliance Jio Infocomm Limited, Chennai - Regarding.

- Ref: 1. From the Principal Chief Conservator of Forests (HoD) Letter No.TS3/48990/2018, dated 11.12.2020.
2. Government letter No:17592/FR.10/2020-1, dated. 26.12.2020, 22.03.2021 and 18.04.2022.
3. From the Principal Chief Conservator of Forests (HoD) Letter No.TS3/48990/2018, dated 02.02.2021, 18.03.2022 and 18.07.2022.
4. From Reliance Jio Infocomm Limited, Letter No.RJIL/ROW/FOREST/2822, dated 02.08.2022.

=====

I am directed to enclose a copy of the reference first and third cited and to state that the Principal Chief Conservator of Forests in his letter first cited has stated that, the User Agency, (i.e.) M/s. Reliance Jio Infocomm Limited, Chennai has furnished online application under section 2 of Forest (Conservation) Act, 1980 for diversion of 0.48 ha of forest land in Mudumalai Tiger Reserve for laying of underground Optical Fiber Cable along the Theppakkadu, Masinagudi and Moyar road section in the Nilgiris District. Subsequently, based on the field assessment

made by the Deputy Director, Mudumalai Tiger Reserve, Masinagudi, the User Agency has modified the forest area diversion proposal to 0.426 ha.

2. The District Collector of Nilgiris District has certified that there is no tribal settlement, traditional Dwellers, patta land enclosure etc., in the proposed project for laying Optical Fiber Cable in Theppakkadu-Masinagudi-Moyar road section in forest area for 16 km length bordering near Tamil Nadu and Karnataka States passing through Mudumalai Tiger Reserve (Wildlife Sanctuary) for 4G telecom project, hence applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not arise in the project.

3. The Deputy Director, Mudumalai Tiger Reserve, Masinagudi has furnished the following particulars/details:-

a) Area of forest land proposed for diversion is at 0.426 ha, comes under core area of Mudumalai Tiger Reserve Sanctuary area.

b) Density of the forest area reported as 0.30 in the area adjoining to the location and classified as Eco-class-III.

c) There is no felling of trees involved for the project.

d) The forest land is managed as per Tiger Conservation Plan approved by National Tiger Conservation Authority approved in NTCA.

e) In the brief note on vulnerability of the forest area to erosion, the Deputy Director reported that, slope grading of the site is less than 33% therefore forest area will not be affected by soil erosion.

f) In the significance of the forest land proposed for diversion/use from wildlife point of view, the following were furnished:

i) Tiger, Panther, Elephants, Wild dog, Gaur, Spotted Deer, Sambar, Sloth bear, Hyena, etc are present in and around the forest land proposed for diversion.

ii) The area forms part of Mudumalai Wildlife Sanctuary (Part of Mudumalai Tiger Reserve-Core area). However there would be no negative impact anticipated in lieu of this project.

iii) The proposed location of the project falls within the Protected Area (Mudumalai Tiger Reserve-Core area)

g) The Deputy Director reported that there is no protected Archaeological / heritage site / defence establishment or any other important monuments located in the area.

h) The Deputy Director reported that the requirement of forest land as proposed by the User Agency is unavoidable and barest minimum.

i) There is no work in violation of the Act or guidelines issued under the Act have been carried out by the User Agency.

j) Since forest area diversion is below one hectare and no felling of trees are involved in the project, the Deputy Director, Mudumalai Tiger Reserve has not proposed compensatory afforestation work based on the Forest (Conservation) Act, 1980 guidelines.

4. The Deputy Director, Mudumalai Tiger Reserve, Udagamandalam in his site inspection report has reported the followings:-

- i) The area of the proposed project has been inspected on 03.07.2019. The project area falls within the core area of Mudumalai Tiger Reserve in Moyar Reserved Forests notified during 1886 and necessary right of way has been permitted in the Reserved Forest notification for the use of the road by the public. The proposed project stretch over a length of about 14.20 km from Theppakkadu via Masinagudi to Moyar excluding the non forest land in between.
- ii) The work involves of a narrow trench to a top width of 450mm and bottom width of 300mm, with a height of 1650mm for laying of Optical Fiber Cable and which is well within the maximum permissible limit as allowed by the Government of India. The trench is aligned in the edge (berm portion) alongside the black topped road within the right of way admitted and where no felling of trees are involved. The use of forest land is only temporary and one time affair in the form of strip, there would be no disturbance to wildlife as the said portion would be restored to its original surface. The forest area proposed for use of this project is about 0.426 ha. The User Agency has furnished undertaking to the effect that, there will be no cutting of trees involved in the project and to pay the Net Present Value charged by the Government.
- iii) Since the project is not involving any cutting of trees and having not much disturbance to the wildlife and considering the development of communication with 4G facilities, the project is recommended subject to usual terms and conditions and special conditions stipulated by the Government of India. However in the additional information details section, the Deputy Director has stated that the cross section of the trench proposed by the user agency may be adopted. (ie., 30 cm width trench with 2.00 m depth).
- iv) The Deputy Director, Mudumalai Tiger Reserve in his specific recommendation has made the following conditions other than usual terms and condition specified and following special conditions while doing the work.
 - a) A refundable caution deposit of Rs. 2000/- per Km in the form of a bank guarantee in favour of the Deputy Director may be collected from the User Agency so as to ensure compliance of all conditions in the permission if accorded.
 - b) 5% of the cost of the project proportionate to the distance located within the Protected Area shall be remitted by the User Agency in Mudumalai Tiger Conservation Authority for habitat improvement and wildlife conservation in the Reserve area.
 - c) Since Tiger Reserve area is used by the User Agency, they shall provide free data connection to tiger reserve management for the cause of conservation and protection of tigers through electronic surveillance in the form of set up box without any structural / tower component to the Range Officer, Reception centres and Division Head quarters.
 - d) The project should be completed within a period of six months.

5. The project site has been inspected by the Additional Principal Chief Conservator of Forests and Field Director, Mudumalai Tiger Reserve on 01.10.2019

and he has reported that, based on the details furnished by the Deputy Director in Part-II of the proposal and consequent to his field inspection, it is verified that the use of forest land is only temporary and one time affair in the form of strip and which is well within the maximum permissible limit as allowed by the Government of India vide letter No. 11-9/1998-FC, dated 05.10.2015. The trench having maximum width of 300mm on the ground surface and to a depth of 1650mm. The trench is aligned in the edge (berm portion) alongside the black topped road within the right of way admitted and where no felling of trees are involved. Further, there is no non-forest land is available other than the use of this forest land. The said portion would be restored to its original surface, hence recommended.

6. Further, in his specific recommendation of the project, the Additional Principal Chief Conservator of Forests and Field Director, MTR has stated that the proposal in particular has been sought for laying Optical Fiber Cable from Theppakadu to Moyar via Masinagudi passing through Mudumalai Tiger Reserve so as to ensure connectivity with other areas. The project will help connectivity and data transfer which will go a long way in the development of the society. The project would also benefit to the tiger reserve management ensuring electronic surveillance by utilizing net connectivity to be provided by the user agency on completion of the project. The use of forest land is only in the form of a strip in shoulder berm portion alongside the black topped road within the public right of way admitted and where no felling of trees is involved. Based on the details furnished by the Deputy Director in Part-II of the proposal and subsequent field inspection on 01.10.2019 and report thereof, the proposal is recommended.

7. The Principal Chief Conservator of Forests has further stated that the Deputy Director and Additional Principal Chief Conservator of Forests and Field Director have recommended the period of diversion in year as 2019. Laying of Optical Fiber Cable work in the forest area work along the road side work may be completed within 6 months period as per the time limit stipulated by the Deputy Director. But usage of cable work is permanent feature. Hence the diversion/usage of forest land has been recommended for 20 years as recommended on Defence Services Optical Fiber Cable work and Reliance Jio Infocomm Limited earlier proposal in the Mudumalai Tiger Reserve area, the Nilgiris District.

8. As per Government of India, Ministry of Environment, Forest and Climate Change (Forest Conservation Division), New Delhi letter F. No. 11-327/2015-FC, dated 14.08.2015, apart from prior approval of Central Government under the Forest (Conservation) Act, 1980, use of forest land in Protected Areas requires prior recommendation of Standing Committee of National Board for Wildlife and the prior leave of the Hon'ble Supreme Court also.

i) The proposals seeking prior approval of Central Government under the Forest (Conservation) Act and to obtain prior recommendation of Standing Committee of National Board for Wildlife for use of forest land for non forestry purpose in protected areas may be proposed concurrently.

ii) The Additional Principal Chief Conservator of Forests and Field Director, Mudumalai Tiger Reserve, Udagamandalam in letter No. 4875/2017/D1, dated 28.11.2020 has reported the following:-

a) Proposal seeking prior approval under Forest Conservation Act has been submitted through online based on the guidelines issued in Government of India letter F. No. 11-327/ 2015-FC dated 14.05.2015.

b) In regard to the prior recommendation of Standing Committee of National Board for Wildlife (NBWL) the user agency has already uploaded the proposal in the web portal on 30.04.2020 seeking prior approval of the State Board of Wildlife (SBWL), since SBWL has been authorized by NBWL in its 46th meeting. The Deputy Director has uploaded the proposal on 12.08.2020 with due recommendation.

c) In regard to prior leave of Hon'ble Supreme Court of India, it may not be required in view of the directions issued in I.A No. 1220 in I.A No. 548 and 994 in W.P No. 202/95, where these kind of proposal have been permitted.

d) Further, this proposal may not be required to be referred to Forest Advisory Committee since this project does not lie in more than one Protected Area as it falls only in one Protected Area namely, Mudumalai Wildlife Sanctuary.

e) The user agency will be permitted to carry out the project only after obtaining prior approval from the Government of India on both the proposals under Forest (Conservation) Act, 1980 and State Board of Wildlife.

Hence the proposal received from the M/s Reliance Jio Infocomm Limited for forest clearance has been forwarded to the Government pending receipt of approval from the SBWL by the User Agency under Wildlife Clearance.

9. As per Government of India guidelines, State Forest Department was empowered to accord permission for laying underground telephone lines/optical fiber cables and drinking water supply pipelines along the roads within the existing right of way not falling in National Park and Wildlife Sanctuary without felling of trees and the maximum size of the trench is 2.00 metre depth and 1.00 metre width. Any deviation/conditions will require separate submission of proposal under Forest (Conservation) Act, 1980. This proposal area falls in Mudumalai Tiger Reserve sanctuary area. Hence this project requires approval from the Government of India. Further, as per Government of India guidelines, full exemption for payment of Net Present Value for underground laying of Optical Fiber Cable has been allowed for areas falling in forest, but this exemption not allowed for National Park and Sanctuaries. Hence, payment of Net Present Value has been insisted.

10. The Principal Chief Conservator of Forests has sent the proposal duly recommended by the Additional Principal Chief Conservator of Forests (Forest Conservation Act) (i/c) / Nodal Officer, Forest Conservation Act of the State of Tamil Nadu.

11. The Principal Chief Conservator of Forests has also furnished the clarifications for the queries raised by the Government as follows:-

Sl. No.	Query	Reply
1	Obtaining prior approval of NTCA for the proposed project and copy of authorization issued by the National Board for Wildlife to State Board for Wildlife.	i) The Additional Principal Chief Conservator of Forests and Field Director, Mudumalai Tiger Reserve, Udagamandalam has reported that the National Tiger Conservation Authority in Ref No.PS-S(NTCA)/2009

		<p>Miscs dated 22.04.2009 has directed that no outside agency can undertake any field work outside the core/critical habitat without the prior permission of the Hon'ble Apex Court.</p> <p>ii) The Hon'ble Supreme Court in IA No. 2365 in 1406/2005 in Writ Petition(s) (Civil) No(s) 202/1995 dated 05.10.2015 vide page No. 34 and 35 has issued orders that 'All matters for grant of permission for implementation of projects in areas falling in National Park/Sanctuaries, including rationalization of boundaries etc.. will be considered by the Standing Committee of the National Board for Wildlife on its own merits and in conformity with the orders and directions passed by the court from time to time.</p> <p>iii) Subsequently the National Board of Wildlife has resolved to authorize the State Board of Wildlife in its 46th meeting for deciding on this kind of category of proposal ie. for laying of Optical Fiber Cable. Accordingly the proposal has been processed to obtain requisite permission from State Board of Wildlife.</p>
2	Copy of Hon'ble Supreme Court of India in IA No. 2365 in 1406/2005 in Writ Petition(s) (Civil) No(s) 202/1995.	Principal Chief Conservator of Forests has furnished a copy of the order of SCI.
3	Confirmation regarding the project proposal comes along the roads within existing right of way.	As reported by the Additional Principal Chief Conservator of Forests and Field Director, Mudumalai Tiger Reserve, Udagamandalam, laying Optical Fiber Cable has been proposed in the existing right of way road. However, this case may not be considered under Section 4.2 of the revised hand book of Forest (Conservation) Act. 1980, since the area is coming in the Wildlife Sanctuary area. Hence this project requires approval from the Government of India.

12. The Principal Chief Conservator of Forests has recommended the proposal for diversion of 0.426 ha. of forest land in Mudumalai Tiger Reserve for laying of underground Optical Fiber Cable from Theppakkadu to Moyar via Masinagudi passing through Mudumalai Tiger Reserve – Core Zone in the Nilgiris District in favour of M/s. Reliance Jio Infocomm Limited, Chennai for a period of twenty years with the following conditions and requested to forward the same to Government of India, for obtaining their concurrence;-

- i. Legal status of forest land shall remain unchanged.
- ii. The User Agency has to pay the Net Present Value of the forest land as per the rate fixed by the Supreme Court of India.
- iii. The User Agency has to pay the lease rent, as fixed by the Forest Department at the time of sanction along with any escalation for the forest land to be diverted, to the Additional Principal Chief Conservator of Forests and Field Director, Mudumalai Tiger Reserve, Udagai.
- iv. The period of diversion is for 20 years. For the maintenance of Optical Fiber Cable line by the User Agency, they have to seek written permission from the Additional Principal Chief Conservator of Forests and Field Director, Mudumalai Tiger Reserve, Udagai. The User Agency has to make good use of land after use/maintenance.
- v. A caution deposit of Rs. 2000/- per Km in the form of a bank guarantee in favour of the Deputy Director may be collected from the User Agency and this amount will be released after the work period is over with due compliance of the conditions and without causing any damage to the existing flora and fauna and natural surroundings and as satisfied by the Field Director.
- vi. 5% of the cost of the project proportionate to the distance located within the Protected Area shall be remitted by the User Agency in Mudumalai Tiger Conservation Authority for habitat improvement and wildlife conservation in the Reserve area.
- vii. Payment of Net Present Value has to be made by generating chalan in the designated web portal.
- viii. Since Tiger Reserve area is used by the User Agency, they shall provide free data connection to Tiger Reserve Management for the cause of conservation and protection of tigers through electronic surveillance in the form of set up box without any structural / tower component.
- ix. Any other conditions stipulated by the Additional Principal Chief Conservator of Forests and Field Director, Mudumalai Tiger Reserve / Deputy Director, Mudumalai Tiger Reserve, Masinagudi in the interest of safe guarding flora and fauna in the Tiger Reserve Sanctuary shall be complied by the User Agency.

13. The Conservator of Forests and Field Director, Mudumalai Tiger Reserve, Udagamandalam in his letter has reported that the condition imposed regarding free data connection to Tiger Reserve management for the cause of

conservation and protection of tigers through electronic surveillance in the form of set top box imposed considering the following aspect:

i) Mudumalai Tiger Reserve is located in the Western Ghats landscape in the tri-junction of three States namely Tamil Nadu, Karnataka and Kerala. This bigger landscape is having contiguous forest having rich bio-diversity value with abundant wildlife population including elephants and key species tiger. In view of the remote location of the reserve and amidst thick forests and in absence of any leading network providers/company, the facility of technology based protection system could not be adopted or linked with the existing customary/conventional protection system. The existing BSNL network towers are located beyond the boundaries of Tiger Reserve resulting poor signal quality for network connection.

ii) Hence, to resolve this issue and to utilize the services of the user agency in lieu of this project, they were consulted for viable solution for having network connectivity. They voluntarily came forward for providing free data connection by providing set top box without any tower connections to ensure electronic surveillance for the cause of conservation. They have also furnished undertaking in this regard and copy of undertaking given by the user agency has been furnished.

iii) The Conservator of Forests and Field Director, Mudumalai Tiger Reserve, Udagamandalam has reported that in order to facilitate electronic surveillance for tiger conservation by utilizing their services, this condition of providing free data connectivity by the user agency was imposed and hence the conditions is not an arbitrary one rather voluntary offered by the user agency and requested this may be taken into account for processing the proposal further.

14. The Principal Chief Conservator of Forests (HoFF) has furnished the justification report furnished by the Conservator of Forests and Field Director, Mudumalai Tiger Reserve, Udagamandalam along with undertaking furnished by the user agency to Government, for consideration of the proposal.

15. In this connection, Reliance Jio Infocomm Limited in its letter 4th cited has reported as follows:-

- i. For providing telecom facilities in the hill district of Nilgiris for the better communication and net connectivity in the tribes, peoples residing in the hill area as well as tourists visiting the region, laying of underground Optical Fiber Cable along the road side of Theppakadu, Masinagudi and Moyar road section through the Mudumalai Tiger Reserve area was proposed and accordingly forest clearance proposal was uploaded in the Parivesh web portal.
- ii. While processing the forest clearance proposal, the then Additional Principal Chief Conservator of Forest and Field Director, Mudumalai Tiger Reserve, Udagamandalam desired to provide free data to facilitate electronic surveillance in Mudumalai Tiger Reserve, which is located in the Western Ghats landscape at the tri-junction of three states, namely Tamil Nadu, Karnataka and Kerala stating that larger landscape has a high biodiversity value, due to its abundant wildlife population, which includes elephants and key tiger species in the absence of network providers in the region. The Reliance Jio Infocomm Limited have earnestly tried out best to comply with

the oral request. They also tried to facilitate free data connection for tiger conservation purposes, but as the area is dense forest and as there was no possibility of a colocation of their technical equipments, they are unable to provide free data connection for the project area.

16. The Reliance Jio Infocomm Limited has, therefore requested that the project proposal may be processed with the guidelines issued under the Forest (Conservation) Act, 1980 and Rules therein and requested approval for the project proposal early.

17. The Government have examined and accepted the proposal of the Principal Chief Conservator of Forests (Head of Forest Force) for diversion of 0.426 ha. of forest land in Mudumalai Tiger Reserve for laying of underground Optical Fiber Cable from Theppakkadu to Moyar via Masinagudi passing through Mudumalai Tiger Reserve - Core Zone in the Nilgiris District in favour of M/s. Reliance Jio Infocomm Limited, Chennai, for a period of 20 years, under section 2 of Forest (Conservation) Act, 1980 subject to the conditions mentioned at para 12 above except condition no.(viii) and decided to forward the same to Ministry of Environment, Forests and Climate Change, Government of India for obtaining their concurrence.

18. I am, therefore, directed to request you to kindly obtain the concurrence of the Competent Authority and communicate the same to this Government, early.

Yours faithfully,

M. Megala
10/10/2022

for Additional Chief Secretary to Government

V. S. S. S.
10-10-2022

Copy to:-

The Principal Chief Conservator of Forests (HoFF),
Chennai-15.

The Reliance Jio Infocomm Limited,
No.89, Dr. Radhakrishnan Salai,
Mylapore,
Chennai- 600 004.

PART – V

(To be filled in by the Secretary in charge of Forest Department or by any other authorized officer of the State Government not below the rank of an Under Secretary)

Proposal for diversion of 0.426 ha. of forest land in Mudumalai Tiger Reserve for laying of underground Optical Fiber Cable from Theppakkadu to Moyar via Masinagudi passing through Mudumalai Tiger Reserve - Core Zone in the Nilgiris District in favour of M/s. Reliance Jio Infocomm Limited, Chennai, for a period of 20 years under Section 2 of Forest (Conservation) Act, 1980.

18. Recommendation of the State Government

(Adverse comments made by any officer or authority in Part-B or Part – C or Part – D above should be specifically commented upon)

Recommended.

MR Amarnath
(M.R. AMARNATH) *10/10/2022*

Signature

Name & Designation
(Official Seal)

Date : 10.10.2022

Place : Chennai-9.

Under Secretary to Government
Environment, Climate Change and
Forest Department
Secretariat, Chennai-600 009.
Vandh
10/10/2022