

By e-mail



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

Letter No.6353/FR.10/2020-2, Dated: 17.10.2020

From
Dr. Sandeep Saxena, I.A.S.,
Additional Chief Secretary to Government .

To

✓ The Additional Director General of Forests (Central),
Government of India,
Ministry of Environment, Forests and Climate Change,
Regional Office (South Eastern Zone),
1st & 2nd Floor, HEPC Building,
No.34, Cathedral Garden Road,
Nungambakkam, Chennai-34.(w.e)

Sir,

Sub: Forests - Forest (Conservation) Act, 1980 – Madurai Circle /
Theni Division – Proposal for diversion of 2.839 ha. of forest
land for the improvement work of Theni Bye-pass road
connecting Dindigul-Theni road and Madurai-Cochin road
across Valkaradu RF – in favour of Divisional Engineer,
Highways Construction and Maintenance, Theni- Regarding.

Ref: 1. From the Principal Chief Conservator of Forests Letter
No.TS4/39100/2019, dated 20.03.2020.
2. Government Letter No.6353/FR.10/2020-1, dated
28.05.2020.
3. From the Principal Chief Conservator of Forests Letter
No.TS4/39100/2019, dated 03.08.2020.

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In the reference first cited, the Principal Chief Conservator of Forests has stated that the User Agency, (i.e.) the Divisional Engineer, Highways Construction and Maintenance, Theni has furnished online application under Section 2 of Forest (Conservation) Act, 1980 for diversion of 2.79 ha. of forest land and uploaded the revised proposal for diversion of 2.839 ha. of forest land. The User Agency has uploaded necessary documents, Certificates and Undertakings in the Online Submission and Monitoring of Forests Clearances Proposal (OSMFCP) portal.

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2. The District Forest Officer, Theni has inspected the proposed site on 19.01.2020 and stated that the proposed road improvement works at Theni Bye pass branching at Km.68/8 of NH45 Extn. Dindigul – Kumuli Road and joint at Km 75/6 of NH49 Extn. Madurai – Cochin Road. The existing road to a length of about 4.4km is being utilized for the public use till today. The User Agency has proposed to seek clearance under Forest Conservation Act to improve the existing road in 2013 and has applied for Forest Conservation Act clearance for diversion of 4.295 ha of Forest land in Valkaradu Reserve Forest as below:-

S. No.	Survey No. Involved in the Alignment	Classification	Length of Road	
			Patta / Karadu Poramboke	Forest
1	108, 109, 110, 111, 135, 136, 137, 138, 139, 142, 143, 258, 1367, 256, 1378, 1377, 1376, 189 & 190	Patta Land	1505 m	-
2	1237	Karadu Poramboke	1005 m	-
3	Valkaradu RF	Reserved Forest	-	1 st reach 278m
				2 nd reach 950m
				3 rd reach 662m
Total			2510m	1890m
Total				4400m

Total forest land required is $1890m \times (22+23.44)/2 = 42950 m^2$ (i.e) 4.295 Ha.

3. The User Agency has handed over 8.59 ha of land to forest department as a compensatory land for the diversion and is notified under Section 4 of Tamil Nadu Forest Act, 1882 and the notification under Section 16 is under process. However, the proposal was not processed further and instead, a fresh proposal for improvement and re-gradation of road 3rdreach from Theni Bus Stand to Madurai – Cochin road for a length of 662 mts and a width of 12 mts. (i.e.) 0.7944 Ha. was pursued and permission accorded vide Principal Chief Conservator of Forest's Letter No. TS1/34967/2013 dated 27.08.2013. Now, proposal has been uploaded for the road passing through 1st and 2nd reach. There is no spontaneous tree growth, no endangered species of flora and fauna found in the proposed area and also does not have any important monuments which are archaeological / heritage site / defense establishment etc. Since there is no other alternative feasible location available and there is an existing road, the diversion of 2.839 Ha. of Forest Land may be considered.

4. The Additional Principal Chief Conservator of Forests, Madurai has inspected the proposed site along with District Forest Officer, Theni and field staff on 30.01.2020 and stated that the proposal relates to the widening from double lane to multilane and improvements to Theni Bye pass road sanctioned vide G.O. (Ms) No.90, Highways and Minor Ports (HS1) Department dated 28-5-2018. The said existing Bypass road is a two lane road that connects Dindigul - Theni road to Cochin - Madurai road and cuts Valkaradu RF of Theni forest division in a north - south direction at two distinct places to a length of 278m and 950m respectively. The average width of the existing road is about 7.0m. The present proposal submitted refers to diversion of forest land on either side of the carriageway for widening of the road from double lane to multilane for ease of traffic movement. The total area sought to be diverted is therefore placed at 2.839 ha. of RF, being 0.612 ha. (length of 278m) in the first stretch and 2.227ha (length of 950m) in the second stretch. Valkaradu RF is situated atop a hillock and slopes down both in a easterly and westerly direction with a common ridge lying in between and running almost the entire length of the RF. The vegetation mostly consists of a coarse form of degraded dense scrub interspersed with Albizziamara, Chloroxylonwietenia, Neem etc. The Theni district administrative headquarters viz. Theni town has grown around the RF with dwellings occupying the western and southern slopes as well as the eastern slopes adjoining the RF. The Theni bye-pass road cuts Valkaradu on its eastern slope and is an important road linking Theni with Dindigul on the north, Cochin on the west as well as Madurai town on the east. It is therefore an important link road for Theni town. An extent of 8.59 ha. in SF No.1511 of non forest land in Veerapandi village, Theni Taluk of Theni district has already been handed over to the forest department earlier and has been declared under Section 4 of the Tamil Nadu Forest Act, 1882. This piece of land would constitute the actual land handed over for the purpose of compensatory land for afforestation in lieu of the forest land to be diverted for the above said project. The existing Theni bye-pass road finds no mention in any of the records available with the District forest office. It is presumed that it would have been an old cart track which was subsequently improved upon with the expansion of Theni town without the formal permission of the forest department probably prior to or after the promulgation of the Forest Conservation Act, 1980. No action has also been initiated by the Forest Dept. against the Highways Dept. for laying of the Bye pass road or its maintenance. As such, the very existence of the present road would have to be construed as a violation of the Forest Conservation Act. However, it is a fact that the bye pass road existing in its present form offers much succour to the general public as it is one of the vital roads easing congestion of traffic within Theni town by allowing vehicles entering Theni town to access the bye pass road and reach their destinations without causing traffic snarls in the town. It is therefore a vital link road for a growing urban conglomeration like Theni and its importance in the economic and social development of the inhabitants of the town cannot be underplayed. The implications of not having obtained clearance under the Forest (Conservation) Act, 1980 for the existing Bye pass road however will have to be taken into the

reckoning. Presently both stretches of the bye-pass road mentioned in the proposal pass through Valkaradu RF and the issue of movement of wildlife in particular smaller mammals and nocturnal ones across the existing road to access the opposite sides of the RF will have to be considered. Movement of heavy and fast moving vehicles on the road can cause disturbance to such wildlife and their habitat and tend to result in road kills as has been witnessed elsewhere. Further trash and garbage deposited by the general public on the sides of the road may also add to the discomfiture experienced by wildlife leading to death of fauna, particularly reptilian fauna.

5. The Additional Principal Chief Conservator of Forests, Madurai has recommended for clearance under Forest Conservation Act, 1980 subject to the following:-

- The issue of clearance under the existing provisions of the Forest Conservation Act for the bye pass road already in existence and passing through Valkaradu RF will have to be decided.
- The speed of vehicles plying on the road upon expansion of the road may be subjected to regulation preferably not more than 30 km per hour while crossing the stretches of reserve forests on the bye pass road.
- Adequate number of speed breakers may be executed on the stretches of the animal passing through the Reserved Forest at Vantage points to control the speed of the vehicles plying on the road.
- Adequate number of Display boards/ Signage/ Speed breakers may be fixed along both the stretches passing through the RFs warning vehicle drivers to exercise caution while driving.
- Erection of awareness boards /displays exhorting the general public/ vehicle commuters to desist from throwing trash and garbage along the road.

6. The Principal Chief Conservator of Forests has, therefore recommended the proposal for diversion of 2.839 ha. for the improvement work of Theni Bye pass road connecting Dindigul-Theni road and Madurai-Cochin road across Valkaradu Reserved Forest for a period of twenty years, subject to the following conditions:-

- 1) The legal status of the land (2.839 ha) shall remain unchanged and shall remain as Reserved Forests.
- 2) The demarcation of the proposed forest area shall be carried out by erecting 4 feet height cement concrete pillars duly numbered at an interval of 20 mts. at the cost of User Agency.
- 3) The User Agency shall pay the Net present value of the diverted forest area at the rates stipulated by the Ministry of Environment and Forests from time to time, as per the orders of the Hon'ble Supreme Court dated 28.03.2008

and 09.05.2008 in IA Nos. 826 in 566 with related IAs in Writ Petition (Civil) No.202/1995.

- 4) The Additional amount of the Net Present Value (NPV) of the diverted forest land if any, becoming due after revision of the same by the Hon'ble Supreme Court of India in future shall be charged by the State Government from the User Agency. The User Agency shall furnish an undertaking to the effect.
- 5) The User Agency has to pay the cost of raising Compensatory Afforestation and maintenance of plantation, Protection of plantation etc. as fixed by the Forest Department and willingness to deposit additional amount if any suggested and demanded subsequently.
- 6) The User Agency shall be responsible for any loss to Flora and Fauna in the surroundings and shall take all possible measures to conserve the same.
- 7) The forest land shall not be used for any other purpose other than that specified in the proposal.
- 8) The lease rent should be realized from the User Agency as per G.O.Ms.No.272, E&F(FR.XIII) Dept. dated 15.04.1991 and subsequent changes.
- 9) Period of lease is twenty (20) years. The User Agency has to apply renewal proposal before 6 months of expiry of lease with the State Forest Department, in case further extension of the lease period be so required.
- 10) The District Forest Officer may impose any other condition in the interest of conservation / protection and development of forests.

7. On further clarifications, the Principal Chief Conservator of Forests in his letter third cited has stated that the District Forest Officer, Theni has been permitted vide his Letter No.TS1/34967/2013 dated 27.08.2013 to issue necessary permission to the Divisional Engineer, Highways, Theni for the improvement of the existing Theni Bye-pass road within the existing length of 662m and width of 12 m in Valkaradu Reserve Forests without violation of Forest (Conservation) Act, 1980, Tamil Nadu Forest Act 1882, Wildlife Protection Act, 1972 and the Government of India guidelines. Further, regarding wildlife movement in the proposed area, the Principal Chief Conservator of Forests has reported that, there is no possibility to make a provision for underpass or overpass for free movement of wildlife. However as an alternative the User Agency has proposed to control the speed limit of road traffic, by providing caution boards, reflection boards and other suitable measures to safeguard the wildlife.

8. The Government after careful examination have decided to accept the proposal of the Principal Chief Conservator of Forests for diversion of 2.839 ha. of forest land for the improvement work of Theni Bye-pass road connecting Dindigul-Theni road and Madurai-Cochin road across Valkaradu Reserve Forest of Theni Forest Division in Theni District for a period of twenty years in favour of the Divisional Engineer, Highways Construction and Maintenance, Theni, under Section 2 of Forest (Conservation) Act, 1980 and to forward the same to the Government of India for concurrence. I am, therefore to request you to kindly obtain the concurrence of the Government of India, Ministry of Environment, Forests and Climate Change and communicate the same to this Government, early.

Yours faithfully,

S. Mohamed Yusef
for Additional Chief Secretary to Government.
17/10/2020

Copy to:-

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

The Divisional Engineer,
Highways Construction and Maintenance,
Bangala Medu Madurai Road,
Theni-625531.

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 2.839 ha. of forest land for the improvement work of Theni Bye-pass road connecting Dindigul-Theni road and Madurai-Cochin road across Valkaradu Reserve Forest of Theni Forest Division in Theni District for a period of twenty years in favour of the Divisional Engineer, Highways Construction and Maintenance, Theni 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 -

17/10/2020
[N. SATHISH KUMAR]
Signature

Name & Designation
(Official Seal)

Date : 17.10.2020

Place : Chennai-9.

Under Secretary to Government.
Environment and Forests Department
Secretariat, Chennai-9