

भारत सरकार / Government of India
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय / Ministry of Environment, Forest & Climate Change
क्षेत्रीय कार्यालय, भुवनेश्वर / Regional Office, Bhubaneswar
ए/३, चंद्रसेखरपुर / A/3, Chandrasekharpur
भुवनेश्वर - ७५१ ०२३ / Bhubaneswar - 751 023



आजादी का
अमृत महोत्सव



LIFE
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Telephone: 0674 - 2301213, 2301248, 2302452, 2302453. E-mail: roez.bsr-mef@nic.in

No.5-ORC 288/2016-BHU

16.01.2025

सेवा में,

अपर वन माहनिदेशक
पर्यावरण, वन एवं जलवायु पारिवर्तन मंत्रालय,
इंदिरा पर्यावरण भवन,
जोरबाग रोड, अलीगंज,
नई दिल्ली - 110003

विषय : Site inspection report in respect of proposal for diversion of 23.80 ha of forest land (as per Sabik records as on 25.10.1980) including 2.240 ha of forest land in safety zone area for chromite ore mining from their Kalarangiatta chromite mines by M/s Ferro Alloys Corporation Ltd. (FACOR) in Cuttack Forest Division coming under jurisdiction of Sukinda Tahasil of Jajpur district, Odisha.

संदर्भ: Ministry's letter No.5-ORC 288/2016-BHu dated 23.12.2024.

महाशय,

उपरोक्त विषय के संबंध में मुझे सूचित करने का निर्देश हुआ है कि यह परियोजना का दिनांक 09.01.2025 को आधोहस्ताक्षरी द्वारा स्थल निरीक्षण किया गया। इस परियोजना से संबंधी स्थल निरीक्षण रिपोर्ट की एक प्रति आवश्यक कार्रवाई हेतु संलग्न कर भेज जा रहा है।

संलग्न : उपरोक्त

भवदीय,

Padma Mahanti

(डॉ पद्मा महांती)

उप वन महानिरीक्षक (केन्द्रीय)

RECOMMENDATION OF DEPUTY DIRECTOR GENERAL OF FORESTS (CENTRAL)

The instant proposal is for diversion of 23.80 Ha of forest land (as per Sabik records as on 25.10.1980) including 2.240 Ha of forest land in Safety Zone area for Chromite ore mining in Kalarangiatta Chromite Mines by M/s Ferro Alloys Corporation Ltd. (FACOR) in Cuttack Forest Division under Jajpur District.

The site inspection of the above project was carried out by Dr. Padma Mahanti, DIGF (Central). The DIGF (C) after inspection of the CA land found suitable to be accepted for CA and has recommended the proposal. As per site inspection report mining has been stopped from 25.01.2023.

I agree with the recommendation of DIGF (C).

The proposal is recommended with the condition that 5 times Penal NPV, Penal CA as applicable may be imposed along with the general standard conditions.

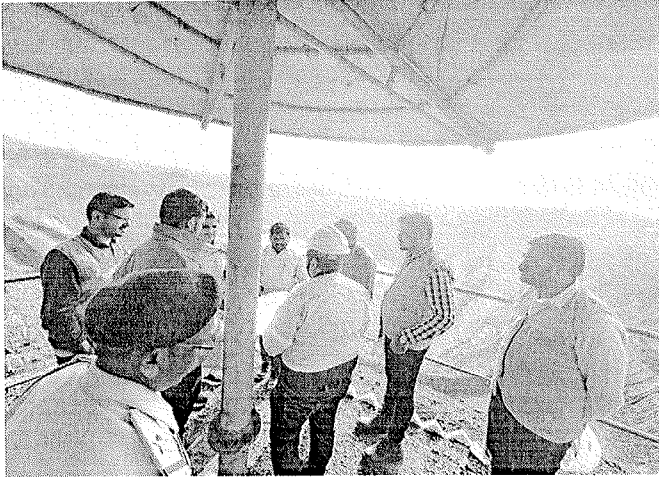


(A.T. Mishra)

Dy. Director General of Forests (Central)

SITE INSPECTION REPORT IN RESPECT OF PROPOSAL FOR DIVERSION OF 23.80 HA OF FOREST LAND (AS PER SABIK RECORDS AS ON 25.10.1980) INCLUDING 2.240 HA OF FOREST LAND IN SAFETY ZONE AREA FOR CHROMITE ORE MINING FROM THEIR KALARANGIATTA CHROMITE MINES BY M/S FERRO ALLOYS CORPORATION LTD. (FACOR) IN CUTTACK FOREST DIVISION COMING UNDER JURISDICTION OF SUKINDA TAHASIL OF JAJPUR DISTRICT, ODISHA

The site inspection of the above project was carried out by the undersigned on 09.01.2025 along with DFO, Cuttack Forest Division, DFO, Dhenkanal and the officials of the user agency. Photographs of site visit are furnished below:



1. Legal status of the forest land proposed for diversion:

The legal status of the forest land proposed for diversion is Revenue Forest land.

2. Item-wise break-up details of the forest land proposed for diversion.

The item wise break up details of the forest land proposed for diversion is furnished below:

Component	Sabik kisam forest land (in ha) as on 25.10.1980
Opencast quarry	7.819
Waste dump	5.770
One stack yard	1.377
Low grade stack yard	0.713
Nickel dump	0.553
Top soil stack yard	0.454
Essential infrastructure and colony	1.290
ETP with settling tank	0.687
Drain	0.591
Road	1.494
Peripheral area	0.812
Safety zone	2.240
Total	23.80

3. Whether proposal involves any construction of buildings (including residential) or not. If yes, details thereof:

Yes.

4. Total cost of the project at present rates:

The total cost of the project is Rs.743.49 lakhs.

5. Wildlife:

Faunal species like Ratel, Sloth bear, Migratory elephants, Pangolin, Mongoose, Jackal, Wild boar, Fox, Porcupine, Barking Deer, Hyena, Squirrel, Hare are noticed in the area. Avi-fauna like Peacock, Jungle fowl, Ringed dove, Parakeet are also noticed in the area. Also reptiles like King Cobra, Python, Branded krait, Viper, Wild lizard are found in the area.

Whether forest area proposed for diversion is important from wildlife point of view or not:

Not reported.

6. Vegetation:

The density of vegetation found in the area of below 0.4 (Eco Class I). Since entire applied forest area in the mining has been broken, the DFO, Cuttack shall examine the bare necessity of felling of the enumerated trees if any before allowing the same for felling.

The tree species found in the area are Sal (*Shorea robusta*), Piasal (*Pterocarpus marsupium*), Sisoo (*Dalbergia sisoo*), Kangada (*Xylia xylocarpa*), Bahada (*Terminalia bellerica*).

Total number of trees to be felled.

6548 number of trees have been enumerated in the proposed area.

Effect of removal of trees on the general ecosystem in the area:

Removal of trees has natural impact on environment and ecosystem and the wildlife of the area.

7. Background note on the proposal:

Steel and Mines Department, Government of Odisha has issued Grant Order on 03.11.2001 in favour of the user agency, i.e. M/s FACOR Ltd. The user agency has applied an application on 19.10.1993 over an area of 39.318 ha in the village Kalarangiatta chromite mines out of applied area 1261.476 ha. The user agency, i.e. FACOR had applied to split up the proposed mining lease area 39.318 ha into two separate Blocks i.e. Block-I (23.800 ha of non-Forest area) and Block-II (15.518 ha of Forest and non mineralized area) on 18.06.2004 and the State Govt. vide letter No.6028/SM dated 10.06.2005 has accepted the proposal to split the lease area.

As per the letter No.III-S-7/99 13199/DM dated 24.12.2004 of Director of Mines, Orissa & Grant of Lease Proceeding No IV (CR) SM 6/2006/ 6177/SM dated 17.07.2007

issued by Steel and Mines Govt. of Odisha indicate that the earlier lease Renewal Mining Lease in favour of TISCO Ltd. Till 1993. It is observed that, the lease was granted during 1953 to TISCO. During 2001, the lease is granted in favour of M/s FACOR Ltd over 39.138 ha retrieved from TISCO Ltd. The user agency had surrendered 15.518 ha and use the balance 23.80 ha as non forest land. The entire mining lease was broken up during the course of mining by the erstwhile mining lease company TISCO Ltd.

Land certificate dated 20.11.2014 issued by Tahsildar Sukinda state that the said 23.80 ha land is Sabik KISSAM forest (Revenue) prior to 1980.

The Provisions of Forest (Conservation) Act, 1980 was not applicable to this mining lease of Kalarangiatta Chromite Mines during execution of lease deed as the entire land is non-Forest KISSAM and mining was carried out in the same mining lease up to 10.03.2015.

The user agency was asked to stop the mining operation as the land is forest KISSAM as per Sabik settlement and the forest land needs to be diverted as per Forest (Conservation) Act, 1980 for which the user agency has filed WP (C) No.19486 of 2016 before the Hon'ble High Court of Orissa for continuing the mining operation.

The lessee has applied for diversion of forest lands as per the provision of the Forest (Conservation) Act, 1980 vide proposal No.FP/OR/MIN/16453/2015 dated 11.11.2015 (State SI No.OR-012/2016 dated 01.03.2016.

The Hon'ble High Court, Orissa has passed order for status quo vide Order dated 20.12.2016 that "Accordingly, similar order of status quo as on date regarding mining operation shall be maintained by the parties till the next date"

The Hon'ble High Court passed the order on 16.01.2017 that "interim order to continue till the next date of hearing" and there was no listing happen from 16.01.2017 to 24.01.2023. Thereafter, the matter was listed on 25.01.2023 and Hon'ble High Court disposed of the Writ Petition by its Order No.5 with opinion that "in the above view of the matter, this court is not inclined to entertain this writ petition, as the quarry is going on without any forest clearance, which is the mandatory requirement for its operation. Accordingly, the writ petition stands disposed of".

The Deputy Director of Mines, Jajpur Road Circle has confirmed vide letter No.928/Mines dated 17.04.2023 the fact that no mining operation has been carried out by the user agency after vacation of the interim stay order of the Odisha High Court i.e. 25.01.2023. It is also mentioned in the said letter that no chrome ore has been raised in the Kalarangiatta mines w.e.f.25.10.2022 and no chrome ore has been dispatched w.e.f. 10.01.2023. It is evident that the user agency has not done any mining operation after vacation of interim order of Hon'ble High Court of Orissa.

It is evident that no plot of Kalarangiatta mining lease is coming under the DLC report of Jajpur District.

As a part of land settlement process, Govt of Odisha was issued Record of Right (ROR) on 01.04.1993 pertaining to mining lease area of Kalarangiatta Chromite Mine. As per the above ROR, all the lease hold area of Kalarangiatta Chromite Mines of FACOR is coming under non-Forest KISSAM i.e much prior to 12th December 1996.

The Tahsildar, Sukinda vide letter no.2863 dated 21.08.2023 has issued Land Certified that the mining lease area over 23.80 ha mining lease area of Kalarangiatta Chromite Mines has been changed from forest to non forest in the Hal settlement record in the year 1993, that is much prior to 12th December, 1996.

The reasons for delay of the proposal are furnished below:

i. Non availability of CA land

As per the observation of the Regional Office vide letter dated 18.11.2016, wherein it was observed in the DSS, that out of 24 ha of total CA area, 10 ha contains MDF and balance 14 ha is open forest. The user agency thereafter had approached various Government authorities including the District Collector of Jajpur and District Collector, Dhenkanal. The office of the Collector, Jajpur repeated their previous stand as communicated vide their letter dated 28.2.2015 and re-confirmed that no suitable Government non forest land is available in Jajpur district for the purpose of CA against diversion of forest land pertaining to Kalarangiatta mines.

Further, the applicant had also approached the District Collector, Dhenkanal for providing alternate land for CA. The Additional District Magistrate, Dhenkanal vide letter dated 29.03.2017 had reiterated that there is scarcity of the CA land and in Dhenkana District and instructed the user agency to purchase private land or to acquire land through acquisition mode under the relevant Act for the purpose of CA.

ii. Initiation of CIRP by NCLT against the company, i.e. FACOR, the user agency:

It is reported that M/s FACOR had passed through a very hard time through its financial insolvency that arose during last part of 2016. Hon'ble National Company Law Tribunal (NCLT), Kolkata Bench vide its order dated 06.07.2017 has initiated Corporate Insolvency Resolution Process (CIRP) and declared moratorium against M/s FACOR as per the provision of Insolvency Bankruptcy Code 9(IBC)-2016. The CIRP process continued up to 30.01.2020 i.e. the date of approval of Resolution Plan by the Hon'ble NCLT, Cuttack Bench. After completion of CIRP and formation of new Board on 21.09.2020 as per the order of NCLT, Cuttack, the new management has initiated process for all the statutory compliance of the company.

iii. Covid-19 pandemic and its consequences in the country

It is reported that as Covid-19 pandemic broke out from 23rd March, 2020 to 2022, the Government of India/Odisha had declared shut down/lock down from time to time and as such the official functioning was badly affected. No continuous effort could be made by the user agency to identify the CA land required. As soon as there was relaxation on Covid-19 restriction, the user agency had submitted compliance to the Regional Office on 24.08.2022.

8. Compensatory afforestation:

23.80 ha of Sabik Kisam forest land is proposed for diversion under this proposal that includes 2.24 ha of Sabik Forest land to be maintained as safety zone. Hence, 21.56 ha (23.80 ha – 2.24 ha) is being used for non forest purposes. 24.089 ha of non forest government land has been identified by the district Administration of Dhenkanal for the purpose of raising Compensatory Afforestation in village Kerajodi under Kankadahad Tehsil of Dhenkanal district. Compensatory afforestation scheme in Bald Hill plantation in block mode has been prepared by DFO,

Dhenkanal. This was visited during site inspection and this non forest land can be taken up for CA.

The species selected to be planted under the scheme are Bamboo, Sisoo, Gambhar, Neem, Asana, Arjun, Simaruba, Mango, etc.

Additional CA scheme over an area of 24 ha of degraded forest land identified in Dolia RF of Mahabirod Range of Dhenkanal Forest Division with a financial outlay of Rs.1,06,33,700. Hence, high intensity planting of the indigenous species needs to be taken up.

(a) Whether land for compensatory afforestation is suitable from plantation and management point of view or not:

Land suitability certificate has been submitted.

(b) Whether land for compensatory afforestation is free from encroachment/other encumbrances:

Certificate regarding land for compensatory afforestation is free from encroachment/other encumbrances has been submitted.

(c) Whether land for compensatory afforestation is important from Religious/Archaeological point of view:

Not reported.

(d) Land identified for raising compensatory afforestation is in how many patches, whether patches are compact or not:

Two numbers of patches and patches are compact.

(e) Map with details:

Submitted.

(f) Total financial outlay:

The total financial outlay for Compensatory Afforestation scheme is Rs.91,96,900.

9. Whether proposal involves violation of Forest (Conservation) Act, 1980 or not. If yes, a detailed report on violation including action taken against the concerned officials:

Mining lease deed for this ML area of 23.80 ha was executed on 18.04.2008 for a period 30 years in favour of M/s FACOR Ltd, which earlier held by TISCO Ltd, was already broken up.

Mine has functioned till 25.01.2023. Subsequent to which it has not worked. Relevant letter of the DDM certifying the last date of the working of mine is attached herewith as Annexure-I. When the mine was allotted to the user agency it was a Non Forest Land as per Revenue Records. However, later it was found to be Sabik Forest land, hence ex-post-facto sanction is being sought for. As on date the mining activity has been stopped on the said project site.

The DFO, Cuttack Forest Division vide letter No.328/5F/(Forest Diversion) 107/2019 dated 10.01.2025 has reported that *"The user agency was asked to stop the mining operation as the land is forest Kisam as per Sabik Settlement and the forest land needs to be diverted as per Forest (Conservation) Act, 1980 for which the user agency has filed Writ Petition WP (C) No.19486 of 2016 before the Hon'ble High Court of Orissa for continuing the mining operation. The Hon'ble High Court, Orissa has passed order for status quo vide Order dated 20.12.2016 that "Accordingly, similar order of status quo as on date regarding mining operation shall be maintained by the parties till the next date" (Annexure-II).*

The Hon'ble High Court passed the order on 16.01.2017 that "interim order to continue till the next date of hearing" and there was no listing happen from 16.01.2017 to 24.01.2023. Thereafter, the matter was listed on 25.01.2023 and Hon'ble High Court disposed of the Writ Petition by its Order No.5 with opinion that "in the above view of the matter, this court is not inclined to entertain this writ petition, as the quarry is going on without any forest clearance, which is the mandatory requirement for its operation. Accordingly, the writ petition stands disposed of" (copy attached as Annexure-III)".

Subsequent to the Court Order, the mining operation has been stopped. During site inspection, it was observed that no mining activity is being taken up in the proposed site.

10. Whether proposal involves rehabilitation of displaced persons. If yes, whether rehabilitation plan has been prepared by the State Government or not:

The project does not involve displacement of human habitation. Hence, R & R plan is not necessary.

11. Reclamation plan:

The reclamation plan has not been provided by the user agency.

Details and financial allocation:

12. Details on catchment and command area under the project:

Not applicable.

Catchment area treatment plan to prevent siltation of reservoir:

Not applicable.

13. Cost benefit ratio:

The cost benefit ratio is reported to be 1:21.

14. Recommendations of the Principal Chief Conservator of Forests/State Government:

Recommended.

15. Recommendations of the Deputy Director General of Forests (Central) along with detailed reasons:

Enclosed along with the report.

16. **The Deputy Inspector General of Forests (Central) shall give detailed comments on whether there is any alternative routes/alignment for locating the project on the non-forest land:**

The project is site specific.

17. **Utility of the project:**

The project is generating employment opportunity for about 108 persons. Nearly 2000 persons of the locality are being benefitted indirectly with operation of this mine.

Numbers of Scheduled Caste/Scheduled Tribes to be benefited by the project:

Not reported.

- 18.

- (a) **Whether land being diverted has any socio-cultural/ religious value:**

Not reported.

- (b) **Whether any sacred grove or very old growth trees/forests exist in the areas proposed for diversion:**

Not reported.

- (c) **Whether the land under diversion forms part of any unique eco-system:**

Not reported.

19. **Situation with respect to any Protected Area:**

The applied area comes within a distance of 9.13 km from the proposed Tiger Corridor in Daitary DPF of Sukinda Range of Cuttack Division.

20. **Recommendation based on inspection of project:**

As per Ministry's letter dated 10th March, 2015 wherein the broken up area was reported as forest land in Sabik record, the user agency applied for Stage I clearance vide proposal dated 11.11.2015. The mining activity was stopped vide the Ministry of Environment, Forest and Climate Change, New Delhi's letters dated 09.03.2016 and 30.09.2016, which extended limit of the time for completion of diversion of forest land under FC Act up to 31.12.2016. In the meantime, the user agency, approached the Hon'ble High Court.

The Hon'ble High Court, Orissa has passed order for status quo vide Order dated 20.12.2016 that "Accordingly, similar order of status quo as on date regarding mining operation shall be maintained by the parties till the next date". The user agency continued mining activity till the next date of hearing.

The Hon'ble High Court passed the order on 16.01.2017 that "interim order to continue till the next date of hearing" and there was no listing happen from 16.01.2017 to 24.01.2023. Thereafter, the matter was listed on 25.01.2023 and Hon'ble High Court disposed of the Writ

Petition by its Order No.5 with opinion that "in the above view of the matter, this court is not inclined to entertain this writ petition, as the quarry is going on without any forest clearance, which is the mandatory requirement for its operation. Accordingly, the writ petition stands disposed of".

The Deputy Director of Mines, Jajpur Road Circle has confirmed vide letter No.928/Mines dated 17.04.2023 the fact that no mining operation has been carried out by the user agency after vacation of the interim stay order of the Odisha High Court i.e. 25.01.2023. It is also mentioned in the said letter that no chrome ore has been raised in the Kalarangiatta mines w.e.f.25.10.2022 and no chrome ore has been dispatched w.e.f. 10.01.2023. It is evident that the user agency has not done any mining operation after vacation of interim order of Hon'ble High Court of Orissa.

As on date, there is no mining activity in the proposed forest land as observed during site inspection and the CA site in the non forest land was found suitable to be accepted.

During site inspection, it was informed that this mine supports livelihood of about 2000 people. Since the mining operation is now closed, there are concerns about loss of livelihood of these workers and staff.

The proposal can be recommended with 5 times penal NPV and penal CA as applicable.

Padma Mahanti
(Dr. PADMA MAHANTI)
DIGF (CENTRAL)



OFFICE OF DEPUTY DIRECTOR OF MINES; JAJPUR ROAD CIRCLE.

JAJPUR ROAD.

Email- ddm.jajpurroad@orissaminerals.gov.in

Letter No 928 /Mines Dt 17.04.2023

TO WHOM IT MAY CONCERN

This is to certify that the Mining Operation of Kalarangiatta Chromite Mines of M/s Facor Ltd over an area of 23.80 hec in village Kalarangiatta, of Sukinda Tahasil under Jajpur District has been suspended w.e.f Dt. 09.03.2023 but no chrome ore has been raised w.e.f Dt. 25.10.2022 and no chrome ore has been dispatched w.e.f Dt. 10.01.2023 from the above said leasehold area as per the records available in the office and the verification report submitted by the concerned field Officer.

17/4/23
Deputy Director of Mines
Jajpur road circle, Jajpur road.

10/29/24, 8:53 AM

Case Status : Search by Case Number

High Court of Orissa

High Court of Orissa
Case Details

Case Type	: WP(C)		
Filing Number	: 19486/2016	Filing Date:	07-11-2016
Registration Number	: 19486/2016	Registration Date:	07-11-2016
CNR Number	: ODHC01-010278-2016		

Case Status

First Hearing Date	: 24th November 2016
Decision Date	: 25th January 2023
Case Status	: CASE DISPOSED
Nature of Disposal	: Contested--Disposed Off
Coram	: 3083DR. JUSTICE B.R.SARANGI , MR. JUSTICE BIRAJA PRASANNA SATAPATHY
Bench	: Division Bench
State	: ORISSA
District	: Bhadrak
Judicial	: Civil Section
Causelist Name	: Supplementary(Daily)
Not Before Me	:

Petitioner and Advocate

1) FERRO ALLOYS CORPORATION LTD. Advocate- M/S.SHYAMANANDA MOHAPATRA,P.PANDA P.PANDA

Respondent and Advocate

1) UNION OF INDIA Advocate - M/S.SUSANTA KU.MISHRA, S.K.LENKA,S.K.JOSHI,B.ACHARYA, (MR.A.K.BOSE),MR.B.P.PRADHAN 2) state of odisha Advocate-MR.B.P.PRADHAN B.ACHARYA (MR.A.K.BOSE) S.K.LENKA S.K.JOSHI 3) director of mines Advocate-MR.B.P.PRADHAN B.ACHARYA (MR.A.K.BOSE) S.K.LENKA S.K.JOSHI 4) dy.director of mines Advocate-MR.B.P.PRADHAN B.ACHARYA (MR.A.K.BOSE) S.K.LENKA S.K.JOSHI 5) d.f.o.,ctc Advocate-MR.B.P.PRADHAN B.ACHARYA (MR.A.K.BOSE) S.K.LENKA S.K.JOSHI 6) spc board Advocate-MR.B.P.PRADHAN B.ACHARYA (MR.A.K.BOSE) S.K.LENKA S.K.JOSHI

Acts

Under Act(s)	Under Section(s)
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Subordinate Court Information

Court Number and Name	: ---
Case Number and Year	: 0
Case Decision Date	: --
state	:
District	:

IA Details

IA Number	Party	Date of Filing	Next Date	IA Status
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IA/17995/2016 (17995/2016) Classification :	FERRO ALLOYS CORPORATION LTD. UNION OF INDIA	07-11-2016	--	Pending
IA/19212/2016 (19212/2016) Classification :	FERRO ALLOYS CORPORATION LTD. UNION OF INDIA	29-11-2016	--	Pending
IA/19213/2016 (19213/2016) Classification :	FERRO ALLOYS CORPORATION LTD. UNION OF INDIA	29-11-2016	--	Pending

History of Case Hearing

Cause List Type	Judge	Business On Date	Hearing Date	Purpose of hearing
	DR. JUSTICE B.R.SARANGI , MR. JUSTICE BIRAJA PRASANNA SATAPATHY			Disposed
	MR. JUSTICE VINEET SARAN (CJ) , DR. JUSTICE B.R.SARANGI		24-11-2016	FRESH ADMISSION
	MR. JUSTICE VINEET SARAN (CJ) , DR. JUSTICE B.R.SARANGI		07-12-2016	FOR ORDERS
	MR. JUSTICE VINEET SARAN (CJ) , DR. JUSTICE B.R.SARANGI		20-12-2016	FRESH ADMISSION
	MR. JUSTICE VINEET SARAN (CJ) , DR. JUSTICE B.R.SARANGI		16-01-2017	FOR ADMISSION
	MR. JUSTICE VINEET SARAN (CJ) , DR. JUSTICE B.R.SARANGI		16-01-2017	FOR ADMISSION
	MR. JUSTICE VINEET SARAN (CJ) , DR. JUSTICE B.R.SARANGI		16-01-2017	FOR ADMISSION

Orders

Order Number	Order on	Judge	Order Date	Order Details
1	WP(C)/19486/2016	MR. JUSTICE VINEET SARAN (CJ),DR. JUSTICE B.R.SARANGI	24-11-2016	
2	WP(C)/19486/2016	MR. JUSTICE VINEET SARAN (CJ),DR. JUSTICE B.R.SARANGI	07-12-2016	
3	WP(C)/19486/2016	MR. JUSTICE VINEET SARAN (CJ),DR. JUSTICE B.R.SARANGI	20-12-2016	
4	WP(C)/19486/2016	MR. JUSTICE VINEET SARAN (CJ),DR. JUSTICE B.R.SARANGI	16-01-2017	
5	WP(C)/19486/2016	DR. JUSTICE B.R.SARANGI,MR. JUSTICE BIRAJA PRASANNA SATAPATHY	25-01-2023	

Document Details

Sr. No.	Document No.	Date of Receiving	Filed by	Name of Advocate	Document Filed
1	41868	30-11-2016	M/S.SHYAMANANDA MOHAPATRA		
2	39041	07-11-2016	M/S.SHYAMANANDA MOHAPATRA		
3	39040	07-11-2016	M/S.SHYAMANANDA MOHAPATRA		
4	41867	30-11-2016	M/S.SHYAMANANDA MOHAPATRA		

CLEARANCE
CONSOOLIDATED WRIT PETITION
SECURITY REGISTRAR (J&E)

IN THE HIGH COURT OF ORISSA, CUTTACK.

(Original Jurisdiction Case)

W.P. (C) NO.19486 OF 2016.

(CODE NO. 140100)

IN THE MATTER OF:

An application under Articles 226 and 227 of the Constitution of India;

AND

IN THE MATTER OF:

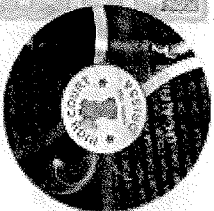
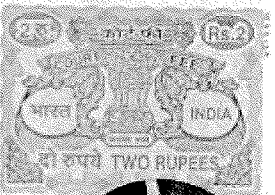
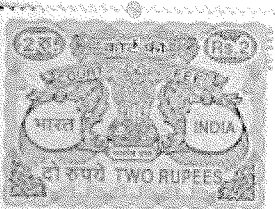
Article 14 and 19(1)(g) of the Constitution of India;

AND

IN THE MATTER OF:

An application challenging the guidelines issued by the Ministry of Environment, Forest and Climate Change (Forest Conservation Division) dated 10.03.2015 and dated 09.03.2016 issued by the Ministry of Environment, Forest and Climate Change (Forest Conservation Division) and Annexure-15 issued by the Divisional Forest Officer, Cuttack Forest Division, Cuttack and intimation dated 06.10.2016 by the Deputy Director,

Handwritten signature



Mines and Circular dated 13th September, 2016 bearing no.F No.8-78/1996-FC (PT), Ministry of Environment, Forest and Climate Change extending the period 31st December, 2016;

AND

IN THE MATTER OF:

An application challenging the decision of the Government of India, Ministry of Environment, Forest and Climate Change and subsequent memo of Ministry of Forest and Environment;

AND

IN THE MATTER OF:

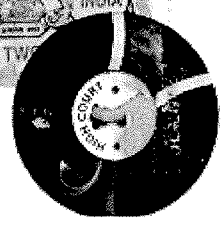
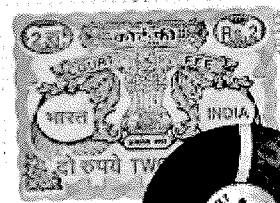
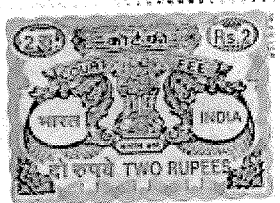
Ferro Alloys Corporation Limited, A company registered under the Companies Act, 1956 having its registered office at Bhadrak, represented through Ashok Kumar Sethy, aged about 49 years, Son of Late Agani Sethy, at present working as Manager (Admn.), M/s. Ferro Alloys Corporation Ltd., At-Laxmi Bhawan, PO: Kuans, Dist. Bhadrak.

.....**PETITIONER.**

-Versus-

1. Union of India, represented through Secretary, Ministry of Environment and Forests,

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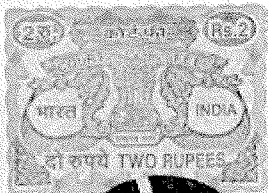
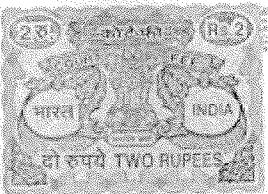


Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110011.

2. State of Odisha, represented through the Principal Secretary, Department of Forest and Environment, At-Secretariat Building, Bhubaneswar, Dist. Khurda, Odisha.
3. Director of Mines, Directorate of Mining & Geology, Govt. of Odisha, Bhubaneswar, Dist. Khurda.
4. The Deputy Director of Mines, Jajpur Road Circle, At/PO: Jajpur Road, Dist. Jajpur, Odisha.
5. Divisional Forest Officer, Cuttack Forest Division, Ghatakula, Nuapada, Madhupatna, Cuttack-753016.
6. State Pollution Control Board, Odisha, represented by its Member Secretary, Paribesh Bhawan, A/118 Nilakantha Nagar, Unit-VIII, Bhubaneswar-751012, Odisha.

.....**OPPOSITE PARTIES.**

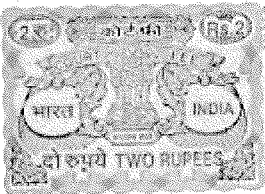
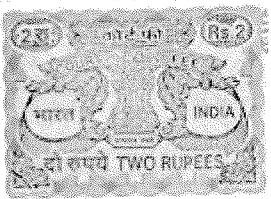
The matter out of which this writ petition arose was



W.P.(C) No.19486 of 2016

[O. H. C.-98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
03.	20.12.2016	<p style="text-align: center;">W.P.(C) No.19486 of 2016 and M.C. No.19213 of 2016</p> <p>Connect with W.P.(C) Nos.3996, 4146, 4157 and 12830 of 2016.</p> <p>Shri A.K. Bose, learned Asst. Solicitor General of India has put in appearance on behalf of opp. party no.1- Union of India and Shri B.P. Pradhar, learned Addl. Govt. Advocate has accepted notice on behalf of the State-opposite parties 2 to 5. Let extra copies of the writ petition be served on them within 48 hours.</p> <p>Steps to serve opp. party no.6 be taken within three days by speed post with A.D. Office shall send notice fixing an early returnable date.</p> <p>It is not disputed by Shri Bose that in the connected writ petitions order of status quo has been granted to the petitioner. Accordingly, similar order of status quo as on date regarding mining operation shall be maintained by the parties till the next date.</p> <p>The opp. parties may file counter affidavits by 09.01.2017 and the petitioner shall have a week thereafter to file rejoinder affidavit.</p> <p>List this matter on 16.01.2017 along with the connected writ petitions.</p>	<p style="text-align: right;"><i>Shri V. Loren. C.J.</i> <i>Shri Dr. B.R. Gavande. J.</i></p> <p style="text-align: center;"><i>Apbaf</i> <i>22/12/16</i></p>



pcp



Annexure - 2(a)

CLEARANCE
SECURITY REGISTRAR (J&F)
CONSOLIDATED WRIT PETITION

IN THE HIGH COURT OF ORISSA, CUTTACK.

(Original Jurisdiction Case)

W.P. (C) NO.19486 OF 2016.

(CODE NO.140100)

IN THE MATTER OF:

An application under Articles 226 and 227 of
the Constitution of India;

AND

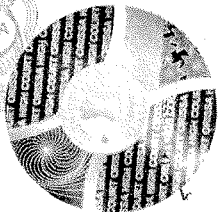
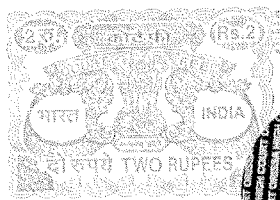
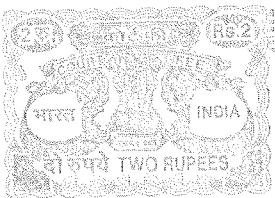
IN THE MATTER OF:

Article 14 and 19(1)(g) of the Constitution of
India;

AND

IN THE MATTER OF:

An application challenging the guidelines
issued by the Ministry of Environment, Forest
and Climate Change (Forest Conservation
Division) dated 10.03.2015 and dated
09.03.2016 issued by the Ministry of
Environment, Forest and Climate Change
(Forest Conservation Division) and Annexure-
15 issued by the Divisional Forest Officer,
Cuttack Forest Division, Cuttack and intimation
dated 06.10.2016 by the Deputy Director,



[Handwritten signature]

Mines and Circular dated 13th September, 2016 bearing no.F No.8-78/1996-FC (PT), Ministry of Environment, Forest and Climate Change extending the period 31st December, 2016;

AND

IN THE MATTER OF:

An application challenging the decision of the Government of India, Ministry of Environment, Forest and Climate Change and subsequent memo of Ministry of Forest and Environment;

AND

IN THE MATTER OF:

Ferro Alloys Corporation Limited, A company registered under the Companies Act, 1956 having its registered office at Bhadrak, represented through Ashok Kumar Sethy, aged about 49 years, Son of Late Agani Sethy, at present working as Manager (Admn.), M/s. Ferro Alloys Corporation Ltd., At-Laxmi Bhawan, PO: Kuans, Dist. Bhadrak.

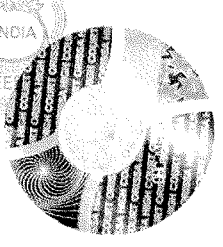
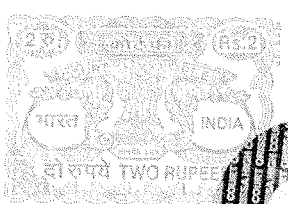
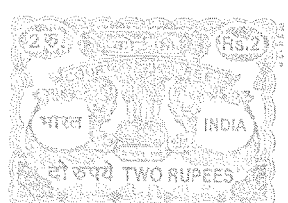
PETITIONER.

-Versus-

1. Union of India, represented through Secretary, Ministry of Environment and Forests,



fandz A.S.

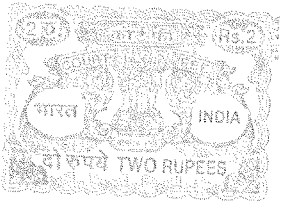
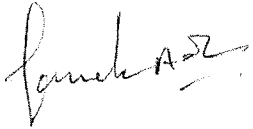


Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110011.

2. State of Odisha, represented through the Principal Secretary, Department of Forest and Environment, At-Secretariat Building, Bhubaneswar, Dist. Khurda, Odisha.
3. Director of Mines, Directorate of Mining & Geology, Govt. of Odisha, Bhubaneswar, Dist. Khurda.
4. The Deputy Director of Mines, Jajpur Road Circle, At/PO: Jajpur Road, Dist. Jajpur, Odisha.
5. Divisional Forest Officer, Cuttack Forest Division, Ghatakula, Nuapada, Madhupatna, Cuttack-753016.
6. State Pollution Control Board, Odisha, represented by its Member Secretary, Paribesh Bhawan, A/118 Nilakantha Nagar, Unit-VIII, Bhubaneswar-751012, Odisha.

.....**OPPOSITE PARTIES.**

The matter out of which this writ petition arose is

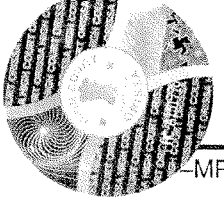
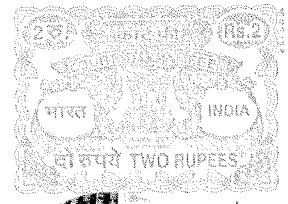
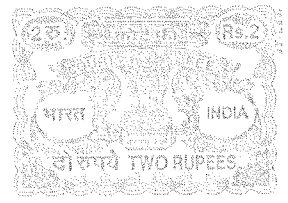


12/18/1

W.P.(C) No. 19486 of 2016

[O. H. C.-98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
4	16.01.2017	<p>Mr. A.K. Bose, learned Asst. Solicitor General for Government of India states that counter affidavit in connected W.P.(C) No.12830/2016 has been filed, which may be read as in response to the averments made in this writ petition also.</p> <p>Learned counsel for the petitioners, however, submits that copy of the counter affidavit filed in the connected W.P.(C) No.12830/2016 may be served on him so as to enable the petitioners to file reply to the same.</p> <p>It is thus directed that copy of the counter affidavit filed in W.P.(C) No.12830/2016 be served on the learned counsel for the petitioners in this writ petition within three days.</p> <p>The petitioners in this writ petition shall have two weeks thereafter to file rejoinder affidavits.</p> <p>List it immediately thereafter along with W.P.(C) No.12830/2016.</p> <p>Interim order to continue till the next date of listing.</p>	



Sd/- V. Saran, C.J.
Sd/- Dr. B.R. Sarangi,
(J)

Copy by
AB
18/01/17

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 19486 of 2016*Ferro Alloys Corporation Ltd.*

.....

*Petitioner**Mr. S. Mohapatra, Sr. Adv.*

Vs.

Union of India and others

.....

*Opposite Parties**Mr. P.K. Muduli, AGA**Mr. D.R. Bhokta, CGC along with**Mr.P.K. Parhi, DSGI***CORAM:****DR. JUSTICE B.R. SARANGI****MR. JUSTICE B.P. SATAPATHY****ORDER****25.01.2023****Order No.**

05.

This matter is taken up through hybrid mode.

2. Heard Mr. Shyamananda Mohapatra, learned Senior Counsel appearing along with Mr. P. Panda, learned counsel for the petitioner; Mr. P.K. Muduli, learned Addl. Government Advocate appearing for the State-opposite parties; and Mr. D.R. Bhokta, learned Central Government Counsel appearing along with Mr. P.K. Parhi, learned Dy. Solicitor General of India.

3. The petitioner has filed this writ petition seeking to quash the guideline dated 01.04.2015 under Annexure-4, guideline dated 10.03.2015 under Annexure-7, read with guideline dated 09.03.2016 under Annexure-14 and guideline dated 30.09.2016 under Annexure-18 of the Government of India, Ministry of Environment, Forests and Climate Change (Forest Conservation Division). The petitioner further seeks to quash the communication dated 11.03.2016 issued by the DFO, Cuttack under Annexure-15, by which it has been directed to submit the proposal for diversion of forest land as soon as possible for onward transmission.

4. Mr. Shyamananda Mohapatra, learned Senior Counsel appearing along with Mr. P. Panda, learned counsel for the petitioner seeks four weeks time to address the Court on the merits of the case.

5. Mr. D.R. Bhokta, learned Central Government Counsel appearing along with Mr. P.K. Parhi, learned Dy. Solicitor General of India contended that similar matter had come up for consideration before the apex Court in *M/s Balasore Alloys Ltd. V. State of Odisha and others* (SLP (C) No. 10237 of 2022) and the said case was not entertained by the apex Court, since the mining operation was going on without any forest clearance and, as such, the Special Leave to Appeal was permitted to be withdrawn by the petitioner, by order dated 06.06.2022. Further, relying upon the said order, the matters which are pending before this Court, i.e., W.P.(C) No. 12830 of 2016 (*M/s Tata Steel Ltd. V. Union of India and others*) and W.P.(C) No.3996 of 2016 (*M/s Indian Metals and Ferro Alloys Ltd. IMFA, Khurda v. Union of India and others*), have been withdrawn, vide orders dated 26.08.2022 and 21.09.2022 respectively. Thereby, the case of the petitioner having stood in the same footing, the writ petition should be disposed of in terms of the aforesaid orders.

6. Mr. P.K. Muduli, learned Addl. Government Advocate appearing for the State-opposite parties contended that since the petitioner does not have the forest clearance certificate, the Divisional Forest Officer, Cuttack Forest Division issued the letter dated 11.03.2016 under Annexure-15 to submit the proposal for diversion of forest land for onward transmission. Thereby, no illegality or irregularity has been committed by the authority so as to cause interference with the same. As such, the claim made by the petitioner for quashing of Annexure-15 cannot be sustained in the eye of law.

7. Having heard learned counsel for the parties and after going through the records, this Court finds that though the petitioner has sought permission for environmental clearance, but it has not received the same. Consequentially, it cannot operate the quarry. Therefore, in absence of forest clearance certificate if any order has been passed by

the Divisional Forest Officer, Cuttack Forest Division, vide letter dated 11.03.2016 under Annexure-15, to submit the proposal for diversion of forest land for onward transmission, no illegality or irregularity has been committed by the authority so as to warrant interference of this Court. Furthermore, a similar matter was considered by the apex Court in *M/s Balasore Alloys Ltd.* (supra), which was withdrawn by the petitioner therein. Similarly, relying upon the order of the apex Court in the aforesaid case, W.P.(C) No. 12830 of 2016 filed by *M/s Tata Steel Ltd.* and W.P.(C) No.3996 of 2016 filed by *M/s Indian Metals and Ferro Alloys Ltd.* have already been withdrawn by the respective parties.

8. In the above view of the matter, this Court is not inclined to entertain this writ petition, as the quarry is going on without any forest clearance, which is the mandatory requirement for its operation. Accordingly, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

(B.P. SATAPATHY)
JUDGE

Ashok.