

Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road,
New Delhi – 110003.

Dated: 7th December, 2022

To

The Principal Secretary (Forests),
Government of Maharashtra,
Mumbai.

Subject: Proposal for prior approval under Section 2 (iii) of Forest (Conservation) Act, 1980 for 229.00 ha Forest land for Limestone Mining at Village Naokari-Kusumbi, Distt. Chandrapur in favour of M/s Manikgarh Cement Ltd. - regarding.

Madam/Sir,

I am directed to inform that the State Government of Maharashtra vide their letter No. FLD 2016/CR-406/F-10 dated 22.12.2016 has submitted the subject cited proposal for seeking prior approval of the Central Government under Section-2 (iii) of the Forest (Conservation) Act, 1980 and the matter is under consideration.

The FAC in its meeting held on dated 30.08.2018 observed that the mining lease was granted for limestone over 643.62 ha in village Neckar- Kusummbi, Teh. Rajura, Dist-Chandrapur vide Government of Maharashtra, order dated 30.04.1975. Mining lease was executed on dated 17.08.1981. Later during the currency of lease the user agency i.e. lessee, surrendered 150.62 ha areas out of 643.52 ha area. The total remaining mining lease area for first renewal was only 493 ha. Later prior to expiry of lease period the lesser had applied to the State Government for renewal of mining lease over an area of 493 ha on dated 23.12.1999. The State Government granted renewal only over 302.54 ha area vide order dated 15.11.2002 and lessee has been informed to submit forest clearance for remaining area 190.42 ha. In this backdrop, it is understood that at the time of amendment of MMDR act in 2015 the lessee was having lease executed over only 302.54 ha for which the lease period stand extended up to 2031 as per provision of MMDR (amendment) Act 2015. The status of validity of letter of intent over remaining 190.42 ha is still not very clear. Therefore, the FAC recommended that comments of Ministry of Mines may be sought in this regard prior to any decision on the proposal.

In view of above, the Ministry vide letter of even no. dated 01.10.2021 requested the Ministry of Mines to provide their comments on the validity of LOI over 190.42 ha in favour of M/s Manikgarh Cement Ltd (**Copy enclosed**).

Further the Ministry of Mines vide their email dated 18.11.2022 has provided the

copy of their O.M dated 23.08.2022 (**Copy enclosed**) wherein it has been mentioned that *the matter has been examined by this Ministry in consultation with the Department of Legal Affairs. In the present case, the letter dated 15.11.2002 of Government of Maharashtra, asking the lease holder to obtain forest clearance for 190.42 ha. for renewal of mining lease, is not a LoI for grant of fresh mining lease under section 10A(2)(c) of the MMDR Act, 1957. Vide letter dated 15.11.2002, the State Government had granted first renewal of mining lease over 302.58 ha. to the lessee with direction to submit the forest clearance for remaining area of 190.42 ha. of forest land for renewal. In view of the provisions of section 8A of the MMDR Act read with rule 24A of the MCR, 1960 and the judgment dated 04.04.2016 of the Hon'ble Supreme Court of India in WP(C) 114/2014, since the application for renewal of the lease was not rejected, lease holder would have the benefit of extension of mining lease under section 8A(5) of the MMDR Act.*

The Regional Office, Bhopal vide their letter dated 09.01.2017 submitted the Site Inspection report wherein it has been reported that the original mining lease was accorded by the Government of Maharashtra in the year of 1981 for a period of 20 years over an area of approx. 643.62 ha. However, the User Agency surrendered an area of 150.62 ha being the non-mineralized zone.

Further, it has been mentioned that the first mining lease was executed over 643.62 ha in 1981 and after the surrender of 150.62 ha the effective lease area under the possession of the User Agency was 493 ha during the first term of the mining lease. The user agency has been accorded approval under the Forest (Conservation) Act, 1980 over an area of 502 ha on dated 3.02.1986, comprising of 493 ha of mining lease and 9 ha for aerial ropeway. The approval accorded by the Central Government on dated 3.02 1986 inter-alia mentioned that out of the total lease area of 493 ha mining will be carried out in 264 ha and the remaining area of 229 ha, including the private land acquired by the User Agency would be maintained as compact block as the user agency has proposed to use the said mining area for future mining. After expiry of the first term of the mining lease, the renewal of FC was accorded by the Central Government on dated 28.11.2001.

In this regard, it has been observed that:

- I. Considerable time has elapsed and there is a possibility that significant changes might have taken place in the factual/ground situation between 2018 and 2022. Keeping this in view the State Government is requested to examine the reply received from the Ministry of Mines and provide its comments in view of the factual position as on date.
- II. Further, some of the documents pertaining to the proposal are not forthcoming in this office, therefore the State Govt is requested to provide the following:
 - a. The 38.58 ha forest area which is now part of the proposal for seeking approval of Government of India under section 2 (iii) of FC Act, 1980 was included in the renewal of 302.58 ha in November, 2002. The justification for permitting the lease of 38.58 ha forest area without seeking approval under section 2 (iii) of FC Act, 1980 may kindly be submitted.
 - b. The copy of approval for renewal accorded by the Central Government

vide letter no. 8-64/2001-FC dated 28.11.2001 be provided.

Accordingly, it is requested to furnish the above mentioned information to this Ministry for further consideration of the proposal.

Yours sincerely

Encl: As Above

Sd/-
(Suneet Bhardwaj)
Assistant Inspector General of Forests

Copy to:

1. The PCCF (HoFF), Department of Forest, Government of Maharashtra, Nagpur;
2. The Regional Officer, Integrated Regional Office, MoEF&CC, Nagpur;
3. The Nodal Officer (FCA), Department of Forest, Government of Maharashtra, Nagpur;
4. User Agency;
5. Monitoring Cell, FC Division, MoEF & CC, New Delhi for uploading on PARIVESH portal.

F. No. 8-82/2016-FC
 Government of India
 Ministry of Environment, Forests and Climate Change
 (FC Division)

Indira Paryavaran Bhawan,
 Aliganj, Jor Bag Road,
 New Delhi - 110003.

Dated: September, 2018
1st oct .

To,
 The Secretary,
 Ministry of Mines,
 Shastri Bhawan, Dr. Rajendra Prasad Road,
 New Delhi - 110 001

Sub: Proposal for prior approval under Section 2 (iii) of Forest (Conservation) Act, 1980 for 229.00 ha forest land for Limestone Mining at village Naokari-Kusumbi, Dist. Chandrapur in favour of M/s Manikgarh Cement Ltd.

Sir,


I am directed to inform that the State Government of Maharashtra vide their letter No. FLD-2016/CR-406/F-10 dated 22.12.2016 had submitted the above subject proposal for seeking prior approval of the Central Government under Section-2 (iii) of the Forest (Conservation) Act, 1980 and the matter is under consideration. The said proposal was discussed in different Forest Advisory Committee (FAC) meetings i.e. 26.12.2016, 25.04.2017, 20.07.2017, 26.10.2017 and **30.08. 2018**. The minutes of the said FAC meeting are available on Ministry's website.

2. It is further informed that the FAC in its meeting held on 26.10.2017 observed that the Hon'ble Court has directed the respondent no -1, the Ministry of Mines, to look the matter on its merits. The FAC has recommended **not to recommend the proposal** submitted by the State Government under section 2(iii) for assignment of forest land on lease in favour of user agency M/S Manikgarh Cement Ltd **in light of the absence of valid LOI in favour M/S Manikgarh Cement Ltd which lapsed** under provisions of the sub section 10A (2)(C) of MMDR Amendment Act 2015 and sub rule 8(4) of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016. The prior approval under section 2(iii) of FC Act can be granted only in favour those who has valid LOI at the time of grant of prior approval. Now in light of the Court order dated 12.09.2017, the State government shall get the matter related to validity of LOI in favour of M/S Manikgarh Cement Ltd clarified from the Ministry of Mines and make necessary recommendations to the Ministry. If the LOI in favour of M/S Manikgarh Cement Ltd is found to be valid after 11.01.2017 then the certificate of validity of LOI may be submitted to the Ministry for consideration.

The FAC recommended that the present application under Section 2(iii) may be kept in abeyance till a speaking order regarding validity of letter of intent (LOI) in favour of M/S Manikgarh Cement Ltd valid after 11.01.17 is received from the competent authority in the State Government in compliance of the Court Order dated 12.09.2017.

After obtaining approval of Hon'ble MEF, the State Govt. vide this Ministry's letter of even no. dated 07.12.2017 was requested to comply the recommendation of FAC.

3. In reply of Ministry's letter of even no. dated 07.12.2017, the State Govt. vide their letter no. MMN-2201/C.R.150/Ind.9 dated 19.07.2018 informed that the Section 10 A of the Mines and Mineral (Development and Regulation) Amendment Act, 2015, would be applicable in those cases where, before the commencement of the Amendment Act, 2015, a reconnaissance permits or prospecting licence has been granted and a letter of intent has been issued by the State Govt. to grant a mining lease. On the date of commencement of the Amendment Act, 2015, the said mining lease was already

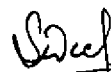
o/c 3/10/18
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stood renewed, and, therefore, the present case would not under Section 10 A 2 (C) of the Mines and Mineral (Development and Regulation) Amendment Act, 2015. As per section 8 (a) (5) of the Mines and Mineral (Development and Regulation) Amendment Act, 2015, the extended period of the said mining lease is up to 16.08.2031. So there is no question about the legal validity of letter of intent issued for the said mining lease in favour of M/s Manikgarh Cement Ltd. where the mining lease is already executed.

4. The above facts placed before FAC in its meeting held on 30.08.2018 and the Committee observed that the mining lease was granted for limestone over 643.62 ha in village Naokari-Kusummbi, tah. Rajura, Dist-Chandrapur vide Government of Maharashtra, order dated 30.04.1979. Mining lease was executed on dated 17.08.1981. Later during the currency of lease the user agency i.e lessee, surrendered 150.62 ha area out of 643.62 ha area. The total remaining mining lease area for first renewal was only 493 ha. Later prior to expiry of lease period the lessee had applied to the State Government for renewal of mining lease over an area of 493 ha on dated 23.12.1999. The State Government granted renewal only over 302.54 ha area vide order dated 15.11.2002 and lessee has been informed to submit forest clearance for remaining area 190.42 ha. In this backdrop, it is understood that at the time of amendment of MMDR act in 2015 the lessee was having lease executed over only 302.54 ha for which the lease period stand extended up to 2031 as per provision of MMDR (amendment) Act 2015. The status of validity of letter of intent over remaining 190.42 ha is still not very clear. In the last FAC meeting State Government was asked to get the matter related to validity of LOI over 190.42 ha in favour of M/S Manikgarh Cement Ltd clarified from the Ministry of Mines. The comments of Ministry of Mines have not been obtained by the State Govt. as per their reply given in para (3) above. **Therefore, the FAC recommended that comments of Ministry of Mines may be sought in this regards prior to any decision on the proposal.**

5. In view of above, the Ministry of Mines is requested to provide their comments on the validity of LOI over 190.42 ha in favour of M/S Manikgarh Cement Ltd to this Ministry for further necessary action in the matter.

Yours faithfully,



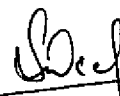
(Sandeep Sharma)

1.10.18

Assistant Inspector General of Forests (FC)

Copy to:

1. The Principal Secretary(Forests), Government of Maharashtra, Mumbai
2. The Principal Chief Conservator of Forests, Government of Maharashtra, Nagpur.
3. The Nodal Officer, O/o the PCCF, Government of Maharashtra, Nagpur.
4. The Addl. PCCF (Central), Regional Office, Nagpur.
5. Monitoring Cell of FC Divisions, MoEF&CC.
6. Guard File.



(Sandeep Sharma)

1.10.18

Assistant Inspector General of Forests (FC)

800530/2022/FC

Email

PAMPOSH MOHAN KOUL

Fwd: Clarification regarding proposal for prior approval under section 2(iii) of FCA, 1980 for 229 ha. forest land for limestone mining at village Naokari-Kusumoi, District Chandrapur, Maharashtra in favour of M/s Manikgarh Cement Ltd.

From : ARUN BHATIA, <arun.bhatia@nic.in> Fri, Nov 18, 2022 02:29 PM
Subject : Fwd: Clarification regarding proposal for prior approval under section 2(iii) of FCA, 1980 for 229 ha. forest land for limestone mining at village Naokari-Kusumoi, District Chandrapur, Maharashtra in favour of M/s Manikgarh Cement Ltd. 1 attachment
To : Ramesh Pandey <ramesh.pandey@nic.in>
Cc : PAMPOSH MOHAN KOUL <pmkoul.87@gov.in>, Mustaq Ahmad Dy CGDA <mustaqahmad.dad@gov.in>, ABHISHEK KUMAR UPADHYAYA <ak.upadhyaya@nic.in>

Sir,

Reference telephonic discussion today. Please find attachment for necessary action.

Regards,

Arun Bhatia,

Section Officer,

Ministry of Mines.



 **OM dated 23 August 2022.pdf**
62 KB

800530/2022/FC

I/3009530/2022

No. 16/4/2021-Mines VI
Government of India
Ministry of Mines

Shastri Bhawan, New Delhi
Dated: 23rd August, 2022

OFFICE MEMORANDUM

Subject: Clarification regarding proposal for prior approval under section 2(iii) of FCA, 1980 for 229 ha. forest land for limestone mining at village Naokari-Kusumoi, District Chandrapur, Maharashtra in favour of M/s Manikgarh Cement Ltd.

The undersigned is directed to refer to letter no. 8-82/2016-FC dated 01.10.2018 received from MoEF&CC on the above mentioned subject requesting the Ministry of Mines to provide its comments on the validity of Letter of Intent (LoI) over 190.42 ha. in favour of M/s Manikgarh Cement Ltd.

2. The matter has been examined by this Ministry in consultation with the Department of Legal Affairs. In the present case, the letter dated 15.11.2002 of Government of Maharashtra, asking the lease holder to obtain forest clearance for 190.42 ha. for renewal of mining lease, is not a LoI for grant of fresh mining lease under section 10A(2)(c) of the MMDR Act, 1957. Vide letter dated 15.11.2002, the State Government had granted first renewal of mining lease over 302.58 ha. to the lessee with direction to submit the forest clearance for remaining area of 190.42 ha. of forest land for renewal.

3. In view of the provisions of section 8A of the MMDR Act read with rule 24A of the MCR, 1960 and the judgment dated 04.04.2016 of the Hon'ble Supreme Court of India in WP(C) 114/2014, since the application for renewal of the lease was not rejected, lease holder would have the benefit of extension of mining lease under section 8A(5) of the MMDR Act.

4. This is issued with the approval of the competent authority.

(Abhishek Kumar Upadhyaya)
Under Secretary to the Government of India
011-23384743
ak.upadhyaya@nic.in

To:
Secretary,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan, Jor Bagh,
New Delhi – 110003

Copy to:
1. Shri Sandeep Sharma,
Assistant Inspector General of Forests,
Ministry of Environment, Forest and Climate Change

800530/2022/FC

I/3009530/2022

Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110003

2. Additional Chief Secretary (Industry),
Government of Maharashtra,
Annex Building, Mantralaya, Mumbai-32