

**AGENDA FOR THE MEETING OF FOREST ADVISORY COMMITTEE SCHEDULED
TO BE HELD ON 26th September, 2019**

| S. No. | File No. | Name of the proposal | State | Area Applied (ha.) | Category | Page No. |
|--------|----------------------|---|----------------|--------------------|-------------------|----------|
| 1. | 8-21/2019-FC | Proposal for diversion of 184.23 ha of forest land (174.39 ha encroached and 9.84 ha virgin land) in favour of M/s Electro Steels Limited in the State of Jharkhand –reg. | Jharkhand | 184.23 | Encroachments | |
| 2. | 8-147/1989-FC Part-I | Diversion of 230.2 ha. of Forest land in favour of M/s MCL for Samaleswari OCP Expansion(Phase-IV),(RatedCapacity 15.0 Mty), Mahanadi Coalfields Limited, Ib Valley Area, Brajrajnagar in District Jharsuguda , State Orissa | Odisha | 230.2 | Mining | |
| 3. | 8-23/2019-FC | Diversion of 162.394 ha. of Forest land in favour of M/s DAMODAR VALLEY CORPORATION for Tubed Coal Mine in District Latehar , State Jharkhand | Jharkhand | 162.394 | Mining | |
| 4. | 8-09/2019-FC | Proposal for diversion of 283.320 hectares of forest land/revenue forest land (162.642 ha. forest land RF + 120.678 ha. Revenue forest land=283.320 ha. forest land) for Malachua Opencast Coal Mining in favour of M/s South Eastern Coalfields Limited, Ghungti in Umaria District State of Madhya Pradesh. | Madhya Pradesh | 283.320 | Mining | |
| 5. | 8-22/2019-FC | Diversion of 57.02 ha. of Forest land in favour of M/s KERALA FOREST DEPARTMENT for Elephant Rescue and Rehabilitation Centre at Kottoor inThiruvananthapuram District in District Thiruvananthapuram | Kerala | 57.02 | Other | |
| 6. | 8-16/2002-FC(Pt.) | Alleged diversion of forest land for creation of facilities for Kerala Veterinary & Animal Sciences University (KVASU) etc. in violation of the provisions contained in Forest (Conservation) Act, 1980-regarding. | Kerala | 7693.22 | Other | |
| 7. | 8-42/2011-FC | Diversion of 202.34 Ha. of Forest Land For Renewal of Salt Lease For Manufacture of Salt In Favour of M/S Sikka Salt Works, Village Sikka In Jamnagar District of Gujarat. | Gujarat | 202.34 | Others | |
| 8. | 8-21/2005-FC | Diversion of 44.52 ha of forest land for renewal of lease for manufacturing of salt in favour of M/s Sikka Salt Works in Jamnagar district in the State of Gujarat | Gujarat | 44.52 | Others | |
| 9. | 8-16/2019-FC | Proposal for diversion of 80.737 hectares of forest land (8.33 ha. Forest land & 72.407 Revenue Forest land) for establishment of Special Economic Zone (SEZ) in Chhindwara District of Madhya Pradesh State in favour of M/s Chhindwara Plus Developers Ltd., Nagpur | Madhya Pradesh | 80.737 | Other | |
| 10. | 8-53/2009-FC (Vol.) | Diversion of 2.7675 ha of forest land for Transmission Line, in the Mandideep industrial area, Madhya Pradesh. | Madhya Pradesh | 2.7675 | Transmission Line | |
| 11. | 2-8/2016-RT | Construction of all-weather Swimming Pool at IGNFA, Dehradun. | Uttarakhand | | Other | |
| 12. | 8-24/2019-FC | Diversion of 97.22 ha. of forest land in favour of 815 Combat Engineering Training Camp, Birdhwal Head, Suratgarh Sri Ganganagar for | Rajasthan | 97.22 | Defense | |

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| | | construction of 815 Cobat Engineering Training Center. | | | | |
| 13. | 11-438/2015-FC | Tree felling matter above 1000 meter height in Uttarakhand. | Uttarakhand | Policy Issues | | |
| 14. | 7-05/2019-ROHQ | Renewal of lease of 0.24 ha. of forest land in Sy. No. 89A1 of Venkatapur Village, Bhatkal Taluka for fish india Ice & Cold Storage Factory (prior to FC Act lease) in Favour of Shri MaheshprasadD.Heble, Proprietor M/s Fish India Ltd. | Karnataka | Policy Issues | | |
| 15. | 17-13/2018-FC | Matters relating to Tea Growers of Arunachal Pradesh. | Arunachal Pradesh | Policy Issues | | |

Sandeep Sharma, AIGF (FC)

Agenda No-1

F. No. 8-21/2019-FC

Sub: Proposal for diversion of 184.23 ha of forest land (174.39 ha encroached and 9.84 ha virgin land) in favour of M/s Electro Steels Limited in the State of Jharkhand –reg.

1. The above mentioned proposal was placed before the Forest Advisory Committee (FAC) in its meeting held on 31st July, 2019. The FAC, after thorough discussion and deliberation with the Nodal officer Jharkhand, Dy DG Regional Office Ranchi representative of user agency and considering all facts of the case, observed it is a clear case of violation of the provisions under IFA-1927 and FCA-1980. In the backdrop of all facts of the case, the FAC recommended that the State Government shall:
 - (a) Identify the erring officials and authorities responsible for violation of provisions of Forest (Conservation) Act 1980 and IFA 1927.
 - (b) Initiate action, under relevant act, against, such erring officials.
 - (c) Institute an enquiry by an independent through reputed organisation.
2. The FAC, also recommended that after evaluating the above state government may resubmit the proposal for considering regularisation of the land, already put to non forestry use in violation of Forest (Conservation) Act 1980, by the FAC. Recommendation of FAC were conveyed to the State Government vide letter of even number dated 22.08.2019.
3. Shri Sunil Kumar, OSD, Forest Environment & Climate Change Department, Government of Jharkhand, vide his email dated 19.09.2019 forwarded a copy of letter No. Van Bhumi-14/2019-3622/VP dated 19.09.2019 along with its annexures, containing reply to the observations of the FAC. A copy of the email dated 19.09.2019 along with its annexure may kindly be seen at **F/X** below.
4. The State Government, adverting to letter dated 18.09.2019 of the PCCF, Jharkhand has mentioned that state Government is in agreement with the PCCF's viewpoints comments and in light of the viewpoint of the PCCF, the State Government requested for reconsideration of the matter.
5. Submissions made by the PCCF in his letter dated 18.09.2019 (**F/Y**) are reproduced as under:
 - (i) As regards encroachment of forest lands notified under Indian Forest Act is concerned, action taken under the Indian Forest Act 1927 and also under the Bihar Public Land Encroachment Act 1956 has been communicated to the State Govt. from time to time. A detailed report in this regard has also been submitted by the State Govt. to the Govt. of India vide letter no. 4462 dated 31.10.2017.
 - (ii) The Site Inspection Report dated 15.07.2019 by Ranchi Regional Office of Ministry of Environment, Forest & Climate Change also describes the penal and other action taken by the Forest Department in this matter.
 - (iii) A committee is being constituted by the undersigned to identify erring officials and authorities responsible for violation of Forest (Conservation) Act 1980 and IFA 1927, and due action will be taken after the review of the report of the committee.
 - (iv) In so far as institution of enquiry by an independent reputed organisation is concerned, the Ministry of Environment, Forest and Climate change, Govt. of India may be requested to themselves entrust this work to a suitable organisation in view of the fact that the matter involves, besides organisation and authorities of the State Govt., different wings of the Ministry of Environment, Forest & Climate Change, Govt. of India.
 - (v) It is to also mention that M/s Electrosteel Steels Ltd. (Vedanta) have vide letter dated 12.09.2019 also submitted details in this matter including cases related to forest land encroachment alongwith copy of judgements by the Hon'ble High Court and Hon'ble Supreme Court in the referred cases. The same spy being enclosed for necessary action
6. The PCCF in his letter dated 18.09.2019 has mentioned that detailed report on encroachment on forest land has already been submitted by the State Government by letter dated 30.10.2017. Detailed report on encroachment submitted by the State Government vide letter dated 31.10.2017, referred by the PCCF in his letter dated 18.09.2019, may kindly be seen at **F/Z** below. Major facts reported in the encroachment report are given as under:
 - (i) M/s Electrosteel Limited has encroached a total of 220.88 acres of Protected Forest land and the company is continuing to operate in violation of the Indian Forest Act, 1927 and Forest (Conservation) Act, 1980.
 - (ii) Claim of the User Agency that no forest land is encroached upon by their unit is a false claim as the company wilfully violated the Order of Hon'ble High Court dated 24.04.2010 wherein they were directed not to make any construction on forest land.

- (iii) The Company has also violated the order dated 12.12.1996 of Hon'ble Supreme Court by undertaking non-forestry activity on recorded forest land i.e. Jungle jhari land
 - (iv) Claim of the company that they have purchased lands from different raiyat in different mauza is not tenable as they have done illegal activities like purchasing of notified and demarcated forest land , gair mazurua land and other public lands
 - (v) The company and its representatives have been trying to place misleading facts even before the Hon'ble Court with the intention of regularization of their illegal acts. Citing the case title 25/1996 in respect of plot no. 1120, it is mentioned in the report that only one acre of land of plot no was involved in Title suit of 25/1996 in which decree was awarded in favour of raiyat, but the company in the grab of 1.0 acre land, the company wants to grab the total 21.34 acres of notified and demarcated forest land falling in the plot no. 1120 of Bhagabandh.
 - (vi) The claim of peaceful possession of the encroached land by the company was also contradicted in the report citing that notified and demarcated protected forest land in Bagabandh, Sialjori, Hutupather and Bhandhdih, etc were in the possession of the Forest Department till 2008 and the company forcefully encroached in the said notified lands.
 - (vii) The officers of the company are trying to prove the notification of the Protected Forest land bad in the eye of law.
 - (viii) The Forest Settlement Officer was appointed on 5.11.1969 and FSO, after verifying and considering all the relevant documents produced before him from all relevant raiyats passed the necessary order demarcating the different plots of the said mauza within green line as demarcated Protected Forest.
 - (ix) Several forest offences (53 Nos) have been lodged against the officers and employees of the company. All the cases have been sent to the Court of Ld CJM, Bokaro for taking cognizance. In all the offences cases under Bihar Public Land Encroachment Act 1956 were instituted.
 - (x) The company filed several criminal miscellaneous petitions before the Hon'ble Court for quashing the cognizance taken by Ld CJM Bokaro. Hon'ble Court passed the following order
 - (xi) "As prayed for by the counsel of the petitioners, put up this case after three weeks.
 - (xii) *It is made clear that the order passed on 16.02.2010 to the effect that no coercive steps shall be taken does not mean at all that the court has allowed the petitioners to make construction on the forest land. If any construction is going on, that must be stopped forthwith"*
 - (xiii) It is mentioned that in the garb of above ordes of the Hon'ble Court the company has become fearless against the coercive action of the forest Departmnt
 - (xiv) Pursuant to the instruction of the Ministry dated 20.10.2014 to the State Government to stop functioning of the plant built on forest land in violation of the IFA and Forest (Conservation) Act, 1980, notices were issued by the DCF which was challenged in the T.S. Suit 14/2010 which was rejected by the Ld Judge on 13.04.2015. Inspite of the said order the company is still continuing unauthorized activities.
 - (xv) Citing the various development in the matter and action taken by the state Forest Department, it has been mentioned that against the total 220.88 ha of notified forest land which is encroached only 17.68 in title suit no. 25/1996 is pending before the District Judge Bokaro. On the remaining land of 203.20 acres of forest land there is no title dispute and is also notified protected forest land. It is further mentioned in the inspection report that the Forest Department has taken legal action against the company and various cases have been filed.
7. From the above, it may be ascertained that the User Agency has committed wilful violation of the IFA and FC Act, 1980. Despite coercive action by the State Forest Department, the User Agency has ignored the various provisions of law, ruling of Hon'ble Supreme Court and instruction issued by the Ministry. Aforementioned violations were also taken into cognizance by the FAC in its meeting held on 31st July, 2019 and after examination of the same the FAC raised certain observations which are been replied by the PCCF, Jharkhand as given under para 5 above.
 8. With regards to the detail of erring officials as sought by the FAC, the PCCF has informed that Committee is being constituted and to identify erring officials and authorities responsible for violation of Forest (Conservation) Act 1980 and IFA 1927, and due action will be taken after the review of the report of the committee.
 9. Similarly, with regards to the institution of an enquiry by an independent agency, the PCCF has requested for compliance of the same by the MoEF&CC as the matter also involves various wings of MoEF&CC.
 10. It is also to mention that in the instant case, the User Agency has encroached in the forest land in violation of the IFA and carried out non-forestry activities in the notified and recorded forest land in violation of the Forest (Conservation) Act, 1980. Citing the detail of encroachments, the State Government has applied for diversion of forest land which actually involves regularization of encroachment in the forest land. In light of Judgement dated 13.11.2000 of Hon'ble Supreme Court, there are no provisions under the Forest (Conservation) Act, 1980 for regularization of encroachment in the forest land as regularization of encroachments amount to de-reservation of

forest land. Further, for diversion of forest land, the Central Government accords prior approval under Section -2 of the FC Act. In the extant case, forest land has already been put to non-forestry use by the User Agency without obtaining prior approval of the Central Government. Therefore, the extant case, in fact, relates to ex-post facto approval of the Central Government under Section -2 (ii) of the Forest (Conservation) Act, 1980 and not of a normal diversion case, as proposed by the State Government.

In view of the above request made by the State Government for the reconsideration of the matter and submissions made by the PCCF, it is proposed that the proposal may be submitted before the FAC for its further examination in its forthcoming meeting scheduled to be held on 26.09.2019.
