

**'RECOMMENDATION OF FOREST ADVISORY COMMITTEE (FAC) MEETING HELD  
ON 26<sup>TH</sup> SEPTEMBER, 2019**

**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.**

The above stated agenda item was considered by FAC in its meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).

FAC observed that:

1. The above stated agenda was earlier considered by FAC on 31st. July 2019. It was observed that it is a case of clear violation of the provisions of IFA 1927 and FCA 1980. In this regards state was asked to submit following information
  - 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 observations of FAC was conveyed to the state Government. In response to the observations of FAC, State government submitted the reply of PCCF Jharkhand and reported that it is in agreement with the views/Comments of PCCF and further requested for reconsideration of the matter. The submission made by PCCF Jharkhand in response to FAC observation are taken on record and placed 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 also to 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 is being enclosed for necessary action.

3. The detail report on encroachment on forest land submitted by state Government to Government of India dated 31.10.2017 as referred in his letter by PCCF Jharkhand was also considered by FAC.

4. With reference to the content of Govt.of Jharkhand letter no Van Bhumi 4/2019-3622/VP dated 19.09.2019 Regional office Ranchi also submitted its comments.

**Decision of FAC:**

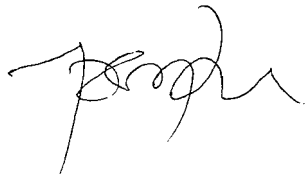
1. After detail deliberation and discussion with the Dy DG regional office Ranchi, APCCF (FCA) Jharkhand and representative of user agency, FAC observed that this is a case of deliberate encroachment of forest land by the Electrosteel limited. Despite regular protests by the forest department, the user agency preferred to construct the steel plant over forest land. This action clearly highlights disregard to the law of the land. Now the same company has been taken over by new user agency. In the communication and clarification given by the user agency it is maintained that there was confusion on the status of forest land. As per latest communication it is clear that the state Government agrees to the fact that the area in question is a forest land. Taking this very fact into consideration the proposal has been forwarded to Government of India for diversion of forest land under the provisions of Forest (Conservation) Act 1980.

Going through the various facts, it is clear that there has been failure of state Government machinery to control illegal occupation of forest land by a corporate entity. Having these facts on record, FAC was convinced that such a large chunk of Government land cannot be encroached by any industry without knowledge and participation of any of law enforcing agencies responsible to control such illegal occupation of Government land. Moreover, the corporate entity should have in the very beginning ensured that procurement of land is lawful and undisputed before commencing and proceeding with the construction of the Steel Plant and other ancillary structures over forest land.

At present, the forest land is fully occupied and it has been put to non-forestry use without following the provisions of Forest (conservation) Act 1980. In this scenario FAC is left with only two options either to recommend regularising the illegal occupation of forest land or recommend removing the structures and restoring the status quo.

With regard to above, IG(FC) submitted that:

- i. The decision of the FAC, should also be in line with its observations in its meeting dt 31.07.2019.
- ii. State Government, although has responded to Ministry's letter concerning FAC's decision on 31.07.2019 as at para-1 above, in fact has not complied with any of the decisions. Further decision may not be appropriate to be taken, particularly considering the stand taken by FAC in similar matter in case of Rani Chennamma University proposal.
- iii. State Government has requested for regularization of encroachment. So this may not be considered for diversion. The said forest land has been put to non-forestry use without approval under FC Act. Hence it should be dealt as per provisions under IFA-1927. Moreover, this is also in conformity with per the para-1.21(i) of Handbook of Guidelines and clarifications under FCA.



However, it was pointed out by some members, including the non-official members, that recommending removal of the existing structure from the forest land, will have direct and indirect impact on the employment of 10,000 persons. Moreover, as per Regional office report the forest tract involved has already been almost irreversibly transformed, and its immediate restoration does not seem to be of critical or crucial ecological imperative, as it is not a part of ecologically significant bio-region or landscape, although the increasing relative value of even pockets of natural vegetation of low floral biodiversity in the progressively being mined and industrialized Dhanbad-Bokaro coal belt cannot be discounted.

The violation is not a case of incidental or inadvertent omission or constrained commission, rather it is a case of known, informed and deliberate commission by an agency that is a corporate entity and not persons compelled by circumstances beyond their control. The failure or inability of State machinery of the State Forest Department, Jharkhand and Land Revenue Department in this case in checking the illegal physical occupation of a vast area of large areas of 184 hectares of forest lands by a corporate entity over 2-3 years in 2008, 2009 and 2010 notwithstanding the proceedings initiated by them is also a matter to be reckoned in considering the approval of this proposal.

There have been instances where FAC had deliberated on similar violations earlier, where it has deferred its decisions. In such cases FAC had taken stand for summoning the name of erring authorities and initiation of action against authorities under the provisions of FCA 1980 before consideration of the project proposals.

Regional office Ranchi has recently commented on the observations of FAC on 31.07.2019 that:

- i. The issue of dispute, as held by User Agency, about legal nature of the land irrespective of title etc., being “forest land” (both the notified “Protected Forest” and the “GM Jungle Jhari”) should be settled with finality and the current User Agency/ Project Proponent should concede any claim to the contrary.
- ii. The State Government, Jharkhand should get a thorough inquiry conducted into the illegitimacy of the settlement or transfer or claims to title, rights (tenancy or otherwise) or interests on the forest lands (“GM Jungle Jhari” lands and notified protected forest lands) involved in this proposal before procurement of these lands by the then User Agency M/s Electrosteel Integrated Ltd before 2010, and the ground for the encroachment over these lands vested in the State to secure the interests of State in the notified forest lands and other forest lands. A report on the findings of the enquiry, the remedial measures taken and the action taken against officials and functionaries if found accountable in this case should be furnished with the compliance report of Stage I approval.

2. In this regard, the following observations are pertinent:

- a. It is felt that the committee being set up by the Principal Chief Conservator of Forests (Hoff), Jharkhand may not be sufficient as the matter involves violation in respect of forest land of both categories - the Protected Forests (99.27 ha) and GM Jungle Jhari forests (84.96 ha). The identification of the erring official, regarding the violation in respect of the GM Jungle Jhari forest land (84.96 ha) should be done by competent authority of the Land Revenue Department.
- b. Another crucial issue is that the State Government Jharkhand should ensure remedial and anticipatory measures so that such illegitimate diversion of forest land and/ or usurpation of government lands in Bokaro district is checked and prevented. The




reports from State Government, Jharkhand should also have details of such remedial and anticipatory measures in respect of both the notified forest lands and the forest lands in category of GM Jungle Jhari forest etc.

3. Further, in the event of consideration of the proposal for approval as a case of irreversible *fait accompli* in the context of compelling circumstances, conceding the claim by the current successor owner of corporate entity M/s Electrosteel Steels Ltd in all the litigation cases related to title etc. in respect of the lands under the proposal under Forest (Conservation) Act 1980 is essential as a prerequisite for considering grant of approval under Forest (Conservation) Act 1980 over and above the standard conditions and imposition of penalties.

Taking all facts, recommendations and ground situation into account, FAC considers that demolishing or removal of the existing structure and restoring the forest land back will not be right decision for the country at this juncture. The proposal is submitted for regularisation of encroachment category. This is to be considered under section 2(ii). Regularisation of such encroachment shall be considered with exemplary penalty so that such instances are not repeated elsewhere and the rule of law is upheld and respected.

**FAC recommended the proposal for in-principle approval with general, standard and following specific conditions:**

1. The State Government, Jharkhand should get a thorough inquiry conducted into the illegitimacy of the settlement or transfer or claims to title, rights (tenancy or otherwise) or interests on the forest lands (“GM Jungle Jhari” lands and notified protected forest lands) involved in this proposal before procurement of these lands by the then User Agency M/s Electrosteel Integrated Ltd before 2010, and the ground for the encroachment over these lands vested in the State to secure the interests of State in the notified forest lands and other forest lands. A report on the findings of the enquiry, the remedial measures taken and the action taken against officials/authorities accountable in this case, despite consistent objections of the Forest Department officials, should be furnished with the compliance report of Stage I approval.
2. The issue of dispute, as held by User Agency, about legal nature of the land irrespective of title etc., being “forest land” (both the notified “Protected Forest” and the “GM Jungle Jhari”) should be settled with finality and the current User Agency/ Project Proponent should concede any claims to the contrary. An undertaking in this regard shall be submitted.
3. It is felt that the committee being set up by the Principal Chief Conservator of Forests (HoFF), Jharkhand may not be sufficient as the matter involves violation in respect of forest land of both categories - the Protected Forests (99.27 ha) and GM Jungle Jhari forests (84.96 ha). The identification of the erring official, regarding the violation in respect of the GM Jungle Jhari forest land (84.96 ha) should be done by competent authority of the Land Revenue Department.
4. User agency shall pay five times of applicable NPV for the area used under encroachment.
5. User agency shall provide non forest land equivalent to five times the forest land encroached for the purpose of Compensatory afforestation. The CA scheme shall be prepared and approved by competent authority. The non-forest



land shall be mutated and declared as RF/PF prior to stage II approval. Shape file of the area shall be submitted.

6. User agency shall submit approved CAT (catchment treatment Plan) plan for the area.
7. Government of Jharkhand shall ensure that such incidences of encroachment of forest land are not repeated in future.
8. User agency shall withdraw all the cases against the officials of forest department.
9. User agency shall ensure that compliance of provisions of FRA 2006 prior to stage II approval.

\*\*\*\*\*

### **Agenda No. 2**

**F. No. 8-147/1989-FC (Pt. 1)**

**Sub: Proposal for diversion of additional 230.20 ha of forest land including 3.806 ha of forest land within safety zone in addition to already diverted 350.706 ha of forest land within total project area of 1384.767 ha (as indicated in latest approved Mining Plan) for Samaleswari OCP Expansion (Phase-IV) rated capacity 15.0 MTY of Mahanadi Coalfields Ltd. in IB-Valley Area, Brajarajnagar Dist. Jharsuguda, Odisha.**

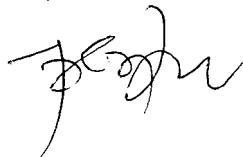
The above stated agenda item was considered by FAC in its meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).

FAC after detail discussion and deliberation with APCCF (FCA) Odisha, Incharge Regional office Bhuvneshwar and representatives of user agency observed that

1. That the total project area is 1384.767 ha. which includes 580.290 ha of forest land and 804.477 ha non forest land
2. It was further informed by the user agency that 49.955 ha land out of 804.477 ha of non-forest land is outside the mining lease area. Thus, total mining lease area is 1334.912 ha which includes 580.290 ha of forest land and 754.622 ha of non-forest land
3. It was informed that this is an old project for which the forest area within the mining lease area has been diverted partially since 2001. (167.232 ha on 09.08.2001, 145.82 ha on 17.02.2009 and 22.48 ha on 08.04.2015.)
4. Now the user agency proposes to enhance its annual rated capacity for which it requires additional area of 406.648 ha including 245.374 ha of forest land and 161.274 ha of non-forest land.
5. It was also informed that, out of 245.374 ha forest land in question, 15.174 ha forest land has already been diverted for other mines of same company. Thus, at present the total forest land required for diversion for additional mining purpose, is 230.20 ha.

#### **Decision of FAC:**

The facts of the proposal were deliberated in detail in the meeting and FAC recommended the proposal for grant of stage I approval with general, standard and following specific conditions



1. NPV for the entire forest land within project/lease area shall be paid.
2. User agency shall maintain safety zone as per the concerned guidelines of MoEF&CC.
3. User agency shall prepare Catchment Area Treatment (CAT) plan in consultation with the forest department and shall be submitted prior to stage II approval.
4. It has been reported by Regional office that reclamation of back filled area is very slow and the area is poor in moisture retention. For the purpose of better reclamation, the user agency shall create smaller water bodies to improve the water regime in the reclaimed area. The number and dimensions of water bodies shall be decided in consultation with the forest department. All details, including estimation of additional costs shall be submitted prior to stage II approval.
5. All conditions referred in EC approvals related to Pondern Nala shall be complied by the user agency.

\*\*\*\*\*

### Agenda No. 3

F. No. 8-23/2019-FC

**Sub: Diversion of 162.394 ha (54.365 ha Protected Forest Land and 108.029 ha Jungle-Jhadi land) of forest land for Tuber Coal Block in favour of Damodar Valley Corporation in Latehar District in the State of Jharkhand.**

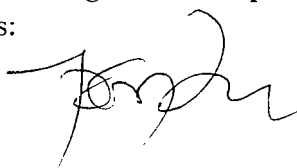
The above stated agenda item was considered by FAC in its meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).

FAC after detail discussion and deliberation with APCCF (FCA) Jharkhand, Dy DG Regional office Ranchi and representatives of user agency observed that

1. That this project was earlier awarded to M/s Hindalco Industries Ltd and Tata power company Ltd. Both companies formed a joint venture company name Tuber Coal Mines Ltd. The application for diversion of forest land for this company was considered in FAC on 13-14 February 2014 and it was observed that MoEF&CC may seek clarification from MoC (Ministry of Coal) regarding applicability of time line related to deallocation of coal blocks. Later it was informed that Hon'ble supreme court has cancelled the allocated coal block
2. On 7<sup>th</sup> Oct 2016 MoC allocated the same coal block to Damodar valley corporation (DVC). Now the DVC has applied for diversion of 162.294 ha forest land for Tuber coal mines.
3. It was observed that there is ambiguity in the area statement. Dy DG, Regional office Ranchi clarified that the area specified in the proposal of the state Government shall be considered final.

### **Decision of FAC:**

The facts of the proposal were deliberated in detail in the meeting. It was observed that the proposal is for reconsideration of a deallocated coal block which was also deliberated earlier in 2014. FAC **recommended the proposal for grant of in-principle approval** with general, standard and following specific conditions:



1. The area proposed for diversion includes 12 ha of CA plantation done in Dihi Protected forest area. In addition to stipulated CA required for diversion, user agency shall pay additional cost for raising CA over degraded forest land. The additional 12 ha degraded land shall be identified and shape files shall be submitted.
2. User agency shall submit CAT plan for the catchment of Sukri river. The plan shall be finalised and approved by competent authority prior to Final approval.
3. State government shall prepare a surveillance and monitoring plan to ensure that the large scale translocation of families from the area shall not get shifted to the adjoining forest land after their reallocation. Surveillance and Monitoring system for the forest hinterlands of the project area to be planned and executed at the project cost with provisions of patrolling manpower, building infrastructure (watch tower, check post etc), forest road access and vehicular resources as necessary.
4. User agency shall explore the possibility of translocation of existing native trees from the project site work in consultation with State forest department.

\*\*\*\*\*

#### **Agenda No. 4**

**File no: 8-09/2019-FC**

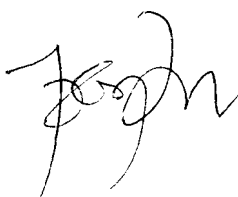
**Sub: Proposal for diversion of 283.320 hectares of forest land/revenue forest land (162.642 ha. forest land RF + 120.678 ha. Revenue forest land=283.320 ha. forest land) for Malachua Opencast Coal Mining in favour of M/s South Eastern Coalfields Limited, Ghungti in Umaria District, State of Madhya Pradesh. -reg.,**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. During deliberations, FAC observed that, the forest area is proposed for use for Open cast Coal mining. The forest area is important from wildlife point of view and based on some associated observations the proposal has not been recommended by the State Government. Being a proposal from a CPSU of Government of India, the same was referred to MoEF&CC even though the case was not recommended.
3. FAC also observed that the Regional Office of MoEFCC also has not recommended the proposal in its site inspection report.

#### **Decision of FAC**

FAC after thorough deliberation & discussion with Nodal Officer (FCA) of the State, DDG (RO) and official from SECL, **decided not to recommend the proposal.**

\*\*\*\*\*



**Agenda No. 5**

**File No. 8-16/2002-FC(Pt.)**

**Sub: 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.**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. During deliberations on the matter, FAC observed following:
  - a. The 40 ha forest land under question is part of the 341ha forest land in South Wayanad district (which is in turn part of a total of 7693.2257ha of forest land) in Kerala diverted in 2004 under FC Act for re-settlement of landless tribal in the state. Moreover, it was also observed that, as per an order of Hon'ble Supreme Court, these lands have been exempted from payment of any CA and NPV.
  - b. Even though the land in question has been approved under FC Act for use for resettlement of landless tribal, the same is under occupation of construct Kerala Veterinary & Animal Sciences University (KVASU). The matter is also under challenge in the High Court of Kerala, wherein an order has been passed with a direction:

***"In view of above, the consideration and disposal of the Ext.R6(k) representation by the MoEF&CC is directed on merits, within a period of three months from today. The 6th respondent shall produce a copy of this order together with a copy of their representation dated 25.07.2018(Ext.R6(K)) before the Director (Forest Conservation), MoEF&CC for necessary order on the said representation. The Director of Forest Conservation shall then produce a copy of the final order before this Court for further consideration of this matter. This order be furnished to all parties including the Central Govt. Counsel for transmission to the authorities concerned"***

- c. While deliberating, FAC also noted that there are other areas within the diverted forest area, which have been put to some different land use other than what is approved under FC Act.
- d. Some constructions have already taken place for Kerala Veterinary & Animal Sciences University (40 ha), Navodaya School (10 ha) and Model Residential School (8 ha) in violation of FC Act 1980.
- e. The alleged use of forest land by KVASU, is a case of change in approved land use without seeking prior approval under FC Act, 1980, thus a violation of conditions of approval for non-forestry use under FC Act.
- f. The land was in possession of Tribal Co-operative Society and District Collector is Chairman.





## Decision of FAC:

FAC after thorough deliberations and discussions with DDG (Central) Bangalore, recommended that the, State Government shall:

- i. With the help of Forest department, survey and identify the actual area broken up and required (within the 40ha under occupation of KVASU) for the University.
- ii. Submit proposal under FC Act, 1980 for diversion of such forest land, (broken up within 40ha land) for the purpose of KVASU, alongwith details of reasons under which the forest land was granted to the University without approval FC Act.
- iii. The remaining forest land out of 40ha under occupation of KVAU (after above proposals in para (ii) is made, shall be returned to the forest department, if not required for the purpose for which it was diverted in 2004.

\*\*\*\*\*

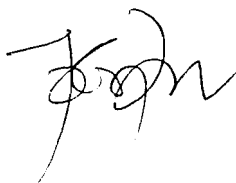
## Agenda No. 6

File No. 8-22/2019-FC

**Sub: Diversion of 57.02 ha. of Forest land in favour of M/s KERALA FOREST DEPARTMENT for Elephant Rescue and Rehabilitation Centre at Kottoor in Thiruvananthapuram District in Kerala-regarding.**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. During the meeting FAC was apprised that:
  - a. The State Government of Kerala has taken permission from the Central Zoo Authority under Section 38-H(1A) of Wildlife (Protection) Act 1972 for establishment of this proposed Elephant Rescue and Rehabilitation Centre.
  - b. As submitted by the User Agency, there will be visitors and some facilities will be constructed similar to a zoo.
3. FAC after through deliberation and discussion with Deputy Director General (Central) Bengaluru and representative of the State Government, **recommended for In-principle approval** for diversion of 57.02 ha. of Forest land in favour of Kerala Forest Department for establishment of the proposed Elephant Rescue and Rehabilitation Centre with general, standard and following specific conditions:
  - a. NPV for 15% of the total area proposed to be diverted shall be paid by the UA.
  - b. Normally for CA, non-forest land equal to 15% of the total area of Elephant Rescue and Rehabilitation Centre should have been identified. Since the state is proposing to take up CA over more area, FAC accepted the proposal of CA.

\*\*\*\*\*



**Agenda No. 7**

**File No. 8-16/2019-FC**

**Sub: Proposal for diversion of 80.737 ha of forest land (8.33 ha. Forest land & 72.407 Revenue Forest land) for establishment of Special Economic Zone (SEZ) in Chhindwara Dist. of MP State in favour of M/s Chhindwara Plus Developers Ltd, reg.**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. The FAC observed that there are 89 patches of forest land totalling 80.737ha, which are interspersed in the whole project area of the SEZ having total area of 1320.065 (including 1239.328 ha non-forestland).
3. FAC after through deliberation & discussion with Nodal Officer (FCA) of the State, **recommended for In-principle approval** for diversion of 80.737 hectares of forest land (8.33 ha. Forest land & 72.407 Revenue Forest land) for use within the Special Economic Zone (SEZ) in Chhindwara District of Madhya Pradesh in favour of M/s Chhindwara Plus Developers Ltd. with General, standard and following specific conditions:
  - a. Norms and guidelines followed in similar proposals, shall be applicable in the instant case.

\*\*\*\*\*

**Agenda No. 8**

**File No. 8-53/2009-FC (Vol.)**

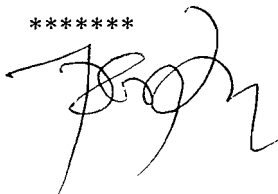
**Sub: Proposal for diversion of 2.7675 ha of forest land in favour of M/s Executive Engineer EHT Construction Division MPPTCL Bhopal for 132 KV Interconnector-II Line from 220 KV S/S Mandi Deep to 132 KV S/S Mandi Deep in Raisen District Madhya Pradesh-regarding.**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. The FAC observed following:
  - a. This proposal is part of the 197.855 ha forest land for which In-principle approval was already accorded by the Ministry (HQ) on 20.12.2017 for Mandi Deep Industrial Area in Raisen District of MP State.
  - b. As per the Guidelines, the proposal even though involves forest land of less than 40ha, will be dealt in MoEF&CC(HQ), since the original proposal related to this, as mentioned at para.2(i) above, was dealt in MoEF&CC (HQ) itself.
  - c. Instant proposal is for diversion of 2.7675 ha forest land for Transmission.

**Decision of FAC:**

FAC after through deliberation & discussion with Nodal Officer (FCA) of the State and DDG (RO, Bhopal), **recommended to accord In-principle approval** for the instant proposal with general and standard conditions.

\*\*\*\*\*



### Agenda No. 9

File No. 8-24/2019-FC

**Sub: Diversion of 97.22 ha. of forest land in favour of 815 Combat Engineering Training Camp, Birdhwal Head, Suratgarh Sri Ganganagar for construction of 815 Combat Engineering Training Centre. -regarding.**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. The FAC observed following:
  - a. The User Agency has taken up some construction activities on 4.65 ha of forest land in violation of the provisions of FCA, 1980.
  - b. The proposal is for Defence purposes.

#### **Decision of FAC**

FAC after through deliberation & discussion with Nodal Officer (FCA) of the State, **recommended to accord In-principle approval** with general, standard and following specific conditions, that the user agency shall, in addition to applicable CA and NPV, shall also pay for penal CA and penal NPV for the 4.65 ha forest land on which construction has taken place in violation of FCA, 1980.

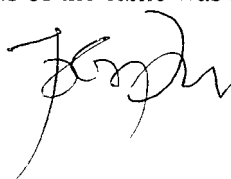
\*\*\*\*\*

### Agenda No. 10

File No. 8-42/2011-FC

**Sub: Diversion of 202.34 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 - regarding.**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. During deliberations on the matter the FAC observed following:
  - a. The proposal was earlier considered by the FAC in its meeting held on 17<sup>th</sup> and 18<sup>th</sup> July, 2014. Then FAC had recommended the proposal for grant of 'in-principle' approval under the FC Act, 1980. However, so far Stage-I approval to the proposal not accorded for want of submission of the additional detail.
  - b. Now the State Government has informed that the area under the proposal was never a forest land. Land in question was part of un-surveyed land and specific measurements on ground was not done at the time of Notification under Section -4. However, presuming that said land is a Section-4 land, proposal under the FC Act was moved for obtaining the prior approval of the Central Government.
  - c. The State Government further informed that original land use of the said land was revenue land and the legal status of the same was never changed to forest land and the



land was never a forest land. Further, referring to the report of FSO, the State Government has mentioned that land in question was not part of Section-4. Area of 750 ha was notified under Section-4 and the same area was notified under Section-20 implying that there is no deletion of forest area.

- d. Adverting to the above facts, the State Government has now requested for allowing to withdraw the proposal from the approval of FC Act, 1980.

**Decision of FAC:**

FAC after through deliberation & discussion with Nodal officer (FCA), Gujarat and DDG (RO, Bhopal), was of the view that, land is a state matter and state Government is the custodian of all land records including all background information.

With regard to above and all the facts and opinions on the matter available with MoEF&CC, FAC recommended that, for consideration of the request of the state Government, it shall furnish a certificate that the land in question was never a 'forest' (as per the definition given by Hon'ble Supreme Court in its judgement dt 12.12.1996) as on 25.10.1980 or after that, as per the records of the land records of State Forest Department and State Revenue Department. It cannot also be interpreted as 'Forest' based on order of any court of law or communication of State Government or Government of India.

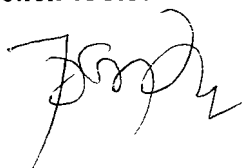
\*\*\*\*\*

**Agenda No. 11**

**File No. 8-21/2005-FC**

**Sub: 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 - regarding.**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. The FAC observed following:
  - a. The instant proposal was accorded Stage-I approval by the Ministry on 21<sup>st</sup> March, 2005 and subsequently, after re-examination of the proposal with respect to the request of the State Government to waive off the provisions of the CA and NPV, the proposal was rejected by the Ministry on 24.09.2009.
  - b. Now the State Government has informed that the area under the proposal was never a forest land. Land in question was part of unsurveyed land and specific measurements on ground was not done at the time of Notification under Section -4. However, presuming that said land is Section-4 land, proposal under the FC Act was moved for obtaining the prior approval of the Central Government.
  - c. The State Government further informed that original land use of the said land was revenue land and the legal status of the same was never changed to forest land and the land was never a forest land. Further, referring to the report of FSO, the State Government has mentioned that land in question was not part of Section-4. Area of 750 ha was notified under Section-4 and the same area was notified under Section-20 implying that there is no deletion of forest area.



- d. Adverting to the above facts, the State Government has now requested for allowing to withdraw the proposal from the approval of FC Act, 1980.

**Decision of FAC:**

FAC after through deliberation & discussion with Nodal officer (FCA), Gujarat and DDG (RO, Bhopal), was of the view that, land is a state matter and state Government is the custodian of all land records including all background information.

With regard to above and all the facts and opinions on the matter available with MoEF&CC, FAC recommended that, for consideration of the request of the state Government, it shall furnish a certificate that the land in question was never a 'forest' (as per the definition given by Hon'ble Supreme Court in its judgement dt 12.12.1996) as on 25.10.1980 or after that, as per the records of the land records of State Forest Department and State Revenue Department. It cannot also be interpreted as 'Forest' based on order of any court of law or communication of State Government or Government of India.

\*\*\*\*\*

**Agenda No. 12**

**File No. 2-8/2016-RT**

**Sub: Construction of all-weather Swimming Pool at IGNFA, Dehradun in Uttarakhand-regarding.**

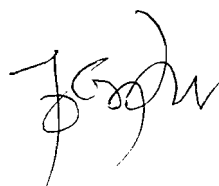
1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. The FAC observed following:
  - a. 'Swimming' is an essential part of the approved curriculum of the Syllabus of the Professional Training of the IFS trainees. Any infrastructure required for any activity such as sports and games, swimming pools, lecture theatres, workshops etc, which are part of approved training curricula of forestry training, can by no means be regarded as non-forestry activity.

**Decision of FAC:**

FAC after through deliberation & discussion with DDG (Central) Dehradun, recommended that:

Any infrastructure, including the instant case of construction of an all-weather swimming pool in IGNFA, Dehradun, that is required to be developed for any activity that is part of an approved Forestry Training curricula, shall not be regarded as non-forestry activity.

\*\*\*\*\*



**Agenda No. 13**

**File No. 7-05/2019-ROHQ**

**Sub: 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 Maheshprasad D. Heble, Proprietor M/s Fish India Ltd. Karnataka - regarding.**

1. The above stated agenda item was considered in FAC meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).
2. The FAC observed following:
  - a. Even if the lease expired in 1999, the same has not been renewed and moreover the non-forest use is continuing since then till today.
  - b. The contention of the state Government that the delay is due to lack of submission of complete proposal, is not acceptable. In such a situation, work or non-forest use should have been suspended pending approval under FC Act.

**Decision of FAC**

FAC after through deliberation & discussion with DDG (Central), decided to seek following information from the state Government:

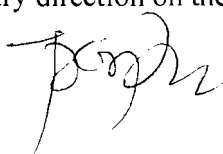
- i. The State Government shall give justification for allowing the User Agency for non-forest use after expiry of lease/FC approval, for the past 20 years.
- ii. State Govt. shall identify the officers responsible for violation and initiate action against them.
- iii. State Govt. shall come up with its clear stand on levying CA and NPV.

\*\*\*\*\*

**Agenda Item No. 14**

**Sub: Matters related to grant of NoC to Tea Growers in Arunachal Pradesh – reg.**

1. FAC considered and deliberated on the matter related to grant of NOC to Tree Growers in Arunachal Pradesh by the Ministry. The FAC noted the following:
  - (i) After examination of a D. O. letters received from Shri Kiren Rijuju, the than Hon'ble Minister of State for Home Affairs, regarding the difficulties being faced by Tea Growers of Arunachal Pradesh in obtaining NOC for the cultivation, Ministry replied vide D.O. letters dated 17.07.2017 and 16.07.2019 stating that Tea cultivation is a non- forestry activity as per the explanation of section 2 of FC Act and same cannot be allowed on forest land without following the due process prescribed in the Forest (Conservation) Act and rules made therein.
  - (ii) Regional Office, Shillong vide their letter dated 13.04.2018 also informed that they had received a number of applications from the State of Arunachal Pradesh for issuance of No Objection Certificate for Tea Cultivation and in light of decision of the Ministry, Regional Office had requested to issue necessary direction on the matter.



- (iii) Ministry has also received representation dated 15.06.2019 from M/s Hornbill Tea Company requesting for clarification regarding issuance of NOC inter-alia mentioning that the Deputy Commissioner has certified that the stated lands are not situated in any notified forest area.
  - (iv) The FAC, in light of provisions contained in the Hon'ble Supreme Court order dated 12.12.1996 in WP No. 202 of 1995 ascertained that provisions of the Forest (Conservation) Act, 1980 will be applicable on the following categories of land:
    - (a) Lands notified as forest land under the Indian Forest Act, 1927 or under the local Forest Act(s) of the State/UT Government(s)
    - (b) Lands recorded as forests (by whatsoever vernacular name) in the Government record of the State/UT Government(s)
    - (c) Lands i.e. akin to forest, as per dictionary meaning, as identified by the Expert Committee of the State/UT Government and submitted before the Hon'ble Supreme Court, pursuant to directions contained in the Hon'ble Supreme Court order dated 12.12.1996.
2. After detailed deliberations on the matter, FAC recommended that
- i. Cultivation of tea on the lands not falling within the ambit of judgement of Hon'ble Supreme Court dt 12.12.1996, do not require NoC from the Ministry.
  - ii. Prior approval of the Central Government will be required only in case such activity is proposed on the forest land as defined in the Hon'ble Supreme Court order dated 12.12.1996.
  - iii. The circular of Ministry issued in 2006 {F.N. 2-7(NECGen.cor/99/110)-122/2000}, on the matter of "Large scale destruction of forests in Tirap and Changlang district of Arunachal Pradesh through Tea cultivation" may be withdrawn.

\*\*\*\*\*

#### **Additional Agenda no-1**

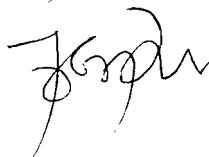
**File No. 8-55/2000-FC (Pt.)**

**Sub: Diversion of 865.276 hectares of forest land out of 947.046 ha. of ML area for mining of iron ore in favour of M/s Sarda Mines Pvt. Ltd. in village Sayabali, Balita and Thakurani RF in Keonjhar district of Orissa- Application for permission to carry out mining operations by the user agency over 617.108 hectares of forest land out of 865.276 hectares of already diverted forest land- Approval of changed land use pattern –regarding.**

The above stated agenda item was considered by FAC in its meeting on 26.09.2019. The corresponding agenda note may be seen at [parivesh.nic.in](http://parivesh.nic.in).

FAC after detail discussion and deliberation with APCCF (FCA) Odisha, Incharge Regional office Bhubneshwar and representatives of user agency observed that

1. The above subject proposal was earlier considered by FAC in its meetings on 13-14 Feb 2014 and 27.06 2019
2. It is informed that the proposal was recommended in FAC meeting held on 13-14 Feb 2014 The FAC, after examination of the proposal, recommended the proposal for change of land



use subject to fulfilment of certain conditions. Approval of Hon'ble MEF&CC was also obtained on the recommendation of the FAC. However, in the meantime Model Code of Conduct came into force and the approval of the Central Government could not be conveyed to the State Government.

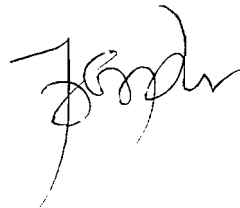
3. The proposal was pending due to various reasons as explained in different Agenda notes of FACs and was discussed in detail in FAC meeting held on 27.06.2019. FAC on 27.06.2019 after deliberation observed that:
  - i. Out of total lease area of 947.046 ha, approval for diversion of Forest land of 865.276 ha, under the provision of FCA1980 was given in favour of Sh S. Sarda and Sh. M Sarda and later in the year 2006 the approval was transferred in favour of **M/s Sarda Mines Pvt. Ltd. in village Sayabali, Balita and Thakurani RF in Keonjhar district of Orissa**
  - ii. On 21.06.2001 the approval under the provisions of FCA was given with the condition that 616.0 ha area of forest land is to be preserved as forest in current lease period
  - iii. Later in 2008 user agency proposed to enhance its production from 4 MTPA to 15 MTPA for which it requires additional land. In this regard, it moved an application for change in land use of the approval given in 2001 where by 616 ha land was stipulated to be preserved as Forest. The user agency requested for allowing them to break additional 382.4965 ha of forest land out of 616 ha.
  - iv. The request of user agency has received from the state government, was placed before FAC on 13-14 February 2014.
  - v. The FAC, after examination of the proposal, recommended for change of land use subject to fulfilment of certain conditions.
  - vi. Approval of Hon'ble MEF&CC was also obtained on the recommendation of the FAC. However, in the meantime Model Code of Conduct came into force and the approval of the Central Government could not be conveyed to the State Government.
  - vii. Meanwhile, a meeting was held under the Chairmanship of the Secretary, Environment and Forests on 23<sup>rd</sup> April 2014 to discuss issues related grant of Environmental Clearance and Forest Clearance to the said mine. In the meeting it was observed that as more than three years elapsed after inspection of the said forest land, there was a possibility that a part of 616.00 hectares of forest land might have been utilised by the user agency for mining and allied activities to increase production of iron ore from 4 MTPA to 15 MTPA. It was, therefore, decided during the meeting that the Regional Office (Eastern Zone) of this Ministry may inspect the said forest land once again and submit a report to this Ministry clearly stating whether a part of 616.00 hectares of forest land which, as per the approval dated 21<sup>st</sup> June 2001 has been utilised for mining or any other non-forest purpose, or not?
  - viii. Meanwhile Impact assessment division of MoEF&CC on dated 28.05.2014 also informed FC division that the 2<sup>nd</sup> report of Shah Commission on illegal iron and manganese ore mining in Odisha has brought out a number of FC violations by the user agency and requested the FC Division to re-verify as to whether FAC has taken into account the observations of Shah Commission in its second report relating to this mine project while considering their case and making recommendations in its meeting on 13-14 February, 2014. Act.
  - ix. In the meantime, regional office Eastern Zone again conducted Site inspection and submitted that majority of the forest land has been kept intact. However, some non-



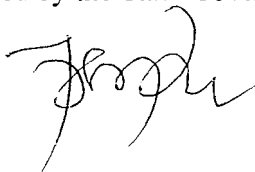


forest activities have been noticed in the forest land, out of which some have been dismantled /demolished.

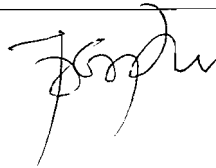
- x. After the above Model Code of Conduct was no more in force, the file along with recommendation of FAC (13-14 Feb 2014) was deliberated in FC division of MoEF&CC and it was observed that there had been very specific observation of CEC related to this project.
- xi. The CEC observed in its Report (final) dated 16<sup>th</sup> October, 2014 in W.P. (Civil) No. 114/2014, W.P. (C) NO. 194/2014 and IA Nos. 2746-2748, 3629 and connected I.A.s in W.P. (C) No. 202/1995 as under
  - a. *161. The CEC further is of the view that it may be appropriate that the State Government is asked to reconsider, after considering all the relevant information including the nature of the virgin forest land and the earlier instances of violation of the Forest (Conservation) Act, 1980 by the lessee, its decision for seeking approval under the Forest (Conservation) Act, 1980 for diversion of the above said 367.832 ha of virgin forest for expansion of the mining operations by SMPL. ”*
- xii. Before taking any decision, it was decided to seek comments of State government on the observation of CEC.
- xiii. In its report the state government informed that Mining activities in violation of approved land use plan has been carried out in the virgin forest land specifically in violation of condition No. 3(v) of the final approval. It is reported that user agency had used 1.265 ha of virgin forest(616ha). It was further reported that as per measurement done by DGPS it has been found that the actual area of lease comes to 936.950 and not 947.046 ha. There is gap of 10.096 ha. Besides, 7 ha land of the present user agency lease area is in dispute with adjoining mining lease. As per intervention of Steel and Mine Department of the state the said land has been marked as ‘No Man’s land’.
- xiv. As per latest calculation the exact area is 597.639 ha, rather than 616 ha of virgin forest.
- xv. State government had further reported that it has taken action, for different violations committed by the user agency, as per the law.
- xvi. Further CEC had very specific mention to this particular mine in its report at paras 138, 156 and 168. It was referred that this mines had some issue related to lease period and ownership.
- xvii. On the observation of MoEF&CC letter dated 4.12.2014 state government submitted its reply on 27.06.15 with request that, *“MoEF&CC may kindly take all aspects in this case into consideration including the observation of CEC made before Hon’ble Supreme Court and stand taken by Steel and Mines Department in various court of Law referred above and take decision in the matter on its own merit and convey their orders for further follow up action at this end”*
- xviii. From the different correspondence with the state it was observed that state government has not clearly conveyed the recommendation to Government of India rather asked MoEF&CC to take action on merits.
- xix. In absence of clear recommendation on the case from the state Government, number of litigations at state level, violations committed by user agency, observations of Shah Commission and CEC, and involvement of Steel and mines department of the state, MoEF&CC tried to get clarity on the issue vide different communications since 2016 till date.



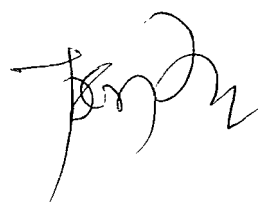
- xx. It was observed that there have been many developments in the status of the facts discussed in FAC in 2014 when the project was recommended. At present it is learnt that the mining in the area has been discontinued stopped since 2014. Many new facts related to court cases and area has come to the light. In this backdrop it is prudent to analyse the proposal by taking all additional facts and take decision accordingly.
4. **Decision of FAC on 27.06.2019:** FAC after thorough deliberation and discussion with ADG(C) Eastern zone, Regional Office Bhubaneshwar, Nodal officer Odisha and representatives of user agency observed that present proposal was recommended by FAC on 13-14 Feb 2014 which was further approved by competent authority but the approval letter for change in land use could not be issued. This administrative delay occurred due declaration of general election and subsequent imposition of Code of conduct. FAC further observed that during the period between 2014 and 2019, many new amendments in Mining laws and judicial interventions have come into force. There has been observations of CEC and Shah commission. Besides, MoEF&CC had also evolved its system of evaluation of project proposal by DGPS maps and DSS, which was not available in 2014. From the discussion and facts produced, it is learnt that the user agency had stopped mining since 2014 for want of valid environment clearance. As per reports and DSS analysis it is clear that major forest area with in the mining leas area is intact and under dense vegetation. It is therefore proposed that the recommendation of FAC dated 13-14 Feb 2014 need to be revisited and analysed afresh based on latest facts and clear recommendation of the state government. After thorough deliberation and discussions, **the proposal was deferred with following directions;**
- i. State Government shall submit clear recommendation after analysing the status and direction of various court cases, CEC and Shah commission observations related to the project.
  - ii. The detail of NPV paid by user agency till date may be submitted. It is further requested that the state government shall clearly convey its opinion about payment of NPV for the forest area sought for change in land use.
  - iii. State Government shall submit KML/Shape file of the area. The DGPS maps showing the different land use shall be furnished.
  - iv. As per proposed land use plan, user agency has proposed 42.8750 ha under infrastructure. State government shall further explore possibility to minimise diversion of forest land in this category. State government shall submit detail land use plan.
  - v. State government's stand on duration of validity of lease period in the light of MMDR (Amendment) Act 2015 shall be conveyed.
  - vi. State Government shall submit status of compliance of stipulations imposed in approval granted to user agency on 21.06.2001.
5. The observations of FAC was conveyed to the state government. The response of state government has been received and discussed in detail in the present meeting.
6. This Ministry vide its letter dated 22.08.2019 based on the recommendation of FAC, requested the State Government of Odisha to provide certain information/documents to this Ministry for further consideration.
7. The point-wise details as furnished by the State Govt. are as under:



S.N.	Information sought by Ministry	Response of State Govt.
(i)	State Government shall submit clear recommendation after analyzing the status and direction of various court cases, CEC and Shah commission observations related to the project.	<p>In this regard it is reported by the State Govt. that CEC has dealt about unlawful production in violation of EC limits besides alleged violation of rule-37 of MCR 1960 on transfer of lease and area limit u/s 6(1) (b) of MMDR Act.</p> <p>That in pursuance to the judgment of the Hon'ble Apex Court dated 02.08.2017 passed in the matter of Common Cause-vs.-UoI&amp; Others vide WP (C) No. 114/2014 (this case dealt with Shah Commission Report and also CEC report) Rs. 1938,85,68,640/- (Rs. one thousand nine hundred thirty-eight crores eighty-five lakhs sixty-eight thousand six hundred forty) only was demanded by the State from Sarda Mines Pvt. Ltd. (SMPL), the lessee towards compensation for violation of Environmental Clearance as rationalized by CEC, Hon'ble Apex Court vide their Judgment dtd.12.11.2018 has directed that the CEC might have to rework the quantum of excessive illegal mining carried out by SMPL and the consequent penalty. Copy of the judgment dated 12.01.2018 is enclosed herewith as <b>Annexure-I</b>. CEC has re-assessed the compensation amount and submitted its report before Hon'ble Apex Court, where the said matter is still sub-judice.</p> <p>Further, the matter of violation of Rule 37 of MC Rules, 1960 and Section 6(1)(b) of MMDR Act, 1957 by SMPL is also pending before the Hon'ble Two Judge Committee constituted by the Hon'ble Apex Court for the purpose. Copy of the Apex Court Record of Proceedings dated 22.11.2017 constituting the said committee is at <b>Annexure-II</b>. However, the said committee is yet to submit its report in Apex court.</p> <p><b>Thus, as of now, the alleged violations are subjudice in the Hon'ble Supreme Court. The recommendation of the State. Govt. for the above proposal was submitted earlier while forwarding the proposal dated 26.05.2000.</b></p>
(ii)	The detail of NPV paid by user agency till date may be submitted. It is further requested that the state government shall clearly convey its opinion about payment of NPV for the forest	In this regard it is reported by the State Govt. that it is ascertained from the letter of DFO, Keonjhar Forest Division dated 16.06.2010 that NPV for Rs. 5,74,14,500/- (Rs. five crores seventy-four lakhs fourteen thousand five hundred) only and further as per the letter dt. 17.06.2016 of the DFO, Keonjhar Forest Division that NPV of Rs. 29,29,680/- (Rs.



	area sought for change in land use.	Twenty-nine lakhs twenty-nine thousand six hundred eighty) only were demanded and payment have already been made in this regard. The copy of the letter of DFO, Keonjhar Forest Division and payment receipt thereon as submitted by the User Agency vide letter dated 20.07.2019 is enclosed herewith for your kind reference.
(iii)	State Government shall submit KML/Shape file of the area. The DGPS maps showing the different land use shall be furnished.	In this regard it is reported by the State Govt. that the KML/shape file and the DGPS map as submitted by the User Agency is send herewith for reference.
(iv)	As per proposed land use plan, user agency has proposed 42.8750 ha under infrastructure. State government shall further explore possibility to minimize diversion of forest land in this category. State government shall submit detail land use plan.	In this regard it is reported by the State Govt. that the details of land use plan as per DGPS map submitted by the User Agency is enclosed at ( <b>Annexure-V</b> ) for kind reference.
(v)	State Government's stand on duration of validity of lease period in the light of MMDR (Amendment) Act 2015 shall be conveyed	In this regard it is reported by the State Govt. that Original Lease period was from 01.08.1934 to 31.07.1964. 1 <sup>st</sup> Renewal of Mining Lease was granted from 14.08.2001 to 13.08.2021 vide Steel & Mines Department Proceeding No. 1014/SM dated 11.02.1999(period from 01.08.1964 to 13.08.2021 was non- granted period). <b>Subsequently, it was observed that grant of 1<sup>st</sup> Renewals of Mining lease from 14.08.2001 to 13.08.2021 was in violations of mines and Minerals (Development &amp; Regulation) Act, 1957.</b> Thereafter, notice was issued to the lessee to rectify the grant period from 01.08.1964 to 31.07.1984 as 1 <sup>st</sup> Renewal of Mining Lease and 01.08.1984 to 31.07.2004 as 2 <sup>nd</sup> Renewal of Mining Lease vide Steel & Mines Department Letter No. 4233/SM dated 08.05.2015 ( <b>Annexure-III</b> ). The Lessee challenged the said show cause notice dated 08.05.2015 before the Hon'ble High Court, Orissa in WP (C) No. 9428/2015 and Hon'ble Court has disposed of the said writ petition vide order dated 06.08.2019 with direction to rehear the matter ( <b>Annexure-IV</b> ) The Matter is now under process of hearing by the authorized officer.



		<b>Thus, the validity of the present executed lease deed is up to 13.08.2021 and the same is subject to the final decision on the show cause notice.</b>
(vi)	State Government shall submit status of compliance of stipulations imposed in approval granted to user agency on 21.06.2001.	In this regard it is reported by the State Govt. that the detail compliance in this connection as submitted by the User Agency vide letter dated 20.07.2019 is enclosed herewith for kind reference.

#### **Decision of FAC:**

FAC after detailed deliberation and discussion with the Nodal officer Odisha, Representative of Regional office Bhubaneswar and representative of user agency, observed that there has been sufficient correspondence between state on central Government regarding specific recommendation for the project. It is clear that the state Government has recommended the proposal for diversion of forest land in the year 2000 and further for change in land use and stands by its recommendation till date. This recommendation of the state government has been accepted and considered in FAC meetings in 2014 and same was subsequently accepted by the then competent authority. All the facts and developments related proposal post 2014 has been analysed and taking all factors into consideration FAC **recommended the present proposal** with general, standard and following specific conditions:

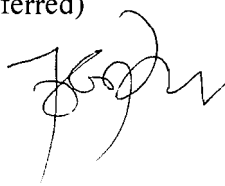
1. User agency shall pay NPV for entire forest land within the lease area before stage II approval.
2. All other specific conditions recommended by FAC in its meeting in the year 2014 shall be part of the approval.

\*\*\*\*\*

#### **Additional Agenda No. 2**

**Sub: Defining “Dictionary meaning of Forest’ as contained in the order of Hon’ble Supreme Court dt 12.12.1996-regarding.**

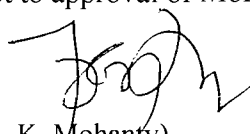
1. This matter was considered as an additional agenda item in FAC meeting on 26.09.2019.
2. The Hon’ble Supreme Court in their judgement dt 12.12.1996, in the matter of T.N. Godavarman vs Union of India & others, in the WP 202/1995, *inter alia*, ordered that the term ‘forest’ for the purpose of FC Act, 1980 should be applicable to following lands:
  - a. Notified forests (notified under any forest act as RF, PF, village forests etc)
  - b. Recorded forests (any land parcel recorded as ‘forest’ in any Government record) irrespective of ownership, such as, revenue forests (jungle jhari, zudpi jungle, orange forests etc)
  - c. Any land parcel, irrespective of ownership and not covered within the above two categories, but may come within the ‘Dictionary meaning of forest’ (or “deemed forest” as is commonly referred)



3. It was also noted that in the same order dt 12.12.1996, it was directed that the States would constitute respective expert committees which would identify all 'forests', irrespective of whether they are notified, recognised or classified under any law, and irrespective of the ownership of the land of such forest, in a time bound manner.
4. To comply with the order, States formed 'Expert Committees'. Many States developed their respective criteria for considering 'deemed forest' and accordingly have submitted their affidavits in the Hon'ble Court. However, no document could be brought to the notice of the FAC, based on which it could be said that the Hon'ble Court has ever directed the MoEF&CC to develop or frame criteria, state-wise or for the country, for identifying lands to be identified as 'deemed forest'.
5. FAC also noted that a matter in this subject is *sub-judice* in the Hon'ble Supreme Court, in which the state Government of Uttarakhand is a respondent. The state has submitted before the court that, a draft set of criteria has been referred to MoEF&CC for the later's approval, based on which 'deemed forest' can be identified for Uttarakhand.
6. To have due deliberation and appropriate view, this has been brought before the FAC.
7. FAC deliberated over the issue in presence of DDGs of Regional Offices present in the meeting and was of the view that:
  - a. India is a vast country with varied geo-physical units and soil-climatic conditions, that has given rise to a number of forest types. There are variations even within the forest types.
  - b. As far as developing criteria for 'deemed forests' is concerned, there cannot be any uniform criteria applicable to all forest types or all states. There has to be different criteria for different forest types or states.
  - c. It is not only that Hon'ble Supreme Court had directed states to identify their own forests, in fact the states, having well established forest departments, are in a better position, rather than MoEF&CC, to understand their own forests and needs, and should frame criteria for their forests.
  - d. While framing criteria, due diligence should be exercised taking into account spirit of order of Supreme court, National Forest Policy, the rationale of having adequate forests, site quality of naturally occurring forest species etc for supporting a healthy environment.
  - e. The criteria so finalised by a state, need not be subject to approval of MoEF&CC.

\*\*\*\*\*

Confirmed through mail  
(S. D. Vora)  
Member

  
(A. K. Mohanty)  
Inspector General of Forests (FC)

Confirmed through mail  
(Dr Sanjay Deshmukh)  
Member

Confirmed through mail  
(Sh Anmol Kumar)  
Member

Confirmed telephonically  
(Saibal Dasgupta)  
Addl. Director General of Forests (FC)

not present  
Additional Commissioner (Soil Conservation)  
Ministry of Agriculture (Member)

  
(Siddhanta Das)  
Director General of Forests & Special Secretary