

Minutes of meeting of Forest Advisory Committee held on 21st February, 2019

Agenda No. 1

F. No. 8-63/2017-FC

Sub: Proposal for transfer of final forest clearance in favour of M/s JSW Utkal Steel Ltd., which was granted vide this Ministry's letter dated 04.05.2011 for diversion of 1253.225 ha forest land for establishment of Integrated Steel Plant and Captive Port in Jagatsinghpur district of Odisha by POSCO-India Pvt. Ltd

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in. FAC after through deliberation and discussion observed that,

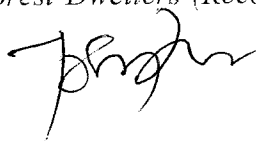
1. MoEF&CC had accorded final approval (Stage-II approval) on 29.12.2009 in favour of POSCO-India Pvt. Ltd for establishment of Integrated Steel Plant and Captive Port in Jagatsinghpur district of Odisha.
2. However, MoEF&CC vide its letter dated 8th January, 2010 informed the State Government of Orissa that the Stage-II approval is subject to settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and no forest land shall be handed over to the User Agency before settlement of the rights under the FRA.
3. FAC took a note of the fact that its recommendation in its meeting dated 9.8.2007 was placed before CEC for its examination and appropriate recommendation to Hon'ble Supreme Court.
4. The CEC examined the proposal and observed that the diversion proposal covers forest land required for the integrated steel plant and captive port and the proposal for requirement of forest land for other linkages such as mines, railways, road, corridor, etc. are yet to be finalized. The CEC further observed that instead of piecemeal diversion of forest land for the project, it would be appropriate to assess the total forest land requirement for the project including for the mining and that the decision for diversion of forest land is taken after considering the ecological importance of the area, number of trees required to be felled, adequacy and effectiveness of the Rehabilitation and Resettlement (R & R) Plan for the project affected persons and benefits accruing to the State. Finally, the CEC recommended that the proposed diversion of forest land for M/s POSCO India Private Limited may be permitted subject to the compliance of the above observations.
5. In consideration of the said report of the CEC, the Hon'ble Supreme Court in its order dated 08.08.2008 in IA. No. 2166 in 1413 in Writ Petition (Civil) No. 202 of 1995 directed that *"M/s POSCO, a Company registered in the Republic of Korea, proposes to start an integrated steel plant in the State of Orissa. The C.E.C. has examined the project and has recommended for diversion of 1253.225 ha of forest land. It is stated that about 2.8 lacs trees are to be cut and removed from this area. The Forest Advisory Committee (FAC) has also examined the project and has given its report. The MoEF may take an appropriate decision in this regard and subject to the decision of the MoEF, this project is cleared. As regards milling operations, the matter is pending with the Orissa State Authorities and we are told that the matter has already heard by the appropriate authority. The decision may be taken within a*



period of four weeks. As there is involvement of cutting of a large number of trees, especially from the coastal side, examination of mitigating measures to be taken to protect this area from cyclone and other natural calamities is necessary. We appoint a Committee consisting of Shri S.K. Patnaik, presently acting as a Member of C.E.C., as Chairman. The Tribal Welfare department of the State of Orissa will nominate a Member and also the MoEF will nominate another Member to this Committee. The Forest and Environment Department of State of Orissa may also nominate another Member to this Committee. The Committee shall examine the steps to be taken as mitigating measures. It may be noted that this part of the order is as an interim measure",

6. Based on above stated FAC recommendations, CEC and Hon'ble Apex court decision, MoEF&CC accorded In-principle/Stage-I approval on 19.09.2008 subject to certain conditions prescribed therein.
7. On compliance of the conditions imposed in Stage I approval, MoEF&CC issued Stage II approval. MoEF&CC received many complaints regarding violations of FRA and Resettlement & Rehabilitations(R&R) provisions. The complaints were verified through different committees constituted by MoEF&CC and MoTA.
8. In a written communication to the state government, dated 5.08.2010, Ministry informed the state government of Odisha that work, if any, being undertaken on the said land for the said project, including handing over of the forest and non-forest land, shall be stopped and report on the same be submitted to this Ministry.
9. The report of MsMeena Gupta Committee and observations of N.C Saxena Committee were placed before FAC in its meeting on 25.10.2010. FAC after detailed deliberations, recommended as below:

- (i) As there is no agreement on the adequacy of the FRA process at the project site, it is essential to examine the issue in its entirety.
- (ii) The Ministry of Tribal Affairs (MoTA) is the nodal Ministry to ensure implementation of the FRA and may examine the larger question of whether the implementation of the FRA has been adequate. At the same time, the FAC is required to examine the prima facie allegations of noncompliance with the said Act. This is to ensure the Committee does not condone any illegality and to ensure that it always acts in full conformity with Acts of Parliament. This is done in following paragraphs.
- (iii) The MoEF's order dated 5 August 2010, asking that all works on the project site be halted, is still in force. This is to remain till it is ensured that all acts of the State Government of Orissa were in accordance with the FRA.
- (iv) The MoEF circular dated August 3, 2009, states that forest clearance under the Forest Conservation Act is conditional upon obtaining "a letter each from the concerned Gram Sabhas, indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures if any, having understood the purposes and details of proposed diversion." No such resolutions meeting the required specifications have been forwarded by the State Government.
- (v) The issue of compliance with FRA is especially relevant in this case because the forest clearance dated 29.12.2009 clearly stipulates that rights as per the provisions of the FRA shall be settled before implementation of the project. This was further reiterated in the MOEF letter dated 8 January 2010 which stipulated that, "the forest clearance issued is conditional on settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act,



2006. No forest/ land shall be handed over to the User Agency before settlement of rights under the above mentioned Act". This condition has not been met by the State Government. The majority and minority reports of the Meena Gupta Committee concur on this issue. The evidence clearly indicates that the conditions upon which final clearance was granted have been violated.
- (vi) Further, the regional representative of the MoEF had noted as early as 24.07.2007 that the No Objection Certificate from the *gram panchayats*, as required under para 2.1.4 of the FCA Handbook, had not been obtained.
- (vii) **The Committee is of the opinion that this is a clear case for temporary withdrawal of permission.** The Ministry may give adequate opportunity to the State Government to respond and adequately demonstrate its compliance with the above stipulations.
10. The FAC finally recommended that in the opinion of the FAC, the Meena Gupta Committee report clearly indicates a lack of diligence in settlement of forest rights and unless the State Government provides evidence of their serious intent for following observance of due process of law, it appears to the FAC that this is a breach of law. Based on the above analysis, the FAC finds that **this is a fit case for applying the precautionary principle to obviate irreparable damage to the affected people**, and recommends temporary withdrawal of the final/stage-II approval already accorded.
11. **The FAC recommendation was placed before competent authority. After detail analysis of the recommendation, the competent authority placed a detail speaking order dated 31.1.2011 as under:**

Subject: POSCO

I. Background

1. *The Government of Orissa and Pohang Steel Company (POSCO) signed a MoU on June 22, 2005 for setting up an integrated steel plant with the total capacity of 12 million tonnes per annum (with 4 million tonnes in the first phase) at Paradip in Jagatsinghpur district. The integrated steel plant includes a captive power plant and a captive minor port. The entire project complex requires about 1621 hectares of land of which about 1253 hectares in forest land.*
2. *The application for environmental clearance for the captive minor port was received in the MoE&F on September 14th, 2006. The environmental clearance was granted by the MoE&F on May 15th, 2007.*
3. *The application for environmental clearance for the captive power-cum-steel plant was received in the MoE&F on April 27th, 2007. The environmental clearance for the captive power-cum-steel plant was granted by the MoE&F on July 19th, 2007.*
4. *On June 26th, 2007, Government of Orissa sought approval from the MoE&F for diversion of about 1253 hectares of forest land. On September 28th, 2008, Stage-I clearance for diversion of forest land was*



granted by the MoE&F. Final clearance for diversion of forest land was granted by the MoE&F on December 29th, 2009.

- 5. On January 8th, 2010, MoE&F clarified to the Government of Orissa that the final approval of diversion of forest land in favour of POSCO is conditional on the Settlement of rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 also known as Forest Rights Act (FRA, 2006.*
- 6. On March 16th, 2010, the Forest and Environment Department of Government of Orissa wrote to the MoE&F conveying that there are no tribal people or traditional forest dwellers residing in the forest area being acquired by POSCO.*
- 7. On June 29th, 2010, the Forest & Environment Department of Government of Orissa sent copies of translated versions of entire proceedings of the settlement of Rights under the Forest Rights Act, 2006 as requested by the MoE&F in the its letter of April 15th, 2010.*
- 8. On April 13th, 2010 the MoE&F and Ministry of Tribal Affaris jointly constituted a Committee under the Chairmanship of Dr. N.C. Saxena and Dr. Devendra Pandey to study the implantation of the Forest Rights Act, 2006, particularly from the point of view of sustainable forest management. On August 4th, 2010 a report was received in the MoE&F submitted by a sub-committee of this joint committee which said that there was non-compliance of the required processes under the Forest Rights Act, 2006.*
- 9. On August 5^h, 2010 MoE&F based on sub-committee's report asked the Government of Orissa to stop transferring forest land till all the processes under the FRA 2006 has been satisfactorily completed.*
- 10. Meanwhile, on July 25th, 2010 a four-member committee had been constituted by the MoE&F based on a recommendation made by the Forest Advisory Committee (FAC) to examine all issues relating to diversion of forest land for the POSCO Project. This was done considering the substantial amount of forest land being diverted and in view of the representations that the FAC has received.*
- 11. The report of the four-member Committee was submitted on October 18th, 2010. The Committee was not unanimous in its recommendations, with one member submitting one set of findings and recommendations and three others taking a different view both in terms of findings and recommendations.*
- 12. The report of this four-member committee were considered by three statutory bodies of the MoE&F- (i) The Forest Advisory Committee (for diversion of forest land); (ii) the Expert Appraisal Committee for Industry*



(for the captive power-cum-steel plant); and (iii) the Expert Appraisal Committee for Infrastructure (for the captive minor port).

13. I have (i) carefully considered the recommendations of these three committees; (ii) carefully considered the representation made by the state government to the FAC; and (iii) had detailed discussions with the state government, Union Ministry of Tribal Affairs and various other stakeholders. The following are my decisions.

II. Environment Clearance for Steel-cum-Captive Power Plant

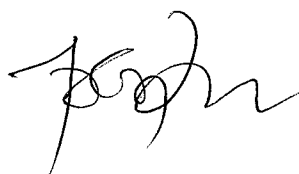
14. ***Environmental clearance for the Steel-cum-captive power plant is being accorded with 28 additional conditions over and above that stipulated in the original environmental clearance of July 19th, 2007. Of these the most significant are the following:***

- *The National Ambient Air Quality Standards issued by the MoE&F on November 16th, 2009 will be followed.*
- *Sustainability study of water requirement (for the ultimate steel production capacity of 12 million tonnes per year) will be carried out by an institute of repute, Should there be a shortfall of water at the Jobra Barrage for irrigation purposes, the company will voluntarily sacrifice water intake for facilitating irrigation.*
- *The total green area within the plant will be 25% of its area as per the guidelines of the Central Pollution Control Board (CPCB).*
- *In addition to fulfilling the R&R obligations mandated by the state government's package and while also implementing CSR-related programmes in the construction phase, 2% of net annual profit should be devoted to corporate social responsibility in the region where the project is located*.*

(This is in keeping with the "Guidelines on corporate social responsibility for Central Public Sector Enterprises" brought out by the Department of Public Enterprises, Govt. of India, March 2010.)*

III. Environmental Clearance for Captive Minor Port

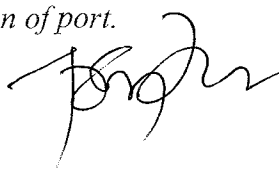
15. ***Over the last few weeks, the MoE&F has received the results of the shoreline study being carried out in different states by the Institute of Ocean Management, Anna University, Chennai. This study is based on satellite imagery for 1972, 1990, 2000 and 2010. The study for Orissa and more particularly for that 3.48 km stretch of the Orissa coast from Gopalpur to Paradip where POSCO's captive port is proposed reveals the following:***



<i>Erosion Characteristics</i>	<i>Distance (m)</i>
<i>High erosion</i>	200
<i>Medium erosion</i>	2000
<i>Low erosion</i>	940
<i>Stable coast</i>	340
<i>Low accretion</i>	Nil
<i>Medium accretion</i>	Nil
<i>High accretion</i>	Nil
<i>Total</i>	<i>3480</i>

16. In view of this finding and also keeping in mind concerns raised on impacts on the marine environment raised by many civil society groups, ***the environmental clearance for the captive minor port is being accorded with 32 additional conditions over and above stipulated in the original environmental clearance of May 15th, 2007. The most significant of these are:***

- *No construction shall be undertaken in the “high erosion” zone identified by the Institute of Ocean management.*
- *Shoreline protection measures to counter erosion on the norther side of north breakwater shall be undertaken.*
- *The shoreline shall be protected to ensure that no further erosion occurs on the northern side of the Northern Breakwater up to Paradip port.*
- *A MOU shall be signed between NIO and POSCO which will includes works relating to monitoring of the shoreline, sand bypass system, beach nourishment and any other activity that has an impact along the coast/coastal waters. The Institute for Ocean Management will monitor the progress periodically on behalf of the MoE&F.*
- *POSCO shall ensure that no industrial activity shall be carried out within CRZ area other than those permissible under the Notification.*
- *POSCO shall submit detailed Marine Environment Conservation Plan (including mangrove regeneration and conservation of turtles and horse shoe crabs). The implementation of conservation plan should start before commencing of construction of port.*



- The location and size of the fishing jetty intended to compensate the loss of fishing activity arising out of development of the port at JMC shall be carried by POSCO in consultation with the local people to their satisfaction and requirement. Separate clearance under Coastal Regulation zone Notification, 2011 for the proposed fishing jetty shall be obtained.
- POSCO shall made a detailed assessment of the impacts on fishing communities and resultant economic losses converged in R&R package- along with requirement of fishing jetty and identified beneficiaries' location identified for the jetty (and alternative options considered).

IV. Forest Clearance for Project Complex

17. In a communication to the Ministry of Tribal Affairs, Government of India dated August 24th, 2010, the SC&ST Development Department of the Government of Orissa stated that:

"There are no tribals in occupation nor residing within the POSCO project area and no traditional forest dwellers are also there in occupation more than 75 years".

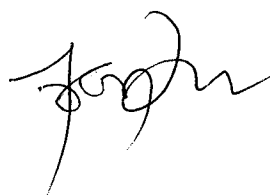
In this communication the state government has also stated that some claims submitted by the POSCO PrathirodhasangramSamiti on June 1st, 2010 were, upon enquiry, found to be forged.

18. A communication from the Forest and Environment Department of the Government of Orissa to the MoE&F dated October 21st, 2010 stated that:

"..... no claims were received were received from any of the villages (Dhinkia, Gobindpur, Nuagaon, Polanga, NoliaSahi and Bhuyanpal)nor has a single person claimed redressal under the definition of "other traditional forest dwellers".

19. It is clear that the POSCO project site is not a part of a Fifth Schedule Area and is, in fact, far away from the nearest Fifth Schedule Area. However, according to the Forest Rights Act, 2006 non-tribals have to fulfill three conditions before their claims as other traditional forest dwellers (OTFDs) for rights under FRA, 2006 can be recognized. These are:

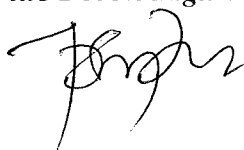
- They should have primarily resided in the forest for 75 years prior to the 13th day of December, 2005. (Section 2(o))
- They should be, at present, dependent on the forest or forest land for bona fide livelihood needs. (Section 2(o))
- They should have been in occupation of the forest land before the 13th day of December, 2005. (Section 4(3))



20. *Non-tribals who meet the above three conditions constitute OTFDs regardless of whether they file any individual claim for land or not. All these three conditions have to be fulfilled for the recognition and vesting of forest rights for the OTFDs. Even if one of them is not fulfilled, then the applicants will be eligible as OTFDs (individually or as a community) for the recognition and vesting of forest rights under the FRA, 2006.*
21. *Furthermore, regarding what constitutes "primarily residing in", the Union Ministry of Tribal Affairs in its circular of June 9th, 2008 has clarified that the interpretation of the phrase "primarily resided in and who depend on" includes person "who are not necessarily residing in the forest but are depending on the forest for their bona fide livelihood needs" or "who are working on such patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land".*
22. *As regards the phrase "bona fide livelihood needs", Rule 2(b) of the Rules made under FRA, 2006 implies that a person either living in or cultivating parcel of forest land or a person collecting firewood, fodder, non-timber forest produce, fish, etc. from forest lands qualifies as bona fide user.*
23. *Against this background and in view of the observation of the FAC and of the four-member committee (paras 11 and 12), **before a final decision can be taken on diversion of forest land, since the state government has the primary responsibility for ensuring and guaranteeing compliance with the Forest Rights Act, 2006, I would like the Orissa government to***
 - ***Give a categorical assurance to the MoE&F that at least one of the above three conditions is not fulfilled in the case of those claiming to be dependent on or cultivating land in the POSCO project area.***
 - ***Final approval for diversion of 1253 hectares of forest land for the POSCO project would be granted as soon as this assurance of the state government is received by the MoE&F.***

V. **A Final Word**

24. *Undoubtedly, project such as that of POSCO have considerable economic, technological and strategic significance for the country. At the same time, laws on environment and forests must be implemented seriously. Every such case presents its own unique set of circumstances and requires a distinctive solution. **In this case,***
 - (i) ***the 28 additional conditions imposed as part of the environmental clearance for the steel-cum-captive power plant;***
 - (ii) ***The 32 additional conditions imposed as a part of the environmental clearance for the captive minor port; and***
 - (iii) ***The pointed assurance sought from the state government in keeping with its obligations under the Forest Rights Act, 2006***



Do provide a comprehensive package of measures to ensure that this project will not be detrimental from an ecological and local livelihood perspective. In any case, the conditions imposed are going to be closely monitored.

25. *Projects like POSCO also raise broader issues of our capacity to conduct comprehensive, coordinated and combined environmental and forestry - related impact assessments and appraisals for mega projects and for projects that cut across a number of sectors, traditionally defined. The MoE&F has taken up this issue for review and improvement.*

26. *Finally, in keeping with the MoE&F's steadfast commitment to transparency and accountability, all documents referred to in this note and not already in the public domain are being made available on www.moef.nic.in.*

12. The decision of the Ministry was communicated to the state vide its letter dated 10.02.2011 with request from the State Government to submit the categorical assurance to MoEF&CC.
13. Government of Odisha vide their letter no. 10F (Cons) 561/2011(pt.)/6356 dated 08.04.2011 submitted its reply and informed as below:

- (a) Subsequent to the afore-mentioned letter orders indicated in the Hon'ble Union Minister for Environment & Forests vide his letter dated 22.2.2011 had also drawn the attention of the Hon'ble Chief Minister, Orissa regarding violation of Forest Rights Act in the POSCO project area as alleged by Sri Prasanta Paikray.
- (b) Since the issues raised above are about ensuring implementation of forest Rights Act and alleged violation of the said Act in the POSCO Project area, the ST & SC Development Department; which is the Nodal department for implementation of the Forest Right Act in the State and the Collector, Jagatsinghpur, who is the Chairperson of the District Level Committee constituted under the provision of the Forest Rights Act, were asked to look into the matter and submit compliance.
- (c) After necessary examination of the matter, the Commissioner-cum Secretary to Government, ST&SC Development Department in his letter No. 9770 dated 7.3.2011, based on the report of Collector, Jagatsinghpur, has confirmed that on one satisfies the conditions laid down under Section 2 (0) of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights Act, 2006 to be treated as other traditional forest dwellers in the forest land involved in the POSCO project area, who has for at least three generations prior to 13th day of December, 2005 primarily resided in and who depend on the forest land for bonafide livelihood needs. This observation of the Nodal department of the State Government clarifies that at least one of the three stipulations prescribed in para 19 of the order of Hon'ble Union Minister for Environment & Forests regarding eligibility of an applicant to be regarded as Other Traditional Forest Dwellers for settlement of Individual community forest rights as per provision of the Forest Rights Act is not fulfilled in respect of any person in the POSCO project area.
- (d) Further the Hon'ble Minister, Environment & Forests in the letter dated 12.3.2011 had drawn the attention of Hon'ble Chief Minister, Orissa to the resolutions passed by Dhinkia and Gobindpur villages of Dhinkia GP appended with another representation of Sri Prasanta Paikra, indicating their opposition to setting up of Steel Plant Project by POSCO India Pvt. Ltd. in their area along with their eligibility to be created as Other



Traditional Forest Dwellers under the provisions of Forest Rights Act. The matter has been thoroughly enquired examined by the Collector, Jagatsinghpur district (Chairperson of the District level Committee constituted under the Forest Right Act) and the ST & SC development Department (Nodal department for implementation of the Forest Rights Act in the State).

Further, the Commissioner -cum-Secretary, ST & SC Development Department vide his letter No.11807 dated 31.3.2011, based on the latest report of the Collector, Jagatsinghpur, has again reiterated the earlier position that no one satisfies the conditions to be treated as "other traditional forest dwellers" in the forest land involved in the POSCO protect area.

14. The reply of Government of Odisha was analyzed in MoEF&CC and competent authority in MoEF&CC issued a speaking order dated 2.5.2011, which is placed as below

Subject: POSCO

I

1. On January 31st, 2011 I had announced that final forest clearance for the POSCO project in Orissa would be given after the receipt of certain categorical assurances from the state government. This is at Annexure-I.

2. On April 13th, 2011 the state government communicated these assurances to MoE&F. On April 14th, 2011 because of two supposed Palli Sabha Resolutions I received from the POSCO Pratirodha Sangramsamiti, I referred the matter back to the state government. This is at Annexure-II.

3. On April 29th, 2011, the state government responded to my letter of April 14th, 2011. This latest reply is at Annexure-III.

II

4. The government of Orissa in its latest reply dated April 29th 2011 has stated the following:

- i. The two Pallisabha Resolutions-of Dhinkia dated February 21st, 2011 and of Gobindpur dated Feb. 23rd, 2011—are not valid documents in terms of mandatory provisions of law under the Orissa Grama Panchayat Act, 1964 and forest Rights Act, 2006. Such resolutions can neither be relied on nor be acted upon.
- ii. Out of a total of 3445 voters of Dhinkia, only 69 persons have allegedly signed the so-called Pallisabha Resolution of Feb.21st, 2011, and of 1907 voters of Gobindpur, only 64 persons have allegedly signed the Pallisabha Resolution of Feb.23rd, 2011. This clearly shows that the "resolutions" are invalid.
- iii. The two "resolutions" purported to have been passed by the Palli Sabha are **not** available in the book (recorded by the gram panchayat secretary and signed by the sarpanch) and are therefore fake ones.



- iv. *Stringent action for violation of provisions of Orissa Grama Panchayat Act, 1964 will be taken against ShriSisirMohapatra, SarpanchDhinkia who has over-stepped the jurisdiction vested in him and mis-utilised his official position to serve the interest of POSCO PratirodhaSangramSamitee (PPSS) of which he is the Secretary.*

III

5. *I have gone through various provisions of the Orissa Grama Panchayat Act, 1964, Forest Rights Act, 2006 and Forest Rights Rules, 2007. The main issue here is whether the two supposed Pallisabha Resolutions that I received from the POSCO PratirodhaSangramSamiti, and that were sent on April 14th to the Orissa government for disposal according to law, are legally valid documents or not.*

6. *According to Rule 4(2) of the Forest Rights Rules, 2007, the quorum of the Gram Sabha¹ meeting shall not be less than two thirds of all members of such Gram Sabha. As per the report of the Orissa government (see ii. In Para 4 above) the number of members was far less than the prescribed quorum.*

7. *Further, according to Rule 3(1) of the Forest Rights Rules, 2007, the Gram Sabhas should be convened by the Gram Panchayat, where as in this case these seem to have been convened by the Sarpanch without the authority of the Gram Panchayat. Rule 20(a) of the Orissa Grama Panchayat Rules 1968 has also authorized only the Gram Panchayat to convene the pallisabha.*

8. *Lastly, as per the requirements of Rule 26 of the Orissa Grama Panchayat Rules, the proceedings of the pallisabha should be recorded in a book specially maintained for this purpose. In the instant case, as per the report of the district Collector, the resolutions under questions are not available in that book.*

9. *For these reasons, and based on the information provided by the state government, I have no option but to come to the conclusion that there has been no legally valid resolution of the Gram sabha claiming recognition of forest rights as required under section 6(1) of the Forest Rights Act, 2006.*

10. *I now have three options available to me.*

- *Seek further legal opinion on what the state government has stated.*
- *Institute an independent inquiry into the claims and counter-claims being made by the state government and the PPSS.*
- *Repose trust in what the state government has so categorically asserted.*

11. *I have already examined the legal issues in section III, and therefore there is nothing to be gained by seeking further legal opinion. Similarly the facts of the case, in particular the lack of signatures of two-thirds of the village adult*



population on the resolution passed by the Sarpanch, are too obvious to require any further enquiry or verification.

12. I have therefore decided to follow the third route because the primary responsibility for implementing the Forest Rights Act, 2006 is that of the state government through the institutions of the Gram Sabha, SDO, and the District Collector.; I must respect the reports from the SDO and the Collector. Their views and also of the state government must prevail unless there is overwhelming and clinching evidence to the contrary². Therefore I hold that there has been no valid claim for recognition of forest rights in Dhinkia and Gobindpur as required under the Forest Rights act, 2006.

13. **Faith and trust in what the state government says is an essential pillar of cooperative federalism which is why I rejected the second option.** Beyond a point, the bona fides of a democratically elected state government cannot always be questioned by the Centre.

14. I am conscious of the fact that the MOU between the state government and POSCO expired last year and has yet to be renewed. This MOU had provisions for the export of iron ore which made me deeply uncomfortable with this project. **I would expect that the revised MOU between the state and POSCO would be negotiated in such a manner that exports of raw material are completely avoided.** In addition, the appeal of the state government against the decision of the Orissa High Court striking down the allocation of the Khandadhar iron ore mines to POSCO is still pending in the Supreme Court. I could well have waited for the MOU to be renewed and for a final decision of the Supreme Court. But that would have smacked of filibustering. I would now hope that the new MOU would be negotiated by the state government in such a way that exports of iron ore are completely avoided.

15. **Therefore, in view of the state government's latest communication of April 29th, 2011, final approval is accorded to the state government for diversion of 1253 hectares of forest land in favour of POSCO. This approval would, however, be subject to the condition that, in addition to the conditions already imposed on compensatory afforestation, payment of NPV etc, POSCO would also bear the cost of regeneration of an equivalent amount of open, degraded forest land in a district to be determined and indicated by the state government.**

16. **I also expect that the state government would immediately pursue action, under the Orissa Grama Panchayat Act, 1964, against the Sarpanch, Dhinkia for what it has categorically said are "fraudulent" acts.** If no action is taken forthwith, I believe that the state government's arguments will be called into serious question.

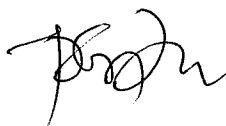


17. I want to address the question of whether my decision will weaken the implementation of the Forest Rights Act, 2006. To these critics I would answer that it was at my personal insistence that in August 2009, the Ministry of Environment and Forests made adherence to the forest Rights Act, 2006 an essential pre-requisite for allowing diversion of forest land for non-forestry purposes under the forest Conservation Act, 1980. I was under no obligation or pressure to do so except my own commitment to FRA, 2006. The implementation of both the FRA, 2006 and the August 2009 guideline is a learning and an evolving process since we are still in largely uncharted territory. The Ministry of Environment and Forests will continue to upgrade and improve the process to ensure compliance with the law in letter and in spirit.

18. The environment and forest clearance process for the POSCO project has generated huge interest both in India and abroad. As I had pointed out in my decision of January 31st, 2011, the POSCO project itself has considerable economic, technological and strategic significance for both the state and the country. At the same time, laws on the environment and forests must be implemented seriously. **In this case, the 60 conditions imposed as part of my decision of January 31st, 2011 provide a package of measures to ensure that the project will not be detrimental from an ecological and local livelihoods point of view. I would expect both the state and POSCO to be extra-sensitive on this score.**

19. This has not been an easy decision to take and it will, I know, be both welcomed and criticised³. That is perhaps inevitable given the complex nature of the issues involved. But what I want to be clearly appreciated is that all along I have tried to uphold the principle of due process. **I believe as Minister my responsibility is not just to do the right thing, but do the thing right.**

15. Ministry vide its letter dated **04.05.2011** granted final/Stage-II approval in accordance with Section-2 of the Forest (Conservation) Act, 1980 for diversion of 1253.225 ha forest land for establishment of the said Integrated Steel Plant and Captive Port by POSCO-India Pvt. Ltd., Jagatsinghpur district of Orissa subject to the fulfilment of the conditions stipulated by this Ministry vide its letter dated 29.12.2009 **and additional condition** that the user agency would bear the cost of regeneration of an equivalent amount of open degraded forest and in a district to be determined and indicated by the State Government of Odisha.
16. It was reported by the state government that the project proponent i.e. M/s POSCO India Pvt. Ltd. could not utilize the land so allotted for establishment of Integrated Steel Plant even though they had possession of the land for a long period of four years. Further owing to non-payment of ground rent and cess of the allotted land by the M/s POSCO India Pvt. Ltd as per demand of IDCO and unwillingness of the Company to utilize the land for the purpose of allotment. Government of Odisha decided to cancel the allotment of land earlier made in favour of M/s POSCO India Pvt. Ltd and to keep the said land under Land Bank of IDCO as the ownership of the land is with IDCO.
17. It is further reported by the Govt. of Odisha that it revealed from the letters of CMD, IDCO that the proposal of M/s JSW Utkal Steel Limited for establishment of 12 MTPA Integrated

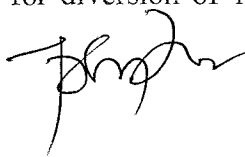


Steel Plant with Captive Power Plant at Gadakujanga, Nuagaon and Dinkia area of Jagatsinghpur district with an investment of Rs.50,000 crores has been approved by the State Government following clearance of the above proposal of the Company in the 17 Meeting of High Level Clearance Authority headed by the Hon'ble Chief Minister, Odisha held on 2.6.2017. The land earlier allotted in favour of M/s POSCO India Pvt. Ltd in Jagatsinghpur district has now been decided by the State Government to be allotted in favour of M/s JSW Utkal Steel Limited for similar types of projects, i.e. Integrated Steel Plant with captive Jetty.

18. The Industrial Promotion & Investment Corporation of Odisha Limited (IPICOL) have appraised the extent of land requirement for the new project proponent i.e. M/s JSW Utkal Steel Limited for setting up, 12 MTPA Integrated Steel Plant & CPP and Captive jetty. As per its appraisal, the Integrated Steel Plant with CPP would require **2,980 acres (1,205.99 ha.) of land**, while the proposed Captive Jetty for this project needs **180 acres (72.85 ha.) of land**. Thus total land required for the Integrated Steel Plant with CPP and Captive Jetty is assessed to be **3,160.00 acres (1,278.834 ha.)** as against earlier land requirement of **1620.496 ha. including 1253.225 ha. of forest land** for the same projects by the earlier project proponent i.e. M/s POSCO India Pvt. Ltd. However, the requirement of land mentioned under Project Details furnished by the new project proponent indicates that the total land of **2950.31 acres (1193.974 ha.) is required** for the proposed Green Field Integrated Steel Plant of 12 MTPA along with a Captive Power Plant of 900 MW capacity and a dedicated Captive Jetty along the JatadharMuhan in Jagatsinghpur district, Odisha.
19. Less requirement of land for the project is owing to due diligence and engineering innovations leading to requirement of reduced extent of forest as well as non- forest land for the project. Total land of **1193.974 ha. required now for the project** includes 2677.80 acres (1083.691 ha.) of forest land and 272.51 acres (110.283 ha.) of non-forest land spread over **six villages** of Dinkia, Gobindapur, Nuagaon, Bayanalakandha, Polanga and Jatadhara under ErasamaTahasil of Jagatsinghpur district as against earlier project area of 1620.496 ha. pertaining to POSCO project spread over **8 villages**.
18. The forest land includes 170.45 acres (68.98 ha.) of RF land, 2441.17 acres (987.928 ha.) of PF-1, 8.44 acres (3.416 ha.) of PF-2 and 57.74 acres (23.367 ha.) of Revenue forest land which are all part of earlier diverted forest land of 1253.225 ha allotted in favour of M/s POSCO India Pvt. Ltd. The comparative statement showing land requirement for the project of the new proponent i.e. M/s JSW Utkal Steel Limited vis-à-vis the land requirement shown by M/s POSCO India Pvt. Ltd. for developing similar projects in the project area earlier which could not come up, is indicated in detail agenda of FAC as submitted by the applicant.
20. In this backdrop, Keeping the legal requirement as well as decision of State Government for development of projects of same nature at the earlier site in Jagatsinghpur district in view, the new project proponent i.e. M/s JSW Utkal Steel Limited has requested MoEF&CC to transfer FC approval granted to M/s POSCO India Pvt. Ltd to M/s JSW Utkal Steel Limited for the purpose of establishing Integrated Steel Plant with CPP and Captive Jetty at the same project site in Jagatsinghpur district of Odisha as per provision of para 2.8 of F.C. Act guidelines.

Decision of FAC:

FAC after detail deliberation and discussion observed that the POSCO India Ltd was granted approval by MoEF&CC in 2009 for diversion of 1253.225 ha of forest land for

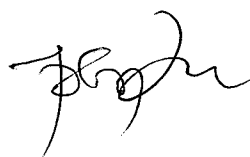


establishment of Integrated Steel Plant, captive power plant and captive Port and the approval was revalidated on 04.05.2011. From perusal of documents and time line followed in approval of the project it is learnt that a detail deliberation for almost 4 years since 2007 till 2011 had taken place before according final go ahead for the diversion of forest land for establishment of the proposed project. It is also observed that after prior approval for diversion of forest land under FCA 1980, the forestland was in possession of the user agency for four years but due to certain administrative hurdle the user agency i.e POSCO India Pvt Ltd could not start the work and the MoU was also got cancelled.

The condition no. (xi) mentioned in the Stage II approval dated 4.05.2011 was perused. It reads as: *The period of approval under the provisions of Forest (Conservation) Act 1980 shall be 30 years subject to possession of valid lease by POSCO -India Pvt Ltd.*

It is clear that MoEF&CC in the year 2011, had granted the approval for POSCO India Pvt Ltd for 30 years. It is also reported that the new user agency is also going to establish the integrated steel plant, captive power plant and captive jetty at the same area which had been diverted to POSCO -India Pvt Ltd. From the analysis of the land use plan submitted by the new user agency it is seen that, barring few, most of the works proposed over the forest land are similar in nature. More over forest area demanded by new user agency is less i.e 1083.691 ha as compared to earlier diversion of 1253.224 ha. In this backdrop it was felt that it will be prudent to analyze and compare the detail land use plan in order to ascertain how the new plan is more ecofriendly due to usage of new technology. Further it is also understood that the state government had submitted a proposal for transfer to Forest clearance under the provisions of FCA guideline 2.8, which actually deals with "lease transfer", whereas the instant proposal is for the "transfer of FC approval" from one user agency to another user agency. The issue needs legal interpretation. Accordingly, **FAC observed that following documents shall be submitted to FAC for further analysis.**

1. MoEF&CC shall seek legal opinion on the issue of transfer of FC approval from one user agency to other and the relevance of its guideline 2.8 which deals with transfer of lease.
2. State government shall submit the shapefile of the area diverted to POSCO -India Pvt Ltd and area requested by M/S JSW Utkal steel limited.
3. State government shall submit a comparative statement of the components which were allowed for POSCO-India Pvt Ltd and those proposed for M/S JSW Utkal steel limited. The difference in land use shall be highlighted clearly. DGPS map depicting different components of the proposed project may also be submitted.
4. Shapefile of CA land and present status shall be confirmed by state government.



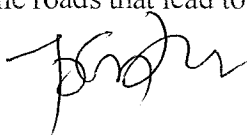
Agenda No. 2

F. No. 8-27/2016-FC

Sub: Diversion of Balance Forest Land 401.7824 Ha. Including 7.2807 Ha of Safety Zone Out of Total Forest Land of 519.7472 Ha Within Total Mining Lease Area of 618.576 Ha for Iron Ore Mining in Gandhamardan (Block-A) Mining Lease in Keonjhar District, Odisha of M/S Odisha Mining Corporation Ltd. During 2nd renewal of mining lease period (Likely to be extended up to 31.03.2020 as per amended provision of MMDR Act, 2015.

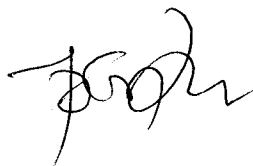
The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

1. The project proposal was earlier considered by **FAC in its meeting held on 20.09.2018.**
2. The total mining lease of the Gandhamardan block is 618. 576ha out of which 519.7472 ha is forest area. Out of total forest area, MoEF&CC had already granted approval, under FCA 1980, for 41.2442 ha on 24.04.2017. The instant proposal is for diversion of balance forest area of 401.7824 ha.
3. It is informed that the part area of present proposal was considered by FAC earlier and granted in-principal approval for diversion of 117.9648 ha in Gandhamardan Block A on 17.02.2009 subject to certain conditions prescribed therein including the condition No (6) which states that the approval under FCA, 1980 is restricted to 117.9648 ha & the possession of the balance forest area shall be taken over by the Forest Department before grant of the formal approval and this condition was waived off by the competent authority while issue of stage-II clearance for diversion of broken –up forest land of 41.2442 ha on 24.04.2017.
4. The area is located in Keonjhar district of Odisha. The area includes proposed RF(375.5607ha) and village forest (26.2217 ha) with density of 0.3 to 0.4. Total number of enumerated trees with in forest area is 87,591.
5. This mining lease is very old. Initially it was executed in 1963.
6. The RCCF intimated that the project may be considered for approval as per provision under section 2 (ii) of FCA-1980 **on its own merit with the suggestion that condition may be imposed on the User Agency to take up intensive Soil & Moisture Conservation Measures in the lease area and to stack top soil separately in an earmarked area within the area proposed for dumping of overburden**
7. PCCF and state government had recommended the proposal.
8. As per the procedure prescribed in FCA Rule, Site inspection was carried out through regional office Bhubaneswar.
9. In its recommendation regional office reported that:
“the validity of the lease is till 31st March, 2030. The lease is adjacent to another lease of the same agency i.e. Gandhamardan-B. Total area of the Gandhamardan-B lease is 1590.87 ha. containing 1409.649 ha of forest area and out of this forest clearance has been given for 232.438 ha. and Stage-I clearance has been given for balance area of this lease. **The ecosystem of Gandhamardan hills will be severely damaged if mining is also taken up in the hill tops of the Gandhamardan-A area, rather the foot hills of Gandhamardan-A lease is covered with Lantana and Eupatorium weeds and mining has already been done and being used for storage of ore.** This also includes the roads that lead to Gandhamardan-B lease. For



storage of iron ore and proper transportation from Gandhamardan-B mines the remaining broken up forest land prior to 1980 i.e. 23.48 ha. along with 2.270 ha for construction of haulage road will be sufficient for meeting the needs of the user agency as on date. **The balance virgin areas with natural forests may be kept intact and shall be operated once the Gandhamardan-B lease is exhausted of the stock of iron ore and progressively reclaimed. This will ensure containing the damage to the environment in this area and meeting the needs of the local people.** The mitigative measures proposed in the Wild Management Plan prepared by user agency and vetted by Wildlife Institute of India will reduce the ill-effects for movement of elephants and other wildlife in the region.”

10. The facts were placed before FACon **20.09.2018** and it observed that as per SIR the area is a pristine forest which contains old growth trees/forests in its natural state. Regional office in its SIR has also reported that the ecosystem of Gandhamardan hills will be severely damaged if mining is also taken up in the hill tops of the Gandhamardan-A. It has further reported that there had been alarming incidence of elephants' death due to drowning in dangerously exposed mining pits of OMC. It has been informed by the state that Deptt of Biotechnology & Medical Engg, NIT, Rourkela, was entrusted by the State Government with the responsibility of undertaking study of biodiversity and conservation in the Gandhamardan Region at project cost. The NIT Rourkela had submitted its report on *Scientific study on Biodiversity and its conservation for forest land around Gandhamardan Region in Keonjhar district*. Taking the report and facts into consideration, FAC recommended that a subcommittee under the Chairmanship of Shri R.K. Dey APCCF, Regional Office, Bhubaneswar shall be formed. Dr Sanjay Deshmukh FAC member, Sh R.K Samal CF Regional office Bhubaneswar and Sh Sandeep Sharma AIG MoEF&CC will be members of the sub-committee.
11. The FAC recommended that the sub-committee shall visit the area and analyse following points
 - (i) Whether it is imperative to open new area when, Gandamardan B Mine, adjoining to the present proposal area is under consideration of MoEF&CC
 - (ii) What is total requirement of forest area for OMC to meets its targeted production for next five years. How many mines are operational and what is the envisaged production capacity vis a vis actual production?
 - (iii) May analyses the *Scientific study on Biodiversity and its conservation for forest land around Gandhamardan Region in Keonjhardistrict* and submit the summary of facts before FAC for consideration
 - (iv) May obtain year wise schedule for extraction of Iron ore from Gandamardhan A mine.
 - (v) May check if CAT plan for the area is required, as it is reported that area cater to River Baitrani through feeder streams
13. Shri R. K. Dey, APCCF(Central), Regional Office, Bhubaneswar vide his letter NO.5-ORA052/2007-BHU dated 19.02.2019 forwarded the recommendation of sub-committee as reproduced below:



**FINAL REPORT OF THE SUB-COMMITTEE OF FAC ON
GANDHAMARDAN- A IRON ORE MINE IN KEONJHAR DISTRICT OF
ODISHA**

As per the recommendation of the FAC in its meeting on 26th October, 2018 and letter issued by the Ministry, a sub-committee under the Chairmanship of Shri R.K. Dey, APCCF (Central), MoEF&CC, Bhubaneswar with the following members, was constituted, which visited the Gandhamardan-A mine of OMC on 07.12.2018:

1.	Dr.SanjayDeshmukh	-	Member, FAC
2.	Shri R.K. Samal	-	CF, Regional Office, MoEF&CC, Bhubaneswar
3.	Shri Sandeep Sharma	-	AIGF, MoEF&CC, New Delhi

Shri Sandeep Sharma, AIG could not accompany the sub-committee in its site inspection due to some prior engagement.

14. Committee examined the issues and observations are recorded as below.

During the site inspection and subsequently the discussions held with OMC officials, the sub-committee took note of the following submissions of the OMC.

- a. The Gandhamardan-A ML of OMC was executed on 21.05.1963 for a period of 30 years and subsequently the State Government extended the validity of ML period up to 20.05.2033 (Annexure-I series).
- b. OMC applied for diversion of 216.3617 ha out of which State Govt. recommended 117.9648 ha for diversion, on 11.05.2007. MoEF considered the said diversion proposal and granted Stage-I approval over 117.9648 ha of forest land on 17.02.2009 (Annexure – II series).
- c. Subsequently, on 24.04.2017, the MoEF&CC granted Stage-II approval only over 41.2442 ha of broken up forest land and with a decision to consider grant of balance 76.7206 ha of virgin forest land after the carrying capacity study report by NEERI is finalised (Annexure-III).
- d. Accordingly, OMC originally proposed for diversion of 216.3617 ha out of which State Govt. recommended 117.9648 ha for grant of diversion on 11.05.2007. MoEF considered the said diversion proposal and granted Stage-I FC over 117.9648 ha of forest land on 17.02.2009 (Annexure II series).
- e. MoEF&CC while granting Stage-I FC over 117.9648 ha of forest land on 17.02.2009 has directed the State Govt. to take over the rest (401.7824 ha) of forest area. Subsequently, the Hon'ble Supreme Court directed the State Govt. on 16.04.2012 to forward the rest of the forest area to MoEF&CC for consideration of diversion. Accordingly, the State Govt. forwarded with recommendation to the MoEF&CC on 07.04.2016 to consider diversion of rest 401.7824 ha forest land.
- f. There has been no production from Gandhamardan-A since 24.04.17, (Annexure-IV) and the said permission was mainly to make ore transportation possible through the road network existing in Gandhamardan-A for disposal of stacked ore produced from Stage-II approved areas of Gandhamardan-B mine, with rest of the area mined out having exposed limonites and BHJ with little feasibility of fresh ore extraction.

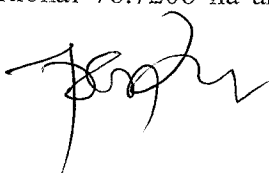


- g. Since no fresh areas granted with the Stage-II approval and there has been no production of ore for consecutive two years after such approval, the mine shall be liable for lease cancellation as per Rule 20 of MC Rules, 2016 (Annexure-V).
- h. Considering the above and the said NEERI report which is not adverse and has been accepted, the sub-committee is of the opinion that the Ministry may immediately release the remaining 76.7206 ha by granting the Stage-II approval.
- i. Approval of the said 76.7206 ha (virgin: 47.6756 ha & safety zone/magazine: 29.0450 ha) may not enable OMC to mine because the readily extractable old iron ore rich benches, which are on hill slope, cannot be worked/advanced as to make room for the fresh areas to be worked. Because while recommending virgin forest areas earlier, the ground contours were not taken into account.
- j. Mineable reserve of Gandhamardan-A is stated to be 41.399 million tonnes (MT) and the lease is upto 2033. The OMC planned to produce 2.5 MTPA thereby exhausting the reserve by 2033 (Annexure –VI series), justifying the request to release the rest of the mineable fresh areas for mining.
- k. There is an imminent crisis that shall emerge after March 2020, when most of leases of merchant mines shall cease to operate. Out of 33 iron & manganese leases in Odisha, 16 mining leases in the district of Keonjhar are going to expire during 2020 (Annexure - VII). On closure of these mines, around 74 MTPA of iron ore will be shortfall. Though, most of the mining leases shall be auctioned thereafter but it may probably take 2 to 4 years or more time for procedural requirement and subsequent take off to catch up the desired rate of production to cater to the need of 19 iron & steel industries which are solely dependent on Gandhamardan mines (Annexure-VIII). The current production of iron ore by OMC is 9.90 MTPA (Annexure - IX). Though the OMC has a plan to enhance the production upto 32.448 MTPA from 2020 onwards, still there shall be a huge gap of 42 MTPA from the projected 2020 shortfall of 74 MTPA.
- l. For the future enhancement plan of OMC for the targeted production of 32.448 MTPA, the share from Gandhamardan-A mine as per the modest enhancement proposed shall only be 2.5 MTPA, which may be accepted.

Mandate – I

Whether it is imperative to open new area, when Gandhamardan B Mine, adjoining to the present proposal areas is under consideration of MoEF&CC.

1. The sub-committee deliberated upon the provisions of Forest (Conservation) Act & guidelines and observed that diversion of a mine or consideration of diversion of a mine is not prohibitive or restrictive for getting another mine diverted to an user agency. Furthermore, it is also clear that allotment of mines is the prerogative of the State Govt. Accordingly, the State Govt. allots mine and subsequently applies to the Ministry for diversion, if forest land is involved. The sub-committee is of the opinion that as per the prevalent acts & rules the Gandhamardan-B, which was allotted to OMC by the State Govt. in the year 1970 and has recently been diverted by the Ministry, accordingly shall not be restrictive or prohibitive in getting another mine (Gandhamardan-A) diverted in their favour, whether adjoining or elsewhere. Consequently the sub-committee decided to focus its attention on the remaining aspect i.e. for the assessment of justification for opening of new areas further, within the Gandhamardan-A mine.
2. Taking into the facts and submissions of OMC, the sub-committee further examined the issue whether the approval of additional 76.7206 ha area shall be sufficient for



OMC's current requirement. For which, the sub-committee inspected the said 76.7206 ha area and felt that it may not enable OMC to fulfil the target of 0.35MTPA that was fixed much earlier due to curtailment of area by the State Govt. (From 216.3617 ha originally applied by OMC to 117.9648 ha) in 2007, when the ground contours were perhaps not taken into account, rendering the expansion of old benches/pits difficult for fresh commercial ore extraction.

3. Considering all the facts and the justifications as submitted by the OMC, as noted by the sub-committee along with the current/emergent situation & the additional area 401.7824 ha recommended by the State Govt. subsequently in 2016, **the sub-committee recommends diversion of 223.6424 ha including 41.2442 ha already diverted** (as per 216.3617 ha originally applied by OMC vide their application No. 15220/OMC/F&E/07 dated 20.07.2007 along with the mandatory safety zone of 7.2807 ha.), according 76.7206 ha. Stage-II approval out of the 117.9648 ha. of forest land accorded Stage-I approval in the year 2009 and rest 105.6776 ha. of forest land to be accorded with Stage-I approval out of the proposal for 401.7824 ha to enable the State PSU to go ahead with their mining operation till 2023, when their progress may be reviewed by the MoEF&CC for consideration of further release of forest area as submitted by OMC to the sub-committee. Details given in Table- I below:

Table - I

Table - I

Sl. No.	Purpose of utilization	Forest area required to achieve 0.35 MTPA	Forest area Recommended to be diverted including the land already given Stage-I	Forest area required for stage-II approval out of 117.9648 ha.	Forest area recommended for Stage-I approval
		FY 2018-23			
1	Mining, processing & stacking	78.2658 (30.4102*)	150.0767	47.8556	71.8109
2	OB dumps.	3.0000*	26.6260	0	23.6260
3	Stacking of ore.	-	0	0	0
4	Sub-grade ore stacking.	-	0	0	0
5	Processing and stacking.	-	0	0	0
6	Construction of building.	0.0100*	0.0100	0	0
7	Township/Ho using.	0.3000*	0.3000	0	0
8	Construction of road.	7.3440*	10.304	0	2.9600
9	Magazine including safety zone.	29.0450 (0.1800*)	29.045	28.865	0
10	Safety zone.	-	7.2807	0	7.2807
Total		117.9648 [Stage-II granted: 41.2442 ha	223.6424 (11.2898 ha kept untouched)	76.7206	105.6776

	broken* + 76.7206 ha (47.6756 ha virgin + 29.0450 ha safety zone)].			
	223.6424 ha (Includes 41.2442 ha + 23.48 ha = 64.7242 ha broken up area) This includes a safety zone of 7.2807 ha. to the earlier proposal of 216.3617 ha.			

Mandate - II

What is total requirement of forest area for OMC to meet its targeted production for next five years? How many mines are operational and what is the envisaged production capacity vis-a- vis actual production.

OMC reported to the sub-committee that it has made its production target of 32.448 million tons of iron ore from 2020 onwards from its twelve mining leases (Annexure-IX). The total requirement of forest area for OMC to meet its targeted production from its thirteen iron and manganese mining leases is stated to be 5600 ha.

The sub-committee observed that out of eight operating mining leases of OMC at present, three are iron ore mining leases located in Keonjhar, Sundargarh and Jajpur district of Odisha and have EC capacity of 14.87 million tons of iron ore per annum. At present, OMC is producing 9.90 million tons of iron ore per annum (at 66.58 % capacity) due to want of FC over total forest land.

Accordingly, the requirement of forest area pertaining to Gandhamardan-A iron ore mines of OMC for the next five years and beyond, as submitted (Annexure – X) after detailed discussion with the sub-committee is given in Table – II.

Table – II

Table A

Sl. No.	Purpose of utilization	Forest area required to achieve 0.35 MTPA	Forest area required to achieve 2.50 MTPA	Forest area required for FY 2023-28	Forest area required for FY 2028-33
		FY 2018-23			
1	Mining.	78.2658 (30.4102*)	173.0148	26.593	73.9702
2	OB dumps.	3.0000*	7.4716	-	-
3	Stacking of ore.	-	-	-	-
4	Sub-grade ore stacking.	-	-	-	-
5	Processing and stacking.	-	-	-	-
6	Construction of building.	0.0100*	-	-	-
7	Township/Housing.	0.3000*	-	-	-
8	Construction of road.	7.3440*	-	-	-
9	Magazine.	29.0450 (0.1800*)	4.0091	-	-
10	Safety zone.	-	7.2807	-	-

Total	117.9648 [Stage-II granted: 41.2442 ha broken* + 76.7206 ha (47.6756 ha virgin + 29.0450 ha safety zone)].	191.7762 (11.2898 ha kept untouched)	26.593	73.9702
	309.741 ha (Includes 41.2442 ha + 23.48 ha = 64.7242 ha broken up area)	100.5632 ha		
Forest area in the ML to be kept untouched: 149.7778 ha (109.443 ha + 29.0450 ha + 11.2898 ha)				
NB: Additional area requirement=309.741 – (41.2442Stage II given) = 268.4968 ha (Till 2023)				

Mandate - III

May analyze the scientific study on Biodiversity and its conservation for forest land around Gandhamardan Region in Keonjhar district and submit the summary of facts before FAC for consideration.

The salient features of the scientific study on Biodiversity and its conservation for forest land as examined by the sub-committee are given as below:

- The plan has been prepared for entire Gandhamardan Region of Keonjhar District by NIT, Rourkela.
- The study area comes under BJP Range of Keonjhar Forest Division.
- Five forest blocks i.e. Anjar, Khajurimundi, Jagar, Mundula and Gadgadei covering a total area of 1183.0786 ha have been notified as RF and covered in the working plan of Keonjhar Division.
- Degradation and fragmentation of habitats, decay of ecosystem, poaching, forest fires, encroachment for cultivation, uncontrolled grazing by domestic animals, electrocution by high tension power lines, man-animal conflict, dust pollution, water pollution, noise pollution, air pollution, soil pollution, increasing vehicular traffic, water scarcity etc. are some of the probable threats to wildlife in the mining area.

In order to counterbalance the negative impact on mining the following mitigative measures have been proposed in the Biodiversity Conservation Plan.

- Re-vegetation incorporates both landscaping and habitat rehabilitation.
- Plant species used in landscaping will be mainly local native species but may also include various non-indigenous medicinal and ornamental species.
- Intensive soil and moisture conservation measures in degraded areas are taken up to prevent soil loss and to foster natural regeneration and improvement of existing growing stock for protection of biodiversity and recharge of ground water table.
- Proper demarcation of the mining area should be made with solar fencing all around the mining area.



- Resident and migratory birds along with other small reptiles may be conserved encouraging nesting and providing alternative shelters.
- For avifauna small pools & bird bath are proposed along with its due maintenance.
- General awareness programme also proposed to create awareness among the local people on wildlife and its conservations.
- Due prescription for fire control and precautions also given in detail.
- For the control of dust and sound pollution for mining activities are also prescribed in detail.

In order to implement the prescription made in the biodiversity conservation plan the following activities has been proposed by DFO, Keonjhar which has been approved by PCCF, Odisha.

- Regeneration and re-vegetation over 150 ha of forest land.
- Construction of check dams, contour trench and agave fencing.
- Solar fencing over 6.666 km to prevent fall of wild animals into mining pit.
- There is provision of artificial nests and bird bath for protection of faunal species.
- Creation of awareness. incentive to villagers, hired vehicle for fire-fighting squad, deployment of firefighting squad and fire-fighting equipment.
- Biodiversity squad has been proposed to prevent illicit felling, prevent uncontrolled collection of fruits, flower, leave etc. and to prevent shifting cultivation.
- Alternative livelihood/Ecosystem development initiative like Honeybee keeping, vegetable and mushroom cultivation, press khali preparation and poultry.
- The total financial outlay for implementation of recommendation is Rs. 9, 54, 17,000/-.
- OMC has deposited the said amount on dated 02.08.2018 as per the demand raised.

Accordingly, the sub-committee after due examination considers that the bio-diversity plan appears duly satisfactory taking care of different possible aspects of floral and faunal conservation. However, the promotion of Lantana species as an elephant feed should not be taken up, which appears mistakenly proposed by NIT.

Mandate - IV

May obtain year wise schedule for extraction of Iron Ore from Gandhamardan-A mine.

Total mineral reserve of Gandhamardan-A is estimated at **41.399 million tons**. The year wise schedule for extraction of Iron Ore from Gandhamardan-A mine is given as below:

Table - III

Year	Production as per MP approved by IBM & EC in MTPA	Planned Production target in MTPA
2018-19	0.35	2.0
2019-20	0.35	2.5
2020-21	0.35	2.5
2021-22	0.35	2.5
2022-23	0.35	2.5
2023-33	-	29.399



Mandate – V

May check if CAT plan for the area is required, as it is reported that area cater to River Baitarani through feeder streams.

- The sub-committee examined the drainage map of 10 kms buffer of Gandhamardan region (Map Annexure - XI). It shows that though there are hundreds of mini seasonal feeder streams in the water shed region, but are outside the Gandhamardan-A mining lease area catering to the river Baitarani. There are 3 such mini seasonal streams originated from Gandhamardan-A mines which are likely to be disturbed by mining during 10th expansion year. The part of the quarry will also be backfilled and the flow shall likely to be resorted over the backfilled area. It will have insignificant effect on the hydrology of the area and to the river Baitarani hence, as understood now, it may not require a separate CAT plan. If Ministry desires/considers, the Regional Office, Bhubaneswar, may assess the status of soil erosion/conservation with local Forest Deptt. much prior to the 10th expansion year, may be after 2023 (5th year), for the preparation of any additional soil - water conservation plan/CAT plan, if deemed appropriate.

Additionally, the sub-committee also observed that adequate steps have been prescribed in the Site-Specific wildlife Conservation plan vetted by Wildlife Institute of India, Dehradun and Biodiversity Conservation plan by NIT, Rourkela. There is also a provision for construction of 20,000 nos of contour trench, 200 nos of 2 mtr long check dam, 180 nos of 3 mtr long check dam, 60 nos of 1 mtr long check dam and 100 ha of agave fencing in the Biodiversity conservation plan. The sub-committee was apprised by OMC that they have paid Rs. 5,16,69,000/- towards implementation of site-specific wildlife conservation plan and Rs. 9,54,17,000/- towards implementation of bio-diversity conservation plan (Annexure-XII).

The sub-committee also observed that during earlier mining operation, OMC has constructed check dams, wire netted crated boulder wall and retaining RCC wall to prevent wash offs by surface run off. Photographs enclosed (Annexure - XIII).

Considering the above facts and the provisions, the sub-committee is of the opinion that a separate CAT plan may not be required for the Gandhamardan-A mining lease area at present.

23. Shri R. K. Dey, APCCF(Central), Regional Office, Bhubaneswar and Chairman of sub-committee has given an additional note as below:

“The sub-committee unanimously recommends diversion of (223.6424 ha) i.e. 182.3982 ha excluding 41.2442 ha already diverted, for grant of stage II for 76.7206 ha & 98.3969 ha for Stage I, but two members Dr. Sanjay Deshmukh, Member FAC & Sri R.K. Dey, APCCF (c) & Chairman of the sub-committee are of the opinion that considering all the justifications as noted and stated by the sub-committee from a to l, the Ministry may consider to divert 268.4968 ha (76.7206ha for Stage II & 191.7762 ha for Stage I- Table- II). Accordingly, the OMC may submit the revised environmentally conducive mining plan for 2.5MTPA, monitorable GPS coordinates of the said/committed land use plan (Annexure-X) along with the submission of Stage-I compliances of 191.7762 ha, thereby allowing the State PSU to face the emergent situation including the imminent 2020 crisis.”



16. FAC also had discussions with Nodal Officer (FCA) and Special Secretary (Forest) of the state, who were present in the meeting. On their request, the user agency made a detailed presentation justifying their proposal. It was noted that the projected target of OMC is primarily based on the assumption that there will be a huge shortfall of iron ore due to expiry of many private mining leases on 31.03.2020 (as already indicated in the report of the sub-committee).

17. FAC also noted that there is no approved Mining plan for the instant proposal for diversion of 401.7824ha.


17. The SIR of Regional office (Bhubaneswar), report of FAC sub-committee headed by APCCF (Regional Office, Bhubaneswar) and the submissions of the user agency particularly its presentation before FAC were deliberated in detail. FAC noted that there are significant differences in the SIR of Regional office and the report of the sub-committee. During the discussions, IG(FC) observed that since Government of India is intensively pursuing to resolve the possible crisis which may surface after 31.03.2020, the apprehension of the user agency may not hold good. It was also noted that, the user agency had not made any representation, after stage-I approval was granted in 2009 for only 117.9648 ha in Gandhmardan Block A, against its proposal for 216.3617 ha. Accordingly, he was of the opinion that in the first phase, 76.7206ha (out of 117.9648ha already having Stage-I approval; remaining 41.2442ha already having stage-II approval) should be approved for mining. Based on satisfactory progress, further diversion should be considered after three years.

Decision of FAC

FAC noted that, the total lease area of 618.576 ha has 519.7472 ha forest land. It is informed by the state government that the user agency had been granted final approval over 41.2442 ha and it had already paid NPV against entire forest land within the lease area. FAC accepted the report of subcommittee. FAC further observed that the subcommittee has unanimously recommended for the diversion of 223.6424 ha (i.e. 41.2442 ha already diverted, 76.7206 ha for grant of stage II and 98.3969 ha for Stage I). However, FAC noted that two members of the sub-committee, namely Dr. Sanjay Deshmukh and Sri R.K. Dey, APCCF (c) & Chairman of the sub-committee were of the opinion that all the justifications provided by the user agency as mentioned in the sub-committee report shall be taken into consideration, while taking decision on the extent of area to be diverted.

The justification given by members of the sub-committee, the state Government and the user agency to divert 191.7762ha area instead of 98.3969 ha out of 401.7824ha of forest area proposed for diversion, was accepted by the FAC. Accordingly FAC, after thorough deliberation and discussion, **recommended the proposal** with standard, general and following specific conditions:

1. Out of 401.7824 ha, user agency is allowed to use only 191.7762 ha forest land. Balance forest land shall be retained as green cover at the cost of user agency.
2. State government shall submit a revised approved mining plan with production capacity of 2.5 MTPA as envisaged in the subcommittee report prior to Stage-II.



3. Shape file of 191.7762 ha shall be submitted.
4. Shape file of the balance area which is proposed to be kept as green cover shall also be submitted.
5. User agency shall prepare a detail CA scheme for non-forest area equivalent to 401.7824 ha of forest area being diverted.
6. The non-forest area identified for CA, shall be mutated in the name of forest department and shall be notified as PF/notified u/s 4 of IFA, 1927, prior to stage II approval.
7. Decision on the approval of Stage-II for balance 76.7206 ha out of 117.9648 ha may be taken by MoEF&CC separately as per the procedure followed in the ministry.
8. The prescription made in the scientific study on Biodiversity and its conservation for forest land around Gandhamardan Region shall be followed strictly.
9. Activities proposed by DFO, Keonjhar to implement the Biodiversity Conservation Plan should be ensured by State Government.
10. User Agency shall take up intensive Soil & Moisture Conservation Measures in the lease area and to stack top soil separately in an earmarked area within the area proposed for dumping of overburden.



Agenda No. 3

F. No. 8-74/2018-FC

Sub: Diversion of 93.58 ha of Revenue forest land in Amgaon OC Mine in favour of SECL in District Surajpur, Chhattisgarh.

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in. FAC observed that:

1. The State Government of Chhattisgarh vide their letter No. F-5-21/2018/10-2 dated 16.10.2018 submitted the above-mentioned proposal for seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980.
2. It was informed that the area is having both forest and non-forest area. Most of the non-forest area is acquired under Coal Bearing Act (CBA) and user agency is working in the non-forest area since 2010.
3. The proposal was earlier considered in FAC on 19.12.2018 and it was decided that the concerned Regional Office should make a site inspection and submit the SIR for consideration of FAC. The SIR is appended in the agenda. The proposal has been recommended by the Regional office.
4. It was noted that initially the proposal was submitted to Ministry on 11.11.2005 for forest clearance (Proposal no. FP/CG/MIN/15479/2005 & SSR/SAR/SSR/SSR/2005/014 dt. 29.11.2005) by user agency through state government.
5. The user agency did not progress further for obtaining forest clearance due to difficulties in confirming status of proposed forest land and other administrative reasons. Most of the lands for which the approval is sought, are revenue forest land.

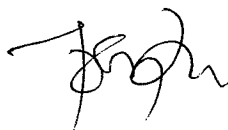
Decision of FAC

FAC after thorough deliberation and discussion **recommended the proposal** with Standard, General and following specific conditions:

1. On analysis through DSS it is observed that some small patches of revenue forests fall in the already mined area. User agency had reported in FAC that such area is 0.96 ha. State government shall verify the extent of area under violation and penalty may be imposed as per MoEF&CC guidelines in this regard.
2. The protection plan which provides the provisions of gas/fuel supply to the laborers and the staff working at the site to avoid any damage and pressure on the adjacent forest areas shall be implemented
3. A monitoring committee comprising DFO concerned as member in accordance with Govt. policies may be constituted for implementation of Reclamation Plan.
4. The safety zone shall be demarcated on ground at the project cost by erecting six feet high barbed wire fencing.
5. The trees to be felled in the proposed area is not marked properly. Hence, tree enumeration be completed with marking before handing over of the land to user agency.



FAC is also of the view that MoEF&CC may separately move a file to seek legal advice related to implementation of provisions of FCA 1980 in areas which are acquired under CBA, so that similar cases in future can be analysed in accordance with the legal advice.

A handwritten signature in black ink, appearing to be 'J. Singh' or similar, located at the bottom center of the page.

Agenda No. 4

F. No. 8-53/2000-FC (Vol).

Sub: Diversion of 2.880 ha of forest land (in addition to already diverted 100.00 ha) for up-gradation of existing forest road (cart road from Kothiatola to Dongorbore Iron Ore Mine in favour of M/s Raipur Alloy & Steel Ltd. in Rajnandgaon Forest Division in Rajnandgaon District of Chhattisgarh-Partial modification in recommendation of FAC minutes held on 26.10.2018.

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in. The agenda was also discussed in detail in earlier FAC meeting held on 26.10.2018. In the decision of the minutes the word *in principle approval* was inadvertently recorded. The proposal has been already accorded in principle approval in 2010. The proposal was placed before FAC for allowing black topping and change in the name of user agency.

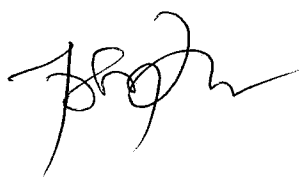
Decision of FAC:

After thorough deliberation and discussion the FAC recommended that the following line recorded in FAC meeting dated 26.10.2018 i.e

"FAC after thorough deliberation and discussion with APCCF Regional office and nodal officer Chattisgarh recommended the proposal for in principle approval for diversion of 2.880 ha forest land with standard, general and specific conditions"

Shall be replaced as

"FAC after thorough deliberation and discussion with APCCF Regional office and nodal officer Chhattisgarh recommended the proposal for approval with standard, general and specific conditions"



Agenda No. 5

F. No. 8-73/2018-FC

Subject: Proposal to obtain approval under the Forest (Conservation) Act, 1980 for prospecting of Oil and Natural Gas for 21978.00 hectares of forest land in Damoh PML for drilling of 5940 bore holes of 04" diameter in favour of M/s. GM Chief Geological Services, Frontier Basin, ONGC Limited, Dehradun in Damoh Forest Division, Madhya Pradesh:-regarding.

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decisions of FAC

The FAC after thorough deliberations and discussions, **recommended for grant of in-principle approval** under the Forest (Conservation) Act, 1980 for prospecting of Oil and Natural Gas for 21978.00 hectares of forest land in Damoh PML for drilling of 5940 Boreholes of 04" diameter in favour of M/s. GM Chief Geological Services Frontier Basin Oil and Natural Gas Corporation Limited Dehradun in Damoh Forest Division, Madhya Pradesh with general, standard and following specific condition.

1. Only existing path will be used for access to the proposed area for prospecting.
2. No tree shall be felled during the process.



Agenda No. 6

F. No. 8-66/2018-FC

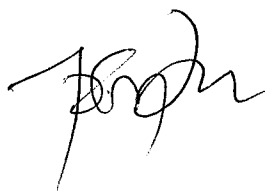
Sub: Proposal for De-notification of 112 ha. of forest land under Section 2 of Forest (Conservation) Act, 1980 for Relocation of villages Maisampet and Rampur Villages from the core area of Kawal Tiger Reserve, Nirmal:-regarding.

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decision of FAC

The FAC after thorough deliberations and discussions, **recommended for grant of in-principle approval for De-notification of 112 ha. of forest land** under Section 2 (i) of Forest (Conservation) Act, 1980 for Relocation of villages Maisampet and Rampur Villages from the core area of Kawal Tiger Reserve, Nirmal with general, standard and following specific condition.

1. No CA and NPV will be charged.
2. The Forest department shall take possession of the vacated land and put to appropriate management.



Agenda No. 7

F. No. 8-71/2018-FC

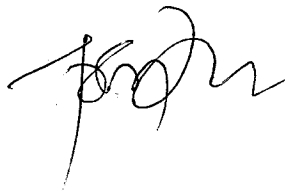
Sub: Diversion of 398.11 ha. of (including 5.89 ha of safety zone area) of Forest Land in Compartment No. 11 & 12 of Sultanpur Reserved Forest, Erstwhile Miryalaguda Range (Presently Huzurnagar Range), of erstwhile Nalgonda Division and District (presently (Suryapet division and District) Mining lease of limestone in favour of M/s Sagar Cements Limited, Nalgonda District (presently Suryapet District):- regarding.

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decisions of FAC

The matter was deliberated in the FAC, during which APCCF (C), Chennai confirmed his recommendation for the proposal. After further discussion, FAC **recommended for grant of in-principle approval** for diversion of 398.11 ha. (including 5.89 ha of safety zone area) of Forest Land for the above proposal for mining of limestone in favour of M/s Sagar Cements Limited, Nalgonda District (presently Suryapet District) with general, standard and following specific condition.

1. CA will be in Andhra Pradesh and the CA amount will go to AP.
2. The controversy in the northern portion of the said forest block, as reported by APCCF (C), Chennai shall be resolved by the Telangana Govt. through proper survey and the cost of such survey shall be borne by the Telangana Govt.



Agenda No. 8

F. No. 8-67/2018-FC

Sub: Proposal to obtain approval under the Forest (Conservation) Act, 1980 for prospecting of Oil and Natural Gas for 1321.44 hectares of forest land in Damoh PML for drilling of 2753 shot holes of 04" diameter in favour of M/s. GM Chief Geological Services Frontier Basin, ONGC Limited, Dehradun, in Damoh Forest Division of Madhya Pradesh.-regarding:

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decisions of FAC

The FAC after thorough deliberations and discussions, recommended for grant of in-principle approval under the Forest (Conservation) Act, 1980 for prospecting of Oil and Natural Gas for 1321.44 hectares of forest land in Damoh PML for drilling of 2753 shot holes of 04" diameter in favour of M/s. GM Chief Geological Services Frontier Basin Oil and Natural Gas Corporation Limited, Dehradun, Damoh Forest Division State of Madhya Pradesh with general, standard and following specific condition.

1. Only existing path will be used for access to the proposed area for prospecting.
2. No tree shall be felled during the process.



Agenda No. 9

File No. 8-63/2018-FC

Sub:- Diversion of 730.88 ha. of forest land in favour of M/s Chief Engineer, NTRTGP Tirupati for construction of Sri Balaji Reservoir, Mallemadugu Reservoir and Kailasagiri canal under GNSS phase-II in District Chittoor, state Andhra Pradesh:- regarding.

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decisions of FAC

The FAC after thorough deliberations and discussions, **recommended for grant of in-principle approval** for diversion of 730.88 ha. of forest land in favour of M/s Chief Engineer NTRTGP Tirupati for construction of Sri Balaji Reservoir, Mallemadugu Reservoir and Kailasagiri canal under GNSS phase-II in District Chittoor, Andhra Pradesh with general, standard and following specific condition.

1. About 20500 Red Sanders trees has to be felled out of which 13301 trees are of 30-60 cm in girth. The state Government shall inform the mode of removal, storage and disposal of those trees.
2. As per DSS analysis, about 597 ha area is falling in wildlife area but the Nodal officer informed that the area is 30 m away from the wildlife area. The matter needs to be clarified.
3. The in-principle approval will be subject to approval from National Wildlife Board (NBWL) before Stage-II approval.
4. User Agency/ State Govt. shall submit the CAT plan before Stage-II.



Agenda No. 10

File No. 9-HRB136/2018-CHA

Sub:- Diversion of 1.985 ha of forest land (Aravalli Plantation Area) in favour of District Development and Panchayat Officer, Gurugram for building of Government Degree College at Village Manesar, under Forest Division and District Gurugram, Haryana:-regarding.

Since the proposal was for diversion of forest area admeasuring 1.985 ha (i.e. below 40ha), the same was submitted to Regional office, Chandigarh. The proposal also involves construction over more than one ha, which is not permitted as per the concerned guidelines under FC Act, 1980. Accordingly, APCCF, Regional Office forwarded the proposal with recommendation to Ministry for appropriate decision. After the matter was examined in the Ministry, it was decided that the proposal be placed before FAC for an appropriate decision.

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decisions of FAC

The FAC after thorough deliberations and discussions with the Representative of Haryana Govt. and user agency, **decided not to recommend for grant of in-principle approval** for diversion of 1.985 ha of forest land (Aravalli Plantation Area) in favour of District Development and Panchayat Officer, Gurugram for building of Government Degree College at Village Manesar, under forest division and District Gurugram, Haryana due to following reasons:

1. The proposal is non-site specific.
2. It does not appear that the state Government has explored any alternative site in vast non-forest areas in the region.
3. The state has very little forest cover, which should be protected against diversion, unless proposed for any crucial site-specific project.
4. The User Agency informed that the proposed CA site is only 1.5 km from the proposed land for diversion and FAC felt that the proposed activity can be taken over on the proposed CA area.



Agenda No. 11

File No: 1-6/2014-ROHQ

Sub:- Request for reconsideration of extension of lease period of forest land in F. Sy. No. 232 of Sirsi, Uttara Kannada district, Karnataka in favour of M/s Sahyadri Papers:

This proposal was forwarded by the APCCF, Regional Office, Bangalore for an appropriate decision in the Ministry, which decided to place this before FAC. Accordingly the above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decision of FAC

FAC while deliberating on the matter, noted that:

- The Regional office has not recommended the proposal of extension of lease beyond 2020.
- The CF, Regional office informed that part of the land is being used as a Guest house.
- Out of 2.0 ha area, about half of the area is still under green cover.
- The user agency has given the undertaking to vacate the land, while the lease was extended beyond 2015.
- The land use is not site-specific.
- The justification of user agency given for extension of lease is, that the user agency is planning to modernize the existing paper mill.

In view of above and based on detail discussion in the matter, FAC **decided not to recommend** for extension of lease period of forest land in F. Sy. No. 232 of Sirsi (v) & (T), Uttara Kannada district, Karnataka in favour of M/s Sahyadri Papers. FAC agreed to uphold the decision taken by the Regional Office Bangalore and agreed that the User Agency has to vacate the concerned area on or before 21.06.2020.



Agenda No. 12

File No: 9-PBB359/2018-CHA

Sub:- Diversion of 2.2348 ha. area closed under Section 4&5 of PLPA-1900 in favour of M/s Aerospace Builders for use of forest area for construction of Commercial Complex & SCO at village-Baliali under forest division, District S.A.S. Nagar, Punjab:-regarding.

Since the proposal was for diversion of forest area admeasuring 1.985 ha (i.e. below 40ha), the same was submitted to Regional office, Chandigarh. The proposal also involves construction over more than one ha, which is not permitted as per the concerned guidelines under FC Act, 1980. Accordingly, APCCF, Regional Office forwarded the proposal with recommendation to Ministry for appropriate decision. After the matter was examined in the Ministry, it was decided that the proposal be placed before FAC for an appropriate decision.

The above stated agenda item was considered by FAC in its meeting on 21.02.2019. The corresponding agenda note may be seen at parivesh.nic.in.

Decision of FAC

After thorough deliberations and discussions with the Nodal officer Punjab and CF, Regional office, **FAC observed that following documents/information shall be submitted for further analysis.**

- Justification of site-specific nature of the proposed landuse, as submitted by State Nodal Officer
- Relevant court orders interpreting status of the land and change in landuse that is allowed in such lands



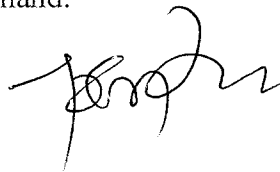
Additional Agenda

File no:- 8-32-2017-FC

Sub:-Diversion of 1007.29 ha of forest land for North Koel Dam Project in the State of Jharkhand- Review of Stage-I approval granted by MoEF&CC-regarding

The above stated agenda item was placed before FAC in its meeting on 21.02.2019.FAC observed that


1. MoEF&CC had accorded stage I approval for diversion of 1007.29 ha of forest land for **North Koel Dam Project in the State of Jharkhand** on 23.02.2018.
2. The State Government has furnished compliance report in respect of the conditions stipulated in the 'in-principle' approval and requested to grant final approval to the proposal.
3. The Chief Secretary, Government of Jharkhand made a request vide his D.O. letter no. 479/CS dated 02.05.2018 for waiving of several conditions stipulated in the Stage-I Order dated 23.02.2018.
4. The request of state government was placed before FAC and which had recommended for deletion/modifications of the conditions of stage-I.
5. State Government vide their letter. dated 12.11.2018 forwarded the compliance report which were considered by the Forest Advisory Committee (FAC) in its meeting held on 15.11.2018.
6. Based on the compliance of State Govt. Final approval/Stage-II Clearance was granted by this Ministry on 27.11.2018.
7. Now, the Chief Secretary, Government of Jharkhand vide his D.O. letter no. 1130 dated 24.11.2018 had again reported that the State Government agrees to all conditions laid down by the Govt. of except the conditions mentioned in paragraphs 7 and 9 (c) (i).
8. Condition no. 7: of the approval states that *"The State Government shall transfer the land acquired in 15 villages to Palamu tiger Reserve to provide landscape integrity and tiger range management. Such land should be notified as forest land and integrated in the PTR landscape within a period of 6 months from the dated of grant of final approval."* And
9. Condition no. 9 (c) (i) states that *"The State Government may implement the time bound settlement plan for settling the submergence villages before the start of the work."*
10. In response to condition no 7 State government has pointed out that, it has no objection in transferring the said non-forest land of 15 villages, which has already been acquired by the Water Resources Department, Jharkhand, but this land should be transferred in lieu of CA land requirement for other projects taken up in the State of Jharkhand.



11. FAC observed that in response to condition no9 (c) (i) it is reported by the state government that this condition would not allow the execution of the work without prior settlement of submergence villages. In this regard the State Government has already represented that the financial burden of the settlement plan be borne by Govt. of India on which decision is awaited. In view to this, the condition in para 9 (c) (i) be amended to state that State Govt. will ensure time bound settlement plan for settling the submergence villages before closing the sluice gates of the dam.

Recommendation of FAC

The request of Chief secretary Jharkhand was taken as an additional agenda in the FAC meeting. FAC after thorough deliberation and discussion observed that the conditions as highlighted by the Chief secretary Jharkhand in his DO letter are related to the protected area and in the past any decision on reconsideration of the stipulated conditions were taken after due consultation with NTCA and NBWL. FAC noted that the request of Chief Secretary Jharkhand has been forwarded to NTCA and NBWL for comments. It is decided that further action on the request will be taken as per final recommendations of NTCA and NBWL in this regard.



**Other policy related issues discussed and clarifications made
with the permission of Chair**

A) Clarification regarding selection of land for Compensatory afforestation(CA)

The Ministry had received certain proposals namely, Samaleswari OCP of MCL, Tata Steel and Sail, in which the land proposed for CA/penal CA was found to be having medium dense forests (MDF), i.e. having crown density of more than 40 percent. The matter was deliberated in detail in FAC and following clarifications were made.

1. Forest lands having crown density below 40 percent, shall only be treated as degraded forest land for the purpose of CA.
2. State government shall prepare a CA scheme with 1000 plants per ha for all such lands. In case it is not possible to raise plantation at the rate of 1000 plants per ha on the selected non-forest land then the balance plants can be allowed to be raised on degraded forest land as per working plan prescriptions.
3. Any non-forest land for the purpose of Compensatory afforestation(CA), selected by the state government, in lieu of forest land to be diverted may be accepted by MoEF&CC irrespective of crown density. All such lands shall be mutated in favour of state forest department and declared as PF/RF prior to stage I approval

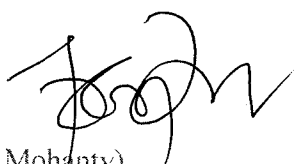
B) Site Inspection report for mining project below 100 ha

The matter was deliberated in detail in the Meeting and it was strongly felt that regional office should also inspect the proposed mining area over the forest land even if the area for diversion is less than 100 ha.

FAC decided that all project proposal related to mining, irrespective of area, shall be accompanied with site inspection report carried out by regional office prior to placing the proposal before FAC for recommendation.

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


(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