

Minutes of the Meeting of Advisory Committee meeting dated 18.05.2023**Agenda No. 1****F. No. 8-05/2021-FC**

Sub: Proposal for diversion of 649.3014 ha forest land in Ramavaram RF of Ramavaram Range of Kothagudem forest division for grant of mining lease for proposed Venkateshkhani OCP from underground rights to surface rights in Kothagudem area in Bhadradi Kothagudem District in favor of M/s. SCCL (Online proposal No. FP/TG/MIN/44798/2020).

1. The agenda item was considered by the Advisory Committee (AC) in its meeting held on 18.05.2023. The corresponding agenda note is available at www.parivesh.nic.in.
2. During the meeting, all the facts and background of the proposal, along with examination of the proposal in the DSS were presented and explained by the Member Secretary before the AC for their examination and analysis. Committee was also apprised of the relevant provisions under other Acts & Rules relevant to the proposal and their significance.
3. The AC after thorough deliberation and discussion observed that:
 - i. The instant proposal is for diversion of 649.3014 Ha. is part of 1174.18 Ha diverted with UG rights granted by MoEF&CC, Gol, vide Letter No.8-277/85-FC, dtd.17.02.2009 (under F.C. Act, 1980) valid up to 26.04.2029.
 - ii. The total number of trees to be felled is 349423 out of which 87682 are of below 30 cm diameter.
 - iii. The user agency has provided the equivalent Non-forest land (reclaimed dump area) for compensatory afforestation (CA) against the proposed diversion of 649.301 ha forest land for Venkatesh Khani Coal Mine as per the decision taken in FAC held on 17.02.2021 and on DSS analysis it was observed that the proposed reclaimed OB Dump (CA-NFL) is already having plantation.
 - iv. The IRO Hyderabad has inspected the rehabilitated OB dump and provided the information that an extent of about 155 Ha is having less than 1000 plants per hectare and 10cm girth in size at DBH. The remaining area of 495.51 Ha is having more than 1000 plants of more than 10 cm girth at DBH.
 - v. To compensate this area of 155 Ha, State Govt has proposed CA of 200 Ha in Degraded Forest Land at Mahboobabad in 13 patches.
 - vi. The identified Non-forest land (reclaimed dump area) is as per the guideline issued by this Ministry vide its letter dt 17.10.2019 wherein it was decided that non-forest mined out land which have been reclaimed technically and restored biologically shall be accepted for raising CA.
 - vii. The proposal was considered before Advisory Committee in its meeting held on 21.09.2022. The Committee after having detailed discussion and deliberation with the Nodal Officer, Telangana and Regional Officer, IRO, Hyderabad deferred the proposal in want of-
 - a. A study to be carried out by IIFM Bhopal on the Cost-Benefit analysis on conversion of underground Mines to open cast mines and the cost of the study will be borne by User Agency. The Cost-Benefit Analysis shall account for the ecological/ecosystem services provisions from the proposed mining area/landscape.
 - b. The details/KML files of the DFL identified for carrying out one half times CA w.r.t the safety zone may be provided.

- c. The State govt. may comment on the dumping of the material in Goutham Khani Open Cast Mining and its impact on the approved Mining closure plan/R&R plan based activities.
 - d. Considering the area to be diverted is very large a biodiversity impact assessment study may also be carried out by reputed institution. The cost for the study will be borne by the User Agency and the study report shall be submitted to this Ministry as early as possible.
- viii. With respect to the query of FAC the State Government submitted the following: -
- a. IIFM Bhopal has carried out a study wrt Cost-Benefit analysis on conversion of underground Mines to open cast mines. The revised C: B Ratio is 1:12.53 against the previous of 1:20.10. The UA is willing to work with this cost: benefit ratio and it is favorable to them.
 - b. The details/KML files of the DFL identified for carrying out one half times CA w.r.t the safety zone was submitted by the State Govt. The same were analysed by DSS team and as per the DSS report CA land in lieu of 1.5 times of safety zone has been identified in Penagadapa RF and its software calculated area is found to be 12.26 ha.
 - c. Venkatesh Khani Coal Mine is amalgamation of Venkatesh Khani No.7 (VK-7) Incline, Padmavathi Khani No. 5 (PVK-5) Incline & Goutham Khani (GK) OC Mine. The Mining lease area of Venkatesh Khani Coal Mine is 2403.17 ha (1568.22 ha is Forest Land and 834.95 ha is Non Forest Land). The other details with regard to the other mines is as below:
 - The area of GK OC mine is 902.00 ha which includes 540.27ha forest land. The VK-7 Incline (UG) mine is spread over an extent of 580.20 ha which involves total forest land of 346.66 ha.
 - The PVK-5 Incline (UG) mine area is 916.48 ha, out of which 768.99 ha is forest land and remaining 147.49 ha is non-forest land. Forest land of 768.99 ha is part of 1174.18 ha forest land for which Forest Clearance was obtained in 2009. At the time of submission of Mining Plan of GK OC Mine, there was no proposal of conversion of VK-7 and PVK-5 Incline UG coal mines into Open Cast.
 - Subsequently, as the coal was exhausted in GK OC, without further scope of extraction of coal by UG method in VK No.7 Incline, these 2 mines were closed in 2022 and 2021 respectively. SCCL further obtained approval of Mining Plan (Including Mine Closure Plan) from MoC, Gol, vide 38011/12/2017-PCA, Dt.27.01.2020 for VK Coal Mine which involves 787.14 Ha of GK OC area. Therefore, in this regard sequential mining is selected for optimization of land by converting: VK No.7 Incline to OC initially & dumping OB in GK OC void (area 221.64 ha).
 - PVK No. 5 Incline to OC after 11 years (from 2019-20) of UG mining and dumping OB in VK No.7 area voids. Utilizing voids of GK OC & VK-7 area for OB dumping from 2021-22 & 2030-31 respectively & Utilizing infrastructure (Office buildings, Workshop, CHP & Railway Siding) of GK OC Mine up to 2021-22 & establishing new infrastructure at VK Coal Mine area from 2022-23.
 - Out of 503.60 ha OB dump of GK OC Mine, 100 ha rehabilitated area was surrendered to Forest department. Therefore, for Venkatesh Khani OC Mine, it is proposed to utilize remaining 403.60 Ha of dumping area, 221.64 Ha void area, 75.98 Ha of safety zone all along the boundary & 56.28 Ha of infrastructure area of GK OC in the instant proposal as part of sequential mining.
 - As per the mining plan of Venkatesh Khani OC Mine, rehabilitation of OB dump area will be in 1307.356 Ha (403.60 Ha of GK OC dumping area + 903.756 Ha of new OB

dumping area).

- The void area will be in 386.334Ha with standing water upto 300 meters' depth as against 221.64 Ha area of GKOC mine upto 240 meters.
- Further, the existing safety zone all along GKOC in 75.98Ha will be maintained and increased up to 160.80 Ha area in VKOC, thus reducing the impact, if any on the nearby wild life.

d. The State Govt. has submitted the Biodiversity Report carried out by the EPTRI (Environment Protection Research & Training Institute, Hyderabad). As per the recommendation of the study:

- Restoration and reclamation process during and after mining in the proposed study area and compensatory measures of SCCL with the forest department in the adjoining forests will provide alternate habitats for these species without much competition in resource partition with other existing species around the study area.
- These processes should be monitored by a wildlife expert from the beginning of the mining Operations, in a long-term period continuously without fail. The long-term monitoring will provide inputs and advisories to maintain and sustain the ecological balance of the study area. One wildlife expert at least for 10 years to monitor the impact of mining in adjoining forest area in the buffer may be engaged.
- The monitoring will help in creating a database by conducting the research throughout the mining project covering all seasons as these may also lead to the management of the proposed study area and the adjoining forest areas. Such studies may also raise questions on urban wildlife conservation and its importance in and around the mine operational areas.
- A Wildlife Conservation/Mitigation plan was prepared was approved by the Chief Wildlife Warden, TS, vide reference 5694/2021/WL-I Dt. 12.10.2021 for Rs.4.78 Crores. This plan shall be implemented within 3 years from the start of mining.

4. AC during the deliberation noted that a meeting with Nodal Officer, Telangana, IRO Hyderabad and representative from UA was held on 02.05.2023 at 03:30 PM and in the meeting the following were decided: -

- a. The State Nodal Officer and the User Agency shall submit the compliance w.r.t. conditions imposed in all the cases wherein Forest Clearance has been sought by the UA.
- b. The State Nodal Officer and the User Agency shall submit the KML files and maps of the safety zone.
- c. The State Nodal Officer may forward the compliance report wrt the approvals (GK OCP and VK OCP) involved to the IRO, Hyderabad. IRO may analyze the compliance report and submit a report to this Ministry.
- d. The State Nodal Officer may offer its comments w.r.t. plantation visible in many parts of the proposed forest area for Venkatesh Khani OC Mine. Whether this plantation has been carried out under any CA scheme. If yes, details thereof.

With response to the above, PCCF & HoFF, Telangana State has replied vide its letter dated 17.05.23 and also the User Agency has provided other relevant vide letter dated 16.05.23 as per discussion in the meeting held on 02.05.2023.

5. AC observed that Venkatesh Khani Coal Mine is amalgamation of Venkatesh Khani No.7 (VK-7) Incline, Padmavathi Khani No. 5 (PVK-5) Incline & Goutham

Khani (GK) OC Mine. The Mining lease area of Venkatesh Khani Coal Mine is 2403.17 ha (1568.22 ha is Forest Land and 834.95 ha is Non Forest Land).

6. AC also noted that respect to the instant proposal there is a revised Mining Plan for conversion of underground mine to open cast Mine to and the same has been submitted by the UA to this Ministry.
7. AC observed that in an another proposal of the same user agency i.e. 1st Renewal for diversion of 124 ha. of forest land for coal mining in GKOC Phase-II, Kothagudem, the identified CA land was encroached and an area of out of 124 ha identified for CA only 42.96 ha is available and rest CA area i.e. 81.04 ha is under encroachment by the local tribes.
8. Further, AC also noted that the user agency i.e. SCCL has handed over the Non-forest land to an extent of 233.77 Ha in Sy.No.116 of Rasannagudem (V), Mulkalapally (M) of Bhadradi Kothagudem district and Mutated in favour of the forest department, vide Mandal Revenue Officer Lr.No (M) Rc. No B/912/98 DT.07.07.1991 in lieu of forest area diverted for various projects of M/s Singareni Collieries Company Limited. Later after DGPS Survey the area reduced to 210 Ha and there was also an over lapping of is overlap in the non-forest CA lands handed over by M/s SCCL and that handed over by I&CADD officials for SRLIP project, for which the I&CADD officials have been requested to provide the alternate non-forest CA land.
9. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with Nodal officer (FCA), and Regional Officer, IRO, Hyderabad. After going through the facts of the proposal and submissions made by the Nodal Officer, the Committee deferred the proposal with following observations:-
 - i. The IRO shall analyze the C: B ratio study report and the Biodiversity report submitted and offer its comments in this regard.
 - ii. The State Govt. shall provide information with regard to wildlife conservation and mitigation plan namely (i) who has prepared the plan and (ii) who has verified the details of the plan.
 - iii. The State Govt. shall clarify whether in view of the submitted Biodiversity Report, the wildlife conservation and mitigation plan requires any further reconsideration along with the comments of the Chief Wildlife Warden.
 - iv. In the Biodiversity Report submitted by the State Govt., in the conclusion it states that there are 313 species of plants and 191 animals. However, it concludes by stating that there is no effect on wildlife mitigation due to mining. This seems contradictory, the State Govt. shall offer its comments in this regard.
 - v. The State Government shall clarify why the instant proposal was applied for underground mining rights earlier (initially) and provide justification for proposed open cast mining.
 - vi. The State Govt. shall provide details of utilized coal resources and available resources of coal in underground mines in the lease area and also will be made available through open cast mining as proposed.
 - vii. The IRO shall examine the compliance of the conditions stipulated in the earlier approval which are linked to the instant proposal and submit its report to the Ministry. The State Govt. shall provide the compliance report to IRO in this regard.
 - viii. Further, the State Govt. shall provide updated regarding the handover of the land identified CA purpose to the State Forest Department wrt the proposal for 1st Renewal for diversion of 124 ha. (Surveyed 124.065 ha.) of forest land for coal mining in favour of M/s SCCL for GKOC Phase-II, Kothagudem in Ramavaram RF of Kothagudem Division, Bhadradi, Kothagudem District, Telangana and the same shall be mutated and transferred in the name of State Forest Department.

Agenda No. 2**F. No. 8-84/2002-FC**

Sub: Proposal for diversion of 221.80 ha. forest land for establishment of Wind Power project in favour of M/s. KREDL for sub-Lease to M/s. Enercon (India) Limited on BOT basis in District Chitradurga, Karnataka. (Request for modification/change of condition Stage-II forest Clearance granted to Wind Power Project (PF/KA/WIND/43786/2020) from existing lease grant of 15 years to 30 years.)

1. The agenda item was considered by the Advisory Committee (AC) in its meeting held on 18.05.2023. The corresponding agenda note is available at www.parivesh.nic.in.
2. During the meeting, all the facts and background of the proposal was explained by the Member Secretary before the AC. Committee was also apprised of the relevant provisions under other Acts & Rules relevant to the proposal and their significance.
3. The AC after thorough deliberation and discussion observed that:
 - i. The Government of Karnataka on 17.06.2002 submitted the instant proposal, with a recommendation of PCCF that the lease period for this project as 15 years and further extendable for another 15 years if the agency continues with the same technology in the area.
 - ii. The proposal was earlier considered in the FAC meeting held on 17.07.2002. The FAC recommended the proposal with the following conditions: -
 - a. Compensatory afforestation shall be raised on equivalent non-forest land at the cost of user agency.
 - b. The intervening forest land between the adjacent WEC footprints/wind farm shall be protected by fencing and afforested at the cost of the user agency.
 - c. Other standard conditions applicable to similar projects.
 - iii. Accordingly, the Ministry accorded a Stage-I approval on 09.08.2002 with the certain conditions.
 - iv. Based on the satisfactory compliance report of the Stage-I approval letter dated 09.08.2002. The Ministry accorded Stage-II approval/Final approval on 02.04.2003. After issuing Stage-II approval letter, a separate letter dated 27.05.2003 was issued in continuation to the letter dt 02.04.2023 by the Ministry and imposed an additional condition that "the period of permission for lease under the Forest (Conservation) Act, 1980 will be for a period of 15 years."
 - v. A representation was received on 28.12.2022 from the Wind World India Limited, Karnataka requesting modification/change of condition Stage-II forest Clearance granted to Wind Power Project (PF/KA/WIND/43786/2020) from existing lease grant of 15 years to 30 years. This representation was forwarded to the Govt of Karnataka vide for comments.
 - vi. The PCCF (HoFF), Government of Karnataka vide their letter dated 01.04.2023 forwarded additional information informed that:

- a. It has been informed that the Ministry vide letter dated 27.05.2003 stated that in continuation of the Ministry's letter dated 02.04.2003, an additional condition No.2 (h) was inserted i.e. *"the period of permission for lease under the Forest (Conservation) Act, 1980 will be for a period of 15 years."*
 - b. Further, on the basis of the above approval letter the Govt of Karnataka accorded sanction for the forest lease for the above project for a period of 15 years.
 - c. It has informed that that in many wind mill cases, Government of India has granted lease period for 30 years.
 - d. It has also informed that the instant case has submitted by the user agency for renewal of FC lease, which is under process.
4. AC further observed that It may be noted that as per central electricity regulatory commission renewable energy tariff regulations 2020 para 2 (hh) states that *'Useful Life' in relation to project, including dedicated evacuation system, from the date of commercial operation of such project, shall mean the following: -*
 - i. *wind power project is for 25 years*
 5. AC also noted that the Ministry has issued a guideline dt 14.05.2004, and the para (v) of this guideline states that: -
 - *the lease period initially shall be for a period of 30 years.*
 6. The user agency submitted a copy of agreement between Govt. of Karnataka & Enercon (India) Ltd, and as per point 2 of the said agreement *'the lease period is long enough to enable him to operate the wind mill farm over its entire life time'*.
 7. The AC deliberated with regard to the request of the User Agency. The Nodal Officer, Karnataka State informed the following additional details.
 - There was a court matter wrt the instant proposal and with High Court order dt. 31.03.2023 wrt the instant proposal and vide this order, the High Court has quashed the impugned order dated 06.07.2022 passed by the National company Law Tribunal, Ahmedabad Division.
 - Further, the CA land provided wrt the instant proposal has not been yet notified as PF.
 - The user agency has applied for renewal in the year 2020.
 - The user agency has operated the wind-mill after 2018 (even after the 15 year of the permission granted earlier) for which there was a permission given in the year 2020 vide letter dated 24.07.2020 of the PCCF & HoFF of Karnataka State and the permission to operate the windmill was withdrawn vide letter dated 07.05.2022 of the PCCF & HoFF of Karnataka State.
 - An amount of approximately 7.5 Crore is being withheld by the BESCO as per orders of the PCCF and HoFF Karnataka State.
 - Further, there was a change of the name of the user agency (presently as Wind World [India] Ltd) involved which is without the approval of the competent authority.
 - The State Govt. will soon submit a renewal proposal with all relevant details and violations made the user agency.
 8. The AC also noted that in many wind mill cases, Government of India has granted approval for similar kind of proposals for period for 30 years.
 9. In the meeting AC observed that the permission granted for operation of the Wind Mill was till 2018 (as per condition of this Ministry's letter dated 02.04.2003), However, the wind mill was operational till 2022 without permission from the Ministry.
 10. **Decision of the Advisory Committee:** The Committee had detailed discussion

and deliberation with Nodal officer (FCA), Karnataka and Regional Officer, IRO, Bangalore. After going through the facts of the proposal and submissions made by the Nodal Officer, the Committee made following observations:

- i. The proposal in the present proposition can not be acceded to. However, the State Govt. may submit the detailed proposal for regularization and prior approval of the Central of the Central Govt. for renewal of the lease.
- ii. The State Government shall submit the details regarding the extension of the permission granted to operate the wind mill beyond 15 years and provide justification why this should not be considered as violation of FCA, 1980 and action taken in this regard as per the Act.
- iii. The CA land identified with respect to the instant proposal shall be declared as RF/PF within three months.

Agenda No. 3

File No. 8-82/2016-FC

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

1. This proposal was considered by the AC in its meeting held on 18.05.2023. The details of the proposal are available at www.parivesh.nic.in.
2. The Regional Officer, Integrated Regional Office, Nagpur was present in the meeting. The Nodal Officer, FCA, Government of Maharashtra could not attend the meeting.
3. During the meeting, all the factual details along with examination of the proposal in the DSS were presented before the AC which after thorough deliberation and discussion observed that:
 - i. The State Government of Maharashtra vide their letter No. FLD-2016/CR-406/F-10 dated 22.12.2016 forwarded an application of M/s Manikgarh Cement Limited for seeking prior approval under Section 2 (iii) of Forest Conservation Act, 1980 over 229.00 ha forest land for Limestone mining at village Naokari - Kusumbi, Distt. Chandrapur.
 - ii. The above mentioned proposal was earlier considered by the Committee in meetings held on 26.12.2016, 25.04.2017, 20.07.2017, 26.10.2017 and 30.08.2018.
 - iii. The legal status of the forest land is Reserved Forest and the area falls under Eco-class 3 and the vegetation density is 0.4.
 - iv. The initial LOI for 643.62 ha was issued by the State Government vide letter dt. 30.4.1979. The first Mining lease for 643.62 ha was executed on 03.11.1981 for 20 years. Out of 643.62 ha 150.62 ha forest area was later surrendered by the user agency being non-mineralized zone.
 - v. After the surrender of 150.62 ha forest land, the effective lease area under the possession of the User Agency was 493 ha during the first term of the mining lease. The approval under the Forest (Conservation) Act, 1980 for diversion of 502 ha forest land was accorded on 03.02.1986. The said 502 ha area included 493 ha of mining lease and 9 ha for aerial ropeway. The approval accorded by the Central

- Government on 03.02.1986 inter-alia mentioned that out of the total lease area of 493 ha, mining will be carried out in 264 ha. and the remaining area of 229 ha, including the private land acquired by the User Agency would be maintained as compact block as the user agency proposed to use the said area for future mining.
- vi. After expiry of the first term of the mining lease, the Ministry vide letter no. 8-64/2001-FC dated 28.11.2001 granted approval for diversion of 238.96 ha forest land for mining lease for Lime Stone and 9.00 ha forest land for aerial ropeway. The remaining 25 ha area out of total 264 ha approved for mining vide letter dated 03.02.1986 is considered as non-forest land.
 - vii. The proposal under Section 2(iii) over an area of 229 ha was placed before the FAC in its meeting held on 26.12.2016 and FAC after thorough deliberation recommended that "*The proposal shall be considered by FAC after Site Inspection Report (SIR) from Regional Office is received in MoEF&CC. The matter stands deferred till such time*".
 - viii. The Ministry vide letter dated 09.01.2017 requested the Regional Office, Nagpur of this Ministry to carry out Site Inspection of the proposed area as per recommendation of FAC.
 - ix. The Regional Office, Nagpur vide their letter dated 09.01.2017 submitted Site Inspection Report wherein inspecting officer inter-alia made the following observations:
 - a. The user agency has already moved a proposal seeking prior approval of the Central Government under Section- 2 of the Forest (Conservation) Act, 1980. The said proposal is pending with the DCF, Chanderpur for want of details of non-forest land identified for raising compensatory afforestation.
 - b. The compliance of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been submitted in respect of 190.71 ha. It is informed that compliance in respect of the remaining area of 38.58 ha has also been completed and a certificate on the settlement of rights from the District Collector Chanderpur is being obtained by the User Agency.
 - c. The area of the mining lease is drained by a local seasonal nallah. It is informed by the User Agency that in pursuance to the recommendation of FAC in the year 2000, a study for the protection and conservation of the water regime of the area was conducted by the Central Mine Research Institute, Roorkee and as per the recommendation made in the study a buffer zone of the nallah 60 meters on either side has been maintained as intact zone and it is provided with proper embankment to arrest flow of silt. It is also informed by the representatives of the User Agency that flow of water is contained in the nallah during Monsson period only while for the rest of the period the nallah remains dry. It was also observed that said nallah maintains considerable flow of water (round the year) downstream. The representatives from the User Agency have informed that water seepage from their mining sumps, siltation tanks and de-watering process of the mined out area maintains the flow of water into the nallah down-stream throughout the year.
 - d. The area proposed for diversion has vegetation below 0.5. Only few patches located along the nallah have slightly higher forest density.
 - e. No significant wildlife has been reported in the area. However, presence of leopards has been reported in the forest area located in the surroundings of the proposed area. The area does not form the part of any PAs and Tiger Corridor. The nearest PAs is located at a distance of approximately 60 Km from the forest area proposed for diversion.

- f. Mining operation in the 264 ha of forest land already approved under the Forest (Conservation) Act, 1980 are being undertaken by the User Agency.
- x. The APCCF (Central), Regional Officer, Nagpur recommended the proposal and mentioned that given the fact that mining in the 264 ha is continuing and the balance area of 229 ha is contiguous to the mined area with vegetation density below 0.5, the proposal may be considered by the Central Government for approval under Section 2 (iii) of the Forest (Conservation) Act, 1980.
- xi. The Ministry vide letter no. 5-01/2017-FC dated 08.02.2017 requested the State Governments to provide a list of existing mining leases executed on or before 11.1.2017/ status of validity of all mining leases which had been saved under the provisions of MMDR Act, 2015, and pending in this Ministry for consideration under Section 2 (iii) of Forest (Conservation) Act, 1980.
- xii. The State Government of Maharashtra vide their letter no. FLD-2017/CR-80/F-10 dated 24.03.2017 provided the status of various pending proposals including the present status of M/s Manikgarh Cement - "The initial LOI for 643.62 ha was issued by the State Government vide letter dt. 30.4.1979. The first Mining lease for 643.62 ha was executed on 03.11.1981. Out of 643.62 ha 150.62 ha forest area was surrendered vide Government of Maharashtra letter dt. 27.8.1987. Out of the balance 493 ha forest land formal approval to the project for 264 ha was granted by Government of India vide letter dt. 03.02.1986. The proposal for remaining 229 (190.42 ha + 38.58 ha Jivati area) forest land under Section 2 (iii) of FCA, 1980 is under consideration at Government of India level. The matter is sub-judice in the Hon'ble Bombay High Court, Nagpur Bench".
- xiii. Forest Advisory Committee (FAC) in its meeting held on 25.04.2017 recommended the proposal for approval under section 2 (iii) of Forest (Conservation) Act 1980 subject to certain conditions. However, during submission of file for approval of competent authority, it was observed that the matter was sub-judice and involves the interpretation of section 10-A (2)(C) of MMDR Act and Lol is not valid till the finality of the applicability of sub rule (4) of rule 8 which stipulates that where the lease has not been executed and registered before 11th January 2017, the right of the applicants (Lol holders) under clause (C) of sub section 10A for grant of a mining lease shall be forfeited and it would not be mandatory for the State Government to issue any order in this regard. In this regard considering FCA guidelines 2.1 (vi) vide which State Governments were advised not to consider/process cases, which are pending in various courts or sub-judice to avoid all sort of administrative and legal complications.
- xiv. In this backdrop, it was observed that the FAC should not recommend permission under section 2 (iii) of the FC Act to execute the mining lease till the final order of the Hon'ble High Court and clarification regarding the applicability of provisions of section 10-A (2) (C) of MMDR Act and validity of Lol issued by the Government in favour of the user agency is clarified from the Ministry of mines and the State Government. The matter was therefore referred back to the FAC for reconsideration.
- xv. Accordingly, the facts were placed before FAC in its meeting held on 20.07.2017 and FAC observed that the State Government had reported that the matter related to validity of letter of intent is sub-judice. Representative of the user agency apprised that the matter is listed in the Hon'ble High court on 2nd August 2017. *Considering the facts placed before the FAC, it recommended not to grant permission to the state Government under section 2(iii) of FC Act till the final orders of the Hon'ble High Court on applicability of provisions of section 10-A (2) (c) of MMDR Act.2015 are passed".*
- xvi. The Ministry vide its letter dated 19.09.2017 communicated the said decision to

the State Government.

- xvii. The project proponent vide letter dated 16.09.2017 submitted a copy of Hon'ble Bombay High Court (Nagpur Branch) Judgement dated 12.09.2017 in response to Writ Petition No. 104 of 2017, regarding prior approval under section 2 (iii) of forest (Conservation) Act, 1980 for 229.00 ha forest land for Limestone mining at village Naokari-Kusumbi, Dist. Chandrapur in favour of M/s Manikgarh Cement Ltd wherein the Hon'ble Bombay High Court (Nagpur Branch) directed that:

The matter is heard and is being disposed of in the backdrop of orders passed in Writ Petition No. 126/2017. Here, the petitioner got first Mining lease on 17/08/1981 for period of 20 years. Steps for its renewal were initiated and Environmental Clearance was already given on 24.10.2007. When the provisions of Amended Act, 2015 came into force, the issue regarding Forest Clearance was already pending. The Forest Advisory Committee in the meeting conducted on 25.04.2017 has recommended the proposal for approval under section 2 (iii) of the Forest (Conservation) Act, 1980. The proceeding of Meeting of Forest Advisory Committee held on 20th July, 2017 reveal that because of Guideline 2.1 (VI), the positive recommendation has not been accepted due to pendency of the present writ petition. This fact of case at hand and in Judgements/orders (supra) are identical. Hence, with similar observations and same directions, we partly allow the writ petition and dispose it of No order as to costs.

- xviii. The Hon'ble Court in Writ Petition No. 126/2017 has directed that:

"... ..it is apparent that the favourable recommendation to the Forest Advisory Committee dated 25.04.2017 needs to be looked into on merits by respondent No.1 and pendency of petition before this court cannot be a ground to postpone it. Accordingly, we direct respondent No. 1 to consider that recommendation on merits, within a period of three months from today."

- xix. FAC in its meeting held on 26.10.2017 and in light of the Court order dated 12.09.2017, decided that the State government shall get the matter related to validity of LOI in favour of M/S Manikgarh Cement Ltd clarified from the ministry of mines and make necessary recommendations to the Ministry. If the LOI in favour of M/S Manikgarh Cement Ltd is found to be valid after 11.01.2017 then the certificate of validity of LOI may be submitted to the Ministry for consideration. The FAC further recommended that the present application under section 2(iii) may be kept in abeyance till a speaking order regarding validity of letter of intent (LOI) in favour of M/S Manikgarh Cement Ltd after 11.01.17 is received from the competent authority in the state government in compliance of the Court order dated 12.09.2017. Accordingly, the recommendation of FAC, were communicated to State Govt. vide this Ministry's letter of even no. dated 07.12.2017.

- xx. The State Govt. vide their letter dated 19.07.2018 informed that:

- a. M/s Manikgarh Cement Ltd. has been granted mining lease for limestone over 643.62 ha in village Naokari-Kusummbi, tah. Rajura, Dist-Chandrapur vide Government of Maharashtra, order dated 30.04.1979. Mining lease has been executed on dated 17.08.1981. The lessee has surrendered 150.62 ha area out of 643.62 ha area. Now the total remaining mining lease area is 493 ha.

- b. The lessee had applied to the State Government for renewal of mining lease over an area of 493 ha on dated 23.12.1999. The State Government has granted renewal over 302.54 ha area vide order dated 15.11.2002 and lessee has been informed to submit forest clearance for remaining area 190.42 ha.
- c. The lessee has applied to MoEF, GoI for approval under Section 2 (iii) of Forest Conservation Act, 1980 for 229 ha area of forest land. Also, the lessee has obtained the NOC from MoEF, GoI by the letter dated 03.02.1986 for an area of 264 ha out of the total lease area 493 ha.
- d. The Section 10 A of the Mines and Mineral (Development and Regulation) Amendment Act, 2015, would be applicable in those cases where, before the commencement of the Amendment Act, 2015, a reconnaissance permit or prospecting licence has been granted and a letter of intent has been issued by the State Govt. to grant a mining lease. On the date of commencement of the Amendment Act, 2015, the said mining lease was already stood renewed, and, therefore, the present case would not under section 10 A 2 (C) of the Mines and Mineral (Development and Regulation) Amendment Act, 2015. As per section 8 (a) (5) of the Mines and Mineral (Development and Regulation) Amendment Act, 2015, the extended period of the said mining lease is up to 16.08.2031. So there is no question about the legal validity of letter of intent issued for the said mining lease in favour of M/s Manikgarh Cement Ltd. where the mining lease is already executed.
- xxi. The proposal was again considered in FAC meeting on dated 30.08.2018 wherein the FAC inter-alia observed that the state government was asked to get the matter related to validity of LOI over 190.42 ha in favour of M/S Manikgarh Cement Ltd clarified from the Ministry of Mines. The comments of ministry of mines have not been received in this regard. It was recommended that comments of Ministry of mines may be sought in this regard prior to any decision on the proposal. Accordingly, the Ministry vide letter dated 01.10.2018 requested the Ministry of Mines to provide their comments on the validity of LOI over 190.42 ha in favour of M/s Manikgarh Cement Ltd.
- xxii. The Ministry of Mines vide their letter dated 28/09/2021 requested this Ministry to provide copy of Government of Maharashtra letter No. FLD-2016/CR-406/F-10 dated 22.12.2016 vide which Govt. of Maharashtra had submitted the said proposal for seeking prior approval u/s 2(iii) of the FC Act, 1980.
- xxiii. In this regard, the Ministry vide O.M dated 02.11.2021 provided the copy of Government of Maharashtra letter No. FLD-2016/CR-406/F-10 dated 22.12.2016 to Ministry of Mines.
- xxiv. In this regard, the Ministry of Mines vide O.M dated 23.08.2022 informed that: *The matter has been examined by this Ministry in consultation with the Department of Legal Affairs. In the present case, the letter dated 15.11.2002 of Government of Maharashtra, asking the lease holder to obtain forest clearance for 190.42 ha. for renewal of mining lease, is not a Lol for grant of fresh mining lease under section 10A(2)(c) of the MMDR Act, 1957. Vide letter dated 15.11.2002, the State Government had granted first renewal of mining lease over 302.58 ha. to the lessee with direction to submit the forest clearance for remaining area of 190.42 ha. of forest land for renewal. In view of the provisions of section 8A of the MMDR Act read with rule 24A of the MCR, 1960 and the judgment dated 04.04.2016 of the Hon'ble Supreme Court of India in WP(C) 114/2014, since the application for renewal of the lease was not rejected, lease holder would have the benefit of extension of mining lease under section 8A(5) of the MMDR Act.*
- xxv. However considering the time elapsed and the reply received from Ministry of

Mines vide their O.M dated 23.08.2022, the State Government was requested vide letter dated 07.12.2022 to provide its comments keeping in view the factual condition as on date. Moreover, the 38.58 ha area which is now part of the proposal for seeking approval of Government of India under section 2 (iii) of FC Act, 1980 was included in the renewal of 302.58 ha in the year November, 2002. The justification for permitting the lease without seeking approval under section 2 (iii) of FC Act, 1980 was also asked.

- xxvi. In this reference, the State Government vide their letter dated 17.04.2023 has submitted the information enclosing the letter of Nodal Officer (FCA) and DFO, Chandrapur, Government of Maharashtra. It has been informed that the entire area of 229 hectares was measured by GPS and inspected, and it has been observed that the company has not done any excavation and other construction anywhere in these 229 hectares. Further, it has been mentioned that as per the Writ Petition no. 3669/2009, the Chief Secretary, Govt. of Maharashtra vide letter dtd. 09.06.2015 has clarified that the disputed land in Jiwati Tehsil shall be considered as Forest Land and hence the proposed Jiwati Tahsil land of 38.58 ha was included in the proposal. (i.e. 190.42 ha + 38.58 ha = 229.00 ha).
- xxvii. As per the Site Inspection Report of IRO, Nagpur it has been reported that an area of 41.40 ha (1,21,068 trees) including the area of OB dumps has been reclaimed biologically by undertaking plantation of *Azadirachta indica*, *Acacia leucocephala*, *A. peltorum*, *ficus religiosa*, *Mangifera indica*, *tectona grandis*, *Pongamia pinnata*, *bamboo* spp, etc. It was also informed that mining in the remaining area is continuing and after the completion of mining operations, the available area will be biologically reclaimed and handed over to the State Forest department.
- xxviii. The Committee observed that there is a need to have a detailed discussion with the State Govt. authorities on the compliance of the conditions stipulated in the earlier approval and the reclamation of the mined out areas.

4. Decision of the Advisory Committee: The Committee after detailed discussion and deliberations with the Regional Officer Nagpur and keeping in view the factual details, deferred the proposal and decided that:

- i. Nodal Officer, FCA, Government of Maharashtra shall make a presentation before the Advisory Committee on the instant proposal, compliance of the conditions stipulated in the earlier approval and the reclamation of the mined out areas.
- ii. The Detail of the mined out areas within the mining lease, which have been reclaimed and handed over to the State Forest Department shall be provided along with the detail of the areas pending for reclamation.

Agenda No. 4

File No. 8-07/2021-FC

Subject: Diversion of 397.8863 ha forest land under Section 2 (ii) of the Forest (Conservation) Act, 1980 in favour of SJVN Ltd for the construction of Sunni Dam Hydroelectric Project (382 MW) within the jurisdiction of Shimla, Kotgarh and Karsog Forest Divisions, in District Shimla and Mandi, Himachal Pradesh (ONLINE

PROPOSAL NO. FP/HP/HUD/31019/2017) -Modification in condition of Stage-II approval- regarding.

1. The above stated agenda item was considered by Advisory Committee (AC) in its meeting held on 18-05-2023. The details of the proposal are available at www.parivesh.nic.in.
2. The Nodal Officer (FCA), Government of Himachal Pradesh and the Regional Officer, IRO Shimla was present in the meeting.
3. During the meeting, all the factual details along with examination of the proposal in the DSS were presented before the AC which after thorough deliberation and discussion observed that:
 - i. The instant proposal is for modification in one condition of Stage-II approval accorded vide letter dated 23.08.2022.
 - ii. Government of Himachal Pradesh vide their letter dated 24.02.2021 had submitted the proposal for diversion of 397.8863 ha forest land for the construction of Sunni Dam Hydroelectric Project (382 MW) within the jurisdiction of Shimla, Kotgarh and Karsog Forest Divisions, in District Shimla and Mandi, Himachal Pradesh.
 - iii. The forest land diversion proposal was earlier considered by the committee on 17.09.2021 and 26.11.2021 prior to grant of Stage-I approval under Forest (Conservation) Act, 1980 .
 - iv. The Committee in its meeting held on 17.09.2021, decided that a sub-committee be constituted and the impact of mining in the proposed quarry sites and the need for specific mitigation measures will be examined by a third party agency and a report shall be submitted to the Ministry. Once the report is submitted, the Sub-committee of the will visit the area and submit its report.
 - v. The sub-committee was constituted on 12.10.2021 to assess the impact of mining in the proposed quarry sites and the need for specific mitigation measures. The report of the third-party agency i.e. IIT (ISM) Dhanbad was submitted by the State government and made available to the members of the sub-committee on 13th October, 2021 and thereafter, the visit to the quarry site was conducted on 22nd October, 2021.
 - vi. The specific observation of the sub-committee given under para 5.1 of the report states that “most of the vegetation of the area was observed to be bushy or of sapling stage (Girth 0-30 cm). However, certain trees of more than 60 cm girth (*Ficus benghalensis*, *Bombax ceiba*, *Terminalia bellerica* and *Pinus roxburghii*) were observed, which should be retained. This will provide further stability to the quarry sites.
 - vii. Based upon the site visit, the sub-committee submitted its report and inter-alia recommended that:
 - a. As reported by the IIT (ISM) Dhanbad and as observed in the field, the proposed area seems to be stable and suitable for proposed excavation. However, the safety measures, engineering’s, structures and instrumentation, as suggested by IIT(ISM) Dhanbad, should be strictly followed.
 - b. Trees of girth more than 60 cm should not be felled and their enumeration list should be submitted to the IRO Shimla and to local forest officials.
 - c. The user agency should preserve the top soil of the excavated area so that proper reclamation of the site could be achieved.
 - d. The bio-reclamation of the area should be done with suitable species of grasses, shrubs and trees, in close coordination with the forest department.

- e. The user agency should submit the revised cost-benefit analysis. The adequate corrections may be incorporated in the component-wise breakup and the layout plan.
- viii. The report of the sub-committee alongwith additional information was considered by FAC in its meeting held on 26.11.2021 and after due deliberation in the meeting, the committee recommended the proposal for grant of Stage-I approval subject to certain specific conditions which also included that "*Trees of girth more than 60 cm should not be felled and their enumeration list should be submitted to the IRO Shimla and to local forest officials*".
- ix. After acceptance of the recommendations of FAC by the competent authority, Stage-I approval was accorded by the Ministry vide letter dated 22nd December, 2021 and on receipt of satisfactory compliance to the conditions of Stage-1 approval, the Ministry accorded Stage-II approval under Forest (Conservation) Act, 1980 on dated 23.08.2022 along with aforesaid specific condition.
- x. Government of Himachal Pradesh vide their letter dated 09.02.2023 forwarded the request of the User agency to allow the felling of said trees having girth of more than 60cm. The Ministry vide its letter dated 04.03.2023 requested the State Govt. to furnish cogent reasons for seeking relaxation in condition at this stage and the justification for seeking the permission to fell the trees.
- xi. Nodal Officer (FCA), Government of Himachal Pradesh vide letter dated 28.04.2023 replied that the user agency has submitted that there are only 198 trees (163 trees in Shimla Forest Division and 35 No. of trees in Karsog Division) above 60 cm girth as in the said forest land pertaining to the project. The 35 No. of trees present in Karsog forest Division were not needed to be felled and shall be retained as such. However, in Shimla Forest Division (rural), enumeration of trees was done and 159 trees were found to be interfering in the project components. The condition for retaining the trees above 60 cm girth standing in the proposed diversion area could not be objected at the time of inception of the proposal, because it was envisaged that these trees could be saved during implementation of the project on ground. However, in due course of the implementation of the project, it has been realized that felling of 118 trees above 60 cm girth out of 159 trees falling under the Shimla Forest Division is unavoidable and these trees need to be felled for implementation of the project components as per ground realities.
- xii. It is further intimated by the Nodal Officer (FCA) that DFO Shimla has reported that only 118 No. of trees (above 60 cm girth) which are standing in such places, where important components have been approved for execution. i.e. road network, excavation, stripping in connection with Dam, PH & bridge etc. (51 No. of trees) and Quarry area (67 no. of trees) and these trees are required to be felled. DFO Shimla has further reported that an undertaking has been sought from user agency vide which 41 No. of trees standing in muck dumping area has been kept out of the preview of felling and thus retained as such. DFO also submitted that the project is of national importance and the area proposed for the quarry and other essential components cannot be altered at this stage. Accordingly, exploring all the options in view of above, DFO Shimla and CF Shimla has recommended the felling of 118 no. of trees above 60 cm.
- xiii. After going through the facts of the proposal, the committee noted that the recommendation of specific condition for retaining of trees of girth more than 60 cm was based on the recommendation of sub-committee which visited the area. Accordingly, after accepting the recommendation of AC by the competent authority, Stage-I approval was accorded by the Ministry on 22nd December, 2021.

Moreover, the user agency has submitted an undertaking indicating that *“the trees of girth more than 60 cm shall not be felled and their enumeration list shall be submitted to IRO Shimla”*. Based on the referred undertaking and other compliances, final approval for instant proposal was accorded by this Ministry on 23.08.2022 which includes the aforesaid specific condition.

- xiv. The Committee also observed that the layout plan indicating different components was available with user agency and therefore the location of trees vis-à-vis different project components could have been clearly visualized and worked out. Therefor at this stage, the justification given by the State/User Agency that *“the condition for retaining the trees above 60 cm girth standing in the proposed diversion area could not be objected at the time of inception of the proposal, because it was envisaged that these trees could be saved during implementation of the project”* is not tenable.

4. **Decision of the Advisory Committee:** -The Committee had detailed discussion and deliberation with Nodal officer (FCA) and Regional Officer, IRO, Shimla. After going through the facts of the proposal, the committee observed that the specific condition for retaining the trees of more than 60 cm girth was imposed on the recommendation of the sub-committee which visited the area. Accordingly, the said specific condition was stipulated in the Stage-I approval. The user agency has submitted an undertaking indicating that *“the trees of girth more than 60 cm shall not be felled and their enumeration list shall be submitted to IRO Shimla”*. Based on the referred undertaking and other compliances, final approval for instant proposal was accorded by this Ministry on 23.08.2022 which includes the aforesaid specific condition. In view of the stated reasons, the request for modification in condition of Stage-II approval cannot be considered at this stage. Therefore, the State Govt. shall ensure that the trees of more than 60 cm girth shall not be felled.

Agenda No. 5

File No. 8- 02/2022-FC

Subject: Proposal for diversion of 63.441 ha Reserved forest land for the construction of National Institute of Technology under the Aizawl District of Mizoram State (Online Proposal No FP/MZ/SCH/148602/2021).

1. The above stated agenda item was considered by Advisory Committee (AC) in its meeting held on 18-05-2023. The details of the proposal are available at www.parivesh.nic.in.
2. The PCCF (HoFF), Government of Mizoram attended the meeting through VC, and the DIGF, IRO, Shillong was present in person.
3. All the factual details along with examination of the proposal in the DSS were presented before the AC which after thorough deliberation and discussion observed that:
 - i. Government of Mizoram vide their letter dated 03.02.2022 had uploaded the subject cited proposal on PARIVESH portal for seeking prior approval of the Central Government under section 2(ii) of Forest (Conservation) Act, 1980.
 - ii. This proposal was earlier discussed in Advisory Committee Meetings held on 13.06.2022 and 24.03.2023.

- iii. The proposal is for construction of National Institute of Technology at Lengpui in Mizoram and the land use plan of the forest area proposed for diversion for construction of NIT Mizoram is as below :-

S.N.	Item/ component area	Area in ha
1.	Built-up space	25.00
2.	Peripheral Roads {constructed}	2.70
3.	Internal Roads	7.30
4.	Green Zone (out of construction)	9.00
5.	Green Zone (to be developed later)	9.00
6.	Playgrounds/ Garden	10.441
	Total	63.441

- iv. As per DSS analysis, the Dampa Tiger Reserve is located at a distance of 14.55 Km. The High-resolution satellite imagery shows that the 63.441 ha forest area has already been broken up before getting approval under the FCA, 1980.
- v. The project involves violation of FCA,1980 and 3070 number of trees have already been felled without any approval and despite notices issued by the State Forest Department to the User agency.
- vi. The project has been recommended for approval by the State Govt. authorities. subject to compliance of relevant conditions of Forest (Conservation) Act, 1980, realization of the required amount for the Compensatory Afforestation (CA)/ NPV/Penal CA from the User Agency.
- vii. Compensatory afforestation was initially proposed on non-forest land which has been revised and is now proposed over revenue land. It has been stated by the State that 64.25 ha revenue land has been mutated out of the land bank at Village Pa Ngena Mual for raising CA. Out of said 64.25 ha Revenue land for CA, 53 ha of land is characterized with Moderately Dense Forest and 11 ha of land is Open Forest in terms of forest classes (as per the ISFR 2019) based on the interpretation of satellite data period 2017-2018. High resolution satellite imagery also shows dense vegetation cover within the proposed CA land and scope of further plantation is limited.
- viii. The proposed CA land cannot accommodate 1000 plants/ha as the area is already having vegetative cover. However, the State Govt. has not provided the details of degraded forest land identified for the purpose of accommodating the balance number of seedlings.
- ix. Three sites were identified by the Govt. of Mizoram at Lengpui, Thenzawl and Sialsuk. The Technical Evaluation of the 3 sites was submitted by the Prof. S.S. Gokhale, Mentor Director, NIT Mizoram vide letter dated 03.09.2011. The Technical evaluation report identified that Lengpui was acceptable, Thenzawl was far away from Airport, city and proposed railway station and Sialsuk was unacceptable. Later, the department of Higher Education, Ministry of Human Resource Govt. of India constituted a Site Selection Committee vide Order dated 25.11.2011. The Committee found the land at Tenzawl was far away from the capital city Aizawl (108 kms) and the Airport (142 kms), national highways and proposed railway station. Attracting good faculty in Mizoram is a major issue which is critical for the functioning and growth of an institute. The Site Selection Committee found Lengpui to satisfy the essential criteria for setting up an Institute of National Importance as NIT Mizoram.

- x. In pursuance of the direction of Forest Advisory Committee, the site inspection of the proposed NIT site at Lengpui was carried out by DIGF (Central), representing IRO, Shillong and APCCF & Nodal Officer (FC), Govt. of Mizoram on 06.07.2022. During the inspection, Conservator of Forests (Northern Circle), DFO Mamit Forest Division and officials of NIT/State Govt. were also present.
- xi. The joint site Inspection as above inter-alia made the following observations:
 - a. There is a provision for peripheral road all along which has been constructed by the User Agency. The approximate length of the road is 4 km with a approximate width of 4 metre and it covers an area of 2.7 Ha.
 - b. While inspecting along the peripheral road, it was noticed that wherever it is required, retaining wall has been constructed for proper stabilization of the land. Also on the outer side of the road all along RCC boundary wall has been constructed. Further, it was also found that RCC drainage has been constructed along the peripheral road for accommodating various utilities such as laying of cables etc. Though these were constructed in violation to the Forest (Conservation) Act, 1980 but it indicates the intent of the User Agency to take due care while taking up various construction works.
 - c. Apart from the peripheral road, some temporary tin sheds were also there on the site. Further, transmission lines and street lamps posts is also there, but, without supply of electricity at the moment. It was observed that whatever work of development on the site as mentioned above has been done are relatively old and no fresh work in any form has been done in recent times.
 - d. NIT officials explained that a total 18 ha will be maintained as green spaces as shown in the layout. This is likely to help in saving the trees from being cut. It was explained by NIT officials and also seen on the spot that the greenery along the water streams has not been disturbed and wherever they have to cross these streams, provision of culvert has been made. At one place along the peripheral road it was seen that a culvert has been made without disturbing the flow of water and the greenery along the stream.
 - e. It is also pertinent to mention that near the entry point inside site, a substantial stretch is more or less flat and almost devoid of any tree growth. In Mizoram, the terrain is normally undulating, hilly with steep slopes. During the site inspection proposed site appeared to be more stable compared to the surrounding available stretches. Definitely, in future the proximity of the site to the airport as well as railway station will help the institution in attracting better students, faculties and resource persons.
- xii. In view of the above the Joint Inspection team recommended for establishment of NIT at the proposed site of Lengpui with realization of the required amount for CA/ NPV/ Penal CA etc. from the User Agency.
- xiii. Ministry vide its letter dated 23.08.2022 raised the observation and sought the detail of action taken again those responsible for violation and in this regard, it has been informed that the DFO, Mamit has issued show cause notice dated 14.10.2022 to the then user agency i.e. Ircon International Ltd. Further, it has been reported that a case under Mizoram Forest Act, 1955 has been filed on 06.01.2023 in the court.
- xiv. The proposal was considered by the Advisory Committee in its meeting held on 24.03.2023 and the committee deferred the proposal with the following observations:
 - a. As per DSS analysis, out of 64.25 ha revenue land identified for Compensatory

- Afforestation at Village Pa Ngena Mual, an area of 53 ha. is MDF (Medium Dense Forest), therefore, it may not be feasible to accommodate 1000 plants/ha in the said land. However, the State Govt. has not submitted details of DFL to accommodate the balance seedlings. Accordingly, the State Govt. may identify suitable DFL to accommodate the balance plants and send the details along with site suitability certificates/KML files.
- b. The State Govt. shall clarify whether the State Forest Department was involved by the site selection committee during the site selection.
 - c. As per analysis of the satellite imagery, the non-forestry activities appear to have been started during the year 2014 whereas the State Govt. has reported that the violation/construction started during 2016. This State shall verify the same.
 - d. The updated status of the case registered by DFO Mamit under the Mizoram Forest Act shall be submitted.
- xv. Based on the recommendation of Advisory Committee, Govt. of Mizoram vide Ministry's letter dated 18.04.2023 was requested to provide the reply on the above observation made by AC.
 - xvi. ACF O/o PCCF, Government of Mizoram vide letter No.B.22013/57/2023-FC/PCCF/62 dated 16.05.2023 furnished their response on Ministry's letter dated 18.04.2023 which was presented before AC on 18.05.2023. The response of State Forest Department on the points raised by AC is as below:
 - a. The State Govt. was requested to identify 53 ha. of DFL for accommodating the balance plants since 53 ha. out of the 64.25 ha. identified for CA land is Medium Dense Forest (MDF). Suitable DFL of 53ha is not available under Mamit Forest Division as the DFL has already been proposed for other schemes such as CIM and JICA projects, therefore, the already available 53ha. of Medium Dense Forest (MDF) may be utilized for enrichment planting in line with provision under Rule 11 of Forest (Conservation) Rules. 2022 which says that "if the non-forest land being made available for Compensatory Afforestation already bears vegetation of 0.4 canopy density or more, there shall not be an additional requirement of planting of trees on such land but a programme for improvement of the forest crop shall be implemented by the Forest Department in a time-bound manner". As such, estimate for improvement of forest crops for 53 ha. is enclosed and CA estimate for the remaining 11.25 ha. is also enclosed.
 - b. The State Forest Department was neither involved nor consulted by the Site Selection Committee during the site selection for NIT campus.
 - c. With regard to violation it has been stated that as per the information submitted by the NIT vide letter No NITMZ/Works/FC-2/2022/4701 dated 04.05.2023, the MOU with work agency M/s IRCON International Ltd. was signed on 06.05.2014, therefore the works would have started after the MOU was signed. However, the then DFO Mamit reported that during the month of September, 2016 huge excavation of site below the Lengpui village was noticed by him. Therefore, it appears that works might have been started before 2016.
 - d. The Hon'ble District Court vide order dated 09.02.2023 has dismissed the case registered against the user agency stating that there is no sufficient ground for proceeding the case.
 - xvii. The committee observed that though non-site specific in nature, the proposed activities are part of an integrated project, and approximately 18 ha area is proposed to be kept as green zone. Further, the site selection committee has considered various options and the proposed site has been found to be most

appropriate. The Advisory Committee also considered the fact that more than 80% of the geographical area of the Mizoram State is under forest. Moreover, there is a pressing need of imparting technical education to the youth of north-eastern states in this remote landscape.

- xviii. The Committee observed that the instant proposal is being processed as per the provisions of old Forest(Conservation) Rules, and as per the earlier provisions, in case the non-forest land proposed for CA cannot accommodate 1000 plants/ha then the remaining plants are required to be planted on DFL keeping in view the prescriptions of working plan. In case suitable DFL is not available in Mamit Forest division, the State Govt. may take up the plantation over DFL elsewhere in other districts/divisions in the State.
- xix. The committee took serious note of the fact that the user agency has carried out the tree felling and the construction activities in violation of the Forest(Conservation) Act,1980, despite notices being issued by the State forest department to stop the work.
- xx. The Committee also observed that the KML file submitted by the state does not match with the ground situation/broken up area visible in the satellite imagery, and the same needs to be revisited in view of the actual field situation.

4. **Decision of the Advisory Committee:** The Committee had detailed discussion and deliberation with PCCF (HoFF), Mizoram and DIGF, IRO Shillong. After going through the facts of the proposal, the Committee recommended the proposal for Stage-I approval for diversion of 63.441 ha Reserved forest land for the construction of National Institute of Technology with general, standard and following specific conditions:

- a. The Compensatory Afforestation (CA) has been proposed over identified non-forest land(NFL) over an area of 64.25 ha. Since 53 ha. NFL identified for CA is Medium Dense Forest (MDF) and cannot accommodate 1000 plants/ha, therefore balance seedlings shall be planted over degraded forest land (DFL) for which the DFL shall be identified in Mamit Forest Division or elsewhere in other districts/divisions in the State. The details of the DFL along with the site suitability certificate, approved CA scheme and KML files of the said area shall be submitted prior to Stage-II approval.
- b. The user agency shall deposit penal NPV which will be 5 times of the NPV for the area under violation(63.441 ha) and now proposed to be diverted.
- c. The penal Compensatory Afforestation over degraded forest land (DFL), five times of the forest area under violation(63.441 ha) and now proposed to be diverted shall be raised at the cost of the user agency.
- d. The KML file submitted by the State Govt. does not match with the ground situation/broken up area visible in the satellite imagery. The state Government shall revisit and submit the correct KML file keeping in view the field situation.
- e. The 18 ha area proposed to be developed as Green zone shall not be used for any construction activity in the future.
- f. As far as possible, the construction should be done using eco-friendly materials and the campus be developed as a green campus to the best extent possible in order to maintain the micro-climate of the area.

Agenda No. 6**File No. 8-17/2020-FC**

Subject: Proposal for seeking prior approval of the Central Government under Section 2 of Forest (Conservation) Act, 1980 for non-forestry use of 64.2016 ha. (Originally proposed 75.3931 ha.) of forest land for Construction of North Campus Central University Dharamshala, District Kangra State Himachal Pradesh (Online Proposal No. FP/HP/Others/39044/2019) -regarding.

1. The above stated agenda item was considered by Advisory Committee (AC) in its meeting held on 18-05-2023. The details of the proposal are available at www.parivesh.nic.in.
2. The Nodal Officer (FCA), Government of Himachal Pradesh was present in the meeting.
3. During the meeting, all the factual details along with examination of the proposal in the DSS were presented before the AC which after thorough deliberation and discussion observed that:
 - i. The Government of Himachal Pradesh has uploaded the instant proposal on PARIVESH portal on 02.09.2020 for seeking prior approval of the Central Government for diversion of 75.3931 ha forest land under Section-2 of the Forest (Conservation) Act, 1980 for the construction of North Campus of Central University at Dharamshala, District Kangra in Himachal Pradesh.
 - ii. This proposal was earlier considered by Advisory Committee in its meetings held on 27.12.2022 and 27.01.2023.
 - iii. The Ministry vide letter No. 8-120/2011-FC on 11.12.2018 has earlier accorded approval for diversion of 81.7916 ha (out of total 238.452 ha proposed originally) of forest land for establishment of Satellite campus of Central University of Himachal Pradesh at Dehra in Kangra District, Himachal Pradesh.
 - iv. The State Govt. thereafter submitted a proposal for change in the name of user agency from Director Higher Education H.P. to the Registrar Central University, which has been approved by the MoEFCC vide letter dated 17th February, 2021.
 - v. The State Government informed that in case of the proposal approved vide letter dated 11.12.2018, the Compensatory Afforestation over 5 ha. of degraded forest land has been carried out during the year 2022-23 with survival rate 100% and an expenditure of ₹3,89,800/- has been incurred. The Compensatory Afforestation over remaining 159 ha. area will be done during the year 2023-24 subject to availability of funds.
 - vi. On Scrutiny of the instant proposal, it was noticed that the new site is not contiguous with the already diverted forest land. The new campus has been proposed at different location and on number of disjointed patches of Forest land which are part of proposal for diversion of forestland for non-site specific land uses. The Regional Office Shimla was therefore requested to carry out the Site Inspection. Further, it was mentioned that the Site Inspection Report is to be based on visit to both the sites and with consultation of local institutions & stakeholders. SIR shall contain specific recommendation/comments to enable Ministry for arriving at an appropriate decision on the proposal.
 - vii. The DFO, Dharamshala has certified that 128.5 Ha degraded forest land (Survey No. Compartment No. Dhar Narwana in Malan Range area measuring 22.5 ha, CFS Khanyara P-15 in Dharamshala Range area measuring 75 ha and UPF-I in

Shahpur Range area measuring 31 ha, total area measuring 128.5 ha) in Dharamshala Forest Division, District Kangra identified for Compensatory Afforestation in lieu of 64.2016 Ha. of forest land is in a compact block and contiguous to forest area and is in proximity of forest area and is suitable for plantation and from the management and protection point of view and is free from all sorts encumbrances and encroachments.

- viii. The State Govt. vide letter dated 15.11.2022 has informed that the Central University of Himachal Pradesh has empanelled CPWD as the Project Management Consultant for establishment of the permanent campus(s). The DPR and Master Plan have been prepared by CPWD as per requirement campus at Dehra was floated by CPWD on 22nd April, 2022 and work has been awarded to M/s. Ahluwalia Contracts India Private Limited. The preliminary construction related activities have been started for Satellite Campus at Dehra.
- ix. The Ministry vide letter dated 23.01.2021 requested IRO for SIR. The IRO Dehradun vide letter dated 01.03.2021 has submitted the site inspection report. The IRO during the site inspection inter-alia observed that :
 - a. A Central Site Inspection Committee was constituted by the Ministry of Human Resources Development (MHRD) for the establishment of the Central University of the Himachal Pradesh. The Committee visited the then proposed three sites on 15-17 Oct 2008 but all the sites were rejected by the Committee as they were not found suitable for construction of the Central University.
 - b. No construction activity has still started on the proposed site for Satellite Campus at Dehra.
 - c. The Central Govt vide MHRD letter No. F.42-24/2009-Desk (U) dated 23rd April, 2010 approved the establishment of the Central University. H.P. with its headquarters and temporary campus of Dharamshala and two distinct campuses on the sites offered by the Himachal Pradesh in Dehra and Dharamshala in Kangra District. As per the approval, while the main campus of the University was to be located at Dehra, the other campus of Dharamshala was to have such of the Schools/departments which do not require massive infrastructure.
 - d. The State Govt of H.P. sent the related proposal for diversion of forest land to the MORC&CC, FC Division, Govt of India vide its letter dated 26-11-2011.
 - e. The proposal was discussed in the FAC in April 2012 and vide MOEF&CC letter dated 01-05-2012, it was informed to the PS (Forests), Govt of H.P. that the FAC has desired that the State Govt may rationalise and minimise the forest land requirement and submit the detailed plan of land use for diversion.
 - f. The University approached the MHRD again as the matter was getting delayed and another Central Site Inspection Committee was constituted by the MHRD to assess the suitability of land.
 - g. The Committee visited both the sites on 12-13 Jun 2013 at Dehra and Dharamshala and recommended 160 ha at Dharamshala and 80 ha of land at Dehra will be suitable for establishing the Central University. It also recommended that in case MOEF&CC still has any reservation about the actual land requirement, it should keep the request for the proposed Dehra Campus in abeyance for detailed examination of the matter and grant clearance for the main campus at Dharamshala immediately as the matter has delayed too much.
 - h. Thereafter Govt of H.P. vide its letter dated 21-03-2016 offered some additional land of 202 acres (82.8273 ha) making the total land about 748 acres (303.3774 ha) in District Kangra.
 - i. Another Site Inspection Committee was constituted by the MHRD vide its Order dated 08-08-2016.

- j. The Committee visited the site offered by the State Govt on 01-09-2016 and recommended that the site offered at revenue villages Sakoli, Patola, Kadiana, Kand, Bagiara, Up Mohal Kaswa and Salag of Dharamshala, District Kangra are suitable for establishing the North Campus, Central University of H.P.
- k. After obtaining additional information and with due revision of the proposal, 'In Principle' approval for diversion of 81.7916 ha (out of total 238.452 ha proposed originally) was accorded on 27th August, 2015 in favour of the Director Higher Education, H.P. for establishment of Satellite Campus of the Central University, Dehra in Kangra District. The final approval for the same was accorded by the MOEF&CC, New Delhi on 11th December, 2018.
- l. Thereafter the online proposal No. FP/HP/Others/39044/2019 has been submitted by the State Govt of Himachal Pradesh for which the present site inspection was conducted.
- m. The sites at Dehra and Dharamshala were visited on 12th February, 2021 along with the CCF, Kanga, DFO Dehra, DFO Dharamshala, AIGFC, MOEF&CC, Revenue Officers from Dehra and Dharamshala, Registrar, Central University, Officers from PWD and other Stakeholders. Thereafter a meeting was organised and discussion was held with all the concerned officers and other stakeholders.
- n. It was informed by the user agency that land diverted for the establishment of Satellite campus at Dehra has not yet been offered to the user agency. After discussion it was found that the State Govt. has sent a proposal to the MoEF & CC for change of the name of user agency from Director Higher Education H.P. to the Registrar Central University (which has been later on approved by the MoEF&CC letter dated 17th February, 2021).
- x. Based on the site visit and discussion, the IRO inter alia recommended that:-
 - a. The user agency should explore the possibility of accommodating most of the proposed schools/faculty at Dehra so that the area required for diversion at Dharamshala may be minimised. If required, necessary permission for change of layout plan may be obtained from the MoEF&CC.
 - b. In addition to the 81.7916 ha of forest land diverted for the Satellite Campus at Dehra, user agency also has 34.55 ha of non-forest land which has been earmarked for some of the activities of the proposed Satellite Campus. But the construction has not yet started on this land too.
 - c. The State Govt. has not yet conducted Geological survey of the area which is proposed for main campus at Dharamshala, which is very essential before any decision regarding diversion of that area could be taken.
 - d. As marked on Google Earth Map, Polygon No. 9 to Polygon No. 12, area measuring 2.05 ha, may be shifted to Polygon No.16 to reduce the patches of various land and to minimise the damage on forest land.
 - e. The private land situated between Polygon No. 7 and Polygon No. 8 may be acquired and area proposed in Polygon No. 5 and Polygon No. 6 may be shifted to the land so acquired.
 - f. The existing road and required alignment at the proposed site at Dharamshala should be marked in different colours. As the width and gradient of the existing road does not seem to be suitable for movement of buses and other vehicles, the user agency may have to construct a new road at a different alignment. Additional land so required should be included in the proposal.
 - g. Apart from the road, a requirement of all other utilities such as water supply line, electric line, sewage line, STP etc. should be included in the proposals

- as per the requirement.
- h. The set-off area between the construction zones should be kept as green and provisions should be included accordingly.
 - i. The State Govt. has proposed all the three alternatives in forest land. The State Govt. may also explore the possibility of selecting non-forest land for the same.
 - j. The State Govt. has earlier submitted the FRA certificate of 280.6635 ha of earlier proposed land. It should be ensured that the presently proposed 75.3931 ha of land is completely included in the previously proposed 280.6631 ha of land.
- xi. As per the observations and suggestions given in SIR by IRO, the Ministry vide letter dated 08.03.2021 requested the State Government to take necessary action on the observations/ recommendations mentioned in SIR and submit a point-wise reply/compliance to the ministry.
 - xii. The Government of Himachal Pradesh vide their letter No.Ft.48-3968/2019 (FCA) dated 19.07.2022 forwarded the revised proposal for diversion of 64.2016 ha. instead of 75.3931 ha of forest land for the construction of North Campus of Central University at Dharamshala, District Kangra, State Himachal Pradesh, for obtaining prior approval of the Central Government under Section 2 of Forest (Conservation) Act, 1980.
 - xiii. The State Government informed that the land diversion proposal for construction of Central University North Campus at Jadrangal in Tehsil Dharamshala, District Kangra earlier involved diversion of 75.3931 ha of forest land, comprises in 16 numbers of polygons, and felling of 4685 number of trees. After conducting the Geological Survey of the area proposed, some of the polygons were found unsuitable for constructional activities, hence rejected. So, fresh areas in adjoining forest land have been identified in place of rejected polygons. Now, the present land diversion proposal involves diversion of 64.2016 ha forest land, comprises in eight (8) numbers of polygons involving 7124 number of trees, out of which 2991 number of trees will be felled. The remaining balance 4133 numbers of trees will not be felled and will be maintained as green cover. Therefore, in present proposal number of trees to be felled has been reduced from 4685 to 2991 number of trees, thus minimizing the felling of trees.
 - xiv. With respect to the non-site specific nature of the project, the state government submitted that a site section committee was constituted by the MHRD on 17.05.2013 for selecting the site for construction of the Central University of Himachal Pradesh and as per recommendation of the committee report the Ministry has already accorded approval for construction of the satellite campus. On the same line the instant proposal may be accepted.
 - xv. Proposal was placed before the Advisory Committee in its meeting held on 27.12.2022, however the same was deferred for want of discussion with the Nodal Officer (FCA), Himachal Pradesh.
 - xvi. The alternative sites explored by the State Govt. are on forest land. However, the site selection committee constituted by the Govt. of India (MHRD) has mentioned that 200 acres of land meant for HP housing board that was indicated as a possible site for the University at Dharamshala turned out to be private land requiring Govt to invest a few hundred crores of Rupees towards the cost of acquisition. The possibility of getting 500- 600 acres of land out of the 1300 acres in possession of HP Agricultural University at Palampur was also ruled out. This indicates that the possibility of the non-forest land was available for the construction of university.
 - xvii. The proposal was again considered by the Advisory Committee in its meeting held

on 27.01.2023, wherein it was decided that the proposal cannot be considered in its present proposition due to the following reasons:

- a. The construction of the Central University is a non-site specific activity and the state govt. has not submitted any valid justification as to how use of forest land in instant case is unavoidable.
 - b. As per the report of the site selection committee constituted by Govt. of India (MHRD), the reason for rejection of one of the sites on non-forest land was the cost of acquisition of non-forest land, which indicates that the proposed use of forest land is not unavoidable.
 - c. Use of the fragile Himalayan strata receiving sufficiently high rainfall for the construction of the University is required to be avoided under normal circumstances.
- xviii. Based on the recommendation of AC on 27.01.2023, the decision was communicated to Govt. of Himachal Pradesh by the Ministry vide letter dated 22.02.2023.
 - xix. Government of Himachal Pradesh vide their letter dated 08.03.2023 has submitted point-wise reply/justification to the observations of the Committee.
 - xx. The State Govt. inter-alia informed that the Dharamshala Campus was selected by the Central Site Selection Committee constituted by the Ministry of Education after visiting various sites offered by the State Government. The committee has explored numerous alternatives during its visits including exploring possibility of Non-forest land for establishment of the University. However, since 66% of the Geographical Area of Himachal Pradesh is covered under Forest Land and only around 10% is categorized as Agriculture land/under cultivation. Hence this severely limits the options with regard to provision of non-forest land for various developmental projects in the State.
 - xxi. Moreover, in order to develop a premier institute of Higher Education with a vision of achieving excellence in shortest possible time, the location where institution is being established plays a vital and crucial role. Availability of basic infrastructure and transport facilities near the establishment/institute is a fundamental necessity to attract talented and accomplished faculty and the best students during the establishment years. Central Universities are being developed with a vision for providing quality education and promoting research among the students for next 100 years or more and hence should not be seen as just another infrastructure project.
 - xxii. The State has further submitted that given the advantage of locating the University in Dharamshala, there is every likelihood of failure of achieving the objectives envisaged for establishing the University, if a location other than Dharamshala is chosen for North Campus of Central University of Himachal Pradesh.
 - xxiii. The State Govt has informed that the acquisition of land from HPKVV Palampur was attempted but was rejected by the HPKV authorities as the land had already been utilized by that University for other purposes. Also the proposal of 200 Acres of land with Housing Board was rejected by the State Government at that time and the said land has already been allotted for some other projects and committed for alternate purposes of significance and hence it is not possible to spare that land because of Govt. obligations/legal ramifications. Further. as per certificate furnished by Distt. Collector, Kangra. there is no suitable non forest land and private land available in Tehsil Dharmshala which could serve the purpose for construction of North Campus of CUHP at Dharmshala. It is also apprised that as per the revised proposal the number of trees has also been reduced from 27135 to

- 7142 only due to the reduction in area out of which only 2991 trees will be felled and 4133 trees will remain standing.
- xxiv. The State Govt. further informed that a thorough investigation by the Geological Survey of India has been got carried out at the said site. The GSI after conducting various Geological, Hydrological, Seismic and Meteorological investigations/assessments recommended the suitable patches for construction thereat. The patches not suitable for construction were deleted and have not been considered in the current proposal.
- xxv. Further majority of land (about 89.5%) of the proposed land falls under slope angle of 0° -35° only. 2.12% of the land has slope greater than 4° even so the University will adopt suitable and adequate soil stabilization measures along with proper drainage structures, any other remedial measures to provide additional stability to steep slopes. Also the proposed land is underlain by Lower Shivalik Sandstone and Dagshai/Kasauli group of rocks which are resistant to soil erosion with very few meters of alluvial cover (boulders/cobbles). Moreover, it is proposed that rain water will be harvested for use within the campus itself, to recharge the Ground Water level and also to cater partially to the University Water requirements.
- xxvi. With the approval of competent authority, the instant proposal has been allowed to be re-considered and accordingly placed before the Advisory Committee in the present meeting.
- xxvii. The component/purpose wise breakup of the area proposed to be diverted in the instant proposal was discussed and it was observed that the proposal involves multiple land use categories of the proposed area for purposes like Administrative block, hostels, residences, Parking spaces, shopping arcades, sports facilities, transit hostels, roads, transmission lines, STPs etc., which are non-site specific in nature. The submissions and justifications made by the State Government in this regard were considered by the committee and discussed in detail.
- xxviii. The committee observed that though non-site specific in nature, the proposed activities are part of an integrated project, and the state govt. has now submitted adequate justification to locate the same at Dharamshala, which has been approved by a site selection committee constituted by the MoHRD. The Advisory Committee also considered the fact that approximately 66% of the geographical area of the state is covered under forest land.
- xxix. The Committee however observed that the area proposed for diversion is in 8 patches and the two of these patches namely Site 1, approximately measuring 3.60 ha and Site 8 measuring 2.50 ha as per the layout plan/ KML file submitted by the State Govt. are far away from the administrative and academic blocks and are across the streams/nallas. Adequate area has been proposed for hostels and residential accommodation in other sites as well. Selection of these patches would lead to additional burden in terms of road construction/widening, transportation costs and resultant carbon foot prints. The committee therefore decided to exclude the said areas from the instant proposal. Approximately 1.0 ha forest land coming under the proposed road construction/widening for these sites shall also be excluded.

Decision of the Advisory Committee:- The Advisory Committee had detailed discussion and deliberation with Nodal officer (FCA), Himachal Pradesh and Regional Officer, IRO, Shimla. After going through the facts of the proposal, the Committee decided to exclude the two patches namely Site-1 measuring 3.60 ha, the Site-8 measuring 2.50 ha along with the 1.0 ha area coming under the proposed road construction/widening for these sites as per the layout plan/ KML file submitted by the State Govt. and recommended an area of 57.10 ha {64.2016- (3.60+2.50 +1.0)} for

Stage-I approval with general, standard and following specific conditions:

- i. Two patches/sites namely Site-1 (measuring 3.60 ha) and Site-8 (measuring 2.50 ha) along with 1.0 ha area proposed to be included in the roads connecting these sites shall be excluded from the project proposal. The State Government shall ensure that there is no change in the layout of the remaining area after exclusion of 7.10 ha as above and accordingly submit the commensurate KML file prior to Stage-II approval.
- ii. The set-off area between the construction zones shall be kept as green and provisions should be made accordingly.
- iii. As far as possible, the construction should be done using eco-friendly materials and the campus be developed as a green campus to the best extent possible in order to maintain the micro-climate of the area.

(Confirmed through email)

(Dr. Naveen Chandra Bisht)
(non-official Member)

(Not Present)

Shri S. D. Vora
(non-official Member)

(Confirmed through email)

Shri Manoj Pant
(non-official Member)

(Confirmed through email)

Dr. Dhura Ram
Addl. Commissioner (NRM)
(Member)

(Confirmed through email)

Shri Bivash Ranjan
Additional Director General of Forests(WL)
(Member)

(Confirmed)

Shri S. P. Yadav
Additional Director General of
Forests(FC)
(Member)

(Confirmed)

Shri Ramesh Kumar Pandey
Inspector General of Forests
(Member Secretary)

(Approved)

Shri C. P. Goyal
(Director General of Forests and Special Secretary)
(Chairperson)