

URGENT

Government of Odisha
Forest and Environment Department

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10F (Cons) 8/2017/ 3821 /F&E dated 22-09-17

From

Sri Debidutta Biswal, IFS
Special Secretary to Government

To

The PCCF, Odisha

Sub: Proposal for diversion of 2.994ha. of forest land in Motu Reserved Forests for construction of approach road(1.496km) from PWD Road to High Level Bridge over river Sileru near Motu in Malkangiri district, Odisha by Executive Engineer(R&B) Division, Malkangiri (**Proposal No. FP/OR/ROAD/8330/2014**).

Sir,

With reference to your letter No. 194 dt. 4.1.2017 on the subject mentioned above, I am directed to say that the proposal for diversion of 2.994ha. of forest land in Motu Reserved Forests for construction of approach road(1.496km) from PWD Road to High Level Bridge over river Sileru near Motu in Malkangiri district, Odisha by Executive Engineer(R&B) Division, Malkangiri, was examined as per guidelines prescribed by the Government of India, MoEF&CC vide their letter F.No. 11-9/98-FC dt. 3.1.2005, dt. 13.5.2011, dt.16.6.2011 and dt.25.2.2016 in the matter of taking up establishment of certain critical public utility infrastructures by Government Departments involving forest land up to 5 ha. in LWE affected districts of the State which also includes **Roads**.

It is observed that total length of the approach road is 1.496km having width of 20mt. Entire land required for the project is 2.994ha. of RF land in Motu RF in Malkangiri district. It has been certified by the applicant agency that no alternative suitable non-forest land is available for construction of this road. Moreover, the DFO, Malkangiri has also certified that forest area involved in the instant proposal is unavoidable and barest minimum. It is also observed that the proposed approach road with the High Level Bridge over river Sileru forms part of Vijayawada-Ranchi Corridor, which is considered the lifeline of LWE affected Malkangiri district. It was also noted that administrative approval for the work "Widening to 2 lane and improvement from km 0.000 to km 53.700 of Vijaywada-Ranchi corridor in Odisha(km 149.00 to km 202.70 of Malkangiri-Motu Road) in Malkangiri district has been accorded by Ministry of Road Transport and Highways(LWE Section), Government of India, Transport Bhawan, New Delhi vide letter No. NH-12014/407/2010/ORS/LWE dt. 19.1.2011 for Rs. 9245.24lakhs. The Executive

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Engineer, Malkangiri(R&B) Division vide letter dt. 24.1.2017 has indicated that the proposed approach road of length 1496mt and width 20mt in Odisha side to the High Level Bridge over river Sileru has been included in the above mentioned administrative approval. It is also observed that this road will provide road connectivity to the State of Andhra Pradesh. As reported by the DFO, Malkangiri Division, the forest area proposed to be used for this project, does not form part of any Protected Area. There is no report of availability of rare/endangered species of flora and fauna in the area. About 4 lakhs population of Malkangiri district are likely to be benefitted for this project. On completion of this road project, it will not only enhance socio-economic activities in the area but also provide required assistance to Police/security personnel to have better control over law and order situation in this LWE affected area.

It has been ascertained from the report of PCCF, Odisha that construction of approach road to Sileru bridge has been completed utilising forest land without obtaining approval under Forest Conservation Act, 1980. It is also ascertained that 104 no. of trees existing over the forest land proposed for diversion, has also been felled in violation. As such the project activities have been taken up in violation of FC Act, 1980.

The Government of India, MoEF vide their letter F. No. 11-9/98-FC dt. 13.5.2011/16.6.2011/25.2.2016 have granted general approval under the provisions of Forest Conservation Act, 1980 for diversion of forest land up to 5.0ha for carrying out certain kinds of critical public utility infrastructure projects, by Government Departments in such LWE affected districts for the period up to 31.12.2018 under approval of the State Government.

In view of the urgency involved for diversion of 2.994ha of forest land for construction of approach road(1.496km) from PWD Road to High Level Bridge over river Sileru near Motu in Malkangiri district, Odisha by Executive Engineer(R&B) Division, Malkangiri, requirement of felling only 104 no. of trees from the forest land proposed for diversion(around 35 trees per ha., limit being 50 no. of trees per ha.) and general approval of Government of India, MoEF&CC accorded vide their letter F.No. 11-9/98-FC 3.1.2005, 16.6.2011, dt. 13.5.2011, dt. 25.2.2016, State Government have been pleased to grant permission in favour of the Executive Engineer(R&B) Division, Malkangiri for construction of approach road(1.496km) from PWD Road to High Level Bridge over river Sileru near Motu in Malkangiri district, Odisha subject to fulfilment of the following conditions.

1. The legal status of the forest land so diverted shall remain unchanged.
2. The diverted forest land of 2.994ha. shall not be used for any purpose other than specified in the proposal.
3. The Plantation scheme of indigenous species of plants to be prepared by the Divisional Forest Officer, Malkangiri Forest division for raising of plants 2 times the no. of trees already felled from forest land in respect of this project, shall be approved by competent authority and executed by the Project proponent in consultation with the Divisional Forest Officer, Malkangiri at project cost at a suitable site to be selected by the user agency/State Government, preferably in the vicinity of project site in consultation with the DFO.
4. In view of the fact that project has been undertaken without prior permission under FC Act, 1980 and an area of 2.994ha. of forest land has been used in violation, a Penal Compensatory afforestation scheme for two times the forest area used in violation shall be executed in degraded forest land at project cost. The relevant scheme shall be prepared by the DFO, Malkangiri for approval by competent authority.
5. The user agency shall pay the Net Present Value of the forest land so diverted as per revised rate communicated by the State Government vide letter No.21687/F&E dt. 22.12.2009 pursuant to orders dt. 28.3.2008 and dt. 9.5.2008 of Hon'ble Supreme Court of India in I.A. No. 566 in W.P.(C) No. 202/1995. All the funds received from the user agency under this project shall be transferred in favour of Compensatory Afforestation Fund in Account No. CA 1585 in Corporation Bank, Lodhi Road, New Delhi.
6. No other fresh forest land shall be used for construction of this infrastructure project.
7. Readymade materials shall be used for further construction/maintenance of the project.
8. No labour camps shall be established on the forest land. The labourers to be engaged in the further construction/maintenance work, if any, shall be provided with the fire wood by the implementing agency by purchasing the same from the depots of the Odisha Forest Development Corporation Ltd.
9. Demarcation of the forest land so diverted, shall be taken up at project cost using four feet high reinforced cement concrete pillars with serial number, forward and backward bearing and distance from pillar to pillar.
10. No further project construction/maintenance work shall be allowed after sunset.
11. The permission granted by the State Government shall be subject to monitoring by the Eastern Regional Office, GoI, MoEF&CC.
12. The User Agency shall be responsible for any loss to the flora/fauna in the surroundings and therefore shall take all possible measures to conserve the same. Any damage done in this regard shall be compensated by the User Agency from the project cost as per assessment of the Divisional Forest Officer.
13. The compliance with regard to guidelines of provisions Government of India, MoEF&CC circulars pertaining to the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 shall be ensured.

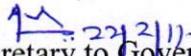


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14. Any other condition that the State Forest Department/Pr. CCF, Odisha/RCCF, Koraput/Divisional Forest Officer, Malkangiri /Eastern Regional Office, MoEF&CC Government of India may impose from time to time for protection and improvement of flora and fauna in the forest area, shall be complied with by the user agency.
 15. The User Agency shall pay evaluated royalty of trees over forest land already felled.
 16. The Addl. Principal Chief Conservator of Forests(Forest Diversion)&Nodal Officer, FC Act, O/O Pr. CCF, Odisha shall submit monthly report to the Eastern Regional Office, MoEF&CC, Government of India by 5th of every month without fail regarding approval of State Government accorded for use of forest land for the projects included in the general approval order under reference. Besides, six monthly reports for the period ending 30th June and 31st December containing details of all forest land diverted under the general approval by the Ministry along with status of actual utilization of the forest land so diverted for the purpose, shall be submitted to the MoEF&CC, Government of India.

The Divisional Forest Officer, Malkangiri **shall not formally hand over** the forest land to the user agency for the project until the user agency complies with the stipulation No. 3, 4, 5, 9 and 15 along with furnishing undertakings pertaining to other relevant conditions imposed above and compliance to be made by the user agency as per prescriptions of Hon'ble National Green Tribunal. The schemes to be prepared in compliance to condition 3 and 4 mentioned above, shall be prepared by the Divisional Forest Officer, Malkangiri division and got approved by the competent authority for their execution by user agency at project cost under the supervision of Divisional Forest Officer, Malkangiri Division. The DFO, Malkangiri Division may be asked to supervise the further construction/maintenance work and any deviation to the stipulations mentioned above by the User Agency shall be reported by him to the Pr. CCF, Odisha/State Government/Eastern Regional Office, MoEF&CC along with action taken report.

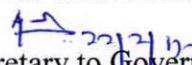
The compliance to condition No. 3, 4, 5, 9 and 15 may be reported to State Government for reference. The DFO, Malkangiri Division /user agency may be instructed accordingly.

Yours faithfully,


Special Secretary to Government

Memo. No. 3822 /F&E dt. 22.02.17

Copy along with copy of forest diversion proposal forwarded to Assistant Inspector General of Forests, Govt. of India, Ministry of Environment & Forest and Climate Change,(F.C.Division), Indira Paryavaran Bhawan, Jor Bagh, Aliganj Road, New Delhi -110003 for information and necessary action.


Special Secretary to Government

Memo. No. 3823 /F&E dt. 22-2-17

Copy along with copy of forest diversion proposal forwarded to Additional Principal Chief Conservator of Forests(Central), Government of India, MoEF&CC, Eastern Regional Office, A/3, Chandrasekharpur, Bhubaneswar for information and necessary action.

As ascertained from the reports of PCCF, Odisha that construction of approach road to Sileru bridge has been completed utilising forest land of 2.994ha. in Motu RF without obtaining approval under Forest Conservation Act, 1980. It is also ascertained that 104 no. of trees existing over the forest land being diverted as per general approval order, has also been felled in violation. As such the project activities have been taken up in violation of FC Act, 1980. Since it is an important infrastructure project aimed at providing road connectivity in LWE affected district of Malkangiri, the State Government has taken steps for according permission under the general approval accorded by GoI, MoEF&CC under Forest Conservation Act, 1980 with required penal measures.

Special Secretary to Government

Memo. No. 3824 /F&E dt. 22-02-17

Copy forwarded to Principal Secretary to Government of Odisha, Revenue & DM Department/ Secretary to Government, Works Department for kind information and necessary action.

Special Secretary to Government

Memo. No. 3825 /F&E dt. 22-02-17

Copy forwarded to PCCF (WL) &CWLW, Odisha/ Regional Chief Conservator of Forests, Koraput Circle/Divisional Forest Officer, Malkangiri forest division for information and necessary action.

Strict supervision may be made by the DFO, Malkangiri Division during further construction/maintenance of the project. DFO, Malkangiri Division shall ensure that the User agency complies with stipulations imposed above and makes all compliances as required as per orders of Hon'ble NGT.

Special Secretary to Government

Memo. No. 3826 /F&E dt. 22-02-17

Copy forwarded to ST & SC Development Department/ Collector, Malkangiri for information and necessary action.

Special Secretary to Government

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Memo No. 3827 /Dated. 22-2-17

Copy forwarded to the Private Secretary to Hon'ble Minister of Forest & Environment for kind information of Hon'ble Minister.

Special Secretary to Government

Memo No. 3828 /Dated. 22-2-17

Copy forwarded to Executive Engineer(R&B) Division, Malkangiri, At/PO/Dist. Malkangiri for information and immediate necessary action.

The user agency is asked to take following actions immediately as per orders of Hon'ble National Green Tribunal dt. 7.11.2012 in Appeal No. 7/2012 communicated by the MOEF, Government vide their letter F. No.7-23/2012-FC dt. 24.7.2013.

- (i) *They shall publish the entire forest clearance orders of State Government granted as per general approval accorded by MoEF, Government of India in two widely circulated daily newspapers, one in vernacular language and the other in English language so as to make people aware of the permission granted to the Project for use of forest land for non-forest purposes .*
- (ii) *They shall submit the copies of forest clearance orders granted by the State Government to the Heads of local bodies, Panchayats and Municipal bodies along with the relevant offices of the State Government, who in turn shall display the same for 30 days from date of receipt for general information of public.*
- (iii) *Detailed action taken in compliance to the above order of State Government shall be intimated to the Collector, Malkangiri/ Divisional Forest Officer, Malkangiri Division/Regional Chief Conservator of Forests, Koraput Circle / Pr. CCF, Odisha/F&E Department for reference.*

Special Secretary to Government

Memo No. 3829 Dated- 22-2-17

Copy forwarded to the O.I.C., State Portal, N.I.C., I.T.. Department, Odisha Secretariat, Bhubaneswar/ M/s Luminous Infoways Pvt. Ltd, Sadhana, N-6/373, Nayapalli, Jayadev Vihar, Bhubaneswar-15 for information and necessary action. They are requested to upload this letter of State Government in F&E Department in the website of Forest & Environment Department **immediately** for information of all concerned. **This is required in compliance to order of Hon'ble National Green Tribunal dt. 7.11.2012 in Appeal No. 7/2012. Hence this may be done unfailingly.**

Special Secretary to Government

Memo No. 3830 Dated- 22-2-17

Copy forwarded to the Under Secretary to Government, Office Establishment Section, F&E Department for information and necessary action with reference to their letter No.21646/F&E Dt. 22.11.2016.

Special Secretary to Government