

No. RK/ACL/ 8774
HP. Forest Department

Dated Nalagarh, the 02/03/2024

From: DCF Nalagarh (HP)

To: CF Solan, HP

Subject: - Diversion of 1.61 hectare of forest land in favour of Baddi-Barotiwala-Nalagarh Development Authority, EPIP Phase-I, Jharmajri, Baddi Distt. Solan, H.P for the up-gradation of road in front of ACL factory situated at Bir-Plassi Nalagarh, within the jurisdiction of Nalagarh Forest Division, Distt. Solan, HP.

Memo:


Please refer to MOEF&CC, Shimla office letter No. I/64271/2024 dated 02/02/2024 received through Parivesh Portal on the above cited subject.

2. The Pointwise compliance to the observation is submitted as under:-

S. No.	Comments/observations	Compliance
1	As the name of the persons responsible for violation has been identified in detailed violation report. As per FC Rules, 2023, para 15(2), the DFO concerned is requested to file complaint against the offenders before the Court having jurisdiction.	<p>The FC Rules, 2023, para 15(2) states as under:-</p> <p>15. Proceedings against persons guilty of offences under the Adhinyam.</p> <p>(2) <i>The Central Government, after receiving the information with respect to offence committed or violations made either through State Government or Union territory Administration or authorities or any other source or suo moto, shall, after examination, communicate the same to the State Government or Union territory and the authorities concerned under whose jurisdiction the offence under the Adhinyam has been committed or any provision of the said Adhinyam has been violated, for filing the complaint against the offenders before the court having jurisdiction and it shall act as a prerequisite for the authorised officer before such complaints are filed within a period of forty five days from the receipt of such communication. The State Government and authorities concerned shall submit a periodic report to Regional Office, from time to time, regarding filing of the complaints.</i></p> <p>Accordingly a complaint under section 32 & 33 of IFA, 1927 for violation of provisions of ibid Act, has been filed before Ld. Court of Civil Judge, Senior Division Nalagarh on 22/03/2021 against the erring departments and Industries and the same is under trial and is fixed for 08.04.2024. A copy of complaint is enclosed herewith. Full justification for condonation of violation and detailed enquiry report has been sent vide letter No. 4583-84 dated 06.10.2020.</p>

In view of above it is requested that approval of competent authority for diversion of land may kindly be obtained and conveyed to this office at the earliest.

Encls: As above:


Deputy Conservator of Forests,
Nalagarh, Forest Division
Nalagarh Distt. Solan, HP.

IN THE COURT OF HON'BLE LD. CIVIL JUDGE SENIOR
DIVISION, NALAGARH, DISTRICT SOLAN, HP.

IN THE MATTER OF:-

No. IFA 1/2022
Dt. 23/2/2022

State of H.P. (through Range Forest Officer,
Forest Range Nalagarh)

.....Complainant.

Versus

1. The Director of Industries, Himachal Pradesh
2. The Superintending Engineer, HPSIDC Limited, Shimla
3. The Executive Engineer, HP SIDC Limited,
Industrial Area, Baddi, Distt. Solan (HP)
4. The Assistant Engineer,
SIDC Limited, S.D. No.1 Baddi Distt. Solan.
5. The Site Engineer, HPSIDC Limited Baddi, Distt. Solan
6. Sh. Rakesh Vij
Govt. Contractor, Vij House, Chhota Shimla
7. M/S Asian Cement Company, Village Bir Plassi, Tehsil Nalagarh, Distt. Solan,
H.P. through its Managing Director
8. M/S Aimil Pharmaceuticals, Village Bir Plassi, Tehsil Nalagarh, Distt. Solan,
H.P. through its Managing Director
9. M/S Purna Pharmaceuticals Village Bir Plassi, Tehsil Nalagarh, Distt. Solan,
H.P. through its Managing Director
10. M/S Rupana Paper Mills. Village Bir Plassi, Tehsil Nalagarh, Distt. Solan, H.P.
through its Managing Director

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Complainant
Range Forest Officer
Nalagarh Forest Range
Nalagarh Forest Range
74101

In the Court of Hon'ble Ld. Civil Judge Senior Division, Nalagarh, District Solan, H.P.

IN THE MATTER OF:-

State of H.P. (through Range Forest Officer Officer,
Forest Range Nalagarh)

.....Complainant.

Versus

1. The Director of Industries, Himachal Pradesh
2. The Superintending Engineer, HPSIDC Limited, Shimla
3. The Executive Engineer, HP SIDC Limited,
Industrial Area, Baddi, Distt. Solan (HP)
4. The Assistant Engineer,
SIDC Limited, S.D. No.I Baddi Distt. Solan.
5. The Site Engineer, HPSIDC Limited Baddi, Distt. Solan
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Distt. Solan, H.P. through its Managing Director
8. M/S Aimil Pharmaceuticals, Village Bir Plassi, Tehsil Nalagarh,
Distt. Solan, H.P. through its Managing Director
9. M/S Purna Pharmaceuticals Village Bir Plassi, Tehsil Nalagarh,
Distt. Solan, H.P. through its Managing Director
10. M/S Rupana Paper Mills. Village Bir Plassi, Tehsil Nalagarh,
Distt. Solan, H.P. through its Managing Director

.....Accused/
Respondents


Range Forest Officer
Nalagarh Forest Range
Nalagarh H.P. - 174101

In the Court of Hon'ble Ld. Civil Judge Senior Division, Nalagarh, District Solan, HP.

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Respondents



Range Forest Officer
Nalagarh Forest Range
Nalagarh H.P. - 174101

(4) (2)

Application for exemption under section 200 of CrPC 1973

Sir,

Respectfully submitted:-

1. That I, the complainant is presently posted as Range Forest Officer in the Nalagarh Forest Range of Nalagarh Forest Division of H.P. Forest Department and the complainant is acting on purporting to act in discharge of his official duties.
2. That as per section 200 of CrPC 1973, I am a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint.
3. That as per the above said provisions I may kindly be exempted from Hon'ble Court hearing on regular basis.
4. That I will attend the Hon'ble Court as and when directed to do so by this Hon'ble Court.

Dated

Place


Complainant
Range Forest Officer
Nalagarh Forest Range
Nalagarh H.P. - 174101
Forest Range Nalagarh

(5) (2)

**COMPLAINT UNDER SECTION 32 & 33 OF INDIAN FOREST ACT,
1927 FOR VIOLATION THE PROVISIONS OF IBID ACT.**

Sir,

Respectfully submitted:-

1. That the complainant is presently posted as Range Forest Officer in the Nalagarh Forest Range of Nalagarh Forest Division and the complainant is acting on purporting to act in discharge of his official duties.

2. That the brief facts of the case is as under:

The Chief Executive Officer, BBNDA, Baddi submitted a proposal No.FP/HP/Road/34897/2018 on online platform with the title of project as, "UPGRADATION OF ROAD IN FRONT OF ACL FACTORY SITUATED AT BIR PLASSI, NALAGARH, Kms. 0/00 to 2/300" for approval in accordance with the provisions of Forest Conservation Act, 1980. The proposal was duly scrutinized by the office of DFO Nalagarh. During the scrutiny of the proposal as mandated in the FCA rules Page No.27 mentioned in FCA guidelines, 2014 (Copy enclosed as Annexure-A/I), the then DFO Nalagarh also made site inspection of the spot and found violation of FC Act 1980. He also submitted a detailed report as mandated in Check List Serial No. 16 (b), the facts of which are summarized as:

A kucha road exists at site which was being used by the stake holders for e.g. Local people, industrial units of the area. After due verification of facts, it was found that the proposed road was being used as an access by the residents of village Bir Plassi since long i.e. almost 1950-51 as reported by the revenue authorities of Tehsil Nalagarh (Copy enclosed as Annexure-A/II). In the year 2003-04 onwards, Government of Himachal Pradesh declared Baddi, Barotiwala, Nalagarh as special industrial zone. Thereafter, various industrial units were established in the area. It is pertinent to mention that Bir-plassi DPF has pockets of different private lands within the demarcated protected forest area. These industrial units were established in these private lands which had no marked way / path/ road for access. Earlier, the owners exercised their right of way through DPF for their agricultural activities. With the change of land use the walking trails continued to be used for the use of industrial units also. Now with the passage of time and increased vehicular traffic due to industrial units and as well as mechanized agriculture and economic growth of villagers this trace/ trail has become a KACHA ROAD as the terrain is plain. (Copy enclosed as Annexure – A/III).

3. That as the user agency had submitted the proposal for "UPGRADATION OF ROAD IN FRONT OF ACL FACTORY SITUATED AT BIR PLASSI, NALAGARH, Kms. 0/00 to 2/300" it was interpreted that the road was already constructed as per the record of user agency and therefore the case for up gradation of road was submitted by them. The construction of road without approval from competent authority is violation of the provisions of Forest (Conservation) Act, 1980. Therefore, DFO Nalagarh vide his letter No. 5585 dated 5/9/2019 (copy enclosed as Annexure-A/IV) requested CEO BBNDA Baddi to furnish an undertaking to pay the penalty etc. if any, imposed by the competent authority on account of violation of FC Act 1980. CEO

(7) (A)

BBNDA Baddi reported in turn vide his letter No. BBNDA-06(Project) 1922-25 dated 17/3/2020 and also enclosed a letter No.BBNDA-06(Project)SDM/ 10622 dated 26/9/2019 addressed to Deputy Director Industries (SWCA) Baddi vide which he has desired to furnish the undertaking to pay the amount of penalty, if any, imposed by the competent authority as the said road has been constructed by the Industries Department. CEO BBNDA Baddi further enclosed another letter No. 3537 dated-31.01.2020 from Deputy Director of Industries, SWCA Baddi to Sub Divisional Officer (Civil) Nalagarh vide which he has refused to pay any penalty (Copy enclosed as Annexure A/V).

4. That on dated 2/7/2020, a letter from the office of SDO@ Nalagarh was received in the office of DFO Nalagarh vide his office No.SDO@ NLG/Misc./2020/ 492-93 dated 16/3/2020 with subject, "मेन रोड से गांव प्लासी तक सड़क को पक्का न होने वाले शिकायत" and enclosed with it a representation of the local villagers of Village Bir-plassi, a letter No.Ind/SWCA/BD/ESP/3536 dated 31/1/2020 from Dy. Director Industries, SWCA Baddi to SDO@ Nalagarh stating his inability to take liability to pay penalty with respect to the violation of FC Act, 1980, and a letter No.BBNDA-06(Project)AE-I/SDM/Loose file- 11370 dated 26/10/2019 from the office of CEO BBNDA Baddi addressed to the SDM Nalagarh vide which CEO BBNDA clearly states that *"the subject cited road pertains to Industry Department. Earlier this road was made pucca by Industry Department. This road falls in the Forest Land. Now, the case has been prepared by BBNDA for NOC of Forest Department under FCA. The Forest Department has desired to give undertaking to pay penalty, if any, imposed by Ministry of Forest and Environment for violation under FCA. This office has asked the Industry Department to give undertaking as above as the road pertains to them. The BBNDA will take up the work of this road only after clearance under FCA. Hence, further necessary action may kindly be taken accordingly at your level please."* (Copy enclosed as Annexure A/VI)Subsequently, Divisional Forest Officer, Nalagarh Forest Division directed his Assistant Conservator of Forests, Nalagarh for enquiry and report into the matter vide his office endst. No.2397-98 dated 14/7/2020.

5. That in compliance of the directions of the DFO Nalagarh contained in his office endst. No.2397-98 dated 14/7/2020, ACF Nalagarh conducted the detailed enquiry and following relevant facts emerged during the course of enquiry, as under:-

- (a) The road is Kachha, potholed and raised considerably from the adjacent land profile.
- (b) 'A local resident, Shri Harbhajan Singh S/O Shri Hardyal Singh of vill. Bir-plassi stated that he was elected as Pradhan of Panchayat Plassi Kalan from the years 2005 to 2010. He also pressed hard to make the road in question a pucca road then the Industrial units established along this

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road collected Rs.17,00,000.00 and Rs.17,00,000.00 was granted by HPSIDC and this road was constructed. Further, a local resident who wishes to stay anonymous provided Photostat copies of some documents which reveals that the construction of this road may have taken place in the year 2006-07 in Public-Private partnership mode by the **HP State Industrial Development Corporation and M/S Asian Cement Company, M/S Aimil Pharmaceuticals, M/S Purna Pharmaceuticals and M/S Rupana Paper Mills.** (copy enclosed as Annexure VII)

6. That DFO Nalagarh vide letter No.RK/Compl./3316 dated 13/8/2020 and further reminded vide No.3674 dated 25/8/2020 requested CEO BBND A to provide the relevant documents regarding the ibid road constructed and made pucca by the Industry Department but no response has been received till date.

7. That DFO Nalagarh also requested Deputy Director Industries, SWCA Baddi vide letter No. FCA/Road/5386 dated 28/10/2020 to make available the record of expenditure of funds incurred in PPP mode for the construction of ibid road. He was further reminded vide letter No.FCA/Road/9262 dated 04/02/2021.

8. That the Dy. Director Industries, Single Window Clearance Agency (SWCA) , Distt. Solan vide its Endst. No. Ind/SWCA/BD/EM-II/Misc/ 6792 dated 12.02.2021 provided the record enclosing following documents:

S. No.	Subject Matter	Particulars of Reference	Remarks
1	Implementation of Works under PPP Format	Vide letter no. Ind.Dev.F(16)-ASIDE(SLEPC)2005 From the Director of Industries to : 1.M/S AIMIL Pharmaceuticals 2. M/S Purna Pharmaceuticals 3. M/S Rupana Paper Mills, Village Dherowal, Nalagarh Ropar Road Via Ghanauli Tehsil Nalagarh Distt. Solan	
2	C/o road taking off from Nalagarh-Ropar road to Asian Cement Factory and other units to facilitate the E.O. Units at Nalagarh, Distt. Solan (HP) (Under ASIDE Scheme)	Vide letter no. HPSIDC/Engg/460/2000-982 dated 08.05.07 from Superintending Engineer to the Executive Engineer, HPSIDC Limited, Industrial Area Baddi, Distt. Solan	
3	Construction of road taking off from Nalagarh-Ropar road to Asian Cement Factory and other units to facilitate the E.O.	Vide letter no. HPSIDC/EE/121/02-955-59 dated 09.07.07 from Executive Engineer to Sh. Rakesh Vij. Govt. Contractor, Vij House, Chhota Shimla, Distt. Shimla	

	Units at Nalagarh, Distt. Solan (H.P.) (Under ASIDE Scheme/PPP Scheme)		
4	SCHEDULE OF QUANTITIES Work : Construction of road taking off from Nalagarh - Ropar road to Asian Cement Factory and other Units to facilitate the E.O. Units at Nalagarh, Distt. Solan (Under ASIDE Scheme)	From Executive Engineer, HPSIDC Ltd, Baddi, Distt. Solan (HP)	Enclosed drawing of road with Schedule of Quantities
5	3 rd and final bill for the work construction of road taking off from Nalagarh Ropar road to Asian Cement Factory and other units to facilitate the E.O. units at Nalagarh Distt. Solan (HP) (Under PPP Scheme)	Vide letter no HPSIDC/EE/121/02 336 dated 05.05.08 from The Executive Engineer, HPSIDC Ltd, Baddi Distt. SOLAN (HP) to the Superintending Engineer, HPSIDC Ltd New Himrus Building Shimla 171001	Enclosed third and final bill comprising six pages

These all are enclosed as **Annexure VIII**)

9. That as the offence has occurred before the proposal for clearance as per the provisions of FC, Act 1980 was submitted, the offence needs to be dealt under the provisions of the IFA, 1927 as per FCA handbook 2019 issued vide letter no. F.No.5-2/2017-FC by AIGF (FC), MOEF&CC Government of India (relevant section rule enclosed As **Annexure A/IX**). The un-authorized construction of road in the forest land is blatant violation of section 32 and 33 of Indian Forest Act, 1927.

10. That therefore the complainant is now filing the present complaint before this Hon'ble Court for entertaining and trying the accused in accordance with law. This Ld. Court is empowered to entertain and try such forest offences as envisaged under section 33 of the IF Act, 1927. Hence this complaint.


11. That no other complaint has been filed or is pending in the matter in any other Court of Law.

12. That the Demarcated Protected Forest Birplassi is notified as protected forest vide notification no. 2133-Ft.60/1779 dated 10th March 1960 and falls within the territorial jurisdiction of this Hon'ble Court.

13. That no permission/ NOC has been obtained from the office of DFO Nalagarh for the construction of road referred in the ibid complaint. (enclosed as Annexure X)

14. That the Court fee amounting to Rs .8/- is affixed on the complaint.

It is, therefore, prayed that keeping in view the above facts and circumstances of the case, it is humbly prayed that the present complaint may kindly be entertained and offender may be summoned through the process of this Ld. Lower Court and may kindly be punished as per the law, in the interest of justice and fair play.


Complainant
Range Forest Officer
Nalagarh Forest Range
Nalagarh, U.P. Range 4101

Affidavit in support of Application for exemption under section 200 of CrPC 1973

1. I, Prem Kumar son of Sh. Ram Rakhu aged 56 years presently posted as Range Forest Officer, Nalagarh Forest Range, Tehsil Nalagarh, Distt. Solan H.P. do hereby solemnly affirm and declare that the application under section 200 of CrPC 1973 has been prepared at my instance and under my instructions contained in para 1 to 4 are true and correct to the best of my personal knowledge and beliefs. No part of it is false and nothing material has been concealed therein.
2. I hereby further verify that the contents of this affidavit are also true and correct, no part of it is false and nothing material has been concealed therein.

Verified at Nalagarh on dated


Complainant
Range Forest Officer
Nalagarh Forest Range
Nalagarh H.P. 174101
Forest Range Nalagarh