

To,
The Conservator of Forests,
Ballari Circle, Ballari.

Sir,

Sub: Ex-post facto approval for already established Wind Mill of 0.95 MW WindPower Project of M/s Ramgad Minerals & Mining Limited at Guddadarangavvanahalli, Kasaba Hobali, Chitradurga Taluk and District. **(Proposal No. FP/KA/WIND/38530/2019).**

Ref :1 Online communication to this office dated: 13-12-2019.

2 This office even letter dated:28-02-2020, 29-07-2020 and 15-11-2023.

3 EDS dated:03-04-2024 of Principal Chief Conservator of Forests (Head of Forest Force), Aranya Bhavan, Bengaluru.

4 EDS dated:15-06-2024 of Conservator of Forests, Ballari Circle, Ballari.

* * * * *

With reference to the above subject, M/s Ramgad Minerals & Mining Ltd., Baldota Enclave, Abheraj Baldota Road, Hosapete Taluk, Ballari District has submitted a proposal under Section-2 of Forest (Conservation) Act, 1980 through web portal mode for diversion of 2.63 ha of forest land in G.R. Halli Section-4 Area in Chitradurga Range, Chitradurga Division for Ex-post facto approval of established 01 each windmill each of 0.95 MW Wind Power project. Accordingly, a communication through online was received to process the said proposal and to submit specific opinion of the undersigned.

The report on this proposal has already been submitted by this office vide reference (2). The Principal Chief Conservator of Forests (Forest Conservation) and Nodal Officer (FCA), Aranya Bhavan, Bengaluru and your kind office has instructed to submit a report to the following points vide reference (3) and (4).

In this regard, verified the documents with reference to the proposal. Therefore, I am herewith submitting the following information for your kind information and necessary action.

.... 2

SI No	Particulars	Compliance
8	Action taken by the State Government on violation of FC Act, 1980, any report has been made to MoEF&CC based on this office letter No.F©A/11.6/GEN/KAR/345 dated:11-07-2017.	Detailed report submitted in Para-1

Para-1

2. FC Violation and connected issues.

The Government of Karnataka (Food and Forest Department) vide Notification No.FFD 272 FAF 78 Dated: 21-04-1979 under section-4 of the Karnataka Forest Act, 1963 had declared that it had been decided to constitute an area of 500 Acre (202.34 ha) in Sy No. 97, 98 and 99 of Guddarangavvanahalli village, Chitradurga Taluk and District as Reserve Forest. These Survey numbers had 267-13 Acre, 357-38 Acre and 27-25 Acre land respectively (totalling to 652 Acre 36 Gunta) as Reserve Forest.

Further, based on the permission accorded by Government of Karnataka vide order No. RD 41 LGC dated:06-05-2002, the Deputy Commissioner, Chitradurga District vide official Memorandum No.LND/CR/192/2001-02 dated:06-07-2002 granted a total of 24 Acre 18 Gunta of land in Guddarangavvanahalli Village (11 Acre 25 Gunta in Sy No. 97 and 12 Acre 33 Gunta in Sy No. 98) on lease basis to Karnataka Renewable Energy Development Limited (KREDL) for sub leasing to M/s NEG Micon (India) Pvt., Ltd., As per this O.M. there was 258-33 Acre of Gomal land in Sy NO. 97 and 357-38 Acre Gomal Land in Sy No. 98 and 500 Acre out of this land was given to the Forest Department, while 15-20 Acre land has been disposed of and thus totally 99-11 Acre of land was remaining in Sy No 97 and 98.

Subsequently, M/s KREDL entered into the sub-Lease Deed for temporary occupation of Land for development of wind form with M/s RMML on 07-05-2004 for a period of 30 years w.e.f. 16-08-2002.

Later on, the Forest Department registered a Forest Offence Case (FOC) vide No.9/2010 on 01-10-2010 against M/s NEG Micon (India) Pvt., Ltd., for having established 12 windmills, formation of approach road transmission line, power generation rooms, etc., under provisions of the Karnataka Forest Act, 1963 and Rules 1969. Hon'ble Principal Civil Judge and JMFC Chitradurga Court vide order dated: 12-05-2011 restrained the Respondent, i.e., M/s NEG Micon (India) Pvt., Ltd., from entering the land where the wind mills were located.

The Assistant Conservator of Forests, Chitradurga Sub-division issued a Notice under section 64A of the Karnataka Forest Act, 1963 to M/s MSPL (the sister concern which also has wind power project on adjoining piece of land under similar circumstances) on 19-08-2011 why it should not be evicted from the land in question.

Aggrieved by it, M/s MSPL and M/s Ramgad Minerals & Mining Ltd., (RMML) both the companies having corporate office at the same location i.e., Baldota Enclave, Abheraj Baldota Road, Hosapete, Ballari District) filed W.P.No. 46599-600/2011 in the High Court of Karnataka.

The Hon'ble High court vide order dated:23-12-2011 permitted the Petitioners (including M/s RMML) to recommence the operation of the wind turbines subject to further negotiations and discussions which the Petitioners and Respondents shall hold and a final decision shall be taken by the Respondents (State Government) within 30 days.

However, the Forest Department challenged the legality and correctness of the order passed by the Single Judge in Writ petition Nos.46599-46600/2011 dated: 23-12-2011, in Writ Appeal No.1359/2012 (GM-FOR) and Writ Appeal No.2907/2012 and the Hon'ble court in its judgement dated:06-03-2013 passed the following order:

"12. In the circumstances the writ appeals are allowed. The order of the learned Single Judge passed in the aforesaid two writ petitions on 23rd December, 2011 is hereby quashed. The 2nd respondent-Principal Chief Conservator of Forests or anybody authorized by him under law shall hear the writ petitioners in detail and take action in accordance with law. Thereafter it is open for the petitioners to challenge the same in the manner known to law.

13. The Government to take a decision within a period of 3 months from today till that time writ petitioner's are permitted to run the wind mills."

In compliance of the above orders of the Hon'ble High Court of Karnataka, this office vide letter dated:06-05-2013 authorized the Chief Conservator of Forests, Ballari Circle, Ballari to hear the petitioners and to take action in accordance with law. Accordingly, the chief Conservator of Forests, Ballari Circle Vide Proceedings dated:13-08-2013 ordered that:

"After careful consideration of the matter, it is decided to direct Deputy Commissioner, Chitradurga District and Deputy Conservator of Forests, Chitradurga Forest Division, Chitradurga to call representatives of 1)KREDL, Bengaluru, 2) MSPL, Hospet, 3) RMML, Hospet 4) Vistas Wind Technology, Chennai (erstwhile M/s NEG Micon (India) Pvt., Ltd.,) to jointly arrive as to the location of the lease grant area and whether and how much area is covered by notification under Section-4 of the Forest Act. A joint survey, if required, shall also be carried out. In the end, if it is arrived that the lease grant area falls within the forest area so notified under Section-4 of the forest Act, then Forest Authorities shall be free to take further action under section-64A of the Karnataka Forest Act, 1963; if the company do not agree to seek post-facto approval under Forest (Conservation) Act, 1980. The above process shall be completed with 3 months from the date of receipt of this order.

....4

The responsibility of the same primarily lies on Deputy Commissioner, Chitradurga District and the respondents. If this order is not complied within the stipulated time, then Forest Authorities shall be free to proceed in accordance with the provisions of the Forest Act. Till then Forest Authorities are instructed not to take any adverse action against the running of the Wind Turbines".

The Deputy Conservator of Forests, Chitradurga Division issued the final notice dated:20-02-2017 addressed to M/s RMML Limited, Hosapete regarding violation of Forest (Conservation) Act, 1980, in setting up of Wind Turbines at G.R. Halli Forest Sy No. 97, 98 and 99 and diverted to get the ex post facto sanction or otherwise face action as per law.

Further, the Principal Chief Coservator of Forets, Bengaluru office vide Notice dated: 20-03-2017 to M/s MSPL directed to submit proposal under the provisions of Forest (Conservation) Act, 1980 on or before 31-03-2017.

However, the User Agency failed to submit a proposal under Forest (Conservation) Act, 1980 citing various reasons and instead requested to resolve land ownership issues.

In View of the inadequacy of the action on the part of User Agency, the Principal Chief Coservator of Forets, Bengaluru office vide letter dated: 11-05-2017 reported the matter to the Government of Karnataka (*Marking a copy to Government of India and also to the User Agency*) to move the matter with Government of India for taking necessary action as per Section 3A & 3B of the Forest (Conservation) Act, 1980 and provisions laid at Rule-9 of Forest (conservation) Rules, 2003.

Based on the report submitted the Principal Chief Coservator of Forets, Bengaluru office, the Government of India vide letter dated:11-07-2017 directed to take necessary action under the provisions of State Forest Act and has also suggested that 'if the State Government is fully convinced that the provisions of Forest (Conservation) Act, 1980 have been violated, then a detailed report clearly mentioning the nature of offence, the persons responsible for allowing offences, with all relevant details may please be sent to this office, so that appropriate action can be taken against the officials responsible for violation of the act'. *The same was reiterated by the State government vide letter dated:05-06-2018.*

In response, the Chief Conservator of Forests, Ballari circle vide letter dated:23-10-2018 reported to the Principal Chief Coservator of Forets, Bengaluru office that owing to non-compliance of the earlier proceedings dated:13-08-2013 (*passed by the then chief conservator of Forests, Ballari Circle*) by the Deputy Commissioner, Chitradurga District even after a lapse of 5 years, he has conducted the meetings on 25-09-2018 and 05-10-2018 with the officers of Revenue Department and Forest Department and also the connected User Agencies in order to resolve the issue. Based on the Joint Survey Report signed and submitted by the Deputy Commissioner Chitradurga, the Chief Conservation of Forests, Ballari Circle concluded that the total area held by M/s MSPL is undoubtedly falling in the Section -4 notified area wherein the non-forestry activities attract the provision of Forest conservation Act, 1980.

M/s RMML submitted an online application No.FP/KA/WIND/38530/2019 on 30-01-2019 seeking diversion of forest land involved in the above mentioned wind power project (the sister concern M/s MSPL also submitted a similar FC Proposal No. FP/KA/WIND/38582/2019).

This proposal is already commissioned project and it is under running. Hence, hereby submitting the report as above for your kind perusal and further needful.

Yours Faithfully,

Sd/-

Deputy Conservator of Forests,
Chitradurga Division, Chitradurga.

1. **Copy Submitted to the** Principal Chief Conservator of Forests, Forest Conservation and Nodal Officer FCA, Aranya Bhavan, Bengaluru for kind perusal.
2. **Copy to the** M/s Ramgad Minerals & Mining Ltd., Baldota Enclave, Abheraj Baldota Road, Hosapete - 583 203 Vijayanagara District.

Deputy Conservator of Forests,
Chitradurga Division, Chitradurga.

ಕುರಿತು.
03-7-2019