

प्रेषक,

आशीष तिवारी,
विशेष सचिव,
उ0प्र0 शासन।

सेवा में,

✓ उप वन महानिरीक्षक,

भारत सरकार पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय,
इन्दिरा पर्यावरण भवन अलीगंज, जोरबाग,
नई दिल्ली-110003

पर्यावरण, वन एवं जलवायु परिवर्तन अनुभाग-2 लखनऊ, दिनांक 10 नवम्बर, 2020

विषय:- Diversion of 115.874 ha. of forest land in favour of M/s Jaipraksash Associates Ltd. for proposed diversion of forest land at village Kota in Tehsil Robertsganj, district Sonbhadra for JP Super Cement plant & it's township (a unit of Jaipraksash Associates Ltd. Sector 128, Noida) in district Sonbhadra, state Uttar Pradesh-reg.

महोदय,

उपर्युक्त विषयक अपने पत्र संख्या-एफ-8-07/2019-एफसी, दिनांक 06.08.2020 का कृपया सन्दर्भ ग्रहण करें, जिसके माध्यम से जनपद सोनभद्र में ओबरा वन प्रभाग में मै0 जय प्रकाश एसोसिएट्स द्वारा ग्राम-कोटा में जे0पी0 सुपर सीमेन्ट प्लान्ट व आवासीय क्षेत्र स्थापना हेतु 115.874 हे0 आरक्षित वनभूमि के गैरवानिकी प्रयोग के सम्बन्ध में कतिपय आपत्तियों के निराकरण किये जाने की अपेक्षा की गई है।

2- विषयगत प्रकरण से सम्बन्धित कतिपय आपत्तियों के निराकरण हेतु Joint Site Inspection Report प्राप्त की गई, जिसमें अंकित तथ्यों/सूचनाओं के अनुसार आपत्तियों के निराकरण राज्य सरकार से किये जाने की अपेक्षा की गई है। उक्त प्रकरण में आपत्ति के निराकरण से सम्बन्धित Joint Site Inspection Report भारत सरकार, पर्यावरण, वन एवं जलवायु मंत्रालय, अलीगंज लखनऊ के पत्र संख्या-8बी/यूपी/09/1117/2019/एफसी/1015, दिनांक 05.11.2020 द्वारा प्रेषित की जा चुकी है।

3- प्रश्नगत प्रकरण में आपत्तियों के निराकरण से सम्बन्धित Joint Site Inspection Report की छायाप्रति प्रेषित करते हुए मुझे यह कहने का निदेश हुआ है कि आपत्ति


संख्या-1(a) के सम्बन्ध में अंकित निम्नवत चार्ट में कुल योग-46.92 अंकित है। उक्त सूचना प्रभागीय वनाधिकारी के पत्र दिनांक 19.10.2020 (संलग्नक-10) में अंकित डाटा के आधार पर है। उक्त तालिका में कुल योग-46.92 अंकित है, जो कि त्रुटिपूर्ण है। वास्तव में कुल योग-41.92 है। अतः तालिका में अंकित मद का कुल योग-41.92 माना जाय:-

Patch	Khasra No	Area construction/ Total Area plot (in ha)	Activity
I	2576 K	0.2/1.50	Partly constructed building of CBSE
II	3200	35.76/35.76	Super Cement Plant
	3198	2.96/21.10	Road
	3199	3.0/21.25	Road
	Total area	41.92/79.61	

कृपया तदनुसार अपेक्षित आवश्यक कार्यवाही सुनिश्चित कराने का कष्ट करें।

संलग्नक : यथोक्त।

भवदीय,



(आशीष तिवारी)
विशेष सचिव।

संख्या एवं दिनांक तदैव।

प्रतिलिपि : निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. उप वन महानिरीक्षक (केन्द्रीय), भारत सरकार पर्यावरण वन एवं जलवायु परिवर्तन मंत्रालय, क्षेत्रीय कार्यालय, केन्द्रीय भवन, पंचम तल, सेक्टर एच अलीगंज विस्तार, उ०प्र० लखनऊ।
2. मुख्य वन संरक्षक/नोडल अधिकारी, उ०प्र० लखनऊ।
3. मुख्य वन संरक्षक, मीरजापुर क्षेत्र मीरजापुर।
4. प्रभागीय वनाधिकारी, ओबरा वन प्रभाग, ओबरा।
5. श्री रामराज बाली, अधिकृत प्रतिनिधि, जे०पी० एसोसिएट्स लि०, सेक्टर-128, नोएडा।
6. गार्ड फाइल।

आज्ञा से,


(आर० पी० सिंह)
अनु सचिव।

Joint Site Inspection Report

(Diversion of 115.874 ha forest land in favour of M/s J.P. Associates Ltd.
at Village Kota in Tehsil- Robertsganj, District -Sonebhadra.)

- A. According to FAC meeting held on 13 July, 2020, the Ministry of Environment, Forests and Climate Change, Government of India, New Delhi vide its letter No. 8-07-019-FC dated 06.08.2020 has directed to inspect jointly on the violation for diversion of 115.874 ha forest land at Village Kota, Tehsil- Robertsganj, District-Sonebhadra, Uttar Pradesh.
- B. The State Government vide letter No. 1924-81-2-2020-800(162)/2018 dated 17.09.2020 has forwarded the relevant information to this office, wherein a detail report of the Chief Conservator of Forests, Mirzapur Mandal, Mirzapur is enclosed. It means the State Government agrees with the comments and contents of the said letter. (Copy of the report is enclosed for your ready reference as **Annexure- I, page 1-58**).
- C. State Government of Uttar Pradesh vide its letter dated 17/9/2020 nominated Chief Conservator of Forests/ Nodal Officer, Uttar Pradesh for joint inspection.
- D. Team comprising of Nodal Officer/ Chief Conservator of Forests, Uttar Pradesh State nominee visited the designated site on 07 October, 2020 along with CCF, Mirzapur Mandal, DFO, Obra and the officials of M/s Jaiprakash Associated Limited (commonly explained here as M/s JAL).
- E. Uttar Pradesh Cement Factory, Dala was established on two separate patches – Patch 1 having a total area 20.804 ha in five Gatas and Patch 2 is 95.07 ha. also in five Gatas. During site visit, it was seen that Patch 1 is old township having residential premises, Inter-college, hospitals, guest house, roads for the factory's employee and semi constructed CBSE school building. Patch 2 consists of Super Cement Plant, road, old conveyor belts, ropeway and forests. Copy of the project proposal page/ 64 is enclosed as **Annexure II- page -59**.
- F. The team, after careful analysis of factual data available in the office, produced by the State Government of Uttar Pradesh and site inspection, established that there is violation of the Forest (Conservation) Act, 1980 in the area.

There are mainly 5 points wherein report is sought from the Regional Office. The point-wise report is as under:

- 1(a) **The status of forest proposed for diversion and extent of violation of Forest (Conservation) Act, 1980.**
- i) According to the Part-I and Part-II of the proposal No. FP/UP/IND/23246/2016 submitted in the office, the status of proposed forest land is 115.874 ha as Reserve Forests vide Notification no. 1142/14-2-2016 –

20(4)/ 2016 dated 23/6/2016, situated in Village – Kota, Tehsil- Robertsganj, District – Sonbhadra, Uttar Pradesh.

- ii) The details of the khasra-wise land as explained in the proposal at page/ 77 is as under :

Patch	Khasra	Area (in ha)	Description
I	933 KA	12.46	This patch is having residential quarters, power substation, play ground, guest house, hospitals, Inter college, ITI College, internal road networks, created by Uttar Pradesh State Cement Corporation Limited. A half constructed CBSE School is also seen.
	2676 A	1.50	
	2602	6.604	
	2604	0.14	
	2607	0.10	
	Subtotal	20.804	
II	3198	21.10	This patch is having Super Cement Plant, Road, Conveyor structure, ropeway
	3199	21.25	
	3200	35.76	
	3108	4.11	
	3202	12.85	
	Sub total	95.07	
	Grand Total	115.874	

- iii) Old construction in patch I can be seen in Hon'ble NGT order dated 04 May, 2016 in M.A No. 1166 & 1169 of 2015 (page 26 – **Annexure III, page 60-61**) wherein it is said that the Government Cement Factory had carried out mining activity uninterrupted since 1954 till the production was stopped in 1999-2000 in the freehold, UPCCL established township, administrative offices, township for employees, hospital, schools, stackers, reclaimers etc.

Extent of Violation

There are two broad scenario of extent of violation of Forest (Conservation) Act, 1980, which are as under :

Scenario - 1

- (i) Under Para-11 of Part –II, the extent of violation of Forest (Conservation) Act, 1980 is 115.874 ha (copy of both the pages are enclosed as **Annexure –IV- page 62-63**). This proposal was duly endorsed at every level upto State Government of Uttar Pradesh.
- (ii) The Regional Office vide its earlier report in point No.8 through file No. 8A/UP/09/1177/2019/FC-390 dated 31.07.2019 has explicitly mentioned about the violation which is reproduced as under :
“Violation of Forest (Conservation) Act, 1980: The exclusion of forest land in question from purview of Section 4 and Section 20 of Indian Forest Act by State authorities and construction of JP Super Cement Plant in the year 2007 without obtaining permission under FC Act is in violation of the provisions of

Conservation Act, 1980. Development of Township on the forest land was done in the year 1976 i.e. prior to enactment of Forest Conservation Act, 1980. Though the Cement Plan is not in operation but existence of residential quarters of company's employees and continued use of other infrastructures without Forest clearance is also in violation of FC Act. The above violations have taken place prior to submission of application/proposal of forest diversion which needs examination in the light of recent guidelines of the Ministry regarding violations of FC Act issued vide letter No. 11-42-2017(FC) dated 29.01.2018."

- (iii) The above quoted text has again mentioned about the development of township on forest land in the year 1976, which is actually in Patch I.
- (iv) State Government in its report dated 17/9/2020 has furnished the status of non-forestry activities including construction as in 2020 is as under :

Sl No.	Land use	Area in ha
1	Factory premises	30.954
2	Plantation	77.514
3	Road	5.96
4	Settlement	1.199
5	Culvert	0.248
	Total area	115.874

Under Scenario- 1, entire 115.874 ha proposed reserve forest land for diversion is under violation of Forest Conservation Act, 1980.

Scenario- 2

According to the facts available in the Regional Office, documents produced by State Government, State Forest Department, Site Inspection and the proposals submitted for diversion, following facts are important to quantify the extent of non-forestry activity viz. violation of Forest Conservation Act, 1980 .

- a) DFO, Obra in his letter dated 25/7/2010 had reported (copy enclosed as **Annexure – V, page 64-65**) that no construction is seen in Gata number 3206, 3211 and 3212 and there was old constructed structure in Gata no. 3200.
- b) Regional office, Central Region, Lucknow in its letter no. II/1119/CEC/2009/1077 dated 19.01.2011 has asked the CCF, Mirzapur Mandal field official to stop illegal construction being carried out in Gata no. 3200 (cement plants) and roads were under construction in Gata no. 3211 & 3212 (Copy enclosed as **Annexure – VI, page 66 -70**)
- c) During Site inspection, a semi-constructed CBSE School building seen in Patch 1, the Photograph enclosed at **Annexure- VII , page71-72.**

- d) A structure called Super Cement Plant along with road is there in Patch II. The photograph is at **Annexure – VIII(a), page 73-74**. Super cement Plant is established on the land where UPCCL construction was existing.
- e) Natural Dense Forests because of secured area are seen on hillocks and the photograph is at **Annexure VIII(b), page 75 -76**.
- f) According to a letter dated 19 October 2020 of DFO, Obra, (Copy enclosed at **Annexure IX, page 77**) the construction made during 2008 onwards by M/s JAL, area and gata details of the construction explained at point number (c & d) above is tabulated as under :

Patch	Khasra Number	Area of construction/ Total Area of plot(in ha)	Activity
I	2576 K	0.2 / 1.50	Partly constructed building of CBSE
II	3200	35.76 / 35.76	Super Cement Plant
	3198	2.96 / 21.10	Road
	3199	3.0 / 21.25	Road
	Total area	46.92/ 79.61	

- (h) Report says that the Cement Plant is established in Gata No. 3200. Total area of the said Gata is kept under violation.

So the total area constructed by M/s JAL since 2008 is (0.2 +35.76 +2.96+3.0=46.92 ha) 46.92 ha and team is of the view that this area may be treated as violation under Forest Conservation Act, 1980.

- 1(b) *Extent of forest area within the proposed area of diversion where violation under Forest (Conservation) Act, 1980 has been done.*

The extent of forest area within the proposed area of diversion, where violation under Forest Conservation Act, 1980 is 46.92 ha as explained in Scenario no. 2 above.

- 1(c) *Suitability of site proposed for compensatory afforestation vis a vis DSS analysis report.*

- (i) According to the point 3.2 of part-I of the proposal, the total non forest area proposed for compensatory afforestation is 115.874 ha.
- (ii) After DSS analysis The Ministry vide its letter dated 25.03.2019 (Copy Enclosed as **Annexure –X, page 78**), it was found that the approximately 26 ha of land was falling within water bodies and accordingly requested the State Government of Uttar Pradesh to provide additional CA area of 26 ha.
- (iii) The Government of Uttar Pradesh vide its letter 1126/81-2-2020-800(162)/2018 dated 18 June 2020 had sent a detailed proposal along with map and suitability for plantation under CA, where in it was proposed

degraded forest land in Paraspani Compartment no. 3 of Dala Range, Obra Forest Division. This additional area is suitable for plantation.

- (iv) Regional Office has requested the State Government on 25 September & 29 October 2020 to provide KML File of additional CA area of 26 ha., so that after DSS analysis suitability of the additional CA areas will be ascertained.
- (v) The State of Uttar Pradesh has furnished KML file for additional compensatory afforestation on 19 October 2020, where some discrepancies was noticed. Subsequently, State Government was further requested to send revised KML File which was sent on 3 November, 2020. Copy of the letter is at **Annexure XI, page 79.**

The DSS report dated 4/11/2020 of the Regional Office states that the proposed area, (i.e Paraspani Compartment no. 3 of Dala Range, Obra Forest Division) is 31.96 ha and 28 ha area is suitable for compensatory afforestation (Copy of the DSS Report dated 4/11/2020 is enclosed as Annexure-XII, page - 80).

1(d) Any other information relevant on the proposal:

Hon'ble National Green Tribunal has passed a detailed order on 4 May, 2016 in M.A No. 1166 & 1169 of 2015.

2. The State Government shall provide the details of the construction activity carried out on proposed forest area for diversion by User Agency after Hon'ble NGT order in OA No. 494 of 2015 dated 04.05.2016.

As mentioned in point 1(d) Scenario 1 point no. (iv), the State Government vide its aforesaid letter, wherein Chief Conservator of Forest's report is enclosed, states about the construction activities carried out on the forest land, which is as under:

Sl.No.	Land use	Area in Ha
1.	Factory premises	30.954
2.	Plantation	77.514
3.	Road	5.96
4.	Settlement	1.199
5.	Culvert	0.248
	Total area	115.874

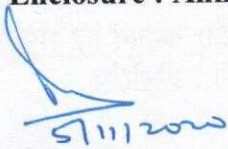
3. Present position status of remaining forest area outside the proposed area for diversion i.e. 1083.203 ha – 115.874 ha =967.1146 ha

As per the report of Chief Conservator of Forests, Mirzapur Mandal, Mirzapur, the remaining 967.329 ha land has been notified as Reserved Forest under Section 20 of the Indian Forest Act, 1927.

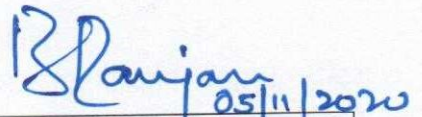
4. Any other relevant information:

- (i) The annual report of the U.P. State Cement Corporation Ltd. (1973-74) is enclosed in the reply of the State Government stating that the Company has completed two years of its working on 31st March, 1974.
- (ii) No work could take place since 4th May, 2016, i.e after the promulgation of NGT order.
- (iii) Hon'ble National Green Tribunal in M.A No. 1166 of 2015 and M.A. No 1169 of 2015 vide its order dated 04 May, 2016 at page 60 through its Amicus curie has said that prior approval of the central government under section 2 of the F C Act is required.
- (iv) Under justification for locating the projects at page 79 stipulates that the total township of Dalla Cement Factory comprising above mentioned facilities were in possession of UPCCL since 1976.
- (v) According to report dated 18 June 2020 of the State Government sent to the Ministry, (Copy of the said letter is enclosed as **Annexure – XIII, page 81-86**). M/s JAL had used the land for construction of structures like school, cement plant , roads when it was carved out from section 4 of Indian Forest Act, 1927 during settlement by then Forest Settlement Officer. The said proceeding of the FSO for exclusion of land notified under section 4 of Indian Forest Act, 1927 were declared null and void by Hon'ble National Green Tribunal in its order dated 4 May, 2016 and subsequently excluded land again notified as Reserve Forest under section 20 of Indian Forest Act.

Enclosure : Annexure I to XIII (01 to 86 Pages)


5/11/2020

Pankaj Misra, IFS
Chief Conservator of Forests/
Nodal Officer, Uttar Pradesh
LUCKNOW


05/11/2020

Bivash Ranjan, IFS
Dy Director General of Forests/
Regional Officer,
Integrated Regional Office
Lucknow