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## GOVERNMENT OF KARNATAKA

ಪ್ರಧಾನ ಮುಖ್ಯ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ  
(ಅರಣ್ಯಪಡೆ ಮುಖ್ಯಸ್ಥರು) ರವರ ಕಛೇರಿOffice of  
Principal Chief Conservator of  
Forests  
(Head of Forest Force)

ಅರಣ್ಯಭವನ, 18 ನೇ ಅಡ್ಡರಸ್ತೆ

ಮಲ್ಲೇಶ್ವರಂ, ಬೆಂಗಳೂರು-560 003

AranyaBhavan, 18th Cross,

Malleshwaram, Bengaluru-560 003

Telephone : 080 2334 6472

Email : apccffc@gmail.com

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E-office File No. KFD/HOFF/A5-2(GFL)/23/2019-FC.

Date 09-12-2024

To,

The Additional Chief Secretary to Government,  
Forest, Environment and Ecology Department,  
M.S. Building, Bengaluru - 560 001.

Sir,

**Sub:** *Ex post facto* approval for diversion of 11.71 hectare of forest land in Guddadarangavvanahalli Village Sy No. 97, 98 and 110, Kasaba Hobli, Chitradurga Taluk and District for already established 8.55 MW Wind Power Project (with 9 Wind Mills) in favour of M/s MSPL Limited, Hosapete, Ballari District.

**Proposal No. FP/KA/WIND/38582/2019 [FORM-A].**

- Ref:**
- 1 This office letter of odd number dated 26-09-2020 [*seeking Stage-I approval*] and 19-01-2023 [*Communication of GOI EDS query*].
  - 2 Government of Karnataka letter No. FEE 33 FLL 2022 (e) dated 30-08-2022[*Communication of GOI EDS query*].
  - 3 Government of India, Ministry of Environment, Forests & Climate Change, New Delhi letter F.No. 4-KRB1344/2022-BAN/104 dated 20-04-2022[*EDS query*].
  - 4 Deputy Conservator of Forests, Chitradurga division letter No. A6/FC/MM/MSPL/CR-02-19-20 dated 01-07-2022 [*reply to GOI EDS query*].
  - 5 Chief Conservator of Forests, Ballari Circle letter No. M1: Windmill/Div/FL/CR-3/2020-21 dated 26-09-2024 [*reply to GOI EDS query*].

With reference to the above subject, this office vide Ref (1) letter dated 26-09-2020 had submitted the proposal to the Government of Karnataka seeking '*in-principle*' (Stage-I) *exposto facto* approval under Section 2 of Forest (Conservation) Act, 1980. Accordingly, Government of Karnataka vide Ref (2) has forwarded the same to the Government of India.

In response, the Government of India vide Ref (3) has sought certain information on eight specific points. Accordingly, this office vide ref (1) letter dated 19-01-2023 has communicated the government of India EDS query to the User Agency and field officers.

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In response, Deputy Conservator of Forests, Chitradurga Division vide Ref (4) has submitted the information/documents to the Chief Conservator of Forests, Ballari Circle and who has, in turn vide Ref (5) has submitted it to this office.

Based on the reports obtained from the User Agency and Field officers, the information is as follows.

Government of India to EDS query dated 15-07-2022		Remarks
1	Detailed report on violation, including officers responsible for violation.	The Detailed report on violation is submitted in PARA-I.
2	A copy Government of Karnataka (Food and Forest Department) notification No. FFD 272 FAF78 dated 21-04-1979 issued under section 4 if Karnataka Forest Act, 1963 declaring 500 (202.34 ha)/652 acres as reserved in Sy. 97, 98 &99 of Guddadarangavanahalli Village, Chitradurga Taluk and District along with map and status of final notification.	The copy of the Government of Karnataka (Food and Forest Department) notification No. FFD 272 FAF78 dated 21-04-1979 copy and map enclosed as <b>ANNEXURE -I and II.</b>  Further, the FSO, Dharwad has been issued the draft notification for declaring section-17 on 25-08-2023.  The final proposal is yet to be submitted.
3	A copy of Government of Karnataka order No. RD41LGC dated 06.05.2002 referred in the State Forest Department letter dated 22-02-2022.	The Tahsildar, Chitradurga Taluk, Chitradurga vide letter No. LND:CR:190/2001-02 dated 17-06-2022 (copy enclosed as ANNEXURE-III) stated that the copy of the Government of Karnataka order No. RD41LGC dated 06.05.2002 is not traceable.
4	A copy O.M dated 06-07-2022 issued by Deputy Commissioner Chitradurga, granting 24 acres and 18 gunta (11 acre 25 gunta in Sy. No. 97 and 12 acre 33 gunta) of land on lease basis to Karnataka Renewal Energy Development Ltd and the circumstances under which forest land was given and whether any condition was imposed to	The OM of the Deputy Commissioner Chitradurga is enclosed as <b>ANNEXURE-IV</b>

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	obtain approval under (FC) Act, 1980.	
5	Joint Survey Report of Revenue Department and Forest Department of the year 2002.	Joint Survey Report of Revenue Department and Forest Department of the year 2002 is enclosed as <b>ANNEXURE-V.</b>
6	Hon'ble Court orders in the connected matter.	Copy enclosed as <b>ANNEXURE-VI.</b>
7	The Chief Conservator of Forest, Ballari order dated 13-08-2013 referred in the State Forest Department letter dated 25-09-2021.	Copy enclosed as <b>ANNEXURE-VII.</b>
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(C) A /11.6/GEN/KAR /345 dated 11-07-2017.	The detailed report is given below in <b>PARA-I</b>

**PARA-1.****1. FC violation and connected issues:**

The Government of Karnataka (Food and Forest Department) vide notification No. FFD 272 FAF 78 dated 21-04-1979 issued 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 & 99 of Guddadarangavvanahalli Village, Chitradurga Taluk and District as Reserved Forest. These survey numbers had 267-13 Acre, 357-38 Acre and 27-25 Acre land respectively (totaling to 652 Acre 36 Gunta) as reserved forest.

Subsequently, the Government of Karnataka (Energy Department) vide order No. DE 26 NCE 99 dated 26-04-2000 allotted 19.5 MW Wind Power capacity to M/s Asian Wind Turbine Pvt Ltd at Bettadanagenahalli(*in addition to the power allotment made to other agency*) in Jogimatti Wind Zone in Chitradurga District subject to obtaining necessary statutory clearances from the respective authorities of Forest, Revenue and other relevant Government Department wherever necessary.

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The Government of Karnataka (Energy Department) vide letter No. DE 26 NCE 99 dated 21-01-2002 approved the amendment of name of the company as M/s NEG Micon (India) Pvt Ltd in place of M/s Asian Wind Turbine Pvt Ltd and also for change of site from Bettadanagenahalli to Guddadarangavvanahalli Village in Chitradurga District.

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/190/2001-02 dated 06-07-2002 granted a total of 24 Acre 18 Gunta of land in Guddadarangavvanahalli 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 State Land for development of wind farm with M/s RMML on 07-05-2004 for a period of 30 years w.e.f. 16-08-2002.

Later on, under provisions of the Karnataka Forest Act, 1963 and Rules 1969 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 wind mills, formation of approach road, transmission line, power generation rooms, etc.,. Hon'ble Principal Civil Judge JMFC Chitradurga 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 as to why it should not be evicted from the land in question.

Aggrieved by this, 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.

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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 Judgment 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 23<sup>rd</sup> December, 2011 is hereby quashed. The 2<sup>nd</sup> 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 petitioners 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 to hear the petitioners and to take action in accordance with law. Accordingly, the Chief Conservator of Forests, Ballari 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, Bangalore 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 grants 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 within 3 months from the date of receipt of this order. 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*

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*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 & 99 and directed to get the *ex post facto* sanction otherwise face action as per law.

Further, this 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, this office vide [ref-5] 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 Forest (Conservation) Act, 1980 and provisions laid at Rule-9 of Forest (Conservation) Rules 2003.

Based on the report submitted by this office, the Government of India vide ref (6) 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 that office, so that appropriate action could be taken against the officials responsible for violation of the act.’ The same was reiterated by the State Government vide ref (7) dated 05-06-2018.

Accordingly, this office vide letter dated 07-07-2018 directed the Chief Conservator of Forests Ballari to take action in the matter.

In response, the Chief Conservator of Forests Ballari vide letter dated 23-10-2018 reported to this 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

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Conservator 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.

In view of the final outcome of the legality of the land held by the User Agency (M/s MSPL / RMML) this office vide letter dated 27-11-2018 directed the Deputy Conservator of Forests Chitradurga (i) to take immediate action to stop the functioning and operation of the Windmills until the clearance under Section 2 of the Forest (Conservation) Act, 1980 is obtained; and (ii) to consult the local state Government authorities including ESCOM authorities and apprise the facts of the case to them so that the revenue being/ to be received by the User Agency concerned is withheld until clearance under Section 2 of the Forest (Conservation) Act, 1980 is accorded by the competent authority. The copy of the said letter was also marked to concerned authorities including User Agency.

Finally, the User Agency vide letter dated 26-12-2018 agreed to file an application for seeking forest clearance and requested not to stop the operation of the wind farms pending forest clearance. Subsequently, 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*).

Accordingly, this office vide letter dated 18-02-2019 directed the Deputy Conservator of Forests Chitradurga to permit the User Agency to undertake minimum required maintenance measures to keep the machines running while the application submitted by them seeking approval under Forest (Conservation) Act, 1980 is under process.

Further, in response to the letter dated 22-10-2019 of the User Agency requesting the BESCOM for releasing the withheld revenue, this office vide letter No. KFD/HOFF/A5-2(WP)/1/2018-FC dated 28-05-2020 has sought an undertaking from the User Agency agreeing to retain the amount by BESCOM as specified in the said letter and also to agree to retain 20% of amount that would be payable towards power purchase payment by BESCOM till final payment as per Stage-I clearance by Government of India. The undertaking is still awaited. However, as requested by the User Agency and considering the effects of covid -19 pandemic 80% of the amount withheld by BESCOM towards power purchase payment has been released to the User Agency in response to this office letter No. KFD/HOFF/A5-2(WP)/1/2018-FC dated 21-12-2021.

In view of the above, it is requested to move the matter with the Government of India, Ministry of Environment, Forests & Climate Change, (Forest Conservation Division), New Delhi for seeking the (Stage-I) approval under the Forest (Conservation) Act, 1980 for the project.

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The relevant documents in 3 sets are submitted here with for kind perusal and further action. The present status of the proposal obtained from the web-portal is also appended for necessary action.

Yours Faithfully

(Brijesh Kumar IFS)  
Principal Chief Conservator of Forests  
(Forest Conservation) and Nodal Officer (FCA)

1. Chief Conservator of Forests, Ballari Circle, Ballari for information.
2. Deputy Conservator of Forests, Chitradurga Division, Chitradurga for information and necessary action.
3. M/s MSPL limited, Baldota Enclave, Abheraj Baldota Road, Hospete, Ballari for information.