

Subject:- Forest Land-Raigad

Proposal for diversion of 9.78 ha. Restored Private Forest Land for construction of bungalows and residential buildings and other ancillary non-forest activities as "White Magic Project" at Village-Jambhivali, Tal-Panvel, Dist- Raigad.

PART - V

(To be filled up by the Secretary In charge of Forest Department or by any other authorized officer of the State Government not below the rank of an Under Secretary)

**1. Recommendation of the
State Government**

The proposal is recommended
vide Government letter

No.FLD-2019/ CR-45/ F-10

Dated: 28/03/2019

Virendra Tiwari

(Virendra Tiwari)

**Additional Principal Chief Conservator of Forest
(Mantralaya)**

VIRENDRA TIWARI

**Additional Principal
Chief Conservator of Forests (Mantralaya)
Revenue and Forest Department
Mantralaya, Mumbai 400 032**

Place : Mumbai

Date : 28/03/2019

Government of Maharashtra

By Speed Post

No.FLD-2019/ C.R.45/ F-10
Revenue and Forest Department,
Room No.456/461 Annex,
Hutatma Rajguru Chowk,
Madam Cama Marg,
Mantralaya, Mumbai- 400 032.
Date: - 28/03/2019

To,

✓ The Additional Principal Chief Conservator of Forests (Central),
Government of India,
Ministry of Environment, Forests & Climate Change,
Regional Office, West Central Region,
Ground Floor, East Wing,
New Secretariat Building, Civil Lines,
Nagpur- 440 001.

Subject:- Forest Land-Raigad

Proposal for diversion of 9.78 ha. Restored Private Forest Land for construction of bungalows and residential buildings and other ancillary non-forest activities as "White Magic Project" at Village-Jambhivali, Tal-Panvel, Dist- Raigad.

Sir,

The proposal is for diversion of 9.78 ha. of Restored Private Forest land for construction of bungalows and residential buildings and other ancillary non forest activities as "White Magic Project" at Village-Jambhivali, Tal-Panvel, District-Raigad. The details of land proposed for diversion are as under:-

Item	Village, Taluka & District	Survey No.	Area in Ha.	Legal Status
Area under Bungalows	Village-Jambhivali Taluka-Panvel District-Raigad	121/1A/2	1.0224	Restored Private Forest
Area under Residential Buildings			1.6509	
Area under Parking			0.5182	
Area under Internal Roads			2.2695	
Area under open space of Gardening and Amenities			1.467	
Area under open space of under surrounding of bungalows &			2.8519	
Total Area in Hectare			9.7800	

2. The proposal has been initiated by Mr. Sandeep Dapke, Sai Enterprises, Sudhagad-Pali, District-Raigad, authorized signatory of Shri. Kanaji Karamshi Patel & Ors 2, Mumbai as a project authority for diversion of 9.78 ha restored private forest land for construction of bungalows, residential buildings, internal roads, parking and other ancillary non forest activities as "White Magic Project" at Village- Jambivaii, Tal-Panvel, District-Raigad.

User agency has submitted that the land has been purchased in 2015 from the then khatedar. The area is restored to the then khatedar Shri. Dhau Balya Dhangar in 1985. The restoration of the land is after 25/10/1980. But the permission of restoration has been conveyed by GOI in 1995 vide letter dated 07/07/1995. The user agency has agreed to defray the cost of Compensatory Afforestation and other levies of Government as determined by the Forest Department. This proposal involves 9.78 ha restored land, therefore there is no requirement of non-forest land in lieu of Forest land required to be diverted. But project authority is ready to give non forest land if Ministry of Environment and Forest insist. Therefore, the project authority has submitted the proposal for seeking the permission from the Central Government under Forest (Conservation) Act, 1980.

3. Brief History of Land:-

A notice u/s 35(3) of IFA 1927 was issued to then village Bamnoli, Gut no.7 area 37.34 acre (15.3578ha) to the then Khatedar Shri. Sitaram Govind Joshi residing at Village Apte Tal. Panvel, Dist. Raigad, vide notice no. K-3578, dated 13.07.1960. Notification u/s 35(1) of IFA, 1927 was issued vide Govt Gazettee No PRF-1262/12593/II-J, dated 8.10.1962. The said area was vested with Govt as "deemed RF" from 30.08.1975. As per section 3 of MPFA 1975, Special Land Acquisition Officer (1) Raigad, Alibag made inquiry in respect of total holding of the Khatedar and vide order dated 23.07.1985 restored 12 ha. to the owner and 5.77 ha. has been vested with Govt. Above restoration order dt 23.07.1985 has been ratified by GOI, vide order dt. 7.7.1995. (17.55ha. was shown as land liable to be restored u/s 22A of MPFA-1975) it shows that, the prior permission before restoration was obtained and then area was restored.

The area vested with Govt. i.e. 5.77ha. is at present Jambhivali gut no. 121/2 and area restored with owner is 121/A area 11.78ha. 121/B (5.77ha.) is another part and present case is from the Gut No. 121/A. Out of the restored area 11.78 ha. has been sold on July-2015 by Khatedar Kondhabai Dhau Dhangar to Kanji Karamshi Patel, Viral Kanji Patel, Manthan Kanji Patel.

The entry regarding forest was continued in the land record hence, the purchaser Shri. Kanji Karamshi Patel and other 2 filed RTS appeal no. 205/2017 before SDO Panvel against mutation no. 46, dated 29.4.1998 (regarding ban on non-forestry work without prior approval of GOI under FCA-1980).

The said RTS appeal was decided by SDO-Panvel vide order dt. 16.11.2017 in which the SDO specifically mentions that, the land involved in the petition being restored in 1985, i.e. 23.7.1985 the provision of FCA-1980 are applicable for its any non-forestry use of this land.

4. Remarks of APCCF (Conservation) MS Nagpur regarding status of forest land involved:-

- a) Area involved is 9.78ha. from Village- Jambhivali, Tal. Panvel, Dist. Raigad.
- b) A notice u/s 35(3) of IFA 1927 was issued to then village Bamnoli, gut no.7 area 37.34 acre (15.3578ha) to the then Khatedar Shri. Sitaram Govind Joshi residing at village Apte Tal. Panvel, Dist. Raigad vide notice no. K-3578, dated 13.07.1960.
- c) Notification u/s 35(1) of IFA 1927 was issued & published vide Govt. Gazettee no PRF-1262/12593/II-J, dated 8.10.1962.
- d) The said area was vested with Govt. as "deemed RF" from 30.08.1975 under the provisions of MPFA 1975.

- e) Special Land Acquisition Officer (1) Raigad, Alibag made inquiry in respect of total holding of Khatedar and vide order dated 23.07.1985 restored 12ha. to the owner and 5.77ha. has been vested with Govt, u/s 22(a) of MPFA 1975.
- f) Above restoration order dt.23.07.1985 has been ratified by GOI vide order dt.7.7.1995. (17.55ha. was shown as land liable to be restored u/s 22 A of MPFA-1975) it shows that, the prior permission before restoration was obtained and then area was restored.
- g) The area vested with Govt, i.e. 5.77 ha. is at present Jambhivali gut no.121/2 and area restored with owner is 121/A area (11.78ha.) Gut No. 121/B (5.77ha.) is another part and present case is from the Gut No. 121/A.
- h) Out of the restored area 11.78 ha. has been sold on July-2015 by Khatedare Kondhabai Dhau Dhangar to Kanji Karamshi Patel, Viral Kanji Patel, Manthan Kanji Patel.
- i) The entry regarding forest was continued in the land record hence, the purchaser Kanji Karamshi Patel and other 2 filed RTS appeal no.205/2017 before SDO Panvel against mutation no.46, dated 29.4.1998 (regarding ban on non-forestry work without prior approval of GOI under FCA-1980).
- j) The said RTS appeal was decided by SDO-Panvel vide order dt.16.11.2017 in which the SDO specifically mentions that, the land involved in the petition being restored in 1985, i.e. 23.7.1985 the provision of FCA-1980 are applicable for any non-forestry use of this land.
- k) Transaction regarding transfer of land from the then Khatedar Shri. Sitaram Govind Joshi to Shri. Dhau Balya Dhangar (Kul) is not available. However, from the order dated 16.11.2017 of SDO Panvel, it is observed that, he was a kul.
- l) Since, the status of restored land remains as "forest" and since, the restoration is also ratified by GOI, the 7/12 extract was correctly reflected showing the proper position.
- m) The present proposal regarding use of 9.78ha. by Kanji Karamshi Patel for non-forestry activity may be processed keeping the entry as "the provisions of the FCA-1980 are applicable for any non-forestry use of this land".

5. After going through the project note submitted by user agency and remarks regarding status of forest land involved in diversion, received from APCCF (Conservation) MS Nagpur, it may be further mentioned that according to the letter No. FLD 1006/CR-580/F-10 dated 15/06/2006 of the State Government, restoration and diversion proposals are to be sent together to Government of India for obtaining permission for continued use of forest land for non-forestry purpose under Forest (Conservation) Act, 1980 as well as permission of Government of India for restoration under Maharashtra Private Forests (Acquisition) Act 1975 simultaneously. As the proposed area has been restored after 25/10/1980 and hence it requires an approval from Government of India.

6. Ministry of Environment, Forests and Climate Change, New Delhi vide letter dt.31/7/2017 has issued advisory and circulated proceedings of meeting held under the Chairmanship of the Director General of Forest and Special Secretary on 20th June, 2017 at Maharashtra Sadan on issue of Ownership and status of the private forest and its land use and possibility of Sale and transfer of private forests related to Maharashtra and Goa wherein the decision has been taken on issue, is as under:-

- a) The ownership of the private forest land shall be as per the provisions of the private Forests (Acquisition) Act 1975 and decided by the state government. Those private forest lands, as

defined in the Act, which stands acquired and vested with the State Government under section 3 of the private Forest (Acquisition) Act 1975 shall be treated as government forest.

b) However those private forest lands which remained with the private ownership under the Private Forests (Acquisition) Act 1975 by virtue of application of section 6 and section 22A of the Private Forests (Acquisition) Act 1975 shall be treated as "private forest" for the purpose of Forest Conservation Act and any change in land use for non-forestry use after 25/10/1980 shall be as per the provisions of the FC Act, 1980.

c) The FC Act, 1980 prohibits only the change in land use by the owner (Government or private) having control over the forest land. The FC Act does not prohibit the change in ownership of private forest by way of sale and transfer as per relevant provisions in the state so long there is no change in land use of forest. Any change in land use from forest to non-forest after 25/10/1980 shall be as per the provisions of the Forest (Conservation), Act 1980.

7. The Deputy Conservator of Forests Alibag has certified that no suitable non forest land is available for the proposal and demand for the required forest land is the lowest minimum demand.

8. The Deputy Conservator of Forests Alibag has certified that provisions of the Forest Conservation Act, 1980 and guidelines under it have not been violated.

9. The Deputy Conservator of Forests, Alibag has certified that proposed site is not likely to affect any monuments site of cultural, historical, religious archeological or recreational importance.

10. The Deputy Conservator of Forests, Alibag has certified that the area involved in project is not included in the area of any National Park, Wildlife Sanctuary and the Nature Reserve and is not Karnala Bird Sanctuary.

11. The Deputy Conservator of Forests, Alibag has certified that the the proposed area is within 10 Kms of Karnala Bird Sanctuary, but it is not part of Eco-Sensitive Zone of Karnala Bird Sanctuary and the project will not have any adverse effect on the Wild life within Sanctuary.

12. The Deputy Conservator of Forests, Alibag has certified that there are 748 trees felling in the project.

13. The Deputy Conservator of Forests, Alibag has submitted the Site Inspection Report dated 24/08/2018 is enclosed with the proposal.

14. The user agency has submitted the District Collector Raigad certificate dated 20/08/2018 regarding compliance under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act 2006.

15. The Deputy Conservator of Forests, Alibag has certified that the project area belongs to Eco-Value class I having density below 0.4.

16. The user agency has submitted that the proposal involves 9.78 ha restored land, therefore as per point of view there is no requirement of non-forest land but they are ready to give non-forest land if Ministry of Environment and Forest insist.

17. The user agency has submitted an undertaking to defray the cost of Net Present Value of the forestland proposed for diversion.

18. The Deputy Conservator of Forests, Alibag has recommended the proposal for approval.

19. Chief Conservator of Forests (T), Thane recommended the proposal for approval.

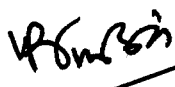
20. As area is restored to the then khatedar Shri Dhau Balya Dhangar in 1985. Therefore, the restoration of the land is after 25/10/1980 and the permission of restoration has been conveyed by

GOI in 1995 vide letter dated 07/07/1995. Hence diversion of Private Forest land requires approval of GOI for diversion of land for non-forestry purpose.

21. In light of the proceedings of meeting held under the Chairmanship of the Director General of Forest and Special Secretary on 20th June, 2017 at Maharashtra Sadan on issue related to Maharashtra and Goa wherein the decision taken regarding Ownership and status of the private forest and its land use and possibility of Sale and transfer of private forests and the recommendations of the Deputy Conservator of Forests, Alibag and Chief Conservator of Forests (T), Thane, the Principal Chief Conservator of Forests (HoFF), Maharashtra State, Nagpur has recommended the proposal subject to the conditions, given in his specific recommendations, under Section-2 (ii) of the Forest (Conservation) Act, 1980. His specific recommendations are enclosed in the proposal.

22. In the circumstances explained in above paragraphs and enclosures, the State Government recommends that the said forest land may be allowed to be diverted for the non-forestry use on the conditions proposed by the Principal Chief Conservator of Forests (HoFF), Maharashtra State, Nagpur. The matter may kindly be placed before Government of India for its approval under Section-2 (ii) of the Forest (Conservation) Act, 1980 and the same may please be obtained and communicated to this Government at earliest.

Yours faithfully,


(Virendra Tiwari) 28/03/19
Additional Principal Chief Conservator of Forest
(Mantralaya)

Encl: A) Set of case papers

b) **The following documents are enclosed:-**

1. Prescribed form as per Rules
2. Certificate regarding minimum demand for forest land for the project
3. Area Statement
4. Index map of suitable scale
5. Commitment from the Applicant for defraying the cost of exploitation as well as cost of compensatory plantation
6. User Agency has given an undertaking of Net Present Value
7. Brief note of the project from the project authority
8. Map of non-forest land for compensatory afforestation
9. Site Inspection Report
10. Certificate that there is no violation of Forest (Conservation) Act, 1980
11. Certificate in Part-V

Copy to:

1. Principal Secretary, Environmental Department, Mantralaya, Mumbai.
2. Principal Secretary (Tribal), Tribal Development Department, Mantralaya, Mumbai.

3. Additional Principal Chief Conservator of Forests and Nodal Officer, Maharashtra State, Nagpur.
4. Additional Principal Chief Conservator of Forests & CEO (Maha-CAMPA), Maharashtra State, Nagpur.
5. Chief Conservator of Forests (Territorial), Thane.
6. Collector, Raigad.
7. Deputy Conservator of Forests, Alibag.
8. Mr.Sandeep Dapke, Sai Enterprises, At Post-Pali, Taluka-Sudhagad, District-Raigad-410 205.
9. Select File F-10.