

GOVERNMENT OF ODISHA
FOREST & ENVIRONMENT DEPARTMENT

No. FE-DIV-FLD-0031-2021- 3659 /F&E., Date 19.02.2021

10F (Cons) 77/2019

From

Sri Lingaraj Otta, IFS

Special Secretary to Government

To

The Asst. Inspector General of Forests (FC),

Government of India, Ministry of Environment & Forests & Climate Change,

(F.C. Division), Indira Paryavaran Bhawan,

Alinganj, JorBagh Road, New Delhi-110003.

Sub: Proposal for diversion of 1243.27 ha forest land involved in the mining lease area over 1332.019 ha of Dubna-Sakradihi Iron and Manganese Mines of M/s OMC Ltd in Keonjhar Dist Odisha.

Sir,

I am directed to invite a reference to your letter F.No.8-26/2019FC dtd.16.03.2020 on the subject cited above and to forward herewith a copy of letter dtd.21.01.2021 of PCCF (FD&NO) FC Act, O/o the PCCF, Odisha along with its enclosures (one volume) in which the point wise compliance has been furnished for your kind information and further necessary action.

Yours faithfully,

[Signature]
Special Secretary to Government

Memo No. 3660 /F&E Date 19.02.2021

Copy forwarded to the Deputy Director General (Central), Govt. of India, MoEF&CC, Integrated Regional Office, A/3, Chandrasekharpur, Bhubaneswar for information and necessary action.

[Signature]
Special Secretary to Government



Memo No. 3661 /F&E Date 19.02.21

Copy forwarded to the Principal Chief Conservator of Forests, Odisha/ Principal Chief Conservator of Forests (WL) & Chief Wildlife Warden, Odisha for information and necessary action with reference to letter No.1373 dtd.21.01.2021 of PCCF (FD&NO), FC Act.

d_{19/2/2021}
Special Secretary to Government

Memo No. 3662 /F&E Date 19.02.21

Copy forwarded to the RCCF, Angul Circle / RCCF, Bhawanipatna Circle/ DFO, Keonjhar Forest Division/ DFO, Kalahandi (South) Division for information and necessary action.

d_{19/2/2021}
Special Secretary to Government

Memo No. 3663 /F&E Date 19.02.21

Copy forwarded to Steel & Mines Department/ Collector, Keonjhar/ Collector, Kalahandi for information and necessary action.

d_{19/2/2021}
Special Secretary to Government

Memo No. 3664 /F&E Date 19.02.21

Copy forwarded to the Managing Director, OMC Ltd, OMC House, Bhubaneswar for information and necessary action.

d_{19/2/2021}
Special Secretary to Government



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STATE FOREST HEADQUARTERS
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS, ODISHA,
BHUBANESWAR

No. 1373 / 9F (MG) - 118/2018
Dated, Bhubaneswar the 21st January, 2021

To

✓ The Additional Chief Secretary to Government,
Forest & Environment Department,
Government of Odisha

Sub: Proposal for diversion of 1243.27 ha forest land involved in the mining lease area over 1332.019 ha of Dubuna-Sakradihi Iron and Manganese Mines of M/s OMC Ltd in Keonjhar district, Odisha. (Proposal No. FP/OR/MIN/ 30349/2017)

Ref:- GoI, MoEF & CC, New Delhi Letter F.No. 8-26/2019-FC dated 16.03.2020

Madam,

In inviting a reference to the letter cited above on the captioned subject, the following point-wise compliances on the observations raised by Government of India, MoEF & CC, New Delhi as received from the RCCF, Rourkela Circle are furnished below:-

Observation No.2(ii): *The area proposed for diversion is highly undulating. Iron ore mining has direct detrimental effect on the quality of water. Catchment Area Treatment (CAT) Plan shall be prepared for the area. It is further recommended that same shall be prepared by the expert agency of national repute in hydrology such as IIT, Kharagpur/IIT, Bhubaneswar/Jadavpur University etc. The cost for preparation of plan shall be borne by user agency.*

In compliance to the above, the RCCF, Rourkela Circle has reported that IIT, Bhubaneswar has prepared and submitted the CAT plan vide letter No, RKP/ SIF/ IITBBS /2020-21/23 dtd 19.10.2020 to M/s OMC Ltd. Further, the cost of Rs. 22,12,500/- for preparation of CAT plan has been paid by the user agency i.e. M/s OMC Ltd vide UTR No. ANDBN 20248534726 dated 02.07.2020 towards the cost of preparation of CAT plan to IIT, Bhubaneswar.

Further, the CATP scheme for Dubuna-Sakradihi Iron & Manganese Ore Mines of M/s OMC Ltd has been technically approved for Rs 4,98,37,400/- (Rupees four crores ninety eight lakhs thirty seven thousand and four hundred) only by PCCF(FD & NO, FC Act) at current wage rate of Rs 308/- per manday. A copy of the CATP Scheme alongwith the financial outlay is enclosed as **Annexure-I**.

Us (Division)
22/1/2021

P. S. Das

Observation No.2(iii): *From the documents submitted by the State Government it is learnt that the user agency has paid compensation for violations from 1994-95 to 2006-07. On perusal of record, it is not clear whether violation of the provision of FCA 1980 was considered in WP (Civil) 114, Common Cause vs Union of India judgment passed by Hon'ble Supreme Court in 2017. Clarification in this regard may be submitted.*

In compliance to the above, the RCCF, Rourkela Circle has reported that the Director of Mines, Government of Odisha, Bhubaneswar was requested vide DFO, Keonjhar office letter No. 3189 dt. 26.05.2020 to clarify whether the violation (illegal production) without approval of FC Act has been taken into consideration during realization of penalty. The Director of Mines has intimated the DFO, Keonjhar division vide his Letter No. 4611/DM dated 02.07.2020 (**Copy enclosed as Annexure-II series**) that the same clarification regarding realization of penalty for the violation (illegal production) without approval under FC Act, 1980 pertaining to other project of OMC i.e. Serenda-Bhadrāsahi Iron & Mn. Mines may be taken into consideration in the instant case. The Director of Mines in his reply has mentioned that the violation of the provision of FC Act, 1980 was considered in WP (Civil) 114, Common Cause Vrs Union of India judgment passed by Hon'ble Supreme Court in 2017 wherein Hon'ble Supreme Court vide their interim order **dated 02.08.2017** endorsed the report of Hon'ble CEC and directed for necessary follow up for recovery of compensation from the lessees who had operated the mines in violation of law. Violation of FC Act, 1980 has been dealt in detail under para-157 to para-185 of the said judgment. The copy of the letters of Director of Mines and the judgment with relevant paras cited above submitted by the DFO, Keonjhar Division are enclosed as **Annexure-II series** for kind perusal.

Observation No.2(iv): *On analysis of facts submitted by the State Government, it is clear that violation of provision of FCA 1980 started from 1989 and 1991 in Sakradihi Iron mining lease over 564 ha and Dubuna Manganese mining lease over 1135.419 ha, respectively. However, in the proposal it has been mentioned that violation was considered from 1994-95 to 2006-07. Specific comments shall be submitted in this regards.*

In compliance to the above, the RCCF, Rourkela Circle has reported that the Director of Mines vide letter No.MIV (a)-16/2008/4611/DM dated 02.07.2020 addressed to the DFO, Keonjhar division has informed him to consider the realization of penalty for the violation without prior approval under FC Act, 1980 for Dubna-Sakradihi mining lease in line with the earlier letter No.3537/DM dt 02.06.2020 in respect of Serenda-Bhadrāsahi Iron and Manganese Mines of M/s OMC Ltd.

Further, the RCCF, Rourkela Circle has reported that from the report of the CEC dated 26.04.2010, the production of Iron ore from Sakradihi mines (ML Area: 564.00 ha) since 1989 and that of Manganese from Dubuna Mines (ML Area: 1135.419 ha) since 1991 was considered by CEC & the chronological sequence of judgments by Hon'ble Supreme Court while dealing with the issue on violation of FC Act in the mining leases of State of Odisha is given as below:

1. Operation of mining leases in violation of FC Act, 1980 was raised before the Hon'ble Supreme Court of India in the matter of WP (C) No.202 of 1995 T.N. Godavarman Vrs. Union of India and others and subsequent I.As therein.
2. In IA No.2746-2748 of 2009, CEC has taken note of 231 expired mining leases either with whole or part forest area out of total 596 mining leases granted in Odisha (CEC interim Report dt 26.04.2010).
3. The list of such 231 mining leases is given at **Annexure-R 1** wherein Sakradihi and Dubuna ML have been listed at Sl. No. 113 and Sl. No.131 respectively (CEC interim Report dt 26.04.2010).
4. CEC has observed that the State Government has taken some measures to correct the situation so that the mines do not operate in violation of statutory provisions. Out of 163 mining leases, 96 mining leases having forest area have been suspended. The list of 96 mining leases with Dubuna and Sakradihi at **Sl.No.43 & Sl.No. 44** respectively is given at **Annexure-R 8** (CEC interim Report dt 26.04.2010).
5. The Hon'ble Supreme Court vide their interim order **dated 13.01.2014** in the above matter had directed Hon'ble CEC to examine and submit their report before the Hon'ble Court.
6. Meanwhile, Hon'ble Shah Commission of Enquiry had also submitted their report on the issue of operation of mines in violation of law and the WP (C) 114 of 2014 was filed by the NGO named Common Cause.
7. The report of Hon'ble Shah Commission of Enquiry was challenged by some of the lessees during hearing of W.P. (C) 114/2014 Common Cause Vrs. Union of India & Others,
8. The Hon'ble Supreme Court while taking up hearing on both the above W.Ps., vide their interim order dt.21.04.2014 again reiterated their earlier order dt.13.01.2014 and directed the Hon'ble CEC to make out the list of such lessees who are operating the leases in violation of the law with a specific direction in the same order to prepare the list without reference to the Shah Commissions report.
9. Accordingly, the Hon'ble CEC filed their interim report on **dated 25.04.2014** and on further direction of Hon'ble Supreme Court, submitted their final report on **dated 16.10.2014**.
10. The Hon'ble CEC, before submission of their final report examined the cases of all the iron and manganese mines of State of Odisha and recommended for recovery of compensation under Section 21 (5) of MMDR Act, 1957 from the lessees who had undertaken mining operation in violation of E.P. Act, 1986 and F.C. Act, 1980.
11. The report was adjudicated before the Hon'ble Supreme Court during several hearings in the matter of W.P. (C) no.114 of 2014 Common Cause Vrs. Union of India and others.

12. The Hon'ble Supreme Court vide their interim order dt.02.08.2017 endorsed the report of Hon'ble CEC and directed for necessary follow up for recovery of compensation from the lessees who had operated the mines in violation of law.

13. Pursuant to the above Common Cause judgment, the compensation in respect of the violation of E.P.Act, 1986 was demanded on the erring lessees as per the direction vide para-156 and para-186 (8) of the said judgment.

14. The violation of FC Act, 1980 has been dealt in detail under para-157 to para-185 of the said judgement.

15. Accordingly, the compensation in respect of violation of FC Act has been computed in case of the concerned erring lessees following the directions issued vide para-186 (9).

16. The quantum of violation of FC Act, 1980 was ascertained in consultation with the concerned DFOs and the overlap of period of violation of EP Act, 1986 and FC Act, 1980 was eliminated as per para 186 (9) of the judgment.

17. Thus, the demand notice for payment of compensation has been raised against lessees.

18. The DFO, Keonjhar Division has reported that since the period of violation of FC Act, 1980 has overlapped with that of EP Act, 1986 and the quantum of extraction in violation of EP Act, 1986 covered the quantum of extraction in violation of FC Act, 1980, no separate demand notice for recovery of compensation in case of violation of FC Act, 1980 was required to be issued.

19. The copies of the demand notices issued by DDM, Joda Circle submitted by the DFO, Keonjhar Division is enclosed herewith for ready reference. M/s. OMC Ltd. have already paid off the total compensation by **dated 31.12.2017** as per the direction vide para-225 of the Common Cause judgment.

The copy of relevant pages of the judgment mentioned above is enclosed herewith as **Annexure-III Series.**

Summarizing the above, the RCCF, Rourkela Circle has submitted that the Hon'ble Supreme Court have considered the violation under FC Act 1980 pertaining to Dubuna-Sakradihi ML in addition to violations under E P Act, 1986, Mining Plan, Consent to Operate etc. as detailed above and no compensation is due against any violation.

Observation No.2(v): Very dense patches within the lease area shall be reassessed. Revised shape files of such areas, after proper analysis through DSS at state level, shall be submitted.

In compliance to the above, the RCCF, Rourkela Circle has reported that the entire mining lease area of 1332.019 ha pertaining to Dubuna-Sakradihi amalgamated ML has been properly analyzed again through DSS. The analysis results are given as under:

Type of forest	Area in ha	% of total ML area
Very Dense Forest (VDF)	Nil	0%
Medium Dense Forest (MDF)	999.014	75%
Open Forest (OF)	199.803	15%
Non-forest (NF)	133.202	10%
Total	1332.019	100%

From the analysis, the RCCF, Rourkela Circle has reported that Very Dense Forest (VDF) patch in the entire mining lease area is not available.

Hence, the DFO, Keonjhar Division has submitted the shape file of the forest area enclosed with the compliance in which VDF found to be Nil. The map showing different category of forests re-assessed as per the analysis by DSS submitted by the DFO, Keonjhar is enclosed as **Plate No. I**.

Observation No.2(vi): *In a representation received from the villagers around the mining lease area, it has been informed that there are numbers of families residing within the lease area. The habitation has also been verified through DSS. State government may provide specific clarification on the rehabilitation plan status.*

In compliance to the above, the RCCF, Rourkela Circle has reported that the mining lease is granted in a compact block. The mining lease (ML) boundary is DGPS surveyed and co-ordinates of each corner points on the ML boundary line are certified by ORSAC. Subsequently, the mining lease has been executed in favour of the lessee in shape of an Agreement in Form-K under Mineral Concession Rules, 1960 by the Department of Steel & Mines. The condition No.1 of Part-III of Form-K (Lease Agreement) is reproduced by the DFO, Keonjhar to justify the reply:

*"1. No building or thing shall be erected, set up or placed and no surface operations shall be carried on in or upon any public pleasure ground, burning or burial ground or place held sacred by any class of persons or any house or village site, public road or other place which the State Government may determine public ground nor in such a manner as to injure or prejudicially affect any buildings works property or **rights of other persons** and no land will be used for surface operations which is already **occupied by persons other than the State Government for works or purposes not included in this lease**. The lessees shall not also interfere with any right of way, well or tank." The relevant page of the Form-K is enclosed as **Annexure-IV**.*

The RCCF, Rourkela Circle has reported that in Dubuna-Sakradihi mining lease, M/s OMC Ltd has not proposed to disturb any habitation for mining and ancillary activities and no displacement of population has been envisaged during the total life of the mine. In this context, a detailed study was undertaken by M/s OMC Ltd to check the plot wise area of occupant and status of occupancy thereof on ground. The list of such occupants and their status submitted by the DFO, Keonjhar is enclosed as **Annexure-V**.

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Further, the RCCF, Rourkela Circle has reported that, if required in future, M/s OMC Ltd will extend all the ameliorative measures as per the R&R Plan approved by the State Government of Odisha for use of tenanted land by mining and ancillary work. The copy of the R & R Plan approved by the State Govt. on dated 19.10.2015 and undertaking furnished by M/s OMC Ltd. to implement the plan, if required at approved cost structure is enclosed as **Annexure-VI & VII** respectively for reference.

Observation No.2(vii): *DSS analysis of the area reveals that there are many working mines adjoining to the proposed mining project. Extraction of iron ore from these mines are being done through roads. State Government may explore the possibility of establishing a common overhead conveyer system to extract the mineral with minimum biodiversity loss from the area.*

In compliance to the above, the RCCF, Rourkela Circle has reported that M/s OMC Ltd has planned to produce 3.0 MTPA of Iron ore and 0.05 MTPA of Manganese ore from Dubna-Sakradih ML & is committed to implement the recommendation suggested by NEERI, Nagpur on carrying capacity study for environmentally sustainable Iron and Manganese ore mining duly approved by MoEF, Govt. of India vide letter No. D.O.Z-11013/36/2014-IA-II (M) dated 13.02.2018. State Government vide notification No.3546/SM dated 04.05.2018 has constituted a committee to oversee the implementation of the recommendations. The copies of both the letters are enclosed as **Annexure-VIII and VIIIA** respectively for ready reference. Further, the RCCF, Rourkela Circle has reported that in compliance to the recommendation by NEERI, Nagpur on Suggested Ore Transportation Mode (SOTM), the user agency has planned to evacuate iron ore through closed conveyor from Dubna-Sakradih Mines to Nayagarh Railway siding. The copy of the relevant pages of the recommendation by NEERI, Nagpur is enclosed as **Annexure-IX** for kind perusal.

Observation No.2(viii): *As per land use plan submitted with the proposal, 1012.32 ha (out of 1243.27 of forest area) is proposed for core mining activity. This area will be mined out in small land parcels in years to come. Most of the area will be unutilized till it is required to be mined as per approved mining plan. It is proposed that user agency, in consultation with the State Government, may explore the possibility of plantation of fast growing, short rotation trees in the mineable area till the specific land parcel is required breaking and felling of trees for extraction of mineral. As and when any area is required than trees can be removed. This activity will have two pronounced effects. On one hand it will help in carbon sequestration and on the other it will earn extra revenue from the harvest of fast growing short rotation trees. State Government may submit its comments on modalities and practicability for smooth implementation of this proposal.*

In compliance to the above, the RCCF, Rourkela Circle has reported that the user agency has furnished the following modalities and practicability for smooth implementation of this proposal.

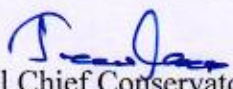
- Mining Lease has been granted for extraction of mineral vested in forest land.
- Forest land is handed over in phases in accordance with the approved mining plan.
- Mining plan has been approved by IBM, considering the occurrence, quality and type of ore.
- Iron and Manganese ore has been planned to produce simultaneously.
- The ore body is not homogeneous laterally as well depth wise.

However, as reported by the RCCF, Rourkela Circle, in order to achieve the above goal, M/s OMC Ltd has proposed plantation over 26.1678 ha in safety zone which will be maintained as a green belt till end of life of the mine and in addition to above, the user agency has intimated that around 15.00 ha land is proposed for plantation of fast growing, short term trees inside the mining lease area.

In view of the above, the compliance to the observations pointed out by the GoI vide letter under reference in respect of Point 2 (ii to viii) for diversion of 1243.27 ha of forest land involved in the mining lease area over 1322.019 ha of Dubna-Sakradihi Iron and Manganese Mines of M/s OMC Ltd. in Keonjhar District, Odisha is sent herewith for consideration of the Government and necessary transmission to Government of India, MoEF & CC, New Delhi for their approval under Section-2(ii) of Forest (Conservation) Act, 1980.

Encl: Compliance in two sets

Yours faithfully,


Principal Chief Conservator of Forests
Forest Diversion & Nodal Officer, F.C. Act
20/11/21

Memo No. /Dt.

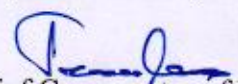
Copy along with a copy of the compliance forwarded to the Assistant Inspector General of Forests, Government of India, Ministry of Environment, Forests & Climate Change, (Forest Conservation Division), Indira Paryavaran Bhawan, Aliganj, Jorbagh Road, New Delhi-110510 for information and necessary action with reference to Letter F.No. 8-26/2019-FC dated 16.03.2020 of GoI, MoEF & CC, New Delhi.

Encl: Compliance in one set


Principal Chief Conservator of Forests
Forest Diversion & Nodal Officer, F C Act
20/11/21

Memo No. /Dt.

Copy along with a copy of the compliance forwarded to the Deputy Director General of Forests (Central), MoEF & CC, Govt of India, Integrated Regional Office A/3, Chandrasekharpur, Bhubaneswar for information and necessary action with reference to GoI, MoEF & CC, New Delhi Letter F.No. 8-26/2019-FC dated 16.03.2020.


Principal Chief Conservator of Forests
Forest Diversion & Nodal Officer, F C Act
20/11/21

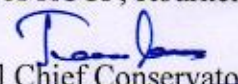
Memo No. Date.

Copy forwarded to the RCCF, Rourkela Circle for information & necessary action with reference to his memo no. 4146 dated 12.11.2020.


Principal Chief Conservator of Forests
Forest Diversion & Nodal Officer, F.C. Act
20/11/21

Memo No. Date.

Copy forwarded to the Divisional Forest Officer, Keonjhar Forest Division for information & necessary action with reference to memo no. 4147 dated 12.11.2020 of RCCF, Rourkela Circle to his address.


Principal Chief Conservator of Forests
Forest Diversion & Nodal Officer, F.C. Act
20/11/21