

Haryana Forest Department

Office of Chief Conservation of Forests, South Circle,
Forest Complex, Sohna Road, Near Court Complex, Gurugram, Ph. 0124-2320981
Email: cf.gurugaon@gmail.com

No.D-III-84/2021/1888

Date: 20.10.2023

To

Add. Principal Chief Conservator of Forests(FCA),
-cum-Nodal Officer, Haryana, Panchkula.

Sub:- Diversion of 0.2369 Ha of forest land for access to proposed petrol pump of HPCL between Ankhir Chowk Surajkund in village Mewla Maharajpur M. No. 54 killa No, 18, Tehsil Badkhal, District Faridabad.

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In reference to online EDS dated 15.09.2023 on the subject cited above, wherein it has been directed that current recommendation of CCF and DFO needs to be uploaded in light of Hon'ble Supreme Court judgment dated 21-07-2022. DFO, Faridabad vide his letter no. 654 Dt. 10.10.2023 (Copy Enclosed) has reported that Hon'ble Supreme Court judgment dated 21-07-2022 in CA 10294/2013 in matter of Narinder Singh & Ors. Vs Divesh Bhutani & Ors. directed as under :-

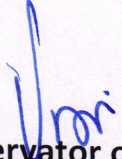
Para 39 - The object of the embargo on permitting non-forest use of forest land without prior permission of the Central Government is not to completely prevent the conduct of non-forest activities. This provision enables the Central Government to regulate nonforest use of forest lands. While exercising the power to approve non-forest use, the Central Government is under a mandate to keep in mind the principles of sustainable development as evolved by this Court including in its decision in the case of Rajeev Suri. The embargo imposed by Section 2 ensures that the development and use of a forest land for non-forest use is governed by the principle of sustainable development. In a 42 sense, Section 2 promotes the development work on forest land only to the extent it can be sustained while alleviating environmental concerns. The power given to the Central

Government under Section 2 must be exercised by adopting scientific and consistent yardsticks for applying the principles of sustainable development”.

Para 64 - “Thus, we hold that the lands covered by the special orders issued under Section 4 of PLPA have all the trappings of forest lands within the meaning of Section 2 of the 1980 Forest Act and, therefore, the State Government or competent authority cannot permit its use for non-forest activities without the prior approval of the Central Government with effect from 25th October 1980. Prior permission of the Central Government is the quintessence to allow any change of user of forest or so to say deemed forest land. We may add here that even during the subsistence of the special orders under Section 4 of PLPA, with the approval of the Central Government, the State or a competent authority can grant permission for non-forest use. If such non-forest use is permitted in accordance with Section 2 of the 1980 Forest Act, to that extent, the restrictions imposed by the special orders under Section 4 of PLPA will not apply in view of the language used in the opening part of Section 2 of the 1980 Forest Act. We also clarify that only because there is a notification issued under Section 3 of PLPA, the land which is subject matter of such notification, will not ipso facto become a forest land within the meaning of the 1980 Forest Act.”

In light of these facts / para of Hon'ble Supreme Court judgment dated 21-07-2022 in CA 10294/2013 the decision in the matter of the above mentioned FCA proposal may be taken.

The under signatory is agreed with the report of DFO, Faridabad and same is hereby submitted for perusal and necessary action please.


Chief Conservator of Forests,
South Circle, Gurugram.

OFFICE OF
Dy. Conservator of Forests, Faridabad

Forest Department, Haryana

Sector 14, Bye pass Road near Rose Garden Faridabad, Tel: 0129-2286760

E-mail dfobd2@gmail.com

No. 654

Dated 10-10-2023

To

Chief Conservator of Forests,
South Circle, Gurugram

Sub:- Diversion of 0.2369 Ha of forest land for access to proposed petrol pump of HPCL between Ankhir Chowk Surajkund in village Mewla Maharajpur M. No. 54 killa No. 18, Tehsil Badkhal, District Faridabad

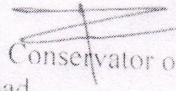
On the subject cited above, relevant para of Hon'ble Supreme Court judgment dated 21-07-2022 in CA 10294/2013 in matter of Narinder Singh & Ors. Vs Divesh Bhutani & Ors. is reproduced as under :-

Para 39 - *The object of the embargo on permitting non-forest use of forest land without prior permission of the Central Government is not to completely prevent the conduct of non-forest activities. This provision enables the Central Government to regulate nonforest use of forest lands. While exercising the power to approve non-forest use, the Central Government is under a mandate to keep in mind the principles of sustainable development as evolved by this Court including in its decision in the case of Rajeev Suri. The embargo imposed by Section 2 ensures that the development and use of a forest land for non-forest use is governed by the principle of sustainable development. In a 42 sense, Section 2 promotes the development work on forest land only to the extent it can be sustained while alleviating environmental concerns. The power given to the Central Government under Section 2 must be exercised by adopting scientific and consistent yardsticks for applying the principles of sustainable development".*

Para 64 - *"Thus, we hold that the lands covered by the special orders issued under Section 4 of PLPA have all the trappings of forest lands within the meaning of*

Section 2 of the 1980 Forest Act and, therefore, the State Government or competent authority 80 cannot permit its use for non-forest activities without the prior approval of the Central Government with effect from 25th October 1980. Prior permission of the Central Government is the quintessence to allow any change of user of forest or so to say deemed forest land. We may add here that even during the subsistence of the special orders under Section 4 of PLPA, with the approval of the Central Government, the State or a competent authority can grant permission for non-forest use. If such non-forest use is permitted in accordance with Section 2 of the 1980 Forest Act, to that extent, the restrictions imposed by the special orders under Section 4 of PLPA will not apply in view of the language used in the opening part of Section 2 of the 1980 Forest Act. We also clarify that only because there is a notification issued under Section 3 of PLPA, the land which is subject matter of such notification, will not ipso facto become a forest land within the meaning of the 1980 Forest Act."

In light of these facts / para of Hon'ble Supreme Court judgment dated 21-07-2022 in CA 10294/2013 the decision in the matter of the abovementioned FCA proposal may be taken. This is for your information, perusal and necessary action please.


Deputy Conservator of Forests,
Faridabad