



No.5-ORC412/2020-BHU

11th February, 2022

To

The Addl. Chief Secretary,
Forest & Environment Deptt.,
Government of Odisha,
Bhubaneswar.

Sub: Diversion of 5.888 ha of forest land (including 0.562 ha of Safety Zone area) in village Oraghat of Sundargarh District for Iron & Manganese Mines by M/s Sayed Abdul Halim under Bonai Forest Division.

Ref: State Govt. letter No.10F(Cons)18/2020-6394/F&E dated 19.03.2020.

Madam,

With reference to the subject cited above, I am directed to inform that the proposal file was submitted to Ministry for consideration. The Ministry returned the proposal file mentioning that since Secretary, EF&CC has specifically asked for penalty to be imposed in the matter, the observation of the Ministry, IRO and State Govt. must be examined by the REC and tender its advise in the light of the Supreme Court orders, FC Act/Rules and guidelines under FC Rules 7 (2)(e). The observation of the Secretary, EF&CC is as follows:

“The judgement referred to, particularly in Para 186, provides penalty only under MMDR Act for illegal mining. Violation of EC, FC is illegal mining but whether penalty under MMDR Act would release the violators from penalties/punishments under respective Acts has not been mentioned anywhere. In fact, I am clear that violation under an Act would necessarily attract penalty provided under that Act. If EC has not been taken, it would attract section 15 of EC Act irrespective of the fact that mining without EC is illegal mining and have attracted penalty under MMDR Act. Clubbing of penalty for violations under different Acts is not provided anywhere and SC judgement referred above also nowhere says that penalties for violations under EP, FC Acts would not be levied if penalty under MMDR Act has been imposed. In fact, clause (10) specifically provides that **“No mining lease holder will be entitled to be benefit of any payments made towards NPV or additional NPV or penal compensatory afforestation.”** If a violator is not entitled to benefit of payment made towards penal compensatory afforestation, it only means that SC judgement is clearly laying the principal that separate penalty under FCA would be leviable for violation of FCA. Same for violation of EC. Please specify penalty under FC and put up”.

The above observation of Secretary, EF&CC, New Delhi was discussed in the REC meeting held 09.02.2022. The Committee observed that based on the noting of the Secretary, MoEF&CC, New Delhi, the view of the Secretary, Forest & Environment Department, Govt. of Odisha may be obtained.

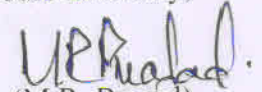
The information which is required from the State Govt. is as below:

Whether the violation of the Forest (Conservation) Act, 1980 (i.e. use of forest land for non-forestry purpose since 1998) is attributable to the user agency?

- a) If yes, then to specify the amount of penalty to be levied.
- b) If no, then who can be attributable to this violation (identification of 5.888 ha DLC forest land after the mining lease was granted in the year 1998 to the user agency as non-forest land).

It is therefore requested to kindly furnish the view of the State Govt. on the above observation of REC to this office for further necessary action.

Yours faithfully,


(M.R. Prasad)
Scientist 'C'

Copy to:

- 1. The PCCF & Nodal Officer (FCA), Forest Department, Govt. of Odisha, Aranya Bhawan, Chandrasekharpur, Bhubaneswar-751023 for kind information and necessary action.
- 2. M/s Sayed Abdul Halim, At/PO: Barbil, Dist: Keonjhar, Odisha for information and necessary action.


Scientist 'C'