

F. No. 11-42/2017 – FC
Government of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)

Indira Paryaravan Bhawan,
Aliganj, Jorbhagh Road,
New Delhi – 110003

Dated: 21st January, 2018

To

The Principal Secretary (forests)
All States/Union Territory Governments

Sub: Activities which constitutes violations of provisions of Forest Conservation Act 1980 and rules made thereof and guidelines issued in this behalf, by user agencies and quantum of penalty to be imposed –regarding common guideline to be followed by FAC/REC while considering the proposal under FC Act 1980.

Sir,


I am directed to invite your kind attention that the Forest Advisory Committee (FAC), constituted under Section 3 of the Forest Conservation Act 1980, while discussing proposals submitted under FC Act 1980, in its meeting held on 25.04.2017 noted with great concern somewhat inconsistent approach adopted by different Regional Empowered Committees of MoEF&CC and FAC itself in case of violations committed by user agencies of forest land in contravention of the provisions of Forest Conservation Act, 1980 and consequently recommending monitory penalty such as penal CA and penal NPV etc. in addition to mandatory compensatory levies. It was observed that the decisions to classify certain activities undertaken by the user agencies as violation and quantum of penalty imposed therein for the similar offence are different on different occasions due to absence of common guidelines.

2. It was, therefore, decided by the FAC to constitute a Committee of APCCF (central) Regional Offices, MoEF&CC and a member of the FAC to examine various aspects and different situations and activities which will constitute violations of provisions rules and guidelines issued under Forest Conservation act 1980 and suggest penalty in various situations, if the activities are treated as violation and thus as offence so as to dissuade the user agencies from committing such violations in future and compensate the loss caused due to such violation.

3. Accordingly on the recommendation of FAC, the following Committee was constituted vide this Ministry's letter of even number dated 05.06.2017.

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| i. Dr. Tejinder Singh, APCCF, Regional Office, Bhopal; | Chairman |
| ii. Dr. Sanjay Deshmukh, Member, FAC; | Member |
| iii. Sh. Kanwarjit Singh, APCCF, Regional Office, Nagpur; | Member |
| iv. Sh. MRG Reddy, APCCF, Regional Office, Chennai; | Member |

4. The Committee submitted its recommendations to the Ministry on 15.05.2017 and the same was discussed in the Ministry and the final recommendation of the Committee was placed before the Forest Advisory Committee in its meeting dated 26.10.2017. The recommendation of the Committee was accepted and recommended by the FAC. The recommendations of FAC was placed before the competent authority in the Ministry. The


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competent authority has accepted the report of the Committee on the recommendation of the FAC.

3. Accordingly, this Ministry has decided to adopt following guidelines while imposing penalty in various cases, on the recommendations of FAC/REC after due deliberation in its meeting, for use of forest land for non-forestry purposes in violation of the provisions of the Forest (Conservation) Act 1980, Rules made thereof and guidelines issued from time to time to implement FC Act and Rules:

A. In cases where the proposal under FC Act has not been submitted and forest land is diverted without FC:

- i. Diversion of forest land for non-forestry purposes without the prior approval of the competent authority in the state will be dealt under the provisions of Indian Forest Act 1927 or State Forest Acts or any other State act dealing with such land as the case may be. The land in question will not be considered as diverted under FCA 1980 and the status of land shall continue to be Forest.
- ii. If the permission for use of forest land for non-forestry purposes have been granted by the state authority without the prior approval of the central government under section 2 of the Forest Conservation Act 1980 then action under section 3A and /or 3B of FC Act, as may be applicable shall be taken against the authority causing the diversion. A report with full details of violation shall be submitted by the State Government on the recommendation of the Forest Department of the State to the Ministry of Environment, Forests & Climate Change Government of India, New Delhi and formal enquiry shall be conducted by the Regional Office of the MoEF & CC.

B. In cases where the proposal under FC Act is under consideration and forest land is diverted before grant of FC:

- i. The penalty for violation shall be equal to NPV of forest land per hectare for **each year** of violation from the date of actual diversion as reported by the inspecting officer with maximum up to **five (5) times the NPV** plus 12 percent simple interest till the deposits is made.
- ii. In case of public utility projects of the government the penalty shall be 20 % of the penalty proposed in para (i) above.
- iii. State government will initiate disciplinary action against the official concerned for not being able to prevent use of forest land for non-forestry purpose without prior approval of Government of India.
- iv. User agency responsible for violation shall be prosecuted under local Act of the state for unauthorized use of forest land without the permission of state authority.

C. Violation /non-compliance of any conditions imposed while granting approval under FC Act:

In such cases the penalty will be imposed on the recommendation of the APCCF Regional office in whose jurisdiction the alleged violation has occurred. The violation will be reported to REC/FAC and the committee will give time to comply the conditions within stipulated time:

- i. In case the offence is proved then the penalty shall be imposed for violation committed over forest area without approval equal to twice the normal NPV.
 - ii. In case of public utility projects of the government the penalty shall be 20 % of the penalty proposed in para (i) above.
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D. Violation on account of change of land use in the approved mining plan:

- i. No penalty is to be imposed for such violation if the change is as per change in mining plan duly approved by competent authority. User agency shall intimate all approvals related to change in mining plan to the regional office within one month of approval. In other cases, change in land use plan shall not be carried out without prior approval of MoEF&CC under the provisions of FCA 1980.
- ii. Any violation of change in land use (other than mining operations), penalty of two times the NPV plus simple interest 12 per cent from the date of actual violation committed will be imposed.
- iii. In case the approved change in mining plan is not intimated within one month of the approval the same fine shall be imposed as in para D(ii).

E. In cases where 'Forest land' has been changed to 'non forest land' in government records: If the violation is not attributable to the user agency, no penalty shall be imposed.

This issue with the approval of the Competent Authority.

Yours faithfully,


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(Sandeep Sharma)

Assistant Inspector General of Forests

Copy to:

1. Prime Minister's Office
2. Secretary, Ministry of Mines/Coal/Steel/Power, Government of India.
3. Principal Chief Conservator of Forests, All States/UTs.
4. Nodal Officers, the Forest (Conservation) Act, 1980 All States/UTs.
5. All Regional Offices, Ministry of Environment, Forests and Climate Change.
6. Joint Secretary in-charge, Impact Assessment Division, MoEF&CC, New Delhi.
7. PS to Hon'ble Minister of Environment, Forests and Climate Change and Minister of State for Environment, Forests and Climate Change.
8. Chairman, State Environment Impact Assessment Authority, All States/UTs.
9. Member Secretary, State Environment Impact Assessment Authority, All States/UTs
10. All Directors/Assistant Inspector General of Forest in Forest Conservation Division of MoEF&CC.
11. All Advisors/Directors/Dy Directors in Impact Assessment Division of MoEF&CC.
12. Sr. Director (Technical), NIC, MoEF&CC with a request to place a copy of the letter on website of this Ministry.
13. PPS to the Secretary for Environment, Forests and Climate Change, New Delhi.
14. PPS to the Director General of Forests & Special Secretary, MoEF&CC, Gol.
15. PPS to the Addl. Director General of Forests (Forest Conservation), MoEF&CC, Gol.
16. PPS to the Inspector General of Forests (Forest Conservation), MoEF&CC, Gol.
17. Guard File.


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(Sandeep Sharma)

Assistant Inspector General of Forests