

Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Aliganj, Jor Bag Road,
New Delhi - 110003

Dated: September, 2024

To

The Addl. Chief Secretaries of Forests/Principal Secretary (Forests),
All States Governments and Union territory Administrations

Sub: Clarifications on the process of approval involved in the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980 and Wild Life (Protection) Act, 1972 in respect of linear proposals – reg.

Madam/Sir,

I am directed to refer to High Level meeting held on 6.08.224 between Ministry of Road Transport and Highways and Ministry of Environment, Forest and Climate Change wherein clarifications were requested from the MoEF&CC on the various provisions of the Van (Sanrakshan Evam Samvardhan) Rules, 2023 and guidelines issued by the MoEF&CC. In this connection, it is to inform that the matter has been considered and deliberated by the Advisory Committee in its meeting held on 27.08.2024. Minutes of the meeting of the Advisory Committee may kindly be accessed at <https://parivesh.nic.in>.

Based on the recommendations of the Advisory Committee and approval of the same by the competent authority of the MoEF&CC, New Delhi, the Central Government hereby issues the following clarifications:

1. **Applicability of the provisions of the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980 in the lands located within the Right of Way of roads** : Applicability of the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980 in various lands, in light of the provisions of the principal Act and directions given by the Hon'ble Supreme Court, has been codified in the Forest (Conservation) Amendment Act, 2023 which was enforced w.e.f. 1.12.2023. In light of the amended provisions of applicability of the Adhinyam, in respect of the lands, located within the Right of Way (RoW) of roads, the following is hereby clarified:
 - i. Construction of roads in the plantations raised by the NHAI in the non-forest land, falling outside the purview of the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980, shall not attract the provisions of the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980 in accordance with the provisions of section section1A(2)(b) of the Adhinyam.
 - ii. Change of the land use/ layout of the road for which diversion of forestland has already been obtained by the user agency, will require prior approval of the Central Government under the Adhinyam.
2. **Applicability of the provisions of raising compensatory afforestation in respect of forest land proposed for construction of tunnel of linear projects**: Construction of tunnel is an environment friendly activity as it does

not interfere with above ground flora and fauna. Hon'ble Supreme Court in its order dated 28.03.2008 has inter-alia directed to charge only 50% of normal rate of Net Present Value (NPV) in respect of underground mining proposals. Further, no compensatory afforestation is charged in respect of underground mining proposals as these proposals involves no damage to the above ground vegetation and wildlife. Therefore, in line with past clarifications issued by the Ministry on 17.04.2018 and 31.01.2023 and directions contained in the Hon'ble Supreme Court order dated 28.03.2008 passed in the W.P. (C) No. 202/1995, accordingly, the Ministry may consider clarifying that construction of road/railways tunnels in the forest area may be treated at par with the underground mining project for the purpose of applicability of compensatory afforestation subject to following:

- i. In case the opening of a tunnel involves the forest area, requiring its use rights by the user agency, the same shall be treated as normal diversion proposal and will be subject to realization of CA and NPV charges, as applicable:
 - ii. Muck to be generated from the earth cutting during the construction of tunnels shall be stored at designated place. Muck disposal plan, contain scientific assessment of the muck generated, to be used during the construction phase and quantity to be dumped along with stabilization measures, duly approved by the competent authority, should be submitted along with the proposal.
 - iii. The commercial use of stone/boulders generated during the construction of tunnels, shall be subject to payment of royalty to the State/UT authorities in accordance with the relevant laws of the State/UTs
3. **Processing of the linear proposals pertaining to forest land requiring approval under the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980 and the Wild Life (Protection) Act, 1972** : Ministry vide its guidelines dated 8.07.2024, with a view to avoid *fait accompli* situations, has clarified the order of priority for obtaining the prior approval under the Van (Sanrakshan Evam Samvardhan) Adhinyam, 1980 and recommendations of the Standing Committee (SC) of the National Board for Wildlife (NBWL). In furtherance to the clarification dated 8.07.2024, it is further to clarify that process for submission, scrutiny and processing by various authorities in the States and UTs can be undertaken in parallel for both proposals viz. prior approval under the Adhinyam as well as recommendation of the SC of NBWL. However, approval in such proposals will be granted in accordance with the priority given the letter dated 8.07.2024 of the Ministry.

This issues with the approval of the competent authority.

Yours faithfully,

(Charan Jeet Singh)
Scientist 'E'

Copy to:

1. The Secretary, M/o Road, Transport and Highways, Transport Bhawan, New Delhi - 01

2. The PCCF, all State Governments/ Union territories Administrations
3. The Chairman, National Highway Authority of India, Ministry of Road, Transport & Highways, NHAI, G-5&6, Sector-10, Dwarka, New Delhi – 110075
4. The Dy. DGF (Central), All Regional Offices of MoEF&CC
5. The Nodal Officer (FCA), all State Governments/ Union territories Administrations
6. Monitoring Cell of FC Division, MoEF&CC, New Delhi

Copy also forwarded for favour of information to:

PSO to Secretary, EF&CC/Sr. PPS to DGF&SS/PPS to Addl. DGF(FC)