

F. No. 11-599/2014-FC
Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi - 110 003
Dated: 1st April, 2015

To

The Principal Secretary (Forests)
All State / Union Territory Governments

Sub: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act 1980- Submission of proposals to obtain approval for diversion of entire forest land located within a mining lease.

Sir,

I am directed to refer to this Ministry's letter No. 11-362/2012-FC dated 1st February, 2013 on the above-mentioned subject, wherein this Ministry informed *inter-alia* that in case of mines where approval under the Forest (Conservation) Act, 1980 (FC Act) for diversion of only a part of forest land located within the mining leases has been obtained, after two years from the issue of the said letter mining will be allowed only if the user agency either obtains approval under the FC Act for the entire forest land located within the mining lease or surrenders such forest land for which approval under the FC Act has not been obtained and execute a revised mining lease for the reduced lease area.

2. This Ministry received representations wherein it has *inter-alia* been stated that it is practically not possible to obtain approval under the FC Act for diversion of the entire forest land in two years as the whole process takes more than two years. This Ministry was requested to issue the revised guidelines to prevent disruption in the ongoing mining operations.

3. This Ministry has examined the matter in consultation with the Department of Legal Affairs, Ministry of Law and Justice. After careful examination of the matter and the advice of the Department of Legal Affairs, Ministry of Law and Justice, this Ministry in supersession of the said letter No. 11-362/2012-FC dated 1st February, 2013, hereby decides as below:

- (i) Henceforth, in case of mining leases, including those of Government Authorities, having forest land in part or in full, approval of Central Government under Section-2 (iii) of the FC Act, for the entire forest land located within a mining lease shall be obtained before execution (including by way of renewal) of a mining lease in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the Rules framed thereunder.


11/04/2015

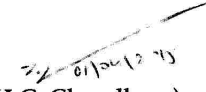
- (ii) User agencies while submitting application to obtain prior approval under Section 2 (iii) of the FC Act, if they so desire, may also seek prior approval of Central Government under Section 2 (ii) of the FC Act for use of the whole or a part of the forest land located within the mining lease for mining and allied non-forest activities. Area of forest land for which approval under Section 2 (ii) and 2 (iii) is sought shall separately be indicated in the proposals submitted by the user agencies. Where at the time of execution of the mining lease prior approval of Central Government under Section 2 (ii) to use the entire forest land falling in the mining lease for mining and allied non-forest activities is not obtained, the user agencies may submit proposal under Section 2 (ii) of the FC Act for the whole or a part of the remaining forest land falling within the mining lease, as and when such forest land is proposed to be utilised for mining and allied non-forest activities.
- (iii) Central Government after examination of a proposal and after such other enquiry as it may consider necessary, may accord approvals under Section 2 (iii) and 2 (ii) of the FC Act for assigning on lease and to utilize for mining and allied non-forest activities respectively, such areas of forest land, as it may consider expedient, or reject the same.
- (iv) Prior approval of Central Government under Section 2 (iii) of the FC Act shall be subject to payment of Net Present Value (NPV) of the forest land allowed to be assigned on mining lease. Similarly, prior approval of Central Government under Section 2 (ii) shall be subject to other usual conditions apart from realization of NPV of the forest land allowed to be utilised for mining and other allied non-forest activities.
- (v) In case of existing mining leases having forest land in part or in full, where approval under Section 2 of the FC Act for a part of the forest land has only been obtained, Central Government hereby accords general approval under Section 2 (iii) of the FC Act for the remaining area of the forest land falling within such mining leases, subject to following conditions:
 - (a) State Government shall, within a period of one year from the date of issue of this letter, realize from the user agency, NPV of the entire forest land falling in the mining lease, in case NPV of such forest land has not already been realised;
 - (b) In case State Government fails to realize from the user agency, NPV of the entire forest land falling in a mining lease within a period of one year from the date of issue of this letter, this general approval in respect of such mining lease, shall be kept in abeyance, and shall be deemed to have been kept in abeyance, and all mining activities in such mining lease shall be stopped, till such time, the NPV of such forest land is realised by the State Government;
 - (c) The general approval shall be valid for a period co-terminus with the period of mining lease in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957, as amended, and the Rules framed thereunder;

2/01/2017

- (d) This general approval does not, in any manner, exempt a user agency from obtaining prior approval under Section 2(ii) of the FC Act in regard to such area of forest land which is to be used for non-forest purpose;
- (e) Grant of this general approval under Section 2 (iii) does not, in any manner, create any right or equity in favour of the user agency for grant of approval under Section 2 (ii) of the FC Act and decision on proposals under Section 2 (ii) will be taken purely on the merit of each case;
- (f) This general approval will not be applicable to the forest land for which Central Government before the issue of this letter has already declined approval under Section 2 of the FC Act; and
- (g) Grant of this general approval does not in any manner, exonerate the concerned authorities in the State Government or in any other Authority, from the proceedings under Section 3A and 3B of the FC Act, liable to be initiated for violation, if any, of the FC Act committed by them by assigning such forest land on mining lease without obtaining prior approval of Central Government under Section-2 of the FC Act.
- (vi) The user agency shall be responsible for protection of the forest land located in a mining lease for which prior approval of Central Government under Section 2 (iii) of FC Act, including by way of the afore-mentioned general approval, has only been obtained. However, administrative and management control of such forest land will remain with State Forest Department or other forest land owning agencies and the forests will be managed in accordance with the approved management plan till such time it is not diverted for non-forest purpose, *i.e.*, mining and remains unbroken.

This issues with approval of the Hon'ble Minister of State (Independent Charge) for Environment, Forest and Climate Change.

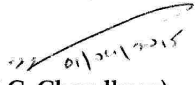
Yours faithfully,


(H.C. Chaudhary)
Director

Copy to:-

1. Prime Minister's Office (*Kind attn.:* Shri Santosh D. Vaidya, Director).
2. Secretary, Ministry of Mines, Government of India.
3. Secretary, Ministry of Coal, Government of India.
4. Secretary, Ministry of Steel, Government of India.
5. Principal Chief Conservator of Forests, all States/UTs.
6. Nodal Officer, the Forest (Conservation) Act, 1980, all States/UTs.
7. All Regional Offices, Ministry of Environment, Forest and Climate Change (MoEFCC).
8. Joint Secretary, In-charge, Impact Assessment Division, MoEF.

9. PS to the Hon'ble Minister of State (Independent Charge) for Environment, Forest and Climate Change.
10. Chairman, State Environment Impact Assessment Authority, all States/UTs.
11. Member-Secretary, State Environment Impact Assessment Authority, all States/UTs.
12. All Directors/ Assistant Inspector General of Forests in Forest Conservation Division, MoEFCC.
13. All Advisors/ Directors/ Dy. Directors in the Impact Assessment Division, MoEFCC.
14. Director, Regional Office (Headquarters), MoEFCC. .
15. Sr. Director (Technical), NIC, MoEFCC with a request to place a copy of this letter on website of this Ministry.
16. Sr. PPS to the Secretary, Ministry of Environment, Forest and Climate Change.
17. Sr. PPS to Director General of Forests and Special Secretary, Ministry of Environment, Forest and Climate Change.
18. Sr. PPS to Addl. Director General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change.
19. PS to Inspector General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change.
20. Guard File.


(H.C. Chaudhary)
Director