

F. No. 8-118/2006-FC
Government of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)

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Indira Paryavaran Bhawan,
Aliganj, Jorbagh Road,
New Delhi - 110003
Dated: 24th June, 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 proposal to obtain Forest Clearance involved in the Petroleum Mining Leases – Reg.

Sir,

I am directed to refer to letter No.OIL/CORP/HSE/MoEF&CC/30/333 dated 15.09.2014 of Oil India Ltd (OIL), wherein a request has been made for regularisation of petroleum mining leases of Ningru extension in Arunachal Pradesh in compliance of Hon'ble Supreme Court's (SC) judgement dated 08.08.2014 in case of IA No.3627 in WP (C) No.202/1995 in case of T.N. Godavarman Thirumulpad Vs Oil India Ltd. and others.

2. The matter has been examined in the Ministry in the light of report of Central Empowered Committee (CEC) submitted before the SC vide letter No.1-19/CEC/SC/2008-Pt.XXXIX dt.25.02.14 and the SC's order mentioned above and observed as follows:

- (i) M/s Oil India Ltd. filed an IA on 26.04.13 in SC for review on the payable NPV for the forest land under Petroleum & Natural Gas (P&NG) Rules, 1959 pertaining to 615.668 sq.km. Petroleum Mining Lease (PML) area, viz., Ningru PML (551.668 sq.km) & Ningru Extension PML (75 sq.km) in Lohit and Changlang Districts of Arunachal Pradesh to enable OIL to resume its exploration and production activities for oil and gas.
- (ii) SC referred the IA to CEC. CEC submitted its report before SC on 25.02.14 vide its letter dated 1/19/CEC/SC/2008-Pt.XXXIX.
- (iii) The CEC in its report was inter alia of the following views:
 - (a) There is a significant difference between the PML granted under the provisions of P&NG Rules, 1959 and those granted under the Mines and Minerals (Development & Regulation) (MMDR) Act, 1957 unlike mining leases granted under MMDR Act where the total area of lease held by a person cannot exceed 10 sq.km. the area of each of the PML is around 250 sq.km (25000 ha).
 - (b) While the entire area of the lease granted under the MMRD Act is used for mining and allied purposes, in respect of the PML only a small percentage of the lease area (2 to 3%) is used for drilling of oil wells and associative activities. These areas are like overlapping lease areas such as field firing ranges of the Ministry of Defence, where the ownership, use and administrative control over the land involved in the lease continues to be with the State/land owner and the non-forestry activities are

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allowed to be undertaken only after obtaining prior approval of central government under Forest (Conservation) (FC) Act, 1980. The grant of PML does not authorize the lease holders to use forest land included in the lease without first obtaining specific approval for its non-forestry activities and without payment of NPV.

Accordingly, the CEC report recommended that the SC may consider directing that “while granting approvals under the Forest (Conservation) Act, 1980 for the forest land involved in the Petroleum Mining Leases granted under the Petroleum and Natural Gas Rules, 1959, an amount equal to the NPV for 2% of the lease area, will be payable subject to the following conditions:

- i) the Petroleum Mining Lease area does not include any area falling within a National Park and/or Wildlife Sanctuary; and
 - ii) the non-forestry use of the forest land included in the Petroleum Mining Lease will be permissible only after obtaining prior approval of the Central Government for the diversion of the forest land involved for undertaking drilling of oil wells and associated activities and payment of the NPV for such forest areas. The NPV so payable will be in addition to the NPV payable at the time of the approval for the grant/re-grant of the Petroleum Mining Lease.”
- (iv) SC vide its order dated 08.08.14 accepted the report of the CEC and ordered as follows:

“Learned counsel representing the applicant states that the conclusions drawn by the Central Empowered Committee (CEC) in its report dated 25.02.2014 is acceptable to the applicant and that the applicant will make the payment in terms of the determination rendered in paragraph 9 of the Report within four weeks.

In view of the statement made by the learned counsel for the applicant, I.A.No.3627 stands disposed of.”

3. The Ministry on the request of the State Govt of Jharkhand, Federation of Indian Mineral Industries (FIMI) and other stakeholders reviewed the Ministry’s guidelines dated 01.02.2013, wherein it was prescribed that “in the case of mines where approval under the Forest (Conservation) Act, 1980 (FC Act) for diversion of only a part of forest land located within mining lease has to be obtained, after two years from the issue of the said letter mining will be allowed only if 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 area” and issued revised guidelines on 01.4.2015. The revised guidelines, inter alia, prescribes as follows:

- (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.

- (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 be 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 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, and when such forest land is proposed to be utilized got mining and allied non-forest activities.
 - (iii) Central Govt. after examination of the proposal and after such other enquiry as it may consider necessary, may accord approval under Section 2 (iii) and 2 (ii) of the FC Act for assigning of lease and utilize for mining and allied non-forestry activities respectively, such areas of forest land it may consider expedient or reject the same.
 - (iv) Prior approval of Central Govt. under Section 2 (iii) of the FC Act shall be subject to payment of NPV of the forest land allowed to be assigned on mining lease. Similarly, prior approval of Central Govt. under Section 2(ii) shall be subject to other usual conditions apart from realization of NPV of the forestland allowed to be utilized for mining and other allied non-forest activities.
 - (v) The user agency shall be responsible for protection of the forest land located in a mining lease for which prior approval of Central Govt. under Section 2(iii) of FC Act 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.
4. The Ministry's above said guidelines for diversion of forest land and assignment of forest land by way of lease for mining purpose in accordance with the provisions of MMDR Act and the views and recommendations of the CEC in its report dated 25.02.2014 regarding assignment of forest land by way of lease and diversion of forest land for for the purpose of petroleum, mining and allied activities under P&NG Rules, 1959 are in consonance with each other except for the provision for payment of NPV. The CEC report as accepted by SC has provided for the payment of NPV @ 2% of the lease area for PML.
5. Accordingly, after careful examination of the matter in consultation with the M/o Petroleum & Natural Gas and other stakeholders in the light of SC's above mentioned order, the CEC report dated 25.02.2014 and MoEF's guidelines issued vide F.No.11-599/2014-FC dated 01.04.2015, the Ministry hereby decides as follows:
- (i) Henceforth, in case of Petroleum Mining Leases, areas to be granted under P&NG Rules, 1959 made under Oil Field (Regulation & Development) Act, 1958 (ORDA 1958), 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 PML in accordance with the provisions of P&NG Rules, 1959 made under ORDA, 1958.

- (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. Central Govt. after examination of the proposal and after such other enquiry as it may consider necessary, may accord approval under Section 2 (ii) of the FC Act for assigning of lease and utilize for mining and allied non-forestry activities respectively, such areas of forest land it may consider expedient or reject the same.
- (iii) Central Govt. after examination of the proposal and after such other enquiry as it may consider necessary, may accord approval under Section 2 (ii) of the FC Act for assigning of lease and utilize for mining and allied non-forestry activities respectively, such areas of forest land it may consider expedient or reject the same.
- (iv) Prior approval of Central Govt. under Section 2 (iii) of the FC Act shall be subject to payment of NPV @ 2% of the entire forest land allowed to be assigned on mining lease. Similarly, prior approval of Central Govt. under Section 2(ii) shall be subject to other usual conditions apart from realization of NPV of the forestland allowed to be utilized for mining and other allied non-forest activities in addition to the NPV payable at the time of the approval for the grant/renewal of PML.
- (v) Approval for PML will be granted provided PML area does not include any area falling within a National Park and/or National Sanctuary.
- (vi) 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 Govt. 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 under agency, NPV @ 2% of the entire forest land falling in the PML, in case NPV of such forest land has not already been realized;
 - (b) In case State Government fails to realize from the under 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 realized by the State Government'
 - (c) The general approval shall be valid for a period co-terminus with the period of PML in accordance with the provisions of P&NG Rules, 1959 made under Oil Field (Regulation & Development) Act, 1958 (ORDA 1958).

- (d) The 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 Govt. 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 PML without obtaining prior approval of Central Govt. under Section 2 of the FC Act.
- (vii) The user agency shall be responsible for protection of the forest land located in a PML for which prior approval of Central Govt. under Section 2(iii) of FC Act 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 the approval of the Hon'ble Minister of State (Independent Charge) for Environment, Forests and Climate Change.

Yours faithfully,



(B.K. Singh)

Director (Forest Conservation)

Copy to:-

1. Secretary (Petroleum & Natural Gas), Government of India
2. The Principal Chief Conservator of Forests, All States/UTs.
3. The Nodal Officer (FCA), All States/UTs
4. All Regional Offices, MoEF&CC
5. Joint Secretary, Impact Assessment Division
6. Chairman, M/s Oil India Limited
7. Monitoring Cell, FC Division, MoEF&CC, New Delhi.
8. Guard File.



(B.K. Singh)

Director (Forest Conservation)