

F. No. 11-584/2014-FC (pt.)

Government of India

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

Indira Paryavaran Bhawan

Aliganj, Jorbagh Road

New Delhi - 110 003

Dated: 3.5.2017

To

The Principal Secretary
(Forests), All States
/Union territories


Sub: Diversion of forest land for non-forest purpose under the Forest (Conservation) Act, 1980- processing of proposals in respect of Iron Blocks whose allocation has been cancelled by the Supreme Court in the CWP no 562 of 2009 in the Samaj Parivartan Samudaya & Ors vs State of Karnataka & Ors.

Sir,

I am directed to say that para 2.8 of the guidelines issued under the Forest (Conservation) Act which *inter alia* provides as under

"Where transfer of lease on forestland, from one user agency to another for the same purpose for which the forestland was diverted, becomes necessary, prior permission of the Central Government would be required. For this purpose, the State Government and the original user agency is required to submit no-objection certificate for such transfer and; the new user agency has to submit an undertaking that they shall abide by all the conditions on which the forest land was leased to the original user agency and any other condition which may be stipulated by the Central Government/State Government in future."

The Secretary of Mines has informed vide its communication dated 29th October 2016 that wherein auction of 7 iron ore block in Karnataka state has been completed on which the State Government is in the process of issuing the Lol to the present bidder. These were **category 'C'** mining leases which were cancelled on the direction of the Hon'ble Supreme Court. The Ministry of Mines has requested that the existing statutory approvals/ clearances in favor of the lessee of the erstwhile **category 'C'** mining leases will be transferred in favor of the new lessee.



3.5.17

The matter has been examined in the ministry and following has been observed.

1. In the case of the category "C" mines referred in the communication dated 29th October 2016 from Ministry of Mines, it is important to note that illegal mining of iron ore in Bellari region of the state of Karnataka was investigated by the Central Empowered Committee (CEC) and the report was submitted to the Supreme Court in the CWP no 562 of 2009 in the Samaj Parivartan Samudaya & Ors vs State of Karnataka & Ors. The report was disposed by the Supreme Court on 18th April 2013.
2. As per the judgment, the those existing operating mines were classified as **category "C"** mines wherein (i) the illegal mining by way of (a) mining pits outside the sanctioned lease area have been found to be more than 10% of the lease area and/or (b) over burden/ waste dumps outside the sanctioned lease area have been found to be more than 15% of the lease area and/ or (ii) the leases found to be in flagrant violation of the Forest Conservation Act 1980 and/ or found to be involved in illegal mining in other cases.

The number of such cases was 49.

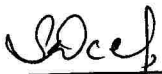
3. On the recommendation of the CEC the category "C" mines were cancelled by the Hon'ble Supreme Court and it was ordered that the area of mining leases falling in the category "C", after cancellation of the mining leases, may be directed to be allotted / assigned to the highest bidder (s) from amongst the end users.

These category "C" mines were cancelled and put to auction after getting permission of the court.

The Hon'ble Supreme court has ruled on 30.7.2015 that

8. The existing statutory approval / clearances in favor of the lessee of the erstwhile category "C" mining leases will be transferred in favor of new lessees. The concerned authority will take expeditious action for grant of the statutory approvals such as environmental clearance and approval/ TWP under Forest (Conservation) Act 1980.

4. The ministry has **no objection** in transfer of the FC clearance in favor of the new leases/ LOI holders provided the Ministry of Mines appoints a designated officer in this behalf who will certify the


- 3.5.14

grant of Letter of Intent of Intent (LOI) in favor of new lessee of the cancelled mining lease in category "C " referred in above paras on the following conditions:

- a) These new LOI holders have to apply separately to the Ministry of Environment, Forest & Climate Change for transfer of lease with requisite transfer fee. The ministry will examine the violations as reported in the CEC report and make necessary amendments in the stipulated conditions in FC clearances already granted, wherever necessary. Where additional forest land has been diverted/ broken for illegal mining then such excess forest land will not be a part of the new lease.
- b) Since category "C " mines have been canceled by Court order, the NOC for transfer of lease from the erstwhile lease holder of the cancelled category "C" mine will not be required for transfer of forest clearance in favor of new lease/ LOI holder who have got the lease of the cancelled mine in auction. However the MoEF & CC will not be liable to pay any compensation or refund compensatory levies deposited in Adhoc CAMPA fund to the erstwhile lease holder in category "C" and the new lease / LOI holder who have got the lease/LOI in auction shall furnish an undertaking to this effect that the Forest Clearance be transferred with all the liabilities of the transferred lease area of the erstwhile lease holder of the cancelled category "C" mine.

This issue with the approval of competent authority.



(Sandeep Sharma) 3.5.13

Asst Inspector General of Forests (FC)