

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

Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road,
New Delhi – 110 003
Dated: 10th March, 2022

To

The Secretary (Forests),
All State Governments/UT Administrations

Sub: Clarification on applicability of the Forest (Conservation) Act, 1980 on Railways land - reg.

Sir,

I am directed to refer to this Ministry's letter of even number dated 21st May, 2019 on the above subject forwarding a clarification on the applicability of the Forest (Conservation) Act, 1980 in respect of railways lands. In this connection, it is to inform that the issue related to applicability of the Forest (Conservation) Act, 1980 on the lands within RoW acquired by the Indian Railway was examined in consultation with the Attorney General of India and Ministry of Law and Justice, Government of India. As per such opinion received received from the Ministry of Law & Justice, Government of India, it is now clarified that:

- i. For execution or maintaining of Railway works on Railway owned land within Railway's right of way under Section 11 of Railways Act 1989, notwithstanding the directions of Hon'ble Supreme Court given in the judgment in TN Godavarman Thirumalpad v. Union of India, (W.P. (C) 202/1995), the need for obtaining the approval of the Central Government under Section 2 of the Forest (Conservation) Act, 1980 will not arise.
- ii. Section 11 of the Railways Act would also operate for execution or maintaining of Railway works on Railway owned land within Railway's right of way, notwithstanding anything to the contrary in the Wildlife (Protection) Act, 1972.
- iii. Moreover, the construction of crossings, bridges, culverts and passages over, under or by the sides of, or leading to or from a railway, would also include passages for wild animals, elephant corridors and the like. These would be necessarily provided, wherever required as per the advice of the concerned wildlife authorities in the State Government. In terms of Section 16(2) of the Railways Act, 1989, the cost of construction of all such crossings or pathways to be used by wild animals would be borne by the Railway Administration.

- iv. A Civil Appeal 3166/2014 which involves the interpretation of Section 11 of Indian Railways Act 1989 and Section 2 of the Forest (Conservation) Act, 1980, is pending in the Hon'ble Supreme Court. The above clarification/opinion is subject to the final judgment of the Hon'ble Supreme Court in the said Civil Appeal.
- v. These directions are applicable **ONLY** for **execution or maintaining of Railway works on Railway owned land within Railway's right of way** under Section 11 of Railways Act 1989. **Rest of the cases will be dealt with relevant provisions under Forest (Conservation) Act, 1980.**

Yours faithfully,


(Sandeep Sharma)

Assistant Inspector General of Forests

Copy to:

1. The Chairman, Railway Board, Ministry of Railways, Government of India
2. The Principal Chief Conservator of Forests, All State Governments/UT Administrations
3. The Chief Wildlife Wardens, All State Governments/UT Administrations
4. The Nodal Officer, FCA, 1980 O/o PCCF, All State Governments/UT Administrations
5. The Regional Officers, All Integrated Regional Offices of the MoEF&CC.
6. Guard File.

Signed by Sandeep Sharma

Date: 10-03-2022 18:47:19

Reason: Approved