

Copy of letter No. F.No.2-1/2003-FC dated 20.10.2003 from Dr. V.K.Bahuguna, Inspector General of Forests, Government of India, Ministry of Environment and Forests, F.C.Division, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003 to the Chief Secretary/Administrator, all States etc. & copy to PCCF all States etc. Office of the Principal Chief Conservator of Forests, Rajasthan, Jaipur endorsement No. F.16(Circular)2000/FP/PCCF/12799-12949 Dated 19 November, 2003

Sub.: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980.

Sir,

Detailed guidelines for submission of proposals for diversion of forest land for non-forestry purposes under the Forest (Conservation) Act, 1980 were circulated to all the State Government/Union Territories on 25.10.1992. Based on experience, a constant review of these guidelines has been done from time to time to maintain a logical balance between environmental conservation and developmental process.

After a recent review, the Ministry of Environment & Forests, Government of India, has approved certain modifications in specific paras of the existing guidelines. The important modifications are as follows :-

1. Para 1.1 (i) defines "forest" as understood in the dictionary sense in view of the Hon'ble Supreme Court's order dated 12.12.1996 in WP (C) No. 202/1995. Now, all proposals for diversion of such forest areas to any non-forest purposes, irrespective of its ownership, would require the prior approval of the Central Government. However the term "forest" shall not be applicable to the plantations raised on private lands, except notified private forests. Felling of trees in these private plantations shall be governed by the relevant provisions of various States Acts and Rules. Felling of trees in notified private forests will be as per the working plan / management plan duly approved by Government of India.
2. Para 1.2 (iii), now clarifies that rights and concessions cannot be enjoyed in the protected areas (PAs) in view of the orders of the Supreme Court dated 14.02.2000, restraining removal of dead, diseased, dying or wind-fallen trees/drift wood and grasses etc. from any National Park or Game Sanctuary.
3. Para 1.3 (i) has stipulation that the provision of the Act shall not be attracted for investigations and surveys carried out in connection with development projects such as transmission lines, hydro-electric projects, seismic surveys, exploration for oil drilling etc., as long as these surveys do not involve any clearing of forest or cutting of trees, and operations are restricted to clearing of bushes and lopping of tree branches for purpose of sighting. Now in view of various representations from Ministry of Mines, Government of India, 'Mining' has also been exempted from the permission under the Act, for investigations and surveys subject to same conditions.
4. In view of various representations from Ministry of Mines, Government of India, Para 1.3 (v) has been modified and now it reads as "Prospecting of any Mineral, done under prospecting license granted under MMRD Act, which requires collection/removal of samples from the forest land, would be a stage between survey & investigation and grant of mining lease and as such permission under Forest (Conservation) Act, 1980 would be required. However, test drilling upto 10 bore holes of maximum 4" diameter per 100 sq.km. for prospecting, exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act. In all other cases involving more than 10 number of bore holes, prior permission of the Central Government under the Act would be required."
5. Now, Para 1.8 (iv) clarifies that in National Parks and Sanctuaries where fellings are carried out for improvement of wildlife and its habitat only, forests would be managed according to a scientifically prepared management plan approved by the Chief Wildlife Warden, provided that the removed forest produce shall be used for meeting bonafide needs of the people living in and around the National Park / Sanctuary and shall not be used for any commercial purposes.
6. Para 2.2 (vii)-1 deals with underground mining. For better technical evaluation and feasibility, now Para 2.2 (vii)-1 makes it mandatory that all mining plans in respect of coal and other major minerals should be accompanied with numerical modelling in 3-Dimension for subsidence prediction through an expert mining engineer / organisation to assess long term damage on surface vegetation due to underground mining preferably from Banaras Hindu University, ISM, Dhanbad, any of the IITs located at Delhi, Kanpur, Mumbai, Kharagpur, Madras, Roorkee & Guwahati, or M/s CMRI alongwith the mitigation measures suggested by them.
7. Para 2.8 is regarding transfer of lease. This para reads as, 'Where transfer of lease on forest land, from one user agency to another for the same purpose for which the forest land 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.
8. Para 3.2 (i) deals with Compensatory afforestation on non-forest land and takes into account the difficulty of

States / UTs in finding non-forest land for the purpose of Compensatory afforestation. This para now clarifies that the revenue lands / zudpi jungle/chhote/bade jhar ke jungle/jungle-jhari land/civil-soyam lands and all other such category of lands, on which the provisions of Forest (Conservation) Act, 1980 are applicable, shall be considered for the purpose of compensatory afforestation is proposed, shall be notified as RF under the Indian Forest Act, 1927.

9. Para 3.5(ii) gives details of orders of the Hon'ble Supreme Court dated: 30.10.2002 in I.A. No. 566 in writ petition (Civil) No. 202 of 1995 regarding creation of a body for management of compensatory afforestation fund and collection of Net Present Value of forest land i.e. "Compensatory Afforestation Management & Planning Agency (CAMPA)"
10. Para 3.5 (iii) is regarding the Guidelines already circulated by the Ministry of Environment & Forests for collection of net present value of forest land diverted for non-forestry purposes in compliance with the orders of the Hon'ble Supreme Court dated 30.10.2002 & 01.08.2003 in IA No. 566 in WP (C) No. 202 of 1995
11. Para 4.2 (i) stipulates that the non-forest land which is transferred and mutated in favour of the State Forest Department for the purpose of compensatory afforestation, should be declared as RF/PF under the Indian Forest Act, 1927 prior to Stage – II approval.
12. Para 4.2 (iv) clarifies that previously approved proposals shall not normally be reopened for review of the condition.
13. Para 4.13 clarifies that the approval of the proposals for diversion of forest lands will depend upon the achievements of the State/UT Governments in respect of compensatory afforestation.
14. Para 4.13 gives details of the Monitoring cell, which has been created in the Forest Conservation Division for data base management, up-dating of web-site, monitoring the movement of proposals in the State and at the Central Govt. level and also to monitor the compliance of the stipulated conditions of the approved cases.
15. In conformity with the National Forest Policy, 1988 and to provide boost to the development of tribal areas, new guidelines for "Development projects in tribal areas" are also being issued separately.

A comprehensive compilation of detailed guidelines alongwith Forest (Conservation) Act, 1980 and Forest (Conservation) Rules, 2003 etc. in booklet form shall be issued separately.