

F. No. 7-23/2012-FC
Government of India
Ministry of Environment and Forests
(FC Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110 510.
Dated: 24th July, 2013

To
6/8
The Principal Secretary (Forests),
All States / Union Territory Governments except Jammu and Kashmir

Sub: Guidelines issued by the Hon'ble National Green Tribunal in their order dated 07.11.2012 in the Appeal No. -7/2012 in the matter of Vimal Bhai and others versus Union of India and others.

Sir,

I am directed to say that the Hon'ble National Green Tribunal in their order dated 07.11.2012 in the Appeal No. 7/2012 in the matter of Vimal Bhai and others versus Union of India and others *inter-alia* directed as below:

"..... In the aforesaid scenario it can safely be concluded that after receiving a Stage - I and/or Stage - II Clearance, thereby granting a consent to permit use of forest land for non-forest purposes, from the Central Government, it is incumbent upon the State Government to pass a reasoned order transferring and/or allowing the land in question for being used for non forest purpose. It is needless to be said that bereft of such order no forest lands can be put to use for non-forest purpose. Further, all activities done without such orders would be *ab initio void*. An Appeal can be filed against the said order of the State Government under Section 2 (A) of FC Act and/or under Section 16 (e) of the NGT Act. In the event such an Appeal is filed it would be open for the person aggrieved, to assail the order/Clearances granted by the Central Government under Section 2 of the Act which forms an integral part and sole basis of the order passed by the State Government.

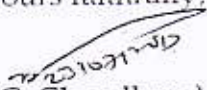
We are surprised to find that most of the State Governments do not pass separate orders in the light of the basic requirement of Section 2 of the FC Act as explained above thereby creating an embargo and depriving a person aggrieved from filing an Appeal. Section 2 of the FC Act, mandates that as and when the State Government decides to permit use of the Forest land for non forest purpose, it has to pass order to that effect. The said order along with the conditions imposed by the Central Government according Stage - I and Stage - II Clearance is mandatorily required to be displayed in the website. A copy of the order should also be sent to the MoEF forthwith. After receiving the copy of the order MoEF is also required to upload the same in its website so as to make the entire transactions transparent and bring it to public domain or Government portal and to enable any person aggrieved by the order passed under the provision of Section 2 of the FC Act, to approach this Tribunal in consonance with Section 2 (A) for FC Act or Section 16 (e) of the NGT Act.

24/07/13

32. Apart from the said action the State Government should also insist that the Project Proponent should publish the entire forest clearances granted in verbatim along with the conditions and safe-guards imposed by the Central Government in Stage - I Forest Clearance in two widely circulated daily newspapers one in vernacular language and the other in English language so as to make people aware of the permission granted to the Project Proponent for use of forest land for non-forest purposes. The cause of action for filing an Appeal would commence only from the date when such publication is made in the newspapers, as well as from the date when the forest clearance and permission to use the Forest land for non-forest purpose is displayed in the website of the concerned State Government or the MoEF, as the case may be. The copies of the Forest Clearance should also be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt."

Accordingly, I am directed to request that, all State/ UT Governments may kindly take appropriate action to ensure that afore-mentioned directions of the Hon'ble NGT are carried out in letter and spirit.

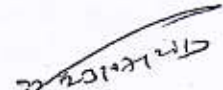
Yours faithfully,


(H.C. Chaudhary)

Assistant Inspector General of Forests

Copy to:-

1. Principal Chief Conservator of Forests, all State/UT Governments.
2. Nodal Officer, the Forest (Conservation) Act, 1980, all State/UT Governments.
3. All Regional Offices, Ministry of Environment & Forests.
4. All Assistant Inspector General of Forests/ Directors in the Forest Conservation Division, MoEF.
5. Sri T.C. Nautiyal, Sr. Assistant Inspector General of Forests, in-charge, Monitoring Cell, Forest Conservation Division, MoEF with a request to take appropriate action to ensure uploading of the order passed by the State/ UT Governments on the MoEF website.
6. Director, Regional Office (Headquarters), Ministry of Environment & Forests, New Delhi.
7. Monitoring Cell, Forest Conservation Division, MoEF with a request to place a copy of the letter on website of the MoEF.
8. Sr. PPS to DGF&SS, MoEF.
9. Sr. PPS to Addl. DGF (FC), MoEF.
10. PPS to IGF (FC), MoEF.
11. Guard File.


(H.C. Chaudhary)

Assistant Inspector General of Forests