

CHAPTER 26

Application of Forest (Conservation) Act, 1980

1.1 Definition. -

- (i) The term 'Forest land' mentioned in Section 2 of the Act refers to reserved forest, protected forest or any area recorded as forest in the Government records. Lands which are notified under Section 4 of the India Forest Act would also come within the purview of the Act. (SC Judgement in the NTPC case). It would also include "Forest" as understood in the dictionary sense.¹ All proposals for diversions of such areas for any non-forest purpose, irrespective of its ownership, would require the prior approval of the Central Government.

Clarification: - The term "forest" shall not be applicable to the plantations raised on private lands, except notified private forests. However, felling of trees in these private plantations shall be governed by various State Acts and Rules. Felling of trees in notified private forests will be as per the working/management plans duly approved by Government of India.

- (ii) The term "tree" for the purpose of this Act will have the same meaning as defined in Section 2 of the Indian Forest Act, 1927 or any other Forest Act which may be in force in the forest area under question.

1.2 Clarifications. -

- (i) The cases in which specific orders for de-reservation or diversion of forest areas in connection with any project were issued by the State Government prior to 25.10.1980 need not be referred to the Central Government. However, in cases where only administrative approval for the project was issued without specific orders regarding de-reservation and/or diversion of forest lands, a prior approval of the Central Government would be necessary.
- (ii) Harvesting of fodder grasses, legumes etc. which grow naturally in forest areas, without removal of the tree growth, will not require prior approval of the

¹ SC order dated 12.12.1996 in WP No. 202/1995

Central Government. However, lease of such areas to any organisation or individual would necessarily require approval under the Act.

- (iii) The forest policy, as well as provisions of the Forest (Conservation) Act, 1980, do not interfere in any manner or restrict the Nistar, recorded rights, concessions and privileges of the local people for bonafide domestic use as granted by the State Governments under Indian Forest Act, 1927 or State Forest Acts/Regulations. However, it has to be ensured that while allowing such rights, concessions and privileges to be exercised, the right holders do not resort to felling of trees or breaking up the forest floor so as to procure stones, minerals, or take up constructions, etc. The forest produce so obtained shall not be utilised for any commercial purposes.

The collection of such forest produce should be manual and should be transported through local modes or transport like bullock carts, camel carts, etc. and no mechanised vehicles shall be allowed to be used in transporting such forest produce and only in exceptional cases with the approval of concerned Divisional Forest Officers, tractors mounted with trolley may be used.

Clarification:- The Supreme Court has passed an order on 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.....". In view of this, rights and concession cannot be enjoyed in the Protected Areas (PAs).

1.3 Investigation and Survey.-

- (i) Investigations and surveys carried out in connection with development projects such as transmission lines, hydro-electric projects, seismic surveys, exploration for oil drilling, mining etc. will not attract the provisions of the Act 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.
- (ii) If, however, investigations and surveys involve clearing of forest area or felling of trees, prior permission of the Central Government is mandatory.
- (iii) Notwithstanding the above, survey, investigation and exploration shall not be carried out in wildlife sanctuaries, national parks and sample plots demarcated by the Forest Department without obtaining the prior approval of the Central Government, whether or not felling of trees is involved.

Clarification:- The Supreme Court has passed several orders² regarding taking up of non-forestry activities in the National Parks/Sanctuaries. In view of this, the State Governments should not submit any proposal for diversion of forest land in National Parks and Sanctuaries without seeking prior permission of the Indian Board for Wildlife (Now National Board of Wildlife) and Supreme Court.

- (iv) The work of actual construction would, however, fully attract the provisions of the Act and prior clearance of the Central Government must be obtained even if such work does not require felling of trees.
- (v) Prospecting of any mineral, done under prospecting license granted under MMDR 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 inch 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 number of drilling of bore holes, prior permission of the Central Government under the Act would be required.
- (vi) It is clarified that the permission to survey, exploration or prospecting would not ipso facto imply any commitment on the part of the Central Government for diversions of forest land.

Clarification³ : For reconnaissance operations, carried out in forest land in connection with developmental projects, the collection of samples from land surface in addition to drilled out material from 10 holes of 4 inch diameters per 100 Sq. Km will not attract Forest (Conservation) Act, 1980, provided that there is no felling of trees involved.

1.4 Explanation Regarding Non-Forest Purpose. –

- (i) Cultivation of tea, coffee, spices, rubber and palm is a non-forestry activity, attracting the provisions of the Act.
- (ii) Cultivation of fruit-bearing trees or oil-bearing plants or medicinal plants would also require prior approval of the Central Government except when: (a) The species to be planted are indigenous to the area in question; and (b) Such planting activity is part of an overall afforestation programme for the forest area in question.

2 SC orders dt 14/2/2000 and 21/2/2000 in IA No 548 in Working Plan No 202/1995, Reiterated by SC on 9/2/2004 in IA No 16 and SC orders dt 9/5/2002 in IA No 18 in Working Plan No 337/1995.

3 MoEF letter No. 11-33/2004-FC dated 7.6.2004

1.5 Tusser Cultivation. –

- (i) Tusser cultivation in forest areas by the tribals as a means of their livelihood without undertaking mono-cultural Asan or Arjun plantations shall be treated as a forestry activity. Therefore, no prior approval of the Central Government under the Act is necessary.
- (ii) Tusser cultivation in forest areas for which specific plantation of Asan or Arjun trees are undertaken for providing host trees to the silk cocoons shall be treated as forestry activity not requiring prior approval of the Central Government provided such plantation activity does not involve any felling of existing trees; provided further that while undertaken such plantations, at least three species are planted, of which no single species shall cover more than 50% of the planted area.
- (iii) Plantation of mulberry for silkworm rearing is a non-forestry activity, attracting the provisions of the Act.

1.6 Mining. –

- (i) Mining including underground mining is a non-forestry activity. Therefore, prior approval of the Central Government is essential before a mining lease is granted in respect of any forest area. The Act would apply not only to the surface area, which is used in mining but also to the entire underground mining area beneath the forest. A renewal of an existing mining lease in a forest area also requires the prior approval of the Central Government. Continuation or resumption of mining lease without prior approval would amount to contravention of the Act.
- (ii) The Ministry of Law, Government of India with respect to the Supreme Court Orders in Civil Appeal No. 2349 of 1984 dated 7.5.1985 has clarified that (a) Mining operations carried out before the commencement of the Forest (Conservation) Act 1980 does not require clearance during the continuance of the lease period. (b) Clearance under the Act is required at the time of renewal in leases if it is done after the commencement of the Act as renewal is really the grant of a fresh lease. (c) Clearance is also required for mining and winning any new mineral from the area during the lease period also even if it leased out prior to commencement of the Act.
- (iii) Boulders, bajri, stone, etc., in the river beds located within forest area as would constitute a part of the forest land and their removal would require prior approval of the Central Government.

1.7 Clarification Sub-clause 2(iii) of the Act. –

- (i) The Sub-clause shall not be attracted when any forest land or any portion

thereof is assigned to any authority, corporation, agency or any other organisation wholly owned, managed or controlled by the concerned State/Union Territory Government and/ or the Central Government. Such Government owned, managed/corporation agency, which has been assigned such forest land, shall not reassign or any part thereof to any other organisation or individual.

- (ii) Any scheme or project which involves assignment of any forest land byway of lease or similar arrangement for any purpose whatsoever, including afforestation, to any private person or to any authority/ agency/ organisation not wholly owned, managed or controlled by the Government (such as private or joint venture) shall attract the provisions of this clause.

1.8 Clarification on Sub-clause 2(iv) of the Act.-

- (i) Sub-clause 2 (iv) of the Act provides clearing of naturally grown trees in forest land for the purpose of using it for reforestation. The provisions under sub-clause will be attracted if the forest area in question bears naturally grown trees and are required to be clear-felled, irrespective of their size for harnessing existing crop and/or raising plantation through artificial regeneration technique, which may include coppicing pollarding and other mode of vegetative propagation.
- (ii) All proposals involving clearing naturally grown trees in any forest area, including for the purpose of reforestation, shall be sent by the concerned State/UT Government in the Form of Management Plan/Working Plans to the Regional Chief Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forest.
- (iii) All proposal in respect of sanction of Working Plans/ManagementPlans shall be finally disposed of by the Regional Office, under Section 2 of the Act. While examining the proposal, the Regional Office would ensure that the final decision is in conformity with the National Forest Policy, Working Plan guidelines and other relevant rules and guidelines issued by the Central Government from time to time. The Regional Office will however, invariably seek prior clearance of the Ministry whenever the proposal involves clear-felling of forest area having density above 0.4 irrespective of the area involved. Also, prior clearance would be required when the proposal is for clear/felling of an area of size more than 20 hectares in the plains and 10 hectares in the hilly region, irrespective of density.
- (iv) In national parks and sanctuaries where fellings are carried for improvement of wildlife and its habitat only, forests would be managed according to a scientifically prepared management plans 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 purpose. But in cases where large scale felling/removal of timber and nontimber products is required in a national park/sanctuary, which needs disposal through sales, approval of the Central Government would be necessary. However, this shall be subject to the orders⁴ of the Supreme Court.

1.9 Clarification on Section 3 B of the Act.-

- (i) Each case of the violation of the Act shall be reported by the concerned State/Union Territory Government to the Central Government.
- (ii) The report of violation shall be described in a self-contained note and supported by requisite documents, including particularly the names and designations of the officials/persons who are prima-facie responsible for the contravention of the Act.
- (iii) In case it is not possible to fix the responsibility for commission/ omission of any action leading to the violation of the Act, a full explanation with relevant supporting documents shall be appended to the report.
- (iv) Any person and/or authority nominated by the Central Government may be required to discharge any of the duties, including prosecution under the Act in any Court as may be deemed appropriate for this purpose. In such an eventuality, the Government of the concerned State/Union Territory shall make available all such records or documents as may be called upon by the investigation officer.

Clarification: The provisions of this Section are applicable to the cases where the State Government or any authority passes any order for permitting activities covered by Section 2 of the Forest (Conservation) Act, 1980 without prior approval of the Central Government. Cases of illicit felling/illegal mining, etc. have to be dealt under the provisions of the India Forest Act, 1927, State Forest Acts, Environment (Protection) Act, 1986, etc.

1.10 Diversions of Forest Land for Regularisation of Encroachments. –

- (i) Detailed guidelines⁵ issued by the MoEF in this regard shall be strictly followed.
- (ii) The State Government/Union Territory Administration may send the proposals as follows:-

4 SC orders dt 14/2/2000 and 21/2/2000 in IA No 548 in Working Plan No 202/1995, Reiterated by SC on 9/2/2004 in IA No 16 and SC orders dt 9/5/2002 in IA No 18 in Working Plan No 337/1995.

5 MoEF Circular No. 13.1/90-F.P.(1) dated 18.9.90

- (a) A consolidated proposal for the whole State in the prescribed application form.
- (b) Detailed information as per the prescribed format. Division wise proposals, maps, names of encroachers, etc. should be kept ready at Divisions level, which may be made available whenever required for inspection and need not be appended with the consolidated proposal.
- (c) Detailed compensatory afforestation scheme with area proposed for raising compensatory afforestation Division-wise, phased planning, fund requirement, commitment of the State Government to provide funds for the purpose, etc. Maps of proposed areas for compensatory afforestation should be kept already at Division level, which may be made available whenever required for inspection.
- (d) A time plan for eviction of ineligible encroachers.

1.11 Review of Disputed Claims over Forest Land, arising out of Forest Settlement.-

Detailed guidelines⁶ issued by MoEF in this regard shall be strictly followed.

1.12 Disputes Regarding Pattas/Leases/Grants involving Forest Land-Settlement thereof.-

Detailed guidelines⁷ issued by MoEF in this regard shall be strictly followed.

1.13 Conversion of Forest Villages into Revenue Villages.-

Detailed guidelines⁸ issued by MoEF in this regard shall be strictly followed.

Submission of Proposals

2.1 General. –

- (i) Rule 6 of the Forest (Conservation) Rules, 2003 prescribes the procedure for submission of proposals for seeking prior approval of the Central Government under Section 2 of the Act. The form appended to the Rules, specifies the particulars to be furnished with the proposals. Only proposal in the prescribed format and complete in all respect, will be considered. The user agency, if they so desire, for monitoring purpose only, may submit the proposal along with a copy of the receipt from Nodal Officer of having received complete application to the Assistant Inspector General of Forest (FC)/Director in-charge of the Monitoring cell.

⁶ MoEF Circular No.13-1/90/F.P.(2) dated 18.09.90

⁷ MoEF Circular No.13-1/90/F.P.(2) dated 18.09.90

⁸ MoEF Circular No.13-1/90/F.P.(2) dated 18.09.90

- (ii) **All proposals relating to diversion of forest land upto 40 hectares for clearing of naturally grown trees for reforestation shall be sent directly to the concerned Regional Office of the MOEF by the State/Union Territory Government or other authority.** All other proposals shall be sent by the State/Union Territory Government or other authority to Secretary to the Government of India, MOEF mentioning "Attention – FC Division" on the covering letter as well as on envelope. **Moreover, a copy of all these proposals irrespective of area should also be sent to concerned Regional Office of the MoEF.**

For small development and public utility projects involving diversions of forest land upto 5 hectares, the State Government may authorize the Nodal Officer or any other Officer to submit the proposals directly to the Regional Offices

- (iii) Adverse recommendations of subordinate officers in prescribed form or in the documents attached with the form should invariably be commented upon by the Principal Chief Conservator of Forests/Chief Conservator of Forests. Similarly, adverse recommendation by the PCCF/CCF should be commented upon by the State Government to emphasize that a conscious decision has been taken in the matter.
- (iv) **Wherever re-diversion of forest land becomes essential, State Government should seek the prior permission of the Central Government giving details of the earlier approval and the proposed activity details in letter form rather than initiating a fresh proposal.**
- (v) In cases of irrigation projects or projects involving linear diversion of forest land, when during execution, **some realignment is needed due to technical reasons and where the re-alignment is of a minor nature**, i.e. deviation from the original alignment is at a few points and the number of trees to be cut does not exceed the number given in the original proposal, the State Government need not submit a fresh proposal. Rather, they may send this information through a covering letter giving maps of the original alignment and fresh alignment with details of the additional forest land required and the variation in the number of trees which will be affected due to the realignment.
- (vi) The State Governments are advised not to consider/process cases, which are pending in various Courts or are subjudice, to avoid all sorts of administrative and legal complications.
- (vii) In order to ensure that the forest lands are diverted only for site specific projects, that too where it is inescapable, so that the ecological balance of the country is well protected, the respective State/Union Territory Administration,

should give due consideration to the following and should submit proposal accordingly after detailed scrutiny.

1. **Diversion of forest land within Reserve Forest.-** As per the State of Forest Report, 2001 published by Forest Survey of India, out of 76.84 million hectare of total forest area, roughly 55% of Reserve Forest area. These forests are considered as good forest with plenty of biodiversity and it is necessary to keep these forests intact. **As such, any proposal for diversion in Reserve Forest should be very carefully examined and detailed justification after exhausting all alternatives for locating the project in this forest area should be given while forwarding the proposal.**
2. **Regarding Mining proposals.-** It has been observed by the Central Government that a large number of proposals relating to mining are submitted which are located deep inside the forest areas. Locating such proposals inside makes entire forest area vulnerable due to ancillary activities like construction of approach road, movement of vehicles and coming up of colonies for the workers. It has also been observed that whatever area has already been opened up for mining of different minerals, have not been worked and reclaimed systematically and scientifically. There is a tendency to open up new pits without exhausting the existing one to its full depth/potential. Therefore, Ministry has decided that whenever a proposal for fresh mining is submitted, a brief profile of the lessee/company should be submitted giving details of their existing mining leases in the State with their capacity of production, the present level of average annual production, location of these pits and the status of reclamation of forest land that are exhausted minerals. Along with this, the State Government should also submit details of all other mining leases for that particular mineral with their capacity and average annual production and projected future requirements. They should fully justify the necessity of opening new mining leases for that particular mineral. Mining plans should be approved by the competent authority for concerned mineral **e.g. for coal it should be approved by Controller of Coal and for major minerals by IBM and so on.** Even in the case of renewals, it has been observed that the State Governments are not giving complete picture of mining activity in the particular block or compartment of the forest block. Whenever such proposal is sent, complete details of existing or proposed leases in that particular forest area with their present status should be indicated on **Survey of India topo-sheet on 1:50,000 scale.**
3. **Diversion for non-site specific projects.-** A large number of proposals

for diversion of forest land for non-site specific projects like industries, construction of residential colonies, institutes, disposal of fly ash, rehabilitation of displaced persons, etc. are received by the Central Government. Attention is drawn to items 1(iv) and 8 of the Form 'A' in which the proposal is to be submitted by the State Government. In these columns, justification for locating the project in the forest area giving details of the alternatives examined and reasons for their rejection has to be furnished. Normally, there should not be any justification for locating non site-specific projects on forest land. Therefore, the State Government should scrutinize the alternatives in more details and must give complete justification establishing its inescapability for locating the project in forest area.

4. It has been observed that in respect of many proposals, the Central Government receives representation from NGOs/local public bodies against the diversion of forest land or loss of forest land, environment and ecological grounds. It is felt that it is essential to have the opinion of the local people, whenever a project is coming up in the area. **Therefore, whenever any proposal for diversion of forest land is submitted, it should be accompanied by a resolution of the 'Aam Sabha' of Gram Panchayat/Local Body endorsing the proposal that the project is in the interest of people living in and around the proposed forest land except in cases where consent of the local people in one form or another has been obtained by the State or the project proponents and the same is indicated in the proposal explicitly.** However, it would be required where the project activity on forest land is affecting quality of life of the people residing in nearby areas of the site of diversion; like mining projects, displacement of people in submergence area, etc. It is further clarified that such resolution would not be required in following cases:
 - a. Project requires public hearing in order to get environment clearance. However, a copy of public hearing may be furnished along with the proposal in such cases.
 - b. For projects like construction of roads, canals, laying of pipelines/optical fibres and transmission lines etc., where linear diversion of forest land in several villages is involved.
 - c. Proposals involving diversion of private forest lands.
 - d. In case of small public utility projects like drinking water, schools, hospitals which are for the welfare of local people.

2.2 Particulars to be furnished along with the Proposal.-

- (i) Map of the forest area required showing boundary of the adjoining forest, etc., is to be furnished along with the prescribed form. **This should normally be on 1:50,000 scale original Survey of India topo-sheet.** However, if maps on 1:50,000 scale is not available, map on 1" = 1 mile or 1" = 4 miles or any other suitable scale would be acceptable. If the area is very small, an index map may be submitted showing forest boundaries and a location map on a larger scale with a land use of the area required.
- (ii) Species-wise and diameter class-wise abstract of trees to be felled should be furnished in the prescribed form. Total enumeration is necessary only upto 10 hectares. For larger areas, species-wise and diameter class-wise abstract of trees may be computed either from the working plans or by standard sampling methods.
- (iii) **The projects for roads and railway line construction will be processed in their entirety.** Therefore, proposals in piecemeal should not be submitted. A note on the present and future requirement of forest land is required to be submitted along with the proposals.
- (iv) **The user agency shall submit the proposal for renewal of mining lease to the Forest Department one year prior to date of expiry of existing lease, failing which the proposal may be liable for rejection.** The State Government shall send the complete proposal to the MOEF at least 6 months prior to the expiry of the existing lease. In case of any delay, a detailed report elaborating the cause of delay shall be sent along with the proposal.
- (v) Special guidelines in regard to laying of transmission lines in forest area have been issued which may be referred where required.
- (vi) All proposals seeking prior approval of the Central Government should invariably contain the following information:
 - a. Extent of forest cover in the concerned district/State.
 - b. Extent of forest land diverted so far under Forest (Conservation) Act, 1980 in the concerned district/State.
 - c. Extent of forest land diverted for same/similar purpose/project so far in the concerned district/State.
 - d. Progress of compensatory afforestation in the concerned district/State under earlier forest clearances. However, the States/Union Territories may submit the above information on a consolidated, calendar year basis every year as per prescribed⁹ proforma to avoid duplication/reiteration in each proposal.

(vii) Mining proposals in forest areas in respect of coal and other major minerals should be accompanied with the following documents:-

- 1. In respect of Underground mining in stratified deposits in forest areas:** The mining plan in stratified deposits in forest areas should include the predicted subsidence, slope and strain values and their impact on forests and surface and their mitigation. The maximum tensile strain of 20mm per metre and thereby the surface cracks of width of about 200 – 300 mm is to be permitted in forest areas. Accordingly, the mine plans should be made to restrict the subsidence movement within these limits with the provision of mitigation measures. 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 along with the mitigation measures suggested by them should be submitted along with the proposal. The surface layout of mining area should be designed so as to use minimum possible land, and wherever feasible, the surface should be planned over non-forest areas.
- 2. Open cast mining in forest areas:** In respect of open cast mining in forest areas, a comprehensive study of solid waste management and land reclamation with post mining land use plan and de-commissioning should be made and the plan should envisage the minimum possible overburden dumping outside the mine. In place where the non-forest land is available, the external dumping of the overburden should be planned on non-forest land. **Special attention should be given to top-soil and sub-soil handling and management.**
- 3. Use of Fly ash in reclamation of open cast mines:** Wherever feasible, depending upon the characteristic of fly ash and its availability nearby, use of fly ash in reclamation of open pits should be looked into and planned. Fly ash for this purpose should be characterised from the point of view of leaching potential with special reference to heavy metals. While forwarding the proposals, the State Government may also bear in mind the para 7.13 of The National Mineral Policy, 1993 (For non-fuel & non-atomic mineral) where in it states that “———— Mining operation shall not ordinarily be taken up in identified ecologically fragile and biologically rich areas —————”.

4. **Mining plan:** Ministry of Environment and Forests is receiving a large number of proposals for grant of/renewal of mining leases. In order to take a holistic view, it is essential that a copy of the mining plan duly approved by the IBM, Nagpur should be enclosed with the proposal along with map of forest area on printed original copy of Survey of India to provide a map 1:50,000 scale showing boundaries of forest areas and other mining leases of forest block within that sheet.

2.3 Proposals Requiring Clearance from Environmental Angle.-

- (i) The projects covered under notifications issued from time to time under Environment (Protection) Act, 1986, shall require clearance separately from environmental angle, as per procedure laid down by the Environment Wing of the Ministry of Environment and Forests. Environmental clearance where required should be applied for separately and simultaneously.
- (ii) Notwithstanding the above, if in the opinion of the Ministry or the Advisory Committee, any proposal should be examined from the environmental angle, it may be required that the project proponent refer the case to the Environment Wing of the MoEF.
- (iii) For projects requiring clearance from forest as well as environment angles, separate communications of sanction will be issued, and the project would be deemed to be cleared only after clearance from both angles.

2.4 Simplified Procedure for Certain Categories of Proposals.-

- (i) In respect of proposals for laying of transmission lines, pipelines for drinking water supply, laying of telephone/optical fibre lines and exploratory drilling for prospecting of oil which do not involve any felling or cutting of trees, only the following particulars may be furnished in the prescribed form:
 - a. Map of the area required along with geographical location of the project.
 - b. Purpose for which forest land is required to be used.
 - c. Extent of forest area to be diverted.
 - d. Legal status of forest land.
 - e. Whether forest land forms part of national park, wildlife sanctuary, biosphere reserve or forms part of the habitat of any endangered or threatened species of flora and fauna.
 - f. Whether no alternative alignment is possible to avoid or minimise use of forest land and, whether, the required forest area is the minimum needed for the purpose. A certificate in this regard to be furnished by the concerned Divisional Forest Officer after personal inspection of the spot.
 - g. Compensatory afforestation scheme.

- h. A certificate stating specifically that no cutting or felling of trees is involved.
- (ii) Other cases involving forest area upto 2 hectares which are devoid of treecover, may also be dealt with as per above simplified procedure except for proposal for mining and regularisation of encroachments.

2.5 Diversion of Forest Land for Widening or Realignment of Road/Rail/Canal.—

- (i) (i) Such lands which had been acquired by Government Departments like Railway, Irrigation, PWD, etc. for specific purposes like laying of roads, railway lines and canals and the vacant area was planted up with trees and these lands are not yet notified as protected forests will not attract the provisions of Forest (Conservation) Act, 1980 for the purpose of widening or expansion or re-alignment. However, the concerned agency will seek permission under local laws, if any, from appropriate authority.
- (ii) Such lands which were acquired by the above departments and the vacant areas were subsequently planned and notified as protected forests for management purposes will need approval from the Central Government under Forest (Conservation) Act, 1980. The user agency will submit the proposal in the prescribed format through the State Forest Department to the concerned Regional Office of the Ministry. The Regional Offices shall be competent to finally dispose of all such proposals irrespective of the area, preferably within 30 days from the date of receipt of the proposal. While the approval, in place of normal provisions for compensatory afforestation, the Regional Offices will stipulate a condition that for every tree cut at least two trees should be planted.
- (iii) However, if the decision is not ordered by the concerned Regional Office within 30 days of the receipt of fully completed application, the Central Government / State may proceed with the widening/modernisation under intimation to the local State Forest Department and Central Government.

Clarification: This guideline is applicable to only such projects, where plantations have been raised on the lands acquired by the user agency and subsequently notified as Protected Forest. This guideline will not be applicable if the forest land involved is reserved/protected forests belonging to the Forest Department.

2.6 Cost-benefit Analysis

- (i) While considering proposal for de-reservation or diversion of forest land non-forest use, it is essential that ecological and environmental

losses and economic distress caused to the people who are displaced are weighed against economic and social gains.

- (ii) Certain projects¹⁰ require cost-benefit analysis. The MoEF has prescribed a list of parameters for assessing the cost¹¹ of the project and benefits¹² accruing from the project.
- (iii) Cost-benefit analysis as above should accompany the proposals sent to the Central Government for clearance under the Act.

2.7 Plan for Rehabilitation of Oustees

- (i) If the project involves displacement of people, a detailed Rehabilitation Plan shall be submitted along with the proposal for diversion of forest land. The Scheduled Tribe and Scheduled Caste population should be separately considered, and plan for their rehabilitation should be in consonance with their socio-economic, cultural and emotional lifestyle.
- (ii) The Government of India do not allow diversion of forest land for rehabilitation of people. However, such diversion may be considered as a special case, if diversion of forest land is essentially required for the rehabilitation of persons belonging to Scheduled Tribes, Scheduled Castes and other people who may have to be shifted from the core zone of a national park or reserve.

2.8 Transfer of Lease

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.

2.9 Participation of private sector through involvement of NGOs & Forest Department in afforestation/rehabilitation of degraded forests.-

Detailed guidelines¹³ issued in this regard shall be strictly followed.

10 Annexure VI A attached to the FCA Guidelines issued by Ministry of Environment and Forests.

11 Annexure VI B attached to the FCA Guidelines issued by Ministry of Environment and Forests.

12 Annexure VI C attached to the FCA Guidelines issued by Ministry of Environment and Forests.

13 MoEF Circular No. 8-21/96-FC dated 07.07.1999

2.10 Cluster mining.-

Detailed guidelines¹⁴ issued in this regard shall be strictly followed.

Compensatory Afforestation

3.1 Compensatory Afforestation.-

- (i) Compensatory afforestation is one of the most important conditions stipulated by the Central Government while approving proposals for dereservation or diversion of forest land for non-forest uses. It is essential that with all such proposals, a comprehensive scheme for compensatory afforestation is formulated and submitted to the Central Government.
- (ii) The comprehensive scheme shall include the details of non-forest/degraded forest area identified for compensatory afforestation, map of areas to be taken up for compensatory afforestation, year-wise phased forestry operations, details of species to be planted and suitability certificate from afforestation/management point of view along with the cost of structure of various operations.
- (iii) Sometimes the compensatory afforestation schemes are being submitted at such a cost structure, which is at variance with the cost norms for the same area. The compensatory afforestation schemes, no doubt, have to be site specific and thus per hectare rate will vary according to species, type of forest and site. In this regard, it has been decided that henceforth the compensatory afforestation schemes which are being submitted along with the proposals for forestry clearance, must have technical and administrative approval from the competent authority and should be in conformity with cost norms based on species, type of forest and site.

3.2 Land for Compensatory Afforestation.-

- (i) Compensatory afforestation shall be done over equivalent area of non-forest land.

Clarification:- As a matter of pragmatism, the revenue lands/zudpi jungle/Chhote/Bade jhar ka jungle/ jungle-jhari land/civil – soyam lands and all other such categories of land, on which the provisions of Forest (Conservation) Act, 1980 are applicable, shall be considered for the purpose of compensatory afforestation provided that lands on which compensatory afforestation is proposed shall be notified as RF under the Indian Forest Act, 1927.

¹⁴ MoEF Circular No. 11-8/2001-FC dated 15.11.2001

- (ii) As far as possible, the non-forest land for compensatory afforestation should be identified contiguous to or in the proximity of Reserved Forest or Protected Forest to enable the Forest Department to effectively manage the newly planted area.
- (iii) In the event that non-forest land of compensatory afforestation is not available in the same district, non-forest land for compensatory afforestation may be identified anywhere else in the State/Union Territory as near as possible to the site of diversion, so as to minimise adverse impact on the micro-ecology of the area.
- (iv) Where non-forest lands are not available or non-forest land is available in less extent to the forest area being diverted, compensatory afforestation may be carried out over degraded forest land being diverted and available non forest land, as the case may be.
- (v) The non-availability of suitable non-forest land for compensatory afforestation in the entire State / Union Territory would be accepted by the Central Government only on the Certificate from the Chief Secretary to the State/Union Territory Government to that effect.
- (vi) **An exception to 3.2(i) above, compensatory afforestation may be raised over degraded forest land twice in extent of the forest area being diverted/deserved in respect of following types of proposals:**
 - (a) For extraction of minor minerals from the river beds. (However, if forest area to be diverted is above 500 hectares, compensatory afforestation over equivalent area of degraded forest shall be required to be done instead of twice the area being diverted subject to a minimum of 1000 hectare compensatory afforestation).
 - (b) For construction of link roads, small water works, minor irrigation works, school building, dispensaries, hospital, tiny rural industrial sheds of the Government or any other similar work excluding mining and encroachment cases, which directly benefit the people of the – in hill district having forest area exceeding 50% of the total geographical area, provided diversion of forest area does not exceed 20 hectares.
 - (c) For laying of transmission lines upto 220 KV.
 - (d) For mulberry plantation undertaken for silk-worm rearing without any felling of existing trees.
 - (e) For diversion of linear or 'strip' plantation declared as protected forest along the road/ rail/ canal sides for widening or expansion of road/rail/ canal.

- (f) For laying of telephone/optical fibre lines.
- (vii) **The field firing ranges**, which are used temporarily by the defence establishments for arms practice, comprises, of safety zone encompassing the field firing range and danger area/ impact zone. Keeping in view that the impact area is only a small portion of the entire firing range and as an exception to 3.2 (i) above, compensatory afforestation may be raised over equivalent degraded forest land of the forest area being diverted for impact zone of the field firing range.
- (vii) No compensatory afforestation shall be insisted upon in respect of the following:-
 - (a) For clearing of naturally grown trees in forest land or in portion thereof for the purpose of using it for reforestation.
 - (b) Proposals involving diversion of forest land upto one hectare. (However, in such cases, plantation of ten times the number of trees likely to be felled will have to be carried out by way of compensatory afforestation or any number of trees specified in the order).
 - (c) For underground mining in forest land below 3 metres. (However, in respect of forest area required for surface right, compensatory afforestation shall be required as per relevant provisions).
 - (d) Cases of renewal of mining lease, for the forest area already broken/used for mining, dumping or over burden, construction of road, ropeways, buildings, etc. For the balance area, compensatory afforestation shall be required to be done as stipulated, provided that no compensatory afforestation had been stipulated and done in respect of this area at the time of grant/renewal of lease earlier.
- (ix) **Special provisions for Central Government/Central Government Undertaking Projects.**
 - (a) Compensatory afforestation may be raised on degraded forest land twice in extent of forest area being diverted. Certificate of Chief Secretary regarding non-availability of non-forest land for compensatory afforestation will not be insisted.
 - (b) The user agency will deposit the amount for compensatory afforestation with the concerned State Govt. on receiving the demand and the actual transfer/use of forest land will be effected only after the receipt of the demanded amount.
 - (c) The State Governments will identify 'blank forest' or degraded

forestlands for compensatory afforestation. The State Governments of Madhya Pradesh and Rajasthan will identify such degraded forest land in their States for compensatory afforestation of Central Projects in their respective States as indicated by the Chief Secretaries of these two States in the meeting of Committee of Secretaries held on 15-11-1996.

- (d) The pool of degraded forest land in Madhya Pradesh and Rajasthan will also be available for the Central Government projects of other States if the concerned State Government fails to identify the requisite land, as mentioned at (a) above, for compensatory afforestation in its own territory within one month of the submission of the proposal to the State Government.
- (e) While identifying the pool of degraded forest land, blank forest lands in reserved forests in compact/ sizeable blocks should be identified as first priority as "plantation bank". As appropriate treatment plan with choice of species should be prepared by the beneficiary States. Only when such areas are not available, the choice of compensatory afforestation will fall on protected, unprotected forests and unclassified forests in declining order of priority.
- (f) The Nodal Officer (Forest Conservation), State Forest Department will identify the pool of such degraded forest lands in consultation with concerned Chief Conservator of Forests (C), Regional Offices of the MOEF.

Clarification: The provisions of the above guideline would be applicable to only Central Sector projects and not on State Sector projects which are being undertaken by Central PSUs on turnkey basis. In such cases, Compensatory Afforestation on equivalent non-forest land/a certificate of Chief Secretary regarding non-availability of equivalent non-forest land anywhere in the State shall be insisted upon.

3.3 Elements of Schemes for Compensatory Afforestation.-

- (i) **The scheme for compensatory afforestation should contain the following details:-**
 - (a) Details of equivalent non-forest or degraded forest land identified for raising compensatory afforestation.
 - (b) Delineation of proposed area on suitable map.
 - (c) Agency responsible for afforestation.
 - (d) Details of work schedule proposed for compensatory afforestation.

- (e) Cost structure of plantation, provision of funds and the mechanism to ensure that the funds will be utilised for raising afforestation.
- (f) Details of proposed monitoring mechanism.

3.4 Lands identified for Compensatory Afforestation to be transferred to the Forest Department.-

- (i) Equivalent non-forest land identified for the purpose are to be transferred to the ownership of the State Forest Department and **declared as reserved/protected forests, so that the plantation raised can be maintained permanently.** The transfer must take place prior to the commencement of the project.
- (ii) The compensatory afforestation should clearly be an additional plantation activity and not a diversion of part of the annual plantation programme.
- (iii) In each case where the afforestation target is over 500 hectares in plans, and 200 hectares in hill, a Monitoring Committee shall be established with a nominee of the Central Government to oversee that the stipulations, including those pertaining to compensatory plantation are carried out.

3.5 Special Fund.-

- (i) The State / Union Territory Government should create a special fund to which the individual user agency will make its deposits for Compensatory Afforestation. The Forest Department, or any other technically competent agency which is assigned the job of compensatory afforestation should fully utilise this amount for implementation of the afforestation scheme approved by the Government of India, and keep separate and meticulous account thereof.
- (ii) in order that a uniform procedure is followed by all departments, the Controller General of Accounts, Department of Expenditure, Ministry of Finance has informed¹⁵ that the aforesaid deposit may be booked under the head "J-Reserve Fund (b) Funds not bearing interest – 8235 – General and Other Reserve Funds – 200 – Other Funds – Special Fund for Compensatory Afforestation".

Clarification : The Supreme Court has passed orders¹⁶ regarding creation of a body for management of compensatory afforestation fund. In

15 Controller General of Accounts, Department of Expenditure, Ministry of Finance letter No. T- 14018/14/90-Codes/485 dated 23.06.1992

16 SC order in I.A. No. 566 in WP (CI) No. 202 of 1995 dated 30-10-2002 available at Ann IIB of the FCA Guidelines.

compliance with the orders, abody namely, “Compensatory Afforestation Management & Planning Agency (CAMPA)” has been notified¹⁷. All the funds received by the State/Union Territory Governments towards Compensatory Afforestation, Additional Compensatory Afforestation, Penal Compensatory Afforestation, Net Present Value of forest land, Catchment Area Treatment Plan Funds, Wildlife Management Plan etc. for the conditions stipulated by the Central Governments, are deposited in the CAMPA. The Supreme Court reiterated¹⁸ that no approval shall be granted without imposing the condition indicated in this Court’s order dated 30.10.2002 relating to the payment of **net present value** of the forest land.

- (iii) Guidelines for collection of Net Present Value (NPV) of forest land in compliance to the orders of the Supreme Court have been issued.¹⁹

Some Clarifications

4.1 Delegation of Powers-

- (i) All proposals involving diversion /de-reservation of forest land upto 40 hectares, and proposals for clearing of naturally grown trees in forest area or portion thereof shall be sent by the concerned State/Union Territory Government to the concerned Regional Office of MOEF.
- (ii) Chief Conservator of Forests of the concerned Regional Office shall be competent to finally dispose of all proposals (including decision regarding violation of Act) involving diversion/de-reservation for forest land upto 5 hectare, except in mining leases). Similarly, proposals involving clearing of naturally grown trees in forest area or portion thereof for reforestation shall also be finally disposed of by the Chief Conservator of Forests of the concerned Regional Office, subject to guidelines/instructions issued in this regard (refer to para 1.8) and any other instructions issued from time to time.
- (iii) In the absence of Chief Conservator of Forests, these powers shall be exercised by the concerned Conservator of Forests of the Regional Office in case the post of chief Conservator of Forests, these powers shall be exercised by Conservator of Forests of the Regional Office in Chandigarh).

¹⁷ Official Gazette on 23rd April, 2004

¹⁸ Supreme Court in its order dated 1.8.2003 in I.A. No. 826 & 859 in I.A. No. 566 in Writ Petition (Civil) No. 202 of 1995

¹⁹ MoEF letter No. 5-1/98-FC (Pt-II) dated 18-9-2003 & 22-9-2003 and 5-1/98-FC (Pt.II) dated 25.5.2004

- (iv) A list of cases finally disposed of and a list of cases rejected alongwith reasons thereof for rejection would be required to be sent every month to the MOEF by the Regional Office.
- (v) (a) In respect of proposals involving diversion of forest area above 5 hectares and upto 40 hectares and all proposals for regularisation of encroachments and mining upto 40 hectares, the proposals shall be examined by the Regional Chief Conservator of Forests/Conservator of Forests in consultation with an Advisory Group consisting of representative of the State Government from Revenue Department, Forest Department, Planning and /or Finance Department and concerned Department whose proposal is being examined. The views of the Advisory Group shall be recorded by the Regional Chief Conservator of Forests and alongwith the same, the proposal shall be sent to Secretary, MOEF for consideration and final decision. It is to be clarified that views of this Advisory Group in no way shall be binding while deciding the proposal. The meeting of the Advisory Group may be held at the State Capital. The proposal will not be deferred for want of quorum.
- (b) The meeting of the State Advisory Group (SAG) will normally be held once in a month at concerned State Capital. The Regional Chief Conservator of Forests shall act as Chairman of the Advisory Group and Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group.
- (c) State Government may take immediate steps to nominate representatives of the State Government not below the rank of Joint Secretary for the Advisory Group. Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group.
- (d) The details of the officers along with address, telephone number, etc. may be directly communicated to the concerned Regional Chief Conservator of Forests under intimation to this Ministry to facilitate early processing of the proposals by the Advisory Group.

4.2 Two Stage Clearance of Proposals.-

- (i) Forestry clearance will be given in two stages. In 1st stage, the proposal shall be agreed to in principle in which usually the conditions relating to transfer, mutation and declaration a RF/PF under the Indian Forest Act, 1927 of equivalent non-forest land for compensatory afforestation and funds for raising compensatory afforestation thereof are stipulated and after receipt of compliance report from the State Government in

respect of the stipulated conditions, formal approval under the Act shall be issued.

- (ii) However in cases where compliance of conditions stipulated in the in-principle is awaited for more than 5 (five) years from the State Governments, the in-principle approvals would summarily be revoked.

After the revocation of the in-principle approval if the State Government/user agency is still interested in the project, they would be required to submit a fresh proposal which shall be considered de-novo.

- (iii) Sometimes the proposals for renewal of mining leases are accorded in-principle approval/temporary working permission subject to compliance of certain conditions. It has come to the notice of the Ministry that many a times the user agency approaches the Courts against the very conditions on which the proposals are accorded in-principle approval. Ideally the user agency should sort out any grievance in respect of any stipulated condition with the Central Government/State Government. **Therefore, it has been decided that in cases where the user agency decides to approach the Courts for redress, the in-principle approval and temporary working permission shall stand revoked/in abeyance unless the Court cases are withdrawn and conditions complied with or till the cases are decided by the Courts.**

- (iv) Approval proposals shall not normally be reopened for review of the conditions, which have been stipulated earlier.

4.3 Anticipatory Action by the State/Union Territory Governments—Penal Compensatory Afforestation.-

- (i) Cases have come to the notice of the Central Government in which permission for diversion of forest land was accorded by the concerned State Government in anticipation of approval of the Central Government under the Act and/or where work has been carried out in forest area without proper authority. Such anticipatory action is neither proper nor permissible under the Act which clearly provides for prior approval of the Central Government in all cases. Proposals seeking ex-post-facto approval of the Central Government under the Act are normally not entertained. The Central Government will not accord approval under the Act unless exceptional circumstances justify condonation. However, penal compensatory afforestation would be insisted upon by the MOEF on all such condonation.
- (ii) The Penal compensatory afforestation will be imposed over the

areaworked/used in violation. However, where the entire area has beendeforested due to anticipatory action of the State Government, the penalcompensatory afforestation will be imposed over the total lease area.

4.4 Projects Involving Forest as well as Non-forest Lands.-

Some projects involve use of forest land as well as non-forest land. State Governments/project authorities sometimes start work on non-forest lands in anticipation of the approval of the Central Government for release of the forestlands required for the projects. Though the provisions of the Act may not havetechnically been violated by starting of work on non-forest lands, expenditureincurred on works on non-forest lands may proved to infructuous if diversion offorest land involved is not approved. **It has, therefore, been decided that if aproject invites forest as well as non-forest land, work should not be startedon non-forest land till approval of the Central Government for release offorest land under the Act has been given.**

4.5 Diversion for Construction of Houses.-

- (i) On a proposal for construction of houses, the late Prime Minister hadobserved: *"Destruction of our forest has already caused great damage to ourenvironment. Therefore, I am not at all in favour of use of forest land forconstruction of houses..... The State Government should find other land for such purposes."*

The Central Government will not entertain any proposal for diversionof forest land for construction of residential or dwelling houses.

- (ii) Diversion of forest land for construction of other buildings also will not benormally considered. However, such diversion may be allowed forconstruction of schools, hospitals/dispensary, community halls, cooperative,panchayats, tiny rural industrial sheds of the Government etc. which are tobe put up for the benefit of the people of that area, but such diversionshould be strictly limited to the actually needed area and further it shouldnot exceed 1 (one) hectare in each case.

4.6 Extraction of Minor Minerals from the River Beds.-

- (i) Extraction of minor minerals like boundaries, bajri, stone, shell, etc. fromthe river beds shall not be permitted if the river bed is in a national park or awildlife sanctuary unless such extraction is for the benefit of the forest orwildlife.
- (ii) There shall be no labour camp in the forest area for the labour involved inthe extraction work.

- (iii) Extraction of minor minerals shall be from the middle of the river bed after leaving one fourth of the river bed on each bank untouched.

4.7 Safety Zone for Mining Operations.-

- (i) **Forest area required for safety zone for mining operations should not be part of the forest area proposed for diversion. However, it should be indicated separately in the proposal.** Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and half times of the safety zone area in degraded forest elsewhere.
- (ii) Safety zone area calculation in the proposal should be done taking 7.5 metres strip of the forest land all along the outer boundary of the mining lease area. If it is a cluster proposal, then the outer boundaries of the cluster should be taken as the safety zone.
- (iii) In order to safeguard public roads, forest roads, natural streams and nallahs located in mining lease areas, it is necessary that no mining activities should be carried out upto certain reasonable extent. This area can also be included in the safety zone calculation and provision for its fencing and regeneration should be made in the proposal.

4.8 Catchment Area Treatment Plan.-

- (i) Proposals for diversion of forest land for **major and medium irrigation projects** shall invariably be accompanied by detailed catchment area treatment plan. However, in respect of minor irrigation project, catchment area treatment plan will not be insisted.
- (ii) Proposals for diversion of forest land for Hydro-electric projects shall invariably be accompanied by detailed catchment area treatment plan.

However, in respect of small hydel projects (**maximum upto 10 MW capacity**), which are either canal head or run-of the river projects without involving impounding of water/submergence of forest land, catchment area treatment plan will not be insisted.

4.9 Special arrangement in case of Large Projects.-

In case of large projects, depots for fuel wood should be set up by project authorities who will also arrange alternate fuel like coal, kerosene, biogas, LPG, electricity etc. The supply should be free of cost to the labourers

and free or at subsidised rates to the other staff as may be determined by the project authorities.

4.10 Site Inspection.-

- (i) The proposed forest area shall be inspected by a responsible Forest Officer of the State Government. If the area is very important from the forest angle, the territorial Conservator should himself inspect the area and give complete information relating to the forest and aspects of wildlife. The scientific names of important timber species should be given while describing composition of the forest crop. If the area is relatively less important, the DFO could inspect the area. The Inspecting Officers should clearly record in the proforma if any violation is observed like tree felling, land breaking etc., in that area by the user agency. In any case the recommendations of the Chief Conservator of Forest should be categorical and specific and should be sent with photographs of inspected sites, highlighting the aspects of observed, especially when the area is large or is sensitive and fragile. However, every proposal upto 40 hectare must be accompanied by a site inspection report from the DFO and proposals involving area above 40 hectare should have a site inspection report of the Conservator of Forests. They should, apart from providing the information in the proforma, also attach a clear cut certificate as regards the violation of the Forest (Conservation) Act, 1980. In case, violation has taken place, a detailed report should be submitted by the DFO and countersigned by the Conservator of Forests along with the proposal.
- (ii) **In respect of proposals involving diversion of forest land above 100 hectares, site inspection shall be carried out by the Regional Offices of the Ministry.** However, the State/Union Territory Government are required to continue to send a copy of proposals involving diversion of forest land above 40 hectare to the concerned Regional Office as per existing practice. The site inspection report should be in the prescribed proforma.²⁰ and it should be specific on alternatives examined by the project authority, minimum requirement of forest land and self explanatory particularly with regard to overall impact of the project and also contain site specific mitigating measures, in case of recommending a project. The report should also contain photographs of the site indicating main points mentioned in the report.
- (iii) However, site inspection of proposals involving diversion of forest

20 Annexure X of the FCA Guidelines.

land upto 100 hectares will be need based i.e. done by the Regional Officers as and when desired by the Forest Advisory Committee or Ministry. The Regional Office will, however, scrutinise the proposal (involving forest land between 40 to 100 hectares) and can send their observations or any feedback particularly violation of the Forest (Conservation) Act, 1980 for further processing of the proposal.

- (iv) In respect of proposals renewal of leases, the Regional Offices of the Ministry should submit a copy of the report of the latest monitoring done (one year before the expiry of lease period) along with the abstract of monitoring report of the project during the lease period specially highlighting the conditions which have not been fulfilled, with complete details of the reasons for not fulfilling. The conditions which have been complied with should also be highlighted with the quality of performance of the project authorities with short note on the desirability of renewal of lease and other recommendations.

4.11 Complete Details.-

While forwarding the proposal to the Central Government, complete details in all aspects of the case should be given. Incomplete and deficient proposal will not be considered and will be returned to the State Government in original.

4.12 Specific Time Limits.-

- (i) To ensure speedy disposal of proposals, specific time limits have to be laid down for disposal of references at various levels. Efforts should be made to dispose of each reference at the State Government level within a maximum period of 90/60 days as per the Forest (Conservation) Rules, 2003. Specific instructions may be issued in this regard to officers at all levels.
- (ii) Cases which are complete in all respects shall be disposed of within 60 days by the Central Government.

4.13 Quarterly Progress Report (QPR).-

A Monitoring Cell has been created in the Ministry of Environment & Forests, which shall be looked after by Director (FC) and an Assistant Inspector General of Forests. In all cases, the States/Union Territories will submit quarterly progress reports to the Director (FC) regarding the implementation of the stipulations laid down by the Government of India while approving the project especially in respect of compensatory afforestation and future clearance of project of the States and Union Territories concerned will depend upon the fulfilment of stipulations and the achievements in compensatory

afforestation. Monitoring Cell will also monitor the time taken by the authorities in processing the case at different levels of the State Government as well as Central Government. Along with quarterly progress report, a statement in tabular form as given below should also be submitted which will give status of the total number of proposals in the State:

- (a) Name of State
- (b) Total no. of proposals submitted since 1980
- (c) No. of proposals finally approved
- (d) No. of proposals given Stage I approval
- (e) No. of proposals rejected
- (f) No. of proposals withdrawn by State Govt.
- (g) No. of proposals closed for want of information
- (h) No. of proposals pending with Central Govt.
- (i) No. of proposals pending with State Govt. for want of information
- (j) Remarks

4.14 Rejection / Reopening of Cases

- (i) In cases where the State Government is requested to furnish clarifications or additional information relating to a proposal, all particulars should be made available to the Central Government within 60 days. If such particulars are not received within a maximum of 90 days, the proposal may be rejected by the Central Government for non-furnishing of essential information. Such cases could be reopened provided the following conditions are satisfied:
 - (a) all the required information has been made available
 - (b) delay in providing the information is satisfactorily explained, and
 - (c) there is no change in the proposal in terms of scope, purpose and other important aspects.
- (ii) In some cases, the State Government comes up with a request for reconsideration of the proposal after it has been considered and rejected by the Ministry. Such request should be made within three months from the date of the issue of the rejection letter. The request should give a detailed justification for reconsideration as well as comments on the grounds on which the proposal was rejected by the Ministry.

4.15 Nodal Office

- (i) Separate cells for dealing with diversion of forest land cases should be opened at the State Government level and the PCCF Office level. A

wholetimesenior officer not below the rank of Conservator of Forests shouldhead the cell, who should be designated as the Nodal Officer.

- (ii) The Nodal Officer should receive cases from the user agencies and entertainall correspondence from them. He should scrutinise and process the caseand after obtaining views/certificate of the Chief Conservator of Forests,should put up the case to State Government. Besides office staff, the NodalOfficer should also be given sufficient field staff to facilitate timelyprocessing. The State Government while forwarding cases to the Central Government may endorse copies to the Conservator of Forests and the Nodal Officer. The Central Government may also, while corresponding with the State Government, send copies to the Nodal Officer. The Nodal Officer should also obtain all additional information required by the Central Government about the proposals from the concerned authorities directly and endorse a copy directly to the Central Government.
- (iii) While approving a proposal, the Government of India stipulates certainconditions to reduce the environmental damage on account of forest loss. The conditions must be enforced. Their non-compliance should be reported by the Nodal Officer to Regional Office who should inspect the site from time to time.
- (iv) In case of opencast mining, it should be the responsibility of the Nodal Officer and his staff to ensure that all necessary inputs like creation of nursery, storage of top soil for reuse and methodology for its reforestation, choice of species, etc. are so planned and implemented that the mined area is fully afforested by the time mining operations are completed.
- (v) The Nodal Officer should monitor the implementation of the conditions of compensatory afforestation and the survival ratio of the seedlings planted.
- (vi) The Nodal Officer may also report compliance of Stage-I conditions aftergetting it vetted by the State Government wherever it is called for mainly dealing withl and and fund matters.
- (vi) The Nodal Officer may also inform violation/non-compliance of stipulations /conditions prescribed by the Central Govt. so that remedialactions could be taken up early since it is likely to be further delayed after these violations/non-compliance are to be received only from the State Govt. level. In case of gross violations, for which delay/time lag is crucial, such reports from territorial CCF/Conservator of Forests shall also beentertained by Government of India.

- (viii) The Nodal Officer shall submit a monthly report on all the complete applications received by the State Government and their status of processing in the State. The report shall be sent to the Regional Office concerned and the Assistant Inspector General of Forests (FC) / Director in charge of the monitoring cell.

4.16 Lease period for mining lease.-

- (i) The approval under the Forest (Conservation) Act, 1980 for diversion of Forest land for grant/renewal of mining leases shall normally be granted for a period co-terminus with the period of mining lease proposed to be granted under MMDR Act, 1957 or Rules framed thereunder, but not exceeding 30 years. While recommending cases for approval under the FC Act, the user agency/State Government shall indicate the period for which the mining lease is proposed to be granted/renewed under MMDR Act or Rules framed thereunder. However, in the event of noncompliance of stipulations to the satisfaction of the MOEF, the clearance accorded may be summarily withdrawn.
- (ii) The conditions stipulated while giving approval under the Forest (Conservation) Act, 1980 for diversion/renewal of forest land for mining purposes shall be renewed / monitored every five years. If it is found that the lessee has violated or is not complying with the stipulated conditions, then the approval given under the Forest (Conservation) Act, 1980 shall be revoked. Concerned Conservator of Forests (C), Regional Offices of the Ministry will issue a certificate regarding fulfilment of these conditions after carrying out the monitoring. These guidelines shall be applicable retrospectively for all the mining leases which have more than five years of lease period left.
- (iii) The Regional Office will monitor the main parameters/conditions of formal approval as frequently as possible at least once in a year. At least once in five years a comprehensive monitoring as to the effect of monitoring on air and water pollution will also be carried out. Regional Offices should send such reports/certificates in respect of the monitoring mechanism indicated above to this Ministry, so that a view can be taken on continuation of mining lease beyond five years.

4.17 Renewal of Mining Lease – Temporary Working Permission.-

If an application for renewal of mining lease, complete in all respects, has been submitted by the user agency, to the State Government one year before the expiry of the existing lease period, but the State Government has not been able

to process and forward the proposal for approval of the Central Government, till the date of the expiry of the existing lease period; in such cases, the Central Government on an application from the user agency, may grant the user agency, temporary working permission in the already broken up area till a final decision is taken on the proposal.

4.18 In respect of proposals related to renewal of mining leases, the Central Government would grant one year working permission along with in principle approval, for already broken up areas so as to enable the State Government to comply with the conditions. This period can be extended by one more year subject to submission of reasonable progress report from the State Government as regards to the steps taken to comply with the stipulated conditions.

A Summary of Circulars issued by Government of India from time to time is given hereunder. The original Circulars can be referred in the book related to Guidelines issued by Government of India for implementation of Forest (Conservation) Act 1980. Most circulars are also available on the website of Ministry of Environment and Forests, Government of India.

S.No.	Subject	Letter No.	Date
1	Letter for suspension of mining leases in National Parks	No. 11-9 / 98 - FC	4.5.01
2	Eviction of illegal encroachment on forest lands in various States / UT's time bound action plan	No. 7-16 / 2002 - FC	3.5.02
3	Eviction of illegal encroachment on forest lands in various States/UT's time bound action plan	No. IGF / FC / 2002	30.10.02
4	Clarification regarding rejection of proposal	No. 8C / 7 / 2002 (FCW)	18.11.02
5	Notification authorizing RCCF to proceed against offences	F. No. 5-5 / 98 - FC	1.10.03
6	Letter to State/UT Government for revised guidelines	F. No. 2-1 / 2003 - FC	20.10.03
7	Guidelines for development projects in tribal areas	F. No. 2-1 / 2003 - FC	20.10.03
8	Mining leases in National Parks / Sanctuaries	F. No. 11-9 / 98 - FC	20/24.11.03
9	Submission of DRP under FC Act, 1980	F. No. 5-5 / 98 - FC (Pt.)	15.12.03
10	Clarification Regarding Declaration of Non-Forest Land as RF / PF	F. No. 8-84 / 2002 - FC (Pt.)	3.2.04
11	Clarification regarding Supreme Court's order dated 13.11.2000 in Writ Petition (C) No. 337 of 1995	F. No. 2-1 / 2004 - FC	10.3.04
12	Notification on CAMPA		23.4.04
13	Guidelines for projects utilizing Wind Energy	F. No. 8-84 / 2002 - FC	14.5.04
14	Clarification regarding NPV	F. No. 5-1 / 98 - FC	25.5.04
15	Revised guidelines for Tussler Cultivation	F. No. 2-1 / 2003 - FC (Pt. I I I)	7.6.04

16	Guidelines for installing of temporary Crushing and Screening Plants in the mining lease areas already approved for diversion by Central Government	F. No. 11-1 / 2004 - FC	9.6.04
17	Guidelines for inclusions of CMPDI for subsidence prediction plant in respect of underground mining	F. No. 2-1 / 2003 - FC (Pt. I I I)	10.6.04
18	Preparation and implementation of Catchment Area Treatment (CAT) Plan	F. No. 8-227 / 87 - FC	15.6.04
19	Clarification on guidelines for diversion of forest land for non-forest purposes under FC Act, 1980	F. No. 11-9 / 98 - FC	15.6.04
20	Clarification regarding processing of proposals for approach roads of the petrol pumps	F. No. 1-14 / 2003 - FC	23.6.2004
21	Clarification regarding realizing of NPV for proposals	F. No. 11-13 / 2004 - FC	23.6.04
22	Procedure for utilizing the land for approach / exit road to petrol pumps	F. No. 11-29 / 2004 - FC	15.7.04
23	Guidelines for installing of temporary Crushing and Screening Plants in the mining areas	F. No. 11-1 / 2004 - FC	6.9.04
24	Clarification on repair and maintenance of roads constructed on forest lands for public purposes	F. No. 11-48 / 2002 - FC	14.9.04
25	Guidelines in respect of pre - 1980 underground mining leases for extraction of minerals	F. No. 2-1 / 2003 - FC (Pt. IV)	6.12.04
26	Guidelines regarding grant of temporary working permission over already broken up area in case of renewal of mining leases, issued under FC Act, 1980	F. No. 2-1 / 2003 - FC (Pt. I I I)	14.12.04
27	Traditional rights of tribals on forest lands-discontinuance of eviction of tribals	F. No. 2-3 / 2004 - FC (Pt. I I I)	21.12.04
28	Developmental activities in tribal areas	F. No. 11-9 / 98 - FC	3.1.05
29	Clarification regarding charging the cost of Compensatory Afforestation thereof	F. No. 11-96 / 2000 - FC	4/7.2.05
30	Procedure for utilizing the land for approach / exit road to petrol pumps	F. No. 11-29 / 2000 - FC	10.2.05
31	Clarification on disposal the trees standing on the forest land diverted for non-forestry use under the FC Act, 1980	F. No. 5-1 / 98 - FC (Pt. I I)	29.3.05
32	Clarification on diversion of forest land for establishment of wind energy projects	F. No. 8-84 / 2002 - FC	6.4.05
33	Review of para (vi) of the guidelines for stepping up the development projects in tribal areas	F. No. 2-1 / 2003 - FC	15.4.05
34	Guidelines under FC Act, 1980 for up-gradation of Kutchia roads constructed prior to 1980 in forest areas, to Pucca roads	F. No. 11-48 / 2002 - FC	29/30.4.05
35	Transfer of the subject of forest in so far as it relates to the rights of Scheduled Tribes on Forest land	F. No. 2-3 / 2004 - FC (Pt. IV)	12.5.05
36	Clarification on traditional rights of tribals on forest lands-discontinuance of eviction of tribals	F. No. 2-3 / 2004 - FC	12.5.05

37	Clarification regarding NPV of diverted forest land for underground	F. No. 5-1 / 1998 - FC (Pt. I I)	17.5.05
38	Clarification on traditional rights of tribals on forest lands-discontinuance of eviction of tribals	F. No. 2-3 / 2004 - FC	8.6.05
39	Rights of the forest dependent rural poor including tribal's recognized under Indian Forest Act, 1927	F. No. 11-9 / 98 - FC	9/10.6.05
40	Clarification regarding applicability of the FC Act, 1980 on the plantations raised on revenue waste land etc.	F. No. 11-37 / 2003 - FC	30/31.8.05
41	Clarification under FC Act, 1980 for plantation of Jatropha on forest land	F. No. 2-1 / 2003 - FC (Pt. I I I)	5.9.05
42	Supreme Court order on Jamuwa Ramgarh Sanctuary	F. No. 7-9 / 2004 - FC	22/23.9.05
43	Traditional Rights of Forest Dwellers on forest lands discontinuance of eviction of forest dwellers	F. No. 2-3 / 2004 - FC (Pt. -I I)	17.10.05
44	Issue related to imposition of additional conditions by the State Government in respect of proposals involving forest land	F. No. 11-79 / 2005 - FC	27.10.05
45	Guidelines for verification / recognition of rights of tribals and forest dwellers on forest land	F. No. 2-3 / 2004 - FC	3.11.05
46	Traditional Rights of Forest Dwellers, including triabals , on forest land; discontinuation of eviction	F. No. 2-3 / 2004 - FC (Pt. I I)	7.11.05
47	Information about various funds realized from the user agencies for diversion of forest land for non-forestry purposes	F. No. 5-1 / 98 - FC (Pt.)	9.11.05
48	Guidelines related to general approval for underground laying of optical fibre cables	F. No. 11-9 / 98 - FC	21.11.05
49	Guidelines for diversion of forest land under FC Act, 1980 for establishment of wind power projects	F. No. 8-84 / 2002 - FC	16.12.05
50	Exemption of certain Government projects from payments of NPV	F. No. 5-1 / 1998 - FC (Pt. I I)	19.12.05
51	Expert committee constituted under the chairpersonship of Prof. Kanchan Chopra	F. No. 5-1 / 1998 - FC	22.12.05
52	Guidelines for diversion of forest land for establishment of wind power projects	F. No. 8-84 / 2002 - FC	20.2.06
53	Removal of already quarried and stacked material / mineral from mining lease	F. No. 15-26-ROHQ / 2004 - FC	14.4.06
54	Exemption from payment of NPV for relocation of villages from National Park / Sanctuaries	F. No. 11-82 / 2006 - FC	10.5.06
55	General approval dated 3.1.2005 under Section 2 of FC Act, 1980 for diversion of forest land for non-forest purposes	F. No. 11-9 / 1998 - FC	24.5.06
56	Imposition of additional conditions by the State Government in respect of diversion of forest land	F. No. 11-79 / 2005 - FC	1.6.06
57	Clarification under FC Act, 1980 for plantation of Jatropha on forest land	F. No. 2-1 / 2003 - FC (Pt. I I I)	24.7.06
58	Constitution of Committee for formulation of suitable guidelines under FC Act, 1980	F. No. 11-47 / 2006 - FC	24.7.06

59	Laying of transmission lines in rural areas	F. No. 11-98 / 2007 - FC	14.9.06
60	Recovery of NPV of the forest land diverted under the FC Act, 1980	F. No. 5-2 / 2006 - FC	3.10.06
61	Guidelines under FC Act, 1980 for diversion of forest and for construction of roads	F. No. 11-47 / 2006 - FC	6.10.06
62	Guidelines for diversion of forest land for establishment of wind power projects	F. No. 8-84 / 2002 - FC	22.6.07
63	Submission of information regarding general approval of Government projects	F. No. 11-9 / 98 - FC (Pt.)	31.8.07
64	Applicability of FC Act, 1980 for activities that are necessary for ex-situ conservation of wild animals	F. No. 11-66 / 2004 - FC	13.11.07
65	Terms of Reference for studies on potential impact on wind mills on birds and bats	F. No. 8-47 / 2008 - FC	16.3.08
66	Reconstitution of Forest Advisory Committee	F. No. 3-1 / 2008 - FC	26.5.08
67	Guidelines for collection of NPV in case of projects engaged in the production of Wind Energy	F. No. 5-1 / 98 - FC (Pt. I I)	13.6.08
68	Submission of proposals for diversions of forestland for non forestry purpose	F. No. 2-01 / 2003 - FC	11.8.08
69	Guidelines for Stabilization of shifting cultivation by allowing horticulture / tea garden under the FC Act, 1980	F. No. 11 - 85 / 2008 - FC	23.10.08
70	Clarification on payments towards cutting, felling, logging and transportation charges	F. No. 5-1 / 2007 - FC	11.12.08