

**PART – A****FOREST (CONSERVATION) ACT, 1980  
WITH AMENDMENT MADE IN 1988**

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

Short title, extent and commencement. –

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:-

**1. Short title, extent and commencement –**

- (1) This Act may be called the Forest (Conservation) Act, 1980.
- (2) It extends to the whole of India except the State of Jammu & Kashmir.
- (3) It shall be deemed to have come into force on the 25<sup>th</sup> day of October, 1980.

**2. Restriction on the de-reservation of forests or sue of forest land for non-forest purpose –**

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing –

- (i) that any reserved forest (within the meaning of the expression “reserved forest” in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non-forest purpose;
- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to an private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;
- (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, or the purpose of using for re-forestation.

*Explanation* – For the purpose of this section, “non-forest purpose” means the breaking up or clearing any forest land or portion thereof for –

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;
- (b) any purpose other than re-forestation,

but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wire less communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

### **3. Constitution of Advisory Committee –**

The Central Government may constitute a Committee considering of such number of persons as it may deem fit to advise that Government with regard to –

- (i) the grant of approval under Section 2; and
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

### **3A. Penalty for contravention of the provisions of the Act –**

Whoever contravenes or abets the contravention of any of the provisions of Section 2, shall be punishable with simple imprisonment for a period which may extend to 15 days.

### **3B. Offences by authorities and Government Departments –**

- (1) Where any offence under this Act has been committed –
  - (a) by any department of Government, the head of the department; or
  - (b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the head of the department or any person referred to in clause (b), liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of; or is attributable to any neglect of the part of any officer, other than the head of the department, or in the case of an authority, any person other than the persons referred to in clause (b) of sub-section 91), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### **4. Power to makes rules –**

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each house of Parliament, while it is in session, for a total period of 30 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the

rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and saving –

- (1) The Forest (Conservation) Ordinance, 1980 is hereby replaced.
- (2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

## **PART – B**

### **FOREST (CONSERVATION) RULES, 2003**

**(published in Gazette of India Extraordinary on the 10<sup>th</sup> January 2003)**

**G.S.R. 23(E)** – In exercise of the powers conferred by sub-section (1) of section 4 of the Forest (Conservation) Act, 1980 (69 of 1980), and in supersession of the Forest (Conservation) Rules, 1981, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely :-

#### **1. Short title, extent and commencement –**

- (1) These rules may be called the Forest (Conservation) Rules, 2003.
- (2) They shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) They shall come into force on the date of their publication of the Official Gazette.

#### **2. Definitions. –** In these rules, unless the context otherwise requires:-

- (a) “Act” means the forest (Conservation) Act, 1980 (69 of 1980);
- (b) “Committee” means the Advisory Committee constituted under section 3 of the Act;
- (c) “Chairperson” means the Chairperson of the committee;
- (d) “Member” means a member of the Committee;
- (e) “Nodal Officer” means any officer not below the rank of conservator of Forests, authorised by the State Government to deal with the forest conservation matters under the Act;
- (f) “Regional Office” means a Regional Officer of the Central Government in the Ministry of environment and Forest established as part of the Ministry to deal with the forest conservation matters under the Act;
- (g) “Section” means a section of the Act;

- (h) “User Agency” means any person, organisation or Company or Department of the Central or State Government making a request for diversion or de-notification of forest land for non-forest purpose or using forest land for non-forest purpose in accordance with the permission granted by the Central Government under the Act or the rules.

### **3. Composition of the Committee. –**

- (1) The Committee shall be composed of the following members:-
- |   |                  |
|---|------------------|
| (a) Director General of Forests, Ministry of Environment and Forests                        | Chairperson      |
| (b) Additional Director General of Forests, Ministry of Environment and Forests             | Member           |
| (c) Additional Commissioner (Soil Conservation), Ministry of Agriculture                    | Member           |
| (d) Three eminent experts in forestry and allied disciplines (non-officials)                | Member           |
| (e) Inspector General of Forests (Forest Conservation), Ministry of Environment and Forests | Member Secretary |
2. Additional Director General of Forests shall act as the Chairperson in the absence of Director General of Forests.

### **4. Terms of appointment of non-official members shall be as follows. –**

- (i) a non-official member shall hold his office for a period of two years;
- (ii) a non-official member shall cease to hold office if he becomes of unsound mind, becomes insolvent or is convicted by court of law on a criminal offence involving moral turpitude;
- (iii) a non-official member may be removed from his office if he fails to attend three consecutive meetings of the Committee without any sufficient cause or reasons;
- (iv) any vacancy in the membership caused by any reason mentioned in clauses (ii) and (iii) shall be filled by the Government for the unexpired portion of two years term.
- (v) travelling and daily allowance shall be payable to the non-official members of the Committee at the highest rate admissible to the Government servants of Group ‘A’ under the rules and orders made by the Central Government and for the time being in force.

Provided that the payment of travelling allowance and daily allowance to a member who is Member of the Parliament or a Member of a State Legislature shall be regulated in accordance with the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954) or the respective provisions of law pertaining to the member of the concerned State Legislature.

**5. Conduct of business of the Committee. –**

- (i) The Chairperson shall call the meeting of the Committee whenever considered necessary, but not less than once in a month.
- (ii) The meeting of the Committee shall be held at New Delhi.
- (iii) In a case where the Chairperson is satisfied that inspection of site or sites of forest land proposed to be used for non-forest purposes shall be necessary or expedient in connection with the consideration of the proposal or proposals received under sub-rule 93) of rule 6, he may direct that the meetings of the Committee to be held at a place other than New Delhi from where such inspection of site or sites is necessary.
- (iv) The Chairperson shall preside over every meeting of the Committee at which he is present.
- (v) Every question upon which the Central Government is required to be advised shall be considered in the meeting of the Committee provided that in urgent cases if the meeting cannot be convened within a month, the Chairperson may direct that papers may be circulated and sent to the members for their opinion within the stipulated time.
- (vi) The quorum of the meeting of the Committee shall be three.

**6. Submission of the proposal seeking approval of the Central Government under section 2 of the Act. –**

- (1) Every user agency, who wants to use any forest land for non-forest purposes shall make his proposal in the appropriate Form appended to these rules, i.e. Form 'A' for proposals seeking first time approval under the Act and Form 'B' for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier, to the concerned nodal officer authorised in this behalf by the State Government, alongwith requisite information and documents, complete in all respects, well in advance of taking up any non-forest activity on the forest land.
- (2) Every State Government or other authority, after having received the proposal under sub-rule (1) and after being satisfied that the proposal requires prior approval under section 2 of the Act, shall send the proposal to the Central Government in the appropriate forms, within 90 days of the receipt of the proposal from the user agency for proposals seeking first time approval under the Act and within 60 days for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier:

Provided that all the proposals involving clearing naturally grown trees in forest land or portion thereof for the purpose of using it for re-afforestation shall be sent in the form of Working Plan or Management Plan.

- (3) The proposal referred to in sub-rule (2) above involving forest land of more than 50 hectare shall be sent by the State Government to the Secretary to the

Government of India, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003, with a copy of the proposal (with complete enclosures) to the concerned Regional Office.

- (4) The proposal referred to in sub-rule (2) above, involving forest land upto 40 hectare shall be sent to the Chief Conservator of Forests or Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.
- (5) The proposal referred to sub-rule (2) above, involving clearing of naturally grown res in forest land or portion thereof for the purpose of using it for re-forestation shall be sent to the Chief Conservator of Forests or Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.

**7. Committee to advise on proposals received by the Central Government. –**

- (1) The Central Government shall refer every proposal, complete in all respects, received by it under sub rule (3) of rule 6 including site inspection report, wherever required, to the Committee for its advice thereon.
- (2) The Committee shall have due regard to all or any of the following matters while tendering its advice on the proposals referred to it under sub-rule (1), namely:-
  - (a) Whether the forest land proposed to be used for non-forest purpose forms part of a nature reserve, national park, wildlife sanctuary, biosphere reserve or forms part of the habitat of any endangered or threatened species of flora and fauna or of an area lying in severely eroded catchment;
  - (b) Whether the use of any forest land is for agricultural purposes or for the rehabilitation of persons displaced from their residences by reason of any river valley or hydro-electric project;
  - (c) Whether the State Government or the other authority has certified that it has considered all other alternatives and that no other alternatives in the circumstances are feasible and that the required area is the minimum needed for the propose; and
  - (d) Whether the State Government or the other authority undertakes to provide at its cost for the acquisition of land of an equivalent area and afforestation thereof.
- (3) While tendering the advice, the Committee may also suggest any conditions or restrictions on the use of any Forest land for any non-forest purpose, which in its opinion, would minimise environmental impact.

**8. Action on the Central Government on the advice of the Committee. –**

The Central Government shall, after considering the advice of the Committee tendered under rule 7 and after such further enquiry as it may consider necessary, grant approval to the proposal with or without conditions or reject the same within 60 days of its receipt.

**9. Proceedings against persons guilty of offences under the Act. –**

- (1) The Central Government may, by notification, authorise any officer not below the rank of Conservator of Forests or the concerned forest officer having territorial jurisdiction over the forest land in respect of which the said offence is said to have been committed, to file complaints against the person(s) prima-facie found guilty of offence under the Act or the violation of the rules made thereunder, in the court having jurisdiction in the matter.

Provided that no complaint shall be filed in the court, without giving the person(s) or officer(s) or authority(s) against whom the allegations of offence exist, an opportunity to explain this or their conduct and to show cause, by issuing a notice in writing of not less than 60 days, as to why a complaint should not be filed in the court against him or them for alleged offences.

- (2) The officer authorised by the Central Government in sub-rule (1) may require any State Government or its officer or any person or any other authority to furnish to it within a specified period any reports, documents, statistics and any other information related to contravention of the act or the rules made thereunder, considered necessary for making a complaint in any court of jurisdiction and every such State Government or officer or person or authority shall be bound to do so.

**APPENDIX**  
(See Rule 6)

**FORM – ‘A’**

**Form for seeking prior approval under section 2 of the proposals  
by the State Government and other authorities.**

**PART – I**  
**(to be filled up user agency)**

1. Project details. –
  - (i) Short narrative of the proposal and Project/Scheme for which the forest land is required.
  - (ii) Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
  - (iii) Total cost of the project.
  - (iv) Justification for locating the project in the forest area.
  - (v) Cost-benefit analysis (to be enclosed).
  - (vi) Employment likely to be generated.
2. Purpose-wise break-up of the total land required.
3. Details of displacement of people due to the project, if any:
  - (i) Number of families.
  - (ii) Number of Scheduled Castes/Scheduled Tribe families.
  - (iii) Rehabilitation plan. (to be enclosed).
4. Whether clearance under Environment (Protection) Act, 1986 required? (Yes/No).
5. Undertaking to bear the cost of raising and maintenance of compensatory afforestation and/or penal compensatory afforestation as well as cost for protection and regeneration of Safety Zone, etc. as per the scheme prepared by the State Government (undertaking to be enclosed).
6. Details of Certificates/documents enclosed as required under the instruction.

Signature  
(Name in Block letters)  
Designation  
Address (of User Agency)

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

State serial No. of proposal \_\_\_\_\_  
(to be filled up by the Nodal Officer with date of receipt)



**PART – II**  
**(To be filled by the concerned Deputy Conservator of Forests)**

State serial No. of proposal \_\_\_\_\_

7. Location of the project/Scheme:
  - (i) State /Union Territory
  - (ii) District
  - (iii) Forest Division
  - (iv) Area of forest land proposed for diversion (in hectares)
  - (v) Legal status of forest
  - (vi) Density of vegetation
  - (vii) Species-wise (scientific names) and diameter class-wise enumeration of trees (to be enclosed. In case of irrigation/.hydel projects enumeration at FRL, FRL – 2 meter & FRL – 4 meter also be enclosed.)
  - (viii) Brief note of vulnerability of the forest area to erosion.
  - (ix) Approximate distance of proposed site for diversion from boundary of forest.
  - (x) Whether forms part of National Park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, etc. (If so, the details of the area and comments of the Chief Wildlife Warden to be annexed).
  - (xi) Whether any rare/endangered/unique species of flora and fauna found in the area – if so details thereof.
  - (xii) Whether any protected archaeological/heritage site/defence establishment or any other important monument is located in the area. If so, the details thereof with NOC from competent authority, if required.
  
8. Whether the requirement of forest land as proposed by the user agency in col. 2 of Part-I is unavoidable and barest minimum for the project. If so, recommended area item-wise with details of alternatives examined.
  
9. Whether any work in violation of the Act has been carried out (Yes/No). If yes, details of the same including period of work done, action taken on erring officials. Whether work in violation is still in progress.
  
10. Details of compensatory afforestation scheme:
  - i) Details of non-forest area/degraded forest area identified for compensatory afforestation, its distance from adjoining forest, number of patches, size of each patch.
  - ii) Map showing non-forest/degraded forest area identified for compensatory afforestation and adjoining forest boundaries.
  - iii) Detailed compensatory afforestation scheme including species to be planted, implementing agency, time schedule, cost structure etc.
  - iv) Total financial outlay for compensatory afforestation scheme.

- v) Certificates from competent authority regarding suitability of area identified for compensatory afforestation and from management point of view. (to be signed by the concerned Deputy Conservator of Forests).
- 11. Site inspection report of the Deputy Conservator of Forests (to be enclosed) especially highlighting facts asked in col. 7(xi, xii), 8 and 9 above.
- 12. Division/District profile:
  - i) Geographical area of the district.
  - ii) Forest area of the district.
  - iii) Total forest area diverted since 1980 with number of cases.
  - iv) Total compensatory afforestation stipulated in the district/division since 1980 on
    - (a) forest land including penal compensatory afforestation,
    - (b) non-forest land.
  - v) Progress of compensatory afforestation as on (dated) \_\_\_\_\_ on
    - (a) forest land
    - (b) non-forest land.
- 13. Specific recommendations of the Deputy Conservator of Forests for acceptance or otherwise of the proposal with reasons.

Signature  
Name  
Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

**PART – III**

**(To be filled by the concerned Conservator of Forests)**

- 14. Whether site, where the forest land involved is located has been inspected by concerned Conservator of Forests (Yes/No). If yes, the date of inspection & observations made in form of inspection note to be enclosed.
- 15. Whether the concerned Conservator of Forests agree with the information given in Part – B and the recommendations of Deputy conservator of Forest.
- 16. Specific recommendation of concerned Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons.

Signature  
Name  
Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

**PART – IV**

**(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest Department)**

17. Detailed opinion and specific recommendations of the State Forest Department for acceptance or otherwise of the proposal with remarks.

(While giving opinion, the adverse comments made by the concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon.)

Signature  
Name  
Official Seal

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

**PART – V**

**(To be filled in by the Secretary in charge of Forest Department or by any other authorised officer of the State Government not below the rank of an Under Secretary)**

18. Recommendation of the State Government:

(Adverse comments made by any officer or authority in Part – B or Part – C or Part – D above should be specifically commended upon)

Signature  
Name  
Official Seal

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

**INSTRUCTIONS (for Part – D):-**

1. The project authority may annex a copy of the approval project / plan in addition to filing col. 1(i) e.g. IBM approved mining plan for major minerals/CMPDI plan with subsidence analysis reports, etc.
2. Map has to be in original duly authenticated jointly by project authorities and concerned Deputy Conservator of Forests – Col. 1 (iii).
3. Complete details of alternative alignments examined especially in case of project like roads, transmission lines, railway lines, canals, etc. to be shown on map with details of area of forest land involved in each alternative to be given – Col. 1 (iii).

4. For proposals relating to mining, certificate from competent authority like District Mining Officer about non-availability of the same mineral in surrounding /nearby non-forest areas.
5. In case the same company /individual has taken forest land for similar project in the State, a brief detail of all such approvals/leases be given as an enclosure along with current status of the projects.
6. The latest clarifications issued by the Ministry under Forest (Conservation) Act, 1980 may be kept in mind. In case such information do not fit in the given columns, the same shall be annexed separately.

**GENERAL INSTRUCTIONS:-**

1. On receipt of proposal, Nodal Officer shall issue a receipt to the user agency indicating therein the name of the proposal, user agency, area in hectare, serial number and date of receipt.
2. If the space provided above is not sufficient to specify any information, please attach separate details/documents.
3. While forwarding the proposal to the Central Government, complete details on all aspects of the case as per Form prescribed above read with the clarifications issued by the Ministry of Environment and Forests, Government of India, New Delhi should be given. Incomplete or deficient proposals shall not be considered and shall be returned to the State Government in original.
4. The State Government shall submit the proposal to the Central Government within stipulated time limits. In case of delay while forwarding, the reasons for the same to be given in the forwarding /covering letter.

**FOR – ‘B’  
(See Rule 6)**

**Form for seeking prior approval under Section 2 of the proposals by the State Governments and other authorities in respect of renewal of leases, which have been earlier granted clearance under Forest (Conservation) Act, 1980**

**PART – I  
(to be filled up by user agency)**

1. Letter No. & date vide which clearance under Forest (Conservation) Act, 1980 accorded by the Central Government (copy to be enclosed):
2. Project details:
  - i) Short narrative of the proposal and project/scheme for which the forest land is required.
  - ii) Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.

- iii) Cost of the project:
- 3. Purpose-wise break-up of the total land required (already broken & to be broken):
- 4. Details of Certificates/documents enclosed as required under the instructions.

Signature  
Name  
Official Seal

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

State serial No. of proposal \_\_\_\_\_  
(To be filled up by the Nodal Officer with date of receipt)

**PART – II**  
**(To be filled by the concerned Deputy Conservator of Forests)**

- 5. Location of the Project/Scheme:
  - i) State / Union Territory
  - ii) District
  - iii) Forest Division
  - iv) Area of forest land proposed for diversion (hectares)
  - v) Legal status of forest
  - vi) Density of vegetation
  - vii) Species-wise (scientific names) and diameter class-wise enumeration of trees in unbroken area.
  - viii) Whether forms part of National Park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, etc. (If so, the details of the area and comments of the chief Wildlife Warden to be annexed).
- 6. Whether any work in violation of the Act has been carried out (Yes/No). If yes, details of the same including period of work done, action taken on erring officials. Whether work in violation is still in progress.
- 7. Site inspection report of the Deputy Conservator of Forests (to be enclosed) in respect to status of compliance of conditions stipulated during earlier approval.
- 8. Division/District profile:
  - i) Geographical area of the district
  - ii) Forest area of the district.
  - iii) Total Forest area diverted since 1980 with number of trees.
    - (a) forest land including penal compensatory afforestation.
    - (b) non-forest land.
  - (v) Progress of compensatory afforestation as on (dated) \_\_\_\_\_ on

- a) forest land
  - b) non-forest land.
9. Specific recommendations of Deputy Conservator of Forests for acceptance or otherwise of the proposal with reasons.

Signature  
Name  
Official Seal

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

**PART – III**  
**(to be filled up by the concerned Conservator of Forests)**

- 10. Whether site, where the forest land involved is located has been inspected by concerned Conservator of Forests (Yes/No). If yes, the date of inspection & observations made in form of inspection note to be enclosed.
- 11. Whether the concerned Conservator of Forest agree with the information given in Part – B and the recommendations of Deputy Conservator of Forests.
- 12. Specific recommendation of concerned Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons.

Signature  
Name  
Official Seal

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

**PART – IV**  
**(to be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest Department)**

- 13. Detailed opinion and specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks.  
(While giving opinion, the adverse comments made by concerned Conservator of Forests of Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Signature  
Name  
Official Seal

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

**PART – V**

**(to be filled in by the Secretary in charge of Forest Department or by any other authorised officer of the State Government not below the rank of an Under Secretary)**

14. Recommendation of the State Government:

(Adverse comments made by any officer or authority in Part – B or Part – C or Part – D above should be specifically commented upon).

Signature  
Name  
Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

**INSTRUCTIONS (for Part – I):**

1. The project authorities may annex a copy of the approved project/plan in addition of filling Col. 2(i) e.g. IBM approved mining plan for major minerals / CMPDI plan with subsidence analysis reports, etc.
2. Map has to be in original duly authenticated jointly by project authorities and concerned Deputy Conservator of Forests – Col. 2 (ii).
3. In case the same company /individual has taken forest land for similar project in the State, a brief detail of all such approval / leases be given as an enclosure along with current status of the projects.
4. Item-wise requirement (Col. 3) should be separately shown for broken up and fresh area.
5. The latest clarifications issued by the Ministry under Forest (Conservation) Act, 1980 may be kept in mind. In case such information do not fit in the given columns, the same shall be annexed separately.

**GENERAL INSTRUCTIONS:**

1. On receipt of proposal, Nodal Office shall issue a receipt to the user agency indicating therein the name of the proposal, user agency, area in hectare, serial number and date of receipt.
2. If the space provided above is not sufficient to specify any information, please attach separate details/documents.
3. While forwarding the proposal to the Central Government, complete details on all aspects of the case as per Form prescribed above read with the clarifications issued by the Ministry of Environment and Forests, Government of India, New Delhi should be given. In complete or deficient proposal shall not be considered and shall returned to the State Government in original.

4. The State Government shall submit the proposal to the Central Government within stipulated time limits. In case of delay while forwarding, the reasons for the same to be given in the forwarding/covering letter.

[F.Np.5-5/98-FC]

Dr. V.K. BAHUGUNA, Inspector General of Forests (Forest Conservation)

**Note:**

The principle rules were published vide G.S.R. No. 719 dated 1<sup>st</sup> August, 1981 in Part – II, Section 3, sub-section (i) of the Gazette of India and subsequently amended vide

- (1) G.S.R 14, dated the 28<sup>th</sup> December, 1987
- (2) G.S.R. 640 (E), dated the 26<sup>th</sup> June, 1989
- (3) G.S.R. 563 (E), dated the 21<sup>st</sup> May, 1992



## **Forest (Conservation) Amendment Rules, 2004**

**(Published in Gazette of India : Extraordinary on 3<sup>rd</sup> February, 2004 and  
Corrigendum on 9<sup>th</sup> February, 2004)**

**G.S.R. 94 (E)** – In exercise of the powers conferred by Sub-section (1) of Section 4 of the Forest (Conservation) Act, 1980 (69 of 1980), the Central Government hereby makes the following rules to amend the Forest (Conservation) Rules, 2003, namely:-

1. (1) These rules may be called the Forest (Conservation) Amendment Rules, 2004.
- (2) Rules 1, 2, 3, 5, 6 (except Sub-rule (5) of rule (6) and 7 of these rule shall come into force on the date of their publication in the Official Gazette; whereas, rule 4 of these rules and sub-rule (5) of rule 6 of the principal rule, as contained in rule 5 of these rules, shall come into force on the expiry of 180 days from the date of such publication.
2. In the Forest (Conservation) Rules, 2003 (hereinafter referred to as the said rules), in rule, 2 for clause (b), the following clause shall be substituted, namely:-  
(b) “Committee” means the Forest Advisory Committee constituted under section 3 of the Act.
3. In the said rules, for rule 3, the following rule shall be substituted, namely:-  
“3. Composition of the Forest Advisory Committee:-  
(1) The Forest Advisory Committee shall be composed of the following members, namely:-
 

|  |                  |
|--|------------------|
| (i) Director General of Forests, Ministry of Environment and Forests   | Chairperson      |
| (ii) Additional Director General of Forests, Ministry of Environment and Forests                                     | Member           |
| (iii) the Additional Commissioner (Soil Conservation), Ministry of Agriculture                                       | Member           |
| (iv) Three non-official members who shall be experts one each in mining, Civil Engineering and Development Economics | Member           |
| (v) the Inspector General of Forests (Forest Conservation), Ministry of Environment and Forests                      | Member Secretary |
- (2) The Additional Director General of Forests shall act as Chairperson in the absence of the Director General of Forests.”
4. In the said rules, after rule 3, the following rule shall be inserted, namely:-  
Constitution of the Regional Empowered Committee:-

- (1) A Regional Empowered Committee shall be constituted at each of the Regional Offices and shall consist of the following members, namely:
    - (i) the Regional Principal Chief Conservator of Forests (Central) – Chairperson
    - (ii) three non-official members who shall be experts one each in Mining, Civil Engineering and Development Economics – Members
    - (iii) the Conservator of Forests of the Deputy Conservator of Forests in the Regional Office – Member Secretary.
  - (2) The term of appointment of non-official Members shall be as specified in rule 4 of these rules.
5. In the said rules, for rule 6, the following rule shall be substituted, namely –
- “6. Submission of proposals seeking approval of the Central Government under Section 2 of the Act
- (1) Every User Agency who want to use any forest land for non-forestry purposes, shall make its proposal in the relevant Form appended to these rules, i.e. Form ‘A’ for proposals seeking first time approval under the Act, and Form ‘B’ for proposal seeking renewal of leases, where approval of the Central Government under the Act had already been obtained, to the Nodal Officer of the concerned State Government or the Union Territory Administration, as the case may be, along with requisite information and documents, complete in all respects.
  - (2) The User Agency shall endorse a copy of the proposal, along with a copy of the receipt obtained from the office of the Nodal Officer, to the concerned Divisional Forest Officer or the Conservation Division of the Ministry of Environment and Forest, Paryavaran Bhawan, CGO Complex, New Delhi – 110 003.
  - (3)
    - (a) After having received the proposal, the State Government or the Union Territory Administration, as the case may be, shall process and forward it to the Central Government within a period of two hundred and ten days of the receipt of the proposal including the transit period.
    - (b) The Nodal Office of State Government or as the case may be, the Union Territory Administration, after having received the proposal under sub-rule (1) and on being satisfied that the proposal is complete in all respects and requires prior approval under Section 2 of the Act, shall send the proposal to the concerned Divisional Forest Officer within a period of 10 days of the receipt of the proposal:  
 Provided that on the determination regarding completeness of the proposal or the expiry of 10 days, whichever is earlier, the question of completeness or otherwise of the proposal shall not be raised.
    - (c) If the Nodal Officer of the State Government or the Union Territory Administration, as the case may be finds that the proposal is incomplete, he shall return it within the period of 10 days as specified

under clause (b), to the User Agency and this time period shall not be counted for any future reference.

- (d) The Divisional Forest Officer or the Conservator of Forests shall examine the factual details and feasibility of the proposal, certify the maps, carry out site-inspection and enumeration of the trees and forward this findings in the Format specified in this regard to the Nodal Officer within a period of 90 days of the receipt of such proposal from him.
- (e) (i) The Nodal Officer, through the Principal Chief Conservator of Forests, shall forward the proposal to State Government or the Union Territory Administration, as the case may be, along with his recommendations, within a period of 30 days of the receipt of such proposal from the Divisional Forest Officer or the Conservator of Forests.
- (ii) The State Government or the Union Territory Administration, as the case may be, shall forward the complete proposal, alongwith its recommendations, to the Regional Office or the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi – 110 003, as the case may be, in the specified Forms within a period of 60 days of the receipt of the proposal from the Nodal Officer:

Provided that all proposals involving clearing of naturally grown trees on the forest land or a portion thereof for the purpose of using it for reforestation shall be sent in the form of Working Plan or Management Plan.

Provided further that the concerned State Government or as the case may be, the Union Territory Administration, shall simultaneously send the intimation to the User Agency about forwarding of the proposal, alongwith its recommendations, to the Regional Office or the Ministry of Environment and Forests, as the case may be.

- (f) If the proposal, alongwith the recommendations, is not received form the concerned State Government or the Union Territory Administration, as the case may be, till 15 days of the expiry of the time limit as specified under clause (a), it shall be construed that the concerned State Government or as the case may be, the Union Territory Administration, has rejected the proposal and the concerned State Government or the Union Territory Administration shall inform the User Agency accordingly:

Provided that in case the State Government or the Union Territory Administration, or as the case may be, the Union Territory Administration, shall simultaneously send the intimation to the User Agency about forwarding of the proposal, alongwith its

recommendations, to the Regional Office or the Ministry of Environment and Forests, as the case may be.

- (f) If the proposal, alongwith the recommendations, is not received from the concerned State Government or the Union Territory Administration, as the case may be, till 15 days of the expiry of the time limit as specified under clause (a), it shall be construed that the concerned State Government or as the case may be, the Union Territory Administration, has rejected the proposal and the concerned State Government or the Union Territory Administration shall inform the User Agency accordingly:

Provided that the case the State Government or the Union Territory Administration, as the case may be, subsequently forward the proposal, alongwith its recommendations, to the Regional Office of the Ministry of Environment and Forests, as the case may be, the proposal shall not be considered by the Central Government unless an explanation for the delay to the satisfaction of the Central Government is furnished, together with action taken against any individual held to be responsible for the delay.

- (4) The proposal referred to in clause (e)(ii) of sub-rule (3), involving forest land upto 40 hectares other than the proposal relating to mining and encroachments, shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, alongwith its recommendations, to the Chief Conservator of Forests or the Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests, Government of India, who shall within a period of 45 days of the receipt of the proposal from the concerned State Government or the Union Territory Administration, as the case may be (a) decide the diversion proposal upto 5 hectares and upto 40 hectares, alongwith the recommendations, if any, to the Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, New Delhi – 110 003, for obtaining the decision of the Central Government and inform the State Government or the Union Territory Administration, as the case may be, and the User Agency concerned.

- (5) The Regional Empowered Committee shall decide the proposal involving diversion of forest land upto 40 hectares other than the proposal relating tp mining and encroachments, within 45 days of the receipt of such proposal from the State Government or the Union Territory Administration, as the case may be:

Provided that the Central Government may, if consider it necessary, enhance or reduce the limit of the area of the forest land.

- (6) The proposal referred to the clause (e)(ii) of sub-rule (3), involving forest land of more than 40 hectares, and all proposal relating to mining and encroachments irrespective of the area of the forest land involved, shall be forwarded by the concerned State Government or as the case may be, the

Union Territory Administration, alongwith its recommendations, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi – 110 003”.

6. In the said rules, in rule 7:-
- (i) in sub-rule (1) for the words, brackets and figures “sub-rule (3) of rule 6”, the words brackets and figures “sub-rule (6)” shall be substituted.
  - (ii) After sub-rule (1), the following sub-rule shall e inserted, namely:-  
“(1A) These proposals shall be processed and put up before the Committee and the recommendations of the Committee shall be placed within a period of 90 days of the receipt of such proposals from the State Government or the Union Territory Administration, as the case may be, before the Central Government for its decision.”
  - (iii) in sub-rule (2), in clauses (c) and (d), at both places, for the words, “or the other authority”, the words “or the Union Territory Administration, as the case may be” shall be substituted.
7. In the said rules, rule 8 shall be omitted.

[F.No.5-5/98-FC]  
Dr. V. K. BAHUGUNA,  
Inspector General of Forests (Forest Conservation)

**Note:**

The Principal rules were published in the Gazette of India vide number G.S.R. 23 (E) dated the 10<sup>th</sup> January, 2003.

**MINISTRY OF ENVIRONMENT AND FOREST**  
**CORRIGENDUM**

New Delhi, the 9<sup>th</sup> February, 2004

**G.S.R. 107(E)** – In the Forest (Conservation) Amendment Rules, 2004 published in the Official Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide No. G.S.R. 94(E) dated 3<sup>rd</sup> February, 2004 Sub-rules (4) and (6) of rule 6 of the said rules as contained in rule 5 of the Forest (Conservation) Amendment Rules, 2004 shall be read as follows:

“(4) The proposal referred to in clause (e)(ii) of Sub-rule (3), involving forest land upto 40 hectares shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, alongwith its recommendations, to the Chief Conservator of Forests or the Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests, Government of India, who shall, within a period of 45 days of the receipt of the proposal from the concerned State Government or the Union Territory Administration, as the case may be (a) decide the diversion proposal upto 5 hectare other than the proposal relating to mining and encroachments, and (b) process, scrutinise and forward diversion proposal of more than 5 hectares and upto 40 hectares including all proposals relating to mining and encroachments upto 40 hectares, along with the recommendations, if any, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi – 110 003, for obtaining the decision of the Central Government and inform the State Government or the Union Territory Administration, as the case may be, and the User Agency concerned.

(6) The proposal referred to in clause (e)(ii) of sub-rule 93), involving forest land of more than 40 hectares shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, alongwith its recommendations, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi – 110 003”

[F.No.505/98-FC]

Dr. V. K. BAHUGUAN, Inspector General  
of Forests (Forest Conservation)

Note:

The Forest (Conservation) Amendment Rules, 2004 were published in the Gazette of India vide number G.S.R. 94(E) dated the 3<sup>rd</sup> February, 2004.

**PART – C**  
**CHAPTER 1**

**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. (Supreme Court’s Judgement in the NTPC’s case). It would also include “Forest” as understood in the dictionary sense (Supreme Court order dated 12.12.1996 n WP No. 202/1995-Annexure-I). All proposals for diversions of such areas to 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 the working plan/management plan 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 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 break 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.....” Annexure–II A may be referred to. In view of this, rights and concessions 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 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 of 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 orders regarding taking up of non-forestry activities in the National Parks/Sanctuaries. Annexure – II A may be referred to. 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 prospection would not ipso facto imply any commitment on the part of the Central Government for diversions of forest land.

**Clarification:** 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. Kms. Will not attract Forest (Conservation) Act, 1980, provided that there is no felling of trees involved (MoEF's letter No. 11-33/2004-FC dated – 7.6.2004).

#### **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.

#### **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 Acts 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 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 advice of the Ministry of Law, Government of India in regard to the Supreme Court Order in Civil Appeal No. 2349 of 1984 dated 7.5.1985 is at Annexure-III.
- (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 reassigning or any part thereof to any other organisation or individual.
- (ii) Any scheme or project which involves assignment of any forest land by way 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 include coppicing pollarding and other mode of vegetative propagation.
- (iii) 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/Management Plans 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 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. But in cases where large scale felling/removal of timber and non timber products is required in a national park/sanctuary, which need disposal through sales, approval of the Central Government would be necessary. However, this shall be subject to the orders of the Supreme Court, which may be referred to at Annexure-II A.

### **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-facia 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 fellings/illegal mining, etc. have to be dealt under the provisions of the India Forest Act, 1927, State Forest Acts, Environment (Protection) Act, 1986, etc.

### **1.1 Diversions of Forest Land for Regularisation of Encroachments. –**

- (i) Detailed guidelines issued in this regard vide this Ministry's No. 13.1/90-F.P.(1) dated 18.9.90 shall be strictly followed. These are included in Annexure IV.

- (ii) The State Government/Union Territory Administration may send the proposals as follows:-
- (a) A consolidated proposal for the whole State in the prescribed application form.
  - (b) Detailed information as per the enclosed Table/format – Annexure – IV-A. 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 guidelines issued in this regard vide this Ministry's No. 13-1/90/F.P.(2) dated 18.09.90 shall be strictly followed. These are included in Annexure IV – B.

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

Detailed guidelines issued in this regard vide this Ministry's No. 13-1/90/F.P.(3) dated 18.09.90 shall be strictly followed. These are included in Annexure IV – C.

**1.13 Conversion of Forest Villages into Revenue Villages. –**

Detailed guidelines issued in this regard vide this Ministry's No. 13-1/90/F.P.(5) dated 18.09.90 shall be strictly followed. These are included in Annexure IV – D.

## CHAPTER – 2

### 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, specified 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 alongwith 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.
- (ii) **All proposals relating to diversion of forest land upto 40 hectares for clearing of naturally grown trees for reforestation shall be 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 proposal 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 Officers

- (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 emphasis 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 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 sub-judice, 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 en-escapable, 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 bio diversity 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 are 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 once 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. Alongwith 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 plan should be approved by the competent authority for concerned minerals e.g. **for coal it should be approved by Controller of Coal and for major minerals by IBM and so on.**

Event 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

proposals 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 of the endorsing the proposal that the project is in the interest of people living in and around the proposed forest land except in cases wherever 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 alongwith 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 are 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 piece meal 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 alongwith the proposal.
- (v) Special guidelines in regard to laying of transmission lines in forest area are at Annexure V.
- (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 the proforma at Annexure-VII so as to avoid duplication/reiteration in each proposal. (No.11-30/96-FC(Pt) dated 28.06.2001).
- (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-Demision 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 should be submitted alongwith 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**

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) wherein 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 umber 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 alongwith map of forest area on printed original copy of Survey of India topo 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 any felling or cutting of trees, only the following particulars may be furnished in the prescribed form:
  - (a) Map of the area required alongwith 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 tree cover, 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) 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 planed 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 stipulates 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 eco-economic distress caused to the people who are displaced are weighted against economic and social gains.
- (ii) Annexure VI (a) details the types of projects for which cost-benefit analysis will be required. Annexure VI (b) lists the parameters according to which the cost aspect will be determined, while Annexure VI (c) gives the parameters for assessing the benefits accruing.
- (iii) A cost-benefit analysis as above should accompany the proposals sent to the Central Government for clearance under the Act.

## **2.7 Cost-benefit analysis as above should accompany the proposals sent to the Central Government for clearance under the Act. –**

- (i) If the project involves displacement of people, a detailed Rehabilitation Plan shall be submitted alongwith 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 guidelines issued in this regard vide this Ministry's letter No. 8-21/96-FC dated 07.07.1999 shall be strictly followed. These are included in Annexure VIII.

**2.10 Cluster mining. –**

Detailed guidelines issued in this regard vide this Ministry's letter No. 11-8/2001-FC dated 15.11.2001 shall be strictly followed. These are included in Annexure IX.

## CHAPTER 3

### 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 de-reservation or diversion of forest land for non-forest uses. **It is essential that 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 afforest, year-wise phased forestry operations, details of species to be planted and s suitability certificate from afforestation/management point of view alongwith 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 has 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 alongwith 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 FR under the Indian Forest Act, 1927.
- (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 filled 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 forest lands 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 the 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 fail 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 identify 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 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 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 vide letter No. T-14018/14/90-Codes/485 dated 23.06.1992 has informed 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 orders on 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. Annexure – II B may be referred to. In compliance with the orders, creation of body namely, “Compensatory Afforestation Management & Planning Agency (CAMPA)” is under consideration. As soon as this body comes into existence, 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, shall be transferred to the CAPA. Further Compensatory Afforestation Funds which have not yet been realised as well as the unspent funds already realised by the States shall be transferred to the said body within six months of its constitution by the respective States and the user-agencies.

Further, 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 reiterated 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. Annexure – II C may be referred to.

**Note: Compensatory Afforestation Fund Management and Planning Authority (CAMPA) has been notified in Official Gazette on 23<sup>rd</sup> April, 2004 (Refer Appendix).**

- (iii) Guidelines for collection of Net Present Value (NPV) of forest land in compliance to the orders of the Supreme Court have been issued vide letter No. 5-1/98-FC (Pt-II) dated 18-9-2003 & 22-9-2003 (Appendix). In this regard, a clarification has also been issued by the Ministry of Environment and Forests vide letter No. 5-1/98-FC (Pt.II) dated 25.5.2004 (Appendix).

## **CHAPTER 4**

### **Some Clarification**

#### **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).
- (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 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 alongwith addressed, 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 1<sup>st</sup> 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 insisted upon by the MOEF on all such condonation.

- (ii) The Penal compensatory afforestation will be imposed over the area worked/used in violation. However, where the entire area has been deforested due to anticipatory action of the State Government, the penal compensatory 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 forest lands required for the projects. Though the provisions of the Act may not have technically been violated by starting of work on non-forest lands, expenditure incurred on works on non-forest lands may proved to infructuous if diversion of forest land involved is not approved. **It has, therefore, been decided that if a project invites forest as well as non-forest land, work should not be started on non-forest land till approval of the Central Government for release of forest 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 had observed: “Destruction of our forest has already caused great damage to our environment. Therefore, I am not at all in favour of use of forest land for construction of houses..... The State Government should find other land for such purposes.”

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

- (ii) Diversion of forest land for construction of other buildings also will not be normally considered. However, such diversion may be allowed for construction of schools, hospitals/dispensary, community halls, cooperative, panchayats, tiny rural industrial sheds of the Government etc. which are to be put up for the benefit of the people of that area, but such diversion should be strictly limited to the actually needed area and further it should not 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. from the river beds shall not be permitted if the river bed is in a national park or a wildlife sanctuary unless such extraction is for the benefit of the forest or wildlife.
- (ii) There shall be no labour camp in the forest area for the labour involved in the 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 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 alongwith 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 on the prescribed proforma, which is at Annexure – X 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 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 observation 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) alongwith 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 proposal of proposals, specific time limits to be laid down for disposal of references at various levels. Efforts should be made to dispose of each reference at the State Governments 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 level.
- (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). –**

All 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.

Alongwith 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 electrifications 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.

#### **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 whole-time senior officer not below the rank of Conservator of Forests should head the cell, who should be designated as the Nodal Officer.
- (ii) The Nodal Officer should receive cases from the user agencies and entertain all correspondence from them. He should scrutinise and process the case and after obtaining views/certificate of the Chief Conservator of Forests, should put up the case to State Government. Besides office staff, the Nodal Officer should also be given sufficient field staff to facilitate timely processing. 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 certain conditions 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 State-I conditions after getting it vetted by the State Government it is called for mainly dealing with land and fund matters.
- (vi) The Nodal Officer may also inform violation/non-compliance of stipulations /conditions prescribed by the Central Govt. so that remedial actions could be taken up early since it is likely to 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 be entertained 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 the 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 non compliance 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. It is found that the lessee has violated for 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 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 alongwith 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 form the State Government as regards to the steps taken to comply with the stipulated conditions.

## **CHAPTER 5**

### **Conditions stipulated in Forestry Clearances**

Whenever clearances are accorded for diversion/de-reservation of forest land under the provisions of the Forest (Conservation) Act, 1980, certain conditions to minimise impact on forest land are imposed by the Ministry. These conditions comprise of general conditions, which are stipulated in almost all the proposals; standard conditions, which are stipulated on types/category of projects and specific conditions, which are stipulated keeping in view the impact of the project on forest. However, the list of conditions given below is illustrative and the Central Government or the State Government may impose any other additional conditions in the interest of conservation, protection or development of forests, wildlife and environment.

#### **5.1 General Conditions. –**

- (i) Legal status of forest land to remain unchanged.
- (ii) Compensatory afforestation as per guidelines.
- (iii) Transfer and mutation of non-forest land in favour of Forest Department, if applicable.
- (iv) Notification of such land as RF/PF under the India Forest Act, 1927.
- (v) User agency to provide fuelwood preferably alternate fuel to the labourers and the staff working at the site so as to avoid any damage & pressure on adjacent forest areas.
- (vi) The forest land shall not be used for any purpose other than that specified in the proposal.
- (vii) Demarcation of lease area to be done on the ground at project cost using four feet high reinforced cement concrete pillars with serial numbers, forward & back bearings and distance from pillar to pillar.
- (viii) Rehabilitation of Project affected families, if any.
- (ix) Environmental clearance if required.

#### **5.2 Standard Conditions. –**

- (i) **Mining Proposals:**
  - (a) Phased reclamation of mined area.
  - (b) Safety zone area, its afforestation and fencing.
  - (c) Afforestation on one and half times degraded forest land in lieu of the area used for safety zone.
  - (d) In case of underground mines, areas on surface to be fenced and afforested.
- (ii) **Hydel and irrigation proposals:**
  - (a) Catchment Area Treatment Plan for medium and major projects.
  - (b) Minimum requirement of forest land for canals.
  - (c) Afforestation along the reservoir & canals.
  - (d) No tree felling between FRL (Full Reservoir Level) and FRL-4 meters.
  - (e) Free water for forestry related projects.

(iii) **Road Proposals:**

- (a) Minimum trees to be felled.
- (b) Strip plantation on sides and central verge.

(iv) **Transmission line proposals:**

- (a) Minimum trees to be felled.
- (b) Plantation of dwarf species (preferably medicinal plants<sup>0</sup> in right of way under the transmission lines.

**5.3 Specific conditions. –**

These conditions are specific to the nature of the project and are stipulated on case to case basis by the Central Government/State Government.

**ANNEXURES**

**ANNEXURE – I****SUPREME COURT ORDERS**

“..... The term “forest land” occurring in Section 2, will not only include “forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of its ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests, and the matters connected therewith must apply clearly to all forest so understood irrespective of the ownership or classification thereof.....”

**(Supreme Court orders dated 12.12.1996 in WP No. 202/1995)**

**Annexure – IIA****SUPREME COURT ORDERS IN RESPECT OF PROTECTED AREAS**

1. “..... In the meantime, we restrain respondents No. 2 to 32 from ordering the removal of dead, diseased, dying or wing-fallen trees, drift wood and grasses, etc. from any National Park or Game Sanctuary.....”

**(Supreme Court orders dated 14.02.2000 and 21.02.2000 in I.A. No. 548 in WP No. 202/1995)**

2. “..... Pending further orders, no de-reservation of forests/sanctuaries /national parks shall be effected.”

**Note:** This order was re-iterated by the Supreme Court on 9.2.2004 in IA No. 16.

3. “..... In the meantime, no permission under Section 29 of the Wildlife (Protection) Act, 1972 should be granted without getting approval of the Standing Committee of Indian Board for Wildlife.....”

**(Supreme Court orders dated 09.05.2002 in I.A. No. 18 in WP No. 337/1995)**

**ANNEXURE – II B****SUPREME COURT ORDERS DATED 30.10.2002 IN RESPECT OF COMPENSATORY AFFORESTATION FUND IN I.A. No. 566 IN WP(C) No. 202/1995.**

1. “The Union of India shall ..... frame comprehensive rules with regard to the constitution of a body and management of the compensatory afforestation funds in concurrence with the Central Empowered Committee.....”
2. Compensatory Afforestation Funds which have not yet been realised as the unspent funds already realized by the States shall be transferred to the said body within 6 months of its constitution by the respective States and the user-agencies.
3. In addition to above, while according transfer under Forest (Conservation) Act, 1980 for change in user-agency from all non-forest purposes, the user-agency shall also pay into the said fund the net value of the forest land diverted for non-forest purposes. The present value is to be recovered at the rate of Rs. 5.80 lakh per hectare to Rs. 9.20 lakh per hectare of forest land depending upon the quantity and density of the land in question converted for non-forest use. This will be subject to upward revision by the Ministry of Environment and Forests in consultation with Central Empowered Committee as and when necessary.
4. A ‘Compensatory Afforestation Fund’ shall be created in which all the monies received from the user-agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forest land, Catchment Area Treatment Plan Funds, etc. shall be deposited. The rules, procedure and composition of the body for management of the Compensatory Afforestation Fund shall be finalized by the Ministry of Environment and Forests with the concurrence of Central Empowered Committee.....
5. The fund received from the user-agencies in cases where forest land diverted falls within Protected Areas i.e. area notified under Section 18, 26A or 35 of the Wildlife (Protection) Act, 1972, for undertaking activities related to protection of bio-diversity, wildlife, etc. shall also be deposited in this Fund. Such monies shall be used exclusively for undertaking protection and conservation activities in protected areas of the respective States/Union Territories.
6. The amount received on account of compensatory afforestation but not spent or any balance amount lying with the States/Union Territories or any amount that is yet to be recovered from the user-agency shall also be deposited in this Fund.
7. Besides artificial regeneration (plantations), the fund shall also be utilised for undertaking assisted natural regeneration, protection of forests and other related activities. For this purpose, site specific plans should be prepared and implemented in a time bound manner.
8. The user agencies especially the large public sector undertaking such as Power Grid Corporation, NTPC, etc. which frequently require forest land for their

projects should also be involved in undertaking compensatory afforestation by establishing Special Purpose Vehicle. Whereas the private sector user agencies may be involved in monitoring and most importantly, in protection of Compensatory Afforestation. Necessary procedure for this purpose would be laid down by the Ministry of Environment and Forests with the concurrence of the Central Empowered Committee.

9. Plantations must use local indigenous species since exotics have long term negative impacts on the environment.
10. An independent system of concurrent monitoring and evaluation shall be evolved and implemented through the Compensatory Afforestation Fund to ensure effective and proper utilization of funds.

#### ANNEXURE – II C

#### **Supreme Court’s Order dated 1.8.2003 in I.A. No. 826 & 859 in I.A. No. 566 in Write Petition (Civil) No. 202 of 1995 in the matter of compensatory afforestation found regarding collection of Net Present Value (NPV)**

“..... In the meantime, 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.”

#### ANNEXURE – III

#### **LAW DEPARTMENT’S ADVICE IN REGARD TO MINING LEASES**

- (i) In respect of the mining operations being carried out on forest lands leased before the commencement of the Forest (Conservation) Act, 1980 during the continuance of the lease period, the approval of the Central Government under Section 2 of the said Act is not required.
- (ii) A renewal of a lease is really the grant of a fresh lease. [See Delhi Development Authority Vs. Dura Kausish, AIR 1973 Scheduled Caste 2609]. The prior approval of the Central Government in terms of Section 2 of the Forest (Conservation) Act, 1980 would be required when a mining lease granted before the commencement of the said Act is renewed after its coming into force.
- (iii) As held by the Supreme Court in State of Bihar Vs. Banshi Ram Modi (Supra), prior approval of the Central Government in terms of Section 2 of the Forest (Conservation) Act, 1980 would to be required for mining and winning any new



mineral from a forest land leased for mining before the commencement of the said Act during the leased period originally granted, if the said land is already broken up or cleared before the commencement of the Act. Otherwise, the prior approval of the Central Government under Section 2 of the said Act would be required.

## REGULARISATION OF ENCROACHMENT ON FOREST LAND

1. Encroachment of forest land for cultivation and other purposes continues to be the most pernicious practice endangering forest resources throughout the country. Statistical information compiled by Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of State had regularised such encroachments periodically and approximately 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more that half of it for agriculture. The decisions of the State Government to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.
2. The National Forest Policy, 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers Conference and the committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.
  - 2.1 All the cases of subsisting encroachments where the State Government stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest (Conservation) Act, 1980. Such proposal invariably conform to the criteria given below:
    1. **Pre-1980 encroachments where the State Government had taken a decision before enactment of the Forest (Conservation), 1980, to regularize 'ELIGIBLE' category of encroachments.**
      - 1.1 Such cases are those where the State Governments had evolved certain eligible criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act, on 25.10.80.

- 1.2 All such cases should be individually reviewed. For this purpose the State Government may appoint a joint team of the Revenue, Forest and Tribal Welfare Department for this work and complete it as a time-bound programme.
  - 1.3 In case where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gaon Sabha with a view to avoid disputes in future.
  - 1.4 All encroached lands proposed for regularisation should be properly surveyed.
  - 1.5 Encroachments proposed to be regularised must have taken place before 25.10.1980. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.
  - 1.6 Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.
  - 1.7 The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.
  - 1.8 As far as possible scattered encroachments proposed to be regularised should be consolidated/relocated near the outer boundaries of the forests.
  - 1.9 The outer boundaries of the areas to be de-notified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.
  - 1.10 All the cases proposed to be regularised under this category should be covered in one proposal and it should give district-wise details.
  - 1.11 All cases of proposed regularisation of encroachments should be accompanied by a proposal for compensatory afforestation as per existing guidelines.
  - 1.12 No agricultural practices should be allowed on certain specified slopes.
2. **‘INELIGIBLE’ category of pre-1980 encroachments where the State Governments had taken a decision prior to the enactment of the Forest (Conservation) act, 1980.**
    - 2.1 Such cases should be treated at par with post 1980 encroachments and should not be regularised.
3. **Encroachments that took place after 24.10.1980.**

- 3.1 In no case encroachments which have taken place after 24.1.10980 should be regularised. Immediate action should be taken to evict the encroachers. The State/Union Territory Government may, however, provide alternate economic base to such persons by associating them collectively in afforestation activities in the manner suggested in this Ministry's letter No. 6-21/89-FP dated 1.6.90, but such benefits should not extend to fresh encroachers.

#### **CLARIFICATIONS. –**

1. A reference is invited to the guidelines issued by this Ministry for regularisation of certain of cases of forest encroachments reproduced above. The relevant paragraph 1.1 of the guidelines, which clarified the cases of encroachments, which subject to specified conditions, would for regularisation, is reproduced below:
 

“Such cases are those where the State Government had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decisions either wholly or partially before enactment of the Forest (Conservation) Act on 25.10.1980.
2. Doubts have been raised as to whether all encroachments that had taken place upto 25.10.1980 could be regularised in accordance with an eligibility formula by which some earlier encroachments were regularised.
3. A perusal of the paragraph reproduce above will make it clear that there are 2 pre3-conditions for any encroachments to be considered to regularisation. These are:-
  - (a) The State Government should have taken the decision on regularisation of encroachments before 25.10.1980; and
  - (b) That the decision should be with reference to some eligibility criteria (normally expected to be related to social and economic status of encroachers, location and extend of encroachment, cut off date of encroachment etc.)
4. It would be seen that the encroachments which are proposed to be considered for regularisation, subject to the prescribed conditions, are those which fulfilled the eligibility criteria evolved by the State Government as per decision taken before 25.10.1980 regularisation of encroachments. The objective is limited to permitting implementation of decisions taken before 25.10.1980 which could not be implemented because the enactment of Forest (Conservation) Act, 1980 intervened. It is therefore quite clear that while all encroachments that can be considered as eligible for regularisation would have taken place before 25.10.1980, all encroachments that had taken place before 25.10.1980 would not be eligible for regularisation – they may be ineligible because either they do not meet the eligibility criteria or are not covered by any decision taken before

25.10.1980. Thus, if the decision on regularisation of encroachments in a State covered only encroachments upto a date earlier than 25.10.1980, the guidelines on regularisation of encroachments do not envisage that the State Government would now survey encroachments between that date and 25.10.1980 and propose regularisation. The latter encroachments though occurring before 25.10.1980 are not covered by any regularisation decision taken prior to that date and hence cannot be considered for regularisation at this juncture.

5. Accordingly, the State Governments may take up for implementation only such decision of pre 25.10.1980 period which could not be implemented because of Forest (Conservation) Act, 1980 intervening and propose regularisation of encroachments as per those decisions and in accordance with the eligibility criteria laid down in those decisions. No encroachments not covered by any pre 25.10.1980 decisions – even though they might have occurred prior to that – should now be considered for regularisation in terms of our guidelines.



**ANNEXURE – IV – B****Review of disputed claims over forest land, arising out of forest settlement. –**

1. It has been brought to the notice of this Ministry that local inhabitants, living in and around forest areas, have preferred claims on certain notified forest lands contending that they were in occupation of such areas prior to the initiation of forest settlements and/or their rights were not enquired and /or commuted before notifying these lands as forest under respective laws. The claimants are requesting that title of such lands should be conferred on them. It is being generally felt that even bonafide claims are persistently overlooked causing wide-spread discontentment among the aggrieved persons. Such instances ultimately erode the credibility of the Forest Administration and sanctity of the forest laws, especially in the tracts inhabited by tribals.
2. Seized of its complexities, the issue regarding deputed claims over forest land was got critically examined by this Ministry through an inter-Ministerial Committee. The Committee, after prolonged deliberations and due consultations with representatives of some of the States, stressed the need to resolve such disputes with utmost urgency and suggested the feasible course of action to redress genuine grievances without jeopardising protection of forests and forest land. Keeping view the recommendations of the said Committee and with due approval of the competent authority, the following course of action is suggested for amicably resolving disputed claims on forest land:
  - 2.1 The State/Union Territory Administration should review the cases of disputed claims over forest land and identify the following categories of claims:
    - (a) Claims in respect of forest areas notified as deemed Reserved Forests without observing the due process of settlement as provided in Forest Acts provided that these pertain to:
      - (i) tribal area; or affect a wide cross section of rural poor in non-tribal area; and
      - (ii) the claimants are in possession of the 'disputed land'.
    - (b) Claims in tribal areas wherever there is prima facie evidence that the process of forest settlement has been vitiated by incomplete or incorrect records/maps or lack of information to the affected persons, as prescribed by law, provided that:
      - (i) Such forest settlement pertains to a period after 1947; and
      - (ii) The claimants are in possession of the 'disputed land'.
    - (c) Claims in tribal areas wherever the process of settlement is over but notification under Section 20 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) is yet to be issued,

particularly where considerable delay has occurred in the issue of final notification under Section 20, provided that the claimants are still in possession of 'disputed land'.

- 2.2 After identifying the above three categories of the claims, the State Government/Union Territory Administration should get thee enquired through a Committee which should consist of atleast the concerned Divisional Forest Officer, Sub-divisional Officer (Revenue Department) and a representative of the Tribal Welfare Department. The Committee should determine genuineness of the claims after examining all available evidence to establish that:
  - (i) In case of category 2.1 (a) the claimant was in possession of the disputed land when the notification declaring 'deemed reserved forests' was issued; and
  - (ii) In case of categories 2.1 (b) and 2.1 (c) the claimant was in possession of the disputed land when the notification showing Government intention to declare reserved forest was issued under Section 4 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) and his rights were not commuted or extinguished in accordance with due process of law.
- 2.3 In no case either the Government or the above Committee shall entertain any claim in which the claimant has not been in possession of the disputed land throughout.
- 2.4 Once the bonafide of the claims are established through proper enquiry, the State/Union Territory Government may consider restoration of titles to the claimants. While deciding to restore titles to the claimants the following aspects should be duly considered:
  - (i) As far as possible, restoration of claims should not be result in honey combing of forest land. In such cases possibility of exchange of land near periphery or elsewhere (e.g. non-forest Govt. land) should be exhausted.
  - (ii) The land to be restored to the claimants should be properly demarcated on the ground with permanent boundary marks.
- 2.5 After the State Government/Union Territory Administration has decided in principle to restore titles to the claimants proposals may be formulated suitably and submitted for seeking prior approval of this Ministry under the provisions of the Forest (Conservation) act, 1980, alongwith proposals for compensatory afforestation.



## ANNEXURE – IV

**Disputes regarding pattas/leases/grants involving forest land – settlement thereof**

1. An inter-Ministerial Committee, which was set up by this Ministry to look into various aspects of tribal-forest interface has pointed out that a number of cases of pattas/leases/grants involving forest land in one way or the other, have become contentious issues between different departments of the State/Union Territory Govt. Such pattas/lease/grants are said to have been issued under the proper authority and orders of the respective State/Union Territory Governments and the land in question continues in the possession of the allottees or under their authorised sue but its status is under dispute between different departments. Some of such cases are listed below for illustration.
  - 1.1 Protected forests in Madhya Pradesh, terms as “**Orange Areas**” which according to the State Government decision were to be transferred to Revenue Department after demarcation for issuing pattas to the beneficiaries. It is observed that pattas were issued to the individuals but transfer of the land from Forest to Revenue Department which should have preceded allotment of pattas, was not effected.
  - 2.1 ‘Dali’ lands in Maharashtra which are said to have been leased to the entire village community in the past by the State Government. The assignees continue to make sue of these lands for various purposes as per original terms and conditions and some times, in accordance with the decision of the village community wherever such leases are for collective sue of the community as a whole. But the formal status of these ‘Dali’ lands is not clear.
  - 1.3 Cases in which land was assigned by the Revenue Department supposedly from revenue lands. But eventually these were found to be notified forest land even though the assignees were not dispossessed of their holdings.
  - 1.4 Leases granted by the State Governments for cultivation, agro-forestry or tree plantation; the leases continue to possess the land though these have not been renewed since enactment of the Forest (Conservation) Act, 1980.
2. An ambiguity about the status of land involved in the type of cases cited above, particularly when the forest land continues under the possession of the assignees, is likely to adversely affect forest protection in these and the neighbouring areas, apart from forcing the lawful assignees to live in a state of uncertainty. Keeping these and similar other aspects in view and after careful consideration of the recommendations of the inter-Ministerial Committee, it has been decided that inter-departmental issues related to pattas/leases/grants involving forest land should be settled at the earliest. The following steps are suggested in this regard.
  - 2.1 All the cases of pattas, leases, grants involving forest land whether by intent, omission, oversight or accident be reviewed by the State/Union Territory Government. Such review should enable the State/Union Territory Government to identify those cases in which the pattas/leases/grants were

awarded under proper authority. The assignees continue to be in possession of the land and the terms of the pattas/leases/grant is yet to expire.

- 2.2 In all those cases, where pattas/leases/grants were given by the State Government Departments to Scheduled Tribes or rural poor either individually or collectively, such pattas/leases/grants should be honoured and inter-departmental disputes should not affect the rights of the leases provided they are in physical possession of the land, and term of the pattas/lease/grant has not yet expired. These cases should be examined by district level committees consisting of DFO, SDO, Revenue Department and representative of Tribal Welfare Department. The disputes should be resolved at the district level wherever it is possible, or after obtaining suitable order of the State/Union Territory Government or the Government of India (if the provisions of the Forest (Conservation) Act, 1980 are attracted), as the case may be.
- 2.3 Lease of a period prior to 25.10.1980 which were granted to the Scheduled Tribes or to other rural poor for agro-forestry, tree plantation or alike but could not be renewed, despite the State/Union Territory Government's intention to do so, on account of enactment of the Forest (Conservation) Act, 1980 should be examined expeditiously. Wherever the State/Union Territory Government's desire to continue the leases proposals, should be submitted to this Ministry, in the prescribed manner, for seeking prior approval under the Forest (Conservation) Act, 1980. Pending final decision the lessees should not be dispossessed of the land.
- 2 (a) In cases where Forest (Conservation) Act, 1980, is attracted, proposals for de-notification of forest land should be accompanied by proposals for compensatory afforestation.

**ANNEXURE – IV – D****Conversion of forest villages into revenue villages and settlement of other old habitations.**

1. Forest villages, were set up in remote and inaccessible forest areas with a view to provide uninterrupted man-power for forestry operations. Of late, they have lost much of their significance owing to improved accessibility of such areas, expansion of human habitations and similar other reasons. Accordingly, some of the State converted forest villages into revenue villages well before 1980. Nevertheless there still exist between 2500 to 3000 forest villages in the country. Besides, some cases of other type of habitations e.g. unauthorised houses/homesteads, dwellings tribals who have been living in them in virtually pre-agrarian life styles, are suspected to exist in forest lands even though these may not have been recognised as revenue villages or forest villages.
2. In March, 1984, the then Ministry of Agriculture suggested to the State/Union Territory Governments that they may confer heritable and inalienable rights on forest villagers if they were in occupation of land for more than 20 years. But this suggestion does not seem to have fully implemented. Development of forest villages has also been addressed to in the National Forest Policy, 1988 which states that these should be developed on par with revenue villages. This issue was again examined by an Inter-Ministerial Committee, set up by this Ministry to look into various aspects of tribal-forest-interface, in consultation with representatives of some of the States.
3. Although the forest villages have lived in harmony with their surrounding forests and the concept of forest villages prove an effective arrangement for sustained supply of man-power, yet it would not be appropriate to deny them legitimate right over such lands which were allotted to them daces ago for settlement and have been continuously under their occupation since then. Keeping this aspect and the recommendations of the inter-Ministerial Committee in view, the following measures are suggested to resolve the outstanding issues of forest villages and other types of habitations existing in forest lands.

**3.1 Forest Villages. –**

Forest villages may be converted into revenue villages after de-notifying requisite land as forest. Proposals seeking prior approval of Government of India for this purpose under the Forest (Conservation) Act, 1980 may be submitted expeditiously. While converting these villages into Revenue Villages, the following principles may be adhered to:

- (i) the villages are conferred heritable but inalienable rights;
- (ii) administration of these and other Revenue Villages enclaved in forest areas should preferably be entrusted to the State Forest Departments.

### 3.2 Other habitations. –

- (a) Habitations other than Forest Villages may be grouped into the following categories:
  - (i) Cases where dwelling belong to persons who have encroached on forest land for cultivation.
  - (ii) Dwellings of other persons who have been living therein sine part without encroaching on forest land for cultivation but their habitations are neither recognised as Revenue Villages nor Forest Villages.
- (b) Each case may be examined on its merits. Suggestions for resolving the cases are given below:-
  - (i) In case of category (a)(i) above, wherever encroachments for agriculture cultivation are regularised, the house sites and homesteads, too, may be regularised either in-situ or as near to the agricultural field as possible subject to certain safe-guards in the interest of forest protection and “eligibility” criteria as may be evolved by the State Government.
  - (ii) In case of category (a)(ii) above, certain specific habitations, more than 25 years old, involving sizeable group of families, may be examined, case by case, on merits for their amicable settlement.
  - (iii) Scheduled Tribes and rural poor not covered under (i) and (ii) above should be resettled in non-forest Government land.
  - (iv) All other unauthorised habitations must be evicted.
  - (v) Wherever provisions of Forest (Conservation) Act, 1980 are attracted, comprehensive proposals may be submitted for seeking prior approval of this Ministry. It may kindly be noted that such proposals will be considered only when the State/Union Territory Govt. ensure that all the measures are taken simultaneously and effectively and are accompanied with proposals for compensatory afforestation.