

J-11015/200/2008-IA.II(M)
Government of India
Ministry of Environment and Forests

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.
Dated: 19th March, 2013

OFFICE –MEMORANDUM

Sub.: Consideration of projects for grant of environment clearance under EIA Notification, 2006, which involve forest land – Procedure to be followed – further clarifications.

This Ministry had earlier issued an Office Memorandum vide No. J-11015/200/2008-IA.II (M) dated 31.3.2011 stipulating the procedure to be followed for consideration of projects for environmental clearance, which involve forest land.

2. The sum and substance of the said O.M. 31.03.2011 is that in case a project involves forest land, the project proponent shall first explore feasibility to execute the project without use of forest land. In case it is not feasible to undertake the project without use of forest land, the project proponent shall submit application seeking prior approval under the Forest Conservation Act, 1980 for diversion of forest land before submitting the application for grant of Terms of Reference as per the procedure stipulated in the EIA Notification 2006. The Environment clearance to such projects, as per the guidelines of 31st March 2011, is to be issued only after stage-I approval under the Forest Conservation Act, 1980 for diversion of forest land required for its execution is obtained.

3. The Hon'ble Supreme Court took note of the O.M. dated 31.03.2011 and incorporated it in part-II of their judgment dated 6th July 2011 in I.A.s No. 1868, 2091, 2225-2227, 2380, 2568 and 2937 in the W.P. (Civil) No. 202 of 1995 in the matter of T.N. Godavarman Thirumulpad versus Union of India and others, as one of the guidelines to be followed by the Central Government, State Governments and various other Authorities under the Forest Conservation Act, 1980 and Environment (Protection) Act, 1986 in all future cases so that *fait accompli* situations do not recur.

4. Based on experience gained in implementation of instructions contained in the above referred O.M. and taking into consideration the inputs/ feedback received from various stakeholders as also in light of the said judgment dated 6th July, 2011 of the Hon'ble Supreme Court, this Ministry vide O.M. of even number dated 9th September, 2011 stipulated revised procedure to be followed for consideration of projects for environmental clearance, which involve forest land.

5. This Ministry received representations from various stakeholders to delink grant of Environment clearance from forest clearance in case of linear projects such as roads, transmission lines, pipelines *etc.* involving patches of forest land along their alignment, often stretching to several hundred kilometers.

6. After careful consideration of the matter, this Ministry filed an Interlocutory Application (I.A.), being the I.A. No. 3593 of 2013 in the aforesaid Writ Petition before the Hon'ble Supreme Court to seek their clarification that subject to certain safeguards, guidelines regarding order of priority to be followed in case of grant of approvals under the EIA Notification, 2006 and the Forest (Conservation) Act, 1980 issued by them in their said judgment dated 06.07.2011 would not be applicable to linear projects.

7. The Hon'ble Supreme Court in their order dated 12.3.2013 in the said I.A. was pleased to clarify that their decision in Lafarge Umiam Mining Pvt. Ltd. vs. Union of India [(2011 7 SCC 338] case shall not stand in the way of the Government in making suitable amendments in the guidelines dated March 31, 2011 to deal specially with the linear projects in the nature of roads, pipelines and similar others, as described in the said I.A.

8. Now, therefore, in partial modification of this Ministry's said O.M. of even number dated 9th September 2011, it has been decided that pending grant of stage-I approval under the Forest (Conservation) Act, 1980 for non-forestry use of the forest land, environment clearance to linear projects may be issued subject to the following additional conditions:

- (i) Work on non-forest land may only be executed upto such point (to be selected by the user agency) on either side of forest land if it is explicitly certified by the user agency that in case approval under the Forest (Conservation) Act, 1980 for diversion of forest land is declined, it is technically feasible to execute the project along an alternate alignment without involving diversion of forest land. Details of all such stretches along with alternate alignments identified to bypass the forest land should be explicitly provided in the proposal seeking approval under the Forest (Conservation) Act, 1980 and the EIA Notification, 2006.
- (ii) Commencement of work on non forest land will not confer any right on the user agency with regard to grant of approval under the Forest (Conservation) Act, 1980.
- (iii) The projects involving widening/ upgradation of existing roads will only be allowed to be executed on the entire stretch located in non- forest land, provided the user agency submits an undertaking that execution of work on non-forest land shall not be cited as a reason for grant of approval under the Act and in case approval under the Act for diversion of forest land is declined, width of the portion of road falling in the forest land will be maintained at its existing level.

This issues with approval of the Hon'ble Minister of State (Independent Charge) for Environment and Forests.


(Lalit Kapur)
Director(IA-III)

To

1. All Officers of the IA Division.
2. Chairpersons/ Member-Secretaries of All the SEIAAs/ SEACs.
3. Chairperson, CPCB.
4. Chairpersons/ Member-Secretaries of all SPCBs/ ITP

Copy to:-

1. PS to MEF.
2. PPS to Secretray (E &F)
3. PPS to JS (AT)
4. Website, MoEF.
5. Guard File.