

FOREST CASE UPDATE

Issue 48, September and October 2008

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Dear Friends,

The months of September and October saw some very substantive and self explanatory orders passed in the Supreme Court. One of the main set of matters that were heard and decided upon were related to the recommendations of the Central Empowered Committee (CEC) on the decisions of the Forest Advisory Committee (FAC) of the Ministry of the Environment and Forests. As has been highlighted in several issues of the Forest Case Update, the 27.4.2007 order set into motion a process wherein all the decisions of grant of forest clearance for the diversion of forest land for non-forest use recommended by the FAC would be further reviewed by the CEC. This would then finally be decided upon by the Supreme Court's Godavarman bench. This was till the FAC was fully constituted.

*The orders in October saw decisions that accounts for a substantial number of forest land having been diverted for projects such as mines, wind energy, transmission lines, hydro-electric power projects, highways and so on. Quite ironically, many of these were also additional forest land for projects already under construction. The companies include both private and public sector corporations like Suzlon Energy, Orissa Mining Corporation, South Eastern Coal fields, JSW Ltd, **AD Hydro Power Ltd**, Bhilai Steel Plant, Madras Cements etc. Conditions related to the payment of Net Present Value is one that figures in almost all clearances and in a few cases the CEC has put forth strictures and safeguards which have been agreeable to the project proponents. But what is evident is that a substantive chunk of forest has been added to a fast depleting rate of natural and biodiverse forests of the country.*

In the case of the order related to the rationalisation of the boundary of the valmiki wildlife sanctuary in Bihar from 880 sq.km to 840.26 sqkm, the CEC report was accepted by the Supreme Court and the forest bench directed the state to refer to the required MoEF committee if they were serious about this change. The CEC report highlighted the sensitivity of the sanctuary along with the fact that the area is extremely rich in flora and fauna.

The CEC hearings also went on regularly during the months. We have in this issue put together a first hand reporting on the kind of discussions that took place in one of the hearings.

We look forward to your feedback on Forest Case Update.

Kanchi Kohli

Ritwick Dutta

Highlights of the Central Empowered Committee Hearing on 17th September 2008

The above hearing saw a range of cases being discussed before the CEC which included both Interlocutory Applications (I.A.s) referred to by the Supreme Court's forest bench as well as applications filed directly before the CEC. Highlights of these discussions are presented in this newsletter.

One of the first matters that was heard was I.A. 2255-56 from Rajasthan, seeking permission for reconstruction of buildings in Mount Abu. This was referred to the CEC by Supreme Court. The CEC sought clarifications from the applicant. It was highlighted that the building that is presently to be reconstructed was a *vishram graha* (guest house) and was used commercially before. In 1996 it was purchased by the applicant. The CEC asked the applicant to show relevant papers as to what the land use and nature of operation at the time of purchase by the current builder. The CEC also asked whether the builder proposes to reconstruct or renovate the present guest house into a hotel. The CEC asked the applicants to file relevant documents in this regard and also carry out a site inspection.

Application No.572 was from Uttar Pradesh and dealt with an appeal seeking a special permit for a saw mill. Since noone was present for the applicant, the case was not heard.

The next application (No.1041) was discussed in great detail. It was filed by Goa Foundation through its Secretary Claude Alvares. The advocate for the applicant, Anita Shenoy highlighted that the matter deals with the fact that mining leases have been granted in Netravali Wild Life Sanctuary. The latest news is that 62 such leases have been granted. Thereby the application invokes the 14.2.2000 and 7.11.2003 orders of the Supreme Court. According to the Wild Life Protection Act, 1972, Section 2 (9) defines the District Collector or the officer in charge who can grant above permissions. In the current instance the person appointed as Collector is a retired official and also has linkages with the mining companies seeking access to the land within the sanctuary. He is also

giving these companies advice. The counsel also pointed out to a report of Mr. Bedi wherein it is stated that despite the Forest Department seeking time for a decision on the grant of leases, it was not allowed for by the acting Collector, who passed an order for the grant of leases. There is also evidence in writing that the case was contested by the Deputy Conservator of Forests (DCF). It was also highlighted that another report which is important is the Koraputkar report as the entire report of the acting collector and the decision to grant leases is based on the facts presented in this report. This report was dismissed in the Supreme Court. The acting Collector is aware of the Supreme Court and CEC orders in this regard, however his order granting leases has no mention of these. The counsel for the State of Goa stated that there is a Goa Government Order now according to which it has been clarified that mining should not be proceeded with till the matter before the CEC is decided. He sought a short adjournment of the hearing and stated that a fax has been received from the state assuring that this order is being complied with. The CEC took the view that the matter has been pending for a long time and stated that this is the last hearing in the case. They asked all parties to submit any further documents. The CEC also asked the applicant to submit a full note on the range of facts presented before them. The applicant highlighted that there is news as of June 2008 that environment clearance is being granted for 21 cases. The state counsel mentioned that he will have to seek instructions and only then respond to the issues raised by the applicant and his counsel.

Application Nos. 408 and 1102 were heard together. The matters dealt with encroachment and illegal widening of road in Tungreshwar Wild Life Sanctuary in Maharashtra. Application No. 408 was filed by Manish Moghe of the Bombay Environmental Action Group (BEAG) in 2004. Debi Goenka of BEAG was present at the hearing. CEC had carried out a site inspection and prepared a report. Neither BEAG nor Government of Maharashtra had a problem with this report. *Balyog Shree Sadanand Sanstha* which had filed Application No. 1102 asked for four-six week's time to respond to the CEC report. This application was filed seeking clarification that the said land is not included in the sanctuary. The CEC questioned as to why the Sanstha required so much time. The CEC also highlighted that the main question is whether or not the Sanstha's *Ashram* is located within the sanctuary. The counsel for the Balyog Sanstha highlighted that there is a proposal which is pending clearance due to the Supreme Court order but has not been rejected. The CEC granted four week's time and listed the matter thereafter for a final hearing.

The next case was Application No. 1023 related to deletion of the area of Sant Dyaneshwar Udyan (Sant Dyaneshwar Park) in Maharashtra developed in non-forest area since 1976. It was filed by the Godavari Marathwada Irrigation Development Corporation, Aurangabad. It was discussed that the total area of the Park is 3391.35 ha out of which 125.5 ha is sought to be used which will require the deletion of this area for the park boundary. This is near an existing irrigation project. It was highlighted by the respondents that the Park is of national importance just like others of its kind: Brindavan and Pinjore. The Irrigation Department mentioned that the work on the irrigation project started way back in 1975. This area should have never been included in the Park boundaries. This was agreed to all by then. It is only now that the concerned DCF has raised objections. The CEC mentioned that they are favourably inclined to allow for the deletion based on the facts presented. However, this issue will need to be looked into by the National Board for Wild Life (NBWL). This matter can be kept pending till the permission of the Standing Committee of the NBWL is sought. After the decision of the NBWL, no hearing will be required and the CEC will send its report to the Supreme Court.

In case of Application No. 1123 seeking permission for exemption from payment for Net Present Value (NPV) by irrigation projects in Maharashtra. It was filed by the State government which sought a postponement. The CEC agreed to this and the matter was not heard.

The last matter that was heard was Application No. 1124 seeking permission to stop the ongoing construction and widening of NH-7 on the periphery of Pench Mowgli Sanctuary of Pench Tiger Reserve. It was filed by Ashok Kumar, Chairman, Wildlife Trust of India (WTI). It was highlighted that

the road is being widened from a two lane to a four lane double carry one and work on the same has started. The CEC enquired whether the National Highways Authority of India (NHAI) has sought permission from the Supreme Court. The NHAI is knows of this requirement. The applicant showed that there is an existing highway and WTI also proposes an alternative which is longer but will save a critical corridor for tigers. There is an also a study of WWF-India that the Kanha-Pench corridor is a priority for conservation. There have been lots of accidents on the existing highway. 91 cases of road hits of wildlife have been reported. If the highway is widened to four-lane, it will totally fragment the wildlife habitat. The representative of the Ministry of Environment and Forests (MoEF) pointed out that no proposal for diversion of the forest land has been received by them and the application is premature. The representative of the NHAI pointed out that in the 9th and 12th meeting of the Standing Committee for the State Board for Wild Life, the proposal was considered and in the 10th September 2008 meeting it was approved. However, the Chief Wild Life Warden had indicated that the proposal needs to be routed through the state government. NHAI has not started work. The CEC highlighted that there are divergent views in this matter. They are aware that the area is very sensitive but there is also an existing highway there. Therefore there is a need to take a considered view in this regard. For this the CEC mentioned that they would invite the Member Secretary of the National Tiger Conservation Authority, Rajesh Gopal as a special invitee in the case. They enquired from the applicants if that would be agreeable. It would be important to view whether with mitigative measures the project can be approved, if not, what is the alternative.

Some Orders in the Godavarman Case in September 2008

Orders Dated 1.9.08

- I.A.Nos.828, 839, 840, 850, 853-854, 855-856, 866-868, 869-870, 871-872, 873-874, 875-876, 877-878, 879-880, 881-882, 891-892,900, 905, 1276-1277, 1465, 1590, 1612-1613, 1700-1703, 2007-2008,1488, 2138-2139 IN 891-892, 2205 (*Related to Mining in Haryana*)

As regards the mining activities in the Aravalli Range in the State of Haryana, CEC was asked to file a comprehensive report. The CEC has filed a Report. It is submitted that macro plans have to be prepared and the site specific projects of public importance such as the site for the relocation of the Trade Fair Authority, Police Training Academy, right of way for public transport systems etc. and details of sectors earlier developed by HUDA in the areas covered under Section 4 & 5 of the Punjab Land Preservation Act and further details have to be collected and it is submitted that three months time is required for the preparation of requisite macro plans.

Learned counsel appearing for 41 applicants submitted that it may cause further delay because many private and public projects, completion of the highway and other projects are already unduly delayed.

Learned counsel appearing for other mining areas falling in some villages submitted that environment clearance had already been granted. These applicants also would not be in a position to carry out the mining operation, if report is delayed.

Keeping in view the importance of macro plans, we request the CEC to submit them with all the details as suggested by the Committee. They are to be filed in the Court on 14th November, 2008. The CEC shall also make available a copy of the same to the learned counsel representing the applicants by 10th November on payment of requisite charges.

Orders Dated 26.9.08

The orders on this hearing relate to the 1st to 7th & 10th reports of the CEC in relation to the matter related to for constitution of Forest Advisory Committee (FAC) where the CEC giving its recommendations on the decisions of the FAC. The Rajasthan Mining case was also heard and a substantive order passed which is pasted below.

- I.A.NO.2164 (*1st Report of CEC on recommendations of the FAC related to forest clearance*)

In this matter M/s. S.K. Sarawagi and Company, in the District Kanker (Chhattisgarh) proposes to have mining of iron ore in the forest land. The CEC has filed its Report and raised certain objections. The Director General of Forests shall pass appropriate orders. Records be made available to DGF for taking appropriate decision within a period of six weeks.

I.A. as regard the applicant is disposed of accordingly.

M/s. Suzlong Energy Ltd. proposes to divert 41.78 ha. of forest land for the purpose of establishing 26.40 MW Wind Power Project. CEC has examined the matter and FAC has also given its report. MoEF is directed to pass appropriate orders in the light of the 1st report of CEC and the observations made therein. I.A. as regards the applicant is disposed of accordingly.

I.A.No.2378

M/s. Orissa Mining Corporation Ltd. proposes to divert 137.02 ha. of forest land for the purpose of coal mining. CEC has examined and filed its report and FAC has also recommended for approval of the project.

I.A.No.2378 is allowed accordingly.

Diversion of 30 ha. of forest land for mining of Iron ore of Abubaker in Bellary district in Karnataka is adjourned to 7.11.2008.

I.A.NOS.2304-2305 and remaining cases of 1st Report of CEC be listed on 3.10.2008.

- I.A.NO.2167 (*4TH Report of CEC on recommendations of the FAC related to forest clearance*)

List on 3.10.2008 relating to (Human River Project).

I.A. relating to Coal mining at Amelia (North Coal Block) - List on 3.10.08.

I.A. relating to Coal mining in Amelia Coal Block by MPSMCL in Sidhi District, M.P. - List on 7.11.2008.

I.A. relating to Diversion of 125 ha. of forest land for iron ore mining in favour of M/s. Tungbhadara Minerals Pvt. Ltd., Hospet, Bellary District, Karnataka concerning this project, the Lok Ayukta, Karnataka has submitted a Report in sealed cover. Registry shall give a copy of the report to the

learned counsel appearing for M/s.Tungbhadara Minerals P.Ltd. for filing objections to the Report, if any, within a period of three weeks and a copy to the A.C.

List on 7.11.2008.

I.A. relating to Diversion of 109.27 ha. of forest land for renewal of mining lease in favour of Narayan Mines (P) Ltd. in Bellary District, Karnataka for iron or mining. The Lok Ayukta, Karnataka has submitted a Report in sealed cover. Registry shall make available a copy of the Report to the learned counsel appearing for M/s.Narayan Mines (P) Ltd. For filing objections to the Report, if any, three weeks time is granted. Copy of the Report may also be given to learned A.C.

List on 7.11.2008.

I.A. relating to Diversion of 883.22 ha. of forest land for Rowghat Iron ore mining project in favour of M/s. Bhilai Steel Plant - list on 3.10.2008.

I.A. relating to Two proposals for diversion of 97.486 ha. of forest land for Galikonda Bauxite mining and 54.657 ha. of forest land for Rakthakonda Bauxite mining in Paderu Forest Division and Vishakhapatnam Forest Division Respectively be listed on 7.11.2008.

- I.A.NO.2168 (5th Report of CEC)

For consideration of 5th Report - List on 17.11.2008 at 2.00 p.m.

*I.A.NO.2169 (6th Report of CEC),
I.A.NO.2170 (7th Report of CEC) AND
I.A.NO.2239 (8th Report of CEC)*

List on 3.10.2008.

- I.A.NOS.2344 & 2351 (Regarding Mundra Port and Special Economic Zone)

Mundra Port & Special Economic Zone matters are adjourned to 3.10.08.

- I.A.NO.2319 (10th Report of CEC on recommendations of the FAC related to forest clearance)

As per the 10th Report of CEC, CEC has already cleared the following projects and FAC has also recommended and approved the projects:

1. *Diversion of 9.00 ha. of forest land for surface rights in favour of South Eastern Coal filed Ltd. in Katghora Forest Division in Kobra District of Chhattisgarh.*
2. *2D Seismic Survey Operation over 113.50 sq km. forest area in and around Deomali and is adjoining area in Arunachal Pradesh for Petroleum Exploration by Mis. Oil India Ltd.*
3. *Diversion of 64.3258 ha. of forest land for laying of 220 KV transmission line from Prini to Panarsa/Banala in favour of M/s AD Hydro Power Ltd. in Kullu, Parbati and Seraj forest Divisions of Kullu District of H.P.*
4. *Diversion of 63.969 ha. of forest land for Bhanwormal Tank Scheme of Water Resource Dept. in sarguja ast Forest division in Sarguja District of Chhattisgarh.*
5. *Diversion of 49.283 ha. of forest land for construction/ Improvement / upgradation of Gangtok-Chungthang-Gaigong (NSH) Sector KM 30.00 to KM 84.60 in North District of Sikkim by Border Road Organisation.*
6. *Diversion of 56.984 ha. of forest land for the construction of Birsinghpur*

Tank Project in Dist. Panna, M.P. in favour of Water Resources Dept., M.P.

7. Diversion of 127.174 ha. of forest land for Chhindwara-Nagpur Gauge Conversion project in favour of M/s. South East Central Railway in Chhindwara Dist. of M.P.

9. Diversion of 68.337 ha. of forest land in favour of Chhattisgarh Rajya Vidyut Mandal for construction of 132 KV Transmission line between Bishrampur-Balrampur in Sarguja Dist. of Chhattisgarh.

10. Diversion of 209.73 ha. of forest land for construction of Pandhari Medium Irrigation Project under Wardha Division Scheme in Amravati Dist. Of Maharashtra.

11. Diversion of 0.6942 ha. of addl. forest land for the construction of 111 MW Sawra Kuddu Hydro Electric Project in favour of H.P. Sate Electricity Board in Shimla Dist. H.P.

13. Diversion of 175.69 ha. of forest land in Paloncha forest Division of Khammam District for open cast coal mining (OCP-II Manauguru) in favour of Singareni Collieries Company Ltd.

14. Diversion of 44.60 ha. (32.51 ha. for surface use and 12.09 ha. for Under-ground mining) of forest land for Uranium mining at Mahuldih Uranium Project in favour of Uranium Corporation of India, Jaduguda at District Saraikela in Jharkhand.

15. Diversion of addl. forest area of 4.20 ha. for surface use of forest land for Rajnagar OCP Cola Mining Project in favour of M/s. SECL in Manendragarh Forest Division of Korba District in Chhattisgarh.

MoEF to pass appropriate orders in regard to the above projects having regarding to the report of CEC.

I.As. are disposed of as regards above projects.

8. Diversion of 105.77 ha. of forest land for construction of Engineering Industrial Development Project in Thane District of Maharashtra, the CEC has suggested that the NPV should be paid. This is accepted. MOEF to pass the appropriate orders subject to the payment of NPV by the user agency.

I.A. is disposed of as regards the above project.

12. Diversion of 90.99 ha. of forest land for installation of Wind Power Project in Nandurbar District in favour of M/s. Suzlon Energy Ltd. Pune, Maharashtra. The CEC has filed its report. MoEF to take decision having regarding to the recommendations made by CEC.

I.A. is disposed of as regards the above project.

The balance 9 project be listed on 3.10.2008.

- *I.A.NOS.1413,1414,1426,1428,1440, 1454,1459, 1460, 1662-63,1675, 1796, 2005-2006 (Related to Temporary Working Permits of mining leases)*

TWP matters - these matters are disposed of in the light of the order passed on 4.8.2006. No further order is required.

- *I.A.NOS.1310,1331-32 (Related to Mining in Rajasthan)*

Heard learned Additional Solicitor General appearing for the State of Rajasthan and learned amicus curiae. CEC has filed its report. As per the details in the report of the State of Rajasthan, there are 1008 mining leases falling in the Aravalli Hills out of which renewals of 747 mining leases are not due as on date. Out of the remaining 261 mines, in respect of 157 mining leases renewals became

due after 16.12.2002 but have not been granted mining leases so far. In respect of 53 mining leases, renewals have been granted after 16.12.2002. Learned counsel for the State submitted that there was no express provision for granting renewal of mining leases as they were prior to 8.4.2005. It is submitted that MoEF has given report regarding the mining activities in these mines. Regional Office, Lucknow may file a report regarding functioning of mining activities in the Aravalli Hills in the light of CEC's Report within a period of four weeks. Post on 21.11.2008.

Rest of the matters on 13.10.2008.

Some Orders in the Godavarman Case in October 2008

Orders Dated 3.10.08

- I.A.Nos.2164, 2167, 2169, 2170, 2239, 2319, 2304-05, 2306-07, 2293-94, 2298, 2329-2330, 2351, 2344-45, 2129 (Related to diversion of forest land by M/s Hindalco, M/s Ispat Godavari, M/s.Pushp Steel and Mining Pvt. Ltd, M/s.Bhilai Steel Plant, M/s Orissa Mining Corporation, M/s Adani Chemicals Limited and others related to the Report of CEC on the FAC recommendations)

The applicant M/s.Hindalco has sought for diversion of 106.76 ha. of forest land for the renewal of the Kesarsada Mining lease in its favour. The Director General of Forests is directed to take a decision in this matter having regard to the report submitted by C.E.C. in the matter, within eight weeks.

Application as regards the applicant is disposed of.

I.A.Nos.2304-05:

The applicant M/s.Ispat Godawari Ltd. in the district Rajgaon, Chhattisgarh has sought for diversion of 110 ha. of forest land for the mining of iron ore in its favour. The CEC has considered the application and has made the following additional recommendations. The FAC has also made certain recommendations. The additional conditions imposed by CEC are as under :

- a) The mineral extracted from the mine will be exclusively for captive consumption/sale. No sale of mineral will be permissible.
- b) The forest area approved under the F.C.Act and the forest area included in the mining lease approved under the MMRD Act will be identical. The NPV will be payable for the entire forest area included in the mining lease approved under the MMRD Act and
- c) The forest land will be handed over and allowed to be used for mining only after the Environmental Clearance is first accorded.

The said conditions are acceptable to the applicant. Subject to the fulfillment of the above additional conditions, in addition to other stipulated conditions, MoEF may grant permission.

The application as regards the applicant is disposed of accordingly.

The applicant-M/s.Pushp Steel and Mining Pvt. Ltd. sought for diversion of 66 ha.of forest land in Kanker District for iron ore mining lease in its favour. Subject to the fulfillment of the additional conditions as in the case of M/s.Ispat Godavari Ltd.'s application noted above, MoEF may grant permission.

Application as regards the applicant is disposed of accordingly.

I.A.No.2378:

*List on 7th November, 2008 with connected matter.
The Secretary, Ministry of Coal may give his views within four weeks.*

I.A.Nos.2293-94 & 2298:

*F.A.C. is given four weeks time to take an appropriate decision.
Adjourned by five weeks.*

The applicant-MPSMCL in Sidhi district, M.P. Sought permission for mining of coal at Amelia (North coal block). Secretary, Ministry of Coal, may file his views within four weeks.

List on 7th November, 2008.

I.A.Nos.2306-07:

The applicant - M/s.Bhilai Steel Plant seeks permission for diversion of 883.22 ha. of forest land for Rowghat Iron ore mining project in its favour. CEC has filed its report. FAC has made certain recommendations. The applicant has to fulfill the recommendations made by the FAC and also with an additional condition that the NPV for the forest area will be payable as per the rate applicable for area falling in a Wildlife Sanctuary. The conditions imposed by the CEC are acceptable to the applicant. Having regard to this fact, the MoEF may take a decision within a reasonable period.

The applications as regards the applicant are disposed of accordingly.

The applicant-M/s.Madras Cements in Krishna District of Andhra Pradesh seeks permission for diversion of 160 ha. of forest land for lime stone mining in its favour. The CEC has studied the project and has made certain observations. The suggestions/observations are acceptable to the applicant. The project may be reviewed by the MoEF in the light of the observations made by CEC in this regard.

The application as regards the applicant is disposed of accordingly.

The applicant M/s.Orissa Manganese and Minerals Pvt. Ltd. in Singhbhum (West) district of Jharkhand seeks permission for diversion of 141.447 ha. of forest land for iron ore mining in its favour. The CEC has studied the project and has made certain observations. The suggestions/observations are acceptable to the applicant. The project may be reviewed by the MoEF in the light of the observations made by CEC in this regard.

The application as regards the applicant is disposed of accordingly.

The applicant M/s.JSW in District Bellari, Karnataka seeks permission for diversion of 200.73 ha. of forest land for iron ore mining in its favour. The CEC has examined the project and has suggested that it may be reviewed by MoEF in view of suggestions made by CEC. The applicant accepts the suggestions made by CEC. MoEF may give its decision keeping in view the suggestions made by the CEC and after the report of the Lok Ayukt, Karnataka regarding Bellari-Hospat mining is received. The application as against the applicant is disposed of accordingly.

Application In re: M/s.V.M.Salgaocar Brothers Pvt.Ltd.:

No orders.

The applicant *M/s.Orissa Mining Corporation in Keonjhar district of Orissa* seeks diversion of 117.9648 ha. of forest land (fresh area 76.7206 ha. and broken up forest land 41.2442 ha.) (out of 216.3617 ha. of forest land proposed) in Gandhamardan Block-A in its favour for first renewal of mining lease. The CEC has examined the same and has laid down the following conditions :

"a) The Wildlife Institute of India should prepare a Wildlife Management Plan for the area which should be implemented at the project cost. The diversion of forest land for mining should be considered only if with appropriate remedial measures the adverse impact of mining on wildlife conservation and protection is found to be containable within reasonable limits;

b) approval under the F.C.Act should be restricted to 117.9648 ha. of forest area. The possession of the balance forest area should be taken over by the Forest Department. Before grant of the formal approval under the F.C.Act, the mining lease granted under the MMRD should be revised so that the total forest area included in the mining lease and the forest area approved under the F.C.Act are identical;

c) Compensatory Afforestation charges should be payable for the entire forest area after deducting the forest area legally broken up during the validity of the mining lease;

d) for carrying out the mining operations between 1993 to 1997 in violation of the F.C.Act, an amount equal to the NPV payable in the present case should be imposed as a penalty on the user agency; and

e) the approval under the F.C.Act should be granted only after the environmental clearance for the project is accorded."

The MoEF may take an appropriate decision having regard to the recommendations made by CEC.

The application as regards the applicant is disposed of accordingly.

The applicant *M/s.K.N.Ram & Co. in Keonjhar district of Orissa* seeks temporary working permission (TWP) over already broken up forest area of 27.10 ha. in Roida mining lease of 74.867 ha. in its favour.

The application as regards the applicant is disposed of in terms of the orders passed by this Court on 25.4.2008 and 2.5.2008.

I.A.No.2329-30:

The application filed by *M/s.Bonai Industrial Co. Ltd. in Nadidihi Iron and Manganese Mining Lease Area* is also disposed of in terms of the orders passed by this Court on 25.4.2008 and 2.5.2008.

I.A.Nos.2329-2330 are disposed of accordingly.

M/s.Jaypee Power Grid Ltd., Sholtu within the jurisdiction of Kinnaur, Rampur, Tehog, Rajgarh and Nahan Forest Divisions in Kinnaur, Shimla and Sirmour districts of Himachal Pradesh seeks permission for diversion of 322.6538 ha. of forest land for 400 Kv D.C Karcham Wangtoo-Abdullapur transmission line in its favour. The CEC has made certain observations after the considering the project. The suggestions made by CEC are acceptable to the applicant. MoEF may take a decision after considering the observations made by CEC.

The application as regards the applicant is disposed of accordingly.

I.A.Nos.2344-45 & 2351:

The applicant M/s.Adani Chemicals Ltd. in Kutch district of Gujarat has made this application for reconsideration of diversion of 1850 ha. (approved area of 1840 ha.) of forest land for high purity salt works in its favour for development of Mundra Special Economic Zone and also for reconsideration of diversion of one consolidated patch in Survey No.169/36 admeasuring 168.41 ha. of forest land for the Salt Washery Desalination plant and container depot near Dhruh village in Kutch district of Gujarat. CEC has examined the project and has submitted its report.

Meanwhile, as regards the proposed land use, the State Government may furnish a fresh proposal to the FAC within a reasonable time.

FAC may take an appropriate decision at the earliest.

The applications as regards the applicant are disposed of accordingly.

- *I.A.Nos.1950-51 & 2105-07:*

These applicants are also entitled to avail the benefit of the order passed by this Court on 2nd May, 2008 and it is to be noticed that they have broken the seal put by the forest department. The C.E.C. has suggested an additional penalty of a sum of Rupees one lac on these applicants for this act. The applicants are allowed to operate subject to payment penalty and additional amount of rupees one lac to be deposited with the State Level Committee.

The applications are disposed of accordingly.

- *I.A.NO.2211 (Related to forest land in possession in M/s BALCO)*

In this application, certain allegations have been made and indicated that M/s.BALCO is in possession of about 1897 ha. of government land out of which about 1751 acres is recorded as jungle in the revenue records. Learned counsel appearing for the State of Chhattisgarh states that lease was granted in favour of M/s.BALCO to an extent of 388 acres but this was disputed by learned counsel appearing for M/s.BALCO. We are told that M/s.BALCO has filed a writ petition bearing No.5328/1996 before the High Court, Chhattisgarh for regularisation of the alleged lease/allotment in their favour by the government. We are told that the writ petition is being adjourned from time to time. As this matter is pending before the High Court, we request the High Court to dispose of the writ petition pending before it and pass final orders at the earliest within a period of three months from today.

Post this matter after the decision of the High Court.

Orders dated 17.10.08

- *I.A.NO.1698 (Diversion of forest land for drinking water supply to Karauli and Sawai Madhopur districts in Rajasthan)*

The Public Health & Engineering Department of State of Rajasthan seeks to implement a project for supply of drinking water to Karauli and Sawai Madhopur districts by drawing water from river Chambal. It proposes to lay down a pipeline of about 160 kms. The project is estimated at about Rs.478.91 crores and is likely to benefit the citizens of 926 villages in the districts of Karauli and Sawai Madhopur. The project was examined by CEC. It was found that minimum flow of water observed during the last 20 years was 4.78 cusecs. It was pointed out that flow of water will be available at the down stream of the tapping point after meeting the water requirement of the proposed project.

Subject to fulfilling of the following conditions the project is cleared:

- (i) For use of forest land approval under the F.C. Act will be obtained.
- (ii) 5% of the estimated project cost of Rs.478.91 crores i.e. Rs.23.95 crore will be deposited by the project authorities for conservation and protection of National Parks and Sanctuaries in the State. For utilization of the funds, a Society under the Chairmanship of the Chief Secretary, Rajasthan with the Principal Secretary (Forests), the Principal Chief Conservator of Forests, the Chief Wildlife Warden as its Members and one officer now below the rank of Chief Conservator of Forests as its Member Secretary may be got registered.

This amount along with the amount payable towards the NPV should be deposited in a separate interest bearing bank account of a nationalized bank maintained by the Society and income received by way of interest should be used in perpetuity for the conservation and protection of National Parks and Sanctuaries in the State. The procedure and guidelines for the utilization of the funds may be decided by the State Government of Rajasthan; and

(iii)a Monitoring Committee consisting of the representative of Chief Wildlife Warden, Rajasthan and Secretary, Public Health Engineering Department will be set up to monitor and ensure that the prescribed minimum flow of water down stream of the tapping point of Chambal River will be maintained.

The above conditions are accepted by the learned counsel appearing for the State of Rajasthan.

Subject to fulfillment of these conditions, the Standing Committee of the Wildlife shall pass necessary order.

I.A. is allowed accordingly.

- I.A.NO.2343

The Andaman and Nicobar Administration has sought permission for use of 2700 ha. of alternative land for allotment to the agricultural farmers as a consequence of Tsunami which was hit in the Island. CEC has examined it and suggested that there should be a Committee to implement the directions which were already issued by this Court. Learned counsel appearing for the Administration submitted that the Committee would be constituted soon and further action will be taken and the report will be submitted to this Court within a period of two months. The matter be posted on 9.1.2009. Report may be filed to the CEC about the matter before 9.1.2009.

- I.A.NO.1424-25 (Regarding Illegal Mining in Bhaisakanhar village in Chhatisgarh)

The CEC has filed its report on 25.9.2008 regarding illegal mining in the forest area in the State of Chhatisgarh. One Mr. Anil Lunia alleged to have obtained licence for mining iron ore. The area is admeasuring about 18.27 hectares of land in village Bhaisakanhar. The State has also recently issued an order directing him to pay penalty of Re.6,66,75,633.75 for conducting mining activities in the forest without environmental clearance.

Learned counsel appearing for Anil Lunia seeks four weeks time to reply to the report filed by CEC and the applicant in I.A.1424-25, who is a Member of Legislature Assembly also seeks to file rejoinder. Two weeks time is granted for the same.

List on 28.11.2008 for directions.

- I.A.NO.2382 IN APPLN. NO.1111 (Diversion of forest land in the Delhi Ridge for the renovation and upgradation of Dr.Karni Shooting Range)

The Central Public Works Department (CPWD) is seeking permission for recommendation for renovation, upgradation and new construction of Dr. Karni Singh Shooting Range, Tughlakabad, Delhi. This area is within the Delhi Ridge area and for renovation and upgradation about 400 trees are to be cut. CEC has examined the project and has laid down the following conditions:

- (i) for use of the forest land approval under the F.C.Act will be obtained.
- (ii) 5% of the estimated project cost of Rs.65 crores i.e. Rs.3.25 crores will be deposited by the applicant for conservation and protection of the Delhi Ridge. The amount should be kept in an interest bearing bank account maintained by the Delhi Forest Department and should be used under the supervision, monitoring and permission of the Ridge Management Board;
- (iii) 500 indigenous trees will be planted within the shooting range complex; and
- (iv) the conditions imposed by the Ridge Management Board will be strictly complied with.

The above conditions are acceptable to the CPWD. Subject to fulfilling of the above conditions the project is cleared.

I.A. is allowed accordingly.

As per the previous order passed by this Court as part of the work relating to the Common Wealth Games, a sum of Rs.42.22 crores were directed to be deposited and this amount has already been deposited and lying in the 'Civil Deposit' in the name of Chief Secretary, Delhi Government and it is not an interest bearing deposit. We hereby direct that the Chief Secretary may deposit the entire amount i.e. Rs.45.47 crores (including Rs.3.25 crores noted above) in a fixed deposit for a period of three years in a nationalized bank.

- I.A.NO.170-175 IN W.P.(C) NO.460/04 (Regarding Mining in Goa near a Wild Life Sanctuary)

The applicants seek mining permission in the State of Goa. Some of the mining areas are near to the wildlife sanctuary in the State of Goa. The State of Goa may file its response to the applications. Learned counsel for the applicants will give a copy of the applications to the learned counsel for the State of Goa. The State Government may send details to the Standing Committee, National Board for Wildlife as called for.

List on 28.11.2008.

The State and the National Board may file their responses in the meantime.

Orders Dated 20.10.08

- I.A.No.2070, 2071, 2142 & 2387 in 2071 (Related to Valmiki Tiger Reserve and Durgawati Reservoir Project in Bihar)

I.A.NO.2070:

In the State of Bihar there is a wildlife sanctuary by name Valmiki Wildlife sanctuary, which is originally having extent of 880 sq.km. and now it seems that the State seeks to reduce the extent to 840.26 sq.km. as part of the rationalisation of the boundary of the sanctuary. The C.E.C. has examined the matter and filed a report wherein it is stated that this is a part of the north-western flank of the sanctuary and it contains low hill sal and miscellaneous forests of high density with small grassy moist patches; tiger, Leopard, Wild Boar, Sloth Bear Sambhar and Cheetal are found in the area and the entire area is eco-fragile and sensitive and has bearing on critical

wildlife habitat. The State, if it is serious to reduce the area, may approach the MoEF Committee for rationalisation of the boundary and while considering this fact, report of the C.E.C. also may be considered.

I.A. is disposed of accordingly.

I.A.No.2071:

The State seeks permission to divert 600.72 ha. of land for the Durgawati Reservoir Project. C.E.C. has examined and has laid down the following conditions :

- 1. approval under the F.C.Act will be obtained for use of the forest land;*
- 2. the conditions on which the project has been recommended for approval by the Standing Committee of the NBWL will be strictly complied with; and*
- 3. five per cent of the revised estimate cost of the project will be deposited by the project authorities for conservation, protection and improvement of National Parks and sanctuaries in the State of Bihar. For utilisation of the funds, a Society under the Chairmanship of the Chief Secretary, Bihar with the Principal Secretary (Forests), the Principal Chief Conservator of Forests, the Chief Wildlife Warden as its members and one officer not below the rank of Chief Conservator of Forests as its Member Secretary may be got registered. This amount alongwith the amount payable towards the NPV, Catchment Area Treatment and Compensatory Afforestation should be deposited in an interest bearing account(s) in a nationalised bank(s) maintained by the Society and income received by way of interest should be used in perpetuity for conservation, protection and development of forest and wildlife in the State.*

The said conditions are acceptable to the applicant. Subject to the fulfillment of the above conditions, the project is cleared.

I.A. is disposed of accordingly.

NBWL had earlier recommended that action be taken against some officers. But having regard to larger interest, no further action is required and we make it clear that no proceeding may be taken against the said officers.

Consequently, I.A.Nos.2142 & 2387 are also disposed of.

- I.A.Nos.1381, 1429, 1519-1520, 1652-1654, 1782-1783, 1812, 1995-1996, 1998-1999, 2014 and 2120 (Related to Wood Based Industries in Haryana, Uttaranchal)*

I.A.No.1381:

This application is regarding functioning of unlicensed wood-based industries in the State of Haryana. The C.E.C. has examined the matter and the State has complied with all the recommendations of C.E.C. and the State, as per the recommendations of the C.E.C., has framed rules for giving/granting licenses and it was stated that all steps are being taken for issuing licenses. No further directions are required.

I.A. is disposed of accordingly.

I.A.No.1429

In the State of Uttaranchal, there are certain plants of Medium Density Fibre Board (MDFB) which are not using the timber for this purpose. The C.E.C. has examined the matter and has made certain recommendations. The State has not raised any objections to the recommendations of C.E.C.

The application as regards Uttaranchal is disposed of.

List the application on 28th November, 2008 as regards the State of Madhya Pradesh.

I.A.Nos.1519-1520:

There are large number of applicants to start the wood based industries in the State of West Bengal. There are 2927 units seeking permission to start wood based industries. The total timber available from the forest area was assessed to be 14.25 lakh cu.m. as against 25.52 lakh cu.m. assessed by the State Government. The available timber is adequate only to accommodate 750 saw mills. C.E.C. has suggested that as regards 750 saw mills, they may be given licenses according to the guidelines and suggestions issued by it.

It is also noticed that there are several other wood based industries which are operating only on the imported timber. C.E.C. has suggested that these wood based industries shall be located at such places which are away from the forest land and also to ensure that these wood based industries are not using non-imported timber. If these conditions are acceptable to the State Government, the State Government may process the applications in accordance with the guidelines and suggestions issued by C.E.C. and issue licenses based on the said guidelines/suggestions.

The interim order(s) passed by this Court on 18 th May, 2007/27th July, 2007 staying granting licenses is vacated.

I.A.s are disposed of accordingly.

I.A.Nos.1652-1654, 1782-1783, 1812, 1995-1996, 1998-1999, 2014 and 2120 are also disposed of accordingly.

- *I.A.No.2000-2000A*

Applicant to serve the unserved respondent-State of Chhattisgarh. In addition, permitted to serve the standing counsel for the State.

Adjourned by four weeks.

- *I.A.No.2149-2150 & 2153-2154*

It is submitted that the recommendations of C.E.C. are acceptable to the applicant-NHAI and the project is cleared subject to the fulfillment of suggestions / recommendations of C.E.C.

The applications are disposed of accordingly.

- *I.A.No.2342 in 2119 in 1483 in 548 (Rationalisation of the boundary of the Great India Bustard Sanctuary, Maharashtra)*

In the State of Maharashtra, the Great India Bustard Wildlife Sanctuary, as on paper, having an extent of 8496.44 sq.kms. But it is submitted by the learned Solicitor General of India, appearing

for the State, that out of this area 347.63 sq.kms.is effectively the wildlife sanctuary and out of this 347.63 sq.kms., 250.64 sq.kms. is forest and 85.72 sq.kms is vacant land and 11.27 sq.kms. is private land. Learned Solicitor submits that they are carrying non-forest activities in the rest of the area including 347.63 sq.kms. The rationalisation of the boundary of the sanctuary is to be finally decided based on the recommendation of the Committee constituted for the said purpose working under the MoEF. The Committee may take an early decision and based on the decision, the rest of the area which is excluded in such non-forest activities could be permitted. We request the rationalisation committee to take a decision at the earliest at least within a period of four weeks.

List after six weeks.

Editors: Ritwick Dutta and Kanchi Kohli

For further information and clarifications please write to forestcase@yahoo.com

Coordinating addresses: E-180, Greater Kailash 2, New Delhi-110048 and
C-106, Sector 40, Noida, Uttar Pradesh

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