

Appendix XV (i), (Vide Article - 15.04)

F.No.23011/15/2008-SG.II
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi
May 18, 2009

To

The Chief Secretary / Administrator
[All State/UT Governments, except J&K,
Punjab, Haryana, Pondicherry and Chandigarh]

Subject: Procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Sir,

I am directed to invite attention to Sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which provides that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the Government, as specified in that Section, which involve felling of trees not exceeding seventy-five trees per hectare, provided that such diversion of forest land shall be allowed only if, -

- (i) the forest land to be diverted for the purposes mentioned in the said sub-section is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

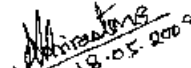
2. The question of laying down the procedure for implementing the above provisions of the Act has been under examination of this Ministry, in consultation with the Ministry of Environment & Forests and other concerned Ministries. The agreed procedure for considering and approving proposals for diversion of forest land for non-forest purposes under Section 3(2) of the Act is Annexed to this letter.

3. It is requested that the procedure as in the Annexure may be brought to the notice of all Principal Secretaries / Secretaries (Forests) / PCCFs in the State/UT for information and necessary action.

4 Further, the Nodal Agency nominated in your State/UT for implementing the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 may also be directed to take necessary steps immediately for giving wide publicity to the procedure and to bring the same to the notice of all the Gram Sabhas in your State.

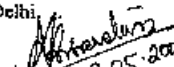
5. This issues with the concurrence of Ministry of Environment & Forests vide their O.M. No.11-9/98-FC (pt.) dated 19.3.2009, Ministry of Panchayati Raj, vide their O.M.No.R-12011/6/04-PR(pt.1) dated 12.3.2009 and Ministry of Rural Development (Dept. of Land Resources) vide their O.M.No.14015/5/2007-LRD (pt.) dated 19.3.2009.

Yours faithfully,


18.05.2009
[A.K. Srivastava]
Director
Tel. 23387444

Copy for information to:

1. All Secretaries in-charge of Tribal Welfare Department in the States/UTs, (except J&K, Punjab, Haryana, Pondicherry and Chandigarh).
2. Ministry of Environment & Forests (Shri P.R. Mohanty, DG[Forests]), Paryavaran Bhawan, C.C.O. Complex, Lodhi Road, New Delhi-110003. It is requested that the enclosed procedure may be brought to the notice of all Regional Offices of Ministry of Environment & Forests and other concerned Officers in the State/UT Governments for necessary action.
3. Ministry of Panchayati Raj, (Shri A.N.P. Sinha, Secretary), Krishi Bhawan, New Delhi.
4. Ministry of Rural Development, Department of Land Resources (Smt. Rita Sinha, Secretary), Nirman Bhawan, New Delhi.
5. Cabinet Secretariat (Shri C.S. Kedar, Joint Secretary) Rashtrapati Bhawan, New Delhi.
6. Prime Minister's Office (Ms. Kalpana Awasthi, Director), South Block, New Delhi.


18.05.2009
[A.K. Srivastava]
Director

Annexure to letter No 23011/15/2008-SG.II
dated May 18, 2009

**Government of India
Ministry of Tribal Affairs**

Procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the Government, as specified in that Section, which involve felling of trees not exceeding seventy-five trees per hectare, provided that such diversion of forest land shall be allowed only if, -

- (i) the forest land to be diverted for the purposes mentioned in the said sub-section is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

2. For implementation of the provisions of sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Central Government hereby lays down the following procedure:-

2.1 **Definitions.-** In the procedure, unless the context otherwise requires:-

- (a) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- (b) "District Level Committee" shall mean the Committee constituted under Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Rules, 2008;
- (c) "Forest Land" shall have the same meaning as defined in Section 2(d) of the Act;
- (d) "Gram Sabha" shall have the same meaning as defined in Section 2(g) of the Act;

- (e) "Nodal Officer" means any officer not below the rank of Conservator of Forests, authorized by the State Government to deal with matters relating to diversion of forest land under the Act;
- (f) "Section" means a section of the Act;
- (g) "User Agency" means a Department of the Central or State Government or a District Panchayat making a request for diversion of forest land for developmental projects managed by the Government as specified in sub-section (2) of Section 3 of the Act;
- (h) "Village" shall have the same meaning as defined in Section 2(p) of the Act.

2.2 Submission of the proposals seeking approval for diversion of the forest land under sub-section (2) of Section 3 of the Act.-

- (i) Every User Agency, that wants to use any forest land for any developmental project, specified in Section 3(2) of the Act, shall make a proposal in the appropriate Form appended, i.e. Form 'A', and place it before the general assembly of the concerned Gram Sabha for adopting a resolution to that effect.
- (ii) A quorum of at least half the members of the Gram Sabha should be present for adopting a resolution recommending the diversion of forest land.
- (iii) On receipt of a recommendation of the proposal by the Gram Sabha, the User Agency will submit the proposal to the concerned Range Forest Officer (RFO) of the area, along with the resolution adopted by the Gram Sabha.
- (iv) The Range Forest Officer (RFO) concerned will carry out site inspection of the proposed area to opine on the acceptance of the proposal.
- (v) The Range Forest Officer (RFO) concerned will submit the proposal and his recommendation to the concerned Divisional Forest Officer (DFO) in Form 'B' appended, along with his site inspection report and his opinion within three weeks from the date of receipt of complete proposal from the User Agency.
- (vi) The Divisional Forest Officer (DFO) concerned will consider the proposal, and if he agrees, he will accord his approval and communicate his decision to the Range Forest Officer (RFO) concerned with a copy to the

Chairperson of the District Level Committee, within four weeks from the date of receipt of the proposal from the RFO.

- (vii) After receipt of the approval from the concerned DFO, the RFO will demarcate the area of the forest land approved for diversion and hand over the same to the User Agency under the supervision of the Gram Sabha.
- (viii) If the Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through the Range Forest Officer (RFO), he shall forward the proposal to the District Level Committee for a final decision.
- (ix) The District Level Committee will meet and take a final decision, with at least 1/3 quorum, and convey the decision to the DFO for implementation and correction of records and map if the proposal is accepted.
- (x) The approval for diversion of the forest land by the Divisional Forest Officer (DFO) or by the District Level Committee, as the case may be, shall be accorded subject to the condition that the land diverted for a specific purpose shall not be allowed to be used for any other purpose and the diverted land would be appropriated by the Forest Department if the activity for which the land was diverted is not started within one year of handing over the land to the User Agency.
- (xi) The DFO concerned will submit a quarterly report of the approvals accorded for diversion of forest land under Section 3(2) of the Act to the Nodal Officer of the State who, in turn, will furnish the consolidated information quarterly to the Secretary, Tribal Welfare Department who will, in turn, send the consolidated report to the Ministries of Tribal Affairs and Environment & Forests.
- (xii) The Nodal Officer will also monitor the progress.

APPENDIX

Form for seeking prior approval for diversion of forest land for non-forest purposes for the facilities managed by the Government under sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

FORM-A

[See para 2.2(i)]

(To be filled up by the User Agency)

1. Project details:
 - (i) Short narrative of the proposed project / scheme for which the forest land is required.
 - (ii) Details of the forest land required (two options to be indicated)
 - a. Location – Survey No./ Compartment No.
 - b. Extent of the area (in hectares)
 - c. Forest Division
 - d. Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
 - (iii) Justification for locating the project in proposed forest land(s)
 - (iv) Number of trees to be felled (per hectare) and number that will be kept standing
2. Detailed, purpose-wise break-up of the total forest land required with proposed building/activity area map.
3. Confirmation that User Agency will plant at least twice the number of trees to be felled, in the project or adjacent area and the amount to be provided annually for protection and maintenance of these plants for at least five years (Details to be enclosed).
4. Recommendation of the Gram Sabha – Accepted/Rejected
[Please tick (✓), as the case may be]. [Copy of the Gram Sabha resolution to be attached.]

Signature of the authorized person for the User Agency

(Name in Block letters)

Address _____

Date: _____

Place: _____

Serial No. of proposal _____

(To be filled up by the Range Forest Officer with date of receipt)

FORM-B

[See para 2.2(iv)]

(To be filled by the concerned Range Forest Officer)

Serial No. of proposal _____

1. Location of the project / Scheme:
 - (i) State / Union Territory
 - (ii) District
 - (iii) Forest Division
 - (iv) Proposed forest land(s) (two options to be indicated)
 - i. Location – Survey No./ Compartment No.
 - ii. Extent of the area (in hectare)
 - (v) Whether part of biosphere reserve, tiger reserve, elephant corridor, etc.

2. Site inspection report (to be attached), containing the date of visit, and justified opinion on the acceptability of the proposal (separately for the two options).

3. Specific recommendation of the Range Forest Officer for acceptance or otherwise of the proposal and the better option.

Signature of the RFO

Name _____

Official Seal

Date: _____

Place: _____

Accepted / Not accepted
with reasons to be recorded

Signature of the DFO

Name _____

Official Seal

Date: _____

Place: _____
