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Government of Himachal Pradesh
Forest Department.

No. FFE-B-F-(2)-3/2019

Dated: Shimla-2,

20th September, 2019

NOTIFICATION

In supersession of Govt. of Himachal Pradesh letter No. FFE-B-F(2)-31/2009 dated 06-10-2009 & 19-07-2014 respectively, the Governor, Himachal Pradesh is please to notify the Policy Guidelines for recommendation of cases under Forest Conservation Act, 1980 as per enclosed **Annexure-A** (Pages-1 to 4) with immediate effect.

By Order,

Ram Subhag Singh
Addl. Chief Secretary (Forests) to the
Government of Himachal Pradesh.

Endst. No. As above Dated, Shimla-2 the

20th September, 2019

- 1 All Administrative Secretaries to the Government of Himachal Pradesh.
- 2 The Pr.CCF(HoFF) Shimla-1. He is requested to circulate this notification to all the CCFs/CFs/DFOs(WL&T) in H.P.
- 3 The Pr.CCF(W.L) Talland, Shimla-1.
- 4 The CCF-cum-Nodal Officer(FCA) Talland Shimla.
- 5 The Under Secretary (GAD) to the GoHP w.r.t Cabinet Item No.19 dated 16-09-2019.
- 6 The Private Secretary to the Chief Minister, Himachal Pradesh.
- 7 The Private Secretary to the Forest Minister Himachal Pradesh.
- 8 The Private Secretary to the Chief Secretary to the GoHP.
- 9 Guard File.

(Sat Pal Dhiman)

Joint Secretary (Forests) to the
Government of Himachal Pradesh.

P.T.O.

Annexure (A)

Policy Guidelines for Recommendation of FCA Cases**Background**

Conservation of forests is certainly a necessity that requires to be addressed as a priority. Towards achieving this much legislation have been enacted in India and elsewhere.

The Union of India has passed the Forest (Conservation) Act, 1980 making it mandatory to obtain prior approval of the Union Government for using forest land for non-forest purposes. It is a unique piece of legislation and a regulatory mechanism that reflects the collective will of the nation to protect its rich biodiversity and natural heritage and that permits only unavoidable use of forest land for various developmental purposes. It embodies the firm commitment of the Govt. Of India to balance the conservation of forests with the sustainable development need of the country contributing to better environment, health and economy.

Since inception of Forest (Conservation) Act, rules and guidelines have been framed for diversion of forest land for non forest purposes, which has facilitated developmental activities like construction of power projects, irrigation projects road, schools, hospitals, rural electrification, telecommunication, drinking water facilities, mining etc. on forest land.

Present position in HP

Since 1980 to August, 2019, 2040 cases involving 13598.95 ha forest land have been finally approved by Govt. of India for diversion for non-forest purposes.

Forest land diversion proposals are received by the Department regularly from various user agencies including Govt. Departments, private parties, societies and individuals for different activities which, many a times, are not site specific. Common justification given for locating such projects in forest land and asking for forest land is that Private land is not available for the purpose. Nature of many cases is such that they are not for the common benefits of the people at large and do not serve public purpose in the real sense.

Private parties/individuals also approach the Department for diversion of forest land for activities like establishment of market yards/vegetable collection centres, construction of Go Sadans, providing educational facilities, commercial activities etc.

Forests are already under tremendous biotic pressure due to increasing human and cattle population. Large number of forest diversion cases is adding fuel to the fire. Diversion of forest land for non-forest purposes affects achieving the target of forest cover as per the policy documents or even to maintain the present extent of forest cover in the State.

Forest (Conservation) Act, 1980 and rules framed there under do not prohibit any person seeking diversion of forest land for non forestry purpose. The Act also does not prescribe/define the activities for which forest land can be considered for diversion. As per the Forest (Conservation) Act, 1980, any person, organization or company or department of the Central Govt. or State Govt. making a request for diversion or de-notification of forest land for non forest purpose shall be the user agency. However, the GoI normally does not consider diversion of forest land for rehabilitation of people and construction of residential or dwelling houses. The State Governments have, however, been empowered to reject any such request at their level barring the proposals relating to Central Govt. Projects which can only be rejected at GoI level.

In the absence of any policy-guidelines, it becomes difficult to differentiate between different user agencies like private persons/societies and Govt Departments and different purposes for which they ask for forest land. It is, therefore, imperative to have policy-guidelines for the State which should govern the cases for forest diversion proposals.

Guidelines:

Since "Forest" is in concurrent list and the forest land is owned by the State Govt. State Govt is at liberty to frame guidelines for consideration of cases under FCA- whether to recommend such cases or not.

The Guidelines are framed as under:

1. Since out of total 37,033 Sq. km of forest land in H.P., only 1,896 (5.1%) is Reserve Forest and these are sacrosanct by their nature and legal classification, diversion of forest land from Reserve Forests should be recommended only in exceptional cases when the diversion is extremely site specific and totally unavoidable. Otherwise efforts should be made to explore sites in other forests even if the cost of proposed project becomes higher due to shifting from proposed site in Reserve Forest. Merit of such proposals should be considered on case to case basis.
2. Only Govt owned/ Govt approved projects, including Govt. Approved private projects in case of Hospitals and health institutions should be entertained for diversion of RFs, DPFs and UPFs.
3. For any other proposal not covered in 2 above, only those forest areas should be considered which are not RF/DPF/UPF but come under the category of forest by application of 1952 notification.
4. Forest land should not be diverted to Private individual(s)/ Firm(s) or organization(s) [including society], charitable trusts etc, not owned by the

Govt. It can be considered on case to case basis if it serves public interest or is for public welfare activities like hydel projects, transmission lines, and drinking water projects etc. All the cases of diversion of forest land for constructing roads in order to provide access to the Investible Project(s) being set up on non-forest land/private land proposed by private individual(s)/firm(s) or organization(s) including societies, trusts etc will be recommended by the Government for seeking approval under FCA, 1980. The criteria laid down by the Industries Department to treat a project as Investible Project shall be followed while considering such cases of diversion of forest land for constructing roads. Those projects which do not fulfil the criteria will not be entertained.

5. Forest land for mining can be diverted to individuals only if it has been approved by the Mining Department.

6. Forest land may not be diverted for religious purposes.

7. Forest land may not be diverted to Panchayats, Mahila Mandals, Headmasters/Principals, societies etc. directly. Rather cases should be prepared by the concerned Govt Department under whose control these institutions operate. On approval of Government of India of such cases, the concerned Department may arrange leasing out of the land to such user agencies. The Departments might object to paying charges for Compensatory Afforestation, NPV and other charges as ordered to be levied by Govt. of India. To overcome this problem, a system can be evolved for depositing such charges by the actual user agency to the concerned Department (not in to treasury as revenue), who, in turn, will deposit the charges to the appropriate account/head designated by Govt. of India/State Govt.


