

No. FFE-B-A (4)-1/2015
Government of Himachal Pradesh
Department of Forests

From

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

To

1. All the ACS/Pr. Secretaries/Secretaries to the Govt. of HP.
2. All the Head of the Departments in H.P.
3. All the Divisional Commissioners in H.P.
4. All the Deputy Commissioners in H.P.

Dated Shimla-2, the **17-02-2016.**

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 your kind attention to the Ministry of Tribal Affairs (MOTA), GOI letter No. 23011/15/2008-SG.II dated 18 May, 2009 (copy enclosed) on the aforesaid subject and to say that with the implementation of the Scheduled Tribes and Other Traditional Dwellers (Recognition of Forest Rights) Act, 2006 in the state of Himachal Pradesh from the year 2012 onwards, the provisions of Sub-Section(2) of Section 3 are applicable on case to case basis. This provides for diversion of forest land for certain facilities managed by the Government as per details below subject to the condition that this does not involve felling of trees exceeding seventy five trees per hectare and provided that such diversion of forest land shall be allowed only if:

- 1) the forest land to be diverted for the purposes mentioned below is less than one hectare in each case; and
- 2) the clearance of these developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.
 - a) School;
 - b) dispensary or hospital;
 - c) anganwadis;
 - d) fair price shop;
 - e) electric and telecommunication lines;
 - f) tanks and other minor water bodies;
 - g) drinking water supply and water pipelines;
 - h) water or rain water harvesting structures;
 - i) minor irrigation canals;
 - j) non-conventional source of energy;
 - k) skill upgradation or vocational training centres;
 - l) roads;
 - m) community centres;

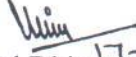
S/PCA
V
APCOF/PCA
2012/2010

2/-

Such proposals will be considered and approved by the Divisional Forest Officer concerned. The detailed procedure for seeking such prior approval has been laid down by the MOTA, GOI with concurrence of Ministry of Environment, Forests and Climate Change (MoEF&CC), GOI in the above referred letter. The PCCF (HoFF), HP has also been directed by this department vide letters of even No. FFE-B-F(4)-1/2015 dated 07-01-2016 and 14-01-2016 (copies enclosed) to issue necessary directions to all the Divisional Forest Officers to dispose of the cases received under Section 3(2) of the Scheduled Tribes and Other Traditional Dwellers (Recognition of Forest Rights) Act, 2006. Other proposals for diversion of forest land for non-forest purposes shall be dealt in accordance with the provisions laid down in the Forest Conservation Act(FCA),1980 and guidelines laid down by the MoEF&CC, GOI from time to time. For clarifications if any you may also get in touch with the Nodal Officer, FCA, HPFD Headquarters, Office of PCCF(HoFF), Talland, Shimla-171001(Tel: 0177-2624857 and Mobile 9418901959).

This is for your information and necessary action please.

Yours faithfully,


17-2-2016
(Sat Pal Dhiman)
Deputy Secretary (Forests) to the
Government of Himachal Pradesh.

Endst. Ft.66-79/2014/FRA(FCA)

Dated Shimla-171001,the

Copy along with copies of above mentioned letters for information , further necessary action & compliance is forwarded to :-

- 1) Pr. CCF (W.L) H.P. Shimla.
- 2) All CFs (T) & (Wildlife in H.P)
- 3) All CFs (T) in H.P. C.F National Park, Shamshi, Distt Kulu .
- 4) CF (IT) for uploading this information on website of H.P. Forest Department.
- 5) All DFOs (T & WL) in H.P

Encls: as above


Addl.Pr. Chief Conservator of Forests (FCA),
O/o Pr. CCF, H.P.

Shāstri Bhawan, New Delhi
May 18, 2009

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 (Deptt. of Land Resources) vide their O.M.No.14015/5/2007-LRD (pt.) dated 19.3.2009.

Yours faithfully,

A.K. Srivastava
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.G.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.

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

**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;

448

- (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 atleast 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.

- 448
- (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 hectare)
 - 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 _____

451

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: _____

भारत सरकार
जनजातीय कार्य मंत्रालय

अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3(2) के तहत सरकार द्वारा प्रबंधित सुविधाओं हेतु वन भूमि को गैर-वन उद्देश्यों हेतु विपथन के लिए पूर्व अनुमोदन प्राप्त करने की कार्यविधि ।

अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3 की उप-धारा(2) में यह प्रावधान है कि वन (संरक्षण) अधिनियम, 1980 में किसी भी बात के रहते हुए भी, केन्द्र सरकार उस धारा में यथा विनिर्दिष्ट सरकार द्वारा प्रबंधित कतिपय सुविधाओं हेतु वन भूमि के विपथन हेतु प्रावधान करेगी, जिसमें प्रति हेक्टेयर 75 पेड़ से अधिक नहीं काटे जाएंगे, बशर्ते वन भूमि के इस प्रकार के विपथन की अनुमति तभी होगी, यदि :-

- (1) उपर्युक्त उपधारा में उल्लिखित उद्देश्यों हेतु विपथित भूमि प्रत्येक मामले में एक हेक्टेयर से कम हो; तथा
- (2) ऐसी विकास परियोजनाओं को इस शर्त के अधीन क्लीयर्स दी जा सकती है कि उसे ग्राम सभा की संस्तुति प्राप्त हो ।

2. अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3 की उप-धारा(2) के प्रावधानों के क्रियान्वयन हेतु केन्द्रीय सरकार ने निम्नांकित कार्यविधि बनाई है -

2.1 परिभाषा- इस कार्यविधि में यदि संदर्भ अन्यथा अपेक्षित न हो -

क 'अधिनियम' का अर्थ अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 (2007 का 2) अभिप्रेत है ;

ख 'जिला स्तरीय समिति' का अर्थ अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) नियम, 2008 के नियम 7 के अंतर्गत गठित समिति है

ग 'वन भूमि' का अर्थ इस अधिनियम की धारा 2 (घ) में यथा परिभाषित अर्थ के समान है ;

घ 'ग्राम सभा' का अर्थ इस अधिनियम की धारा 2 (छ) में यथा परिभाषित अर्थ के समान है ;

ड 'नोडल अधिकारी' का अर्थ कोई भी अधिकारी जो वन संरक्षक के पद से नीचे का न हो तथा जिसे राज्य सरकार के इस अधिनियम के अंतर्गत वन भूमि के विपथन से संबंधित मामले को निपटाने हेतु प्राधिकृत किया हो ;

च 'धारा' से अधिनियम की धारा अभिप्रेत है ;

छ 'यूजर एजेंसी' का अर्थ एक केन्द्रीय विभाग अथवा राज्य सरकार अथवा एक जिला पंचायत है जो इस अधिनियम की धारा 3 उप-धारा (2) में यथा विनिर्दिष्ट अनुसार सरकार द्वारा प्रबंधित विकास परियोजनाओं हेतु वन भूमि के विपथन हेतु आग्रह से है ;

ज "ग्राम" का अर्थ इस अधिनियम की धारा 2 (त) में तथा परिभाषित अर्थ से है ;

2.2 इस अधिनियम की धारा 3 की उप-धारा 2 के अंतर्गत वन भूमि के विपथन हेतु अनुमोदन प्राप्त करने संबंधी प्रस्तावों की प्रस्तुति -

1. इस अधिनियम की धारा 3(2) के अंतर्गत विनिर्दिष्ट अनुसार किसी विकास परियोजना हेतु वन भूमि का उपयोग करने की इच्छा रखने वाले प्रत्येक यूजर एजेंसी एक उचित प्रारूप जो फार्म सं. (क) के रूप में संलग्न है, में प्रस्ताव देंगे तथा यह प्रस्ताव संबंधित ग्राम सभा के सामान्य सभा के समक्ष प्रस्तुत किया जाएगा ताकि वह इस पर संकल्प ले सके।
2. वन भूमि के विपथन हेतु संस्तुति देने के लिए संकल्प हेतु ग्राम सभा में कम से कम कुल संख्या के आधे सदस्यों की न्यूनतम संख्या का कोरम अनिवार्य है।
3. ग्राम सभा की संस्तुति की प्राप्ति के उपरांत यूजर एजेंसी उस प्रस्ताव को उस क्षेत्र के रेंज वन अधिकारी (आर.एफ.ओ.) के समक्ष प्रस्तुत करेंगे जिसमें ग्राम सभा द्वारा लिए गए संकल्प भी संलग्न होंगे।
4. संबंधित रेंज वन अधिकारी (आर.एफ.ओ.) उस प्रस्ताव क्षेत्र के स्थल का दौरा करेंगे तथा प्रस्ताव की स्वीकृति पर अपने विचार देंगे।
5. संबंधित रेंज वन अधिकारी (आर.एफ.ओ.) संबंधित मंडल वन अधिकारी (डी.एफ.ओ.) को फार्म ख के रूप में संलग्न प्रपत्र में प्रस्ताव प्रस्तुत करेंगे तथा यूजर एजेंसी से प्राप्त प्रस्ताव की तिथि के तीन सप्ताह के भीतर स्थल दौरा निरीक्षण रिपोर्ट एवं अपने विचार प्रस्तुत करेंगे।
6. संबंधित मंडल वन अधिकारी (डी.एफ.ओ.) उस प्रस्ताव पर विचार करेंगे तथा यदि वह सहमत होंगे तो अपनी सहमति एवं अनुमोदन संबंधी रेंज वन अधिकारी (आर.एफ.ओ.) को आर.एफ.ओ. से प्रस्ताव प्राप्ति की तिथि से चार सप्ताह के भीतर जिला स्तरीय समिति के अध्यक्ष को एक प्रति के साथ प्रस्तुत करेंगे।
7. संबंधित डी.एफ.ओ. से अनुमोदन प्राप्त करने के बाद आर.एफ.ओ. उक्त क्षेत्र में वन भूमि को चिह्नित कर उसे ग्राम सभा के निरीक्षण के अधीन उक्त यूजर एजेंसी को भूमि विपथन को मान्यता देते हुए सौंप देंगे।
8. यदि संबंधित मंडल अधिकारी यूजर एजेंसी द्वारा रेंज वन अधिकारी (आर.एफ.ओ.) द्वारा प्रस्तुत प्रस्ताव को स्वीकृति नहीं देते हैं तो अंतिम निर्णय हेतु वह जिला स्तरीय समिति को प्रस्ताव भेज देंगे।
9. जिला स्तरीय समिति न्यूनतम 1/3 कोरम के साथ बैठक कर एक अंतिम निर्णय लेकर यदि प्रस्ताव स्वीकृत करती है तो अभिलेख तथा नक्शे में सुधार को क्रियाविध करे हेतु डी.एफ.ओ. को अपना निर्णय सूचित कर सकती है।
10. मंडल वन अधिकारी (डी.एफ.ओ.) अथवा जिला स्तरीय समिति द्वारा वन भूमि के विपथन को अनुमोदन, जैसा भी मामला हो, इस शर्त के अधीन दिया जा सकता है कि वन भूमि का विपथन एक विनिर्दिष्ट उद्देश्य के लिए अनुमत्य होगा तथा उसका उपयोग किसी अन्य उद्देश्य हेतु नहीं किया जाएगा तथा इस प्रकार विपथित भूमि जिस उद्देश्य से इसका विपथन किया गया था, उस उद्देश्य हेतु यूजर एजेंसी को भूमि सौंपने की तिथि से एक वर्ष के भीतर शुरू नहीं किए जाने की स्थिति में वन विभाग पुनः उस भूमि को विनियोजित करेगा।
11. इस अधिनियम की धारा 3(2) के अधीन वन भूमि के विपथन हेतु अनुमोदनों की तिमाही रिपोर्ट डी.एफ.ओ. द्वारा उस राज्य के नोडल अधिकारी को दी जाएगी तथा वह समेकित तिमाही सूचना सचिव, जनजाति कल्याण विभाग को देंगे, तथा आगे वे समेकित सूचना जनजातीय कार्य एवं पर्यावरण तथा वन मंत्रालयों को देंगे।
12. नोडल अधिकारी भी प्रगति की निगरानी करेंगे।
