

No. FFE-B-A(3)-2/2018
Government of Himachal Pradesh.
Department of Forests. (Section-'B')

From

Additional Chief Secretary (Forests) to the
Government of Himachal Pradesh, Shimla-2.

To

The Assistant Inspector General of Forest (FC),
Ministry of Environment, Forest & Climate Change,
Government of India, Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi-110003.

Dated, Shimla-171002, the 12th November, 2020.

Subject:-

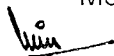
Clarification regarding entry of diverted forest
land in favour of the User Agency in the
records of rights (Revenue Record) by the
Revenue Department.

Sir,

I am directed to invite your kind attention to this department letter Nos. FFE-B-A(3)3/2015 dated 5th December, 2018 and FFE-B-F(5)-9/ 2017, dated 22nd April, 2019 (copies enclosed) on the subject cited above and to say that this department had sought clarification "as to whether in approved FCA diversion cases, Forest land can be transferred by way of mutation in the name of User Agency/User Department and also whether entry of forest land in favour of the User Agency qua its possession etc. should be reflected/indicated/recorded in the Record of Rights (Revenue Record) by the Revenue Department?".

2. In this context, the Ministry has clarified vide letter No. FC-11/76/2019-FC, dated 30th July, 2019 that "the forest land diverted for non-forestry purpose under FCA, 1980 will be having legal status as 'forest' even after diversion. Hence, the diverted forest land cannot be transferred by way of mutation in the name of User Agency/User Department in the record of rights (Revenue record) by the Revenue Department."

3. In this context, your kind attention is invited to Section 2 (iii) of the Forest (Conservation) Act, 1980 which provides for assigning of any forest land or any portion thereof by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government with prior approval of the Central Government. In view of this provision, execution of lease deed in respect of diverted forest land after approval of the MoEF&CC, Govt. of India, pre-supposes that title is created which has to



Contd./-2

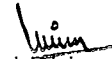
be incorporated in the Record of Rights by way of mutation.

4. It is also relevant to point out here that a large number of private developers, PSUs or different Departments of the Government in whose favour forest land has been diverted are facing difficulties in moving the projects further by way of raising loan, equity etc. by way of mortgaging the diverted forest land to the concerned financial institutions. Moreover, there have been instances of same land being diverted subsequently for a different project in absence of entries in the Record of Rights by way of mutation etc.

5. Thus, it is essentially required that entry of diverted forest land be made in the Record of Rights qua possession in the name of User Agency on the strength of diversion order passed under FCA, 1980 especially because currently a total of 31 cases in respect of important developmental projects are pending implementation in view of the clarification dated 30th July, 2019 issued by the MoEF&CC, Govt. of India. More number of such cases will arise in future.

You are accordingly requested to issue fresh clarification after review of this matter at the earliest.

Yours faithfully,



(Sat Pal Dhiman) 12-11-2020

Joint Secretary (Forests) to the
Government of Himachal Pradesh

Phone No. 0177-262187

E-mail: jointsecyforest05@gmail.com

FFE-B-~~13~~3/2015
 Government of Himachal Pradesh
 Department of Himachal Pradesh
 Department of Forests.

From

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

To

Assistant Inspector General of Forest (FC),
 Ministry of Environment Forests & Climate Change
 Govt. of India, Paryavaran Bhawan, Jor Bagh Road,
 New Delhi-110003.

Dated: Shimla-2 the 5th December, 2018

Subject: Clarification regarding entry of diverted forest land in favour of the User Agency in the records of rights (Revenue Record) by the Revenue Department.

Sir,

I am directed to inform that the MoEF&CC, Govt. of India grants approval in cases of diversion of Forest lands for non-forestry purposes under the Forest Conservation Act, 1980 in favour of the User Agencies. While giving such approval, a stipulation is imposed that legal status of the diverted forest land cannot be changed.

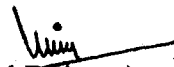
It has come to the notice that in one case, MoEF&CC, GoI had diverted Forest land in the past for the construction of Chamera Hydroelectric Project Stage-I, NHPC Ltd., Khairi Distt. Chamba HP (CPS-I, NHPC Ltd.,) but a portion of this land is again diverted in favour of BTC DAV College, Banikhet, Dalhousie Distt. Chamba, HP for the construction of additional DAV College Building at Banikhet within jurisdiction of Dalhousie Forest Division. Now this matter is being adjudicated in the Hon'ble High Court. Due to absence of any entry *qua* possession of diverted forest lands in favour of User Agency in the Revenue Record, there is every likelihood of such omissions.

In this context, clarification/guidance has been sought by the Revenue Authorities as to whether in approved FCA diversion cases, Forest land can be transferred by way of mutation in the name of User Agency/User Department. Also whether entry of forest land in favour of the User Agency *qua* its possession etc. should be reflected /indicated/recorded in the Record of Rights (Revenue Record) by the Revenue Department?

It is, therefore, requested that clarification on these points be given at your earliest please.

Thanking you,

Yours faithfully,



(Sat Pal Dhiman) 5-12-2018
 Joint Secretary (Forests) to the
 Government of Himachal Pradesh

From

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

To

The Assistant Inspector of Forests (FC)
Ministry of Environment Forests & Climate Change
Govt. of India, Paryavaran Bhawan, Jor Bagh Road,
New Delhi-110003

Dated: - Shimla-171002, the 22, -04-2019

Subject: **Clarification regarding entry of diverted forest land in favour of the User Agency in the records of rights (Revenue Record) by the Revenue Department.**


Sir,

I am directed to invite your attention to this department letter of even no. dated 05-12-2018 (copy enclosed) and to say that MoEF&CC, GoI had diverted Forest land in the past for the construction of Chamera Hydroelectric Project Stage-I, NHPC Ltd., Khairi Distt. Chamba HP (CPS-I, NHPC Ltd.) but a portion of this land is again diverted in favour of BTC DAV College, Banikhet, Dalhousie Distt. Chamba, HP for the construction of additional DAV College Building at Banikhet within the jurisdiction of Dalhousie Forest Division. Now this matter is being adjudicated in the Hon'ble High Court. Due to absence of any entry qua possession of diverted forest lands in favour of User Agency in the Revenue Record, there is every likelihood of such omissions.

In this context, clarification/guidance has been sought by the Revenue Authorities as to whether in FCA diversion cases, Forest land can be transferred by way of mutation in the name of User Agency/User Department. Also whether entry of forest land in favour of the User Agency qua its possession etc. should be reflected/indicated/recorded in the Record of Rights (Revenue Record) by the Revenue Department?

You are, therefore, once again requested to kindly issue necessary clarification at the earliest.

Yours sincerely,


(Sat Pal Dhiman) 22-4-2019
Joint Secretary (Forests) to the
Government of Himachal Pradesh.
22-04-2019

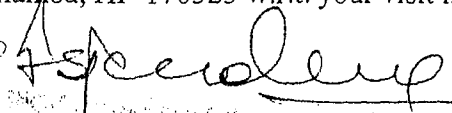

Ends:-No. As above, dated:-


Copy forwarded to the following:-

1 Dy. Secy.(Rev.) to the GoHP w.r.t. letter No. Rev-D(G)8-9/2017 dated 15-03-2019 for information.

2 The General Manager, NHPC, Chamera Power Station-1, Khairi, Distt. Chamba, HP-176325 w.r.t. your visit in the O/o undersigned for information.

Attested


(Sat Pal Dhiman) 22-4-2019
Joint Secretary (Forests) to the
Government of Himachal Pradesh.

Government of India
Ministry of Environment Forests & Climate Change
(Forest Conservation Division)

54782554
13-8-2019
Indira Paryavaran Bhawan
Aliganj, Jor Bagh Road
New Delhi-110003
Dated: 30th July, 2019

To,

The Joint Secretary (Forests),
Department of Forests,
Government of Himachal Pradesh,
Shimla

Sub: Clarification regarding entry of diverted forest land in favour of the User Agency in the record of rights (Revenue Record) by the Revenue Department

Sir,

I am directed to refer to your letter no FEE-B-F(5)-9/2017 dated 22.04.2019 regarding subject mentioned above. In this regard it is to inform that the above matter has been examined in the Ministry and it is clarified that the forest land diverted for non-forestry purpose under FCA, 1980 will be having legal status as 'forest' even after diversion. Hence, the diverted forest land cannot be transferred by way of mutation in the name of User Agency/User Department in the record of rights (Revenue record) by the Revenue Department.

Yours faithfully,

(Shrawan Kumar Verma)
Dy. Inspector General of Forests

Copy to:

1. The PCCF (HoFF), Forest Department, Government of Himachal Pradesh, Shimla.
2. The DDGF (C) Regional Office (Northern Central Zone), Subhash Road, Dehradun.
3. The Nodal Officer, FCA, 1980, Forest Department, Government of Himachal Pradesh, Shimla.
4. Guard File.