

Executive Summary: Compensatory Afforestation in India

1) Background

Forests are a vital component to sustain the life support system on Earth. Several laws and court judgements govern the use and protection of forest land in India. The Supreme Court of India directed in October 2002 that a 'Compensatory Afforestation Fund' (CAF) shall be created in which all the monies received from the user-agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forest land, catchment area treatment plan funds, etc. shall be deposited. CAF was to compensate for the loss of tangible as well as intangible benefits from the forest lands which were diverted for non-forest use. Such funds were to be used for natural assisted regeneration, forest management, protection, infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities. The Court observed that the fund would not be part of general revenues of the Union, of the States or part of the Consolidated Fund of India. Ministry of Environment and Forests (MoEF) notified the Compensatory Afforestation Management Funds Management and Planning Authority (CAMPA) in April 2004 for the management of the compensatory afforestation fund.

2) Audit objectives and criteria

The objectives of the compliance audit on Compensatory Afforestation in India were to examine:

- whether the diversion of forest land for non-forest use was permitted as per extant laws and all conditions in this regard were complied with;
- whether measures taken for conservation, afforestation and preservation of forest lands consequent to diversion of portions of these lands for non-forest use were as per provisos of extant legislation, rules and Supreme Court judgments in this regard;
- whether the collection, utilisation, monitoring, accounting and the arrangement for safeguarding of compensatory afforestation funds was in compliance with applicable

legislation, rules and Supreme Court judgements permitting diversion of forest land for non-forest purposes; and

- Whether proper financial procedures had been followed in investing funds.

The Audit criteria were derived from: Forest (Conservation) Act, 1980 as amended in 1988; Forest (Conservation) Rules, 2003 as amended in 2004; The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006; Wild Life (Protection) Act, 1972; Indian Forests Act, 1927; Supreme Court orders on the subject issued from time to time; Various guidelines and orders issued by MoEF from time to time, as per directives of the Supreme Court of India etc.

3) Audit findings

- As per information furnished the total forest land diverted during the period 2006-12 was 1, 14,877.26 hectare. Non-forest land measuring to 1, 03,381.91 hectare was receivable after excluding exempted categories, but against this only 28,085.90 hectare was received. Hence non-forest land measuring to 75,905.47 hectare was not received which was 73 per cent of receivable non-forest land. It was observed that neither the State Nodal Officer nor MoEF ensured the receipt of non-forest land. Thus, MoEF failed in ensuring the compliance of its own regulatory provisions for forestry clearance.
- In the scrutiny of records of MoEF it was observed that 1,022 proposals involving forest land measuring to 2.54 lakh hectare which had not complied with the first stage conditions for more than five years and were not rejected/ revoked.
- As per Section 3A of the Forest (Conservation) Act, 1980, whoever contravenes or abets the contravention of any provisions of Section 2, is punishable. As per the monitoring reports of the Moef Regional Office (RO), Bhubaneshwar, user agencies were utilising forest land in excess of the approved area. No remedial action was taken by MoEF or any penal provision under Section 3A of the Forest (Conservation) Act, 1980 was invoked.
- It was observed that, despite the orders of the Supreme Court on the subject, no time bound program for eviction of encroachments was devised by MoEF/RO. The State Forest

Departments also did not prepare a comprehensive list of encroachments of the forest land in order to proceed with the implementation of the orders of the highest Court of the country.

- It was observed that even after reporting by the Regional offices, MoEF did not initiate any action against the defaulting agencies and granted final clearance without ensuring environmental clearance.
- It was observed from monitoring reports of RO Bhubaneswar on four mining leases, it was reported that the mining activity in the project was affecting the flora & fauna, forest and wildlife adversely. However, as of December 2012, no action in this regard had been taken by MoEF, despite, adverse comments in the monitoring report in these projects.
- MoEF allowed the diversion of the forest land of 100 hectare for mining to M/s Elray Minerals & Company in an arbitrary manner flouting the general and specific provisions of the forestry clearances overriding the recommendations in the site inspection report of its Regional Office not to divert the fresh area for mining.
- Audit also observed instances where express orders of the Supreme Court were flouted by Electricity Board in Andhra Pradesh where the diversion of forest land in National Parks and Sanctuaries was allowed without seeking prior permission of the Supreme Court. In five other cases unauthorised renewal of mining leases in Rajasthan and Odisha were noticed, where the approval of Central Government was not obtained by the State Government as was directed by the Supreme Court.

4) Recommendations

- MoEF should make a determination of lapses and fix responsibility of officials in MoEF/ State Forest Department for the operation of mining projects without environment clearance, inspite of the same having being pointed out by its Regional Offices.

- MoEF should lay down clear cut process for taking suitable steps on the adverse comments pointed out during monitoring of projects otherwise the monitoring reports would be rendered meaningless.

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