

Diversion of forest land and Compensatory Afforestation

2.1. Introduction

2.1.1. Provisions regulating Compensatory Afforestation

As per para 3.1(i) of the Guidelines issued under the Forest (Conservation) Act, 1980 (FC Act) Compensatory Afforestation is one of the most important conditions stipulated by the Central Government while approving proposals for de-reservation or diversion of forest land for non-forest uses. It was essential that for all such proposals, a comprehensive scheme for Compensatory Afforestation (CA) was formulated and submitted to MoEF.

Further as per para 3.2(i) of the Guidelines issued under the FC Act, 1980, CA was to be done over equivalent area of non-forest land subject to the following:

- As far as possible, the non-forest land for CA was to be identified contiguous to or in the proximity of Reserved Forest or Protected Forest to enable the Forest Department to effectively manage the newly planted area.
- In case, non-forest land of CA was not available in the same district, it was to be identified anywhere else in the State/Union Territory near to the site of diversion, so as to minimise adverse impact on the micro-ecology of the area.
- Where non-forest lands were not available or non-forest land was available but lesser in extent to the forest area being diverted, CA could be carried out over degraded forest twice in extent to the area being diverted or to the extent of the difference between the forest land being diverted and the available non-forest land, as the case be.
- The non-availability of suitable non-forest land for CA in the State / Union Territory would be accepted by the Central Government only on the basis of a Certificate of the Chief Secretary to the State/Union Territory Government to that effect.

The clarification below the para 3.2 (i) provides that as a matter of pragmatism, the revenue lands/*zudpi jungle/chhote/bade jhar ka jungle/jungle-jhari land/civil-soyam* lands and all other such categories of lands, on which the provisions of FC Act, 1980 are applicable, shall be considered for the purpose of compensatory afforestation provided such lands on which compensatory afforestation is proposed shall be notified as Reserve Forest (RF) under the Indian Forest Act, 1927.

The exceptions to the general conditions laid down in para 3.2 (i) of the Guidelines issued under the FC Act, 1980, are listed below:

- As per para 3.2(vi) of the Guidelines issued under the FC Act, 1980, certain categories of project are exempted from providing equivalent non forest land. In such cases CA

was to be raised over degraded forest land twice in extent of the forest area being diverted/ dereserved.

- As per para 3.2 (viii) raising CA is not to be insisted upon in certain category of projects like diversion of forest land upto one hectare, cleaning of naturally grown trees in forest land, underground mining in forest land below three meter etc.
- As per para 3.2 (ix) in case of central government/ central undertaking projects, CA is to be raised on degraded forest land twice in extent of forest area being diverted without insisting for the certificate of Chief Secretary regarding non-availability of non-forest land.

Para 3.4(i) of the Guidelines issued under the Forest Conservation Act, 1980 state that equivalent non-forest land identified for the purpose was to be transferred to the ownership of the State Forest Department and declared as reserved/protected forests (RF/PF), so that the plantation raised could be maintained permanently. The transfer was to take place prior to the commencement of the project.

2.1.2. Procedure for granting forest clearances

As per Clause 6 of Forest (Conservation) Amendment Rules, 2004, every User Agency that seeks to use any forest land for non-forestry purposes, under Section 2 of the Act, is required to make a proposal to the Nodal Officer of the concerned State/UT Government and endorse a copy of the proposal, along with a copy of the receipt obtained from the office of the Nodal Officer, to the concerned Divisional Forest Officer or the Conservator of Forests, Regional Office as well as MoEF. After having received the proposal, the State/ UT Government is required to process and forward it to the Central Government within a period of two hundred and ten days of the receipt of the proposal.

The Nodal Office of State/UT Government after having received the proposal and on being satisfied that the proposal is complete in all respects and requires prior approval under Section 2 of the Act, is required to send the proposal to the concerned Divisional Forest Officer. The Divisional Forest Officer or the Conservator of Forests shall examine the factual details and feasibility of the proposal, certify the maps, carry out site-inspection and enumeration of the trees and forward the findings to the Nodal Officer within a period of 90 days of the receipt of such proposal. The Nodal Officer, through the Principal Chief Conservator of Forests, shall forward the proposal to State/ UT Government along with recommendations. The State/UT Government shall forward the complete proposal, along with its recommendations, to the Regional Office or MoEF as the case may be.

The Regional Empowered Committee⁵ is mandated to decide on the proposal involving diversion of forest land upto 40 hectare other than the proposal relating to mining and encroachments. Proposal involving forest land of more than 40 hectare, and all proposals relating to mining and encroachments irrespective of the area are approved by MoEF.

Forest clearances are to be granted under Section 2 of the Forest (Conservation) Act, 1980. In respect of proposals involving diversion of forest area upto five hectare, Chief

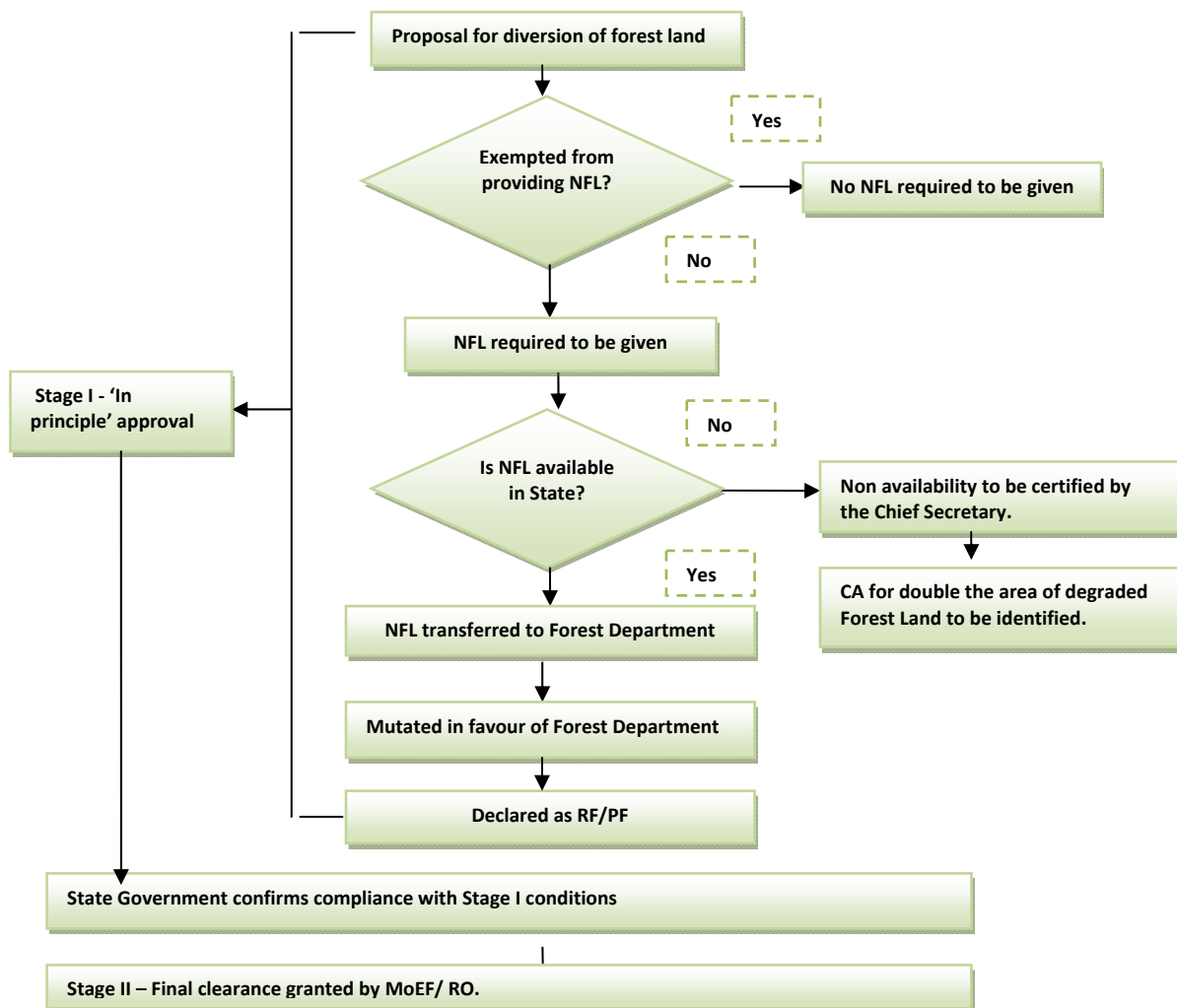
⁵ Consists of Regional Principal Chief Conservator as Chairman and Conservator/ Deputy Conservator of Forests in the Regional Office as Member Secretary and three expert members in fields of Mining, Civil Engineering and Development Economics.

Conservator of Forests of the concerned Regional Office grants final clearance (except in mining leases). In respect of proposals involving diversion of forest area above five hectare (including all categories of mining leases), the final clearances are granted by the MoEF on the advice of the Forest Advisory Committee. The Director General of Forests & Special Secretary, Ministry of Environment and Forests is the Chairperson of the committee which grants forest clearance under the Section 2 of the Forest (Conservation) Act, 1980. Inspector General of Forests (Forest Conservation) is the Member Secretary of the committee.

As per para 4.2 (i) of Guidelines issued under the Forest (Conservation) Act, 1980 (FC Act, 1980), for diversion of forest land, forestry clearance is to be given in two stages. At first stage, the proposal is to be agreed to in principle. Conditions relating to transfer, mutation and declaration of a Reserve Forest/Protected Forest under the Indian Forest Act, 1927 of equivalent non-forest land for compensatory afforestation and funds for raising compensatory afforestation thereof, are stipulated at this stage. After receipt of report from the State Government regarding compliance with the stipulated conditions, formal approval under the Act is issued, also called the second stage of clearance or final clearance.

The procedure for granting forest clearances is depicted in the flow Chart 4.

Chart 4: Flow chart of procedure for granting permission to divert forest land for non forest purposes



NFL – Non forest land, CA- Compensatory Afforestation, PF- Protected Forest, RF- Reserve Forest

We carried out the audit of a gamut of issues relating to diversion of forest land and compensatory afforestation. The audit findings have been categorised in the following six themes:

- Regulatory shortcomings in diversion of forest land;
- Failure to promote compensatory afforestation;
- Diversion of forest land for grant/ renewal of mining leases;
- Environmental issues;
- Other issues of land management; and
- Inadequate and ineffective application of penal clause.

2.2. Regulatory shortcomings in diversion of forest land

2.2.1. Non receipt of non forest land in lieu of diverted forest land

Para 3.2(i) to (v) of the Guidelines issued under the Forest Conservation Act, 1980 state that Compensatory Afforestation shall be undertaken over equivalent area of non-forest land.

State wise details of forest land diverted and non-forest land provided between 2006-12 in lieu thereof, collected in audit from MoEF/ ROs are given at Table 4.

Table 4: Details of forest land diverted and non-forest land less received (as per the records of MoEF/ ROs)

(in hectare)

Sl. No.	State	Forest Land diverted as per RO	Exempted category^	Land diverted excluding exempted category	NFL received as per RO	NFL less received	Percentage of short receipt of NFL (viii) (vii)*100/(v)
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
1	Andaman & Nicobar Islands	84.55	4.07	80.48	56.88	23.60	29
2	Andhra Pradesh	13,774.57	208.18	13,566.39	9,512.17	4,054.22	30
3	Arunachal Pradesh	2,070.84	1,386.70	684.14	89.49	594.65	87
4	Assam	631.17	587.29	43.88	28.50	15.38	35
5	Bihar	3,052.36	4.03	3,048.33	2,029.80	1,018.53	33
6	Chandigarh	7.55	1.35	6.20	6.87	(-)0.67	-
7	Chhattisgarh	20,461.70	5.51	20,456.19	Nil	20,456.19	100
8	Delhi	23.09	0.94	22.15	Nil	22.15	-
9	Goa	1,513.09	Nil	1,513.09	60.85	1,452.24	96
10	Gujarat	1,882.39	115.02	1,767.37	Nil	1,767.37	100
11	Haryana	1,762.18	543.97	1,218.21	43.79	1,174.42	96
12	Himachal Pradesh	2,978.42	2,045.57	932.85	Nil	932.85	-
13	Jammu & Kashmir	NA	NA	NA	NA	NA	NA
14	Jharkhand	8,328.45	8.45	8,320.00	2,989.82	5,330.18	64
15	Karnataka	5,645.14	546.23	5,098.91	3,053.74	2,045.17	40
16	Kerala	171.60	95.61	75.99	25.32	50.67	67
17	Madhya Pradesh	20,795.72	55.20	20,740.52	Nil	20,740.52	100

Sl. No.	State	Forest Land diverted as per RO	Exempted category [^]	Land diverted excluding exempted category	NFL received as per RO	NFL less received	Percentage of short receipt of NFL (viii) (vii)*100/ (v)
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii) (vii)*100/ (v)
18	Maharashtra	2,911.45	44.23	2,867.22	Nil	2,867.22	100
19	Manipur	298.88	32.88	266.00	60.00	206.00	77
20	Meghalaya	132.44	12.88	119.56	Nil	119.56	-
21	Mizoram	0.59	0.59	Nil	Nil	Nil	Nil
22	Odisha	8,820.77	6.06	8,814.71	5,261.96	3,552.75	40
23	Punjab	3,039.41	889.85	2,149.56	Nil	2,149.56	100
24	Rajasthan	8,248.04	95.38	8,152.66	584.97	7,567.69	93
25	Sikkim	1,411.04	1,059.50	351.54	Nil	351.54	-
26	Tamil Nadu	298.15	28.82	269.33	230.01	39.32	15
27	Tripura	299.89	108.47	191.42	10.91	180.51	94
28	Uttar Pradesh	1,239.20	121.96	1,117.24	535.23	582.01	52
29	Uttarakhand**	4,759.38	3,478.37	1,281.01	3,315.23	(-)2,034.22	-
30	West Bengal	235.20	8.24	226.96	190.36	36.60	16
	Total	1,14,877.26	11,495.35	1,03,381.91	28,085.90	75,905.47*	73

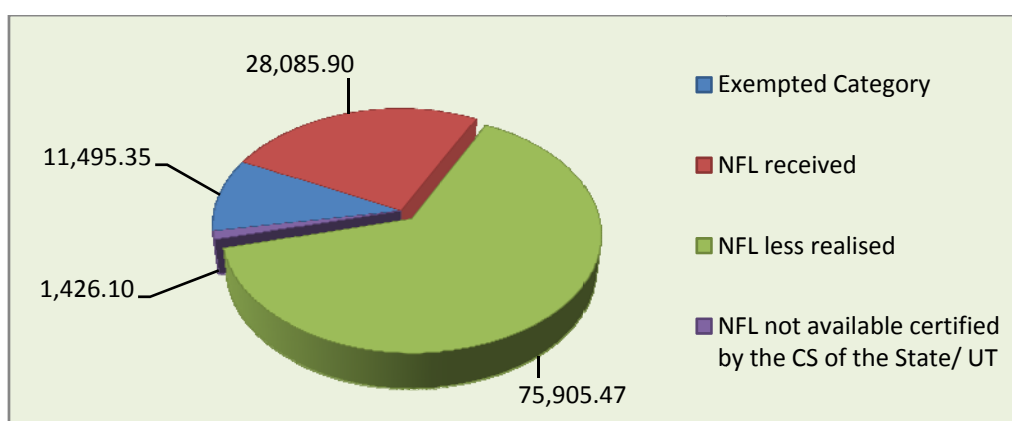
* This does not include figures for Delhi, Himachal Pradesh, Meghalaya and Sikkim as NFL non-availability certificates from Chief Secretary were available in most of the cases.

**For Uttarakhand Civil-Soyam land stated to have been received double in quantity to the forest land diverted.

[^]RO Bhopal and Lucknow did not furnish the list of exempted projects. These were calculated from the consolidated list of projects provided by these ROs.

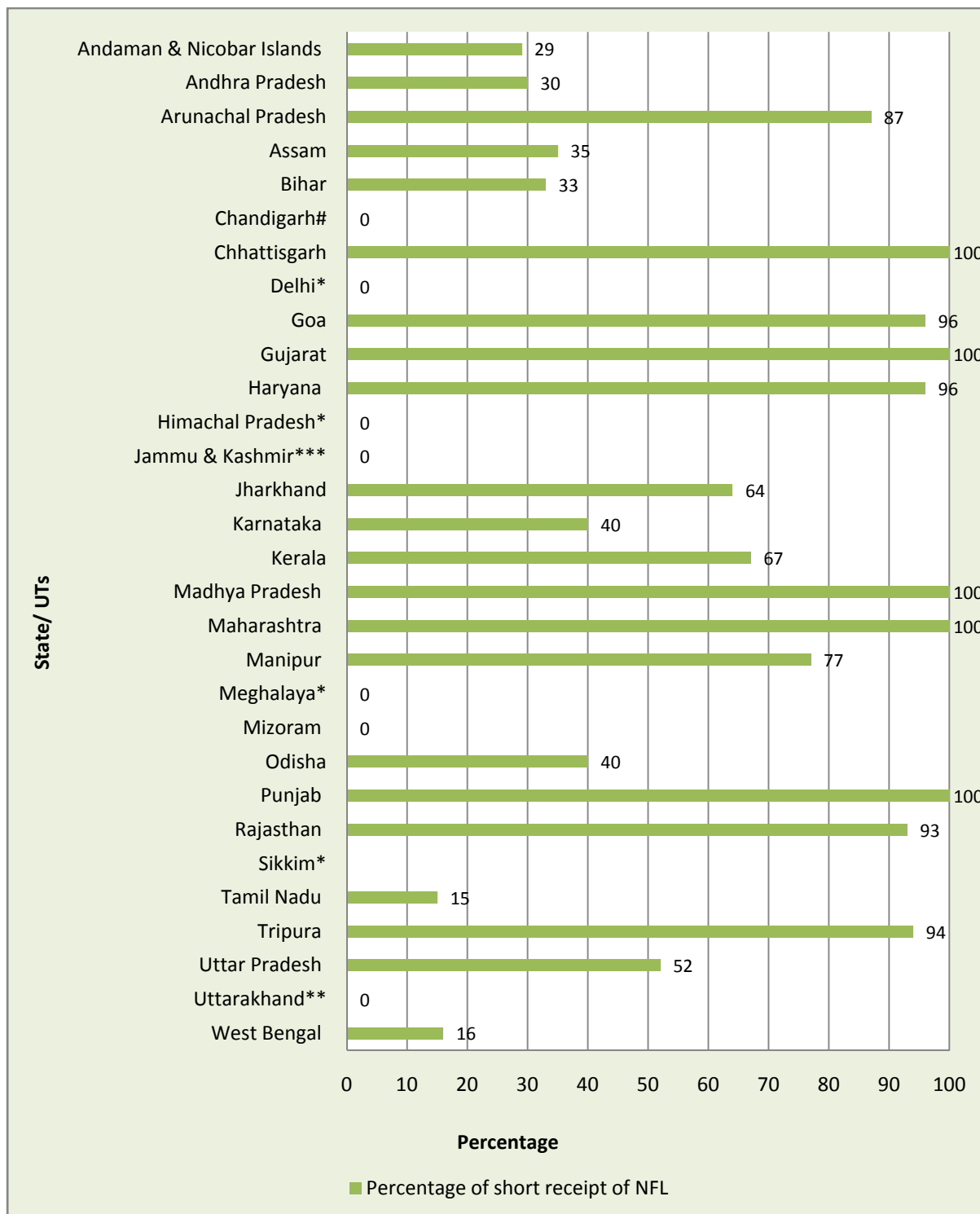
NA - Not Available.

Chart 5: Details of forest land diverted and non-forest land less realised (in ha)



The comparison of the forest land diverted excluding the exempted category and the non forest land received in lieu thereof are given in Chart 6.

Chart 6: Chart showing percentage of short receipt of non forest land



*In Delhi, Himachal Pradesh, Meghalaya and Sikkim, certificates from Chief Secretary regarding non-availability of NFL were available in most of the cases.

**For Uttarakhand Civil-Soyam land stated to have been received double in quantity to the forest land diverted.

***For Jammu & Kashmir the data was not provided by the Regional Office.

In Chandigarh all the non forest land was received and in Mizoram all diversion of forest land was for exempted projects.

From the above table and charts it would be seen that:

- i. As per information furnished by the ROs, 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. In four⁶ states non-availability certificates of non-forest land measuring to 1,426.10 hectare were available. Hence non-forest land measuring to 75,905.47 hectare was not received which was 73 *per cent* of receivable non-forest land.
- ii. State/UT-wise position regarding of short receipt of non-forest land is summarised below:

Percentage of short receipt of NFL	State/ UTs
0 to 25	Chandigarh, Tamil Nadu and West Bengal.
26 to 50	Andaman & Nicobar, Andhra Pradesh, Assam, Bihar, Karnataka and Odisha.
51 to 75	Jharkhand, Kerala and Uttar Pradesh.
76 to 100	Arunachal Pradesh, Chhattisgarh, Goa, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Manipur, Punjab, Rajasthan and Tripura.

- iii. No information was made available by the MoEF/ RO for Jammu & Kashmir. In Mizoram non forest land was not required to be received. In Delhi, Himachal Pradesh, Meghalaya and Sikkim the certificate regarding non availability of non forest land was obtained in most of the cases. In Uttarakhand Civil-Soyam land was received in lieu of the non forest land, which was 100 *per cent* against the forest land diverted.
- iv. We test checked the records in MoEF and RO to verify whether the non forest land reportedly received was transferred/ mutated in favour of the State Forest Department (SFD). There were no documents showing the transfer and mutation of this land available in all 167 files pertaining to ROs/ MoEF scrutinized in audit. Further test check of 52 specific files in MoEF (Annexure 3) also revealed that non-forest land of 2,310.86 hectare identified for CA had not been transferred and mutated in favour of the State Forest Department.

Consequently, it was observed that neither the State Nodal Officer/ PCCF nor MoEF ensured the receipt of non-forest land and the final clearances were given by the committee headed by the Director General of Forests & Special Secretary, Ministry of Environment and Forests as the Chairperson and Inspector General of Forest (Forest Conservation) as the Member Secretary without ensuring the receipt of equivalent non-forest land from the user agencies. Thus, MoEF failed in ensuring the compliance of its own regulatory provisions for forestry clearance.

⁶ Delhi, Himachal Pradesh, Meghalaya and Sikkim.

MoEF stated (May 2013) that the observations made by the Audit in this para were State specific and, therefore would be answered in details by the States directly and that the data appeared to be based on incomplete information and is therefore, not wholly correct. MoEF claimed that there was gross under estimation of the area of forest land diverted for projects of exempted category. To support this it cited Odisha as an example stating that contrary to the observation of audit that of the area of forest land diverted for the projects of all categories between 2006 and 2012 in Odisha, only 6.05 hectare was of exempted category. However, as per MoEF records out of 3,150.09 hectare of forest land pertaining to 19 projects alone, 1,885.13 hectare was of exempted category. It attributed under-estimation of diverted land by audit to non inclusion of some categories of exempted projects. It further stated that it proposed to constitute a Committee to examine, whether requisite non-forest land for CA, wherever applicable, had been transferred and mutated in favour of the SFDs and notified as Reserve Forest/ Protected Forest in accordance with the provisions of the Indian Forest Act, 1927 / local Forest Act. The committee would *inter-alia* prepare up-to-date inventory of such land and reconcile it with the land records and that MoEF would issue appropriate directions to ensure transfer and mutation of the non-forest land in favour of the concerned State Forest Department within a reasonable time, say one year from the date of issue of such direction.

The reply is not tenable because the information presented by Audit has been collected from MoEF/ ROs and are based on the records of Ministry. The same was issued both to the ROs and MoEF for confirmation of facts and figures who neither confirmed the figures nor provided authenticated alternate figures. The reply only confirms the audit observation on absence of a MIS and a robust monitoring system. Further, MoEF in its reply had only quoted one example of Odisha and nowhere specifically and categorically confirmed, refuted or revised the information/ facts/ figures as obtained by audit from MoEF/ RO. MoEF has no mechanism in place to ensure that the entire NFL which is due to be transferred and mutated in favour of the State Forest Departments has actually been received and mutated. The situation was even more alarming considering the fact that such transfer and mutation is vital precondition to permit diversion of forest land and ensuring that the forest land of the country are not depleted and must be fulfilled before giving final clearance. It is also of concern that though final clearances had been given without ensuring fulfilment of the key conditions, which invited invoking of the penalty clause under Section 3A of the Forest (Conservation) Act, 1980.

2.2.2. Non-transfer of non forest land to Forest Department and non-declaration as Reserve Forest/Protected Forest

Para 3.4(i) of the Guidelines issued under the Forest Conservation Act, 1980 state that equivalent non-forest land identified for the purpose was to be transferred to the ownership of the State Forest Department and declared as reserved/protected forests (RF/PF), so that the plantation raised could be maintained permanently. The transfer was to take place prior to the commencement of the project.

Data from RO: As per the information provided by ROs, non-forest land received was 28,085.90 hectare. Records to evidence that the entire NFL so received had been transferred and mutated in favour of Forest Department were not available. We, further,

observed that no land so received was notified as RF/PF by the State Forest Department within six months of handing over of the non forest land which was required to be done.

Our observations on specific cases examined in ROs and MoEF are given below:

- During the test check of records of MoEF, it was noticed that in 30 (Annexure 4) out of 52 cases examined, the non-forest land of 11,033.28 hectare provided by the user agencies to the State Governments was not declared/ notified as Reserve Forest/ Protected Forest.
- During the test check of the records of RO Shillong it was observed that as per the agenda note available in Regional Office, Shillong for the first quarterly meeting of Nodal Officers of all North Eastern States held in September 2011, non-forest land measuring 5,921.03 hectare (involved in 10 projects) was transferred and notified by State Revenue Department as Reserve Forests during the period 1996 to 2010 under Mizo District (Land & Revenue) Act, 1956, to Environment and Forest Department, Government of Mizoram but it was not declared as Reserve Forest/ Protected Forest under Section 15 to 21 of Mizoram Forest Act, 1955. Under 6th Schedule of the Constitution of India, these Reserve Forest lands were to be notified as Government Reserved Forests under Section 15 to 21 of Mizoram Forest Act, 1955. This was pending for 15 years.

Data from State Authorities: The status of non-forest land received, its transfer/ mutation in favour of the Forest Department and its declaration as RF/PF was also obtained from the State CAMPA/ Nodal Officer/ State Forest Department and is at Annexure 5. As per the data provided by the State agencies, of 23,246.80 hectare of non-forest land received by the State Forest Departments during the period 2006-12 11,294.38 hectare was transferred/ mutated in favour of the Forest Department of which only 3,279.31 hectare was declared as RF/PF.

The conflicting and inconsistent data obtained from the two controlling agencies viz the regional offices of the Ministry & from state agencies is a matter of serious concern. Both sets of data indicated that final clearances were given without ensuring transfer/ mutation of NFL to Forest Department and notification of these areas as RF/ PF which was in gross violation of the conditions imposed at in principle conditions as per the FC Act and such violation attracted the invoking of penal clause.

MoEF stated (May 2013) that the fact remains that declaration of the non-forest area, identified for CA, as RF/PF is a time taking process and, therefore, keeping in mind the diverse administrative procedures followed by the different states and different degree of public resistance to declaration of area as RF/PF, uniformity and promptness in declaration of the forest area as RF/ PF by the States may not always be possible. However, considerable progress has been made in declaration of CA areas as RF/PF. MoEF further stated that it would constitute a Committee in consultation with the State/ Union Governments to examine proposals, for which approval under the FC Act, 1980 had been accorded. The committee would ascertain, whether requisite non-forest land for CA, wherever applicable had been transferred and mutated in favour of the SFDs and notified as RF/PF.

MoEF while admitting that uniformity and promptness in declaration of the forest area as RF/ PF by the States may not always be possible, it claimed that a considerable progress had been made in declaration of CA areas as RF/PF. This claim of MoEF is not tenable as no progress of declaration of the non forest land as RF/ PF within the specified six month period has been noticed during the course of audit as per State/ ROs records. The reply does not explain the issue of complete lack of an MIS or monitoring at the level of the Ministry on an issue that is critical for informed decision making by it.

2.2.3. Irregular permission to pay for afforestation on double the area of degraded forest

Where non-forest land are not available or non-forest land is available in less extent to the forest area being diverted, compensatory afforestation is to be carried out over degraded forest twice in extent to the area being diverted or to the difference between forest land being diverted and available non-forest land, as the case may be.

As per para 3.2 (v) of the Guidelines issued under the FC Act, 1980, non-availability of suitable non-forest land for compensatory afforestation in the entire State/ UT would be accepted by the Central Government only on the certificate from the Chief Secretary to the State/ UT Government to this effect. In case of Jammu & Kashmir State the certificate is to be issued by Deputy / Divisional Commissioner.

Audit attempted to collect data of the forest land diverted for non-forest uses by allowing CA on twice the area in double degraded forest land without the requisite certificate of the Chief Secretary of the state/ UT. The details collected from the Forest Department, Nodal officers of State CAMPA and the divisions test checked in audit (where the Nodal officers did not provide the information) are at Table 5.

Table 5: Non obtaining of requisite certificate of the Chief Secretary of the State/ UT

Sl.No.	State	Forest land diverted as per State Forest Department (in ha)	Whether non-availability certificate of non-forest land in the entire State/ UT from appropriate authority was obtained
1	Andaman & Nicobar Islands	117.74	Certificate was not required as all the land was diverted to government departments and being a UT all departments are central government departments.
2	Andhra Pradesh	14,208.60	No
3	Arunachal Pradesh	2,547.16	No
4	Assam	2,523.35	No
5	Bihar	2,286.25	No
6	Chandigarh	8.67	Certificate was not required as all the forest land diverted/transferred in lieu of non-forest areas was received from the user agencies.

Sl.No.	State	Forest land diverted as per State Forest Department (in ha)	Whether non-availability certificate of non-forest land in the entire State/ UT from appropriate authority was obtained
7	Chhattisgarh	8,389.40	No, despite revenue land measuring 5.78 lakh ha being available in state for CA as per information made available by Revenue Department.
8	Delhi	40.29	Out of 10 cases in two cases (2.22 ha), Certificate from Chief Secretary was not obtained.
9	Goa	728.94	No
10	Gujarat	5,795.82	No
11	Haryana	2,154.89	No
12	Himachal Pradesh	4,080.23	Certificate for Chief Secretary obtained for CA on 8,240.04 ha double degraded land, Certificate for 7.56 ha was not obtained.
13	Jammu & Kashmir	3,967.46	In respect of J&K the certificate is to be issued by Deputy / Divisional Commissioner. Majority of certificates were not issued by the competent authority and in some cases certificates were issued by the user agencies themselves.
14	Jharkhand*	15,881.06	No
15	Karnataka	3,354.11	No
16	Kerala	156.07	NA
17	Madhya Pradesh	9,753.47	No
18	Maharashtra	6,361.09	No
19	Manipur	33.88	No
20	Meghalaya	245.33	Obtained in all cases except for diversion of 114.02 hectare in 2008-09.
21	Mizoram	128.28	No
22	Odisha**	NA	No
23	Punjab	2,190.49	NA
24	Rajasthan	2,975.84	No
25	Sikkim	1,359.91	For 1,359.91 ha of forest land the certificates were not issued on individual case basis. However, the certificates were issued once by the Chief Secretary and the photo copy of the same were used for the rest of the cases for non availability of non forest land.

Sl.No.	State	Forest land diverted as per State Forest Department (in ha)	Whether non-availability certificate of non-forest land in the entire State/ UT from appropriate authority was obtained
26	Tamil Nadu	323.09	No
27	Tripura	696.22	NA
28	Uttar Pradesh	2,995.23	No
29	Uttarakhand	9,669.74	Yes. Chief Secretary issued a general certificate in 2002 and 2009. Separate certificate on case to case basis was not obtained.
30	West Bengal	425.17	NA

*Figures for Jharkhand are from 2002 onwards.

** Odisha did not provide figures for non forest land received.

NA - Not available

From Table 5 above, it transpires that:

- In 19 of the 26 States from which information in this regard was received, non availability of forest land was not certified by the Chief Secretary/ Deputy or Divisional Commissioner⁷. It was observed that the final clearances were given by the committee headed by the Director General of Forests & Special Secretary, Ministry of Environment and Forests by allowing compensatory afforestation on the degraded forest twice the extent of forest land diverted either without obtaining the certificate or by accepting ineligible certificates of the competent authority.
- In Delhi, Himachal Pradesh and Meghalaya the rule was observed in most of the cases. In Sikkim the certificate had been issued once by the Chief Secretary and the same was used in all cases rather than obtaining fresh certificate in each case.
- In Uttarakhand based on the certificate of the Chief Secretary, civil- Soyam land was received in double the extent of the forest land diverted.
- In Chhattisgarh the Revenue Department stated in November 2006 that revenue land measuring 5.78 lakh hectare was available in the State for Compensatory Afforestation. Despite this CA on twice the extent of degraded forest land was allowed.
- In Andaman & Nicobar and Chandigarh, for the period under audit, all NFL due was received. Hence, the certificate was not required.

MoEF stated (May 2013) that in the absence of requisite details of individual cases, it may not be possible for the MoEF to comment on the observation of the audit that whether in such cases certificate from the Chief Secretary was required to be obtained or not. It further stated that CA on degraded forest land double in extent was allowed in the States like Andhra Pradesh, Odisha, Jharkhand and Maharashtra only in the exempted categories,

⁷ Jammu & Kashmir.

while in the States as Meghalaya, Punjab and Chhattisgarh the requisite certificate of the Chief Secretary was obtained.

The reply is not tenable because as per the information obtained in Audit, the requisite certificate was not obtained in most of the State/ UTs. In case of Chhattisgarh, while the Chief Secretary certified that “no suitable non forest Government Revenue Land was available in Chhattisgarh for carrying out CA”, the State Revenue Department stated in November 2006 that revenue land measuring 5.78 lakh hectare was available in the State for CA. MoEF in particular should have verified the genuineness of the certificate in such a situation. In Meghalaya, the certificate was issued only for 114.02 hectare in 2008-09. In the case of Punjab though the MoEF provided a copy of the Chief Secretary’s certificate to the effect of non-availability of non-forest land in Punjab, the State Forest Department reported that 1.51 hectare of non-forest land had been received in lieu of forest land diverted. This raises doubt on the reliability of the certificate.

During the test check of individual case files of MoEF, we observed that in the case of Sasan Power Limited (SPL), MoEF did not exercise due diligence in ensuring compliance with conditions and inexplicably overlooked the deficiencies in the certificate pointed out by a subordinate authority and exempted SPL from providing non-forest land on the basis of an ineligible certificate issued by the Chief Secretary. The details of the audit findings are reported as Case Study I.

Case Study I

Clearance by MoEF on the basis of an inappropriate certificate of the Chief Secretary and non-fulfilment of conditions of additional afforestation.

Sasan Power Limited (SPL) was a Special Purpose Vehicle (SPV) created for development of Sasan Ultra Mega Power Project (UMPP). SPL was a wholly owned subsidiary of Power Finance Corporation (PFC) but in August 2007 it was transferred to Reliance Power Limited (RPL).

In June 2007, the Government of Madhya Pradesh sought prior approval of the Central Government for diversion of 320.94 hectare of forest land for construction of UMPP of M/s Sasan Power Limited in district Sidhi of Madhya Pradesh (Power Project). In December 2008, MoEF gave in principle approval for the project subject to fulfilment of various conditions. The final approval for the project was accorded in April 2009.

Further, in September 2008, the Government of Madhya Pradesh sought the prior approval of the Central Government for diversion of 1,064.02 hectare of forest land for allocation of local Blocks for coal mining for Sasan UMPP under the East Sidhi Forest Division of Madhya Pradesh (Coal Mining Project). In November 2009, MoEF gave in principle approval for the project subject to fulfilment of various conditions. The final approval for the project was accorded in May 2010.

The following deficiencies were noted in permitting diversion of forest land in these projects:

According to guidelines and clarifications for diversion of forest lands for non-forest purpose under the Forest (Conservation) Act, 1980, SPL had to provide equivalent area of 1,384.96 hectare of non-forest land for the compensatory afforestation. As far as possible, the non-

forest land for compensatory afforestation had to be identified contiguous to or in the proximity of Sidhi district and in the event that non-forest land for compensatory afforestation was not available in the Sidhi district, non-forest land could have been identified anywhere else in Madhya Pradesh. The non-availability of suitable non-forest land for compensatory afforestation in the entire State had to be accepted by the MoEF, only on basis of the certificate from the Chief Secretary of Madhya Pradesh to that effect.

However in both these cases, MoEF exempted SPL from providing equivalent area of non-forest land for the compensatory afforestation, on basis of the certificate from the Chief Secretary that no forest land was available in Sidhi District. MoEF did not ask SPL to furnish such certificate for entire Madhya Pradesh or make efforts for identification of non-forest land for compensatory afforestation anywhere else in the State. Instead, SPL was allowed compensatory afforestation over double degraded forest land even though it was not eligible for such an exemption. The Deputy Conservator of Forests, MoEF Regional Office (Central), Bhopal during his site visit (for Coal Mining project) in November 2008 had also mentioned that compensatory afforestation on double degraded forest land was not admissible on the basis of the certificate of the Chief Secretary about one district i.e. Sidhi. However, MoEF ignored his opinion and based ***on an ineligible certificate issued by the Chief Secretary exempted SPL from providing non-forest land in violation of the Forest (Conservation) Act 1980. The MoEF not only did not exercise due diligence in ensuring compliance with conditions but also inexplicably overlooked the deficiencies in the certificate pointed out by a subordinate authority while granting exemption in the instant case.***

Further, MoEF, while considering the coal mining project proposal noted, *“in view of the substantial amount of good forest land being diverted, in addition to Compensatory afforestation, additional afforestation (not plantation) over an equivalent area of 991.81 + 72.21 hectare should be taken up by the project. This is the bare minimum special condition that should be added to the general condition.”* MoEF did not insist for any firm proposal in this regard from the company. Further, MoEF had made no efforts till date to ascertain whether SPL had carried out additional afforestation over 1,065 hectare, as stipulated.

Again, in July 2011, the Government of Madhya Pradesh sought prior approval of the Central Government for diversion of 965.40 hectare of forest land in favour of M/s Sasan UMPP for their Chhatrasal Captive Coal block (including 30.21 hectare forest land for infrastructure development) in district Singrauli of Madhya Pradesh. In November 2012, MoEF gave in principle approval for the project subject to fulfilment of various conditions including compensatory afforestation over the non-forest land equal in extent to the area of the forest land proposed to be diverted (i.e. 965.40 hectare). The said non forest land had to be transferred and mutated in favour of the State Forest Department. Further, to compensate the loss of good quality forests, in addition to creation of compensatory afforestation at normal rate, the company had to provide funds for rejuvenation and re-stocking of degraded forests, double in extent to the forest land proposed for diversion. The final clearance to this project was still pending as the company was yet to submit compliance report to the conditions laid down by MoEF while granting in principle approval for the project.

Thus, MoEF had insisted for compensatory afforestation over the non-forest land in latest project of the same company in nearby location in Madhya Pradesh, which clearly illustrates that in earlier two cases undue favour were extended to M/s Sasan Power Limited.

MoEF in its reply in (May 2013) was silent regarding the issue of clearance to SPL on the basis of an ineligible certificate of the Chief Secretary which was also objected to by the officials of the Ministry. It stated that SPL had submitted proposals for diversion of 1,064.02 hectare of forest land without clearly indicating its shareholding pattern and it appears that SPL did not bring to notice of the Forest Advisory Committee and the MoEF that it has been transferred from Power Finance Corporation (PFC) to the RPL. Approval under the FC Act, 1980 for diversion of 1,064.02 hectare of forest land in favour of SPL was, thus, accorded considering the SPL as a subsidiary of the Central PSU (i.e. PFC). However, MoEF has noted observations of the Audit. It further stated that approval of the competent authority is being sought to revise conditions pertaining to CA stipulated in the approvals under the FC Act, 1980 accorded by the MoEF for diversion of the said forest land in favour of the SPL. This would entail that the user agency shall transfer and mutate in favour of the SFD within one year of diversion of forest land. Regarding the 1,065 hectare of additional afforestation, MoEF stated that the additional afforestation needs to be undertaken by the user agency/project proponent and that State Government of Madhya Pradesh is being requested to submit a report on the status of additional afforestation.

The reply is not tenable as Sasan Power Limited was transferred to Reliance Power Limited in August 2007 but the in principle approval was given by MoEF in December 2008 and the final approval was also accorded in April 2009. This was done on the basis of an ineligible certificate and by ignoring the reservations in this regard expressed by a subordinate authority.

2.2.4. Non reconciliation of figures of land diverted/ received

During our audit exercise, we collected information on forest land diverted and non forest land received in lieu of the diversion, during the period 2006-12, both from ROs and State Forest Department which is given in Table 6.

Table 6: Divergence in data of forest land diverted and non-forest land received in lieu as per ROs and State Forest Department

(in hectare)

Sl. No.	State/UT	Forest Land Diverted		Non Forest Land Received	
		RO	State Forest Department	RO	State Forest Department
1	Andaman & Nicobar Islands	84.55	117.74	56.88	112.96
2	Andhra Pradesh	13,774.57	14,208.60	9,512.17	10,168.63
3	Arunachal Pradesh	2,070.84	2,547.16	89.49	205.86
4	Assam	631.17	2,523.35	28.50	Nil
5	Bihar	3,052.36	2,286.25	2,029.80	63.51
6	Chandigarh	7.55	8.67	6.87	8.14
7	Chhattisgarh	20,461.70	8,389.40	Nil	323.08
8	Delhi	23.09	40.29	Nil	Nil
9	Goa	1,513.09	728.94	60.85	28.50

Sl. No.	State/UT	Forest Land Diverted		Non Forest Land Received	
		RO	State Forest Department	RO	State Forest Department
10	Gujarat	1,882.39	5,795.82	Nil	591.65
11	Haryana	1,762.18	2,154.89	43.79	51.67
12	Himachal Pradesh	2,978.42	4,080.23	Nil	Nil
13	Jammu & Kashmir	NA	3,967.46	NA	Nil
14	Jharkhand*	8,328.45	15,881.06	2,989.82	530.11
15	Karnataka	5,645.14	3,354.11	3,053.74	2,231.96
16	Kerala	171.60	156.07	25.32	Nil
17	Madhya Pradesh	20,795.72	9,753.47	Nil	2,332.49
18	Maharashtra	2,911.45	6,361.09	Nil	4,077.99
19	Manipur	298.88	33.88	60.00	Nil
20	Meghalaya	132.44	245.33	Nil	Nil
21	Mizoram	0.59	128.28	Nil	17.50
22	Odisha**	8,820.77	7,524.80	5,261.96	NA
23	Punjab	3,039.41	2,190.49	Nil	1.51
24	Rajasthan	8,248.04	2,975.84	584.97	1,698.72
25	Sikkim	1,411.04	1,359.91	Nil	Nil
26	Tamil Nadu	298.15	323.09	230.01	230.95
27	Tripura	299.89	696.22	10.91	10.95
28	Uttar Pradesh	1,239.20	2,995.23	535.23	374.23
29	Uttarakhand	4,759.38	9,669.74	3,315.23	Nil
30	West Bengal	235.20	425.17	190.36	186.39
	Total	1,14,877.26	1,10,922.58	28,085.90	23,246.80

*Figures for Jharkhand are from 2002 onwards.

**Odisha did not provide figures for non forest land received.

NA - Not available

From the above table, it can be seen that there are substantial variation between the figures provided by the RO and the State Forest Department. In fact in not a single State/ UT did we notice that there was convergence of data between the concerned State Forest Department and the Regional Office of MoEF. Not only does it highlight lack of a system of periodic reconciliation of data between the two authorities but also raises doubts on the reliability of the data. In the absence of authenticated data and non-production of proof of mutation/ transfer of identified land in favour of Forest Department, it cannot be assured that the final clearances were given only on the fulfilment of all the stipulated conditions and the forest lands have been appropriately safeguarded.

The percentage divergence in data of forest land diverted and non-forest land received in lieu as per ROs and State Forest Department are highlighted in Chart 7.

Chart 7: Percentage divergence in data of forest land diverted and non-forest land received in lieu as per ROs and State Forest Department



*For Jammu & Kashmir the data was not provided by the Regional Office.

**Odisha did not provide figures for non forest land received.

In the absence of a single agreed set of figures, we are also unable to provide assurance on the completeness and reliability of data produced to us. It is a matter of grave concern that

the two controlling authorities did not have in place a robust MIS to monitor the extent to which forest land had been diverted and to judge the extent to which these forest lands had been depleted due to non-providing of NFL. This data was also critical to monitor the compliance with the conditions imposed at in-principle clearance prior to giving final clearance. The absence of such a system puts to question the entire monitoring mechanism in MoEF and State Forest Department in this regard.

MoEF stated (May 2013) that, the Committee proposed to be constituted by MoEF would *inter-alia* reconcile such data.

2.2.5. Failure to conduct Cost Benefit Analysis

As per Annexure VI(a) of the Guidelines issued under FC Act, 1980, for all project proposals involving forest land more than 20 hectare in plains and more than five hectare in hills including roads, transmission lines, minor, medium and major irrigation projects and hydel projects, mining activities, railway lines, location specific installations like micro-wave stations, auto repeater centres, TV towers etc required cost-benefit analysis was required to be conducted to determine that the diversion of the forest land to non-forest use was in the overall public interest.

During test check of 219 files of MoEF/ RO, it was observed that no records were available in the files to show that cost-benefit analysis had been carried out for the above purpose and the forest land was diverted without ascertaining the overall public interest.

MoEF's reply was silent on the issue.

2.2.6. Non-revocation of in-principle approval

As per para 4.2 of the Guidelines issued under the FC Act, 1980, forestry clearance was to be accorded in two stages. However in cases where compliance of the conditions stipulated in the in-principle approval was awaited for more than five years from the State Government, the in-principle approval was to be summarily revoked by Regional office or MoEF as the case may be. After the revocation of the in-principle approval, if State Government/ user agency was still interested in the project, they would be required to submit a fresh proposal which was to be considered de-novo.

During test check 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. The state wise details are given in Annexure 6.

There were no records to indicate the extent to which the conditions like transfer, mutation and declaration of equivalent non-forest land and its declaration as RF/PF, funds for CA etc. had been complied/not complied with. Thus there was no proper follow up in MoEF/ RO to monitor the status of compliance with conditions stipulated at in-principle approval.

MoEF stated (May 2013) that the onus to comply with conditions stipulated in the in principle approval lay with the user agency and the State/ UT Governments concerned. With the existing resources, it was not feasible for the MoEF and its regional offices to monitor

compliance to the stipulated conditions. Even in the cases where compliance of conditions stipulated in the in-principle approval is awaited for more than five years and the in-principle approval has not been formally revoked/ withdrawn, final approval to such proposal is accorded only in rare and deserving cases where State Government and the user agencies provide valid reasons for delay in compliance to conditions stipulated in the in-principle approval. MoEF has however, noted the observation of the audit and will take appropriate action to formally revoke/ withdraw in-principle approval to all those proposals where compliance to conditions stipulated in the in-principle approval is awaited for more than five years.

2.2.7. Irregular change of status of forest land

As per FC Act, 1980, notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority was to make, except with the prior approval of the Central Government, any order directing that any Reserve Forest or any portion thereof, should cease to be reserved.

During test check of records of RO Lucknow it was observed that in August 2007, Government of Uttar Pradesh, changed the status of Reserve Forest land measuring 1,083.23 hectare in Sonbhadra district as revenue land without prior approval of MoEF in contravention of FC Act, 1980. The land was handed over to M/s JP Associate Ltd for non-forest use like establishment of cement plant, mining and other allied activities. The matter was pending with Supreme Court of India. As per the affidavit filed in the Supreme Court by the RO Lucknow, the value of non forest land, which would normally have been received in lieu of diversion was ₹ 133.78 crore.

Further, in Lucknow, 2.5 hectare reserve forest land was transferred unauthorisedly as revenue land for construction of houses under *Manyavar Shri Kanshi Ram ji Sahari Awas Yojna* over plot number 1,308 which was recorded as '*Imarti Lakdi Ki Van*' in revenue records, without approval of MoEF in contravention of FC Act, 1980. Similarly a road measuring 545 meter on forest land was laid down and partially constructed by State PWD to provide connectivity to said *Sahari Awas Yojna* without approval of MoEF.

In another case, it was observed that in 1974, U.P. Government leased out five acres (two hectare) forest land at Gram Gehru, Lucknow to *Malviya Anant Ashram* in Sarojini Nagar, Lucknow for construction of Pulse Polio Hospital for a period of 30 years which expired on 16 December 2004. Awadh forest division renewed the lease by charging lease rent upto February 2009 without approval of MoEF.

In all these cases, the State government also did not recover any money for CA, NPV etc. In addition in the case of M/s JP Associates Ltd, the user agency also benefited from not being required to replace the diverted forest land with equivalent area of non-forest land which would have cost it at least ₹ 133.78 crore as per affidavit of the RO, Lucknow.

MoEF stated (May 2013) that in case of M/s JP Associates Ltd. the matter is pending in Supreme Court and in other cases action would be taken against the concerned officials of the State Government for the said violation.

2.2.8. Irregular diversion of forest land for construction of tail pond dam

Supreme Court of India in November 2000 directed that pending further orders, no de-reservation of Sanctuaries and National Parks shall be effected. The Supreme Court in February 2000 also, restrained all the States from ordering even the removal of dead, diseased, dying or wind fallen trees and grasses etc. from any National Park or Sanctuary. Accordingly MoEF, in May 2001 advised the States not to submit any proposal for diversion of forest land in National Parks and Sanctuaries under the Forest (Conservation) Act, 1980 without seeking prior permission of the Supreme Court.

During the test check of records of RO Bengaluru it was observed that Andhra Pradesh State Electricity Board (APSEB), in March 1996 submitted a proposal for diversion of 113 hectare of forest land for construction of tail pond dam downstream of Nagarjunsagar Dam. Regional Office, while inspecting the site in May 1996 stated that this diversion would submerge 52 hectare of forest land under Nalgonda Division on the left flank and 61 hectare of forest land under Guntur Division on the right flank out of which 20 hectare forms a part of Nagarjunasagar Srisailem Wildlife sanctuary which is the habitat of wild animals like deer, fox, wild bear, hare, chinkara and crocodiles etc. MoEF in January 1997, thus, conveyed its inability to approve the diversion of forest land. The Ministry again on the request of APSEB dated 28 February 1998 considered the case and rejected the proposal on merits on 4 May 1998.

In disregard of the Supreme Court orders and its own observations made in January 1997 and May 1998, MoEF, conveyed in-principle approval, five months after the orders of the Supreme Court, in April 2001 for diversion of 113 hectare of forest land for the purpose, subject to fulfilment of certain conditions like transfer and mutation of non-forest land, transferring the cost of CA, providing of funds for eco-restoration scheme, to reduce the possible adverse impact on wildlife habitat etc. The final approval was also granted in June 2006. No justification was available in the files explaining the reasons for MoEF overturning its earlier decisions and granting approvals in contravention of orders of the Supreme Court.

Principal Chief Conservator of Forests, Andhra Pradesh reported in December 2004, that sufficient correspondence was held with the user agency and other officers concerned for compliance of Government of India conditions, but so far no compliance of conditions was reported by the user agency. He also informed that the Chief Minister of Andhra Pradesh was expected to visit for laying the foundation stone for this project in the second week of December 2004.

As per monitoring report (April 2010) of RO Bengaluru, it was stated that CA of ₹ 0.68 crore, eco-restoration of ₹ 0.95 crore and NPV of ₹ 5.35 crore had been deposited into CAMPA, account of Corporation Bank, Lodhi Road, New Delhi. But MoEF in their letter dated 16 March 2012 had asked the RO to confirm the receipt. Also as per the monitoring report, the compliance of other in principle approval conditions like providing of NFL and raising of funds for CA etc was not provided by the user agency i.e. APSEB.

MoEF, thus, overturned its earlier decisions without any reasonable justification and diverted the forest land involving wildlife sanctuary land without permission from National Board of Wildlife and in violation of the orders of the Supreme Court of India. It also could not assure that all conditions attached to the irregular approval were complied with.

MoEF stated (May 2013) that the requisite information is being collected from the State Government of Andhra Pradesh and the RO Bengaluru will examine the status of obtaining Supreme Court's approval for diversion of 20 hectare of forest land located within the Nagarjunsagar Srisailem Wildlife Sanctuary. Ministry did not reply on the other irregularities pointed out in audit.

2.2.9. Non- reversion of forest land in case of wind farm

MoEF while granting in-principle approval in a case given at Table 7 stipulated that the user agency should develop wind farms within a specified period (four years), failing which the entire diverted forest land was to be reverted.

Table 7: Non creation of wind farm and non-reversion of forest land

Name of the User agency	Name of State	Area of forest land (in ha)	Date of clearance	Period of compliance
M/s Accion Wind Energy Pvt Limited	Karnataka	4.82	18.03.2004	4 years

During the test check of records of RO Bengaluru it was observed that as per the monitoring report the user agency had not complied with the condition of establishment of wind farms within specified period of four years. The forest land which should have been reverted was not reverted to the Forest Department till May 2012.

MoEF stated (May 2013) that the present status of the project would be verified and if commissioned, the date of the same would be obtained/ ascertained. In case it is found that, the project had not been commissioned within four years from the grant of final approval, MoEF would take appropriate action.

2.2.10. Excess use of forest land

As per Section 3A of the Forest (Conservation) Act, 1980, whoever contravenes or abets the contravention of any provisions of Section 2, is punishable with simple imprisonment for a period which may extend to 15 days.

Test check of records of the RO Bhubaneswar revealed that as per the monitoring reports of the RO the user agencies were utilising forest land in excess of the approved area as given in Table 8.

Table 8: User agencies utilising forest land in excess of the approved area.

Name of the User agency	Name of State	When and by whom reported	Date of approval	Total diverted area (in ha)	Excess Forest land used (in ha)
M/s CCL, Parej Open cast mining	Jharkhand	State Forest Authorities in February 2004	April 1993	43.52	7.10
M/s Mahanadi Coal field Limited	Odisha	Regional Office in August 2004	September 1998	162.20	29.00

No remedial action was taken by MoEF nor any penal provision under Section 3A of the Forest (Conservation) Act, 1980 was invoked.

MoEF stated (May 2013) that it has noted the observation of the Audit. Instructions were being issued to the State Government concerned to take action in accordance with the provisions of the Indian Forest Act, 1927 and the concerned State Forest Acts, in case the same have not been taken so far.

2.2.11. Encroachment of forest land

As per FC Act, 1980, Annexure-IV (3.1), the encroachments which have taken place after 24 October 1980 should not be regularised. Immediate action should be taken by State/ UT Government to evict the encroachers.

Supreme Court in its order of November 2001 expressed great concern over the continued encroachments and directed MoEF to frame time bound programme for eviction of encroachments in the country. State Forest Departments were required to prepare a comprehensive list of all encroachments and detailed quarterly progress report of the action taken, area evicted and area reclaimed/ planned etc. commencing from July 2002.

Information regarding encroachments on forest land was not provided by 24 State/ UTs. As per the information furnished by six state CAMPA/ Nodal officers, the extent of encroachment on forest land is given in Table 9.

Table 9: Details of encroachment on forest land

Sl.No.	State	Area (in ha)
1	Andhra Pradesh	3.75
2	Arunachal Pradesh	1,341.00
3	Assam	1,28,308.69
4	Punjab	3,090.15
5	Uttarakhand	9,672.43
6	West Bengal	12,753.80
	Total	1,55,169.82

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.

MoEF stated (May 2013) that appropriate action in cases of illegal encroachments on forest land need to be taken by the State/ UT Governments concerned in accordance with the provisions of the Indian Forest Act, 1927 and the State Forest Acts.

It is evident that MoEF and State/ UT Governments concerned failed to comply with the directions of the Supreme Court by not making any time bound programme for eviction of encroachments in the country. This indicated a very casual approach and weak intent of the executing agencies in implementing the orders of the highest Court.

2.3. Failure to promote compensatory afforestation

2.3.1. Inadequate compensatory afforestation done in lieu of forest land diverted

As per para 3.1(i) of the Guidelines issued under the FC Act, 1980 Compensatory Afforestation is one of the most important conditions imposed while diverting forest land for non-forest uses.

Audit attempted to determine the extent of compensatory afforestation undertaken during the period 2006 to 2012 and whether it was maintained properly by the Forest Department. The details as collected from the nodal officers of state Forest Department in 29 State/ UTs and from the 28 test checked divisions in State of Rajasthan (where the Nodal officers did not provide the information), are at Table 10A and 10B. The NFL receivable indicated in Table 10 A is based on the data obtained from Regional Offices of MoEF.

Table 10A: Extent of Compensatory afforestation done on Non Forest Land (NFL)

(in hectare)

Sl. No.	State	NFL receivable	Area of non-forest land identified for afforestation	Area of non-forest land on which afforestation done	Percentage of Afforestation with respect to area identified for afforestation	Percentage of Afforestation with respect to NFL receivable
1	Andaman & Nicobar Islands	80.48	112.96#	NA	NA	NA
2	Andhra Pradesh	13,566.39	NA	NA	NA	NA
3	Arunachal Pradesh	684.14	NA	NA	NA	NA

Sl. No.	State	NFL receivable	Area of non-forest land identified for afforestation	Area of non-forest land on which afforestation done	Percentage of Afforestation with respect to area identified for afforestation	Percentage of Afforestation with respect to NFL receivable
4	Assam	43.88	152#	152	100	346
5	Bihar	3,048.33	Nil	Nil	Nil	Nil
6	Chandigarh		6.80	Nil	Nil	Nil
7	Chhattisgarh	20,456.19	134.82	33.18	25	0.16
8	Delhi^	22.15	Nil	Nil	Nil	Nil
9	Goa	1,513.09	24.10	Nil	Nil	Nil
10	Gujarat	1,767.37	2,737.39#	Nil	Nil	Nil
11	Haryana	1,218.21	52.85	Nil	Nil	Nil
12	Himachal Pradesh^	932.85	Nil	Nil	Nil	Nil
13	Jammu & Kashmir	NA	NA	Nil	Nil	Nil
14	Jharkhand*	8,320.00	NA	NA	NA	NA
15	Karnataka	5,098.91	2,594.07	Nil	Nil	Nil
16	Kerala	75.99	NA	Nil	Nil	Nil
17	Madhya Pradesh	20,740.52	NA	Nil	Nil	Nil
18	Maharashtra	2,867.22	4,913.26#	Nil	Nil	Nil
19	Manipur	266.00	Nil	Nil	Nil	Nil
20	Meghalaya^	119.56	2.40	Nil	Nil	Nil
21	Mizoram	Nil	NA	NA	NA	NA
22	Odisha**	8,814.71	4,380.46	6,951.54	159	79
23	Punjab	2,149.56	1.51	Nil	Nil	Nil
24	Rajasthan	8,152.66	917.07	Nil	Nil	Nil
25	Sikkim^	351.54	Nil	Nil	Nil	Nil
26	Tamil Nadu	269.33	226.95	144.12	63	54
27	Tripura	191.42	10.95	Nil	Nil	Nil
28	Uttar Pradesh	1,117.24	229.91	Nil	Nil	Nil
29	Uttarakhand	1,281.01	Nil	Nil	Nil	Nil
30	West Bengal	226.96	186.39	Nil	Nil	Nil
	Total	1,03,381.91	16,683.89	7,280.84	44	7

In four State/ UTs – Andaman & Nicobar Islands, Assam, Gujarat and Maharashtra, data provided to audit indicates that the non forest land identified for afforestation is larger than the non forest land receivable.

**In Jharkhand the bifurcated data of area of non-forest land and degraded forest land was not mentioned in the APOs.*

***In Odisha the extent of afforestation between 2006-12 has been derived from the Quarterly progress report on compensatory afforestation of Nodal Officer, Odisha.*

^For Delhi, Himachal Pradesh, Meghalaya and Sikkim certificates of non-availability of non forest land issued by Chief Secretary were available in most of the cases. However, in Meghalaya as per information provided by the State Nodal Officer, non forest land was identified for compensatory afforestation.

NA - Not Available.

As per para 4.15(v) of the Guidelines issued under the FC Act 1980, the nodal officer was to monitor the implementation of the conditions of compensatory afforestation and the survival ratio of the seedlings planted. The Supreme Court also in its order dated 3 April 2000, fixed the responsibility of ensuring the proper carrying out of compensatory afforestation on Ministry of Environment and Forests and stated that it was for the Ministry to monitor the conditions stipulated at the time of grant of forest clearance.

From the above table it would be seen that:

- i. Against the receivable NFL of 1,03,381.91 hectare, only 28,085.90 hectare or 27 *per cent* of NFL was received. Of the NFL so received, CA activity had been undertaken only on 7,280.84 hectare of land which is a miniscule seven *per cent* of the receivable non forest land.
- ii. It was further observed that against receivable NFL of 1,03,381.91 hectare the area identified for compensatory afforestation was 16,683.89 hectare which works out to only 16 *per cent* of the NFL receivable. There against afforestation was carried out only on 7,280.84 hectare which is only 44 *per cent* of the area of non-forest land identified for afforestation.
- iii. The afforestation activity in non forest land was limited to only four States of Assam, Chhattisgarh, Odisha and Tamil Nadu. In fact, 95 *per cent* of all afforestation done on non forest land in the country was in one State viz Odisha. Aside of Odisha, the total afforestation undertaken in the country on non forest land was a mere 329.30 hectare.
- iv. Odisha exceeded the target for afforestation on NFL it set for itself and Assam achieved hundred *per cent* of the target.
- v. It was noticed that out of the 27 State/ UTs⁸, seven⁹ State/UTs did not provide data with regard to non forest land targeted for afforestation. In the remaining 20 State/ UTs where targets were available it was observed that in some like Chhattisgarh, Goa, Haryana, Meghalaya, Punjab, Tripura the targets set out for afforestation on non forest land was less than 10 *per cent* of the non forest land receivable.

⁸ Excluding Chandigarh, Delhi and Himachal Pradesh where NFL was neither available nor identified for afforestation.

⁹ Andhra Pradesh, Arunachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Madhya Pradesh and Mizoram.

- vi. In five¹⁰ State/UTs information regarding afforestation on non-forest land was not provided.

Table 10B: Extent of Compensatory afforestation done on double degraded forest land

(in hectare)

Sl. No.	State	Area of degraded forest land identified for afforestation	Area of degraded forest land on which afforestation done	Percentage of afforestation
1	Andaman & Nicobar Islands	112.96	37.48	33
2	Andhra Pradesh	315.87	1,481.84	469
3	Arunachal Pradesh	NA	NA	NA
4	Assam	1,989.06	1,989.06	100
5	Bihar	2,017.55 ha & 5.5 km [^]	3,300#	164
6	Chandigarh	There is no degraded forest land.		
7	Chhattisgarh	5,143.14	3,668.73	71
8	Delhi	100.00	100.00	100
9	Goa	350.67	1,007.98	287
10	Gujarat	5,800.24	Nil	Nil
11	Haryana	4,182.00	Nil	Nil
12	Himachal Pradesh	8,247.61	2,789.51	34
13	Jammu & Kashmir	14,312.00	7,838.00#	55
14	Jharkhand*	16,992.14 ha & 49 km [^]	10,636.87 ha & 49 km#	63
15	Karnataka	2,187.28	19.60	1
16	Kerala	295.92	Nil	Nil
17	Madhya Pradesh	NA	5,136.97	NA
18	Maharashtra	3,916.65	Nil	Nil
19	Manipur	2,415.78 ¹¹	263.44	11
20	Meghalaya	521.13	Nil	Nil
21	Mizoram	NA	NA	NA

¹⁰ Andaman & Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Jharkhand and Mizoram.

¹¹ During 2003-11.

Sl. No.	State	Area of degraded forest land identified for afforestation	Area of degraded forest land on which afforestation done	Percentage of afforestation
22	Odisha**	3,388.72	5,341.99	158
23	Punjab	2,883.40	Nil	Nil
24	Rajasthan	273.72	Nil	Nil
25	Sikkim	2,306.21	511.09	22
26	Tamil Nadu	147.51	66.97 ¹²	45
27	Tripura	1,597.45	80.00	5
28	Uttar Pradesh	1,731.11	1,177.40	68
29	Uttarakhand	19,339.46	4,178 ¹³	22
30	West Bengal	469.77	108.83	23
	Total	1,01,037.35 & 54.5 km[^]	49,733.76 & 49 km[^]	49

[^]km pertains to strip plantation done along road, railway lines, canals etc.

*In Jharkhand the bifurcated data of area of non-forest land and degraded forest land was not mentioned in the APOs.

**In Odisha the extent of afforestation between 2006 and 12 has been derived from the Quarterly progress report on compensatory afforestation of Nodal Officer, Odisha.

Afforestation done during 2010-12.

NA - Not Available.

From the above table it would be seen that though 1,01,037.35 hectare & 54.5 km degraded forest land had been identified for compensatory afforestation during the period 2006-12, compensatory afforestation was undertaken only on 49,733.76 hectare & 49 km of degraded forest land, which was 49 *per cent* of the area of degraded forest land (in hectare) identified for the afforestation. In three¹⁴ State/ UTs such information regarding afforestation on degraded forest land was not provided. In Chandigarh, no degraded forest land was available for afforestation.

Overall Position: The position regarding afforestation undertaken over identified degraded forest land and non forest land, across the State/ UTs for which information was made available to audit is summarised below:

¹² During 2008-09.

¹³ During 2011-12.

¹⁴ Arunachal Pradesh, Madhya Pradesh and Mizoram.

Percentage of afforestation done	Over degraded forest land	Over non forest land
No afforestation done	Gujarat, Haryana, Kerala, Maharashtra, Meghalaya, Punjab and Rajasthan.	Bihar, Chandigarh, Goa, Gujarat, Haryana, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Punjab, Rajasthan, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.
1 to 25	Karnataka, Manipur, Sikkim, Tripura, Uttarakhand and West Bengal.	Chhattisgarh.
26 to 50	Andaman & Nicobar Islands, Himachal Pradesh and Tamil Nadu.	Nil.
51 to 75	Chhattisgarh, Jammu & Kashmir, Jharkhand and Uttar Pradesh.	Tamil Nadu.
75 to 100	Assam, Delhi and Odisha.	Assam.
Over 100	Andhra Pradesh, Bihar and Goa.	Odisha.

The summary position points to the fact that seven States viz. Gujarat, Haryana, Kerala, Maharashtra, Meghalaya, Punjab and Rajasthan carried out no compensatory afforestation either over non forest land or over degraded forest land. By contrast the States of Assam and Odisha showed a high level of achievement with regard to compensatory afforestation, both over non forest land and over degraded forest land.

The status of number of plants raised and their survival ratio was also not made available by the Forest Department in most of the States.

MoEF stated in (May 2013) that in pursuance to Supreme Court's order dated 5 May 2006, funds realized from the user agency for creation and maintenance of CA were transferred to the Ad-hoc CAMPA. All CA activities came to standstill till the Supreme Court vide their order dated 10 July 2009 allowed the Ad-hoc CAMPA to release a part of these funds to the concerned State CAMPAs with an annual ceiling of ₹ 1,000 crore per annum for release of CAMPA funds. Transfer of CA funds to the Ad-hoc CAMPA without any release to State/ UT Governments from 2006 to 2009 and putting up of an annual ceiling on their release from 2009 onwards by the Supreme Court resulted in accumulation of CA funds. The MoEF stated that it had initiated a proposal to obtain approval of the Supreme Court to constitute regular CAMPAs with adequate manpower, both at national and each State/ UT level to ensure expeditious utilization of CAMPA funds.

It is a fact that between May 2006 and July 2009, no funds for compensatory afforestation were released to State Forest Departments by Ad-hoc CAMPA, hence, slowing down the activity of CA. However, an amount of ₹ 2,925.65 crore that was received by the State Forest Departments (including J&K) towards CA funds during the period 2009-12 out of which an

amount of ₹ 1,149.80 crore remained unutilised in the accounts of the respective State Forest Departments.

It is evident that on one of the most important conditions of the Guidelines under FC Act, 1980 viz. undertaking compensatory afforestation on forest land diverted, the record, as borne out by the facts, has been very dismal.

2.3.2. Non-maintenance of records relating to Compensatory Afforestation

As per para 3.1(i) of the Guidelines issued under the FC Act 1980, Compensatory Afforestation was one of the most important conditions stipulated by the Central Government while approving proposals for dereservation or diversion of forest land for non-forest uses. It was essential that for all such proposals, a comprehensive scheme for CA was formulated and submitted to MoEF. Further, CA was to be undertaken over equivalent area of non-forest land or on the degraded forest land twice in extent of forest area being diverted subject to certain exemptions given under para 3.2(viii) of the Guidelines issued under the Act.

As per CAMPA notification dated 23 April 2004 the money received for CA, ACA was to be used as per the site specific schemes received from the States and UTs along with the proposal for diversion of the forest land under FC Act, 1980.

Test check of records of MoEF/RO revealed that in most of the cases scheme for compensatory afforestation had been sent but there were no documents available in the files showing that the compensatory afforestation had actually been carried out as per the approved schemes.

We examined 102 files pertaining to 16 states at the ROs and 117 files at MoEF. We observed that although an amount of ₹ 2,829.21 crore had been released from Ad-hoc CAMPA for compensatory afforestation during the period 2009-12, there were no consolidated records available with MoEF/ Ad-hoc CAMPA to evidence monitoring of compensatory afforestation actually undertaken in lieu of 1,14,877.26 hectare of forest land diverted as per the records of RO/ MoEF during the period 2006-12.

MoEF stated (May 2013) that taking up of compensatory afforestation as per the scheme was the responsibility of the States.

The reply is not tenable because the Supreme Court in its order dated 3 April 2000, fixed the responsibility of ensuring the proper carrying out of compensatory afforestation on Ministry of Environment and Forests and said that it was for the Ministry to monitor the conditions stipulated at the time of grant of forest clearance.

The reply also confirms the absence of any central database/ management information system with MoEF to monitor the actual execution of the CA activities as per the approved schemes. Given the dismal state of compensatory afforestation, particularly in the case of non forest land identified for afforestation, the absence of any centralised information in this regard will clearly impact on the quality of decision making in MoEF.

2.4. Diversion of forest land for grant/ renewal of mining leases

2.4.1. Unauthorized renewal of mining leases by State Government

As per provisions of para 1.6 of the Guidelines issued under the Forest (Conservation) Act, 1980, renewal of an existing mining lease in a forest area also required the prior approval of the Central Government. Continuation or resumption of mining operation on the expiry of a mining lease without prior approval constituted a contravention of the Act.

Supreme Court in its order of December 1996 stated all proposals for diversion of forest area for any non-forest purposes irrespective of its ownership would require the prior approval of the Central Government.

Out of 219 files test checked during audit of MoEF/RO it was observed that the State Governments had renewed the mining leases without approval of MoEF, in contravention of the orders of the Supreme Court and Rules. The details of such unauthorised renewal of mining lease are detailed in Table 11.

Table 11: Renewal of Mining lease granted by State Government without the approval of MoEF

Sl. No.	Name of Lessee	Forest Area (in ha)	Name of Mineral	State	Renewal Period	Period of unauthorized lease
1	M/s Harish Vyas	8.54	Silica Sand	Rajasthan	23/07/1999 to 22/07/2019	12 years
2	M/s Ganesh Agarwal	27.32	Marble	Rajasthan	15/04/1999 to 14/04/2019	18 months
3	M/s Balaji Mineral	13.93	Silica Sand	Rajasthan	27/12/1999 to 26/12/2019	10 years
4	M/s Essel Mining Industries	30	Dolomite	Odisha	August 1985 to September 2005	20 years
5	M/s Udaipur Minerals Development Syndicate	641.86	-	Rajasthan	May 1981 to May 2001 ¹⁵	20 years

In cases at (1), (2) and (3) in Table 11, the unauthorised renewal was stopped by orders of Rajasthan High Court in February 2012, October 2011 and November 2010 respectively, at the initiatives of RO Lucknow. In cases at point (4) and (5), the mining leases were further renewed by MoEF without initiating any action for the earlier unauthorised renewals by the State Government.

¹⁵ Mining was reportedly continuing as of July 2010 as per RO Lucknow.

In the above cases it was observed that MoEF did not invoke any penal provision against the defaulting user agencies and also did not raise the issue of the unauthorised renewal with the State authorities except to issue specific show cause notices to the defaulting officers/ user agencies after the issue was raised in audit.

We also observed that MoEF did not have a consolidated data base/ management information system on the mining leases approved by it, the period of the mining lease, submission of monitoring reports by RO, date of expiry of lease, receipt of request for renewal and reversion of land to the Forest Department on the expiry of lease. In the absence of such a database, MoEF is unable to effectively monitor the mining activity in forest land and check unauthorised renewal of mining leases. Hence MoEF did not have any enforcement mechanism to check and restrain unauthorised renewals.

MoEF in its reply (May 2013) admitted that in the State of Rajasthan most of the mining leases in forest areas were granted or renewed without obtaining approval under the FC Act 1980. MoEF stated that the Rajasthan High Court by their orders passed in February 2012, October 2011 and November 2010 has already stopped illegal renewal in three mines indicated at sl. No. 1 to 3. Further, it was stated that MoEF will examine the renewal of mining leases without requisite approval under the FC Act, 1980 in respect of mines indicated at sl. No. 4 and 5 and take appropriate action. MoEF also stated that it had already assigned a project to the Forest Survey of India to prepare a Geographic Information System based decision support database to facilitate objective decision on applications seeking prior approval of Central Government under the FC Act, 1980. The database will *inter-alia* contain all relevant information as mentioned by the audit pertaining to mining leases in forest areas.

2.4.2. Mining without requisite permission

As per provisions of para 1.6 of the Guidelines issued under the Forest (Conservation) Act, 1980, renewal of an existing mining lease in a forest area required the prior approval of the Central Government. Continuation or resumption of mining operation on the expiry of a mining lease without prior approval constitute a contravention of the Act.

As per Section 3A of the Forest (Conservation) Act, 1980, whoever contravenes or abets the contravention of any provisions of Section 2, is punishable with simple imprisonment for a period which may extend to 15 days.

During test check of records of RO Bhubaneswar and RO Bengaluru, it was observed that the mining activity was going on without forestry clearances from MoEF as detailed in Table 12.

Table 12: Mining activity without forest clearance

Sl. No.	Name of user agency	States	Forest land (in ha)	Period of illegal Mining	Reply of MoEF	Audit comments
1	Mining lease to Tungbhadra Minerals Pvt. Ltd, in Bellary Regions.	Karnataka	232.70	September 1990 to January 1997	State Government reported that no mining activities have taken place after 11 June 1999 (i.e. after expiry of the earlier permission)	MoEF did not comment on the periods of illegal mining as indicated in the audit observations.
2	OMC Limited, Jaipur district	Odisha	142.73	August 2007 to October 2009	RO reported that mining has not been done after expiry of the lease on 7 July 2007. However, the State Government has been requested to furnish the comments on the above observation of the audit.	As per monitoring report of RO there was illegal mining during this period, hence the reports are contradictory.

In the above cases it was observed that MoEF did not invoke any penal provision against the defaulting user agencies for mining without forest clearance.

2.4.3. Diversion of forest land in violation of FC Act in mine leases in Bellary

Test check of records of RO Bengaluru revealed that the permission for diversion of forest land covering the area of 6,170.25 hectare of mining leases in 92 cases only in Bellary forest division was granted by Regional Office (South Zone)/ MoEF during the period 1994 to July 2009. Out of 92 cases only in two cases, the National Mineral Development Corporation (NMDC), a Government of India Undertaking covering the forest area of 949.02 hectare was involved. In all other 90 cases, private agencies were engaged.

Out of these 90 cases, in 36 cases renewals/ fresh approvals were granted during March 2006 to July 2009 involving the forest area of 3,739.51 hectare.

Supreme Court of India orders dated 26 February 2010 suspended/ stopped mining activities in the above mentioned 90 mining cases (excluding two pertaining to NMDC) on account of over exploitation and considerable damage to the environment.

During test check of records of MoEF, 39 files regarding above cases were requisitioned in audit. **29 files were not furnished to audit** (Annexure 7).

Scrutiny of these 10 files revealed:

Sl.No.	Case Details
1	Transfer of NPV amounting to ₹ 64.41 crore (in 8 projects out of 10), cost of CA/ACA/PCA at ₹ 9.08 crore (in 9 projects out of 10) and ₹ 0.53 crore as safety zone charges (in 6 projects) were stated to have been deposited with the PCCF of the state. It could not be confirmed from the files that these amounts had been transferred to Ad-hoc CAMPA.
2	Non-forest land measuring to 311.85 hectare in nine projects was not provided by the user agencies.

From above it was observed that final clearances were given by MoEF without ensuring the compliance of in principle conditions.

MoEF stated (May 2013) that RO, Bengaluru has requested the State Government of Karnataka to provide details of transfer of funds to Ad-hoc CAMPA. The Government of Karnataka was being requested by the RO, Bengaluru to reconcile the compensatory afforestation areas FC clearance wise and furnish the details of cases in respect of which either compensatory afforestation has not at all been done or has only been partially done due to various reasons such as non-suitability of the area for plantation, encroachment, litigation etc. After receipt of the report, appropriate action will be taken.

The reply of MoEF only confirms the abysmal failure of the Ministry to put in place a robust system of monitoring to ensure that final clearances were given only after ensuring compliance with all conditions imposed while granting in principle approval.

2.4.4. Diversion of forest land in violation of FC Act in mine leases in Goa

During the test check of records of MoEF we requisitioned 24 files pertaining to mining in Goa. **12 files were not furnished to audit** (Annexure 8).

In five of the 12 cases made available to audit, we observed violation of the FC Act during the period 2006-12:

Sl.No.	Name of Agency	Area diverted (in ha)
1	M/s Salgaoncar & Brothers Private Limite	44.98
2	Smt. Sashi Kala Kakodkar	48.44
3	M/s Sociedade Timblopros Ltd.	109.94
4	M/s Panduranga Timblo Industries	32.33
5	M/s RP Timblo	63.51
	Total	299.20

Our scrutiny revealed the following:

- i. In lieu of forest land aggregating to 299.20 hectare diverted in all these five projects, providing of equivalent non-forest land was not even stipulated in the in principle approval conditions and thus, not provided by the user agencies. They were allowed to give CA funds for afforestation on degraded forest land twice the extent of forest land diverted.
- ii. In one case pertaining to North District of Goa, M/s Panduranga Timblo Industries, covering 32.33 hectare of land no conditions of NPV, CA, PCA etc. were imposed, and thus, no amount was recovered on account of these heads. Thus NPV amounting to ₹ 1.88 crore (calculated at the minimum rate of ₹ 5.8 lakh per hectare) was not recovered.
- iii. It was not on record in the three project files whether Ad-hoc CAMPA had received ₹ 13.10 crore of NPV, ₹ 2.77 crore of CA and ₹ 0.08 crore of Safety zone charges, as stipulated as condition for permission.

From above it was observed that final clearances were given by MoEF without ensuring the compliance/ specification of in principle approval conditions.

MoEF stated (May 2013) that it had noted the observation of audit and that it would re-examine conditions stipulated in approval accorded under the FC Act 1980 for diversion of forest land in the five proposals examined by the audit.

2.4.5. Non-surrender of forest land after expiry of mining lease

As per provisions of Annexure-III of FC Act, 1980, renewal of a lease is in effect a grant of fresh lease. The prior approval of MoEF in terms of Section 2 of the FC Act, 1980 would be required when a mining lease granted before the commencement of the Act is renewed after its coming into force.

During test check of records of ROs, it was observed that 406.32 hectare forest land was not surrendered to the Forest Department after cessation of lease period during the period July 2007 to February 2012. Case wise details are at Table 13.

Table 13: Details of cases on non-surrender of forest land after the expiry of mining lease period

Sl.No.	Name of user agency	States	Forest land (in ha)	Month of cessation of lease period
1	M/s Gavisiddeshwara Enterprises	Karnataka	5.67	April 2010
2	M/s SA Tawab	Karnataka	31.60	March 2011
3	M/s Kaliapani Chromite Mines	Odisha	142.73	July 2007
4	M/s Girdhari Lal Agarwal	Odisha	23.24	August 2008

Sl.No.	Name of user agency	States	Forest land (in ha)	Month of cessation of lease period
5	M/s TISCO	Jharkhand	109.99	May 2012
6	M/s CCL	Jharkhand	43.30	February 2012
7	M/s Harish Vyas	Rajasthan	8.54	February 2012
8	M/s Ganesh Agarwal	Rajasthan	27.32	October 2011
9	M/s Balaji Minerals	Rajasthan	13.93	November 2010
		Total	406.32	

In the absence of any record evidencing that the forest land had been surrendered after the expiry of the lease, it cannot be assured in audit that no further mining activity is being carried out in these areas.

MoEF stated (May 2013) that in such cases, the State Forest Departments normally do not resume possession of forest land located within such leases immediately after expiry of mining lease because in most of the cases, heavy machinery and ore mined out during validity of lease are present in the forest land.

The reply is not tenable because the State Forest Departments were required to take immediate possession of the forest land after cessation of the lease period. The lessee is also aware of the duration of the lease and should make suitable arrangements for removing and safeguarding its assets.

2.4.6. Non- submission of monitoring report for mining

As per para 4.10(iv) of the Guidelines issued under the FC Act, 1980, for the proposals of renewal of leases, the regional offices of the Ministry were to submit a copy of the report of the latest monitoring done (one year before the expiry of lease period) along with the abstract of monitoring report of the project during the lease period specially highlighting the conditions which were not fulfilled, with complete details of the reasons for not fulfilling the stipulated conditions. The conditions which had been complied with were also to be highlighted with the quality of performance of the project authorities, a short note justifying desirability of renewal of lease and other recommendations. Based on the report, the renewal of lease was to be accorded by MoEF.

During test check of records of the mining leases renewed between 2002 to 2012 in MoEF/ RO it was observed that in 56 cases the RO had not submitted the monitoring reports to MoEF as provided in the said Rule. The state wise details are at Table 14.

Table 14: Status of Monitoring reports not received before renewal of mining leases between 2002-12.

Sl. No.	State	Number of Monitoring Reports	Agencies involved		Area of land involved (in ha)	
			Private	Government	Private	Government
1	Chhattisgarh	3	2	1	17.74	84.00
2	Madhya Pradesh	2	1	1	194.00	194.78
3	Maharashtra	6	6	Nil	71.26	Nil
4	Andhra Pradesh	8	8	Nil	598.86	Nil
5	Karnataka	8	8	Nil	861.98	Nil
6	Odisha	13	13	Nil	791.15	Nil
7	Jharkhand	7	6	1	550.01	8.70
8	Uttarakhand	2	1	1	8.09	204.00
9	Rajasthan	7	7	Nil	796.15	Nil
	Total	56	52	4	3,889.2	491.48

From the above table it was observed that MoEF granted approvals in 56 cases of which 52 cases pertained to private agencies involving forest land of 3,889.24 hectare without ascertaining whether the user agencies had complied with the stipulated conditions throughout the earlier lease period or not. MoEF had effectively renewed mining leases without basic due diligence required of it and, thus, acted in a casual manner.

MoEF in its reply (May 2013) admitted that the desired monitoring target could not be achieved due to shortage of staff at the Regional Offices. It was also stated that the work load of Regional Offices has increased considerably requiring sanction of additional staff strength. However, most of the Regional Offices of the MoEF were not provided even with the sanctioned staff strength.

2.5. Environmental issues

2.5.1. Diversion of forest land for mining without environmental clearance

As per para 2.3(i) of the Guidelines issued under the FC Act 1980, project proposals requiring clearance from environmental angle as per notifications issued from time to time under Environment (Protection) Act, 1986, require clearance separately under procedure laid down by the Environment Wing of MoEF. Environmental clearances where required are to be applied for separately and simultaneously with forest clearance. For a project requiring clearances from forest as well as environment angles, separate communication of sanctions was to be issued, and the project was deemed to be cleared only after clearances were received from both the angles.

During test check of records of RO Bengaluru it was observed that in two cases mining projects were operating without environmental clearances as detailed in Table 15.

Table 15: Projects operating without environmental clearance

User Agency	States	Area of Forest land (in ha)	Remarks
M/s Singreni Collieries Companies, Mancherial Division, Allahabad District	Andhra Pradesh	278	RO in July 2008 pointed to the Special Chief Secretary, Government of Andhra Pradesh that mine was operating without environment clearance. No action was taken thereafter.
M/s Mysore Minerals Limited, Bellary District	Karnataka	80.93	RO in September 2003 wrote to Principal Secretary, Government of Karnataka to stop the mining but as per records available mining was not stopped till March 2005. Thereafter no records were available.

While granting final approval, it should have been ensured by MoEF that the environment clearance certificate had been obtained. In both the above cases 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.

MoEF stated (May 2013) that the observation of the Audit regarding running of two mines without environment clearance is being communicated to Environment Wing of the MoEF for taking appropriate action in accordance with the provisions of the Environment (Protection) Act, 1980.

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.

2.5.2. Adverse effects of mining on Forest and Wildlife

As per para 4.16 (ii) and (iii) of the Guidelines issued under the Forest (Conservation) Act, 1980, while according approval for diversion/renewal of forest land for mining purposes, the leases were to be renewed / monitored after every five years. The Regional Office was to monitor the main parameters/conditions of formal approval as frequently as possible, at least once in a year. At least once in five years a comprehensive monitoring as to the effect of mining on air and water pollution was also to be carried out. Regional Offices were required to send such reports/certificates in respect of the monitoring mechanism indicated above to the MoEF, so that a view could be taken on continuation of mining lease beyond five years.

During test check of records of RO Bhubaneswar it was observed that in monitoring reports 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. The details of such cases are given in Table 16.

Table 16: Cases in which RO reported adverse impact of mining activity on forest and wild life, but no action was initiated by MoEF

User Agency	States	Area of Forest land (in ha)	Date of monitoring report	Comments in monitoring report
M/s Bharat Raj Singh	Jharkhand	10.08	January 2008	Project was affecting environment and forest.
M/s National Enterprises, Sundargarh District	Odisha	37.32	December 2009	Open case mining was generally affecting forest and wildlife adversely in Bonai sector.
M/s OMC Limited, Kaliapani Chromite mines, Jaipur District	Odisha	142.73	April 2002	Project would definitely cause damage to surrounding forest and wildlife. The clearance in this case was given upto July 2007.
M/s Mahanadi Coal fields Limited	Odisha	174.90	August 2004	The project is affecting the forest and wildlife of the area leaving ill effects on forest and wildlife. The final clearance was given in June 2006 even after adverse comment in the monitoring report.
	Total	365.03		

From the above it was evident that the even after receiving adverse reports from the RO, no corrective/ remedial action was taken by MoEF and it continued to grant clearances ignoring the violation of the forestry guidelines by the user agencies. MoEF did not revoke the mining lease granted to the user agencies.

MoEF stated (May 2013) that in the extant case monitoring reports contained general observation that mining activities in the projects was affecting, flora and fauna and forest and wildlife adversely. Mining projects by their very nature does affect flora and fauna adversely to some extent. Violation or non-compliance to any of the stipulated conditions has however, not been reported in any of these cases. In the absence of specific violation or non-compliance to any of the stipulated conditions, it is not appropriate for the MoEF to take any punitive action against such lessees.

The reply is not tenable because MoEF did not initiate any remedial/ corrective steps to safeguard the environmental hazards. 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.

2.5.3. Renewal of environmentally damaging mining lease by MoEF

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. The details of the audit findings are reported as Case Study II.

Case Study II

Renewal of environmentally damaging mining lease by MoEF.

The Government of Portugal, in 1937 granted mining lease for 100 hectare of land in perpetuity to M/s Elray Minerals & Company. Out of this 100 hectare, 60.61 hectare and 39.39 hectare were notified under Section 20 and Section 4 of Indian Forest Act 1927 in the year August 1979 and October 1981, respectively. In 1987, the Goa, Daman & Diu Mining Concession (Abolition & Declaration) Act was passed by Government of India which abolished the perpetual mining concessions which was awarded by the Portuguese to this project in 1937. The 'deemed MMRD¹⁶ leases' therefore were prospectively accorded for 20 years w.e.f. 1987 to the concessionaires by the Goa Department of Mines & Geology, which meant that they would come to an end in 2007.

Government of Goa, in May 2006 submitted a proposal to MoEF for renewal of deemed mining lease in favour of M/s Elray Minerals & Company for diversion of 17.84 hectare of forest land (12.97 hectare already broken + 4.87 hectare to be broken) keeping 82.16 hectare reserve for future use for mining in favour of the applicant. MoEF in May 2008 granted in principle approval (revised in August 2008) and final approval to the project in February 2009.

Regional Office Southern Zone, Bengaluru in June 2006 conducted the site inspection of the project and sent its report to MoEF in July 2006. The site inspection report inter-alia observed the following:

- The proposed site was merely three kilometre away from the Bhagawan Mahaveer Sanctuary and was frequently visited by various categories of wild animals.
- The applicant had not attempted to identify any non-forest land for carrying out CA. 10 year old dumps in the area presently being sought for diversion, had not been stabilized in any manner by the applicant.
- It was generally estimated that every ton of iron ore excavated from the earth in Goa leaves behind about three tons of mining rejects, and thus, it was totally undesirable that the applicant carried out the mining in an environmentally irresponsible manner.

¹⁶ Mines and Mineral (Development and Regulation) Act, 1957

The proposal too did not contain any reclamation plan detailing as to how the applicant proposed to reclaim the mined out area.

- The forest area proposed for diversion had a fairly big nallah which drains out the water from the mine into the Mandovi river. Since the proposal did not contain any component of a treatment plan for the drainage from the mine, it could be assumed that the mine tailing containing pollutants would be drained into the Mandovi river. The present proposal found no mention of such major disturbances of natural water course.
- A benefit to the cost ratio had not been projected in the proposal.
- Since, the mining area is very close to wildlife habitat, any mining operations such as blasting carried out with the use of explosives would inevitably affect the wildlife adversely.
- The total number of trees that were required to be felled, to facilitate the diversion of 4.86 hectare of fresh area worked out to be more than 1000.
- The utility of the project seemed to be limited to private gain.

The inspection report in the end opined that it was not desirable anymore to divert fresh areas for mining in Goa.

Forest Clearance Division of MoEF in August 2006 ignoring the above serious observations, recommended the project for approval of diversion of 17.84 hectare of forest land with the condition of providing of non-forest land to the extent of 4.86 hectare along with other general conditions. The exemption from providing of non-forest land was sought by the company on the certificate from the Chief Secretary. It was observed in audit that this certificate was without any letter head and stamp of the office or the officer, which appeared suspicious prima-facie. However, MoEF modified in-principle approval in August 2008 and exempted the company from providing non forest land by allowing CA over double the degraded forest.

The Chief Conservator of Forests, Government of Goa submitted a compliance report mentioning the total lease area of 100 hectare, despite the in-principle approval of only 17.84 hectare, and depositing of ₹ 0.09 crore towards CA on double degraded land for 4.86 hectare along with receipt of NPV for 17.84 hectare of forest land. ***There was no mention of amount of NPV recovered and deposited to Ad-hoc CAMPA.***

MoEF, in February 2009 accorded final approval to the project putting in an ambiguous condition that the user agency was required to **pay the NPV for the balance forest area** to retain the same within the lease area. The underlying meaning of the phrase '**pay the NPV for the balance forest area**' could not be clearly made out in audit. It was construed that MoEF permitted diversion of the whole area of 100 hectare. **The NPV for entire area of 100 hectare was not calculated and found deposited into Ad-hoc CAMPA and amount of CA for the balance area of 82.16 hectare was also not collected.**

Thus the diversion of the forest land was made in an arbitrary manner flouting the general and specific provisions of the forestry clearances.

The audit observations were issued to MoEF in April 2013; no reply has been received (July 2013).

2.6. Other issues of land management

During test check of records of ROs various irregularities were noticed in cases of diversion of forest land to user agencies viz. illegal mining, non compliance of conditions of in principle approval and improper monitoring of the projects as brought out in Table 17.

Table 17: Other cases of illegal mining and non-compliance of conditions of in principle clearance

Name of the User agency	Forest land involved (in ha)	Date of final approval	Audit Comments	Reply/ Action by MoEF
Omkareshwar Project, Government of Madhya Pradesh	5,829.85	19/8/2004	MoEF granted approval for the projects without recovery of NPV from the user agency.	MoEF (May 2013) took cognizance of audit observation and recovered NPV of ₹ 339.90 crore from Narmada Valley Development Authority.
M/s Swamykasi Ratnam, Batrapalam of Madinapadu, Andhra Pradesh.	4.85	23/8/2004	Ministry in October 2003 directed the user agency to deposit the cost of reclamation with the Forest Department before grant of final approval. The condition was overruled in July 2004 by Director RO (HQ). Second Stage approval was granted in August 2004. Reclamation work was not done as of October 2011.	Project was monitored by RO Bengaluru in October 2011 and shortfall in compliance was reported to the Nodal Officer in the State Government of Andhra Pradesh for appropriate action.
M/s Narendra, Hubli District, Karnataka.	27.72	01/6/2004	Amount of CA realized by State was ₹ 0.40 crore whereas as per monitoring report the amount was ₹ 0.45 crore.	RO Bengaluru had sought clarification from the State Government in May 2004, reply from the State Government was still awaited and

Name of the User agency	Forest land involved (in ha)	Date of final approval	Audit Comments	Reply/ Action by MoEF
				that MoEF would seek clarification from the State Government for the above discrepancy.
M/s SA Tawab, Bellary for Iron Ore, Karnataka.	31.60	24/4/2003	The original mining lease was from 3 March 1981 for 10 years i.e. upto 3 March 1991. The in-principle approval which was given in 23 December 1992 was cancelled in 14 September 2001 stating that if the State Government/ UA was still interested in the project, a fresh proposal would be required to be submitted which would be considered de-novo. However, in April 2003, the final approval was granted w.e.f. 4 March 1991 for 20 years. The fact remained that there was no mining lease between the periods 4 March 1991 to 24 April 2003. Transfer of lease proposal was initiated in 04 February 2009 but PCCF withheld the proposal on account of Lokayukta Report.	MoEF stated that its approval dated April, 2003 covers the period from 4 March 1991 to 24 April 2003. The reply is not tenable because MoEF granted the approval from the retrospective date of March 1991 without ensuring actual carrying out of the mining activity during March 1991 to April 2003.
M/s Tata Refractories Ltd, Odisha.	58.50	June 2005	Final approval was given without clearance from National Board of Wildlife as mining was very close to Chandaka Wildlife Sanctuary. Monitoring report in April, 2008 revealed that the 41 hectare area had been surrendered to the Forest Department without appropriate reclamation and the 4.50 hectare of dumping	Reply awaited.

Name of the User agency	Forest land involved (in ha)	Date of final approval	Audit Comments	Reply/ Action by MoEF
			<p>area was also not properly reclaimed. There was heavy dust and absence of water sprinkling arrangements and the water from the mine was being discharged without proper treatment. Because of threat to wildlife, the UA was advised in November 2007 to erect/ dig elephant proof barrier along the sanctuary boundary which was also not found done. The mining was affecting the health of forest and wildlife adversely due to fragmentation of the forest.</p> <p>UA was required to execute the concurrent Reclamation Plan in consultation with State Forest Department from the very first year and an annual report was to be sent to the Nodal Officer and the Regional CCF, Bhubaneswar failing which the mining activity was to remain suspended. As evident from RO Bhubaneswar letter dated October, 2009, there was no such plan received either from the user agency or from Nodal Officer and no remedial/ corrective action was taken by MoEF.</p>	

2.7. Inadequate and ineffective application of penal clause

Section 2 of the Forest (Conservation) Act, 1980, imposes restrictions on dereservation of forest or use of forest land for non forest purposes. It envisages that no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing dereservation of reserve forest, use of forest land for non forest purpose, lease out the forest land and clearing of the trees over the forest land. The authorities authorised to grant forest clearances are the Chief Conservator of Forests/

Additional Principal Chief Conservator of Forests of the Regional Office and the Director General of Forests of MoEF.

As per Section 3A of the Forest (Conservation) Act, 1980, whoever contravenes or abets the contravention of any provisions of Section 2, is to be punishable with simple imprisonment for a period which may extend to fifteen days. Where any offence under this act had been committed by any department of the Government or any authority, every person who, at the time the offence was committed was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority was to be deemed to be guilty for the offence and liable to be proceeded against and punished accordingly.

It was observed in audit that against receivable non forest land of 1,03,381.91 hectare only 28,085.90 hectare land was received. Of this only 11,294.38 hectare was transferred and mutated in the favour of the State/ UT Forest Departments and within it 3,279.31 hectare was declared as Reserve Forest/ Protected Forest. Further, there were cases of non recovery/ under assessment of Net Present Value/Compensatory Afforestation/Additional Compensatory Afforestation/Penal Compensatory Afforestation/Catchment Area Treatment Plan of ₹ 5,311.16 crore¹⁷ which constituted 23 *per cent* of the total principal amount with Ad-hoc CAMPA as on 31 March 2012. However, no action was initiated by MoEF even after gross violations of the provisions of the Forest (Conservation) Act, 1980.

MoEF had invoked penal provision only in three cases during the period August 2009 to October 2012 and even this action was only limited to issue of show cause notices. In our opinion penal clause prescribed in the FC Act, 1980, was largely inadequate and ineffectively applied to place any deterrence towards illegal and unauthorised practices.

2.8. Conclusions

Forests are a vital component in sustaining the life support system on Earth. Any programme for development needs to evolve a systemic approach so as to balance economic development and environmental protection. Regulating the indiscriminate diversion of forest land for non-forest use is, therefore, critical. Accordingly, compensatory afforestation has been made one of the most important conditions while approval is accorded in case of proposals for dereservation or diversion of forest land for non-forest uses. It is envisaged that compensatory afforestation will be done on equivalent area of non-forest land which is to be transferred to the ownership of State Forest Department or on double the extent of area of forest land diverted on degraded forest land under certain circumstances.

The chapter brings out serious shortcomings in regulatory issues related to diversion of forest land, the abject failure to promote compensatory afforestation, the unauthorised diversion of forest land in the case of mining and the attendant violation of the environmental regime.

¹⁷ For details refer to Chapter III.

To be able to undertake compensatory afforestation on equivalent area of non-forest land, such land needs to be received by the Government. The Ministry's records reveal that against the receivable non forest land of 1,03,381.91 hectare, only 28,086 hectare was received during the period 2006-12 which constituted only 27 *per cent* of receivable non-forest land. The compensatory afforestation done over the non-forest land received was an abysmal 7,280.84 hectare constituting seven *per cent* of the land which ought to have been received. The afforestation over the degraded forest land was done only on 49,733.76 hectare and 49 km out of 1,01,037.35 ha and 54.5 km identified which works out to 49 *per cent* (in area). Seven States viz. Gujarat, Haryana, Kerala, Maharashtra, Meghalaya, Punjab and Rajasthan carried out no compensatory afforestation either over non forest land or over degraded forest land. By contrast the States of Assam and Odisha showed a high level of achievement with regard to compensatory afforestation, both over non forest land and over degraded forest land.

The record with regard to transfer of ownership to the State Forest Department is equally dismal. Information made available by State/ UT CAMPA revealed that of the 23,246.80 hectare of non forest land received by them only 11,294.38 hectare was transferred and mutated in the name of the State Forest Department. Of this only 3,279.31 hectare was declared as Reserve Forest/ Protected Forest which was only 14 *per cent* of non forest land so received.

Receipt of non forest land is the starting point for undertaking compensatory afforestation. Yet on this critical element there was no meeting ground on the data maintained by the Ministry and State Governments. The variation in data on forest land diverted and non-forest land received was as much as 3.5 *per cent* and 17.3 *per cent* respectively between the data maintained by the regional offices of the Ministry and the State Forest Department. Poor quality and unreconciled data will compromise the quality of planning, operations and decision making.

In case of non-availability or short availability of forest land, to be duly certified by the Chief Secretary, compensatory afforestation was to be undertaken over the degraded forest twice the extent of the forest land diverted. It was observed that compensatory afforestation was allowed over an area of 75,905.47 hectare without any certificate of the Chief Secretary, in almost all the states except Delhi, Himachal Pradesh, Meghalaya and Sikkim. Only in two State/ UTs viz. Chandigarh and Uttarakhand, equivalent or more non forest land was received.

Audit also observed instances where express orders of the Supreme Court were flouted by APSEB 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.

The chapter also brings out numerous instances of unauthorized renewal of leases, illegal mining, continuance of mining leases despite adverse comments in the monitoring reports, projects operating without environment clearances, unauthorized change of status of forest land and arbitrariness in decisions of forestry clearances. In six States where information

was available, encroachment of 1,55,169.82 hectare of forest land was noticed but MoEF did not take time bound action for eviction despite directions of the Supreme Court.

Monitoring was very important considering the scale at which irregularities have been noticed in this audit. Absence of MIS/ consolidated database permitted individual cases of irregularities to remain unchecked. MoEF failed to appropriately discharge its responsibility of monitoring of compliance of conditions of the FC Act, 1980 relating to diversion of forest land.

Despite such gross non compliance with statutory conditions and orders of the Supreme Court, no action was initiated by MoEF. In fact MoEF had invoked penal provision only in three cases during the period August 2009 to October 2012 and even this action was limited to issue of show cause notices. In our opinion penal clause prescribed in the FC Act, 1980, was largely inadequate and ineffective to put any deterrence on illegal and unauthorised practices.