

MoEFCC allows non-coal mining before Stage-II forest clearance

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Nagpur: In yet another move towards ease of doing business, the MoEFCC has decided to allow start of non-coal mining operations in non-forest land before stage-II forest clearance is received for the forest land, in cases where both forest and non-forest land is involved in a project. This policy had first been introduced in December 2021, but restricted to coal mines only.

The policy was recently approved with a rider by the Forest Advisory Committee (FAC), a statutory body deciding forest clearance proposals. The FAC recommended that the state governments and Union territories or authorities concerned should prepare a separate mining plan, or execute a separate mining lease, for full or part of the non-forest land in the mining lease. Only then can they allow mining operations in the non-forest land.

However, this will have to be done after obtaining the stage-I approval, deposition of compensatory levies, and getting environment clearance.

Greens were, however, wary of such a move. Environmentalist Debi Goenka said, "This is a legal fig leaf, and despite the piously stated intentions, it will definitely create a fait accompli situation that will lead to degradation and destruction of adjacent forests. We hope the Supreme Court comes down heavily and stops this subterfuge."

On December 10, 2021, the MoEFCC had first allowed mining operations in non-forest land at coal mines after obtaining stage-I approval under the Forest (Conservation) Act (FCA), subject to conditions. The conditions include the mining plan for non-forest area within a coal block/lease (which also has forest area within it), shall not involve any forest area in the coal block/lease concerned. Besides, no activity or component of mining in non-forest area shall have any dependency on forest area of the same block.

The coal mining companies were told such permission in non-forest area shall not create any obligation or fait accompli with regard to approval (Stage-I or Stage II) under the FCA, 1980. In case of any violation of the forest area, the matter was to be dealt as per provisions in FCA.

The Federation of Indian Mineral Industries (FIMI), an all-India apex body to promote interests of all mining, mineral processing, metal making, and other mineral-based industries, moved MoEFCC to extend this dispensation to non-coal mining projects also.

Besides, the ministry of coal and mines also requested MoEFCC to reconsider the conditions, citing the limitation that breaking of mining plan for forest and non-forest land of a mining lease is not allowed given the current statutory provisions and guidelines issued under the MMDR Act, 1957.

The FAC observed that allowing working on non-forest land without ensuring separate mining plan or lease for non-forest land may create fait accompli situations, which are not permissible in terms of direction contained in the Supreme Court order of July 6, 2011 (Lafarge judgment).

Hence, the FAC decided that in mining leases having forest as well as non-forest land, working on non-forest land without ensuring separate mining plan or lease for non-forest land may create fait accompli situations, which is not desirable in terms of directions contained in Supreme Court orders.

BOX

FAC OBSERVATION

* Non-coal mining operations can begin in non-forest land before Stage-II forest clearance is received for portion of mining lease in forest land

* While working on non-forest land in leases having forest as well as non-forest land, states will have to adhere to directions of Supreme Court

* States may execute separate mining lease for whole or part of non-forest land in such mining leases

* This has to be done only after obtaining Stage-I approval under FCA 1980, and single lease may be executed after Stage-II approval