

Shri Prakash Javadekar

Honourable Minister of Environment, Forest & Climate Change,

Indira Paryavaran Bhawan,

Jor Bagh,

New Delhi - 110 003.

12th May, 2020

Sub: Withhold forest and environmental clearances during the COVID-19 pandemic

Dear Sir,

The COVID-19 pandemic and the subsequent lockdown across the nation have created extraordinary challenges for India's citizens and for governance. The measures that the Government of India has taken to adapt to this unprecedented situation, include a shift to online platforms for consultation and decision making. However, these measures are still inadequate and we have grave concerns about the manner in which forest and environment clearances are being granted during this pandemic, which we detail below.

The Central Government and various statutory authorities are under the orders of the Honourable Supreme Court of India to ensure that forest and environment clearances comply strictly with the guidelines laid down in the Lafarge Judgment of 2011. Meeting via video-conferencing in its present form, strongly handicaps such authorities from carrying out the roles that they are mandated to fulfil by the Honourable Supreme Court. Therefore, the decisions taken at the 57th meeting of the Standing Committee of the National Board for Wild Life (NBWL) on 07 April 2020 related to the 31 proposals affecting 15 tiger reserves, sanctuaries, notified Eco-sensitive zones, deemed Eco-sensitive zones

in the fringes of protected area and designated wildlife corridors must not be implemented and must be visited afresh following due process after the end of the pandemic.

First, site inspections, which are a crucial component of project evaluation, are very difficult to implement during a pandemic. The appraisals and assessments for clearance are being reduced to an **empty formality**, lacking the credibility and rigour of its purpose. Clause (iii) of Rule 5 of the Forest Conservation (Rules) 2003, (amended upto August 2017) prescribes that site inspections may be necessary or expedient while considering a diversion proposal. It is inconceivable that clearances can be granted in all cases without a site inspection by members of the NBWL and other statutory committees.

Second, due to the national (and partial) lockdown since 25 March 2020, the Ministry appears to be relying only on digital documents uploaded by project developers on the Parivesh single window clearance portal. We wish to highlight that the Supreme Court's Guidelines in the Lafarge Judgment have specifically pointed out that identification of an area as forests, solely based on the declaration filed by the User Agency (project proponent), is leading to *fait accompli* situations. The Guidelines therefore insist that in case of any doubts regarding the status of land made by the project proponent, it shall be inspected by forest officials along with members from the Regional Office of the MoEF&CC, to ascertain the status of forests. The compliance of these Guidelines may not be possible during the lockdown period which may amount to a serious deviation in the clearance process.

Under normal circumstances, project developers would be expected to provide documents that elucidate a project's impact on the environment, for clarification during in-person meetings. In several instances, documents are also requested via speed-post, which may not be possible due to travel restrictions. Additionally, the inputs of local officials who are often posted in remote areas are regularly sought and one is unsure whether they were available to share their comments. Thus the required due diligence as mandated by law and Judgments of the Supreme Court will be severely compromised by clearances being granted through video conference calls.

Third, as a result of travel restrictions, social distancing and other hardships to livelihoods during the lockdown and in the foreseeable future, it is difficult to

implement the Ministry's own mandated procedures. For instance, as a result of pandemic-related restrictions, it may be difficult to hold public hearings and meetings. Thus, stakeholders who will be affected by projects proposed to the Ministry of Environment, Forest & Climate Change (MoEF&CC) might be unable to officially give their consent and/or register their project-specific concerns, or take legal recourse as is their right.

Finally, video calls in the manner in which they are being used presently, may not be an efficient mode of communication when assessing the environmental and biodiversity impacts of developmental projects. *The Quartz* reported on the 5th of May, 2020 that Expert Appraisal Committee (EAC) meetings that usually last an entire day, were scheduled for 2 hours, giving members only 10 minutes to appraise each project. Further, a sound assessment of a project proposal requires the rigorous evaluation of highly technical information from multiple sources. Guideline (vii) of the Honourable Supreme Court's Lafarge judgement requires a thorough evaluation of any clearance proposal using the mandated GIS-based Decision Support Database. This guideline cannot be complied with via video conference meetings. In fact, *The Hindu* carried an article on the 8th of April, 2020, where this limitation was pointed out by an expert who was part of the same NBWL meeting. He stated that: "In a virtual conference, it's difficult to scrutinise maps that show the location of the proposed projects. There was also no occasion to ask questions of officials for clarifications."

In view of the compelling facts and circumstances outlined above, we request that the implementation of decisions taken by the NBWL via video conferencing be held in abeyance until pandemic-related travel restrictions are lifted to allow in-person meetings and travel to project sites for fresh appraisals following due process. We further urge that all meetings of the NBWL, the Forest Advisory Committee (FAC) and all the 10 EACs be postponed as long as travel restrictions make verification of documents during in-person meetings, local representations, and site visits difficult.

We raise these grave concerns, ironically, in the midst of a pandemic, which has been a reminder to examine our human-nature relationships to protect our ecosystems and socio-ecological networks. Thus, in larger public interest, we urge you to consider our requests and carry out the intended mandate of the Ministry, which is the protection of India's forests, wildlife and natural heritage

and not fast-track clearance of projects.

Thank you,

Yours sincerely,

Former Members of the National Board for Wildlife

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