

Forest Department

3.2 Implementation of Forest (Conservation) Act, 1980 in Madhya Pradesh

Highlights

Forest (Conservation) Act, 1980 was enacted with the objective of maintaining a sustainable balance between the development needs of the country and the conservation of natural environment. As per the provisions of the Act, prior permission of the Government of India was essential for diversion of forest lands for non forest purposes. While approving a proposal under the Act, the Central Government stipulates mandatory compensatory conservation measures such as compensatory afforestation, catchment area treatment etc., the cost of which was borne by the user agencies. Performance Audit of the implementation of the Act in Madhya Pradesh revealed significant cases of violation of the Act and absence of execution of compensatory conservation measures in most of the cases where forest land had been diverted for non-forest purposes. As a result, objectives of the Act largely remain unachieved in the State. Salient points noticed during performance audit are as follows:

In 43 cases, 1515.997 hectare forest land was illegally diverted without prior permission of the Government of India during last ten years.

(Paragraph 3.2.5.1)

Compensatory afforestation (CA) was not carried out in 70 per cent of the projects where forest land was diverted for non-forest purposes during last ten years (1997-2007). Only 6 per cent of the funds received from user agencies on account of cost of CA were utilized during this period.

(Paragraph 3.2.6.2)

Fifty three out of the 56 compensatory afforestation plantations raised on Jhabua 'land bank' during the period 1997-2000 failed due to non-allotment of funds by the Government for maintenance and protection of plants, resulting in wasteful expenditure of Rs.2.04 crore.

(Paragraph 3.2.6.4)

Department failed to recover Net Present Value amounting to Rs.350.99 crore from nine user agencies in 18 projects.

(Paragraph 3.2.7.1)

Catchment area treatment (CAT) was not carried out in six of the eight projects where it was stipulated by the GOI as a condition for diversion of forest land. Funds of Rs.30.51 crore on account of cost of catchment area treatment were not/short realised from the user agencies. Only 2.2 per cent of the total funds required for CAT had been spent.

(Paragraph 3.2.8)

3.2.1 Introduction

The objective of Forest (Conservation) Act, 1980, referred to as Act hereafter, is to regulate the indiscriminate diversion of forest land for non-forest uses and to maintain a logical balance between the developmental needs of the country and the conservation of natural heritage. Under the provisions of this Act, prior approval of the Government of India (GOI) is essential for diversion of forest lands for non-forest purposes. While approving a proposal, the Central Government stipulates certain conditions to reduce the environmental damage on account of forest loss. These conditions include mandatory carrying out of compensatory afforestation (CA) and other project specific conservation measures such as catchment area treatment in water resources projects, creation of safety zone, reclamation of opened areas in mining projects and strip plantation in case of highway projects etc. The cost of conservation measures is borne by the user agency. Further, as per directions of the Hon'ble Supreme Court of India, the GOI has also stipulated for realization of net present value of the diverted forest land from the user agencies. The proposals for diversion of forest land for non-forest use are processed by the Forest Department. It is the responsibility of the Forest Department to ensure that no forest land is diverted without the permission of the GOI and conditions of the GOI and State Government, if any, for diversion of the forest land are complied to.

3.2.2 Organisational set-up

The Department of Forests is headed by the Principal Secretary (Forests) at the Government level. Chief Conservator of Forests (Land Management) in the office of the Principal Chief Conservator of Forests (PCCF) has been designated as the Nodal Officer, who deals with the cases of diversion of forest land for non-forest use in the State. He is assisted by Conservators of Forests and 60 Divisional Forest Officers (Territorial/General) at the field level.

3.2.3 Audit objectives

Objectives of the performance audit were to assess whether:

- provisions of the Act were followed by the State Government in case of diversion of forest land for non-forest purpose;
- conditions imposed by the GOI and the State Government for diversion of forest land were adhered to;
- mandatory conservation measures such as compensatory afforestation, catchment area treatment etc. were carried out effectively and efficiently;
- financial management was effective; and
- system of monitoring and evaluation was in place and effective.

3.2.4 Audit scope and criteria

The scope of performance audit included test check of records in the Nodal office and 17 forest divisions¹. Selection of divisions was done after discussion with the State Government during Entry Conference (April, 2007). Divisions were selected to represent all the major geographical areas of the State and various types of projects such as irrigation, mining, power, roads etc. for which forest land were diverted. Records pertaining to the period from 1997-98 to 2006-07 were examined in detail. The performance audit was conducted by this office during April to July, 2007. Exit conference was held in November 2007 and comments of State Government have been incorporated accordingly.

Performance of the forest department was evaluated against the provisions of the Act, rules and guidelines framed by the Central Government under the Act, conditions stipulated by the Central and the State Government while granting approval for diversion of forest land and the instructions issued by the forest department to territorial forest divisions.

Audit findings

3.2.5 Cases of violation of the Act

3.2.5.1 Utilization of forest land for non-forest purposes without obtaining prior approval from the Central Government

The Act stipulates that no forest land should be utilized for non-forest purpose without prior approval of the Government of India.

Scrutiny of the records of eight forest divisions² revealed illegal diversion of 1507.391 hectare of forest land in 41 cases by eleven user agencies³. Prior approval from the Government of India was not obtained in these cases. Further, scrutiny of records in Sehore and Satna territorial divisions revealed illegal diversion of 8.606 hectare forest land by two user agencies⁴ in excess of the area approved by the Central Government.

Illegal diversion of forest land without permission of the Government of India

1. *Badwaha, Betul (North), Chhindwara (West), Dewas, Guna, Indore, Jhabua, Katni, Khandwa, Mandla, Morena, Satna, Sehore, Seoni (North), Shivpuri, Umaria and Vidisha*

2. *Betul (North), Chhindwara (West), Damoh, Indore, Jhabua, Satna, Sheopur, and Umaria*

3. *Western Coalfields Ltd., South Eastern Coalfields Ltd., Sharda Management Committee, Water Resources Department, RES Division Jhabua, RES Division Sheopur, Janpad Panchayat Jabera, Public Works Department, Rajiv Gandhi Mission, Tendukheda Janpad Panchayat, and Gram Panchayat, Amlipada.*

4. *M/s Maihar Cement Ltd. and Water Resources Department*

Violation cases not reported to the Central Government

3.2.5.2 Penal action not initiated for violation of the Act

As per the provisions of the Act, cases of violation of the Act were required to be reported by the State Government to the Central Government so that penal action under section 3-A and 3-B of the Act could be initiated. It was noticed during audit that neither 43 cases of violation of the Act were brought to the notice of the Central Government nor any penal action was initiated in any of the cases.

The State Government stated that the cases were under scrutiny and would be reported to the Government of India after establishing violation of the Act. However, the fact remains that not a single case was reported to the Government of India despite lapse of one year to eight years since violation of the Act. Further, section 468 of Criminal Procedure Code, 1973 bars Courts to take cognizance of an offence after lapse of the period of limitation. Period of limitation is one year for offences under the Act, as the offence is punishable with imprisonment for a term not exceeding one year.

3.2.6 Compensatory afforestation : Non-carrying out and failure of compensatory afforestation plantations and other issues

In order to mitigate the adverse effects of diversion of green forest lands the Central Government, while granting approval under the Act, stipulated to carry out the compensatory afforestation (CA) over equivalent area of non-forest land or double the degraded forest land. The cost of such CA was to be borne by the user agency.

3.2.6.1 Scrutiny of records in the Nodal office revealed the following status⁵ of compensatory afforestation since the implementation of the Act in 1980.

Total number of projects since 1980	Total forest land diverted since 1980 (in hectare)	Area on which CA was stipulated (in hectare)	Number of projects where CA has not been done at all	Stipulated area where CA has not been done at all (in hectare)	Funds made available by the user agencies (Rupees in crore)	Funds utilized for CA till June, 2006 (Rupees in crore)
734	51,018	73,213	289	13,441	109.77	27.17

75 per cent of the CA funds remained unutilized.

Only 25 per cent funds had been utilized for compensatory afforestation out of Rs.109.77 crore made available by user agencies since implementation of the Act in 1980. Also, CA has not been carried out at all in 289 projects (39 per cent) and 13,441 hectare (18 per cent) of the stipulated land. In other words, there has been no compensatory conservation effort against the diversion of 9,853 hectare of forest land to 289 projects for non-forest use.

3.2.6.2 A detailed scrutiny of the records of 17 forest territorial divisions was done by audit where forest land was diverted for non-forest use during the last ten years i.e. 1997-98 to 2006-07. The results are as below :

⁵ As in June 2006.

Total number of projects where forest land was diverted between 1997-98 and 2006-07	Total forest land diverted (in hectare)	Area on which CA was stipulated (in hectare)	Number of projects where CA has not been done at all	Stipulated area where CA has not been done at all (in hectare)	Funds made available by the user agencies (in crore)	Funds utilized for CA as on 31.03.07 (in crore)
96	8915.214	7060.979 ⁶	67	5340.197	38.37	2.31

Compensatory afforestations not carried out due to non-release of funds.

The above table shows that only Rs.2.31 crore (six *per cent*) were utilized for CA out of Rs.38.37 crore made available by user agencies during the last ten years. Also, CA has not been carried out at all in 67 cases (70 *per cent*) and 5340.197 hectare (76 *per cent*) of the stipulated land.

The DFOs stated that CA could not be carried out due to non-allotment of funds by the Government in 64 cases and non-transfer of non-forest land by the user agency in one case. It was, however, noticed during audit that the divisions also did not pursue for allotment of funds from the Government. In the remaining two cases, it was noticed that CA was not carried out despite availability of funds with the divisions.

Failure of plantations due to improper maintenance, protection and site selection.

Further, 29 compensatory afforestations that were carried out during the review period were evaluated between August 2004 and April 2007 by the forest divisions⁷. These plantations had failed as the survival ratio of plants ranged from nil to 10 *per cent*. Thus Rs.15.68 lakh spent on these plantations were rendered wasteful. Main reasons for failure of these plantations were improper protection and maintenance of plants, and selection of unsuitable land for plantation by the forest divisions. Responsibility for failure of these plantations was not fixed in any of these cases by the Forest Department.

3.2.6.3 Compensatory afforestations are also evaluated by the regional office of Chief Conservator of Forests (Central), Ministry of Environment and Forests, GOI, Bhopal. Scrutiny of 67 inspection reports⁸ made available to audit revealed that CA was not carried out in 34 cases (51 *per cent*) due to non-allotment of funds by the Government in 25 cases, non-depositing of funds by user agencies in five cases, non-availability of non-forest land in two cases and non-suitability of land for CA in the remaining two cases.

Out of the 33 cases where CA was carried out, 18 plantations⁹ raised during the period from 1998-99 to 2004 had failed resulting in wasteful expenditure of Rs.8.82 lakh. In seven of these failed plantations raised in the year 2000

⁶ Includes Non-forest land of 1631.528 hectares and Degraded forest land of 54,29.451 hectare

⁷ 20 of these plantations were assessed by the forest divisions during March and April, 2007 on the request of audit. In addition to this, joint physical verification of four plantations of Guna and Dewas divisions was done in October, 2007.

⁸ A total 78 inspections were carried out during the last two years by the regional office.

⁹ 10 plantations belong to the year 1998-99, seven belong to the year 2000, and one belongs to the year 2004.

survival rate of plants was zero. Reason for failure was non-allotment of funds by the Government for maintenance of plants.

95 per cent of plantation raised under CA in Jhabua had failed due to paucity of funds.

3.2.6.4 Scrutiny of records of Jhabua territorial division revealed (May 2007) that 56 plantations were raised in 2608.018 hectare of Land Bank during the period from 1997 to 2000 at a cost of Rs.2.23 crore. DFO, Jhabua was requested for evaluation of these plantations in March 2007. Assessment of these plantations by the forest department personnel between March and May 2007 revealed low survival of plants (zero to 20 per cent) in 53 plantations resulting in wasteful expenditure of Rs.2.04 crore.

The DFO Jhabua stated that the main reason for failure of these plantations was non-allotment of funds for maintenance and protection of plants by the State Government. It was, however, noticed during audit that the division also did not pursue for allotment of funds from the Government. The Forest Department failed to monitor these plantations and accountability/responsibility for failure of these plantations was not fixed in any of these cases which reflected the indifferent attitude of the department.

In six similar cases in Harda Division (May 2005), compensatory afforestation plantations had failed. These plantations were raised by Narmada Valley Development Authority (NVDA) during 1997-98 and were assessed in the year 2002. As the survival ratio of plants was six to 17 per cent, the expenditure of Rs.40.89 lakh proved wasteful.

The Government while accepting the audit observation assured that responsibility would be fixed for failure of plantations.

3.2.6.5 Non/short realization of charges for compensatory afforestation

Monitoring and Evaluation charges not recovered from user agencies

The departmental instructions (February 2004) for preparation of project report for compensatory afforestation, prescribe that provision for monitoring and evaluation charges should be made at the rate of 20 per cent per hectare of the estimated cost of plantation.

Test check of the records relating to diversion of forest land for non-forest use in 12 forest divisions¹⁰ revealed that requisite provision for monitoring and evaluation charges at the prescribed rate was not made in 34 compensatory afforestation project reports. This resulted in non/short-realization of Rs.3.90 crore from 12 user agencies¹¹.

The DFOs stated that action would be taken after obtaining guidance from the higher authorities. Reply of the DFOs was not tenable in view of clear departmental instructions (February 2004).

¹⁰ Badwah, Betul (North), Chhindwara (West), Dewas, Indore, Jhabua,, Katni, Morena, Satna, Seoni (North), Shivpuri, and Umaria

¹¹ MPSEB, M/s Enercon Ltd., National Highway Authority of India, Indian Oil Corporation, State Mining Corporation, ACC Kaimur, PWD, Indian Railways, All India Chandravanshi Samaj, Balaji Marbles & Tiles, Maa Sharda Management Committee and M/s Power Grid Corporation of India Ltd.

Similarly, requisite provision for works relating to entry point activities and human resource development at the rate of 12 and three *per cent*, respectively, was not made in 46 project reports prepared by 13 forest divisions¹² despite clear departmental instructions for the same in February 2002. This resulted in short/non-realization of Rs.3.17 crore.

The Government while accepting the audit observation assured that the Nodal Officer would issue instructions to the forest divisions for recovery of the above mentioned charges from the user agencies.

3.2.6.6. Non-forest land not transferred for CA and not notified as Reserve/Protected Forest

Non-forest land not transferred to the forest department for carrying out CA

As per guidelines issued under the Act by the GOI, equivalent non-forest land (NFL) identified for the purpose of CA was to be transferred to the ownership of the State Forest Department and declared as reserved/protected forest under the Indian Forest Act, 1927 so that the plantation raised could be maintained permanently. The transfer of NFL was to be made prior to the commencement of the project.

Scrutiny of the records of 13 forest divisions¹³ revealed the following status of transfer and subsequent notification of the non-forest land that was to be made available for CA since the implementation of the Act.

Total projects where NFL was to be made available	Total NFL that was to be made available (hectare)	Number of projects where NFL not transferred	NFL not yet transferred (hectare)	NFL transferred (hectare)	NFL not declared as Reserve Protected forest (hectare)
49	4,859	8	2,994	1,865	1,141

About 62 *per cent* of the total NFL identified for carrying out CA had not been transferred by the user agencies¹⁴ despite diversion of forest land for non-forest use. In eight projects where NFL of 2,994 hectare had not been transferred by user agencies, forest land was diverted during the period 1982 to 1996. Forest Department failed to take any effective steps to obtain non-forest land from the user agencies. Also, 61 *per cent* of the NFL transferred to the forest department by user agencies had not been declared Reserve/Protected forest by the forest department.

The DFOs stated that efforts were being made to obtain and notify the non-forest land. The reply is not tenable in view of guidelines issued by the Ministry of Environment and Forests and the delay of 11 to 24 years in transfer of land and one to 17 years in getting the transferred land notified as

¹² Shivpuri, Khandwa, Badwah, Guna, Katni, Umaria, Mandla, Indore, Jhabua, Vidisha Betul (North), Seoni (North) and Chhindwara (West)

¹³ Chhindwara (South), Chhindwara (West), Dewas, Guna, Katni, Mandla, Satna, Sehore, Seoni (North), Seoni (South), Shivpuri, Umaria and Vidisha..

¹⁴ Water resources department, SECL, WCL and National Fertilizer Ltd., Vijaypur.

reserve/ protected forest was not justified. The State Government stated that the cases would be examined to assess possibility of carrying out CA on double the degraded forest land instead of equivalent non-forest land in such cases, where NFL had not been transferred to forest department for many years.

3.2.6.7 Deviation in working circle for compensatory afforestation

Compensatory afforestation not done in RDF working circles.

Departmental instructions (February 2002) require that compensatory afforestation should be done only for Rehabilitation of Degraded Forest (RDF), Rehabilitation of Degraded Bamboo Forest (RDBF) and Plantation working circles as the density of forests in these working circles is less than 0.4. If forest divisions do not have any of these working circles, CA should be carried out in another forest division having these working circles.

Scrutiny of records of Indore and Badwah forest division revealed (April 2007) that five plantations were carried out over 71.994 hectare at a cost of Rs.12.30 lakh in Improvement Working Circle (IWC) and Coppice with Reserve (CWR) working circles¹⁵ during the period 2004-07 in contravention of the departmental instructions. Further, scrutiny of site specific CA projects of Badwah and Shivpuri divisions revealed that three CA plantations over 282.388 hectare had been planned in the IWC/CWR working circles in contravention of the departmental instructions.

The DFO Indore stated that CA was done in IWC due to non-availability of RDF working circle in the division. DFO, Badwah and Shivpuri stated that the proposed area for CA was equivalent to RDF areas. The reply is not tenable in view of departmental instructions.

3.2.6.8 CA project of Omkareshwar project not revised

As per GOI guidelines and departmental instructions (December 2001 and February 2002), project report for compensatory afforestation should be site-specific.

Scrutiny of the records of Nodal Office revealed (July 2007) that the GOI granted in-principle/formal approval (October 1993/August 2004) for diversion of 5,829.85 ha forest land to Omkareshwar Project subject to condition of carrying out of CA over 11,660 ha degraded forest land. The action plan for CA was prepared in the year 1991 at a cost of Rs.21.98 crore (Rs.18,851 per ha.) whereas the work of CA was started by Narmada Valley Development Authority (NVDA) in the year 2002-03 (in Khandwa and Badwah). It was noticed during audit that site-specific project was not prepared before carrying out CA taking into account the cost escalation during the last 12 years.

Further, as per scrutiny of 23 project reports of Badwah and Khandwa prepared during 2002-04, the average cost of CA comes out to Rs.1.18 lakh per ha. Accordingly, CA project of Omkareshwar needs revision by taking into account the cost escalation.

¹⁵ Density of forests in these working circles is more than 0.4.

3.2.7. Non/short-realization of Net Present Value and *Pratyasha Mulya*

3.2.7.1 Non/short-realization of Net Present Value (NPV) of diverted forest land

NPV amounting to Rs.350.99 crore was not recovered from user agencies.

As per instructions of the Government of India, Ministry of Environment and Forests (September 2003), NPV of the diverted forest land shall be charged¹⁶ from the user agency in all those projects which were granted in-principle¹⁷ approval after 30 October 2002. The underlying principle for recovery of NPV is that the plantations raised under the CA scheme can never adequately compensate for the loss of natural forests as the plantations require more time to mature and even then these plantations are poor substitute to natural forests. Further in compliance of the orders of Hon'ble Supreme Court (September, 2006), the Ministry instructed (October 2006) that NPV should be charged in those cases also where formal approval was granted after 30 October 2002 irrespective of the date of in-principle approval by the GOI.

Scrutiny of records of nine forest divisions¹⁸ revealed that NPV amounting to Rs.350.99 crore was not/short recovered from nine users/user agencies¹⁹ in 18 projects.

The Government stated that the demand for recovery of Rs.350.99 crore had been raised from the user agencies at the instance of audit. An amount of Rs.11.21 lakh was recovered by DFO Dewas at the instance of audit.

3.2.7.2 Non-realization of "*Pratyasha Mulya*"

The Government of Madhya Pradesh (GOMP), Forest Department prescribed (April 2000) realization of "*pratyasha mulya*" from user agencies in lieu of diversion of forest land for non-forest use under the Forest (Conservation) Act, 1980. The rates were prescribed between Rs.5.80 lakh and Rs.9.20 lakh per hectare depending on site quality and density of the diverted forest land.

Test check of records relating to diversion of forest land for non-forest use in eight forest divisions²⁰ revealed that 1330.539 hectare of forest land was

¹⁶ @ Rs.5.80 lakh to Rs.9.20 lakh per hectare depending upon the quality and density of the forest land being diverted for non-forest purposes.

¹⁷ Approval by the GOI is granted in two stages viz. in-principal approval and formal approval. Formal approval is granted only after conditions laid down in in-principal approval are met.

¹⁸ Badwah, Bhopal, Dewas, Guna, Indore, Katni, Khandwa, Satna and Shivpuri.

¹⁹ MPEB, NVDA, Water Resources Department, Public Works Department, Maa Sharda Devi Trust, Nitin Jain, Anil Jain, Manish Dixit and Babu Khan.

²⁰ Balaghat (North), Balaghat (South), Jhabua, Seoni (North), Seoni (South), Shahdol (South), Shivpuri and Vidisha.

diverted to four user agencies²¹ for non-forest use between July 2000 and September 2002 but "Pratyasha mulya" of Rs.78.14²² crore was not realized from the user agencies resulting in loss of revenue to the Government.

The Government replied that action for recovery of *Pratyasha Mulya* would be taken in cases where forest land was handed over to the user agencies between April 2000 and October 2002.

3.2.8. Catchment area treatment

Catchment area treatment not carried out despite stipulation by the GOI

Catchment area treatment is one of the important conditions imposed by Government of India, while granting permission under the Act for diversion of forest land for medium and major irrigation projects and hydro-electric projects of 10 MW and above capacity. It involves treatment of erosion prone areas in the catchment area of a water resources project through engineering and biological works²³ and is essential for preventing siltation of reservoirs and maintaining environmental balances.

Scrutiny of records of Vidisha, Shivpuri, Umaria, Satna, Indore and North Seoni forest divisions revealed the following status of catchment area treatment in water resources projects for which forest land had been diverted under the Act.

Sl. No	Name of the division	Name of the project	Diverted forest land area (ha.)	Final sanction by GOI	Amount to be deposited by user agency (Rupees in lakh)	Amount deposited by user agency (Rupees in lakh)	Expenditure incurred till 31 March 2007
1.	2.	3.	4.	5.	6.	7.	8
1.	Vidisha	Sanjay Sagar (Wah)	304	31 October 2005	816.20	Nil	Nil
2.	Umaria	Van Sagar Project	293	10 July 1989	3.70	Nil	Nil
3.	Shivpuri	Madhar Tank	180	15 September 1993	18.00	Nil	Nil
4.	Shivpuri	Mohini Sagar Dam Phase-II	3106	05 December 2000	5070.19	2922.00	Nil
5.	North Seoni	Upper Van Ganga Irrigation Project	923	14 June 2002	-- ²⁴	Nil	Nil
6.	Indore	Katiajhria Tank	11	31 August 2002	2.50	2.50	Nil
7.	Satna	Watershed under Van Sagar Project	2550	10 July 1989	217.00	151.58	109.66
8.	Vidisha	Rajeev Sagar (Maksudan-garh)	129	20 April 1993	61.52	61.52	28.20
	Total	8	7496	--	6189.11	3137.60	137.86 (2.2%)

²¹ *Bharat Oman Refineries Limited, Bombay; South Eastern Coal fields Limited; Water Resources Department, Government of Madhya Pradesh; and MPEB.*

²² *calculated at the minimum rate of Rs.5.80 lakh per hectare in five projects and Rs.8.60 lakh per ha in one project.*

²³ *Engineering works include construction of stop/check dams and biological works mainly include plantations.*

²⁴ *Project report for catchment area treatment was not prepared by the forest department*

Audit observed that catchment area treatment was not carried out at all in six of the eight projects inspite of the GOI's condition for diversion of forest land. Reasons for non-carrying out catchment area treatment in these six projects were non-recovery of funds from the user agencies (four projects) and failure to spend the funds recovered from the user agencies (two projects) by the State Government.

As a result, only 2.2 *per cent* of the total funds required for catchment area treatment were spent while forest land of 7,496 hectare has been transferred for non-forest use two to 18 years ago.

The DFO Vidisha and Satna stated that necessary action was being taken to collect the money and complete the work. The State Government replied that the cases of non-carrying out of catchment area treatment would be examined in detail and reasons would be communicated to audit.

3.2.9. Status of compliance on other conditions

3.2.9.1 Safety zones not created around the mining area

As per guidelines issued by the GOI (October 1992) under the Act, safety zones were to be created around the forest areas diverted for mining operations. Further, project authorities were required to deposit funds with the forest department for the protection and regeneration of such safety zone areas and bear the cost of afforestation over one and half times the safety zone area in degraded forest elsewhere.

Scrutiny of the records of Jhabua, Vidisha and North Betul divisions revealed that safety zones were not created in seven mining projects involving diversion of 504.739 hectare of forest land. In a case of Jhabua Division, provision for Rs.14.97 lakh was made for safety zone, but funds were not demanded from the user agency Madhya Pradesh State Mining Corporation Ltd., Meghnagar. In six mining cases of Vidisha and North Betul, no provision for safety zone was made by the Forest Department, in contravention of the guidelines, while sending proposals to the Central Government.

The DFO Jhabua stated that demand of Rs.14.97 lakh would be raised from Madhya Pradesh State Mining Corporation Ltd., Meghnagar. The Government stated that instructions would be issued to the divisions to ensure provision of safety zones are made as per the GOI guidelines.

3.2.9.2 Non-reclamation of mining area

According to the guidelines issued under the Act, the diverted forest land opened for mining was to be systematically reclaimed according to a phased reclamation plan and the cost of reclamation was to be borne by the user agency.

Scrutiny of records of Jhabua, Vidisha and Satna forest divisions revealed that the GOI stipulated reclamation of opened mining areas while granting

approval for diversion of 65.671 hectare of forest land to four user agencies²⁵ for six mining projects. In one case of Jhabua Division, provision for Rs.66.43 lakh was made for reclamation, but funds were not demanded from the user agency viz. State Mining Corporation. Forest land of 37.7 hectare was diverted in this case in February, 2007. In two cases of Vidisha Division, reclamation was not initiated despite expiry of the lease period in July, 2003 and January, 2006. In remaining three cases of Satna Division, partial reclamation was done by the user agency viz. Maihar Cement Company after expiry of the lease period between February 2001 and April, 2005.

The DFO's Jhabua and Vidisha stated that the necessary action would be taken. The State Government stated that a uniform policy for collection of charges for reclamation of opened mined areas would be devised.

3.2.9.3 Environment clearance not obtained

Scrutiny of records of four divisions²⁶ revealed that the GOI granted permission for diversion of 1440.597 hectare forest land in six projects with the condition that environment clearance under the Environment (Protection) Act, 1986 be obtained by the user agencies. It was noticed during audit that the user agencies were permitted by the Forest Department to use the forest land for non-forest purposes without obtaining environment clearance.

The Government assured to take action for obtaining environment clearance in these cases.

3.2.10 Financial Management

3.2.10.1 CA and NPV Funds not deposited in PD account

As per directions issued by the State Government (December 1999 and December 2004), the amount received from user agencies on account of CA, Net Present Value, and reclamation of opened mines etc. was to be deposited in a Personal Deposit (PD) account in the name of the concerned Divisional Forest Officer in the District Treasury.

Scrutiny of the records of six forest divisions²⁷ revealed that an amount of Rs.2.68 crore received from user agencies on account of CA, NPV etc. in 12 projects was deposited under forest revenue/other reserve funds instead of PD accounts. As a result, this amount was not available for carrying out the stipulated conservation measures for which it was received, during the period 2000-01 to 2005-06.

Money received from user agencies deposited either as State Revenue or other reserve funds.

²⁵ *MP State Mining Corporation, G.S Yadav, Singh Enterprises, and Maihar Cement Company*

²⁶ *Indore, Betul (North), Seoni (North) and Chhindwara (West).*

²⁷ *Balaghat (North), Chhindwara (West), Guna, Satna, Sehore, Seoni (North)*

The Government while accepting the audit comment stated that the transfer of the above mentioned funds to PD account would be ensured after obtaining details from the forest divisions.

3.2.10.2 Utilization of NPV funds in contravention of GOI instructions

Based on the orders of Hon'ble Supreme Court dated 30 October 2002, the GOI instructed the State Governments (July, August, and September 2003) to charge NPV of the diverted forest land from user agencies. The NPV so realized was to be transferred to Compensatory Afforestation Management and Planning Authority (CAMPA), as and when created.

Scrutiny of the records of nodal office revealed that an amount of Rs.5.79 crore was spent out of NPV funds by the Forest Department on purchase of vehicles, computers, construction works and other forestry works in contravention of the directions of Hon'ble Supreme Court and the GOI.

The nodal officer stated (July 2007) that the amount was released and utilized before the clarification (April, 2006) of GOI that only funds received on account of cost of CA were to be utilized. The reply was not tenable in view of the directions of Hon'ble Supreme Court and the GOI vide which the NPV funds were collected from user agencies on behalf of CAMPA.

3.2.11 Monitoring and Evaluation

3.2.11.1 Monitoring of implementation of conditions

**Monitoring and
evaluation not done
by higher authorities**

According to departmental instructions (December 2001), CA plantations should be monitored and evaluated at the level of Conservator of Forests twice in a year, at headquarters level once in a year and by an outside agency after three years. Further, GOI guidelines require that the nodal officer should monitor the implementation of the conditions of compensatory afforestation and the survival ratio of the seedlings planted.

Scrutiny of records of 10 forest divisions²⁸ revealed that 27 out of the 29 CA plantations were not monitored and evaluated at all by the nodal officer, the Conservators of Forests or an outside agency or any of their representatives.

The nodal officer stated that monitoring and evaluation could not be done due to shortage of staff. Though the Conservators of Forests were directed to constitute monitoring committees for CA plantations in April, 2005, it was, however, noticed in audit that monitoring of CA plantations was not done by such committees. Regarding evaluation by an outside agency, the nodal officer requested (June, 2007) the State Forest Research Institute (SFRI), Jabalpur and Tropical Forest Research Institute (TFRI), Jabalpur consequent to audit.

²⁸ *Badwah, Betul (North), Dewas, Guna, Indore, Katni, Khandwa, Satna, Seoni (North) and Vidisha.*

As per guidelines issued by the Central Government (October 1992), the nodal officer should submit quarterly progress report regarding implementation of the stipulations laid down by it. Scrutiny of records of CCF (LM) revealed (July 2007) that no such quarterly progress report was found to be sent to Government of India (GOI) up to March 2007. The nodal office did not have a comprehensive database of cases alongwith the conditions stipulated by the GOI for effective monitoring.

3.2.11.2 Delay in sending proposals to Government of India

Abnormal delays in clearance of proposals

As per the guidelines (October, 1992) and rules (January, 2003) framed under the Act, every State Government, after having received the proposal for diversion of forest land for non forest purposes and after being satisfied that the proposal requires prior approval under the Act, shall send the proposal to the Central Government in the appropriate form, within ninety days of the receipt of the proposal from the user agency.

Scrutiny of the records of fifteen²⁹ forest divisions revealed that 84 proposals for diversion of forest land were received from the user agencies. 52 proposals (62 per cent) were sent to the GOI after the prescribed period of ninety days. Average delay in these 52 cases was nine months ranging between one to 32 months.

The DFOs stated that cases could not be forwarded to the GOI in time due to non receipt of requisite information and documents from the user agencies. Reply is not tenable as the extent of delay was calculated by audit from the date of receipt of complete information and documents from the user agencies.

3.2.12. Conclusion

Forest (Conservation) Act, 1980 was enacted with the objective of maintaining a sustainable balance between the developmental needs of the country and the conservation of natural environment. This objective largely remains un-achieved in the State of Madhya Pradesh due to poor implementation of compensatory conservation measures. Non-carrying out of conservation measures in large number of cases; non-utilization of funds received from user agencies; and failure of significant number of compensatory plantations reflect that the State Government was unable to mitigate the adverse effects of degradation of the environment resulting from diversion of green forests for non-forest purposes. Further, there were significant cases of violation of the Act where neither any penal action was initiated by the Government nor any compensatory conservation measures was carried out after getting these cases regularized from the Central Government.

²⁹ Badwah, Betul (N), Chhindwara (W), Dewas, Guna, Indore, Jhabua, Katni, Khandwa, Mandla, Morena, Satna, Seoni (N), Shivpuri and Umaria.

3.2.13. Recommendations

- Funds received from user agencies which are required to be remitted to CAMPA should be identified and made available to CAMPA.
- Compensatory afforestation and catchment area treatment projects that have not been carried out for many years due to various reasons should be implemented as per the guidelines and costs.
- Proper monitoring and timely disposal of cases should be ensured at the nodal office. Also, a comprehensive computerized database of the cases may be maintained for better monitoring.
- User agencies such as State Water Resources, Mineral Resources, and Public Works departments etc. may be sensitized by organizing workshops on the provisions of the Act. Workshops for field level officers of the Forest Department may also be organized on latest instructions/guidelines of the Central Government under the Act.