

GOVERNMENT OF MAHARASHTRA

No.S-30/2008/C.R.No.375/F3

Revenue & Forest Department,
Mantralaya, Mumbai-400032.

24th November, 2008

To,
The Member Secretary,
Central Empowered Committee,
Chanakya Bhawan, Chanakyapuri,
New Delhi.

Sub: Interlocutory Application 2352-2353 filed
by the State of Maharashtra.

Sir,

In light of the discussions ensued on Tuesday the 11th November 2008 on the Interlocutory Application No.2352-2353 filed by the State of Maharashtra, in connection with the SLP No.19677/08 filed against the order of the Hon. High Court, Mumbai dt.24.3.08 the State submits as under:

At the outset, it is stated that as the State Cabinet had resolved on 4th & 16th October, 2006 – the State intended to seek exemption from payment of the Net Present Value and from offering of the equivalent non forest land in lieu of the permissions being granted for non forestry use on the Private Forests restored under the Maharashtra Private Forest (Acquisition) Act 1975. Only the afforestation charges be collected, the State felt. No distinction was made between the cases of different periods or on the ground of non-forestry use, they were put to. It was so thought as the amendment of restoring up to 12 hectares of the area to their respective owners was made to the principal Act in the year 1978 as the people were being deprived of their source of livelihood. However, the request of the State got modified in the deliberations held at various levels thereafter and finally the IA 2352-2353 came to be filed with the Hon. Supreme Court on 28.8.2008.

As for the suggestions made during the meeting on 11.11.2008 the State is agreeable to the proposition of the Central Empowered Committee that the area coming under the provisions of the Maharashtra Private Forest (Acquisition) Act 1975 which was not recorded as Private Forest in the

Revenue Records till 22nd June 2005 (when the Hon. High Court Mumbai passed the orders directing the State to update the Private Forest record) and on which constructions were undertaken with due permissions from the Competent Authorities be treated separately from the proposal submitted by the State Government for resolving the problem. However, the State requests the Central Empowered Committee to consider the Commencement Certificate in place of the Occupation Certificate for the purpose deciding the constructions with due permissions. The Commencement Certificate is granted after approval of the plans. Occupation Certificates in very many cases are granted late for no fault of the inhabitants.

However, the areas allotted by the State for public purposes such as slum rehabilitation, resettlement of refugees, Govt. Hospitals and other public institutions like Bhaba Atomic Energy Centre be treated as out of the provisions of the Maharashtra Private Forest (Acquisition) Act. 1975.

The State also undertakes to submit a consolidated proposal to the Govt. of India for the areas mentioned above, for the entire State after collecting the relevant information from the Urban Department. The information so collected shall be displayed on the website for a week for crosschecking before the proposal is submitted.

The State also hereby agrees with the proposition of the CEC for keeping the areas mentioned above out of the purview of the Sections 6 and 22 A of the Maharashtra Private Forest (Acquisition) Act. 1975. However, the State requests the CEC to recommend explicit mention of the stipulation in the order to be issued by the Hon. Supreme Court in this regard, as these are existing legal provisions available to the owners falling in these categories.

For the areas of the Maharashtra Private Forest not being covered by the above proposition, the CEC may kindly consider the suggestion of the State Government as proposed in the IA. The CEC may kindly take into consideration the fact that many of the farmers are marginal and are unable to pay even the afforestation charges, not to speak of the Net Present Value for undertaking their legitimate agricultural and associated activities. Their case certainly needs sympathetic consideration. Distinction may however be made for the people undertaking commercial activities.

Yours faithfully,

(Rajendra Mangrulkar)
Joint Secretary