

Executive Summary

Background

The Supreme Court of India directed in October 2002 that a 'Compensatory Afforestation Fund' (CAF) shall be created in which all the monies received from the user-agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forest land, catchment area treatment plan funds, etc. shall be deposited. CAF was to compensate for the loss of tangible as well as intangible benefits from the forest lands which were diverted for non-forest use. Such funds were to be used for natural assisted regeneration, forest management, protection, infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities. The Court observed that the fund would not be part of general revenues of the Union, of the States or part of the Consolidated Fund of India.

Ministry of Environment and Forests (MoEF) notified the Compensatory Afforestation Management Funds Management and Planning Authority (CAMPA) in April 2004 for the management of the compensatory afforestation fund.

The Supreme Court of India observed in May 2006, that CAMPA had still not become operational and ordered the constitution of an ad-hoc body (known as 'Ad-hoc CAMPA'), till CAMPA became operational. The Court ordered that all monies recovered on behalf of the CAMPA and lying with the various officials of the State Government were to be transferred to Ad-hoc CAMPA and to get audited all the monies received from the user agencies on behalf of the CAMPA and the income earned thereon by the various State Government officials. The auditor was to be appointed by the Comptroller and Auditor General of India.

The audit of Compensatory Afforestation in India was taken up as per aforesaid order of Supreme Court and reference thereon from the Minister of Environment and Forests in January 2012.

During the period 2006 and 2012, the Compensatory Afforestation Funds with Ad-hoc CAMPA grew from ₹ 1,200 crore to ₹ 23,607.67 crore.

Audit Objectives

The objectives of the compliance audit on Compensatory Afforestation in India were to examine:

- whether the diversion of forest land for non-forest use was permitted as per extant laws and all conditions in this regard were complied with;
- whether measures taken for conservation, afforestation and preservation of forest lands consequent to diversion of portions of these lands for non-forest use were as per provisos of extant legislation, rules and Supreme Court judgments in this regard;
- whether the collection, utilisation, monitoring, accounting and the arrangement for safeguarding of compensatory afforestation funds was in compliance with applicable legislation, rules and Supreme Court judgements permitting diversion of forest land for non forest purposes; and
- whether proper financial procedures had been followed in investing funds.

Diversion of forest land and Compensatory Afforestation

We noticed 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.

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 revealed that against the receivable non-forest land of 1,03,381.91 hectare, 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 worked 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 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 to 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 Uttrakhand, equivalent or more non-forest land was received.

Audit also observed instances where express orders of the Supreme Court were flouted by Andhra Pradesh State Electricity Board where the diversion of forest land in Nagarjunasagar Dam 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.

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 were observed. 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 Forest (Conservation) 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 only limited to issue of show cause notices. In our opinion penal clause prescribed in the Forest (Conservation) Act, 1980, was largely inadequate and ineffective to put any deterrence towards illegal and unauthorised practices.

Collection of Compensatory Afforestation Funds

The Ad-hoc CAMPA was ineffective in ensuring complete and timely transfer of all monies collected by States/Union Territories (UT)s towards Compensatory Afforestation Fund to the Ad-hoc CAMPA accounts. There is no assurance that all the monies collected for compensatory afforestation funds by States/UTs have been deposited in the Ad-hoc CAMPA

accounts. This could have been ensured only if a centralised data base indicating project wise amounts due, collected, remitted (or utilised by States/UTs prior to formation of Ad-hoc CAMPA) and balance lying with States/UTs was created. Divergence in data of transfer of funds available with Ad-hoc CAMPA and collected from States/UTs was ₹ 6,021.88 crore which was 26.32 *per cent* of the principal amount with Ad-hoc CAMPA. Non-reconciliation of the same over years not only indicates laxity in controls but also raises doubts on the reliability and completeness of the data provided by all agencies concerned. Our test check also revealed that 23 State/ UTs had, at the least not transferred ₹ 401.70 crore of compensatory afforestation fund to Ad-hoc CAMPA.

Non recovery/ under assessment of Net Present Value and funds for Compensatory Afforestation/Additional Compensatory Afforestation/Penal Compensatory Afforestation/Catchment Area Treatment Plan on the basis of a test check in audit was ₹5,311.16 crore which constituted 23 *per cent* of the total principal amount with Ad-hoc CAMPA as on 31 March 2012. In some of the States where the amounts of non/ short recovery were significant include Odisha (₹ 1,235.26 crore), Jammu & Kashmir (₹ 861.80 crore), Madhya Pradesh (₹ 512.84 crore), Tripura (₹ 333.19 crore), Assam (₹ 223.28 crore), Uttarakhand (₹ 207.51 crore), Gujarat (₹ 176.02 crore), Jharkhand (₹ 116.18 crore), Manipur (₹ 106.45 crore) and Chhattisgarh (₹ 111.29 crore). MoEF/ Ad-hoc CAMPA/ State CAMPA did not have any system to case-wise monitor the correct assessment and collection of dues before giving final clearance for diversion of forest lands.

Utilisation of Compensatory Afforestation Funds

Out of ₹ 2,925.65 crore of the compensatory afforestation funds released by Ad-hoc CAMPA during the period 2009-12 for compensatory afforestation activities, only ₹ 1,775.84 crore were utilised by the State/ UTs leaving an unutilised balance of ₹ 1,149.81 crore. The percentage of overall utilisation of released funds was only 61 *per cent*. In 11 of the selected 30 State/ UTs utilisation ranged between zero to 50 *per cent* which indicated poor absorptive capacity of the State/ UTs. Some of the States with very poor utilisation were Meghalaya (100 *per cent*), Arunachal Pradesh (91 *per cent*), Bihar (77 *per cent*), Tripura (68 *per cent*), Chhattisgarh (67 *per cent*), Andaman & Nicobar Islands (63 *per cent*) and Delhi (63 *per cent*). Most State/UTs were unable to spend the monies released to them by Ad-hoc CAMPA due to delay in preparation of Annual Plan of Operations, delayed release of funds resulting in setting in of a process of accumulation of compensatory afforestation funds in the States which was the problem sought to be addressed by the Supreme Court. The under utilization of funds indicates non implementation of various Net Present Value/ Compensatory Afforestation schemes proposed in the Annual Plan of Operation by these State/UTs.

An amount of ₹ 51.93 crore was utilised towards unauthorised activities in 17 State/ UTs. Mandatory guidelines of Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) were not followed during the execution of the works in most of the State/ UTs.

MoEF was not able to launch the nationwide e-Green watch system. Due to non implementation of e-Green watch system online information of fund allocation, plantation

work estimates, other work estimates, forest conservation projects, land diverted, compensatory afforestation, land management, plantation works progress report etc. could not be made available to the stakeholders.

Investment of Compensatory Afforestation Funds

The mechanism for investment of surplus funds by the Ad-hoc CAMPA was arbitrary and lacked in fairness and transparency. There were frequent and unjustified deviations from the instructions issued by Ad-hoc CAMPA while executing the investment decisions. Despite repeated directions from the Ad-hoc CAMPA body, a comprehensive investment policy was not formulated and approved by Chairman Ad-hoc CAMPA till 2012.

There were instances of deposits amounting to ₹ 1,998.47 crore placed in banks that did not even bid. In the case of fixed deposits there was loss of interest of ₹ 8.70 crore, ₹ 7.80 crore and ₹ 4.45 crore on account of delay in investment of funds, retaining the funds in interest free current accounts and delay in crediting the maturity amount into bank accounts respectively, besides short credit of ₹ 1.08 crore on maturity of fixed deposits.

There was clearly evidence that neither the present arrangement of financial management and accounting had the benefit of existing government financial discipline, nor had an alternative system of accounting and financial control, been developed by Ad-hoc CAMPA.

Oversight Arrangements

The institutional design for incurring expenditure from the Compensatory Afforestation Funds under Ad-hoc CAMPA and by State CAMPA is somewhat distinct from the expenditure being incurred by both the Union Government and State Government. In the case of expenditure being currently incurred by Ad-hoc CAMPA and by State CAMPA there is no legislative authorisation for the incurrence of such expenditure. Further, while receipts and expenditure have been significant, there exists no system devised by the Ministry to report incomes and outgoings regarding compensatory afforestation funds to either the Parliament or the State Legislatures.

The Central CAMPA (Ad-hoc) since its inception in 2006 has not submitted audited accounts till date. Audit also observed that the books of accounts are not being maintained properly in the Ad-hoc CAMPA. Receipt and Payments Accounts, Income and expenditure account and Balance Sheets were not prepared. This clearly impinges adversely on transparency and accountability of CAMPA.

It would be appropriate if the amounts lying in Ad-hoc CAMPA are transferred into the Public Account of India as was envisaged in the Compensatory Afforestation Fund Bill, 2008. Transfers to individual States can be made transparent so as to provide the stakeholders necessary information on the subject.

Continuing provisional nature of the authority

The Supreme Court in 2002 directed that the Union of India shall within eight weeks frame comprehensive rules with regard to the constitution of a body and management of the compensatory afforestation funds. Accordingly, MoEF notified the creation of Compensatory Afforestation Management and Planning Authority in 2004. However, this authority was never operationalised. In our view the non-operationalisation of CAMPA which was envisaged as a permanent, independent authority to provide guidelines, direction and oversight severely hampered the compensatory afforestation activities in India. This report of the Comptroller and Auditor General of India brings out the necessity for early operationalisation of CAMPA which can execute the mandate of ensuring compensatory afforestation effectively and efficiently within the broader constitutional and legal framework.