**Audit on the implementation of environment policy**

**SAI India’s Country Paper**

1. **Introduction**

“Environmental Audit” is an important area of emerging audit and is of substantial interest to Supreme Audit Institutions (SAI) in view of the increasing recognition that global warming and climate change have already begun to take place, and cannot anymore be perceived as likely future events.

SAI India has been aware of the need and the relevance of Environmental Audit and has already brought out several incisive and informative reports on the economy, efficiency and effectiveness of the environmental programmes and activities initiated by the Central and Provincial Governments. The Environmental Audits carried out by the SAI India in the past embrace a variety of issues such as biological diversity including forests and forest management, pollution control and regulations relating to air, water etc., waste management and coastal zone management.

In this paper the audit of the implementation of the environment policy that has been considered relates to Compensatory Afforestation Fund, which was established under the directions of the Supreme Court of India. The circumstances under which this fund was created, collection of money for the fund, investment of the money, utilisation of the money and the constitutional provisions relating to the fund have also been brought out.

1. **Institutional Arrangement of the Government**

Ministry of Environment & Forests (Ministry) is the nodal agency responsible for all matters relating to environmental protection and climate change and is responsible for the planning, promotion, coordination, and implementation of national policies and programmes on environment and forests. Objectives of the Ministry include:

- conservation and survey of flora and fauna, forests, and wild life;

- prevention and control of pollution;

- afforestation and regeneration of degraded areas;

- protection of environment, and;

- ensuring the welfare of animals.

The Ministry has regional offices, Boards and research centres spread over the country. The Central Pollution Control Board (CPCB) is an important arm of the Ministry and plays a major role in the control and abatement of water and air pollution in the country. Its functions include advising the Central Government on all matters concerning prevention, planning and management of programmes for the control and abatement of water and air pollution and coordination of the activities of State Pollution Control Boards.

1. **Strategies and Policies of the Ministry**

The Ministry has taken the initiative to promulgate the following policies and strategies among others:

-National Conservation Strategy and Policy Statement on Environment and Development (1992);

- National Environment Policy (2006);

- National Action Plan for Climate Change (2009);

- Vision Statement on Environment and Human Health.

The National Environment Policy, 2006 aims at protection and conservation of critical ecosystems and resources and ‘invaluable’ natural and man-made heritage which are essential for life support and livelihood. The Plan also aims to achieve intra and intergenerational equity and efficiency in environmental resource use.

Under the National Action Plan for Climate Change (NAPCC) initiated by the Ministry and under the Prime Minister’s Council on Climate Change, there are 8 Core Missions running through 2017, of which 2 are for mitigation and 5 are for adaptation. These include National Missions for Solar Energy, Enhanced Energy Efficiency, Water, Habitat, Agriculture, Himalayan ecosystem etc.

1. **Importance of the topic**

Forests are a vital component to sustain the life support system on Earth. Forests subserve the entire community and represent a community resource that meets the need of the millions of rural people especially the tribals. Forests are generally used for the lifestyle, well-being of the forest dwellers, villagers and other people/ species wholly or partly dependent on forests. These are also used for nature reserve, national park, wildlife sanctuary, biosphere reserve, as a habitat of any endangered/ threatened species of flora and fauna and for agriculture purposes for the rehabilitation of the persons displaced from their residences by reason of any river valley or hydro electric projects etc.

As per India State of Forest Report 2011, the total forest cover in India was assessed at 770 lakh hectare which was 23.41 *per cent* of the total geographical area of the country. The previous State of Forest Reports had assessed the forest cover in India as 677 lakh hectare in 2003 and 2005, 690 lakh hectare in 2007 and 692 lakh hectare in 2009.

The forest land is generally diverted for facilitating developmental activities for non forestry purposes like construction of power projects, irrigation projects, roads, railways, schools, hospitals, rural electrification, telecommunication, drinking water facilities and mining etc.

Several laws and court judgements govern the use and protection of forest land in India. The laws include Forest (Conservation) Act, 1980, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Indian Forests Act, 1927.

1. **Role of Supreme Court of India on Afforestation in India**

The Supreme Court of India plays a proactive role in the matters of forest policy governance. In a case of T.N. Godavarman Thirumulpad v/s Union of India, the Court in its order dated 12 December 1996, put a stop to all on-going activity like functioning of saw mills and mining within any forest in any State throughout the country that was being carried out without the approval of Central Government.

The Supreme Court in its order dated 3 April 2000, fixed the responsibility of carrying out of compensatory afforestation on Ministry of Environment and Forests.

The Ministry notified the Compensatory Afforestation Fund Management and Planning Authority (CAMPA) in April 2004. An Ad-hoc CAMPA was constituted by the Supreme Court of India to ensure that all the monies recovered on behalf of CAMPA were transferred to bank accounts operated by this body and get audited by SAI India all the monies received from the user agencies on behalf of CAMPA. The audit was to examine whether proper financial procedure was being followed in investing the funds.

1. **Audit of Compensatory Afforestation in India by SAI INDIA**

An all India compliance audit of Compensatory Afforestation in India was taken up by the SAI India in November 2011. This included the audit of the Ad-hoc CAMPA, State CAMPA, the Ministry including its regional offices and audit of selected Forest Department divisions in States/Union Territories.

1. **Audit Objective**

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.

The list of legislations, rules, judgements and directions regulating the collection and utilisation of Compensatory Afforestation Fund that were referred to in the course of this compliance audit were the Forest (Conservation) Act, 1980, various Supreme Court orders on the subject issued from time to time and various guidelines and orders issued by Ministry from time to time, as per directives of the Supreme Court of India.

1. **Audit Plan**

The core period covered in audit was from 2006 to 2012. Significant audit findings relating to diversion of forest lands, compensatory afforestation and compensatory afforestation funds pertaining to period prior to 2006-12, noticed during the course of audit have also been reported with appropriate reference to the period to which these pertain.

The SAI carried out audit of Ministry and its six Regional Offices (RO) at Lucknow, Chandigarh, Bhubaneswar, Shillong, Bengaluru and Bhopal. The State CAMPA and the divisions to which Compensatory Afforestation fund had been released, on a sample basis were also covered in the audit. The sample size was 50 *per cent* of the territorial divisions that had received fund disbursed by Ad-hoc CAMPA. All the 35 States and Union Territories in India, except Dadar & Nagar Haveli, Diu, Lakshwadeep, Nagaland and Puducherry were covered in this audit exercise.

Application of new technology was attempted and an effort was made to analyse the growth of the CAMPA plantations using satellite data. National Remote Sensing Centre (NRSC) of Department of Space was approached for identification of plantation activity at specified sites using pre and post planting date remote sensing data.

The general observations of NRSC for the 13 sites selected were that the plantation activities were initiated during 2009-10 and also raised in 2011. The average height of many saplings were around 1.5 meter and the growth was not sufficient to be detected on LISS-IV imagery. Protection and forestry operations on growth from root stock/ extant vegetation before plantation were evident in the imagery.

1. **Audit Results**

**Some of the important findings of the audit were as follows:**

1. **Diversion of forest land and Compensatory Afforestation**
	1. **Non receipt of non-forest land in lieu of diverted forest land**
* 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. 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.
	1. **Afforestation on double the area of degraded forest with the certificate of the Chief Secretary**
* In 19 of the 26 States from which information in this regard was received, non-availability of forest land was not certified by the Chief Secretary/ Deputy or Divisional Commissioner. 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.
	1. **Irregular change of the status of forest land**
* Government of Uttar Pradesh in August 2007, changed the status of Reserve Forest land measuring 1,083.23 hectare in Sonbhadra district as revenue land without prior approval of Ministry in contravention of Forest Conservation Act, 1980 and handed over the land to a private party for non-forest use like establishment of cement plant, mining and other allied activities.
	1. **No de-reservation of Sanctuaries and National Parks**
* Orders of the Supreme Court were flouted by the Ministry by allowing Andhra Pradesh State Electricity Board to divert the 113 hectare of forest land in Nagarjunasagar Srisailam Wildlife sanctuary without permission from National Board of Wildlife and the orders of the Supreme Court of India. There is also no assurance that all conditions attached to the irregular approval have been complied with.
	1. **Encroachment of forest land**
* As per the information furnished by six state CAMPA/ Nodal officers in Andhra Pradesh, Arunachal Pradesh, Assam, Punjab, Uttarakhand and West Bengal, there was an encroachment on forest land involving 1,55,169.82 hectare. Ministry and Federal Governments concerned failed to comply with the directions of the Supreme Court by not making any time bound programme for eviction of the encroachments.
1. **Failure to promote compensatory afforestation:**

a. **on non-forest land**

* Against the receivable non forest land of 1,03,381.91 hectare, only 28,085.90 hectare or 27 *per cent* of non-forest land was received and Compensatory Afforestation activity had been undertaken only on 7,280.84 hectare of land which is a miniscule seven *per cent* of the receivable non forest land.
* The afforestation activity in non-forest land was limited to only four States of Assam, Chhattisgarh, Odisha and Tamil Nadu. In fact, 95 *per cent* of all afforestation done on non-forest land in the country was in one State viz Odisha. Aside of Odisha, the total afforestation undertaken in the country on non-forest land was a mere 329.30 hectare.
1. **on degraded forest land**
* Though 1,01,037.35 hectare & 54.5 km degraded forest land had been identified for compensatory afforestation during the period 2006-12, compensatory afforestation was undertaken only on 49,733.76hectare & 49 km of degraded forest land, which was 49 *per cent* of the area of degraded forest land (in hectare) identified for the afforestation.
1. **Diversion of forest land for grant/ renewal of mining leases**
* In five cases in Rajasthan and Odisha, it was noticed that the Federal Governments permitted mining for lease periods ranging from 18 months to 20 years without the approval of the Ministry.
1. **Environmental issues - Adverse effects of mining on forest and wildlife**
* Test check of records of Regional Office Bhubaneswar revealed that monitoring reports on four mining leases pointed to mining activity in the project adversely affecting the flora & fauna, forest and wildlife. No action had been taken by the Ministry, despite the adverse comments.
1. **Inadequate and ineffective application of penal clause**
* There were numerous cases of non recovery and under assessment Compensatory Afforestation Funds. However, no action was initiated by the Ministry of even after gross violations of the provisions of the Forest (Conservation) Act, 1980.
* The Ministry 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. The penal clause prescribed in the Forest Conservation Act, 1980, was largely inadequate and ineffectively applied to place any deterrence towards illegal and unauthorised practices.
1. **Collection of Compensatory Afforestation Funds**
* Under assessment and short recovery of Compensatory Afforestation Fund to the tune of INR 5311.14 crore was noticed during the audit due to non-collection and non-recovery of the Net Present Value as detailed below:

|  |  |  |
| --- | --- | --- |
| Category | Details | Amount(` in crore) |
| Net Present Value not collected for projects given in principle approval prior to 2002  | **292 cases involving diversion of 29,301 hectares of forest land**  | **1,693.67**  |
| Net Present Value not collected at revised rates  | **84 cases**  | **166.61**  |
| Net Present Value for diversion of forest land in wild life sanctuaries and National Parks not collected at the prescribed rates  | **4 cases involving diversion of 192.99 hectare**  | **61.38**  |
| Non recovery of Net Present Value from projects not falling under exempted category  | **181 cases involving diversion of 443.17 hectare**  | **39.02**  |
| Other cases of short/non recovery of Compensatory Afforestation Fund  | **754 cases**  | **3,350.48**  |
| Total under assessment/short recovery | **5,311.16** |

1. **Utilisation of compensatory afforestation funds**
* The audit revealed that the funds were released without approved annual plan of operation. Cases of under-utilisation and unauthorised expenditure were also noticed. Further, no investment policy was formulated for investment of the CAMPA funds.
* The procedure for release of funds is as detailed:
1. **Oversight Arrangements**
* Unique institutional design of CAMPA allowed incurring of expenditure without legislative authorisation. No audit of accounts of Ad-hoc CAMPA could be undertaken in the absence of financial statements and proper records. Given the amounts of funds involved, the overall objective of conservation and the existing paradigm of CAMPA required to be addressed by the Ministry.
1. **Results of monitoring of CAMPA plantation through National Remote Sensing Centre**
	1. **Rocky exposures and poor growth**
* National Remote Sensing Centre (NRSC) of Department of Space was approached for identification of plantation activity at specified sites using pre and post planting date remote sensing data. Of the 13 plantation sites appraised by NRSC, at two sites in Chhattisgarh viz. Hardi and Marwahi the plantations work was unsatisfactory.
* At Hardi, Chhattisgarh it was observed that the teak plantation had been taken up in June-July 2011. The average height of trees was less than one meter. In the central part growth was seen to be five to six feet and very tall grasses were also seen. The northern area had rocky exposures and poor growth. On the other hand the data provided by Chhattisgarh Forest Department indicated that 1,16,500 plants had been raised in 50 hectare area. The field observations do not match with the data of afforestation provided by the Chhattisgarh Forest Department.
* At Marwahi, Chhattisgarh it was observed that there was very heavy biotic pressure, pits were seen and there were no saplings in the area.
1. **Audit Impact**

After the Audit, the Compensatory Afforestation bill has been passed by the lower house of the Parliament of India in May 2016. The Bill establishes the National Compensatory Afforestation Fund under the Public Account of India, and a State Compensatory Afforestation Fund under the Public Account of each state. The bill will pave the way for unlocking of nearly 41,000 crore earmarked for forest land which is lying unspent.

**11. Summing Up**

Global warming and climate changes are a globally recognised concerns perceived as a big challenge to the world environment. The need for “Environmental Audit” has emerged out of these challenges. Role of the SAIs would of utmost importance in conducting such Environmental Audit. Other global agencies are also taking serious role towards the global environmental concerns.

Forests are a vital component in sustaining the life support system on Earth. Any programme for development needs to evolve a systemic approach so as to balance economic development and environmental protection. Regulating the indiscriminate diversion of forest land for non-forest use is, therefore, critical. Accordingly, compensatory afforestation has been made one of the most important conditions while approval is accorded in case of proposals for de-reservation or diversion of forest land for non-forest uses. It is envisaged that compensatory afforestation will be done on equivalent area of non-forest land which is to be transferred to the ownership of State Forest Department or on double the extent of area of forest land diverted on degraded forest land under certain circumstances.

SAI India noticed serious shortcomings in regulatory issues related to diversion of forest land, the abject failure to promote compensatory afforestation and unauthorised diversion of forest land.

The Ministry's records revealed that only 27 per cent of non-forest land was received. 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.

Receipt of non-forest land is the starting point for undertaking compensatory afforestation. SAI India also noticed that no critical element there was no meeting ground on the data maintained by the Ministry and Provincial Governments. Poor quality and unreconciled data compromised the quality of planning, operations and decision making.

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 was also noticed. However, the Ministry invoked penal provision only in three cases and even this action was limited to issue of show cause notices.

Ministry was ineffective in ensuring complete and timely transfer of all monies collected by States/UTs towards Compensatory Afforestation Fund to 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 Adhoc CAMPA) and balance lying with States/UTs was created. The mechanism for investment of surplus funds by the Ad-hoc CAMPA was arbitrary and lacked in fairness and transparency.

Timely intervention of SAI India on Compensatory Afforestation enabled the Government to take corrective action and a bill establishing National Compensatory Forestation Fund under Public Account passed in the Parliament.

**12. Experiences and challenges**

The all India Performance Audit involved 35 States and Union territories of India. A need for proper checklist and consolidation of data was felt. Getting replies from the Ministry was also challenging due to non-maintenance of centralised database.