भारत सरकार
खान मंत्रालय

विषय: सूचना का अधिकार अधिनियम, 2005 के तहत श्री. एल.एल. गहलोत,
मदन माईस मजदूर संघ, उदयपुर से प्राम्य अपील के संबंध में।

श्री. एल.एल. गहलोत, मदन माईस मजदूर संघ, उदयपुर से प्राम्य मूल अपील दिनांक
12.02.2013 को इस पत्र के साथ उचित कार्यवाही हेतु भेजा जा रहा है।

आपसे अनुरोध है कि उक्त अपील/पत्र का निर्माण दिनांक 15.3.2013 से पूर्व भेजा जाए और प्रतिलिपी सूचनायें पी.आई. सैल को भी भेजी जाए।

(राजेश शाह/Rajesh Shah)
ए.सी.पी.आई.ओ./ACPIO

श्री. एस.बी. डोभाल. ऊप सचिव/अपीलीय अधिकारी. खान मंत्रालय. नई दिल्ली।
The Right to Information Act, 2005

First Appeal for Central Government/State Government

Strike out whichever not applicable

I.D. No_______ Date: ________ [For office use]

To,

The First Appellate Authority under RTI Act

Shri S.B. Doyal, Dy. Secy

Ministry of Health

R.No. 3.4, Bal Bhavan

New Delhi

Sir,

As I am aggrieved by decision/no decision of Central/State Public Information Officer, I hereby file this appeal for your kind decision.

1. Details of appellant

1.1 Full Name: Maton Mirza Masroor Sanyah

1.2 Full Address: 813, A.H.R. Bungalow, Emirati Park, Moh. Nagar, Ghaziabad

1.3 Phone/Cell No.: 9460632440

1.4 Email ID: INMF Mirza@Gmail.com

2. Details of Central/State Public Information Officer (CPIO/SPIO):

2.1 Name/Designation: M.S. Sayyad

2.2 Full Address: Section Officer, Ministry of Health, Bal Bhavan, New Delhi

2.3 Name of Public Authority: ____________________________

copy enclosed

3. Details of RTI application to CPIO/SPIO:

Date of Application: 31.12.2012

Mailed on: ____________________ by registered/speed post No. - /hand delivery

Date of receipt by CPIO/SPIO: ____________________
4. Particulars of payment of filing fee:

Paid Rs. 10/- by bank draft/pay slip/IPO No. [Redacted]

Dated of Bank/Post office OR deposited cash on against receipt No. With office/department

5. Details of information sought:

As per details indicated in the letter dated 31-12-2007

6. Particulars of Decision of CPIO/SPIO:

Letter reference No. 2013 Met [Redacted]

Date of CPIO/SPIO's Decision: 28/11/13

Date of receipt of decision by the appellant:

7. Brief facts of the case:

As narrated in the letter.

8. Reasons/grounds for this appeal:

The information/reply given is not adequate but for formal factual position and aggrieved by the same, the appeal is preferred as per covering letter.
9. Any other information in support of appeal:

Copies of Newsletters

CPEA-TR18

- 18/12/13

Mail Foledy 22/11/13

10. Prayer/relief sought for:

As detailed indicated in the

covering letter

11. Grounds for prayer/relief sought for:

As indicated in the

covering letter

12. Personal Presence at hearing: YES / NO: [Handwritten: Needed, we will present]

13. Enclosures: Photocopies of original RTI application with its enclosures, postal proof of mailing, acknowledgement of CPIO/SPIO, decision letter of CPIO/SPIO.

14. Declaration:

I hereby state that the information and particulars given above are true to the best of my knowledge and belief. I also declare that this matter is not previously filed with any information commission nor is pending with any Court or tribunal or authority.

Place: [Handwritten: Indore]

Date: 12/9/13

Signature of appellant: [Handwritten: LAXMI LAL GEHALOT]

P.S. Please refer Office memorandum dated 09-07-2007 issued by DoPT, Govt. of India.

Notes: Kindly refer to CPIO (Central Public Information Officer) or SPPO (State Public Information Officer) in your application.
PAY TO THE SUM OF RUPEES TEN ONLY

AT THE POST OFFICE AT D.Y. Kalra Park Colony

95E 229155
SPEED POST

Dated 18th February 2013

Shri SB Doval,
Deputy Secretary, Ministry of Mines
Govt. of India
Room No. 314, D Wing
Shastri Bhawan
New Delhi- 110001

Sub: Information under RTI Act 2005 – Appeal thereof

Dear Sir,

Not satisfied with the reply vide no. 20(1)/2013-metal-II dated 28.1.2013 from Shri M.S. Sajwan, Section Officer and CPIO under RTI Act Ministry of Mines we submit this appeal before you to clarify the following points covered in this letter in so far as illegal disinvestment of Hindustan Zinc Limited is concerned for which we had requested vide our letter dated 31.12.2012:

1- The CPIO/Section Officer Shri Sajwan has indicated in the above referred letter that no advice has been received from department of Legal Affairs on the points raised by the then by Mines Secretary about the illegality of the disinvestment and indicated in the DO letter no. 4(3)/2012-DoD dated 23rd May 2012 from Secretary Department of Disinvestment, Govt. of India, New Delhi. Based on a copy of the DO we sought the information. A copy which was also endorsed to Secy. Ministry of Mines is again enclosed for your ready reference.

2- The CPIO/Section Officer Shri Sajwan has further indicated “Hon’ble Supreme Court in its Judgment dated 10.12.2012 in W.P. number 513 of 2012 filed by Maton Mines Mazdoor Sangh and C.P. Babel has dismissed the W.P. It was further indicated that no action was required on your letter dated 31.12.2012 as the whole matter of HZL is under arbitration.”
The above replies are not only confusing but are far from factual position. In this connection we enclose here with copies of three news items as reflected in CNBCtv18 Today dated 18.12.2012 and 22.01-13 and Mail Today edition dated 09.02.2013 which are self explanatory and confirms beyond doubt that the department of Legal Affairs had tendered their advise twice about the illegality of the disinvestment of HZL. In addition to this referring a Court Order (without hearing the petition in question) as Judgment is far from the facts. There is a distinct difference between a court order and a judgment as far as legalities are concerned and the order of the court does not change the law enacted by Parliament and clarified by Supreme Court it self while deciding the case of proposed disinvestment of HPCL/BPCL on 16.9.2003. Had it been so the court would have taken care of this aspect also.

In so far as “the whole matter of HZL is under arbitration” is concerned you may like to clarify for which of the legality the matter has been referred to arbitration. As far as HZL’s case of illegal disinvestment is concerned, unless the statute as per Act no. 100 of 1976 which was passed by parliament is changed by parliament till then the whole disinvestment process in not only illegal but beyond the scope of any arbitration also as per law set/ clarified by Supreme Court of India in the HPCL/BPCL dated 16.09.2003 in the proposed disinvestment case. These two companies were also acquired through respective statutes passed by Parliament and HZL’s acquisition statute is identical to HPCL/BPCL Company’s acquisition statutes. The fundamental judgment by Supreme Court of India dated 16.09.2003 is crystal clear and does not need further elaboration.

In view of the for going we request you to clarify/confirn specifically the following:-

1. Whether department of legal affair has given their advise as confirmed in these three news items. In two of which the reference of Supreme Court Order dated 10.12.2012 is also indicated about the dismissal of the petition filed by us, which would mean that the advise had already been tendered earlier by department of legal affairs on the reference made by the then Mines Secretary.

2. In so far as matter being under arbitration it may please be indicated under which of the rules/laws the case has been referred for arbitration and who is the arbitrator in this case. If this is true than the name of the arbitrator, the departments who would represent this case on behalf of Govt. of India and their addresses be given specifically.
Regular application in the prescribed format is however enclosed duly filled in, enclosed herewith postal order no.95E229155 for Rs.10/- as required.

It is pertinent to mention here that giving false/misleading information under RTI Rule a cognizable offence and we hope that you would be giving us true information and not mislead like the one Shri Sajwan has done.

Thanking you,

Encl: As above

13 Document

Copy to
1- The Secretary, Department of Disinvestment, Ministry of Finance, Govt. of India, New Delhi
2- The Secretary, Law & Justice, Govt. of India, Dept. Legal Affairs New Delhi
3- The Secretary, Department of Mines, Govt. of India Shastri Bhawan New Delhi.
4- Attorney General of India, New Delhi.
In what comes as a blow for Vedanta, the Law Ministry has reiterated its stand against the Hindustan Zinc stake sale. The Law Ministry is firm on its stand that the stake sale cannot go through without amending the Metal Corporation Act, reports CNBC-TV18’s Anshu Sharma.

This is the second time the Law Ministry has notified that unless there is no amendment to the Metal Corporation Act there will be no divestment of Hindustan Zinc. Vedanta had written to the government, considering its decision on Hindustan Zinc's proposal on the issue where Supreme Court had dismissed a writ petition filed by the metalmines Mazoori Singh on December 16.

The Law Ministry has now stated that it is not possible to do so unless there is appropriate amendment to Metal Corporation Act of 1976. It is now up to the Finance Ministry to take up a call before it is sent for the Cabinet Committee on Economic Affairs (CCEA) approval.

Watch Video

In a major setback for the Vedanta, and its boss Anil Agarwal the law ministry has shot down any moves by the government to divest its residual stake in Hindustan Zinc, where Vedanta is a majority shareholder with 65.9 percent stake, reports CNBC-TV18's Anshu Sharma quoting sources.

The law ministry's opinion given in response to the reference by the mine's ministry says that no further stake sale can take place in Hindustan Zinc without the government first amending the Metal Corporation Act of 1976.

In fact, the law ministry had said that even initial divestment of Hindustan Zinc was not permissible under this act.

The Bharatiya Janata Party (BJP)-led National Democratic Alliance (NDA) government had divested 65.91 percent stake in Hindustan Zinc in 2002-2003 with the option that the buyer would have the right to acquire the residual stake of the government shareholding.

The issue has dragged for almost 10 years and now the task ahead becomes all the more difficult for the government. The finance ministry had hoped that this stake sale would happen in the current fiscal itself and help it plug the deficit to some extent.

Sources also indicate that the government may now refer the matter to the Attorney General for his views in this matter. Ultimately, a final call will have to be taken by the cabinet committee on economic affairs in this regard. In 2004 the then attorney general Milon Banerjee had held a similar call option in Bharat Aluminium Company (BALCO), which is also now owned by Vedanta as ultra vires of the constitution.
Vedanta's HZL chase rams into rules again

By S.P.S. Pannu in New Delhi

LONDON-based billionaire Anil Agarwal's renewed attempts to pick up government's residual stake in Hindustan Zinc Ltd (HZL) has run into rough weather. The department of legal affairs has reiterated its earlier opinion that the disinvestment of HZL cannot be carried out under the existing law, a senior government official told Mint Today.

The department of legal affairs had earlier rejected the proposal moved by Agarwal-led Vedanta Group to take over the 29.54 percent stake that the government still holds in HZL on the ground that the company had been created by an Act of Parliament and the law would have to be amended for disinvestment.

However, the finance ministry had moved a fresh proposal to hand over the HZL stake to the Vedanta Group after the Supreme Court (SC) had dismissed a workers' union petition containing a host of issues related to HZL.

Finance ministry officials claimed that this was a "second judgment" of the apex court on a disinvestment-related issue and now the department of legal affairs could consider which judgment could be followed.

SC's earlier judgment on the privatisation of Hindustan Petroleum and Bharat Petroleum had ruled that public sector companies have been created by an Act of Parliament and could not be privatised through executive action unless the Act is amended or repealed by the House.

According to sources, the dismissal of the workers' petition in the fresh HZL case does not amount to overriding its earlier decision, which had been taken after considering the case on its merits and now represents the law of the land.

Leading SC lawyer and crusader against corruption Prashant Bhushan had in a letter to then-finance minister Pranab Mukherjee said, "The transfer of control over the management of HZL of the government by way of disinvestment in 2002-03 to a private company was against the law laid down by the Supreme Court and, therefore, any further disinvestment would automatically be illegal."

Agarwal's Sterlite Opportunities and Ventures Ltd (SOVL) has acquired 64.92 percent majority stake in HZL in phases. Bhushan had stated that the management of the undertakings of HZL, which was acquired by the government of India (GOI) through a statute, was handed over by the GOI to SOVL by an executive decision without parliamentary clearance.

29.54% is the government's residual stake in HZL

64.92% is the majority stake of Vedanta in HZL
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
WRIT PETITION (CIVIL) NO. 513 OF 2012
MATON MINES MAZDOOR SANGH & ANR Petitioner(s)
VERSUS
UNION OF INDIA AND ORS. Respondent(s)

(With appln(s) for ex-parte stay, exemption from filing O.T., permission to file synopsis and list of dates, permission to file additional documents and office report)

Date: 10/12/2012 This Petition was called on for hearing today.

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr. M.R. Calla, Sr. Adv.
Mr. Uday Gupta, Adv.
Mr. M.K. Tripathi, Adv.
Ms. Pratiksha Sharma, Adv.
Mr. Ankit Achariya, Adv.
Mr. Mohan Pandey, Adv.

For Respondent(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Abhishek K. Rao, Adv.
Ms. Vadudha Sen, Adv.
Mr. Umang Shankar, AOR

For R-3 Mr. C.U. Singh, Sr. Adv.
Ms. Ranjana Roy Gawai, Adv.
Ms. Divya Roy, AOR
Mr. Abhishek K. Rao, Adv.
Ms. Vasudha Sen, Adv.

UPON hearing counsel the Court made the following ORDER

Having heard Mr. M.R. Calla, learned senior counsel for the petitioners, we are not inclined to entertain the writ petition, which is accordingly dismissed.
Government of India  
Ministry of Mines  

No.20(1)/2013-Met.II  
New Delhi, the 28/1/2013

To

Shri L.L. Gehlot,  
Secretary,  
Matton Mines Mazdoor Sangh,  
D-4, Zink Park  
Moti Magri Scheme,  
Udaipur- 313 004 (Rajasthan)

Subject: Furnishing information under RTI Act, 2005 – reg.

Sir,

I am directed to refer to your application dated 31st December, 2012 under RTI Act, 2005 and to say that no advise has been received from Department of Legal Affairs. However Honourable Supreme Court, in its judgment dated 10.12.2012 in W.P. (C) No. 513 of 2012 filed by Matton Mines Mazdoor Sangh and Shri C.P. Babel has dismissed the W.P. Further no action was required on your letter dated 31.12.2012 as the whole matter of HZL is under arbitration.

2. In case you are not satisfied with the above reply, you may file an appeal before the Appellate Authority (Shri S.B. Doval, Deputy Secretary, Ministry of Mines, Room No.314, D-Wing, Shastri Bhawan, New Delhi) within a period of 30 days from the date of receipt of this letter.

Yours faithfully,

(M.B. Sajwan)  
Section Officer

Copy for information to PI Cell with reference to their U.O. No. is MINES/R/2012/00001 dated 4.1.2013
सूचना लेने हेतु आवेदन-प्रपत्र
(सूचना का अधिकार अधिनियम, 2005 की धारा (6)(1) के अनुसार)

1. आवेदक का नाम :  
   नामांकित मज़दूर संघ

2. पिता का नाम :  
   वाइ.आई.एच. (नामांकित मज़दूर संघ)

3. पूरा पता (मय फॉली नंबर) :  
   मां शेखा, संग्रामराजा, 3, (05) 31801

4. आवेदन देने की दिनांक :  
   31-12-2012

5. कार्यालय/विभाग का नाम :  
   वाइ.आई.एच. (नामांकित मज़दूर संघ)

6. चाहिए गई जानकारी का विवरण :  
   कृपया निम्नलिखित जानकारी के अनुसार अपने प्रपत्र में आवेदन करें

7. कृपया भालें हैं - निकल/रिकॉर्ड का निरीक्षण/रिकॉर्ड की मुहैया/समीक्षा नमुना

8. आवेदन की फीस 10 रु. नकद या क्रेडिट से (सी.पी.एल. के लिए नहीं) 
   वाइ.आई.एच. (नामांकित मज़दूर संघ) 956229159 ( 
   संग्रामराजा, 3, 31801)

9. आवेदक की फीस 10 रु. नामांकित मज़दूर संघ का क्रमांक
   31801


पावती

1. आवेदक का नाम व पता :  

2. आवेदन प्रपत्र होने की दिनांक :  

3. आवेदनकर्ता को संचित जानकारी लेने हेतु पुनः आवेदन की दिनांक :  

4. संबंधित विभाग/अधिकारी जहां से जानकारी उपलब्ध होगी :  


दिनांक :  

प्राप्तकर्ता के हस्ताक्षर
(लोक सूचना अधिकारी/सहायक लोक सूचना अधिकारी द्वारा प्रविष्ट)

साहित्य मोहन शाहिद

सचिव/अधिकारी, जीएसएस.
Maton Mines Mazdoor Sangh
Maton-Udaipur (Raj.)
Smt Neeta Gupta  
Under Secretary  
Ministry of Mines  
A Wing Shastri Bhawan  
New Delhi

Sub:- illegal disinvestment of Hindustan Zinc Limited etc.,
Request for sending information under RTI Laws (as per enclose application in the prescribed format) about the opinion given by Department of Legal Affairs & action taken on correspondence.

Dear Madam,

Against our appeal dated 15 Dec. 2010 and duly forwarded by President Office vide communication no. P1/D/030 1110085 dated 3 Jan. 2011 It was indicated by Director Ministry of Mines as under vide letter No 20(4)/2007-Met-II dated 27.1.2011

“I am directed to refer to your appeal dated 15 Dec. 2010 on the above mentioned subject and to say that HZL is a disinvested company in which shareholding of Government of India is 29.54% Government of India has already transferred the management control of the company to Sterile Opportunities & Ventures Ltd., (SOVL) in April, 2002 and has no final control over the company to be able to issue any direction.”

In this letter the point raised about the illegal disinvestment of HZL has not been answered.
Against the legal points raised by Shri Prashant Bhusan Advocate Supreme Court in the disinvestment of HZL with the then Finance Minister Shri Pranab Mukherjee the Secretary disinvestment sent a communication to him vide DO No. 4(3)/2012-DoD dated 23 May 2012 a copy of which was also sent to Secretary, Department of Mines with our letter dated 20 Aug. 2012.

When the then Secretary, Ministry of Mines officially visited Udaipur on 9th July 2012 a delegations met him and enquired about the outcome of the reference made by him to the department of legal affairs and he categorically indicated that the Ministry of Mines is awaiting the outcome of the opinion from department of legal affairs ministry of law and we may communicate further in due course of time.

As per the endorsement made by Shri Ashish Kumar, U/S, Department of Disinvestment, Ministry of Finance vide O.M. no.7/3/2011-DD(Coord) dated 25th Sept 2012 advising us to contact ministry of mines directly, we request you to kindly enlighten us in the matter and send us a copy of the points of reference made by department of Mines to the Ministry of law and the opinion given by them in the matter.

An early communication in the matter will be highly appreciated.

Thanking you,

Enc: as above

Yours faithfully

( L. L. Gehalot)
Secretary
To,

Shri Mohd. Haleem Khan Sb.
Secretary
Government Of India
Ministry of Finance
Department of Disinvestment
407, Block No 14, CGO Complex,
Lodhi Road, NEW DELHI – 110 003

Sub: Illegal and undervalued disinvestment of Hindustan Zinc Limited.

Hon’ble Sir,

In response to letter dated 16th March 2012 and reminder dated 7.05.12 from Shri Prashant Bhushan, Advocate, Supreme Court of India on the above subject, your goodself vide letter dated 23.05.2012 Communicated to him that the Secretary (Mines) has referred the above mentioned correspondence to the Department of Legal Affairs for advice and will revert back to you in due course of time. A Copy of the letter is enclosed for your kind ready reference.

More than 3 months have passed and we hope that the matter must have been examined thoroughly from legal angle and therefore it is our earnest request that the outcome of the legal examination may also please be communicated to the undersigned

Thanking you,

Encl: As above

Copy to:

1- Dr. Man Mohan Singh
Prime Minister of India
Govt.of India
South Block, New Delhi

2- Shri P Chidambaram
Finance Minister,
Govt.of India
South Block, New Delhi
Cont., 2/-
3- Shri Dinsha Ji Patel,
Minister of State for Mines
Govt.of India
Shastri Bhawan, New Delhi

4- Shri Visvapati Trivedi ji
Secretary, Minister of Mines
Govt.of India
Shastri Bhawan, New Delhi

5- Shri Anand Sharma
Minister of Commerce & Textile,
Udyog Bhawan, New Delhi

6- The Secretary
Govt.of India
Legal Affairs, New Delhi
May 23, 2012

Kindly refer to your letter dated 16th March, 2012 and subsequent letter dated 7th May, 2012 addressed to Shri Pranab Mukherjee, Finance Minister with regard to disinvestment in Hindustan Zinc Limited. The matter is being dealt by Ministry of Mines. Understandably, Secretary (Mines) has referred the above mentioned correspondence to the Department of Legal Affairs for advice and will revert back to you in due course of time.

Yours sincerely,

(Mohd. Haleem Khan)

Shri Prashant Bhushan,
Advocate,
B-16, Sector-14,
NOIDA – 201 301,
Uttar Pradesh.
Enclosed please find for appropriate attention a petition Dt.: 15 Dec. 2010 addressed to the President of India, which is self-explanatory.

Action taken on the petition may please be communicated to the petitioner directly under intimation to this Secretariat.

To,
SECRETARY TO THE GOVERNMENT OF INDIA
Ministry of Mines
Shastri Bhavan New Delhi 110001
Copy to:
Shri LAXMI LAL GEHALOT
D-4 JINK PARK,
MOTI MAGARI SKEEM,
UDAIPUR,
RAJASTHAN-

You are further requested to liaise with the aforementioned address for further information in the matter.

BOOK POST
ON INDIA GOVERNMENT SERVICE
TO:
Shri LAXMI LAL GEHALOT
D-4 JINK PARK,
MOTI MAGARI SKEEM,
UDAIPUR, RAJASTHAN-

You may use website http://helpline.rb.nic.in for submitting your request/grievance online.
F. No. 7/3/2011-DD(Coord)
Government Of India
Ministry Of Finance
Department Of Disinvestment

Block No. 14, C.G.O. Complex,
Lodhi Road, New Delhi-110 003

Dated the 25th September, 2012

OFFICE MEMORANDUM

Sub: Disinvestment of Hindustan Zinc Limited (HZL) and distribution of 3.5% of remaining shares held by Government amongst retired/VRS obtained employees regarding.

The undersigned is directed to forward herewith two representations in original on the subject cited above as under :-

2. Representation dated 28th August, 2012 from Hindustan Zinc Employees Welfare Federation, Udaipur, and

The above matters are being dealt with by Ministry of Mines. Therefore, necessary action be taken and applicants be informed directly.

(Ashish Kumar)
Under Secretary to the Government of India
Tel.: 2456 6789

Smt. Neeta Gupta
Under Secretary,
Ministry of Mines,
‘A’ Wing, Shastri Bhawan,
New Delhi-110 001

Copy to:

Sh. Laxmin Lal Gehlot
Secretary,
Matoon Mines Mazdoor Sangh,
D-4, Zinc Park, Moti Magri Scheme,
Udaipur-313 004, with the remarks to contact Ministry of Mines directly in this regard.

Sh. K.K. Sharma
President,
Hindustan Zinc Karmachari Kalyan Federation,
Plot No. 5, Shabri Colony, Aayad,
Udaipur, with the remarks to contact Ministry of Mines directly in this regard.
No.20(4)/2007-Met.II New Delhi, the 27-1-11.

To

Shri Laxmi Lal Gehalot
D-4 Jink Park
Moti Magari Skeem,
Udaipur
Rajasthan 313 001

Sub: Appeal from for re-employment of workmen removed under Special Voluntary retirement/Retrenchment- re-opening of Mines located at Maton of Hindustan Zinc Limited & illegal Disinvestment of Hindustan Zinc Limited A minni "Nav Ratana Company- its effect on workers etc.

Sir,

I am directed to refer to your appeal dated 15th December, 2010 on the above mentioned subject and to say that HZL is a disinvested company in which shareholding of Government of India is 29.54%. Government of India has already transferred the management control of the Company to Sterlite Opportunities & Ventures Ltd., (SOVL) in April, 2002 and has no final control over the Company to be able to issue any direction.

Yours faithfully,

(R.K.Maihotra)
Director