

FIRST REPORT ON  
ILLEGAL MINING OF  
IRON AND MANGANESE ORES  
IN THE STATE OF ODISHA

**JUNE, 2013**

**VOLUME: I**

**Justice M. B. Shah  
Commission of Enquiry  
for  
Illegal Mining of Iron Ore & Manganese**

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**CHAPTER: I****[ I ]****Illegal mining in the State of Odisha**

1. By Notification dated 22<sup>nd</sup> November, 2010 issued by the Central Government, this Commission of Inquiry is appointed for the purpose of making inquiry of illegal mining of iron ore and manganese ore in contravention of the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Forest (Conservation) Act, 1980 (69 of 1980), the Environment (Protection) Act, 1986 (29 of 1986) or other rules or licences or guidelines issued thereunder referred to as illegal mining.
2. It is stated in the said Notification that there are reports that mining, raising, transportation and exporting of iron ore and manganese ore illegally or without lawful authority in the various States are being done in one or more of the following forms, namely:–  
  
*“(a) mining without a licence;*  
  
*(b) mining outside the lease area;*

- (c) *undertaking mining in a lease area without taking approval of the concerned State Government for transfer of concession;*
- (d) *raising of minerals without lawful authority;*
- (e) *raising of minerals without paying royalty in accordance with the quantities and grade;*
- (f) *mining in contravention of a mining plan;*
- (g) *transportation of raised mineral without lawful authority;*
- (h) *mining and transportation of raised mineral in contravention of applicable Central and State Acts and rules thereunder;*
- (i) *conducting of multiple trade transactions to obfuscate the origin and source of minerals in order to facilitate their disposal;*
- (j) *tampering with land records and obliteration of inter-State boundaries with a view to conceal mining outside lease areas;*
- (k) *forging or misusing valid transportation permits and using forged transport permits and other documents to raise, transport, trade and export minerals;*

*AND WHEREAS the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making an inquiry into a definite matter of public importance, namely, mining of iron ore and manganese ore in contravention of the*

*provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Forest (Conservation) Act, 1980, (69 of 1980), the Environment (Protection) Act, 1986 (29 of 1986) and other Central and State Acts and the Rules and guidelines issued thereunder and raising, transportation and exporting of such ores illegally or without lawful authority at various places within the country;*

*NOW, THEREFORE, in exercise of powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952), the Central Government hereby appoints a Commission of Inquiry consisting of Shri Justice M. B. Shah, retired Judge of the Supreme Court of India.*

2. *The terms of reference of the Commission shall be–*
  - (i) *to inquire into and determine the nature and extent of mining and trade and transportation, done illegally or without lawful authority, of iron ore and manganese ore, and the losses therefrom; and to identify, as far as possible, the persons, firms, companies and others that are engaged in such mining, trade and transportation of iron ore and manganese ore, done illegally or without lawful authority;*
  - (ii) *to inquire into and determine the extent to which the management, regulatory and monitoring systems have failed to deter,*

*prevent, detect and punish offences relating to mining, storage, transportation, trade and export of such ore, done illegally or without lawful authority, and the persons responsible for the same;*

*(iii) to inquire into the tampering of official records, including records relating to land and boundaries, to facilitate illegal mining and identify, as far as possible, the persons responsible for such tampering; and*

*(iv) to inquire into the overall impact of such mining, trade, transportation and export, done illegally or without lawful authority, in terms of destruction of forest wealth, damage to the environment, prejudice to the livelihood and other rights of tribal people, forest dwellers and other persons in the mined areas, and the financial losses caused to the Central and State Governments.*

*3. The Commission shall also recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority;*

*4. The Commission shall have all the powers under the Commissions of Inquiry Act, 1952 (60 of 1952) and shall follow its own procedure subject to the provisions of the said Act and the rules made thereunder relating to the procedure of the Commission.*



5. *The headquarter of the Commission shall be at Mumbai (subsequently amended at Ahmedabad).*
6. *The Commission shall submit its report to the Central Government as soon as possible but not later than eighteen months from the date of its first sitting.*
7. *The Commission may, if it deems fit, submit interim reports to the Central Government before the expiry of the said period on any of the matters specified in the notification and shall also recommend specific steps that may be required to be taken to urgently curb the menace of such illegal mining, trade and transportation.*
8. *The Commission may take the services of any investigating agency of the Central Government in order to effectively address its terms of reference.*
9. ***The Commission may also engage Consultants or specialized agencies for survey, data collection and analysis.”***

**3.** Hence,

- i. Inquiry Commission is appointed on the basis of reports received by the Central Government from various State Governments of widespread mining of iron ore and manganese in contravention of provisions of:—
  - a. The Mines and Minerals (Development and Regulation) Act, 1957;
  - b. The Forest (Conservation) Act, 1980;
  - c. The Environment (Protection) Act, 1986;
  - d. As well as Rules and Guidelines issued thereunder;
  - e. raising, transporting and exporting of such ores illegally. **And**
- ii. Secondly, for the aforesaid purpose, the Commission is required to inquire into and determine the nature and extent:—
  - a. of mining and trade and transportation, done illegally or without lawful authority, of iron or and manganese ore;
  - b. the losses therefrom; and
  - c. the persons responsible for that.

- iii. Thirdly, to inquire and determine the extent to which the management, regulatory and monitoring systems have failed to deter, prevent, detect and punish offences.
- iv. Fourthly, to inquire into export of such ores, done illegally or without lawful authority, and the persons responsible for the same.
- v. The Commission is also required to make recommendations for remedial measures to prevent illegality on the aforesaid subjects.

The power conferred upon the Commission is all the powers which can be exercised under the Commissions of Inquiry Act, 1952 and to follow own procedure.

- vi. In the Notification itself, nature of illegal mining is exhaustively pointed out which reads as under:–

*“(a) mining without a licence;*

*(b) mining outside the lease area;*

*(c) undertaking mining in a lease area without taking approval of the concerned State Government for transfer of concession;*

- (d) raising of minerals without lawful authority;*
- (e) raising of minerals without paying royalty in accordance with the quantities and grade;*
- (f) mining in contravention of a mining plan;*
- (g) transportation of raised mineral without lawful authority;*
- (h) mining and transportation of raised mineral in contravention of applicable Central and State Acts and rules thereunder;*
- (i) conducting of multiple trade transactions to obfuscate the origin and source of minerals in order to facilitate their disposal;*
- (j) tampering with land records and obliteration of inter-State boundaries with a view to conceal mining outside lease areas;*
- (k) forging or misusing valid transportation permits and using forged transport permits and other documents to raise, transport, trade and export minerals;”*

## [ II ]

**Procedure followed by the Commission**

For the aforesaid purpose, the Commission has followed the procedure as stated below.

1. Firstly, in the month of **March, 2011**, the Commission sent a letter **(first questionnaire)** to the Secretary, State of Odisha, seeking information with regard to:-
  - (i) name of the lessee;
  - (ii) area of the lease;
  - (iii) date of the execution of the lease deed;
  - (iv) present status (renewal, mining plan, mining scheme) approval date;
  - (v) production and export particulars from the year 2008-09 up to January, 2011; etc.
2. Thereafter, on **11.03.2011**, the Commission sent a letter to the Chief Commissioner of Custom, Bhubaneshwar, seeking information in tabular form with regard to export of iron ore and manganese from **January, 2008 to January, 2011**.

Similarly, on **11.03.2011**, the Commission sent a letter to the Paradeep Port Trust, Odisha, seeking information in tabular form with regard to Shipper Name, Name of Vessel, etc. from **January, 2008 to January, 2011**.

3. On **20.04.2011**, the Commission sent a letter **(second questionnaire)** to the Secretary, State of Odisha, seeking information as per **questionnaire form (14 questions) and in Tables: 1 to 4**.
4. Thereafter, on **24/25/26.08.2011**, the Commission issued **first notice** to various lessees of the State of Odisha, seeking information on Affidavit, as per **Pro-forma: A & B** enclosed therewith.

The lessees were asked to submit details in the prescribed **Pro-forma: A** which included the details of EC, FC and renewal and whether the mine was in operation or not.

The lessees were also asked to submit details in the prescribed **Pro-forma: B** which included the details of dispatch, domestic consumption and export (MT) of iron ore and manganese **from the year 2006-07 to 2010-11**.

5. The Commission and its officers visited the State of Odisha firstly from **07.12.2011 to 14.12.2011**.

Subsequently, the members of the Commission visited the State of Odisha from **03.10.2012** to **11.10.2012** and from **31.10.2012** to **08.11.2012**. After collecting information and seeking explanations, facts were gathered from all the concerned Departments of Government of India and State Government.

During the visits in the month of **December, 2011** as well as in the months of **October–November, 2012**, many complaints were received by the Commission. Even during the visit in the month of **December, 2011**, public hearings were held at Keonjhar and Bhubaneswar on **11.12.2011** and **12.12.2011**, respectively wherein NGOs/Public/Stakeholders and others were heard.

In the said hearings, number of allegations were made for illegal mining. Further, approximately 140 complaints, making allegations for illegal mining, were received.

- 6.** Thereafter, on **21.12.2012**, personal hearing was held at the office of the Commission wherein Ld. Sr. Counsel, Mr. Ram Jethmalani, Mr. Abhishek Manu Singhvi, Mr. Gopal Subramaiam, Mr. Ashok K. Parija and Ld. Counsel, Mr. Anand Varma alongwith other Ld. Advocates remained present, on behalf of

M/s. Thriveni Earthmovers Pvt. Ltd., Federation of Indian Mineral Industries, etc.

Again, on **12.01.2013**, matter was kept for hearing. On the said date, aforesaid Sr. Counsel as well as Sr. Counsel, Mr. Anil Diwan, Mr. Ashok Mohanty for the State of Odisha and others were heard. Mr. Hardik Modh and Mr. Amit Lodha appeared for FIMI and raised their contentions. They were also exhaustively heard. They mainly raised the contention that the Commission should follow the prescribed procedure and issue notice to the lessees with regard to default committed by the lessees/persons occupying the mines.

Hence, fresh notices were issued to the lessees from **28.01.2013**, seeking the information in the prescribed **Pro-forma: A to H**.

As per the said notice, the lessees were required to verify the facts stated therein and if found incorrect, then to state the correct facts. In the said notice, it was specifically mentioned that:-

- “(i) The lessee shall come fully prepared to answer, related to this matter and submit all related records.*
- (ii) Explain the Production from the leased area without having approval under F(C) Act, 1980.*



(iii) *Explain the Production during the deemed extension period without having approval under EIA Notification dated 27.01.1994 and amendments thereon.*

(iv) *Explain the excess production in violation of EIA Notification dated 27.01.1994 and amendments thereon under the EP Act, 1986.”*

7. The Commission held hearings from **27.02.2013** to **04.03.2013** at Circuit House, Bhubaneswar, Odisha. In the said hearings, about 90 Ld. Counsel for the respective lessees were heard. At that time, apart from the information which was submitted earlier by the noticees, Ld. Sr. Counsel including Mr. Ram Jethmalani and Mr. Anil Diwan raised the contention that there was not a specific notice for the violation of Rule 37 of MCR, 1960, that is for transfer of the lease without permission.

At that time, it was made clear by the Commission to the Ld. Sr. Counsel that if they wanted to submit on any issue, they can make their submission on the next date of hearing.

Thereafter, Ld. Counsel for the lessees, State of Odisha, FIMI, FICCI and MoEF were heard elaborately on following dates and necessary information was received from them.

HEARING NO.	DATE	PLACE
1.	21.12.2012	Office of the Commission, Ahmedabad.
2.	12.01.2013	— do —
3.	18.02.2013	— do —
4.	27.02.2013	Circuit House, Bhubaneshwar (Odisha)
5.	28.02.2013	— do —
6.	01.03.2013	— do —
7.	02.03.2013	— do —
8.	04.03.2013	— do —
9.	16.03.2013	Circuit House, Annexe, Ahmedabad.
10.	20.03.2013	— do —
11.	23.03.2013	Office of the Commission, Ahmedabad.
12.	02.04.2013	Circuit House, Annexe, Ahmedabad.
13.	03.04.2013	— do —
14.	04.04.2013	— do —
15.	12.04.2013	Office of the Commission, Ahmedabad.
16.	13.04.2013	— do —
17.	21.04.2013	Gujarat University Convention Centre, Nr. Helmet Cross Road, 132 ft. Ring Road, Ahmedabad.
18.	24.05.2013	Office of the Commission, Ahmedabad.
19.	25.05.2013	— do —

Ld. Counsel who argued the matter on the aforesaid dates is enclosed at **Annexure: A.**

8. The State Government has measured area of the mining leases by DGPS method and the report thereof was forwarded to this Commission. The Commission compared the area with Google Images and it was found that in cases of **82 mining leases**, there was encroachment.

However, at the time of personal hearings of the lessees held from **27.02.2013** to **04.03.2013** at **Bhubaneswar, Odisha**, number of Ld. Counsel for lessees disputed the said measurement and requested for re-measurement of the leased area at the cost of lessees. Therefore, as suggested by the Commission, the State Government had appointed Committees to re-survey the exact area of the land occupied by the lessees. On that basis, the Commission passed the order for re-survey for **37 leases**. The said re-survey is under progress and is likely to take further time.

In addition to above, with regard to **05 leases**, there was no encroachment was found. However, boundaries measured as per DGPS survey were not matching on the basis of Google Images. Therefore, for those **05 leases**, re-measurement of lease area was ordered.

For **48 leases** out of **82 leases**, no order for re-survey was passed, since there was no request/dispute from the representative and/or Ld. Counsel for the respective lessee.

9. The function of the Commission, at this stage, is only to inquire, assess the data collected and to submit the report on the said basis. On that basis, some remedial measures are suggested by the Commission for controlling illegal mining and violation of the Acts and/or Rules. For that, there is no question of issuing notices to the lessees.

For collecting the data and assessing it, the Principles of Natural Justice are fully complied with, as stated above. On the basis of the data submitted by the lessees and the submissions made by Ld. Counsel for them, the report is submitted.

In any case, the report would be tentative which may or may not be accepted and if accepted, the concerned authority is required to adopt the procedure prescribed under MM(DR) Act, 1957; Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1986 and others for taking appropriate action.

**Findings**

1. At present, the Commission has mainly dealt with violation of:–
  - (i) Mines and Minerals (Development and Regulation) Act, 1957 and the Rules;
  - (ii) Forest (Conservation) Act, 1980 and the Rules;
  - (iii) Environment (Protection) Act, 1986 and the Rules; and
  - (iv) notifications and guidelines issued under the aforesaid enactments.

This is considered on the basis of information submitted by **(i)** the State Government, **(ii)** lessees, **(iii)** MoEF, **(iv)** IBM and others, and **(v)** survey of lease area carried out by State Government, deviation from mining plan, land use plan and likewise others.

Some other topics which are directly related to individual illegal mining or its trade, transportation, and export are required to be dealt with are under process but they are likely to take some more time.

**2. (a) A serious instance of encroachment, trespass and theft by extracting iron and manganese ores is noted as under:-**

For this, it would be worthwhile to refer to information received from Shri S. K. Mishra for illegal mining and extraction of iron and manganese ores for a sum of **Rs.1776,37,01,600/-** (Seventeen Hundred Seventy Six Crores Thirty Seven Lacs One Thousand Six Hundred) of iron ore and **Rs.59,08,460/-** (Fifty Nine Lacs Eight Thousand Four Hundred and Sixty) for manganese ore.

The Commission has received a complaint on 29.10.2012 filed by one Shri S. K. Mishra. The said complaint has been taken on record. The complaint is coupled with a copy of a case filed before the Judicial First Class Magistrate, Barbil by Shri Jogendranath Kuldi, Senior Inspector of Mines, Joda.

The main contents of the complaint are about illegal mining in Uliburu Reserve and Revenue Forests. The pits and dumps of an area of 54.00 ha. has been marked as illegal mining with latitudes and longitudes. On

verification by this Commission, by incorporating the said readings in the Google Images of 2010, prima facie, it is found that the contents are correct. The mining pits and dumps, found inside the Uliburu Reserve and Revenue Forests, are quite clear and apparent.

For this purpose, an inspection report dated 20.04.2012 signed by the officials of Forest, Mines and Revenue Departments is also annexed with the complaint.

In the complaint which is filed by Sr. Inspector of Mines, Joda before the Judicial First Class Magistrate, Barbil, it has been stated that a quantity of about **40,24,400 MT** of iron ore and **610 MT** of manganese ore had been removed from outside the leased areas. The iron and manganese ores had been illegally extracted and transported from this area since the year 2004 onwards. In the complaint before the Magistrate, the value of iron ore is estimated as **Rs.1776,37,01,600/-** (Seventeen Hundred Seventy Six Crores Thirty Seven Lacs One Thousand Six Hundred) of iron ore and **Rs.59,08,460/-** (Fifty Nine Lacs Eight Thousand Four Hundred and Sixty) of manganese ore.

(b) After the receipt of the aforesaid complaint, the Commission has received copy of the report by the State Level Enforcement Squad (SLES), comprising of Md. Q. J. Khan, MO, Sri S. K. Rath, Forest Ranger and Sri L. D. Sahu, SI of Police, proceeded to Joda, Mining Circle on 20.03.2013 to conduct enquiry on the basis of the petition sent by Govt. in GA (Vigilance) Deptt. vide Lt. No.2644/VSS (N), dated 04.03.2013. The said report points out that, in all, from the years 2003-04 (Jan., 2004 to March, 2004) to 2009-10 (April-July), production was 47,48,826 MT (Forty Seven Lacs Forty Eight Thousand Eight Hundred Twenty Six) and total dispatch for these years was 45,22,639 MT (Forty Five Lacs Twenty Two Thousand Six Hundred Thirty Nine).

Its valuation, as per the said report, is approximately more than **Rs.2,000 crores (Two Thousand Crores)**.

Admittedly, no mining lease whatsoever has been granted for this area and, therefore, obviously and apparently, it is illegal mining which can be visualized from the pit, dumps and other materials. For this purpose, appropriate proceedings were required to be initiated under Section 21(5) of the



MM(DR) Act, 1957. The said Section 21(5) reads as under:-

*“Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during **which the land was occupied by such person without any lawful authority.**”*

Further, apart from Section 21(5) of the MM(DR) Act, this would be a criminal offence punishable for theft, trespass and other provisions of Indian Penal Code, 1973 (I.P.C.). Because without any authority or permission, iron and manganese ores from the Government forest land are extracted and sold. Therefore, the offenders should be prosecuted under Section 379 and other Sections of I.P.C., by holding necessary investigation by the Central Bureau of Investigation (C.B.I.).

Mere recovery u/s. 21(5) of MM(DR) Act, 1957 would not be sufficient to deter other persons from committing such offences. Investigating Agency should be requested to investigate whether it was

done in connivance of the concerned officers of the Forest, Mining and Revenue Departments and others because the illegal mining of such a large magnitude can not be done without the connivance of the district level and above officials of Mines, Revenue and Forest Departments. There may be also some political shelter.

It is to be stated that Forest Department has also filed a case No.228/BL of 11-12 dated 02.12.2011 before the J.M.F.C., Barbil.

The cases filed before the J.M.F.C. and others are mainly to cover up such a big scandal and for finding a way out to escape. Such a large magnitude of illegal mining can not take place without a conspiracy. The said complaint was filed just before the visit of Commission to Odisha State.

Since this is one of the biggest illegal mining ever observed by the Commission, it is strongly felt that this is a fit case to handover to Central Bureau of Investigation, for further investigation and follow up action.

The latitudes and longitudes for the outer boundary of the area are as under:—

<b>Sr. No.</b>	<b>Latitudes</b>	<b>Longitudes</b>
1	22 08 51.92	85 23 40.28
2	22 08 42.01	85 23 39.41
3	22 08 34.87	85 23 34.41
4	22 08 27.48	85 23 31.18
5	22 08 23.71	85 23 26.72
6	22 08 21.18	85 23 20.05
7	22 08 13.59	85 23 10.36
8	22 08 29.95	85 23 07.40
9	22 08 37.01	85 23 17.86
10	22 08 46.27	85 23 21.35
11	22 08 51.24	85 23 19.18
12	22 08 47.76	85 23 30.38

**Information regarding mining leases on website**

- 1. To make mining operations more transparent, it is necessary to display the information for each lease on the departmental website of the State.**
2. This Commission had sent notices for giving information to number of lease holders on the basis of addresses supplied by the State Departments including Goa, Odisha and Andhra Pradesh. Number of envelopes sent to lessees were returned on the ground that addresses were incorrect.
3. To avoid such situation, all the information pertaining to mining leases operated in various States are required to be displayed by the State Governments on a website which would pave the way towards proactive disclosure of information across the government departments. The Mines department is required to display the names of the lease holders/licence holders, tenure of the lease and allowed depth of the mining activity and other conditions as per various Acts including the Wild Life (Protection) Act, 1972 the Forest (Conservation), Act, 1980, etc. In short, the State Governments be asked to make all the information about mining leases public and display the same on a website.

- 4.** This would also be in compliance with Section 4 of the Right to Information Act, 2005.

(It is to be stated that in a major decision, the Gujarat Information Commissioner (GIC) has ordered that all the information pertaining to mining lease in the State be displayed by the Government on website.)

- 5.** Further, to avoid such situation of non-observation of Section 4 of Right to Information Act, 2005 and also to make mining operations more transparent, it is necessary to display the information as stated below for each lessee on the departmental website:-

- (1)** Name of the mining lease and year of first grant
- (2)** Name and address of the lease holder, if it is a company/firm, given full details of directors/partners, etc.
- (3)** Name and address of the original concessionaire/lessee
- (4)** Date and order of transfer of lease in favour of present lessee
- (5)** Name and address of the raising contractor, if permitted
- (6)** Total Extent of Leased area (Ha.)
- (7)** Division of leased area

- i.** Private Land (Ha.) (Give all Survey Nos. and name of owners of private land)
  - ii.** Govt. Land (Ha.) (Give all Survey Nos.)
  - iii.** Forest Land (Give all Survey Nos.)
  - iv.** Tribal Community Land (Give all Survey Nos.)
  - v.** Others ... (Give all Survey Nos.)
- (8)** Display Lease Sketch with Latitude – Longitude and Depth of the Main Pit (as on date...)
  - (9)** Date of expiry of first lease, first renewal, second renewal, deemed extension, and so on
  - (10)** Delay condonation, if any, Order No. and Date
  - (11)** Delay condoned by whom?
  - (12)** First Renewal – Order No., Date and Period (in years)
  - (13)** Second Renewal – Order No., Date and Period (in years)
  - (14)** Rejection/Pending Renewal (Yes/No)
  - (15)** Forest (Conservation) Act, 1980 – Approval – Government Order No. and Date (First and present)
  - (16)** MoEF – Order No. and Date (for F.C.)
  - (17)** Environmental Clearances – MoEF Order No. and Date

- (18)** Total quantity of production for which EC (upper limit) is given (per year)
- (19)** Total no. of trucks involved in transportation/day.
- (20)** Increase, if any, in Production (...From ...To)
- (21)** Working Plan approval date and order, etc. Provide mining plan sketch.
- (22)** Distance (Km.) from Wildlife Sanctuary/National Park (Crow Fly Distance)
- (23)** Yearly Production (in M.T.) – Year-wise
- (24)** Grade of ore of Production (If various grades, all grades with quantity should be displayed)– Year-wise
- (25)** Expenditure incurred on production per metric ton.
- (26)** Royalty paid (Rs.) – Year-wise and Grade-wise
- (27)** VAT paid – Year-wise
- (28)** Quantity of Ore exported or for domestic consumption (Specify, if both are applicable with quantity) – Year-wise
- (29)** Total number of employees employed directly in the mine.
- (30)** Distance from lease to tributary river/main river or any other natural stream – provide lease sketch with features.

- (31)** State, if any, human habitation inside the leased area
- (32)** Court Case, if any, particulars, Case No., Year, Court, present status
- (33)** Other conditions with regard to EC under Wild Life (Protection) Act, 1972
- (34)** Other conditions, State Government may include as per conditions of various approvals.
- (A)** Further, all the conditions imposed for grant of FC and EC permissions, should also be displayed on website.

Usual conditions with some variations, here and there, for FC, are as under:-

- i.** Legal status of the forest land shall remain unchanged.
- ii.** Compensatory Afforestation shall be raised over equivalent non-forest land, and shall be maintained at the project cost.
- iii.** The non-forest land identified for Compensatory Afforestation shall be declared as Reserved Forest / Protected Forest under Indian Forest Act, 1927 /



State Forest Act. The Nodal Officer shall report compliance within three months in this regard.

- iv.** The mining lease period under the Forest (Conservation) Act, 1980 shall be co-terminus with the current lease granted under MM(DR) Act, 1957.
- v.** The State Government shall deposit NPV and all other funds with the Ad-hoc Body of Compensatory Afforestation Fund Management and Planning Authority (CAMPA), in Account No. CA 85 of Corporation Bank (A Government of India Enterprises), Block-11, Ground Floor, C.G.O. Complex, Phase-1, Lodhi Road, New Delhi.110003, as per the instructions communicated vide letter No.5-2/2006-FC dated 20/05/2006.
- vi.** **RCC Pillars of 4 feet high shall be erected to demarcate the area by the user agency at the project cost and will be marked with forward and back bearings.**
- vii.** The user agency shall raise, fence and maintain a safety zone around the

mining times in extent of the safety zone at the project cost.

- viii.** The concurrent reclamation plan shall be executed by the user agency from the very 1<sup>st</sup> year and an annual report shall be sent to the Nodal Officer and the RCCF, Bhubaneswar.

If it is found from the annual report that the concurrent reclamation plan is not being adhered to by the user agency, the mining activities shall remain suspended till such time, the annual programme is completed for that year.

- ix. The Wildlife Management Plan for conservation of wildlife and their habitat shall be implemented at project cost.**

- x.** The top soil shall be protected at the project cost.

- xi.** Trees shall be felled only when it becomes necessary and that too under strict supervision of State Forest Department, and at the cost of the project.

- xii.** No labour camps shall be established on the forest land.
- xiii.** All necessary measures should be taken by the user agency to protect the environment.
- xiv.** Sufficient firewood shall be provided by the user agency to the labourers at the project cost after purchase from the State Forest Department / Forest Development Corporation.
- xv.** The user agency shall ensure that there should be no damage to the available wildlife.
- xvi.** The forest land shall not be used for any purpose other than that specified in the proposal.
- xvii.** The forest land thus diverted shall be non-transferable. Whenever the forest land is not required, it shall be surrendered to the State Forest Department under intimation to this Ministry.

- (B)** Further, once the aforesaid information is displayed on website, number of persons would come to know about the same and also would be in a position to verify various illegalities including encroachment, excess production, violation of EC conditions, violation of Mining Laws, Forest Laws, etc.
- (C)** In such situation, a policy is introduced to reward informants who have found illegalities in mining operation are intimated to the Competent Authority. The name of such person is required to be kept secrete and confidential for all the purposes. This would be of great benefit to the Mining Department which is having inadequate staff to monitor the mining operations. This may be a part of policy or rule that may be framed by the Central Government.

Hence, the aforesaid suggestion is required to be implemented at the earliest.

\* \* \*

**ANNEXURE: A**

For the mining leases in the State of Odisha, almost all lessees, State Government, FIMI, FICCI, MoEF, etc. were heard on various dates at various places and necessary information were received. The list thereof is as under:-

- (i) Personal hearing was held on **21.12.2012**, at **01.00 p.m.**, at the office of the Commission wherein following Ld. Counsel and/or representatives remained present on behalf of the respective lessee.

<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>On behalf of...</b>
1	Mr. Ram Jethmalani, Sr. Counsel with Mr. Karan Kalia, Mr. Dhananjaya Mishra and Mr. Pranav Trivedi, Counsel	M/s. Thriveni Earthmovers Pvt. Ltd.
2	Mr. Abhishek Manu Singhvi, Sr. Counsel with Mr. Amit Loddha, Mr. Sanjeeb Panigrahi and Mr. Hardik Modh, Counsel	Federation of Indian Mineral Industries (FIMI)
3	Mr. Gopal Subramaniam, Sr. Counsel	M/s. Dipti Rajan Patnaik, M/s. Indrani Patnaik, M/s. Tarini Minerals Pvt. Ltd., M/s. Khatau Narbheram & Co., and M/s. Serajuddin & Co.
4	Mr. Ashok K. Parija, Sr. Counsel	- do -
5	Mr. Anand Varma	- do -

- (ii) Personal hearing was held on **12.01.2013**, at **01.00 p.m.** at the office of the Commission wherein following Ld. Counsel and/or representatives remained present on behalf of respective lessees.

<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>Name of the Company/lessee/ officers on behalf of Govt. Department</b>
1	Mr. Ram Jethmalani, Sr. Counsel	M/s. Thriveni Earth Movers Pvt. Ltd.
2	Mr. Abhishek Manu Singhvi, Sr. Counsel	FIMI
3	Mr. Anil Diwan, Sr. Counsel	M/s. Serajuddin & Co.
4	Mr. Pinakin Misra, Sr. Counsel	Kalinga Mining Co.
5	Mr. Ashok Kumar Parija, Sr. Counsel	Indrani Patnaik
6	Mr. Manas Mahapatra	Alhuwalia Mines
7	Mr. Ashok Mohanty, Sr. Counsel	State of Orissa
8	Mr. Sanjeeb Panigrahi, Counsel with Dr. A. M. Singhvi	FIMI
9	Mr. Anand Varma, Counsel	Indrani Patnaik, Tarini, D. R. Patnaik
10	Mr. Tanvish Bhatt with Pinakin Misra	Kalinga Mining Co.
11	Mr. R. M. Patnaik, Counsel	CGAT
12	Mr. Dhananjaya Mishra, Advocate	M/s. Thriveni Earth Movers Pvt. Ltd.
13	Mr. Manu Sharma	M/s. Thriveni Earth Movers Pvt. Ltd.
14	Mr. Hardik Modh, Counsel, Economic Law Practice	FIMI
15	Mr. Amit Lodha, Counsel, Economic Law Practice	FIMI
16	Mr. Gaurav Kejariwal	M/s. Serajuddin & Co.
17	Mr. Manas Mohapatra, Sr. Counsel with Mr. Shiv Mangal Sharma and Mr. Ankit Shah, Counsel	KJS Ahluwalia
18	-do-	Ramesh Prasad Sao
19	-do-	Kaypee Enterprises
20	-do-	Pawan Kumar Ahluwalia
21	Mr. Pranav Trivedi, Counsel (Trivedi & Gupta)	M/s. Thriveni Earth Movers Pvt. Ltd.
22	Mr. Ashok K. Parija, Sr. Counsel	Orissa Manganese and Minerals Ltd.
23	Dilip K. Das, Advocate	- do -

- (iii) Thereafter, on **18.02.2013**, at **11.00 a.m.**, personal hearing was held at the office of the Commission wherein following persons remained present on behalf of **M/s. O.M.D.C. Ltd.**

<b>Sr. No.</b>	<b>Name of person</b>
1	S. K. H. Khadry, Sr. G.M. (Mines)
2	M. Sahoo, AGM (M)
3	Mr. T. K. Kar, Dy. Mgr. (S & P)
4	P. Mohapatra, Dy. Manager (G & C)

- (iv) Thereafter, hearings were continuously held from **27.02.2013 to 04.03.2013** at **Circuit House, Bhubaneshwar, Orissa** wherein following Ld. Counsel and/or representatives remained present on behalf of the respective lessees.

<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>On behalf of...</b>
1	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Ashok K. Parija, Sr. Counsel and Mr. D. K. Das, Counsel	Shri D.R. Pattnaik
2	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Ashok K. Parija, Sr. Counsel and Mr. Anand Varma, Counsel	M/s. Indrani Patnaik
3	Mr. Ashok K. Parija, Sr. Counsel with Mr. Amit Pattnaik, Counsel	M/s. Khatau Narbheram
4	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Manas Mohapatra, Sr. Counsel, Mr. Shishir Rontrag, Mr. Shiv Mangal Sharma and Mr. L. Mohapatra, Counsel	M/s. Kamal Jeet Singh Ahluwalia
5	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Manas Mohapatra, Sr. Counsel, Mr. Shishir Rontrag, Mr. Shiv Mangal Sharma and Mr. L. Mohapatra, Counsel	M/s. Kaypee Enterprises

<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>On behalf of...</b>
6	Mr. Anil Deewan, Sr. Counsel with Mr. Ashok Parija, Sr. Counsel and Mr. Gaurav Kejriwal, Counsel	M/s. Serajuddin & Co.
7	Mr. Ashok Parija, Sr. Counsel with Mr. Sarada P. Sarojini, Counsel	M/s. Tarini Mineral Pvt. Ltd.
8	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Manas Mohapatra, Sr. Counsel, Mr. Shishir Rontrag, Mr. Shiv Mangal Sharma and Mr. L. Mohapatra, Counsel	Shri Pawan Kumar Ahluwalia
9	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Manas Mohapatra, Sr. Counsel, Mr. Shishir Rontrag, Mr. Shiv Mangal Sharma and Mr. L. Mohapatra, Counsel	Shri Ramesh Prasad Sao
10	M.D. of O.M.C. and office Bearers	Orissa Mining Corporation Ltd.
11	Mr. Ashok K. Parija, Sr. Counsel with Mr. Amit Pattnaik, Counsel	M/s. Essel Mining & Industries Ltd.
12	Mr. Pinakin Mishra, Sr. Counsel	Kalinga Mining Corporation
13	Mr. Gopal Subramaniam, Sr. Counsel, Mr. Ashok K. Parija, Sr. Counsel and Mr. Dhananjaya Mishra, Counsel.	M/s. Tata Steel Limited
14	Mr. Ram Jethmalani, Sr. Counsel with Mr. Dhananjaya Mishra, Counsel	M/s. Thriveni Earth Movers Private Limited
15	Mr. Ashok K. Parija, Sr. Counsel	M/s. Adhunik Metaliks Limited
16	Mr. Navin Kumar, Counsel	M/s. Aryan Mining & Trading Corporation Pvt. Ltd. (AMTC)
17	Mr. Debasish Das, Counsel	M/s. Arjun Ladha



<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>On behalf of...</b>
18	Mr. Ashok K. Parija, Sr. Counsel with Mr. Dilip K. Das and Mr. Animish Singh, Counsel	Shri Birat Chandra Dagara (B. C. Dagara)
19	Mr. Debasish Das with Mr. Yogesh Das, Counsel	Shri Bikas Chandra Deb (B. C. Deb)
20	Mr. Bishwajit Das, Counsel	Shri Basudeb Agarwala
21	Mr. Yogesh Das, Counsel	M/s. B. D. Patnaik
22	Mr. Sanjit Mohanty, Sr. Counsel with Mr. J. K. Das, Sr. Counsel and Mr. R. R. Swain, Mr. S. P. Panda and Mr. P. K. Sengupta, Counsel	M/s. Mangilall Rungta
23	Mr. Sanjit Mohanty, Sr. Counsel with Mr. J. K. Das, Sr. Counsel and Mr. R. R. Swain, Mr. S. P. Panda and Mr. P. K. Sengupta, Counsel	M/s. Rungta Mines Limited
24	Mr. Sanjit Mohanty, Sr. Counsel with Mr. J. K. Das, Sr. Counsel and Mr. R. R. Swain, Mr. S. P. Panda and Mr. P. K. Sengupta, Counsel	M/s. Rungta Sons Private Limited
25	Mr. Sanjit Mohanty, Sr. Counsel with Mr. J. K. Das, Sr. Counsel and Mr. R. R. Swain, Mr. S. P. Panda and Mr. P. K. Sengupta, Counsel	M/s. Feegrade & Co. Pvt. Ltd.
26	Mr. Sanjit Mohanty, Sr. Counsel with Mr. J. K. Das, Sr. Counsel and Mr. R. R. Swain, Mr. S. P. Panda and Mr. P. K. Sengupta, Counsel	Bonai Industrial Company Limited
27	Mr. Pinakin Mishra, Sr. Counsel	M/s. Sarada Mines Private Limited
28	Mr. Ashok K. Parija, Sr. Counsel with Mr. Amit Patnaik, Counsel	M/s. Essel Mining & Industries Ltd.
29	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Sudarshan Nanda & Mr. Syanlendu Patnaik, Counsel and Mr. S. H. Naquiv (Sr. V.P), Mr. Mahesh Kumar Singh (SDMG), Mr. P. K. Patra (GM), Mr. R. S. Raghuvanshi (AGM) and Mr. R. K. Chaturvedi (Manager)	M/s. Jindal Steel & Power Limited

<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>On behalf of...</b>
30	Mr. Umesh C. Patnaik with Mr. Pradip Mohapatro, Counsel	M/s. Geetarani Mohanty
31	Mr. Biswajit Das, Counsel	K. C. Pradhan
32	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Rashmi Ranjan Swain and Mr. Pratap Ch. Mohapatra, Counsel	Sri Prabodh Mohanty – Legal Heirs of Late (S. N. Mohanty)
33	Mr. Sanjit Mohanty, Sr. Counsel with Mr. R. R. Swain, Counsel	M/s. M. G. Mohanty
34	Mr. Arpit Mohanty, Agent, Mr. H. K. Saha (Geologist) and Mr. C. S. Jene (Asst. Manager)	Shri T. P. Mohanty
35	Mr. Ashok K. Parija, Sr. Counsel with Mr. R. K. Sharma, Mr. V. S. Rao, Mr. Anand Verma and Mr. Amit Ladelha, Counsel	Federation of Indian Minerals Industries (FIMI)
36	Mr. Sanjit Mohanty, Sr. Counsel with Mr. R. R. Swain, Counsel	Penguin Trading & Agencies Limited
37	Mr. Sanjit Mohanty, Sr. Counsel with Mr. R. R. Swain, Counsel	M/s. MGM Minerals Limited
38	Mr. Kaushik Kishore Ghosh (Director) and Mr. Pradeep Sahoo (Adm. Executive)	M/s. Korp Resources Pvt. Ltd.
39	Mr. Ashok K. Parija, Sr. Counsel with Mr. Amit Patnaik and Mr. P. P. Mohanty, Counsel	M/s. Serrajuddin & Co. – Guruda
40	Mr. Ashok K. Parija, Sr. Counsel with Mr. Amit Patnaik and Mr. P. P. Mohanty, Counsel	M/s. Narayani Sons (P) Ltd. – Surguturia
41	Mr. Biswajit Das, Counsel with Mr. Niranjana Agrawal (Representative) and Jyoti Raja (Manager)	Narayani Sons – Laupada
42	Mr. Sanjit Mohanty, Sr. Counsel with Mr. R. R. Swain, Mr. Satyajit Mohanty and Mr. S. Patnaik, Counsel	M/s. Patnaik Minerals Pvt. Ltd.
43	Mr. S. Pattnaik, Counsel	M/s. National Enterprises
44	Mr. S. Nanda, Sr. Counsel	S. C. Padhee
45	Mr. Amit Prasad Bose, Counsel	B. S. Mishra
46	Mr. R. N. Sahu (Mining Law Consultant)	Bhanja Minerals Pvt. Ltd.

<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>On behalf of...</b>
47	Mr. Samarendranath Mohanty, Mr. Dayanand Pandey and Mr. Manan Ranjan Patnaik, Representatives	D. C. Jain
48	Mr. Manas Ranjan Mohapatra, Mr. S. K. Rootregy and Mr. L. Mohapatra, Counsel	Chandi Prasad Sharma
49	Mr. Dinesh Chandra, Representative	D. C. Das – Maharajpur
50	Mr. Sanjiv Gurag, Counsel with Mr. Ashok Kumar Mishra (Adv. Mining), Mr. Dilip Pradhan and Mr. Suresh Patro (Sr. Manager)	Dr. Sarojini Pradhan
51	Mr. Manas Ranjan Mohapatra, Mr. S.K. Rootregy and Mr. L. Mohapatra, Counsel	M/s. Kamal Jeet Singh Ahluwalia
52	Mr. Debakant Mohanty, Counsel	Shri D. C. Dagara
53	Mr. Ashok K. Parija, Sr. Counsel with Mr. Dilip K. Das and Mr. Animesh Singh, Counsel	Shri G. S. Choubey
54	Party in Person	Shri J. K. Choubey
55	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Shakti Prasad Panda and Mr. R. R. Swain, Counsel	M/s. Gandhamardar Sponge Iron (P) Ltd.
56	Mr. Umesh Patnaik with Mr. Somya Patnaik, Counsel	M/s. J. N. Patnaik
57	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Shakti Prasad Panda and Mr. R. R. Swain, Counsel	Axl Exploration (P) Ltd.
58	Mr. Ashok K. Parija, Sr. Counsel with Mr. Animesh Singh and Mr. Dilp K. Das, Counsel	M/s. G. S. Mishra & Sons Pvt. Ltd.
59	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Shakti Prasad Panda and Mr. R. R. Swain, Counsel	M/s. Lal Traders & Agencies Pvt. Ltd.
60	Mr. Tapaswani Sahu with Mr. P. N. Das, Counsel	M/s. S. A. Karim
61	Mr. A. K. Parija, Sr. Counsel with Mr. D. K. Das, Counsel	M/s. Orissa Manganese & Mineral Pvt. Ltd.
62	Mr. Deepak Kumar Mahopatra, Counsel	M/s. Mineral Trading Syndicate
63	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Shakti Prasad Panda and Mr. R. R. Swain, Counsel	M/s. Mideast Integrated Steels Limited

<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>On behalf of...</b>
64	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Shakti Prasad Panda and Mr. R. R. Swain, Counsel	M/s. Mala Roy & Others
65	Mr. Bishwajit Das, Counsel	M/s. Manoranjan Das (M. R. Das)
66	Mr. Bishwajit Das, Counsel	Shri Kunal Kishore Das
65	Mr. Basant Kumar Mohanty (Representative)	M/s. Kusheleswara Minerals
66	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Shakti Prasad Panda and Mr. R. R. Swain, Counsel	M/s. Kanakdhara Mining and Minerals (P) Ltd.
67	Mr. Pranath Das, Representative	Indicom Minerals & Metals Pvt. Ltd. – Erstwhile M/s. Konark Textiles & Exports (P) Ltd.
68	Mr. Bishwajit Das, Counsel	M/s. Facor Ltd.
69	Mr. Ashok K. Parija, Sr. Counsel with Mr. Naveen Kumar, Counsel	M/s. Aryan Mining & Trading Corporation Pvt. Ltd. (AMTC)
70	Mr. Manas Ranjan Mohapatra, Counsel with Mr. S. K. Rootregy and Mr. L. Mohapatra, Counsel	Umesh Chandra Mishra
71	Mr. Prana Ranjan Mishra, Counsel with Mr. Tapswani Sahu, Counsel	Kavita Agarwala
72	Mr. Jayanta Das, Sr. Counsel with Mr. Ashwin Patnaik and Mr. B. Baisakh, Counsel	Soumendra Nandan Dasmohapatra (S. N. Dasmohapatra)
73	Mr. A. K. Parija, Sr. Counsel with Mr. D. K. Das, Counsel	S. A. Halim

<b>Sr. No.</b>	<b>Name of Advocate/ Representative</b>	<b>On behalf of...</b>
74	Satya Narayan Paul (Party In Person)	Shri Satya Narayan Paul (S. N. Paul)
75	Mr. Prana Ranjan Mishra, Counsel with Mr. Tapswani Sahu, Counsel	Shri Rajkumar Agrawal
76	Mr. Manas Ranjan Mohapatra, Counsel with Mr. S. K. Rootregy and L. Mohapatra, Counsel	Shri Ramesh Prasad Sao
77	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Shakti Prasad Panda and Mr. R. R. Swain, Counsel (For Dalpahar) and Mr. R. N. Sahu, Law Consultant (For Kundrupani)	M/s. R. B. Das
78	Mr. Manas Ranjan Mohapatra, Counsel with Mr. S. K. Rootregy and Mr. L. Mohapatra, Counsel	Matadin Sharda
79	Mr. Prana R. Mishra, Counsel	M/s. Zenith Mining Pvt. Ltd.
80	Mr. Pralal C. Mahapatro, Counsel	M/s. Tarini Mineral (Teherai & Nuagoan)
81	Mr. Sanjit Mohanty, Sr. Counsel with Mr. Shakti Prasad Panda and Mr. R. R. Swain, Counsel	Tej Bahadur Lal
82	Mr. Sanjit Mohanty, Sr. Counsel with Mr. R. R. Swain, Counsel	Sun Alloys and Minerals (P) Limited
83	Principal Secretary	Govt. of Orissa
84	M.D. and staff	O.M.C.

- (v) On **16.03.2013**, at **11.00 a.m.**, hearing was held at Circuit House, Annexe, Ahmedabad wherein following Counsel and/or representatives remained present on behalf of the respective lessees.

<b>Sr. No.</b>	<b>Name of counsel/advocate</b>	<b>Name of the leases/company</b>
1	Mr. Ram Jethmalani, Sr. Counsel with Mr. Dhananjaya Mishra, Mr. Tanvish U. Bhatt, Mr. Jay Kansara and Ms. Gargi Vyas (Advocates)	M/s. Thriveni Earth Movers Pvt. Ltd.
2	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Talha Rahman, Mr. Jigar Patel and Mr. Nishit Agarwal (Advocates)	Indrani Patnaik, Tarini Minerals and Tata Steel
3	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Shiv Mangal Sharma, Mr. Ankit Shah and Mr. L. Mohapatra (Advocates)	K.J.S. Alhuwalia
4	Mr. Gopal Subramaniam, Sr. Counsel with Mr. Shiv Mangal Sharma, Mr. Ankit Shah and Mr. L. Mohapatra (Advocates)	Ramesh Prasad Sao
5	Mr. Manas Mohapatra, Sr. Counsel with Mr. Shiv Mangal Sharma, Advocate	Kaypee Enterprise
6	Mr. Manas Mohapatra, Sr. Counsel with Mr. Shiv Mangal Sharma, Advocate	Pawan Kumar Alhuwalia
7	Mr. Nandial Gore Partner Karanjanka & Co., Advocate	Tata Steel Ltd.
8	Meena Lall, Chief – legal	Tata Steel Ltd.
9	Sarthak Nayak	Tata Steel Ltd.
10	Pankaj Satija	Tata Steel Ltd.
11	Mr. U. U. Lalit, Sr. Counsel, Mr. Ashok Mohanty, Advocate General (Odisha) with Mr. Shibashish Misra and Mr. Subhranshu Padhi (Advocates)	State of Orissa
12	Mr. Deepak Mohanty, DMG	State of Orissa
13	Mr. Saraswat Mishra, CMD	Orissa Mining Corporation Ltd.
14	Mr. Anil Diwan, Sr. Counsel	Serajuddin & Co.
15	Mr. Ashok Kumar Parija	Indrani Patnaik

- (vi) On **20.03.2013**, at **12.30 p.m.**, hearing was held at Circuit House, Annexe, Ahmedabad wherein following Counsel and/or representatives remained present on behalf of the **Federation of Indian Chambers of Commerce and Industry, New Delhi.**

<b>Sr. No.</b>	<b>Name</b>	<b>Designation/ Company</b>
1	Mr. Arpan Gupta	Senior Assistant Director, Steel & Mines (FICCI)
2	Mr. P. K. Murvgan	JSW Steel
3	Mr. P. N. Rao	GHCL Ltd.
4	Mr. J. K. Pahwa	Vice President (Corporate) Visa Steel Ltd.
5	Mr. M. K. Premkumar	Rio Tinto
6	Mr. D. S. Chhajed	Hind Alum. Ind. Ltd.
7	Mr. M. S. Rathore	GHCL Ltd.
8	Mr. Kamal Nain Pandya	GMS
9	Mr. Arnab Kumar Hazra	Director (FICCI)
10	Mr. Anish Dayal	Advocate, S.C.

- (vii) On **23.03.2013**, at **12.30 p.m.**, personal hearing was held at the office of the Commission wherein following Counsel and/or representatives remained present on behalf of **M/s. Essel Mining & Industries Ltd.**

<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>
1	Mr. Abhishek Manu Singhvi	Senior Counsel
2	Mr. Ashok Parija	Sr. Counsel
3	Mr. Ramesh Singh	Advocate
4	Mr. Rajendra Patnaik	Advocate
5	Mr. Amit Patnaik	Advocate
6	Mr. Sanjeeb Panigrahi	Advocate
7	Mr. P. K. Panda	Representative
8	Mr. P. K. Jain	Representative
9	Mr. Ashok Gupta	Representative
10	Mr. J. Mishra	Representative
11	Mr. S. Pradhan	Representative

**(viii)** On **02.04.2013**, at **11.00 a.m.**, hearing was held at Circuit House, Annexe, Ahmedabad wherein following Counsel and/or representatives remained present on behalf of the respective lessee.

<b>Sr. No.</b>	<b>Name of counsel/advocate</b>	<b>Name of the leases/company</b>
1	Sanjit Mohanty, Sr. Counsel	Mangila Rungta
2	J. K. Das, Sr. Counsel	Rungta Mines Ltd.
3	R. R. Swain, Counsel	Rungta Sons Pvt. Ltd.
4	S. P. Panda, Counsel	Feegrade & Co. Pvt. Ltd.
5	R. R. Swain, Counsel	BICO – Bonai Int. Co. Ltd.
6	S. Nanda, Counsel	Jindal Steel & Power Ltd.
7	P. C. Mohapatra, Counsel	M. G. Mohanty
8	S. Pattnaik, Counsel	National Enterprises
9	S. Pattnaik, Counsel	MGM Minerals
10	P. C. Mohapatra, Counsel	Sun Alloys
11	S. Nanda, Counsel	S. C. Padhee
12	P. P. Swain, Counsel	Penguin Trading
13	R. R. Swain, Counsel	Penguin Trading
14	Mr. Ashok Parija, Sr. Counsel	G. S. Misra & Sons Pvt. Ltd.
15	Mr. Amit Pattnaik, Counsel	G. S. Misra & Sons Pvt. Ltd.
16	Mr. Ashok K. Parija, Sr. Counsel	G. S. Choubey
17	Mr. Dilip K. Das, Counsel	G. S. Choubey

**(ix)** On **03.04.2013**, at **11.00 a.m.**, hearing was held at Circuit House, Annexe, Ahmedabad wherein following Counsel and/or representatives remained present on behalf of the respective lessee.



<b>Sr. No.</b>	<b>Name of counsel/advocate</b>	<b>Name of the leases/company</b>
1	Sanjit Mohanty, Sr. Counsel with S. P. Panda, Counsel and R. R. Swain	AXL Explorations
2	Digamber Mishra, Counsel, S. Pattnaik, R. R. Swain	Lal Traders
3	R. R. Swain, Counsel with S. Nanda, Counsel	Midest Integrated
4	Sanjit Mohanty, Sr. Counsel, R. R. Swain, Counsel with S. P. Nanda	Mala Roy
5	Sanjit Mohanty, Sr. Counsel with S. Pattnaik and R. R. Swain, Counsel	T. B. Lal – Jajang
6	Sanjit Mohanty, Sr. Counsel with S. Pattnaik and R. R. Swain, Counsel	T. B. Lal – Kasia
7	Ashok K. Parija, Sr. Counsel with R. M. Pattnaik, P. P. Mohanty, Counsel	Serajuddin & Co.
8	Ashok K. Parija, Sr. Counsel with Amit Pattnaik, Counsel	Narayani Sons – Suruguturia Mines
9	Ashok K. Parija, Sr. Counsel with Dilip Kumar Das	D. R. Pattnaik, Murgabeda, Thakurani
10	Ashok K. Parija, Sr. Counsel with Dilip Kumar Das, Counsel	Tarini Minerals – Deojhar – Jurudi

**(x)** On **04.04.2013**, at **11.00 a.m.**, hearing was held at Circuit House, Annexe, Ahmedabad wherein following Counsel and/or representatives remained present on behalf of the respective lessee.

<b>Sr. No.</b>	<b>Name of counsel/advocate</b>	<b>Name of the leases/company</b>
1	Ashok K. Parija, Sr. Counsel with Naveen Kumar, Counsel	Aryan Mining Trading Corp. Pvt. Ltd.
2	D. K. Das, Counsel	D. R. Patnaik – Murgabeda, Thakurani
3	A. K. Parija, Sr. Counsel with D. K. Das, Counsel	Tarini Minerals – Deojhar & Jurudi
4	A. K. Parija, Sr. Counsel with D. K. Das, Counsel	B. C. Dagara – Suleipat, Gunua and Dalita
5	A. K. Parija, Sr. Counsel with D. K. Das, Counsel	OMM Pvt. Ltd. Patmunda, Orahuri, Kusumdihi, Tentuldihi, Bhaji Kusum, Sanpathali
6	A. K. Parija, Sr. Counsel with D. K. Das, Counsel	S. A. Halim
7	Ashok Parija, Sr. Counsel	Narayani Sons
8	Amit Patnaik, Counsel	Narayani Sons
9	S. M. Sharma, Manas Mohapatra, Sr. Counsel with Ankit Shah	R. P. Sao
10	Naveen Kumar	D. C. Das

(xi) On **12.04.2013**, at **11.30 a.m.**, hearing was held at the office of the Commission wherein following Counsel, officers from the Government Department, State of Orissa and/or representatives remained present on behalf of the respective lessee.

<b>Sr. No.</b>	<b>Name of officer / advocate / representative</b>	<b>On behalf of...</b>
1	Mr. R. N. Reddy, IFS, Forest Diversion, CCF (Nodal Officer)	Forest Department, Govt. of Orissa
2	Mr. S. C. Swain, IFS, RCCF, RKL	– ” –
3	Mr. H. K. Bisht, IFS, CCF	– ” –

<b>Sr. No.</b>	<b>Name of officer / advocate / representative</b>	<b>On behalf of...</b>
4	Mr. P. K. Prusty, Sr. Sc.	Forest & Environment Department, Govt. of Orissa
5	Mr. C. R. Nayak, Sr. Scientist	Orissa State Pollution Control Board
6	Mr. M. R. Mishra, Dy. Director	Directorate of Mines, Mines Department
7	Mr. Naveen Kumar, Advocate with Mr. Ashok Mohanti, Partner	Kalinga Mining Corporation
8	Mr. Naveen Kumar, Advocate with Mr. Dinesh Das	D. C. Das
9	Mr. Ashok K. Parija, Sr. Counsel	(i) B. C. Dagara; (ii) Orissa Manganese & Minerals Pvt. Ltd.; and (iii) S. A. Halim
10	Mr. Dilip K. Das, Advocate	(i) B. C. Dagara; (ii) Orissa Manganese & Minerals Pvt. Ltd.; and (iii) S. A. Halim

(xii) On **13.04.2013**, at **11.30 a.m.**, hearing was held at the office of the Commission wherein following Counsel/representatives on behalf of the lessee – **M/s. Essel Mining & Industries Ltd.** as well as the officers from the Government Department, State of Orissa, remained present.

<b>Sr. No.</b>	<b>Name &amp; Designation</b>	<b>On behalf of...</b>
1	Dr. A. M. Singhvi, Sr. Counsel	M/s. Essel Mining & Industries Ltd.
2	Mr. Ashok Parija, Sr. Counsel	—”—
3	Mr. Ramesh Singh, Advocate	—”—
4	Mr. Amit Pattanaik, Advocate	—”—
5	Mr. R. M. Patnaik, Advocate	—”—
6	Mr. Sanjiv Panigrahi	—”—
7	Mr. P. K. Panda, Representative	—”—
8	Mr. P. K. Jain, Representative	—”—
9	Mr. Ashok Gupta, Representative	—”—
10	Mr. A. Mohapatra, Representative	—”—
11	Mr. Jitendra Mishra, Representative	—”—
12	Mr. S. Pradhan, Representative	—”—
13	Mr. Preeti Aiyer, Representative	—”—
14	Mr. R. N. Reddy, CCF (Nodal Officer)	Forest Department, Government of Orissa
15	Mr. S. C. Swain, IFS, RCCF, RKL	— ” —
16	Mr. H. K. Bisht, IFS, CCF (WL)	— ” —
17	Mr. P. K. Prusty, Sr. Sc.	Forest & Environment Department, Govt. of Orissa
18	Mr. C. R. Nayak, Sr. Env. Geologist	Orissa State Pollution Control Board

- (xiii) On **21.04.2013**, at **11.30 a.m.**, hearing was held at Gujarat University Convention Centre, Nr. Helmet Cross Road, 132 ft. Ring Road, Ahmedabad, wherein following Counsel/representatives remained present.

<b>Sr. No.</b>	<b>Name of counsel/advocate</b>	<b>Name of the leases/company</b>
1	Gopal Subramaniam, Sr. Counsel with Dhananjaya Mishra, Counsel	Tata Steel Ltd.
2	Ashok Parija, Sr. Counsel with Dhananjaya Mishra, Counsel	Tata Steel Ltd.
3	Anil B. Diwan, Sr. Counsel	Serajuddin & Co.
4	Ramesh Singh, Counsel	Serajuddin & Co.
5	Gaurav Kejriwal, Counsel	Serajuddin & Co.
6	Gopal Subramaniam, Sr. Counsel with Shiv Mangal Sharma & L. Mohapatra, Counsel	KJS Ahluwalia & R. P. Sao
7	Manas Mohapatra, Sr. Counsel with Mr. Shiv Mangal Sharma & L. Mohapatra, Counsel	Kaypee Enterprises & Pawan Kumar Ahluwalia
8	Mr. Tanvish U. Bhatt	-

- (xiv) On **24.05.2013**, at **12.30 p.m.**, hearing was held at the office of the Commission wherein following Counsel/representatives remained present.

<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>
1	Mr. Ashok K. Parija	Sr. Counsel
2	Dhananjaya Mishra	Counsel
3	Sarthak Nayak	Counsel
4	P. K. Satija	Representative
5	S. K. Kabi	Representative
6	Manikanta Naik	Representative
7	Anoop Kumar	Representative
8	K. C. Dash	Representative

(xv) On **25.05.2013**, at **12.00 p.m.**, hearing was held at the office of the Commission wherein following Counsel/representatives remained present.

<b>Sr. No.</b>	<b>Name &amp; Designation</b>	<b>On behalf of...</b>
1	Mr. Ashok K. Parija, Sr. Counsel with Mr. Naveen Kumar, Mr. Dhananjay Mishra, Counsel	Indrani Patnaik
2	Mr. Ashok K. Parija, Sr. Counsel with Mr. Ramesh Sinha, Mr. Gaurav Kejriwal and Mr. N. R. Nayak	M/s. Serajuddin & Co.
3	Mr. Ashok K. Parija, Sr. Counsel with Mr. Dhananjay Mishra and Mr. Sarthak Nayak, Counsel	M/s. Tata Steel & Co.
4	Mr. Ashok K. Parija	M/s. Khatau Narbheram & Co.

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**CHAPTER: II****—: Observations :—**

From the record, it appears that there is no rule of law but rule is what mighty mining lessees decide with the connivance of the concerned Department.

**[ I ]****How tribals are affected?**

1. It is forgotten that mining operations are carried out in the areas belonging to the tribal and tribal people are displaced or stay in pathetic and miserable conditions in the same area.

Members of the Commission have seen the roads passing from the villages and observed that on both sides of road about 100 mtr. there is pollution and trees are having colour of the minerals. From this situation, we have to imagine the fate of the villagers residing in those areas because they are forced to breath polluted air and drink polluted water.

2. In the nearby villages where mining operations are carried out, stream and ground water is polluted.

There is hardly any facility of drinking water. We have seen some women fetching water from dirty “nalas”; (culverts or streams). Upon making inquiry with them, it was found that there is no well from where drinking water can be fetched.

3. It was pointed out that some mining companies and beneficiation plants are drawing water from river and thereby water resources are depleting at a faster rate.

The Baitrani River (River Vaitarni) is having its major catchment area in two Districts, namely, Keonjhar and Sundargadh and is life line of the area and is one of the six big rivers in Odisha State. Very small portion of catchment is in Jharkhand State. In all, 65 tributaries join Baitrani River. 35 tributaries join from left side of the river and remaining 30 tributaries join from the right side of the river. Many of the tributaries and nalas form a wide net work in these two Districts.

The networking of water channels and small nalas which were originating from the hill tops and heavily forested slops are now completely shattered due to large mining pits, dumps, roads and other mining activities.



4. It is pointed out that river water is also polluted and it gets colour of the minerals due to discharge of effluent water.
5. It is apparent that environmental laws are not implemented effectively and polluting mining companies are not punished at all.
6. At this stage, it would be worthwhile to quote relevant part of the observation made by the RBI Governor, D. Subbarao published in **Economic Times**, dated **12.02.2013** which reads as under:—  
*“People suffering due to high inflation forces RBI governor D Subbarao to hold rates*  
*MUMBAI: It is the silent millions of poor squeezed by soaring prices who were the driving force behind the Reserve Bank of India's decision to keep interest rates high, the central bank's governor said on Monday.*  
*“People who are worried about economic growth are typically quite articulate, that they have a platform to express their concerns,” .....*  
*“I have sympathy with that view (that high interest rates was hurting growth). I am not saying that's an invalid criticism. But I just want to say that their voice is heard, **but people who are hurt by inflation – the large majority of the poor – their voice is not heard.***  
*... ..”*

**Similarly, a few who are interested in extracting and exporting iron ore legally or illegally and/or who are worried about economic growth and earning of foreign exchange, are typically quite articulate in raising their voice.**

**But, the tribals/villagers who are hurt, displaced and/or staying in horrible and miserable conditions in the said area, drink polluted water, breath polluted air, are not in a position to raise their voice or their voice remains unheard / unattended.**

**[ II ]****Basic facilities**

1. It is apparent that those persons, who are looting minerals which is a limited national wealth, are not prepared to share fraction of their income for development of area from where minerals are extracted.

**(i) Medical facility:-**

No medical facility is available within nearby villages populated by local tribals, except some Government dispensaries.

**(ii) Shelter/Residence:-**

No provision is made for their shelter or residence.

**(iii) Education facility:-**

Education facility is not available.

In any case, right to education is given to the citizens by introducing the Right to Education Act, 2009. For providing education to citizens, there should be direction to the lessee or its contractor to pay education cess

so that facilities are made available to the Society.

**(iv) Roads:-**

Because of heavy flow of vehicles and transportation, roads are badly damaged. It is also stated that at night time there is continuous flow of traffic. On one road of the area about 7000 trucks are passing during night time. Therefore, we have to imagine about condition of the roads, nuisance that it would cause to local population, congestion of traffic, inconvenience to common man and the pollution thereby.

**(v) Labourers:-**

**(a)** Firstly, it would be worthwhile to quote relevant Rule 27(p) & (q) of MCR, 1960 which reads as under:-

*“27. (p) the lessee shall, in the matter of employment, give preference to the tribals and to the persons who become displaced because of the taking up of mining operations;*

*(q) the lessee shall not pay a wage not less than the minimum wage prescribed by the Central or State Government from time to time under the Minimum Wages Act, 1948.”*

**However, it is to be stated that the aforesaid rule has not been observed and has not been implemented.**

- (b)** Secondly, it is contended that the Mining Industry takes services from local labourers for mining operations and gives them opportunities of employment.

However, this claim is totally hollow because, now-a-days, mining operation is mainly mechanized one.

- (c)** Thirdly, the mine-owners do not pay more than minimum wages to the labourers even though their income is more than Billion of rupees. They have no idea or intention to pay fair wages.

- 2.** In addition, it is to be stated that it is a policy of the Central Government that in the mines, locals should be appointed as labourers. In most of the companies, it is found that this policy is not followed or implemented.

Secondly, the persons, earning thousands of crores per year, are paying minimum wages. This reveals how labourers are exploited and the object of seeing that locals get benefits, is frustrated.

Further, most of the lessees are having their main office outside the State of Odisha. As such, they are not residing in Odisha where the mining operations are being carried out. They keep a middle man after taking the lease. They hand over mining operations to so-called raising contractors. The concept of “Raising Contractor” is evolved by them so as to frustrate the operation of Rule 37 of MCDR, 1988.

**What national interest would be served by keeping this middle man as lessee and permitting some other persons to operate and carry out mining operation?**

In view of the Commission, no national interest is served but it serves the interest of few fortunate capitalists who obtain the mining lease.

Further, with regard to the mining operation, there should be some mechanism so that production and exact sale price received by the lessee or the contractor is made known to the Government and the information should be displayed so that manipulation and corruption can be controlled.

## [ III ]

### **Sharing of iron ore between lessee and the State Government**

1. On this subject, it would be worthwhile to reproduce the relevant part of the article, namely, **“Mining leads to poverty : Jairam Ramesh to tribals”**, published in **Economic Times**, dated **14.01.2013** which reads as under:—

*“LANJIGARH:*

*‘Mining only leads to greater poverty,’* Jairam Ramesh, Union Minister of Rural Development explained to the tribals of Lanjigarh, Odisha at the foothills of the Niyamgiri hills.

*This is the union minister's first visit to the naxal-affected Kalahandi district, a political tinderbox, where tribal interests are ranged against big corporates. Mr Ramesh insisted his visit was part of his agenda to visit all naxal affected districts and fight extremism with increased rural development.*

*‘Odisha's poverty will not go from mining.’* The centre government believes agriculture and rural development is what will reduce poverty.

*In fact, mining only grounds that **forest rights act had not been followed.** Lanjigarh, had hit the national headlines after Congress leader visited the*

*mineral rich tribal district twice in 2008 and 2010. Following Rahul Gandhi's first visit, the environment ministry had refused clearance for the project.*

... ..

*'Mining can be a boon and a curse. **Some people have become very rich from mining and even come to Parliament.** .... Unfortunately, our track record has shown that companies, whether PSU's or private ones have neither operated in an environmentally sustainable manner, or socially beneficial manner, displacing lakhs and lakhs of adivasis and not providing adequate compensation of employment,' the Union Minister told tribals on Sunday. ... .."*

2. Further, similar is the view expressed by **Kishore Chandra Deo, Union Minister for tribal affairs and panchayati raj**. For this, it would be worthwhile to quote his article published in **Times of India, Ahmedabad Edition**, dated **18.03.2013**, in the form (Questions & Answers) which is as under:-

***"Tribals must have equity in mining – it isn't meant to enrich a few***

*Veteran Congressman Kishore Chandra Deo is Union minister for tribal affairs and panchayati raj. Speaking with Srijana Mitra Das, Deo discussed challenges facing tribal communities, mining, Maoism– and re-defining inclusive growth:*



**Q. & A.**

**Why are tribals on the margins of discourse about development or citizenship?**

*That is most unfortunate. The main cause of unrest in the Fifth and Sixth Schedule Areas is the neglect of people there, **the lack of basic facilities and exploitation by outsiders. The Fifth Schedule Area has a left-wing extremist problem. Often, these people are the only ones making noises about the exploitation of tribals—you can't control this just by sending uniformed men with arms. Maoists gain sympathy because of threats like mining, throwing tribals off their lands, depriving them of livelihoods,** even sending them outside the Schedule Areas where it's hard to get their constitutional guarantees.*

*The Constitution's provisions give tribals guarantees – unfortunately, many are observed more in the breach. For example, the Fifth Schedule says no non-tribal can buy or lease land in a tribal area. But today, through devious means, all kinds of activities go on there.*

**What are the most problematic?**

**Well, the biggest threat to tribals is from mining.** *These are mineral-rich areas – and also where tribals have lived for centuries. The Forest Rights Act was enacted in 2006 by UPA-I. Until this, no government did anything to record pre-existing rights. In 1927, these areas were declared forests.*

*The forest departments then encroached upon tribal habitats.*

*In 2008, the Forest Rights Act began being implemented amidst hostility from forest departments of every state. They resisted giving pattas to tribals. These were a heritable right, these didn't give timber-felling rights or to mortgage or sell lands, only to collect minor forest produce and do some cultivation – but till today, the implementation hasn't been satisfactory.*

*In 1996, there was another Act called the Panchayat (Extension to Scheduled Areas) Act (PESA). Now, 15 years have passed – only three states from nine have made the rules for this. PESA has an important clause saying gram sabhas must be convened. I'd said these should be video-recorded and held on fixed days. Such local-level decisions increase transparency and reduce corruption. It's the only way every person feels part of the process of development and governance. But each state is responsible for implementation – and it's not as it should have been.*

### ***How will these Acts correct mining?***

*Until you've settled rights, what basis will you compensate tribals on? Once you catch them by the neck and throw them out, they're totally orphaned. The first step is to know exact rights. The second is PESA where gram sabhas consent to terms. Mining must be within the constitutional framework. When*

*as an individual non-tribal, you can't buy land there, as a private company, you're getting land on lease! These are flagrant violations of constitutional provisions.*

*Secondly, our prime minister says our policy is inclusive growth. I don't think that means neglecting the most deprived. **Development is not rendering hundreds of thousands homeless for the sake of one dozen.** It's been suggested portions of mining companies' profit be spent on tribal community development – but why should we be dependent on a company's declared profits? Equity for tribals should be fixed. **I'm not against mining – but it isn't meant to fill the pockets of a few.***

***Business corporations can look after themselves. If the government doesn't do anything for the poorest of the poor, what is the role of a government?"***

3. In the aforesaid interview (Question & Answer) of Kishore Chandra Deo, Union Minister for tribal affairs and panchayati raj, has pointed out that the fifth schedule area has a left wing extremist problem because there is lack of basic facilities and exploitation by outsiders. Left wing extremist are the only persons making noises about the exploitations of tribals. This indicates that MM(DR) Act, Rules and Regulation and constitutional provisions which give guarantees to the tribals

require changes so that extraction of minerals should not be left in the hands of only few persons for their benefit. It has been also highlighted that today, through **devious** means, all activities go on there and has used the words “*How tribals are orphaned*” by stating “*once you catch them by the neck and throw them out, they’re totally orphaned.*”

In view of the Commission, this is an appropriate analysis of the present day situation of tribal areas of the State of Odisha. Nobody has thought over for providing the basic facilities, as stated above.

**4. (a)** Further, Hon’ble Mr. Jayram Ramesh has highlighted that:–

- (i)** Mining only leads to greater poverty;
- (ii)** ‘Odisha's poverty will not go from mining.’  
The centre government believes agriculture and rural development is what will reduce poverty;
- (iii) Some people have become very rich from mining and even come to Parliament.**

(b) Hon'ble Kishore Chandra Das stated:–

(i) **Business corporations can look after themselves. If the government doesn't do anything for the poorest of the poor, what is the role of a government?**

(ii) Secondly, our prime minister says our policy is inclusive growth. I don't think that means neglecting the most deprived. **Development is not rendering hundreds of thousands homeless for the sake of one dozen.** It's been suggested portions of mining companies' profit be spent on tribal community development – but why should we be dependent on a company's declared profits? Equity for tribals should be fixed. He has stated that he is not against mining – **but it isn't meant to fill the pockets of a few.**

The aforesaid views expressed by the Hon'ble Ministers are required to be considered seriously before granting or renewing the mining lease.

5. This Commission has found that almost all persons to whom mining lease is granted or are in

possession on the basis of **deemed extension**, they themselves are not carrying out mining operations. But mining operations are being carried out by third persons may be Power of Attorney-holders or Contractors. The list of such lessees, carrying out mining operations through third persons, is enclosed herewith at **Annexure: A**.

As discussed in subsequent Chapters, for winning the iron ore mineral, the maximum expenditure by the lessees is not more than 45% of the net value of the production. This finding is based on the fact that contractors are getting 36% to 42% share in the minerals extracted. Hence, equity for the tribals' development should be fixed by considering that criteria and that amount should be collected at initial stage by the State for the development of the tribal areas including the Districts from where iron ore is extracted. The said amount should be kept in a separate account for the development of those areas.

Or from the company's profit to whom the mining lease is granted, half of the share in the profit should be collected and utilized for the development of the Districts from which the minerals are extracted.

Hence, the procedure of granting lease only on the fixed rate or dead rent/royalty requires to be modified. Lease should be granted on the basis of sharing the product, may be 50:50 or thereabout. This would give a large profit to the State Government.

Further, whatever iron ore is extracted can be sold by e-auction. For e-auctioning, the Supreme Court has given directions in the case of **Samaj Parivartana Samudaya & Ors. v/s. State of Karnataka**, in **Writ Petition (Civil) No.562/2009**, decided on **18.04.2013**. The same procedure should be followed for the State of Odisha and finally, for the country as a whole.

**Mining of the national asset should not be meant only to fill the pockets of a few fortunate who are in position to get mining lease and continue thereof rightly or wrongly by one or other method.**

It is to be remembered all throughout that natural resources are meant for public use and cannot be converted into private ownership or should not be only for the benefit of few. Public at large is a beneficiary and should get its benefits.

For achieving the aforesaid objective of giving benefit of the national assets to the State as a whole and not to fill the pockets of few —

- (i) it is necessary to grant mining lease by public auction; and
- (ii) it should be on a sharing basis of the product and not on a fixed rent, as discussed hereinafter.



## [ III / A ]

**Auction of lease rights**

Granting of the lease by public auction by open tender/e-auction would be in conformity with the law laid down by the Apex Court and in conformity with the report of Planning Commission.

1. For auction, it would be worthwhile to reproduce some suggestions made in the report of the High Level Committee (Planning Commission, GoI, New Delhi) published in **December, 2012**, which *inter-alia* read as under:–

**“1.32** ... .. The current provision for disposal (or allocation) is mainly through discretionary decision by the state governments (in some cases, with the approval of the Centre) on the basis of some very broad parameters. In non-notified areas (areas for which applications have not been invited through publication in the official Gazette), state governments are expected to **follow the first-come-first served principle, while all applications in notified areas (areas for which applications have been invited) are to be considered in terms of the parameters laid down in Section 11(3) of the MMDR Act.** However, in all cases, the state governments, and in some

cases, even the Central government, are authorized to bypass these provisions at their discretion. **It is necessary to introduce transparency in the allocation of ore bodies either through a tender/auction system or by spelling out in very precise detail the method of ascertaining who best satisfies the requirements of Section 11(3) and making the same binding. Ideally, a tender/auction system would be most suitable inasmuch as such a system would have the additional advantage of augmenting state revenues, which is a major concern of the state governments.** The tender/auction system may also be applied to ore bodies in respect of which prospecting data has come into the public domain after the lock-in period has expired without the prospector having filed a ML application. Hence, subject to the exception mentioned in Chapter 5 (see paragraphs 5.13 and 5.14), the tender/auction system should be used for disposing of ore bodies prospected by State agencies at public expense.

... ..

- 5.13** *In light of the above and taking into consideration the proposals that have been outlined in Chapter 1 on non-exclusive RP, LAPL, and unbundling of mineral concessions, the Committee recommends that*

*Section 11 of the MMDR Act be modified so as to provide as follows in cases in which no notification has been made:*

- (i) Applications for non-exclusive RP should be freely granted, with somewhat light scrutiny of the applicant on the basis of the parameters (a) to (c) in existing Section 11(3);*
- (ii) Once non-exclusive RP has been granted, the progression to LAPL by the RP holder should be seamless (on the basis of first-in-time principle as mentioned in paragraph 1.41), provided the non-exclusive RP holder gives the data of reconnaissance operations establishing mineral resources in the area; at this stage, the scrutiny of the LAPL, applicant against the parameters laid down in existing parameters (a) to (c) should be more rigorous;*
- (iii) For single applicants for direct PL or direct LAPL, only the parameters (a) to (c) in existing Section 11(3) should be applied. In deciding among multiple applicants for direct PL or direct LAPL, preference may be given by the state government to the applicants who are qualified under the criteria (a) to (c) in existing Section 11(3) and, **in addition, propose to make investment not only in mining operations but also***

***in industry based on the mineral within the state when they eventually move to the next stage of ML. In such cases, transfer of the preferential right to grant of ML would be allowed to holders of PL or LAPL without any hindrance but in such transfers, the right to grant of ML would be passed on together with the obligation regarding value addition.***

**5.14** *In the case of applications received pursuant to notifications, the amended Section 11 should provide as follows:*

- (i)** *For single applications for LAPL only, the criteria in (a) to (c) in existing Section 11(3) should be applied;*
- (ii)** *In the case of multiple applicants for LAPL/PL, where applicants are found to be qualified under criteria (a) to (c) in existing Section 11(3), preference should be given for the proposed investment in mine and industry based on the mineral within the state in the event of the applicant moving eventually to the next stage of ML;*
- (iii)** *In cases in which ore bodies fully prospected by public agencies are to be auctioned as envisaged in Chapter 1, the states would have the right to waive the tender/auction procedures **in cases***

*in which the applicant proposes to set up the industry based on the mineral within the state. In such cases, the full cost of exploration by the public agency should be recovered from the lessee.*

**6.26 (iv) The State Governments would get revenues from the disposal of the ore bodies that have been explored earlier at public expense by an open tender/auction system as explained in Chapter-I.”**

2. Granting of mining lease by public auction by open tender/e-auction would be in conformity with the law laid down by the Apex Court in various judgments as discussed hereinafter.
3. It would be worthwhile to reproduce relevant part of the judgment rendered by the Apex Court in the case of **Centre for Public Interest Litigation and others v/s. Union of India and others, in Writ Petition (Civil) No.423 of 2010, decided on 02.02.2012.**

“76. ...

*There is a fundamental flaw in the first-come-first-served policy inasmuch as it involves an element of pure chance or accident. In matters involving award of*

*contracts or grant of licence or permission to use public property, the invocation of first-come-first-served policy has inherently dangerous implications. Any person who has access to the power corridor at the highest or the lowest level may be able to obtain information from the Government files or the files of the agency/instrumentality of the State that a particular public property or asset is likely to be disposed of or a contract is likely to be awarded or a licence or permission is likely to be given, he would immediately make an application and would become entitled to stand first in the queue at the cost of all others who may have a better claim. This Court has repeatedly held that wherever a contract is to be awarded or a licence is to be given, the public authority must adopt a transparent and fair method for making selections so that all eligible persons get a fair opportunity of competition. To put it differently, the State and its agencies/instrumentalities must always adopt a rational method for disposal of public property and no attempt should be made to scuttle the claim of worthy applicants. When it comes to alienation of scarce natural resources like spectrum etc., it is the burden of the State to ensure that a non-discriminatory method is adopted for distribution and alienation, which would necessarily result in protection of*

*national/public interest. In our view, a duly publicized auction conducted fairly and impartially is perhaps the best method for discharging this burden and the methods like first-come-first-served when used for alienation of natural resources/public property are likely to be misused by unscrupulous people who are only interested in garnering maximum financial benefit and have no respect for the constitutional ethos and values. In other words, while transferring or alienating the natural resources, the State is duty bound to adopt the method of auction by giving wide publicity so that all eligible persons can participate in the process.”*

4. For the law laid down in the aforesaid case, the matter was referred to for opinion to the Apex Court. In **Special Reference No.1 of 2012** [under Article 143(1) of the Constitution of India], while giving the opinion, the Apex Court has referred to number of judgments rendered earlier. Some of them are as under:—

“1. In **M. C. Mehta Vs. Kamal Nath & Ors., (1997) 1 SCC 388**, the Court inter-alia observed as under:—

‘34. Our legal system — based on English common law — includes the public trust doctrine as part of its jurisprudence. The State is the trustee of all natural resources

*which are by nature meant for public use and enjoyment. Public at large is the beneficiary of the seashore, running waters, airs, forests and ecologically fragile lands. The State as a trustee is under a legal duty to protect the natural resources. **These resources meant for public use cannot be converted into private ownership.***

2. In ***M.P. Oil Extraction and Anr. Vs. State of M.P. & Ors.***, (1997) 7 SCC 592, the Court held as follows:—

**‘45. Although to ensure fair play and transparency in State action, distribution of largesse by inviting open tenders or by public auction is desirable, it cannot be held that in no case distribution of such largesse by negotiation is permissible.** In the instant case, as a policy decision protective measure by entering into agreements with selected industrial units for assured supply of sal seeds at concessional rate has been taken by the Government. The rate of royalty has also been fixed on some accepted principle of pricing formula as will be indicated hereafter. Hence, distribution or allotment of sal seeds at the determined royalty to the respondents and other units covered by the agreements cannot be assailed. **It is to be appreciated that in this case,**



***distribution by public auction or by open tender may not achieve the purpose of the policy of protective measure by way of supply of sal seeds at concessional rate of royalty to the industrial units covered by the agreements on being selected on valid and objective considerations.'***

3. ***In Netai Bag & Ors. Vs. State of W.B. & Ors., (2000) 8 SCC 262***, the Court observed that non-floating of tenders or not holding of public auction would, not in all cases, be deemed to be the result of the exercise of the executive power in an arbitrary manner. It was stated:—

**‘19.** ... There cannot be any dispute with the proposition that generally when any State land is intended to be transferred or the State largesse decided to be conferred, resort should be had to public auction or transfer by way of inviting tenders from the people. That would be a sure method of guaranteeing compliance with the mandate of Article 14 of the Constitution. Nonfloating of tenders or not holding of public auction would not in all cases be deemed to be the result of the exercise of the executive power in an arbitrary manner. Making an exception to the general rule could be justified by the State executive, if challenged in appropriate proceedings. The constitutional courts

*cannot be expected to presume the alleged irregularities, illegalities or unconstitutionality nor the courts can substitute their opinion for the bona fide opinion of the State executive. The courts are not concerned with the ultimate decision but only with the fairness of the decision-making process.'*

*This Court once again pointed out that there can be exceptions from auction; the ultimate test is only that of fairness of the decision making process and compliance with Article 14 of the Constitution."*

5. Thereafter, the Court considered various other aspects in the aforesaid opinion and *inter-alia* held as under:–

**“112.** *Therefore, this Article, in a sense, is a restriction on ‘distribution’ built into the Constitution. But the restriction is imposed on the object and not the means. The overarching and underlying principle governing ‘distribution’ is furtherance of common good. But for the achievement of that objective, the Constitution uses the generic word ‘distribution’. Distribution has broad contours and cannot be limited to meaning only one method i.e. auction. It envisages all such methods available for distribution/allocation of natural resources*

*which ultimately subserve the “common good”.*

*... ...*

- 116.** *... ... Auctions may be the best way of maximizing revenue but revenue maximization may not always be the best way to subserve public good. “Common good” is the sole guiding factor under Article 39(b) for distribution of natural resources. It is the touchstone of testing whether any policy subserves the “common good” and if it does, irrespective of the means adopted, it is clearly in accordance with the principle enshrined in Article 39(b).*

*... ...*

- 119.** *The norm of “common good” has to be understood and appreciated in a holistic manner. It is obvious that the manner in which the common good is best subserved is not a matter that can be measured by any constitutional yardstick – it would depend on the economic and political philosophy of the government. Revenue maximization is not the only way in which the common good can be subserved. **Where revenue maximization is the object of a policy, being considered qua that resource at that point of time to be the best way to subserve the common good, auction would be one of the preferable methods, though not the only method. Where***

revenue maximization is not the object of a policy of distribution, the question of auction would not arise. Revenue considerations may assume secondary consideration to developmental considerations.

... ..

**124.** In **Haji T.M. Hassan Rawther Vs. Kerala Financial Corpn., (1988) 1 SCC 166**, after an exhaustive review of the law including the decisions in **Kasturi Lal** (supra) and **Sachidanand Pandey** (supra), it was held that public disposal of State owned properties is not the only rule. It was, inter-alia, observed that:—

‘14. **The public property owned by the State or by any instrumentality of the State should be generally sold by public auction or by inviting tenders.** This Court has been insisting upon that rule, not only to get the highest price for the property but also to ensure fairness in the activities of the State and public authorities. They should undoubtedly act fairly. Their actions should be legitimate. Their dealings should be aboveboard. Their transactions should be without aversion or affection. Nothing should be suggestive of discrimination. Nothing should be done by them which gives an impression of bias, favouritism or

*nepotism. Ordinarily these factors would be absent if the matter is brought to public auction or sale by tenders. That is why the court repeatedly stated and reiterated that the State-owned properties are required to be disposed of publicly. But that is not the only rule. As O. Chinnappa Reddy, J. observed “that though that is the ordinary rule, it is not an invariable rule”. There may be situations necessitating departure from the rule, but then such instances must be justified by compulsions and not by compromise. It must be justified by compelling reasons and not by just convenience.’*

... ..

- 146.** *To summarize in the context of the present Reference, it needs to be emphasized that this Court cannot conduct a comparative study of the various methods of distribution of natural resources and suggest the most efficacious mode, if there is one universal efficacious method in the first place. It respects the mandate and wisdom of the executive for such matters. The methodology pertaining to disposal of natural resources is clearly an economic policy. It entails intricate economic choices and the Court lacks the necessary expertise to make them. As has been repeatedly said, it cannot, and shall not, be the endeavour of this Court to*

*evaluate the efficacy of auction vis-à-vis other methods of disposal of natural resources. The Court cannot mandate one method to be followed in all facts and circumstances. Therefore, auction, an economic choice of disposal of natural resources, is not a constitutional mandate. We may, however, hasten to add that the Court can test the legality and constitutionality of these methods. When questioned, the Courts are entitled to analyse the legal validity of different means of distribution and give a constitutional answer as to which methods are ultra vires and intra vires the provisions of the Constitution. Nevertheless, it cannot and will not compare which policy is fairer than the other, but, if a policy or law is patently unfair to the extent that it falls foul of the fairness requirement of Article 14 of the Constitution, the Court would not hesitate in striking it down.*

...

- 148.** *In our opinion, auction despite being a more preferable method of alienation/allotment of natural resources, cannot be held to be a constitutional requirement or limitation for alienation of all natural resources and therefore, every method other than auction cannot be struck down as ultra-vires the constitutional mandate.*

**149.** *Regard being had to the aforesaid precepts, we have opined that auction as a mode cannot be conferred the status of a constitutional principle. Alienation of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. **However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximizing private entrepreneurs, adoption of means other than those that are competitive and maximize revenue may be arbitrary and face the wrath of Article 14 of the Constitution.** Hence, rather than prescribing or proscribing a method, we believe, a judicial scrutiny of methods of disposal of natural resources should depend on the facts and circumstances of each case, in consonance with the principles which we have culled out above. Failing which, the Court, in exercise of power of judicial review, shall term the executive action as arbitrary, unfair, unreasonable and capricious due to its antimony with Article 14 of the Constitution.”*

**6.** In the aforesaid Opinion, Hon’ble Justice Jagdish Singh Khehar has opined as under:–

**“3.** *Before venturing into the area of consideration expressed in the foregoing paragraph, it is*

*necessary to record, that there was extensive debate during the course of hearing, on whether, maximization of revenue must be the sole permissible consideration, for disposal of all natural resources, across all sectors and in all circumstances. During the course of this debate, the learned Attorney General for India acknowledged, that auction by way of competitive bidding, was certainly an indisputable means, by which maximization of revenue returns is assured. It is not as if, one would like to bind the learned Attorney General to the acquiesced proposition. During the course of the days and weeks of erudite debate, learned counsel emphasized, that disposal of assets by processes of tender, tender-cum-auction and auction, could assure maximization of revenue returns. Of course, there are a large variety of tender and auction processes, each one with its own nuances. And we were informed, that a rightful choice, would assure maximization of revenue returns. The term “auction” expressed in my instant opinion, may therefore be read as a means to maximize revenue returns, irrespective of whether the means adopted should technically and correctly be described as tender, tender-cum-auction, or auction.*

*... ..*

- 10.** *Based on the legal/constitutional parameters/requirements culled out in the preceding three*



paragraphs, I shall venture an opinion on whether there are circumstances in which natural resources ought to be disposed of only by ensuring maximum returns. For this, I shall place reliance on a conclusion drawn in the “main opinion”, namely, “Distribution of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximizing private entrepreneurs, adoption of means other than those that are competitive and maximize revenue, may be arbitrary and face the wrath of Article 14 of the Constitution.” (**refer to paragraph 149 of the “main opinion”**). I am in respectful agreement with the aforesaid conclusion, and would accordingly opine, that when natural resources are made available by the State to private persons for commercial exploitation exclusively for their individual gains, the State’s endeavour must be towards maximization of revenue returns. This alone would ensure, that the fundamental right enshrined in Article 14 of the Constitution of India (assuring equality before the law and equal protection of the laws), and the directive principle contained in Article 39(b) of the Constitution of India (that material resources of the community are so distributed as best to subserve the common good), have been extended to the citizens of the country.

- 11.** *A similar conclusion would also emerge in a slightly different situation. This Court in a case dealing with a challenge to the allotment of retail outlets for petroleum products [Common Cause, A Registered Society Vs. Union of India & Ors., (1996) 6 SCC 530] has held, that Article 14 of the Constitution of India, does not countenance discretionary power which is capable of being exercised arbitrarily. While accepting that Article 14 of the Constitution of India permits a reasonable classification having a rational nexus to the object sought to be achieved, it was held that Article 14 of the Constitution of India does not permit the State to pick and choose arbitrarily out of several persons falling in the same category. A transparent and objective criteria/ procedure has to be evolved so that the choice amongst those belonging to the same class or category is based on reason, fair play, and non-arbitrariness. Envisage a situation as the one expressed above, where by reasonable classification based on some public purpose, the choice is limited to a set of private persons, amongst whom alone, the State has decided to dispose of natural resources. Herein again, in my opinion, if the participation of private persons is for commercial exploitation exclusively for their individual gains, then the State's endeavour to maximize revenue alone, would satisfy the constitutional mandate contained in Articles 14 and 39(b) of the Constitution of India.*

- 12.** *In the “main opinion”, it has been concluded, that auction is not a constitutional mandate, in the nature of an absolute principle which has to be applied in all situations. And as such, auction cannot be read into Article 14 of the Constitution of India, so as to be applied in all situations (**refer to paragraph 107 of the “main opinion”**). Auction is certainly not a constitutional mandate in the manner expressed, but it can surely be applied in some situations to maximize revenue returns, to satisfy legal and constitutional requirements. It is, therefore, that I have chosen to express the manner of disposal of natural resources by using the words “maximization of revenue” in place of the term “auction”, in the foregoing two paragraphs. But it may be pointed out, the Attorney General for India had acknowledged during the course of hearing, that auction by way of competitive bidding was certainly an indisputable means, by which maximization of revenue returns is assured (in this behalf other observations recorded by me in **paragraph 3 above** may also be kept in mind). In the aforesaid view of the matter, all that needs to be stated is, that if the State arrives at the conclusion, in a given situation, that maximum revenue would be earned by auction of the natural resource in question, then that alone would be the process which it would have to adopt, in the situations contemplated in the foregoing two paragraphs.”*

7. Finally, in the aforesaid opinion, Hon'ble Justice Jagdish Singh Khehar, concluded that:—

*“The policy of allocation of natural resources for public good can be defined by the legislature, as has been discussed in the foregoing paragraphs. Likewise, policy for allocation of natural resources may also be determined by the executive. The parameters for determining the legality and constitutionality of the two are exactly the same. In the aforesaid view of the matter, there can be no doubt about the conclusion recorded in the “main opinion” that auction which is just one of the several price recovery mechanisms, cannot be held to be the only constitutionally recognized method for alienation of natural resources. That should not be understood to mean, that it can never be a valid method for disposal of natural resources (refer to **paragraphs 10 to 12 of my instant opinion**).*

*I would therefore conclude by stating that no part of the natural resource can be dissipated as a matter of largess, charity, donation or endowment, for private exploitation. Each bit of natural resource expended must bring back a reciprocal consideration. **The consideration may be in the nature of earning revenue or may be to “best subserve the common good”. It may well be the amalgam of the two. There cannot be a dissipation of material resources free of cost or at a consideration lower than their actual worth. One set of citizens cannot prosper at the cost of another set of citizens, for that would not be fair or reasonable.”***

**8. Conclusion:—**

- (i) In view of the aforesaid Judgment in Reference, for grant of mining lease for iron ore, some new concept is required to be evolved. It is true that in the aforesaid Judgment, Hon'ble Court has opined that auction is not the only method for disposal of natural resources. However, it is clarified that public property owned by the State or by any instrumentality of the State should be generally/ordinarily sold by public auction or by inviting tenders. The Court clarified that for alienation of natural resources, to lay down policy decision is executive prerogative but immediately clarified that such a policy decision should be backed by social or welfare purpose and precious and scarce natural resources if alienated for commercial purposes of profit maximizing, private entrepreneurs should be granted by competitive method by maximizing the revenue otherwise it would be arbitrary and violative of Article 14 of the Constitution of India. Therefore, proper method of granting lease for extracting iron ore is required to be framed which is in conformity of Article 14 and which maximizes State revenue too, after taking into consideration,

the interest of the society i.e. “common good”. At present, iron ore is in demand all throughout in the national and international markets. Production of steel is a necessity of the Century. It has direct link with the Gross Domestic Product (GDP).

**(ii)** It is to be highlighted that for Petroleum and Natural Gas, the Central Government is following the procedure of granting exploration operation by auction by inviting offers from private and public participants and awarding contracts on a competitive basis as opposed to nomination basis. There are Production Sharing Contracts with the Government of India with the successful bidder. The Production Sharing Contract also stipulates the manner in which the oil/gas produced from the discovered reservoir is to be shared in accordance with a predetermined percentage and allows the Consortium (‘Contractor’) to recover costs towards exploration, development and production and make royalty payments from oil/natural gas commercially produced from the reservoirs.

**(iii)** At present, number of industrialists and others are interested in having the right to extract

minerals which are scarce, finite and limited in this country. Uptil now, such leases were granted in discretion, non transparent manner and therefore only few persons who were near to power, wealthy, mighty and muscles power in the society got the leases. In many States, all the members of a family got leases directly or indirectly. They pay meager royalty and earn windfall of enormous profit since last decade. This has resulted lopsided development and intergeneration inequity.

- (iv)** As per the law laid down by the Apex Court, where revenue maximization is the object of a policy, being considered qua that resource at that point of time to be the best way to subserve the common good, auction would be one of the preferable methods, though not the only method. However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximizing private entrepreneurs, adoption of means other than those that are competitive and maximize revenue may be arbitrary and face the wrath of Article 14 of the Constitution.

In view of the aforesaid law, it would be just and reasonable to grant lease by public auction.

- (v) This Commission has found that almost all persons to whom mining lease is granted or are in possession on the basis of **deemed extension**, they themselves are not carrying out mining operations. But mining operations are being carried out by third persons may be Power of Attorney-holders or Raising Contractors.
- (vi) As discussed, for winning the iron ore mineral, the maximum expenditure by the lessees is not more than 45% of the net value of the production. Hence, equity for the tribals' development should be fixed on that criteria and that amount should be collected at initial stage by the State for the development of the tribal areas including the Districts from where iron ore is extracted.
- (vii) It appears from the record collected by this Commission that expert raising contractors are getting their shares from 36% to 42% of the actual value of the actual production of iron ore.



The lessee who might have engaged some employees for management or for accounts would be getting approximately 64% to 58% value of the annual production of iron ore.

Hence, the aforesaid suggestion is made on the facts found by the Commission that numbers of lessees are giving mining operations to **Contractors** and the share which is given to the Contractor is 36% to 42%. Adding other costs also for engaging some persons for other work, if 50% share is given to the lessee, it would be just and reasonable. Sharing should be after deducting royalty and applicable taxes, as followed in Petroleum and Natural Gas by the Central Government.

Take for illustration that in a particular year, iron ore produced is worth Rs.1 crore. Out of Rs.1 crore, maximum taxes would be 15% i.e. Rs.15,00,000/-. The production cost would be about 15% i.e. Rs.15,00,000/-. Remaining amount of Rs.70,00,000/- would be the profit which would be shared between the State and the lessees. These 15% cost of production is taken on the basis of the cost of the Government enterprises as well as some captive miners, like, Tata Steel Co. Ltd.

**(a) NMDC:–**

In 2009-10, NMDC produced 23.8 million tons of iron ore in 2009-10 in their mines and sold 24.08 million tons. They reported a total income of Rs.7,098.9 crores for that year out of which **Sale (Turnover) was Rs.6,239.** To generate this turnover, the total expenditure incurred by the company towards ore raising, transportation expense, employee salary and benefits, depreciation etc. was **Rs.1,032 crores or 16% of the yearly turnover.** The company's declared Profit Before Tax **(PBT)** for that year was Rs.5,207 crores amounting to **83% of Sales and 73.3% of Income** for that year.

**(b) Sarada Mines Private Limited:–**

If this data is compared with a large private mining Company like say Sarada Mines, then it is seen that this company reported **income of Rs.320.94 crores out of which sale (turnover) was Rs.313.4 crores** for 2009-10. To generate that turnover, the total **expenditure** reported by this company **was**

**Rs.195.524 crores or 62.38% of that year's turnover.**

In the following four cases, contract is in favour of M/s. Thriveni Earth Movers Pvt. Ltd., for raising, processing and shifting of iron ore and designated stockyards.

-	M/s. Indrani Patnaik	35.8%
-	M/s. D. R. Patnaik	35.0%
-	M/s. Tarini Minerals Pvt. Ltd.	35.0%
-	M/s. Serajuddin	42.0%

**1. M/s. D. R. Patnaik  
(Murgabeda Iron Ore Mine)**

Raising Contract was given to M/s. Thriveni Earth Movers Pvt. Ltd. on 15.05.2008, 12.01.2009 for raising, processing and shifting of iron ore at designated stockyards.

The contract was raised for 35% of net sale value of iron ore dispatched, excluding royalty and taxes.

**2. M/s. Indrani Patnaik  
(Unchabali Iron Ore Mine)**

Contract was given to M/s. Thriveni Earth Movers Pvt. Ltd. on 24.02.2008, 27.03.2009, 01.03.2011, for raising,

processing and shifting of iron ore at designated stockyards.

Clause 5 of the Contract reads as under:–

*“The Employer has proposed and Contractor has agreed to accept approx **35.8% of Net sale value of iron ore dispatched** excluding Royalty & Taxes as contract charges.”*

The contract was executed for 35.8% of net sale value of iron ore dispatched, excluding royalty and taxes.

Therefore, it is apparent that the procedure of granting lease only on the fixed rate or dead rent/royalty requires to be modified. Lease should be granted **on the basis of sharing the product** may be 50:50 or thereabout. This would give large revenue to the State Government. 50% product can be sold to the State either by e-auctioning or by charging the market price from the lessees.

**(viii)** Half of the amount received by the State should be used for the welfare of the area from where the minerals are extracted. Because up-till now, nobody has bothered for the tribals

whose natural abode is used for extraction of minerals. This has affected their fundamental rights of survival. In addition, drinking water, air and environment have been polluted. The roads are badly damaged because of constant transportation of iron ore. Hence, the amount which is received by the State should be used for the upliftment of local area and for restoring the ecosystem and degraded environment.

- (ix)** In this background and particularly in view of the decision of the Apex Court, auction of leasehold rights is must. Auction should be on the basis of bid for sharing production or in any case, bid for royalty could be a better approach of giving right/privilege to extract scarce minerals, particularly, iron ore. This would be a better option than granting leasehold right only by way of auction on the basis of fixed amount for entire lease period. It is known fact that every year, there is rise in the market price of such minerals. This would be for the benefit of the Society, State and country.
- (x)** This option should be made applicable since the date of submission of this report to –

- (a)** all fresh leases,
  - (b)** where mining leases are not renewed and persons are operating under deemed extension clause [Rule 24A(6) of MCR, 1960]; and
  - (c)** the leases which are coming for I<sup>st</sup>, II<sup>nd</sup> or III<sup>rd</sup> renewal of lease.
- (xi)** In any case, adopting the aforesaid principle, other modulations can also be framed by an expert panel by keeping in mind the interest of the Society. It is also necessary to see that only few interested groups should not be permitted to corner mining leases. It is commented widely that India's democracy is now manipulated by a small number of elite and interested groups by maneuvering. At the most, preference can be given to those who are interested in extracting iron ore for captive consumption with appropriate taxes so that they may not get undue advantage in the steel market and benefit of captive mine should reach to consumers.
- (xii)** Therefore, the present system adopted under Section 11 of MM(DR) Act, 1957 and the rules thereunder requires to be changed so as to

make it in conformity with the aforesaid decision of the Apex Court.

Secondly, while granting the lease by auction, auction should be on the basis of sharing of annual production (extraction of iron ore).

**(xiii)** In any set of circumstances as recommended previously where mining lease is granted with conditions namely, Conditions in case of F.C. clearance (wherever require) or E.C. clearance, the said conditions should be published on website. If this is done, public at large would be in position to note and draw the attention of the concerned officers for taking actions.

**(xiv)** Apart from the publication on website, concerned officers including Director of Mines & Geology, Divisional Forest Officer, Director of Odisha State Pollution Control Board, etc. should be directed to visit the site, as provided u/s. 24 of the MM(DR) Act, 1957 and under other relevant provisions. If they fail to discharge their duty, they should be charged for the lapses.

**[ III / B ]**

1. For the State of Karnataka, on the basis of direction issued by the Supreme Court, Rehabilitation and Reclamation Plan of the eight “A” category mines was carried out and those mines were permitted for mining within the existence of mining lease areas after obtaining approval for the mining plans from the Indian Bureau of Mines.

Speaking at a seminar on “Rebuilding Iron Ore Mining and Steel Making Capabilities”, H. R. Srinivasa, Director of Mines and Geology said that the CEC had informed the State government that it had cleared the Rehabilitation and Reclamation plan of the eight ‘A’ category mines, and the companies owning these mines can commence mining at their existing lease areas after obtaining approval for their mining plans from the Indian Bureau of Mines. He further said that “We expect these companies to start the production next month”

**2. Increase in royalty:—**

The aforesaid implementation of Supreme Court’s direction was appreciated by Shri H. R. Shrinivasan, Director of Mines and Geology. He said that



*“revenue to the government from royalty collection had increased substantially ever since it adopted the e-auction system, as per the Supreme Court order.*

*In 2011–12 fiscal, it has collected about Rs 730 crore as royalty by auctioning 22 MT of ore against Rs.520 crore collected in 2010–11 from the sale of 33 MT of ore. It was because of increase in the sale value of iron ore.”*

He further stated that

*“the government had estimated to mop up a whopping Rs.15,000 crores by 2014 in the form of royalty, penalty on encroachers (category ‘B’ mines) and auction of category ‘C’ mines. While the government has already collected Rs.1,200 crores as royalty, about Rs.700 crores is expected in the form of recovery (penalty of Rs.5 crore per hectare on encroachments). Auction of category ‘C’ mines is expected to fetch about Rs.10,000 crores.*

*The government has decided to utilize the money for the much-need infrastructure development, both social and economic, in Bellary, Chitradurga and Tumkur. A special purpose vehicle headed by the chief secretary will be set up to oversee its utilization. The investment will give a big boost to the iron and steel sector and help the State emerge as a major steel hub.”*

## [ IV ]

**Corporate Social Responsibility**

1. It is to be highlighted that total lease area for mining of iron ore and manganese is **44,187 ha.** Out of that, forest area comes to **33,987 ha.** (This would mean that approximately **77%** of the mining of iron and manganese are in the forest area.) Total impact area of the mining lease of iron ore would be 100 kms. i.e. **1,00,000 ha.** This would mean that 45% land is used for mining purposes and it would have effect in the remaining area of **55,000 ha.**

It is pointed out that in Keonjhar and Sundergadh Districts, mines are let out in all to **79 persons/companies/families.** The list thereof is enclosed herewith at **Annexure: B.**

Total approximate production and the sale value of iron ore extracted from the years **2005-06 to 2011-12** in the State of Odisha is summarized as under :-

Year	Average Sale Price of Iron Ore in Rs./Tonne.	Total Production of Iron Ore (in thousand MT)	Total Sale Value (in Crores)
2004-05	721.3239	41750	3011.527
2005-06	1269.7287	52151	6621.762
2006-07	1371.45	64178	8801.692
2007-08	1586.4453	69883	11086.56
2008-09	2937.856	72627	21336.77
2009-10	4336.75	80896	35082.57
2010-11	7480.905	76128	56950.63
2011-12	8561.07	66529	56955.94
<b>Total</b>	<b>—</b>	<b>524142</b>	<b>199847.5</b>

The total approximate production of Iron Ore from the year 2005-06 to 2011-12 was **524.142 million tonne** [i.e. 52,41,42,000 metric tonne.]

**As per 2011 Census, the total population of the Keonjhar District is 18,02,777 (approximately 18 lacs), consisting of 6,95,141 (45.50%) tribal population. That means, approximate number of families would be 3,60,000 (i.e. @ average five members in each family).**

**Further, as per 2011 Census, the total population of the Sundergadh District is 20,80,6464 (approximately 21 lacs), consisting of 11,65,171 (55.99%) tribal population. That means, approximate number of family would be 4,20,000 (i.e. @ average five members in each family).**

**This would mean that:-**

**In Keonjhar District,  
tribal families would be                    ::     1,39,028**

**AND**

**In Sundergarh District,  
tribal families would be                    ::     2,33,034  
Total    ::     3,72,062**

The annual production for the year 2009–10 was 8,08,96,000 metric tonnes. Taking into consideration the average price of export and domestic consumption @ Rs.4,336.75 per tonne of the 62% to 65 % grade, the total sale price comes to approximately Rs.35,082.57 crores.

If the value of the public natural resources i.e. iron ore for only one year is given to the tribal families of the aforesaid two Districts for their

upliftment, the tribals would become rich approx. by Rs.9,42,922/- (i.e. Rs.9,43,000/-). The aforesaid amount would be their lifetime achievement for their future development.

Further, even if it is distributed to all the families of the said Districts, they would become rich by approximately **Rs.4,49,776/- (Approx. 4.5 lacs)**

In any case, if 10% of the average income from the year 2004-05 to 2011-12 is utilized for providing basic facilities (drinking water, roads, hospitals, schools, etc.), then also, the Districts would be having well-knit basic facilities.

If eight years' (i.e. from 2004-05 to 2011-12) average yearly income is computed in the same manner, 10% of yearly income would be Rs.24,98,09,37,500/- (approx. Rs.2,498 crores). If this income is used for the development for the aforesaid two Districts, the Districts would be par excellence for stay and would be equal to well-developed Districts of any developed States.

2. In this context, it would be worthwhile to reproduce the statement of Mahatma Gandhiji from the book namely, **AN APOSITE OF APPLIED HUMAN**

**ECOLOGY**, as pointed out by Ld. Sr. Counsel, Mr. Gopal Subramaniam. In the said book, it has been *inter-alia* stated that:–

*“Of all the animal creations of God, man is the only animal who has been created in order that he may know his Maker. **Man’s aim in life is not, therefore, to add from day to day to his material prospects and to his material possession, but his predominant calling is, from day to day to come nearer to his own Maker.***

*It is clear that according to Gandhiji the duty of the human being is not only to himself and to his fellow beings, **but also to control his desire to acquire more and more.** His duty, in fact, extends much beyond himself and his fellow beings and covers the entire biosphere as he said.”*

3. The World Business Council for Sustainable Development in its publication ***Making Good Business Sense*** by Lord Holme and Richard Watts, used the following definition of Corporate Social Responsibility (CSR).

*“Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.”*

4. As per the European Commission, CSR is –

*“A concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment. A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.”*

5. At this stage, it would be worthwhile to quote the relevant part of the speech dated 13.06.2011 on **Corporate Social Responsibility isn't charity but survival issue: CEC** by Chief Election Commissioner SY Qureshi at Mumbai wherein he came down heavily on corporate bodies in India regarding corporate social responsibility (CSR), by saying that **“CSR is not charity but a question of your very survival”**. He further stated as under:–

*“We need a Warren Buffet and Bill and Melinda Gates to teach our corporates on the need for CSR. What you do is not CSR but corporate social compulsion,” Qureshi told a meet on CSR organised by Bombay Chamber of Commerce and Industry.*

*“When it comes to charity, you corporates do not follow its basic principle (‘the left hand should not know what the right hand is doing’). On the contrary, you want huge publicity even if you build a public toilet,” the CEC said.”*

6. For this purpose, it would be worthwhile to refer to the observations made in the Judgment of the Constitution Bench in the case of **M.C. Mehta and Another v. Union of India and Others, [(1987) 1 SCC 395]** popularly known as Oleum Gas Leak Case wherein it was held:–

*“... We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be corelated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. **The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise.**”*

Uptil now, nobody has bothered for Corporate Social Responsibility (“CSR”), even though lessees and/or their raising contractors have pocketed the entire income from the national non-renewable assets, without any hindrance. Undoubtedly, they have earned super-normal profit.

7. Hence, for rendering some services to the tribals, villagers of the aforesaid two Districts, at the time of discussion and hearings with regard to alleged illegalities, it was suggested to Ld. Sr. Counsel, Mr.



Ram Jethmalani, Mr. Anil Diwan, Mr. Gopal Subramaniam, Mr. U. V. Lalit, etc., that something is required to be done for the benefit of the tribals in the aforesaid two Districts. For that purpose, voluntarily, Ld. Counsel agreed to prepare a plan and submit it before this Commission on the next date of hearing.

Ld. Sr. Counsel voluntarily agreed to prepare a plan, providing various facilities to the villagers/tribals, residing in Keonjhar District and thereby they submitted that the same would be submitted on the next date of hearing i.e. 13.04.2013. The plan would cover various facilities which are required to be provided by the lessees/raising contractors. The said facilities, *inter-alia*, would be approximately as under:-

- (i) To provide drinking water facilities in every village;
- (ii) To provide school/educational facilities;
- (iii) To see that the District Keonjhar is connected through proper roads and the said roads would be maintained by the lessees and / or their raising contractors; and

- (iv) Each Taluka would have at least a small medical hospital/dispensary and each District would have a hospital which can treat various ailments, at reasonable cost or free of charge.

8. It is to be highlighted that Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 requires the Central Government to provide various facilities. The said Section reads as under:–

*“Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:–*

- (a) schools;
- (b) dispensary or hospital;
- (c) anganwadis;
- (d) fair prices shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional sources of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres:

*Provided that such diversion of forest land shall be allowed only if:—*

- (i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and*
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.”*

For providing some of the aforesaid facilities, companies having mining lease should voluntarily carry out some of the aforesaid functions for the benefit of the tribals who are affected due to mining.

**Corruption**

1. Apart from the aforesaid scenario of environment and water and other facilities, it is noted that because of super normal profit due to export of iron ore, large scale illegal mining activities take place. Such illegal mining activities cannot take place without support of the officers or collusion between the officers and mine owners. Not only officers, number of politicians are involved in such illegal mining activities. For establishing such illegal mining activities, connection or collusion between mine-owners and the politicians and bureaucrats, the State Government has handed over inquiry to the Vigilance Commission.
2. An FIR is also lodged in Balasore Vigilance Station against Champua MLA, Deputy Director of Mines Madan Mohan Biswal, Deputy Director P.C. Patro, Deputy Director Manas Ranjan Mohanty, Ex-Deputy Director of Mines, Sasadhar Sahu, Deputy Director of Mines B.K. Nandi, Ex-Director of Mines Santanu Kumar Mohapatra, retired Additional Secretary A. K. Das, Mines Officer Gangadhar Lenka, Retired Deputy Secretary Nityanand Mohanty, Retired Additional Secretary A.K. Sahu,

Retired Senior Clerk P.N. Das, Retired Law Officer of Mines R.K. Sarangi, Senior Clerk of Mines Controller Gouranga Sethi and Deputy Mines Collector of IBM Anupam Nandi.

However, it is alleged by number of persons that the Vigilance Commission would not be in a position to conduct impartial and independent inquiry to arrive at just and proper finding because of pressure from the politicians. Hence, they have suggested that CBI should make inquiry about corruption at all levels, in detail.

3. Due to increase in rates of iron ore in the international market and back home in the country, there was a steep increase in the illegal mining and trade in the country and Odisha State in particular. This has caused extensive damage to the Government Exchequer, Environment and Social fabric of the State. Because of concern shown in various walks of life, media and at administration level in Government, there had been searches and seizure of iron ore at railway yards, stock yards, crushers site and others of illegal iron ore indicates that there was a large scale illegal mining went during 2008, 2009, 2010 and a part of 2011 in the State. During this period, there was a collapse of Government machinery and looked to be ineffective

and helpless in front of mining mafia, persons in political life, mighty lessees and some corrupt officials.

The Commission has received information with regard to three FIRs lodged by Umesh C. H. Jena, Dy. Director of Mines, Joda pertaining to number of rake loads (27 rakes + 62 rakes and 67,811 MT) iron ore dispatched at different places by different persons. It was found that neither they were lessees nor licensees of Joda Sector. The details thereof are enclosed herewith at **Annexure: C**.

There were many more cases of this kind have gone untraced as seen in the complaints received from the various organisations, NOG's, peoples of high integrity and others. The extent of illegal mining during that period has also been gauged during the public hearing, the Commission held in Bhubaneshwar and Keonjhar during its first visit. As seen from the present progress in the investigation and further exploration in tracing illegalities, there is hardly any substantial progress. Since there is involvement of mighty lessees, big traders of State and outside State, political entities, officers at higher ranks. It will not be possible by State Police to find the facts and realities and there would be no justice done for quantum of illegalities took place.

Hence, it is recommended to institute a CBI inquiry in all cases where the FIRs were registered by Police, Vigilance Department and other cases in Mines Department, Police Department, Revenue Department, Forest Department and others during the period from 2008 to 2011. The CBI inquiry should be held against all the companies included in three FIRs i.e. **(i)** Barbil P.S. Case No.60, dated 10.03.2010 u/s. 379/120 (B) of IPC, **(ii)** Bamebari P.S. Case No.37, dated 04.03.2010 u/s. 379/34 of IPC turned on to u/s. 379/420/468/471/120(B) of IPC and **(iii)** Joda P.S. Case No.31, dated 04.03.2010 u/s. 379/34 of IPC turned on to u/s. 379/420/468/471/120 (B) of IPC in addition to Thriveni Earth Movers Pvt. Ltd. and all other consigners listed in the FIRs.

#### **4. Railway Freight Evasion:-**

Apart from the aforesaid three cases, the Commission has received the information with regard to railway freight evasion by M/s. Rashmi Ispat Limited, Jhargram, WB and M/s. Rashmi Cement Limited, Jhargram, WB and others. Freight Evasion took place because of unprecedented rise in prices of iron ore in the international market. Therefore, during the later half of the last decade,

Indian Railways hiked the tariff for transporting iron ore by a significant margin in the year 2008.

The tariff for iron ore transportation increased to almost twice the level for the commodity-class under which it was being charged prior to 2008.

While raising the freight for iron ore transportation in 2008 by a significant margin, Railways had also provided an exception clause for allowing a highly cheaper freight rate when the transported ore was meant for manufacturing finished Iron and Steel goods like Pig Iron, Sponge Iron, etc. and Pallet (an agglomerated product of iron ore fine). This was obviously aimed to boost domestic steel production in the Country. This concessional tariff was basically meant for those transporters who had established Iron & Steel manufacturing Units and who promised Railways to undertake manufacturing of “Iron & Steel goods (and later “Cement”) of the transported ore in their plants. As this concessional tariff was extremely lower compared to the regular tariff – almost a fifth of the regular freight rate by 2011 – strict conditions were stipulated in the Rate Circulars for allowing the same to an aspiring transporter.



Thus, starting from May, 2008, Railways tariff for iron ore transportation, strictly, depended upon the promised manufacturing end-use of the ore by a transporter who wanted to avail concessional freight rate. There were two clear streams of tariff to be charged for rail movement of iron ore—one concessional rate for “**Domestic Traffic**” and the other regular (but higher) rate for “**Other than domestic traffic**”.

“Domestic Traffic in Iron Ore” was defined as Ore meant for exclusive manufacture of three specific finished goods, namely “**Iron and Steel**” (Such as Pig Iron & Sponge Iron), “**Cement**” or “**Pellet**” (provided such pellets are subsequently used for domestic Iron and Steel manufacturing). Any end-use that did not fall under the above definition of “Domestic traffic” was classified as “Other-than-Domestic” traffic to which the regular high tariff was applied.

By the end of FY 2010–11 the freight charges for transportation of iron ore meant for “domestic” end-use was almost a fifth of that of “other-than-domestic” end-use (such as direct export out of India, indirect export through merchant exporters or selling in the open market to traders) tariff. The following table shows the rising difference between

the regular tariff for Iron Ore and the concessional tariff granted as an exception for declared manufacturing use of permitted goods like Iron & Steel, Cement and Pellet.

**Approximate Railway Freight per MT of Iron Ore for 290–300 kms.**

<b>Date</b>	<b>For Domestic End-Use defined in Rate Circular 24/2008 &amp; 36/2009</b>	<b>Otherthan Domestic Use</b>
31.05.2008	Rs.331.50	Rs.877.60
01.04.2009	Rs.375.65	Rs.939.03
01.04.2010	Rs.375.65	Rs.1,303.64
01.04.2011	Rs.386.46	Rs.2,341.53

The above policy of differential freight charges based on the end-use of Iron Ore, while allowing Railways to increase earning from export-bound traffic significantly, also presented a perverse incentive to unscrupulous transporters who could corner huge amount of concession by masquerading their consignment as “domestic traffic” and then exporting/trading the same after unloading. By diverting the transported ore from the promised end-use of “domestic manufacturing” to non-manufacturing usage such as export or open marketing trading, there was huge scope for a transporter to indulge in large scale freight evasion.

In August, 2011, the Railway authorities of South Eastern Railway Zone came to know about it and served a Demand-cum-Show Cause Notice to the Company for an amount of Rs.660 Crores towards alleged freight evasion and manipulation of excise certificates during the period 2008-09, 2009-10 and partially 2010-11.

One case is presently under the investigation of Anti Corruption Bureau, CBI, Kolkata who have registered FIR against the Company, its Directors and unknown Officials of Railways and Central Excise. Railway's notice has been challenged by the company in Court and the case is currently sub-judice.

Subsequently to the discovery of Rashmi Metaliks case, S.E. Railway detected more such cases of freight evasion and so far issued Demand Notices to 14 companies for recoverable amount of **Rs.1,874 Crores.**

The aforesaid investigation by C.B.I. is at present confined to Freight Evasion.

The freight evasion aspect in Railway transportation is also inextricably linked with the manufacturing of Iron and Steel in which the

Central Excise Department is an important stake holder. If an iron ore transporter takes iron ore on rail by promising manufacturing end-use of the same and enjoying concessional benefits from Railways, it ought to be checked up whether he is actually manufacturing commensurate amount of iron and steel in his designated factory. If commensurate manufacturing is not being made from the transported iron ore input, then it is in the interest of Central Excise Department to verify the same as it might entail clandestine removal of finished goods from factory without payment of excise duty in the garb of “as-such-clearance of inputs”. It may be that there is lack of coordination between Central Excise Department and Railway Department.

It is not difficult to find out how much of the iron ore has been used by the transporting company for manufacturing of iron & steel goods. Further, the normal conversion ratio of 1:1.6 for production of steel is, in fact, on the higher side for those Iron and Steel Units who source their ore from Odisha and Jharkhand for making Sponge Iron and Pig Iron. Because in places like Odisha, the average Fe-content of iron ore rises to a level of 62% and more. The Iron Ore fines from these mines, generated during the mining activities, are amenable to

making very good quality value-added agglomerated products like sinter/pellet which are secondary feed to making Iron and Steel goods. Considering the high quality of iron ore that is normally available in the mines in Odisha (often with Fe content more than 62 %), for agglomerated products like Pellet, made out of Iron Ore Fines, ratio is to be taken as 1:1, since pellet is nothing but a changed form of Iron Ore Fines with small amount of other additives. This aspect also requires consideration for verifying how much ore is used for domestic consumption.

**SUGGESTION:**

It is observed that almost all of these Demand Notices served on various companies by railways for alleged acts of freight evasion pertain to just one Railway Zone i.e. the South Eastern Railway which transports an overwhelming portion of the iron ore, originating from Odisha. However, it is a known fact that there are other Zones of Indian Railways who also transport significant amount of Iron Ore. Recently the Comptroller and Auditor General of India (CAG), in Report No.32 of 2011-12 (Railway) of their annual audit have already reported a loss of nearly Rs.1795.51 Crores for that Zone caused by fraudulent use of concessional freight.

Therefore, it is suggested that Railways should through C.B.I., make an all out effort to detect cases of such evasion in all the Zones that might be transporting Iron Ore. Similarly, it is also seen that almost all the Demand Notices, worth Rs.1,874 Crores, so far issued by the S.E. Railway Zone, pertain to the evasion period from 2008 to 2011 although the differential freight tariff scheme continues to be in effect even now. The average difference between “Domestic Freight Rate” and “Other than Domestic Freight Rate” was, in fact, at its maximum during 2011-12. Therefore, Railways are advised to quantify this amount of freight evasion and institute recovery mechanism for the entire time period, starting from May, 2008 till now. This is of paramount importance since the process for recovering the exact amount of escaped freight revenue has to be undertaken by Railways themselves and would not, automatically, accrue to them, even in the event of a successful conclusion of any criminal investigation, undertaken by CBI.

Further, whether the iron ore extracted and exported was by legal or illegal mining requires in depth investigation in all such cases, as listed by the Railways. As the matter is under investigation by Central Bureau of Investigation (C.B.I.), the Central Government may direct the C.B.I. **to**

**investigate all such other cases which are noticed by the Railways, in a time-bound programme with a specific direction to verify the source of production of iron ore transported and exported.**

5. This Commission is not having any power under Section 5A of the Commission of Inquiry Act and therefore it would not be practicable to investigate into the allegations of corruption by the bureaucrats as well as politicians who in past indulged in such activities. It is true that at present the State Government is taking some steps for controlling illegal mining activities.

However, considering the huge profit earned due to export of iron ore, particularly, to China, it would be practically impossible to control such illegal activities as large amount can be spent for purchase and influence the persons who are in power.

6. In any case for reducing corruption and for controlling illegal mining and evasion of taxes as well as royalty, it would be necessary to adopt and follow rigidly the procedure/directions issued by the Apex Court in the case of **Samaj Parivartana Samudaya & Ors. v/s. State of Karnataka**, in Writ

**Petition (Civil) No.562/2009**, decided on **18.04.2013** for e-auctioning the iron ore extracted from the mines. This procedure has given very good result of controlling illegal mining as well as evasion of taxes and royalty.

It is the suggestion of the Commission that in all the States, the aforesaid procedure be followed for disposal of non-renewal of national asset.

7. It would be worthwhile to quote the article, namely, **“CM’s Keonjhar visit draws flak”** published in **Times of India, Bhubaneswar Edition**, dated **06.02.2013** which reads as under:—

*“KEONJHAR: **Chief minister** Naveen Patnaik’s visit to Keonjhar district on Friday to inaugurate a number of company-sponsored projects has drawn a volley of criticism.*

*Naveen, during his visit, inaugurated a number of projects, mostly built by mining companies, which have been in the eye of the storm against the backdrop of the mega mining scam and the consequent investigation by Shah Commission.*

*The Congress alleged the government instead of taking steps against those involved in illegal mining has encouraged with the chief minister inaugurating projects built or going to be built by them.*

*“The government did not feel it proper to arrest the culprits involved in the scam. **The chief minister did not visit the district when people***



***were shouting against the looting of mines, pollution, destruction of forests, and killing of people by speeding trucks carrying minerals.*** Now he came to inaugurate projects built by them. This is condemnable,” said Alok Mishra, secretary of Pradesh Congress Committee.

The chief minister inaugurated two bus terminuses at Barbil, constructed by Sarada Mines, and one at Keonjhar, constructed by Tata. He inaugurated a kitchen at Ranki, built by Essel Mining for cooking midday meals, a community health centre at Banspal, to be maintained by Sirazuddin company. He also laid foundation stones for an indoor stadium, to be built by KJS Ahluwalia and town hall, constructed by Rungta company.

The BJD, Keonjhar unit, president Alekh Singh refuted the Congress allegations and said, ‘The charges are baseless. The CM has no link with scam-tainted companies. The projects were to be inaugurated before the mining scam came to fore’.”

8. Terms of Reference No.8 provides that "The Commission may take the services of any investigating agency of the Central Government in order to effectively address its terms of reference."

The Commission, therefore, suggests that Central Bureau of Investigation (C.B.I.) may be directed to investigate into allegations of corruption made against politicians, bureaucrats and others.

**Action taken by the State of Odisha for illegal mining**

1. After this Commission submitted report with regard to illegal mining in State of Goa, the State of Odisha had also started proceedings u/s. 21(5) of the MM(DR) Act, 1957 for recovering the amount for illegal mining in violation of various laws.
2. In the State of Odisha, total 192 leases of iron ore, manganese ore and iron & manganese ores, are working. These leases were situated in the Reserved forest, Section 4 notified forest, DLC forest, Government waste land as well as in the private tenant land.

Following legislations were applicable, as per the present status for the mineral sector.

- (i) The Mines and Minerals (Development and Regulation) Act, 1957;
- (ii) Mineral Concessions Rules, 1960;
- (iii) Mineral Conservation and Development Rules, 1988;
- (iv) The Environment (Protection) Act, 1986;

- Environment Impact Assessment [EIA] Notifications, 1994 and 2006
- (v) The Water (Prevention & Control of Pollution) Act, 1974 and amended Act, 1988;
  - Consent from Pollution Control Board
- (vi) The Air (Prevention & Control of Pollution) Act, 1981;
  - Consent from Pollution Control Board

It is to be stated that most of the leases were working in violation of the abovementioned Acts and Rules framed thereunder by the Government of India for the regulation and administration of mineral development.

- 3.** Director of Mines & Geology, Odisha State, vide its letter No.MXXXIII(a)–48/12, dated 15.03.2013, sent the information regarding lease wise excess production of iron and manganese ores with respect to EC/Mining Plan/Consent to operate under Air & Water Acts (yearly) along with copies of show cause notices issued by Deputy Director (Mines) of the respective jurisdiction. In total **146** cases, notices are issued to the various leaseholders for recovery of mineral value as per Section 21(5) of MM(DR) Act, 1957.

4. Show cause notices were issued for recovery of value of excess production of iron and manganese ores with respect to EC/Mining Plan/Consent to operate, for the period from 2000-01 to 2009-10 as under:-

**(i) In Koira Circle:-**

- Notices were issued to 33 lessees for excess production of iron ore.
- Notices were issued to 22 lessees for excess production of manganese ore.
- In all, notices were issued to 55 lessees for recovery of cost of excess production amounting to **Rs.13,188,13,78,803/- (i.e. about Thirteen Thousand One Hundred and Eighty Eight Crores).**

**(ii) In Joda Circle:-**

- Notices were issued to 62 lessees for excess production of iron ore.
- Notices were issued to 10 lessees for excess production of manganese ore.
- In all, notices were issued to 72 lessees for recovery of cost of excess production amounting to **Rs.44,452,50,50,692/-**

**(i.e. about Forty Four Thousand Four Hundred and Fifty Two Crores).**

**(iii) In Keonjhar Circle:-**

- Notices were issued to 04 lessees for excess production of iron ore.
- The said notices were issued for recovery of cost of excess production amounting to **Rs.1064,93,46,610/- (i.e. about One Thousand Sixty Five Crores).**

**(iv) In Koraput Circle:-**

- Notices were issued to 03 lessees for excess production of manganese ore.
- The said notices were issued for recovery of cost of excess production amounting to **Rs.43,90,841/- (i.e. about Forty Three Lacs).**

**(v) In Bolangir Circle:-**

- Notice was issued to 01 lessee for excess production of manganese ore.

- The said notice was issued for recovery of cost of excess production amounting to **Rs.29,56,30,235/- (i.e. about Twenty Nine Crores).**

**(vi) In Baripada Circle:-**

- Notices were issued to 11 lessees for excess production of iron ore.
- The said notices were issued for recovery of cost of excess production amounting to **Rs.467,75,16,161/- (about Four Hundred Sixty Seven Crores).**

- 5.** From the aforesaid 146 notices, **it is apparent that there must be unlawful mining** which came to the notice of the State Government for which notices were issued.

Value of the unlawful extraction of iron and manganese ores comes to **Rs.59203,33,13,342/- (i.e about Fifty Nine Thousand Two Hundred and Three Crores).**

Let the State Government recover the said amount, by finalizing the proceedings on the basis of the notices, as early as possible and use the said

amount for the development of the two Districts, namely, Keonjhar and Sundargarh which are badly affected by illegal excess mining. This at least can remove the poverty of the tribals who are affected or whose lands are used for mining purpose.

The list of names of lessee, area under its occupation and the amount sought to be recovered is annexed herewith at **Annexure: D**.

**Necessity of capping of production of iron ore**

1. Even if ban on export may not be possible at this stage, capping of production of iron ore is absolutely must so that future generation is not required to import iron ore. In any set of circumstances, visualize the situation for at least 50 to 60 years. On that basis, production may be streamline so that iron ore minerals may last at least for 50 to 60 years.

At present, we are exporting iron ore but importing steel products. Considering the present situation, it is possible by industrialists in the country to produce similar steel products. Hence, proper planning on the subject is the necessity of the day.

2. It would be worthwhile to refer to the relevant part of the Article published in **New Indian Express** dated **05.07.2012** which is as under :—

*“Iron Ore Reserves Fully Exhausted”*

*ENS Economic Bureau*

*Bangalore:*



*Contrary to claims by the private sector of having large reserves of iron ore in Karnataka and other regions of the country, the Economic Research Unit (ERU) has stated that the reserves could well have been exhausted.*

*Speaking at the annual conference of the Ore-Team, Susmita Dasgupta, Joint Chief Economist at ERI under the Ministry of Steel said the level of pollution had been one of the key indicators of this fact. Inferring the case of Bellary in Karnataka and the subsequent Lokayukta report on illegal mining, she said, “the persons who plundered the mines knew they were hitting the bottom.” Noting that the recent findings of the Centre for Science and Environment were ‘discouraging’, she said the government would chalk out plans to take the report forward.*

***Rubbishing claims of the private industries about the ‘large reserves’, she said that the Geological Society of India was not consulted and the claims by private companies are not substantiated.”***

3. Further, it would also be worthwhile to refer to the relevant part of the Article, namely, **“Dire Warning of iron ore depletion in State”** published in the daily newspaper, **The Hindu**, dated **05.07.2012** which is as under :-

*“Official says reckless mining has led to this predicament*

**BANGALORE:**

*Large-scale illegal mining of iron ore in Karnataka has resulted in iron ore deposits being on the verge of depletion in the State, warned a senior economist of the Union Steel Ministry on Wednesday. Addressing a conference on the mining and steel industry in Karnataka, Susmita Dasgupta, Joint Chief Economist, Joint Plant Committee, Ministry of Steel, said the “hurried, irresponsible and reckless” manner in which the mining was done, till it was exposed by the Lokayukta in its report on illegal mining, “indicated that ore exploitation was nearing the bottom of the available reserves”.*

*Describing the Lokayukta report as a “Mahabharatha” in terms of its attention to detail, Ms. Dasgupta said it exposed the “huge network” that was behind the operation “that would have put even the al-Qaeda to shame”.*

*Observing that most of the State’s ore was of 56 to 58 percent ferric content, she said: “Any metallurgist would tell you that such ore would be no good for steel making.” Asked if this meant the end of the road for the steel industry in the State, which accounts for about one-fourth of Indian steel manufacturing capacity, she said: “Neither Japan, nor Europe has much ore, but they have a vibrant steel industry. We should focus on value addition in steel making, which can be done without ore.” Ms. Dasgupta disputed the claim made by some steel makers that pelletisation of fine ores (inferior type of ore that is predominantly available in Karnataka)*

would be a viable option. “But this requires good quality ore, which is not available here,” Ms. Dasgupta said. “I am skeptical and deeply concerned about how the iron and steel industry is the most polluting of all industries in India,” she commented.

The aforesaid observations are also supported by the affidavit of Shri Manas Ranjan Mishra, who has stated as under:

(A) *Export :*

*Virtually lifting of important scare / limited assets/national wealth i.e. iron ore at throw away price and export*

*– gas resources.*

(B) *Regulated export of iron ore through Government agency.*

(C) *Capping of production.*

(D) *Iron ore to be supplied at reasonable rate to the factories/industries situated within the country.”*

4. It would be worthwhile to refer to the Resolution No.7264–IV (AB)–SM–10/2011–SM, dated 03.10.2012 passed by Department of Steel & Mines, Government of Odisha. The same is, *inter-alia*, reproduced as under:–

*“Mining is vital for the economy of the State. The State being the owner of the mineral resources shall*

*have to ensure that the mineral resources are applied for the overall development of the community. The State also has the responsibility to the future generations in so far as the mineral conservation and the development is concerned.*

- 2.** *Mineral resources are finite and non-renewable. It is, therefore, imperative to take timely and appropriate steps to deprive the maximum benefit for the community while the mineral resources are still available for exploitation. The State Government perceived value addition as an effective means for achievement of the aforestated objective as value addition of minerals within the State helps in (a) creation of large number of jobs (b) collection of greater revenues and (c) in attracting ancillary and downstream investments. It is as such with such understanding the Government invited investors to invest in industry based on minerals.*
- 3.** *So far, the Government have executed more than 50 MoUS for establishment of steel plants and alumina refineries. A majority of these projects have commenced production. However, they are grappling with issues pertaining to availability of raw material.*
- 4.** *It is therefore, necessary to authorize second and subsequent renewal of the mining leases keeping in view the foregoing considerations and the extent law on the issue.*

5. *Renewal of a mining lease shall have, among others, the clearance of Government of India under the Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1976, consent to operate under Water and Air Acts and approved mining plan under Mineral Conservation and Development Rules, 1988 and the lessee shall not have indulged in the violations of the provisions of the Mines and Minerals (Development & Regulation) Act, 1957 and the rules made thereunder, including the lease covenants which is not remediable under the extent law or the lessee does not remedy the breach within the time allowed thereunder.*
  
6. *The State Government while authorizing second and subsequent renewal of mining lease is mandated under sub-section (3) of Section 8 of the Mines and Minerals (Development and Regulation) Act, 1957 to satisfy itself fully that such renewal would be in the interest of mineral development. The reasons for which the State considers that the second renewal would be in the interest of mineral development are also to be reflected un-ambiguously in the order authorizing the renewal. The Supreme Court of India in the case of Tata Iron and Steel Co. Ltd., etc – Vs – Union of India with Industrial Development Corporation of Odisha Ltd. – Vrs – UOI and others in their judgment dated the 23<sup>rd</sup> July, 1996 (AIR 1996 SC 2462) have inter alia in para 33 held as follows:*

‘33. xxx xxx To us, the language of S. 8(3) is quite clear in its import. Ordinarily, a lease is not to be granted beyond the time and the number of periods mentioned in clauses (1) and (2). If, however the Central Government is of the view that to allow a lessee’s lease to be renewed further would be in the interest of mineral development, then it is empowered to—do—so, provided there exist on record sound reasons for such an action and those reasons are recorded. Since such a measure has been incorporated in the legislative scheme as a safeguard against arbitrariness, the letter and spirit of the law must be adhered to in a strict manner.’

**7.** In the said case, the Apex Court have also dealt the relevance of the criterion of captive requirement of mining industries and the principle of equitable distribution of mineral wealth to the concept of mineral development under the said Section 8(3) of the Act and held in para-62 as under:

‘62. We are, therefore of the view that the committee had correctly interpreted the Relevant material available for appreciating the concept of “mineral development” and adopting the stance that it encompassed the concept of captive mining as well s the principle of equitable distribution.’

*The Court, accordingly, upheld the authorization of second renewal by the Central Government for a reduced area in favour of the lessee going by the recommendations of the Committee set up by the said Government for the purpose.*

- 8.** *Article 39(b) of the Constitution of India requires the State to direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to sub-serve the common good. As concentration of mineral wealth in the hands of a few will not sub-serve the common good, the State is duty bound to ensure equitable distribution of mineral wealth while granting second and subsequent renewal.*
- 9.** *Hence, second and subsequent renewals cannot be claimed as a matter of right. There must be sufficient reasons to say that such renewal is in the interest of mineral development. Captive mining and the principle of equitable distribution, among others shall be considered as guiding factors for such renewal, except in case of leases held by a company or corporation owned or combined by Union or State Government. The reasons are to be recorded by the State Government and reflected in the order authorizing the renewal.*
- 10.** *The State Government has therefore, after careful consideration, been pleased to resolve that the following, among others, may be*

*considered as ingredients of “mineral development” for the purpose of Section 8(3) of the Mines and Minerals (Development and Regulation) Act, 1957 for mine, is like iron ore, manganese, chromite and bauxite except in case of leases held by a company or corporation owned or controlled by Union or State Government.*

- (i) The mineral from the mining lease is being used for captive purpose by the lessee. The area to be renewed shall be limited to the captive requirement of 30 years of the existing capacity of the mineral industry of the lessee. Allotment of more area than required for captive use to a lessee other than the State would not be serving the interest of mineral development. The industry shall be in existence at the time of authorization of renewal of the lease. The balance area shall be reserved for Odisha Mining Corporation, a PSU wholly owned by the State Government under Section 17A(2) of the MMDR Act, 1957 with the approval of Central Government for supply of ore to end use industries within the State. While determining the mineral ore available to the lessee for captive use. The mineral resources of all the lessees held by the said lessee in the country will be taken into consideration.*
- (ii) The lessee must have properly prospected the mine to know the actual reserve of the*



*mine by dedicating a reasonable fraction of investment to scientific prospecting and subsurface exploration to the geologically visualized depths of ore bottoming.*

**(iii)** *The lessee must have taken definite visible steps for comprehensive environmental management for the area to reduce environmental degradation and for reclamation and restoration of the lease area.*

**(iv)** *The lessee must have complied with the relevant provisions of the extent laws governing mining including but not limited to MMDR Act, 1957, Mines Act, 1952, Environment (Protection) Act, 1976, Forest (Conservation) Act, 1980 and rules made thereunder in the matter.*

**11.** *Lessee awaiting second and subsequent renewal but operating under Rule 24A(6) of Mineral Concession Rules, 1960 will also be covered by the above policy decision and each of such case would be reviewed and decided in a time bound manner. In such cases, the raising may be limited to the captive consumption till a decision is taken for renewal of part or whole of the lease area depending upon the reserve assessed as per the special condition imposed by the Government of India under sub-rule (3) of Rule 27 of the said rules vide notification No. 10/75/2008-MV, dated the 23<sup>rd</sup> December, 2010 vis-à-vis the captive requirement for 30*

*years Such prospecting may be completed within the time allowed by the Government of India under the said special condition.*

#### ORDER

*Ordered that this Resolution be published in the extraordinary issue of Odisha Gazette.*

*Ordered also that copies of the Resolution be forwarded to all Collectors / all R.D.Cs. / the Private Secretary to Minister, Steel & Mines / Private Secretary to the Chief Secretary, Odisha / all Departments of Government / all Heads of Departments for information.”*

5. At the time of arguments during the public hearing held by the Commission at Bhubaneswar on **02.03.2013**, Sr. Counsel, Mr. Lalit submitted that capping on iron ore production is must. He pointed out that with a view to regulating the production in mines in Joda and Koira areas to reduce the impact of large scale mining on the environment and the infrastructure of the area, the State Government has decided to put a provisional cap of 40 Million Tones for Joda area and 10 Million Tones for Koira area.

In the Commission's view, for the purpose of capping of the production of iron ore and manganese, the State Government can always issue necessary directions. The State Government has

inherent powers, as held in the case of **Amritlal Nathubhai Shah and others V/s. Union Government of India and another**, [AIR 1976 SC 2591]. The relevant part thereof is reproduced as under:—

*“It may be mentioned that in pursuance of its exclusive power to make laws with respect to the matters enumerated in entry 54 of List I in the Seventh Schedule, Parliament specifically declared in section 2 of the Act that it was expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent provided in the Act. The State Legislature's power under entry 23 of List II was thus taken away, and it is not disputed before us that regulation of mines and mineral development had therefore to be in accordance with the Act and the Rules. The mines and the minerals in question (bauxite) were however in the territory of the State of Gujarat and, as was stated in the orders which were passed by the Central Government on the revision applications of the appellants, the State Government is the "owner of minerals" within its territory, and the minerals "vest" in it. There is nothing in the Act or the Rules to detract from this basic fact. That was why the Central Government stated further in its revisional orders that the State Government had the "inherent right to reserve any particular area for exploitation in the public sector". It is therefore quite clear that, in the absence of any law or contract etc. to the contrary, bauxite, as a mineral, and the mines*

*thereof, vest in the State of Gujarat and no person has any right to exploit it otherwise than in accordance with the provisions of the Act and the Rules. Section 10 of the Act and Chapters II, III and IV of the Rules, deal with the grant of prospecting licences and mining leases in the land in which the minerals vest in the Government of a State. That was why the appellants made their applications to the State Government.*

... ..

*Section 10 of the Act in fact provides that in respect of minerals which vest in the State, it is exclusively for the State Government to entertain applications for the grant of prospecting licences or mining leases and to grant or refuse the same. The section is therefore indicative of the power of the State Government to take a decision, one way or the other, in such matters, and it does not require much argument to hold that power included the power to refuse the grant of a licence or a lease on the ground that the land in question was not available for such grant by reason of its having been reserved by the State Government for any purpose.*

*We have gone through sub-sections (2) and (4) of section 17 of the Act to which our attention has been invited by Mr. Sen on behalf of the appellants for the argument that they are the only provisions for specifying the boundaries of the reserved areas, and as they relate to prospecting or mining operations to be undertaken by the Central Government, they are enough to show that the Act does not contemplate or*

*provide for reservation by any other authority or for any other purpose. The argument is however untenable because the aforesaid sub-sections of section 17 do not cover the entire field of the authority of refusing to grant a prospecting licence or a mining lease to any one else, and do not deal with the State Government's authority to reserve any area for itself. As has been stated, the authority to order reservation . flows from the fact that the State is the owner of the mines and the minerals within its territory, which vest in it. But quite apart from that, we find that rule 59 of the Rules, which have been made under sections 13 of the Act, clearly contemplates such reservation by an order of the State Government.*

... ..

*In taking that view the High Court went by the consideration that the subject of the legislation in the Act became an "exclusive subject for legislation by Parliament" and there was no residuary power of working out mines and minerals without observing the conditions prescribed by the Act and the Rules. The High Court therefore went wrong in not appreciating that even, though 'the field of legislation had been covered by the declaration of the Parliament in section 2 of the Act, that could not justify the inference that the State Government thereby lost its right to the minerals which vested in it as a property within its territory."*

The aforesaid judgment was also referred to by the Apex Court in the case of **Indian Metals and Ferro Alloys Limited V/s. Union of India, [AIR 1991 SC 818]** wherein the Court, in **Para: 21**, has held as under:-

*“The relevant provisions of the Act and the rules have been extracted by us earlier. Previously, Rule 58 did not enable the S.G. to reserve any area in the State for exploitation in the public sector. The existence and validity of such a power of reservation was upheld in Kotaiah Naidu v. State of A.P., AIR 1959 Andh Pra. 485 and Amritlal Nathubhai Shah v. Union of India, AIR 1973 Guj 117, the latter of which was approved by this Court in (1977) 1 SCR 372: (AIR 1976 SC 2591). (As pointed out earlier, R. 58 has been amended in 1980 to confer such a power on the S. G.). It is also not in dispute that a notification of reservation was made on 3-8-77. The S.G., OMC and IDCOL are, therefore, right in contending that, ex facie, the areas in question are not available for grant to any person other than the S.G. or a public sector corporation (Rule 59(1), proviso) unless the availability for grant is renotified in accordance with law (Rule 59(1)(e)) or the C.G. decides to relax the provisions of R. 59(1) (Rule 59(2)). None of these contingencies have occurred since except as is indicated later in this judgment. There is, therefore, no answer to the plea of reservation put forward by the S.G., OMC and IDCOL.”*

6. For this purpose, the State Government has passed Resolution dated 16.09.2011 by constituting a Committee under chairmanship of the Chief Secretary to Government.

*It has been pointed out that “With a view to regulating production and dispatch of minerals from the mines in Joda and Koira areas (two major iron ore mining circles) to reduce the impact of large scale mining on the environment and infrastructure of the area, the State Government has decided to put a provisional cap of 40 million tonnes for Joda and 12 million tonnes for Koira per annum.”*

**In view of the aforesaid judgments of the Apex Court, it would be in the interest of the State of Odisha to permit extraction of iron ore as per the aforesaid decision of the State Government so that needs for development of present and future generations are fulfilled.**

## [ VIII ]

**Submissions by the State Government, Odisha**

- I.** Mr. Lalit, Ld. Sr. Counsel, appearing on behalf of the State of Odisha submitted that the Government has tried to submit various measures for controlling illegal mining to the Central Government but there is no proper response. In short, it is pointed out that the State Government wrote various letters for:–
- (i) prohibition on export of iron ore;
  - (ii) imposition of mineral resource rent tax on iron ore;
  - (iii) competitive bidding of mineral resources;
  - (iv) Reservation of mineralized areas for Odisha Mining Corporation;
  - (v) captive use and equitable distribution;
  - (vi) Capping on production of iron ore;
  - (vii) correction of under-estimation of sale value of iron ore by IBM; and
  - (viii) increase in the royalty to be charged on iron ore.



- II.** The submissions of the Government of Odisha made before the Commission are reproduced as under:–

**“I. Ban on iron ore export:**

*Hon’ble Chief Minister of Odisha in his address to the National Development Council on 22 October, 2011 has pointed out that boom in iron ore prices in the last decade has created perverse incentives for mining activities to be carried out in an unregulated manner. He, therefore, suggested that a ban on export of iron should be immediately imposed to bring down domestic prices and encourage local industry to invest in technologies to utilize the iron ore fines being exported. This would regulate mining activities and make them sustainable, apart from helping the steel production to grow. Most importantly, the ban on iron ore export will conserve this finite natural resource to meet the future requirement of the country. The address at the National Development Council was followed by D.O. letter dtd. 16.11.2011 of Hon’ble Chief Minister to the Hon’ble Prime Minister... ..*

*However, response of the Central Government is still awaited.*

**II. Mineral Resources Rent Tax :**

*The unprecedented boom in iron ore prices in the international market and the insatiable demand for such ore in the export market has resulted in iron ore becoming a highly profitable*

commodity with the returns from the mining being far in excess of economically acceptable rates. In fact, the iron ore prices more than doubled during 2004 where as the rate of royalty on highest grade of iron ore was increased from Rs.24.50/MT to a paltry Rs. 27/MT for lumps and from Rs. 14.50 per MT to Rs.19/MT for fines that too as late as August'2009 even though section 9 of MMDR Act, 1957 mandates royalty revision every three years (it should have been done in 2007 itself). Further, this belated revised rate of royalty is kept at 10% of the sale price as published by IBM on ad-valorem basis though on the basis of the super normal profits existing, the State had demanded 25% royalty on ad-valorem basis. This delay in revision of royalty and the corresponding low rates at which it was fixed have led to continued excess profits being made by private mining companies at the expense of the State Government **[average profit before tax (PBT) per metric tonne of iron ore increased from Rs. 139.78/MT in 2001-02 to Rs.3237.64/MT in 2010-11 and that the mining companies are earning super normal profits is also evident from the fact that the profit before tax of NMDC increased from Rs. 343.94 crores in 2001-02 to Rs. 9727.17 crores in 2010-11]. Furthermore, even though the next revision has been due since August' 2012, it has yet not been revised by the Central Government.**

*Hence, to tap such super normal profits earned by the mining lessees, especially iron ore, the State Government has proposed for imposition of Mineral Resources Rent Tax (MRRT) @ 50% of the surplus rent (profit) received by the miners. [This tax is proposed to be appropriated by the State Government for development of the social and economic infrastructure in the impacted areas which are mostly inhabited by the tribals].*

*However, the following communication between the State Government and the Central Government will clearly show that the Central Government is dismissive of the proposal of the State Government to impose Mineral Resources Rent Tax (such tax is already being levied in Australia):*

- i. D.O. letter dtd. 30.08.2011 of Hon'ble Chief Minister of Odisha to Hon'ble Prime Minister.*
- ii. Speech of Hon'ble Chief Minister, Odisha at 56<sup>th</sup> meeting of the National Development Council dtd. 22nd October, 2011.*
- iii. D.O. letter dtd. 16.11.2011 of Hon'ble Chief Minister of Odisha to Hon'ble Prime Minister*
- iv. D.O. letter dtd. 24.12.2011 of Hon'ble Chief Minister of Odisha to Hon'ble Prime Minister*

- v. *D.O. letter dtd. 2.01.2012 of Hon'ble Chief Minister of Odisha to Hon'ble Prime Minister*
- vi. *D.O. letter dtd. 25.01.2012 of Hon'ble Chief Minister of Odisha to Hon'ble Prime Minister*
- vii. *D.O. reply of Shri Dinsha Patel, Minister of State (Ind. Charge) for Mines, Government of India dtd. 24.04.2012.*

### **III. Competitive bidding of mineral resources :**

*Hon'ble Chief Minister, Odisha has, in his D.O. letter dtd. 6.01.2011 to Shri Pranab Mukherjee, the then Hon'ble Finance Minister and Chairman of Group of Ministers on new MMDR Bill, proposed that in general, the State Government is against the 'first in time' principle for disposal of mineral resources except in the case where a non-exclusive reconnaissance permit holder applies for a prospecting license on the basis of reconnaissance operations. **Competitive bidding should be the general methodology for grant of lease of the finite valuable national resources.** It is a transparent mechanism and, will not only result in selection of meritorious applicants but would also ensure maximum gain to the state and the community.*

*The aforesaid proposal was followed up with the Ministry of Mines vide D.O. letter dtd.*

*23.02.2011 of Hon'ble Chief Minister, Odisha to Shri Dinsha Patel, Minister of State for Mines (Ind. Charge), Government of India. However, decision on this proposal is yet to be communicated.*

*The State Government is firmly of the view that the mineral resources, which truly belong to the people, should not be given away to the profit maximizing entrepreneurs, virtually free of cost, as is being done under the extant law. Introduction of competitive bidding for allocation of mineral resources should greatly address the ills of this sector.*

#### **IV. Reservation of mineralized areas for Odisha Mining Corporation:**

*Mineral resources being finite and non-renewable, it is imperative that timely and appropriate steps are taken to derive maximum benefit for the community while the mineral resources are still available for exploitation. Moreover, the Constitution of India vide the provisions of Article 39(b) and (c) mandates the State to ensure that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good and that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment.*

*Thus, the State Government as owner of mines and minerals within its territory has inherent right to reserve any mineral bearing area for exploitation in the public sector. Such reservation, while ensuring equitable distribution and conservation, will help accrue benefits to the State. This will also help preserve the minerals for our future generation ensuring inter-generation equity.*

*Keeping the above in view, the State Government decided to reserve scarce minerals like iron ore, manganese, bauxite and chrome ores for exploitation by the Odisha Mining Corporation, a wholly owned State Government undertaking, in the interest of conservation and prudent exploitation. It has, therefore, resolved to reserve the available mineral bearing areas in favour of the Odisha Mining Corporation after observing the formalities prescribed by the MM(D&R) Act. The Odisha Mining Corporation is the leading mining State PSU of the country and has adequate technical expertise and financial resources to exploit the remaining mineral bearing areas in the State. .... However, the Central Government disapproved this policy resolution of the State on the ground that the State cannot do so without its approval though it was clearly mentioned vide para 11 of the Policy Resolution that approval of the Central Govt. will be sought at the time of notifying the particular mineral bearing areas with land details in favour of Odisha Mining Corporation.*

**V. Second and subsequent renewal of mining leases (Captive use and equitable distribution):**

*The State Government has resolved that captive use and equitable distribution shall, among others, be the ingredients to constitute 'mineral development' for the purpose of sub section (3) of section 8 of the Mines and Minerals Regulation Development, 1957. This has been done on the basis of the ratio of the judgement dated 23 July, 1996 of Hon'ble Supreme Court of India in the case of Tata Iron Steel Co. Ltd. – vrs. – Union of India with IDC of Odisha Ltd. – Vrs. – UoI and another reported in AIR 1996 SC 2462.*

*Furthermore, Article 39(b) of the Constitution of India requires the State to direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good. As concentration of mineral wealth in the hands of a few will not sub-serve the common good, the State is duty bound to ensure equitable distribution of mineral wealth while granting second and subsequent renewal. Accordingly, the State Government vide Resolution dated 3.10.2010 and letter dated 12.10.2012 have decided that 2nd & subsequent renewals will be only for captive purposes. However, the Government of India, in the Ministry of Mines has objected to the above decision of the State Government in*

*their letter dtd. 15.02.2013 advising it to withdraw the said resolution/ letter. This has created difficulty for the State Government to dispose of the pending RML applications pertaining to second or subsequent renewal periods.*

**VI. Capping on production of iron ore:**

*With a view to regulating production and dispatch of minerals from the mines in Joda and Koira areas (two major iron ore mining circles) to reduce the impact of large scale mining on the environment and infrastructure of the area, the State Government has decided to put a provisional cap of 40 million tonnes for Joda and 12 million tonnes for Koira per annum. ... This step duly addresses the issue of carrying capacity of the available infrastructure vis-à-vis transport of the minerals. In fact, even IBM has been requested to review/revise downwards the existing approved quantities to take care of the equitable principles of intergenerational equity and sustainable development. However, no response has so far been received from IBM.”*



### **III. Letters enclosed with the aforesaid submissions:-**

- (a) On **06.01.2011**, the Hon'ble Chief Minister, State of Odisha wrote a letter to Mr. Pranab Mukherjee, Hon'ble Finance Minister, Govt. of India. The said letter is, inter-alia, reproduced as under:-

*“Thank you for giving me and the officers of the State Government an opportunity on 24<sup>th</sup> December, 2010 to put forth suggestions and concerns of the State on the draft Mines and Mineral Development and Regulation Bill.*

*I am enclosing with the letter the issues raised during the meeting and the gist of the decisions taken thereon for your reference.*

*I hope all the issues will be incorporated in the Mineral Development and Regulation Bill.”*

The said suggestions of the State Government on the MMDR Bill & decisions taken thereon in the meeting of Hon'ble Chief Minister with the Hon'ble Union Finance Minister & Chairman, GoM, are reproduced as under:-

- “1.** *In general, the State is against the ‘first in time’ principle except in the case where a non exclusive Reconnaissance Permit holder applies for a Prospecting License on basis of the reconnaissance operations. For direct*

applications **‘value addition’** should be recognized as the main consideration for grant of mineral concessions. Competitive bidding should be the general methodology for grant of limited national resources. It is a transparent mechanism; will result in selection of meritorious applicants and will ensure maximum gain to the state and the community.

The Secretary, Mines stated that the State Government can notify areas for PL/LAPL as per Section 13(1) and these notifications can be specific to areas. Flexibility is provided to the State Government to incorporate “value addition” and other criteria to suit its interests in terms of its policies.

It was requested by the State Government that this should be made explicit in the Act. Further, the State Government is of the view that there is still a need for enlarging the present Section 13(1) to include areas where existence of any mineral is known by local knowledge or where geological setting/data suggests the probability of existence of any mineral. Also in the first proviso to Section 13(1) for the words “no application” the words “no application of an earlier/existing license holder” should be substituted.

2. The Draft Bill restricts the financial bid to recovery of the value of government efforts for exploration etc. The financial bid component of competitive offers should also provide

*consideration for the value of mineral property, and the amount so obtained should go to the State.*

*It was agreed in the meeting that competitive bidding offer should be market based and not be linked to the cost spent on exploration by the State Government. If any, a floor price could be fixed taking into consideration the cost of the exploration etc.*

- 3.** *In the interest of conservation of finite resources and for ensuring availability of resources in the long term, the State Government should have the powers to restrict grant of concessions keeping in view the total availability and future utilization.*

*Secretary, Mines, Government of India stated that a provision has been incorporated in the Bill, that the Central Government with a view to conserve any specific mineral ore or any specific grade of mineral may impose restriction on grant of fresh mineral concessions for a minimum period of 10 years in view of its strategic value.*

*However, the State Government feels that the present Bill would make it mandatory on the State Government to give mineral concession in all areas where there are known mineral resources. Areas which are notified for prospecting and reconnaissance by the State*

*Department of Geology will also be awarded as concessions after period of 3 to 6 years. The State Government feels that the grant of mineral concessions should be phased over a much longer period of time. Granting of concessions at one time would also lead to sub-optimal utilization of mineral resources and lower amount of bid value will accrue to the State. It is strongly reiterated that the State Government should have powers to restrict the grant of concessions keeping in view the total availability and future utilization of mineral resources.*

- 4.** *If the act comes into effect in the present form, after one year, a large number of applications will be received on the same day. It will be difficult to determine first in time applicant on basis of difference in minutes. Our experience has been that first in time principle is open to abuse and leads to pre-emptive behavior and seeking of rents by the first applicants, who do not make any investment but transfer the license. It could be considered that, in general, after receipt of any application for LAPL/PL in non notified areas, the Government should publish the same on the web and all applications submitted over the area within a prescribed period should be taken up for consideration. The best applicant can be selected on the basis of merit following a transparent process, including principles of value addition.*

*It was agreed that in case of direct applications, a Swiss challenge procedure will be followed. All applications which are received within a specific time period would be taken into consideration. The first applicant will have a preferential right to the extent that, if he matches the best bid, he will have right to the concession.*

- 5.** *In the scheduled areas, over and above 25% of profits or royalty, which has been provided in the Bill, an additional amount equivalent to the royalty should be paid by the lessees for rapid development of these areas which paradoxically continue to remain the most backward in spite of presence of abundant mineral resources.*

*It was mentioned that the State Government have special powers for Scheduled Areas and the State Government can explore the possibility of imposing additional amount to be paid by the lessees over and above what is proposed in the Act under these provisions as has been done in Scheduled Areas in Andhra Pradesh.*

- 6.** *For specific objective of supporting small and medium mineral based industry who do not have captive mines, provisions for reservation of mineral bearing areas for exploitation by the State PSUs should be continued in the new law.*

*This was not agreed to in the meeting and it was suggested that the State Government may define the criteria for allocation of deposits to such applicants who have ore supply agreements, which could include PSUs. The State Government is of the strong view that the reservation for specific objective of supporting small and medium mineral based industries should be provided for in the new law.*

- 7.** *As per Section 14, the time period prescribed for disposing off applications is woefully inadequate and also highly impractical and administratively difficult. A time period of 3 months is prescribed for disposing off RP/LAPL/PL/ML applications in the proposed bill. This time period should be 4 months for a non exclusive RP, 6 months for a PL/LAPL application and 12 months for an ML application as recommended by High Level Committee set up by Planning Commission.*

*During discussions the Ministry of Mines was of the view that 3 months period should be adequate for disposing of the applications. However, the State Government felt that this time period was inadequate and administratively difficult and should be increased.”*

- (b)** Thereafter, on **23.02.2011**, the Hon’ble Chief Minister, State of Odisha wrote a letter to Mr. Dinsha Patel, Minister of State for Mines (Ind.

Charge), GoI, New Delhi. The said letter is reproduced as under:—

*“As you must be aware, Orissa is one of the richest mineral bearing State in India having huge quantities of “bulk minerals” like iron ore, manganese, bauxite, chromite etc.*

*The Government of India is proposing a new MMDR Bill to replace the present MMDR Act, 1957. The new Act should reflect the present day conditions and also take into consideration the aspirations of the local inhabitants where the mineral resources are located.*

*The framing of the new Act provides an unique opportunity to ensure that the genuine concerns of the mineral bearing States are addressed. As a mineral rich State like Orissa will be substantially impacted by the provisions of the proposed Act, I have conveyed my concern through a series of letters with your predecessor and held two meetings with Shri Pranab Mukherjee who heads the Group of Ministers on the MMDR Bill. The Government of Orissa and Government of Chhattisgarh have also submitted a Joint Memorandum dated 12<sup>th</sup> October, 2010.*

*While the details of the correspondence and the meetings will be available with your Ministry, I feel it necessary to bring to your notice the major concerns of the State which were raised in the last meeting held on 24<sup>th</sup> December, 2010 at New Delhi with the*

*Union Finance Minister where your predecessor was also present.*

1. *In general, the State is against the ‘first time’ principle for allocating a mineral concession except in the case where a non exclusive Reconnaissance Permit holder applies for a Prospecting License on basis of the reconnaissance operations. Minerals are valuable and finite natural resources and with the prevailing high market price of ores, the State and its citizens should get a fair price for its minerals. Therefore, competitive bidding should be the general methodology for grant of limited national resources. It is transparent mechanism; will result in selection of meritorious applicants and will ensure maximum gain to the State and the community.*
2. *In case of direct applications where notification is not made **‘value addition’** should be recognized as the main consideration for grant of mineral concessions as it will bring employment and development in the State. Our experience has been that first in time principle is open to abuse and leads to pre-emptive behaviour and seeking of rents by the first applicants, who do not make any investment but transfer the license. It could be considered that, in general, after receipt of any application for LAPL/PL in non-notified areas, the Government should publish the same on the web and all applications submitted over the area within a prescribed period should be taken*



*up for consideration. The best applicant can be selected on the basis of merit following a transparent process giving preference to value adders. While finalizing the draft Bill such provisions should be made explicit and unambiguous.*

- 3.** *The financial bid u/s 13(1) is restricted to recovery of the value of Government efforts for exploration etc. The financial bid component of competitive offers should also provide consideration for the value of mineral property. The ores which are national resources should be given at a market determined price and there is no reason to prohibit an applicant from paying a higher amount if he is willing. The amount so obtained should go to the State. Pursuant to the meeting held on 24 December, 2010, we have been informed that the draft Act will be suitably modified, after obtaining legal advice to allow State Government to set a floor price. This may be ensured.*
- 4.** *There is an introduction of a provision to allow Central Government to restrict grant of concessions for any specific mineral considered strategic for the nation. In the interest of conservation of finite resources and for ensuring availability of resources in the long term, the State Government should also have the powers to restrict grant of concessions keeping in view the total availability and future utilization. This merits serious consideration as otherwise, the State will be compelled to award mineral*

*concession over the entire area wherever there are applicants even though it may not be in the long term interest of the State.*

5. *In the Scheduled areas, over and above 26% of profits or royalty, which has been provided in the Bill, an additional amount equivalent to the royalty should be paid by the lessees for rapid development of these areas which paradoxically continue to remain the most backward in spite of presence of abundant mineral resources. This is important to ensure that the tribals living in these regions are made partners in the development process and mining activities result in inclusive growth.*
6. *The Expert Committee on National Mineral Policy, set up by the Planning Commission, had with a view to meeting the raw material requirement of the small and medium industry in the State, recommended continuation of provisions for reservation of mineral bearing areas for exploitation by PSUs, for specific objective of supporting small and medium mineral based industry who do not have captive mines. Provisions for reservation of mineral bearing areas for exploitation by the State PSUs should be continued in the new law. Even though it was informed that the State can put such conditions in the notification u/s 13(1), this may be made explicit.*
7. *As per Section 14, the time period prescribed for disposing off applications is woefully*

*inadequate and also highly impractical and administratively difficult. Given the actual conditions in the field, the time period of 3 months prescribed for disposing of RP/LAPL/PL/ML applications in the proposed bill should be 4 months for a non-exclusive RP, 6 months for a PL/LAPL application and 12 months for an ML application as recommended by High Level Committee set up by Planning Commission. In the meeting on 24<sup>th</sup> December, 2010, a time period of 4 months was indicated. However, it is felt that this will not be adequate.*

- 8.** *As per second proviso to sub section (2) of the section 4 of the Bill, State Directors of Geology & Mining will be able to undertake reconnaissance / prospecting operations only over such acreages in which no person / company has shown interest. Since State DGMs have experienced, trained and well qualified technical manpower to undertake reconnaissance / prospecting operations, State DGMs should have the freedom to select areas for promotion reconnaissance / prospecting. Therefore, in the second proviso to sub section (2) of Section 4 for the word “application” the words “application of an earlier license holder” should be substituted. The right of the State to carry out reconnaissance / prospecting should not be circumscribed.*

*I would request you to kindly take into consideration the above concerns of the State while finalizing the proposed MMDR Bill.”*

- (c) Subsequently, on **30.08.2011**, the Hon'ble Chief Minister, State of Odisha wrote a letter to the Hon'ble Prime Minister of India, stating that there should be ban on export of iron ore for various reasons. The said letter is reproduced as under :-

*“I am writing to you regarding the unprecedented boom in iron ore prices and its impact on mining activities and the Steel industry in the country. The insatiable demand for iron ore in the export market has resulted in iron ore becoming a highly profitable commodity with returns from mining being far in excess of economically acceptable rates. In less than a decade, iron ore prices have increased more than tenfold. This is generating supernormal rents or windfall gains far exceeding the level of investment or risks involved in the activity. The super normal profits being made are evident from the audited operational profits of 80% of the sales revenue from iron ore mining, which is unheard of in any other industry. This has led to a situation where in-spite of the State being the owner of these resources, the mine owners are benefiting beyond any measure of reasonable returns. I am concerned about the huge profits accruing to merchant mining companies, a large number of which are in private hands. In fact, the large profits being made by private mining companies, disproportionate to any efforts made, has*

*engendered demand from various groups to nationalize mineral resources.*

*The State is the owner of iron ore resources which are non-renewable and can be extracted only once. It is, therefore, important that the super normal profits from natural resources do not go to a few hands and that the community gets a fair return for them. These surplus rents should accrue to the State and can be utilized for improving social and physical infrastructure, strengthen welfare measures besides improving livelihoods of the people of the state. The Government also has a responsibility to future generations to charge approximately for extraction of minerals. The Indian Constitution too, in Art 39(b) & (c) requires that for securing economic justice the State should direct its policy towards distribution of ownership and control of the material resources of the community to serve the common good and to ensure that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment.*

*At present, the rate of royalty on iron ore is only 10% of the sale value of iron ore determined by Indian Bureau of Mines. There is an immediate need for revising the royalty on minerals. Besides, there is a strong case for imposing a mineral resource tax on iron ore. The Australian Government has announced that a Mineral Resource Rent Tax of 30% on iron ore which will be applicable from 1<sup>st</sup> July, 2012. On the same line, a Mineral Resource Rent Tax should be levied on iron ore, to be charged at 50% of the*

*surplus rent, and should accrue to the States. As and when surplus rent decreases the tax too will automatically decrease.*

*This will ensure the following benefits.*

- (a) The additional royalty will enable the State to invest in infrastructure and jobs to give the community a lasting stake in the prosperity of areas affected by mining.*
- (b) By reducing the incentive for excess production from mining leases in violation of statutes & rules, it will ensure conservation of finite resources.*
- (c) It will ensure that profits from the State resources are used for the well being of the community and super normal profits are not made by a few individuals or companies which are engaged in merchant mining, thus ensuring equity.*

*I am sure you will agree with the concerns raised by me and also the proposed solutions which will ensure equity in terms of community being benefited and also increased efficiency in the Steel sector and would request you to take expeditious steps for its implementation.”*

For this purpose, the Hon'ble Chief Minister has suggested that there should be a proper decision for imposition of rent tax i.e. the tax on the

rent received by the State. Even if this is not possible, the State Government is entitled to recover cess from the mine owners for maintaining environment, for protecting water pollution and air pollution as well as for maintenance of roads which are highly used by the mine owners for transportation of their iron ore from the mines to various destinations for export.

- (d) The relevant part of the speech of Hon'ble Chief Minister, Odisha at **56<sup>th</sup> meeting of the National Development Council**, held on **22.10.2011**, is as under:—

**“3.** ... .. *mineral-based States, the royalty rates have been shifted to an ad valorem regime but the impact of this change has been dented by an artificially low price of minerals s determined by the IBM. This matter has been taken up with Government of India on a number of occasions but the results have not been encouraging. The Mining Companies have run away with super normal profits while the Ministry of Mines has been dithering about revision of the royalty structure.*

**4.** *Against this background, I have suggested that in addition to the upward revision of royalty rates in tandem with the soaring prices of minerals, there should a Mineral Resources Rent Tax to be charged at 50% of the surplus*

*rent. This will help my State to raise the much needed resources for building the vital infrastructure and take up other developmental activities.*

- 5.** *I would also propose that as a national policy, export of ore should be banned and suitable technologies developed to make us of our ore within the country.*
- 6.** *Agricultural development is the key to removal of poverty. Realization has dawned on the country as a whole that national agricultural growth is contingent upon bringing about a green revolution in the eastern India including Odisha. While my State has been awarded best performing State Award on Food-grain Production, sustainable growth in agriculture will depend upon large scale public investment in expanding irrigation facilities. The existing scheme of AIBP by the Ministry of Water Resources addresses the issue only in a limited manner. It has a bias in favour of large and medium irrigation projects which by their very nature are time consuming and cost intensive. My Government is coming out with a scheme for quickly expanding area under irrigation by setting ...”*

- (e)** Thereafter, on **16.11.2011**, the Hon'ble Chief Minister, State of Odisha, again, wrote a letter to the Hon'ble Prime Minister of India. The said letter is reproduced as under :—



*“Kindly refer to my D.O. letter No.UM-1/2011-196/CM, dated 30<sup>th</sup> August, 2011, regarding imposition of a Mineral Rent Resource Tax on iron ore to be charged at 50% of the surplus rent on account of the super normal profits being made by private mine owners. I understand that the Economic Advisory Council (EAC) has been asked to examine the issue. I do hope that the EAC has completed the exercise and given its views to your office. In case any further information is required from the State Government, we will be happy to provide the same. I would like to reiterate that the present fiscal and regulatory framework for iron ore is resulting in the unjust and vast enrichment of a few mine owners without commensurate benefits to the community at large. Hence, a decision on the imposition of the rent tax, which is in the public interest should not be delayed any further.*

***In my address to the National Development Council on 22<sup>nd</sup> October, 2011, I had also proposed that export of iron ore should be banned.*** The boom in iron ore prices in the last decade has created perverse incentives for mining activities to be carried out in an unregulated manner. A ban on the export of iron ore should be immediately imposed. This will not only bring down domestic prices of iron ore but also encourage local industries to invest in technologies to utilize the iron ore fines presently being exported, besides ensuring that mining activities are regulated and sustainable. ***The ban on exports is also necessary as the demand for steel and its production in the country are***

***both expected to grow at an annual rate of 10% or more on the average in the coming years. There is thus a need for having a long term strategy for conservation of the finite iron ore resources to meet the future requirements of our country.***

*I do hope that both these issues will receive your personal attention and the Union Government will take immediate steps in the larger interest of the country.”*

He has further pointed out in the said letter that there is under-estimation of sale value of iron ore by IBM and this causes huge loss in recovery of royalty. If ban on export of iron ore is not possible, then it should be streamlined and this can be done by the Government Agency. At present, the allegation is that there is large scale under-invoices and this creates unaccounted money.

- (f)** On **24.12.2011**, the Hon'ble Chief Minister, State of Odisha, again, wrote a letter to the Hon'ble Prime Minister of India. The said letter is reproduced as under:—

*“I have earlier, on two occasions, written to you about the immediate need for imposing a Mineral Resource Rent tax on iron ore on account of the super normal profits being made by a handful of mine owners. I have also raised this issue at the National*

*Integration Council meeting held on 10<sup>th</sup> September, 2011 and at the 56<sup>th</sup> National Development Council meeting held on 22<sup>nd</sup> October, 2011 at Vigyan Bhawan, New Delhi. I am unable to understand why the Central Govt. has not taken a decision on my proposal, which will be in the larger interest of the community, particularly those residing in mining areas.*

*Odisha is a mineral rich State having 33% of the iron ore reserves in the Country. The State is the owner of these resources and the wealth generated from these resources should be used for the benefit of the community at large and not for enrichment of a few mining companies. The Constitution of India also casts this responsibility on the State. Article 39(b) & (c) of the Constitution aims at securing of ownership and control of the material resources of the community to best sub-serve the common good and to ensure that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment. In my opinion, the current super normal profits being made in the sector by a few mining companies calls for immediate action by the State in line with the above constitutional mandate.*

*The supernormal profits or windfall gains being generated far exceed the level of investment or risks involved in the activity. These vast profits run into thousands of crores of rupees competing with the annual plan size of Odisha. Unfortunately, the State gets only a meager amount in terms of royalty while*

*fabulous profits are being made by few private mining companies.*

*The minerals belong to the State and the State, should have the right to get a fair share of the profit from extraction of ores for the benefit of the poor people. It is, therefore, essential that a Mineral Resource Rent Tax should be levied which should accrue to the State for investment in infrastructure and creating jobs for the impacted community. This will also certainly help to conserve this finite resource. Our mineral bearing areas are largely inhabited by some of the poorest people of the State, mainly from the ST & SC categories. The glaring and inhuman disparity between the very poor and the recently acquired riches of a handful of super rich mine owners is clearly visible.*

*The issues raised above are of vital importance to the State. The State Cabinet has expressed their deep concern and after due deliberation resolved the following:*

- (i) To move the Government of India to levy mineral resource rent tax on iron ore to be charged at 50% of the surplus rent.*
- (ii) The tax so collected should accrue to the State Government for improving social and physical infrastructure, strengthening welfare measures to improve the livelihood of the poor people of this State.*

*The proposal of the State Government will not affect mining activities. All it seeks is to impose a tax*

*on the surplus rent and thus allow the mining companies to make profits that are commensurate with the risks involved. I do not understand why the Union Government has not responded to our proposals at all. Besides giving additional resources to the areas affected by mining, the tax will act as a deterrent to excessive mining.*

*In view of the above, I once again request you to immediately take necessary steps for levy of Mineral Resource Rent tax on iron ore.”*

- (g)** On **02.01.2012**, the Hon'ble Chief Minister, State of Odisha, again, wrote a letter to the Hon'ble Prime Minister of India. The said letter is reproduced as under:–

*“Kindly refer to my D.O. letter No.UM-1/2011-196/CM dated 30.08.2011, No.UM-1/2011-277/CM dated 16.11.2011 and No.UM-1/2011-313/CM dated 24.12.2011 regarding imposition of Minerals Resource Rent Tax (MRRT) on iron ore on account of super normal profits being made by mining companies.*

*In response, the Union Minister of Mines had vide his D.O. letter No.20/10/2011-MVI dated 3.01.2012 stated – “that the iron ore mining industry is earning profits cannot be disputed, but whether it is earning super profit to the detriment of the State Government is an issue that may need closer look, especially so in Odisha where mining infrastructure is poor”.*

*That windfall profits are being made by iron ore mining companies is a ubiquitous fact and known to everyone, not only in India but globally. I was, and remain, rather puzzled by the ambivalence of the Ministry of Mines on this well-known fact. The Ministry, I am sure, must be having data on profits being made in the iron ore mining sector. Notwithstanding the above, to enable the Ministry of Mines to appreciate the situation better, I had vide letter No. UM-34/2012-5/CM dated 25.01.2012, enclosed certain facts based on credible data on the quantum of profits being generated in the sector. Some of the salient facts which were pointed out are highlighted for your information.*

- (a) The prices of iron ore both in the domestic and international market have increased more than tenfold in the last decade leading to unprecedented returns for the iron ore mining industry.*
- (b) Companies were making normal profits commensurate with the risk involved in the activity in 2000-01, and now are earning average profits, on a conservative estimate, to the tune of Rs.2000/- – Rs.3500/- and even higher per metric tonne of iron ore in case of sale in the domestic market.*
- (c) The Central Government, in an indirect way acknowledges the surplus profits available and is already mopping up the rents through imposition of 30% export duty and differential rail freight on iron ore exports. Thus in Odisha,*

*over Rs.4000/- per tonne was, and is, being collected by the Central Government on iron ore fine exports of 63% Fe content. This clearly illustrates the rents available as the mine owners still find it profitable to export in spite of the high freight and custom duty. It may not be out of place to mention that the State Govt. gets a paltry Rs.200 per metric tonne as royalty on fines.*

- (d) *While the surplus profit is being appropriated by the Central Government in case of exports, the rent in case of lumps which are 100% sold within the country and fetch a price commensurate or even higher than the FoB price of fines, the entire surplus profits are going to the mining companies except around Rs.450 – Rs.500/- per metric tonne which the State Government gets as royalty.*

*I was once again taken aback by the response of the Union Minister of Mines vide his D.O. letter No.20/10/2011-MVI-224 dated 24<sup>th</sup> April, 2012 to my letter. The Ministry of Mines, contrary to what is common knowledge and a purely factual matter, is pleading ignorance and insisting that “study of the profits earned by various types of miners in iron ore mining, including the small and medium scale miners and captive miners, is necessary in light of the various incidence of taxes and levies on the mining sector....” And that “it may not be prudent to generalize that the entire mining sector is earning profits to the scale equivalent to NMDC, considering*

*that it is enjoying high grade deposits". I may add that NMDC was highlighted as it is a public sector undertaking and the analysis was based on its published and audited accounts as an illustration of fabulous profits being made by iron ore companies. The NMDC profits are indicative and to be used as a benchmark. There will be many efficient private companies who will be earning higher profits per metric tonne of iron ore than NMDC. The IBM reported indicative sale prices for pit mouth value (PMV) for January, 2012 are above Rs.5000/- per metric tonne for lumps of 62% and above Fe content. As against this revenue the expenses incurred and amount given as royalty would be in the approximate range from Rs.600/- to Rs.1200/- per metric tonne depending on the royalty rates and efficiency of the firm. The state Government has taken up the issue of under assessment of PMV by IBM separately, the above is referred to only to point out the existence of super normal profits.*

*While the Union Government is continuing in its state of denial, the Australian Parliament has taken the path of action and on 19<sup>th</sup> March 2012 has passed a legislation for imposition of a mining tax on iron ore and coal. The new tax, known as the Minerals Resource Rent Tax (MRRT), will be applicable from 1<sup>st</sup> July, 2012. Acknowledging the boom in the iron ore and coal industry the Australian Government is of the view that this tax will help in spreading the benefits of the mining boom to more Australians, to deliver a fair return from the nation's mineral wealth and lock in the gains for generations*



*to come. The rationale for charging for Australia's non renewable resources is that these are exhaustible and depletable and the rights to these resources are vested in the State.*

*I have pointed out the economic rents being generated and I would also highlight the observations of the Honorable Supreme Court in the 2G Telecom spectrum allocation case which has a bearing on finite natural resources. The Apex Court in its judgment made reference to one of its earlier judgments, where the Court had held that:*

*“natural resources are vested with the Government as a matter of trust in the name of the people of India, thus it is the solemn duty of the State to protect the national interest and natural resources must always be used in the interests of the country and not private interests”.*

*The Honorable Court further observed:*

*“In conclusion, we hold that the State is the legal owner of the natural resources as a trustee of the people and although it is empowered to distribute the same, the process of distribution must be guided by the constitutional principles including the doctrine of equality and larger public good”.*

*The Honorable Apex Court also stated that “As natural resources are public goods, the doctrine of equality, which emerges from the concepts of justice and fairness, must guide the State in determining the actual mechanism for distribution of natural resources” and one of the aspects of the doctrine of*

*equality is that “it regulates the rights and obligations of the State vis-à-vis its people and demands that the people be granted equitable access to natural resources and / or its products and that they are adequately compensated for the transfer of the resource to the private domain”.*

*I had in my earlier letter mentioned that “the State is the owner of these resources and the wealth generated from these resources should be used for the benefit of the community at large and not for enrichment of a few mining companies. The Indian Constitution too, in Art 39(b) & (c) requires that for securing economic justice the State should direct its policy towards distribution of ownership and control of the material resources of the community to serve the common good and to ensure that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment”.*

*I am, therefore, constrained to point out that the stand taken by the Ministry of Mines, Govt. of India is contrary to the facts available regarding super normal profits in iron ore mining, and appears to be in the interest of a handful of private mining companies alone.*

*I would once again, entreat upon you to personally review the matter and ensure that the Union Government acts immediately on the issue of imposition of Minerals Resource Rent Tax (MRRT) on iron ore to be charged at 50% of the surplus rent on account of the super normal profits being made by*

*mine owners. The funds so generated should accrue to the State Government for investing in infrastructure and jobs and sharing the benefits with the community to give them a lasting stake in the prosperity of areas affected by mining.”*

- (h) On **25.01.2012**, the Hon'ble Chief Minister, State of Odisha wrote a letter to Mr. Dinsha J. Patel, Union Minister of State (Ind. Charge), Ministry of Mines, Shashtri Bhawan, New Delhi. The said letter is reproduced as under:—

*“This is with reference to your D.O. letter No.20/10/2011–MVI/03 dated 03<sup>rd</sup> Jan., 2012, regarding my demand for imposition of mineral Rent Resource Tax on supernormal profits being made by iron ore mining companies.*

*I am, indeed, surprised and disappointed with the reply of Ministry of Mines to a legitimate request of the State Government. That super normal profits are being generated in the iron ore mining sector, are quite apparent. To agree that the iron ore prices have increased to \$ 145–150/tonne in 2011 and, at the same time, stating that existence of super normal profits needs a closer look, ignoring readily available data, appears to me to be a dilatory tactic to deny the States request. Instead, the Ministry of Mines has raised a number of issues which are not exactly relevant to the point made by the State Government to further obfuscate matters.*

*To enable the Central Government to appreciate the State's demand, I have enclosed an analysis of the financial results of the National mineral Development Corporation Ltd., a Government of India undertaking. The data is from their published and audited books of accounts and hence can be taken as correct and, in general, representative of the iron ore mining industry. Some other reliable data sources have also been referred to. The analysis at **Annexure-A** clearly indicates generation of super normal profits or windfall gains for mining companies due to the fact that the prices have increased nearly tenfold since the year 2000; the time when the iron ore mining industry could be said to be making normal profits, while mining costs have more or less remained the same.*

*I would like to point out that the various Ministries of Govt. of India have taken advantage of the boom to raise resources for themselves. For example, the Indian Railway charges approximate Rs.2800/- MT from Barbil to Paradip Port towards freight charges on exports and Government of India imposes a 20% Export duty (now increased to 30%) which approximates to Rs.1500/MT for 63% Fe fines. But when, it comes to sharing the surplus rents with the State Governments, the Ministry of Mines insists on further study.*

*While iron ore prices more than doubled in 2004, the rate of royalty on highest grade iron ore was increased from Rs.24.50/MT to a paltry Rs.27/MT for lumps and from Rs.14.50 per MT to Rs.19/MT for fines. Thereafter as per the provisions*

*of MMDR Act, the royalty could have been revised substantially upwards in 2007 to reflect the increase in prices, but the revision was done only in August, 2009 and that too, at 10% of sale price as published by IBM on ad-valorem basis, whereas on basis of the super normal profits existing, the State had demanded 25% royalty on ad-valorem basis. This delay in revision of royalty and the low rates at which it was fixed have lead to excess profits being made by private mining companies at the expense of the State Government.*

*Regarding the need for ensuring, scientific, systematic and sustainable mining the State is taking a number of steps. In terms of section 18 of MMDR Act, 1957 it is the duty of the Central Government to take all such steps as may be necessary for the conservation and systematic development of minerals in the country and for the protection of environment as well. In this regard I had earlier written to the Hon'ble Prime Minister vide DO letter No.UM-I/2010-158/CM dated 13.04.2010 regarding the role of IBM which is responsible under the provisions of MCDR, 1988 to approve mining plans for major minerals and to ensure that the mining operations are carried out in such a manner to ensure systematic development of mineral deposits, conservation of minerals and protection of environment. I had mentioned that much is wanting in this regard and IBM needs to be strengthened and enabled to carry out its mandated responsibilities. I hope the Ministry of Mines will take prompt steps in the matter.*

*The need for assessment of resources for which Government of India has taken resort to rule 27(3) of MC Rules, 1960 is appreciated and the miners have already been asked to make such assessment in a time bound manner. But the cost of exploration will only be marginal compared to the profit made by the miners. Therefore, this does not provide an adequate answer to the issue raised by the State Government. The exploration cost is a part of the normal expenditure incurred by the private investor, whereas by imposition of resource rent tax, the super normal profit earned by him after receipt of the normal are of return is proposed to be roped in to the State for the benefit of the community.*

*Going by the stand taken by the Ministry of Mines the country's natural and finite iron ore resources will continue to be appropriated by a few private mine owners instead of allowing the same to be used for the development of the people. The Union Government may, therefore, have a relook to the stand so taken and take steps to impose the mineral rent resource tax as suggested by the State Government through an ordinance."*

With the aforesaid letter dated **25.01.2012** of the Hon'ble Chief Minister, State of Odisha to Mr. Dinsha J. Patel, Union Minister of State (Ind. Charge), Ministry of Mines, New Delhi, the analysis indicating generation of super normal profits was enclosed at **Annexure: A**. The said analysis is reproduced as under:—

### **“Introduction**

*The State’s demand for imposition of a Mineral Resource Rent Tax is based on the presence of supernormal profits being made by the iron ore mining companies. Supernormal profits or resource rents are the excess profits that would be earned in the extraction of mining mineral deposits. That is, the profits after private investors have received a normal return on their exploration costs, capital expenditure, operational and other costs including a return for the risk involved.*

### **Data Sources**

*The following data sources are used as a basis for making a case for existence of supernormal profits in the iron ore mining industry.*

- 1) *10 years audited Financial results of National Mineral Development Corporation Ltd. (NMDC), a Government of India enterprise. The audited financial results of the company are credible and can be taken as representative of the iron ore mining industry.*
- 2) *Monthly wholesale price Index (WPI) of Iron ore in India published by the Ministry of Commerce and Industry, Government of India.*
- 3) *Average Sale Price of Iron Ore for the month of September, 2011 published by IBM.*

### **Analysis of Data**

*The 10 years financial results of NMDC map the global increase in iron ore prices.*

- a) *The sales of iron ore increased from 17.46 Million Tonnes in 2001-02 to 26.32 Million Tonnes in 2010-11. An increase of 50.74 %.*
- b) *The average Sales Income from iron ore per metric tonne increased from Rs.625.99/MT in 2001-02 to Rs 4287.74/MT in 2010-11, an increase of 585%.*
- c) *The average profit before tax (PBT) per metric tonne from iron ore increased from Rs.139.78/MT in 2001-02 to Rs 3237.64/MT in 2010-11, an increase of 2216%. PBT is obtained after subtracting all the costs, expenses and royalty from sales income. PBT/MT of iron ore has been calculated by subtracting other income from profit before tax so as to more precisely capture the PBT from iron ore.*
- d) *NMDC was has making normal profits or perhaps slightly more than normal profits even during the period 2001-02 till 2003-04, as the reserves and surplus of the company have been increasing even at the prices prevailing during this period.*
- e) *Due to supernormal profits and increase in prices of iron ore as reflected by the average sale income per tonne of iron ore, there has been dramatic increase in the Reserves and Surplus position from the year 2004-05 onwards. The Reserves and Surplus have increased from Rs.1245.27 crores in 2001-02 to 18815.05 crores in 2010-11, an increase of 1411%.*



- f) *The yearly WPI for iron ore published by Ministry of Commerce and Industry Government of India shows a dramatic increase in prices from the year 2004 onwards. The WPI has further increased from 2009 till 2011.*

*The above facts clearly show the huge increases in iron ore prices, pulled up by the increase in China led global demand for iron ore, which has resulted in supernormal profits. If we consider the profits made till 2003–04 as normal profits, the rates of return since 2004–05 have been much above the normal, indicating that the iron ore companies have been making supernormal or excess profits. No other industry has shown such high returns and the returns are not due to any innovation or investments, rather these are windfall gains due to global increase in prices.*

*Generally fines are exported and IBM publishes the sale value as the Pit Mouth Value (PMV) i.e. the sale value at the mine. The global increase in fines has also pushed up the lumps price in tandem in the domestic market. The fines have a lower sale value due to high freight charged for exports, both by the Railways and also the transport companies, and export duty imposed by government of India at 20%, which has recently been increased to 30%. The average domestic sale value which is based on both the exports and domestic rates is much lower for fines. The fact remains that even after substantial surplus rent has been mopped by the Govt. of India and the Indian Railways the average PMV for 62% to below 65% Fe fine for All India was Rs 2561/MT of*

*iron ore for the month of September, 2011 as published by IBM. According to the same source the average PMV for lumps of 65% Fe and above lumps was Rs 5189/MT. With total costs inclusive of royalty payments at mines remaining well under Rs.1000/MT, in 2011 on an average, mining companies would have made an approximate profit before tax per tonne of iron ore ranging from at least Rs.2500/- to Rs.3000/MT.*

*The above information provided clearly demonstrates unequivocally that the returns from iron ore mining are far in excess of the normal profits and hence are to be categorized as super normal profits.”*

- (i) On **24.04.2012**, Mr. Dinsha J. Patel, Union Minister of State (Ind. Charge), GoI replied to the Hon'ble Chief Minister, State of Odisha in response to his letter dated **25.01.2012**. The said reply-letter is reproduced as under:-

*“Please refer to your D.O. No. UM-34/2012-5/CM dated 25.1.2012 regarding imposition of Mineral Resource Tax on supernormal profits made by iron ore mining companies. At the outset, let me state that the insistence of the Ministry to closely study the profits earned by various types of miners in iron ore mining, including the small and medium scale miners and captive miners, is necessary in light of the various incidence of taxes and levies on the mining sector, particularly when royalty is being levied on ad-valorem basis and prices for various grades are*

*published every month. I may not be prudent to generalize that the entire iron ore mining sector is earning profits to the scale equivalent to the NMDC, considering that it is a fairly large miner enjoying high grade deposits. Needless to reiterate, as you may be ware, in terms of section 9 of the MMDR Act, 1957, royalty is levied at pit mouth value (PMV) of mineral and not on the FOB value. Since the FOB value would also include the cost of transportation and handling charges, on which royalty cannot be levied, it may not be appropriate to only see the FOB value of iron ore to come to the conclusion that super profits are being generated.*

- 2.** *The issue of imposition of Mineral Resources Rent Tax on the lines of Australia, which is a Federal impost (Central Government tax), with a provision for deduction of royalty paid to the Provincial Government (State Government) involves assessing the profits calculation of assets, liabilities and depreciation based on capital expenditure for both upstream and down stream mining operations by examining books of accounts for each individual mines. In the new MMDR Bill, the District Mineral Foundation (DMF) is proposed wherein every miner would be required to pay an equivalent amount of royalty and also there are provisions for State Mineral Funds which can serve as a substitute to the suggested Mineral Resources Tax as emphasized in my letter dated 3<sup>rd</sup> January, 2012. Still, I am sure that the State Government of Odisha, as a part of the Study*

*Group for review of royalty rates and dead rent constituted in the Ministry, would have sufficient opportunity to effectively contribute in developing a mechanism to work out a rational rate of royalty on iron ore which would adequately ensure fair compensation to the State Government.*

- 3.** *At the same time, I am aware of the concerns expressed by your Government in the past on the methodology adopted by IBM for fixation of the Pit Mouth Value of iron ore. As you may appreciate, with tighter monitoring of the values reported by the miners, the average prices per tonne for iron ore reported in Odisha is comparable and sometimes even better than the average prices in Chhattisgarh or Karnataka (largely NMDC mines), as may be seen in the prices for the month of December, 2011 below:—*

***(In Rs. Per tonne)***

<i>Iron ore Grade</i>	<i>Chhattisgarh</i>	<i>Odisha</i>	<i>Karnataka</i>
<i>Fines below 55%</i>	NA	502	500
<i>Fines 55–58%</i>	2545	1042	1640
<i>Fines 58 – 60%</i>	2866	1380	NA
<i>Fines 60–62%</i>	3018	1963	2803
<i>Fines 62–65%</i>	3283	2401	2905
<i>Fines 65% and above</i>	3498	2401	NA
<i>Lump below 55%</i>	NA	1816	NA
<i>Lumps 55–58%</i>	NA	2617	NA
<i>Lumps 58–60%</i>	2088	3526	NA
<i>Lumps 60–62%</i>	3308	3785	4250
<i>Lumps 62–65%</i>	4289	5221	4250
<i>Lumps 65% and above</i>	5722	5221	4750

4. *I am glad that the total royalty collection in your State has also shown increase in spite of marginal decline in production in 2010–11 as is seen in table below:–*

Year	Total royalty, excluding coal, fuel minerals, sand for stowing and minor minerals (in Rs. Crore)		Royalty for iron Ore (in Rs. Crore)		Production of Iron Ore (in million tones)
	Chhattisgarh	Odisha	Chhattisgarh	Odisha	Odisha
2008–09	154	435	61	149	72.63
2009–10	474	894	359	668	80.90
2010–11	1196	2189	1031	1852	76.35
2011–12	NA	NA	NA	NA	50.85 (April–Dec. 2011)

5. *As you may be aware the Central Government had notified amendment in Rule 45 of the Mineral Conservation and Development Rules, 1988, making it mandatory for all miners, traders, stockiest, exporters and end-users to register with IBM and report their mineral transactions on monthly and annual basis for a proper end-to-end accounting of minerals. While the online registration system had already commenced, the notice reporting system for iron and manganese ore has also commenced on 29<sup>th</sup> March, 2012. The added advantage of this system would be that it would enable systematic discovery of the price of minerals as reported by various users, thereby plugging any scope for under-reporting of PMV. I would request your intervention*

*through the State Mining Department to ensure that all miners, traders, stockiest, exporters and end-users in your State comply with the registration and reporting requirement by restricting grant of transit passes to registered persons only. This measure would strengthen the regulatory mechanism at State level.*

6. *It is also relevant to state that in order to ensure sustainability of mining operations, local community involvement is essential. There is an immediate need for the State Government to focus on ensuring that benefits accruing through royalty collections are flowing transparently to the local population in the mining area with visible benefits. Higher royalty revenues sought by the State Government for the local people make sense only when appropriate delivery mechanisms for benefit sharing are made effective. In this context, to involve the lease holders also in this effort, the Ministry has prepared a Sustainable Development Framework. The Ministry would be glad to engage in meaningful discussions on this matter for roll-out of the framework in your State.*
7. *I would also like to emphasize that mining sector is critical for the Indian economy. As you may appreciate, adequate development of this sector would ensure greater contribution to the State GDP. The State Government has been slow in disposing 3612 pending applications for grant of mineral concessions lying with State*

*Mining Department (as on December 2011). This is an area of serious concern, considering that these activities would ensure planning mineral availability and security in long run to growing needs of the country's manufacturing sector.*

- 8.** *Without viewing this insistence of the Central Government for immediate action on the issues mentioned above as dilatory stance, you may rather appreciate the fact that such measures are indispensable for unlocking of mineral potential of the State and facilitating the use of resource in the larger interest of the people of this country. I would request you to urgently review the steps taken for mineral development in your State considering the fact that mineral sector in Odisha has a potential in the near future to contribute substantially to the State GDP, (from the present 9%) and create more employment in the mining sector (as against 1 lakh at present) with substantial increase in royalty revenues to the State Government.*
- 9.** *Lastly, while I agree that Indian Railways has increased railway freight charges for the iron ore transport, the issue of sharing of higher revenues realized by them for the development of regional infrastructure in the State may be taken up directly with the concerned Ministry.”*

**Conclusion**

- A.** In view of the Commission, the aforesaid suggestion of the Hon'ble Chief Minister to ban the export of iron ore requires serious consideration. It would not be out of context to state here that though China is having reserve of more than 200 billion tonnes iron ore, it prefers to import iron ore from the countries like India and others. The Ministry of Mines, Steel, Commerce and Industries have to sit together to give serious thought for banning export or in the alternative to permit minimum export of iron ore from the country and more specific from States like Goa, Karnataka, Odissa, Jharkhand, Chhattisgarh where the reserve of good quality grade could be now easily used in the country for production of steel.
- B.** Considering the fact that in the State of Odisha, there is large scale poverty and approximately **77%** mines are situated within forest areas and within tribal belt, therefore, the mining operations had and are continuously adversely affecting the tribals. For protecting them and for the development of those areas, the State Government, if permitted, to levy



some fees or cess, then the said amount can be utilized for the development of those areas.

**C.** Principle 3 of the Rio declaration is as under:–

*“The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”*

The main object behind the aforesaid Principle is to ensure that the present generation should not abuse the non-renewable resources so as to deprive the future generation of its benefits.

**D.** Following suggestions made by the State Government, Odisha, are considered in this report and the said suggestions are required to be considered favorably:–

- (i) Competitive bidding of mineral resources;
- (ii) Reservation of mineralized areas for Odisha Mining Corporation;
- (iii) captive use and equitable distribution; and
- (iv) Capping on production of iron ore.

**E.** The suggestions of the State Government for increasing royalty to be charged on iron ore would

not survive, if competitive bidding of granting lease for iron ore, as discussed in the previous Chapter, is accepted.

**F.** Further, the suggestion for correction of under estimation of sale value of iron ore by IBM requires discussion. In any case, before estimating the sale value of iron ore by the IBM, the views of the State Government should be obtained and, thereafter, final estimation of sale value of iron ore by IBM be made.

**G.** Finally, it is to be stated that with regard to individual mining lease in which there is violation of the provisions of Forest (Conservation) Act, 1980 and/or conditions of Environmental Clearance, etc., report would be submitted later on.

\* \* \*

**ANNEXURE: A**

**The list of lessees operating iron and manganese ore mines through Raising Contractors in State of Odisha in violation of para 17 of part VII of mining lease deeds**

<b>Sr. No.</b>	<b>Name of the Lessees &amp; Leases</b>	<b>Extent (ha.)</b>	<b>Name of Contractor</b>
1	A.M.T.C. (P) Ltd – Mahulsukha Mn. Mines	399.838	(1) Baksish Singh Bharat Kakkad (2) Gopa Patra, (3) Guru Bachchan, etc.
2	A.M.T.C. (P) Ltd. – Narayanposi	349.263	(1) Jay Kay Mining, (2) G.S. Minerals, (3) Mayank Commercial Corporation, etc.
3	B.C. Dagara – Suleipat Iron Ore Mines	430.99	(1) Dept. & (2) M/s. Orissa Manganese & Minerals Ltd.
4	B.C. Deb – Inganijharan Iron & Mn. Mines	114.93	(1) M/s. Technoblast Mining Corporation, (2) M/s. Shree Jyotee Resources (P) Ltd.
5	B.D. Patnaik – Kalaparbat Iron Ore Mines	25.632	(1) Gulf Oil Corporation, (2) D.K. Kesari, (3) Sriya Earthmovers, etc.
6	B.I.Co. Ltd. – Kusumdihi Manganese & Bauxite Mines	52.176	Kapileshwar Mining & Minerals Pvt. Ltd. (Lifting of Reject)
7	B.I.Co. Ltd. – Nadidihi Iron & Mn. Mines	73.855	(1) Bhoomi Engineering, (2) Mahaveer Agencies, (3) Maheswara Agencies, etc.
8	B.I.Co. Ltd. – Tehrai Iron & Mn. Mines	137.46	(1) Jena Enterprises, (2) Maa Tara Constructions & Equipment Co., (3) Matrushakti Suppliers, etc.
9	Bhanja Mineral (P) Ltd – Inganijharan Iron & Mn. Ore Mines	216.885	(1) Technicast Engineers Ltd., (2) Chandrakala Khemkam, (3) Sri Aurobindo Constructions, etc.
10	BPMEL – Bhadrasahi (Kolha – Roida) Iron & Mn. Mines	254.952	(1) I.S.S., (2) J.K. Mining, (3) R.C.M. etc.

<b>Sr. No.</b>	<b>Name of the Lessees &amp; Leases</b>	<b>Extent (ha.)</b>	<b>Name of Contractor</b>
11	BP MEL – Thakurani Iron & Mn. Mines	1546.55	(1) D.K. Rana, (2) K.K. Enterprises, (3) Ram Singh Kalsi, etc.
12	D.R. Patnaik – Murgabeda Iron Ore Mines	15.378	(1) L.D. Mahanta, (2) H.K. Sahoo, (3) R.A. Singh, etc.
13	D.R. Patnaik – Thakurani Iron & Mn. Mines	121.385	(1) L.D. Mahanta, (2) H.K. Sahoo, (3) R.A. Singh, etc.
14	Dr. S. Pradhan – Baitaraini Iron Ore Mines	65.397	(1) Hind Metals & Industries Pvt. Ltd., (2) Barbil Mining & Industries Pvt. Ltd. etc.
15	Dr. S. Pradhan – Balita Iron Mines	34.75	(1) Hind Metals & Industries Pvt. Ltd., (2) Barbil Mining & Industries Pvt. Ltd. etc.
16	Dr. S. Pradhan – Inganijharan Iron & Mn. Ore Mines	18.7	(1) Hind Metals & Industries Pvt. Ltd., (2) Barbil Mining & Industries Pvt. Ltd. etc.
17	Essel Mining & Industries Ltd. – Jilling– Longalota Iron Ore Mines	456.1	(1) N.L. Pandey, (2) N.K. Mitra, (3) P.K. Behera, etc.
18	Essel Mining & Industries Ltd. – Kasia Iron Ore & Dolomite Mines	194.196	(1) N.L. Pandey, (2) N.K. Mitra, (3) P.K. Behera, etc.
19	Essel Mining & Industries Ltd. – Koira Iron Ore Mines	90.143	(1) N.L. Pandey, (2) N.K. Mitra, (3) P.K. Behera, etc.
20	FACOR Ltd. – Katasahi Mn. Mines	13.674	ACE Commercial Co. (Pvt.) Ltd.
21	Feegrade & Co. – Nadidih Iron & Mn. Mines	121.405	(1) Abdul Rahim Ansari, (2) NKB Industrial Company Pvt. Ltd., (3) Narayani Construction Company, etc.
22	Feegrade & Co. – Sarkunda Iron & Mn. Mines	393.565	VKS Mining Services
23	J.N. Patnaik – Bhnajapali Iron Ore Mines	18	M/s. Dilip Keshari

<b>Sr. No.</b>	<b>Name of the Lessees &amp; Leases</b>	<b>Extent (ha.)</b>	<b>Name of Contractor</b>
24	Jindal Steel & Power Ltd – TRB Iron Ore Mines	207.787	(1) Bishnu Ore Carrier, (2) BKB Transport (P) Ltd., (3) Bhoomi Earthmovers Pvt. Ltd.
25	K.J.S. Ahluwalia – Nuagaon Iron Ore Mines	767.284	(1) P.K. Ores Pvt. Ltd., (2) Orewin Engg. Company, (3) Thriveni Earthmovers Pvt. Ltd., etc.
26	K.N. Ram & Co. – Roida – II Iron Ore Mines	74.867	(1) Bhurjee Engineering & Construction Co., (2) N.N. Singh & Brothers, etc.
27	Kalinga Mining Corpn. – Jurudi Iron Ore Mines	12.691	(1) Arvind Construction Co. Pvt. Ltd., and (2) Orewin Engineering Co.
28	Kalinga Mining Corpn. – Jurudi Iron Ore Mines	27.17	(1) Arvind Construction Co. Pvt. Ltd., and (2) Orewin Engineering Co.
29	Kalinga Mining Corpn. – Jurudi Iron Ore Mines	73.228	(1) Arvind Construction Co. Pvt. Ltd., and (2) Orewin Engineering Co.
30	Kalinga Mining Corpn. – Jurudi Mn. Ore Mines	54.754	(1) Arvind Construction Co. Pvt. Ltd., and (2) Orewin Engineering Co.
31	Kalinga Mining Corpn. – Jurudi Mn. Ore Mines	39.173	(1) Arvind Construction Co. Pvt. Ltd., and (2) Orewin Engineering Co.
32	Kaypee Enterprises – Thakurani Iron Ore Mines	228.04	(1) Sesa Goa Ltd., (2) N.K. Minerals Pvt. Ltd.
33	Korp Resources (P) Ltd. – Tantra Iron Ore Mines	72.56	(1) M/s. Express Infratech Pvt. Ltd., & (2) M/s. Pragati Transport
34	M.L. Rungta – Siljora–Kalimati Iron & Mn. Ore Mines	175.639	(1) R.A. Sharma, (2) Dhillon Construction Pvt. Ltd., (3) Cainth Infrastructure Pvt. Ltd., etc.
35	Mala Roy & Others – Jalhuri Iron Ore Mines	182.109	Emars Mining & Construction Pvt. Ltd.
36	Matadin Sarda – Khajurdihi Iron / Mn. Mines	119.545	Contract given (for Machinery) – Name not provided by the lessee

<b>Sr. No.</b>	<b>Name of the Lessees &amp; Leases</b>	<b>Extent (ha.)</b>	<b>Name of Contractor</b>
37	Mid East Int. Steel Ltd. – Roida– 1 (Sidhamath) Iron Ore Mines	104.68	G.S. Atwal & Co.
38	National Enterprises – Raikela Iron Ore Mines	45.932	(1) S.S. Raisers Pvt. Ltd., (2) Pratyusha Resources Pvt. Ltd.
39	O.M.C. Ltd. – Balda– Palsa–Jajang Iron Ore Mines	866.595	(1) Rithwik Projects Ltd., (2) Orissa Stevedores Ltd., (3) Spark India Pvt. Ltd., etc.
40	O.M.C. Ltd. – Bhanjapali Iron Ore Mines	141.235	Janardan Dehuri
41	O.M.C. Ltd. – Daitari Iron Ore Mines	1018.3085	(1) Arun Udyog, (2) Faridabad Gurgaon Minerals Ltd., (3) R.K. Behuria, etc.
42	O.M.C. Ltd. – Dubna Mn. Mines	1135.419	(1) Enkey Enterprises, (2) Zafar Hayat, (3) Dillip Kumar Nayak, etc.
43	O.M.C. Ltd. – Gandhamardan Iron Ore Mines (Block A)	618.576	(1) SS Mining & Infra Private Limited, (2) B. Seenaiiah & Company (Projects) Limited, etc.
44	O.M.C. Ltd. – Gandhamardan Iron Ore Mines (Block–B)	1590.8673	(1) S.S. Mining & Infra Pvt. Ltd., (2) B. Seenaiiah & Co. (Projects) Ltd., (3) R.K. & Sons, etc.
45	O.M.C. Ltd. – Kasira Iron Ore Mines	418.355	R.K. Bhuria
46	O.M.C. Ltd. – Khandbandh Iron Ore Mines	366.311	(1) Chandan Trans Cons. Pvt. Ltd., & (2) Balaji Metals Pvt. Ltd.
47	O.M.C. Ltd. – Kurmitar Iron Mines	1212.47	(1) P.K. Transport, (2) Kalinga Commercial Corporation Ltd., (3) National Asphalt Product & Construction Co., etc.
48	O.M.C. Ltd. – Roida – Block C Iron & Mn. Ore Mines	192.81	(1) B.D. Mohata, (2) Mohata Technocrates Pvt. Ltd., etc.
49	O.M.C. Ltd. – Sekradihi Iron Ore Mines	564.55	(1) ARES & Sons, (2) N.C. Mohanty, etc.

<b>Sr. No.</b>	<b>Name of the Lessees &amp; Leases</b>	<b>Extent (ha.)</b>	<b>Name of Contractor</b>
50	O.M.C. Ltd. – Seremda – Bhadrasahi Iron & Mn. Ore Mines	1734.57	(1) N.C. Mohanty, (2) Sri Aurobindo Construction, (3) Mohta Technocrates Pvt. Ltd., etc.
51	O.M.D.Co. – Bagiaburu Iron Mines	21.52	(1) Maa Tarini Minerals, (2) Power Syndicate & (3) Narayani Sons
52	O.M.D.Co. – Belkundi Iron & Mn. Mines	1276.79	(1) B.K. Rana, (2) O.S.L., (3) Sunil Ku. Keinth, etc.
53	O.M.D.Co. – Bhadrasahi Iron & Mn. Mines	998.7 & 103.6	(1) Allied Minerals, (2) N.K. Bhojani Pvt. Ltd., (3) ACME Ltd., etc.
54	OMC Ltd. – Silijora – Guruda – Balda – Kalimati Iron & Mn. Mines	1011.5	(1) Synergex Infrastructure P. Ltd. (2) K.D. Sharma, (3) S.C. Nayak
55	P.K. Ahluwalia – Ganua Iron / Mn. Mines	86.886	Jeet Metal (P) Ltd. & P.K. Ores (P) Ltd.
56	Patnaik Minerals Pvt. Ltd. – Jaribahal (Palsa) Iron Ore Mines	106.533	(1) Bira Kishore Mohanty, (2) Dilip Kumar Chatterjee, (3) Gulf Oil Corporation Ltd., etc.
57	Patnaik Minerals Pvt. Ltd. – Joribahal Iron Ore Mines	106.533	(1) Bira Kishore Mohanty, (2) Dilip Kumar Chatterjee, (3) Gulf Oil Corporation Ltd., etc.
58	Penguin Trading & Agencies (P) Ltd. – Raikela & Tantra Iron Mines	49.372	(1) Sh. S.K. Pati, (2) Sh. B.N. Das, (3) Sh. J.R. Patra, etc.
59	R.P. Sao – Guali Iron Ore Mines	365.026	Thriveni Earthmovers Pvt. Ltd.
60	Rungta Mines Ltd. – Kanther Koira Mn. Mines	73.653	(1) Nigam Enterprises, (2) Ved Prakash Kainth, (3) M.S. Ansari, etc.
61	Rungta Mines Ltd. – Kolmong Mn. Mines	218.53	(1) Kanakdhara Mining & Minerals Pvt. Ltd., (2) Konark Mining Company, (3) Nigam Enterprises, etc.,

<b>Sr. No.</b>	<b>Name of the Lessees &amp; Leases</b>	<b>Extent (ha.)</b>	<b>Name of Contractor</b>
62	Rungta Sons (P) Ltd. – Katasahi Mn. Ore Mines	196.86	(1) Friends Mining Company, (2) Shree Transport & Orders Suppliers, (3) Kanakdhara Mining & Minerals Pvt. Ltd., etc.
63	Rungta Sons (P) Ltd. – Kusumdih– Kamando Bauxite & Mn. Mines	43.067	(1) S & A Constructions, (2) Viswakarma Feeding Agency
64	Rungta Sons (P) Ltd. – Oraghat Iron Ore Mines	82.961	(1) Duch Infrastructure Pvt. Ltd., (2) Durga Construction Company, (3) Goutam Construction, etc.
65	Rungta Sons (P) Ltd. – Sanindupur Iron & Bauxite Mines	147.18	(1) Himmatlall Walani, (2) Interstate Oil Carrier Ltd., (3) Jena Enterprise, etc.
66	S.A. Halim – Oraghat Iron / Mn. Mines	25.847	Axiom Natural Resources Pvt. Ltd.
67	S.C. Padhi – Gurubeda Iron Ore Mines	49.776	B.R. Mohanty
68	S.N. DasMohapatra – Kolha–Rudkela Iron & Mn. Mines	36.474	(1) Narayani Enterprises, (2) Minefield
69	S.N. Mohanty – KJST Jaldihi Iron, Mn. & Bauxite Mines	333.063	(1) Ramesh Ch. Guru, (2) Pabitra Mohan Mohanty, (3) Ramakanta Sarangi, etc.
70	SAIL – Bolani Iron Ore Mines	1321.45	(1) Mahendra Swain, (2) Prakash Kr. Pasari, (3) Raghunath Padhi etc.
71	SAIL – Kalta Barsuan Iron Ore Mines	2486.383	(1) M/s. K.D. Sharma, (2) M/s. Ores India (P) Ltd., (3) M/s. Naaraayani Sons (P) Ltd.
72	Sarda Mines (P) Ltd. – Thakurani Block–B Iron Ore Mines	947.046	M/s. G.S. Atwal & Company (Asansol)
73	Sirrajuddin & Co. – Balda Block Iron Ore Mines	335.594	(1) Thriveni Earthmovers Pvt. Ltd., (2) S.S. Logistics, (3) Bhanumati Mahanta, etc.



<b>Sr. No.</b>	<b>Name of the Lessees &amp; Leases</b>	<b>Extent (ha.)</b>	<b>Name of Contractor</b>
74	Smt. Indrani Patnaik – Unchabali Iron Ore Mines	106.113	Thriveni Earthmovers Pvt. Ltd
75	T.B. Lal & Co. – Jajang Iron Ore Mines	22.69	(1) Minesfield, (2) Xcavators, etc.
76	Tarini Minerals (P) Ltd. – Deojhar Iron Ore Mines	34.365	(1) P.K. Raut, (2) Altrade Minerals Pvt. Ltd., (3) Triveni Earthmovers Pvt. Ltd., etc.
77	Tarini Minerals (P) Ltd. – Jurudi Jajang Iron & Mn. Ore Mines	66.368	(1) P.K. Raut, (2) Altrade Minerals Pvt. Ltd., (3) Triveni Earthmovers Pvt. Ltd., etc.
78	Tarini Prasad Mohanty – Naibega Iron Ore Mines	47.219	Sun Ispat Pvt. Ltd.
79	TATA Steel Ltd. – Bamebari Iron & Mn. Ore Mines	464	(1) M/s. Braj Mining Pvt. Ltd. (Earlier DB Singh) & (2) M/s. KB Sehgal, (3) M/s. Avion Overseas
80	TATA Steel Ltd. – Guruda & Tringpahar Mn. Ore Mines	169	(1) M/s. Vraj Mining Pvt. Ltd., (2) M/s. K.B. Sehgal
81	TATA Steel Ltd. – Joda West Iron & Mn. Ore Mines	1437.719	(1) M/s. BS Mining Pvt. Ltd. (Earlier SC Nayak) & (2) M/s. GS Atwal
82	TATA Steel Ltd. – Khandbandh Iron & Mn. Mines	978	M/s. M.N. Singh
83	TATA Steel Ltd. – Malda Mn. Mines	822	M/s. B.S. Mining Pvt. Ltd. (Earlier S.C. Nayak)
84	TATA Steel Ltd. – Manmora Mn. Mines	16.35 (671.093 ha. includes lease area of Joda East Iron Mine)	M/s. BS Mining Pvt. Ltd. (Earlier SC Nayak)

**ANNEXURE: B****The list of Iron and Manganese Ores leases in State of Odisha**

<b>Sr. No.</b>	<b>Name of Lessee</b>	<b>No. of Mines</b>	<b>Name of Lease</b>
1	Adhunik Metaliks Limited	1	Kulum Iron Ore Mines
2	Aryan Mining & Trading Corporation (AMTC)	2	Narayanposhi Mahasukha
3	Arjun Ladha	1	Balagunda
4	AXL Exploration	1	Bhutuda
5	M.S.Deb	1	Inganijharan
6	B.C. Dagara	4	Sulapati Bhitramada Gouna–Mandajoda Dalita
7	B. D. Patnaik	1	Kalaparbat
8	Basudeb Agarwala	1	Urmunda
9	B. K. Mohanty,	2	Uliburu (56.93) Uliburu (62.726)
10	B S Mishra	1	Kanthar
11	Bhanja Minerals	2	Deojhar Inganijharan
12	BPMEL	3	Dalki Kolha–Roida Thakurani
13	B K Das	1	Kasibeda
14	C P Sharma	1	Raikela
15	D.R. Pattnaik	2	Murgabeda Thakurani
16	D C Jain	5	Dalphar Block B–1 Dalphar Block B–2 Dalpahar Block B–3 Dalpahar Block A Dalpahar Block C
17	D C Dagara	1	Ghusuria
18	D C Das	1	Maharajpur
19	Dr Sarojani Pradhan	5	Baitarani Balita Sidhmatha Kalaparbat Inganijharan

<b>Sr. No.</b>	<b>Name of Lessee</b>	<b>No. of Mines</b>	<b>Name of Lease</b>
20	Essel Mining	5	Kasia Koirā Unchabali Jilling Longalota Sarkunda
21	Faccor Ltd.	1	Katasahi
22	GEETARANI MOHANTY	1	Raikela
23	Gandhamardan Spong	1	Putalipani
24	G S Choubey	1	Nangashila
25	G S Mishra	1	Gorumahisani
26	H G Pandya	1	Jajang
27	Indrani Patnaik	1	Unchabali
28	Indicom Minerals	1	Pondkana
29	J N Patnaik	1	Bhanjpali
30	J K Choubey	2	Budhrajpahar Purunapani
31	Jindal Steel & Power Ltd.	1	Tantra Raikela
32	Khatau Narbheram & Co.	1	Roida II
33	Kamaljeet Singh Ahluwalia	4	Nuagaon Iron Pandoliposi Gonua Tantigram
34	Kaypee Enterprises	1	Thakurani
35	K.C. PRADHAN	7	Chamakpur Lakraghat Nayagarh Paredipada Horomotto Gonua Nuagaon
36	Korp Resources Pvt. Ltd	1	Tantra
37	Kunal K Das	1	Anajori
38	Kusheleshware Minerals	1	Kalaparbat
39	Kanakdhara Mining & Minerals	1	Bandhal

<b>Sr. No.</b>	<b>Name of Lessee</b>	<b>No. of Mines</b>	<b>Name of Lease</b>
40	Kabita Agrawal	1	Kusumdihi
41	Kalinga Mining Corporation	5	Juridi ((73.228) Juridi (27.170) Juridi (12.691) Juridi (54.754) Juridi (39.173)
42	Lal Traders	1	Badampahar
43	M.G. Mohanty	3	Patabeda (19.425) Gonua Patabeda (14.00)
44	MGM Minerals	1	Patabeda
45	Mineral Trading Syndicate	1	Bhulbeda
46	Mid East Integrated steels Ltd	1	Roida I Iron
47	Mala Roy	1	Jalahuri
48	M R Das	4	Deojhar Kashipur Khurigaon Bhulbeda
49	Matadin Sharda	1	Khajuridih
50	National Enterprise	2	Sanidhpur Raikela
51	Narayani Sons (p) Ltd	2	Surguturia Laupada
52	Orissa Manganese & Mineral Pvt. Ltd	6	Kusumdihi Sanpothali Tsantulidhi Orahuri Patamunda Bhanjikusum
53	OMDC	4	Bagaiburu Belkundi Roida–Bhadrashai Roida Bhadrashai

<b>Sr. No.</b>	<b>Name of Lessee</b>	<b>No. of Mines</b>	<b>Name of Lease</b>
54	Orissa Mining Corporation Ltd. (OMC Ltd.)	22	Kurmitar Daitari Gandhamardan (A) Sakaradihi Balda-Palsa Bansapani Gandhamardhan (B) Kasira Bhanjapali Dubna Seremda-Bhadrashi Silijora-Guruda Kahandbandh Unchabali (Mahaparbat) Rantha Tiring Pahar Parulipada Roida-Sidhamatha Nishikhal Roida D_Block Dalki Roida C-Block
55	Orind Ltd	1	Kusumdihi
56	Penguin Trading	1	Raikela
57	Patnaik Minerals	2	Joribahal Mn. Joribahal Iron
58	Prabodh Mohanty	6	Ganua Khuntapani Unchabali KJST (Jaladhi) Nuagaon Raikela
59	Pawan Kumar Ahluwalia	1	Gonua

<b>Sr. No.</b>	<b>Name of Lessee</b>	<b>No. of Mines</b>	<b>Name of Lease</b>
60	<b>RUNGTA GROUP</b>		
	(i) Mangilal Rungta	1	Kalimati
	(ii) Rungta Mines Ltd.	3	Kolmomg Kanthar Jajang
	(iii) Rungta Sons Private Ltd.	5	Bhulbeda Oraghat Sanindpur Katasai Kusumadhi
	(iv) Feegrade & Co. Pvt. Ltd.	2	Sarkunda Nadidhi
	(v) Bonai Industrial Co. Ltd.	3	Kusumdhi Nadidhi Teherai
61	Rajkumar Agrawal	1	Champasar
62	Ramesh Prasad Sao	2	Guali Chormalda
63	R B Das	2	Dalpahar (4.84) Kundrupani
64	SAIL	6	Bolani (1321.45) Toda RF (25.981) Toda RF (77.94) Toda-RF (3.34) Kalta/Barsuan Bolani (1586.360)
65	S C Padhee	2	Bansapani Gurubeda
66	Sun Alloys	1	Patmunda
67	S N Dasmohapatra	1	Kohla-Rudukela
68	S D Sharma	3	Naugaon Raikela (26.243) Raikela (14.933)
69	S N Paul	1	Katasai
70	S A Halim	2	Oraghat (25.847) Oraghat (11.485)
71	S A Karim	1	Ashanbani

<b>Sr. No.</b>	<b>Name of Lessee</b>	<b>No. of Mines</b>	<b>Name of Lease</b>
72	Serajuddin & Co.	2	Balda Guruda
73	Sharda Mines	1	Thakurani B
74	Tata Steel Limited	8	Joda East Joda West Manmora Guruda–Tiring Pahar Malda Khandbandh Bamebari Katamati
75	Tej Bahadur Lal	2	Jagang Kasia –Kohla
76	T.P. Mohanty	1	Naibega Katupani
77	Tarini Mineral Pvt. Ltd.	4	Deojhar Jurudi – Jajang Teherai Nuagaon
78	U C Mishra	1	Kamanda
79	Zenith Mining	1	Gonua
	<b>Total</b>	<b>192</b>	

**ANNEXURE: C****Rampant illegal mining – Handing over the matter to Central Bureau of Investigation**

The examples pertaining to rampant illegal mining are given as under:-

**A. Barbil P.S. case No. 60 Dt. 10.03.2010 U/s 379/120 (B) IPC:-****1. Date of Registration:-**

10.03.2010      8.30 P.M.

**2. Complainant:-**

**Umesh Ch. Jena, Dy. Director of Mines, Joda.**

**3. Place of Occurrence:-**

Rly. Siding, Barbil (04 KMs West from P.S.)

**4. Accused:-**

Unknown as per FIR, but subsequently accused person arrested and forwarded.

**5. Brief of FIR:-**

During inspection to the Rly. Siding at Barbil on 25.01.2010 the Complt. noticed **as many as 27**



**rake loads of Iron ore has been dispatched to different places (T) rail from 01.01.2010 to 25.01.2010 suspiciously.** The consigner and the consignee of such transaction of iron ore are neither lessee nor licensee of Joda circle. It was enquired from the Rly. Staff of Barbil Rly. Station and they stated that requisition for rake of wagons are placed under the Dy. Commercial Manager, SE Rly. Chakradharpur. There is no provision for enquiry of the source of procurement and legal status of the consigner and consignee before loading of minerals into the rakes. So he suspected the entire quantity which has been dispatched has been procured by theft and transported with connivance of Rly. Authority as no permission for removal of the iron ore to that affect has been accorded by the Complt.

Basing on the FIR the case was registered and investigated into.

**6. Spot:-**

Barbil Rly. Siding

**7. Investigation:-**

**(I) Seizure:-**

During investigation the I.O. Sri Krushna Ch. Parida, the then IIC Barbil P.S. seized

56,300 MT iron ore from Rly. Siding, Barbil on 10.03.2010 and released in zima of DDM, Joda.

He has also seized the indent register from 01.01.2010 to 25.01.2010, programme registered, loading registered, RR, weighment sheet & different files of DDM, Joda relating to permission, license.

**(II) Persons arrested and their company name:–**

<b>Sl. No.</b>	<b>Name of the persons arrested (consigner)</b>	<b>Company name (Consignee)</b>
1	Binod kumar Agrawal (34) S/o Nirmal Ch. Agrawal At:– Sanghania Building, Sundarbasti, Barbil, P.S.:– Barbil, Dist:– Keonjhar	Maa Chandi Durga Ispat Ltd.,
2	Abhijit Choudhury (31) S/o Biswanath Choudhury, Vill:– Jhadgram, P.S.:– Jhadgram, Dist:– Medinapur, At/Pr:– Dhobi Hutting, Barbil Dist:– Keonjhar	Rosemary Sponge and Ispat Pvt. Ltd.
3	Niranjan Pattnaik (43) S/o Late Sarat Ch. Pattanaik Vill:– Baniapat, P.S.:– Sadar, Dist:– Keonjhar	R. Pyrelalla International Pvt. Ltd.
4	Dinesh Kumar S/o Bidyadhar Kumar Vill:– Near Harihar Mandir, Barbil, P.S:– Barbil, DIst:– Keonjhar	Sundaram Fero Tech. Pvt. Ltd.
5	Prasanjit Mukharji, S/o Samar Kumar Mukharji, At:– 167/04 Lenin Sarni, Kolkotta– 72	Amiya Steel Pvt. Ltd.

6	Ajay Kumar Singh (38) S/o Sri Suresh Kumar Singh Vill:- Jhanda Chowk, Main Road, Ramgarh, Cantt, Dist:- Ramgarh, Jharkhand	Aloke Steel industries Pvt. Ltd.
7	Prasant Singh S/o Shiv Sankar Singh Vill:- F/178, Birlagram, Nalda, Ujainni, P.S.:- Birlagram	Jai Balaji Industries Ltd.
8	Manoj Agrawal (40) S/o Late Hajarimall Agrawal At:- Siljharia, At/Pr – Near PNB, Complex, Barbil, P.S.:- Barbil , Dist- Keonjhar	M.B. Ispat Ltd.
9	Banwarilal Sharma (48) S/o Sri Ram Kumar Sharma, At:- Ashoka Villa, Near Aditya Hotel, Barbil, P.S.:- Barbil, Dist:- Keonjhar	Sanghania and Sons Pvt. Ltd.
10	Sunil Kumar Sahu S/o Prakesh Kumar Sahu, At:- Jagannathpur, P.S.:- Town, Dist:- Keonjhar	Gopi Mineral Crusher
11	Narendra Kumar Parida, S/o Srinivas Parida, AT:- Jagatipur, P.S.:- Baliapal, Dist:- Balasore	SKD Steel Pvt. Ltd.
12	Uttam Kumar Jain S/o Suresh Chand Jain Vill- Sundra Unit- 18 Back Side of Hotel Adhar, P.S.:- Barbil, Dist:- Keonjhar	Padma Logistic and Khanij Pvt. Ltd.
13	Dharanidhar Mahanta S/o Radhakanta Mahanta At:- Kalinga Nagar, P.S.:- Barbil Dist:- Keonjhar	Satya Power and Ispat Ltd.
14	Santosh Jha S/o Late Saradananda Jha Vill:- Sajhuar, Dist:- Dharbhanga (Bihar)	Map Mines and Minerals Ltd.

15	Samir Acharya S/o Jadupati Acharya, Vill:- Harhar Mandir Road, Barbil Dist:- Keonjhar	Satyam Iron & Steel Co. Pvt. Ltd.
16	Kamal Mandal S/o Ashit Mandal, At:- Bhadrasahi, P.S.:- Barbil Dist:- Keonjhar	Maa Manasha D Alloys (P) Ltd.
17	Subodh Despandy S/o Pramod Despandy Vill:- Nagjhari, P.S.:- Nagjhari Dist:- Ujjain (MP)	MESCO Steel Lessee
18	Sibendra Duby (27) S/o Ram Murg Duby At:- Ward No. 15 near Utkal Automobile, Barbil, P.S.:- Barbil Dist:- Keonjhar	Hanuman Treading
19	Surendra Kumar Behera, Lucky Hotel, P.S.:- Barbil, Dist:- Keonjhar	S.K. Minerals
20	Sekhar Kumar Thriveni Earthmovers Pvt. Ltd., Joda, P.S.:- Joda, Dist:- Keonjhar	Thriveni Earthmovers
21	Sarat Kedia, Barbil, P.S.- Barbil, Dist:- Keonjhar	Gimpex Ltd.
22	Pankaj Tiwary S/o Shyama Sundar Tiwary At:- Station Road, P.S.: Barbil, Dist:- Keonjhar	
23	Feku @ Md. Farku S/o Manjur Allam At:- Mahanta Basti, Ward No. 7 P.S.:- Barbil, Dist: Keonjhar	
24	Kamal Thakur S/o Natabar Lal Thakur, Mrinal Colony P.S.:- Barbil Dist:- Keonjhar	
25	Selian Sundhi S/o Bodhraj Sundhi At:- 125 Mordon Co-operative Society, Sec-15, P.S.:- Sector 15, Rohime, Delhi	
26	Bitu Atal	

27	J.D. @ Md. Javed (33) S/o Late Md. Jamin At:- K. Ali Basti, ward No. 06, P.S.:- Barbil, Dist:- Keonjhar (arrested in Barbil P.S. case No. 90 Dt. 15.05.2010 U/s 21 MMDR Act./27 (3) (B) O.F. Act)	
28	Jitendra Jha (40) S/o Jaladhara Jha At:- Station Road, P.S.: Barbil Dist:- Keonjhar (arrested and forwarded in Barbil P.S. case No. 166 Dt. 28.10.2010 U/s 379/34 IPC/21 MMDR Act.)	
29	Vinit Samrani (31) S/o Kirit Samrani At:- Sadhusingh Hutting, P.S.:- Barbil, Dist:- Keonjhar	
30	Lalit Rao (35) S/o B.S. Ramkrishna Rao At:- Nalda Gate, P.S.:- Barbil, Dist:- Keonjhar (Arrested in Barbil P.S. case No. 306/06 U/s 379/120 (B)/34 IPC/21 MMDR Act)	
31	Mashud Allam (42) S/o late Manjur Allam of Main Road, P.S.:- Barbil, Dist:- Keonjhar	
32	Babuli @ Pradeep Samanta (42) S/o Girish Samanta At:- Sundara Basti, P.S.:- Barbil Dist:- Keonjhar	
33	Sanjay Keshari (33) S/o Late Debananda Keshari At:- Station Road, P.S.:- Barbil Dist:- Keonjhar (arrested in Barbil P.S. case No. 90/2009)	

**(III) Defaulters consigner & consignee:-**

- (a) Singhania & sons Pvt. Ltd.**
- (b) M.B. Ispat Pvt. Ltd.**
- (c) R. Pyarelal International Pvt. Ltd.**
- (d) Rashmi Cement Ltd.**
- (e) Rosemary Sponge & Ispat Pvt. Ltd.**
- (f) Gitanjali Ispat & Power Ltd.**
- (g) Sundaram Ferro & tech Pvt. Ltd.**
- (h) Maa Chandi Durga Ispat Ltd.**
- (i) Amiya Steel Pvt. Ltd.**
- (j) Alope Steel Industries Pvt. Ltd.**
- (k) Jai Balaji Industries Ltd.**
- (l) Gimpex Ltd.**

**8. Status:-**

The case is pending investigation for arrest of other accused persons.

**9. Cases filed by different person in the High Court:-**

<b>Sl. No.</b>	<b>High Court Case No.</b>	<b>Filed by</b>	<b>Remarks</b>
1	WP (Crl) No. 601 of 2010 in Barbil P.S. case No. 60/10	D.P. Singh MD of Sara International Ltd.	Quashing of the criminal proceeding
2	Misc case No. 261 of 2010 arising out of WP (Crl) No. 601 of 2010 in Barbil P.S. case No. 60/10	-do-	Stay of the proceeding
3	WP (Crl) No. 607 of 2010 in Barbil P.S. case No. 60/10	Rajib Jajodia Aditya Jajodia Mahesh Kumar Keyal Sanjeeb Jajodia Gourab Jajodia (All are of Balaji Industries Ltd.)	Quashing of the criminal proceeding
4	Misc case No. 265 of 2010 arising out of WP (Crl) No. 607 of 2010 in Barbil P.S. case No. 60/10	-do-	Stay of the proceeding
5	WP (Crl) No. 687 of 2010 in Barbil P.S. case No. 60/10	Prasanta Kumar Singh of Jai Balaji Industries	Stay for further proceeding
6	Misc case No. 303 of 2010 arising out of WP (Crl) No. 687 of 2010 in Barbil P.S. case No. 60/10	-do-	Stay of the proceeding

7	WP (Crl) No. 499 of 2010 in Barbil P.S. case No. 60/10	Santosh Ku. Pattanaik of Zimpex Ltd. Company	–do– (Counter affidavit submitted by K.C. Parida, the then IIC Barbil PS
8	Misc case No. 208 of 2010 arising out of WP (Crl) No. 499 of 2010 in Barbil P.S. case No. 60/10	–do–	Stay of the proceeding
9	Letter No. 875/ P.S. Dt. 27.07.2012 in connection with WP (Crl.) No. 499 of 2010		Sent by S.P. Keonjhar to Advocate General, High Court of Odisha in connection with Writ Petition of Santosh Ku. Pattanaik



**B. Bamebari P.S. case No.37, Dt. 04.03.2010 U/s. 379/34 of IPC turned on to U/s. 379/420/468/471/120 (B) of IPC:-**

**1. Date of Registration:-**

04.03.2010, at 8.30 P.M.

**2. Complainant:-**

**Umesh Ch. Jena, Dy. Director of Mines, Joda.**

**3. Place of Occurrence:-**

Rly. Siding, Jurudi (08 Kms. North from P.S.)

**4. Accused:-**

Unknown as per FIR, but subsequently accused persons arrested and forwarded.

**5. Brief of FIR:-**

**During inspection to the Rly. Siding at Jurudi on 23.01.2010 it was noticed by the Complt. That, as many as 63 rake loads of Iron ore has been dispatched to different places (T) rail from 01.01.2010 to 23.01.2010 suspiciously.**

The consigner and the consignee of such transaction of iron ore are neither lessee nor licensee of Joda circle. It was enquired from the Rly. Staff of Barbil Rly. Station and they stated that

requisition for rake of wagons are placed under the Dy. Commercial Manager, SE Rly. Chakradharpur. There is no provision for enquiry of the source of procurement and legal status of the consigner and consignee before loading of minerals into the rakes. So he suspected the entire quantity which have dispatched procured by theft and transported with connivance of Rly. Authority as no permission for removal of iron ore to that affect has been accorded by the Complt.

Basing on the FIR the case was registered and investigated into.

**6. Spot:-**

Jurudi Rly. Siding

**7. Investigation:-**

**(I) Seizure:-**

**During investigation the I.O. Sri Silvarious Toppo, the then IIC Bamebari P.S. seized 67,811 MT iron ore from Rly. Siding, Jurudi and released in zima of DDM, Joda.**

He has also seized the indent register from 01.01.2010 to 23.01.2010, programme

registered, loading registered, RR, weightment sheet & different files of DDM, Joda relating to permission, license.

**(II) Persons arrested and their company name:-**

<b>Sl. No.</b>	<b>Name of the persons arrested (consignee)</b>	<b>Company name (Consigner)</b>
1	Subrat Bhattacharya S/o Subodh Bhattacharya R/o SangitaBhavan, Kansari Basti, P.S.:- Barbil, Dist:- Keonjhar	Ankit Metals and Power Ltd.
2	Alok Ranjan Mohanty S/o Late Ravindra Kishore Mohanty R/o Jaroli, P.S.:- Bamebari, Dist:- Keonjhar	Samleswari Ferro Metals Pvt. Ltd.
3	Pankaj Kumar Datta S/o Shashikanta Datta Q. No. 6/C Danby Road, P.S. Latit Narayan Mithila	Madhu Transport Co. Ltd.
4	Biswajeet Bhattacharya S/o Birendra Kishore Bhattacharya At:- Joda, P.S.:- Joda, Dist:- Keonjhar	SPS Steel and Power Ltd.
5	Mukhatar Ahmad S/o Idris Ansari Danguaposi, P.S.:- Nuamundi, Dist:- West Singhbhum	SPS Steel and Power Ltd.
6	Md. Hussain S/o Bashir Ahmad At:- Thriveni Earth Movers Pvt. Ltd. At:- Joda, Dist:- Keonjhar	Thriveni Earth Movers Pvt. Ltd.
7	Santosh Jha S/o Late Sharda Nanda Jha, Utkal Vihar, P.S.:- Barbil Dist:- Keonjhar	Map Mines and Minerals Pvt. Ltd.

8	Rohitanshu Kumar Sharma S/o Shival Sharma At:- Sherda, P.S.:- Bhiranim Dist:- Banumangarh (Rajsthan)	Keshav Minerals Pvt. Ltd.
9	Sumit Bishwas S/o Late Haripada Bishwas At:- Rajdangua Chakrwardi pada, P.S.:- Kasba, Dist:- Kolkotta	State Trading Corporation of India Ltd.
10	Prashanta Singh S/o Shivshankar Singh Money Tower, Barbil Dist:- Keonjhar	Jai Balaji Industries Ltd.
11	Umesh Chandra Gadnayak S/o Late Dalagobind Gadnayak At:- Ganua, P.S.:- Koira, Dist:- Sundargarh,	P.K. Ahluwalia Ganua Iron and Manganese Mines Ltd.
12	Maheswar Mahanta S/o Late Kirtan Bihari Mahanta At:- Saraskolha, P.S.:- Patna, Dist:- Keonjhar	Tarini Minerals Pvt. Ltd.
13	Prabhuranjan Satpathy S/o Govindchandra Sathapathy AT:- Joroli, P.S.:- Bamebari, Dist:- Keonjhar	Tarini Loading Contractors
14	Tarunkumar Mohanty R/o Jaribar, P.S.:- Bamebari, Dist - Keonjhar	Bhola Shankar Transport Company
15	Chaitana Penthei (50) S/o Late Sagar Penthei At:- Jurudi. P.S.:- Bamebari, Dist:- Keonjhar	
16	Debendra Mohanty (34) S/o Daitari Mohanty At:- Jurudi, P.S.:- Bamebari, Dist:- Keonjhar	
17	Sher Mahhamad (30) S/o Abdul Sattar At:- Jurudi, P.S.:- Bamebari, Dist:- Keonjhar	

18	Mahendra Mahanty (34) Daitari Mohanty At:- Jurudi, P.S.:- Bamebari, Dist:- Keonjhar	
19	Susanta Kumar Ratha (44) S/o Sarat Ch. Ratha At:- Jurudi, P.S.:- Bamebari, Dist:- Keonjhar	
20	Upendra Ghana (30) S/o Dhaneswar Ghana Vill :- Kamalpur, P.S.:- Bemabari, Dist:- Keonjhar	
21	Nisar Hayat (32) S/o Late Mahammad Mustafac of Champua P.S.:- Champua, Dist:- Keonjhar	
22	Suresh Patra (52) S/o Late Bhanu Patra Vill :- Kalimati P.S.:- Bemabari, Dist:- Keonjhar	
23	Rabi Narayan Dash (38) S/o Late Golok Bihari Dash At:- Baneikala P.S.:- Joda, Dist:- Keonjhar	
24	Mata Prasad Jaiswal (48) S/o Shyamalal Jaiswal At/P.S.:- Bamebari, Dist:- Keonjhar	
25	Patel @ Guru Charan Mahanta (30) S/o Nandalal Mahanta At:- Jalpaposi, P.S.:- Bamebari, Dist:- Keonjhar	
26	Rose Mahhamad (46) S/o Abdul Sattar of Jurudi, P.S.:- Bamebari, Dist - Keonjhar	
27	Nihar Ranjan Rout (46) S/o Ram Ch. Rout At:- Joda Bazar, P.S.:- Joda, Dist:- Keonjhar (arrested in Joda P.S. case No. 154/2010 U/s 379/411/120 (B) IPC/21 MMDR Act.	

28	Ashok Jaiswal (41) S/o late Shiva Mohan Jaiswal At:- Jurudi, P.S.:- Bamebari, Dist: Keonjhar	
29	Rajesh Jaiswal (35) S/o Ashrafilal Jaiswal At:- Jurudi, P.S.:- Bamebari, Dist:- Keonjhar	
30	Binay Ku. Giri (40) S/o Muktiar Giri At:- Q. No. LCR 372, Chhend Colony, Rourkela	
31	Amit Agrawal (31) S/o Late Shiv Dayal Agrawal of DM – 24 Basanti Colony, Rourkela	
32	Anup Kumar Agrawal (30) S/o Sambhunath Agrawal At /P.S.:- Kharsuangel, Dist:- Sareikala, Jharkhand	
33	Promod Ku. Chowbe (43) S/o Sri Om Prakash Chowbe Ward No. 09, Main Road, P.S.:- Rairangpur, Dist:- Mayurbhanj	
34	Mukesh Ku. Dhandhanania (37) S/o M.N. Dhandhanania, Ward No. 09, Main Road, P.S.:- Rairangpur, Dist:- Mayurbhanj	
35	Bal Subramaniam Prabhakaran (37) S/o Bal Subramaniam MD, M/S Thriveni Earth Mover Ltd. At:- Plot No. 121, Green way road, Fair landsalim, At/PR :- Baneikala, P.S.:- Joda, Dist – Keonjhar	
36	Deepti Ranjan Patnaik (60) S/o Late Braja Bandhu Patnaik At – A/06, Commercial Estate, Rourkela, Dist:- Sundargarh	

37	Rohit Patni (26) S/o Suresh Ku. Patni, Joint MD, Ankit Metals & power 35-CR, Avenue Kolkotta – 12 West Bangle	
38	Suresh Kumar Patni (60) S/o Dharmachand Patni, Chairman Ankit Metals 35-CR, Avenue Kolkotta – 12 West Bangle	

**(III) List of company involved in this case:-**

- (a) Madhu Transport Co. Pvt. Ltd.**
- (b) Shyama Minerals**
- (c) S.K. Sarogi Pvt. Ltd.**
- (d) R.P. Sao Mines**
- (e) West Well Co. Ltd.**
- (f) Indrani Patnaik Mines**
- (g) Samaleswari Ferro Metal Pvt. Ltd.**
- (h) State trading Co. of India**
- (i) Jai Balaji Industries ltd.**
- (j) Keshava Minerals**
- (k) P.K. Ahluwalia Mines**
- (l) Ankit Power and metals ltd.**
- (m) Tarini Minerals Pvt. Ltd.**

- (n) Electro Steel and casting Ltd.**
- (o) Map mines and minerals**
- (p) Bhushan power and steels ltd.**
- (q) Sps steels ltd.**
- (r) Taurion iron and steel ltd.**
- (s) Aviral mineral pvt. Ltd.**
- (t) Barbil khandan udogy ltd.**
- (u) Prologics infrastructure ltd.**
- (v) Altrade minerals**
- (w) Loading contractor:-**

**Tarini loading contractors, zonal mining loading contractors, Enkay enterprises, Keonjhar loading contractors all of Jharkhand Rly. Sidings.**

#### **8. Status:-**

The case is pending investigation for arrest of other accused persons.



**9. Cases filed by different person in the High Court:-**

<b>Sl. No.</b>	<b>High Court Case No.</b>	<b>Filed by</b>	<b>Remarks</b>
1	BLAPL No. 12624 of 2010 in Bamebari P.S. case No. 37/10	Nihar Ranjan Rout	In BLAPL No. 7491 Dt. 04.05.2010 in connection with Babemabari P.S. case No. 37/10 he released on bail and again filed this case to know whether he is involved in any more cases
2	BLAPL No. 10228 of 2010 in Bamebari P.S. case No. 37/10	Suresh Ch. Patra	For Bail
3	BLAPL No. 8621 of 2010 in Bamebari P.S. case No. 37/10	Alok Ranjan Mohanty	-do-
4	BLAPL No. 8871 of 2010 in Bamebari P.S. case No. 37/10	Chita Ranjan Mishra, Upendra Ghana, Prasanta Ghana	-do-
5	BLAPL No. 5218 of 2010 in Bamebari P.S. case No. 37/10	Sher Mahhamad	Bail by I.O.

6	BLAPL No. 5074 of 2010 in Bamebari P.S. case No. 37/10	Mahendra Ku. Mohanty, Debendra Ku. Mohanty, Susanta Ku. Ratha	-do-
7	BLAPL No. 6103 of 2010 in Bamebari P.S. case No. 37/10	Nisar Hayat,	-do-
8	BLAPL No. 9170 of 2010 in Bamebari P.S. case No. 37/10	Rabinarayan Dash	-do-
9	BLAPL No. 8062 of 2010 in Bamebari P.S. case No. 37/10	Mata Prasad Jaiswal	-do-
10	BLAPL No. 11158 of 2010 in Bamebari P.S. case No. 37/10	Rose Mahhamad	-do-
11	BLAPL No. 10218 of 2010 in Bamebari P.S. case No. 37/10	Guru Charan Mahanta	-do-
12	BLAPL No. 10384 of 2010 in Bamebari P.S. case No. 37/10	Ashok Jaiswal	-do-

13	BLAPL No. 5221 of 2011 in Bamebari P.S. case No. 37/10	Rajesh Jaiswal	-do-
14	BLAPL No. 6215 of 2010 in Bamebari P.S. case No. 37/10	Binay Kumar Giri Amit Agrawal	-do-
15	BLAPL No. 6372 of 2010 in Bamebari P.S. case No. 37/10	Mukesh Ku. Dhandhenia, Promod Ku. Chowbe Anup Ku. Agrawal	-do-
16	CRLMC No. 144 of 2010 in Bamebari P.S. case No. 37/10 vide WP No. 1753 of 2011	Mukesh Ku. Dhandhenia	Direction to the I.O. to only to examine petitioner Mukesh Ku. Dhandhenia and I.O. should issue a notice U/s 160 CrPC.
17	WP (C) No. 1753 of 2011 in Bamebari P.S. case No. 37/10	Mukesh Ku. Dhandhenia	-
18	BLAPL No. 6376 of 2010 in Bamebari P.S. case No. 37/10	Bal Subramaniam Pravarakan	Bail by I.O.

19	BLAPL No. 6389 of 2010 in Bamebari P.S. case No. 37/10	Deepti Ranjan Patnaik	-do-
20	BLAPL No. 6107 of 2010 in Bamebari P.S. case No. 37/10	Rohit Patni	-do-
21	BLAPL No. 6108 of 2010 in Bamebari P.S. case No. 37/10	Suresh Patni	-do-
22	WP (Crl.) No. 631 of 2010 in Bamebari P.S. case No. 37 of 2010	Mano Ranjan Mahapatra	Quashing of the case
23	Misc case No. 277 of 2010 arising out of WP (Crl.) No. 631 of 2010 in Bamebari P.S. case No. 37 of 2010	-do-	Grant of stay

24	WP (Crl.) No. 606 of 2010 in Bamebari P.S. case No. 37 of 2010	Rajib Jajodia Aditya Jajodia Mahesh Kumar Keyal Sanjeeb Jajodia Gourab Jajodia (All are of Balaji Industries Ltd.)	Quashing of the case
25	Misc case No. 264 of 2010 arising out of WP (Crl.) No. 606 of 2010 in Bamebari P.S. case No. 37 of 2010	-do-	Grant of stay
26	WP (Crl.) No. 632 of 2010 in Bamebari P.S. case No. 37 of 2010	Md. Mukhtar @ Mokhtar Ahmad of SPS Steel & Power Ltd.	Quashing of the FIR
27	Misc case No. 278 of 2010 arising out of WP (Crl.) No. 632 of 2010 in Bamebari P.S. case No. 37 of 2010	-do-	Grant of stay

28	WP (CrI.) No. 609 of 2010 in Bamebari P.S. case No. 37 of 2010	Bipin Ku. Vohra of SPS Steel and Power ltd.	Quashing of FIR
29	Misc case No. 267 of 2010 arising out of WP (CrI.) No. 609 of 2010 in Bamebari P.S. case No. 37 of 2010	-do-	Grant of Stay
30	WP (CrI.) No. 635 of 2010 in Bamebari P.S. case No. 37 of 2010	Biswajit Bhattacharge e of SPS Steel and Power Ltd.	Quashing of FIR
31	Misc case No. 281 of 2010 arising out of WP (CrI.) No. 635 of 2010 in Bamebari P.S. case No. 37 of 2010	-do-	Grant of stay

**C. Joda P.S. Case No.31, Dt. 04.03.2010 U/s. 379/34 of IPC turned on to U/s. 379/420/468/471/120 (B) of IPC:-**

**1. Date of Registration:-**

04.03.2010, at 8.30 P.M.

**2. Complaint:-**

**Umesh Ch. Jena, Dy. Director of Mines, Joda.**

**3. Place of Occurrence:-**

Rly. Siding, Banspani (05 KMs South from P.S.)

**4. Accused:-**

Unknown as per FIR, but subsequently accused persons arrested and forwarded.

**5. Brief of FIR:-**

During inspection to the Rly. Siding at Banspani on 22.01.2010 the Complt. **Noticed as many as 62 rake loads of Iron ore has been dispatched to different places (T) rail from 01.01.2010 to 23.01.2010 suspiciously.** The consigner and the consignee of such transaction of iron ore are neither lessee nor licensee of Joda circle. It was enquired from the Rly. Staff of Barbil Rly. Station and they stated that requisition for rake

of wagons are placed under the Dy. Commercial Manager, SE Rly. Chakradharpur. There is no provision for enquiry of the source of procurement and legal status of the consigner and consignee before loading of minerals into the rakes. So he suspected the entire quantity which have dispatched procured by theft and transported with connivance of Rly. Authority as no permission for removal of iron ores to that affect has been accorded by the Complt.

Basing on the FIR the case was registered and investigated into.

**6. Spot:-**

Banspani Rly. Siding

**7. Investigation:-**

**(I) Seizure:-**

During investigation the I.O. Sri H.S. Bhoi, the then IIC Joda P.S. seized 30080 MT iron ore from Rly. Siding, Barbil on 08.03.2010 and released in zima of DDM, Joda.

He has also seized the indent register from 01.01.2010 to 23.01.2010, programme registered, loading registered, RR, weightment



sheet & different files of DDM, Joda relating to permission, license.

**(II) Persons arrested and their company name:-**

<b>Sl. No.</b>	<b>Name of the persons arrested (consignee)</b>	<b>Company name (Consigner)</b>
1	Rabi Narayan Pradhan R/o Jokaikala P.S. – Bonei, Dist:- Sundargarh	Adhunik Metaliks Ltd.
2	Pramod Kumar Swain Vill :- Pailo P.S.:- Patkura, Dist:- Kendrapada	Krishna Traders
3	Prashanta Singh At:- Money Tower, P.S.:- Barbil, Dist:- Keonjhar	Jai Balaji Industries Ltd.
4	Rohitas Kumar Sharma, Main Road, Near Punjabi Hotel, Rourkela	Keshav Minerals
5	Nikunj Agrawal At – Kacheri Road, P.S.:- Uditnagar, <u>Dist:- Sungargarh</u>	Radhika Enterprises
6	Md. Husain Near Women's College, Joda, P.S.:- Joda ,Dist:- Keonjhar	Indrani Patnaik Lessee
7	Vishwajeet Bhattacharya At:- Backside of Dr. Patnaik Office, Joda, P.S.:- Joda, Dist:- Keonjhar	Concast Bengal Industries Ltd.
8	Ajay Kumar Singh, At:- Zenda Chowk Ramgarh, P.S.:- Ramgarh Dist:- Ramgarh	Jharkhand Ispat Ltd.
9	Shekhar Kumar Kankar Bagh, P.S.:- Patna, Dist:- Patna, Bihar	KJS Ahluwalia leesee
10	Dipak Agrawal Lohar Patti Road, Kishanaganj	Shyam Steel/Shyam DRI

11	Chintu Singh, Barbil Mineral Colony Dist:- Keonjhar	SRS Sponge Ltd.
12	Devashish Chatterji, Joda Road, P.S.:- Barbil Dist:- Keonjhar	Kunj Bihari Steel Pvt. Ltd.
13	Sarojkumar Biswal, P.S.:- Town, Dist:- Keonjhar	MSP Metalik Ltd.
14	Abhijit Choudhary Minerals Colony, Barbil P.S.:- Barbil, Dist:- Keonjhar	Rashmi Metalik Ltd.
15	Antaryami Apat, At:- Kamarjoda, P.S.:- Joda, Dist:- Keonjhar	Nilachal Transport Co Ltd.
16	Md. Nishad Alam, At:- Kamarjoda, P.S.:- Joda, Dist:- Keonjhar	Nilachal Transport
17	Suboth Das, AT:- Banspani, P.S. – Joda, Dist:- Keonjhar	SSS Logistic
18	Sanjay Apat AT:- Kamarjoda, P.S.:- Joda, Dist:- Keonjhar	SSS Logistic
19	Kandra @ Kasinath Dehury S/o Barabara Dehury Vill :- Hutting, Joda, Dist:- Keonjhar	
20	Giridhiri Mahanty S/o Pagal @ Purusottam Mohanty At:- Bansapni, P.S.:- Joda, Dist:- Keonjhar	

**(III) List of company involved in this case:-**

- (a) Conocast Bengal Industries Ltd.**
- (b) Syam DRI Power Ltd.**
- (c) Maa Chandidurga Ispat Ltd.**
- (d) MMTC**
- (e) Rashmi Tetalics Ltd.**

- (f) Mangalam Carbide**
- (g) Bisal Sponge Pvt. Ltd.**
- (h) MSP Metalics Ltd. & MSP Steel and power Ltd.**
- (i) SRS Sponge Ltd**
- (j) Subham Trading & investment Co.**
- (k) Shyamsel Ltd./ Syamsel Power ltd.**
- (l) Haladid steel ltd.**
- (m) Jaydurga Iron Pvt. Ltd.**
- (n) Jai Balaji Jyoti steel Ltd.**
- (o) Jharkhand Steel Pvt. Ltd.**
- (p) Visa steel ltd.**
- (q) Jai Balaji industries ltd.**
- (r) Rashmi ispat pvt. Ltd.**
- (s) Bihar sponge iron pvt. Ltd.**
- (t) Adhunik metalics ltd.**

**8. Status:-**

The case is pending investigation for arrest of other accused persons.

**9. Case filed by different person in the High Court:-**

<b>Sl. No.</b>	<b>High Court Case No.</b>	<b>Filed by</b>	<b>Remarks</b>
1	WP (C) No. 5078 of 2010	M/S Mahabahu Metal & Minerals	It was filed challenging the illegal & arbitrary action against the police and DDM, Joda in imposing restriction on exporters despite having license under foreigner trade. The racks were stopped on 15.3.2010 on the way to Visakhapatnam from Nayagarh Railway siding.

\* \* \*

**ANNEXURE: D****Show cause notice for recovery of cost of excess production of ores during 2000-01 to 2009-10**

<b>Koira Circle</b>					
<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
1	M/s. K.C. Pradhan	Gouna Iron/Mn Mines	Iron Ore	12.560	22323.6897
2	M/s. C.P. Sharma	Bambha & Tensa Iron / Mn Mines	Iron Ore	69.606	133617229
3	M/s. J.N. Patnaik	Bhanjapali	Iron Ore	18.000	2863578295
4	M/s. S.D. Sharma	Raikela	Iron Ore	14.933	94873714
5	M/s A.M.T.C. Ltd.	Narayanposhi	Iron Ore	349.300	4594548856
6	M/s Korp Resources	Tantra	Iron Ore	72.560	401773603
7	M/s. O.M.C. Ltd.	Kurmitar	Iron Ore	1212.000	17180891436
8	M/s. M.G. Mohanty (19.425)	Patabeda	Iron Ore	19.425	769184531
9	M/s. SAIL	Barsua, Kalta	Iron Ore	2486.000	39902608794
10	M/s. S.N. Mohanty	KJST (JaLdih)	Iron Ore	333.070	1750026180
11	M/s ESSEL Mining Ltd.	Koira	Iron Ore	90.140	601400306
12	M/s. National Enterprises	Sanindpur	Iron Ore	70.917	5443359013
13	M/s. P.T.A. Ltd.	Raikela, Tantra	Iron Ore	49.370	1157774748
14	M/s. National Enterprises	Raikela	Iron Ore	45.930	3397449404
15	M/s. P. Mohanty	Nuagon	Iron Ore	29.260	1214855842
16	M/s. P.K. Ahluwalia	Guona	Iron Ore	36.886	1621810152
17	M/s. S.D. Sharma	Nuagon	Iron Ore	12.942	627661252
18	M/s. Tarini Minerals	Teherai	Iron Ore	29.076	59474390

<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
19	M/s. S.A. Halim	Oraghat	Iron & Mn Ore	25.840	245198577
20	M/s. J.S.P. Ltd.	Tantra, Raikela	Iron Ore	297.800	312313452
21	M/s. B.I. Co. Ltd.	Tehrai	Iron Ore	137.500	3621880968
22	M/s. O.M.C. Ltd.	Bhanjapali	Iron Ore	141.200	182251753
23	M/s. Rungta Sons (P) Ltd.	Sanindpur	Iron Ore	147.100	249617904
24	M/s. O.M.C. Ltd.	Kasira	Iron Ore	418.400	281316131
25	M/s. B.I. Co. Ltd.	Nadidih	Iron Ore	73.820	8561291055
26	M/s. M.G. Mohanty (14)	Patabeda	Iron Ore	14.000	130364459
27	M/s. Feegrade	Nadidih	Iron Ore	121.410	7373620462
28	M/s. S.N. Mohanty	Raikela	Iron Ore	18.315	543345768
29	M/s. Rungta Sons (P) Ltd.	Orghat	Iron Ore	82.916	5163289717
30	M/s. M.G.M. Minerals Ltd.	Patabeda	Iron Ore	28.397	21794190
31	M/s. G.R. Mohanty	Raikela	Iron Ore	67.582	4499541176
32	M/s. Zenith Mining	Gonua	Iron Ore	129.180	711104290
33	M/s. Matadin Sarda	Khajuridihi	Iron Ore	119.540	171189275
34	A.M. & T.C.(P) Ltd.	Mahulsukha Iron & Mn Mines	Manganese Ore	399.838	483703711
35	B.S. Mishra	Kanther Koira Iron & Mn	Manganese Ore	33.985	96492703
36	Feegrade & Co. (P) Ltd.	Sarkunda Iron & Mn Mines	Manganese Ore	393.556	4902032
37	K.C. Pradhan	Nuagon Mn Mines	Manganese Ore	39.890	27185005
38	KM & M(P) Ltd.	Bandhal Mn Mines	Manganese Ore	28.020	51999748
39	Matadin Sarda	Khajuridihi Iron & Mn Mines	Manganese Ore	111.540	35534594
40	OMM Ltd	Orahuri Mn Mines	Manganese Ore	51.476	6282188205

<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
41	OMM Ltd.	Sanpatuli Mn Mines	Manganese Ore	23.290	1302396
42	OMM Ltd	Bhanji Kusum Mn Mines	Manganese Ore	8.134	171244601
43	OMM Ltd	Kusumdihi Mn Mines	Manganese Ore	31.549	89876546
44	OMM Ltd	Patmunda Mn Mines	Manganese Ore	807.316	163193364
45	P. Mohanty	Ganua Iron & Mn Mines	Manganese Ore	14.159	210955090
46	P. Mohanty	Nuagon Iron & Mn Mines	Manganese Ore	29.257	128405518
47	Rungta Mines Ltd.	Kolmong Mn Mines	Manganese Ore	218.590	831287458
48	Rungta Mines Ltd.	Kanther Koira Mn Mines	Manganese Ore	73.656	279336641
49	S D Sharma	Nuagon Iron & Mn Mines	Manganese Ore	12.942	87556148
50	Sun Alloys & Minerals Ltd.	Patmunda Mn Mines	Manganese Ore	81.197	152941449
51	Tarini Minerals	Nuagon Mn Mines	Manganese Ore	7.850	308412580
52	Tarini Minerals	Teherai-Sonua Iron & Mn	Manganese Ore	29.067	1317850
53	Tata Steel Ltd.	Malda Mn Mines	Manganese Ore	822.000	6080935595
54	Zenith Mining (P) Ltd.	Ganua Iron & Mn Mines	Manganese Ore	129.179	89074535
55	S.A. Halim	Orghat Mn Minesq	Manganese Ore	11.49	17289188
<b>TOTAL</b>					<b>131881378803</b>

<b>Joda Circle</b>					
<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
1	M/s. Bhaja Minerals (P) Ltd.	Inganijharan Iron Ore Mines	Iron Ore	243.313	256110003
2	M/s. ESSEL Mining & Industries	Kaisa Iron & Dolomite Ore Mines	Iron Ore	194.196	9213924015
3	M/s ESSEL Mining & Industries	Jilling Langalotta Iron & Mn Mines	Iron Ore	456.100	33872237334
4	Indrani Patnaik	Unchabali Iron Mines	Iron Ore	106.112	604382900
5	K.C. Pradhan	Chamakpur Iron Mines	Iron Ore	31.963	2588001643
6	K.N. Ram	Roida-11 Iron Mines	Iron Ore	74.866	6460321963
7	Kalinga Mining Corporation	Jurdi Iron Mines	Iron Ore	73.228	4604139066
8	KJS Ahluwalia	Nuagon Iron Mines	Iron Ore	767.284	20220072213
9	Kaypee Enterprises	Thakurani Iron Mines	Iron Ore	228.040	8387739915
10	M.R. Das	Deojhar Iron Mines	Iron Ore	11.537	56835563
11	M.T. Syndicate	Bhulbeda Iron Mines	Iron Ore	62.322	151623848
12	Mala Roy & Others	Jalahuri Iron & Mn Mines	Iron Ore	182.109	8864954451
13	Mangilall Rungta	Siljora-Kalimati Iron & Mn Mines	Iron Ore	715.639	5522725308
14	Mid East Integrated Steels Ltd.	Roida-I Iron Mines	Iron Ore	104.680	22212190245
15	Narayani Sons Pvt. Ltd.	Suruguturia Iron Mines	Iron Ore	99.784	121305836
16	O.M.D.C. Ltd.	Belkundi Iron & Mines	Iron Ore	1276.790	72945268106
17	O.M.D.C. Ltd.	Bagiaburu Iron Ore Mines	Iron Ore	21.250	15738402
18	O.M.D.C. Ltd.	Bhadrasahi Iron Mines	Iron Ore	103.600	2561393825
19	O.M.D.C. Ltd.	Bhadrasahi Iron & Mn. Mines	Iron Ore	998.796	11292729617



<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
20	OMC Ltd. (IDC)	Roida-C Iron & Mn Mines	Iron Ore	96.000	1969619034
21	OMC Ltd.	Seremda Bhadrasahi Iron & Mn. Mines	Iron Ore		1945214651
22	Patnaik Minerals Pvt. Ltd.	Jaribahal Iron Mines	Iron Ore	106.533	13604037257
23	R.B. Das	Kundurpani Iron & Mn Mines	Iron Ore	10.255	421685501
24	R.P. Sao	Guali iron Mines	Iron Ore	365.026	38726175528
25	Rungta Mines Ltd.	Jajang Iron Mines	Iron Ore	669.150	10468371804
26	S.C. Padhee	Gurubeda Iron Mines	Iron Ore	49.774	899926530
27	S.C. Padhee	Banaspani Iron & Mn Mines	Iron Ore	37.686	225749332
28	S.D. Sharma	Raika Iron & Mn Mines	Iron Ore	26.243	496762177
29	SAIL	Bolani Iron Ore Mines	Iron Ore	1321.450	1336457934
30	Sarda Mines Pvt. Ltd.	Thakurani Blocks – B Iron	Iron Ore	946.047	28455886840
31	Serajuddin & Co.	Balda Block Iron Mines	Iron Ore	335.594	19835628250
32	Tarini Minerals Pvt. Ltd.	Jurudi Iron Mines	Iron Ore	66.368	1804721887
33	Tarini Minerals Pvt. Ltd.	Deojhar Iron Mines	Iron Ore	34.365	3982081924
34	TATA Steel Ltd.	Joda East Iron Mines	Iron Ore	608.906	6693313568
35	TATA Steel Ltd.	Joda East Iron Mines	Iron Ore	403.624	2997136571
36	TTA Steel Ltd.	Guruda Tiringapahar M. Mines	Manganese Ore	403.324	453872402
37	TATA Steel Ltd.	Manmora Iron & Mn Mines	Iron Ore	9.373	79948706
38	TATA Steel Ltd.	Bamebari Iron & Mn. Mines	Iron Ore	382.269	4084362398

<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
39	TATA Steel Ltd.	Joda West Iron & Mn Mines	Iron Ore	1167.313	2563682453
40	TATA Steel Ltd.	Khandbondh Iron & Mn Mines	Iron Ore	978.000	6892395966
41	Kalinga Mining Corporation	Jurudi Iron Mines	Iron Ore	27.170	194830189
42	D. S. Pradhan	Balita Iron mines	Iron Ore	34.750	3564802574
43	OMC Ltd	Banaspani Iron Mines	Iron Ore	380.400	3077794700
44	OMC Ltd	Sakradihi Iron Min	Iron Ore	564.537	1125712122
45	OMC Ltd.	Dubuna Mn. Mines	Manganese Ore	1135.419	1124808520
46	OMC Ltd.	BPJ Iron Mines	Iron Ore	861.521	2919268785
47	OMC Ltd.	Khandbond Iron Mines	Iron Ore	366.311	2000244197
48	D.R. Patnaik	Murgabeda Iron Mines	Iron Ore	15.378	3841828077
49	BPME Ltd.	Thakurani Iron & Mn. Mines	Iron Ore	1600.873	12979476492
50	BPME Ltd.	Dalki Mn. Mines	Manganese Ore	266.770	2480074975
51	BPME Ltd.	Bhadrasahi Iron & Mn. Mines	Iron Ore	254.952	4871057290
52	Kalinga Mining Corporation	Jurudi Iron Mines	Iron Ore	12.691	1569383172
53	K.C. Pradhan	Harmoto Iron Mines	Iron Ore	61.015	367292410
54	Serajuddin & Co.	Guruda Mn. Mines	Manganese Ore	40.064	21843678
55	Rungta Sons (P) Ltd.	Katasahi Mn. Mines	Manganese Ore	196.860	315251846
56	K.C. Pradhan	Parudipada Mn. Mines	Manganese Ore	12.600	27620306
57	S.N. Paul	Katasahi Mn. Mines	Manganese Ore	9.700	27620306
58	T.B. Lal	Jajang Iron Mines	Iron Ore	39.897	2073042720
59	S.N. Mohanty	Unchabali Iron Mines	Iron Ore	9.630	56112565

<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
60	M.R. Das	Bhulbeda Iron Mines	Iron Ore	5.139	4161100
61	K.C. Pradhan	Lakraghat Iron Mines	Iron Ore	10.720	2103834365
62	Dr. S. Pradhan	Baitrani Iron Mines	Iron Ore	65.397	1785695488
63	B.D. Patnaik	Kalaparnat Iron Mines	Iron Ore	25.633	3238338362
64	B.K. Mohanty	Uliburu Iron Mines	Iron Ore	56.940	8569380445
65	Kalinga Mining Cororation	Jurudi Iron Mines	Iron Ore	54.754	34671480
66	Arjun Ladha	Balagudan Iron & Mn. Mines	Iron Ore	326.500	2278311045
67	KJS Ahluwalia	Parudiapada Mn. Mines	Manganese Ore	40.470	12015401183
68	H.G. Pandya	Jajang Iron & Mn Mines	Iron Ore	100.137	4411321506
69	S.N. Dasmohapatra	Rudukela Mn. Mines	Manganese Ore	36.474	319898946
70	FACOR Ltd.	Katasahi Mn. Mines	Manganese Ore	13.674	386822048
71	B.C. Dev	Iganjiharan Iron & Mn. Mines	Iron Ore	114.930	3403480465
72	D.R. Patnaik	Thakurani Iron Minesq	Iron Ore	121.385	3413156
<b>TOTAL</b>					<b>444525050692</b>

<b>Keonjhar Circle</b>					
<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
1	B.D. Agrawal	Urumunda Iron Mines	Iron Ore	56.940	288779540
2	M/s. GSI (P) Ltd.	Putulpani Iron Mines	Iron Ore	100.160	3748124424
3	OMC Ltd.	Gandhamard an Block-a Iron Mines	Iron Ore	618.580	5017841068
4	OMC Ltd.	Gandhamard an Block-B Iron Mines	Iron Ore	1590.900	1507797702
5	M/s Narayani Sons Pvt. Ltd.	Laupada Iron Mines	Iron Ore	141.340	86803876
<b>TOTAL</b>					<b>10649346610</b>

<b>Koraput Circle</b>					
<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
1	Kunal Kishore Das	Kashipur Mn. Mines	Manganese Ore	21.622	1359760
2	Kunal Kishore Das	Khurigaon Mn. Mines	Manganese Ore	26.636	2920523
3	Kunal Kishore Das	Anjori Mn. Mines	Manganese Ore	18.494	110558
<b>TOTAL</b>					<b>4390841</b>

<b>Bolangir Circle</b>					
<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
1	Rajkumar Agarwal	Champasar / Bharatbahal Mn. Mines	Manganese Ore	7.272	295630235
<b>TOTAL</b>					<b>295630235</b>

<b>Jaipur Road Circle</b>					
<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
1	OMC Ltd.	Daitari Iron Ore Mines	Iron Ore	190.200	13153593311
<b>TOTAL</b>					<b>13153593311</b>

<b>Baipada Circle</b>					
<b>Sr. No.</b>	<b>Name of the Lessee</b>	<b>Location</b>	<b>Mineral</b>	<b>Area in Hects</b>	<b>Amount in (Rs.)</b>
1	M/s Lal Traders & Agencies (P)	Badampahar Iron Ore Mines	Iron Ore	119.630	1307293417
2	B.C. Datgara	Suleipat Iron Mines	Iron Ore	618.000	672101988
3	M/s. G.S. Mishra & Sons (P) Ltd	Gorumahisani Iron Mines	Iron Ore	349.500	802086167
4	G.S. Choubey	Nagasila Iron Mines	Iron Ore	45.931	71336119
5	B.C. Dagara	Bbhitarmad Iron Mines	Iron Ore	243.820	73659426
6	D.C. Dagara	Ghusuria Iron/ Quartzite/ Soaspstone	Iron Ore	48.559	134560017
7	Sri J.K. Chaubey	P. Pani B. Basa iron Mines	Iron Ore	85.499	44904871
8	Sri D.C. Das	Maharajpur Iron Mines	Iron Ore	193.230	802179306
9	B.K. Das	Kasiabera Iron Mines	Iron Ore	9.874	582809515
10	Sri J.K. Chaubey	Budharajapahar Iron Mines	Iron Ore	8.130	117574369
11	S.A. Karim	Asanbani Iron Mines	Iron Ore	1.157	69010966
<b>TOTAL</b>					<b>4677516161</b>

\* \* \*

**EXECUTIVE SUMMARY**

1. From the inquiry conducted by this Commission, it is apparent that all modes of illegal mining, as stated in the Notification dated 22<sup>nd</sup> November, 2010 of the Central Government, are being committed in the State of Odisha.
2. Based on the facts gathered and analysis to them highlight a complete **disregard and contempt for law and lawful authorities** on the part of many among the emerging breed of entrepreneurs, taking undue advantage of country's natural non-renewable assets/resources for export earnings. Pursuit of super profit has absolutely drained them of any feeling for fellow human beings/for nation and the moral values.
3. Secondly, it appears that law has been made **helpless because of its systematic non implementation.** Instances of non implementation of law have led many people in this country to believe that disregard of law pays and that the consequences of such disregard will never be visited upon them – particularly, if they are men with means and deceitful skill to pollute and spoil the administration.

4. In short, what is discussed in that report is:-

**(A)** Information regarding mining leases should be placed on **website** to make mining operations more transparent and to display the information for each lease on the departmental/State website with various conditions which are required to be adhered by the lessee.

**(B)** Misuse of **Rule 24A(6) of MCR, 1960 which provides for deemed extension of lease.** Application for renewal of mining lease is not decided for one or other pretexts, may be, there is lack of co-ordination among various departments which are required to decide renewal application. There is gross misuse of deemed refusal and deemed extension of both the provisions of renewal of leases (before 27.09.1994 and after) under Rule 24A of MCR, 1960. This casual and negative approach has caused dearly to State exchequer in the form of hundred crores of stamp duty and others.

Facts discussed hereinafter reveal that on account of an impersonal and indifferent machinery, number of departments dealing with the subject and the inherited bureaucratic methodology imbued with

corruption, note-sheet making, file-pushing, non-responsive and passing on the buck to others are the reasons observed for delay in disposal of renewal application which is difficult to understand and can not be approved.

Hence, for years together, in State of Odisha, renewal applications of mining lease remained pending for:–

- (i) **15 to 20 years** in **08** leases;
- (ii) **10 to 15 years** in **35** leases;
- (iii) **05 to 10 years** in **43** leases;
- (iv) **less than 05 years** in **14** leases; and
- (v) **deemed rejection** in **47** leases.

In **147 cases**, renewal applications are not decided. **The sufferer is the Government and such long delay breeds corruption at all level.**

All the aforesaid **147 lessees** continued in possession of the lease-hold property **without execution of the lease deeds** for that period otherwise mandatorily binding various conditions. Because of the non implementation of the statutory provisions, the ecosystem, forest, environment, roads, natural streams, health of wild and human-beings and others have been affected to an extent of irreparable.



**(C) Violation of the provisions of the Forest (Conservation) Act, 1980, Rules & guidelines and directions issued by the Hon'ble Supreme Court of India.**

- (i) In all, out of **192** mines, **176** mines are located within the dense forest area.
- (ii) In **98** mining leases, MoEF has not granted permission for diversion of forest area.

However, it is to be noted that out of **98** mines, **47 mines are/were being operated without FC.**

- (iii) Many of the mining leases are running on the basis of deemed extension. They are required to obtain fresh permission from MoEF for carrying out mining operations. FC, if any, is granted for a period co-terminus with the period of mining lease under MM(DR) Act, 1957 gets expired accordingly.
- (iv) **55** mines are located in such a manner that either river or tributaries or rivulets are flowing close to the boundary of leases or passing through that. No proper

protection as required under the law is taken to prevent pollution of water which is used by the villagers, tribals and wilds.

- (v) Out of **176** mining leases which are within the forest area, **10** leases are located in Mayurbhanj District and falling within **10 kms.** from the outer boundary of Simlipal National Park.
- (vi) **31** mines are adjacent to projected elephant corridor in Sundargarh and Keonjhar Districts. The result thereof is vast destruction of standing crops, huts and human habitats by the elephants, as observed.

**(D) Violation of the provisions of the **Environment (Protection) Act, 1986.****

- (i) Members of the Commission have observed that all along the roads which are passing from and to the villages, on both sides about 150 mtrs., there is widespread dust pollution and thereby the trees are covered with fines matching with colour of the minerals. From this situation, one could imagine the fate of the villagers who are residing in these

areas. They are forced to breathe polluted air and suffer with air born diseased life long.

- (ii) Further, large scale mining operations have completely polluted the air and ground water in the neighborhood. It is unfortunate state of villagers' life. Because prior to mining operations, the tribals were breathing fresh and nonpolluted air and drinking clean and nonpolluted water from the streams/ rivers.
- (iii) The Baitrani River (River Vaitarni) is flowing in major areas of these two Districts. Baitrani is the one of the six big rivers in Odisha State and very small portion thereof is in Jharkhand State. In all, 65 tributaries joins to the Baitrani River. 35 tributaries join towards left side of the river and remaining 30 tributaries join from the right side of the river. Many of the tributaries and rivulets are forming a wide net working in these two Districts which is completely sheltered.

(iv) It is apparent that neither the **‘Precautionary Principle’** nor the **‘Polluter Pays Principle’** is observed or thought over, while according permission for extraction of iron ore/increase manifolds production in almost all mines in the State. Till date, no comprehensive plan is prepared to check the cumulative effect of group of mines and their working, etc. Authorities are found least concerned and sort sighted about it, while permitting the leases for extraction of iron ore.

(v) Out of **192** mining leases, **94** mining leases are without EC.

(vi) Out of the aforesaid **94** mines, from **53** mines, iron ore is extracted.

Out of the aforesaid **94** mines, from **25** mines, manganese ore is extracted.

(vii) Out of the said **94** mines, from **55** mines, excess extraction of iron and/or manganese ores have been made after 27.01.1994.

Out of **94** mining leases, in **23** mining leases, there is a specific condition laid in FC order to obtain EC clearance but that is not done.

(viii) Out of **192** mining leases, in remaining **96** mining leases, EC is obtained. However, some of them have obtained EC after some delay.

(ix) Out of the aforesaid **96** mines, from **71** mines, iron ore is extracted.

Out of the aforesaid **96** mines, from **29** mines, manganese ore is extracted.

(x) Out of the said **96** mines, from **75** mines, excess extraction of iron and/or manganese ores have been made after 27.01.1994.

(xi) In **16** mining leases, even though the area is the forest area involved, EC was granted without FC clearance.

(xii) In **74** mining leases, EC is granted with conditions of conservation and protection of wildlife. To what extent, those

conditions are implemented are required to be investigated.

(xiii) **56** mining leases are having EC without stipulating any condition for wildlife.

(xiv) In **130** mining leases, there is excess production in violation of EC permission. Out of these 130 mining leases, **75** mining leases are having EC but production is beyond the EC limit or production extracted before grant of EC for some period.

Further, out of these 130 mining leases, in **55** mining leases, lessees have not bothered to obtained EC permission.

Therefore, in such cases, action is required to be taken against the lessees under Section 21(5) of MM(DR) Act, 1957.

(xv) In **14** cases, empowered officers have not taken actions, despite the directions of MoEF and in **02** cases out of **14** cases; action is taken after the long lapse of time, from the date of the order of the MoEF.

(xvi) Despite the directions of the Department of Environment and Forest, State of Odisha, in **14** cases, the District Collector has not taken any action and in **07** cases, action is taken after three to seven years.

(xvii) In case of **02** leases, as area thereof is less than 5 ha., no EC was required to obtain under EIA Notifications, 1994 and 2006.

**(E)** Misuse of **Rules: 10 & 12 of MCDR, 1988** which provides for **modification and review of mining plan** only for a specific purpose, namely,

- (i) safe and scientific mining;
- (ii) conservation of minerals;
- (iii) the protection of environment; and
- (iv) in case of modification, explanation for the same.

(a) In **85** mining leases of iron ore, IBM has modified the mining plan and out of 85 mining leases, in **30** cases, mining plans were modified twice or more than twice.

- (b) In **11** mining leases of manganese ore, mining plans were modified and in **02** mining leases out of **11** leases, it was modified twice.
- (c) **Surprisingly, out of 85 mining leases, in 53 mining leases, IBM has approved modification of mining plan with retrospective effect.**
- (d) In **49** mining leases, mining plan is modified for increase in production. From the year 2000 till date, production was permitted to increase from **41.654 Million Tons to 118.978 Million Tons.**

Out of the aforesaid **49** leases, in **07** cases, production limit was increased from **18.940 Million Tons to 49.080 Million Tons.**

- (e) The permission granted so far for extraction of **154.263** million tones by IBM and MoEF if taken into consideration and achieved, then the reserve would last only for **30 years (i.e.  $4704.249 / 154.263 = 30.4949$  years)** in the State for good quality ore.



Nobody has thought of conservation of iron ore and protection of the environment.

**(F) Encroachment:-**

On the basis of Google Image, the survey report prepared by the State Government by DGPS method, it was found that in **82 mining leases**, there was encroachment. Out of the said leases, re-survey was ordered for **37 leases**.

### **SUGGESTIONS**

1. Information with regard to lease and conditions which are required to be complied with, should be published on **website**.

2. **Rule 24A of MCR, 1960:–**

- (a) Rule 24A is required to be suitably amended and made it clear that if the renewal application is not decided within two years from the date of application, the application would stand rejected.
- (b) The procedure for grant of renewal should be simplified and there should be one committee consisting of Secretary of all concerned Departments for disposal of the said application.

3. **Forest Clearance (FC):–**

For EC and FC, constitutional provisions of Article 48A and 51A(g) are required to be implemented. The said Articles are as under:–

*“48A Protection and improvement of environment and safeguarding of forests and wild life – The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.*

*51A(g) To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.”*

- (a) There is lapse in implementation of Forest (Conservation) Act, 1980. Unless it is strictly implemented, by lodging prosecution u/s. 3A and 3B of the Forest (Conservation) Act, the tendency of the lessee is not to comply with the requirement of obtaining prior approval as provided u/s. 2.
- (b) Secondly, in cases of mining operation without obtaining FC, the market price of the mineral should be recovered.
- (c) The State Government should take appropriate action against the concerned officers who failed to implement and monitor the compliance of the provisions of F.C.A., conditions of EC and direction for afforestation.
- (d) To implement National Forest Policy, 1988 which provides that in the hills and in mountainous regions, the aim should be to maintain two-third of the area under such cover in order to prevent erosion and land

degradation and to ensure the stability of the fragile eco-system. Conservation of forest is must.

- (e) The diversion of forest land for non-forest purpose should be permitted after careful examination from stand point of social and environmental costs and benefits.
- (f) Degradation of environment should not be permitted to such an extent that it may cause any calamity.
- (g) Wildlife should be properly protected. If wildlife habitat is disturbed, they are likely to enter villages and cause damages. In case of elephants, it would be difficult to control.

#### **4. Environmental Clearance (EC):-**

- (a) EC conditions are required to be strictly complied with and its non implementation is health hazard which violates right to life guaranteed under Article 21 of the Constitution of India.
- (b) For the aforesaid purpose, precautionary Principle is required to be implemented.

- (c) Polluter should be directed to pay compensatory compensation.
- (d) For the aforesaid purpose, implementing and enforcing systems are required to be streamlined and if the concerned officers fail to implement, they should be held personally responsible.

**5. Rule 10 of MC(DR), 1988:–**

Rule 10 of MC(DR), 1988 is required to be properly understood. It provides for safe and scientific mining, conservation of minerals and protection of environment, therefore, there is no question of granting permission to increase the production during the period of approved mining plan.

**Date:**

**(M. B. SHAH)**  
**(Former Judge, Supreme Court of India)**

**Chairman**  
**Commission of Enquiry**  
**for**  
**Illegal Mining of Iron Ore and Manganese**