

**MEMORANDUM OF ACTION TAKEN**

**ON**

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

**OF**

**JUSTICE M.B. SHAH COMMISSION OF INQUIRY**

**MINISTRY OF MINES**

**‘MEMORANDUM OF ACTION TAKEN’ ON THE ‘FIRST REPORT ON ILLEGAL MINING OF IRON AND MANGANESE ORES IN THE STATE OF JHARKHAND’ OF JUSTICE M. B. SHAH COMMISSION OF INQUIRY**

1. The Government of India set up Shri Justice M. B. Shah Commission of Inquiry for Illegal Mining of Iron Ore and Manganese (**Commission**) vide Notification No. S.O. 2817(E) dated 22<sup>nd</sup> November, 2010, with the following terms of reference:

- (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 to 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 livelihood and other rights of tribal people, forest dwellers and other persons in the mined areas, and the financial losses caused to the Central Government and State Governments.

The Commission was also required to:

- (i) recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority,
- (ii) submit its report to the Central Government as soon as possible but not later than eighteen months from the date of its first sitting, and
- (iii) submit interim reports to the Central Government before the expiry of the said period on any of the matters specified in the notification and recommend specific steps that may be required to be taken urgently to curb the menace of such illegal mining, trade and transportation.

2. The Commission submitted its ‘First Report on illegal mining of iron and manganese ores in the State of Jharkhand’ on 14<sup>th</sup> October, 2013.

3. A ‘Memorandum of Action Taken’ on the ‘First Report on illegal mining of iron and manganese ores in the State of Jharkhand’ of the Commission has been prepared taking into account the comments received from concerned Central Ministries / Departments and Government of Jharkhand.

4. The Action Taken Report in respect of the recommendations of the Commission is given below:

**First Report on illegal mining of iron and manganese ores in the State of Jharkhand (Volume I)**

**Chapter I: Illegal mining in the State of Jharkhand**

<b>S. No.</b>	<b>Gist of Commission’s Observations/ Findings / Recommendations</b>	<b>Action Taken Report</b>
1	<p><u>Information regarding mining leases should be put on website</u></p> <p>To make mining operations more transparent, it is necessary to display the information for each lease on the departmental website of the State, which would pave the way towards proactive disclosure of information across the Government Departments. This would also be in compliance with Section 4 of the Right to Information Act, 2005.</p> <p>All conditions required under various statutory requirements / clearances / approvals including conditions imposed during the grant of FC and EC</p>	<p><b>Ministry of Mines</b></p> <p>Ministry of Mines is in the process of developing ‘Mining Tenement System’ (MTS) to e-enable processes associated with Mineral Concession Regime which, <i>inter alia</i>, will identify lease areas precisely on a web based system. Once MTS is commissioned, details about a lease will be available online in the public domain. The roll out of the MTS is expected to take about 18 months, commencing from mid-2014.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	permissions should be displayed on website. (Page 15 – 19)	
2	A policy should be introduced to reward informants who have noticed illegalities in mining operation and intimated to the Competent Authority. The name of such person is required to be kept secret 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 suggested as part of policy or rule that may be framed by the Central Government. (Page 19-23)	<b>Ministry of Mines</b> The Whistle Blowers Protection Act, 2011 (Act No. 17 of 2014) provides to establish a mechanism to receive complaints relating to disclosure on any allegation of corruption or wilful misuse of power or wilful misuse of discretion against any public servant and to inquire or cause an inquiry into such disclosure and to provide adequate safeguards against victimisation of the person making such complaint and for matters connected therewith and incidental thereto.

## Chapter II: Violation and Misuse of Rule 24A of Mineral Concession Rules, 1960

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p><b>Violation and Misuse of Rule 24A of Mineral Concession Rules, 1960 (MCR) which provided for deemed extension/ deemed refusal in past, by the lessees and concerned authorities.</b></p> <p>There is systematic failure in implementing the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act, 1957) and Rules therein. Lessees are/were permitted to continue in possession of the mining area for prolonged periods; sometimes running in decades, without deciding renewal application under the guise of deemed extension, over-looking the provisions of Section 4 of the MMDR Act, 1957. Also, leases were/are not determined, though a clear violation of provisions of deemed refusal prevailing before 27.09.1994 under Rule 24A of MCR, 1960 instead allowed mining illegally with a huge loss to the State. Lack of decision on renewal application for years together led to all mal-practices because <b>unusual delay breeds unusual corruption.</b></p> <p>Due to non-execution of the lease deed, the State Government suffers loss of stamp duty payable at the time of execution of the lease deed and also its registration charges in hundreds of crores.</p> <p>Further, the terms and conditions which are required to be incorporated and complied with by the lessee would not be available for enforcement. This led to illegal mining or in some cases, lessee encroached upon adjoining forest / Government land.</p> <p>Lessees continuing in possession of the mines on the ground of deemed extension of lease period for years together. The lists thereof are as under:–</p> <p>(i) Out of 42 leases for which the State Government has submitted the records, 40 leases of iron ore and/or manganese (<b>Annexure I: page 45-59, Vol. I</b>) are running under deemed extension under Rule 24A of MCR, 1960 (even in cases of some leases which should have stood terminated because of deemed refusal), that is to say, approx. 95% of leases are running by taking undue advantage of the said Rule. Many of (24 numbers) them were ineligible under the law because there were no subsisting valid leases on 27.09.1994.</p>	<p><b>Government of Jharkhand</b> The State Government will examine the matter and necessary action will be taken under the then Rule 24A(3) and 24A(5) of Mineral Concession Rules, 1960 (<b>MCR 1960</b>). Demand will be raised under Section 21(5) of the MMDR Act, 1957 after following due process of law. Notice is being issued for hearing under Rule 26(1) of MCR, 1960 for disposal of pending renewal applications.</p> <p><b>Ministry of Mines</b> Rule 24A(6) of the Mineral Concession Rules, 1960 is being amended to provide that if an application for renewal of a mining lease made within the time prescribed in the statute is not disposed of by the State Government before the date of expiry of lease, the period of that lease shall be deemed to have been extended by a further period of 2 years or till the State Government passes order thereon, whichever is earlier, with prospective effect.</p> <p>Approvals under the MMDR Act, 1957 does not absolve leaseholders from compliance of prescribed statutory provisions in force.</p>

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	<p>(ii) It is apparent that Rule 24A of the MCR, 1960 which provides for deemed extension and deemed refusal (prior to 27.09.1994) is widely misused in the country as a whole and in the State of Jharkhand in particular. It is observed that deemed extension is one of the reasons which has contributed maximum to illegal mining of iron ore and corruption in the State and country.</p> <p>(iii) <b>Notwithstanding the applicability of deemed refusal provisions of Rule 24A(5), there are 40 leases running under deemed extension, and there are 03 leases</b> where renewal application was rejected by the State Government. In some of the cases, revision application under Rule 54 of the MCR, 1960 was filed by the lessee. Therefore, it is apparent that for the reasons best known to the concerned authorities, the applications for renewal were/ are not dealt with and decided within the prescribed time or in any case, within reasonable time.</p> <p>Further, the facts stated above would reveal that for years together, the lessees are illegally operating mines on the basis of deemed extension without executing lease deed, without obtaining the Environmental Clearances under EIA Notification dated 27.01.1994 and diversion of forest land under F.C. Act, 1980. This is considered as a flagrant violation of the law.</p> <p>Unreasonable delay has resulted into widespread corruption that too, when minerals were exported at high-price during the China Boom. This is proved beyond doubt that about <b>18 mining leases</b> were allowed to continue without having statutory clearances under Environmental Impact Assessment Notification 1994, F.C. Act, 1980 and so on. Even in 24 cases, most of the lessees have taken EC, after long delay (42 – 24 = 18). The deemed extension provisions have been facilitated by the concerned officers, persons in public life, lessees and other concerned authorities together to earn ill-gotten money with no restriction. (Page 24-30)</p>	<p><b>Ministry of Environment, Forests and Climate Change</b> Vide notification dated 27.1.1994, issued under the Environment (Protection) Act, 1986 [E(P) Act], it was made mandatory that the projects/activities stated in the Schedule to the Notification could be undertaken only after obtaining the environment clearance (EC) as per the procedure prescribed in the Notification.</p> <p>Any violation of the provisions of this Notification would result in initiation of appropriate legal action under the provisions of E(P) Act.</p>
2	<p><b>There seems to be intentional violation of the then sub-rules (1) &amp; (3) of Rule 24 and Rule 24A(5) of MCR, 1960 in the State having not issued appropriate renewal of lease grant order under the MM(DR) Act, 1957 by the concerned authorities but allowed the lessees to operate the mines without having lawful authority.</b></p> <p>The Commission has requested the State Government to submit a list of the mining leases of which lease period expired before 27.09.1994 and came under deemed refusal provision of Rule 24A of the MCR, 1960. In response to that, the State Government has submitted a list of 24 leases under this category:</p> <p><u>(A) Leases under Deemed Refusal of the then Rule 24A(5) or 24(3) of the MCR, 1960:</u></p> <p>Out of these <b>24 leases</b>, there are <b>22 leases</b> of which period of lease expired prior to 07.01.1993. In case of 02 leases, period expired after 06.01.1993 but before 27.09.1994. For all these leases, date of termination or lease ceased to exist, are shown in <b>Column No.4 of Annexure: II (page 60-69, Vol. I)</b>. No authority including Central Government and State Government did have the power to condone or extend the period without proper grant of the lease within time provided under relevant Rule prevailing at that time.</p>	<p><b>Government of Jharkhand</b> Same as reply to S. No. 1 above</p> <p><b>Ministry of Mines</b> Revision petitions were filed by the lessees on account of being aggrieved due to deemed refusal of renewal applications as per the then provisions of MCR 1960, revisionary authorities concerned passed the orders by exercising powers of revision under section 30 of the MMDR Act, 1957.</p> <p>The Central Government by virtue of power of revision under section 30 of the MMDR Act, 1957 may revise the orders passed by State Governments. Such powers are exercised by the Central Government as a quasi-judicial authority and such orders are</p>

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	<p><u>(B) Deemed extension rule would be applicable for the leases, subsisting as on 27.09.1994:</u></p> <p><b>It is to state that the deemed extension under Rule 24A(6) can only be applicable for those leases which are subsisting and having valid lease period on that date i.e. as on 27.09.1994, the date of enforcement of this sub-rule. All the leases shall be treated as void and of no effect under Section 19 of the MM(DR) Act, 1957. Hence, the present, all the 24 leases have been completely running illegally from the date of termination, as shown in Column: 4 of Annexure: II. The State Government had taken action in some leases like Vijay Iron Ore Mine of Sri T. P. Sau. But no action is taken in the remaining leases for which there is no explanation. Consequential action should be taken to recover the losses, including other actions arises in such leases.</b></p> <p>Production done after the date of termination by all these leases is illegal/ unlawful. Mineral value at the then market rate with appropriate penalty should be recovered for unlawful production from the lessees under Section 21(5) of the MM(DR) Act, 1957. Details of lease-wise unlawful production are enclosed herewith as <b>Annexure: II/A (page 70-84, Vol. I).</b></p> <p><u>(C) On perusal of the said 24 cases, it is observed as follows:</u></p> <p>In some cases, the Central Government has conveyed approval for renewal after a long gap of lease period under the MM(DR) Act, 1957. But for such leases, under the law, the leases legally ceased to exist and came within the purview of Section 19 of the MM(DR) Act, 1957. Hence, these delayed approvals were not within the stipulated period and were in violation of the then provisions of Rule 24A of the MCR, 1960. It is to state here that the Central Government too does not have any authority, power and competence to issue such approval orders against the then existing provisions of Rule 24A.</p> <p>There are some cases wherein no order of any kind is issued by the Central/State Government, but allowed to continue to operate the leases which are patently illegal.</p> <p>Further, appeals were filed by some lessees under Rule 54 of MCR, 1960. The Central Government cannot grant a relief which is not permitted in the Acts or Rules prevailing at that point of time i.e. to say it should not have condoned the delay beyond the prescribed time under Rule 24A(4), (5) and (6) of MCR, 1960, as it stood then. (Page 31-37)</p>	<p>subject to judicial review by High Courts under Article 226/227 of the Constitution of India. If any directions given under section 30 of the Act were not challenged, it cannot be said at this stage that the directions were unlawful as they were opened for judicial scrutiny by the concerned High Court.</p>
3	<p>It is to be stated that the provisions of Rule 24A of the MCR, 1960 has been grossly misused for both; provisions of deemed refusal and deemed extension. <b>For that, appropriate action should be taken against the concerned authorities for misuse of the law for extending undue favour to the lessees and loss to the State.</b></p> <p>Secondly, the concerned officers who have not dealt with the application within stipulated time, should also be held personally responsible for their lapses and appropriate action should be taken under the Rules. Pushing of file from one table to another should not be considered as the sufficient ground for their default.</p> <p>In all such cases where the leases came under the deemed refusal</p>	

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	provisions, the State Government should have taken action as per the then existing law i.e. to notify the leases under the relevant law to re-grant in a transparent manner. <b>Hence, it is recommended that the State Government should take action as per the then provisions of Rule 24A of MCR, 1960 in its letter and spirit in all 40 cases (Annexure: I) which have been submitted by State Government. (Page 39-40, 44)</b>	
4	<b>Out of 8,897.84 ha. of leased area for 24 leases; 7,652.08 ha. area is forest land. So, it is recommended that instead of granting fresh leases in the Saranda forest, these all leases should be terminated by following due process of law and then granted by public auction or otherwise whichever is applicable within law, after notifying under Rule 59 of the MCR, 1960 so that there may not be further depletion of the Saranda Reserve Forest which is also a part of notified Elephant Reserve and proposed Conservation Reserve by the Expert Committee (notified on 27.08.2011). (Page 40)</b>	<b>Government of Jharkhand</b> The matter is being examined and necessary action will be taken as per provisions of law.
5	It is recommended that Sub-Rule (1) of Rule 24A could be amended to the extent that – (i) the renewal application in Form J should be submitted twenty four months before the date on which the lease is due to expire; and (ii) the renewal application shall be disposed of in any case within one year after the date of expiry of lease for the first and second renewals and two years for the third and subsequent renewals if at all, it is required to be granted. (Amendment of Rule 24A(6), accordingly). If renewal application is not decided within the stipulated time, it should be deemed to have been refused.  In any case, if the procedure as suggested by this Commission, is not acceptable or not workable, then a default clause should be included, providing that if the renewal application is not decided, as stated in <b>Para: 3</b> , the application would stand rejected. (Page 42, 44)	<b>Ministry of Mines</b> Rule 24A(1) of MCR 1960 is being amended to provide that applications for renewal of a mining lease shall be made to the State Government at least twenty four months before the date of expiry of the lease, to bring it in conformity with similar provisions for Forest Clearance.  Rule 24A(6) of the Mineral Concession Rules, 1960 is also being amended, with prospective effect, to provide that if an application for renewal of a mining lease made within the time prescribed in the statute is not disposed of by the State Government before the date of expiry of lease, the period of that lease shall be deemed to have been extended by a further period of 2 years or till the State Government passes order thereon, whichever is earlier.
6	The procedure for granting the lease/ renewal of lease requires to be streamlined and should be made transparent so as to avoid delay in disposal of the application. For this purpose, procedure can be evolved by amending the Rules, if required and such applications should be decided by a Committee headed by Additional Chief Secretary of the State and Secretaries of concerned Departments as members of the Committee. For grant of lease / renewal of lease, a Committee consisting of one person from each Department, as stated below, may be constituted. (i) Principal Secretary of the Mines Department; (ii) Principal Secretary of the Revenue Department; (iii) Principal Secretary of the Forest Department; and	<b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	(iv) Principal Secretary of the Environment Department.  <b>If the application is decided by the Committee, as stated above, it would avoid allegation of corruption to a large extent.</b> (Page 43)	
7	The State Government should be given liberty to withdraw the lease granted after completion of first lease period and not to grant renewal in the interest of the State. Accordingly, Rule 24A may be modified. (Page 44)	<b>Ministry of Mines</b> Provision of Rule 26(1) of Mineral Concession Rules, 1960 empowers State Governments to refuse grant or renewal of a mining lease, therefore, there is no need to amend Rule 24A of MCR, 1960.

### Chapter III: Misuse of Rules: 10 and 12 of Mineral Conservation & Development Rules, 1988

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p><b>Rule 10 of MCDR, 1988:</b> <b>Conditions prescribed for modification of approved mining plan under Rule 10 of MCDR, 1988 are not observed.</b></p> <p>It is observed here that contrary to the said provisions of MCDR, in almost all States, including State of Jharkhand, the Regional Controller of IBM has approved the mining plans for increased extraction of iron ore without having reference from Controller General. Such unscientific and illogical modifications for steep increase in production for commercial purpose by Regional Controller are in utter violation of the said Rule and are against the interest of the scientific mining, <b>conservation of minerals and protection of environment at large.</b> (Page 93-94)</p> <p><b>Modification of approved mining plan:—</b> No reasons are assigned for modification of the approved mining plans. Further, all the modifications are not on need basis but on greed basis.</p> <p>This Commission has observed and found that IBM has approved mining schemes to <b>increase production</b> (ignoring the fundamental of the MCDR, 1988 and ground realities) during the mining plan period without application of mind to the ingredients of Rule 10 of MCDR, 1988, objectives of National Mineral Policies, 1993 and 2008.</p> <p>For modification of mining plan, conditions mentioned in the Rule are required to be satisfied. This has been totally ignored and created multifold environmental hazards to the Saranda Forest. The conditions have become more aggravated, since the mines are located in clusters and transport through common roads used by them. The roads cannot sustain this load and remain always dilapidated conditions beyond repair, as observed by the Commission during its visit. (Page 105-106)</p> <p><b>Lists of Modification and Review of Mining Plan:—</b> Regional Controller, Jharkhand region submitted information regarding life of the various mines in the State. As per the said</p>	<p><b>Ministry of Mines</b> As per National Mineral Policy, 2008, conservation of minerals shall be construed not in the restrictive sense of abstinence from consumption or preservation for use in the distant future but as a positive concept leading to augmentation of reserve base through improvement in mining methods, beneficiation and utilisation of low grade ore / rejects and recovery of associated minerals. Rule 10(1) of MCDR, 1988 does not restrict an increase in the production in modified Mining Plan/Scheme of Mining which is approved on the basis of reserves available vis-à-vis mineral development and consideration of environmental aspects. Considering the dynamic nature of mining operations, Rule 22(6) of MCR, 1960, Rule 9(2) and Rule 10(1) of MCDR, 1988 have provisions to enable modification of mining plans to ensure that a miner extracts complete grade of ore including lower grade and sub-grade ore as they occur.</p> <p>Mining plan is for the entire lease period. It includes a tentative scheme of mining and</p>

<p>information, there are <b>23 mines</b> which are alarming as under:–</p> <p><b>Sr. No. Leases Expected life</b></p> <ol style="list-style-type: none"> <li>05 within 10 years</li> <li>14 between 11 and 30 years</li> <li>04 between 31 and 44 years</li> </ol> <p>(A) List of 21 mining leases of iron, iron ore – manganese ore for which mining plan/ scheme was modified by IBM under Rule 10/12 of MCDR, 1988 is enclosed herewith as <b>Table: 1 (Page 127-130, Vol. I).</b></p> <p>(B) Out of the above 21 mining leases, in case of 06 mining leases, mining plans/ schemes were modified twice (without having justification in conformity of Rules) under Rule 10/12 of the MCDR, 1988 and the list thereof is enclosed herewith as <b>Table: 2 (Page 131-133, Vol. I).</b></p> <p>(C) Out of the above 21 mining leases as shown in <b>Table: 1</b>, in case of 08 mining leases, mining plans/schemes for increase in production were modified by the IBM Authority with retrospective effect. This would mean that without prior approval, the lessees have increased the production. To rectify the same with retrospective effect is blatant misuse of power, authority and law. This is totally unjustified and action should be initiated against the Regional Controllers/ Controllers. List of the said 08 leases for which mining plans were approved with retrospective effect with the name of the approving authority is enclosed herewith as <b>Table: 3 (Page 134-138, Vol. I).</b></p> <p>(D) List of 24 leases where mining plans/ schemes for increase of production are granted by IBM and approved by MoEF in violation of Rule: 10/12 of MCDR, 1988, is enclosed herewith as <b>Table: 4 (Page 139-151, Vol. I)</b> (this list excludes leases where there is no increase of production since the year 2000 onwards). As per the said list, it is observed that production limit for 24 leases were increased from 5.6112 million tones to 60.87589 million tones during the period. <b>A thorough enquiry in this regard should be conducted by an independent agency.</b></p> <p>(E) Out of above 24 leases as shown in Table: 4, in case of 04 leases, production limit increased from 10.65 million tones to 22.052 million tones in mining plan/ scheme i.e. more than double and the list thereof is enclosed herewith as Table: 5 (Page 152-153, Vol. I).</p> <p>(F) Further, in 34 leases, permitted production of iron ore for which mining plans/schemes are approved so far in the State of Jharkhand would be approximately 73.26 MT. The list thereof is enclosed herewith as Table: 6 (Page 154-161, Vol. I). However, out of the said 34 leases, production limit in 24 leases was increased from 5.6112 million tones to 60.87589 million tones (Table: 4) and in the remaining 13 leases, no such permission is granted by MoEF for increase of production.</p> <p>(G) The permission granted so far for extraction of 73.26 million tones by IBM, if taken into consideration and achieved, then the reserve would last only for 42 years i.e. <math>[(3,465.676 \text{ MT} - 375.794 \text{ MT}) \div 73.26 \text{ MT}] = 42.17 \text{ years}</math> in the State for good quality ore.</p> <p>(H) The details regarding percentage-wise increase in production limit (EC) which is granted by MoEF for extraction of iron ore in 24 leases,</p>	<p>annual excavation plan for five years periods. At the end of each five year period, the Mining Scheme is subject to fresh approval. At the start of mining activity a tentative scheme of mining is conceptualized based on preliminary information on geology and reserves. Laying the limits for annual production for the entire life span of a mine, which is generally 20- 30 years, at the time of approval of first mining plan, is not practicable for the following reasons:</p> <ol style="list-style-type: none"> <li>Complete information on geology and reserves is not available;</li> <li>The mining rights encompass the area from the surface to the core of earth for which advance geological information is not available, and anticipated depth of mine changes depending upon many technical factors; and</li> <li>Change in the method of mining from manual to mechanized;</li> </ol> <p>IBM, while communicating the approval for mining plan, including modification in mining plan, mentions that the approval is without pre-judice to any other law applicable to the mine area from time to time whether made by the Central Government, State Government or any other authority.</p> <p>Approval of mining plan does not absolve the lessee from obtaining approvals from and complying with provisions of other Acts and Rules.</p> <p>The Ministry of Mines directed IBM, vide letter no.16/12/2009-M.VI dated 29.10.2010, to ensure that the approvals of modification of mining plans for increase in production shall be with prospective effect only.</p> <p>The Ministry of Mines vide</p>
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<p>are given in Table: 7 (Page 162-174, Vol. I). However, it is surprise to note that percentage-wise increase in production limit varies from 20% to 2666%, as mentioned in the said Table.</p> <p>From this, it is apparent that by increasing the production, all the three objectives laid down in Rule 10 of MCDR, 1988 are defeated.</p> <p>Therefore, it is pertinent to note here that:—</p> <p>(i) Nobody has thought for conservation of iron ore which is necessary for all the times to come, at least, for future generations.</p> <p>(ii) Secondly, nobody has assessed impact on environment from increased production. Thus, the concerned authorities have totally failed in discharging their duties.</p> <p>(iii) Concept of scientific mining is totally ignored.</p> <p>(iv) In any case, modification of mining plan could have been approved only by Controller General.</p> <p>(I) It would be worthwhile to reproduce the statement submitted by Regional Controller, Jharkhand region, stating the life of the various mines in the State of Jharkhand. The list reveals the life of 23 mines out of 34 mines (<b>Table: 6</b>) as stated in the <b>Table: 8 (Page 175-180, Vol. I)</b> annexed herewith, is alarming as under:—</p> <p>(i) 05 leases would be exhausted within 10 years;</p> <p>(ii) 14 leases would be exhausted between 11 and 30 years; and</p> <p>(iii) 04 leases would be exhausted between 31 and 44 years.</p> <p><b>Considering the aforesaid position and mining operation in dense Saranda Forest which is admittedly having wildlife and is one of finest elephant habitats, would be destroyed without getting further benefit of iron ore. As such, in the aforesaid area, Sal trees and associates which were existing, are already destroyed and which has affected the environment. Hence, capping of production in each mine is must and action should be taken by respective authorities.</b></p> <p>(J) As against this, the life of mines would be much more in many cases, if the limit of production was restricted to the previously granted permission or permission granted judiciously.</p> <p>(K) It is further observed that within five years' span from the year 2005–06 to 2011–12, modification/review has been done in all 21 leases. These are exemplary cases of misuse of power for extending undue favour.</p> <p>On perusal of some of the said details, it has been noticed that in certain mining leases, modification/review has been done with retrospective effect to cover up lakhs of MT excess production done by the lessees in violation of the provisions of Section 21(5) of the MM(DR) Act, 1957 and the MCDR, 1988. The modification with retrospective effect has been done in many cases, while the leases were in deemed extension without having statutory approvals i.e. EC and/or FC. Hence, it amounts to serious misuse of Rule 24A(6) of MCR, 1960.</p> <p>It has also been noted here that in mining lease of retrospective annual production approved by IBM, even there was no environmental clearance under the Environment (Protection) Act, 1986 (EIA</p>	<p>letter No. 10/29/2012-M.V dated 19.09.2012 has directed IBM to setup a Consultative State level Mining Plan Committee in each region, comprising representatives of the State Directorate of Mining and Geology, Pollution Control Board, and Environment Department. The directions are in the process of being implemented.</p> <p>The Ministry has also directed the IBM to inquire and fix responsibility for failure on any part of any officers / officials of IBM in this regard.</p> <p>The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b></p> <p>Vide notification dated 27.1.1994, issued under the Environment (Protection) Act, 1986 [E(P) Act], it was made mandatory that the projects/activities stated in the Schedule to the Notification could be undertaken only after obtaining the environment clearance (EC) as per the procedure prescribed in the Notification.</p> <p>Any violation of the provisions of this Notification would result in initiation of appropriate legal action under the provisions of E(P) Act.</p> <p>Ministry of Environment, Forests and Climate Change (<b>MoEFCC</b>) is formulating parameters to identify, in objective and transparent manner, inviolate areas which shall not be diverted for mining projects. Once these parameters are finalized, inviolate forest areas will be identified. To ensure long term conservation of inviolate areas, they will be</p>
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<p>Notifications, 1994 &amp; 2006 and other modifications). It would be in the right context to state here that the excess production has been post-facto rectified by the IBM officials, when the illegal mining in the State was touching to the peak. This post-facto approval is also an act of ratification of the illegalities committed by the lessees in violation of Section 21(5) of the MM(DR) Act, 1957. Such types of retrospective approvals have aggravated the illegal mining which was rampant during that period.</p> <p>The aforesaid 21 cases are glaring examples wherein Rules 10 and 12 of the MCDR, 1988 have been misused to a great extent. Therefore, immediate action should be taken against the concerned officers who have approved such modification/review. Further, action should also be taken for the recovery of market value of excess iron ore covered under retrospective effect with exemplary penalty.</p> <p>There may be many more such examples of this kind and the Secretary, Ministry of Mines should examine all such other cases and take necessary action, as suggested in this Chapter. The State Government should also find out from their records and submit the same to the Secretary (Mines), Government of India for further needful.</p> <p>(L) The details submitted by the Department of Mines, Jharkhand Government, the Indian Bureau of Mines (IBM) and others regarding iron ore production beyond the statutory approvals or without having approvals, it is seen that the State Government in the Department of Mines and IBM, Government of India have completely failed to check the mining operations required to be undertaken by the lessees in a scientific, sustainable and environmental sustainable manner.</p> <p><b>Contrary to this, it is observed that IBM has given approval in many cases post-facto and against the norms of Rule 10/12 of the MCDR, 1988 thereby covering illegalities committed by the lessees in the past. Some of the examples are given in the aforesaid Table: 3.</b></p> <p>With these observations, it has cast a serious repercussion that the governing/ controlling authorities were in the mode of compromising with the lessees, rather having to take detrimental action to curb illegalities. Such type of post-facto approvals have encouraged illegalities in mining in the State at large and have caused serious damages to the sustainable extraction of minerals and environment of the area. With such irregularities and illegalities, the lessees have taken undue advantage in the era of low rate royalty payment and the super phenomenal benefits or windfall profits to the lessees and no substantial return to the Government exchequer/ society/consumers.</p> <p>During the examination of files of Departments of Forest, Mines and IBM together, it is noticed that the mining plans have been approved irrespective of the area granted under the Forest (Conservation) Act, 1980. There is no relation between the mining plan approved by IBM and the land available in the mining leases with the lessees, since the entire land is not diverted for having mining activities. This has resulted into violation of mining plans. However, no action has been taken by the lessees or by the IBM to recast the mining plan based on the land available in the leased area with the lessee (if the land is a forest land or a part of the forest).</p> <p>Therefore, IBM should take immediate step to modify all the mining</p>	<p>notified as Conservation Reserve/ Corridors or Ecologically Sensitive Areas in accordance with the provisions of the Wild Life (Protection) Act, 1972 and the Environment (Protection) 1986 respectively.</p> <p>MoEFCC will commission a study to assess carrying capacity of Saranda Forests to suggest annual cap (for ore production) and till then the MoEFCC will not accept any new proposal for grant of approval under the FC Act for diversion of forest land for mining in Saranda Forest.</p>
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	<p>plans in this respect and till this exercise is completed, mining should not be allowed in such leases. Further, action should also be taken for omission, commission and misconduct on the part of the officers in IBM. (Page 106-117)</p> <p><b>There is no provision as such under the Rule 10 of MCDR, 1988 or in any other law for modification exclusively to increase the production for purely commercial gain by ignoring the drastic impact of it on mineral reserve, environment, conservation and others.</b></p> <p><b>The aspect of Constitutional provisions namely, Directive Principles, Article 48 and 51A(g) is not at all taken into consideration by the concerned Departments.</b> (Page 117)</p>	
2	<p>Before modifying mining plan, it is apparent that there is total non-application of mind to the basic requirements and limited purpose of Rule 10 of the MCDR, 1988. From this, it can be inferred that it is an abuse of power for some ulterior purpose by concerned IBM and MoEF officers. They are solely responsible for such sorry affairs of illegal, irregular, unscientific and unsustainable mining in the State. They have acted in a negligent and casual manner. (Page 118)</p>	
3	<p>For having increased production, additional revised EC permissions have been delayed in almost all cases. But the mining continued without obtaining approval for enhanced production. The IBM, State Mining Department, MoEF and Jharkhand State Pollution Control Board (JSPCB) have been completely failed in this regard. The unilateral phenomenal enhancement of production by way of modifications of mining schemes/plans has encouraged corrupt practices, proxy mining and created unmanageable situations.</p> <p>Further, before modifications for enhancement of production, the concerned authorities should have considered the infrastructure with Mines, Forest and Environment Departments, their capacities of handling the ground realities, road conditions, maintenance of roads and other infrastructures. It is noted here that more than <b>34 mines</b> are located in 2 clusters. Simultaneous increase of production for all such leases has created unmanageable situations in Saranda Forest. (Page 118-119)</p>	
4	<p>As 34 mines are located in 2 clusters, for recovering exact royalty payable by the lessee, it can be recovered by installing automatic weighing bridges with a specific direction that no mineral should be allowed to be transported without getting it being record by weighing bridges. All the weighing machines should be linked with the Central Server at the office of the DMG called verification and control. Such devices are installed in the States of Karnataka and Orissa. This would help in controlling illegal mining and reduce rampant corruption. (Page 119)</p>	<p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p>
5	<p>In any case, the authorization given for approval of modification in mining plan to Controller General/ Regional Controllers is required to be withdrawn immediately and the said powers should be given to a Committee with a suitable modification of Rule 10 of MCDR, 1988. A committee should be constituted under the chairmanship of Controller</p>	<p><b>Ministry of Mines</b> Mining Plan being a dynamic document requires a periodical review every five years as per Rule 12 of MCDR 1988 and</p>

	<p>General and with members as,</p> <ul style="list-style-type: none"> <li>(i) Director of Mines of the State concerned;</li> <li>(ii) Director (Environment) in MoEF;</li> <li>(iii) Chief Conservator of Forest / Additional Principal Chief Conservator of jurisdictional Regional Office; and</li> <li>(iv) Two experts in the field with known integrity.</li> </ul> <p>Modification in the mining plan should be in accordance with provisions of Rule 10 which shall be approved by the Committee. The Committee should keep in mind the observations made in this Chapter. (Page 119-120)</p>	<p>may require modifications in terms of the provisions of Rule 9 and Rule 10 of MCDR 1988. To constitute a single Committee under the Chairmanship of Controller General as suggested by the Commission for granting approvals for modification of mining plan will not be convenient and administratively feasible as the leases are located through-out the country.</p> <p>Ministry of Mines vide letter No. 10/29/2012-M.V dated 19.09.2012 has directed IBM to setup a Consultative State level Mining Plan Committee in each region, comprising representatives of the State Directorate of Mining and Geology, Pollution Control Board, and Environment Department. The directions are in the process of being implemented.</p>
6	<p><b>Law on the subject:—</b></p> <p>Contrary to the principle of Public Trust Doctrine, commercial interest of a few handful lease holders to earn more windfall profits at the cost of society, ecosystem, tribals and natural resources has been encouraged which have had adverse impact on forest, environment and social fabrics of the State and the Country.</p> <p>There should be balance between preservation and utilization that would indeed be a matter for an expert body to examine and on the basis of appropriate advice, Government should take a policy decision and firmly implement the same. In addition, there should not be any depletion of water resources. <b>Therefore, long-term planning must be undertaken to keep up the national wealth. It has always to be remembered that these are permanent assets of mankind and are not intended to be exhausted in one generation.</b></p> <p>On the principle of sustainable development, <b>no mining activity can be carried out without remedial measures taking place. For this purpose, it is necessary that environment impact assessment is done and the applications dealt with before any mining activity can be permitted. But contrary to this, the mining plans were modified to increase the production manifolds not for the need but for the greed. For this purpose, the EC approved by the MoEF should be referred (Table: 5). The MoEF approved the EC blindly on the increased production approved by IBM.</b></p> <p><b>Effects on Environment on Saranda Forest:—</b></p> <p>It is accepted principle of inter-generational equity that present generation has a solemn responsibility to protect and improve the environment for the present and future generations. For this, present generation must safeguard the natural resources of the earth through careful planning and to undertake to pass on to the future generations'</p>	<p><b>Ministry of Mines</b></p> <p>Conservation of minerals for intergenerational equity was examined by the High Level Committee (Hoda Committee), which concluded that Indian resources and reserves of iron ore, which have been made compatible with the international UNFC classification, have not been static and have been increasing over the years. With the advent of new technologies including satellite imagery, aero-magnetic data techniques, and modern core-drilling methodology, and the beneficiation potential of low grade ores, resources are likely to get augmented further.</p> <p>It is incorrect to equate conservation with preservation. Preservation of minerals may be resorted to only in the case of strategic or scarce minerals, no such measures of preservation are required with respect to iron and manganese ore in India at the present.</p>

<p>environment as intact as the one, it inherited from the past generation.</p> <p>In the State of Jharkhand, most of the mines are in the Saranda forest area which is the finest elephant habitat and part of Notified Elephant Reserve and also in highly eco- sensitive, as regards bio-diversity. Most of the mines are very close to the rivers (i.e. Koena and others) or natural streams and in many of the cases; streams are either passing through or quite close by the leased area and catchments area. The sudden increase in production would increase the effective area under mining and result into drying of these streams, degradation of environment, loss of micro bio-diversity of these streams, adverse effect on all roads, agriculture, horticulture, ground water table level, pollution of air and water and eco-system as a whole.</p> <p>Modifications of mining plans to increase production without knowing the real effect on a self contained Saranda ecosystem has raised many questions on environment of the area. It may leave on a permanent impact which would be difficult to rejuvenate the climatic climax natural forest. (Page 94, 96-97)</p> <p><b>National Mineral Policy, 1993 and 2008:—</b> All the objectives of the National Mineral Policy, 1993 have been ignored and have not been taken into consideration in the State of Jharkhand for increase of production while modifying and/or reviewing the mining plans. A total <b>22.44 MMT</b> increase of production in all mines during the year <b>2010-11</b> from <b>12.42 MMT</b> in the year <b>2000-01</b>, in no way, is conformity to the said objectives.</p> <p>As per the Policy, the regulation of mines and minerals in accordance with national goals and priorities is the responsibility of the Central and State Governments together. But in the present scenario of modification and review of mining plans for increasing the production, the State Government has not been consulted.</p> <p>Moreover, it is noted here that the aforesaid policy is totally ignored by the concerned authority. It appears that the concerned officers are not well aware about the aforesaid policy &amp; misinterpreted to overcome the mistakes committed by them.</p> <p>Where mining plans are modified and reviewed to increase the production, it is found increase in manifolds and unjustified. It is further noted that increased production is mainly for export purpose, since it is much more than the domestic requirement. <b>For example, in the case of M/s. Usha Martin Ltd., the production was increased by IBM as well as MoEF from 6,50,000 MT to 40,00,000 MT without going its requirement for its captive plants which may not require even 1.00 Million Ton.</b></p> <p>National Mineral Policy, 2008 is almost the same to the Policy, 1993. However, in the background of the aforesaid Policy, the provisions of MCR, 1960 and MCDR, 1988, the increase in production through modifications and review of mining plans has to be examined in the context of requirement of iron ore for domestic purpose and availability of iron ore reserve in the country and preservation for future generation particularly for Jharkhand. (Page 97-99)</p> <p><b>Proposed Model State Mineral Policy, 2010 (Copy thereof is provided by the Ministry of Mines, Central Government):—</b> The National Mineral Policies, 1993 and 2008 have been flouted by Controller, administrative, implementing and executive machinery of</p>	<p>Fixing a cap on the production of iron ore, solely on the basis of the reserves and resources identified at this point in time, will not be in the interests of the country. However, the protection of the environment and compliance with environmental laws and rules &amp; regulations made thereunder are taken into account.</p>
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	<p>IBM, MoEF.</p> <p>The indiscriminate modifications and reviews only for increase of production has brought the situations otherwise. Though such policies are framed and about to frame, there is no efforts made by Ministry to look into the affairs of IBM.</p> <p><b>The aforesaid Mining Policy is also ignored by the authorities who modified the mining plans and increase the production limit.</b> (Page 99-100)</p> <p><b>Iron and Steel Vision, 2020:—</b> <b>In the view of the Commission, if the industries as mentioned in the Indian Bureau of Mines’ ‘Iron and Steel Vision, 2020’ are to be established for ultra mega steel projects, then preservation and conservation of iron ore is must.</b> (Page 100-101)</p> <p><b>Preservation of iron ore:—</b> The iron ore reserve and resource is estimated about <b>4,596.621 Million Tons (2,304.142 Million Tons Iron Ore Reserve and 2,292.479 Million Tons Iron Ore Resources)</b>. Almost all these iron ore reserves of Jharkhand State are in the dense reserve forest (including Saranda Reserve Forest and Elephant Corridor). There are <b>42 leases</b> of iron and/or manganese ore which are granted by the State Government covering an area of 11,524 ha. As per the State Government’s Report, 34 mining leases are <b>operating</b> and 08 mining leases are <b>non-operating</b>. Estimated Iron Ore Reserve of <b>34 mining leases</b> is <b>3,465.676 Million Tonnes</b>. From the report of Department of Mines &amp; Geology, State of Jharkhand since the year <b>1993–94</b> onwards upto <b>2012–13</b>, the official production is quantified about <b>375.794 Million Tons</b>. By deducting the quantity of iron ore already produced and removed, the reserve remains in the State would be around <b>3,089.882 Million Tons</b> of +55 grade and above. (<b>i.e. 3,465.676 – 375.794 MT = 3,089.882 MT</b>).</p> <p>The MoEF, Government of India has approved Environmental Clearance (EC) for <b>24 leases</b> in the State for a total annual production of <b>60.87589 Million Tons</b>. Further, in <b>34 leases</b>, permitted production of iron ore for which mining plans / schemes are approved so far in the State of Jharkhand is concerned, if EC would be subsequently granted for all the <b>34 mining leases</b>, then production limit would reach upto <b>73.26 MT</b>. Taking this into consideration, if production is made at targeted quantity, iron ore would last only for less than <b>42 years (i.e. 3,089.882 MT / 73.26 MT = 42.17 years)</b> in the State which is a very alarming situation.</p> <p><b>Hence, in real terms, in the most of the working mines, the quality (+55 grades) iron ore is likely to disappear from the State of Jharkhand much earlier as predicted.</b></p> <p>No independent authority or Government authority has made the estimate for proven reserve in the State. All the data are provided by the lessees who are the interested parties and standing in queue for maximum windfall profits irrespective of consequences of such adverse effects.</p> <p>The Ministry of Mines has not taken optimal services of the Geological Survey of India. All the resources shall be estimated by the GSI. Also, the projected ore resources by the lessee should be verified by GSI before modification of any mining plan for increased production subject to the observations made herein.</p>	
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	<p>The irrational modifications and reviews of mining plan since 2001 onwards is one of the factors for fast depletion of iron ore reserve from the State. What it has not happened in last 50 years (1950 to 2000) has happened in past 12 years (2001 to 2011) and more so, since 2005 to 2011.</p> <p>Further, the objectives of Rule 10 of MCDR, 1988 are for:</p> <ul style="list-style-type: none"> <li>(a) the conservation of minerals,</li> <li>(b) safe and scientific mining, and</li> <li>(c) protection of environment.</li> </ul> <p>This would not permit increase in the extraction of iron ore without any basis. Contrary to this, the Regional Controllers of IBM at Jharkhand have increased the production irrationally by completely ignoring the above three objectives by bypassing the Controller General. Therefore, penal actions should be initiated against them. (Page 101-105)</p> <p>Further, for preserving national non-renewable, finite mineral resources for future generation, it is recommended to bring down the consent for production to the level equivalent to domestic consumption with the increase of 7.5% per annum or equivalent to the growth of Steel and Sponge iron industry's requirement.</p> <p>Presently, taking into consideration, overall view, capping of production can reasonably be fixed by assessing the domestic requirements, environmental conditions, wild life of the area, rivers and others. (Page 120)</p> <p>An exercise, as directed by Hon'ble Supreme Court of India, in case of <b>Government of A.P. &amp; others v/s. Oblapuram Mining Co. Pvt. Ltd. &amp; others, [2012 (4) Scale 402]</b>, is required to be carried out for Jharkhand State, too. The Central Government and State Government should sit together and complete the exercise within 6 months. All the mining plans and EC should be modified so as to bring down the approvals of production to a reasonable quantity by adopting the criteria and domestic consumption on the line of Karnataka State. (Page 121-124)</p>	
7	<p>The concerned authority shall also take into consideration the concept of sale of iron ore through e-auction as directed in the aforesaid order. Such e-auction would bring the transparency on the production, sale, its price and would definitely increase the royalty. Not only this, this would control the prevailing corruption. The aforesaid figures should also be displayed on the departmental website containing the list of mines, owners, etc. which is recommended in the report of the Commission. (Page 124- 125)</p>	<p><b>Ministry of Mines</b></p> <p>The recommendation of the Commission for e-auction of iron and manganese ores is being examined in consultation with State Governments and the concerned Ministries of the Government of India.</p>
8	<p>The State of Jharkhand has to gear up for implementation of the Mine Closure Plan wherever there is "Zero ore left" is reached in all such mines. In addition, wherever mines are going to be exhausted within <b>01 to 10 years</b>, appropriate action for the same should be taken in advance. (Page 125)</p>	<p><b>Ministry of Mines</b></p> <p>Mine Closure plans are prescribed under Rule 23 of MCDR 1988 which states that every mine shall have Progressive Mine Closure Plan and Final Mine Closure Plan.</p> <p>The closure plans also enumerates the methods of</p>

		<p>reclamation and rehabilitation of areas affected by mining operations.</p> <p>IBM at the time of inspection as per the MMDR Act, 1957 and rules framed thereunder ensure compliance of the aforesaid provisions.</p> <p>The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p>
9	<p>More Steel plants or technical alteration in the existing iron ore (lump) based plants should be established to use iron ore fine. It is learnt that large quantity of fine is stocked in mines presently which is also a cause of water pollution. All such unused/unsold fine stocks shall be covered with coir mats. JSPCB should take immediate action in this regard. (Page 125)</p>	<p><b>Ministry of Steel</b> Technical alteration may not be possible in existing steel plants to consume fines. India today has about 49 million metric tonnes of pelletization capacity and another about 31 million metric tonnes is likely to be added in the next two years. Thus India Industry is utilizing both lumps and fines. Use of fines is likely to increase with augmentation in capacity of pelletisation / sinter.</p> <p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take remedial measures after following due process of law.</p>
10	<p>Finally, the officers who are responsible for grant/ approval of increase of production (including post facto approval) ignoring the requirement in violation of mandatory criteria of Rule 10 by ignoring concept of conservation, scientific development, protection of environment and requirement of future generations should be identified by the Heads of IBM and MoEF and appropriate deterrent action should be taken against them and for that, proceedings should be initiated at the earliest for misuse of Rule 10 of the MCDR, 1988 under the relevant laws including departmental proceedings for their omissions, commissions and misconduct.</p> <p>The result thereof should also be displayed on the Government website. (Page 125 - 126)</p>	<p><b>Ministry of Mines</b> Same as reply to S. No. 1 above</p>



**Justice M.B. Shah Commission of Inquiry's 'First Report on illegal mining of iron and manganese ores in the State of Jharkhand' (Volume II)**

**Chapter IV: Contravention of Environmental Laws**

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p>Neither the '<b>Precautionary Principle</b>' nor the '<b>Polluter Pays Principle</b>' is observed or thought over, while permitting extraction of iron ore/additional extraction in various mines in the State of Jharkhand. Nobody has bothered about it, while permitting the persons extracting the iron ore from the mines stated below.</p> <p>In the State of Jharkhand, in all 42 leases of iron and manganese ores are having the direct impact on the rivulets, nallas and tributaries which are joining to Koro, Koina and Sakaro Rivers as well as Kandi, Betlata and Katrogara Nallas. The list of the said 42 leases is enclosed herewith as Annexure: I (Page 39-57, Vol. II).</p> <p>(a) In the State of Jharkhand, out of total <b>42</b> leases of iron and manganese ores, <b>18</b> mining leases of Iron Ore and/or Manganese are not having Environmental Clearance. The list of the said <b>18</b> mining leases is enclosed as <b>Annexure: II (Page 58-59, Vol. II)</b>.</p> <p>(i) Out of the aforesaid <b>18</b> leases, in <b>08</b> leases (<b>Annexure: III, Page 60-65, Vol. II</b>), <b>iron ore was extracted</b>, since the year 1993-94 to 2012-13. <b>No EC has been obtained till date.</b></p> <p>(ii) Out of the aforesaid <b>18</b> leases, in <b>02</b> leases (<b>Annexure: IV, Page 66-67, Vol. II</b>), <b>manganese ore was extracted</b>, since the year 1993-94 to 2012-13. <b>No EC has been obtained till date.</b></p> <p>(iii) Out of <b>18</b> leases, from <b>06</b> leases (<b>Annexure: V, Page 68-72, Vol. II</b>), a quantity of <b>4,89,201.23 MT</b> (as per DMG data) of iron ore has been extracted illegally without having lawful authority (since no EC was obtained).</p> <p>(b) There are <b>24</b> leases (<b>Annexure: VI, Page 73 - 77, Vol. II</b>) wherein <b>much delayed environmental clearance</b> under EIA Notification has been obtained.</p> <p>(i) Out of the aforesaid <b>24</b> leases, in <b>19</b> leases (delayed EC was obtained) (<b>Annexure: VII, Page 78-97, Vol. II</b>), <b>iron ore is extracted.</b></p> <p>(ii) Out of the aforesaid <b>24</b> leases, in <b>04</b> leases (<b>Annexure: VIII, Page 98- 101, Vol. II</b>), <b>manganese ore is extracted.</b></p> <p>(iii) Out of <b>24</b> leases, in <b>20</b> leases (<b>Annexure: IX, Page 102 - 115, Vol. II</b>), extraction of ore (iron / manganese) have been taken place since 27.01.1994. The lessees have obtained delayed EC under EIA Notification which is taken into consideration. The quantity of (as per DMG data) <b>11,87,81,132.183 MT</b> of iron ore and <b>1,30,448.686 MT</b> of manganese ore have been extracted illegally without having lawful authority (either there was no EC obtained for the period or when obtained, the excess quantity of ore was extracted above the limit fixed by MoEF as per</p>	<p><b>Government of Jharkhand</b> The matter will be examined and demand will be raised under Section 21(5) of the MMDR Act, 1957 after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Regarding 42 leases of iron and manganese ores are having the direct impact on the rivulets, nallas and tributaries which are joining to Koro, Koina and Sakaro Rivers as well as Kandi, Betlata and Katrogara Nallas, it is proposed to seek status report of the river/ streams / water bodies affected due to mining activity from the Jharkhand State Pollution Control Board.</p> <p>No EC has been granted to 18 lessees reported by the Commission. 8 out of 18 lessees have operated after 27.01.1994 and the remaining may have operated before 27.01.1994. Information on all the 18 cases is being obtained from the State Department of Mines and Geology, Government of Jharkhand including the current status i.e. whether it is working or non-working.</p> <p>Legal action is being taken against 20 mine projects by invoking powers under Section 19 of the Environment (Protection) Act, 1986 and under Section 15 of the Act for violating the conditions of the EC.</p> <p>Further directions issued under Section 5 of the Environment (Protection) Act, 1986 for restricting the production capacity of the ore as per the Environmental Clearance accorded to the 20 lessees.</p> <p>Status of compliance of conditions stipulated in the EC for all the 24 mine leases including the current status i.e. whether it is working or non-working is being sought from the Regional Office, Bhubaneswar.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>EC approvals).</p> <p>(c) <b>18</b> leases of iron and/or manganese ores have been running under deemed extension and carrying out production in violation of EIA Notifications, 1994 and 2006, <b>without having EC under EIA Notifications</b>. <b>22</b> leases of iron and/or manganese ores have been running under deemed extension and carrying out production in violation of EIA Notifications, 1994 and 2006, <b>with having obtained delayed E.C.</b> Overall <b>40</b> leases (<b>Annexure: X, Page 116-128, Vol. II</b>) are/were working under deemed extension and doing production <b>in violation of EIA Notifications, 1994 and 2006</b>.</p> <p>Therefore, totally, <b>26</b> lessees of iron and manganese ores are/were noted doing production without lawful authority, as reported in <b>Annexures: V and IX</b> (which includes <b>40</b> leases running under deemed extension also) in violation of EIA Notifications, 1994 and 2006.</p> <p>Hence, an approximate quantity of <b>11,92,70,333.413 MT</b> iron ore for an approximate value of <b>Rs.144,03,38,95,307/- (i.e. approx. 14,403 crores)</b> and an approximate quantity of <b>1,30,448.686 MT</b> of manganese ore for an approximate value of <b>Rs.138,08,96,398/- (i.e. approx. Rs.138 crores)</b> is extracted illegally and without lawful authority. The said amount should be recovered from the lessees under Section 21(5) of the MM(DR) Act, 1957. (Page 18 – 28)</p>	<p>In respect of 22 units with delayed EC but doing production in violation of EIA notification, legal action is being taken by invoking powers under Section 19 of the Environment (Protection) Act, 1986 and under Section 15 of the Act for violating the conditions of the EC.</p> <p>As regards violation of EIA Notifications, it may be noted that out of 26 leases mentioned 19 cases are operating with delayed EC and remaining 7 are operating without EC. Information is being obtained from the State Department of Mines and Geology, Government of Jharkhand including the current status i.e. whether it is working or non-working. Legal action is being taken by invoking powers under Section 19 of the Environment (Protection) Act, 1986 and under Section 15 of the Act for violating the conditions of the EC.</p>
	<p>(d) <b>04</b> leases of iron and/or manganese ores (<b>Annexure: XI, Page 129, Vol. II</b>) are such where diversion permission u/s. 2 of Forest Conservation Act, 1980 was granted subject to E.C. but without EC, the lessee of the respective mine has been allowed to operate the mining in violation of the conditions stated therein.</p> <p>There are <b>02</b> leases of iron and/or manganese ores (<b>Annexure: XII, Page 130, Vol. II</b>) wherein E.C. was granted without having obtained Forest Clearance which is in violation of Circular No.J-11015/12/94-IA. II(M), dated 17.06.1996 issued by MoEF, GoI.</p> <p>During approval for EC by MoEF, certain conditions for protection of wildlife and conservation of habitat, etc. were stipulated in <b>24</b> leases of iron and/or manganese ores (<b>Annexure: XIII, Page 131-154, Vol. II</b>). To what extent, such conditions have been complied with require verification by a team of experts and follow up actions should be taken by MoEF.</p> <p><b>01</b> lease of iron Ore (<b>Annexure: XIV, Page 155, Vol. II</b>) is such where Environmental Clearance has been accorded without stipulating any condition for wildlife protection. (Page 24 – 25)</p>	<p><b>Ministry of Environment, Forests and Climate Change</b></p> <p>The 4 leases operating without EC is already covered under the list of 18. Information is being obtained from the State Department of Mines and Geology, Government of Jharkhand including the current status i.e. whether it is working or non-working.</p> <p>Regarding observation of the Commission about mining in the Saranda forests, the following information is being sought from the Regional office / State Government:</p> <ul style="list-style-type: none"> <li>• a monitoring report on the status of compliance of the conditions stipulated in the EC from the Regional Office; and</li> <li>• clarification from the Government of Jharkhand whether any regional conservation plan for the area has been prepared.</li> </ul>
	<p>(e) As per IBM data and DMG data from the years 1993–94 to 2011–12, the total production of iron ore was <b>326.21</b></p>	<p><b>Government of Jharkhand</b></p> <p>The matter will be examined and</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p><b>Million Metric Tonnes and 295.59 Million Metric Tonnes</b> respectively. Hence, there is the difference of <b>53.41 Million Metric Tonnes</b> for the said period (<b>Annexure: XVI, Page 178, Vol. II</b>). It appears that the production of iron reported by IBM is about 24 percent more as compared to DMG production during this period. So, it seems that lessees are showing less production to DMG. Hence, royalty is required to be recovered by the State Government (DMG). Therefore, it is presumed that royalty for this under reporting production was not paid by the lessee. This ore might have been sold to the nearby illegally operated crusher holders and ultimately exported or consumed locally. The mineral value of such difference of quantity of ore comes about to <b>Rs.86,85,22,03,984=00</b>.</p> <p>Difference of lease-wise total production of iron ore as per DMG and IBM data for the years 1993-94 to 2012-13 is enclosed as <b>Annexure: XVII (Page 179-182, Vol. II)</b>. It indicates that leases at Sr. Nos.1, 3, 5, 7, 8, 9, 10, 11, 13, 15, 21, 22, 24, 26 and 27 are not included in total production difference of Iron Ore, as production figures as per DMG was more than that of IBM. (Page 25-27)</p> <p>(f) There is flagrant misuse of Rule 24A(6) of MCR, 1960 (as amended on 27.09.1994) during the deemed extension of lease period without obtaining the Environmental Clearance under EIA Notification dated 27.01.1994 and Amendments therein and prior approvals under FC Act, 1980 for diversion of forest land for non forestry purpose which have resulted into serious illegal mining by extracting millions of tonnes of iron and manganese ores. The lessee can't do mining, if obligatory approvals under relevant Acts, Rules and Notifications are not obtained by him, though whatever reasons it could have been there. (Page 28)</p> <p>(g) The Commission has observed that during the period (mainly after 2000 to 2009) the rate of royalty per MT iron ore was very meagre, hence, the lessees had gained windfall profits. During the deemed extension when unlawful mining was carried out, the loss to the State is required to be compensated by recovery of value equivalent to market rate or export rate whichever is applicable in individual cases with exemplary penalty after following due course of law. (Page 28)</p>	<p>demand will be raised under Section 21(5) of the MMDR Act, 1957 after following due process of law.</p> <p><b>Ministry of Mines</b> Rule 24A(6) of the Mineral Concession Rules, 1960 is being amended to provide that if an application for renewal of a mining lease made within the time prescribed in the statute is not disposed of by the State Government before the date of expiry of lease, the period of that lease shall be deemed to have been extended by a further period of 2 years or till the State Government passes order thereon, whichever is earlier, with prospective effect.</p> <p>Approvals under the MMDR Act, 1957 does not absolve leaseholders from compliance of prescribed statutory provisions in force.</p> <p><b>Ministry of Mines</b> Royalty rates in respect of major minerals were last revised on 13.8.2009. The Ministry set up a Study Group on revision of rates of royalty and dead rent for major minerals (other than coal, lignite and sand for stowing) on 13.9.2011. The Study Group submitted its report on 28.6.2013. The recommendations of the Study Group are under consideration of the Government.</p>
2	From the decisions and directions issued by the Apex Court and the Notifications issued by the MoEF, in short, it can be	<p><b>Ministry of Mines</b> For sustainable mining, the Government</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>stated that:–</p> <p>i) It has been repeatedly held that the right to life is a fundamental right under Article 21 of the Constitution of India and it includes the right to enjoyment of pollution-free water and air for full enjoyment of life. <b>The protection of this right is directly linked with clean environment.</b> It is the duty of the State and citizens to improve the natural environment, including forests, lakes, rivers and wildlife, and to have compassion for living creatures. This would require that habitats of wildlife should not be disturbed; river/lake–water and air should not be polluted. (Articles 48A and 51A(g) of the Constitution).</p> <p>Before carrying out any mining operation, Comprehensive Environmental Management Plans must be formulated to the satisfaction of, and got approved from, the Ministry of Environment &amp; Forests in a time bound manner.</p> <p>Development strategy should be such that it caters the needs of the present <b>without negotiating the ability of upcoming generations to satisfy their needs.</b> The strict observance of sustainable development will put us on a path that ensures development while protecting the environment, a path that works for all peoples and for all generations. The natural resources like air, water and soil minerals, forest and others should be utilized judiciously with utmost care, if the utilization results in irreversible damage to environment. <b>There has been accelerated degradation of environment primarily on account of lack of effective enforcement of environmental laws and non-compliance of the statutory norms.</b> Mankind is a part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients (The World Charter for Nature).</p> <p>ii) The regulatory authorities have to act with utmost care in ensuring compliance of safeguards, norms and standards to be observed by such entrepreneurs. When questioned, the regulatory authorities have to show that the said authorities acted in a manner enjoined upon by them. Wherever the regulatory authorities, either connive or act negligently by not taking prompt action to prevent, avoid or control the damage to environment, natural resources and peoples' life, health and property, the principles of accountability for restoration and compensation have to be applied.</p> <p>iii) If illegal activity is allowed to go ahead, there may be irreparable damage to the environment and if it is stopped, there may be irreparable damage to economic interest. In case of doubt, however, protection of environment would have precedence over the economic interest. Precautionary principle requires anticipatory action to be taken to prevent harm. The harm can be prevented even on a reasonable suspicion. It is not always necessary that there</p>	<p>of India has incorporated Sustainable Development Framework in the National Mineral Policy 2008.</p> <p>The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> MoEFCC will commission a study to assess carrying capacity of Saranda Forests to suggest annual cap (for ore production) and till then the MoEFCC will not accept any new proposal for grant of approval under the FC Act for diversion of forest land for mining in Saranda Forest.</p> <p>Keeping in view, ecological importance of the Saranda Forest, and the Wildlife Conservation Plan being prepared by the Expert Committee constituted by the Government of Jharkhand which has not been finalized so far, the MoEFCC will constitute a multi-disciplinary team to examine the recommendation of the expert committee constituted by Jharkhand State Government &amp; Integrated Wildlife Management Plan prepared by the State Government and if required, commission a study by a multi-disciplinary team to prepare a plan for sustainable mining in the Saranda Forest without impairing long term survival of its rich flora and fauna.. The team consisting of leading institutions and experts in the field of Wildlife, Environment, Forests, Mining and Social Sciences will have the mandate to identify critical wildlife habitats, corridors linking critical wildlife habitats, rich forests and such other inviolate forest areas in Saranda Forest which needs to be protected and conserved for posterity. Critical wildlife habitats, corridors linking critical wildlife habitats, rich forests and such other inviolate forest areas identified by the study team, will be notified either as Conservation Reserve/corridors or ecologically sensitive area in accordance with the provisions of the WP Act or the EP Act to ensure their long term conservation. In case whole</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>should be direct evidence of harm to the environment.</p> <p>iv) The mining activity can be permitted only on the basis of sustainable development and on compliance of stringent conditions. Sustainable development could be achieved only by strict compliance of the directions under the Act. The object and purpose of the E.P. Act – “to provide for the protection and improvement of environment” could only be achieved by ensuring the strict compliance of its directions and provisions therein.</p> <p><b>Violation of any of the conditions and provisions of law would entail the risk of cancellation of mining lease. The mining activity shall continue only on strict compliance of the stipulated conditions.</b></p> <p>v) The decision-making process of MoEF shall be fair, fully informed and based on the correct principles, and free from any bias or restraint.</p> <p><b>Notification dated 27.01.1994 specifically provides that if EC is granted on the basis of false data, false information, false recommendation or decision, EC is required to be cancelled.</b> The Supreme Court, in <b>M. C. Mehta v. Union of India &amp; Ors. [(2004) 12 SCC 118]</b>, has held that in such cases, EC is to be cancelled. Action should be taken for all such leases pointed out by the Commission.</p> <p>The fullest disclosures including the potential for increased burdens on the environment consequent upon possible increase in the quantum and degree of pollution, has to be made at the outset so that public and all those concerned including authorities may decide whether the permission can at all be granted for carrying on mining activity or otherwise.</p> <p>In cases where environmental clearance is required for a project on forest land, the forest clearance shall be obtained before the grant of the environment clearance.</p> <p><b>Streamline the system:–</b> It appears that there is system failure in implementing and ignoring the law. Such instances which 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 personalities with means. It appears that such strong words are also not sufficient to streamline the system failure. For this, strict actions are required to be taken against the persons who have failed to discharge their duties and non compliance of law. (Page 30 – 38)</p>	<p>or a part of forest land located in any of the mining lease located in Saranda forest, for which approval under the FC Act has already been accorded, is identified as inviolate, MoEFCC will modify such approvals to prohibit use of these areas for mining and other allied activities. While execution of the study, the team will take into account the Wildlife Conservation Plan prepared by the Expert Committee constituted by the Government of Jharkhand.</p>

## Chapter V: Encroachment

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p>Based on the longitudes and latitudes of the boundary pillars or outer boundaries of leases provided by the Director of Mines &amp; Geology, State of Jharkhand, the same were marked in the Google Earth Pro software and the encroachments were identified.</p> <p>Out of <b>42</b> mining leases of iron and manganese ores, in case of <b>25 mining leases (Table: 1, page 191-194 Vol. II)</b>, encroachment of various types of mining activities was observed.</p> <p>The total encroachment so identified is about <b>267.96 ha</b>. Out of this encroached area, about <b>143.6 ha</b>. is used for illegal extraction or removal of iron ore and <b>124.34 ha</b>. is the total area occupied in excess to the grant of leases.</p> <p>For the encroachment and unauthorized extraction of minerals from the pits which are shown in the aforesaid Table, appropriate action is required to be taken under Section 21(5) of the MM(DR) Act, 1957. (Page 183 – 184)</p> <p>Since no physical verification was carried out for the leases, due to time constraints, the State Government should carry out DGPS survey for the entire mining leases, as listed in <b>Table: 1, page 191-194 Vol. II</b>.</p> <p>The lessees who have encroached upon the adjoining land in contravention of Sections 4(1) of the MM(DR) Act, 1957, should be proceeded as provided u/s. 21 of MM(DR) Act, 1957.</p> <p>The cost of iron ore at market rate with the exemplary penalty, of whatever grade of mineral was extracted from the said pits, should be recovered under Section 21(5) of the MM(DR) Act, 1957 and also, cost of damage caused to the environment, ecology and others should be recovered. (Page 189 - 190)</p>	<p><b>Ministry of Mines</b></p> <p>The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p>
2	<p>Action should also be taken against the concerned officials of the Mines Department as well as Forest and Revenue Departments (in case of forest and non forest land) for their omission and commissions who failed to restrict the encroachment. (Page 190)</p>	
3	<p>Further, the boundary dispute between M/s. Usha Martin Ltd. and T. P. Sao has not been resolved, though the Commission issued instructions to the Deputy Commissioner, Chaibasa. The State Government should take note of it and do it without further lapse of time. (Page 190)</p>	

**Justice M.B. Shah Commission of Inquiry's 'First Report on illegal mining of iron and manganese ores in the State of Jharkhand' (Volume III)**

**1 M/s. Electrosteel Casting Limited Dirsumburu Iron & Manganese Mine**

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p><b>Lease is granted, without having any prior consent of the Forest Department:—</b> The Commission has not gone into details of the selection of applicant to grant the lease because of non-availability of records and time constraints. The same is required to be investigated together with as to how the virgin forest area which is a part of notified elephant reserve and deep inside the Saranda forest which would open virgin forest land and cause to destroy the adjoining areas too, processed by the State Government under the MM(DR), Act, 1957 and MCR, 1960 without having any prior consent of the Forest Department.</p> <p><b>The proposed lease is a fresh grant in the virgin forest of a very high tree density and one of the finest elephant habitats. During the process of the proposal by the MoEF, it was wrongly stated as the renewal of mining lease at many places in the note sheets.</b></p> <p><b>Whether diversion of one of the best natural virgin forest areas in the country for a lease of 12 to 13 years life is really worthy and justified? The natural forest which had taken millions of years to come to this climatic climax stage would be destroyed for a mine of 12 to 13 years life span. A serious thought in this regard shall be given.</b></p> <p>The user agency submitted that he has entered into an MoU with the Government of Jharkhand on 19.05.2004 for setting up a 1 million ton per annum steel plant and likely to enhance to 3 million tons at Chandakiyari, Bokaro District.</p> <p>For the proposed Steel Plant, the quantity projected by the applicant is 05 million tons per annum for the first five years and 10 million tons per annum thereafter which is totally unjustified and lopsided. The Steel Plant does not require the above said quantity for steel production of 1.00 million tons and later 3.00 MTPA. The actual requirement of the ore would be 1.5 MTPA and 4.5 MTPA respectively. This may be a deliberate attempt of the applicant to get favour for grant of more lease area in the Saranda forest. The State Government should take note of it.</p> <p>A detailed note in this regard was placed before the Minister on 27.12.2011. In the said note, the details regarding mining leases (active &amp; closed), lease area, compartments and broken up area has been provided. On perusal of these leases, it is noted that about <b>1834.7038</b> ha. of forest land is utilized for mining purpose. It is observed that in the past (beginning of the new</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken for violation of Section 5(1) of the MMDR Act, 1957 after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Ministry of Environment, Forests and Climate Change (MoEFCC) will seek status report on the reported violations from the State Government and Regional Office Bhubaneswar.</p> <p>Forest clearance for this project is still in progress. Only Stage-I approval has been granted. As per procedure mining operations can be started only after execution of mining lease, which can be assigned only after Stage-II approval under Forest (Conservation) Act, 1980 by the MoEFCC and subsequent transfer of forest land by the State Government.</p> <p>The proposal has been considered by MoEFCC and FAC for diversion of forest land under Forest (Conservation) Act 1980 on the recommendation of the State Government.</p> <p>Proposals seeking prior approval of Central Government under the Forest (Conservation) Act, 1980 (FC Act) for diversion of forest land in Saranda Forest were processed in accordance with the provisions of the FC Act and the Rules &amp; Guidelines framed thereunder.</p> <p>MoEFCC in consideration of recommendation of the Forest Advisory Committee advised the Government of Jharkhand to constitute an Expert Committee to look into the impact of mining, suggest appropriate mitigation measures and prepare an integrated Wild Life Management Plan for West Singhbhum District in which the Saranda Forest is located. Government of Jharkhand vide notification dated 27.08.2011 constituted the said Expert Committee. Wildlife Management Plan for West Singhbhum District prepared by the said</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>millennium), the MoEF was taking all precautionary considerations before diversion of forest land seriously. But the present trend is reverse. Large number of forest area has been diverted in the recent past for mining leases. It is observed that in all the three proposals (JSPL, JSW and ESL), not a single hectare of forest land is differed against what the project proponent has sought for. (Page 2 – 6, 37, 47)</p> <p>(i) An area of 192.50 ha. for Iron and Mn. ores in Kodilabad Reserve forest of West Singhbhum District of Jharkhand has been approved (letter of intent) by the Government of India under Section 5(1) of the MM(DR), Act, 1957. The State Government has not yet granted the lease. <b>Hence, it is wrong to state that the lease has been granted for the iron ore mining.</b> In fact, the grant of mining lease is in process. (Page 46)</p> <p>(ii) Out of 192.50 ha., the user agency has proposed to divert 55.79 ha. of forest land for Dirsumburu Mine in the compartment Nos.K1, K2, K3, K4 and K5 for the first phase.</p> <p>The enumeration of the trees has not been done so far. The canopy density is as high as 0.8 for the proposed area. The lease is proposed in fresh virgin forest and part of core area of Notified Singhbhum Elephant Reserve.</p> <p><b>Process of the application:—</b> As per the <b>Part II</b> of the proposal, the concerned Dy. Conservator of Forest had not enumerated the trees in the proposed area. In spite of this, the proposal was allowed to further process.</p> <p><b>Density of forest as inviolate area:—</b> DFO has failed in his duties and taken as granted that the proposal will be approved and once it is approved for Stage I, the enumeration would be carried out. This is totally against the letter and spirit of Forest Conservation Rules, 2003. As it is known through various reports submitted by various authorities, the area under this proposed lease is a very dense forest of 0.8 density and there is likely to be felling of lakhs of trees. By not preparing the enumerating list and which was not subsequently observed by the superior authorities is an undue favour extended to the applicant for approval of this project because it may deny the seriousness of the natural habitat. Action should be taken in this regard against the concerned DFO.</p> <p>While making recommendation, Shri A. K. Gupta, Regional Chief Conservator of Forest, Singhbhum,</p>	<p>Expert Committee is presently under examination of the Government of Jharkhand.</p> <p>Final comments on observation of the Hon'ble Commission about exclusion of the mining lease area can be made only after examination of the Integrated Wildlife Management Plan on receipt of the same from the State Government.</p> <p>MoEFCC is formulating parameters to identify, in objective and transparent manner, inviolate areas which shall not be diverted for mining projects. Once these parameters are finalized, inviolate forest areas will be identified. To ensure long term conservation of inviolate areas, they will be notified as Conservation Reserve/ Corridors or Ecologically Sensitive Areas in accordance with the provisions of the Wild Life (Protection) Act, 1972 (WP Act) and the Environment (Protection) 1986 (EP Act) respectively.</p> <p>To facilitate real-time verification of information provided in the proposals seeking prior approval of Central Government under the FC Act and also to facilitate informed decision on these proposals, MoEFCC is developing a GIS based decision support system (DSS).</p> <p>Identification/ notification of inviolate areas and operationalization of DSS will address concern of the Hon'ble Commission. However, keeping in view, ecological importance of the Saranda Forest, and also keeping in view that the Wildlife Conservation Plan being prepared by the Expert Committee constituted by the Government of Jharkhand has not been finalized so far, the MoEFCC will constitute a multi-disciplinary team to examine the recommendation of the expert committee constituted by Jharkhand State Government &amp; Integrated Wildlife Management Plan prepared by the State Government and if required, commission a study by a multi-disciplinary team to prepare a plan for sustainable mining in the Saranda Forest without impairing long term survival of its rich flora and fauna. The team consisting of leading institutions and experts in the field of Wildlife, Environment, Forests, Mining and Social Sciences will have the mandate to identify critical wildlife habitats, corridors linking critical wildlife habitats, rich forests</p>



S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>Jamshedpur, the tree / vegetation density of the area is indicated to 0.4 which is just half of the density reported by the DFO (0.8). As seen in other proposals also, Shri A. K. Gupta has reported less tree density to give undue favour to the lessees, may be for less NPV collection. This should be taken note of and investigated.</p> <p>Further, the PCCF has reported to the State Government that the other leases from this area is about 6.5 Kms. to 8–9 Kms. away from this proposed lease. From the Google / Satellite Images, it is observed that this proposed lease is located in deep inside the forest and there is no any other working mine around it. The 6.5 Kms. stretch in such a dense forest is considered as a good natural track of forest. The approval of this lease would be highly detrimental to the forest, elephant habitat, water pollution to nearby Koyana River, Sarako Nalha and the proposed Conservation reserve under the Wild Life Protection Act, 1972.</p> <p>It is stated here that the said proposed area was recommended by the Forest Department as inviolate area to State Government vide letters dated 10.02.2006, 17.07.2007 and 27.09.2007. It is not known how and why the Forest Department changed its view despite the aforesaid statement to exclude it. <b>This requires investigation. A proper enquiry in this regard should be conducted.</b></p> <p>It is also one of the finest habitat areas for elephants. The lease is deep inside the forest and does not have any working mine within radius of more than 6 to 7 kms. (Annexure: I, page 54 Vol. III) There is no even approach road for this proposed mine. If the mine is given, it will open painful "flesh wound" in this virgin forest. It is wrong to state that there are working mines in Kodalibad RF. (Page 6-10, 46-47, 51)</p> <p>(iii) The PCCF and the Wild Life Warden, Jharkhand has stated that there should be intensive management for iron ore mining rather than extensive management. He further stated that there are about 25 (27) mining leases (as on 07.08.2007) which are running in the Saranda forest area since many decades and none of it is completed, reclaimed and returned to the Forest Department. He further stated that going to give continuous new leases without any concrete arrangements; it would be detrimental to the forest and wild life and would not be helpful for them. He stated that Wild Life mitigation plan is with the Planning Department and the same is not yet approved. On going through the</p>	<p>and such other inviolate forest areas in Saranda Forest which needs to be protected and conserved for posterity. Critical wildlife habitats, corridors linking critical wildlife habitats, rich forests and such other inviolate forest areas Inviolat forest areas identified by the study team, will be notified either as Conservation Reserve/corridors or ecologically sensitive area in accordance with the provisions of the WP Act or the EP Act to ensure their long term conservation. In case whole or a part of forest land located in any of the mining lease located in Saranda forest, for which approval under the FC Act has already been accorded, is identified as inviolate, MoEFCC will modify such approvals to prohibit use of these areas for mining and other allied activities. As part of the study, the team will take into account the Wildlife Conservation Plan prepared by the Expert Committee constituted by the Government of Jharkhand.</p> <p>MoEFCC will commission a study to assess carrying capacity of Saranda Forests to suggest annual cap (for ore production) and till then the MoEFCC will not accept any new proposal for grant of approval under the FC Act for diversion of forest land for mining in Saranda Forest.</p> <p>As distance from the Protected Areas is a critical parameter and taking into account that the Supreme Court has reiterated that approval of NBWL is mandatory if the mine lease is located within 10 km of the boundary of the Protected Areas, we may initiate the process of validating the distances through the State Government as done in the case of Goa.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>letter dated 09.08.2007 of the Chief Wild Life Warden, he described the topography of the area, the wild life available and others. It is apparent that he was not in favour of the approval of lease in this area.</p> <p>(iv) The Government of Jharkhand has constituted an expert committee vide notification dated 27.08.2011 to look into the impact of mining and suggest litigation measures to prepare an integrated Wild Life Management Plan for the West Singhbhum District. The Committee has submitted a report to the Department wherein compartments proposed for this lease has been suggested to exclude from the proposed conservation reserve because Forest Department desires to do so. It is pertinent to note here that this suggestion of exclusion is done on behalf of the recommendation of the Regional CCF, Jamshepur and his subordinate officers. It is further noted that the said CCF/ CF/DCF are also recommendatory authority for the diversion of forest land for this proposal. <b>Hence, there is a conflict of interest.</b> There is no application of mind to exclude such a finest forest in the country for a most detrimental activity i.e. mining just for 12 to 13 years life of lease.</p> <p>The present production capacity in the country for all the running mines is about <b>180 MTPA</b> which is more than sufficient for the requirement of the Steel Plants and others. At the growth rate of 10% for another 10 years, the existing mines would be in position to supply the requirement. The production capacity of <b>610 iron ore mines</b> in the country would be about <b>310 MTPA</b>. Further, there are plenty of mines in the adjoining districts of Orissa State and <b>the production capacity for 150 mines is about 155.17 MTPA.</b></p> <p>(Page 12-13, 47-49)</p>	
	<p>(v) This matter has been considered by the FAC twice on 10.10.2008 and 10.09.2010 and the proposal was rejected. There were letters from the Principal Secretary of PMO, Planning Commission and the Chief Minister of Jharkhand State to consider this mining lease as discussed in this chapter. As could be seen from the note-sheet file No.8-35/2008-FC, the DGF has advised to refer back the matter to the FAC (note dated 28.12.2011) but the Hon'ble Minister of Environment and Forest has overruled the advise of the DGF and also the rejection recommendations (twice) of FAC and approved the proposal for diversion of 55.79 ha. of forest land. It is to be stated that Hon'ble Supreme Court in I.A. Nos.1598 to 1600 in Writ Petition No.205 of 1995 of <b>T. N. Godavarman Thirumulpad V/s. Union of India &amp; Ors.</b> has ordered on 04.08.2006 that all the</p>	<p><b>Government of Jharkhand</b> Same as reply to Para 1(i) to 1(iv) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Hon'ble Supreme Court in their order dated 4<sup>th</sup> August 2006 in I.A. No. 1598 to 1600 did not direct MoEFCC that <i>"in case MoEF disagrees with the recommendations of the FAC, it shall record in writing and communicate to the said FAC. The FAC may after considering all such reasons, pass such further orders as it thinks fit; provided where the Government still disagrees with the order passed by the FAC, it may seek appropriate direction from the Hon'ble Supreme Court"</i>.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>proposals for grant of FC Act clearances and TWP's in respect of mining leases shall be placed before FAC. In case, the MoEF disagrees with the recommendation of the FAC, it shall record in writing and communicate to the said FAC. The FAC may after considering all such reasons, pass such further orders as it thinks fit; provided where the Government still disagrees with the order passed by the FAC, it may seek appropriate direction from this court. <b>It is observed that in the present case, the FAC has rejected the proposal twice. But the Hon'ble Minister of Environment and Forest has overruled it and approved the proposal for diversion of forest land. This is construed as violation of the said order of the Supreme Court.</b> Action should be taken for the violation of Supreme Court order accordingly. (Page 44-45, 49-50)</p>	<p>However, the Hon'ble Supreme Court in their Order dated 4<sup>th</sup> August 2006 in I.A. Nos. 1413, 1414 etc. issued guidelines on conditions precedents for grant of Temporary Working Permissions (T.W.P.) as well as procedure for their grant in relation to renewal of mining leases.</p> <p>The direction of the Hon'ble Supreme Court is applicable to the proposals seeking Temporary Working Permission in relation to renewal of mining lease only. The extant proposal is for grant of a fresh mining lease. The said direction of the Hon'ble Supreme Court is therefore, not applicable to this proposal.</p>
	<p>(vi) It is to be highlighted that in response to MoEF's letter No.8-35/FC dated 03.05.2010, the PCCF-cum-Executive Director, Waste Land Development Board, Ranchi had categorically stated that <b>no mines exist in Kodilabad Block of Saranda Forest Division</b>. He has submitted compartment-wise list of active and closed mines and also a toposheet (1:50,000) on which all the existing and proposed mines in Saranda and Chaibasa South Forest Divisions were shown. In spite of such clear records available in file, it has wrongly been stated that the proposed lease was surrounded by working mines including four, operated by SAIL. The SAIL mines boundary is quite away from the proposed lease. (Page 50-51)</p>	<p><b>Government of Jharkhand</b> Same as reply to Para 1(i) to 1(iv) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> As per information submitted by the State Government there are some working mines, including four operated by SAIL, in Saranda Forest.</p>
	<p>(vii) Action should be initiated on the observations dated 23.04.2010 made by the then Minister of Environment and Forest to cancel all the provisional approvals for mines in the core zone. Notwithstanding the illegalities, irregularities and others, in the matter of M/s. Usha Martin Ltd., it is observed that the forest diversion approval for Stage I cannot be compared due to its location (sandwiched in the two group of mines, being old mine and on the periphery of the forest). Therefore, it is wrong to compare this lease to M/s. Usha Martin Ltd. lease. Also this is a part of old lease.</p> <p>Further, it is noted here that the present MEF has approved the Stage II of the forest diversion for an area of 117.0059 ha. on 02.11.2012 in favour of M/s. Usha Martin Ltd. If the Hon'ble Minister was so particular about the diversion of forest in favour of M/s. Usha Martin Ltd., the same could have been reconsidered, while approving the Stage II. (Page 51-52)</p>	<p><b>Government of Jharkhand</b> Same as reply to Para 1(i) to 1(iv) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Same as reply to Para 1(i) to 1(iv) above.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>(viii) Mining is one of the most detrimental activities to destroy the natural forest. None of the mitigative measures can substitute the observation. It is observed throughout the enquiry that conditions imposed in approval orders are never implemented. They are always remain on paper. Moreover, there is no inbuilt system on place which can follow-up. Hardly any case has been booked under the FCA, 1980 is the proof for it. It appears that this project proposal for diversion of forest land has been considered on extraneous factors without any merit. To consider this project in the middle of a large track virgin forest would be highly detrimental to the Saranda Forest and proposed Conservation Reserve.</p> <p><b>Hence, it is suggested to reject this proposal of diversion of forest and approval under Section 5(1) of MM(DR) Act, 1957. The area was inviolate forest and should continue as such.</b></p> <p>(Page 52 -53)</p>	<p><b>Government of Jharkhand</b> Same as reply to Para 1(i) to 1(iv) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> The MoEFCC has formulated draft guidelines on inspection, verification, monitoring and identification of forests. The MoEFCC has opened four new Regional offices and is strengthening existing six Regional Offices to facilitate intensive monitoring of conditions stipulated in approval accorded under the FC Act.</p> <p>Same as reply to Para 1(i) to 1(iv) above.</p>
2	<p><b>Follow-up note by Shri C. D. Singh, Assistant Inspector General of Forests:—</b></p> <p><b>The FAC, on 10.10.2008, rejected the proposal on account of being part of core zone of Singhbhum Elephant Reserve and critical to wildlife conservation. The Committee also recommended that the State Government will submit a detailed report on the present status of all four mines located in the core of Singhbhum Elephant Reserve.</b></p> <p>The note was put up on 31.07.2009 by the concerned case worker stating the following:—  <i>“FR at 609–636 / or may please be seen which received from State Government of Jharkhand. State Government of Jharkhand has forwarded the compliance <b>report</b> in–principal approval accorded on 04.10.08 vide letter of even numbers at page 538 and 04.11.2008 at page 553 with a request to accord final approval for diversion of 55.79 ha. of forest land for dirsumburu mine for mining of iron ore in favour of M/s. Electrosteel Castings Ltd. in Saranda Forest Division in West Singhbhum district of Jharkhand.</i></p> <p><i>Submitted for consideration please.”</i></p> <p>The note put up by the case worker on 31.07.2009 is misleading and factually incorrect. Moreover, no corresponding papers are available in this file which are stated by him in his note. Action should be taken against him.</p> <p>(Page 20-21)</p>	<p><b>Ministry of Environment, Forests and Climate Change</b> The proposal was considered by the Forests Advisory Committee in its meeting held on 10.10.2008 and the Committee recommended the proposal for rejection. The note put up by the dealing hand stating that compliance of in-principle approval has been received and the State Government has requested for grant of final approval has no consequences as the proposal was already rejected and the same has been conveyed to the State Government. Thereafter the proposal was again considered by the FAC in its meeting held on 10.09.2010 and the proposal was again recommended for rejection by the Committee.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
3	<p>An area of 500.00 acres (202.345 ha.) had been granted in Ghatkuri Reserve Forest of Saranda Forest, District: West Singhbhum in favour of M/s. Madan Gopal Rungta, a partnership firm of P-16, Kalakar Street, Calcutta by the then Bihar Government vide grant Order No.A/MM/4012/52- 70 RT dated 26.05.1953 for a period of 20 years up to 09.10.1973. A lease deed was executed on 01.10.1954 w.e.f. 10.10.1953. The entire granted area is a Reserve forest.</p> <p><b>First Grant and Transfer of lease:—</b> The lease was transferred from M/s. Madan Gopal Rungta to M/s. Rungta Mines Pvt. Ltd. and the transfer lease deed was executed between M/s. Madan Gopal Rungta by its partner Shri Sitaram Rungta. There is no mention about the signature of a transferee of lease deed on behalf of M/s. Rungta Mines Pvt. Ltd. but it is presumed that one of the Directors of M/s. Rungta Mines Pvt. Ltd. might have signed the transfer lease deed. It is pertinent to state here that on the date of execution of transfer lease deed, one of the Directors of M/s. Rungta Mines Pvt. Ltd. has been signing as transferor and other one as a transferee. It was a blatant misuse of Rule 37 of MCR, 1960 with some hidden motive behind it.</p> <p><b>Illegal Transfer:—</b> "Form J" was submitted by M/s. Rungta Mines Pvt. Ltd. but the lease deed had been executed in favour of M/s. Rungta Mines Limited without having transfer of the lease from M/s. Rungta Mines Pvt. Ltd. to M/s. Rungta Mines Limited under Rule 37 of the MCR, 1960. Hence, the execution of the lease deed in favour of M/s. Rungta Mines Limited is void and of no effect. (Page 55-56,66)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken for violation of Rule 37 of MCR 1960 after following due process of law and demand will be raised under Section 21(5) of the MMDR Act, 1957.</p>
4	<p><b>Grant of additional area and renewals of mining lease:—</b> It is observed from the Form J submitted by M/s. Rungta Mines Pvt. Ltd. on 17.12.1997 stating that the IBM, Government of India, vide its letter No.5(26)84NV dated 30.08.1985, had directed to amalgamate the lease by following the procedure but no such order was issued so far by the State Government under Rule 38 of MCR, 1960. The lessee had applied for the whole area i.e. 229.863 ha. in the year 1997. If there is no order from the competent authority, this cannot be accepted and considered as void and of no effect under Section 19 of the MM(DR) Act, 1957. (Page 60)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken for violation of Rule 38 of MCR 1960 after following due process of law and demand will be raised under Section 21(5) of the MMDR Act, 1957.</p>
5	<p>The lease of iron ore to the extent of 202.345 ha. had been renewed (first RML) vide grant Order No.7821/M dated 29.08.1978. The lease deed, in this regard, had been executed on 24.01.1980 with retrospective effect</p>	<p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>from 10.10.1973 to 09.10.1983. The said renewal is also in violation of the then Rule 24A of the MCR, 1960.</p> <p>The second renewal was applied on 30.09.1982. The lease expired on 09.10.1983. The renewal was granted on 11.04.1986 i.e. after expiry of lease. This could not have been done legally. The renewal would be governed by deemed expiry clause, if it is not decided within one year of application or expiry of lease whichever is earlier. A lease which expired on 09.10.1983 could not have been renewed in the year 1986 retrospectively. Entire mining operations after 09.10.1983 would therefore be illegal on this count alone. (Page 60 – 62)</p>	<p>of law.</p>
6	<p><b>Violation of Section 6(1)(b) and Section 6(3) of MM(DR) Act, 1957:—</b> S. R. Rungta Group (the Rungta family) is having 15 (14) leases of iron and associated manganese ores in Jharkhand and Orissa States covering a total area of 3,662.17 ha. in between the year 1987 to 1999. During this period, the maximum lease area of a mineral and associate mineral that can be held by the person, should not be more than 10 sq. kms. In the Country as per Section 6(1)(b) and (3) of the Act. Here, it is noted that the area was in quite excess in violation of Section 6(1)(b) and Section 6(3) of the MM(DR) Act, 1957.</p> <p>Hence, action should be taken to determine all the leases of excess area which is more than 10 Sq. Kms. in both the States, as stated in the said Section. Further, action should also be taken to fix the responsibility against the officers and others who are responsible for allowing this blatant violation by the officers at Government of India and State Government in Mines Department and other connected Departments. (Page 62 – 63)</p>	<p><b>Government of Jharkhand</b> The matter is being examined to enlist officials connected therewith and to fix responsibility, if any, in consultation with Government of Bihar.</p> <p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter for violation of Section 6(1)(b) of the MMDR Act 1957 and take appropriate action after following due process of law.</p>
7	<p><b>Violation of the provisions of the FCA, 1980:—</b> The mining lease had been renewed without having obtained prior approval under the FCA, 1980. Section 2(iii) prohibits the State Government and any authority to grant any lease without having prior approval under the said Act. It is stated here that on that date (i.e. 01.10.2004), there was only approval for 31.319 ha. under the FCA, 1980 and the remaining reserved forest area to an extent of 107.529 ha. was without approval under FCA, 1980 in the lease.</p> <p>Not only this, the State Government had accorded approval on 11.04.1986 for the second renewal for reserved forest area of 202.345 ha. which was also without the prior approval under Section 2 of the FCA, 1980.</p> <p>All the production from the date of second approval i.e. from 10.10.1983 to 18.06.2001 is illegal and without any lawful authority. The cost of the said quantity shall</p>	<p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> The proposal has been considered by MoEFCC and FAC for diversion of forest land under Forest (Conservation) Act 1980 on the recommendation of the State Government.</p> <p>The matter will be examined and necessary action if any will be taken as per provisions of law.</p> <p>As far as grant of approval under the FC Act dated 18.06.2001 for third renewal of mining lease is concerned, the factual</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>be recovered under Section 21(5) of the MM(DR) Act, 1957 along with applicable penalty and penal action. Further, action should be taken under Sections 3-A and 3-B of the FCA, 1980 against all those who are responsible for these violations. (Page 64 – 65)</p>	<p>position is as below:</p> <p>(i) The MoEFCC after examination of the proposal received from the Government of Jharkhand to obtain prior approval under the FC Act for diversion of forest land located within the mining lease observed that the production targets may be met by utilizing only 31.319 hectares of forest land, which as per the State Government was broken prior to 1980. The MoEFCC therefore, accorded approval under the FC Act for diversion of the said 31.319 hectares of forest land subject to a condition that the 91.052 hectares of virgin forest land located between the different mining pits, which could not have been excluded from the mining lease shall be maintained as green patch. The remaining 16.477 hectares of forest land is located in safety zone of the mining lease, for which, as per the guidelines which were in force in the year 2001, approval under the FC Act was not required to be obtained.</p> <p>(ii) From the above it is clear that approval accorded under the FC Act on 18.06.2001 provides for renewal of entire forest land of 122.371 hectares of forest land located within the mining lease except 16.477 hectares of forest land located in its safety zone which as per the then guidelines was not required to be diverted.</p> <p>Further, MoEFCC vide its letter No 11-9/98-FC dated 1<sup>st</sup> Feb 2013 has issued Guidelines which make it mandatory to take prior approval under the Forest (Conservation) Act, 1980 for diversion of entire forest land within the mining lease before execution/renewal of the lease area or else to surrender the forest area from mining lease for which diversion approval under the Forest (Conservation) Act, 1980 is not obtained. All the State Governments /Union Territories have been directed not to accept any part forest area diversion proposal for any lease area.</p>
8	<p><b>Non-compliance of condition of diversion of forest land:—</b> An area of 31.310 ha. (claimed to be already broken-up forest land before 25.10.1980, there is no documentary evidence) had been approved under Section 2 of the FCA, 1980 in favour of M/s. Rungta Mines Pvt. Ltd. in Ghatkuri Reserve forest of West Singhbhum District in Jharkhand State, subject to certain conditions by the MoEF on 18.06.2001.</p>	<p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> MoEFCC will seek status report on the</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>It is noted that no EC approval has been obtained since 24.01.1999 to 15.04.2008. During this period, the mining lease was running in full swing, as per the production data submitted by the Mines Department and the lessee himself. Approximately, 90,24,321 MT of iron ore has been extracted during this period.</p> <p>Running of mine, during this period, was illegal on the ground of non-compliance of condition of diversion of forest land approval of MoEF dated 18.06.2001 and also not obtaining EC. Hence, it attracts the provisions of Section 21(5) of the MM(DR) Act, 1957. Therefore, action should be taken accordingly. (Page 67 – 68)</p>	<p>reported violations from the State Government and Regional Office Bhubaneswar.</p> <p>Requirement of obtaining environment clearance for a mining project is governed by provisions of the EIA Notification, 1994 or the EIA Notification, 2006, as the case may be.</p> <p>Irrespective of the fact whether, a condition to obtain environmental clearance is stipulated or not in the Forest Clearance for a mining lease, execution of mining activities without environmental clearance, in the mining leases, which as per the provisions of these notifications were required to obtain environment clearance, amounts to violation of the EP Act.</p>
9	<p><b>Environmental Clearances (ECs) dtd. 15.04.2008 and 22.05.2013:—</b> EC was obtained by the lessee on 15.04.2008 under the EIA Notification dated 27.01.1994 for extraction of 1.8 million ton per year iron ore from the mining lease of 138.848 ha. forest land with various specific conditions, inter-alia:  “(ii) <i>Environmental clearance is subject to obtaining clearance under the Wildlife (Protection) Act, 1972 from the competent authority.</i>”  “(iv) <i>The environmental clearance is subject to grant of forestry clearance. The project proponent shall obtain requisite prior forestry clearance under the Forest (Conservation) Act, 1980 for working in the forest area.</i>”</p> <p>Aforesaid both conditions have not been complied with by the lessee till date. Even without complying the conditions, the MoEF went on giving the EC for second time on 22.05.2013 for abnormal extraordinary enhancement of production to the extent from 1.8 MMTPA to 7.552 MMTPA for the said area (138.848 ha.). The lessee extracted the iron ore in excess to 25,000 MT per year. This would be definitely from the area other than the area of 31.310 ha. No measurements have been taken for this and all concerned are silent on the issue.</p> <p>It is further observed that without taking the note of compliance of the aforesaid both conditions stipulated in the EC approval dated 15.04.2008; the MoEF has again imposed almost similar conditions without taking action under the E.P. Act, 1986.</p> <p>The total area of 6.17 ha. as earmarked for staking of waste dumps is not at all sufficient for storing over burden generated out of huge production of 7.552</p>	<p><b>Government of Jharkhand</b> The matter is being examined to enlist officials connected therewith and to fix responsibility, if any, in consultation with Government of Bihar.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> MoEFCC will seek status report on the reported violations from the State Government and Regional Office Bhubaneswar.</p>



S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>MMTPA. Therefore, the approval accorded under the EIA Notification shall be re-looked and withdrawn. Further, action should be taken against the officials who are responsible for such arbitrary approval and without looking into the non-compliance of the conditions stipulated in the first approval dated 15.04.2008.</p> <p>The MoEF may consider seriously the issue, as it is found throughout the enquiry for non-compliance of the conditions. It is further observed that the ECs issued by MoEF should be based on ground realities and not for extraneous considerations.</p> <p>The enhancement of production from 1.8 MMTPA to 7.552 MMTPA is quite arbitrary and without application of mind. For example, the area earmarked for waste dump stacking is insufficient, as stated in Condition (xi) of the said approval. (Page 68 – 73)</p>	
10	<p><b>Approval under the FCA, 1980:—</b></p> <p><u>(i) EC not obtained till 15.04.2008:</u> As per the condition (vi) of the FC approval, the lessee was supposed to obtain the EC under the E.P. Act, 1986 because being the lease renewed from 24.01.1999 for the third renewal under the MM(DR) Act, 1957. However, the lessee failed to obtain the EC till 15.04.2008 and the authorities have allowed the lessee to continue the mining operations. The lessee made windfall profits during the “China Boom”. Hence, the huge production extracted, during this period, is in flagrant violation of the FC approval as well as E.P. Act, 1986. Factually, the approval under FCA, 1980 remains void and of no effect till 15.04.2008. Therefore, action should be taken against all the concerned who are responsible for allowing mining in non-compliance of the FC approval.</p> <p><u>(ii) FC approval not obtained:</u> The lease was renewed on 11.04.1986. Yet, FC approval not obtained till 18.06.2001.</p> <p>It is further observed that the lease was renewed (2nd RML) on 11.04.1986 for 202.3435 ha. by the State Government, Mines Department and a lease deed was executed on 11.05.1986 with retrospective effect from 10.10.1983 for a period of 15 years 3 months 14 days. This was also in violation of the FCA, 1980, since the entire leased area is a Reserve forest. The MoEF has totally ignored the above said facts and accorded the approval without initiating any action under the FCA, 1980. Surprisingly, there is no mention about this violation in the approval given on 18.06.2001 by MoEF and also penal compensatory afforestation which is being imposed by MoEF in all such cases.</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken after getting detailed report from District Mining Officer (<b>DMO</b>) / Assistant Mining Officer (<b>AMO</b>) by following due process of law and demand will be raised under Section 21(5) of the MMDR Act, 1957.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Same as reply to Para 8 above.</p> <p>MoEFCC will seek status report on the reported violations from the State Government and Regional Office Bhubaneswar.</p> <p><b>Government of Jharkhand</b> Same as reply to Para 10(i) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Same as reply to Para 7 above.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p><u>(iii) Imposed condition (viii) of FC approval not observed:</u></p> <p>As per the Condition (viii) of the FC approval, the intervening virgin area of 91.052 ha. lying between the different pits, is supposed to be maintained and no non-forest activity should have been carried out on this virgin areas during this lease period i.e. from 18.06.2001 to 17.06.2021. But surprisingly, the MoEF has given the Stage-I approval for the said area on 17.06.2013 by completely ignoring its own condition in the pretext of enhancement of production for captive consumption by the lessee which is factually not correct.</p> <p>The S. R. Rungta Group and Rungta family is having about 15 (14) mines in the West Singhbhum District and adjoining Keonjhar and Sundargarh Districts. There is large quantity of iron ore being produced by them from these mines. Moreover, there was no proposal in "Form J" applied by the lessee i.e. M/s. Rungta Mines Pvt. Ltd. in the year 1997. Hence, the lessee is taking different stands in different proposals for the same lease. (Page 74 – 77)</p>	<p><b>Government of Jharkhand</b> Same as reply to Para 10(i) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Condition regarding maintenance of intervening virgin area of 91.052 hectares lying between different pits as virgin patch in the approval accorded by the MoEFCC vide letter dated 18.06.2001 was stipulated keeping in view that the low level of approved production, as per the Mining Plan based on the then market demand could be met only by using 31.391 hectares of already broken forest land located within the mining lease.</p> <p>Approval for change in use of the said 91.052 hectares of virgin forest land lying between different patches for mining was accorded to facilitate increase in the approved production capacity from 1.8 MTPA to 7.552 MTPA to cater to increase in market demand. Moreover, giving clearance to entire area is in accordance with the Guideline of MoEFCC dated 1<sup>st</sup> Feb. 2013 referred above.</p>
11	<p><b>Observations based on the File No.8-35/2013/FC submitted by the MoEF:—</b> (Page 87-98)</p>	<p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p>
(i)	<p>A new file has been opened de-linking the earlier old file No.8-63/99/FC for diversion of forest land to an extent of 31.319 ha. (first diversion and Temporary Working Permissions) which is found an inappropriate action and seems to be deliberate attempt for a single lease of the same lessee.</p> <p>The lessee, through its Director, Sri Mukund Rungta has submitted a second proposal for diversion of 99.235 ha. of forest land (reserved forest) for iron ore mining in Ghatkuri Reserve Forest. The date of submission of the proposal is not stated in the proposal. A lapse is noted on the part of lessee. Even, no serial number has been given by the Nodal Officer.</p> <p>The basic reason for obtaining diversion of forest land is stated as expansion of the mine area for the requirement of raw material (ore) for their own Sponge Iron Plant and Steel Plant being set-up in Jharkhand State which is substantially found misleading.</p> <p>It is noted from the proposal that there is no document submitted by the lessee whatsoever regarding so called set up of Sponge/Steel Plant along with the proposal. The authorities did not bother throughout the processing of the proposal to check up the contention and genuineness of real and actual requirement of iron ore by the lessee, present availability with them, the number</p>	<p><b>Ministry of Environment, Forests and Climate Change</b> Opening of a new file is a procedural matter. Fact of the case including the facts related to previous approval under the FC Act for diversion of 31.319 hectares of forest land on 18.06.2001 were placed before the Forest Advisory Committee.</p> <p>Part-I of the proposal does mention that present requirement of forest land for mining has been proposed for captive use of iron ore for Steel Plant/ Sponge Iron Plant of the project proponent. MoEFCC will seek status of setting up of sponge/ steel plant by the user agency.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	of leases the lessee does have, etc. The authorities have failed at all levels to check up the total mines held by the S. R. Group/Rungta family in Jharkhand and Orissa States and their annual iron ore production, though MoEF has all the records of approvals of forest land diverted in favour of Rungta group in both the States.	
(ii)	<b>The officers of MoEF and Forest Advisory Committee (FAC) have completely failed to apply its due diligence to analyse the need of the iron ore by the user agency for his, to be set up Sponge and Steel plants viz-a-viz actual requirement of the diversion of the prime virgin reserve forest which is very rich in flora and fauna having one of the best biodiversity and ecologically sensitive.</b>	
(iii)	<p>The lessee has already taken expansion of project by extracting quantity from 138.848 ha. of forest land from 25,000 MT per annum to 1.8 Metric ton per annum, even before this diversion of forest land is sought and operating the lease to that capacity. As per condition (iv) (specific conditions) of Environmental Clearance of MoEF dated 15.04.2008, the lessee was supposed to obtain Forestry Clearance (FC) before starting production more than 25,000 MT per annum. But the lessee did not obtain the same and the authorities continuously allowed the said extraction of iron ore without taking any action.</p> <p>The lessee has done blatant illegal mining throughout the period and has produced an illegal iron ore to an extent of 90,24,320.785 MT from the year 2000-01 to 2011-12 which is without lawful authority. Therefore, it attracts the provision of Section 21(5) of the MM(DR) Act, 1957. Hence, action should be taken as per this provision. Further, action should also be taken against the officers responsible in all connected Departments.</p> <p>It is clear from the above EC approvals and production that even before the diversion of this proposed forest land, the lessee was having required quantity production illegally from this lease itself by utilizing excess forest area which has been ignored by the authorities including the Forest Advisory Committee dated 9/10.05.2013.</p>	
(iv)	No inspection report after 16.10.2008 is available and perhaps was the last official site inspection of the lease. This is a serious issue and immediately, an inspection should be ordered with an independent team of officers of Mines, Forest, Revenue Departments and action should be taken accordingly on the outcome of the said report. Till that, mining operation may be stopped. The MoEF shall reconsider its diversion proposal keeping in mind the illegalities/irregularities committed by the lessee.	<p><b>Ministry of Mines</b> Same as reply to Para 11(i) to 11(iii) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Inspection of the forest land diverted in favour of the user agency was undertaken as per the procedure stipulated in the Rules/ guidelines framed under the FC Act. The said mines being a working mine is also being periodically inspected by officials of the State Forest Department and the concerned</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		<p>Regional Office of the MoEFCC. The MoEFCC has however, noted concern of the Hon'ble Commission regarding change in field situation during processing of proposals seeking approval under the FC Act.</p> <p>In this case, as an special measure to address the concern of the Hon'ble Commission, the MoEFCC has advised the concerned Regional Office to inspect the mine and take action, as appropriate, in case of non-compliance to any of the conditions stipulated in approvals accorded under the FC Act.</p> <p>To facilitate real-time verification of information provided in the proposals seeking prior approval of Central Government under the FC Act and to facilitate informed decision on these proposals, MoEFCC is developing a GIS based decision support system (DSS). The DSS, which is likely to be operationalized shortly, will address concerns of the Hon'ble Commission regarding change.</p> <p>MoEFCC will also amend the existing guidelines to provide for mandatory inspection by Regional Office of the Ministry in case of renewal of mining lease, irrespective of area of forest land proposed to be diverted. As per the existing guidelines, forest land proposed to be diverted is required to be inspected by Regional Office of the MoEFCC, in case area of forest land proposed to be diverted exceeds 100 hectares.</p>
(v)	<p>The lessee is having approval under EC for approximately 214.0 MTPA (million tons per annum) of iron ore from its other 14 leases (excluding the present lease) which it is having with it.</p> <p>If that is the case, does it really require the diversion of prime virgin forest land for this lease for "sponge plant" of the lessee? Secondly, whether the diversion of forest land sought is based on need or greed? The questions call for a probe by independent agency.</p>	<p><b>Ministry of Mines</b> Same as reply to Para 11(i) to 11(iii) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Same as reply to para 1(i) to 1(iv) above.</p>
(vi)	<p>The Jurisdictional Dy. C.F. and C.F. have reported that the average canopy / tree density of proposed area ranges between 0.5 to 0.7. But the Regional CCF, Shri A. K. Gupta has reported that the said density of the ore is not more than 0.3. It is noted that the observation of the RCCF, Jamshedpur is quite arbitrary and without any measurement taken by him. It is an undue favour extended to the lessee for payment of less NPV and others. Hence, action should be taken against the RCCF as per law. Further, he did not given any specific opinion regarding the proposal. The inspection note is</p>	<p><b>Ministry of Mines</b> Same as reply to Para 11(i) to 11(iii) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> To facilitate real-time verification of information provided in the proposals seeking prior approval of Central Government under the FC Act and to facilitate informed decision on these proposals, MoEFCC is developing a GIS based decision support system (DSS).</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	quite ambiguous, non-specific and non-directional.	The DSS, which is likely to be operationalized shortly, will address concerns of the Hon'ble Commission.
(vii)	The user agency did not submit DGPS map of the area and the MoEF did not insist on it and granted Stage-I approval.	<b>Ministry of Environment, Forests and Climate Change</b> With regards to Digital GPS map of the area, it is stated that the FAC while examining the proposal considered the submission of the project proponent that it has not been possible for them to submit DGPS map of the mine as State Government has not authorized any agency for the preparation of the DGPS maps. The user agency will submit the DGPS map as soon as the state government authorizes any such agency for the purpose.
(viii)	The proposal was submitted somewhere in the year 2007 by the lessee. After submission and inspection by field officers, large number of changes had occurred during the period of six years as discussed earlier, including EC, mining plan, illegal mining and others which have not been taken into consideration at all, when the proposal was approved.	<b>Ministry of Environment, Forests and Climate Change</b> Same as reply to Para 11(iv) above.
(ix)	The non-forest land identified for compensatory afforestation, before the proposal was submitted, might have been encroached. The present status of this land has not been ascertained. Generally, in a span of five years, the land gets encroached upon as noted in the matter of compensatory afforestation (CA land) identified for JSPL Project. A fresh re-look, in this matter, is required.	<b>Ministry of Mines</b> Same as reply to Para 11(i) to 11(iii) above.  <b>Ministry of Environment, Forests and Climate Change</b> In the proposal received from the State Government it has been stated that land identified for raising CA is suitable for compensatory afforestation. Proposal received from the State Government also contained a certificate regarding suitability of the area identified for CA and from management point of view, from the competent authority.
(x)	The lease was renewed second time on 11.04.1986 under the MM(DR) Act, 1957 and the deed thereto was executed on 11.05.1986 for a period of 15 years 03 months and 14 days till 24.01.1999. The said renewal of the lease was granted and the deed thereto was executed without having prior approval under Section 2 of the FCA, 1980. Hence, there is a flagrant violation of the said Act and no action has been initiated in this regard. Further, nothing is mentioned in the FC approval dated 18.06.2001 of MoEF regarding the said violation of the Act. If this violation was considered by the MoEF, in all probability, MoEF would not have granted FC approval.	Stage-II approval under the FC Act will be accorded only after receipt of report from State Government that non-forest land free from encroachment/ encumbrances has been transferred and mutated in favour of the State Forest Department.
(xi)	Temporary Working Permissions (TWPs) were granted for broken up area for 31.318 ha. on 19.01.1998 (6 months) and 16.10.1998 (3 months) upto 24.01.1999 for a period of 9 months. There is no further approval under FCA in between 24.01.1999 to 18.06.2001.  It is stated here that approval under FCA was granted on 18.06.2001 for 31.319 ha. (broken up area) only and there is no approval for the remaining area, out of 229.867 ha. of reserved forest leased land which the lessee was in possession in lieu of lease grant under the	<b>Ministry of Environment, Forests and Climate Change</b> Factual position in respect of grant of approval under the FC Act dated 18.06.2001 for third renewal of mining lease is as below:  MoEFCC after examination of the proposal received from the Government of Jharkhand to obtain prior approval under the FC Act for diversion of forest land located within

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	MM(DR) Act, 1957.	<p>the mining lease observed that the production targets may be met by utilizing only 31.319 hectares of forest land, which as per the State Government was broken prior to 1980. MoEFCC, therefore accorded approval under the FC Act for diversion of the said 31.319 hectares of forest land subject to a condition that the 91.052 hectares of virgin forest land located between the different mining pits, which could not have been excluded from the mining lease shall be maintained as green patch. The remaining 16.477 hectares of forest land is located in safety zone of the mining lease, for which, as per the guidelines which were in force in the year 2001, approval under the FC Act was not required to be obtained.</p> <p>From the above it is clear that approval accorded under the FC Act on 18.06.2001 provides for renewal of entire forest land of 122.371 hectares of forest land located within the mining lease except 16.477 hectares of forest land located in its safety zone which as per the then guidelines was required not to be diverted.</p>
(xii )	<p><b>Third Renewal for 138.848 ha.:</b>— Third renewal under the MM(DR) Act, 1957 was accorded for this mining lease over an area of 138.848 ha. vide State Government's Order dated 01.10.2004 and the lease deed was executed on 09.07.2005 for a period of 20 years with retrospective effect from 24.01.1999. The said renewal of lease (all renewals are fresh lease grants) has been done against the flagrant violation of Section 2 (iii) of the FCA, 1980. The authorities of the MoEF and FCA have completely failed to note such a serious violation of the Act and kept themselves silent with the reasons best known to them. There is no mention in the Stage-I approval dated 19.06.2013 about it and also in the entire file noting about this patent violation.</p> <p>Hence, action should be initiated under Sections 3–A and 3–B of the FCA, 1980 against all those who are responsible for it.</p>	<p><b>Ministry of Mines</b> Same as reply to Para 11(i) to 11(iii) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Same as reply to Para 11(xi) above.</p> <p>As commented at para 7 above, this ministry with a view to address the issue of execution of lease deed by the State Government for the mining lease where approval of Government of India under the Forest (Conservation) Act, 1980 has been obtained for part of the forest land falling in the lease area in violation of Section 2 (iii) of the Forest (Conservation) Act, 1980, has issued fresh guidelines vide letter no. 11-9/1998-FC dated 1<sup>st</sup> February, 2013.</p> <p>FAC and the MoEFCC has taken action in accordance with these Guidelines.</p>
(xii i)	The proposal was pending and unprocessed in State Government (Environment & Forest) from 25.10.2008 to 02.04.2013 for almost 5 years. It was in violation of Forest Conservation Rules, 2003. It was processed in MoEF fast without any qualitative addition/ improvement and proper application of mind at the level of senior officers as pointed out earlier. The MoEF has to consider seriously about such casual approach for	<p><b>Ministry of Mines</b> Same as reply to Para 11(i) to 11(iii) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Forest (Conservation) Rules 2003 does provides that every State Government or other</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	such virgin and last sensitive ecosystem and one of the finest elephant habitat left in the country.	<p>authority, after having received the proposal seeking prior approval of Central Government under the FC Act after being satisfied that the proposal requires prior approval under section 2 of the Act, shall send the proposal to the Central Government in the appropriate forms, within sixty days for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier. The said rule however did not stipulate any penal action for delay in processing of proposals by State Government, and therefore MoEFCC had no option but to process the proposal for approval of Government of India.</p> <p>MoEFCC has therefore, formulated and notified the Forest (Conservation) Amendment Rules, 2014 containing time-lines for processing of proposals seeking prior approval of Central Government under the FC Act for diversion of forest land at each level in the State and Central Government. The said rules <i>inter alia</i> provides that whenever the time taken by the State Government or the Union territory Administration, as the case may be, for processing the proposal exceeds the time limits stipulated in relevant clauses of these Rules, the proposal shall be considered by the Central Government only if an explanation for the delay is furnished to the satisfaction of the Central Government, together with action taken against any individual held to be responsible for the delay.</p>
(xi v)	<p>There is no communication between the FC Section and EC Section of MoEF, though it is headed by a single Secretary and the Hon'ble Minister. This watertight gap is required to be abridged without any delay.</p> <p>The files do not move through the Secretary of MoEF to the Hon'ble Minister of MoEF for diversion of forest cases and because of that, all such irregularities are being committed in two wings of the same office. The lessees are taking undue advantage of it. The decisions of one wing are not known to other which is very crucial for approval of such projects. The MoEF may take note of this and do the needful for better communication, in this regard.</p> <p>DGF [Director General (Forest)] is the Chairman of the Forest Advisory Committee (FAC) and also the last authority in the Ministry to submit the files to the Hon'ble Minister. Hence, it is suggested that all the files of diversion of forest land may move through the Secretary to the Hon'ble Minister.</p>	<p><b>Ministry of Mines</b> Same as reply to Para 11(i) to 11(iii) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Forest Conservation Division and Impact Assessment Division in the MoEFCC are responsible for implementation of the FC Act and the EIA Notification 2006, respectively. These Divisions in the MoEFCC work in close coordination. Environmental clearance to projects involving forest land is accorded only after stage-I FC for diversion of forest land is issued. MoEFCC is also developing a GIS based decision support system (DSS). The DSS will contain all information related to environmental clearance and forest clearance to projects.</p> <p>Keeping in view the work load, routine files relating to individual proposals seeking prior approval of Central Government under the FC</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		Act for diversion of forest land are not routed through the Secretary, Environment, Forests and Climate Change. However, files relating to policy matters pertaining to grant of approval under the FC Act for diversion of forest land are routed through the Secretary, Environment, Forests and Climate Change.
(xv )	It appears that there is no mining expert in the FAC who can throw light on the proposal at mining angle and about all such shortcomings. Therefore, it is suggested that the MoEF may reconstitute the FAC by including a mine expert as a member and his presence may be made mandatory in FAC meetings.	<p><b>Ministry of Mines</b> Same as reply to Para 11(i) to 11(iii) above.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> MoEFCC notified the Forest (Conservation) Amendment Rules, 2004 to include a mine expert as a member of the FAC. Hon'ble Supreme Court has however, stayed the said Rules.</p> <p>In any case, prime concern of FAC is conservation of forests. Inclusion of a mining expert as its member will result in conflict of interest.</p>
12	<p><b>Trading of Iron Ore and findings of the Income Tax Department:–</b> The Commission has obtained the records from the Income Tax Department pertaining to this lease and other leases. The relevant part of the report is reproduced for further needful action by the concern authorities / Government of India including the IT Department, if possible, with a time bound programme on all the aspects raised therein.</p> <p>“... <i>The challans have been misused to transport illegally mined iron ore. Various documents like MM–42 to MM–47 and RH–16, etc., relating to loss of such challans and use of them to transport illegal iron ore/iron ore fines/Mn. ore, etc., have been seized in the course of search. The AO should analysis these documents and make necessary enquiry &amp; investigation to reach to a logical conclusion. The AO should examine this issue whether these challans have been used by Rungta Group to transport illegal iron ore/fines mined by them and, thereafter, should take the action accordingly.</i> ...</p> <p><i>A diary (note book) was seized by the police of Manoharpur Police Station, West Singhbhum on 21.08.2011 during Operation Monsoon.</i> ...</p> <p><i>After perusing the said diary, it is apparent that Rungta Group pays levy to the naxals @ Rs.6.50 lakh per month as mentioned at Page No.3 of the diary.</i> ...</p> <p><i>The notings of the diary clearly show that Rungta Group paid the levy to the naxal @ Rs.6.50 lakh per month during the financial years 2009–10 and 2010–11. The</i></p>	<p><b>Government of Jharkhand</b> The matter will be examined in consultation with the Government of Odisha and necessary action will be taken after following due process of law.</p> <p><b>Department of Revenue, Ministry of Finance</b> The matter is being examined from direct / indirect tax violations and also from the enforcement angle. Appropriate action would be taken after ascertaining the violations of specific Acts/ Regulations by the respective agencies like Central Board of Excise and Customs, Central Board of Direct Taxes, Directorate of Revenue Intelligence etc.</p>



S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p><i>said payment is apparently illegal in nature and not accounted for in the books of account of the concerns of Rungta Group.</i></p> <p><i>The AO is requested to consider these payments (in all, Rs.78 lakhs per year) as unexplained expenditure u/s. 69C of the Income Tax Act, 1961. The AO may also apply the illegal expenditure of Rs.78 lakhs per year telescopically in the previous F.Yr. 2005-06 to 2008-09 and for financial year 2011-12, as it is regular phenomena of the assessee and the naxals.</i></p> <p>...</p> <p><i>During post search-investigation, the enquiry letters were sent to various District Transport Officers of Jharkhand and Regional Transport Officers of Orissa to verify the veracity the vehicles through which iron ore and iron ore fines have been transported and against which transportation expenditures have been debited by the concerns of Rungta Group. The enquiry revealed startling findings that the vehicles through which iron ore and iron fines were transported are found to be two wheelers – motor-cycles and four wheelers – passengers cars."</i></p> <p>...</p> <p><i>The amount received by such parties from Rungta Group in cash to make illegal expenditures like payment to naxals, payments of Government officials, purchase of immovable properties, etc.</i></p> <p><i>All the above findings clearly show that the concerns of Rungta Group are debiting bogus expenditures in their Profit and Loss A/c. The Assessing Officer should make thorough enquiry."</i> (Page 99 – 111)</p>	
13	<p>There are violations as stated below:</p> <p>(a) Violation of Rule 37 of MCR, 1960;</p> <p>(b) Violations of the Forest (Conservation) Act, 1980 and non-compliance of conditions; and</p> <p>(c) Unlawful production of iron ore without or in excess of EC limit, as discussed above; and</p> <p>(d) Others as stated during the discussion in this Chapter.</p> <p>Nobody has verified whether the conditions imposed while grating FC are complied with or otherwise.</p> <p>In any case, the State Government should initiate action u/s. 21(5) of MM(DR) Act, 1957 for recovery the market value of the illegally extracted iron ore with appropriate penalty.</p> <p>In view of the aforesaid violations and inaction on the part of the State Government, it is suggested that this matter should also be handed over to the Central Bureau of Investigation like in other cases suggested by the Commission, for further needful action.</p> <p>(Page 112)</p>	<p><b>Government of Jharkhand</b></p> <p>The matter will be examined and necessary action will be taken after getting detailed report from DMO/AMO by following due process of law and demand will be raised under Section 21(5) of the MMDR Act, 1957.</p> <p><b>Ministry of Environment, Forests and Climate Change</b></p> <p>Same as reply to Para 7 above.</p> <p>MoEFCC will seek status report on the reported violations from the State Government and Regional Office Bhubaneswar.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
14	<p>(i) An area of 999.90 ha. (just 0.11 ha. less than maximum limit under Section 6(1)(b) of the MM(DR) Act, 1957) has been approved by the Ministry of Mines u/s 5(1) of the MM(DR) Act, 1957 (<b>MMDRA</b>) for mining lease of iron and manganese ore in favour of <b>M/s. JSW Steel Limited</b>. The State Government has not yet issued the order under the MMDRA. <b>Hence, the process of grant of lease is not completed.</b></p> <p>(ii) The applicant has submitted a proposal for 998.70 ha. for diversion of Reserved Forest land under the Forest (Conservation) Act, 1980 (FCA). The total area requires for this project comes to about <b>1101.14 ha.</b> The difference of excess area is earmarked for other allied mining activities associated with the mining lease outside the leased area but part of the reserve forest.</p> <p>(iii) The user agency has proposed for operation of the lease in two phases i.e. Phase-I area requirement is about 699.174 ha. and Phase-II area requirement is about 300.726 ha. In the Phase-I for the mining, it requires 452.644 ha. of forest land and for Phase-II, it requires 220.886 ha. of forest land. Therefore, the total area under iron ore reserve deposits which would be used for mining purpose only comes to about 673.53 ha. out of proposed 999.90 ha. The difference of the remaining area of 326.374 ha is required for other associated mining activities for the lease and they are not site specific. These activities can be carried outside the leased area.</p> <p>When such are the facts, then why the entire forest area has been considered for diversion of forest land? Why the FAC has not taken note of it and could have granted the area in the phases as proposed by user agency? If at all, only 452.64 ha. should have been considered for diversion. But at the same time, the Commission does not advocate to grant this land also. (Page 167-168)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> MoEFCC will seek status report on the reported violations from the State Government and Regional Office Bhubaneswar.</p> <p>Forest clearance for this project is still in progress. Only Stage-I approval has been granted. Forest clearance for this project is still in progress. Only Stage-I approval has been granted. As per procedure mining operations can be started only after execution of mining lease, which can be assigned only after Stage-II approval under Forest (Conservation) Act, 1980 by the MoEFCC and subsequent transfer of forest land by the State Government.</p> <p>The proposal has been considered by MoEFCC and FAC for diversion of forest land under Forest (Conservation) Act 1980 on the recommendation of the State Government.</p> <p>To minimize area of forest land which needs to be broken at any point of time during operation of the mine, phased breaking and reclamation of mineralized area located within the mining lease has been proposed. However, keeping in view provisions of section 2 (iii) of FC Act, which provides that <i>notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government</i>, approval under the FC Act for diversion of entire forest land located within the mining lease has been accorded. It is also in accordance with the MoEFCC's Guidelines issued vide letter no. 11-9/1998-FC dated 1<sup>st</sup> February, 2013. Even though, approval under the FC Act has been accorded for diversion of entire forest land located within the mining lease, forest land will be broken in the phased manner.</p> <p>Similarly, though the total area of forest land required for mining pits is 673.53 hectares, the remaining 326.37 hectares of forest land is required for other site specific essential ancillary activities required for execution of mining operations in the</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		said 673.53 hectares of mineralized forest land.
	(iv) The proposed area, as submitted by DFO, has been excluded from the proposed Conservation Reserve by the Forest Department and expert Committee has included this proposal in this report. This area is excluded on the suggestion of a RCCF, Jamshedpur, who himself is a party for recommendation of this project. Hence, there is a conflict of interest. It seems that the area is not excluded on merits but on some other considerations. This shall be re-looked. <b>An independent assessment should be made.</b> The area is excluded because it is proposed area for this project. This should not be taken as a criteria for inclusion. (Page 168 – 169)	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Same as reply to Para 1(i) to 1(iv) above.</p> <p>RCCF Jamshedpur is one of the Officers involved in the process of granting approval under the FC Act. He is also responsible for enforcing the regulatory mechanism provided in the Act. He is not the direct beneficiary from the project unlike User agency and, hence, no clear cut case of conflict of interest may be made out in the matter.</p>
	(v) The Principal Chief Conservator of Forests, State of Jharkhand, has not recommended the project for diversion of forest land and forwarded the proposal to take the decision at the Central Government level. (Page 170)	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> State Government of Jharkhand has recommended the project for diversion.</p>
	(vi) The decisions taken by the FAC on 27.12.2011, 02.04.2012 and 15.05.2012 have not been taken into consideration and complied with till date. Despite of this, the proposal has been considered and approved by the new FAC (constituted on 03.08.2012), on 21/22.01.2013 and that approved by the Hon'ble Minister of Environment and Forest on 25.04.2013. (Page 170)	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Keeping in view its earlier recommendations dated 27.12.2011, 02.04.2012 and 15.05.2014, the FAC recommended grant of approval under the FC Act for diversion of the forest land subject to fulfillment inter-alia of the following condition in addition to general and standard conditions for mining cases:</p> <p>(i) The State Government shall assess the extent of forest land for the purpose of forest connectivity and the use by wildlife and elephants in particular by undertaking scientific study for direct and indirect signs related to occupancy/habitat utilization. The State Government shall take the services of independent experts especially those having an experience and exposure of Saranda region and shall submit the findings alongwith a proposal delineating out the forest area from the lease which may be necessary for safe movement of elephants and which could be excluded from the overall area approved for diversion before</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		<p>seeking Stage II approval.</p> <p>(ii) The State Government shall assess the mining/reclamation plan in a holistic way along with similar plans of adjacent operational mines and modify them, if required, with a view to ensure that the connectivity of the forest patches is maintained by breaking up fresh land nearer to already broken up areas and reclaiming them simultaneously as the mining progresses.</p> <p>(iii) The user agency shall contribute proportionately towards execution of the comprehensive wildlife management plan.</p> <p>(iv) The user agency shall support in-situ capacity building program for forest officials and local community on topics like wildlife monitoring, crime prevention, habitat management, law enforcement etc.</p> <p>(v) The user agency and other lessees will celebrate wildlife week to create awareness programme amongst their staff and transporters for ecological and wildlife conservation of Saranda like Mines Environment and Mineral Conservation week which is celebrated every year by every mines under the aegis of Regional Controller of Mines, Indian Bureau of Mines, Kolkata Region.</p> <p>(vi) The user agency and others will upscale the skill and knowledge of their mines manager, environmental consultants and local forest officials towards best practices in mining like progressive mining and successive reclamation through exposure visits and trainings.</p> <p>(vii) Only working mining pits will be properly fenced instead of creating a linear barrier for wildlife movement through fencing of safety zone around the whole mining leases.</p> <p>(viii) Adequate water sprinkling will be ensured along the entire haul road within the mines. Proper dust suppression chemicals will be used while sprinkling the water to minimize the dust load in ambient air.</p> <p>(ix) Lessee should ensure plying of only Pollution under Control (PUC) vehicles in their lease area without the use of pressure horn.</p> <p>(x) To prevent the silt and fines flow into river Koina and Karo, the user agency shall construct suitable civil and rainwater harvesting structures and the harvested rain water should be utilized in mines.</p> <p>(xi) Blasting in night at mines and night</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		<p>transportation of ore through public roads will not be allowed. Transportation of ore by trucks/dumpers within the forest limit shall be replaced with aerial mode in phased manner.</p> <p>(xii) Proper lighting system in the mine will be used to reduce the glare to open sky and thus to facilitate the migration path of avifauna.</p> <p>(xiii) Insulated power transmission cable will be used in stretches passing through forests and the transmission line will be aligned along the roads only.</p> <p>(xiv) The user agency will be responsible to control fire in and around mining leases under the supervision of state forest department</p> <p>(xv) Paramilitary forces must be advised to consult local forest officials to put fires in forest area for making the visibility during combining operation and other purposes. Supply of LPG cylinder must be ensured by the local administration to discontinue the practice of large scale fire wood collection for cooking in the camp of paramilitary forces.</p> <p>(xvi) The State Government shall ensure that various mines are worked in such a way that the required elephant corridor / intermittent vegetation zones are always maintained without any long gap / disturbances.</p> <p>(xvii) The user agency shall ensure reclamation and rehabilitation of the mined out area with gentle negotiable slope of sufficient width so that connectivity is maintained beyond the ridge to allow animals to cross easily.</p> <p>The Committee also recommended that the State Government shall separately create GIS based database by hiring the services of organization of repute and having expertise in GIS technology. The database shall include all the mining leases whether in operation, under various stages of clearance or proposed. The broken up areas shall also separately form part of the database. The GIS database shall include layers of vegetation cover drawn from latest satellite imagery, drainage, roads, human habitation and contour lines. These layers along with other necessary data shall be used to present a digital elevation model for better understanding of the landscape.</p>
	(vii) The stand taken by Hon'ble Minister of Environment and Forest (MEF) that, the lease is surrounded by all sides being	<p><b>Government of Jharkhand</b></p> <p>The matter will be examined and necessary action will be taken as per provisions of law.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>operated actively by the SAIL, is factually incorrect. This is one of the factors taken for approval of Stage-I Forest Clearance for diversion of the forest land for this project.</p> <p>SAIL was granted Forest Clearance for 1,936.06 ha. forest land in Chiriya area of Saranda Forest. This statement is found factually incorrect as stated here.</p> <p>The total forest area of 2,376.392 ha. consisting of six leases which has been granted during 1940's and 1950's to IISCO (Indian Iron and Steel Company) and then transferred to SAIL. These leases are in two groups. On the right hand side, the Ajitaburu, Budhaburu (Mclellan) and Dhobil iron ore leases are located and on the left hand side, the remaining three leases i.e. Sukri-Luturburu, Ankua and Tatiburu leases are located. The Ankua and Tatiburu are the virgin forest areas and mining has never been done, while in the remaining leases, the mining was going on since many years. The diversion of forest land of 595.075 ha. (194.312 ha. already broken) in these leases cannot be compared with the fresh leases (which are not yet to be granted by the State Government under the MM(DR) Act, 1957).</p> <p>In the case of JSW, without following the direction of the Apex Court, the entire area has been granted in one go itself, though the user agency has proposed for mining in two phases i.e. Phase-I and Phase-II. <b>Why so generosity is shown in this case?</b> The leases of SAIL were granted in 1949 (Durguiburu) and 1960 (Kiriburu). It cannot be compared with fresh areas like JSW, JSPL and Electrosteel Castings Ltd., etc. (Page 170, 171, 173, 175)</p>	<p><b>Ministry of Environment, Forests and Climate Change</b> Forest land diverted in favour of M/s. JSW Steels is indeed sandwiched between mines of SAIL.</p> <p>Sukri Manoharpur mine on left side having 609.83 ha and Dhobil Manoharpur mine having 513.03ha, mclellan (Budhuburu) mine having 823.967 ha, Ajitaburu mine 323.88 ha on right side. All mines are of SAIL.</p> <p>Approval has been given under the FC Act for diversion of forest land of 2249.225 hectares in favour of SAIL in Saranda Forest in Jharkhand.</p> <p>Hon'ble Supreme Court in their order dated 4<sup>th</sup> August 2006 in I.A. No. 1598 to 1600 did not direct MoEFCC that <i>"in case the MoEF disagrees with the recommendation of the FAC, it shall record in writing and communicate to the said FAC. The FAC may after considering all such reasons, pass such further orders as it thinks fit; provided where the Government still disagrees with the order passed by the FAC, it may seek appropriate direction from the Hon'ble Supreme Court"</i>.</p> <p>However, the Hon'ble Supreme Court in their Order dated 4<sup>th</sup> August 2006 in I.A. Nos. 1413, 1414 etc. issued guidelines on conditions precedents for grant of Temporary Working Permissions (T.W.P.) as well as procedure for their grant in relation to renewal of mining leases.</p> <p>The direction of the Hon'ble Supreme Court is applicable to the proposals seeking Temporary Working Permission in relation to renewal of mining lease only.</p> <p>The extant proposal is for grant of a fresh mining lease. The said direction of the Hon'ble Supreme Court is therefore, not applicable to this proposal.</p>
	(viii) The approval accorded on 09.02.2011 by the then Minister of Environment and Forest by overruling the recommendations of rejection of FAC convened on 18.01.2011 is against the Supreme Court direction in the order dated 04.08.2006 in the case of T. N. Godavarman Thirumulpad V/s. Union of India & Ors. in I.A. Nos.1598- 1600 in Writ Petition (C) No.202 of 1995. <b>Therefore, action should be taken against those who are responsible in the SAIL matter.</b> (Page 173 - 175)	
	(ix) It is also noted that the contention taken for shortage of iron ore in the country for approval of this project is also factually	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>incorrect. As per the information available with the Commission, there are about <b>626</b> mines of iron ore with the production capacity of <b>31,08,05,452 MTPA</b> and the present requirement of iron ore for the steel production in the country is approximately <b>150 MT</b> for all the purposes. Still approximately <b>150 MMTPA</b> can be produced from the existing mines per year as per the EC approved by the Government of India and also as per approved mining plans by the IBM. (Page 175-176)</p>	<p><b>Ministry of Environment, Forests and Climate Change</b> Though there are 626 iron ore mines in the country, on the date of decision taken by the MoEFCC, a large number of these mines were not working due to orders passed by the Hon'ble Supreme Court and various other reasons.</p>
	<p>(x) User agency has not even started the acquisition of land for this purpose. There is almost nil progress in this regard. The FAC and MoEF have failed to take note of this aspect and approved Stage-I Forest Clearance for the whole area in spite of the several adverse factors and circumstances which would play a major role to destroy the natural eco-system of the Saranda forest area. (Page 176)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> MoEFCC will seek from the State Government details of progress of setting of steel plant by the user agency.</p>
	<p>(xi) Part non- forest land had been identified for this project but that too, is encroached. The CA land is identified in Maoist prone area and mostly not likely to be planted because of threat. This factor is also not taken note by FAC and MoEF. (Page 177)</p> <p>(xii) 2,91,010 trees or about 3.00 lakhs trees are likely to be felled during the implementation of the project. Such large scale felling of trees would create situations like what has happened in Kedarnath Valley and other places in Himalayas. This also indicates the health of the forest of this area. No mitigative measures can meet the damage of such high magnitude due to felling of trees.</p> <p>Admittedly, it contains about 3,00,000 trees which includes 2,00,000 trees about 60 cm. girth. The density is 0.7 to 0.8. Forest is declared as elephant reserve and finest area for elephant habitat. Apart from elephant, it contains giant squirrel, reptiles, sloth bear, wild boar, barking deer, etc. <b>Would it not be a sin to destroy such dense forest?</b> (Page 113, 177)</p> <p>(xiii) The compensatory afforestation done in lieu of the forest diversion under the FCA, 1980 is one of the weakest implemented conditions. The progress of CA is very</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> In part-II of the proposal received from the State Government it has clearly been stated that land identified for raising CA is suitable for compensatory afforestation. Proposal received from the State Government also contained a certificate regarding suitability of the area identified for CA and from management point of view, from the competent authority. Stage-II approval under the FC Act will be accorded only after a receipt of report from State Government that non-forest land free from encroachment/ encumbrances has been transferred and mutated in favour of the State Forest Department.</p> <p>With a view to compensate the loss of natural forest Hon'ble Supreme Court has directed to realise Net Present Value in addition to cost of Compensatory afforestation from the user agencies. Same is being realised from the user agency and transferred to ad-hoc CAMPA.</p> <p>Slow progress of compensatory Afforestation was mainly due to non-release of funds to the States during the period from 2006 to 2009 and regulated release of funds to the State thereafter. The Hon'ble</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>disappointing. In most of the cases, the plantation is done with exotic species. Therefore, this task should be given to the user agency. The user agency should carry out the compensatory afforestation and maintain it throughout the life of the project. (Page 177 – 178)</p>	<p>Supreme Court in their order dated 10th July 2009 permitted the ad-hoc CAMPA to release, a sum of about Rs. 1,000 crore per year, for the next 5 years, in proportion of 10% of the principal amount pertaining to the respective States/UTs. Accordingly, State CAMPAs have been constituted in all concerned State/ Union Territories. Funds are therefore, being released to State CAMPAs in accordance with the said order of the Hon'ble Supreme Court for implementation of the Annual Plan of Operations (APO) approved by the respective State CAMPA Steering Committee, containing provisions for creation of compensatory afforestation and other activities for conservation and development of forest and wildlife resources. Now, Hon'ble Supreme Court vide their Order dated 12<sup>th</sup> March 2014 has removed the limit of Rs 1000 crore and allowed the Ad-hoc CAMPA to release from the financial year 2014-15 onwards 10 % of principal amount from the accumulated interest. This direction coupled with another direction of taking up CA works on priority will further enhance the pace of the compensatory afforestation.</p> <p>Further to improve institutional mechanism for ensuring expeditious utilization of accumulated fund in more efficient and transparent manner, the MoEFCC is taking measures for constitution of Regular CAMPA.</p>
	<p>(xiv) On perusal of records, in hand as noted in this Chapter, some extraneous factors have played a role for approval of this project which requires further investigation. (Page 178)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Proposal was examined by the FAC and the Ministry in light of the recommendations of the State Government and Regional Office of the MoEFCC.</p>
	<p>(xv) One of the other considerations taken to approve this project is the diversion of forest land in favour of M/s. Usha Martin Ltd. It is observed that both the proposals have different parameters for consideration and should not be compared and treated equal. Notwithstanding the demerits and illegalities reported in the project of M/s. Usha Martin Ltd., it is noted here that the lease of M/s. Usha Martin Ltd. is old one but the project of JSW Steel Limited is a fresh in consideration and their location impacts are different, though both of them are part of core area of Elephant Reserve.</p> <p>Further, it is noted here that the present MEF has approved the Stage II of the forest</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Proposal of the project proponent was processed in accordance with the provisions of the FC Act and the Rules &amp; Guidelines framed thereunder. The proposal has been accorded Stage – I approval in pursuance to the self-contained speaking order of the competent authority of the MoEFCC.</p>



S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>diversion for an area of 117.0059 ha. on 02.11.2012 in favour of M/s. Usha Martin Ltd. If the Hon'ble Minister was so particular about the diversion of forest in favour of M/s. Usha Martin Ltd., the same could have been reconsidered, while approving the Stage II. (Page 178 – 179)</p> <p>(xvi) This project area falls between the two groups of SAIL mines. If this project is implemented, it would further block the elephant movements from north to south and vice-versa. Because of its location, the gap between the SAIL leases would be filled and thereby close the passage for the movements of elephants which is presently available. Otherwise also, the area diverted in SAIL leases, is very less. As reported in reports submitted by field staff, this area is a permanent territory of 10–15 elephants. (Page 179)</p> <p>With the facts and circumstances, it is recommended to reconsider this proposal on the outlines suggested in this chapter on various aspects and purely on merits.</p> <p>(a) Action should be initiated against all those who are responsible for approval of this project in violation of various issues as described above.</p> <p>(b) In spite of many adverse factors and circumstances against this project, what was the hurry to grant approval of Stage-I for diversion of forest land? <b>This requires further investigation from an independent Agency.</b> (Page 179 – 180, 182)</p>	
15	<p>There are other 19 projects (proposed mining leases) covering an area of <b>9,186.54 ha.</b> which are in pipeline for approval under FCA, 1980. All these projects are scattered in the Saranda forest area. Approval of this project, JSPL and Electrosteel Castings Ltd., etc. would open “flood gate” and quoted as precedent to approve all these 19 projects. It would not be out of context wherein approval of Forest Clearance in favour of M/s. Usha Martin Ltd. (Stage-I) for diversion of 117.0059 ha. forest land is taken one of the precedents to grant this project and others in the year 2013 (speaking order of MEF should be referred).</p> <p>In the proposal to declare Conservation Reserve under Wildlife (Protection) Act, 1972 submitted by RCCF (Jamshedpur), CF (Chaibasa) in the</p>	<p><b>Government of Jharkhand</b> Matter has been referred to the Forest Department for necessary action.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Same as reply to para 1(i) to 1(iv) above.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>year 2005 and further revived by the State Forest Department in the year 2011, the Forest area of <b>4,077.65 ha</b>, have been excluded.</p> <p>It is noted here that this project proposal of diversion of forest land and Forest Conservation Rules, 2003 had not been specifically recommended by the CF (16.06.2009), RCCF (03.08.2009) and PCCF (18.05.2010) which shows the importance of the area.</p> <p>With these facts, how this area is proposed to exclude from the proposed Conservation Reserve. It is observed that there is contradiction as well as conflict of interest for exclusion of this area from Conservation Reserve because the same authorities are behaving differently at different point of time. The expert Committee has not examined this exclusion of compartments on merits. <b>Therefore, entire area should be re-examined on merits irrespective of whether they are proposed or otherwise.</b> (Page 180-182)</p>	

### 3A Illegal mining, Transportation and Crushing of iron ore

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
16	<p>It appears that in the State of Jharkhand, number of crushers are permitted to operate, that too, on the border of State of Orissa. This increases illegal mining and unlawful trading of iron and manganese ores. (Page 14, Vol. I)</p> <p>As per the list submitted by the District Collector, West Singhbhum, Chaibasa, there are 89 crushers located in his jurisdiction. Only 60 are having required statutory clearances under the Law. Rests of them are running illegally. <b>Therefore, immediate action should be taken in this regard.</b> (Page 185)</p>	<p><b>Government of Jharkhand</b> Amendment has been proposed in Jharkhand Mineral Dealer's Rules, 2007 as in Odisha's rule.</p>
17	<p><b>It is recommended that the Chief Secretaries of both the States should convene a meeting and sort out this issue. All the crushers in Jharkhand State should be removed in phased manner within a year.</b> (Page 185)</p>	

**Justice M.B. Shah Commission of Inquiry's 'First Report on illegal mining of iron and manganese ores in the State of Jharkhand' (Volume IV)**

**1 M/s. Jindal Steel and Power Limited (M/s. JSPL) Jeraldaburu Iron Ore Mines**

<b>S. No.</b>	<b>Gist of Commission's Observations/ Findings / Recommendations</b>	<b>Action Taken Report</b>
1	<p>(i) The Commission has not analyzed the selection of the lessee to grant the lease under the MM(DR) Act, 1957, because of time constraints. <b>Therefore, the same should be done by an independent Agency.</b> (Page 1-2)</p> <p>(ii) As per the FAC proceedings dated 21-22/01/2013, the total area diverted for this project is 538.93 ha. including safety zone. The lessee has applied 24.44 ha. less area than approved under the MM(DR) Act, 1957. The reason is not stated in the proposal. (Page 2)</p> <p>(iii) M/s. Jindal Steel &amp; Power Ltd. has submitted a letter as a technical note dated 4th March, 2010 to the Principal Chief Conservator of Forest (PCCF), Department of Forest, Jharkhand State, Ranchi. Para-2 of the said letter contains that the Government has been granting the Jeraldaburu Iron Ore mine lease in Saranda Forest Division over an area of 537 ha for 30 years. The Company has no other source of iron ore in the State for the proposed steel plant. The Company has not given the full facts about the leases that it holds in other States wherein it does have substantial mineral privileges in the adjoining State of Orissa. (Page 4-5)</p> <p>(iv) <b>Breakup of Forest areas:—</b> The site specific area required for mining where ore resources are located would be about <b>323.18 ha.</b> only. Rest of the area is non-site specific and can be avoided for lease grant. (Page 6-7)</p> <p>(v) This project has not been recommended by all the four top statutory authorities. (Conservator of Forest - Southern Circle Chaibasa, Regional Chief Conservator of Forest – Singhbhum Jamshedpur, Principal Chief Conservator of Forest, State Government - Environment and Forest Department - Jharkhand).</p> <p><i>The PCCF, Government of Jharkhand, considering the importance of the area from wildlife viewpoint, has not recommended the proposal and left the decision to the Government of India.</i></p> <p>Inspite of all adverse factors, the CCF,</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Ministry of Environment, Forests and Climate Change (<b>MoEFCC</b>) will seek status report on the reported violations from the State Government and Regional Office Bhubaneswar.</p> <p>The proposal has been considered by MoEFCC and FAC for diversion of forest land under Forest (Conservation) Act 1980 on the recommendation of the State Government.</p> <p>Proposals seeking prior approval of Central Government under the Forest (Conservation) Act, 1980 (FC Act) for diversion of forest land in Saranda Forest dealt in Vol.-III and Vol.-IV of the Report of the Hon'ble Commission, were processed in accordance with the provisions of the FC Act and the Rules &amp; Guidelines framed thereunder.</p> <p>MoEFCC in consideration of recommendation of the Forest Advisory Committee advised the Government of Jharkhand to constitute an Expert Committee to look into the impact of mining, suggest appropriate mitigation measures and prepare an integrated Wild Life Management Plan for West Singhbhum District in which the Saranda Forest is located. Government of Jharkhand vide notification dated 27.08.2011 constituted the said Expert Committee. Wildlife Management Plan for West Singhbhum District prepared by the said Expert Committee is</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>Bhuvaneswar has recommended the proposal. The reasons are best known to him.</p> <p>It is pertinent to note here that without identifying the Compensatory Afforestation (CA) considering the proposal for diversion of the forest land is the violation of the guidelines of MoEF as well as defeat the spirit of diversion of forest land and consider as an undue favour extended to the user agency. (Page 9 – 13)</p> <p>(vi) <b>Whether forest area proposed for diversion is important from wildlife point of view or not:–</b> As per the DFO, the entire forest of Saranda Forest Division including the proposed mining lease area has been notified as core area of Singhbhum Elephant Reserve vide Notification No. 72/2000 P.E. dated 24/03/2011.</p> <p>The Saranda Forest is considered to be one of the finest habitats for elephants. Indian elephant, Giant Squirrel, Reptile, Sloth Bear, Wild Boar, Barking Deer, etc. have been reported in the area as per report of the DFO. The PCCF informed that the proposed area is located within the core area of elephant reserve. The PCCF also informed that the area is rich in biodiversity, 107 varieties of tree species were found in the sample plots. Any increase in mining operations in this area is likely to have an adverse impact on elephants and other wild animals. This will require integrated and extensive mitigative measures. <b>The PCCF has not recommended the proposal and left the decision to the Government of India.</b> (Page 16-18)</p> <p>(vii) <b>Whether land for compensatory afforestation is free from encroachment/ other encumbrances:–</b> <b>The performance of the compensatory afforestation in all the States is very poor including Jharkhand. Most of the areas for CA are identified in the naxalite affected areas. Moreover, the funds are also not released for CA by State Government.</b></p> <p>Both the proposed diversion area and the CA areas fall in the Maoist affected locations.</p> <p>The proposed CA land appears to be suitable for plantation but was under occupation of the local villages, though legally they are not the owners. During discussion with the Maoist commander it was transpired that in many areas, the right of the actual cultivators (not legal owners) are not recognized in different Government transactions.</p>	<p>presently under examination of the Government of Jharkhand.</p> <p>MoEFCC is formulating parameters to identify, in objective and transparent manner, inviolate areas which shall not be diverted for mining projects. Once these parameters are finalized, inviolate forest areas will be identified. To ensure long term conservation of inviolate areas, they will be notified as Conservation Reserve/ Corridors or Ecologically Sensitive Areas in accordance with the provisions of the Wild Life (Protection) Act, 1972 (WP Act) and the Environment (Protection) 1986 (EP Act) respectively.</p> <p>To facilitate real-time verification of information provided in the proposals seeking prior approval of Central Government under the FC Act and also to facilitate informed decision on these proposals, MoEFCC is developing a GIS based decision support system (DSS).</p> <p>Identification/ notification of inviolate areas and operationalization of DSS will address concern of the Hon'ble Commission. However, keeping in view, ecological importance of the Saranda Forest, and also keeping in view that the Wildlife Conservation Plan being prepared by the Expert Committee constituted by the Government of Jharkhand has not been finalized so far, the MoEFCC will constitute a multi-disciplinary team to examine the recommendation of the expert committee constituted by Jharkhand State Government &amp; Integrated Wildlife Management Plan prepared by the State Government and if required, commission a study by a multi-disciplinary team to prepare a plan for sustainable mining in the Saranda Forest without impairing long term survival of its rich flora and fauna.. The team consisting of leading institutions and experts in the field of Wildlife, Environment, Forests, Mining and Social Sciences will have the mandate to identify critical wildlife habitats, corridors linking critical wildlife habitats, rich forests and such other inviolate forest areas in Saranda Forest which needs to be protected and conserved for posterity. Critical wildlife habitats, corridors linking critical wildlife habitats, rich forests and such other inviolate forest areas Inviolate forest areas identified by the study team, will be notified either as Conservation Reserve/corridors or ecologically sensitive area in accordance with the provisions of the WP Act or the EP Act to ensure their long term conservation. In case whole or a part of forest land located in any of the mining</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>The industries and other user agencies many a times transfer this kind of lands to the Forest Department for rising of CA and it appears that the actual field situation are not proper on many occasions and many a times fear to visit the field or stay there for longer period because of the Naxal presence. As a result when a project actually comes up in the field or land is actually transferred to the forest department, serious sociological problems crops up.</p> <p>Probably strengthening the hands of the forest department by appointing sufficient frontline staffs in ground level and providing more maneuverability in the terms of finance and administration, would probably deliver much better result at the field and probably they can win the confidence of people living in deep interior of the forest. (Page 17-21)</p> <p><b>(viii)Connectivity between the forests:—</b> There should be proper planning to ensure proper connection between significant chunks of forests, this lease is located in the northernmost corner of different contiguous leases over continuous forest patches and the southern forest are partly distribute due to some mining as per the submitted map; and further north the non forest lands occur; so the important of this portion increases from the angle of connectivity and it should be ensured that no significant chunk of forests go without proper connection. No mitigative action would be helpful when the basic forest area itself get destroyed.</p> <p>After analyses the whole area of Saranda forest the Commission has observed that the creation of permanent linear barrier of 35 Kms (aerial distance) which divides the forest into two parts (East and West) in one of the prime important factor. The same has been completely ignored by all authorities.</p> <p><b>The thick vegetation of the Saranda forests facilitates good precipitation and even during the peak summer months the water is available. Due to the mining there will be complete destruction of some areas which may lead to shortage of water and will result in pollution of river unless proper steps are taken.</b> (Page 22 – 23, 71)</p> <p><b>(ix) Note submitted by Shri C. J. Singh on 14/01/2013:—</b> <i>“...In view of the above, it is worth motioning that Wildlife Management Plan referred above</i></p>	<p>lease located in Saranda forest, for which approval under the FC Act has already been accorded, is identified as inviolate, MoEFCC will modify such approvals to prohibit use of these areas for mining and other allied activities. While execution of the study, the team will take into account the Wildlife Conservation Plan prepared by the Expert Committee constituted by the Government of Jharkhand.</p> <p>MoEFCC will commission a study to assess carrying capacity of Saranda Forests to suggest annual cap (for ore production) and till then the MoEFCC will not accept any new proposal for grant of approval under the FC Act for diversion of forest land for mining in Saranda Forest.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p><i>has been prepared by the Expert Committee constituted by the State Government and is already considered by the FAC. The Plan is presently under consideration in the State Government for their further comments.</i></p> <p><i>The project proponent vide their letter dated 17/12/2012 has submitted that since the Wildlife Management has been prepared for the Saranda Area and mitigative measures and other conditions suggested in the Plan will be complied with by the project proponent. The project proponent has further submitted that they have already submitted an undertaking to the PCCF (Wildlife), Ranchi to abide by the recommendations of the integrated Wildlife Management Plan prepared for entire Saranda area and Chaibasa South Forest Division and to contribute proportionately in the cost of implementation of the said plan. Accordingly, the project proponent has requested to consider the proposal for forest clearance."</i></p> <p>On careful perusal of the Note dated 14/01/2013 of Sri C. J. Singh (TO-FC), it is observed that the note is misleading and incomplete. There is no mention of the decision taken in the FAC meeting dated 02/04/2012 and 15/05/2012. The proceedings of these two meetings are found crucial to consider the matter of forest diversion in the Saranda Forest. Though the matter of JSPL &amp; JSW was discussed by a new FAC (constituted on 03/08/2012), the Chairman in FAC meeting on 21st/22nd January, 2013, was present in both meetings (02/04/2012 and 15/05/2012).</p> <p>The Wildlife Management Plan is prepared by the Expert Committee and pending with the State Government as on date. The Deputy Secretary of Government of Jharkhand (Forest &amp; Environment Department) has informed to the Commission on 20/09/2013 that the plan is under the process of being considered by the State Government for its final approval. Then, how a plan was considered by FAC as stated in the note of Sri C.J. Singh? The approved Wildlife Management Plan has not yet received by the MoEF and no views of WII and Dr. R. K. Singh is taken on the final report (since the Plan is submitted by the State Government to MoEF, any views of WII and Dr. R.K. Singh on draft plan will not be proper). In spite of that, Shri C.J. Singh has put up a Note on 14/01/2013 based on letter dated 17/12/2012 of project proponent (JSPL) to place the matter before the FAC for consideration in the next meeting.</p> <p>Though, the matter was well known to the then</p>	

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>Officiating Chairman of the FAC, the subject of diversion of forest land for this lease has been considered by the FAC on 21st / 22nd January, 2013 and the diversion was approved by overlooking and without attending the recommendation of FAC dated 15/05/2012.</p> <p>It is further noted that when this matter was considered in FAC, Shri A. K. Srivastava ADGF (FC) and DGF and SS (I/c), acted as Chairman; Shri M. S. Negi IGF FC, as Member Secretary and Professor M. P. Todria as Member. On perusal of the entire file, it is observed that this matter has been considered without attending the observations of the FAC dated 02/04/2012 and 15/05/2012. <b>The matter should be further enquired in this regard by a Competent Agency.</b> (Page 35 – 39)</p> <p>(x) It is observed that most of the parameters / factors are adverse for diversion of forest land for this project and similar other mining projects but all the projects are considered one after the other without application of mind and merits. It is observed that a rubber stamping is done on the proposed proposal of the user agencies for the whole areas by adding some more conditions which are never implemented in past in almost all similar projects and also not monitored properly by MoEF and State Government. Addition of certain conditions should not be taken as justification for approval of this project. Mining is one of the most detrimental activities for destruction of forest. The gone natural forest would not be resumed in its original state due to lose of soil profile. No mitigative measures can substitute the lost natural forest. (Page 70-71)</p> <p>(xi) The proposed lease area is having no surrounding leases except at the southern side of this lease. The proposed area is an extension of the block which are having already mining leases towards the southern side. Hence, it is wrong to say that this lease is surrounded by the other leases. Further the lease is a fresh lease and cannot be compared with the leases which were granted before 1980 and now the renewal / approval are being accorded for diversion of the forest land. It is not correct to mix both the issues, as done in this case and the other similar cases in recent past. The approvals in favour of M/s. Usha Martin Ltd., has been taken as yardstick for approvals to many others including this proposal. The proposed lease area is a part of the Core Zone of Notified Elephant Reserve with</p>	

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>a very high tree density of 0.5 to 0.7 of virgin forest. It is estimated that about 87095 number of trees are likely to be felled while implementing this project. The number of trees likely to fell may be more by seeing the tree density of the area.</p> <p>Present Minister for Environment and Forests (MEF) has approved the Stage II of the forest diversion for an area of 117.0059 ha. on 02.11.2012 in favour of M/s. Usha Martin Ltd. If the Hon'ble Minister was so particular about the diversion of forest in favour of M/s. Usha Martin Ltd., the same could have been reconsidered, while approving the Stage II.</p> <p>This matter was placed before the Forest Advisory Committee on 27/12/2011, wherein it was noted that the entire area of this proposal is for diversion of fresh unbroken forest area of Saranda Division. The area falls in the Core area of Singhbhum Elephant Reserve which is one of the finest habitats for Elephant. In the said meeting it was also observed that the Wildlife Management Plan is under preparation for the Saranda area. The said Wildlife Plan should be submitted to the State Government and the State Government in turn to weigh the plan and submit it to the MoEF. After submission to the MoEF the Wildlife management plan would be weighted by the Wildlife Institute of India and the expert Dr. R.K. Singh. (Page 71-73)</p>	
	<p>(xii) Contrary to the decision taken in the FAC dated 27/12/2011 the new FAC has considered and approved the project proposal in a meeting dated 21-22 January, 2013, without adhering to the decisions in the earlier FAC. It is observed that such hasty action of the FAC is not based on merits, but could be some other consideration and requires further investigation in the matter.</p> <p>The applicant holds two mines in Orissa State for the area of 297.848 ha. (Tantra Rurkela Iron Ore mine) and 947.046 ha (Thakurani Iron Ore mines of Sarda Mines Pvt. Ltd.) for extraction of about 18.11 million tons Iron Ore per year. This may meet the requirement to be established State Plants. (Page 72-73)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Keeping in view its earlier recommendations dated 27.12.2011, 02.04.2012 and 15.05.2012, the FAC recommended grant of approval under the FC Act for diversion of the forest land subject to fulfillment inter-alia of the following condition in addition to general and standard conditions for mining cases: (i) The State Government shall assess the extent of forest land for the purpose of forest connectivity and the use by wildlife and elephants in particular by undertaking scientific study for direct and indirect signs related to occupancy/habitat utilization. The</p>



S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		<p>State Government shall take the services of independent experts especially those having an experience and exposure of Saranda region and shall submit the findings alongwith a proposal delineating out the forest area from the lease which may be necessary for safe movement of elephants and which could be excluded from the overall area approved for diversion before seeking Stage II approval.</p> <p>(ii) The State Government shall assess the mining/reclamation plan in a holistic way along with similar plans of adjacent operational mines and modify them, if required, with a view to ensure that the connectivity of the forest patches is maintained by breaking up fresh land nearer to already broken up areas and reclaiming them simultaneously as the mining progresses.</p> <p>(iii) The user agency shall contribute proportionately towards execution of the comprehensive wildlife management plan.</p> <p>(iv) The user agency shall support in-situ capacity building program for forest officials and local community on topics like wildlife monitoring, crime prevention, habitat management, law enforcement etc.</p> <p>(v) The user agency and other lessees will celebrate wildlife week to create awareness programme amongst their staff and transporters for ecological and wildlife conservation of Saranda like Mines Environment and Mineral Conservation week which is celebrated every year by every mines under the aegis of Regional Controller of Mines, Indian Bureau of Mines, Kolkata Region.</p> <p>(vi) The user agency and others will upscale the skill and knowledge of their mines manager, environmental consultants and local forest officials towards best practices in mining like progressive mining and successive reclamation through exposure visits and trainings.</p> <p>(vii) Only working mining pits will be properly fenced instead of creating a linear barrier for wildlife movement through fencing of safety zone around the whole mining leases.</p> <p>(viii) Adequate water sprinkling will be ensured along the entire haul road within the mines. Proper dust suppression chemicals will be used while sprinkling the water to minimize the dust load in ambient air.</p> <p>(ix) Lessee should ensure plying of only Pollution under Control (PUC) vehicles in their lease area without the use of pressure horn.</p> <p>(x) To prevent the silt and fines flow into river Koina and Karo, the user agency shall construct suitable civil and rainwater</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		<p>harvesting structures and the harvested rain water should be utilized in mines.</p> <p>(xi) Blasting in night at mines and night transportation of ore through public roads will not be allowed. Transportation of ore by trucks/dumpers within the forest limit shall be replaced with aerial mode in phased manner.</p> <p>(xii) Proper lighting system in the mine will be used to reduce the glare to open sky and thus to facilitate the migration path of avifauna.</p> <p>(xiii) Insulated power transmission cable will be used in stretches passing through forests and the transmission line will be aligned along the roads only.</p> <p>(xiv) The user agency will be responsible to control fire in and around mining leases under the supervision of state forest department</p> <p>(xv) Paramilitary forces must be advised to consult local forest officials to put fires in forest area for making the visibility during combining operation and other purposes. Supply of LPG cylinder must be ensured by the local administration to discontinue the practice of large scale fire wood collection for cooking in the camp of paramilitary forces.</p> <p>(xvi) The State Government shall ensure that various mines are worked in such a way that the required elephant corridor / intermittent vegetation zones are always maintained without any long gap / disturbances.</p> <p>(xvii) The user agency shall ensure reclamation and rehabilitation of the mined out area with gentle negotiable slope of sufficient width so that connectivity is maintained beyond the ridge to allow animals to cross easily.</p> <p>The Committee also recommended that the State Government shall separately create GIS based database by hiring the services of organization of repute and having expertise in GIS technology. The database shall include all the mining leases whether in operation, under various stages of clearance or proposed. The broken up areas shall also separately form part of the database. The GIS database shall include layers of vegetation cover drawn from latest satellite imagery, drainage, roads, human habitation and contour lines. These layers along with other necessary data shall be used to present a digital elevation model for better understanding of the landscape.</p>
	(xiii) The proposed lease area has been indicated to exclude from the proposed Conservation reserve as suggested by the Expert Committee based on a proposal of a middle level officers of the rank of CCF/CF/Dy CF without going through the merits of the area. The officers who have	<p><b>Government of Jharkhand</b></p> <p>The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Mines</b></p> <p>The Government of Jharkhand has been advised</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>suggested for the exclusion of this area were also recommendatory authorities for the said proposal. Hence there is a conflict of interest. Further the same area was recorded as <b>inviolable areas</b> during 2007 by the same officers. Why the earlier stand is changed? This matter should be further enquired.</p> <p>It is stated here that the Principal Chief Conservator of Forest and State Government have not recommended the proposal considering the sensitivity of the area and on other various grounds as discussed in this chapter. (Page 74)</p>	<p>to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> CCF is one of the Officers involved in the process of granting approval under the FC Act. He is also responsible for enforcing the regulatory mechanism provided in the Act. He is not the direct beneficiary from the project unlike User agency and, hence, no clear cut case of conflict of interest may be made out in the matter.</p>
2	<p><b>Therefore it is recommended that:</b></p> <p>(a) Reconsider the Stage I approval of diversion of forest land. Approvals accorded under the Section 5(1) of MMDR Act, 1957, should be withdrawn. (Page 74)</p> <p>(b) <b>Out of 512.56 ha., 323.18 is only iron ore reserve:—</b> In any case, out of the proposed lease area contains an area of 323.18 ha. iron ore bearing reserve deposited (site specific) and the remaining 115.75 ha non-iron bearing area (non site specific). It is to state that only the area which is having the reserve deposits may have been considered as site specific project and the remaining areas should not have been considered as site specific. All the mining activities (non site specific) can be done somewhere else also. In the area of 323.18 ha, the mining can be easily done in phased manner. During the approval of this proposal, this aspect has not at all been considered. As pointed out in similar cases FAC does not have an expert member on mining/geology, observed as demerit for the formation of FAC. This does not mean that Commission is advocating for grant of part lease land. (Page 75)</p> <p>(c) <b>Action should be initiated against all the concerned as stated in this Chapter.</b>(Page 75)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Though the total area of forest land required for mining pits is 323.18 hectares, the remaining 115.75 hectares of forest land is required for other site specific essential ancillary activities required for execution of mining operations in the said 323.18 hectares of mineralized forest land.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
3	<p>(i) Usha Martin Limited (formerly Usha Beltron Ltd.) has drawn up a programme to produce about 5 lakh tonnes of sponge iron and about 3 lakhs tonnes of pig iron from its steel making unit. The proposed Vijay-II Iron Mine is a part of this Endeavour to produce required quantity and quality of iron ore as feed for MBF &amp; DRI plants. <b>It is observed here that the M/s Usha Martin Ltd. is not exclusively holding the Steel plants and require further investigation.</b> (Page 77)</p> <p>(ii) In the notification issued on 08.01.1986 the closing date for receipt of applications was not mentioned and kept open for infinitely. There was a wilful violation of Rule 59 of the MCR, 1960 in its letter and spirit of the said Rule. The notification suffers with proper application of provisions of law hence should be considered as void and no effect. Any subsequent action on this faulty notification would also be null and void.</p> <p>In reference to this notification, <b>it is noted that the application of M/s. Usha Martin Industries was the last application considered after a gap of 12 years.</b> (Page 81-82)</p> <p>(iii) While comparing the above submission, following submission are recorded in the noting of <b>Director (Mr. I.D. Paswan) dated 09.04.2003 and Deputy Secretary (Mr. S. P. Singh) dated 02.05.2003</b> to give advantage to <b>M/s. Usha Martin Co.</b></p> <ul style="list-style-type: none"> <li>While deciding priority on the basis of Rule 11 of MMDR Act, 1957 case of M/s. Usha Martin is stronger than other because company already holding mineral bases industries in the state and due to non availability of raw iron ore, production capacity is badly affected. But as per the fact it is not true. Because other company like <b>M/s. Misrilal Mines Pvt. Ltd.</b> was also equally eligible in the same category.</li> <li>...</li> <li>All the three applicants appeared for hearing has said that they have started follow up action to obtain FC approval under F.C. Act, 1980. It is stated that the process of FC approval can't be initiated till the applicant is decided under MMDR Act, 1957 for grant of lease. But it is claimed that the M/s. Usha Martin case was stronger than others as it has started the process (Purvanumodan) for diversion of Reserve forest land under F.C. Act, 1980 and further claimed of having also identified land for Compensatory afforestation.</li> <li><b>This can't be legally correct, as FC approval</b></li> </ul>	<p><b>Ministry of Mines</b></p> <p>The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p><b>procedure cannot be started prior to selection of applicant by competent authority to grant lease by State Government. Also the same thing would be applicable to Mining Plan and other statutory clearances.</b> (Page 86-88)</p> <p>(iv) Priority of M/s. Usha Martin is given only on the basis of that company faces crisis of iron ore for their existing plant and they will use this iron ore for its own industries. But reason best known to authority this <b>condition was not stated in the Letter of Intent &amp; also in the grant order no. kh.ni.-3/BM-4- 7/98/476/m/Ranchi/, dated 22.03.2005.</b> (Page 89)</p>	
4	<p><b>In the annexure list of application at sr. no. 10</b> to the Application submitted by M/s. Usha Martin on 19.11.1998 in Form-I, under MCR, 1960, following information were submitted by the Company: <b>1. Mr. J.A. Kennedy, Nationality: British. Hence with the above there is violation of Section 5(1)(a) of MMDR Act, 1957.</b> (Page 89-90)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken for violation of Section 5(1)(a) of the MMDR Act, 1957 and demand will be raised for recovery of the price of mineral produced &amp; dispatched by the lessee during the period under Section 21(5) of the MMDR Act, 1957 after following due process of law.</p>
5	<p>The Application submitted by M/s. Usha Martin on 19.11.1998 in Form-I, under MCR, 1960, following information were submitted by the Company:</p> <p>At Point.3 (XIX) the manner in which the mineral raised is to be utilised ..... : <b>for captive use at</b> our plant in Gamharia, district. Singhbhum (W) for making pig iron in mini blast furnace already in operation.</p> <p><b>Company has submitted undertaking on 17.01.1998 as under:-</b>  <b>"That the iron ore will be used only for our captive plant, i.e. this mine will be our captive source for the plant which is at a distance of about 130 km from Badajamda railway station."</b></p> <p>This under taking was not stated in <b>Cabinet Note of Govt. of Jharkhand</b> for the approval by Mine department. Therefore the word captive was not included in the mine lease deed.</p> <p>Commission has also received a complaint from Mr. P. K. Gupta dated 11.05.2012 in which he has stated that the undertaking was also not produced before the Hon'ble High court of Jharkhand. The above fact shows that Mine department may have misguided the Cabinet and the High Court, both. This requires further investigation. (Page 89-91)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and demand will be raised under Section 21(5) of the MMDR Act, 1957 after following due process of law.</p>
6	<p><b>Forest Land:</b> The whole of 155.078 ha. mining lease area is located in the Ghatkuri Reserved Forest. It is claimed that 11.97 ha.</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>were broken before 25<sup>th</sup> October, 1980 when the Forest (Conservation) Act, 1980 became Law. But there is no record produced in this regard. Moreover, it is observed that the lease was granted only in 2005. The justification for broken-up area before 1980 which was identified in 2003 (after a gap of 23 years) is totally unacceptable. The natural vegetation and tree growth in the area also confirms that this area should not have been treated as broken up area. (Page 92)</p>	<p>provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> The proposal has been considered by MoEFCC and FAC for diversion of forest land under Forest (Conservation) Act 1980 on the recommendation of the State Government.</p> <p>The MoEFCC will formulate appropriate guidelines for verification of areas broken up area prior to 25.10.1980 and communicate the same to State Government for their compliance.</p> <p>In case area of broken up forest land in this mine is found to be less than 11.97 hectares, the MoEFCC will modify the condition pertaining to compensatory afforestation to be raised in lieu of the forest land diverted in favour of the user agency stipulated in approval under the FC Act accorded for diversion of the forest land in favour of the user agency.</p>
7	<p><b>Blockage of linear corridor</b> <b>The location of the lease area is strategically very important because it closes the gap of 1.6 km (arial distance) between the leases of Devki Bhai Valji and SAIL Gua. By grant of this mining lease it has completely blocked the free movements of wild animals from East to West and Vice-versa. The location of the lease is bad in wildlife management point of view. It has completely bifurcated the area into two halves. The lease should not have been granted. The Forest Department had totally failed to observe this critical issue.</b></p> <p><b>Life of Mine:</b> The estimated proved and probable reserves of 5.9 million tons in Sector-I mineralized zone area with 5.00 lakh tones per annum production from 4th year to 7th year and 8.5 lakh tonnes per annum from eight year onward, will last for 11 years. However, deep borehole core drilling exploration proposed in Sector-I and Sector-II mineralized zone may prove further increase in reserves and thus the life of this mine will get further increased. But the question is how much? (Page 92-93)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Proposals seeking prior approval of Central Government under the Forest (Conservation) Act, 1980 (FC Act) for diversion of forest land in Saranda Forest dealt in Vol.-III and Vol.-IV of the Report of the Hon'ble Commission, were processed in accordance with the provisions of the FC Act and the Rules &amp; Guidelines framed thereunder.</p> <p>MoEFCC in consideration of recommendation of the Forest Advisory Committee advised the Government of Jharkhand to constitute an Expert Committee to look into the impact of mining, suggest appropriate mitigation measures and prepare an Integrated Wild Life Management Plan for West Singhbhum District in which the Saranda Forest is located. Government of Jharkhand vide notification dated 27.08.2011 constituted the said Expert Committee. Wildlife Management Plan for West Singhbhum District prepared by the said Expert Committee is presently under</p>
8	<p><b>First FC Clearance:—</b> (i) The proposal for diversion of Forest land was submitted by one Shri S.C. Verma on 14.02.2003 on behalf of M/s. Usha Martin Industries Ltd. i.e. almost 9 months before the approval accorded under Section 5(1) of the MMDR Act, 1957, by</p>	<p>vide notification dated 27.08.2011 constituted the said Expert Committee. Wildlife Management Plan for West Singhbhum District prepared by the said Expert Committee is presently under</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p><b>Govt. of India.</b></p> <p>The Director of Mines has informed to M/s. Usha Martin Industries on 16.02.2004 that his application has been selected in principle to recommend to Government of India for approval.</p> <p>After receipt of the proposal, it is surprised to note that the Dy.CF has processed the proposal for diversion of forest land and submitted it with recommendations to the Conservator of Forest on 05.08.2003 though there was no lease at that point of time. It is pertinent to note here that on this date (05.08.2003) there was no any kind of approval of the lease or letter of intent in favour of the applicant – M/s. Usha Martin Industries.</p> <p>Dy. CF is not the authority to decide the lease under the MMDR Act, 1957 and cannot process the application when there is no cause of action arisen. By doing so he has misused the power and authority and extended undue favour to the applicant.</p> <p>It is not known whether proposal was transferred from the Nodal Officer to him. Such type of process of proposal for diversion of forest land in favour of a person who has not been granted lease has made additional pressure to grant the lease in such a strategic location. It seems that the forest department was very eager to grant the forest area of a density as high as 0.9 (as reported by Dy. FC in Part-II). The reasons best known to him.</p> <p>The DCF has not enumerated the trees inside the proposed area and also no land for compensatory afforestation was identified by the lessee at that time and did not attach along with the proposal. The DCF reports that the area in question is very important from wildlife point of view and it forms the part of Singbhum Elephant Reserve notified on 24.03.2001. The DCF further states that the area is of special importance from wildlife management point of view. But at the same time, he recommended the project with so called some mitigation measures. (Page 93-95)</p>	<p>examination of the Government of Jharkhand.</p> <p>MoEFCC is also formulating parameters to identify, in objective and transparent manner, inviolate areas which shall not be diverted for mining projects. Once these parameters are finalized, inviolate forest areas will be identified. To ensure long term conservation of inviolate areas, they will be notified as Conservation Reserve/ Corridors or Ecologically Sensitive Areas in accordance with the provisions of the Wild Life (Protection) Act, 1972 (WP Act) and the Environment (Protection) 1986 (EP Act) respectively.</p> <p>To facilitate real-time verification of information provided in the proposals seeking prior approval of Central Government under the FC Act and also to facilitate informed decision on these proposals, MoEFCC is developing a GIS based decision support system (DSS).</p> <p>Identification/ notification of inviolate areas and operationalization of DSS will address concern of the Hon'ble Commission. However, keeping in view, ecological importance of the Saranda Forest, and also keeping in view that the Wildlife Conservation Plan being prepared by the Expert Committee constituted by the Government of Jharkhand has not been finalized so far, the MoEFCC will constitute a multi-disciplinary team to examine the recommendation of the expert committee constituted by Jharkhand State Government &amp; Integrated Wildlife Management Plan prepared by the State Government and if required, commission a study by a multi-disciplinary team to prepare a plan for sustainable mining in the Saranda Forest without impairing long term survival of its rich flora and fauna.. The team consisting of leading institutions and experts in the field of Wildlife, Environment, Forests, Mining and Social Sciences will have the mandate to identify critical wildlife habitats, corridors linking critical wildlife habitats, rich forests and such other inviolate forest areas in Saranda Forest which needs to be protected and conserved for posterity. Critical wildlife habitats, corridors linking critical wildlife habitats, rich forests and such other inviolate forest areas Inviolat forest areas identified by the study team, will be notified either as</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		<p>Conservation Reserve/corridors or ecologically sensitive area in accordance with the provisions of the WP Act or the EP Act to ensure their long term conservation. In case whole or a part of forest land located in any of the mining lease located in Saranda forest, for which approval under the FC Act has already been accorded, is identified as inviolate, MoEFCC will modify such approvals to prohibit use of these areas for mining and other allied activities. While execution of the study, the team will take into account the Wildlife Conservation Plan prepared by the Expert Committee constituted by the Government of Jharkhand.</p> <p>Also the MoEFCC will commission a study to assess carrying capacity of Saranda Forests to suggest annual cap (for ore production) and till then the MoEFCC will not accept any new proposal for grant of approval under the FC Act for diversion of forest land for mining in Saranda Forest.</p>
8	<p>(ii) The user agency has intentionally applied for diversion of forest land twice in two phases. The first phase he applied only for an area of 29.4648 ha. out of total proposed lease area of 155.078 ha. The same was approved by RCCF, Bhubaneswar. Hence, during the grant of Mining lease under MMDR Act, 1957 by State Government on 22.03.2005 it was only 29.4648 ha. approved area under FCA, 1980. The rest of the area (125.6132 ha.) was not approved. It is pointed out here that the lease cannot be granted in favour of applicant for the forest areas which have not been diverted under Section 2 of the FCA, 1980. If doing so, it was a flagrant violation of Section 2 (iii) of the FCA, 1980. <b>It is made clear that in the present case, the lease for an area of 125.6132 ha. has been illegally granted under the MMDR Act, 1957 in violation of Section 2(iii) of the F.C. Act, 1980.</b> (Page 95-96)</p> <p>(iii) The Conservator of Forest after having inspection on 07.10.2003 (that too even before approval under Section 5(1) of the MMDRA, 1957 from Ministry of Mines, Government of India) emphasized the importance of the area from wildlife point of view but he has also recommended the proposal for consideration with certain conditions which do not find place in the approval accorded by the Government of India, MoEF. Even having all adverse factors against forest and wildlife, the proposal was recommended. Why did the proposal process for the part area ? To grant the lease for entire area it was supposed to be diverted the entire area under Section</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Section 2 (iii) of FC Act provides that notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government.</p> <p>Approval under the FC Act for diversion of entire forest located within the mining lease is therefore required to be obtained before, execution of mining lease in favour of the project proponent. The MoEFCC has issued clear Guidelines in this regard vide letter no. 11-9/1998-FC dated 1<sup>st</sup> February, 2013.</p> <p>The MoEFCC, after examination of the proposal of the Government of Jharkhand for diversion of 29.4648 ha of forest land</p>



S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>2(ii) as required under Section 2(iii) of the F.C. Act, 1980. (Page 96-97)</p>	<p>out of total proposed lease area of 155.6132 ha, observed that production target might be met by utilizing only 29.4648 ha of forest land and therefore, accorded approval for this land. However, in order to ensure that rest of the forest land which was part of the proposed lease, is maintained as natural forest, the MoEFCC imposed condition no. (xiv) in the Stage-I approval.</p> <p>From the above, it is clear that approval accorded under the Forest (Conservation) Act, 1980 for 29.4648 ha had taken into account the rest of the forest area falling within the leasehold. Further the intention of proposing condition no. (xiv) was only to ensure conservation of remaining forest area of the leasehold till any decision is taken by the State Government for its diversion with the approval of Central Government.</p>
8	<p>(iv) The Regional Chief Conservator of Forest who has inspected the area on 29.12.2003 has also emphasized the importance of the area from the forest point of view as well as wildlife management point of view but he too recommend the project. (Page 97)</p> <p>(v) It is pertinent to note here that the basic requirements for any wildlife habitat is not to allow fragmentation of the area. This has not been taken into consideration in this case. Because of this lease, a permanent barrier has been created which has stopped completely the movement of wild animals from East to West and vice versa (<b>Annexure-I at page 145, Vol. IV</b>).</p> <p>It is to state here that any proposed mitigation measures would not substantiate the damage caused to fragmentation of the habitat due to mining. The measures suggested by the Forest Department are very ordinary in nature and even that too hardly complied with. No any kind of study was done of the area at that point of time. (Page 97-98)</p> <p>(vi) <b>For the conservation of forest, the Forest (Conservation) Act, 1980 was brought into force with effect from 25.10.1980 by an Act 69 of 1980. The said Act has been amended by adding Sub-section (iii) of Section 2 with effect from 15.03.1989 to prohibit any State Government or any other authority to assign forest land by way of lease or otherwise to any private party or any authority, corporation, agency or any organization not owned or controlled by the Government. In the present case this has been</b></p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> MoEFCC will seek details from the State Government in respect of 8(iv) to 8(vii).</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p><b>violated for an area of 125.6132 ha.</b> (the area for which no FC approval was not obtained but the lease was granted under MMDR Act, 1957. (Page 98)</p> <p>(vii) Grant of mining lease for an area of 383.20 Acres (155.078 ha.) of forest land has been accorded by the State Government vide Notification No.476 dated 22.03.2005 for an area of 155.078 ha. Hence, an area of 125.6038ha. has been granted as lease under MMDRA, 1957 in violation of Section 2(iii) of the F.C. Act, 1980.</p> <p>It is pertinent to note here that the approval under the FCA, 1980 was taken only for 29.4648 ha. of the forest land and remaining forest land has not been diverted under the FCA, 1980. Hence, it is a clear violation of Section 2 (iii) of the FCA, 1980.</p> <p>Surprisingly, in the approval accorded on 12.07.2005 MoEF has added Condition No.(xiv) by ignoring the facts that no lease can be granted without prior approval under the FCA, 1980. Hence, MoEF is also equally responsible for allowing to grant of the forest land to an extent of 125.6132 ha. in violation of Section 2(iii) of the said Act. It is noted here that the provisions of the FCA are misused for the convenience by imposing a condition like (xiv) in FC approval dated 12.07.2005.</p> <p>Further, it is noted here that a note put up for the Cabinet approval, the para at part ४ (kha) was also not in conformity with Section 2(iii) of the FCA, 1980.</p> <p>For the above both violations, action should be taken under Sections 3(A) and 3(B) of the FCA, 1980 against all those who are responsible in this matter. The State Government and Central Government should identify all officers and others and to take action under the FCA, 1980.</p> <p><b>It is further noted here that approval given for an area of 117.0059 ha. (total lease area was 155.078 ha) on 09.11.2012, surprisingly, there is no mention regarding violation under Section 2(iii) of the FCA, 1980.</b></p> <p>From the records submitted by the PCCF, Jharkhand, it is observed that the process of diversion of the forest land has been initiated even much before approval of the mining lease u/s 5 (1) of the MMDR Act, 1957 (dated 07.11.2003. (Page 100-102)</p>	
9	<p><b>Second FC Clearance:–</b></p> <p>i) The State Government has submitted the second proposal for diversion of forest land of an area of</p>	<p><b>Government of Jharkhand</b></p> <p>Matter has been referred to the Forest Department for necessary action.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>117.0059 ha. in favour of M/s. Usha Martin Limited, Vijaya-II Iron Ore Mines in Ghatkuri Reserve Forest on 29.05.2010. The State Government has recommended the proposal. It is observed here that the State Government has already granted the mining lease under MMDR Act, 1957 for an area of 155.078 ha. without having diversion under FCA, 1980 at that point of time in violation of the Section 2(iii) of the said Act (FCA, 1980). On perusal of the complete file it is noted that neither the State Government nor the Central Government has taken note of it. They have processed the proposal in complete disregard of the law and finally granted the diversion of the forest land under the FCA, 1980 without pointing out the violation under Section 2(iii) of FCA, 1980.</p> <p>It is observed that the FCA, 1980 is used for the convenience and had been diluted to a large extent by framing various guidelines not in commensurate with the Act and Rule framed thereunder.</p> <p><b>On perusal of the minutes of the FAC dated 11.02.2011, it is noted that FAC was completely failed to observe the violation of Section 2(iii) of FCA, 1980. Action should be initiated accordingly. (Page 102, 112)</b></p>	<p><b>Ministry of Environment, Forests and Climate Change</b></p> <p>As already stated in comments at paragraph 8(ii) and (iii) above, the FAC, while recommending the diversion of 29.4648 ha out of total 155.78 ha of forest land in the lease against the 1<sup>st</sup> proposal of the State Government, had taken into account the balance forest area. These facts have already been reflected in proceeding of the FAC as also recorded in the report.</p>
9	<p>ii) Grant of this lease has caused to create a barrier by linking the SAIL Gua mine (north east) to Devki Bhai Belji mine (south). This has resulted into stoppage of free movement of wild animals East to West and vice versa. The free passage is now completely blocked by a <b>linier barrier</b> of 35 Km. length (north to south) by granting this mine. Because of grant of this mine, there is continuous mines on the ridges of 35.00 Kms. distance from north of Rungta Mines to the South of Shah Bros. Not only this, the barrier further extended by linkup mines of SAIL in Orissa State. Hence there would likely be discontinuity of gene pool flow. Long run damage has been generated apart from the violation of Section 2(iii) of FCA, 1980.</p> <p>Dr. R.K. Singh in his letter dated 04.06.12 has, inter alia, stated that he has noticed no attempt by the expert committee to look into Wildlife movement aspect around the mining lease under consideration here and that no field data has been collected. It may be noted that the study of wildlife movement itself was mandated in the stage-I clearance. <b>It has further been stated that the location where the diversion of forest land is sought is very important in the terms of elephant movement.</b> Dr. Singh feels that a committee comprising of Ministry of officials and experts conversant in local ecology may undertake a 4-5 days visit and suggest site specific actionable/protective measures before grant of final clearance.</p>	<p><b>Government of Jharkhand</b></p> <p>The matter will be examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b></p> <p>The MoEFCC vide letter dated 23.06.2014 has requested the State Government of Jharkhand to submit an Action Take Report in this regard.</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>Taking note of above fact this Ministry has requested Dr. R.K. Singh to visit the area and submit a report to this Ministry. Dr. R.K. Singh vide his letter dated 12/10/2012 has submitted report on study of wildlife in the proposed area. Based on his findings during the visit; Dr. R.K. Singh has made following recommendations to conserve environment and ecological importance of the area with special reference to Wildlife.</p> <p>It is to state here that to appoint Dr. R.K. Singh as an expert, was actually a suggestion of the project proponent. It is noted here that how user agency can suggest an expert of his own choice and also paid by them. No impartial report would be generated in such dealings. The Commission has observed that report of Dr. R. K. Singh is taken as final words in all matters.</p> <p><b>Does it help in saving the Saranda Forest?</b> (Page 115-121)</p> <p>M/s. Usha Martin Limited has given an undertaking for the captive consumption of ore against the lease grant of this area.</p> <p>It is observed that the lessee has exported the quantity of 832397.24 MT from 2006-07 to 2009- 10 (<b>Table A, page 126-128 Vol. IV</b>) in violation of undertaking filed by him. The value of quantity equivalent to the export quantity should be recovered from the lessee at the then prevailing market rates with applicable penalties. (Page 124-125)</p>	
10	<p>A diary (note book) was seized by the police of Manoharpur Police Station, West Singhbhum on 21.08.2011 during <b>Operation Monsoon</b>. Perusal of this diary shows that M/s. Usha Martin Ltd. pays levy to the naxals @Rs60,00,000=00 (sixty lacs) per year as mentioned on the page no. 3 of the diary. <b>The Central and State Governments should take note of the above payments and initiate appropriate action. The Central Government should also check out a policy being the matter very serious.</b> (Page 129-131)</p>	<p><b>Government of Jharkhand</b> The matter will be examined and necessary action will be taken as per provisions of law.</p>

2A Saranda on its way to finish

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
11	<p>(i) Mining activity most often leads to land degradation in opencast mining, deforestation, atmospheric pollution, pollution of aquatic system, soil erosion due to disposal of solid wastes like overburden. All these affect the ecological balance of the area and often lead to desiccation. <i>The guiding principle shall be that a miner shall leave the mining area in better ecological shape.</i> (Page 149)</p> <p>(ii) Presently, the Environmental Impact Assessment has been on the activities of a single project in a location. However, the combined effects of various activities of a number of projects, which form a cluster could turn out to be synergetic significant. <b>Cumulative Impact Assessment</b> of mining projects is not done and hence the cumulative impact goes unnoticed and causing main concern. (Page 152)</p> <p>(iii) <b>Expert Committee:—</b> On the direction of the MoEF, the State Government has constituted an Expert Committee vide Notification No.WL-09/2010-3296-WL RANCHI dated 27.08.2011 to look into the impact of mining and suggest mitigation measures and to prepare an integrated Wildlife Management Plan in the West Singhbhum district.</p> <p>On perusal of the report of the Expert Committee, it is observed that the appointment of the Committee suffers with not having the experts in the field of Mines and Geology, Hydrology, Water Resources (River System), Environmentalists, Traffic Experts, etc. Further, it is observed that though the Expert Committee was appointed mainly to look into the impact of mining but at the same time the expertise on mines is lacking in the Committee.</p> <p>On going through the report it is observed that no proper analysis have been made for intensive mining, present requirements of ore in the State and in the Country as a whole, projected requirement of ore and steel vis-à-vis projected GDP for 20 years or so. The impact of total mining leases in this continuous entire iron ore belt of States of Orissa, Jharkhand and Chhatisgarh are the other shortcoming of the report. Hence, without attending the above observations, the report on impact of mining on the Ecosystem, Wildlife, Socio-Economics of the area is incomplete. The Committee has also not gone through the mining plans, their implementation and impact of frequent modifications of the mining plans under MCDR 1988 for commercial gains.</p> <p>Though the Committee has gone extensively on the ecology and wildlife point of view of the area but at the same time suffers with the applications of other factors as stated above which are mainly responsible for degradation of Saranda</p>	<p><b>Government of Jharkhand</b> The matter is being examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Mines</b> The Government of Jharkhand has been advised to examine the matter and take appropriate action after following due process of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Proposals seeking prior approval of Central Government under the Forest (Conservation) Act, 1980 (FC Act) for diversion of forest land in Saranda Forest dealt in Vol.-III and Vol.-IV of the Report of the Hon'ble Commission, were processed in accordance with the provisions of the FC Act and the Rules &amp; Guidelines framed thereunder.</p> <p>MoEFCC in consideration of recommendation of the Forest Advisory Committee advised the Government of Jharkhand to constitute an Expert Committee to look into the impact of mining, suggest appropriate mitigation measures and prepare an integrated Wild Life Management Plan for West Singhbhum District in which the Saranda Forest is located. Government of Jharkhand vide notification dated 27.08.2011 constituted the said Expert Committee. Wildlife Management Plan for West Singhbhum District prepared by the said Expert Committee is presently under examination of the Government of Jharkhand.</p> <p>Final comments on observation of the Hon'ble Commission about exclusion of the mining lease area can be made only after examination of the Integrated Wildlife Management Plan on receipt of the same from the State Government.</p> <p>MoEFCC is also formulating parameters to identify, in objective</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	Forest beyond repair. (Page 153-155)	
12	<p>The State Government of Jharkhand has submitted a list of 42 approved mining leases in the West Singhbhum District. The leases are granted mainly for the hematite extraction of iron ore. The total area leased in these mines comes about 11,524.809 ha. The location of these mines are shown on satellite images and enclosed as <b>Annexure: 1 (page 163, Vol. IV)</b>. On perusal of the total leases and in this zone of Orissa State (Keonjhar and Sundargarh District) and Jharkhand (West Singhbhum) the total area affected due to leases is about <b>59,422.02 ha. (Annexure: 3 at page 165, Vol. IV)</b>. The entire zone is one of the finest elephant habitat in the country. There are many other wildlife recorded in this area.</p> <p>The State Government has also submitted the list of 19 proposed mining leases in the same District (<b>Annexure: 2, page 164, Vol. IV</b>). The total area for these proposed mines would be about 9186.54 ha.</p> <p><b>It is stated here that about 85,770.00 ha. is the total forest area (81,780.00 ha. RF, 3,990.00 ha. PF) of the Saranda Division. Out of that, 20,711.03 ha. is the leased and proposed leased area. It makes about 24% of the total forest area which is very high. The locations of these leases are equally important. If all the leases are allowed then the Saranda forest would be fragmented into pieces of lands. The encroachments due to agriculture and other activities are in addition to the area of 20,711.03 ha.</b></p> <p>With the available information, the Commission has analyzed the mines proposed to be granted in favour of some lessees, who are already in the field of iron ore mining, either in the State of Jharkhand or other States in the country as discussed under:–</p> <p>(i) <b>Tata Steel Ltd.</b> has been granted prospecting license in Gua for 1,808 ha. (908 ha.). It is stated here that the Tata Steel Limited has 08 mines in the State of Orissa covering an area of 4,945.14 ha. and average yearly expected production of <b>2,29,10,200 MT</b> per year. The Tata is also having a lease over an area of 1,160.36 ha. in Naomundi Reserve Forest of West Singhbhum district with a permitted quantity of 1,00,00,000 MT per year (Total = 3,29,10,200 MT per year). In total Tata Steel Ltd., has already acquired 6105.50 ha. of leased area in relaxation of Section 6(1)(b) of MMDR, Act, 1957. Hence the Commission strongly feels that there is no need to further grant the lease, for which the prospecting license has already been given. The area should be made <b>inviolable area</b> and shall be included in the proposed <b>Conservation reserve</b> under Wildlife (Protection) Act, 1972. (Page 156)</p> <p>(ii) <b>The Rungta Mines Limited</b> - An area of 693.50 ha. (Two mines) is proposed to grant leases in favour of Rungta Mines Ltd. It is to state here that the Rungta group is already having 16 leases over an area of about 3662.17 ha. in Jharkhand and</p>	<p>and transparent manner, inviolate areas which shall not be diverted for mining projects. Once these parameters are finalized, inviolate forest areas will be identified. To ensure long term conservation of inviolate areas, they will be notified as Conservation Reserve/ Corridors or Ecologically Sensitive Areas in accordance with the provisions of the Wild Life (Protection) Act, 1972 (WP Act) and the Environment (Protection) 1986 (EP Act) respectively.</p> <p>To facilitate real-time verification of information provided in the proposals seeking prior approval of Central Government under the FC Act and also to facilitate informed decision on these proposals, MoEFCC is developing a GIS based decision support system (DSS).</p> <p>Identification/ notification of inviolate areas and operationalization of DSS will address concern of the Hon'ble Commission. However, keeping in view, ecological importance of the Saranda Forest, and also keeping in view that the Wildlife Conservation Plan being prepared by the Expert Committee constituted by the Government of Jharkhand has not been finalized so far, the MoEFCC will constitute a multi-disciplinary team to examine the recommendation of the expert committee constituted by Jharkhand State Government and if required ,commission a study by a multi-disciplinary team to prepare a plan for sustainable mining in the Saranda Forest without impairing long term survival of its rich flora and fauna. The team consisting of leading institutions and experts in the field of Wildlife, Environment, Forests, Mining and Social Sciences will have the mandate to identify critical wildlife habitats, corridors linking critical wildlife habitats, rich forests and such other inviolate forest areas in Saranda Forest which needs to be protected and conserved for posterity. Critical wildlife</p>

S. No.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>Orissa States. It is further noted that iron ore is purely used for commercial purpose and export by this group and there is no Steel plant established by them. Hence the Commission strongly feels that Rungta Mines Limited may not be granted any more lease and the area proposed for two leases should be declared as <b>inviolable area</b> and should be included in the <b>Conservation reserve</b> under Wildlife Protection Act, 1972.</p> <p>(iii) <b>Sesa Goa Limited</b> - An area of 999.40 ha has been proposed in favour Sesa Goa Limited. It is stated here that Sesa Goa Ltd., its subsidiaries and associates are having at least 26 leases in Goa and Karnataka over an area of 2154.62 ha. with them in violation of Section 6(1)(b) and (3) of the MMDR Act, 1957. The Sesa Goa Limited is now taken over by the Vedanta Groups, which is a UK based registered Company by having more than 50% equity / public shares in Sesa Goa Ltd. It attracts the Section 5(a) of the MMDR Act, 1957. The Sesa Goa Ltd., its subsidiary and associates are already having about 1993.08 ha. of leases area in Goa and 161.54 ha. in Karnataka (Narayana Iron Ore Mine). The Iron ore extracted by the Sesa Goa Ltd. and others, is mostly used for exports and there is no Steel plant established. The lessee is also involved in illegal mining in Goa and Karnataka. Hence, the Commission feels that to grant such a large prime virgin forest area in favour of Sesa Goa Ltd., should not be considered. The area so proposed should be made part of <b>inviolable area</b> and included into the <b>Conservation reserve</b>, under Wildlife (Protection) Act, 1972.</p> <p>(iv) <b>Another Group of mines namely KJS Ahluwalia</b> is also having the leases in Orissa State. The Ore is used for commercial purpose and export. He is involved in illegal mining by way of encroachments and others. Hence, it should also be discouraged to grant him further leases which would destroy the most sensitive ecosystem of the country.</p> <p>(v) <b>Other than the leases as stated above (out of the proposed 19 leases)</b>, the Commission strongly feel that grant of leases should be <b>on need basis instead on greed base</b>. All the area of an extent of 9184.54 ha. should be declared as <b>inviolable areas</b> and included in proposed <b>Conservation reserve</b> under Wildlife Protection Act, 1972. (Page 155-165)</p>	<p>habitats, corridors linking critical wildlife habitats, rich forests and such other inviolable forest areas Inviolable forest areas identified by the study team, will be notified either as Conservation Reserve/corridors or ecologically sensitive area in accordance with the provisions of the WP Act or the EP Act to ensure their long term conservation. In case whole or a part of forest land located in any of the mining lease located in Saranda forest, for which approval under the FC Act has already been accorded, is identified as inviolable, MoEFCC will modify such approvals to prohibit use of these areas for mining and other allied activities. While execution of the study, the team will take into account the Wildlife Conservation Plan prepared by the Expert Committee constituted by the Government of Jharkhand.</p> <p>Also the MoEFCC will commission a study to assess carrying capacity of Saranda Forests to suggest annual cap (for ore production) and till then the MoEFCC will not accept any new proposal for grant of approval under the FC Act for diversion of forest land for mining in Saranda Forest.</p>
13	<p><b>Out of 8897.84 ha. of leased area for 24 leases (leases which are under deemed refusal category); 7652.08 ha. area is forest land. So, it is recommended that instead of granting fresh leases in the Saranda forest, these all leases should be terminated by following due process of law and then granted by public auction or otherwise whichever is applicable within law, after notifying under Rule 59 of the MCR, 1960 so that there may not be further depletion of the Saranda Reserve Forest which is also a part of notified Elephant Reserve and proposed Conservation Reserve by the Expert Committee (notified on 27.08.2011).</b> (Page 159)</p>	<p><b>Government of Jharkhand</b> The matter is being examined and necessary action will be taken as per provisions of law.</p> <p><b>Ministry of Environment, Forests and Climate Change</b> Same as reply to Para 11 and 12 above.</p>

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