

भारत कोकिंग कोल लिमिटेड (कोल इंडिया लिमिटेड का एक अंग) एक मिनीरत्न कंपनी महाप्रबंधक का कार्यालय,बरोरा क्षेत्र पोस्ट –नावागढ़ , जिला –धनबाद



पंजीकृत कार्यालय –कोयला भवन,कोयला नगर ,धनबाद,826005

पत्रांक–म. प्र./पर्यावरण/वन अपयोजन/2022/

2087

दिनांक- 15.12.2022

सेवामें.

वन प्रमण्डल पदाधिकारी

धनबाद

विषय- बी. सी. एल. बरोरा क्षेत्र के अन्तर्गत मुराईडीह कोलियरी हेतु प्रस्तावित133.69 हे. वन भूमि अपयोजन के प्रस्ताव के संबंध में। सन्दर्भ सं.:- आपका पत्रांक - 2776, दिनांक- 06.12.2022

महाशय,

मुराईडीह कोलियरी, बी. सी. एल के बरोरा क्षेत्र का एक कोल माइनिंग परियोजना है, जो धनबाद जिला में अवस्थित है | मुराईडीह परियोजना की वन प्रस्ताव की स्थिति निम्न प्रकार है:-

		अधिसूचित वन	जंगल झाड़ी	कुल वन क्षेत्र	
-		(हे.)	(हे.)	(हे.)	
1	-	7.6	0	7.6	अपयोजित -10-76/FCE दिनांक 09.06.1997
2	मुराईडीह कोलियरी,	46.17	87.52	133.69	वर्तमान प्रस्ताव
	बरोरा क्षेत्र	9			(FP/JH/MIN/44804/2020 दिनांक 09-03-
	e e				2020)

बिहार गजट, 1964 एवं उपायुक्त- सह- जिला दण्डाधिकारी, धनबाद के ज्ञापांक-1407, दिनांक 11.04.2022 के अनुसार मुराईडीह कोलियरी, बरोरा क्षेत्र में शेष 133.69 हे. वन भूमि अपयोजन का प्रस्ताव समर्पित किया है, जिसमें 46.17 हे. अधिसूचित वन भूमि तथा शेष 87.52 हे. जंगल-झाड़ी है| पूर्व में OB Dumping किये गए भूमि का विवरण निम्न प्रकार से है:-

OB Dumping							
Notified F	orest (Ha)= 34.38 Ha	Jungle Jhari (Ha)= 74.72 Ha					
Up to 1980	23.11	Up to 1996	38.30				
After 1980	11.27	After 1996	36.35				

वर्त्तमान में 11.79 हे. अधिसूचित वन भूमि तथा 12.87 हे. जंगल-झाड़ी यथावत (Intact in present) है एवं उस पर कोई OB Dumping नहीं की गयी है| (प्रमाण : अनुलग्नक 3)

श्रीमान् को गह सूचित किया जा रहा है कि वन विभाग द्वारा दावा की गयी वन भूमि, बी. सी. एल. को संसदीय अधिनियम Coking Coal Mine (Nationalisation) Act, 1972 के तहत हस्तांतरित किया गया है और कुछ जगहों पर राष्ट्रीयकरण से पूर्व निजी कंपनियों (Central Kendwadih Colliery, Diamond Phularitand Colliery, East Benedih Colliery, Barora Colliery etc.) द्वारा खदान चलायी गयी है, जो कि भारतीय सर्वेक्षण विभाग, भारत सरकार द्वारा निर्गत शीट संख्या Sheet No. 16, 17 & 22 तथा राष्ट्रीयकरण से पूर्व मानचित्रों/ Plans से स्पष्ट है| (प्रमाण: अनुलग्नक 4, अनुलग्नक 5)

Duj

हालांकि, इस संबंध में माननीय उच्च न्यायलय, रांची के आदेश को संदर्भित किया जा सकता है, जिनके अनुसार Quote

"No reference is there of any notification issued after expiry of thirty years and as such, it can be easily assumed that after 1964, no notification has been issued in terms of Section 30B of the Indian Forest Act and under the situation, one is constrained to hold that the land over which mining activities were done, can never be assumed to be the protected forest land.

Under this situation, no offence can be said to have been committed by the petitioner even if the mining activities were undertaken over the land in question."

Unquote (प्रमाण: अन्लग्नक 1)

माननीय उच्च न्यायलय, रांची के वाद संख्या CWJC-66/1999 में पारित अंतरिम आदेश, दिनांक 11.02.1999 के आलोक में Muraidih Open Cast Project में खनन कार्य किया गया। अंतरिम आदेश के अनुसार

Quote

"During the pendency of the Writ petition, the respondents are restrained from interfering with the mining activities undertaken by the petitioners in connection with the project commonly known as Muraidih Open Cast Project."

Unquote

मुराईडीह कोलियरी, बरोरा क्षेत्र हेतु प्रस्तावित133.69 हे. वन भूमि अपयोजन प्रस्ताव पर माननीय द्वारा निर्देशित सभी NPV और Compensatory Afforestation का भुगतान प्रयोक्ता अभिकरण द्वारा किय जायेगा। अतः श्रीमान् से विनम्र निवेदन है कि मुराईडीह कोलियरी हेतु प्रस्तावित 133.69 हे. वन भूमि पर यथाशीघ्र कार्यवाही की जाये|

संलग्न:-

- Judgement of Hon'ble High Court, Ranchi, दिनांक 29.05.2012.
- उपायुक्त- सह- जिला दण्डाधिकारी, धनबाद ज्ञापांक-1407, दिनांक 11.04.2022 2.
- 3. AMPC/SURFACE PLAN/2022/262 दिनांक 14.12.2022
- Sheet No. 16, 17 & 22 by Survey of India (1980-81)
- Plans of private company pre-nationalization (6 Plans)



Date: - 29.05.2012

Sub:-

Criminal Misc. No. 4532 of 2001

Sri Surendra Prasad Sahu
 Sri D.P. Singh

-Vrs-

1) The State of Jharkhand

2) The Divisional Forest Officer, Dhanbad Forest Division, Dhanbad & Anr.

Placed below the order of Hon'ble Jharkhand High Court, Ranchi, dated 12.04.2012 in Cr. Misc. No. 4532 of 2001 in connection with B.F. Case No. 144 of 2000 pending before Judicial Magistrate, Dhanbad The crux of the order of Hon'ble Jharkhand High Court, Ranchi is appended below:

"Here in the instant case, as it appears from the prosecution report that the land is being claimed to be the forest land by virtue of a Notification issued in the year 1964.

No reference is there of any notification issued after expiry of thirty years and as such, it can be easily assumed that after 1964, no notification has been issued in terms of section 30B of the Indian Forest Act and under the situation, one is constrained to hold that the land over which mining activities were done, can never be assumed to be the protected forest land.

Under this situation, no offence can be said to have been committed by the petitioners even if mining activities were undertaken over the land in question.

Accordingly, the entire criminal proceeding of B.F. Case No. 144 of 2000 including the order dated 03.10.2000 is hereby quashed.

In the result, this application is allowed."

Submitted please for further direction to the dealing / concerned officials to take appropriate action before Ld. Trial Court, Dhanbad in consultation with conducting Advocate,

Encl: - Certified copy of order dated 12.04.2012(in original).

HOD (Legal) Cyty K

(Dr. K. S. Sinha)

Dy. Manager (Pers.)/IR-L

157/NORIY

Sr. Manager (Legal) KB

Put having mer onified copy of order At 12:412 passed by the Handle High camt, Romani to the dealing advante of the rase for taking necessary steps for dispoing the ease much of against the petition. And following.

SALG (Deb)

crossed c.c. endosa with this wheshed.

Criminal Misc. Petition No.4532 of 2001

In the matter of an application under Section 482 of the Criminal Procedure Code.

1. Sri Surendra Prasad Sahu

... Petitioners

2. Sri D.P. Singh

Versus

1. The State of Jharkhand

2. The Divisional Forest Officer, Dhanbad Forest Division, Dhanbad. & Anr.

...Opp, Parties

For the Petitioners

: Mr. A.K. Mehta, Advocate

For the State

: Mrs. Nikki Sinha, A.P.P.

PRESENT

HON'BLE MR. JUSTICE R.R. PRASAD

By Court:

Heard learned counsel appearing for the petitioners and learned counsel appearing for the State.

This application has been filed for quashing of the entire criminal proceeding of B.F. Case No.144 of 2000 including the order dated 03.10.2000 passed by the learned Chief Judicial Magistrate, Dhanbad whereby and whereunder learned Chief Judicial Magistrate, Dhanbad took cognizance of the offence punishable under Section 33 of the Bihar Forest Act, 1927 against the petitioners.

It appears that when these two petitioners and one other person were found indulging themselves in doing mining work over the land situated within the protected forest, an offence report was submitted on 23.11.1998. After investigation, the prosecution report dated 08.08.2000 was submitted, upon which cognizance of the offence was taken on 03.10.2000. That order is under challenge.

Mr. Mehta, learned counsel appearing for the petitioners submits that the petitioners cannot be said to have committed any offence by doing mining work over the land which has been claimed to be the forest land as when the petitioners had earlier been restrained from doing mining work over the piece of land, alleged to be the forest land by the Forest Department, the petitioners did prefer writ application before this Hon'ble Court vide CWJC No.66 of 1999 (R), which was admitted on 11.02.1999 whereby an order was also passed that "during the pendency of the writ petition, the respondents are restrained from interfering with the mining activities of the petitioner in connection with the project commonly known as Muraidih Open Cast Project."

It was further submitted that though the Forest Department has claimed the land as protected forest by virtue of the Notification issued in the year 1964, but it lost its force after expiry of 30 years. Thereafter, no further



12-V)

notification has been made and if any further notification would have been made after expiry of thirty years reference should have been made in the prosecution report itself. But since, the prosecution report is silent, it can easily be assumed that after 1964, no notification was issued in terms of Section 30 of the Indian Forest Act and on this ground alone, entire prosecution, in view of the decisions rendered in the cases of Jagdish Mehta vs. State of Jharkhand and others [2003 (2) J.C.R 525 (Jhr)] and Janu Khan and others vs. State of Bihar (AIR 1960 Pat 213) is fit to be quashed.

However, learned counsel appearing for the State submits that there has been a specific allegation that these two petitioners were found doing mining work over the land which was a part of the protected forest land and, thereby, the petitioners are rightly being prosecuted.

Having heard learned counsel appearing for the parties and on perusal of the record, I do find that earlier to lodgment of the instant prosecution, when there was interference on the part of the forest department over the mining work which was being done by these petitioners over a piece of land allegedly the part of the forest land, the petitioners did approach to this Court vide C.W.J.C. No.66 of 1999 (R) whereby this Court vide its order dated 11.02.1999 restrained the respondents from interfering with the mining activities undertaken by the petitioners in connection with the project commonly known as "Muraidia Open Cast Project".

A clear cut stand has been taken that the prosecution, which has been lodged, is with respect to the same "Muraidih Open Cast Project" but it has never been denied. Under this situation, the petitioners cannot be said to have committed any offence.

So far other submission relating to consequence of non-issuance of the notification, after expiry of thirty years is concerned, one needs to take notice of the provision as contained in Section 30B of the Indian Forest Act, which reads as follows:-

"30. Power to issue notification reserving trees, etc. – The State Government may, by notification in the Official Gazette, ---

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the State Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such terms, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the right suspended in the portion so closed; or

(C).....

Here in the instant case, as it appears from the prosecution report



that the land is being claimed to be the forest land by virtue of a Notification issued in the year 1964.

No reference is there of any notification issued after expiry of thirty years and as such, it can be easily assumed that after 1964, no notification has been issued in terms of Section 30B of the Indian Forest Act and under the situation, one is constrained to hold that the land over which mining activities were done, can never be assumed to be the protected forest land.

Under this situation, no offence can be said to have been committed by the petitioners even if mining activities were undertaken over the land in question.

Accordingly, the entire criminal proceeding of B.F. Case No.144 of 2000 including the order dated 03.10.2000 is hereby quashed.

In the result, this application is allowed.

sa/ - R. R. Prasad. J.

Jharkhand High Court, Ranchi Dated 12nd April, 2012 Ravi/N.A.F.R.

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Copyling Officer

Opportunity and a Rule 252 file of J.H.C. Rules

Authorised II " 78 Aut of 1872

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प्रमाणित किया जाता है कि अंचल—बाघमारा के मौजा—बरमसिया / 105, बरोरा / 97, केन्दुआडीह / 96, बहालडीह / 103 एवं मुराईडीह / 104, जिला-धनबाद के खाता एवं प्लॉट में सन्निहित भूमि का कैडेस्ट्रल सर्वे (CS) / 25.10.1980 के पूर्व प्रकाशित अंतिम रिवीजनल सर्वे (RS) का अभिलेख अथक प्रयासों के पश्चात भी विभिन्न राजस्व अभिलेखागारों, अंचलाधिकारी कार्यालय, जिला अभिलेखागार, भू-अर्जन कार्यालय, बंदोवस्त कार्यालय, राजकीय मुद्रणालय आदि में उपलब्ध नहीं हो पाया अथवा जीर्ण शीर्ण / कटे फटे अवस्था में है तथा अपटनीय है।

अतः 25.10.1980 को वर्णित भूमि का किस्म क्या था यह पता नहीं चल पा रहा है। संबंधित भूमि का अभिलेख वर्ष 2005 में प्रकाशित वर्त्तमान रिवीजनल सर्वे के आधार पर अंचल अधिकारी, बाघमारा द्वारा उपलब्ध कराया गया है, जिसकी विवरणी संतरन है (पृष्ठ सं0-01-42)।

अतः स्पष्ट है कि वर्ष 2005 में प्रकाशित रिवीजनल सर्वे के अनुसार उक्त भूमि वन (संरक्षण) अधिनियम, 1980 के प्रयोजन हेतु वनभूमि की श्रेणी में नहीं आती है।

उपरोक्त संबंध में यह वचनबद्धता दी जाती है कि भविष्य में यदि 25.10.1980 के पूर्व के सर्वे अभिलेखों के आधार पर उक्त भूमि की प्रकृति वन/जंगल-झाड़ी आदि (deemed forest) के रूप में पायी जाती है, तो इसे तत्काल सभी संबंधित कार्यालयों तथा प्रयोक्ता अभिकरण को सूचित किया जायेगा एवं उसके अनुसार संबंधित प्रयोक्ता अभिकरण वन (संरक्षण) अधिनियम, 1980 अंतर्गत परियोजना में सम्मिलित उक्त चिन्हित वनभूमि के अपयोजन का प्रस्ताव समर्पित करने हेतु बाध्य होगें।

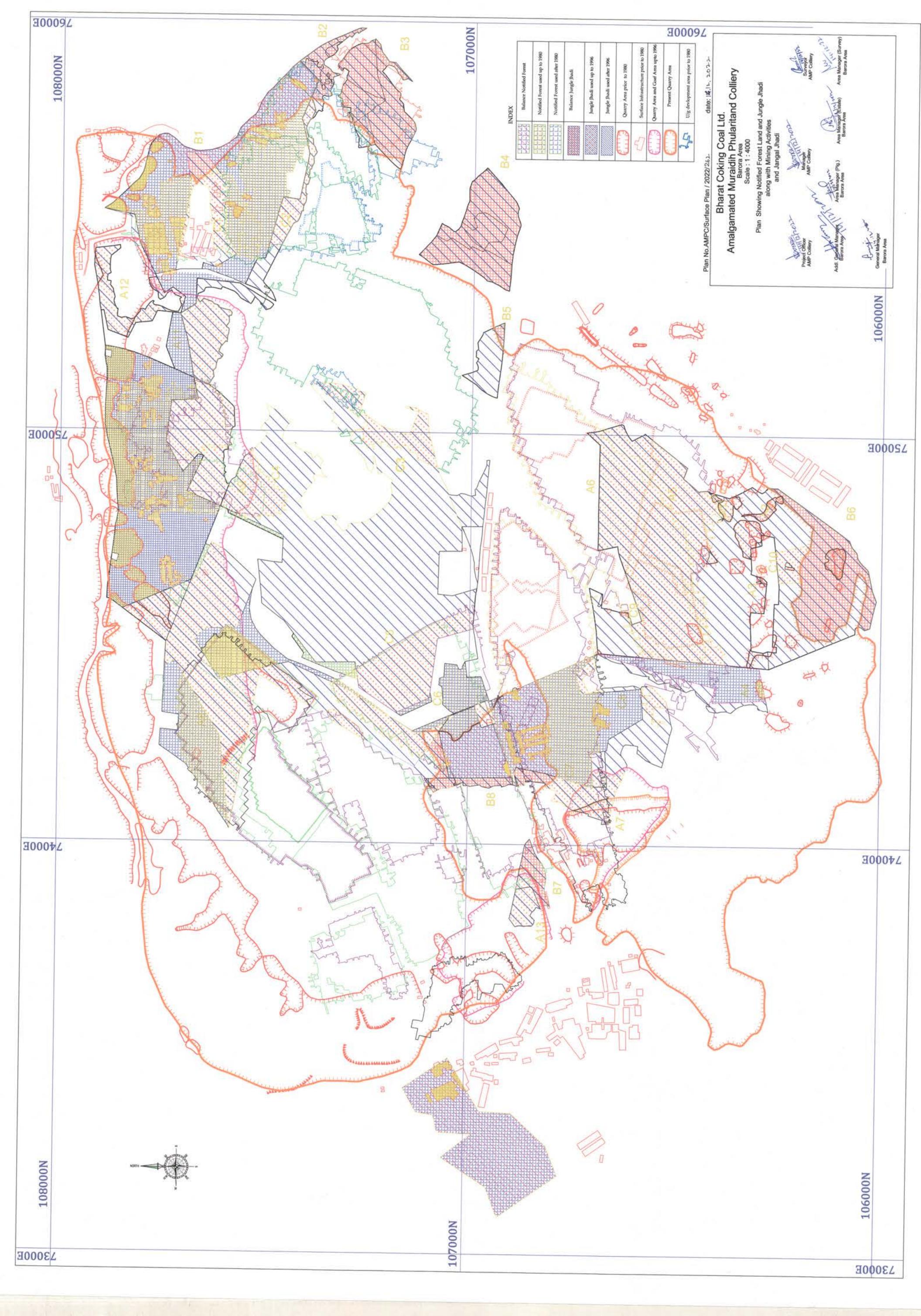
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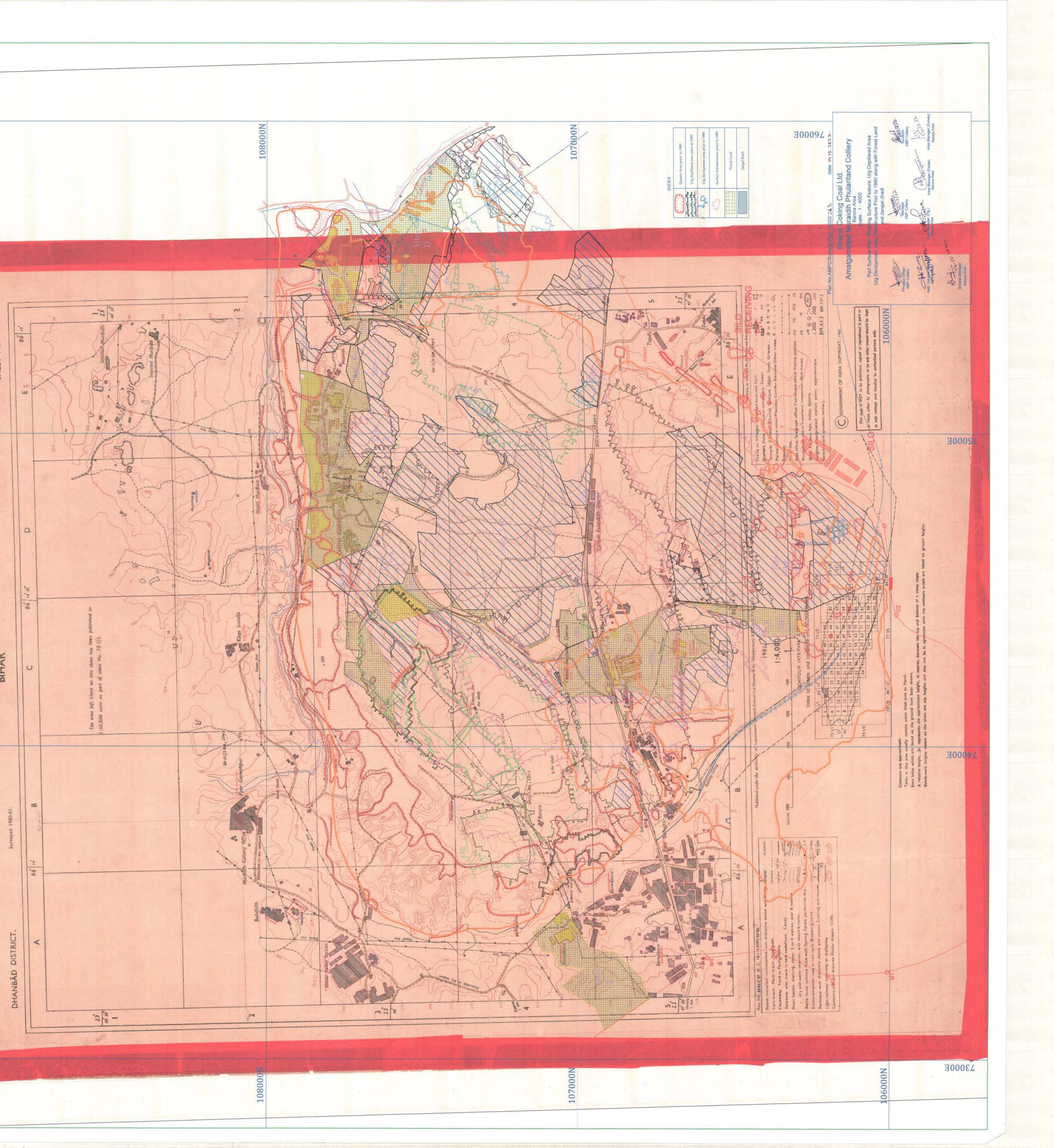
(संदीप सिंह), उपायुक्त-सह-जिला दण्डाधिकारी, धनबाद।

ज्ञापांक <u>/40</u>7 / रा0, धनबाद, दिनांक //: 09: 2022 अध्यक्ष-सह-प्रबंध निदेशक, भारत कोकिंग कोल लि0 को सूचनार्थ एवं आवश्यक कार्यार्थ प्रेषित।

उपायुक्त-सह-जिला दण्डाधिकारी,

धनबाद।











INDEX

	B	ij		
Jangal Jhadi	Surface Infrastructure prior to Nationalisation	U/g deviopment area prior to Nationalisation	Subsidence area prior to Nationalisation	Quarry Area prior to Nationalisation

Plan No. AMPC/ Surface Plan/2022/240

Sate- 14-12-2022

Amalgamated Muraidih Phularitand Colliery

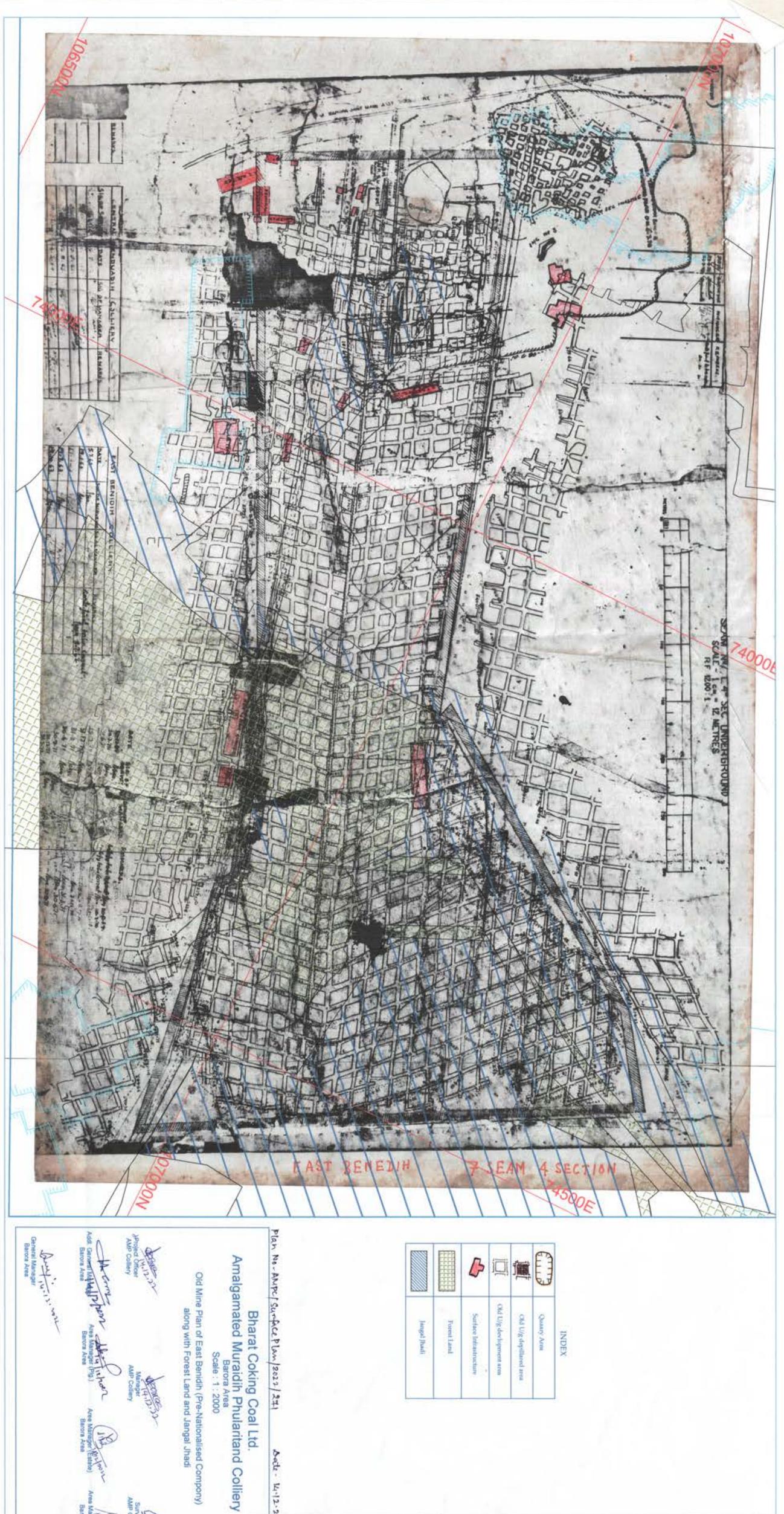
Barora Area
Scale: 1: 2000 Bharat Coking Coal Ltd.

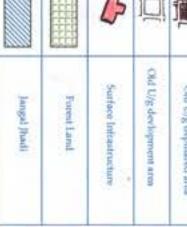
Old Mine Plan of Diomand Phularitand Colliery (Pre-Nationalised Compony) along with Jangal Jhadi

Addi. General Manager (17) Area Manager (Pig.)
Barora Area
Barora Area Area Manager (Estate)
Barora Area

Area Manager (Survey)







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Act - 4-12-2012

Old Mine Plan of East Benidih (Pre-Nationalised Compony) along with Forest Land and Jangal Jhadi







Area Manager (Estate)

Barora Area

Barora Area

Barora Area

Barora Area



