

Government of Karnataka

No. FEE 19 FFM 2020 (e)

Karnataka Government Secretariat Multistoried Buildings Bengaluru, Date: 01-01-2021

From:

The Additional Chief Secretary to Government,

Forest, Ecology and Environment Department, Bengaluru-560001.

To:

The Secretary to Government of India,

Ministry of Environment, Forests and Climate Change, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi – 110003.

Sir,

Sub: Proposal for diversion of 401.5761 hectare (revised from 484.0733 hectare) (388.00 ha. for mining + 13.5761 ha. for approach road = 401.5761 ha.) of forest land in Swamimalai (SM) Block Forest, Sandur Taluk, Ballari District for Iron Ore and Manganese Ore Mining in Devadari Hill Range in favour of M/s KIOCL Ltd. (formerly Kudremukh Iron Ore Company Limited), Bengaluru – reg.

Ref: 1. Your office letter No. 8-24/2020-FC, Dated: 26th November, 2020.

2. Letter No. 4328/CMD, dated 10th December, 2020 of the Chairman-cum-Managing Director, KIOCL Limited, Bengaluru.

With reference to the above subject, your office vide letter referred at (1) above has sought information/clarification/justification/documents and for the same, User Agency vide letter referred at (2) above has submitted information along with documents.

The information provided by User Agency along with the views of State Government is given as below: -

Sl.No.	Information sought by GoI	Reply/Clarification		
i.	The DFO, CF and Nodal Officer (FCA) and PCCF (HoFF) have not recommended the proposal. However, the State Govt. has overruled the objections of forest department and has recommended the proposal. In the recommendation letter of State Govt. has mentioned that the user agency is ready to exclude 82 ha out of 484.0733 ha proposed	An extent of 470.40 ha mining lease area was notified by Govt. of Karnataka. Out of this total extent, the Forest Dept, Govt. of Karnataka has recommended an area of 388 ha for diversion of forest land with the reduction of 82.4972 ha., retaining the forest land required for allied activities to an extent of 13.5761 ha, totalling 401.5761 ha. The excluded area out of 470.40 ha was earmarked for dumping of waste material and overburden. The waste material and		

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forest land. Therefore, feasibility of the proposal may be looked into by the State Government.

overburden dumps will be realigned during mining activities in subsequent 2nd 05 years mining plan. The mined-out areas during the first 05 years plan will be backfilled with waste material and overburden dumps generated out of the subsequent mining activities. As such the reduction of ML area to an extent of 82.4972 ha will not have impact on feasibility of mining. Therefore, the feasibility of the proposal will not change. (Annexure-I)

ii. (a) The user agency has not provided/uploaded the shape file/KML of 401.5761 ha. (388.00 ha. for mining + 13.5761 ha. for approach road, downhill conveyor etc.) applied for diversion and accordingly revised CA for plantation.

The shape file/KML of 401.5761 ha. (388.00 ha. for mining + 13.5761 ha. for approach road, downhill conveyor, power overhead line etc.) has been submitted for uploading in the Parivesh Portal of MoEF&CC, GoI.

DCF, Ballari identified degraded forest land to an extent of 969 ha., comprising 530 ha of degraded forest land in Hadagali Forest Range and 439 ha of degraded forest land in Kudligi Forest Range. Since the total recommended area for forest diversion has been reduced from 484.0733 ha to 401.5761 ha, accordingly the requirement of CA land including safety zone works out to be around 819 ha i.e. 803.15 ha for total forest land+15 ha for safety zone. The same to be confirmed to MoEF&CC, GoI. (Annexure-II)

(b) As per the kml file of proposed forest land for diversion; a patch of already mined area is visible on Google overlay. This issue need clarification.

The mined-out patch visible in Google earth overlay was allotted to M/s BMM Mine (ML No. 2245). This mine was in operation till the year 2011. Subsequently, it was categorized under C Category mine. On cancellation of mining lease by Govt. of Karnataka the same was put under e -auction. M/s Kirolskar Ferrous Industries Limited

		emerged as preferred bidder for mining. This mined out area visible in Google overlay is an adjoining mining lease to Devadari iron ore mine of KIOCL notified area. (Annexure-III)
iii.	The State Govt. has not submitted copy of approved DGPS map along with 1:50,000 SoI map showing the 401.5761 ha sought for diversion as well as CA sites as identified by the State Govt.	DGPS map in 1:50000 showing 401.5761 ha sought for diversion is enclosed. The CA sites identified along with maps were uploaded in Parivesh Portal of MoEF &CC, GoI by DCF, Ballari. (Annexure-IV)
iv.	The purpose wise breakup of the forest land proposed for diversion has not been provided with the proposal.	The information is enclosed as Annexure-I.
V.	Valid mining lease document in the instant matter needs submission	Ministry of Mines, GoI vide letter dated 05.12.2016 granted approval under section 17 (A) 2 of MMDR Act, 1957 for reserving an area of 470.40 ha in Devadari Range, Sandur Taluk, Bellary district in favour of KIOCL Limited.
		Govt. of Karnataka issued Gazette notification on 23.01.2017 for reservation of said area in favour of KIOCL for mining lease of iron and Manganese ore.
		Director of Mines and Geology, Govt. of Karnataka vide letter dated 13.02.2017, informed KIOCL to submit approved Mine Plan obtained from IBM, Forest Clearance under Section 2 of FC Act, 1980, Environment Clearance obtained under EIA notification 2006 and CFE obtained from KSPCB for execution of Mining Lease deed.
		On obtaining the said statutory clearances the mining lease deed will be executed with Govt. of Karnataka. The mining

		lease deed shall be valid for 50 years from the date of execution as per the Mineral (Mining by Government Company) Rules, 2015. Copy of Gazette Notification dated 23.01.2017, Letter of Department of Mines and Geology, dated 13.02.2017 and Mineral (Mining by Government Company) Rules, 2015 are enclosed. (Annexure-V)
vi.	Approved land use plan needs submission.	Information is enclosed as Annexure-I .
vii.	As per DSS analysis, (a) Compensatory Afforestation has been proposed in 17 patches, which are located in Bellary district of Karnataka State. Out of 17 CA sites, KML file of one CA site of 100 ha (Range: Kudligi) is not available in Parivesh portal.	DCF, Ballari identified the CA sites along with maps including the said CA site of 100 ha. in Kudligi Range. Now, as per revised CA plan, the User Agency has to provide 804.00 hectare of degraded forest land. Hence, the kml file of 100 ha. may not require.
	(b) Out of total area proposed for CA, approx. 6.00 ha area is rocky/water body/not suitable for plantation. The State Govt. may kindly provide its comment/justification in this regard.	The proposed CA area, which is found to be not suitable for Compensatory Afforestation as per DSS analysis carried out by MoEF&CC, GoI, may be excluded from the proposal as the CA land requirement is reduced to 804 ha from 969 ha, due to reduction of forest land from 484.0734 ha to 401.5761 ha. as recommended by Forest Dept., GoK.
	(c) Proposed CA patches are scattered and it will be appropriate to check the suitability of CA sites on the basis of location and protection of plantation.	DCF, Ballari identified CA sites considering the location of land suitable for plantation. Therefore, the same may be confirmed to MoEF&CC, GoI.

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(d) The KML files uploaded for CA shows certain old plantations, water bodies and a small Dam; clarification of the State Government need submission. Hence a certificate stating that no plantation activity has taken place in the proposed CA patches in last 10 years needs to be submitted.

There is no clarity whether the old plantations, water bodies and a small Dam lie in the same CA patch of degraded forest identified during revised CA plan. Hence, the same will be taken care of while Ministry of Environment, Forsest and Climate Change accords Stage – I approval.

viii.

DCF in his SIR has mentioned that the production capacity of all the existing mines 59 'A' & 'B' category mines, 26 'C' category mines and 14 mines whose 'R&R' plan is yet to be approved) is calculated as 53.599 MMT which far exceeds the 28 **MMT** Maximum Permissible Annual Production (MPAP) limit fixed for the 'A& B' category mines of Bellary district (According to Hon'ble Supreme Court of India Judgement dated 14.12.2017, in the Samaj Parivartana Samudaya & Ors. Vs State of Karnataka & Ors.). Therefore. State Government submit may clarification on new mining leases prior to expiry of existing mining leases as well as exceeding 28 MMT maximum permissible annual production.

As per the Hon'ble Supreme Court Order dated 14.12.2017 the maximum permissible annual production limit of 28 MMT was fixed for A & B category mines in Ballari dist. However, the production limit from new mining leases is not specified in the said Hon'ble Supreme Court order.

In the judgment Hon'ble Supreme Court accepted the following recommendation of CEC.: -

- With regard to Category 'A' & 'B' mining leases for 'District Bellary" the annual production cap for the district may be enhanced by 3 MMT to 28 MMT.
- The existing ceiling of 5 MMT fixed for 'A' & 'B' mining leases for Districts Tumkur and Chitradurga may be enhanced by 2 MMT to 7 MMT.
- With regard to Category 'C' mining leases which have been e- auctioned to the end users, the production cap of individual mining leases be regulated through the limits approved in the R&R Plan without reference to the general cap fixed for the District

		concerned.	
		Hon'ble Supreme Court has not mentioned in its order dated 14.12.2017 with regard to production capping of 28 MMT in Ballari Dist as far as production from new mining leases are concerned. Copy of Hon'ble Supreme Court order dated 14.12.2017 is enclosed as Annexure-VI.	
ix.	Site Inspection Report of the concerned DCF mentions regarding minutes of meeting held on 28-03-2016 under the Chairmanship of PCCF (HoFF), Bengaluru, wherein it was decided not to grant approvals for new mining lease in the fresh forest areas. This contradiction regarding mooting a proposal for fresh mining lease in forest area need justification/comments of the State Government.	Minutes of meeting dated 28-03-2016 under the Chairmanship of PCCF (HoFF), Bengaluru for review of guideline vide letter F. No. 11-599/2014-FC dated 01.04.2015 of MoEF&CC, GoI may be pertaining to fresh applications/pending applications for the mining leases approved under section 5 of MMDR Act, 1957, whereas in case of Devadari Iron Ore Mine of KIOCL, the mining lease is notified under Section 17 A (2) of MMDR Act, 1957 under reservation route to Govt Companies, seeking forest clearance under Section 2 (ii) of FC Act, 1980, as per Gazette Notification dated 23.01.2017 & DMG, GoK letter dated 13.02.2017.	
х.	As per the enclosed enumeration of trees, about 99,330 number of trees will be affected during various stages of project implementation. State Government shall try for reduction in number of trees to be felled/cut in the instant proposal.	Information is provided as Annexure-I	
xi.	The DCF in his SIR has mentioned that the requirement of Forest land as proposed by the user agency in column no.2 of	Hon'ble Supreme Court pronounced its judgment on 18.04.2013 for cancellation of 51 Category 'C' Iron Ore mining leases in the districts of Bellary, Tumkur	

part-l is avoidable as there are 67 different categories of existing broken area) (all up available for auctioning allotment or resumption (in addition to 32 currently working mines). Any of the existing but non- working mining areas can be allotted to KIOCL through necessary change in the existing guidelines or rules after following due process. comment/justification/clarification in this regard from the State Government is needed.

and Chitradurga and thereafter allotment of same through a transparent process of bidding to the end users. In pursuant to aforesaid order Govt. of Karnataka vide notification dated 12.09.2013 cancelled the mining lease of 51 Category 'C' iron ore mining leases.

Govt. of Karnataka successfully auctioned 14 Category 'C' iron ore mining leases. As per Hon'ble Supreme Court Order, all C Category mines have to be auctioned through transparent bidding process, therefore C Category mine cannot be allocated directly to Govt. organization through reservation route. For the remaining 37 mining leases, Govt. of Karnataka proposed for amalgamation of certain mines and some mines for closure due to their nonfeasibility/unviable. All other category of mines either in operation or closure stage due to exhaust of minerals. As such, allocation of mining lease of this notified area in favour of KIOCL has become inevitable.

KIOCL do not have captive iron ore mine since 01.01.2006 to feed large size Pellet Plant and Pig Iron Plant at Mangalore. Pelletization Plant had to be stopped frequently due inadequate supply of iron ore from outside sources. Due to high cost of lumps in open market, the operation of Pig Iron Plant suspended since Sept. 2009 and no sign of restarting the plant till company commence the captive mining operation. Company also started the work of setting up of Coke Oven Plant and Ductile Iron Spun Pipe Plant at Pig Iron Plant, Mangalore with

capital outlay of around Rs. 850 Crores and investment is totally depending on commencement of mining operation at Devadari Mine. On commencement of Devadari Mine, the iron ore will be utilized for captive consumption in Pellet Plant and Blast Furnace Unit.

The Company being Central PSU will generate employment to local population, directly about 1200 persons and indirectly 5000 persons, revenue to state govt in terms of mining fee, Royalty, Taxes etc and overall economic development of state. Company will specially implement welfare measures to local population being a responsible Government Company.

Apart from the above, your kind attention is also drawn to the following information: -

- 1. The User Agency is a flagship CPSU steel producer in the State. It is for the first time that it has obtained a captive mine in the State. Further, it has plans to invest around Rs 3500 crores in the State and provide employment to 1500 persons. Such investment and employment would enhance the State GSDP and also provide revenues to the State.
- 2. Basically, the proposal was meant for the diversion of 484.0733 hectare of forest land in Swamimalai (SM) Block Forest, Sandur Taluk, Ballari District. But after revised plan, the usage of forest land was reduced to 401.5761 hectare. Hence, there is a need to revise the mining plan approved plan from IBM. But, the User Agency has provided the breakup information of land usage vide letter referred at (2) above and the same may need the approval from IBM. Ministry of Environment, Forest and Climate Change may impose the condition to get approved plan from IBM while according Stage-I approval.
- 3. Regarding CA sites issue, there is a need to decrease the extent of CA (degraded forest) as the area of forest land to be diverted has decreased and user agency has provided the degraded forest land for for CA purpose depending on the Site Suitablity Certificate issued by the concerned Divisional Forest Officer. Hence, if any condition to be imposed on CA sites issue, Ministry of Environment, Forest and Climate Change may impose the same while according Stage-I approval.

Hence, I am directed to enclose the copy of letter vide referred at (2) above along with enclosures and request you that Stage-I under Section 2 of the Forest

(Conservation) Act, 1980 may be accorded by stipulating suitable conditions after considering the information/justification provided by the User Agency.

Yours faithfully

Under Secretary to Government
Forest, Ecology and Environment Department (Forest-C)

01/01/2021

Copy to:

- 1. The Principal Chief Conservator of Forests (HoFF), Aranya Bhavan, Malleshwaram, Bengaluru-560003.
- 2. Spare Copies / SGF.

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अध्यक्ष-सह-प्रबंध निदेशक

M. V. SUBBA RAO

Chairman-cum-Managing Director

2046674/2020

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(भारत सरकार का उद्यम)

॥ ब्लांक, कोरमंगला, बेंगलूरु - 560 034.

KIOCL LIMITED

(A Government of India Enterprise) II Block, Koramangala, BENGALURU-560 034.

CIN: L13100KA1976GOI002974

No.4328/CMD

10th December 2020

Additional Chief Secretary, Forest, Ecology & Environment, Room No. 448, 4th Floor,

MS Building,

Bangalore 560 001

Sub: - Proposal for diversion of 401.5761 hectares (revised from 484.0733 ha) (388.00 ha for mining + 13.5761 ha. for approach road etc. =401.5761 ha.) of forest land in Swamimalai (SM) Block Forest, Sandur Taluk, Ballari District for Iron Ore and Manganese Ore Mining in Devadari Hill Range in favour of M/s KIOCL Ltd.

Ref: Online Proposal No. FP/KA/MIN/32568/2018.

Respected Sir,

This is in reference to Forest Clearance application for diversion of forest land of 484.0733 ha for the purpose of iron ore mining in Devadari Range, Sandur Taluk, Ballari. The FC proposal was recommended on 13.10.2020 by State Govt to MoEF&CC, GoI for diversion of 401.5761 ha of forest land by reducing 82.4972 ha of forest area.

On scrutiny of FC proposal, MoEF&CC, GoI vide letter dated 26.11.2020 sought Essential Details on the proposal. The clarifications to the EDS raised by MoEF&CC, GoI are furnished for kind consideration and submission to MoEF&CC, GoI against the EDS dated 26.11.2020.

EDS Points No. (i):

The DFO, CF and Nodal Officer (FCA) and PCCF (HoFF) have not recommended the proposal. However, the State Govt. has over-ruled the objections of Forest Department and has recommended the proposal. In the recommendation letter of State Govt. has mentioned that the user agency is ready to exclude 82 ha out of 484.0733 ha proposed forest land. Therefore, feasibility of the proposal may be looked into by the State Government.

KIOCL's submission: -

An extent of 470.40 ha mining lease area was notified by Govt. of Karnataka. Out of this total extent, the Forest Dept, Govt. of Karnataka has recommended an area of 388 ha for diversion of forest land with the reduction of 82 ha, retaining the forest land required for allied activities to an extent of 13.5761 ha, totaling 401.5761 ha. The excluded area out of 470.40 ha was earmarked for dumping of waste material and overburden. The waste material and overburden dumps will be realigned during the mining activities in

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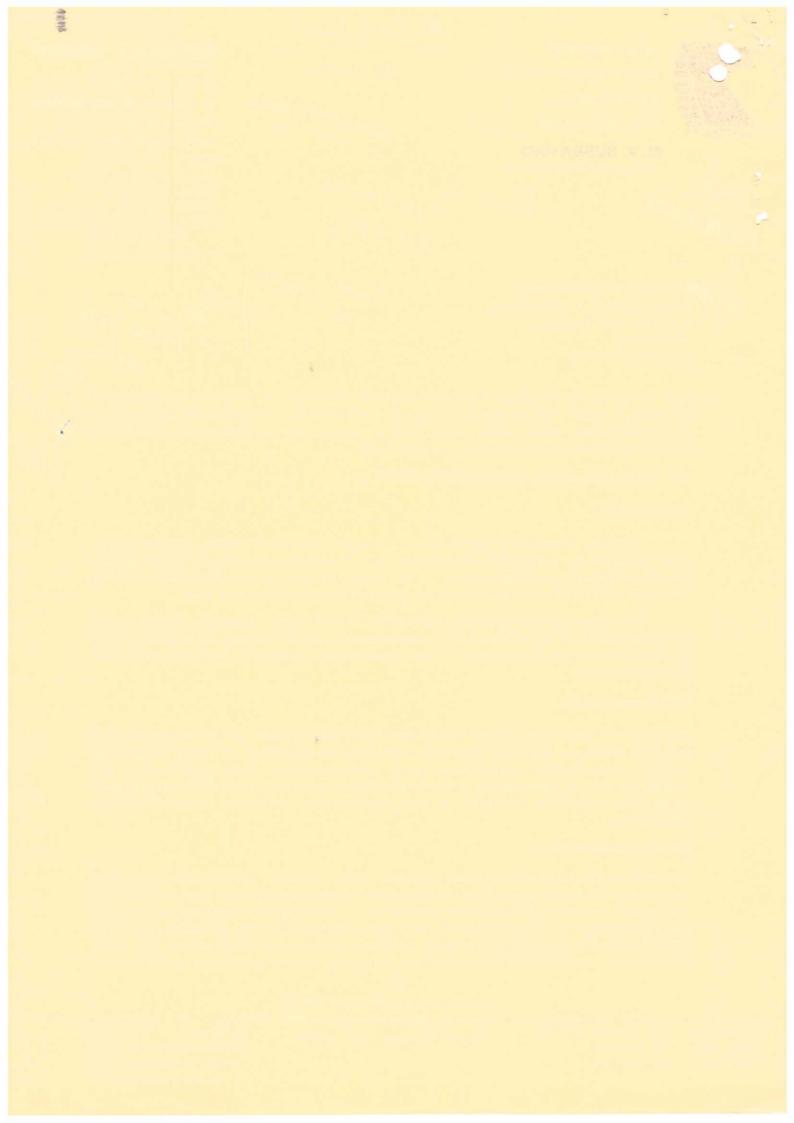
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subsequent 2nd 05 years mining plan. The mined-out areas during the first 05 years plan will be backfilled with waste material and overburden dumps generated out of the subsequent mining activities. As such the reduction of ML area to an extent of 82 ha will not have impact on feasibility of mining. Therefore, the feasibility of the proposal will not change.

EDS Points No. (ii):

a. The user agency has not provided/uploaded the shape file/KML of 401.5761 ha. (388.00 ha. for mining + 13.5761 ha. for approach road, downhill conveyor etc.) applied for diversion and accordingly revised CA for plantation.

KIOCL's submission: -

The shape file/KML of 401.5761 ha. (388.00 ha. for mining + 13.5761 ha. for approach road, downhill conveyor, power overhead line etc.) has been submitted for uploading in the Parivesh Portal of MoEF&CC, GoI.

DCF, Ballari identified degraded forest land to an extent of 969 ha., comprising 530 ha of degraded forest land in Hadagali Forest Range and 439 ha of degraded forest land in Kudligi Forest Range. Since the total recommended area for forest diversion has been reduced from 484.0733 ha to 401.5761 ha, accordingly the requirement of CA land is reduced to around 803.15 ha (804.ha). The same to be confirmed to MoEF&CC, GoI.

EDS Points No. (ii):

b. As per the kml file of proposed forest land for diversion; a patch of already mined area is visible on Google overlay. This issue need clarification.

KIOCL's submission: -

The mined-out patch visible in Google earth overlay was allotted to M/s BMM Mine (ML No. 2245). This mine was in operation till the year 2011. Subsequently, it was categorized under C Category mine. On cancellation of mining lease by Govt. of Karnataka the same was put under e-auction. M/s Kirolskar Ferrous Industries Limited emerged as preferred bidder for mining. This mined out area visible in Google overlay is an adjoining mining lease to Devadari iron ore mine of KIOCL notified area.

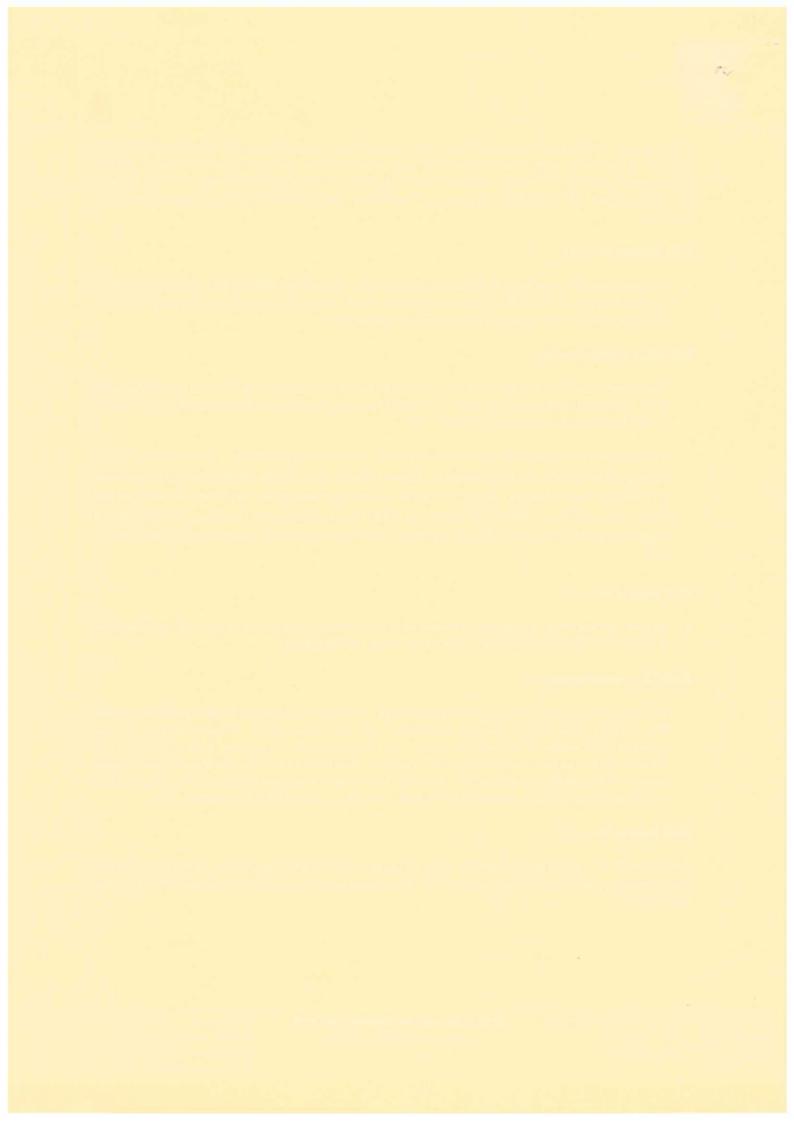
EDS Points No. (iii):

The State Govt. has not submitted copy of approved DGPS map along with 1:50,000 SoI map showing the 401.5761 ha. sought for diversion as well as CA sites as identified by the State Govt.

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KIOCL's clarification: -

DGPS map in 1:50000 showing 401.5761 ha sought for diversion is enclosed. The CA sites identified along with maps were uploaded in Parivesh Portal of MoEF &CC, GoI by DCF, Ballari.

EDS Points No. (iv): -

The purpose wise breakup of the forest land proposed for diversion has not been provided with the proposal.

KIOCL's submssion: -

The purpose wise breakup of the forest land proposed for diversion is as under: -

Sl. Nos.	Purpose	Forest Land (ha)	
1	Area under mining	277.6290	
2	Waste Dump Site	34.2819	
3	Tailing Pond	22.7095	
4	Mineral Separation Plant	11.5822	
5	Green Belt	31.8419	
6	Safety Zone	9.9571	
	Sub total	388.00	
7	Conveyor Corridor/Loading Facilities/Railway Siding	10.4727	
8	Power Transmission Line/Water Pipe Line	2.3750	
9	Approach Road (East)	0.7284	
	Sub total	13.5761	
	Grand Total	401.5761	

EDS Points No. (v):

Valid mining lease document in the instant matter needs submission

KIOCL's submission: -

Ministry of Mines, GoI vide letter dated 05.12.2016 granted approval under section 17 (A) 2 of MMDR Act, 1957 for reserving an area of 470.40 ha in Devadari Range, Sandur Taluk, Bellary district in favour of KIOCL Limited.

Govt. of Karnataka issued Gazette notification on 23.01.2017 for reservation of said area in favour of KIOCL for mining lease of iron and Manganese ore.

Director of Mines and Geology, Govt. of Karnataka vide letter dated 13.02.2017, informed KIOCL to submit approved Mine Plan obtained from IBM, Forest Clearance under Section 2 of FC Act, 1980, Environment Clearance obtained under EIA notification 2006 and CFE obtained from KSPCB for execution of Mining Lease deed.

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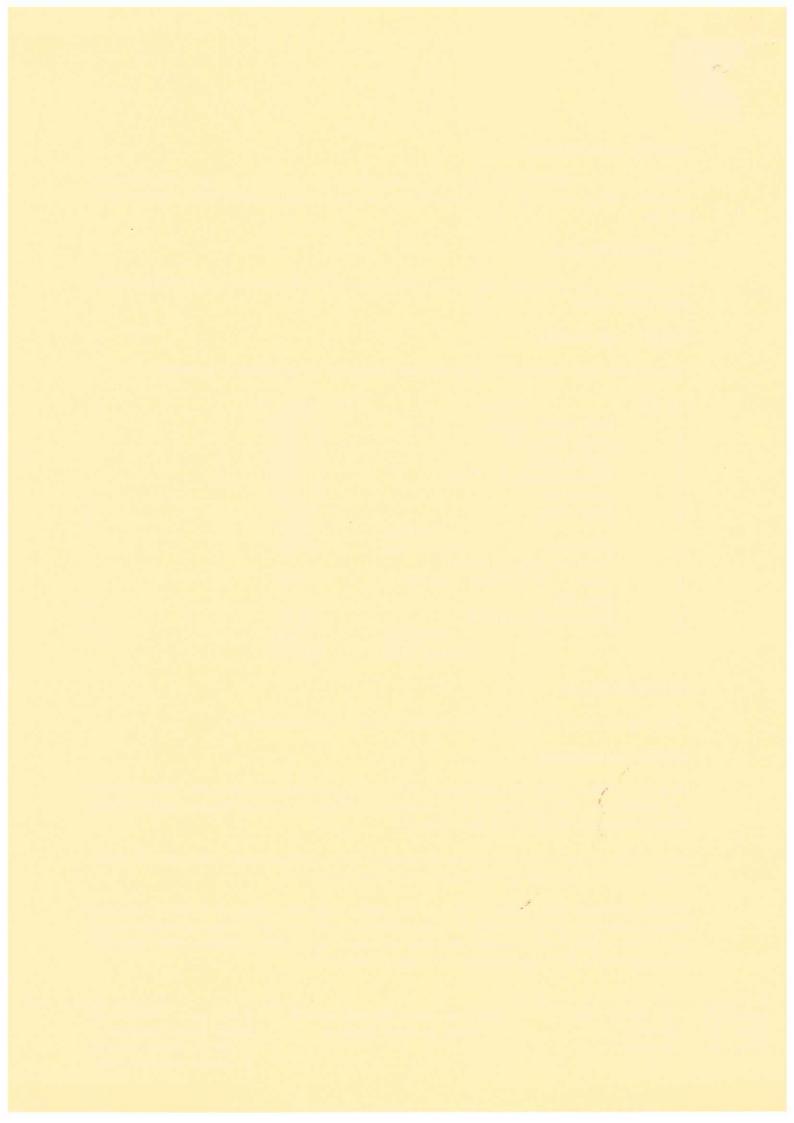
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https://www.twitter.com/cmdkiocl



Govt. of Karnataka. The mining lease deed shall be valid for 50 years from the date of execution as per the Mineral (Mining by Government Company) Rules, 2015. Copy of Gazette Notification dated 23.01.2017, Letter of Intent dated 13.02.2017 and Mineral (Mining by Government Company) Rules, 2015 are enclosed.

EDS Points No. (vi): -

Approved land use plan needs submission.

KIOCL's submission: -

The land use plan is as under: -

Sl. Nos.	Purpose	Forest Land (ha)
1	Area under mining	277.6290
2	Waste Dump Site	34.2819
3	Tailing Pond	22.7095
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8	Power Transmission Line/Water Pipe Line	2.3750
9	Approach Road (East)	0.7284
	Sub total	13.5761
	Grand Total	401.5761

EDS Points No. (vii): As per DSS analysis

a. Compensatory Afforestation has been proposed in 17 patches, which are located in Bellary district of Karnataka State. Out of 17 CA sites, KML file of one CA site of 100 ha (Range: Kudligi) is not available in Parivesh portal.

KIOCL's submission: -

DCF, Ballari identified the CA sites along with maps including the said CA site of 100 ha in Kudligi Range. DCF, Ballari identified degraded forest land to an extent of 969 ha., comprising 530 ha of degraded forest land in Hadagali Forest Range and 439 ha of degraded forest land in Kudligi Forest Range. Since the total recommended area for forest diversion has been reduced from 484.0733 ha to 401.5761 ha, accordingly the requirement of CA land is reduced to around 804 ha. Accordingly, 100 ha (Range: Kudiligi) patch may not be required.

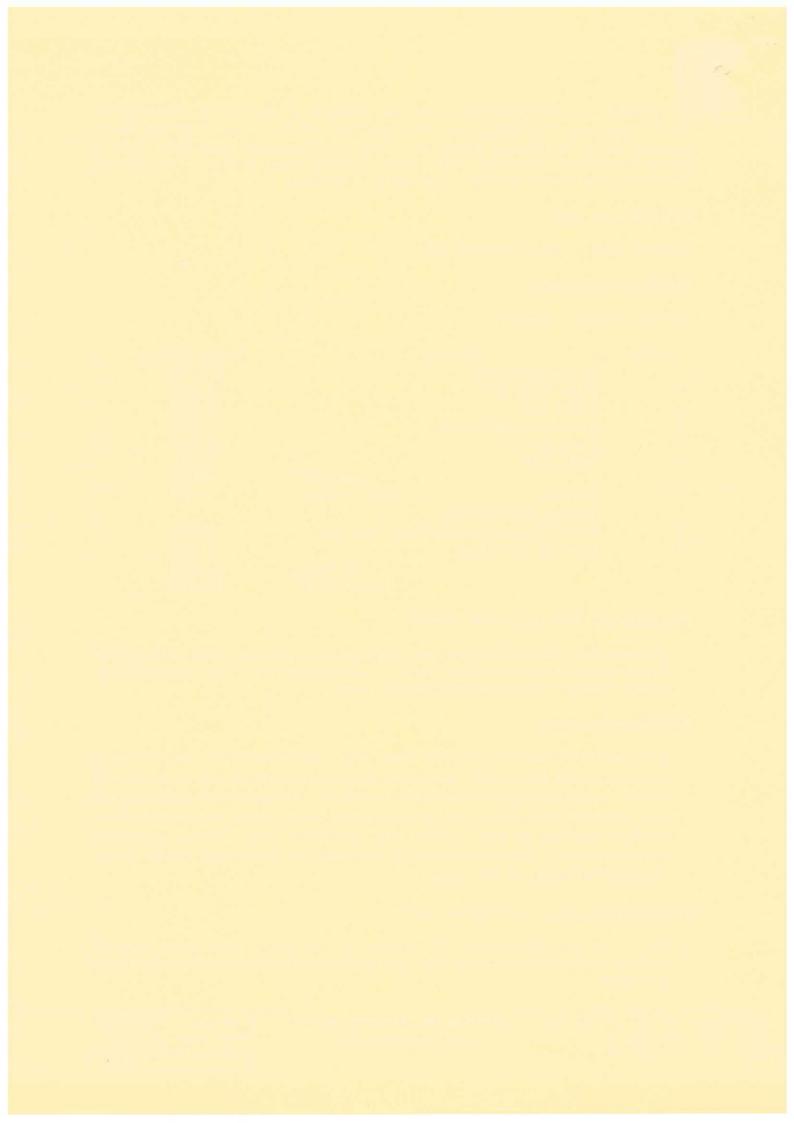
EDS Points No. (vii): As per DSS analysis

b. Out of total area proposed for CA, approx. 6.00 ha area is rocky/water body/not suitable for plantation. The State Govt. may kindly provide its comment/justification in this regard.

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The proposed CA area, which is found to be not suitable for Compensatory Afforestation as per DSS analysis carried out by MoEF&CC, GoI, may be excluded from the proposal as the CA land requirement is reduced to around 804 ha from 969 ha, due to reduction of forest land from 484.0734 ha to 401.5761 ha as recommended by Forest Dept., GoK.

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c. Proposed CA patches are scattered and it will be appropriate to check the suitability of CA sites on the basis of location and protection of plantation.

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DCF, Ballari identified CA sites considering the location of land suitable for plantation. Therefore, the same may be confirmed to MoEF&CC, GoI.

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d. The KML files uploaded for CA shows certain old plantations, water bodies and a small Dam; clarification of the State Government need submission. Hence a certificate stating that no plantation activity has taken place in the proposed CA patches in last 10 years needs to be submitted.

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EDS Points No. (viii):

DCF in his SIR has mentioned that the production capacity of all the existing mines 59 'A' & 'B' category mines, 26 'C' category mines and 14 mines whose 'R&R' plan is yet to be approved) is calculated as 53.599 MMT which far exceeds the 28 MMT Maximum Permissible Annual Production (MPAP) limit fixed for the 'A&B' category mines of Bellary district (According to Hon'ble Supreme Court of India Judgement dated 14.12.2017, in the Samaj Parivartana Samudaya & Ors. Vs State of Karnataka & Ors.). Therefore, State Government may submit clarification on new mining leases prior to expiry of existing mining leases as well as exceeding 28 MMT maximum permissible annual production.

KIOCL's submission: -

As per the Hon'ble Supreme Court Order dated 14.12.2017 the maximum permissible annual production limit of 28 MMT was fixed for A & B category mines in Ballari dist. However, the production limit from new mining leases is not specified in the said Hon'ble Supreme Court order.

कार्यालय Office : 080 - 2553 1322 / 2553 1272

निवास Resi. : 080 - 2553 0136 फैक्स Fax : 080 - 2552 1584 आई एस ओ 9001, 14001 तथा ओएचएसएएस 18001 कम्पनी ISO 9001, 14001 & OHSÆS 18001 COMPANY ई-मेल e-mail : cmd@kioclltd.com वेबसाइट Website: www.kioclltd.in । https://www.facebook.com/kioclltd । https://www.twitter.com/cmdkiocl







In the judgment Hon'ble Supreme Court accepted the following recommendation of CEC .:

- With regard to Category 'A' & 'B' mining leases for 'District Bellary' the annual production cap for the district may be enhanced by 3 MMT to 28 MMT.
- The existing ceiling of 5 MMT fixed for 'A' & 'B' mining leases for Districts Tumkur and Chitradurga may be enhanced by 2 MMT to 7 MMT.
- With regard to Category 'C' mining leases which have been e- auctioned to the end users, the production cap of individual mining leases be regulated through the limits approved in the R&R Plan without reference to the general cap fixed for the District concerned.

Hon'ble Supreme Court has not mentioned in its order dated 14.12.2017 with regard to production capping of 28 MMT in Ballari Dist as far as production from new mining leases are concerned.

Copy of Hon'ble Supreme Court order dated 14.12.2017 is enclosed.

EDS Points No. (ix):

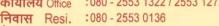
Site Inspection Report of the concerned DCF mentions regarding minutes of meeting held on 28-03-2016 under the Chairmanship of PCCF (HoFF), Bengaluru, wherein it was decided not to grant approvals for new mining lease in the fresh forest areas. This contradiction regarding mooting a proposal for fresh mining lease in forest area need justification/comments of the State Government.

KIOCL's submission: -

Minutes of meeting dated 28-03-2016 under the Chairmanship of PCCF (HoFF), Bengaluru for review of quideline vide letter F. No. 11-599/2014-FC dated 01.04.2015 of MoEF&CC, GoI may be pertaining to fresh applications/pending applications for the mining leases approved under section 5 of MMDR Act, 1957, whereas in case of Devadari Iron Ore Mine of KIOCL, the mining lease is notified under Section 17 A (2) of MMDR Act, 1957 under reservation route to Govt Companies, seeking forest clearance under Section 2 (ii) of FC Act, 1980, as per Gazette Notification dated 23.01.2017 & DMG, GoK letter dated 13.02.2017.

EDS Points No. (x):

As per the enclosed enumeration of trees, about 99,330 number of trees will be affected during various stages of project implementation. State Government shall try for reduction in number of trees to be felled/cut in the instant proposal.



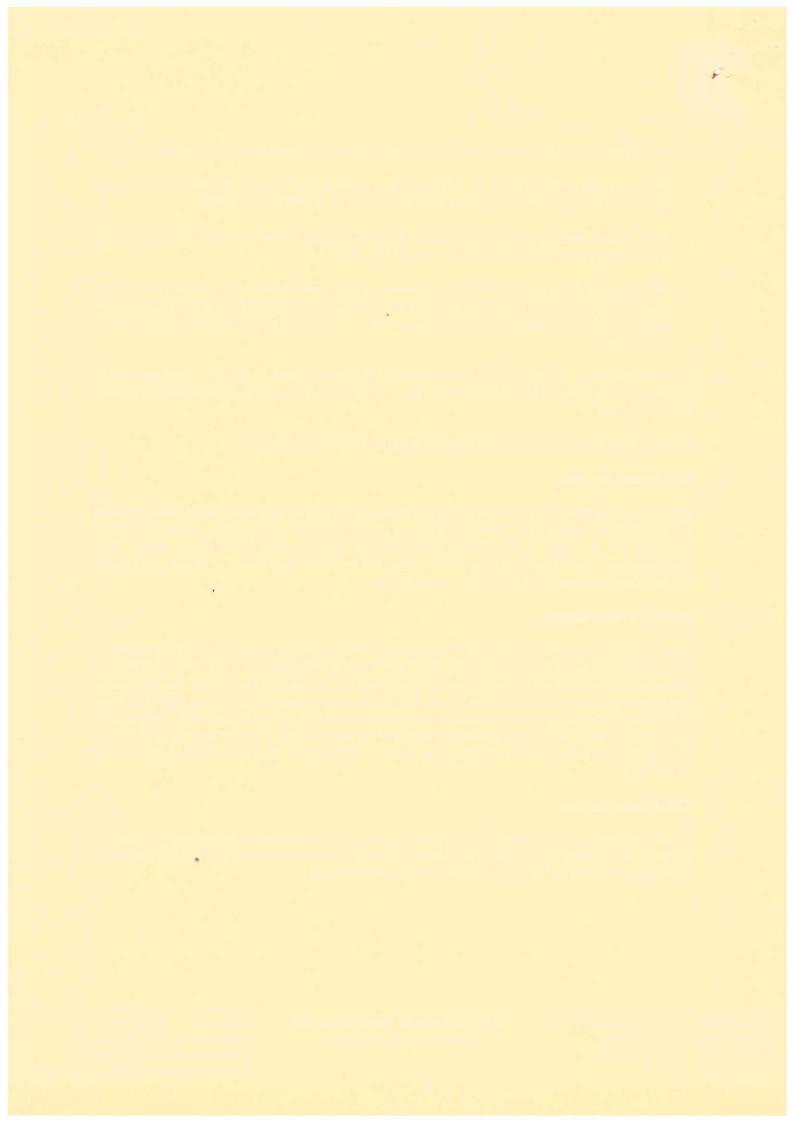
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KIOCL's submission: -

In the initial 05 years of mine plan, Company will use 118.48 ha area with gradual increasing of production ranging from 0.33 million tons to 2 million tons per year with minimum usage of forest land. For the first 05-year iron ore production vis a vis land use plan is as under: -

Year	Iron Ore Production in million tons	Land use in ha	Trees with Girth size 0- 60 cm	Trees with Girth size more than 60 cm	Total
l st yr.	Nil	1.72	254	55	309
2 nd yr.	0.33561	31.4	4638	996	5634
3rd yr.	0.554346	29.01	4285	920	5205
4th Year	1.027101	24.54	3625	778	4403
5 th Year	2.04858	31.81	4699	1009	5708
Total	3.965637	118.48	17501	3758	21259

Mining is proposed in around 277 ha lease area and shall be excavated in phased manner over a period of 25-30 years. The entire forest land proposed for diversion will not be utilized in one go for mining. On completion of mining activities, the entire mining area will be restored with backfilling. Within ML area about 32 ha greenbelt will be developed. An area of 10 ha is earmarked for safety zone along the periphery of ML area and vegetation will be improved in this area. All put together around 42 ha out of 388 ha of mining lease area will not to be used for any other purpose. The afforestation in the abandoned mining area as well as in the dump areas will also be carried out in consultation with Forest Dept, which will have positive growth on ecology and environment.

Company has agreed to exclude 82 ha from notified mining lease area of 470.40 ha, eliminating the valley portion, hill slope on the Western Side. With this reduction in mining area the total tree count may reduce to around 70,000 and out of which having less than 60 cm girth size of tree is about 82 %.

EDS Points No. (xi):

The DCF in his SIR has mentioned that the requirement of Forest land as proposed by the user agency in column no.2 of part-1 is avoidable as there are 67 different categories of existing mine (all broken up area) available for auctioning or allotment or resumption (in addition to 32 currently working mines). Any of the existing but non-working mining areas can be allotted to KIOCL through necessary change in the existing guidelines or rules after following due process. A comment/justification/clarification in this regard from the State Government is needed.

KIOCL's submission: -

Hon'ble Supreme Court pronounced its judgment on 18.04.2013 for cancellation of 51 Category 'C' iron ore mining leases in the districts of Bellary, Tumkur and Chitradurga and thereafter allotment of same through a transparent process of bidding to the end users. In pursuant to aforesaid order Govt. of Karnataka vide notification dated 12.09.2013 cancelled the mining lease of 51 Category 'C' iron ore mining leases.

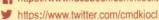
कार्यालय Office

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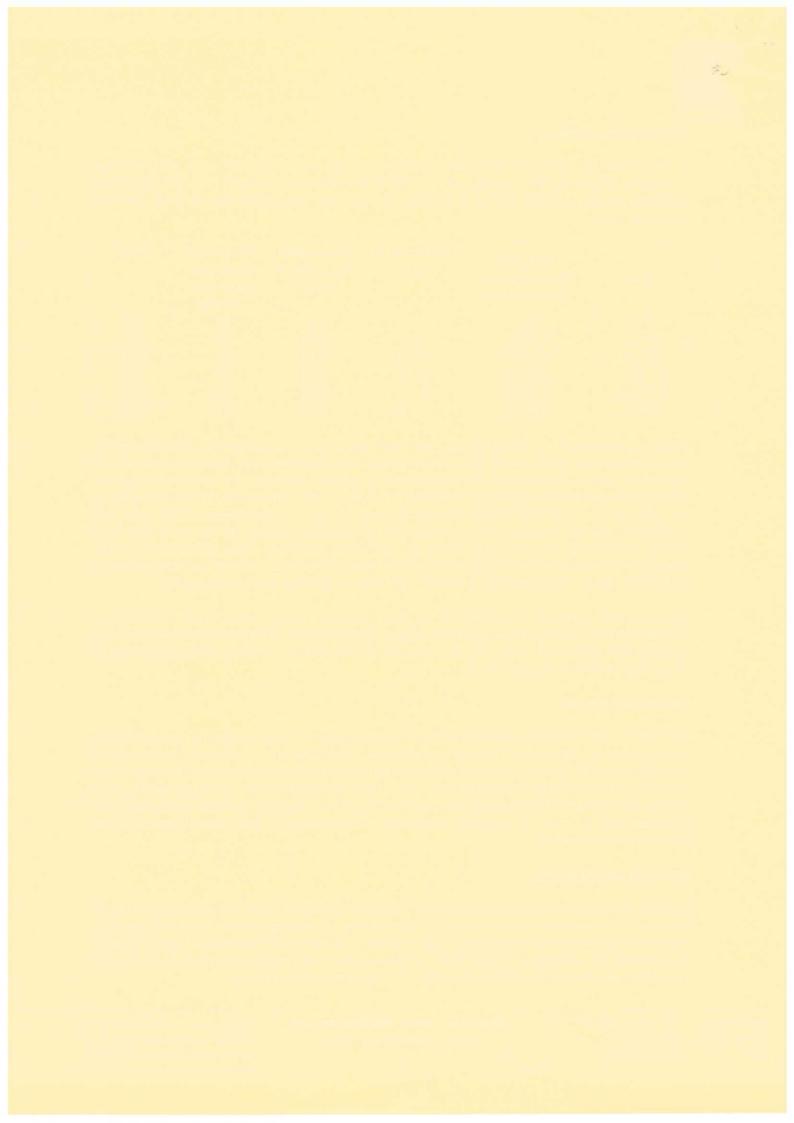
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निवास Resi. : 080 - 2553 0136 :080 - 2552 1584 आई एस ओ 9001, 14001 तथा ओएचएसएएस 18001 कम्पनी ISO 9001, 14001 & OHSAS 18001 COMPANY

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Govt. of Karnataka successfully auctioned 14 Category 'C' iron ore mining leases. As per Hon'ble Supreme Court Order, all C Category mines have to be auctioned through transparent bidding process, therefore C Category mine cannot be allocated directly to Govt. organization through reservation route. For the remaining 37 mining leases, Govt. of Karnataka proposed for amalgamation of certain mines and some mines for closure due to their non-feasibility/unviable. All other category of mines either in operation or closure stage due to exhaust of minerals. As such, allocation of mining lease of this notified area in favour of KIOCL has become inevitable.

KIOCL do not have captive iron ore mine since 01.01.2006 to feed large size Pellet Plant and Pig Iron Plant at Mangalore. Pelletization Plant had to be stopped frequently due inadequate supply of iron ore from outside sources. Due to high cost of lumps in open market, the operation of Pig Iron Plant suspended since Sept. 2009 and no sign of restarting the plant till company commence the captive mining operation. Company also started the work of setting up of Coke Oven Plant and Ductile Iron Spun Pipe Plant at Pig Iron Plant, Mangalore with capital outlay of around Rs. 850 Crores and investment is totally depending on commencement of mining operation at Devadari Mine. On commencement of Devadari Mine, the iron ore will be utilized for captive consumption in Pellet Plant and Blast Furnace Unit.

The Company being Central PSU will generate employment to local population, directly about 1200 persons and indirectly 5000 persons, revenue to state govt in terms of mining fee, Royalty, Taxes etc and overall economic development of state. Company will specially implement welfare measures to local population being a responsible Government Company.

I hereby request you to kindly forward the clarifications to the EDS dated 26.11.2020 sought by MoEF&CC, GoI and oblige.

Thanking you with kind regards,

Yours sincerely,

(MV Subba Rao)

J2-01- 500006

List of Maps enclosed

- 1. DGPS Survey Map of ML area
- 2. Conceptual Land use Plan
- 3. TOPO Map in 1:50,000
- 4. Google Map
- 5. Details of Protected area
- 6. Safety Zone Map
- 7. Soft copy of KML in CD





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ಭಾರಗ-III ಶಿಂಗಳೂರು, ಮಂಗಳವಾರ, ಜನವರಿ ೨೪, ೨೦೧೭ (ಮಾಫ ೦೪, ಶಕ ವರ್ಷ ೧೯೩೮) ನಂ. ೯೩ Part-III Bengaluru, Tuesday, January 24, 2017 (Magha 04, Shaka Varsha 1938) No. 93

COMMERCE AND INDUSTRIES SECRETARIAT NOTIFICATION

No. CI 294 MMM 2015, Bengaluru, Dated: 23-01-2017

Ministry of Mines, Government of India, New Delhi vide their letter No.4/3/2016-M. VI dated:05.12.2016 has conveyed the approval of the Central Government under Section 17A(2) of the Mines & Minerals (Development and Regulation) Act (MMDR), 1957 by reserving an area of 470.40 hectares (four hundred and seventy point forty hectares only) in Devadari Range, Sandur Taluk, Bellary District, Karnataka in favour of M/s. K.I.O.C.L. Limited.,

In pursuance of the approval of the Central Government, Government of Karnataka hereby issue notification by reserving an area of 470.40 hectares in favour of M/s. K.I.O.C.L. Limited., for Iron and Manganese Ore in Devadari Range, Sandur Taluk, Bellary District, Karnataka. The said reservation shall be subject to provisions of Sub-Sections (2A), (2B) and (2C) of Section 17A of the MMDR Act, 1957 as amended through the MMDR Amendment Act, 2015.

The sketch showing the area reserved for iron and manganese ore in favour of M/s. K.I.O.C.L. Limited., in Devadari Range, Sandur Taluk, Bellary District, Karnataka State over an extent of 470.40 Hectares is appended to this Notification as **Annexure-I**.

DGPS Readings showing Latitude and Longitude Coordinates area reserved is given as under.

DGPS Readings DATUM: WGS84 Projection: UTM_ZONE_43N						
SL.No.	Latitude	Longitude	Northing	Easting	Descriptions	
1	15º03'28.17336"	76º35'17.65552"	1665336.649	670720.477	Base-Station-1	
2	15002'38.48423"	76°34'31.81319"	1663799.695	669362.300	Base-Station-2	
3	15003'40.28617"	76°34'51.84298"	1565703.381	669946.913	K-1	



SL.No.	Latitude	Longitude	Northing	Easting	Descriptions
4	15°03'43.60179"	76°35'01.17191"	1665807.283	670224.785	K-2
	15003'36.10806"	76°34'58.20739"	1665576.336	670137.905	K-3
6	15003'21.37078"	76°34'58.65607"	1665123.499	670154.557	K-4
7	15002'47.71624"	76º35'28,94230"	1664095.674	671066.529	K-5
8	15°02'12.76851"	76°35'41.47882"	1663024.295	671448,716	K-6
9	15°02'11.40840"	76º35'38.33516"	1662981.816	671355.122	K-7
1.0	15º02'01.55724"	76°35'16.86221"	1662674.431	670715.942	K-8
11	15001'43.87313"	76º35'25.66061"	1662132.821	670982.651	K-9
12	15°01'45.61693"	76º35'29.81225"	1662187.308	671106.271	K-10
13	15°01'52.66011"	76º35'44.33083"	1662406.901	671538.365	K-11
14	15°01'53.17863"	76º35'45.55638"	1662423.102	671574.856	K-12
15	15002'04.35311"	76º35'41.33034"	1662765.625	671446.149	K-13
16	15002'06.16494"	76º35'49,15563"	1662822.999	671679.476	K-14
	15°02'06.77428"	76º35'54.73619"	1662842.933	671846.023	K-15
18	15°02'02.02297"	76°35'59,86533"	1662698.016	672000.280	K-16
	15001'27.29247"	76º36' 12.77452"	1661633.404	672393.609	K-17
20	15001'24.16575"	76º35' 56.15146"	1661533.710	671897.774	K-18
21	15001'18,18627"	76035' 45,68113"	1661347.892	671616.222	K-19
22	15001'24.78307"	76º35' 18.07498"	1661544,480	670760.292	K-20
23	15001'38.92441"	76º35' 03.93295"	1561976.064	670334,755	K-21
24	15°01'53.01734"	76°35' 00.72610"	1662408.506	670235.864	K-22
25	15°01'57.09202"	76°35'08.60315"	1662535.424	670470,242	K-23
26	15°02'24.07555"	76934'55,43883"	1663361.910	670071.100	K-24
27	15002'26.93733"	76º35'01.78332"	1663451.222	670259.963	K-25
28	15002'45.81296"	76º34'53.62723"	1664029.595	670012.204	K-26
29	15002'43.29713"	76°34'46.41503"	1663950.731	669797.353	K-27
30	15º03'05.03724"	76°34'35,01740"	1664616.451	669452.169	K-28
31	15003'10.12273"	76º34'39,09602"	1664773.618	669572.863	K-29
32	15003'15,23864"	76º34'36,78984"	1664930.357	669502.863	K-30

Mining Lease shall be executed only upon submission of all the required statutory clearances under MM (D&R) Act, 1957; Forest (Conservation) Act, 1980; Prevention of (Air and Water Pollution) Act, 1986 and other applicable Act and Rules.

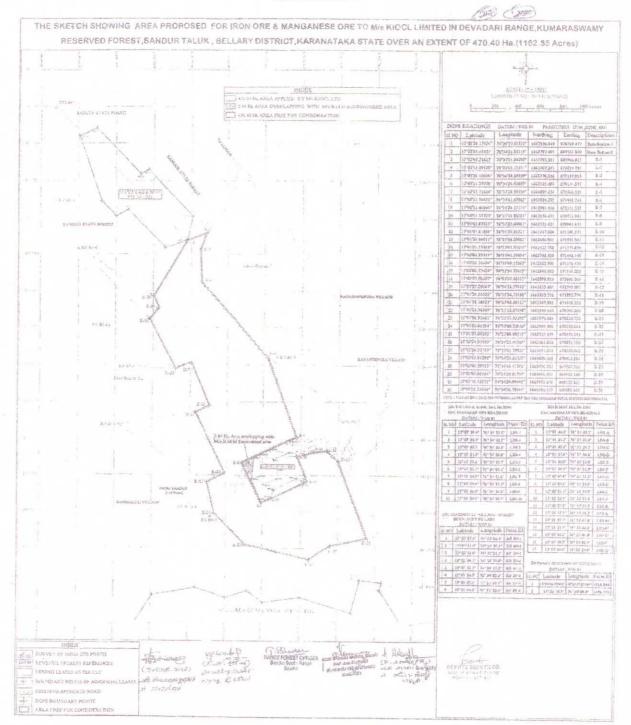
By order and in the name of the Governor of Karnataka

ANVAR BHASHA

Under Secretary to Government Commerce & Industries Department (Mines)



ANNEXURE-1



ANVAR BRASHA

Under Secretary to Government Commerce & Industries Department (Mines)



GOVERNMENT OF KARNATAKA

No.DMG/MLS/Res. KIOCL/2016-17 /030/

Office of the Director
Department of Mines and Geology
Khanija Bhavan, Race Course Road
Bangalore-1, dtd: 02.02.2017

1 3 FEB 2017.

To, M/s KIOCL Ltd., II Block, Koramangala, Bangalore - 560034

Sub: Reservation of an area of 470.40 ha. in Devadari range for iron ore and manganese in favour of M/s KIOCL Ltd., under the provisions of Sec. 17A(2) of MMDR Act - reg.

Ref:1. GoI letter No.4/3/2016-M.VI dtd: 05.12.2016.

2. Notification No. CI 294 MMM 2015 dtd: 23.01.2017.

Government vide notification cited under ref. 2 above has reserved an area of 470.40 ha. in Devadari range, Sandur Taluk Bellary District for iron ore and manganese in favour of M/s KIOCL Ltd., under the provisions of Sec. 17-A(2) of MMDR Act - reg.

Further, Govt. has directed to execute the mining lease upon submission of all required statutory clearances. Therefore, it is hereby informed to produce following statutory approvals obtained from regulatory bodies at the earliest to take further action:

- 1. Approved Mining Plan obtained from IBM.
- 2. Forest Clearance under Section 2 of FC Act, 1980.
- 3. Environmental Clearance obtained under EIA notification 2006.
- 4. CFE obtained from KSPCB.

Yours faithfully,

DEPT DE MINICO DA PAR

Enclosure: Attested Sketch.





असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i) PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

ਸਂ. 749]

नई दिल्ली, बृहस्पतिवार, दिसम्बर 3, 2015/अग्रहायण 12, 1937

No. 749]

NEW DELHI, THURSDAY, DECEMBER 3, 2015/AGRAHAYANA 12, 1937

खान मंत्रालय अधिसूचना

नई दिल्ली, 3 दिसम्बर, 2015

सा.का.नि. 927(अ).-केंद्रीय सरकार, खान और खनिज (विकास और विनियमन) अधिनियम, 1957 (1957 का 67) की धारा 13 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात् :.—

- 1. **संक्षिप्त नाम और प्रारंभ.—(**1) इन नियमों का संक्षिप्त नाम खनिज (सरकारी कंपनी द्वारा खनन) नियम, 2015 है।
- (2) ये नियम राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।
- परिभाषाएं.—(1) इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,-
 - (क) "अधिनियम" से खान और खनिज (विकास और विनियमन) अधिनियम, 1957 (1957 का 67) अभिप्रेत है;
 - (ख) "सरकारी कंपनी" से कंपनी अधिनियम, 2013 (2013 का 18) की धारा 2 की उपधारा (45) में यथा परिभाषित कोई कंपनी अभिप्रेत है ; और
 - (ग) "खनिज" से धारा 3 के खंड (ड.) में परिभाषित से अन्यथा खनिज और अधिनियम की पहली अनुसूची के भाग क और भाग ख में विनिर्दिष्ट खनिज अभिप्रेत हैं।
- (2) शब्द और पद, जो इन नियमों में परिभाषित नहीं किए गए हैं, परंतु अधिनियम में परिभाषित किए गए हैं, के वही अर्थ होंगे जो उनके अधिनियम में हैं।
- 3. 12 जनवरी, 2015 से पूर्व सरकारी कंपनियों या निगमों को प्रवृत्त खनन पट्टे की अवधि.—(1) खान और खिनज (विकास और विनियमन) संशोधन अधिनियम, 2015 (2015 का 10) के प्रारंभ की तारीख अर्थात् 12 जनवरी, 2015 से पूर्व किसी सरकारी कंपनी या निगम को प्रदत्त खिनजों के लिए सभी खनन पट्टे पचास वर्ष की अवधि के लिए प्रदत्त किए गए समझे जाएंगे।

- (2) राज्य सरकार, सरकारी कंपनी या निगम द्वारा खनन पट्टे की समाप्ति से कम से कम बारह मास पूर्व इस निमित्त इसे दिए गए आवेदन पर, कारणों को लेखबद्ध करते हुए, खनन पट्टे की अवधि को बीस वर्ष की और अवधि के लिए एक ही बार विस्तारित कर सकेगी।
- (3) उपनियम (1) के अध्यधीन, किसी सरकारी कंपनी या निगम द्वारा खनन पट्टों के नवीकरण के लिए किए गए सभी आवेदन और जो खान और खनिज (विकास और विनियमन) संशोधन अधिनियम, 2015 (2015 का 10) के प्रारंभ की तारीख को लंबित थे, खनन पट्टे की अविध के विस्तारण के लिए आवेदन समझे जाएंगे और उपनियम (2) के उपबंधों के अनुसार निपटाए जाएंगे।
- 4. 12 जनवरी, 2015 को या उसके पश्चात् सरकारी कंपनियों या निगमों को प्रदत्त खनन पट्टे की अवधि.—
- (1) किसी सरकारी कंपनी या निगम को खनिजों के लिए प्रदत्त सभी खनन पट्टे पचास वर्ष की अवधि के लिए होंगे।
- (2) किसी सरकारी कंपनी या निगम को अधिनियम की धारा 10ख और धारा 11 के उपबंधों के अनुसार प्रदत्त कोई खनन पट्टा पचास वर्ष की अवधि की समाप्ति पर समाप्त हो जाएगा और विस्तारित नहीं किया जाएगा ।
- (3) राज्य सरकार जिसने सरकारी कंपनी या निगम द्वारा इस निमित्त आवेदन पर अधिनियम की धारा 17क की उपधारा (2क) और उपधारा (2ख) के उपबंधों के अनुसार खनन पट्टा प्रदान किया था, कम से कम बारह मास पूर्व कारणों को लेखबद्ध करते हुए, खनन पट्टे की अवधि को बीस वर्ष की और अवधि के लिए एक ही बार विस्तारित कर सकेगी।
- 5. अधिनियम की धारा 17क की उपधारा (2ग) के अधीन किसी सरकारी कंपनी या निगम द्वारा संदाय.—
- (1) कोई सरकारी कंपनी या निगम या कोई संयुक्त उपक्रम जिसे अधिनियम की धारा 17क की उपधारा (2क) और (2ख) के उपबंधों के अनुसार खनन पट्टा प्रदत्त किया गया है, प्रत्येक मामले में केंद्रीय सरकार द्वारा यथा अधिसूचित अधिनियम की दूसरी अनुसूची के संबंध में, संदत्त रायल्टी की प्रतिशतता के समान रकम संदत्त करेगा।
- (2) सरकारी कंपनी या निगम राज्य सरकार को उपनियम (1) के अधीन यथाविनिर्दिष्ट संदाय करेगा।
- (3) सरकारी कंपनी या निगम ऐसी अन्य रकम का संदाय भी संबंधित प्राधिकारियों को करेगा, जो तत्समय प्रवृत्त किसी विधि के अधीन अपेक्षित हो, जिसके अंतर्गत,-
 - (i) राज्य सरकार को रायल्टी या अनिवार्य भाटक ;
 - (ii) राष्ट्रीय खनिज खोज न्यास को संदाय ; और
 - (iii) जिला खनिज फांउडेशन को संदाय, है।

[फा. सं. 1/13/2015-एम.Vi] आर. श्रीधरन, अपर सचिव

MINISTRY OF MINES NOTIFICATION

New Delhi, the 3rd December, 2015

G.S.R. 927(E).—In exercise of the powers conferred by section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following rules, namely:-

- 1. Short title and commencement.— (1) These rules may be called the Mineral (Mining by Government Company) Rules, 2015.
- (2) These rules shall come into force on the date of their publication in the Official Gazette.
- 2. Definitions.—(1) In these rules, unless the context otherwise requires, -
 - (a) "Act" means the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957);

- (b) "Government company" means a company as defined in sub-section (45) of section 2 of the Companies Act. 2013 (18 of 2013); and
- (c) "minerals" means minerals other than those defined as minor minerals under clause (e) of section 3 and minerals specified in Part A and Part B of the First Schedule to the Act.
- (2) Words and expressions used and not defined in these rules, but defined in the Act shall have the same meanings as assigned to them in the Act.
- 3. Period of mining lease granted to Government companies or corporations before 12th January, 2015.—(1) All mining leases for minerals granted to a Government company or corporation before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), namely, the 12th January, 2015 shall be deemed to have been granted for a period of fifty years.
- (2) The State Government, upon an application made to it in this behalf by the Government company or corporation at least twelve months prior to the expiry of the mining lease, may, for reasons to be recorded in writing, extend the period of the mining lease for further periods of upto twenty years at a time.
- (3) Subject to sub-rule (1), all applications made by a Government company or corporation for renewal of mining leases and which were pending as on the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015) shall be deemed to be applications for extension of the period of the mining lease and shall be disposed of in accordance with the provisions of sub-rule (2).
- 4. Period of mining lease granted to Government companies or corporations on or after 12th January, 2015.—
 (1) All mining leases granted to a Government company or corporation for minerals shall be for a period of fifty years.
- (2) A mining lease granted to a Government company or corporation in accordance with the provisions of section 10B and section 11 of the Act shall expire at the end of the period of fifty years and shall not be extended,
- (3) The State Government, upon an application made to it in this behalf by the Government company or corporation granted a mining lease in accordance with the provisions of sub-sections (2A) and (2B) of section 17A of the Act, at least twelve months prior to the expiry of the mining lease, may, for reasons to be recorded in writing, extend the period of the mining lease for further periods of up to twenty years at a time.
- 5. Payments by a Government company or corporation under sub-section (2C) of section 17A of the Act,—(1) A Government company or corporation or a joint venture, granted a mining lease in accordance with the provisions of sub-sections (2A) and (2B) of section 17A of the Act, shall pay an amount equivalent to a percentage of the royalty paid in terms of the Second Schedule to the Act, as notified by the Central Government in each case.
- (2) A Government company or corporation shall make payments to the State Government as specified under sub-rule (1).
- (3) A Government company or corporation shall also pay such other amounts as may be required under any law for the time being in force to the concerned authorities, including.
 - (i) royalty or dead rent to the State Government:
 - (ii) payment to the National Mineral Exploration Trust; and
 - (iii) payment to the District Mineral Foundation.

[F. No. 1/13/2015-M.VI]

R. SRIDHARAN, Addl. Secy.



REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

Interlocutory Application Nos. 270, 271, 273, 56562, 76163, 76167 & 103342

IN

WRIT PETITION (C) NO. 562 OF 2009

SAMAJ PARIVARTANA SAMUDAYA
& ORS. ...PETITIONER(S)
VERSUS

STATE OF KARNATAKA & ORS. ... RESPONDENT(S)

JUDGMENT

RANJAN GOGOI, J.

1. Two lessees, i.e., M/s Sandur Manganese and Iron Ores Ltd. and M/s MSPL Ltd. (who have been classified in Categories 'A' and 'B' respectively by this Court in its previous Order) have instituted Interlocutory Application Nos. 270 and 271 essentially seeking



modification of this Court's Orders dated 5.08.2011 and 1.09.2014 so as to enable the applicants to extract iron ore in accordance with the Maximum Permissible Annual Production ("MPAP" for short) approved by the Monitoring Committee in respect of the leases held by them.

2. In proceedings registered and numbered as Writ Petition (C) No. 562 of 2009 titled as "Samaj Parivartana Samudaya & Ors. vs. State of Karnataka & Ors.", an absolute ban on mining activities in three districts of Karnataka, i.e, Bellary, Chitradurga and Tumkur was imposed by this Court by Orders dated 29.07.2011 and 26.08.2011. It is on the basis of the principle of intergenerational equity and to prevent and protect the huge ecological and

environmental degradation following the rampant illegal mining in the aforesaid three districts of Karnataka that this Court had passed the aforesaid orders. However, to ensure that a minimum quantity of iron ore is available, through permissible and legal mining, by Order dated 5.08.2011, a public sector lessee, namely, M/s National Mineral Development Corporation ("NMDC" for short) was permitted to extract iron ore to the tune of 12 Million Metric Tonne ("MMT" for short) per year. Thereafter, by Order dated 13.04.2012, this Court had accepted the recommendations of the Indian Council of Forestry Research and Education ("ICFRE" for short) and fixed a ceiling of 25 MMT as the maximum production of iron ore from all the mining leases in the district of Bellary and 5 MMT in respect of the mining

leases in the districts of Chitradurga and Tumkur. By Orders dated 3.09.2012 and 28.09.2012, this Court had permitted resumption of mining activities in Karnataka in a limited manner by permitting 18 and 63 leases in Categories 'A' and 'B' respectively to resume their activities subject to strict observance of the Reclamation and Rehabilitation Plan ("R&R Plan" for short) in respect of each of the leases as approved by the Monitoring Committee.

Pursuant to the aforesaid orders of this Court, M/s Sandur Manganese and Iron Ores Ltd. and M/s MSPL Ltd. resumed the mining operations. The Monitoring Committee had fixed MPAP of M/s Sandur Manganese and Iron Ores Ltd. at 0.74 MMT and M/s MSPL Ltd. at 0.91 MMT respectively. Thereafter, the Central Empowered Committee ("CEC" for short) by

Order dated 18.03.2016 recommended the enhancement of MPAP of M/s Sandur Manganese and Iron Ores Ltd. to 1.60 MMT and that of M/s MSPL Ltd. to the tune of 1.80 MMT. The said recommendation of the CEC was approved by the Monitoring Committee.

3. Notwithstanding the above, the lessees, i.e., M/s Sandur Manganese and Iron Ores Ltd. and M/s MSPL Ltd. have been fully able to exploit and operate to the extent of their approved MPAP of 1.60 MMT and 1.80 MMT respectively. This, according to lessees, is on account of the two orders of this Court. The first is dated 5.08.2011 by which, as already noticed, the public sector lessee, i.e., NMDC was permitted to extract iron ore to the tune of 12 MMT per year. As the said

NMDC was not able to do so, by Order dated 1.09.2014 this Court had permitted another public sector lessee M/s Mysuru Minerals Ltd. ("MML" for short) to make good the shortfall of NMDC and had increased the MPAP of the said MML by 3 MMT without, however, modifying its earlier Order dated 5.08.2011 in respect of NMDC. As a result of the aforesaid two orders, the MPAP of NMDC and together is 16.06 MMT though the R&R Plan approved by the Monitoring Committee for NMDC restricts its MPAP to 9.45 MMT and that of MML to 1.06 MMT. As the total MPAP permitted in favour of the mining leases in Bellary district including the MPAP of 16.06 MMT in favour of NMDC and MML works out to the tune of 26.157 MMT and, therefore, in excess of the cap imposed by this Court (25 MMT), the CEC by Order dated

2.12.2016 had directed the Monitoring Committee to reduce the MPAP of other mining leases on a pro rata basis so that the cap fixed by this Court (25 MMT for Bellary district) is maintained. Accordingly, the Monitoring Committee had fixed the MPAP of M/s Sandur Manganese and Iron Ores Ltd. and M/s MSPL Ltd. at 1.17 MMT and 1.355 MMT respectively as against 1.60 MMT and 1.80 MMT respectively, as approved. It in these circumstances that M/s Sandur Manganese and Iron Ores Ltd. and MSPL Ltd. have filed the I.As. M/s seeking appropriate modification of the orders of this Court dated 5.08.2011 and 1.09.2014 respectively.

4. The issues raised being relatable to the fixation of cap/ceiling on maximum production, the matters were

heard along with other similar matters raising the issue as to whether the cap should be maintained, modified or lifted.

- instituted by M/s Karnataka Iron and Manufacturers Association ("KISMA") whereas I.A. No. 56562 is filed by Federation of Indian Minerals-Southern Region ("FIMI-South"). I.A. Nos. 76163 and 76167 have been instituted by Chitradurga Sustainable Mining Forum seeking impleadment and directions.
- 6. So far as I.A. No. 273 of 2017 instituted by M/s KISMA is concerned, it is stated that the State of Karnataka notified for auction 14 mining leases which were earlier declared by this

Court to be in Category 'C' and which leases stood cancelled by the Order of this Court. Thereafter, such leases have been put up for auction in a phased manner and till date 7 such leases have been successfully auctioned. M/s Steel Ltd., one of the members of M/s KISMA, is the successful bidder in respect of 5 of the mining leases having a collective MPAP to the tune of 4.063 MMT per year. According to M/s KISMA, the total cap of 30 MMT fixed by this Court in respect of all the three districts, i.e., Bellary, Chitradurga and Tumkur has been virtually allotted to the categories 'A' and 'B' mines and there is no room within the said cap to take care of the earlier category 'C' mines which have now been auctioned in accordance with the orders of this Court. In these circumstances, M/s

KISMA seeks an order from this Court a separate cap of 10 MMT allotted to earlier category 'C' leases, independent of the 30 MMT fixed for the three districts. In fact, M/s KISMA on behalf of one of its members, M/s JSW Steel Ltd, has stated before this Court that its members are prepared construct closed-pipe downhill conveyor belt system; railway sidings and railway sub-lines as per the R&R Plans approved by the Monitoring Committee.

7. The said prayer of M/s KISMA is supported by FIMI-South in its I.A. No. 56562 of 2017. The specific prayer of FIMI-South is that as the active MPAP of mining leases in the three districts as on date is over 35 MMT, the annual cap of 30 MMT be vacated and each lessee should be allowed to extract iron ore as

per its approved R&R Plan.

- 8. On the other hand, M/s Chitradurga Sustainable Mining Forum which is a registered society consisting of category 'A' and 'B' leases operating in the district of Chitradurga has joined with M/s KISMA and FIMI-South to seek vacation of the order of this Court fixing an annual cap and for further orders allowing each lessee to operate and extract iron ore as per its approved R&R Plan.
- 9. The State of Karnataka, on the other hand, also submits that keeping in view the increased demand of iron ore across the country, the cap fixed by this Court may be raised from 30 MMT to 40 MMT. In this regard the State of Karnataka has also pointed out that

apart from its involvement in the Comprehensive Environmental Plans for the Mining Impact Zone ("CEPMIZ" for short), significant improvements in the infrastructure has taken place warranting a relook at the issue and an appropriate modification(s) of the cap/ceiling imposed by this Court earlier may now be made. In fact, the State Government suggests that the annual cap upon iron ore extraction could be gradually increased to 50 MMT. subject to successful implementation of the major items of the CEPMIZ, as approved by this Court.

10. I.A. No. 103342 of 2017 is filed by the Ministry of Mines, Government of India. It is stated that the National Mineral Policy 2008 is being relooked into and a revised National Mineral

Policy is under way. It is asserted in the I.A. that fixing a cap upon extraction of minerals ought to be left to the discretion of the Executive branch and, in fact, in an Order dated 2.08.2017 in Common Cause vs. U.O.I. & Ors.1, this Court has mentioned that fixing a cap upon extraction of mineral ore is really the business of the Executive branch of the Central Government and not of this Court. The Ministry of Mines, therefore, submitted that till the National Mineral Policy is finalized, as an interim measure, the recommendations made by the CEC for enhancement of the cap, details and particulars of which will be noticed subsequently, may be accepted and further that the revised cap ought to be independent of the mining operations by

the newly auctioned category 'C' mines which lessees should be allowed to extract iron ore as per their approved R&R Plans.

11. We will now take notice of what has been recommended by the CEC in its report dated 14.07.2017 read with the Explanatory Note thereto dated 4.10.2017. The MPAP in respect of mines whose R&R Plans have been approved, (both, operating mines and not operating mines) stood at 25.1867 MMT for Bellary district and 5.7227 MMT for Chitradurga and Tumkur districts totaling 30.9094 MMT. In addition, two public sector units viz. NMDC and MML (in Bellary district) were utilizing the additional production facility of 5.62 MMT. The CEC points out that it has already been observed by this Court in its judgment

dated 18.04.2013 in Writ Petition (C)
No. 562 of 2009 that permissible annual
production would be subject to review/
modification depending upon:

- (a) change in the assessed mineral reserves because of subsequent exploration;
- (b) identification of additional area for the disposal of the over burden/waste dump; and
- (c) creation of additional physical infrastructure to remove/reduce transportation bottlenecks.
- 12. In addition, the CEC has pointed out that in respect of 13 mining leases of 'A' and 'B' categories changes visualized by conditions (a), (b), (c)

above have occurred entitling the said leases to a consideration for enhancement of permissible annual production by 4.125 MMT. In fact, the Government of Karnataka had on 22.08.2017 submitted for approval of the CEC, proposals for enhancement of production levels in respect of the said 13 mining leases.

That apart, the CEC has further stated that it is in receipt of a communication dated 18.09.2017 from the ICFRE relating to enhancement of annual production in the two mines of NMDC totaling 15.96 MMT as against the current permissible MPAP of 9.38 MMT (increase of 6.58 MMT). The aforesaid proposal is under process and it is stated that, if approved, will lead to enhancement of permissible annual

production in Bellary district to 32.5695 MMT and in respect of other two districts to 8.9247 MMT thus totaling 41.4942 MMT against what has been fixed by this Court i.e. 30 MMT.

The CEC in its report and explanatory note has further given details of the availability of the additional infrastructure consisting of new road constructions which have been completed by different lessees; construction of railway sidings at Nandihalli with track lane of 13.6 kms. by M/s JSW Steel Ltd. and installation of downhill conveyor belt with an annual capacity of 5 MMT by NMDC. It has been further reported by the CEC that out of the R&R Plan approved for leases, in 48 cases production is limited by "reserves"; in

34 cases production is limited by "dump area"; in 9 cases production is limited by "road infrastructure", and in 3 cases the "EC limit" is found to be actually less than what is arrived at in the R&R Plan. Accordingly, the CEC has suggested that with the change of position on the ground level and the fact that R&R Plans are available for a large number of mines, inter alia, fixing permissible production limits on consideration of scientific and technical parameters and also after taking into account mining reserves, dumping areas and evacuation infrastructure, ideally, the "production cap" fixed for each of the mining leases based on R&R Plan should be the basis for the ideal overall cap.

Insofar as category 'C' mines are concerned, the CEC has reported that

they have been auctioned under different regime with firm commitments in terms of the order of this Court dated 30.07.2015; the clauses of the bid document etc. In view of the above and also because of the fact that the said mines have been auctioned through a transparent system, the CEC has submitted that if the cap is not to be lifted and raised it will affect the operations of the already auctioned and also jeopardize the future auction of any further mines in the earlier category 'C', if any. It is further stated that out of the 7 category 'C' mines which have been auctioned till date, MPAP of the 5 leases auctioned in favour of M/s JSW Steel Ltd. is to the tune of 3.623 MMT whereas in respect of other two leases proposals for fixing production limit have not been received

by the CEC. So far as the additional production by NMDC and MML is concerned, the CEC in its report and explanatory note has suggested that though presently MPAP in respect of the two mines of NMDC is 9.45 MMT as per its approved R&R Plan, there is a proposal revision/increase of the same by taking into account the new infrastructure available, including the railway sidings and the conveyor belt system which have been installed by NMDC and also on the basis of reassessment of reserves and dumping space available. Accordingly, the CEC suggested that NMDC may be allowed to continue with its capacity at 12 MMT for the present financial year and from 2018-2019 onwards NMDC is to operate strictly adhering to such MPAP, as may be re-fixed. So far as the MML is concerned, it has been reported that the

working of MML is "highly stressed" due to shortage of space for stocking besides inadequate infrastructure. The CEC, therefore, has suggested that the production limit of 4.06 MMT now available to MML should be reduced to 2 MMT for the year 2017-2018 and further brought down to the level of approval as per the R&R Plan available during the year 2018-2019.

It is also stated by the CEC that production from the category 'C' mines will not be likely to start for some time and, in fact, such production may more or less commence around the time of the expiry of certain leases (07 numbers having MPAP of 1842 MMT). Accordingly, CEC has suggested as follows:

"(i) With regard to Category 'A' &

'B' mining leases for 'District Bellary" the annual production cap for the district may be enhanced by 3 MMT to 28 MMT and wherein NMDC and MML will operate with maximum annual production ceiling of 12 MMT and 2 MMT for the year 2017-18 respectively and thereafter from 2018-19 these will also operate at the MPAP limit as per the approved R&R Plans subject to the overall limit of annual production fixed for the district, until further orders;

- (ii)The existing ceiling of 5 MMT fixed for 'A' & 'B' mining leases for Districts Tumkur and Chitradurga may be enhanced by 2 MMT to 7 MMT, until further orders; and
- (iii) With regard to Category 'C' mining leases which have been e-auctioned to the end users, the production cap of individual mining leases be regulated through the limits approved in the R&R Plan without reference to the general cap fixed for the District concerned."
- 13. Shri M.K. Jiwrajka, former Member Secretary of the CEC, who has assisted the Court at its request, has also filed a note offering suggestions

in the matter as sought for by us.

According to Shri Jiwrajka the following facts are not in dispute. Out of total 166 leases that were categorized by this Court in 'A', 'B' and 'C' categories, 115 leases are in categories 'A' and 'B'; one lease has been suspended. R&R Plans have been prepared for 96 leases, out of which 36 are operating whereas for another 36 leases implementation of the R&R Plan is satisfactory. Further, in respect of 11 leases, R&R Plan implementation is poor whereas for the remaining 13 preparation of R&R Plan has not started. He has further stated that out of the 36 leases in respect of whom implementation of R&R Plan has reached satisfactory progress, as per the report of the Monitoring Committee, 10 of such leases

are likely to become operational shortly. The sum total of the suggestions offered by Shri Jiwrajka are as follows. For categories 'A' and 'B':

- "1. A consolidated cap of 30 MMT for production by all the operating mining leases excluding auctioned leases (preferably only those auctioned leases for which the lessees have agreed to install the conveyor systems) in Districts Bellary, Chitradurga and Tumkur together may be prescribed.
- 2. The additional production permissible in 2 leases of MML may be reduced from 3 MMT to 1.5 MMT for the year 2017-2018 and discontinued from 2018-2019 onwards.
- 3. The production in 2 leases of NMDC Ltd. may be permitted to be regulated, after the proposal regarding the enhancement of the MPAP's in their leases is decided or w.e.f. 2018-2019, whichever is earlier, as per their prescribed MPAP's."

According to Shri Jiwrajka auction of only 14 of the earlier Category 'C'

mines are likely to be successful including 7 leases recently auctioned. The total MPAP of these leases would be around 11-13 MMT. It has therefore been suggested that additional production upto 10 MMT by the auctioned Category-C mining leases and Dalmia mining lease (preferably wherein the lessees have agreed to install the conveyor systems) may be permitted subject to the following:

- "(i) the concerned lessee has agreed to install the conveyor system linked to railway network/ integrated conveyor system and after the alignment of the same is finalized;
- (ii) the Right of Way (ROW) and/ or the approvals under the Forest (Conservation) Act, 1980 for the conveyor system, linked railway siding (if required), linked railway sub-line (if any) and integrated conveyor system under construction by JSW

Steel Ltd. will be acquired/ obtained by the Government within a period of maximum three months (after the alignment is finalised) at the cost of the respective lessees/ successful bidders/ steel plant and by treating the acquisition/ approval as mining related infrastructure development (and not mining activities). concerned authorities of the State Government and the Central Government Will provide necessary assistance to expedite the process.

- (iii) the leases wherein the conveyor system is not made operational within a period of 21 months (including the period for acquiring the ROW), the production will be suspended and will be allowed to be resumed only after the conveyor system is made operational; and
- (iv) if the integrated conveyor system under construction by the JSW Steel Ltd. is not made operational within a period of 21 months (including the period for acquiring the ROW) the additional production permitted for the auctioned leases will cease to be available (the production by

all the leases will be restricted to the prescribed cap by reducing the MPAP of all the leases including Category-C mining leases on pro-rata basis) and will become available only after the conveyor system becomes operational."

Shri Jiwrajka by giving all the relevant details in a very lucid chart has stated that total MPAP in respect of 35 operating leases (one lease has been suspended) is 24.406 MMT and the annual production beyond MPAP permitted in two NMDC and MML is 5.55 MMT thereby totaling 29.956 MMT. According to Shri Jiwrajka, if the MPAP of the 10 leases, which are likely to become operational in 2017-2018 and the enhancement of MPAP of 8 operating leases which are under consideration (5 leases in respect of whom enhancement is also consideration happen to be non-operating leases) is taken into account the total

enhancement in their MPAP which may be

to the tune of 6 MMT or more.

We have considered the detailed 14. facts and figures placed before this Court by the respective parties in the I.As. under consideration and the contentions advanced on that basis which seems to centre the fact that significant changes have taken place on the ground after the orders of this Court imposing the cap were passed. Having regard to such change circumstances, there is an imminent need to lift the cap by fixing the total permissible production for the three districts at a higher quantum, it is urged. Separately, it has been submitted that category 'C' mines which are now being dealt with under a totally different regime and by a transparent process of auction should not be

included within the permissible quantum of production that may be fixed/enhanced for the three districts of Bellary, Chitradurga and Tumkur.

- Bhushan, learned counsel for the petitioner in Writ Petition (C) No. 562 of 2009, whose core submission appears to be that having regard to the availability of iron ore reserves in the three districts, the cap fixed by the Court will not call for any modification so that intergenerational equity can be maintained and the availability of iron ore can be ensured for a maximum period of time to enable the succeeding generations to enjoy the fruits thereof.
- 16. The cap fixed by this Court by Orders dated 5.08.2011 and 1.09.2014 was

in a situation where there was virtually control or effective regulatory measures as to the maximum output that could be generated by a particular mine. There was no scientific study of the iron reserves allocated to ore particular mine in the lease granted. As a result, it was virtually a free for all exercise designed to achieve the maximum profit within the shortest possible time frame. There was rampant and illegal mining with encroachments into forest land, particularly for use as overburdened dumps resulting from excessive mining. This had led to environmental and ecological depredation to an extent that necessitated judicial intervention to resolve a situation which is the normal course may have fallen within the executive domain. It is on the basis of the intervention by

the Court that R&R Plans have been prepared for each mine by an expert body, ICFRE, based on a scientific study of various parameters including mining reserves. R&R Plans have been drawn up specifying a particular/permissible limit for each mine on the basis of limitations of reserves, dumping areas, available infrastructure etc. Accordingly, recommendations have been made for increase of MPAP for 13 different category 'A' mines and also for increase of MPAP in respect of 2 leases held by the public sector lessee, i.e., NMDC. Similarly, 10 mines are anticipated to undertake operations within a short time. Though the report of Shri Jiwrajka, requested for by this Court, would seem to suggest that presently the cap need not be lifted for reasons already noticed, we are of the

view, that the suggestions offered by Shri Jiwrajka are based on certain presumptions which may not necessarily occur in the future. The suggestions for maintaining the cap is limited to the year 2017-18 though the projections contained in the report is well into the The solution offered by the future. Court has to be realistic. Therefore, it is the various features of the current scenario on the ground as highlighted in the report of the CEC that would deserve close look/consideration. In this regard, we may also take note of the fact that the assessment of reserves has also changed over the years and today the iron-ore reserves across the State of Karnataka, comprising of haematite and magnetite reserves, is to the tune of 10.071 BMT (Billion Metric Tonnes). All these reasons impel us to accept the

enhancement of the cap for category A and B Mines in the 3 district of Bellary, Tumkur and Chitradurga as well as the recommendations with regard to MPAP of NMDC and MML, as mentioned in paragraph 12 hereinabove, with the further direction that all pending proposals for enhancement of MPAP shall be decided without delay, naturally, subject to the cap as above.

17. Insofar as category 'C' mines are concerned, we are again of the view that the recommendation made by the CEC deserves acceptance. The operation of the mines already auctioned and such auctions that may take place in the future ought not to be jeopardized by including the said mines, which are covered under a different legal and business regime, to come within the cap

fixed for categories 'A' and 'B' mines. The operations of such mines (earlier category 'C' mines) are likely to commence within a period of about 18 to 21 months. By that time, some of the current leases (7 in number) are also likely to expire (2020). Presently, the MPAP of the 5 of newly auctioned 'C' mines have been worked out. remaining proposals have not yet been finalized. In the above circumstances, we are of the view that no separate cap for category 'C' mines need to be stipulated at this stage except to reiterate the fact that such an exercise may be performed at an appropriate time and a separate cap for such mines (newly auctioned) will be worked out, independent of the cap revised by this order for the 3 districts. While doing so the infrastructure and other relevant

parameters for mining and evacuation of mined material, that may become ready and available at that relevant point of time, will naturally be considered.

18. Consequently, we dispose of all the I.As. by accepting the recommendations made by the CEC for category A & B mines, as extracted in paragraph 12 above, subject to the conditions stated above so far as category 'C' mines are concerned.

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