

CENTRAL EMPOWERED COMMITTEE

REPORT OF THE CEC IN IA NO.2 OF 2009 IN W.P.(C) No.201 of 2009 filed by shri tapal ganesh of district bellary, Karnataka regarding alleged illegal mining by obulapuram mining company (pct) ltd. (M/s OMC) in violation of the forest (conservation) Act, 1980.

000

This IA has been filed by Shri Tapal Ganesh of Bellary District, Karnataka with the following prayers.

- a) Direct the Respondent Ministry of Environment & Forest not to give effect to the order dated 1.5.2009 which has been passed in clear violation of the Forest (Conservation) Act, 1980, in the interest of justice.
 - b) Direct the Central Empowered Committee to look into the issue of illegal mining and encroachment of forest land in the areas covered by the order dated 22.4.2009 and supervise the implementation of the order dated 22.4.2009 by the Respondent Ministry of Environment and forests and the Government of Andhra Pradesh.
 - c) In the alternative, direct the Respondent Ministry of Environment and Forests to ensure the implementation of the order dated 22.4.2009 by stopping mining by all five mining lessees and to ensure that Survey of India completes the survey within six weeks as recorded in the order dated 1.5.2009 of this Hon'ble Court, and
 - d) Pass any order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case".
2. This Report is being filed by the CEC pursuant to this Hon'ble Court's order dated 24.8.2009 after examining the matter during the meeting in this regard convened by the CEC on 5-10-2009

OBSERVATIONS AND RECOMMENDATIONS:

3. Bellary Reserved Forest has been constituted with effect from 1st July, 1890 vide Notification dated 12-5-1890 issued under section 16 of the Madras Forest Act, 1882 (Annexure-R-1) and includes survey numbers in the 10 villages located in the State of Andhra Pradesh and Karnataka. The inter-state boundary of the States of Andhra Pradesh and Karnataka passes through this Reserve Forest, almost in the middle, from South-West to East. In Andhra Pradesh the Reserved Forest includes the border villages of Obulapuram and H.Siddapuram of District Andnthapur. The shrine of suglamma (Sugla Devi), with an extent of 16 square yards in front of it, is excluded and retained as an enclosure within the Bellary Reserved Forest with right of way over a footpath two yards in width and for a distance of about 2 miles from Obulapuram.
4. In villages H. Siddapuram and Obulapuram the following six iron ore mining leases exist in the Reserved Forest area;

Sl.No.	Name of Lessee	Area (in Hectares)	Remarks
1	Bellary Iron Ore Pvt. Ltd. (M/s BIOP)	27.12	Mining lease renewed from 19.05.1998 upto 18.05.2018
2	M/s Y.M. & Son	20.24	Mining lease renewed from 12.11.1999 up to 11.11.2019
3	Obulapuram Mining Company Pvt. Ltd (M/s OMC)	25.98	i) Transferred from M/s G. Ramamohan Reddy on 19.02.2002 ii) Mining leases renewed from 19.07.2005 up to 25.04.2017 iii) The original mining lease area was 547.62 acres spread in three blocks (Block A – 477.67 acre, Block B – 45.65 acres & Block C- 24.30 acres). The renewal has been done for 64.40 acres (25.98 ha) out of the area of Block A. G. Ramamohan Reddy on 18.02.2002.
4	Obulapuram Mining Company Pvt. Ltd. (M/s OMC)	39.50	Mining lease granted with effect from 05.10.2006 for 20 years.

5.	M/s Anantapur Mining Corporation	6.50	Mining lease renewed from 19.08.2003 upto 18.08.2013
6.	Obulapuram Mining Company Pvt. Ltd (M/s OMC)	68.52	Mining lease granted for 20 years vide Government order dated 18.06.2007

The sketch maps of all these six mines, as provided by the State of Andhra Pradesh to the CEC, are collectively enclosed at Annexure r-2 (Colly) to this Report. These also include the sketch map of the mining lease originally granted to M/s. Y.M. & Sons wherein the location of the said mine is vis – a – vis GTS station fixed by the Survey of India is shown.

5. The main issue raised in the present IA is that M/s Obulapuram Mining Company Private Ltd. (M/s OMC) is owned by influential and politically powerful persons. Its Managing Director, Mr. Janardhan Reddy is a Cabinet Minister in Karnataka Government and who is also involved in business partnership with the son of the then Chief Minister, Andhra Pradesh. The OMC has encroached in mineral rich areas outside their mining leases and is carrying out large scale illegal mining in unallotted Reserved Forest areas. The temple of Goddess Suggamma Devi, located on the top of the hillock, together with the GTS Station, fixed there by the Survey of India, have been destroyed. The OMC is a habitual Encroacher in the forest areas and has also encroached in the forest areas of the adjoining mining lease (M/s BIOP, owned by the Applicant's father). The OMC have also, after destroying the boundary pillars, encroached on the forest land located between the State of Andhra Pradesh and Karnataka. The Survey of India which is the Apex expert body for conducting survey should, after relocating the GTS Station destroyed by M/s OMC, determine and demarcate the boundaries of all the approved mining leases. Till then, no mining should be permitted. The Survey of India should also identify the unallotted forest areas wherein illegal mining has been carried out by M/s OMC.

6. The CEC had earlier received a complaint dated 6th February, 2009 from the Applicant in this regard (refer Annexure A-4 of the IA) and which was forwarded to the MoEF on 23.2.2009 (refer Annexure A 5 of the IA) MoEF, after considering the Report of its Regional Office, views/advice of the CEC, and the recommendation of the Forest Advisory Committee (constituted under Section 3 of the FC Act) vide its letter dated 22nd April, 2009 (ANNEXURE – R- 3) suspended the approvals granted under the FC act for all the above said mining leases except the mining lease of M/s OMC (having an area of 68.53 hectares). It was also decided that (a) the demarcation of these mines should be done on the ground by the

Survey of India and (b) action should be initiated against the officials for allowing the mining without proper demarcation on the ground.

7. The State of Andhra Pradesh vide its letter dated 28.4.2009 (ANNEXURE-R-4) informed the MoEF that all the five mining leases have adequately been demarcated on the ground and that none of the lessees have encroached any fresh Reserved Forest adjoining to their mining leases area. It was also stated that the mining lessee have not been allowed to carry out mining operations outside their mining lease boundary limit within the Reserved Forest. Thereafter, the MoEF vide its letter dated 1.5.2009 (ANNEXURE-R-5) conveyed its decision to keep its earlier order dated 22.4.2009 in abeyance.

8. Pursuant to the decision taken by the MoEF, the Regional Office of the MoEF after carrying out the site inspection of the mining lease areas filed a Report dated 1st August, 2009 (ANNEXURE-R-6) In the said Report, the Regional Office of the MoEF has made the following observations against the Report dated 28.4.2009 of the State of Andhra Pradesh:

- (i) the present demarcation of the boundaries of the mining leases have been done on the basis of the interpretation of the mining lease sketches with reference to the 1896 Forest Map, the boundaries indicated in the lease sketches and some related old lease sketches;
- (ii) the inter village boundary between villages H. Siddapuram and Obulapuram has been re-fixed relying mainly on the length and direction of the inter-village line of the old Forest Map of 1896 and using the scale shown on the map. The re-fixed inter village boundary line has got shifted towards west of the old boundary line. The distance between the GTS Station does not match with the position as shown in the 1896 Forest Map;
- (iii) the re-fixed inter village boundary line appears to be inconsistent with the junction point of villages Obulapuram and H. Siddapuram of Andhra Pradesh and villages Halakundi and Vonnahalli of Karnataka State, GTS co-ordinates; etc.
- (iv) the position of the inter-village boundary needs to be re-checked and the boundaries of the mining leases should be fixed accordingly. The northern boundary of M/S OMC should be shifted to the Bottom of the hill towards south as per the position on the map; and

(vi) the contention of the State Government that all the five mining leases are adjacent to each other having compact block without any unallotted forest area and that there is no violation of the FC ACT can be agreed to if)a) the bearings shown on the sketch of M/s OMC are revised to match the sketch provided;)b) revised sketch is issued for the mining lease of M/S Y.M. & Sons without leaving any portion of Siddapuram village in the eastern side and restricting to Siddapuram village; and © revised sketch is prepared for the mining lease of M/S BIOP including left out area in the north east corner.

It is clear from the above that the Regional office of the MoEF has found serious defects and inconsistencies in the mining lease boundaries as determined and fixed by the State of Andhra Pradesh.

9 Earlier, the State of Andhra Pradesh through a High Level Committee has fixed the inter village boundary of villages H.Siddapuram and Obulapuram passing through the Reserved Forest. This has been done by interpreting the

Direction and length of the boundary line as shown in the old forest Map of 1896. In the Revenue Maps of these villages, the inter village boundary has never been demarcated/shown for the area falling in the Reserved Forest. This was also confirmed by the officials of the State of Andhra Pradesh during the meeting convened by the CEC. Based on the inter villages boundary fixed by the High Level Committee, the mining leases boundaries of five of the above said mining leases have been demarcated and fixed by the DFO, Ananthapur. A copy of the consolidated sketch map prepared by the DFO Andhrapur and showing the boundaries of the five of the above said mining leases of M/S BIOP, M/S Y.M. and Sons, M/S OMC (two leases) and M/S Ananthapur Mining Corporation is enclosed at Annexure-R-7 to this Report. Based on the above sketches of the mining leases, the State of Andhra Pradesh has taken the stand that all the five mining leases are in a compact block, there is no unallotted forest area lying between these mining leases and that M/S OMC is not involved in any illegal mining outside its mining lease areas.

10. The CEC after examining the matter is of the considered view that the demarcation of the boundaries of the five of the above mining leases and the conclusion reached by the State of Andhra Pradesh that M/s OMC is not involved in any illegal mining in the forest areas outside its mining lease areas suffers from the following serious defects and inconsistencies and is not at all in conformity with the approved mining leases:

- i) the length and bearings of the boundaries of each of the five mining leases are given along with the sketches of the approved mining leases and the mining lease boundaries were accordingly physically laid on the ground before the mining operations commenced. The boundaries of these mining leases should have been demarcated and laid on the ground as per the length and bearings of the boundaries of each of the mining leases. Instead, the boundaries of these mining leases have been determined on the basis of the interpretation of the inter-village boundary between H.Siddipuram and Obulapuram villages falling in the Reserved Forest. This is extraordinary

particularly when (a) the above said inter-village boundary was never fixed in the past, (b) inter-village boundary has not been shown in the revenue maps at all and (c) the old Forest Map of 1896 used to interpret the inter – village boundaries also does not have details such as fixed reference, points, bearings, length and direction of the boundary line etc. all of which are absolutely necessary to fix the boundary line.

- ii) perusal of the approved mining leases boundaries (refer Annexure R-2 of this Report) and the mining leases boundaries now determined (refer Annexure R-7 of this report) reveals that there are substantial differences and serious discrepancies in the mining lease boundaries determined and fixed now by the Andhra Pradesh Forest Department vis-avis the boundaries of the approved mining leases. For example, the approved mining lease area of M/s. BIOP is 27.12 ha. whereas as per the mining lease boundaries now determined it comes to 24.30 ha. The shape and direction of the Eastern side of its boundary as now determined is completely different that from that as per the approved mining lease. In respect of M/s. Y.M. & Sons, the shape and direction of the mining lease boundary now determined on the Northern side is at complete variance from the boundary as per the approved mining lease.
- iii) about 3.79 ha. of the approved mining lease area of M/s Y.M. & Sons falls and overlaps in the two mining leases of M/s. OMC having areas 20.59 ha. and 39.50 ha. (refer Annexure R-7 of this report). This is simply not possible and clearly shows that the fixation of the boundaries of the mining leases has wrongly been done. If we were to presume that the boundaries of M/s. Y.M. & Sons have been correctly demarcated then in that case the location of both the mines of M/s OMC should have been further East than the location presently fixed (as the boundaries of the approved mining leases cannot overlap with each other).
- iv) the length and bearings of the boundaries of the mining leases of M/s BIOP and M/s Y.M. & Sons now determined by the State of Andhra Pradesh do not tally at all with those as per the approved mining leases (Refer Annexure R 2 and R-7 of this report). For example, in respect of the mining leases of M/s. BIOP, the length of the boundary line on the Western side as per the approved mining lease is 732 meters whereas as per the boundary now determined by the Andhra Pradesh, Forest Department it comes to 699 meters. The length of the Southern boundary of the said mining lease, as per the approved mining lease is 287 meters whereas as per the boundaries now determined by the Andhra Pradesh Forest Department it comes to 262.31

meters. Similar is the case with regard to the length and bearings of the mining lease of M/s Y.M. & Sons; and

- v) in the Notification dated 12.05.1890 constituting the Bellary Reserved Forest, the Shrine of Suglamma (Sugla-Devi) with an extent of 11 sq. yds. has been excluded and retained as an enclosure within the Reserved Forest (refer Annexure R-1 of this report). Since all the mining leases have been granted in the Reserved Forest area, the area of Shrine of Suglamma (Sugla-Devi) should have been outside the approved mining leases. As per the boundaries of the mining leases now determined by the Andhra Pradesh Forest Department, all the mining leases are in a compact block, adjoining to each other and there is no un-allotted area between them.

11. In other words, the boundaries of the mining leases now determined by the State of Andhra Pradesh are totally inconsistent and different in terms of the (i) area of the mining lease, (ii) shape of the mining leases (iii) length and bearings of the boundary line; and (iv) location of the mining leases of M/s OMC (25.98 ha). The boundaries of the mining leases granted to M/s. BIOP, M/s. Y.M. & Sons and M/s. OMC (25.98 ha.) (refer Annexure R-2 of this report) are of such a shape (the mining lease of M/s Y.M. & Sons has a triangular notch on the eastern site) that all these three mines just cannot form a compact block without leaving any un-allotted area lying in between them. The conclusion drawn by the State of Andhra Pradesh, based on the report of the DFO Anantapur, that these mining leases form a continuous block without any un-allotted forest area between them is totally erroneous. Such a conclusion has been drawn by (i) reducing the approved area of the mining lease granted to M/s. BIOP, (ii) showing the mining lease area of M/s. Y.M. & Sons overlapping and falling in two mining lease areas of M/s OMC (iii) changing the shape, length and bearings of the boundaries of these two mining leases and (iv) wrongly fixing the location of the mining lease of M/s OMC (25.98ha) in such a way that the unallotted forest areas lying between the above three mining leases as well as part of the approved mining lease of M/s BIOP is included and shown to fall within the approved mining lease of M/s OMC. The location of the mining lease of M/s OMC (25.98 ha) now fixed by the Andhra Pradesh Forest Department is wrong and unacceptable. Their effort appears to have been to cover up the illegal mining done by M/s OMC in the unallotted forest areas outside the approved mining leases. This is simply not acceptable and vitiates the entire process of fixation of mining lease boundaries by the State of Andhra Pradesh.

12. The Regional Office of the Ministry of Environment and Forests has rightly made scathing observations (refer Annexure R-5 of this Report) against the State of Andhra

Pradesh's Report dated 28.04.2009 wherein it has been concluded that the mining leases are adjacent to each other having a compact block, without any un-allotted forest area between them and there is no violation of the FC Act by any of the leases. Considering the shape of the mining leases, the CEC is of the view that without doubt there existed unallotted forest area between the three mining leases of M/s BIOP, M/s Y.M. & Sons and M/s OMC and wherein illegal mining has taken place.

The objectivity, fairness and impartiality which is expected from a State Government is shockingly lacking here and does not inspire confidence. In these circumstances, it is imperative that the boundaries of the mining leases are determined and fixed by an independent agency and till then all the mining operations in the area remain suspended. The CEC is separately advising the State of Andhra Pradesh and the MoEF to suspend that mining operations in the above said Six mining leases till the matter is considered and decided by this Hon'ble Court.

14. In the above background, it is recommended that –

(i) the boundaries of the six mining leases namely, M/s. BIOP, M./s. Y.M. & Sons, M/s. OMC (three mining leases) and M/s Anantapur Mining Corporation falling in villages H. Siddapuram and Obulapuram in District Anantapur should be demarcated on the ground as per the boundaries of the approved mining leases. This demarcation should be done in a time bound manner by a team consisting of senior representatives of the Survey of India, Ministry of Environment & Forests, Andhra Pradesh Mines Department, Andhra Pradesh Forest Department and Andhra Pradesh Revenue Department (survey and land records). The above team should also demarcate, identify and determine the area falling outside the approved mining leases and wherein illegal mining operations have been carried out;

(ii) till the demarcation of the boundaries of mining leases is done, the mining activities, including the transportation of already mined material from all the six mining leases should remain suspended,

(iii) after the demarcation is done, the mining leases which are found to have carried out mining activities strictly within the approved mining leases and in accordance with the approved mining plans and the conditions on which the approvals have been granted under the MMRD Act and FC Act may be permitted to resume mining. The remaining mining lease holders should not be permitted to resume mining operations. For the mining done outside the approved mining leases, the concerned mining lease holder should be imposed an

exemplary cost equivalent to the normative market value of the iron ore extracted from the area outside his approved mining lease. And

(iv) the location of the GTS Station fixed by the Survey of India and the Shrine of Suglamma (Sugla-Devi) (excluded and retained as enclosure within the Reserved Forest) should be determined and no mining should be permitted therein.

This Hon'ble Court may please consider the above Report and may please pass appropriate orders in the matter.

(M.K. Jiwrajka)

Member

Dated: 19.11.2009