

# CENTRAL EMPOWERED COMMITTEE

## REPORT (INTERIM) OF THE CEC IN WRIT PETITION (CIVIL) NO. 562 OF 2009 FILED BY SAMAJ PARIVARTANA SAMUDAYA AND OTHERS REGARDING ILLEGAL MINING AND OTHER RELATED ACTIVITIES IN FOREST AREAS OF KARNATAKA.

The Writ Petition No.562 of 2009 has been filed by Samaj Parivartana Samudaya and others with the following prayers:-

*“(A) To issue a Writ of mandamus or any other appropriate writ, order or direction, directing immediate steps be initiated by both the Respondent States and the Union of India to stop all mining and other related activities in forest areas of Andhra Pradesh and Karnataka which are in violation of the orders of this Hon’ble Court dated 12-12-1996 in W.P.(C) No. 202 of 1995 and the Forest (Conservation) Act, 1980;*

*(B) To issue a Writ of mandamus or any other appropriate writ, order or direction, directing as null and void retrospectively all ‘raising contracts’ / sub leasing because which are in violation of the Mines and Minerals (Development and*

*Regulation) Act, 1957 and initiate penal action against the violators;*

*(C) To issue a Writ of mandamus or any other appropriate writ, order or direction, directing the stoppage of all mining along the border and in forest areas in the Bellary Reserve Forest till a systematic survey of both the interstate border and the mine lease areas along the entire border is completed by the Survey of India along with a representative of the Lokayukta of Karnataka;*

*(D) To issue a Writ of mandamus or any other appropriate writ, order or direction, directing action against all the violators involved either directly or indirectly in illegal mining including those named in the Report of the Lokayukta of Karnataka (Part-I);*

*(E) To issue a Writ of mandamus or any other appropriate writ, order or direction, directing the recovery of the illegal wealth accumulated through the illegal mining and related activities; and*

*(F) To issue a Writ of mandamus or any other appropriate writ, order or direction, directing null and void notification No.CI 33 MMM 1994 dated*

*15.3.2003 and other related notifications/orders  
dereserving lands for mining operations;*

*(G) Pass any such order that this Hon'ble Court may  
deem fit and proper in the facts and circumstances  
of the case."*

2. The above Writ Petition deals with alleged illegal mining in the States of Andhra Pradesh and Karnataka. The CEC has earlier, pursuant to this Hon'ble Court's order dated 19.11.2010, filed a Report dated 7.1.2011 regarding the six mining leases in Bellary Reserve Forest falling in District Ananatpur, Andhra Pradesh. The Hon'ble Supreme Court by order dated 25.2.2011 has, with regard to the allegations / averments contained in the above said Writ Petition, directed the CEC to submit its Report within six weeks. This Report (Interim) regarding the illegal mining in Karnataka is being filed pursuant to the above order of this Hon'ble Court.

3. The CEC, after examining the matter during the meetings convened on 10.3.2011 and 13.11.2011 with the Chief Secretary, Karnataka and other senior officers of the State Government and site visit undertaken by Shri P.V. Jayakrishnan, Chairman, CEC, Shri M.K. Jiwrajka, Member Secretary, CEC, Shri Mahendra Vyas, Member, CEC along with Shri Siddartha Chowdhury, Learned Amicus Curiae

between 25.3.2011 to 28.3.2011 and after considering the information provided by the State of Karnataka, the Petitioner and others, has identified the following specific issues and which have been dealt with in this Report:-

- I. **15 mining leases illegally granted / being considered for grant in Ramghad Forest Block and Swami Malai Forest Block and Sandur Range Forest, Bellary Range** – a detailed Report in this regard has separately been filed by the CEC **(Report (Interim) I dated 15.4.2011)**.
- II. **Massive illegal mining in forest area and ML No.2010** - a detailed Report in this regard has separately been filed by the CEC **(Report (Interim) II dated 10.4.2011)**.
- III. **Illegal mining / encroachment in 1081.40 ha. of forest area in BHS Region by various mining leaseholders by way of mining pits, overburdened dumps, construction of roads undertaken outside the lease area** - a detailed Report in this regard has separately been filed by the CEC **(Report (Interim) III dated 15.4.2011)**.
- IV. **Illegal mining by M/s. Laxmi Narayana Mining Co.** - a detailed Report in this regard has separately

been filed by the CEC (**Report (Interim) IV dated 15.4.2011**).

- V. **Details of illegal iron ore exported – Statement by the Chief Minister, Karnataka**
- VI. **Details of iron ore purchased by registered sales tax dealers from unregistered dealers**
- VII. **Seizure and disappearance of about 8 lakh metric tones of iron ore at Belikery Port.**
- VIII. **Inspection of the mines by IBM**
- IX. **Transfer of mining leases by way of raising contracts / sub-leases.**
- X. **Mining leases working within the lease area approved under FC Act.**
- XI. **General Observations**

The above said specific issues have been dealt with in subsequent paragraphs.

**V. DETAIL OF ILLEGAL IRON ORE EXPORTED – STATEMENT BY THE CHIEF MINISTER, KARNATAKA**

4. The Chief Minister, Karnataka made a statement on the Floor of the Karnataka Assembly on 9.7.2010 regarding

extent of iron ore being transported and exported illegally. A copy of the statement made by the Chief Minister, Karnataka along with its English translation (provided by the State of Karnataka) is enclosed at **ANNEXURE-R-70** to this Report. The year-wise details of the iron ore for which permits were granted, the total quantity exported and the quantity illegally exported without any permit, as stated by Chief Minister, Karnataka in the above statement, are as under:-

<b>Sl.No.</b>	<b>YEAR</b>	<b>PERMITTED</b>	<b>EXPORTED</b>	<b>DIFFERENCE</b>
1.	2003-04	25,27,001	45,76,964	20,49,963
2.	2004-05	64,51,665	1,16,91,183	52,39,518
3.	2005-06	92,99,600	1,14,71,092	21,71,492
4.	2006-07	60,55,833	1,08,00,478	47,44,645
5.	2007-08	89,73,490	1,47,34,538	57,61,048
6.	2008-09	76,64,125	1,10,60,251	33,96,126
7.	2009-10	60,71,482	1,31,99,419	71,27,937
	<b>TOTAL</b>	<b>4,70,43,196</b>	<b>7,75,33,925</b>	<b>3,04,90,729</b>

5. It is seen from the above statement that during the period 2003-04 to 2009-10, as much as 304.91 lakh metric tonnes of iron ore have been exported without valid permits. Further 71.28 lakh metric tones, out of 304.91 lakh metric tonnes, was illegally exported in the year 2009-10. At a conservative rate of Rs.5000 per metric tonnes (f.o.b. value), the nominal value of the illegally exported iron ore from

Karnataka comes to Rs.15,245 crores. These figures starkly highlight the massive scale on which illegal mining was going on in Karnataka.

**VI. DETAILS OF IRON ORE PURCHASED BY REGISTERED SALES TAX DEALERS FROM UN-REGISTERED DEALERS.**

6. As per the information provided by the State of Karnataka through the Director, Mines and Geology, all the sanctioned mining leases are registered under the Sales Tax Act (commonly known as registered Sales Tax dealers). Any iron ore sold by un-registered Sales Tax dealer will fall in the category of illegally extracted iron ore. The information compiled by the incumbent Director, Mines and Geology has revealed that huge quantities of iron ore have been purchased by the various registered dealers (involved in export of iron ore) from un-registered dealers i.e. illegally mined iron ore. The registered dealer-wise details in this regard, to the extent available with the Director, Mines and Geology along with year – wise abstract is enclosed at **ANNEXURE-R-71** to this Report. The details provided by the present Director, Mines and Geology shows that the estimated quantity of iron ore purchased (and reported by the registered dealers) from the un-registered dealers i.e. illegally mined iron ore comes to about 64 lakh metric tonnes. The present Director, Mines and Geology has issued

notices to the various registered dealers who have purchased iron ore from illegal mines and / or illegal dealers. Copies of two representative notices along with extract of the status of notices served, notices received, and replies given by the registered dealers is enclosed at **ANNEXURE-R-72** to this Report. It is seen that a large number of registered dealers are not traceable.

## **VII. SEIZURE AND DISAPPEARANCE OF ABOUT 8 LAKH METRIC TONNES OF IRON ORE AT BELLARY PORT.**

7. The Karnataka Forest Department after registering forest offence crime on 15.3.2010 and after obtaining permission to investigate the crime from the JFMC, Ankola on 18.3.2010 seized 8.06 lakh metric tonnes of iron ore (initially the quantity was estimated to be 5.0 lakh metric tonnes) at Belikeri Port. As per the stock statement of the four licensed stevedores the seized quantity belongs to the various exporters / parties. The Court Commissioner, Belikeri Port failed to produce any legal / valid documents such as mineral dispatch permits and details of verification by the check posts which lay enroute falling between the area of the mining and the Port in respect of the seized iron ore. The seized iron ore was handed over to the Court Conservator on 20.3.2010.

8. Subsequently when the inspecting authorities of the Forest Deptt. undertook a verification of the seized iron ore on 2.6.2010 it was detected that most of the seized iron ore was missing. About 2.0 lakh metric tonnes of iron ore was found to be available while the remaining quantity of about 6.0 lakh metric tonnes was found to have been stolen. The Forest Deptt. filed a complaint before the JMFC, Ankola against the Port Conservator, Belikeri Port, Stevedores and others and F.I.R. No. 189 dated 8.6.2000 has been registered against the Port Conservator under Section 406 of the I.P.C. A complaint has been filed before the Chief Vigilance Commissioner, New Delhi against the Customs Officer. Writ Petitions (Criminal) were filed before the Hon'ble Karnataka High Court on 14.6.2010 against the offence case registered by the Forest Deptt. The Hon'ble Karnataka High Court on 25.6.2010 granted a stay on further investigation by the Forest Deptt. The writ petitions were subsequently dismissed by the Hon'ble High Court on 2.11.2010. The investigations by the Forest Deptt. remained suspended from July, 2010 onwards because of the stay granted by the Hon'ble Court and subsequently on the ground of non-availability of certified copy of the High Court order. The writ petitions filed by the various exporters for the release of the seized iron ore have been dismissed by the Hon'ble High Court on 3.11.2010.

9. After registering forest offence crime on 15.3.2010 an additional 1.15 lakh metric tonnes of iron ore without any legal / valid documents have been seized on 18.3.2010 at Karwar Port. A copy of the note provided in this regard by the State of Karnataka is enclosed at **ANNEXURE-R-73** to this Report. The above matter was subsequently on 23.6.2010 transferred to the Criminal Investigation Department (CID) for further investigation by the Director General of Police, Karnataka State. The CID has entrusted the case to an investigating Team. The Status Report dated 23.3.2011 of the CID, Karnataka State Police in this regard is enclosed at **ANNEXURE-R-74** to this Report.

#### **VIII. INSPECTION OF THE MINES BY IBM**

10. The Task Force of the Indian Bureau of Mines has carried out inspection of various mines during December, 2009 and April, 2010. The statement showing the observation of the IBM in respect of each of the 67 mines inspected during April, 2010 and 26 mines inspected earlier during December, 2009 (provided by the State of Karnataka) is enclosed at **ANNEXURE-R-75** to this Report. In these inspection reports, the details of production, deviations with reference to the location of the mining pit, annual production, formation of benches, reclamation of mines area, safety

zone and afforestation are provided. It is seen that in many cases the IBM found that the mining pit is located outside the lease area, the formation of the benches for mining is not as per the approved mining plan and the stipulated afforestation have not been carried out.

11. 26 mining leases were inspected in December, 2009 by the IBM when 12 mines were found to be operating in violation of the provisions of the MCDR, 1988 and these mines were suspended. The remaining 16 mines, which were not suspended, are the mines which were idle and were not in operation at all. From the above, it may be seen that each of the working mines inspected by the IBM was found to be operating in violation of the applicable rules. There was not even a single mine which was working in accordance with rules.

12. After the inspection by the IBM in May, 2010, mining activities in 19 mining leases were suspended while in respect of 16 mining leases show cause notices were issued.

13. During December, 2010, the IBM recommended that the leases of M/s. Trident Minerals and Sri R. Charu Chandra be suspended for non compliance of violations found in respect of these leases.

A copy of the note received from the State of Karnataka in this regard is enclosed at **ANNEXURE-R-76** to this Report.

**IX. TRANSFER OF MINING LEASES BY WAY OF RAISING CONTRACTS / SUB - LEASES.**

14. The Lokayukta, Karnataka in its Report has given details of the 39 leases in which the concerned leaseholders have transferred their mining leases by way of raising contracts or sub-leases including two such agreements entered into by M/s. Mysore Minerals Ltd. with M/s. K. Mark and Narayana Mining (P) Ltd. As a follow-up action, the Director, Mines and Geology issued notices to all the 37 leaseholders, (excluding M/s. Mysore Minerals Ltd., which is a State Govt. Undertaking) and calling explanation. 31 lessees have furnished replies stating that they have not given any raising contract and that they are having financial and administrative control over the lease area and have not violated any rule. The details of the notices issued, replies received and documents produced by the respective lessees are given in the statement enclosed at **ANNEXURE-R-77** to this Report.

15. During the site visit, it was confirmed by the concerned officers of the State of Karnataka that no action has so far

been taken to verify the details of the alleged raising contracts / sub-leases mentioned in the Lokayukta Report with reference to the details of the payments made by cheque for royalty, payments received in the bank accounts of the lessees for the sale of the mineral, transport charges paid, details given in the audited Balance Sheets filed along with the Income Tax Returns, even through verification of these documents it could have been easily established whether the lessee has entered into raising contract / sub-lease or not. It has also been informed that the matter regarding raising contract was referred to the Law Deptt. and that the Advocate General has given his opinion on 23.3.2011 stating that raising contracts would be contrary to the Mineral Concession Rule, 1960. The file is under submission to the Chief Minister, Karnataka seeking orders to take necessary action as per the opinion given by the Advocate General and that after approval of the Chief Minister, further course of action in accordance with law will be initiated immediately. A copy of the response filed by the State of Karnataka before the CEC is enclosed at **ANNEXURE-R-78** to this Report.

16. From the above, it is seen that after filing of the Report of the Lokayukta, Karnataka, practically for the last 2-1/2 years, no effective action has been taken by the State of

Karnataka to verify the above issue. It has taken more than 2-1/2 years for even seeking the legal opinion in the matter. This is simply not acceptable and indicates the extent to which the rot has set in and the vested interest have a hold on the Government.

**X. MINING LEASES WORKING WITHIN THE LEASE AREA APPROVED UNDER FC ACT.**

17. As per the details provided by the Karnataka Forests Deptt., there are only 21 mining leases in the entire State and which are working within the lease areas approved under the FC Act, 1980. A statement in this regard, provided by the State of Karnataka to the CEC, is enclosed at **ANNEXURE-R-79** to this Report. It is seen that all of these 21 mines fall in the category of “not working / idle mines” and which shows that there is not even a single mine in the entire State which is presently operational and is not working in violation of the provisions of the FC Act. This information speaks volumes about the sorry state of affairs in the State of Karnataka.

**XI. GENERAL OBSERVATIONS**

18. There are 266 iron ore mines in Karnataka, out of which 134 are located in forest area while the balance 132 are in non-forest area. These mines cover 11604 ha. of

forest land. In Bellary District, there are 148 mines, out of which 98 are in forest area and the balance 50 are in non-forest area (involving about 9527 ha. of forest land and 1341 ha. of non-forest land). The production of iron ore during the year 2009-10 was about 50 million tonnes. The total iron ore mineral reserves (hematite) is about 1148 million tonnes as assessed in 2005 by the IBM. At the present rate of mining the mineral reserves of the State will be exhausted in about 20 years. However, if the figures of illegal mining is added, which is substantial, the resources will get exhausted in a much shorter period and raises the serious question of inter generation equity.

19. It is imperative that after considering the mineral availability in different districts in the State, sustainable capacity of the roads and other infrastructure with reference to transportation of iron ore, a decision regarding maximum quantity of iron ore that should be permitted to be extracted from a particular region should be taken and thereafter production of individual mines should be regulated. The present system of allowing individual mines to decide their level of production, without any linkages to overall mineral availability, status of roads, maximum number of trucks that should be permitted, requirement of the industries in the state and also the adjoining states, is not a very effective

way of operating a valuable mineral which very soon may become scarce. Similarly, a firm policy about the extent of mineral that could be allowed to be exported from the state / specific areas needs to be taken.

20. The Ministry of Railways has streamlined the procedure for loading, of the railways wagons vide order dated 23.11.2010 which is enclosed at **ANNEXURE-R-80** to this Report. The State of Karnataka has notified the Karnataka (Prevention of Illegal Mining, Transportation and Storage of Minerals) Rules, 2011 vide Notification dated 1.4.2011 (enclosed at **ANNEXURE-R-81** to this Report). Similarly, there is an urgent need to streamline the procedure for transportation and loading of iron ore for export so that the export large scale illegally mined of iron ore could be curbed.

21. The inter-State boundary between Karnataka and Andhra Pradesh passing through the Bellary Reserve Forest has not been formally demarcated and confusion prevails. A number of iron ore mines are operating in the areas adjoining the disputed inter-State boundary. To curb illegal mining and transportation and avoid disputes among various leaseholders, it is imperative that the inter-State boundary passing through Bellary Reserve Forest is determined and laid on the ground immediately. A Joint Team comprising the

officers of the State of Karnataka and Andhra Pradesh have already determined and mutually agreed regarding the location of the inter-State boundary and which has also been laid by them on the satellite imageries of the Bellary Reserve Forest and a number of permanent reference points have been identified by them. The States of Karnataka and the State of Andhra Pradesh should immediately take formal decision in the matter and determine the boundary on the map as well as on the ground.

22. The CEC has received a number of documents / information from the petitioners regarding

- i) alleged receipt of huge amounts as donations by a trust managed by closed relatives of a senior political leader in the State from (a) a business house and its business associated companies and who is alleged to have received undue favour from a State Government mining company, (b) from a builder;
- ii) growing mining mafia in Bellary;
- iii) alleged acts of a senior political leader of the state;

- iv) alleged export duty evasion and income tax evasion by mining company owned by a senior political leader;
- v) alleged illegal mining and extortion from the mining companies;
- vi) alleged illegal transfer of a mining company in favour of a senior political leader; and
- vii) suppressed sale of Rs. 86.43 crores in the Income Tax Return by a mining company operating in Bellary Forest.

These documents / information is filed herewith in a sealed cover. The CEC, to the extent it is able, will verify this information and thereafter will file its Report in the matter.

23. The CEC would like to place on record that during the last nearly nine years of the existence of the CEC, it has dealt with a number of cases involving illegal mining such as in Haryana, Rajasthan, Uttar Pradesh, Madhya Pradesh, Chhattisgarh and Orissa. In many of these cases, the extent of illegal mining was found to be quite extensive. However all these cases pale into insignificance when compared to the illegal mining on colossal scale that has taken place in the State of Karnataka particularly in District Bellary and that too

with the active connivance of the officials of the concerned Departments and also the public representatives. The Lokayukta in its Report dated 18.12.2008 highlighted serious illegalities and irregularities in respect of illegal mining and encroachments in forest areas by the leaseholders, agreements / MOUs entered into by the Mysore Minerals Limited (MML) a Govt. of Karnataka undertaking, effective transfer of mining leases by way of raising contracts and sub-lease, illegal grant of temporary transport permits, illegality in transportation of iron ore, grant of stock-yard licence, ineffective transport permit system, damage done to the environment and water bodies, improper attending of court cases, improper orders passed by the Deptt. of Mines and Geology, action to be taken against the then Chief Minister of Karnataka and a number of senior officers, process followed for the de-reservation of areas, including forest area for mining by private persons. Unfortunately, hardly any perceptible follow-up action and corrective measures were taken on the findings of the Lokayukta, Karnataka. Meanwhile, the mining leases, found to be involved in illegal mining, continued with their activities. Out of 99 cases of mining leases involved in illegal mining, the survey and demarcation of only seven leases have so far been completed. The illegal mining not only continued but, in fact, increased manifold. In spite of the firm stand of the

Forest Department, mining leases illegally granted in Ramghad Forest blocks and other forest blocks were allowed to be continued and iron ore worth hundreds of crores of rupees has been extracted. The forest cover in these areas, as seen from the satellite imageries, have been wiped out. Illegal mining on massive scale took place particularly during 2009 and 2010 in the forest area falling in ML No.2010 even after the filing of the Report by the Lokayukta, Karnataka, a number of forest offence case being registered and reports from the IBM, DGMS and joint inspection by the IBM and the State of Karnataka. The connivance of the concerned officials is glaring. The satellite imageries vividly bring out the extent of illegal mining which perhaps runs into thousands of crores of rupees.

24. Some steps have finally been initiated by the State of Karnataka to check the illegal mining. The most important one being the recent transfer of the Deputy Commissioner, Bellary, Deputy Conservator of Forests, Bellary Forest Division, Superintendent of Police, Bellary and Director, Mines as they had brazenly colluded with the mine leaseholders. Earlier when an attempt was made to shift them, it resulted into a serious political crisis in the State. However, it is imperative that the subordinate staff holding

sensitive positions are also simultaneously shifted out something which unfortunately is yet to happen.

25. All cooperation was extended and all necessary information was provided to the CEC by the Chief Secretary, Karnataka and officers of the Forest Deptt. and Mining Deptt. Special mention needs to be made of the Report of Deepak Sarmah, Addl. PCCF, satellite imageries of Ramghad block provided by the present Deputy Commissioner, Bellary, the satellite imageries of M.L.No.2010 provided by the present Director, Mines and Geology and the detailed information, including regarding various illegalities / irregularities committed in the past, provided by the Forest Deptt. and the Mines Deptt. Without their active cooperation it would have not been possible for the CEC to deal with the present matter in such a short time. The Chief Secretary, Karnataka has assured the CEC that the defaulting officers transferred out of Bellary District will not be transferred back, the officers now posted will not be shifted in near future and that the defaulting subordinate officers of the Mines Deptt., Forest Deptt., Revenue Deptt. and Police Deptt. will be transferred out of Bellary District without delay.

26. The CEC will be filing its Report regarding other identified issues such as alleged illegal permission granted for transportation of iron ore from a mining lease expired

long back, grant of illegal transport permits, de-reservation of substantial area for mining by private persons, action against senior officers and public functionaries, illegal / improper agreements entered into by the Mysore Minerals and other related issues.

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

**(M.K. Jiwrajka)**  
**Member Secretary**

**Dated : 15<sup>th</sup> April, 2011**

# **CENTRAL EMPOWERED COMMITTEE**

## **REPORT (I) OF THE CEC IN WRIT PETITION (CIVIL) NO. 562 IF 2009 FILED BY SAMAJ PARIVARTANA SAMUDAYA AND OTHERS**

### **REGARDING**

### **FIFTEEN MINING LEASES ILLEGALLY GRANTED / BEING CONSIDERED FOR GRANT IN RAMGARH FOREST BLOCKLAND SWAMIMALAI FOREST BLOCK IN SANDUR RANGE, BELLARY FOREST DIVISION**

The forest area of erstwhile Sandur State ( presently part of Sandur Range in Bellary Forest Division), were governed under the provisions of the Sandur Forest Act, 1937 as amended on 5<sup>th</sup> April, 1943. A copy of the said Act is enclosed at **ANNEXURE- R-1** to this Report. Under Section 3 (1) of the said Act any land at the disposal of the Sarkar may be notified as “ Village Forest”. Under Section 2 (11) of the said Act all land at the disposal of Sarkar and which have neither been notified as “Village Forest” nor assigned under Huzur sanction for any public or communal purpose will be the State Forest (equivalent to reserved forest). Under Section 2 (8) the land “ at the disposal of Sarkar” means land in respect of which no person has acquired (a) a permanent, heritable and transferable right of use and occupancy or (b) any right created by grant or

lease made or continued by or on behalf of Sarkar. From the above it may be seen that all land falling in the erstwhile Sandur State fell in the category of "Forest" except the land (a) under grant/lease and (b) with a permanent heritable and transferable right of use and occupancy.

2. The Sandur Administration Report for the year 1943-44 (enclosed at **ANNEXURE-R-2** to this Report) states that in the erstwhile Sandur State out of the total forest area of 75619 acres an area of 70,000 acres was reserved forest (State Forest) while the remaining 5,619 acres was village forest. The letter dated 24<sup>th</sup> June, 1949 of the Chief Forest Officer of the erstwhile Sandur State addressed to the District Forest Officer, Bellary Division, Bellary (enclosed at **ANNEXURE-R-3** to this Report) states that the total forest area in the State was 125 sq. miles (about 80,000 acres) out of which 117 sq. miles was Reserved Forest (State Forest) while the remaining 8 sq. miles was village forest. The Mysore State Gazetteer also indicates that as in 1969-70, an area of 75,520 acres of land fall in the category of unclassified forest in the Sandur Range (enclosed at **ANNEXURE-R-4**) to this Report.

3. The erstwhile Sandur State, in terms of the merger agreement dated 1<sup>st</sup> April, 1949 between the Government of India and the Raja of Sandur State, merged in India. The

merger Agreement inter alia conferred on the Raja of Sandur State exclusive ownership of certain assets and property, including the Royal Rest House and its appurtenal land situated in Ramgarh area. A copy of the said Merger Agreement along with the details of the property allowed to be retained by the Raja of Sandur State is enclosed at **ANNEXURE-R-5** to this Report.

4. The ruler of erstwhile Sandur State did not wish to have any further interest or rights in these forest areas. He therefore vide letter dated 24<sup>th</sup> September, 1973 addressed to the then Chief Minister of Mysore (enclosed at **ANNEXURE-R-6** to this Report) asked the State Government to take over the forest land in his possession. Accordingly, after survey, 2395.40 acres of forest land in RM Block in Ramgarh area (along with 1656 acres in SM Block) was handed over by the ex-Ruler of Sandur and taken over on 27.9.1980 by the State Government. A copy of the Possession Certificate is enclosed at **ANNEXURE-R-7** to this Report and the copy of the sketch of the area handed over / taken over is enclosed at **ANNEXURE-R-8** to this Report. It is seen that (a) the entire area handed over was stated to be forest area and that 68.30 acres of area of Palace property and its surrounding area belonging to the

Palace (shown in the map as Part A and Part B) was retained by the ruler of the erstwhile Sandur State.

5. An area of 30561.95 hectares in four forest blocks in Sandur Range of Bellary Forest Division, have been notified under Section 4 of the Karnataka Forest Act, 1963 as below:

1.	R.M. Block Ramanmalai Block)	7769.85 ha.	1) Notified U/s 4 of KFA 1963 vide Notification No.FFD-29-FAF-84 dated 28.2.1985
2.	S.M. Block (Swamimalai Block)	6993.12 ha.	2) 1) Notified U/s 4 of KFA 1963 vide Notification No.FFD-29- FAF-84 dated 28.2.1985
3.	D.M. Block (Donamalai Block)	6733.98 ha.	3) Notified U/s 4 of KFA 1963 vide Notification No.FFD-29-FAF-84 dated 28.2.1985
4.	N.E. Block (North- Eastern Block)	9065.00 ha.	4) Notified U/s 4 of KFA 1963 vide Notification No.FFD-29-FAF-84 dated 28.2.1985
	<b>Total</b>	<b>30561.95 ha.</b>	

6. The above area corresponds to the State Forest / Village Forest, earlier managed under the Sandur Forest Act, 1937 and even otherwise falls in the category of 'forest' for the purposes of the Section 2 of the Forest (Conservation) Act, 1980. A copy of the Gazette of the R.M. Block, reportedly not available, has in 2009 been reprinted in the Gazette. A copy of the same is enclosed at **ANNEXURE-R-9** to this Report. The map showing the area notified under Section 4 is said to be not readily available. However from

the details of the areas notified under Section 4 of the Karnataka Forest Act, 1963 and the status of mutation of forest land maintained by the Working Plan Division of the Karnataka Forest Department (enclosed at **ANNEXURE-R-10** and **ANNEXURE-R-11** respectively to this Report) it is seen that in respect of the above mentioned four forest blocks no survey numbers have been assigned and are noted as Pymasi area in the revenue records. Out of 30561.95 hectares of forest areas of above said four forest blocks, an area of 30,086.51 hectares has been mutated in favour of the Forest Department while 475.44 acres of forest land in Doni Malai Block has not been mutated in favour of the Forest Department. Thus, in so far as the status of these areas being 'forest' is concerned, there has been no difference between the Forest Department and the Revenue Department.

7. A number of mining leases have been sanctioned and sale / purchase of land have been allowed in Ramgarh area and which was supposedly survey No. 1 to 35 in Ramgarh Village. This issue was taken up by the Lokayukta, Karnataka, following which the Deputy Commissioner, Bellary sent a Report dated 28.4.2008 addressed to the Principal Secretary (Revenue), Government of Karnataka (English translation as provided by the State of Karnataka is

enclosed as **ANNEXURE-R-12** to this Report). It has been stated in the said Report that the work of survey and settlement of Ramgarh village was carried out during 1903. As per the said survey only Survey No. 1 to 4 (four survey numbers) having an area of 9.0 acres exist in village Ramgarh. Thereafter no revenue survey has been undertaken under Section 106 of the Karnataka Land Revenue Act. It has been concluded by the Deputy Commissioner, Bellary that

- (i) only Survey Nos. 1 to 4 in Ramgarh Village are authentic and the remaining survey numbers are un-authentic since (a) there are no sketches prepared by Survey and Settlement, FMB or Akarband and (b) there are no mutations or documents for the records made in the Pahanis;
- (ii) since Ramgarh is an unsurveyed village, there is glaring ambiguity as to the land holdings of the said land; and
- (iii) regarding the validity of the survey numbers created unofficially there is a need for taking up a fresh survey work under Section 106 of the Land Revenue Act.

8. Large tracts of areas in Karnataka were reserved for mining for the Government / public sector undertakings. The Government of Karnataka in 2003 decided to de-reserve large chunks of such areas, including forest areas, for mining by private persons. Thereafter, the State of Karnataka vide notification dated 15.3.2003 invited applications from the public for grant of mining leases. This included Block No.13/1 having an area of 1683 hectares in and around Ramgarh. The Government of Karnataka vide notification dated 27<sup>th</sup> March, 2008 (enclosed at **ANNEXURE-R-13** to this Report) excluded 93.18 hectares of area from the said notification on the purported ground that these areas are Patta land belonging to 37 pattadars. A number of mining leases in this area have been illegally granted by treating these areas as non-forest areas (dealt with in subsequent paragraphs). Subsequently, vide recent notification dated 19.3.2011 (enclosed at **ANNEXURE-R-14** to this Report), the earlier notification dated 27.3.2008 has been withdrawn stating that there are no reasonable grounds to believe that these 93.18 hectares of land in Ramgarh village are non-forest lands.

9. A related development is that the Forest Settlement Officer, Bellary vide proceedings dated 24.5.2010 has passed an order to exclude 265 acres of land in Ramgarh

Block from the reserved forest area on the purported ground that the area comprised of private, village, temple, churches, roads and old building (enclosed at **ANNEXURE-R-15** to this Report). A number of mining leases have been sanctioned in the same area. The above decision has been taken by the Forest Settlement Officer notwithstanding the fact that (a) the map showing the areas notified under Section 4 of the Karnataka Forest Act in Ramgarh Block is not readily available and therefore it is not clear whether the areas excluded by the FSO were actually part of the notified area at all or not. (b) the Deputy Commissioner, Bellary in his report dated 28.4.2008 has stated that the Survey No. 5 to 35 are un-authentic survey numbers and (c) the excluded areas were otherwise also 'forest' for the purposes of the FC Act. The Karnataka Forest Department has on 23.8.2010, against the above said order of the FSO, filed an appeal before the Karnataka Appellate Tribunal, under Section 16 of the Karnataka Forest Act, 1963 (enclosed at **ANNEXURE-R-16** to this Report). The Principal Secretary (Forest), Government of Karnataka in Office Note dated 15.3.2011 (enclosed at **ANNEXURE-R-17** to this Report) has also made adverse observations regarding the order passed by the FSO and that the mining leases cannot be granted in violation of the FC Act.

10. From the above it may be seen that
- (a) the entire area of Ramgarh Block is a forest land and no mining lease in this area can be / should have been granted without obtaining approval under the Forest (Conservation) Act, 1980;
  - (b) these areas were forest for the purpose of FC Act even before the issue of Notification under Section 4 of the Karnataka Forest Act;
  - (c) exclusion, by the FSO in May, 2010, of 265 acres of area in Ramgarh Block from the Reserved Forest has no bearing on the applicability of the FC Act. These areas continue to be 'forest' for the purpose of FC Act till these areas are deleted from the 'forest' after obtaining approval under the FC Act;
  - (d) in Ramgarh village only Survey Nos. 1 to 4 are authentic. Survey No. 5 to 35, which have been informally created, are unauthentic. In any case, validity or otherwise of these survey numbers do not change the legal status of these areas being 'forest';

(e) since these areas were, till 15.3.2003, reserved for mining by the Government / public sector undertakings, till then no mining lease in these areas were permitted to be granted in favour of private persons. Thereafter, once these areas were notified for grant of mining lease and applications from the public for the same were invited, individual cases for grant of mining leases could not have been considered / accepted without completion of the process and without considering all the Applications.

11. The following six mining leases have been granted (and three more were under process), in blatant violation of the above stated legal position, in Ramgarh forest block:

Sl.No	M.L.N o.	Name of the Lessee	Exten t (Hect)	Date of Executio n	
1.	2621	Shri Ram Rao M. Poal	28.33	4.2.2010	
2.	2369	M/s Adarsha Enterprise s	2.91	26.7.2002	
3.	2173	Shri J.M. Vrush- bhendraia h	3.29	24.8.1993	
4.	2567	M/s Sparkline Mining Corporatio n	4.86	19.12.200 7	

5.	2646	M/s Shiva Vilas Trust	19.22	30.8.2010	
6.		Shri J.M. Vrushbhendraiah	3.36	14.12.2007	Mining lease deed not yet executed
7.	-	Jai Santoshi Matha Mining Enterprises	23.48 (areas)	-	NOC issued by DC, Bellary on 19.11.2004 stating that it is a non-forest land
8	-	D. Ramesh	14.59 (acres)	-	GOI approved grant of mining lease on 3.6.2006. The applicant requested the land to be treated as forest land.
9.	-	M/s VSL Mining Co.	9.90 (acres)	-	9.90 acres granted by Tehsildar, Sandur in favour of Mr. Anil H. Lad and Ashok H. Lad during 1989. Land used for storing iron ore and beneficiation plant.

12. In addition, following the six mining leases have been granted/ under process in Swami Malai Forest Block:

Sl. No.	Status M.L. No.	Name of the M.L. holder	Extent in acres	Remarks
1.	2259	M/s Karthikeshwar Mining and Iron Ore Company, Pvt. Ltd., Sandur	67.30	NOC by DC, Bellary on 11.10.2004 stating it is non-forest. Falls in de-reserved block No.17. Director, Mines recommended for grant as sole applicant while 212 applications were received.
2.		M/s Sri A. Arogayya Das, Bellary	88.00	NOC by DC, Bellary on 5.4.2005. Falls in dereserved block No.17. Mining lease not yet granted.
3.		M/s Sri A. Arogayya Das, Bellary	15.00	NOC issued by DC, Bellary on 5.4.2005 that it is non-forest land. Part of de-reserved block No.17. Mining lease has not so far been granted. The Deputy Director, Mining, Hospet, furnished technical report.
4.		Sri G. Praveen Kumar Nikkam	60.00	NOC issued by DC, Bellalry on 30.12.2004 stating it is

				non-forest land. Falls in de-reserved block No. 17. Director Mines recommended for grant of mining lease on 27.6.2008 stating he is sole applicant while 212 applications were received. Mining lease not yet granted.
5.		Sri. B. Rudragowda	16.00	Falls in de-reserved block No.17 NOC granted by Tehsildar but rejected by DC vide order dated 1.8.2009. Mining Lease not yet granted.
6.		M/s Mithra Mineral Enterprises	12.35	NOC granted by DC, Bellary. Director Mines recommended for grant on 27.3.2008. Falls in de-reserved block No.17. Mining lease not yet granted.

13 The details of each of the above said 15 cases received from the Karnataka Mines Department are given at **ANNEXURE-R-18** to this Report. In addition, the Deputy

Conservator of Forest, Bellary Circle has on 1.9.2005 granted NOC for mining lease over 729.00 acres of forest land falling in the NE Block, in favour of M/s Balaji Mines and Minerals. This was subsequently vide order dated 9.7.2008 withdrawn by the Conservator of Forest, Bellary Circle (enclosed at **ANNEXURE-R-19** and **ANNEXURE-R-20** respectively). The CEC has never come across any case where, in spite of the forest area being notified as reserved forest, the DFO / Dy. CF has certified it as non-forest land on the basis of the Survey of India topo sheet. The Conservator of Forest, Bellary Circle through a series of orders issued in 2008 has withdrawn the NOCs issued by the Range Forest Officer and the order issued by the Deputy Conservator of Forest, Bellary stating that these are forest lands and were wrongly certified to be non-forest lands.

14. The details given above by the Karnataka Mines Department shows that the mining leases were granted / under process for grant on the basis of No Objection Certificate issued by the then Deputy Commissioner, Bellary on the ground that the area applied for mining lease is a non-forest land. These NOCs were issued by the then Deputy Commissioner, Bellary without obtaining a report from the concerned Divisional Forest Officer something that was mandatory and Reports were accordingly sought from

the Divisional Forest Officer. A statement showing the details of grant of NOCs and subsequent cancellation of the same by the Conservator of Forest, Bellary Circle is enclosed at **ANNEXURE-R-21** to this Report. Further, the Deputy Conservator of Forest, Bellary vide letter dated 31.7.2010 had withdrawn all the NOCs granted earlier by the Forest Department. Thereafter, taking note of the orders of Conservator of Forests dated 9.5.2008 and Deputy Conservator of Forest, Bellary letters dated 31.7.2010, the Deputy Commissioner, Bellary vide letter dated 23.3.2011 has withdrawn all the NOCs earlier issued by his predecessor. A statement showing the details of the NOCs withdrawn by the Deputy Conservator of Forest, Bellary and thereafter by the Deputy Commissioner, Bellary alongwith one representative order is enclosed at **ANNEXURE-R-22 (Colly)** to this Report. Copies of the notices issued by the Mines Department between 19<sup>th</sup> March, to 22<sup>nd</sup> March, 2011 to stop the mining activities are collectively enclosed at **ANNEXURE-R-23** to this Report.

15. Copies of various letters written by the concerned officers of the Forest Department regarding the proceedings dated 24.5.2010 of the FSO, Bellary and illegal mining in Ramgarh block are collectively enclosed at **ANNEXURE-R-24 (Colly)** to this Report. A copy of the letter dated March,

2011 of the Principal Chief Conservator of Forest, Karnataka Forest Department addressed to the Principal Secretary (Forest), Government of Karnataka regarding action against the forest officers for giving the false NOCs as non forest land is enclosed at **ANNEXURE-R-25** to this Report. A copy of the letter dated 21.11.2007 of Dy. Conservator of Forest, Bellary, dealt with in the above said letter of the PCCF, Karnataka Forest Department is enclosed at **ANNEXURE-R-26** to this Report.

16. During the site visit, the Deputy Commissioner, Bellary provided copies of the satellite imageries in respect of mining lease areas of (a) Ram Rao M. Poal (b) Adarsha Enterprises, and (c) Sparkling Mining Corporation and which show the status of the area before the mining was undertaken and thereafter. These satellite imageries, collectively enclosed at **ANNEXURE-R-27** to this Report, vividly brings out the fact that these mining lease areas were having dense to moderately dense forest cover (in addition to being legally 'forest') and which has been ruthlessly destroyed after mining.

17. On a specific issue raised by the CEC about the number of trees existing in the area and the authority who permitted the felling of trees, the details of the forest cover and the number of trees in the various mining lease areas

have been provided by the Karnataka Mining Department and is enclosed at **ANNEXURE-R-28** to this Report. This Report, based on the satellite imageries, clearly brings out the fact that the areas, wherein mining leases have been granted in Ramgarh forest block were having forest cover with density between 100% to 60% and that a huge number of trees have been felled in these areas. No approval for the same was obtained / granted.

18. The above said details provided by the Karnataka Forest Department and the Mining Department and as verified during the site visit by the CEC, clearly brings out the following glaring illegalities and gross irregularities in respect of grant of mining leases in Ramgarh Block and also in Swami Malai Block:

- i) It is pertinent to mention that all the NOCs illegally granted in the past have now been withdrawn/cancelled (a representative withdrawal order is enclosed as **ANNEXURE-R-30** and that the Forest Department, the Mines Department and the Revenue Department have now unequivocally taken the stand that these NOCs were wrongly / falsely granted and that these areas are forest land;

- ii) Mr. P. Rajashekhar , the then Deputy Conservator of Forest, Bellary Division, vide letter dated 21.11.2007 falsely took the stand that the mining leases of M/s Karkethian Manganese and Iron Ore (Pvt) Ltd was a non-forest land (refer Annexure 26 and Annexure 25 of this Report). Mr. M.K. Shukla, the then Deputy Conservator of Forest, Bellary Division had issued a false NOC dated 1.9.2005 stating the mining lease area of M/s Balaji was a non-forest land (refer Annexure R-19 and Annexure R-20 of this Report). Mr. Thippeswamy, the then Range Forest Officer, Sandur Range issued false NOC at least in five cases (refer Annexure R-25 of this Report) stating that the concerned mining lease areas are non-forest land. The details in respect of the other officers of the Revenue Department and Forest Department for issuing false NOCs also should be ascertained and exemplary deterrent action needs to be taken against all the officers involved in issuing false NOCs;
- iii) There are serious illegalities and irregularities committed in grant of these mining lease (the only exception may be grant of mining lease in

favour of M/s Shiva Vilas Trust, which is located on the land held by the erstwhile Ruler of Sandur State).

19. The details provided by the State of Karnataka (Refer Annexure R-18 of this Report) brings out the following serious illegalities / irregularities:

- (a) There are serious illegalities / irregularities in respect of the mining lease of M/s Ram Rao Poal. Vide notification dated 15.3.2003, the area, falling under de-reserved block No.13/1 was notified seeking applications from public for grant of the mining lease. In all 746 applications were received. However, fraudulently, the application of M/s Ram Rao Poal was recommended as sole applicant by the then Director of Mines and Geology, Mr. K.S. Prabhakar. As per the the Director of Mines & Geology letter dated 26.9.2007, the then Chief Minister, Karanataka had directed to recommend the case for grant of mine. The mining lease was granted by the State Government on 18.7.2009. Before the grant of the mining lease, the Deputy Commissioner, Bellary in his Report dated

28.4.2008 brought out the details regarding the authentic survey numbers and unauthentic survey nos. in Ramgarh village (refer Annexure R-12) of the IA Report). The Office of the Lokayukat, Karnataka vide letter dated 3.8.2009 stated that the land in question is a forest land. Giving reference to the above, the Directorate addressed a letter dated 13.8.2009 to the State Government to withhold the notification. The State Government vide letter dated 9.9.2009 stated that the mining lease has to be executed after obtaining inter alia the approval under the FC Act. In spite of the above, the mining lease was executed on 4.2.2010 without obtaining approval under the FC Act. The Forest Department issued notice to the lessee to stop mining activities stating that the lease area is a forest land. The lessee filed a Writ Petition No.41376/2010 before Karnataka High Court (enclosed at **ANNEXURE-R-31** to this Report). The Karnataka High Court by order dated 23<sup>rd</sup> December 2010 and various subsequent orders granted the stay against the notification dated 26.8.2010 issued by the Forest Department. The stay continues. Copies of the orders of the

Hon'ble Karnataka High Court are collectively enclosed at **ANNEXURE-R-32** to this Report.

The satellite imageries of the area (refer Annexure R-27 of this Report) show that the area was having moderately dense forest cover during 2003 and at least up to 17.3.2010. The forest cover has been completely destroyed between 17.3.2010 and 20.5.2010. As per the details provided by the State of Karnataka (refer Annexure R-28 of this Report) 32,840 trees have been removed from the said mining lease area;

- (b) The mining lease has been granted to M/s Sparkline Mining Corporation as the sole applicant even though the area is part of Block No.13/1 and for which vide notification dated 15.3.2003 applications have been invited from public for grant of mining lease. The satellite imageries of the area (refer Annexure R-27 of this Report) show that the area was having moderately dense forest cover and which has been completely wiped out. As per the details provided by the State Government (refer Annexure R-28 of this Report) 3255 trees have

been removed from the mining lease area and for which no permission was obtained;

(c) The mining lease of Shri J.M. Vrushabhendraiah (JMV) has been sanctioned on 14.12.2007 for 8.81 acres even though this area was part of the area notified on 15.3.2003 in Block No. 13/1 and for which applications from public were invited for grant of mining leases. Similar is the case with the mining lease of J.M.V. involving 3.36 hectares. The Lokayukta, Karnataka has found that as against 3.36 hectares of mining lease area, the boundary fixed by the lessee was over 15.86 hectares, 5.94 hectares was under mining pit outside the lease area and 8.37 hectares outside the lease area has been used for over-burden dumps. The Joint Survey Report dated 29.3.2009 has confirmed encroachment on 14.35 hectares;

(d) In respect of Adarsha Enterprises, the mining lease has been granted on 18.7.2002 as sole applicant even though the area was part of the block No.13/1 notified for inviting applications from public. As against 2.91 hectares of

sanctioned lease area, the Lokayukta, Karnataka found that the boundary fixed by the lessee covers 7.73 hectares, 1.36 hectares has been used for mining pit outside the lease area, 0.76 hectares has been used for over-burden dumps outside while 2.98 hectares outside the lease area has been used for other encroachments. A copy of the sketch prepared by the Lokayukta, Karnataka showing the details of the encroachments in the adjoining forest area by the lessee is enclosed at **ANNEXURE-R-33** to this Report;

- (e) The mining lease in favour of Shri D. Ramesh was initially processed by treating the applied land as non-forest land. The area was part of the block 13/1 notified on 15.3.2003 for inviting applications from public for grant of mining lease. Subsequently, vide notification dated 27.3.2008, 99.10 hectares of land was deleted from the said notification on the purported ground that these were patta lands (including the mining lease area of Shri D. Ramesh). The Government of Karnataka vide notification dated 19.3.2011 withdrew the earlier notification dated 27.3.2008

on the ground that there was no reason to believe that the said land was non-forest land. The applicant has now requested to treat the land as forest land; and

- (f) In respect of M/s Karthkeyan Manganese and Iron Ore (P) Ltd., the applicant applied for the grant by stating that the proposed area is non-forest land. Even though the area was part of Block No.17 and for which applications from public for grant of mining leases were invited vide notification dated 15.3.2003, the mining lease was recommended and approved as sole applicant. As stated earlier, the then Deputy Conservator of Forest, Bellary Forest Division took a fraudulent stand in this case that the mining lease area is a non-forest land.

20. During 2008, the Lokayukta, Karnataka as well as the Karnataka Forest Department firmly took the stand that the area wherein mining leases have been granted in Ramgarh Block were forest areas and attract the provisions of the FC Act. The NOC granted by the Range Forest Officer and by the Deputy Conservator of Forest were cancelled by the Conservator of Forest, Bellary Circle. The Lokayukta, Karnataka giving the entire background, including the

notification issued under Section 4 of the Karnataka Forest Act and the details about these areas being part of the State / village forest under the Management of erstwhile Sandur State asked the State Government to take immediate action for stopping the mining. The Deputy Commissioner, Bellary sent a detailed report regarding fictitious survey Nos. created in Ramgarh village and also refused to grant NOCs in at least two cases. The Director Mines brought to the notice of the State Government the letters of Lokayukta, Karnataka and the Deputy Commissioner, Bellary. A number of offence cases were booked by the Forest Department. In spite of the above, the mining was allowed to continue unabated on a large scale. No effective action was taken against the lease holders who were found by the Lokayukta, Karnataka to have encroached upon substantial forest area outside the sanctioned lease areas. No action was taken to cancel the environmental clearance granted to the various leases on the wrong premise that they were non-forest area but actually contained very dense to moderately dense forest cover and which has completely been destroyed for mining. No effective action was taken against the mining lease holder. In the case of M/s Ram Rao Poal, the mining has continued on the strength of directions issued by the Karnataka High Court. No effective action has been taken to get the same vacated or to file review Writ Petition / SLP

against the same. In addition to the provisions of the Forest (Conservation) Act serious violation of the provisions of the MMRD Act, Mineral Concession Rules and the various notifications issued by the State Government was allowed to take place. False information was provided by the Director of Mines and for which no action was taken against him. Four cases of mining outside the sanctioned lease area were detected during the visit of the Lokayukta, Karnataka. However, FIR was lodged only in one case and in the remaining three cases the FIR was lodged after a gap of almost three years. The CEC got the eery feeling that the law of the land does not operate in District Bellary. It is a most shocking state of affairs not witnessed on this scale and brazenness anywhere else in the country. Obviously there hasl been connivance from the highest to the lowest level and cuts across all departments.

21. The CEC is of the considered view that in respect of the above stated 15 cases it is desirable and absolutely necessary that

- a) the mining operations are immediately directed to be suspended;
- (b) the process for cancellation of mining lease, after the issue of notices to the parties, should be

directed to be undertaken in a time bound manner by the concerned officers of the Karnataka Government;

- (c) exemplary action against the concerned officers of the Forest Department and Revenue Department should be directed to be taken for issue of false "No Objection Certificates" stating that the areas wherein mining leases have been applied is a non-forest land;
- (d) exemplary action against the concerned officers of the Mining Department should be directed to be taken in a time bound manner for processing and recommending the grant of mining leases in violation of the provisions of the MMRD Act and the Minerals Concession Rules and for concealing the material information and favouring individual persons;
- (e) the State of Karnataka should determine the boundaries of the forest area covered under notification issued under Section 4 of the Karnataka Forest Act in Ramgarh Block and ascertain whether the areas now decided to be excluded by the Forest Settlement Officer are

part and parcel of the said notification or otherwise and thereafter should take necessary corrective measures. In case the decision taken by the Forest Settlement Officer is found to be in accordance with the notification and the provisions of the Karnataka Forest Act regarding settlement of rights, before implementing the decision, approval under the FC Act for deletion of the areas from the forest should be obtained from the Central Government (as is being done in all other similarly placed cases).

22. The CEC is also of the considered view that in the above matter, the Rules, Regulations and provisions of the MMRD Act, Mineral Concession Rules, the Forest Conservation Act and various Notifications issued by the State Government have been flagrantly violated not because the concerned officers were not aware of them or there was any ambiguity or difference of opinion among the various Departments / officers but because of extremely rich iron ore deposits in these areas and the ease with which it could be mined and the huge amount of money involved. It is therefore necessary that in addition to the other remedial measure and action against the officers, the concerned mining lease holders are made to disgorge the profits made

by them because of mining leases illegally granted to them and allowed to operate. It is submitted that the State of Karnataka should ascertain the total quantity of iron ore and other minerals extracted by the respective lease holders and an amount equivalent to five times the normative market value of such minerals is directed to be recovered from them as exemplary compensation.

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

**(M.K.Jiwrajka)**  
**Member Secretary**

Dated: 15.4.2011

# **CENTRAL EMPOWERED COMMITTEE**

## **REPORT (II) OF THE CEC IN WRIT PETITION (CIVIL) NO. 562 OF 2009 FILED BY SAMAJ PARIVARTANA SAMUDAYA AND OTHERS**

### **REGARDING**

### **MASSIVE ILLEGAL MINING IN FOREST AREAS IN MINING LEASE NO. 2010**

As per the information provided by the State of Karnataka (enclosed at ANNEXURE-R-34 to this Report), the Mining Lease No. 2010 extends over an area of 819.20 acres in Sandur Taluka, District Bellary. The lease in favour of M/s. Dalmia Cements, Bellary was granted under the MMRT Act with effect from 21.11.1953 for a period of 30 years. After the expiry of the lease period, the lease vide order dated 21.2.1986 of the Karnataka Mining Department was renewed with effect from 23.11.1983 for a period of 20 years. The renewed lease expired on 24.11.2003. The mining operations continued, without obtaining the approval under the FC Act, on the strength of interim orders of the Hon'ble Karnataka High Court. The mining stopped since January, 1997 in compliance of the Hon'ble Supreme Court order dated 12.12.1996. Subsequently, the MoEF vide letter dated 24.11.1997 granted "in principle approval" for diversion of 201.50 ha. of forest land under the FC Act.

However, the formal approval under the FC Act was not issued in the absence of compliance by the leaseholder of the conditions stipulated in the “in principle approval”.

2. The Govt. of Karnataka vide Notification dated 16.3.2002 approved the transfer of the said lease over an area of 331.44 ha. in favour of M/s. Ramghad Minerals and Mines (Private) Limited (M/s. RMML). Thereafter, following the recommendations made by the State of Karnataka, the MoEF vide letter dated 13.9.2006 (enclosed at **ANNEXURE-R-35** to this Report) granted “in principle approval” to M/s. RMML for ML No.2010 involving diversion of 335.04 ha. of forest land (331.44 ha. lease area + 3.60 ha. for road).

3. M/s. Muneer Enterprises, lessee of adjoining lease, filed SLP (Civil) 11508 of 2006 before the Hon’ble Supreme Court against the order dated 19.4.2006 of the Karnataka High Court in Writ Appeal No. 5377/2004 regarding the transfer of ML No. 2010 to M/s. RMML. The Hon’ble Supreme Court by order dated 26.10.2007 disposed of the SLP inter-alia asking the Division Bench of the Hon’ble Karnataka High Court to expeditiously hear and decide the matter. The Hon’ble High Court by order dated 26.8.2009 in Writ Appeal No.5377/2009 (enclosed at **ANNEXURE-R-36** to this Report) while confirming the transfer of the mining lease in favour of M/s. RMML directed that M/s. RMML

would not be entitled to operate the mine without first getting the ex-post-facto approval from the MoEF under the FC Act.

4. On a representation made by M/s RMML the Conservator of Forests, Bellary Circle, vide letter dated 7.10.2009, directed the Deputy Conservator of Forests, Bellary District to submit the compliance report in respect of the above said “in principle approval” granted in favour of the leaseholder(enclosed at **ANNEXURE-R-37** to this Report). Subsequently, the Conservator of Forests, Bellary Circle vide letter dated 1.4.2010(enclosed at **ANNEXURE-R-38** to this Report) withdrew the above mentioned letter dated 7.10.2009 on the purported ground that no directions in connection with the Court orders had been received by him either from the Govt. or higher authorities. The Deputy Conservator of Forests, Bellary Circle did not send the compliance report regarding the conditions stated in “in principle approval” granted by the MoEF and in the absence of the compliance Report from the State of Karnataka, the MoEF did not issue the formal approval under the FC Act. It was much later that the MoEF vide letters dated 9.9.2010 and 15.9.2010 (enclosed at **ANNEXURE-R-39** to this Report) granted the formal approval under the FC Act for the diversion of 335.04 ha. of forest land for the ML No.2010. The Government of Karnataka vide recent letter dated

16.3.2011 (enclosed at **ANNEXURE-R-40** to this Report) has requested the MoEF to cancel the formal approval as this approval has been granted without receipt of the compliance report from the State Government.

5. There are a number of mining leases which have a common boundary with the ML No.2010 of M/s. RMML (all are in forest land). These include mining leases of M/s. S.B. Minerals (M.L.No. 2550), M/s. Balaji Mines and Minerals (M.L.No. 2564), M/s. Trident Minerals (M.L.No. 2315), M/s. Veeyam Pvt. Ltd. (M.L.No. 988) and M/s. Muneer Enterprises (M.L.No. 2320). The Lokayukta of Karnataka in 2006-07 carried out a survey of these mining leases and determined the boundaries of the mining leases based on the approved lease sketches as well as the actual area under enjoyment. The GPS readings of the corners of the boundaries of the mining lease as per the sanctioned lease sketch and the enjoyment lines as existing at that time were recorded and these boundaries were demarcated on the ground and also on the Satellite Imageries. The area between the boundary of the mining lease as per the approved lease sketch and the enjoyment line as observed on the ground represented the area wherein illegal mining and encroachment in the forest area had taken place. During the site visit of the CEC the pillars along the common

boundary between the ML No.2010 of M/s. RMML and the mining leases of M/s. S.B. Minerals, M/s. Balaji Mines and Minerals and M/s. Trident Minerals and the enjoyment lines as determined by the Survey Team of the Lokayukta of Karnataka were available on the ground.

6. The Report of the Lokayukta, Karnataka shows the following encroachments / illegal mining in the forest area by M/s. S.B. Minerals, M/s. Balaji Mines and Minerals and M/s. Muneer Enterprises:

i) M/s. S.B. Minerals	- 5.80 ha.	(as per sketch 4.14 ha. in the ML No.2010 of M/s. RMML)
ii) M/s. Balaji Mines & Minerals	- 8.54 ha.	
iii) M/s. Muneer Enterprises	- 8.33 ha.	(as per sketch 3.93 ha. in the ML No.2010 of M/s. RRML)

Copies of the sketch enclosed with the Lokayukta Report and showing boundaries of the sanctioned lease area, enjoyment line and area under encroachment in respect of M/s. S.B. Minerals and M/s. Muneer Enterprises are enclosed at **ANNEXURE-R-41** and **ANNEXURE-R-42** respectively. The Lokayukta, Karnataka Report does not mention about any encroachment existing at the time in respect of M/s. Trident Minerals and M/s. Veeyam Pvt. Ltd.

7. There have been consistent complaints about illegal mining / encroachments taking place particularly during the years 2009 and 2010 in the forest area of ML No.2010 by the adjoining leaseholders, namely, M/s. Muneer Enterprises, M/s. S.B. Minerals, M/s Trident Minerals and M/s. Veeyam (P) Ltd. The Forest Department has registered a number of forest offence cases regarding encroachment and illegal mining in the said area (the details enclosed at **ANNEXURE-R-43** of this Report).

8. A series of representations have been made by M/s. RMML regarding the illegal mining being done by the above said lessees in the forest area falling within ML No.2010 (collectively enclosed at **ANNEXURE-R-44(Colly)** to this Report). The Lokayukta, Karnataka vided letters dated 13.10.2009, 11.12.2009 and 13.10.2009 asked the officers of the State Government to take necessary action in the matter (collectively enclosed at **ANNEXURE-R-45(Colly)** to this Report). The Indian Bureau of Mines and the Director General, Mines Safety found M/s. S.B. Minerals, M/s. Trident Minerals and M/s. Veeyam Pvt. Ltd. involved in illegal mining inside the ML No.2010 and asked the respective lessees to take corrective measures. He also asked the Director, Mines and Geology, Govt. of Karnataka to stop issue of permit to M/s. Veeyam Pvt. Ltd. and M/s. Trident Minerals (collectively

enclosed at **ANNEXURE-R-46(Colly)** to this Report). During the joint inspection of the area between 12.3.2010 to 17.3.2010 by the IBM and the State of Karnataka, it was found that M/s. Trident Minerals, M/s. Veeyam Pvt. Ltd., M/s. Muneer Enterprises and M/s. S.B. Minerals were involved in the illegal mining (Report enclosed at **ANNEXURE-R-47** to this Report). The Forest Advisory Committee (FAC) constituted under the provisions of the FC Act, in May, 2010, examined the issue regarding illegal mining in the area and recommended that survey and demarcation may be undertaken of the area under ML 2010 and the FC clearance granted in favour of M/s. S.B. Minerals, M/s. Trident Minerals and M/s. Veeyam Pvt. Ltd. may be temporarily withdrawn. Thereafter the Minister of State (independent charge), MoEF vide letter dated 3.7.2010 (enclosed at **ANNEXURE-R-48** to this Report) requested the Chief Minister of Karnataka for the survey and demarcation of the area and to immediately stop the mining activities of the above three mining leases. Accordingly, the State of Karnataka has stopped the mining activities by the above said lessees (**ANNEXURE-R-49** to this Report). The demarcation of boundaries of various Mining Leases has been done by a joint survey team comprising of the representatives of the Forest Department, the Revenue Department and the Mines and Geology Department. The Joint Survey Team determined and

demarcated the mining lease of M/s. Muneer Enterprises based on its lease renewal sketch wherein purportedly two permanent reference points have been shown. Thereafter, based on the boundaries of M/s. Muneer Enterprises as determined by the joint survey team, the boundaries of the other adjoining lessees such as M/s. S.B. Minerals, M/s. Balaji Mines and Minerals, M/s. Trident Minerals, M/s. Veeyam Pvt. Ltd. and M.L.No.2010 were determined. The lease sketches prepared by the joint survey team show that practically all the forest areas wherein illegal mining and encroachment was earlier stated to have been taken place fall within the respective mining leases implying thereby that no illegal mining has taken place.

9. The findings of the Joint Survey Team were enquired into by the Additional PCCF, Mr. Deepak Sarmah who thereafter filed a report dated 28.9.2010 addressed to the Addl. Chief Secretary (Forests), Govt. of Karnataka wherein adverse observations and serious doubts have been raised regarding the findings of the joint survey team. A copy of the said report along with the relevant enclosures is enclosed at **ANNEXURE-R-50** to this Report. The Satellite Imageries of the area for various periods are enclosed as **ANNEXURE-R- 51 (Colly)** to this Report.

10. After considering the above said Reports, information provided by the State of Karnataka, other relevant documents, details provided by the petitioner and observations made during the visit the CEC has no doubt at all that massive illegal mining in the forest area falling in ML No.2010 has indeed taken place particularly during 2009 and 2010 and which would not have been possible without the active connivance of the concerned officers of the State Government. The formal approval under the FC Act in favour of M/s. RMML was held up because of non-submission of the compliance report following non-action on the part of the concerned Deputy Conservator of Forests, Bellary District and the Conservator of Forests, Bellary Circle. This has ensured that the lessee is not allowed the possession of the lease area and which consequently facilitated continuation of the massive illegal mining in the ML No.2010 by the adjoining leaseholders.

11. The Survey Team of Lokayukta, Karnataka had during 2006-07 surveyed the ML No.2010 and the adjoining mining leases of M/s. S.B. Minerals, M/s. Trident Minerals and others and recorded the GPS readings of the boundaries of these lessees as also of the enjoyment line. The lease boundaries and the line of enjoyment of these mines have been determined and laid on the ground and also on the

satellite imageries. During the site visit, the pillars pertaining to the common boundary lines and the enjoyment lines were found to exist on the ground. At the time of the Survey by the the Lokayukta Team, the enjoyment line (showing the area wherein mining was undertaken by the leaseholders) of M/s. Muneer Enterprises was found to be about 30-40 meters North of the sanctioned boundary line and which was found to merge with the boundary line near the western portion of the mining lease. The area between these two lines was the area under illegal mining and encroachment. During the site visit by the CEC, massive mining was found to have taken place much beyond the enjoyment line found by the Lokayukta Team during 2006-07. Even if the State of Karnataka had any doubt about the mining lease boundaries and area under encroachment determined by the Lokayukta, no fresh mining should have been allowed by the Mining Deptt. and Forest Deptt. at least beyond the line of enjoyment found to exist at the time of survey by the Lokayukta Team. It is totally beyond comprehension how the mining was allowed in the area even beyond the enjoyment line.

12. The Satellite Imageries of this area vividly brings out the extent of massive illegal mining that has taken place in the area. The Satellite Imagery of 2003 shows a small area

beyond the common boundary between S.B. Minerals and ML No.2010 under mining and adjoining that forest cover existed. No mining is seen between the common boundary between Veeyam Mines and ML No.2010. The imagery also show the existence of large areas under forest cover in ML No.2010. The Satellite Imagery of 2010 reveals a drastic change. The area under mining, beyond the common boundary between S.B. Minerals and ML No. 2010, is seen to have increased substantially and the corresponding forest cover has disappeared. Similarly, in respect of area adjoining the boundary of Trident Minerals and Veeyam Mines, substantial increase in the area under mining is seen. A road constructed from Veeyam Mines to the old dumps of Dalmia Mines is clearly visible in the 2010 Satellite Imagery. The illegal mining on a massive scale and consequent disappearance of forest cover is clearly visible in the satellite imageries.

13. In the Survey and Demarcation Sketch of M/s S.B. Minerals jointly prepared and signed by the Forests, the Mines and Geology and the Revenue Deptt., and which was accepted and taken over by S.B. Minerals during 2007 (dealt with in Deepak Sarmah Report), the geographical coordinates of the corner points (latitude and longitude) of the lease area have been recorded. The mining undertaken

by the S.B. Minerals, as seen in the Satellite Imagery of 2010, is much beyond the mining lease area as per the above survey.

14. Since the S.B. Minerals have common boundary with adjoining leases of ML 2010, Balaji Mines, S.B. Minerals and others, the lease sketches and areas of these mines can be accurately determined and laid on the ground.

15. In the mining lease sketch of Veeyam Mines available with the PCCF (dealt with in the Deepak Sarmah Report) common boundary with ML No. 2010 and the geographical coordinates of the lease boundaries are given. There are wide differences between the lease boundary as per the above coordinates and what has been fixed by the joint survey team.

16. The details given in the Survey of India Toposheet, safety zone PKMS of M/s. Trident Minerals and M/s. Muneer Enterprises and original lease sketch of M/s ML No.2010 clearly indicates that mining leases of M/s. Trident Minerals and M/s. Muneer Enterprises are located on the Southern slope of Ridge line and that they do not cross over the Northern side of the Ridge. On the other hand, M/s. RMML lease is located along the Northern aspect of the hill range and the ridge line forms its southern boundary. The boundary line fixed by the survey done by the Lokayukta

Survey Team as well as the boundaries of S.B. Minerals determined as per the survey and demarcation sketch also more or less follow the ridge line. Notwithstanding the above, the Joint Survey Team has determined southern line of ML No.2010 by about 80 to 150 meters towards North of its enjoined / recognized line and beyond the ridge line. Consequently, the area beyond the enjoined / recognized line and wherein illegal mining has taken place has been shown to be part of the mining lease areas of Trident Minerals, Muneer Enterprises, S.B. Minerals and others. The lease boundaries of S.B. Minerals have been shown substantially towards the north and much beyond the lease boundaries, which exist as per the above stated survey and demarcated map of S.B. Minerals. Consequently, the area wherein illegal mining has been done is now shown to fall within the lease boundary. The lease areas of M/s. Veeyam Pvt. Ltd. and others have been shifted Northwards. The demarcation done by the Joint Survey Team is clearly inconsistent and at variance with the earlier demarcations done in respect of various leases and is also completely at variance with the demarcation done by the Lokayukta Team. The Joint Survey Report virtually neutralizes encroachment and illegal mining by the mining leaseholders. From the details provided by the State of Karnataka to the CEC on the satellite imageries and other details, the CEC is of the

considered view that the joint survey has been wrongly done and with the ultimate objective of legalizing the illegal mining by manipulating by the lease boundaries.

17. The mining lease sketch of M/s. Muneer Enterprises available with the Karnataka Forest Deptt. (enclosed with the Deepak Sarmah Report) like other sketches issued by the Mines and Geology does not show permanent reference points. The survey of M/s Muneer Enterprises has been done by the Joint Survey Team by using the permanent reference points A & B as shown in the lease sketch reportedly approved in the year 2000 by the then Director of Mines and Geology at the time of the renewal of the mining lease. The authenticity of this sketch needs detailed investigation particularly when the survey done on the basis of this sketch has very wide ramifications and is found to be totally inconsistent with the survey of various leases done by the Lokayukta Team as well as by the various Deptts. of the State Govt.

18. To sum up, the CEC is of the view that

- (a) massive illegal mining has taken place in the forest areas falling in ML 2010 and much beyond even the line of enjoyment (the boundary of the area wherein mining

was found to have been done) observed by the Lokayukta during 2006-2007 of the mining leases of S.B. Minerals, Trident Minerals, Veeyam Minerals and other leases. The satellite imageries vividly brings out the extent of illegal mining that has taken place in the area and consequent disappearance of forest cover;

(b) the concerned officers of the State of Karnataka have actively connived with the leaseholders to facilitate continued massive illegal mining in spite of repeated complaints and report of the IBM, DGMS and large number of forest offence cases registered by the Forest Department;

(c) the illegal mining was significantly facilitated by intentional non-action on the part of the concerned officers of the Karnataka Forest Deptt. regarding the compliance of the condition on which the "in principle approval" was granted by the MoEF in respect of ML No.2010 and consequently allowing the forest area of ML No.2010 to de-facto continue as no

man's land available for illegal mining by the adjoining leaseholders.

- (d) the lease boundaries determined by the joint survey team are totally inconsistent and differs materially from the details of the geographical coordinates (latitude and longitude) recorded in the Survey and demarcation Report of the mining leases of S.B. Minerals and Veeyam Minerals, the details given in the Mines Safety Plans, Survey of India Toposheet, the details of the contours given in the respective mining lease sketches, reports of the Director General of Mines Safety and Indian Bureau of Mines regarding illegal mining outside the respective lease areas, the lease sketches given in the Report of the Lokayukta and with the offence cases registered by the Forest Deptt. It practically legalizes all the illegal mining that has taken place in the forest area;
- (e) the lease renewal sketch of M/s. Muneer Enterprises wherein purportedly two fixed reference points are shown and which has

been used (by discarding all other relevant information) by the joint survey team for determining the lease boundaries needs a thorough investigation about its authenticity;

19. In the above background, the CEC is of the view that

- (i) the mining leases of M/s. Trident Minerals, M/s. S.B. Minerals, M/s. Veeyam Pvt. Ltd. and M/s Muneer Minerals should be directed to be suspended and no mining and transportation of mineral by them should be permitted;
- (ii) The report of the Joint Survey Team by which the mining lease boundaries of the various mining leases have been fixed should be rejected. The boundaries of all the mining leases should be fixed after taking into consideration the geographical coordinates provided in the survey and demarcation reports of M/s. S.B. Minerals and M/s. Veeyam Pvt. Ltd., details of contours given in the ML No.2010, Trident Minerals and other leases, Report of the

Lokayukta, Karnataka, report of the IBM and DGMS, observation made in the report of Deepak Sarmah and other relevant documents;

- (iii) The responsibility for allowing massive illegal mining in the forest area, even beyond the line of enjoyment found and provided in the Lokayukta, Karnataka Report, against the concerned officers of the State of Karnataka should be fixed in time-bound manner and exemplary punitive action should taken against them in a time-bound manner
- (iv) the extent of illegal mining in the forest area falling in ML 2010 should be determined and exemplary compensation should be recovered from the concerned adjoining leaseholders. It is suggested that five times the normative value of the mineral illegally extracted by each of the leaseholder should be directed to be recovered from them as exemplary compensation; and

(v) the environmental clearances, the approvals granted under the FC Act, 1980 and all other clearances in favour of the defaulting mining leaseholders should be permanently revoked.

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

**(M.K. Jiwrajka)**  
**Member Secretary**

**Dated : 15.4.2011**

## CENTRAL EMPOWERED COMMITTEE

### REPORT (III) OF THE CEC REGARDING ILLEGAL MINING AND ENCROACHMENT IN 1081.40 HECTARES OF FOREST AREA IN BHS REGION BY WAY OF MINING PITS, OVER BURDEN DUMPS, CONSTRUCTION OF ROADS, ETC. OUTSIDE THE LEASE AREAS

In the Report dated 18.12.2008 of the Lokayukta, Karnataka, inter alia it is stated that 1081.40 hectares of forest area is under illegal mining / encroachment by way of mining pits, over burden dumps, construction of roads, etc. undertaken by the various lease holders outside their sanctioned mining lease area. The break up of the area, as given in the Lokayukta, Karnataka Report, is as under:

Sl.No.		(In Hectares)
1.	Encroachment in the form of extraction of iron ore (pit)	147.29
2.	Encroachment due to waste dumps	306.07
3.	Other type of encroachments	504.09
4.	Encroachment due to construction of roads to mines	124.90
	Total encroachments	1081.40
	Total Length of the mining roads (in Kms)	180.42

2. A statement showing the mine-wise details, as given in the Lokayukta, Karnataka Report is enclosed at **ANNEXURE-R-52** to this Report. Out of 99 cases dealt with in the Lokayukta Report, the details of illegal mining / encroachment are provided in respect of 74 cases (60 cases

involve encroachment of forest areas), while in respect of the remaining 25 cases, the illegal mining / encroachment was not found/surveyed. The survey sketches of 68 mines have been provided by the Lokayukta to the State of Karnataka while the survey sketches for six other mines, wherein illegal mining / encroachment have been found, have not so far been provided. A statement showing the details of the follow-up action taken by the State of Karnataka in respect of 99 cases dealt with in Lokayukta Report (provided to the CEC by the Karnataka Forest Department) is enclosed at **ANNEXURE-R-53** to this Report. Forest offence cases have been registered by the Karnataka Forest Department in respect of 56 cases. 31 mining lease holders have filed cases before the Hon'ble Karnataka High Court against the forest offence cases registered by the Karnataka Forest Department. The Hon'ble High Court passed the final order and judgment in respect of 27 cases while in respect of 4 cases interim orders have been passed. A copy of the judgment dated 13<sup>th</sup> April, 2009 of the Hon'ble High Court in respect of mining leases of M/s V.S. Lad & Sons is enclosed at **ANNEXURE-R-54** to this Report. The operative part of the said judgment is reproduced below:

*“(i) Lok Ayukta report and the sketches attached thereto can be the basis for the respondents to*

*prosecute the FIR dated 3.2.2009 and the Seizure order dated 3.2.2009;*

- (ii) the prayer to quash the First Information Report dated 3.2.2009 is rejected, giving liberty to the respondents to proceed in accordance with law, subject to the orders hereunder:*
- (iii) Deputy Conservator of Forests, Bellary Division, Bellary – fourth Respondent, shall inspect and survey the impugned area leased out to the petitioner, in the presence of the petitioner, the Controller of Mines, Indian Bureau of Mines, Bangalore, along with the nominee not below the rank of the Deputy Director by the Director General, Survey of India, and take appropriate decision as to the alleged encroachment by the petitioner with reference to the survey records and other relevant material available and documents produced in this regard. If any encroachment of forest land is found, the respondents are at liberty to assess the damages caused on account of such illegal mining outside the leased out mining area and recover the same from the petitioner;*

- (iv) *The respondents are directed to return the tools, vehicles and machinery to the petitioner on the condition that the same shall be produced before the respondents / jurisdictional Magistrate as and when required by law, subject to the finding in the inspection to be conducted by the fourth respondent in the presence of the petitioner and Controller of Mines, Indian Bureau of Mines, Bangalore, along with the nominee not below the rank of a Deputy Director by the Director General, Survey of India, referred to above;*
- (v) *The ore which is already seized by the authorities which is alleged to have been mined outside the leased out area shall be in the custody of the forest authorities and the authorities are at liberty to take appropriate decision in the matter subject to the finding in the inspection and assessment of the damages and to recover the same from the petitioner;*
- (vi) *The respondents are directed to permit the petitioner to undertake the mining operation in the leased out area which is not disputed by the forest authorities.”*

3. Similar directions have been passed by the Hon'ble High Court in all other cases wherein forest offence cases have been registered by the Karnataka Forest Department. It is seen that the directions have been passed by the Hon'ble High Court regarding the continuation of mining operations in the lease area, return of the seized vehicles, tools and machinery to the mining lease holders, re-survey by the Deputy Conservator of Forest in the presence of mining lease holders, the representatives of the Indian Bureau of Mines and the Survey of India after a statement in this regard was made by the Learned Advocate General appearing for the State of Karnataka.

4. The State of Karnataka has allowed the mining operations to continue in respect of all the mining leases wherein illegal mining and encroachments were found by the Lokayukta, Karnataka. The survey of the mining lease areas has been completed only in respect of the seven mines. The details of the findings of the survey are given in the statement at **ANNEXURE-R-55** to this Report. It may be seen that in six cases, the encroachment / illegal mining has been confirmed while in only one case wherein the Lokayukta had reported encroachment of 0.64 hectare, no encroachment has been found. The survey work in respect of the other cases has not been undertaken / completed on

the purported ground that the Indian Bureau of Mines and the Survey of India are not cooperating to ensure early completion of the survey work.

5. The CEC is of the view that the mining lease holders who were found to be involved in illegal mining / encroachment outside their mining lease areas should not have been allowed to continue mining. If there was any doubt about the extent of illegality committed by them, in such cases the extent of encroachment and illegal mining should have been determined expeditiously. Exemplary punitive action should have been taken against the lease holders involved in illegal mining and encroachment. In stead, relying upon the Hon'ble High Court orders, which have been given on the basis of the statements made by the State of Karnataka, the mining operations have been allowed to continue unabated and seized vehicles, tools and machinery have been returned to the erring lease holders. No effective steps have been taken to verify the extent of illegal mining. Effective follow-up action on the Report of the Lokayukta has not been taken. This is a most undesirable state of affairs particularly considering that illegal mining has been taking place on a large scale in Karnataka. The inaction on the part of the State Government has further encouraged illegal mining in the State.

6. The findings of the Lokayukta, Karnataka are based on the detailed survey done in the field and by superimposing the lease boundaries on the satellite imageries. Copies of the survey sketch along with the satellite imageries in respect of the mining lease of M/s V.S. Lad & Sons – one of the cases dealt with in the Report of the Lokayukta, Karnataka are collectively enclosed at **ANNEXURE R-56 (COLLY)** to this Report. Out of the seven cases wherein re-survey has so far been done, the encroachments / illegal mining have been confirmed in six cases. Only in one case, which otherwise involved a very small area under encroachment / illegal mining, no encroachment was found. The CEC is of the view that the process followed by the Lokayukta, Karnataka for determining the area under illegal mining / encroachment is prima facie sound and reliable. Because of inaction of the State of Karnataka against the defaulting lease holders no effective action for the illegality committed by them has been taken and the lease holders have remained unpunished. As observed during the site visit, in a number of cases, the extent of illegal mining has increased manifold.

7. In the above background, following recommendations are made for the consideration of this Hon'ble Court:

- i) All cases, wherein illegal mining has been found by the Lokayukta, Karnataka, the mining operations should be directed to be closed forthwith and transportation of minerals, including already mined material should be prohibited;
- ii) the joint teams comprising of the senior representatives of the Forest Department and the Mines and Geology Department of the State of Karnataka should, in the presence of the representatives of the concerned mining lease holder, carry out the demarcation of the concerned leases on the ground as well as on the satellite imageries after taking into consideration the relevant sanctioned lease sketches, survey and demarcation sketch of the lease, sketches of the adjoining leases and other relevant information;
- iii) the mining operations should be allowed to re-start only after survey and verification of the relevant records and after it is confirmed by the Principal Chief Conservator of Forest, Karnataka Forest Department and the Principal Secretary (Mines), Government of Karnataka that (a) no

illegality in respect of mining lease has been found; (b) the lease has all the requisite clearances including the approval under the Forest (Conservation) Act and environmental clearance;

- iv) the mining leases which are found to be involved in illegal mining / encroachment and other illegalities or which do not have requisite clearances should not be allowed to re-start mining till exemplary punitive action in respect of such cases is taken and that too only after obtaining the permission from this Hon'ble Court;
- v) the mining leases in respect of which the forest area included in the approved mining lease is found to be more than the forest area for which approval under the FC Act has been granted, the mining operations should be allowed to re-start only after the lessee obtains approval under the FC Act for the entire forest area included in the mining lease or the lease deed executed in favour of the lessee is modified to the extent of the forest area included in the mining lease;

vi) the leases involving areas in respect of which there is a dispute about the legal status of the area being forest or otherwise, no mining should be allowed to be re-started until either the approval under the FC Act for the disputed area is obtained or the dispute is finally settled.

8. It is also submitted that in view of the large scale illegal mining going on in Karnataka, it would be appropriate that the lease holders are made to disgorge the profit made by them by illegal grant of mining leases and / or illegal mining/encroachment done by them. For this purpose it is recommended that the State of Karnataka should be directed to assess the quantity of minerals extracted by each of the mining lease holder from the area outside the mining lease legally approved and granted. An amount equal to five times the normative market value of such minerals may be directed to be recovered from the respective lease holders as exemplary compensation.

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

**(M.K. Jiwrajka)**  
**Member Secretary**

**Dated : 15.4.2011**

## **CENTRAL EMPOWERED COMMITTEE**

### **REPORT (IV) OF THE CEC REGARDING ILLEGAL MINING BY M/S LAKSHMINARAYNA MINING COMPANY IN ML NO.2487**

ML No. 2487 extends over an area of 175.63 hectares and was granted under the MMDR Act in favour of M/s Lakshminarayana Mining Company on 21.5.1963 for a period of 20 years. The mining lease over an extent of 175.63 hectares was renewed for a period of 20 years with effect from 21.5.1983. The second renewal for the mining lease was granted on 29.4.2005 for a period of 20 years with effect from 21.5.2003. The mining lease is valid up to 20.5.2023. A copy of the lease deed for the second renewal is enclosed at **ANNEXURE-R-57** to this Report.

2. The entire area of the mining lease is forest land falling in Sandur Range of District Bellary. At the time of the grant of the first renewal approval under the Forest (Conservation) Act, 1980 was not obtained even though the renewal took place after the enactment of the Forest (Conservation) Act, 1980. The approval under the FC Act for the mining lease has been accorded by the MoEF for the first time on 27.3.1997 i.e. after a gap of almost 14 years from the date of first renewal. A copy of the MoEF's letter dated 27.3.1997 by

which the diversion of 105.22 hectares of forest land for renewal of the mining lease in favour of M/s Lakshminarayana Mining Company was granted by the MoEF is enclosed at **ANNEXURE-R-58** to this Report. From the approval granted by the MoEF it is seen that it was treated as a case involving violation of the FC Act and for which penal compensatory afforestation over the degraded forest land twice in extent of the area to be broken afresh was imposed. The approval under the FC Act was co-terminus with the period approved under the MMRD Act. The remaining area of 70.41 hectare out of the total lease area of 175.63 hectares along with reclamation charges of Rs.6.05 lakh towards construction of check dam, gully check, afforestation broken of natural re-generation and sowing of seeds, etc. was handed over to the Forest Department on 15.12.2000. Since the approval under the FC Act was accorded for lesser forest area than the forest area included in the mining lease, the lease deed executed by the lessee should have been accordingly modified. However that does not appear to have been done. After the expiry of the mining lease period of the first renewal on 20.5.2003, the MoEF vide letter dated 8.5.2003 granted temporary working permission over already broken area (enclosed at **ANNEXURE-R-59** to this Report). The formal approval under the FC Act for second renewal of mining lease over 105.22

hectares of already broken up forest land has been granted by the MoEF vide letter dated 8<sup>th</sup> July, 2003 inter alia subject to environmental clearance (enclosed at **ANNEXURE-R-60** to this Report). As per the details provided by the Lessee out of 105.22 hectares of forest land, 72.50 hectares is used for mining, 22.50 hectares for over burden dumping, 3.02 hectares for road, 6.02 hectares for storage and the remaining 1.22 hectares for statutory buildings, machines and screening stocks, yards, etc. The production of iron ore by the lessee was 8.46 lakh MT in 2005-06 and which has increased to 9.91 lakh MT in 2007-08. The production of iron ore in 2008-09 was 5.19 lakh MT and which increased to 14.12 lakh MT in 2009-10.

3. The Lokayukta, Karnataka has found M/s Lakshminarayana Mining Company to be involved in illegal mining and encroachment. As per the details given in the Lokayukta Report dated 18.12.2008, it has encroached about 41.93 hectares of forest area. The break up of the encroached forest land used for different purposes is as under:

1.	Working pit outside the lease area	5.90 ha
2.	Waste dump outside the lease area	20.64 ha
3.	Other encroachments outside the lease area	5.07 ha
4.	Approach roads encroachment	10.32 ha
	Total Encroachments	41.93 ha
	Length of the road in Km.	12.57

4. Copies of the survey sketch and the satellite imageries given in the Lokayukta, Karnataka Report are collectively enclosed at **ANNEXURE-R-61** to this Report.

5. As a follow up action on the Lokayukta, Karnataka Report, the Karnataka Forest Department registered a forest offence case No.134/2008-09 dated 4.2.2009 against the lessee. However M/s Lakshminarayana Mining Company filed a Writ Petition No.4072 of 2009 before the Hon'ble Karnataka High Court against the said forest offence registered by the Forest Department. The Writ Petition was disposed of by the Hon'ble Karnataka High Court by judgment dated 24<sup>th</sup> April, 2009 (copy enclosed at **ANNEXURE-R-61** to this Report). The operative part of the said judgment is reproduced below:

*“(i) Lokayukta report and the sketches attached thereto can be the basis for the respondents to prosecute the FIR dated 4.2.2009 and the Seizure order dated 5.2.2009;*

*(ii) the prayer to quash the First Information Report dated 4.2.2009 is rejected, giving liberty to the respondents to proceed in accordance with law, subject to the orders hereunder;*

- (iii) *Deputy Conservator of Forests, Bellary Division, Bellary – fourth Respondent, shall inspect and survey the impugned area leased out to the petitioner, in the presence of the petitioner, the Controller of Mines, Indian Bureau of Mines, Bangalore, along with the nominee not below the rank of the Deputy Director by the Director General, Survey of India, and take appropriate decision as to the alleged encroachment by the petitioner with reference to the survey records and other relevant material available and documents produced in this regard. If any encroachment of forest land is found, the respondents are at liberty to assess the damages caused on account of such illegal mining outside the leased out mining area and recover the same from the petitioner;*
- (iv) *The respondents are directed to return the tools, vehicles and machinery to the petitioner on the condition that the same shall be produced before the respondents/jurisdictional Magistrate as and when required by law, subject to the finding in the inspection to be conducted by the fourth respondent in the presence of the petitioner and*

*Controller of Mines, Indian Bureau of Mines, Bangalore, along with the nominee not below the rank of a Deputy Director by the Director General, Survey of India, referred to above;*

- (v) The ore which is already seized by the authorities which is alleged to have been mined outside the leased out area shall be in the custody of the forest authorities and the authorities are at liberty to take appropriate decision in the matter subject to the finding in the inspection and assessment of the damages and to recover the same from the petitioner;*
- (vi) Subject to the finding arrived at by the fourth respondent-Deputy Conservator of Forests, Bellary Division, and the Controller of Mines, Indian Bureau of Mines, Bangalore; petitioner shall rectify the violation by removing the overburden waste whatsoever within two weeks from the date of such order passed by the fourth respondent and the Controller of Mines, Indian Bureau of Miners, Bangalore; and*
- (vii) The respondents are directed to permit the petitioner to undertake the mining operation in*

*the leased out area which is not disputed by the forest authorities.”*

6. It is seen that the Learned Advocate General appeared for the State of Karnataka and submitted before the Hon'ble Court that the State of Karnataka is ready to undertake field survey and inspection (regarding encroachment by the lessee) in the presence of the lessee, Controller of Mines, Indian Bureau of Mines along with a nominee not below the rank of Deputy Director of the Director General, Survey of India. It was also submitted by the Learned Advocate General that there cannot be any objection to permit the lessee to continue the mining operations in the undisputed area and return the seized machinery for such purposes. The seized articles will be returned to the lessee on an undertaking by him. It may be seen that the directions passed by the Hon'ble High Court were in conformity with the submissions made on behalf of the State of Karnataka.

7. The MoEF vide letter dated 6<sup>th</sup> July, 2004 granted the environmental clearance for annual production capacity of 8.5 lakh MT. In the said letter it is stated that the mine has already enhanced the annual production from 3 lakh MT to 7 lakh MT without approval of the MoEF. A copy of the above said environmental clearance is enclosed at **ANNEXURE-R-63** to this Report. The MoEF vide letter dated 21.3.2007 had

granted environmental clearance for further expansion of annual production capacity from 8.5 lakh MT to 18.0 lakh MT (enclosed at **ANNEXURE-R-64** to this Report).

8. Pursuant to the directions passed by the Hon'ble Karnataka High Court, a joint survey of the mining lease was carried out by the officers of the Forest Department, Indian Bureau of Mines and the Survey of India in the presence of the petitioner. The joint survey confirmed that encroachment in 35.0 hectares outside the sanctioned lease area has taken place as given below:

Working Pit outside the lease area	4.02 ha
Waste dump outside the lease area	19.58 ha
Approach road of 10 Kms. without FC Act clearance	11.40 ha
<b>Total</b>	<b>35.00 ha</b>

9. A copy of the survey proceedings alongwith the joint survey sketch is enclosed at **ANNEXURE-R-65** to this Report. It is seen that in the joint survey sketch it is mentioned that working pit and waste dump outside the lease area are old workings and dumps located in surrendered area made before 15.12.2000 and that approach roads are made between 1958-73 after obtaining permission.

10. Mr. Muttiah, the then Deputy Conservator of Forest, Bellary Division, vide letter dated 29.3.2010 in purported

compliance of the directions of the Hon'ble Karnataka High Court directed the RFO, Sandur Range to comply with the order and to take action to remove the over-burden dumps at the cost of the lessee. A copy of the letter was also endorsed to the lessee. In turn, the RFO, Sandur Range vide his letter dated 17.4.2010 directed the lessee to remove the over burden waste and comply with the directions of the Hon'ble High Court. M/s Lakshminarayana Mining Company, in purported compliance of the directions of the Hon'ble High Court removed the over-burden dump. During the site visit undertaken the CEC was shocked to find that the mining pit, wherein illegal mining had taken place, has been completely filled in and planted. The Karnataka Forest Department informed that a forest offence case No.29/2010-11 dated 29.7.2010 has been registered against the company. The investigation report of the RFO, Sandur Range brought out that the road (passing through the forest area) has been widened by 2.5 meters over and above the existing 7.5 meter wide road, for a distance of 4.325 km besides filling up the illegally mined pit over an area of 2.80 hectares. The State Government is of the view that this act by M/s Lakshminarayana Mining Company is evidently an attempt to destroy the evidence of alleged illegal mining in the already surrendered forest area. The RFO, Sandur Range has estimated Rs.1.6 crores as the damage caused to the

forest and environment. The value of iron ore seized at the surrendered mine site outside the lease area has been estimated at Rs.14.00 crores. It has also been informed by the State of Karnataka that the above does not include the iron ore that might have already been removed and transported from the area and which will require detailed investigation to assess the quantity.

11. What is more disturbing is that the illegal mining and encroachment done by M/s Lakshminarayana Mining Company has been compounded and the forest offence case has been closed. The Range Forest Officer has on 25.2.2011 informed the Court of JFMC accordingly. The compounding of the forest offence has been done by deleting 10 hectares of area encroached for approach road and 5 hectares of area used for waste dump. A copy of the Deputy Conservator of Forest, Bellary Division letter dated 11.2.2011 regarding compounding of the offence case, a copy of the letter of the Deputy Conservator of Forest dated 11.2.2011 regarding finalization of the offence case, compounding order dated 11.2.2011 issued by the Deputy Conservator of Forest, Bellary Division, letter of RFO, Sandur Range dated 25.2.2011 addressed to the JFMC regarding the closure of the forest offence case are collectively enclosed at **ANNEXURE-R-66(COLLY)** to this

Report. A copy of the note of the Principal Chief Conservator of Forest, Karnataka in the matter is enclosed at **ANNEXURE-R-67** to this Report.

12. The CEC is of the view that the compounding of the offence case and withdrawal of the offence case filed before the JFMC amounts to undue favour being shown to M/s Lakshminarayana Mining Company and should not have been done at all because of the following pending issues:

- i) the Lokayukta Report has placed the value of the iron ore seized by the Forest Department at Rs.14.0 crores and no decision regarding the seized iron ore has been taken. Incidentally the seized iron ore has been released to the lessee on bank guarantee of Rs.14 crores;
- ii) the extent of illegally extracted iron ore, over and above the seized iron ore, has not so far been assessed. No action for recovery of the value of the same has been taken;
- iii) the lessee has been involved in illegally filling up the mining pit (found outside the lease area) and offence case for the same has been registered by the Forest Department;

- iv) the lessee has been found to be involved in illegally widening the forest road without approval under the FC Act;
- v) the Hon'ble High Court has not directed to allow the lessee to destroy the evidence of having committed illegality and no specific direction to fill up the mining pit was given;
- vi) no verification was done as to whether the material removed in the garb of over burden contained saleable iron ore. The statement of the lessee has not been recorded in this regard. The compounding of the case has been further accentuated with the recommendations for approval under the FC Act for release of additional 70.41 hectares of forest land in favour of the lessee (dealt with in subsequent paragraphs);
- vii) the method of valuation of loss relating to the forest and environment was not approved by the senior officers of the Forest Department / Government and a view on the same should have been taken first before compounding the case;

- viii) the case involved wilful violation of the Forest (Conservation) Act. The Deputy Conservator of Forest has no power to compound the violation of the FC Act;
- ix) the illegal mining was done in the forest area in violation of the Hon'ble Supreme Court's order dated 12.12.1996. The Deputy Conservator of Forest has no power to compound the violation of the Hon'ble Supreme Court's order.

13. Another serious issue in the case relates to the fact that the Deputy Conservator of Forest, Bellary Division and Conservator of Forest, Bellary Circle have recommended grant of approval under Forest (Conservation) Act, 1980 for diversion of additional 70.41 hectares of forest area in which illegal mining and encroachment have been found by the Lokayukta, Karnataka and for which forest offence case was registered.

14 M/s Lakshminarayana Mining Company made an application dated 29.8.2007 to the Department of Mines and Geology on the purported advice of the Indian Bureau of Mines. The Director, Department of Mines and Geology vide letter dated 22.8.2007 requested the Principal Chief Conservator of Forest to accord forest clearance for 70.41

hectares of forest area in favour of lessee. The Principal Chief Conservator of Forest vide letter dated 7.1.2010 asked the Conservator of Forest, Bellary Circle to examine the proposal in the light of the new Mining Policy, 2008. The Conservator of Forest vide letter dated 13.1.2010 directed the Deputy Conservator of Forest, Bellary Division to examine the proposal and submit his report along with specific opinion for diversion of forest land. The Deputy Conservator of Forest, Bellary Circle vide letter dated 4.2.2010 sought detailed report in the matter from the RFO, Sandu Range and which was submitted by the Range Forest Officer vide letter dated 10.3.2010. Thereafter the Deputy Conservator of Forest, Bellary Division vide letter dated 29.3.2010 recommended clearance for 70.41 hectares of forest land and the Conservator of Forest, Bellary Circle vide letter dated 1.4.2010 addressed to the Principal Chief Conservator of Forest, Karnataka recommended the proposal. The Principal Chief Conservator of forest vide letter dated 9<sup>th</sup> April, 2010 asked the Deputy Conservator of Forest, Bellary Circle to examine the proposal under the provisions of the FC Act and other Acts and also in the context of Lokayukta, Karnataka Report regarding illegal mining. The Deputy Conservator of Forest, Bellary Division, vide letter dated 27.8.2007, along with the relevant details again recommended the proposal for approval and thereafter

the Conservator of Forest, Bellary Circle vide letter dated 30.8.2010 recommended the proposal. The Principal Chief Conservator of Forest vide letter dated 23.9.2010 has sought additional information from the Conservator of Forest, Bellary Circle regarding the eco class value, status of rehabilitation of mine area, details of approved mining plan, compensatory afforestation details etc. Copies of these letters are collectively enclosed at **ANNEXURE-R-68 (Colly)** to this Report. A copy of the note in the matter received from the Principal Chief Conservator of Forest is enclosed at **ANNEXURE-R-69** to this Report.

15. The CEC, after considering the above details, is of the considered view that the Karnataka Forest Department has gone out of the way to favour M/s Lakshminarayana Mining Company by compounding the forest offence case registered against him, by not taking any action to assess the quantity of iron ore illegally extracted by him, by recommending diversion of forest land involved in illegal mining and by not taking action for violation of the Forest (Conservation) Act, 1980. The lessee has extracted about 14 lakh MT of iron ore during 2009-10 and which is substantially higher than the 5.1 lakh MT of iron ore extracted during 2008-09. No effort has been made to ascertain the quantity and value of illegally mined ore. The Forest Department

remained a mute spectator to the destruction of evidence by allowing the lessee to fill up the pit. The lessee was also allowed to remove the so called over burden without verifying whether it contained any saleable iron ore. In spite of the lessee committing a series of illegalities as seen above the officers of the Forest Department did not take any action commensurate with the illegalities committed. On the other hand ironically the Forest Department has found the case fit for recommending for diversion of additional forest area under the FC Act. This is most disturbing as it clearly indicates active connivance of the State officials in illegal mining and transportation.

16. In the above background, following recommendations are made for the consideration of this Hon'ble Court:

- i) Order of the Deputy Conservator of Forest, Bellary Circle by which the forest offence case registered against M/s Lakshminarayana Mining Company has been compounded should be set aside and the forest offence case should be re-opened and dealt with under the supervision and direction of the Principal Chief Conservator of Forest, Karnataka Forest Department. An immediate decision also needs to be taken with

regard to the iron ore seized by the Forest Department;

- ii) the mining operations of M/s Lakshminarayana Mining Company should be suspended immediately, simultaneously transportation of iron ore including already mined iron ore should also be suspended forthwith;
- iii) the approvals granted under the FC Act as well as the environmental clearance should be suspended with immediate effect;
- iv) the Principal Chief Secretary (Forest), Government of Karnataka should be directed to hold a detailed enquiry in to the role of the Deputy Conservator of Forest, Bellary Division, the Conservator of Forest, Bellary Circle and other officials regarding the compounding of the forest offence, non action in respect of offence cases and processing of the proposal for diversion of forest land; and
- v) The State of Karnataka should be directed to assess the quantity of iron ore illegally extracted by the lessee. This Hon'ble Court may also consider imposing exemplary compensation

equal to five times the normative market value of the iron ore minerals illegally extracted by M/s Lakshminarayana Mining Company.

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

**(M.K. Jiwrajka)**  
**Member Secretary**

**Dated : 15.4.2011**