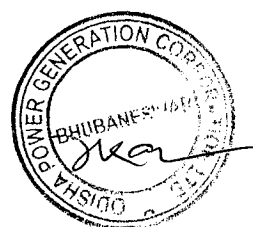


ANNEXURE-5



GOVERNMENT OF ODISHA
DEPARTMENT OF ENERGY

No. 3193 / En., Dated 17.4.2013
OPGC-4/2013

From
Sri Sangramjit Nayak,
Joint Secretary to Government

To
The Director (Finance), OPGC

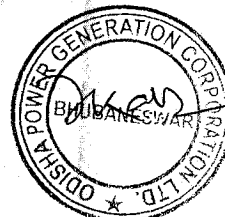
Sub:- **Project approval of Units 3 & 4 of OPGC Expansion Project.**

Sir,

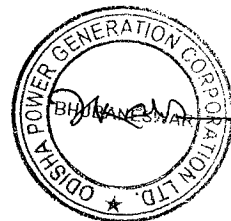
I am directed to invite a reference to your letter No.3322 dt.11.12.2012 on the subject noted above and to say that Government have been pleased to approve the Construction and installation of Units 3 & 4 of IB Thermal Power Plant of OPGC at a cost of Rs.11547.00 crore with a debt and equity ratio of 75:25. The equity participation between the Government of Odisha and AES will be in the ratio of 51:49 and a sum of Rs.903.00 crore and a sum of Rs.867.00 crore whichever is less is required to be infused by the State Government and AES respectively between the years 2014-15 and 2017-18.

Yours faithfully,

[Signature] 17/4/2013
Joint Secretary to Govt.



ANNEXURE-6



**EXTRACT OF THE
MINUTES OF 214TH MEETING OF BOARD OF DIRECTORS
OF ODISHA POWER GENERATION CORPORATION LTD.
HELD ON 29.11.2019 AT 11.00 A.M.**

**Item No.6 Revised estimated Project Cost and Financing of the Cost
overrun from PFC & REC**
Memorandum No. OPGC- 2562

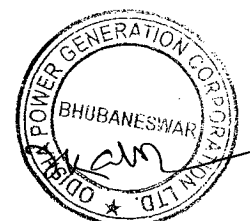
Revised estimated project cost as against the original project cost was deliberated in term of the detail analysis given in the memorandum with respect to various project components constituting hard cost and interest during construction. In this context, provisional expenditure incurred till June-2019 along with the debt-equity utilization was deliberated as per information given in the memorandum.

After detail discussion on the project cost analysis and taking into account revised IDC based on expected completion of the project by 31st March-2020, revised project cost of Rs.11,150.00 crore for OPGC- II units- 3&4 was approved only for the purpose of procuring the cost overrun financing and execution of necessary loan documents with PFC & REC.

True copy attested



Company Secretary



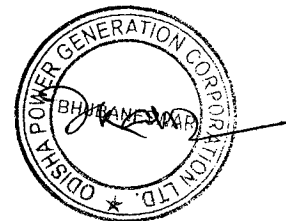
Odisha Power Generation Corporation Limited

Summary of Revised estimated Project Cost of Unit 3 & 4

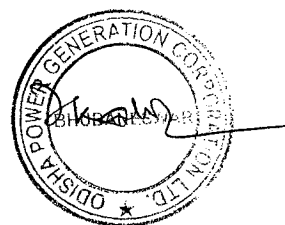
(Rs. In Crore)

S. No.	Particulars	Original Project Cost	Expenditure June 30, 2019 (Prov.)	Projected Expenditure	Total Cost
1	BTG	3892	3970.69	312.80	4283.49
2	BoP	2877	1612.15	244.86	1857.01
3	MGR & Ash pond Land	114	131.87	42.18	174.05
4	MGR (Civil work + Rolling Stock+400 kV Line)	700	1135.16	303.41	1438.57
5	Township & Colony	235	157.01	59.83	216.84
6	Ash pond Construction	289	68.25	129.61	197.86
7	Commissioning & Construction Insurance	370	285.38	48.75	334.13
8	CSR & Other Expenses	426	420.97	135.22	556.19
9	Working Capital Margin	40	0.00	100.00	100.00
10	Water Conservation Fund	NIL *	0.00	101.80	101.80
	Hard Cost	8943	7781.48	1478.76	9259.94
11	IDC & FC	1223	1702.29	187.77	1890.06
	Power project cost including IDC	10166	9483.77	1666.23	11150.00

*Not applicable at the time of original estimation



ANNEXURE-7



517

261

F.No. 13016/8/2007-CA-I
Government of India
Ministry of Coal



New Delhi, the 25th July 2007

To

The Managing Director,
Orissa Power Generation Corporation,
Zone A, 7th Floor, Fortune Towers,
Chandrasekharpur, Bhubaneswar - 751023

2441
3-8-07
Bhubaneswar

Subject: Allocation of (i) **Manoharpur** and (ii) **Dipside of Manoharpur** coal blocks to Orissa Power Generation Corporation

Sir,

I am directed to refer to letter number as mentioned below on the above subject and to convey the 'in principle' consent of the Government of India to the working of (i) **Manoharpur (181.68)** and (ii) **Dipside of Manoharpur II (350 MT)** coal block as under:

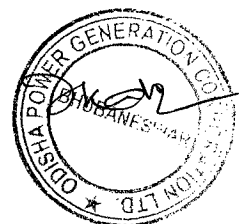
Sl.No.	Name of the applicant company	Reference No.	End use Project Name
1	Orissa Power Generation Corporation (OPGC)	OPGC/237/WE dated 18.01.2007 and d.o. No. 941/SE dated 02.02.2007.	For meeting the coal requirement of 2400 MW power plant as Jharsuguda, Orissa.

2. The above allocation has been made under the Government Company dispensation in pursuance of the provisions of Section 3(3)(a)(i) of the Coal Mines (Nationalisation) Act 1973. and the Revised Policy on Coal Mining by State Government (copy enclosed), subject to further following conditions:

(i) Prospecting/Detailed exploration and coal mining shall be carried out by Orissa Power Generation Corporation or a separate company to be created with participation of allocatee companies provided that the separate created company is a Government company eligible to do coal mining as per the provisions of the Coal Mines (Nationalisation) Act, 1973.

(ii) The mining lease will be executed between the State Government and the allocatee as per the provisions of the MMDR Act 1957 and the rules framed there under.

(iii) The **Orissa Power Generation Corporation** will do exploration and coal mining in accordance with the provisions of the Coal Mines (Nationalisation) Act 1973, the Mines and Minerals (Development &



Regulation) Act, 1957, the Contract Labour (Regulation & Abolition) Act, 1970, all the minerals, environmental and labour laws alongwith other regulations governing coal industry.

(iv) Detailed exploration shall be carried out on their own, subject to guidelines laid down in consultation with the CMPDIL.

(v) Mining of coal from the allocated coal block shall be carried out in accordance with the applicable Statutes/Rules/Orders/Directions governing the mining of coal in the country so as to extract the reserve to the maximum extent possible.

(vi) Those of the conditions mentioned herein relevant at the time of grant of mining lease shall be included as additional conditions in the mining lease in addition to any further conditions imposed by or agreed to by the Central Government.

(vii) The State Government, at the time of seeking previous approval for the grant of mining lease, shall submit a draft of the mining lease containing the above relevant conditions for vetting by the Central Government. The final mining lease shall be as vetted/modified by the Central Government. Any deviation from the vetted/modified draft shall render the mining lease deed ab initio null and void and without effect.

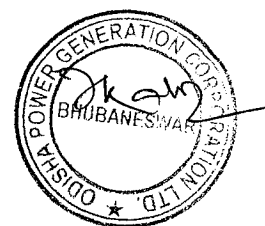
(viii) Coal produced from the allocated coal block (i) **Manoharpur** and (ii) **Dipside of Manoharpur** coal blocks will not be supplied to the consumers of Coal India Limited/SCCL against their existing linkages.

(ix) **Orissa Power Generation Corporation** may approach CIL/CMPDIL/GSI to obtain the available geological data on the block on payment of necessary exploration cost.

(x) In respect of an unexplored block, the allocatee companies shall apply for a prospecting license within three months of the date of issue of allotment letter. The exploration shall be completed and geological report prepared within two years from the date of issue of prospecting license. After the detailed exploration is completed the allocatees of the block shall proceed for ensuring earliest commencement of production. The milestone chart appended shall be adhered to. Any slippage would render this allocation liable for cancellation, and withdrawal of block from the allocatees.

However, the allocatee shall buy Geological Report in respect of Manoharpur (excluding Dip side of Manoharpur) block which is explored from CMPDIL within six weeks from the date of this letter.

(xi) Orissa Power Generation Corporation shall submit a bank guarantee of Rs. 32.5 crore (equal to one year's royalty amount based on mine capacity of 5 mtpa as assessed by CMPDIL, grade of coal and the weighted average royalty



@ Rs.65 per tonne) within three months from the date of this letter. Subsequently, upon approval of mining plan the Bank Guarantee amount will be modified on the basis of final peak/rated capacity of the mine.

(xii) 50% of the bank guarantee shall be linked to the milestones (time schedule) set for development of captive block, and the remaining 50% to the guaranteed production. The bank guarantee shall be liable to be encashed in the following eventuality:

(i) There shall be an annual review of progress achieved by an allocatee company. In the event of lapses, if any, in the achievements vis-à-vis the milestones set for that year, a proportionate amount shall be encashed and deducted from the bank guarantee.

(ii) Once production commences, in case of any lag in the production of coal/lignite, a percentage of the bank guarantee amount will be deducted for the year. This percentage will be equal to the percentage of deficit in production for the year with respect to the rated/peak capacity of the mine. e.g., if rated/peak capacity is 100, production as per the approved mining plan for the relevant year is 50 and actual production is 35, then $(50-35)/100 \times 100 = 15\%$ will lead to deduction of 15% of the original bank guarantee amount for that year. Upon exhaustion of the bank guarantee amount, the block shall be liable for de-allocation/cancellation of mining lease.

(iii) The allocatee shall ensure that the bank guarantee remains valid at all times till the mine reaches its rated capacity or till the bank guarantee is exhausted. Any lapses on this count shall lead to de-allocation/ cancellation of mining lease.

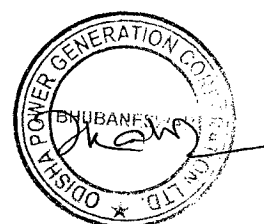
(xiii) Any violation of the conditions imposed above in mining of coal from the **Manoharpur** and **Dipside of Manoharpur** coal blocks will render the mining lease liable for cancellation and withdrawal of allocation.

(V.S. Rana)

Under Secretary to the Government of India.

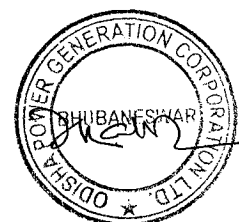
Copy to

1. The Chief Secretary, Government of Orissa, Bhubansewar - 751023
2. Ministry of Power, Sharam Shakti Bhawan, New Delhi
3. Chairman, CIL, Kolkatta
4. CMD, CMPDIL, Ranchi CIL
5. CMD, MCL
6. Coal Controller, Kolkatta
7. Office Folder.



MILESTONES CHART

Sl.No.	EVENT	TIME LIMIT IN MONTHS (FROM THE DATE OF ALLOCATION)
1.	PROSPECTING LICENSE	3
2.	COMPLETION OF EXPLORATION AND PREPARATION OF GEOLOGICAL REPORT (GR)	27
	EVENTS AFTER PREPARATION OF GR	TIME LIMIT IN MONTHS AFTER PREPARATION OF GR
3	MINING LEASE APPLICATION	3
4	SUBMISSION OF MINING PLAN	6
5	MINING PLAN APPROVAL	8
6	PREVIOUS APPROVAL APPLICATION	11
7	PREVIOUS APPROVAL	11
8	FOREST CLEARANCE APPLICATION	12
9	ENVIRONMENT CLEARANCE	18
10	GRANT OF MINING LEASE	24
11	LAND ACQUISITION BEGIN	9, 19
12	LAND ACQUISITION	30, 36
13	OPENING PERMISSION APPLICATION	34, 40 (FOR OC) 46, 52 (FOR UG)
14	GRANT OF OPENING PERMISSION	35, 41 (FOR OC) 47, 53 (FOR UG)
15	PRODUCTION	36, 42 (FOR OC) 48, 54 (FOR UG)
16	REACHING RATED CAPACITY	



106 257
521

**GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF ENERGY (OORJA MANTRALAYA)
DEPARTMENT OF COAL (KOYLA VIBHAG)**

No. 20(5)/79-CL

New Delhi, the 30th July, 79

To

The Chief Secretary,
Government of J&K/Himachal Pradesh/Gujarat/Uttar Pradesh/Bihar/West
Bengal/Assam/Nagaland/Arunachal Pradesh/Meghalaya/Orissa/Andhra
Pradesh/Maharashtra/Madhya Pradesh

Subject: Mining of isolated small deposits of coal by State Government.

Sir,

I am directed to say that after a review of the policy under which only the Central Government public undertakings have been permitted to carry on coal mining operations in the country, it has been decided that, while continuing the existing policy of the Central Government carrying out coal-mining operations in the country by its own undertakings, the State Governments might also be allowed to carry out coal-mining operations in "isolated small pockets" subject to the following conditions:-

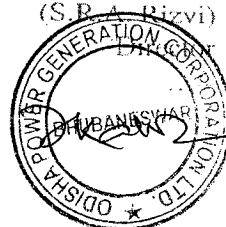
- (i) The State Government undertakings operating the mines directly and not through contractors;
- (ii) The mining operations being confined to non-coking coal;
- (iii) The coal mining operations being subject to the provisions of the various mining and other laws on the subject;
- (iv) The sale of coal being in accordance with the gradewise prices notified by the Central Government from time to time;
- (v) The mining operations being confined to opencast operations only;
- (vi) Coal India Limited issuing a "no objection" certificate stating that it has no plans for operating the concerned area in the near future.

The "isolated small pocket" are those which are away from the main coalfields and have limited known reserves which are not sufficient for scientific and economic development in a coordinated and integrated manner and the coal produced from such areas would mainly be utilised for local consumption without transpiration by railways.

Yours faithfully,

Sd/-

(S. P. A. Rizvi)



-2-

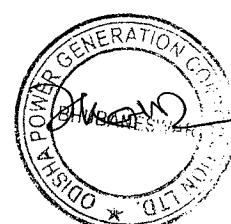
Copy forwarded to :

1. The Chairman-cum-Managing Director, Coal India Limited, 10, Netaji Subhas Road, Calcutta.
2. The Chairman-cum-Managing Director, Central Coalfields Limited, Darbhanga House, Ranchi.
3. The Chairman-cum-Managing Director, Western Coalfields Limited, Bisesar House, Temple Road, Nagpur.
4. The Chairman-cum-Managing Director, Eastern Coalfields Limited, Sanctoria.
5. The Chairman-cum-Managing Director, Bharat Coking Coal Limited, Dhanbad.
6. The Chairman-cum-Managing Director, Central Mine Planning and Design Institute Limited, Ranchi.
7. The Coal Controller, 1, Council House Street, Calcutta.
8. Department of Mines.
9. Cabinet Sectt., New Delhi.

Copy also forwarded to:

1. Planning Commission.
2. All Officers/Section in the Department of Coal
3. S.A. to Minister (E).

Sd/-
(S.R.A. Rizvi)
Director



No. 38035/2/97-CA
Government of India
Ministry of Coal and Mines
Department of Coal
.....

New Delhi, dated 12th December, 2001

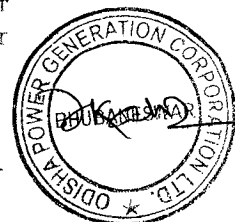
To,
The Chief Secretary,
Government of Jammu & Kashmir / Himachal Pradesh / Gujarat / Uttar Pradesh / Bihar / West Bengal / Assam / Nagaland / Arunachal Pradesh / Meghalaya / Orissa / Andhra Pradesh / Maharashtra / Madhya Pradesh / Jharkhand / Chhatisgarh / Uttaranchal / Goa / Tripura / Manipur / Mizoram/Sikkim/Punjab/Haryana/Tamil Nadu/Kerala/Karnataka/Rajasthan/Delhi.

Subject:- Coal mining by the State Governments.

Sir,

I am directed to refer to this Department's letter No. 20(5)/79 – CL dated 30.7.79 (copy enclosed) and to state that the coal mining policy communicated by the Central Government in the said letter has been reviewed and is hereby revised by the Government. Under the revised policy, the State Government companies or undertakings are allowed to do mining of coking and non-coking coal or lignite reserves, either by opencast or underground method, anywhere in the country, subject to the following conditions:

- i) The State Government company or undertaking (referred to as the 'company' hereafter) is authorised to do coal or lignite mining by its Memorandum and Articles of Association.
- ii) The company will do coal or lignite mining in accordance with the provisions of the Coal Mines (Nationalisation) Act, 1973, the Mines & Minerals (Development & Regulation) Act, 1957, the Contract Labour (Regulation & Abolition) Act, 1970, and all other mineral, environmental and labour laws and other regulations governing the Indian coal industry.
- iii) For coal the company shall obtain a certificate from Coal India Limited to the effect that the latter has no plan or willingness to undertake mining operations for coal in the concerned area. For lignite, the company shall obtain a certificate from Neyveli Lignite Corporation.
- iv) The proposed mining area has not been allotted to a captive mining company under the provisions of Section 3(3)(a)(iii) of the Coal Mines (Nationalisation) Act, 1973.
- v) No financial assistance from the Central Government or Coal India Limited or Neyveli Lignite Corporation shall be provided to the company for coal or lignite mining in the concerned area.
- vi) None of the coal or lignite mines operated by the company will be taken over by the Central Government or Coal India Limited or Neyveli Lignite Corporation in the event of closure of such a mine or otherwise.



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529

-2:-

- vii) No employee of the company, engaged in a coal or lignite mine operated by it, will be absorbed in Coal India Limited or Neyveli Lignite Corporation at any point of time.
2. Under the revised policy, a State Government company/ undertaking can now work non-coking coal and coking coal reserves or lignite by opencast/underground method, without the restriction of 'isolated small pockets'.
3. This supersedes this Department's letter No. 20(5)/79-CL dated 30.07.1979.

Yours faithfully,

K.S. Kropha
(K.S. KROPHA)
DIRECTOR

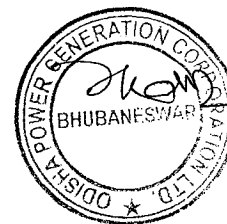
Copy forwarded to: -

1. The Chairman, Coal India Limited, 10- Netaji Subhas Road, Kolkata.
2. The CMD, CCL, Darbhanga House, Ranchi, Jharkhand.
3. The CMD, WCL, Bisesar House, Temple Road, Nagpur.
4. The CMD, ECL, Sanctoria.
5. The CMD, NCL, Singrauli Collieries, Distt. Sidhi, Madhya Pradesh.
6. The CMD, SECL, Seepat Road, Bilaspur, Chhatisgarh.
7. The CMD, MCL, Anand Bihar, Sambalpur.
8. The CMD, BCCL, Dhanbad
9. The CMD, CMPDIL, Ranchi.
10. The CMD, NLC, P.O. Neyveli, South Arcot, Tamil Nadu.
11. The Coal Controller, 1- Council House Street, Kolkata.
12. The Department of Mines, Ministry of Coal & Mines, New Delhi.
13. Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
14. Planning Commission, Yojna Bhawan, New Delhi.

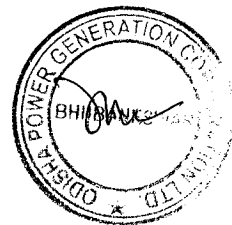
Copy also forwarded to: -

1. PS to Minister for Coal & Mines, Shastri Bhawan, New Delhi.
2. PS to Minister of State for Coal & Mines, Shastri Bhawan, New Delhi.
3. All officers/sections of the Department of Coal.

S.K. Kakkar
(S.K. KAKKAR)
UNDER SECRETARY TO THE GOVERNMENT OF INDIA



ANNEXURE-8



REPORTABLE

IN THE SUPREME COURT OF INDIA
ORIGINAL JURISDICTION
WRIT PETITION (CRL.) NO. 120 OF 2012

Manohar Lal Sharma

..... Petitioner

Vs.

The Principal Secretary & Ors.

..... Respondents

WITH

WRIT PETITION [C] NO. 463 OF 2012

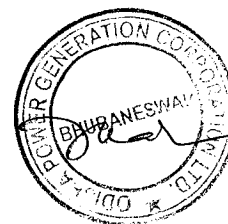
WRIT PETITION [C] NO. 515 OF 2012

WRIT PETITION [C] NO. 283 OF 2013

JUDGMENT

R.M. LODHA, CJI.

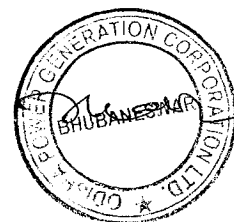
Coal is king and paramount Lord of industry is an old saying in the industrial world. Industrial greatness has been built up on coal by many countries. In India, coal is the most important indigenous energy resource and remains the dominant fuel for power generation and many industrial applications. A number of major industrial sectors including iron and steel production depend



on coal as a source of energy. The cement industry is also a major coal user. Coal's potential as a feedstock for producing liquid transport fuels is huge in India. Coal can help significant economic growth. India's energy future and prosperity are integrally dependant upon mining and using its most abundant, affordable and dependant energy supply – which is coal. Coal is extremely important element in the industrial life of developing India. In power, iron and steel, coal is used as an input and in cement, coal is used both as fuel and an input. It is no exaggeration that coal is regarded by many as the black diamond.

2. Being such a significant, valuable and important natural resource, the allocation of coal blocks for the period 1993 to 2010 is the subject matter of this group of writ petitions filed in the nature of Public Interest Litigation, principally one by Manohar Lal Sharma and the other by the Common Cause. The allocation of coal blocks made during the above period by the Central Government, according to petitioners, is illegal and unconstitutional *inter alia* on the following grounds:

(a) Non-compliance of the mandatory legal procedure under the Mines and Minerals (Development and Regulation) Act, 1957 (for short, '1957 Act').



(b) Breach of Section 3(3)(a)(iii) of the Coal Mines (Nationalisation) Act, 1973 (for short, 'CMN Act').

(c) Violation of the principle of Trusteeship of natural resources by gifting away precious resources as largesse.

(d) Arbitrariness, lack of transparency, lack of objectivity and non-application of mind; and

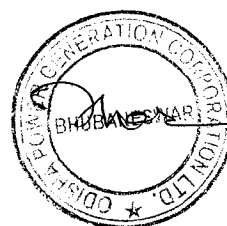
(e) Allotment tainted with *mala fides* and corruption and made in favour of ineligible companies tainted with *mala fides* and corruption.

3. The first of these writ petitions was filed by Manohar Lal Sharma. When that writ petition was listed for preliminary hearing on 14.09.2012, the Court issued notice to Union of India and directed it to file counter affidavit through Secretary, Ministry of Coal dealing with the following aspects:

(i) The details of guidelines framed by the Central Government for allocation of subject coal blocks.

(ii) The process adopted for allocation of subject coal blocks.

(iii) Whether the guidelines contain inbuilt mechanism to ensure that allocation does not lead to distribution of largesse unfairly in the hands of few private companies?



(iv) Whether the guidelines were strictly followed and whether by allocation of the subject coal blocks, the objectives of the policy have been realised?

(v) What were the reasons for not following the policy of competitive bidding adopted by the Government of India way back in 2004 for allocation of coal blocks?

(vi) What steps have been taken or are proposed to be taken against the allottees who have not adhered to the terms of allotment or breached the terms thereof?

4. Another PIL came to be filed by Common Cause after the above order was passed. PIL by Common Cause came up for preliminary hearing on 19.11.2012. Since, certain additional issues were raised and additional reliefs were also made in the PIL by Common Cause, this Court issued notice in that matter as well on 19.11.2012.

5. Principally, two prayers have been made in these matters, first, for quashing the entire allocation of coal blocks made to private companies by the Central Government between 1993 and 2012 and second, a court monitored investigation by the Central Bureau of Investigation (CBI) and Enforcement Directorate (ED) or by a Special Investigation Team (SIT) into the entire



allocation of coal blocks by the Central Government made between the above period covering all aspects.

6. The present consideration of the matter is confined to the first prayer, i.e., for quashing the allocation of coal blocks to private companies made by the Central Government between the above period. At the outset, therefore, it is clarified that consideration of the present matter shall not be construed, in any manner, as touching directly or indirectly upon the investigation being conducted by CBI and ED into the allocation of coal blocks.

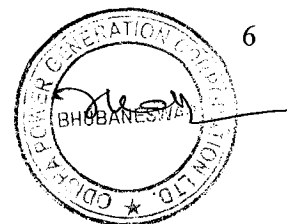
7. The first counter affidavit was filed by the Central Government on 22.01.2013 running into eleven volumes and 2607 pages. Thereafter, further/additional counter affidavit was filed by the Central Government. However, when the matters were listed on 10.07.2013, learned Attorney General submitted that in the counter affidavits filed so far, the Union of India had focused on the six queries raised by the Court on 14.09.2012 in the writ petition filed by Manohar Lal Sharma. He sought some time to enable the Central Government to file appropriate counter affidavit justifying allocation of coal blocks. Thereafter, further/additional counter affidavits have also been filed by the Central Government.

8. On 10.09.2013, the arguments with regard to challenge to allocation of coal blocks commenced which continued on



11.09.2013, 12.09.2013, 17.09.2013, 18.09.2013, 24.09.2013, 25.09.2013 and 26.09.2013. On 26.09.2013, Attorney General in the course of his arguments submitted that allocation letter by the Central Government was only a first step towards obtaining mining lease and that, by itself, did not confer any right on the allottee to work mines. He submitted that at the best, letter of allocation was a letter of intent and issuance of such allocation letter in no way impinges the rights of the State Governments under the 1957 Act. In light of the submissions of the learned Attorney General on 26.09.2013, we wanted to know from the counsel for the petitioners whether concerned State Governments should be asked to explain their position in the matter to which Mr. Manohar Lal Sharma, petitioner-in-person and Mr. Prashant Bhushan agreed and, accordingly, the Court issued notice to the States of Jharkhand, Chhattisgarh, Odisha, Maharashtra, Andhra Pradesh, Madhya Pradesh and West Bengal as the subject coal blocks, for which the allocation is in issue, were located in these States. The Court sought the views of the above States on the following:

- (i) How did the State Government understand the allocation of coal blocks by the Central Government?
- (ii) What was the role of the State Government in the allocation of coal blocks ?



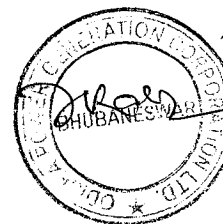
(iii) What was the role of the State Government in the subsequent steps having regard to the provisions of the 1957 Act?

(iv) The details of the agreements entered into by the State Public Sector Undertakings, which were allotted coal blocks, with private parties for the coal blocks located in the State.

9. In pursuance of the above, 7 States have filed their responses.

10. The arguments re-commenced on 05.12.2013. On that day, arguments of the States of Jharkhand, Chhattisgarh and Odisha were concluded and matters were fixed for 08.01.2014. On 08.01.2014, the arguments on behalf of the States of Maharashtra, Andhra Pradesh, Madhya Pradesh and West Bengal were concluded and the matters were fixed for 09.01.2014. On that day, arguments of learned Attorney General were concluded.

11. Three Associations, viz., Coal Producers Association, Sponge Iron Manufacturers Association and Independent Power Producers Association of India have made applications for their intervention stating that these associations represented large number of allottees who have been allocated subject coal blocks. Accordingly, Mr. K.K. Venugopal, learned senior counsel was heard for Coal Producers Association and Mr. Harish N. Salve, learned senior counsel was heard on behalf of the Sponge Iron

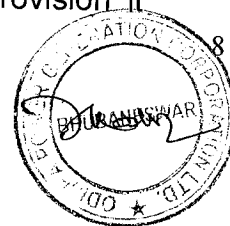


Manufacturers Association and Independent Power Producers Association of India. They commenced their arguments on 09.01.2014, which continued on 15.01.2014 and concluded on 16.01.2014. The arguments in rejoinder by Mr. Manohar Lal Sharma, petitioner-in-person and Mr. Prashant Bhushan, learned counsel for Common Cause were also concluded on that day. The arguments of Mr. Sanjay Parikh, who had made an application for intervention on behalf of Mr. Sudeep Shrivastav were also heard and concluded. The judgment was reserved on that day.

12. It is appropriate that we first notice the statutory framework relevant for the issues under consideration. The Mines and Minerals (Development and Regulation) Act, 1948 (for short, '1948 Act') was enacted to provide for the regulation of mines and oil fields and for the development of the minerals under entry 36 of the Government of India Act, 1935. It received the assent of the Governor General on 08.09.1948 and came into effect from that date.

13. 1948 Act was repealed by the 1957 Act. The introduction of the 1957 Act reads:

"In the Seventh Schedule of the Constitution in Union List entry 54 provides for regulation of mines and minerals development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest. On account of this provision it



became imperative to have a separate legislation. In order to provide for the regulation of mines and the development of minerals, the Mines and Minerals (Regulation and Development) Bill was introduced in the Parliament."

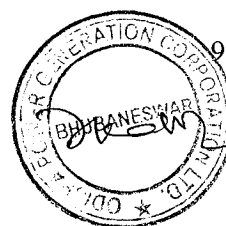
14. 1957 Act has undergone amendments from time to time. Section 2 of the 1957 Act reads:

"Declaration as to the expediency of Union Control - it is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent hereinafter provided."

15. Sections 3(a), (c), (d), (e), (f), (g) and (h) define: "minerals", "mining lease", "mining operations", "minor minerals", "prescribed", "prospecting licence", and "prospecting operations"¹, respectively.

16. Section 4 mandates that prospecting or mining operations shall be under licence or lease. Sub-section (2) provides that no reconnaissance permit, prospecting licence or mining lease

¹ "3(a) "minerals" includes all minerals except mineral oils;
(c) "mining lease" means a lease granted for the purpose of undertaking mining operations, and includes a sub-lease granted for such purpose;
(d) "mining operations" means any operations undertaken for the purpose of winning any mineral;
(e) "minor minerals" means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral;
(f) "prescribed" means prescribed by rules made under this Act;
(g) "prospecting licence" means a licence granted for the purpose of undertaking prospecting operations;
(h) "prospecting operations" means any operations undertaken for the purpose of exploring, locating or proving mineral deposit;"



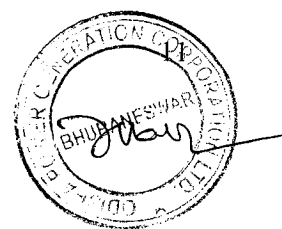
shall be granted otherwise than in accordance with the provisions of the Act and the rules made thereunder.

17. Section 5 is a restrictive provision. The provision mandates that in respect of any mineral specified in the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government. Coal and Lignite are at item no.1 in Part A under the title "Hydro Carbons/Energy Minerals" in the First Schedule appended to the 1957 Act.

18. Section 6 provides for maximum area for which a prospecting licence or mining lease may be granted. Section 7 makes provisions for the periods for which prospecting licence may be granted or renewed and Section 8 provides for periods for which mining leases may be granted or renewed. Section 10 provides that application for reconnaissance permit, prospecting licence or mining lease in respect of any land in which the minerals vest in the Government shall be made to the State Government concerned, *inter alia*, it empowers the State Government concerned to grant or refuse to grant permit, licence or lease having regard to the provisions of the 1957 Act or the Mineral Concession Rules, 1960 (for short '1960 Rules').

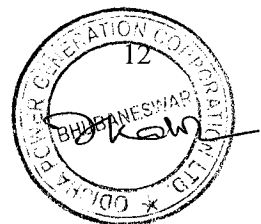


19. Section 11 provides for preferential right of certain persons. Sub-section (1) of Section 11 makes a provision that where a reconnaissance permit or prospecting licence has been granted in respect of any land, the permit holder or the licensee shall have a preferential right for obtaining a prospecting licence or mining lease, as the case may be, in respect of that land over any other person. This is, however, subject to State Government's satisfaction and certain conditions as provided therein. Sub-section (2) of Section 11 says that where the State Government does not notify in the Official Gazette the area for grant of reconnaissance permit or prospecting licence or mining lease and two or more persons have applied for a reconnaissance permit, prospecting licence or a mining lease in respect of any land in such area, the applicant whose application was received earlier, shall have a preferential right to be considered for such grant over the applicant whose application was received later. This is, however, subject to provisions of sub-section (1). The first proviso appended thereto enacts that where an area is available for grant of reconnaissance permit, prospecting licence or mining lease and the State Government has invited applications by notification in the Official Gazette for grant of such permit, licence or lease, the applications received during the period specified in such notification and the applications which had been received prior to the



publication of such notification in respect of the lands within such area or had not been disposed of, shall be deemed to have been received on the same day for the purpose of assigning priority under sub-section (2). The second proviso indicates that where such applications are received on the same day, the State Government, after taking into consideration the matter specified in sub-section (3), may grant the reconnaissance permit, prospecting licence or mining lease to one of the applicants as it may deem fit. Sub-section (3) elaborates the matter referred to in sub-section (2), namely, (a) any special knowledge of, experience in reconnaissance operations, prospecting operations or mining operations, possessed by the applicant; (b) the financial resources of the applicant; (c) the nature and quality of the technical staff employed or to be employed by the applicant; (d) the investment which the applicant proposes to make in the mines and in the industry based on the minerals; and (e) such other matters as may be prescribed.

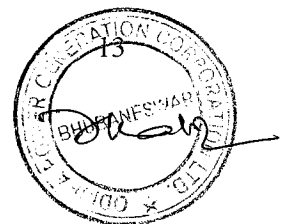
20. Section 13 empowers the Central Government to make rules in respect of minerals. By virtue of the power conferred upon the Central Government under Section 13(2), the 1960 Rules have been framed for regulating the grant of, *inter alia*, mining leases in respect of minerals and for purposes connected therewith.



21. By virtue of Section 17, the Central Government has been given special powers to undertake prospecting or mining operations in certain lands. Section 17-A authorises the Central Government to reserve any area not already held under any prospecting licence or mining lease with a view to conserve any mineral and after consultation with the State Government by notification in the Official Gazette.

22. Section 18 indicates that it shall be the duty of the Central Government to take all such steps as will be necessary for the conservation and systematic development of minerals in India and for the protection of the environment by preventing or controlling any pollution which may be caused by prospecting or mining operations and for such purposes the Central Government may, by notification in the Official Gazette, make such rules as it thinks necessary.

23. Section 18A empowers the Central Government to authorise the Geological Survey of India to carry out necessary investigation for the purpose of information with regard to the availability of any mineral in or under any land in relation to which any prospecting licence or mining lease has been granted by a State Government or by any other person. The proviso that follows subsection (1) of Section 18A provides that in cases of prospecting



licences or mining leases granted by a State Government, no such authorisation shall be made except after consultation with the State Government.

24. Section 19 provides that any prospecting licences and mining leases granted, renewed or acquired in contravention of the 1957 Act or any rules or orders made thereunder shall be void and of no effect.

25. The 1960 Rules were framed by the Central Government, as noted above, in exercise of the powers conferred by Section 13.

26. Chapter IV of 1960 Rules deals with grant of mining leases in respect of land in which the minerals vest in the Government. Sub-rule (1) of Rule 22 provides that an application for the grant of a mining lease in respect of land in which the minerals vest in the Government shall be made to the State Government in Form I through such officer or authority as the State Government may specify in this behalf. Sub-rule (3) provides for the documents to be annexed with the application and so also that such application must be accompanied by a non-refundable fee as prescribed therein. Sub-rule (4) of Rule 22 provides that on receipt of the application for the grant of mining lease, the State Government shall take decision to grant precise area and communicate such decision



to the applicant. The applicant, on receipt of communication from the State Government of the precise areas to be granted, is required to submit a mining plan within a period of six months or such other period as may be allowed by the State Government to the Central Government for its approval. The applicant is required to submit the mining plan duly approved by the Central Government or by an officer duly authorized by the Central Government to the State Government to grant mining lease over that area. Sub-rule (5) of Rule 22 provides the details to be incorporated in the mining plan.

27. Rule 26 empowers the State Government to refuse to grant or renew mining lease over the whole or part of the area applied for. But that has to be done after giving an opportunity of being heard and for reasons to be recorded in writing and communicated to the applicant.

28. Rule 31 provides for time within which lease is to be executed where an order has been made for grant of such lease on an application. Rule 34 provides for manner of exercise of preferential rights for mining lease.

29. Rule 35 provides that where two or more persons have applied for a reconnaissance permit or a prospecting licence or a mining lease in respect of the same land, the State Government shall, for the purpose of sub-section (2) of Section 11, consider



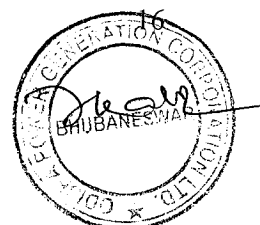
besides the matters mentioned in clauses (a) to (d) of sub-section (3) of Section 11, the end use of the mineral by the applicant.

30. In short, the 1957 Act provides for general restrictions on undertaking prospecting and mining operations, the procedure for obtaining prospecting licences or mining leases in respect of lands in which the minerals vest in the government, the rule-making power for regulating the grant of prospecting licences and mining leases, special powers of Central Government to undertake prospecting or mining operations in certain cases, and for development of minerals.

31. The Coal Mines (Taking Over of Management) Act, 15 of 1973, (for short, 'Coal Mines Management Act') was passed,

"to provide for the taking over, in the public interest, of the management of coal mines, pending nationalisation of such mines, with a view to ensuring rational and coordinated development of coal production and for promoting optimum utilisation of the coal resources consistent with the growing requirements of the country, and for matters connected therewith or incidental thereto."

32. The Coal Mines Management Act received the assent of the President on 31.03.1973 but it was made effective from



30.01.1973 except Section 8(2) which came into force at once. Section 3(1) provides that on and from the appointed day (that is, 31.01.1973) the management of all coal mines shall vest in the Central Government. By Section 3(2), the coal mines specified in the Schedule shall be deemed to be the coal mines the management of which shall vest in the Central Government under sub-section (1). Under the proviso to Section 3(2), if, after the appointed day, the existence of any other coal mine comes to the knowledge of the Central Government, it shall by a notified order make a declaration about the existence of such mine, upon which the management of such coal mine also vests in the Central Government and the provisions of the Act become applicable thereto.

33. Immediately after the Coal Mines Management Act, the Parliament enacted the CMN Act. CMN Act was passed,

“to provide for the acquisition and transfer of the right, title and interest of the owners in respect of coal mines specified in the Schedule with a view to reorganising and reconstructing any such coal mines so as to ensure the rational, coordinated and scientific development and utilisation of coal resources consistent with the growing requirements of the country, in order that the ownership



and control of such resources are vested in the State and thereby so distributed as best to subserve the common good, and for matters connected therewith or incidental thereto."

34. Section 2(b) of the CMN Act defines a coal mine in the same manner as the corresponding provision of the Coal Mines Management Act, namely, a mine "in which there exists one or more seams of coal". Section 3(1) provides that on the appointed day (i.e., 01.05.1973) the right, title and interest of the owners in relation to the coal mines specified in the Schedule shall stand transferred to, and shall vest absolutely in the Central Government free from all encumbrances. Section 4(1) provides that where the rights of an owner under any mining lease granted, or deemed to have been granted, in relation to a coal mine, by a State Government or any other person, vest in the Central Government under Section 3, the Central Government shall, on and from the date of such vesting, be deemed to have become the lessee of the State Government or such other person, as the case may be, in relation to such coal mine as if a mining lease in relation to such coal mine had been granted to the Central Government. The period of such lease is to be the entire period for which the lease could have been granted by the Central Government or such other person

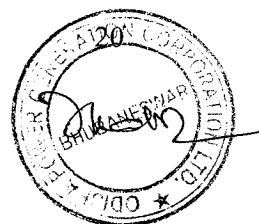


under the 1960 Rules and thereupon all the rights under the mining lease granted to the lessee are to be deemed to have been transferred to, and vested in, the Central Government. By Section 4(2) on the expiry of the term of any lease referred to in sub-section (1), the lease, at the option of the Central Government, is liable to be renewed on the same terms and conditions on which it was held by the lessor for the maximum period for which it could be renewed under the 1960 Rules. Section 5(1) empowers the Central Government under certain conditions to direct by an order in writing that the right, title and interest of an owner in relation to a coal mine shall, instead of continuing to vest in the Central Government, vest in the Government company. Such company, under Section 5(2), is to be deemed to have become the lessee of the coal mine as if the mining lease had been granted to it. By Section 6(1), the property which vests in the Central Government or in a government company is freed and discharged from all obligations and encumbrances affecting it. Section 8 requires that the owner of every coal mine or group of coal mines specified in the second column of the Schedule shall be given by the Central Government in cash and in the manner specified in Chapter VI, for the vesting in it under Section 3 of the right, title and interest of the owner, an amount equal to the amount specified against it in the corresponding entry in the fifth column of



the Schedule. By Section 11(1), the general superintendence, direction, control and management of the affairs and business of a coal mine, the right, title and interest of an owner in relation to which have vested in the Central Government under Section 3 shall vest in the Government company or in the Custodian, as the case may be.

35. The CMN Act came to be amended by the Coal Mines (Nationalisation) Amendment Ordinance which was promulgated on 29.04.1976. The Ordinance was replaced by the Coal Mines (Nationalisation) Amendment Act, 1976 (for short, '1976 Nationalisation Amendment Act'). A new section, Section 1-A was inserted by which it was declared that it was expedient in the public interest that the Union should take under its control the regulation and development of coal mines to the extent provided in sub-sections (3) and (4) of Section 3 and sub-section (2) of Section 30 of the CMN Act. By sub-section (2) of Section 1-A, the declaration contained in sub-section (1) was to be in addition to and not in derogation of the declaration contained in Section 2 of the 1957 Act. By Section 3 of the 1976 Nationalisation Amendment Act, a new sub-section (3) was introduced in Section 3 of the principal Act. Under clause (a) of the newly introduced sub-section (3) of Section 3, on and from the commencement of Section 3 of the 1976 Nationalisation Amendment Act, no person other than (i) Central



Government or a Government company or a corporation owned, managed or controlled by the Central Government or (ii) a person to whom a sub-lease, referred to in the proviso to clause (c) has been granted by any such Government, company or corporation or (iii) a company engaged in the production of iron and steel, shall carry on coal mining operation, in India in any form. Under clause (b) of sub-section (3), excepting the mining leases granted before the 1976 Nationalisation Amendment Act in favour of the Government company or corporation referred to in clause (a), and any sub-lease granted by any such Government, Government company or corporation, all other mining leases and sub-leases in force immediately before such commencement shall insofar as they relate to the winning or mining of coal, stand terminated. Clause (c) of the newly introduced sub-section (3) of Section 3 provides that no lease for winning or mining coal shall be granted in favour of any person other than the Government, Government company or corporation referred to in clause (a). Under the proviso to clause (c), the Government, Government company or the corporation to whom a lease for winning or mining coal has been granted may grant a sub-lease to any person in any area if, (i) the reserves of coal in the area are in isolated small pockets or are not sufficient for scientific and economical development in a coordinated and integrated manner,



and (ii) the coal produced by the sub-lessee will not be required to be transported by rail. By sub-section (4) of Section 3, where a mining lease stands terminated under sub-section (3), it shall be lawful for the Central Government or a Government company or corporation owned or controlled by the Central Government to obtain a prospecting licence or mining lease in respect of the whole or part of the land covered by the mining lease which stands terminated. Section 4 of the 1976 Nationalisation Amendment Act introduces an additional provision in Section 30 of the principal Act by providing that any person who engages, or causes any other person to be engaged, in winning or mining coal from the whole or part of any land in respect of which no valid prospecting licence or mining lease or sub-lease is in force, shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to Rs.10,000/-.

36. By the Coal Mines (Nationalisation) Amendment Act, 1993 (for short, '1993 Nationalisation Amendment Act'), the CMN Act was further amended. The Statement of Objects and Reasons of the 1993 Nationalisation Amendment Act reads thus:

"Considering the need to augment power generation and to create additional capacity during the eighth plan, the Government have taken decision to allow private sector participation in the power sector. Consequently, it has become necessary to provide for coal linkages to



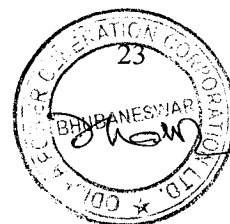
power generating units coming up in the private sector. Coal India Limited and Neyveli Lignite Corporation Limited, the major producers of coal and lignite in the public sector, are experiencing resource constraints. A number of projects cannot be taken up in a short span of time. As an alternative, it is proposed to offer new coal and lignite mines to the proposed power stations in the private sector for the purpose of captive end use. The same arrangement is also considered necessary for other industries who would be handed over coal mines for captive end use. Washeries have to be encouraged in the private sector also to augment the availability of washed coal for supply to steel plants, power houses, etc.

Under the Coal Mines (Nationalisation) Act, 1973, coal mining is exclusively reserved for the public sector, except in case of companies engaged in the production of iron and steel, and mining in isolated small pockets not amenable to economical development and not requiring rail transport. In order to allow private sector participation in coal mining for captive use for purpose of power generation as well as for other captive end uses to be notified from time to time and to allow the private sector to set up coal washeries, it is considered necessary to amend the Coal and Coal Mines (Nationalisation) Act, 1973.

The Coal Mines (Nationalization) Amendment Bill, 1992 seeks to achieve the aforesaid objectives."

37. Section 3 of the CMN Act was amended and thereby in clause (a) of sub-section (3) for item (iii), the following was substituted, namely,

- (iii) a company engaged in –
 - (1) the production of iron and steel,
 - (2) generation of power,
 - (3) washing of coal obtained from a mine, or

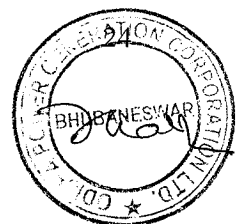


- (4) such other end use as the Central Government may, by notification, specify.

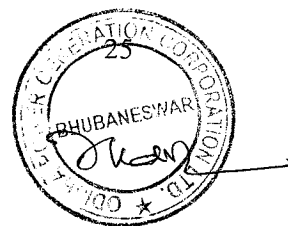
38. By further Notification dated 15.03.1996, the Central Government specified production of cement to be an end-use for the purposes of the CMN Act.

39. By another Notification dated 12.07.2007, the Central Government specified production of syn-gas obtained through coal gasification (underground and surface) and coal liquefaction as end uses for the purposes of the CMN Act.

40. The background in which Section 3(3) of the CMN Act was amended to permit private sector entry in coal mining operation for captive use has been sought to be explained by the Central Government. It is stated that nationalization of coal through the CMN Act was done with the objective of ensuring "rational, coordinated and scientific development and utilization of coal resources consistent with the growing requirements of the country" and as a first step in 1973, 711 coal mines specified in the Schedule appended to CMN Act were nationalized and vested in the Central Government. By 1976 Nationalisation Amendment Act, the Central Government alone was permitted to mine coal with the limited exception of private companies engaged in the production of iron and steel. In 1991, the country was facing huge crisis due to



(a) the situation regarding balance of payments; (b) the economy being in doldrums; (c) dismal power situation; (d) shortage in coal production; and (e) inability of Coal India Limited (CIL) to produce coal because of lack of necessary resources to maximize coal production amongst other reasons. There was a huge shortage of power in the country. The State Electricity Boards were unable to meet power requirements. Post liberalization, in the 8th Five Year Plan (1992-1997) a renewed focus was placed on developing energy and infrastructure in the country. CIL was not in a position to generate the resources required. It was in this background that in a meeting taken by the Deputy Chairman of the Planning Commission on 31.10.1991, it was decided that "*private enterprises may be permitted to develop coal and lignite mines as captive units of power projects*". The approval of Cabinet was consequently sought vide a Cabinet note dated 30.01.1992 for "*allowing private sector participation in coal mining operations for captive consumption towards generation of power and other end use, which may be notified by Government from time to time*". The Cabinet in the meeting held on 19.02.1992 considered the above Cabinet note and it was decided that the proposal may be brought up only when specific projects of private sector participation in coal mining come to the Government for consideration. Subsequently,



another Cabinet note dated 23.04.1992 was placed before the Cabinet containing references to certain private projects like the two 250 MW thermal power plants of RPG Enterprises, which had been recommended by the Government of West Bengal. The proposal contained in the Cabinet note dated 23.04.1992 was approved by the Cabinet on 05.05.1992. On 15.07.1992, the Bill for amendment of Section 3(3) of CMN Act was introduced in Rajya Sabha and the same was passed on 21.07.1992. The Bill was passed in Lok Sabha on 19.04.1993 and got assent of the President on 09.06.1993.

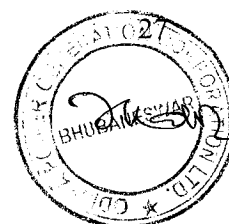
41. The Central Government has highlighted that once Section 3(3) of the CMN Act was amended to permit private sector entry in coal mining operations for captive use, it became necessary to select the coal blocks that could be offered to the private sector for captive use. The coal blocks to be offered for captive mining were duly identified and a booklet containing particulars of 40 blocks was prepared which was revised from time to time.

42. Mr. Goolam E. Vahanvati, learned Attorney General with all persuasive skill and eloquence at his command has sought to justify the allocation of coal blocks by the Central Government. He submits that the Central Government is not only empowered but



is duty bound to take the lead in allocation of coal blocks and that is what it did. He traces this power to Sections 1A and 3(3) of the CMN Act. It is argued by the learned Attorney General that in addition to the declaration contained in Section 2 of the 1957 Act, Parliament has made a further declaration in terms of Entry 54 of List I (Union List) of the Seventh Schedule in Section 1A of the CMN Act which makes specific reference to Section 3(3) of the CMN Act and both have to be read in conjunction with each other. By virtue of Parliament having placed the regulation and development of coal mines under the control of the Union, Section 1A of the CMN Act regulates coal mining operations under Sections 3(3) and 3(4). He argues that coal reserves are primarily concentrated in seven States, viz., Maharashtra, Madhya Pradesh, Chhattisgarh, Odisha, Jharkhand, Andhra Pradesh and West Bengal and all these seven States have accepted and acknowledged the source of power of Government of India with respect to allocation of coal blocks.

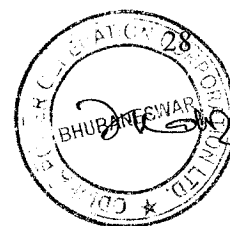
43. It is argued by the learned Attorney General that by virtue of the bar contained in Section 3(3) of the CMN Act between 1976 and 1993, no private company (other than the company engaged in the production of iron and steel) could have carried out coal mining operations in India. Therefore, if no other company



could have carried on coal mining operations, it follows that it could also not have applied to the State Government for grant of lease for mining of coal. Even if they did (post 1993) make an application for grant of prospective licence/mining lease directly to the State Government, the State Government could not process the same until it received the letter of allocation from the Central Government.

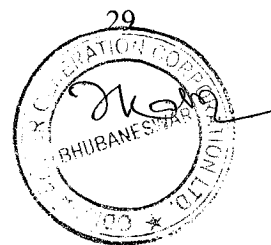
44. Learned Attorney General argues that the consideration of proposals by the Central Government for allocation of coal blocks does not contravene the provisions of the 1957 Act in any manner, firstly, because Section 1A of CMN Act is in addition to and not in derogation of the 1957 Act; secondly, an application for allocation of a coal block is not dealt with by the provisions of the 1957 Act; and thirdly, after allocation, the allocatee has to make an application for grant of mining lease or prospecting licence to the State Government in accordance with the 1957 Act and the 1960 Rules. It is for these reasons, he submits, that none of the States nor any private person ever challenged the grant of allocation by the Central Government on the ground that the Central Government was not empowered to allocate the coal blocks.

45. The above arguments of the learned Attorney General are vehemently contested by Mr. Prashant Bhushan, learned counsel for Common Cause. He submits that under the provisions



of CMN Act only two kinds of entities (a) Central Government and undertakings/corporations owned by the Central Government; and (b) companies having end-use plants in iron and steel, power, cement, etc., could work the coal mines. He submits that the CMN Act does not, in any way, give the power of calling applications, selection and allocation of coal blocks to the Central Government and Section 3 of the CMN Act only provides eligibility criteria for allocation of coal mines. The procedure for allocation continues to be governed by the 1957 Act and it is for this reason that ultimately Section 11A concerning allocation of coal mines was introduced in the 1957 Act only.

46. Mr. Harish N. Salve, learned senior counsel, who appeared for interveners, Sponge Iron Manufacturers Association and Independent Power Producers Association of India, argues that Section 1A(2) of the CMN Act makes the declaration in addition to the existing declaration in Section 2 of the 1957 Act. The additional declaration has done away with any vestige of power in the State in the matter of selection of beneficiaries of the mineral and if Section 1A had not been inserted *vide* 1976 Nationalisation Amendment Act, it may have been possible to argue that the State, as the owner of the mineral, would nonetheless be required to grant the lease under Section 10 of the 1957 Act by exercising its discretion



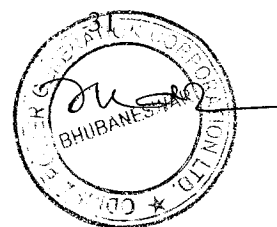
under Section 10(3) albeit subject to further “conditionalities” imposed by Section 3(2) of the CMN Act. The additional declaration, learned senior counsel for the interveners submits, is intended to denude the State of power under Entry 23 of List II of the Seventh Schedule and corresponding executive power under Article 162 of the Constitution of India. According to Mr. Harish N. Salve, the grant or refusal of the lease by State insofar as coal is concerned, is no longer governed by Section 11 of the 1957 Act and that it is governed by Sections 3(3) and 3(4) of the CMN Act and, thus, it is obvious that there has to be first a recommendation by the Central Government before the State can exercise its discretion under Section 10(3) of the 1957 Act and that the converse would lead to conferring upon the State, in Section 10(3) of the 1957 Act, an unguided and un-canalised power to grant or refuse a lease. He submits that if Section 3(3) of the CMN Act is read as prescribing qualifications in addition to those in Section 5(1) of the 1957 Act, such position would make the scheme of both the enactments – 1957 Act and CMN Act – unworkable.

47. Mr. Harish N. Salve argues that the allocation letter issued by the Central Government is the procedure which regulates the exercise under Rule 22 of the 1960 Rules (and Section 10(3) of the 1957 Act) by the State Government and that procedure is to



ensure that a lease is granted to a company engaged in stipulated permissible activities by making it a two step process, viz., the issue of letter of allotment conditional upon the end-use plant, followed by grant of a lease once end usage is achieved. He submits that Section 3(3) of the CMN Act is fully satisfied where a lease is granted to a company which engages in the permissible activity. Learned senior counsel for the interveners fully supports the arguments of the learned Attorney General that the Central Government has the power to identify the beneficiary of an allotment and once the Central Government has identified the beneficiary of allotment, the State will be obliged to grant a lease if other conditions are satisfied.

48. Mr. K.K. Venugopal, learned senior counsel appearing for Coal Producers Association argues that having regard to the declaration made under Section 2 of the 1957 Act and the declaration under Section 1A of the CMN Act and so also Section 3(3) thereof, it is perfectly legitimate for the Central Government to exercise its power and jurisdiction in the manner it has done for the purpose of selecting the allottees for coal blocks. He contends that under Article 73 of the Constitution, the executive power of the Union extends to matters in regard to which the Parliament has legislative competence and this power it undoubtedly possesses by



reason of the declarations contained in the 1957 Act and the CMN Act enacted specifically for the regulation and development of coal and coal mines.

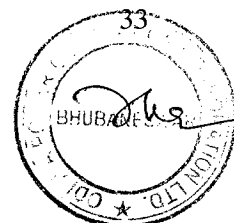
49. It shall have been noticed that the thrust of the arguments of the learned Attorney General and so also Mr. Harish N. Salve and Mr. K. K. Venugopal hinges around the premise that Sections 1A and 3(3) of the CMN Act clothe the Central Government with power to allocate the coal blocks or, in other words, select the allottees for coal blocks. Is it so? The constitutional philosophy about law making in relation to mines and minerals and List I Entry 36 (Federal Legislative List) and List II Entry 23 (Provincial Legislative List) in Schedule VII of the Government of India Act, 1935 which correspond to List I Entry 54 (Union List) and List II Entry 23 (State List) in our Constitution has been noticed by this Court in *Monnet*². Speaking through one of us (R.M. Lodha, J., as he then was) in *Monnet*², this Court has noted the statement of the learned Solicitor General in the House of Commons made in the course of debate in respect of the above entries in the Government of India Bill that the rationale of including only the “regulation of mines” and “development of minerals” and that, too, only to the extent it was considered expedient in the

² *Monnet Ispat and Energy Ltd. v. Union of India and Ors.*; [(2012) 11 SCC 1]



public interest by a federal law was to ensure that the provinces were not completely cut out from the law relating to mines and minerals and if there was inaction at the Centre, then the provinces could make their own laws. Thus, power in relation to the mines and minerals was accorded to both, the Centre and the States. The Court in *Monnet*² said:

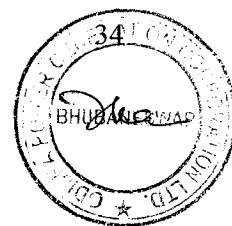
"130. The management of the mineral resources has been left with both the Central Government and the State Governments in terms of List I Entry 54 and List II Entry 23. In the scheme of our Constitution, the State Legislatures enjoy the power to enact legislation on the topics of "mines and minerals development". The only fetter imposed on the State Legislatures under Entry 23 is by the latter part of the said entry which says, "subject to the provisions of List I with respect to regulation and development under the control of the Union". In other words, the State Legislature loses its jurisdiction to the extent to which the Union Government had taken over control, the regulation of mines and development of minerals as manifested by legislation incorporating the declaration and no more. If Parliament by its law has declared that regulation of mines and development of minerals should in the public interest be under the control of the Union, which it did by making declaration in Section 2 of the 1957 Act, to the extent of such legislation incorporating the declaration, the power of the State Legislature is excluded. The requisite declaration has the effect of taking out regulation of mines and development of minerals from List II Entry 23 to that extent. It needs no elaboration that to the extent to which the Central Government had taken under "its control" "the regulation of mines and development of minerals" under the 1957 Act, the States had lost their legislative competence. By the presence of the expression "to the extent hereinafter provided" in Section 2, the Union has assumed control to the extent provided in the 1957 Act. The 1957 Act prescribes the extent of control and specifies it. We must bear in mind that as the declaration made in Section 2 trenches upon the State legislative power, it has to be construed strictly. Any legislation by the State after such declaration, trespassing



the field occupied in the declaration cannot constitutionally stand.”

50. The declaration made by Parliament in Section 2 of the 1957 Act states that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent provided in the Act. Legal regime relating to regulation of mines and development of minerals is, thus, guided by the 1957 Act and the 1960 Rules. In addition to the above declaration in 1957 Act, a further declaration has been inserted by Section 1A of the CMN Act, insofar as coal mines are concerned. By this provision, it is declared that it is expedient in the public interest that the Union should take under its control regulation and development of coal mines to the extent provided in sub-sections (3) and (4) of Section 3 and sub-section (2) of Section 30 of the CMN Act.

51. The two declarations – Section 2 of the 1957 Act and Section 1A of the CMN Act – have to be conjointly read insofar as the control and regulation of coal mines is concerned. As a consequence, the States have lost their jurisdiction to legislate to the extent to which the Union had taken over control, regulation and development of coal mines as manifested by the two enactments. When the Parliament by its law contained in 1957 Act has declared



that regulation of mines and development of minerals should, in the public interest, be under the control of the Union and by an additional declaration in the CMN Act declared that regulation and development of mines to the extent provided in sub-sections (3) and (4) of Section 3 and sub-section (2) of Section 30 of the CMN Act should, in the public interest, be under the control of the Union, the power of the State legislature to legislate on the subject covered by these two enactments is excluded. In other words, the field disclosed in the declarations under the 1957 Act and the CMN Act is abstracted from the legislative competence of the State Legislature. The requisite declarations have the effect of taking out regulation and development of coal mines from List II Entry 23. To that extent, the States have lost their legislative competence.

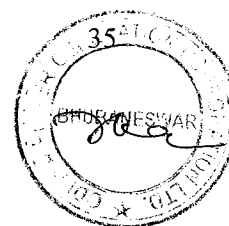
52. In *Bajjnath Kadio*³ the Constitution Bench referred to two earlier decisions of this Court in *Hingir-Rampur Coal Co. Ltd.*⁴ and *M.A. Tulloch and Co.*⁵. While dealing with declaration contained in Section 2 of the 1957 Act, the Court stated in para 14, page 847 of the Report, as follows:

"14. The declaration is contained in Section 2 of Act 67 of 1957 and speaks of the taking under the control of the Central Government the regulation of mines and development of minerals to the extent provided in the

³ *Bajjnath Kadio v. State of Bihar*; [(1969) 3 SCC 838]

⁴ *Hingir-Rampur Coal Co. Ltd. v. State of Orissa*; [AIR 1961 SC 459; (1961) 2 SCR 537]

⁵ *State of Orissa v. M.A. Tulloch and Co.*; [AIR 1964 SC 1284 : (1964) 4 SCR 461]



Act itself. We have thus not to look outside Act 67 of 1957 to determine what is left within the competence of the State Legislature but have to work it out from the terms of that Act.....”

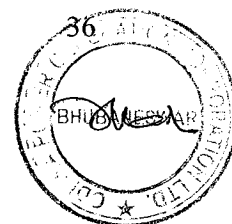
53. In *Sandur Manganese and Iron Ores Ltd.*⁶, this Court held that the declaration made in Section 2 of the 1957 Act had denuded the State of its legislative power to make any law with respect to the regulation of mines and mineral development to the extent provided in the 1957 Act. As a sequitur, it is also held that the State is also denuded of its executive power in regard to matters covered by the 1957 Act and the 1960 Rules and there is no question of the State having any power to frame a policy de-hors the 1957 Act and the 1960 Rules.

54. *Om Prakash Mehta*⁷ highlights that the 1957 Act and the 1960 Rules are a complete code in respect of the grant and renewal of prospecting licences as well as mining leases in lands belonging to the Government as well as lands belonging to private persons.

55. In *Monnet*², the scope and extent of the word ‘regulation’ occurring in Section 2 has been examined and it is stated that ‘regulation’ must receive wide interpretation but the extent of control by the Union as specified in the 1957 Act has to be

⁶ *Sandur Manganese and Iron Ores Ltd. v. State of Karnataka*; [(2010) 13 SCC 1]

⁷ *State of Assam v. Om Prakash Mehta*; [(1973) 1 SCC 584]



construed strictly. The same meaning must apply to the word 'regulation' occurring in Section 1A of the CMN Act. In other words, the extent of control by the Union as specified in the CMN Act has to be construed strictly.

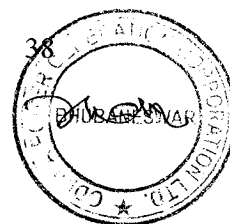
56. In *Orissa Cement Ltd.*⁸ a three Judge Bench of this Court explained that in the case of a declaration under Entry 54, the legislative power of the State Legislature is eroded only to the extent control is assumed by the Union pursuant to such declaration as spelt out by the legislative enactment which makes the declaration.

57. 1957 Act provides for general restrictions on undertaking prospecting and mining operations, the procedure for obtaining reconnaissance permits, prospecting licences and mining leases and the rule making power of regulating the grant of reconnaissance permits, prospecting licences and mining leases. Clause (a) of sub-section (3) of Section 3 of the CMN Act enables persons specified therein only to carry on coal mining operation. In clause (c), it is provided that no lease for winning or mining coal should be granted in favour of any person other than the Government, Government company or corporation referred to in clause (a). Under clause (b) of sub-section (3), excepting the

⁸ *Orissa Cement Ltd. v. State of Orissa*; [1991 Supp. (1) SCC 430]



mining leases granted before 1976 in favour of the Government, Government company or corporation referred to in clause (a) and any sub-lease(s) granted by any such Government, Government company or corporation, all other mining leases and sub-leases in force immediately before such commencement insofar as they relate to the winning or mining of coal stand terminated. When a sub-lease stands terminated under sub-section (3), sub-section (4) of Section 3 provides that it shall be lawful for the Central Government or the Government company or corporation owned or controlled by the Central Government to obtain a prospecting licence or a mining lease in respect of whole or part of the land covered by mining lease which stands so terminated. The above provisions in the CMN Act, as inserted in 1976, clearly show that the target of these provisions in the CMN Act is coal mines, pure and simple. CMN Act effectively places embargo on granting the leases for winning or mining of coal to persons other than those mentioned in Section 3(3)(a). Does CMN Act for the purposes of regulation and development of mines to the extent provided therein alter the legal regime incorporated in the 1957 Act? We do not think so. What CMN Act does is that in regard to the matters falling under the Act, the legal regime in the 1957 Act is made subject to the prescription under Section 3(3)(a) and (c) of the CMN Act.



1957 Act continues to apply in full rigour for effecting prescription of Section 3(3)(a) and (c) of the CMN Act. For grant of reconnaissance permit, prospecting licence or mining lease in respect of coal mines, the MMDR regime has to be mandatorily followed. 1957 Act and so also the 1960 Rules do not provide for allocation of coal blocks nor they provide any mechanism, mode or manner of such allocation.

58. Learned Attorney General submits that an application for allocation of a coal block is not dealt with by the 1957 Act and, therefore, consideration of proposals for allocation of coal blocks does not contravene the provisions of the 1957 Act. The submission of the learned Attorney General does not merit acceptance for more than one reason. First, although the Central Government has pre-eminent role under the 1957 Act inasmuch as no reconnaissance permit, prospecting licence or mining lease of coal mines can be granted by the State Government without prior approval of the Central Government but that pre-eminent role does not clothe the Central Government with the power to act in a manner in derogation to or inconsistent with the provisions contained in the 1957 Act. Second, the CMN Act, as amended from time to time, does not have any provision, direct or indirect, for allocation of coal blocks. Third, there are no rules framed by the

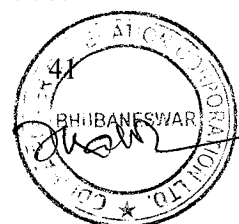


Central Government nor is there any notification issued by it under the CMN Act providing for allocation of coal blocks by it first and then consideration of an application of such allottee for grant of prospecting licence or mining lease by the State Government. Fourth, except providing for the persons who could carry out coal mining operations and total embargo on all other persons undertaking such activity, no procedure or mode or manner for winning or mining of coal mines is provided in the CMN Act or the 1960 Rules or by way of any notification. Fifth, even in regard to the matters falling under CMN Act, such as prescriptive direction that no person other than those provided in Sections 3(3) and 3(4) shall carry on mining operations in the coal mines, the legal regime under the 1957 Act, subject to the prescription under Sections 3(3) and 3(4), continues to apply in full rigour. Mr. Harish N. Salve, learned senior counsel for the interveners, is not right in his submission that allocation letter issued by the Central Government is the procedure which regulates the exercise under Rule 22 of the 1960 Rules. Had that been so, some provisions to that effect would have been made in the CMN Act or the 1960 Rules framed thereunder but there is none.

59. The submission of the learned Attorney General that the 7 States - Maharashtra, Madhya Pradesh, Chhattisgarh,



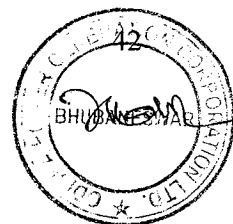
Odisha, Jharkhand, Andhra Pradesh and West Bengal – which have coal deposits, have accepted and acknowledged the source of power of the Central Government with regard to allocation of coal blocks is not fully correct. Odisha has strongly disputed that position. Odisha's stand is that the system of allocation of coal blocks by the Central Government is alien to the legal regime under the CMN Act and the 1957 Act. It is true that many of these States have taken the position that allocation letter confers a right on such allottee to get mining lease and the only role left with the State Government is to carry out the formality of processing the application and for execution of lease deed, but, in our view, the source of power of the Central Government in allocation of coal blocks is not dependant on the understanding of the State Governments but it is dependant upon whether such power exists in law or not. Indisputably, power to regulate assumes the continued existence of that which is to be regulated and it includes the authority to do all things which are necessary for the doing of that which is authorized including whatever is necessarily incidental to and consequential upon it but the question is, can this incidental power be read to empower the Central Government to allocate the coal blocks which is neither contemplated by the CMN Act nor by the 1957 Act? In our opinion, the answer has to be in the negative.



It is so because where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden⁹. This is uncontroverted legal principle.

60. It is argued by the learned Attorney General that the allocation letter does not by itself confer the right to work mines and the identification of the coal block does not impinge upon the rights of the State Government under the 1957 Act. Learned Attorney General argues that allocation of coal block is essentially an identification exercise where coal blocks selected by the CIL for captive mining were identified by the Screening Committee for development by an allocatee, after considering the suitability of the coal block (in terms of exercise and quality of reserve) vis-à-vis the requirements of the end-use plan of the applicant. It is submitted by the Attorney General that a letter of allocation is the first step. It entitles the allocatee to apply to the State Government for grant of prospecting licence/mining lease in accordance with the provisions of the 1957 Act. The right to apply for grant of prospecting licence/mining lease does not imply that with the issuance of allocation letter the allocatee automatically gets the clearances and approval required under the 1957 Act, the 1960 Rules, the Forest

⁹ Nazir Ahmad v. King Emperor; [(1935-36) 63 IA 372]



(Conservation) Act, 1980 and the Environment (Protection) Act, 1986, etc. According to the learned Attorney General, after allocation, the following steps are required to be complied with:

- a. The allocatee is required to apply to the State Government for grant of Prospecting Licence in case of an unexplored block, or a Mining Lease in case of an explored block.
- b. On receipt of the application for grant of Prospecting License or Mining Lease, as the case may be, the State Government, in the case of Prospecting Licence can process the application for Prospecting Licence in accordance with Chapter III of the 1960 Rules.
- c. In the case of application for Mining Lease (in Form I), the State Government has to take a decision to grant precise area for the purpose of the lease and communicate such decision to the applicant.
- d. On receipt of the communication from the State Government of the precise area to be granted, the applicant is required to submit a mining plan to the Central Government for its approval. [Rule 22(4)]



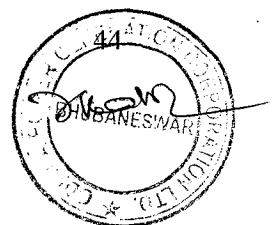
e. After the mining plan has been duly approved by the Central Government, the applicant submits the same to the State Government for grant of mining lease over the area.

f. After receipt of the duly approved mining plan, the State Government makes a proposal for grant of prior consent by the Central Government in terms of the proviso to Section 5(1) of the 1957 Act.

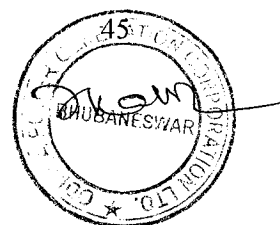
g. In addition to the approved mining plan, the allocatee is required to obtain permission under Section 2 of the Forest (Conservation) Act, 1980 if the coal block is located in a scheduled forest. Further, the allocatee is required to submit to the State Government, prior environmental clearance from the Ministry of Environment and Forests, Government of India for the project. Forest Clearance and EIA clearance operate separately.

h. Mining Lease is thereafter granted by the State Government, after verifying that all statutory requirements have been duly complied with by the allocatee.

61. There seems to be no doubt to us that allocation letter is not merely an identification exercise as is sought to be made out by the learned Attorney General. From the position explained by the concerned State Governments, it is clear that the allocation



letter by the Central Government creates and confers a very valuable right upon the allottee. We are unable to accept the submission of the learned Attorney General that allocation letter is not bankable. As a matter of fact, the allocation letter by the Central Government leaves practically or apparently nothing for the State Government to decide save and except to carry out the formality of processing the application and for execution of the lease deed with the beneficiary selected by the Central Government. Though, the legal regime under the 1957 Act imposes responsibility and statutory obligation upon the State Government to recommend or not to recommend to the Central Government grant of prospecting licence or mining lease for the coal mines, but once the letter allocating a coal block is issued by the Central Government, the statutory role of the State Government is reduced to completion of processual formalities only. As noticed earlier, the declaration under Section 1A of the CMN Act does not take away the power of the State under Section 10(3) of the 1957 Act. It is so because the declaration under Section 1A of the CMN Act is in addition to the declaration made under Section 2 of the 1957 Act and not in its derogation. 1957 Act continues to apply with the same rigour in the matter of grant of prospecting licence or mining lease of coal mines but the eligibility of persons who can



carry out coal mining operations is restricted to the persons specified in Section 3(3)(a) of the CMN Act.

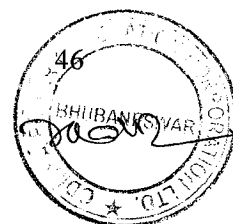
62. In *Tara Prasad Singh*¹⁰, a seven Judge Constitution Bench while dealing with the purposiveness of the CMN Act, as amended in 1976, vis-à-vis the 1957 Act, stated that nothing in this Act (CMN) could be construed as a derogation of the principle enunciated in Section 18 of the 1957 Act. The Court said:

"Therefore, even in regard to matters falling under the Nationalisation Amendment Act which terminates existing leases and makes it lawful for the Central Government to obtain fresh leases, the obligation of Section 18 of the Act of 1957 will continue to apply in its full rigour. As contended by the learned Solicitor General, Section 18 contains a statutory behest and projects a purposive legislative policy. The later Acts on the subject of regulation of mines and mineral development are linked up with the policy enunciated in Section 18."

(emphasis supplied by us)

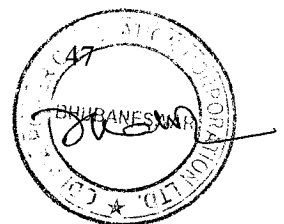
63. The observations made by this Court in *Tara Prasad Singh*¹⁰ about interplay between the CMN Act and the 1957 Act with reference to the policy enunciated in Section 18, in our view, apply equally to the entire legal regime articulated in the 1957 Act. We are of the opinion that nothing should be read in the two Acts, namely, CMN Act and the 1957 Act, which results in destruction of the policy, purpose and scheme of the two Acts. It is not right to suggest that by virtue of declaration under Section 1A of the CMN

¹⁰ *Tara Prasad Singh and others v. Union of India and others*; [(1980) 4 SCC 179]



Act, the power of the State under Section 10(3) of the 1957 Act has become unavailable. The submission of Mr. Harish N. Salve, learned senior counsel for the interveners that additional declaration under Section 1A of the CMN Act seeks to do away with any vestige of power in the State in the matter of selection of beneficiaries of the mineral is not meritorious. Had that been so, Rule 35 of the 1960 Rules would not have been amended to provide that where two or more persons have applied for reconnaissance permit or prospecting licence or a mining lease in respect of the same land, the State Government shall, *inter alia*, consider the end-use of the mineral by the applicant. The declaration under Section 1A has not denuded the States of any power in relation to grant of mining leases and determining of those permitted to carry on coal mining operation.

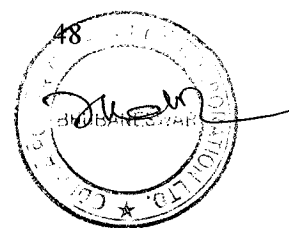
64. The allocation of coal block is not simply identification of the coal block or the allocatee as contended by the learned Attorney General but it is in fact selection of beneficiary. As a matter of fact, Mr. Harish N. Salve, learned senior counsel for the interveners, has taken a definite position that allocation letter may not by itself confer purported rights in the minerals but such allocation has legal consequences and confers private rights to the



allocates for obtaining the coal mining leases for their end-use plants.

65. In view of the foregoing discussion, we hold, as it must be, that the exercise undertaken by the Central Government in allocating the coal blocks or, in other words, the selection of beneficiaries, is not traceable either to the 1957 Act or the CMN Act. No such legislative policy (allocation of coal blocks by the Central Government) is discernible from these two enactments. Insofar as Article 73 of the Constitution is concerned, there is no doubt that the executive power of the Union extends to the matters with respect to which the Parliament has power to make laws and the executive instructions can fill up the gaps not covered by statutory provisions but it is equally well settled that the executive instructions cannot be in derogation of the statutory provisions. The practice and procedure for allocation of coal blocks by the Central Government through administrative route is clearly inconsistent with the law already enacted or the rules framed.

66. The principle of *Contemporanea Expositio* was pressed into service by the learned Attorney General and the learned senior counsel for interveners. It is argued that the Ministries of Central Government, the State Governments and all concerned have understood the declaration under Section 1A read



with Section 3 of the CMN Act recognizing that the selection of beneficiaries through allocation letter is the task of the Union. The exposition of the legal position by them must be accepted as there is nothing to show that the exposition in respect of allocation of coal blocks received by the Central Government, State Governments and all concerned was clearly wrong. In this regard, reliance has been placed on the decision of this Court in *Desh Bandhu Gupta*¹¹.

67. In *Desh Bandhu Gupta*¹¹, this Court has dealt with the principle of *Contemporanea Expositio*. While doing so, this Court referred to Crawford on Statutory Construction (1940 ed.) and the two decisions of the Calcutta High Court in *Baleshwar Bagarti*¹² and *Mathura Mohan Saha*¹³ and culled out the legal position in para 9 (page 572 of the Report) as under:

“9. It may be stated that it was not disputed before us that these two documents which came into existence almost simultaneously with the issuance of the notification could be looked at for finding out the true intention of the Government in issuing the notification in question, particularly in regard to the manner in which outstanding transactions were to be closed or liquidated. The principle of *contemporanea expositio* (interpreting a statute or any other document by reference to the exposition it has received from contemporary authority) can be invoked though the same will not always be decisive of the question of construction (Maxwell 12th ed.p. 268). In Crawford on Statutory Construction (1940 ed.) in para 219 (at pp. 393-395) it has been stated that administrative

¹¹ *Desh Bandhu Gupta and Co. v. Delhi Stock Exchange Association Ltd.*; [(1979) 4 SCC 565]

¹² *Baleshwar Bagarti v. Bhagirathi Dass*; [ILR 35 Calcutta 701]

¹³ *Mathura Mohan Saha v. Ram Kumar Saha*; [ILR 43 Calcutta 790]

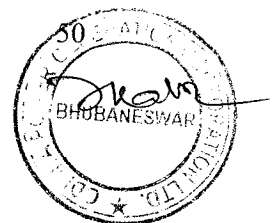


construction (i.e. contemporaneous construction placed by administrative or executive officers charged with executing a statute) generally should be clearly wrong before it is overturned; such a construction, commonly referred to as practical construction, although not controlling, is nevertheless entitled to considerable weight; it is highly persuasive. In *Baleshwar Bagarti v. Bhagirathi Dass* [ILR 35 Cal 701 at 713] the principle, which was reiterated in *Mathura Mohan Saha v. Ram Kumar Saha* [ILR 43 Cal 790 : AIR 1916 Cal 136] has been stated by Mookerjee, J., thus:

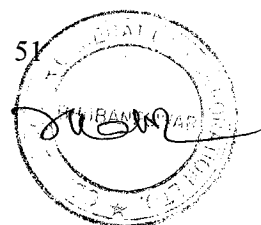
'It is a well settled principle of interpretation that courts in construing a statute will give much weight to the interpretation put upon it, at the time of its enactment and since, by those whose duty it has been to construe, execute and apply it..... I do not suggest for a moment that such interpretation has by any means a controlling effect upon the courts; such interpretation may, if occasion arises, have to be disregarded for cogent and persuasive reasons, and in a clear case of error, a court would without hesitation refuse to follow such construction.

Of course, even without the aid of these two documents which contain a contemporaneous exposition of the Government's intention, we have come to the conclusion that on a plain construction of the notification the proviso permitted the closing out or liquidation of all outstanding transactions by entering into a forward contract in accordance with the rules, bye-laws and regulations of the respondent."

68. The above is consistent view. In our view, an interpretation to the statute received from contemporary authority is not binding upon the courts and may have to be disregarded if such interpretation by the contemporary authority is clearly wrong. The



process evolved by the Central Government for allocation of coal blocks for captive use has significantly and effectively reversed the scheme provided in the 1957 Act inasmuch as in most of the cases the applications have been made directly to the Central Government. West Bengal has stated that in some cases, they had knowledge of such applications and in some cases the State Government had no such knowledge. Then once allocation letter has been issued by the Central Government, virtually no power remains with the State Government in objectively considering the application for reconnaissance permit, prospecting licence or mining lease. Maharashtra says, "*...the role of the State Government is limited in the case of coal mines as the discretion to reject once the Central Government has issued an allocation letter is virtually non-existent.....*". Odisha says, "*.....Once the beneficiary has been identified by the Central Government by making the allocation of coal block, there was nothing left out for the State Government to decide.....*". It must be noted without an iota of hesitation that the process for allocation of coal blocks for captive use has rendered the role of the State Government only mechanical and the concept of 'previous approval' in Section 5 of the 1957 Act meaningless after recommendation has been made by the State Government. It is not without any reason that



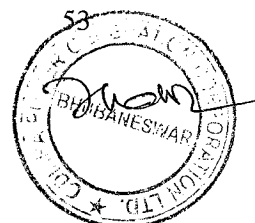
confronted with this difficulty, the 1957 Act has been amended and Section 11A inserted in 2010 providing for allocation of coal blocks and also the mode and manner of such allocation.

69. Assuming that the Central Government has competence to make allocation of coal blocks, the next question is, whether such allocation confers any valuable right amounting to grant of largesse? Learned Attorney General argues that allocation of coal blocks does not amount to grant of largesse since it is only the first statutory step. According to him, the question whether the allocation amounts to grant of largesse must be appreciated not from the perspective whether allocation confers any rights upon the allocatee but whether allocation amounts to conferment of largesse upon the allocatee. An allocatee, learned Attorney General submits, does not get right to win or mine the coal on allocation and, therefore, an allocation letter does not result in windfall gain for the allocatee. He submits that diverse steps, as provided in Rules 22A, 22B, and 22(5) of the 1960 Rules and the other statutory requirements, have to be followed and ultimately the grant of prospecting licence in relation to unexplored coal blocks or grant of mining lease with regard to explored blocks entitles the allocatee/licensee/lessee to win or mine the coal.



70. We are unable to accept the submission of the learned Attorney General that allocation of coal block does not amount to grant of largesse. It is true that allocation letter by itself does not authorize the allottee to win or mine the coal but nevertheless the allocation letter does confer a very important right upon the allottee to apply for grant of prospecting licence or mining lease. As a matter of fact, it is admitted by the interveners that allocation letter issued by the Central Government provides rights to the allottees for obtaining the coal mines leases for their end-use plants. The banks, financial institutions, land acquisition authorities, revenue authorities and various other entities and so also the State Governments, who ultimately grant prospecting licence or mining lease, as the case may be, act on the basis of the letter of allocation issued by the Central Government. As noticed earlier, the allocation of coal block by the Central Government results in the selection of beneficiary which entitles the beneficiary to get the prospecting licence and/or mining lease from the State Government. Obviously, allocation of a coal block amounts to grant of largesse.

71. Learned Attorney General accepted the position that in the absence of allocation letter, even the eligible person under Section 3(3) of the CMN Act cannot apply to the State Government



for grant of prospecting licence or mining lease. The right to obtain prospecting licence or mining lease of the coal mine admittedly is dependant upon the allocation letter. The allocation letter, therefore, confers a valuable right in favour of the allottee. Obviously, therefore, such allocation has to meet the twin constitutional tests, one, the distribution of natural resources that vest in the State is to sub-serve the common good and, two, the allocation is not violative of Article 14.

72. The PIL petitioners have seriously criticized the entire allocation process by the Central Government. They submit that allocations made on the recommendations of the Screening Committee and through the government dispensation route after 1993 are in violation of statutory provisions contained in the 1957 Act. Moreover, the Central Government while making the allocations failed to even follow the basic statutory eligibility for grant of captive coal blocks. The power for grant of captive coal block is governed by Section 3(3)(a) of the CMN Act. According to which, only two kinds of entities, viz., (a) Central Government, or undertakings/corporations owned by the Central Government or (b) a company having end-use plants in iron, steel, power, washing of coal or cement, can carry out coal mining operations. The State Government undertakings are not included in the above provision



and any allocation to them can only be made if they are engaged in any of the end-uses specified under that provision. Commercial mining by the State Public Sector Undertakings/companies is not permitted, yet as many as 38 coal blocks were allocated to State Public Sector Undertakings for commercial mining though these undertakings were not engaged in any specified end-use activity. They submit that allocation of coal blocks made by the Central Government, whether by way of Screening Committee route or dispensation route, is *ipso facto* illegal and it is in total violation of the CMN Act. Moreover, it is submitted that almost all these State PSUs then signed agreements with private companies wherein the right to mine coal was given to them which later sold the coal to the State PSUs either at the market price or at CIL price.

73. According to Mr. Prashant Bhushan, learned counsel for the petitioner-Common Cause and Mr. Manohar Lal Sharma, petitioner-in-person, the expression "engaged in" in Section 3(3)(a)(iii) means that the company that was applying for the coal block must have set up an iron and steel plant, power plant or cement plant and be engaged in the production of steel, power or cement. Most companies were silent in their applications as to whether or not the power, steel or cement plant was operational. They only stated that they proposed to set up such plants.



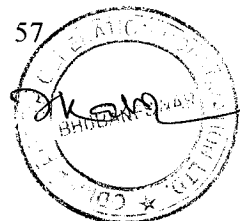
Moreover, from 2006 even the requirement of end-use project was done away with and the Central Government allowed companies to apply and obtain coal blocks, and it was stated that the coal mined from these blocks would be transferred to an end-user company. Thus, the basic minimum statutory requirements were not adhered to and followed in making allocation of coal blocks.

74. It is submitted on behalf of the PIL petitioners that the allocation of those blocks which had reserves far in excess of requirement for the end-use project was made which demonstrates the total non-application of mind and arbitrariness in the decision making process. Mr. Prashant Bhushan, learned counsel for Common Cause and Mr. Manohar Lal Sharma, petitioner-in-person submit that the allocation of coal blocks constitutes a largesse as it confers very valuable benefit on the applicant to get mining lease. It is argued that the arbitrary and non-transparent allocation process has resulted in windfall gain to the allottees and the State has been deprived of the full value of its resources. Besides that the process of allocation was arbitrary and non-transparent, it is submitted by the PIL petitioners that the process also suffers from *mala fides* inasmuch as though a comprehensive note on competitive bidding on allocation of coal blocks was placed by the then Coal Secretary on 16.07.2004, the allocation process through



the Screening Committee continued leading to windfall gain to the private companies and thereby corresponding loss to the public exchequer. In this regard, Mr. Prashant Bhushan, learned counsel for Common Cause and Mr. Manohar Lal Sharma, petitioner-in-person referred to Parliamentary Standing Committee Report submitted on 24.03.2013, Central Empowered Committee Report made in I.A. No.2167 to the Forest Bench regarding the loss from the allocation of coal mines in the State of Madhya Pradesh, the additional affidavit of the Government of Maharashtra filed on 09.01.2014 and the CAG Report.

75. It is argued on behalf of the PIL petitioners that the Screening Committee did not follow any objective criteria in determining as to who is to be selected or who is to be rejected. The minutes of the Screening Committee meetings do not show that selection was made after proper assessment. There is no evaluation of merit and no *inter se* comparison of the applicants. No chart of evaluation was prepared. The determination of the Screening Committee is apparently subjective. It is no coincidence that a large number of allottees are either powerful corporate groups or shady companies linked with politicians and ministers or those who came with high profile recommendations. Most of these allottees were in fact ineligible for allocation; they had



misrepresented the facts and were not more meritorious than others whose claims have been rejected, but by serious manipulations and abuse, they were able to get the coal blocks.

76. With regard to Government dispensation route whereby public sector corporations and undertakings were allocated coal blocks, it is submitted by Mr. Prashant Bhushan, learned counsel for the Common Cause and Mr. Manohar Lal Sharma, petitioner-in-person that such allocations were violative of Section 3 of the CMN Act. The State Government undertakings are not included in Section 3 and in any case allocation to them could have been made only if they were engaged in any of the end-uses specified under Section 3(3)(a)(iii) of the CMN Act. The State PSUs have signed agreements with private companies under which substantial benefits or interest from the coal blocks had accrued to the private companies thereby causing huge loss to the public exchequer and windfall gain to the private companies. The PIL petitioners, therefore, vehemently argued that the allocation of coal blocks deserves to be quashed being non-transparent, arbitrary, illegal and unconstitutional.

77. According to Central Government, the need for a Screening Committee was felt because development of coal mines for captive end-uses required consideration of inputs from a variety

of stakeholders such as the Ministry of Coal, Ministry of Railways, the concerned State Government (owner of the coal block), the concerned Administrative Ministry like Ministry of Power (for inputs pertaining to the end use plant) and Coal India Limited (to protect CIL's interest in coal blocks being developed by its subsidiaries). Initially, by Office Memorandum dated 14.07.1992¹⁴, the Screening Committee was constituted by the Ministry of Coal for scrutinizing applications/proposals received from private power generating companies requesting for ownership and operation of captive coal mines. The Screening Committee was reconstituted on more than one occasion by Office Memorandum dated 05.08.1993¹⁵, Office

14.

NO.13011/3/92-CA
Government of India
Ministry of Coal

New Delhi, the 14th July, 1992.

OFFICE MEMORANDUM

Subject: Constitution of a Screening Committee for screening proposals received for captive mining by private power generation companies.

In the context of participation of private power generating companies in power generation, proposals are also being received in the Ministry of Coal from such companies requesting for ownership and operation of captive coal mines. For screening of such applications/ proposals it has been decided to constitute a Screening Committee comprising of the following members:-

- | | | |
|--|---|-----------------|
| 1. Additional Secretary, Ministry of Coal | - | Chairman |
| 2. Adviser (Projects), Ministry of Coal | - | Member-Convenor |
| 3. Joint Secretary & Financial Adviser,
Ministry of Coal. | - | Member |
| 4. Representative of Ministry of Railways | - | Member |
| 5. Representative of Ministry of Power | - | Member |
| 6. Representative of concerned
State Govt. (Revenue Deptt.) | - | Member |

The Committee will meet once in a month and examine the proposals received from various parties.

(S. KRISHNAN)

UNDER SECY. TO THE GOVERNMENT OF INDIA

15.

NO.13011/3/92-CA
Government of India



Memorandum dated 10.01.2000¹⁶, Office Memorandum dated 17.04.2003¹⁷ and Office Memorandum dated 26.09.2005¹⁸.

Ministry of Coal

New Delhi, the 5th August, 93.

OFFICE MEMORANDUM

Subject: Constitution of a Screening Committee for screening proposals received for captive mining by private power generation companies – Matter regarding.

In continuation of this Ministry's Office Memorandum of even number dated 14.7.1992 constituting a Screening Committee for screening proposals received for captive mining by private sector power generation companies, it has been decided to revise partially the composition of the said Screening Committee as under:-

- | | | |
|--|---|-----------------|
| 1. Additional Secretary,
Ministry of Coal, New Delhi. | - | Chairman |
| 2. Adviser (Project)
Ministry of Coal, New Delhi. | - | Member-convenor |
| 3. JS & FA,
Ministry of Coal, New Delhi. | - | Member |
| 4. Representative of Ministry
of Railways, New Delhi. | - | Member |
| 5. Representative of Ministry
of Power, New Delhi. | - | Member |
| 6. Representative of concerned
State Govt. (Revenue Deptt.) | - | Member |
| 7. Director (Technical) CIL,
Calcutta. | - | Member |
| 8. Chairman/Managing Director –
CMPDIL, Ranchi. | - | Member |
| 9. CMD/ of concerned subsidiary
Companies of CIL. | - | Member. |

(J.L. MEENA)

DEPUTY SECY. TO THE GOVERNMENT OF INDIA

16.

No.47011/15/95-CPAM
Government of India
Ministry of Mines and Minerals
Department of Coal

New Delhi, the 10th January, 2000

Office Memorandum

Subject: Constitution of a Screening Committee for screening proposals received for captive mining by companies engaged in the generation of power and manufacture of iron, steel and cement.

The undersigned is directed to refer to this Ministry of O.M. No.13011/3/92-CA dated 14.7.1992 and 5.8.1993 and No.47011/15/95-CPAM dated 26/28.10.1999 and to say that instead of Joint Secretary & Financial Adviser, Deptt. Of Coal, Joint Secretary (Coal), Deptt. Of Coal will be member of the Screening Committee. Accordingly, Screening Committee for screening proposals for allocation of coal/ lignite blocks for



manufacture of iron/ steel captive production of power and production of cement in the public / private sector is reconstituted as under:-

- | | | |
|--|---|-------------------|
| 1. Additional Secretary,
Department of Coal | - | Chairman |
| 2. Adviser (Projects)
Department of Coal | - | Member - Convenor |
| 3. Joint Secretary (Coal)
Department of Coal | - | Member |
| 4. Joint Secretary (LA)
Department of Coal | - | Member |
| 5. Representative of Ministry of Railways,
New Delhi, | - | Member |
| 6. Representative of Ministry of Power,
New Delhi. | - | Member |
| 7. Representative of concerned State
Govt. (Revenue Deptt.) | - | Member |
| 8. Director (Technical), CIL, Calcutta | - | Member |
| 9. Chairman-cum-Managing Director,
CMPDIL, Ranchi | - | Member |
| 10. CMD of concerned subsidiary company
Of CIL/NLC | - | Member |

(T.K. Ghosh)
Director

17.

No.13011/5/2003-CA
Government of India
Ministry of Coal

New Delhi, dated 17.4.2003

Office Memorandum

Subject:- Reconstitution of a Screening Committee for screening proposals received for captive mining by companies engaged in the generation of power and manufacture of iron, steel and cement.

The undersigned is directed to refer to this Ministry's O.M. No.13011/3/92-CA dated 14.7.1992 and 5.8.1993 and No. 47011/15/95-CPAM dated 10.1.2000 and to state that from the date of issuance of this O.M. the Screening Committee shall be headed by Secretary, Ministry of Coal and Joint Secretary (Coal), Ministry of Coal shall be the member convenor. Accordingly, Screening Committee for screening proposals for allocation of coal / lignite blocks for generation of power and manufacture of iron, steel and cement in the public/ private sector is reconstituted as under:-

1.	Secretary Ministry of Coal	Chairman
2.	Joint Secretary (Coal) Ministry of Coal	Member – Convenor
3.	Adviser (Projects) Ministry of Coal	Member
4.	Joint Secretary (LA) Ministry of Coal	Member
5.	Representative of Ministry of Railways, New Delhi.	Member
6.	Representative of Ministry of Power, New Delhi	Member
7.	Representative of concerned State Govt.	Member



78. Learned Attorney General argues that the Screening Committee provided opportunity to stakeholders to express their views about permitting a particular company to develop a particular coal block for its end-use plant. The State Governments as the owners of coal blocks within their territories participated in the Screening Committee meetings. At no stage, anybody objected to the allocation of coal blocks by the Central Government through the Screening Committee route. Learned Attorney General in this regard referred to the affidavits filed on behalf of Maharashtra, Madhya Pradesh, Odisha, Chhattisgarh, West Bengal, Jharkhand and Andhra Pradesh. The process of allocation was participatory.

8.	Director (Technical), CIL, Calcutta	Member
9.	Chairman-cum-Managing Director, CMPDIL, Ranchi	Member
10.	CMD of concerned subsidiary company of CIL/NLC	Member

(S. Gulati)
Director

18.

No.13016/35/2005-CA-I
Government of India
Ministry of Coal

New Delhi, the 26th September, 2005

OFFICE MEMORANDUM

Subject: Reconstitution of Screening Committee for screening proposals received from companies engaged in the generation of power and manufacture of iron, steel and cement for allocation of coal blocks.

The undersigned is director to refer to this Ministry's O.M. No.13011/5/2003-CA dated 17.4.2003 and corrigendum No.13011/5/2003-CA issued on 7.5.2003 and the O.M. of even no. dated 2.9.2003 on the subject mentioned above and to state that from the date of issuance of this O.M., the following shall be the member of the Screening Committee in addition to the existing members of the Committee:-

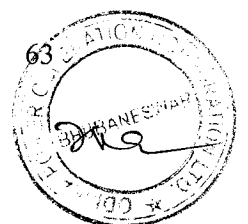
Secretary, or his representative, of Ministry of Environment & Forests.

(S.Gulati)
Director.



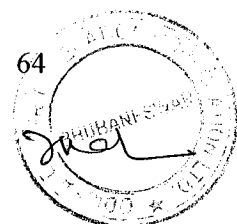
The coal blocks were allocated to private companies only from the approved list of blocks to be offered for captive mining and the interests of CIL, being paramount, were duly protected and preserved. Only in such cases of subsisting lease, where CIL had no plans to work these blocks in near future and consented to these blocks being offered for captive mining, few of such blocks were allocated but CIL's interest was kept into consideration. He, thus, submitted that allocation of coal blocks during the subject period was transparent and it does not suffer from any constitutional vice or legal infirmity.

79. Moreover, it is the submission of the learned Attorney General that allocation of coal blocks by the Central Government has brought significant benefits and investment to the States in which these coal blocks and the associated end-use plants are located. Due to substantial investment and employment opportunities generated in various States, the State Governments have accepted, participated and made recommendations in the meetings of the Screening Committee. A number of blocks have been allocated in accordance with the recommendations of the State Governments. Besides the benefits and investment to the State in which coal blocks and the associated end-use plants are located, learned Attorney General also submits that there are



number of States where coal blocks are not located, which have got benefits due to the substantial investment in associated end use plants. For instance, it is submitted that blocks in Maharashtra, namely, Baranj – I to IV, Kiloni and Manoradeep were allocated to Karnataka Power Corporation for captive use in its power generation plants. The end-use is the supply of coal to Bellary Thermal Power Station (in Karnataka) which is supplying 1000 MW power to the State grid.

80. Learned Attorney General for the sake of convenience divided the allocations recommended by the Screening Committee for the period between 14.07.1993 and 03.07.2008 in 36 meetings into four periods: first period between 14.07.1993 to 19.08.2003 (1st meeting till the 21st meeting); second period from 04.11.2003 to 18.10.2005 (22nd meeting to 30th meeting); third period from 29/30.06.2006 to 07/08.09.2006 (32nd meeting till the 34th meeting) and the fourth period from 20.06.2007 to 03.07.2008 (35th and 36th meeting). Learned Attorney General argues that in the first period, 21 coal blocks were recommended for allocation after full consideration of each case. During the second period, 26 blocks were recommended. These recommendations were also made by the Screening Committee after consideration of each applicant. The third period relates to recommendations made pursuant to the

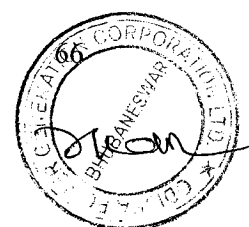


advertisement issued by Ministry of Coal in September, 2005. The decision to advertise was taken as there was growing demand for coal blocks which had substantially matured in the economy by this time. In the third period, the Screening committee recommended 20 blocks for allocation. In the fourth period, recommendations were made by the Screening Committee pursuant to the advertisement issued in 2006 whereby 38 coal blocks were advertised for allocation, out of which 15 blocks were reserved for the power sector. Learned Attorney General clarified that a coal block that was approved as one block in the advertisement has been subsequently considered as two blocks in the 36th meeting of the Screening Committee. Learned Attorney General has fairly admitted that the minutes of the Screening Committee meetings in the third and fourth periods do not contain the particulars showing consideration of each application. He, however, justifies the manner in which the exercise was undertaken by the Screening Committee in the third and fourth periods as, according to him, the huge number of applications had been received by the Ministry of Coal in response to its advertisement and recording of particulars of each application in the minutes was not possible. Moreover, he submits that each application was duly considered and evaluated with reference to other applications by the Administrative Ministry



concerned and the recommendations of the Screening Committee were primarily based on the exercise conducted by the concerned Administrative Ministry. Thus, learned Attorney General submits that the entire exercise by the Screening Committee was done properly and in a non-arbitrary manner.

81. Learned Attorney General vehemently contends that allocation of coal blocks without auction is not unlawful. He submits that lack of public auction does not render the allocation process arbitrary. Moreover, according to him, when coal mining sectors were first opened up to private participants, the idea of the Central Government was to encourage the private sector so that they could come forward and invest. Allocation of coal blocks by public auction in such a scenario would have been impractical and unrealistic. As a matter of fact, he would submit that when the proposal for introduction of competitive bidding was first mooted in June, 2004, the State Governments expressed their reservations and concerns. In this regard, learned Attorney General referred to the letters sent by the Governments of Chhattisgarh, West Bengal, Rajasthan and Odisha. Learned Attorney General submits that the concerns of the State Governments could not have been brushed aside by introducing competitive bidding by an administrative fiat. Moreover, according to the learned Attorney General, competitive



bidding could have resulted in increase in the input price which would have a cascading effect.

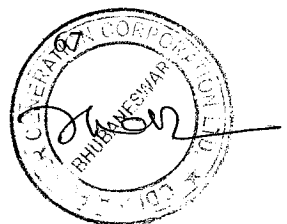
82. From the above submissions, the following questions fall for determination:

- (i) Whether the allocation of coal blocks ought to have been done only by public auction?
- (ii) Whether the allocation of coal blocks made on the basis of recommendations of the Screening Committee suffer from any constitutional vice and legal infirmity?
- (iii) Whether the allocation of coal blocks made by way of Government dispensation route (Ministry of Coal) is consistent with the constitutional principles and the fundamentals of the equality clause enshrined in the Constitution?

83. Two recent decisions viz., (1) *Centre for Public Interest Litigation (2G case)*¹⁹ and (2) *Natural Resources Allocation Reference*²⁰ directly deal with the question of auction as mode for the disposal or allocation of natural resources. But before we consider these two decisions, reference to some of the decisions of this Court, which had an occasion to deal with disposal of natural resources, may be of some help in appreciating this aspect in correct perspective.

¹⁹ Centre for Public Interest Litigation & Ors. v. Union of India & Ors.; [(2012) 3 SCC 1]

²⁰ Natural Resources Allocation, In re, Special Reference No.1 of 2012; [(2012) 10 SCC 1]

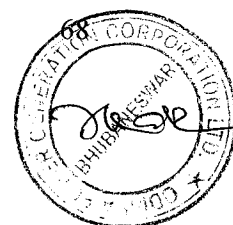


84. P.N. Bhagwati, J. in *Kasturi Lal Lakshmi Reddy*²¹ had said that where the State was allocating resources such as water, power, raw materials, etc., for the purpose of encouraging setting up of industries within the State, the State was not bound to advertise and tell the people that it wanted a particular industry to be set up within the State and invite those interested to come up with proposals for the purpose. It was also observed that if any private party comes before the State and offers to set up an industry, the State would not be committing breach of any constitutional or legal obligation if it negotiates with such party and agrees to provide resources and other facilities for the purpose.

85. In *Sachidanand Pandey*²² this Court had observed that ordinary rule for disposal of State-owned or public-owned property, was by way of public auction or by inviting tenders but there could be situations where departure from the said rule may be necessitated but then the reasons for the departure must be rational and should not be suggestive of discrimination and that nothing should be done which gives an appearance of bias, jobbery or nepotism.

²¹ *Kasturi Lal Lakshmi Reddy & Ors. v. State of J&K & Anr.*; [(1980) 4 SCC 1]

²² *Sachidanand Pandey & Anr. v. State of West Bengal & Ors.*; [(1987) 2 SCC 295]



86. The statement of law in *Sachidanand Pandey*²² was echoed again in *Haji T.M. Hassan Rawther*²³, wherein this Court reiterated that the public property owned by the State or by an instrumentality of State should be generally sold by public auction or by inviting tenders. It was emphasized that this rule has been insisted upon not only to get the highest price for the property but also to ensure fairness in the activities of the State and public authorities and to obviate the factors like bias, favoritism or nepotism. Clarifying that this is not an invariable rule, the Court reiterated that departure from the rule of auction could be made but then it must be justified.

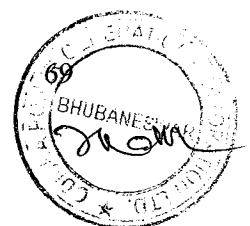
87. The above principle is again stated by this Court in *M.P. Oil Extraction*²⁴, in which this Court said that distribution of largesse by inviting open tenders or by public auction is desirable but it cannot be held that in no case distribution of such largesse by negotiation is permissible.

88. In *Netai Bag*²⁵ this Court said that when any State land is intended to be transferred or the State largesse is decided to be conferred, resort should be had to public auction or transfer by way of inviting tenders from the people as that would be a sure method of guaranteeing compliance with mandate of Article 14 of

²³ *Haji T.M. Hassan Rawther v. Kerala Financial Corporation*; [(1988) 1 SCC 166]

²⁴ *M.P. Oil Extraction & Anr. v. State of M.P. & Ors.*; [(1997) 7 SCC 592]

²⁵ *Netai Bag & Ors. v. State of West Bengal & Ors.*; [(2000) 8 SCC 262]



Constitution but non-floating of tenders or not holding public auction would not in all cases be deemed to be the result of the exercise of the executive power in an arbitrary manner.

89. In *Villianur Iyarkkai Padukappu Maiyam*²⁶ the matter before this Court related to the selection of contractor for development of the port of Pondicherry without floating a tender or holding public auction. The Court said that where the State was allocating resources such as water, power, raw materials, etc., for the purpose of encouraging development of the port, the State was not bound to advertise and tell the people that it wanted development of the port in a particular manner and invite those interested to come up with proposals for the purpose.

90. There are numerous decisions of this Court dealing with the mode and manner of disposal of natural resources but we think it is not necessary to refer to all of them. Having indicated the view taken by this Court in some of the cases, now we may turn to 2G case¹⁹. In that case, the two-Judge Bench of this Court stated that a duly publicised auction conducted fairly and impartially was perhaps the best method for alienation of natural resources lest there was likelihood of misuse by unscrupulous people who were only interested in garnering maximum financial benefit and have no

²⁶ *Villianur Iyarkkai Padukappu Maiyam v. Union of India & Ors.*; [(2009) 7 SCC 561]



respect for the constitutional ethos and values. Court laid emphasis that while transferring or alienating the natural resources, the State is duty bound to adopt the method of auction by giving wide publicity so that all eligible persons can participate in the process.

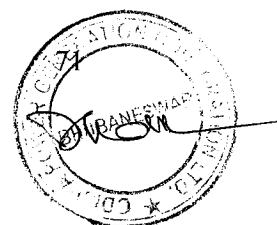
91. The above view in 2G case¹⁹ necessitated the reference by the President of India to this Court under Article 143(1) of the Constitution. The first two questions – Question 1 and Question 2 – referred to this Court for consideration and report read as under:

“Question 1 - Whether the only permissible method for disposal of all natural resources across all sectors and in all circumstances is by the conduct of auctions?

Question 2 - Whether a broad proposition of law that only the route of auctions can be resorted to for disposal of natural resources does not run contrary to several judgments of the Supreme Court including those of the larger Benches?”

92. The Constitution Bench which dealt with the above reference observed that the answer to the following three questions would provide comprehensive answer to the parent question, viz., Question 1:

(i) Are some methods *ultra vires* and others *intra vires* the Constitution of India, especially Article 14?



(ii) Can disposal through the method of auction be elevated to a constitutional principle?

(iii) Is this Court entitled to direct the executive to adopt a certain method because it is the "best" method? If not, to what extent can the executive deviate from such "best" method?

93. The Constitution Bench clarified that the statement of law in 2G case¹⁹ that while transferring or alienating the natural resources, the State is duty bound to adopt the method of auction was confined to the specific case of spectrum and not for dispensation of all natural resources. The Constitution Bench said that findings of this Court in 2G case¹⁹ were limited to the case of spectrum and not beyond that and that it did not deal with the modes of allocation for natural resources other than spectrum.

94. The Constitution Bench while dealing with the aspect of disposal of natural resources other than auction, divided the consideration of this aspect under two heads, viz., "Legitimate deviations from auction" and "Potential of abuse". Under the head "Legitimate deviations from auction" the Court considered the earlier decisions of this Court in *Kasturi Lal Lakshmi Reddy*²¹, *Sachidanand Pandey*²², *Haji T.M. Hassan Rawther*²³, *M.P. Oil Extraction*²⁴, *Netai Bag*²⁵ and *Villianur Iyarkkai Padukappu Maiyam*²⁶, which we have briefly noted above, and it was held that there is no constitutional mandate in favour of auction under Article



14. In the main judgment (paras 129 to 131, pg. 92), the Constitution Bench stated as under:

"129. Hence, it is manifest that there is no constitutional mandate in favour of auction under Article 14. The Government has repeatedly deviated from the course of auction and this Court has repeatedly upheld such actions. The judiciary tests such deviations on the limited scope of arbitrariness and fairness under Article 14 and its role is limited to that extent. Essentially whenever the object of policy is anything but revenue maximization, the Executive is seen to adopt methods other than auction.

130. A fortiori, besides legal logic, mandatory auction may be contrary to economic logic as well. Different resources may require different treatment. Very often, exploration and exploitation contracts are bundled together due to the requirement of heavy capital in the discovery of natural resources. A concern would risk undertaking such exploration and incur heavy costs only if it was assured utilization of the resource discovered; a prudent business venture, would not like to incur the high costs involved in exploration activities and then compete for that resource in an open auction. The logic is similar to that applied in patents. Firms are given incentives to invest in research and development with the promise of exclusive access to the market for the sale of that invention. Such an approach is economically and legally sound and sometimes necessary to spur research and development. Similarly, bundling exploration and exploitation contracts may be necessary to spur growth in a specific industry.

131. Similar deviation from auction cannot be ruled out when the object of a State policy is to promote domestic development of an industry, like in *Kasturi Lal's case*, discussed above. However, these examples are purely illustrative in order to demonstrate that auction cannot be the sole criteria for alienation of all natural resources."

95. While dealing with the argument that even if the method of auction was not a mandate under Article 14, it must be the only permissible method due to the susceptibility of other



methods to abuse, the Court under the head "Potential of abuse" held that a potential for abuse cannot be the basis for striking down the method as *ultra vires* the Constitution. The Court noted two decisions of this Court in *R.K. Garg*²⁷ and *D.K. Trivedi*²⁸ and held that neither auction nor any other method of disposal can be held *ultra vires* the Constitution merely because of a potential abuse.

The Constitution Bench (para 135, pgs. 93-94) stated as under:

"135. Therefore, a potential for abuse cannot be the basis for striking down a method as *ultra vires* the Constitution. It is the actual abuse itself that must be brought before the Court for being tested on the anvil of constitutional provisions. In fact, it may be said that even auction has a potential of abuse, like any other method of allocation, but that cannot be the basis of declaring it as an unconstitutional methodology either. These drawbacks include cartelization, "winners curse" (the phenomenon by which a bidder bids a higher, unrealistic and unexecutable price just to surpass the competition; or where a bidder, in case of multiple auctions, bids for all the resources and ends up winning licenses for exploitation of more resources than he can pragmatically execute), etc. However, all the same, auction cannot be called *ultra vires* for the said reasons and continues to be an attractive and preferred means of disposal of natural resources especially when revenue maximization is a priority. Therefore, neither auction, nor any other method of disposal can be held *ultra vires* the Constitution, merely because of a potential abuse."

96. In *Natural Resources Allocation Reference*²⁰ the Constitution Bench, in the main judgment, thus, concluded that auction despite being a more preferable method of alienation /

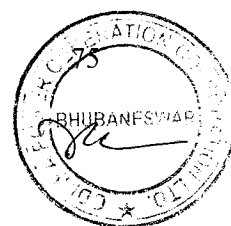
²⁷ *R.K. Garg v. Union of India & Ors.*; [(1981) 4 SCC 675]

²⁸ *D.K. Trivedi & Sons & Ors. v. State of Gujarat & Ors.*; [1986 Supp SCC 20]



allotment of natural resources cannot be held to be constitutional requirement or limitation for alienation of all natural resources and, therefore, every method other than auction cannot be struck down as *ultra vires* the constitutional mandate. The Court also opined that auction as a mode cannot be conferred the status of a constitutional principle. While holding so, the Court held that alienation of natural resources is a policy decision and the means adopted for the same are, thus, executive prerogatives. The Court summarized the legal position as under:

“146. To summarise in the context of the present Reference, it needs to be emphasised that this Court cannot conduct a comparative study of the various methods of distribution of natural resources and suggest the most efficacious mode, if there is one universal efficacious method in the first place. It respects the mandate and wisdom of the executive for such matters. The methodology pertaining to disposal of natural resources is clearly an economic policy. It entails intricate economic choices and the Court lacks the necessary expertise to make them. As has been repeatedly said, it cannot, and shall not, be the endeavour of this Court to evaluate the efficacy of auction vis-à-vis other methods of disposal of natural resources. The Court cannot mandate one method to be followed in all facts and circumstances. Therefore, auction, an economic choice of disposal of natural resources, is not a constitutional mandate. We may, however, hasten to add that the Court can test the legality and constitutionality of these methods. When questioned, the courts are entitled to analyse the legal validity of different means of distribution and give a constitutional answer as to which methods are *ultra vires* and *intra vires* the provisions of the Constitution. Nevertheless, it cannot and will not compare which policy is fairer than the other, but, if a policy or law is patently unfair to the extent that it falls foul of the fairness requirement of Article 14 of the Constitution, the Court would not hesitate in striking it down.

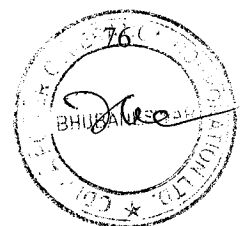


147. Finally, market price, in economics, is an index of the value that a market prescribes to a good. However, this valuation is a function of several dynamic variables: it is a science and not a law. Auction is just one of the several price discovery mechanisms. Since multiple variables are involved in such valuations, auction or any other form of competitive bidding, cannot constitute even an economic mandate, much less a constitutional mandate.

148. In our opinion, auction despite being a more preferable method of alienation/allotment of natural resources, cannot be held to be a constitutional requirement or limitation for alienation of all natural resources and therefore, every method other than auction cannot be struck down as *ultra vires* the constitutional mandate.

149. Regard being had to the aforesaid precepts, we have opined that auction as a mode cannot be conferred the status of a constitutional principle. Alienation of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximising private entrepreneurs, adoption of means other than those that are competitive and maximise revenue may be arbitrary and face the wrath of Article 14 of the Constitution. Hence, rather than prescribing or proscribing a method, we believe, a judicial scrutiny of methods of disposal of natural resources should depend on the facts and circumstances of each case, in consonance with the principles which we have culled out above. Failing which, the Court, in exercise of power of judicial review, shall term the executive action as arbitrary, unfair, unreasonable and capricious due to its antimony with Article 14 of the Constitution."

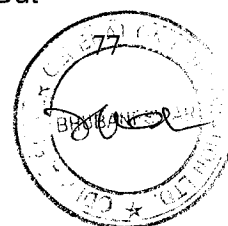
97. J.S. Khehar, J., while concurring with the main opinion has stated that auction is certainly not a constitutional mandate in the manner expressed, but it can be applied in some situations to maximise revenue returns, to satisfy legal and constitutional requirements. In his view, if the State arrives at a conclusion, in a



given situation, that maximum revenue would be earned by auction of the particular natural resource, then that alone would be the process which it would have to adopt. In the penultimate para of his opinion, J.S. Khehar, J., observed, *".....there can be no doubt about the conclusion recorded in the "main opinion" that auction which is just one of the several price recovery mechanisms, cannot be held to be the only constitutionally recognised method for alienation of natural resources. That should not be understood to mean, that it can never be a valid method for disposal of natural resources....."*

98. In *Natural Resources Allocation Reference*²⁰, the Constitution Bench said that reading auction as a constitutional mandate would be impermissible because such an approach may distort another constitutional principle embodied in Article 39(b). In the main judgment, with reference to Article 39(b), the Court stated as follows:

"113... The disposal of natural resources is a facet of the use and distribution of such resources. Article 39(b) mandates that the ownership and control of natural resources should be so distributed so as to best subserve the common good. Article 37 provides that the provisions of Part IV shall not be enforceable by any court, but the principles laid down therein are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. Therefore, this Article, in a sense, is a restriction on "distribution" built into the Constitution. But

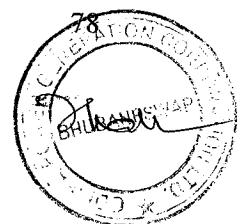


the restriction is imposed on the object and not the means. The overarching and underlying principle governing "distribution" is furtherance of common good. But for the achievement of that objective, the Constitution uses the generic word "distribution". Distribution has broad contours and cannot be limited to meaning only one method i.e. auction. It envisages all such methods available for distribution/allocation of natural resources which ultimately subserve the "common good".

115. It can thus, be seen from the aforequoted paragraphs that the term "distribute" undoubtedly, has wide amplitude and encompasses all manners and methods of distribution, which would include classes, industries, regions, private and public sections, etc. Having regard to the basic nature of Article 39(b), a narrower concept of equality under Article 14 than that discussed above, may frustrate the broader concept of distribution, as conceived in Article 39(b). There cannot, therefore, be a cavil that "common good" and "larger public interests" have to be regarded as constitutional reality deserving actualisation.

116. The learned counsel for CPIL argued that revenue maximisation during the sale or alienation of a natural resource for commercial exploitation is the only way of achieving public good since the revenue collected can be channelised to welfare policies and controlling the burgeoning deficit. According to the learned counsel, since the best way to maximise revenue is through the route of auction, it becomes a constitutional principle even under Article 39(b). However, we are not persuaded to hold so. Auctions may be the best way of maximising revenue but revenue maximisation may not always be the best way to subserve public good. "Common good" is the sole guiding factor under Article 39(b) for distribution of natural resources. It is the touchstone of testing whether any policy subserves the "common good" and if it does, irrespective of the means adopted, it is clearly in accordance with the principle enshrined in Article 39(b).

119. The norm of "common good" has to be understood and appreciated in a holistic manner. It is obvious that the manner in which the common good is best subserved is not a matter that can be measured by any constitutional



yardstick—it would depend on the economic and political philosophy of the Government. Revenue maximisation is not the only way in which the common good can be subserved. Where revenue maximisation is the object of a policy, being considered qua that resource at that point of time to be the best way to subserve the common good, auction would be one of the preferable methods, though not the only method. Where revenue maximisation is not the object of a policy of distribution, the question of auction would not arise. Revenue considerations may assume secondary consideration to developmental considerations.

120. Therefore, in conclusion, the submission that the mandate of Article 14 is that any disposal of a natural resource for commercial use must be for revenue maximisation, and thus by auction, is based neither on law nor on logic. There is no constitutional imperative in the matter of economic policies—Article 14 does not predefine any economic policy as a constitutional mandate. Even the mandate of Article 39(b) imposes no restrictions on the means adopted to subserve the public good and uses the broad term “distribution”, suggesting that the methodology of distribution is not fixed. Economic logic establishes that alienation/allocation of natural resources to the highest bidder may not necessarily be the only way to subserve the common good, and at times, may run counter to public good. Hence, it needs little emphasis that disposal of all natural resources through auctions is clearly not a constitutional mandate.”

99. In light of the above legal position, the argument that auction is a best way to select private parties as per Article 39(b) does not merit acceptance. The emphasis on the word “best” in Article 39(b) by the learned senior counsel for the intervener does not deserve further discussion in light of the legal position expounded by the Constitution Bench in *Natural Resources Allocation Reference*²⁰ with reference to Article 39(b). We are fortified in our view by a recent decision of this Court (3-Judge Bench) in *Goa*



*Foundation*²⁹ wherein following *Natural Resources Allocation Reference*²⁰, it is stated, "...it is for the State Government to decide as a matter of policy in what manner the leases of these mineral resources would be granted, but this decision has to be taken in accordance with the provisions of the MMDR Act and the Rules made thereunder and in consonance with the constitutional provisions..."

100. The explanation by the Central Government for not adopting the competitive bidding is that coal is a natural resource used as a raw material in several basic industries like power generation, iron and steel and cement. The end products of these basic industries are, in turn, used as inputs in almost all manufacturing and infrastructure development industries. Therefore, the price of coal occupies a fundamental place in the growth of the economy and any increase in the input price would have a cascading effect. The auction of coal blocks could not have been possible when the power generation and, consequently, coal mining sectors were first opened up to private participants as the private sector needed to be encouraged at that time to come forward and invest. Allocation of coal blocks through competitive bidding in such a scenario would have been impractical and

²⁹ Goa Foundation v. Union of India and Others; [(2014) 6 SCC 590]



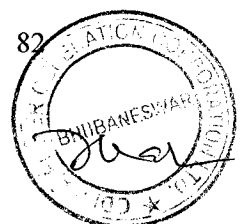
unrealistic. When the proposal for introduction of competitive bidding was first mooted in June, 2004, the State Governments expressed their reservations based on diverse concerns. The Government of Chhattisgarh *inter alia* pointed out that (a) competitive bidding would result in substantial increase in the cost of coal for iron/steel undertakings, (b) there were large number of projects under implementation whose viability is based on availability of coal as per the then existing policy, (c) competitive bidding would raise the price of domestic coal, which would result in end-use projects in inland States like Chhattisgarh becoming unviable due to additional costs by transporting coal by rail/road, and (d) competitive bidding would result in only the bigger players getting the coal blocks. The Government of West Bengal opposed the introduction of competitive bidding because (a) the then existing system could accommodate both subjective and objective aspects of the projects whereas competitive bidding would only lead to coal blocks going to the highest bidder, (b) competitive bidding would not allow priority being accorded to the power sector, (c) competitive bidding would result in views of the State Governments becoming redundant, and (d) competitive bidding would lead to concentration of industries in a particular State. The Government of Orissa opposed competitive bidding because (a) the State Government had



signed MOUs for investment in end-use plants based on existing policy and those MOUs would suffer, (b) State Government's authority to recommend cases for allocation based on investment in the State would not be available, and (c) competitive bidding would prevent the State from leveraging its coal reserves to accelerate its industrial development.

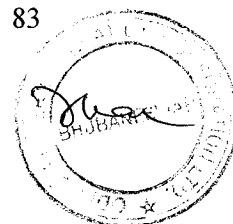
101. It was for the above reasons that the Central Government says that competitive bidding was not introduced from 2004.

102. As a matter of fact, the Central Government has explained the circumstances because of which since 1992-1993 competitive bidding for allocation of coal blocks was not followed. The explanation is that in 1992-1993, the power generation and coal mining sectors were first opened up to private participants and, at that time, the private sector had to be encouraged to come forward and invest. Allocation of coal blocks through auction in such a scenario would have been impractical and unrealistic because during that time existing demand for coal was not being fully met by CIL and SCCL. There was supply-demand mismatch and there was also a huge shortage of power in the country. The State Electricity Boards had been unable to meet power requirements.



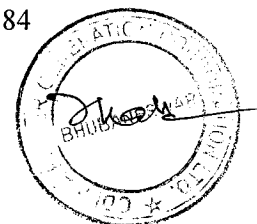
103. The material placed on record reveals that the then Coal Secretary in his note dated 16.07.2004 and subsequent note dated 30.7.2004 mooted introduction of bidding system to achieve transparency and objectivity in the allocation process and also to tap part of the windfall gain to the allottee for captive mining. These notes were considered at the level of Minister (Coal and Mines) and the PMO and certain disadvantages of allocation of coal blocks through competitive bidding were noted. Ultimately, it appears that in the month of October, 2004 the proposal for competitive bidding was not pursued further as it was felt that this would result in delay in the allocation of coal blocks. The Coal Secretary in October, 2004 after discussion also felt that since a number of applicants had requested for allotment of blocks based on the current policy, it would not be appropriate to change the allotment policy through competitive bidding in respect of applications received on the basis of existing policy. He suggested that the policy of allotment through competitive bidding could be made prospective and pending applications might be decided on the basis of existing policy.

104. Then, there appears to be exchange of notes and discussion at various levels on the question whether CMN Act needed to be amended before the proposed competitive bidding becomes operational or 1957 Act so that the system of competitive



bidding could be made applicable to all minerals covered under the said Act. The opinion of Department of Legal Affairs was also sought. In 2006, it appears that Ministry of Coal communicated to the PMO and Cabinet Secretariat that Ministry of Law and Justice has advised Ministry of Coal to initiate suitable measures for amendment in the 1957 Act for addressing the issue of competitive bidding. A Bill to amend the 1957 Act was introduced in the Parliament by the Ministry of Mines. The Amendment Bill was then referred to Standing Committee on Coal and Steel for examination and for its report. On receipt of the report from the Standing Committee in 2009, the MMDR Amendment Bill, 2008 was passed by both the Houses of Parliament in 2010 and ultimately Section 11A was inserted in the 1957 Act providing for competitive bidding for allocation of coal blocks by the Central Government. Then, on 02.02.2012, rules for auctions by competitive bidding of coal mines were notified.

105. The above facts show that it took almost 8 years in putting in place allocation of captive coal blocks through competitive bidding. During this period, many coal blocks were allocated giving rise to present controversy, which was avoidable because competitive bidding would have brought in transparency, objectivity and very importantly given a level playing field to all



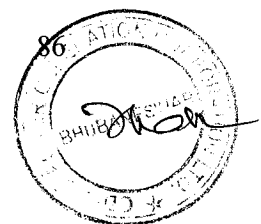
applicants of coal and lowered the difference between the market price of coal and the cost of coal for the allottee by way of premium which would have accrued to the Government. Be that as it may, once it is laid down by the Constitution Bench of this Court in *Natural Resources Allocation Reference*²⁰ that the Court cannot conduct a comparative study of various methods of distribution of natural resources and cannot mandate one method to be followed in all facts and circumstances, then if the grave situation of shortage of power prevailing at that time necessitated private participation and the Government felt that it would have been impractical and unrealistic to allocate coal blocks through auction and later on in 2004 or so there was serious opposition by many State Governments to bidding system, and the Government did not pursue competitive bidding/public auction route, then in our view, the administrative decision of the Government not to pursue competitive bidding cannot be said to be so arbitrary or unreasonable warranting judicial interference. It is not the domain of the Court to evaluate the advantages of competitive bidding vis-à-vis other methods of distribution / disposal of natural resources. However, if the allocation of subject coal blocks is inconsistent with Article 14 of the Constitution and the procedure that has been followed in such allocation is found to be unfair, unreasonable,



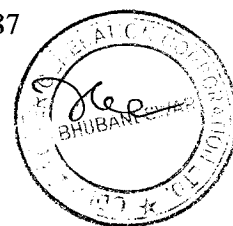
discriminatory, non-transparent, capricious or suffers from favoritism or nepotism and violative of the mandate of Article 14 of the Constitution, the consequences of such unconstitutional or illegal allocation must follow.

106. The Central Government in its first counter affidavit filed on 22.01.2013 has stated that for the period from 1993 to 31.03.2011, 216 allocations have been made. In the course of arguments, learned Attorney General submitted that in addition to 216, 2 coal blocks for Coal to Liquid (CTL) projects were also allocated. According to said affidavit, out of 216 allocations, 105 allocations were made to private companies, 99 allocations were made to Government companies and 12 allocations were made to Ultra Mega Power Projects (UMPPs) and that after adjusting 24 de-allocations and 2 re-allocations, a total number of 194 allocations, including allocations to private parties, form the subject matter of the writ petitions. In the course of arguments, however, learned Attorney General submitted that total 41 de-allocations have already been ordered.

107. In the first counter affidavit filed on 22.01.2013, the Central Government has also given the details of the procedure adopted for allocation of the above coal blocks, in which it is stated



that the allocations to the private companies were made through the Screening Committee route. As regards allocations made to Government companies, before 2001, allocations were made only through the Screening Committee route but on and from 2001, allocations were made through the Screening Committee route as well as directly by the Ministry of Coal. The allocations which were made by the Ministry of Coal to the Government companies are referred to by the Central Government as the Government dispensation route. Insofar as UMPPs are concerned, it is the stand of the Central Government that captive blocks were pre-identified for the projects, that bidders for the projects were selected as per the competitive bidding guidelines of the Ministry of Power (tariff based bidding) and, thus, the 12 allocations to UMPPs were done by a competitive method. It is further stated in the affidavit that the two blocks allotted for Coal to Liquid (CTL) projects were after inviting applications through advertisement in 2008 and that the applications received were considered by an inter-Ministerial Group (IMG) under the Chairmanship of Member (Energy), Planning Commission and Secretaries of Department of Expenditure, Ministry of Coal, Department of Industrial Policy and Promotion, Department of Science and Technology, Ministry of Petroleum and Natural Gas and Principal Advisor (Energy), Planning Commission as members.



108. We shall first deal with the coal allocations made to the private companies as well as Government companies for captive purpose through Screening Committee route.

109. On 14.09.2012, while issuing notice to the Union of India, the Court framed six questions on which answer was sought in the counter affidavit. One of such questions was about the details of guidelines framed by the Central Government for allocation of subject coal blocks. In the first counter affidavit filed on 22.01.2013, it is stated that from 1993 until 31st meeting held on 23.06.2006, the Screening Committee framed its own guidelines for allocation of coal blocks. Insofar as guidelines for 31st to 36th meetings of the Screening Committee are concerned, it is stated that the Ministry of Coal framed the guidelines and these guidelines were brought to the attention of the members of the Screening Committee.

110. The minutes of the 1st meeting held on 14.07.1993 indicate that the guidelines were framed in that meeting by the Screening Committee for the primary purpose to identify suitable blocks for captive development by power generating companies. The guidelines framed by the Screening Committee on 14.07.1993 read as under:

- "(i) Preferably blocks in green field areas where basic infrastructure like road, rail links, etc. is yet to be developed should be given to the private sector. The



areas where CIL has already invested in creating such infrastructure for opening new mines should not be handed over to the private sector, except on reimbursement of costs.

- (ii) The blocks offered to private sector should be at reasonable distance from existing mines and projects of CIL in order to avoid operational problems.
- (iii) Blocks already identified for development by CIL, where adequate funding is on hand or in sight should not be offered to the private sector.
- (iv) Private sector should be asked to bear full cost of exploration in these blocks which may be offered.
- (v) While discussing proposals of power generating companies and identifying blocks the requirement of coal for 30 years would be considered."

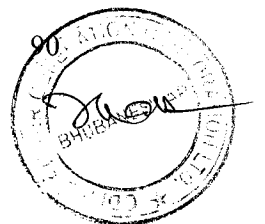
111. In its 2nd meeting held on 13.08.1993, the Screening Committee accepted that any addition to generation of power, whether captive or utility, amounted to value addition and, therefore, no distinction would be made between the two.

112. In the 3rd meeting held on 27.09.1993, the Screening Committee discussed whether the guidelines for identification of coal blocks for the power sector were suitable for adoption in respect of the iron and steel sector particularly in view of the position explained by the representative of Ministry of Steel that requirement of coal for iron and steel plants would be much less than the coal required by the power plants. The Screening Committee, accordingly, decided to permit sub-blocking of blocks

identified by Central Mine Planning and Design Institute Ltd. (CMPDIL).

113. In the 4th meeting dated 12.01.1994, proposals relating to M/s. RPG Industries Ltd./Calcutta Electric Supply Corporation, M/s. Kalinga Power Corporation, M/s. Indian Aluminium Company, M/s. Indian Charge Chrome Ltd., Andhra Pradesh State Electricity Board, M/s. Development Consultants Ltd., M/s. Gujarat Power Corporation Ltd., M/s. Associated Cement Company Ltd., M/s. Hellmuth, Obata and Kassabagm P.C. were considered in continuation of earlier meetings. Certain blocks were identified for allocation to some of these companies.

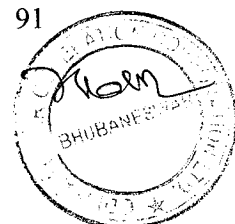
114. In its 5th meeting held on 26.05.1994, the Screening Committee while considering whether any further changes were required in the procedures being adopted for considering proposals for captive mining recorded that in the earlier meetings, the Ministry of Coal had been liberal in considering proposals with a view to make the scheme a success. In the said meeting, the Committee reviewed the progress made by M/s. RPG Industries Ltd., M/s. Kalinga Power Corporation Ltd., M/s. Nippon Denro Ispat Nigam Ltd., Nagpur, M/s. Andhra Pradesh State Electricity Board, M/s. Tamil Nadu Electricity Board, M/s. Indian Aluminium Company Ltd., M/s. Development Consultants Ltd., M/s. Associated Cement



Company Ltd., M/s. Hellmuth, Obata and Kassabagm P.C. and M/s. Gujarat Power Corporation Ltd.

115. In the 6th meeting held on 20.01.1995, the Committee decided to earmark Sarisatolli block and western part of Tara block for captive mining by M/s. RPG Industries Ltd. for proposed Budge-Budge TPS and Balagarh TPS. The proposal of M/s. Jindal Strips Ltd. for a captive block for expansion of their Sponge Iron Plant from 2 lakh tonnes per annum to 6 lakh tonnes per annum was also discussed in the meeting and it was decided that CMPDIL would carry out the exercise of sub-blocking so that a suitable block can be allocated to M/s. Jindal Strips Ltd.

116. In the 7th meeting held on 06.06.1995, the Chairman felt the need for fixing certain time limit and laying down corresponding milestones otherwise there would be a tendency on the part of developer of the mining block to proceed in a casual manner with the result that the coal production would not be realized within the required time frame. It was decided that once the blocks are identified, the party concerned should complete necessary formalities and should be able to apply for lease within 6 months. In continuation of earlier meetings, the Screening Committee further considered the proposal of M/s. RPG Industries Ltd. for identification of coal mining blocks for supply of coal to the proposed Budge-



Budge TPS, Balagarh TPS and Dholpur TPS. In the said meeting, the proposals of M/s. West Bengal State Electricity Board and M/s. Videocon Power Ltd. were also considered.

117. In the 8th meeting held on 04.10.1995, the proposal of M/s. Steel Authority of India Limited for captive blocks in Jharia coalfields was discussed. The Committee decided to identify Parbatpur, Mahal, Seetanala and Tasra blocks located in Jharia Coalfields for captive development by SAIL.

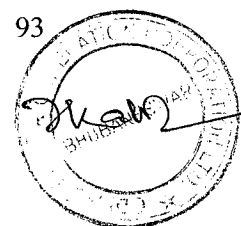
118. In the 9th meeting held on 20.12.1995, the proposal of M/s. Nippon Denro Ispat Ltd. for identification of additional coal mining blocks for supply of coal to the 2nd stage of the Bhadravati TPS was discussed. Apart from the above-mentioned proposal, the other proposals were from Maharashtra State Electricity Board, National Thermal Power Corporation and Lloyds Metals (Sponge Iron Plant) and Larsen & Tourbo captive power plant, Chandrapur. Since there were conflicting requirements of various projects, the Committee decided that the long-term coal requirements of various projects of M/s. Nippon Denro Ispat Ltd., Maharashtra State Electricity Board, National Thermal Power Corporation, Lloyds Metals and Larsen & Tourbo should be examined in a comprehensive exercise so that the available resources are optimally utilized. Review of the proposals of M/s. Jindal Strips –



Sponge Iron Plant and M/s. Monnet Ispat – Sponge Iron Plant was also undertaken.

119. In the 10th meeting held on 03.04.1996, the Committee noted with concern that out of the blocks already offered, only four parties have taken action for development of blocks. The Committee decided that all the identified parties should be issued a notice to pay the exploration cost by 30.06.1996 and take action for development of the block failing which the offer would be cancelled.

120. In the 11th meeting held on 26/27.09.1997, the Screening Committee carried out a review of the progress made so far. It was noted that M/s. RPG Industries for Budge-Budge TPS, M/s. Indian Aluminium Company Ltd. for new captive power plants in Orissa, M/s. Associated Cement Co. Ltd. for new captive power plant at Wadi, Karnataka, M/s. West Bengal State Electricity Board for higher generation for Bendel TPS and Santaldih TPS, M/s. West Bengal Power Development Corpn. Ltd. for Bakreshwar TPS, M/s. BLA Industries for 24 MW capacity power plant in Distt. Narsinghpur, Madhya Pradesh, M/s. Jindal Strips Ltd. for Sponge Iron Plant in Madhya Pradesh and M/s. Nippon Denko Ispat Ltd. for Bhadravati TPS, Stage – I, had paid exploration charges to CIL and submitted mining plans which had been approved by the Standing Committee of Ministry of Coal. In that meeting, the representative



of M/s. Nippon Denko Ispat Ltd. submitted that Bunder block was far away from the power plant as well as from the other two mining blocks allotted to them and requested that a block nearer to the other two blocks, i.e., Baranj and Lohara West may be considered for allotment by the Committee. Accordingly, the Committee decided to allocate Monora Deep Block, which is adjacent to Baranj and Lohara Extn. (which is adjacent to Lohara West) to M/s. Nippon Denko Ispat Ltd. The Committee also discussed the proposals which were considered earlier but no final decision could be taken. The Committee decided that Utkal 'C' block in Talcher coalfield having geological reserves of about 190 m.t. may be considered for allotment to M/s. Indian Charge Chrome Ltd. for two additional captive power plants at Choudhwar, Orissa. It is pertinent to mention that the Committee found that the total requirement for all the three units would be about 2.36 m.t. and for a life of 30 years, it would work out to be 71 m.t. The Committee, however, proposed allocation of Utkal 'C' block having geological reserves of about 190 m.t. In that meeting, Takli-Jena-Bellora block was allotted to M/s. Lloyds Metals and Engineers Ltd. and the company was directed to obtain mining lease within six months of issue of these minutes. As regards the proposal of M/s. Associated Cement Company Ltd. for expansion at Wadi Cement Works in Karnataka, the Committee



decided to allot Bissar block in addition to Lohara (East) allocated earlier as the total requirement was of the order of 3.7 m.t. In the said meeting, M/s. J.K.Corp. Ltd. was allocated Gare IV/8 block with gross geological reserves of 91 m.t. for their Cement Plant at Sirohi and Khemli in Rajasthan for which their total coal requirement was 1.23 m.t.p.a.

121. In the 12th meeting held on 03.04.1998, the Committee allocated Gare-Palma IV/2 and IV/3 blocks having Geological reserves of 100 and 110 m.t. to M/s. Jindal Power Ltd. for Raigarh TPS Stage – II (500 MW). In the said meeting, M/s. Central Collieries Co. requested the Screening Committee for a portion of the Takli-Jena-Bellora block which had already been allotted to M/s. Lloyds Metals & Engineers Ltd. In the course of discussions, it transpired that the total reserves in the block are higher than the requirement of M/s. Lloyds Metals. The Committee was of the view that it was possible to allot some of the reserves to a party other than M/s. Lloyd Metals. The Committee noted the clarification made by DGM (MS) that it was possible to cut out an independent sub-block of 40 m.t. coal reserves within the Takli-Jena Bellora block. Accordingly, the same was allotted to M/s. Central Collieries Co.

122. In the 13th meeting held on 24.08.1998, as regards the proposal of M/s. Nippon Denro Ispat Ltd. – Bhandravati TPS I, the

Committee was informed that the Apex Committee of CIL on captive mining blocks had objected to allocation of Kilhoni block to Nippon on the ground that the company had been changing its preference from one block to another block and allotment of Kilhoni block would not be sufficient to satisfy the company's coal requirement for 30 years. Therefore, it was suggested that the company should either work the Lohara West block or enter into an agreement with WCL for supply of their balance coal requirement. The Ministry of Power, on the other hand, indicated that they had no objection if the same was acceptable to the Government of Maharashtra. It was also indicated that in the absence of firm figures of availability of coal and its likely price on cost plus basis, only an in-principle agreement could be arrived at for linkage in lieu of the Kilhoni block. It was also stated that the Kilhoni block being adjacent to Baranj block would be more practicable for them to mine the reserves whereas WCL would have to develop the block as an isolated project. The Government of Maharashtra strongly supported the allocation of Kilhoni block to the company. The Director (Technical), CIL and CMD, WCL indicated that the Kilhoni block was likely to be taken up in the 11th plan period and pointed out some unique geographical and man-made features of the block which, according to them, would make the project both cost and time intensive, resulting in very high cost

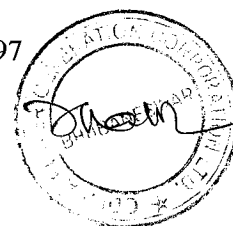


for WCL. The Committee felt that Nippon would be better placed to tackle these problems. It was finally decided that M/s. Nippon Denro Ispat Ltd will work Baranj I-IV, Manora Deep and Kilhoni Blocks for mining coal for Bhadravati TPS, Lohara West and Lohara West Extension blocks will be withdrawn from the party and no further request for change or modification of blocks made by the party will be considered.

123. The Committee had decided in the 12th meeting to allocate southern portion of Takli-Jena-Bellora block to M/s. Central Collieries Co. Ltd. In the 13th meeting, the representative of M/s. Central Collieries Co. Ltd. requested that a decision on allocation of a small portion of Kilhoni block should be taken. It was informed to the Committee that the area identified at Kilhoni by the company was actually a different location, and that location did not form part of the identified blocks for captive mining.

124. In its 14th meeting held on 18/19.06.1999, the Screening Committee decided as follows:

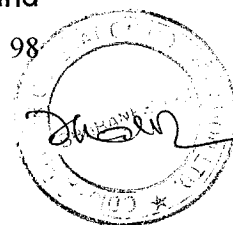
- “(i) The Administrative Ministries will assess the soundness of the proposals in consultation with the State Govt. before sending their comments/recommendations to the Screening Committee for consideration of allotment of a captive mining block; and
- (ii) The Administrative Ministries should consult State Governments as well as use their own agencies for assessing the progress of the implementation of end



use plants for which blocks have already been allotted by the Screening Committee and send a report to the Screening Committee for further action."

124.1. In the said meeting, Adviser (Projects), Ministry of Coal informed that a policy has been framed that captive mining block producing less than 1 m.t. of coal per annum from an opencast block and less than 0.25 m.t. of coal per annum from an underground block will not be considered for allotment. The Committee agreed to adopt the above policy. In that meeting, the Committee decided to withdraw the Gare-Palma IV/4 block allotted to M/s. Phoenix Cement Ltd. The block Gare-Palma IV/8 allotted to M/s. J.K. Corp. Ltd. was also withdrawn due to non-seriousness of the party in the matter.

124.2 In the 14th meeting, the proposal of M/s. Monnet Ispat Ltd. for a new Sponge Iron plant in Keonjhar area of Orissa of 1.2 million tonnes of capacity for which the requirement of 2.2 m.t. of raw coal has been indicated, was discussed. This plant will have a CPP of 40 MW in the 1st phase. The party requested for Utkal-B2 block in Talcher coalfield having 106 m.t. of reserves. The party informed that the existing plant capacity of 1 lakh tonnes is being expanded to 3 lakh tonnes by March, 2000 and to 5 lakh tonnes beyond that. During discussion, CMD MCL was of the view that Chendipada block is likely to have better grade of coal and



suggested to the party in preference of Utkal B-2 block. However, the party insisted for Utkal B-2 block and the same was allotted subject to the condition that the party must achieve financial closure within one year of allotment of the block, failing which the allotment will be withdrawn.

124.3. As regards the proposal of M/s. Jayaswal Neco Ltd. for their Sponge Iron Plant, the party had earlier requested for Gare-Palma IV/6 and IV/7 blocks for meeting their Sponge Iron Plant and a captive power plant. Now, they requested for allocation of IV/4 and IV/8 blocks as the same have been withdrawn from other firms. Accordingly, the same were allotted to M/s. Jayaswal Neco Ltd.

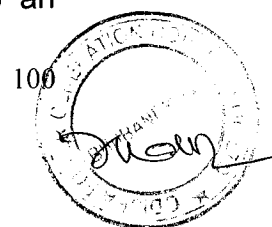
124.4 The Brahmadiha block was allotted to M/s. Castron Technology in the 14th meeting. The Committee noted that the mine did not fit in the criteria of captive block as per its latest guidelines, but decided to make the allocation in view of the fact that the reserves could either be permitted to be exploited by a private party or lost forever.

125. In the 15th meeting held on 06.03.2000, M/s. Jindal Strips Ltd. had submitted a request for a block in Talcher coalfield to meet the requirement of sponge iron plant of 2 m.t. capacity. In January, 2000, the party made an application for allocation of Utkal D block in MCL having geological reserves of 190 m.t. for their



proposed sponge iron plant of 1 m.t. capacity requiring clean coal of 1.2 mtpa. The party also proposed to set up a washery of 3 m.t. input capacity. The requirement of the block was proposed by the party for working the sponge iron plant and the CPP for a period of 50 years. In the course of discussion, it was pointed out that allocation of block for captive mining is generally made on the basis of 30 years' requirement whereas the party had requested for allocation of block on the basis of 50 years requirement for their sponge iron plant. It was also indicated that the total requirement of coal for 30 years life period of the project worked out to be 90 m.t. for which a geological reserve of about 120 m.t. should be adequate. The estimated reserve of Utkal D block was about 190 m.t. and was, therefore, higher than the probable requirement. The representative of Ministry of Steel indicated that coal block having geological reserve of about 125 m.t. would be adequate. Yet, the Committee decided to allot Utkal D block in principle to M/s. Jindal Strips Ltd. but this was cancelled in the 16th meeting.

125.1. The proposal of M/s. Prakash Industries was rejected in the 14th meeting in view of the company's reference to BIFR and the party enjoying coal linkage of 0.76 m.t. for their existing plant. In November and December, 1999, they informed that they had a linkage of 0.5 mtpa only and that they proposed to develop an



underground mine for the balance 0.5 mtpa. The Committee in the 15th meeting decided to allocate Choita block, having geological reserves of about 60.00 m.t. to M/s. Prakash Industries.

125.2. In the said meeting, M/s. Raipur Alloys & Steel Ltd. had requested for allocation of Choita block for their sponge iron plant at Siltara, Raipur, the capacity of which was proposed to be expanded from the existing 60,000 tpa to 3 lakh tonnes per annum and for a captive power plant of 18 MW. That block was not in the identified list of captive mining. Accordingly, they revised their request for allocation of Gare Palma IV/7 or any one of the three blocks in Gare Palma, i.e., IV/7, IV/6 and IV/8 in order of preference. The Committee decided to allocate Gare Palma IV/7 to M/s. Raipur Alloys & Steel Ltd. with coal reserves of 156 m.t. which is on the much higher side than the requirement of the company.

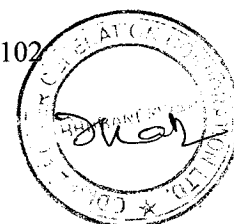
126. In the 16th meeting held on 31.05.2001, M/s. Orissa Mining Corporation Ltd. was allotted Utkal D block for generation of power through Orissa Power Generation Corporation.

127. In the 17th meeting held on 28.11.2001, the request of M/s. GVK Power Gowindal Sahib Ltd. for allotment of Tokusud coal block for their proposed 2 x 250 MW power plant was considered and Tokusud North block was allotted to them.



128. In the 18th meeting held on 05.05.2003, the Screening Committee, for the first time, considered the issue of determining *inter se* merit of applicants for the same block as well as certain other issues to bring in transparency and felt that guidelines for determining *inter se* priority among claims for blocks between public sector and private sector for captive use and between public sector for non-captive use and private sector for captive use need to be evolved. The Chairman of the Committee put the following few general guidelines for consideration:

- (i) The blocks in captive list should be allocated to an applicant only after the same have been put in the public domain for a reasonable time and not immediately upon their inclusion in the list of block identified for captive mining, so as to give an opportunity to interested parties to apply for the same and make the process more transparent. The need for giving very cogent and detailed reasons before withdrawal of a block from captive list by CIL was also emphasized.
- (ii) The Administrative Ministries were requested to appraise the projects from the point of view of the genuineness of the applicant, techno-economic viability of the project and the state of preparedness/progress in the project while indicating the quantity and quality of coal requirement of the project and recommending allocation of captive block to the applicant. In case there were more than one applicant for the same block the Administrative Ministry should rank them based on the project appraisal and the past/track record of the applicant without necessarily naming the block to be allotted. This would facilitate the Screening Committee in allotting a suitable block to the applicant more objectively.



- (iii) Only those power projects would be considered for allocation which are included in the Xth Plan Period.

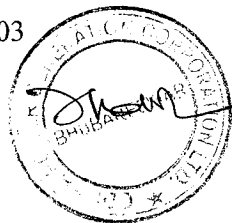
128.1. The above guidelines met with general approval.

The Screening Committee also decided that while recommendations of the State Governments would continue to be taken into consideration, the same would not be taken as pre-condition for entertaining the application by it. In that meeting, the two blocks- Bandhak (East) and Bandhak (West) were also included in the list of captive blocks.

129. In the 19th meeting held on 26.05.2003, various projects were reviewed.

129.1. In that meeting, the Committee allocated Bandhak (West) to M/s. Shree Baidyanath Ayurved Bhawan Ltd. Similarly, M/s. Fieldmining & Ispat Limited was allocated Warora (West) and Chinora blocks.

130. In the 20th meeting held on 06.06.2003, the Committee discussed the matter of allocation of captive mining blocks to small Greenfield projects or to applicant companies who did not have well known track records in the sectors approved for allocation of captive blocks for mining of coal. It adopted a policy that for such small projects the Committee instead of straight away allocating the block, the Committee would reserve the block and offer a temporary

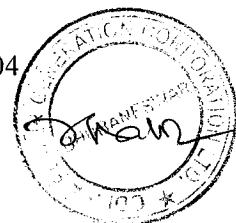


tapering linkage through CIL for achieving financial closure and development of the end-use project first. The allocation of the block would be made subject to the applicant company achieving the project milestones submitted by them to the Committee, and after financial closure is achieved.

130.1. In that meeting, M/s. Jindal Steel and Power Limited requested for allocation of Utkal B-1 block for their sponge iron production, 200 MW of captive power generation, steel plant and ferro alloy plants to be set up in two phases. The Screening Committee decided to allocate Utkal B – 1 block to that company for exclusive and captive use of the entire coal produced from the block in their own project in the end-use plants.

130.2. M/s. Usha Beltron Ltd. requested for allocation of a block for their sponge iron and power plant. CIL had recommended allocation of Kathautia UG block for their expansion project. Accordingly, the Committee allocated the same subject to the existing linkages of coal from CIL continuing.

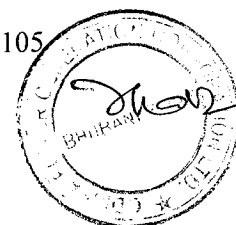
130.3. The Committee also discussed the proposals of M/s. Shyam DRI Power Ltd. for allocation of Radhikapur block and M/s. Neepaz Metalics Pvt. Ltd. for allocation of Patrapara block. In both the cases, it was found that the size of the block is larger in comparison to the need. However, the applicants stated that while



geological reserve in the block may be large, the recoverable reserve would be very much less. Accordingly, the blocks were allocated provisionally to them for detailed exploration/prospecting purposes.

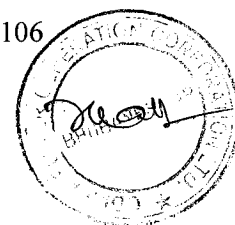
130.4. In that meeting, M/s. Ambuja Cement requested for allocation of Baranj III and IV block for their new as well as expansion of existing cement plants. Though the Government of Maharashtra supported the proposal, the representative from Ministry of Power stated that there are two contenders for the Baranj blocks and the Ministry of Power is considering and evaluating the case. He stated that decision on allocation of Baranj I to IV could be deferred by one month by which time the Ministry of Power would be in a position to give their views. However, the Screening Committee decided to allocate Baranj III and IV blocks to Ambuja Cement Ltd. subject to any order of the High Court in the matter.

131. In the 21st meeting held on 19.08.2003, the issue of competitive bidding was raised. On this, the Screening Committee felt that further guidelines need to be evolved for allocation of blocks and competitive bidding should also be looked at. In that meeting it was also felt by the Committee that coal being only one of the inputs of end-use projects, other matching inputs should also be considered before allocation of a coal block.



132 Significantly, the guidelines framed and applied by the Screening Committee for the period from 14.07.1993 (1st meeting) to 19.8.2003 (21st meeting) are conspicuously silent about *inter se* priority between the applicants for the same block. In the 18th meeting, the Screening Committee considered the issue of determining *inter se* merit of applicants for the same block as well as certain other issues for bringing in transparency. The Screening Committee felt that guidelines for determining *inter se* priority among claims for block between public sector and private sector for captive use and between public sector for non-captive use and private sector for captive use need to be evolved. However, no guidelines for determining *inter se* priority of applicants for the same block was evolved. The guidelines also do not contain any objective criterion for determining the merits of applicants and lack in healthy competition and equitable treatment. In the first counter affidavit filed by the Central Government, it is admitted that from the 1st meeting (held on 14.07.1993) to the 21st Meeting (held on 19.08.2003), the guidelines did not deal with the subject of determining *inter se* priority between applicants.

133. As regards 26 coal blocks allocated to private companies pursuant to the recommendations of the Screening Committee for the period from 04.11.2003 (22nd meeting) and



18.10.2005 (30th meeting), the Attorney General submits that the Screening Committee had devised guidelines to determine *inter se* priority amongst applicants for the same block. It is also submitted that the recommendations were made by the Screening Committee after consideration of each application and assessment of each applicant's merits in terms of the criterion laid down in the guidelines.

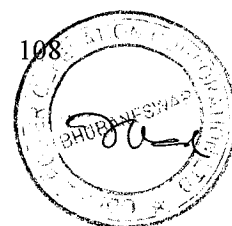
134. The counter affidavit filed by the Central Government on 22.06.2013 at pages 102-159 deals with this period. The compilation (Volume 3-B) contains materials relating to recommendations made by the Screening Committee for allocation of coal blocks to private companies pursuant to its 22nd meeting to 30th meeting held between 04.11.2003 and 18.10.2005. It transpires from the materials placed on record that there was boom in the iron and steel sector at that time. The Screening Committee was usually required to consider 3-4 applicants for each block. Though the guidelines required that a captive block cannot be allocated as replacement for a linkage and that coal blocks can only be allocated for specific projects and not as back up in general and additional guidelines also provided that Central PSU was to be accorded priority over State Government PSU if all other factors (like suitability of coal grade, techno-economic viability/feasibility of



the project, state of preparedness of the project, etc.) were equal but a careful look at these guidelines show that they do not lay down any criterion for evaluating the comparative merits of the applicants. As a matter of fact, the guidelines applied by the Screening Committee are totally cryptic and hardly meet the requirement of constitutional norms to ensure fairness, transparency and non-discrimination.

135. In the 23rd meeting held on 29.11.2004 for Belgaon coal block, three applicants, namely, (i) M/s. Chandrapur Ispat Ltd., (ii) M/s. Gupta Metallica and Power Ltd. and (iii) M/s. Sunflag Iron and Steel Ltd. had applied. The particulars of these three applicants have been noted by the Screening Committee but besides that there is nothing to indicate as to why M/s. Sunflag Iron and Steel Ltd. was found more meritorious than the other two applicants. It is pertinent to note that Ministry of Steel had supported the proposal of both Gupta Metallica and Power Ltd. and Sunflag Iron and Steel Ltd. The consideration of *inter se* merit appears to be ad-hoc. There is no comparative assessment of the merits of the applicants. There is so much of ad-hocism in consideration of the applications that in every meeting, the guidelines were altered.

136. In the 24th meeting held on 09.12. 2004, the Screening Committee altered the norms by shifting insistence on achieving



financial closure of the end-use projects to some appropriate stage after the mining plan approval. In that meeting, the Screening Committee was informed that the proposal to allow disposal of coal produced during development phase of the mine has been approved by the Government. In that meeting, the Committee considered allocation of Brinda, Sisai, Dumri, Meral, Lohari, Moitra, Kotre-Basantpur and Pachmo blocks. Applications were received from M/s. Abhijeet Iron Processors Pvt. Ltd for allocation of Brinda, Sisai, Dumri, Meral and Lohari blocks, M/s. Neelachal Iron and Power Ltd. for allocation of Brinda, Sisai and Dumri blocks, M/s. Bajrang Ispat Pvt. Ltd. for allocation of Dumri, Brinda and Sisai blocks and M/s. Pawanjay Steel and Power Ltd. for allocation of Dumri and Brinda blocks. The Screening Committee noticed that among applicants competing for Brinda and Sisai, M/s. Abhijeet Iron Processors Pvt. Ltd., applied way ahead of others, its requirement was large and it has a good track record and Ministry of Steel had recommended its case. The other applicants, viz., M/s. Bajrang Ispat and M/s. Pawanjay Steel were later applicants. The requirement of M/s. Bajrang was small and sub-blocking was not desirable while M/s. Pawanjay had not yet given the required details to Ministry of Steel. For Meral, M/s. Abhijeet was the only applicant.

The Screening Committee decided to allocate Brinda, Sisai and Meral blocks to M/s. Abhijeet Infrastructure Private Ltd.

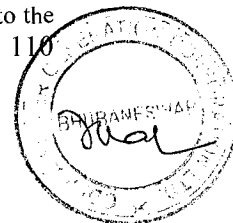
136.1 In the same meeting, M/s. Jayaswal Neco Ltd. was allocated Moitra block in place of Jogeshwar and Choritand-Tilaya, already allocated to them. Lohari block was allocated to M/s. Usha Martin Limited subject to the views of Ministry of Steel. It is important to mention that Lohari coal block was acquired under the Coal Bearing Acquisition Act. The Committee noted that the transfer modalities were yet to be worked out in details.

136.2 The Screening Committee in 24th meeting noted the particulars of each applicant but how each applicant met such parameters is neither mentioned nor are they discernible.

137 In its 25th meeting^{*} held on 10.01.2005, the Screening

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.....The sizes of blocks in terms of reserves are large and the individual requirements of the sponge iron/steel producers were comparatively smaller. All the meritorious applicants deserve to be given captive coal. In order to accommodate all the meritorious and deserving cases, these blocks would need to be sub-divided which would result in enormous loss of coal between barriers because of statutory and practical mining conditions. Therefore, to sub-block the larger blocks as an alternative for accommodating all the deserving cases had to be ruled out. The second alternative was of grouping the deserving cases, so that they can form a joint venture company, an SPV for mining of coal and carry out the coal mining jointly in the allocated block. This alternative was also presented to the applicant companies, but most of them had expressed reservations on grounds like cultural and administrative differences among the constituents of the joint venture company, inherently because they were competitors, the joint venture company would be off balance-sheet and may not attract sufficient lending, there could be intersee slippages in development of the end-use projects and injection of equity by the constituents which could jeopardize the mining project and would not lead to production at an early stage. A number of other similar objections to the formation of joint venture company or mining through SPV were put forward by a number of applicants. This alternative also, therefore, had to be left alone. It was then discussed that for each natural block, one applicant company who had the highest stake and which was likely to take up proper mining at the earliest, could be designated the Leader company and allocated a captive block and a group of other meritorious companies could be nominated as associated companies for supply of coal by the leader company to these designated associates. The amount of coal to be supplied by the leader company to the associate company would have a ceiling determined by the assessed requirement of the associate company, after deducting the linked quantum of coal given by CIL/its subsidiaries. The leader company would commit to supply the ceiling amount of coal to the



associate company depending upon its requirements i.e. as and when the plant of the associate company comes up, its requirements would be met upto the level of ceiling quantum by the leader company. The yearly percentage of satisfaction through this supply would be in the same proportion as the rated production capacity of the mine, to be approved during the mining plan, to the total of the assessed requirements of the leader (after fully protecting earlier allocation, if any) and the associated companies attached to a coal block. In the alternative, this supply of coal from the leader company to the associated companies could be done through MCL also where depending on the actual requirement of the associate company, subject to the ceiling, MCL would add service charge, gather coal from the leader company and supply the same to the associate company. In either of these cases, coal would be transferred from the leader company to the associate company at administratively determined transfer price and not at any free market price or notified price of CIL, as this arrangement is in lieu of giving coal blocks to the associate companies and their taking up captive mining themselves. This administrative transfer price would be determined by Ministry of Coal through its sub-committee headed by Addl. Secretary (Coal). Having decided as above, the Screening Committee proceeded to select the leader and the associate companies.

.....To sum up, the following companies were found deserving of allocation of coal blocks alongwith their status:

Block	Name of the Company	Status
Utkal A	To be merged with Gopalprasad for Mining by MCL as one mine or by Jindal Thermal Power Ltd./ Jindal Vijayanagar Ltd. and include Jindal Stainless Steel Ltd. as a linked Consumer or an associate. Final decision and details to be taken up in the Ministry of Coal.	
Talabira II	NLC Priority linkage to be given for supply of coal to companies to be worked out in the Ministry of Coal so that their yearly satisfaction level based on their assessed requirement after adjusting the linkage is about equal to those companies in the other blocks.	
Bijahan	Bhushan Limited Associate companies to be worked out in the Ministry of Coal so that their yearly satisfaction level based on their assessed requirement after adjusting the linkages is about equal to the associate companies in the other block.	Leader Company
Radhikapur (West)	Rungta Mines Associate companies to be worked out in the Ministry of Coal, so that their yearly satisfaction level based on their assessed requirement after adjusting the linkages is about equal to the associate companies in the other block.	Leader Company
Radhikapur (East)	Tata Sponge Iron Ltd. Associate companies to be worked out in the Ministry of Coal, so that their yearly satisfaction level based on their assessed requirement after adjusting the linkages is about equal to the associate companies in the other block.	Leader Company

To the extent possible, linkaged/associate companies would be grouped in the blocks sought by them.



Committee considered allocation of five coal blocks in the MCL area. Thirty applicants made presentations before the Committee. Many of these applicants were meritorious. The size of these blocks was large compared to the requirement of the applicants. The Screening Committee decided that for each such block, one applicant company who had the highest stake and which was likely

Following companies were considered to be included as associate companies or for linkages:

- 1) Jindal Stainless Steel Ltd.
- 2) Orissa Sponge Iron Ltd.
- 3) SMC Power Generation Ltd.
- 4) OCL India Limited
- 5) Shree Metalliks Limited
- 6) Scaw Industries Limited
- 7) Deepak Steel & Power Limited
- 8) SPS Sponge Iron Limited
- 9) Shyam DRI Power Limited

[However, subsequently after the long-term linkage of Aditya Aluminium was revealed from records, the other three companies who substantially met with the criteria employed for selection of the above associate companies, were found includable without much change in percentage satisfaction of the earlier determined associate companies. These companies are:

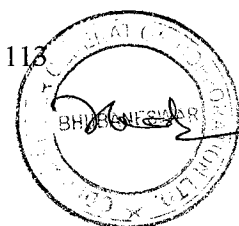
- 10) Mahavir Ferro Alloys Ltd.
- 11) Nalwa Sponge Iron Ltd.
- 12) Bajrang Ispat Private Ltd.]

The companies whose cases were not decided in their favour for the five captive blocks under consideration, are as follows:

- i. N.T.P.C.
- ii. Bengal Sponge Iron Ltd.
- iii. Mundra SEZ
- iv. Gujarat Electricity Board
- v. INDAL
- vi. OPGENCO
- vii. Madhya Utilities & Investment Ltd.
- viii. Deo Mines & Minerals P Ltd.
- ix. Madhyadesh paper Limited
- x. Sunflag
- xi. Aditya Aluminium (HINDALCO)
- xii. Jaiswal Neco
- xiii. MSEB



to take up proper mining could be designated the leader company and allocated the block and a group of other companies could be nominated as associate companies for supply of coal by the leader company to these designated associates. In our opinion, such procedure is apparently in contravention of the statutory provision contained in Section 3(3)(a)(iii) of the CMN Act. Moreover, the arrangement of consortium of companies violates Section 3(3)(a)(iii) of the CMN Act as the leader company supplies the associate share of coal to the associate company at a price (though the price is determined by the Government). Winning or mining of coal by such company is impermissible under the CMN Act. The rules of game were changed to adjust large number of applicants whose applications would have been otherwise rejected as their coal requirement was far less than the coal available in the coal block. However, in order to accommodate these applicants, a novel idea of choosing a leader company and associate companies was evolved which, as indicated above, is impermissible under the CMN Act. The merits of 13 companies whose applications were rejected have not been comparatively assessed with the 17 companies (5 leaders and 12 associates) whose applications were accepted and recommended for allocation to the Central Government.



138. In its 26th meeting ^{**} held on 01.02.2005, the Screening

**

.....Considering the financial soundness of the companies, status of advance action taken, requirement of the end-use projects already put up, the likelihood of setting up of the entire capacity of the end-use projects and the support of the Ministry of Steel and/or Power and the support of the State Government the following companies were selected by the Screening Committee for allocation of coal from captive blocks on the pattern similar to the blocks in MCL area considered by the Screening Committee in its meeting held on 10.1.2005.

1. Anjani Steels Pvt. Ltd.
2. Hindustan Zinc Limited
3. Chattisgarh Electricity Company Ltd.
4. Ind Agro-Synergy Ltd.
5. Ispat Godavari Ltd.
6. Jayaswal Neco Ltd.
7. Jindal Steel and Power Ltd.
8. MSP Steel and Power Ltd.
9. Nalwa Sponge Iron Ltd.
10. Nav Bharat Coalfields Pvt. Ltd.
11. Prakash Industries Ltd.
12. Sri Bajrang Power and Ispat Ltd.
13. Sri Nakoda Ispat Ltd.
14. Sunflag Iron & Steel Co. Ltd.
15. Vandana Global Ltd.

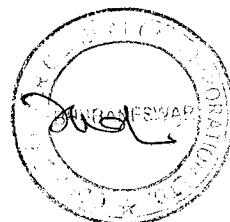
It was decided to allocate coal from the captive blocks in the same way as decided in case of blocks in MCL area, the Committee proceeded to listing out the possible leaders from among the selected companies and listed out the following possible leaders:

1. Hindustan Zinc Ltd.
2. Chhattisgarh Electricity Company Ltd.
3. Jayaswal Neco Ltd.
4. Jindal Steel & Power Ltd.
5. Prakash Industries Ltd.
6. Sunflag Iron & Steel Co. Ltd.
7. Consortium of Nav Bharat Coalfields Pvt. Ltd.,
Ind Agro Synergy; Ispat Godawari, Sri Bajrang Power & Ispat Ltd.,
Sri Nakoda Ispal Ltd., Vandana Global Ltd.

It was decided by the Committee that detailed formulation of groups or 'common pool' for allocation of coal/blocks in line with the dispensation being contemplated in MCL blocks, will be worked out by the Ministry of Coal. In this regard, it was decided that the following three alternative formulations for mining and distribution of coal by the group from the captive mine appear workable.

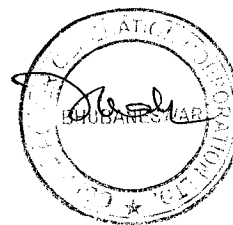
- i) Formation of a Consortium company which will mine coal and distribute among the consortium members.
- ii) If no consortium emerges by consensus, a leader may be identified in the group who will do mining of coal and distribute it among the members of the group at a transfer price to be fixed by a Committee in the Ministry of Coal.
- iii) If the group members and leaders are not agreeable to a direct dealing with each other, they being competitors among themselves, the subsidiary (here SECL) of CIL operating in that area shall undertake distribution of the coal to the associate companies at the transfer price fixed by a Committee in the Ministry of Coal.

Ministry of Steel raised the issue that a number of companies have, in their presentations, mentioned the capacity of the end-use projects in excess of what has been recommended by the Ministry of Steel and a view has to be taken on the same. Further it was

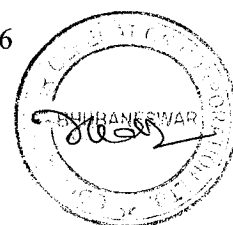


Committee considered allocation of five blocks in SECL area. Twenty-five applicants had applied for these blocks. Ten applicants who had submitted their applications after the cut-off date were rejected. The remaining fifteen were chosen for allocation on the same lines as was done in the 25th meeting for allocation of coal blocks in the MCL area. Of these 15 applicants, the Screening Committee listed out seven companies as possible leaders for 5 blocks. The procedure followed in the 26th meeting suffered from the flaws similar to recommendations made by the Screening Committee in its 25th meeting. Moreover, the minutes of the 26th meeting reveal that the Ministry of Steel raised the issue that a number of companies have, in their presentations, mentioned the capacity of the end-use projects in excess of what has been recommended by the Ministry of Steel. It is further seen that the representative of the concerned State Government had stated that the ground realities of the projects needed to be verified and the capacities of the end-use plants and coal requirements of such projects is required to be confirmed, but despite that, the Screening Committee proceeded to list out the possible leaders from among

also observed that a number of companies have raised the proposed capacity of their end-use projects after the cut-off date of 28.6.2004. On this, representative of the State Government stated that the ground realities of the projects need to be verified and the capacities of the end-use plants and coal requirements of such projects require to be confirmed. Therefore, the Screening Committee decided that a Committee of the representatives of the Ministry of Steel and Ministry of Power, Government of Chhattisgarh and the Ministry of Coal will sit in a meeting and assess and firm up the capacities and coal requirement. The Meeting would be convened in the Ministry of Coal.



the selected companies, viz., 1. Hindustan Zinc Ltd.; 2. Chhattisgarh Electricity Company Ltd.; 3. Jayaswal Neco Ltd.; 4. Jindal Steel & Power Ltd.; 5. Prakash Industries Ltd.; 6. Sunflag Iron & Steel Co. Ltd.; and 7. Consortium of Nav Bharat Coalfields Pvt. Ltd., Ind Agro Synergy Ltd., Ispat Godawari Ltd., Sri Bajrang Power & Ispat Ltd., Sri Nakoda Ispat Ltd. and Vandana Global Ltd. Moreover, the Screening Committee did not assess the capacities and coal requirement of these companies. The Committee decided that detailed formulation of groups or 'common pool' for allocation of coal/blocks in line with the dispensation being contemplated in MCL blocks will be worked out by the Ministry of Coal. In our view, the expression 'a company' occurring in Section 3(3)(a)(iii) of the CMN Act does not cover "consortium of companies" or "formulation of groups" or "common pool". The decision of the Screening Committee to recommend allocation of coal blocks to consortium of companies or formulation of groups or common pool is in contravention of Section 3(3)(a)(iii) of the CMN Act. CMN Act places embargo on granting the leases for winning or mining coal to persons other than those mentioned in Section 3(3)(a)(iii). Consortium of companies surely falls outside Section 3(3)(a)(iii). The statutory scheme of the CMN Act generally and Section 3(3)(a)(iii) in particular have been given a complete go-bye in the



procedure followed by the Screening Committee and finally by issuing allocation letters to one leader company with obligation to share associate's share of coal to the associate company at a price determinable by the Government.

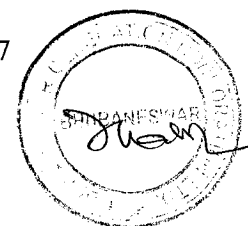
139. In the 27th meeting *** held on 01.03.2005, the

The above submissions of various companies who made presentation before the Screening Committee were deliberated by the members of the committee in details and with the support of the representatives of the state governments concerned, representatives of the administrative ministries, such as Ministry Steel, Ministry Power, Ministry of Commerce and Industries (Deptt. of Industrial Policy and Promotion) and the Ministry of Railway and other members, allocation of the following blocks in favour of the companies mentioned against each in line with consortium/leader and associate approach adopted in case of the blocks in MCL and SECL areas, was decided:-

- | | | | |
|------|-----------------------|---|-------------------|
| i) | North Dhadu (670 mt.) | -Tata Power | - Leader |
| | | Subject to their studying the details and making available their views to Min. of Coal who would then take an appropriate decision in the matter. | |
| | | M/s. Adhunik Alloys and Power Limited] | |
| | | M/s. Pawanjay Iron and Steel Ltd. |] Associates |
| | | M/s Jharkhand Ispat Ltd. |] Associates |
| ii) | Bundu | -Rungta Mines Ltd | Leader/consortium |
| | | Jai Balaji Sponge Ltd. | |
| iii) | Ardhagram | -Sova Ispat Ltd. | Leader |
| | | - Bengal Sponge Iron Manufactures Mining Ltd. | |
| iv) | Parvatpur | Electrosteels Casting Ltd. | |
| v) | Gondulpara | -Tenughat Vidyut Nigam Ltd. | |
| | | - Damodar Valley Corporation Ltd. | |

TVNL laid claim to Gondulpara on the assertion that since they have the adjoining block of Badan, it would save coal if the two are mined together. CMPDIL clarified that there had to be two separate mines looking to the geography of the block and, therefore, the question of coal saving does not arise. It was decided to share the produce between DVC and TVNL. Leader would be decided in the Ministry of Coal.

- | | | | |
|-------|-------------------|--|--|
| vi) | Pirpainti-Barahat | - Shyam Sel Ltd. | |
| | | - Rashmi Cement Ltd. | |
| vii) | Mahan | - M/s. Hindalco (subject to confirmation by Govt. of Madhya Pradesh) | |
| viii) | Gurha (East) | -M/s. Marudhar Power Pvt. Ltd. | |



Screening Committee considered allocation of blocks in the CCL

area while in 28th meeting held on 15.04.2005, the Committee

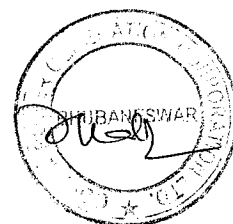
- ix) Dumri - Neelachal Iron & Power Ltd.
- Bajrang Ispat Pvt. Ltd.

6. In regard to the decision taken on allocation of Mahan coal block to M/s Hindalco since the representative of Govt. of Madhya Pradesh made repeated request to consider to allocation of the block in favour of the Madhya Pradesh State Mineral Development Corporation Limited, it was observed by the Chairman of the Screening Committee that allocation of Mahan block to Hindalco is likely to lead to substantial value addition and economic activities in the state generating considerable revenue to the State exchequer. The State Mineral Corporation can ask for other blocks such as Amelia and Amelia north in the vicinity of the Mahan block. However, considering the overall position, it was decided that it would be appropriate to have the views of the Govt. of Madhya Pradesh on the same. It was decided that within a CIL subsidiary area, production from the blocks, instead of a one to one relation between the leader and the associates, it could be pooled and shared amongst the associate companies via the local CIL subsidiaries. The coal from these blocks would be mined by the designated leader and transferred at a price to be determined administratively as in the case of MCL and SECL blocks.

The issue of change of the area of the Gare-Palma-IV/I block which was allocated to M/s. Jindal Steel and Power Ltd., by the allocatee company themselves was also discussed. The details of the case was explained before the Screening Committee. It was stated that M/s. Jindal Steel & Power Limited had shifted the area of the block to cover an adjoining area containing a coal reserve of about 15 million tonne between the border of the State of Orissa and block boundary which is in the State of Chhattisgarh. On the other side, a portion of the block containing a reserve of about 36 million tonne under forest cover and human habitation has been left out matching the acreage of the changed area with the acreage area of the block allocated to them. It was pointed out by CMPDIL that the area between Orissa border and block boundary which has been covered by M/s. Jindal Steel and Power Ltd., could not form an independent block and should have been included earlier in the area of Gare-Palma-IV/I. It was also stated that M/s. Jindal Steel and Power Ltd., have already obtained a lease over the area which contains the un-allocated area covered by them with the approval to the mining plan and previous approval by the Central Government for grant of mining lease. In view of the same it was held by the Committee that it was an error both on the part of the Government and the Company and this needed to be regularized. Thereafter, it was decided that M/s. Jindal Steel and Power Ltd. should mine the left out area of the block under forest cover and human habitation while mining the reserve in the extra covered area. Accordingly, the representatives of M/s. Jindal Steel and Power Ltd. were called before the Committee and they were informed that they should work the entire area of the block including the forest area and the area under villages and also the additional area in question which has been covered by them and they should give details of the whole area and its coal reserves to the CMPDIL and Ministry of Coal and the mining plan be accordingly revised and considered.

i) Patrapara

Looking to the size of the project, investment involved etc. it was decided that the leadership should go to M/s. Bhushan Steel and Strips Limited and for the associate status M/s. Nepaz Metalicks who had already been allocated a sub-block in Patrapara would need to be included, M/s. Visa Industries in view of the progress achieved by them need to be included and after checking up the availability of reserves, case of M/s. Ocean Ispat could be decided in the Ministry of Coal for inclusion of otherwise. The committee discussed at length the limited reserve available in Patrapara. Considering the requirement of the above applicants and the fact that Aunli block, north of Patrapara, which was yet to be explored in detail, had access from Patrapara and Machhakatta, most of the intervening boundaries of Aunli being occupied by



considered allocation of blocks in SECL area. Neither the counter affidavit nor the minutes of these two meetings show that assessment of comparative merits of the applicants was done. The Screening Committee continued with consortium / leader and associate approach, as was done for the MCL area in the 26th meeting. This procedure is clearly in contravention of Section 3(3)(a)(iii) of the CMN Act. Except recording the particulars of these

Patrapara, it was decided that CMPDIL would redraw the boundary of Patrapara so as to include Aunli and the necessary part of Machhakatta so as to result in a fairly large size block to meet the requirement of these companies.

ii) **Marki Mangli II, III and IV**

It was decided that Marki Mangli II, III and IV be allocated to M/s. Viangana. As regards the request of M/s BS Ispat it was felt that since they already have MM I and if the percentage satisfaction with MM I matches the percentage satisfaction of Virangana with Marki Mangli II, III and then BS Ispat does not have a case for Marki Mangli II.

iii) **Nirad Malegaon**

The Screening Committee decided to allocate this block to M/s. Gupta Metalicks and Power as the leader and they could give rejects/middlings to M/s. Gupta Coalfields for their proposed power plants. As the grade of coal was superior, allocation of this coal block for power generation would not be desirable.

iv) **Panch Bahini**

The Screening Committee decided to allocate this block to M/s. Radhe Industries they being the sole applicant for this block.

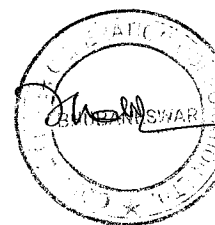
v) **Bisrar**

It was decided that this block be allocated to the following companies:

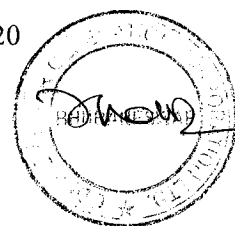
i) Chattisgarh State Electricity Board as leader and the following as associates:

- a) Ultra Tech (for their pre cut of project requirement)
- b) M/s Chattisgarh Steel and Power
- c) M/s Singhal Enterprises
- d) M/s Vnadana
- e) M/s Akshay Investment (subject to the views of the Ministry of Steel)

CMD, CMPDIL informed that earlier Madanpur was proposed to be sub-blocked into two blocks and now Bisrar is also being proposed to be sub-blocked in two blocks. However, between the four sub-blocks, i.e. two sub blocks of Bisrar and two of Madanpur, one each from Bisrar and Madanpur, could be combined to be called, Madanpur North or Bisrar (North) and Madanpur (South) or Bisrar (South) could be mined as one block each. Consequently, the total number of blocks between Bisrar and Madanpur would remain two. One would be with about 10 million tones of extractable reserves and the other about 120 million tones of extractable reserves. It was decided that since CSEB would be inducted as the leader consequently one leader from among those selected as leaders in the 26th meeting would need to be dropped. This matter would be analysed and decided in the Ministry of Coal. It was also decided that the allocattees under the leader-associate/consortium concept should be called in the Ministry of Coal for seeking their views and finalizing the sharing of coal from captive mine arrangement between them.



companies, who had given presentation, nothing is said about *inter se* priority or comparative merits of the applicants. By adopting consortium / leader and associate approach, the Screening Committee had indirectly done away with *inter se* priority and merit of the applicant companies. The consideration does not reveal application of any objective criterion. It is admitted in para 206 of the counter affidavit filed by the Central Government that as regards the applicant - Neepaz Metalicks whose case was considered in 28th meeting, the recommendation of the Administrative Ministry was contrary to the recommendation of the State Government, yet the allocation of a sub-block in Patrapara block was made on the basis of State Government's recommendation. Moreover, it may be noticed that though the representative of the State Government supported the request of M/s Bhushan Steel and Strips Limited for allocation of Patrapara block but he stated that the State Government supports the claimants for Patrapara in the following order: (a) M/s Neepaz Metalicks Limited, (b) M/s SCAW, (c) M/s Visa Industries, (d) M/s Shree Metalicks, all of whom have already entered into a MOU with the Government of Orissa and the order of priority for M/s Bhushan Steel and Strips Limited would be lower than these four claimants. As regards Panch Bahini block, the representative of the State Government stated that the applicant,



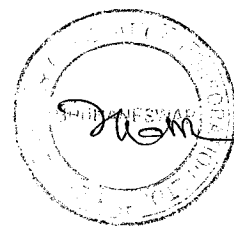
M/s Shree Radha Industries, may be considered for a share and inclusion in the earliest list of blocks allocated in 26th meeting, still the Screening Committee decided to recommend allocation of Panch Bahini block to M/s Shree Radha Industries.

140. The counter affidavit in para 208 as regards 29th meeting ***** held on 03.06.2005 states that the Screening Committee considered a detailed presentation of modalities of

CMD, CMPDIL stated that with respect to mining in the new patrapara block, which would include Aunil and part of Machhakatta, that Aunil is yet to be explored in detail and part of Machhakatta would also need to be explored. This would take like time. It was pointed out to CMD, CMPDIL that they should examine the possibility of allowing mining in the existing patrapara and thereafter dove-tailing the mining plan of new patrapara which would include Machhakata and Aunil. In any cases Aunil is in the dip side of patrapara and mining would reach there only after many years. Therefore, its immediate exploration for the purposes of mining may not be necessary. Chairman, Screening Committee pointed out that for the purposes of calculating reserves, the data available as on date should be taken into consideration. He also directed that Machhakatta should be explored within the next six months by the time the mining plan for existing patrapara comes up. In case dove-tailing is possible then the mining plan should be approved otherwise it could be modified suitably, instead of holding back the entire process.

.....Sharing of Mahan Block between M/s. Hindalco and Essar Power Limited: The matter was discussed and by way of recapitulation the screening committee was informed that in the last meeting of the screening committee the representative of Government of Madhya Pradesh had taken a position that the Mahan block should be given to the State Mineral Development considering the overall merit of the competing claimants the block should be allocated to M/s Hindalco for their aluminium project in which the coal should be used in the captive power plant. However, the final decision was to be taken in consultation with the Government of Madhya Pradesh. The Government of Madhya Pradesh subsequently have given up their position for allocation of Mahan block to the State Mineral Development Corporation and have instead supported allocation of this block to M/s Essar Power Limited. Representative from Government of Madhya Pradesh stated that as they are power deficit state, they would recommend allocation of Mahan coal block to Essar Power Limited only. Representative from the Ministry of power also supported the request of Government of Madhya Pradesh. The Screening Committee decided that the views of the State Government and of the representative of Ministry of power be taken on record as they too had merit.

Iron and Case of M/s. Neelachal Power Limited: The Screening Committee took note of the assessed requirement of M/s. Neelachal Iron and Power Limited and also that of its possible associate M/s. Bajrang Ispat Limited. It also took note of the fact that the overall percentage satisfaction was nearly 50% from the allocated block of Dumri. The decision for allocation of Dumri to M/s. Neelachal Iron and Power Limited as leader with M/s. Bajrang Ispat as associate would remain unchanged.



competitive bidding by the CMPDIL. Despite the fact that modalities for auctioning through competitive bidding were discussed in 29th meeting, that was not carried further as is seen from the minutes of the 30th meeting of the Screening Committee held on 18.10.2005.

141. The minutes of 30th meeting[!] show that the Screening

! CMPDIL made an audio visual presentation Gare Pelma Blocks viz, IV/1, IV/2, IV/3, IV/6 and IV/7 copy of the presentation is kept at Annexure-II. CMPDIL essentially said that partial detailed exploration, except in IV/6, was done by the allocattees themselves and exploration, in the lower seams in IV/2 and 3 is underway, precise data would be available only thereafter, and hence the estimates of reserves arrived at, based on GSI boreholes which are very few, is highly tentative in respect of lower seams.

On the availability side

Addition to Gare Pelma IV/1

On account of additional area is estimated at 33.6 mill. Tonnes.

On account of lower seams with inferior grade coals, which may not be extracted being deep underground and of inferior grades, is for 4.76 mill. T and is not being taken into amount.

Addition to Gare Pelma IV/2 and IV/3

On account of lower seams is estimated at 35 mill. Tonnes. Of which 22.12 mill tonnes is of superior grade.

Gare Pelma IV/6

The block has been detailed explored by CMPDIL and has total of 102.77 mill tonnes of extractable reserves of which 13.68 mill Tonnes in the lower seams are of superior grades and the remaining 89.09 are inferior grade of which 27.79 are in the lower seams (underground)

Gare Pelma IV/7

The block has been partially detail explored by the allocate. Exploration of the lower seams has not yet been taken up or mandated. The upper seams (opencast) in the approved mining plan show extractable reserves of 56.62 million tonnes. Extractable Reserves in the lower seams are tentatively assessed at 21.98 mill tones of which 14.56 are of superior grade

On the Demand Side

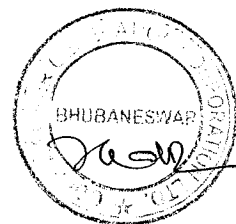
JSPL and JPL

The existing Sponge Iron plant of JSPL of 6 Ltpa capacity requires 72 mill T of inferior grade coal for a 30 year life of which 11 million tones have already been extracted from GP IV/1. The 1000 MW power plants of JPL require about 158 mill T of ROM, considering the inferior grades of coal for a 30 years life.

The Proposed expansion of 6.6. Itpa in sponge Iron capacity of JSPL requires about 80 mill T of inferior grade coal for 30 year life for which GP IV/6 is being sought. The proposed 2.6 itpa sponge iron through the Rotary Hearth Furnace (RHF) of JSPL requires 6.34 mill T of 10-12% ash coal which would result in an increased ROM Quantity depending upon the yield upon washing.

The reserves available in IV/1, Considering 11 mill T already extracted, would be 95.88 mill T. with extracted reserves it would be 106.88 mill. T another 4.76 mill T are inferior and in UG. Total reserve in GP IV/2 and IV/3 would be 160 + 35 = 195 Mill T. Where the 35 addition is highly tentative.

Total available in IV/1, IV/2 and IV/3 = 95.88 + 11 + 4.76 + 195 = 306.64 mill T including 22.12 superior in UG and 17.64 inferior in UG. Inferior equivalent not counting 4.76 in GP IV/1 would be 326.86 mill. T



Total required = $72+79.2+157.5 = 308.7$ mill T inferior grade. Not counting the requirement of RHF as superior grade coal in IV/2 and IV/3 may not be suitable for the RHF.

Another 34 mill T inferior equivalent count be added to the requirement if washing yield is taken as 36% instead of 40% for sponge iron and 80% yield is taken for power instead of 100% with rom as direct feed. Addition on account of RHF would depend upon the wash yield, if it is taken as 50% the addition would be about 13 mill tones of superior grade rom coal.

Representative from the Government of Chhattisgarh stated that JSPL and JPL are two separate Companies/legal entities. JPL cannot be compelled to share coal given to them with JSPL. Company Law does not recognize Group companies. Section 370(1B) mention companies under the same management and JSPL JPL do not meet the criteria. Separate mining leases have been executed with them. They have different shareholders, combining them would create legal complications and therefore, they should be treated apart. Reserves in GP IV/2 and GP IV/3 should be kept out of the reckoning when considering request of GP IV/6 as the company is the same and the project is of expansion in capacity.

CMD SECL stated that when allocation are being made in groups why should sister companies not be asked to share first.

Representative from the Govt. of Chattisgarh stated that this would be discrimination against JSPL JPL. When excess coal cannot be taken back from earlier allocattees why should JSPL-JPL be singled out. Besides, all is being based on data/projections which is admittedly highly tentative. He further said that power generation (JPL) is crucial and should not be affected.

Chairman sought views of the Ministry of Steel. The representatives of Mos stated that the date is tentative, it is not fool proof. JSPL and JPL are two separate companies and that they agreed with views of the representative from Chattisgarh Govt.

Representative from CEA (power) stated that coal blocks given for power project of JPL should be kept apart and not clubbed with Sponge Iron project's requirement of JSPL.

Chairman observed that large numbers of people are looking for coal. There should be a sense of enquiry for meeting requirement of people. Legal solution can and should be found for it.

Representative from the Govt. of Chattisgarh stated that JSPL and JPL should not be clubbed. People have invested in these companies. They are public limited companies, listed companies. There would be complications.

Chairman sought views of Chattisgarh on clubbing IV/1 and IV/6. This was agreed and supported by Chattisgarh, CEA and MoS.

It was accordingly decided that reserves in GP IV/2 and IV/3 would be kept out of consideration for deciding on extent of alloction in IV/6. The extractable reserves in GP IV/1 + GP IV/6 are $95.88 + 102.77 = 198.65$ mill. T.

The Requirement of JSPL for 6 Itpa + 6.6 Itpa S.I comes to $72+11+79.2=140.2$ mill. T. And if 36% yield in washing is considered, given high percentage of G grade coal in GP IV/1 and 6 this becomes 157.2 mill T with addition of 17 mill. T.

As to the requirement in 2.6 Itpa in RHF, CMD CMDPIL was of the view that coal from lower seams of IV/6 may not yield 10-12% ash coal on washing and that JSPL should seek linkage of superior coal.

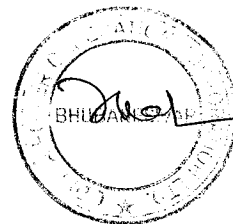
Representative from the Govt. of Chattisgarh stated that such superior coal is available nowhere and that JSPL should be allowed to innovate and use the lower seams to meet their RHF Requirement. MoC could keep condition that when full facts are known at the mining plan appropriately at the stage and allocate IV/6 to JSPL and Nalwa Sponge.

CMD CMPDIL said that superior coal in lower seams if IV/2 and IV/3 should not be used for power generation and but for sponge Iron marking.

Chairman, summing up the discussion, observed that IV/2 IV/3 are to be kept out; reserve in IV/1 and IV/6 are be clubbed; RHF requirement be kept out; requirement of partner company M/s Nalwa Sponge be included; the existing requirement be accounted for at 100% satisfaction and expansion requirement of JSPL and requirement of Nalwa Sponge be given same satisfaction level as the overall in SECL area. If surplus still remains in IV/1+ after this then JSPL-Nalwa be asked to select another allocattee failing which the excess reserves be handed over to SECL, in terms of annual production, at transfer price to be determined by the Government.

Coal availability and requirement in IV/1

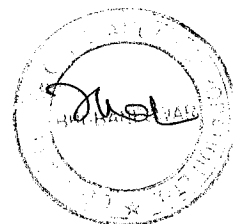
	Inferior	Superior
Total		
Available;	$95.88+89.09=184.97$	13.68



Committee decided to club Gare Palma Blocks IV/1 and IV/6 and further decided to allot the combined block (IV/1 and IV/6) to JSPL with Nalwa Sponge as a partner company. The minutes also record that if surplus still remains in the block, then JSPL-Nalwa be asked to select another allottee failing which the excess reserves to be handed over to SECL, in terms of annual production, at transfer price to be determined by the Government. Coal availability and requirement in Gare Palma IV/1 block as recorded in the minutes show that 31.05 m.t. remained surplus with these companies. In the 30th meeting, the Screening Committee also recommended to allot Dumri Coal Block to M/s. Neelachal and M/s. Bajrang despite the fact that CMPDIL informed the Committee that north portion (rise side) of Dumri remains unexplored in detail on account of security problems. The unexplored portion has superior grades of coal of about 15 m.t. As regards Gare Palma IV/8 block, the minutes indicate that for this block M/s CECL; Consortium of five applicants

198.65

Required :	JSPL	157.2	NIL
At 100%	Nalwa	026.6	
Satisfaction			
Required	JSPL	144.7 (satisfaction level for existing 6 Itpa SI at 100%)	
		At 86%	Nalwa 022.9
Satisfaction		167.6	
Surplus:		17.37	13.68
31.05			



and M/s Jayaswal Neco Ltd. had made presentations. Consortium of five applicants companies was not recommended apparently *inter alia* for the reasons; (1) that the Consortium of five applicants companies was yet to be incorporated and (2) that they claimed the blocks mainly on the ground of promoting consortium approach. It is interesting to note that in the earlier meetings for allocation of coal blocks in MCL, SECL and CCL areas, the Screening Committee on its own adopted consortium / leader and associate approach and the factor such as that the consortium company was not incorporated was not at all viewed as an impediment for recommendation but in this meeting the claim of consortium of five companies was not accepted and it was noted that they may be accommodated in other blocks. The application of norms by the Screening Committee changed from meeting to meeting. There was no consistent or uniform consideration. The portion of Dumri Coal Block bearing superior grade was admittedly unexplored but it was recommended for allocation. The clubbing of blocks or sub-blocks was done which was not the brief given to the Screening Committee.

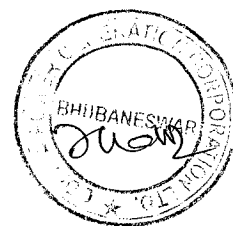
141.1 The recommendations made by the Screening Committee in its 30th meeting suffer from the same infirmities as the



recommendations made by it in favour of other applicants in earlier meetings.

142. In the 31st meeting held on 23.06.2006, the Screening Committee examined the applications for lignite blocks. 25 applicants made their presentation. The Screening Committee, after noticing the particulars of each of the 25 applicants individually and recording that it discussed the presentations made by the applicants and that it took into consideration the views/comments of the Ministry of Power, Ministry of Steel, concerned State Governments and the guidelines, recommended allocation of lignite blocks to 6 applicants.

143. In September, 2005, the Ministry of Coal issued advertisement inviting applications for allocation of 20 coal blocks. This was the first time when applications were invited for allocation of coal blocks by way of an advertisement. The applications received pursuant to the above advertisement were taken up for consideration by the Screening Committee in 32nd meeting held on 29.06.2006 and 30.06.2006, 33rd meeting held on 31.08.2006, 01.09.2006 and 02.09.2006 and 34th meeting held on 07.09.2006 and 08.09.2006. In the 32nd meeting, the Screening Committee considered allocation of Rohne, Sitanala, Tenughat-Jhirki, Choritand-Taliya and Jogeswar coal blocks. 54 companies (some



of which were group companies) made presentations. The Committee also considered applications of those companies which did not come for presentation. The minutes of 32nd meeting !! record that the applications received in the Ministry regarding above coal blocks were sent to the State Government of Jharkhand and the concerned Administrative Ministries in the Central Government for their views/comments. The views/comments of the Government of Jharkhand were received on 28.06.2006. The Committee then recommended the allocation of Rohne coal block jointly in favour of M/s. JSW Steel Ltd., M/s. Bhushan Steel and Power Ltd. and M/s. Jai Balaji Sponge Ltd. Tenughat-Jhirki coal block was recommended jointly in favour of M/s. Rashtriya Ispat Nigam Limited

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The Screening Committee discussed in detail the presentations made and the applications submitted by the companies. Taking into consideration the views/comments of the Ministry of Power, Ministry of Steel, concerned State Governments, and considering the guidelines laid down for the allocation of coal/lignite blocks, the Screening Committee decided to recommend the allocation of the coal blocks as follows:

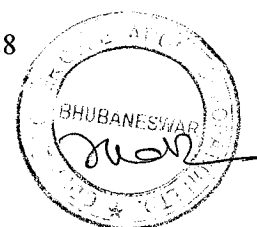
- i) Rohne coal block jointly in favour of M/s. JSW Steels Limited, M/s. Bhushan Steel and Power Limited and M/s. Jai Balaji Sponge Limited.
- ii) Sitanala coal block in favour of M/s. Steel Authority of India Limited.
- iii) Tenughat-Jhirki coal block jointly in favour of M/s. Rashtriya Ispat Nigam Limited and M/s. Jindal Steel and Power Ltd.
- iv) Choritand-Taliaya coal block jointly in favour of M/s. Sunflag Iron and Steel Limited and M/s Rungta Mines Limited.

It was further decided that a sub-committee consisting of Joint Secretary, Ministry of Coal and Joint Secretary, Ministry of Steel would have discussions with the recommended joint allocattees of Rohne, Tenughat Jhirki and Choritand-Taliaya coal blocks and work out the modalities and details of the arrangements of the joint allocation. In case there is a problem in the allocation as proposed, the sub-committee will bring the matter again before the screening committee.

As regards Jogeswar coal block the representative of the Government of Jharkand had informed the Committee that the State Government were of the view that due to some problems at the local level, it may be difficult for private companies to undertake coal mining. He further added that this block may be earmarked for some State Public Sector Undertaking. The Screening Committee also took note of the fact that this block was earlier allocated but due to some local problems the allocattee could not commence mining and it was consequently surrendered. The Screening Committee, therefore, decided not to recommend allocation of Jogeswar block in favour of any applicant for the time being.



and M/s. Jindal Steel and Power Limited while Choritand-Taliya was recommended jointly in favour of M/s. Sunflag Iron and Steel Limited and M/s. Rungta Mines Limited. Insofar as Sitanala coal block is concerned, the Committee recommended the said block in favour of M/s. Steel Authority of India Limited. As regards Jogeswar coal block, the Committee in view of the comments of the representative of the Government of Jharkand decided not to recommend allocation of that block in favour of any applicant for the time being. The minutes of 32nd meeting do not show how and in what manner the applications of those companies were considered which did not come for presentation. There is no comparative assessment or evaluation of the applicants. Why the chosen companies have been preferred over the others is not discernible? Merely because there were large number of applicants, it did not mean that the consideration of each applicant could not have been recorded or comparative assessment or evaluation of the applicants could not have been made. What are the reasons for recommending three blocks jointly in favour of more than one company are neither recorded nor disclosed in the minutes. The recommendations for allocation of blocks jointly in favour of two or three companies, as indicated earlier, are not in conformity with the CMN Act. Rather, they are in contravention thereto.



144. In the 33rd meeting, the Screening Committee considered allocation of Tubed, Chakla, Jitpur and Pendedappa coal blocks. In that meeting, 165 companies made their presentations. The applications of 16 companies which did not turn up for making presentations were also considered. In the 32nd meeting held on three dates, namely, 31st August and 1st and 2nd September, 2006, the Committee decided that recommendations regarding the above four blocks would be finalised after hearing the applicants for the remaining 11 blocks, for which the meeting was already notified for 07.09.2006 and 08.09.2006.

145. On 07.09.2006 and 08.09.2006, the 34th meeting of the Screening Committee was held to consider allocation of Ansettipali, Punukula-Chilka, Brahmpuri, Mandla North, Rawanwara North, Sial-Shoghri Lohara East, Kosar-Dongargaon, Warora West (North), Biharinath and Mednirai coal blocks. In that meeting, geological reserves of some of the coal blocks were reported by CMPDIL/SCCL. The presentations were made by 101 companies. 44 companies did not turn up for making presentations. However, their applications were considered. In that meeting, it was decided that the recommendations regarding the above 11 blocks would be finalized in the next meeting.



146. As seen from the above, in the 33rd meeting held on 31.08.2006, 01.09.2006 and 02.09.2006 for allocation of four blocks and in the 34th meeting held on 07.09.2006 and 08.09.2006 for allocation of 11 blocks, no final decision was taken and the matters were deferred. On 22.09.2006, the Screening Committee met regarding allocation of 15 coal blocks, which was subject matter of consideration in its 33rd and 34th meetings. The minutes^{!!!} of the

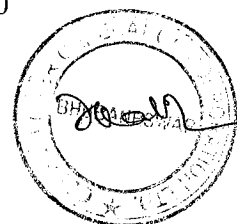
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5.3 The State Government of Jharkhand vide its letter no.571/M.C. dated 29.8.06 and letter no. 592/CS dated 21.9.06 had conveyed the following views regarding the captive coal blocks situated in the State of Jharkhand:-

<u>S.No.</u>	<u>BLOCK</u>	<u>RECOMMENDATIONS</u>
1.	Tubed	i) M/s Hindalco ii) M/s Tata Power iii) M/s Jindal Steel & Power Limited
2.	Jitpur	M/s Jindal Steel & Power Limited
3.	Chakla	i) M/s Essar Power ii) M/s Chaibasa Steel
4.	Medinirai	i) M/s JSMD C ii) M/s Rungta Mines

5.4 The State Government of Madhya Pradesh vide its letter no.F-19-36/2005/12/2 (part-I) dated 23.1.06 and letter no. F-19-36/2005/122 (Part-1) dated 12.7.06 had conveyed the following views regarding the captive coal blocks situated in the State of Madhya Pradesh.

<u>S.No.</u>	<u>BLOCK</u>	<u>RECOMMENDATIONS</u>
1.	Brahmpuri	M/s Satna Power Company Limited
2.	Mandla North	i) M/s Occidental Power Private Limited ii) M/s Jaiprakash Associates Limited
3.	Rawanwara North	M/s Ind Synergy Limited
4.	Sial-Ghoghri	M/s Prism Cement Limited



5.5 The State Government of Maharashtra vide its letter no. MMN-1005/C.R.969/Ind-9 dated 19.11.05, letter no. MMN-1005/C.R. 1000/Ind-9 dated 10.1.06, letter no. MMN-1005/C.R.969 part-II/Ind-9 dated 4.5.06 and letter no. MMN-1005/C.R.1000/Ind-9 dated 11.5.06 had conveyed the following views regarding the captive coal blocks situated in the State of Maharashtra.

<u>S.No.</u>	<u>BLOCK</u>	<u>RECOMMENDATIONS</u>
1.	Lohara East	i) M/s Murli Agro Product Private Limited ii) M/s Ultra Tech Cement Limited iii) M/s IBEL Gas Power Limited
2. Warora	West (North)	i) M/s Bhatia International Limited ii) M/s Shri Sidhbal Ispat limited iii) M/s MSP Steel Private Limited iv) M/s Central India Power Company Ltd. v) M/s Gupta Energy Limited vi) M/s Jas Toll Road Company Limited
3. Kosar-Dongargaon		M/s Wardha Power Company Private Ltd.

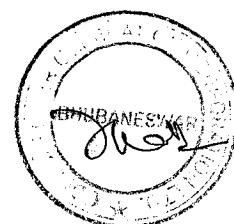
5.6 The State Government of West Bengal vide its letter no.5477/PrS/CI dated 9.8.06 had conveyed the following views regarding the captive coal blocks situated in the State of West Bengal.

<u>S.No.</u>	<u>BLOCK</u>	<u>RECOMMENDATIONS</u>
1.	Biharinath	i) M/s Bankura DRI Manufacturing Pvt. Co. Limited

5.7 The Secretary, Industries, Government of Andhra Pradesh apprised the Screening Committee that Ansettupali, Punkula-Chilka and Penedappa are located in the notified tribal areas where the provisions of AP Land Transfer Regulations are applicable. In such areas, the State Government will not be in a position to grant mining leases in favour of private sector companies. The Government of Andhra Pradesh has also brought out amendments to Section 11(5) of MMDR Act, 1957. Pursuant to this amendment grant of mining lease in Andhra Pradesh to non-tribals except public sector undertakings is prohibited in case of mines located in the notified tribal areas.

5.8 The Screening Committee discussed in detail the presentations made and the applications submitted by the companies. Taking into consideration the views/comments of the Ministry of Power, Ministry of Steel, concerned State Governments, and considering the guidelines laid down for the allocation of coal/lignite blocks, the Screening Committee decided to recommend the allocation of the coal blocks as follows:

<u>S.No.</u>	<u>BLOCK</u>	<u>Company and end use plant</u>
1. Tubed jointly to		i) M/s Hindalco Industries Ltd. for its enduse plant in Latehar, Jharkhand ii) M/s Tata Power Company Ltd. for its enduse plant in Singhbhum, Jharkhand
2. Chakla		M/s Essar Power Limited for its enduse plant in Latehar, Jharkhand



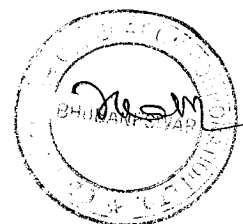
3. Jitpur	M/s Jindal Steel and Power Limited for its enduse plant in East Singhbhum, Jharkhand.
4. Mednirai <i>jointly to</i>	i) M/s Rungta Mines Limited for its enduse plant in Saraikela Kharswan, Jharkhand ii) M/s Kohinoor Steels Pvt. Ltd. for its enduse plant in Saraikela Kharswan, Jharkhand
5. Brahmpuri	M/s Pushp Steel and Mining for its enduse plant in Durg, Chhatisgarh
6. Mandla North	M/s Jaiparkash Associates Limited for its enduse plant in Madhya Pradesh/Himachal Pradesh
7. Rawanwara North	M/s SKS Ispat Limited for its enduse plant in Raipur, Chhatisgarh
8. Sial-Ghoghri	M/s Prism Cement Ltd. for its enduse plant in Satna, MP
9. Lohara East jointly to	i) M/s Murli Agro Product Ltd. for its enduse plant in Nagpur and Chandrapur, Maharashtra ii) M/s Grace Industries Ltd. for its enduse plant in Chandrapur, Maharashtra
10 Warora West (North)	M/s Bhatia International Ltd. for its enduse plant in Chandrapur, Maharashtra
11. Kosar-Dongargaon	M/s Chaman Metalics Pvt. Ltd. for enduse plant in Chandrapur, Maharashtra
12. Biharinath	M/s Bankura DRI Manufacturing Pvt. Co. Ltd. for its enduse plant in Bankura, West Bengal
13. Ansettipali	M/s Andhra Pradesh Power Generation Corporation Limited (APGENCO) for its enduse plants in Andhra Pradesh
14. Punkula-Chilka	
15. Pengedappa	

5.9 In respect of blocks recommended to be allocated jointly, the allocatee companies shall share the coal in the ratio of their assessed requirement for the capacities (end-use plants) as reflected in the original applications.



meeting held on 22.09.2006 record recommendation for allocation of 15 coal blocks.

146.1 Of these 15 blocks, three namely, Ansettipali, Punukula-Chilka and Penedappa were recommended for allocation to Andhra Pradesh Government undertaking as these blocks were located in the notified tribal area. Of the remaining twelve, the Screening Committee recommended their allocation to fifteen companies. Five companies were recommended for their power plants, three were recommended for the cement plants and remaining seven were recommended for the Sponge Iron Units. For these twelve blocks, Jharkhand recommended seven companies, Madhya Pradesh recommended five, Maharashtra recommended ten and West Bengal recommended one company. It is pertinent to notice that some of the companies like Chaman Metallica Ltd., which was recommended by the Screening Committee for Kosar Dongergaon block had no recommendation by the State Government (Maharashtra). Similarly, Pushp Steel and Mining Ltd., which was recommended for Brahmpuri block had no recommendation from the State Government (Madhya Pradesh) and so also Kohinoor Steel (P) Ltd. for Medhirai coal block had no recommendation from the State Government (Jharkhand). The



minutes do not disclose in what manner the merits of the companies which were chosen for recommendation were determined. Even particulars of the applicants individually are not noticed. There is no indication at all in the minutes of 33rd meeting and 34th meeting or the meeting held on 22.09.2006 when final decision that the conditions laid down in the guidelines are met by these companies was taken. Twenty three companies were recommended by the four State Governments while fifteen companies were finally recommended for allocation by the Screening Committee but the reasons therefor are not discernible at all. The minutes also do not disclose the criterion which the Screening Committee applied in selection of the fifteen companies and the reason for allocating twelve blocks to fifteen companies. M/s. Grace Industries Limited was recommended allocation of a coal block although that company had no recommendation/categorization. It is true that the recommendation/allocation made in favour of M/s. Grace Industries Limited was subsequently withdrawn/de-allocated but that is altogether a different matter.

147. In 2006, the Ministry of Coal invited applications for allocation of 38 coal blocks, of which 15 were reserved for the power sector. The advertisement indicated that preference will be accorded to the power sector and steel sector. Within the power

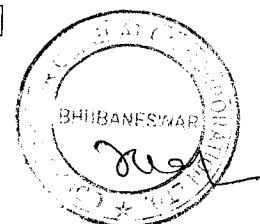


sector, it was indicated that priority shall be accorded to projects with more than 500 MW capacity. Similarly, in the steel sector, priority would be given to steel plants with more than 1 million ton per annum capacity. In response to the advertisement, more than 1400 applications were received for 38 coal blocks.

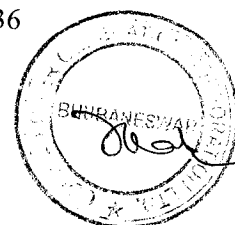
148. The allocation of coal blocks earmarked for power generation was considered by the Screening Committee in its 35th meeting which was held on 20.06.2007 to 23.06.2007, 30.07.2007 and 13.09.2007. The coal block that was numbered as one block in the advertisement was subsequently considered as two blocks. Thus, 15 coal blocks, namely, Amarkonda - Murgadangal, Ashok Karkata Central, Durgapur-II/Sariya, Durgapur-II/Taraimar, Fatehpur, Fatehpur (East), Ganeshpur, Gourangdih ABC, Lohara West & Lohara East, Mahuagarhi, Mandakini, Patal East, Rampia Dip Side of Rampia, Sayang and Seregarha were considered. The status of geological reserve of 15 blocks was indicated. The minutes[≠] of the 35th meeting briefly record the proceedings of the

[≠] The Screening Committee, thereafter, deliberated at length over the information furnished by the applicant companies in the application forms, during the presentations and subsequently. The Committee also took into consideration the views/comments of the Ministry of Power, Ministry of Steel, State Governments concerned, guidelines laid down for allocation of coal blocks, and other factors as mentioned in paragraph 10 above. The Screening Committee, accordingly, decided to recommend for allocation of coal blocks in the manner as follows:

	Name of Block	Recommended Companies	End use Plant
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1.	Mandakini	1. M/s. Monnet Ispat & Energy Ltd. 2. M/s. Jindal Photo Ltd. 3. M/s. Tata Power Comp. Ltd.	Orissa Orissa Orissa
2.	Rampia & Dip Side of Rampia	1. M/s. Sterlite Energy Ltd. 2. M/s. GMR Energy Ltd. 3. M/s. Lanco Group Ltd. 4. M/s. Navbharat Power Pvt. 5. M/s. Mittal Steel India Ltd. 6. M/s. Reliance Energy Ltd.	Orissa Orissa Orissa Orissa Orissa Orissa
3.	Durgapur II/Sariya	1. M/s. D.B. Power Ltd.	Chhattisgarh
4.	Durgapur II/Taraimar	1. M/s. Bharat Aluminium Co. Ltd.	Chhattisgarh
5.	Sayang	1. M/s. AES Chhattisgarh Energy Pvt. Ltd.	Chhattisgarh
6.	Fathepur	1. M/s. SKS Ispat & Power Ltd. 2. M/s. Prakash Industries Ltd.	Chhattisgarh Chhattisgarh
7.	Fathepur East	1. M/s. JLD Yavatmal Energy Ltd. 2. M/s. Green Infrastructure Pvt. Ltd. 3. M/s. R.K.M. Powergen Pvt. Ltd. 4. M/s. Visa Power Ltd. 5. M/s. Vandana Vidyut Energy Ltd.	Maharashtra Chhattisgarh Chhattisgarh Chhattisgarh Chhattisgarh
8.	Lohara West & Lohara East	1. M/s. Adani Power (P) Ltd. (1200 MW)	Maharashtra
9.	Ganeshpur	1. M/s. Tata Steel Ltd. (CPP-600 MW) 2. M/s. Adhunik Thermal Energy Ltd. (Equal Share) 1000 MW	Jharkhand Jharkhand
10.	Seregarha	1. M/s. Mittal Steel Ltd. 2. M/s. GVK (Gonvindwal Sahib) Ltd.	Jharkhand Punjab
11.	Ashok Karkata Central	M/s. Essar Power Ltd.	Jharkhand
12.	Patal East	M/s. Bhushan Power & Steel Ltd. (750)	Jharkhand
13.	Amarkonda Murgadangal	1. M/s. Jindal Steel & Power Ltd. 2. M/s. Gagan Sponge Iron Pvt. Ltd.	Jharkhand Jharkhand
14.	Mahuagarhi	1. CESC 2. Jas Infrastructure Capital Pvt. Ltd.	Jharkhand West Bengal



meeting held on 20.06.2007 to 23.06.2007, 30.07.2007 and 13.09.2007. The Screening Committee in that meeting recommended to allocate all the 15 blocks reserved for power sector, many of which were recommended jointly in favour of two or more companies. The minutes do not contain the particulars showing consideration of each application. They also do not disclose any comparative assessment or evaluation of the applicant companies. In what manner and for what reasons the companies were selected for recommendation are neither disclosed nor are they discernible from the minutes. Though, the guidelines[±] provide

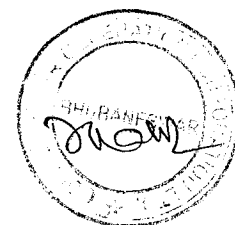
15.	Gourangdih ABC	<p>1. M/s. Himachal Emta Power Ltd. and M/s. JSW Steel Ltd. on equal share basis.</p> <p>2. Representative from the West Bengal Govt. suggested that either the block be allotted to WBMDTC Bengal or else be left unallotted. The committee felt that since WBMTDC Bengal had not applied for the block, it would not be possible to consider them. Regarding non-allotment, the matter may be placed for consideration of the Govt.</p>	
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[±] Inter-se priority for allocation of a block among competing applicants for a captive block may be decided as per the following guidelines:
 Status (stage) level of progress and state of preparedness of the projects;
 Networth of the applicant company (or in the case of a new JV, the networth of their principals);
 Production capacity as proposed in the application;
 Date of commissioning of captive mine as proposed in the application;
 Date of completion of detailed exploration (in respect of unexplored blocks only) as proposed in the application;
 Technical experience (in terms of existing capacities in coal/lignite mining and specified end use);
 Recommendation of the Administrative Ministry concerned;



for norms for consideration for *inter se* priority for allocation of a block among competing applicants for a captive block but the minutes do not disclose at all how the norms for *inter se* priority are met by the companies selected for recommendation by the Screening Committee. Many of the companies selected by the Screening Committee had no recommendation from the State Government or from the Ministry of Power and CEA and some of them had no recommendation either from the State Government or the Ministry of Power and CEA at all. For example, for Durgapur-II/Taraimar, the selected company Balco had no recommendation at all from the State Government, Ministry of Power and CEA. Although the group company M/s. Vedanta Alumina Ltd. was recommended by Ministry of Power and CEA, but it was not selected. Similarly, for Mandakini block, M/s. Tata Power Company Ltd. had no recommendation from the State Government and Ministry of Power and CEA. For Rampia and Dip Side of Rampia, Reliance Energy Ltd. did not have any recommendation from the State Government, Ministry of Power and CEA. For Fatehpur East, the selected company Visa Power Ltd. had no recommendation

Recommendation of the State Government concerned (i.e. where the captive block is located);
Track record and financial strength of the company
Preference will be accorded to the power and the steel sectors. Within the power sector also, priority shall be accorded to projects with more than 500 MW capacity. Similarly, in steel sector, priority shall be given to steel plants with more than 1 million tonne per annum capacity.



from Ministry of Power and CEA. For Fatehpur block, Prakash Industries Ltd. had neither recommendation from the State Government nor from the Ministry of Power and CEA. The Screening Committee, as a matter of fact, did not select eight companies which were recommended by the Ministry of Power but selected eleven companies which were not recommended by Ministry of Power. Though in additional counter affidavit, some justification in this regard has been sought to be made but we are afraid that the said justification hardly merits acceptance as the minutes of the 35th meeting of the Screening Committee do not disclose anything what is now stated in the additional counter affidavit. The eight companies which were recommended by the Ministry of Power but not selected by the Screening Committee are (1) M/s. Rashmi Cement Ltd.; (2) M/s. TRN Energy Pvt. Ltd.; (3) M/s. Maithon Power Ltd.; (4) M/s. Mahavir Global Coal Ltd.; (5) M/s. Rosa Power Supply Ltd.; (6) M/s. Bhushan Energy; (7) M/s. Lanco Amarkantak Power Ltd. and (8) M/s. Vedanta Alumina Ltd. The minutes do not disclose any reason at all for not selecting these companies which were recommended by the Ministry of Power. The eleven companies which were not recommended by the Ministry of Power and selected by the Screening Committee are (1) M/s. Tata Power Company Ltd.; (2) M/s. Reliance Energy Ltd.; (3)

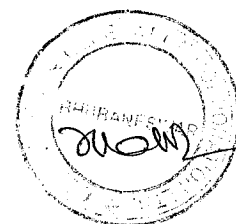


M/s. Balco; (4) M/s. SKS Ispat and Power Ltd.; (5) M/s. Prakash Industries Ltd.; (6) M/s. Green Infrastructure Pvt. Ltd.; (7) M/s. Visa Power Ltd.; (8) M/s. Vandana Vidyut Energy Ltd.; (9) M/s. GVK (Govindwal Sahib) Ltd.; (10) M/s. Gagan Sponge Iron Pvt. Ltd.; and (11) M/s. Lanco Group Ltd. The reasons for selecting above eleven companies which were not recommended by the Ministry of Power are neither disclosed nor discernible.

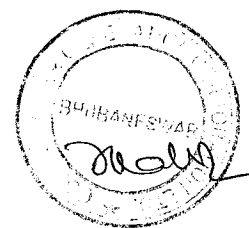
149. In the 36th meeting, which was held on 07.12.2007-08.12.2007, 07.02.2008-08.02.2008 and 03.07.2008, the Screening Committee considered allocation of 23 coal blocks earmarked for non-power sector. For these 23 coal blocks earmarked for non-power sector, 674 applications were submitted by 184 companies for allocation. Some companies had applied for more than one block and some had submitted more than one application for single block for different end use plants located at different locations. The geological reserve of 23 blocks^{##} was noted by the Screening Committee. The minutes of the 36th meeting show that the Committee decided to recommend blocks earmarked for pig iron (coking coal) jointly to two or more than two companies and

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Urtan Beharaband North Extn., Tandsi-III & Tandsi-III extn., Urtan North (coking blocks), Macherkunds, Rajhara North (Central & Eastern) Moira Madhujore (North & South), Datima, Bhaskarpara, Kudari, Bikram, Vijay Central Rajgamar Dipside (South of Phulakdih Nala), Kesla North, Gondkhari, Kappa & Extn. Dahegaon-Makardhokra-IV, Bander, Hurilong, Hutar sector C, Rajgamar Dipside (Deavnara), Tehsgora-B/Rudrapuri and Andal East (Non cooking blocks)

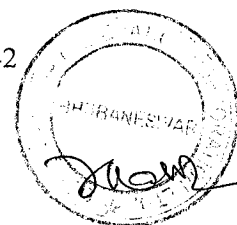


nineteen blocks earmarked for other end-uses/non-cooking coal were recommended for allocation to single companies as well as jointly to two or more companies. The minutes of 36th meeting do not contain the particulars showing consideration of each application. There is no assessment of comparative merits of the applicants who were selected for recommendation. The minutes do not disclose how and in what manner the selected companies meet the norms fixed for *inter se* priority. Many of the selected companies were neither recommended by the State Government nor by the Administrative Ministry. Some of them were recommended by the State Government but not recommended by the Administrative Ministry while one of them was not recommended by the State Government but recommended by the Administrative Ministry. For Rajhara North (Central & Eastern) coal block, Vini Iron & Steel Udyog Ltd. had no recommendation by the State Government or by the Administrative Ministry. Similarly, for Thesgora-B/Rudrapuri coal block, Revati Cement P. Ltd. did not have recommendation either from the State Government or from the Administrative Ministry. As regards Tandsi-III and Tandsi-III (Extn.), Mideast Integrated Steels Ltd. did not have recommendation from the State Government. Similarly, as regards Thesgora-B/Rudrapuri, Kamal Sponge Steel & Power Limited had no recommendation from



the State Government. As regards Moira Madhujore coal block, Ramswarup Lohh Udyog Ltd. had no recommendation from the Administrative Ministry.

150. From the above discussion, it is clear that 21 coal blocks stood allocated to private companies in pursuance of Screening Committee's recommendations during the period from the 1st meeting held on 14.07.1993 till the 21st meeting held on 19.08.2003. For the period from 04.11.2003 (22nd meeting) to 18.10.2005 (30th meeting) in pursuance of Screening Committee's recommendations, 26 coal blocks stood allocated to private companies. Following 32nd meeting held on 29.06.2006/30.06.2006 till the 34th meeting on 07.09.2006/08.09.2006, in pursuance of the recommendations made by the Screening Committee, two coking coal blocks were allocated to private companies and twelve non-coking coal blocks were allocated to private companies. In pursuance of the recommendations made by the Screening Committee in 35th and 36th meetings, 33 coal blocks were allocated to private companies. Some of the coal block allocations made to the private companies have been de-allocated from time to time. For consideration of legality and validity of allocations made to such companies, it is not necessary to deal with de-allocation aspect. It needs no emphasis that assuming that the Central Government had



power of allocation of coal blocks yet such power should have been exercised in a fair, transparent and non-arbitrary manner. However, the allocation of coal blocks to the private companies pursuant to the recommendations made by the Screening Committee in 36 meetings suffers from diverse infirmities and flaws which may be summarized as follows:

1st Meeting to 21st Meeting

1. The guidelines framed and applied by the Screening Committee for the period from 14.07.1993 (1st meeting) to 19.08.2003 (21st meeting) are conspicuously silent about *inter se* priority between the applicants for the same block. As a matter of fact, for the 21 coal blocks allocated to private companies in pursuance of Screening Committee's recommendation during the first period, *inter se* priority or merit of the applicants for the same block had not at all been determined.

2. The guidelines do not contain any objective criterion for determining the merits of the applicants. The guidelines do not provide for measures to prevent any unfair distribution of coal in the hands of few private companies. As a matter of fact, no consistent or uniform norms were applied by the Screening Committee to ensure that there was no unfair distribution of coal in the hands of the applicants.



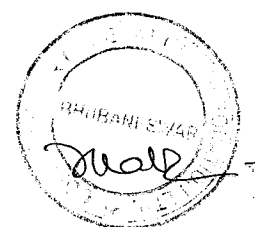
3. The Screening Committee simply relied upon the information supplied by the applicants without laying down any method to verify applicant's experience in the end-use project for which allocation of coal block was sought. The guidelines also do not lay down any method to allot coal blocks as per the end-use projects coal requirement.

4. The Screening Committee kept on varying the guidelines from meeting to meeting. It failed to adhere to any transparent system.

5. No applications were invited through advertisement and thus the exercise of allocation denied level playing field, healthy competition and equitable treatment.

6. Certain coal blocks which did not fit into the criteria of captive blocks were decided to be allocated by applying peculiar approach that the reserves could either be permitted to be explored by a private party or lost forever. For example, Brahmadiha block was allocated to M/s. Castron Technology pursuant to the recommendations made by the Screening Committee in the 14th meeting.

7. If a certain party requested for a particular block, it was so recommended without objectively considering the merit of such request. For example, in the 14th meeting, the proposal of M/s.



Monnet Ispat Ltd. for a new Sponge Iron plant in Keonjhar area of Orissa of 1.2 million tonnes of capacity for which the requirement of 2.2 m.t. of raw coal has been indicated, was discussed. The party requested for Utkal-B2 block in Talcher coalfield having 106 m.t. of reserves. CMD, MCL was of the view that Chendipada block is likely to have better grade of coal and suggested to the party for preference of Utkal B-2 block. However, the party insisted for Utkal B-2 block and the same was allotted. Similarly, as regards the proposal of M/s. Jayaswal Neco Ltd. for their Sponge Iron Plant, the party had earlier requested for Gare-Palma IV/6 and IV/7 blocks for meeting their requirement of 1 m.t. Sponge Iron Plant and a captive power plant. Then they requested for allocation of Gare-Palma IV/4 and IV/8 blocks. On the representation made by the representative of the party that 125 m.t. of reserves in Gare-Palma IV/4 block will be adequate for meeting the requirement of their Sponge Iron Plant for a period of 30 years and 91 m.t. of reserves in Gare-Palma IV/8 block will be adequate for 30 years life of the proposed CPP, the Screening Committee recommended allocation of Gare-Palma IV/4 and IV/8 blocks to M/s. Jayaswal Neco Ltd. The representation made by the party was accepted as it is without any verification.

8. Certain blocks with coal reserves on the higher side were recommended to the companies with lower requirement.



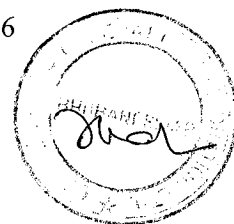
There were no steps or measures taken to prevent possible misuse of end-use project of private companies. For example, M/s. Prakash Industries Limited, being a BIFR company, was denied coal block earlier. However, the Screening Committee recommended Chotia I and II coal blocks to M/s. Prakash Industries Limited in 2003 for its proposed expansion project of 0.4 MTPA Sponge Iron though the company was having capacity of only 0.3 MTPA.

9. Some coal blocks which were already identified for development by CIL were offered to the private companies and some of the blocks which were close to the projects of CIL were, in fact, recommended for allocation and ultimately allocated. This was clearly in breach of the guidelines for selection of captive blocks.

22nd Meeting to 30th Meeting

10. With regard to allocation of coal blocks to private companies pursuant to its 22nd meeting to 30th meeting held between 04.11.2003 and 18.10.2005, the guidelines do not lay down any criteria for evaluating the comparative merits of the applicants. The consideration had been ad-hoc in so much so that in every meeting, the guidelines were altered.

11. In the 24th meeting held on 09.12.2004, the Screening Committee altered the norms by shifting insistence on achieving financial closure of the end-use projects to some appropriate stage



after the mining plan approval. Except mentioning the particulars of each applicants, the minutes do not show that there was any application of mind by the Screening Committee. How the guidelines are met by the recommended companies has not been discussed.

12. In the 25th meeting held on 10.01.2005, the Screening Committee considered allocation of 5 coal blocks in the MCL area. The size of these blocks was large as compared to the requirement of the applicants. The rules of game were changed to adjust large number of applicants whose applications would have been otherwise rejected as their coal requirement was far less than the coal available in the coal blocks. However, in order to accommodate these applicants, a novel idea of choosing a leader company and associate companies was evolved though such procedure is apparently in contravention of the statutory provision contained in Section 3(3)(a)(iii) of the CMN Act.

13. The merits of the companies, who were recommended for selection and those companies whose applications were rejected were not comparatively assessed.

14. While considering allocation for 5 blocks in SECL area in the 26th meeting, despite the revelation by the Ministry of Steel that number of companies have in their presentations mentioned the



capacity of the end-use plants in excess of what has been recommended by the Ministry and the concern expressed by the representative of the State Government that the ground realities of the project needed to be verified and the capacities of the end-use plants and coal requirements of such projects are required to be confirmed, the Screening Committee proceeded to list out the possible leaders without assessing the capacities of coal requirements of these companies.

15. The minutes of the 27th and 28th meetings also do not show that the assessment of comparative merits of the applicants was done. The Screening Committee continued with consortium / leader and associate approach which, as noted above, was in contravention of Section 3(3)(a)(iii) of the CMN Act. Even in case of a certain company, where recommendation of the Administrative Ministry was contrary to the recommendation of the State Government, yet the recommendation was made by the Screening Committee that led to allocation on the basis of State Government's recommendation. The Screening Committee even decided to club the blocks and recommended allotment of such combined block to two companies jointly.

16. The consideration has been absolutely ad-hoc and without even knowing how much surplus will remain, the company



so chosen was asked to select another allottee for surplus, if any. This is seen from the minutes of the 30th meeting. In the 30th meeting, the Screening Committee also recommended allocation of Dumri coal block although north portion of that block remained unexplored and the unexplored portion had superior grade of coal.

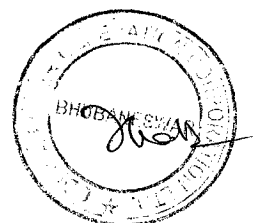
17. The policy of pick and choose was adopted. The application of norms was changed from meeting to meeting with no uniform or consistent consideration.

18. Certain companies which did not come for presentation were also considered but how and in what manner the applications of those companies were considered is not discernible. Why the chosen companies have been preferred over the others is also not discernible.

32nd Meeting to 36th Meeting

19. The minutes of the 32nd meeting do not show the reasons for recommending three blocks jointly in favour of more than one company.

20. Some of the companies which had no recommendation by the State Government were recommended by the Screening Committee. The minutes of the 33rd and 34th meeting do not show in what manner the merits of the companies which were chosen for recommendation were determined. The minutes of the 33rd and



34th meeting even do not note the particulars of the applicants individually. The criterion which the Screening Committee applied in the selection of 15 companies and the reasons for allocating 12 blocks to these companies are not discernible.

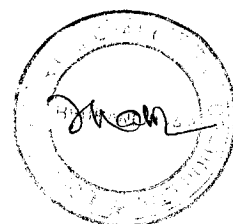
21. A certain company which has no recommendation/categorisation was also recommended for allocation and ultimately allocation was made. The recommendation to allocate 15 blocks reserved for power sector by the Screening Committee in its 35th meeting does not contain the particulars showing consideration of each application. Though, at that time, the guidelines provided for norms for consideration of *inter se* priority for allocation of a block among competing applicants for a captive block, but the minutes do not at all disclose how the norms for *inter se* priority are met by the company selected for recommendation by the Screening Committee. Many of the companies selected by the Screening Committee had no recommendation from the State Government or from the Ministry of Power and CEA and some of them had no recommendation from the State Government, Ministry of Power and CEA at all. As many as eight companies which were recommended by the Ministry of Power were not recommended by the Screening Committee while



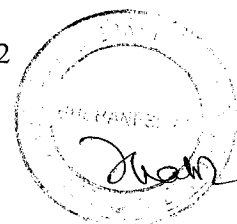
eleven companies which were not recommended by the Ministry of Power were recommended by the Screening Committee.

22. The minutes of the 36th meeting do not contain the particulars showing consideration of each application for allocation of 23 coal blocks earmarked for non-power sector. There is nothing in the minutes to indicate how and in what manner the selected companies meet the norms fixed for *inter se* priority. Many of the selected companies were neither recommended by the State Government nor by the Administrative Ministry. Some of them were recommended by the State Government but not recommended by the Administrative Ministry while one of them was not recommended by the State Government but recommended by the Administrative Ministry. Many companies which had failed to secure allocations earlier yet they were recommended. The Screening Committee failed to consider capability and capacity of the applicant in implementing the projects.

151. The entire exercise of allocation through Screening Committee route thus appears to suffer from the vice of arbitrariness and not following any objective criteria in determining as to who is to be selected or who is not to be selected. There is no evaluation of merit and no *inter se* comparison of the applicants. No chart of evaluation was prepared. The determination of the Screening

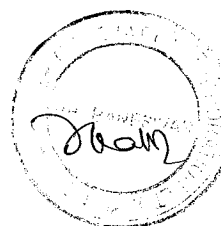


Committee is apparently subjective as the minutes of the Screening Committee meetings do not show that selection was made after proper assessment. The project preparedness, track record etc., of the applicant company were not objectively kept in view. Until the amendment was brought in Section 3(3) of the CMN Act w.e.f. 09.06.1993, the Central Government alone was permitted to mine coal through its companies with the limited exception of private companies engaged in the production of iron and steel. By virtue of the bar contained in Section 3(3) of the CMN Act, between 1976 and 1993, no private company (other than the company engaged in the production of iron and steel) could have carried out coal mining operations in India. Section 3(3) of the CMN Act, which was amended on 09.06.1993 permitted private sector entry in coal mining operations for captive use. The power for grant of captive coal block is governed by Section 3(3)(a) of the CMN Act, according to which, only two kind of entities, namely, (a) Central Government or undertakings/corporations owned by the Central Government; or (b) companies having end-use plants in iron and steel, power, washing of coal or cement can carry out coal mining operations. The expression "engaged in" in Section 3(3)(a)(iii) means that the company that was applying for the coal block must have set up an iron and steel plant, power plant or cement plant and be engaged in

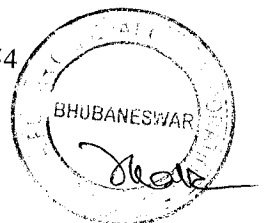


the production of steel, power or cement. The prospective engagement by a private company in the production of steel, power or cement would not entitle such private company to carry out coal mining operation. Most of the companies, which have been allocated coal blocks, were not engaged in the production of steel, power or cement at the time of allocation nor in the applications made by them any disclosure was made whether or not the power, steel or cement plant was operational. They only stated that they proposed to set up such plants. Thus, the requirement of end-use project was not met at the time of allocation.

152. It is pertinent to note here the stand of Maharashtra. According to Maharashtra, the allocation of coal blocks by the Screening Committee meant that the benefits of the differential in price of coal, as the case may be, would accrue to the allottee of the coal block. The differential in price would not necessarily be passed to the public as the price of the final product of the company is determined by import parity price in case of steel companies, competitive market price in case of cement companies (many may not have access to captive coal) and the price of power on an exchange or in bids by State utilities irrespective of source of fuel. No material has been placed by the Central Government which may rebut the Maharashtra's stand.



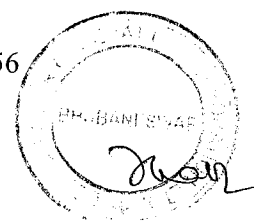
153. The challenge has also been laid to the legality of the allocations made to the State/State PSUs through the Screening Committee route as well as Government dispensation route. It is not in dispute that the Screening Committee has recommended allocation of coal blocks to 29 State Government PSUs while through Government dispensation route allocation has been recommended for 72 PSUs. The question that requires consideration is whether commercial mining operation can be carried on by the State or State PSUs. The answer has to be found out from the statutory provisions. By virtue of Section 3 of the CMN Act, as was originally enacted, on and from the appointed day, the right, title and interest of the owners in relation to the coal mines specified in the Schedule stood transferred to and vested absolutely in the Central Government free from all encumbrances. This provision further provides that if after the appointed day, the existence of any other coal mine comes to the knowledge of the Central Government, the provisions of the Coal Mines Management Act shall apply until that mine is nationalized by an appropriate legislation. Section 3 of the CMN Act was amended by the 1976 Nationalisation Amendment Act whereby sub-sections (3) and (4) of Section 3 were inserted. Along with this, Section 1A was also inserted in the CMN Act. By sub-section (3) of Section 3, it is



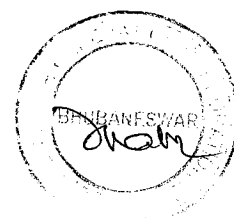
provided that on and from the commencement of amendment in Section 3, no person other than the Central Government or a Government company or a corporation owned, managed or controlled by the Central Government or a person to whom the sub-lease has been granted by any such Government, Government company or corporation or a company engaged in the production of iron and steel shall carry on coal mining operation in any form. Clause (b) of sub-section (3) also provides for termination of all mining leases and sub-leases for winning or mining of coal except the mining leases granted before such commencement in favour of the Government, Government company or corporation and any sub-lease granted by any such Government, Government company or corporation. Clause (c) of sub-section (3) of Section 3 prohibits grant of lease for winning or mining coal in favour of any person other than the Government, Government company or corporation referred to in clause (a) thereof. But this prohibition is subject to only one exception inasmuch as the Government, company or corporation owned, managed or controlled by the Central Government may grant a sub-lease to any person in any area on such terms and conditions as may be specified in the instrument granting sub-lease provided the reserves of coal in the area are in isolated small pockets or are not sufficient for scientific and



economical development in a coordinated and integrated manner and the coal produced by the sub-lessee will not be required to be transported by rail. Section 3(3)(a)(i) thus provides that only Central Government or a Government company (Central PSU or a corporation owned or managed by the Central Government) can carry on mining operations in India in any form. In other words, commercial mining cannot be carried on by the State Government or the State PSU. The expression "Government company or a corporation owned, managed or controlled by the Central Government" means Government of India Public Undertaking. It does not include State Government Public Sector Undertaking. This is fortified by Section 3(4), Section 4 and Sections 5, 6 and 7. The mining leases and sub-leases which were terminated under Section 3(3)(b) were available only to the Central Government or for that matter, the Government company or a corporation owned, managed and controlled by the Central Government. The State Government or State Public Sector Undertakings became entitled to obtain sub-lease of reserves of coal in isolated small pockets under clauses (i) and (ii) of proviso to Section 3(3)(c). It is pertinent to notice here that Circular dated 30.07.1979 records the correct position of legislative policy articulated in the CMN Act under which only the Central Government Public Undertakings have been permitted to



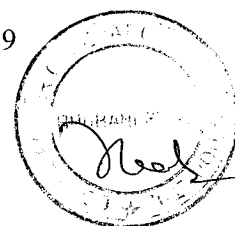
carry on coal mining operations in the country. After the amendment was carried out in the CMN Act, the circular states that while continuing the existing policy of the Central Government carrying out coal mining operations by its own undertakings, the State Governments might also be allowed to carry out coal mining operations in isolated small pockets subject to the conditions set out therein. The "isolated small pockets" are those which are away from the main coalfields and have limited known reserves which are not sufficient for scientific and economic development in a coordinated and integrated manner and the coal produced from such areas would mainly be utilized for local consumption without transportation by railways. However, almost after 22 years, vide Circular dated 12.12.2001, the Central Government, reviewing its earlier policy, allowed the State Government companies or undertakings to do mining of coking and non-coking coal or lignite reserves either by opencast or underground method, anywhere in the country, subject to the conditions set out therein. Under the revised policy, the State Government company/undertaking was permitted to mine non-coking coal and coking coal reserves or lignite by opencast/underground method without the restriction of "isolated small pockets". Having carefully examined the Circular dated 12.12.2001, in light of the provisions of the CMN Act, as amended in



1976, it appears to us that the circular is not in conformity with the provisions of the CMN Act and, consequently, has no legal sanction. CMN Act and further amendments therein carried out in 1976 do not allow State Government or State PSUs to mine coal for commercial use. The problem seems to have arisen because of the 2001 circular which permits the State Government companies or undertakings to do mining of coking and non-coking coal reserves but, as noted above, the legislative policy in the CMN Act does not permit that. The recommendation for allocation by the Screening Committee to the State PSUs and also the allocation made to the State PSUs through Government dispensation route are, therefore, in violation of the provisions of the CMN Act, as amended from time to time. Moreover, the State PSUs, besides having been allocated coal mines for commercial purpose, have also been allowed to form joint venture companies, i.e., 51% shareholding of State PSUs and 49% of private company. However, in the joint venture agreements between the State PSUs and the private companies, mining operations have been given to private company. For example, the notice inviting offer dated 02.07.2008 issued by Chhattisgarh Mineral Development Corporation (CMDc) for selection of partner for formation of a joint venture company for exploration, development, mining and marketing of coal from coal blocks

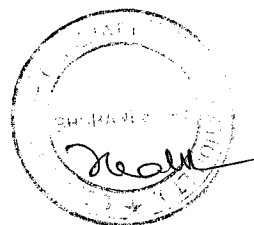


provided that the Joint Venture Company (JVC) to be formed by CMDC and the selected offerers / bidder will explore, develop and operate such coal deposits and the coal produced by JVC will be sold commercially to various consumers in the open market. CMDC was allocated Sondiha coal block and coal blocks Bhatgaon-II and Bhatgaon-II (Extension). Similarly, the Joint Venture Agreement between the Madhya Pradesh State Mining Corporation Limited and Monnet Ispat and Energy Limited reveals that Joint Venture Company has been further allowed to enter into Mine Development Operation Agreements with other private partner or sister concern. This modus operandi has virtually defeated the legislative policy in the CMN Act and winning and mining of coal mines has resultantly gone in the hands of private companies for commercial use. As indicated above, by 1976 amendment in the CMN Act, other than the Central Government or Central Government undertakings, a company engaged in the production of iron and steel was permitted to carry on coal mining operations in any form. By subsequent amendments in Section 3 of the CMN Act, besides a company engaged in the production of iron and steel, a company engaged in generation of power or a company engaged in washing of coal obtained from a mine or such other end-use, as the Central Government may by notification specify, no other company



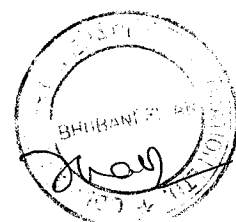
can "carry on mining operation in coal". Allocation of coal blocks to the State PSUs which ultimately on getting mining leases may enable them to win or mine coal commercially is clearly in breach of the provisions of the CMN Act.

154. To sum up, the entire allocation of coal block as per recommendations made by the Screening Committee from 14.07.1993 in 36 meetings and the allocation through the Government dispensation route suffers from the vice of arbitrariness and legal flaws. The Screening Committee has never been consistent, it has not been transparent, there is no proper application of mind, it has acted on no material in many cases, relevant factors have seldom been its guiding factors, there was no transparency and guidelines have seldom guided it. On many occasions, guidelines have been honoured more in their breach. There was no objective criteria, nay, no criteria for evaluation of comparative merits. The approach had been *ad-hoc* and casual. There was no fair and transparent procedure, all resulting in unfair distribution of the national wealth. Common good and public interest have, thus, suffered heavily. Hence, the allocation of coal blocks based on the recommendations made in all the 36 meetings of the Screening Committee is illegal.



155. The allocation of coal blocks through Government dispensation route, however laudable the object may be, also is illegal since it is impermissible as per the scheme of the CMN Act. No State Government or public sector undertakings of the State Governments are eligible for mining coal for commercial use. Since allocation of coal is permissible only to those categories under Section 3(3) and (4), the joint venture arrangement with ineligible firms is also impermissible. Equally, there is also no question of any consortium / leader / association in allocation. Only an undertaking satisfying the eligibility criteria referred to in Section 3(3) of the CMN Act, viz., which has a unit engaged in the production of iron and steel and generation of power, washing of coal obtained from mine or production of cement, is entitled to the allocation in addition to Central Government, a Central Government company or a Central Government corporation.

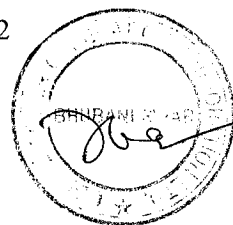
156. In this context, it is worthwhile to note that the 1957 Act has been amended introducing Section 11-A w.e.f. 13.02.2012. As per the said amendment, the grant of reconnaissance permit or prospecting licence or mining lease in respect of an area containing coal or lignite can be made only through selection through auction by competitive bidding even among the eligible entities under Section 3(3)(a)(iii), referred to above. However, Government



companies, Government corporations or companies or corporations, which have been awarded power projects on the basis of competitive bids for tariff (including Ultra Mega Power Projects) have been exempted of allocation in favour of them is not meant to be through the competitive bidding process.

157. As we have already found that the allocations made, both under the Screening Committee route and the Government dispensation route, are arbitrary and illegal, what should be the consequences, is the issue which remains to be tackled. We are of the view that, to this limited extent, the matter requires further hearing.

158. By way of footnote, it may be clarified and we do, that no challenge was laid before us in respect of blocks where competitive bidding was held for the lowest tariff for power for Ultra Mega Power Projects (UMPPs). As a matter of fact, Mr. Prashant Bhushan, learned counsel for Common Cause submitted that since allocation for UMPPs is in accord with the opinion given in *Natural Resources Allocation Reference*²⁰ and the benefit of the coal block is passed on to the public, the said allocations may not be cancelled. However, he submitted that in some cases the Government has allowed diversion of coal from UMPP to other end uses i.e. for commercial exploitation. Having regard to this, it is



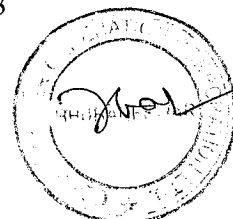
directed that the coal blocks allocated for UMPP would only be used for UMPP and no diversion of coal for commercial exploitation would be permitted.

.....CJI.
(R.M. Lodha)

.....J.
(Madan B. Lokur)

.....J.
(Kurian Joseph)

NEW DELHI;
AUGUST 25, 2014.



REPORTABLE

689

IN THE SUPREME COURT OF INDIA
CRIMINAL/CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CRL.) NO. 120 OF 2012

Manohar Lal Sharma

....Petitioner

Versus

The Principle Secretary & Ors.

...Respondents

WITH

WRIT PETITION (CIVIL) NO. 463 OF 2012

WITH

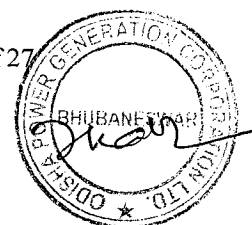
WRIT PETITION (CIVIL) NO. 515 OF 2012

AND

WRIT PETITION (CIVIL) NO. 283 OF 2013

ORDER

1. On 25th August, 2014 judgment was delivered in these cases and it was held, *inter alia*, that the allotment of coal blocks made by the Screening Committee of the Government of India, as also the allotments made through the Government dispensation route are arbitrary and illegal. Since the conclusion arrived at would have



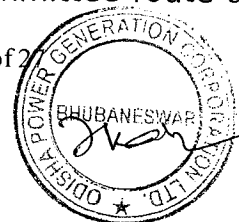
potentially had far-reaching consequences, on which submissions were not made when the case was heard, the question of what should be the consequences of the declaration was left open for hearing.

2. The relevant paragraphs of the judgment dated 25th August, 2014 read as follows:-

"155. The allocation of coal blocks through Government dispensation route, however laudable the object may be, also is illegal since it is impermissible as per the scheme of the CMN Act. No State Government or public sector undertakings of the State Governments are eligible for mining coal for commercial use. Since allocation of coal is permissible only to those categories under Section 3(3) and (4), the joint venture arrangement with ineligible firms is also impermissible. Equally, there is also no question of any consortium/leader/association in allocation. Only an undertaking satisfying the eligibility criteria referred to in Section 3(3) of the CMN Act, viz., which has a unit engaged in the production of iron and steel and generation of power, washing of coal obtained from mine or production of cement, is entitled to the allocation in addition to Central Government, a Central Government company or a Central Government corporation.

156. In this context, it is worthwhile to note that the 1957 Act has been amended introducing Section 11-A w.e.f. 13.02.2012. As per the said amendment, the grant of reconnaissance permit or prospecting licence or mining lease in respect of an area containing coal or lignite can be made only through selection through auction by competitive bidding even among the eligible entities under Section 3(3)(a)(iii), referred to above. However, Government companies, Government corporations or companies or corporations, which have been awarded power projects on the basis of competitive bids for tariff (including Ultra Mega Power Projects) have been exempted of allocation in favour of them is not meant to be through the competitive bidding process.

157. As we have already found that the allocations made, both under the Screening Committee route and the

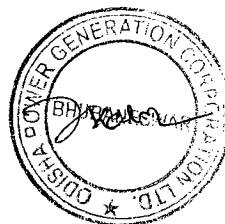


Government dispensation route, are arbitrary and illegal, what should be the consequences, is the issue which remains to be tackled. We are of the view that, to this limited extent, the matter requires further hearing."

3. Accordingly, we heard several learned counsels appearing for a very large number of interveners, impleadment applicants and State Governments. Substantive submissions were made, amongst others, by the Coal Producers Association, the Independent Power Producers Association of India and the Sponge Iron Manufacturers Association. These associations had also been heard on an earlier occasion well before judgment was delivered on 25th August, 2014.

4. For the purposes of these "consequence proceedings", the Union of India filed an affidavit dated 8th September, 2014. It is stated in the affidavit that coal is actually being mined from 40 coal blocks listed in Annexure I to the affidavit. This list includes two coal blocks allotted to an Ultra Mega Power Projects (Sasan Power Ltd. [UMPP] allotted the coal blocks Moher and Moher Amroli Extension). Coal blocks allotted to UMPPs have not been disturbed in the judgment. The list of the 40 coal blocks is attached to this order as Annexure 1.

5. In addition to the above 40 coal blocks, it is stated in the affidavit that 6 more coal blocks are ready for



extraction of coal in 2014-15 and this list is Annexure II to the affidavit. These 6 coal blocks have obtained the Mine Opening Permission from the Coal Controller's Organization under Rule 9 of the Colliery Control Rules 2004¹ (framed under the Mines and Minerals (Development and Regulation) Act, 1957). This permission is granted subsequent to the execution of a mining lease. The list of these 6 coal blocks is attached to this order as Annexure 2.

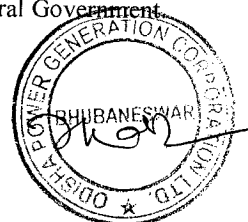
6. Therefore, the affidavit is quite clear that 40 coal blocks are already producing coal and 6 coal blocks are in a position to produce coal virtually with immediate effect. The question is whether the allotment of these coal blocks should be cancelled or not.

7. It was submitted by the learned Attorney General that after the declaration of law and the conclusion that the allotment of coal blocks was arbitrary and illegal, only two consequences flow from the judgment. The first is the natural consequence, that is, the allotment of the coal blocks (other than those mentioned in the judgment) should be cancelled and the Central Government is fully

¹ 9. Requirement of prior permission to open a coal mine, seam or section of a seam.--

(1) No owner of a colliery shall open a coal mine, seam or a section of a seam without the prior permission in writing of the Central Government.

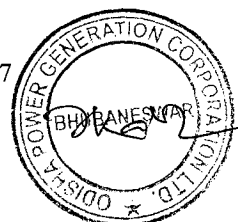
(2) No owner of a colliery shall also commence mining operations in a colliery or seam or a section of a seam, in which the mining operation has been discontinued for a period exceeding one hundred and eighty days, without the prior permission in writing of the Central Government.



prepared to take things forward. The second option is that 46 coal blocks (as above) be left undisturbed (subject to conditions) and the allotment of the remaining coal blocks should be cancelled.

8. Expounding on the alternative consequence, it was submitted that Coal India Limited (CIL) a public sector undertaking can take over and continue the extraction of coal from these 44 coal blocks without adversely affecting the rights of those employed therein. However, it was submitted that CIL would require some time to take over the coal blocks and manage its affairs for continuing the mining process. Effectively therefore, it was submitted that even if the allotment of these 44 coal blocks is cancelled, the Central Government can ensure that coal production will not stop.

9. Learned Attorney General submitted that all the allottees of coal blocks should be directed to pay an additional levy of Rs. 295/- per metric ton of coal extracted from the date of extraction as per the Report of the Comptroller and Auditor General (CAG) dealing with the financial loss caused to the exchequer by the illegal and arbitrary allotments. It was further submitted that in the case of allottees supplying coal to the power sector, they

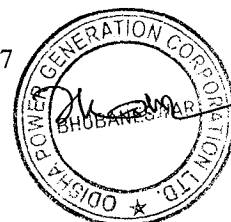


should be mandated to enter into Power Purchase Agreements (PPAs) with the State utility or distribution company (as the case may be) so that the benefit is passed on to the consumers.

10. By way of abundant precaution, the learned Attorney General pointed out that in respect of the allotment of 6 coal blocks, a First Information Report has been lodged by the Central Bureau of Investigation (CBI). Therefore, investigations are in progress to ascertain whether any criminal offence has been committed in respect of the allotment of 6 coal blocks. In addition, it is pointed out that the CBI has on 3rd September, 2014 informed that a final decision with regard to any alleged criminality or otherwise in the allotment of 6 other coal blocks is pending consideration. In other words, the alleged criminality in the allotment of 12 out of the 46 coal blocks identified by the learned Attorney General is under scrutiny by the CBI.

11. To put the suggestions of the learned Attorney General in perspective, they are summarized below:

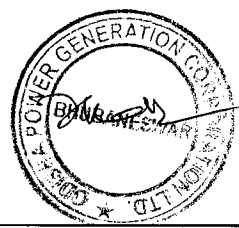
- (1) All coal block allotments (except those mentioned in the judgment) may be cancelled.
- (2) Alternatively,



- (a) Extraction of coal from the 40 functional and 6 "ready" coal blocks may be permitted and the remaining coal blocks be cancelled;
- (b) The allottees of all 46 coal blocks be directed to pay an additional levy of Rs.295/- per metric ton of coal extracted from the date of extraction; and
- (c) The allottees of coal blocks for the power sector be also directed to enter into PPAs with the State utility or distribution company as the case may be.

12. Learned Attorney General made two supplementary submissions, not directly connected with the suggestions made. It was submitted that though all the allotments made by the Screening Committee and through the Government dispensation route were held illegal and arbitrary, the allotment of lignite blocks was not the subject matter of discussion in the judgment delivered on 25th August, 2014. This is correct and it is made clear that the judgment delivered on 25th August, 2014 does not concern lignite blocks at all and their allotments are not covered by the said judgment.

13. Secondly, the figure of Rs. 295/- per metric ton of

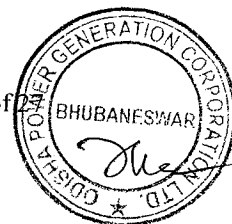


coal extracted as additional levy (based on the Report of the Comptroller and Auditor General) has been calculated on the basis of open cast mines and mixed mines, while underground mines were not taken into calculation. Of the coal blocks sought to be "saved" from cancellation, it has not been pointed out by any learned counsel whether any one of the 46 coal blocks contains an underground mine or not. Therefore, there is no occasion to deal with a hypothetical case.

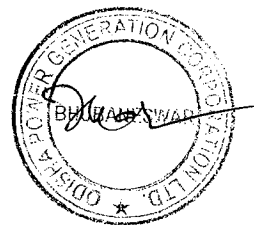
14. In response to the submissions of the learned Attorney General, Mr. K.K. Venugopal, Senior Advocate, appearing on behalf of the Coal Producers Association submitted that cancellation of all the coal blocks would have very serious and far reaching consequences.

15. The consequences of cancellation of the coal blocks were categorized by Mr. Venugopal under various heads and these are detailed below.

(1) There would be a serious adverse impact on the economy of the country: It was submitted that Government companies are not in a position to supply the required quantity of coal; in fact, a large number of applications are pending with the Ministry of Coal for long term coal linkages; power stations have a supply of less

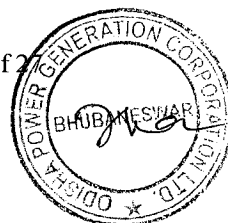


than one week of coal and therefore there are possibilities of power outages; as many as 10 power plants of the National Thermal Power Corporation (NTPC) and the Damodar Valley Corporation (DVC) have been shut down because of shortage of coal supply by Coal India Ltd. (CIL); there is an issue of poor quality of coal supplied by CIL; huge investments up to about Rs. 2.87 lakh crores have been made in 157 coal blocks as on December, 2012; investments in end-use plants have been made to the extent of about Rs. 4 lakh crores; the employment of almost 10 lakh people is at stake; end-use plants have been designed keeping in mind the specification of coal in the allocated coal block and cancellation of the coal blocks would result in the end-use plant becoming redundant; loans to the extent of about Rs. 2.5 lakh crores given by banks and financial institutions would become non-performing assets; the State Bank of India may suffer a loss of up to Rs. 78,263 crores which is almost 7.9% of its net worth for the financial year 2013; other Public Sector Banks such as the Punjab National Bank and the Union Bank will receive a massive set back; Public Sector Corporations like Rural Electricity Corporation and Power Finance Corporation have an even higher exposure than



banks; there will be global ramifications of the de-allotments such as a negative impact on investor confidence; acute distress in some industries; the country's dependence on coal as a primary fuel source with up to 60% for power generation may result in inflationary trends; 28,000 MW of power capacity will be affected due to de-allocation; closure of coal mines would result in an estimated loss of Rs. 4.4 lakh crores in terms of loss of royalty, cess, direct and indirect taxes; coal imports (already very high) will go up even more in FY 2016-17 to the extent of Rs.1.44 lakh crores (without de-allocation); and on the other hand, the production of coal would substantially increase in case all coal blocks are made operational after the grant of necessary permission.

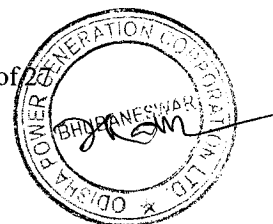
(2) The cancellation of coal blocks would set back the process (of extraction and effective utilization of coal) by about 7 to 8 years: It was submitted that the auction of coal blocks would take at least 1-2 years and from past experience, it is unlikely that the auction would be successful due to lack of bids or proper participation; it would take at least 5-6 years for making the auctioned coal blocks operational; in any event (based on the time lines given by the Ministry of Coal in the allocation letters)



it would take 36-42 months to develop an open cast mine and about 48-54 months to develop an underground mine; and the commissioning of end-use plants after obtaining various clearances would take a minimum of 3-4 years.

(3) If the coal blocks are not cancelled, the allottees could continue their contribution towards corporate social responsibility and socio-economic development of the country: It was submitted on a positive note that the allottees have invested in basic infrastructure like road, rail links etc. since the coal blocks allotted to them were in areas where CIL was not interested in making an investment; the allottees have made huge investments in setting up other infrastructure such as schools, hospitals, facilities for clean and potable water, residential colonies, community centers, playground etc. and in creation of job opportunities; thousands of crores of rupees have already been paid by the coal block allottees by way of direct and indirect taxes and in the form of royalty, cess etc.; and if the coal blocks are cancelled, the development activities initiated by the allottees would come to a standstill.

(4) Many of the allottees have problems peculiar to them which need to be examined along with ground realities: It was submitted that the delay in development of coal



blocks is not attributable to the allottees who are actually victims of the faults of the Screening Committee; delays are attributable to various reasons such as administrative delays on the part of the Ministry of Environment and Forest and Ministry of Coal, the consent by the Pollution Control Boards was not given on time, Court orders, Naxalite issues in some areas, State Governments directing that mining lease should not be executed, introduction of go/no go areas or without statutory permission etc.; this Court has tacitly acknowledged administrative delays in grant of clearances in an order passed on 1st September, 2014 in ***Samaj Parivartana Samudaya v. State of Karnataka***;² the appropriate course of action to adopt would be for this Court to appoint a Committee to examine the peculiar facts of each individual allotment.

(5) The additional levy of Rs. 295/- per metric ton of coal extracted (described as a penalty) is unjustified: The figure of loss of revenue to the exchequer to the extent of Rs. 295/- per metric ton of coal extracted is borrowed from the Report of the CAG which Report is contested by the Government of India and is pending consideration before a

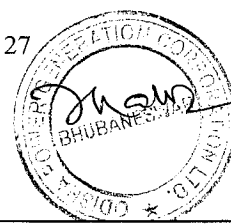
² I.A. No.201 & 219, 223 in I.A. No.204 and I.A. Nos. 224 in I.A. No.215 in WP(C) No. 562/2009



Parliamentary Committee on Public Undertakings; the Report itself suggested that only a part of the financial gain could have accrued to the national exchequer; the Government of India has not applied its mind while suggesting the figure of Rs. 295/- per metric ton and it has only considered the average price of coal as given by CIL for the year 2010-11 (being Rs.1028/- per metric ton) and that cannot be adopted for earlier financial years; the coal extracted from the blocks allotted are of an inferior quality and the sale price thereof is much lower than the average sale price of CIL; the CAG has not taken into consideration underground mines while calculating the alleged financial loss; the cost of production of coal for CIL is less since CIL has economically viable mines as compared to the mines allocated to the private sector which lack infrastructure and have several other problems; and penalty cannot be imposed with retrospective effect since the coal extracted by the allottees has already been utilized for production of power, steel, cement etc.

16. Finally, Mr. Venugopal relied on **Ashok Hurrah v. Rupa Ashok Hurrah**³ to contend that the allottees are entitled to a hearing before the cancellation of their coal

³ (2002) 4 SCC 388



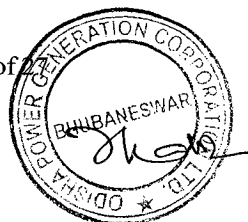
blocks in accordance with the well accepted principles of natural justice since the cancellation adversely affects their interests. Paragraph 51 of the Report was relied on and this reads as follows:

“Nevertheless, we think that a petitioner is entitled to relief *ex debito justitiae* if he establishes (1) violation of the principles of natural justice in that he was not a party to the lis but the judgment adversely affected his interests or, if he was a party to the lis, he was not served with notice of the proceedings and the matter proceeded as if he had notice, and (2) where in the proceedings a learned Judge failed to disclose his connection with the subject-matter or the parties giving scope for an apprehension of bias and the judgment adversely affects the petitioner.”

17. Mr. Harish Salve, Senior Advocate, appearing for the Sponge Iron Manufacturers Association generally supported the submissions made by Mr. Venugopal. He emphasized that the more appropriate course for this Court to adopt would be to appoint a Committee of three persons, including experts, to examine each individual allotment and consider the facts peculiar to each allottee and report to this Court whether the coal block allotment should be cancelled or not.

18. Learned counsel also emphasized the necessity of granting a hearing to each allottee and referred to a passage from ***National Textile Workers' Union v. P. R. Ramakrishna***⁴ wherein the Constitution Bench

⁴ (1983) 1 SCC 228



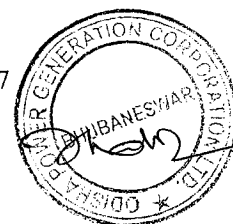
emphasized the importance of natural justice in paragraph 16 of the Report. Particular emphasis was laid on the following passage:

"....It will surely be a travesty of justice to deny natural justice on the ground that courts know better. There is a peculiar and surprising misconception of natural justice, in some quarters, that it is, exclusively, a principle of administrative law. It is not. It is first a universal principle and, therefore, a rule of administrative law. It is that part of the judicial procedure which is imported into the administrative process because of its universality. "It is of the essence of most systems of justice - certainly of the Anglo-Saxon System - that in litigation both sides of a dispute must be heard before decision. 'Audi Alteram Partem' was the aphorism of St. Augustine which was adopted by the courts at a time when Latin Maxims were fashionable". "Audi Alteram Partem is as much a principle of African, as it is of English legal procedure : a popular Yoruba saying is " 'wicked and iniquitous is he who decides a case upon the testimony of only one party to it" (T.O. Elias : *The Nature of African Customary Law*). Courts even more than administrators must observe natural justice."

19. Mr. Salve also referred to a passage from Administrative Law⁵ to contend that the principle of legal relativity should be borne in mind by the Court so that "the law can be made to operate justly and reasonably in cases where doctrine of ultra vires, rigidly applied, would produce unacceptable results."

20. Unfortunately, it is difficult to see relevance of the passage cited by learned counsel since it deals with the nullity and voidness of an Act or order which is ultra vires.

⁵ Administrative Law by Sir William Wade, 9th Edn.



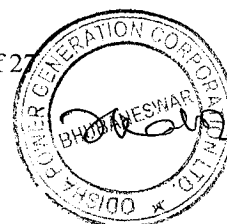
The applicable principles are completely different and we are not dealing with such a case. It would be more apposite to refer to a passage from ***Sheela Barse v. Union of India***⁶ cited by Dr. A.M. Singhvi, Senior Advocate (appearing for the Independent Power Producers Association of India) wherein this Court observed the future is important (and that is what we are looking at). This Court said:

“Again, the relief to be granted looks to the future and is, generally, corrective rather than compensatory which, sometimes, it also is. The pattern of relief need not necessarily be derived logically from the rights asserted or found. More importantly, the court is not merely a passive, disinterested umpire or onlooker, but has a more dynamic and positive role with the responsibility for the organization of the proceedings, moulding of the relief and - this is important - also supervising the implementation thereof. The court is entitled to, and often does, seek the assistance of expert panels, Commissioners, Advisory Committee, *amici* etc. This wide range of the responsibilities necessarily implies correspondingly higher measure of control over the parties, the subject matter and the procedure. Indeed as the relief is positive and implies affirmative action the decisions are not “one-shot” determinations but have ongoing implications. Remedy is both imposed, negotiated or quasi-negotiated.”

21. Dr. A.M. Singhvi also submitted a note which essentially and substantially reiterates some of the submissions made by Mr. Venugopal. It is not, therefore, necessary to repeat those submissions. He also referred to ***Onkar Lal Bajaj v. Union of India***⁷ to submit that in the

⁶ (1988) 4 SCC 226

⁷ (2003) 2 SCC 673



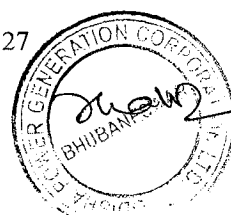
case of apparently tainted allotment of dealerships for petroleum products, this Court felt the necessity of appointing a Committee and therefore we should also appoint a Committee of retired judges to examine each individual case of coal block allotment.

22. Dr. Rajeev Dhavan, Senior Advocate appearing for one of the interveners referred to **Chingleput Bottlers v. Majestic Bottling Company**⁸ to emphasize the necessity of applying the principles of natural justice before cancelling the allotments made in favour of the allottees.

23. Other learned counsels more or less repeated and reiterated the submissions made, with slight variations and emphasis depending upon the facts of the case of their respective clients, including State Governments.

24. In response to the submissions made by various learned counsels, it was submitted by the learned Attorney General that all the aspects mentioned above including the economic implications or fall-out of the cancellation of coal block allotments and the possible adverse impact that it may have on other socio-economic factors have been taken into consideration and it is only thereafter that the affidavit has been filed by the Union of India, which has

⁸ AIR 1984 SC 1030

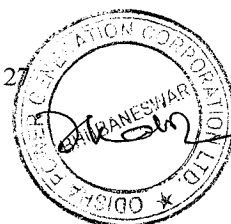


been explained by him in his opening address. In other words, the Union of India is fully prepared to face the consequences of the cancellation of all coal blocks, if need be, and is desirous of moving forward.

25. The learned Attorney General vehemently opposed the setting up of any committee as proposed by learned counsels. He categorically and emphatically stated that the Central Government has no difficulty in taking matters forward consequent upon the cancellation of the coal blocks.

26. Learned counsels for the allottees have essentially raised two contentions. Firstly, the principles of natural justice require that they must be heard before their coal block allotments are cancelled. Secondly, we should appoint a committee to consider each individual case to determine whether the coal block allotments should be cancelled or not.

27. As far as the second contention is concerned, this is strongly opposed by the learned Attorney General and we think he is right in doing so. The judgment did not deal with any individual case. It dealt only with the process of allotment of coal blocks and found it to be illegal and arbitrary. The process of allotment cannot be reopened

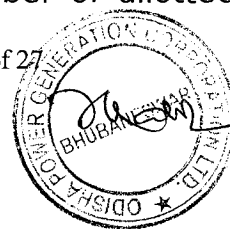


collaterally through the appointment of a committee. This would virtually amount to nullifying the judgment. The process is a continuous thread that runs through all the allotments. Since it was fatally flawed, the beneficiaries of the flawed process must suffer the consequences thereof and the appointment of a committee would really amount to permitting a body to examine the correctness of the judgment. This is clearly impermissible.

28. It is true that this Court has taken the assistance of one committee or the other in several cases but that was where an inquiry was required to be conducted and this Court was obviously not in a position to conduct any such inquiry. This had happened, for example, in **Onkar Lal Bajaj**. No such occasion or situation has arisen in the present case to necessitate the appointment of a committee. Therefore, the question of appointing a committee simply does not arise.

29. The first contention relates to the applicability of the principles of natural justice. As far as this is concerned, it has specifically been recorded in the judgment (in paragraph 11) to the following effect:

"Three Associations, viz., Coal Producers Association, Sponge Iron Manufacturers Association and Independent Power Producers Association of India have made applications for their intervention stating that these associations represented large number of allottees who



have been allocated subject coal blocks. Accordingly, Mr. K.K. Venugopal, learned senior counsel was heard for Coal Producers Association and Mr. Harish N. Salve, learned senior counsel was heard on behalf of the Sponge Iron Manufacturers Association and Independent Power Producers Association of India. They commenced their arguments on 09.01.2014, which continued on 15.01.2014 and concluded on 16.01.2014."

30. Therefore, it is incorrect to say that these associations which represented the bulk (if not all) the allottees or beneficiaries of coal blocks were not heard. They presented their point of view, like any other party to a *lis* and it was only then that judgment was delivered.

31. Similarly, several States were also heard as recorded in paragraph 10 of the judgment. In this regard, it was said:

"The arguments re-commenced on 05.12.2013. On that day, arguments of the States of Jharkhand, Chhattisgarh and Odisha were concluded and matters were fixed for 08.01.2014. On 08.01.2014, the arguments on behalf of the States of Maharashtra, Andhra Pradesh, Madhya Pradesh and West Bengal were concluded and the matters were fixed for 09.01.2014. On that day, arguments of learned Attorney General were concluded."

32. In effect, therefore, all parties likely to be adversely affected were given a hearing. The principles of natural justice, though universal, must be realistically and pragmatically applied.

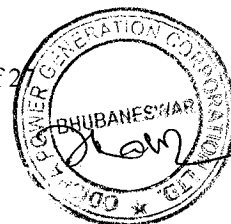
33. In ***Sheela Barse*** it was observed, and we endorse that view, that the relief to be granted in a case always



looks to the future. It is generally corrective and in some cases it is compensatory. The present case takes within its fold all three elements mentioned in **Sheela Barse**. Our judgment highlighted the illegality and arbitrariness in the allotment of coal blocks and these "consequence proceedings" are intended to correct the wrong done by the Union of India; these proceedings look to the future in that by highlighting the wrong, it is expected that the Government will not deal with the natural resources that belong to the country as if they belong to a few individuals who can fritter them away at their sweet will; these proceedings may also compensate the exchequer for the loss caused to it, in the manner suggested by the learned Attorney General, and which we now propose to consider.

34. There are two categories of coal block allotments: the first category being allotments other than those mentioned in Annexure 1 and Annexure 2; the second category being the 46 coal blocks mentioned in Annexure 1 and Annexure 2 that could possibly be "saved" from cancellation on certain terms and conditions, as submitted by the learned Attorney General.

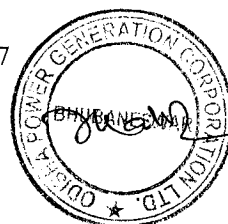
35. As far as the first category of coal block allotments is concerned, they must be cancelled (except those



mentioned in the judgment). There is no reason to “save” them from cancellation. The allocations are illegal and arbitrary; the allottees have not yet entered into any mining lease and they have not yet commenced production. Whether they are 95% ready or 92% ready or 90% ready for production (as argued by some learned counsel) is wholly irrelevant. Their allocation was illegal and arbitrary, as already held, and therefore we quash all these allotments.

36. Learned Attorney General identified 46 coal blocks that could be “saved” from the guillotine, since all of them have commenced production or are on the verge of commencing production. As these allocations are also illegal and arbitrary they are also liable to be cancelled. However, the allotment of three coal blocks in Annexure 1 is not disturbed and they are Moher and Moher Amroli Extension allocated to Sasan Power Ltd. (UMPP) and Tasra (allotted to Steel Authority of India Ltd. (SAIL), a Central Government public sector undertaking not having any joint venture).

As far the 6 coal blocks mentioned in Annexure 2 are concerned, the allocatees have not yet commenced production. They do not stand on a different or better

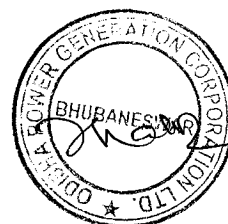


footing as far the consequences are concerned. These allotments are also liable to be cancelled. The allocation of the Pakri Barwadih coal block (allotted to National Thermal Power Corporation (NTPC), being a Central Government public sector undertaking not having any joint venture) is not liable to be cancelled.

37. Except the above two allocations made to the UMPP and the two allocations made to the Central Government public sector undertaking not having any joint venture mentioned above, all other allocations mentioned in Annexure 1 and Annexure 2 are cancelled.

38. It was submitted by the learned Attorney General that on the cancellation of the coal block allotments, CIL would require some breathing time to manage its affairs. The Central Government is keen to move ahead but some time would be required to manage the emerging situation. Similarly, breathing time is also required to be given to the allottees to manage their affairs on the cancellation of the coal blocks.

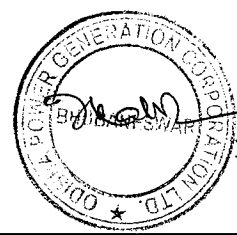
39. In view of the submissions made, although we have quashed the allotment of 42 out of these 46 coal blocks, we make it clear that the cancellation will take effect only after six months from today, which is with effect from 31st



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March, 2015. This period of six months is being given since the learned Attorney General submitted that the Central Government and CIL would need some time to adjust to the changed situation and move forward. This period will also give adequate time to the coal block allottees to adjust and manage their affairs. That the CIL is inefficient and incapable of accepting the challenge, as submitted by learned counsel, is not an issue at all. The Central Government is confident, as submitted by the learned Attorney General, that the CIL can fill the void and take things forward.

40. In addition to the request for deferment of cancellation, we also accept the submission of the learned Attorney General that the allottees of the coal blocks other than those covered by the judgment and the four coal blocks covered by this order must pay an amount of Rs. 295/- per metric ton of coal extracted as an additional levy. This compensatory amount is based on the assessment made by the CAG. It may well be that the cost of extraction of coal from an underground mine has not been taken into consideration by the CAG, but in matters of this nature it is difficult to arrive at any mathematically acceptable figure quantifying the loss sustained. The



estimated loss of Rs. 295/- per metric ton of coal is, therefore, accepted for the purposes of these cases. The compensatory payment on this basis should be made within a period of three months and in any case on or before 31st December, 2014. The coal extracted hereafter till 31st March, 2015 will also attract the additional levy of Rs. 295/- per metric ton.

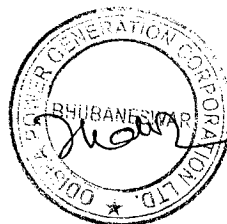
41. It is made clear that the scrutiny by the CBI in respect of the allotment of 12 coal blocks out of 46 identified by the learned Attorney General (and for that matter against any other allottee) will continue and be taken to its logical conclusion. Needless to say, the observations and findings in this order shall have no bearing on the pending investigations.

.....CJI.
(R.M. Lodha)

.....J.
(Madan B. Lokur)

.....J.
(Kurian Joseph)

**New Delhi;
September 24, 2014**



Annexure 1

Details of 40 coal blocks which have come into production

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Sl. No.	Name of Coal Block	Name of Allocatee Company
1.	Gare Palma IV/4	Jayaswal Neco Ltd.
2.	Chotia	Prakash Industries Ltd.
3.	Namchik Namphuk	Arunachal Pradesh Mining Corp.
4-5.	GarePalma IV/2&3	JSPL
6.	Belgaon	Sunflag Iron & Steel Ltd.
7-12.	Baranj I-IV, Kiloni and Manoradeep	Karnataka Power Corp. Ltd.
13.	Kathautia	Usha Martin Ltd.
14.	Parbatpur	Electrosteel Castings Ltd.
15.	Gare Palma IV/7	RAPL (Now Sarda Energy Ltd.)
16.	Barjore	WBPDC
17.	Tara (East)	WBSEB
18.	Tara (West)	WBPDC
19.	Gare Palma IV/1	Jindal Power Ltd.
20.	Sarshatali	CESC
21.	Talabira-I	Hindalco Industries Ltd.
22-23.	Gotitoria (East & West)	BLA Industries
24.	Gare Palma IV/5	Monnet Ispat Ltd.
25.	Pachwara Central	Punjab State Electricity Board
26.	Tasra	Steel Authority of India Ltd.
27.	Barjora North	DVC
28.	Marki Mangli-I	B.S. Ispat
29-30.	Marki Mangli-III	Shree Virangana Iron & Steel Ltd.
	Marki Mangli-II	
31.	Trans Damodar	WBMTCDL
32-33.	Moher & Moher Amlori Extension	Sasan Power Ltd.
34.	Ardhagram	Sova Ispat Ltd. & Jai Balaji Industries Ltd.
35-36.	Parsa (east) & Kanta Basan	RRVUN Ltd.
37-38.	Gangaramchak & Gangaramchak Bhadulia	WBPDC
39.	Amelia North	MPSMDC Ltd.
40.	Pachwara North	WBPDC



**Details of Coal Blocks which are likely come into production
during 2014-15**

Sl.No of block	Company Name	Name of Coal Block
1.	GVK Power (Govindwal Sahib)	Tokisud North
2.	DVC	Khagra Joydev
3.	Prism Cement	Sial Ghogri
4.	Jaiprakash Associates Ltd.	Mandla North
5.	MPSMCL	Bicharpur
6.	NTPC	Pakri Barwadih



ANNEXURE-9



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Government of India
Ministry of Coal
O/o the Nominated Authority

World Trade Tower, New Delhi

Office of the nominated authority constituted under section 6 of the Coal Mines (Special Provisions) Act, 2015.

Allotment order under clause (c) of sub-rule (2) of rule 7 and sub-rule (1) of rule 13

In re: **Manoharpur and Dipside Manoharpur Coal Mine** (the "mine") particulars of which is specified in **Annexure 1**

Order no.: 103/25/2015/NA

Date: August 31, 2015

In favour of: **Odisha Coal and Power Limited** incorporated in India under the Companies Act, 2013 with corporate identity number U10100OR2015SGC018623, whose registered office is at Plot No. N-3/135, IRC Village, Nayapalli, Bhubaneswar, Odisha - 751015, India (the "Allottee").

For utilisation in: End Use Plant situated at Banharpali, Jharsuguda, Odisha, as more particularly described below (the "End Use Plant")

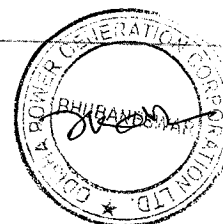
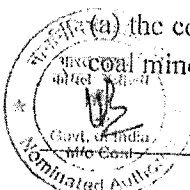
S. No	Name of Specified End Use Plant	Address	Configuration	Capacity
1.	Odisha Power Generation Corporation Ltd., Expansion Power Project (Unit 3, 4, 5 and 6)	1b Thermal Power Station, Banharpali, Jharsuguda, Odisha	4 X 660 MW	2640 MW

*MW stands for Mega Watt

WHEREAS, the nominated authority has, in accordance with the provisions the Coal Mines (Special Provisions) Act, 2015 (the "Act") and the Coal Mines (Special Provisions) Rules 2014 (the "rules") conducted the allotment of the relevant Schedule I coal mine;

AND WHEREAS the allottee is eligible to receive this allotment order with respect to the mine, including, inter-alia -

(a) the coal bearing land acquired by the prior allottee and the lands, in or adjacent to the coal mines used for coal mining operations acquired by the prior allottee; and



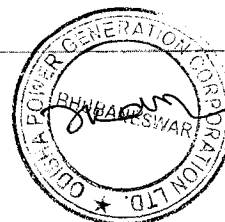
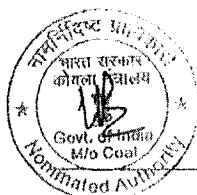
(b) any existing mine infrastructure as defined in clause (j) of sub-section (1) of section 3 of the Act;

AND WHEREAS the allottee has furnished a performance bank guarantee dated April 27, 2015 for an amount equal to INR 1,53,92,00,000 (Indian Rupees One Hundred Fifty Three Crore and Ninety Two Lakh) issued by Yes Bank in accordance with the allotment document and in accordance with the provisions of sub-section (6) and sub-section (12) of section 8 of the Act;

AND WHEREAS the allottee has entered into an Allotment Agreement dated March 30, 2015 (as amended) with the nominated authority in accordance with the provisions of sub-rule (5) of rule 13.

NOW, THE NOMINATED AUTHORITY DOES ORDER:

1. On and from August 31, 2015 ("allotment date") and in accordance with sub-section (4) of section 8 read with sub-section (12) section 8 of the Act, with respect to the mine, the following shall stand fully and absolutely transferred and vested in the allottee, namely: -
 - (a) all the rights, title and interest of the prior allottee in and over the land and mine infrastructure free from all encumbrances;
 - (b) entitlement to a mining lease to be granted by the State Government with the terms and conditions of the Allotment Agreement forming a part of it on making an application;
 - (c) all statutory licences, permits, permissions, approvals or consents as per rules, required to undertake coal mining operations in the mine, if already issued by the Central Government, to the prior allottee on the same terms and conditions as were applicable to the prior allottee, as listed in the **Annexure 2**;
 - (d) entitlement to any statutory licence, permit, permission, approval or consent required to undertake coal mining operations in the mine, if already issued by the Central Government, to the prior allottee on making an application on the same terms and conditions as were applicable to the prior allottee, as listed in the **Annexure 3**;
 - (e) entitlement to any statutory licence, permit, permission, approval or consent required to undertake coal mining operations in the mine, if already issued by the State Government, to the prior allottee on making an application on the same terms and conditions as were applicable to the prior allottee, as listed in the **Annexure 4**;
 - (f) rights appurtenant to the approved mining plan of the prior allottee;
 - (g) any subsisting contract in relation to coal mining operations, to which the prior allottee was a party and which is assumed, adopted and continued by the Allottee and listed in the **Annexure 5** shall stand novated (by virtue of a deemed consent from the relevant party(ies)), in accordance with the



provisions of sub-section (1) of section 11 of the Act in favour of the allottee for the residual term or residual performance of such contract;

2. The Allottee may seek any change in the terms and conditions attached to such licence, permit, permission, approval or consent by making an application in accordance with applicable laws;
3. Hereinafter, the Allottee shall be entitled to take possession of the mine as specified in Annexure-1 without let or hindrance;
3. This allotment order is liable to be cancelled in accordance with the provisions of sub-rule (6) of rule 13.



Vivek Bharadwaj

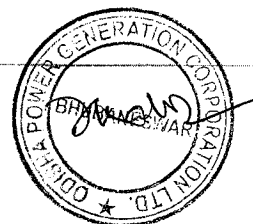
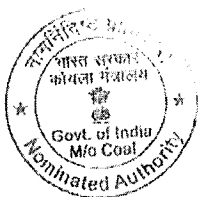
(By the nominated authority)



720.

Allotment Order for Manoharpur and Dipside Manoharpur Coal Mine**Annexures****Annexure 1: Particulars of the mine****Part A – Description of the mine**

Name of Coal Mine	Manoharpur and Dipside Manoharpur
Latitude	Manoharpur: 21°56'19" N to 21°58'04" N
Longitude	Manoharpur: 83°46'00" E to 83°47'26" E
Coalfield	Ib Valley
Villages	Manoharpur, Ghumundasan
Tehsil/Taluka	Hemgiri
District	Sundergarh
State	Odisha



Part B – Description of Land in relation to the mine**Type of Land:** Freehold Land for Mining as per Mining Lease

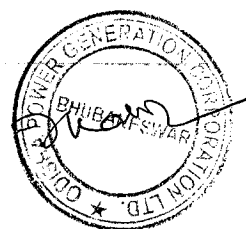
Nil

Type of Land: Leasehold Land for Mining as per Mining Lease

Nature	Area (Hectares)
Government Land	339.53 ✓
Private Land	398.68 ✓
Forest Land	-

Type of Land: Leasehold Land - Any other land for mine infrastructure as defined in section 3(1) (j) of the Act

Nature	Area (Hectares)
Government Land	79.81 ✓
Private Land	126.36 ✓
Forest Land	-



Part C – Description of Mine Infrastructure in relation to the mine**C1- Mine Infrastructure: Immovable Assets**

Nil

C2- Mine Infrastructure: Land for Compensatory Afforestation**Type of Land:** Freehold Land for Compensatory Afforestation

Nil

Type of Land: Leasehold Land for Compensatory Afforestation

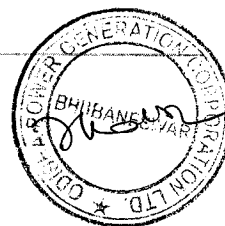
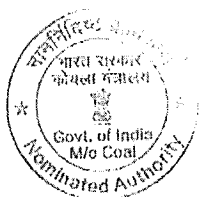
Nature	Area (Hectares)
Government Land	436.08
Private Land	-
Forest Land	-

C3- Mine Infrastructure: Resettlement and Rehabilitation Land**Type of Land:** Resettlement and Rehabilitation Freehold Land

Nil

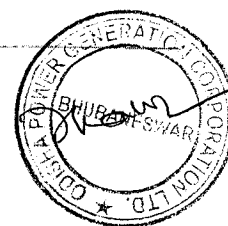
Type of Land: Resettlement and Rehabilitation Leasehold Land

Nature	Area (Hectares)
Government Land	72.83
Private Land	-
Forest Land	-



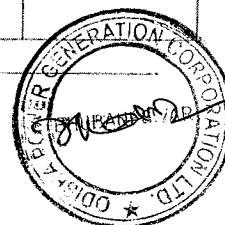
Annexure 2: Particulars of statutory licences, permits, permissions, approvals or consents issued by the Central Government which are being transferred along with this Allotment Order.

S. No	Statutory Clearance	Ministry/ Agency	Letter No.	Date
1.	Approval of a) Mining Plan of Manoharpur Coal Mine Mining Plan (March, 2008)-Manoharpur coal block	Ministry of Coal	No.13016/26/2008-CA-I	11.08.2008
	b) 1st Revision of Mining Plan and Mine Closure Plan (July 2013)-Manoharpur coal mine		No.13016/28/2012-CA-I	11.12.2013



Annexure 3: Particulars of statutory licences, permits, permissions, approvals or consents issued by the Central Government to be obtained on application by the Allottee.

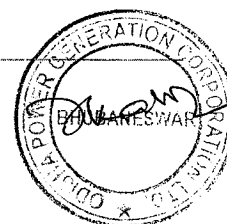
S. No	Statutory Clearance	Ministry/ Agency	Letter No.	Date
1.	Environment Clearance Manoharpur Opencast Coalmine Project (8 MTPA in an ML area of 977.875 ha)	Ministry of Environment and Forests	No. J-11015/139/2008- IA.II(M)	21.02.2014
2.	Forest Clearance – a) Stage 1 Diversion of 200.465 Ha of Forest Land including 4.42 Ha for Safety Zone in Manoharpur Coal Block of Ib-Valley Coalfields in Sundargarh District of Odisha	Ministry of Environment and Forests	F. No. 8-63/2011-FC	17.10.2012
	b) Stage 2 Diversion of 276.655 Ha of Forest Land (including 76.19 Ha area which is to be treated as forest as per dictionary meaning) in Manoharpur Coal Block of Ib-Valley Coalfields in Sundargarh District of Odisha		F. No. 8-63/2011-FC	20.08.2014
3.	Ground water clearance - Manoharpur Coal Mine	Central Ground Water Authority – Ministry of Water Resources	No. 21- 4(380)/CGWA/SER/2011 -1743	29.11.2011
4.	Explosive Licenses – Proposed possession for use of explosives from a magazine situated at Survey No: Plot No. 2338, Khata No. 212,	Ministry of Commerce, DIPP	A/E/HQ- OR/22/297(E69927)	05.10.2012



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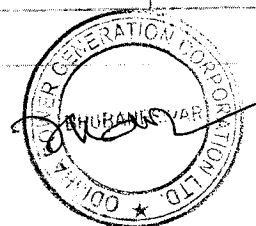
Allotment Order for Manoharpur and Dipside Manoharpur Coal Mine

S. No	Statutory Clearance	Ministry/ Agency	Letter No.	Date
	Town/Village: Laikera. Dist Khurda, State Odisha			

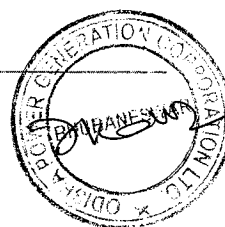


Annexure 4: Particulars of statutory licences, permits, permissions, approvals or consents issued by the State Government to be obtained on application by the Allottee.

S. No	Statutory Clearance	Ministry/ Agency	Letter No.	Date
1.	Consent to establish - Manoharpur Coal Mine	State Pollution Control Board, Odisha	No. 23672/ Ind-II-NOC-5430	30.12.2013
2.	Grant of Mining Lease – Over an area of 644.685 hectares in village Manoharpur, Kathapali, Dulinga, San Ghumra, Durubaga and Paramanandapur under Sadar sub-division of Sundergarh District- Manoharpur Coal Mine	Steel & Mines Department, Government of Odisha	No. 9239/SM, III (Coal) SM-08/2012	28.12.2012
3.	Grant of Prospecting License – Dipside Manoharpur Coal Mine	Department of Steel & Mines, Government of Odisha	Memo No. 7635/ SM	26.09.2011
4.	Land Ownership a) Permissive possession and acceptance of terms and conditions of Government land admeasuring 56.52 acres b) Allotment of Govt. land	IDCO	IDCO:HO:P&A: LAE: No. 5703/2010/3342	14/15.02.2014
			IDCO:HO:P&A: LAE: No. 5703/2008/2014/11014	06/07.06.2014
5.	Power Line from State Electricity Board a) 11 KV Power Supply permission to R&R Colony, Guest House and Office b) 33 KV Power Supply Permission – In principle to Manoharpur Coal Mine c) In Principle approval for Power supply 220 KV to Manoharpur Coal Mine d) 5 MVA 33KV power supply permission to Manoharpur Coal Mine	WESCO Odisha Power Transmission Corporation Ltd. Odisha Power Transmission Corporation Ltd. GRIDCO Limited	WESCO/Com-404 TR/WKL/IV/376/2010/2244(13) TR/WKL/IV/376/2010/823(13) DC-120/2010(Vol-II)/2326(9)	07.04.2014 11.07.2012 28.03.2012 28.03.2012
6.	Approval for diversion of Garia Nalla passing through	Department of Water	No. 6308/WR, Irr-II-WRC-04/14	04.03.2014

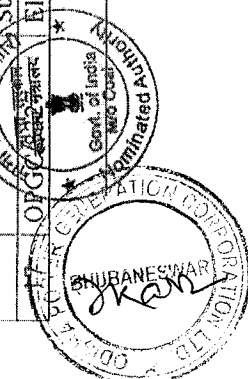


S. No	Statutory Clearance	Ministry/ Agency	Letter No.	Date
	Manoharpur Coal Mine	Resources, Government of Odisha		
7.	Approval for diversion of Road connecting Durubaga and Kanaktura maintained by R.D. Deptt coming with the ambit of Manoharpur Coal Mine	Department of Rural Development, Government of Odisha	No. 28541600052012/RD	15.01.2014
8.	Approval of Site Specific Wildlife Conservation Plan for Manoharpur Coal Mine	O/o the Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Odisha	Memo. No. 5838/1WI(C)SSP-213/2011	29.08.2011
9.	Consent to Establish of R&R Colony	State Pollution Control Board, Odisha	No.6536/Ind-II-NOC-5845	23.04.2014
10.	Clearance for Non-Mineral zone/ore bearing area in the district of Sundergarh and Jharsuguda in favour of OPGC	Directorate of Geology, Government of Odisha	No. GXXIII(c)-29/2013-1532/DG	14.03.2014
11.	Permission for ITC	State Council for Technical Education and Vocational Training, Government of Odisha	Order No. VT-XV-01/2013	15.04.2014

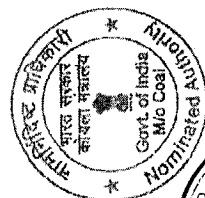


Annexure 5: Particulars of the contracts adopted by the Allottee.

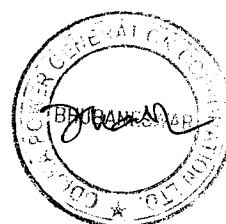
S.No.	Contract ID	Contract details	Start Date	Contract Value (Rs. Inclusive of taxes)	Payment made up to 31 Dec 14	Payment made (Jan-31st March 15)	Remarks
1	OPGC/515	Construction of R&R Colony at Sukhbandh (awarded to M/S BALAJI)	01-04-2014	58,60,22,465	12,27,46,271.00	78,07,444.00	Ongoing
2	OPGC/780	Construction of Transit Guest House & Temporary Mine Office at Hemgir (awarded to M/S BDL)	05-04-2014	8,10,00,282	1,22,48,197.00	1,87,51,057.00	Ongoing
3	OPGC/3162	Consultancy services for R&R colony (M/s Architect Studio)		82,10,072	78,41,134.00	Nil	Ongoing
4	OPGC/402	Consultancy services for TMO & TGH (M/S Architect studio)		6,50,000	3,65,170.00	Nil	Ongoing
5	OPGC/2172	Owners Engineer for Mines (awarded to M/S Norwest, USA)	21-07-2014	58,87,768	nil	48,22,444.00	Ongoing
6	OPGC/2405	Third Party Consultant for QA, QC and QS of R&R Colony, TGH & TMO (M/S Wadia)		30,33,720	nil	10,21,521.00	Ongoing
7	MOCP/56	Hiring of vehicles for Mines		1,20,00,000	77,60,000.00	41,85,000.00	Ongoing
8	OPGC/775	Consultancy services for preparation of DPR and design of CHP (M/S DCPL, Kolkata)	04-03-2014	21,50,000	16,91,018.00		Ongoing
9	OPGC/3032	Providing Industrial training and managing Industrial Training centre at Hemgir	10-09-2014	19,55,064	8,41,976	2,49,639.00	Ongoing
10	OPGC/2445	Consultancy Services for selection of Mines Operator for Manoharpur coal block (M/S PWC)	08-08-2014	18,44,951	nil	nil	Ongoing
11	OPGC/1658	Facility Management services for Guest house and office canteen at Hemgir	01-06-2014	5,98,608	3,97,570.00	1,67,886.00	Ongoing
12	MOCP/H	Lease agreement for office space at Hemgir	01-04-2014	4,18,000	2,80,991.00	1,38,746.00	Ongoing
13	OPGC/213	Conducting Socio Economic & Socio Cultural Study in Village Ghumudasan and Dulanga	18-01-2014	4,44,946	4,44,946.00		Ongoing
14	MOCP/J	Lease agreement for office space and transit guest house at Jharsuguda	21-10-2014	3,85,000	2,87,001.00	1,18,474.00	Ongoing
15	OPGC/FM	Facility management services at Transit guest house at JSG (M/S J.N.SHARMA)	21-10-2014	5,98,608	3,97,570.00	1,90,491.00	Ongoing
16	OPGC/2442	Deployment of attendants at site office at R & R Colony at Sukhbandha		2,76,120	2,27,525.00	88,482.00	Ongoing
	OPGC/2442	Electrification work work at TTC, Hemgir		2,22,988.00	nil	nil	Ongoing



S.No.	Contract ID	Contract details	Start Date	Contract Value (Rs. In clusive of taxes)	Payment made up to 31Dec 14	Payment made (Jan-31st March 15)	Remarks
18	OPGC/1845	Preparation of Forest Diversion Proposal for 220 KV transmission line	11-03-2013	2,24,720.00	nil	nil	Ongoing
19	OPGC/657	Appointment of consultant for diversion of Durubhaga-Kanakturna (PMGSY) road	25-02-2014	5,67,418.00	nil	nil	Ongoing
20	OPGC/2174	Appointment of consultant for diversion of Garia Nalla	22-07-2014	15,69,584.00	nil	nil	Ongoing
21	OPGC/777	Mine DPR by Geoenvironment, BBSR	04-03-2014	53,37,100.00	10,30,869.00	28,82,039.00	Ongoing
22	OPGC/1921	Supply and installation of various equipments and Machinery for ITC, Hemgir	24-07-2013	13,25,000.00	11,92,500.00	1,32,500.00	Ongoing
23	OPGC/3120	Construction of 11KV transmission line & substation for R&R Colony at Himgir	18-10-2014	30,43,106.00	nil	30,43,106.00	Ongoing
24	OPGC/660	Consultancy services and survey work for 400KV PGCIL line diversion	14-03-2013	8,92,701.00	nil	8,92,701.00	Ongoing
25	OPGC/1332W/E dt 23.05.2009	LOA for appointment of for obtaining forest clearance of Dip Side of Manoharpur & forest diversion of Manoharpur Coal Block and MGR system in Sundargarh & Jharsuguda District.	23-05-2009	77,30,368.00	45,66,934.00	nil	Ongoing
26	OPGC/2513W/E 08.11.2011	Flora & Fauna study (Utkal university)	08-11-2011	5,00,000.00	4,80,000.00	20,000.00	Ongoing
27	OPGC/CHP/1	Geotechnical investigation in CHP area		30,00,000.00			Ongoing
28	OPGC/958	Electrical installation work at ITC, Himgir	22-04-2013	5,03,462.00	5,03,462.00	4,44,91,530.00	Ongoing
		TOTAL		73,03,92,051	16,33,03,134	8,90,03,060	



ANNEXURE-10



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भारत सरकार
Govt. of India
विद्युत मन्त्रालय, केन्द्रीय विद्युत प्राधिकरण
Ministry of Power, Central Electricity Authority
क्षेत्रीय निरीक्षण संगठन

Tel No. :033-24235107
Tel/FAX No.: 24235108

REGIONAL INSPECTORIAL ORGANISATION

14, गोल्फ क्लब रोड, टॉलीगंज, कोलकाता-700033
14 Golf Club Road, Tollygunj, Kolkata-700033

No. RIO/ER/OPGC/400KV SWYD/579-588

Date: 18.09.2017

Sh. Ron Mcparland,
2X660MW Thermal Power Project Office,
IB TPS,
Banharpali,
Dist: Jharsuguda
Odisha -768 234

Subject: Approval for energization of Electrical installations of 400KV Switchyard at 2*660MW Thermal Power Project of OPGC at Banharpali, Jharsuguda, Odisha under regulation 43 & 32 of CEA (Measures Relating to Safety and Electric Supply), Regulations, 2010.

Ref:


1. Your on line Application No A/2017/02502 dated 15.08.2017
2. Our Inspection Report No. RIO/ER/OPGC/400KV SWYD/532-533 dated 25.08.2017
3. Your Compliance Report No. OPGC II/CEA/2017/ dated 14.09.2017

Whereas the inspection of the Electrical installations mentioned in the subject was carried out by the undersigned on 24.08.2017 and whereas your compliance of our observations, under Sl. no (2) of reference above, has been received vide your compliance report under Sl. no (3) of reference above.

With reference to the above mentioned subject and references, the approval is hereby granted to energize the Electrical installations (as per list of equipment submitted for inspection in application mentioned in Sl. No. 1 above) of 400KV Switchyard at 2*660MW Thermal Power Project of OPGC at Banharpali, Jharsuguda, Odisha.

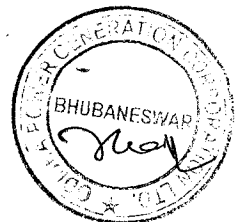
This approval is strictly subject to your consistent full compliance with the relevant provisions of Central Electricity Authority (Measures Relating to Safety and Electric Supply), Regulation, 2010 in every respect.

THIS APPROVAL IS VALID FOR TWO YEARS FROM THE DATE OF ISSUE.


(S. KEJRIWAL)

Deputy Director &
Electrical Inspector to the Govt. of India

Copy to: The Chief Engineer (EI) CEA, 3rd Floor, NRPC, 18A, SJS Marg, Katwaria Sarai, New Delhi-110016





हरियाणा HARYANA

E 633914

AGREEMENT FOR LONG TERM ACCESS WITH SYSTEM STRENGTHENING

BETWEEN

POWER GRID CORPORATION OF INDIA LIMITED

AND

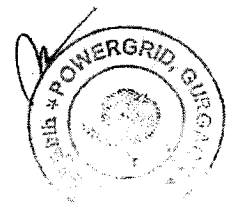
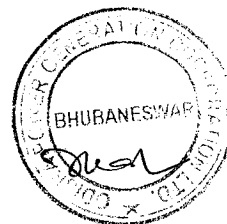
ODISHA POWER GENERATION CORPORATION LIMITED

This Long Term Access Agreement (hereinafter called LTAA) entered into on the 11th day of Sept. Two thousand Thirteen between Central Transmission Utility i.e. POWER GRID CORPORATION OF INDIA LIMITED, a company incorporated under the Companies Act, 1956, having its registered office at B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110 016 (hereinafter called either "CTU" or "POWERGRID", as the context may demand, which expression shall unless repugnant to the context or meaning thereof include its successors and assigns as party of the first part;

And

[Signature]
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar

- 1 -



ODISHA POWER GENERATION CORPORATION LIMITED, a company incorporated under the Companies Act, 1956 having its registered office at Zone-A, 7th Floor, Fortune Towers, Chandrasekharapur, Bhubaneswar - 751023 Odisha, India (hereinafter referred to as Long Term Customer or "**LTC**" or "**OPGC**", which expression shall unless repugnant to the context or meaning thereof include its successors and assigns) as party of the second part.

A) WHEREAS POWERGRID is a deemed ISTS licensee and has been mandated to undertake the functions of CTU as provided under the Electricity Act 2003.

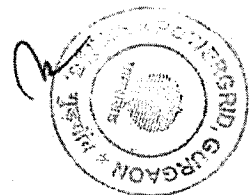
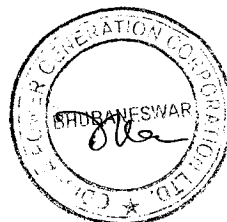
B) AND WHEREAS "**OPGC**" is desirous to avail Long Term Access to ISTS in accordance with Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 hereinafter referred to as "LT Access Regulations", & Procedures stipulated thereof for transmission of power as per their application.

C) AND WHEREAS Long Term Access is also to be availed by "**OPGC**" as indicated at **Annexure-1**. The dates, period and other conditions related to grant and Commencement of Long Term Access are contained in **Annexure-1**.

D) AND WHEREAS the transmission system required for immediate evacuation (direct injection/drawl) of power from premises of LTC to the suitable points of ISTS has been finalized in accordance with the provisions of the Electricity Act, 2003 and is to be built, owned, operated & maintained by the agencies as indicated at **Annexure-2**.

E) AND WHEREAS the common transmission system for transmission of power as indicated at **Annexure-3** has been finalized in accordance with the provisions in the Electricity Act, 2003 & guidelines thereof and is being built, owned, operated and

Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



maintained by ISTS licensee(s), which shall be finalized through Tariff Based Competitive Bidding process.

F) AND WHEREAS CERC has notified "Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 hereinafter called "Sharing Regulations".

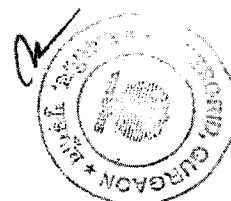
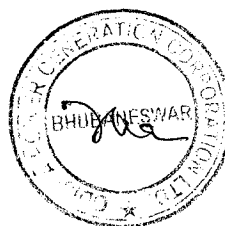
G) AND WHEREAS in accordance with LT Access Regulations and Procedures thereof and Electricity Act 2003, CTU has granted such access from the date of availability of the transmission system for the transfer of power as mentioned in Annexure 3 of this agreement, subject to signing of Tripartite Agreement, TSA and submission of Bank Guarantee as provided for hereinafter.

H) AND WHEREAS the Detailed Procedures of Central Transmission Utility under Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 are undergoing revision. Any revision approved by CERC shall apply to this agreement mutatis mutandis.

I) AND WHEREAS LTC has to share and pay all the applicable transmission charges of the total transmission system as indicated at Annexure-3 from the date of commencement of Long Term Access in accordance with the sharing mechanism, as decided/ notified/ determined/ adopted by Central Electricity Regulatory Commission from time to time.

J) AND WHEREAS LTC has also to share and pay all the applicable transmission charges, as decided/ notified/ determined/ adopted by CERC from time to time, from the date of Commencement of Long Term Access of


Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



- i) entire Inter State Transmission System (ISTS)
- ii) deemed ISTS, i.e. the Non-ISTS considered as ISTS prior to notification of Sharing Regulations,
- iii) non-ISTS, as certified by the concerned RPC,
- iv) non-POSOCO assets including metering & communication system of POWERGRID associated with ULDC and NLDC,
- v) any additions/modifications in the above.

K) AND WHEREAS it has become incumbent upon LTC and CTU to enter in to LTAA as envisaged under the "LT Access Regulation".

L) AND WHEREAS, during the tenure of this agreement if any of the covenants and conditions recited in this agreement are found inconsistent with the provisions of the Electricity Act, 2003, notifications/guidelines/codes/rules/regulations & amendments thereof from time to time, notwithstanding any thing contained in the agreement referred to above, the said provisions shall prevail.

Now, therefore, in consideration of the above premises, it is hereby agreed by and between the parties as follows:

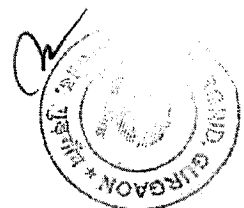
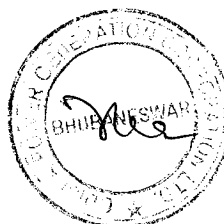
1.0

- (a) The LTC shall furnish a Bank Guarantee, as per format given by the CTU, from a nationalized bank for an amount of Rs. 30 Crores (Rupees Thirty Crores only) as security mechanism for the transmission system to be built, owned and operated by ISTS licensee (the same being Rs. 5 Lakhs per MW, currently). The Bank Guarantee shall be issued by

- i) A Public Sector Bank, or

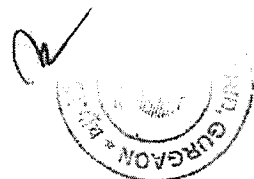
R. Singh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar

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- ii) Scheduled Indian Bank having paid up capital(net of accumulated losses) of Rs.100 crore or above(duly supported by latest annual report) and also satisfying the minimum capital adequacy requirement, or
- iii) Any foreign Bank with overall International corporate rating or rating of long term debt not less than A – (A minus) or equivalent by reputed rating agency.
- (b) The Bank Guarantee would be furnished in favour of POWERGRID within 3 (three) months of signing of this Agreement failing which the Long term access granted shall be treated as cancelled and fresh application would be required in case the applicant wants to apply for Long Term Access again.
- (c) This bank guarantee would be initially valid for a period up to six months beyond the expected date of commissioning schedule generating unit(s) mentioned at Annexure-1 in case of LTC being other than demand customers. However, for existing commissioned units of the generating company(s) included in Annexure-1, the validity shall be same as applicable to the earliest validity applicable to the generator in the group mentioned at Annexure-1.
- (d) The Bank Guarantee shall be encashed by CTU in case of adverse progress of work under the scope of LTC, assessed during Joint Co-ordination Meeting. However, the validity of Bank Guarantee shall be extended by concerned LTC as per the requirement to be indicated during Joint Co-ordination Meeting.
- (e) In case of the transmission system that are required to be built by ISTS Licensee(s) through Tariff Based Competitive Bidding as mentioned at Annexure 3, the schedule date of completion shall be contained in the

R. Singh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



Tripartite Agreement to be entered among LTC, CTU & ISTS Licensee in accordance with the LT Access Regulation.

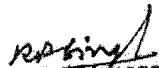
(f) The LTC shall sign the Transmission Service Agreement with CTU, as per Sharing Regulations.

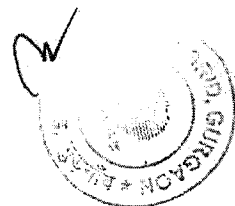
(g) The LTC shall furnish Letter of Credit (L/C) and other payment security mechanism in accordance with the TSA.

2.0 In case, the LTC has not identified or partially identified the demand customer or the generating company as the case may be; and the assets covered under the transmission system, as indicated at Annexure-3 have been declared under commercial operation, either in part or in full; the LTC shall bear the full transmission charges that would have been applicable to the demand customer or the generating company, as the case may be, so as to ensure full recovery of the transmission tariff corresponding to the commissioned portion of the transmission system indicated at Annexure-3.

3.0 In order to monitor/ review the progress of work under the scope of LTC along with the transmission system, a Joint co-ordination meeting with the representative of each LTC and CTU shall be held at regular interval (preferably quarterly) after signing of this Agreement. CTU may invite any statutory authority and ISTS Licensee(s) to facilitate the same.

4.0 All differences/ disputes between the parties arising out of or in connection with this Agreement shall be resolved in terms of the Redressal Mechanism provided under Regulation 32 of the CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 and under Electricity Act 2003.


Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



5.0 This is agreed to by Long Term Customer, signing of this agreement, to indemnify and hold the CTU harmless from and against any and all damages, losses, liabilities, obligations, penalties, cause of action, claims of any kind (including, without limitation, reasonable attorneys' fees and expenses) (collectively, "Losses"), suffered, incurred or paid, directly, as a result of, in connection with or arising out of and relating to exercise of CTU's actions pursuant to and in accordance with this Agreement.

6.0 This Agreement shall be valid from the date of signing of this agreement till the validity of Long Term Access subject to its revision as may be made by the parties to this Agreement provided that this Agreement may be mutually renewed or replaced by another Agreement on such terms as the parties may mutually agree.

In witness whereof both the parties have executed this Agreement through their authorized representative.

Witness

Signature: Jasbir Singh

Name: जसवीर सिंह
Jasbir Singh

Designation: उप महाप्रबंधक (वाणिज्यिक)
Commercial Manager (Commercial)

For and on behalf of

Central Transmission Utility

Signature: Mahender Singh

Name: महेंद्र सिंह / Mahender Singh
कार्यकारी निदेशक (वाणिज्यिक) / Executive Director (Commercial)

Designation: पावर ग्रिड कॉर्पोरेशन ऑफ इंडिया लिमिटेड
Power Grid Corporation of India Ltd.
प्लॉट नं०-2, सेक्टर-29, गुडगाँव-122 001 (हरियाणा)
Plot No.2, Sector-29, Gurgaon-122 001 (HARYANA)

For and on behalf of

Odisha Power Generation Company Ltd.

Signature: R.P. Singh

Name: (R. P. Singh)

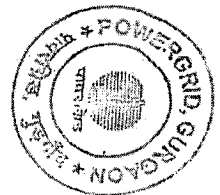
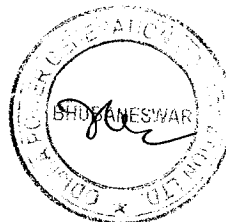
Designation: Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar

Signature: K. C. Samantray

Name: K. C. Samantray

Designation: Manager (Electrical)
OPGC, Bhubaneswar.

Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



Annexure-1

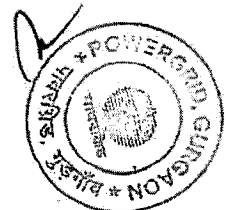
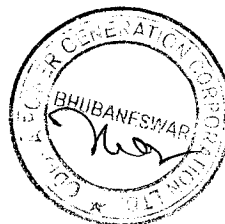
Details of Generation Projects (Phase-II Generation Projects in Odisha)

S. No.	Applicant	Gen. Project Capacity (MW)	LTA Applied for (MW)	Commencement of LTA	Commissioning Schedule (Unit wise)	Long Term Access granted				Period Of Long Term Access (years)
						WR	SR	NR	ER	
1.	Sterlite Energy Ltd.	2400	1000	From the date of actual commissioning schedule of the ISTS transmission system given at Annexure - 2 & 3 and respective commissioning schedule mentioned at Annexure - 1 whichever is later.	Already commissioned	400	-	400	200	25
2.	GMR Kamalanga Energy Ltd.	350	220		Unit#4 : 350 MW Dec, 2013	220	-	-	-	
3.	Odisha Power Generation Corporation Ltd. (OPGC)	1320	600		Unit#1 : 660 MW July, 2017	200	200	200		
	Total	4070	1820			820	200	600	200	-

Note:

1. This is with reference to Grant of Long Term Access (LTA) vide POWERGRID Intimation No. C/CTU/TA/L/E/13/01 dtd. 08.04.2013 and subsequent revision No. C/CTU/TA/L/E/01/13/Rev-01 dated 11.09.2013 (Copy enclosed herewith as Annexure-4).
2. In case LTA is possible for individual generators before commissioning of entire transmission system, the same may be examined against request of the respective generator/developer at the time of commissioning of the generation project.

Robing
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



Annexure-2

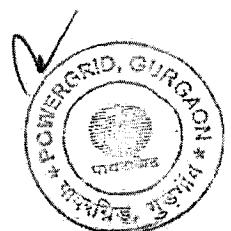
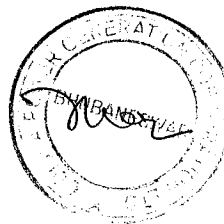
Transmission system for immediate evacuation of the generation project

S. No.	OPGC (IC-1320MW, LTA-600MW) (ISTS System)
1.	<ul style="list-style-type: none"> OPGC-Jharsuguda (Sundargarh) 400kV D/c line (Triple Snowbird Conductor) : through Tariff Based Competitive Bidding (TBCB) 2 nos. 400 kV line bays at generation switchyard : under scope of generation developer 2 nos. 400 kV line bays at Jharsuguda (Sundargarh) : under scope of POWERGRID

Note:

1. The termination of the line as well as location of pooling station is subject to minor changes depending upon final survey and physical constraint, if any.
2. In case of any major development, if there is any change in the transmission system to achieve overall optimization of the system, then, above details would be modified on mutual consent.
3. In case, in future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed above (subject to technical feasibility), he/they would also share the applicable transmission charges.

R. Singh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



Transmission System for Phase-II Generation Projects in Odisha

1. Being Implemented by POWERGRID

- Angul – Jharsuguda (Sundargarh) – Dharamjaygarh 765 kV D/c line.

This line is being implemented by POWERGRID as a part of evacuation system from generation projects in Srikakulam area of Andhra Pradesh in Southern region. The same would also be utilized for evacuation of power phase-II generation projects in Odisha.

2. To be implemented through Tariff based Competitive Bidding Route

- Jharsuguda (Sundargarh) – Raipur Pool 765 kV D/c line.
- LLO of both circuits of Rourkela - Raigarh 400 kV D/c (2nd line) at Jharsuguda (Sundargarh).

3. To be implemented by POWERGRID

- Addition of 2x1500MVA, 765/400kV ICT at Jharsuguda (Sundargarh).
- Addition of 2x1500MVA, 765/400kV ICT at Angul
- Split bus arrangement at 400kV and 765kV bus in both Angul and Jharsuguda (Sundargarh) substations.

Note:

1. The termination of the line as well as location of pooling station is subject to minor changes depending upon final survey and physical constraint, if any.
2. In case of any major development, if there is any change in the transmission system to achieve overall optimization of the system, then, above details would be modified on mutual consent.
3. In case, in future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed above subject to technical feasibility, he/they would also share the applicable transmission charges.

R. S. Singh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



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पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड
(भारत सरकार का उद्यम)
POWER GRID CORPORATION OF INDIA LIMITED
(A Government of India Enterprise)



केन्द्रीय कार्यालय : "सौदामिनी" प्लॉट सं. 2, सेक्टर-29, गुडगाँव-122 001, हरियाणा
फोन : 2571700 - 719 फैक्स : 2571760, 2571761 तार 'नेटग्रिड'
Corporate office : "Saudamini" Plot No. 2, Sector-29, Gurgaon-122 001 Haryana
Tel. : 2571700 - 719, Fax : 2571760, 2571761 Gram : 'NATGRID'

संदर्भ संख्या / Ref. Number

C/ENG/E/00/CTU/LTA

Date: 08-04-2013

Shri R. K. Singh Sr. Vice President Sterlite Energy Ltd. Project Site Office Bhurkhamunda, P.O. - Sripura Distt : Jharsuguda (Odisha)-768202	Shri K.V.V.Rao Director GMR Kamalanga Energy Ltd. 10 th Floor, 'D' Block, IBC Knowledge Park Bannerghatta Road, Bangalore - 560029
Shri Ritwik Mishra DGM(Commercial) Orissa Power Generation Corporation Ltd. (OPGC) Zone-A, 7th Floor, Fortune Towers Chandrasekharapur, Bhubaneswar - 751023	

Sub: Intimation for grant of Long Term Access (LTA) for Phase-II Generation Projects in Odisha.

Sir,

This is with reference to your applications for grant of Long Term Access (LTA) for evacuation of power from respective generation projects in Odisha. In this regard, it is to mention that the intimation for grant of LTA to Sterlite (Phase-II), GMR (Phase-II), Tata Power & CESC was issued vide our letter dated 03-01-2011. Accordingly, Sterlite (Phase-II) & GMR (Phase-II) signed the Long Term Transmission Agreement (LTTA) and submitted the requisite Bank Guarantees. CESC also signed the LTTA but could not furnish the requisite Bank Guarantee. Tata Power did not sign the LTTA.

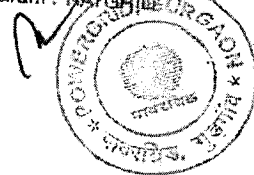
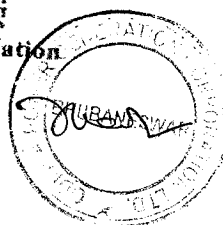
Subsequently, OPTCL expressed its reservations regarding the associated transmission system. Detailed discussions were held in various meetings during 2011-12 and finalized in the meeting regarding Connectivity / MTOA / LTA with

पंजीकृत कार्यालय : बी-9, कुतब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली-110016 दूरभाष : 26560121 फैक्स : 011-26560039 तार 'नेटग्रिड'
Registered Office : B-9, Outub Institutional Area, Katwaria Sarai, New Delhi-110016 Tel. : 26560121 Fax : 011-26560039 Gram : 'NATGRID'

स्वहित एवं राष्ट्रहित में ऊर्जा बचाएं
Save Energy for Benefit of Self and Nation

R. Singh
Deputy General Manager (Law)
Orissa Power Generation Corporation Ltd.
Bhubaneswar

-12-



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Constituents of Eastern Region held on 05-01-2013 at POWERGRID Office, Gurgaon. Based on the above discussions, the generation projects like Sterlite – II, GMR – II, OPGC and Darlipalli have been considered under Phase-II generation projects in Odisha for grant of LTA.

Accordingly, the LTA intimation for Sterlite – II (revised), GMR – II (revised) and OPGC is enclosed. The LTA intimation for Darlipalli project has been issued separately. It is to mention that OPGC vide its letter dated 15-03-2013 has informed the date of commissioning schedule as Sep-2017, which has been considered as date of commencement of Connectivity & LTA.

In this regard, it is requested to sign Long Term Access Agreement (LTAA) with POWERGRID within 30 days of date of this letter and furnish requisite Bank Guarantee within 03 months from the date of signing of the LTAA and fulfill other terms & conditions as stipulated in the detailed procedure for CERC (Grant of Connectivity, Long-term Access and Medium-term Open access in inter-State transmission and related matters) Regulations, 2009.

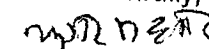
NOTE: In case, the LTAA is not signed and/or Bank Guarantee as mentioned above is not furnished, as per the above schedule grant of LTA shall stand cancelled.

For signing LTAA you may contact at following address:

Executive Director (Commercial)
Power Grid Corporation of India Limited
Saudamini, Plot No. – 2, Sector – 29,
Near IFFCO Chowk, Gurgaon – 122 001
Ph: 0124-2571988

Thanking you,

Yours faithfully,



(Y. K. Sehgal)

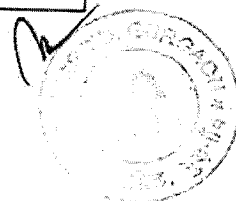
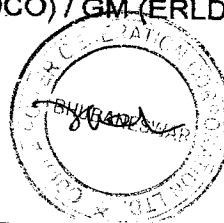
Chief Operating Officer (CTU)

Copy to:

Member Secretary Eastern Regional Power Committee 14, Golf Club Road, Tollygunge Kolkata 700 033	Chief Engineer (SP&PA) Central Electricity Authority Sewa Bhawan, R K Puram New Delhi – 110 066.
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Copy to: ED (Commercial) / ED (ERTS-II) / CEO (POSOCO) / GM (ERLDC)

Deputy General Manager (Law)
Orisha Power Generation Corporation Ltd.
Bhubaneswar



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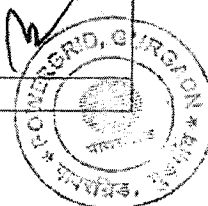
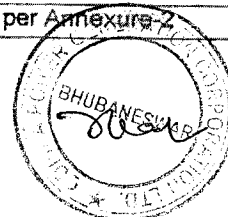
LTA-5

Intimation for Grant of Long - Term Access (LTA)

1	Intimation No.	C/CTU/TA/L/E/13/01
	Date :	08-04-2013
2	Ref. Application No. & Date	1. Sterlite Energy Ltd. vide ref no. NIL dated 08-11-2010 2. GMR Kamalanga Energy Ltd. vide ref no. GKEL/PG:dated 10-08-2010 3. OPGC Vide dated 22-12-2011
3	Name of the Applicant	1. Sterlite Energy Ltd. 2. GMR Kamalanga Energy Ltd. 3. Orissa Power Generation Corporation Ltd.
4	Address for Correspondence	1. Shri R. K. Singh Sr. Vice President Sterlite Energy Ltd. Project Site Office Bhurkhamunda, P.O. - Sripura Distt : Jharsuguda (Odisha)-768202 2. Shri K.V.V.Rao Director GMR Kamalanga Energy Ltd. 10th Floor, 'D' Block IBC Knowledge Park Bannerghatta Road Bangalore - 560029 3. Shri Ritwik Mishra DGM(Commercial) Orissa Power Generation Corporation Zone-A, 7th Floor, Fortune Towers Chandrasekharapur, Bhubaneswar - 751023, Odisha
5	Nature of the Applicant	
	Generator (other than captive)	Generator
	Captive Generator	---
	Bulk Consumer	---
	Electricity Trader	---
	Distribution Licensee	---
	Others	---
6	Details for Long Term Access (LTA)	
6a	Quantum (MW) for which LTA is granted	As per Annexure-1
7	Injection of Power (more than one only in case of single Drawal)	
	Entity	
	State/Region	As per Annexure-1
	Quantum-1	
	Connectivity with the Grid	As per Annexure-2

R. Singh
Deputy General Manager (Law)
Orissa Power Generation Corporation Ltd.
Bhubaneswar

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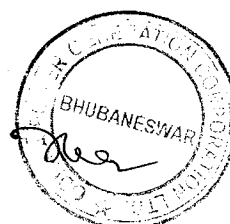


8	Drawl of Power (more than one only in case of single Injection)	
	Entity	
	State/Region	As per Annexure-1
	Quantum-1	
	Connectivity with the Grid	As per Annexure-2
9	Transmission System for LTA	As per Annexure-3
9a	Date from which LTA is granted	As per Annexure-1
9b	Date upto which LTA is granted	As per Annexure-1
9c	Implementing Agency for transmission system required for LTA	As per Annexure-3
9d	Agencies between which agreement is to be signed for implementation of transmission system	Applicant & POWERGRID and/or ISTS Licensee.
9e	Amount (in Rupees) for which Bank Guarantee is to be provided by the applicant (Construction BG)	5 Lakh/MW for LTA quantum as mentioned at Annexure-1
10	Transmission Charges Applicable	As per CERC Regulations
11	Amount (in Rupees) for which Bank Guarantee is to be provided by the applicant for Transmission Charges	Bank Guarantee is not required, Letter of Credit is to be furnished.

Note:

- 1) The applicants shall enter into Long Term Access Agreement with CTU within 30 days from the receipt of draft of long term Access agreement. In case, transmission system of Inter State Transmission Licensee other than CTU is used, an agreement shall be signed between the applicants and such inter-State transmission licensee, in line with the provisions of the regulations.
- 2) The applicants shall abide by all the provisions of the Electricity Act, 2003, the CERC Regulation 2009 (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters), Technical Standards for connectivity to the Grid (CEA) and Indian Electricity Grid Code as amended from time to time.

Robinet
 Deputy General Manager (Law)
 Orissa Power Generation Corporation Ltd.
 Bhubaneswar



- 134

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- 3) The applicants/beneficiaries shall be required to pay the injection/drawl charges of utilization of Inter State Transmission System (ISTS) as per the PoC mechanism for sharing of transmission charges and losses as per the relevant CERC regulations.

Y.K. Sehgal

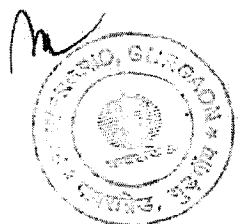
Signature
Name: Y.K Sehgal
Chief Operating Officer (CTU)

Place: Gurgaon
Date: 09-04-2013

To,

Shri R. K. Singh Sr. Vice President Sterlite Energy Ltd. Project Site Office Bhurkhamunda, P.O. – Sripura Distt : Jharsuguda (Odisha)-768202	Shri K.V.V.Rao Director GMR Kamalanga Energy Ltd. 10 th Floor, 'D' Block, IBC Knowledge Park Bannerghatta Road, Bangalore - 560029
Shri Ritwik Mishra DGM(Commercial) Orissa Power Generation Corporation Ltd. (OPGC) Zone-A, 7th Floor, Fortune Towers Chandrasekharapur, Bhubaneswar – 751023	

R.K. Singh
Deputy General Manager (Law)
Orissa Power Generation Corporation Ltd.
Bhubaneswar



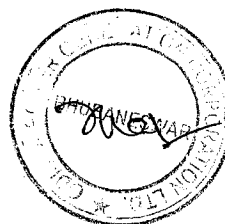
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Annexure-1

Details of Generation Projects

Sl No	Applicant	Gen. Project Capacity (MW)	LTA Applied for (MW)	Commencement of LTA	Commissioning Schedule (Unit wise)	Long Term Access granted				Period Of Long Term Access (years)
						WR	SR	NR	ER	
1.	Sterlite Energy Ltd.	2400	1000	From the date of actual commissioning schedule of the ISTS transmission system given at Annexure - 2 & 3 and respective commissioning schedule mentioned at Annexure - 1 whichever is later.	Already Commissioned	400	-	400	200	25
2.	GMR Kamalanga Energy Ltd	350	220		Unit#4 : 350MW :Dec. 2013	220	-	-	-	25
3.	OPGC	1320	600		Unit#1 : 660 MW Sep, 2017	200	200	200	-	25
	Total	4070	1820			820	200	600	200	-

R. Singh
 Deputy General Manager (Law)
 Orisha Power Generation Corporation Ltd.
 Bhubaneswar



Annexure-2

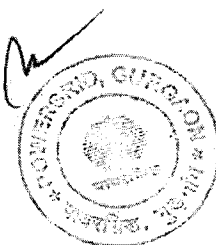
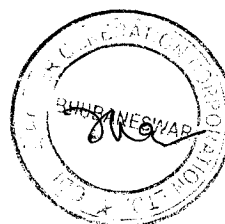
Transmission system for immediate evacuation of the generation projects

1.	Sterlite (IC-2400MW, LTA-1000MW)
	<ul style="list-style-type: none"> Sterlite – Jharsuguda (Sundargarh) 400kV D/c line (2nd line) alongwith associated line bays at both ends : to be implemented by the generation developer
2.	GMR Energy Limited (Phase-II) (IC-350MW, LTA-220MW)
	<ul style="list-style-type: none"> GMR-Angul 400kV D/c line with quad Moose conductor with associated line bays at both ends (already under implementation by generation developer with Phase-I Project)
3	OPGC (IC-1320MW, LTA-600MW) (ISTS System)
	<ul style="list-style-type: none"> OPGC – Jharsuguda (Sundargarh) 400kV D/c line (Triple Snowbird Conductor) : through Tariff Based Competitive Bidding (TBCB) 2 nos. 400 kV line bays at generation switchyard : under scope of generation developer 2 nos. 400 kV line bays at Jharsuguda (Sundargarh) : under scope of POWERGRID

Note:

1. The termination of the line as well as location of pooling station is subject to minor changes depending upon final survey and physical constraint, if any.
2. In case of any major development, if there is any change in the transmission system to achieve overall optimization of the system, then, above details would be modified on mutual consent.
3. In case, in future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed above (subject to technical feasibility), he/they would also share the applicable transmission charges.

Raj Singh
 Deputy General Manager (Law)
 Bina Power Generation Corporation Ltd.
 Bhubaneswar



Annexure-3

Transmission System for Phase-II Generation Projects in Odisha

1. Being Implemented by POWERGRID

- Angul – Jharsuguda (Sundargarh) – Dharamjaygarh 765 kV D/c line.

This line is being implemented by POWERGRID as a part of evacuation system from generation projects in Srikakulam area of Andhra Pradesh in Southern region. The same would also be utilized for evacuation of power phase-II generation projects in Odisha.

2. To be implemented through Tariff based Competitive Bidding Route

- Jharsuguda (Sundargarh) – Raipur Pool 765 kV D/c line.
- LILO of both circuits of Rourkela - Raigarh 400 kV D/c (2nd line) at Jharsuguda (Sundargarh).

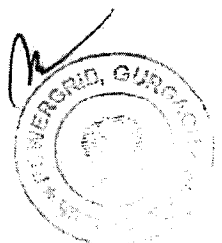
3. To be implemented by POWERGRID

- Addition of 2x1500MVA, 765/400kV ICT at Jharsuguda (Sundargarh).
- Addition of 2x1500MVA, 765/400kV ICT at Angul
- Split bus arrangement at 400kV and 765kV bus in both Angul and Jharsuguda (Sundargarh) substations.

Note:

1. The termination of the line as well as location of pooling station is subject to minor changes depending upon final survey and physical constraint, if any.
2. In case of any major development, if there is any change in the transmission system to achieve overall optimization of the system, then, above details would be modified on mutual consent.
3. In case, in future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed above subject to technical feasibility), he/they would also share the applicable transmission charges.

R. S. Singh
Deputy General Manager (Law)
Power Generation Corporation Ltd.
Bhubaneswar



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पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड
(भारत सरकार का उद्यम)

POWER GRID CORPORATION OF INDIA LIMITED
(A Government of India Enterprise)



पावरग्रिड

केन्द्रीय कार्यालय: "सौदामिनी" प्लॉट सं० 2, सेक्टर-29, गुडगाँव-122 001, हरियाणा
फोन : 0124-2571700-719 फैक्स : 0124-2571760, 2571761 तार 'नेटग्रिड'
Corporate Office : "Saudamini" Plot No. 2, Sector-29, Gurgaon-122 001, Haryana
Tel.: 0124-2571700-719 Fax: 0124-2571760, 2571761 Gram : 'NATGRID'

संदर्भ संख्या/Ref. No

C/ENG/E/00/CTU/LTA

Date: 11-09-2013

1. Shri R. K. Singh Sr. Vice President Sterlite Energy Ltd. Project Site Office Bhurkhamunda, P.O. – Sripura Distt : Jharsuguda (Odisha)-768202 Ph : 06645-26600 Fax : 06645-266679/80 Email ID: ramesh.singh@vedanta.co.in Mobile : 09777451777	2. Shri K.V.V.Rao Director GMR Kamalanga Energy Ltd. 10th Floor, 'D' Block IBC Knowledge Park Bannerghatta Road Bangalore – 560029 Ph : 080-40432049 Fax: 080-40432144 Email ID : kvv.rao@gmrgrgroup.in
3. Shri Ritwik Mishra DGM(Commercial) Orissa Power Generation Corporation Zone-A, 7th Floor, Fortune Towers Chandrasekharpur, Bhubaneswar – 751023, Odisha Ph : 0674-2303765, 9937022477 Fax : 0674-2303755 Mail : Ritwik.mishra@aes.com	

Sub: Intimation for grant of Long Term Access (LTA) for Phase-II Generation Projects in Odisha.

Sir,

This is with reference to our letter no. C/ENG/E.00/CTU/LTA dated 08-04-2013 enclosing therewith the Intimation for grant of Long Term Access for evacuation of power from Sterlite-II, GMR-II and OPGC generation projects in the state of Odisha.

Subsequently, OPGC vide its letter no. 1364 dated 30-05-2013 requested POWERGRID to revise the date from which LTA is granted to July-2017 instead of September-2017 mentioned in the above referred Intimation for Grant of LTA.

पंजीकृत कार्यालय: बी-9, कृतुब इंस्टीट्यूशनल एरिया, कटवारिया सारल, नई दिल्ली-110 016 दूरभाष: 011-26560121 फैक्स : 011-26560122 तार 'नेटग्रिड'
Registered Office: B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110 016 Tel.: 011-26560121 Fax : 011-26560122 Gram : 'NATGRID'
Deputy General Manager (Law) सहित एवं राष्ट्रहित में ऊर्जा बचाएं
Odisha Power Generation Corporation Ltd.
Bhubaneswar Save Energy for Benefit of Self and Nation

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Further, GMR Kamalanga Energy Ltd. vide its letter no. GKEL/BBSR/GRIDCO/2013-14/3071 dated 05-07-2013 informed POWERGRID that their unit is being delayed due to lack of coal linkage and is expected to be commissioned by September-2017.

In view of the above, the Intimation for Grant of Long Term Access for evacuation of power from Sterlite-II, GMR-II and OPGC generation projects in Odisha has been revised again and the same is enclosed.

In this regard, it is requested to fulfill requisite terms & conditions as stipulated in the detailed procedure for CERC (Grant of Connectivity, Long-term Access and Medium-term Open access in inter-State transmission and related matters) Regulations, 2009.

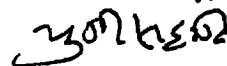
NOTE: In case, the LTTA is not signed and/or Bank Guarantee is not furnished within the given schedule, grant of LTA shall stand cancelled.

For signing LTTA you may contact at following address:

Executive Director (Commercial)
Power Grid Corporation of India Limited
Saudamini, Plot No. - 2, Sector - 29,
Near IFFCO Chowk, Gurgaon - 122 001
Ph: 0124-2571988

Thanking you,

Yours faithfully,



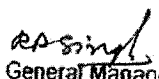
(Y. K. Sehgal)

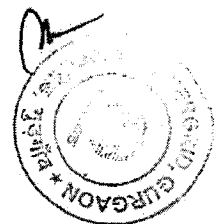
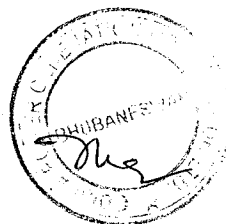
Chief Operating Officer (CTU)

Copy to:

<p>Chief Engineer (SP&PA) Central Electricity Authority Sewa Bhawan, R K Puram New Delhi - 110 066</p>	<p>Member Secretary Eastern Regional Power Committee 14, Golf Club Road, Tollygunge Kolkata 700 033</p>
--	---

Copy to: ED (Commercial) / ED (ERTS-II) / CEO (POSOCO) / GM (ERLDC)


Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



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LTA-5

Intimation for Grant of Long - Term Access (LTA)

1	Intimation No.	C/CTU/TA/L/E/13/01-Rev1
	Date :	11-09-2013
2	Ref. Application No. & Date	1. Sterlite Energy Ltd. vide ref dated 08-11-2010 2. GMR Kamalanga Energy Ltd. vide ref 10-08-2010 & 05-07-2013 3. OPGC vide letter dated 22-12-2011 & 30-05-2013
3	Name of the Applicant	1. Sterlite Energy Ltd. 2. GMR Kamalanga Energy Ltd. 3. Odisha Power Generation Corporation Ltd.
4	Address for Correspondence	1. Shri R. K. Singh Sr. Vice President Sterlite Energy Ltd. Project Site Office Bhurkhamunda, P.O. - Sripura Distt : Jharsuguda (Odisha)-768202 Ph : 06645-26600 Fax : 06645-266679/80 Email ID: ramesh.singh@vedanta.co.in Mobile : 09777451777 2. Shri K.V.V.Rao Director GMR Kamalanga Energy Ltd. 10th Floor, 'D' Block IBC Knowledge Park Bannerghatta Road Bangalore - 560029 Ph : 080-40432049 Fax: 080-40432144 Email ID : kvv.rao@gmrgroup.in 3. Shri Ritwik Mishra DGM(Commercial) Odisha Power Generation Corporation Zone-A, 7th Floor, Fortune Towers Chandrasekharapur, Bhubaneswar - 751023, Odisha Ph : 0674-2303765, 9937022477 Fax : 0674-2303755 Mail : Ritwik.mishra@aes.com
5	Nature of the Applicant	
	Generator (other than captive)	Generators
	Captive Generator	---
	Bulk Consumer	---
	Electricity Trader	---
	Distribution Licensee	---
	Others	---

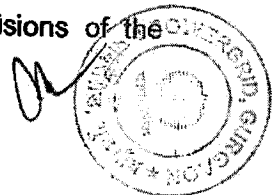
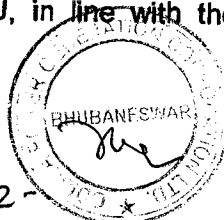
Ramesh Singh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar

6	Details for Long Term Access (LTA)	
6a	Quantum (MW) for which LTA is granted	As per Annexure-1
7	Injection of Power (more than one only in case of single Drawal)	
	Entity	
	State/Region	As per Annexure-1
	Quantum-1	
	Connectivity with the Grid	As per Annexure-2
8	Drawl of Power (more than one only in case of single Injection)	
	Entity	
	State/Region	As per Annexure-1
	Quantum-1	
	Connectivity with the Grid	As per Annexure-2
9	Transmission System for LTA	As per Annexure-3
9a	Date from which LTA is granted	As per Annexure-1
9b	Date upto which LTA is granted	As per Annexure-1
9c	Implementing Agency for transmission system required for LTA	As per Annexure-3
9d	Agencies between which agreement is to be signed for implementation of transmission system	Applicant & POWERGRID and/or ISTS Licensee.
9e	Amount (in Rupees) for which Bank Guarantee is to be provided by the applicant (Construction BG)	5 Lakh/MW for LTA quantum as mentioned at Annexure-1. BG is to be furnished within 3 months of signing of LTA Agreement
10	Transmission Charges Applicable	As per CERC Regulations
11	Amount (in Rupees) for which Bank Guarantee is to be provided by the applicant for Transmission Charges	Bank Guarantee is not required, Letter of Credit is to be furnished.

Note:

- 1) The applicants shall enter into Long Term Access Agreement with CTU within 30 days from the receipt of draft of long term Access agreement. In case, transmission system of Inter State Transmission Licensee other than CTU is used, a Transmission Service Agreement shall be signed by the applicants, such inter-State, transmission licensee and CTU, in line with the provisions of the regulations.

RPB
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



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- 2) The applicants shall abide by all the provisions of the Electricity Act, 2003, the CERC Regulation 2009 (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters), Technical Standards for connectivity to the Grid (CEA) and Indian Electricity Grid Code as amended from time to time.
- 3) The applicants/beneficiaries shall be required to pay the injection/drawl charges of utilization of Inter State Transmission System (ISTS) as per the PoC mechanism for sharing of transmission charges and losses as per the relevant CERC regulations.

Y.K. Sehgal

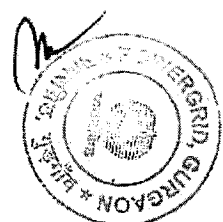
Signature
Name: Y.K Sehgal
Chief Operating Officer (CTU)

Place: Gurgaon
Date: 11-09-2013

To,

Shri R. K. Singh Sr. Vice President Sterlite Energy Ltd. Project Site Office Bhurkhamunda, P.O. – Sripura Distt : Jharsuguda (Odisha)-768202	Shri K.V.V.Rao Director GMR Kamalanga Energy Ltd. 10 th Floor, 'D' Block, IBC Knowledge Park Bannerghatta Road, Bangalore - 560029
Shri Ritwik Mishra DGM(Commercial) Odisha Power Generation Corporation Ltd. (OPGC) Zone-A, 7th Floor, Fortune Towers Chandrasekharapur, Bhubaneswar – 751023	

R. Singh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



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Annexure-3

Common Transmission System for Phase-II Generation Projects In Odisha

1. Being Implemented by POWERGRID

- Angul – Jharsuguda (Sundargarh) – Dharamjaygarh 765 kV D/c line.

This line is being implemented by POWERGRID as a part of evacuation system from generation projects in Srikakulam area of Andhra Pradesh in Southern region. The same would also be utilized for evacuation of power phase-II generation projects in Odisha.

2. To be implemented by POWERGRID

- Addition of 2x1500MVA, 765/400kV ICT at Jharsuguda (Sundargarh).
- Addition of 2x1500MVA, 765/400kV ICT at Angul
- Split bus arrangement at 400kV and 765kV bus in both Angul and Jharsuguda (Sundargarh) substations.

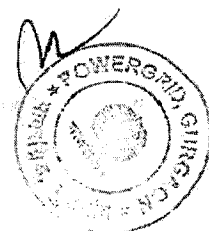
3. To be implemented through Tariff based Competitive Bidding (TBCB) Route

- Jharsuguda (Sundargarh) – Raipur Pool 765 kV D/c line.
- LILO of both circuits of Rourkela - Raigarh 400 kV D/c (2nd line) at Jharsuguda (Sundargarh).

Note:

1. The termination of the lines as well as location of sub-stations is subject to minor changes depending upon final survey and physical constraint, if any...
2. In case of any major development, If there is any change in the transmission system to achieve overall optimization of the system, then, above details would be modified by CTU on mutual consent.
3. In case, in future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed above subject to technical feasibility), he/they would also share the applicable transmission charges.

Rabindra
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar





हरियाणा HARYANA

E 708327

(For connectivity with dedicated line)

TRANSMISSION AGREEMENT

BETWEEN

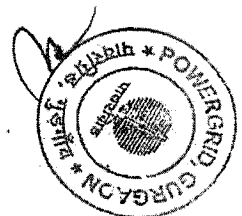
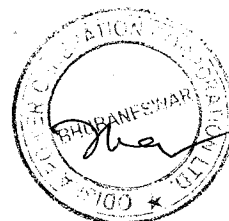
POWER GRID CORPORATION OF INDIA LTD.

AND

ODISHA POWER GENERATION CORPORATION LTD. (OPGC)

This Transmission Agreement (hereinafter called "TA") entered into on the 11th day of Sept. Two thousand Thirteen between Central Transmission Utility i.e. POWER GRID CORPORATION OF INDIA LIMITED, a company incorporated under the Companies Act, 1956, having its registered office at B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110 016 (hereinafter called either "CTU" or "POWERGRID", as a deemed ISTS Licensee as the context may demand, which expression shall unless repugnant to the context or meaning thereof include its successors and assigns) as party of the first part;

AGM
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar

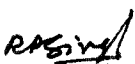


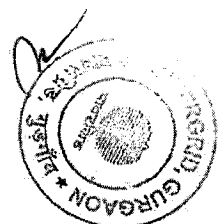
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and

Odisha Power Generation Corporation Ltd., a company incorporated under the companies Act, 1956 having its office at Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar – 751 023 (hereinafter referred to as “OPGC” which expression shall unless repugnant to the context or meaning thereof include its successors and assigns) as party of the second part.

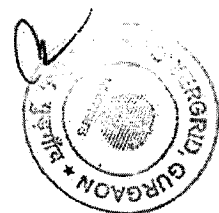
- A) WHEREAS POWERGRID is a deemed ISTS Licensee and has been mandated to undertake the functions of CTU as provided under the Electricity Act 2003.
- B) AND WHEREAS “OPGC” is desirous to avail connectivity to ISTS in accordance with Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 hereinafter referred to as “Connectivity Regulations”, and Procedures stipulated thereof for transmission of power as per their application.
- C) AND WHEREAS Connectivity to be availed by “OPGC” is as per the dates, period and other conditions related to grant of connectivity contained in Annexure 1.
- D) AND WHEREAS the dedicated transmission line required for direct injection/drawl of power from premises of “OPGC” to the suitable points of ISTS has been finalized in accordance with the provisions of the Electricity Act, 2003 and is to be built, owned, operated & maintained by ISTS Licensee as indicated at Annexure 2.


Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



- E) AND WHEREAS the implementation of transmission system to be built, owned, operated and maintained by the ISTS licensee(s) who would be finalized through tariff based competitive bidding shall be in accordance with the directives of Empowered Committee constituted for identification of transmission projects.
- F) AND WHEREAS CERC has notified "Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 hereinafter called "Sharing Regulations".
- G) AND WHEREAS in accordance with Connectivity Regulations and Procedures thereof and Electricity Act 2003 CTU has granted such connectivity for transmission of power as mentioned in **Annexure-1** of this agreement, subject to signing of Tripartite Agreement, TSA and submission of Bank Guarantee as provided hereinafter.
- H) AND WHEREAS the Detailed Procedures of Central Transmission Utility under Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 are undergoing revision. Any revision approved by CERC shall apply to this Agreement mutatis mutandis.
- I) AND WHEREAS "OPGC" has to share and pay all the applicable transmission charges of the total transmission system as indicated at Annexure 2 from the date of connectivity as mentioned at **Annexure-1** or actual commissioning of the system, whichever is later, in accordance with the sharing mechanism as decided / notified / determined / adopted by CERC from time to time.
- J) AND WHEREAS it has become incumbent upon "OPGC" and CTU to enter into "TA" as envisaged under the "Connectivity Regulation".

Rajiv
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



K) AND WHEREAS, during the tenure of this agreement if any of the covenants and conditions recited in this agreement are found inconsistent with the provisions of the Electricity Act 2003 notifications/ guidelines/ codes/ rules/ regulations and amendments thereof from time to time, notwithstanding any thing contained in the agreement referred to above, the said provisions shall prevail.

Now, therefore, in consideration of the above premises, it is hereby agreed by and between the parties as follows:

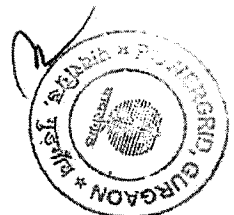
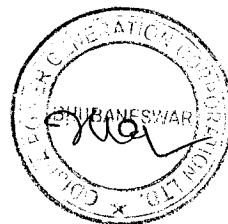
1.0

(a) "OPGC" shall furnish a Bank guarantee from a nationalized bank for an amount as specified by the CERC as security mechanism for the transmission system to be built, owned and operated by ISTS licensee (the same being maximum Rs.5 lakhs/mw, currently). The bank guarantee format is enclosed as Annexure-Y. The Bank Guarantee shall be issued by

- i) A Public Sector Bank, or
- ii) Scheduled Indian Bank having paid up capital(net of accumulated losses) of Rs.100 crore or above(duly supported by latest annual report) and also satisfying the minimum capital adequacy requirement, or
- iii) Any foreign Bank with overall International corporate rating or rating of long term debt not less than A -(A minus) or equivalent by reputed rating agency.

(b) The Bank guarantee shall be furnished in favour of POWERGRID within 3 (three) months of signing of this Agreement failing which the connectivity granted shall be treated as cancelled and fresh application would be required in case the applicant wants to apply for connectivity again.

RAGIN
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



(c) This bank guarantee would be initially valid for a period as mentioned below:.

- i) up to six months beyond the expected date of commissioning schedule of generating unit(s) mentioned at Annexure-1 in case of "OPGC" being other than demand customers. However, for existing commissioned units of the generating company(s) included in Annexure 1, the validity shall be up to six months beyond the date of commencement of connectivity.
- ii) up to six months beyond the date of commencement of connectivity required by "OPGC", in case of demand customers.

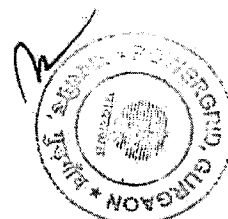
d) The bank guarantee shall be encashed by POWERGRID in case of adverse progress of work under the scope of "OPGC", assessed during Joint Co-ordination Meeting. However, the validity shall be extended by "OPGC" as per the requirement to be indicated during Joint Co-ordination Meeting.

(e) In case of the transmission system that are required to be built by ISTS Licensee(s) through Tariff Based Competitive Bidding as mentioned at Annexure-2, the schedule date of completion shall be contained in the Tripartite Agreement to be entered among OPGC, CTU & ISTS Licensee in accordance with the "Connectivity Regulations".

(f) OPGC shall sign the Transmission Service Agreement with CTU, as per the Sharing Regulations.

2.0 "OPGC" shall furnish Letter of Credit and other payment security mechanism in accordance with TSA.

rasingh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



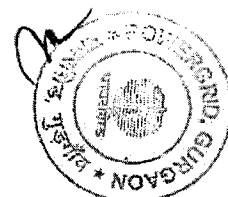
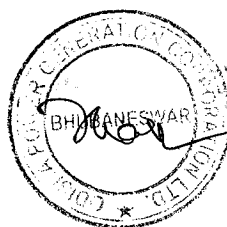
3.0 In case, "OPGC" delays to utilize the connectivity provided and the assets covered under the transmission system, as indicated at Annexure-2 have been declared under commercial operation, either in part or in full; the "OPGC" shall bear the charges so as to ensure full recovery of the transmission tariff corresponding to the commissioned portion of the transmission system indicated at Annexure-2.

4.0 In order to monitor/ review the progress of work under the scope of OPGC along with the transmission system, a Joint co-ordination meeting with the representative of OPGC and CTU shall be held at regular interval (preferably quarterly) after signing of this Agreement. CTU may invite any statutory authority and ISTS Licensee(s) to facilitate the same.

5.0. All differences/ disputes between the parties arising out of or in connection with this Agreement shall be resolved in terms of the Redressal Mechanism provided under Regulation 32 of the CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 and under Electricity Act 2003.

6.0 This is agreed by Long Term Customer, signing this agreement, to indemnify and hold the CTU harmless from and against any and all damages, losses, liabilities, obligations, penalties, claims of any kind (including, without limitation, reasonable attorneys' fees and expenses) (collectively, "Losses"), suffered, incurred or paid, directly, as a result of, in connection with or arising out of exercise of CTU's actions pursuant to and in accordance with this Agreement.

R. Singh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



7.0. This Agreement shall be valid from the date of signing of this agreement till the validity of Connectivity subject to its revision as may be made by the parties to this Agreement provided that this Agreement may be mutually renewed or replaced by another Agreement on such terms as the parties may mutually agree.

In witness whereof both the parties have executed this Agreement through their authorized representative.

Witness

Signature :.....Jasbir Singh

Name:.....जसवीर सिंह
Jasbir Singh

Designation:.....जन महासचिव (वाणिज्यिक)
General Manager (Commercial)

For and on behalf of
Central Transmission Utility

Signature:.....Mahender Singh

Name:.....महेंद्र सिंह / Mahender Singh
कार्पोरेट निदेश (वाणिज्यिक) / Executive Director (Commercial)
पावर ग्रिड कॉर्पोरेशन ऑफ इंडिया लिमिटेड
Power Grid Corporation of India Ltd.
प्लॉट नं-2, सेक्टर-29, गुरुग्रांव-122 001 (हरियाणा)
Plot No.2, Sector-29, Gurgaon-122 001 (HARYANA)

For and on behalf of
Odisha Power Generation Corporation Ltd.

Signature :.....K. C. Samantray

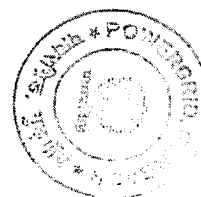
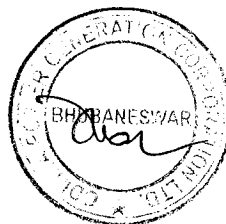
Name:.....K. C. Samantray

Designation:.....Manager (Electrical)
OPGC, Bhubaneswar

Signature:.....R. P. Singh

Name:.....(R. P. Singh)
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar

Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



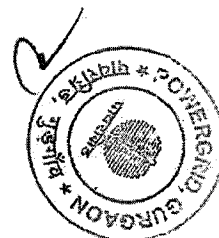
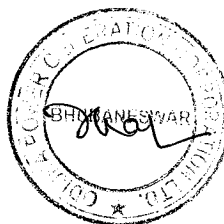
Annexure-1DETAILS FOR CONNECTIVITY

Sl No	Applicant	Gen. Project Capacity (MW)	Connectivity Applied for (MW)	Commencement of Connectivity	Location	Time Frame (Unit wise)	Period Of Connectivity
1	Odisha Power Generation Corporation Limited	1320	618	July. 2017	Vill.: Banarharpali, Jharsuguda	Unit#1 July. 2017	

Note:

1. In accordance with the terms and conditions mentioned in the intimation for grant of Connectivity issued by CTU vide letter dtd. 08.04.2013 and subsequently revised vide letter dated 11.09.2013 (Annexure-3).

Rajiv
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



Annexure-2

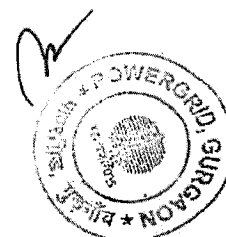
Transmission system (direct injection/ drawl line) to be implemented by ISTS Licensee

Sl. No.	Name of Scheme & Elements
1.	IB TPS – Jharsuguda (Sundargarh) 400 kV D/C line with Triple Snowbird (to be implemented through TBCB)

Note:

1. The termination of the line as well as location of pooling station/sub-station is subject to changes depending upon final survey and physical constraint, if any.
2. In case of any major development, if there is any change in the transmission system to achieve overall optimization of the system, then, above details would be modified accordingly.
3. In case any of the above systems or the associated bays of any of the above transmission system is to be implemented by POWERGRID, the same would form part of this Agreement.
4. As the above mentioned transmission system shall be established through Tariff Based Competitive Bidding (TBCB) route, the rights and obligations of parties concerned shall be governed by the Standard Bidding Document (SBD) prescribed by MoP, GoI, as may be applicable and amended from time to time.

Ragini
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड
(भारत सरकार का उद्यम)
POWER GRID CORPORATION OF INDIA LIMITED
(A Government of India Enterprise)



केन्द्रीय कार्यालय : 'सौदामिनी' प्लॉट सं. 2, सेक्टर-29, गुडगाँव-122 001, हरियाणा
फोन : 2571700 - 719 फैक्स : 2571760, 2571761 तार 'नेटग्रिड'
Corporate office : "Saudamini" Plot No. 2, Sector-29, Gurgaon-122 001 Haryana
Tel. : 2571700 - 719, Fax : 2571760, 2571761 Gram : 'NATGRID'

संदर्भ संख्या/Ref. Number

C/ENG/E/00/CTU/CON

Date: 08-04-2013

Shri Ritwik Mishra
DGM(Commercial)
Orissa Power Generation Corporation Ltd. (OPGC)
Zone-A, 7th Floor, Fortune Towers
Chandrasekharpur, Bhubaneswar - 751023
Odisha
Ph : 0674-2303765, 9937022477
Fax : 0674-2303755
Mail : ritwik.mishra@aes.com

Sub: Intimation for grant of Connectivity for 2X660 MW IB TPS of OPGC in Odisha

Sir,

This is with reference to your application for grant of Connectivity for your 2x660 MW IB TPS at Village Banarharpali, District Jharsuguda in the state of Odisha.

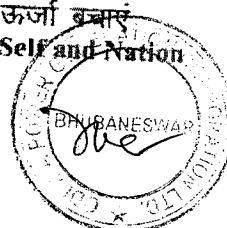
As decided in the meeting in regarding Connectivity / MTOA / LTA with constituents of Eastern Region held on 05-01-2013 at POWERGRID Office, Gurgaon, the intimation letter for providing Connectivity is enclosed. It is to mention that OPGC vide its letter dated 15-03-2013 has informed the date of commissioning schedule as Sep, 2017, which has been considered as date of commencement of Connectivity.

In this regard, the applicant is required to sign the requisite commercial agreements as stipulated in the detailed procedure for CERC (Grant of Connectivity, Long-term Access and Medium-term Open access in inter-State transmission and related matters) Regulations, 2009. For the same you may contact at following address:

पंजीकृत कार्यालय : बी-9, कृतब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली-110016 दूरभाष : 26560121 फैक्स : 011-26560120 तार 'नेटग्रिड'
Registered Office : B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110016 Tel. : 26560121 Fax : 011-26560120 Gram : 'NATGRID'

Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar

स्वहित एवं राष्ट्रहित में ऊर्जा बचाव
Save Energy for Benefit of Self and Nation



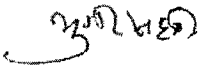
766

Executive Director (Commercial)
Power Grid Corporation of India Limited
Saudamini, Plot No. - 2, Sector - 29,
Near IFFCO Chowk, Gurgaon - 122 001
Ph : 0124-2571988

Further, the applicant is also required to apply for signing the Connection Agreement with POWERGRID / ISTS Licensee, as stipulated in the detailed procedure for CERC (Grant of Connectivity, Long-term Access and Medium-term Open access in inter-State transmission and related matters) Regulations, 2009.

Thanking you,

Yours faithfully,

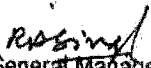

(Y K Sehgal)
Chief Operating Officer (CTU)

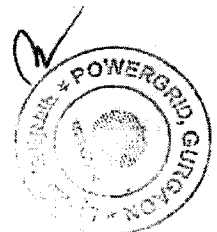
Copy to:

Shri K. K. Arya Chief Engineer(SP&PA), CEA, Sewa Bhawan, R K Puram New Delhi 11 00 66	Member Secretary Eastern Regional Power Committee 14, Golf Club Road, Tollygunge Kolkata 700 033
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Copy for kind information to:

ED, ERTS-II / ED, Commercial / GM, ERLDC


Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



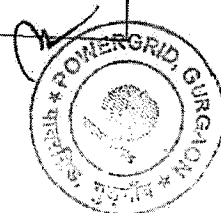
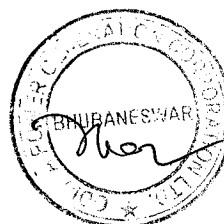
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CON-3

Intimation for grant of Connectivity

1	Intimation No.	C/CTU/TA/C/E/13/02
	Date :	08-04-2013
2	Ref. Application No. & Date	Vide letter dated 22-11-2011
3	Name of the Applicant	Orissa Power Generation Corporation Ltd.
4	Address for Correspondence	Shri Ritwik Mishra DGM(Commercial) Orissa Power Generation Corporation Ltd. Zone-A, 7th Floor, Fortune Towers Chandrasekharapur, Bhubaneswar - 751023 Ph : 0674-2303765, 9937022477 Fax : 0674-2303755 Mail : ritwik.mishra@aes.com
5	Nature of the Applicant	
	Generator (other than captive)	Generator
	Captive Generator	-
	Bulk Consumer	-
6	Details for Connectivity	
6a	Capacity(MW) for which connectivity is granted	618 MW
6b	Point at which Connectivity is granted	Jharsuguda (Sundargarh) 765/400kV sub-station of POWERGRID (under Implementation)
6c	Date from which connectivity is granted	September, 2017
6d	Transmission System Required for Connectivity	IB TPS - Jharsuguda (Sundargarh) 400kV D/c line with Triple Snowbird Conductor (to be implemented through Tariff based Competitive Bidding Route)
6e	Implementing Agency for transmission system required for connectivity	Transmission Licensee [to be selected through Tariff based Competitive Bidding (TBCB) route]
6f	Agencies between which agreement is to be signed for implementation of transmission system required for connectivity	Applicant & CTU/Transmission Licensee
7	Transmission Charges Applicable for the transmission System	As per CERC regulations

Rasingh
Deputy General Manager (Law)
Orissa Power Generation Corporation Ltd.
Bhubaneswar



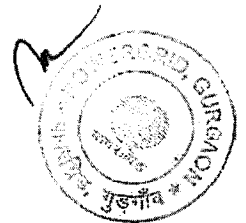
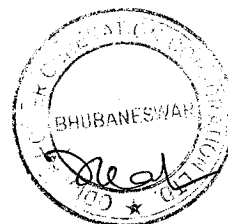
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8	Amount (in Rupees) for which Bank Guarantee is to be provided by the applicant	5 Lakh/MW for Connectivity quantum (618 MW)
9	Location of the Generating Station / Bulk Consumer	
	Nearest Village / Town	Village – Banarharpali
	District	Jharsuguda
	State	Odisha
	Latitude	21° 41' N
	Longitude	83° 52' E
10	Installed Capacity of the Generating Station	
	Unit-1	660 MW
	Unit-2	660 MW
11	Commissioning Schedule of the Generating Station	
	Unit-1	September, 2017

Note:

1. Applicant shall provide Special protection Scheme (SPS) integrated into their system. Details of SPS and its setting shall be worked out by the applicant in consultation with ERLDC/ ERPC separately.
2. Applicant shall have to inform likely date of synchronization, likely quantum and period of injection of infirm power before being put into commercial operation to the SLDC/RLDC concerned at least one month in advance and obtain their concurrence for the same.
3. The applicant shall abide by all provisions of the Electricity Act, 2003, the CERC regulation 2009 (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Central Electricity Authority (Technical Standards for connectivity to the Grid) and Indian Electricity Grid Code as amended from time to time.
4. In case of any major development, if there is any change in the transmission system to achieve overall optimization of the system, then, above details would be modified on mutual consent.
5. In case, in-future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed above (subject to technical feasibility), he/they would also share the applicable transmission charges.

Rasim
Deputy General Manager (Law)
Orissa Power Generation Corporation Ltd.
Bhubaneswar



769

6. The applicants/beneficiaries shall be required to pay the injection/drawal charges of utilization of Inter State Transmission System (ISTS) as per the PoC mechanism for sharing of transmission charges and losses as per the relevant CERC regulations.

Y.K. Sehgal

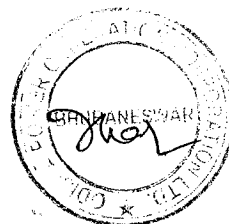
Name: Y.K Sehgal
Designation: Chief Operating Officer (CTU)

Place: Gurgaon
Date: 08 April-2013

To,

Shri Ritwik Mishra
DGM(Commercial)
Orissa Power Generation Corporation Ltd.
Zone-A, 7th Floor, Fortune Towers
Chandrasekharapur, Bhubaneswar – 751023
Odisha
Ph : 0674-2303765, 9937022477
Fax : 0674-2303755
Mail : ritwik.mishra@aes.com

ppsingh
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



770.

पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड
(भारत सरकार का उद्यम)

POWER GRID CORPORATION OF INDIA LIMITED
(A Government of India Enterprise)



केन्द्रीय कार्यालय: "सौदामिनी" प्लॉट सं० 2, सेक्टर-29, गुडगाँव-122 001, हरियाणा
फोन : 0124-2571700-719 फैक्स : 0124-2571760, 2571761 तार 'नेटग्रिड'
Corporate Office: "Saudamini" Plot No.2, Sector-29, Gurgaon-122 001, Haryana
Tel.: 0124-2571700-719 Fax: 0124-2571760, 2571761 Gram : 'NATGRID'

संदर्भ संख्या/Ref. No.

C/ENG/E/00/CTU/CON

Date: 11-09-2013

Shri Ritwik Mishra
DGM(Commercial)
Odisha Power Generation Corporation Ltd. (OPGC)
Zone-A, 7th Floor, Fortune Towers
Chandrasekharapur, Bhubaneswar – 751023 (Odisha)
Ph : 0674-2303765, 9937022477; Fax : 0674-2303755
Mail : ritwik.mishra@aes.com

Sub: Revised Intimation for grant of Connectivity for 2X660 MW IB TPS of OPGC in Odisha

Sir,

This is with reference to our letter no. C/ENG/E.00/CTU/CON dated 08-04-2013 enclosing therewith the Intimation for grant of Connectivity to your 2x660 MW IB TPS at Village Banarharpali, District Jharsuguda in the state of Odisha.

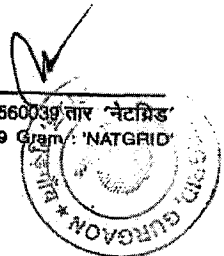
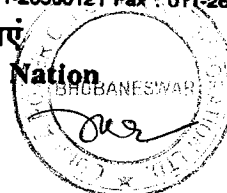
Subsequently, OPGC vide its letter no. 1364 dated 30-05-2013 requested POWERGRID, to revise the date from which connectivity is required to July-2017 instead of September-2017 mentioned in the above referred Intimation for Grant of Connectivity. Accordingly, the Intimation for Grant of Connectivity has been revised and the same is enclosed.

In this regard, the applicant is required to sign the requisite commercial agreements as stipulated in the detailed procedure for CERC (Grant of Connectivity, Long-term Access and Medium-term Open access in inter-State transmission and related matters) Regulations, 2009. For the same you may contact at following address:

Executive Director (Commercial)
Power Grid Corporation of India Limited
Saudamini, Plot No. – 2, Sector – 29,
Near IFFCO Chowk, Gurgaon – 122 001
Ph : 0124-2571988

पंजीकृत कार्यालय: बी-9, कृष्ण इंस्टीट्यूशनल एरिया, कट्यारिया सराय, नई दिल्ली-110 016 दूरभाष: 011-26560121 फैक्स : 011-26560039 तार 'नेटग्रिड'
Registered Office: B-9, Krishna Institutional Area, Katwaria Sarai, New Delhi-110 016 Tel.: 011-26560121 Fax : 011-26560039 Gram : 'NATGRID'

Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar
स्वहित एवं राष्ट्रहित में ऊर्जा बचाएं
Save Energy for Benefit of Self and Nation

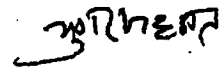


771

Further, the applicant is also required to apply for signing the Connection Agreement with POWERGRID / ISTS Licensee, as stipulated in the detailed procedure for CERC (Grant of Connectivity, Long-term Access and Medium-term Open access in inter-State transmission and related matters) Regulations, 2009.

Thanking you,

Yours faithfully,



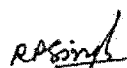
(Y K Sehgal)
Chief Operating Officer (CTU)

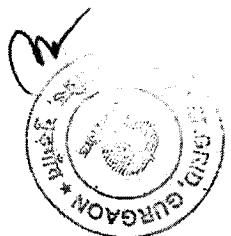
Copy to:

Shri K. K. Arya Chief Engineer(SP&PA), CEA, Sewa Bhawan, R K Puram New Delhi 11 00 66	Member Secretary Eastern Regional Power Committee 14, Golf Club Road, Tollygunge Kolkata 700 033
--	---

Copy for kind information to:

ED, ERTS-II / ED, Commercial / GM, ERLDC


Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



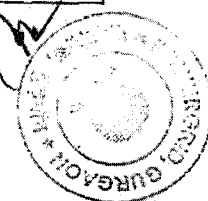
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CON-3

Intimation for Grant of Connectivity

1	Intimation No.	C/CTU/TA/C/E/13/02-Rev1
	Date :	11-09-2013
2	Ref. Application No. & Date	Vide letter dated 22-11-2011 & 30-05-2013
3	Name of the Applicant	Odisha Power Génération Corporation Ltd.
4	Address for Correspondence	Shri Ritwik Mishra DGM(Commercial) Odisha Power Generation Corporation Ltd. Zone-A, 7th Floor, Fortune Towers Chandrasekharpur, Bhubaneswar - 751023 Ph : 0674-2303765, 9937022477 Fax : 0674-2303755 Mail : ritwik.mishra@aes.com
5	Nature of the Applicant	
	Generator (other than captive)	Generator
	Captive Generator	-
	Bulk Consumer	-
6	Details for Connectivity	
6a	Capacity(MW) for which connectivity is granted	618 MW
6b	Point at which Connectivity is granted	Jharsuguda (Sundargarh) 765/400kV sub-station of POWERGRID (under implementation)
6c	Date from which connectivity is granted	July-2017
6d	Transmission System Required for Connectivity	OPGC (IB TPS) – Jharsuguda (Sundargarh) 400kV D/c line with Triple Snowbird Conductor (to be implemented through Tariff based Competitive Bidding Route)
6e	Implementing Agency for transmission system required for connectivity	Transmission Licensee [to be selected through Tariff based Competitive Bidding (TBCB) route]
6f	Agencies between which agreement is to be signed for implementation of transmission system required for connectivity	Applicant & CTU/Transmission Licensee
7	Transmission Charges Applicable for the transmission System	As per CERC regulations

Rasim
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar

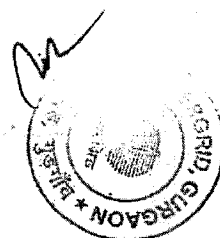


8	Amount (in Rupees) for which Bank Guarantee is to be provided by the applicant	Rs. 30.90 Crs. (5 Lakh/MW for Connectivity quantum - 618 MW)
9	Location of the Generating Station / Bulk Consumer	
	Nearest Village / Town	Village – Banarharpali
	District	Jharsuguda
	State	Odisha
	Latitude	21° 41' N
	Longitude	83° 52' E
10	Installed Capacity of the Generating Station	
	Unit-1	660 MW
	Unit-2	660 MW
11	Commissioning Schedule of the Generating Station	
	Unit-1	July-2017

Note:

1. Applicant shall provide Special protection Scheme (SPS) integrated into their system. Details of SPS and its setting shall be worked out by the applicant in consultation with ERLDC/ ERPC separately.
2. Applicant shall have to inform likely date of synchronization, likely quantum and period of injection of infirm power before being put into commercial operation to the SLDC/RLDC concerned at least one month in advance and obtain their concurrence for the same.
3. The applicant shall abide by all provisions of the Electricity Act, 2003, the CERC regulation 2009 (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Central Electricity Authority (Technical Standards for connectivity to the Grid) and Indian Electricity Grid Code as amended from time to time.
4. In case of any major development, if there is any change in the transmission system to achieve overall optimization of the system, then, above details would be modified on mutual consent.
5. In case, in future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed above (subject to technical feasibility), he/they would also share the applicable transmission charges.

Rasim
Deputy General Manager (Law)
Orissa Power Generation Corporation Ltd.
Bhubaneswar



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6. The applicants/beneficiaries shall be required to pay the injection/drawal charges of utilization of Inter State Transmission System (ISTS) as per the PoC mechanism for sharing of transmission charges and losses as per the relevant CERC regulations.

Y.K. Sehgal

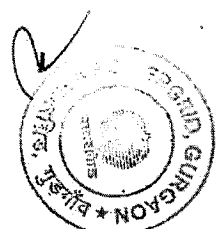
Name: Y.K Sehgal
Designation: Chief Operating Officer (CTU)

Place: Gurgaon
Date: 11-09-2013

To,

Shri Ritwik Mishra
DGM(Commercial)
Odisha Power Generation Corporation Ltd.
Zone-A, 7th Floor, Fortune Towers
Chandrasekharapur, Bhubaneswar – 751023 (Odisha)
Ph : 0674-2303765, 9937022477; Fax : 0674-2303755
Mail : ritwik.mishra@aes.com

RAGind
Deputy General Manager (Law)
Odisha Power Generation Corporation Ltd.
Bhubaneswar



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Procedure for making application for Grant of Connectivity in ISTS

ANNEXURE-'X'

PROFORMA FOR BANK GUARANTEE
(To be stamped in accordance with stamp Act)

Ref.....

Bank Guarantee No.....

Dated

To

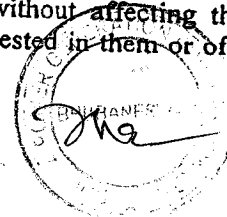
M/s Power Grid Corporation of India Ltd.

Dear Sirs,

In consideration of the Power Grid Corporation of India Ltd. (hereinafter referred to as the 'POWERGRID' which expression shall unless repugnant to the context or meaning thereof include its successors, administrators and assigns) agreed to provide its services relates to transmission to (Name) having its registered office at (hereinafter referred to as the which expression shall unless repugnant to the context or meaning thereof include its successors, administrators and assigns) resulting in the Agreement dated with charges valued at Rs. per month. And whereas the said Agreement has been unequivocally accepted by the and the having agreed to provide a Bank Guarantee in favor of the POWERGRID as payment security guaranteeing to bear the full charges of POWERGRID transmission system amounting to Rs. for a period of 2 months

And whereas Bank, a body incorporated under the law, having its branch office at and its Registered/Head Office at hereinafter referred to as the 'Bank' which expression shall unless repugnant to the context or meaning thereof include its successors, administrators, executors and permitted assigns, do hereby guarantee and undertake to pay the POWERGRID on its first written demand any and all monies payable by the in respect of the said transmission charges without any demur, reservation, contest, recourse or protest and/or without any reference to the Any such demand made by the POWERGRID on the Bank shall be conclusive and binding notwithstanding any difference between the POWERGRID and or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous written consent of the POWERGRID and further agrees that the guarantee herein contained shall continue to be enforceable till the POWERGRID discharges the guarantee. The decision of the POWERGRID declaring the to be payment default as aforesaid shall be final and binding on the Bank.

The POWERGRID shall have the fullest liberty without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which



they might have against theand to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied between the POWERGRID and theor any other course or remedy or security available to the POWERGRID. The Bank shall not be released of its obligations under these presents by any exercise by POWERGRID or its liberty with reference to the matters aforesaid or any of them or by reason of any other act of omission or commission on the part of the POWERGRID or any other indulgence shown by POWERGRID or by any other matter or thing whatsoever which under law would, but for this provision have the effect of relieving the Bank.

The Bank also agrees that the POWERGRID at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against theand notwithstanding any security or other guarantee the POWERGRID may have in relation to the liabilities.

Notwithstanding anything contained herein above the Bank's liability under this guarantee is restricted to Rs. and it shall remain in force upto and including and shall be extended from time to time for such period (not exceeding one year), as may be desired by the on whose behalf this guarantee has been given.

These presents shall be governed by and construed in accordance with Indian Laws.

The Bank hereby declares that it has the power to issue this Guarantee and the undersigned has full power to do so.

Dated this day of 20.. at

WITNESS

.....
(Signature)

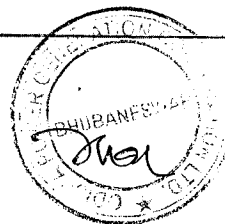
.....
(Signature)

.....
(Name)

.....
(Name)

.....
Official Address)

.....
(Designation with Bank Stamp)



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Connection Agreement

CON-6

H 223838

THIS AGREEMENT is made the 04th December of 2017

AMONG:

Power Grid Corporation of India Limited, a Company incorporated under the Companies Act, 1956 having its registered office at B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016 (hereinafter called the "CTU") which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors or permitted assigns and for the purposes of this Connection Agreement the CTU shall act through its General Manager (RE, Commercial), Bhubaneswar, Odisha.

And

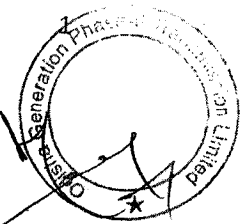
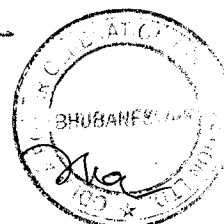
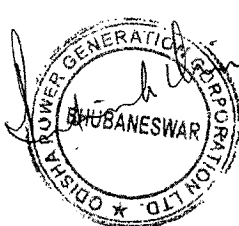
Odisha Power Generation Corporation Limited, a Company incorporated under the Companies Act, 1956 having its registered office at 7th Floor, Module - A, Fortune Towers, Chandrasekhar pur, Bhubaneswar-751023 (hereinafter called "OPGC" or the "Applicant") which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors or permitted assigns through its General Manager (Commercial & Regulatory Affairs).

And

Odisha Generation Phase-II Transmission Limited, a Company incorporated under the Companies Act, 1956 having its registered office at F-1, The Mira Corporate Suits, 1&2 Ishwar Nagar, Mathura Road, New Delhi-110065 (herein after called "OGPTL" or "The Inter-State Transmission Licensee") which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors or permitted assigns, through its Vice President (Corporate Affairs & B.D)

Kishor Kumar Srivastava

क. के. श्रीवास्तव / K. K. Srivastava
मह. एवं वाणिज्य)
& Commercial)
मह. एवं वाणिज्य)



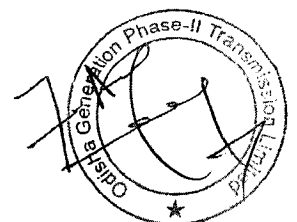
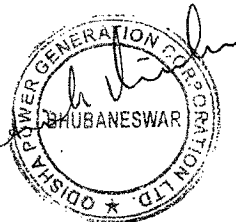
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CTU, Applicant and Inter-State Transmission Licensee are hereinafter Collectively referred to as "Parties" and individually as "Party".

WHEREAS:

- (A) The Applicant **Odisha Power Generation Corporation Ltd.**, has applied to the CTU vide their Letter No:2184/WE/ dated:20.09.2017 for connection of its IB Thermal Power Project(2X660MW), 400KV Generation switchyard with CTU's Transmission System and use of the CTU's Transmission System to transmit electricity to and/or from the Inter-State Transmission System.
- (B) The CTU has agreed to the connection of
- (i) Odisha Power Generation Corporation Ltd. (2X660 MW project facility) to the CTU's Transmission and Communication System (via the applicant's Site-Related Connection Equipment) at the Connection Point i.e, 400kV Jharsuguda Generation Switchyard of OPGC with Jharsuguda (Sundergarh) S/s of POWERGRID via 400KV OPGC-Jharsuguda (Sundargarh) D/C line of Odisha Generation Phase-II Transmission Limited.
- (ii) Connection of the Odisha Generation Phase-II Transmission Ltd., to the CTU's Transmission and Communication System at the Connection Point i.e, connection of 765KV Jharsuguda (Sundergarh) POWERGRID S/s and 765KV Raipur pool S/s of POWERGRID Via 765KV Jharsuguda (Sundergarh)-Raipur Pool D/C Line of Odisha Generation Phase-II Transmission Limited using the Transmission and Communication System of the CTU or Inter-State Transmission Licensee, other than the CTU, as the case may be, to transmit electricity as well as real time data to and or from the Facility through the CTU's Transmission and Communication System.
- (C) An application for connectivity is not required to be made by any transmission licensee, since transmission system planning is carried out in a coordinated manner by the Central Transmission Utility and the Central Electricity Authority. An inter-State transmission licensee other than Central Transmission Utility, nevertheless, shall sign

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General Manager (RE & Commercial)
पावरग्रिड, ओडिशा परियोजनाएं, भुवनेश्वर
POWERGRID, Odisha Projects, Bhubaneswar



a Connection Agreement with the Central Transmission Utility, as provided for in Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-state Transmission and related matters) Regulations, 2009.

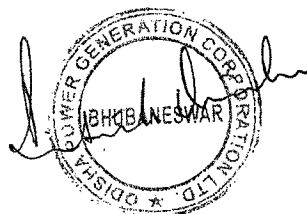
- (D) The parties have therefore agreed to enter into this Connection Agreement to record the terms and conditions upon which the Parties will carry out their respective Connection Works, in addition to the estimated cost of works required to be carried out by CTU for the works related to the interconnection, in accordance with the Connection Agreement.
- (E) The parties shall separately take up modalities for implementation of the works on mutually agreed terms and conditions. Similarly, for the regular O&M of the connection equipments owned by the Applicant and located in the CTU's premises/Switchyard, the parties shall separately take up the O&M agreement on mutually agreed terms & conditions.
- (F) Further, a signed copy of the agreement along with all the Annexures, and amendments when ever made, shall be submitted to RLDC/NLDC.

IT IS HEREBY AGREED as follows:

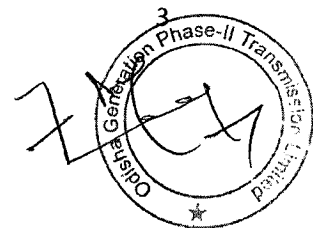
1. General Conditions for Connectivity

1.1 The Parties agree to the following General Conditions:

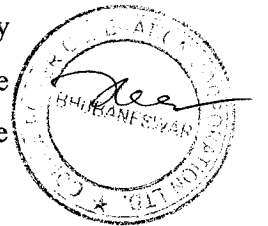
- (a) The parties shall abide by the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-state Transmission and related matters) Regulations, 2009, in respect of procedure of grant of connectivity and other matters.



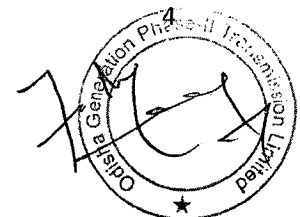
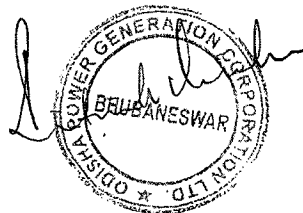
Kishor Kumar Srivastava
के. के. श्रीवास्तव / K. K. Srivastava
महा प्रबंधक (ग्रिड एवं वाणिज्य)
General Manager (RE & Commercial)
पावरग्रिड, ओडिशा परियोजनाएं, भुवनेश्वर
POWERGRID, Odisha Projects, Bhubaneswar



- (b) The Applicant or Inter-State Transmission Licensee, as the case may be, shall be responsible for planning, design, construction, and safe and reliable operation of its own equipments in accordance with the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, Central Electricity Authority (Technical Standards for Construction of electrical plants and electric lines) Regulations, Central Electricity Authority (Grid Standards) Regulations, Indian Electricity Grid Code (IEGC) and other statutory provisions.
- (c) The Applicant or Inter-State Transmission Licensee shall provide necessary facilities for voice & data communication for transfer of real time operational data such as voltage, frequency, real and reactive power flow, energy, and status of circuit breaker & isolators positions, transformer taps and other parameters from their station to Data Collection Point (DCP) of CTU as per IEGC. CTU shall provide access to Applicant's/ Inter-State Transmission Licensee's data transfer through communication network in case spare channels are available on mutually agreed terms. The location of DCP of CTU shall be the nearest station connected electrically where wideband communication capacity of POWERGRID is available. Additional communication system from DCP to the concerned RLDC shall be the responsibility of CTU; however its cost shall be borne by the Applicant. The responsibility of data transfer shall be that of the Applicant.
- (d) It is to mention that as per clause 15.3 of "Manual on Transmission Planning Criteria" of CEA, "Rating of the various substation equipments shall be such that they do not limit the loading limits of connected transmission lines". However, it is observed that 2000A bay equipment (except Circuit Breaker of 3150 A) has been installed at OPGC Switchyard, which is not commensurate with the capacity of 400KV OPGC-Jharsuguda D/C (ACSR Triple Snowbird) line. Pursuant to above, OPGC vide letter no. 1978 dated 16.11.2017, OPGC communicated that it will arrange to replace/rectify necessary equipments at OPGC switchyard within 12 months from issuance of the letter vide ref : C/CTU/E/OPGC/CON-5 dtd 21.11.2017. Thus this agreement is done



K. K. Srivastava
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 महा प्रबंधक (ग्रवि एवं वाणिज्य)
 General Manager (RE & Commercial)
 एन.डी. ओडिशा परियोजनाएँ, भुवनेश्वर
 N.D. Odisha Projects, Bhubaneswar



with the condition that above commitment of OPGC shall be fulfilled within the stipulated time period.

1.2 The following documents and their schedules which have been initiated by the parties and annexed herewith shall be deemed to form an integral part of this Agreement in the order of precedence listed below :-

1 Application for seeking connection to the Inter-State Transmission System:

a) Interstate- Licensee's letter No. OGPTL/Connection Agreement/2017-18 dated: 10/07/2017 from M/s Odisha Generation Phase-II Transmission Limited - **Annexure-I.**

b) Applicant's Letter No:2184/WE/ to CTU dated:20/09/2017 for connection agreement from OPGC - **Annexure-II.**

2 CTU's (connectivity permission) letter's No C/CTU/E/OPGC/CON-5
dated:21/11/2017 for connection of OPGC & Odisha Generation Phase-II
Transmission Limitedto ISTS grid-**Annexure-III.**

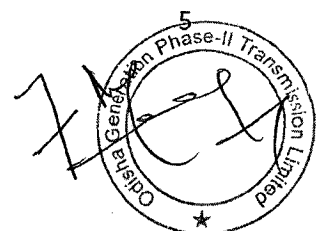
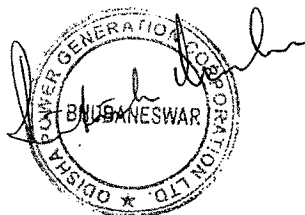
3 OPGC letter no. 1978 dated 16.11.2017 for replacement/ rectification of necessary equipments at OPGC switchyard within 12 months- **Annexure-IV.**

4 This Agreement.

1.3 Availability of Statutory/Regulatory Approval

Notwithstanding anything in the Agreement to the contrary, the applicant or inter-State transmission licensee shall be responsible for obtaining the statutory clearances/approval including transmission license (if required) for carrying out the works requiring connection to the ISTS. Accordingly, the provisions of the Agreement dealing with the carrying out of the Works, either by the applicant or inter-State transmission licensee or the CTU (unless otherwise agreed mutually) in all respects would be conditional on and subject to the CTU being satisfied that the necessary approvals/clearances are available with the applicant or inter-state transmission licensee, as the case may be.

के. के. श्रीवास्तव / K. K. Srivastava
महा प्रबंधक (ग्रामिण एवं वाणिज्य)
General Manager (RE & Commercial)
एन.ए.ए.ओ. प्रोजेक्ट्स, ओडिशा परियोजनाएं, भुवनेश्वर
NERGRID, Odisha Projects, Bhubaneswar



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2 Agreement To Pay Charges And Costs

2.1 Agreement to Monthly Transmission Tariff

The Applicant declare that it shall pay the Monthly Transmission Tariff including ULDC/NLDC charges, for use of Inter-State Transmission System, as and when long term access, Medium-term open access or short-term open access is availed by the applicant, in accordance with the relevant regulation of the CERC in this regard.

2.2 Agreement to additional costs

The Applicant declares that it shall pay the cost towards modification/alterations to the infrastructure of CTU or Inter-State Transmission Licensee other than the CTU, as the case may be, for accommodating the proposed connection as specified in the letter of CTU furnishing connection details.

2.3 Agreement to pay for damages

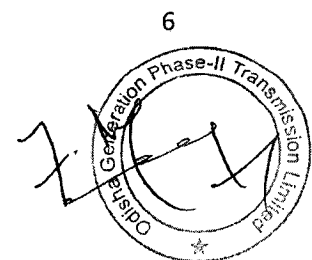
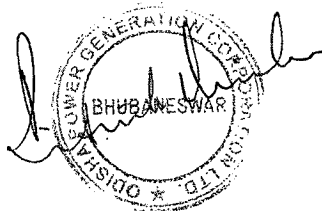
The Applicant declares that it shall pay/ make good damages, if any, caused by the customer to the property of the CTU or inter-state transmission licensee other than the CTU, as the case may be, which has been notified by the CTU or inter-state transmission licensee other than the CTU, as the case may be, within reasonable time of its occurrence, during the course of control, operation and maintenance of the equipment.

2.4 Agreement to pay Charges for construction of Bays:

The applicant or inter-State transmission licensee will execute an agreement with CTU for the Erection of equipment of applicant or inter-State transmission licensee in the substation premises of the CTU for construction of bays, if required. For this purpose the applicant or inter-State transmission licensee shall pay charges to the CTU on mutually agreed terms.



Kishan Kumar Srivastava
के. के. श्रीवास्तव / K. K. Srivastava
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General Manager (RE & Commercial)
ओडिशा परियोजनाएं, भुवनेश्वर
Odisha Projects, Bhubaneswar



2.5 Agreement to pay O&M Charges:

The Applicant or Inter-State Transmission Licensee shall pay O&M charges to the CTU if applicable on mutually agreed terms for the bay equipment of Applicant or Inter-State Transmission Licensee being operated & maintained by the CTU in their substation. These O&M charges will be governed time to time as per the mutually agreed terms.

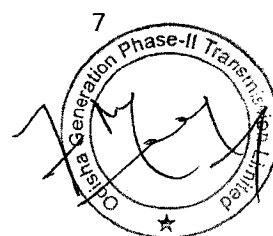
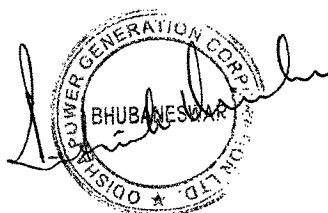
3. Conditions Precedent to the implementation of the Commissioning Instructions

The Applicant and Inter-State Transmission Licensee shall have to get appropriate "Commissioning Instruction" prior to actually first charging of the equipment through the grid. The Commissioning Instruction shall be issued only when the CTU is satisfied (by acting reasonably) that:

- a. The Connection Works have been completed;
- b. The Applicant and Inter-State Transmission Licensee has complied with its all obligations as set out in the Offer Letter;
- c. The Applicant and Inter-State Transmission Licensee has demonstrated the voice & data communication facilities to concerned RLDC;
- d. The Applicant and Inter-State Transmission licensee has obtained necessary approvals like PTCC, Electrical Inspectorate of CEA etc. from competent authority;
- e. The Applicant and Inter-State Transmission licensee has complied with its obligations under the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007.



Kishor Kumar Sankar
 के. के. श्रीवास्तव / K. K. Srivastava
 महा प्रबंधक (ग्राबि एवं वाणिज्य)
 General Manager (RE & Commercial)
 ग्रिड, ओडिशा परियोजनाएं, भुवनेश्वर
 GRID, Odisha Projects, Bhubaneswar



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4. Metering

The Applicant and Inter-State Transmission Licensee shall provide and maintain the Metering equipment, in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 and IEGC.

5.1 Site Access

Being restricted area the CTU may give permission or allow access to the employees and/or agents and/or subcontractors and/or invitees of the applicant or inter-State transmission licensee in its premises to carry out preliminary site investigation works, the Connection Works, modification works, inspections, etc, based on a written request by the applicant or inter-State transmission licensee giving reasonable advance notice. All such actions are to be carried out under the strict supervision of the CTU's authorized representative to safeguard the safety and security requirements of CTU's installations and safety of the representatives of the Applicant or Inter-State Transmission licensee.

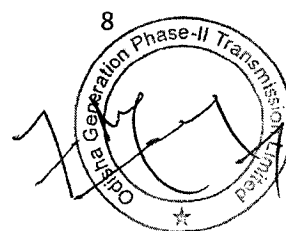
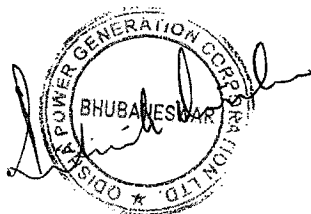
Similarly the Applicant or Inter-State Transmission licensee may also allow, on prior permission, site access to the CTU's employees and/or agents and/or invitees to carry out preliminary site investigation works, inspections, etc in the connection site of the applicant or inter-State transmission licensee, provided that a written request has been made giving reasonable advance notice.

5.2 Conditions of access

Site access for the CTU/Applicant or Inter-State Transmission Licensee shall include the right to bring such vehicles, plant, machinery and construction materials as shall be reasonably necessary to carry out the functions in respect of which the permission of access is granted. Being a restricted area, any individual to whom access is given under the Agreement shall comply with all reasonable directions given by the Applicant or Inter-State Transmission Licensee/CTU and its duly authorized employees and agents to safe guard the interest of safety and security requirements of personnel and equipment. All such access shall be exercisable without payment of any kind.



Kishan Kumar Sunkar
के. के. श्रीवास्तव / K. K. Srivastava
प्रबंधक (ग्रावि एवं वाणिज्य)
Manager (RE & Commercial)
भुवनेश्वर
Bhubaneswar



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6. Transfer Assignment and Pledge

The applicant and Inter-State Transmission Licensee shall not transfer, assign or pledge its rights and obligations under this connection agreement to any other person.

7. Notice

All correspondence/notices required or referred to under this Agreement shall be in writing and signed by the respective authorized signatories of the parties mentioned herein, unless otherwise notified. Each such notice shall be deemed to have been duly given if delivered or served by registered mail/speed post of the department of post with an acknowledgment due to other party (ies) as per authorization by parties.

The authorities of the parties who shall be responsible for the correspondence notices etc. in connection with this agreement shall be informed in advance.

8. Settlement of Disputes and Arbitration

All differences and/or disputes between the parties arising out of or in connection with these presents shall at first instance be settled through amicable settlement at the level of CEO/CMD of each party.

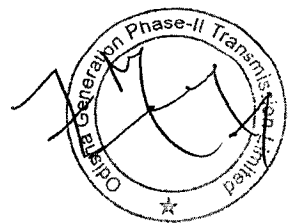
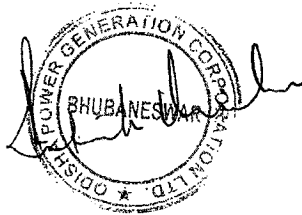
In the event of unresolved disputes or differences as covered under the statutory arbitration provided under The Electricity Act, 2003, the same shall be resolved accordingly.

Notwithstanding the existence of any disputes and differences referred to arbitration, the parties herein shall continue to perform their respective obligations under this Agreement.



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के. के. श्रीवास्तव / K. K. Srivastava
महा प्रबंधक (ग्राबि एवं वाणिज्य)
General Manager (RE & Commercial)
तावरग्रिड, ओडिशा परियोजनाएं, भुवनेश्वर
OWERGRID, Odisha Projects, Bhubaneswar



9. Force Majeure

Force Majeure herein is defined as any clause which is beyond the control of the CTU or the Applicant or Inter-State Transmission Licensee as the case may be, which could not be foreseen or with a reasonable amount of diligence could not have been foreseen and which substantially affects the performance of the agreement. Force Majeure events would include:

- Natural phenomenon including but not limited to floods, droughts, earthquake and epidemics;
- War (whether declared or undeclared), invasion, armed conflict or act of foreign enemy in each case involving or directly affecting India, revolution, riot, insurrection or other civil commotion, act of terrorism or sabotage in each case within India;
- Nuclear explosion, radioactive or chemical contamination or ionizing radiation directly affecting the generation station, captive generating plant or bulk consumer, inter-state transmission system of the CTU or inter-state transmission licensee other than CTU, or any facility or system that is integral to and substantial for the performance of this agreement.
- Any event or circumstances of a nature analogous to any events set forth above within India.

Provided either party shall within fifteen (15) days from the occurrence of such a Force Majeure event notify the other in writing of such cause(s) and would take all urgent steps to mitigate the losses/damages.

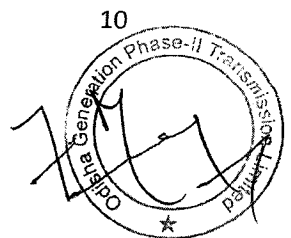
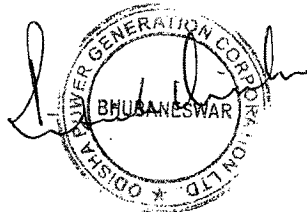
Neither of the parties shall be liable for delays in performing obligations on account of any force majeure causes as referred to and/or defined above.

10 Confidentiality

The parties shall keep in confidence any information obtained under this Connection Agreement and shall not divulge the same to any third party without the prior written consent of the other party, unless such information is



के. के. श्रीवास्तव / K. K. Srivastava
महा प्रबंधक (ग्राम एवं वाणिज्य)
General Manager (RE & Commercial)
POWERGRID, Odisha Projects, Bhubaneswar



- 787
- a) In the public domain,
 - b) Already in the possession of the receiving party,
 - c) Required by the Govt. Ministries/Agencies/Court of competent jurisdiction.

The information exchanged herein between the parties shall be used only for the purpose of, and in accordance with, this Agreement and for the purpose stated herein.

This clause shall remain in force even after termination of Connection Agreement.

11 Governing Laws and Jurisdiction

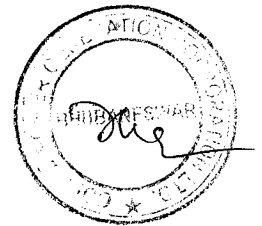
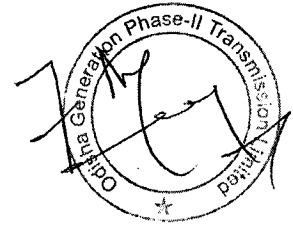
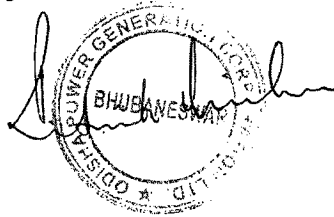
The agreement shall be governed by Indian Laws and Rules made there under.

12 Amendment to The Connection Agreement

In case of Modification to point of connection like re-allocation of bays, upgradation of voltage level etc. by either of the parties, if mutually agreed, an amendment to the Connection Agreement shall be executed between the parties within 30 days of implementing such modification.

के. के. श्रीवास्तव / K. K. Srivastava
महा प्रबंधक (ग्राबि एवं वाणिज्य)
General Manager (RE & Commercial)
पावर ग्रिड, ओडिशा परियोजनाएं, भुवनेश्वर
POWERGRID, Odisha Projects, Bhubaneswar

Kushan Kumar Srivastava



788

IN WITNESS WHEREOF the CTU, Applicant and Inter-State Transmission Licensee have caused this Agreement to be executed by duly authorized representative on date above first herein written.

1. Signed for and on behalf of:-

Power Grid Corporation of India Limited,
Plot No-04, Niladri Vihar, Chandrashekharapur,
Unit-41, Bhubaneswar,
Odisha – 751021

Authorized Signatory: Keshave Kumar Srivastava

Witness:

(PRATHADA BHARA)

के. के. श्रीवास्तव / K. K. Srivastava
महा प्रबंधक (ग्राहि एवं वाणिज्य)
General Manager (RE & Commercial)
पावरग्रिड, ओडिशा परियोजनाएं, भुवनेश्वर
POWERGRID, Odisha Projects, Bhubaneswar

2. Signed for and on behalf of:-

Odisha Power Generation Corporation Limited,
7th. Floor, Module – A, Fortune Towers,
Chandrasekharapur, Bhubaneswar-751023

Authorized Signatory:

(Koushree Chandra Samantray)

Witness:

(Koushree Chandra Samantray)

3. Signed for and on behalf of:-

Odisha Generation Phase-II Transmission Limited,
F-1, The Mira Corporate Suits, 1&2 Ishwar Nagar,
Mathura Road, New Delhi-110065.

Authorized Signatory:

(A.N. Reddy)

Witness

(J.K. THAKUR)

789
Sterlite Power

Date: 10-07-2017

~~S.H. Ship~~



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OPGC
Power for Progress**ODISHA POWER GENERATION CORPORATION LTD.**

(A Government Company of the State of Odisha)

CIN : U40104OR1984SGC001429

Regd. Off. : Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751023, Odisha
 Ph. : 0674-2303765 - 66, Fax : 0674-2303755 / 56
 Web : www.opgc.co.in,

No. 2184/WE
 20/09/2017

To,

Chief Operating Officer (COO),
 CTU, Planning,
 Corporate office- SAUDAMINI,
 Plot no.-2, Sector-29,
 Gurgaon, Hararyana-122001.

Sub:-Submission of Format- CON-4 of Odisha Power Generation Corporation 2X660 MW Project.

Sir,

Odisha Power Generation Corporation is developing 2X660MW Project at Ib Thermal Power Station, Jharsuguda, Odisha. The construction of 400KV Transmission line connecting the power station and Power grid pooling station at Jharsuguda has been completed by M/S Sterlite Grid. Now we are planning to draw start up power through the line in the month of Nov.2017. As per the procedure request for connection agreement in Format con-4 has been sent to CTU through online and hard copy of the same enclosed herewith.

Thanking you.

Yours faithfully

Kr
 Krushna Ch. Samantray

Chief Manager (Electrical),

OPGC.



RA
26/9/17
26/9/17
26/9/17
sh
26.9.17

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पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड

(भारत सरकार का उद्यम)

POWER GRID CORPORATION OF INDIA LIMITED

(A Government of India Enterprise)



पावरग्रिड

केन्द्रीय कार्यालय: "सौदामिनी" प्लॉट सं. 2, सैक्टर-29, गुडगाँव-122 001, (हरियाणा) दूरभाष: 0124-2571700-719, फैक्स : 0124-2571762, "Saudamini" Plot No. 2, Sector-29, Gurgaon-122 001, (Haryana) Tel.: 0124-2571700-719, Fax: 0124-2571762, Web.: www.powergridindia.com

Ref: C/CTU/E/OPGC/CON-5

CIN : L40101DL1989GOI038121

Date: 21.11.2017

Shri Krushna Chandra Samantray
Chief Manager (Electrical)
Odisha Power Generation Corporation Ltd
(OPGC), Zone-A, 7th floor, Fortune Tower,
Chandrasekharpur, Bhubaneswar - 751023
Odisha

Shri T.A.N. Reddy
Vice President
Corporate Affairs & B.D.
Odisha Generation Phase-II Transmission
Limited (OGPTL)
F-1, The Mira Corporate Suites
1&2 Ishwar Nagar, Mathura Road,
New Delhi - 110065

Subject: Connection Details (CON-5) for connection of OPGC to the Inter-State Transmission Grid through 400 kV OPGC - Jharsuguda D/c line of M/s OGPTL and connection of 765 kV Jharsuguda - Raipur D/c line of M/s OGPTL to ISTS Grid

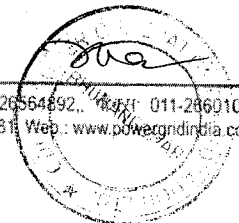
Dear Sir,

This is with reference to the CON-4 Application No. 0000000065 submitted by M/s Odisha Generation Phase-II Transmission Limited (OGPTL) through letter Ref No. OGPTL/Conn. Agreement /2017-18/01 dated 10.07.2017 and CON-4 Application No. 0000000068 submitted by M/s Odisha Power Generation Corporation Ltd (OPGC) through letter Ref No: 2184/W.E. dated 20.09.2017 seeking Connection Details (CON-5) for connectivity of M/s OPGC (2x660 MW) and new transmission lines of M/s OGPTL to Inter-State Transmission System. We have examined your proposal and you are hereby permitted connectivity to the grid as per the details given below:

1. Name of the Link (sub-station/line) at which connectivity granted	:	<ul style="list-style-type: none"> 400 kV OPGC - Jharsuguda (Sundargarh) D/c line 765 kV Jharsuguda (Sundargarh) - Raipur Pool D/c line
2. Voltage level	:	400 kV and 765 kV
3. Type of Link	:	D/c link
4. Reactive compensation to be provided	:	<ul style="list-style-type: none"> 2x240 MVAR switchable line reactor along with 700 Ohm NGR at Jharsuguda (Sundargarh) end on Jharsuguda (Sundargarh) - Raipur Pool 765 kV D/c line (by POWERGRID) 2x240 MVAR switchable line reactor along with 700 Ohm NGR at Raipur Pool end on Jharsuguda (Sundargarh) - Raipur Pool 765 kV D/c line (by POWERGRID)

पंजीकृत कार्यालय: बी-9, कृतब इंस्टीटुशनल एरिया, कटवारिया सराय, नई दिल्ली-110016 दूरभाष: 011-26560112, 26560121, 26564812, 26564892, फैक्स: 011-26601081, 011-26601081
Regd. Office: B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110016 Tel.: 011-26560112, 26560121, 26564812, 26564892, Fax: 011-26601081, 011-26601081 Web.: www.powergridindia.com

स्वहित एवं राष्ट्रहित में ऊर्जा बचाएं
Save Energy for Benefit of Self and Nation



5. Maximum Import Capacity through the link (during startup)		50 MVA*
6. Maximum export capacity through the link		618 MW**
7. Expected date of commercial operation	:	<ul style="list-style-type: none"> • Unit-I: Jun'18 • Unit-II: Sep'18 • 400 kV OPGC – Jharsuguda (Sundargarh) D/c line: deemed commissioned w.e.f. July, 2017*** • 765 kV Jharsuguda (Sundargarh) – Raipur Pool D/c line: 07.08.2019*
8. Bay allocated in the switchyard of connectivity	:	[refer Annexure-I]
9. Equipment to be provided in the allocated bay meeting the requirement of Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 which shall be compatible with the equipment installed at other end.	:	[refer Annexure-II]
10. Protection Equipment to be provided shall be meeting the requirements of Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and shall be compatible & matching with the equipment installed at other end	:	[refer Annexure-II]
11. System recording & SCADA Equipment shall be meeting the technical standards as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and shall be compatible to facilitate exchange of data with the existing system installed in the ISTS network.	:	[refer Annexure-III(a) & III(b)]
12. Details of the modification/alteration to existing facilities for accommodating proposed connection and its estimated cost.	:	[refer Annexure-IV]
13. Name of Communication Link for Data and Voice Communication	:	[refer Annexure-V]
14. Communication equipment details upto POWERGRID Data Collection Point	:	[refer Annexure-V]
15. Site responsibility schedule	:	[refer Annexure-VI]

*/** Applicable for OPGC only (through OPGC – Jharsuguda line)

** As per OPGC, maximum export capacity required is 622 MW, however, as the quantum for which Connectivity was granted is 618 MW, the same is being considered (through OPGC – Jharsuguda line)



*** As per OGPTL email dated 05.10.2017, 400 kV OPGC – Jharsuguda D/c line is declared under deemed commissioned w.e.f. 30.08.2017. However, as per RFP document, commissioning schedule is July'17.

* M/s OGPTL has indicated expected commissioning schedule as Mar'18. However, as per RFP document, commissioning schedule is 07.08.2019.

It should be noted by the applicants that all the equipment and systems to be provided by applicants shall have to conform to the technical standards as specified in the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007.

The applicants will establish, test, commission and demonstrate the voice and data communication facilities with concerned LDC before test charging.

At the connection point to the ISTS, cost of modifications if any, shall be borne by the applicants.

It is to mention that as per clause 15.3 of "Manual on Transmission Planning Criteria" of CEA, "Rating of the various substation equipment shall be such that they do not limit the loading limits of connected transmission lines". However, it is observed that 2000A bay equipment (except Circuit Breaker of 3150 A) has been installed at OPGC Switchyard, which is not commensurate with the capacity of 400kV OPGC-Jharsuguda D/C (ACSR Triple Snowbird) line. Pursuant to above, OPGC vide letter no. 1978 dated 16.11.2017 has communicated that it will arrange to replace/rectify necessary equipment at OPGC Switchyard within 12 months from issuance of the letter (Copy enclosed at **Annexure-VII**). Thus, this Connection Offer (CON-5) is being issued with the condition that above commitment of OPGC shall be fulfilled within the stipulated time period.

As per the CERC Regulations/Detailed Procedures, a tripartite Connection Agreement (FORMAT-CON-6) among M/s OPGC, M/s OGPTL and CTU (i.e. POWERGRID) is required to be executed for which applicants are requested to contact at the following address:

Executive Director,
Odisha Projects
Plot No.4, Unit-41, Niladri Vihar, Chandrasekharapur
Bhubaneswar – 751021, Odisha

Thanking You,

Yours faithfully,



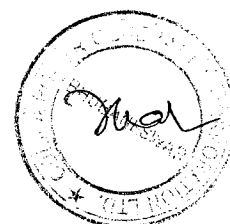
(Subir Sen)
COO (CTU-Pig & SG)



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Copy to:

ED (Odisha Projects) – request to arrange signing of "Connection Agreement" with M/s OPGC & M/s OGPTL and forward a copy of signed tripartite Connection Agreement to CTU-Pig Dept.



Bay allocated in switchyard of connectivity**A. Odisha Power Generation Company Limited**

1. Name of substation: Odisha Power Generation Company Limited
2. Name and Bay No: Bay No. 12 & 14

B. Jharsuguda Substation

1. Name of substation: 765/400 kV Jharsuguda substation
2. Name and Bay No:
 - a) 400 kV OPGC – Jharsuguda (Sundargarh) D/c line:
 - i. OPGC-I: Bay No: 433, 434 (Tie)
 - ii. OPGC-II: Bay No: 438, 437 (Tie)
 - b) 765 kV Jharsuguda (Sundargarh) – Raipur Pool D/c line:
Bay No: 709 & 712

C. Raipur Pool Substation

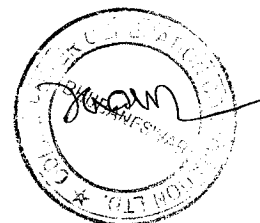
1. Name of substation: Raipur Pool substation
2. Name and Bay No:
765kV Jharsugda Ckt-1 - Main- 804, Tie -805 (existing with ICT-2)
765kV Jharsugda Ckt-2 - Main- 807, Tie -808



A. Odisha Power Generation Company Limited

Equipment to be provided by applicant in the allocated bay meeting the requirement of Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 which shall be compatible with the equipment installed at other end

Sl. No.	Name of Equipment	Nos.	Ratings
1.	Circuit Breaker	02	Rated voltage 400 KV Highest system voltage- 420 KV Rated frequency – 50 HZ Rated continuous current- 3150 A at 50° C Fault Current – 50 kA for 1 sec Type – SF6 Individually operated single pole. Reference std.-IEC- 62271-100
2.	Isolators	06	Rated voltage 400 KV Highest system voltage- 420 KV Rated frequency – 50 HZ Rated continuous current- 2000 A at 50° C Fault Current – 50 kA for 1 sec Reference std.-IS 9921 & IEC 62271 & 60129
3.	Earth Switches	06	Triple pole ,gang operated type Short time for 1 sec – 50 KA rms Peak short time – 125 KA peak Reference std.- IS 9921 & IEC 6227 & 60129
4.	CT	04	Rated voltage 400 KV Highest system voltage- 420 KV Rated frequency – 50 HZ Fault Current – 50 kA for 1 sec Core details - 6 core CT Ratio 2000-1250 / 1 Reference std.- IEC: 60044-1 / IS:2705
5.	CVT	02	Rated voltage 400 KV Highest system voltage- 420 KV Rated frequency – 50 HZ 400/√3KV : 110/√3 Reference std.- IEC: 61869-5/ IEC 60044-5 / IS:3156
6.	Wave Trap	02	Rated voltage 400 KV Rated frequency – 50 HZ Rated current – 2000 A at ambient temp of 50 deg. C Fault Current – 50 kA for 1 sec Applicable std.- IEC 60353
7.	Lightning Arrester		Nominal system Voltage 400 KV Highest system voltage- 420 KV Rated Voltage- 390 KV Applicable std.-IEC 60099-4(2009) & IS:3070(Part-3)



Protection Equipment to be provided by applicant shall be meeting the technical standards as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and shall be compatible & matching with the equipment installed at other end.

400 kV OPGC – Jharsuguda (Sundargarh) D/c line:

Main-I Distance Protection Relay: D-60 (GE MULTILIN)

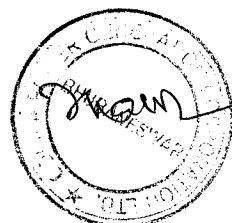
Main-II Distance Protection Relay: D-60 (GE MULTILIN)

Tie line Protection:

LBB Protection Relay: C-60 (GE MULTILIN)

Note:

As per clause 15.3 of "Manual on Transmission Planning Criteria" of CEA, "Rating of the various substation equipment shall be such that they do not limit the loading limits of connected transmission lines". However, it is observed that 2000A bay equipment (except Circuit Breaker of 3150 A) has been installed at OPGC Switchyard, which is not commensurate with the capacity of 400kV OPGC-Jharsuguda D/C (ACSR Triple Snowbird) line. Pursuant to above, OPGC vide letter no. 1978 dated 16.11.2017 has communicated that it will arrange to replace/rectify necessary equipment at OPGC Switchyard within 12 months from issuance of the letter (Copy enclosed at Annexure-VII). Thus, this Connection Offer (CON-5) is being issued with the condition that above commitment of OPGC shall be fulfilled within the stipulated time period.



B. Jharsuguda substation

Equipment to be provided in the allocated bay meeting the requirement of Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 which shall be compatible with the equipment installed at other end

a) For 765 kV Jharsuguda – Raipur Pool D/c line:

Sl. No.	Name of Equipment	Nos.	Ratings
1.	Circuit Breaker	4	765 kV, 3150 A, 50 kA
2.	Isolators	10	765 kV, 3150 A, 50 kA
3.	Earth Switches	8	765 kV, 3150 A
4.	CT	6	765 kV, 3000 A, 50 kA
5.	CVT	6	765 kV, 8800 pF
6.	Wave Trap	4	765 kV, 3150 A, 50 kA, 1mH
7.	Surge Arrestor	12	624 kV
8.	Others		6 nos 80 MVAR, 765 kV, 1-ph line reactor with NGR and SA

b) For 400 kV OPGC – Jharsuguda D/c line:

Sl. No.	Name of Equipment	Nos.	Ratings
1.	GIS bay module*	2	400 kV, 3150 A, 63 kA
2.	SF ₆ to Air Bushing	6	400 kV, 3150 A, 63 kA
3.	Single phase, SF ₆ Gas Insulated Bus Duct (GIB) outside GIS hall	300 (meters)	400 kV, 3000 A, 63 kA
4.	CVT	6	400 kV, 4400 A
5.	Surge Arrestor	6	336 kV
6.	Wave Trap	4	0.5 mH, 3150 A
7.	Digital Protection Coupler	4**	

* Consists of 1 no of CB, 1 no of CT & 2 nos of Isolator with Earth Switches

** 2 nos each at both end

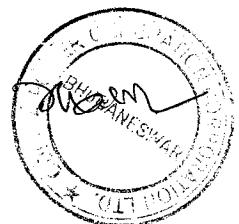
Protection Equipment to be provided shall be meeting the technical standards as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and shall be compatible & matching with the equipment installed at other end

For 765 kV Jharsuguda – Raipur Pool D/c line:

- Main-I and Main-II Numerical Distance Protection Relays for line protection (with in-built overvoltage)
- Differential, REF and Back up impedance protection for reactor.
- Auto-reclose in-built in Bay Control Unit (BCU)
- LBB as built-in part of Busbar protection
- DPC – 2+2 (both ends)

For 400 kV OPGC – Jharsuguda D/c line:

Line Distance Protection - Main-I & II: REL 670 (M/s ABB make), P444 (M/s GE make)



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Annexure - II

C. Raipur Pool Substation

Equipment to be provided in the allocated bay meeting the requirement of Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 which shall be compatible with the equipment installed at other end

Sl. No.	Name of Equipment	Nos.	Ratings
1.	Circuit Breaker	5	765 kV, 3150 A, 50 kA
2.	Isolators	8	765 kV, 3150 A, 50 kA (3-Ph)
		18	765 kV, 2000 A, 50 kA (1-Ph)
3.	Earth Switches (Included with Isolator)	8	765 kV, 3150 A (3-Ph)
		12	765 kV, 2000 A (1-Ph)
4.	CT	9	765 kV, 3000 A, 50 kA
5.	CVT	6	765 kV, 8800 pF
6.	Wave Trap	4	765 kV, 3150 A, 50 kA, 1.0 mH
7.	Surge Arrestor	12	624 kV
9.	Others	6	80 MVAR, 765 kV, 1-Phase line reactor with NGR & SA

Protection Equipment to be provided shall be meeting the technical standards as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and shall be compatible & matching with the equipment installed at other end

- Main-I & Main-II Numerical Distance Protection Relays for Line Protection (with in-built over voltage).
- Differential, REF and Back-up Impedance protection for reactor
- Auto – Reclose inbuilt in Bay Control Unit
- LBB in-built part of Busbar protection



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Annexure – III (a)

System Recording Equipment to be provided in the allocated bay meeting the technical standards as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007

A. Odisha Power Generation Company Limited

Sl. No.	Name of Equipments	Nos.	Ratings
1.	Event Logger	13	GE Make
2.	Disturbance recorder	13	GE Make
3.	Fault locator	13	GE Make

B. Jharsuguda substation

Sl. No.	Name of Equipments	Nos.	Ratings
1.	Event Logger		Part of substation automation system
2.	Disturbance recorder		
3.	Fault locator		

C. Raipur Pool Substation

Sl. No.	Name of Equipments	Nos.	Ratings
1.	Event Logger		In built in Main-I & Main-II Relay
2.	Disturbance recorder	2	Disturbance Recorder - GE make
3.	Fault locator		In built in Main-I & Main-II Relay



Connection Agreement to Odisha Power Generation Corporation Ltd.

Communication Equipment details upto POWERGRID Data Collection Point

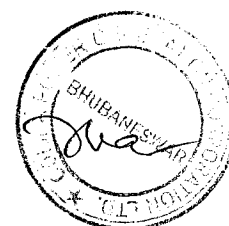
11. SCADA equipments shall be meeting the technical standards as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and shall be compatible to facilitate exchange of data with the existing system installed in the ISTS network.

Sl.No	Name of Equipments	Nos.	Ratings
1	Data Acquisition System - Remote Terminal Unit/SAS/DAS Gateway	-	Providing data in IEC 60870-5-104 Protocol for 400 kV OPGC-Jharsuguda(Sundargarh) D/c line at OPGC generation switch yard
2(a)**	Communication Equipment SDH/MUX/Data & Voice card required if any at data collection point for Interim/ Permanent arrangement.	1 no. of SDH required	Minimum STM-4, 3 MSP direction SDH equipment at OPGC Generation Switchyard along with necessary optical interface (SFPs/2nos) at OPGC Generation Switchyard and Optical Interface (SFPs/2 Nos.) at Jharsuguda (Sundergarh) for data and voice connectivity.
2(b)**	Approach Cable & FODP	Two set of FODP and Approach Cable required as per site condition	Applicant to provide Approach Cable and FODP at OPGC Generation Switchyard (1 Set) and Jharsuguda (Sundergarh) (1 Set).
3	WAMS Phasor Measurement Unit for measuring three phase current of all 400kV feeders and three phase bus voltage.	Required no. of PMUs for 400 kV OPGC-Jharsuguda(Sundargarh)D/c line at OPGC generation switch yard.	Providing data in with latest IEEE C37.118 protocol.

Note: - **Depends on Availability of Optical Fiber

Sd/-
03/11/2017

31/11/17



Details of the modification/alteration to existing facilities for accommodating proposed connection and its estimated cost

A. Odisha Power Generation Company Limited

Nil

B. Jharsuguda substation

Extension of existing Bus bar protection for 2 nos GIS Bus sectionalizers

C. Raipur Pool Substation

Nil



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Annexure -V

For Odisha Power Generation Corporation Ltd

Communication Link details upto POWERGRID Data Collection Point

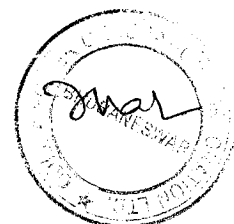
Requirement of Channels : 2 Nos Data Channel (600Baud) /64 Kbps Ethernet channel for RTU
1 No. Data Channel (2 Mbps) for PMU
1 No Speech channel

Data Collection Point (DCP) : 765kV Jharsuguda (Sundergarh) S/s of POWERGRID

1. **Wideband Link** – Configuration of Data & Voice channel in wideband Link):-

765kV Jharsuguda(Sundergarh) S/s (Existing Wideband node) - ERLDC, Kolkata

11.2.012



Site responsibility schedule

A. Principle & Procedure :

The responsibility of control, operation, maintenance & all matters pertaining to safety of equipment and apparatus at the connection point shall lie with the owner of equipment. For ease of day-to-day operation as a general practice O&M is carried out by the owner of the substation in whose premises the proposed bay is located for which a separate O&M contract is entered into, based on mutually agreed terms and conditions.

B. List of equipment and their ownership at the connection point :

Sl. No.	Name of Equipment	Ownership
1.	400 kV OPGC – Jharsuguda (Sundargarh) Transmission line	OGPTL
2.	765 kV Jharsuguda (Sundargarh) – Raipur Pool Transmission line	OGPTL
3.	2 nos. of 765kV line bays each at Jharsuguda (Sundargarh) and Raipur Pool substations for termination of 765kV Jharsuguda (Sundargarh) – Raipur Pool D/c line	POWERGRID
4.	2x240 MVar switchable line reactor along with 700 Ohm NGR at Jharsuguda (Sundargarh) end on Jharsuguda (Sundargarh) – Raipur Pool 765 kV D/c line	POWERGRID
5.	2x240 MVar switchable line reactor along with 700 Ohm NGR at Raipur Pool end on Jharsuguda (Sundargarh) – Raipur Pool 765 kV D/c line	POWERGRID
6.	2 nos. 400kV GIS line bays at Jharsuguda for termination of 400kV OPGC – Jharsuguda (Sundargarh) D/c (triple snowbird) line	POWERGRID
7.	2 nos. 400kV GIS line bays at OPGCL Generation Switchyard for termination of 400kV OPGC – Jharsuguda (Sundargarh) D/c (triple snowbird) line	OPGC

C. Site common Drawings :

- Site layout
- Electrical layout (SLD)
- General Arrangement Drawings (GA)
- Details of protection
- Common services drawing
- Communication connectivity layout



ODISHA POWER GENERATION CORPORATION LTD.

(A Government Company of the State of Odisha)

CIN: U01040OR1952500001429



905

2X660MW Thermal Power Project Office: Resource Centre,
Ib Thermal Power Station, PS. Banharpali, Dist. Jharsuguda - 768234, Odisha, Ph.: 06645-222212
Web: www.opgc.co.in

To
GM, CTU,
Power Grid Corporation of India Ltd
Saudamini, Plot No 2, Sector 29,
Near IFFCO Chowk,
Gurgaon (Haryana) - 122001, INDIA.

Letter no. - 1978
Dt. - 16-11-2017

Kind attn.: Mr. Asok Pal, GM, CTU

Sub:-Approval for connection agreement of OPGC's 2X660 MW project at Ib Thermal Power Station, Jharsuguda, Odisha.

Ref:

1. OPGC letter no. 1976 dated 16-11-2017
2. PGCIL letter no. C/CTU-PLG/E/00/OPGC dtd.02.11.2017
3. OPGC letter no. 1933 dated 30.10.2017

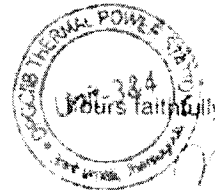
Dear Sir,

This is with reference to our telephonic discussion and your letter no. C/CTU-PLG/E/00/OPGC dtd.02.11.2017 regarding the rating of the switchyard equipment in which CTU has suggested OPGC to comply with the requirement of 3150A rating of the Bay equipment at OPGC 400KV switchyard.

We would like to mention here that construction of the project is in advanced stage and now requires start up power immediately to start the commissioning activities. Considering the suggestion of CTU, OPGC will arrange to replace/rectify necessary equipment to meet the above requirements at OPGC switchyard within 12 months from issuance of this letter.

In view of this for charging of OPGC switchyard, CTU is requested to expedite the process of signing of the connection agreement.

Thanking you.



Krushna Ch. Samantray
Chief Manager (Electrical)

Copy to:-

- i. Managing Director, OPGC
- ii. Director (Operation), OPGC



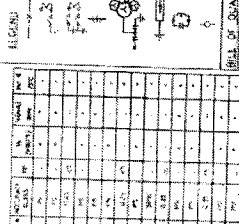
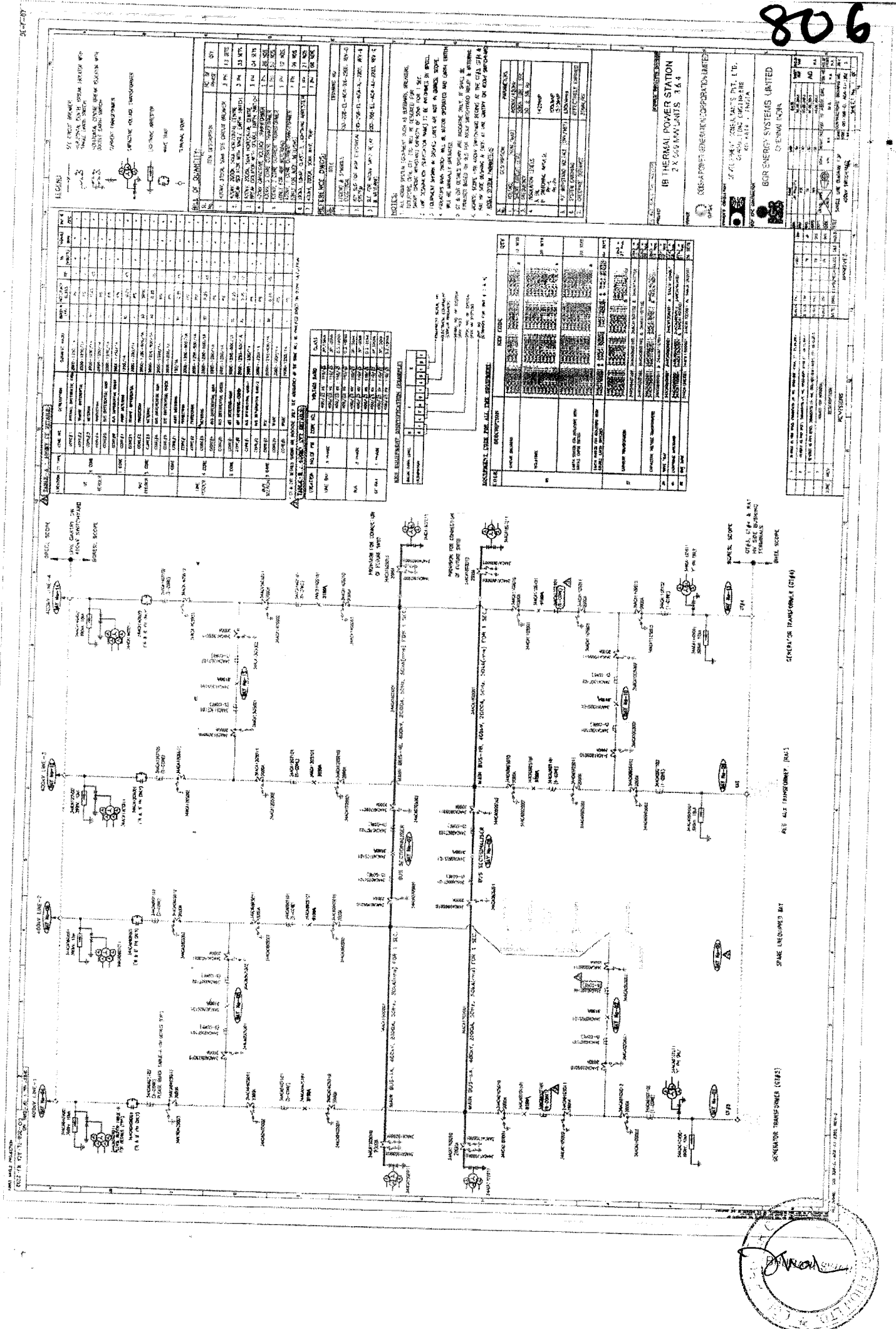


TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
1	GEN. FEED BUS	3 PH	1/0	AL	RED
2	MT FEED BUS	3 PH	1/0	AL	RED
3	FEED-1 BUS	3 PH	1/0	AL	RED
4	FEED-2 BUS	3 PH	1/0	AL	RED
5	FEED-3 BUS	3 PH	1/0	AL	RED
6	FEED-4 BUS	3 PH	1/0	AL	RED
7	FEED-5 BUS	3 PH	1/0	AL	RED
8	FEED-6 BUS	3 PH	1/0	AL	RED
9	FEED-7 BUS	3 PH	1/0	AL	RED
10	FEED-8 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
11	FEED-9 BUS	3 PH	1/0	AL	RED
12	FEED-10 BUS	3 PH	1/0	AL	RED
13	FEED-11 BUS	3 PH	1/0	AL	RED
14	FEED-12 BUS	3 PH	1/0	AL	RED
15	FEED-13 BUS	3 PH	1/0	AL	RED
16	FEED-14 BUS	3 PH	1/0	AL	RED
17	FEED-15 BUS	3 PH	1/0	AL	RED
18	FEED-16 BUS	3 PH	1/0	AL	RED
19	FEED-17 BUS	3 PH	1/0	AL	RED
20	FEED-18 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
21	FEED-19 BUS	3 PH	1/0	AL	RED
22	FEED-20 BUS	3 PH	1/0	AL	RED
23	FEED-21 BUS	3 PH	1/0	AL	RED
24	FEED-22 BUS	3 PH	1/0	AL	RED
25	FEED-23 BUS	3 PH	1/0	AL	RED
26	FEED-24 BUS	3 PH	1/0	AL	RED
27	FEED-25 BUS	3 PH	1/0	AL	RED
28	FEED-26 BUS	3 PH	1/0	AL	RED
29	FEED-27 BUS	3 PH	1/0	AL	RED
30	FEED-28 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
31	FEED-29 BUS	3 PH	1/0	AL	RED
32	FEED-30 BUS	3 PH	1/0	AL	RED
33	FEED-31 BUS	3 PH	1/0	AL	RED
34	FEED-32 BUS	3 PH	1/0	AL	RED
35	FEED-33 BUS	3 PH	1/0	AL	RED
36	FEED-34 BUS	3 PH	1/0	AL	RED
37	FEED-35 BUS	3 PH	1/0	AL	RED
38	FEED-36 BUS	3 PH	1/0	AL	RED
39	FEED-37 BUS	3 PH	1/0	AL	RED
40	FEED-38 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
41	FEED-39 BUS	3 PH	1/0	AL	RED
42	FEED-40 BUS	3 PH	1/0	AL	RED
43	FEED-41 BUS	3 PH	1/0	AL	RED
44	FEED-42 BUS	3 PH	1/0	AL	RED
45	FEED-43 BUS	3 PH	1/0	AL	RED
46	FEED-44 BUS	3 PH	1/0	AL	RED
47	FEED-45 BUS	3 PH	1/0	AL	RED
48	FEED-46 BUS	3 PH	1/0	AL	RED
49	FEED-47 BUS	3 PH	1/0	AL	RED
50	FEED-48 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
51	FEED-49 BUS	3 PH	1/0	AL	RED
52	FEED-50 BUS	3 PH	1/0	AL	RED
53	FEED-51 BUS	3 PH	1/0	AL	RED
54	FEED-52 BUS	3 PH	1/0	AL	RED
55	FEED-53 BUS	3 PH	1/0	AL	RED
56	FEED-54 BUS	3 PH	1/0	AL	RED
57	FEED-55 BUS	3 PH	1/0	AL	RED
58	FEED-56 BUS	3 PH	1/0	AL	RED
59	FEED-57 BUS	3 PH	1/0	AL	RED
60	FEED-58 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
61	FEED-59 BUS	3 PH	1/0	AL	RED
62	FEED-60 BUS	3 PH	1/0	AL	RED
63	FEED-61 BUS	3 PH	1/0	AL	RED
64	FEED-62 BUS	3 PH	1/0	AL	RED
65	FEED-63 BUS	3 PH	1/0	AL	RED
66	FEED-64 BUS	3 PH	1/0	AL	RED
67	FEED-65 BUS	3 PH	1/0	AL	RED
68	FEED-66 BUS	3 PH	1/0	AL	RED
69	FEED-67 BUS	3 PH	1/0	AL	RED
70	FEED-68 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
71	FEED-69 BUS	3 PH	1/0	AL	RED
72	FEED-70 BUS	3 PH	1/0	AL	RED
73	FEED-71 BUS	3 PH	1/0	AL	RED
74	FEED-72 BUS	3 PH	1/0	AL	RED
75	FEED-73 BUS	3 PH	1/0	AL	RED
76	FEED-74 BUS	3 PH	1/0	AL	RED
77	FEED-75 BUS	3 PH	1/0	AL	RED
78	FEED-76 BUS	3 PH	1/0	AL	RED
79	FEED-77 BUS	3 PH	1/0	AL	RED
80	FEED-78 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
81	FEED-79 BUS	3 PH	1/0	AL	RED
82	FEED-80 BUS	3 PH	1/0	AL	RED
83	FEED-81 BUS	3 PH	1/0	AL	RED
84	FEED-82 BUS	3 PH	1/0	AL	RED
85	FEED-83 BUS	3 PH	1/0	AL	RED
86	FEED-84 BUS	3 PH	1/0	AL	RED
87	FEED-85 BUS	3 PH	1/0	AL	RED
88	FEED-86 BUS	3 PH	1/0	AL	RED
89	FEED-87 BUS	3 PH	1/0	AL	RED
90	FEED-88 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
91	FEED-89 BUS	3 PH	1/0	AL	RED
92	FEED-90 BUS	3 PH	1/0	AL	RED
93	FEED-91 BUS	3 PH	1/0	AL	RED
94	FEED-92 BUS	3 PH	1/0	AL	RED
95	FEED-93 BUS	3 PH	1/0	AL	RED
96	FEED-94 BUS	3 PH	1/0	AL	RED
97	FEED-95 BUS	3 PH	1/0	AL	RED
98	FEED-96 BUS	3 PH	1/0	AL	RED
99	FEED-97 BUS	3 PH	1/0	AL	RED
100	FEED-98 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
101	FEED-99 BUS	3 PH	1/0	AL	RED
102	FEED-100 BUS	3 PH	1/0	AL	RED
103	FEED-101 BUS	3 PH	1/0	AL	RED
104	FEED-102 BUS	3 PH	1/0	AL	RED
105	FEED-103 BUS	3 PH	1/0	AL	RED
106	FEED-104 BUS	3 PH	1/0	AL	RED
107	FEED-105 BUS	3 PH	1/0	AL	RED
108	FEED-106 BUS	3 PH	1/0	AL	RED
109	FEED-107 BUS	3 PH	1/0	AL	RED
110	FEED-108 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
111	FEED-109 BUS	3 PH	1/0	AL	RED
112	FEED-110 BUS	3 PH	1/0	AL	RED
113	FEED-111 BUS	3 PH	1/0	AL	RED
114	FEED-112 BUS	3 PH	1/0	AL	RED
115	FEED-113 BUS	3 PH	1/0	AL	RED
116	FEED-114 BUS	3 PH	1/0	AL	RED
117	FEED-115 BUS	3 PH	1/0	AL	RED
118	FEED-116 BUS	3 PH	1/0	AL	RED
119	FEED-117 BUS	3 PH	1/0	AL	RED
120	FEED-118 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
121	FEED-119 BUS	3 PH	1/0	AL	RED
122	FEED-120 BUS	3 PH	1/0	AL	RED
123	FEED-121 BUS	3 PH	1/0	AL	RED
124	FEED-122 BUS	3 PH	1/0	AL	RED
125	FEED-123 BUS	3 PH	1/0	AL	RED
126	FEED-124 BUS	3 PH	1/0	AL	RED
127	FEED-125 BUS	3 PH	1/0	AL	RED
128	FEED-126 BUS	3 PH	1/0	AL	RED
129	FEED-127 BUS	3 PH	1/0	AL	RED
130	FEED-128 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
131	FEED-129 BUS	3 PH	1/0	AL	RED
132	FEED-130 BUS	3 PH	1/0	AL	RED
133	FEED-131 BUS	3 PH	1/0	AL	RED
134	FEED-132 BUS	3 PH	1/0	AL	RED
135	FEED-133 BUS	3 PH	1/0	AL	RED
136	FEED-134 BUS	3 PH	1/0	AL	RED
137	FEED-135 BUS	3 PH	1/0	AL	RED
138	FEED-136 BUS	3 PH	1/0	AL	RED
139	FEED-137 BUS	3 PH	1/0	AL	RED
140	FEED-138 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
141	FEED-139 BUS	3 PH	1/0	AL	RED
142	FEED-140 BUS	3 PH	1/0	AL	RED
143	FEED-141 BUS	3 PH	1/0	AL	RED
144	FEED-142 BUS	3 PH	1/0	AL	RED
145	FEED-143 BUS	3 PH	1/0	AL	RED
146	FEED-144 BUS	3 PH	1/0	AL	RED
147	FEED-145 BUS	3 PH	1/0	AL	RED
148	FEED-146 BUS	3 PH	1/0	AL	RED
149	FEED-147 BUS	3 PH	1/0	AL	RED
150	FEED-148 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
151	FEED-149 BUS	3 PH	1/0	AL	RED
152	FEED-150 BUS	3 PH	1/0	AL	RED
153	FEED-151 BUS	3 PH	1/0	AL	RED
154	FEED-152 BUS	3 PH	1/0	AL	RED
155	FEED-153 BUS	3 PH	1/0	AL	RED
156	FEED-154 BUS	3 PH	1/0	AL	RED
157	FEED-155 BUS	3 PH	1/0	AL	RED
158	FEED-156 BUS	3 PH	1/0	AL	RED
159	FEED-157 BUS	3 PH	1/0	AL	RED
160	FEED-158 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
161	FEED-159 BUS	3 PH	1/0	AL	RED
162	FEED-160 BUS	3 PH	1/0	AL	RED
163	FEED-161 BUS	3 PH	1/0	AL	RED
164	FEED-162 BUS	3 PH	1/0	AL	RED
165	FEED-163 BUS	3 PH	1/0	AL	RED
166	FEED-164 BUS	3 PH	1/0	AL	RED
167	FEED-165 BUS	3 PH	1/0	AL	RED
168	FEED-166 BUS	3 PH	1/0	AL	RED
169	FEED-167 BUS	3 PH	1/0	AL	RED
170	FEED-168 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

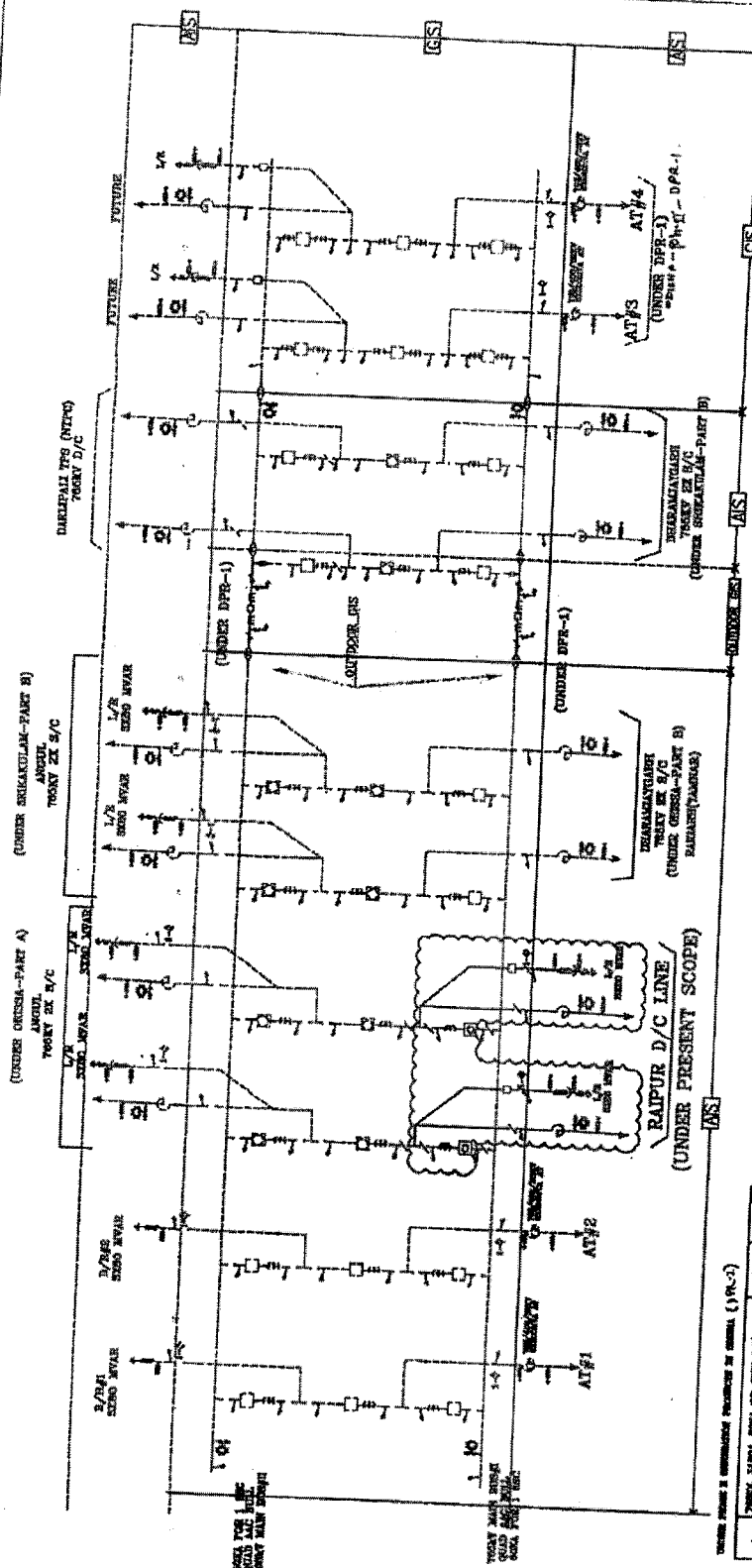
NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
171	FEED-169 BUS	3 PH	1/0	AL	RED
172	FEED-170 BUS	3 PH	1/0	AL	RED
173	FEED-171 BUS	3 PH	1/0	AL	RED
174	FEED-172 BUS	3 PH	1/0	AL	RED
175	FEED-173 BUS	3 PH	1/0	AL	RED
176	FEED-174 BUS	3 PH	1/0	AL	RED
177	FEED-175 BUS	3 PH	1/0	AL	RED
178	FEED-176 BUS	3 PH	1/0	AL	RED
179	FEED-177 BUS	3 PH	1/0	AL	RED
180	FEED-178 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
181	FEED-179 BUS	3 PH	1/0	AL	RED
182	FEED-180 BUS	3 PH	1/0	AL	RED
183	FEED-181 BUS	3 PH	1/0	AL	RED
184	FEED-182 BUS	3 PH	1/0	AL	RED
185	FEED-183 BUS	3 PH	1/0	AL	RED
186	FEED-184 BUS	3 PH	1/0	AL	RED
187	FEED-185 BUS	3 PH	1/0	AL	RED
188	FEED-186 BUS	3 PH	1/0	AL	RED
189	FEED-187 BUS	3 PH	1/0	AL	RED
190	FEED-188 BUS	3 PH	1/0	AL	RED

TABLE OF EQUIPMENT

NO.	DESCRIPTION	PHASE	WIRE SIZE	WIRE TYPE	WIRE COLOR
191	FEED-189 BUS	3 PH	1/0	AL	RED
192	FEED-190 BUS	3 PH	1/0	AL	RED
193	FEED-191 BUS	3 PH	1/0	AL	RED
194	FEED-192 BUS	3 PH	1/0	AL	RED
195	FEED-193 BUS	3 PH	1/0	AL	RED
196	FEED-194 BUS	3 PH	1/0	AL	RED
197	FEED-195 BUS	3 PH	1/0	AL	RED
198	FEED-196 BUS	3 PH	1/0	AL	RED

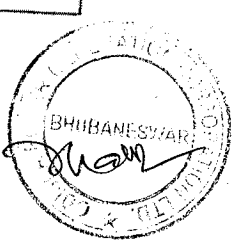


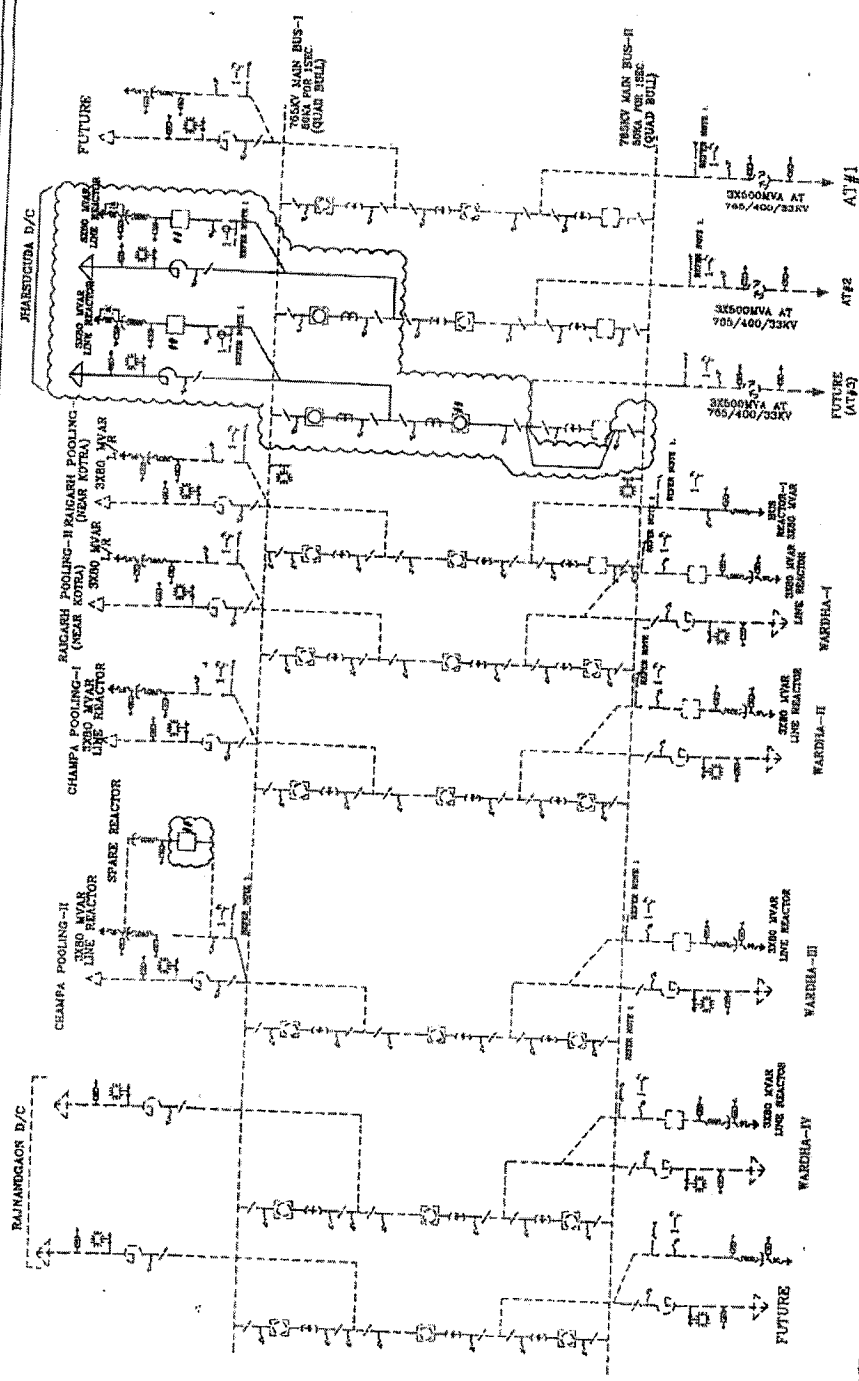
ODISHA PART II
FUTURE/EXISTING SCOPE

FOR JINDAL EUROPE GROUP
POWER GRID CORPORATION OF INDIA LIMITED
PROJECT: POWER GRID CORPORATION OF INDIA LIMITED
TRANSMISSION LINE FROM LINE UNDER CONSTRUCTION IN ORISSA (DPR-45)
TO LINE UNDER CONSTRUCTION IN BIHAR (DPR-46)
SINGLE LINE DIAGRAM
DATE: 10/10/2010
BY: [Signature]
CHECKED BY: [Signature]
APPROVED BY: [Signature]

TABLE 1: SUMMARY OF EQUIPMENT IN ORISSA (DPR-45)

Sl. No.	Equipment	Qty	Remarks
1.	TRANSFORMER, 220KV/70KV (1-10)	2	
2.	TRANSFORMER, 220KV/70KV (1-10)	2	
3.	TRANSFORMER, 220KV/70KV (1-10)	2	
4.	TRANSFORMER, 220KV/70KV (1-10)	2	
5.	TRANSFORMER, 220KV/70KV (1-10)	2	
6.	TRANSFORMER, 220KV/70KV (1-10)	2	
7.	TRANSFORMER, 220KV/70KV (1-10)	2	
8.	TRANSFORMER, 220KV/70KV (1-10)	2	
9.	TRANSFORMER, 220KV/70KV (1-10)	2	
10.	TRANSFORMER, 220KV/70KV (1-10)	2	





BILL OF QUANTITY - 765KV 50KA

SL. NO.	DESCRIPTION	QTY	UNIT
1	765KV MAIN BUS-I	1	m
2	765KV MAIN BUS-II	1	m
3	765KV/400/33KV TRANSFORMER	3	nos
4	765KV/400/33KV TRANSFORMER	3	nos
5	765KV/400/33KV TRANSFORMER	3	nos
6	765KV/400/33KV TRANSFORMER	3	nos
7	765KV/400/33KV TRANSFORMER	3	nos
8	765KV/400/33KV TRANSFORMER	3	nos
9	765KV/400/33KV TRANSFORMER	3	nos
10	765KV/400/33KV TRANSFORMER	3	nos
11	765KV/400/33KV TRANSFORMER	3	nos
12	765KV/400/33KV TRANSFORMER	3	nos
13	765KV/400/33KV TRANSFORMER	3	nos
14	765KV/400/33KV TRANSFORMER	3	nos
15	765KV/400/33KV TRANSFORMER	3	nos
16	765KV/400/33KV TRANSFORMER	3	nos
17	765KV/400/33KV TRANSFORMER	3	nos
18	765KV/400/33KV TRANSFORMER	3	nos
19	765KV/400/33KV TRANSFORMER	3	nos
20	765KV/400/33KV TRANSFORMER	3	nos
21	765KV/400/33KV TRANSFORMER	3	nos
22	765KV/400/33KV TRANSFORMER	3	nos
23	765KV/400/33KV TRANSFORMER	3	nos
24	765KV/400/33KV TRANSFORMER	3	nos
25	765KV/400/33KV TRANSFORMER	3	nos
26	765KV/400/33KV TRANSFORMER	3	nos
27	765KV/400/33KV TRANSFORMER	3	nos
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29	765KV/400/33KV TRANSFORMER	3	nos
30	765KV/400/33KV TRANSFORMER	3	nos
31	765KV/400/33KV TRANSFORMER	3	nos
32	765KV/400/33KV TRANSFORMER	3	nos
33	765KV/400/33KV TRANSFORMER	3	nos
34	765KV/400/33KV TRANSFORMER	3	nos
35	765KV/400/33KV TRANSFORMER	3	nos
36	765KV/400/33KV TRANSFORMER	3	nos
37	765KV/400/33KV TRANSFORMER	3	nos
38	765KV/400/33KV TRANSFORMER	3	nos
39	765KV/400/33KV TRANSFORMER	3	nos
40	765KV/400/33KV TRANSFORMER	3	nos
41	765KV/400/33KV TRANSFORMER	3	nos
42	765KV/400/33KV TRANSFORMER	3	nos
43	765KV/400/33KV TRANSFORMER	3	nos
44	765KV/400/33KV TRANSFORMER	3	nos
45	765KV/400/33KV TRANSFORMER	3	nos
46	765KV/400/33KV TRANSFORMER	3	nos
47	765KV/400/33KV TRANSFORMER	3	nos
48	765KV/400/33KV TRANSFORMER	3	nos
49	765KV/400/33KV TRANSFORMER	3	nos
50	765KV/400/33KV TRANSFORMER	3	nos
51	765KV/400/33KV TRANSFORMER	3	nos
52	765KV/400/33KV TRANSFORMER	3	nos
53	765KV/400/33KV TRANSFORMER	3	nos
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56	765KV/400/33KV TRANSFORMER	3	nos
57	765KV/400/33KV TRANSFORMER	3	nos
58	765KV/400/33KV TRANSFORMER	3	nos
59	765KV/400/33KV TRANSFORMER	3	nos
60	765KV/400/33KV TRANSFORMER	3	nos
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63	765KV/400/33KV TRANSFORMER	3	nos
64	765KV/400/33KV TRANSFORMER	3	nos
65	765KV/400/33KV TRANSFORMER	3	nos
66	765KV/400/33KV TRANSFORMER	3	nos
67	765KV/400/33KV TRANSFORMER	3	nos
68	765KV/400/33KV TRANSFORMER	3	nos
69	765KV/400/33KV TRANSFORMER	3	nos
70	765KV/400/33KV TRANSFORMER	3	nos
71	765KV/400/33KV TRANSFORMER	3	nos
72	765KV/400/33KV TRANSFORMER	3	nos
73	765KV/400/33KV TRANSFORMER	3	nos
74	765KV/400/33KV TRANSFORMER	3	nos
75	765KV/400/33KV TRANSFORMER	3	nos
76	765KV/400/33KV TRANSFORMER	3	nos
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81	765KV/400/33KV TRANSFORMER	3	nos
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96	765KV/400/33KV TRANSFORMER	3	nos
97	765KV/400/33KV TRANSFORMER	3	nos
98	765KV/400/33KV TRANSFORMER	3	nos
99	765KV/400/33KV TRANSFORMER	3	nos
100	765KV/400/33KV TRANSFORMER	3	nos

FOR TENDER PURPOSE ONLY

POWER GRID CORPORATION OF INDIA LIMITED
(A Government of India Enterprise)

PROJECT : COMMON TRANSMISSIONS SYSTEM FOR PHASE-II
GENERATION PROJECTS IN ODISHA & IMMEDIATE EVACUATION
SYSTEM FOR OPCC (DPR-2, PART-A)

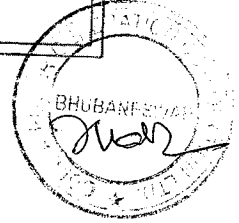
TITLE : SINGLE LINE DIAGRAM - 765KV
RAIPUR POOLING STATION EXTENSION

DRAWN BY : RAIPUR
CHECKED BY : RAIPUR
APPROVED BY : RAIPUR
DATE : 15/08/15

- NOTE-1. SINGLE PHASE ISOLATORS WITH ONE E/S TO BE USED FOR REACTOR AUXILIARY BUSES.
2. ## MARKED CIRCUIT BREAKERS SHALL BE WITH CONTROLLED SWITCHING DEVICES.
3. DISMANTLING OF 765KV BPLs FOR INSTALLATION OF 765KV CIRCUIT BREAKER (1-PH)
FOR EXISTING SPARE REACTOR AND NECESSARY MODIFICATIONS IN EXISTING CAR PANELS ARE ALSO UNDER PRESENT SCOPE.

LEGEND:-

PRESENT SCOPE
EXISTING/FUTURE



ANNEXURE-11



910


OPGC
 Power for Progress

DISHA POWER GENERATION CORPORATION LTD.

(A Government Company of the State of Odisha)

CIN : U40104OR1984SGC001429

 Regd. Off. : Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751023, Odisha
 Ph. : 0674-2303765 - 66, Fax : 0674-2303755 / 56

Web : www.opgc.co.in,

Ref: OPGC – II / Land / 1108

 Dated 4th May 2017

To

 The Superintendent of Police
 District – Jharsuguda,
 Odisha

Sub: Construction of Ash Pond for 2 X 660MW of OPGC in village Tilia, Banharpali P.S. and extension of support for Police Personnel regarding.

Ref: 1) Our letter No. 1072 dt:21/02/2017

2) Review by Chief Secretary under SPMG meeting dtd.28/02/2017

3) Review by Chief Secretary at ITPS, Banharpali on dtd: 06/04/2017

 4) Review by Chief Secretary under 26thSPMG meeting dtd.30/04/2017

Sir,

At the outset, on behalf of OPGC, I wish to extend my sincere thanks for the well planned and executed police force mobilisation from the 24th of April 2017, which has enabled us to start the construction work for ash pond at Tilia village. I also thank you for extending the presence of the force till 6th May 2017, as informed by my officers.

As you are kindly aware, the level of construction activity will progressively build up over the coming months and as the project tenure is for two years, a significant progress in the work can only be seen in the next 5 to 6 months. Given our understanding of the local situation, we anticipate that intermittent attempts will be made to disrupt work. In our view, it will be prudent to maintain the presence of police force at the worksite for a few more months, say up to December 2017. However, the number of police personnel to be deployed and the tenure is left to your best judgement.

Any support required for this purpose from OPGC, may please be intimated, so that necessary action can be initiated from this end.

Your kind consideration in this regard is solicited.

Thanking you.

Yours faithfully,

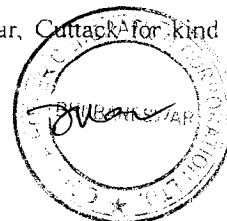
(Indranil Dutta)

Managing Director

Copy submitted to :-

- 1) The Chief Secretary and Chief Development Commissioner to Govt., Govt. of Odisha Bhubaneswar for kind information.
- 2) The Commissioner-cum-Secretary to Govt., Department of Energy, Govt. of Odisha, Bhubaneswar for kind information.
- 3) The Director General of Police, Odisha Police Headquarters, Buxi Bazar, Cuttack for kind information.

01/05/2017



871



OPGC
Power for Progress

ODISHA POWER GENERATION CORPORATION LTD.

(A Government Company of the State of Odisha)

CIN : U40104OR1984SGC001429

Regd. Off. : Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751023, Odisha

Ph. : 0674-2303765 - 66, Fax : 0674-2303755 / 56

Web : www.opgc.co.in,

Ref. No. OPGC/ 1109

Dt. 04/05/2017

To

The District Magistrate & Collector
District- Jharsuguda
Odisha

Sub: Construction of Ash Pond for 2 X 660MW of OPGC in village-Tilia, Banharpali P.S. and extension of support from the District Administration - regarding.

Sir,

On behalf of OPGC I would like to express my sincere thanks for the extensive co-operation and invaluable support extended by the District Administration under your leadership in carrying forward the construction work of Ash Pond for 2x660 MW of OPGC in Tilia village of Jharsuguda Tahasil. I would also like to place on record my appreciation that, it would not have been possible to start the ash pond construction work without your generous support.

Looking forward your continued co-operation and support in the matter in the interest of the State as a whole.

Thanking you once again,

Yours sincerely,

Indranil Dutta

(Indranil Dutta)
Managing Director

Copy submitted to :-

- 1) The Chief Secretary and Chief Development Commissioner, Govt. of Odisha Bhubaneswar for kind information.
- 2) The Principal Secretary to Govt., Revenue & Disaster Management Deptt., Govt. of Odisha, Bhubaneswar for kind information.
- 3) The Commissioner-cum-Secretary to Govt., Department of Energy, Govt. of Odisha, Bhubaneswar for kind information.

9/c [Signature]



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ODISHA POWER GENERATION CORPORATION LTD.
(A Government Company of the State of Odisha)
CIN : U40104OR1984SGC001429

Regd. Off. : Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751023, Odisha
Ph. : 0674-2303765 - 66, Fax : 0674-2303755 / 56
Web : www.opgc.co.in,

Letter No: 1048

Date: 03-05-18

To
The Collector and District Magistrate
Sundargarh-770001

Sub: Deployment of Police Force.

Sir,

Odisha Power Generation Corporation Limited (OPGC) is in very advanced stage of starting commissioning of its expansion power plant which is planned from June 2018 onwards. The coal for the plant will be transported from Manoharpur coal mine of Odisha Coal and Power Limited (OCPL) through a dedicated railway line (MGR) system, which is being constructed by OPGC with a target to complete by December 2018. The land for the same has already been acquired through LA Act. However, some villagers of the Sanghumuda village are obstructing work regularly and not allowing the construction work to proceed and as result work has been stopped in the area. A few FIRs have been lodged at the local police station to that effect (copies enclosed).

Similarly, OCPL, a subsidiary of OPGC and Govt. of Odisha Company, has been allotted Manoharpur and Dip-side of Manoharpur coal blocks for supplying coal exclusively to OPGC expansion power plants. The land acquisition process has been completed through LA Act and all the necessary permits and clearances have been obtained. OCPL is progressing ahead to start the coal production by October 2018. Construction of Coal Handling Plant (CHP) and other allied infrastructure has already started. Here also some villagers from Manoharpur & Sanghumuda villages are obstructing the progress of work and frequently stopping the work at site. Moreover, some of the villagers of Manoharpur who had earlier consented to relocate to the R&R colony are now resisting relocation and raising demands which are beyond the purview of R&R Policy of Govt. of Odisha. This is obstructing physical possession of the land by OCPL and delaying start of mine operation. The copies of complaints/FIRs lodged at the local police station are attached herewith for your reference.

In view of the above, I request your kind intervention in deploying adequate police force for a period of 2 months at the work site to carry out the construction and mine operation works.

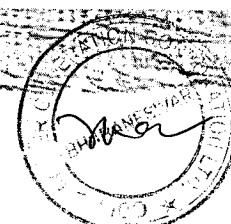
Thanking you.

Yours faithfully,

Indranil Datta
Managing Director

- CC: 1. The Commissioner-cum-Secretary, Dept. of Energy, Govt. of Odisha for kind information.
2. The Superintendent of Police, Sundargarh for kind information.
3. Chief Executive Officer, OCPL, Bhubaneswar.

dc



ODISHA POWER GENERATION CORPORATION LTD.
(A Government Company of the State of Odisha)
CIN : U40104OR1984SGC001429



Regd. Off. : Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751023, Odisha
Ph. : 0674-2303765 - 66, Fax : 0674-2303755 / 56
Web : www.opgc.co.in,

Letter No: 1089

Date: 03.05.18

To
The Superintendent of Police,
Sundargarh

Sub: Deployment of Police Force.

Sir,

Odisha Power Generation Corporation Limited (OPGC) is in very advanced stage of starting commissioning of its expansion power plant which is planned from June 2018 onwards. The coal for the plant will be transported from Manoharpur coal mine of Odisha Coal and Power Limited (OCPL) through a dedicated railway line (MGR) system, which is being constructed by OPGC with a target to complete by December 2018. The land for the same has already been acquired through LA Act. However, some villagers of the Sanghumuda village are obstructing work regularly and not allowing the construction work to proceed and as result work has been stopped in the area. A few FIRs have been lodged at the local police station to that effect (copies enclosed).

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Thanking you.

Yours faithfully,

Indranil Datta

Managing Director

- CC: 1. The Commissioner-cum-Secretary, Dept. of Energy, Govt. of Odisha for kind information.
2. The Collector and District Magistrate, Sundargarh-770001 for kind information.
3. Chief Executive Officer, OCPL, Bhubaneswar.



ODISHA POWER GENERATION CORPORATION LTD.

(A Government Company of the State of Odisha)

CIN : U40104OR1984SGC001429



Regd. Off : Zone - A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751 023, Odisha.

Ph. : 0674-2303765 - 66, **Fax :** 0674 - 2303755 / 56

Web : www.opgc.co.in

Ref : OPGC-II / Land / 1923

19th July 2019

To

The Commissioner cum Secretary to Govt.
Dept. of Energy,
Bhubaneswar
Odisha,

**Sub: Support for Police personnel for construction of Ash Pond at Tilia of 2 x 660MW
OPGC Power Plant at Banharpalli, Dist – Jharsuguda.**

Sir,

In inviting reference to the subject matter, you are kindly aware that OPGC is presently in the process of commissioning its Units 3 & 4 (2x660 MW) of the expansion project. As part of this project, ash pond construction work is in progress at village Tilia.

In this regard, it may kindly be noted that people of village Sansaratikira have been obstructing ash dyke construction work involving a stretch of about 300 meters for over one year which is completely uncalled for given that no land has been acquired by OPGC for its ash pond project in this Village. The ground for such obstruction is the villager's access being cut off from a water body which now falls within the acquired area for the ash pond. As alternatives, OPGC has already taken different measures like including the village within its WASH project to provide bathrooms / toilets with piped water supply, deep borewell with solar power pump, deepening of other water bodies and meeting the immediate requirements by supplying water through tankers.

After persuading the district authorities, police support was provided on 20.06.2019 and construction work was started. However, from 29.06.2019, the villagers, particularly women and children, entered the acquired area, threatened the contractor's staff and thereby forcibly stopped the construction work. Hence, police support will be needed for a period of at least two months to re-start and substantially advance the work. District administration has viewed that deployment of force for longer duration requires direction of appropriate authorities.

As ash pond work is critical for operation of the plant, your kind intervention is requested in taking up the matter with Home Deptt. for extending police support, so that the ash pond dyke work can be completed.

Thanking you
Yours faithfully

Managing Director



ANNEXURE-12



ODISHA POWER GENERATION CORPORATION LTD.

(A Government Company of the State of Odisha)

CIN : U40104OR1984SGC001429



Regd. Off. : Zone-A, 7th Floor, Fortune Towers, Chandrasekharapur, Bhubaneswar - 751023, Odisha
Ph. : 0674-2303765 - 66, **Fax :** 0674-2303755 / 56

Web : www.opgc.co.in,

Letter No: OPGC/ 1468

Date: 13/06/2018

To

The Commissioner-cum- Secretary to Govt.
Department of Energy, Govt. of Odisha
Bhubaneswar.

Sub: Hand over of MCL land in the Ib Valley area in favour of OPGC for construction of MGR railway

Sir,

OPGC is pursuing its expansion project of 2X660 MW power plant with a schedule to start the commissioning the Units from June 2018 onwards. The contract for construction of MGR rail alignment to transport coal from Manoharpur Coal block to OPGC power plant has been awarded to M/s L&T and the construction work on the available land is going ahead satisfactorily. As you are aware, part of the MGR rail alignment is passing through MCL land (around 39.35 Acre of tenancy land in village Jamkani) in Ib-Valley area for which OPGC has been pursuing with MCL, for a long time, to get the said land leased in its favour. In this connection a MoU has been executed between OPGC and MCL on 27.01.2014.

The matter was discussed with the CMD, Coal India Ltd last week. He informed that he has personally advised Director (Personnel) of MCL, who is looking after the land acquisition and R&R issues for MCL, to resolve the issues expeditiously. He also requested to discuss the matter with the Govt. for extending help by district administration for resolution of issues.

We would like bring to your kind notice that the process of land acquisition by MCL for MGR of OPGC is inordinately delayed for more than a year. It is required to hand over the land to L&T at the earliest so that the construction of MGR can be completed in time.

Hence your kind intervention is requested to kindly arrange a meeting with the Director (Personnel) & General Manager (Ib-Valley area) of MCL in presence of the Collector and SP, Jharsuguda to resolve the issues which would help OPGC in commissioning the power plant as per schedule. The proposed agenda points for the meeting is enclosed herewith.

Thanking you,

Yours faithfully,

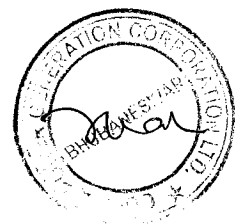
Indranil Datta

Managing Director



Agenda points for Discussion

1. Declaration of beneficiary list for employment of the village Jamkani.
2. R&R colony site identification and subsequent action for relocation of the PDFs.
3. Engagement of a dedicated team (atleast 2 people) from MCL exclusively for expeditious resolution of the Jamkani land and other issues.
4. Support from District Administration and police to start the work on the ground immediately.



ODISHA POWER GENERATION CORPORATION LTD.
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Ph. : 0674-2303765 - 66, Fax : 0674-2303755 / 56
Web : www.opgc.co.in

Letter No: OPGC/413

Date: 22.02.2018

To

The Commissioner-cum-Secretary to Govt.
Department of Energy,
Govt. of Odisha, Bhubaneswar

Sub: Expansion power plant (2X660 MW) of Odisha Power Generation Corporation Ltd.
(OPGC) - MCL issues.

Sir,

This is to bring to your kind notice that OPGC 2x660MW expansion project at IB-Thermal Power Station is progressing to commission the units by end 2018. For transportation of coal from the linked mines of Manoharpur coal block, OPGC is constructing its dedicated MGR system with a target to complete by end 2018. Part of the MGR rail alignment is passing through MCL land in Ib-Valley area for which OPGC, for a long time, has been pursuing with MCL to get the said land leased in favour of OPGC.

Further, the MGR rail alignment of OPGC is passing over the underground Mine Nos.3 & 4 of Orient Area of MCL. In order to ascertain the ground stability in dynamic conditions during rake movement on MGR railway line, a study has been conducted by OPGC through Central Institute of Mines & Fuel Research (CIMFR), Dhanbad. The recommendations of CIMFR have to be implemented by MCL to ensure stability of the MGR rail line.

In spite of regular follow up with MCL, these issues have not been resolved till date. In addition to this, some very important issues like allocation of void mines of MCL for ash filling and supply of around 10 MT/Annum coal by MCL from Lakhanpur mines for operation of OPGC I & II need to be resolved.

In view of the above, I request your kind intervention to take up the matter with the office of the Chief Secretary, Govt. of Odisha for resolution of the above issues at the earliest. A note on the MCL issues is attached at **Annexure-I** for your kind perusal.

Your kind support and co-operation would help OPGC in commissioning the power plant.

Thanking You,

Yours sincerely,

(Indranil Dutta)
Managing Director

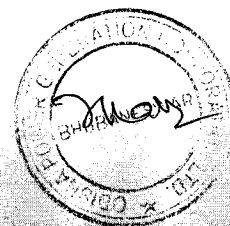
Encl : Annexure-I



Note on MCL issues**Ib Valley Land of MCL – Delay in OPGC MGR construction:**

1. The construction work of the expansion power plant is going ahead with a target to start the commissioning from June 2018.
2. The contract for construction of MGR rail alignment to transport coal from Manoharpur Coal block to OPGC power plant has been awarded to M/s L&T and the construction work on the available land is going ahead at a fast pace.
3. Part of the MGR rail alignment is passing through MCL land (over 30.35 Ac of tenancy land in village Jamkani) in Ib-Valley area for which OPGC had been pursuing with MCL for a long time to get the said land leased in favour of OPGC by MCL. In this connection a MoU also has been executed between OPGC and MCL on 27.01.2014. It is required to hand over the land to L&T as early as possible so that it can complete the construction of MGR in time for transportation of coal from Manoharpur coal mines of OCPL for expansion power plant of OPGC.
4. While disbursing the compensation for land acquisition by MCL, dispute arose with the villagers regarding the applicability of CB Act vs LARR Act in determining amount of compensation and. MoC vide Notification dated 04.08.2017 clarified that the compensation will be determined based on LARR Act 2013. The notices for compensation disbursement have been prepared and some of the villagers have received the notices. It is understood that many villagers are demanding even higher compensation for the land and approached High Court for a decision.
5. The process of land acquisition by MCL for MGR of OPGC is inordinately delayed for more than a year. It is anticipated that the process will be further delayed and the land can only be transferred to OPGC for MGR construction at least after six months from now subject to the disbursement of compensation to the villagers this month.

Intervention is requested to advise MCL to expeditiously lease out the said land in favour of OPGC within the next three months by paying the compensation and taking over the possession of the land.



MCL Underground Mines below OPGC MGR - Ground Stability Issues:

1. The MGR rail alignment of OPGC is passing over the underground Mine Nos.3 & 4 of Orient Area of MCL.
2. In order to ascertain the over ground stability in dynamic conditions during rake movement on MGR railway line, as per MOU with MCL, a study was conducted by OPGC through Central Institute of Mines & Fuel Research (CIMFR), Dhanbad. The report has been submitted to the MCL long back. CIMFR has suggested certain actions for the underground mines, in their report, to be taken up by MCL in order to ensure stability of MGR railway line.

Intervention is requested to advise MCL for implementation of the recommendations of CIMFR in Mine No.3 & 4 of Orient Area to ensure stability of the MGR railway line.

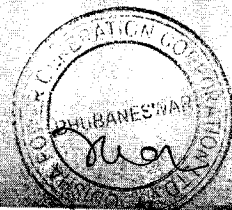
Allocation of MCL Void Mines for OPGC Ash filling:

1. Odisha Power Generation Corporation Ltd (OPGC) is operating 2x210 MW power plant and executing expansion project of capacity 2x550 MW.
2. The projected coal consumption of the power station is around 10 Million Tonne Per Annum (MTPA) and it will produce around 4.00 MTPA ash.
3. The most economical and environment friendly disposal of such large quantity of ash generated from power plant is possible only in coal mine voids.
4. OPGC is pursuing with MCL to provide nearby void mines for ash disposal.

Intervention is requested to advise MCL for allowing ash disposal in their void mines located preferably in Lakhanpur area.

Supply of Coal from Lakhanpur mines:

1. Pre-commissioning activities of the expansion project of OPGC will start from June 2018.
2. Odisha Coal and Power Limited (OCPL) has been allotted two coal blocks, Manoharpur & Dip-side Manoharpur (the linked mines) to supply coal exclusively to OPGC expansion Power Plant.
3. In order to bridge the gap between the coal availability from the linked coal mines and Power Plant requirement, Ministry of Coal has granted Bridge Linkage to the expansion power plant.
4. It is requested to supply 10 MT/year coal from Lakhanpur mines of MCL for operation of OPGC I (2.7 MT/Year) & OPGC II (7.3 MT/Year).



821

OPGC is already receiving long term linkage coal from Lakhanpur mines of MCL for its operating plants (2 x 210 MW) and is connected to the mines through dedicated railway line. Supply of the coal for the expansion project from the same mines will help in avoiding transportation challenges. Intervention is requested to advise MCL to supply 10 MT/Year coal from Lakhanpur mines.



ODISHA POWER GENERATION CORPORATION LTD.
(A Government Company of the State of Odisha)
CIN : U40104OR1984SGC001429

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Ph. : 0674-2303765 - 66, Fax : 0674-2303755 / 56
Web : www.opgc.co.in,

Ref: OPGC - II / Land / MCL / 8116

31st December 2018

To,
The Commissioner Cum Secretary
Department of Energy, Govt. of Odisha
Secretariat
Bhubaneshwar

Sub: Hand over of land under Right of Way by MCL in village Jamkani, for construction of OPGC MGR

Sir,

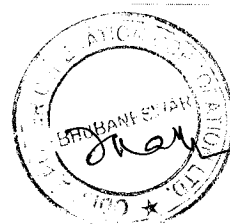
In inviting reference to the subject matter, I would like to place for your kind consideration that the hand over the MCL land to OPGC is being pursued by OPGC with MCL for almost two years. In this regard you have been kind enough to first refer the matter for placing before CCIPMG in March 2017 pursuant to which a letter was also issued by Chief Secretary to Secretary Coal, GoI, in early May 2017, to resolve the matter. In the 16th CCIPMG meeting held on 14th July 2017, MCL was directed to hand over the land by August 2017 and it was subsequently decided that Energy Deptt. will directly review the matter with MCL authorities. In the interim period, you have held number of meetings with MCL authorities, the last being on 29th December 2018, wherein, you may have observed that the progress made by MCL in disbursing compensation and finalising R&R benefits, has been very slow. This progress is in spite of OPGC team working continuously with the MCL personnel at ground level, to facilitate the process. With the present progress, there is still no visibility of when the land will be handed over. The hand over can only be expedited if MCL authorities at the highest level, take up this matter seriously.

You are kindly aware that OPGC expansion units are scheduled for commissioning by March 2019. The coal production from OCPL coal mine will also start by early 2019. However, the MGR would not be ready to transport coal from the coal mine. Under the circumstances, uncertainty in hand over of MCL land will indefinitely delay the availability of MGR for transportation of coal from OCPL mines and will also make operation of the plant uncertain.

You are therefore requested to kindly escalate the matter to Chief Secretary's level, for intervention and early resolution of this matter.

Thanking you
Yours sincerely


Managing Director



ODISHA POWER GENERATION CORPORATION LTD.
(A Government Company of the State of Odisha)
CIN : U40104OR1984SGC001429



Regd. Off. : Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751023, Odisha
Ph. : 0674-2303765 - 66, **Fax :** 0674-2303755 / 56
Web : www.opgc.co.in,

Ref: OPGC II / MCL Land / 2729

25th November 2019

To

The Commissioner-cum- Secretary to Government
Dept. of Energy
Govt. of Odisha
Bhubaneswar.

Sub: Commencement of work in MGR corridor, on MCL land in village Jamkani, Jharsuguda district


Sir,

In inviting reference to the subject matter, this is to bring to your kind notice that pursuant to the decision in the 44th SPMG meeting, dt:16/11/2019 and Energy Deptt. Letter No.9912/EN, dt:20/11/2019 addressed to MCL for handover of land, OPGC had deployed a team on 23/11/2019 to start demarcation work on the MGR corridor in Jamkani village. After having proceeded for about 160 mtrs, villagers have stopped the work and threatened OPGC staff with dire consequences if any attempt is made to access their land. The villagers have informed that the land acquisition is done by MCL and OPGC has no right to access the land. They further informed that the resolution of employment and payment related issues were still not addressed by MCL, pending which no work will be allowed.

As understood from the villagers, employment is the major concern and unless the employment list is declared by MCL, work can not be started on the ground.

It is, therefore, requested that appropriate support may please be extended for handover of land by MCL and deployment of Police Force, so that work can be commenced by OPGC. It is pertinent to mention here that we have already lost one month of the working period with favourable weather condition and further delay to start the work will delay the overall MGR construction inordinately as we will not be able to complete the work before next monsoon.

Yours faithfully,


Managing Director
