

**KARNATAKA LOKAYUKTA**

No. Compt/LOK/BCD/89/2007/ARE-2 Multi-Storied Building,  
Dr. B.R. Ambedkar  
Veedhi,

Bangalore 560 001.

18<sup>th</sup> December 2008

**REPORT ON THE REFERENCE MADE BY THE  
GOVERNMENT OF KARNATAKA UNDER SEC 7(2-A)  
OF THE KARNATAKA LOKAYUKTA ACT, 1984**

**(PART - I)**

**Ref:** (i) Govt. Order No. CI 164 MMM 2006 dated  
12/03/2007  
(ii) Govt. Order No. CI 164 MMM 2006 (Part), dated  
09/09/2008

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**INTRODUCTION**

The Government of Karnataka in exercise of powers conferred under Section 7(2-A) of the Karnataka Lokayukta Act, 1984 (hereinafter referred to as the 'Lokayukta Act'), vide Govt. Orders referred above, has referred the following issues for investigation and for submission of a report by the Lokayukta to the Government with specific recommendations. The facts leading to the reference as well as the terms of reference are as follows:

*“(i) The spurt in the international prices of steel and iron ore during last 3-4 years has made the mining and export of high quality iron ore from the mining in Bellary, Tumkur and Chitradurga Districts very lucrative. With the average*

*cost of production of iron ore at around Rs.150 per ton, and the royalties to be paid to the Government being abysmally low at Rs.16.25 per ton for different grades there have been serious systemic distortions due to the high profit margins. This has led to allegations of large scale corruption and complaints of profiteering through illegal mining with the complicity of the authorities in all levels of Government.*

*(ii) The Government in its orders vide notification No. CI 16 MMM 2003 and No.CI 33 MMM 1994 both Dated: 15.03.2003, de-reserved for private, mining an area of 11620 square km in the State, meant for State exploitation/ mining by the public sector and notified the surrender of an area of 6832.48 hectares of prime iron ore bearing lands respectively, which has paved way for distribution of public assets to select private individuals,/ entities without regard to their professional or technical or business background.*

*(iii) The entire exercise was undertaken in a manner so as to benefit only a select few individuals/entities. The main objectives behind de-reservation i.e. to encourage mining based industries to create more employment opportunities in private sector, to attract private capital and professional management for optimal use of state mineral resources were given a go by and allotments were made to the applicants on considerations other than merit.*

*(iv) It has been alleged that in the name of issuing temporary transportation permits to lift and transport iron ore in patta lands [which by itself is nor permissible in law], large scale illegal mining activity was allowed to be carried*

*out for certain period, even in the forest areas, having no link to the survey numbers of patta lands and for transportation of the illegally mined ore from the forest areas on the strength of such forest passes/ transport permits.*

*(v) It has been reported that the State has been deprived of its revenues. There have been many complaints from transporters associations regarding overloading of Transport vehicles, that illegal gratification was sought for allowing overloading of iron etc., and the repeated complaints and representations by transporters associations, it has been alleged to have not been seriously considered by the Government. It is also alleged that most of the ore not accounted for and transported illegally in excess was the outcome of illegal mining activities.*

*(vi) In the inspection report of the Accountant General of Karnataka for the years 2003-2004 and 2004-2005 on Mysore Minerals Limited (MML), a public sector undertaking, several lapses were pointed out regarding various Memorandum of Understandings (MOUs), raising and marketing contracts, joint ventures etc., between Mysore Minerals Ltd., and Private Companies, wherein the interest of MML was compromised to deprive the PSU of the Contractual Entitlements, dividends and profits due to one sided agreements, non-revision or sub-optimal revision of prices resulting in losses amounting to crores of rupees at a time when the mining sector was generating huge profits.*

*(vii) It has also been noticed that the Iron Ore fines and mud stocks/ low grade ore far in excess of the quantity were*

*allotted arbitrarily to select individuals through Mysore Mineral Ltd., much below the prevailing market price and MMTC price and even below the prices fixed from time to time by MML itself. There have been complaints of certain influential individuals who were part of the power structure within the Government, by manipulating the records and interfering in the affairs of MML, caused huge loss to the Corporation and the State, Similarly major and minor minerals such as granite, manganese and other minerals of the state, for the past several years, have been misused, indiscriminately exploited for benefiting a selected few resulting in loss of revenue to MML and the State.*

*(viii) This has led to serious allegations and extensive debate on the floor of both the Houses of Legislature with references made to large scale illegalities, irregularities leading to enormous loss to State exchequer and plundering of state mineral wealth. Allegations have been leveled against various authorities of Government of complicity in illegal mining activities, which led the Hon'ble Chief Minister to give an assurance on the floor of the House that in order to ensure highest level of fairness and probity, an impartial inquiry will be ordered in to the illegalities which have taken place in Bellary, Tumkur and Chitradurga Districts.*

The issues referred for investigation and report are as follows:

- (a) Various alleged illegalities, irregularities, events, issues and executive and other decisions set out in clause (i) to*

*(viii) and to assess the quantum of losses to the Government and to suggest remedial measures to undo such irregularities and illegalities.*

*(b) To enquire into the affairs so the Mysore Minerals Ltd., (MML) and its commercial activities carried out in a manner to cause losses to the company and the instances of direct/ indirect political interference/ patronage in the commercial affairs of the company. To fix responsibility and initiate suitable action, both, civil and/ or criminal as may be appropriate, against all persons found responsible, including private contracting parties.*

*(c) To fix responsibility and initiate suitable action against all public servants including ministers whether in office or otherwise state, its instrumentalities or State owned Companies/Corporations or other bodies and authorities, either in collusion with private parties or otherwise for various acts of omission and commission leading to various illegalities, irregularities, events and executive decisions set out in clause (i) to (viii) and also pertaining to issues such as:*

*(1) The process and timing of disposal of applications, both in case of notified areas and free areas, for grant of Mining Lease, Reconnaissance Permits and Prospecting Licenses;*

*(2) the irregularities reported in issue of permits by both Forest and Mines departments;*

*(3) the irregularities reported in transportation of minerals such as overloading, the issue of informal "token systems", transportation without permits etc;*

*(4) the entire range of the various aspects of illegal mining ranging from encroachments, mining without necessary permits and clearances, mining outside the permitted areas, mining beyond permitted quantities, illegal transportation of minerals etc.*

*(5) the mining and transportation of major minerals from Patta lands without valid mining leases etc;*

*(6) the legality in transfer of leases from one lease holder to another. This will include the case wise examination of legality and validity of grant of mining leases, with reference to the basic policy/ objectives behind the decisions taken to de-reserve the areas meant for exploitation by the public sector held and surrendered areas and the instances of direct or indirect political interference.*

*(d) All instances where the mandatory regulations and statutory provisions have been given a go-by and not observed, including environmental and other clearances, to directly or indirectly facilitate and/ or encourage illegal and/ or unregulated mining operations and to suggest remedial measures and suitable action against persons found responsible for their commissions and omissions.*

*(e) Any other related issues, event and/ or instance which the Hon'ble Lokayukta may deem fit and proper to go into the illegal and un-regulated mining and related issues, including de-reservation of the areas meant exclusively for public sector in Karnataka's mining regions ask mentioned above.*

*(f) To comprehensively inquire into the charges, allegations, complaints of misuse and abuse of the office, if any elected representatives, ministers and officers who held or hold offices of profit for pecuniary benefit pertaining to illegal/ unregulated mining and incidental issues thereof, resulting in loss of revenue to the Government of Karnataka and Public Undertakings under the Government of Karnataka.*

*(g) Illegal granite quarrying in Bangalore Rural District and other Districts.*

3. As per the Govt. Order dated 12/03/2007, the scope of the investigation was from 01/01/2000 to 22/07/2006. Subsequently, vide Govt. Order dated 9/9/2008, the scope of the investigation is extended till 9/9/2008. This report, however, will consider some of the issues referred for investigation, for the period upto 22/07/2006 and the findings relating to the period beyond 22/07/2006 and upto 9/9/2008 will be separately submitted.

4. On receipt of the reference, in view of the fact that the investigation involved certain technical matters pertaining to

various aspects of mining, it was felt necessary to seek assistance of persons who had the knowledge of mining, Forests and laws concerned with forest and mining. With this view in mind, the services of the following officers were utilized under Section 15(3) of the Karnataka Lokayukta Act, 1984.

Sriyuths:

- (1) Sri K.R. Chamayya, Former Secretary to Government, Department of Law and Parliamentary Affairs.
- (2) Dr. U.V. Singh, IFS, Conservator of Forests
- (3) Sri R.L. Gaikwad, Retd. Dy. Director of Mines and Geology
- (4) Sri A. Basavaraj, Retd. Dy. Director of Mines and Geology
- (5) Sri K.C. Subhash Chandra, Retd. Sr. Geologist of Mines and Geology
- (6) Sri H.N. Venkatesh Murthy, Retd. Superintendent, Forest Department
- (7) Sri Udayakumar, Regional Director, Environment, Department of Forests and Ecology, Belgaum
- (8) Dr. M.H. Balakrishnaiah, Director, Karnataka State Remote Sensing Applications Centre, Bangalore

Apart from the above, the services of the following are also availed under Section 15(3) of the Lokayukta Act, in the present investigation.

- (1) Sri Rajanna, Retd. FDA, Forest Department
- (2) Sri Annappaiah Herale, Retd. FDA, Forest Department
- (3) Sri Sreerama Rao, Retd. Gazetted Assistant

(4) Sri Veerabhadraiah, Retd. Sr. Judgment Writer

(5) Sri Avilash, Photographer/Videographer

5. It was also felt necessary that a public notice should be issued calling for information from the persons acquainted with the subject matter of the investigation. Hence, public notices have been issued in the leading newspapers both Kannada and English, especially which had wide circulation in the districts of Bellary, Chitradurga, Tumkur, Bangalore City and Bangalore Rural Districts.

6. Records relating to the subject matter of investigation have been secured from the Department of Commerce and Industries, Department of Forest, Environment and Ecology, Revenue Department, the Directorate of Mines and Geology, Office of the Principal Chief Conservator of Forests, Office of the Managing Director, M/s Mysore Minerals Limited (MML for short), Office of the Dy. Commissioners of the concerned Districts, besides, the records of Justice U.L. Bhat Commission of Enquiry, which was earlier appointed by the Government of Karnataka for holding an enquiry in regard to part of the reference made now to the Lokayukta.

7. As part of the investigation, report in respect of evaluation of cases relating to the issue of permits to lift and transport manganese/iron ore from patta lands was submitted by Sri R.L. Gaikwad's team and on consideration of the same, it was found that Dr. M. Basappa Reddy, the former Director of the Department

of Mines and Geology had committed illegalities in the issuance of permit for transport of minerals from patta lands, hence his comments were sought under Section 9(3) of the Lokayukta Act. This was done out of turn, because, Dr. M. Basappa Reddy had by then retired and the period of limitation to take action against him was running out. On receipt of the reply from Dr. M. Basappa Reddy and scrutiny of the same, since his explanation was found unsatisfactory, a report dated 6/3/2008 under Section 12(3) of the Lokayukta Act has been sent to the Government, recommending initiation of departmental proceedings against Dr. M. Basappa Reddy. The Government after accepting the said recommendation, has ordered initiation of departmental enquiry against Dr. M. Basappa Reddy and entrusted the said enquiry to the Lokayukta with a request to submit a report to it after the enquiry. The said enquiry is in progress. In the meantime, Dr. U.V. Singh who was entrusted with the survey of quarrying areas in the Bangalore Rural District and mining areas in Bellary was directed to submit his report in regard to illegal mining and quarrying in the districts mentioned in the reference Govt. Order. He was authorized to requisition the services of such officers as he felt necessary. Since then, Dr. U.V. Singh has submitted his report to which reference will be made at an appropriate stage in this report. Same is annexed to this report as **ANNEXURE 'A'**.

8. The Gaikwad's team which was examining the issue of grant of transport permits for transporting illegally mined iron/manganese ore from the patta lands has submitted an elaborate report. A copy of which is also annexed to this report as **ANNEXURE 'B'**.

9. The Gaikwad's team has also examined the issue relating to lapses pointed out by the Accountant General of Karnataka regarding MOUs raising, processing and marketing contracts, joint ventures, etc. entered into by the MML with private companies resulting in losses amounting to crores of rupees to the company and submitted a report. On the basis of the same, comments were called for from the concerned officers and after considering the comments and other materials on record and in pursuant to the discussions they had with me, Gaikwad team have submitted their revised report which is at **ANNEXURE-C**.

10. The issue relating to de-reservation of mining area of 11,620 Sq. Kms. in the State meant for State exploitation/mining by the public sector and the related matters referred for investigation has been examined by the Gaikwad's team and the report submitted in that regard is at **ANNEXURE-'D'**.

11. The Gaikwad's team has also gone into the issue relating to the legality in the transfer of leases from one lease holder to another

on case wise examination of the legality and submitted the report, the copy of which is at **ANNEXURE-‘E’**.

12. During the preparation of this report, the Government of Karnataka by its order dated 09/09/2008, has extended the period of reference to 09/09/2008. But this report will for the present confine only upto the period of 22/07/2006 and findings upto the extended period will be submitted separately. The reference has also asked me to initiate suitable action both civil and criminal but that is legally not possible because this is a reference under Section 7(2-A) of Lokayukta Act and not an investigation or inquiry initiated by the Lokayukta. Similarly, investigation as to irregularity in granting quarrying leases and illegality in quarrying will be submitted separately. In this report, though I have come to some conclusions in regard to various irregularities and named the persons responsible for some such irregularities and illegalities in respect of the remaining issues, persons responsible for such irregularities have not been named in this report for want of information about them, which finding also will be included in the next report.

13. The other point that is necessary to be mentioned in this report is, there may be complaint from some sources and persons that they have not been issued show-cause-notices, but their names find place in the report while some others have been issued notices and opportunities have been given to them of showing cause. In

law, in a reference like this, no notice is necessary to be given to people against whom report is being sent [*Dr. K. Chowdappa Vs State of Karnataka and others (ILR 1990 KAR 798)*], however, in some cases where I thought clarifications are necessary at this stage, some notices have been issued. Such notices seeking clarifications are legally not mandatory as has been held by the Hon'ble High Court in the above cited case.

### **ISSUES CONSIDERED IN THIS REPORT:**

In the circumstances referred in the various terms of reference stated in the G.O. dated 12/03/2007, the following issues are considered in this report in the first instance.

- Various alleged illegalities, irregularities, events, issues and executive and other decisions set out in clause (i) to (viii) and assessment of the quantum of losses to the Government and remedial measures to be suggested to undo such irregularities and illegalities.
- The affairs of Mysore Minerals Ltd., (MML) and its commercial activities carried out in a manner to cause losses to the company and the instances of direct/ indirect political interference/ patronage in the commercial affairs of the company, fixing of responsibility and initiation of suitable action, both, civil and/ or criminal as may be appropriate, against

all persons found responsible, including private contracting parties.

- Fixing responsibility and initiating suitable action against all public servants including ministers whether in office or otherwise state, its instrumentalities or State owned Companies/Corporations or other bodies and authorities, either in collusion with private parties or otherwise for various acts of omission and commission leading to various illegalities, irregularities, events and executive decisions set out in clause (i) to (viii) and also pertaining to issues such as:
  - The irregularities reported in issue of permits by both Forest and Mines departments;
  - The irregularities reported in transportation of minerals such as overloading, the issue of informal "token systems", transportation without permits etc;
  - The entire range of the various aspects of illegal mining ranging from encroachments, mining without necessary permits and clearances, mining outside the permitted areas, mining beyond permitted quantities, illegal transportation of minerals etc.
  - The mining and transportation of major minerals from Patta lands without valid mining leases etc;

- The legality in transfer of leases from one lease holder to another including case wise examination of legality and validity of grant of mining leases, with reference to the basic policy/ objectives behind the decisions taken to de-reserve the areas meant for exploitation by the public sector held and surrendered areas and the instances of direct or indirect political interference.
- **All instances** where the mandatory regulations and statutory provisions have been given a go-by and not observed, including environmental and other clearances, to directly or indirectly facilitate and/ or encourage illegal and/ or unregulated mining operations and suggesting remedial measures and suitable action against persons found responsible for their commissions and omissions.
- The other related issues, event and/ or instance which are deemed fit and proper to go into the illegal and unregulated mining and related issues, including de-reservation of the areas meant exclusively for public sector in Karnataka's mining regions mentioned above.
- The charges, allegations, complaints of misuse and abuse of the office, by any elected representatives, ministers and officers who held or hold offices of profit for pecuniary benefit pertaining to illegal/ unregulated mining and incidental issues thereof, resulting in loss of revenue to the Government of Karnataka and Public Undertakings under the Government of Karnataka.

## CHAPTER - I

### History of Mining

In view of the nature of reference, I consider it appropriate to make a brief reference to the history of mining in general in the State of Karnataka, with particular emphasis on iron ore mining.

The State of Karnataka is endowed with wide variety of minerals. Apart from gold, it has resources of a few other valuable minerals like iron and manganese which are in considerable deposits. The above minerals except gold is found in large quantity in the districts of Bellary, Chitradurga and Tumkur. This State is also rich in ornamental stones, clay, ochre, quartz, gemstones, copper, Kaolin, Limestone, magnetite etc. The iron ore in the belt of Sandur is found to be of high grade with the varying Fe content between 62-68%. What follows hereinafter is the extract of the report of Dr. U.V. Singh at Annexure-'A', in relation to the history of mining in Bellary District with which I am in agreement.

Bellary district is fairly well graced with the wide variety of minerals, out of which iron and manganese are major ones. Distribution of mineral resources in the District is given below:

Sl. No.	Name of Minerals	Place of occurrence
1	Iron Ore Deposits	Hospet, Bellary and Sandur Taluks
2	Manganese	Hospet and Sandur Taluks
3	Lead Ore	Metri, Devalapura Village in Hospet Taluk

4	Satellite, Talk Soapston	North west Swamihalli Village, Sandur Taluk
5	Graphite and Gold Deposits	North East of Sandur, Near Talur Village.
6	Yellow and Red Orches Deposits	Near Swamihalli in Sandur Taluk.
7	Quarts	Near Naduvi of Siruguppa Taluk
8	Moulding sand	All along Thungabhadra River
9	Ornamental stones	Pink and Grey granite at Siruguppa Taluk, Black Granite at Hospet Taluk.

(Abstract from NEERI report)

Iron and Steel industry is age-old in Karnataka. The steel produced from Karnataka was known by the name Wootz. The Damascus blades known for their strength, flexibility and sharpness are believed to have been fabricated from Wootz steel. Karnataka occupies the fourth place in iron ore resources and production, in the country after Bihar, Orissa and Chattisgarh. Magnetite ore of metallurgical grade is mainly found in Western Ghats of Karnataka, while Hematite concentrate of high quality is mainly found in Bellary District.

**The most common iron-bearing minerals are;**

Mineral Description	Fe-content	
Hematite (Fe <sub>2</sub> O <sub>3</sub> )	70.0%	Red, oxide ore
Magnetite (Fe <sub>3</sub> O <sub>4</sub> )	72.4%	Black, most common
Pyrite (FeS <sub>2</sub> )	46%	Sulphide ore
Siderite (FeCO <sub>3</sub> )	48%	Carbonate ore
Limonite (Fe <sub>2</sub> O <sub>3</sub> .H <sub>2</sub> O)	59.63%	Yellow, hydrated oxide

The Bellary, Hospet and Sandur (BHS) region forms a part of the "Sandur Schist Belt" named as the "Dhawars", a group of Precambrian Schistose rocks of Mysore. Structurally, the Sandur Hills form a tightly folded synclinorium with close repetition of strata due to minor folds. The strike of the ore bodies is generally parallel to the trend of the hill ranges. The dips are often steep, being vertical in a number of places. Opposing dips towards NE and SW are found in the Ramghad and NEB blocks respectively.

#### **Distribution of the Iron Ore Deposits:**

The important iron ore deposits of BHS region for academic and administrative purposes are grouped into the following main blocks:

1. NEB block (North Eastern Block)
2. Kumaraswamy block
3. Ramghad block
4. Donimalia block
5. Devadari block
6. Thimmappana gudi block
7. Belgal range or Copper mountain block
8. Ettinahatti block

**1. North Eastern Block:** This block is closest to the existing Railways and for this reason, the most exploited block is the BHS area. This block is the least explored range by Government agencies (except MML at Jambunathanahalli.) and bulk of the area is held under private leases. NEB block is significant because of persistence of ore body, consistent grade (both lumps and fines) and high recovery of lumps

and fines near to Hospet rail yard. The length of the range is about 27km from Hospet to Sandur and large number of mines are present in this block. Float ore mines were common during 1950's and 2000's. Presently mining is confined to reef ore deposits. There are more than 34 mining leases pertaining to this block. This block is further divided into four sub blocks viz. Karadikolla, Dalmia Cement, Central and Jambunathahalli.

**Karadikolla Sub Block:** This part of the NEB block is mainly occupied by Chowgule & Co. and Laxminarayana Mining Co. and Thimmappanagudi mine of Mysore Minerals Limited. The area of this sub block extends upto 5 km. There are four iron ore bands running NW-SE. Dips are found towards NE. The width of ore band varies from 20 to 50 meters. This part of the block is estimated to have about 28 million tons of high grade iron.

**Dalmia Cement Sub Block:** Continuation of Karadikolla part of block towards North Eastern side is Dalmia Cement Sub block. This part of NEB block is formed to a length of around 3.0km and width varies from 25 to 50 meters. This sub block is unique in iron ore deposit unlike all other iron ore deposits in the BHS sector, this area has high grade (Fe 67-68%) with hard and lumpy ores of steel gray colour. The reserves are estimated at 30 million tons.

**Central Sub Block:** This sub block is in continuation of Karadikolla sub block towards North Western side. This sub block is occupied by number of mining companies. Till the year 2001, small scale mining

was in progress and now due to present “China boom” in iron ore market most of the companies have increased their production. The ore deposit has been found over a length of about 10km. with a width of the bands ranging from 20m to 32 meters. The grade of the ore varies from 58 to 66% Fe. The main mines in the sub block are S.B. Minerals, Balaji Mines and Mineral Pvt. Ltd., S.V. Srinivasalu Mines, Muneer Enterprises, Trident Mining Company and others. The total estimated reserves of this sub block may be 30 million tons of very high grade iron ore.

**Jambunathanahalli Sub Block:** This part of block is having richest grade of iron ore on this sector and average grade is around 66% Fe and of high quality. This part of the NEB is running almost 7km length and ore body also follows the trend of the hill range and to its full length. Extensive mining is being done in this part of the range by number of private mine owners since 30 years. The major leases of iron ore in this part are Mysore Minerals Ltd., R. Pompapathi, R.B.S.S.N., K.M.M.I., G.G.Bros. P.V. Shetty, P. Balasubba Shetty, Banashankari Mines and others. In this sub block ore body depth goes beyond 100 meters. Ore body nature is of homogeneous without much interference of clay bands. The dips of the ore zone are towards SW. The total reserves estimated in this part of the range are around 30 million tons of very high grades. The NEB is under tremendous pressure of exploitation and requires rationing to keep sustainability for longer period of very rich high grade ore of this kind which is rare deposit on the earth.

**Main mines in NORTH EAST BLOCK - SANDUR.**

<b>Sl. No.</b>	<b>Name of the Lessee</b>	<b>Lease M.L. No.</b>	<b>Extent (ha.)</b>
1	Gogga Gurushantaiah and Bros.	2522	42.90
2	Gogga Gurushantaiah and Bros.	2520	18.21
3	P. Balasubbashetty & Sons.	2502	44.11
4	Gogga Gurushantaiah and Bros.	1028	63.13
5	Sri Srinivasa Minerals	1933	16.46
6	M/s R. Pampapathi	1806	182.5
7	M/s Mysore Minerals Ltd.	1659	38.45
8	Mr. R. Charuchandra	2102	45.00
	M/s Shri Nidhi Iron Ore Mines	2544	
9	Sri. H.N. Premkumar	2538	19.15
10	Sri. K.R. Kaviraj	2561	34.40
11	M/s Auro Minerals	1751	31.00
12	Sri. Allam Basavaraj	1893	56.75
13	Sri. H.P. Manjunath	699	3.03
14	M/s P. Venganna Setty & Bros.	1046	50.00
15	M/s Ashwathnarayan Singh &Co.	2531	129.50
16	S.B. Minerals	2550/1301	44.52
17	Balaji Mines & Minerals	731/2564	22.66
18	S.V. Srinivasalu	1634	149.73
19	M/s Muneer Enterprises	2339	36.42
20	BIOM	1626	80.94
21	M/s Mineral Syndicate	2320	2.12
22	Trident Minerals	2315	32.27
23	Trident Mining Company	1732	5.26
24	Dalmia Cement Ltd.	2010	331.52
25	Manzoor Ahamed	1324	15.97

26	Veeyam Pvt. Ltd.	988	20.23
27	M/s Mysore Mineral Ltd.	2002	621.59
28	Sri. H.G. Rangana Gowda	2549(2150)	54.63
29	M/s K.M.M.I	1799/2075	199.43
30	M/s R.B.S.S.N.	2021/2524	76.09
31	M/s R.B.S.S.N.	2022/256	31.56

**2. Kumaraswamy Block:** In continuation with the Ramghad block toward south east side the Kumaraswamy block falls. The gorge in Narihalla stream is the fault zone where it bifurcates the iron ore deposits in the block. This block is covered by south-eastern limb of the Sandur hills of 57A/12 and 57B/9 toposheet. This block is a plateau of 20km length and 15 km wide. The area could be approached from Sandur via Nandihalli and Subbarayanahalli and now many new mines' roads are also constructed. Swamyhalli and Yeshwanthnagar are two railway sidings where iron ore is being loaded in Rail.

The ore deposits in Kumaraswamy block are generally found at the top of the hill range usually above 900m contour. The ore bands have been located to a length of about 18 km. with the width of 20m to 30meters. The chief ore is hematite. It is steel-grey in colour and hard and massive. The ore bodies of this block may be further classified to sub blocks namely: a) Appenahalli, b) Kummadharuvu, c) Central, d) Harishankar and e) Sunderbencha sub blocks.

**a) Appenahalli Sub block:** This sub block is located to the west of Appenahalli village and runs to a length of about 1200m of a mile in NNW-SSE direction and dips at an angle of 30° to 35° NE. The ore is

siliceous and limonitic. The approximate reserves in this sub block would be 20 million tons of high grade. The mines of this area belong to M/s Narayan Mines and M/s SMIORE.

**b) Kummadharuvu sub block:** This sub block falls to the south of Kummadheruvu village and runs in N-S direction over a length of 1.5km with a width of 120m. The ore deposit is mostly hematite. The road from Sandur to Deogiri passes through the middle of this sub block. The expected ore reserves in this area are about 38 million tons of very high grade. The mine located in this area belongs to SMIORE, NMDC, and M/s Bharath Mines.

**c) Central Sub Block:** This sub block is one of the major deposits of the Kumaraswamy block and starts from topo point 3658 and located upto Kumaraswamy temple. The ore is massive and atleast 8 ore bodies are found. The estimated ore reserves are of 115 million tons of high grade. The NMDC is having majority of the area.

**d) Harishankar sub block:** It is located around Kumaraswamy temple and forms the extension of central sub block. This area is endowed with massive ore of high grade with laminated variety of deposit width 35 to 80 meters. This area was mainly occupied by SMIORE and MML. The estimated reserves in this area are of 90 million tons of high grade.

**e) Sunderbencha Sub block:** This is another sub block of iron ore located to the north of Sunderbencha. The ore found here is mostly hard and laminated. The expected reserves are of 15 million tons of

high grade. Total reserves in the Kumaraswamy block is around **260 million tons** of high grade.

**Main mines in KUMARASWAMY BLOCK**

Sl. No.	Name of the Lessee	Lease M.L. No.	Extent (ha.)
1	M/s Hothur Traders	2313	21.11
2	M/s Bharath Mines & Minerals	2245	26.20
3	M/s V.S. Lad & Sons	2290	105.06
4	Smt. Ambika Ghorpade	2354	4.95
5	M/s NMDC	1111	647.50
6	M/s Sugunraj	1779	16.18
7	Smt. Omkaramma	1168	30.75
8	Sri B. Kumaragowda	1611	
9	M/s Narayana Mines (P) Ltd.	1602	109.27
10	M/s Mysore Minerals Ltd.	MMM 79 dt.5-1-80	80.93
11	M/s Gadagi Mineral Mining Co.	2489	39.63
12	M/s Mysore Mineral Ltd.	1754	6.07
13	M/s SMIORE Ltd.	1179/2580	2837.00
14	M/s H. Hanumatha Rao	2505	40.47

**3. Ramghad Block:** This block of iron ore spread over an area of 17.00 sq.km is located towards the N.W. of Sandur. The range is accessible both from Hospet and Sandur. The Hospet railway station of the Hubli-Hospet-Guntkal section of the S.W.R and S.C.R is about 25km from the main body. Ramghad is the nearest railway station which runs parallel to and along the western flanks of the Ramghad block. The block is figured at Toposheet no.57A/8 and 57A/12.

The major ore minerals are hematite and limonite. The total in situ reserves are estimated at **220 million tons** of high Fe grade. Blue dust reserve is also noticed in this block.

**Main mines in RAMGHAD BLOCK - HOSPET**

<b>Sl. No.</b>	<b>Name of the Lessee</b>	<b>Lease M.L. No.</b>	<b>Extent (ha.)</b>
1	Rajapura Mines	2190	93.74
2	Sri. V.N.K. Menon	1715	1.610
3	M/s Zeenath Transport Company	2309	36.42
4	M/s Zeenath Transport Company	2239	44.13
5	Sri S.A. Thawab	2488	31.60
6	M/s Adarsha Enterprises	2369	2.91
7	J.M. Vrushabendraiah	2173	3.29
8	Ramghad Minerals and Mining Pvt. Ltd.	2451	24.28
9	Sri. Shanti Priya Minerals Pvt. Ltd.	2540	80.97
10	M/s Laxmi Minerals	2545	36.42
11	M/s Laxmi Minerals	2551	22.26
12	M/s Associated Mining Company	2434	10.12
13	M/s S.B. Minerals	2393	40.47
14	Ramghad Minerals and Mining Pvt. Ltd. (Sri Ily Gurunath)	622	20.23
15	Sri. Kannhailyalal Duderia	2563	30.76
16	M/s SMIORE Ltd.	1952/2581	378.00
17	M/s Mineral Sales (P) Ltd.	2416/1801	347.26
18	Smt. Shantalaxmi Jayaram	2553 (921)	50.47
19	M/s S.B. Minerals Ltd.	2515(2068)	80.92

**4. Donimalai Block:** This block is located East to South East of Sandur and covers an area of 13.00km. The nearest main railway station is Toranagallu on the Bellary-Hospet railway sector. It also connects to the western foot of the Donimalai block near Ranjitpura. The major part of the block is occupied by NMDC. The ores found in this block is of high grade i.e. 65% Fe. The total deposit reserve is estimated approximately at 160 million tons.

**Main mines in DONIMALAI BLOCK**

Sl. No.	Name of the Lessee	Lease M.L. No.	Extent (ha.)
1	M/s NMDC Ltd., Donimalai Township	2396	608.000
2	M/s Tungabhadra Minerals Ltd., Hospet	2365	125.580
3	M/s Tungabhadra Minerals Ltd., Hospet	2366	33.970
4	Smt. K.M. Parvathamma, Bellary.	2514	24.910
5	M/s Mysore Minerals Ltd., Ubbalagandi	(old) 995	33.600
6	M/s H.R. Gaviappa & Co., Bellary	2483	34.000
7	M/s Nadeem Minerals	2526	283.28

**5. Devadari Block:** This block is located to the South of Sandur and forms the western limb of the Sandur schist belt and falls in between Donimalia and Kumaraswamy hills. The block is about 6.5 km long and runs NNW-SSE direction. The ore deposition is about 65% Fe grade which is quite hard and lumpy. The total available reserve from this block is estimated to the order of **25 million tons** of high grade.

**6. Thimmappanagudi Block:** This block is in continuity of Donimalai block. The SW side of the Narihalla stream is the Ramghad and

Kumaraswamy blocks and towards NE the Donimalai and Thimmappanagudi blocks. This is approachable from Sandur towards NE side via Muraripur. The nearest railway station is Toranagallu and presently the area is being mined by MML raised by Jindal Vijaynagar Steel Company. About **30 million tons** of ore with a grade of 62% to 65%Fe are estimated in the block under mining leases.

**7. Belgal (Copper Mountain) Block:** This is the block found near to Bellary and has been known as the Copper mountain block though there are no indications of Copper deposit. The total length of the block is 17.5km in NW-SE direction and starts from west of the Bangalore-Bellary road. There are as many as more than 15 ore bodies located in this block. Bellary Cantonment is nearest railway station for ore loading. Distribution of iron ore is erratic and with a grade of 60 to 67%Fe. The recovery of ore is poor and often it is around 50 to 60%. This block has **estimated reserves of 30 million tons** of high grade iron ore.

**Main mines in BELGAL BLOCK (COPPER MOUNTAIN BLOCK)**

<b>Sl. No.</b>	<b>Name of the Lessee</b>	<b>Lease M.L. No.</b>	<b>Extent (ha.)</b>
1	M/s Mineral Miners & Traders	2185	46.13
2	M/s Gavisiddeswara Enterprises	80	5.67
3	Sri. Allum Prashant	2289	42.90
4	Sri. N. Ratnaiah	670	14.16
5	M/s V.G.M. Pvt. Ltd.	1193/2469	55.00
6	M/s T. Narayan Reddy		
7	M/s Sugulamma Gudda Mining Co.		
8	M/s Hind Traders		
9	M/s Mahboob Traders		

**8. Ettinahatti Block:** The Ettinahatti block falls at the eastern most part of the Sandur. The Toranagallu and Bannihatti are the nearest railway stations to this block. The iron ore deposits in this block are found mainly to hill tops. The width of the ore bodies varies from 25 to 50 meters. The grade is about 66%Fe. The Tungabhadra Minerals Ltd. is the main mine in this block.

#### **Iron Ore Production and Mining Leases in Karnataka**

Iron ore production from Bellary Zone is around 12.4 million tones during 2001-2002 and around 13.9 million tones during 2002-2003 of all grades of iron ore including the production of public sector mines. Thus, iron ore production was about 1.2% of the total reserve i.e. 1000 million tones but it has increased during "China Boom". The production of iron ore of all grades have suddenly increased over the years and it has reached to 41 million tones by the end of the year 2007. The grade wise production of iron ore from Bellary - Hospet region in the recent past is in the range of 5.5 to 6 million tones of high grade lumps and fines (65% Fe and above) and little over 3.4 million tones of medium grade (62-65%Fe) and rest is low grade ore.

As stated above, the State of Karnataka ranks fourth in the Indian Union in regard to iron ore resources and production. The statement enclosed gives a relative status of production and export of iron ore from the Karnataka State for the period from 2000-2001 to 2005-2006. There is a significant rise in the iron ore production during the period from the year 2001 to 2006. The total rise in production in

the year 2006 is 237% as compared to the production for the year 2001. The percentage rise in the export value realization and value of ores domestically consumed is 1014.67 and 1232.97 respectively for the reference period 2000-2001 to 2005-2006. These values indicate a radical rise in the iron ore production, export and consumption. When these values are correlated to the iron ore producing mining leases in the State of Karnataka, there is no significant rise in the number of mining leases. As per information available on record, only 11 new mining leases for iron ore were granted and executed during the reference period.

### IRON ORE PRODUCTION AND EXPORT PARTICULARS

#### KARNATAKA STATE (2000 to 2006)

Year	Production (Million M.T)	Export (Million M.T)	Domestic Use (Million M.T)	Export price (U.S.\$/DMT)	Total Export Value (In Million \$)	Domestic price (Rs./DMT)	Total value of domestic consumption (in Million Rs.)	Revenue realized by the State as Royalty (in Million Rs.)
2000-01	12.09	6.19	5.90	29.74	184.09	274	1616.60	281.09
2001-2002	30.22	12.29	17.93	29.07	357.27	297	5325.21	740.39
2002-2003	25.23	13.64	11.59	31.67	431.98	302	3500.18	618.14
2003-2004	33.95	16.30	17.65	40.38	658.19	651	11490.15	831.78
2004-2005	41.73	21.82	19.91	70.25	1532.86	841	16744.31	1074.54
2005-2006	40.83	20.52	20.31	100.00	2052.00	1061	21548.91	1102.41
<b>Total</b>	<b>184.05</b>	<b>90.76</b>	<b>87.39</b>	<b>--</b>	<b>5216.39</b> <b>(Million \$)</b>	<b>--</b>	<b>60225.36</b> <b>(Million Rs.)</b>	4648.39

**Approximate number of mining lease/licences granted till the year 2000.**

The information in this regard as extracted from the "Administration Report of the Department of Mines and Geology for the year 2000-2001" (page 5 of the report) is as below:

Sl. No.	Mineral	No. of mining leases	Extent (Hectare)
1	Gold	5	6233.81
2	Iron Ore	196	22500.66
3	Iron and Manganese	88	17397.58
4	Chromate	7	843.56
5	China Clay	60	2918.26
6	Lime stone	175	27872.91
7	Lime shell	42	6338.28
8	Silica Sand	80	4626.83
9	Others	632	7515.22

## CHAPTER - II

### Visit to Mining Areas

To better understand the ground realities, I visited the three districts where iron ore mining is predominantly done. On 20<sup>th</sup> May, 2008, a team lead by me proceeded to a village called Shivasandra in Gubbi Taluk of Tumkur District, which is situated about 25 Kms from Gubbi. The place visited by me in this village is situated about 6 Kms. inside from Gubbi Chikkayanayakanalli Road. The road leading to this place is a kacha road, obviously used by heavy vehicles for transportation of minerals.



While driving up to the site visited by me, one could see extensive mining done which also indicates that mining is of recent origin. One could also see the wheel marks of JCBs used for mining purpose. There were also iron ore stocks heaped and kept ready for the purpose of transportation.



According to the Dy. Commissioner, Tumkur who accompanied me, no mining lease has been granted in regard to any area in this village and that the mining that has been done are wholly illegal. I was also told that a few days earlier nearly, 4100 metric tones of illegally mined iron ore was seized and auctioned. One could see that the land beyond the mined area is full of greenery, but, contains iron ore.





If prevailing activity is allowed to continue, this greenery is not likely to last long. The survey number of the area that has been illegally mined is stated to be Sy.No. 45 of Shivasandra Village which measures about 512 acres. The manner in which the road is constructed and the equipment used for mining indicates even illegal mining in this area has been done in a systematic manner and the same is not sporadic.



Obviously, large quantity of iron ore has been excavated and transported causing not only revenue loss to the State, but, also

damage to the ecology. If this activity is not stopped forthwith, damage to ecology will be irreparable.

On the same day, after visiting the site referred above, I visited another area in the same survey number, where a company by name Canara Mines Private Limited was involved in mining activities. This company possesses mining lease No. 2536 originally granted to this company in the year 1988 and I was told that it has been renewed in the year 2007. The mining lease was granted for the purpose of mining manganese ore. But, when I visited the place, it was found that the ore that has been mined is not manganese, but iron ore, for which there is no lease granted by the Government. I was also told that there is a dispute in regard to lessees' right between the holder of the lease and some other third party. Without a proper mining lease to mine iron ore, the mining that has been done in this land by the said company is unlawful. The area in which the mining is done is about 11.33 hectares and I was told by the official accompanying me, that the entire area is being used for the purpose of mining iron ore. The fact that the land in question is being used for mining iron ore, obviously is within the knowledge of the officials of the Department of Mines and Geology, the mining lease has been renewed in February 2007 for mining manganese. One Mr. Shobachala claiming to be the representative of the Shivasandra Minerals stated that the Canara Minerals is a part of the Shivasandra Minerals and the same was purchased about an year back. He also stated that since the company found iron ore instead of manganese, the same was mined and necessary application to include

iron ore in the lease is pending before the Government. At any rate, present mining activity of extracting iron ore is illegal and the lease is liable to be cancelled.

On 20<sup>th</sup> May, 2008 itself, I along with my team visited Sy.No. 61 of Haranehalli Village which is about 30 Kms from Gubbi. Sy.No. 61 of this village measures 86 acres. Out of this, 43 acres have been granted to various persons for agricultural activities and no mining lease has been granted in this area. But, extensive mining was noticed in this area. The Dy. Commissioner who was accompanying me said that this place was raided while mining activities were going on and at one instance 3000 metric tones of iron ore was seized and auctioned for Rs.20,00,000/-. In another instance, about 1300 metric tones of ore had been auctioned for Rs.7,20,000/-. According to him, though illegal mining has been going on for the last about two years, no steps whatsoever have been taken by the concerned to stop these illegal activities.

On 20<sup>th</sup> May, 2008, I also visited Sri Hanuman Mines situated in Sy.No. 195 of Rajathadripura Reserve Forest Area. Originally, the land was leased by the Government to one Sri B.D. Hanuman Singh and the same was renewed in the year 1996 for a period of 20 years in the name of Sri B.D. Hanuman Singh. It is stated that recently one Sri Vinod Goel got the lease transferred by the Government in his favour and since about five months, i.e. from 27/11/2007, mine is being operated by Sri Vinod Goel. The officials of the Forest Department accompanying me stated that a part of the mined area has not been

permitted to be used for mining, being in a reserve forest. It was also stated that proper sanction has not been obtained for using the land for non-forest activities. The representatives of the mining company however, denied this and they also stated that the matter was subjudice before the Civil Court. The Dy. Commissioner stated that the joint survey was first conducted on 14/12/2006 for the first time and a subsequent joint survey in the presence of the lessees was conducted on 5/7/2007 to which report, the representatives of the lessees have put their signatures. But, the representatives of the lessees stated that they have only signed the survey report, since they were present at that time, but they are not admitting the contents of the report. The Forest Department officials say that illegal mining has been going on in the forest area since the year 2005 and once a quantity of 5,079 metric tones of iron ore has been seized. They also stated that the forest land is being used apart from mining also for illegal dumping of the mined dust without proper permission. It was also seen that the Government of Karnataka by an Order No. CI 71 MMM 2007, dated 22/09/2007, had transferred lease from Sri B.D.Hanuman Singh to Sri Vinod Goel, subject to the condition that the transferee agrees to the conditions and liabilities that were imposed on the transferor. However, it was also noticed that the bulk permission for transportation is still being issued in the name of Sri B.D.Hanuman Singh who has ceased to be the lease holder. This indicates the utter carelessness on the part of the officials empowered to issue transport permit and failure on the part of the checking staff enroute transportation.

After the visit to the above mines, I took a different route to Chikkanayakanahalli and could see on the way spots indicating illegal mining.



On the way, I visited Thirthampura Village of Chikkayanayanahalli Taluk, by the side of the road, there is a stone sign indicating that the area in question is Thirthampura State Forest.



We could also see here certain stacked lumps indicating that iron ore is being mined and stocked in this forest area. However, I was told that in regard to this area also, Department of Mines has granted a lease without reference to the forest authorities or Forest (Conservation) Act and directions of the Supreme Court. The representatives of the Karnataka Mining Company, who hold the lease in this area, stated that they have been holding the lease for a long time and it was last renewed in 1966 for a period of twenty years. They also stated that in view of the fact that the forest officials obstructed the mining in this area, they have approached the Hon'ble High Court in W.P. No. 45401/2004 and the Hon'ble High Court on 20/11/2004, had ordered an enquiry to be conducted by the Department of Mines and Geology after giving opportunity to the Petitioner. I was also told that in spite of the direction of the Hon'ble High Court, the Director of Mines and Geology has not yet initiated any enquiry in spite of the direction being of the year 2004. In spite of this direction given by the Hon'ble High Court on 20/11/2007 without holding any inquiry the authorities have allowed the mining to be continued. Can this be anything, but connivance?

From the visit to the above villages of Tumkur District, it is seen that extensive mining is going on illegally in Government land and no action has been taken by the concerned authorities. There are allegations that in areas where lease has been granted, lessees have been doing mining beyond the area to which the lease pertains, as also

illegal mining is going on in forest area. Authorities have not also complied with the directions of the Hon'ble High Court.

On 21/05/2008, I along with my team visited Doddabyalekere, Hosadurga Taluk. The land visited by me is about 40 Kms from Hiriyur in S.H. No.19.



In this place, it was noticed that sporadic mining activities are going on by the people who have been granted Government land and the minerals mined are purchased by people who hold mining lease and transport the same as if the said minerals have been mined from their legitimate lease hold land. No action has been taken against the grantees of the lands for violation of terms of grant.

I, then visited a mine allegedly belonging to one Mr. Thangavelu of Mari Cements in Tamilnadu who is said to be a Minister in Tamilnadu. The visit indicates that there is a unit put up for crushing lime stone but it has become defunct and the area is used for large scale

iron ore mining. I was also told that originally the Government of Karnataka issued mining lease for quarrying lime stone for the purpose of using it in the manufacturing of cement which was valid till 1979. During the currency of that lease, the same was converted to multiple minerals lease and the owner was permitted to mine other minerals like manganese and iron ore without making the proper verification as to the activities that were going on prior to the change of the minerals in the lease. It was also brought to my notice that grant of lease ipso facto does not give a right to the lessee without first there being an execution order which can be given only after a survey and no such survey was conducted and no boundary was fixed and the lessee continued to operate the area for iron ore mining which was within the knowledge of the officials of the Mines and Geology Department in the District of Chitradurga. They made no attempt to stop these mining operations. Consequently, from 1999, the mining operations are going on without the execution order. There are tel-e-tel evidence of active mining going on in this area. We were told that about two months back, Dy. Commissioner and Supdt. of Police, Chitradurga visited this area, made an assessment of the illegal mining and seized certain transport permits which indicated that transport permits were given without mentioning the vehicle numbers or quantity that is being transported. These are in contravention of mining rules. By an ocular measurement, one could see that though the lease is given for 131.57 hectares, the actual mining is being done in lands beyond the leased area. Another interesting thing to be noticed is that Sri Thimmappa, claiming to be the Manager of the lessee showed me an order made by

the Director of Mines and Geology Dt.11/3/2004 in File No. DMG/190 AML 99/17440, which is a permission purportedly given under Rule 24(6) of the Mineral Concession Rules, 1960 (for short M.C Rules) based on the Govt. Order No. CI 04 MMM 04 dated 13/2/2004. Here, it is seen that though this is an order which normally has a life span of only six months, the wordings of this shows "with reference to the above subject, as per the orders of the Government of Karnataka vide reference, working permission as per Rule 24-A(6) of the M.C. Rules, 1960 is accorded until further orders", which emphasizes that the Director of Mines and Geology has issued an open ended work order which is not contemplated under the M&M (D&R) Act and M.C Rules. Will any action ever be taken against erring officials?

Proceeding further from the above mine, we found a large area of Government Land (gomala) being used for illegal mining. Number of pits from where ore is extracted were visible. These lands are abutting the lease hold lands referred to in the earlier paragraphs. We were told that illegal mining are done by locals and these ore mined are purchased by lease holders and transported using their transport permits. It is relevant to mention here that in regard to this gomala land, there are some claims by people that they were granted these lands for cultivation purpose. There was a litigation which has gone upto to the High Court and the matter was remanded to the Revenue Authorities and the Deputy Commissioner had cancelled the lease granted to these parties for mining illegally, but, a stay granted by the High Court of Karnataka is in existence, what action department is

taking to get the stay order? Or this inaction is a part of collusion? Assuming that lands are granted for cultivation, is illegal mining permitted? Is this fact brought to the notice of the Govt. or Court?

Moving further from the above land, we found illegal mining activities in some patta lands. It seems no body in the Government is bothered about these illegal activities, after all whose loss is it?

Moving further in Hosadurga Taluk, I visited Itigehalli, where Srinivasa Clays, a mining Company belonging to HRG Group is doing manganese mining. Originally multiple mining lease was granted to this company in the year 1999 for mining Clay, Dolomite and manganese. There is no evidence as to the existence of any clay in the area as one could see. The total area granted in the lease to this company is 250 acres. The sketch map attached to the lease deed indicates that the lease pertains to Sy.No. 100 and 102. Survey No. 102 is in the forest area and there could be no legal sanction to mine in this area. We were told that in reality the lessee is not mining in Sy.No. 102, but, is doing mining work in the area which is adjacent to Sy.No. 100 which is not a part of the lease deed as could be seen from the sketch attached to the lease deed. Here mining activities are confined to the manganese ore only. The contention of the revenue authorities who were present here is that the area that is being mined beyond Sy.No. 100 is unauthorized. Therefore, it is contrary to law. Mr. Anand Raj, the Manager of the Company who was present does not deny the fact that no mining is carried on in Sy.No. 102. He says that Survey No.100, which is leased to the company includes this part of the land also. If so,

the department should have held a joint survey which is not done. Mr. Anand Raj produced a Judgment of the Hon'ble High Court of Karnataka delivered on 2<sup>nd</sup> January 2007. The dispute before the High Court was in regard to the notice, the respondent mining authorities had issued to the company to stop mining activities on the ground that the lease had come to an end, even though the application for renewal is pending. Court has not considered as to whether actual mining is being carried out in the area permitted as per the original lease deed. Of course, there is a finding of the court that the company is not mining in the forest area which seems to be a fact and that is not an issue now. The only question that is to be considered is whether the mining is carried out in the area that is leased out or beyond it. The evidence which is shown indicates that the sketch attached to the mining lease does not include the adjacent land which lies next to Sy.No. 100. The company is relying on another map, since that is not the map attached to the lease deed, no reliance can be placed on the said map. The lessee is relying on the order of the court for the purpose of mining beyond Sy.No. 100 in which event the respondent authorities in the said Writ Petition should have sought the clarification from the High Court whether by virtue of the interim order, the lessee can mine beyond the land lying within the sketch attached to the map. No such efforts have been made. It seems to be a clear case where the authorities have failed to bring to the notice of the court that the party is misusing the above order.

Travelling further from Srinivasa Clays, the mine referred to hereinabove, about 5 Kms down the hill, we saw a huge stocks of

illegally mined manganese ore which are since seized by the Tahasildar. These stocks have been mined from revenue land without any permission. The Tahasildar says that these are areas mined by the local villagers who have made it a profession because of the fact that there are illegitimate buyers from amongst the leased mine owners who purchase the same from the locals and transport the same under the bulk transport permit given to them for transporting legally mined ore from their leased mine. This illegal transporters who have some leased area at their disposal indulge in purchasing and transporting illegally mined ores from poor villagers which practice has converted the otherwise honest villagers to commit unlawful acts. When I questioned the Tahasildar for the inaction on her part in not taking preventive action, she told me that when she interrogated the officials of Srinivasa Clays supra, they claimed that these minerals are stocked by them at the Government land which they had mined legitimately from their leased area for the purpose of convenient transportation. This explanation even if assumed as true, then Srinivasa Clays are guilty of using Government land without permission for putting up a stock yard which is an offence under Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the 'M&M (D&R) Act' for short) and relevant Rules. Even otherwise, tel-e-tel evidence of digging of land nearby is an evidence of illegal mining.

On 21/05/2008 itself, I and my team visited Shivaganga Village in Holalkere Taluk where we were told that the Dy. Commissioner had recently seized certain illegally mined iron ore and the same was

shifted from the place of mining to Shivaganga Tank bed to prevent theft and to provide proper security. The iron ore stocked, they are of the value of 1.61 crores, as told to me.



Proceeding further, we visited Sy.No. 84, 85 and 86 of Shivaganga Village, Holalkere Taluk. This is an area which has been under the scrutiny of the Lokayukta for a long time since the Lokayukta police had raided Sy.No. 9 and 10 of Aralikere village of Holalkere Taluk in a mid night raid and seized 5 JCBs along with huge

quantity of illegally mined mineral. Here, the mining is going on in huge gomala belonging to the Government and even by a visual assessment, it could be seen that large quantity of illegally mined ore are stocked.



The Dy. Commissioner informed me that because of the election process, the vigilance over illegal mining has slightly loosened and taking advantage of the same, illegal mining is taking place. Hence, we could see thousands of metric tons of iron ore stocked. The land, we were told was originally full of greenery, now greenery is found only in patches, that too in such places where mining is not possible.



The Dy. Commissioner has stated that he has decided to seize the material and promised me to auction the same. We were also told that with paucity of staff and most of the people who are indulging in illegal mining activity being very aggressive, it has become difficult for local administration to enforce strict vigil over illegal mining.

On 22/05/2008, I and my team visited Kallahalli of Hospet Taluk. Here, a company by name MSPL, claims that some land here is leased to them in 1952 by the then Madras Presidency. We are told by the Government officials that this company is indulging in illegal mining. The officials of the MSPL told me that no enquiry should be conducted since it will prejudice the litigation that is pending in High Court and other Civil Courts. There seems to be a dispute not only interse between the officials and the MSPL company, but also between MSPL and one Shantalakshmi Jayaram who has mining lease on the south west side of the land granted to MSPL and S.B. Minerals who have their leased land in the north part of the MSPL land. Since the correctness of the claim can be determined only by a proper survey of the land, it is in the interest of all concerned, to get a joint survey made, if necessary after getting the permission of the Court.

From the MSPL mining area, we moved on to the area occupied by M/s S.B. Minerals. They have a lease for twenty years from 13/01/1997. Allegation here also is that this company has been mining beyond the area granted to them. This is again an issue which can be determined only by a joint survey.

Moving further on, I and my team visited Rajapur Village in Hospet Taluk which is on south west part of MSPL and S.B. Minerals in the same ridge. As per the lease deed, the company has got 231 acres land in Rajapur Village, which is adjacent to Kallahalli Village. There is some variation in regard to the end portion shown in the map attached to the lease deed. According to the company officials, forest map and revenue map do not tally. Therefore, when objection was raised by the Forest Department, they stopped operation in the disputed area. Again, this is a common dispute in regard to mines lying close to forest area or close to other leased areas. As stated above, the remedy is only to have a proper survey done but nobody is bothered to move in this direction, may be because it is to the advantage of all concerned except the State.

On 23/05/2008, I and my team visited Sandur Taluk. On the way, on either side of the road, we could see mineral wastes having been dumped from top of the hill in the forest area on the sides of the hills, which certainly it is an illegal act since forest land cannot be used for non-forest activities.





We could see the enormous damage done to the nature by such dumping. We also saw small stocks of mined mineral and huts of the labourers on either side of the road. The living condition of these labourers is pathetic.



We saw evidence of attempts having been made to clear the stock anticipating our visit. The volume of illegal mining on either side of the road is so large that it could have certainly attracted the attention of the officials both revenue and Mines Department. Most of the labour indulging in this type of mining are former labour employed in mines

now unemployed because of modern machinery. This type of mining by villagers and labourers are done either in Government Revenue land or in patta land. Most of the lands granted by the Government are also used for illegal mining activities, but, no action is taken to cancel the grant for misuse of the object of grant.

Travelling further, we visited a stock yard owned by Sri Kaviraj Urs, who is also the owner of firm M/s. Lakshmi Minerals. This stockyard is situated in patta land and no conversion has been sought. The representative of the firm showed some application made for grant of conversion in the month of December 2007. From the nature of activities that is going on here, it is very obvious that this land has been used for stock yard for a long number of years, much before December, 2007. According to the officials present, though M/s Larksome Minerals has the mining lease, the stock found in the stock yard are not minerals mined from the leased area, but, they are minerals illegally mined and brought to this place for stocking. We are told that this area comes within the jurisdiction of Hospet Urban Development Authority, which seems to be as inactive as any other Government Department concerned in mining activities.

Travelling further, we visited another stock yard owned by Muneer Enterprises which is in an area of about 16 acres. We were told that the firm had obtained the stock yard permission and the same has expired on March, 2008. Incidentally, this is another case, where the concerned Dy. Director of Mines and Geology has given an open ended extension until further orders.

Travelling further, we visited Kineta Minerals and Metals Limited, in Jayasinghpur village. The officials of the firm told us that an application for the conversion of the land has been made to the Dy. Commissioner, but no orders have been passed. Still the area is being used as stock yard. The total extent of the area used is 3.5 acres and we found huge quantities of the minerals stocked there. No Environmental Clearance Certificate has been obtained for using the above land as stock yard, by its owners. When asked, the officials of the firm stated that there is no need to seek such permission, while the officers of the department pleaded ignorance about the need to obtain Environmental Clearance Certificate; more will be recorded hereinafter as to this requirement.

Moving further, we visited Sri Sai Krishna Minerals Limited, situated in Sy.No. 44 of Jaisinghpur Village. Here, Environmental Pollution Control Board has given permission only for crushing and not for stocking. But from the stock available, it is obvious that it is used as a major stock yard for which no permission is produced. This firm does not hold mining lease, but, it is only a trader. In law, a trader can have a stock yard, but he has to comply with certain conditions to which reference will be made hereinafter. The attitude of the Revenue Department and the Mines and Geology Department showed that as the famous saying goes "the right hand does not know what the left hand is doing". The Mines and Geology Department, Pollution Control Board and the Revenue Department have given certain permissions within their jurisdiction even without verifying the nature

and ownership of land etc. In regard to above said Sri Sai Krishna Minerals Limited, it is to be noted that the stock yard is situated in an extent of 9 acres which is carved from a total area of 72 acres in Sy.No. 44. It is said that in the said Sy.No. some people have been allotted about three acres each for the purpose of agriculture. No agricultural activities are seen in this land. On the contrary, several stock yards or crushers could be seen. No attempt has been made to cancel the grant for not seeking conversion. The land is shown in the revenue records as agricultural land.

At this point, it is necessary to note the requirement of law for obtaining a stock yard licence. Before granting the stock yard licence, the authorities concerned have to inspect the land and see the viability of granting such permission, if the land is meant for agricultural purpose, land conversion should be made, I.T. clearance and Pan as well as VAT registration with ST Clearance Certificate should also be obtained. The applicant should be registered as an industrial establishment with the Department of Industries and Commerce. Clearance Certificate from Karnataka State Pollution Control Board is also necessary. An affidavit stating that the applicant has not been convicted in any case of illegal mining/quarrying should also be executed. This application has to be made to the Dy. Director who after personal visit will have to report the suitability of allowing the land to be used as stock yard and the fulfillment of the above requirements. It is only thereafter the Director of Mines and Geology can grant a permission for stock yard. But, examination of the documents in regard to the various stock yards referred to have clearly

shown that all the requirements of law are not complied with nor that the officials concerned have made a visit to the land in question and have assessed the viability of allowing a stock yard. As stated above some of the officers do not even know the requirement of law either deliberately or conveniently.

On 23/05/2008 itself, we visited the mine operated by M/s. Vrushabendraiah Mining Company. It is necessary here to recapitulate certain survey history of this area which is in an area called Ramghad. In the year 1903, only 4 survey numbers were given to the area situated in this village and at that time, this village was known as Ramanomalai and the surrounding areas in the same village is not surveyed even today. The owners of the land stated above had made an application for grant of mining lease for an extent of 8 acres 13 guntas using the sketch showing Sy.No. 19. No cross verification in regard to the existence of this Sy.No. is made nor the boundary shown in the application for grant of mining lease which is mandatory. Even the actual location with reference to the topography of the village was not identifiable. Even then the lease was granted to this company for mining iron ore for 20 years. The ground reality is that the records reveal that this area has not even been phoded and sketch given along with the application for grant of lease are not identifiable. As per the enquiry conducted by the Lokayukta officials, the area where actual mining has been done has no reference to the sketch produced along with the lease. It is not only situated elsewhere, but the land shown in the sketch attached to the list is non-existing and the survey number given is not correct. It clearly indicates either the collusion between the

department and the lessee and that the lease has been granted without the concerned officials physically verifying the land. This is not an isolated case where such lease has been obtained in the non-surveyed area or non-phoded area. I am told that many other licences have been similarly granted, which according to the provisions of M&M (D&R) Act is illegal. According to the officials who are assisting me in this investigation, the area where mining is done by the lessee was in excess by about 35.48 acres. I think this issue requires a serious enquiry. If what is recorded herein above is correct, it is a fit case in which not only lease should be cancelled, but also other proceedings be initiated for cheating, fraud and such other related offences, as also steps be taken to recover the loss suffered by the Government. Since this type of mischief is not confined to the company referred to hereinabove, the enquiry should not be confined to this company only. Though I had given notice to the company representatives about my visit, no representative of the company was present.

Moving further from the above mine, we reached the mining area belonging to M/s Zeenath Transport Company. The company was granted certain land for iron ore mining in the year 1963. After obtaining clearance under the M&M (D&R) Act, two more leases for mining in additional land have also been granted. Thus, mining has been permitted in 277.01 acres. When this area was surveyed by the officials of the Lokayukta in the presence of the officials of the Company, it was seen that at four different places, lessee had carried on mining beyond the demarcated area that is outside the boundary allotted to them. This land actually is adjacent to the land granted to

Vrushabendraiah Mining Company. There are indications to show that one of the two companies has encroached upon the non granted area, but the issue can be settled only after a detailed enquiry.

Moving further, I and my team visited the land granted to Sri H.G. Ranganagowda. Here, we were told that the land has been divided and apart from the Ranganagowda family, other persons to whom parts of the leased area are subleased, are working the mine under what is commonly known as Raising Contract Agreement, which is a concept not recognized by law. The issue relating to so called raising contract will be discussed in detail in the later part of this report. There is also evidence to show that this company has been doing illegal mining beyond the allotted area of about 55 acres. The mining here seems to be going on in a very rapid manner. There is a need for making an assessment as to the loss caused to the Government in this mining area.

Before proceeding further with this part of the report, I should place on record certain ground realities which are existing consequent to the large scale mining that is being done in this area which is part of the knowledge acquired by me during my visit to above mentioned three districts. Apart from noticing generally wherever mining is permitted, the extent of damage done to the neighbouring areas, huge damage is also caused to the various roads used by mineral carrying vehicles. During the course of my journey, I noticed that roads in and out of Hospet and Sandur are practically not motorable by passenger vehicles, because of the heavy load and frequency of the vehicles

carrying minerals and also in view of the fact that these vehicles carry minerals in open bodied vehicles, on either side of the road, vegetation has been damaged heavily.





While in Sandur, a group of about 50 residents of Sandur met me at the forest lodge and expressed their difficulty because of the transportation of iron ore. According to them, they are unable to keep their doors and windows of their house open even for few minutes during the day or night and drinking water sources as well as vegetation have been covered by mineral dust. Consequently, the population of Sandur have been suffering from various ailments and the people who are indulging in mining activities have absolutely no concern for the welfare of the local people. I found a lot of justification in their complaint.

Having noticed the various aspects of illegal mining during my visit to the three districts of Bellary, Chitradurga and Tumkur, I also noticed that damage to the environment and suffering of the people because of illegal mining is not confined to the people of Bellary district. If the same is not put an end to, the day is not very far when

this suffering will spread to Tumkur and Chitradurga districts, if not already affected.

I will now discuss the applicable law in regard to mining activities. Grant of mining licence and various aspects of mining, i.e. extraction of the mineral, storage, transportation and consumption are governed by the provisions of M&M (D&R) Act, M.C. Rules and the standards set by Indian Bureau of Mines. Violation of any of the provisions of the M&M (D&R) Act or the M.C Rules will be an offence and are punishable under the provisions of the said Act and M.C Rules. Mining in various areas are also governed by the provisions of Forest (Conservation) Act, 1980, as well as various mandatory directions issued by the Hon'ble Supreme Court of India in W.P. No. 202/1995.

In the above background, I will discuss the report prepared by Dr. U.V. Singh found at Annexure-'A', with which I am in full agreement. This report has been prepared by Dr. U.V. Singh, in consultation with me. Hence, the same is incorporated as part of my report. The summary of the encroachment by the lessees in various regions enumerated herein afterwards are facts verified by Dr. U.V. Singh and I am satisfied with the same. Wherever an issue is subjudice, the same has been noted and I reiterate that whatever Dr.U.V. Singh has noted are prima facie findings without which this report will be incomplete. Further parties, companies and leases mentioned in the report are not the only ones, guilty of illegalities. Prima facie I am satisfied that there is some sort of irregularity or illegality in the grant of mining leases or working of the mining in

almost all mining leases and activities carried on thereafter. The examples set out in this report hereinafter are only samples in regard to which prima facie material is available and the balance of mines will have to be visited and surveyed and illegality, if any, and the extent of such illegality will also have to be ascertained. It will be done along with the other deferred issues including the extended period of reference in the next report. Further report will follow regarding irregularities committed by concerned officers.

## CHAPTER - III

### **Procedure followed while granting mining lease/licence with special reference to prospecting licence.**

The ultimate objective of any mining enterprise is to locate, delineate and assess the economic suitability or otherwise of a mineral/ore deposit and exploit the mineral/ore on a profitable basis. This is done in 3 stages namely reconnaissance surveys/operations, prospecting of mineralized belts and ultimately mining of ore/mineral in a profitable manner.

(i) Reconnaissance –operations :

It is defined under clause (ha) of Section 3 of M&M (D&R) Act as any operations undertaken for preliminary prospecting of mineral through regional, aerial, geophysical or geo-chemical surveys and geological mapping, but does not include pitting, trenching, drilling (except drilling of boreholes on a grid specified from time to time by the Central Government) or sub-surface excavation.

(ii) Prospecting operations are defined at clause (h) of Section 3 of M&M (D&R) Act, as any operations undertaken for the purpose of exploring, locating or proving Mineral deposits.

(iii) Mining operations are defined at clause (d) of Section 3 of M&M (D&R) Act, as any operation undertaken for the purpose of winning any mineral. ' [Winning a mineral' means getting or extracting the mineral from the mine.

A scientific and systematic approach to acquire economically profitable mining venture, need be preceded by the processes of reconnaissance and prospecting. However, the Government institutions like Geological Survey of India, Mineral Exploration Corporation of India, State Departments of Mines and Geology etc. are involved in exploration and identifying of mineral wealth in the country. Originally, information generated by conduct of such operations remained as classified. However, with the advent of democracy and people oriented policies pursued in independent India, the information that remained classified was made open to the mining public except in case of strategic minerals, hydrocarbon/energy minerals and atomic minerals. Thereby, in the present day, fairly well documented information is available about the occurrence, extension, chemical quality and potential of many of the ore and mineral resources. In the said context, a mining entrepreneur prefers to seek a mining lease directly rather than going through the processes of reconnaissance and prospecting. It may also be stated here that Acts and Rules in existence do not make it obligatory for a person applying for a mining lease of having explored the area by obtaining the reconnaissance permit or prospecting licence.

Any person who undertakes any reconnaissance, prospecting or mining operation in any area for ores and minerals, is required to obtain a permit/licence/lease as per M&M (D&R) Act, 1957 read with M.C Rules.

I **Reconnaissance permit:** Section 4(1) of M&M (D&R) Act, 1957 prohibits any reconnaissance operation by an individual or a firm in any area without obtaining a reconnaissance permit. When 2 or more persons apply for a reconnaissance permit over the same area which is not notified, the applicant whose application received earlier, shall have a preferential right. But, in case of the State Government having invited applications by notification in the official gazette for grant of Reconnaissance permit, all the applications received during the period specified in such notification and the applications which had been received prior to the Notification shall deemed to have been received on the same day for purpose of assigning the priority. All such applications are required to be evaluated as per parameters under sub-section 2 of Section 11 of M&M (D&R)Act, 1957 to select the suitable applicant for grant.

II **Prospecting licence:** Section 4(1) of M&M (D&R) Act, 1957 prohibits prospecting operation in any area by any person or a firm without a prospecting licence where a reconnaissance permit has been granted in respect of any land, the permit holder shall have a preferential right for obtaining a prospecting licence.

Subject to the provisions stated above, where the State Government has not notified in the official gazette the area for grant of prospecting licence, and 2 or more persons have applied for a prospecting licence in any land in such area, the applicant whose application was received earlier shall have preferential right.

Where an area is available for grant of prospecting licence and the State Government have invited application by Notification in the official gazette, all the applications received during the period specified in such notification and the applications which had been received prior to the publication of such notification shall be deemed to have been received on the same day for purposes of assigning priority.

All such applications are required to be evaluated as per parameters under sub-section 2 of Section 11, M&M (D&R) Act, 1957 to select the best suitable applicant for grant.

III **Mining leases:** Section 4(1) of M&M (D&R) Act, 1957 prohibits any person undertaking mining operation in any area except in accordance with the terms and conditions of a mining lease granted under the said Act read with M.C Rules.

An area available for grant of a mining lease falls under 3 categories. The process for granting of mining lease over an area therefore varies according to the category.

(1) Virgin area: The preferential right to the persons who make applications on such area is primarily decided according to sub-section 2 of Section 11 of M&M (D&R) Act, 1957. When 2 or more persons apply for grant of a mining lease over such land, the applicant whose application was received earlier shall have preferential right for grant of mining lease.

Where more than one application are received on the same day, the State Government may grant mining lease to such one of the applicants as it may deem fit according to the parameters specified under sub-section (3) of Section 11, M&M (D&R) Act, 1957.

(2) Where reconnaissance permit or prospecting licence has been granted in respect of any land, the permit or the licence holder shall have a preferential right for grant of mining lease over any other person provided that the State Government is satisfied that the permit holder or the licence is qualified as per norms at clause (a) to (d) of sub-section (1) of Section 11 of the M&M (D&R) Act. Rule 34 of M.C Rules further provides that the State Government while granting the mining lease over the area earlier held under reconnaissance permit/prospecting licence may for any special reasons to be recorded in writing may reduce the area or exclude a portion there from.

(3) Where an area that was previously held under a mining lease and such lease is determined, expired and also such areas de-reserved for public exploitation is notified in official gazette for grant by the State Government and applications are invited

All such applications which had been received prior to the publication of the Notification and had not been disposed, off, shall be deemed to have been received on the same day for the purpose of assigning priority.

All such applications along with other applications received consequent to the Notification during the period specified in the

Notification, shall be considered simultaneously as if all such applications have been received on the same day by the State Government, according to the parameters specified under sub-section (3) of section 11 of the M&M (D&R) Act and may grant the mining lease to such one of the applicants as it may deem fit. While doing so, the State Government may also consider the end use of the mineral by the applicant; as provided under rule 35 of M.C Rules.

The Section 11 of M&M (D&R) Act read with Rule 35, 26(1) and 26(3) of M.C Rules provide the provisions and process to select the most suitable applicant by a just and equitable criteria for grant of mining lease when multiple applications are received over a single area that is notified by the State Government. In order to maintain objectivity and transparency in the process of evaluation and selection of the best suitable applicant for grant of mining lease, various executive instructions are issued by the Commerce and Industries Department of Government of Karnataka which oversees the matters relating to regulation and development of Minerals in Karnataka. The procedure generally followed in such a process is:

- (i) To prepare a statement showing date-wise receipt of applications, total area held under mining lease in different parts of the Indian Union [to verify the limitation of the areas as under section 6(1)(b) of M&M (D&R) Act, 1957], any special knowledge or experience of the applicant, financial resources of the applicant, nature and quality of the technical staff employed, investment of the applicant towards development of mines, establishment

of mineral based industry etc, end use of the mineral and such other related matters to enable the processing authority to arrive at relative merits of the applicants.

- (ii) To maintain a reliable document for having communicated to all the applicants the date for hearing by the hearing authority;
- (iii) Preparation of meticulous record of attendance of applicants who attend the hearing;
- (iv) To prepare a statement of evaluation by the hearing authority regarding special merits of the applicants
- (v) To draw proceedings of the hearing authority giving relative merits of the various applicants heard and to record a speaking order on the selection of the applicant for grant of mining lease.

The process discussed is fairly elaborate and when implemented in totality, it does provide the objectivity and transparency contemplated. Unfortunately, the process of evaluation in many of the cases is ridden with irregularities. Some of the common irregularities are:

- a. the Notification issued by the Government of Karnataka throwing open the area for grant of mining lease are open ended. There are instances wherein applications have been received even after 23 months from the opening day specified in the Notification.

- b. in such instances, the Department of Mines and Geology has deferred processing of applications for a long period;
- c. also, there are instances wherein applications received after 23 months of opening day have been considered in preference to the earlier applications without adducing proper justification;
- d. the hearing authority does not maintain meticulous record showing that all applicants listed for hearing are communicated about the date of hearing;
- e. the attendance duly signed by the applicants appearing before the hearing authority is not forthcoming;
- f. the comparative evaluation statement of the hearing authority not forthcoming;
- g. proceedings drawn up do not indicate the criteria and basis for selection of the applicant;

The sanction of mining leases for minerals specified in the First Schedule are to be made subject to prior approval of the Central Government.

## CHAPTER - IV

### Advent of the concept of Raising Contract

Raising Contract is a much used phrase in mining parlance. Generally, this is an agreement entered into between the holder of a mining lease/quarrying lease and a contractor providing entrustment of work for carrying out mining of minerals/quarrying of minor minerals and to sell them or to use them for self consumption on payment of premium or consideration to the holder of the mining lease/quarrying lease.

The term 'Raising Contract' is not found in the Indian Contract Act, 1872 or in the mining regulations viz., M&M (D&R) Act, (Central Act 67 of 1957), M.C Rules and Karnataka Minor Mineral Concession Rules, 1994.

The M.C Rules, made by the Government of India in exercise of powers conferred under Section 13 of M&M (D&R) Act, 1957 and Karnataka Minor Mineral Concession Rules, 1994, made by the Government of Karnataka under Section 15 of the M&M (D&R) Act, stipulate certain conditions prohibiting entrustment of work as relating to mining/quarrying of minerals/minor minerals by a holder of a mining lease/quarrying lease to a contractor. The relevant conditions are:

#### Rule 31 of M.C Rules,

*"31(1) Where, on an application for the grant of a mining lease, an order has been made for the grant of a such lease, a lease deed*

*in Form K or in a form as near thereto as circumstances of each case may require, shall be executed within six months of the order or within such further period as the State Government may allow in this behalf, and if no such lease deed is executed within the said period due to any default on the part of the applicant, the State Government may revoke the order granting the lease and in that event the application fee shall be forfeited to the State Government."*

Mining lease Contract:  
(Clause 17)

1) The lessee/lessees shall not, without the previous consent in writing of the State Government, which in the case of a mining lease in respect of any mineral specified in the first schedule to the M&M (D&R) Act shall not be given except after previous approval of the Central Government -

(a) assign, sublet, mortgage or in any other manner, transfer the mining lease, or any right, title or interest therein or

(b) enter into or make any arrangement, contract or understanding whereby the lessee/lessees will or may be directly or indirectly financed to a substantial extent by or under which the lessee's operations or undertakings will or may be substantially controlled by any person or body of persons other than the lessee/lessees.

Provided that the State Government shall not give its written consent unless-

- (a) the lessee has furnished an affidavit along with his application for transfer of the mining lease specifying therein the amount that he has already taken or proposes to take as consideration from the transferee...
- (b) the transfer of the mining lease is to be made to a person or body directly undertaking mining operations.

(2) Without prejudice to the above provisions, the lessee/lessees may subject to the conditions specified in the proviso to Rule 37 of said M.C Rules, transfer this lease or any right, title or interest therein, to a person who has filed an affidavit stating that he has filed up-to-date income tax returns, paid income tax assessed on him and paid the income tax on the basis of self assessment as provided in the Income Tax Act, 1961 (43 of 1961) on payment of five hundred rupees to the State Government.

Provided that the lessee/lessees shall make available to the transferee the original or certified copies of all plans of abandoned, workings in the area and in a belt 65 metres surrounding it.

Provided further that where the mortgagee is an institution or a Bank or a Corporation specified in schedule V it shall not be necessary for any such institution, Bank or Corporation to meet the requirement relating to income tax.

(2) The State Government may by order in writing, determine the lease at any time if the lessee/lessees has/have in the opinion of the State Government committed a breach of any of the above provisions or has/have transferred the lease or any right, title or interest otherwise than in accordance with clause (2)

Provided that no such order shall be made without giving the lessee/lessees a reasonable opportunity stating his/their case.

**Clause 18:**

The lease shall not be controlled and the lessee/lessees shall not allow themselves to be controlled by any Trust, Syndicate, Corporation, Firm or Person except with the written consent of the Central Government. The lessee/lessees shall not enter into or make any arrangement contract or understanding whereby the lessee/lessees will or may be directly or indirectly financed by or under which the lessee/lessees operations or undertakings will or may be carried on directly or indirectly by or for the benefit of or subject to the control of any Trust, Syndicate, Corporation, Firm or Person unless with the written sanction given prior to such arrangement contract or understanding being entered into or made, of the Central Government and any or every such arrangement contract or understanding as aforesaid (entered into or made with such sanction as aforesaid) shall only be entered into or made and shall always be subject to an express condition binding upon

the other party or parties thereto that on the occasion of a state of emergency of which the President of India in his discretion shall be the sole judge it shall be terminable if so required in writing by the State Government and shall in the event of any such requisition being made be forthwith thereafter determined by the lessee/lessees accordingly.

Rule 37. Transfer of Lease (M.C Rules)

(1) The lessee shall not, without the previous consent in writing of the State Government (and in the case mining lease in respect of any mineral specified in (Part A and Part B of) the First schedule to the M&M (D&R) Act, without the previous approval of Central Government) -

(a) assign, sublet, mortgage or in any other manner, transfer the mining, lease or any right, title or interest therein or

(b) enter into or make any (bonafide) arrangement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by, any person or body of persons other than the lessee:

[Provided further that where the mortgagee is an institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for the lessee to obtain any such consent of the State Government]

[(1A) The State Government shall not give its consent to transfer of mining lease unless the transferee has accepted all the conditions and liabilities which the transferor was having in respect of such mining lease.]

(2) Without prejudice to the provisions of sub-rule(1); the lessee may, transfer his lease or any right, title or interest therein to person [who has filed an affidavit stating that he has filed an up-to-date income tax returns, paid the income tax assessed on him and paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961, on payment of a fee of Rs.500/-] to the State Government.

Provided that the lessee shall make available to the transferee, the original or certified copies of all plans of abandoned workings in the area and in a belt 65 metres wide surrounding it: [ Provided further that where the mortgagee is an Institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for any such Institution or Bank or Corporation (to meet the requirement relating to Income-Tax) ]

[Provided further that the lessee shall not charge or accept from the transferee, any premium in addition to the sum spent by him, in obtaining the lease, and for conducting all or any of the operations referred to in Rule 30 in or over the land leased to him].

(3) The State Government may, by order in writing determine any lease at any time if the lessee has, in the

opinion of the State Government, committed a breach of any of the provisions of sub-rule (1) [or sub-rule (1A)] or as transferred any lease or any right, title or interest therein other than in accordance with sub-rule (2).

Provided that no such order shall be made without giving the lessee, a reasonable opportunity of stating his case.

Rule 37A: Transfer of lease to be executed within three months:

Where on an application for transfer of mining lease under Rule- 37, the State Government has given the consent for transfer of such lease, a transfer lease deed in Form-O or a Form as near there to, as possible, shall be executed within 3 months of the date of consent, or within such further period as the State Government may allow in this behalf.

Rule 46 : Transfer or Assignment:

(1) No prospecting licence or mining lease or any right, title or interest in such licence or lease shall be transferred to a person unless, he has filed an affidavit stating that he has filed an up-to-date income tax return, paid the income tax assessed on him and paid the income tax on the basis of self assessment as provided in the Income Tax Act, 1961 (43 of 1961).

(2) No prospecting licence or mining lease or any right, title or interest in such licence or lease in respect of any mineral specified in the First Schedule to the M&M (D&R)

Act shall be transferred except with the previous approval of the Central Government.

Similarly, transfer of leases is prohibited under Karnataka Minor Mineral Concession Rules, 1994. The related provisions are:

Rule 19-A (1) Prohibition of Transfer of leases; **The lessee shall not,**

(a) assign, sub-let, mortgage or in any other manner transfer the quarrying lease or any right, title or interest therein, or

(b) enter into any agreement, arrangement or understanding with any person whereby lessee is directly or indirectly financed to a substantial extent by such person and quarrying operation and other activities connected therewith are substantially controlled by such person;

Provided that nothing in this rule shall apply to a corporation or an undertaking owned or controlled by the State Government or to a mortgage made by a lessee in favour of the Institutions specified in Schedule VI (i) (a) or to transfer of lease held by the lessee to the company or firm in which he is one of the Directors or partners, as the case may be."

Provided further that such transfer of lease shall not be made without a written consent of the Competent Authority and such consent shall not be given unless:

- (i) the lessee has furnished an affidavit along with his application, for transfer of the quarrying lease specifying therein the amount that he has already taken or propped to take as consideration from the transferee;
- (ii) the transfer of the quarrying lease is to be made to a company or firm directly under taking quarrying operation in which the lessee is one of the directors or partners as the case may be, in the said company or firm and the company or firm has filed an affidavit stating that they have filed an up to-date Income tax returns, paid the income tax assessed on them and paid the income tax on the basis of self assessment as provided in the Income Tax Act, 1961; and
- (iii) A processing fee of rupees one thousand is paid in the form of a Demand Draft drawn in favour of the Director of Mines and Geology , Bangalore.

Provided also that the lessee shall not charge or accept from the transferee any premium, in addition to the sum spent by him in obtaining the lease, and for conducting all or any of the quarrying operation over the area leased to him.

(2) The Competent Authority may, by order, in writing determine any lease at any time, if, the lessee, has, in the opinion of the Competent Authority, committed a breach of any of the provisions of sub-rule (1) or has transferred

any lease or any right, title or interest therein without the previous consent in writing of the Competent Authority.

(3) Where the Competent Authority has given consent for transfer of such lease, a transfer of lease deed in form "T" shall be executed within three months of the date of consent, or within such further period not exceeding three months as the Competent Authority allows thereon."

The two sample agreements entered into by M/s Mysore Minerals Limited for quarrying ornamental granites and for extraction of calibrated - iron ore/minerals from old dumps under the title of raising contract are discussed hereinafter (these examples are part of Annexure-'A').

M/s Mysore Minerals Limited held a quarrying lease bearing No. QL 5396 in the limits of Nidugal village of Kanakapura taluk, Bangalore Rural District for ornamental granites. The Company entered into an agreement on 30.07.1999 with M/s K. Mark who are referred to as "Raising cum Sales Agent". There is an entrustment clause under the agreement which reads "The Company hereby entrust to the raising cum sales agent, the work of quarrying and producing granite blocks and sell them or use them for self consumption on payment of premium....." There are other clauses in the agreement indicating that no interest of what-so-ever nature in the properties is created in favour of the raising cum sales agents etc. This matter was subject of contest in the Writ Petition No. 15071 of 2000 (GM/PIL) before the Hon'ble High Court of Karnataka. In the prayer made before the Court, the petitioner had among other things

requested the Court for a direction or writ in the nature of mandamus to direct M/s Mysore Minerals Limited to cancel the agreement dated 30.07.1999 as it was in contravention to Rule 19-A of Karnataka Minor Mineral Concession Rules, 1994. Commenting on the said prayer, the Hon'ble High Court observed "therefore we have no hesitation in holding that Rule 19A in the light of the judgment of the Supreme Court, is a Rule in the form of prohibition for regulation of the mine interest of the State as otherwise a shrewd business magnate may find an easy way of getting the mining leases through the back door entry from Government Companies Rule 19-A is introduced only to prevent such back door entries. The Hon'ble High Court also observed that "therefore we have no hesitation in holding that the present agreement has to be set aside for having violated Rule 19-A of the rules."

[Note: The matter when went before the Hon'ble Supreme Court of India in Civil Appeal No. 3372 of 2001, the Hon'ble Supreme Court remanded the matter by observing "we express no opinion with regard to the correctness of the High Court decision on the applicability of the rules and the interpretation thereof. It is only because this Writ Petition should not have been taken out of turn and should have been heard along with Writ Petition NO. 2458/2000. The impugned orders are set aside."]

M/s Mysore Minerals Limited held a mining lease No. 1659 in Jambunathanahalli of Hospet Taluk. The Company entered into an agreement under the title "Iron Ore Raising Agreement" with M/s

Narayana Mines (P) Ltd. of Hospet on 23.09.1999 for extraction of calibrated Iron Ore (CIO)/minerals from old dumps.

The contents under clause 1 to 6 and 9 of the agreement and in particular clause 3 and 4 virtually vest the works of operation of mine held by M/s Mysore Minerals Limited with M/s Narayana Mines. This is contrary to the clause 17 and 18 of Part VII of the mining lease agreement read with Rule 37, 37A and 46 of M.C Rules. The said clauses are similar to the agreement clauses entered into by M/s Mysore Minerals Limited with M/s K. Mark in respect of Q.L. No. 5396 of Nidagal village, Kanakapura taluk, Bangalore Rural District, which had been contested in a Writ Petition, the particulars of which are discussed in the earlier paragraphs.

During the survey and investigations, on the ground it has been observed that many of the lessees have given their leases on contract, popularly known in the field of mining as "Raising Contact". In this system the raising contractor carries out all the mining operations. It is also observed that some of the lessees have transferred their leases to some other persons/agencies on annual basis and sometimes for periods more than one year. This type of irregular transfer of mining operations by the lessees is contrary to the provisions of the M&M (D&R) Act and the relevant Rules and which also leads to other irregularities like excess loading, transportation of minerals without permits and sale of unaccounted iron ore, sale of bulk permits issued by Mines Department and Way permits in Form No.31 issued by Forest Department to other parties, which documents are used for illegal

transportation of iron ore from patta lands. All these illegal activities are carried on in the name of the original lessees. As stated above, in original lease agreements entered into between the Government and the lessees there is no provision to sell or enter into contract of sub-lease or to carry out any of the mining operations by persons other than those in whose favour the mining lease had been executed by the Government, without the prior sanction of the Government. In reality, none of the Raising Contract agreements have been entered into with the prior sanction of the Government and in many cases no document is forthcoming to show the terms of the agreement between the original lessee and the Raising Contractor. It is to be mentioned here that at the time of mining lease, the lessee provides information that he has all expertise in the mining and has sufficient infrastructure and funds to carryout mining operations and it is only on considering such qualifications of the Applicant for grant of lease, the mining leases are granted by the Government. It is further noticed that the Government has given lease for extraction of minerals on payment of royalty which is very minimum and far below the value of the mineral in the open market. As a matter of fact, the State has not executed a lease bearing in mind the commercial or profit motive of the lessees. In such circumstances, giving further lease by the original lessee for extraction of minerals which is a public property will be against the object and terms of lease. By this process, the original lessee even without making any investment and putting any efforts makes a fortune. It also creates unhealthy competition in the mining trade leading to people applying for mining lease without making proper prospecting study as to the

existence of minerals, which in turn leads the lessees or his agents indulging in mining activities outside the leased areas. In the districts like Bellary, Chitradurga and Tumkur, the lessees have entered into commercial transaction with middlemen who also do not have any experience in mining, thus leading to unscientific mining. This arrangement actually makes the original lessee an absentee lessee.

It is pertinent to mention here that the Mines/Forest Departments are issuing permits in the name of lessees or his agents for transportation. But in reality, these permits are being used by the Raising Contractors and other persons to transport ores from areas totally unconnected with the original lessees. The Department officials have closed their eyes and are ignoring totally these illegal activities. Such systems from outside looks as if the lessee himself is doing mining operations but the facts are otherwise. This is one of the serious concerns and will have to be stopped forthwith. Further investigation in this regard is required to be gone in detail by examining the documents of the original lessee, the raising contractors, the transport agents and others who are connected with this type of illegal activities, which can be done only after issuing notice to them and this report, cannot wait till such detailed enquiry. Though the document in regard to the Raising Contract between the lessee and their sub-contractors are not immediately available in spite of enquiry with the various people connected with mining trade, it is established beyond doubt that such system of Raising Contracts and other illegal type of sub-leasing, be it at the stage of lifting the minerals from the earth, transportation or

export is prevalent in a large scale. The following list gives the names of certain lessees who have transferred their mining leases in favour of others who are either Raising Contractors or Sub-lessees. This list which not exhaustive, only contains few of many, is prepared on the basis of reliable material gathered by the investigating agency, which of course will have to be further enquired into and supported by documentary evidence and this will be done in due course. The name of these lessees are mentioned based on prima facie material and since conclusive material could be produced only after further enquiry, the initiation of any action in regard to this issue could be taken up after further report from this agency. The list of lessees provided by Dr.U.V. Singh in his report at Annexure-'A' is as follows.

<b>Sl. No.</b>	<b>Name of the Lessee</b>	<b>M.L.No.</b>
1	M/s P. Balasubbashetty and Sons	2502
2	M/s Rajapura Mines and Traders	2190
3	M/s Mysore Miners and Traders	2185
4	Sri. B.R. Yogendranath Singh	2186
5	Smt. Shantalaxmi Jayaram	2553
6	M/s Srinidhi Iron Ore Mines	2433
7	M/s Ashwath Narayan Singh & Co.	2531
8	Sri S.V. Srinivasalu	1634
9	Sri. K. Brahmananda, M/s Bananshankari Iron ore Mines	1626
10	M/s Hind Traders	2548
11	M/s Veerabhadrappe Sangappa Co.	2160
12	M/s Sri Kumaraswamy Mineral Exports	2141
13	M/s Veerabhadrappe Sangappa Co.	2296
14	Sri. V.N.K. Menon	2543
15	Sri H.G. Rangangoud	2148
16	Sri. P. Abubkar	2183
17	Sri. B. Kumar Gowda	2516

18	Smt. Ambika Ghorpade	2354
19	Sri. P. Venganna Shetty	1046
20	M/s Mysore Minerals Ltd., Thimmappanagudi	2002
21	Smt. K.M. Parvathamma, Rajapura	2514
22	Sri H.R. Gaviappa	2483
23	Smt. K.M. Parvathamma, Ubbalgundi	2433
24	M/s Mysore Minerals Ltd., Subrayanahalli	Working permission
25	M/s Nadeem Minerals	2526
26	M/s Mysore Minerals Ltd., Ubbalgundi	995
27	M/s Narayana Mines	1602
28	M/s S.B. Minerals	2393
29	Smt. Shantalakshmi Jayaram	922
30	Sri. H.G. Rangangoud	2148
31	M/s Sandur Manganese and Iron Ore	2580
32	M/s Sandur Manganese and Iron Ore	2581
33	M/s S.B. Minerals	2550
34	M/s Adarsha Enterprises	2369
35	M/s J.M. Vrushabendraiah Mines	2173
36	M/s Laxmi Minerals	2545
37	M/s Laxmi Minerals	2551
38	M/s Associated Mining Co.	2434
39	M/s Kanhaialal Duheria	2563

Since the arrangement under "Raising Contract" is literally a transfer of lease without the permission of the Government is opposed to law, in all such cases, the original leases should be terminated. Further report will follow regarding irregularities committed by concerned officers in this regard.

## CHAPTER - V

### **Irregularities in mining like mining beyond the leased area, trespassing into the forest area for mining, etc.**

During the survey, various instances of gross irregularities in mining like mining beyond the leased area, trespassing into the forest area for mining, illegal dumping and mining contrary to the parameters laid down by Indian Bureau of Mines have been noticed in Bellary, Hospet and Sandur regions. Such irregularities in the mining sector are rampant and such instances are increasing day by day unhindered resulting in considerable loss to the State Exchequer. Different types of encroachments that are commonly prevalent in the mining sector and commonly resorted to by the mining lease holders to make unlawful gain at State cost are mentioned by Dr. U.V. Singh in his report Annexure-A. Different types of encroachments noticed during the present investigation are as follows:

#### **1. Encroachments due to shifting of location of the notified lease area.**

In Bellary, Hospet & Sandur (BHS) region the majority of encroachments have taken place due to shifting of the notified leased area to a different convenient location by the lessees. This has been done in certain cases by taking the wrong reference point or altering the original reference point or some times without any such reference with the connivance of local staff and lessees. Some of the satellite imageries with respect to notified sketches are enclosed to the report Annexure-'A' at Annexure-'A1'. The details of such leases along with extent of encroachments etc are also given in the report at Annexure-A.

**2. Encroachments due to different lease sketch under two different Acts.**

It has been observed during the survey and on examination of records that the lease drawings (Sketches) notified under the Forest (Conservation) Act 1980 are different than the lease sketch notified under the M&M (D&R) Act. The lessees have not adhered to these sketches. The sketches along with satellite imaginaries are enclosed to the report Annexure-'A' at Annexure-'A1'.

**3. Extraction of iron ore in the adjoining areas and refilling the pits.**

During the survey it has been observed that some of the lessees have encroached the adjoining forest areas/ government land and removed the iron ore. After removing the large quantities of iron ores from such encroached areas, the lessees have re-filled the pits and in some cases even planting has been done over the refilled area. With the help of satellite imageries and also with field observation, such encroachments are identified. Sketches with satellite imageries of some of the leases of this kind are enclosed to the report Annexure-'A' at Annexure-'A1'.

**4. Encroachments by extending the lease boundaries and extraction of iron ore.**

In many mining leases, the ore deposition is found at the periphery of the notified lease boundaries and also at adjoining areas. The lessees have extracted the iron ores by encroaching such adjoining areas which are forest/Government land beyond their lease boundary. Such encroachments are found common in the BHS region. Satellite

imageries with respect to the lease boundaries for some of such leases are enclosed to the report Annexure-'A' at Annexure-'A1'.

**5. Encroachments in the form of formation of roads to mining leased area.**

It has been observed that most of the mines are located deep inside the forest/government land and no right of way have been granted to the lessees. The lessees have formed the "KACHHA ROADS" from the PWD / ZP roads to their mines without obtaining prior approval under the Forest (Conservation) Act 1980 or Karnataka Forest Act 1963. The roads so formed have damaged the forest to a large extent. It requires to be mentioned here that formation of roads without permission/ approval in the forest areas is a violation to the Hon'ble Supreme Court Order Dated 12. 12. 1996 in WP.202/95.

**6. Encroachments due to incorporating more areas in the lease sketches.**

It has been observed that in some leases, the lease sketches are notified for more lease areas than the extent notified under M&M (D&R) Act 1957. The sketches are prepared for more areas against the less notified extent. Due to this, the lessees are enjoying more area under the lease than the entitlement relying on incorrect sketches.

**7. Encroachments due to dumping of waste material.**

Such encroachments are very common in the BHS region. The lessees have taken it for granted that it is their right to dump the waste outside the leased area mainly in the adjoining areas.

#### **8. Encroachments due to more enjoyment by fixing the wrong boundaries.**

It is found during the survey that the lessees have put the boundary stones covering more areas than entitled for at their convenience. The encroachments of this kind are very common. It appears that such encroachments are mainly done for future expansion of the mining activities.

#### **9. Encroachments by lessees in the adjoining leased areas.**

During the survey it has been observed that some of the lessees have encroached the adjoining mining lease. In this regard some court cases are also pending. There are cases wherein the sketches of the two leases are overlapping at certain points. Because of the overlapping there are disputes among the lessees regarding areas granted under lease.

#### **10. Encroachment due to cascading effects.**

In consortium of mines such cascading effects have been observed during the survey. Encroachment by one lessee into the adjoining mine culminates encroachment in the forest or Government land. This is very common in BHS region.

#### **SUMMARY OF THE ENCROACHMENTS IN THE BHS REGION**

Sl. No.		(in Hectares)
1)	Approval granted under M&M (D&R), 1957	9,704.66
2)	Approval granted under the Forest (Conservation) Act 1980	5,426.35
3	Encroachment in the form of extraction of iron ore (pit)	147.29
4	Encroachment due to waste dumps	306.07
5	Other type of encroachments	504.09
6	Encroachment due to construction of roads to mines	124.90
7	Total encroachments	1,081.40
8	Total length of the mining roads (in k.m.)	180.42

SUMMARY REPORT OF SURVEY AND ENCROACHMENTS

Data Report

S. No	Name of the lessee & Address	Lease No.	Notification No & Date (MMRDA)	Notification No & Date (FC)	Extent as per MMRDA (Ha)	Extent as per FCA (Ha)	Sanctioned Lease Area (Ha)	Lease Sketch Area (Ha)	Boundary Fixed by Lessee (Ha)	Working pit outside the lease area (Ha)	Waste Dump outside lease area (Ha)	Others Outside the Lease Area (Ha)	Approach Road area (Ha)	Total Encroachment area (Ha)	Length of the Road (Km)
1	M/s Gogga gurushanthaiah & Brothers, PNo4, Nehru cooperative colony, Hospet583203	2522	CI 223 MMM2005 Dated 16/3/2006	FEE20FFM99 Dated1/8/2003 FEE104FFM2004 Dated21/1/2006	42.90	32.38 10.50	42.90	45.21	50.29			9.64	1.40	11.04	1.40
2	M/s Gogga gurushanthaiah & Brothers, PNo4, Nehru cooperative colony,	2520	CI 163 MMM2004 Dated	FEE16 FFM89 Dated1/8/2003	18.21	15.10	18.21	16.82	13.29						
3	M/s Gogga gurushanthaiah & Brothers, PNo4, Nehru cooperative colony, Hospet-	1028	CI 63 MMM 2007 Dated	FEE92 FFM2001 Dated 21/1/2006	15.10	15.10	15.10	15.10	41.66	1.90	1.21	24.41	1.5	29.02	2.5
4	M/s P. Balasubbashetty & Sons P.B.No 3, Hampi Road , Hospet583203	2502	CI 73 MMM2005 Dated	FEE92 FFM2000 Dated 7/02/2005	44.11	44.11	44.11	44.17	42.88		0.18	1.94	1.1	3.22	1.1
5	M/s Rajapura Mines	2190	CI 58 MMM91/P Dated 3/8/1994	<b>Non forest land</b>	93.74		93.74	88.32	127.88	14.28	4.94	15.82		35.04	
6	M/s Mineral Miners and Traders No.17/5, Patel Nagar, Bellary583103	2185	CI 63MMM2002 Dated 24/9/2003	<b>Non forest land</b>	46.13		46.13	43.21	57.58	0.67	13.14	3.62		17.43	
7	Sri Srinivasa Minerals Mine owners and Exports, Main Bazar Hospet583203	1933	CI11 MMM83 Dated 6/09/1983	<b>Non forest land</b>	16.46										
8	R.B.Seth Shree Ram Nar Singh Das,D.No. 14991, P.O.No.38, Hospet 583201	2022/2576	CI 66 MMM07 Dt: 08/01/2008		31.56		31.56	31.57				1.90		1.90	
9	R.B.Seth Shree Ram Nar Singh Das,D.No. 14991, P.O.No.38, Hospet 583201	2021/2524	CI102 MMM06 Dt: 27/05/2006		76.09		76.09	76.08	76.90			2.00		2.00	

10	M/s Karigannur Mineral Mining Industry, Embitee Complex ,Bellary Road, Hospet 583201	1799/2075	CI 108 MMM 86 Dt: 21/7/1988	FEE47 FFM 99 Bangalore Dt: 30/03/2000	199.43	129.43	199.43	188.00	115.00				0.2	0.20	0.142
11	M/s Vibhutiguadda Mines Pvt. Ltd., No.4 kappagal Road, Bellary 583103	1193/2469	CI 120 MMM 04 Dt: 08/10/2004	FEE16 FFM 95 Bangalore Dt: 17/08/1999	55.00	55.00	55.00	53.00	51.00		6.44	6.02	2.75	15.21	2.75
12	Sri B.R.Yogendranath Singh No.31/659 Mylara linga Nilaya Singh Colony, Old Check Post Hospet 583203	741/2186	CI15 MMM 92 Dt: 07/11/1994		13.00		13.00	17.40	15.94	2.54	3.96	1.10	2.4	10.00	2.4
13	Smt. Shantha Lakshmi Jayaram, W/o V.N.Jayaram, SRR Theatre	922		Idle Mines											
14	M/s MML, Jambhunathanahalli Iron ore mines, Hospet	1710		Idle Mines											
15	M/s Gavisiddeshwara Enterprises., #36,Kappagal Road, Gandhinagar, Bellary	80	CI.141.MMM. 2005 Dated: 25/11/2005	FEE.142. FFM.2005 Dated 12/06/2006	5.67	5.67	5.67	6.89	6.40	-	1.55	0.44	4.10	6.09	2.54
16	Smt.R.Mallamma W/o Late R.Pampapathi, Rajapaura Nilaya, 22nd	1806	CI.76.MMM.81 Dated 21/01/1982	1) FEE.38.FFM.90 Dated 30/04/1997 2)FEE.205.	182.45	105.70	182.45	477.50	135.70	3.35	18.76	8.81	2.11	33.03	-
17	M/s Mysore Minerals Limited., #39,M.G.Road, Bangalore-01	1659	CI.156.MMM. 2005 Dated 01/03/2006	FEE.63. FFM.99 Dated 05/02/2004	38.45	38.45	38.45	51.72	42.00	0.54	5.07	3.15	-	8.76	1.25
18	Sri.R.Charuchandra, Dr.Nagangowda Gardens, Station Road, Hospet-	2544	CI.174.MMM. 2005 Dated 09/11/2007	FEE.91. FFM.2005 Dated 09/03/2007	45.00	45.00	45.00	45.00	45.00	3.25	-	6.55	1.92	11.72	1.92
19	Sri.H.N.Premkumar, Bharath Villa, #35, 3rd Main, 3rd Cross, R.M.V II	2538	CI.154.MMM. 2005 Dated 26/08/2005	FEE.158. FFM.2005 Dated 29/12/2006	19.15	21.97	19.15	19.15	18.70	-	0.82	2.14	-	2.96	3.34
20	Sri.K.R.Kaviraj, #216, Behind 100 Bed Hospital, M.J.Nagar, Hospet-583201	2561	CI.34.MMM.200 5 Dated 25/03/2006	FEE.97. FFM.2006 Dated 25/09/2007	34.40	34.40	34.40	34.40	35.61	-	-	2.11	-	2.11	-
21	M/s Auro Minerals, Anegondy House, N.C.Colony, Hospet-583201	1751	CI.55.MMM.200 3 Dated 26/09/2003	FEE.81. FFM.90 Dated 17/08/1999	31.00	31.00	31.00	32.81	35.62	5.17	5.08	1.89	2.63	14.77	2.24
22	Sri.Allam Basavaraj S/O Allam Karibasappa, Gadagi palace, Car Street, Bellary-	1893	CI.124.MMM. 2005 Dated 14/02/2006	-	56.75	-	56.75	56.75	56.75	-	-	-	-	-	-



36	T.Narayan Reddy	2527	CI36 MMM2005 Dated 16/2/2006		37.84	11.00	37.84	37.84							shift	
37	M/s Hind Traders	111	CI222 MMM2005 Dated		19.63	19.63	19.63	19.63	19.63						shift	
38	Sri Allum Prashant Gadigi Palce Car Street Bellary	2352	CI03 MMM95 Dated 27/5/2005	FEE54 FFM2001 Dated 21/02/2007	72.87		69.60		69.60							
39	M/s Mehaboob Transport Company, Lalitha Nivas, Sidarath Nagar,Infantry	109	CI107 MMM02 Dated 14/7/2003	FEE3 FFM92 Dated7/12/2001	16.19	16.19	16.19	15.68	19.00						shift	
40	M/s Tiffins Barytes asbestos & Paints Ltd Suit 68,KEN IFS Towers, No.1,	2293	CI37 MMM99 Dated7/9/2000	-	191.13	-	191.13	191.13	163.45	-	0.97	-	-	0.97	-	-
41	M/s Laxminarayan Mining Company, No.33, Sun Nidhi Road Basavanagudi,	2487	CI104 MMM2004 Dated	FEE27 FFM2002 Dated 02/09/2003	105.22	105.22	105.22	103.00	102.00	5.90	20.64	5.07	10.32	41.93	12.57	
42	M/s Chougale Mining Company Ltd., Chowgale House, Mormugao	2546	Ci52 MMM2006 Dated 29/11/2006	FEE145 FFM2003 Dated 09/03/2005	100.00	100.00	100.00	98.00	102.65	4.74	5.78	23.49	4.84	38.85	4.60	
43	Sri P.Abubkar PWD Class-1 Contractor/Mine Owner, Dam Road, Hospet, Bellary	2183	CI54 MMM2006 Dated 9/10/2006	FEE04 FFM2004 Dated 01/03/2006	44.00	14.00	14.00	14.40	12.10	-	6.36	-	2.73	9.09	4.10	
44	M/s Veerabhadrapa Sangappa & Company 2- 138, Bellary Road, Sandur,	2296	CI43 MMM2000 Dated 11/12/2000	FEE50 FFM94 Dated 19/02/2000	51.00	51.00	51.00	61.00	63.45	-	0.35	12.10	-	12.45	-	
45	M/s Veerabhadrapa Sangappa & Company 2- 138, Bellary Road, Sandur,	2160	CI110 MMM90 Dated 8/7/1992	FEE96 FFM2003 Dated 05/01/2004	18.62	17.65	18.62	18.20	19.21	-	0.36	1.44	1.56	3.36	1.95	
46	Sri Kumar Swamy Mineral Exports , 2nd Cross Link Road, parvathinagar Bellary	2141	CI232 MMM88 Dated 29/7/1991	FEE 125 FFM 2003 Dt:06/08/2004	82.55	30.80										
			CI 32 MMM2006 Dated	FEE192 FFM2006 Dated 29/12/2006	60.80	30.80	60.80	60.80	65.70	-	2.83	2.80	2.44	8.07	3.1	
47	Sri V.N.K Menon KHB Colony Sandur583119 Bellary	2543	CI 35 MMM2004 Dated	FEE13 FFM2007 Dated 22/03/2007	10.00	10.00	10.00	10.00	10.56	-	-	0.64	-	0.64	-	

48	H.G Ranganagouda, Mine owner No.15/142 Nehru colony Hospet, Bellary	2148	CI148 MMM90 Dated 18/06/1992	FEE26 FFM2002 Dated 16/08/2003		41.16											
				FEE82 FFM2006 Dated 19/12/2006	60.71	60.70	60.70	-	2.30	9.92	12.05	-	24.27	4.00			
49	Sri. B. Kumargouda 125B.L.B Colony Sandur583119 , Bellary	2516	CI44 MMM2003 Dated 27/2/2006	FEE31 FFM2002 Dated 09/08/2005	54.23	83.62	54.25	54.30	58.90	-	2.33	4.75	-	7.08	4.30		
50	M/s Deccan Mining Syndicate Pvt Ltd N0 31 Kalpatare	2525	CI13 MMM2006 Dated13/6/2006	-	19.00	-	19.00	18.20	18.53	4.74	13.15	0.18	-	18.07	-		
51	Sri Onti Channappa Yeshavanthnagar Village, Sandur TQ, Bellary	1940	CI116 MMM1982 Dated	Idle Mines	2.17	-	2.17	2.17	-	-	-	-	-	-	-	-	-
52	Sri Onti Channappa Yeshavanthnagar Village, Sandur TQ, Bellary	1941	CI156 MMM82 Dated 01/03/1984	Idle Mines	5.44	-	5.44	5.44	-	-	-	-	-	-	-	-	-
53	M/s Zeenath Transport company Mine Owners & Exports, Cowl Bazar ,	2309	CI 128 MMM1979 Dated 15-04-	FEE14 FFM89 Bangalore Dated 7-7-1997	36.42	36.42	36.42	36.42	47.35	-	10.56	-	-	10.56	-		
54	M/s Zeenath Transport company Mine Owners & Exports, Cowl Bazar ,	2239	CI 148 MMM81 Dt.14-5-1984(old)	FEE15 FFM89 Bangalore Dated 14-2-1997	44.13	44.13	44.13	44.13	47.10	2.96	-	-	5.4	8.36	5.45		
55	Sri.S.A. Thawab Mine Owners &Exports, Zeenath House, Cowl	2488	CI 117MMM2004 Dt.11-10-2004	FEE63 FFM90 Bangalore Dated 27-1-2004	31.60	24.72	24.72	31.60	36.69	-	-	8.47	-	8.47	-		
56	M/s Adarsha Enterprises Kudligi-Bellary Road, Sandur-583119	2369	CI 20 MMM 2000 Dated18-7-2002	-	2.91	-	2.91	2.91	7.73	1.36	0.76	2.98	-	5.10	-		
57	J M Vrushabendraih S/o Maliappaiah, M.J Nagar, Hospet-583203	2173	CI 147 MMM91 Dt.19-3-1993	-	3.29	-	3.29	3.29	15.86	5.94	8.37	-	-	14.31	-		
58	Ramghad Minerals and Mining Pvt. Ltd. Nehru Co-operative colony, Hospet-	2451	CI 69 MMM2002 Dt.9-6-2003	FEE84 FFM2006 Bangalore Dated11-1-2007	24.28	26.36	24.28	24.28	35.00	6.10	8.38	-	-	14.48	2.4		
59	Sri Shanthi Priya Minerals Pvt Ltd. No.264, College Road, Hospet-583201	2540	CI 69 MMM2006 Dt.29-11-2006	FEE33 FFM90 Bangalore Dated 25-8-1999	80.97	80.97	80.97	80.93	82.55	-	-	15.3	3.78	19.08	3.86		

60	M/s Laxmi Minerals No.216, Near 100 Bed Hospital,	2545	CI 29 MMM2005 Dt.30-8-2005	<b>FEE152 FFM2005 Bangalore Dated 23-3-2007</b>	36.42	36.42	36.42	36.42	39	1.40	-	5.5	-	6.9	-
61	M/s Laxmi Minerals No.216, Near 100 Bed Hospital,	2551	CI 28 MMM2005 Dt.30-8-2005	<b>FEE151 FFM2005 Bangalore Dated 4-1-2007</b>	22.26	24.51	22.26	22.26	22.95	-	-	0.94	-	0.94	2.26
62	M/s Associated Mining Company Mine Owners, XVIII/35, Iind Link Road,	2434	CI 40 MMM2002 Dt.3- 4-2003	FEE50 FFM97 Bangalore Dated 13-7-2000	10.12	10.12	10.12	10.12	9.75	1.51	0.47	2.32	1.75	6.05	1.79
63	M/s A.M. Minerals No:4/269, Patel Nagar, Hospet-583201	2278	CI 35 MMM99 Dt.5-2-2000	FEE66 FFM95 Bangalore Dated 29-8-1997	2.02	2.03	2.02	2.02							
64	M/s S.B Minerals P.No:58,K.R.Road, Hospet- 583201	2393	CI 145 MMM98 Dt 6-10-2001	FEE153 FFM93 Bangalore Dated 30-4-1997	40.47	40.47	40.47	40.47	56.25	4.82 3.01 {Forest}	16.62	-	2.08	23.52	2.49
65	Ramghad Minerals and Mining Pvt. Ltd.(Sri.Iyli Gurunath) Nehru	622	CI 66 MMM2006 Dated 21-5-2008	FEE113 FFM99 Bangalore Dated31-5-2005	20.23	20.23	20.23	20.23	23.30	1.88 0.74 {Forest}	2.49	1.33	1.62	7.32	1.74
66	Sri. Kannhaiyalal Duderia Pannaraj Compound, Fort, Bellary	2563	CI 172 MMM2006 Dt.5- 4-2007	FEE123 FFM2007 Bangalore Dated18-10-2007	30.76	33.76	30.76	30.76	29.79	-	0.06	3.86	-	3.92	-
67	Sri.Allum Prasant Palace, Car Street, Bellary- 583101	2289	CI94 MMM99 Dt.23-06-2000	-	2.90	-	42.90	46.24	36.26	-	-	-	-	-	-
68	Sri. N.Ratnaiah Mine Owner, Car Street, Bellary	670	CI90 EMO66 Dated 12-8-1966 (Old)	-	14.16	-	14.16	13.43	17.63	-	-	-	-	shift	-
69	M/s Hothur Traders Mine Owners & Exporters Plot No 9A, Laliltha Nivas	2313	No CI 147 / MMM/ 98 Dated 20.6.2000	No FEE 45 FFM /88 B'lore dated 22.3.97	21.11	21.11	21.11	22.65	23.15	6.55	-	4.25	5.83	16.63	4.78
70	Smt Ambika Gorpade Shivapura Palace,Kruthika Nivas Kruthika	2354	No CI 23 / MMM/ 2001 Dated 13.6.2002		4.95		4.95	4.80	5.09	1.70	1.20	1.65	0.74	5.29	
71	M/s V S Lad & Sons, Prashanth Nivas Krishna Nagar Sandur 583119 ,	2290	No CI 100 / MMM /99 Dated 28.4.2000	No FEE 29 FFM/ 98 B'lore dated 16.2.1999	105.06	105.06	105.06	101.80	116.68	14.30	6.17	9.37		29.84	7.74
72	M/sBharath Mines & Minerals, Singhi Sadan Infantary Road Bellary	2245	No CI 83 / MMM/ 97 Dated 16.3.1999	No FEE 32 FFM /2000 B'lore dated 4.4.2001	26.20	26.20	26.20	23.01	31.95	7.50	3.10	5.60	3.46	19.66	3.85

73	M/s N M D C , 61, Ring Road Lajpath Nagar 111 New Delhi	1111	NO CI 35 / MMM/ 2005 Dated 4.4.2005		647.50			690.00	688.00			40.50		40.50	
74	M/s P Venganna Shetty & Bros Nehru Co Operative colony Hospet 583203	1046	No CI 68 / MMM /2002 Dated 21.3.2008	No FEE 114 FFM /2003 B'lore dated 31.5.2005	50.00	50.00	50.00	115.80	62.13	5.10	5.20	1.80	2.68	14.78	3.36
75	Smt Sugunraj	1779	No CI 159/ MMM /80 Dated 05.05.1981		Not working since 1983 and no boundary points										
76	Smt Omkaramma	1168			Not working since 1983										
77	Sri B Kumaragowda	1611	No CI 163/ MMM /80 Dated 06.09.1980		Not working since 1999 and no boundary points										
78	M/s N.M.D.C. Ltd , Donimalai township	2396	CI.33:MMM:98, Dated: 05/09/2002	FEE:17:FFM:1990 Dated:28/07/1999	608.00	608.00	608.00	609.00	636.24	3.68	3.04	99.14	4.57	110.43	5.72
79	M/s TML. Ltd Vishwa complex, JM buildings station road	2365	CI.13:MMM:200 2, Dated:18/03/20	FEE:38:FFM:1998 Dated:09/06/1999	125.58	125.58	125.58	133.76	154.40	5.73	51.41	23.88	5.04	81.02	5.04
80	M/s TML. Ltd Vishwa complex, JM buildings station road	2366	CI.10:MMM:200 2, Dated:23/03/20	FEE:86:FFM:2000 Dated:18/11/2000	33.97	33.97	33.97	34.10	18.68						
81	Smt. K.M.Parvathamma, Mine owner II link road, parvatinagar, Bellary3	2514	CI.10:MMM:200 6, Dated:19/01/20	FEE:66:FFM:1994 Dated:07/08/2001	24.91	15.24	24.91		30.58		4.31	4.97		9.28	
82	M/s M.M.L. Ltd, 40 fair field road, Bangalore1	995	CI.269:MMM:20 05 Dated:05/09/20	FEE:51:FFM:2004 Dated:12/07/2006	33.60	33.60	33.60	37.79	38.14		2.36	2.40	0.977	5.737	

83	M/s H.R.Gaviappa.& Co. Mine owner,Parvatinagar,Bellary	2483	CI.40:MMM:200 4, Dated:20/10/20	FEE:96:FFM:2000 Dated:08/03/2004	34.00	34.00	34.00	30.27	33.55	0.30	1.50	6.40	1.25	8.20	1.25
84	M/s Hanumantha Rao Teachers colony,Door No393 sandur583119	2505	CI.45:MMM:200 5, Dated:09/03/20	FEE:20:FFM:2005 Dated:16/03/2006	40.47	17.40	40.47	40.31	18.50	2.21		1.00	1.04	4.25	1.23
85	Sri.J.M.Vrushabendraiah, Mruthunjay nagar,Hospet.	2292	CI.67:MMM:200 0, Dated:15/11/20	REVENUE LAND	4.85		4.85		3.73			0.38		0.38	
86	M/s Nidi Mining Ltd. Mine ownerII link road,Parvathinagar,Bellary	2433	CI.45:MMM:200 2, Dated:26/11/20	FEE:26:FFM:1997 Dated:07/12/1998 FEE:194:FFM:2006	31.84	31.84	31.84	29.74	28.20	1.50	24.20	2.70	2.34	28.74	2.34
87	Sri. V.N.K.Mennon PWD contractor,Sandur583119	1715	STOPPED MINES	STOPPED MINES	1.61		1.61								
88	M/s Mysore Minerals Limited (Timmappanagudi) #39, M.G.road, Bangalore	2002	CI 25 EMI76 Dated 23/8/79	FEE91 FFM97 Dated 8/6/2001 FEE10 FFM2003	621.59	176.72+ 10	621.59	582.00	626.98	-	-	54.88	-	54.88	8.4
89	M/s Nadeem Minerals , Residential Apartment, Burly Street, Bangalore	2526	CI 27 MMM06 Dated 23/06/2006	FEE33 FFM2003 Dated 08/08/2005	53.20	53.20+ 3.00	53.20	53.20	47.30	1.96	5.73	-	-	7.69	3.7
90	M/s Mysore Minerals Limited (Timmappanagudi) #39, M.G.road, Bangalore	W.P.C I 16779 Dated 5/1/8 0	CI 70 MMM2006 Dated 27/11/2007	FEE16 FFM 1992 Dated 28/11/2000	168.00(As per Permission) 80.93 as sanctioned Notification	80.93	-	-	81.16	-	3.00	3.82	-	6.82	-
91	M/s Gadagi Mineral Mining Company, gadagi Palace,Car Street, Bellary	2489	CI 113 EMO 74 Dated 12/9/1977	FEE55 FFM96 Dated31/3/1998	39.63	39.63	41.92	41.92	42.10	0.64	-	-	3.68	4.32	4.60
92	M/s Narayana Mines Pvt Ltd, Mine Owner 11/70, 1st Floor, Bus Stand Road,	1602	CI 151 EMO77 Dated 20/3/1979	Idle Mines	109.27	109.27	106.10	106.10	107.31	3.30	-	-	-	3.30	-
93	M/s Mysore Minerals Limited (Timmappanagudi) #39, M.G.road, Bangalore	1754	CI 33 MMM2006 Dated	Idle Mines	6.07	6.07	6.07	6.07	-	-	-	-	-	-	-

94	H.G Ranganagouda 15/142, Nehru Co- Operative Colony, Hospet,	2549	CI 122 MMM2005 Dated	FEE123 FFM2005 Dated 03/01/07	54.63	54.63	54.60	44.50	35.10	0.57	-	15.13	1.00	16.70	1.40
95	M.S.P.Ltd, Nehru Co-Operative Colony, Hospet, Bellary	2416	CI92 EMI 1981 Dated 15/12/1981	FEE45 FFM96 Dated 30/4/1997	347.22	347.22	347.22							survey yet to be com-	
96	Smt. Shantha Lakshmi Jayaram, W/o V.N.Jayaram, SRR Theatre	2553 (921)	CI 185 MMM2005 Dated	FEE171 FFM2005 Dated 23/6/2006	50.47	50.47	50.47							survey yet to be com-	
97	M/s S.B.Minerals, K.R.Road, Hospet,Bellary	2068	CI 84 MMM2003 Dated 04/05/06	FEE39 FFM90 Dated 18/2/1997	80.92	80.94	80.92							survey yet to be com-	
98	M/s SMIORE Ltd., 217, Bellary Road, Sadashivanagar, Bangalore	1179/ 2580	CI 77 MMM 2006 Dt: 27/12/2007	No.FEE 100 FFM 2006 Dt: 19/01/2007	2837	1615.64	1863.02	1848.40	1848.40				14.62	14.62	24.36
99	M/s SMIORE Ltd., 217, Bellary Road, Sadashivanagar, Bangalore	1952/ 2581	CI 108 MMM 2006 Dt: 27/12/2007	No.FEE 99 FFM 2006 Dt: 19/01/2007	378	142.58	142.58	137.90	137.90				4.68	4.68	7.8
<b>TOTAL</b>					<b>9704.66</b>	<b>5426.35</b>	<b>7220.77</b>	<b>7767.50</b>	<b>7417.32</b>	<b>145.71</b>	<b>306.07</b>	<b>504.09</b>	<b>124.90</b>	<b>1079.17</b>	<b>180.42</b>

The figures given in this report for the above said encroachments are indicative and subject to Court orders if any. Some W.P. are also pending before the Hon'ble High Court and also in other Courts regarding disputes etc.

Details relating to some instances of encroachments set out in the report at Annexure-'A' are as hereunder:

#### **Mining Lease of M/s Lakshminarayana Mining Company**

The mining lease No. 2487/1876 to an extent of 105.22 ha. under the M&M (D&R) Act, have been granted in favour of M/s Lakshminarayana Mining Company in the year 2004 for 20 years, The lessee also obtained the forest clearance under the Forest (Conservation) Act 1980 vide the Government Order dated 2.9.2003 to an extent of 105.22ha. in Northeast block of Sandur taluk, Bellary district. The lessee has surrendered a part area from his original lease without rehabilitating the broken up area and mined areas. The surrendered area is highly fragile and eroded to a large extent. At present the lessee has fixed his boundary by taking a reference Point A (Zebra Cement Carriers) which is fixed at the Northeast corner of the lease. This point has been fixed by leaving 200 meters gap towards the Northwest side (adjacent to the mining lease of M/s Ashwath Narayan Singh). This 200 meters gap of Forest land has been encroached by the ANS. The lessee has also extended his leased area towards the lease of M/s Chowgule's Mines. Though the lessee has surrendered the area towards the southwest of his original lease, but he continued to operate

the mining in the middle part of the leased area (marked in the sketch) which is quite clear from the Satellite imaginaries of 2006. The size of working pit (outside) has been calculated and it comes out 5.90ha.(falling outside the leased boundary). The lessee also encroached 20.64 ha. forest area for dumping purpose. Further, the lessee is enjoying the road passing through the forest to an extent of 12.57 km hence encroached 10.32 ha. in the way of road construction. Other encroachments outside the lease (stone fixed) are about 5.07 ha. The total of working pit including encroached pit have been calculated and it comes total out 41.93 ha. The details regarding total encroachments for various mining activities are provided in the sketches annexed to the report Annexure-'A' at Annexure-'A1'.

#### **Mining Lease of M/s Deccan Mining Syndicate Pvt. Ltd.**

A mining lease to an extent of 50 Acres has been granted on 20.5.1966 in favour of Motilal J. Boyal for 20 years. Lease was numbered as ML 636. Subsequently, this lease was transferred in favour of M/s Deccan Mining Syndicate Pvt. Ltd. in the year 1980 vide Govt. Order No. CI71MMM80 dt. 30.6.1980. During the renewal, 3 acres of land have been deleted and remaining 47.00 acres have been notified on 20.5.86 for 10 years at the same original location. In its second renewal notification dated 20.5.06, the original location of the leased area has been shifted to the southern side, and new lease No. was given i.e. 2525. On verification of records it is found that for shifting of location, the State Government has not taken the approval of

Central Government under the M&M (D&R) Act 1957. The lessee has not properly demarcated his lease boundary as well as no proper stones have been fixed at the interval of 20 meters. It is required to be fixed by the lessee as per the agreement. The lessee has also destroyed the "rock point" which was located at the southeast corner of the lease. This rock mark is a point where the non forest land is separated from the Forest. The lessee is working out side the leased area and formed a pit to an extent of 4.74 ha. Dump waste generated from the mine has been dumped outside the Mining lease. In total lessee has encroached about 18.07 ha of forest land as well as non-forest land. The NMDC has submitted a sketch which surrounds DMPSL leased area. The lessee is operating in two pits i.e. measuring 11.74 ha as verified from the satellite imaginaries of 2006. The details regarding total encroachments for various mining activities are provided in the sketches annexed to the report Annexure-'A' at Annexure-'A1'.

**Mining Lease of M/s Gogga Gurushanthaiah & Brothers,**  
**ML.No.1028.**

An area of 63.13ha has been granted in the year of 1971 in favour of M/s Gogga Gurushanthaiah and Brothers for a period of 30 Years to extract iron ore and Red ochre under the M&M (D&R) Act 1957. Subsequently the lease has been renewed for an area of 15.10ha for 20 Years w.e.f 27/05/2001 in Joga Reserve Forest, Hospet Taluk.15.10 ha has also been diverted under Forest (Conservation) Act 1980 vide Government order dt: 02/11/2006. The sketch in this regard has been approved by Mines and Geology and MOEF. During the survey it has

been observed that the lessee had operated the mine at different location i.e. towards the Southern side from the leased area. This has been further verified with the Satellite imagery. The detailed sketch with Satellite imagery is enclosed to the report Annexure-'A' at Annexure-'A1'. The details regarding total encroachments for various mining activities are provided in the said sketches.

**Requirement of a joint survey of Inter-State-Border between Karnataka and Andhra Pradesh by the Government of India**

During the course of this enquiry and my visit to the three districts referred to hereinabove, it has come to my knowledge that the Government of Karnataka had given three mining leases to some private parties in the area abutting Karnataka - Andhra Pradesh border while Government of Andhra Pradesh had given a mining lease to one company on the Andhra side of the border. Because of the proximity of the availability of mineral in this part of the border of two States, there has been some illegal transportation in and out of Karnataka and Andhra Pradesh, of minerals illegally mined. Therefore, during the course of my investigation itself, I had suggested to the Department of Mines and Geology to establish check points at routes available for transportation of these ores in and out of these two States to control such illegal transportation. I have no feed back in regard to establishment of any such check points. But while this report was under preparation, newspaper reports showed that serious disputes have arisen between the people operating these mines both in Karnataka as well as in Andhra Pradesh, which had lead to various

litigations has also created law and order situation. There are allegations on one side that the company from Andhra is encroaching the mining area within the Karnataka territory. While the counter allegation is that the area in which the Andhra company is mining really belongs to Andhra Pradesh. To have a first hand knowledge of the happenings in this border area, I directed Dr.U.V. Singh to inspect that area and submit a report. Dr. Singh has given a detail report supported by documents. This report is made part of Annexure-'A'. He has also given some findings. In this report of mine, I am not inclined to endorse those findings of Dr. Singh solely because the dispute is in the nature of inter-state dispute and no conclusion could be arrived at without hearing the State of Andhra Pradesh. This dispute does not confine itself to a dispute between a few companies, but, involves the territorial integrity of two States. I was informed that there is a litigation pending in the Supreme Court, but in spite of my best efforts, I have not been able to get the particulars of the same. Consequently, I am unable to comment on the same. But, I do see an urgent need that the Government of Karnataka to approach the Government of India and get a joint survey done to determine the property of the two States, so that the territorial integrity of two States are protected. Irrespective of the powers that are, my advice to the Government of Karnataka is to initiate steps in this regard at the earliest. At the same time, immediate steps should be taken to stop all mining work in the disputed area so that no loss is caused to either State, forgetting the interest of individuals.

## CHAPTER - VI

### ILLEGALITY IN TRANSPORTATION OF IRON ORE AND SOME EXAMPLES OF THE SAME

One of the major deficiency in the existing law which has become very handy for the unscrupulous miners to transport illegally mined ores, is in regard to transportation of the same. At present, iron ores mined by the persons who hold mining lease in non-forest land is being transported under a bulk permit issued by the Dy. Director of Mines and Geology. These permits are issued for huge quantity of iron ore as sought for by the lessee or his agent with a duration of thirty days at a time. In these thirty days, using the same bulk permit, the owner of the mineral or the transporter can transport large quantities of iron ore at a time in trucks or by train out of the total bulk quantity mentioned in the permit. The transporter carries a Xerox copy of the original bulk permit and transports mineral within the period of thirty days mentioned therein. There is no method by which an account could be kept by the department concerned, as to the quantity of ore transported per trip under one bulk permit. In such bulk permit, the lessee or the transporter should enter the vehicle number, quantity of mineral that is being transported in the said vehicle and the name of the stock yard from where it is being transported, as also the destination to which it is being transported. Similarly, minerals that are mined legally from forest area will in addition to the bulk permit shall carry a permit in form No. 31 issued by the Forest Department and a transport slip issued by the lessee himself. The normal practice prevailing as on today is that a booklet of empty form No. 31 having

about 50 to 100 numbers are given at a time to the lessee or the transporter by the forest officials after signing each one of those permits and putting the seal of the concerned department. Nothing else is filled in the said form No. 31 by the Forest Department and the same is filled as and when the lessee or the transporter wishes to transfer the mineral. This form does not fix any period for transportation, but that period will have to be under the time allowed in the bulk permit by the Mines Department. Consequently, even the Forest Department does not keep the account of the quantity of mineral transported and rely only on the statements made by the lessee or the transporter. The period of thirty days allowed for transporting the stocked iron ore is far beyond the required time for transporting the iron ore either from the stock yard at the mine head or any other stock yard to the railway or the ports of Mangalore, Bilakere (Karwar District) and Goa. Therefore, there is every possibility and actually it happens in reality that the same permit is used more than once for transporting different lot or ore. There is no way either the Mines Department or the Forest Department could keep a check over this malpractice. There have been instances which is reported to me from the new Mangalore Port, by the security personnel that they have found at a particular time more than one vehicle bearing same registration number carrying similar permits and transporting iron ore. There are many number of cases where such instances have been noticed by other departments like the Police, RTO etc. in respect of duplication of registration numbers. As a matter of fact, a report prepared by the Centre for Science and Environment, New Delhi and

titled as "Rich Lands Poor People – Is sustainable mining possible?" at page 194, in relation to illegality in mining and transportation of minerals in Karnataka, it is observed as follows:

*"Reports on illegal mining have also found that officials allow 3 to 4 days for transporting ore from Sandur-Hospet and Bellary Region to Mangalore and Karwar Ports, though the required period for transportation is only one day. This unduly long period is granted for facilitating more number of trips per permit, also, many licensed mine owners have encroached upon the areas beyond the boundaries of their mining area and some also carry out mining activities at different locations – all of this in forest area"*

The period of four days mentioned in this report is actually not correct, it is thirty days so far as bulk permit is concerned. So, one can imagine how many unofficial trips vehicles carrying iron ore can make carrying a copy of the bulk permit as also a form No. 31 issued by the Forest Department which is actually given to the lessee and land owner or transporter without filling any of the columns or date or destination. This is a major cause for loss of revenue to the State as also an incentive to unscrupulous miners to do illegal mining and transport the same with the aid of these permits. Having noticed this major deficiency in the system, I recommended a method of one lorry-one permit for one trip and recommended the same to the Department of Mines and Geology who brought out a permit with a hologram and a computer bar-code which would get erased during the first trip itself and the permit becomes invalid for second/subsequent use. In that system,

seven days time was granted for transportation of the ore from the stock yard to the delivery point. But, the mine owners and transporters have challenged this change in the system in the High Court and the introduction of new system has been stayed. Hence, the old system which gave room for a lot of irregularities is still continuing. Efforts should be made to get the stay vacated so that this lacunae in transport permit system is rectified at the earliest. Dr. U.V. Singh has analyzed the shortcomings of this system in one or two of his case studies and has reported thus:

**Illegal transportation of Iron Ore from the Mining Lease No.2516 of B.Kumar Gowda - (A Report by Dr.U.V. Singh)**

*A Mining Lease No.2516 of an extent of 134 Acres have been granted in Kumar Swamy state forest of Sandur range in favour of Sri. B.Kumar Gowda. As per Section 9 of M&M (D&R) Act 1957 the lessee has to pay royalty at the rate of Rs.27 per metric ton (MT) for a grade of 65 to the State Government. The State Government through its department of Mines and Geology has to ascertain the quantity and issue the bulk permits and trip sheets for the ores to be transported. The lessee should pay royalty for quantity being transported from his mine in advance. The Deputy Director (Mines) issues bulk permit for the royalty paid quantity. He/she has to keep check on the quantity transported through these bulk permits and shall also ascertain that the lessee should not transport more quantity than the permitted and royalty paid. For this purpose Deputy Director of Mines (DD) issue trip sheets and these trip sheets should be returned back for accounting purpose. In the trip sheet the lessee is supposed to write the truck number, quantity and other details. Every loaded truck shall carry the copy of the concerned bulk permit, the trip sheet and the way permit*

*(Form No.31) issued by the Forest Department and a transport slip issued by the lessee himself. The Form No.31 are issued by the Forest Department to lessee in bulk. There are various columns in this Form and in one of the column the lessee is supposed to maintain the quantity as being transported by that particular truck along with the truck registration number etc.*

*On 27.07.2008, I have inspected the mine of Sri.B.Kumar Gowda in Kumarswamy Forest Block. Some of the trucks which were carrying the iron ores from his mine head to Yashwanthnagar railway station were intercepted and checked. During the checking, it's found that a truck bearing No.KA-35/A 1495 was carrying 3 documents. i.e. a X-copy of Bulk Permit issued by the Mines department, the way permit (Form No.31) issued by the Forest Department and a transport trip sheet issued by the lessee himself. The quantity mentioned in the trip sheet and in the way permits were found different. There was no trip sheet (to be issued by DD Mines) found with the lorry. The trip sheets are being issued along with the bulk permit by the Mines Department for a specific quantity to be carried by the truck.*

*Subsequently, I have taken the print out from the Computer attached to the weigh bridge for the day i.e. 27.07.2008 for the iron ore transported to the Yashwanthnagar Fomento's Stockyard by the lessee. As per the record collected from lessee's computer (the weigh bridge maintained by Sri.Kumar Gowda's stockyard) it is found that 408 trips (lorry loads) have been made for the day (i.e.on 27.7.08). The system (software) installed in the computer is a auto run system which provides automatic net weight i.e. the net weight arrived through the system is actually the loaded quantity in the truck. Based on the computer printout attached to weighbridge it is found that 7504.88 MTs have been loaded in trucks and transported. Further, as per the way permits*

(i.e. Form No.31) issued for the trips (408) the quantity has been calculated (which is written on the way permits) and it is found that in total 6,475.34 MT have been transported if the records of Form No.31 is taken into consideration. Further, as per the "transport trip sheet" issued by the lessee himself for the 408 trips, the quantity has been calculated and it is found 5840.80 MT. The lessee has used 5 bulk permits for these trips (408). The details of the bulk permit are given as under:

Sl. No.	Bulk Permit No.	Date	Quantity (MT)	Destination	Category	Grade	Actually transported and stocked at
1	2239	18.07.08	2600	Yeswanthnagar Railway Station Kakinada	Iron Ore Fines	65	Fomento(KTK) Mining Co., Stockyard near Yeswanthnagar Railway Stn.
2	2242	-do-	2600	-do-	-do-	-do-	-do-
3.	2244	-do-	3800	-do-	-do-	-do-	-do-
4.	2249	-do-	-do-	Yashwanthnagar Railway Station, Sawathwadi, T.G.T. Goa.	Iron Ore Lumps	-do-	-do-
5.	2253	-do-	-do-	Yashwanthnagar Railway Station, Sawathwadi, T.G.T. Goa	-do-	-do-	-do-

On perusal of above bulk permits the following observation are made.

1. The Deputy Director, Mines has issued 18 bulk permits on dt.18.7.08 for destination via Yashwanthnagar Railway Station to Kakinada and Sawathwadi T.G.T, Goa. Some permits are issued for 2600 MT and others for 3800 MT.

2. *Out of the 18 permits, the lessee has used 5 bulk permits for the transportation of 5804 MT (as per lessees "transport trip sheet") to Yeshwanthnagar stock yard.*
3. *The Iron Ore transported from B.Kumargowda mines has been unloaded at Stockyard maintained near to Yashwanthnagar Railway Station and managed by the M/s. Fomento (Karnataka) Mining Co., Private Ltd., a raising contractor.*
4. *The bulk permit are not accounted and recorded in none of the records used for transportation hence kept open to use it again and again without any limit. With such arrangement, the (x-copy) bulk permits can be used for any quantity.*
5. *No separate stocks for individual bulk permit are maintained either at mine's head or at Stockyard near Yashwanthnagar Railway Station.*
6. *The iron ore transported by using 5 bulk permits can't loaded in five different Goods Trains in a single day.*
7. *The lessee has used X-copy of 5 bulk permits haphazardly without having separate identity. There could not be check whatsoever on the transportation by using the X-copy of bulk permits in this manner.*
8. *There are no trip sheets issued for this quantity (quantity to be transported by using 18 bulk permits) and due to lack of this it is not possible to arrive at a conclusion for a particular bulk permit the quantity transported against it.*

*The Mine Manager Shri Srinivas Rao was present during the entire course of inspection. The Mines Manager told me that the Iron Ore is transported to a stockyard near*

Yashwanthnagar railway station. With this information, I also inspected the stockyard belonging to Fomento (Karnataka) Mining Co., Private Ltd., The entire quantity transported through the 408 trips have been weighed at the weigh bridge of this stockyard also. A print out from the computer has been taken and quantity is summed. The quantity comes out 7376.44 MT.

At the weigh bridge of BKG Mines, some printed slips (through computer) were also found which were printed by writing the Vehicle Number, Source, Destination, Date, Time, Gross Weight and Net Weight. These slips are meant for to be carried along with the lorry loads. The Net weight recorded on all these trip slips (16 in numbers) ranges from 10.45 MT to 16 MT i.e., quite below to the carrying capacity of the trucks. On the above observations the following is concluded.

1. The quantity transported in real terms by 408 trips (lorry loads) to the stockyard maintained by Fomento (KTK) Mining Co., Pvt., Ltd., is more than the quantity for which the royalty is paid. Hence, there is illegal transportation of Iron Ore which has resulted to huge loss to the State Government.
2. The summary of the transportation and loss to Government for the iron ore transaction on 27.7.08 is as under.

Sl. No.	Total No. of trips (Lorry loads)	Actual quantity transported (MT)	Total quantity recorded in Form No.31(MT)	Total quantity recorded in transport trip sheets by lessee (MT)	Difference (MT) (3-4)	Difference (3-5)	Loss to Govt. (Rs.lakhs) @ Rs.2400/MT
1	2	3	4	5	6	7	8
	408	7504.88	6475.34	5804.80	1029.54	1700	40.80

*Net loss to State Government for one day transaction from the said mines is about 40.80 lakhs.*

- 3. Violation of Transit Rule 149 (1) of Karnataka Forest Rules 1969 by making false entries for less quantity of iron ore if compared with the actual quantity loaded in the trucks.*
- 4. The lessee has given his lease to a raising contractor M/s. Fomento (Karnataka) Mining Co., Private Ltd., which is nothing but a Sub-Lease of the Lease without prior approval by the State / Central Government.*
- 5. Bulk permits are issued for the different destination via Railway Station but in reality the first destination is stock yard near Yashwanthnagar Railway Station and ores are transported through trucks.*
- 6. In fact the adopted system hire in is a totally ambiguous and non-transparent and require immediate intervention to safeguard the state resource.*

*It is further observed that the Fomento (Karnataka) Private Ltd., is having a stockyard near the Yashwanthnagar Railway Station. This stockyard is been used for the stocking of iron ore transported from three more mines. i.e. SKMV, VNK Menon and VESKO. It is learnt that the Fomento (Karnataka) Mining Co., Private Ltd., is a raising contractor for all these mines.*

*It is also noted that the lessee is transporting the ores to the stock yard instead to Railway Station as being mentioned in the bulk permit. By storing at Stockyard and then loading to Goods Train the iron ores cannot be checked for the permitted quantity. It is evident*

*from the quantity actually transported and recorded in various records. The Mines and Geology Department has facilitated to lessee to commit such irregularity i.e., by issuing many bulk permits to the different destination ignoring the transportation to stock yard through trucks without issue of trip sheets. The bulk permits are not accounted in any of the records related to transportation. Hence numbers etc., nothing could be arrived to a conclusion for the quantity for which a particular bulk permit is used and how much quantity is yet to be transported for the said bulk permit.*

My conclusions in regard to the irregularities and illegalities are reflected in the concluding chapter of this report. Regarding irregularities committed by the concerned officers, a further report will be submitted.

## CHAPTER - VII

### The Effect of mining on Roads and Environment

As briefly noted herein before in this report, I experienced, having travelled in NH 17, 48 and 63, as also by my visit to the three districts named above, that how these roads apart from the other arterial roads leading to these National Highways have been damaged, because of the excessive use of over-loaded mineral laden lorries and consequential loss that has been caused not only to the State but also to the travelling public. I had requested the Superintending Engineer, Karnataka Lokayukta to give me a note on the cost of maintenance of these roads in normal circumstances as well as in the present circumstances where the mineral laden lorries used these roads. As stated hereinabove, these lorries carrying mineral specially use NH 17 to reach new Mangalore Port and NH 48 to reach Goa and Karwar. NH 63 is used to connect NH 17 and NH 48 from Bellary and Hospet. The report submitted by the Superintending Engineer, Karnataka Lokayukta states that the National Highway is designed to carry load as per the recommendations of the Indian Road Congress (IRC). It is stated in the said report that a normal single rear axle lorry is permitted to carry 16.2 tones gross vehicular weight and a two rear axle lorry is permitted to carry 25.00 tones load. Note also specifies that in practice, these vehicles are found to carry iron ore and granite blocks upto 25 tones in a single axle lorry and upto 35 tones in a double axle lorry and according to the said note of the Superintending Engineer, the traffic census of these vehicles in NH 17 alone shows the over-loading lorries

as to 3 to 4 thousand per day. Whereas Dr.U.V. Singh's report shows that from Bellary and Hospet to NH 17, 63 and 48, the volume as 4 to 5 thousand over loaded vehicles ply per day at least. The note of the Superintending Engineer supra shows that the National Highway undertakes renewal work of 25 MM - 40 MM thick overlay for which they fix the life of three years duration and if this quality has to improve, then the fixing of overlay should be 75 mm and this type of work cost Rs. 18 lakhs or Rs. 40 lakhs per Km depending upon the expected life (duration). The said note also points out that as per IRC guidelines, if commercial vehicles ply more than 1500 per day, damage factor (VDF) comes to 4.5, but, if as is the traffic load these days, if more than 3,000 over loaded lorries ply on these roads, damage factor comes to more than 8. Consequently, these highways develop cracks prematurely, thus causing huge financial loss. One of the examples that could be connected here based on the recent newspaper report is that NH 48 at Shiradighat area which was repaired recently, i.e. about six months back at a cost of crores of rupees has already damaged so badly and the passenger transportation has almost come to standstill in this road. Fate of NH 63 and NH 17 is no better. Neither the lessees who own the mines nor the transporters have no concern whatsoever for the condition of these roads and it is relevant to mention at this stage itself that the officials of the Department of Mines and Geology, Road Transport, Police are conniving in permitting over loaded lorries in plying in these roads without any hindrance. It is of common knowledge that because of number of lorries that are involved in transportation of the ore and lack of experienced drivers, as also the

hurry in completing the journey both ways, the rate of accidents in these roads involving mineral carrying vehicles have become very high. These vehicles not only cause damage to the roads, are also part of the system to carry illegally mined unaccounted mineral without paying any royalty. They cause heavy financial loss to the State. It is reasonable to presume that if any load of mineral in a lorry consists of illegally mined non royalty paid mineral, at least about 10 tones in either type of lorries on a reasonable estimate would cause a loss of Rs. 220/- per lorry i.e. taking the loss of royalty at Rs. 22/- per metric tone. This would come to Rs. 6,60,000/- per day if the volume of transport is taken at 3,000 and Rs. 8,80,000/- per day if the number of lorries is taken as 4,000. This calculation is confined only to over loaded transportation of non-royalty paid mineral and if the whole load in the lorry is non-royalty paid, one could imagine the quantity of loss suffered by the Government, by way of royalty evasion and as also damage to the roads. No attempt whatsoever has been made by any of the concerned department, to plug the possible loss of revenue in this type of illegal transportation of mineral. Apart from the above loss, right through the route of transportation, the environment is damaged by flying dust of mineral ore, because the authorities have permitted transportation of mineral in open bodied lorries. In some cases, for namesake a mini sheet of plastic is placed on top of the load to hood wink the people as well as the authorities. A visit from Hospet or Sandur to Goa, Karwar or Mangalore, by the route taken by these lorries, would clearly indicate the damage to the environment including the water bodies. Dr. U.V. Singh has rightly pointed out that

how clear water even in the rivers are polluted by these lorries while cleaning them in the rivers, as could be seen in the photographs produced.

Commenting on the damage to the environment, the report of the Centre for Science and Environment referred to herein above has stated, thus:

***“Bearing the brunt: People and the environment***

*Large expanses of barren land and open, watery pits. Dust-laden, sooty air, Grim-faced and grimy workers. Busy lines of trucks, bulldozers, excavators... usually, the abiding image of mining is one of monochromatic aridity and industry – indicative of what mining does to the landscape. But under this image and extending from it lie hundreds of other stories of how mining affects us: stories of human tragedy, environmental disaster and policy failures.*

*Mining requires land – mostly, land belonging to indigenous and marginalized people – and land appropriation leads to displacement. Entire villages and communities are uprooted, their livelihoods and lifestyles destroyed, leaving them economically “worse of than before” and psychologically traumatized. Rehabilitation and compensation are distant dreams at best, and leave out a vast population of landless and tribals who have no legal claims to land.*

*The effects on environment are as severe. Miners enjoy almost unhindered access everywhere: there is no moratorium on mining anywhere in the country. The results have been catastrophic: thousands of hectares of forests – including*

*protected areas – razed, pristine water sources throttled and polluted, farmlands turned into barren stretches, the air turned rank with mineral dust, and human health held hostage to a variety of mining – induced disorders.*

*The havoc, of course, doesn't stop with this. Post-mining, mountains of waste have completely transformed landscapes and are slowly poisoning everything they come in contact with. On the other hand, mineral-based industries like sponge iron are taking the devastation further a field.*

*One would argue that mining's impacts, severe as they are, are perhaps inevitable and unavoidable. Especially so for a nation like India, which has consciously accepted displacement and environmental damage as small prices to pay for the 'greater good of the country'. But this chosen one-track path to progress is leading the nation towards the edge of a deadly precipice, beyond which lurks strife and civil war. Equally inevitable and unavoidable if we don't rethink our options".*

Whatever is commented in the above report, aptly applies to the adverse effect of mining in Karnataka also. Dr. U.V. Singh's report also refers to this malady in the mining activities in Karnataka.

The report of Dr. U.V. Singh in this regard is extracted below.

**"Impact of mining activities on Biological, Socio-economic, Air, Noise and Water Environment in Bellary, Hospet and Sandur (BHS) Region**

*The geographical area of Bellary district is about 9885 sq.km. out of which 698 sq.km. is forest area and remaining area is the agricultural and waste lands. 17.6% of the total forest*

area is dense forest mainly found in Sandur and Hospet Taluks. Maize, Bajara Grams, Onion, Groundnuts and some other millets and pulses are the major crops grown in the valleys and hill's slopes in Sandur and Hospet taluks in patta lands. The impact of mining on the abiotic factors is quite high. The abiotic factors are influenced and altered to a great extent due to mining and related activities. This would result in threat to change in the composition of natural biota in the ecosystem due to change in the abiotic factors. This has also been observed in the study carried out by NEERI in this region wherein it was noticed that Simpsons Diversity Index (SDI) is quite low near mining areas (0.062) if compared to the maximum SDI found in Thimmappanagudi and other forest blocks.

To maintain a sustainable ecosystem there is a need to maintain the homeostasis of all the environmental factors (abiotic and biotic) and any change in this would lead to stress on the ecosystem. Due to direct influence of mining there would be variation in abiotic factors like air, water, soil, temperature, humidity etc. and it would lead to change in composition of the species. Hence in this region, in the near future the composition of natural species would definitely get altered and slowly some exotic would replace the natives. The mining activities disturb the natural settings mainly induced by machinery used in mining, transportation, blasting, soil and water erosions etc. Due to increased mining activities the disturbances in natural settings have already been set in motion and it would be too late to control the damage if it is not stopped forthwith. The mining was at a low rate in the last four decades (1960 to 2000) but has increased many folds due to "China Boom" in recent past and present.

*Due to increase in the ore production which is approximately four times in this year if compared to the production of the year 1999-2000, the impact of mining has also increased accordingly. It is to be noted here that the recent sudden increase in ore production in some mines like SKME, VESCO, VNK and HGR, around the forest rest house valley, the impact is well noticed. This valley has been declared as Medicinal Plant Conservation Area (MPCA) having the maximum numbers of medicine plant species. The movement of vehicles through the road passing this valley from the mine head of SKME, VESCO, VNK, HGR and other mines to Railway stock yards and other places have led to increase in SPM (Suspended Particulate Matter). Further addition of any mine in the surroundings of this valley would result to reverse the ecosystem of the valley. This valley is a paradise of the National bird, the Peacock. A similar state is also in the offing and being reflected in many other similar valleys and hillocks of NEB, Kumaraswamy, Ramanamalai and other forest blocks.*

*As per the NEERI report of Ballary, Hospet and Sandur (BHS) region, a total of 194 plant species were recorded, out of this, 90 are tree species, 36 shrub species and 68 herb species. There are 61 plant species (28 trees, 23 herbs, 10 shrubs) having medicinal properties found in this region. This comes out 30% of total plant species. Conservation and preservation of species in balancing mode are most important in forest areas because each and every species is having its own ecological niche and they are related one or the other way in eco-system through food chain. Since the ore production has increased more than four times since 1999-2000, the impact of mining has also increased accordingly on the forest, agriculture, aquaculture and human*

*life. It has been observed that SDI is reducing in the areas where the mining activities are more. Continuous serial stretches of mines on its hill tops in Ramdurga block, NEB block and also in other blocks have brought a sea change in the surrounding ecosystem. It is observed that most of the lessees are using exotic species for planting to rehabilitate the dumps and also other leased area, thereby creating monoculture and resulting to change the existing ecosystem in near future. A sizable numbers of wild animals comprising 16 species of mammals, 145 species of birds, 9 species of reptiles have been reported by the NEERI in its study during 2001-02. All these species are now at run due to noise, air, water and soil pollution generated through mining and related human disturbances. The continuous mining activities in nights have further added fuel to the fire to desert wild animals from the forest area.*

*The fine dust generated due to mining activities including transportation, fall on the flowers, fruits, leaves etc. and inhibit setting of seeds would result to loss of biodiversity of the region.*

*The air environment in the BHS region has been highly affected due to mining activities. The quality of ambient air depends upon the concentrations of specific contaminants, the emission sources and meteorological conditions. The mining activities including heavy loaded truck transportation of iron ores do make great impact to these factors. In BHS region the arterial network of roads which is compounded by adding of 181k.m. mined roads and continuous serial stretches of mines in Ramandurg, NEB and other forest blocks have almost destroyed the entire fabric of forest ecosystem and agriculture in the area. The entire area of NEB, Ramandurg, Swamymalai, Donimalai*

*and other forest blocks are affected at highest order. All the roads leading to mines from PWD roads are "kachcha roads", the movement of vehicles on these roads result into generating fine dust and it spreads and covers the surrounding forest and agriculture fields upto more than 500 meter all along the roads. Dust clouds cover the forest tree species, agriculture crops fully. Due to dust fall the colour of the trees looks reddish-brown instead green even in the rainy season. The agriculture crops get affected all along the so called mettled roads. Due to movements of over loaded trucks the roads are heavily damaged and the speed of the vehicles doesn't go beyond 10 to 20km per hour. This leads to further increase in traffic on roads especially at nights.*

*As per the study carried out by NEERI the Suspended Particulate Matter (SPM) and RSPM concentration was found quite high in the air throughout the year when the production was 12 Million tones in this region. Now the impact could be imagined in the region when the production has touched to 42 million tones and more.*

*Mushrooming of stock yards all along the roads have further added the impact manifold. Stock yards (legal or illegal) are formed almost on all the roads in Sandur Taluk and part of Hospet Taluk. In stock yards all the activities related to mining are repeated except blasting. The same results in further aggravated pollution and health hazards. The stock yards near the vicinity of human habitation have added to the ultimate pollution of all kinds and the voiceless suffering of the community are at peak.*

*The heavy metals in Suspended Particulate Matter (SPM) have been reported in this region. The main heavy metals reported in BHS region are Mn, Fe, Pb, Ni, Cd etc. These heavy metals affect the health of human being in two ways.*

- *Penetration of fine particles containing heavy metals through the respiratory tract and lung tracheoles.*
- *Heavy metals act as nuclei which may initiate gas-to-particles conversion reactions, results to increase the concentration of fine particles in the atmosphere.*

*The villages and towns having sufferings due to the dust and other environmental hazards generated by mining and transportation activities are: Bellary, Hospet, Sandur, Kalahalli, Sidhapur, Vdrahalli, Moriammahalli, Gollarahalli, Ramgad, Gundlavaddigeri, Venkatagiri, Sushilanagar, Somalapuram, Rajapura, Taranagar, Ranjitpura, Bommagatta, Devgiri, Mutulkunta, Nandihalli, Naganhalli, K.S.Temple, Swamihalli, Basappa Camp, Haraginadona, Tumti, Vittalpur, Dharmapuram, Bhujanganagar, Oblagundi, Papinaikanahalli, Karrignur, Belgallu and all other villages on the road and at the vicinity to the mines. The impact is also felt even in the villages of adjoining taluks.*

*Due to mining activities and allied industries there is a multifacial development in BHS region. The developmental factors have brought socio-economic and cultural change in the region. There may be certain monetary and employment gain to the locals but the socio-cultural environment in the region has adversely affected due to immigration of labours from various States like Assam, Bihar, Orissa, U.P., Rajasthan, Tamil Nadu, Andhra Pradesh and also from other States. The influx of*

*floating population due to migration of labours has put a lot of pressure on the infrastructural facilities such as water, road, sanitary, residence and others. There has been shortage of housing for the weaker section of the society and adhoc slums have come up in almost all the villages and towns in this region. The sudden increase in the number of vehicles especially the trucks in and around the villages have occupied the open spaces in the villages and created unhygienic living conditions. The quality of life index (QOI) was around 0.4 during the 2001-02 when the production was around 12 million tones. Since then approximately four times increase in the production of iron ores in the same area, the QOI has further degenerated.*

*The local people of the community are "keen observers" to the money flow due to mining mainly after "China Boom". There have been increases in the social unrest and due to this, lower class people have resorted to the illegal mining activities at a large extent in the private holdings (patta lands), Government land and in forest land. The illegal mining activities at nights have increased manifold. To operate illegal mining in the distant places the temporary settlements in the remote areas have come up by raising poly huts by the migratory labourers. Their living condition in these huts are pathetic and beyond imagination. The middlemen ship has increased due to easy money making. Illegal transaction of unaccounted money has increased. This is not only causing loss to the State Exchequer but also creates a lawless society in the region.*

*Due to increased mining activities in the region the community health is shattered i.e., poor sanitation, intestinal/enteric related disorders, political and social violence,*

*working injuries, alcoholism, STDs, prostitution, traumatic injuries, skin diseases, lung cancer, malaria and other communicable diseases are prevalent. Because of bad air quality the decease related to respiration has increased and skin deceases are at large. Due to Influx of migrated labourers, tremendous biotic pressures have been caused on the forest. The theft of fuel would have increased resulting to loss of tree density and biodiversity. There is social unrest in the region due to immigration of labourers, (skilled, unskilled) machinery (trucks, other machines used in mining) hundreds of iron ore related trading/transportation Companies (registered and unregistered) in Hospet, Bellary and Sandur Towns. Detail investigations into the economic affairs in such Companies should be taken up independently.*

*The iron ore production has increased and crossed to 42 million tones in the year 2007-08 in Bellary district. Accordingly the activity involving in the production of lumps, fines, calibrated ores and transportation has also increased. The use of heavy machines has been increased manifolds. The increase in crushers at mine heads, stock yards and many other places which are working round the clock, the noise pollution have crossed all limits. The trucks movement on hilly areas, bad roads and movement mainly in nights, the peace of the area has been completely lost. Most of the villages in Sandur, Hospet and Bellary Taluks and also beyond, which falls on the "iron route" are highly affected. The impact of the movement of vehicles is felt up to Sea course in western and eastern part of the plateau. The roads in Western Ghats have been completely destroyed due to the movement of iron ore loaded heavy duty trucks.*

*In the BHS region the equivalent noise level (EQL) have exceeded to CPCB standards in all the residential, commercial and silence zones. Due to mining activities the traffic density in the region has been increased. Hours together, traffic jams in the region is common in towns. Installation of heavy machinery in the mines use of heavy duty vehicles in transportation, the occupational hazard due to noise pollution has increased to alarming stage.*

*The noise level in human settlements upto 2 km away from roads and mines has crossed the threshold level. The high level noise pollution is resulting into deaf and psychological disorders. The major noise generating sources are Dumpers, Excavators, Loaders, and Vibrators, Drilling Machine, Trucks and other machines used in mining activities.*

*The forest topography of the BHS region is highly undulating and now traversed with "kachcha mine roads". The hill ranges of Sandur are ranging from 900m to 1100m altitude while the adjoining plain areas are at an elevation ranging from 550 to 690m. The local topography has a significant effect on the climate of the region. The temperature remains in between 10°C to 44°C with an annual average 28°C. The relative humidity varies from 35% to 68% with an average of about 50%. An average rainfall is around 700mm per annum. Major rainfall comes from southwest monsoon while about one-fourth from northeast monsoon but not regular.*

*The drainage pattern of Sandur hills of southwest and northwest terminates into small local ponds and hence do not confluence with regions bigger surface water bodies. This has resulted into local water body pollution and localized impact.*

*Part of the run-off from the hilly watershed is carried away through Narihalla then to Ubbalagundi and Bhimanagundi gorges and ultimately to end into Daroji tank. The Narihalla and Daroji tanks receive larger portion of silt generated from the surrounding hills due to mining. The lives of these tanks are at high risk. Average annual precipitation is about 700mm, spread over rainy 40 days of 8 months in a year. Hence, there is direct impact of mining in the Narihalla tank, Daroji and other surface water bodies.*

*Surface water body's physical qualities get affected by soil erosion and sedimentation, a specific impact due to overburden dumps, whereas chemical quality get affected due to soluble elements and intensive truck washing. Depending on characteristics of overburden material, especially, where overburden spoil surface are high in pyrites the mineralized leachates from these dumps contaminate the water body with pollutants viz. heavy metals, sulphides, fluoride and other cations and anions. Excessive concentration of chemicals render it unsafe and unsuitable for designated uses. Run-off from graded or ungraded spoil surface also get altered chemically the water body quality. This happens due to undesirable overburden materials are disposed off close to and above the mined areas.*

*It is commonly known that factors like surface hydrology, soil texture and terrestrial vegetation are controlled by the groundwater regime. Mining explorations if conducted below the water table, groundwater mine would be intercepted by the open cut, pumped out or lost by evaporation, and the water table will be lowered in the adjacent areas. This could result in dewatering of wells within a radius of few kilometers of*

*the mine depending upon the internal land structure. Frequent and deep mine in the region would cause a irrecoverable loss to soil moisture of the hills which are responsible to support the forest vegetation in this area.*

*The groundwater quantity would also be affected after mining is closed and reclamation done, if the mine is located in a groundwater recharge zone. The recharge characteristics would get affected by the backfill material, if it differs from the original characteristics of top soil and overburden of leased area. Hence the effect of mining is long lasting.*

*The iron ore mines in the district are of open cast type and there are no direct discharges of wastewater generated from the mining activities (washing). Except the mine of National Mineral Development Corporation (NMDC) at Donimalai, no other mine involve in washings of ore. Most of the mining operations involve dry crushing, sizing, sieving, storage, transport and dumping of overburdens, rejects etc. During monsoon, the fine material from dump site gets carried away along the hill slopes through surface run-off and find entry into the nearby surface water body, viz. dam, irrigation pond, through small streams. More than 100 mines of iron/manganese ores are located in BHS region which are responsible for erosion and transport of sediment to external drainage systems and become a potential threat. The magnitude of the problem is governed by the length and stability of this zone slopes or graded areas. The high frequency and intensity of rainfall is causing the erodability of spoil surface materials and the types and density of vegetative cover on reclaimed area. Groundwater pollution has arisen in this region mainly from the top soil and overburden material containing soluble chemical constituents of heavy metals. These chemical*

*constituents are getting leached away by the precipitation and percolation into the groundwater, thus polluting the nearby groundwater sources and rendering them unfit for human consumption. Most of the lessees have not taken up the work to stabilize the overburden and other piles. The run off from the mining area and from waste dumps are not arrested by creating cemented check dams, retaining wall etc.*

*There are about 4500 to 5000 trucks involved in transportation of iron ore in BHS region. These trucks are being regularly washed at tanks, nalha, and other surface water storage bodies in the forest.*



*In this act of working, the dust, oil and grease containing heavy metals like lead (Pb) etc. get mixed into the water. This results in water contamination in nalhas, natural streams and other water bodies in the forest area and affects the wild life directly. This is a very dangerous trend and will have to be stopped forthwith.*

My conclusions in regard to the aspects discussed in this chapter are reflected in the concluding chapter of this report along with my suggestions and recommendations.

## CHAPTER - VIII

### ISSUE OF TEMPORARY TRANSPORT PERMITS TO LIFT AND TRANSPORT ORE, ILLEGALLY MINED FROM PATTI LANDS

Another matter referred to by the Government to the Lokayukta for investigation is to:-

*“fix the responsibility and initiate suitable action against all public servants including Ministers, whether in office or otherwise, for having granted mining and transportation permission of major minerals from Patti Lands without valid mining lease.”*

In regard to the above allegation Sri Gaikwad team has submitted its report which is marked as ANNEXURE-B.

2. The law pertaining to mining operations including excavation, storage and transport of minerals requires that all the above activities are in accordance with the terms and conditions of a mining lease granted under the M&M (D&R) Act and M.C Rules framed under the M&M (D&R) Act by the Central Government - vide Section 4(1) and 4(1A) of the M&M (D&R) Act. According to Section 4(2) of the M&M (D&R) Act, no mining lease shall be granted otherwise than in accordance with the provisions of the M&M (D&R) Act and M.C Rules. The authority to grant mining lease is vested in the State Government subject to the terms and conditions specified in the M&M (D&R) Act and the M.C Rules. If the lease relates to a private patti land, prior consent of the land

lord is necessary -vide Pallav Granites V/s. Government of Andhra Pradesh (AIR 1997 SC 2098). If the mining lease in respect of a mineral specified in the First Schedule to the M&M (D&R) Act is to be granted, prior approval of the Government of India is necessary- vide proviso to Section 5(1) of the M&M (D&R) Act. For preventing illegal mining, storage and transportation of mineral, Section 23-C was introduced in the M&M (D&R) Act in 1999, empowering the State Government to make Rules for establishment of check posts for checking minerals in transit, regulating transport of minerals from the area covered by the mining lease, inspection, checking and storage and search of minerals at places of excavation, storage or during transit, maintenance of registers, forms, etc. No Rules have been framed in exercise of this power, till the matter was referred to Lokayukta for investigation.

3. Rule 27 of the M.C Rules specifies the conditions subject to which a mining lease shall be granted. Rule 31 of the M.C Rules provides for execution of a mining lease deed and a pro-forma of the mining lease deed to be executed by the lessees is annexed to the M.C Rules - vide Form K of Schedule I to the M.C Rules. It is said that in exercise of the powers conferred by sub-rule (3) of rule 27 and clause (iii) of rule 45 of the M.C Rules the State Government has inserted in all mining lease deeds clause 3A in Part V of Form K pro-forma of mining lease deed providing for issue of transport permits to lessees which reads thus:-

*“3A The lessee/lessees shall not remove any ore or mineral from the leased area except under and in accordance with the conditions of a permit issued by the Director Mines and Geology in Karnataka on payment by the lessee/lessees of the royalty due on the ore or minerals”.*

Form K, including aforesaid clause 3A, of Schedule I of the M.C Rules, being part of the statutory rules, has the force of law. Clause 3A authorizes the Director (now designated as Commissioner) of Mines and Geology (in short Director) to issue transport permit in favour of a lessee. The M.C Rules have not specified any form of the transport permit. Hence the Director is free to adopt a suitable form which is not inconsistent with the M&M (D&R) Act and M.C Rules. Clause 3A does not provide for issue of transport permit to a person other than a lessee to transport ore or mineral extracted without a mining lease. Whether the permit under clause 3A could be issued only by the Director or he could direct one of his subordinates to issue a permit is not free from doubt because there is no provision in the M&M (D&R) Act or the M.C Rules which authorizes the Government or the Director to delegate his powers under clause 3A. Section 26 of the M&M (D&R) Act deals with delegation of powers. Therefore, it should be held that at present the Director is not authorized to delegate this power to his subordinates. I think because of the magnitude of work this power of delegation should be given to the Director.

4. Any person, including the owner of the land, undertaking mining operation without a mining lease is guilty of an offence punishable under section 4(1) r/w section 21(1) of the M&M (D&R) Act. Transportation or storage of ore or mineral or causing it to be transported, without a transport permit, is an offence punishable under section 4(1A) R/w section 21(1) of the M&M (D&R) Act. Granting transport permit in respect of ore or mineral excavated without a mining lease to a person would be an offence punishable under section 4(1A) R/w. Section 21(1) of the M&M (D&R) Act. Failure to prosecute a person who has excavated ore or mineral without a mining lease and to seize or collect the value of the ore or mineral so excavated as well as failure to collect rent, royalty or tax from such person as provided in section 21(4), (4A) and (5) is also a misconduct punishable in disciplinary proceedings.

5. In 2004 the then Director Dr. M. Basappa Reddy ordered his subordinates to issue transport permits to 82 applicants who sought permission to transport floating iron/manganese ores from their patta land. In those 82 cases, the Director received the applications from the pattadars or their agents directly and the Director on his own, decided to issue permits and directed his subordinates to issue the permits and those subordinates issued permits in 41 cases and transportation of ore or mineral has taken place in those 41 cases. Remaining 41 cases were in different stages of process when the said Director attained superannuation on 31<sup>st</sup> October 2004. After the retirement of Dr. Basappa Reddy, Sri Yogendra Tripathi, IAS took

over as Director. He reexamined the position of law in regard to granting permission either to gather mineral in patta lands or to transport such minerals from patta lands. He came to the conclusion that such permission or sanction was in contravention of the provisions of sections 4(1) and 4(1A) of the M&M (D&R) Act and Rules 22, 24, 31, 45 and 46 of the M.C Rules. In this background, he issued memorandum dated 19/20.11.2004 to all the Deputy Directors and Senior Geologists of Mines & Geology Department directing them to withdraw the permits so issued and not to issue any further transport permits. Accordingly, the territorial officers issued notices withdrawing sanction orders issued by the earlier Director and called back the permits they have issued. That order of the Director was challenged by many affected persons. The court quashed the order on the ground of not following the principles of natural justice and remanded the matter with a direction to issue a show cause notice to the applicants and to pass fresh orders within two weeks after considering the objections, if any, received from the applicants. In the meantime, one Sri S. Ramesh, a former Minister of Government of Karnataka, wrote a letter dated 22<sup>nd</sup> November, 2004, and another without date, addressed to the Hon'ble Chief Minister of the State on the subject of cancellation of transport permits issued. In the said letter, he stated that in the patta lands that are lying adjacent to the mining lease areas, iron ore is accumulated and to render such lands fit for cultivation, the iron ore lumps are picked and taken out by the pattadars. He further stated

that the iron ore lumps and fines so accumulated are to be removed from the area to facilitate agriculture. Therefore, he requested the Chief Minister to continue the procedure of sanctioning transport permits for transport of such iron ore from such patta lands. Sri N. Dharam Singh, the then Hon'ble Chief Minister, on the basis of the request made by the said Sri Ramesh, called for the file from the Commerce & Industries Department. Narrating the facts of the case, Smt. Latha Krishna Rao, Secretary, Commerce and Industry placed the file for the perusal of Hon'ble Chief Minister, with the following note in para 20 n.f.

*"20) May please see note from Principal Secretary to CM at page 10 c/f. Former Director had issued 63 permits for the transportation of Iron ore in Bellary, Belgaum, Chitradurga, Chikmagalur and Dharwad districts. Under Rules 22 to 24 and 31 of Chapter IV and Rules 42, 44, 45 and 46 of Chapter V of Mineral Concession Rules, 1960, no permit can be issued for transportation without lessee having a valid mining lease. Since no mining leases have been applied for nor granted in the case of the above permit holders, the above permits are cancelled by the Director on 13.01.2005. (Emphasis supplied) Of the 63 permit holders 23 permit holders of Bellary district have approached the High Court. The High Court while upholding the action of the Director in canceling the permits has directed that an opportunity of hearing be provided to the petitioners. All the petitioners were served with notices and only 10 of them appeared before the Deputy Director, Department of Mines & Geology, Hospet. The above facts are placed before the Hon'ble CM*

for information on the action taken by the Department to curb illegal mining practices. Several of the petitioners have been requesting for revocation of the cancellation order and they have been advised to immediately apply for grant of a mining lease

(Sd)  
Secretary C & I Dept"

The Chief Minister made the following note (order) on 2-7-2005 in paras 21 to 23 n/f of the file.

"21. ಕಡತದಲ್ಲಿನ ವಿಷಯವನ್ನು ಅವಗಾಹಿಸಿರುತ್ತೇನೆ. ಮನವಿದಾರರ ಹೊಲದಲ್ಲಿ ಕಬ್ಬಿಣದ ಅದಿರು ಮತ್ತು ಪುಡಿಯ ಅಂಶ ಹೆಚ್ಚಾಗಿ ಇರುವುದರಿಂದ, ಈ ಭೂಮಿಯಲ್ಲಿ ವ್ಯವಸಾಯ ಮಾಡಿ ಬೆಳೆಯನ್ನು ಬೆಳೆಯಲಿ ಸಾಧ್ಯವಾಗದು. ಆದಕಾರಣ ರಾಜಧನವನ್ನು ಪಾವತಿಸಿ, ಕಬ್ಬಿಣದ ಅದಿರನ್ನು ಸಾಗಿಸಲು ಪರವಾನಗಿ ನೀಡಿರುವುದು ಕಂಡುಬರುತ್ತದೆ.

22. ನಿಯಮಾನುಸಾರ ಗಣಿಗಾರಿಕೆ ಗುತ್ತಿಗೆ ಪಡೆದು, ನಂತರ ಅದಿರನ್ನು ಸಾಗಿಸಲು ಪರವಾನಗಿ ಪಡೆಯುವಲ್ಲಿ ವಿಳಂಬವಾಗುವ ಸಾಧ್ಯತೆಗಳಿರುವ ಕಾರಣ, ತಮ್ಮ ಜಮೀನಿನಲ್ಲಿರುವ ಕಬ್ಬಿಣದ ಅದಿರನ್ನು ಸಾಗಿಸಲು ಈಗಾಗಲೇ ಆದೇಶಿಸಿರುವಂತೆ ಮನವಿದಾರರಿಗೆ 6 ತಿಂಗಳ ಕಾಲಾವಕಾಶ ನೀಡಬಹುದು. ಅದಿರನ್ನು ತೆಗೆದು ಸಾಗಿಸಲು ಅನುಮತಿ ನೀಡದಿದ್ದಲ್ಲಿ, ಅದಿರಿನ ಅಂಶವಿರುವ ಭೂಮಿಯಲ್ಲಿ ವ್ಯವಸಾಯ ಮಾಡಲು ಸಾಧ್ಯವಾಗದು. ಆದಕಾರಣ, ಏಕ ಕಾಲದ ಕ್ರಮವಾಗಿ (One time measure) ಅದಿರನ್ನು ಸಾಗಿಸಲು ಅನುಮತಿ ನೀಡಲಾಗಿದೆ. ಜೊತೆಗೆ ಇವರುಗಳು ಗಣಿ ಗುತ್ತಿಗೆ ಪಡೆಯಲು ಸರ್ಕಾರಕ್ಕೆ ಅರ್ಜಿ ಹಾಕಿಕೊಳ್ಳುವುದು.

23. ಈ ಮೇಲಿನ ಆದೇಶದಂತೆ ತಕ್ಷಣವೇ ಕ್ರಮ ಕೈಗೊಳ್ಳುವುದು.

(Sd)  
Chief

Minister"

In reply thereto the then Secretary Smt. G.Latha Krishna Rao, IAS made the following note at paras 24 to 28 n/f of the file and sent back the file to CM on 5-8-2005 requesting him to review the earlier note made by him as it is not in accordance with law.

*“24. In paras 21 to 23, it has been mentioned that to enable the pattadars to cultivate their land they were allowed to remove the float ore on their patta lands. Further permission to remove and transport the available float ore for a period of 6 months has been ordered by the Chief Minister as one time measure.*

*25. All minerals vest solely with the State Government whether patta or Government lands and a mining lease has to be granted in respect of such lands. A pattadar does not have any preferential right to a mining lease merely by virtue of his being pattadar. Hence, there is no provision in the M&M(D&R) Act, 1957 or under Mineral Concession Rules, 1960 to allow the pattadar for removing the Iron ore even if it is float ore from their patta land without a valid mining lease, even for a temporary period. (Emphasis supplied)*

*26. The High Court of Karnataka in their Order dated 25-11-2004 has upheld the action of the Commissioner for Mines, in canceling the earlier permits given for the removal of float ore and has directed the appellants (pattadars) to apply for mining lease.*

27. *Given the above facts and the position as prevalent under the Mines and Mineral (Development and Regulation) Act, 1957, and Mineral Concession Rules, 1960 there is no provision to accord temporary permission as indicated in para 22.*

28. *File is resubmitted for review of the Orders from paras 22 and 23 and approval of pqara 27.*

(Sd)  
Secretary C & I Dept"

Thereafter the Chief Minister made the following note at paras 29-32 n/f and sent back the file to the Secretary on 19-9-2005.

*"29. I have perused the notings at paras 24 to 28. Having examined the facts and circumstances of the case it is felt that, the orders of the Director has prompted several farmers to mine and stock the ore in their fields. It appears that the order has been passed in good faith with an intention to help the farmers. This act done in good faith is covered under clause 27 of the mining Act, 1957.*

*30. Prevention of illegal mining of ore requires widespread monitoring mechanism and personnel. The Department of Mines is not fully equipped to enforce such activity in toto. Moreover as indicated in letter No. DIRECTOR/MLS/GANL/04-05/2662 dt. 13/1/2005 of the Director, out of 5,06,970 Mts of Iron ore 43,946 Mts has been transported. Thus, if the remaining huge quantity of Iron ore mined and stocked by the farmers based on the previous orders is not permitted to be transported, it would cause undue hardship to the farmers/Pattadars.*

*31. I am given to understand that the farmers have borrowed money from financiers at high rate of interest and they will be put to a great loss if permission is not granted.*

*Therefore, keeping in view the larger interests of the farmer community and the fact that a large quantity of ore has been mined and stocked, it is ordered that the farmers be permitted to transport only the stocked ore, as recorded in letter dated 13-01-2005, as a one time measure. The above transportation should be completed within a period of three months from the date of issue of G.O. in this regard.*

*32. Any mining activity on patta lands thereafter shall be strictly in accordance with the provisions of the Mines and Mineral (Development and Regulation) Act, 1957 and Mineral Concession Rules 1960.*

*(Sd)*  
*Chief*

*Minister”*

Thereafter a letter dated 27-9-2005 was issued by the C & I Department to the Director relevant portion of which reads thus:-

*“Please refer to the subject cited above. The Government have examined the action taken by the Commissioner of Mines and Geology in his order dated. 19-11-2004, wherein, he had withdrawn the permission given to the pattadars to lift the Iron ore stacked in their fields. It has been decided to direct the Department to issue transport permits limiting it only to the stocked Iron ore presently on the fields as recorded in the Commissioner’s letter on 13-01-2005. This permission is given as a one time measure only. The above transportation should be completed within 3 months from the date of issue of the order. The transport permits should be issued after verifying the quantities on the fields. The Commissioner for Mines may impose any other suitable conditions in this regard. The transportation should*

*be done under proper supervision by the officers of the Department. Any mining activity after the expiry of 3 months should be strictly in accordance with the provisions of the M&M(D&R) Act, 1957 and MCRs 1960."*

In reply thereto the then Director Sri, Gangaram Badariya IAS sent a reply dated 27/10/2005 requesting the Government to get the approval of the Government of India to the proposal. Relevant portion of that letter reads thus:-

*"With reference to the above subject, I would like to invite your kind attention that as per the instructions from the Government under reference dated: 27-9-2005, the instructions are given to the field officer to verify the quantity of Iron ore mined in private/pattaland and stocked. However it is reiterated that under Section 4(1) & 4(1A) of MM (D&R) Act, 1957 does not permit mining and transportation without lawful authority, i.e., without Mining Lease.*

*The provisions of sections 4(1) and 4(1A) are reproduced hereunder.*

*4(1). No person shall undertake any reconnaissance, prospecting or mining operations in any are, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder.*

*4(1A). No person shall transport or store or cause to be transported or stored any mineral otherwise than in*

*accordance with the provisions of this Acts and Rules made thereunder."*

*In the present case, the major mineral Iron ore mined from patta land, in contravention of the Act and Rules framed by Government of India, "Any concession has to be with the prior approval of the Government of India".*

*Earlier a detailed report has already been sent to the Government for necessary action. The Government in its letter referred under reference has directed the Department of Mines and Geology to issue Transport permit as one time measure only.*

*"It has been directed to direct the Department to issue transport permits limiting it only to the stocked iron ore presently on the fields as recorded in the Commissioner's letter on 13-1-2005. This permission is given as a one time measure only."*

*But this relaxation has to be made with the prior approval of the Government of India. The people in the field are waiting for this particular clearance from the State Government and may go in for massive mining operation in private patta land, which is not only difficult but also impossible to control, because the are is widely spread and many parties interests are involved for mining in private/patta lands.(Emphasis supplied)*

*It is therefore requested the Government may examine this proposal afresh by taking appropriate approval from the Government of India."*

The then Secretary to Government Sri.Mahendra Jain, IAS sent the file with the above letter of the Director to the Chief Minister with the following note at paras 43 to 46 n/f of the file:

*“43) This matter permits to issue of transport permits for lifting iron ore from patta lands as a one time measure. It was submitted on two occasions (Para 20 n.f. and 28 n.f) that there is no provision in the M&M (D&R) Act or Mineral Concession Rules, 1960 for the same.*

*44) However, in pursuance of the orders at para 32 n.f. instructions were issued to Commissioner, Mines and Geology (Please see page 30 n.f.) to take action with necessary safeguards.*

*45) The commissioner has now resubmitted the matter (Page 32) and suggested that since there is no provision in the Act and Rules, if at all any relaxation has to be made, may be done only with prior approval of the Government. He has mentioned today that he is directed by the office of Hon'ble Chief Minister that the file be resubmitted to CM's office.*

*46) File is resubmitted for orders*

*Sd/-  
Secretary C& I Dept.”*

The CM made the following order on the file at 47 N.f and sent back the file to the Secretary on 8.11.2005.

*“It is directed to implement the orders contained in Para 31 and 32 n/f.*

*Sd/-  
Chief Minister”*

Thereafter the Government sent a letter to the Director dated 19/1/2006 stating that the instructions given in the letter dated 27/9/2005 may be implemented. It is clear from the above correspondence that the then Chief Minister over ruled the legally valid dissent note of the Secretary to Government in notes at paras 20 n.f. and 24-28 n.f. and in the letter of the Director at 32cf. of the file that issuing transport permits in such cases would be in violation of the provisions of law.

6. After receiving the Government letter dated 19-01-2006 Sri. Gangaram Baderiya IAS, the then Director convened a meeting of the officers of Department of Mines and Geology, working in iron/manganese ore bearing districts of the State on 17<sup>th</sup> February 2006. It was resolved in the meeting that the instructions and procedure as stipulated by the Government letter No. CI 02 MMM 2005 dated 27<sup>th</sup> September 2005, in regard to issue of one time transport permit are to be followed and implemented. The procedure and conditions stipulated are as follows:

- “(1) to issue transport permits limiting it only to the stocked iron ore in the field as per the Commissioner’s letter dated 13.1.2005.
- (2) the permission is given as a one time measure only.
- (3) the transportation should be completed within three months from the date of permission.
- (4) the transport permits should be issued after verifying the quantities on the field.

- (5) the Director may impose any other suitable conditions in this regard;
- (6) the transportation should be done under proper supervision of the officers of the Department;
- (7) any mining activity after the expiry of three months should be strictly in accordance with the provisions of the Act and the Rules.”

7. Interestingly, the said direction also stipulated to levy a penalty of Rs.25,000/- as fee for compounding of offence in each case for violating the provisions of Section 4(1) and 4(1A) of M&M (D&R) Act and to collect royalty as per M.C Rules. Here one may notice the incongruity in levying a penalty as compounding of offence, which is akin to fining for violation first and permitting the violation to be carried out later. The said order also directed that the minerals stocked and lying in the respective fields to be transported within a period of 90 days from the date of issue of permission. It also directed the permission was to be given only to the stocks found on the date of physical verification by the officers and limited to the 59 cases only. For all other cases, it was directed to follow the provisions of the M&M (D&R) Act and the M.C Rules. Accordingly, sanction for one time permits for transportation of ore and stocked in the patta lands of 59 applicants were issued.

8. Issue of permits for transport of iron ore from patta lands could be divided into two groups i.e. 82 permits issued in 2004 when Dr.Basappa Reddy was the Director and 59 permits issued in

2006 when Sri Gangaram Baderiya, IAS was the Director. In all these cases in which permits were issued the applicants are not lessees, the ore or mineral in respect of which transport permits were issued were not mined under and in accordance with the terms and conditions of a mining lease, the persons to whom permits were granted are not lessees or agents of lessees. By using those transport permits illegal mining activity, as well as, transportation of mineral has taken place otherwise than in accordance with the provisions of the M&M (D&R) Act and the M.C Rules. The quantum of illegal mining operations or activity could be inferred from the fact that the total iron ore stocked was estimated by the officers as 5,06,970 metric tons - vide para 30 n.f. of the note of the Chief Minister. It is impossible to collect that quantity of iron ore without engaging in large scale mining operations or activity, using heavy machinery. Hence, in all these cases there is violation of sections 4(1) and 4(1A) and clause 3A amounting to an offences punishable under section 21 of the M&M (D&R) Act.

9. By directing his subordinate officers to issue such permits, the then Director Dr. Basappa Reddy has facilitated illegal transportation of iron ore without even verifying whether really the mineral was actually collected from the patta land from where it was sought to be transported. This comment is being made because there is no material to show that the quantity of mineral sought to be transported from a particular land is such that the same could have been excavated from the said land. Therefore, there is every

possibility of mineral illegally mined from other area, including forest land, being brought and stored in the concerned patta land. In that background, the Director of Mines and Geology who directed issuance of permits is guilty of offence punishable under Sections 4(1) and 4(1A) R/w. Sec 21 of the M&M (D&R) Act, because

- (i) he directed issuance of transport permit in respect of mineral excavated without mining lease,
- (ii) he facilitated the grant of transport permit to persons other than lessee or his agent,
- (iii) he caused transportation of mineral otherwise than in accordance with the provisions of the M&M (D&R) Act and M.C Rules,
- (iv) he permitted issuance of transport permit without directing inspection and estimation of quantity of alleged mined mineral as also failed to seize the said mineral, if it was found to be illegally mined and prosecute the persons who mined them.
- (v) He delegated the power of issuance of transport permit under clause 3A, even though he had no powers or authority to delegate issuance of transport permit under clause 3A to his subordinates,
- (vi) He has facilitated illegal mining activity using those transport permits.

10. Suffice it to mention, before proceeding further, that by the above grant of permits to the pattadars by the then Director during the year 2004 i.e., by Dr. M. Basappa Reddy, 56747 MT of ore was allowed to be illegally transported, the value of which at the relevant point of time have been estimated at Rs.6,41,32,335/- by the Gaikwad team in the report at Annexure-B.

11. Though in his reply to the Show cause notice, the then Director has pleaded that he had acted in good faith, the same cannot be accepted because any act done in good faith means doing something with due care, caution and attention. The person acting in contravention of mandatory provisions of law cannot be said to have acted in good faith. In this connection the Judgment of the Hon'ble Supreme Court in the case of State of West Bengal V/s. Shew Mangal Singh (AIR 1981 SC 1917) may be referred to. In the said case it is observed by the Apex Court that if order of the superior is justified and is therefore lawful, no further question can arise as to whether the subordinate servants, who acted in obedience to that order, believed or did not believe that order to be lawful. From this observation, it is clear that to fall back on the plea of bonafide the public servant must establish that the order of superior was lawful. That apart, the factum whether the act is done in good faith is a matter which is to be proved in a court of law as defence to the allegation. In this background, a report under Section 12(3) of the Lokayukta Act was sent against Dr. Basappa Reddy to initiate Departmental action, since he has already retired and limitation to initiate Departmental proceedings was expiring. The Government having accepted that report has instituted Departmental enquiry and entrusted the enquiry to Lokayukta and enquiry is being held by a judicial officer and the same is under progress.

12. On the matter being referred to Lokayukta for enquiry, Lokayukta police were directed to investigate and verify the ground status of the area and the lands in regard to which 59 permits were granted. The Lokayukta police investigated 30 cases out of 59 cases and submitted report. An analysis of 30 cases investigated by the Lokayukta Police revealed that only in 11 cases pattadars were beneficiaries of the order of transport permit, that is, about 36 percent of the total cases, and in the remaining 64 percent it were the agents who worked in the patta lands for raising and transportation of iron ore on payment of consideration amount to the actual pattadars. In other words, the report indicates, in these cases the pattadars never worked to collect the minerals purported to be found in their lands and stocked by them. This also indicates that instead of loss of agricultural income they actually received consideration amount from those agents/ transportation contractors. Such consideration amount was very substantial. Further in cases where the mining work was done in patta lands for extraction of iron ore, they have left the lands under broken condition with pits and trenches upto a depth of 5' to 6' from the surface and rendering the land unsuitable for further cultivation. There are also instances wherein the agents who had obtained transport permits from the Department of Mines and Geology, have not actually worked in the areas permitted by the Director, but have transported large quantities of iron ore sourced from other areas. Such examples are noted in R.S. No. 107/B of Kererampura

(applicant N. Srinivasa), in R.S. No. 4 of Gangalapura (applicant N. Srinivas), in R.S. No. 21 of Ramghad village (applicant C. Mohan Rao) and in Sy. No. 70 of Dharmapura village (applicant B. Ashok Kumar) of Sandur Taluk. On the other extreme, there have been cases where the pattadars who were the applicants for sanction of temporary transport permits by the Department of Mines and Geology indulging in large scale extraction of iron/manganese ore, almost similar in scale to regular mining activities using heavy earth moving equipment, installation of crushers, etc., as noted in respect of the cases of R.S. No. 114/3 and 4 of Jambunathanahalli (applicant/ pattadar Sajjan Khayal), R.S. No. 27/A/2 of Jambunathanahalli (applicant T. Ravikumar), R.S. No. 118 of Sankalapura (applicant/ pattadar Mohammad Imam Niyazi) all of Hospet Taluk, R.S. No. 205 of Laxmipur (applicant/pattadar S. Narasimha Kumar) and R.S. No. 111/2 of Taranagar (applicant H. Ibrahim) both of Sandur Taluk. Similar large scale operations are noted in respect of the patta lands operated by pattadars/agents as in the cases of R.S. No. 18/1 and 18/2 of Megalahalli (P.A. Assis) Chitradurga District, R.S. No. 52 and 298 of Bhujanganagar of Sandur taluk (T. Pushparaj).

13. Having noticed the role of Sri N. Dharam Singh, with reference to his role in the grant of permits for transport of iron ore/manganese ore from the patta lands, his comments were called for wherein he has interalia replied that he was not afforded with a fair opportunity to examine all documents and hence his comments

were offered on the basis of limited material noted down by him and from his own memory. In this regard, I would like to comment that he was first given 15 days time and then on his request it was extended by one week, he was allowed inspection of documents and thereafter on request he was allowed 3 more days' time, which under the circumstances I think is reasonable. He also stated that his decision to direct the issuance of transport permit was done in fulfillment of the promise made by him to the people of Karnataka, wherein he had assured to look after the interest of the farmers and the poor people in the State. He has also stated that the iron ore accumulated in the farmer land's was not as a result of any mining activity, but was thrown up as a natural phenomenon and the farmers were compelled to collect these ores from their lands to make it fit for agricultural operations. He has further stated that it is with a view to protect their right to carry on agricultural operations; the farmers had approached the concerned authorities to issue transport permits. He has also stated that their request was supported by some of the elected representatives. It is in this background, he has requested the concerned authority to issue transport permits to transport minerals, which was lying in their lands. He also stated that his direction to permit transportation of iron ore from patta lands was in good faith and to protect the interest of the poor farmer and was conditional. He also pointed out that actual permits were issued after he demitted the office and the subsequent Government which came to power, could have

reviewed the same. He has also made an allegation that the reference itself is motivated by political vendetta, the period mentioned for enquiry under reference notification has been deliberately prescribed with a view to tarnish the image of the Congress party which was headed by him. He has also contended that, even if the farmers had committed any offence, the same is compoundable and such compounding under Section 23A of the M&M (D&R) Act has been done by levying fine of Rs.25,000/-, in each case in addition to recovery of royalty as per Rules. Therefore, the question of loss of revenue to the State Government does not arise. Certain legal arguments with reference to Sec. 21(1) R/w. 23A of the M&M (D&R) Act have also been raised.

14. As has been noticed in the earlier paragraphs of this report, so far as the law is concerned it is very clear that no mining activity could be carried out by anybody without first there being a mining lease in regard to the land in which mining activities are being carried on. The law is also clear that under Section 70 of the Karnataka Land Revenue Act, 1964 all major minerals, be that in any body's land, vest with the Government. A perusal of Sections 4(1) and 4(1A) of the M&M (D&R) Act makes it mandatory and a condition precedent to have a mining lease before extracting or transporting minerals and ores. Though the State Government can recommend a mining lease in favour of a person holding lands within its territory, under proviso to Section 5(1), if the mining lease is in respect of the minerals specified in the First Schedule to the

M&M (D&R) Act, prior approval of the Government of India is necessary. Iron ore is specified in the First Schedule. Therefore, it is a futile to contend that the State Government has any authority to grant transport permit in regard to the minerals found in the First Schedule of the M&M (D&R) Act, without there being a mining lease with the prior approval of Govt. of India. There is no exception to this mandatory requirement. I have also noticed herein above, even for storage and transport of mineral, the M&M (D&R) Act and M.C Rules apply. Thus, it is clear that no authority vests with the State Government to even permit the transportation of minerals from a land in regard to which there is no mining lease. Therefore, when the law mandatorily prohibits issuance of permit to transport any mineral from a land, which is not covered by a mining lease, Sri Dharm Singh's contention that removal of floating mineral does not amount to mining activity and that the activity of removing the mineral for carrying on agricultural operations and issuing permits to transport such mineral which has been already removed and kept does not amount to mining operations, cannot be accepted in view of the provisions of the M&M (D&R) Act as supported by the observation of the Apex Court in the case of Bhagwan Das V/s. State of Uttar Pradesh and others (AIR 1976 SC 1393), wherein it is held as follows:-

*“Further, it could not be contended that the sand and gravel are deposited on the surface of the land and not under the surface of the soil and therefore they cannot be called minerals and equally so, any operation by which they are*

*collected or gathered cannot properly be called a mining operation. It is in the first place wrong to assume that mines and minerals must always be sub-soil and that there can be no minerals on the surface of the earth. Such an assumption is contrary to informed experience. In any case, the definition of mining operations and minor minerals in Section 3(d) and (e) of the Act of 1957 and Rule 2(5) and (7) of the Rules of 1963 shows that minerals need not be subterranean and that mining operations cover every operation undertaken for the purpose of "winning" any minor mineral "winning" does not imply a hazardous or perilous activity."*

In the cases referred herein, the minerals have been extracted from the patta lands and are sought to be transported by certain persons under the guise of farmers. It is not a case where iron ore was lying in the open surface superficially. Hence, the permits issued in relation to transportation of minerals already extracted amounts to mining operation within the meaning of Section 3(d) of the M&M (D&R) Act and as such, the contention of Sri N.Dharam Singh cannot be accepted. His further stand that he had directed the grant of permission in good faith or interest of the farmers or policy of the Government or even public interest cannot be a defence, when his action is per se opposed to law. Such decision of his cannot even be a bonafide decision, since it is evident from his notings that he knew the law, but wanted to make one time exception by violating the law, even when the same is impermissible. Any decision taken contrary to law, knowingly whatever may be the purpose or object

for which such a decision is taken can ever be said to be in good faith or bonafide. Such action cannot be defended even under Section 27 of the M&M (D&R) Act, which section protects only such action of the Government Servant, which is bonafide. As stated above, the concept of the bonafide does not apply to impermissible decisions taken with the knowledge of the prohibition in law. Therefore, the principle defence of Sri N.Dharam Singh i.e. his action was in good faith or bonafide or taken in public interest or farmer's interest or policy of the Government cannot be accepted. Here it will be useful to remember, in a democracy it is the Law of the land that is supreme and even a Chief Minister is bound by the same. It is well said 'how so high you may be, the law is above you'.

15. Even the defence taken by Sri N. Dharam Singh that the State did not loose any money because the applicants were imposed with compounding fee of Rs.25,000/- cannot be accepted either in law or on facts. The compounding provision in the M&M (D&R) Act comes into play, when an offence is detected. In the instant case, the applicants sought permission to do an illegal act, the same cannot be compounded by collecting compounding fee when the offence ought to have been prevented. The compounding provision does not permit the Government to first collect the compounding fee and then permit the offence to be committed. My experience gathered during this investigation shows, compounding provision under the M&M (D&R) Act is the most misused provision leading to very high

corruption, hence sooner it is amended it is better. To these applicants the excuse of getting the land suitable for cultivation is only an excuse to do illegal mining.

16. Even factually, the basis for grant of transport permit i.e. presence of minerals in the patta lands which was preventing the land owner from cultivating their lands is not true. Assuming there were minerals in these lands which prevented the land owners from cultivating the land, then the Government itself could have made arrangements to clear such materials and auctioned the same publicly because that mineral was the property of the State and which would have fetched much more value to the Government, in view of the prevailing market rate, than what the government collected by way of royalty and compounding fine. This also would have solved the problem of the farmers of getting rid of the mineral from their land and cultivate the same, if really this was the genuine reason.

17. Even otherwise, the claim of the pattadars that they wanted to clear the land of minerals to re-cultivate the land is factually incorrect. The enquiry made at the spot by the Lokayukta police, supported by photographic evidence clearly shows that the mining activities in those patta lands were carried out by only a few pattadars themselves and in many cases by some outsiders claiming to be the agents of the pattadars by using heavy machinery. The quantities mentioned in the application for transportation itself is

the proof of the fact that such large quantity of mineral could not have been found in an agricultural land and the same must have been illegally mined somewhere away from the land and stored in the patta lands, may be, along with some little mineral gathered from the said land. In such of those the lands in which mining operations were carried out, there is evidence to show the very nature of the land has been changed from lands suitable for agriculture to the lands which can never be re-cultivated, this is evident from the telltale marks in the land, which showed deep pits and trenches. These signs of mining clearly show that the land owners who sought permission to transport minerals from their land had no intention of re-cultivating these lands. The fact that they owned patta lands was only an excuse to obtain transport permits to remove the minerals illegally mined.

18. Even the stand of Sri N.Dharam Singh that the Applicant land lords would suffer financial losses if permission is not granted is also not factually correct. There is evidence to show that the pattadars have been paid huge considerations by the people who actually mined for allowing latter to use patta lands for illegal activities or if land lords themselves mined then got huge consideration for the same from these non-agricultural activities.

19. It is relevant to note that at this stage the then the Chief Minister Sri N Dharam Singh in his note made, soon after the recommendations of former Minister Sri Ramesh was brought to his

notice, had given the reason to permit transportation of mineral to facilitate the pattadars to cultivate the land in question, so as to start their agricultural operations. But in his 2<sup>nd</sup> noting to which reference has been already made, the Hon'ble Chief Minister gave a different reason that the Applicant farmers had borrowed money from private financiers at high rate of interest hence they would be put to great loss if permission is not granted, therefore, keeping in view the larger interest of the farmer community and the fact that large quantity of iron ore has been mined and stocked, he thought it fit to grant permission. From the records submitted by the Department, for my perusal, it is seen that there is no material to show that any one of the farmers had borrowed any such money, leave alone at high rate of interest from financiers; on the contrary discussion made in this report would indicate that the facts are otherwise.

20. After the directions of the Hon'ble Chief Minister, the file came to the Director again who citing the provisions under section 4(1) and 4(1A) of the M&M (D&R) Act sent a dissent note dated 27<sup>th</sup> October 2005 to Commerce and Industries Department for re-examination of the orders issued in the note dated 27<sup>th</sup> September 2005. In the said letter, interalia, he proposed to seek prior approval of Government of India, for a relaxation to consider sanction of temporary permits. The Director then was Sri Gangaram Baderiya, IAS. The contents of the dissent note of the Director were submitted to the Secretary, C&I for perusal and orders of the

Hon'ble Chief Minister. In spite of resubmission of the file, bringing out the specific provision of the M&M (D&R) Act and M.C Rules and a proposal to refer the case to Government of India to seek relaxation on the subject of issuance of temporary transport permits from patta lands, the Hon'ble Chief Minister did not consider the proposal and ordered **"It is directed to implement the orders contained in para 31 and 32 N/F"**. Thus, C&I Department in their letter dated 19<sup>th</sup> January 2006 directed the Department of Mines and Geology to implement the instructions issued in their letter No. CI 02 MMM 2005 dated 27<sup>th</sup> September 2005.

21. If Sri N.Dharam Singh had directed the authorities concerned to make further investigation as to the genuineness of the applications made by the so called pattadars or their agents, he would have come to know that in most of these cases, the applicants had transferred their land to non-agriculturists for the purpose of mining which is every evident from the agreement signed by them. Just for an example, I have herein below extracted the contents of one such document where by virtue of the directions issued by the then Chief Minister, transport permit was issued. The contents of the document clearly indicates that the land in question is leased out for a consideration of Rs.1,40,000/- for a period of one year for the purpose of mining, which itself indicates that the pattadar had permitted the mining to be carried on in his land. Some other clauses in the said agreement speak for themselves about the intention of the pattadars as well as those who took the land on

lease. The content of that document dated 19<sup>th</sup> August 2004, is extracted below:-

“ರೂ.1,40,000/- ಒಂದು ಲಕ್ಷ ನಲವತ್ತು ಸಾವಿರ ರೂಪಾಯಿಗಳಿಗೆ ಜಮೀನಿನಲ್ಲಿ ಗಣಿ ಗುತ್ತಿಗೆ ಕರಾರು ಪತ್ರ.

ಸನ್ 2004ನೇ ಯಿಸ್ಟಿ ಆಗಸ್ಟ್ ತಿಂಗಳು ತಾರೀಖು 19ರಲ್ಲೂ ಬರ್ರಿಕೊಳ್ಳುವವರು:- ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲಾ ಭದ್ರಾವತಿ ತಾಲ್ಲೂಕು ಭದ್ರಾವತಿ ಪಟ್ಟಣ ರಂಗಪ್ಪ ಸರ್ಕಲ್ ನಿವಾಸಿಯಾದ ತಿಮ್ಮಯ್ಯನವರ ಮಗನಾದ ಟಿ.ಪುಷ್ಪರಾಜ್ ಇವರಿಗೆ,

ಬರ್ರಿಕೊಡುವವರು:- ಬಳ್ಳಾರಿ ಜಿಲ್ಲಾ ಸಂಡೂರು ತಾಲ್ಲೂಕು ಭುಜಂಗನಗರ ಗ್ರಾಮನಿವಾಸಿಯಾದ ದಿವಂಗತ ಮಲ್ಲಪ್ಪನವರ ಮಗನಾದ ತಾರ್ಕಿ ಕಟ್ಟೆ ಮಲ್ಲಪ್ಪ ಆದ ನಾನು ಒಪ್ಪಿ ಬರೆಯಿಸಿಕೊಟ್ಟ ಜಮೀನಿನ ಗಣಿಗುತ್ತಿಗೆ ಕರಾರು ಪತ್ರ ಏನೆಂದರೆ,

ಈಗ ಮಳೆಗಾಲ ಸರಿಯಿಲ್ಲದ ಕಾರಣ ಬರಗಾಲದಿಂದ ತತ್ತರಿಸುತ್ತಿದ್ದು, ಬೆಳೆ ಸರಿಯಾಗಿ ಬೆಳೆಯಲು ಆಗದೇ ಯಿರುವುದರಿಂದ ನನ್ನ ಸ್ವಂತ ಹಕ್ಕು ಅಧೀನ ಅನುಭವದಲ್ಲಿರುವ ಈ ಕೆಳಕಾಣಿಸಿದ ಜಮೀನನ್ನು ಗಣಿ ಗುತ್ತಿಗೆ ಕೊಡುವುದೇ ಯುಕ್ತವೆಂದು ಭಾವಿಸಿ ನಿಮ್ಮೊಂದಿಗೆ ನಾನು ವರ್ಷ ಒಂದಕ್ಕೆ 1,40,000/- ಒಂದು ಲಕ್ಷ ನಲವತ್ತು ಸಾವಿರ ರೂಪಾಯಿಗಳಿಗೆ ಒಪ್ಪಿಕೊಂಡು ಈ ಕೆಳಕಂಡ ಕರಾರುಗಳ ಪ್ರಕಾರ ಜಮೀನು ಗಣಿ ಗುತ್ತಿಗೆಗಾಗಿ ಕೊಟ್ಟಿರುತ್ತೇನೆ.

- (1) ರೂ.1,40,000/- ಒಂದು ಲಕ್ಷದ ನಲವತ್ತು ಸಾವಿರ ರೂಪಾಯಿಗಳು 1 ಒಂದು ವರ್ಷದ ಅವಧಿಗೆ.
- (2) ಗುತ್ತಿಗೆ ಅವಧಿ 01.01.2005ರಿಂದ 31.12.2005ರವರೆಗೆ
- (3) ಕರಾರು ಬರೆದುಕೊಟ್ಟ ದಿನಾಂಕ 20.08.2004ರಂದು ರೂ.25,000/- ಇಪ್ಪತ್ತೈದು ಸಾವಿರ ರೂಪಾಯಿಗಳನ್ನು ಅಡ್ವಾನ್ಸ್ ಕೊಡತಕ್ಕದ್ದು.
- (4) ಉಳಿದ ಮೊತ್ತ ರೂ.1,15,000/- ರ ಪೈಕಿ ನವೆಂಬರ್ 2004ರ ಅಖೈರು ದಿನಾಂಕದಂದು 45,000/- ನಲವತ್ತೈದು ಸಾವಿರ ಕೊಡತಕ್ಕದ್ದು. ಇನ್ನುಳಿದ ರೂ.70,000/- ಎಪತ್ತು ಸಾವಿರ ರೂಪಾಯಿಗಳನ್ನು ಮಾರ್ಚ್ ತಿಂಗಳು ಮೊದಲನೇ ವಾರ 200ರವಳಗಾಗಿ ಕೊಡತಕ್ಕದ್ದು.
- (5) 2004ನೇ ಸಾಲಿನ ಮಳೆಗಾಲದ ಬೆಳೆಯನ್ನು ತೆಗೆದುಕೊಂಡ ತಕ್ಷಣ ಸದ್ದಿ ಜಮೀನನ್ನು ನಿಮ್ಮ ಸ್ವಾಧೀನಕ್ಕೆ ಬಿಟ್ಟುಕೊಡಲು ಒಪ್ಪಿಕೊಂಡಿರುತ್ತೇನೆ.
- (6) ಸದ್ದಿ ಜಮೀನಿನ ಸರ್ಕಾರಕ್ಕೆ ಕಟ್ಟಬೇಕಾದ ತೆರಿಗೆಯನ್ನು ನಾನೇ ಕಟ್ಟಿಕೊಂಡು ಹೋಗುತ್ತೇನೆ. ನಿಮಗೆ ಕಟ್ಟಲು ಯಾವ ತರಹವಾದ ಹಕ್ಕು ಯಿರುವುದಿಲ್ಲ.

- (7) ಸದ್ರಿ ಜಮೀನಿನಲ್ಲಿ ನೀವು ನಿಮ್ಮ ಸ್ವಂತ ಖರ್ಚಿನಿಂದ ಸಂಬಂಧಪಟ್ಟ ಇಲಾಖೆಯಿಂದ ಪರವಾನಿಗೆ ವ್ಯಕ್ತರಾ ತಂದುಕೊಂಡು ಕಲ್ಲು, ಪೌಡರ್, ಖನಿಜ ನಿಮಗೆ ಬೇಕಾಗುವ ಖನಿಜ ತೆಗೆದುಕೊಳ್ಳಲು ಒಪ್ಪಿರುತ್ತೇನೆ. ಹಾಗೂ ಸಾಗಾಣೆ ಮಾಡಲು ಒಪ್ಪಿರುತ್ತೇನೆ.
- (8) ವಾಯಿಹಿದೆ ಮುಗಿಯುವವರೆಗೂ ಸದ್ರಿ ಜಮೀನಿನ ಬಗ್ಗೆ ಯಾವುದೇ ರೀತಿಯ ತಂಟೆ ತಕರಾರುಗಳು ಬಂದಲ್ಲಿ ಅದಕ್ಕೆ ನಾನೇ ಜವಾಬ್ದಾರನಿದ್ದು ನನ್ನ ಸ್ವಂತ ಖರ್ಚಿನಿಂದ ನಿಮ್ಮ ಹಕ್ಕುಸ್ಥಿರಪಡಿಸಿಕೊಡುತ್ತೇನೆ.
- (9) ವಾಯಿದೆ ಮುಗಿಯುವವರೆಗೂ ಸದ್ರಿ ಜಮೀನಿನಲ್ಲಿ ನೀವಾಗಲೀ ಅಥವಾ ನಿಮ್ಮಿಂದ ಹಕ್ಕು ಪಡೆದವರಾಗಲೀ ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ಅಗದು ಐರನ್ ಓರ್, ಪೌಡರ್, ನಿಮಗೆ ಬೇಕಾದ ಖನಿಜಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳಲು ನನ್ನ ಯಾವ ಅಡ್ಡಿ ಆತಂಕಗಳು ಹಾಗೂ ನನ್ನ ವಾರಸರ ಅಡೆತಡೆಗಳು ಯಿರುವುದಿಲ್ಲ.
- (10) ವಾಯಿದೆ ಮುಗಿದ ನಂತರ ಸದ್ರಿ ಜಮೀನು ತಗ್ಗು ದಿನ್ನೆಗಳು ಇದ್ದಲ್ಲಿ ಅದನ್ನು ನಿಮ್ಮ ಸ್ವಂತ ಖರ್ಚಿನಿಂದ ಯಾವುದೇ ಅಡ್ಡಿ ಆತಂಕ ಹೇಳದೆ ಸರಿಪಡಿಸಿ ನನ್ನ ಸ್ವಾಧೀನಕ್ಕೆ ಒಪ್ಪಿಸತಕ್ಕದ್ದು.
- (11) ವಾಯಿದೆ ಮುಗಿದ ನಂತರ ಸದ್ರಿ ಜಮೀನಿನಲ್ಲಿ ನೀವು ಯದೆ ಕೆಲಸ ಮುಂದುವರೆಸಬೇಕೆಂದಲ್ಲಿ ನಿಮ್ಮ ಒಪ್ಪಂದ ಮಾಡಿಕೊಂಡು ನನಗೆ ಸರಿ ಎನಿಸಿದಲ್ಲಿ ಪುನಃ ಗುತ್ತಿಗೆ ಕೊಡಲು ಒಪ್ಪಿರುತ್ತೇನೆ.

ಷೆಡ್ಯೂಲ್

ಬಳ್ಳಾರಿ ಜಿಲ್ಲಾ ಸಂಡೂರು ಸಬ್ ಡಿ ಸಂಡೂರು ತಾಲ್ಲೂಕು ಭುಜಂಗನಗರ ಗ್ರಾಮ ಪಂಚಾಯ್ತಿ ಹದ್ದಿಯಲ್ಲಿರುವ ಭುಜಂಗನಗರ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್ 52/5/ಎ ವಿಸ್ತೀರ್ಣ 0 ಎಕರೆ 11 ಸೆಂಟು ತರಂ ರೂ.0.01 ಪೈಸೆ ಉಳ್ಳ ಪೂರಾ ನಂಬರ್ ಜಮೀನು ಮತ್ತು ಭುಜಂಗನಗರ ಗ್ರಾಮದ ಸ.ನಂ.52/4 ವಿಸ್ತೀರ್ಣ 2 ಎಕರೆ 43 ಸೆಂಟು ತರಂ ರೂ.0.11 ಪೈಸೆ ಉಳ್ಳ ಪೂರಾ ನಂಬರ್ ಜಮೀನುಗಳು ಹೀಗೆಂದು ನಾನು ನನ್ನ ಖುದ್ದು ಮನೋರಾಜಿಯಿಂದ ಒಪ್ಪಿ ಬರೆಯಿಸಿಕೊಟ್ಟ ಜಮೀನು ಗುತ್ತಿಗೆ ಕರಾರು ಪತ್ರ ಸಹಿ

ಎ.ಹೆ.ಗು

ತಾರ್ಲಕಟ್ಟೆ ಮಲ್ಲಪ್ಪ.

ಸಾಕ್ಷಿಗಳು

1) ಸೋಮಪ್ಪ ತಂದರೆ ತಾರ್ಲಕಟ್ಟೆ ಮಲ್ಲಪ್ಪ  
ಭುಜಂಗನಗರ

2) ತಾಯಪ್ಪ ತಂದೆ ಕರೆ ತಿಪ್ಪಣ್ಣ ಭುಜಂಗನಗರ”

(Emphasis supplied)

22. All the above findings of mine are supported by the material recorded at page 17 onwards of the report of Gaikwad Team, which among other things indicates the particulars of the lands where mining activities are taken up and percentage of outsiders, who have extracted minerals from patta lands belonging to other persons. Thus, by giving illegal permits for transportation of minerals mined illegally Sri N. Dharam Singh has been responsible for causing loss of Rs.23,22,11,850/- to the State Exchequer, which act of Sri N. Dharam Singh not only becomes a misconduct, unbecoming of a public servant and it also establishes that he has abused his position as Public Servant, which loss should be recovered as damages from him. My finding that Sri N.Dharam Singh, as the Chief Minister was a public servant at the relevant point of time is based on the judgments of the Hon'ble Supreme Court of India in the case of M.Karunanidhi V/s. Union of India (AIR 1979 SC 878) and Sri R.S. Nayak V/s. A.R. Antulay (AIR 1984 SC 684). Though there is no material to show that Sri N.Dharam Singh obtained to himself any valuable thing or pecuniary advantage, still by overruling the opinion of the then Director Sri. Yogendra Tripathi, IAS; the then Secretary of Commerce and Industries, Smt. Latha Krishna Rao, IAS; as also the suggestions of the then Director Sri Gangaram Baderiya, IAS as to the obtaining of prior approval of Government of India before issuing transport permits, he has allowed other persons to obtain pecuniary advantage. The fact that the orders of Sri N.Dharam Singh were

given effect after he demitted office is irrelevant because there is no evidence to show that his orders were ever brought to the notice of the successor Government.

23. I will now consider the allegations against Sri Gangaram Baderiya, who was holding the post of Director of Mines and Geology at some relevant time. Sri Gaikwad team in its Report had indicated that Sri Gangaram Baderiya was also responsible for the loss caused to the State by virtue of his having directed the subordinate officers to give transport permit on the basis of the orders of the then Chief Minister. This is based on the fact that he as senior IAS officer ought to have desisted from issuing such directions to the subordinate officers, because that would amount to abetting the offence of which, the then Chief Minister Sri N.Dharam Singh is held to be responsible.

24. I have carefully considered the role played by Sri Gangaram Baderiya, IAS in directing his subordinates to issue transport permit, but it should be noted that he did not straight away accept the orders of the then Chief Minister. On 27<sup>th</sup> October 2005, Sri Gangaram Baderiya, IAS on receiving a note from the then Chief Minister having noticed the illegality, proposed that prior approval of the Government of India by seeking relaxation for grant of temporary permit be obtained. By this, Sri. Baderiya did try to stop issuing of directions to the subordinates straight way, but in his

effort he failed, in as much as, after perusing the note, the Hon'ble Chief Minister rejected the same by noting in the file as follows:-

*"It is directed to implement the order contained in Para 31 and 32 N/F"*

Based on the above note, the Commerce and Industries Department in their letter dated 19<sup>th</sup> January 2006 directed the Department of Mines and Geology to implement the instructions issued by the Government in their letter No. CI 02 MMM 2005 dated 27<sup>th</sup> September 2005. It is only thereafter, Sri Gangaram Baderiya directed his subordinates to issue permits.

25. In that background, I think Mr. Baderiya, IAS cannot be held to have committed any act of misconduct because I think the fact that Sri Baderiya did appraise the Chief Minister of the need to obtain prior approval of the Govt. of India, should be treated as an extenuating circumstance for not proceeding against him on this count.

26. But, this does not exonerate Sri Gangaram Baderiya, from his act of directing issuance of transport permit in two specific cases i.e. (1) regarding Sri T. Pushparaj who made an application in regard to grant of permission in R.S. No.298, Bhujanganagar Village of Sandur Hobli and Taluk and (2) regarding Sri K.Satish Kumar, who made an application in regard to grant of permission in R.S. No.23/4 of

Bhujanganagar Village of Sandur Hobli and Taluk. The facts leading to these two cases, are briefly stated as follows:-

27. Sri T. Pushparaj made an application to the then Director of Mines and Geology on 26<sup>th</sup> August 2004 requesting for issue of permit for extraction and transportation of iron ore from Survey No. 298 of Bhujanganagar, which measures only 0.65 acres (100 cents make one acre) in Sandur Hobli and Taluk.





The pattadar of the said land is one Sri Dharmapurada Ujjinappa. T.Pushparaj has stated in his application that he has obtained consent of the pattadar, but no supporting documents are available in the file. Even then the Director of Mines and Geology, vide his letter dated 30<sup>th</sup> August, 2004, granted sanction to the Deputy Director of Mines & Geology, Hospet, for issue of transport permit to T. Pushparaj after inspection of ore stock at the site and collection of royalty. The said Deputy Director of Mines & Geology Hospet's, file does not have any correspondence pertaining to this sanction order of the Director of Mines & Geology. The Deputy Director of Mines & Geology in his final status report on the permits issued during 2004-05 has recorded that the said Director of Mines & Geology's order was not received in his office and the status report does not speak about any permit issued during 2004-05. When the Government of Karnataka opened up the issue of one time permit to such applicants who had accumulated iron ore during permit period of 2004, on directions by the Director of Mines and Geology,

the subject site was inspected by the Deputy Director of Mines & Geology Hospet, on 3rd March, 2006 and a stock of 12,500 to 13,000 MT of iron ore in R.S. No.298 of Bhujanganagar was estimated as being available. The Director of Mines & Geology i.e. Sri Gangaram Baderiya taking advantage of the earlier order of the Chief Minister in turn granted permission vide his letter dated 17/18<sup>th</sup> March, 2006 to the Deputy Director of Mines & Geology, Hospet for issuance of one time permit in favour of T. Pushparaj for transport of the said estimated quantity of iron ore from the subject area.

28. Under the said directions, the Deputy Director of Mines & Geology, Hospet, issued various permits which allowed Sri T. Pushparaj to extract nearly 13498 MT of iron ore. I have used the word 'Extract', because that was one of the permission sought for by Sri T.Pushparaj i.e. to extract from the subject area, iron ore and the fact that it was extracted after the directions of the then Hon'ble the Chief Minister, is also evident from the photographs which are in the file. They all relate to working of extraction of iron ore in Sy. No.298 of Bhujanganagar Village. These Photographs were sent to Director of Mines and Geology by the Deputy Director of Mines and Geology as evidence of accumulation of iron ore at site for grant of one time permission. Some other photographs depict the area being worked at the time of taking the photographs. These photographs clearly indicate that workings in the subject area are not the workings to restore the land suitable for cultivation, but clearly show the regular unauthorized mining, which was being continued

right up to the date of inspection i.e. 3rd March 2006, thereby Sri T. Pushparaj has made an application for grant of permit under fraudulent pretext of restoring the lands suitable for cultivation, whereas he continued to work the area unauthorizedly. The spot inspection clearly shows that the agricultural land consequently got more degraded and is now made more unsuitable for cultivation. Sri Gangaram Baderiya ought to have noticed these facts, but did not notice the fact that the application made by Sri T. Pushparaj was for extraction and the quantity of 13000 MT of ore could not have been gathered from an agricultural land measuring only 0.65 acres. He also did not examine, and failed to see whether really the application made by Sri T. Pushparaj was genuine one. Since the photographs were in the file, we have perused the file and noticed that illegal mining was carried out even in the year 2006. But Sri Gangaram Baderiya has granted sanction for issue of permits for that area, which amounts to negligence and misconduct under the provisions of All India Service (Conduct) Rules, 1969.

29. Sri Gangaram Baderiya, in his reply has stated that as per his knowledge there was stock of 13498 MT of ore at the site, which knowledge he bases on the report submitted by the Deputy Director of Mines and Geology. He also refers to the photographs in support of his contention. He has then stated, if there was any illegal mining, it is for the concerned officers to enforce the law and in so far as the Director is concerned, if there was stock available, then only he recommends for issue of permits in terms of Government decision.

Further steps of issuing of permits is left to other officers, who ought to do so. He reiterated that there was no mining activities carried on in this land.

30. Having considered the material found in the Gaikwad team report, as well as the comments of Sri Gangaram Baderiya, I cannot accept the explanation given by Sri Gangaram Baderiya. As mentioned earlier, it is of common knowledge that an area of only 0.65 acres cannot contain floating ore of 12,000 to 13,000 MT, unless the same is either mined deeply or transported from outside and stocked in the subject land. The conditions of one time permit does not entitle the holder of the permit to remove ore, which is dug from the land in question in a regular mining method or transport the ore, which is brought to the land in question from outside, since both acts are illegal. I am sure that Director of Mines and Geology, Sri Gangaram Baderiya would be aware of this fact. The photographs which is referred to by Sri Gangaram Baderiya in his defence itself indicate that the activity of mining was going on in the land at the time of inspection and some of the photographs also indicate that the depth to which mining has been done which would under no circumstances make out a case of gathering floated ores for making the land cultivable.

31. Therefore, I am of the considered opinion that Sri Gangaram Baderiya, as Director of Mines and Geology, either knowingly or by negligence has allowed Sri T. Pushparaj to misuse the one time

permit granted to him and also has permitted violation of conditions of such one time permission. Sri Gangaram Baderiya's contention that there should have been full-fledged enquiry by adducing evidence, at this stage cannot be accepted, because the findings that is given in this report are basically prima facie findings to facilitate the Government to take such action as is deemed fit or is recommended wherein appropriate enquiry will be held.

32. In case of Sri K. Satish Kumar, who is a pattadar made an application for grant of Transport permit to remove the stocked ore from his land R.S. No.23/4 measuring 0.54 acres at Bhujanganagar Village, Sandur Hobli and Taluk. The then Director vide his letter dated 16<sup>th</sup> August 2004, informed the Deputy Director of Mines and Geology, Hospet, to inspect and issue permit for movement of iron ore to render the land fit for cultivation. He also directed that after inspection if the stock is found in the land, royalty should be collected. On the said basis one Sri M. Virupaksha Gowda, Geologist, Office of the Deputy Director of Mines and Geology, Hospet, visited the land and submitted a report on 19<sup>th</sup> August 2004 that there was no stock available in the subject site. Hence no permit was issued. The Deputy Director of Mines and Geology, Hospet vide his Notice dated 19<sup>th</sup>/20<sup>th</sup> November, 2004, cancelled the sanction letter issued by the Director, in accordance with the directions issued by Director in Memorandum dated 19<sup>th</sup>/20<sup>th</sup> November, 2004.

33. When the Govt. of Karnataka opened up the issue of one time permit during 2006, the said K.Satish Kumar approached the Director of Mines and Geology, through one Sri G.I. Venkatesh as his representative to transact and obtain transport permit on the basis of reopened decision. Then 2<sup>nd</sup> inspection was conducted by one Sri. K. Sikandar Pasha, Geologist and T. Dattatreya, on 21<sup>st</sup> February, 2006, who reported that a stock of 1,000 to 1,200 MT of iron ore was found in the site. This was reported to the Director by the Deputy Director of Mines and Geology, Hospet, as per his letter dated 7<sup>th</sup> March, 2006, along with the 2<sup>nd</sup> report of inspection dated 7<sup>th</sup> March 2006. Thereafter the said Sri K.Satish Kumar, made an application dated 15/4/2006 requesting for permit for transportation of 1200 MT of iron ore from his Survey No.23/4 of Bhujanganagar Village. On the basis of which, permit dated 15/4/2006 was issued for the said quantity. This permit was also issued under the directions of Sri Gangaram Baderiya. As per the directions dated 7/10<sup>th</sup> April 2006, Sri Gangaram Bandera did not consider the earlier Report, which clearly stated that there was no stock of iron ore in the land in question. He took into consideration only the report of February 2006, while directing issuance of Transport permit. It stands to reason that if there was no stock of iron ore existing in the land in the month of November 2004 and if such stock was found on 21<sup>st</sup> February 2006, then the mining of the said area has taken place, later than 2004. This finding of mine further strengthens the fact that Sri K.Satish Kumar who made

application in 2004, did not pursue the same, but choose to make another application in the year 2006, which is also an indicator of the fact that the iron ore found on 21<sup>st</sup> February 2006, if factually true, it must have been mined much after the original application was made. Sri Baderiya did not think it necessary to satisfy himself on this aspect of the matter.

34. Sri Gangaram Baderiya in his reply to the notice has stated that he was not in favour of giving any permits to Sri K.Satish Kumar, but he was bound to carry out the direction of the Government of Karnataka, when Sri Satish Kumar was found to be eligible under the conditions laid down for granting of one time permit. The explanation in my opinion is neither here nor there. Sri Gangaram Baderiya, further says that the findings recorded against him in the Show cause notice is the one recorded without giving him a notice and opportunity of being heard. I do not think at this stage of investigation, it is necessary for me to hold a full fledged enquiry. (See - Dr. K.Chowdappa V/s. State of Karnataka and others - 1989 (3) Kar.L.J. 512) The question for consideration at this stage for which I sought explanation from Sri Baderiya was, how is it he had allowed the transportation of iron ore, which was not found to be there in the year 2004, but was found to be in existence in the year 2006, without satisfying himself whether the said ore was mined before the issue of directions by the Government as directed by the then Chief Minister or after. It was the responsibility of Sri Gangaram Baderiya to satisfy himself as to the compliance of the

directions made in one time transportation permit. Since the material on record indicates that Sri Satish Kumar was not entitled to the benefit of the directions of Government in this regard, because on that date, there was no iron ore in the land in question, Sri Gangaram Baderiya could not have allowed or directed the grant of transport permit. By this act of his he has committed misconduct under the Conduct Rules. The Government should take steps to initiate action for recovery of the amount from this officer to the extent of financial loss caused to the State by these acts of the officer concerned.

35. At this stage it is necessary for me to indicate that Dr. M. Basappa Reddy by his misconduct of issuing permission to transport iron ore from the lands of various applicants, to whom the said permission was granted, permitted the removal of 56747 MT of iron ore, which at the relevant point of time valued at Rs.6,41,32,335/-. (Refer Statement II of Annexure-B)

36. Sri N. Dharam Singh, the then Hon'ble Chief Minister, by allowing 44 applications of transportation of iron ore has permitted transportation of illegal mined ore totally of 238166 MTs, which is valued at the relevant point of time at Rs.23,22,11,850/-. (Refer Statement III of Annexure-B)

37. Sri Gangaram Baderiya, IAS by allowing illegal transportation of iron ore in two cases has permitted the

transportation of 14200 MT of ore which was valued at the relevant point of time at Rs.1,38,45,000/- . (Refer Annexure-B)

38. Thus, in these three cases, in which I have found the concerned public servants have illegally permitted totally 3,09,113 MT of iron ore to be transported from the so called patta lands, causing a total loss of Rs.31,01,89,185/- to the State Exchequer.

39. The Report of the Gaikwad team has indicated the involvement of many other officers of Mines and Geology Department in permitting the transportation of iron ore from the so called patta lands. Since I have observed in one aspect of the case of Sri Gangaram Baderiya that orders directly came from the then Hon'ble Chief Minister after overruling the various senior officers of the concerned Department and taking into consideration the sequence of events, I thought it fit not to implicate those officials', whose names are not mentioned in this report, but which could be found in the Report Sri Gaikwad team at Annexure-B. I do not think it is necessary for initiating any further action. Hence no action is recommended against those officials.

40. In conclusion of this chapter, I hold that Sri N.Dharam Singh, the then Chief Minister; Dr.M.Basappa Reddy, the then Director of Mines and Geology and Sri Gangaram Baderiya, IAS, the then Director of Mines and Geology, have committed misconduct, which has caused huge financial loss to the State, which amount should be recovered from these officers and the public servants by taking

suitable actions. Though in the order of reference, the Government has empowered me to initiate penal and/or departmental action against the erring officials, it is recommended to the Government to initiate disciplinary proceedings, as recommended in this report. Hence, recommendations are made to the Government as stated above.

## CHAPTER IX

**LAPSES POINTED OUT BY THE ACCOUNTANT GENERAL KARNATAKA REGARDING MOUs, RAISING, PROCESSING AND MARKETING CONTRACTS, JOINT VENTURES ETC. ENTERED INTO BY THE MYSORE MINERALS LIMITED WITH PRIVATE COMPANIES RESULTING IN LOSSES AMOUNTING TO CRORES OF RUPEES TO THE COMPANY.**

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Another matter referred to by the Government under Section 7(2A) of the Lokayukta Act vide Govt. order No. CI 164 MMM 2006 dated 12<sup>th</sup> March 2007 for investigation relates to lapses pointed out by the Accountant General, Karnataka regarding MoUs, Raising, Processing and Marketing Contracts, Joint Ventures etc. entered into by the Mysore Minerals Limited with private companies resulting in losses amounting to crores of rupees to the company. The concerned terms of reference and issues are as follows:-

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*(vi) In the inspection report of the Accountant General of Karnataka for the years 2003-2004 and 2004-2005 on Mysore Minerals Limited [MML], a public sector undertaking, several lapses were pointed out regarding various Memorandum of Understandings (MOUs), raising and marketing contracts, joint ventures etc., between Mysore Minerals Ltd. And Private Companies, wherein the interest of MML was compromised to deprive the PSU of the contractual entitlements, dividends and profits due to one sided agreements, non-revision or sub-optimal revision of prices resulting in losses amounting to crores of rupees at a time when the mining sector was generating huge profits.*

*(vii) It has also been noticed that the Iron Ore fines and mud stocks/low grade ore far in excess of the quantity were allotted arbitrarily to select individuals through Mysore Mineral Ltd., much below the prevailing market price and MMTC price and even below the prices fixed from time to time by MML itself. There have been complaints of certain influential individuals who were part of the power structure within the Government, by manipulating the records and interfering in the affairs of MML, caused huge loss to the Corporation and the State. Similarly major and minor minerals such as granite, manganese and other minerals of the state, for the past several years, have been misused, indiscriminately exploited for benefiting a selected few resulting in loss of revenue to MML and the State.*

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*To enquire into the affairs of the Mysore Minerals Ltd. (MML) and its commercial activities carried out in a manner to cause losses to the company and the instances of direct/indirect political interference/patronage in commercial affairs of the company. To fix responsibility and initiate suitable action, both civil and/or criminal as may be appropriate, against all persons found responsible, including private contracting parties."*

2. The Mysore Minerals Ltd (in short MML) was established by the Government of Karnataka in the year 1966. It is stated to be a private company within the meaning of clause (iii) of section 3(1) of the Companies Act 1956. It is stated that apart from the Memorandum of Association and Articles of Association the Company has not framed any rules, bye-laws or regulations. The regulations contained in Table A in Schedule I to the Companies Act 1956, as applicable to a private company, are made applicable to it subject to modifications contained

in the Articles of Association. The activities of MML are under the M&M (D&R) Act and connected with it. The main objects of the MML, among others, are stated thus in the Memorandum of Association.

*"1. (a) To acquire and take over as a going concern the business now carried on by the State Government of Karnataka under the name and style of 'Board of Mineral Development' with all or any of the assets and liabilities of the business.*

*(b) To search for minerals and precious stones and to acquire, by acquisition, or grant, mining and other rights and to win, open and work mines, quarries and minerals and precious stones, in above and under any other lands over which mining rights may be acquired by the company, and to raise, sell and dispose of minerals and precious stones to be procured there from, and to treat and make marketable, and/or convert such ores into metal, or otherwise deal with the produce of the mines and quarries and other produce of the Company.*

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*3. To act as the agent of the Government of Karnataka in the exploitation of the mining areas reserved for operation by the State, subject to such orders as may be passed by the State Government in this behalf and to appoint sub agents in furtherance of the same purpose.*

*4 To carry on trading in minerals for sale or export of minerals or for purposes which may seem conducive to the attainment of any of the aforesaid objects of the company."*

N.B:- Though the period of reference is for the period between 01.01.2000 and 22.07.2006 and extended to 9/9/2008 for the purpose of

continuity of factual basis at relevant places, even period prior to 1/1/2000 is taken into consideration without which this part of the report will be incomplete.

3. The Board of Directors of MML, in its 141<sup>st</sup> meeting held on 30<sup>th</sup> November 1987, delegated to the Chairman and Managing Director (in short CMD) 41 items of its powers, including the power to “fix sale price and revise them from time to time depending upon market and/or other conditions” (item 35) and to “enter into contracts for sale of ores and minerals” (item 37), for disposal of ores or minerals etc. owned by MML. The scheme envisaged by items 35 and 37 is that the price of ores or minerals etc. is to be fixed and revised from time to time as provided in item 35 and thereafter sold at the prices so fixed or revised to persons who come forward to purchase them. The defect in this scheme is that if the authority which has power to revise the price periodically depending upon the market and other conditions fails to exercise that power periodically whenever there is an increase in price, the commodity would be sold at the old price resulting in loss to MML. That is what has happened in the case of MML. Power under items 35 and 37 has considerable financial implications. If the Board had decided to dispose iron ore, iron ore fines, mud or mineral by auction or by calling for tenders or by tender cum auction method it would have been transparent, least objectionable and in the best interest of MML. It is said that since about June 2007 that is, after the Government referred the matter to Lokayukta, MML is disposing ores and minerals by tender cum auction method. According to the Articles of

Association, office of Chairman and office of Managing Director of MML could be held by one person or by two different persons. Hence the power delegated by the Board in its 141<sup>st</sup> Meeting has to be exercised by a committee consisting of the Chairman and Managing Director. When the said offices are held by two different persons, the Managing Director alone cannot exercise the delegated powers unless he is also appointed as the Chairman. If both the offices are held by one person the powers get delegated to a single person. It is stated that during 2000-2006, except the period from 26/9/2001 to 12/9/2005, the Managing Director was holding the post of Chairman also. Hence during same period one person has exercised the powers delegated by the Board. Instead of giving scope for exercise of such vast financial powers under items 35 and 37 by a single person, the Board should have used its discretion to delegate its powers to a body consisting of at least one more person preferably the Financial Advisor of the Company who is appointed by the Board with the prior approval of the Government. Scope for exercise of power in an arbitrary manner is much more when power is exercised by a single person.

4. MML is a corporation created by the Government and an instrumentality of the Government. In the exercise of its powers or discretion it is subject to same constitutional law limitations as Government. It cannot act arbitrarily and enter into relationship with any person it likes at its sweet will but its action must be in conformity with some rational, relevant and non-discriminatory principle. Item 35 of the powers delegated to CMD require the CMD to fix and revise sale

price periodically “depending upon market and/or other conditions”. If the file indicates that the CMD had considered the above aspects i.e. market and/or other conditions, before fixing or revising the price, there is little scope to challenge the validity thereof on the ground of arbitrary exercise of power. However, in regard to item 37 no guidelines are given by the Board. It is left to the discretion of the CMD to select the purchasers and to decide about the quantity of ore or mineral to be sold to a purchaser. The CMD is required to exercise the discretion on some rational and relevant principles which could be gathered from the relevant files. Otherwise in a given case it may become arbitrary exercise of power.

5. A mining lease holder under the M&M (D&R) Act is normally expected to do the mining operations himself by employing required workforce. A reading of section 9 of the M&M (D&R) Act and rule 37 of the M.C Rules made under the M&M (D&R) Act by the Central Government, indicate that a lease holder may, with the permission of the Government, get the mining operations done by his agent or manager or employee or contractor or sub-lessee who work under his control, supervision and directions and paid by him. The law imposes certain restrictions for transfer of any activity connected with mining operation - vide rule 37 of the M.C Rules and conditions 17 and 18 of Part VII of the pro-forma of the Mining Lease deed at Form K in Schedule I, (in short conditions 17 and 18) . Every holder of a mining lease is required to execute a lease deed in Form K of Schedule I of the M.C Rules. MML holds many mining leases in its favour and it must

have executed lease deeds in Form K in all of them and it is bound by the terms and conditions stated therein. Rule 37 of M.C Rules and conditions 17 and 18 are substantially similar. Relevant portion of Rule 37 reads thus.-

*"37. Transfer of lease,*

*(1) the lessee shall not, without the previous consent in writing of the State Government and in the case of mining lease in respect of any mineral specified in Part A and Part B of the First Schedule to the Act, without the previous approval of the Central Government-*

*(a) assign, sublet, mortgage or in any other manner, transfer the mining, lease, or any right, title or interest therein, or*

*(b) enter into or make any bona fide arrangement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by, any person or body of persons other than lessee:*

*PROVIDED FURTHER that where the mortgagee is an institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for the lessee to obtain any such consent of the State Government.*

*(1A) The State Government shall not give its consent to transfer of mining lease unless the transferee has accepted all the conditions and liabilities which the transferor was having in respect of such mining lease.*

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*(3) The State Government may, by order in writing determine any lease any time if the lessee has, in the opinion of the State Government, committed breach of any of the provisions of sub-rule (1) or sub-rule (1A) or has transferred any lease or any right, title or interest therein otherwise than in accordance with sub-rule (2).*

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6. As could be gathered from the records made available, MML has about 40 mining and 26 ornamental granite leases and as far as iron ore is concerned, at present, MML is not doing any mining operation. MML took over the 'on going business concern' of the Government of Karnataka known as 'Board of Mineral Development' and as stated in the Memorandum of Association it was required *"to search for minerals and precious stones and to acquire, by acquisition, or grant, mining and other rights and to win, open and work mines, quarries and minerals and precious stones, in, above and under any other lands over which mining rights may be acquired by the company, and to raise, sell and dispose of minerals and precious stones to be procured there from, and to treat and make marketable, and/or convert such ores into metal"*, and to act as the agent of the Government of Karnataka in the exploitation of the mining areas reserved for exploitation by the State. Even though it holds many rich mining leases, it is not doing any iron ore mining operation. MML has outsourced its iron ore mining operation activity. From the records made available by MML it is disclosed that it has entered into some raising and / or processing agreements and some marketing agreements with private parties in addition a MOU with Jindal Vijayanagara Steels Ltd. This outsourcing is opposed to the purpose for

which MML was established – vide para 1(1b) of the Memorandum of Association extracted in para 2 above. If outsourcing violates legal provisions like rule 37 of M.C Rules or the conditions in the lease deed like conditions 17 and 18, the Government has powers to determine the lease –vide sub-rule (3) of rule 37 of M.C Rules.

7. Rule 37(1)(a) of the M.C Rules and condition 17(1)(a) mandate that the lessee shall not without the previous consent in writing of the State/Central Government assign, sublet, mortgage or in any other manner transfer any right, title or interest in the mining lease. Rule 37(1) (b) of M.C Rules and conditions 17(1) (b) and 18 stipulate that a lessee shall not, without the previous consent in writing of the Central Government/State Government, enter into any arrangement or contract or understanding whereby, (i) the lessee is directly or indirectly financed to a substantial extent by a person other than the lessee, or (ii) the lessee's mining operation is substantially controlled by a person other than the lessee. None of the raising and/or processing agreements entered into by MML do not indicate that previous approval or permission in writing under Rule 37 of M.C Rules has been obtained before entering into those agreements. The MML was asked to indicate whether previous permission or approval in writing as contemplated by Rule 37 of M.C Rules, has been obtained for all these agreements, if so, to make available copies thereof. In reply thereto MML has intimated that "MML has not obtained any consent/permission from Government of India/ Government of Karnataka under rule 37 of M.C Rules". In some of the agreements

MML has noted the requirement of Rule 37, which indicates that they were conscious of the said Rule, but still violated the said Rule.

8. According to the raising and/or processing agreements entered into by MML with private companies, it has assigned or transferred its right to carry out the mining operation in the leased property to those companies. The entire expenses or investments relating to or connected with the mining operation are to be borne by those companies. MML does not spend anything for the purpose even though it is the mining lease holder and it is expected to do the mining operation. The arrangement or understanding made by MML by entering into agreements with those companies amounts to those companies 'substantially financing' the MML for the mining operations. Such an arrangement, agreement or understanding violates rule 37(1) of M.C Rules and conditions 17 and 18 of the lease. As required by rule 37 of M.C Rules, previous consent/approval of the Government in writing has not been taken or obtained before entering into those agreements. Hence there is gross violation of rule 37(1) of M.C Rules and conditions 17(1) and 18.

9. I will now consider whether the companies which have entered into raising or processing agreements with MML could be considered as agents or managers or employees or contractors of MML and whether they work under the control, supervision and directions of MML and whether they are paid by MML? An agent or manager or employee or contractor of a person always functions under the instructions, supervision, directions, and control of the master. If we

look into the terms of the agreements entered into by MML it is not possible to say that those companies are 'agents or managers or employees or contactors' of MML as it has not retained 'substantial control' over the mining operations done by those companies. The mining operations are done and substantially controlled by those companies and not by MML. By those agreements MML has abdicated the power of control over the mining operation under the mining lease and conferred it to those companies.

10. (a) The present evaluation speaks of considerable loss MML has suffered due to defective agreements and MOU relating to raising, processing and marketing of iron ore from various lease holds of MML. The losses are also due to non-enforcement of some of the agreement clauses. In addition to these losses, MML has also made arbitrary allotment of iron ore fines/waste dumps to selected individuals/firm at prices lower than prevailing market prices. The irregularities and losses suffered in respect of iron ore lease holds of MML are discussed below.

(b) The audit reports of the Principal Accountant General (in short AG) relate to the period 2003-04 and 2004-05. The Lokayukta enquiry covers a larger period i.e., 2000-2006. Hence there is difference between the figures in AG reports and the report of Sri Gaikwad team appointed by me to evaluate the loss suffered by MML. The report given by Gaikwad team is at ANNEXURE-C. The officers who were found fault with by Gaikwad team were asked to indicate their reaction to the Report given by Gaikwad team.

(c) Some of the officers who were issued notices to indicate their reactions to the observations made by Sri Gaikwad team, have stated that loss, if any, caused cannot, as done by Gaikwad team, be calculated on the basis of the prices declared by the Minerals and Metals Trading Corporation (in short MMTC), a trading corporation created by the Government of India. A perusal of the different agreements entered into by MML indicates that the initial price of ores specified therein is liable to be revised from 1<sup>st</sup> April of every year subsequent to the date of expiry of the initial period specified in the agreement and the revision has to be made having regard to either the market conditions or MMTC prices. MMTC prices are fixed having regard to the market conditions. In his audit reports AG adopts the price fixed by MMTC. It being a Government of India corporation and a trading corporation it would be fair and just to adopt the prices fixed by MMTC. Such an action cannot be considered as unreasonable or unjust or unrelated to market conditions.

(d) Another objection taken by some officers is that Gaikwad team has no corporate experience and it is not safe to rely on their observations. Sri.Gaikwad has put in more than 25 years of service and held different positions including 4½ years of service as Deputy Director in the department of Mines and Geology of the Government. Prior to joining State Government service he served as Emergency Commissioned Officer in the Army for about 4 ½ years. AG audits the accounts of trading corporations of the Central and State Governments and it is made by the officers of the office of the Accountant General

who have no corporate experience. Hence it cannot be said that Sri Gaikwad is not able to evaluate the loss suffered by MML. At an appropriate place in this report, I will refer to the ignorance of the Heads of MML in regard to their lack of corporate experience, including those who pointed out this deficiency in Mr. Gaikwad.

(e)(i) Yet another objection taken by the officers is that the Gaikwad team has treated the difference between MMTC price of ore and the initial price of ore stated in the agreements as loss to MML. The agreements entered into by MML provide for revision of prices after a period specified therein and such revision has to be made thereafter on 1<sup>st</sup> April of every year. While entering into agreements the then Managing Director and other officers of MML involved in taking such decisions were obliged to fix the initial price of various ores based on the MMTC prices or very near to that price. A perusal of most of the agreements show that the initial price fixed is far below the MMTC prices. Thereby MML suffered loss during the subsistence of the initial price fixed in the agreements i.e. till the date fixed in the agreement for the first review of the price. Therefore the Managing Director and other officers, who decided the initial price fixed has to be held responsible for not having exercised proper caution while fixing the initial price in the agreement and protecting the financial interest of MML. Even if the price was taken by calling tenders they should have seen that the price fixed is not far below MMTC price. For the above reason, the officers concerned are liable for the loss suffered by MML on that count.

(ii) The further question that arises is whether the officers who succeeded the previous Managing Directors, who entered into the agreement are responsible to revise the prices during the period up to the date fixed for the first review of the price. Gaikwad team has assessed the loss on that basis. I do not think that those officers are responsible to revise the prices before the date fixed in the agreement for first review of prices because the parties to the agreement are bound by the terms of the agreement. However if, the agreement provides for revision of the prices with effect from a date or period specified therein and if they had failed to revise the price with effect from that date or period with reference to MMTC prices, they would become liable for the loss suffered with effect from such date or period. If the period fixed in the agreement had to come to an end and either further agreement or renewal of the agreement is ordered they are bound to revise the price having regard to MMTC prices at the time of such renewal or further agreement. Accordingly, the Gaikwad team had to revise the findings and recalculate the loss suffered by MML and identify the officers responsible for such loss based on the above principle.

(f) In the Report dated 21<sup>st</sup> May 2008 (Part) of the Gaikwad team, it was observed that many of the agreements, MoUs and such other marketing contracts entered into by MML in its effort of outsourcing the mining activity, may call for close scrutiny by a competent personnel of commercial audit, which I had then intended to be got done. Later, it was found that the same is not feasible inspite of our

best efforts, for the purpose of this report. I find that the present computation of the loss suffered by MML as found by Gaikwad team is based on acceptable materials as well as after consideration of replies given by officers concerned. After considering all these facts I am of the opinion that the same can be relied upon to base my conclusions in this report.

(g) While fixing the responsibility on the officers for having mismanaged the affairs of MML, I will have to first consider the primary reason for this type of irregularity in the management of the affairs of a commercial concern. It is to be noted that the MML as a company was established among other reasons to exploit the mineral wealth available in the State. In that process, the MML had to indulge in mining activities, trading and even exporting. Though the MML had the advantage of getting the mining leases from the State for areas which were richly endowed with mineral wealth, it had to compete with other experienced mining companies and had to develop commercial contacts with buyers both Indian and foreign. Invariably, the MDs were people from All India Services, who neither had corporate or commercial experience, more so in the mining field. This lack of experience certainly was a handicap for those persons who headed the MML. Added to it, they did not even have the assistance of a Company Secretary, which had lead to many, if not, illegal and improper decisions. I am of the considered opinion that any new person who took over as Managing Director of a company like MML would certainly require some time to understand the working of the

company. May be the above factor was one of the reasons why the MML, though primarily established for mining and was allotted rich mineral bearing lands, did not exploit those lands for mining activities themselves. On the contrary, even against the law, subleased or outsourced the mining activities to third parties. It is in this background, I noticed that during the period 2000 to 2006, 11 officers had occupied the post of Managing Director of MML, some of them for periods as short as one month to 4 months. The report of the Gaikwad team has listed 11 officers as being responsible for the loss suffered by MML during their respective tenures. In the above background, I think it would be reasonable for me to think that it would take at least 6 months period for an official to understand the various affairs of the company including the financial affairs. For all the above reasons, I think it will be unfair to attribute deliberate misconduct on the part of those officers who had served for less than six months as Managing Director of MML. Technically, it could be said that every officer, who holds such responsible post should immediately on taking over charge of the office ought to have taken stock of the business activities, financial position, amounts due to MML from different sources, profit and loss of MML etc, but practically, it may not be that easy for a Managing Director, who has newly joined the MML to get acquainted with those facts during the first few months as Chairman or Managing Director. If the strictest possible view is to be taken, then all the officers named in the said list of Gaikwad team may be liable to answer the charge of misconduct, but I think it will be very unfair to charge such officers who held the post of Managing Director for a very short

period, which period on facts and circumstances of the case is considered to be at least 6 months in my opinion. But this qualifying period of 6 months will not be taken by me as a rule of thumb and will not apply to those officers, who even during their short stay either had entered into agreements with third parties or had an occasion to review earlier agreement, which agreement contained terms contrary to the interest of MML, but failed to review the same. Applying the above yardstick, in this report, names of such officers alone are being mentioned, who had a tenure of 6 or more months as Managing Director of MML and all those officers who might have held the office for less than 6 months, but during their tenure had signed agreements or had an occasion to review earlier agreements, which contained terms detrimental to the interest of the MML, but failed to rectify the same. Herein, I must notice in the case of Sri K.S. Manjunath, IAS, he was holding the office of the Managing Director for period less than six months. Even then he has to be held responsible for the loss suffered by MML, since he was the signatory to the agreement dated 4/7/2003, with M/s. Orient Goa Private Limited, which caused a loss of Rs.71,25,481/- and an agreement dated 4/7/2003 with M/s. Balabhanu Enterprises Private Limited, which caused a loss of Rs.56,62,938/-, as also being a signatory to an Agreement dated 3/5/2003 with M/s. Kalyani Ferrous Industries Limited, which caused a loss of Rs.2,76,78,519/- to MML.

11. (i) A group of private companies which have entered into agreements with MML are M/s. Kalyani Steels, M/s. Kalyani Ferrous

and M/S Mukund Limited. On 17-01-2002 MML entered into a raising agreement with Kalyani Steels in respect of about 80 hectares of area in Subbarayanahalli mines and entered into a marketing agreement in respect of the iron ore mined from that area with Kalyani Ferrous. On 03-05-2003 MML entered into a raising agreement with Mukund in respect of about 52 hectares of area in Jambunathanahalli mines and entered into a marketing agreement in respect of the iron ore mined from that area with Kalyani Ferrous. The above agreements relating to Subbarayanahalli and Jambunathanahalli mines are substantially similar. Calibrated iron ore produced by Kalyani Steels and Mukund is to be purchased by Kalyani Ferrous. The terms and conditions of the agreements with these companies, when compared with the terms and conditions of the agreements with other companies, contain many provisions which could be considered as more favourable to those companies and against the interests of MML.

(ii) Kalyani Steels and Mukund are paid Rs.188/= per Metric Ton (in short MT) of calibrated iron ore produced, Rs.100/= per MT of Banded Haematite Quartzite, (BHQ) and Rs. 25/= per MT of iron ore fines produced. It is said that iron ore fines and BHQ get produced while calibrated iron ore is produced and no separate or additional process or effort or expenditure is necessary to produce BHQ and iron ore fines. They are what is normally called as 'bye-products' while producing calibrated iron ore. Charging separate price for BHQ and iron ore fines is a favour shown to Kalyani and Mukund at the cost of MML at the time of entering into those agreements. The quantity of

BHQ and iron ore fines produced by Kalyani and Mukund up to date and the amount paid for it by MML would be the loss incurred by MML in this regard. Full figures about this is not yet made available by MML. I will consider this aspect in my next report.

(iii) In addition to the amount paid to the raising/ processing company, the MML has to incur other incidental expenses like royalty, welfare cess, sales tax, expenses connected with renewal of lease, charges connected with afforestation and fencing of safety-zone, NPV payments, administrative expenses etc. If all these expenses and the charges paid to Kalyanis' and Mukund under the raising agreements are deducted from the amount received by selling the iron ore under the marketing agreements with Kalyani Ferrous (Rs. 250/= per MT of iron ore and Rs,150/= per MT of BHQ) what remains is negligible. Is the MML getting reasonable price for the mineral wealth of the State is the question? The NPV charges paid to Forest Department in respect of the mines relating to agreement with Kalyanis' is to the tune of about 60 lakhs. While entering into the marketing agreement these aspects appear to have not been properly considered. Charges paid to raising/processing companies like Kalyani and Mukund is much more than what is being paid to GSP Projects and Anil Enterprises.

(iv) The price fixed in the marketing agreements dated 17-01-2002 and 03-05-2003 with Kalyani Ferrous for MT of calibrated iron ore was Rs.250/= and for BHQ Rs. 150/=per MT. According to the agreement that rate was firm for a period of two years after moratorium period of one year. That means there is no provision to

revise the price fixed in the agreements for a period of three long years. Thereafter rates are to be revised every year with effect from 1<sup>st</sup> April taking into consideration the revision in prices, if any, by MMTC. The revision became due on 01-04-2005 under agreement dated 17-01-2002. Accordingly, on the basis of prevailing revised MMTC price of Rs.1070/= per MT as on 01-04-2005, the price was revised by MML from Rs. 250/= to Rs. 902/= per MT with effect from 01-04-2005 and it was intimated to Kalyani on 30-05-2005. Kalyani opposed it. On the basis of a request made by Kalyani, by order dated 15-07-2005, the price was reduced to Rs.314/= per MT and it was ordered to retain that price as valid for a period of two years i.e. up to 31-03-2007. The price of Rs.314/= was arrived at on the basis of average MMTC price for the period 01-04-2004 to 31-03-2005. It is surprising that the revised rate for the year 2005 -2007 was fixed on the basis of average prevailing MMTC price during the previous year i.e. 2004-2005, even though the MMTC price in April 2005 was Rs.1,070/= and market price was steeply increasing day by day. Such a revision is contrary to the terms of the agreement and it is to the advantage of Kalyani. The loss suffered by MML in this regard during the year 2005-2006 is estimated by AG at about Rs. 22.3 crores. MML suffered considerable loss also because of non-revision of prices from 2002 to 2005. MML in its reply to the report of AG has not disputed the factual position stated above, except that the price of Rs. 314/= fixed with effect from 1-4-2005 was firm only for a period of one year and not two years as stated in the order and it was a typographical error. It is stated in the reply filed by MML that the Kalyanis have been told about that mistake but MML has not stated

whether Kalyani has agreed that it was a mistake and the prices have been further revised with effect from 01-04-2006. The reply filed by MML to the report of AG is silent about this aspect as well as the propriety of fixing the price at Rs.314/=.

(v) In some marketing agreements entered into by MML the price stated therein is firm only for a period of one year and in some others it is firm for two years. The moratorium period of one year is not found in any agreement except that with Kalyanis'. Thereby revision of prices gets postponed. This is another condition which is favourable to Kalyani at the cost of MML because from 2003 onwards the price of iron ore was increasing very rapidly.

(vi) In agreement dated 17-01-2002 Kalyani Ferrous has paid sales advance of Rs, 6 crores as security for purchase of iron ore. Provision for payment of advance or security deposit is found in all agreements because MML releases iron ore or iron ore fines sold by it only after full purchase amount is deposited in advance. Agreement with Kalyani Ferrous requires MML to pay interest on that advance amount at the rate of 10% per annum. There is no provision for payment of interest on such advance or security deposit in agreements entered into with other companies. Interest paid on that amount by MML to Kalyani up to 2006-2007 comes to about Rs. 2.5 crores. This is another favour shown to Kalyani at the cost of MML.

(vii) The Managing Directors who entered into the above said agreements with Kalyani Steels, Kalyani Ferrous and Mukund are

guilty of showing favours stated above to those companies and loss to MML. The Managing Directors and other officers during the relevant periods who decided to pay those charges are responsible for the loss occurred on that basis.

12. Another major agreement entered into by MML was with Jindal Vijayanagara Steels Ltd (in short Jindal), at the desire of the Government of Karnataka, in the form of MOU dated 17-01-1997. As agreed therein a joint venture company called Vijayanagar Minerals Private Ltd (in short VMPL) was registered to provide adequate supply of iron ore to Jindal steel plant. It relates to Thimmappanagudi mines. According to AG there are numerous irregularities connected with this transaction and dealings in pursuance to that MOU which has resulted in loss of crores of rupees to MML. Some of them are given below.

(i) According to MOU dated 17-01-1997 MML is to place at the disposal of VMPL Thimmappanagudi mines and Jindal, which had applied for lease of Kumaraswamy's A, D and E blocks, would place at the disposal of VMPL said A, D and E blocks that may be granted to them on lease by the Government. In pursuance to the MOU, as agreed, MML placed Thimmappanagudi mines at the disposal of VMPL and the VMPL is permitted to do mining operation there since 1999 -vide clause 6 of service agreement dated 2-2-1999, and is supplying iron ore to Jindal steel plant. It is learnt that Jindal, as on to this day, has not placed any mines at the disposal of VMPL.

(ii) As per the MoU dated 17.01.1997, MML was to receive premium on the sale of two grades of iron ore viz., the lumpy ore and

the iron ore fines at 10% and 6% of the ruling market price respectively. Against this understanding, MML has consistently invoiced the premia claim at the rate of Rs.30/- per MT of lumpy ore and Rs.6/- per MT of iron ore fines. The premia invoiced are much below the percentage value calculated on the basis of the prevailing MMTC prices for different grades of iron ore. This apart, VMPL, have also generated other grades of iron ore viz., basic ore, low grade lumps and low grade calibrated ores during the period under report. The supply of these grades of ore were not foreseen at the time of execution of MOU and consequently also for purposes of calculation of premia payable by the VMPL. MML should have taken up the matter with VMPL and claimed premia thereon. In the absence of any such arrangement, MML has suffered by not realizing premia on these grades of ores. According to AG premium amount was not revised from time to time on the basis of the prevailing market rate and on this count there is short payment of Rs. 3.22 crores by VMPL upto 2004-05. In its reply to AG report MML has not stated anything about the merits of the observations of AG. The only remark made by MML is that a copy of the report of AG has been sent to VMPL asking it to pay the amount stated by AG and no reply has been received from VMPL so far. The reply given by MML that it has asked VMPL to pay the amount stated by AG indicates that MML agrees with the view expressed by AG. The loss suffered by the MML consequent to raising invoices for premia at rates below that agreed in MoU in respect of iron ore lumps and iron ore fines and failure to collect premia in respect of other grades of iron ore that are not mentioned in the MOU, but generated and marketed from

Thimmappanagudi Mines is reported in table 01 and 01A of the report of Sri Gaikwad team at Annexure-C. The total loss suffered by MML on this account is Rs.25,72,74,368/-. The Managing Directors in office during the period are responsible for the loss.

(iii) The financial mismanagement of MML is evident from the following facts.

(a) As stated above, MML entered into a MoU with Jindal to establish VMPL. As per that MoU the equity share of MML in VMPL is 30%. The said equity share was contributed by MML in the form of infrastructural investment towards development of its Thimmappanagudi mines which was handed over by MML to VMPL. MML valued that infrastructural investment at Rs.372 lakhs. That valuation was not accepted by Jindal, which valued it at Rs.174 lakhs which is equal to 30% of the equity share of MML. The matter was referred to a neutral valuer and he fixed the amount at Rs.243.74 lakhs. MML demanded that the amount in excess of 174 lakhs i.e. Rs.69.74 Lakhs (243.74 - 174) must be returned to MML with interest at 10% or its equity share should be increased proportionately. After the revaluation of the infrastructural investment, percentage of share capital of MML should have been increased since this has not been done, the excess amount of Rs.69.74 lakhs should have been collected from Jindal with interest. The profit and loss account of the VMPL for the period from 2003 to 2007 indicates that VMPL has earned a total net profit of Rs.8,00,22,746/-. No indication is available in the files of MML for having received its share of the profit for its share in equity. This

aspect could have been settled if the share holders agreement had been finalized. However very surprisingly, the Accountant General's audit report shows that MML's share capital as only 2.77% of total paid up capital.

(b) From the facts narrated herein above, it is seen that the MoU shows the investment of MML in the VMPL is 30% i.e. Rs.174 Lakhs, the independent valuer's report shows the said investment as Rs.243.74 lakhs equivalent to 42%, while the Accountant General's Audit Report shows it as 2.77%. In spite of these glaring discrepancies, though the MoU was signed as far back as in 1997, till date there is no record which conclusively reflects what is the true investment of MML in equity. Added to this, though the records of VMPL shows that it has made a profit of over 8 crores there is no proof of MML having received its share in the profit. There cannot be a worse example of financial mismanagement of a company, that too over the years. Herein, it may be relevant to take note of the comments of the various Managing Directors who received Show cause notices from the Lokayukta, wherein they have consistently stated that the company was suffering huge loss and the financial position of the company was such that it was not even in a position to pay salary to its staff. With the above cited financial management, there is no need to go any further to find out the cause for such loss suffered by MML. For the reasons stated herein above action should be taken to recover the amount of Rs.69.74 lakhs with interest due to MML from VMPL on the basis of neutral valuer's report apart from other dues.

(c) How much MML lost in its J.V. agreement with VMPL can be assessed by comparing it with another J.V. Jindal agreement with M/s. Thungabhadra Minerals where MML had made an investment of Rs.15,60,400/- from which investment the MML has received its dividend share of Rs.31,32,03,488/- for the period between 1983 and 2007, whereas in the case of VMPL on investment of Rs.243.75 Lakhs no amount has been received as dividend.

(iv) It is reported by the MML that during the period from 2000-01 to 2006-07, a quantity of 60,93,040 MT of iron ore produced from Thimmappanagudi Mines was supplied to VMPL. MML has also sold during the said period, a total of 50,565 MT of iron ore fines to various other firms. Thus, the total sale of iron ore from Thimmappanagudi Mines during that period is 6143605MT. This shows that the quantity of iron ore marketed from Thimmappanagudi Mines is in excess of the production. This aspect creates some doubt about the accounts maintained by MML.

(v) Though the MOU entered into in 1997 required the parties to finalize the shareholders agreement and some other documents, so far, they are not finalized. This observation is admitted by MML.

(vi) According to clause 4 of MOU, MML had the option to purchase from VMPL certain quantity of iron ore lumps produced in Thimmappanagudi mines at transfer price which is lower than the market price and sell it in open market. MML failed to purchase the lumps they were entitled to purchase. According to AG, upto 2004-06

this has resulted in loss to MML to the extent of Rs. 20.82 crores and corresponding benefit to VMPL and Jindal. MML has not given any proper explanation in this regard. Had MML, by virtue of the provision in the MOU, purchased and sold its share of the ore produced, it would have gained a profit of Rs.7,64,19,838/-. Therefore, MML has suffered loss to this extent. It was the responsibility of the respective Managing Directors of MML to implement the provision of the MOU and safeguard its interest in such ventures. The concerned Managing Directors of MML should have raised the demand during the month of April for the ore produced during the previous financial year. But, they have failed to act. Hence they are to be held responsible for the loss suffered. The amount of loss attributed to each managing Director is furnished below :

Sl. No.	Year	Quantity produced (MT)	Loss at the rate of Rs.94.90/- per MT * (Rs.)	Name of the Managing Director responsible for the loss Sri/Smt.
1	2000-01	2,785	2,64,296	Company's Account
2	2001-02	51,203	48,59,165	I.R. Perumal
3	2002-03	51,800	49,15,820	Company's Account
4	2003-04	1,76,918	1,67,89,518	D.S. Ashwath
5	2004-05	1,52,527	1,44,74,812	Jeeja Madhavan Hari Singh
6	2005-06	2,29,644	2,17,93,216	-do-
7	2006-07	1,40,390	1,33,23,011	Mahendra Jain
	<b>Total:</b>	<b>8,05,267</b>	<b>7,64,19,838</b>	

\* Price taken into account is a fraction of the then prevailing market price.

(vii) According to para 5 of the MOU the VMPL is responsible to pay royalty, FDT, taxes, levies, other duties and all obligations including statutory obligations in connection with the mining operations like liability to pay compensatory afforestation charges, lease rent, fencing of safety zone and net present value (NPV) etc. AG has reported that though it is not liable to pay the following amounts MML has paid those amounts. That amount was payable by VMPL and it was an avoidable burden on MML. No action has been taken to recover that amount from VMPL..

Date	On what account	Amount (Rs)	Remarks.
7-11-2000	Towards compensatory afforestation and penal compensatory afforestation	48,63,450	Paid to Karnataka Forest Department
9-3-2002	Towards lease rent	2,79,657	-do-
28-1-2003	Towards Compensatory afforestation	37,10,749	-do-
27-11-2003	Fencing of Safety Zone	4,21,947	-do-
29-11-2003	Fencing of Safety Zone	7,41,478	-do-
2-4-2004	Towards net Present value	3,56,85,760	-do-
3-4-2004	Towards lease rent	2,84,16,212	-do-
3-4-2004	Towards net Present value	3,70,00,000	-do-
	Total	11,51,99,253	

(viii) In the service agreement dated 02-02-1999 entered into by MML with the VMPL it had agreed to pay MML a sum of Rs.350 lakhs to meet the expenditure towards VRS scheme to be introduced by MML for the benefit of the employees who have become surplus

because of handing over of the Thimmappanagudi mines to VMPL. So far only 60 lakhs have been paid by VMPL and the balance amount is due.

(ix) MML has virtually assigned the right of exploitation of iron ore and physically handed over the Thimmappanagudi Mines to VMPL to raise iron ore at its cost. Such handing over of the mine for exploitation by VMPL, the prior approval of the Government and without retaining the substantial control over mining amounts to transfer of mining lease which is contrary to Rule 37 of M.C Rules.

(x) Another observation made by AG is about delay in payment of advance tax, self-assessment tax, sales tax, delay in filing the income tax returns and delay in crediting TDS deductions and the resultant liability to pay interest and penalty. According to AG total liability of interest and penalty on this count comes to about Rs. 2.67crores. This liability occurred mainly during the year 2005-06 and it could have been avoided by proper administration. Failure to appoint a whole time Company Secretary as required by section 383A of Companies Act may be one of the reasons for this situation. The Managing Director during 2005-06 is responsible for the loss, if any occurred on this count.

13. On 04-07-2003 MML entered into an agreement with Orient (GOA) for sale of iron ore fines from Jambunathanahalli mines with a clause that prices are to be revised with effect from 1<sup>st</sup> April each year on the basis of market conditions and prevailing MMTC rates. According to AG during 2004-05 also iron ore fines were sold but

without revising the rates. AG has estimated the loss incurred thereby at about Rs. 3.42 crores as shown in Annexure IV of his report. If the loss is calculated on the basis of difference between the sale price and MMTC Price, the loss would be about 10 crores - vide table 9 of Sri.Gaikwad team report. The Managing Directors in office during the relevant period are liable for the loss.

14. (a) Another agreement entered into by MML was with M/s Balabhanu Enterprises (P) Ltd., Jannapura, Bhadravathi, which is one of the beneficiaries, who enjoyed preferential allocation of iron ore fines from Subbarayanahalli Iron Ore Mine and Jambunathanahalli Iron Ore Mine. MML entered into agreement with M/s. Balabhanu Enterprises (P) Ltd., on 4.7.2003 for marketing of iron ore fines of different grades. The period of contract was for five years from the date of execution - vide clause 2. Clause 3 read with clause 4 of the agreement specifies that M/s Balabhanu Enterprises shall undertake to purchase a minimum quantity of 4 lakh MT of iron ore fines per annum, from group of Iron Ore Mines leased to MML in Bellary District. The prices agreed are as follows which are inclusive of royalty, cess, FDT, taxes, but excluding loading charges.

	Rupees.
+66% Fe	110 Per dry MT
+65% to 66% Fe	97 Per dry MT
- 65% Fe	70 Per dry MT

(b) As per clause 8 of the agreement, the rates are for the year 2003-04 and thereafter to be revised and refixed on 1<sup>st</sup> April each year based on the prevailing market conditions/MMTC prices. The

agreement declares, M/s Balabhanu Enterprises were identified as a beneficiary for allocation of iron ore fines at the instance of M/s Anudeep Carborates (P) Ltd., and M/s Arun Chemicals, the buyers of limestone and dolomite from MML. Hence, the statutory requirement of floating tenders was not complied with as required under the Karnataka Transparency in Public Procurement Act, 1999 and Rules made thereunder. As a result, M/s Balabhanu Enterprises walked away with a higher beneficial arrangement of procuring iron ore fines at the above prices when MMTC ruling Prices had shown a clear trend of rise as evident from the values that are herein indicated. Prices for grade +66% FE 10F were (i) Rs.1424.65 on 5/4/2004; (ii) Rs.907.25 on 6/8/2004; (iii) Rs.1407.25 on 5/11/2004; (iv) Rs.1607.25 on 25/4/2005 and (v) Rs.1501.90 on 8/12/2005.

(c) In the corresponding period, MML's self declared prices for the said grade of iron ore fines were: (1) 18.11.2003 - Rs.350/- (2) 28.11.2003 - Rs.400/- (3) 03.12.2003 - Rs.425/- (4) 05.12.2003 - Rs.475/- (5) 01.01.2004 - Rs.800/- (6) 01.04.2004 - Rs.2000 and (7) 01.12.2005 - Rs.2000/- + Rs.200/-. These particulars, clearly establish that the agreement with M/s Balabhanu Enterprises for supply of iron ore fines was detrimental to the interest of MML. The prices agreed are far below the prevailing MMTC/MML prices. Overlooking this important market trend, the MML has agreed to supply the iron ore at far below the prevailing market prices.

(d) Sri K.S. Manjunath, the Managing Director who is the signatory to the agreement on behalf of MML has failed to safeguard

the interest of MML by not considering the prevailing higher MMTC ruling price at the time of entering into long term agreement on 04.07.2003. The agreed rates were firm for the year 2003-04. The loss suffered by MML in view of acceptance of lower prices as shown above is estimated at Rs.56,62,983/- and this loss is attributed to Sri K.S. Manjunath, Managing Director who signed the agreement.

(e) Sri. D.S. Ashwath and Smt. Jeeja Madhavan Hari Singh respectively succeeded Sri. K.S. Manjunath. It was their duty to revise the prices on par with the prevailing MMTC prices on 1<sup>st</sup> April each year by invoking the provision for revision of prices stipulated in clause 8 of the agreement. The first revision was due on 01.04.2004 and second revision on 01.04.2005. No revision was made and they have failed in their duty. Hence, they are to be held responsible for the loss suffered by MML during the year 2004-05 and 2005-06. Loss relatable to Sri D.S.Ashwath is Rs.4,64,41,750/- and relatable to Smt. Jeeja Madhavan Harisingh is Rs.6,79,14,000/-. The above loss is computed based on the prices prevailing on 1<sup>st</sup> April 2004 and 2005.

15. Another agreement entered into by MML is with M/S Narayan Mines Ltd. It is for a period of 13 months in the first instance which is extendable for another period of 2 years by mutual consent based on the performance of Narayan Mines. According to the agreement Narayan Mines has to excavate every month a specified quantity of iron ore from old dumps and deliver it to MML. If it fails to excavate and deliver said quantity of ore in any month it is required to pay an assured monthly premium of Rs.11,74,000/-. The agreement further

stipulates that "However he shall excavate and deliver the minimum assured monthly production and monthly minimum assured premium on an average on half yearly basis." Narayan Mines did this work for about 3 years (2000 to 2003). During that period about 7 officers have occupied the office of MD. Some of them were there for very short periods like 1 month, 2 months, 3 months or 4 months etc. Narayan Mines has failed to excavate and deliver the specified quantity of ore every month. Hence it has become liable to pay the assured monthly premium specified in the agreement. It has not been collected by the officers in charge of administration during that period. Total amount due on this count comes to Rs.4,81,34,000/-. Narayan Mines is the beneficiary of inaction on the part of the officers in not collecting the amounts legitimately due to MML. Recovery proceedings should be initiated against Narayana Mines by MML to recover this amount due.

16. (a) Another matter considered by AG relates to Vaddarahalli Granite Quarry. An agreement was entered into by MML with Jemco Granites on 2<sup>nd</sup> January 2002 for sale of green granite blocks to be quarried from Vaddarahalli quarry at Hassan, at a rate of Rs. 4000/= per cubic meter. The agreement was for a period of one year from the date of actual commencement of quarry operation. Mining lease had not been obtained by MML at the time of the agreement. Mining lease was obtained on 09-09-2003 more than one and half years after the agreement and the sale agreement was revalidated for a period of one year from 20-10-2003 without revising the price specified therein. On 06-11-2003 MML entered into a raising agreement with Sana Granites

suggested by Jemco Granites at a raising cost of Rs.3,000/= per cubic meter. Supply of granite to Jemco started immediately thereafter. Revalidated agreement came to an end on 19-11-2004 and the agreement was extended for another two years and price of granite was fixed at Rs.4,400/= per cubic meter. AG has taken objection for extending the agreement at Rs.4,400/= per sq meter stating that at that time market price was around Rs.5,000/= per sq meter and there were many companies which were willing to purchase it at that rate.. On this aspect MML has stated that the extended agreement was continued only for two months as both Jamco and Sana stopped work after two months. It has not stated anything else in its reply. AG has further stated that MML has suffered a loss of about Rs.5.42 lakhs as it became liable to pay sales tax etc. of about Rs.5.42 lakhs not paid by those companies. In its reply MML has stated that it has recovered 5.40 lakhs by selling granite blocks raised and left by those companies at the site. The amount recovered by selling granite blocks cannot be considered as the amount recovered from those parties because MML is the owner of that granite block.

(b) As in the above case, most of the agreements entered into by MML are in anticipation of either obtaining the mining lease or getting the expired lease renewed. Actual mining or quarrying operation starts after mining lease is either granted or renewed. The price of iron ore or mineral is fixed in the agreement having regard to the price prevailing at the time of the agreement but the price would be much higher when lease is granted or renewed and mining operation commences and

supply of material starts. If the agreement is entered into after the lease is granted or renewed the price prevailing at that time would be quoted in the agreement. This non-receiving of proper price has resulted in loss to MML and benefit to the other party.

17. Another matter dealt with by AG relates to Net Present Value (NPV) payable to Forest Department as directed by the Supreme Court in respect of Thimmappanagudi mines, Subbarayanahalli mines and Jambunathanahalli mines. NPV, as stated by the Supreme Court, is the amount required to be collected from the agencies using forest land for non-forest purposes at the rates varying from Rs.5.80 lakhs to 9.20 lakhs per hectare of forest land depending upon the extent and density of forest land in question. It has to be collected from the agencies using forest land for non-forest purposes. MML is not required to pay it or to share it with the lessees.

(i) Thimmappanagudi mines: In pursuance to a MOU entered into between MML and Jindal a Joint Venture Company called Vijayanagara Minerals Private Ltd was formed and Thimmappanagudi mines were placed at the disposal of that Joint Venture Company. It was also decided that the NPV is to be paid by the Joint Venture Company. The total amount payable was about Rs.7.26 crores. MML voluntarily by letter dated 03-03-2004 offered to pay 30% of that amount (2.18 crores) even though there was no commitment or legal requirement to pay. It was an avoidable expenditure on MML while the same was an undue gain to Jindal.

(ii) Subbarayanahalli mines: Kalyani agreed to share the NPV liability with MML on 50:50 basis monetary consequence was same as above.

(iii) Jambunathanahalli mines: The Supreme Court by its order dated 30<sup>th</sup> October 2002 directed all Governments in the Country to collect NPV in respect of all forest lands converted into non-forest purposes like mining. Liability in respect of Jambunathanahalli mines was about Rs. 2.84 crores. In the agreement dated 03-05-2003 entered into by MML with Mukund no provision was made for payment of that amount even though that agreement was entered into more than 6 months after the decision of the Supreme Court. Provision should have been made in the agreement about payment of that amount. When the Forest Department started demanding payment of that amount MML requested Mukund to share the amount equally but Mukund refused to pay and the entire amount was paid by MML. If proper care had been taken while entering into the agreement payment of that amount or at least 50% thereof could have been avoided. As stated above, Kalyani had agreed to share the liability in respect of Subbarayanahalli mines on 50:50 basis. Companies like Shivashanker, GSP, Anil etc have agreed to share the liability. Failure to raise this question while finalizing the agreement with Mukund has resulted in this liability.

18. There is another set of agreements with five companies i.e. Hajee Ameer Minerals (Huded Basanna), Sree Om Minerals, Sunny Agencies, Dhrevdesh, Metasteel and Linga Reddy, all relating to Jambuthimmanahalli mines according to which those Companies are authorized to

raise, process and purchase the salable iron ore produced. All those agreements were entered into in 2<sup>nd</sup> half of 2005 and the purchase price/premium fixed is Rs.200/= per MT. At that time the market price of iron ore was not less than four times that amount.

19. MML has failed to collect ad-hoc price (as agreed in MOS dated 30-12-2003) of Rs. 84,58,916 from MMTC for the supply of iron ore fines from the Subbarayanahalli mines to MMTC during October to December 2003.

#### RECOMMENDATION BY MINISTERS AND LEGISLATORS

20. The Managing Director has been authorized by the Board to fix price for sale of iron ore fines and mud etc. and to enter into contracts for sale. The relevant files made available for perusal indicate that the Managing Director used to allot iron ore fines and mud to persons who used to approach him directly or through some others like politicians (Ministers, former Ministers or MLAs or MLCs or former MLAs or MLCs etc.), officers, former or present Directors of MML and others. It is left to the discretion of the Managing Director to select the purchasers and to decide about the quantity to be sold to each person. MML being an instrumentality of the Government the Managing Director is required to exercise the discretionary power of selecting the applicants and the quantity to be allotted to an applicant on some rational, relevant and non-discriminatory principles which could be gathered from the files. Otherwise it will be arbitrary exercise of power. The files do not disclose the basis on which the persons have been selected and the quantity allotted to each person has been decided. The

files indicate that allotments were made on the basis of request and recommendations.

21. From the Report of Gaikwad team at Annexure-C, it is seen that because of the recommendations made by some politicians like Ministers, MLAs/MLCs, the MML suffered loss of Rs.7,51,42,647/- as quantified at table 10A to 10F of Annexure-C. This has happened in the following background. During the period when there was boom in the mining trade, some Ministers and other politicians holding public offices sent recommendatory letters to the then Managing Director of MML requesting the said officer to allot certain quantities of iron ore fines, iron ore mud and iron ore waste dumps to the named party in their letters of recommendation. The MML had fixed its own selling rates for this type of minerals and in some cases of recommendation that is in about 5 cases, even though there was no request from the concerned persons for reduced rates, the Managing Director holding the office at the relevant point of time, made allotment at a price lower than the MMTC price. This was done solely because the concerned officer wanted to please the person who has sent the letter of recommendation. This is a clear case of an officer crawling when he is asked to bend. But the question is, for this loss can I hold the persons who sent the letters of recommendation responsible or is it only officers who voluntarily allotted it at a lower price causing loss to MML? After receiving the report of Gaikwad team, I found prima facie material to call for explanation from such persons who had sent letters of recommendation for allotment of iron ore fines, iron ore mud or waste

dumps on behalf of private parties, to Managing Directors of MML. I have received their replies. In most of the replies I find a common stand taken by these public personalities, who were in the power structure of the Government in some point of time or the other. In some of the replies, my observation made while issuing of notice was questioned as findings which are premature and that I have come to a conclusive opinion already, hence the reply sought for is only a formality. Here, I would like to point out that the Show cause notices were issued on the basis of the material found in the Report of the Gaikwad team and referring to them as prima facie material about which reply was sought. There is no concept in Administrative Law or for that matter in any jurisprudence that prior to the issuance of Show cause notice there should be a notice to the concerned person calling upon him to show cause why Show cause notice should not be issued. (See decision of Hon'ble Supreme Court in AIR 1996 SC 2450 - Ch. Ramarao V/s. Lokayukta and another). As a matter of fact, the decisions of the Hon'ble High Court of Karnataka has specifically stated that the Lokayukta, while making enquiry on the basis of a reference made by the Government under Sec. 7(2A) of the Lokayukta Act, is not required to issue any notice and can come to a conclusion without such show cause notice, in his report sent to the Government. (See Dr. K.Chowdappa V/s. State of Karnataka - (1989) 3 Kar.L.J. 512). Though it is not my duty to convince these noticees on this legal aspect, I am compelled to comment on the objections taken in the replies to the Show cause notice.

22. Almost another common feature of the reply to the Show cause notice is that they are elected representatives, who had obligation to forward the request of the people of the State to the concerned. In this context, I would like to extract part of the reply from one of the noticees, which reads thus:-

*"I would like to remind the Hon'ble Lokayukta that I am elected representative to the Karnataka Legislative Assembly. I have a constitutional role to play, which is well within the parameters of the Law. I would like to place on record that, I have never exceeded in any of my actions as a Minister. All the decisions are taken in the light of the policy decisions of the Government, in the light of the good wellbeing of the people who are elected me and others to govern the State. For such actions, investigations are made and if such notices are issued, it will be impracticable or impossible for any legislature to function as a member of the Legislative Assembly and as Minister. The investigation and the enquiry report has direct interference with the legislative functions entrusted to me under the provisions of the Constitution and it also directly affects the welfare and wellbeing of the people as the notices and observations of the Hon'ble Lokayukta amounts to discourage doing welfare to the public who have elected people like us to the Legislative Assembly and to become the Minister for management and administrations of the State. On reading the report, I prima facie find the Hon'ble Lokayukta formed a finding which directly interferes with the function of the Legislature and is also direct intervention of functioning as Minister which is given under the Constitution....."*

The language reproduced in the above extract is entirely that of the signatory of that reply and not mine. I have made efforts to find out whether the Constitution of India has given the signatory of that letter a constitutional role to play which is well within the parameters of law,

when he sent letters of recommendation to his subordinates, but I could not find any such duty cast on the elected representative in the Constitution. I am at loss to understand, whether the policy of the Govt. of Karnataka that in the light of the good wellbeing of the people (whatever that may mean) who have elected him to govern the State has permitted him either as a Member of Legislature or a Minister to make recommendations in the matters involving commercial interest of a citizen which has absolutely no public interest. Even for this proposition, I did not find any support. The noticee has nowhere pointed out such constitutional provision or a policy of the Govt. of Karnataka, which empowered him to issue letters of recommendation in matters pertaining to commercial interest of a person. I also would like to point out that this is not a suo-moto enquiry initiated by the Lokayukta, but an enquiry referred under Section 7(2A) of the Lokayukta Act by the then the Government. The terms of reference are very wide and I fail to understand how any report I might submit to the Government after investigation would interfere with the legislative functions entrusted to the noticee under the provisions of the Constitution or which would directly affect the welfare and wellbeing of the people, as contended in the reply. I get a feeling that this part of the reply is meant to create some sort of fear of breach of privilege which of course the noticee is free to initiate without putting this threat in his reply. I can, without any hesitation and about which I will mention little later in this report, that making recommendations in the matters pertaining to commercial interest involving the State or its instrumentality's finances, can never be a matter of welfare of the

public. (See also [Ram & Sham referred herein below](#)) I also cannot understand how seeking a reply in a Governmental reference would amount to direct intervention in the functioning of a Minister. Since the noticee of that notice has asked me to consider these aspects, I am making my observations in regard to the said part of the reply of the noticee. Here I would like to quote Sophocles' who said nobody has a more sacred obligation to obey the laws than those who make the Law.

23. Be that as it may, my experience as a Judge has taught me that extraneous comments should not come in the way of legalistic analysis of an issue which is before me. It is on that foundation I will now consider the legality and the effect of these recommendations.

24. Out of 10 noticees who have sent recommendations to MML as elected representatives of the people on behalf of private parties for allotment of certain quantities of various types of mineral ore, in 5 cases, the then Managing Directors have allotted iron ores fines and mud at rates much lower than the rate fixed by MML itself, as its minimum selling price. I must observe here that the rate fixed by MML at the relevant point of time was itself lower than that of the MMTC rates, which this enquiry has taken as a best minimal rate. In spite of the same, these recommendees together by allotment made to them caused a total loss of Rs.7,51,42,647/- directly to MML and indirectly to the State of Karnataka, because MML is wholly owned company of the State of Karnataka. If this is the consequence of the recommendations made by these 5 noticees can it be said that the same is protected under the Indian Constitution or by the policies of the Government of

Karnataka as has been stated in the reply extracted herein above and if it should be so. I can only observe how safe the future of the finances of the State will be in the hands of these representatives of the people.

25. The only part of the replies that I can really say which is relevant for my consideration for the purpose of this investigation is their defence that they have not asked the MML to make allotment at any particular price, much less, the price at which the allotments were made, which caused huge loss to MML. In case of recommendations made by 5 of the persons, they have specifically replied that it is an act of the officials of MML and they had no role to play in fixing the price. Since there is no contra evidence from the concerned that no other pressure was brought on them, I will have to hold the concerned Managing Directors, as officers responsible for the above mentioned loss suffered by MML on this count, whatever be the effect of the recommendatory letters, it had on their judgment making process while making allotment at a cost less than the actual market price, as mentioned above. The report of the Gaikwad team at table 10A of Annexure-C clearly mentioned the rate of MMTC on the concerned date when the allotment was made and the loss that is caused to the MML. I do not think the MML could have sold any type of mineral ore at a price lesser than that of MMTC which reflected the lowest market price. Therefore, on this count, I cannot name those persons who made recommendations, as persons responsible for the loss caused to MML, however improper such recommendation may be, by the sale of iron ore, fines or mud to persons/parties mentioned in the schedule of the

Gaikwad report, more so in the background of the fact that there is no conduct rules governing this category of persons. However, the fact remains that the MML has suffered loss of Rs.7,51,42,647/-.

26. As part of my recommendation, I would like to state that it is of common knowledge that it has become a routine affair in the administration that people holding high public offices make recommendations in favour of a particular person or party, especially for favourable consideration of their case. The general justification in regard to this type of practices is that those persons who make recommendations are, being elected representatives of the people have a legal obligation to help people who are in need. But in a democratic set up, such an act of persons holding high public offices can never be accepted. In my opinion, in a democracy which proclaims equality to every body, such practice of recommendations is per-se in violation of the Constitutional guarantee of equality under Article 14 of the Constitution of India. By making such a recommendations they are influencing the officer concerned to take a decision in favour of a particular party, which invariably affects the rights of another party. Therefore, such practice is to be deprecated. (See [Pancham Chand V/s. State of Himachala Pradesh in \(2008\) 7 SCC 117](#)) To prevent such practice a code of conduct which is enforceable should be put in place. This does not mean that such person cannot make any recommendation in a deserving cases, where larger public interest is involved like in the field of health care if the same is denied to any person. But certainly such practice of making recommendations in

areas which has only commercial interest should be deprecated. I would also recommend that any public servant, who bases his decision in the course of his official act on the recommendations of any person who is not authorized to do so in appointments, commercial transactions and in cases where there is no public interest is involved should be held guilty of misconduct. In this background, I take support from the decision of the Hon'ble Supreme Court of India in the case of PANCHAM CHAND V/S. STATE OF HIMACHALA PRADESH (supra), wherein the Hon'ble Supreme Court has imposed a fine of Rs.1 Lakh for interfering in the functioning of a statutory quasi judicial authority. The basis of this judgment, certainly in my opinion, applies equally to all other authorities, be they quasi judicial or not. In this context, I think it is useful to refer to the observations of the Hon'ble Supreme Court in another case viz., R.D. Shetty V/s. I.A. Authority of India (AIR 1979 SC 1628) which reads thus:

*"The Government cannot be permitted to say that it will give jobs or enter into contracts or issue quotas or licences only in favour of those having grey hair or belonging to a particular political party or professing a particular religious faith. The Government is still the Government when it acts in the matter of granting largess and it cannot act arbitrarily. It does not stand in the same position as a private individual."*

27. CONCLUSIONS:-

While concluding my report on the affairs of MML, I would like to comment that while the MML could have been a goose that could have laid the golden eggs was converted into white elephant by the top

officials of MML throughout its existence, even when there was ample opportunity to make considerable profit because of the spurt in the international market, the failure to do so was because of the lack of business acumen or may be for collateral considerations. It should be noticed here that while during 'China Boom' many individuals became billionaires, MML which had all the infrastructure continued to loose money and was allowed to suffer loss even during this prosperous period by its officials, either by entering into agreements with third parties without keeping the interest of MML in mind or by not collecting legitimate dues from 3<sup>rd</sup> parties or by doling out huge sums by way of NPV which was not due to be paid by MML or by selling minerals at rates lesser than the MMTC price resulting in huge financial loss to MML. It is my recommendation that the Government should immediately appoint an appropriate authority to recover the loss suffered by MML and those amounts found to be due to MML, not computed in this report for want of information, and also to initiate necessary legal proceedings against the 3<sup>rd</sup> parties, from whom legitimate dues have not been collected by MML. The above loss caused to the MML should be recovered from the officers responsible for such loss, besides initiating the Departmental Enquiry. The Report of Gaikwad team at Annexure A shows the involvement of 3 retired officers of MML who are also liable to this loss and the steps shall be taken to recover the loss caused, besides the initiation of Departmental Enquiry in accordance with the Rules applicable to them.

28. From the above facts it is clear that the manner in which the MML has been entering into various agreements with third parties shows that the concerned MDs while entering into agreements with them have not safeguarded the interest of the MML and even at the later stages like at the stage of renewal, the interest of the company has been totally ignored, thereby huge loss have been suffered by the company. The fact that the MML is an instrumentality of the State being wholly owned by the Government of Karnataka is not in dispute. Therefore, it had an obligation to look after the commercial interest of the company, both while entering into agreement with other parties, as also while selling the ores acquired by it. In these transactions, it ought to have acted like a prudent businessman and no other factor except the financial interest of the company could have prevailed upon the management of the company, while entering into such agreements/sales. In this context, it is appropriate to rely upon the observations of the Hon'ble Supreme Court of India in the case of Ram and Sham Company V/s. State of Haryana and others, the case reported in AIR 1985 SC 1147, which reads thus:-

*"12. Let us put into focus the clearly demarcated approach that distinguishes the use and disposal of private property and socialist property. Owner of private property may deal with it in any manner he likes without causing injury to any one else. But the socialist or if that word is jarring to some, the community or further the public property has to be dealt with for public purpose and in public interest. The marked difference lies in this that while the owner of private property may have a number of considerations which may permit him to dispose of his property for a song. On the other hand, disposal of public property*

*partakes the character of a trust in that in its disposal there should be nothing hanky panky and that it must be done at the best price so that larger revenue coming into the coffers of the State administration would serve public purpose viz. the welfare State may be able to expand its beneficent activities by the availability of larger funds. This is subject to one important limitation that socialist property may be disposed at a price lower than the market price or even for a token price to achieve some defined constitutionally recognized public purpose, one such being to achieve 553 the goals set out in Part IV of the Constitution. But where disposal is for augmentation of revenue and nothing else, the State is under an obligation to secure the best market price available in a market economy. An owner of private property need not auction it nor is he bound to dispose it of at a current market price. Factors such as personal attachment, or affinity kinship, empathy, religious sentiment or limiting the choice to whom he may be willing to sell, may permit him to sell the property at a song and without demur. A welfare State as the owner of the public property has no such freedom while disposing of the public property. A welfare State exists for the largest good of the largest number more so when it proclaims to be a socialist State dedicated to eradication of poverty. All its attempt must be to obtain the best available price while disposing of its property because the greater the revenue, the welfare activities will get a fillip and shot in the arm. Financial constraint may weaken the tempo of activities. Such an approach serves the larger public purpose of expanding welfare activities primarily for which the Constitution envisages The setting up of a welfare State. In this connection we may profitably refer to *Ramana Dayaram Shetty v. The International Airport Authority of India and Ors* (1979) 3 SCR 1014 (AIR 1979 SC 1628):*

.....  
*At one stage, it was observed that the Government is not free like an ordinary individual, in selecting recipient for its largesse*

*and it cannot choose to deal with any person it pleases in its absolute and unfettered discretion. The law is now well-settled that the Government need not deal with anyone, but if it does so, it must do so fairly and without discretion and without unfair procedure. Let it be made distinctly clear that respondent No. 4 was not selected for any special purpose or to satisfy any Directive Principles of State Policy. He surreptitiously ingratiated himself by a back-door entry giving a minor raise in the bid and in the process usurped the most undeserved benefit which was exposed to the hilt in the court. Only a blind can refuse to perceive it.” (Emphasis supplied)*

If the people managing the affairs of the MML were to keep in mind the above principles, then the finances of the company could have been far better than what it is today. It is high time that the State also takes notice of this fact and issue suitable directions to the people in management of the MML to follow the above directions of the Hon'ble Apex Court, atleast in future dealings of the MML.

Conclusions and recommendations in regard to this Chapter have been made at appropriate places during my discussion in this Chapter and same will be reproduced in the concluding chapter.

CHAPTER XALLEGATION OF IRREGULARITIES AND ILLEGALITIES IN DE-RESERVATION AND ALLOTMENT OF DE- RESERVED AREAS TO DIFFERENT APPLICANTS.

Another matter referred by the Government, in Government order No. CI 164 MMM 2006 dated 12<sup>th</sup> March 2007, under section 7(2A) of the Lokayukta Act, to the Lokayukta for investigation, is as follows:-

“ .....

(ii) *The Government in its orders vide notifications No. CI 16 MMM 2003 and No. CI 33 MMM 1994 both dated 15-03-2003, de-reserved for private mining an area of 11,620 square kms in the State, meant for State exploitation / mining by the public sector and notified the surrender of an area of 6,832.48 hectares of prime iron ore bearing lands respectively, which has paved way for distribution of public assets to select private individuals/entities without regard to their professional or technical or business background.*

(iii) *The entire exercise was undertaken in a manner so as to benefit only a select few individuals/entities. The main objectives behind de-reservation i.e. to encourage mining based industries, to create more employment opportunities in private sector, to attract private capital and professional management for optimal use of State mineral resources, were given a go by and allotments were made to the applicants on considerations other than merit.*

(iv).....

(viii).....

*Now therefore the Government of Karnataka hereby refers the following issues to the Lokayukta for thorough investigation and submission of report to the Government;*

*(a) Various alleged illegalities, irregularities, events, issues executive and other decisions set out in clauses (i) to (viii) and to assess the quantum of losses to the Government and to suggest remedial measures to undo such irregularities and illegalities.....*

*(b).....*

*(c).....”*

2. During 1960s to 1980s public sectors were expected to play dominant role in the country's economic development. In furtherance of that policy by different notifications, the Government of Karnataka reserved in 42 blocks about 10,340.12 square miles (26,780.84 square kms) of area for exploitation by the Government or Government undertakings like Board of Mineral Development of Karnataka Government etc. Out of them 122.09 square miles (316.16 square kms) of area have been leased for mining. List of those 42 blocks with necessary particulars are given in the Table below:-



9	Block No. 8	Titani ferrous Iron Ore and Chromite	Shimoga	45.00	116.55	(0.31) 0.80	Nil Nil	(44.69) 115.74	
10	Block No. 9	Titani ferrous Iron Ore and Chromite	Shimoga	129.00	334.11	(3.22) 8.33	Nil Nil	(125.78) 325.77	
11	Block No. 10	Iron Ore	South Kanara	412.00	1067.08	(17.78) 46.05	(394.22) 1021.02	Nil	
12	Block No. 11	Iron Ore	South Kanara	136.00	352.24	Nil Nil	(136.00) 352.24	Nil	
13	Block No. 12	Iron Ore	South Kanara	471.00	1219.89	Nil Nil	(471.00) 1219.89	Nil	
14	Block No. 13, 14, 15, & 17,	Iron Ore	Bellary	96.00	248.64	(23.23) 60.16	Nil Nil	(72.77) 188.47	
15	Block No. 16	Titani ferrous, Iron Ore	Hassan	75.00	194.25	(2.67) 6.91	Nil Nil	(72.33) 187.33	
16	Block No. 18(A)	China Clay	Hassan	314	813.26	(1.20) 3.10	Nil Nil	(312.80) 810.15	
17	Block No. 18(B)	China Clay	Shimoga	314	813.26	(0.07) 1.80	(313.93) 813.07		
18	Block No. 18(C)	Fire Clay	Bangalore	78.57	203.49	(0.19) 0.49	Nil Nil	(78.38) 203.00	
19	Block No. 19	Graphite	Kolar	78.57	203.49	(0.08) 0.20	Nil Nil	(78.49) 203.28	

20	Block No. 20	Garnet	Kolar	78.57	203.49	Nil Nil	Nil Nil	(78.57)*203.49 *	*Already De-reserved from the reservati on.
21	Block No. 21	Asbestos	Hassan	314.00	813.26	(1.43) 3.70	Nil Nil	(312.57) 809.55	
22	Block No. 22	Magnesite	Mysore	314.00	813.26	(1.77) 4.58	Nil Nil	(312.23) 808.67	
23	Block No. 23	Feldspar	Kolar	78.57	203.49	(0.88) 2.27	Nil Nil	(77.69) 201.21	
24	Block No. 24	Feldspar	Hassan	78.57	203.49	Nil Nil	Nil Nil	(78.57) 203.49	
25	Block No. 25	Vermiculite	Hassan	78.57	203.49	(0.10) 0.25	Nil Nil	(78.47) 203.23	
26	Block No. 26	Vermiculite	Hassan	78.57	203.49	Nil Nil	Nil Nil	(78.57) 203.49	
27	Block No. 27	Pyrite	Chitradurga	50.00	129.50	(1.60) 4.14	Nil Nil	(48.40) 125.35	
28	Block No. 28	Chromite	Mysore	48.00	124.32	90.72) 1.86	Nil Nil	(47.28) 122.45	
29	Block No. 29	Limestone	Chitradurga	116.00	300.44	Nil Nil	Nil Nil	(116.00)*300.4 4*	*Already De-reserved from the reservati on.
30	Block No. 30,31,32,33,34 & 35.	Limestone And Dolomite	Bijapur	181.10	469.04	(25.38) 65.73	Nil Nil	(155.72) 403.31	

31	Block No. 36	Bauxite	Karnataka State	-	-	-	- -	-	Whole Karnataka State reserved.
32	Block No. 37	Magnesite	Karnataka State	-	-	-	- -	-	Whole Karnataka State reserved.
33	Block No. 38	Chromite	Chitradurga, Shimoga and Chickmagalur	66	170.94	(1.80) 4.66	Nil Nil	(64.20) 166.27	
34	Block No. 39	Chromite	Mysore	17.8	46.1	Nil Nil	Nil Nil	(17.80) 46.10	
35	Block No. 40	Kyanite	Mysore	1187.84	3076.5	(0.83) 2.14	Nil Nil	(1187.01) 3074.35	
36	Block No. 41	Kyanite	South Kanara	2080	5387.2	(0.16) 0.41	(2079.84) 5386.78	Nil	
37	Block No. 42	Kyanite	Mandya	972.82	2519.6	(0.20) 0.51	Nil Nil	(972.62) 2519.08	

3. In pursuance to the National Mineral Policy, 1993 announced by the Government of India, as part of continuing exercise of economic reforms, focus has shifted to provide opportunities and encouragement to private sector in mining and the Government of India wanted the State Governments to consider whether any of those reserved areas could be de-reserved for faster development and thrown open for exploitation by private parties. After receiving repeated letters from the Central Government and a letter dated 10-02-1994 from the Director of Mines and Geology (in short Director) the State Government initiated action in file No. CI 33 MMM 1994 to consider de-reservation of reserved lands. In a meeting with the then Minister for Mines Sri D.A.Chinnappa held on 21-03-1994, among others, it was decided that mining areas in reserved forest areas may be continued as reserved for State exploitation and that decision was recorded by the Joint Secretary in para 22 n.f. of the file. Relevant portion thereof reads thus:-

*"2. Mining areas in reserved forest areas may be continued as reserved for State exploitation wherever such reservations have been made.*

*3. The details regarding the nature of the area (reserved forest lands or revenue lands) proposed for de-reservation may be furnished by the DMG for record."*

xxx                      xxx                      xxx

The above note was approved by Secretary -2 and Secretary -1 noted as follows in para 24 n.f..-

*" As far as I remember the decision in the meeting was ,  
(a) Extents required for public sector may be identified and kept reserved;*

*(b) Extents covered by reserved forests continue to be kept reserved;*

*(c) Other lands could be recommended for de-reservation; Director for M&G was to furnish details on the basis of the above after which approval of the Minister and if necessary of Cabinet may be obtained before recommending to GOI. Minister may please see before we take action as above."*

Above note was approved by the Minister in para 25 n.f. and the Director was asked by letter dated 08-04-1994 to send the information specified in the note of the Secretary-1 at para 24 n.f.

4. In pursuance to that letter the Director sent a reply dated 29-12-1994. Two statements, one indicating the blocks proposed to be de-reserved and another indicating the blocks proposed to be retained as reserved, were enclosed to that reply. That reply states that *"it is decided that mineralized areas atleast in respect of iron, manganese, chromite and lime-stone (steel grade) should still be kept reserved. Other than the above reservation, it was felt that there may be need to de-reserve all other areas except for areas where abundant forest wealth exist to ensure protection of environment"* but the letter does not indicate the nature of the lands in individual blocks (whether reserved forest or revenue land) mentioned in the two statements. The Director has, from time to time, sent many letters to the Government on this subject, In none of them he has given the nature of the land in individual blocks. He has gone on changing, from letter to letter, the extent of lands to be reserved and de-reserved. There was a change of Minister and a meeting was held under the chairmanship of the new Minister Sri S.D.Jayaram on 19-04-1995 and

again on 20-08-1997. No definite decision was taken in the meeting dated 19-04-1995 except asking the Director to send fresh proposal. In more than one letter the Director has been asked to send fresh proposals. Relevant portion of the proceedings of the meeting dated 20-08-1997 signed by the Minister (page 67 c.f.) reads thus.

“ಎಲ್ಲಾ ರೀತಿಯ ಕಬ್ಬಿಣದ ಅದಿರು, ಮ್ಯಾಂಗನೀಸ್, ಜೇಡಿ ಮಣ್ಣು, ಸುಣ್ಣದ ಕಲ್ಲು, ಕ್ಯಾಂಪೈಟ್, ಕ್ವಾರ್ಟ್ಸ್ ಇತ್ಯಾದಿ ಖನಿಜಗಳ ನಿಕ್ಷೇಪಗಳನ್ನೊಳಗೊಂಡ ಒಟ್ಟಾರೆ ಸುಮಾರು 44,000/- ಚ.ಕಿಮೀ ಪ್ರದೇಶವನ್ನು ರಾಜ್ಯದ ಉಪಯೋಗಕ್ಕಾಗಿ ಮೀಸಲಾಗಲಾಗಿದ್ದು, ಇದರಲ್ಲಿ ಕಬ್ಬಿಣದ ಅದಿರು ಮ್ಯಾಂಗನೀಸ್ ಮತ್ತು ಸ್ಪೀಲ್ ಗ್ರೇಡ್ ಸುಣ್ಣದ ನಿಕ್ಷೇಪವಿರುವ ಸುಮಾರು 7000 ಚ.ಕಿಮೀ ಪ್ರದೇಶವನ್ನು ಮೀಸಲಿಟ್ಟು ಉಳಿದ ಪ್ರದೇಶವನ್ನು ಡಿ.ರಿಸರ್ವ್ ಮಾಡಬಹುದೆಂದು ತೀರ್ಮಾನಿಸಲಾಯಿತು.”

5. The decision taken in the above said meetings is reflected in the letters of the Director to Government at pages 40 - 44 c.f. and at pages 104 -106 c.f. The relevant portion of the letter at pages 40-44 c.f. is as follows;-

*“In this connection during deliberations at Government level and keeping in view the policy of the State Government to promote industrialization based on mineral resources, especially in steel sector, it is decided that mineralized areas atleast in respect of iron, manganese, chromite and lime-stone (steel grade) should still be kept reserved. Other than the above reservation it was felt that there may be need to de-reserve all other areas except for areas where abundant forest wealth exist to ensure protection of environment.”*

Relevant portion in the letter at pages 104-106 c.f. is as follows;-

*“The de-reservation is proposed only for non forest areas and non-mineralized zones keeping the forest areas intact under*

*reservation. Therefore there will not be any ecological imbalance or environmental degradation due to the proposed de-reservation.*

*De-reservation of areas is proposed both mineral and area-wise. While forest areas have been reserved even in the non-mineralized areas, strategic mineral bearing areas such as iron, manganese chromite and lime-stone (steel grade) have been retained under reserved category."*

After the meeting dated 20-08-1997 the Director was informed by letter dated 29-11-1997 that his letters are not specific about the extent of the lands to be de-reserved and to be retained as reserved. He was asked to clarify the matter immediately, but the Government, in spite of repeated reminders orally and in writing, could not get a reply till the end of 2000. On 30-11-2000 the Government of India held a meeting with State Government and on behalf of the State Government the Director attended the meeting. Minutes thereof was sent to the State Government by the Central Government on 04-01-2000. Among others, relevant portion of the decision taken in the meeting is recorded in the proceedings as follows.

*"03. After detailed discussions, the following were decided:-*

*1. It was decided that for mineral iron ore and manganese, there was no scope for de-reservation. Most of the mineral bearing areas at present under reservation were in thick forest areas and they are also ecologically fragile areas. The State Government was not in favour of de-reserving these areas for exploitation by private sector, since they would like to conserve*

*the minerals in these areas. The list of such areas is appended as Annexure-1.*

*2. It was decided that the State Government would send a detailed proposal for reservation of these areas under section 17A(1) of M&M (DR) Act 1957 to the Central Government; who would thereafter take further action as per law.*

*3. The State Government desired to continue the reservation in respect of 248.6 Sq.Km (96 Sq. Mile) in the Bellary region for iron ore for exclusive State exploitation.*

*4. The mineral bearing areas which have been reserved for titani ferrous iron ore, chromite, fire clay, graphite, garnet, asbestos, magnesite, feldspar, vermiculite, pyrite, limestone, dolomite, bauxite, kyamite etc. which are in the non-ecologically fragile regions of the State are proposed to be de-reserved by the State Government to enable the Private Entrepreneurs to apply for mineral concessions in such areas. The list of such areas is appended at Annexure-II. The State Government will de-reserve these areas after observance of due process of law. The areas which were reserved at the reference of the Central Government or in consultation with the Central Government will be de-reserved after due consultation with the Central Government."*

The file was sent to the Secretary on 17-04-2001. Secretary sent the file to the then Minister with a hand written note (178 n.f.) which is almost illegible or undecipherable. (I am not able to read the note made by the Secretary). The Minister Sri A.Muniyappa discussed the matter with the Director and on 19-05-2001 recorded his order, relevant portion of which reads as follows,-

“180) ನಿರ್ದೇಶಕರು, ಗಣಿ ಮತ್ತು ಭೂವಿಜ್ಞಾನ ಇಲಾಖೆ, ಇವರೊಂದಿಗೆ ಮುಖ್ಯ ಖನಿಜಗಳ ಬಗ್ಗೆ ಚರ್ಚಿಸಲಾಯಿತು. ನಿರ್ದೇಶಕರ ಪ್ರಸ್ತಾವನೆ ಮತ್ತು ಮೇಲಿನ ಕಂಡಿಕೆಗಳನ್ನು ಪರಿಶೀಲಿಸಲಾಯಿತು. ನಿರ್ದೇಶಕ ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ಲಗತ್ತಿಸಿರುವ ಮಾರ್ಗಸೂಚಿ ಮತ್ತು ಕೇಂದ್ರ ಸರ್ಕಾರದ ಹಿರಿಯ ಅಧಿಕಾರಿಗಳು ಮತ್ತು ಇಲಾಖಾ ನಿರ್ದೇಶಕರು ಇತರರನ್ನೊಳಗೊಂಡ ದಿನಾಂಕ: 30-11-2000ರ ಸಭೆಯಲ್ಲಿ ತೆಗೆದುಕೊಂಡ ನಿರ್ಣಯಗಳ ಬಗ್ಗೆ ಪರಿಶೀಲಿಸಿದೆ. ಅಲ್ಲದೆ ಅದಕ್ಕೆ ಲಗತ್ತಿಸಿರುವ Annexure I ಮತ್ತು Annexure II ಗಳನ್ನು ಪರಿಶೀಲಿಸಿರುತ್ತೇನೆ. ಮುಖ್ಯವಾಗಿ MMDR-1957 ಕಾಯ್ದೆ ಮತ್ತು MCR - 1960 ಇದರಡಿಯಲ್ಲಿ ಈಗಾಗಲೇ ಕೆಲವು ಪ್ರದೇಶಗಳನ್ನು ಕಾಯ್ದಿರಿಸುವ ಬಗ್ಗೆ ಸರ್ಕಾರದ ಮತ್ತು IBM ಇವರ ವರದಿಗಳು ಒಂದೇ ತರಹ ಇರುವುದು ವ್ಯಕ್ತವಾಗುತ್ತದೆ. ಕೇಂದ್ರ ಸರ್ಕಾರದ ಅಧಿಕಾರಿಗಳೊಂದಿಗೆ ಚರ್ಚಿಸುವ ಸಮಯದಲ್ಲಿ ಈಗಾಗಲೇ ಕಾಯ್ದಿರಿಸುವ ಪ್ರದೇಶಗಳಲ್ಲಿ ಬರುವ ಕಬ್ಬಿಣದ ಅದಿರು, ಮ್ಯಾಂಗನೀಸ್ ಇವುಗಳ ಡಿಪಾಸಿಟ್ ಕಾಯ್ದಿರಿಸುವ ಕೆಲವು ಅರಣ್ಯ ಪ್ರದೇಶಗಳನ್ನು Forest Conservation ಕಾಪಾಡುವ ದೃಷ್ಟಿಯಿಂದ ಅವುಗಳನ್ನು ಹಾಗೆಯೇ ಕಾಯ್ದಿರಿಸುವ ಬಗ್ಗೆ ಚರ್ಚಿಸಿದ್ದು Annexure I ರಲ್ಲಿ ಬರುವ ಕೆಲವು ಪ್ರದೇಶಗಳನ್ನು ಈಗಾಗಲೇ ಉಪಯೋಗಕ್ಕೆ ನೀಡಿದ್ದು, ಅವುಗಳ ಸುತ್ತಮುತ್ತಲೂ ಅಂತಹ ಅರಣ್ಯ ಪ್ರದೇಶಗಳು ಇಲ್ಲದೆ ಇರುವ ಪ್ರದೇಶಗಳನ್ನು ಸಹಾ ಡಿ-ರಿಸರ್ವ್ ಮಾಡಬೇಕಾಗಿರುವ ಅಂಶ ನನ್ನ ಗಮನಕ್ಕೆ ಬಂದಿದ್ದು, ಈ ಪ್ರದೇಶಗಳು ಬಯಲು ಸೀಮೆ ಪ್ರದೇಶಗಳಾಗಿರುವುದರಿಂದ ಈ ಪ್ರದೇಶಗಳಲ್ಲಿ ತೋರಿಸಿರುವ

1	12	ಬ್ಲಾಕ್ ನಂಬರ್ 13,14,15,17	ಕಬ್ಬಿಣದ ಅದಿರು	ಬಳ್ಳಾರಿ	96.00	248.64	(23.23) 60.16	72.77
2	13	16	Titani ferrous ಕಬ್ಬಿಣದ ಅದಿರು	ಹಾಸನ	75.00	194.25	(2.67) 6.91	72.33
3	14	180	ಚೈನಾ ಕ್ಷೇ	ಹಾಸನ	314.00	813.26	(1.26) 3.10	312.80

ವಿಸ್ತೀರ್ಣವನ್ನು ಕೈರಿಸುವ ಪಟ್ಟಿಯಿಂದ ಅನೇಕ್ಟರ್ - 1 ರಿಂದ ತೆಗೆದು ಡಿ - ರಿಸರ್ವ್ ಮಾಡುವ ಬಗ್ಗೆ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಲು ಸೂಚಿಸಿದೆ. ಇದರಿಂದ ಅಲ್ಲಿ ಲಭ್ಯವಿರುವ ಖನಿಜಗಳನ್ನು ಉಪಯೋಗಿಸುವುದಲ್ಲದೆ ಅದೆ ಸುತ್ತಮುತ್ತಲಿನ ಪರದೇಶಗಳನ್ನು ಅರಣ್ಯೀಕರಣಗೊಳಿಸುವ ಬಗ್ಗೆ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಬಹುದಾಗಿದೆ.”

6. While sending a revised list of blocks to be continued as reserved in the light of the orders of the Minister, the Director deleted not only the blocks suggested by the Minister but also block 5 (containing manganese ore) which was not suggested by the Minister. This aspect was not noticed by the Secretariat. The list prepared and sent by the Director was placed before the Cabinet for approval. In para 9(ii) of the cabinet note it is stated as follows:-

*“In the instant proposal, it has not been proposed to de-reserve thick forest areas or the ecologically fragile western ghats. Annexure -I contains such areas and it is proposed to be retained as ‘reserved’. The forest area proposed for de-reservation along with non-forest area is that which bereft of any forest cover.”*

The lists suggested by the Director was approved by the Cabinet on 16-12-2002 and orders reserving or de-reserving the blocks was issued on 15-03-2003.

7. The decision taken by the Ministers in the meetings held on 21-03-1994 and 20-08-1997 and in the meeting with the Government of India held on 30-11-2000 to continue forest areas and strategic mineral bearing areas such as iron, manganese, chromite and lime stone (steel grade) as reserved has not been modified subsequently in any meeting. Even Minister Sri A.Muniyappa has not modified that decision in his order in paras 179-181 n.f. dated 19-05-2001. In para 180 n.f., after discussion with Director, the Minister took a decision to exclude blocks 13, 14, 15, 16, 17 and 18A. The excluded blocks 13, 14, 15 and 17 are in Bellary district and are not only high grade iron ore bearing areas

(vide- the statement sent by the Director indicates this) but are also thick reserve forest areas. The reason given by the Minister to de-reserve them, in underlined portion of para 180 n.f. that they are not forest areas and are "bayalu seeme" is totally opposed to facts. Block No.5 which has been excluded by the Director (without the orders of either the Government or the Minister) is manganese ore bearing area. The concerned Minister and the Director who advised him in the matter are responsible for this irregularity.

8. In the meeting held on 21-03-1994 the Minister wanted the Director to furnish the details regarding the nature of the area proposed for de-reservation i.e. whether they are forest lands or revenue lands. No such details furnished by the Director is found in the file. The Government also did not pursue the matter with the Director to get those particulars. Without those particulars the Government was not in a position to independently satisfy itself whether any of the lands proposed for de-reservation was forest land or not. In the statements sent by the Director this information is not given in respect of any blocks or land. In all the letters he has made a bald statement that forest areas are excluded from the lands proposed for de-reservation. On this aspect i.e. nature of the land, the Government must have been guided by that statements made by the Director. A perusal of the plans of some of the blocks proposed for de-reservation indicates that the said statement is opposed to facts as shown below .-

<u>Block proposed for de-reservation</u>	<u>Forest areas therein</u>
Block - 5.....	Kukwadi Ubrani State forest and Hadikere East State forest
Block 8.....	Jedikatte Reserve forest and Minor forest.
Block 9.....	Hadikere East State forest and Kukwadi Ubrani State forest
Blocks-13,14,15 and 17...	Ramgad Reserve forest, Joga Reserve forest, Gunda Reserve Forest, Hospet Reserve forest and Donimalai Reserved forest.
Block -18C.....	Gullahalli State forest and Nandagudi State forest.
Block 22.....	Bolegoudanakatte Tiger Reserve Reserve forest and Chikkanahalli Preserve forest.
Block24.....	Kolalbore State forest
Block 25.....	Gowdanagere State forest.
Block 27.....	Jogimatti State forest.
Block 29 .....	Kudure Kanive Kaval State forest. Lakkahalli State forest
Block 40.....	Bolegoudanakatte Tiger Reserve Reserve forest and Chikkanahalli Preserve forest.

It is clear from the above particulars that forest lands including reserve forest has been de-reserved. Approval for de-reserving them has been obtained without verifying the nature of the land and by wrongly informing the Cabinet that *"it has not been proposed to de-reserve thick forest areas..... the forest area proposed for de-reservation along with non-forest area is that which is bereft of any forest cover"*. Correct and full information about nature of the lands proposed for de-reservation has not been placed before the Cabinet. Government never intended to de-reserve reserve forests and strategic mineral bearing lands but such lands have been de-reserved .

9. In the meeting held on 20-08-1997 with the Minister it was decided not to de-reserve blocks having iron ore, manganese, chromite and lime stone (steel grade). That decision was reiterated in the meeting held on 30-11-2000 with the Government of India but the then Minister, on 19-05-2001, after discussion with the Director ordered de-reservation of block Nos. 13, 14, 15, 16, 17 and 18A which are very rich in iron ore, china clay etc. stating as in the underlined portion of para 180 n.f. extracted in para 5 above. That order is contrary to the decisions taken in the meetings with the then Ministers held on 21/03/1994 and 20-08-1997 and with the Government of India on 30-11-2000. The Minister did not over rule the decisions taken by the earlier Ministers and in the meeting with the Government of India. That order was made without proper verification of the facts and detailed examination of the matter. Decision was taken after discussion with the Director and without discussion with the Secretary.

10. The Cabinet Section sent the file to Secretary Forest Department on 28/09/2002 for remarks on the statement in the Cabinet note that *"de-reservation is proposed in forest areas which have lost vegetative cover"*. Secretary, Forest Department made a note in paras 232 and 233 n.f. and sent the file to Principal Secretary on 04-10-2002. Para 233 n.f. made by him reads thus.- *"Forest areas may not be included in the proposed de-reservation of mineral bearing areas. As and when a forest area is considered absolutely necessary for mining it may be examined on merits for diversion for non-forest activities under the E.C .Act."* Principal Secretary, Forest Department sent back the file asking for another file on 10-10-2002 and

the Secretary sent the file along with the other file (it does relate to this subject) to the Principal Secretary on 11-10-2002. In para 236 n.f. he observed as follows. *"The subject matter of this file is a proposal for de-reservation of mineral bearing areas. As proposed at para 233 pre page, forest areas may not be included in the proposed de-reservation"*. He approved the note made by the Secretary in para 233 n.f. and sent the file to the Minister of State and Minister for Forest, who approved the notes made by the Principal Secretary. The notes made by the officers of the Forest Department does not clearly indicate whether there is forest in any of the blocks proposed for de-reservation and if there are forest areas whether they have lost vegetative cover and whether the averment in the cabinet note is correct or not. On a perusal of the movement dates of the file it is clear that the Forest Department has not obtained any report from the field officers about the nature of the areas proposed for de-reservation. The information wanted by the Cabinet section was whether the statement in the Cabinet note that de-reservation is proposed in forest areas which have lost vegetative cover is factually correct. That information has not been furnished by the Forest department. Cabinet section did not pursue that matter further. Without getting that information the subject was placed before the Cabinet and the proposal was approved by the Cabinet. The Cabinet has not been informed all relevant and necessary facts. De-reservation order as such is not found in the file but a notification dated 15-03-2003 informing the public that those lands are available for allotment to the public is found in the file. It is clear from the above that though the considered decision of the Government was not to de-reserve forest

land and strategic mineral bearing areas like iron ore, manganese, chromate and lime stone (steel grade), that aspect was not properly verified and reserve forests and State forests and strategic mineral bearing areas have been de-reserved. The officers of the C&I Department, Cabinet section and the Secretary and Principal Secretary Forest Department who dealt with the file are responsible for it. Officers and public servants responsible for allowing de-reservation of the mining areas which fall within the forest area will be identified and named in the next part of the Report.

11. In notification dated 12<sup>th</sup> March 2007 the Government required the Lokayukta to investigate illegalities and irregularities in the distribution of de-reserved lands to persons who have applied for mining leases. The scope of investigation as per Notification dated 12/3/2007 is for the period from 1/1/2000 to 22/7/2006. It is stated that no mining lease has been granted till 2006. The scope of investigation has been extended till 9/9/2008 by the Government and hence illegalities and irregularities in the distribution of deserved lands will be investigated and findings in that regard will be given in the next part of the Report.

12. According to the Government order dated 12-03-2007 de-reservation of reserved areas was ordered in another file i.e. file No. CI 16 MMM 2003 also. The said file was not available. Hence it is not possible to examine the same. According to the recent news paper reports mining leases granted in reserve forests in de-reserved areas have been quashed by the High Court.

## CHAPTER XI

### EVALUATION OF CASES RELATING TO ILLEGAL TRANSFER OF MINING LEASES

One of the matters referred by the Government of Karnataka in their Order No. CI 164 MMM 2006 dated 12<sup>th</sup> March 2007 for investigation and Report under Sec. 7(2A) of the Lokayukta Act, is to fix responsibility and initiate suitable action against all public servants for various acts of omission and commission leading to various illegalities in transfer of leases from one lease holder to another.

2. Transfer of Mining leases are governed by Rules 37, 37A and 46 of the M.C Rules framed under the M&M (D&R) Act. The said Rules read thus:-

*“37. Transfer of lease:- (1) The lessee shall not, without the previous consent in writing of the State Government and in the case of mining lease in respect of any mineral specified in Part A and Part B of the First Schedule to the Act, without the previous approval of the Central Government –*

*(a) assign, sublet, mortgage or in any other manner, transfer the mining lease, or any right, title or interest therein, or*

*(b) enter into or make any bonafide arrangement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or*

*undertakings will or may be substantially controlled by, any person or body of persons other than the lessee.*

*Provided further that where the mortgagee is an institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for the lessee to obtain any such consent of the State Government.*

*(1A) The State Government shall not give its consent to transfer of mining lease unless the transferee has accepted all the conditions and liabilities which the transferor was having in respect of such mining lease.*

*(2) Without prejudice to the provisions of sub-rule (1) the lessee may, transfer his lease or any right, title or interest therein to a person who has filed an affidavit stating that he has filed an up-to-date income-tax returns, paid the income tax assessed on him and paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961(43 of 1961), on payment of a fee of five hundred rupees to the State Government:*

*Provided that the lessee shall make available to the transferee the original or certified copies of all plans of abandoned workings in the area and in a belt 65 meters wide surrounding it ;*

*Provided further that where the mortgagee is an institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for any such institution or Bank or Corporation to meet with the requirement relating to income tax ;*



*return, paid the income tax assessed on him and paid the income tax on the basis of self-assessment as provided in the Income Tax Act, 1961( 43 of 1961).*

*(2) No prospecting licence or mining lease or any right, title or interest in such licence or lease in respect of any mineral specified in the First Schedule to the Act shall be transferred except with the previous approval of the Central Government."*

3. Records relating to 22 cases were considered. Out of which in the following 4 cases illegalities were found.

(1) Transfer of Mining Lease No.2370 for White Quartz in R.S. No.39, Thippenahalli Village, Madhugiri Taluk, Tumkur District over an extent of 2.02 Hectare.

Transferor : Sri T. Sharat Babu

Transferee : M/s. Maharishi Melthems (P) Limited.

Sri Sharat Babu and M/s. Maharishi Melthems Private Limited, on 17/1/2004 applied to the Director of Mines and Geology for transfer of M.L. No.2370 in favour of M/s. Maharishi Melthems Private Limited. The transfer was approved by the Government of Karnataka in Order No. CI 30 MMM 2004 dated 17<sup>th</sup> March 2004. Transfer deed was executed on 27/03/2004. The files do not speak about the registration of the said document. There is no evidence in the files regarding registration of the transfer deed as

required by Rule 37A of the Rules. According to Rule 37A of M.C Rules, such registration must be done within 3 months of the execution of the transfer deed. That period has expired long back. The Director of Mines and Geology has not taken any action in the matter. The Rules are silent about the consequences of not registering the transfer deed as required by Rule 37A. To that extent the transfer deed is defective.

(2) Renewal and Transfer case of Mining Lease No.1742 (New No.2342) for limestone over an extent of 111.30 Hectare in parts of Kappanayakanahalli and other villages of Hosadurga Taluk, Chitradurga District.

Transferor : M/s. Mysore Minerals Limited.

Transferee : M/s. Madras Cements Limited.

(a) The Mining Lease No.1742 held by M/s. Mysore Minerals Limited, a Public Sector undertaking, over an extent of 918.65 hectare for Limestone and dolomite in parts of Method, Kappanayakanahalli, Tarikere, Balenahalli and other villages of Hosadurga Taluk, was to expire on 7<sup>th</sup> April 2001. The Principal Secretary to the Government of Karnataka, Department of Forests, Ecology and Environment advised M/s. Mysore Minerals Limited to surrender the Forest Area of 813.65 hectare and apply for renewal for the balance area of 105 hectares. Accordingly, M/s. Mysore Minerals Limited filed an application for renewal on 3<sup>rd</sup> April 1999 for 105 hectare. The Director of Mines and Geology by Notification

No. Director of Mines and Geology/62/MML/ 99/14991-97 dated 31.12.2001/03.01.2002 sanctioned renewal of mining lease over an extent of 111 hectare. Renewed lease deed No.2342 was executed on 28<sup>th</sup> March 2002.

(b) When the application for renewal was pending the then Minister for Mines and Geology Sri V. Muniyappa had reportedly sent a note bearing No. Director of Mines and Geology/1184/99-2000 dated 7/2/2000 advising M/s. Mysore Minerals Limited for surrender of M.L. No.1742. Copy of the note is not forthcoming in the file. The Board of Directors opined that the cost of development of the mine incurred by M/s. Mysore Minerals Limited was to be assessed and to be recovered from the Cement Company before considering surrender of the lease. The Technical Consultancy Division of M/s. Mysore Minerals Limited evaluated the development cost at Rs.3,66,95,515/- for the entire area of 918.65 hectares. However, after discussion in a meeting held in the chambers of the Hon'ble Minister for Mines and Geology on 2/3/2001, it was decided to get the infrastructure cost evaluated through a neutral assessor agreed to by both the parties. The neutral assessor evaluated the cost at Rs.46,78,257/- in respect of 111.30 hectares of leased land. The matter was placed before the 232<sup>nd</sup> Board Meeting of M/s. Mysore Minerals Limited held on 10/5/2001. The Board decided that surrender of lease could be considered after collecting Rs.60 Lakh from M/s. Madras Cements Limited. The Board further resolved to authorize the Managing

Director to move the Government to approve the transfer of lease No.1742 in favour of M/s. Madras Cements Limited.

(c) In compliance to the said decision, the transferor and the transferee applied for transfer of M.L. No.2342 (New Number) held by M/s. Mysore Minerals Limited in favour of M/s. Madras Cements Limited. The Government of Karnataka in their order No. CI 127 MMM 2001 dated 7/6/2002 approved the transfer and the transfer deed was executed on 10/7/2002.

(d) Till the renewal of the lease by the order of the Director dated 31.12.2001/3.1.2002 the old lease continued in force. The M&M (D&R) Act and the M.C Rules do not provide for transfer of a portion of the lease. This aspect is clear from the Model Form of the deed of transfer at Form 'O' of Schedule I to the M.C Rules. Hence the application for transfer of a portion of the lease made earlier to the date of renewal is not valid in law. This irregularity is committed in this case. However, the transfer of the lease was approved by the Government after the renewal of the lease.

(3) Transfer of Lease M.L. No.1975 for Manganese, Manganese -dioxide, Dolomite, Limestone, Iron ore, clay and ochre over an extent of 320 acre in R.S. No.84 of Kondli Village and R.S. No.89 of Mudalapalya of Gubbi Taluk, Tumkur District.

Transferor : Sri B.R. Amar Singh  
Transferee : M/s. Matha Minerals Private Limited.

The transferor and transferee filed applications dated 29<sup>th</sup> August 2002 respectively to the Secretary to Govt. of Karnataka, Commerce and Industries Department through the Director of Mines and Geology requesting grant of permission for transfer and acceptance of the subject lease. As on the date of filing the application (29<sup>th</sup> August 2002), M/s. Matha Minerals Private Limited were yet to be incorporated as a Company. They were incorporated on 2<sup>nd</sup> September 2002 vide CIN No. UO 1429 KA 2002 PTC 03094. Sri B.S. Puttaraju who filed the letter of request as a Director of the Company on 29/8/2002 was authorized to discharge the duties as Director only on 16/10/2002. In the circumstances, the letter of request filed by Sri S.B. Puttaraju on behalf of M/s. Matha Minerals Private Limited on 29/8/2002 as a transferee was invalid. In spite of this infirmity, the Director of Mines and Geology Dr. M. Basappa Reddy forwarded the applications recommending transfer of M.L. No.1975 in favour of M/s. Matha Minerals Private Limited.

The Govt. of Karnataka in their letter No. CI 93 MMM 2002 dated 14<sup>th</sup> November 2002 sought clarification from the Director of Mines and Geology about the amount due to the Government by the transferor and the action taken by the Department of Mines and Geology over the report of the Comptroller and Auditor General (CAG) for the period ending 31<sup>st</sup> March 2000, wherein there was an observation about the recovery of the value of manganese ore illegally exploited from M.L No.1975. The Government also opined

that the transfer of mining lease be considered only after the submission of compliance report and its acceptance by CAG of India.

The Director of Mines and Geology made a counter recommendation stating that amount of Rs.53,051/- due to the Government by the lessee would be recovered from the transferee before the transfer if such an order is made by the Government and the amount relating to the value of manganese ore illegally extracted as observed by the CAG would also be recovered from the transferee. He further requested the Government to accord sanction for transfer of subject mining lease.

On 24.12.2002, the transferor made a revised request to permit him to transfer the subject mining lease in favour of a Company by name M/s. Shivasandra Minerals Private Limited. The Director of Mines and Geology ignored the revised request and in the meanwhile, the Govt. of Karnataka vide their order No. CI 93 MMM 2002 dated 28/1/2003 accorded approval for transfer of Mining Lease No.1975 in favour of M/s. Matha Minerals Private Limited. Transfer deed was executed in post-haste on 29/01/2003. The revised application filed by Sri B. Amar Singh and M/s. Shivasandra Minerals Private Limited dated 12.12.2002 with inward No.13563 dated 23/12/2002 of the Department of Mines and Geology was returned on 11.02.2003/ 04.03.2003 by the Director of

Mines and Geology along with draft for Rs.500/- paid towards the transfer fee.

The transferor Sri B.R. Amar Singh died on 25<sup>th</sup> June 2003. His widow filed W.P No. 15378/2004 before the Hon'ble High Court of Karnataka questioning the validity of Govt. Order No. CI 93 MMM 2002 dated 28/1/2003. The Writ Petition was dismissed by the Hon'ble High Court.

The transfer application and the process thereon had several deficiencies as listed below:-

- (a) As on the date of filing the applications for transfer, (29/08/2002) the transferor firm had not yet been incorporated.
- (b) Sri B.S. Puttaraju who signed as the authorized representative of the transferee was vested with such powers only on 16/10/2002 subsequent to the date of filing the letter of request on 29/8/2002.
- (c) In the said context, the notarized affidavit and letters of request as transferee filed by Sri B.S. Puttaraju on 29/8/2002 are invalid.
- (d) While replying to the letter of objection dated 14/11/2002 of the Govt. of Karnataka, the Director of Mines and Geology miscommunicated the amount due according to the report of CAG.
- (e) When the Government insisted recovery of the amount due being the value of illegally mined manganese ore by the lessee

as observed in the CAG Report, the Director makes a conditional recommendation for transfer.

- (f) The Director of Mines and Geology suppressed to bring it to the notice of the sanctioning authority the particulars relating to the revised application dated 24/12/2002 filed by the transferor in favour of M/s. Shivasandra Minerals Private Limited.
- (g) The Govt. of Karnataka while approving the request for transfer vide No. CI 93 MMM 2002 dated 28/1/2003 mixed up issues and incorporated Rs.53,051/- as the amount recoverable towards CAG observation on revenue receipts. CAG observation/objection relating to a sum of Rs.2507.74 Lakhs being the value of manganese ore illegally mined by Sri Amar Singh has been ignored. Provision should have been made in the transfer deed about recovery of that amount or collection of that amount before approving the transfer if the objection raised by CAG is not explained to the satisfaction of CAG.
- (h) Without resolving the observation (Audit Objection) of CAG the Director of Mines and Geology recommended the proposed transfer, the Government approved the transfer and the Director permitted the execution of transfer lease deed in post-haste (Government sanctioned transfer on 28/1/2003, transfer deed was executed on 29/1/2003). Value of the illegally mined manganese ore is an amount legally due to the Government.

Government letter dated 14/11/2002 mentions about this amount. It indicates that Government was aware of the CAG Report, if the objection raised by CAG is not explained to his satisfaction both the then Director and the officers of the Government who took part in the approval and execution of the transfer deed are liable to make good that amount.

CONCLUSION:- Ignoring the CAG observation and permitting transfer of the lease without explaining the objection of CAG to his satisfaction or providing for the recovery of the amount objected to by the CAG is improper on the part of the Director and the Govt. of Karnataka. Loss suffered thereby must be recovered from the concerned persons in the Director's office and in the Government who are responsible for the approval and execution of the transfer deed.

(4) Transfer of Mining Lease No.2353 for Manganese, Iron Ore and China Clay over an extent of 12 Acre (4.86 Hectare) in R.S. No.37 of Sondenahalli, Chikkanayakanahalli Taluk, Tumkur District.

Transferor : M/s. Mineral Enterprises (P) Limited

Transferee : M/s. Teja Works.

The M.L. No.1061 was renewed for a period of 20 years with effect from 3/12/1991 vide Govt. Order No. CI 152 MMM 98 dated 22/8/2000. Renewed lease deed was executed on 10/6/2002 as

M.L. No.2353. Registration of the transfer deed was refused by the Sub-Registrar, Chikkanayakanahalli on technical grounds. Further status regarding registration of the lease deed is not forthcoming in the file.

M/s. Mineral Enterprises, the transferor and M/s. Teja Works, the transferee applied for transfer and acceptance of M.L. No.2353 on 16/12/2003 along with documents as specified under Rule 37 of M.C Rules. The transfer request was recommended to the Govt. of Karnataka by the Director of Mines and Geology. The Govt. of Karnataka in their order No. CI 130 MMM 2004 dated 15/2/2005 accorded sanction for transfer of ML No.2353. The transfer deed was executed on 13/6/2005 i.e. after a lapse of 3 months and 29 days. As per Rule 37A of M.C Rules, the transfer lease is to be executed within 3 months from the date of the order approving the transfer or within such further period as the Government may allow in this behalf. The file does not speak of any extension of the period. Rule 37 A is silent about the effect of non-execution of the transfer deed within the period specified therein. In the circumstances, the transfer deed is defective to that extent.

The responsibilities in regard to the irregularities in the above cases will be fixed and persons responsible will be named in the next part of the Report.

## CHAPTER XII

### CONCLUSIONS, SUGGESTIONS AND RECOMMENDATIONS

From the facts recorded already in this report, I have noted very many shortcomings, illegalities and irregularities in the mining activities in the State of Karnataka with specific emphasis on Bellary District. Though, investigations have been made as to this type of activities in the districts of Chitradurga and Tumkur also, details in this regard are not very elaborate. Even in regard to Bellary District, my team could not inspect and investigate all the mines situated in the said District. Hence, this report reflects the shortcomings, illegalities and irregularities with specific reference to some of the mines visited by me or my team. Therefore, this part of the report will comment on what has been noticed by me and by my team during inspection of the areas visited by us. Though the type of shortcomings, illegalities and irregularities are likely to be common, in other areas also, a more detailed report in regard to those areas and mines to which no reference has been made in this report, will be made separately in the next part of the report, which would also cover the period upto 2008.

#### **(i) Illegality and Irregularity in grant of lease**

The illegalities and irregularities in the mining sector starts from the very beginning, that is at the stage of granting of mining lease itself. Though the law requires the licensing authority i.e. the State to be satisfied as to the areas sought to be granted on lease for mining, both as to its actual area and location, in reality, it does not always happen.

I have noticed in most cases where particulars of the area sought for mining are mentioned in the application for grant of lease, but the same is factually not correct. The same though has to be cross-checked and inspected by the concerned officials of the Department of Mines and Geology, Forest, Revenue, as the case may be, the said exercise is not properly done. Normally, these reports are prepared not by visiting the area mentioned in the application and cross-checking the same with the local records, but, by sitting in their respective offices. Even the applicants very often do not even do preliminary prospecting to find out whether mineral sought to be excavated by them is really available in the area sought for lease by them or whether scientific and economically viable mining is possible in these areas. There are cases where mining applications are made without even knowing the existence of the area sought for mining. Leases are sought only with a view to hold a mining licence and then to misuse the same by using the said document for doing illegal mining elsewhere. This type of non-verified grant of mining lease gives rise to illegal mining in gomala land, forest land, it also gives rise to disputes between different lease holders. Therefore, there is a need for a proper verification system with mandatory spot inspection and demarcation and marking of the boundaries of the lands sought for mining in conformity with the survey reports, land records and other relevant documents, available with the local officials concerned. There should be periodical inspection by superior officers to keep a check on the mining activities. Lack of such checking is noted by me in this report earlier, as seen during my visit to the three districts. Local authorities should also be

held responsible for preventing illegal mining, especially the forest officials who either due to negligence or in collusion, aid and abet illegal mining activities in the forest area. This procedure could be time consuming, but, it must be done in the interest of State as well as in the interest of conducting scientific mining activities. Though most of these suggestions find place in the statute itself, it is not being adhered to, so, a mechanism which makes this procedure compulsorily adhered and failure made punishable should be evolved.

**(ii) Protection of forest lands from illegal mining**

Wherever the application for grant of mining in forest area is sought and feasible report is prepared by Forest Department, same should be cross-verified, because, I have come across very many instances of applicants producing false certificates, as to the nature of land, very often in collusion with the concerned officials. In many cases, where holder of mining lease or even others who do not have any mining lease, indulge in mining in forest areas, the officials concerned have not taken any steps to prevent these illegal activities. Such officials should be taken to task. I have also noticed that apart from illegal mining activities in the forest area, large extent of forest land is also used for construction of roads and for dumping mineral waste. This especially happens when the mining leases are granted near about the vicinity of the forest area, though, in such areas, the law requires a buffer zone to be created between the forest boundary and the land where mining is permitted, these buffer zones in very many

cases have disappeared or have been misused. Immediate action should be taken to inspect all mining activities permitted in all forest area and clear the buffer zone from any type of activity, except to prevent the misuse of forest.

**(iii) Grant of stock yard licence**

During my visit to the three districts, I have noticed many irregularities in the grant of stock yard licences. Though there are sufficient laws controlling the grant of such licences, none seems to have followed the requirement of these laws, while permitting or granting stock yard licences. In my note made during my visit to the districts referred to hereinabove, I have specifically referred to a case of ignorance exhibited by some of the officials as to the applicability of various laws while granting stock yard licences. (See page 50 - 53 of this Report). The cases of M/s Lakshmi Minerals, Muneer Enterprises, Kineta Minerals and Metals Limited and Sri Sai Krishna Minerals Limited, which are situated in the road connecting Hospet with Sandur are all examples of such stock yards which are contrary to the law. There is a need for examining the licence already given to stock yards and if illegalities such as those noticed by me in my report hereinabove are found, then, the licence should be revoked and action should be initiated against the concerned officers.

**(iv) Illegality in transportation of mineral**

Because of the 'China boom', between the period 2004 and 2006, there is evidence to show that in the district of Bellary alone, four to

five thousand lorries carrying mineral are plying to and fro from mining head to various transportation points like, railway station, sea port, etc. It is a well established fact that almost all lorries carrying mineral are carrying load far in excess of the permissible limit. Consequently, all roads used by these vehicles including National Highways have been practically rendered unmotorable, mainly because of the fact of over-loading, and also because of the increase in density of this type of vehicles. So far as over-loading is concerned, all concerned authorities like the Motor Vehicle Department officials, Police officials are hand in glove with the transport operators and mine owners. The over-loading and the frequency of vehicles not only damages the road, they are also responsible for large number of fatal accidents. Therefore, there is a need to provide for check points with sufficient number of weigh bridges and compulsory fixing of G.P.S. equipment in these lorries to keep a control over activities of these vehicles, especially the over-loading. Government should also in consultation with Central Government consider the possibility of restricting the number of mineral carrying vehicles that could ply at a given point of time. The Motor Vehicles Act also requires suitable amendment to make the offence of over-loading more stringent. The Competent Authority should also think in terms of amendment to M&M (D&R) Act to empower the Courts or Tribunals to confiscate the vehicle or suspend the way permit for a suitable period, so that over-loading can be discouraged. The present system of compounding of offences under the M&M (D&R) Act encourages officials as well as offenders to indulge in more and more illegal acts, because the

maximum compounding fee is Rs. 25,000/- only. This is not a deterrent compared to the value of mineral which is the subject matter of the offence. The provision for compounding itself should be done away with. The provisions as is found in the Forest Act for seizure and impounding of not only materials found in the vehicle, but, also of the vehicle itself with punishment of imprisonment to the offenders should be introduced in M&M (D&R) Act. Without such serious consequences, it would be difficult to control the illegal mining.

**(v) Introduction of new transport permit system**

At present, transport permits are issued by the Mines and Geology Department for bulk quantity which are known as bulk permits, which can be used more than once to transport the total quantity mentioned in the permit, normally within a period of 30 days. In regard to minerals mined from forest area, Forest Department also gives a transport permit in form No. 31 which along with the bulk permit is the document required to be carried by the transporter. The normal practice in regard to the forest permit is that a signed and sealed book-let containing 50 to 100 permits, leaving all the columns blank are issued in advance to the transporter, without the name of the mining lease holder, quantity of the mineral being transported and vehicle number etc. being mentioned. There are various means by which this permit can be misused and is being misused. Even bulk permits issued by the Mining Authorities are being misused to carry much more than permitted bulk quantity and this type of permits are used for over-loading illegally mined ore along with legally mined ore,

thus, depriving the State of the minimal revenue that it gets by way of royalty. When this was brought to my notice, I had called a meeting of transporters, mine owners and the concerned officials and discussed the idea of having one permit for one vehicle for one trip with a maximum transport duration of seven days which itself was a long period. After discussion with them, the Mining Department came out with a permit with a hologram and computer bar-code which permits would require the name of the transporter, vehicle number, the quantity being transported and destination to be filled in the said permit. At the end of that trip, the said permit would be taken possession by the officials, so that it cannot be reused. Considering the suggestion made by me, Government had brought this into force, but, some aggrieved transporters have challenged this system and have obtained a stay order from the High Court, hence the old system continues. Therefore, I recommend that necessary steps shall be taken by the Government to move the Court for vacation of the stay order and introduce a fool proof permit system.

**(vi) Damage done to the environment and water bodies**

In the course of this report, I have referred to the damage that is caused to the environment and water bodies, not only in the surrounding areas where mining activities are taking place, but also en-route of transportation. The damage en-route is mainly because the transportation of ore is done in open bodied vehicles and during transportation mineral dust fly out and settle down in the vegetation

and water bodies, as also on other properties, because of which natural vegetation and water bodies get polluted. There is material to show that the district of Bellary which was once famous for many herbal plants, has now been deprived of such vegetation. Therefore, if transportation is unavoidable, then, such transportation should be permitted only in close bodied vehicles.

**(vii) Economics of mining in Karnataka**

Mineral are not re-generating material. Once an ore is extracted from earth, it is lost for all times to come. Research done in Karnataka indicates that the deposit of iron ore in this State is only sufficient to last in an ordinary situation for about 25 to 30 years. Therefore, if the need of posterity is to be protected, then there should be a limit on the quantity of iron ore to be mined at any given time. In this background, a question arises whether it is prudent for the State to permit the export of these minerals without thinking of posterity. Even economically speaking, one can see that State is not a gainer from mining. Taking iron ore as an example, it fetches an income to the Government of Karnataka by way of royalty ranging from Rs. 16/- to 27/- per MT depending upon the quality of the ore. During the peak period between 2004 and 2006, the export price was even in the range of Rs. 6,000/- to 7,000/- per M.T. Even during the lean period, the export price was between Rs. 1,500/- to Rs. 2,000/- per M.T. In the reference that is made to me by the Government, it is mentioned that the expenditure to extract one M.T. of iron ore is about Rs. 150/-, to which even Rs. 250/- per M.T. is added as transportation cost and taking the

maximum of Rs. 27/- as royalty and Rs. 150/- as the extraction charge, the total would come to Rs. 427/- per M.T. and even if you take the minimum export price of Rs. 1,500/-, an exporter makes a clean profit of Rs. 1,073/- per M.T. While State would get a maximum of Rs. 27/- only which is pittance compared to what a mine owner gets. This is not taking into account millions of M.T. of iron ore that is illegally mined and transported from which Government gets not even the royalty. On the contrary, if the mineral extracted in this State is used to produce value added product, State apart from royalty will also gain through VAT and the Central Government will gain through excise duty which will be a huge amount. May be if the finished product is exported after meeting the local demand, the Country could gain by export duty also.

In the above background, my first suggestion which may look very extreme, but in my opinion the most apt solution to the existing problem, is to ban all trading including export of minerals and reserve this mineral only for domestic consumption as captive mines dedicated to a given steel plant. This would solve many problems like excessive mining, illegal mining, because no dedicated plants would extract minerals more than it could consume and there will be no benefit from such excessive mining because they cannot sell it to anybody because of ban on trading of minerals. If the location of the steel plants is to be confined to the mining areas only, that would solve the consequential problems arising out of transportation to different parts of the State, thus protecting environment and if mining is to be confined only to

dedicated steel plants, the likelihood of damage to the ecology also will be far less. If these plants are situated near the mining area, it would also create huge job potentials for the locals who otherwise in the present system have no advantage from mining, but are only victims of the disadvantages arising from mining activities. The title of the citizens report referred to in this report of mine, which reads "Rich Lands and Poor People" is very appropriate to describe the fate of the people who are victims of this type of mining activity. If export is inevitable because of international agreements, then transportation should be confined to closed bodied vehicles only which can carry only maximum permissible load. I have recently read in the newspapers a demand for nationalization of mining activities, but, my experience of MML discourages me from agreeing to that suggestion.

When I visited the district of Bellary, I noticed the condition of people who are living in and around the mining area. The locals there do not in any manner reap the benefit of this successful industry. I noticed in and around mining area a large number of youngsters, may be between the age of 15 to 25, riding brand new motor-cycles which may not be their own and using cell phones and loitering around. I was informed that all these equipments are provided to these youngsters who are all school drop outs by the unscrupulous people in the mining lobby to keep an eye on the visitors to the mines, so that the mining activities could be controlled during the visit of inspection staff. This type of employment of youth is bound to create socio-economic problems in the years to come. Because of lack of education and

acquired habits, a law and order situation is bound to happen. Even the villagers in and around the mining area do not seriously concentrate on agriculture and other normal village life activities, but, are looking for opportunities for illegal mining which is a tempting proposition. Number of tractors and trailers which were originally meant for agricultural activities, are now being used for transportation of illegally mined ore for which there are ready made buyers. Even this diversion in the occupation of the villagers is likely to cause social unrest when mining activities get reduced. Government should take serious note of these possible socio-economic changes. I would even suggest that a levy on mining activity for betterment of villages around mining areas which money can be utilized for better health scheme, education and other job oriented schemes for the locals. In all, the Government should take a holistic view of development of these areas.

Apart from the above, I would specifically point out certain irregularities, notice of which should be taken by the Government and suitable actions initiated, as the facts of each of these may call for;

- (a) Cancellation of grants of revenue lands where illegal mining is being done.
- (b) Conducting of joint survey of MSPL and SB Minerals to identify the lands which are illegally encroached.
- (c) Conduct enquiries into all stock yards and stop functioning of such yards, if they have obtained permission illegally.

- (d) Conduct survey of Vrushabhendra Mines and take suitable action
- (e) Conduct survey of HRG Mines.
- (f) Conduct survey of Mari Cements referred to at pages 38 and 39 of Chapter - II.
- (g) A large number of Court cases pending, are not being properly attended to and interim orders are allowed to continue, without making any application for vacating the same. Therefore, steps should be taken to attend to all the pending cases where Department of Mines and Geology is involved.
- (h) I have noticed at page 40 of Chapter - II of my report that some of the officers of the Department of Mines and Geology have been passing orders "until further orders" which is contrary to law. All such orders should be reviewed.
- (i) There is an urgent need for increasing the staff strength of Department of Mines and Geology at Taluk levels with strict supervisory control from the higher officers.
- (j) Approach the Central Government to get the boarder between States of Andhra Pradesh and Karnataka, abutting Bellary District surveyed and boundary fixed.
- (k) Required rules u/s. 23C of the M&M (D&R) Act be framed at the earliest

In my report as to the grant of temporary transport permit to lift and transport ore illegally mined from patta lands, I have discussed the law applicable and I have come to the conclusion that there could be no mining activities, be it a Government land or patta land, without there being a mining lease granted under the M&M (D&R) Act and M.C Rules. I have also come to the conclusion that any mineral listed in schedule I and II of the M&M (D&R) Act and found in any land, be it Government or Patta land is the property of the State. In that background, I have come to the conclusion that grant of transport permit to persons to transport minerals who do not hold the mining lease is contrary to the provisions of the M&M (D&R) Act and Rules. I have also discussed the basis of the decisions taken by various public servants and their role in granting such illegal permission to transport minerals from the patta lands without there being a mining lease and with the knowledge that such grant of permission is contrary to the M&M (D&R) Act. I have also discussed the explanation given by the concerned public servants and given my reasons for rejecting the same. According to me, collecting of royalty or a compounding fee from such transporters does not justify the grant of transport permit. I am also of the opinion that however high an authority may be, as has been repeatedly said that the law is above him and his political philosophy or desire to help the farmers to solve their problem cannot be a justification to violate the law. I am also of the opinion if really such public servant had a sincere desire to help the farmers to clear their lands for the purpose of commencing their agricultural operation, then the removal of so called minerals lying in their lands could have been

done through Governmental agencies. I have also given reasons why in many cases the prayer of the farmer for grant of transport licence was only an excuse to indulge in illegal mining. On the above basis, I had concluded that ;

- (1) Sri N. Dharam Singh, the then Chief Minister of Karnataka
- (2) Dr. M. Basappa Reddy, the then Director of Department of Mines and Geology
- (3) Sri Gangaram Baderiya, IAS, the then Director of Department of Mines and Geology

have committed misconduct and have caused huge financial loss to the State to an extent of Rs. 31,01,89,185/- to the exchequer by permitting illegal transportation of 3,09,113 M.T. of iron ore. Hence, these persons are liable for reimbursement of the loss caused to the State. However, in respect of Dr. M. Basappa Reddy, a report under Section 12(3) of the Lokayukta Act has been already sent on 6/3/2008 and acting on the said report, disciplinary proceedings are ordered to be initiated against Dr. Basappa Reddy and such enquiry is in progress. He is also liable for the reimbursement of the loss caused to the State. So far as Sri Gangaram Baderiya is concerned, Disciplinary and Recovery proceedings shall be initiated against him.

While considering the next issue referred to me for investigation, that is in regard to affairs of M/s MML, I have come to the conclusion that the concept of raising contract is alien to M&M (D&R) Act and Mineral Concession Rules. But it is very much prevalent in many cases. In my opinion, since entering into raising contract and such other

contracts whereby the lease holder has alienated completely his rights under the lease is liable to have the mining lease cancelled. Therefore, steps should be taken to terminate these leases. Even in case of MML, I have noticed that they have entered into such contracts with different persons in violation of law. Hence, these leases of MML are also liable to be cancelled. I have also come to the specific conclusion that by entering into various joint venture contracts, processing and marketing contracts, the named officials have not kept the interest of MML in mind and have even caused loss to MML, for which act of misconduct and loss caused to MML, I have held the following officers responsible. Hence, disciplinary proceedings shall be initiated against them under the Service Rules applicable to them. So also, recovery proceedings shall be initiated against the above officers for recovery of the loss caused by them, they are;

- (1) Sri V. Umesh, IAS
- (2) Sri I.R. Perumal, IAS
- (3) Sri D.S. Aswath, IAS
- (4) Smt. Jija Madhavan Hari Singh, IPS
- (5) Sri Mahendra Jain, IAS
- (6) Sri K.S. Manjunath, IAS
- (7) Sri H. Srinivas, Deputy General Manager, MML
- (8) Sri R. Ramappa, Deputy General Manager, MML
- (9) Sri Shankarlingaiah, Deputy General Manager, MML

I have also named the companies or firms which have benefited from the loss that is caused to M/s MML and the Government should recover such loss by taking recourse to suitable legal proceedings.

In my report regarding irregularities, illegalities in de-reservation, I have recorded that though as a matter of policy, the Government of Karnataka decided not to de-reserve forest lands, some

forest lands have been deliberately de-reserved by recording that they are not in forest area. The names of persons who are guilty of such misconduct will be mentioned in the next part of my report.

In my report while referring to illegal transfers of mining leases, I have come to the conclusion that out of the 22 cases that were considered during the course of investigation, there have been irregularities in four cases. I have given basis for my conclusions, but, since I would like to get the explanation from the concerned officials before making any recommendation, same will also be done in the next part of my report.

In this Report, I have named the following public servants for their acts of omissions and commissions.

- (1) Sri N. Dharam Singh, the then Chief Minister of Karnataka
- (2) Dr. M. Basappa Reddy, the then Director of Department of Mines and Geology
- (3) Sri Gangaram Baderiya, IAS, the then Director of Department of Mines and Geology
- (4) Sri V. Umesh, IAS
- (5) Sri I.R. Perumal, IAS
- (6) Sri D.S. Aswath, IAS
- (7) Smt. Jija Madhavan Hari Singh, IPS
- (8) Sri Mahendra Jain, IAS
- (9) Sri K.S. Manjunath, IAS
- (10) Sri H. Srinivas, Deputy General Manager, MML
- (11) Sri R. Ramappa, Deputy General Manager, MML

(12) Sri Shankarlingaiah, Deputy General Manager, MML

Hence, I am recommending initiation of appropriate proceedings for recovery of the loss caused to the State Exchequer and/or disciplinary proceedings against the above public servants. In this background, two questions arise for my consideration, that is;

- (a) Whether it is only these named public servants who are liable for such proceedings or their subordinates are also responsible for the same. I had given my anxious thought to this issue and wherever I have found independent and direct involvement of subordinate officers, whom I thought should be indicted I have named them, but in many cases, there are subordinate officers who have under the mandatory directions of the higher authorities have obeyed their directions and thereby caused loss to the State. In such cases, I thought it fit that only those officers whose involvement is direct in various acts of omissions and commissions to be named and it may not be proper to name their subordinates, who have merely followed the orders of the superiors.
- (b) The next question which is very important that arise is, the huge loss that is caused to the State exchequer because of the acts of commissions and omissions of the named officers. The question therefore, that arise in these circumstance is, are those public servants also to be recommended for prosecution under the provisions of Section 13(1)(d) of the Prevention of Corruption Act, 1988. The said Section reads thus:-

*"13. Criminal Misconduct by a public servant.- (1) A public servant is said to commit the offence of criminal misconduct.-*

*(a) .....*

*(b) .....*

*(c) .....*

*(d) If he.-*

*(i) .....*

*(ii) .....*

*(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage with out any public interest; or*

*(e) .....*

If a literal interpretation is to be given to the above provisions of law, the ingredients necessary for prosecuting the public servant under the above provision of law are

(a) person concerned should be a public servant;

(b) he should obtain for himself or any other person any valuable thing or pecuniary advantage;

(c) such obtaining of valuable thing or pecuniary advantage is without any public interest.

In the facts and circumstances of the various cases discussed herein above, the fact that the concerned officers are public servants are not in dispute, but there is no material to show that they have obtained for themselves any pecuniary advantage. But their acts of omissions and commissions have certainly conferred valuable pecuniary advantage to 3<sup>rd</sup> parties, which of course will have to be held to be without any public interest. Therefore, there is material to be satisfied that the above

provision of law attracts, but the consequences of such prosecution will be serious on the administration of the State. Therefore, I leave it to the State Government in the factual background of each one of the above cases, to take appropriate decision regarding prosecution of the public servants concerned.

**RECOMMENDATIONS UNDER SECTION 12(3) OF THE KARNATAKA LOKAYUKTA ACT**

The report of investigation submitted by Sri Gaikwad team at Annexure - 'B' reveals that Sri N. Dharam Singh, former Chief Minister of Karnataka who also held the portfolio of the Department of Mines and Geology ordered issuance of temporary transport permits for movement of iron ore and manganese ore from agricultural patta lands not held under the mining lease, in contravention of Section 4(1) and Section 4(1A) of M&M (D&R) Act and Mineral Concession Rules, 1960 and acted in a manner unbecoming of a public servant of the class to which he belongs. The act of Sri N. Dharam Singh has resulted in revenue loss to the State to the extent of Rs. 23,22,11,850/-. Therefore, under Section 12(3) of the Lokayukta Act, a separate recommendation is made to the Competent Authority to initiate appropriate proceedings against Sri N. Dharam Singh, former Chief Minister of Karnataka, for recovery of the loss caused by him to the State.

Sri Gangaram Baderia, IAS, during his tenure as Commissioner and Director of Mines and Geology approved issuance of temporary transportation permit for movement of iron ore to Sri Satish Kumar

from survey number 23/4 of Bhujanganagar village, Sandur Taluk in contravention of the conditions laid down by the Government of Karnataka in letter No. CI 02 MMM 2005, dated 27/09/2005 resulting in movement of illegally mined and stocked ore to the tune of 1,200 M.T., causing a loss of Rs. 11,70,000/- to the State exchequer. Sri Gangaram Baderia, IAS during his tenure as Commissioner and Director of Mines and Geology has also accorded permission for issuance of permit in the case of Sri T. Pushparaj, relating to RS No. 298 of Bhujanganagar village, Sandur Taluk, in contravention of the M&M (D&R) Act, and Mineral Concession Rules, 1960 resulting in loss of Rs. 1,26,75,000/- to the State exchequer. The above acts of Sri Gangaram Baderia, IAS amounts to acts unbecoming of a public servant of the class to which he belongs and hence he has committed misconduct under Rule 3 of the All India Services (Conduct) Rules, 1968 and hence, under Section 12(3) of the Lokayukta Act, I recommend initiation of disciplinary proceedings against him under All India Services (Disciplinary and Appeal) rules, 1969. Appropriate proceedings shall also be initiated against Sri Gangaram Baderia, IAS, for recovery of the loss caused by him to the State exchequer.

The materials collected during investigation also establish that the commissions and omissions of Dr. M. Basappa Reddy, former Director of Mines and Geology, has resulted in unauthorized movement of 56,747 M.T. of iron ore/manganese ore, in the districts of Belgaum, Bellary, Chitradurga and Chikmagalur resulting in revenue loss of Rs. 6,41,32,335/- to the State exchequer as detailed in the report

at Annexure - 'B' regarding which a disciplinary enquiry has been already initiated in No. LOK/ARE-3/Enq-2/2008, pursuant to Government Notification No. ಸಿಆಸುಇ 9 ಇಮುವಿ 2008, dated 17/04/2008. In addition to the same, under Section 12(3) of the Lokayukta Act, I recommend initiation of appropriate proceedings against him for recovery of the loss caused by him to the State exchequer.

The materials collected during investigation prima facie establish that:

- (i) Sri V. Umesh, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 24/05/1999 to 08/03/2000, by his acts of commissions and omissions, has caused a total loss of Rs. 6,90,56,138/- as detailed in Revised Table-11A of the report of Sri Gaikwad team at Annexure - 'C'.
- (ii) Sri I.R. Perumal, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 31/10/2000 to 26/11/2002, by his acts of commissions and omissions, has caused a total loss of Rs. 5,02,60,312/-, as detailed in Revised Table-11B of the report of Sri Gaikwad at Annexure - 'C'.
- (iii) Sri K.S. Manjunath, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 26/11/2002 to 7/12/2002 and 20/02/2003 to 7/7/2003, by his acts of commissions and omissions,

has caused a total loss of Rs. 4,04,66,938/-, as detailed in Revised Table-11C of the report of Sri Gaikwad at Annexure - 'C'.

- (iv) Sri D.S. Aswath, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 25/08/2003 to 14/04/2004, by his acts of commissions and omissions, has caused a total loss of Rs. 95,23,82,953/- as detailed in Revised Table-11D of the report of Sri Gaikwad at Annexure - 'C'.
- (v) Smt. Jija Madhavan Hari Singh, IPS, former Managing Director, M/s Mysore Minerals Limited, during her tenure from 15/04/2004 to 14/06/2006, by her acts of commissions and omissions, caused a total loss of Rs. 299,42,72,022/- as detailed in Revised Table-11E of the report of Sri Gaikwad at Annexure - 'C'.
- (vi) Sri Mahendra Jain, IAS, former Managing Director, M/s Mysore Minerals Limited, during his tenure from 15/06/2006 to 09/01/2008, by his acts of commissions and omissions, has caused a total loss of Rs. 219,56,81,974/- as detailed in Revised Table-11F of the report of Sri Gaikwad at Annexure - 'C'.

By their commissions and omissions as detailed above, the above mentioned public servants have acted in a manner unbecoming of a Government servant of the class to which they belong and thereby

committed misconduct under Rule 3 of the All India Services (Conduct) Rules, 1968. Therefore, under Section 12(3) of the Lokayukta Act, I recommend to the Competent Authority to initiate disciplinary proceedings against the said public servants under the All India Services (Disciplinary & Appeal) rules, 1969. Appropriate proceedings shall also be initiated against the above mentioned public servants for recovery of the loss caused by them due to their omissions and commissions as detailed above.

The materials collected during investigation prima facie establish that:

- I. Sri K. Srinivas, Dy. General Manager, M/s Mysore Minerals Limited is jointly and severally responsible with the respective Managing Directors, during the years 2000-04 and 2003-05, for causing a loss of Rs. 14,84,31,833/-, by his acts of commissions and omissions, as detailed in Revised Table-12A of the report of Sri Gaikwad team at Annexure - 'C'.
  
- II. Sri M. Ramappa, Dy. General Manager, M/s Mysore Minerals Limited is jointly responsible with the respective Managing Directors, during the years 2003-04, for causing a loss of Rs. 6,10,47,870/-, by his acts of commissions and omissions, as detailed in Revised Table-12B of the report of Sri Gaikwad team at Annexure - 'C'.

III. Sri Shankaralingaiah, Dy. General Manager, M/s Mysore Minerals Limited is jointly responsible with the respective Managing Directors, during the years 2004-07 for causing a loss of Rs. 63,38,13,427/-, by his acts of commissions and omissions, as detailed in Revised Table-12C of the report of Sri Gaikwad team at Annexure - 'C'.

By their omissions and commissions, the above mentioned officers of M/s Mysore Minerals Limited have committed misconduct. Therefore, under Section 12(3) of the Lokayukta Act, I recommend initiation of disciplinary proceedings under the service rules applicable to them and so also appropriate proceedings shall be initiated against the said officers for recovery of the loss caused by them as detailed above.

Action taken or proposed to be taken on the above recommendations be intimated to this institution within three months from the date of receipt of this report as required under Section 12(4) of the Lokayukta Act.

#### ACKNOWLEDGEMENT

There has been delay in submission of this Report, which I can say with all sense of responsibility that it is not due to any slackness on my part or my team's part, but due to the desire of our bringing about this report which should present all the shortcomings in the mining activities. We have tried to look into the irregularities, illegalities and problems at different stages of mining activities holistically. In this

process all members of my team have worked with dedication and devotion. I am grateful to Sri K.R. Chamayya, Retired Secretary, Law Department, Government of Karnataka, who is my principal advisor, as well as, Sri L.Subramanya and Sri Moosa Kunhi Nayar Moole, both Registrars in the Karnataka Lokayukta whose cumulative efforts have helped me in the preparation of this report, without in any manner compromising with their other duties. The tremendous work put in both in the field and office by Dr. U.V. Singh was also responsible for all the inputs provided in this report to arrive at all types of illegalities in mining. I also place my deep appreciation of work put in by Gaikwad team, whose names are mentioned in the beginning of this report. I also place on record my appreciation of the overtime work put by Smt. Jayashree and Sri K. Krishnan, officials of Lokayukta, but for whom this report would not have been possible to be ready even now. For all the people whose names are not here but who have helped me in the preparation of this report, I am indebted.

(N.SANTOSH HEGDE)  
LOKAYUKTA

D.O. No. Compt/LOK/BCD/89/2007/ARE-2

18<sup>th</sup> December, 2008

Encl: Report along with connected records

Dear Sri Sudhakar Rao

Sub: Reference under Section 7(2-A) of the Karnataka Lokayukta Act made by the Government for investigation of certain matters relating to illegal mining activities in Karnataka-reg.

Ref: i) Govt. Order No. CI 164 MMM 2006 dated 12/03/2007

ii) Govt. Order No. CI 164 MMM 2006 (Part), dated 09/09/2008

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I am herewith forwarding my Report (Part-I) dated 18/12/2008 along with Annexures, on the reference made by the Government under Section 7(2-A) of the Karnataka Lokayukta Act, 1984, for investigation of certain matters relating to illegal mining activities in Karnataka, for needful action in the matter.

In the said report, I have discussed the various issues relating to irregularities and illegalities in mining activities carried on in the State of Karnataka and so also the activities of M/s Mysore Minerals Limited. In this report, I have made certain recommendations and suggestions. Certain recommendations are also made under Section 12(3) of the Karnataka Lokayukta Act, 1984 against the named public servants.

The action taken or proposed to be taken on the basis of the said recommendations be intimated to this authority within three months from the date of receipt of the report, as provided under Section 12(4) of the Karnataka Lokayukta Act.

The receipt of the report along with enclosures may please be acknowledged.

With regards,

Yours sincerely,

(N.SANTOSH HEGDE)

Sri Sudhakar Rao, I.A.S.,  
Chief Secretary to Government,  
Karnataka Government Secretariat,  
Vidhana Soudha,  
Bangalore-560 001.

**REPORT ON THE REFERENCE MADE BY THE GOVERNMENT OF  
KARNATAKA UNDER SECTION 7(2-A) OF THE KARNATAKA  
LOKAYUKTA ACT, 1984 (PART - I)**

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### ANNEXURES

1)	Annexure-A	Report of Sri U.V. Singh
2)	Annexure-B	Report of Gaikwad team the issue of grant of transport permits for transporting illegally mined iron/manganese ore from the patta lands
3)	Annexure-C	Report of Gaikwad team relating to lapses pointed out by the Accountant General regarding MOUs raising, processing and marketing contracts, joint ventures, etc. entered into by the MML with private companies resulting in losses amounting to crores of rupees to the company.
4)	Annexure-D	Report of Gaikwad team relating to de-reservation of mining area of 11,620 Sq. Kms. in the State meant for State exploitation/mining by the public sector and the related matters.
5)	Annexure-E	Report of Gaikwad team relating to legality in the transfer of leases from one lease

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holder to another on case wise  
examination of the legality

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