

Through Email/Speed Post

F.NO.110/6/2017 - NA
Government of India
Ministry of Coal
O/o Nominated Authority

131G, World Trade Centre, Babar Road
New Delhi - 110001, Dated 20th October, 2017

OFFICE MEMORANDUM

SUBJECT:- Minutes of the IInd meeting of the Scrutiny Committee, held on 22.09.2017 at Shastri Bhawan, New Delhi.

The undersigned is directed to refer the subject mentioned above and to forward herewith the minutes of the IInd meeting of the Scrutiny Committee, held under the Chairmanship of Shri OM Prakash, on 22.09.2017 at Shastri Bhawan, New Delhi, to examine the reasons leading to inordinate delay in operationalization of five non-operational Schedule II coal mines allocated through auction as well as to consider the replies submitted by the Successful Bidders of these five coal mines in relation to the Show Cause Notices issued to them by the Nominated Authority for non-compliance of the milestones/provisions of the Coal Mine Development & Production Agreement (CMDPA) and to make its recommendation to the Nominated Authority.


(N K Singh)

Deputy Director to Government of India

Tel no - 011-23414134

Encl : as above

To,

All the participants

Minutes of the IInd meeting of the Scrutiny Committee, held on 22.09.2017 at Shastri Bhawan, New Delhi.

The Deputy Secretary (NA) and Member Convener welcomed the members of the Scrutiny Committee and informed that several instances of deviations from achievement of milestones under Efficiency Parameters have been reported and Show Cause Notices (SCN) have been issued to the Successful Bidders (SB) for such deviations from the Efficiency Parameters. The Deputy Secretary further informed that this meeting has been convened to examine the reasons leading to inordinate delay in operationalization of five non-operational Schedule II coal mines allocated through auction as well as to consider the replies submitted by the Successful Bidders of these five coal mines in relation to the Show Cause Notices issued to them by the Nominated Authority for non-compliance of the milestones/provisions of the Coal Mine Development & Production Agreement (CMDPA) and to make its recommendation to the Nominated Authority. These five coal mines are Trans Damodar, Tokisud North, Gare Palma IV/7, Marki Mangli III and Ardhgram.

Show Cause Notices and replies received from the SB were presented before the committee by M/s SBI Caps Limited (Transaction Advisor) on mine by mine basis and the representatives of the SB were requested to present their cases before the Committee. Mine-wise discussions held are as under:-

TRANS DAMODAR

The Committee was informed that Trans Damodar is a Schedule II coal mine, which was allocated to Durgapur Project Limited under CM(SP) Act, 2015 vide Vesting Order No 104/08/2015/NA dated 23.03.2015. The Vesting Date was 01.04.2015.

2. As per the Schedule E of the CMDPA, application for the transfer of all the statutory clearances was to be made within one month from the Vesting Date. However, the application for the Explosives License and Land Mutation was made by DPL on 10.07.2015 and 02.05.2015 whereas the due date was 01.05.2015. In this regard, a Show Cause Notice was issued to SB on 22.06.2016. The reply to Show Cause Notice furnished by the SB was placed before the Scrutiny Committee for deliberation during the said meeting.

3. Further, as per the Schedule E of the CMDPA, all the statutory clearances including Mine Opening Permission was to be obtained within the 3 months from the Vesting Date. The Mining Lease was granted on 03.06.2015 and the same was executed on 05.08.2015, which is after due date of 01.07.2015. Other Clearances like Ground Water Clearances, Explosive License, Consent to Operate and Land Mutation was also obtained after the due date of 14.7.2016, 21.02.2017 20.07.2015 and 23.03.2016, respectively. Transfer of Mine Opening Permission, Permission from DGMS and Power Line are pending till date.

4. Free hold land required for mining as per Mining Lease is 119 Hectare out of this 5 Hectare was vested through Vesting Order and the same has been mutated in favor of the Successful Bidder. The Balance 114 Hectare of free hold land is still to be acquired by the SB. The issue of pending Land Mutation was highlighted in the review meeting held on 26.11.2015 under the Chairmanship of the Nominated Authority Further, in the review meeting held on 20.7.2016, it was once again emphasized that :-“ The total area under mining lease is 694 acres, out of which 282 acres is owned by WBMDTC it was emphasized that the successful allottee should immediately acquire/purchase the land of WBMDTC to enable the mine to become operational at an early date as this land was sufficient to start mining operations”.

5. It was also observed, during the review meeting held on 26.11.2015, that preparation of Mine Closure Plan is pending.

6. During the review meeting held on 21-26/12/2016, it was observed that no substantial progress has been made in operationalization of the mine since the last review meeting i.e 20.7.2016. It was also submitted during the meeting by SB that they are getting a study done by CIMFR to examine the viability of the mine.

7. Bank Guarantee constituting Performance Security, submitted by Successful Bidder has expired on 18.03.2017. In this regard, a Show Cause Notice was issued to SB on 13.04.2017. In reply to Show Cause Notice, vide letter dated 21.04.2017, SB had stated that they had already taken necessary action for renewal of Bank Guarantee and solicited approval of the State Government of West Bengal for issuance of the Government Guarantee in favour of the Banker who would have renewed the aforesaid Bank Guarantee.

8. During the last review meeting held on 24.05.2017 under the Chairmanship of Secretary (Coal), it was observed that no significant progress has been made by the SB for the development of coal mine. In the said meeting, it was submitted by the SB that preparation Mine Closure Plan is still pending due to which Mine Opening Permission is pending. Land Acquisition is also pending. The issue of expired Bank Guarantee was again highlighted. It was observed that as there has been no significant development in the coal mine since the execution of the Mining Lease, it forms the ground for termination of the allocation of the coal mine.

Recommendations:-

The Committee considered the terms and conditions of Coal Mine Development and Production Agreement, the Show Cause Notices issued, the reply as well as submissions made by the company before the Committee along with the status paper placed before the Committee. The Committee noted that the coal mine is a Schedule II coal mine and all the applications for the transfer of statutory clearance were to be made within

one month of the Vesting Date. However, the applications for transfer of Explosives License and Power Line was submitted after due date and the reply submitted by SB does not justify the delay. Committee further noted that all the statutory clearances were to be obtained within the 3 months of the Vesting Date and accordingly, the coal mine was scheduled to be operational within the 3 months of Vesting Date i.e by 30th June 2015. However, most of the clearances like Execution of Mining Lease, Explosives license, Ground Water, Land Mutation, Consent to Operate and Power Line were obtained after due date. Mine Opening Permission and Permission from DGMS are still pending. This is in violation of Clause 10.1 of the CMDPA.

The acquisition of 114 Hectare of land required for mining is pending since inception though the SB was repeatedly requested in the Review Meetings to expedite the same which shows that SB has been lethargic in the acquisition of land. On being asked by the Committee about the status of MCP, as the Mine Opening Permission was stated by the SB to be dependent on it, SB was unable to furnish any explanation for not preparing the same. The coal mine is Schedule II coal mine (i.e. the mine was operational at the time of cancellation of prior allocation by Hon'ble Supreme Court) and instead of developing the coal mine the SB is conducting a study by CIMFR to examine the viability of the mine and there has been no progress even on that too. The renewal of Bank Guarantee constituting Performance Security is pending since 18.03.2017. Representatives of the S B stated that they are seeking help from the Government of West Bengal with respect to the renewal of Bank Guarantee, however, no definite timeline for the renewal of the same has been indicated by the SB. Representatives of the Committee were of the view that expiry of the Bank Guarantee is a major violation and forms the ground to terminate the allocation of the coal mine as it points that the SB is not at all serious in development of the mine. As observed above there has been non-compliance by the SB with all the Milestones/ Efficiency Parameters at more than 5 instances viz delay in application for explosives licence, delay in application of Land Mutation, delay in execution of Mining Lease, delay in transfer of

Ground Water Clearance, Explosives Licence, Consent to Operate and pending Mine Opening Permission, Permission from DGMS and Power Line till date. It is noted that non-compliance of Efficiency Parameters for more than five instances is a Termination Event as per Clause 24.3.1(f) of the CMDPA. Moreover, the SB has not renewed the Performance Security, even after repeated directions of the Nominated Authority. Thus, the Nominated Authority has no means to appropriate the Performance Security and invoke Clause 24.3.1(e) of the CMDPA. The Committee has observed that there is absolutely no progress in the development of coal mine since the execution of Mining Lease and the efforts made by the SB for the operationalization of the coal mine also shows that they are not serious for the development of the mine. As informed by the Nominated Authority there is an estimated loss of revenue of Rs 94 crores (excluding Royalty, Taxes etc.) to the State Exchequer annually. In the light of aforesaid facts the Committee is of opinion that the Central Government may consider termination of CMDPA and Vesting Order in terms of Clause 24.3.1 (s) of the CMDPA which stipulates that: - *"in the opinion of the Central Government, it is expedient in public interest to terminate this Agreement"*.

In view of the continued unsatisfactory progress in development of coal mine and taking into account all factors, the Committee recommends that coal mine may be de-allocated in terms of Clause 24.3.1 of the CMDPA and forfeiture/ appropriation of Performance Security and other payments under Clause 24.3.3. For this purpose a Show Cause Notice may be issued to the Successful Bidder, reply of which may be placed before the Scrutiny Committee for final decision. Since the renewal of Bank Guarantee submitted by SB is pending since 18.03.2017 and the SB is not renewing the same after repeated direction by Nominated Authority, appropriation of BG is not possible. Hence, the committee further recommends to initiate legal action including filing of appropriate civil suit/money suit in the appropriate court of law for recovery of the amount of Performance Security from the Successful Bidder if the Performance Security is not renewed.

TOKISUD NORTH

The Committee was informed that Tokisud North is a Schedule II coal mine , which was allocated to M/s Essar Power M P Limited under CM(SP) Act, 2015 vide Vesting Order No 104/12/2015/NA dated 23.03.2015. The Vesting Date was 01.04.2015.

2. As per the Schedule E of the CMDPA application for the transfer of all the statutory clearances were to be made within one month from the Vesting Date. In this regard, a Show Cause Notice was issued to SB on 22.07.2016 for not applying for Mine Opening Permission, Permission from DGMS and delay in application for transfer of Power Line from State Electricity Board. The due date of above applications was 01.05.2015. The reply to Show Cause Notice furnished by the SB was placed before the Scrutiny Committee for deliberation during the said meeting. The application for Mine Opening Permission and Permission for DGMS is still pending as on date.

3. Further, as per the Schedule E of the CMDPA all the statutory clearances including Mine Opening Permission were to be obtained within 3 months from the Vesting Date. However, only Environment Clearance and Forest Clearance were obtained within the schedule timeline. Grant of Mining Lease, execution of Mining Lease, Ground Water Clearance and Consent to Operate were obtained after the due date i.e. on 28.07.2015, 24.11.2016, 14.12.2015 and 31.03.2017, respectively. Transfer of Mine Opening Permission, Permission from DGMS, Explosive License, Land Mutation, Power Line and Railway Siding approvals are still pending as on date i.e. even after the 2.5 years from the Vesting Date. This is in violation of Clause 10.1 of the CMDPA.

4. For Power Line, during the Review Meeting held on 26.11.2015 under the Chairmanship of Nominated Authority, the SB requested for the transfer of High Tension Line from DVC. DVC was insisting on the SB for making a fresh application. The matter was taken up by the Nominated Authority vide letter dated 20.10.2015 wherein the DVC was requested to transfer all the permissions related to supply of 33 KV power to M/s EPMPPL in accordance

with the provision of the CM(SP) Act, 2015. The matter was again taken up by the Nominated Authority with the DVC vide letter dated 01.12.2015 on the request of the SB during the Review Meeting. Later, the SB through Pre-commencement reports informed that they had approached Jharkhand Bijli Vitran Nigam Limited (JBVNL) for the supply of power from nearest substation and for which JBVNL has also sanctioned a demand load of 3500 KVA under HTS 05.10.2015. M/s EPMPPL had also stated that they have proposed to install DG sets for pre development activities. However, no progress and efforts have been made by SB in respect of getting power line and the same is pending as on date.

5. For Railway Siding, during the Review Meeting held on 26.11.2015, the SB requested for intervention in the matter of transfer of permission for use of Railway Line. Nominated Authority took up the matter with the General Manager, Hajipur and accordingly Chief Transportation Planning Manager, ECR, Hajipur has accorded administrative approval for the transfer of titles of deed etc. in favor of EPMPPL on 11.2.2016. However, since then no efforts has been made by the SB for the Railway Siding approvals and the same is still pending.

6. As per clause 5.2.2 of the CMDPA, the SB had to make the payment of third installment of Upfront Amount on or prior to expiry of 12 months from Vesting Date. The SB had defaulted on the same. Accordingly, a Show Cause Notice was issued to SB on 17.5.2016 for non-payment of 3rd installment of Upfront Amount as well as non-execution of Mining Lease. In respect of the Execution of Mining Lease, State Government of Jharkhand had granted the Mining Lease on 28.07.2015 and further a revised demand note and registration charges was issued to the SB by State Government on 28.12.2015. As per rule 31 of the Mineral Concession Rules, 1960, Mining Lease is to be executed within six months from the grant of Mining Lease. The same was intimated to SB by State Government of Jharkhand vide letter dated 06.01.2016. However, instead of executing the Mining Lease, the SB requested the State Government for the extension of 6 months for the same, which was rejected by Government of Jharkhand, vide letter dated

03.05.2016, with a direction to execute the Mining Lease within 15 days failing which the allocation of coal mine will be recommended for cancellation to the Nominated Authority. However, the SB again approached State Government for extension of six months for the execution of Mining Lease and for providing R&R document from prior allottee but the State Government of Jharkhand, vide letter dated 19.05.2016, again rejected their request stating that R&R documents has nothing to do with execution of Mining Lease. The State Government further directed the SB to execute the Mining Lease by 30.05.2016 and it was reiterated that if the SB will fail to do so they will approach to NA for the de-allocation of coal mine. The reply to Show Cause Notice dated 17.05.2016 was submitted by SB on 30.05.2016 which was found unsatisfactory as the payment of Upfront Amount is not dependent on any other parameters. It was also observed that as per Schedule E of the CMDPA, SB was required to get the Mining Lease executed by 01.07.2015 and when the demand note for execution of Mining Lease was received from the State Government of Jharkhand on 28.12.2015, the same could have been executed within the reasonable time. It was also informed that SB had also failed to make the payment of 2nd installment of Upfront amount within time and accordingly, the Bank Guarantee was appropriated on 25.02.2016 in terms of Clause 6.1.3 of the CMDPA. Considering the aforesaid facts, a notice for termination of CMDPA & Vesting Order and appropriation of Performance Security for not depositing 3rd installment of Upfront Amount and non-execution of Mining Lease was issued to SB on 15.09.2016.

7. Subsequently, the termination notice dated 15.09.2016 was kept in abeyance for further two months upon the payment of 3rd installment of Upfront Amount (along with interest) and in consideration of the request made by SB for grant of time for execution of Mining Lease. Later, the notice was withdrawn upon the execution of Mining Lease (executed on 24.11.2016).

8. During the Review Meeting held on 21-26/11.2016, the NA had directed that as there is no impediments, the SB should operationalize the

mine at an early date. Further, during the Review Meeting held on 02.06.2017 under the Chairmanship of Secretary (Coal), it was highlighted that there has been no progress since the execution of mining lease. As regard issue of R&R documents it was informed that upon receiving the documents from the Prior Allottee, the SB was directed to collect the same on 03.05.2017. However, the said documents were collected by the SB after one month that too upon the direction of Secretary (Coal) in the Review Meeting held on 02.06.2017.

9. Recently, the Chief Secretary, Government of Jharkhand vide letter dated 04.09.2017 has informed that Jharkhand Government has been continuously instructing the SB to start the mining operation in the coal block. However, they are not taking any interest in starting the mining operation and thereby has requested to take suitable action against EPMP for not taking any interest in operationalization of the coal mine.

10. SB submitted before the Scrutiny Committee that land has still not been mutated in its favour due to Prior Allottee not complying with CNT Act. The SB further submitted that the mutation of the land is pending due to various issues involved. In this regard, it was informed that 834 Ha of land has already been vested in favour of the SB and money for the same was paid by the SB to the Nominated Authority which has been subsequently disbursed to the Prior Allottee. It was also informed that while disbursing the compensation for Land and Mine Infrastructure, objections and comments were invited from the SB, however, the SB never raised any objection to the disbursement of the compensation to Prior Allottee.

11. When the Chair of the meeting asked for the documents related to the issues involved with land, it was found that the representative was not carrying any documents at all and had come ill prepared for this meeting. Representative of the SB claimed that Explosive License and Power Line from State utility are pending due to impediments in land possession. Director, Mines and Geology, Government of Jharkhand stated that the SB has never raised the issue of land mutation with the Government of Jharkhand and is generally absent from the State level review meetings

regarding development of coal mines in the State. Representative of the SB also stated that as there is a litigation currently filed with the Supreme Court with respect to capping of fixed charges, it will be inappropriate for the SB to start mining activities and coal production.

Recommendations:-

The Committee considered the terms and conditions of Coal Mine Development and Production Agreement, the Show Cause Notices issued, the reply as well as submissions made by the company before the Committee along with the status paper placed before the Committee. The Committee noted that the coal mine is Schedule II coal mine and all the applications for the transfer of statutory clearance were to be made within one month of the Vesting Date. However, the application for Power Line was submitted after due date and application for Mine Opening Permission and Permission from DGMS are still pending till date and the reply submitted by SB also does not justify the delay. Committee further noted that all the statutory clearance were to be obtained within 3 months of the Vesting Date and accordingly, the coal mine was scheduled to be operational within 3 months of Vesting Date i.e. by 30th June 2015. However, Grant of Mining Lease and Ground Water Clearance were obtained after due date whereas the Mine Opening Permission from CCO, Permission from DGMS, Explosive License, Land Mutation and permission of Power Line from the State utility are still pending. This is in violation of Clause 10.1 of the CMDPA. The Mining Lease was also executed on 26.11.2016 i.e after 17 months form scheduled date that too after repeated persuasion/direction by the State Government of Jharkhand as well as by the Nominated Authority. As observed above there has been non-compliance by the SB with all the Milestones/ Efficiency Parameters at more than 5 instances viz not applying for Mine Opening Permission, Permission for DGMS, delay in making application for Power Line, delay in execution of Mining Lease, delay in transfer of Ground Water Clearance, Consent to Operate, pending Mine Opening Permission, Permission from DGMS, Explosive Licence, Land

Mutation, Power Line and Railway Siding till date. It is noted that non-compliance of Efficiency Parameters for more than five instances is a Termination Event as per Clause 24.3.1(f) of the CMDPA. The Performance Security of the SB has already been appropriated in part previously. Further, absolutely no progress has been made by the SB since the execution of Mining Lease in November 2016. No efforts are being made by the SB for the grant of Mine Opening Permission even after the execution of Mining Lease as the same was pending due to non-execution of Mining Lease. Further, no efforts appears to be having made by the SB for the mutation of the vested land as well as for other clearances also. The Chief Secretary, Government of Jharkhand has recently asked Central Government to take action against the company as the SB is not serious in operating the mine. As informed by the Nominated Authority there is an estimated loss of revenue of Rs 257.5 crores (excluding Royalty, Taxes etc) to the State Exchequer annually. In the light of aforesaid facts the Committee is of opinion that the Central Government may consider termination of CMDPA and Vesting Order in terms of Clause 24.3.1 (s) of the CMDPA which stipulates that: - "*in the opinion of the Central Government, it is expedient in public interest to terminate this Agreement*".

In view of the continued unsatisfactory progress in development of coal mine and taking into account all factors, the Committee recommends that coal mine may be de-allocated in terms of Clause 24.3.1 of the CMDPA and forfeiture/ appropriation of performance security and other payments under clause 24.3.3. For this purpose a Show Cause Notice may be issued to the Successful Bidder, reply of which may be placed before the Scrutiny Committee for final decision.

GARE PALMA IV/7

The Committee was informed that Gare Palma IV/7 is a schedule II coal mine, which was allocated to M/s Monnet Ispat & Energy Limited (MIEL)

under Coal Mines (Special Provisions) Act, 2015 vide Vesting Order No. 104/18/2015/NA dated March 23, 2015. The Vesting Date was 01.04.2015.

2. Further, as per the Schedule E of the CMDPA all the statutory clearances including Mine Opening Permission was to be obtained within 3 months from the Vesting Date. However, only Environment Clearance and Consent to Operate were obtained within the schedule timelines. Grant of Mining Lease, Ground Water Clearance, Explosive License and Power Line were obtained after the due date i.e. 17.08.2015, 10.08.2015, 26.08.2015 and 18.09.2015 respectively. Execution of Mining Lease, transfer of Mine Opening Permission, Permission from DGMS and Land Mutation are still pending as on date i.e. even after the 2.5 years from the vesting date. This is in violation of Clause 10.1 of the CMDPA.

3. CMPDIL, on 03.09.2015, informed Nominated Authority that they are now following WGS -84 System which is the Standard Reference system for the Global Positioning System (GPS) followed globally. Accordingly, a notice was issued by the Nominated Authority on 13.10.2015 informing all the Successful Bidders (SB) of Gare Palma Sector about the change/revision in the boundary co-ordinates as per WGS -84 system of their respective coal mines.

4. M/s MIEL vide their letters dated 27.10.2015 and 29.12.2015 informed that the total area of Gare Palma IV/7 coal block has been increased to about 481 ha from 420 ha due to the change / revision in the boundary co-ordinates as per notice dated 13.10.2015 and this additional area of 61 ha involves around 34 Ha of protected forest land and accordingly requested for 18 months' time to comply with the necessary statutory obligations. It was also stated by the SB that Mineral Resource Department, State Government of Chhattisgarh vide their letter no. F3-21/2015/12 dated 14th October 2015 has informed the presence of about 8.853 Ha of Revenue Forest land within the coal block boundary area of 420 ha for which Forest Clearance was not obtained by Prior allottee. In this regard, State Government of Chhattisgarh had also sought necessary direction/clarification from the Ministry regarding execution of Mining Lease for non-

forest area in respect of Gare Palma IV/7 coal mine. Accordingly, State Government was informed that there was no bifurcation of land in the Mining Lease which was earlier granted to the prior allottee. State Government was also informed that as per the guidelines of MoEF&CC, mining shall be allowed in existing mining lease having forest land in part or full for which mining lease has already been executed at least once before 01.04.2015, till the expiry of one year from the date of issue of guidelines dated 01.04.2015.

5. Accordingly, State Government directed the SB vide letter dated 08.02.2016 for the execution of Mining Lease for the area 335 (approx) ha within 6 months from the date of grant of Mining Lease.

6. Parallely, the CMPDIL was also asked to verify the facts as stated by the SB (vide letter dated 08.01.2016). In reply, CMPDIL informed that subsequent to allocation of Gare area sub-sectors to the private sector companies in 2004-05, boundary dispute had started surfacing and to resolve the boundary dispute, as per the directive of MoC, CMPDIL carried out a comprehensive exercise based on Modified Everest Datum and submitted the report to MoC on 11.07.2011. The area of Geological Block (420 ha), mentioned in the Vesting Order is based on the Geological Report prepared by GEMICON (P) Ltd in June 2001 for the then allottee. The boundary finalized in CMPDI's 2011 exercise has now been Geo-referenced in WGS-84 system and the area of the said block as per exercise carried out by CMPDI in 2011 and subsequently submitted to MoC in WGS-84 system is same i.e. 4.81 sq kms.

7. Accordingly, SB was informed by the Nominated Authority that change in the block area shall not have any impact on mine workings in the initial years of the mining operations and meantime suitable initiatives can be taken for revision in the Mining Plan and Clearance. In pursuance, SB (vide letter dated 13.04.2016) requested not to revise the area of the said coal block and to keep it as it was at the time of bidding with an

undertaking that they will not claim the additional land (61 ha) beyond their designated boundary in future as part of Gare Palma IV/7 coal mine for mining.

8. In view of the request made by SB, as the CMPDIL's letter was silent about the additional forest area, SB was directed to provide documents & evidence in support of forest land in the said area (on 20.05.2016 via email). Accordingly, certified Cadastral Map and Certified Land Schedule was submitted by SB as evidence of forest land (on 1.06.2016). Subsequent to this, as a measure of abundant caution, the Government of Chhattisgarh vide letter dated 26.07.2016 was also asked to confirm presence of Forest Land and CMPDIL vide letter dated 11.07.2016 for presence of coal in the additional area of 61 Ha.

9. In the meantime, State Government vide letter 12.05.2016 informed Nominated Authority about the non-execution of Mining Lease by SB even on the expiry of time limit prescribed by the State Government and sought direction in this regard.

10. In reply to letter dated 11.07.2017 of the Nominated Authority, the CMPDIL vide its letter dated 08.08.2016 stated that from the available information as furnished by the allocattee, it is not possible to locate and identify the spatial distribution of the area having 61 Ha including forest area in the Gare Palma IV/7 coal block, and therefore it may not be possible to indicate whether it is falling in the coal bearing area or not. However, the State Government vide its letter dated 09.01.2017 finally confirmed that the total area of Gare Palma IV/7 block is 481 ha which includes 417.884 Ha of Private Land, 24.244 Ha of Government Land and 39.026 ha of Forest land.

11. In view of the above, the CMPDIL (vide letter dated 08.02.2017) was again requested to provide the co-ordinates alienating the additional 30.173 ha (39.026 Ha-8.853 Ha) forest area arising due to revision of co-ordinates. In reply, it was informed by the CMPDIL (vide letter dated 06.03.2017) that

as per the guideline of the Forest Department, State Government, if so desires, may execute a separate mining lease for a whole or part of non-forest land falling in such mining lease, once Stage -I approval for the entire forest land falling in such mining lease area is obtained. It has been further clarified by the CMPDIL vide email dated 18.04.2017 that the old boundary of Gare Plama IV/7 before the rationalization of boundary in 2011 does not exist anymore.

12. Bank Guarantee submitted by SB as Performance Security in terms of Clause 6.1.1 of the CMDPA has expired on 19.03.2017. This is in violation of Clause 6.1.5 of the CMDPA. Accordingly, a Show Cause Notice was issued to SB on 13.04.2017. In reply to Show Cause Notice, the SB, vide letter dated 19.04.2017, had stated that they are experiencing a serious financial stress and requested to condone the delay for renewal of Bank Guarantee.

13. Further, a meeting was held on 24.04.2017 to discuss and resolve issue related to increase in area from 420 ha to 481 ha due to the change /revision in the boundary co-ordinates under WGS 84 system. During the meeting, the SB's attention was drawn to the gravity of the situation & directed to renew the Bank Guarantee immediately. Further, it was observed that after the rationalization of block boundary by CMPDIL in 2011, the old boundary of Gare Plama IV/7 having 420 ha did not exist anymore and the earlier/existing Mining Lease now includes some portion of the old block area (as per demarcation of 2001 i.e 420 Ha) the area of adjoining coal block i.e Gare Sector-II, Gare Sector IV/6 and Gare Sector IV-8. The SB again expressed their unwillingness to accept the forest area as it entails enhanced financial out go and submitted that they are interested in the remaining Mining Lease area only. It was suggested that the SB could take up Mining Lease at an early date by making a suitable Mining Plan restricted to the Mining Lease area falling within the new co-ordinates. Later the Mining Plan could be revised. The SB agreed to consider the decision.

14. During the Review Meeting held on 05.06.2017 under the Chairmanship of Secretary (Coal), the issue of expired Bank Guarantee was raised once

again. However, the SB informed that they would require a minimum of three months to inform the position on renewal of the Bank Guarantee as the company is under financial distress. The issue of Boundary Co-ordinates was again discussed in detail in the said meeting and the SB was again advised to take steps as decided in the meeting held on 24.04.2017.

15. As per Clause 5.2 of the CMDPA the SB, the 2nd and 3rd installments of the Upfront Amount, shall be paid by the SB on or prior to the expiry of six months and twelve months respectively from the Vesting Date. However, there was a delay of 66 days in payment of the 2nd installment for which the Show Cause Notice and a direction for payment of interest (for Rs 13,54,702/-) for late payment was issued to SB on 08.10.2015 and 25.02.2016 respectively. Further, SB defaulted for the payment of 3rd installment also and a Show Cause Notice for the non-payment of 3rd installment as well as interest for the late payment of 2nd Installment was issued to them on 17.5.2016. In reply to Show Cause Notice, vide letter dated 23.05.2016, the SB requested for 3rd installment to be adjusted from compensation amount receivable by them in respect of Gare Palma IV/5 coal mine (in terms of Section 16(3) of the CM (SP) Act, 2015) being the Prior Allottee. Accordingly, the 3rd installment was adjusted from compensation amount of Gare Palma IV/5 coal mine. The SB made the payment of the interest on 13.07.2016, i.e after 5 months.

16. During the meeting, the SB has again submitted before the Committee that the increased area which has forest patch requires additional investment and cost and showed unwillingness to accept the same. As regard to the Bank Guarantee, the SB submitted that the company has been put under insolvency proceeding with the NCLT and as a result no new financial commitments can be made by the company and thereby the company is not in a position to renew the Bank Guarantee that had expired on 19.03.2017. It has also been informed that during the insolvency proceedings no fresh claim can be lodged against the company until the resolution process is complete.

Recommendation:-

The Committee considered the terms and conditions of Coal Mine Development and Production Agreement, the Show Cause Notices issued, the reply as well as submissions made by the company before the Committee along with the status paper placed before the Committee. The Committee noted that all the statutory clearances were to be obtained within 3 months of the Vesting Date and accordingly, the coal mine was scheduled to be operational within 3 months of vesting date i.e by 30th June 2015. However, the SB has defaulted in achieving the milestones for development of coal mine, i.e Grant of Mining Lease, Ground Water Clearance, Explosives License and Power Line, within the prescribed timelines whereas milestones like execution of Mining Lease, transfer of Mine opening permission, Permission from DGMS, Land Mutation are still pending as on date i.e. even after the 2.5 years from the Vesting Date. There has been non-compliance by the SB with all the Milestones/ Efficiency Parameters at more than 5 instances viz delay in grant Mining Lease, delay in transfer of Ground Water Clearance, Explosive Licence, Power Line, pending Mining Lease execution, Mine Opening Permission, Permission from DGMS and Land Mutation. It is noted that non-compliance of Efficiency Parameters for more than five instances is a Termination Event as per Clause 24.3.1(f) of the CMDPA. This is also in violation of Clause 10.1 of the CMDPA. Further, as regard increased area, the Committee is of opinion that additional land may also provide more coal for the SB to mine thereby positively impacting its revenues and that the SB may undertake mining in the earlier vested area of 420 Ha and may take up development in the additional area at a later stage. The reluctance of the SB to undertake mining even when additional is available remains unexplained. As regard the renewal of Bank Guarantee, the SB has sought 3 months' time during the Review Meeting held on 05.06.2017, however, the same is still pending and the company is not in a position to indicate any definite timeline for the renewal of same. Members of the Committee were of the view that expiry of the Bank Guarantee is a

major violation and forms the ground to terminate the allocation of the coal mine as it points that the SB is not at all serious in development of the mine and also leave no option to the Nominated Authority to appropriate the Performance Security under Clause 10 of the CMDPA as well as no means is left to invoke Clause 24.3.1(e) of the CMDPA. As informed by the Nominated Authority there is an estimated loss of revenue of Rs 314.3 crores (excluding Royalty, Taxes etc.) to the State Exchequer annually. In the light of aforesaid facts the Committee is of opinion that the Central Government may consider termination of CMDPA and Vesting Order in terms of Clause 24.3.1 (s) of the CMDPA which stipulates that: - *“in the opinion of the Central Government, it is expedient in public interest to terminate this Agreement”*.

In view of the continued unsatisfactory progress in development of coal mine and taking into account all factors, the Committee recommends that coal mine may be de-allocated in terms of Clause 24.3.1 of the CMDPA and forfeiture/ appropriation of Performance Security and other payments under Clause 24.3.3. For this purpose a Show Cause Notice may be issued to the Successful Bidder, reply of which may be placed before the Scrutiny Committee for final decision. Since the renewal of Bank Guarantee submitted by SB is pending since 19.03.2017 and the SB is not renewing the same after repeated direction by Nominated Authority, appropriation of BG is not possible. Hence, the committee further recommends to initiate legal action including filing of appropriate civil suit/money suit in the appropriate court of law for recovery of the amount of Performance Security from the Successful Bidder if the Performance Security is not renewed.

MARKI MANGLI III

The Committee was informed that Marki Mangli III is a Schedule II coal mine, which was allocated to M/s B S Ispat Limited under Coal Mines (Special Provisions) Act, 2015 vide Vesting Order 104/18/2015/NA dated 17.04.2015.

2. As per the Schedule E of the CMDPA application for the transfer of all the statutory clearances was to be made within one month from the Vesting Date. In this regard, a Show Cause Notice was issued to SB on 22.07.2016 for not applying for Ground Water Clearance and Explosive License. Due date was 17.05.2015. The reply to Show Cause Notice furnished by the SB was placed before the Scrutiny Committee for deliberation during the said meeting.
3. Further, as per the Schedule E of the CMDPA all the statutory clearances including Mine Opening Permission was to be obtained within 3 months from the Vesting Date. However, no clearance was obtained within the scheduled time lines. Mining Lease was granted on 04.10.2015. Consent to Operate, Land Mutation and Power Line from State Electricity Board were obtained after the due date i.e. 22.09.2015, 13.10.2015 and 29.09.2015, respectively. Execution of Mining Lease, Environmental Clearance, Mine Opening permission, Ground Water Clearance and Explosives License are pending till date i.e. even after the 2.5 years from the Vesting Date. This is in violation of Clause 10.1 of the CMDPA.
4. Prior to the cancellation of the said Coal mine, single EC was granted by MoEF & CC for Marki Mangli II, Marki Mangli III and Marki Mangli IV vide letter dated 27.1.2011. Consequent to this, after the reallocation of said coal block under CM (SP) Act, 2015 to B S Ispat vide Vesting Order dated 17.04.2016, SB was directed to seek fresh EC. Mining Lease was not executed due to lack of Environment Clearance. Fresh EIA/EMP prepared by SB (for the new EC) was rejected by Expert Committee on 28.07.2016. MoEF & CC vide letter dated 19.09.2016 had directed the SB to ensure the compliance of following :-

1. Separate approval of Mine Plan and Mine Closure Plan for Marki Mangli-III.
2. Said MCP should be the part of EMP.
3. Public Hearing for the project should be conducted on above draft EIA/EMP.
5. Necessary Corrigendum to Vesting Order (under WGS 84 system) for the preparation of Mine Plan and Mine Closure Plan was issued to SB on 17.02.2017 based on the recommendation of the CMPDIL. However, SB stated that they have not been issued the actual Co-ordinates of the coal mine. It further stated that the Co-ordinates given in the Corrigendum to Vesting Order are not the Mine Boundary co-ordinates. It is only the Bounding Co-ordinates of the block and in the absence of Co-ordinates it will be difficult for them to prepare the Mining Plan. However, despite the fact that Nominated Authority vests only Bounding co-ordinates to all the allottees, the matter was taken up with CMPDIL and accordingly, CMPDIL has issued necessary geological block boundary coordinates to the SB on 29.06.2017 for the preparation of their Mine Plan.
6. SB has submitted before the Committee that the Mine Plan and Mine Closure Plan is pending as they were provided with the actual boundary co-ordinates in the Month of June 2017. SB has further informed that the Prior Allottee had created overburden dump over the Coal Bearing Area and requested for the dump to be excluded from this area and allow it to prepare new Mine Plan.

Recommendation:-

The Committee considered the terms and conditions of Coal Mine Development and Production Agreement, the Show Cause Notices issued, the reply as well as submissions made by the company before the Committee along with the status paper placed before the Committee. The Committee noted that the coal mine is Schedule II coal mine and all the

applications for the transfer of statutory clearance were to be made within one month of the Vesting Date. However, the application for Ground Water Clearance and Explosive License is still pending till date. Committee further noted that all the statutory clearances were to be obtained within 3 months of the Vesting Date and accordingly, the coal mine was scheduled to be operational within 3 months of Vesting Date i.e by 30th June 2015. However, no clearance was obtained within the scheduled time lines. Moreover execution of Mining Lease, Environmental Clearance, Mine Opening Permission, Ground Water Clearance and Explosives License are still pending till date. The Committee observed that despite of the fact that Nominated Authority vests only bounding co-ordinates to all the SB, the matter was taken up with CMPDIL and accordingly CMPDIL has issued necessary geological block boundary coordinates to the SB on 29.06.2017 for the preparation of Mine Plan. As a matter of practice the bounding co-ordinates are provided by the Nominated Authority as per the data provided by CMPDI/ GR and the shape and size of the geological block is available in the GR. Boundary co-ordinates are provided to the SB, if required by them on request. The same practice is followed for Marki-Mangli III also. Other mines with only bounding coordinates and shape have become operational whereas the Mine Plan is still not ready for Marki Mangli III. It may also be noted that bounding coordinates as per WGS 84 system were shared by CMPDIL to the SB in February 2017 and but the progress was slow in the preparation of the Mine Plan. As regard OB dump, the Committee is of the opinion that all the coal mines were allotted on an as-is where-is basis and so now questioning the position of overburden dump and deviations of Prior Allottee is not correct on the part of SB. Any new Mine Plan should encompass all the mining activities including overburden dumping. As informed by the Nominated Authority there is an estimated loss of revenue of Rs 19.28 crores (excluding Royalty, Taxes etc) to the State Exchequer annually. The Committee noted that Schedule E read with Clause 6 and 10 of the CMDPA provides for appropriation of Performance Security for deviation/failure from scheduled timelines for application for transfer of statutory clearances and completion of transfer of statutory clearances to

the extent of 12% and 8%, respectively. It is being observed from the submission/ replies that Ground Water Clearance and Explosive License were not vested to the SB, hence the transfer of the same does not arise in the instant case. However, as the transfer of clearances such as grant of Mining Lease, Consent to Operate, Land Mutation and Power Line were completed after the schedule timeline prescribed under Schedule E of the CMDPA, the Committee recommends for the appropriation of Performance Security to the extent of weightage assigned for it i.e. by 8 % . For this purpose a Show Cause Notice may be issued to the Successful Bidder reply of which may be placed before the Scrutiny Committee for final decision.

ARDHGRAM

The Committee was informed that Ardhagram coal mine is a schedule II coal mine, which was allocated to M/s OCL Iron and Steel Limited under Coal Mines (Special Provisions) Act, 2015 vide Vesting Order 104/10/2015/NA dated 14.07.2016.

2. As per the Schedule E of the CMDPA application for the transfer of all the statutory clearances was to be made within one month from the Vesting Date. However, the application for Ground Water Clearance is still pending.
3. Environment Clearance was granted on 22.06.2017 and Forest Clearance has recently been granted on 21.08.2017. Ground Water Clearance, Explosives License, Mining Lease application dated 19.07.2016 is pending with Government of West Bengal.
4. SB has submitted before the Committee that they are serious in coal mine development and has obtained almost all permits, clearances which could be obtained. FC stage-II has recently been granted on 21.08.2017. However, the Mining Lease application which has been cleared by the concerned Nodal Officer of West Bengal is currently pending with Chief Minister's

Office, West Bengal. They also informed that the company has opened an office in Kolkata for the purpose of mine operationalization and liaison.

Recommendations:-

The Committee is of the opinion that the delay in clearance of Mining Lease application is causing the delay in development of the coal mine and the State must expedite the same. However, it was observed that application for the transfer of Ground Water Clearance is still pending and transfer of EC and FC were completed after the due date whereas transfer of Explosives License and Land Mutation are pending till date. The Committee recommends that proceedings may be initiated in terms of Clause 10 read with Clause 6 of the CMDPA. As per Clause 10.3 "*any non-compliance with the Efficiency Parameter would result in appropriation of the Performance Security in the manner stipulated in Clause 6 (PERFORMANCE SECURITY) and in case where such non-compliance exceeds for more than five instances, such non-compliance may also result in termination of this Agreement as provided in Clause 24 (EFFECTIVE DATE, TERM AND TERMINATION)*". For this purpose a Show Cause Notice may be issued to the Successful Bidder reply of which may be placed before the Scrutiny Committee for final decision.

A. List of participants from Scrutiny Committee.

S.No.	Name (S/Sri)	Designation
1.	Om Praksh (Chairman)	Former CMD SECL
2.	N K Singh	Deputy Secretary(NA) & Member convenor.
3.	A.K. Rana	GM (UMD), CMPDIL
4.	Dr. Sujoy Majumber	OSD (Mining), CCO Kolkata
5.	S.I. Minz	Director ,Mines, Government of Jharkhand
6.	Anurag Diwan	Joint Director (Mineral Administration), Government of Chhattisgarh.
7.	B R V Susheel Kumar	Director Mines & Geology,

OMW
20/10/11

MW
20/10

Government of Telangana.

B. List of the Participants

S.No.	Name (S/Sri)	Designation	Company/Ministry
1.	Anshu Kumar	Deputy Manager	SBI Caps Limited
2.	Ayush Abrol	Associate	SBI Caps Limited
3.	Pavan Sharma	AGM	Monnet Ispat & Energy Limited
4.	Amitabh S Mudgal	President	
5.	S. Bhattacharya	Sr. Manager (Tech)	DPL, Durgapur, West Bengal
6.	Sudarshon Ghanti	Sr. Manager (Mining)	
7.	I.J. Talwar	Head Mines	B.S.Ispat Limited
9.	B.P.Mishra	Director	
10	BirendraJee	Managing Director	OCL Iron & Steel Limited
11.	Kapil Sangar	Jt. GM	Essar Power MP Limited

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