

F.No 103/9/2016-NA
Government of India/भारतसरकार
Ministry of Coal/कोयलामंत्रालय
Office of Nominated Authority / नामनिर्दिष्टप्राधिकारीकाकार्यालय

R.No.120- 1st Floor, F-Wing Shastri Bhawan,
New Delhi, Dated: 6th February 2024

To,
The Managing Director,
The Andhra Pradesh Mineral Development Corporation Ltd.,
294/1D, Tadigadapa to Enikepadu 100 Ft. Road,
Kanuru Village, Penamaluru Mandal,
Vijaywada-521137

Subject: Termination of Coal Mine Development & Production Agreement (CMDPA) dated 24.08.2016 & return of Performance Bank Guarantee No. 119318IGFIN0003 of amount ₹1,78,41,60,000/- in reference to Madanpur South Coal Mine allocated to M/s Andhra Pradesh Mineral Development Corporation Limited.

- Ref:** 1) Coal Mine Development and Production Agreement dated 24.08.2016
2) Allotment order No.103/9/2016/NA dated 29.09.2016
3) Corrigendum No.1 dated 30.05.2018 to allotment order dated 29.09.2016
4) M/s APMDCL letter dated 15.10.2020
5) Gazette notification of State Govt. of Chhattisgarh dated 22.10.2021
6) M/s APMDCL surrender request letter dated 22.08.2022

Sir,

I am to refer to the Coal Mine Development and Production Agreement (CMDPA) dated 24.08.2016 signed between Nominated Authority and Andhra Pradesh Mineral Development Corporation Limited (APMDCL) with respect of Madanpur South Coal Block under the regime of CMSP Act, 2015

2. In pursuance of Section 8(4) of the CMSP Act,2015, allotment order dated 29.09.2016 was issued for vesting the right, title, interest of the prior allottee over the land and mine infrastructure free from all encumbrances in favour of M/s APMDCL. A corrigendum to the allotment order was also issued on 30.05.2018. Further, as per clause 6.1.5. of CMDPA, M/s APMDCL is under obligation to keep the Performance Security alive. Therefore, M/s APMDCL has submitted Performance Bank Guarantee No. 119318IGFIN0003 amounting to ₹1,78,41,60,000/- having expiry till 17.09.2024 to Office of Nominated Authority.

3. M/s APMDCL brought to the notice of Office of Nominated Authority on 15.10.2020 that the State government of Chhattisgarh was contemplating an extension of the Lemru Elephant Corridor, which would encompass the mining lease area of the Madanpur South coal mine. Therefore, M/s APMDCL might not obtain the requisite clearances to operate the Madanpur South coal mine.

4. Further, the State govt. of Chhattisgarh vide Gazette notification dated 22.10.2021 notified the areas falling within the Lemru elephant corridor. Additionally, through a letter dated 20.12.2022, the EF&CC (State Government of Chhattisgarh) informed the Office of the Nominated Authority that the Additional Principal Chief Conservator of Forest (APCCF) (Land Management) vide his letter dated 21.04.2022, affirmed that the Madanpur South Coal Block falls within the Lemru Elephant Corridor. Since, the Madanpur South coal block is falling under the Lemru Elephant corridor, therefore, mining activities in the said area is prohibited and unlawful. As a result, M/s APMDC vide letter dated 22.08.2022 requested to surrender the Madanpur coal mine and return the PBG related Madanpur Coal mine.

6. Accordingly, the said matter was deliberated by the office of Nominated Authority, and it was found that the clause 23.1 of the CMDPA delineates specific events which are mutually recognized by both parties as 'Force Majeure Events'. The alterations in government policy such as occurred in the present matter is not recognized as Force Majeure event within the said clause. However, as per clause 25(Governing Law) of the agreement, the present agreement shall be construed in accordance with the laws of India. And "**The Indian Contract Act, 1872**" is the primary law of India which is applicable in the present matter. Further, Section 56 of the Indian Contract Act, 1956 provides for discharge by rendering the contract "void". The Doctrine of Frustration of contract or impossibility of performance is encapsulated in section of 56 of Indian Contract Act, 1872.

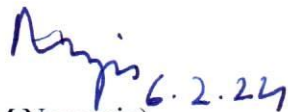
7. It is a settled law that the parties intend to contract with reference to the law as existing at the time when the contract is made. However, a subsequent change in the law or in the legal position, affecting a contract and prohibiting the performance undertaken by the contract is well - recognized ground for frustration under section 56 of Indian Contract Act, 1872. Any legislation enacted by the government which fundamentally changes the legal situation renders the performance illegal and any government prohibition making the performance unlawful would lead to frustration of the contract.

8. Upon examination of the matter, it has been established that the facts and circumstances of Madanpur coal mine fall squarely within the purview of Section 56 of the Indian Contract Act, 1872. The Coal Mining Development and Production Agreement (CMDPA) pertaining to Madanpur were executable when initially agreed upon by the involved parties. However, subsequent alterations in government policy, i.e. extension of the Lemru Elephant Corridor, have resulted in the Madanpur South Coal Block being situated within said corridor. Consequently, mining activities in this area are now prohibited, rendering the execution of the CMDPA difficult or illegal. Therefore, the said CMDPA appears to be void and there is no fault of on the part of M/s APMDC and they are rightfully entitled to return of PBG No. 119318IGFN0003 amounting to ₹1,78,41,60,000/- having expiry till 17.09.2024.

9. Therefore, the Nominated Authority has elected to terminate the CMDPA dated 24.08.2016 executed in reference Madanpur South Coal Mine and the mine shall be deemed surrendered. The Performance Bank Guarantee No. 119318IGFIN0003 amounting to ₹1,78,41,60,000/- having expiry till 17.09.2024 submitted by M/s APMDCL in accordance with clause 6.1.5 of CMDPA will be returned back to M/s APMDCL.

10. Accordingly, this letter may be treated as a notice under clause 24.3.2 of the CMDPA. On the completion of notice of 15 days, the CMDPA and allotment order shall stand terminated and the performance security made by M/s APMDCL shall be returned back to them. M/s APMDCL shall depute an authorized person to collect the original PBG No. 119318IGFIN0003 amounting to ₹1,78,41,60,000/- having expiry till 17.09.2024 in respect of Madanpur South coal mine.

11. Further, M/s APMDCL shall not be entitled to any benefit under CMDPA but would continue to be liable towards any antecedent liability, obligations accrued before the effective date of the termination and also for the obligations that must be fulfilled after the termination.


(M.Nagaraju) 6.2.24

Additional Secretary and Nominated Authority

Copy to

1. The Chief Secretary, Government of Chhattisgarh.
2. US (P&S-II), MoC-for information
3. Coal Controller, Coal Controller's Organization, New Delhi
4. US (IFD)/ (CLD), Ministry of Coal, Government of India.
5. TD (NIC), Ministry of Coal- for uploading on the website of Ministry of Coal.