

Most Immediate

No.13011/1/2016-CA-I

Government of India
Ministry of Coal

New Delhi, dated 4th November, 2016

OFFICE MEMORANDUM

Sub: Minutes of 36th Meeting of the Inter-Ministerial Group (IMG) under the Chairmanship of Additional Secretary (Coal) to review the issue of Bank Guarantees of prior allocatees - reg.

The undersigned is directed to refer to Ministry of Coal's OM of even number dated 25th October, 2016 on the above subject and to forward herewith a copy of the Minutes of 36th Meeting of the Inter-Ministerial Group (IMG) held on 02.11.2016 under the Chairmanship of Additional Secretary (Coal) to review the issue of Bank Guarantees of prior allocatees, for information and necessary action.


(Rishan Rynathiang)

Under Secretary to the Govt. of India
Tel: 011-23073936

To

1. **Ms. Sharmila Chavly**, Joint Secretary (I E), Deptt. of Economic Affairs, Room No.67B, North Block, New Delhi.
2. **Shri Aniruddha Kumar**, Joint Secretary (Thermal), Ministry of Power, Shram Shakti Bhawan, New Delhi
3. **Shri Shailendra Singh**, Joint Secretary, Dept. of Industrial Policy & Promotion, Room No.259, Udyog Bhawan, New Delhi.
4. **Shri Syedain Abbasi**, Joint Secretary, Ministry of Steel, Udyog Bhawan, New Delhi.
5. **Shri G.S. Yadav**, Joint Secretary, Deptt. of Legal Affairs, Shastri Bhawan, New Delhi.
6. **Shri R.P. Gupta**, Joint Secretary, Ministry of Coal
7. JS&FA, Ministry of Coal
8. **Shri Vivek Bhardawaj**, Joint Secretary(VB), Ministry of Coal
9. **Shri D.N. Prasad**, Advisor (Projects), Ministry of Coal
10. **Shri Shekar Saran**, CMD, CMPDIL, Gondwana Place, Kanke Road, Ranchi.
11. **Shri Anjani Kumar**, Coal Controller, 1, Council House Street, Kolkata-700001.

12. AM (Legal), Legal Cell, Ministry of Coal.

Copy to PS to Hon'ble MoS(I/C) for Power, Coal, Mines & NRE,
OSD to MoS(I/C), PSO to Secretary(Coal)/Sr.PPS to Additional
Secretary(Coal) & Chairman, IMG.

Copy also to Director (I), [✓]NIC Cell, Ministry of Coal for uploading
on the Website of MoC.

36th MEETING OF THE INTER-MINISTERIAL GROUP (IMG) UNDER THE CHAIRMANSHIP OF ADDITIONAL SECRETARY (COAL) TO REVIEW THE ISSUE OF BANK GUARANTEES SUBMITTED BY ALLOTTEE(S)/ PRIOR ALLOTTEE(S) OF COAL BLOCKS ON 02.11.2016 AT 11.00 AM IN MINISTRY OF COAL IN ROOM No.330-A, , A-WING, 3RD FLOOR, SHASTRI BHAWAN, NEW DELHI.

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A list of participants is enclosed at Annexure-I.

Welcoming the participants, Additional Secretary (Coal) & Chairman, IMG informed the members that the present IMG meeting has been convened to deliberate upon the issue of deduction/release of Bank Guarantee of Pachwara North and Kerandari B & C coal blocks submitted by the allocatee companies.

- I. Issue of deduction/release of BG submitted by M/s. Reliance Power Ltd. (RPL) in respect of Kerandari B&C coal block (Tilaiya UMPP) and transfer of Kerandari B&C coal block in favour of Jharkhand Infrapower Ltd.**

The IMG noted that Ministry of Power, vide OM dated 11.08.2016, had informed that the matter was under process and the comments would be provided after due deliberations with the concerned stakeholders and requested MoC to keep the matter pending for a while. IMG also noted that M/s Jharkhand Urja Vikas Nigam Ltd. (JUVNL), the lead Procurer, has not furnished its comments/clarification in the matter. The IMG asked the representative of Ministry of Power as to when the comments of Ministry of Power would be furnished. On this, the representative of Ministry of Power stated that the comments of State Government have been received and is being examined. He assured that the comments of Ministry of Power would be furnished in a week's time.

The IMG, in view of the above deferred the matter in view of pending comments of Ministry of Power.

- II. To consider the reply of Coal Controller's Organisation for deduction/release of BG submitted in respect of Pachwara North coal block allotted to West Bengal Power Development Corporation Ltd. (WBPDC) as per directions of Hon'ble Kolkata High Court in AST No.217 of 2016.**

Joint Secretary, MoC stated that there are two issues pertaining to this block:

- a) Whether the prior allottee is WBPDC or the subsequently formed JV company i.e. BECML for mining purpose, and
- b) Decision on the date and time schedule for calculation of BG in view of grant of mine opening permission and production from the block without the clearance from State Pollution Control Board (SPCB).

On the issue of prior allottee, the IMG noted that the matter has already been settled in the 35th IMG that the prior allottee is WBPDCCL as the Bank Guarantee was submitted by WBPDCCL and other payments after the formation of JV. It was decided that this stand may be communicated to the Hon'ble High Court of Calcutta through an affidavit.

The IMG sought to know the details of Mine Opening Permission(MOP) granted by Coal Controller for Pachwara North coal block.

It was recalled that the representatives of WBPDCCL contended that on 28.03.2013 permission to open the coal mine was given by the Coal Controller. This was expressly made subject to obtaining required clearance from the competent authorities under the relevant rules, regulations etc. They further contended that immediately after getting this opening permission, the prior allottee i.e. BECML (as per their interpretation), made an application on 09.05.2013 to the Jharkhand State Pollution Control Board (JSPCB) for consent to operate. This consent to operate was issued on 28.12.2013. Only thereafter, the mine could be operated. Thus, the first financial year of operation was the year 2013-14. For the period post 28.12.2013 and upto 30.03.2014, there was only approximately 3 months' time, during which period the prior allottee produced 0.098 MT of coal. Thereafter, for the full financial year, 2014-15, the prior allottee produced 3.9498 MT coal as against the target of 2 MT for the first year specified in the approved mining plan. Thus, there was no shortfall in production.

The IMG in its 35th meeting thus recommended that CCO would verify from its records as to how the mine opening permission (MOP) was granted prior to consent of JSPCB to operate and also as to whether MOP was mandatory for getting the consent to operate or vice-versa. Accordingly, the IMG recommended that if the MOP was inadvertently granted before prior allottee having obtained the consent to operate, then CCO should revisit the BG deduction calculation as per the guidelines formulated by the IMG in its 34th meeting.

Accordingly, CCO was asked to furnish the re-calculated BG deduction amount as per the directions of IMG. CCO has furnished the fresh BG deduction amount of **Rs.4.592514 crores** in r/o of Pachawara North coal block. Earlier the IMG in its 34th meeting recommended for deduction for an amount of Rs.19.799514 crores from the BG as calculated by CCO .

The IMG noted the new BG calculation submitted by CCO and the Chairman asked CCO that new/fresh BG calculation sheet should correspond to the deduction amount so arrived.

On the issue of Mine Opening Permission, CCO in its reply stated that Mine Opening Permission is issued under certain conditions which are not mandatory to be fulfilled as per rules/statute. CCO further stated that though nowhere it is mentioned that mine opening permission is mandatory to get Consent to Operate, the convention is to check the approval of project, grant of mining lease, land acquisition details, environment clearance, forest clearance, DGMS permission/exemption, ground water clearance from CGWA (if any) and SPCB (Air & Water) from State Pollution Control Board. CCO further informed that as per the records available, it is found that in some cases MOP was given without getting Consent from State Pollution Control Boards.

The IMG sought clarification from CCO whether the mine opening permission granted was conditional and whether standard procedure has been followed in granting the permission in this case.

Coal Controller stated that the company applied for the clearance from SPCB after 42 days from the date of grant of mine opening permission and the clearance from SPCB was granted after almost a gap of nine months.

Representative from Department of Legal Affairs sought to know whether the company at the time of making application for mine opening permission submitted any undertaking or informed CCO about clearance from SPCB. He also opined that in case, the company did not inform, then the delay of 42 days could be attributed to the allottee.

Joint Secretary, MoC informed the IMG that in similar cases of BG condition where it is 100% linked to production, the IMG in its earlier meetings had decided to deduct BG as per the terms and conditions of the allocation letter containing 100% BG linked to production. The terms and conditions of allocation letter of Pachwara North coal block has this condition of BG, hence BG calculation cannot be reckoned on the delay in milestones to be achieved and are not relevant in this case.

The IMG on further enquiry from the Coal Controller noted that there was a format/checklist available for granting mine opening permission, however prior to 2013, the checklist had no point regarding clearance from SPCB. On detailed discussion, the IMG decided that there is no clarity on the issue and further details are required to be verified from the records of Coal Controller's Organisation.

The Chairman, IMG thus recommended, that the conditional mine opening permission must be verified from the records of CCO. For this purpose an inquiry officer from Ministry of Coal would visit the CCO, Kolkata to verify the following and submit a report along with complete facts of the case to the IMG within a week's time:-

- a) Whether the company at the time of making application for mine opening permission submitted any undertaking.
- b) What was submitted by the allottee at the time of seeking mine opening permission.
- c) Whether the allottee of Pachwara North coal block was given mine opening permission with any undertaking and what was the conditional permission.
- d) To check and verify all the available records of CCO mine opening permission granted by CCO for this block,
- e) Was this case an exception or there are some more cases of MOP where mine opening permission has been granted.
- f) To verify the checklist/format of CCO for granting mine opening permission.

The meeting ended with a vote of thanks to the Chair.

ANNEXURE-I

36th MEETING OF THE INTER-MINISTERIAL GROUP (IMG) UNDER THE CHAIRMANSHIP OF ADDITIONAL SECRETARY (COAL) TO REVIEW THE ISSUE OF BANK GUARANTEES SUBMITTED BY ALLOTTEE(S)/ PRIOR ALLOTTEE(S) IN SHASTRI BHAWAN, NEW DELHI.

LIST OF PARTICIPANTS

S. No.	Name & Designation	Ministry / Department / Organization/Company
1.	Shri Suresh Kumar Additional Secretary (Coal)	In the Chair

2.	Shri R.P. Gupta, Joint Secretary	Ministry of Coal
3.	Shri D.N. Prasad, Advisor (P)	Ministry of Coal
4.	Shri Anjani Kumar, Coal Controller	Coal Controller
5.	Shri H.S. Pruthi, Director	Ministry of Power
6.	Shri Anupam Prakash, Director	Ministry of Steel
7.	Shri R.S. Verma, Assistant Legal Adviser	Ministry of Law & Justice, Department of Legal Affairs
8.	Shri Nand Lal, Consultant	Department of Industrial Policy & Promotion
9.	Shri A.V.Sahay, Advisor (Geology)	CMPDIL
10.	Shri Amitava Das, General Manager	CMPDIL
11.	Shri Ramesh Kumar, Director	Central Electricity Authority
12.	Shri Kamal Setuy, Deputy Director	Central Electricity Authority
12	Shri Amurag Kapil, Director	Ministry of Coal
