



S.K. Srivastava
SECRETARY

भारत सरकार
GOVERNMENT OF INDIA
कोयला मंत्रालय
MINISTRY OF COAL
शास्त्री भवन, नई दिल्ली - 110 001
SHASTRI BHAWAN, NEW DELHI-110 001

D.O. No. 38036/6/2010-CA-I

11th December, 2012

Dear *Aban Patnaik,*

Please refer to your D.O. letter dated 13/07/2012 regarding grant of mining lease of coal blocks allocated without conduct of auction in the context of the decision of the Supreme Court of India in 2 G Spectrum allocation case and observations of C&AG of India.

2. At the outset it may be stated that the Government of India initiates action whenever any irregularities are noticed, whether in the process or otherwise. Once any irregularity comes to the notice of the Government, penal / punitive action can be initiated at any stage of mining operation. As and when any irregularity is detected action can be taken against the allocatees on case to case basis. However, a general premise cannot be made that all the allocations are irregular nor any action against all the allocatees is warranted. The Central Bureau of Investigation, is also investigating the alleged irregularities. Action as deemed fit would be initiated wherever warranted and State Government would be kept informed so as to initiate suitable action wherever so required under law.

3. Subsequent to the judgement of Hon'ble Supreme Court in the case of 2G Spectrum allocation case referred to in your letter, a Presidential Reference was made, inter alia, seeking clarification as to certain observation of Hon'ble Supreme Court regarding auction as the only mode of distribution of public resources. You are aware that the Hon'ble Supreme Court, through a Constitution Bench consisting of 5 judges, has given its opinion on the reference on 27.09.2011 (available on Supreme Court's Website). The Bench clearly stated that auctions may be the best way of maximizing revenue but where revenue maximization is not the ultimate motive of the policy and natural resources can be allocated by methods other than auction to subserve the public good. However, as already observed by you in your aforementioned letter, these coal blocks were allocated prior to the insertion of Section 11A of the MMDR Act, 1957 which brought in auction of coal blocks through competitive bidding.

4. The CAG has conducted Performance Audit and submitted Report No. 7 of 2012-13 for the period ending March, 2012 – Performance Audit on Allocation of Coal Blocks and Augmentation of Coal Production. (The same is available on website of CAG at www.cag.gov.in). It was laid in the Parliament and the same stands referred to the PAC. The Ministry has sent a detailed response to the observation and the same is under the examination of PAC.

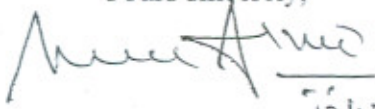
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5. As regards to the issue of processing of the ML applications of the coal block allocatees, who were allocated blocks prior to the amendment of MM(DR) Act is concerned, similar issue was raised by the Govt. of Maharashtra. The same was examined in consultation with Ministry of Law & Justice, Government of India (MoLJ). The MoLJ has opined that 'there does not appear any legal restriction in granting prior approval of the Central Government under section 5 (1) of MMDR Act, 1957 to the companies which have already been allocated (selected) and allocation letters have been issued prior to the commencement of the Amendment Act, 2010'. The same was conveyed to the Govt. of Maharashtra (A copy of the letter dated 8th November, 2012 is also enclosed).

6. Hence, till any irregularities are brought out in specific cases, due action can be taken by Odisha Government under the MMDR Act as to the development of coal blocks as well as executing the pending mining leases and other necessary action as per Law.

With best wishes,

Yours sincerely,


(S. K. Srivastava) 12/12

28/12
12/12
Shri B. K. Patnaik,
Chief Secretary,
Government of Odisha,
Bhubaneswar.

Encl: as above

✓ Copy to NIC for placing the letter on the Website
of Ministry of Coal