

MOST IMMEDIATE/BY E-MAIL

No. PS1-13011/7/2022-PS1 (FTS: 351329)

भारत सरकार/GOVERNMENT OF INDIA

कोयला मंत्रालय/MINISTRY OF COAL

पी एंड एस-I अनुभाग/P&S-I Section

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Shastri Bhawan, New Delhi

Dated the 19th September, 2022

Subject : Minutes of 48th Meeting of the Inter-Ministerial Group (IMG) held on 19.05.2022 under the Chairmanship of Additional Secretary (Coal) to review the issue of Bank Guarantee - reg.

The undersigned is directed to refer to the subject mentioned above and to forward herewith minutes of 48th Meeting of IMG under Chairmanship of Additional Secretary (Coal) held on 19.05.2022 at 11 A.M. to undertake review on the issue of Bank Guarantee of prior allottee, for information and necessary action.

Encl.: As stated above.



(Rishan Rytathiang)

Under Secretary (P&S-I)

Tel. No.23073936

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To,

1. Additional Secretary, Department of Legal Affairs, Shastri Bhawan, New Delhi.
2. Joint Secretary (IE), Department of Economic Affairs, Room No. 67B, North Block, New Delhi.
3. Joint Secretary (Thermal), Ministry of Power, Shram Shakti Bhawan, New Delhi.
4. Joint Secretary, Department for Promotion of Industry and Internal Trade, Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Steel, Udyog Bhawan, New Delhi.
6. JS&FA, Ministry of Coal.
7. Advisor (P), Ministry of Coal.
8. CMD, CMPDIL, Gondwana Place, Kanke Road, Ranchi.
9. Coal Controller, 1, Council House Street, Kolkata-700001.
10. Director (P&S), Ministry of Coal.
11. AM (Legal), Legal Cell, Ministry of Coal.
12. Prior allottees of Rabodih, Patratu, Durgapur-II/Sarya and Bhaskarpara coal blocks (as per list).
13. The Chief Secretaries of the State Governments of Jharkhand and Chhattisgarh.

Copy to:

1. PS to Hon'ble Minister for Coal.
2. Advisor to Secretary (Coal).
3. PS to Additional Secretary & Chairman, IMG.

| S. No. | NAME OF COAL BLOCK | STATE | NAME OF ALLOTTEE |
|--------|--------------------|--------------|---|
| 1. | Rabodih | Jharkhand | JSMDC |
| 2 | Patratu | Jharkhand | JSMDC |
| 3 | Durgapur-II/Sarya | Chhattisgarh | DB Power Limited. |
| 4 | Bhaskarpara | Chhattisgarh | Ultratech Cement Limited and Electrotherm Limited |

MINUTES OF 48th MEETING OF INTER MINISTERIAL GROUP UNDER THE CHAIRMANSHIP OF ADDITIONAL SECRETARY (COAL) HELD ON 19.05.2022 TO REVIEW THE ISSUE OF BANK GUARANTEES OF PRIOR ALLOTTEES OF COAL BLOCKS AT ROOM NO. 321 MINISTRY OF COAL CONFERENCE HALL, A-WING, SHASTRI BHAWAN, NEW DELHI-110001

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List of participants is placed at **Annexure- I**.

2. Additional Secretary (Coal) & Chairman, Inter Ministerial Group ('IMG') welcomed all participants. Convenor of the IMG informed that there were 4 coal blocks which were scheduled to be heard as per the agenda of the instant meeting. The Convenor then made reference to the 46th Meeting of IMG wherein Patratu and Rabodih coal blocks were given opportunity of hearing, however due to lack of supporting documents, the prior allottees of these two blocks were given another opportunity of hearing. Amongst the 4 coal blocks called for hearing in the instant meeting, these two blocks were given second opportunity. Apart from these two blocks, two coal blocks of State of Chhattisgarh i.e. Durgapur-II Sariya and Bhaskarpara were also called for hearing in the 48th Meeting of IMG. As per the condition of allocation letter, the Bank guarantee ('BG') of all these 4 blocks was linked to 50% achievement of milestone and 50% to coal production. The Schedule of hearing of prior allottees of 4 coal blocks for 48th meeting is attached as **Annexure II**. The Convenor, IMG informed the members that the prior allottee of Patratu and Rabodih coal blocks i.e. Jharkhand State Mineral Development Corporation Limited (JSMDC) for both coal blocks in State of Jharkhand have informed Ministry of Coal (MoC) vide email dated 17.05.2022 that due to unavoidable circumstances they would not be able to attend the meeting of IMG for Patratu and Rabodih blocks. This request from JSMDC was considered and accepted by the Ministry. Accordingly vide email dated 18.05.2022, the prior allottee has been informed that, these two blocks shall be given a later date for opportunity of being heard.

3. The prior allottees of all 4 coal blocks, were requested to provide written submissions with supporting documents for the arguments on the each milestones as per allocation letter they were intending to make before IMG, in addition to the replies to Show Cause Notice ('SCN') dated 28.07.2020, vide meeting notice dated 02nd March 2022. Respective State Governments and CMPDIL were also requested to provide comments on each milestone as per allocation letter/SCN, vide the meeting notice dated 02nd March 2022, which may be relevant to be

considered by the members of IMG for making recommendations. The schedule of the meeting, Standard Operating Procedure ('SOP') to be followed by IMG and Agenda of the meeting was circulated to all members, prior allottees, respective State Governments along with Meeting Notice.

4. Members of IMG were provided with replies of prior allottees vide email dated 18.05.2022. Copy of all relevant documents, including the Allocation Letters of coal blocks, block-wise BG calculation details prepared by CCO, SCN, reply to SCN received from the prior allottee, written submission made by the prior allottee, response of the State Government concerned, as and when received, etc. were also provided to the members. The authorisation letters of prior allottees were also verified before hearing. Convenor, briefed the members of IMG before calling in the prior allottee for hearing. The comments of prior allottee including that of Patratu and Rabodih were shared with the respective State Governments on 15.03.2022 vide email for providing comments.

5. The written submissions made by prior allottees of coal blocks and other documents received from various stakeholders have been kept in the custody of Sh. Sunil Khangwal, ASO, P&S-I Section, MoC. The authorised representatives of the prior allottees appeared before the IMG in the meeting. Representative of the State Government of Chhattisgarh was also heard. List of names of the Authorised Representatives who made their arguments/ submissions in the hearing is attached as **Annexure III**. Deliberations and recommendations of the IMG for the blocks which were heard by the IMG are given below:

6. (A) Durgapur-II Sariya: -

Date heard: - 19.05. 2022

Called.

Present: -

(i) On behalf of Coal Block Allottee: -

Sh. Manu Namboothri

Sh. Vineet Tayal

(ii) On behalf of State Government: -

Sh. Anurag Diwan

(iii) Members of IMG - as per Annexure-I

(I) Durgapur-II/ Sariya coal block was allocated to D.B. Power Limited ('prior allottee') vide allocation letter no. 38011/1/2007-CA-I dated 06.11.2007. As per terms and conditions at Clause 1 (vi) of the Allocation Letter, BG amounting to Rs. 17.60 crore was required to be deposited by the allocatee. As per sub-clause (a) of Clause 1 (vi) of the Allocation Letter, 50% of BG shall be linked to milestones (time schedule) set for development of the captive block and the remaining 50% to the guaranteed production.

(II) Progress of the development of coal block was reviewed till 2012 by IMG vide which IMG recommended to de-allocate the coal block and deduct 50% of the BG linked to the milestones set for development of the block. The same was accepted by the Government, and a letter dated 15.11.2012 was issued to the prior allottee for deduction of BG of coal block. This order of Government dated 15.11.2012 was challenged by the prior allottee in WPC no. 7583 of 2012 titled as D.B. Power Limited v. Union of India and Ors. before Hon'ble Delhi High Court. Thereafter, another letter dated 15.02.2013 was issued to prior allottee informing about the revised amount of BG which was decided to be invoked (vide letter dated 15.11.2012, the amount liable to be deducted was Rs. 5.104 crore and the revised amount as per letter dated 15.02.2013 was Rs.4.40 crore). Meanwhile, the allocation of the instant coal block was cancelled by Hon'ble Supreme Court in the case titled as ML Sharma v. Principal Secretary (2014) 9 SCC 614 vide order dated 24.09.2014. This Writ Petition was disposed of vide order dated 30.10.2014 by Hon'ble Delhi High Court and directed this Ministry to take a decision whether BG was to be invoked or not.

(III) Thereafter, the 28th Meeting of IMG was convened on 30.12.2014 for making recommendation on said matter. In this meeting of IMG, it was decided that SCN may be issued to the prior allottees of all coal blocks in order to comply with the order of Hon'ble Delhi High Court dated 30.10.2014. Accordingly, the Government accepted the recommendations of IMG and SCN dated 16.01.2015 was issued, among others, to the prior allottee for showing cause as to why the delay in development of coal blocks should

not be held as violation of terms and conditions of Allocation Letter indicating in detail the reasons for slippage in respect of each milestone and agency responsible for such delay. However, the SCN dated 16.01.2015 was withdrawn by the Ministry of Coal vide letter dated 04.08.2015 considering that the instant block has already been reviewed earlier by the government and accordingly, the orders of deduction of BG have been issued (as recommended by the 31st Meeting of IMG dated 07.07.2015 and accepted by Government). WPC no. 7998 of 2015 titled as DB Power Ltd. v. Union of India was filed before Hon'ble Delhi High Court challenging the order of this Ministry dated 15.11.2012 and 04.08.2015. As recorded in order dated 21.08.2015 that the Ld. Counsel appearing on behalf of MoC on instructions has submitted before the Hon'ble Court that no coercive steps shall be taken against the petitioner subject to condition that the petitioner keeps the BG alive. The matter is pending before the Hon'ble Court.

(IV) The government noted that the instant block has to be reviewed for delay in development until it was held by prior allottee i.e. till 24.09.2014. Thus, as it has been deliberated in the 42nd Meeting of IMG that 34 such blocks including the instant block was to be reviewed for the entire period it was held by prior allottee. As per recommendation of 42nd Meeting of IMG held on 28th May 2020 and acceptance by the Government, the block is being reviewed with a view to ascertain whether the delays in achieving the specified milestones in development of coal blocks were for reasons beyond their control for the entire period till the block was held by prior allottees. From the documents provided by MoC to this IMG:

- a) Meeting Notice dated 02.03.2022 along with SOP requesting written comments from the prior allottee and State Government, was sent by MoC to the prior allottee and State Government. Reply of prior allottee was received by MoC on 15.03.2022 vide email and on 21.03.2022 in hard copy.
- b) Reply to SCN and Written Submission was sent by State of Chhattisgarh on 22.09.2022; Meeting Notice and request for comments dated 02.03.2022, 15.03.2022, 16.03.2022, 05.04.2022, 12.04.2022, 19.04.2022, 22.04.2022, 25.04.2022, 29.04.2022, 05.05.2022, 09.05.2022. However, no reply have been received from State Government.

d) Block wise dossier and BG calculation sheet prepared by O/o CCO was also placed on record before this IMG.

(V) Sh. Manu Namboothri and Sh. Vinay Tayal (“authorised representatives”) appeared before IMG on behalf of the prior allottee. Each milestone was taken up one by one by the IMG.

i) Regarding purchase of GR (*para ii-iv of page 4 of Written submissions*)

The scheduled date for completion of this milestone was 21.12.2007 as per the allocation letter while the actual date of completion of milestone was on 21.01.2008. Hence, there was slippage of 1 month. In the oral submissions before IMG and written submissions, prior allottee submitted that:

- a) The delay of 1 month in achieving milestone is attributable to CMPDIL.
- b) Pursuant to allocation of coal block, the prior allottee had written to CMPDIL for Geological Report (‘GR’) in November 2007 itself.
- c) CMPDIL informed the prior allottee about the interim cost of GR vide letter dated 22.11.2007 and 23.11.2007.
- d) The prior allottee wrote two letters dated 16.01.2008 and 17.01.2008 to CMPDIL for delivery of GR.
- e) CMPDIL provided GR on 21.01.2008 (Attached as *Annexure B in Reply to SCN dated 07.9.2020*).
- f) Purchase of GR would have been completed by prior allottee within prescribed time as per milestone chart in case CMPDIL would have provided the same. Accordingly there was no delay in any manner for purchase of GR. This availability of GR had cascading effect on timely achievement of other milestones.

(VI) After hearing the prior allottee, IMG noted and discussed that:

- a) The instant block was an explored block. Hence, the GR was already prepared.
- b) The schedule date of completion for this milestone was 21.12.2007 however, the actual date of completion of the milestone was 21.1.2008. Thus, the slippage as on 24.09.2014 was one month.

- c) As per the submission made by prior allottee, the request for GR from CMPDIL was made in November 2007. However, no supporting documents are brought on record regarding the same.
- d) The interim cost of GR was intimated vide letter dated 22.11.2007 and 23.11.2007. Thereafter, the prior allottee informed that they wrote two letters dated 16.01.2008 and 17.01.2008 to CMPDIL for delivery of GR.
- e) The seriousness and the efforts made by the prior allottee in developing the coal block was an important factor while reviewing and recommending the deduction/ release of BG.
- f) On perusal of letter dated 21.01.2008, it was observed that the receipt for payment of cost of GR was issued on 21.01.2008. *A copy of receipt from CMPDIL is also attached in Annexure D of Written submissions.*
- g) Thus, as seen, there was a gap of 45 days since the interim cost of GR was intimated by CMPDIL and the amount was deposited by the prior allottee (22.11.2007- 21.01.2008). While the GR was prepared by CMPDIL (considering the block was explored) and the demand notice was issued well within the scheduled date of achievement of milestone, an unexplainable delay was caused by the prior allottee in making the payment of GR. The prior allottee was directed to produce documents in support of its contention including letter written to CMPDIL regarding the question raised for drilling.
- h) At this point, CMPDIL also brought to the notice of members of IMG that the prior allottee queried CMPDIL as to how the drilling cost was arrived at. The prior allottee did not have records/ necessary information pertaining to the query raised to CMPDIL during the meeting/ in the written submissions/ reply to SCN.
- i) Officials from MoC informed that the payment of GR cost was confirmed by CMPDIL vide letter dated 15.06.2009 in response to letter of this Ministry dated 02.06.2009 for confirming payment of GR. The prior allottee was bound by the stipulations of allocation letter including achievement of milestones as per the milestone chart. If there was any dispute with regard to the cost of GR, the prior allottee could have paid the amount as per the demand letter by CMPDIL and if there was any dispute, the prior allottee could have requested the refund of the same so that the development of coal

block would not be hampered and no consequential effect of this delay would have caused on the other milestones.

ii) Submission of Bank Guarantee

(VII) The bank guarantee was submitted within the time limit prescribed in the milestone chart. *Copy of letter dated 06.02.2008 enclosing the original BG amounting to Rs. 17.60 crore attached in Annexure C and C1 of written Submission.* The timely submission of BG was also observed by members of IMG.

iii) Mining lease ('ML') application *(page vi of Reply dated 07.09.2020)*

(VIII) The prior allottee submitted that: -

- a) There was a delay of one month in submission of ML application. This delay, as per the prior allottee, was attributable to the State Government and CMPDIL. *Copy of letter dated 10.04.2008 submitting the ML application in Form-I and acknowledgement dated 11.04.2008 attached in Annexure D of Written submission.*
- b) The GR was made available to prior allottee after a delay of 1 month by CMPDIL i.e. on 21.01.2008 which had cascading effect.
- c) Thereafter, the prior allottee had immediately taken due steps for applying ML. However, certified data as regards boundaries for coal blocks allotted to the prior allottee was made available to the prior allottee in due time.
- d) However in receipt of all information necessary for applying of ML made the application on 10.04.2008 and accordingly, there was no delay on this account.
- e) Zero date should commence from the date of GR.
- f) As per the CAG Report for the year ended March 2012 on Allocation of Coal Blocks and augmentation of Coal Production, “the fact that commencement of coal production was solely attributable to various government agencies (Central and State) is well acknowledged by CAG while analysing the delay in commencement of production...” *(para xxxiii of Reply dated 07.09.2020; copy of CAG Report attached in Annexure AK, relevant page of Report: 47.)*

(IX) After hearing the prior allottee, IMG observed and discussed that:

- a) The prior allottee could not explain the delay in obtaining GR. Thus, the attributability of cascading effect of this delay was still required to be justified by the prior allottee.
- b) The CAG Report which is brought before IMG was general in nature and not indicating a particular block of a particular State.
- c) Further, the Report of Expert Committee (*page 37 of Reply dated 07.09.2020*) which was brought to the attention of the IMG was published in 2005, i.e. before the block was allocated to the prior allottee, it may be presumed that the issue of “delays occurring in most cases in obtaining Environmental Clearance (‘EC’), approval for land, mining lease from the concerned State Governments and subsequent land acquisition process” as contended by prior allottee was known to the prior allottee who in fact after possessing such knowledge still applied for the coal block and the block was subsequently allotted in 2007.
- d) The CAG Report was in fact meant for the loss caused to the public exchequer due to coal block allocations rather than for identifying the attributability of the delays for granting milestones/ providing requisite information by Centre/ State Government and its agencies.
- e) The prior allottee accepted the terms and conditions of allocation letter and the milestone chart as appended in the allocation letter and they were well aware of the time limit of achieving each milestone. Hence, every effort should have been made by prior allottee to submit application for ML within scheduled time.
- f) No records were placed before IMG by prior allottee as to when was the request made to State Government by prior allottee for the certified data as regards boundaries for coal block. Further, there were no records brought by prior allottee as to when the State Government provided the information regarding block boundaries. Thus, the attributability can’t be deciphered.

iv-v) Submission of mine plan and approval of mine plan (*para vii and ix of Reply dated 07.05.2020*)

(X) According to the prior allottee, the delay of 2 months for submission of Mining plan was attributable to the CMPDIL for delay in providing GR and to the State Government as the government revised the block area. The prior allottee submitted that: -

a) CMPDIL did not provide GR in stipulated time. The prior allottee immediately after receipt of same started working on mine plan. The prior allottee was to submit the mine plan within six months from date of receipt of GR. GR was received from CMPDIL on 21.07.2008 and mine plan was submitted on 15.07.2008 (*attached as Annexure E of the Written submissions*). Hence there was no delay on part of prior allottee in submission of Mine plan.

aa) Without prejudice to what is stated in (a) above, the prior allottee submitted that delay, if any, is attributable to CMPDIL.

b) MoC approved the Mine Plan of prior allottee on 25.06.2009 while the application was made on 15.07.2008. This delay was on part of MoC. Copy of approved mine plan attached *Annexure F of the Written submissions*.

c) Another reason for delay if any, was because the block area got revised. Subsequent to approval of mine plan on 25.06.2009, the prior allottee, on advise of local administration (during the public hearing), were advised to leave out area of 150 hectares ('ha.') so as to exclude the habited area of Dharamjaygarh panchayat as a result of which the area covered under the subject coal block stood reduced from 693.326 ha. to 540.75 ha.

d) Due to revised mining lease area (540.75 ha), the revised mine plan and mine closure plan was approved by MoC on 24.12.2013 (*Copy of revised mine plan attached as Annexure G of the written submissions*).

XI) After hearing of prior allottees, members of IMG observed that:

- a) The revised Mine Plan was submitted by prior allottee on 31.03.2012. For this purpose a letter dated 23.09.2011 was written to MoC informing about the changes that were brought about in the revised mine plan as opposed to the approved mine plan (24.06.2009).
- b) The Revised Mine plan got approved by MoC on 24.12.2013.

- c) From the records presented to the members of IMG, the delay in approval of mine plan on part of MoC, if any, was required to be reasoned out by MoC to assess the attributability. Thus, the Advisor (Project), MoC was advised to check if there were queries raised by MoC for approval of mine plan and if replies were submitted in time by the prior allottee and whether the delay was on part of MoC for granting approval.

v) Application for previous approval (*para x of Reply dated 07.05.2020*)

XII) The prior allottee submitted that the application for previous approval was made in advance i.e. on 10.04.2008 while the scheduled date for achieving the milestone was 06.10.2008, hence there was no delay. The same was also observed by members of IMG.

vi) Grant of previous approval: (*para xi-xii of Reply dated 07.05.2020*)

XIII) The prior allottee informed the members that:

- a) There was change in location of power plant due to some constraints/ limiting factors, from Jaspur District to Raigarh District. Vide letter dated 16.02.2008, the prior allottee informed MoC regarding the same.
- b) Further, vide letter dated 29.03.2008 addressed to Principal Secy., Power, Govt. of Chhattisgarh, the prior allottee informed the change in location.
- c) The 'No Objection Certificate' ('NOC') was received from Ministry of Power on 22.07.2010. Thereafter, the application was processed by MoC for grant of previous approval which was ultimately issued on 31.03.2011. Thus, as contended by the prior allottee, the delay was attributable to Central Government. *Copy of letter dated 31.03.2011 is annexed as Annexure K in the written submissions.*

XIV) Upon hearing the prior allottee, members of IMG observed that:

- a) As informed by officials from MoC,
 - aa) Letter dated 06.08.2009 was written to State Government and to Ministry of Power for providing their comments on request of prior allottee dated 16.02.2008 for change of location of end use plant. Reminders thereof were sent to State Government and to prior allottee on 08.01.2010 and 14.05.2010 by MoC.

ab) Vide letter dated 23.02.2010, Mineral Resource Department, Government of Chhattisgarh had sought comments from Energy Department, Government of Chhattisgarh.

ac) On 27.05.2010, prior allottee (DB Power) sent their comments to Energy Department, Government of Chhattisgarh for enhancement of capacity from 1000 MW to 1320 MW (1100+/- 20% MW).

ad) On 05.07.2010, Ministry of Power informed that they had 'No Objection' for change in location for 1200 MW TPP of prior allottee from Jaspur District to Jangjir-Champa District, Chhattisgarh.

- b) The coordinates of the block were requested to be confirmed from CMPDIL vide letter dated 17.03.2010. The same were confirmed on 08.04.2010.
- c) Thereafter, on 31.03.2011, the previous approval was granted by this Ministry to the prior allottee.
- d) Hence, delay prima facie appeared to be on part of State/ Central Government and their agencies.

vii-viii) **Application and Grant of Forest Clearance ('FC')** (para xxi-xxvi of *Reply dated 07.05.2020*)

XV) Prior allottee submitted the following contentions: -

- a) The application for Forest Clearance was made within the prescribed time limit i.e. on 11.11.2008 for diversion of an area of 269.826 ha. forest land for non-forest produce. The total area of the block which comprised of forest area was 693.326 ha. (original area). *A copy of the Letter dated 11.11.2008 is attached as Annexure V of the Written Submission.*
- b) Due to change in area of coal block, a revised application dated 09.08.2011 for forest clearance due to change in area of coal block was submitted by the prior allottee. *Copy of revised application dated 09.08.2011 attached as Annexure W in Written Submissions.*
- c) In the meeting dated 17.08.2012 of Forest Advisory Committee, the Stage I clearance was received in favour of prior allottee. *Copy of Minutes of Meeting conducted on 17.08.2011 attached as Annexure X of Written Submissions.*

- d) Subsequent to the same MoEF was pleased to grant in principle approval (Stage I) FC in favour of prior allottee dated 23.11.2012. *Copy of Letter dated 23.11.2012 attached as Annexure Y of Written Submissions.*
- e) Delay in FC were enumerated as follows:-
- ea) As per the milestone chart attached, 6 months' time from the submission of application of FC was given for grant of FC whereas Ministry of Environment and Forest ('MoEF') took about 3 years to grant Stage I clearance. After the receipt of NOC from District Collector, Raigarh, the Conservator of Forest conveyed to DFO for conducting forest survey on 30.03.2009.
- eb) Based on the certificate issued by Collector Raigarh for non-availability of revenue land for Compensatory Afforestation ('CA'), the Forest Department, Chhattisgarh advised that CA shall be carried out in degraded forest equal to double the area.
- ec) This information was made available to DFO on 24.11.2011 for process of FC. Thereafter, Stage-I clearance was granted.
- ed) A letter dated 08.04.2013 was sent by the prior allottee to Inspector General, MoEF intimating the compliances made and that the said compliances were under verification by MoEF. *A copy of letter dated 08.04.2013 is attached as Annexure Z of Written submissions.*
- ef) On 15.05.2013 the MoEF issued letter replacing conditions for CA based on order dated 13.02.2012. *A copy of letters dated 13.02.2012 and 15.05.2013 are attached in the Annexure AA and AB respectively of Written submissions.*
- eg) During the course, the prior allottee was advised by CCI on 13.08.2013 that they can propose CA over identified revenue forest of double the area i.e, CJB and get proposal for final clearance at MoEF. *Copy of letter dated 13.08.2013 attached Annexure- AC of Written Submissions.*
- eh) Accordingly, 600 Ha of Revenue Forest (CJB) land was identified on 06.10.2013.
- ej) Collector, Raigarh issued NOC to Secretary, Land Revenue Disaster Management, Raipur for undertaking CA over double revenue forest area dated 20.01.2014. *Copy of letter dated 20.01.2014 is attached as Annexure AD in Written submissions.*
- ek) The DFO forwarded the proposal with 10 years CA programme along with notifications for State Government to notify identified revenue land as Protected

Forest to CF, Bilaspur dated 27.01.2014. *Copy of letter dated 27.01.2014 attached as Annexure AE of Written submissions.*

el) Stage-II FC was issued on 21.02.2014. *Copy of letter dated 21.02.2014 is attached Annexure AF of Written submissions.* State Government gave consent for FC on 04.02.2014. *Copy of letter dated 04.02.2014 is attached Annexure AG of Written submissions.*

em) Forest land was handed over on 10.06.2014. *Copy of letter dated 10.06.2014 is attached Annexure AH of Written submissions.* Further, State Government approved R&R Plan for coal block on 23rd May 2014. *Copy of letter dated 23.05.2014 is attached Annexure AI of Written submissions.*

ix-x) Application and Grant of Environmental Clearance('EC') (para xiv-xx of Reply dated 07.05.2020)

XVI) The prior allottee submitted:

- a) The application for grant of EMP Clearance was made in advance i.e. on 05.07.2008 while the schedule date of completion was 06.11.2008. *A copy of Application for grant of EMP clearance dated 05.07.2008 is attached as Annexure L of Written Submissions.*
- b) Thereafter, Terms of Reference ('ToR') was issued on 23.10.2008 by MoEF. *This letter dated 23.10.2008 is attached as Annexure-M of Written submissions.*
- c) Thereafter, the public hearing was conducted 28.02.2011. The prior allottee asserted that public hearing got delayed as Collector Raigarh was of the opinion that public hearing should only be conducted after release of pattas in name of present occupiers who were mainly refugees from Bangladesh.
- d) State Government took considerable time to release the order for regularisation of the land occupied by Bangladesh refugees which was done vide Government letter dated 25.06.2010 and 26.06.2010 addressed to Collector, Raigarh. *Copy of letters dated 25.06.2010 attached as Annexure N of written submissions.*
- e) Collector agreed to allow the prior allottee to conduct the Public Hearing and notified the same as per EIA Notification, 2006 for conducting on 28.02.2011. Therefore, Public Hearing was finally conducted on 28.02.2011 and proceedings were forwarded by State Pollution Control Board to MoEF on 25.04.2011 i.e. after 56 days. *The letter dated 25.04.2011 is attached as ANNEXURE O of written submissions.*

- f) Before the public hearing, the local administration advised the prior allottee to avoid the habited area of Dharamjaygarh panchayat of approximately 152 hectares from the proposed mining area of 693.326 ha. for which the prior allottee agreed and had given an Affidavit in this regard on 03.01.2011 to Collector, Raigarh. *This letter is attached as ANNEXURE P of Written Submissions.*
- g) Thereafter the Public Hearing could take place on 28.02.2011 wherein the Prior allottee had to announce publicly for reduction in mining area and again give an undertaking to district administration.
- h) Thereafter, the prior allottee applied for obtaining EC vide letter dated 04.10.2011. *A copy of letter dated 04.10.2011 is attached as Annexure Q of the Written submissions.*
- i) The first hearing for EC was held on 28.11.2011 by Expert Appraisal Committee ('EAC') i.e. 220 days from 19.04.2011, the date of sending Public hearing record by State Pollution Control Board to MoEF. Queries raised in the meeting were replied to MoEF on 16.01.2012 by the prior allottee. *The same is attached as Annexure- R of the Written Submissions.* The last hearing for EC by EAC took place on 23.04.2012 i.e. after 147 days from first hearing. *The same is attached as Annexure- S of the Written Submissions.*
- j) Subsequently, MoEF recommended grant of EC on 20.07.2012. *Copy of recommendations attached as Annexure-T of Written submissions.* Final EC was granted by MoEF on 05.07.2013. *The same is attached as Annexure- U of the Written Submissions.*

Hence, as per the prior allottee's submissions, considering above there was no delay on part of prior allottee.

XVII) After giving prior allottee an opportunity to be heard in respect of granting of EC and FC clearance, IMG members observed that:

- a) The area of the block got reduced, however, it was not brought on the record whether the excluded habited area (150 ha.) of Panchayat was in fact a forest area. If not so, the prior allottees could rather have requested the authorities for FC Stage -I Clearance earlier only and achieved the milestone.
- b) As per the chronology presented to the members by the prior allottee, the first application for FC was made in 2008 and the revised request was made in 2011.

As explained by prior allottee, the objection as to the area (for excluding) was raised only during the public hearing in year 2011. The prior allottees could not substantiate why there was this delay from 2008-2011.

- c) Holding of Public hearing is a part of EC process. The public hearing has been mandated as per the Environment Impact Notification dated 14.09.2006 under Environment (Protection) Act, 1986. Thus, the prior allottee should have known this and taken this into account while developing the coal block.
- d) As per the submissions made by prior allottee before this IMG, TOR was applied on 05.07.2008. The approval for the TOR was made vide letter dated 23.10.2008. However, it was observed that the date on which the application to State Pollution Control Board was made (complete in all respect) was not mentioned/ known to the prior allottee. Hence, they were advised to bring the same along with the proof of date of publication of notice of Public hearing such as newspaper cuttings etc. for conducting public hearing.
- e) Under the notification of 2006, the time limit for various stages is prescribed: 60 days for prescribing TORs; 45 days for public consultation; 60 days for appraisal and 45 days for communicating the decision to project proponent. In the present case these timelines were not adhered to.
- f) Since TOR was issued on 23.10.2008, the baseline data could have been collected by the prior allottee which could have shown their proactive steps. However, no such record was brought to the attention of IMG.

xi) Grant of Mining lease

XVIII) The grant of mining lease was left pending at the time of cancellation of coal block.

xii-xiii) Land Acquisition and completion of land acquisition (para xxvii-xxviii of reply to SCN dated 28.07.2020)

XIX) The prior allottees made the following contentions:

- a) About 19 acres out of 23 acres of private land purchased.
- b) On 19th March 2012, Government of Chhattisgarh issued notification that no land acquisition process can be initiated in absence of execution of mining lease

- c) Accordingly, in view of this, no further steps could be taken by the prior allottee for acquisition of land as the mining lease wasn't executed.

XX) After giving prior allottee an opportunity to be heard in respect of application for land acquisition and granting thereof, IMG members observed that:

- a) The representatives of prior allottee had submitted that by virtue of notification of 2012 of Government of Chhattisgarh, the land could not be acquired, however, the representatives failed to explain the reason of not making application for land acquisition process earlier.
- b) Further, since the block was allocated to the allottee in 2007, the notification of Government of Chhattisgarh of 2012 was not available in support of contention for delay made on behalf of the prior allottee.
- c) All processes and milestones run parallelly hence achievement of the milestones within stipulated timelines is expected.
- d) The prior allottee could have started the land acquisition process as per the Land Acquisition Act, 1894 and could have made suitable changes in the acquisition within the realm of Section 4 & 5.
- e) Since the GR was prepared, the block boundary was known to the prior allottee. The Mine plan was submitted in 2008 and original mine plan got approved in 2009, hence forest, non- forest, revenue and private land could have been demarcated by the prior allottee even without the approval of mine plan and progress in development of block by acquisition of land could have been made. Suitable changes, if any, could have been made later on through modifications.
- f) The original Mine plan got approved in 2009, however, the application for land acquisition was made in 2011. There was no justification with the representatives regarding the same.
- g) Thus, the requisite efforts by prior allottee could not be seen.

xiv-xv) Application for opening permission and Grant of Opening permission (para xxx of reply to SCN dated 28.07.2020)

XXI) The milestone was kept pending as the aforementioned milestones could not be reached on time.

xii) Coal Production (para xxxi of reply to SCN dated 28.07.2020)

XXII) The milestone was kept pending as the aforementioned milestones could not be reached on time.

7. General observations made by the members of IMG in respect of Durgapur-II Saria coal block:

- a) The prior allottee agreed to the terms and conditions of the allocation letter as well as milestone chart. Thus, the prior allottees were bound by the bounden stipulations stated in the milestone chart and allocation letter.
- b) Maximum milestones are achieved by the prior allottee however, delay has been caused in many cases. The prior allottees were not able to substantiate the reason for such delay by documentary proofs. Thus, for delay caused in some milestones they have been directed to produce specific documents in support of their contentions for a just and fair review by the members/ Government. For this purpose, after agreement of the representatives on behalf of prior allottee, a period of 3 weeks has been granted to them to produce the documents.
- c) All processes run parallelly, that is, the applications for the milestones could have been made parallelly by the prior allottee however, the same cannot be seen from the submissions made / documents produced.
- d) The milestones were in fact introduced to check the seriousness of the prior allottee. For achievement of a particular milestone, the effort by prior allottee in making applications and following up with the State/ Central Government and its agencies is important aspect that has been examined.
- e) In the condition (iv) of allocation letter, it has been stated that milestone chart attached was an indicative milestone. If the prior allottee so considers it prudent, may submit an end use project schedule and a coal block development schedule. The representatives were enquired regarding submission of the same. However, they informed that they were not aware of it and requested time for bringing the same on record, if available.
- f) The block was given to an experienced company which applied for the allocation of the coal block thus, it may be concluded that they were supposed to know about the milestones, processes/ procedure for the same and the difficulties and hindrances in achieving the milestones and timelines. Taking into account all this, the prior allottee should have developed the coal block. The same was not seen in the development of the instant block.

8. The representatives of the prior allottee for the Bhaskarpara coal block i.e. from Ultratech Cement were present for the meeting as per Annexure. However due to paucity of time, they could not be heard.

9. The meeting ended with vote of thanks to the chair.

List of Members of IMG

| S No. | Name | Designation | Ministry/ Department / Organization |
|--------------|-------------------------------------|----------------------------|--|
| 1. | Sh. Vinod Kumar Tiwari (Addl. Secy) | Addl. Secretary/ Chairman | Ministry of Coal |
| 2. | Ms. Santosh Aggarwal (DDG) | DDG | CCO |
| 3. | Sh. Anand Ji Prasad | Advisor (Project) | Ministry of Coal |
| 4. | Sh. D.K Sharma | Joint Director | Ministry of Power |
| 5. | Dr. R.S. Shrinet | Dept. Legal Adviser | Department of Legal Affairs |
| 6. | Sh. Darshan Kumar Solanki | Deputy Secretary/ Convenor | Ministry of Coal |
| 7. | Ms. Kaumudi Sharma | Deputy Director | Department of Economic Affairs |
| 8. | Sh. Samin Ansari | Under Secretary | Ministry of Steel |
| 9. | Sh. S.K Gomasta | Director(Technical) | CMPDIL |
| 10. | Dr. Shantanu Kumar Banerjee | Chief Manager(Geology) | CMPDIL |
| 11. | Sh. Bukun Chatterjee | | CMPDIL |
| 12. | Sh. Sudheer Babu Motana | Under Secretary | Ministry of Coal |

Meeting Schedule

| SL. NO. | TIME | NAME OF COAL BLOCK | STATE | NAME OF ALLOTTEE COMPANY |
|----------------|---------------------|---------------------------|--------------|---|
| 1. | 11:00 AM – 11:20 am | Durgapur-Saraiya-II | Chhattisgarh | D.B. Power Limited |
| 2. | 11:20 am- 11:40 am | Bhaskarpara | Chhattisgarh | Ultratech Cement Limited and Electrotherm Limited |

List of Representatives on behalf of prior allottees/ State Government

| S No. | Name | Designation | Name of Coal Block | Name of Company |
|-------|-----------------------|----------------------------|--------------------|-----------------------|
| 1. | Manu Nambothri | GM (Power Sale & Strategy) | DurgapurII/Sariya | D. B Power Ltd. |
| 2. | Advocate Vineet Tayal | Advocate (D.B Power) | DurgapurII/Sariya | D. B Power Ltd. |
| 3. | Anurag Diwan | Joint Director | DurgapurII/Sariya | Chhattisgarh Govt. |
| 4. | Sanjay Mantri | Vice President | Bhaskarpara | Ultratech Cement ltd. |
| 5. | Rajiv Kumar Saxena | Joint Executive President | Bhaskarpara | Ultratech Cement ltd. |