

A SAMAJ PARIVARTANA SAMUDAYA AND ORS.

v.

STATE OF KARNATAKA AND ORS.

B IA. No. 205/2014, IA No. 206/2014, IA No. 24335/2018, IA No. 98216/2020, IA No. 98219/2020, IA No.152631/2018, IA No.64798/2019 in IA No.152631, IA No. 61304/2019, IA No.97376/2019 in IA No. 24335/2018 and 152631/2018, IA No.61452/2020, IA No.17007/2021, IA No. 37678/2022

In

C (Writ Petition (Civil) No. 562 of 2009)

MAY 20, 2022

**[N. V. RAMANA, CJI, KRISHNA MURARI AND
HIMA KOHLI, JJ.]**

D *Environmental Laws:*

Mines and Minerals – Iron Ore – Illegal Mining – Sale of iron ore extracted illegally in the districts of Bellary, Chitradurga and Tumkur of Karnatataka – Direction by this Court to sell the existing stock of iron ore extracted through illegal mining, through the process of e-auction conducted by the monitoring committee – Thereafter, numerous orders passed – Applicants then sought permission to sell the unsold stock of iron ore already excavated without resorting to process of e-auction and for the lifting the ban on export of iron ore/pellets from the said districts – Held: Records reveal that e-auction process have not borne any fruitful results and large stock of iron ore is lying unused – Earlier orders were passed on account of the rampant illegal mining that took place before the blanket ban was imposed – Accordingly, the sale of stock of iron ore through e-auction under the aegis of the monitoring committee was adopted as it was the transparent process – Ever since then, e-auction has been the only mode available – However, the situation prevalent in the region prior to 2011, has now changed – Additionally, the consecutive e-auctions conducted by the Monitoring Committee have been receiving a poor response – In view thereof, the restrictions placed on the manner of conducting the sale of iron ore and fixation of the sale price need to be removed

H

– *Permission granted to the applicants to sell the already excavated iron ore stock-pile in the Districts, without having to resort to the process of e-auction – Permission also granted to export the iron ore and pellets manufactured from the iron ore produced from the mines situated in the State of Karnataka, in terms of the extant policy – As regards, the lifting of the ceiling limit for production of iron ore for mining leases in the Districts, it would be expedient to obtain an opinion from the Oversight Authority who would further take inputs from the stakeholders, including the CEC and the Monitoring Committee.*

T. N. Godavarman Thirumulpad v. Union of India
(1997) 2 SCC 267 : [1996] 9 Suppl. SCR 982 – referred to.

Case Law Reference

[1996] 9 Suppl. SCR 982 referred to Para 1

CIVIL ORIGINAL JURISDICTION: IA. No. 205/2014, IA No. 206/2014, IA No. 24335/2018, IA No. 98216/2020, IA No. 98219/2020, IA No. 152631/2018, IA No. 64798/2019 in IA No. 152631, IA No. 61304/2019, IA No. 97376/2019 in IA No. 24335/2018 and 152631/2018, IA No. 61452/2020, IA No. 17007/2021, IA No. 37678/2022 in Writ Petition (Civil) No. 562 of 2009.

Under Article 32 of The Constitution of India.

Prashant Bhushan, Ms. Aparna Bhat, Advs. for the Petitioners.

Tushar Mehta, SG K.M. Nataraj, ASG, Dushyant Dave, Mukul Rohatgi, C. A. Sundaram, Krishnan Venugopal Sr. Advs., P. S. Sudheer, Ms. Anne Mathew, Bharat Sood, Ms. Shruti Jose, Sarad Kumar Singhania, Rajat Nair, Rajesh K. Singh, R.R. Rajesh Pd., Shailesh Madiyal, T.S. Sabarish, Amrith Kumar, Pranay Ranjan, Raj Bahadur Yadav, Gurmeet Singh Makker, Jayant Mohan, Ms. Adya Shree Dutta, Ms. Uttara Babbar, Mrs. Kirti Renu Mishra, Rajat Jariwal, Saniya Mirani for M/S. Khaitan & Co., Snehasish Mukherjee, Yashraj Singh Deora, Sunil Dogra, Vivek Vishnoi, Abhishek Sharma, Vikas Mehta, M/S. Parekh & Co., Dinesh Kumar Garg, Prakash Kumar Singh, G. N. Reddy, Dr. Sushil Balwada, Chanchal Kumar Ganguli, Mrs. Vijayanthi Girish, M/S. Lex Regis Law Offices, Ms. Ranjeeta Rohatgi, Rajeev Maheshwaranand Roy, Arvind Kumar Sharma, Kunal Verma, Rajesh Mahale, Sridhar Potaraju,

- A A. Raghunath, Anil Kumar Mishra-i, Ms. A. Sumathi, Chandra Prakash, Sudhanshu Prakash, Ms. Neha Jain, Vaibhav Sabharwal, Rajan Parmar, Prateek Samajpati, Samir Ali Khan, Mrs. Anil Katiyar, Mrs. Anjani Aiyagari, Ms. Manjula Gupta, Balaji Srinivasan, Shubhranshu Padhi, Senthil Jagadeesan, Adarsh Upadhyay, Merusagar Samantaray, M/S. Karanjawala & Co., Mrs. Sudha Gupta, Bhargava V. Desai, Rohit Sharma, Aditya Narayan, Rounak, Arju Chaudhary, Ms. A. Benegal, Kumar Dushyant Singh, P. V. Dinesh, Munawwar Naseem, Ankur S. Kulkarni, Neeraj Shekhar, Akhil Anand, Rakesh K. Sharma, M/S. Ap & J Chambers, Mukesh Kumar Maroria, Prashant Kumar, Ms. Surbhi Mehta, Mahesh Agarwal, Ankur Saigal, Ms. Mansi Taneja, Ms. Deepshikha Mishra, Kaustubh Singh, Aditya Pratap Swain, E. C. Agrawala, S. S. Shroff, K. Raghavacharyulu, Kailash Pandey, Ranjeet Singh, Shri. Gaichangpou Gangmei, V. N. Raghupathy, Hetu Arora Sethi, Pulkit Tare, Rituraj Biswas, Ms. Rohini Musa, Mahfooz A. Nazki, Polanki Gowtham, Shaik Mohamad Haneef, T. Vijaya Bhaskar Reddy, Ms. Rajeswari Mukherjee, K.V. Girish Chowdary, Ninad Laud, Ms. Swati Kamat Wagh, Aditya Pratap Swain, Ivo D'costa, Ms. Anshula Grover, Hitesh Kumar Sharma, S.K. Rajora, Akhileshwar Jha, Amit Kumar Chawla, S. Ashok Reddy, S. Sukumaran, Anand Sukumar, Bhupesh Kumar Pathak, T.G. Narayanan Nair, Advs. for the Respondents.

The following Order of the Court was passed:

E

ORDER

1. The present writ petition was filed under Article 32 of the Constitution of India over a decades ago, seeking directions to the respondent No. 1/State of Karnataka, respondent No. 2/State of Andhra Pradesh and respondent No.3/Union of India to stop all mining and related activities in the forest areas of Karnataka and Andhra Pradesh being carried out and in violation of the order dated 12.12.1996, passed by this Court in *T.N. Godavarman Thirumulpad v. Union of India*¹ and the Forest (Conservation) Act, 1980.

2. Directions were also sought to be issued to the respondents/ States and the Union of India to declare all mining contracts/sub-leases issued in violation of the Mines and Minerals (Development and Regulation) Act, 1957 as illegal and take penal actions against the violators. The third prayer made was for directing stoppage of all mining activities along side the border and within the forest areas in the Bellary

¹ (1997) 2 SCC 267

H

Reserve Forest. Lastly, directions were sought to declare Notification dated 15.03.2003 and other related Notifications dereserving lands for mining operations, as null and void. A

3. The writ petitioner had approached this Court against the indiscriminate and rampant mining activity that was being carried out under the nose of the Authorities, in particular in the District of Bellary. The reports submitted by the Central Empowered Committee² bore out the submissions made by the petitioner regarding large scale illegal mining in the area resulting in complete degradation of the environment. As a result, vide order dated 29.07.2011, all mining activity was prohibited in the District of Bellary, followed by the Districts of Tumkur and Chitradurga. Taking note of the rampant encroachment in forest land by lease-holders and illegal mining operations taking place in the same area, a joint team was constituted vide order dated 06.05.2011 to conduct a survey of the area which revealed how illegal mining had ravaged the forest area of the aforesaid districts. B C

4. The CEC submitted a report, termed as the “Final Report” dated 03.02.2012, making several recommendations one of which was to categorise the mines into three categories based on the extent of encroachment in respect of the mining pits and overburden dumps, determined in terms of percentage qua the total lease area. Three categories of the mines were suggested as ‘A’, ‘B’ and ‘C’. Another recommendation made by the CEC was relating to the conditions proposed for reopening of mining and resumption of the mining operation for this Court to consider as part of the Reclamation and Rehabilitation Plans. D E

5. The recommendation made by the CEC vide its report dated 13th March, 2012, relating to the prescription of a ceiling limit for the total production of iron ore for mining leases in the Districts of Bellary, Chitradurga and Tumkur, prohibition of export of iron ore outside the country using the mode of e-auction to be conducted by a Monitoring Committee for the sale of iron ore, deposit of 10% of the sale price received during the e-auction with the Monitoring Committee along with the other charges and constitution of and assigning various responsibilities to the Monitoring Committee, were duly considered and accepted by this Court in its order dated 13th April, 2012. On 3rd September, 2012 permission was granted by this Court to re-open all eighteen mines of F G

²For short the “CEC”

- A ‘A’ and ‘B’ category subject to certain conditions. A similar recommendation was made by the CEC for reopening of the remaining mines of ‘A’ and ‘B’ category in its report dated 15th February, 2013.

6. Coming to the directions issued by this Court regarding the sale of existing stock of iron ore extracted through illegal mining, vide order dated 23rd September, 2011, this Court had directed disposal of the accumulated iron ore through the process of e-auction conducted by the Monitoring Committee and had further constituted a ‘Special Purpose Vehicle’³ in terms of the order dated 29th October, 2012, for taking ameliorating and mitigating measures as per the “Comprehensive Environment Plans for the mining Impact Zone”⁴ around the mining leases in three Districts of the State of Karnataka with directions issued to the Monitoring Committee to provide the payment received by it to the SPV in that regard.

7. In the year 2015, an application was moved by the Federation of Indian Mineral Industries, Southern Region, FIMI South (IA 248 of 2015) for permission to sell the iron ore and manganese ore within the State of Karnataka, without taking recourse to e-auction to be conducted by the Monitoring Committee, as set up by this Court. The said prayer was opposed by the petitioner and the other stake holders. However, the CEC vide its report dated 28th April, 2016, had agreed to the prayer made by FIMI South on the ground that in view of the several orders passed by this Court, the basic objective behind sale of iron ore through the Monitoring Committee had been achieved and an alternate system needed to be put in place. The State of Karnataka had also agreed to the suggestions made by the CEC and submitted a model to the Court for monitoring sale of iron ore through the e-platform on the basis of a long-term agreement.

8. Highlighting the reason behind constituting the Monitoring Committee and the role attributed to it for the sale of iron ore through e-auction and further, observing that the connected aspect of lifting of the cap or enhancing the cap on production and launching of the CEP Miz scheme, was still under consideration, this Court had rejected the aforesaid application filed by FIMI South vide order dated 28th August, 2017⁵, opining that time had not yet come to dispense with the existing policy of

³ For short ‘SPV’

⁴ For short ‘CEPMIZ’

H ⁵ Reported as (2018) 11 SCC 433

sale and purchase of iron ore in the State of Karnataka through the Court appointed Monitoring Committee by e-auction and for grant of permission to sell the iron ore on a direct sale basis through long term contracts or through spot sale and that restoration of 'Normalcy' in the sale and purchase of iron ore must be deferred till significant headway is made in respect of the other connected aspects noticed in the Final Order dated 18th April, 2013. A B

9. Another order that needs to be noted was one passed in the present petition on 14th December, 2017⁶. The said order was passed on applications moved by M/s. Karnataka Iron and Steel Manufacturers Association (**IA No. 273/2017**), FIMI South (**IA 56562/2017**) and Chitradurga Sustainable Mining Forum (**IA No. 76163 and 76167/2017**) seeking removal of the annual cap of mining fixed by this Court and for permission to extract iron ore as per the approved R & R Plans, reclamation and rehabilitation plan. A similar request was made by the Ministry of Mines, Union of India in **IA No. 103342/2017**, stating that the annual mineral policy was under revision and the discretion of fixing a cap upon extraction of mineral ought best to be left to the Ministry. On its part, the State of Karnataka had highlighted the significant improvement made in the infrastructure and suggested a gradual increase in the annual cap based on iron ore extraction from 30 MMT that had been fixed in respect of all the three Districts, to 50 MMT. C D E

10. After examining the recommendations made by the CEC in its report dated 14th July, 2017 and taking into account the submissions made by Mr. M.K. Jiwrajka, former Member Secretary of CEC as also Mr. Prashant Bhushan, learned counsel for the petitioner, this Court had passed an order on 14th December, 2017, accepting the recommendations made by the CEC for enhancement of the cap for category 'A' and 'B' mines subject to imposition of conditions relating to category 'C' mines in the three Districts of Bellary, Tumkur and Chitradurga. F

11. We have taken the pains to extract the chronology of events before proceeding to deal with the applications that have been moved by several parties pressing for modification of the Court's order dated 23rd September, 2011 and seeking permission for discontinuation of compulsory sale of iron ore through e-auction and for permission to export the pellets manufacturers from the iron ore extracted from the mines in the State of Karnataka. G

⁶ Reported as (2018) 13 SCC 501

- A 12. The reliefs sought by various/interveners through independent applications are as follows:
- B i. **IA. No. 205/2014** and **IA No. 206/2014** moved by KIOCL Ltd., a government of India enterprise (for intervention and modification of the order dated 23rd September, 2011.)
- C ii. **IA No. 24335/2018, IA No. 61304/2019 and IA No. 17007/2021** filed by FIMI South (for permission to export pellets manufactured from iron ore in State of Karnataka, permission to export unsold iron ore despite being put on e-auction for more than three occasion and freedom to enter into contract of iron ore from lessees in the State of Karnataka.)
- D iii. **IA No. 98216/2020 and IA No. 98219/2020** filed by M/s. SLR Metaliks (for impleadment and for permission to enter into contracts directly for purchase of iron ore from lessees in Karnataka without resorting to e-auction.)
- E iv. **IA No.152631/2018** moved by M/s. Vedanta Ltd. (for permission to export/sell iron ore without recourse to e-auction in the State of Karnataka.)
- F v. **IA No. 64798/2019 in IA No. 152631/2018** filed by State of Karnataka Gani Avalambhithara Vedike (for intervention and permission to export/sell iron ore which steel plants and other industries are unwilling to purchase in the e-auction process, by selling it directly on or above the prevailing market price.)
- G vi. **IA No. 97376/2019 in IA No. 24335/2018 and 152631/2018** filed by Karnataka Sponge Iron Manufacturer Associations (for intervention and permission to export pellets in the State of Karnataka.)
- H vii. **IA No. 61452/2020** filed by Mineral Enterprises Limited (for permission as one time measure to sell/export unsold iron ore without resorting to the e-auction framework.)
- viii. **IA No. 37678/2022** filed by NMDC Limited, a Central PSU (for permission to offer iron ore extracted by it on

direct sale basis without resorting to e-auction and for export purposes.) A

13. A reply affidavit dated 1st April, 2022 has been filed by the petitioner opposing the request of the mining companies and pellets manufacturing companies for permission to export iron ore and pellets and stating that if the production of iron ore is in excess of the demand of the domestic steel industries as alleged, then the Court may consider reducing the cap of iron ore extraction instead of permitting export thereof. Mr. Prashant Bhushan, learned counsel appearing for the petitioner contended that if it is claimed by the applicants that the domestic steel industry has created a cartel due to which they are not purchasing the iron ore, then the problem of cartelization needs to be addressed. Similarly, permission for exporting pellets has also been opposed by the petitioner and it has been submitted that the order dated 23rd September, 2011 passed by this Court does not deserve modification. B C

14. The Monitoring Committee has filed a status report dated 09th April, 2022, stating inter alia that as on 31st March, 2022, the closing balance of the iron ore is 8.29 MMT (approx.). During the year 2021, 33.156 MMT of iron ore was sold through e-auction. As on 01.04.2021, the opening stock of iron ore in respect of running mines (Category ‘A’ and ‘B’) is 6.65 MMTs (approx.). The report also furnishes the list of iron ore mining leases operating outside the Districts of Bellary, Chitradurga and Tumkur, in a tabulated form prescribing the approved capacity and the actual production achieved by them. Another tabulated statement contains the list of iron ore mining leases in the aforesaid three districts for category ‘A’ ‘B’ and ‘C’ auctioned mines in separate categories showing approved Maximum Permissible Annual Production⁷ and actual production and despatches. D E F

List of iron ore mining leases operating in Bellary, Chitradurga and Tumkur for A and B auctioned mines showing approved MPAP, actual production and Closing Balance.							
S. No.	Name of Lessee and Lease No.	Year	Opening Balance in Mts	MPAP for the year in Mts	Production against the MPAP in Mts	Dispatch during the year in Mts	Closing Balance in Mts.
1	JSW Ltd. (Narayana) ML No. 0012	2021-22	306478.0	1110000	1007885.0	966213.95	348149.1
2.	JSW Ltd. (Dharma) ML No. 0013	2021-22	6182.0	180000	179928.0	168700.8	17409.2
3.	JSW Ltd. (Bhoman) ML No. 0014	2021-22	781482.0	1000000	1598559.3	463400.168	1916641.1
4.	MSPL (ANS) ML No. 0015	2021-22	70348.0	120000	50720.0	72000	49068.0
Total			1164490.0	2410000	2837092.3	1670314.918	2331267.3

⁷ For short “MPAP”

A 15. The CEC has submitted Report No. 3 of 2022 dated 10th April,
2022 in response to the directions issued by this Court on 30th March,
2022. After referring to the earlier reports submitted by it from time to
time, it has been stated that only a temporary ban on exports was imposed
by this Court at a critical time when mining operations were restricted in
B the State of Karnataka and that it was never the intention of this Court
to restrict the mining operations for all times to come; that sale through
e-auction conducted through the Monitoring Committee had achieved
its objective and it was no longer necessary to continue with the same
dispensation in view of the improvement in the situation. Citing the
information furnished by the Monitoring Committee relating to the closing
C balance of stock available in category 'A' 'B' and 'C' as on 31st March,
2022, that adds up to 1,19,47,839.3 MT, the CEC has recommended
vacation of the orders passed by this Court directing sale of iron ore
through e-auction to be conducted by the Monitoring Committee with a
rider that the said procedure continue to be adopted for the sale of balance
D of old stock of iron ore including sub grade iron ore available on the date
of imposition of the ban. It has been suggested that all the balance old
stock be sold through e-auction before the end of July, 2022 and if any
stock is left unsold, only then should the lessee be permitted to dispose it
of without adopting the e-auction process.

E 16. The second suggestion made by the CEC is to discontinue
collection of 10% of the sale value from all the lessees except for NMDC
Limited and 20% of the sale value from NMDC Limited toward their
contribution to the SPV. Thirdly, it has been suggested that the total ban
imposed on export of iron ore and pellets from the districts of Bellary,
Chitradurga and Tumkur, be lifted. Lastly, CEC has sought vacation of
F the orders fixing district level caps on production of iron ore in respect of
category 'A' and 'B' mines from the Financial Year 2022-23 onwards.
The report concludes by requesting that the system of determination of
MPAP being fixed through the R & R Plans and Supplementary
Environment Plans, as approved by this Court by the orders dated
13.04.2012 and 18.04.2013, may be continued.

G 17. The Ministry of Steel, Union of India has filed an affidavit
dated 16th April, 2022, stating inter alia that keeping in mind the fact that
against a requirement of 192 MT of iron ore for producing 120 MT of
steel annually, this Court may consider vacating the order for district
level caps on iron ore mines imposed in the three districts of the State of
H

Karnataka, by treating the mines in the said State at par with the mines in the rest of the country. A

18. The Ministry of Mines, Union of India has filed a separate affidavit dated 9th April, 2022, stating inter alia that over the years, the scenario has changed which would be apparent from the reports submitted by the CEC from time to time. Further, the Mines and Mineral (Development and Regulation) (Amendment) Act, 2015 has been put into place and all the said steps taken together, necessitate a relook at the restriction imposed earlier and therefore operation of mines in the State of Karnataka may be aligned with the rest of the country. The Ministry has said that it has no objection to export of iron ore mined in the State of Karnataka, just as it is being done in the rest of the country. B C

19. KISMA has filed two affidavits dated 08.04.2022 and 18.04.2022, opposing the applications mentioned above for permission to export iron ore pellets as prayed for by FIMI South, KIOCL Limited, Vedanta Limited and others and stated that the process of e-auction through the Monitoring Committee should not be discarded as the said process is fair and transparent. Opposing the request for permission to export iron ore, it has been averred that any such permission may result in the miners fixing the base price so high as to oust the domestic steel industries that may result in manipulation by the miners. D

20. A similar objection has been raised with respect to the request for export of iron ore pellets. The stand of KISMA is that export of iron ore ought not be permitted since it will result in starving the domestic steel and allied industries and permitting the mining industries to earn quick profits in the international markets due to the surge in the prices of iron ore in the recent past. In its subsequent affidavit, KISMA had added that if this Court is inclined to permit export of iron ore from the State of Karnataka, the same may be permitted subject to additional safeguards and guidelines as recommended by the CEC in its Report No. 19/2019, reiterated later in Report No. 16/2020 and Report No. 20/2020. E F

21. The State of Karnataka had filed an affidavit dated 17th May, 2021 in reply to IA No. 152631/2018 that was moved by Vedanta Limited, followed by an additional reply to the said application filed on 19th April, 2022. In both the said affidavits State of Karnataka has submitted that no export ought to be permitted of iron ore which was excavated from mines situated within the State. Disagreeing with Report No. 3/2022 G H

A submitted by the CEC recommending grant of permission for exporting iron ore mined within the State, it has been averred that such a recommendation is not backed by any cogent material.

22. We have considered the argument advanced by learned counsel for the parties, perused the latest report of the CEC and the Monitoring Committee, examined the stand of the Ministry of Steel and Ministry of Mines, Union of India as also of the State of Karnataka. The data placed before us by the respective parties in their applications under consideration has also been scanned. For the present, we propose to confine the scope of this order to examining the twin prayers made by learned counsel for the applicants namely, permission to sell the unsold stock of iron ore already excavated without resorting to the process of e-auction conducted through the Monitoring Committee and for lifting the ban on export of iron ore/pellets from the districts of Bellary, Chitradurga and Tumkur situated in the State of Karnataka. Although certain submissions were made by the parties regarding lifting of the ceiling limit for total production of iron ore, at this juncture we are not inclined to decide the said issue.

23. Records reveals that repeated attempts to resort to the e-auction process for the sale of already excavated iron ore mined in the three districts of Bellary, Chitradurga and Tumkur in the State of Karnataka, have not borne any fruitful results. As a consequence thereof, large stock of iron ore, including sub-grade iron ore, is lying unused. As on 31.03.2022, the stocks available in category 'A' and 'B' mines is stated to be 82,98,130.5 MT. The stocks available in the auctioned category 'C' mines as on the above date is 12,25,100.5 MTs. The stock in respect of e-auction category 'A' and category 'B' expired leases is 2,33,126.73 MTs and in mining leases outside the districts of Bellary, Chitradurga and Tumkur, is 93,181 MT. The closing balance of iron ore available in all the mines across the State of Karnataka as on 31st March, 2022, adds up to 11,94,783.93 MT.

24. On glancing over the earlier orders passed by this Court, evidently it was on account of the rampant illegal mining that had been taking place in the State of Karnataka and had severely impacted the ecology of the region that the Court was compelled to impose a blanket ban on mining operations in three specific districts. Post imposition of the ban, the Court was confronted with a situation where a huge stock-pile of iron ore had accumulated in the mines and stock yards that needed

H

to be disposed of. Accordingly, a transparent process of e-auction was adopted on the recommendations of the CEC with a further direction that the sale proceeds would be placed in a separate account pending settlement of ownership rights over such stock of iron ore. This mode has been consistently adopted for sale of the stock of excavated iron ore under the aegis of the Monitoring Committee that was called upon to deduct 10% of the sale value in respect of all the category 'A' and 'B' mines and 20% of the sale value in respect of two mines owned by NMDC Limited, for being deposited in the SPV accounts towards implementation of the CEPMIZ. Report 3 of 2022 submitted by the CEC records that the collection in the SPV maintained by the Monitoring Committee as on 31st March, 2022, has crossed ₹ 20,000 crores which amount would be adequate to meet the expenses connected with the activities proposed to be undertaken under the CEPMIZ.

25. It is also pertinent to note that in the earlier orders dated 13th April, 2012 and 11th August, 2014 passed by this Court in IA No. 205 – 206 of 2014, it had been clarified that the “*system of sale through the Monitoring Committee may be reviewed after two years*”. It is after the passage of eight years that this Court is revisiting the system that was put in place.

26. Report No. 19/2019 dated 18th July, 2019 filed by the CEC is also relevant in the above context and is extracted below:

“21. It is seen that the State of Karnataka during the year 2018-19 has produced about 30.33 MMT of iron ore. Out of this the unsold stock of iron ore is 15.86 MMT break up being 10.43 MMT of old stock and 5.43 MMT of fresh stock of ore.

22. Since the steel manufacturers have been importing iron ore from the other States or from foreign countries, the Monitoring Committee has in their Report dated 3.5.2019 acknowledged that the import of iron ore from outside the country has impacted the demand for iron ore and pricing in e-auction sale. This further supported by the low off take in e-auction sale as can be seen from the sale data for the period 1.1.2018 to 30.6.2018 and 1.7.2018 to 31.3.2019. During the period 1.1.2018 to 31.3.2019 a total of 229 e-auctions of iron ore have been conducted by the Monitoring Committee. It will be seen that on 72 days, out of 229 days, 50% or more

A *than 50% of the quantity offered for sale has been purchased by the end users in the e-auction whereas on remaining 157 days less than 50% of the quantity offered for sale has been purchased. On 8 days when e-auction was conducted there has been zero bid while on 12 days 100% of the quantity offered for sale has been bid.*

B

xxxx

C *25. It is not in dispute that the “iron ore lumps” are in demand and get sold at market price. As such the issue before this Hon’ble Court is with regard to the sale of “iron ore fines” which is not taking place specially from the mines located in Districts Tumkur and Chitradurga. The mining lease of the Applicant is also one such mine located in District Chitradurga. The quality of the iron ore fines from these two districts is also of concern as they have higher manganese content and other impurities. All this adversely affect the demand for the iron ore fines so much so that even at the reserve price at Rs. 450/ per tonne the material is not getting sold in consecutive auctions.*

D

xxxx

E *28. This Hon’ble Court in its order dated 1.9.2016 in IA Nos. 259 and 263 IA Nos. 259 in WP (C) 562/2009 while considering the application for permission for export of iron ore has, amongst others, observed that :*

F

“Permission for export must be governed by norms and parameters of general application as distinguished from ad hoc decisions in individual cases. Until such guidelines are framed, the prayer of M/s. Vedanta Ltd. for export of its iron ore cannot be granted. So far as issue of framing of guidelines/ norms for export are concerned, the same will be dealt with separately at an appropriate time and state”,

G

Permission to export is only an enabling provision to be made in respect of unsold stock of iron ore subject to the extant policy of Government of India in this regard. The actual export of iron ore, however, will depend on the price of iron ore in the international market vis-à-vis domestic market. Since the

H

production of iron ore has crossed 30MMT per annum, a question that arises is whether it is time to review that State specific restrictions in Karnataka on sale of iron ore so that such State specific restrictions do not work to the disadvantage of either' the producer or the manufacturer or both. This is more so in the changed situation, when the raw material requirement of steel and allied industries is not limited by the production of iron ore. In these circumstances ideally the demand/supply and the price of the ore are best left to be determined by the market forces.

29. New mining leases are now sold through e-auction to the end users and the premium to be paid by the successful bidders is limited to the State specific prices notified by IBM based on the monthly average price realized in respect of a given grade or iron ore sold in the State. The eligibility to participate in the sale of the new mines and to participate in e-auction sale of iron ore in Karnataka State is limited to the steel and allied industries, the end users. It has been stated by the Applicant that this situation gives scope to the end user industry to manipulate the sale price of ore which in turn will impact the premium amount to be paid in respect of iron ore produced from the captive mines purchased by them. The sale price data form steel mint in respect of Fe Fines and price at ex-mines furnished by FIMI indicates that the IBM published iron ore prices between January, 2018 and May, 2019 have gone down in Karnataka by (-) 18.7% while during the same period the IBM published prices in the States of Odisha and Chhattisgarh have gone down by only (-) 2, 7% and (-) 7,7% respectively. A copy of the statement showing the ex-mines price for 60% Fe Fines for the period January, 2018 to May, 2019 is enclosed as ANNEXURE R-9 to this Report. **It has been that the difference in sale price is the result of limiting the participation in e-auction to the end users who even resort to importing iron ore at higher landed cost though the same is available in the State. In these circumstances the possibility of manipulation of iron ore prices because of exclusivity given to the steel industry in purchase of iron ore from the mining lessees needs to be addressed."**

H

A 27. In its Report No. 16/2020 dated 29.06.2020, CEC had made the following pertinent observations:

B *“10.....this Hon’ble Court had no intention of imposing a permanent ban on export of iron ore or pellets from the district of Bellary, Chitradurga and Tumkur in Karnataka. Further ban on export of iron ore and pellets has been ordered by the Hon’ble Court solely in the context of ban on mining operations in the three districts and as an interim measure. The re-opening of the Category “A” and Category “B” mines has taken place in a phased manner after fulfilment of conditions relating to implementation of the R&R Plans and compliance of annual production limits fixed in respect of each mining lease based on the scientific principles on availability of reserve, availability of the dump area and the transport infrastructure available for evacuation of the iron ore from the mines.*

D *11. Pursuant to the implementation of the R&R Plans and the scientific fixation of the production limits in respect of each of the operating mining lease, there ha been substantial improvement in the environmental parameters in the three districts of Bellary, Chitradurga and Tumkur. The opposition by the Karnataka Iron and Steel Manufacturers Association (KISMA) to export of iron ore and pellets are based mainly on commercial considerations and are not directly related to environmental issued concerning mining. The annual production levels have crossed 25 MMT which limit was earlier suggested by the CEC in its Report dated 2.4.2014 in IA No. 205 and IA No. 206 of 2014 filed by KIOCL for lifting ban on export of iron ore and pellets. Currently there is no restriction on grant of new mining lease in Karnataka.*

F *12. The recommendation made by the CEC in its Report No. 19 of 2020 dated 18.07.2019 and Report No. 20 of 2019 dated 18.07.2019 for lifting the ban imposed on export of iron ore fines and pellets respectively have been made after considering the availability of the iron ore on a sustainable basis and the general policy of the Government of India on the subject. In the circumstances, CEC is of the considered*

H

*view that orders specific to the three districts in the State of Karnataka banning export of iron ore and pellets issued by Hon'ble Court in the context of the total ban on mining in the three districts ordered by this Hon'ble Court now requires to be reviewed. The method of sale and price fixation of iron ore are best left to be determined by the market forces as any restriction on sale including export will only benefit one party at the cost of the other. Artificial suppression of the iron ore prices will also adversely impact the revenues of the State Government. The recommendation of the CEC in its Report No. 19 dated 18.7.2019 on export of iron ore is restricted to iron ore fines which remains unsold/not purchased by the user industry and lays down the guidelines/method of sale. **There is in built provision in the condition of sale suggested by the CEC to overcome the scope of manipulation of prices.** It may be stated here that this Hon'ble Court in its order dated 13.04.2012 and Judgment dated 18.04.2013 has stated that the exports outside the country should be permissible only in respect of the material which the steel plants and associated industries are not willing to purchase on or above the average price realized by the Monitoring Committee for the corresponding grades of fines/lumps."*

28. The Ministry of Steel, Union of India has supported the applications moved by the interveners and submitted that the mining scenario has improved considerably since the year 2018 and in that background, the Court may consider treating the mines situated in the State of Karnataka equal to those situated in the rest of the country since that would permit inter-state trade of iron ore mined in the State of Karnataka, which is presently prohibited. The Ministry of Mines has also given its no objection to export of iron ore to other countries in terms of the prevalent policy of the Government of India.

29. We are in broad agreement with the stand taken by the Ministry of Steel, Union of India and Ministry of Mines that it is necessary to create a level playing field for the mines situated in the districts of Bellary, Chitradurga and Tumkur with others situated in the rest of the country. As the CEC has indicated, the demand/supply and price of iron ore are best left to be determined by the market forces. This Court is of the

H

A opinion that the time has come to review the system that was put in place over a decade ago, on halting the unchecked excavation of iron ore in the three prime Districts in the State of Karnataka. Ever since then, e-auction has been the only mode available for disposal of the excavated iron ore. The said arrangement has worked out satisfactorily so far. The situation that was prevalent in the region prior to the year
B 2011, has now changed for the better. Having regard to the course correction that has taken place, the regeneration post the ruinous damage caused to the environment and the various steps taken by the Government, we are of the opinion that the order passed on 23rd September, 2011 deserves to be relaxed. Additionally, it is a matter of record that
C consecutive e-auctions conducted by the Monitoring Committee have been receiving a poor response and sale of iron ore even at the reserve price is dismally low. Looking at the overall change in the outlook, the restrictions placed on the manner of conducting the sale of iron ore and fixation of the sale price need to be removed.

D 30. Keeping in mind all the aforesaid factors, we are inclined to favourably consider the prayer made by the applicants and grant them permission to sell the already excavated iron ore stock-pile at various mines and stock yards located in the Districts of Bellary, Tumkur and Chitradurga in the State of Karnataka, without having to resort to the process of e-auction. Permission is granted to the applicants to enter
E into direct contracts to lift the excavated iron ore through inter State sales. We also grant permission to the applicants to export the iron ore and pellets manufactured from the iron ore produced from the mines situated in the State of Karnataka, to countries abroad, as is being done in the rest of the country, but strictly in terms of the extant policy of the
F Government of India.

31. With the above order, all the applications listed in paragraph 12 stand allowed to the extent indicated above.

32. With respect to the submissions of the parties in relation to the lifting of the ceiling limit for production of iron ore for mining leases in the Districts of Bellary, Chitradurga and Tumkur, we are of the considered
G opinion that it would be expedient to obtain an opinion from the Oversight Authority appointed by this Court *vide* order dated 21st April, 2022 about the same before deciding the said issue. We request the Oversight Authority to take inputs from the stakeholders, including the CEC and

H

SAMAJ PARIVARTANA SAMUDAYA AND ORS. v. STATE OF KARNATAKA AND ORS. 127

the Monitoring Committee, and to send his opinion to this Court preferably within a period of 4 weeks. A

33. List for hearing on the said issue in the second week of July 2022.

Nidhi Jain
(Assisted by : Shashwat Jain, LCRA)

Applications disposed of.