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भारत सरकार/ Government of India
खान मंत्रालय / Ministry of Mines
भारतीय खान ब्यूरो / Indian Bureau of Mines

मुख्य खान नियंत्रक का कार्यालय / Office of the Chief Controller of Mines

No.R-11013/1/MISC/MP-SOM (EZ)/2006-CCOM-Vol II

Nagpur, dated: 30.11.2021

To,

The Regional Controller of Mines
Indian Bureau of Mines
Guwahati, Assam


Subject: Clarification on approval of five numbers of Mining Plans in respect of Graphite Mineral in the State of Arunachal Pradesh.

Reference: 1. Email from the Office of Regional Controller of Mines dated 29.11.2021.
2. Email from the Office of Regional Controller of Mines dated 30.11.2021.

Sir

This has reference to your email dated 29.11.2021 regarding clarification on approval of five number of Mining Plans in respect of Graphite Mineral in the State Arunachal Pradesh. As per the attached copies of executed lease deed with the email dated 29.11.2021, it is understood that all the five lease deeds have been executed before the provisional approval of Mining Plan. That Mining Plan for the five areas were approved first provisionally and subsequently final approval was accorded. The details of the date of execution and dates of approval of provisional & final mining plan as per details annexed in your email are as follows:

S.no	Area (in hect) & date of execution of lease deed	Date of provisional approval of mining plan	Date of final approval of mining plan
1	Dodeserum Graphite deposit (183 ha) executed on 29.1.2021.	19.5.2021	13.8.2021
2	Bopi Graphite deposit (37 ha) executed on 1.2.2021.	19.5.2021	16.8.2021
3	La Lamdak Graphite Deposit (79 ha) executed on 29.1.2021.	20.5.2021	16.8.2021
4	Doni Graphite Deposit (196 hect) executed on 29.1.2021.	20.5.2021	17.8.2021
5	Taliha Graphite Deposit (496 hect) executed on 29.1.2021	20.5.2021	12.8.2021


स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi

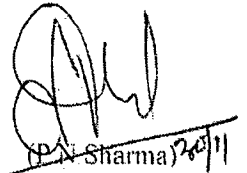
As per the section 5(2)(b) of MMDR act no mining lease shall be granted by the State Government unless it is satisfied that there is mining plan duly approved by the Central Government or by the State Government in respect of such category of mines as specified by the Central Government for the development of mineral deposits in the area concerned. It is clear that the lease deed for all the five areas has been executed in contravention of the section 5(2) (b) of the MMDR act 1957.

Also, your attention is drawn to erstwhile Rule 7(10) (c) of The Minerals (other than Atomic and Hydro Carbons Energy Minerals) Concession Rules 2016(now amended vide notification G.S.R 775(E) dated 2.11.2021) which states that upon issuance of an order under clause (a) of sub rule (6) or sub rule (9) for grant of a mining lease the applicant for such mining lease shall satisfy the conditions with respect to a mining plan specified in clause (b) of subsection (2) of section 5. It is imperative that the all the conditions as stipulated in the Rule 7(10)of The Minerals (other than Atomic and Hydro Carbons Energy Minerals) Concession Rules 2016 are to be complied before the execution of the lease deed. In the instant case the Mining plan was not approved before the execution of the lease deed.

It is a matter well settled in law that any action taken by any authority in contravention to the provisions of the act and rules made there under is ab-initio void.

This Office vide letter no. M-11013/3/MP/90-CCOM-Vol-I dated 13.4.2021 advised that Mining Plan approved for fresh grant of leases falling under section 10(A)(2)(b) of MMDR act 1957 shall be revoked where the lease deed has not been executed before the 28.3.2021 in light of amendment done in the section 10(A)(2)(b) of the MMDR Act vide notification dated 28.03.2021 proclaiming all cases covered under section 10(A)(2)(b) including pending cases the right to obtain prospecting license followed by mining lease or mining lease, as the case may be, shall lapse on commencement of MMDR amendment act 2021. Despite that you ended up approving these documents not relevant to the instructions issued vide letter dated 13.04.2021.

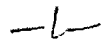
In the light of above you are advised to take immediate remedial action in accordance with MMDR Act 1957 as amended up to 28.3.2021 and rules made there under and intimate this office forthwith, enclosing copy of documents.




(P.N. Sharma)
Chief Controller of Mines (I/C)

Copy:

1. Controller of Mines , East Zone, Indian Bureau of Mines, Kolkata.



(P.N. Sharma)
Chief Controller of Mines (I/C)



स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas
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