

No.34/6/2021-M.III
Government of India
Ministry of Mines

Shastri Bhawan, New Delhi.
Dated, the 16.01.2023

MEMORANDUM

Subject: Matter related to disciplinary proceeding against Shri K.K. Tardia, RCOM, Guwahati-reg.

WHEREAS a charge sheet against Shri K.K. Tardia, the then RCOM, Guwahati was issued vide Memorandum No. 34/6/2021-M.III dated 21.02.2022;

WHEREAS Shri K.K. Tardia, submitted his reply dated 07.03.2022 to the said Charge Sheet;

WHEREAS Shri Upendra C. Joshi, Joint Secretary, Ministry of Mines was appointed as Inquiry Authority and Shri Manish K. Mendiratta, Regional Controller of Mines, was appointed as Presenting Officer (PO) by the Competent Authority. And after completion of the inquiry, the Inquiry Authority has submitted his report, a copy of which is enclosed at Annexure-I.

AND WHEREAS, after considering the Report of the Inquiry Authority and taking into account all the facts and circumstances of the case, the Disciplinary Authority has come to a tentative conclusion to disagree with certain findings of the Inquiry Authority. A copy of the said disagreement note along with tentative reasons is enclosed at Annexure-II.

NOW, THEREFORE, as per provision of Section 15(2) of CCS(CCA) Rules, 1965, Shri K.K. Tardia, RCOM is provided with the opportunity to submit his written representation within 15 days of receipt of this Memorandum against the Report of the Inquiry Authority and the DA's tentative disagreement thereon. In case, his response is not received within the stipulated period, decision will be taken as per records available without waiting for his reply.

(By Order and in the Name of the President)

(Smarajit Kumar Biswas)

Director,
Email: smarajit.kr@gov.in

To

Shri K.K. Tardia,
Regional Controller of Mines, IBM,
Indira Bhawan, Civil Lines,
Nagpur-440001

Copy to:

- PS to Hon'ble Minister of Mines
- PSO to Secretary (M)
- PS to AS(M)
- The CG, Indian Bureau of Mines, Indira Bhawan, Civil Lines, Nagpur-440001

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

Disagreement Note

With regard to the Report of Inquiry Authority (IA) on Article - I of charges

The IA has concluded that the charge of approval of mining plans of five graphite blocks against the provisions of MMDR Act has been established. The IA has further observed that the decision of approval of such mining plans by Charged Officer (CO) was guided and influenced by circular dated 13.04.2021 which specifically mentions about the cases where mining lease were not executed and the fact that IBM did not reply to the letters of CO.

The circular dated 13.04.2021 states that mining plans of those cases where mining leases were not executed should be cancelled whereas this is a case where mining leases were executed without any mining plans by the State Government in an illegal manner and post facto approval of concerned mining plans after signing of mining leases is an illegal act of aiding and abetting in regularizing of the signing of mining leases. Thus, the pretext of the CO being influenced by the Circular dated 13.04.2021 does not hold good.

Further, the CO resorting to the excuse of approving the mining plans, after leases were signed by the State Government in an illegal manner, on the ground that IBM did not respond to his queries is absurd because he should have waited for a response after he had referred the matter to the higher authority for clarification. The fact that he referred the matter to the higher authority, itself, signifies that it was a doubtful case. The law states that no mining lease should be signed without the approval of the mining plan and any ex-post facto approval of the mining plan is simply aiding and abetting in regularizing of illegal mining leases.

Further, the IA's conclusion that this decision of execution of mining leases is solely taken by State Government and loss to the exchequer cannot be attributed to the CO is not agreed to. The IA did not mention that the action of ex-post facto approval of mining plans after signing of mining leases is aiding and abetting in regularizing the mining leases and thus helped in causing loss to the exchequer. Further, loss to the exchequer takes place when mining takes place. Mining can happen when the mining plan is approved. Thus, the action of the CO in approving mining plans was a step in causing loss to the exchequer.

With regard to Report of the Inquiry Authority on Article - II of charges

IA has found that the Charged Officer failed to maintain devotion to his duties and behaved in a manner unbecoming of a Government servant. As regards the findings of IA that CO is not responsible for causing loss to the exchequer; the same is not agreed to as mentioned in the preceding paragraph.

With regard to the Report of the Inquiry Authority on Article - III of charges

The IA has found the charges to be proved.

In his conclusion, the IA has also stated that the outcome of auction cannot be quantified and hence the loss may not be ascertained and it cannot be attributed to CO. Although, the quantum of loss caused cannot be ascertained without the outcome of auction, but definitely loss was caused in these cases where the mining leases were signed without auction when compared to a situation where the mining lease is

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signed after auction. After auction when the mining lease is signed, the lessee would pay auction premium in addition to royalty, DMF and NMET contribution. Whereas when the mining lease is signed without auction only royalty, DMF and NMET contribution is payable and no auction premium is paid. Therefore to say no loss was caused because no auction took place is not correct and unacceptable.

स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas

निदेशक / Director

खान मंत्रालय / Ministry of Mines

भारत सरकार / Government of India

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