

Q58

Email

To,

Nagpur, Dated 13.9.2022

Shri Upendra C. Joshi
Joint Secretary and Inquiring Authority,
Ministry of Mines
Room No. 325, Wing-A, 3rd Floor
Shastri Bhawan, New Delhi

Sub : Submission of written brief statement on articles of charges framed against Shri K.K.
Tardia, Regional Controller of Mines, IBM, Nagpur.

Ref: (1) Ministry of Mines, letter no. 1/Conf(DE)/2022 New Delhi Dated 29.8.2022.
(2) Daily Order Sheet – VI Date of Inquiry 07/09/2022

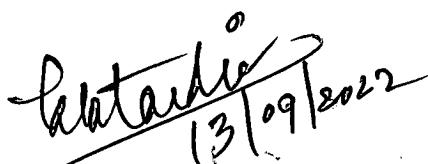
Respected Sir,

In inviting above reference on the subject, I hereby submit the brief statement to the charges framed for your sympathetic and kind consideration.

With Regards,

Encl- As above

Yours faithfully,


(K.K. Tardia)
RCOM, IBM
CCOM (MDR) office, Nagpur

ARTICLE - I

Para 1- Explains amendment Act 10(A)(2)(b).

Para 2 -Cites instruction of CCOM to revoke the mining plan approved in respect of saved cases where lease is not executed before 28.3.2021.

Para 3-Charges for acting against spirit of law causing loss to exchequer by the approving the five-mining plans provisionally and finally.

Reply-

Instructions to revoke approved mining plans, were issued in respect of saved cases for which leases were not granted before amendment Act dtd.28.3.2021.

Where as in these 5 saved cases, mining plans were not approved before any instructions came and they were pending for approval in the office.

The mines were inspected in March /April 2021 by ACOM as per tour program approved by the then RCOM Shri P.K.Bhattacharjee.

A Suo-moto mail dtd.8.5.2021from State Govt informed that the leases were granted in respect of these 5 mines in Jan and Feb 2021. As the mining plans, were pending for approval that time, the office was clueless about approval of mining plan in respect of leases granted without approved mining plan and against section 5(2)(b) of Act.

Hence the then RCOM sought clarification from COM and CCOM vide letter no. IBM/GHY/04/2010-11/Tech.Vol.III dated 10.5.2021 about Tahila graphite mine if the pending mining plan was to be approved or not, as it was pending for more than 74 days.

To our letter seeking advice, no reply was received. Rather on 19.5.2021, the pendency of mining plan of Taliha graphite mine , was viewed seriously by competent authority which means they wanted us to approve this mining plan without further delay .

Thereafter in respect of remaining four similar cases again advice for further course of action was sought vide letter no. IBM/GHY/04/2010-11/Tech - Vol-III dated 19.5.2021from CCOM by me informing that the leases were granted without approved mining plans against section 5(2)(b) of Act.

To this letter also there was no reply hence it was construed that these mining plans are to be approved. If the mining plan had not been approved, it could have been defying the order dated 19.5.2021. Hence two cases were approved on 19.5.2021 itself and three on 20.5.2021 provisionallyas per

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CCOM letter no. N-11013/3/MP/90-CCOM-Vol-IX(PF) dated 13.5.2021 in view of Covid situation, endorsing information to COM and CCOM. However, the approvals were not objected to, from any of the of the authorities.

Later on, mining plans were finally approved in August 2021 to avoid pendency and deemed approval situation , with copy for information to CCOM and COM(EZ) still there was no objection raised to these approvals.

Thus, the approvals were in the knowledge of superiors and as per their implied instructions dated 19.5.2021.

As the amendment Act2021 nowhere prohibits approval of mining plan for already granted leases, no action taken by me is against the spirit of law.

The mining leases are granted by state Govt. and they are the recipient of mineral revenue. According to amendment Act 2015 the leases are to be granted after auction followed by issue of letter of intent followed by submission of approved mining plan and other necessary clearances and no objections. Clearly the mining plan approval comes after auction and no way interferes with auction process, thereby causing loss to exchequer.

Hence, I humbly deny the charges under this article.

Article-2

Para1-It is charged that shri K.K.Tardia , was not conversant with the Act and rules and mis-interpreted applicability of MMDR Act.

Reply:- Having been posted for more than 10 years in Zonal office before coming to Regional office I was naive to the rapid and radical changes that took place in the law position since 2015. Further there was no senior officer to guide me or the experienced junior officer to make me aware about the amended law position. I brought this fact to notice of superiors vide letter dtd 23.7.2021. I was suffering from hypertension, diabetes, Psoriasis conditions and vertigo and had 1 episode of loss of consciousness during this period.The office remained open only limited hours as perCoronastate Guide lines.(copies enclosed)

I meanwhile got affected from Corona virus too. My mother had a serious paralytic attack during this period.

Because of these official work constraints,personal health issues and family problems I could not concentrate enough and misconstrued the statute and replied accordingly.

I humbly accept and apologize for my misconstrued reply.

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Regarding loss to exchequer, I have already replied above.

Article -III

1- Charges levelled are insubordination and willful disobedience of directive of superiors despite clear advice for taking remedial measures including revocation of approved mining plans. Thereby acting in contravention of Rule 3(1) (ii) and Rule 3(1)(iii) of CCS (Conduct) Rules.

Reply- As stated in reply to article -1. All mining plan approvals were in knowledge of superiors and as per their instructions for transparent and expeditious disposal of mining plan within 45 days dated 19/5/2021. Further in the letter dated 30.11.2021, there is nota single word like revocation as mentioned in the charge sheet nor any direction were issued to me.

I was only advised to take remedial action because the leases were granted against the section 5(2)(b) of the Act.

In this case, inspecting officer had debriefed me after inspection and told that the party had already deposited stamp duty and got executed mining lease and party had also mining plans with them during the inspection in March and April 21. This fact was corroborated formally by suo-moto mail of state Govt on 8.5.2021.

As per section 5 (2)(b)of Act State Govt. can also grant the lease even after filing of mining plan, however, there was no formal information about approval of mining plan by State Govt. How could juniorofficer like me stop processing the pending mining plan and challenge the State Govt. decision? If I had done so, it would invite legal complications for me as well as department. My apprehension came true, as later on these mining plans were revoked on 7.1.2022 by my successor Regional Controller of Mines which was challenged in court of law before Guwahati High Court and Hon'ble Court Stayed all revocation of mining plans vide WP(C)/1104/2022 , WP(C)/1844/2022, WP(C)/1857/2022, WP(C)/1850/2022, WP(C)/1861/2022.

Had there been clear instructions to revoke the mining plan I would have done so, immediately. But for the want of clear orders and being suffering from health issues and other office problems stated above I could not understand the intensions behind letter dtd 30/11/2021 and was discussing over the issue with junior officers.

Anyway, these mining plan approvals would eventually become infructuous once the mining leases granted against section 5 of MMDR Act become invalid under sec 19 of MMDR Act.

Further, no mining plan approved in case of 10 (A) (2) (c) was revoked for which leases were not granted before 12.1.2017. This being case of NE state

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was not similar to rest of the country and that's why we sought clear instructions time and again.

I have always worked in good faith with honest intentions and did not ever defy the orders of superiors which is evident from my past service record of 28 years.

I was never reprimanded and there is no adverse entry in my CR in carrier of 28 years' service life.

I have always maintained integrity and dignity of the department and performed duty dedicatedly and diligently.

There are many salient achievements to my credit, appreciation letter from CCOM is enclosed in support as testimony.

Hence, I humbly deny the charge of acting against the conduct rules.

I would like to submit that without giving any opportunity to explain the circumstances, I was served suspension order just after 30 days on 31.12.2021 denying me even the natural justice and for the fault on the part of state govt, I have unnecessarily been punished and made scapegoat.

I could have been issued at least a show cause notice before taking such humiliating punitive action.

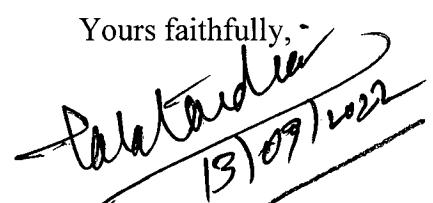
Prayed-

It is submit that post suspension order, the undersigned has become mentally disturbed and physically sick and need sympathetic consideration for early reinstatement. The undersigned will be highly grateful for such sympathetic consideration.

With Regards,

Encl- As above

Yours faithfully,



K.K. Tardia
13/07/2022

(K.K. Tardia)
RCOM, IBM
CCOM (MDR) office, Nagpur

80 (R)

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From: "Controller of Mines (NZ), IBM, Ajmer"
 <c_ibm_ajm@raj.nic.in>
Date: Tue, 10 Apr 2001 16:30:33 +0530
To: <rcomajm@123india.com>, <rcomudp@123india.com>,
 <acom@123india.com>
Cc: <hss@nde.vsnl.net.in>, <rcomudp@bppl.net.in>,
 <ajmreg@datainfosys.net>
Subject: Salient Achievement.doc

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GOVERNMENT OF INDIA
MINISTRY OF MINES
INDIAN BUREAU OF MINES
OFFICE OF THE CHIEF CONTROLLER OF MINES

No.J-11011/2/2000-01/CCOM/Vol.II

Indira Bhavan,
 Civil Lines, Nagpur,
 Dt. 30.03.2001

To,

The Controller of Mines(NZ),
 Indian Bureau of Mines,
 AJMER


 गोप्तिक कार्यालय
 भारतीय सरकार

Sub. : Monthly report for the month of January, 2001.

Ref. : Your letter no. 312/1/2000-MCCM(N) dated 30.1.2001.

Sir,

*Up along with
-/-/Nal Chotti F.C. Mine*
 While going through the monthly report for January, 2001, it is noticed that salient achievement reported for Nal Chotti fireclay mine of M/s. V. K. Sharma, Bikaner district, Rajasthan is a good example for introduction of scientific mining and conservation of mineral by your zone, which undoubtedly is worth attention.

1/1/10/4-2
5.30 P.M.
 In order to make an indepth analysis of this identified problem of mining in the said mine, it would be advisable to identify other mines, where similar problem also exists. A general solution could be explored for the benefit of mining industry at large.

Further, you may explore, if any study/investigation have already been carried out by the mine management or any other agency in this regard. If so, a copy of such study/investigations may be sent to this office for further action on the issue.


 स्मरजीत कुमार बिश्वास / Smarajit Kumar Biswas

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खान मन्त्रालय / Ministry of Mines
 भारत सरकार / Government of India
 नई दिल्ली / New Delhi

भारतीय आम अमूर्ता
 देवीष धार्यायायथष्ट्वे

शायदी धूंगा 291
 दूतावाही 114/1/2/2001

4/11/01

Yours faithfully,

D. K. GHOSH(D. K. GHOSH)
CHIEF CONTROLLER OF MINES

Copy for similar action to :

1. The Controller of Mines(SZ), IBM, Bangalore
 2. The Controller of Mines(CZ), IBM, Nagpur

✓ D. K. GHOSH

In this connection, an extract of said salient achievement is enclosed herewith for information

Office of Controller of Mines (north)
 No. 312/1/200 -MCCM(N) Ajmer, dt 10.4.2001
 To, The RCOM, Ajmer/Dehradun/Udaipur
 Sir,

The Salient achievement in connection with the above mine mentioned above CCOM's letter which is self explanatory, is enclosed for your informative future guidance.

Encl : As above

Yours faith

DCOM

For COM(I)

Salient Achievement furnished in January 's monthly report of COM(N) of

On the basis of MCDR inspection of Nal Choti Fire Clay Mine Shri V.K. Sharma district Bikaner, a problem was observed that formation of cracks takes places through out the benches resulting collapse of benches as soon as the clay bed is exposed after removal overburden of sand and murram at the same time damaging the working pit. As a result mineral is not fully recovered and formation of bench very difficult.

After seeing the nature of the deposit, it has been suggested to lessee that benches of overburden may be advanced upto 15 to 20 m. from the clay bed. Thereafter 0.5 mts thickness of clay bed may be excavated upto half of the phase length.

During this time phase natural cracks will get developed in remaining half of clay bed. Similar activities is to be carried out simultaneously by second and third crew.

By this method natural cracks get developed and the clay bed excavated easily. This has also resulted in increase in OMS. recovery of clay grade wise get increased as the impurities are removed at the face itself.

During the inspection of the mine on 15.1.2001 it has been informed by the lessee that this has benefited the lessee and even working

D. K. GHOSH

safe consequent to suggestion made by IBM and OMS is increased 1 to 2.5 tonnes. Problem of collapse of clay benches which the less facing earlier is now solved.

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सप्तराजित कुमार दिस्वास / Saptarajit Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
नई दिल्ली / New Delhi

266

Phone : 621025, 204483, 5450
Gram : CLAYS INDIA

VIJAY KUMAR SHARMA

Mine Owners, Mfrs & Processors of Chinn-Clay, Ball-Clay & Fire-Clay)

OFFICE : Kathi No. 191, Gandhi Nagar, BIKANER

INES : Nall

VKS

Date 16, January 2001

To,
The Regional Controller of Mines,
Indian Bureau of MINES,
Ajmer. (Raj)

SUBJECT : Regarding visit & Inspection of
Mr.K.K.Tardiya (Asst.Controller of Mines, IBM)

R/sir,

Earlier we were facing problem in the mine due to cracks & loose formation. While exposing clay bed after removal of OVER-BURDEN of sand & morums, formation of CRACKS are seen through out the bench resulting the collapse of benches causing risking mine operation & the same time damaging the working pit in lower bench.

After suggestion & valuable guide lines given by Mr.K.K.Tardiya in his earlier visit. We adopted the same practice suggested by your official & keep the face in triangular shape. According to his advise now we are not facing such type of cracks formation developed in the benches.

We are thankful to Mr.K.K.Tardiya for his valuable suggestion & guidance for safe mining operation.

With Thanks,

Yours faithfully,
For VIJAYKUMARSHARMA

स्वराजीत कुमार बिस्वा / Sirajit Kumar Biswa.
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
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भारत सरकार /GOVERNMENT OF INDIA
खान मंत्रालय /MINISTRY OF MINES
भारतीय खान बयारो /INDIAN BUREAU OF MINES
गवाहाटी क्षेत्रीय कार्यालय /GUWAHATI REGIONAL OFFICE
क्षेत्रीय खान नियंत्रक का कार्यालय / OFFICE OF THE REGIONAL CONTROLLER OF MINES

दूरभाष सं.:/फैक्स सं.:0361 2656184,
Tel/Fax - 0361-2656184
ईमेल:ro.guahati@ibm.gov.in
E-mail -ro.guahati@ibm.gov.in

House No. 216, 3rd Floor, Above IDBI
Bank Chandmari, Post - Bamunimaidan,
Dist - Kamrup (M), Guwahati, Assam-
781021

IBM/GHY/04/2010-11/Tech-Vol-III

Date: 23.07.2021

To,
The Controller of Mines (EZ),
Indian Bureau of Mines- Kolkata.

Subject: Request for revision of Inspection Target of Guwahati region for 2021-22 and posting of experienced AME, experienced Statistical Officer and UDC/Assistant.

Reference: K-11011/1/2020-21/CCOM Dated 01.04.2021.

Sir,

It is to intimate that there are only 28 nos of Mines in this Guwahati Region out of which 17 nos of mines are non-working for various reasons like Suspension and Court cases (List of Non-working Mines and LIMBS Reports are enclosed as Annexure-1 and Annexure-2) and only 11 mines are working at present. Out of the 11 nos Working Mines 2 nos of Mines are falling in Assam State and remaining 9 nos of Mines are falling in Meghalaya State. (List of working Mines is enclosed as Annexure-3).

This office is facing problematic situation due to

1. Restriction on inspection due to interstate boundary restriction on entry to the state from other states as a result of the prevailing Covid-19 pandemic situation in the North Eastern states.
2. Office is not functioning to its full extent due to uneven office closing time (12 PM, 1PM, 4PM) as fixed by Order issued Assam State Disaster Management Authority (Latest Orders enclosed as Annexure-4).
3. Frequent Landslides in hilly approaching roads during monsoon due to heavy rain.
4. Office is not running systematically due to lack of proper filing system following the office procedure, lack of storing place for the safe custody of file and mining plan document, lack of uninterrupted power supply due to lack of power backup system like Inverter/DG set, lack of computers/printers/scanners, lack of proper sitting arrangements like table and chair.
5. Lack of experienced man power like Assistant Mining Engineer, Statistical Officer and UDC/Assistant.

Under the above mentioned circumstances and also due to shortage of number of working mines, It will not be practically possible to achieve the inspection target of 34 during the year 2021-22. Therefore, it is proposed to revise the inspection target of Guwahati region to Nil. Inspection of Mines will only be carried out only in exigency situation.

Further in addition to the above to make the office systematic and smooth functioning for carrying out day to day administrative and technical work, man power like experienced Assistant Mining Engineer, experienced Statistical Officer and UDC/Assistants may please be posted at this Guwahati office on urgent basis.

With Regards,


(K.K.Tardia)
Regional Controller of Mines

Copy to:

- 1) The Chief Controller of Mines, IBM-Nagpur.
- 2) Technical Secretary-IBM-Nagpur.
- 3) The Head of Office, IBM-Nagpur.
- 4) The Head of Office, IBM-Kolkata.


स्मरजीत कुमार बिस्वास /Smarajit Kumar Biswas
निदेशक / Director
खान मंत्रालय / Ministry of Mines
भारत सरकार / Government of India
गत दिनी / Nov 2021


(K.K.Tardia)
Regional Controller of Mines

२६४

Dr. Rajkumar Kohiwal

मेरा नाम : (राजकुमार कोहीवाला)
 आचार्य एवं विभागाध्यक्ष
 LM-HMA
 LM-I, DV.L
 I.M.I.A Seborrheic
 Secretary IADVI, Raipur (18-19)
 I.C.O Faculty of RTI/STI & AIDS

निवास : ब्वाटर नं. 1, JLN, NL कैम्पस, सायिंग्री चौराहे के पास, अजमेर, मोबाइल : 9414118811

Dr. Rajkumar Kohiwal

MD (Skin, STD & Leprosy)

Professor & Head

Dept. of Skin, STD & Leprosy
 JLN Medical College & Attached

Hospitals, Ajmer

Reg. No. 17195/21/1

नाम : Anjosh डॉ. राजकुमार कोहीवाला

Rx DTH P&U

Cream Aqua Rose + CG

• 1/2 ml

Cone Rosal - SF 20 gm

Emulsion Vaseline CT 1/2 ml 20 gm

- Vaseline Almond - C 15 - 15
 अमूल्य शैली

Tab Dailycare HD - 100

Tab cream 15 mg TDS

Tab Akil 25 mg TDS

1 ml

10/11/2022

April to September / अप्रैल से सितम्बर

Consultation Time :

1. 7.30 a.m., after 2 p.m. 3 p.m., & 5 to 8 p.m.

2. Monday-Sunday : after 11 a.m. to 3 p.m. & 5 to 7 p.m.

3. 11 AM

4. 11 AM तक 3 घण्टे बाद से - 3 PM सम्म 7.30 बजे तक

DRP

From October to March / अक्टूबर से मार्च

Consultation Time :

after 8 to 8.30 a.m., after 3 p.m. - 4.30 p.m. & 5 to 7 p.m.

Thursday/Sunday : after 11 a.m. to 3 p.m. & 5 to 7 p.m.

प्राप्ति वाली

प्राप्ति वाली 8 बजे से 8.30 बजे तक, शेष 3 घण्टे बाद से - 4.30 बजे तक, साथ 3 घे 12.30 बजे तक विशेषज्ञ छाता, 11 बजे बाद से 3 घण्टे बाद 4.30 बजे 7 बजे तक

269

Dr. Girish
Neurology & Spine Center

G-1, Anukampa Apartment, Motera, Near Aluwya Nagar, Jalpur - 37 • Mob: 9826304603

Dr. Prithvi Giri
MD (P.D.), DM (Neurology)
Consultant Neurologist
Narayana Multi Speciality Hospital
Jalpur



डॉ. पृथ्वी गिरि

मो. १०८५४६२३०४६०३
सी. एस. एस. एस. एस. एस.
नारायण मल्टी स्पेशलिटी हॉस्पिट, ज़ालपुर
ज़ालपुर संसदीय रोड, ज़ालपुर, गुजरात, भारत
प्रभाग संसदीय रोड, ज़ालपुर, गुजरात, भारत
प्रभाग संसदीय रोड, ज़ालपुर, गुजरात, भारत

Patient Name : Mrs. Gulab Devi

B.P. - 113/62

WT 50.4 kg

Pulse - 79

27/09/21

RBS - 186

Age : 70 Sex : F Date : 09/10/21

LIC Dm-2/17713

Acute Infarct U. (Posterior occipital)

30/11/21

WT - 50 kg

B.P. - 136/69

Pulse - 70

RBS - 105

Bleeding
ptu

Ecdyonurid - 1/2

GB: Cerebral embolism - 0

TG Glycomel 4.02 1/2

TG Divacan 500 0

GB: Bentrohex 0.5 0

TG Pindocil 60 0

3mg

प्रदूषक जलाशय

प्रदूषक जलाशय

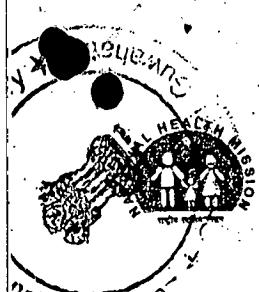
संसदीय कुपर ट्रिपोर्ट/संसदीय कुपर बिकास

निवेशक / Director

खान मंत्रालय / Ministry of Mines

मारत सरकार / Government of India

नर फिल्मी / Nax. Film



Govt. of Assam



1278

EAST GUWAHATI STATE DISPENSARY

Chandmari, Guwahati-03

Patient Name: K. K. Tardia, R. No - 2973

Age: 57 yrs

Sex: M/F

Date: 30/11/21

To whom it may concern

This is to certify that Mr. K. K. Tardia, 57 yrs, a resident of Bamuni maldam, Ghy - 21 is suffering from severe hypertension (High BP), diabetes with psoriasis & vertigo and is under my treatment from 30/11/2021.

He is advised to take res'l for 4 days w.e.f 30/11/2021 to 31/12/2021.

B
30/11/21
D. No - 13804(ANL)


स्मरजीत कुमार बिस्वास / Smarajit Kumar Biswas

निदेशक / Director

खान मंत्रालय / Ministry of Mines

गovt सरकार / Government of India

नई दिल्ली / New Delhi

(271)

To whom it may concern

This is to certify that Shri KK Tardia, resident of Barmuni Maidan, Guwahati, employee of Indian Bureau of Mines, Regional Office, Guwahati, Ministry of Mines is suffering from high BP with 1 episode of loss of consciousness yesterday. He is advised bed rest for 7 days. This is necessary for his complete recovery.



Dr. Renu Jain
1/1/2022
Medical Officer (I.O)
Central Mine Health & Safety Dispenser No. 2
Guwahati

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

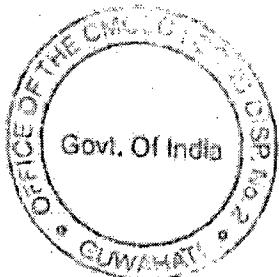
K. K. Tardia, 57y, M

(272)

R

- ①. Tab. Azithral 500
1 tab. once daily before food. x 5 days
- ②. Tab. Montelukast + Levocetirizine (10+5)
(Montek-1c)
1 tab. at bed time x 10 days
- ③. Syr. Atame-CF
2 tsf. thrice after food x 7 days
- ④. Betadine Gargle.
2-3 times a day
- ⑤. Tab. A to Z immune
1 tab daily x 1 month
- ⑥. Tab. Unicee 500
1 tab daily x 1 month
- ⑦. Tab. Dolo 1500
1 tab. 80s, if fever.

Adr: Steam inhalation. 4 times/day.



db
স্মরজীত কুমার বিশ্বাস / Smarajit Kumar Biswas
নির্দেশক / Director
খান মন্ত্রালয় / Ministry of Mines
ভাৰত সরকাৰ / Government of India
নেইডিল্টন / New Delhi

Dr. Rakesh Nair
8/1/2022



2997
Email/post

Nagpur, Dated 22.9.2022

To,
Shri Upendra C. Joshi
Joint Secretary and Inquiring Authority,
Ministry of Mines
Room No. 325, Wing-A, 3rd Floor
Shastri Bhawan, New Delhi

Sub : Submission of rejoinder in r/o Department enquiry against Shri K.K. Tardia, RCOM, Reg-

Ref: (1) Email Shri Manish K. Maindiratta, Regional Controller of
Mines, Designated Regional Office New Delhi, Dated 19.9.2022.
Respected Sir,

In inviting above reference on the subject, I hereby submit the rejoinder after received written
brief by the Presenting officer for your sympathetic and kind consideration.

With Regards,

Encl- As above

Yours faithfully,

K.K. Tardia
22/9/2022
(K.K. Tardia)
RCOM, IBM
CCOM (MDR) office, Nagpur

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It is submitted that according to the instructions dated 13.4.2021 in Guwahati Regional Office we revoked three mining plans in May 2021 for which no mining leases had been executed .This was done by Shri P.K. Bhattacharjee the then RCOM Guwahati Regional Office.But these five Graphite cases being typical ones, were kept in abeyance & one case (Taliha) was referred to Headquarter for seeking advice on 10.05.2021.

I took charge of RCOM on 10.5.2021 and I also sought advice from Headquarter on the similar 4 cases on 19.5.2021. As stated during enquiry and in my reply dated 13.9.2022 these five cases were received under 10(A)(2)(b) of MMDR Act as saved cases but after receipt of suo-moto mail from DGM, State Govt. Arunachal Pradesh on 8.5.2021 informing execution of leases defying section 5 of the Act it became pertinent to seek advice, because the leases had been granted before mining plan approvals from our office .

Instead of advising into the matter the pendency of the mining plan of one of the mining plans (Taliha) was viewed seriously by Headquarter as per their letter dated 19.5.2021 .It means CCOM wanted us to approve the mining plans instead of giving any advice .This compelled me to approve these mining plans in time. Further during Covid pandemic, provisional approvals were to be granted even without processing the plans as per Headquarter letter dated 13.05.2021.

The provisional as well as final approvals of these 5 cases were informed to Headquarter but at no stage the mining plan approvals were objected to, despite knowing the fact that the leases were granted without mining plans.

As 1) The approvals were in the knowledge of superiors and as per their implied instructions dated 19.5.2021.

2)State govt. that grants the mining lease , can also approve the mining plan as per section 5 of the Act provided they have a system in place approved by central govt.No such information was available to us. The state govt which didn't inform even the lease grant timely how could I expect any other information from them.

3)The amendment Act 2021, no where prohibits approval of mining plan for already granted leases hence actions were taken in right spirit to abide the orders of superiors and avoid pendency.

Thus, I did not act against the spirit of law.

The mining leases are granted by state Govt. and they are the recipient of mineral revenue. According to amendment Act 2015, the leases are to be granted after auction followed by issue of letter of intent followed by submission of approved mining plan and other necessary clearances and no objections. Clearly the mining plan approval comes after auction and no way interferes with auction process, thereby causing loss to exchequer. Further the royalty, NMET ,DMF are connected with production and no way related to the mining plan approval.

The CCOM letters dated 09.04.2021 and 13.04.2021 are about approved mining plans for which leases are not granted before 28.03.2021 where as in these 5 cases leases are granted before 28.03.2021 in Jan. and Feb. 2021.How do they clarify our query was beyond comprehension of me and my predecessor Shri P.K. Bhattacharjee, the then RCOM.

Dipak Ladia

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Headquarter letter dated 19.05.2021 itself is direction to process the mining plans and avoid pendency how could I sit idle on these pending mining plans when there was no instructions to revoke it.

Plans are either approved or rejected on technical grounds, these plans were prepared by CIMFR Dhanbad and found technically sound.

Hence, I humbly deny the charges under this article.

Article-2:

After the facts about approval of mining plan came to the notice of Ministry of Mines and in turn IBM; IBM Headquarters enquired about the same from RCOM Guwahati on 29.11.2021 telephonically and sought clarification. (AnnexureP4 and P5).

RCOM Guwahati clarified vide email dated 29.11.2021(Annexure-P5) that provision of section 5(2)(b) are not applicable for the mineral Graphite, as it is not listed in part -A,B,C and first and fourth schedule of MMDR Act and hence the state Govt. has right to grant , execute and register mining lease deed after satisfaction in respect of graphite Mineral which is not in violation of section 5(2)(b) of the MMDR Act -1957 which states that:

” No mining lease shall be granted by the State Government unless it is satisfied that—

[(b) there is a mining plan duly approved by the Central Government, or by the State Government, in respect of such category of mines as may be specified by the Central Government, for the development of mineral deposits in the area concerned:]

[Provided that a mining lease may be granted upon the filing of a mining plan in accordance with a system established by the State Government for preparation, certification, and monitoring of such plan, with the approval of the Central Government.]”

It is a fact that Graphite has not been declared as minor mineral as per law. Thus approval of mining plan by RCOM Guwahati then was in contravention of section 5(2)(b) of MMDR Act.. It shows that either he was not conversant with provision of law or has deliberately misinterpreted the rule. Thus, this act caused loss to the exchequers. The CO accepted that Graphite was wrongly understood as minor mineral. The approval of mining plan subsequent to it's execution is in violation of provision of section 5(2)(b) of MMDR Act.

Reply:- .

Having been posted for more than 10 years in Zonal office (N) before coming to Regional office I was naive to the rapid and radical changes that took place in the law position since 2015. Further there was no senior officer to guide me or the experienced junior officer to make me aware about the amended law position. I brought this fact to notice of superiors vide letter dated 23.07.2021.

S. Saha

I was suffering from hypertension, diabetes, Psoriasis conditions and vertigo and had 1 episode of loss of consciousness during this period. The office remained open only limited hours as per Corona state guidelines.

I meanwhile got affected from Corona virus too. My mother had a serious paralytic attack during this period.

Because of these official work constraints, personal health issues and family problems I could not concentrate enough and misconstrued the statute and replied accordingly.

I humbly accept and apologize for my misconstrued reply.

Regarding loss to exchequer, I have already replied above.

Article-III

In response to the clarification dated 29.11.2021 by RCOM Guwahati, Chief Controller of Mines, IBM issued a letter dated 30.11.2021 (Annexure-P6) and clarified that the said leases have been made in contravention to section 5(2)(b) of the Act and the rules there under and any action in contravention to the provisions of act and rules are ab-initio void. He further advised RCOM Guwahati to take remedial measures. CO submitted during the verbal hearing that remedial measures were not written clearly in the said letter . In this regard it clarified that in spite of advice issued on 9.4.2021 , 13.4.2021 and detailed reiteration of the law position in the letter dated 30.11.2021 ,RCOM Guwahati didn't take remedial action despite the power has been vested with him. Instead ,he struck to his justification for approval of mining plans vide his email dated 31.12.2021 (Annexure P-9). Thus, RCOM Guwahati has willfully disobeyed the directives of higher authorities and shown insubordination . Though CO has maintained during hearing that remedial action was not clearly mentioned in the letter, but it is a fact that no letter has been issued by him to HQ seeking clarification on the matter.

Further there was no pressure, as has been mentioned by CO during the hearing citing the email dated 19.05.2021 written by IBM head quarter. The status of disposal of mining plan is sought from each and every office in the routine manner as a part of view by headquarters.

Because of inaction on part of RCOM after the issue of letter dated 30.11.2021 by CCOM Nagpur for remedial action, a Brief note on approval of Mining plan to ministry vide it's letter dated 15.12.2021 (annexure-7). After the submission of reply by RCOM Guwahati on 31.12. 2021 , the ministry approved the suspension order(Annexure-P9)

Reply:-

As stated in reply to article -1. All mining plan approvals were in the knowledge of superiors and as per their instructions for transparent and expeditious disposal of mining plan within 45 days dated 19.05.2021(Additional document). Further in the letter dated 30.11.2021(Annexure-P6), there is not a single word like revocation as mentioned in the charge sheet nor were any direction issued to me.

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I was only advised to take remedial action because the leases were granted against the section 5(2)(b) of the Act. Remedial action means corrective action I was trying to understand that what corrective action was possible and discussing matter with inspecting officers.

In this case, inspecting officer had debriefed me after inspection and told that the party had already deposited stamp duty and got executed mining lease and party had also mining plans with them during the inspection in March and April 2021. This fact was corroborated formally by suo-moto mail of state Govt on 8.5.2021.

How could junior officer like me stop processing the pending mining plans and challenge the State Govt. decision? These being cases of NE state were not similar to rest of the country and that's why we sought clear instructions time and again because nowhere this irregularity happened.

Had there been clear instructions to revoke the mining plan I would have done so, immediately. But for the want of clear orders and being suffering from health issues and other office problems stated above I could not understand the intentions behind letter dated 30.11.2021 and was discussing over the issue with junior officers.

Even if I had done so, it would invite legal complications for me as well as department. My apprehension came true, as lateron these mining plans were revoked on 7.1.2022 by my successor Regional Controller of Mines which was challenged in court of law before Guwahati High Court and Hon'ble Court Stayed all revocation of mining plans vide WP(C)/1104/2022 , WP(C)/1844/2022, WP(C)/1857/2022, WP(C)/1850/2022, WP(C)/1861/2022.

I thought Anyway, these mining plan approvals would eventually become infructuous once the mining leases granted against section 5(2)(b) of MMDR Act become invalid under section 19 of MMDR Act as happened in case of section 10 (A)(2) (c) where in no approved mining plan was revoked by IBM which leases were not granted before 12.1.2017.

I have always worked in good faith with honest intentions and did not ever defy the orders of superiors which is evident from my past service record of 28 years.

I was never reprimanded and there is no adverse entry in my CR in carrier of 28 years' service life.

I have always maintained integrity and dignity of the department and performed duty dedicatedly and diligently.

Hence, I humbly deny the charge of acting against the conduct rules.

I would like to submit that without giving any opportunity to explain the circumstances, I was served suspension order just after 30 days on 31.12.2021 denying me even the natural justice and for the fault on the part of state govt, I have unnecessarily been punished and made scapegoat.

I could have been issued at least a show cause notice before taking such humiliating punitive action.

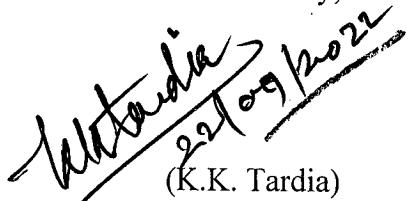


Prayer-

It is submit that post suspension order, the undersigned has become mentally disturbed and physically sick and need sympathetic consideration for early reinstatement. The undersigned will be highly grateful for such sympathetic consideration.

With Regards,

Yours faithfully,


K.K. Tardia
22/09/2022

RCOM, IBM

CCOM (MDR) office, Nagpur